



## India Global Trade Advisory Newsletter

### Delivering clarity

#### I. Remission of Duties and Taxes on Exported Products (RoDTEP) Scheme Guideline & Rates:

- The Union Cabinet approved the RoDTEP scheme on 13 March 2020 and the scheme was finally implemented on 01 January 2021. The said scheme was implemented on 01 January 2021 as a replacement to the Merchandise Exports from India Scheme (MEIS) scheme which was valid till 31 December 2020.
- While, the scheme was implemented w.e.f 01 January 2021, the scheme guidelines and rate was not notified by the Government. Finally, the Ministry of Commerce and Industry vide its Notification dated 17 August 2021 prescribed the guidelines for the RoDTEP Scheme along with the Rates under Appendix 4R.
- RoDTEP Scheme is made part of the Chapter 4 (Duty exemption/Remission scheme) of the Foreign Trade Policy 2015-2020 (FTP). The broad objective of the scheme is to refund the following duties or taxes which are currently not being refunded:
  - a) Duties/taxes/levies at the Central/State and local level, borne on the exported product, including prior stage cumulative indirect taxes on goods and services used in the production of the exported product; and
  - b) Such indirect duties/taxes/levies in respect of distribution of exported product.
- Under the scheme, a rebate would be granted to eligible exporters at the notified rate as a percentage of FOB value with a value cap per unit of the exported product. Rebate amount shall be granted in the form of a transferable duty credit/electronic scrip (e-scrip), which shall be available within the ICEGATE login of the exporters. **The scrip can be used only for payment of basic customs duty (BCD) leviable under the 1st Schedule to the Customs Tariff Act, 1975.** The rebate allowed will be subject to the receipt of sale proceeds within time allowed under the FEMA Act, failing which, such rebate shall be deemed never to have been allowed.

- Amongst others, following categories of export/exporters are not eligible for rebate under the scheme:
  - a) Products manufactured partly or wholly in a warehouse licensed under Section 65 of the Customs Act (i.e. Customs Bonded Warehouse);
  - b) Product manufactured or exported in discharge of export obligation against an Advance Authorization (AA) or Duty Free Import Authorization (DFIA);
  - c) Products manufactured or exported by 100 per cent Export Oriented Units(EOU);
  - d) Products manufactured or exported by any units situated in SEZ. etc.
- Inclusion of export made by EOU, SEZ and AA/DFIA holder and RoDTEP rates for such categories would be decided based on the recommendations of the RoDTEP Committee.
- Further, Central Board of Indirect Taxes & Customs (CBIC) has issued Notification to notify the manner to issue duty credit for goods exported under RoDTEP scheme. Also, CBIC has notified the Electronic Duty Credit Regulations, 2021 specifying the manner of issuance and use duty credit in electronic ledger.

(Notification No. 19/2015-2020 dated 17 August 2021)

(Notification No. 76/2021 – Customs (NT)

dated 23 September 2021)

(Notification No. 75/2021 – Customs (NT)

dated 23 September 2021)

## What's next?

The issuance of guidelines and rate under RoDTEP was much awaited and has brought a sigh of relief to the exporters. The rates under RoDTEP scheme is in the range of 0.3% to 4.3% which is lesser than MEIS hence not meeting the expectations of the exporters. Government should consider including the export made under AA/DFIA, SEZ, EOU and Customs Bonded Warehouse schemes for RoDTEP benefit so that this exclusion does not adversely impact these schemes.

## II. Auto Renewal of certification for Authorised Economic Operator (AEO)-T1 entities:

- Currently, the validity of AEO certificates for AEO-T1 entities is three years and for its renewal, an application has to be submitted 30 days in advance of the expiry of the validity.
- In light of the recent difficulties faced by the AEO-T1 entities in seeking renewal and to reduce their compliance burden, CBIC has allowed the facility of continuous AEO certification/auto renewal. This facility is subject to submission of annual self-declaration and review thereof.
- The self-declaration is to be filed between 01 October to 31 December of each year. The self-declaration needs to be filed online on AEO online web portal (aeoindia.gov.in). Basis the said self-declaration the concerned zone shall initiate the Comprehensive Compliance Review for AEO T1 entities based on the revised guidelines.
- All AEO-T1 entities certified on or after 01 April 2019 shall be migrated to the auto renewal process with effect from 01 August 2021. The AEO entities certified between 01 January to 31 December each year shall be exempted from filing the annual declaration for that year. Accordingly, AEO-T1 entities certified on or after 01 January 2021 for the present year will not be required to submit annual self-declaration for the present year.

