

## CHAPTER 5

### EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

#### 5.01 Policy

Policy relating to EPCG Scheme is given in Chapter 5 of FTP.

#### 5.02 Application Form

An application for grant of an authorisation may be made by Registered Office or Head Office or a Branch Office or Manufacturing Unit of an eligible exporter to RA concerned in ANF 5A along with documents prescribed therein.

#### 5.03 Nexus Certification

- (a) RA concerned shall, on the basis of nexus certificate from an Independent Chartered Engineer (CEC) submitted by the applicant in Appendix 5A, issue EPCG authorisation. Reasonable wastage, if any, anticipated at the time of installation of capital goods will also be certified by the Chartered Engineer in the nexus certificate and the same would be mentioned in the condition sheet of the EPCG authorisation at the time of issue. For issuance of such certificate, the Chartered Engineer shall act only in the domain of his/her competence.
- (b) RA shall thereafter forward a copy of the EPCG authorisation to the concerned Jurisdictional Customs Authority. The wastage so permitted at the time of issuance of authorisation would be allowed to be sold as scrap/waste on payment of applicable duty.
- (c) An application for amendment in the list of import item(s) including addition(s)/deletion(s), if any, may be filed with RA concerned provided the authorisation is valid for import. The applicant would give justification for seeking such amendment(s) along with fresh nexus certificate from an independent Chartered Engineer.
- (d) An application for amendment in the list of export item(s) including addition(s)/deletion(s) if any, may be filed with RA concerned provided the Export Obligation period of the authorisation is valid and the CG has nexus with export product. The applicant would give justification for seeking such amendment(s) along with fresh nexus certificate from an independent Chartered Engineer.

#### **5.04 Certificate of Installation of Capital Goods**

- (a) Authorization holder shall produce, within six months from date of completion of import, to the concerned RA, a certificate from the jurisdictional Customs authority or an independent Chartered Engineer, at the option of the authorisation holder, confirming installation of capital goods at factory/premises of authorization holder or his supporting manufacturer(s). The RA may allow one time extension of the said period for producing the certificate by a maximum period of 12 months with a composition fee of Rs.5000/-. Where the authorisation holder opts for independent Chartered Engineer's certificate, he shall send a copy of the certificate to the jurisdictional Customs Authority for intimation/record. The authorization holder shall be permitted to shift capital goods during the entire export obligation period to other units mentioned in the IEC and RCMC of the authorization holder subject to production of fresh installation certificate to the RA concerned within six months of the shifting.
- (b) In the case of import of spares, the installation certificate shall be submitted by the Authorization holder within a period of three years from the date of import.

#### **5.05 Port of Registration**

EPCG Authorisation shall be issued with a single port of registration as per paragraph 4.37 of HBP, for imports. However, exports can be made from any port specified in paragraph 4.37 of HBP.

#### **5.06 Import of spares, tools, refractories and catalysts**

- (a) Applications for procurement of capital goods covered under sub-paragraphs (a) (iii) and (iv) of paragraph 5.01 of FTP shall contain a list of plant/machinery installed in factory/premises of the applicant for which such capital goods are required, duly certified by Chartered Engineer or Jurisdictional Customs Authorities.”
- (b) In case of import of spares, EPCG authorisation shall not specify list of spares but shall indicate:
- (i) Name of plant /machinery for which spares are required.
  - (ii) Value of duty saved allowed under the authorisation.
  - (iii) Description of product to be exported and value of export obligation.
- (c) Authorisation holder shall maintain a register of stock & consumption of capital goods covered under sub- paragraphs (a) (iii) and (iv) of paragraph 5.01

of FTP imported under the scheme and at the time of final redemption of export obligation, authorization holder shall submit certificate from independent Chartered Engineer confirming their use in the installed capital goods on the basis of such register.

