



FOREIGN TRADE POLICY, 2023

AN OVERVIEW

BDO in India
2023

The much-awaited Foreign Trade Policy(FTP), 2023 (FTP-2023) has been announced by the Ministry of Commerce & Industry, which would take effect from 1 April 2023 in replacement of Foreign Trade Policy, 2015-2020 which was extended till 31 March 2023 on account of COVID-19 pandemic and geo-political situation. FTP-2023 shifts focus from incentives to a remission and entitlement-based regime, to remain compliant with WTO guidelines. FTP-2023 focuses on greater trade facilitation through technology and automation aiming to boost the country's exports to USD 2tn by 2030.

Detailed chapter-wise summary of key amendments made in the FTP-2023 and Handbook of Procedures (HBP), 2023 is as under:

CHAPTER 1

LEGAL FRAMEWORK AND TRADE FACILITATION

FTP

Perpetual Validity:

- FTP-2023 will have perpetual validity without a sunset and shall be updated on a need basis and per the feedback from trade and industry.

Trade facilitation measures with the help of technology:

- The online facility provided for various processes such as e-RCMC/RC, e-Certificate of Origin, online facility to file Quality Control and Trade Disputes, and electronic record of export proceeds. A 24 x 7 helpdesk facility has also been put in place to assist the exporters in filing online applications on the DGFT portal and other matters pertaining to FTP.

Duty-free entitlements curtailed:

- Duty-free import entitlements provided to the Handlooms, Handicrafts and the Leather & Footwear sectors are withdrawn. Such entitlements are now available only to the Marine and Sports Goods & Toys sectors.

Amendments in the status holder scheme:

- For granting status, an export performance would now be necessary for all three preceding years (two for Gem and Jewellery sector) as opposed to the earlier requirements of export performance in two out of four years
- FTP-2023 has revised thresholds for accreditation as 'status holders' to enable more exporters to receive accreditation/ status. The revised export threshold limit is as under:

(In USD Mn)

Status House Category	Existing Export Performance Threshold	Revised Export performance Threshold
One Star	3	3
Two Star	25	15
Three Star	100	50
Four Star	500	200
Five Star	2000	800

- For granting one-star export house status, the exports of fruits and vegetables falling under chapters 7 and 8 of ITC HS would now be eligible for a grant of double weightage, and the earlier grant of double weightage to units located in agri export zones is withdrawn
- The facility of the benefit of the Accredited Clients Programme (ACP) as per the guidelines of CBIC to three Star and above Export House is withdrawn



- The entitlement of status holders to export freely exportable items on free of cost basis for export promotion revised as under:
 - Lower of INR 10mn or 2% of average annual export realisation during the preceding three licensing years for all products (except Gems and Jewellery, articles of gold and precious metals)
 - 2% of average annual export realisation during the preceding three licensing years for the export of pharma products by pharma companies
 - 8% of average annual export realisation during the preceding three licensing years for supplies of pharmaceutical products, vaccines, lifesaving drugs to health programmes of international agencies such as UN, WHO-PAHO and Government health programmes.
- Status holders will require to endeavour to provide skill upgradation/ training in international trade to a specified number of trainees per year (depending on the status).

Inter-Ministerial Committee for MSME trade-related grievances:

- An inter-ministerial committee is to be set up to examine MSME trade-related grievances which have policy ramifications. This will expedite decision-making with a 'whole of government approach'.

HBP

E-Governance of foreign trade in DGFT

- Some of the important IT initiatives taken by DGFT are:
 - Launch of DGFT trade facilitation mobile application
 - Facility to verify the documents/certificate issued through DGFT Portal.

Status holder certification

- Any status certificate issued under FTP 2015-20 shall remain valid only up to 30 September 2023
- Status certificates issued under FTP2023 shall be valid for a period of five years from the date of application
- On achieving a higher status threshold, a firm can upgrade their status holder category, after surrendering the previous certificate and applying as per para 1.08 of HBP

CHAPTER 2

GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

Requirement to obtain IEC for a service exporter:

- For the export of services or technology, Importer Exporter Code (IEC) shall be necessary on the date of rendition of services for availing benefit under the FTP as compared with the previous requirement of IEC being necessary only when the service provider is taking benefits under the FTP.

Refund of application fee:

- It is mentioned that the application fee is nothing but the fee for the processing of the application, therefore, the fee once received will not be refunded except as per Appendix 2K.

Clearance of goods from customs against authorisation:

- The Goods in 'Restricted' items or items traded through State Trading Enterprises (STEs), which are already imported/shipped/arrived, in advance, but not cleared from Customs may also be cleared against an Authorisation issued subsequently when first warehoused against Bill of Entry for Warehousing and then cleared for home consumption against an Authorisation issued subsequently if specifically allowed by Director General of Foreign Trade (DGFT). Earlier, there was no provision to allow such clearance by DGFT.

Import of samples:

- No authorisation shall be required for the import of bonafide technical and trade samples of items "restricted" in ITC(HS) except defence/security items, seeds, bees and new drugs. Earlier, the defence/security items were not specifically mentioned in FTP or in HBP (which restricted vegetable seeds, bees and new drugs) as restricted.

Import through passenger baggage:

- Samples of items freely importable under FTP may also be imported as part of passenger baggage without authorisation. However, such imports are now made subject to Baggage Rules as notified by Customs from time to time
- Exporters coming from abroad are also allowed to import drawings, patterns, labels, price tags, buttons, belts, trimming, and embellishments required for export, as part of their passenger baggage, without authorisation. However, such imports would now be subject to the value limits as laid down in FTP or as per the relevant Customs notification(s) in this regard
- Any item(s) including Samples or Prototypes of items whose import policy is "restricted" or "prohibited" or is canalised through STEs are now not permitted as part of passenger baggage except with a valid authorisation/permission issued by DGFT.

Import of second-hand goods:

- Import of refurbished/reconditioned spares of Capital Goods is specifically mentioned to be freely importable, subject to production of a Chartered Engineer certificate to the effect that such spares have at least 80% residual life of original spare.



Merchanting Trade:

- A new para 2.39 is introduced to enable merchanting trade, which provides that merchanting trade involving a shipment of goods from one foreign country to another foreign country without touching Indian ports, involving an Indian intermediary is allowed subject to compliance with RBI guidelines, except for goods/items in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) list.

Private Bonded warehouses for exports:

- Para 2.51 of the Policy provides for Private bonded warehouses exclusively for exports may be set up in Domestic Tariff Area (DTA) as per terms and conditions of notifications issued by the Department of Revenue. Such warehouses can procure goods for manufacturing and other operations per Section 65 of the Customs Act. In the FTP 2015-20, it was mentioned that such warehouses shall be entitled to procure goods from domestic manufacturers without payment of duty. Supplies made by a domestic supplier to such notified warehouses shall be treated as physical exports provided payments are made in free foreign exchange. This portion is removed.

