



Tax Insights

3 April 2023

One-time Amnesty Scheme for regularisation of default of EO under Advance Authorisation and Export Promotion Capital Goods Scheme – Foreign Trade Policy 2023

In brief

The government released the Foreign Trade Policy 2023 (FTP 2023) on 31 March 2023, which is effective from 1 April 2023 onwards.

One of the key initiatives announced is on regularisation of the default of export obligation (EO) under the Advance Authorisation Scheme (AAS) and the Export Promotion Capital Goods Scheme (EPCG).

Pursuant to the above, the Directorate General of Foreign Trade has now notified detailed guidelines of the Amnesty Scheme¹. The same are outlined below.

In detail

Coverage

- The Amnesty Scheme will cover the following.
 - All authorisations issued under AAS and EPCG issued under Foreign Trade Policy 2009–14 (upto 31 March 2015).
 - For authorisations issued under the Foreign Trade Policy 2004–09 and before, the coverage to be limited to those where the EO, original or extended, was valid beyond 12 August 2013.
- Even cases that have been adjudicated or pending adjudication, either originally or in appeal, can also be regularised under the Amnesty Scheme. Specific guidelines for these cases are provided for availing the benefits of the Amnesty Scheme.
- However, if duty along with interest has already been deposited in full, the case would not be eligible for coverage.
- The coverage excludes cases under investigation or cases adjudicated for or involving fraud, misdeclaration or unauthorised diversion of material and/ or capital goods.

¹ Public Notice No 2/2023 dated 1 April 2023

Mechanism

- Exporters who were unable to meet their EO under the AAS and EPCG as mentioned above, can have the same regularised by payment of all customs duties on which exemption was claimed proportionate to the shortfall in the EO with interest (capped at 100% of duties exempted). However, no interest will be payable on the additional customs duty and special additional customs duty components of the duty payable. Specific illustrations for the computation of liability are provided for cases when the entire EO is unfulfilled or there is a shortfall.
- CENVAT credit or refund, under any provision of law, will not be allowed for duties paid under the Amnesty Scheme. The exporter seeking relief under the Amnesty Scheme needs to provide an undertaking about not claiming credit or refund before any authority as part of the application.

Procedure

- While the necessary procedures, including a system for filing the required reports by the respective authorities, will be notified separately, the broad outline of the procedure to be followed is as below.
 - Exporters seeking relief under the Amnesty Scheme should register themselves on the website <https://www.dgft.gov.in> in a separate application form provided for this purpose by filling all the relevant details. The process of registration needs to be completed by 30 June 2023.
 - Thereafter, if there is a complete default of EO, the applicant can pay the customs duties and interest with the concerned customs authorities and submit proof of the same to the concerned Licensing Authority. However, in case of partial shortfall of EO, the concerned Licensing Authority will validate the quantum of customs duty and interest payable which can then be paid to the concerned customs authorities. Proof to be submitted to the concerned Licensing Authority.
 - Payment of customs duty and interest with the concerned customs authority to be completed by 30 September 2023.
 - Based on proof of payment as submitted by the exporter and examination of other documents, the concerned Licensing Authority will issue Export Obligation Discharge Certificate.

The takeaways

The issuance of the Amnesty Scheme dealing with EO defaults for past periods under the previous Foreign Trade Policy seeks to reduce disputes and regularise the default in partnership with trade is a welcome step. More specifically, the waiver of interest on additional customs duty and special additional customs duty (which are pre-GST levies) components should come as significant relief to trade and enable them to evaluate the option of the Amnesty Scheme for past matters as applicable.

Given the limited window offered in the Amnesty Scheme and as it is a one-time option, trade should proactively consider using this opportunity to reduce the dispute and compliance hassles on account of EO defaults for the authorisations obtained in the erstwhile Foreign Trade Policies.

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