### **5.07 Conversion of EOU/ Relocated SEZ Units to DTA Unit under EPCG Scheme**

- (a) An EOU/ a relocated SEZ unit, while converting to a DTA Unit, may apply for an EPCG authorisation along with documents prescribed. 'No Objection Certificate' should be produced from the concerned Development Commissioner.
- (b) The export obligation period for a unit which converts from EOU / SEZ Scheme to EPCG Scheme would be the same as is available to a direct EPCG Authorisation Holder as per Paragraph 5.01 of Foreign Trade Policy (FTP).
- (c) If a standalone EOU / SEZ unit wishes to de-bond from EOU to EPCG Scheme, there shall be no requirement for maintenance of average export obligation and the unit shall be required to maintain only specific export obligation equivalent to six times of the proportionate duty saved amount of the depreciated value of capital goods for which the Authorisation has been obtained.
- (d) In case one unit of a firm / company opts to de-bond from EOU to EPCG Scheme, while other unit(s) are DTA units, then the average export obligation in respect of the authorisations issued to the firm / company (other than de-bonding unit) shall remain unchanged and the average EO, after de-bonding of the unit, shall be fixed by excluding the exports made by the de-bonded unit from the total exports of the firm/ company, which runs concurrently for all the units of the firm/ company. In such a case, specific EO equivalent to six times of the proportionate duty saved amount on the depreciated value of the Capital Goods would be imposed on the de- bonding unit shifting to the EPCG Scheme.

### **5.08 Sourcing of Capital Goods Manufactured Indigenously**

- (a) EPCG authorisation holder intending to source capital goods manufactured indigenously shall make a request to the RA for invalidation of EPCG authorisation for direct import / issuance of Advance Release Order (ARO) for availing deemed export benefits as given in paragraph 7.03 of FTP read with paragraph 7.02(c) of HBP.

- (b) This request can be made either along with application or during the validity period of EPCG Authorisation.
- (c) Applicant shall give the name and address of the manufacturer(s) of capital goods.
- (d) RA concerned will issue the invalidation letter / ARO, in quadruplicate.

### **5.09 Issuance of Advance authorisation for import of inputs**

Indigenous manufacturer intending to supply capital goods to EPCG authorisation holder may apply to RA for issuance of Advance authorisation for import of inputs including components required for manufacture of capital goods to be supplied to EPCG authorisation holder.

### **5.10 Conditions for fulfillment of Export Obligation**

In addition to conditions in paragraph 5.04 of FTP, the following conditions shall also be applicable for fulfillment of export obligation:

- (a) Name of the supporting manufacturer as well as the exporter shall be indicated on export documents.
- (b) EPCG authorisation holder may export either directly or through third party (ies).
- (c) In case the Authorization Holder wants to export through a third party, export documents viz., shipping bills / Bill of exports etc. shall indicate name of both authorization holder and supporting manufacturer, if any, along with EPCG authorization number. BRC, GR declaration, export order and invoice should be in the name of third party exporter. The goods exported through third party should be manufactured by the EPCG Authorisation Holder or the supporting manufacturer where the capital goods imported under the authorisation have been installed. Proceeds realised through normal banking channel from third party exporter's account to the authorization holder's account on account of such exports only shall be counted towards fulfillment of export obligation.
- (d) The EPCG authorization holder shall submit the following additional documents for discharge of EO through third party (ies):
  - (i) A copy of agreement entered into between the authorization holder and the ultimate exporter undertaking to export the goods manufactured by the authorization holder/supporting manufacturer for fulfillment of the export obligation against the EPCG authorization in question.

- (ii) Proof of having dispatched the goods from authorization Holder's factory premises to the ultimate exporter/port of export viz. (a) ARE 1 certificate issued by Central Excise / Tax invoice for export prescribed under the GST rules with due authentication by the Customs verifying the exports along with the shipping bill number, date and EPCG authorization number or (b) Invoice duly incorporating the relevant EPCG authorization number & date at the time of dispatch in case the unit is not registered with Central Excise / GST.
- (iii) Lorry Receipt (LR) /Logistical evidence for transportation of goods from the premises of the authorization holder to the third party/port of export.
- (iv) An undertaking from the 3rd party on a stamp paper, declaring that the products exported for fulfillment of EO by them on behalf of the license holder as per details given in the statement of exports, were manufactured by the license holder.
- (v) Financial evidence for having received proceeds through normal banking channel from third party exporter's account to the authorization holder's account on account of such exports towards such third party supplies.
- (vi) Disclaimer certificate from third party that they shall not use such proceeds towards EO fulfillment of any EPCG authorization (s) obtained by them.

