

CHAPTER 7

DEEMED EXPORTS

7.00 Policy

Policy relating to Deemed Exports is given in Chapter-7 of FTP 2015-20.

7.01 Procedure for claiming Benefits

- (a) Supplier / Recipient of goods shall submit application for claiming deemed export benefits, in ANF-7A, along with the documents prescribed therein, to the concerned RA.
- (b) In case of supply of goods to an EOU, claim shall be filed with the concern Development Commissioner. A DTA Unit shall claim benefits from the concerned RA.

7.02 Criteria for claiming Benefits

- (a) (i) In respect of supply of intermediate goods to Advance Authorisation/ DFIA holder, against Invalidation Letter, issued in terms of Paragraph 4.13 of HBP, application to obtain Advance Authorisation for import of duty free inputs, as provided under chapter 4 of FTP 2015-20, shall be made as per procedures given in Chapter 4 of HBP. For supplies against invalidation letter, TED refund shall be given in accordance with para 7.03(c) of FTP 2015-20, provided, there is no exemption.
- (ii) In respect of supply of goods to Advance Authorisation/ DFIA, against ARO, procedure given in Chapter 4 of the HBP shall be followed. TED refund for supplies against ARO shall be allowed in accordance with para 7.03(c) of FTP 2015-20, provided, there is no exemption. Duty Drawback shall be allowed on basic custom duty paid on inputs used in such supplies.

- (b) In respect of supply of goods to EOU/ EHTP/ STP/ BTP, Advance Authorisation/ DFIA can be obtained as per procedure given in the Chapter 4 of HBP for exemption from payment of Terminal Excise Duty, procedure as per Excise Circular number 851/9/2007-CX dated 3.5.2007 read with circular No. 10/2009-Cus dated 25.2.2009, shall be followed for removal of goods against CT-3. TED refund shall be given for supply of goods to EOU / EHTP / STP / BTP in accordance with para 7.03(c) of FTP 2015-20, provided, there is no exemption. In case Advance Authorisation, as provided in chapter 4 of FTP 2015-20, is not obtained for import of duty free inputs against such supply, drawback claim for duty paid on inputs, used in the resultant product, shall be filed with the DC concerned. A DTA Unit shall claim benefits from the concerned RA.
- (c) In respect of supply of goods to an EPCG Authorisation holder, against Invalidation Letter, application for Advance Authorisation/ DFIA shall be made as per procedures given in Chapter 4 of HBP. If Advance Authorisation / DFIA is not obtained for duty free inputs, Duty drawback shall be allowed on basic custom duty paid on inputs used in the resultant product.
- (d) In respect of supply of goods to other categories as listed in the Paragraph 7.02 (e), (f), (g) & (h) of FTP, Advance Authorisation/ DFIA for import of duty free inputs as provided under chapter 4 of FTP 2015-20 may be obtained against Project Authority Certificate as per Appendix- 7C. However, if Advance Authorisation/ DFIA is not obtained against such supplies for duty free inputs as provided in chapter 4 of FTP 2015-20, claim for duty drawback for duty may be filed as per ANF-7A. TED refund for projects mentioned in para 7.08(iii)(a) of FTP 2015-20 in respect of eligible items of supply covered under schedule IV of Central Excise Act, 1944, shall be available provided there is no exemption.

7.03 Eligibility criteria for claiming TED / Drawback

- (a) Application can be filed either by supplier or by recipient of goods, having IEC Number.

- (b) Application can be made by Registered office / Head office / Branch office or Manufacturing unit.
- (c) In case supplier files claim for TED refund, it shall obtain a certificate for non-availment of CENVAT credit from the recipient of goods as per Annexure - I to ANF-7A and submit the same. In case recipient of goods is an applicant, then the applicant itself shall submit such certificate.
- (d) Deleted
- (e) In case recipient unit files claim for TED / Duty Drawback, disclaimer certificate as prescribed in the Annexure-III to ANF-7A shall be obtained from supplier and shall be submitted along with the application. In case supplier of the goods is an applicant then the disclaimer certificate from the recipient of the goods shall be submitted.
- (f) Claim can be filed only after payment is received in full, to the extent of supplies made.
- (g) Claim can be filed against payment received through normal banking channel, as per e-BRC. In other words, supply documents have to be negotiated through bank only. In respect of supplies covered under Paragraph 7.02 (e) to (h) of the FTP 2015-20, payment certificate issued by Project Authority, in APPENDIX-7D, has also to be submitted.
- (h) Sub-contractor can also file claim provided its name is endorsed in the Project Authority Certificate / Contract before supply of such goods.

7.04 Procedure for claiming TED refund on Fuel

For supply of High Speed Diesel (HSD) from Depots of domestic oil Public Sector Undertakings under Paragraph 7.02(b) of FTP 2015-20, terminal excise duty shall be refunded on the basis of duty paid certificate issued by concerned domestic oil Public Sector Undertaking in the format given in Annexure-IV to ANF-7A. Duty refund will be allowed for quantity of HSD procured by EOU / EHTP / STP / BTP unit for its production activities, as certified by concerned DC / Bond authorities.

