



## India Global Trade Advisory Newsletter

### Delivering clarity

#### I. Customs Authority for Advance Ruling (CAAR)

- In the Finance Act, 2018, the government introduced provisions for CAAR formation and empowered itself to appoint officers of the rank of Principal Commissioner or Commissioner of Customs as CAAR. The intent behind the introduction of the provision was to create a decentralised authority to ensure that rulings on specified issues of customs can be obtained in a time-bound manner and the burden on the existing advance ruling authority constituted under the Income Tax Act can be released.
- For the two years, no action was taken on this; however, the government recently issued a notification (which shall come into force from the date to be notified by the Central Board of Indirect Taxes and Customs [CBIC]), appointing the following officers to function as CAAR at Delhi and Mumbai, respectively:
  - Commissioner (Customs Authority for Advance Ruling), Delhi
  - Commissioner (Customs Authority for Advance Ruling), Mumbai

*(Notification no. 102/2020 dated 23 October 2020)*

#### What's next?

The above is a long-awaited step towards decentralised authority for customs-specific issues. While the preliminary step has been taken, detailed instructions and regulations providing for procedures and guidelines on the functioning of the new authority are still awaited. It is expected that these guidelines would be issued by CBIC in the future. This would help in easing the pressure on the existing authority and help importers/exporters in getting early resolutions for their queries.

#### II. CAROTAR 2020

- The CAROTAR Rules, 2020 were implemented with the objective to control imports entering India using fraudulent Certificates of Origin (COO) and without compliance with other requirements of Rules of Origin (ROO) under various trade agreements.
- However, since the implementation of CAROTAR 2020, the

industry has witnessed a delay in clearance, including an increase in the number of queries raised. Further, the FTA cell of the board is also receiving several verification requests that are either deficient or do not merit verification.

- Accordingly, the CBIC has issued the following instructions for filed formations:
  - a) Officers in charge to ensure that enquiries on the origin of imported goods are initiated only where there is sufficient ground to suspect the origin of the goods, or where they have been identified as a risk by the Risk Management System (RMS). Unnecessary queries should not be raised on account of the origin of the goods.
  - b) Verification requests are communicated immediately to the board where requests are based on doubts of the genuineness or authenticity of the COO, or on a random basis. If the officer has reason to believe that the origin criteria is not met, then it would need to be communicated in 10 days from receipt of the information/documents from the importer.
  - c) To reduce unwarranted delays, the board has advised filed formations to email all verification (as also mentioned in Circular No. 38/2018 issued in September 2020) requests rather than dispatching physical documents.

*(Instruction No. 20/2020 – Customs dated 17 December 2020)*

## What's next?

CBIC is taking cognisance of the fact that importers are facing significant challenges after the implementation of CAROTAR 2020, and hence, the board is trying to address this by issuing regular instruction/advice to field formation. It can be expected that in the next few days, the process would become more streamlined and importers may experience smoother import clearances.

### III. Clarification on issues relating to manufacturing and other operations in a Customs Bonded Warehouse (CBW) (in-bond manufacturing scheme)

- The in-bond manufacturing scheme is one of the most promising schemes introduced by the government and has garnered a lot of attention from the trade and industry. Under the scheme, a manufacturer is permitted to import duty-free inputs/capital goods to undertake manufacturing in a CBW for export purposes. Further, there is no export obligation attached to the said scheme and a person is free to supply its entire production into the Domestic Tariff Area (DTA) as well on payment of applicable duties.
- In the past, the government had issued FAQs to clarify various aspects of the scheme. However, one of the outstanding issues that was not addressed was whether a unit operating in the CBW would be allowed to undertake job work for other units.
- The government issued a circular dated 27 October 2020 to address this issue, amongst others, and clarified as under:
  - A registered unit operating in the CBW, licensed under Section 65 of the Customs Act, 1962 can carry out job work for other units
  - Procedure to be followed and conditions required to be fulfilled for removal of inputs and capital goods (i.e., mould, jigs, tools, fixtures, tackles, and instruments) for job work
  - A unit operating in the CBW is eligible to source capital

goods or inputs from a Special Economic Zone and Free Trade Warehousing Zone

*(Circular no. 48/2020 dated 27 October 2020)*

## What's next?

Through the above circular, CBIC has provided much-needed clarifications on the fact that a CBW licensed under Section 65 would be allowed to undertake job work for other units. This will help increase the usefulness of the scheme.

