



Chat ONLINE

FIEO offers you opportunity to Chat Online every Wednesday between 3 to 5 pm (IST) with **Mr. Ajay Sahai, DIRECTOR GENERAL (FIEO)** on issues related with foreign trade.

Mr. Sahai has served many important offices in various capacities. As Jt. DGFT (Policy), during 1996-2003, he was closely associated with the formulation of the Exim Policy.

Feel free to seek clarifications/advice from Mr. Sahai on issues related to foreign trade. All that you need to do is to just click 'FIEO Online Chat Service' at www.fieo.org. Some portions of the Chats held last weeks are reproduced here.

The central excise authorities are denying the rebate under Rule 18 for supplies made to SEZ units on the grounds that such rebate is applicable only when the goods are exported out of India and not when supplies are made to the SEZ.

Supply from DTA to SEZ is considered exports and therefore the benefit of rebate under Rule 18 should be given for such supplies. Moreover, circular No. 29/2006-Customs dated 27.12.2006 clarifies that rebate under Rule 18 is admissible when the supplies are made from DTA to SEZ. The circular also lays down the procedure and the documentation for effecting supply of goods from DTA to SEZ, by modifying the procedure for normal export. CBEC has also issued Circular No. 06 /2010 clarifying that rebate under Rule 18 of the Central Excise Rules, 2002 is admissible for supplies made from DTA to SEZ even if Rule 18 does not mention such supplies in clear terms. The field formations have been asked to follow the circular no. 29/2006 accordingly.

What is the procedure for sending back defective imported goods cleared under the Focus Market Scheme.

Goods imported against the Focus Market Scheme, if found defective or unfit for use, may be re-exported with the

permission from the Commissioner of Customs, subject to the following conditions:

Re-export of goods takes place from the same port from where the goods were imported;

1. The goods are re-exported within 6 months from the date of import;
2. The DC/AC of Customs is satisfied about the identity of the goods; and
3. The goods were not put into use after import.

In such cases, on re-export of goods, 98% of the credit amount debited in the above mentioned duty credit scrips shall be generated by the concerned Custom House in the form of a certificate.

What is the procedure for ARE-3 attestation for EOUs operating under self bonding procedure for deemed exports benefit?

In respect of EOUs which are operating under self-bonding procedure, attestation of ARE-3 will be done by the office-in-charge for claim of deemed export benefit, on the basis of verification and warehousing by the EOU itself.

Where can I find such a clarification that I could show it to the excise authorities?

You may see Customs Circular 10/2009

dated 25 Feb 2009.

We are exporters of leather footwear. Customs has allowed us provisional clearance of footwear where about 55% of outer surface area of upper is of leather and balance including ankle patches are of plastic material. The Customs view is that only upper with outer surface area of over 60% can be classified as leather footwear for drawback purposes. Can we get some clarification?

Let me clarify that note 15 of the notification No.103/08-Cus (N.T.) dated 29.8.08 vide which the Drawback Schedule for the year 2008-09 was announced states that the term 'article of leather' in chapter 42 of the said schedule means any article wherein 60% or more of the outer visible surface area is of leather. This note is applicable only for the purposes of chapter 42 of the Drawback Schedule and not to footwear which falls under chapter 64 of the Drawback Schedule. According to note 4(a) to chapter 64 of the Customs Tariff, material of the upper shall be taken to be the material having the greatest external surface area, no account being taken of accessories or reinforcements such as ankle patches, edging, ornamentation, buckles, tags, eyelet stays or similar attachments. Since in your case, the greatest external surface area is of leather, such footwear shall be classified as leather footwear for drawback purposes.

We are exporters of rice which is non excisable. Can we avail self sealing and self certification benefits given by the excise authorities?

As per Excise Circular 892/12/2009 CX dated the 23 July, 2009, the facility of self-sealing/self-certification has been extended for export of non-excisable agricultural products, subject to the condition that these shall be examined at the port of export, as per the norms prescribed under circular no. 6/2002-

Customs dated 23.1.2002

What is maximum permissible limit of foreign agent commission for the purpose of service tax?

As per service tax Circular No.118/12/2009-ST dated 23 November 2009, the maximum allowable limit of foreign agent commission is 10% of FOB, one percent of the FOB value of export goods is the maximum exemption of service tax (as service tax rate is 10%).

The bank deducts certain commissions from the export remittance in lieu of service provided by them. Service tax should be applied on the FOB value after deducting the commission deducted by the banks or it should be inclusive of such deductions?

Refund of service tax is admissible on the basis of gross amount received for the exports and deductions made by the banks from export remittances, in lieu of services provided by bank, should not be deducted while applying for such refund.

