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**CAPEXIL**

**LIST OF PENDING ISSUES**

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| **Rubber Product Panel** | |
| 1) Inverted Duty Structure | The Inverted Duty Structure, for which a number of raw material inputs required by the rubber products manufacturing industry is the serious disadvantage and must be addressed. Many finished products are being imported into India at a very cheap price as the inverted duty structure makes it more attractive. This is the basic reason for the growth of nearly 100% in imports of finished rubber products during the last three years while 40% of the industries have been closed down which is clearly brought out in a survey conducted by the rubber board in the 4 states of Punjab, Maharashtra, Tamil Nadu & Kerala. Similar situation prevails in other states also. Import Duty on Natural Rubber is 25% & Latex is 70% against the 5% to 10% Range of Import Duty on Finished Rubber Products resulting into dumping of inferior and substandard quality of rubber products into India and closing down of Rubber Products Manufacturing Units in India mostly from MSME Sectors.  The industry has been clamoring for reduction of import duties on its basic raw materials but instead of addressing the inverted duty structure, the authorities raised the import duties of Natural Rubber from 20 to 25% even though Indian Natural Rubber is 30% higher priced than the international market at present. The finished goods are being imported from 0 to 7.5% thereby making it more remunerative to import finished goods in total disregard to the Make in India Program and 6 million employment provided in this industry at the political expediency of saving 1 million growers. The recent ban on the beef trade has rendered 11.5 million people jobless in the State of Maharashtra alone. The Government has to get its order of priorities in the right direction which will announce a future vision to the growth of the industry. |
| 2) Restriction of Import of Natural Rubber:  (Notification No. 32/2015-2020 dated 20/01/2016 on NR Import Restrictions) | DGFT Notification No.32/2015-2020 dated 20th January 2016 regarding Import of Natural Rubber of all varieties only through the ports of Chennai and Nhava Sheva (Jawaharlal Nehru Port).  Natural Rubber is one of the important raw materials that accounts for up to 52 per cent of the country’s overall consumption in the manufacturing process of Rubber products including Auto Tyres & Tubes. In light of the aforesaid Notification, import of Natural Rubber only through the sea ports of Chennai and Nhava Sheva will affect the Exports drastically at it will increase the logistic cost, lead time and export pricing. Therefore, the Indian exporters of Rubber products will not be able to compete in the international market as they are facing stiff competition throughout the globe. The trend of falling export is in tandem with other major world economies.  Similarly, the Rubber Manufactured goods including Auto Tyres & Tubes have also registered the downfall in the production and exports. Further, import restriction on NR is set to defy the “Make in India” logic of the Prime Minister and this would escalate import of tyres from China and Vietnam.  Therefore, at this juncture IT IS REQUIRED FOR immediate re-consideration of the aforesaid Notification allowing import through Mundra seaport as well or the said Notification should give relaxation to the Advance Authorization holders for Import of Natural Rubber into any sea port in India. THIS WILL enable the industry to achieve sustainable growth in the international market with competitive prices. |
| 3) Inspection of Imported Natural Rubber | All Natural Rubber imported into India is subject to inspection at the discretion of the Rubber Board. This inspection can take anywhere between 7 to 15 days as the container has to be moved to a de-stuffing point. Samples have to be drawn by Rubber Board Official and sent to Kottayam for testing and approval.  Alternately, they also give an NOC which can be obtained only after filing the Bill of Entry after imports. Once the NOC is issued, it has to be sent to the office of the Rubber Board which may take another few days just to get their Rubber Stamp on the NOC. These are all time consuming and incurring transaction cost. For example – After getting the NOC from the Rubber Board, we have to send the same to New Mumbai for obtaining a Rubber Stamp which takes a whole day if based in Mumbai and 3 days if the unit is based in Nagpur. |
| 4) Non Availability of Natural Rubber | To bridge gap between low international prices & high domestic prices & tide over shortages, duty- free import of at least 200,000 tons of natural rubber may be permitted with actual user condition. Necessary notification should be issued by DGFT to this effect without any further delay. The total requirement of Natural Rubber into the country is 1.20 Million Tons however the domestic production of the same is only 700,000 Tons. Thus, there is no rationale to keep very high rate of Import Duty on Natural Rubber as we must fulfill this deficit to meet the demand of the industry. |
