

DGFT POLICY CIRCULAR

-COPY OF-

POLICY CIRCULAR

NO.56 (RE-2008)/2004-2009

Dated 21st January, 2009

To

All Licensing Authorities

All Customs Authorities

Claim of freely transferability duty credit scrip benefits under Chapter 3 of FTP, clarification regarding eligibility of exports by EOU there-under.

Attention is invited to Incentive Schemes under Chapter 3 of FTP whereby freely transferability duty credit scrip benefits are issued.

In this regard, Trade and Industry is seeking clarification on the eligibility of exports made by EOUs directly or through third party exporter.

The matter has been examined in detail, and it is clarified that:

1. For exports made during the period from 1.4.2004 to 31.3.2005, EOUs are eligible for VKGUY scheme benefits. This has been clarified vide Policy Circular No.25 dated 31.8.2005. No change was made in this eligibility in FTP RE-2005 (issued on April 2005) which implies that till 31.3.2006, exports made by EOUs are eligible for VKGUY scheme benefits.
2. However, in FTP RE-2006 (issued on 7.4.2006), exports made by EOUs were **made ineligible** for benefits under VKGUY scheme [vide introducing Para 3.8.2.2 (c)]. In Further, in FTP RE-2006, two new schemes, namely, Focus Market Scheme (FMS) and Focus Product Scheme (FPS) were introduced. Similar provisions were made under Para 3.9.2.2 (b) for FMS, and under Para 3.10.2.2 (b) for FPS. Accordingly, for the period from 1.4.2006 to 31.3.2007, exports made by EOUs **(or through DTA units) are not eligible** for benefits under VKGUY, FMS and FPS.
3. Further, in FTP RE-2007 (issued on 19.4.2007), Vide Para 3.8.2.1, it was provided that '*exports made by EOUs/BTPs who do not avail direct tax benefits/exemption shall be eligible, provided the same is not covered under Paragraph 3.8.2.2*'. Similar provisions are contained in Para 3.9.2.1 of FTP RE-2007 (issued on 19.4.2007) for FMS as well as in Para 3.10.2.1 of FTP RE-2007 (issued on 19.4.2007) for FPS. **This applies to exports made from 1.4.2007 onwards and has been continued till date.**
4. For High Tech Products Export Promotion Scheme (a variant of FPS scheme introduced w.e.f. 1.4.2007), this provision has been introduced on 1.4.2008 vide Para 3.11.2.1 of FTP RE-2008 (issued on 11.4.2008).

5. It is clarified that the expression 'EOUs/BTPs who do not avail direct tax benefits/ exemption' would mean the following in the two possible situations;

a. That the EOUs/BTPs have completed the period for which direct tax exemption was granted to the Unit.

In such cases, exports made by EOUs/BTPs would be eligible for Chapter 3 benefits from the date on which this exemption period is over. However, Chapter 3 benefits shall apply for exports made from 1.4.2007 onwards and not earlier, as clarified in Para 3 above. EOUs/BTPs will submit the evidence of completion of the exemption period.

b. EOUs/BTPs have not completed the period for which direct tax exemption was granted to the Unit.

In such cases, if the EOUs/BTPs wish to claim Chapter 3 scheme benefits on exports made on or after 1.4.2007, then they will have to forego the direct tax exemption status and modify their direct tax exemption permanently and produce evidence to this effect from the jurisdictional Income Tax Authorities that they would not be claiming direct tax exemption henceforth. The change would be eligible from the date this exemption period is over. This shall apply for exports made from 1.4.2007 onwards and not earlier. EOUs/BTPs will submit the evidence of change of exemption status from jurisdictional Income Tax Authorities to RA concerned.

This issues with the approval of the DGFT.

**Sd/-
(Satyan Sharda)
Joint Director General of Foreign Trade**

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