### **5.11 Realization of Export proceeds**

Export proceeds shall be realized in freely convertible currency except for deemed exports supplies under Chapter 7. Exports to SEZ units /Supplies to developers/ co-developers irrespective of currency of realization would also be counted for discharge of Export Obligation. Realization in case of supplies to SEZ units shall be from foreign currency account of the SEZ unit.

### **5.12 Calculation of Average Export Obligation**

While calculating Average Export Obligation, exports counted/ being counted for fulfilling specific EO against EPCG Authorisations within valid EO Period (whether original or extended) that have been made in the preceding 3 years will not be taken into account.

### **5.13 Exemption from maintenance of average export obligation**

(a) In case of export of goods relating to the following the EPCG authorisation holder shall not be required to maintain average export obligation:

- (i) Handicrafts,
- (ii) Handlooms,
- (iii) Cottage & Tiny sector,
- (iv) Agriculture,
- (v) Aqua-culture (including Fisheries), Pisciculture,
- (vi) Animal husbandry,
- (vii) Floriculture & Horticulture,
- (viii) Poultry,
- (ix) Viticulture,
- (x) Sericulture,
- (xi) Carpets,
- (xii) Coir, and
- (xiii) Jute

(b) However, this exemption from maintenance of average export obligation shall not be allowed for import of fishing trawlers, boats, ships and other similar items.

(c) Goods, excepting tools imported under EPCG scheme by sectors specified in sub-paragraph (a) above, shall not be allowed to be transferred for a period of five years from date of imports even in cases where export obligation has been fulfilled.

#### 5.14 Block-wise Fulfillment of EO

(a) The Authorisation holder under the EPCG scheme shall, while maintaining the average export obligation, fulfill the specific export obligation over the prescribed block period in the following proportions:

Period from the date of issue of Authorisation	Minimum Obligation fulfilled	Expot to be
Block of 1st to 4th year	50%	
Block of 5th and 6th year	Balance EO	

- (b) The Authorisation holder would intimate the Regional Authority on the fulfilment of the export obligation, as well as average exports, within three months of completion of the block.
- (c) Where EO of the first block is not fulfilled in terms of the above proportions, except in cases where the EO prescribed for first block is extended by the Regional Authority subject to payment of composition fee of 2% on duty saved amount proportionate to unfulfilled portion of EO pertaining to the block, the Authorization holder shall, within 3 months from the expiry of the block, pay duties of customs (along with applicable interest as notified by DOR) proportionate to duty saved amount on total unfulfilled EO of the first block.
- (d) (i) Authorisations issued from 1st April, 2002 upto 31st August, 2004 shall be governed by provisions of paragraph 5.8 of HBP Vol.1 (RE-02) as amended from time to time.
- (ii) Authorisations issued from 1st September, 2004 upto 17<sup>th</sup> April, 2013 shall be governed by provisions of paragraph 5.8 of HBP Vol.1 (RE-12) as amended till 17.04.2013.
- (iii) Authorisations issued from 18<sup>th</sup> April, 2013 till issue of Notification of FTP 2015-20 shall be governed by provisions of paragraph 5.8 of HBP Vol. 1 as amended vide PN No. 1 dated 18.04.2013.
- (iv) Authorisations issued from 1st April, 2015 till 4th December 2017 shall be governed by provisions of paragraph 5.14 of HBP as amended vide PN No. 1 dated 01.04.2015.

### **5.15 Monitoring of Export Obligation**

Authorisation holder shall submit to RA concerned by 30<sup>th</sup> April of every year, report on fulfilment of export obligation by secured electronic filing using digital signatures/ or hard copy thereof.