| 5) Conditions of Export within 6 months of Import & Condition of Pre-Import | Exports are badly affected in recent years due to issue of Public Notice No. 35 dated 11th September, 2015 putting Natural Rubber under Appendix 4J and reducing the export obligation period to Six Months from the date of clearance of each import consignment by Customs Authority. Though the said Public Notice is issued on 11th September, 2015, this condition is made applicable with retrospective effect from 01st April, 2015. Thus, this condition can be made applicable only for licenses issued after the date of Public Notice No. 35 dated 11th September, 2015.  Further another Public Notice No. 81 dated 09.01.2015 does not state that Natural Rubber is included in Appendix 4J and hence does not put the condition of Priory Import. The Condition of Prior Import is only mentioned in Public Notice No. 35 of 11th September, 2015. Thus, in this scenario, the Prior Import Condition can be made applicable only from 11th Sept., 2015 as stated and not from 01.04.2015.    Moreover, it is a settled Law that the amendments cannot be made with retrospective effect. In this connection, pls. find enclosed herewith copies of two Court Judgements Writ Petition No. 1750 of 2015 of Bombay High Court where in para 24 clearly states that there can be no retrospectively Similarly Judgement in WP 1355 of 2015 of Calcutta High Court Para 4 clearly states that authority under Section 5 of Foreign Trade Development & Regulation Act, 1992 does not permit a benefit already vested to be withdrawn.  Thus, Public Notice No. 35 dated 11th Sept., 2015 making it applicable from 01.04.2015 is illegal.  While importing Natural Rubber under Advance Licence, the export has to take place within 6 months vide Public Notice No. 81 (RE-2013) / 2009-14 dated 09.01.2015 (Copy enclosed) whereas the export obligation is to be fulfilled in 18 months as per present FTP. Thus, it is contradictory to each other. It is practically not possible for exporting within 6 months considering the procedural time after Issuance of Import License, Finalizing the Import Orders after proper negotiations & QC Measures, Delivery Schedule from Overseas Countries to India, Transit Time of Vessels, Delivery & Procedural Time from the Port of Import to the Exporter’s Unit.  Moreover the process of manufacturing value added finished rubber products as per the export orders takes considerable time and Natural Rubber is just one of the component in entire matrix of the manufacturing process of value added Rubber Products which requires more than 20 components including Rubber Chemicals, Carbon Black, Silica Fillers, Consumables, Processing Oil, Synthetic Rubber, Zinc Oxide, Antioxidants, Accelerators and so on.  Therefore, procurement of all these inputs, processing & production, finishing & packaging takes considerable time apart from export cargo transit time, procedural time, factory to port movement, internal port procedure, uploading the container in the vessel for final discharge for export from India etc. even in the normal course when there is no port congestion or any other unforeseen circumstances. Further, there are also requirements of inspection of consignment by Rubber Board or to obtain Inspection Waiver Certificate from the Rubber Board for import of  each consignment of Natural Rubber as well as Port Restriction for Import of Natural Rubber (i.e. permissible only at Nhavasheva & Chennai Port).  Due to this, the movement of import cargo from the said port to the factory site also takes long time. Taking all these aspects into account, 6 month time gets over by the time exporter finalize another order. Moreover, maintaining such checks is humongous , the exporters are facing problems while redeeming the licences too.  Adding to this grave situation, the authorities has issued another connected notification (Ref. Notification No. 42/2015-2020 dated 21st March, 2017) (Copy enclosed) with condition of Pre-Import which is not at all feasible as first the exporter needs to import the materials as per this condition which will take minimum 2 months’ time. Thereafter, manufacturing process will take another one month time as entire rubber matrix is involved in making finished rubber products.  Further, the shipment and delivery will take two months which will result into completion / expiry of 6 months validity of licence. It means for each consignment / container, the exporter needs to apply for separate licence which is not possible and very humungous paper work and time consuming exercise.  Thus, the above condition of 6 months as per Public Notice 81 dated 09.01.2015 and Pre Import Condition as per Notification 42 dated 21.03.2017 defeats the very purpose of Ease of Doing Business and detrimental for exports especially from MSME Sectors. To ensure the export policy’s very intention of trade promotion in letter & spirit, the export of finished rubber products should be allowed within 18 months from the date of import in line with the condition of fulfilment of export obligation within 18 months as per prevailing FTP and without Pre Import Condition. |
| 6) Simplification | The promised simplification and fast-tracking for the high volume exporter is not addressed. For example, it was suggested that the value of the Scrips, now under MEIS, should be credited directly to the bank accounts of the exporter after exports are affected. This will save humongous paperwork and levy of VAT which only cuts out the margins of the exporters. The applications for the Scrips call for a lot of information which is already with the authorities. In spite of this the applications are returned back with frivolous deficiencies. |
| 7) Status Holder Scheme | The Status Holder Scheme seems to be suffering from serious shortcomings. The definitions of various categories of Status Holders have been made very stringent and quite impossible for any exporter to graduate from One Star to 2 Star and further. The One Star Export House is defined as one having US $ 3 million worth of exports with double weightage. Therefore, an exporter with US $ 1.5 million worth of exports can get double weightage and qualify whereas the 2 Star Export House has been kept at us $ 25 million without double weightage which translates into a 17 times growth required for such graduation.  When the policy expects to hit us $ 900 billion from us $ 300 billion in 5 years the 17 times growth would mean a generation gap to graduate to the next slab. In any case what are benefits that the policy proposes to give to the exporter after such graduation. This is nowhere defined. Double weightage should be given up to the 3 Star Export House level with the facilitation being provided to be clearly defined. A new category of Star Trading House may be added to give the high value exporter with clearly defined facilitation being provided to such trading houses. |