Regularisation of EO default and settlement of Customs Duty and interest through settlement Commission:

- Para 2.61 of the Policy deals with the above subject and states that the settlement commission has the power to decide such cases with effect from 1 April 2005. A new line is added stating that where the matter is pending before the National Company Law Tribunal (NCLT), para 2.15 of the FTP (which deals with matters pending with NCLT) shall

apply. This does not seem to impact anything since in any case, the specific provision would override the general provision but is included here for reference.

Approved Exporter Scheme for Self- Certification of Certificate of Origin:

- The entities to whom such self-certification will be extended bilaterally under Free Trade Agreement (FTA) / Preferential Trade Agreement (PTA) will be subject to the provisions and conditions of that FTA.

HBP

Filing of applications

- Applications for authorisation for import/export of restricted goods, or for claiming benefits under the schemes in FTP for seeking clarifications or for any other purposes should be made on the website of DGFT instead of submission to the Regional Authority (RA).

Surrender of IEC

- IEC can be surrendered only if all authorisations/ obligations have been closed for the IEC or in cases where the firm has been amalgamated/acquired/merged etc. with another entity such that all the authorisations/obligations are transferred to the IEC of the new entity.

Updation of IEC

- In case of any change in the constitution of the firm, address, bank details or any other primary details, the IEC details are to be suitably updated online within 30 days of effecting such a change.

Validity period of authorisation

- Validity period for EPCG authorisation has been extended from 18 months to 24 months.

Revalidation of import/export licence certificate/ authorisation/ permissions

- An application for revalidation of authorisation may be made to the office which has issued the authorisation, instead of earlier provisions to apply to RA concerned.

Issuance of scrips against lost EP copy of the shipping bills

- Guidelines for issuance of scrips in case of lost EP copy of the shipping bills are omitted.

Free sale and commerce certificate

- For items falling under the Drug & Cosmetics Act, 1940, an application for the issue of a Free Sale & Commerce Certificate may be made to the Central Drug Standards Control Organisation. Earlier, for these products, there was no specific authority mentioned for applying for such a certificate.

Imports under Indo-US memorandum of understanding

- The Department for Promotion of Industry and Internal Trade (DPIIT) replaced as one of the designated Import Certificate Issuing Authorities in the place of the Department of Industrial Policy and Promotion (DIPP) (para 2.36)

Recognition as a pre-shipment inspection agency (PSIA)

- The recognised PSIAs will be notified under Appendix 2G for a period of three years. At the end of 3 years, PSIA must make a fresh online application for further recognition by DGFT.
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CHAPTER 3

DEVELOPING DISTRICTS AS EXPORT HUBS

Districts as Export Hubs (DEH) initiative would galvanise the Indian districts to become export hubs by identifying products and services with export potential in the district and accelerate the development of the trade ecosystem at a grassroots level to promote exports, manufacturing and service industry in the district. The salient features of this Chapter are summarised hereunder:

District Export Promotion Committee (DEPC)

- As per this Chapter, an institutional mechanism (i.e., DEPC) would be constituted in each district to provide support for export promotion and address the bottlenecks for export growth in the districts
- A DEPC may be chaired by the Collector/District Magistrate/Development Commissioner of the district and would be co-chaired by the designated RA, with various other stakeholders as its members
- The primary function of the DEPCs is to prepare and act on the District Export Action Plan (DEAP) for each district by prioritising 2-3 high potential products/services in the district and preparing a comprehensive plan for their export growth.

State/ Union Territory Export Promotion Committee (SEPC)

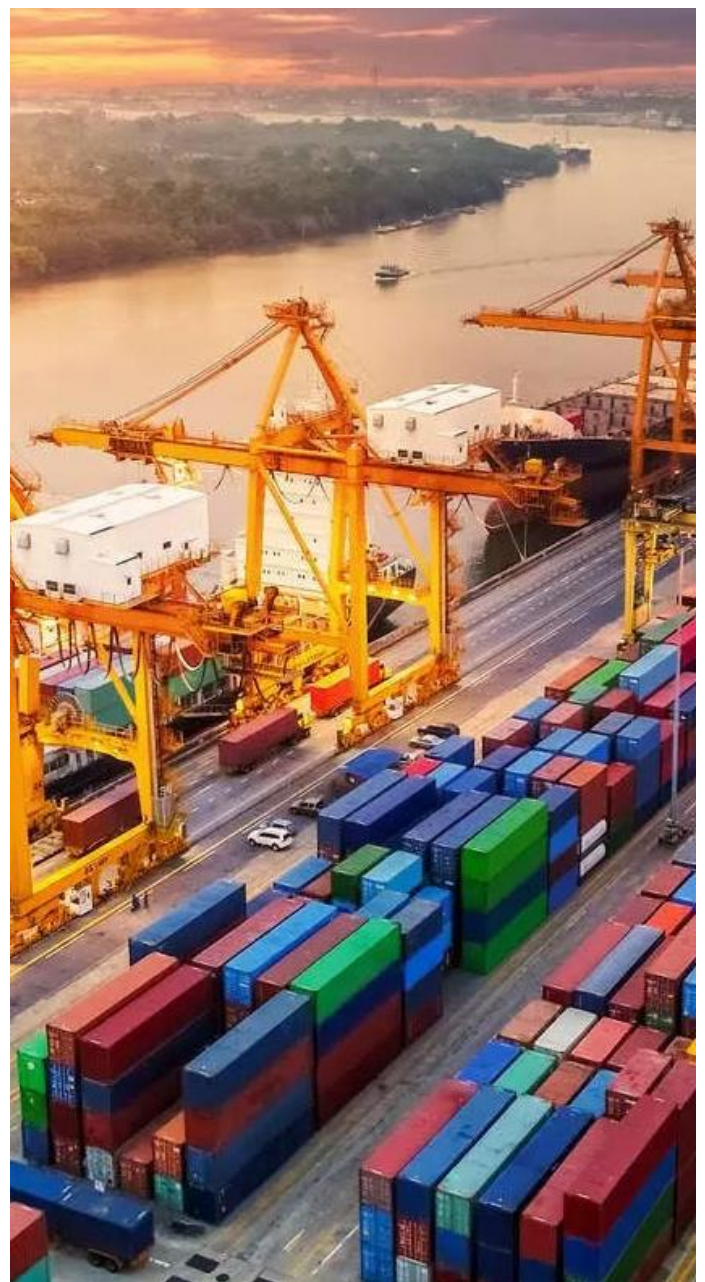
- Each State/ Union Territory must constitute SEPC to synergise the efforts of the Department of Commerce/DGFT and the State/Union Territory Governments in the promotion of exports
- A SEPC would be headed by the Chief Secretary of the State and the designated RA would be the co-convenor of the Committee
- The primary function of the SEPCs is to prepare/monitor State specific Export Promotion Policies/Strategies, facilitate engagement of exporters with the State governments, address all export promotion issues at the State level and monitor the progress of DEPCs in each district of the State.

