

Remission of Duties or Taxes on Export Product Scheme

The World Trade Organization ('WTO') in 2019 ruled that India's export subsidy schemes (under the Foreign Trade Policy 2015-20) violates WTO's Subsidies and Countervailing Measures Agreement ('SCMA'). This ruling directly impacts (amongst other schemes) the Merchandise Exports from India Scheme ('MEIS'), under which Indian exporters were rewarded with duty credit scripts up to 5% of the realized Free on Board ('FOB') value of goods exported. The WTO ruling has pronounced that MEIS is non-compliant under the SCMA; as a consequence, the Government of India announced that MEIS will be discontinued from December 31, 2020 and thus, curtailing the incentives available to Indian exporters.

With the intention to replace MEIS, in March 2020, the Cabinet Committee on Economic Affairs approved the Remission of Duties or Taxes on Export Product Scheme ('RoDTEP Scheme'). RoDTEP Scheme is WTO compliant and seeks to reimburse duties and taxes incurred in the manufacturing and distribution process, which are not refunded or exempted under any other scheme or legislation in India. Currently, the implementation date is January 1, 2021.

Accordingly, effective January 1, 2021, Indian exporters who were entitled to incentives from the Government of India under MEIS, will need to claim reimbursement of duties and taxes under RoDTEP Scheme. This is a significant shift in the export incentive mechanism and is likely to impact various sectors/ industries from a quantum of incentive perspective.

Key features of RoDTEP Scheme

- i. RoDTEP Scheme will be effective from January 1, 2021 to replace MEIS, subject to the ceiling rates which are yet being finalized by the Ministry of Finance
- ii. Operational framework of the scheme is yet to be announced and if the scheme were to be effective from January 1, 2021 (even for select sectors), exporters will have limited time to ensure compliance with the framework
- iii. The scheme has been allocated INR 50,000 crores (USD 7 bn) by the Government of India Both merchant as well as manufacturer exporters would be eligible
- iv. The scheme will reimburse input taxes at the central, state and local levels and will include embedded duties on fuel used in transportation and generation of captive power, electricity duty, mandi tax, toll tax, stamp duty on import-export documentation, mining cess, non-creditable GST, road tax and any such duties and taxes which are not refundable/ creditable under any other scheme or legislation
- v. Rebate can be claimed as a percentage of the FOB value of goods exported; the rebate percentage will be notified for each product at an eight digit HSN level
- vi. Rebate under the scheme will be through issuance of electronic duty credit scrips, to be utilized against prescribed duties and taxes; the scrips will also be freely transferable

Roadmap to implementation of RoDTEP

It is understood that reimbursement of duties and taxes under RoDTEP will also be computed as percentage of the FOB value of goods exported. However, until now, the Government of India/ Export Promotion Councils/ Manufacturers or Exporters, did not possess data/ information of all such non-reimbursable/ non-creditable duties and taxes levied in the entire supply chain. Therefore, the primary exercise currently undertaken by the Ministry of Finance (through the Customs Drawback division) is to determine the quantum of such non-reimbursable/ non-creditable duties and taxes at the product level (at an 8 digit HSN level). For such purpose, relevant information is being sought from the exporters, through the respective export promotion councils.

Objective of this exercise is to determine the ceiling rates (%) for reimbursement of duties and taxes at a product level. While data was sought from various export promotion councils, products of iron and steel, automobiles and components, and readymade garments have been identified in the priority list. Recently, the exercise has been extended to Chapters 86, 88 and 89 of the Customs Tariff Act, 1975; other products will be included gradually. This is a time consuming as well as an involved process, as duties and taxes need to be identified at the Central, State and Local levels, including the embedded duties and taxes which are not reflected/ disclosed or mentioned on any invoice nor recorded in the accounting systems.

Exporter's responsibility for ceiling rate determination

Process of fixing the ceiling rates is currently underway, for which exporters are required to submit detailed information and data on the embedded duties and taxes. This information and data is required to be collated for products exported during the period October 1, 2019 to March 31, 2020. Submission of information should be in the prescribed (detailed) formats, through the respective export promotion councils. The data collation formats are quite detailed and require significant time and efforts to extract, analyse and submit the correct information. Along with the duly filled formats, exporters are also required to submit supporting documents such as invoice copies, shipping bills, duty/ tax notifications, justification, etc. It is recommended that the information is proactively submitted by the exporters to ensure that the RoDTEP rate is finalized at the earliest.

Exporter's responsibility on implementation of RoDTEP scheme

The operational framework for claiming rebate under the scheme will be completely digitised. Exporters will need to ensure that they have the necessary information technology infrastructure for a seamless claim and utilization of duty credit scrips that will be issued. Advocacy/ representation before various ministries/ authorities should also be explored if the ceiling rate/ rebate percentage is not a correct reflection of the embedded duties and taxes.

Also, determination of ceiling rates and rebate percentage will not be a one-time exercise. It is likely that quality of data currently shared by exporters will require improvements and granularity. This process of rebate % determination which has begun in 2020, is likely mature over the next four to five years. For such

purpose, exporters will need to reconfigure their accounting, IT systems, contractual relationships, MIS, auditable recordkeeping of information, etc., to be able to extract a more granular and complete data. Similar to the existing customs drawback scheme, Ministry of Finance may request for data on a periodic basis and hence it is necessary for the exporters to establish a suitable mechanism for such purpose.

Our comments

The scope of RoDTEP scheme is quite comprehensive and intends to include multiple duties and taxes paid by various stakeholders such as manufacturer, supplier, distributor, transporter, etc. Active and timely support from the exporters will ensure implementation of RoDTEP scheme at the earliest. There is a possibility that the scheme may be introduced initially only for select priority sectors/ products; other sectors/ products to be included in a phase-wise manner as and when the rebate percentages are finalized.

It is not in doubt that the data collation process, especially in the prescribed formats, is complex and time consuming. However, if the exporters wish to operationalize the scheme soon, the requested data and information should be extracted and submitted within the timelines. Delay in implementation of the scheme, coupled with discontinuation of MEIS will adversely affect the operations.

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