### IV. Implementation of Remission of Duties & Taxes on Exported Products (RoDTEP) scheme from 1 January 2021

- The Union cabinet in the month of March 2020 had approved the scheme for RoDTEP to boost exports to international market for products. The Government has now issued a press release stating that the scheme shall be implemented from 1 January 2021.
- The following are some of major announcement/development in relation to the scheme :-
  - a) Exporters intending to avail benefit of RoDTEP scheme shall have to mandatorily declare in the shipping bill of its intention to avail benefit under the scheme from 1 January 2021.
  - b) Government has made necessary changes in the customs automated system and issued an advisory & internal document highlighting process to follow for claiming benefit under the scheme
  - c) The Government is yet to issue the final list of export items that would be eligible for benefit under the RoDTEP scheme and corresponding rates for the same. However, irrespective of the date of notification the notified rates shall apply with effect from 1 January 2021.

## What's next?

The RoDTEP scheme is set to replace the Merchandise Export from India scheme (MEIS) and any company intending to claim benefit under RoDTEP should mandatorily declare its intention to avail such benefit in the shipping bill from 1 January 2021. It is expected that the Government shall issue the final list of eligible export items and corresponding rates for benefit under the scheme soon.

### V. Steps towards streamlining the clearance process under faceless assessment

#### Clarification on conducting faceless assessment

- CBIC has rolled out the faceless assessment on a pan-India basis from 31 October 2020. This move is a major step towards simplifying import procedures and reducing the time taken in compliance, thereby enhancing the ease of doing business. The introduction of faceless assessments has been done with the intent to smoothen import/export operations.
- However, since the roll out of faceless assessments, the trade and industry has been experiencing significant delays in consignment clearance. Further, quite a few queries for additional information have been raised by the department that contribute to unnecessary hassles, resulting in delays in consignments clearance.

- To address the above, the CBIC issued a circular specifying the measures for streamlining the process under the faceless assessment. The table below summarises some measures taken by the CBIC:

S. no.	Measures taken
1.	<b>Continuous assessment</b> - To ensure prompt customs clearances always, the CBIC decided to make every Saturday (except second Saturday) a working day for Faceless Assessment Groups (FAGs) across the country.
2.	<b>Monitoring of queries by FAG officers</b> - National Assessment Commissionerates (NAC) have been directed to analyse queries raised by the FAGs to ensure that queries are minimised to the extent necessary. Officers have been directed not to raise queries in a piecemeal manner and avoid multiple and repeated queries.
3.	<b>Prescribed routes for re-assessment of Bill of Entry (BOE)</b> – The routes for carrying out reassessment have been prescribed under the following scenarios: <ul style="list-style-type: none"> <li>Where the amendment is requested before Out of Charge Order (OOC) and would affect the assessment</li> <li>Where the re-assessment is requested before OOC but would not affect the assessment</li> <li>Where the re-assessment is requested after OOC has been given under Section 47 of the Customs Act, 1962</li> </ul>
4.	<b>Turant Suvidha Kendra’s (TSKs) to act as facilitation helpdesk</b> - TSK at the import port would act as a facilitation helpdesk for any grievance related to clearances of the B/E filed in the port.

- Further, CBIC has also issued a circular providing guidelines/instructions to smoothen the process of faceless assessment. The table below summarises the guidelines issued by the CBIC:

S. no.	Measures taken
1.	<b>Re-assessment procedure in line with principles of natural justice laid down:</b> In many cases, importers are given an opportunity of being heard before reassessment. Thus, the specified procedure to be adopted by FAGs has been laid down, streamlining the reassessment process.
2.	<b>Complete description of imported goods to be provided by importer/customs broker:</b> Importers/customs brokers are advised to give the complete description of the imported goods while filing the Bill of Entry (BoE), in the first instance, to avoid delays in the verification process of assessment by the FAG.
3.	<b>Document codes for regular documents to be uploaded in e-Sanchit:</b> With effect from 15 January 2021, to avoid delays in the verification/assessment process, supporting documents essential for carrying out verification by the FAG shall be mandatorily

S. no.	Measures taken
	required to be uploaded in e-Sanchit by importers/customs brokers.
4.	<b>Enhancement in the monetary limit for assessment by the appraising officers:</b> The board has decided to enhance the monetary limit of assessment by appraising officer to INR 5 lakh in comparison with INR 1 lakh at present, with effect from 21 December 2020. However, reassessments would continue to be done with the approval of the Assistant/Deputy Commissioner, as is the present practice.

