FOREIGN TRADE POLICY

For the sake of brevity, Foreign Trade Policy has been referred to as FTP at many places in this Chapter.

After studying this chapter, you would be able to:

- explain the legislation governing FTP, salient features of an FTP, administration of FTP, contents of FTP and other related provisions
- appreciate and explain the basic concepts relating to import and export of goods under FTP
- analyse the basic concepts relating to export promotion schemes provided under FTP namely, duty exemption and remission schemes, reward schemes, EPCG, EOU, EHTP, STP & BTP schemes, deemed exports and apply the same in problem solving
- explain the indirect tax concessions/benefits available to units set up in Special Economic Zones
UNIT – I : INTRODUCTION TO FTP

1. INTRODUCTION

Foreign Trade Policy is a set of guidelines or instructions issued by the Central Government in matters related to import and export of goods in India viz., foreign trade. In the era of globalization, foreign trade has become the lifeline of any economy. Its primary purpose is not merely to earn foreign exchange, but also to stimulate greater economic activity. International trade not only enables a nation to specialize in the goods which it can produce most cheaply and efficiently, but also to consume more than it would be able to produce with its own resources. International trade enlarges the potential markets for the goods of a particular economy.

Legislation governing foreign trade: In India, Ministry of Commerce and Industry governs the affairs relating to the promotion and regulation of foreign trade. The main legislation concerning foreign trade is the Foreign Trade (Development and Regulation) Act, 1992 FT(D&R) Act. The FT(D&R) Act provides for the development and regulation of foreign trade by facilitating imports into, and augmenting exports from, India and for matters connected therewith or incidental thereto. As per the provisions of the Act, the Government:

(i) may make provisions for facilitating and controlling foreign trade;
(ii) may prohibit, restrict and regulate exports and imports, in all or specified cases as well as subject them to exemptions;
(iii) is authorised to formulate and announce an export and import policy and also amend the same from time to time, by notification in the Official Gazette;
(iv) is also authorised to appoint a 'Director General of Foreign Trade' for the purpose of the Act, including formulation and implementation of the export-import policy.

Foreign Trade Policy: In exercise of the powers conferred by the FT(D&R) Act, the Union Ministry of Commerce and Industry, Government of India generally announces the integrated Foreign Trade Policy (FTP) every five years with certain underlined objectives. The Foreign Trade Policy was earlier called as Export Import policy i.e., EXIM Policy. However, export import policy is now referred to as Foreign Trade Policy (FTP) of the country as it covers...
areas much beyond export and import. This policy is updated every year, in addition to changes that are made throughout the year.

The FTP, in general, aims at developing export potential, improving export performance, encouraging foreign trade and creating favorable balance of payments position. The policies are driven by factors like export led growth, improving efficiency and competitiveness of the Indian industries, ease of doing business etc.

**SALIENT FEATURES OF AN FTP**

The following are some of the key attributes of the FTP:

- Export-Import of goods and services is generally free unless specifically regulated by the provisions of the Policy or any other law for the time being in force.
- Export and import goods are broadly categorized as – (a) Free (b) Restricted (c) Prohibited.
- Some goods are ‘free’ for import and export but can be imported/exported only through State Trading Enterprises (STE).
- There are restrictions on exports and imports for various strategic, health, defence, environment, and other reasons. If the goods are restricted for import/export but not prohibited, the Government can give a permission/license for specific reasons.
- Exports are promoted through various promotional schemes.
- Goods and services are to be exported and not taxes. Hence, the taxes on exports are either exempted or adjusted or refunded on both outputs and inputs, through schemes of Duty Exemption, Duty Refund (Drawbacks and Rebates).
- Capital goods can be imported at NIL duty for the purpose of exports under the scheme of EPCG.
- For units undertaking to export all their production, there are special schemes so that they can avoid taxes at every stage under the scheme of EOU/SEZ.
- In certain cases imports get duty exemption/concession for certain special purposes. In such cases, to enable domestic suppliers compete with the international suppliers, the supplies of domestic suppliers are treated as deemed exports.
Duty credit scrips Schemes are designed to promote exports of some specified goods to specified markets and to promote export of specified services.

