

Export Oriented Units

1. Introduction:

- 1.1 EOU scheme was introduced in the year 1980 vide Ministry of Commerce resolution dated 31st December 1980. The purpose of the scheme was basically to boost exports by creating additional production capacity. It was introduced as a complementary scheme to the Free Trade Zones/ Export Processing Zone (EPZ) Scheme introduced in the sixties, which had not attracted many units due to locational restrictions. The exporters showed willingness to set up units with long term commitment to exports under Customs bond operations provided they had the freedom to locate them in places of their choice and given most of the benefits as provided to units set up in the Zones.
- 1.2 The Export Oriented Units (EOUs) are governed by the provisions of Chapter 6 of the Foreign Trade Policy (FTP) and its procedures, as contained in the Handbook of Procedure (HBP). Provisions of the said Chapter 6 and its procedures have also been made applicable to the Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) and Bio-Technology Parks (BTPs). Hence the scheme is for EOU/STP/EHTP/BTP and is referred in common parlance as EOU scheme.
- 1.3 Over the years, the EOU Scheme has undergone various changes and its scope has also expanded substantially as compared to the initial Scheme, which was basically for manufacturing sector with certain minimum value addition in terms of export earnings. Presently, the units undertaking to export their entire production of goods are allowed to be set up as an EOU. These units may be engaged in the manufacture, services, development of software, repair, remaking, reconditioning, re-engineering including making of gold/silver/platinum jewellery and articles thereof, agriculture including agro-processing, aquaculture, animal husbandry, bio-technology, floriculture, horticulture, pisciculture, viticulture, poultry, sericulture and granites. The EOUs can export all products/ services except prohibited items of exports in ITC (HS).
- 1.4 Some benefits that are extended to the EOUs to impart to them a competitive edge to compete in export market are, as follows:
 - I. EOUs are allowed to procure raw materials/ capital goods duty free, either through import or through domestic sources;
 - II. Reimbursement of Central Sales Tax (CST);
 - III. Reimbursement of duty paid on fuels procured from domestic oil companies;
 - IV. CENVAT credit on the goods and service and refund thereof;

V. Fast track clearance facilities; **and**

VI. Exemption from Industrial Licensing for manufacture of items reserved for SSI sector.

2. Customs and Central Excise exemptions:

2.1 EOUs/EHTPs/STPs are entitled to import/procure locally duty free raw materials, capital goods and office equipment etc. vide (i) Customs Notification No. 52/2003-Cus., dated 31-3-2003 (for duty free imports) and (ii) Central Excise Notification No. 22/2003-CE., dated 31-3-2003 (for duty free procurements).

3. Setting up of an EOU:

3.1 Projects having a minimum investment of Rs. 1 Crore and above in building, plant and machinery are usually considered for establishment under EOU Scheme. Minimum investment criteria is to be fulfilled at the time of commencement of production by the unit. The minimum investment criterion does not apply for certain sectors like Electronic Hardware Technology Park unit, Software Technology Park unit, Handicrafts, Agriculture and Aquaculture. Setting up of trading units is not permitted under EOU scheme.

3.2 EOUs are normally permitted to be set up by a Unit Approval Committee headed by the Development Commissioner. Jurisdictional Commissioner of Central Excise & Customs is a member of the said committee. Proposals for setting up EOUs requiring industrial license also require clearance by the Board of Approval (BOA) and Department of Industrial Policy and Promotion (DIPP). 100% foreign direct investment (FDI) is permitted through Automatic Route.

3.3 For setting up of an EOU, three copies of the application in the prescribed form (Appendix 14-I-A) are required to be submitted to the Development Commissioner. In certain cases, approval of the Board of Approval (BOA) is required. Applications for setting up of Electronic Hardware Technology Park/ Software Technology Park units are submitted to the officer designated by the Department of Information Technology for this purpose. After approval of the application and issuance of Letter of Permission, the applicant is required to execute a legal undertaking (Appendix 14-I-F) with the Development Commissioner/ Designated Officer concerned within the prescribed time period. On execution of legal undertaking, a Green Card is issued to the unit.

3.4 On approval for setting up an EOU by Unit Approval Committee, a Letter of Permission (LOP/LOI) is issued by the jurisdictional Development Commissioner. It mentions inter-alia the capacity and items of manufacture and export, capital goods permitted to be imported/ procured. Thereafter, the unit has to execute a legal undertaking with the Development Commissioner. The LOP/ LOI issued is construed as a license for all purposes. After obtaining the LOP and execution of legal undertaking, the unit is required to apply for a license for Private Bonded Warehouse

and In-bond manufacturing sanction order under provisions of Section 58 and 65 of the Customs Act, 1962 respectively from the jurisdictional Assistant/Deputy Commissioner of Central Excise and Customs.

4. Import/ procurement and warehousing:

- 4.1 Under the EOU scheme, the units are allowed to import or procure from DTA or bonded warehouses in DTA/ International exhibitions in India, without payment of duty all types of goods including capital goods, raw materials, components, packing materials, consumables, spares and various other specified categories of equipments including material handling equipments, required for export production or in connection therewith. However, the goods prohibited for import are not permitted. In the case of EOUs engaged in agriculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry, sericulture and granite quarrying, only specified categories of goods mentioned in the relevant notification are permitted duty-free import.
- 4.2 The Customs exemption notification No. 52/03-cus for imports and related Central Excise exemption Notification No. 22/03-CE, both dated 31-3-2003 prescribe several conditions to be fulfilled by the beneficiaries keeping in view the objective of the Scheme and to prevent abuse. The entire premises of the EOU is a Customs bonded premise. A few exceptions, however, may be available under specific schemes. They also provide various flexibilities in the matter of taking out the materials for jobwork, inter-unit transfer. The EOU/ EHTP/ STPI/ BTP are required to be positive net foreign exchange earner except for sector specific provision of appendix 14-I-C of HBP v.1 where a higher value addition shall be required as per the provisions of Foreign Trade Policy. NFE earnings is calculated cumulatively in blocks of 5 years from the commencement of commercial production according to a prescribed formula as per para 6.9.1 of HBP v.1.
- 4.3 The EOUs are licensed to manufacture goods within the bonded premises for the purpose of export. The period of LOP bonding is initially for five years after the unit has commenced production, which is extendable to another five years by the Development Commissioner. On completion of the bonding period, it is for the unit to decide whether to continue under, or to opt out, of the scheme. The imported capital goods are allowed to be warehoused for a period of 5 years. For other goods, the warehousing period is one year, which can be extended further by the Commissioner/ Chief Commissioner of Central Excise & Customs. On an application being made by the unit, extension of the time limit is granted in all cases unless there is malafide and diversion of duty free materials.
- 4.4 Inputs imported or procured duty free are required to be accounted for in accordance with SION. For the items having no SION, consumption of inputs is allowed subject to generation of waste, scrap and remnants upto 2% of input quantity. However, if any item in addition to those given in SION are required as input or where generation of waste, scrap and remnants is beyond 2% of the input quantity, consumption is allowed

on the basis of self-declared norms for a period of three months till the jurisdictional Development Commissioner fixes ad hoc norms subject to an undertaking by the unit that the self-declared/ ad hoc norms shall be adjusted in accordance with norms as finally fixed by the Norms Committee in DGFT for the unit. Further, a provision has also been made to consider such cases by the Board of Approval for appropriate decision in case of difficulty in fixation of SION by the Norms Committee. The norms fixed by the Norms Committee shall be applicable to the specific unit.

