

Policy Circular No. 44 (RE-2010)/2009-14

Dated: 01.11.2011

Subject: Grant of DEPB against free Shipping Bills converted by the Customs Authorities.

Para 2.56 of HBP v.1 provides for conversion of EP copy of the Shipping Bill from one scheme to another. The relevant portion of the para is extracted below:-

"Conversion of E.P. copy of shipping bill from one Scheme to Another:

If Customs Authorities, after recording reasons in writing, permit conversion of an E.P. copy of any scheme-shipping bill on which benefit of that scheme has not been availed, exporter would be entitled to benefit under scheme in which shipment is subsequently converted".

2. Conversion of free shipping bills to DEPB Shipping Bills were allowed by the Department of Revenue vide Customs Circular No.6/2003-Cus. dated 28.1.2003 whereby Commissioner of Customs were given powers to allow such conversions. In accordance with the instructions, conversions were done by Customs. Subsequently, vide Circular No.4/2004-Cus. dated 16.1.2004 the facility to allow the conversion of free shipping bills to export promotion schemes were withdrawn. In this background, instructions were issued to the Regional Authorities not to grant DEPB benefits against such shipping bills which were converted by the Customs authorities. Some of the exporters approached High Courts claiming that DEPB should be given in cases where the conversions have been allowed by Customs.

3. In a case filed by M/s. Estocorp (India) Pvt. Ltd., the Delhi High Court (in a Writ Petition No.14367/2005) allowed the claim of the petitioner for grant of DEPB against converted shipping bills. In their order dated 3.2.2011, the High Court observed that since the petitioner got the shipping bills converted prior to issue of Customs Circular No.4/2004 dated 16.1.2004, the claim cannot be denied.

4. Therefore, between the two material dates i.e. between 28.1.2003 and 15.1.2004, in case if the Commissioner of Customs has already allowed the conversion of free Shipping Bill to DEPB Shipping Bill, the DEPB claims can be admitted. Accordingly, RAs are instructed to decide the admissibility of DEPB claims. Old cases which were rejected can also be reviewed.

This issues with the approval of competent authority.

(C. Gangadharan)
Dy. Director General of Foreign Trade