

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II
SECTION 3, SUB-SECTION (i)]
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

NOTIFICATION No. 23/2023 - Customs

New Delhi, the 1st April, 2023.

G. S. R.(E) - In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts materials imported into India, against a valid Advance Authorisation for Annual Requirement (hereinafter referred to as the said Authorisation) with actual user condition issued by the Regional Authority in terms of Paragraph 4.07 of the Foreign Trade Policy from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as Customs Tariff Act) and [from the whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3, integrated tax leviable thereon under sub-section (7) of section 3, the goods and services tax compensation cess leviable thereon under sub-section (9) of section 3, safeguard duty leviable thereon under section 8B, countervailing duty leviable thereon under section 9 and anti-dumping duty leviable thereon under section 9A of the said Customs Tariff Act, subject to the following conditions, namely:-

(i) that the said authorisation is produced before the proper officer of customs at the time of clearance for debit of the quantity and value of imports;

(ii) that the said authorisation is issued with respect to Standard Input Output Norms (SION) fixed and bears, -

(a) the name and address of the importer and the supporting manufacturer in cases where the said authorisation has been issued to a merchant exporter; and

(b) the shipping bill number(s) and date(s) and description, quantity and value of exports of the resultant product in cases where import takes place after fulfillment of export obligation; or

(c) the description, Cost Insurance Freight value and other specifications of the imported materials and the description, quantity and Free on Board value of exports of the resultant product covered under an export product group specified in the Hand Book of Procedures, in such cases where import takes place before fulfillment of export obligation:

Provided that in respect of inputs referred in paragraphs 4.12(i) and 4.12(ii) of the Foreign Trade Policy, the material permitted to be imported in the said authorisation shall be of the specific name or description or quantity, respectively, as the material used in the export of the resultant product. The exporter shall declare these particulars in the shipping bill or bill of export:

Provided further that in respect of the inputs specified in paragraph 4.44 (b) of the Hand Book of Procedures of the Foreign Trade Policy, the technical characteristics, quality and specifications shall be declared at the time of import and the material permitted in the said authorisation shall be of the same technical characteristics, quality and specifications as the materials used (or to be used) in the export of the resultant product:

Provided also that the exporter shall give declaration with regard to the technical characteristics, quality and specifications of materials used in the export of resultant product, in the shipping bill/ bill of export;

(iii) that in respect of imports made before the discharge of export obligation, the importer at the time of clearance of the imported materials executes a bond with such surety or security and in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen percent per annum from the date of clearance of the said materials;

(iv) that in respect of imports made after the discharge of export obligation, if facility of Cenvat Credit under Cenvat Credit Rules, 2017 has been availed, then the importer shall, at the time of clearance of the imported materials furnish a bond to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself, to use the imported materials in his factory or in the factory of his supporting manufacturer for the manufacture of dutiable goods and to submit a certificate, from the jurisdictional Central Excise officer or from a specified chartered accountant within six months from the date of clearance of the said materials, that the imported materials have been so used:

Provided that if the importer pays additional duty of customs leviable on the imported materials but for the exemption contained herein, then the imported materials may be cleared without furnishing a bond specified in this condition and the additional duty of customs so paid shall be eligible for availing Cenvat Credit under the Cenvat Credit Rules, 2017;

(v) that in respect of imports made after the discharge of export obligation in full, and if facility under rule 18 or sub-rule (2) of rule 19 of the Central Excise Rules, 2017 or of Cenvat credit under Cenvat Credit Rules, 2017 has not been availed and the importer furnishes proof to this effect to the satisfaction of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs as the case may be, then the imported materials may be cleared without furnishing a bond specified in condition (iv);

(vi) that in respect of imports made after the discharge of export obligation in full, if facility of input tax credit under relevant Goods and Services Tax law on inputs used for manufacture and supply of goods exported has been availed, then the importer shall, at the time of clearance of the imported materials, furnish a bond to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself, to use the imported materials in his factory or in the factory of his supporting manufacturer for the manufacture and supply of taxable goods (other than nil rated or fully exempt supplies) and to submit a certificate from a chartered accountant within six months from the date of clearance of the said materials, that the imported materials have been so used;

Provided that if the importer pays integrated tax and the goods and services tax compensation cess leviable on the imported materials under sub-section (7) and sub-section (9) respectively of section 3 of the said Customs Tariff Act on the imported materials but for the exemption contained herein, then such imported materials may be cleared without furnishing a bond specified in this condition;

(vii) that in respect of imports made after the discharge of export obligation in full, and if facility of input tax credit under relevant Goods and Services Tax law has not been availed on inputs used in the manufacture and supply of goods exported and the importer furnishes proof to this effect to the satisfaction of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, then the imported materials may be cleared without furnishing a bond specified in condition (vi);