[Refer Board's Circular No. 12/2008-Cus dated 24-7-2008]

5. Monitoring and administrative control:

5.1 The EOUs basically function under the administrative control of the Development Commissioner of the Special Economic Zones, whose jurisdiction has been notified by the Ministry of Commerce. In all, there are seven Development Commissioners at Mumbai, Gandhidham, Chennai, Cochin, Visakhapatnam, Noida and Kolkata, who supervise the functioning of the EOUs. The Development Commissioners of the SEZs are the Licensing Authorities in respect of units under the EOU scheme, as per specified territorial jurisdiction as indicated in the FTP.

5.2 The provisions of the Customs and Central Excise law in respect of the EOUs are administered by the Commissioners of Customs and Central Excise, who work under the control of Central Board of Excise & Customs. The work relating to the EOUs located in port cities/towns or within the municipal limits of port cities/towns, which was being handled by jurisdictional Commissioner of Customs has been transferred to the jurisdictional Commissioner of Central Excise.

[Refer Circular Nos. 72/2000-Cus, dated 31-8-2000; No.87/2000-Cus, dated 2-11-2000; and No. 932/22/2010-CX, dated 4-8-2010]

5.3 Administrative control of the EOUs which satisfy the conditions of large taxpayer under Notification No. 20/2006-CE (NT) dated 30-09-2006 has been transferred to the LTUs. In respect of these large taxpayer-EOUs, specific function requiring physical presence of the officers for the purposes as warehousing, sealing or any other work as assigned by LTUs will be dealt with by the Commissioner of Central Excise, who has concurrent jurisdiction over these large taxpayer-EOUs.

[Refer Circulars No. 31/2003-Cus dated 7-04-2003 and No. 15/2007-Cus dated 20-3-2007]

5.4 On the policy front, all decisions relating to the EOUs are taken by the Board of Approvals (BOA), set up under the Department of Commerce. The BOA is chaired by the Secretary, Ministry of Commerce. In the case of units engaged in manufacture of electronic hardware and software, the policy decisions are taken by the Inter Ministerial Standing Committee (IMSC) set up under the Department of Information Technology and the same are implemented through its Designated Officers. CBEC representative is a member of both the BOA/IMSC. The availability of any benefit

under Customs or Central Excise Acts or the notifications issued thereunder has, however, to be determined by the Commissioner of Central Excise and Customs having jurisdiction over the unit. Appropriate inter-Ministerial liaison is maintained for ensuring uniformity as far as possible in the Foreign Trade Policy provisions and the provisions built in the relevant Customs and Central Excise notifications.

6. Customs bonding:

- 6.1 The premises of EOU are approved as a Customs bonded warehouse under the warehousing provisions of the Customs Act. The manufacturing and other operations are carried out under customs bond and the unit bears appropriate charges for officers on cost recovery basis. In case of units in Aquaculture, Horticulture, Floriculture, Granite quarrying etc exemption from bonding is given for administrative reasons with certain other safeguards being put in place to check that duty free benefits where availed are not abused. The EOUs are required to execute a multipurpose bond with surety/ security with jurisdictional Central Excise and Customs officers.

Refer Circular No. 15/95-Cus, dated 23-2-1995]

7. Items allowed duty free imports/procurement:

- 7.1 Under the EOU scheme, the units are allowed to import or procure locally without payment of duty, all types of goods including capital goods, raw materials, components, packing material, consumables, spares and various other specified categories of equipments like material handling equipments, UPSs, quality assurance equipments, captive power plants, central air conditioning equipments, security systems, pollution control equipments, modular furniture and parts thereof etc. required for the production/ jobwork and other operations in terms of letter of permission (LOP). All goods other than prohibited goods are allowed to be imported by an EOU/STP/EHTP. The specified activities for setting up an EOU/STP/EHTP are as follows:

- I. Manufacture of articles for export or for being used in connection with the production or packaging or job work for export of goods or services by export oriented undertaking;
- II. Manufacture or development of software, data entry and conversion, data processing, data analysis and control data management or call center services for export by Software Technology Park (STP) unit, or a unit in Software Technology Park Complex under the export oriented scheme;
- III. Manufacture and development of electronics hardware or electronics hardware and software in an integrated manner for export by an Electronic Hardware Technology Park (EHTP) unit or a unit in Electronic Hardware Technology Park Complex under the export oriented scheme; production, manufacture or packaging of articles by export oriented undertaking in horticulture, agriculture and animal husbandary sector;

- IV. Use in aqua-culture farm in connection with operational requirements of such aquacultural farm and export of aquacultural products so produced by export oriented undertaking in aquaculture sector;
 - V. Quarrying of granite by export oriented undertaking engaged in processing and manufacture or production of articles of granite for export;
 - VI. Manufacture of gems and jewellery and export thereof by EOUs in the Special Export Oriented Complex, Jhandewalan and EOUs in gems and jewellery sector.
- 7.2 Duty free import and procurement of export promotion material like brochures, literatures, pamphlets, hoardings, catalogues and posters of products to the extent of 1.5% of the value of exports of the previous year is also allowed. The export value of supplies of such promotional material shall not be counted towards fulfillment of NFE and for availing DTA entitlement as specified in para 6.8 of FTP. However, import of such promotional material shall be considered for computation of sum total of all imported goods for arriving at NFE.

[Refer Circular No. 17/2006-Cus dated 1-6-2006].

8. Time limit for utilization of imported capital goods and inputs:

- 8.1 An EOU is required to install the capital goods within a period of one year from the date of import or procurement thereof and account for the usage of inputs within a period of three years from the date of import or procurement thereof. This period can be extended by the jurisdictional Assistant/Deputy Commissioner of Central Excise and Customs/ Central Excise.

