

Minutes of the meeting of Approval Committee of Moradabad SEZ held under the chairmanship of Dr. L. B. Singhal, Development Commissioner (DC), Noida SEZ at 12:00 Noon on 18/01/2018 in the Conference Hall of NSEZ.

The following members of the Approval Committee were present during the meeting:-

- 1) Shri S. S. Shukla, Jt. Development Commissioner, NSEZ.
- 2) Shri Rajesh Sharma, Assistant Commissioner, Noida Customs & CGST
- 3) Shri U. K. Acharya, Dy. DGFT, Moradabad
- 4) Shri P. K. Moitra, Superintendent, Central GST, Moradabad

2. Besides, during the meeting (i) Smt. Mala Ranagarajan, Dy. Development Commissioner, NSEZ (ii) Shri Saurav Suman Shardool, Specified Officer, Moradabad SEZ, (iii) Dr. V. P. Sharma, Asstt. Development Commissioner, Moradabad SEZ were also present to assist the Approval Committee.

3. At the outset, Development Commissioner, NSEZ welcomed the participants. After brief introduction, the Approval Committee was informed that Section 13(3) of SEZ Act provides as under:-

“For the purpose of exercising its power and performing its function, Approval Committee may invite to its meeting, such persons as the Committee deems fit, whose assistance or advice it may consider necessary”

3.1 In the light of above provision, the Committee decided to invite Md. Saliq Parwaiz, Dy. Commisisoner (Customs), NSEZ whose assistance and advice was considered necessary for disposal of the proposals.

4. Approval Committee was further informed that the following provisions of SEZ Rules, 2006/Foreign Trade Policy 2015-20 and RBI's Master Circular 2015-16 would be guiding principle for the Approval Committee for deciding the cases listed in the Agenda

- i. As per Rule 22 (3) of SEZ Rules, the unit shall submit Annual Performance Report (APR) in the Form-I to the Development Commissioner and



Development Commissioner shall place the same before the Approval Committee for consideration.

- ii. Rule 71 of SEZ Rules 2006 provides that export value of goods/software & services may be realized and repatriated as per instructions of Reserve Bank of India (RBI) issued from time to time.
- iii. As per A.2 RBI Master Circular No. 16/2015-16 dated 01.01.2016, It is obligatory on the part of the exporter to realise and repatriate the full value of goods/ software/ services to India within a stipulated period from the date of export. The same reads as under:-

“It has been decided in consultation with the Government of India that the period of realisation and repatriation of export proceeds shall be nine (09) months from the date of export for all exporters including units in Special Economic Zones (SEZs), Status Holder Exporters, Export Oriented Units (EOUs), Units in Electronic Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) & Bio-Technology Parks (BTPs) until further notice.”

- iv. Further, as per para C.20 of the said circular the Reserve Bank of India has permitted the AD category-I banks to extend the period of realization of export proceeds beyond stipulated period of realization from the date of export, upto a period of six months, at a time, irrespective of the invoice value of the export subject to the conditions given therein.

Cases which are not covered by the instruction given therein would require prior approval from the concerned Regional Office of the Reserve Bank.

- v. Chapter 2 of Foreign Trade Policy (FTP) deals with general provisions regarding imports & exports. Further, as per 2.54 (a) of FTP 2015-20 if an exporter fails to realize export proceeds within time specified by RBI, he shall without prejudice to any liability or penalty under any law in force, be liable to return all benefits/incentives availed against such export and action in accordance with provisions of FT (D&R) Act, Rules and orders made thereunder.



vi. Finally as per Notification No GSR 772 (E) dated 05.08.2016:

“(5) Refund, Demand, Adjudication, review and Appeal with regard to matters relating to authorised operations under Special Economic Zone Act, 2005, transactions, and goods and services related thereto, shall be made by the jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, the Central Excise Act, 1944, and the Finance Act, 1994 and the rules made thereunder or the notifications issued there under.”

