

Circular No. 20 / 2012 - Cus.

**Government of India
Ministry of Finance
Department of Revenue**

New Delhi dated the 27th July, 2012

Sub: Changes in the Foreign Trade Policy 2009-14 issued on 5.6.12 - reg

The DGFT's notification No. 1(RE-2012)/ 2009-2014 and Public Notice 1(RE-2012)/2009-14 both dated 5.6.12 have issued a revised edition of the FTP 2009-14 effective 5.6.12. The revised edition of the FTP and the Handbook of Procedures may necessarily be perused for all the details.

2. In the areas that presently required changes to be made by Department of Revenue, certain notifications and circulars have been issued:

(I) Notification No.39/2012-Customs dated 12.06.2012 has been issued by TRU. With this, the import of duty free embellishments allowed against export of polyester made-ups, cotton made-ups and handloom made-ups has been extended to export of man-made made-ups.

(II) Notification No.42/2012-Customs dated 22.6.2012 amended notification Nos. 100, 101, 102, 103 and 104/2009-Cus. With these amendments,-

The duty credit scrip under Status Holder Incentive Scheme (SHIS) can now also be utilized, to the extent of 10% of duty credit amount in scrip originally issued, for import of components, spares and parts for already imported capital goods, subject to conditions. A limited transferability of these scrips has also been permitted amongst status holders provided that the transferee status holder is a manufacturer, subject to conditions.

The notifications, for import of the specified capital goods, which had effect till 31.12.2012, under zero duty Export Promotion Capital Goods (EPCG) Scheme, including that for common service providers, will have effect till 31.12.2013. This is to implement the FTP provision that zero duty EPCG scheme shall be in operation till 31.3.2013. Further, the condition that importer is not currently availing any benefits under Technology Upgradation Fund Scheme (TUFS) has been made subject to a proviso whereby the said condition will not be applicable where the benefit under TUFS has been obtained but exact line of business in TUFS is different from the line of business under EPCG or where benefits availed under TUFS are refunded, with applicable interest, before availing the zero duty EPCG authorization. The aspect of benefits, with interest, having been refunded will be ensured by DGFT. Additionally, it has been provided that the condition that the importer is not issued, in the year of issuance of zero duty EPCG authorization, the duty credit scrips under SHIS scheme, will not be applicable where already availed SHIS benefit that is

unutilized is surrendered or where benefits availed under SHIS that is utilized is refunded, with interest, before availing zero duty EPCG authorization.

Under both zero Duty EPCG and 3% duty EPCG schemes it has been provided that the export obligation shall be 75% of the normal export obligation when fulfilled by export of specified green technology products. Further, it has been provided that for units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura, the export obligation shall be 25% of the normal export obligation. This does not imply any change in the average export obligation. These reflect provisions introduced in paras 5.10 and 5.12 of the FTP. Also, it has been provided that in the case of export of goods relating to carpet, coir and jute the EPCG authorization holders shall not be required to maintain average export obligation/level of exports. This is in addition to the exports already specified. This provisioning reflects changes made in para 5.7.6 of the HBP, Vol. I.

In respect of Common Service Providers (CSP), under both zero duty EPCG and 3% duty EPCG schemes, earlier, the details of the users and the quantum of export obligation which each user will fulfill were required to be endorsed on the EPCG authorization at the time of issue, and each one of the users of the CSP, apart from the CSP, was required to furnish 100% bank guarantee (BG) equivalent to their portion of duty foregone apportioned in terms of quantum of export obligation to be discharged by them. These provisions have been modified. As regards details of users, the CSP is now required to inform the same to the concerned Regional Authority prior to exports, and the quantum of BG shall be equivalent to duty foregone amount and BG can be given by CSP or any one of the users or a combination thereof, at the option of CSP. These amendments reflect changes introduced in para 5.3(b) of FTP.

(III) Circular No.17/2012-Customs dated 5.7.12 relating to continuation of verification of genuineness, of duty credit scrips issued under chapter 3 of FTP, before registration, is self explanatory.

(IV) Circular No.18/2012-Customs dated 5.7.12, relating to para (4) of Circular No.38/2010-Customs, which illustrates certain vehicles which are in the nature of professional equipment in connection with the Served from India Scheme (SFIS), is self explanatory.

