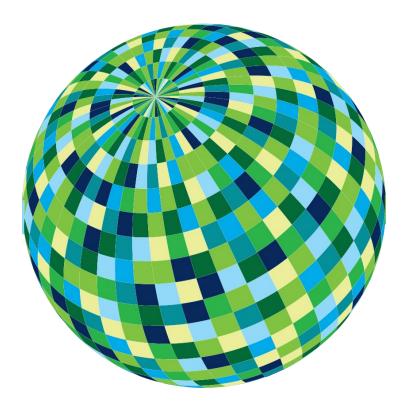
# Deloitte.



# India Global Trade Advisory Newsletter

# Delivering clarity

- Amnesty Scheme for one-time settlement of default in Export Obligation (EO) by Advance authorization (AA) and Export Promotion Capital Goods (EPCG) authorization holders:
  - Central Government had issued Amnesty Scheme for onetime settlement of default in export obligation by AA and EPCG authorization holders. The public notice issued prescribes the coverage and other conditions for regularization of EO default cases under the amnesty scheme.
  - The coverage under the amnesty scheme extends to the following:
    - All variants of authorizations issued under AA Scheme and EPCG Scheme under Foreign Trade Policy 2009 up to 31st March 2015.
    - For authorizations issued under the Foreign Trade Policy 2004-09 and before, the coverage to be limited to those where the EO, original or extended, was valid beyond 12 August 2013.

- All pending cases of EO default under AA and EPCG Scheme can be regularized on payment of all Customs duties that were exempted in proportion to the unfulfilled EO. The maximum interest is capped at 100% of duties payable. No interest is payable on additional customs duty and special additional customs duty.
- No CENVAT Credit or Refund under any provision of the law of any amount is allowed on duties paid under the Amnesty Scheme. The applicant shall also need to give an undertaking that they will not file any application for CENVAT credit/refund of duties paid, before any authority or court.
- Further, authorization holders who wish to avail the benefit of the scheme shall register on the DGFT portal on or before 31 December 2023 (earlier 30 June 2023) and complete the payment of the customs duty along with interest by 31 March 2024 (earlier 30 September 2023).

(Public Notice No. 02/2023 dated 1 April 2023 & Public Notice No. 20/2023 dated 30 June 2023)

# What's next?

This Amnesty Scheme gives authorization holders under AA and EPCG scheme to get rid of EO default case/ongoing litigation in this regard, which is a very welcoming step for trade and industry. As this is a one-time option provided to the trade under the Amnesty Scheme, trade should proactively think about utilizing this opportunity to reduce the dispute relating to EO defaults under AA & EPCG scheme

- II. Procedure for re-assessment of finally assessed Bill of Entries (BoE) to implement Hon'ble Supreme Court direction relating to pre-import condition in Advance Authorization (AA)
  - In order to implement the direction of the Hon'ble Supreme Court in the matter of UOI and others vs. Cosmo Films Ltd., Central Board of Indirect Taxes & Customs (CBIC) has issued a Circular specifying the procedure for re-assessment of BoE where the 'pre-import condition' relating to AA scheme could not be met on or after 13.10.2017 & up to and including 09.01.2019.
  - Board in the Circular has mentioned that under GST law, BoE is one of document based on which input tax credit can be availed by a registered person. TR-6 challan is not a prescribed document for the purpose of availing credit.
  - Accordingly, Board has laid out the following procedure that can be adopted by importer at the Port of Import (POI) for payment of reassessed duty where the BoE has been finally assessed and Out of Charge (OOC) has been issued:
    - In case importer is required to pay Integrated Goods & Service Tax (IGST) and Compensation Cess due to nonfulfillment of pre-import condition, the importer may approach the concerned assessment group at the POI with relevant details for purposes of payment of the tax and cess along with applicable interest.
    - The assessment group at POI shall cancel the OOC and indicate the reason in remarks. The BoE shall be assessed again so as to charge the tax and cess.
    - The payment of tax and cess, along with applicable interest, shall be made against the electronic challan generated in the Customs EDI System.
    - On completion of above payment, the POI shall make a notional OOC for the BoE on the Customs EDI System so as to enable transmission to GSTN portal of, inter alia, the IGST and Compensation Cess amounts with their date of payment (relevant date) for eligibility as per GST provisions.
    - It is to be noted that above specified procedure can be applied once to a BoE.