(viii) that the imports and exports are undertaken through the seaports, airports or through the inland container depots or through the land customs stations as mentioned in the Table 2 annexed to Notification No. 26/2023-Customs dated 1st April, 2023 or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may, by special order or a public notice and subject to such conditions as may be specified by him, permit import and export through any other seaport, airport, inland container depot or through a land customs station within his jurisdiction;

(ix) that sourcing of the imported materials from Private Bonded Warehouses set up under paragraph 2.36 of the Foreign Trade Policy would be allowed;

(x) that the export obligation as specified in the said authorisation (both in value and quantity terms) is discharged within the period specified in the said authorisation or within such extended period as may be granted by the Regional Authority by exporting resultant products, manufactured in India which are specified in the said authorisation and in respect of which facility under rule 18 or sub-rule (2) of rule 19 of the Central Excise Rules, 2017 has not been availed:

Provided that an Advance Intermediate authorisation holder shall discharge export obligation by supplying the resultant products to exporter in terms of paragraph 4.05(c)(ii) of the Foreign Trade Policy:

Provided further that notwithstanding anything contained hereinabove for the said authorisations where the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7) and sub-section (9) of section 3 of the said Customs Tariff Act, has been availed, the export obligation shall be fulfilled by physical exports or by making domestic supplies mentioned at serial numbers 1,2 and 3 of the Table contained in notification No. 48/2017-Central Tax, dated the 18th October, 2017 published vide number 1305(E), dated the 18th October, 2017;

(xi) that the importer produces evidence of discharge of export obligation to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, within a period of sixty days of the expiry of period allowed for fulfillment of export obligation, or within such extended period as the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow;

(xii) that the exempt materials shall not be disposed of or utilized in any manner except for discharge of export obligation or for replenishment of such materials and the materials so replenished shall not be sold or transferred to any other person:

Provided that the said materials may be transferred to a job worker for processing subject to complying with the conditions prescribed in the relevant goods and services tax provisions permitting transfer of materials for job work:

(xiii) that in relation to the said authorisation issued to a manufacturer exporter or merchant exporter, any bond required to be executed by the importer in terms of this notification shall be executed jointly by the manufacturer exporter or merchant exporter as the case may be and the supporting manufacturer binding themselves jointly and severally to comply with the conditions specified in this notification;

(xiv) that the exemption from safeguard duty, transitional product specific safeguard duty, countervailing duty and anti-dumping duty shall not be available in respect of material imported-

(a) for supply of goods against Advance Authorisation or Advance Authorisation for annual requirement or Duty Free Import Authorisation;

(b) for supply of goods to Export Oriented Unit or Software Technology Parks or Electronic Hardware Technology Parks or Biotechnology Parks;

(c) for supply of goods against Export Promotion Capital Good (EPCG) Authorisation;

(d) for supply of marine freight containers by 100% Export Oriented Unit (domestic freight container- manufacturers) where said containers are exported out of India within 6 months or such further period as permitted by Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be; and

(e) for supply for official use or to the projects funded by UN or International Organisation in terms of Notification No. 84/97-Customs dated 11-11-1997.

Explanation,- For the purposes of this notification,-

(I) "dutiable goods" means excisable goods which are not exempt from central excise duty and which are not chargeable to 'nil' rate of central excise duty;

(II) "Foreign Trade Policy" means the Foreign Trade Policy, 2023, published by the Government of India in the Ministry of Commerce and Industry, *vide* notification No. 01/2023, dated the 31st March, 2023;

(III) "Handbook of Procedures" means the Handbook of Procedures, 2023 published by the Government of India in the Ministry of Commerce and Industry *vide* public notice No. 01/2023, dated the 1st April, 2023;

(IV) "Manufacture" has the same meaning as assigned to it in paragraph 11.31 of the Foreign Trade Policy;

(V) "Materials" means

(a) raw materials, components, intermediates, consumables, catalysts and parts which are required for manufacture of resultant product;

(b) mandatory spares within a value limit of ten per cent of the value of the authorisation which are required to be exported along with the resultant product;

(c) fuel required for manufacture of resultant product;

(d) packaging materials required for packing of resultant product;

(VI) "Regional Authority" means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorized by him to grant an authorisation under the said Act;

(VII) "Specified Chartered Accountant" means a statutory auditor or a Chartered Accountant who certifies the importer's financial records under the Companies Act, 2013 (18 of 2013) or the Income Tax Act, 1961 (43 of 1961) or the Sales Tax or the Value Added Tax Act of the State Government.

(VIII) "Supply of taxable goods" means a supply of goods which is leviable to tax under relevant Goods and Services Tax law.

[F.No.605/10/2022 -DBK]

(Dhananjay Singh)
Under Secretary.