DEAP

- DEAP may be prepared for each District and may include the support required by the local industry and trade in boosting their manufacturing activity and exports with impetus on supporting the industry from the production stage to the exporting stage
- DEAP may also include a strategy to enhance logistics and infrastructure at the District level and better utilisation of the Market Access Initiative Scheme of the Department of Commerce
- Once the plan is formally adopted by the DEPC, the plan may be implemented by DEPC by identifying the projects/activities required to be done to promote export growth in Districts.

Online Monitoring of DEAPs

- DGFT to develop an online monitoring portal to enable the States/Union Territories to upload all information related to the products/services with export potential of every District. This portal may also help in monitoring the progress of DEAP in all Districts.



CHAPTER 4

DUTY EXEMPTION/ REMISSION SCHEMES

Special Advance Authorisation Scheme for export of Articles of Apparel and Clothing accessories

- The authorisation may also be issued based on self-declaration as per para 4.07 of HBP. In such cases, ad hoc norms shall be fixed within a stipulated period of 90 days.

Self-ratification scheme

- The expression “additional inputs” refers not to additionality in terms of the quantity/value of an input specified in a norm, but to another additional input. Say, if the inputs specified in the norm are X1 and X2 only, then input Y would represent an additional input
- A status holder who is a manufacturer cum actual user and holds valid 2-star/ above status & who has already submitted its application for grant of Authorised Economic Operator (AEO) on Central Board of Indirect Taxes and Customs (CBIC)’s AEO portal is also eligible to apply for this scheme, subject to prescribed conditions under para 4.06(v).

Minimum value addition

- In case of spices, the minimum value addition shall be 25%.

Ineligible categories of import on Self Declaration basis

- All items with a basic customs duty of more than 30% will not be eligible for import on a self-declaration basis.

Pre-import condition

- The provision in the previous policy about the import of drugs from unregistered sources to have the pre-import condition is removed. It remains to be seen whether the same gets listed in Appendix 4-J, which lists import items subject to pre-import conditions.

Actual user condition for advance authorisation

- An AEO having a valid certificate has the option to produce self-declaration regarding usage of the goods, instead of a certificate from a Chartered Accountant, where CENVAT/input tax credit facility on input has been availed for the exported goods.

Importability/ Exportability of items that are Prohibited/ Restricted/ STE

- In case of imports made by an Advance Authorisation / Duty Free Import Entitlement holder against NOC issued by an STE product, the requirement to file Quarterly Returns of imports effected against such NOC to the concerned STE by the importer and for STE to submit half-yearly import figures of such imports to concerned administrative Department for monitoring with a copy endorsed to DGFT has been done away with
- STE is also permitted to charge an amount for issue of NOC, subject to a maximum of INR 5,000/- from the importer.

Domestic sourcing of inputs

- Advance authorisation holders in DTA can procure inputs from Special Economic Zone (SEZ) units against a Certificate of Supply till the Electronic Data Interchange (EDI) message system between SEZ and Customs is enabled.



Nominated agencies for procurement by Gem and Jewellery sector

- MMTC Ltd., The State Trading Corporation of India Ltd., PEC Ltd and STCL Ltd are removed from the list of nominated agencies for procurement
- The provision relating to the import of gold by Four Star and Five Star Houses with Nominated Agency Certificate, notwithstanding any provision relating to the import of gold by Nominated Agencies under FTP 2015-2020, subject to actual user condition and permitted to import gold as input only for manufacture and export by themselves during the remaining validity period of the Nominated Agency certificate, has been removed
- The procedure for the import of precious metals by the Gems & Jewellery units operating under EOU & SEZ schemes will be as per the applicable schemes.

Diamond & Jewellery Dollar Accounts

- For carrying out business through a designated Diamond Dollar Account, three years track record in import/export of diamonds etc required instead of two years previously.

Preservation of records

- Records shall be preserved by the authorisation holder/manufacturer for a period of three years from the date of the Export Obligation Discharge Certificate (EODC).

Endorsement in case of advance authorisation for free of cost and paid material

- In the case of Advance Authorisation for free-of-cost and paid material, a specific endorsement by RA, disallowing remittances for the material being supplied free of cost, shall be made in the condition sheet of Advance authorisation, instead of an exchange control copy of the advance authorisation.

Representation against the decision of the norms committee

- No representation against the decision of the Norms Committee after the period of 12 months from the date of uploading the decision on the DGFT website will be entertained.
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Reliance on documents for the redemption of advance authorisation for pharmaceutical products manufactured through a non-infringing process

- For redemption of an advance authorisation for pharmaceutical products manufactured through a non-infringing process, the regional authority can now rely on specific details verified & certified by a Chartered Engineer (Chemical) along with cross-attestation by a Chartered Accountant who shall both independently verify the inputs consumed in the process, with that of the inputs made/allowed in authorisation before allowing redemption or bond waiver against individual advance authorisation. Further, the records for redemption are to be preserved for a period of at least three years from the date of the export obligation discharge certificate, as opposed to three years from the date of redemption earlier.

Description of an advance authorisation

- An advance authorisation would specify the validity period of the import and export obligation period.

Advance authorisation or DFIA for intermediate supplies

- A suitable documentary evidence indicating the available quantity under Advance Authorisation shall be submitted along with the application for invalidation. The above-stated evidence is not required if invalidation is applied along with the application of Advance Authorisation.

Execution of Bank Guarantee (BG)/ Letter of Undertaking (LUT)

- The previous procedure of RA endorsing on the reverse of Advance authorisation at the time of issue of authorisation about acceptance of Letter of Undertaking is discontinued.

Port of registration

- For procurement from SEZs, where no Telegraphic Release Advice (TRA) is issued by customs, RA may issue a "Certificate of supplies from SEZ", containing details as given in Para 4.30 (e) for the requested item, after making the import item "Invalid for direct imports". The 'Certificate of Supplies from SEZ' shall be marked in quadruplicate with a copy each to the authorisation holder, SEZ supplier unit, the designated officer at SEZ, and the relevant port customs authorities. The above certificate shall be issued as an online amendment to the authorisation and must be transmitted after verifying usage of the issued authorisation in case it is already registered with customs at the time of application for the certificate. The application is to be made to the concerned RA from where authorisation is issued in the manner as prescribed under Para 4.30(c) and Para 4.34 of HBP.

Monitoring of export obligation

- The time limit to file an application online by the authorisation holder has been increased from two months from the date of expiry of the export obligation period to six months from the date of expiry of the export obligation period. The failure to apply within this time would lead to action under FT (DR) Act by issuing a show cause notice by the regional authority.
- The earlier requirement of linking all exports online every quarter on the DGFT system in case of online EODC application has been removed and now no periodicity is prescribed.