(V) Notification Nos. 29/2012-Central Excise to 33/2012-Central Excise all dated 9.7.2012 allow duty credit scrips issued under FPS, FMS, AIIS (under VKGUY), VKGUY and SHIS schemes to be used for domestic procurement, subject to the conditions laid down therein which have been provided keeping in view, inter alia, the transferability/limited transferability of these scrips. It has also been provided that the holder of the scrip, to whom the goods are cleared under these Central Excise notifications, shall be entitled to avail the drawback or Cenvat credit of duties of excise leviable against the amount debited in the scrip and validated at the time of clearance. These notifications reflect para 3.17.5 (c) of FTP. The Notification No. 44/2012-Customs dated 9.7.2012 makes consequential changes in the notifications issued with respect to these scrips for imports.

3. There are certain areas of change in the FTP which do not require amendments in Customs notifications. Salient amongst these are -

Earlier, the para 2.17 of FTP pertaining to second hand goods specifically mentioned "Import of re-manufactured goods shall be allowed only against a license". This does not find mention in the FTP issued on 5.6.12. The DGFT has informed that such goods will be governed by the import policy applicable for second hand items/goods under para 2.17 of FTP.

In respect of the Agri Infrastructure Incentive Scrip (AIIS), the para 3.13.4(c) of FTP specifies the capital goods/equipment for cold storages, pack houses etc, which are permitted for import. In terms of the existing notification No.94/2009-Customs dated 11.9.2009, this scrip will now also be eligible to be used for import of fourteen specified equipment (for setting up of Pack Houses) that are notified in Appendix 37F of the HBP, Vol. I.

In para 4.1.2 of FTP (applicable to Advance Authorization and DFIA schemes) the formula/norm for Value Addition (except for gems and jewelery) has been tightened by including reference to intent of claiming drawback, and in para 4.1.14 of FTP it has been made clear that drawback would be allowed only for such duty paid items which have been endorsed on the authorization by the Regional Authority. Field formations may specifically note this aspect in the context of brand rate of drawback. Moreover, in terms of changes made in para 2.12 of HBP, Vol. I the normal periods of validity for the purpose of making imports under Advance Authorization, Annual Advance Authorization and DFIA schemes have been reduced to 12 months. Further, as per para 4.22 of HBP, Vol. I, the period for fulfillment of export obligation has been reduced to 18 months, with certain exception. One extension of 6 months can be given by the Regional Authority.

The para 4.29 of HBP Vol. I has made an additional provision for Regional Authority to intimate details of recovery/deposits to Commissioner of Central Excise having jurisdiction over the factory of the authorization holder. This was necessitated as authorizations are not registered at any Port when the advance authorization is entirely invalidated for domestic sourcing of inputs. The Commissioner of Central Excise will now be enabled to take a 360 degree view and exercise due diligence in the matter.

Para 5.3.3 of the HBP, Vol. I has clarified that separate authorization shall be issued in case application is filed under para 5.2A of FTP [for restricted import of spares with reduced export obligation, subject to conditions] pertaining to EPCG scheme.

In chapter 8 of the FTP, certain categories of supply of goods by main/sub-contractors have been deleted from being regarded as deemed exports. These are those under erstwhile para 8.2 (e) and (g) of FTP as it stood prior to 5.6.12.

4. There are certain areas of change in the FTP for which notifications shall be issued subsequently to make them operational. These include the specification of Vishakapatnam Airport in the Customs exemption notifications for the purposes of import and export under the export promotion schemes (para 4.19 of HBP, Vol. I) for which

modalities are being worked out by DG (Systems) and Chief Commissioner, Vishakapatnam; making operational the scheme of Post Export EPCG duty credit scrip (para 5.11 of FTP) for which modalities are being worked out in consultation with DGFT; changes made in para 5.2A of FTP notified on 5.6.12 w.r.t. catalyst for subsequent charge which are being reviewed by the DGFT.

5. A change made in the FTP issued on 5.6.12 related to declaration of intent on free shipping bills under para 3.11.8 of HBP, Vol. I. The position with respect to this para was earlier governed by DGFT Public Notice No. 53(RE-2010)/ 2009-14 dated 3.6.2011. In the FTP issued on 5.6.12, the requirement of declaration of intent was deleted. During post FTP discussions, the necessity of retention of this provision was informed to the Department of Commerce and it was agreed that the pre 5.6.12 position would be restored.

6. This Circular covers salient features of the FTP effective 5.6.12 dealt by the Drawback Division. It should be ensured that the FTP and Handbook of Procedures issued effective 5.6.12, as well as above mentioned Customs and Central Excise notifications and circulars are carefully perused for details. The Circular may also be brought to the notice of all concerned by way of issuance of standing order/instruction/trade notice. Difficulties faced, if any, may please be brought to the notice of the Board.

F.NO.605/12/2012-DBK

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