7.05 Frequency of application and time period for claiming TED / Drawback

- (a) In respect of supplies covered in Paragraphs 7.02 (a) to (d) of FTP 2015-20, application for TED refund / drawback (whichever applicable) may be filed within 12 months from the date of realisation of 100% payment against such supplies. In cases where payment is received in advance and supply is made subsequently, in such cases application can be filed within 12 months from the last date of such supplies. Claim can be filed 'Invalidation Letter / ARO wise' against individual Authorisation within the time limit as specified above.
- (b) In respect of supplies covered in Paragraphs 7.02 (e) to (h) of FTP 2015-20, claim may be filed either on the basis of proof of supplies effected or payment received. Claims should be filed within a period of twelve months from date of receipt of supplies by project authority or from date of receipt of the payment by supplier as per the option of applicant, either against a particular project or all the projects. Claims may also be filed where part payments have been received. Deemed export benefits may be allowed after 100% supplies have been made. However, benefit will be limited to the extent of payment received.

7.06 Rate of Drawback

Normally drawback may be allowed as per All Industry Rate fixed by DoR in the Drawback Schedule where no CENVAT credit has been availed by supplier of goods. However, an application in ANF-7A, along with documents prescribed in ANF-7A & Appendix-7E, may be made to RA or DC concerned, as the case may be, for fixation of brand rate where All Industry Rate of Drawback is not available or same is less than 4/5th of duties actually paid on raw materials or components used in the production or manufacture of the said goods.

7.07 Time barred / supplementary claim

In case claim is filed after prescribed time period, provision of late cut, under Paragraph 9.02 of HBP and provision of supplementary claim under Paragraph 9.03 of HBP shall be applicable.

7.08 Exemption from payment of TED

For claiming exemption from payment of terminal excise duty, wherever applicable, procedure prescribed by Central Excise Authority shall be followed.

7.09 Applicability of other Rules

Subject to procedure laid down in HBP, Customs and Central Excise Duties and Service Tax Drawback Rules, 1995 or Customs and Central Excise Duties Drawback Rules, 2017, as the case may be, shall apply mutatis mutandis to deemed exports scheme.

7.10 Payment of interest

- (a) RA shall make payment within 30 days from the date of issuance of Approval Letter. In case payment is not made within the time period as given above, then RA shall add interest component, along with principal amount, in accordance with Paragraph 7.09 of the FTP 2015-20. No separate application for claiming interest is required to be made. A single mandate shall be issued to the bank for principal amount and interest.
- (b) If interest is not added by RA/DC, a separate application, as per ANF-7B may be filed, within 30 days from the date of receipt of principal amount. No interest shall be paid thereafter. RA shall maintain separate account for disbursement of principal amount and interest for accounting purpose.

- (c) RA shall submit a monthly report regarding disbursement of deemed exports claims, in the proforma as given in Appendix-7F. Wherever interest is paid, RA shall inform the reason for payment of interest. Report shall be sent at the email ID ddgdbk@nic.in.

7.11 Internal Audit Mechanism

The zonal offices of Additional DGFT shall constitute Audit team in their offices as per Paragraph 7.10 of FTP 2015-20 and shall carry out post Audit.

Amendment in FTP after 5.12.2017 (Mid term review)

Para 7.06- Amended vide Public Notice No. 40/2015-20 dated 31.10.2019.

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

Chapter 7A

Transport and Marketing Assistance for Specified Agriculture Products

7(A).00 Policy

Policy relating to Transport and Marketing Assistance (TMA) for Specified Agriculture Products scheme is given in Chapter 7(A) of FTP 2015-20. A copy of Department of Commerce's Notification No. 17/3/2018-EP (Agri.IV) dated 27.2.2019, **as amended from time to time** is given in **Appendix 7(A)A**.

7A.01 Procedure for claiming Transport and Marketing Assistance

- (a) Application for claiming assistance under this scheme can be filed by registered and eligible exporter, having a valid RCMC issued by the Competent Authority.
- (b) The application can be made by Corporate office/Registered office / Head office or Manufacturing unit. Application for TMA would be filed to the RAs headed by Additional DGFT. Applicant shall have option to choose Jurisdictional RA headed by Additional DGFT on the basis of address of its Corporate office/Registered office / Head office / Branch office or Manufacturing unit. Jurisdiction of RA headed by Addl. DGFT is specified in **Appendix-7(A)B**. The option of the RA needs to be exercised while making first application under this scheme. Once an option is exercised, no change would be allowed for further claims under the scheme. **The units under SEZs/EoUs/FTWZ shall file applications for TMA to the RAs headed by Additional DGFT in whose geographical jurisdiction address of the applicant falls.**
- (c) The application shall be filled up online on DGFT's website (<http://dgft.gov.in/>) alongwith the application fee as prescribed in **Appendix-2K**. A physical pdf copy of the print out of ANF-7(A)A along with prescribed documents shall also be filed manually with RA concerned within 30 days. Login procedure for entering into the application shall be the same as for other ECOM applications. A File number will be generated by the website on completion of successful submission of application.
- (d) Application(s) for claim of TMA will be made on quarterly basis i.e. for the shipments made in a particular quarter. Online claims

should be filed within a period of one year from the completion of the quarter in which exports have been made. For example, for the exports made in the quarter April to June, 2019; the claim can be filed by 30.6.2020. Similarly, applications for the claim for 1.3.2019 to 31.3.2019 can be filed upto 31.3.2020.

