

Textile Exporters: various options to claim benefit under IDT

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Background

Textile industry has been exempted from excise duty until Budget 2016-17 where exemption has been withdrawn on manufacturing of readymade branded garments falling under chapters 61, 62 and 63 of CETA and having MRP equal to or exceeding Rs. 1,000/-. The duty may be charged either @ 2% (without Cenvat) or 12.5% (with Cenvat).

The imposition of levy shall have impact not only on the domestic manufactures but on exporters also. Till now as it was exempted, exporters could export the goods by following simplified procedures of export. But after introduction of excise duty, the exporter may need to consider redesigning the system followed for export. There are many benefits/options conferred upon by Government which needs to be evaluated to ensure maximising export benefits and ensuring least compliance cost. The paper writer has attempted to discuss few of such options and how an exporter may take decision to choose particular course of option.

1. Export under Bond/Letter of undertaking (Rule 19 of Central Excise Rules): This benefit/relief is from payment of excise duty. Rule 19 of Central excise Rules, 2002, provides for removal of goods for export without payment of duty and also need not suffer any duty. Generally under this option, the goods are removed from the place of dutiability, without payment of duty under specified documents, which are prescribed to safeguard the revenue in cases the goods removed, are not ultimately exported.

In case manufacturer export the goods under option of 12.5% duty, he can also claim the Cenvat credit on inputs, input service and capital goods which may be claimed as refund. It is to be noted that refund option is not available when duty drawback has been claimed by manufacturer exporter.

2. Procurement of goods without payment of duty (Manufacture of export goods in bond)

The intention of the law is to provide for nullifying the duty effect on the goods to be exported. Therefore it provides for procurement of goods by the exporters from the indigenous manufacturers without payment of duty. Exporters can procure inputs required for manufacture of finished goods under Rule 19(2) of CER 2002 read with noti.no.20/2016-CE (NT). On the other hand the indigenous manufacturer also need

not reverse the cenvat credit availed on the inputs as the goods are ultimately exported. The cenvat credit so availed by such manufacturer can be utilised for payment of duty on other goods.

On procurement of such goods by the exporter, the exporter is bound to follow the conditions and procedures as set out by the board in this behalf. This is in the form of manufacture of export goods under bond. The benefit under this option is not available if the goods are exported under duty drawback claim.

3. Rebate of duty paid on final products (Rule 18 of Central Excise Rules, 2002):

If the finished goods are removed from the place of dutiability on payment of duty, which are subsequently exported out of India (where the money are received in convertible foreign exchange), then the exporter is entitled for rebate of duty paid on the goods exported on production of various documents proving the exports. This option may be followed only when export is made under option of 12.5% duty. This benefit is subject to the conditions and procedures prescribed by the board. It is to be noted that the payment of duty may be either on payment of cash through PLA or by debiting the cenvat credit, which is availed on inputs, input service or capital goods. This can be used as a measure of reducing the cost of purchase by availing and encashing the Cenvat credits. The benefit under this option is not available if the goods are exported under duty drawback claim.

4. Rebate of excise duty paid on the inputs used in the manufacture of goods exported if Cenvat Credit on the same is not availed; (Rule 18 of Central Excise Rules):

As already discussed in option (2) above, the exporters are entitled to procure the goods without payment of duty for the purpose of exports. However if the exporter wishes to pay the duty on such inputs, then subsequently he can go for rebate of excise duty paid on such inputs subject to conditions and procedure set out by the board in this behalf. The benefit under this option is not available if the goods are exported under duty drawback claim w.r.t. central excise also.

This procedure is found to be cumbersome as the input output ratio has to be established and departmental interaction and delays are expected. Rebate on finished goods as discussed in point 4 above is better option. It is to be noted that benefit of duty drawback is not available if exported under this option.

5. Refund of Cenvat credit availed and accumulated on the inputs, input service and capital goods used in the manufacture of goods exported;

Instead of going for rebate of the duty paid on inputs as explained in (4) above, the exporter may opt for availing the cenvat credit of the duty/tax paid on the inputs, input service and capital goods if the option of paying duty @ 12.5% is followed. This can be established based on the bill of materials (BOM) records maintained evidencing consumption of material used in goods exported. The accumulated credit for the reason of final products being exported can be claimed as refund. The refund claim can be made on monthly basis. The exporter in this case would be removing the goods without payment of duty under bond.

Where a manufacturer is engaged in export as well as domestic sale but the turnover of domestic sale is insignificant, he could consider following option:

- i. Claiming of credit on input, input service and capital goods used in export as well as domestic clearance;
- ii. Charge excise duty on domestic turnover @ 2%;
- iii. Reverse credit at the rate of 4% on domestic turnover (Rule 6 of CCR provides option for taking full credit by paying duty @ 6% on exempted turnover. As 2% has already been charged from customer, additional 4% reversal is required)
- iv. Claim refund of accumulated cenvat credit remained after reversal @ 4%;
- v. Take benefit of duty drawback under option "Drawback when Cenvat facility has been availed".