Regularisation of bonafide default

- If the export obligation is fulfilled in terms of value but there is a shortfall in terms of quantity:
 - Exporter shall pay Customs Duty along with applicable interest online through ICEGATE Payment Gateway. The earlier option of payment of customs duty through valid duty credit scrips issued under FTP was removed
 - An amount equivalent to 10% (increased from 3% earlier) of the CIF value of unutilised imported material, if the item of import is restricted, into 'Head Account: 1453, Foreign Trade and Export Promotion and Minor Head 102'.
- If the export obligation is fulfilled in terms of quantity but there is a shortfall in terms of value, with value addition falling below the minimum value addition prescribed, the authorisation holder will have to deposit an amount of 3% (increased from 1% earlier) of shortfall in FOB value in Indian Rupee, online through DGFT website (instead of through TR in authorised branch of Central Bank of India as above or through EFT mode or through credit card).

Payment of Customs Duty and Interest in case of bonafide default in EO

- Now the only mode of payment available is online payment through the ICEGATE payment gateway. Previously, such payment was to be made either
 - in cash through TR challan to Customs Authority
 - Payment of customs duty through debit of valid duty credit scrips issued under Chapter 3 (excluding SHIS, SFIS & AHS scrips) in terms of FTP (2009-14) or Chapter 3 of FTP 2015-20 or post-export EPCG duty remission scheme scrip, in respect of goods which are permitted under the respective reward/duty remission scrip.
- The provisions of consideration of cases against lost EP copies of the Shipping Bills and/or Bank Realisation certificates have been removed.

DFIA Scheme

Facility for Split DFIA

- The fee of INR 1,000 for the issue of split DFIA is removed.

Gems and Jewellery sector

Wastage and value addition norms

- Wastage and value addition norms are not applicable under Advance authorisation for any jewellery/article manufactured by a fully mechanised process and unstudded and for Gold/Silver/Platinum medallions and coins (excluding coins of nature of legal tender).

Entitlement

- The entitlement of quantity of gold/silver/platinum against the export of Articles made from these metals shall be quantity of gold/silver/platinum in the item of export plus claimed wastage/manufacturing loss within admissible limits. Earlier, it was not specifically mentioned that loss would be considered within admissible limits.

Export through Exhibitions/Export Promotion Tours/ Export of Branded Jewellery

- For claiming replenishment for the export of branded jewellery, instead of customs attested invoice, the exporter is required to submit an LEO copy of the Shipping Bill with a Tax invoice for export supplies and the other documents remain the same.
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CHAPTER 5

EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

EPCG Scheme

- The specific clause, permitting the import of capital goods for Project Imports notified by CBIC under the EPCG Scheme is removed
- A specific clause is mentioned stating that import/procurement under the EPCG scheme shall also be subjected to Average Export Obligation (AEO) as given in para 5.04(c) of FTP. The AEO shall be fulfilled every financial year, till the export obligation is completed. Exports/supplies made over and above AEO shall only be considered for the fulfilment of Export Obligation
- The validity of EPCG authorisation has been extended to 24 months from 18 months earlier
- The scheme now covers a common service provider (CSP) in Prime Minister Mega Integrated Textile Region and Apparel Parks (PM Mitra) also
- For any CSP, common utility services like providing Electricity, Water, Gas, Sanitation, Sewerage, Telecommunication, Transportation etc. shall not be considered for benefit of the CSP
- Capital goods shall be installed within a Town of Export Excellence or PM MITRA
- The export obligation may be fulfilled both by physical exports as well as deemed exports. Deemed export supplies shall also be eligible for benefits available under paragraph 7.03 of FTP. Earlier supplies as specified in paragraph 7.02 (a), (b), (e), (f) & (h) of FTP2015-20 were counted towards fulfilment of the export obligation
- Exports made from DTA units shall only be counted for calculation and/or the fulfilment of AEO and/or EO
- Only one benefit specified in paras 5.04(d) (i.e., indigenous sourcing of capital goods), 5.09 (i.e., accelerated exports), 5.10 (i.e. Green technology products) and 5.11 (i.e., reduced EO for northeast region and UTs of Jammu and Kashmir and Ladakh) shall be admissible
- Export proceeds realised in Indian Rupees as per para 2.52(d)(ii) are also counted towards the fulfilment of the export obligation.

Provision for companies admitted under the provisions of Insolvency and Bankruptcy Code 2016

- A company holding EPCG authorisations and having been admitted under the provisions of Insolvency and Bankruptcy Code 2016 for commencement of insolvency proceedings and in respect of whom the resolution plan has been approved under Section 31 of IBC 2016 by Adjudicating Authority may be permitted to relief, concessions and waivers in accordance with the resolution plan approved/finalised by Adjudicating Authority/Appellate Authorities as the case may be. (Similar provision is not found in AA/DFIA schemes).

Provision for Post export EPCG scrips discontinued

- The provisions for Post export EPCG scrips have been discontinued.



Exemption from maintenance of average export obligation

- In the case of the export of goods relating to the dairy sector and Industries covered under the Khadi and Village Industries Commission (KVIC), the average export obligation would not be required to be maintained
- However, the exemption granted to the cottage and tiny sector industries, from maintaining average export obligation has been withdrawn.

HBP

Nexus certification

- The provisions of forwarding a copy of the EPCG authorisation to the jurisdictional Customs Authority by the RA have been done away with.

Process for procurement from SEZ

- On a request with the application for authorisation for procurement of new capital goods from SEZs, the RA may issue a 'Certificate of Supplies from SEZ', containing the details for the requested items and other specified details after making the import item 'invalid for direct imports'
- The 'Certificate of Supplies from SEZ' shall be marked in quadruplicate with a copy each to the authorisation holder, SEZ supplier unit, the designated officer at SEZ and relevant port customs authorities. The certificate would be issued as an online amendment to the authorisation and must be transmitted
- The request for a 'Certificate of Supplies from SEZ' to be accompanied by an authorisation utilisation status issued by the relevant customs authorities mentioned on the authorisation for the RA to verify the actual utilisation of the authorisation at the time of application and the certificate may be issued to the extent of quantity available as per utilisation status
- The above procedure would apply even if the 'Certificate of Supplies from SEZ' is applied for along with the application for authorisation.

Conditions for the fulfilment of export obligation

- The following conditions are added for the fulfilment of export obligation through a third party:
 - The shipping bill/bill of export and GST invoice should be in the name of the third-party exporter
 - The goods manufactured by the authorisation holder shall be exported as it is by the ultimate exporter (third-party exporter) without further processing
 - Disclaimer certificate should be obtained from the third party that they shall not use such proceeds towards EO fulfilment of any EPCG authorisation(s) obtained by them.

Blockwise fulfilment of export obligation

- The authorisations issued from 5 December 2017 till 31 March 2023 shall be governed by provisions of paragraph 5.14 of HBP as amended vide PN no. 43 dated 5 December 2017.