**Foreign Trade Policy 2015-2020** - The present Foreign Trade Policy, which was announced on 01.04.2015, is an integrated policy for the period between 01.04.2015 and 31.03.2020.

**Guiding principles:** The guiding principles of FTP 2015-2020 are as follows –

- Generation of employment and increasing value addition in country, in keeping with ‘Make in India’ vision.
- Focus on improving ‘ease of doing business’ and ‘trade facilitation’ by simplifying procedures and extensive use of e-governance – move towards paperless working.
- Encouraging e-commerce exports of specified products.
- Steps to encourage manufacture and export by SEZ, EOU, STP, EHTP and BTP.
- Duty credit scrips to (a) encourage exports of specified products to specified markets (b) export of services.
- Special efforts to resolve quality complaints and trade disputes.

The various measures taken in said direction include:

- The number of mandatory documents required for exports and imports of goods from/into India have been reduced to 3 each (discussed in detail in subsequent pages).

- The facility of 24 X 7 Customs clearance for specified imports has been made available at the 18 specified sea ports. The facility of 24 X 7 Customs clearance for specified imports has also been made available at the 17 specified air cargo complexes.

- Single window scheme has been introduced to enable importer and exporter to lodge their clearance documents at a single point thereby providing a common platform to trade to meet requirements of all regulatory agencies involved in exim trade.

- To facilitate processing of shipping bills before actual shipment, prior online filing facility for shipping bills has been provided by the Customs - 7 days for air shipments & ICDs and 14 days for shipments by sea.
DGFT under the EDI initiatives has provided the facility of online filing of applications to obtain Importer Exporter Code and various authorizations /scrips.

Exports from and imports in India, need a lot of regulatory requirements to be complied with at various stages. Yet if properly planned, exports and imports can utilize a lot of benefits that are available under various provisions of the FTP. The policy not only prescribes the guidelines as to which goods and services can be imported/exported and the relevant procedures thereto but also provides a lot of benefits if properly planned.

Schemes like Duty Exemption Schemes, EPCG Schemes, Deemed Exports, etc., benefit exporters, importers and even defined domestic businesses thereby assisting all businesses to reduce costs at every stage in the value chain. In addition, exporters can avail other benefits under promotional schemes.

**ADMINISTRATION OF THE FTP**

The FTP is formulated, controlled and supervised by the office of the Director General of Foreign Trade (DGFT), an attached office of the Ministry of Commerce & Industry, Government of India. DGFT has several offices in various parts of the country which work on the basis of the policy formed by the headquarters at Delhi.

DGFT issues **authorization** (earlier called as licence) for import/export. ‘Authorization’ means a permission in terms of the FT(D&R) Act to import or export. It also grants **Importer Exporter Code** (IEC) Number to importers and exporters. Import and Export without IEC number is not permitted, unless specifically exempted.

Decision of DGFT is final and binding in respect of interpretation of any provision of foreign trade policy, classification of any item in ITC(HS), content scope or issue of any authorization issued under the FTP.

**Other authorities involved:** Though the FTP is formulated by DGFT, it is administered in close coordination with other agencies. Other important authorities dealing with FTP are:

1. **Central Board of Excise and Customs (CBEC):** CBEC comes under Ministry of Finance and its two Departments namely, Customs and Central Excise facilitate in implementing the provisions of the FTP.

Customs Department is responsible for clearance of export and import goods after their valuation and examination. Customs authorities follow the policy formed by the DGFT while clearing the goods. Since there is a central excise
duty on almost all the manufactured products, Central Excise authorities need to be involved for all matters of exports, where goods have to be cleared without duty. Central Excise Department works as Customs Departments at various required places, and has a crucial role in the procedural aspects.

(2) Reserve Bank of India (RBI): RBI is the nodal bank in the country which formulates the policies related to management of money, including payments and receipts of foreign exchange. It also monitors the receipt and payments for exports and imports. RBI works under the Ministry of Finance.