(Circular no. 45/2020 - Customs dated 12 October 2020)  
(Circular no. 55/2020 – Customs dated 17 December 2020)

## What’s next?

The launch of faceless assessment is a major initiative taken by the CBIC to facilitate trade. However, trade and industry is experiencing a delay in the clearance of goods under faceless assessment in comparison with the pre-faceless regime. The above-mentioned measures can help address the industry’s concerns and streamline and smoothen the import clearance procedure. In the next few days, as importers become familiar with the process under faceless assessment and considering the measures taken by the CBIC, delays in the clearance of goods are expected to reduce significantly.

## VI. Other changes in customs and FTP 2015–2020

### General trade facilitation measures

- Insertion of enabling provision related to the issue of scrips under Scheme for Rebate of State Levies (RoSL) as notified by the Ministry of Textiles**

The central government amended para 4.01 of the Foreign Trade Policy 2015-20 (FTP) to provide that the Scheme for Rebate of State Levies (RoSL), as notified by the Ministry of Textiles, will be implemented by the DGFT in a scrip mode, for which, a procedure has been laid down separately.

(Notification no. 37/2015-2020, dated 06 October 2020 and vide Public Notice No. 25/2015-20 dated 13 October 2020)

- Amendment related to import under Duty-Free Import Authorisation (DFIA)**

The central government has disallowed the import of “tyres” under DFIA Scheme.

(Notification no. 38/2015-2020, dated 06 October 2020).

- Extension of duty drawback on steel supply**  
Supplies made by steel manufacturers to Advance Authorisation (AA) holders through their service centres/distributors/dealers/stock yards are eligible for benefits of duty drawback.

(Notification no. 35/2015-20 dated 01 October 2020).

- Extension of time limit for fulfilment of export obligations (EO) under AA**
- Due to COVID-19, the government has amended para 4.44 of Handbook Procedure 2015-20 related to monitoring of export

obligations to allow extensions for AA holders, where the EO period is expiring/has expired between 1 February 2020 and 31 October 2020, as a one-time temporary measure, and therefore, the date of submission of documents for EO fulfilment is extended to 31 December 2020.

(Public notice no. 26/2015-2020, dated 16 October 2020).

- **Special measures to facilitate Micro, Small, and Medium Enterprises (MSME) for AEO T1 and T2 accreditation:** MSMEs have been provided various relaxations with respect to compliance and security requirements mandated for AEO -T1 and T-2 certification. The relaxation amongst others include:
  - a) The eligibility requirement of handling a minimum of 25 documents during the last financial year has been relaxed to 10 documents, subject to handling at least 5 documents in each half-year period of the preceding financial year.
  - b) The requirement for the applicant to have “business activities” for at least three years preceding the date of application has been relaxed for up to two financial years.
  - c) The qualifying period for legal and financial compliance has been reduced from the last three financial years to the last two financial years.

(Circular No. 54/2020 – Customs dated 15 December 2020)

- **Electronic issuance of COO:** The facility has been extended for electronic filing and issuance of COO for exports under the following four trade agreements with effect from 15 October 2020:
  - (i) Generalised Systems of Preferences (GSP)
  - (ii) Global System of Trade Preferences (GSTP)
  - (iii) India Malaysia Comprehensive Economic Cooperation Agreement (IMCECA)
  - (iv) India Singapore Comprehensive Economic Cooperation Agreement (ISCECA)

(Trade notice no. 30/2020-21, dated 13 October 2020)

- **Clarification related to avilment of exemption on temporary import of durable containers:** CBIC, on receiving numerous representations, has examined the duty exemption for durable containers that do not conform to the standard of marine container dimensions, but which are intended for temporary import and eventually re-exported.

Considering Board Circular No. 69/2002-Customs, dated 25 October 2002 and 73/2002-Customs, dated 07 November 2002, CBIC has reiterated that containers that satisfy the following conditions are eligible for duty exemption:

- a) That are durable
- b) Capable of being re-used multiple times
- c) Capable of being identified at the time of re-export viz. a viz. the imported containers; and
- d) Satisfy all other stipulated conditions in the notification (Notification No. 104/94-Cus, dated 16 March 1994)

The guidelines provided in Circular No. 31/2005-Cus, dated 25 July 2005 are to be followed for import and re-export of marine containers.

(Circular no. 51/2020-Cus dated 20 November 2020)

## What’s next?

The government has taken steps to provide relief, as trade facilitation measures (such as extension in EO for AA holders and duty drawback for steel supply to AA holders) to businesses considering the ongoing impact of COVID-19.