Extension in export obligation period

- For extension of export obligation, the composition fee payable is rationalised to 2% of the proportionate duty saved amount on unfulfilled export obligation, instead of 5% for the first extension of one year and 10% for the second extension of one year. The option of enhancement in export obligation for extension in the export obligation period is no longer applicable
- The application for extension for regularisation purposes, from 6 to 8 years, may also be considered after the expiry of the EO period on payment of a late fee of Rs. 15,000/-, instead of Rs. 5,000/- for each year per authorisation
- It is clarified that while for extension in the EO period of EPCG authorisation issued under the previous policy, the provisions of HBP on the date of issuance of authorisation would be applicable, the applications and payment of fees for extension would be as per the FTP 2023.

Export obligation discharge certificate (EODC)

- The previous provisions to point out shortcomings in the application for EODC in one go and subsequent communication to relate only to these deficiencies have been amended to provide that normally the shortcomings shall be pointed out in one go and, the provision stating that fresh correspondence, if necessary, shall be within 15 days has been removed. This results in RA getting more time to process the application and to identify the shortcomings in the application, as opposed to time-bound disposal requirements in the previous policy
- The provision to report the applications remaining outstanding beyond a period of 60 days after receipt of complete documents to the EPCG division at DGFT headquarters along with the reasons thereof has been removed.

Regularisation of bonafide default and exit from the EPCG scheme

- It is specifically mentioned that the EPCG authorisation holders shall have the option to surrender the unutilised authorisation at any point in time and no penalty/fees would be levied in such cases
- It is specifically provided that in case of failure to fulfil the prescribed export obligation, the authorisation holder shall pay duty/taxes/cess in proportion to the shortfall in export obligation
- In case of domestic sourcing of capital goods through invalidation letter/ARO, the duties/taxes and cess payable in case of non-fulfilment of the export obligation shall be with reference to the notional customs duties/taxes/cess saved on the FOR value of capital goods (including spares, jigs, fixtures, dies and moulds)
- The suo moto payment of duty and interest can be provisionally made by the authorisation holder. Previous provisions did not consider such suo moto payment as provisional.

Clubbing of EPCG authorisations

- The EPCG Authorisations issued between the notification of HBP 2015-20 till the notification of HBP 2015-20 (RE-2017) shall be governed by provisions contained in HBP 2015-20. The EPCG Authorisations issued between the notification of HBP 2015-20 (RE-2017) till the notification of HBP 2023 shall be governed by provisions contained in HBP 2015-20 (RE-2017).

Amendment in list of Green Technology Products with a reduced export obligation

- The following products are added to the list of green technology products, eligible for a reduced EO of 75%:
 - Battery Electric Vehicles (BEV) of all types
 - Vertical Farming equipment
 - Wastewater Treatment and Recycling
 - Rainwater harvesting system and Rainwater Filters
 - Green Hydrogen
 - LED lights of various kinds.
- The following products are removed from the list of green technology products, eligible for a reduced EO of 75%:
 - Biomass gasifier
 - Biomass/Waste boiler.

CHAPTER 6

EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME, EXPORT ORIENTED UNITS (EOUS), ELECTRONICS HARDWARE TECHNOLOGY PARKS (EHTPS), SOFTWARE TECHNOLOGY PARKS (STPS) AND BIO-TECHNOLOGY PARKS (BTP)

Export and Import of Goods

- As per Para 6.01(b) of the FTP, in respect of an EOU, the export of prohibited SCOMET items may be considered by BOA on a case-to-case basis, provided that the inputs used for the export item(s) is/are imported and there is no procurement of such inputs from the DTA. In the aforesaid clause, the phrase 'inputs used for the export item(s)' has been inserted in place of 'raw materials'.

Other entitlements

- As per Para 6.11(a) of the FTP, EOU/EHTP/STP/BTP units (unit) are entitled to claim exemption from industrial licensing for the manufacture of items reserved for "micro and small enterprises", instead of earlier entitlement for items reserved for 'SSI sector'
- Para 6.11(d)(iii) of the FTP, which provides that a unit will not be required to furnish a bank guarantee at the time of import or going for job work in DTA has added a new condition of such a unit has not been issued a show cause notice or a confirmed demand, during the preceding 3 years, on grounds other than procedural violations under the Central Goods and Services Tax Act, 2017, State Goods and Services Tax Act, 2017, Union Territory Goods and Services Tax Act, 2017 and Integrated Goods and Services Tax Act, 2017
- Para 6.11(e) has been inserted to provide that a unit will not be required to furnish a bank guarantee at the time of import or going for job work in DTA, if:
 - It has achieved the necessary certification as an AEO
 - It has not been issued a show cause notice or a confirmed demand, during the preceding 3 years, on grounds other than procedural violations, under the penal provisions of the FT (D&R) Act and the Foreign Exchange Management Act.

Inter Unit Transfer

- Para 6.12(c) of the FTP has been inserted to provide that goods supplied by one unit of EOU/EHTP/STP/BTP to another unit shall be treated as imported goods for the second unit for payment of duty, on DTA sale by the second unit.

Replacement of defective goods procured

- Goods imported /indigenously procured and found defective can now be returned against a refund of purchase value.

Deletion of the provisions concerning the revival of sick units

- Para 6.25 of the erstwhile FTP and Para 6.39 of the erstwhile HBP provides that in cases where a unit is declared sick by an appropriate authority, suitable proposals for the revival of the unit or its takeover may be



considered by BOA. In this regard, suitable guidelines on the revival of sick units were provided in Appendix 6L of the erstwhile HBP

- The entire series of provisions (in FTP and HBP) concerning the revival of sick units has been deleted.

HBP

Extension of LoP for completing exit formalities

- Para 6.01(c) of the HBP has been amended to provide that in case the extension of LoP is required for completing the exit formalities, the LoP may be extended by the DC for a limited period i.e., less than 5 years.

Import/ Domestic Procurement of Goods

- Para 6.04 of the HBP provides the list of goods permitted to be imported/procured from DTA. Clause (b) to this Para has been amended as follows:
 - Procurement of spares has been permitted
 - Procurement of captive power plants (DG Sets, Wind Power, Solar Power) including transformers and accessories is also allowed to be procured from DTA. However, such import/domestic procurement is now subject to an additional condition that no tax/duty benefits stipulated under the EOU Scheme shall be available for setting up as well as operations and maintenance of such wind and solar power plants.

Net Foreign Exchange (NFE) Earnings

- Para 6.10 of the HBP dealing with the calculation of NFE has been amended to specifically include the list of supplies mentioned in Para 6.08 of the FTP (which are counted towards fulfilment of NFE) as inward supplies to be considered in the FOB value of exports. In the previous policy, such reference in HBP was missing.