(3) State VAT Departments: Since VAT is payable on domestic goods but not on export goods, formalities with State VAT departments assume importance in ensuring tax free exports.

**CONTENTS OF FOREIGN TRADE POLICY**

The contents of the FTP 2015-2020 are as follows

(i) FTP 2015-2020: having 9 Chapters giving basic policy. This has been notified by the Central Government on 01.04.2015. The policy is amended normally in April every year and also during the year.

(ii) Handbook of Procedures 2015-2020: (HBP 2015-2020) containing 9 chapters, covering procedural aspects of policy. This has been notified by Director General of Foreign Trade on 01.04.2015. It is amended from time to time as per requirements.

(iii) Appendices and Aayat Niryat Forms (AANF): containing various appendices and forms relating to import and export.

(iv) Standard Input-Output Norms: Standard Input-Output Norms (SION) of various products are notified from time to time. Based on SION, exporters are provided the facility to make duty-free import of inputs required for manufacture of export products under the Duty Exemption Schemes like Advance Authorisation and DFIA.

(v) ITC(HS) Classification of Exports and Import Items: The Export Import Policy regarding import or export of a specific item is given in the Indian Trade Classification Code based on Harmonized System of Coding [ITC(HS)]. ITC-HS Coding was adopted in India for import-export operations. Indian custom uses eight digit ITC-HS Codes to suit the national trade requirements.

ITC-HS codes are divided into two schedules. ITC(HS) Import Schedule I describe the rules and guidelines related to import policies where as Schedule II describe the rules and regulation related to export policies. Presently, most of the goods can be imported without any authorization. Schedule II contains
very few products, where export is prohibited or restricted. Excluding those items, export of all other goods is free.

Any changes or formulation or addition of new codes in ITC-HS Codes are carried out by DGFT (Directorate General of Foreign Trade).

**Foreign Trade Policy vis a vis tax laws:** The Foreign Trade Policy is closely knit with the Customs and Excise laws of India. However, the policy provisions per-se do not override tax laws. The exemptions extended by FTP are given effect to by issue of notifications under respective tax laws (e.g., Customs Tariff Act). Thus, actual benefit of the exemption depends on the language of exemption notifications issued by the CBEC. In most of the cases the exemption notifications refer to policy provisions for detailed conditions. Ministry of Finance/ Tax Authorities cannot question the decision of authorities under the Ministry of Commerce (so far as the issue of authorization etc. is concerned).

FTP, Handbook of procedures under FTP, Central Excise Act and Customs Act and notifications issued hereunder form an integrated scheme of indirect taxation. All these statues have to be read as a whole and not in isolation, since they are series of statues relating to same subject matter.

**SCOPE OF FTP**

The FTP covers the policies and regulations with respect to the following matters:

(i) Legal framework and trade facilitation – Chapter 1
(ii) Policy for regulating import and export of goods and services – Chapter 2
(iii) Export Promotional Measures – Export from India Scheme – Chapter 3
(iv) Duty Remission and Duty Exemption Scheme for promotion of exports – AA and DFIA and duty drawback – Chapter 4
(v) Export promotion Capital Goods (EPCG) Scheme – Chapter 5
(vi) Export Oriented Undertakings (EOU) / Electronic Hardware Technology Park (EHTP) / Software Technology Park (STP) and Bio Technology Parks (BTU) Schemes – Chapter 6
(vii) Deemed Exports – Chapter 7
(viii) Quality Complaints and Trade Disputes – Chapter 8
(ix) Definitions – Chapter 9
Provisions relating to Special Economic Zone (SEZ) are contained in a separate Act and are not part of FTP. However, provisions of SEZ are closely related to Foreign Trade Policy.

Handbook of Procedures (HBP 2015-2020) has 9 corresponding chapters which mainly deal with procedural aspects of the foreign trade policy.

**Special Focus Initiatives:** The FTP provides certain special focus initiatives for Market Diversification, Technological Upgradation, Support to status holders, Agriculture, Handlooms, Handicraft, Gems & Jewellery, Leather, Marine, Electronics and IT Hardware Manufacturing Industries, Green products, Exports of products from North-East, Sports Goods and Toys sectors wherein the Government of India shall make concerted efforts to promote exports.