### **5.16 Automatic Reduction/ Enhancement upto 10% Duty saved amount and pro rata Reduction/ Enhancement in export obligation**

If authorization issued has been utilized for import of goods:-

- (a) in excess of duty saved amount indicated on the authorization by not more than 10%, the authorization shall be deemed to have been enhanced by that proportion. Customs shall automatically allow clearance of such goods without endorsement by RA concerned. The authorization holder shall furnish additional fee to cover excess imports effected, in terms of duty saved amount, to RA concerned, within one month of excess imports taking place. Export obligation shall automatically stand enhanced proportionately. RA concerned may also accept the additional fee to cover the excess imports effected, in terms of duty saved amount, if the same is furnished beyond one month but within two years of the excess import taking place, subject to payment of composition fee of Rs. 5000/- per authorisation.
- (b) In excess of duty saved amount indicated on the authorization by more than 10%, the RA concerned, as per its delegated powers, may allow enhancement in duty saved amount of the EPCG authorization. The Authorisation holder shall furnish additional BG/LUT to the Customs Authority.
- (c) Less than the duty saved amount indicated on the authorization, the export obligation shall stand reduced on pro-rata basis with reference to actual utilization of the authorization.

### **5.17 Extension in Export Obligation Period**

- (a) Extension in Export Obligation Period of EPCG authorization issued prior to Notification of FTP 2015-20 RE 2017 shall be governed by relevant provisions of HBP applicable on the date of issue of authorisation.
- (b) Extension in Export Obligation Period of EPCG authorization issued prior to Notification of FTP 2015-20 shall be governed by relevant provisions of HBP Vol 1 applicable on the date of issue of authorization.
- (c) In case of zero duty EPCG Authorizations, two extensions of one year each in export obligation period may be considered by RA concerned, on payment of composition fee equal to 5% and 10% respectively of proportionate duty saved amount on unfulfilled export obligation for the first/second year of extension or an enhancement in export obligation imposed to the extent of 10% /20% respectively of the total export obligation imposed under the authorization for first/second year of extension, as the case may be, at the



choice of the exporter. Minimum composition fee will be Rs.10,000.

- (d) Request for extension in EO Period shall be made to RA within 90 days from the date of expiry of original EO Period. However, RA may consider the request for extension received upto 180 days with additional composition fee of Rs.5,000.

### **5.18 Provision for Units under BIFR/Rehabilitation**

(a) Deleted

(b) Deleted

### **5.19 Relief in Average Export Obligation**

- (a) To provide relief to exporters of those sectors where total exports in that sector/product group has declined by more than 5% as compared to the previous year, average export obligation for the year may be reduced proportionate to reduction in exports of that particular sector/product group during the relevant year as against the preceding year. However, in case export decline is continuous over consecutive years, the base year for calculation of eligibility and calculation of reduction in average export obligation will be taken as the year after which the exports have shown continuous decline.
- (b) The sectors /product groups for which this relaxation is to be allowed shall be conveyed by the DGFT to all the RAs within seven months of the end of the previous financial year, and the RAs shall re-fix the annual average EO for previous year accordingly for exporters in that sector / product group.

#### **5.19 A: Maintenance of Annual Average Export Obligation**

The excess exports done towards the average export obligation fulfilment of an EPCG authorization during a year can be used to offset any shortfall in the Average EO done in other year(s) of the EO period or the block period as the case may be provided Average EO imposed is maintained on an overall basis, within the block period or the EO period as applicable.

### **5.20 Automatic EO extension in the event of ban on export product**

Whenever a ban/restriction is imposed on export of any product, export obligation period in respect of EPCG authorisations already issued prior to imposition of ban on such export products would stand automatically extended for a period equivalent to duration of such ban, without any composition fee. Authorisation holder would not be required to maintain average E.O. as well for the ban period.

