

CHAPTER-8

DEEMED EXPORTS

Policy	8.1	The Policy relating to Deemed Exports is given in Chapter-8 of the Policy.	
Benefits to the supplier	8.2	In respect of supplies made in terms of paragraphs 8.2(a) of the Policy, the supplier shall be entitled to Advance Licence for intermediate supply.	
	8.2.1	If the supplies has made the against Advance Release Order (ARO) or Back to Back Letter of Credit issued against Advance Licence, in terms of paragraphs 4.18 and 4.19 of the Policy, supplier shall be entitled to the benefits listed in paragraphs 8.3(b) and (c) of the Policy, whichever is applicable.	
	8.2.2	However, in such cases where Advance Release Order (ARO) or Back to Back Letter of Credit has been issued against DFRC, in terms of paragraphs 4.18 and 4.19 of the Policy, supplier shall be entitled only to the benefit listed in paragraph 8.3(b) of the Policy.	
	8.2.3	In respect of supply of goods to EOU/EPZ/SEZ/ EHTP/ STP in terms of paragraphs 8.2 (b) of the Policy, the supplier shall be entitled to the benefits listed in paragraph 8.3(a),(b)and (c) of the Policy, whichever is applicable.	
	8.2.4	In respect of supplies made under paragraphs 8.2 (c) (d)(f), (g) and (j) of the Policy, the supplier shall be entitled to the benefits enumerated in paragraphs 8.3(a),(b) and (c),whichever is applicable.	
	8.3	In all cases of deemed exports, supplies shall be made directly to the designated Projects/ Agencies/ Units/ Advance Licence/EPCG licence holders. The sub-contractor may, however, make the supplies to the main contractor as per paragraph 8.7 instead of designated projects/ agencies.	
Procedures for claiming deemed exports benefit	8.6	(i)	The procedures for issue of ARO and Back to Back Inland Letter of Credit, in respect of supplies under paragraph 8.2(a) of the Policy, is given in paragraphs 4.14 and 4.15 of this Handbook.
		(ii)	For the purpose of claiming deemed export benefits, if any, the indigenous supplier shall produce documentary evidence substantiating the realisation of proceeds from the recipient through the normal banking channel in the form given in Appendix-22A as well as a copy of ARO/ Non-negotiable copy of Back to Back Inland Letter of Credit.
	8.6.1	In respect of supplies under paragraphs 8.2 (b) of the Policy, the DTA unit shall claim the Advance Licence for deemed export from the concerned licensing authorities. Alternatively, the DTA unit may claim deemed export drawback from the concerned Development	

		<p>Commissioner. However, for supplies to EHTP/STP, the DTA unit shall claim deemed export benefits from the licensing authorities concerned.</p> <p>Such supplies shall be certified by the receiving agencies.</p>
		<p>Supplies under paragraph 8.2(b) of the Policy would be eligible for refund of Terminal Excise duty (TED) to the EOU/EPZ units upon furnishing proof of payment of TED and a disclaimer certificate from the DTA supplier that he shall not be claiming refund of TED paid by him.</p>
	8.6.2	<p>In respect of supply of capital goods under paragraphs 8.2 (c) of the Policy. The supplier shall produce a certificate from the respective Excise authorities evidencing supplies/ receipt of the manufactured capital goods and shall produce documentary evidence substantiating the realisation of proceeds from the EPCG licence holder through the normal banking channel in the form given in Appendix- 22A.</p>
	8.6.3	<p>In respect of supplies under categories mentioned in paragraphs 8.2(d),(e),(f),(g),(h) and (j) of the Policy, payment against such supplies shall be certified by the Project Authority concerned, as prescribed in form given in Appendix-12A.</p> <p>However, in respect of supplies mentioned in paragraph 8.2(d), supplies to the projects funded by such agencies alone, as may be notified by Department of Economic Affairs, Ministry of Finance, shall be eligible for deemed export benefits. A list of such agencies/ funds is given in Appendix-33.</p>
	8.6.4	<p>Supplies under category mentioned in paragraphs 8.2 (e) of the Policy shall be for the plants being set up at Kakinnada, Gadepan, Babrala and Shahjahanpur and those which may have been set up or expanded/ revamped/ retrofitted/ modernised during the Eighth Plan period, provided such supplies are made under the procedure of International Competitive Bidding.</p> <p>Supplies of capital goods (excluding office machines howsoever described) and spares upto 10% of the FOR value of such capital goods alone shall be eligible for the deemed export benefits.</p>
	8.6.4.1	<p>The benefit of deemed exports shall also be available in respect of supplies of capital goods and spares to fertilizer plants which are set up or expanded/ revamped/ retrofitted/ modernised during the Ninth Plan provided such supplies are made under the procedure of International Competitive Bidding, without reference to bid evaluation methodology.</p> <p>The domestic supplier, under paragraph 8.2(e) of the Policy, shall be eligible for the benefits listed in paragraphs 8.3(a) and (b) of the Policy, whichever is applicable.</p>