**Board of Trade:** Board of Trade (BOT) has been constituted to advise Government on Policy measures for increasing exports, review export performance, review policy and procedures for imports and exports and examine issues relevant for promotion of India’s foreign trade. Commerce & Industry Minister will be the Chairman of the BOT. Government shall also nominate upto 25 persons, of whom at least 10 will be experts in trade policy. In addition, Chairmen of recognized Export Promotion Councils (EPCs) and President or Secretary-Generals of National Chambers of Commerce will be ex-officio members. BOT will meet at least once every quarter.

**Trade facilitation through EDI initiatives:** DGFT has put in place a robust EDI system for the purpose of export facilitation and good governance. DGFT has set up a secured EDI message exchange system for various documentation related activities including import and export authorizations established with other administrative departments, namely, Customs, Banks and EPCs. This has reduced the physical interface of exporters and importers with the Government Departments and is a significant measure in the direction of reduction of transaction cost. The endeavour of DGFT has been to enlarge the scope of EDI to achieve higher level of integration with partner departments. E-BRC (Electronic Bank Realisation Certificate) has enabled DGFT to capture details of realisation of export proceeds directly from the banks through secured electronic mode. Further, an online complaint registration and monitoring system allows users to register complaint and receive status/ reply online.

**DGCI&S Commercial Trade Data:** DGCI&S has put in place a Data Suppression Policy. Transaction level data would not be made publically available to protect privacy. DGCI&S trade data shall be made available at aggregate level with a minimum possible time lag in a query based structured format on commercial criteria.
2. PROVISIONS REGARDING IMPORTS AND EXPORTS

A. GENERAL PROVISIONS APPLICABLE TO IMPORT AND EXPORT OF GOODS

1. Exports and imports are free unless regulated: Exports and Imports shall be free, except where regulated by FTP or any other law in force. The item wise export and import policy shall be specified in ITC(HS) notified by DGFT from time to time. These are classified as – (a) Free (b) Restricted (c) Prohibited (d) Exclusive trading through State Trading Enterprise (STEs).

2. Compliance with laws: Every exporter or importer shall comply with the provisions of the FT (D&R) Act, the rules and orders made there-under, the FTP and terms and conditions of any authorization granted to him. All imported goods shall also be subject to domestic laws, rules, orders, regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods unless specifically exempted.

3. Interpretation of policy: If any question or doubt arises in respect of interpretation of any provision, said question or doubt shall be referred to DGFT whose decision thereon shall be final and binding.

4. Procedure: DGFT may specify procedure to be followed by an exporter or importer or by any licencing or any other competent authority for the purpose of implementing provisions of Foreign Trade Act, the rules and the orders made there-under and FTP. Such procedures shall be published in Hand Book of Procedures by means of a Public Notice, and may, in like manner, be amended from time to time.

5. Exemption from Policy/Procedure: DGFT may pass such orders or grant such relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade. DGFT may, in public interest, exempt any person or class or category of persons from any provision of FTP or any procedure and may, while granting such exemption, impose such conditions as he may deem fit.

6. Principles of Restriction: DGFT may, through a notification, adopt and enforce any measure necessary for:

(a) Protection of:-

   (i) public morals.
(ii) human, animal or plant life or health.

(iii) patents, trademarks and copyrights and the prevention of deceptive practices.

(iv) national treasures of artistic, historic or archaeological value

(v) trade of fissionable material or material from which they are derived

(b) **Prevention** of traffic in arms, ammunition and implements of war and use of prison labour.

(c) **Conservation** of exhaustible natural resources.

7. **Export/import of restricted goods/services:** Any goods/services, export or import of which is restricted under ITC(HS) may be exported or imported only in accordance with an Authorization or in terms of a public notice/notification issued in this regard.