9. Manufacture in bond:

- 9.1 EOUs are private bonded warehouse under provisions of Section 58 of the Customs Act, 1962. To undertake manufacturing or other operations in the warehouse in relation to warehoused goods, the required permission is granted under Section 65 of the Customs Act, 1962, read with "Manufacture and Other Operations in Warehouse Regulations, 1966". The degree of supervision of the Departmental officers on movement of raw materials, components, finished goods and manufacturing process and accounting in an EOU is aimed at providing operational flexibility, easing restrictions and removing practical difficulties faced by EOUs. Accordingly, the manufacture is now allowed without any physical supervision of the Central Excise and Customs authorities, locking of the warehouse premises, control over the issue and return of imported goods. Further, all movements from and to the units like clearance of raw materials/ components to the job worker's premises, return of goods from the job worker's premises, clearance to other EOUs, export and sale into DTA can be made by the manufacturer subject to recording of each transaction in the records prescribed by the Board/Commissioners or their private records approved by the Commissioner.

[Refer Circular No. 88/98-Cus., dated 2-12-1998]

- 9.2 Exports by EOUs are allowed on self-sealing and self-certification basis.
- 9.3 The EOUs are allowed self-bonding/self-warehousing without the requirement of physical verification of goods by officers of Customs and Central Excise for both imported as well as indigenously procured goods. This relaxation is presently available to those EOUs with a clean track record and whose physical export turnover of goods or services is Rs.15 crores or above in the preceding financial year.

[Refer Circular No.19/2007-Cus., dated 3-5-2007]

10. B-17 bond:

- 10.1 Import/procurement of goods by an EOU for use in manufacture or in connection with production or packaging of goods for export is exempted from payment of customs and central excise duties. EOUs execute a general purpose B-17 bond along with surety or security covering the duty foregone on imported goods. This bond is prescribed under Notification No. 6/98-CE (NT) dated 02.03.1998 as General Bond to be executed by the EOUs for provisional assessment of goods to Central Excise duty, for export of goods and for accounting/disposal of excisable goods procured without payment of duty. This bond also takes care of the interest of revenue against risks arising out of goods lost in transit, goods taken into Domestic Tariff Area for job work/ repair/ display etc but not brought back. Basically the B-17 bond is an 'all purpose' bond covering liabilities of the EOU both under Customs and Central Excise Acts. However, it does not cover the differential duty amount against advance DTA sale for which a separate bond is to be executed.
- 10.2 The B-17 bond is executed with the jurisdictional Assistant/Deputy Commissioner of Central Excise and Customs, as the case may be. The bond is taken for an amount equivalent to 25% of the duty forgone on the sanctioned requirement of capital goods plus the duty forgone on raw materials required for three months. Surety or security equivalent to 5% of the bond amount in the form of bank guarantee or cash deposit or any other mode of security recognized by the Government is required to be given by the EOUs. In the case of surety, a letter from the person standing surety duly certified by a Chartered Accountant for solvency is also required to be submitted.
- 10.3 Units which have achieved positive NFE and are in existence for the last three years with unblemished track record having export turnover of Rs. Five crores or above and have not been issued a show cause notice or a confirmed demand, during the preceding 3 years are exempted from furnishing Bank Guarantee etc. or Surety along with B-17 bond. However, this facility will not be available to the Units where Show Cause Notices have been issued or cases booked on grounds other than procedural violations, under the penal provision of the Customs Act, the Central Excise Act, the Foreign Trade (Development & Regulation) Act, the Foreign Exchange Management Act, the Finance Act, 1994 covering Service Tax or any allied Acts or the rules made thereunder, on

account of fraud / collusion / willful mis-statement/ suppression of facts or contravention of any of the provisions thereof.

[Refer Circulars No. 14/98-Cus., dated 10-3-1998; No. 42/98-Cus., dated 19-6-1998; No.66/98-Cus., dated 15-9-1998; No.76/99-Cus., dated 17-11-1999; No. 54/2004-Cus., dated 13-10-2004; and Circular No. 36/2011-Cus., dated. 12-8-2011]

11. Monitoring of export performance / foreign exchange realization:

- 11.1 The EOUs basically function under the administrative control of the Development Commissioner of the SEZ as per the jurisdiction notified by the Ministry of Commerce. The Development Commissioner is the licensing authority in respect of EOU. In respect of STP / EHTP units, the designated officer (Director) of the Ministry of Communication and Information technology is the licensing authority. These authorities are also responsible for monitoring the export performance of the units in terms of Para 6.12.1 of HBP read with Appendix 14-I-G of HBP.
- 11.2 The concept of NFEP and EP has been replaced with Net Foreign Exchange Earning (NFE) from 2003-04. Further, duty liability is fixed in proportion to shortfall in NFE. Now the unit has to achieve a positive NFE i.e. their foreign exchange earning has to be more than the foreign exchange outflow. The NFE is calculated cumulatively in the block of 5 years. If the unit is not NFE positive, Development Commissioner is required to inform the Central Excise authorities for recovery of the proportionate duty. This provision is not only more equitable but also prevents a unit to become unviable on account of huge demand without taking into account the exports performance achieved.
- 11.3 The Development Commissioner is responsible for monitoring foreign exchange realization/remittances of EOUs in coordination with the concerned General Manager of RBI.

[Refer RBI Circular No. COEXD.3109/05.62.05/1999-2000, dated 21-02-2000]

- 11.4 The Unit Approval Committee headed by the Development Commissioner is responsible for monitoring the performance of EOUs.

12. Import and export procedures:

- 12.1 With regard to clearance of import cargo, the EOUs are placed in a special category, eligible for fast track clearance through the Customs on the strength of procurement certificate issued by the jurisdictional Assistant/Deputy Commissioner. Generally, the EOU cargo is not examined at the gateway port/airport and in case of loose cargo, marks and numbers on the packages are verified. As for sealed containers, the seal number and container number are verified with the Bill of Lading. If the seal is found intact, the container is allowed clearance. The imported cargo so cleared and brought into the unit's premises are examined by the jurisdictional Central Excise and Customs officials. After examination (percentage check only), the goods are

allowed to be used for export production. Re-warehousing certificate is to be submitted to the Assistant/Deputy Commissioner in charge of the port of import within 90 days of the issue of procurement certificate.

- 12.2 On the export side, the units having status of a Super Star Trading House, Star Trading House, Trading House, and Export House are allowed the facility of self-sealing of their export containers.