(Circular No. 16/2023-Customs dated 7 June 2023 & Trade Notice No.07/2023-24 dated 8 June 2023)

# What's next?

The Government vide the above Circular has clarified that in case of imports having pre-import conditions attached like in case of AA, TR-6 challan is not the prescribed document for availing the credit. It has specified the procedure for re-assessment of BoEs for the purpose of availing credit. Considering the aforesaid Circular, there are chances that Government will raise concerns for the past period and in future as well in all such cases where credit is availed basis TR-6 challan. Hence, there is a need for a suitable clarification.

- III. Mandatory additional qualifiers in import/export declarations in respect of certain products w.e.f 1 October 2023:
  - CBIC has issued Circular specifying the introduction of mandatory additional declarations in respect of certain import/export products. The aim of the circular is to increase efficiency, reduce delays and support decision-making.
  - Importers were previously advised to voluntarily submit comprehensive information on imported products, including scientific names, product names and other relevant parameters, to aid reducing queries and improve the efficiency of assessment. A recent review conducted in collaboration with the Ministry of AYUSH's, Department of Chemicals and Petrochemicals and Directorate General of Foreign Trade (DGFT) concluded that providing more complete product information would facilitate evaluation, reduce queries and speed up customs clearance. Accordingly, the board came out with additional requirements as listed below:

#### a) For Imports:

 Declaration of International Union of Pure and Applied Chemistry (IUPAC) name and CAS number of constituent chemicals for imports falling under chapters 28, 29, 32, 38, and 39 of the Customs Tariff Act, 1975.

#### b) For Exports:

- Declaration of the name of the medicinal plant for exports under chapter 12.
- Declaration of the name of the formulation, for exports of formulations of different streams of medicine under chapter 30.
- Declaration of the surface material that comes into contact with the chemical for exports of various products under chapter 84.
- These above-mentioned additional qualifiers for import/export
  were mandatory for specified import/exports filed on or after 1
  July 2023, however, considering the representation received
  from industries, now the implementation of same has been
  extended by further period of 3 months i.e., effective from
  1.10.2023.

(Circular No. 15/2023-Customs dated 7 June 2023 & Circular No. 18/2023-Customs dated 30 June 2023)

# What's next?

The government introduced the additional declaration requirement for specified imports with the objective to reduce queries and speed up Customs clearance, however the industry at large considered providing such declarations/information would be challenging. Hence, considering the request of the stakeholders, implementation of the same has been extended by three months.

#### IV. Other changes in Customs and Foreign Trade Policy 2015-2020

- A. General trade facilitation measures:
  - Introduction of online facility of requesting appointment for virtual meeting/personal hearing to the exporters from offices of DGFT w.e.f. 01.06.2023:

In-order to facilitate trade and extend pro-active support to the exporting community, DGFT has introduced an online facility for exporters to request an appointment for a virtual meeting with the concerned officers and the authorities at the DGFT. The authority shall provide a suitable time for such meetings. The exporters may also apply for virtual conference facility for their online hearing in the DGFT website.

#### (Trade Notice:06/2023-24 dated 31 May 2023)

Acceptance of Electronic Certificate of Origin (e-COO) issued under the India-Sri Lanka FTA (ISFTA)
 CBIC clarified that an e-COO, issued by the Issuing Authority of Sri Lanka, is a valid document for the purpose of claiming preferential benefit under the ISFTA subject to it having been issued in the prescribed format, bearing seal and signatures of the authorized signatory of the Issuing Authority, and fulfilling all other requirements as specified in the Rules of Origin.

