

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

Trade Notice No.11 /2015-20

Dated 21st July, 2016

To

All Regional Authorities/All Customs Authorities/FIEO/EPCs/All Concerned

Subject : Deduction of State /Central Taxes collected from the customers while calculating foreign earnings for SFIS/SEIS Schemes.

The CAG audit team has during the audit of Served From India Scheme files observed that charges made on Accommodation, Services, Food etc. invariably include State/Central Taxes collected from the Customers such as VAT, Luxury Tax on sale of Food items and Service Tax and such taxes paid by the Customers to Government through the Service Provider should not have been included for issuance of SFIS.

2. The issue has been examined in this Directorate in consultation with Department of Revenue and it is observed that:

Para 3.6.4.3 of FTP 2004-2009 provides that:

All Service providers (other than hotels and restaurants) shall be entitled to duty credit equivalent to 10% of the foreign exchange earned by them in the preceding financial year.

Para 3.6.4.4 of FTP 2004-2009 provides that:

Hotels of one-star and above (including managed hotels and heritage hotels) approved by the Department of Tourism, and other Service providers in the tourism sector registered with the Department of Tourism, shall be entitled to duty credit equivalent to 5% of the foreign exchange earned by them in the preceding financial year.

Para 3.18 (i) of HBP 2004-09 further specifies that:

Only such foreign exchange remittances as are earned as amounts in lieu of the services rendered by the Service Exporter would be counted for computation of the entitlement under this scheme.

These provisions have been carried forward in Para 3.12.4 of FTP 2009-14 and Para 3.6.1 of HBP 2009-14.

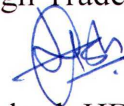
Similarly, in Para 3.10 and Para 3.09 of FTP 2015-20 for SEIS scheme, these provisions exist.

3. In the above context, attention is drawn to the fact that the FTP specifies that “Service providers shall be entitled to duty credit equivalent of the **foreign exchange earned by them**”. The Handbook of Procedures also specifies that “only such foreign exchange remittances as are **earned as amounts in lieu of the services rendered by the service exporter would be counted** for computation of the entitlement under this scheme”. The State/ Central taxes payable by the Customer to Governments are **collected from the Customer by the Service Provider on behalf of the**

Governments concerned. Hence, such taxes are not earnings of the service provider, as per the above provisions.

4. In light of the CAG observation, attention of all RAs, is drawn towards the above provisions for strict compliance and calculation of the entitlement only on the basis of receipt of foreign exchange earned by exporters, which does not include the taxes collected.

5. The issues with the approval of Director General of Foreign Trade.



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