We want to open an overseas office and our present turnover is Rs 7.5 crore. Are we allowed to remit Rs 35 lakh for initial expenses involved in setting up such office and thereafter for recurring expenses.

At the time of setting up of the office, banks may allow remittances towards initial expenses up to 15% of the average annual sales/income or turnover during the last two financial years or up to 25% of the net worth, whichever is higher. For recurring expenses, remittances up to 10% of the average annual sales/income or turnover during the last two financial years may be sent for the purpose of normal business operations of the office (trading/non-trading) or branch or representative office outside India.

Due to the global currency crisis one of our regular clients from Jor-

dan has delayed payment. Our bill dated 19/1/09 for \$20,616 is partly paid. The balance \$7200 they will pay before June 2010. Our banker says that if the payment is not received within 12 months from the date of export they will have to classify the amount as NPA. Can the bank extend the period till June 2010?

Banks can always allow six months extension as per RBI rules and thereafter you can approach the RBI.

In such a case will the bank classify the account as NPA?

No, the bank should not. The Reserve Bank of India has permitted banks to extend the period of realisation of export proceeds beyond 12 months from the date of export up to a period of six months, at a time, irrespective of the invoice value of the export.

As an MSME exporter we are eligible for greater marketing support from MSME Ministry. We would like to know what benefits are given for participation in International Trade Fairs by the MSME Ministry.

Participation in International Exhibitions/Trade Fairs held in Foreign Countries:		
S. No.	Eligible Items	Scale of Assistance
1.	Space rent (Built up stall)	For General Category Enterprises: Micro Enterprises: 75% of the actual charges Small Enterprises: 60% of the actual charges Medium Enterprises: 25% of the actual charges
2.	Freight charges for the goods transported to the events.	Actuals subject to maximum of Rs 15000/- (Rs 20000/- for Latin American countries) per entrepreneur.
3.	Air fare:	Micro Enterprises: 85% of the economy class return fare (for one representative from one enterprise). Small Enterprises: 75% of the economy class return fare (for one representative from one enterprise). Medium Enterprises: 25% of the economy class return fare (for one representative from one enterprise)

The MSME Ministry grants assistance for space rent, freight charges and air fare for participation in International Trade Fairs abroad as per above table:

For the enterprises belonging to the NE Region, or Women/SC/ST entrepreneurs, higher support is given by the MSME Ministry. You can access the details at <http://msme.gov.in>.

What are the limits of collateral free loan for MSME units?

The exemption limit for all MSME borrowers for collateral security (both manufacturing or production and providing or rendering of services) is Rs 5 lakh. Banks may on the basis of good track record and financial position of the MSME units, increase the limit of dispensation of collateral requirement for loans up to Rs 25 lakh.

We are eager to enter into merchanting trade. What are the RBI regulations for the same?

Merchanting Trade is permitted by the RBI as per the following condition:

- a) Goods involved in transactions are permitted to be imported into India; all rules, regulations and directions applicable to export (except Export Declaration Form) and import (except Bill of Entry) are complied with for the export leg and import leg, respectively.
- b) The entire merchant trade transaction is completed within a period of 6 months.
- c) The transactions do not involve

foreign exchange outlay for a period exceeding three months.

- d) Payment is received in time for the export leg.
- e) Where the payment for the export leg of the transaction precedes the payment for the import leg, banks should ensure that the terms of payment are such that the liability for the import leg of the transac-

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tion is extinguished by the payment received for the export leg, without any delay.

We are in touch with a buyer in Latin America who has sent us 100% advance payment for carpets. Can we send the carpets after a year as weaving of the carpets will take about 18 months?

In terms of Regulation 16 of Notification No. FEMA 23 dated May 3, 2000, where an exporter receives advance payment from a buyer, the exporter shall ensure that:

- i) The goods are exported within one year from the date of receipt of advance payment;
- ii) The rate of interest, if any, payable on the advance payment does not exceed LIBOR + 100 basis points, and
- iii) The documents covering the shipment are routed through the bank through which the advance payment is received.

Where the export agreement provides for shipment of goods extending beyond the period of one year from the date of receipt of advance payment as is the case here, the exporter shall require the prior approval of the Reserve Bank.

In case of multiple services provided by an assessee, is separate registration certificate required for each service?

As per sub-rule (4) of rule 4 of the Finance Act, 1994, only one registration certificate is to be taken even if the person provides more than one service from the same premises for which registration is sought. However, while making application for registration all taxable services provided by the person should be mentioned. ■