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DGFT Clamps Down on Incremental Export Scheme Following Rupee Devaluation

- Only Dollar Growth to Get Incentive this Year
- Value Limits of Rs. 10 crore Set

Subject: Amendment in Chapter 3 of Foreign Trade Policy

44-Ntfn(RE) In exercise of the powers conferred by
25.09.2013 Section 5 of the Foreign Trade (Development
(DGFT) and Regulation) Act, 1992 read with Para 2.1
of the Foreign Trade Policy, 2009-2014, the
Central Government hereby makes the following amendments
in the Foreign Trade Policy (FTP) 2009-14 with immediate
effect:

2. The following sub-paragraphs (i) & (ii) are added below
paragraph 3.14.4.(c) as under:

“(i) Benefit of Incremental Export Incentivisation Scheme

*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.*

Effect of this Notification

Few amendments have been made in Notification No. 27
dated 28.12.2012 for claiming benefit of Incremental Export
Incentivisation Scheme.

No FMS for Cotton, Cotton Yarn

No Incentive for Export of Restricted Goods

Subject: Amendment in Chapter 3 of Foreign Trade Policy

43-Ntfn(RE) In exercise of the powers conferred by
25.09.2013 Section 5 of the Foreign Trade (Development
(DGFT) and Regulation) Act, 1992 read with Para 2.1
of the Foreign Trade Policy, 2009-2014, the
Central Government hereby makes the following amendments
in the Foreign Trade Policy (FTP) 2009-14 with immediate
effect:

2. The following categories are added after serial no (x) in the
list appended in paragraph 3.14.3 of Foreign Trade Policy
bearing the Heading “Ineligible Exports Categories / Sectors
for FMS”:

- (xi) Export of Cotton.
- (xii) Export of Cotton Yarn.
- (xiii) Exports which are subject to Minimum Export Price or
Export Duty.

3. The following sub-paragraphs are added below paragraph
3.14.5(c) as under:

*“(i) Benefit of Incremental Export Incentivisation Scheme
for the year 2013-14 will be limited to a scrip of a value not
exceeding Rs. 1 Crore per IEC.*

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

4. The following ineligible categories are added after Sl. No.
(xvi) in the eligibility criteria specified in Paragraph 3.14.5(d) of
FTP:

- (xvii) Cotton.
- (xviii) Cotton Yarn.

Anup Pujari Gets Six Months Extension as DGFT



Senior IAS officer Anup K Pujari
has got six months extension
till March next year as Director Gen-
eral of Foreign Trade (DGFT) under
Commerce Ministry.

Pujari, a 1980-batch IAS officer of
Karnataka cadre, has been working
as DGFT since September 30, 2010.

His extension was approved by Appoint-
ment Committee of Cabinet (ACC), an official release said on 25
September.

The Directorate General of Foreign Trade runs various
schemes for trade promotion and its facilitation among
other mandates.

Another IAS officer Ambuj Sharma has been appointed
as Additional Secretary in Ministry of Heavy Industries and
Public Enterprises against a newly created post.

Sharma, a 1983 batch IAS officer of Tamil Nadu cadre,
is presently working as Joint Secretary within the Ministry.

- (xix) Exports which are subject to Minimum Export Price or
Export Duty.

Effect of this Notification

Category of ineligible exports has been expanded for certain
benefits under chapter 3 of FTP as given at para 2 and 4
above. Para 3 restricts the entitlement for claiming IEIS
benefit.

Export Incentive on Dollar Values Only

Subject: Amendment in Paragraph 3.8.3 of the Handbook of Procedures, Vol. 1 (for Incremental Exports Incentivisation Scheme).

28-PN(RE) In exercise of the powers
25.09.2013 conferred under Paragraph 2.4
(DGFT) of the Foreign Trade Policy,
2009-14, the Director General
of Foreign Trade hereby makes the following
amendment in paragraph 3.8.3 of the Hand-
book of Procedures Vol. I 2009-14 with immedi-
ate effect:

2. Sub para (e) and (f) are added at the end of
para 3.8.3 of HBP v1 as under:

“(e) Claims with growth in excess of the value
and percentage specified under paragraph
3.14.4(c) (i) and (ii) and paragraph 3.14.5 (c) (i)
and (ii) of FTP, will be subjected to greater
scrutiny by Regional Authority. Such scrutiny of
the claim will require the following documents:

- (i) Calling for evidence of manufacture / pur-
chase of export goods i.e. excise return/
sales tax returns or any other evidence.
- (ii) Checking exports of company from whom
goods have been purchased i.e. whether
such company had done export in previous
2 years and quantum of exports in previous
2 years and quantum of exports in current
year.
- (iii) Calling for any other evidence to justify ex-
port growth and consequent entitlement of
Incremental Exports Incentivisation Scheme.

(f) The provisions mentioned in paragraph
3.8.3 of HBP v1 relating to procedure for Incre-
mental Exports Incentivisation Scheme, will also
be applicable to claims filed under paragraph
3.14.5 of FTP i.e. for the year 2013-14. The
applications in this case can be filed after 1st
April, 2014. Last date for filing application will be
as per para 3.11.9 of HBP v1 and late cut
provisions of para 9.3 of HBP v1 2009-14 will be
applicable.”