vii. The Committee deliberated the issue in detail and observed in case the unit is doing export from SEZ, then in respect of its authorized operations the unit gets the benefit of importing goods without payment of duty or it gets the benefit of procuring goods from the DTA without payment of duty. When procuring the goods from DTA, the benefits of procuring the goods without payment of duties is provided by way of refund of duties through duty drawback mechanism. After introduction of GST the units get imports, in addition to exemption from Custom duty without payment of IGST or procurement from DTA either without payment of IGST or payment of IGST and taking the refund of the same and duty drawback, wherever admissible. Units also get the benefit of exemption from income tax wherever admissible. Approval Committee observed that para 2.54 of FTP, which is part of the General Provisions relating to exports & imports of Chapter 2 of FTP, categorically provides “if an exporter fails to realize export proceeds within time specified by RBI, he shall without prejudice to any liability or penalty under any law in force, **be liable to return all benefits/incentives availed against such export** and action in accordance with provisions of FT (D&R) Act, Rules and orders made thereunder.”

In view of this Approval Committee decided that in case export proceeds is not realized in the original time period of nine months or in the time as extended by authorized dealer/RBI, as the case may be, then all the benefits has to be returned by the unit and if not returned then same has to be recovered. Accordingly, action for recovery of Custom duty, duty



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drawback/IGST has to be taken by Custom authorities in terms of notification No. GSR 772 (E) dated 05.08.2016. In respect of Income tax benefits the details of such cases should be sent to the concerned Income tax authorities.

5. The Committee further decided that from now onwards ADC will check the status of the pending foreign exchange remittances every month and will inform the unit and the Specified Officer so that the pending remittances are monitored regularly.
6. The Committee decided that this action of recovery shall be independent of any other action, as may be taken under FT (D&R) Act or any other Act/Rules/Regulation by any agency.
7. Thereafter each case was taken up for deliberations one by one.

Item wise decisions on proposals included in agenda:

1. **Proposal of M/S A & S International – performance review of SEZ Unit- regarding.**

It was informed that remittances in respect of some export proceeds pertaining to exports made in 2015-16 & 2016-17 have not been realized within the prescribed time period of nine months. The details are as under:

ENTITY NAME	REQUEST STATUS	SHIPPING BILL NO.	REQUEST SUBMISSION DATE	REQUEST ASSESSMENT DATE	NET REALISABLE VALUE IN INR
A & S International	Allow Export	0001051	08-Nov-16	08-Nov-16	2924313.00
A & S International	Let Export After Verification	0000496	20-Oct-15	28-Mar-17	1069791.00
Total					3994104.00

Shri Anirudh Yadav, Proprietor of the unit appeared before the Approval Committee. He submitted that export proceeds in respect of the shipping bills mentioned above have already been realized. The documents in respect of realization have been given to their authorized bank. However, the bank has not updated its record yet.

The Committee deliberated the issue in detail and observed in case the unit is doing export from SEZ, then in respect of its authorized operations the unit gets the benefit of importing goods without payment of duty or it gets the benefit of procuring goods from the DTA without payment of duty. When procuring the goods from DTA, the benefits of procuring the goods without

payment of duties provided by way of refund of duties through duty drawback mechanism. After introduction of GST the units get imports, in addition to exemption from Custom duty without payment of IGST or procurement from DTA either without payment of IGST or payment of IGST and taking the refund of the same and duty drawback, wherever admissible. Units also get the benefit of exemption from income tax wherever admissible. Approval Committee observed that para 2.54 of FTP, which is part of the General Provisions relating to exports & imports of Chapter 2 of FTP, categorically provides "if an exporter fails to realize export proceeds within time specified by RBI, he shall without prejudice to any liability or penalty under any law in force, **be liable to return all benefits/incentives availed against such export** and action in accordance with provisions of FT (D&R) Act, Rules and orders made thereunder."

In view of this Approval Committee decided that in case export proceeds is not realized in the original time period of nine months or in the time as extended by authorized dealer/RBI, as the case may be, then all the benefits has to be returned by the unit and if not returned then same has to be recovered. Accordingly, action for recovery of Custom duty, duty drawback/IGST has to be taken by Custom authorities in terms of notification No. GSR 772 (E) dated 05.08.2016. In respect of Income tax benefits the details of such cases should be sent to the concerned Income tax authorities.

The Committee decided that this action of recovery shall be independent of any other action, as may be taken under FT (D&R) Act or any other Act/Rules/Regulation by any agency.

