

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

Trade Notice No.16/2016

Date: 14th September 2016

To

1. All RAs of DGFT
2. Customs Authorities

Subject: Guidelines for Issuance of Duty Credit Scrips under Incremental Export Incentivisation Scheme (IEIS) for Quarterly period (01.01.2013 to 31.03.2013) in pursuance of Trade Notice 04 dated 05.05.2016.

The Incremental Export Incentivisation Scheme (IEIS) for Quarterly basis (01.01.2013 to 31.03.2013) was introduced vide Notification No.27 dated 28.12.2012. Under this 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 Trade Notice No. 04 dated 05.05.2016, clarification regarding benefit under Incremental Export Incentivisation Scheme (IEIS) was issued by this Directorate and instructions were issued for processing the cases of the IEIS claims by RAs 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.

3. In pursuance of the Trade Notice No.4 dated 05.05.2016, changes in entitlement in the online system for the IEIS Quarterly cases has been incorporated and list of such cases where Supplementary Scrip is to be issued is made available in the Online Application Menu of the Quarterly IEIS Scheme.

4. All the concerned RAs now have facility to re-open the files in such cases for issue of the balance claim pending after deducting the initial Scrip value and process such cases for issuance of Scrips for the balance entitlement after ensuring

taking due diligence as indicated in the Trade Notice 4/2016 dated 05.05.2016 and earlier instructions on scrutiny of claims.

5. RAs shall 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 percentage and/or value and against irregularities if any. Where the export growth or total claim under the Scheme is excessive and out of trend, RA would check claims in detail, including where necessary by seeking help from Customs, DRI etc. In this regard Notification No.27 dated 28.12.2012 may also be carefully seen, in addition to other relevant FTP/HBP provisions. Inter alia, transfer of export performance from any other IEC holder is not permitted under the scheme as per Para 3.14.4 (d) of FTP 2009-14. Similarly disclaimer provision of Para 3.17.10(b) of FTP 2009-14 is also not admissible as per Para 3.14.4(e) of FTP 2009-14. Therefore, applicants who have purchased goods from another legal entity who is also having IEC are not entitled for benefit under the Scheme on such purchases of goods. More generally, no right is vested in cases where irregularities have been resorted to by applicants.

6. It has been observed from the list of file numbers provided by the NIC that many of the firms have filed multiple applications. In the list it is observed that many of the firms have shown different export performance under such different file numbers for the base period (01.01.2012 to 31.03.2012) and the claim period(01.01.2013 to 31.03.2013) .

In this regard, the provisions of the HBP and the ANF 3F are specified below:

- i. As per Public Notice No. 13 dated 17.05.2013, in the prescribed ANF 3E it had clearly been mentioned that that export shipments from all EDI ports can be filed in one application while for export shipments from each Non-EDI ports, separate application is required to be filed. Such applications have to be filed in the same RA.
- ii. The applicant firm is required to declare the past export performance during the 2011-12 (base year) and 2012-13(claim year).
- iii. The applicant firm is required to declare the past export performance during the base period (01.01.2012 to 31.03.2012) and the claim period (01.01.2013 to 31.03.2013).

- iv. The Chartered Accountant is also required to certify in the Annexure to 3F, the past export performance during the base period (01.01.2012 to 31.03.2012) and the claim period (01.01.2013 to 31.03.2013).

7. In view of the above prescribed procedures, filing of multiple applications with different export performance under different file numbers, except as prescribed in the ANF 3F, is in clear violation of the procedure prescribed. In all such cases, the RAs shall take necessary actions as per relevant sections of the FT (D & R) Act 1992 as amended from time to time, including processing of cases for placing such firms under DEL, as per applicable Rules/Provisions for violation of the prescribed procedures and furnishing of declaration, statement and documents with false material particulars. RAs should also take action against such Chartered Accountants and report such fraudulent practices to the Institute of Chartered Accountants of India (ICAI).

8. As per Paragraph 3.14.4(a) of the FTP 2009-14, the objective of the Scheme is to incentivize incremental exports. As per Para 3.14.4(b) of the FTP 2009-14, an IEC holder would be entitled for a duty credit scrip @ 2% on the incremental growth (achieved by the IEC holder) during the period 01.01.2013 to 31.3.2013 compared to the period from 01.01.2012 to 31.3.2012 on the FOB value of exports. As per Para 3.14.4(c) of the FTP 2009-14, quantum of benefit will be calculated on the incremental growth achieved subject to eligibility criteria given in Para 3.14.4(d) of FTP 2009-14. As per Para 3.14.4(d) 2009-14, benefit under this scheme will not be allowed to an exporter who had made no export between 01/01/12 to 31/03/12. However, it is observed from some of the applications that such firms have given very nominal/negligible growth values in the base period of 01.01.2012 to 31.03.2012. The applicants who did not have any exports in the base period (01.01.2012 to 31.03.2012) have filed applications by mentioning export value as low as Rs.01/- just to bypass the system checks. Therefore, in all such cases, the RAs shall take necessary actions as per relevant sections of the FT (D & R) Act 1992 as amended from time to time, including processing of cases for placing such firms under DEL as per applicable Rules/Provisions for violation of the prescribed procedures and furnishing of declaration, statement and documents with false material particulars. RAs should also take action against such Chartered Accountants and report such fraudulent practices to the Institute of Chartered Accountants of India (ICAI).

9. For cases already processed, RAs shall also take steps for Post issuance verification for cases where there is very high growth /claim value and in case any irregularity is found at any stage, the benefit would be withdrawn and penal action under the FT (D & R) Act or any other law for the time being in force shall be initiated against such applicants

10. The Trade Notice 04 dated 05.05.2016 and this notice is applicable for all claims whether pending/ fresh ones / or those which were issued with cap earlier pertaining to the said Quarterly IEIS Scheme only.

11. The date of initial complete application may be considered as the date for determining the applicable late cut. No supplementary cut shall be imposed in terms of Para 9.4 of the HBP 2009-14 if the application for the entire claim has already been applied in the initial application within specified time limits. The validity period of such scrips shall be 18 months from the date of issue of the supplementary Scrip.

12. The RAs are also informed that applicant firms who have given reduced export performance details once at any time will not be given any benefit of re-applying with changed export performance.



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