8. **Terms and Conditions of an authorization:** Every Authorization shall be valid for prescribed period of validity and shall, *inter alia*, include the following terms and conditions (as applicable) in addition to such other conditions as may be specified:

   (a) Quantity, description and value of goods;

   (b) Actual User condition;

   (c) Export obligation;

   (d) Minimum Value Addition to be achieved;

   (e) Minimum export/import price; and

   (f) Bank Guarantee/Legal Undertaking/Bond with Customs Authority/RA.

9. **Authorization not a right:** No person may claim an Authorization as a right and DGFT or RA shall have power to refuse to grant or renew the same in accordance with provisions of FT(D&R) Act, rules made there under and FTP.

10. **Penalty:** If an authorization holder violates any condition of such authorization or fails to fulfill export obligation, he shall be liable for action in accordance with FT (D&R) Act, the Rules and Orders made there under, FTP and any other law for time being in force.

11. **State Trading Enterprises (STEs):** STEs are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and/or import. Any goods, import or export of which is governed through exclusive or special privileges granted to State Trading Enterprises
[STE(s)], may be imported or exported by STE(s) as per conditions specified in ITC(HS). DGFT may, however, grant an authorization to any other person to import or export any of these goods.

12. Importer-Exporter Code (IEC): It is a unique 10 digit code issued by DGFT to a person. IEC is mandatory to export any goods out of India or to import any goods into India unless specifically exempt. Permanent Account Number (PAN) is pre-requisite for grant of an IEC. Only one IEC can be issued against a single PAN.

An application for IEC /modification in IEC to be made only electronically by applicants through digital signature (Class-II or Class-III). Further, only the following are required to be uploaded/submitted along with the application for IEC:

(a) Digital photograph of the signatory applicant;

(b) Copy of the PAN card of the business entity in whose name Import/Export would be done (Applicant individual in case of Proprietorship firms);

(c) Cancelled cheque bearing entity’s pre-printed name or Bank certificate in prescribed format ANF-2A(I).

In case of STPI/ EHTP/ BTP units, the Regional Offices of the DGFT having jurisdiction over the district in which the Registered/ Head Office of the STPI unit is located shall issue or amend the IECs.

13. Trade with neighbouring countries: DGFT may issue instructions or frame schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.

14. Transit facility: Transit of goods through India from/ or to countries adjacent to India shall be regulated in accordance with bilateral treaties between India and those countries and will be subject to such restrictions as may be specified by DGFT in accordance with international conventions.

15. Mandatory documents for export/import of goods from/into India:

(a) Mandatory documents required for export of goods from India:

1. Bill of Lading/Airway Bill/Lorry Receipt/Railway Receipt/Postal Receipt
2. Commercial Invoice cum Packing List*
3. Shipping Bill/Bill of Export
(b) Mandatory documents required for import of goods into India

1. Bill of Lading/Airway Bill/Lorry Receipt/Railway Receipt/Postal Receipt
2. Commercial Invoice cum Packing List*
3. Bill of Entry

*Note: As per CBEC Circular No. 01/15- Customs dated 12/01/2015, separate Commercial Invoice and Packing List would also be accepted.

B. PROVISIONS RELATING TO IMPORT OF GOODS

1. Actual user condition: Goods which are importable without any restriction, may be imported by any person. However, if such imports require an Authorization, actual user alone may import such goods unless actual user condition is specifically dispensed with by DGFT.

2. Second hand goods: Import of second hand capital goods, including refurbished/ re-conditioned spares shall be allowed freely. However, second hand personal computers/ laptops, photocopier machines, air conditioners, diesel generating sets will only be allowed against authorisation. Second hand (used) goods, [except second hand capital goods], shall be restricted for imports and may be imported only against Authorization.

3. Removal of scrap/ waste from SEZ: Any waste or scrap or remnant including any form of metallic waste & scrap generated during manufacturing or processing activities of an SEZ Unit/ Developer/ Co-developer shall be allowed to be disposed in DTA (Domestic Tariff Area) freely, subject to payment of applicable customs duty.