3. The ANF 3F which was annexed to Public
Notice No. 13 (RE 2013) dated 17.5.2013 will
also be applicable for filing claims under Incre-
mental Exports Incentivisation Scheme for the
period 2013-14 vis a vis 2012-13 with corre-
sponding changes in the period of export. For-
mat of ANF 3F with this revision (claims for the
period 2013-14 vis a vis 2012-13) is annexed to
this Public Notice.

Effect of Public Notice

Claims beyond a particular level would require
greater and more intensive scrutiny. A list of
indicative documents for such scrutiny has been
given.

**[ANF 3F - For Incremental Export Incentivisa-
tion Scheme applications is available at our
website www.worldtradescanner.com]**

Gold Smuggling: 3 Customs Officials Among 7 Accused

*The CBI has registered a case against the Customs officials under the
Prevention of Corruption Act.*

The Central Bureau of Investigation (CBI)
has accused three officials of the Customs
Department, including Deputy Commissioner
C. Madhavan, of corruption in connection with
the smuggling of gold into the country through
the Cochin international airport at
Nedumbassery.

Mr. Madhavan and Customs Pre-
ventive Officers Sunil Kumar and
Sanjay Soni are among seven per-
sons accused in the smuggling
case, CBI sources said here on
Thursday.

The investigation agency has reg-
istered a case against the officials under the
Prevention of Corruption Act. Four others ac-
cused are Arifa Harris, Asifa Veerappoyil, and
Harris Abdul Rahman, who were arrested from
Nedumbassery on September 19, and Fayas
Thondandavida, arrested on Monday.

A report by the Customs Department said that
Arifa and Asifa, who were arrested with 20 kg of
gold on their persons, had smuggled in gold
three times before in the same manner. The
report was submitted before the Ernakulam
Additional Chief Judicial Magistrate (Economic
Offences) Court here on Thursday in response
to a bail plea filed by Fayas, a key accused in the
case.

The report, by Superintendent of Customs R.
Jayachandran, said Asifa had confessed to
smuggling in gold bars on August 20 and 28 and



on September 12. She allegedly brought in 20
gold bars each, weighing a kilogram, over the
three trips. Arifa allegedly made two trips be-
fore, bringing in 16 gold bars.

The report quoted the women as saying that
they were promised a sum of 1,000 dirhams for
each gold bar they brought in. Asifa reportedly
told Customs officials that financial
strain led them into smuggling gold. According to the Customs report,
Asifa said Fayas had handed over
the gold to Harris, Arifa's husband,
at the Dubai airport. A man who
resembled Fayas, possibly a brother,
collected the gold bars from Kochi.

The women allegedly said that they stayed in
hotels close to the airport once they landed
here, where Harris would hand over the gold to
the agent. Arifa, according to Customs, said
that Asifa's husband, Abdulla, had given the
gold to Harris. The report quotes her as saying
that “a person in Khaki uniform” had collected a
television they brought from Dubai at the Cochin
airport.

The Customs report said Fayas had con-
fessed to helping smuggle in gold. Fayas had on
Wednesday alleged before the ACJM (Eco-
nomic Offences) Court that Customs officials
had tortured him in custody to extract false
statements from him. The report filed by the
department refuted these allegations.

“The allegation of manhandling of the ac-
cused is wholly untrue and is ... to plant suspi-

Jakarta Challenges Canberra Tobacco Measure

Australia's Plain Packaging Act is now
facing its fifth WTO challenge, after
Indonesia formally filed a request for consul-
tations last Friday.

The Australian legislation at issue requires
that tobacco products be sold in a
standardised, single-colour, logo-free pack-
age, with health warnings covering a signifi-
cant portion. The law was introduced in
2011, though tobacco companies were given
until December 2012 to make the necessary
changes in their production.

Canberra officials have repeatedly de-
fended the controversial legislation as being
“anti-cancer, not anti-trade,” though the
measure's challengers have raised concerns
that the law could harm their local industries
and potentially violate international trade
rules.

Under WTO rules, Indonesia and Australia
must now conduct consultations for at least
60 days to see if they could come up with a
mutually agreeable solution; if none is found,
Jakarta can then request that a WTO panel
review the case.

According to International Trade Centre
(ITC) statistics, Indonesia ranks sixth among
manufactured-tobacco exporting countries,
and accounts for 2.8 percent of the world's
total cigarette exports. Jakarta has already
defended its clove cigarettes industry in the
past at the global trade arbiter, with the WTO
granting it a victory in an unrelated dispute
against the US.

Ukraine, Honduras, the Dominican Re-
public, and Cuba (DS434, DS435, DS441,
and DS458 respectively), have already filed
similar WTO complaints against Australia,
alleging that the measure at issue appears
to be inconsistent with Canberra's obliga-
tions with regards to intellectual property
rights and technical barriers to trade. The
second panel request of the Dominican Re-
public is pending, and Cuba's request is still
at the consultations stage.

A panel has been established in the dis-
putes initiated by Ukraine and Honduras,
with the latter advancing to the panel stage
this past Wednesday. Sources say that Aus-
tralia, with the support of New Zealand,
attempted to reject the second Honduran
panel request this week, arguing that there
had been a “considerable lapse of time” -
over ten months - since Tegucigalpa's first
request. However, most members disagreed
with the Australian position, allowing the
panel to be established.

Under WTO rules, a respondent may re-
ject a first panel request; however, a panel
must automatically be established upon sec-
ond request, unless all members agree oth-
erwise.

tion on the voluntary statement recorded under
Section 108 of the Customs Act, 1962. The
accused herein had written the statement in his
own hand and had affixed his signature on every
page of the statement,” said the report.