(Instruction No. 15/2023-Customs dated 3 May 2023)

• Initiation of Pilot project on Electronic Repairs Services
Outsourcing (ERSO) at Air cargo complex, Bengaluru
In order to make India a global electronics powerhouse,
Ministry of Electronics and Information Technology
('MeitY') launched a pilot project on Electronic Repairs
Services Outsourcing (ERSO). The program has
commenced in Bengaluru and will undergo a three-month
trial period. ERSO involves import of goods (defective,
damaged electronic goods) by designated repair service
entities in India, to reliably repair them and re-export the
goods. In pursuance of the same, CBIC has issued circular
specifying simplified import and re-export procedures with
the aim of achieving quick and reduced turn around time
required for achieving the repair-hub ecosystem.

#### (Circular No. 14//2023-Customs dated 3 June 2023)

 Fixation/ Review of Norms of Advance Authorization by Norms Committee (NC-7- Related to Plastic and Rubber products)

As part of trade facilitation, DGFT has issued trade notice and activated the process of Norms Fixation/ Review of Norms to electronic mode from physical mode. Now, all applicants can use online facility at DGFT website instead of manual mode to NC-7(Fixation of Input output norms related to Plastic and Rubber products). For using this, user needs to navigate through "Services under Norms Fixation".

(Trade Notice No. 10/2023 dated 22 June 2023)

- B. Changes in Import/Export Policy
  - The Government has amended the import/ export policy condition for the following items (products):

### **Export Policy:**

Product/ITC(HS)	<b>Existing Export Policy</b>	New Export Policy	Reference
Cough Syrup (3004)	Free	Export is permitted subject to the export sample being tested and the production of a Certificate of Analysis (COA) issued by the government mentioned laboratories.	Notification No. 06/ 2023 dated May 2023
Motor Gasoline (2710 12 41 2710 12 42 2710 12 43 2710 12 44 2710 12 49)	Free	Free subject to self-declaration by exporter at the time of export confirming that 50% (Motor Gasoline) /30% (Gas Oils and oils obtained from gas oil) of quantity mentioned in the shipping bill has been/will be supplied in the domestic market during relevant	Notification No. 02/2023 dated April 2023
Gas oils and oils obtained from gas oil (2710 19 41 2710 19 44 2710 19 49)		Financial year & filling of quarterly return to the Ministry of Petroleum & Natural Gases (MoPNG)	

#### Import Policy:

Product/ITC(HS)	Existing Import Policy	New Import Policy	Notification No
Copra (12030000)	State Trading Enterprise	Restricted [Import allowed through National Agricultural Cooperative Marketing Federation of India (NAFED) subject to para 2.21 of foreign trade policy.]	Notification No. 11/ 2023 dated June 2023
Pocket Lighters, gas fuelled, non-refillable/ refillable	Free	Prohibited, however import is "Free" if CIF value is INR 20 or above per lighter	Notification No. 15/ 2023 dated June 2023
(96131000 96132000)			

#### C. Other Changes in Customs & FTP:

• Appendices & Aayat Niryat Forms (ANF) of FTP 2023: In pursuance of issuance of the Foreign Trade Policy 2023, DGFT has notified the Appendices & Aayat Niryat Forms (ANF). The same has been made available on the website of DGFT.

#### (Public Notice no 10/2023 dated 26 April 2023)

- Realignment of Remission of Duties or Taxes on Export Products Scheme (RoDTEP) schedule w.e.f. 01 May 2023 Effective 1 May 2023, the HSN Codes to the First Schedule of the Customs Tariff Act (CTA), 1975 were amended by the Finance Act, 2023. Accordingly, the RoDTEP Schedule (Appendix 4R) has been amended to realign the tariff entries with the amended First Schedule to the CTA. The gist of the amendment made for exports made with effect from 1 May 2023 are set out hereunder:
  - 149 tariff lines at 8-digit level are added to the RoDTEP Schedule; and
  - 52 tariff lines at 8-digit level are deleted from the RoDTEP Schedule.

(Notification no 04/2023 dated 1 May 2023)

 Syncing of ITC (HS), 2022- Schedule-1 (Import Policy) with Finance Act 2023 (No.8 of 2023) dated 31.03.2023 and Foreign Trade Policy, 2023:

DGFT, has issued Notification No. 08/2023 to amend the 'ITC (HS) 2022, Schedule-I (Import Policy)' in alignment with the Finance Act 2023 and Foreign Trade Policy 2023. The amendments include changes to the list of ITC (HS) codes, policy conditions, section notes, chapter-wise main notes, supplementary notes, chapter headings, and subheadings.