Sub-contracting

- Sub-contracting by EOU Gems and jewellery units through other EOUs, or SEZ units or units in DTA is inter alia subject to the condition that goods, finished or semi-finished, including studded jewellery, taken out for sub-contracting shall be brought back to the unit with 90 days. Now para 6.21 of the HBP has been amended to empower the Customs Authorities to grant an extension of time beyond 90 days in deserving cases.

Replacement/Repair of Imported/Indigenous Goods

- Para 6.28 of the HBP has been amended to increase the threshold value of transfer goods for quality testing/R&D purposes to any recognised laboratory/institution from INR 0.50mn to INR 1mn without payment of duty and/or taxes.

Powers of DC/ Designated Officer

- Para 6.34 of the HBP has been amended to provide the following additional functions to the DC/Designated Officer:
 - Permit change of location from the place mentioned in LoP to another and/or to include or exclude additional location/space
 - Function as a Registering authority for the EOU unit
 - Exit from EOU/EHTP/STP/BTP Scheme including the grant of an 'in-principle' exit letter as per Appendix 6K to HBP
 - The power to issue IEC, if it was not already issued to the entity has been taken away

Conversion

- Para 6.38 of the HBP dealing with the conversion of an existing DTA unit into an EOU/EHTP/STP/BTP unit has been amended to provide that where the DTA unit has taken EPCG authorisation, the conversion would be permitted only if either the unit has fulfilled the stipulated Export Obligation and has obtained Export Obligation Discharge Certificate or has made payment of applicable duties and taxes and compensation cess on capital goods imported under the EPCG Scheme.

CHAPTER 7

DEEMED EXPORTS

Objective

- Para 7.00 of the FTP stipulates the objective of Chapter 7 (i.e., Deemed Exports). The objective has now been extended to also promote Make in India in addition to providing a level-playing field to domestic manufacturers.

Common conditions for deemed export benefits

- The common conditions for providing deemed export benefits have been extended to steel manufacturers supplying steel against Advance Authorisation through their Service Centers/Distributors/Dealers/Stockyards
- Such manufacturers shall be eligible to claim duty drawback subject to the condition that -
 - Such supplies are made per the Office Memorandum dated 27 May 2020 and 24 June 2020 issued by the Ministry of Steel
 - Invoice against such supplies would be raised by the manufacturer on Advance Authorisation holder
 - Delivery of such supplies can be made through their Service Centers/Distributors/Dealers/Stockyards, who will raise tax invoices on the steel manufacturer bearing cross-reference for such supplies.

Benefits on specified supplies

- As per Para 7.08(iii)(a) of the erstwhile FTP, the benefit of deemed export was available on "Fuel" supplied to Project listed for petroleum operations (as per Sl. No. 404 of Notification no.50/2017-Cus. dated 30 June 2017)
- The aforesaid benefit has now been discontinued in the FTP. As a consequential amendment, the benefit of claiming a refund of Terminal Excise Duty on such supplies has also been discontinued.



Application for claiming Terminal Excise Duty (TED)/Drawback

- An application for claiming TED refund/drawback can no longer be filed by a Branch office.

CHAPTER 8

QUALITY COMPLAINTS AND TRADE DISPUTES

The provisions of this Chapter have been amended to now stipulate that the provisions of this Chapter would extend in respect of the quality of 'services or technology' in addition to 'goods' covered under the erstwhile FTP. Further, Para 8.00 of the FTP has been amended to provide that the provisions of this Chapter would not apply to:

- Complaints/disputes between two or more Indian entities
- Complaints/disputes between two or more foreign entities.

Committee on Quality Complaints and Trade Disputes (CQCTD)

- The FTP now deals with a specific provision containing that CQCTD will hold its meetings at regular intervals and at least four a year given the pendency of complaints/disputes.

Corrective measures

- Para 8.07 of the FTP has been amended to provide the following corrective measures:
 - Initially, efforts will be made to settle the complaint/dispute amicably. In cases where the matter cannot be settled amicably, action may be taken against the erring Indian entity under the FT(D&R) Act and Foreign Trade (Regulation) Rules, 1993
 - Complaints against foreign entities will be taken up for settlement by the respective 'Foreign Trade Division' in the Department of Commerce through Indian Missions abroad (who will take up the complaints against the foreign entities)
 - Where the Indian Missions abroad are satisfied with the malafide of any foreign entity, they shall send such information to DGFT for circulation of EPCs/Commodity Boards, ECGC and other regulatory authorities. Similar changes have been made to Para 8.04 of the HBP.

Case Officer

- Para 8.08 of the FTP has been inserted to provide that a Case Officer will be assigned for monitoring purposes for resolving complaints and trade disputes in a time-bound manner.

Nodal Officer

- Para 8.09 of the FTP provides that the DGFT would appoint an officer, not below the rank of Joint Director General, in Headquarters, to function as the Nodal Officer.
- The function of the Nodal Officer has been increased in the FTP to
 - Monitor trade disputes
 - Coordinating with Foreign Trade Divisions of the Department of Commerce, Indian Missions and other agencies.



Composition of CQCTD

- Under the erstwhile HBP (Para 8.02), CQCTD may inter alia include a member, being a representative of the Federation of Indian Exporter Organisation (FIEO) and/or Export Promotion Council. Under the HBP 2023, a representative of the Commodity Boards may be also treated as a representative member of CQCTD in this criteria.

CHAPTER 9

PROMOTING CROSS-BORDER TRADE IN DIGITAL ECONOMY

A new chapter has been introduced to provide a framework for cross-border trade of goods and services from India in the digital economy and the promotion of e-Commerce and other emerging channels of exports from India.

Relevant definitions

- **E-Commerce Exports of Goods/Services:** Export of goods/services where selling is through the internet on an E-Commerce platform, the payment for which shall be done through international credit or debit cards, or other authorised electronic payment channels and as specified by the RBI from time to time
- **E-Commerce Platform:** An E-Commerce platform is an electronic platform, including a web portal, that enables the commercial process of buying and selling through the Internet
- **E-commerce Export Logistics Provider:** Any service provider who provides logistics services towards exports of goods or services for E-Commerce exports.

Exports/Imports through Courier/Post

- Para 9.05 of the FTP provides for exports through a registered courier service/Foreign Post Office is regulated as per the FTP/Export Policy in ITC(HS). Further, the monetary limit of such exports through courier service has been enhanced from INR 0.5mn to INR 1mn. Similarly, Para 9.06 of the FTP deals with imports through a registered courier service or Post as per the FTP and ITC(HS) based Import Policy. Further, the export of precious Metal Jewellery by courier through E-commerce and the re-import of such export shipments returned by the buyer shall be allowed.

Promotion of E-Commerce Exports

- The Niryat Bandhu Scheme (NBS) shall have a component for the promotion of e-Commerce and other emerging channels of exports by organising outreach activities/workshops, capacity building and skill development in partnership with Customs Authorities, Department of Post, 'Industry Partners' and 'Knowledge Partners' for promotion of e-Commerce exports.