## 5.21 Deleted

## 5.22 Redemption

- (a) Authorisation holder shall apply for redemption in ANF 5B with documents prescribed therein as a proof of EO fulfilment.
- (b) On being satisfied, RA concerned shall issue a certificate of discharge of export obligation to the EPCG authorisation holder and forward a copy to Customs Authorities with whom BG/LUT has been executed. A statement giving details of the documents submitted by the authorisation holder towards evidence of EO fulfilment shall also be enclosed with the certificate.
- (c) RA shall process such applications ordinarily within 30 days. Shortcomings, if any, shall be pointed out in one go. All correspondence, thereafter, shall relate to these deficiencies only. Fresh correspondence, if necessary, shall be within 15 days. Once documents are complete, EO will be discharged within 30 days of receipt of complete documents/information.
- (d) Applications that remain outstanding beyond a period of 60 days after receipt of complete documents shall be reported to the EPCG Division at DGFT headquarters alongwith reasons thereof.

## 5.23 Regularization of Bonafide Default and Exit from EPCG Scheme

- (a) In case, EPCG authorisation holder fails to fulfil prescribed export obligation, he shall pay Customs Duty along with applicable interest as prescribed by Customs Authority. Such facility can also be availed by EPCG authorisation holder to exit at his option. The authorisation holder will have the option to furnish valid duty credit scrips, issued under Chapter 3 or Chapter 5 of FTP, for payment of the Customs duty component
- (b) Authorisation holder can also pay duty and interest suo-motu on the basis of self /own calculation as per the procedure specified in paragraph 4.50 of HBP.

## **5.24 Maintenance of Records**

Every EPCG authorisation holder shall maintain, for a period of 2 years from date of redemption, a true and proper account of exports/ supplies made and services rendered towards fulfillment of export obligation.

## **5.25 Re-Export / Repair/Replacement of Capital Goods Imported under EPCG Scheme**

- (a) Capital Goods imported under EPCG scheme, which are found defective or unfit for use, may be re-exported to foreign supplier within three years from the date of clearance by Customs of such goods, with permission of RA / Customs Authority. Consequently, EO would be re-fixed.
- (b) Capital Goods imported and found defective or otherwise unfit for use may be exported, within two years from the date of clearance by Customs of such goods, with permission of RA / Customs Authority and Capital Goods in replacement thereof be imported under EPCG scheme. In such cases, while allowing export, the Customs shall credit the duty benefit availed which can be debited again at the time of import of such replaced Capital Goods.
- (c) Capital Goods imported under EPCG scheme, may be re-exported for repairs abroad within three years from the date of clearance by Customs of such goods, with permission of RA / Customs Authority. The duty component on the expenditure incurred on the repairs as well as the insurance and the freight, both ways shall be taken into account for re-fixation of the EO.

## **5.26 Penal Action**

In case of failure to fulfil export obligation or any other condition of authorisation, authorisation holder shall be liable for action under FT (D&R) Act, 1992, as amended, Orders and Rules made thereunder, provisions of FTP/HBP, Customs Act, 1962, as amended from time to time or any other law in force

## **5.27 Clubbing of EPCG authorizations**

- (a) Clubbing of two or more EPCG authorisations issued to the same authorization holder would be permitted.
- (b) An application for clubbing can be made to RA concerned in ANF 5C. Clubbing shall only be permitted in case export products endorsed on the

authorisations are same/similar and if authorizations are issued by the same RA.

- (c) Total export obligation would be re-fixed taking into account total of duty saved amount of the clubbed authorisations.
- (d) On Clubbing, authorisations for all purpose shall be deemed to be a single EPCG authorisation. Export obligation period for clubbed authorisations shall be reckoned from first authorization issue-date.
- (e) Average export obligation for clubbed authorisations would be highest of average export obligations endorsed on individual authorisations so clubbed.
- (f) Clubbing would be permitted during valid EOP including extended period, if any. However, clubbing in case of all authorisations where EO period is over may be allowed for regularisation purposes provided they have been issued under same policy period.
- (g) In case of clubbing of EPCG authorizations, where EO can be fulfilled by export of alternate product(s)/service(s), the proportion of alternate product(s)/service(s) for EO fulfillment/regularization will be restricted to the lowest of the percentage of alternate product(s) / service(s) allowed in the clubbed authorizations.
- (h) EPCG authorisations issued prior to 1.4.2007 shall be governed by provisions contained in Chapter 5 of HBP Vol.1 (RE-2006).The EPCG Authorisations issued between 01.04.2007 and 17.04.2013 shall be governed by provisions contained in Chapter 5 of HBP Vol.1 (RE-2012,as amended). The EPCG Authorisations issued from 18.04.2013 till the issue of Notification of HBP 2015-20 shall be governed by provisions contained in Public Notice No.1 dated 18.4.2013. The EPCG Authorisations issued between Notification of HBP 2015-20 till the Notification of HBP 2015-20 (RE 2017) shall be governed by provisions contained in HBP2015-20.