(Circular No. 18/2021-Customs dated 31 July 2021)

## What's next?

The process of auto renewal initiated by CBIC for AEO T1 certification will provide a big relief to the AEO T1 certified entities under the AEO Programme. The same shall in turn will help in enhancing the ease of doing business.

## III. Improvement in Faceless Assessment:

- CBIC has comprehensively reviewed the implementation of faceless assessment and deliberated on the further measures required for expediting the pace of assessment and customs clearance of imported goods. It was found that by large the objective of faceless assessment in terms of expeditious assessment, uniformity in assessment etc. is met. However, it was observed that even now there is scope for improvement which would potentially lead to a substantial increase in the pace of assessment and customs clearance.
- Accordingly, CBIC has decided to implement the following measures in the Customs Faceless assessment and clearance processes:

Sl No.	Measures	Remarks												
1	Enhancement of facilitation level	Enhancement as mentioned below is proposed in the facilitation level for the Bill of Entries:												
		<table border="1"> <thead> <tr> <th>Customs port</th> <th>Erstwhile facilitation level</th> <th>Proposed facilitation level</th> </tr> </thead> <tbody> <tr> <td>Air cargo</td> <td>80%</td> <td>90%</td> </tr> <tr> <td>Sea port</td> <td>70%</td> <td>90%</td> </tr> <tr> <td>ICD</td> <td>60%</td> <td>90%</td> </tr> </tbody> </table>	Customs port	Erstwhile facilitation level	Proposed facilitation level	Air cargo	80%	90%	Sea port	70%	90%	ICD	60%	90%
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2	Expediting assessment process	Achieving expedited assessment process through following measures: - <ul style="list-style-type: none"> <li>Uniform working for all Faceless Assessment Group (FAGs).</li> <li>Monitoring of working of the FAGs.</li> <li>Communication of First decision on the Bill of Entry within prescribed time period after allocation.</li> </ul>
3	Enhancing Direct Port delivery	Shifting from entity based DPD to a Bill of Entry based DPD, i.e. as a general principle, all the advance Bills of Entry which are fully facilitated would be granted the facility of DPD (in addition to facility provided to AEO entities).
4	Automated generation of examination orders	Board has decided to introduce RMS generated uniform examination orders at all Customs stations across the country.
5	Anonymized escalation of grievances (AEM)	Board has implemented AEM to empower importers/Customs Brokers to directly register his/her requirement of expeditious clearance of a delayed Bill of Entry, which may be pending for assessment or examination.

(Circular No. 14/2021-Customs dated 07 July 2021)

## What's next?

Ever since the roll out of faceless assessment, importers had been facing challenges in goods clearance. Through the above-mentioned advisory, the Government has taken measures to improve the overall assessment process. This will help address the industry's concerns and bring transparency on the assessment process for import.

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

#### General trade facilitation measures

- Verification of Preferential Certificate of Origin (CoO) under Customs (Administration of Rules of Origin under Trade Agreements) Rules (CAROTAR) 2020:** CBIC vide Instruction dated 17 August 2021 have directed/mandated the filed formations that only representative certificates should be forwarded to the Director (International Customs Division) at New Delhi for verification of the Preferential CoO. CBIC has also instructed to ensure strict compliance to standard operating procedure prescribed for forwarding verification request as mentioned in Circular No. 38/2020- Customs dated 21 August 2020. Further, CBIC has also clarified that if the product of a manufacturer has already been verified following due verification process, subsequent consignments should not be sent again to the verification authority unless there are reasons to believe that subsequent shipment don't meet originating criteria.

(Instruction No. 18/2021-Customs dated 17 August 2021)

- Implementation of Risk Management System (RMS) for processing of Duty Draw Back claims:** CBIC has decided to implement the RMS for processing of shipping bills related to Duty Drawback claims. RMS will process the shipping bills data after the Export General Manifest (EGM) is filled electronically and will provide output to the Indian Customs EDI system (ICES) for processing of Duty Drawback claims. This facility has been initiated with effect from 26 July 2021. Shipping bills with Duty drawback will be routed based on risk evaluation through appropriate selection criteria. For this purpose, after filing of complete EGM, shipping bill will be sent by ICES to the risk management system. After it is cleared from the risk management system, ICES will process the shipping bill for the duty drawback claim.

