

F.No.605/04/2017-DBK
Government of India
Ministry of Finance, Department of Revenue
Central Board of Excise and Customs
Drawback Division

New Delhi, dated 31st May, 2017

To

Pr. Chief Commissioners/Pr. Directors General
Chief Commissioners/Directors General
Pr. Commissioners/Commissioners; (All under CBEC)

Madam/Sir,

Subject: Implementation of Hon'ble Supreme Court's Judgment dated 27.10.2015 in CA No. 554 of 2006 titled DGFT v/s Kanak Exports.


Attention is invited to the Target Plus Scheme (TPS) (Para 3.7.1 of FTP 2004-2009) which was announced by DGFT on 31.08.2004 with the objective to accelerate growth in exports by rewarding Star Export Houses who have achieved minimum export turnover in free foreign exchange of Rs. 10 crores in previous licensing year. The Scheme provided duty free credits @ 5%, 10% and 15% of FOB value of incremental exports for growth of 20%, 25% and 100% respectively. Subsequently, for Target Plus Scheme for 2005-06, DGFT issued Notifications No. 48 dated 20.2.2006, Notification No. 08 dated 12.06.2006 and Notification No. 20 (RE 2006)/2004-2009 dated 13.7.2006 to curtail the rate of entitlement to 5% of FOB value instead of 5%, 10% and 15% of FOB value; exclude high value items, such as cut and polished diamonds and bulk products, ores, cereals, sugar, crude and crude-based products from scheme and to lower eligibility criterion to Rs. 5 crores from the existing level of Rs. 10 crores. These changes were made effective from 1st April 2005. Accordingly, this Department issued Notification No. 73/2006-Cus dated 10.07.2006 to implement Target Plus Scheme for 2005-06. The revenue notification inter alia included the extended list of ineligible exports as per amendments made by DGFT.

2. The retrospective amendments by DGFT of Target Plus Scheme 2005-2006 were challenged in various courts. The Hon'ble Supreme Court in its judgment dated 27.10.2015 (in the matter of DGFT v/s Kanak Exports & Ors in C.A. No. 554 of 2006) has held that DGFT's Notification No. 48 dated 20.2.2006 and Notification No. 8 dated 12.6.2006 related to TPS cannot be applied retrospectively.

3. The Government has decided to accept and implement the aforesaid Judgment of the Hon'ble Supreme Court. DGFT has issued Notification No. 6/2015-2020 dated 08.5.2017 to amend their Policy Notification No. 48 dated 20.2.2006 to make it effective from the date of their issuance instead of 1.4.2005 and rescind Notification No. 08 (RE 2006)/2004-2009 dated 12.6.2006 and No. 20 (RE 2006)/2004-2009 dated 13.7.2006. Consequently, DoR Notification No. 73/2006-Cus dated 10.7.2006 which mentions the ineligible products in terms of corresponding FTP provisions has also been amended vide Notification No. 22/2017-Customs dated 31.05.2017.

4. Further, to rule out any misuse of the scheme, DGFT has issued Trade Notice No. 06/2018 dated 08.5.2017 inter-alia setting up Zonal Committees for scrutiny of claims. The procedure specified in the DGFT's Trade Notice is self-explanatory. Thus TPS Scrips will now be issued for exports of 2005-2006 after scrutiny by these Zonal Committees. Field formations are directed to allow usage of these scrips subject to prescribed checks and procedures.

5. The trade and officers should be guided by the Commissioners. Difficulties if any may be brought to the notice of the Board.


(Dinesh Kumar Gupta)
Director
Tel: 23360581