WEEKLY INDEX OF CHANGES

RBI Increases Capital Goods Import Credit to Five Years Import Credit Contract Extended to 15 Months from Six Months

Sub: Trade Credits for Import into India

AP(DIR Srs) Attention of Authorized Dealer
Cir.53 Category - I (AD Category - I)
24.09.2013 banks is invited to A.P. (DIR
(RBI) Series) Circular No. 87 dated
April 17, 2004, A.P. (DIR

Series) Circular No. 24 dated November 01,
2004, A.P. (DIR Series) Circular No. 28 dated
September 11, 2012 and A.P. (DIR Series)
Circular No. 59 dated December 14, 2012 re-
garding Trade Credits for import into India.

2. As per the extant guidelines, AD Category
- I banks may approve availing of trade credit not
exceeding USD 20 million up to a maximum
period of five years (from the date of shipment)
for companies in the infrastructure sector, sub-
ject to certain terms and conditions stipulated
therein. It is also stipulated that AD Category -
I banks are not permitted to issue Letters of
Credit/guarantees/Letter of Undertaking (LoU) /
Letter of Comfort (LoC) in favour of overseas
supplier, bank and financial institution for the
extended period beyond three years. No roll-
over/extension is permitted beyond the permis-
sible period.

3. On a review, it has been decided to allow

companies in all sectors to avail of trade credit
not exceeding USD 20 million up to a maximum
period of five years for import of capital goods as
classified by Director General of Foreign Trade
(DGFT). It has also been decided to relax the
ab-initio contract period of 15 (fifteen) months
for all trade credits to 6 (six) months.

4. AD Category - I banks are, however, not
permitted to issue Letters of Credit/guarantees/
Letter of Undertaking (LoU) /Letter of Comfort
(LoC) in favour of overseas supplier, bank and
financial institution for the extended period be-
yond three years.

5. All other aspects of Trade Credit policy will
remain unchanged and should be complied
with. The amended Trade Credit policy will
come into force with immediate effect and is
subject to review based on the experience gained
in this regard.

6. The directions contained in this circular
have been issued under Sections 10(4) and
11(1) of the Foreign Exchange Management
Act, 1999 (42 of 1999) and are without prejudice
to permissions / approvals required, if any,
under any other law.

Anti-dumping Investigation Launched on Electrical Insulators from China after Sunset of 35% Safeguard Duty

[Anti-dumping Initiation Notification No. 14/11/2013 DGAD dated 5th September 2013]

Subject: Initiation of Anti-Dumping Duty investigation concerning imports of 'Electrical Insulators'
originating in or exported from China PR.



M/s WS Industries (India)
Ltd., M/s Modern Insulators
Limited; M/s Insulators and
Electrical Company, M/s
Bharat Heavy Electrical Lim-
ited and M/s Aditya Birla Nuvo
Ltd have filed an application

before the Designated Authority (hereinafter
referred to as the Authority) in accordance with
the Customs Tariff Act, 1975 as amended from
time to time (hereinafter referred to as the Act)
and the Customs Tariff (Identification, Assess-
ment and Collection of Anti- Dumping Duty on
Dumped articles and for Determination of in-
jury) Rules, 1995 as amended from time to time
(hereinafter referred to as the AD Rules) for
initiation of Anti-Dumping Duty investigation
concerning imports of electrical Insulators (here-
inafter also referred to as the subject goods)
originating in or exported from China PR (here-
inafter also referred to as the subject country).
M/s WS Industries (India) Ltd., M/s Modern
Insulators Limited; M/s Insulators and Electrical
Company, M/s Bharat Heavy Electrical Limited
and M/s Aditya Birla Nuvo Ltd have provided the
relevant information necessary for initiation.

2. AND WHEREAS, the Authority finds that
sufficient evidence of dumping of the subject
goods originating in or exported from the sub-
ject country; 'injury' to the domestic industry;

and causal link between the alleged dumping
and 'injury' exist to justify initiation of an anti-
dumping investigation; the Authority hereby ini-
tiates an investigation into the alleged dumping,
and consequent injury to the domestic industry
in terms of the Rules 5 of the AD Rules, to
determine the existence, degree and effect of
any alleged dumping and to recommend the
amount of antidumping duty, which if levied,
would be adequate to remove the 'injury' to the
domestic industry.

Domestic Industry & Standing

3. The petition has been filed by WS Indus-
tries (India) Ltd., Modern Insulators Limited;
Insulators and Electrical Company, Bharat
Heavy Electrical Limited and Aditya Birla Nuvo
Ltd. There are a number of other producers of
the product under consideration in India. The
Authority has noted that Modern Insulators Lim-
ited, Insulators and Electrical Company, Bharat
Heavy Electrical Limited and Aditya Birla Nuvo
Ltd have certified that there are no imports of
the product under consideration by them.. The pe-
titioners have stated that WS Industries (India)
Ltd. imported low end unfinished articles of the
product under investigation. WSI has stated
that the company has already stopped import-
ing the product from China and there are no
pending order for supplies from China, nor
company is negotiating any orders with Chinese

Jaikant Singh, Addl DGFT Designated as Authorised Officer for Safeguard Measures (QRs)

42-Ntfn(RE) In pursuance of Rule 3(1)
25.09.2013 of Safeguard Measures
(DGFT) (Quantitative Restrictions)
Rules, 2012, the Central

Government, hereby designates Shri Jaikant
Singh, Additional Director General of For-
eign Trade as Authorised Officer for the
purpose of the said Rule.

suppliers. Imports made by the WSI constitute
approx 15.47% of its production, 2.75% of total
imports from China and 1.22% of consumption
in India during the period of investigation. The
Authority is of the view that the focus of WS
Industries (India) Ltd has not turned to imports
and the company is not behaving like an im-
porter trader. The focus of the company contin-
ues to be of a producer and do its own produc-
tion. The company has been considered as
eligible domestic industry within the meaning of
the Rules.