[Refer Circulars No. 63/97-Cus, dated 21-11-1997; No.14/98-Cus., dated 10-3-1998; and No.90/98-Cus, dated 8-12-1998]

13. Goods imported / exported and found defective:

- 13.1 Subject to grant of GR waiver by the RBI, the EOUs are allowed to make free replacement of the goods exported by them earlier and found defective, damaged or otherwise unfit by the overseas buyer. However, such defective, damaged or otherwise unfit for use goods are required to be brought back subsequently, to the country. The units are also allowed to re-import part consignment/full consignment in case of failure of the foreign buyer to take delivery.
- 13.2 The EOUs are also allowed to receive free replacement of the goods imported and found defective, damaged or otherwise unfit for use prior to re-export of the same. However, such damaged, defective goods are required to be re-exported subsequently. In case the supplier of such goods does not insist for re-exportation, such goods are required to be either destroyed or cleared into DTA on payment of full customs duty. (Reference Boards Circular 60/99-Cus, dated 10-9-1999)

14. Procurement of indigenous goods under CT-3 procedure:

- 14.1 The EOUs can procure goods from DTA without payment of Central Excise duty on strength of CT-3, which is issued by the Superintendent of Central Excise in charge of the EOU. Such goods are required to be brought directly from the manufacturer/warehouse into the unit's premises under A.R.E.-3 procedure. To avoid separate permission every time, the EOUs are issued pre-authenticated CT-3 in booklet form and against such pre-authenticated CT-3, the EOUs are allowed to procure capital goods, raw materials, consumables etc. Goods procured from DTA and found to be defective can be returned to the manufacturer as prescribed under Central Excise law.
- 14.2 EOUs having a status holder certificate under the Foreign Trade Policy are eligible for the Fast Track Clearance Procedure under para 6.38.3 of Hand Book of Procedure (HBP). Units having physical export turnover of Rs. 15 Crores and above in the preceding financial year are allowed to import goods without payment duty on basis of pre-authenticated procurement certificate. The request to issue pre-authenticated procurement certificate will be submitted to the jurisdictional Asstt./Dy. Commissioner of Customs/Central Excise. After examination of the request, the Asstt./Dy. Commissioner of Customs/Central Excise may issue direction to the jurisdictional

Superintendent to issue the pre-authenticated procurement certificate to the unit in a booklet form with running serial number calendar year wise. The unit shall ensure that the consignment under clearance under such pre-authenticated procurement certificate is covered by the Bond amount under B-17 Bond.

[Refer Circulars No. 17/2006-Cus, dated 1-6-2006]

15. DTA sale:

- 15.1 The goods manufactured by EOU, which are similar to the goods exported or likely to be exported from the EOU, are allowed to be sold in Domestic Tariff Area (DTA) at concessional rate of duty upon fulfillment of certain conditions in terms of Para 6.8(a) of the FTP read with Para 6.14 and Appendix 14-I-H of the HBP.
- 15.2 'Similar goods' has been defined as goods which are identical in all respects including goods which although not alike in all respect, have like characteristics and like components, materials which enable them to perform the same function and are commercially interchangeable with the goods exported or expected to be exported.
- 15.3 The EOUs (other than gems & jewellery units) are allowed to sell goods (including rejects, scrap, waste, remnants and by-products) in DTA up to 50% of FOB value of exports on payment of concessional duty if they are NFE positive. However, units which are manufacturing and exporting more than one product, can sell any of these products into DTA, upto 90% of FOB value of export of the specific products within the overall DTA entitlement of 50%. Gems and Jewellery units may sell up to 10% of FOB value of export of preceding year subject to fulfillment of positive NFE.
- 15.4 The DTA sale entitlement earned by an EOU is valid for 3 years from the date of its accrual. DTA sales over and above the 50% of FOB value of exports could be made on payment of full duty subject to positive NFE condition.
- 15.5 For a newly set up unit, Advance DTA sale is also allowed on the basis of the projection of export in the first year. For pharmaceutical units, advance DTA sale is allowed on the basis of the projection of export in the first two years. The advance DTA sale is to be adjusted within two years from the date of commencement of production by an EOU. However, in case of pharmaceutical units, this period for adjustments is three years. For this purpose, a separate bond is to be executed with the Assistant/ Deputy Commissioner to cover the difference of duty paid on the advance DTA sale and the duty payable on such goods.
- 15.6 The DTA sale facility on concessional rate is not available for certain products namely motor car, alcoholic liquor, tea (except instant tea), and such other items as are notified from time to time. This facility is also not available to units engaged in the activities of packaging/ labeling/ segregation/ refrigeration/ compacting/ micronisation/ pulverization/ granulation/ conversion of monohydrate form of chemical to anhydrous form or vice versa.

- 15.7 DTA sale of pepper & pepper products, marble is not allowed even on payment of full duty.
- 15.8 Specified supplies of goods in DTA which are in the nature of 'deemed exports' as provided in Para 6.9 of FTP and are counted for fulfillment of positive NFE, are also allowed on payment of customs duties leviable on these goods.

16. Valuation of goods sold in DTA:

- 16.1 Section 3 of the Central Excise Act, 1944, provides that the valuation of goods manufactured in the EOU and cleared into DTA is to be done in accordance with the provisions of the Customs law. Thus, when the invoice price of the goods under assessment is in the nature of transaction value, such invoice value can be accepted.

[Refer Circulars No.23/84-CX-6, dated 29-5-1984; and No. 330/46/97-CX dated 20-8-1997; and Instruction F.No. 268/35/92-CX-8, dated 17-8-1994]

17. Duty liability on DTA clearances/sales:

- 17.1 In terms of proviso to Section 3(1) of the Central Excise Act, 1944, duty payable on goods cleared in DTA is equal to the aggregate of the Customs duties which would be leviable under the Customs Act, 1962 or under any other law for the time being in force, on like goods produced or manufactured outside India, if imported into India. The value for payment of duty is arrived at in accordance with the provisions of the Customs Act, as if these are imported goods. An amount equal to anti dumping duty foregone on the goods at the time of import shall also be paid on the equivalent quantity of goods used for manufacture of any goods which are cleared into DTA or on such quantity of goods which are cleared as such into DTA.
- 17.2 On fulfillment of positive NFE, the EOUs other than Gem and Jewellery units are allowed to sell goods including rejects, waste, scrap, remnants, byproducts and services in DTA, its products similar to goods which are exported or expected to be exported from units, within overall ceiling of 50% of FOB value of exports at a concessional rate of duty in an amount equal to 50% of Customs duties. Sales beyond 50% of entitlement would attract full duties. Sale of rejects upto 5% of FOB value of exports and sale of Scrap/ waste/ remnants shall not be subject to achievement of NFE. The words "FOB value of exports" refers to physical exports only. Therefore, the value of deemed exports made by the unit is not considered while determining the FOB value of exports.
- 17.3 Sales made to a unit in SEZ is also taken into account for purpose of arriving at FOB value of export by EOU provided payment for such sales are made from Foreign Exchange Account of SEZ unit. Sale to DTA would also be subject to mandatory requirement of registration of pharmaceutical products (including bulk drugs). An amount equal to Anti Dumping duty under section 9A of the Customs Tariff Act, 1975

leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.

