Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi

Trade Notice No. 4/2016

Date: 5th May 2016

To

1. All RAs of DGFT
2. Customs Authorities

Subject: Clarification regarding benefit under Incremental Export Incentivisation Scheme (IEIS) notified vide Notification No.27 dated 28th December 2012.

The Incremental Export Incentivisation Scheme (IEIS) was introduced vide Notification No.27 dated 28.12.2012. Under the scheme, an IEC holder was entitled for duty credit scrip @ 2% on the incremental growth during the period 01.01.2013 to 31.03.2013 compared to the period from 01.01.2012 to 31.03.2012 on the FOB value of export subject to conditions prescribed therein.

2. Vide Notification No. 44 dated 25.09.2013 on the said IEIS Scheme, it was provided that

(i) Benefit for Incremental Export Incentivisation Scheme (IEIS) for the last quarter of 2012-13 will be limited to 25% growth or Incremental growth of Rs. 10 crores in value, whichever is less.

(ii) Claims in excess of this value will be subjected to greater scrutiny by Regional Authority.

3. Thereafter on 23.09.2014, a clarification was issued by DGFT to RAs that

Para (i) and (ii) in Notification No. 44 dated 25.09.2013 are independent. The limiting of claim was clearly mentioned in the first sub-para of Notification which fixes the upper limit of grant of benefit. The second sub-para in the Notification only directs RAs to exercise caution while dealing with cases of incremental growth of export under the scheme. It does not entitle any applicant to higher levels of benefits under the scheme.

4. The Notification No.44 dated 25.09.2013 on the issue of limiting the entitlement has been challenged by many exporters in different High courts. In view of the decisions of the various High Courts, the matter has been re-examined in consultation with the Department of Legal Affairs and accordingly, following instructions are hereby issued for processing the cases of the IEIS claims by RAs:

(i) In supersession of clarification dated 23.09.2014, RAs may further process the cases without imposing any cap on account of the earlier stipulation of restricting growth to 25% or incremental growth of Rs.10 crore in value, whichever is less.

(ii) RAs must, however, exercise due diligence while processing such claims by following guidelines of greater scrutiny as prescribed in Public Notice No. 28 dated 25.09.2013 to check claims having high growth % and/or value and against irregularities. In this regard the Policy Notification No.27 dated 28.12.2012 may also be carefully seen, in addition to other relevant provisions. Inter alia, transfer of export performance from any other IEC holder was not permitted under the scheme as per Para 3.14.4 (d). Similarly disclaimer provision of Para 3.17.10(b) was also not admissible as per Para 3.14.4(c).

(iii) If in any case there are doubts/ suspicions about the authenticity/ genuineness of the increments in aspect like turn over /growth etc, the matter may be referred to investigating agencies like DRI etc and the case may be finalized after taking into account their report.

(iv) All these cases should be approved by Head of the Office.

(v) The above stipulations will not be a bar to the RAs in scrutinizing small value claims also, when there is prima facie case to do so.

(vi) It is pertinent that no right is vested in favour of claimant when impropriety fraud has been detected.

5/9/16

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