The Committee after due deliberations decided to give 15 days' time to the unit for furnishing Shipping Bill wise Bank realization certificate from the bank in respect of the shipping bills indicated above or extension of time period for realizing export proceeds beyond 9 months either by RBI or Authorized Dealer Bank , as the case may be. Accordingly, the Committee decided that if the unit fails to submit the requisite details within 15 days, Custom officers will take necessary action to recover benefits/incentives availed corresponding to unrealized portion of export proceeds in terms of above provisions. The Committee also decided that details of unrealized export proceeds along with details of above provisions shall also be forwarded to Income tax authorities for taking appropriate action for recovery of Income tax benefits, if any availed. This action shall be independent of any other action, as may be taken under FT (D&R) Act or any other Act/Rules/Regulation by any agency.



2. **Proposal of M/S AD Print Product Industries – performance review of SEZ Unit.**

It was informed that remittances in respect of some export proceeds pertaining to exports made in 2015-16 & 2016-17 have not been realized within the prescribed time period of nine months. The details are as under:

ENTITY NAME	REQUEST STATUS	SHIPPING BILL NO.	REQUEST SUBMISSION DATE	REQUEST ASSESSMENT DATE	NET REALISABLE VALUE IN INR
AD PRINT PRODUCT INDUSTRIES	Let Export	0000537	09-Nov-15	09-Nov-15	1274660.00
Total					1274660.00

Shri Muti-ur-Rehman, Proprietor of the unit appeared before the Approval Committee. He submitted realization document of export proceeds but no shipping bill details were reflected in the same so he was advised to submit the Shipping bill wise Bank Realization Certificate within 15 days. The proprietor stated that he will receive Bank Realization Certificate from the bank with respect to the shipping bills mentioned above which have already been realized. The documents in respect of realization have been given to their authorized bank which has not been updated by the bank.

The Committee deliberated the issue in detail and observed in case the unit is doing export from SEZ, then in respect of its authorized operations the unit gets the benefit of importing goods without payment of duty or it gets the benefit of procuring goods from the DTA without payment of duty. When procuring the goods from DTA, the benefits of procuring the goods without payment of duties provided by way of refund of duties through duty drawback mechanism. After introduction of GST the units get imports, in addition to exemption from Custom duty without payment of IGST or procurement from DTA either without payment of IGST or payment of IGST and taking the refund of the same and duty drawback, wherever admissible. Units also get the benefit of exemption from income tax wherever admissible. Approval Committee observed that para 2.54 of FTP, which is part of the General Provisions relating to exports & imports of Chapter 2 of FTP, categorically provides "if an exporter fails to realize export proceeds within time specified by RBI, he shall without prejudice to any liability or penalty under any law in force, **be liable to return all benefits/incentives availed against such export** and action in accordance with provisions of FT (D&R) Act, Rules and orders made thereunder."

In view of this Approval Committee decided that in case export proceeds is not realized in the original time period of nine months or in the time as extended by authorized dealer/RBI, as the

case may be, then all the benefits has to be returned by the unit and if not returned then same has to be recovered. Accordingly, action for recovery of Custom duty, duty drawback/IGST has to be taken by Custom authorities in terms of notification No. GSR 772 (E) dated 05.08.2016. In respect of Income tax benefits the details of such cases should be sent to the concerned Income tax authorities.

The Committee decided that this action of recovery shall be independent of any other action, as may be taken under FT (D&R) Act or any other Act/Rules/Regulation by any agency.

The Committee after due deliberations decided to give 15 days' time to the unit for furnishing Shipping Bill wise Bank realization certificate from the bank in respect of the shipping bills indicated above or extension of time period for realizing export proceeds beyond 9 months either by RBI or Authorized Dealer Bank , as the case may be. Accordingly, the Committee decided that if the unit fails to submit the requisite details within 15 days, Custom officers will take necessary action to recover benefits/incentives availed corresponding to unrealized portion of export proceeds in terms of above provisions. The Committee also decided that details of unrealized export proceeds along with details of above provisions shall also be forwarded to Income tax authorities for taking appropriate action for recovery of Income tax benefits, if any availed. This action shall be independent of any other action, as may be taken under FT (D&R) Act or any other Act/Rules/Regulation by any agency.

