

S.No

Export Import (EXIM) FAQ

1. Can an incorrectly filed Shipping Bill be converted later to claim Duty Drawback or other export incentives?

Yes.

- Under Section 149 of the Customs Act, 1962, Customs Department may allow post-export conversion of Shipping Bills (e.g. from Free Shipping Bill to Drawback Shipping Bill), to enable claiming export benefits, provided the request is made within the prescribed time (i.e) **within three months from the Let Export Order (LEO) date** (extensions may be considered by the Commissioner in genuine cases), supported by documentary evidence existing at the time of export.
- Conversion is discretionary and assessed case by case.
- The settled judicial provision is that export incentives cannot be denied merely due to procedural lapse, if substantive conditions were fulfilled at the time of export.

Ref: CBIC Circular Nos. 04/2004-Cus dated 16.01.2004 & 36/2010-Cus dated 23.09.2010

2. Under various schemes of the Foreign Trade Policy (EPCG/Advance Authorization) the company and directors are liable for non fulfilment of export obligations. What is the liability of Independent / Non-Executive Directors for non-fulfilment of export obligations under the schemes?

- Independent or non-executive directors are **not automatically liable** for a company's failure to fulfil export obligations under the Foreign Trade (Development & Regulation) Act, 1992.
- Mere holding of office, participation in Board meetings or discharge of supervisory functions (as against controlling functions) does not attract liability.
- For penalties to sustain, the DGFT must establish direct involvement, decision-making authority or personal knowledge of non-compliance on the part of the independent or non-executive director, failing which proceedings against them are not legally tenable.

Ref: Anand Mehta Vs Director General of Foreign Trade (Delhi High Court)

3. What would be the impact on the import of cotton under the Advance Authorisation (AA) Scheme if the current import duty exemption on cotton is not extended beyond 31.12.2025?

Cotton imported under a valid Advance Authorisation License **continues to be exempt** from Basic Customs Duty and other applicable duties, irrespective of the general import duty structure.

Therefore, non-extension of the general exemption does not automatically affect AA imports.

In the absence of a general exemption, Customs authorities may apply **stricter scrutiny** to AA imports. Any procedural lapse or delay in fulfilling export obligations could result in duty demand, interest and penalties, impacting liquidity.

4. The import duty exemption on cotton is valid only up to 31.12.2025 (unless extended/Association represented). Is there any provision to avail this exemption for cotton consignments that are already shipped and in transit/on high seas, but are expected to arrive at Indian ports shortly after 31.12.2025? Further, will filing an Advance Bill of Entry provide protection to such in-transit consignments for availing the exemption?

Under the Customs Act, 1962, the applicable rate of import duty is determined in accordance with Section 15, which links the duty rate to the **date of arrival of the vessel or the date of filing of the Bill of Entry for home consumption**, as applicable.

For Advance Bill of Entry filed prior to the arrival of the vessel, the rate of duty applicable is the **rate in force on the date of arrival of the vessel** and not the date of filing of the Bill of Entry. Therefore, filing an Advance Bill of Entry does not lock in or protect the duty exemption prevailing prior to the prescribed date.

Accordingly, cotton consignments that arrive after 31.12.2025 will not be eligible for the import duty exemption (unless extended), even if:

- the shipment was made prior to 31.12.2025 or
- an Advance Bill of Entry was filed before the expiry date (Advance filing is only for ease of clearance).