Removal of mandatory warehousing requirement for Export Oriented Units

Background

Export Oriented Units (EOUs) including Software Technology Park units and Electronic Hardware Technology Park Units are established in terms of Foreign Trade Policy (FTP) for primarily undertaking export of goods and services except permissible domestic sales.

In terms of Notification No 52/2003- Cus dated 31 March 2003 (the Notification) these units are eligible for exemption from customs duty on import of specified goods for use in authorised operations. Operating as a customs bonded warehouse is a key requirement for claim of exemption from the customs duty. Further, they need to follow the procedure and undertake specified compliances in relation to day to day operations in terms of the FTP and Customs Act, 1962.

In line with the government’s objective of ‘ease of doing business’, the Central Board of Excise and Customs (CBEC) has examined the need for applying the warehousing provisions under Chapter IX of the Customs Act, 1962 to these units.

CBEC felt that application of warehousing provisions to these units adds to the compliance requirement without any significant benefit in terms of improved monitoring or providing additional facilitation.

Therefore, CBEC has effected amendment in the Notification through Notification No 44/2016-Cus dated 29 July 2016 for dispensing the requirement of operations under custom bond and prescribing a revised procedure in relation to specified compliances. CBEC has issued a Circular No 35/2016-Cus dated 29 July 2016 to explain the changes which will come into effect from 13 August 2016.

Key highlights of the revised guidelines

- The requirement to comply with warehousing provisions by these units is dispensed with. As a consequence these units shall stand delicensed as warehouses under the Customs Act, 1962.

- However, the units despite the relaxation would continue to adhere to the provisions of the Notification and FTP including other applicable notifications.

- Requirement to maintain a warehousing register is also dispensed with. The records in terms of receipt, storage, processing and removal of goods imported by the unit will be required to be maintained as digital records in a prescribed format called Form A.

- A digital copy of Form A containing transactions for the month needs to be provided to the proper officer by the tenth of each month in a CD or pen drive.

- For transactions prior to 13 August 2016, the existing practice of maintenance of warehouse register will suffice.

- The system of furnishing re-warehousing certificate to the customs authorities stand dispensed with and revised procedure for confirmation of receipt of duty exempted goods in the unit is prescribed.

- The current procedure of bond to bond movement stands dispensed with and a revised procedure is prescribed.
• The concept of ‘debonding’ of goods stands dispensed. However, such clearances will still require approval and payment of applicable customs duties.

• Minor amendments to align the concept of removal of the term customs bond is undertaken at relevant places in the Notification as well.

Our comments
Dispensing the requirement to operate under customs bond is a key relief extended to these units. Further, the relaxation and notification of a revised procedure for maintenance of records, confirmation of receipt of goods and inter unit movement, etc. can help in reduction of compliance cost for these units.

However, since the units operate under provisions of FTP, it would have helped if a similar relaxation is provided in the FTP and Central Excise Act, 1944 and rules notified thereunder. To illustrate, service units are required to be registered under the Central Excise Rules, 2002 and file returns even though they are not engaged in any manufacturing activity.

We hope that these guidelines are implemented effectively at the ground level with strict monitoring by CBEC to ensure that they meet their objective.

Overall, it is a positive step of the government towards trade facilitation and improving the ease of doing business in India.
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