4. The Authority further notes that the total
production of the petitioners, viz., Modern Insu-
lators Limited; WS Industries (India) Ltd, Insu-
lator and Electrical Company, Bharat Heavy
Electrical Limited and Aditya Birla Nuvo Ltd
during the Period of Investigation (POI) is sig-
nificantly beyond 50% of Indian production. The
Authority, therefore, determines that the peti-
tioners have standing to file the present petition
and petitioner companies constitute Domestic
Industry within the meaning of the Anti Dumping
Rules for the purpose of present investigation.

Product under consideration

5. The product under consideration for the
purpose of present investigation is "Electrical
insulators of Glass, or Ceramics/Porcelain,
whether assembled or unassembled, excluding
(a) telephone or telegraph insulators of voltage
rating up to 1 kV, (b) electrical or electronic
appliances/device insulators of voltage rating
up to 1 kV, and (c) composite insulators"

6. The petitioners have submitted that Insu-
lators can be either of porcelain or of glass.
Porcelain Insulators are produced using clay,
silica, feldspar and metal parts; while glass
insulators are produced using silica and metal
parts. Both constitute one article, considering
the characteristics of these two types, manufac-
turing process, functions, uses and prices. In
fact, the product is a technology neutral prod-
uct. Power Grid Corporation has floated tenders
for procurement of insulators which can be of
glass or porcelain. Power Grid Corporation has
placed no distinction between glass and porce-
lain insulators and has placed orders solely on
the basis of prices. Power Grid Corporation has
not made any technical distinction between the
two products. Further, the product is sometimes
invoiced by the suppliers without reference to
"glass" or "porcelain". The commercial invoice
available in respect of manufacturers of glass
insulators does not refer to "glass". Import data

of the product under consideration also at several instances does not refer to "glass". It is, thus, evident that the mere difference in the two types is in the form of raw material and production technology, which does not lead to two distinct articles. The article produced through two different technologies clearly constitutes one article only.

7. The main function of Electrical Insulator is to insulate one conducting body from another at high voltage areas, or to insulate a body which can transmit electrical energy to the surrounding, at areas where such transmission of electrical energy has to be avoided. Typical applications of electrical insulators are in Bushings, Disconnectors, Circuit breakers, Transformers, Power transmission and distribution lines, including railways, Electrostatic Precipitators etc. Glass or Porcelain insulators are classified under customs heading 8546 under Chapter 85 of the Customs Tariff Act.

Like Articles

8. The petitioners have claimed that there is no known difference in porcelain insulators imported from China PR and produced by the petitioner companies. As regards glass insulators, there is some difference in technology adopted in production of glass and porcelain insulators. However, the product is technology neutral product and the steps involved in production process are similar. Further, since some of the raw materials involved are different, the operating parameters for handling the raw materials differ, thus leading to some difference in plant & equipment. Porcelain insulators produced by the domestic industry are commercially substitutable with glass insulators. The consumer like Power Grid Corporation of India Limited uses glass insulators and ceramic insulators interchangeably. Therefore, for the purpose of the present investigation, the Authority has considered that porcelain insulators produced by the domestic industry are comparable to porcelain and glass insulators imported from China PR in terms of essential product characteristics such as physical & technical characteristics, functions & uses, product specifications, and tariff classification. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable. The Authority, therefore treats the subject goods produced by the domestic industry as 'Like Article' to the subject goods being imported from the subject country.

Subject Country

9. The country involved in the present investigation is China PR.

Normal value

10. The Petitioners have submitted that China PR should be treated as a non-market economy and the normal value should be determined in accordance with para-7 of Annexure-I to the Rules. The petitioners have claimed normal value of porcelain insulators on the basis of cost of production in India, duly adjusted to including selling, general & administrative expenses and

reasonable profits; stating that information relating to cost or price in a market economy third country is not available at this stage. For glass insulators, normal value has been determined on the basis of normal value of porcelain insulators duly adjusted. Petitioners have submitted that the product is consumed in numbers, whereas the present calculations of dumping margin are on weight basis. The normal value claims by the Petitioners have been considered for the purposes of initiation.

Export Price

11. The Petitioners have claimed export prices on the basis of China Customs data to assess the volume and value of imports in India. Separate export price has been determined for porcelain and glass insulators duly adjusted. Price adjustments have been made on account of commission, port expenses, inland freight and bank charges to arrive at the net export price.

Dumping Margin

12. The Petitioners have provided sufficient evidence that the normal values of the subject goods in the subject country are significantly higher than the net export prices, prima-facie, indicating that the subject goods originating in or exported from the subject country are being dumped, to justify initiation of an antidumping investigation.