E-Commerce Export Hubs (ECEH)

- ECEH would act as a centre for favourable business infrastructure and facilities for Cross Border E-Commerce activities. ECEH may be set up through private initiative or through a Public-Private-Partnership mode in partnership with State/Central Governments
- The proposal for setting up ECEH shall be submitted to the committee constituted by DGFT. DGFT may also specify export products or markets which would not be eligible for ECEH operations



- ECEH may provide for storage (including cold storage facilities), packaging, labelling, certification and testing and other common facilities for the purpose of exports. ECEH shall also provide for dedicated logistics infrastructure for connecting to and leveraging the services of the nearest logistics hub(s)
- ECEH may handle all goods (including SCOMET and restricted goods, subject to compliance with regulations and conditions) except prohibited goods. Further, capital goods brought to an ECEH shall be used only for specified activities
- ECEH may be provided financial assistance under the MAI scheme for e-Commerce export promotion projects for marketing, capacity building and technological services
- ECEH developer shall provide an annual statement of accounts as per the instructions issued in this regard. Further, the procedures for supervision and inspections at ECEHs may be notified by DGFT. Additionally, an independent evaluation and assessment mechanism may be developed.

Promotion of E-Commerce exports through Postal Route

- Dak Ghar Niryat Kendras to be operationalised to work in hub-and-spoke model with Foreign Post Offices to facilitate cross-border e-Commerce and to enable artisans, weavers, craftsmen, MSMEs in the hinterland and land-locked regions to reach international markets.

CHAPTER 10

SCOMET: SPECIAL CHEMICALS, ORGANISMS, MATERIALS, EQUIPMENT AND TECHNOLOGIES

SCOMET is an acronym for Special Chemicals, Organisms, Materials, Equipment and Technologies. As regards the SCOMET list, the FTP focuses on the regulation of the export of dual-use items, including software and technologies which have potential civilian/industrial applications as well as use in weapons of mass destruction. Unless specifically exempted, the export of such goods is either prohibited or permitted under authorisation. Thus, the SCOMET list represents the National Export Control List of dual-use items munitions and nuclear-related items, including software and technology and is aligned to the control list of all multilateral export control regimes and conventions.

Classification of SCOMET categories and Licensing authorities

The SCOMET list is currently divided into 9 categories of items from Category 0 to Category 8. The broad classification along with the corresponding details of licensing authorities (for providing export authorisations) are tabulated hereunder:



SCOMET category	SCOMET Items	Jurisdictional authority
0	Nuclear materials, nuclear-related other materials, equipment and technology*	Department of Atomic Energy
1	Toxic chemical agents and other chemicals	DGFT
2	Micro-organisms, toxins	DGFT
3	Materials, Materials Processing Equipment and related Technologies	DGFT
4	Nuclear-related other equipment and technology, not controlled under Category '0'	DGFT
5	Aerospace systems, equipment, including production and test equipment, and related Technology and specifically designed components and accessories thereof	DGFT
6	Munitions List*	Department of Defence Production / Ministry of Defence
7	'Reserved'	DGFT
8	Special Materials and Related Equipment, Material Processing, Electronics, Computers, Telecommunications, Information Security, Sensors and Lasers, Navigation and Avionics, Marine, Aerospace and Propulsion	DGFT

**Subject to certain inclusions/exclusions*

Additionally, the export of items not covered in the aforesaid list may also be regulated under the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

Catch-all Controls:

- If the exporter has been notified in writing by DGFT or he knows or has reason to believe that an item, though not covered in the SCOMET list, has a potential risk of use in or diversion to Weapons of Mass Destruction (WMD) or in missile system or military use (including by terrorists and non-state actors), he shall apply for a SCOMET authorisation. The export of such an item may be denied or permitted as per the procedure provided for SCOMET items in Paragraph 10.06 of HBP.

Supply of SCOMET Items from DTA to SEZ/EOU and outside the country

- As per Para 10.06 of the FTP, export authorisation is not required for the supply of SCOMET items from the DTA to SEZs/EOUs. However, such supplies must be reported to the Development Commissioner of the respective SEZ/EOU in the prescribed format within one week of the supplies getting affected
- The export authorisation would however be required in cases where the SCOMET items are intended to be physically exported outside the country (i.e., to another country) from the SEZ/EOU
- Unless specifically exempted, imported goods (covered under the SCOMET list) are not permitted for export from the customs-bonded warehouse without export authorisation.

Inter-Ministerial Working Group (IMWG)

- IMWG is now also empowered to consider applications for authorisations to export software in the SCOMET List, in addition to items or technology included in the said list in the erstwhile HBP. Further, the condition that the aforesaid application shall be accompanied by an end-user certificate (as provided in Para 2.74(II) of the erstwhile HBP) has been omitted. Additionally, the new HBP stipulates that IMWG shall endeavour to furnish its written comments/views/no objection to DGFT within 30 days

from the date of online application. It has also been provided that after the approval of IMWG or the Chairman, IMWG, an export authorisation may be issued by the SCOMET cell in DGFT Headquarters.

Different types of export authorisations for SCOMET items

- Direct export to the ultimate end users
- Export for repeat orders of the same SCOMET items (having the same technical specifications)
- Export for Stock and Sale purposes (in the same country or approved countries)
- Export of spare parts (along with the main item) under SCOMET under Stock and Sale
- Export for/after repair/replacement of defective SCOMET items
- Temporary export (or for the return thereof) of SCOMET items (for demo/display/exhibition/tenders/Request for Proposal/Request for Quotation/Notice Inviting Tender)
- Export of imported items to the same foreign entity or to its OEM
- Global Authorisation for Intra-Company Transfers of SCOMET items including Software/Technology (GAICT)
- General Authorisation for export of Chemicals and related equipment, except software and technology (GAEC)
- General Authorisation for export after repair in India (GAER).

The detailed procedure governing the aforesaid export authorisations has been explained in Chapter 10 of the HBP.

Issue, amendment and revalidation of export authorisations

- Issue, amendment and revalidation of export authorisations for SCOMET items will be issued centrally by DGFT headquarters. The procedure for revalidation is prescribed in Para 10.20 of the HBP.

Validity of SCOMET authorisations

The validity of SCOMET authorisations is tabulated as follows:

Sno	Type of SCOMET Authorisation	Validity
1.	SCOMET Authorisation	24 months, unless specified otherwise
2.	GAICT Policy	3 from the date of issue of authorisation and shall be further subject to the following validity timelines, whichever is earlier: <ul style="list-style-type: none">▪ Till the validity of license exception of the foreign parent company▪ Till the validity of license exception of the foreign parent company for subsidiary(ies) of the parent company abroad▪ Till the validity of the Master Service Agreement (MSA)/Contract with the foreign parent company and the Indian subsidiary.
3.	GAEC Policy	5 years from the date of issue of GAEC, subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter
4.	GAER Policy	1 year from the date of issue of GAER subject to subsequent post reporting(s) within 30 days from such export

Record-keeping

- Every SCOMET Authorisation holder shall maintain all the relevant records, including the documents submitted while applying for SCOMET Authorisation (in physical or electronic form), for a period of 5 years or till validity of export authorisation, whichever is higher, from the date of export or import, as applicable.