- 17.4 For services, including software units, sale in DTA in any mode, including on line data communication, is also permissible up to 50% of FOB value of exports and/ or 50% of foreign exchange earned, where payment of such services is received in foreign exchange.
- 17.5 In case of new EOUs, advance DTA sale are allowed not exceeding 50% of its estimated exports for first year, except pharmaceutical units where this will be based on its estimated exports for first two years.
- 17.6 Units in Textile and Granite sectors have an option to sell goods into DTA in terms of sub- paras 6.8 (a), (d), (e), (g) and (k) of the FTP, on payment of an amount equal to aggregate of duties of excise leviable under section 3 of the Central Excise Act, 1944 or under any other law for the time being in force, on like goods produced or manufactured in India other than in an EOU, subject to the condition that they have not used duty paid imported inputs in excess of 3% of the FOB value of exports of the preceding year and they have achieved positive NFE. Once this option is exercised, the unit will not be allowed to import any duty free inputs for any purpose.
- 17.7 Supplies of specified items such as accessories like tags, labels, printed bags, stickers, belts, buttons or hangers produced or manufactured in an EOU are allowed without payment of duty to a unit in DTA for use in the manufacture or processing of goods which are exported and thereupon such supplies shall be counted towards fulfillment of positive NFE of EOU.

(Refer Circular No. 12/2008-Cus dated 24-7-2008]

- 17.8 The concessional rate of duties for goods sold in DTA by an EOU are prescribed under Notification No. 23/2003-CE, dated 31-3-2003.

18. Goods manufactured from indigenous materials in EOUs:

- 18.1 Goods manufactured out of wholly indigenous inputs are allowed clearance into DTA on payment of only Central Excise duty. Earlier, goods supplied from DTA to EOU on which deemed export benefits had been availed were also considered as indigenous goods for extending the benefit of Notification No.23/2003-CE, dated 31-3-2003 for payment of Central Excise duty, but w.e.f. 06.07.2007 the exemption is denied where goods are manufactured out of indigenous goods on which deemed exports benefits have been availed.

[Refer Circular No. 12/2008-Cus Dated 24-7-2008]

- 18.2 Where goods are either non-excisable or are leviable to nil rate of import duty, no exemption in respect of inputs utilized for manufacture of such goods is allowed. An

EOU is required to pay back the duty foregone on the inputs used in manufacture of goods cleared in DTA on which no duty is leviable.

19. Clearance of by-products, rejects, waste, scrap, remnants, non- excisable goods, etc.:

- 19.1 Scrap/ waste/ remnants arising out of production process or in connection therewith are allowed to be sold in DTA, as per SION notified by Directorate General of Foreign Trade (under Duty Exemption Scheme), on payment of concessional duties as applicable, within overall ceiling of 50% of FOB value of exports. Such sales of scrap/ waste/ remnants shall not be subject to achievement of positive NFE. In respect of items not covered by SION norms, Development Commissioner may fix ad-hoc norms for a period of six months and within this period, norm should be fixed by Norms Committee and ad-hoc norms will continue till such time. Sale of waste/ scrap/ remnants by units not entitled to DTA sale, or sales beyond DTA sale entitlement, shall be on payment of full duties. Scrap/ waste/ remnants may also be exported. However, no duties/ taxes on scrap/ waste/ remnants are charged, in case same are destroyed with permission of Central Excise & Customs authorities.
- 19.2 The DTA clearance of by-products and rejects on concessional rate duty is not allowed to the EOUs, which have failed to achieve the positive NFE. In such cases, the EOUs are liable to pay full duty. Further, in case of such units, DTA clearance of finished goods is not allowed even on payment of full duty.
- 19.3 DTA clearance of goods manufactured by the EOUs which are not excisable (e.g. cut flowers) the duty on inputs and consumables etc. procured/ imported duty free under exemption notifications, which have gone into production of such non- excisable goods cleared into DTA, is recovered.
- 19.4 In case of Gems and Jewellery EOUs and EHTP/STP units, scrap, dust or sweepings of gold/ silver/ platinum generated in the unit is allowed to be forwarded to the Government Mint or Private Mint for conversion into standard gold bars and return thereof to the unit subject to the observance of procedure laid down by the Commissioner of Central Excise & Customs. The said dust, scrap or sweepings are also allowed clearance into DTA on payment of applicable customs duty on the gold/ silver/ platinum content in the said scrap, dust or sweepings. Samples of the sweepings/ dust are taken at the time of clearance and sent to mint for assaying. The assessment is finalized when the reports are received from the mint.

[Refer Circular No.19/99-Cus, dated 29-4-1999]

20. Special concessions for certain waste products and other goods:

- 20.1 Rags, trimmings and tailor cuttings arising in the course of manufacture of readymade garments are fully exempt from excise duty when cleared into DTA by EOUs. This is subject to the condition that the percentage of waste material in the form of rags, trimmings and tailor cuttings does not exceed the percentage fixed in this regard by

the Board of Approval. The waste of fish or crustaceans, mollusks or other aquatic invertebrates falling in chapter heading 05.01, castor oil cake manufactured from the indigenous castor oil seeds on indigenous plant and machinery falling under chapter heading 23.01, guar meal manufactured wholly from indigenous guar seeds falling under chapter heading 23.02 and yarn of jute and goods of jute, manufactured from wholly indigenous raw materials headings 53.07, 53.10, 5702.12, 5703.20, 58.01, 58.02, 58.06 or 6305.10 are fully exempt from payment of duty if manufactured by EOUs wholly from indigenous materials and cleared into DTA. Also, cotton waste (including yarn falling under heading 52.02) is fully exempted if produced or manufactured by EOU and allowed to be sold in India.

20.2 Gems and Jewellery units may sell jewellery upto 10% of FOB value of exports of the preceding year in DTA, subject to fulfillment of positive NFE. In respect of sale of plain jewellery, recipient shall pay concessional rate of duty as applicable to sale from nominated agencies. In respect of studded jewellery, duty shall be payable as applicable.