6. Claim of duty drawback:

Duty drawback is claimed for the goods which are exported outside India. The drawback could be opted under any of the following two options:

- a. Drawback when Cenvat Credit is claimed
- b. Drawback when Cenvat Credit is not claimed

The difference between the two refers to the Central Excise and Service Tax component of drawback. The drawback rates are mentioned in Notification No. 110/2015 - Customs (N.T.)- as amended. In respect of article falling under chapter 61 to 63, following are indicative rates of drawback:

- i. *When cenvat facility not availed:* 7% to 10% of FOB value subject to maximum limit of Rs. 30 to Rs. 500 per piece (depending upon products). Average rate could be said to be 8.5% subject to cap of Rs. 200 per piece

- ii. When cenvat facility availed: 2% to 4% of FOB value subject to maximum limit of Rs. 8 to Rs. 250 per piece (depending upon products). Average rate could be said to be 2.5% subject to cap of Rs. 70 per piece

It is to be noted that above rates are average rate. Precise rate needs to be seen by manufacturer based on the classification of product under particular chapter heading.

Particular option to be chosen for claiming drawback needs to be ascertained based on the price of product, rate of drawback and extent of duty/tax paid on input, input service and capital goods. It could be understood with help of following example:

An exporter is exporting consignment of man's shirt of MRP Rs. 4,000/- at FOB price of Rs. 3,000/- per piece. Duty paid on input and input service pertaining to per shirt is Rs. 50. Drawback schedule for the product is as follows:

			Without Cenvat		With Cenvat	
610502	Shirt of Blend containing Cotton and Man Made Fibre	Piece	9.5%	Rs. 60	2.4%	Rs. 15.2

Option 1: Do not avail cenvat credit= DBK is Rs. $3,000 \times 9.5\%$ = Rs. 285 subject to maximum Rs. 60. Hence drawback claim would be Rs. 60.

Option 2: Cenvat credit availed- DBK is Rs. $3,000 \times 2.4\%$ = Rs. 72 subject to maximum Rs. 15.2. Total benefit= drawback 15.2 + cenvat 50 = Rs. 65.2

It shows that preferred option is to with Cenvat credit along with drawback. It should be noted that option to claim duty drawback and cenvat credit could be decided on consignment to consignment basis. There is need to have robust mechanism for credit availment and input should be tracked at the time of removal so that there is no allegation of wrong availment of credit.

7. Claiming rebate of service tax under Notification No. 41/2012-ST:

In the course of removal of goods from factory to port, many expenditure are incurred by exporter on which service tax is paid. This service tax unless claimed as cenvat credit could be claimed as rebate. The rebate could be based on actual service tax paid or specified percentage of rebate depending upon the rate applicable for the product being exported. It is to be noted that this rebate could be claimed by even those exporter who export the goods under option of 2% duty. Service tax refund may be claimed in addition to DBK also.

8. Service Tax exemption on GTA services under Notification No. 31/2012- ST

This notification exempts service tax liability under reverse charge on GTA expenditure incurred for removal of goods from factory to place of removal provided the consignment note is issued in the name of exporter.

9. Merchant Exporting (CT-1)

"Merchant Exporter" means a person engaged in trading activity and exporting or intending to export goods. The person though not manufacturing any goods can procure the goods without payment of duty as a merchant exporter and export the same. The goods can be procured based on CT-1 form. Manufacturer selling the goods to merchant exporter need not charge duty. The procedure for procuring the goods by the merchant exporters is set out by the Board. Merchant exporter may also claim rebate or drawback benefits.

10. Merchandise Exports from India Scheme (MEIS):

This scheme is issued under Foreign Trade Policy 2015-20. Under this scheme, an exporter engaged in exporting the goods covered by Appendix 3 and making export to specified countries is allowed duty script at specified percentage. The script may be used for discharging excise duty liability arising on domestic clearance. Alternatively, this could be sold in the market for cash. In respect of articles covered by chapter 61, 62 & 63, MEIS rate is generally 2%.

11. Advance Authorisation (AA):

Advance Authorisation is issued to allow duty free import of input, which is physically incorporated in export product. There is no need to pay customs duty. Advance authorisation may be obtained for annual requirement also. It is to be noted that to claim benefit of advance authorisation, minimum value addition should be 15%. Exporter can continue to claim benefit of duty drawback along with this benefit. Under this scheme, the goods could be procured even from domestic manufacturers through invalidation of authorisation.

12. Duty Free Import Authorisation (DFIA):

The scheme is similar to AA in many aspects with minor difference that AA could be claimed when Standard Input Output Norms (SION) is already fixed while for DFIA, it needs to be applied. Here, value addition should be minimum 20%. Once condition of

scheme is satisfied, basic customs duty is not required to be paid on importation of raw material.

13. Export promotion capital goods scheme (EPCG):

Under this scheme, the exporter of goods can procure capital goods required for use in manufacture of goods meant for export. Goods could be either imported claiming customs duty exemption or domestically claiming excise duty exemption. The exporter would have the obligation of exporting goods worth 6 times of duty saved in addition to average exports in past three years. The advantage of the scheme is that the basic customs duty which otherwise would have been cost can be saved under the scheme.

Conclusion: Above discussion indicates that though there are multiple options for exporter but many of them are mutually exclusive. It becomes imperative to choose best option keeping in mind the quantum of benefit and corresponding compliance cost under each of the options. Kindly revert for specific query, if any, at rajesh@hiregange.com or ashish@hiregange.com

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