3. Proposal of - M/S Amrut Handicrafts - performance review of SEZ Unit- regarding

It was informed that remittances in respect of some export proceeds pertaining to exports made in 2015-16 & 2016-17 have not been realized within the prescribed time period of nine months. The details are as under:

ENTITY NAME	REQUEST STATUS	SHIPPING BILL NO.	REQUEST SUBMISSION DATE	REQUEST ASSESSMENT DATE	NET REALISABLE VALUE IN INR
Amrut Handicrafts	Allow Export	0000586	30-Mar-17	31-Mar-17	2798345.00
Amrut Handicrafts	Allow Export	0000584	30-Mar-17	31-Mar-17	2007343.00
Amrut Handicrafts	Allow Export	0000443	21-Mar-17	21-Mar-17	9353855.00
Amrut Handicrafts	Allow Export	0000442	21-Mar-17	21-Mar-17	9240541.00
Amrut Handicrafts	Allow Export	0000441	21-Mar-17	21-Mar-17	7404149.00
Amrut Handicrafts	Allow Export	0000495	27-Mar-17	27-Mar-17	7510187.00
Amrut Handicrafts	Allow Export	0000493	27-Mar-17	27-Mar-17	9480171.00
Amrut Handicrafts	Allow Export	0000491	27-Mar-17	27-Mar-17	9144875.00
Amrut Handicrafts	Allow Export	0000411	16-Mar-17	16-Mar-17	9256328.00
Amrut Handicrafts	Allow Export	0000421	17-Mar-17	17-Mar-17	7449041.00
Amrut Handicrafts	Allow Export	0000422	17-Mar-17	18-Mar-17	9158807.00
Amrut Handicrafts	Allow Export	0000423	17-Mar-17	17-Mar-17	9167166.00

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Amrut Handicrafts	Allow Export	0000424	17-Mar-17	18-Mar-17	7416378.00
Amrut Handicrafts	Allow Export	0000425	17-Mar-17	17-Mar-17	9226485.00
Amrut Handicrafts	Allow Export	0000426	17-Mar-17	18-Mar-17	9300913.00
Amrut Handicrafts	Allow Export	0000431	20-Mar-17	20-Mar-17	9183884.00
Amrut Handicrafts	Allow Export	0000432	20-Mar-17	20-Mar-17	7484180.00
Amrut Handicrafts	Allow Export	0000430	20-Mar-17	20-Mar-17	9353855.00
Amrut Handicrafts	Allow Export	0000466	23-Mar-17	23-Mar-17	7510187.00
Amrut Handicrafts	Allow Export	0000465	23-Mar-17	23-Mar-17	8729701.00
Amrut Handicrafts	Allow Export	0000464	23-Mar-17	23-Mar-17	9480171.00
Amrut Handicrafts	Allow Export	0000481	24-Mar-17	24-Mar-17	7510187.00
Amrut Handicrafts	Allow Export	0000482	24-Mar-17	24-Mar-17	8729701.00
Amrut Handicrafts	Allow Export	0000483	24-Mar-17	24-Mar-17	9480171.00
Amrut Handicrafts	Allow Export	0000484	24-Mar-17	24-Mar-17	9300913.00
Amrut Handicrafts	Allow Export	0000485	24-Mar-17	24-Mar-17	9144875.00
Amrut Handicrafts	Allow Export	0000486	24-Mar-17	24-Mar-17	7443932.00
Amrut Handicrafts	Allow Export	0000566	29-Mar-17	29-Mar-17	9144875.00
Amrut Handicrafts	Allow Export	0000564	29-Mar-17	29-Mar-17	7510187.00
Amrut Handicrafts	Allow Export	0000562	29-Mar-17	29-Mar-17	9480171.00
Amrut Handicrafts	Allow Export	0000494	27-Mar-17	28-Mar-17	8729701.00
Amrut Handicrafts	Allow Export	0000492	27-Mar-17	28-Mar-17	9300913.00
Amrut Handicrafts	Allow Export	0000490	27-Mar-17	28-Mar-17	7443932.00
Amrut Handicrafts	Allow Export	0000567	29-Mar-17	29-Mar-17	9300913.00
Amrut Handicrafts	Allow Export	0000565	29-Mar-17	29-Mar-17	7443932.00
Amrut Handicrafts	Allow Export	0000563	29-Mar-17	29-Mar-17	8729701.00
Amrut Handicrafts	Allow Export	0000585	30-Mar-17	30-Mar-17	2081351.00
Total					300432017.00

No one from the unit appeared before the Approval Committee. The Committee was informed that the unit is under the investigation of Central Intelligence Unit, Meerut Zone since September 2017 and all the benefits of the unit have been suspended.