# (Notification No. 08/2023 dated 29 May 2023)

 Registration of Importers as per provision of Plastic Waste Management Rules, 2016

CBIC has issued instruction on registration of importers under the Plastic Waste Management Rules 2016. The said instruction is with respect to submission of registration certificate by importers of plastic products and the like at the time of clearance. It has been brought to the notice of the authorities that importers are facing difficulties in registering with the Central Pollution Control Board (CPCB). Accordingly, CPCB has requested customs authorities to consider clearance of plastic related import consignments, based on the proof of submission of application for registration on the portal.

(Instruction No:14//2023-Customs dated 17 April 2023)

News on levy of Anti-Dumping Duty (ADD) & Counter Vailing Duties (CVD)

• Levy of ADD: The central government has imposed and further extended the ADD on the following products:

Product	Effective period	Reference		
Originating or exported from the People's Republic of China, Taiwan & Vietnam				
Vinyl Tiles other than in roll or sheet form falling under Tariff heading 3918	For a period of five years starting 19 April 2023	Notification no. 05/2023 – customs (ADD), dated 19 April 2023		
Originating or exported from the People's Republic of China				
Fishing Net falling under Tariff entry 5608 11 10	In force up to and inclusive of 09 September 2023	Notification no. 03/2023 – customs (ADD), dated 06 April 2023		

• Levy of CVD: The central government has imposed and further extended the CVD on the following products:

Product	Effective period	Reference		
Originating or exported from Indonesia, Malaysia, and Thailand				
Saturated Fatty Alcohol falling under tariff sub heading 2905 17, 2905 19 & 3823 70	For a period of five years starting 4 May 2023	Notification No. 1//2023 Customs (CVD) dated 4 May 2023		

# What is next?

ADD/CVD taxes are usually imposed by the government based on industry representatives and to protect the domestic industry

#### About Deloitte Global Trade Advisory (GTA) practice

Global trade is a multi-faceted area that requires a high degree of pragmatic support. Our Global Trade Advisory practitioners have a diverse background, including legal, accounting, auditing, technology, customs, excise, and import/export compliance. Amongst professional service providers, we are market leaders in delivering import and export compliance, planning, and automation projects.

With more than 600 GTA professionals in over 100 countries, Deloitte provides clients with local country insight while keeping global operations in mind.

We have specialised in global trade automation projects with a dedicated team of more than 100 practitioners focusing on the implementation of Global Trade Management (GTM) solutions.

Our team works together across borders and functions to provide strategic, cost-effective, and end-to-end global trade services. Our GTA specialists include lawyers, brokers, export control and compliance specialists, system architects, and integrators who collectively bring a unique mix of functional, technical, and operational know-how.

#### Connect with us:

Mahesh Jaising mjaising@deloitte.com

**Gulzar Didwania** dgulzar@deloitte.com



Access the latest global and regional tax and trade news, information, and resources from Deloitte tax@hand, a digital platform designed for global tax and trade professionals, available anytime, on any device, at www.deloitte.com/taxathand.



Consult the Global Trade Advisory Alert archive on deloitte.com for an overview of the latest alerts from the previous 12 months.



Read the monthly Global Indirect Tax newsletter on deloitte.com for a summary of the latest developments on VAT, GST, sales tax, and global trade across the globe.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

This material is prepared by Deloitte Touche Tohmatsu India LLP (DTTILLP). This material (including any information contained in it) is intended to provide general information on a particular subject(s) and is not an exhaustive treatment of such subject(s) or a substitute to obtaining professional services or advice. This material may contain information sourced from publicly available information or other third party sources. DTTILLP does not independently verify any such sources and is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such sources. None of DTTILLP, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this material, rendering any kind of investment, legal or other professional advice or services. You should seek specific advice of the relevant professional(s) for these kind of services. This material or information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person or entity by reason of access to, use of or reliance on, this material. By using this material or any information contained in it, the user accepts this entire notice and terms of use.