20.3 Specified textile items are allowed clearance on payment of concessional duty.

21. Reimbursement of Central Sales Tax (CST) / Drawback:

21.1 Supplies from DTA to EOUs are regarded as “deemed exports” and considered for discharge of any export obligation on the supplier. For such supplies, the DTA supplier (or the EOU if the DTA supplier gives a disclaimer) is eligible for the following benefits:

- (i) Supply of goods against Advance Authorisation/ Advance Authorisation for annual requirement / DFIA;
- (ii) Deemed Export Drawback;
- (iii) Exemption from terminal excise duty where supplies are made against ICB. In other cases, refund of terminal excise duty.

21.2 Goods manufactured in India and supplied to EOU are eligible for reimbursement of CST.

21.3 All the above benefits are administered and disbursed by the Development Commissioner/ Regional Authority of DGFT under the Ministry of Commerce.

22. Calculation of duty on goods/ services/ waste/ scrap/ by-products cleared in DTA under Paragraph 6.8 of the FTP:

22.1 The concessional rate of duties for goods sold in DTA by an EOU are prescribed under Notification No. 23/2003-CE, dated 31-3-2003.

23. Clearance of samples:

23.1 EOUs may on basis of records maintained by them, and on prior intimation to jurisdictional Central Excise and Customs authority:

- I. Supply or sell samples in DTA for display/ market promotion on payment of applicable duties.
- II. Remove samples without payment of duty, on furnishing a suitable undertaking to jurisdictional Central Excise and Customs authorities for bringing back samples within a stipulated period.
- III. Export free samples, without any limit, including samples made in wax moulds, silver mould and rubber moulds through all permissible mode of export including through courier agencies/ post. For statutory requirement of Stability & Retention sample with manufacturer, an EOU may re-import without payment of duty, those samples, which were exported by it, under intimation to Custom Authorities, and FOB value of such samples shall not be counted for NFE purpose and other export benefits, if any.
- IV. Send samples to other EOUs for display on returnable basis within a period of 30 days.

23.2 EOUs are allowed to send samples abroad through the courier. The packages containing such samples are sealed in the presence of the departmental officer and are handed over to the representative of the courier company authorised by the Commissioner of Central Excise & Customs for presentation to the Customs at the port of export. These sealed samples are not normally examined again before “let export” is given if the seals are found intact and not tampered. The representative of the courier company later hands over the proof of export to the jurisdictional Assistant/ Deputy Commissioner.

[Refer Circulars No.22/98-Cus dated 27-3-1998; and No.52/99-Cus, dated 20-8-1999]

24. Clearance of Fax/ Laptop Computers outside approved premises:

24.1 EOUs may:

- I. Install one fax machine at a place of choice, outside the premises of unit, subject to intimation of its location to concerned Customs/ Central Excise authorities.
- II. Temporarily take out of premises of unit, duty free laptop computers and video projection systems for working upon by authorized employees.
- III. Install personal computers not exceeding two in number, imported/ procured duty free in their registered / administrative office subject to CBEC guidelines.

IV. For IT and IT enabled services, persons authorized by software units may access facility installed in EOU/EHTP/STP/BTP unit through communication links.

25. Sale of surplus/ unutilized goods:

- 25.1 EOUs are allowed to sell surplus/unutilized goods and services, imported or procured duty free, into DTA on payment of duty on the value at the time of import/ procurement and at rates in force on the date of payment of such duty, in case the unit is unable, for valid reasons, to utilize the goods. The permission for such DTA sale is given by the jurisdictional Assistant/ Deputy Commissioner of Central Excise and Customs.
- 25.2 Unutilized goods and services may also be transferred to another EOU/EHTP/STP/BTP/ SEZ unit or exported. Such transfer to another such unit would be treated as import for receiving unit.
- 25.3 Obsolete/ surplus capital goods and spares can either be exported, transferred to another EOU/EHTP/STP/BTP/SEZ unit or disposed of in the DTA on payment of applicable duties. The benefit of depreciation, as applicable, will be available in case of disposal in DTA only when the unit has achieved positive NFE. Duty is not charged in case of obsolete/ surplus capital goods, consumables, spares, goods manufactured, processed or packaged and scrap, waste, remnants are destroyed within the unit after intimation to Central Excise & Customs authorities or destroyed outside unit with the permission of Central Excise & Customs authorities.

26. Destruction of flowers/ horticulture products:

- 26.1 Flowers, vegetables and agricultural products have a very short shelf life and are prone to malformation, injury, damage, infection etc. These products cannot be preserved for a longer period. There are circumstances (especially in case of floriculture units) when the EOUs do not find the goods exportable/marketable for various reasons such as malformation, injury, damage, infection by pest and diseases etc. and the units have to resort to forced destruction of flowers, vegetables etc. In such cases, duty is not charged from the EOUs.
- 26.2 At times, the flowers and floriculture products deposited in the warehouse of the airlines at the international airports for the purpose of exports are not exported owing to various reasons, such as, delay in flights, cancellation of flights etc. In such cases, the units are allowed to sell such flowers and floriculture products in DTA on payment of applicable duty. For such DTA sales, the unit must have DTA sale entitlement under the scheme. The unit is required to obtain permission from the concerned Development Commissioner for such DTA sale and shall clear the goods on payment of duty assessed by the concerned Assistant Commissioner/ Deputy Commissioner in charge of the cargo. The DTA sale is allowed against documents as are used for DTA sale by EOUs in the manner as if the goods cleared from the unit itself.

[Refer Circular No.31/2001-Cus, dated 24-5-2001]

27. Sub-contracting:

27.1 EOUs, including Gems and Jewellery units, are allowed to sub-contract their production process to DTA. These units may also sub-contract upto 50% of the overall production of previous year in value terms for job work in DTA. For this, permission is to be obtained from the Central Excise authorities. Sub-contracting of both production and production process are also allowed to be undertaken through another EOU or SEZ unit on the basis of records maintained by the unit. The units are also allowed to sub-contract part of the production process abroad and also export therefrom with the permission of Assistant/ Deputy Commissioner of Customs/ Central Excise having jurisdiction over the unit. The intermediate goods so removed to sub-contractor abroad shall be allowed to be cleared under export documents

[Refer Circular No. 12/2008-Cus dated 24-7-2008].

27.2 To help utilize the idle capacity, an EOU can undertake job work for export, on behalf of DTA exporter, provided the goods are exported directly from EOU's premises and export documents are prepared jointly in the name of DTA/EOU. For such exports, the DTA unit is entitled for refund of duty paid on the inputs by way of Brand rate of duty Drawback.