Injury and Causal Link

13. Information of petitioners has been considered for assessment of injury to the domestic industry. The Petitioners have furnished evidence regarding the 'injury' having taken place as a result of the alleged dumping in the form of increased volume of dumped imports in absolute terms and in relation to production and consumption in India, significant price undercutting and price depression and consequent significant adverse impact in terms of production, capacity utilization, domestic sales volumes, inventories, market share, profits, return on capital employed, and cash flow for the domestic industry. There is sufficient evidence of the 'injury' being suffered by the domestic industry caused by dumped imports from subject country to justify initiation of an antidumping investigation.

Rupee Value under Indo-USSR Deferred Payment Protocol Revised to Rs. 86.903352 from 13 Sept 2013

Sub: Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR

AP(DIR Srs) Attention of Authorised Dealer
Cir.55 Category-I (AD Category-I)
26.09.2013 banks is invited to A.P.
(RBI) (DIR Series) Circular No.49
dated September 20, 2013,

wherein the Rupee value of the Special Currency Basket was indicated as Rs.90.052266 effective from September 04, 2013.

2. AD Category-I banks are advised that a further revision has taken place on September 10, 2013 and accordingly, the Rupee value of the Special Currency Basket has been fixed at

Burma Border Trade – Motor Vehicles below 1000 CC Allowed

Typological Error Corrected

Subject: Indo-Myanmar Border Trade - Amendment in the Public Notice No. 30(RE-2012)/2009-2014 dated 16.11.2012.

27-PN(RE) In exercise of powers conferred under Paragraph 2.4 (DoR) of the Foreign Trade Policy, 2009-14, the Director

General of Foreign Trade hereby makes the following amendment in the Public Notice No. 30(RE-2012)/2009-2014 dated 16.11.2012.



2. At Sl. No. 22 of Para 2(iii), Public Notice No. 30 (RE-2012)/2009-2014 dated 16.11.2012 notified commodity/item "Three Wheelers/Cars below 100 CC" for import/export under Indo-Myanmar Border Trade. There has been a typological error in the description of the item. The description of the item is revised now as "**Three Wheelers/Cars below 1000 CC**"

3. All other provisions of Public Notice No. 30(RE-2012)/2009-2014 dated 16.11.2012 shall remain unaltered.

4. Effect of Public Notice

A typological error has been corrected in Sl. No. 22 of Para 2(iii) of Public Notice No. 30(RE-2012)/2009-2014 dated 16.11.2012 which is to be read as "Three Wheelers/Cars below 1000 CC", in place of "Three Wheelers/Cars below 100 CC".

Period of Investigation

14. The period of investigation (POI) for the purpose of present investigation is from 1st April, 2012 to 31 st March, 2013. However, for the purpose of analyzing injury, the data of previous three years, i.e. Apr'09-Mar'10, Apr'10-Mar'11, Apr'11-Mar'12 and the proposed period of investigation has been considered.

[Full text is available at our website www.worldtradescanner.com]

Regularisation of EO Default – Interest not to Exceed Original Duty Amount

Ntnf 46
26.09.2013
(DoR)

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in each of the notifications of the Government of India in the Ministry of Finance (Department of Revenue) specified in column (2) of the Table below, which shall be amended or further amended, as the case may be, in the manner as specified in the corresponding entry in column (3) of the said Table, namely :-

The following changes have been incorporated in the original notifications.

In the said notification, the following paragraph shall be inserted namely: –

“In a case of default in export obligation, when the duty on goods is paid to regularise the default, the amount of interest paid by the importer shall not exceed the amount of duty if such regularisation has been dealt in terms of Public Notice of the Government of India in the Ministry of Commerce No. 22 (RE-2013)/2009-2014 dated the 12th August, 2013.”

Table

SNo.	Notification number and date	Amendments
(1)	(2)	(3)
1	160/1992-Customs, dated the 20 th April, 1992	after the opening paragraph and before the Table.
2	203/1992-Customs, dated the 19 th May, 1992	after the opening paragraph and before the Explanations.
3	204/1992-Customs, dated the 19 th May, 1992	after the opening paragraph and before the Explanations.
4	307/1992-Customs, dated the 28 th December, 1992	after the opening paragraph and before the Table.
5	104/1993-Customs, dated the 16 th March, 1993	after the opening paragraph and before the Explanation.
6	122/1993-Customs, dated the 14 th May, 1993	after the opening paragraph and before the Explanation.
7	79/1995-Customs, dated the 31 st March, 1995	after the opening paragraph and before the Explanations.
8	80/1995-Customs, dated the 31 st March, 1995	after the opening paragraph and before the Explanation.
9	106/1995-Customs, dated the 2 nd June, 1995	after the opening paragraph and before the Explanation.
10	107/1995-Customs, dated the 2 nd June, 1995	after the opening paragraph and before the Explanation.
11	110/1995-Customs, dated the 5 th June, 1995	after the opening paragraph and before the Table.
12	111/1995-Customs, dated the 5 th June, 1995	after paragraph 2 and before the Table.
13	130/1995-Customs, dated the 25 th August, 1995	after the opening paragraph and before the Explanation.