### Export policy

- The government has amended the export policy for the following items or products:

Product	Existing policy	New policy	Reference
Nitrile NBR gloves	Prohibited	Restricted	Notification no. 42/2015–2020, dated 22 October 2020
Alcohol-based hand sanitisers in containers with dispenser pumps	Prohibited	Free	Notification no. 40/2015–2020, dated 15 October 2020
Personal Protection Equipment (PPEs) exported either as part of kits or as individual items- N95/FFP2 masks or its equivalent	Restricted	Free	Notification no. 36/2015–2020, dated 6 October 2020

## What’s next?

Some of the changes in the export policy from prohibited to free/restricted is on account of easing restrictions imposed due to the COVID-19 outbreak. As the economy is opening and business are beginning to work with full capacity, these restrictions are being lifted.

### Import policy

- The government has amended the import policy for the following items or products:

Product	Existing policy	New policy	Reference
Split system (ITC HS 84151010)	Free	Prohibited (only import of air conditioners with refrigerants)	Notification no. 41/2015–2020, dated 15 October 2020

## What's next?

A major change in the import policy is the prohibition imposed on “Air conditioners (with refrigerants)” imports. The said change in import policy has been made by the government to make India self-reliant and boost air conditioner manufacturing in India. This change has also impacted the import of air conditioners (with refrigerants).

### VII. Step towards digitalisation of compliance under customs and FTP

#### Process of linking/registration of Importer-Exporter Codes (IECs) in new revamped DGFT online environment

- DGFT in continuation to the earlier Trade Notice No. 16/2020-21, dated 25 June 2020 and as part of the digital India programme and for ease of doing business, has announced the process of linking/registration of IECs in the new platform for digital delivery of IEC-related services. The objective of introducing these revamped systems is to provide paperless, digital, efficient, and transparent services to the exporters and importers and to further the overall goal of Trade Facilitation and Digital India. The new platform would be accessible through the existing DGFT website (<https://dgft.gov.in>).
- The online processes relating to advance authorisation, EPCG, and export obligation discharge certificate will be rolled out soon.
- The new platform is accessible through user-based IDs for applying online. All IEC holders have to create login IDs (mandatorily) through an online registration.
- Importers and exporters have to link their login IDs with specific IEC through an authentication process, using a digital signature certificate (Class II/Class III certificate) or Aadhaar based e-Sign.
- For ease of IEC holders, DGFT have made available help manuals and Frequently Asked Questions (FAQs) on the new DGFT website under the “Learn” Section.

*(Trade notice no.33/2020-21 dated 28 October 2020)*

## What's next?

DGFT launched a new platform for IEC-related services as part of the digital India programme and for ease of doing business in India. Such initiatives by the government will help importers/exporters interact with the DGFT office and more easily, track the status of various applications.

### VIII. News on levy of Anti-Dumping Duty (ADD)

- **Continuation of ADD on “plain medium density fibre board of thickness 6mm and above”:** The central government decided to continue with the ADD until 20 January 2021 on “plain medium density fibre board of thickness 6mm and above”, originating in or exported from China PR, Malaysia, Sri Lanka, and Thailand.  
*[Notification no. 30/2020 – customs (ADD), dated 13 October 2020]*
- **Continuation of ADD on “woven fabric (with more than 50 percent flax content)” commonly known as “flax fabric”:** The central government has decided to continue with ADD for another five years from the date of notification on “woven fabric (with more than 50 percent flax content)” commonly known as “flax fabric” imported from China and Hong Kong. *[Notification no. 35/2020 – customs (ADD), dated 10 November 2020].*
- **Levy of definitive ADD on “clear float glass”:** The central government has imposed a definitive ADD on “clear float glass”, originating in or exported from Malaysia for a period of five years from the date of notification. *[Notification no. 37/2020 – customs (ADD), dated 11 November 2020].*
- **Continuation of ADD on “front axle beam and steering knuckles meant for heavy and medium commercial vehicles”:** The central government decided to continue with the ADD until 31 January 2021 on the “Front Axle Beam and Steering Knuckles meant for heavy and medium commercial vehicles”, originating in or exported from China *[Notification no. 41/2020 – customs (ADD), dated 27 November 2020]*

## What's next?

Most of the time, the government levies ADD based on representations from the industry. It may levy ADD on more products over the next few months.

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