27.3 Sub-contracting by EOU Gems and Jewellery units through other EOUs, or SEZ units, or units in DTA shall be subject to following conditions:-

- I. Goods, finished or semi finished, including studded jewellery, taken out for sub-contracting shall be brought back to the EOU within 90 days.
- II. No cut and polished diamonds, precious and semiprecious stones (except precious, semi-precious and synthetic stones having zero duty) shall be allowed to be taken out for sub-contracting.
- III. Receive plain gold/ silver/ platinum jewellery from DTA/ EOU/ SEZ units in exchange of equivalent quantity of gold/ silver/ platinum, as the case may be, contained in said jewellery.
- IV. EOUs shall be eligible for wastage as applicable as per para 4A.2 of HBP v1 for sub-contracting and against exchange.
- V. DTA unit undertaking job work or supplying jewellery against exchange of gold/ silver/ platinum shall not be entitled to deemed export benefits.

[Refer Circulars No. 65/2002-Cus. dated 7-10-2002; and
No. 26/2003-Cus dated 1-4-.2003]

28. Temporary removal of goods:

28.1 The EOUs, STP, EHTP units engaged in development of software are allowed to remove imported laptop computers and video projection system out of the bonded

premises temporarily without payment of duty subject to following the prescribed procedures.

[Refer Circulars No.17/98-Cus dated 16-3-1998; No.84/2000-Cus., dated 16-4-2000 and No. 17/2003-Cus. dated 24-3-2003]

29. Inter-unit transfer:

- 29.1 Inter-unit transfer of manufactured and capital goods from one EOU unit to another EOU/SEZ unit is permitted in terms of Para 6.13 of the FTP. Sale of unutilized goods is also allowed from one EOU to another EOU/SEZ unit in terms of Para 6.15 of FTP. Inter-unit transfer of the raw material is not allowed in normal course. However, where a unit proves that it is not able to utilize the raw material, same can also be allowed to be transferred.
- 29.2 Inter-unit transfer is allowed without payment of duty. Goods supplied by one unit to another unit are treated as imported goods for the receiving unit in terms of Para 6.13(c) of the FTP and therefore, the usual procedure of bonding and re-warehousing is to be followed. Further the value of goods obtained from another EOU is to be included in the import value for fulfillment of NFE in terms of Para 6.10.2 of the HBP. Further, such supplies are also counted towards FE earning provided these are permissible in terms of Para 6.15 of the HBP.
- 29.3 Capital goods and goods manufactured, produced, processed, or packaged in an EOU can be taken to another EOU/ SEZ unit without payment of duty under the cover of ARE-3 for manufacture and export there from or for use within the unit after giving intimation to the proper officer. Both the units have to keep account of such removal and receipt and are required to follow in-bond movement procedure or re-warehousing procedure as the case may be.

30. Repair, reconditioning and re-engineering:

- 30.1 EOU/EHTP/STP/BTP units may be set up with approval of BOA to carry out reconditioning, repair, remaking, testing, calibration, quality improvement, up-gradation of technology and re-engineering activities for export in foreign currency. Provisions of paras 6.8, 6.9, 6.10, 6.13, 6.14 of the FTP and para 6.28 of the HBP shall not, however, apply to such activities. In other words the unit undertaking these activities are not permitted sale in DTA and some other benefits.

31. Replacement/repair of imported /indigenous goods:

- 31.1 EOUs may send capital goods abroad for repair with permission of Customs authorities. Any foreign exchange payment for this purpose will also be allowed. However, no permission will be required for sending capital goods for repair within the country.
- 31.2 Removal of capital goods by all units irrespective of status within the country for the purpose of test, repair, calibration and refining on the basis of prior intimation to the

proper officer subject to maintenance of proper accounts of removal and receipts of goods is also allowed.

[Refer Circulars No. 17/2006-Cus., dated 1-6-2006]

32. Special provisions relating to Gems and Jewellery EOUs:

32.1 The EOUs in Gems and Jewellery sector are allowed certain special facilities as mentioned below, with prior permission of Assistant/ Deputy Commissioner of Central Excise and Customs.

- I. An authorized person of the EOU can import gold in primary form, upto 10 Kgs in a financial year through personal carriage, as per guidelines prescribed by RBI and DOR;
- II. The items of gems and jewellery to be taken out temporarily into DTA without payment of duty for the purpose of display and to be returned thereafter;
- III. Personal carriage of gold/ silver/ platinum jewellery, cut & polished diamonds, semi-precious stones, beads and articles as samples upto US\$ 1 million for export promotion tours and temporary display/ sale abroad with the approval of development Commissioner subject to the condition that the exporter would bring back the goods or repatriate sale proceeds within 45 days from the date of departure through normal banking channel and that the unit shall declare personal carriage of such samples to Customs while leaving country and obtain necessary endorsement;
- IV. Export of jewellery including branded jewellery for display and sale in the permitted shops setup abroad, or in the showroom of their distributors or agents provided that items not sold abroad within 180 days, shall be re- imported within next 45 days;
- V. Gems and jewellery manufactured in the EOUs situated in the municipal limits of Calcutta, Chennai, Delhi and Mumbai and sold to a foreign-bound passenger are allowed to be transferred to the retail outlets or showrooms set up in the departure lounge or Customs warehouse at international airports for being handed over to the said passenger for the purpose of export.
- VI. Removal of moulds, tools, patterns, and drawings into the DTA for jobwork without payment of duty and to be returned to the unit thereafter.

33. Cost Recovery charges:

33.1 Cost recovery charges are the amount recoverable from the EOU on account of the expenses incurred by the Government for the posting of Central Excise & Customs staff at its premises to supervise their operations. The cost of posts created for EOUs has been determined at an amount equivalent to the actual salary and emoluments of

the staff deployed i.e. the average pay and allowances including D.A., H.R.A etc. The EOUs pay in advance the cost recovery charges determined for the entire year. Generally, one Central Excise and Customs officer supervises the functioning of four to five units and the cost recovery charges are shared amongst them.