14	148/1995-Customs, dated the 19 th September, 1995	after the opening paragraph and before the Explanation.
15	149/1995-Customs, dated the 19 th September, 1995	after the opening paragraph and before the Explanation.
16	28/1997-Customs, dated the 1 st April, 1997	after the paragraph 2 and before the Table.
17	29/1997-Customs, dated the 1 st April, 1997	after the paragraph 3 and before the Table.
18	30/1997-Customs, dated the 1 st April, 1997	after the paragraph 2 and before the Explanation.
19	31/1997-Customs, dated the 1 st April, 1997	after the paragraph 2 and before the Explanation.
20	77/1998-Customs, dated the 16 th October, 1998	after the opening paragraph and before the Explanation.
21	48/1999-Customs, dated the 29 th April, 1999	after the opening paragraph and before the Explanation.
22	49/2000-Customs, dated the 27 th April, 2000	after the paragraph 4 and before the Table.
23	50/2000-Customs, dated the 27 th April, 2000	after the opening paragraph and before the Explanation.
24	51/2000-Customs, dated the 27 th April, 2000	after the paragraph 2 and before the Explanation.

25	43/2002-Customs, dated the 19 th April, 2002	after the paragraph 2 and before the first Explanation.
26	44/2002-Customs, dated the 19 th April, 2002	after the paragraph 4 and before the Table.
27	47/2002-Customs, dated the 22 nd April, 2002	after the paragraph 2 and before the Explanation.
28	55/2003-Customs, dated the 1 st April, 2003	after the paragraph 4 and before the Table.
29	56/2003-Customs, dated the 1 st April, 2003	after the opening paragraph and before the Explanation.
30	91/2004-Customs, dated the 10 th September, 2004	after the paragraph 2 and before the Explanation.
31	93/2004-Customs, dated the 10 th September, 2004	after the paragraph 3 and before the Explanation.
32	94/2004-Customs, dated the 10 th September, 2004	after the paragraph (2) and before the Explanation.
33	97/2004-Customs, dated the 17 th September, 2004	after the paragraph 5 and before the Explanation.
34	40/2006-Customs, dated the 1 st May, 2006	after the paragraph 3 and before the Explanation.
35	64/2008-Customs, dated the 9 th May, 2008	after the paragraph 4 and before the Explanation.
36	136/2008-Customs, dated the 24 th December, 2008	after the paragraph 3 and before the Explanation.

[F.No.605/32/2013-DBK]

New Exchange Control Form EDF must for All Goods Export from 1 October

- EDF Replaces GR/PP Procedure
- EDF Download from RBI Website Attested by Customs and Submission to Bank

Sub: Export of Goods and Services- Simplification and Revision of Declaration Form for Exports of Goods/Softwares

AP(DIR Srs) Cir.43
13.09.2013
(RBI)

Attention of the Authorised Dealers is invited to Regulation 6 of the Notification No. FEMA 23/2000-RB dated May 3, 2000 viz. Foreign Exchange Management (Export of Goods and Services) Regulations, 2000, as amended by the Notification No.FEMA 36/2001-RB dated February 27, 2001 and A.P. (DIR Series) Circular No. 80 dated February 15, 2012 ,in terms of which every exporter of goods or softwares has to give declaration in one of the forms (GR/PP/SDF/SOFTEX/Bulk SOFTEX) and submit it to the specified authority for certification.

2. In order to simplify the existing form used for declaration of exports of Goods/Softwares, a common form called “Export Declaration Form” (EDF) has been devised to declare all types of export of goods from **Non-EDI** ports and a common “SOFTEX Form” to declare single as well as bulk software exports. The EDF will replace the existing GR/PP form used for declaration of export of Goods. The procedure relating to the exports of goods through EDI ports will remain the same and SDF form will be

applicable as hitherto. The EDF and SOFTEX form have been given in Annex I and Annex II respectively.

3. Under the revised procedure, the exporters will have to declare all the export transactions, **including those less than US\$25000**, in the form as applicable.

4. Reserve Bank of India will be extending the facilities to exporters for online generation of SOFTEX Form No. (Single as well as Bulk) for use in Off-Site Software exports, in addition to EDF Form No. (Present web-based process of generation of GR Form No. gets replaced) through its website www.rbi.org.in. In order to generate the above number, the applicant has to fill-in the online form (Path www.rbi.org.in – Forms – FEMA Forms – Printing EDF/SOFTEX Form No.), thereafter, the related EDF/SOFTEX Form No. would be generated for each transaction by the applicant exporter. The specimen of online form and the advice are given in Annex III. The present facility of manual allotment of single as well bulk SOFTEX form number by Regional Offices of RBI would be dispensed with accordingly.

5. The Foreign Exchange Management Act (FEMA) requires exporters to complete the EDF/SOFTEX Form using the number so allotted and submit them to the specified authority first for certification and then to AD for necessary action as hitherto.

6. The above instruction will come into force from **October 1, 2013**. Authorised Dealers may bring the contents of this circular to the notice of

their constituents concerned.

7. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the FEMA, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

[Annexure I, Annexure II and Annexure III available at our website www.worldtradesScanner.com]

Exporter Undertaking Project and Service Exports (PEM) Contracts Abroad should Submit Form DPX-3 also to Approving Authority within 30 days of Entering into Contract

Subject: Export of Goods and Services – Project Exports

AP(DIR Srs) Attention of Authorized Dealers Cir.51 (AD) is invited to A. P. (DIR Series) Circular No. 32 dated 20.09.2013 (RBI) October 28, 2003 in terms of which Memorandum of

Instructions on Project and Service Exports (PEM) had been revised and A. P. (DIR Series) Circular No. 118 dated June 26, 2013 in terms of which the time limit to submit form DPX 1, PEX-1 and TCS-1 was increased to 30 days of entering contract for grant of post-award approval.