Outreach Programmes on SCOMET and Export Control Framework

- Para 10.10 of the FTP stipulates that DGFT, in association with Administrative Ministries / Departments and Trade Associations will organise Industry Outreach Programmes on regular basis. Additionally, an institutional mechanism will be adopted to organise sector/region-specific outreach programmes with a focus on MSME and Startups.

Voluntary Self Disclosure of export of dual-use items

- Where responsible exporters occasionally fail to comply with the export control regulations of the FTRD Act, WMD Act, Customs Act or any regulation, order, license, or other authorisation on export controls issued by DGFT, a voluntary self-disclosure mechanism has been prescribed
- In this regard, a voluntary self-disclosure request along with the supporting documents shall be sent to DGFT upon discovery of the violation. Detailed procedure/guidelines in this regard will be notified by the DGFT separately. The Inter-Ministerial Working Group to consider each case on merits and make recommendations on further action to be taken by DGFT.
- Exporter is liable for strict action under the provisions of the FTDR Act for any violation of SCOMET policy brought to the notice of DGFT in cases other than voluntary self-disclosure.

CHAPTER 11 DEFINITIONS

E-commerce

- Para 11.17 of the FTP defines the term “e-commerce” means buying and selling of goods through the internet on an e-commerce platform, the payment for which shall be done through international credit or debit cards, or other authorised electronic payment channels and as specified by the Reserve Bank of India from time to time. It may however be noted that the aforesaid definition does not include buying and selling of services through the internet on an e-commerce platform.

Denomination of Import Authorisation/ Licence/ Certificate/ Permissions

- As per Para 11.01 of the HBP, remittance of foreign exchange and discharge of export obligation against authorisation shall be regulated in Indian Rupees (as per Para 2.52 and 2.53 of the FTP) in addition to the freely convertible currency which was permitted in the erstwhile FTP.

Time-Bound Disposal of Applications

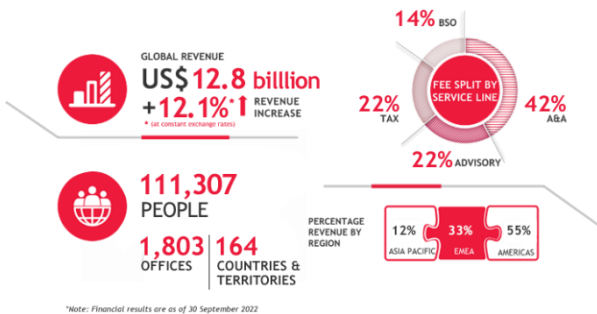
- Para 11.10 of HBP provides that the RA shall dispose of applications expeditiously.
- The key changes in the time-bound disposal of applications are as follows:
 - Fixation of Input Output Norms for Special Advance Authorisation Scheme covered under Para 4.04A of FTP
 - Reduced from 120 days to 90 days
 - Revalidation of Advance Authorisation and extension of Export Obligation period of Advance Authorisation / EPCG Authorisation by RA - Reduced from 3 days to 1 day



- Additionally, the time limit for the following has been prescribed:
 - Issuance of Advance Authorisation through automatic route - 1 day
 - Issuance of EPCG Authorisation through automatic route - 1 day

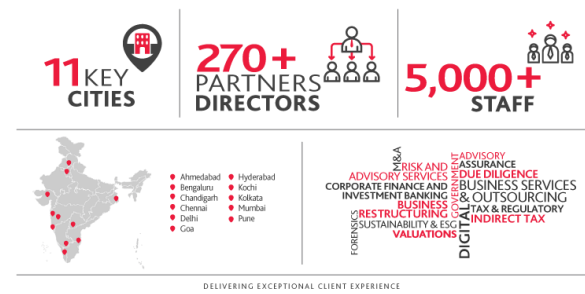
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Contact Us

For any content related queries, you may kindly write in to taxadvisory@bdo.in or get in touch with,

GUNJAN PRABHAKARAN

Partner & Leader

Indirect Tax

gunjanprabhakaran@bdo.in

For any other queries or feedback, kindly write to us at marketing@bdo.in

BDO in India

Ahmedabad

The First, Block C - 907
 Behind ITC Narmada, Keshavbaug
 Vastrapur, Ahmedabad 380015, INDIA

Bengaluru - Office 1

Prestige Nebula, 3rd Floor,
 Infantry Road,
 Bengaluru 560095, INDIA

Bengaluru - Office 2

SV Tower, No. 27, Floor 4
 80 Feet Road, 6th Block, Koramangala
 Bengaluru 560095, INDIA

Chandigarh

Plot no. 55, Floor 5,
 Industrial & Business Park,
 Phase 1, Chandigarh 160002, INDIA

Chennai

No. 443 & 445, Floor 5, Main Building
 Guna Complex, Mount Road, Teynampet
 Chennai 600018, INDIA

Delhi NCR - Office 1

The Palm Springs Plaza
 Office No. 1501-10, Sector-54,
 Golf Course Road, Gurugram 122001, INDIA

Delhi NCR - Office 2

Windsor IT Park, Plot No: A-1
 Floor 2, Tower-B, Sector-125
 Noida 201301, INDIA

Goa

701, Kamat Towers
 9, EDC Complex, Patto Plaza
 Panaji, Goa 403001, INDIA

Hyderabad

1101/B, Manjeera Trinity Corporate
 JNTU-Hitech City Road, Kukatpally
 Hyderabad 500072, INDIA

Kochi

XL/215 A, Krishna Kripa
 Layam Road, Ernakulam
 Kochi 682011, INDIA

Kolkata

Floor 4, Duckback House
 41, Shakespeare Sarani
 Kolkata 700017, INDIA

Mumbai - Office 1

The Ruby, Level 9, North West Wing
 Senapati Bapat Marg, Dadar (W)
 Mumbai 400028, INDIA

Mumbai - Office 2

601, Floor 6, Raheja Titanium, Western
 Express Highway, Geetanjali, Railway
 Colony, Ram Nagar, Goregaon (E), Mumbai
 400063, INDIA

Pune - Office 1

Floor 6, Building No. 1
 Cerebrum IT Park, Kalyani Nagar
 Pune 411014, INDIA

Pune - Office 2

Floor 2 & 4, Mantri Sterling, Deep Bunglow,
 Chowk, Model Colony, Shivaji Nagar
 Pune 411016, INDIA

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