(Circular No. 15/2021 - Customs dated 15 July 2021)

- Electronic Bank Realization Certificate (E-BRC) to be uploaded by exporters for shipping bills upto 31 March 2021 on which Rebate of State and Central Taxes and levies (RoSCTL) scrip has been claimed:** The rebate under the RoSCTL scheme is allowed subject to condition that the receipt of sales proceeds is realized within the time allowed under the FEMA Act 1999. If such sales proceeds are not realized then such rebate shall be deemed never to have been allowed. It was observed by the DGFT that in several cases, e-BRCs' as a proof of sales proceeds realization is not uploaded yet in the DGFT's online e-BRC repository. In order to facilitate the trade, the DGFT vide Trade Notice 13/2021-22 dated 4 August 2021 has allowed uploading of E-BRCs' by 15 September 2021, for shipping bills with Let Export Order (LEO) upto 31 March 2020 on which RoSCTL Scrip has been claimed by the exporters.

(Trade Notice 13/2021-22 dated 4 August 2021)

- De-activation Importer-Exporter Codes (IECs), if not updated on DGFT:** From time to time DGFT has been issuing the Trade Notices in recent past and requested trade for mandatory update the details of their IEC electronically every year during April -June period without any payment of fee/user charges). Based on the industry/trade representation DGT have extended the date of updation till 31 August 2021. Vide Trade Notice No. 18/2021-2022, dated 20 September 2021 and in terms of Paragraph 2.05(e) of the Foreign Trade policy 2015-20 (FTP) decided that IECs which are not yet updated shall now be de-activated in a phase manner effective from 6 October 2021.

DGFT have provided one final opportunity to the concerned IEC holders to update their IEC in this interim period till 5 October 2021. Further, it may be noted that any IEC so de-activated, would have an opportunity for automatic re-activation after 6

October 2021 and for that the said IEC holder may navigate to the DGFT website and update their IEC online.

**(Trade Notice no. 18/2021-2022, dated 20 September 2021)**

- **Submission of applications for scrip-based FTP schemes till 31 December 2021:** The last date for submitting online applications for the FTP scrip based schemes (like Merchandise Export from India Scheme, Service Export From India Scheme, RoDTEP etc.) for claims pertaining to earlier years is 31 December 2021 post which no further applications would be allowed to be submitted and they would become time barred. Late cut provisions shall also not be available for submitting claims at a later date.

**(Notification No. 26/2015-2020, dated 16 September 2021)**

- **Clarification on applicability on Integrated Goods and Service Tax (IGST) on repair cost, insurance and freight on goods re-imported after being exported for repairs:**  
Notification Nos. 45/2017-Customs and 46/2017-Customs both dated 30/06/2017 provides exemption to goods re-imported into India, from BCD, and the whole of the IGST, compensation cess leviable thereon, as is in excess of the amount leviable on value of repairs, insurance and freight both ways.

In the matter of M/s Interglobe Aviation Limited versus Commissioner of Customs, [Order Nos. 51226-51571/2020] dated 02/11/2020, Hon'ble CESTAT Principal Bench has interpreted that intention of legislation in Notification 45/2017, was only to impose BCD on the fair cost of repair charges, freight and insurance charges on such imports of goods after repair. However IGST and compensation cess on such goods is wholly exempt. An appeal has been preferred by the Department before the Hon'ble Supreme Court against the said Order.

Due to above judgement, the matter was placed before council in 43rd meeting held on the 28/05/2021 and on their recommendation only, this Circular and Notification has been issued, whereby it has been again clarified that Notification Nos. 45/2017-Customs and 46/2017-Customs, provides that re-import of goods sent abroad for repair attracts IGST on a value equal to the repair value, insurance and freight, both ways.

In light of above, suitable clarificatory amendments has been brought in the above said notifications to provide that IGST and compensation cess shall also be levied on value of repair cost, insurance and freight.

**(Circular 16/2021-Customs dated 19 July 2021, Notification 36 & 37- Customs dated 19 July 2021)**

- **Online Procedure for transfer of Advance Authorization/Export Promotion Capital Goods Authorization in case of amalgamation/de-merger/acquisition etc.:** As per the Trade Notice No. 14/2020-2021 dated 4 August 2021, the DGFT has introduced an Online Procedure for transfer of Advance Authorization /EPCG Authorisation in case of  
**(Trade Notice 14/2021-22 dated 04 August 2021)**

amalgamation/demerger/acquisition, etc.