The Committee deliberated the issue in detail and observed in case the unit is doing export from SEZ, then in respect of its authorized operations the unit gets the benefit of importing goods without payment of duty or it gets the benefit of procuring goods from the DTA without payment of duty. When procuring the goods from DTA, the benefits of procuring the goods without payment of duties provided by way of refund of duties through duty drawback mechanism. After introduction of GST the units get imports, in addition to exemption from Custom duty without payment of IGST or procurement from DTA either without payment of IGST or payment of IGST and taking the refund of the same and duty drawback, wherever admissible. Units also get the benefit of exemption from income tax wherever admissible. Approval Committee observed that para 2.54 of FTP, which is part of the General Provisions relating to exports & imports of Chapter 2 of FTP, categorically provides "if an exporter fails to realize export proceeds within time



specified by RBI, he shall without prejudice to any liability or penalty under any law in force, **be liable to return all benefits/incentives availed against such export** and action in accordance with provisions of FT (D&R) Act, Rules and orders made thereunder.”

In view of this Approval Committee decided that in case export proceeds is not realized in the original time period of nine months or in the time as extended by authorized dealer/RBI, as the case may be, then all the benefits has to be returned by the unit and if not returned then same has to be recovered. Accordingly, action for recovery of Custom duty, duty drawback/IGST has to be taken by Custom authorities in terms of notification No. GSR 772 (E) dated 05.08.2016. In respect of Income tax benefits the details of such cases should be sent to the concerned Income tax authorities.

The Committee decided that this action of recovery shall be independent of any other action, as may be taken under FT (D&R) Act or any other Act/Rules/Regulation by any agency.

In addition to the action to be taken as above by Custom officers, the Approval Committee further directed that Specified Officer, Moradabad will also inform the Central Intelligence Unit, Meerut Zone about the above Shipping Bill wise export proceeds pending for realization.

4. Proposal of - M/S Brassex Exports - performance review of SEZ Unit- regarding

It was informed that remittances in respect of some export proceeds pertaining to exports made in 2015-16 & 2016-17 have not been realized within the prescribed time period of nine months. The details are as under:

ENTITY NAME	REQUEST STATUS	SHIPPING BILL NO.	REQUEST SUBMISSION DATE	REQUEST ASSESSMENT DATE	NET REALISABLE VALUE IN INR
BRASSEX EXPORTS	Allow Export	0000299	03-Mar-17	03-Mar-17	1055677.00
Total					1055677.00

Shri Rakesh Khanna, Proprietor of the unit appeared before the Approval Committee. He stated that there is no foreign exchange pending for realization and he will submit the Bank realization certificate within 15 days in respect of all the above mentioned shipping bills. The documents in respect of realization have been given to their authorized bank which has not been updated by the bank.

The Committee deliberated the issue in detail and observed in case the unit is doing export from SEZ, then in respect of its authorized operations the unit gets the benefit of importing goods

without payment of duty or it gets the benefit of procuring goods from the DTA without payment of duty. When procuring the goods from DTA, the benefits of procuring the goods without payment of duties provided by way of refund of duties through duty drawback mechanism. After introduction of GST the units get imports, in addition to exemption from Custom duty without payment of IGST or procurement from DTA either without payment of IGST or payment of IGST and taking the refund of the same and duty drawback, wherever admissible. Units also get the benefit of exemption from income tax wherever admissible. Approval Committee observed that para 2.54 of FTP, which is part of the General Provisions relating to exports & imports of Chapter 2 of FTP, categorically provides "if an exporter fails to realize export proceeds within time specified by RBI, he shall without prejudice to any liability or penalty under any law in force, **be liable to return all benefits/incentives availed against such export** and action in accordance with provisions of FT (D&R) Act, Rules and orders made thereunder."