| 8) MEIS Scheme | The MEIS merges all the other schemes like the FPS, FMS, MLFPS, Incremental export scheme and the VKGUY in itself. The total cumulative benefits, basically to offset the disadvantages of the Indian exporter, has been reduced substantially. This will act as a serious dampener as markets like Europe, America and Australia, which are major export destinations for our rubber products are facing a slowdown.  The currencies in Europe & Australia have seriously depreciated against the US dollar. The Exporters factor all their purchases in the US dollar which makes us a lot more uncompetitive. Our infrastructural deficiencies and huge transaction costs cause delays. The port congestion and the levy of congestion surcharge add to their miseries. |
| 9) Manufacturer Exporter Investment Limit | The manufacturer exporter needs to be recognized due to the high value addition that he achieves apart from generating employment and taking the MAKE IN INDIA brand to the world. For such manufacturer exporters, the investment limits in the SME sector should be brought in line with those prevailing in the worldwide. The ASEAN region defines a small scale industry as one with an investment limit of US $ 10 million hence the small scale unit in India should be permitted an investment of Rs. 50 crores provided such unit export at least 40% of their production.  Similarly the medium scale unit is defined as one with an investment limit of Euros 50 million in the European Union and therefore the investment limit for the medium scale sector here should at least be kept to Rs. 200 crores. This would help the industries to upgrade their machineries and production processes to world class levels and achieve world standards. Such units are also be permitted to import second-hand or used machineries under the EPCG scheme as most rubber machineries can be easily upgraded with change of electrical and electronic control panels to give the precision as per the currently manufactured machineries. |
| 10) Duty Drawback | The rates of Drawback for the products in the non-tire sector are being progressively reduced as no data is forthcoming for the fixation of industry-wise drawback rates from the fragmented MSME sector. To overcome this lack of data, the Standard Input Output Norms (SION) as fixed should be used as the yardstick to provide the actual re-imbursement of import duties on inputs. A large number of SIONs’ also exist which have been clearly vetted by the Commerce Ministry. Since MSME units are unable to import large quantities, the import duties on these inputs can be calculated and drawback rates to be announced on this basis. The EPC’s can provide such SION based data. I also suggest that the state level taxes and duties like Electricity, Octroi and Stamp Duties, etc which was earlier offset by the Cash Compensatory Mechanism should be added on in Drawback to arrive the actual disadvantage suffered. |
| 11) High Transaction Cost | The other issues which act as hurdles are the high transaction costs due to high interest the high shipping and clearing charges, infrastructure deficiencies, port congestion due to which the exporter suffers heavily as these charges are levied due to mismanagement at the ports and delays in every office of the facilitators - be in Customs, DGFT or the Excise. The growth in exports of rubber products has been maintained at 21% CAGR over the last two decades and this can easily accelerate to nearly 35% as Indian manufactured rubber products have maintained a very good perspective in terms of quality and deliveries.  The authorities must look in to these issues and provide a time bound redressal mechanism with clear cut processes & procedures to be implemented in case of high value exporters. |
| 12) Interest Subvention Scheme | Interest Subvention should be available to all industries including Rubber Industry (Chapter 40 Products) instead of selected industry. |
| 13) Advance Authorization | Imports under Advance Authorization and other export promotion schemes should be free of Service Tax. Proper refund mechanism is required for Octroi, Duties & Cess paid for electricity, water, fuel etc. by the exporters for execution of export orders since these taxes & duties should not be exported along with the export goods. |
| 14) PCFC | Exporting Community should be given PCFC by their respective banks in Dollars at Libor + 1.5% against all the confirmed exports orders. |
| 15) Term Loan / Rate of Interest | Medium term loans attract a very high rate of interest of between 14% – 16%. This is the single biggest discouraging factor to attract new capital investment. To encourage investment and promote employment, invests at between 6% - 8% should be given to investments of capital nature which would go a long way in promoting growth. |
| 16) Freight Charge | The interest rates are extremely high as compared to our neighbor’s where near zero percentage interest is being charged. With falling rates and global recession, importers in other countries are demanding long-term credit which is a huge cost. Hence interest rates should be rationalized to be in line with the international norms. Shipping Companies to be asked not to charge exorbitant charges under different irrelevant heads and with any relation to the cost of service provided |
| 17) Rubber CESS | Ruber Cess is to be abolished as this is creating humongous clerical jobs due to which we have to give monthly, quarterly, half early and yearly Returns and audited statements. This is necessitating License Controls from the Rubber Board. |
| 18) Thrust To Status Holder Exporters | More Thrust / Focus to be given to Status Holders Exporters. 15% of the exporters make up 85% of the total exports from our country. This core group of 15% should be clearly identified to offer special facilitation & fast track clearances in the DGFT, Customs, Excise & other trade facilitators to address their needs on an urgent basis. |

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