

CHAPTER –8

DEEMED EXPORTS

- Deemed Exports* 8.1 “Deemed Exports” refer to those transactions in which goods supplied do not leave country, and payment for such supplies is received either in Indian rupees or in free foreign exchange.
- Categories of Supply* 8.2 Following categories of supply of goods by main / sub-contractors shall be regarded as “Deemed Exports” under FTP, provided goods are manufactured in India:
- (a) Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA;
 - (b) Supply of goods to EOU / STP / EHTP / BTP;
 - (c) Supply of capital goods to EPCG Authorisation holders;
 - (d) Supply of goods to projects financed by multilateral or bilateral Agencies / Funds as notified by Department of Economic Affairs (DEA), MoF under International Competitive Bidding (ICB) in accordance with procedures of those Agencies / Funds, where legal agreements provide for tender evaluation without including customs duty;

Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral Agencies / Funds as notified by DEA, MoF under ICB, in accordance with procedures of those Agencies / Funds, which bids may have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad;
 - (e) Supply of capital goods, including in unassembled / disassembled condition as well as plants, machinery, accessories, tools, dies and such goods which are used for installation purposes till stage of commercial production, and spares to extent of 10% of FOR value to fertilizer plants;

- (f) Supply of goods to any project or purpose in respect of which the MoF, by a notification, permits import of such goods at zero customs duty;
- (g) Supply of goods to power projects and refineries not covered in (f) above;
- (h) Supply of marine freight containers by 100% EOU (Domestic freight containers-manufacturers) provided said containers are exported out of India within 6 months or such further period as permitted by customs;
- (i) Supply to projects funded by UN Agencies; and
- (j) Supply of goods to nuclear power projects through competitive bidding as opposed to ICB.

Benefits of deemed exports shall be available under paragraphs (d), (e), (f) and (g) only if the supply is made under procedure of ICB.

Benefits for Deemed Exports

8.3

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

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

Benefits to the Supplier

8.4.1

- (i) In respect of supplies made against Advance Authorisation / DFIA in terms of paragraph 8.2(a) of FTP, supplier shall be entitled to Advance Authorisation / DFIA for intermediate supplies.

- (ii) If supplies are made against Advance Release Order (ARO) or Back to Back Letter of Credit issued against Advance Authorisation / DFIA in terms of paragraphs 4.1.11 and 4.1.12 of FTP, suppliers shall be entitled to benefits listed in paragraphs 8.3(b) and (c) of FTP, whichever is applicable.
- 8.4.2 In respect of supply of goods to EOU / EHTP / STP / BTP in terms of paragraph 8.2(b) of FTP, supplier shall be entitled to benefits listed in paragraphs 8.3(a), (b) and (c) of FTP, whichever is applicable.
- 8.4.3 In respect of supplies made under paragraph 8.2(c) of FTP, supplier shall be entitled to the benefits listed in paragraphs 8.3(a), (b) and (c) of the Policy, whichever is applicable.
- 8.4.4
- (i) In respect of supplies made under paragraphs 8.2(d), (f) and (g) of FTP, supplier shall be entitled to benefits listed in paragraphs 8.3(a), (b) and (c), whichever is applicable.
 - (ii) In respect of supplies mentioned in paragraph 8.2(d), supplies to projects funded by such Agencies alone, as may be notified by DEA, MoF, shall be eligible for deemed export benefits. A list of such Agencies / Funds is given in Appendix 13 of HBP v1 .
 - (iii) Benefits of deemed exports under para 8.2(f) of FTP shall be applicable in respect of items, import of which is allowed by DoR at zero customs duty, subject to fulfillment of conditions specified under Notification No. 21/2002-Customs dated 1.3.2002, as amended from time to time.
 - (iv) Supply of Capital goods and spares upto 10% of FOR value of capital goods to power projects in terms of paragraph 8.2(g), shall be entitled for deemed export benefits provided the ICB procedures have been followed at Independent Power Producer (IPP) / Engineering and Procurement Contract (EPC) stage. Benefit of deemed exports shall also be available for renovation / modernization of power plants. Supplier shall be eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable. However, supply of goods required for setting up of any mega

power project as specified in S.No. 400 of DoR Notification No. 21/2002-Customs dated 1.3.2002, as amended, shall be eligible for deemed export benefits as mentioned in paragraph 8.3(a), (b) and (c) of FTP, whichever is applicable, if such mega power project complies with the threshold generation capacity specified therein, in Customs Notification.

- (v) Supplies under paragraph 8.2(g) of FTP to new refineries being set up during Ninth Plan period and spilled over to Tenth Plan period, shall be entitled for deemed export benefits in respect of goods mentioned in list 17 specified in S.No. 228 of Notification No. 21/2002-Customs dated 1.3.2002, as amended from time to time. Supplier shall be eligible for benefits listed in paragraphs 8.3(a) and (b) of FTP, whichever is applicable.

8.4.5 In respect of supplies made under paragraph 8.2(e) of FTP, supplier shall be eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable. Benefit of deemed exports shall be available in respect of supplies of capital goods and spares to Fertilizer Plants which are set up or expanded / revamped / retrofitted / modernized during Ninth Plan period. Benefit of deemed exports shall also be available on supplies made to Fertilizers Plants, which have started in the 8th / 9th Plan periods and spilled over to 10th Plan period.

8.4.6 Supplies of goods to projects funded by UN Agencies covered under para 8.2(i) of FTP are eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable.

8.4.7 In respect of supplies made to Nuclear Power Projects under para 8.2(j) of FTP, the supplier would be eligible for benefits given in para 8.3(a), (b) and (c) of FTP, whichever is applicable. Supply of only those goods required for setting up any Nuclear Power Project specified in list 43 at S.No. 401 of Notification No. 21/2002-Customs dated 1.3.2002, as amended from time to time, having a capacity of 440MW or more as certified by an officer not below rank of Joint Secretary to Government of India in Department of Atomic Energy, shall be entitled for deemed export benefits in cases where procedure of competitive bidding (and not ICB) has been followed.

<i>Eligibility for refund of terminal excise duty / drawback</i>	8.5	Supply of goods will be eligible for refund of terminal excise duty in terms of para 8.3(c) of FTP, provided recipient of goods does not avail CENVAT credit / rebate on such goods. Similarly, supplies will be eligible for deemed export drawback in terms of para 8.3(b) of FTP on Central Excise paid on inputs / components, provided CENVAT credit facility / rebate has not been availed by applicant. Such supplies will however be eligible for deemed export drawback on customs duty paid on inputs/ components.
	8.5.1	Simple interest @ 6% per annum will be payable on delay in refund of duty drawback and terminal excise duty under deemed export scheme, if the case is not settled within 30 days of receipt of complete application (as in paragraph 9.10.1 of HBP v1).
<i>Supplies to be made by the main / sub-contractor</i>	8.6.1	In all cases of deemed exports, supplies shall be made directly to designated Projects / Agencies / Units / Advance Authorisation / EPCG Authorisation holders. Sub-contractor may, however, make supplies to main contractor instead of supplying directly to designated projects / Agencies. Such supplies shall be eligible for deemed export benefits as per procedure laid down in paragraph 8.4 of HBP v1.
	8.6.2	Supplies made by an Indian sub-contractor of an Indian or foreign main contractor directly to the designated projects / Agencies, shall also be eligible for deemed export benefits provided sub-contractor is indicated either originally or subsequently in the contract, and payment certificate is issued by project authority in the name of sub-contractor as in Appendix 22C of HBP v1.