In view of this Approval Committee decided that in case export proceeds is not realized in the original time period of nine months or in the time as extended by authorized dealer/RBI, as the case may be, then all the benefits has to be returned by the unit and if not returned then same has to be recovered. Accordingly, action for recovery of Custom duty, duty drawback/IGST has to be taken by Custom authorities in terms of notification No. GSR 772 (E) dated 05.08.2016. In respect of Income tax benefits the details of such cases should be sent to the concerned Income tax authorities.

The Committee decided that this action of recovery shall be independent of any other action, as may be taken under FT (D&R) Act or any other Act/Rules/Regulation by any agency.

The Committee after due deliberations decided to give 15 days' time to the unit for furnishing Shipping Bill wise Bank realization certificate from the bank in respect of the shipping bills indicated above or extension of time period for realizing export proceeds beyond 9 months either by RBI or Authorized Dealer Bank , as the case may be. Accordingly, the Committee decided that if the unit fails to submit the requisite details within 15 days, Custom officers will take necessary action to recover benefits/incentives availed corresponding to unrealized portion of export proceeds in terms of above provisions. The Committee also decided that details of unrealized export proceeds along with details of above provisions shall also be forwarded to Income tax authorities for taking appropriate action for recovery of Income tax benefits, if any availed. This action shall be independent of any other action, as may be taken under FT (D&R) Act or any other Act/Rules/Regulation by any agency.



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5. **Proposal of - M/S Dewan India - performance review of SEZ Unit- regarding**

It was informed that remittances in respect of some export proceeds pertaining to exports made in 2015-16 & 2016-17 have not been realized within the prescribed time period of nine months. The details are as under:

ENTITY NAME	REQUEST STATUS	SHIPPING BILL NO.	REQUEST SUBMISSION DATE	REQUEST ASSESSMENT DATE	NET REALISABLE VALUE IN INR
DEWAN INDIA	Let Export	0000223	07-Apr-15	09-Apr-15	698630.00
DEWAN INDIA	Let Export	0000224	08-Apr-15	09-Apr-15	77626.00
DEWAN INDIA	Let Export	0000232	14-Apr-15	14-Apr-15	3324048.00
DEWAN INDIA	Let Export	0000262	15-May-15	15-May-15	789984.00
DEWAN INDIA	Let Export	0000281	27-May-15	28-May-15	2712681.00
DEWAN INDIA	Let Export	0000307	12-Jun-15	13-Jun-15	2420633.00
DEWAN INDIA	Let Export	0000348	23-Jul-15	24-Jul-15	1901965.00
DEWAN INDIA	Let Export	0000601	08-Dec-15	08-Mar-16	859459.00
DEWAN INDIA	Let Export	0000603	08-Dec-15	08-Mar-16	859459.00
DEWAN INDIA	Let Export	0000602	08-Dec-15	08-Mar-16	859459.00
DEWAN INDIA	Let Export After Verification	0000783	16-Aug-16	16-Aug-16	2300950.00
DEWAN INDIA	Let Export After Verification	0000810	29-Aug-16	30-Aug-16	1829955.00
DEWAN INDIA	Allow Export	0000811	01-Sep-16	01-Sep-16	534910.00
DEWAN INDIA	Allow Export	0000823	05-Sep-16	07-Sep-16	1453180.00
DEWAN INDIA	Allow Export	0000859	19-Sep-16	19-Sep-16	1449887.00
DEWAN INDIA	Allow Export	0000590	31-Mar-17	31-Mar-17	697297.00
DEWAN INDIA	Allow Export	0000591	31-Mar-17	31-Mar-17	697297.00
Total					23467420.00

Shri Anand Singh, Authorized Person of the unit appeared before the Approval Committee and stated that they will submit the Bank realization certificate within 15 days. He stated that export proceeds in respect of the shipping bills mentioned above have already been realized. The documents in respect of realization have been given to their authorized bank which has not been updated by the bank.

The Committee deliberated the issue in detail and observed in case the unit is doing export from SEZ, then in respect of its authorized operations the unit gets the benefit of importing goods without payment of duty or it gets the benefit of procuring goods from the DTA without payment of duty. When procuring the goods from DTA, the benefits of procuring the goods without payment of duties provided by way of refund of duties through duty drawback mechanism. After introduction of GST the units get imports, in addition to exemption from Custom duty without payment of IGST or procurement from DTA either without payment of IGST or payment of IGST