- (e) TMA claim would be available on shipment basis. All claims for shipments made in a particular quarter should be bunched together and submitted as a single application along with Chartered Accountant (CA) / Cost and Works Accountant (ICWA)/ Company Secretary (CS) certificate in the format as given in Annexure A to ANF-7(A)A.
- (f) Non-submission of the physical copy of the application alongwith prescribed documents within 30 days after filing online, incomplete or deficient applications shall result in non-acceptance of application by DGFT and shall be rejected.

7(A).02 Documents Required

All applications should be submitted in ANF-7(A)A (duly filled up online) along with copies of following documents duly self certified:

- (i) **Self certified copy of shipping bill(s)/Airway bill(s).**
- (ii) Commercial Invoice;
- (iii) On board Bill of Lading, in case of shipment by sea;
- (iv) Certificate of Chartered Accountant (CA) / Cost and Works Accountant (ICWA)/ Company Secretary (CS) as per Annexure A to ANF-7(A)A.
- (v) **Bank Realisation Certificate.**

Exporters may refer to the instruction/guidelines given in Application form before filing online application and submitting physical copy with RA.

7(A).03 Other Conditions

- (a) The assistance shall be paid only to the exporter exporting the cargo and in whose name payment is realized in free foreign exchange through normal banking channels. The assistance will not be provided to the products notified as ineligible in Annexure (1) of DoC's Notification no. 17/3/2018-EP (Agri.IV) dated

27.2.2019, as amended from time to time. Similarly, the assistance is also not available for certain categories of exports notified as ineligible in para 7 of above said DoC's Notification.

- (b) The assistance would be given for export of eligible agriculture products to the destinations/countries as mentioned in Annexure (2) of DoC's above said Notification.
- (c) The assistance is limited to the rates as notified in Annexure (3) of DoC's above said Notification.
- (d) FOB supplies where no freight is paid by Indian exporters are not covered under this scheme.
- (e) The scheme is admissible for the exports made through EDI ports only.
- (f) Claim should be made only for Full Container Loads (FCLs) in case of shipment by sea and in the multiple of metric ton (ignoring any fraction thereof) in case of shipment by air. **However, for the fresh applications made on or after 28th April, 2020, in case of shipment by air, claims should be made in the multiple of Kilograms, ignoring any fraction thereof. Applications submitted before 28th April, 2020 cannot be modified from per ton basis to per kilogram basis.** A forty feet container will be treated as two TEUs. Less than Container Load (LCL) shipments/ twenty-foot equivalent unit (TEU) containing eligible and ineligible cargo should not be included in the application.
- (g) In case, the consignment in respect of which claim is taken is subsequently returned by the customer, the applicant would be liable to refund the assistance granted with interest at the rate of 15% per annum.
- (h) No application can be made after completion of one year of the quarter in which exports have been made. Hence, provisions of late cut as defined in para 9.02 of HBP and provisions of supplementary claims as given in para 9.03 of HBP are not applicable on this scheme.

7(A).04 Deficiency in the application

Deficiency in the application, if any, shall be communicated by the concerned RA to the exporter. Application submitted or completed beyond the prescribed last date would be summarily rejected.

7(A).05 Audit mechanism

- (a) 10% of the cases in which benefit(s) under this chapter has/have already been granted, would be selected on random basis. Where ever required, RA may call for original documents for verification. Failure to submit documents in original would make applicant liable to refund the assistance along with interest, from the date of issuance of assistance.
- (b) In case any discrepancy and/or over claim is found on such examination, the applicant shall be under obligations to rectify such discrepancy and /or refund the excess claimed with interest at the rate of 15% per annum on the recoverable amount within one month. Cases of fraud, misrepresentation/misdeclaration, falsification and fabrication of documents or other wilful default would be dealt as per penal provisions of the FTP/FT(D&R) Act 1992/FT(R) Rules 1993.
- (c) The RA may also reassess any case, where any erroneous/ineligible payment has been made/claimed. RA will take necessary action for recovery of excess obtained along with interest at the rate of 15% per annum on the recoverable amount.
- (d) In addition, Where ever required, RA may also cross check the facts/documents as submitted by exporter with the concerned issuing authority.

7(A).06 Miscellaneous

Any dues/recovery under the FTP/HBP, FT(D&R) Act 1992/FT(R) Rules 1993, would be deductible from the approved/future claims of TMA.

HBP changes in Red after 5.12.2017 (Chapter 7A)

Para 7(A).00, 7A.01(b), 7(A).02 - Amendment vide P.N. No. 12/2015-20 dated 25.06.2019.

Para 7A.03(f) - Amendment vide P.N. No. 05/2015-20 dated 12.05.2020.

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