### **5.28 Post Export EPCG Duty Credit Scrip(s)**

- (a) Exporters can exercise this option by filing an application in ANF5A with the RA concerned by selecting the option for this Scheme.
- (b) All applicable duties shall be paid in cash by the exporter at the time of import of Capital Good
- (c) RA shall issue an Authorisation specifying

- (i) "Not for imports" on the body of the Authorisation;
  - (ii) Average EO, if any;
  - (iii) Specific EO @ 85% of the applicable specific EO, computed as if the imports were to take the benefit of duty exemption; and
  - (iv) (EOP, which shall commence from the Authorisation issue date.
- (d) Exporter can file request in ANF 5 B, for issuance of Duty Credit Scrip(s) in proportion to the EO completed within the specified EOP. Only for first such request, proof of actual duty payments on Capital Goods, nexus and installation certificate(s) of Capital Goods shall be submitted along with proof of fulfilment of EO along with proof of maintenance of Average EO. Subsequently, only proof of fulfilment of specific EO (along with proof of maintenance of Average EO) additionally completed vis-à-vis specific EO fixed {as in c(iii) above} may be submitted, unless there have been any changes in documents / proofs submitted earlier.
- (e) RA shall issue freely transferable duty creditscrip(s) equivalent to proportionate EO fulfilled.
- (f) The computation of freely transferable Duty Credit Scrip(s) will be based on basic Customs duty amount paid.
- (g) Deleted
- (h) All provisions of the existing EPCG Scheme shall apply insofar as they are not inconsistent with this scheme.
- (i) The CG imported under paragraph 5.12 of FTP shall not be disposed of till the date of last export for offsetting EO against such CG.
- (j) In case of re-export of CG found defective or unfit for use as per the provisions of paragraph 5.25 of HBP if the exporter claims drawback on such re-export there would be no remission of duty under paragraph 5.12 of FTP.

## **5.29 Green Technology Products**

The Export Products covered under Paragraph 5.10 of FTP which provides for reduced export obligation of 75% for green technology products are:

- (i) Equipment for Solar Energy decentralized and grid connected products,
- (ii) Bio-Mass Gassifier,
- (iii) Bio-Mass/Waste Boiler,
- (iv) Vapour Absorption Chillers,
- (v) Waste HeatBoiler,

- (vi) Waste Heat Recovery Units,
- (vii) Unfired Heat Recovery Steam Generators,
- (viii) Wind Turbine,
- (ix) Solar Collector and Parts thereof,
- (x) Water Treatment Plants,
- (xi) Wind Mill, Wind Mill Turbine /Engine,
- (xii) Other Generating Sets –Wind powered,
- (xiii) Electrically Operated Vehicles –Motor Cars,
- (xiv) Electrically Operated Vehicles- Lorries and Trucks,
- (xv) Electrically Operated Vehicles–Motor Cycles/Mopeds, and
- (xvi) Solar Cells

- i Para 5.19(a) inserted vide Public Notice No. 10/2015-20 dated 22.05.2018
- ii. 5.04(a) is amended vide Public Notice No. 31/2015-20 dated 29.08.2018
- iii Para 5.14(b) is amended vide Public Notice No. 32/2015-20 dated 29.08.2018
- iv. Para 5.16(a) is amended vide Public Notice No. 22/2015-20 dated 31.07.2019

This document is only for ease of reference. The Hand Book of Procedure read with the relevant Public Notice will only have legal authority