## What's next?

The above-mentioned trade facilitation measures will help in smooth flow of business operations. Certain changes introduced are in line with the Governments objective of moving towards digitization.

### Step towards digitisation of compliance

- **Issuance of Non-Preferential CoO through Common digital Platform:** Directorate General of Foreign Trade (DGFT) vide Trade notice No. 10/2021-2022 dated 19 July 2021, has informed the stakeholders that the electronic platform for CoO (URL: <https://coo.dgft.gov.in>) which was made live for issuing preferential certificates under different FTAs has now been expanded to facilitate electronics application for Non-Preferential Certificates of Origin as well. The option of submission and issuance of CoO (Non-Preferential) by issuing agencies through their paper-based system is to continue further up to 30 September 2021.

**(Trade notice No. 10/2021-2022 dated 19 July 2021)**

- **Introduction of online Deemed Export Application Module:** The DGFT has introduced a an online Deemed Export Module on the DGFT website as a part of the IT Revamp for receiving application under the Chapter 7 (Deemed Export) of the FTP. Henceforth the following applications are required to be submitted online through the importer/exporter dashboard on the DGFT website:

- I. Refund of Terminal Excise Duty
- II. Grant of Duty Drawback as per AIR and;
- III. Fixation of Brand Rate for Duty Drawback

**(Trade notice No. 12/2021-2022 dated 28 July 2021)**

- **Online filing of Authorised Economic Operator (AEO) Tier 2 and Authorised Economic Operator Tier 3 application:** In line with Government's Digital India Initiative, the Board has decided to launch a new version of the existing web application for on-boarding of AEO T2 & AEO T3 applicants by way of online filing, real time monitoring and digital certification. This updated version of the existing web application (**URL- [www.aeoindia.gov.in](http://www.aeoindia.gov.in)**) have been made accessible for both applicants and the customs officials from 07 July 2021. The new version of the web application is designed to ensure continuous, real-time, and digital monitoring of the physically filed AEO T2 and AEO T3 applications for timely intervention and expedience.

**(Circular No. 13/2021-Customs dated 01 July 2021)**

Export policy

The Government has amended the export policy for the following items (products):

Item or Product	Existing policy	New policy	Reference
COVID-19 Rapid Antigen testing kits (Ex 3822 / Ex 3002)	Free	Restricted	Notification no.18/2015-20, dated 16 August 2021

What's next?

The change in export policy of COVID-19 rapid antigen testing kits has been done with a view to ensure enough availability of testing kits in India.

News on levy of Anti-Dumping Duty (ADD)

- **Levy of definitive ADD:** The central government has imposed the definitive ADD on the following products:

Product	Originating or Export Country	Effective period	Reference
Aluminium Foil	China PR, Malaysia, Thailand and Indonesia	For a period of five years from the date of issuance of this notification, i.e., 16 September 2021	Notification no. 51/2021 – customs (ADD), dated 16 September 2021
Uncoated copier paper	Indonesia and Singapore	Extended up to 28 February 2022 (by amending the Notification No. 56/2018- Customs (ADD), dated 4 December 2018	Notification no. 48/2021 – customs (ADD), dated 27 August 2021
Natural Mica based Pearl Industrial Pigments excluding cosmetic grade	China PR	For a period of five years from the date of issuance of this notification, i.e., 26 August 2021	Notification no. 47/2021 – Customs (ADD), dated 26 August 2021
Wire Rod of Alloy or Non-Alloy Steel falling	China PR	Extended up to 31 January 2022 (by amending the Notification No. 48/2017- Customs (ADD), dated 9 October 2017	Notification no. 42/2021 – customs (ADD), dated 1 August 2021

- **Revocation of ADD:** The central government has revoked the ADD imposed on “Viscose Staple Fibre excluding Bamboo Fibre” which are originating in or export from China PR and Indonesia and imported into India and rescinded the Notification No. 43/2016-Customs(ADD), dated 8 August 2016

(Notification No. 44/2021-Customs dated 12 August 2021)

What's next?

The Government commonly levies ADD on the basis of representations from the industry to protect the interest of domestic market players. It may levy ADD on more products over the next few months.

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