	8.6.5	<p>The benefit of deemed exports under paragraph 8.3(f) of the Policy would be available for the supplies of goods specified in list 12 for categories specified in S.No.214, 216 and 217 of Department of Revenue notification No.21/2002-Customs dated 1/3/2002, as amended from time to time, required in connection with petroleum operations undertaken under petroleum exploration licences or mining leases as the case may be, issued or renewed after 01.04.1999 and granted by the Government of India or any State Government to the Oil and Natural Gas corporation or Oil India Limited on nomination basis, and petroleum operations undertaken under specified contracts including those new exploration licensing Policy.</p> <p>These supplies shall be regarded as deemed exports under the said Policy, provided the goods are manufactured in India, and shall be eligible for deemed export benefits given under paragraph 8.3(a)(b)and(c), whichever is applicable of the Policy.</p>
	8.6.6	<p>The supply of capital goods and spares upto 10% of the FOR value of the capital goods to the power projects in terms of paragraphs 8.2(g) shall be entitled for deemed export benefits provided the same is certified by the Central Electricity Authority and the International Competitive Bidding procedures have been followed, at IPP stage, for supply of such capital goods to the power projects. The domestic supplier shall be eligible for the benefits listed in paragraphs 8.3 (a) and (b) of the Policy. The benefit of deemed exports shall also be available for renovation/modernisation of power plants, whichever is applicable.</p>
	8.6.6.1	<p>However, supply of goods mentioned in list 42 required for setting up of any mega power projects specified in S.No.400 of Department of Revenue notification No.21/2002-Customs dated 1/3/2002, as amended from time to time, shall be eligible for deemed exports benefits as mentioned in paragraph 8.3(a)(b) and (c) of the Policy, whichever is applicable, if such mega power project is - (a) an inter state thermal power plant of a capacity of 1000 MW or more; or</p>

		(b) an inter-state hydel power plant of a capacity of 500 MW or more as certified by an officer not below the rank of a Joint Secretary, Government of India in the Ministry of Power .
	8.6.6.2	Supplies under paragraph 8.2(g) of the Policy to the new refineries being set up during the Ninth 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. The domestic supplier shall be eligible for the benefits given in paragraph 8.3 (a) and (b) of the Policy, whichever is applicable.
Supplies to UN Organisation	8.6.7	The supplies of goods to projects funded by UN agencies shall be eligible for the benefits given in paragraph 8.3(a) and (b) of the Policy, whichever is applicable.
Supplies to nuclear power project	8.6.8	Supply of goods required for setting up any nuclear power project specified in list 43 specified in S.No.401 of Notification No.21/2002-Customs dated 1.3.2002, as amended from time to time having a capacity of 440 MW or more as certified by an officer not below the rank of Joint Secretary of Government of India in the department of Atomic Energy shall be entitled for deemed exports benefits in cases where the procedure of competitive bidding (and not international competitive bidding) has been followed. The domestic supplier supplying to such nuclear power projects shall be entitled for the benefits given in paragraph 8.3(a)(b) and(c) of the Policy, whichever is applicable.
Benefits to sub-contractor	8.7	Supplies made by an Indian sub-contractor of an Indian or foreign main contractor, shall also be eligible for deemed export benefits provided the name of the sub-contractor is indicated either originally or subsequently in the contract, and payment certificate is issued by the project authority in the name of the sub-contractor in the form given in Appendix 12A.

		In respect of supplies made by sub-contractor to the main contractor under paragraph 8.2 (d)(e) (f) (g)(i) and (j), the main contractor may make payment to the sub-contractor and issue payment certificate in the form given in Appendix-12A as Form 1-C. However, for supplies under paragraph 8.2(d) (e) (f) (g) and (j), the payment certificate from main contractor shall not be insisted for refund of Terminal Excise duty. The deemed exports benefits to the sub-contractor would be available to the extent of goods that are manufactured and supplied by him or outsourced from other manufacturers, for the value as indicated in Appendix 12-A.
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Procedure for claiming

benefits

8.8 The procedure for claiming benefits under paragraph 8.3 (b) and (c) of the Policy shall be as under:-

- (i) An application in the form given in Appendix-12B, alongwith the documents prescribed therein, shall be made to the Regional Licensing Authority concerned.
- (ii) The claim shall be filed against payment certificate received on monthly basis/quarterly basis/half yearly basis, except for supplies under paragraph 8.2 (d), (e),(f) (g) and (j), where it may be filed either on the basis of payment certificate or on the basis of proof of supplies effected. The claim may be filed either covering the payment certificate received for the supplies against a particular project or supplies to all the projects effected during the month/quarter/half year as per the option of the applicant. In addition, the applicant shall also have the option to file claim covering all the supplies to a project.

Such claims shall be filed within a period of six months from the end of monthly/quarterly/half yearly period as per the option of the applicant which shall be counted from the date of receipt of the payment certificate or from the date of certificate of receipt of the supplies by the Project Authority as per the applicant's option.

- 8.8.1 The application shall be filed within a period of six months from the end of the monthly/quarterly/half yearly period, as per the option of the applicant. Such claims may also be filed even where part payment certificates have been received.
- 8.8.2 Where no All Industry Rate of Drawback is available or the same is less than $\frac{4}{5}^{\text{th}}$ of duties actually paid on the materials or components used in the production or manufacture of the said goods, the exporter/ supplier may apply to the DGFT (Hqr.) for fixation of brand rate in the form given in Appendix 12B. In such cases, for each claim filed with concerned licensing authority, a corresponding application for fixation of brand shall be filed with DGFT (Hqr.) indicating the RLA file/ correspondence no., if any, to facilitate cross referencing.
- 8.8.3 The time limit, frequency, etc. for filing applications for fixation of brand rate of duty drawback shall be the same as for filing the claims indicated in sub paras 8.8(ii) & 8.8.1 above. The provision of late cut as given in paragraph 9.3 shall also be applicable under this sub-paragraph.
- 8.8.4 Regional Licensing Authorities may consider provisional payment to the extent of 75% of the drawback claim in the case of private companies and 90% in the case of Public Sector Undertakings, pending fixation of Brand Rate.
- 8.8.5 Subject to the procedure laid down in this Handbook, the Customs and Central Excise Duty Drawback Rules, 1995 shall apply mutatis-mutandis to deemed exports.