2. With specific reference to Para B.7, Para B.9, Para C.5 and Para C.6 of Memorandum of Instructions on Project and Service Exports (PEM), enclosed to A. P. (DIR Series) Circular No. 32 dated October 28, 2003, it has been

decided that submission of forms DPX1, PEX-1, TCS-1 and DPX-3, to the Office of the Reserve Bank of India (Foreign Exchange Department) within whose jurisdiction the Head Office of the exporter is situated, by the Approving Authority (AA) such as AD Bank / Exim Bank/ Working Group may be dispensed with. However, submission of these forms to ECGC and Exim Bank where their participatory interests by way of funded / non-funded facilities, insurance/ risk cover, etc are involved may continue.

3. All other instructions issued in terms of PEM, notified vide A. P. (DIR Series) Circular No. 32 dated October 28, 2003 and A.P. (DIR Series) Circular No. 118 dated June 26, 2013, shall remain unchanged.

Service Tax Arrests only for Rs. 50 lakhs Plus Evasion Cases

Subject: Guidelines for arrest and bail in relation to offences punishable under the Finance Act, 1994

171-ST Section 103 (K) of the Finance Act, 2013 has introduced Sections 90 & 91 in the Finance Act, 1994, with effect

from 10th May, 2013. In terms of section 90 of the Finance Act, 1994, as amended, offences under section 89(1) (ii) shall be cognizable and all other offences shall be non-cognizable and bailable. In terms of section 91(1) read with section 89(1) (i) and (ii) of the Finance Act, 1994, as amended, the power to arrest has been introduced in cases involving evasion of service tax covered under section 89(1) (i) and (ii) of the Finance Act, 1994, as amended and the amount of service tax evaded exceeds rupees fifty lakh. In this context, the following points may be noted for strict compliance:-

1.2 The following cases are covered under section 89(1) (i):

1.2.1 where a person knowingly evades the payment of service tax, or

1.2.2 avails and utilizes credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules, or

1.2.3 maintains false books of accounts or fails to supply any information which he is required to supply or supplies false information, and the amount of service tax involved is more than fifty lakh rupees.

In such cases, the Assistant Commissioner or the Deputy Commissioner shall, for the purpose of releasing an arrested person on bail or other-

wise, have the same powers and be subject to the same provisions as an officer in-charge of a police station has, and is subject to, under Section 436 of the Code of Criminal Procedure, 1973(2 of 1974). This is in terms of section 91(3) of the Finance Act, 1994, as amended.

1.3 The following cases are covered under section 89(1) (ii):

1.3.1 where a person has collected any amount exceeding fifty lakh rupees as service tax but fails to pay the amount as collected to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due.

In such cases, after following the due procedure of arrest, the arrested person must be produced before the magistrate without unnecessary delay, and definitely within 24 hours. This is in terms of section 91(2) of the Finance Act, 1994, as amended. The magistrate will decide on whether or not to grant bail.

2.0 Conditions precedent

2.1 Since arrest impinges on the personal liberty of an individual, this power must be exercised carefully. The Finance Act 1994, as amended, has specified categories of offences in respect of which only powers of arrest may be exercised and these offences are covered under clause (i) or clause (ii) of sub-section (1) of section 89 of the Finance Act, 1994. Further, the Finance Act 1994 has also prescribed value limits of evasion of service tax exceeding Rs 50 lakh, for exercising the powers of arrest.

Swap Credit Maturity Lowered to One Year from Three Years

Sub: Overseas Foreign Currency Borrowings by Authorised Dealer Banks – Enhancement of limit

AP(DIR Srs) Attention of Authorised Dealer Category - I (AD 25.09.2013 Category – I) banks is invited (RBI) to A. P. (DIR Series) Circular No. 40 dated September 10,

2013, in terms of which AD Category I banks were allowed to borrow beyond 50 per cent of their unimpaired Tier I capital subject, inter alia, to the condition that the borrowing would have a minimum maturity of three years.

2. On a review, it has been decided to lower the requirement of minimum maturity from three years to one year for the aforesaid borrowings made on or before November 30, 2013 for the purpose of availing of the Swap facility from the Reserve Bank of India. It may be noted that after the said date, foreign currency borrowing by AD Category I banks beyond 50 per cent of their Tier I Capital shall have to be of a minimum maturity of three years.

3. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions/approvals, if any, required under any other law.

2.2 The legal stipulations in the Finance Act 1994, as amended, contained in section 91 read with section 89 must be strictly adhered to. An officer of Central Excise not below the rank of Superintendent of Central Excise can carry out an arrest on being authorized by the Commissioner of Central Excise. To authorize the arrest the Commissioner should have reason to believe that the person proposed to be arrested has committed an offence specified in clause (i) or clause (ii) of sub-section (1) of section 89. The reason to believe must be based on credible material which will stand judicial scrutiny.

2.3 Apart from fulfilling the legal requirements, the need to ensure proper investigation, prevention of the possibility of tampering with evidence or intimidating or influencing witnesses and large amounts of service tax evaded are relevant factors before deciding to arrest a person.

3.0 Procedure for arrest

3.1 The provisions of the Code of Criminal Procedure 1973 (2 of 1974) relating to arrest and the procedure thereof must be adhered to. It is therefore advised that the Commissioner should ensure that all officers are fully familiar with the provisions of the Code of Criminal Procedure 1973 (2 of 1974).