4. Import of gifts and samples: Import of gifts shall be permitted where such goods are otherwise freely importable under ITC(HS). In other cases, a Customs Clearance Permit (CCP) shall be required from DGFT. Further, import of samples shall be governed by the prescribed procedures. Authorisation for import of samples is required only in case of vegetable seeds, bees and new drugs. Samples of tea upto ₹ 2,000 (CIF) per consignment will be allowed without authorization. Samples upto ₹ 3,00,000 can be imported by all exporters without duty.

5. Passenger Baggage:

(a) Bonafide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in the Baggage Rules, 1998.
(b) Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorization.

(c) 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 an Authorization.

Note: Baggage provisions have been discussed in detail in Chapter-7- Importation, Exportation and Transportation of Goods.

6. Re-import of goods repaired abroad: Capital goods, equipments, components, parts and accessories, whether imported or indigenous, except those restricted under ITC(HS) may be sent abroad for repairs, testing, quality improvement or upgradation or standardization of technology and re-imported without an Authorization.

7. Import of goods used in projects abroad: After completion of projects abroad, project contractors may import, without an Authorization, goods including capital goods used in the project provided they have been used for at least one year.

8. Sale on high seas: Sale of goods on high seas for import into India may be made subject to FTP or any other law in force.

9. Import under lease financing: It is freely permitted. Permission of Regional Authority is not required for import of capital goods under lease financing. However, RBI approval is required in some cases.

10. Clearance of goods from customs: Goods already imported/ shipped/ arrived, in advance, but not cleared from customs may also be cleared against an Authorization issued subsequently. However, this facility will not be available to restricted items or items traded through STEs.

11. Execution of BG/ LUT: Whenever goods are imported duty free or otherwise specifically stated, importer shall execute prescribed LUT (Letter of Undertaking)/ BG (Bank Guarantee)/ Bond with Customs Authority before clearance of goods. In case of indigenous sourcing, Authorization holder shall furnish LUT/ BG/ Bond to RA concerned before sourcing material from indigenous supplier/ nominated agency as per the prescribed procedures.

12. Private/ public bonded warehouses for imports: Private/ public bonded warehouses may be set up in DTA (Domestic Tariff Area) as per terms and conditions of notification issued by DoR. Any person may import goods, except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such bonded warehouses. Such goods may
be cleared for home consumption against authorisation, whenever required. Customs duty as applicable shall be paid at the time of clearance of such goods. If such goods are not cleared for home consumption within a period of one year or such extended period as the custom authorities may permit, importer of such goods shall re-export the goods.

**C. PROVISIONS RELATING TO EXPORT OF GOODS**

1. **Free exports:** All goods may be exported without any restriction except to the extent that such export is regulated by ITC(HS) or any other provision of FTP or any other law for the time being in force. DGFT may however, specify through a public notice such terms and conditions according to which any goods, not included in ITC(HS), may be exported without an Authorization.

2. **Export of samples:** Export of samples and free of charge goods shall be governed by prescribed procedures. Export of bona fide trade and technical samples of freely exportable item shall be allowed without any limit. In case of restricted items, application should be made to DGFT. Such samples can be exported as part of passenger baggage without an Authorisation.

3. **Export of passenger baggage:** Bonafide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger’s departure from India. However, items mentioned as restricted in ITC(HS) shall require an Authorization. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry alongwith their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption. Samples of such items that are otherwise freely exportable under FTP may also be exported as part of passenger baggage without an Authorisation.

4. **Export of gifts:** Goods, including edible items, of value not exceeding ₹ 5,00,000 in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC(HS) shall not be exported as a gift, without an Authorization. For export of samples/gifts/ spares/ replacement goods (other than SCOMET items) in excess of ceiling/period, application can be made to DGFT in form ANF-2Q.

5. **Export of spares:** Warranty spares (whether indigenous or imported) of plant, equipment, machinery, automobiles or any other goods, [except those restricted under ITC(HS)] may be exported along with main equipment or subsequently, but within contracted warranty period of such goods subject to approval of RBI.
6. **Third party exports**: Third-party exports means exports made by an exporter or manufacturer on behalf of another exporter(s). In such cases, export documents such as shipping bills shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s). BRC, GR declaration, export order and invoice should be in the name of third party exporter. Such third party exports shall be allowed under FTP.

