

F. No. 605/17/2013-DBK
Government of India
Ministry of Finance, Department of Revenue
Drawback Division

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New Delhi, 27th October, 2016

To

Principal Chief Commissioners / Chief Commissioners
Principal Directors General / Directors General
Principal Commissioners / Commissioners
(All under CBEC)

Sub: Transferability of goods imported/procured by debiting duty in SFIS scrips- reg.

The undersigned is directed to say that transferability of goods imported/procured by debiting duty in SFIS scrips was considered by the Board in the context of reconciling the Department of Commerce Notification No. 30/2009-2014 dated 1.8.2013 that amended FTP 2009-14 to provide that goods imported/procured under SFIS can be alienated on completion of 3 years from the date of import/procurement, the judgment dated 23.5.2016 of Hon'ble Delhi High Court in Writ Petition (C) No. 1809/2016 in the matter of Greatship (India) Ltd. and the Notification nos. 92/2004-Cus and 91/2009-Cus or 34/2006-CE. The Board has also consulted with the DGFT. It is clarified that –

- (a) The goods imported/procured utilizing SFIS Scrip issued in terms of FTP 2009-14 may be sold/transferred on completion of 3 years from the date of clearance of import/procurement in terms of the Department of Commerce notification no. 30 dated 1.8.2013.
- (b) In the light of the Hon'ble High Court's order and absence of specific amendment by Dept. of Commerce to the FTP 2004-09, requests for sale/transfer of goods imported/procured utilizing SFIS scrip issued in terms of FTP 2004-09 shall be considered by DGFT in terms of para 2.5 of FTP 2004-09 on merits keeping in view the spirit of the Hon'ble High Court's order to the effect that transferability of goods that have completed 3 years is not deniable only on the ground that imports were in terms of the FTP 2004-09.
- (c) In view of DGFT conveying interpretation under para 2.3 of FTP 2004-09/2009-14 that the provision of transferability after 3 years is not applicable to consumables (including food items and alcoholic beverages) since such consumables are meant to be consumed in the course of day to day business of the applicant, such consumables are non-transferable even after 3 years. Hence these shall be exception to (a) and (b) above.

2. DGFT would also consider, on merits under para 2.5 of FTP 2004-09/2009-14 requests for export sale of goods any time after import/procurement, subject to such export being without claim for any export incentive, rebate, refund, drawback and/or re-credit of incentive and the bringing back into India being treated as a fresh import.

3. Suitable public notice should be issued for guidance of trade.

Yours faithfully,

(Sukhbir Singh Ahuja)
OSD(DBK)
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