

## CHAPTER 8

### DEEMED EXPORTS

**8.1** “Deemed Exports” refer to those transactions in which goods supplied do not leave country, and payment for such supplies is received either in Indian rupees or in free foreign exchange. Supply of goods as mentioned in Paragraph 8.2 below shall be regarded as “Deemed Exports” provided goods are manufactured in India.

#### Deemed Exports

**8.2** Following categories of supply of goods by main / sub-contractors shall be regarded as “Deemed Exports”:

#### Categories of Supply

- (a) Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA;
- (b) Supply of goods to EOU / STP / EHTP / BTP;
- (c) Supply of capital goods to EPCG Authorisation holders;
- (d) (i) Supply of goods to projects financed by multilateral or bilateral Agencies / Funds as notified by Department of Economic Affairs (DEA), MoF under International Competitive Bidding (ICB) in accordance with procedures of those Agencies / Funds, where legal agreements provide for tender evaluation without including customs duty;  
  
(ii) Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral Agencies / Funds as notified by DEA, MoF under ICB, in accordance with procedures of those Agencies / Funds, which bids may have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad.  
  
(iii) A list of such Agencies/Funds, as notified by DEA, MoF, is given in Appendix 13 of HBP, Vol. I ;
- (e) Deleted;
- (f) (i) Supply of goods to any project or purpose in respect of which the MoF, by notification No. 12/2012 –Customs dated 17.3.2011 (earlier Notification No.21/2002-Custom dated 1.3.2002), as amended from time to time, permits

import of such goods at zero customs duty subject to conditions specified in this Notification.

(ii) Benefits of deemed exports shall be available only if the supply is made under procedure of ICB. However, in regard to mega power projects, the requirement of ICB would not be mandatory, if the requisite quantum of power has been tied up through tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding. Supply of goods required for setting up of any mega power project as specified in S.No. 507 of DoR Notification No. 12/2012- Customs dated 17.03.2012, as amended, shall be eligible for deemed export benefits as mentioned in paragraph 8.3(a), (b) and (c) of FTP, whichever is applicable, if such mega power project complies with the threshold generation capacity specified in Customs Notification.

- (g) Deleted;
- (h) Supply of marine freight containers by 100% EOU (Domestic freight containers-manufacturers) provided said containers are exported out of India within 6 months or such further period as permitted by customs;
- (i) Supply to projects funded by UN Agencies; and
- (j) Supply of goods to nuclear power projects through competitive bidding as opposed to ICB. Supply of only those goods required for setting up any Nuclear Power Project as specified in list 33, S. No. 511 of Notification No. 12/2012-Customs dated 17.3.2012, as amended from time to time, having a capacity of 440MW or more, as certified by an officer not below rank of Joint Secretary to Government of India, in Department of Atomic Energy, shall be entitled for deemed export benefits, in cases where procedure of competitive bidding (and not ICB ) has been followed.

**8.3** Deemed exports shall be eligible for any / all of following benefits in respect of manufacture and supply of goods qualifying as deemed exports subject to terms and conditions as in HBP v1:-

**Benefits for**

**Deemed Exports**

- (a) Advance Authorisation / Advance Authorisation for annual requirement / DFIA.
- (b) Deemed Export Drawback.

Exemption from terminal excise duty where supplies are made against ICB. In other cases, refund of terminal excise duty will be given. Exemption from TED shall also be available for supplies made by an Advance Authorisation holder to a manufacturer holding another Advance Authorization if such manufacturer, in turn, supplies the product(s) to an ultimate exporter.

**8.4** Following table shows the benefits available to different categories of supplies as mentioned in Para 8.2 above. In respect of such supplies supplier shall be entitled to the benefits listed in paragraphs 8.3 (a), (b) & (c) of the Policy, whichever is applicable.

**Benefits to the Supplier**

Relevant sub-para of 8.2	Benefit available as given in Para 8.3, whichever is applicable		
	(a)	(b)	(c)
(a)	Yes (for intermediate supplies)	Yes (against ARO or Back to Back letter of credit)	Yes (Against ARO or Back to Back letter of Credit)
(b)	Yes	Yes	Yes
(c)	Yes	Yes	Yes
(d)	Yes	Yes	Yes
(f)	Yes	Yes	Yes
(h)	No.	Yes	Yes
(i)	Yes	Yes	No
(j)	Yes	Yes	Yes

**8.4.1** This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.

**8.4.2** This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.

**8.4.3** This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.

**8.4.4** (i) This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.

(ii) This paragraph is deleted because the contents of this paragraph reflected in paragraphs 8.2(d) and 8.4 above.

(iii) This paragraph is deleted because the contents of this paragraph reflected in paragraph 8.2 (f) above.

(iv) This paragraph is deleted because the contents of this paragraph reflected in paragraphs 8.2 and 8.4 above.

(v) Deleted

**8.4.5** Deleted.

**8.4.6** This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.

**8.4.7** This paragraph is deleted because the contents of this paragraph reflected in paragraphs 8.2 and 8.4 above.

**8.5** Supply of goods will be eligible for refund of terminal excise duty in terms of Para 8.3(c) of FTP, provided recipient of goods does not avail CENVAT credit/rebate on such goods. A declaration to this effect, in Annexure II of ANF 8, from recipient of goods, shall be submitted by applicant. Similarly, supplies will be eligible for deemed export drawback in terms of para 8.3 (b) of FTP of Central Excise duty paid on inputs/components, provided CENVAT credit /rebate has not been availed of such duty paid by supplier of goods. A declaration to this effect, in Annexure III of ANF 8, from supplier of goods, shall be submitted by applicant. Such supplies shall however be eligible for deemed export drawback on customs duty paid on inputs/components.

**Eligibility for refund of terminal excise duty / drawback**

- 8.5.1** Simple interest @ 6% per annum will be payable on delay in refund of duty drawback and terminal excise duty under deemed export scheme if the case is not settled within 30 days of receipt of complete application (as in paragraph 9.10.1 of HBP v1).
- 8.6.1** In all cases of deemed exports, supplies shall be made directly to designated Projects / Agencies / Units / Advance Authorisation / EPCG Authorisation holders. Sub-contractor may, however, make supplies to main contractor instead of supplying directly to designated projects / Agencies. Such Supplies shall be eligible for deemed export benefits as per procedure laid down in paragraph 8.4 of HBP v1.
- Supplies to be made by the main / sub-contractor**
- 8.6.2** Supplies made by an Indian sub-contractor of an Indian or foreign main contractor directly to the designated projects / Agencies, shall also be eligible for deemed export benefits provided name of sub-contractor is indicated either originally or subsequently in the main contract (but before the date of supply of such goods) and payment certificate is issued by project authority in the name of sub-contractor as in Appendix 22C of HBP v1.
- 8.7** Deleted.
- 8.8.1** On 'Cement', deemed export benefits shall be available for supplies under Para 8.2(d) only.
- Miscellaneous**
- 8.8.2** On 'Steel', deemed export benefit shall be available only for supply (a) under Para 8.2 (d); or (b) as an input under an Advance Authorisation/Annual Advance Authorisation/DFIA; or (c) as an input to an EOU for making goods.
- 8.8.3** On 'Fuel', deemed export benefit is available only for supplies to (a) petroleum operations under Sr. No. 356, 358 to 360 of Customs Notification No.12/2012 – Cus dated 17.03.2012, Para 8.2 (f) of FTP; or (b) to EOUs; or (c) to Advance Authorisation holder/Annual Advance Authorisation holder.