**Illustration**

*CD Corporation, a merchant exporter, procured order of goods from a customer in USA. It approached AB Corporation, a manufacturer, for execution of the said order. The shipping bills relating to the consignment bear the name of CD Corporation. Bank Realization Certificate, export order and invoice are also in the name of CD Corporation. Comment whether AB Corporation would be deemed as the exporter under FTP.*

**Answer**

The given scenario is a case of third-party exports.

Third-party exports means exports made by an exporter or manufacturer on behalf of another exporter(s). The conditions for being allowed as third-party exports under FTP are:

(i) Export documents such as shipping bills shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s).

(ii) BRC, export order and invoice should be in the name of third party exporter.

In the above case, though BRC, export order and invoice are in the name of CD Corporation (third party exporter), the shipping bill does not have the name of AB Corporation (manufacturer). Therefore, AB Corporation will not be treated as the exporter in this case.

7. **Export of imported goods**: Goods imported, in accordance with FTP, may be exported in same or substantially the same form without an Authorization, provided that an item to be imported or exported is not restricted for import or export in ITC(HS).

Exports of such goods imported against payment in freely convertible currency would be permitted provided export proceeds are realized in freely convertible currency. However, export of such goods to notified countries will be permitted in Indian rupees subject to at least 15% value addition. Such exports shall not be eligible for any export incentives.

8. **Export of replacement goods**: Goods or parts thereof on being exported and found defective/ damaged may be replaced free of charge by the exporter
and such goods shall be allowed clearance by customs authorities, provided that replacement goods are not mentioned as restricted items for exports in ITC(HS).

9. **Export of repaired goods:** Goods or parts exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance without an Authorization and in accordance with customs notification.

However, re-export of such defective parts/spares by the Companies/firms and Original Equipment Manufacturers shall not be mandatory if they are imported exclusively for undertaking root cause analysis, testing and evaluation purpose.

10. **Private Bonded Warehouses for exports:** Private bonded warehouses, which are set up exclusively for exports 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.

11. **Denomination of export contracts:** All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realised in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan. Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account.

Free foreign exchange remitted by buyer to his non-resident bank (after deducting the bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP. Contracts for which payments are received through ACU shall be denominated in ACU Dollar. Central Government may relax provisions in this regard in appropriate cases. Export contracts and invoices can be denominated in Indian rupees against EXIM Bank/ Government of India line of credit.

12. **Non-realisation of export proceeds:** If an exporter fails to realise export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to action in accordance with provisions of FT(D&R) Act, rules and orders made thereunder and provisions of FTP.
13. **Free movement of export goods:** Consignments of items meant for exports shall not be withheld/ delayed for any reason by any agency of Central/ State Government. In case of any doubt, authorities concerned may ask for an undertaking from exporter and release such consignment.

14. **No seizure of export related stock:** No seizure of stock shall be made by any agency so as to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on basis of prima facie evidence of serious irregularity. However, such seizure should be lifted within 7 days unless the irregularities are substantiated.

**D. PERSONAL HEARING BY DGFT FOR GRIEVANCE REDRESSAL:**

Government is committed to easy and speedy redressal of grievances from Trade and Industry. As a last resort to redress grievances of Foreign Trade players, DGFT may provide an opportunity for Personal hearing before Policy Relaxation Committee (PRC) subject to fulfillment of certain conditions.

**Export Promotion Councils:** Basic objective of Export Promotion Councils (EPCs) is to promote and develop Indian exports. Each Council is responsible for promotion of a particular group of products, projects and services.

**Registration-cum-Membership Certificate (RCMC):** Any person, applying for an Authorization to import/ export, or any other benefit or concession under FTP shall be required to furnish on DGFT’s website in the Importer Exporter profile, RCMC granted by competent authority. For instance, Certificate of Registration as Exporter of Spices (CRES) issued by Spices Board shall be treated as RCMC for the purposes under this Policy.