[Refer Instructions F.No.305/105/85-FTT, dated 10-6-1986; and
F. No. 11018/63/87-Ad IV, dated 11-1-1988]

34. Supervision by Departmental officers:

- 34.1 in terms of the Manufacture and Other Operations in Warehouse Regulations, 1966 operational flexibility is provided to EOUs and they do not need to carry out manufacturing operations under physical supervision of Central Excise and Customs officers and are also exempt from locking of the warehouse, control over the issue of imported goods etc. by these officers. All the movements from and to the EOU like clearance of raw materials/ component to the job workers premises, return of goods from the job-workers' premises, clearance to other EOUs, export and sale in DTA are allowed to be made by the EOU subject to maintenance of the records.
- 34.2 In absence of physical control greater stress is given on proper maintenance of prescribed records & accounts and non-maintenance of the accounts by the units is viewed seriously. The officers incharge of EOUs are required to scrutinize/examine the accounts/ records and transactions of the EOU at least once a month and ensure that all movements of goods are recorded in the proper register. The Chief Commissioner is empowered to order special audit of the EOU by Cost Accountant nominated in this regard. Cost audit is employed as a tool to check the correctness of raw materials, quantity used, finished goods produced or other such situation.

[Refer Circular No.88/98-Cus, dated 2-12-1998]

35. Monitoring of EOUs:

- 35.1 in terms of Appendix 14-I-G of the HBP, the performance of EOUs is to be reviewed by the Unit Approval Committee (UAC) of the SEZ headed by the Development Commissioner which consists of Commissioner of Central Excise and Customs or his nominee as one of the members. The purpose of review is to ensure that the performance of EOUs is effectively monitored and action is taken against the units which have contravened the provisions of the FTP/HBP and the Customs Law/ Procedures. Besides, such monitoring gives an opportunity to the Government to discuss and help resolve the problems/ difficulties being faced by the EOUs. The idea is to remove all bottlenecks in export promotion efforts while not jeopardizing the interests of revenue.

36. Recovery of duty forgone and penal action for abuse/diversion etc.:

- 36.1 EOUs are required to achieve positive NFE as stipulated in the FTP and in case of failure to do so, the duty forgone under the EOU scheme along with interest is

recoverable from the units. Further, the duty is recoverable from the units in case of non receipt of imported/ indigenously procured goods in the factory premises after import/ procurement, loss of goods in transit, non accountal of imported/ indigenously procured goods, unauthorized DTA sale, clandestine removal etc. Duty can also be demanded in case of failure to utilize duty free imported/ indigenously procured goods including capital goods within the prescribed time limit. The duty is also recoverable on goods removed for job work/ display/ testing/ quality testing, but not received back in the unit within the specified period of time.

36.2 Apart from recovery of duty forgone, the law also provides for taking penal action where any EOU is found to have indulged into any fraudulent activities eg. clandestine removal of production into DTA without payment of duties, diversion of duty free materials in transit to the unit after customs clearance or after receipt etc., not only the offending goods can be seized and confiscated, but even units penalized heavily/ prosecuted.

37. De-bonding of goods/ exit from EOU scheme:

37.1 An EOU can clear any capital goods to any other place in India or de-bond in accordance with FTP with the permission of the Development Commissioner and on payment of duty at the rate in force on the date of clearance/de-bonding on the depreciated value.

37.2 Clearance or deboning of capital goods are allowed on payment of duty on the depreciated value thereof and at the rate in force on the date of deboning or clearance, as the case may be, if the unit has fulfilled the positive NFE criteria taking into consideration the depreciation allowable on the capital goods at the time of clearance or deboning. In case of failure to achieve the said positive NFE, the depreciation shall be allowed on the value of capital goods in the same proportion as the achieved portion of NFE.

37.3 Clearance/ deboning of capital goods on the depreciated value proportionate to the NFE achieved by the unit which is arrived at after taking into consideration the rate of depreciation allowable on such capital goods is allowed. In case the unit has not achieved positive NFE in the above manner, the duty foregone at the time of import shall be paid on such value of goods in proportion to the non-achieved portion of NFE.

37.4 Clearance or de-bonding of capital goods in the event of Exit from EOU scheme to Export Promotion Capital Goods scheme is also allowed only when EOU has fulfilled positive NFE criteria on the date it wishes to de-bond or migrate to EPCG scheme. Thus, if a unit has not achieved NFE taking into consideration rate of depreciation allowable, it cannot exit to the EPCG scheme.

37.5 A unit is also allowed Clearance or de-bonding of capital goods in the event of Exit to Advance Authorization scheme as a one time option provided the unit has fulfilled NFE criteria. Thus, if a unit has not achieved positive NFE taking into consideration

rate of depreciation allowable on capital goods, it cannot exit to the Advance Authorization scheme.

[Refer Board's Circular No. 12/2008-Cus dated 24-7-2008]

37.6 The depreciation of capital goods shall be allowed in straight line method as specified below, namely:

(a) **For computer and computer peripherals:**

For every quarter in the first year @ 10%

For every quarter in the second year @ 8%

For every quarter in the third year @ 5%

For every quarter in the fourth and fifth year @ 1%

(b) **For capital goods other than computer and computer peripherals:**

For every quarter in the first year @ 4%

For every quarter in the second year @ 3%

For every quarter in the third year @ 3%

For every quarter in the fourth and fifth year @ 2.5 %

and thereafter for every quarter @ 2%

37.7 For the purpose of computing rate of depreciation for any part of a quarter, a full such quarter is taken into account. There is no upper limit for such depreciation and depreciation upto 100% could be allowed;

37.8 Raw materials, semi-finished and finished goods including empty cones, containers suitable of repeated use lying in stock at the time of de-bonding can also be cleared on payment of duty on their value at the time of import and at the rate of duty in force on the date of payment of such duty.

37.9 Used packing materials such as cardboard boxes, polyethylene bags of a kind unsuitable for repeated use can be cleared without payment of duty.

37.10 As per para 6.18(e) of FTP and Appendix 14-I-L of HBP, an EOU can opt out of the scheme after taking approval of the Development Commissioner. Such exit is permitted subject to payment of the duties and the industrial policy in force at the time of exit. The Development Commissioner first gives permission for 'in-principle' de-bonding, then unit is required to pay all pending Customs/ Central Excise duties to obtain no-dues certificate from Central Excise & Customs authorities. Thereafter the Development Commissioner permits final de-bonding.

- 37.11 If the unit has not achieved the export obligation under the scheme, it is also liable to pay penalty under Foreign Trade (Development and Regulation) Act at the time of exit.
- 37.12 After obtaining in principle de-bonding order, the unit is required to assess the duty liability by itself and submit such details to jurisdictional Customs/ Central Excise authority. The Assistant/ Deputy Commissioner of Central Excise and Customs is required to confirm the duty liability within 15 days of the receipt of the details of assessment from the unit and issue 'No-dues Certificate' to the unit. In case of any discrepancy, it has to be conveyed to the unit within 15 days.