3.2 There is no prescribed format for arrest memo but an arrest memo must be in compliance with the directions in D.K Basu vs State of West Bengal reported in 1997(1) SCC 416 (see paragraph 35). The arrest memo should include:

3.2.1 brief facts of the case;

3.2.2 details of the person arrested;

3.2.3 gist of evidence against the person;

3.2.4 relevant section (s) of the Finance Act, 1994 or other laws attracted to the case and to the arrested person;

3.2.5 the grounds of arrest must be explained to the arrested person and this fact noted in the arrest memo;

3.2.6 a nominated person (as per the details provided by arrested person) of the arrested person should be informed immediately and this fact also may be mentioned in the arrest memo;

3.2.7 the date and time of arrest may be mentioned in the arrest memo and the arrest memo should be given to the person arrested under proper acknowledgment;

3.2.8 a separate arrest memo has to be made and provided to each individual/arrested person. This should particularly be kept in mind in the event that there are several arrests in a single case.

3.3 Further there are certain modalities that should be complied with at the time of arrest and pursuant to an arrest, which include the following:

3.3.1 A female should be arrested by or in the presence of a woman officer;

3.3.2 Medical examination of an arrested person should be conducted by a medical officer in the service of Central or State Governments and in case the medical officer is not available, by a registered medical practitioner, soon after the arrest is made. If an arrested person is a female then such an examination shall be made only by, or under supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.

3.3.3 It shall be the duty of the person having the custody of an arrested person to take reasonable care of the health and safety of the arrested person.

4.0 Post arrest formalities

4.1 The procedure is separately outlined for the different categories as listed in section 89(1) (i) and (ii) of the Finance Act, 1994, as amended:

4.1.1 In cases covered under section 89(1) (i), the Assistant Commissioner or Deputy Commissioner is bound to release a person on bail against a bail bond. The bail conditions should be informed in writing to the arrested person and also informed on telephone to the nominated person of the person (s) arrested. The arrested person should be also allowed to talk to a nominated person. The conditions will relate to, inter alia, execution of a personal bail bond and one surety of like amount given by a local person of repute, appearance before the investigating officer when required and not leaving the country without informing the officer. The amount to be indicated in the personal bail bond and security will depend, inter alia, on the amount of tax involved.

4.1.2 If the conditions of the bail are fulfilled by the arrested person, he shall be released by the officer concerned on bail forthwith. However, only in cases where the conditions for granting bail are not fulfilled, the arrested person shall be

produced before the appropriate Magistrate without unnecessary delay and within twenty-four (24) hours of arrest. The arrested person may be handed over to the nearest police station for his safe custody, within 24 hours, during the night under a challan, before he is produced before the Court.

4.2 In cases covered under section 89(1) (ii) and only in the event of circumstances preventing the production of the arrested person before a Magistrate without unnecessary delay, the arrested person may be handed over to nearest Police Station for his safe custody, within 24 hours, under a proper challan, and produced before the Magistrate on the next day, and the nominated person of the arrested person may be also informed accordingly.

4.3 Formats of the relevant documentation i.e. the Bail Offer Letter, the Bail Bond and the Challan for handing over to the police, in the Code of Criminal Procedure, 1973. (2 of 1974) may be followed.

4.4 Every Commissionerate should maintain a Bail Register which will have the details of the

Monthly Report on Persons Arrested in a Zone

S.No	Name, designation and age of arrested person	Date of arrest	Commissionerate	Name and Registration Number of Company	Amount of duty evaded	Role in evasion and nature of evidence collected
Total						

F.No. 137/47/2013-Service Tax

Educational Services Exempt from Service Tax

Subject: Education services – clarification.

172-ST The following representations have been received seeking clarifications regarding the levy of service tax on certain services relating to the education sector:

1. Private Schools Correspondents Confederation, Madurai.
2. Tamil Nadu Nursery, Primary, matriculation and Higher Secondary Schools Association, Chennai.
3. Punjab Association, Chennai.
4. Association of Self financing Universities of Rajasthan
5. Unaided Schools' Forum, Mumbai.
6. Vedavalli Vidyalyaya, Wallajapet.
7. Independent Schools Associations, Chandigarh.
8. Mother Teresa Public School, New Delhi.
9. BVM Global, Chennai.
10. Sastra University, Tanjavur.
11. HLC International, Chennai.
12. Sodexo Food Solutions, Mumbai.
13. Federation of Associations of Maharashtra, Mumbai.

2. The matter is covered by two provisions of the Finance Act, 1994. Section 66D of the Finance Act contains a negative list of services and clause (l) thereof reads as under:

case, arrested person, bail amount, surety amount. The money/instruments/documents received as surety should be kept in safe custody. The money should be deposited in the treasury. The other instruments/documents should be kept in the custody of a single nominated officer. It should be ensured that the instruments/documents received as surety are kept valid till the bail is discharged.

5.0 Reporting System

5.1 A report on every person arrested should be sent to the jurisdictional Chief Commissioner with a copy to DGCEI (Headquarters) the same day or on the next day.

5.2 Chief Commissioners shall send a report on every arrest to the Zonal Member within 24 hours of the arrest giving such details as prescribed in the monthly report. To maintain an all India record of arrests made in service tax, a monthly report of all persons arrested in the Zone shall be sent by the Chief Commissioner to DGCEI (Headquarters), New Delhi, by the 5th of the succeeding month, in the following format:

- “services by way of –
- (i) pre-school education and education upto higher secondary school or equivalent;
 - (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
 - (iii) education as a part of an approved vocational education course;”.

Further section 93(1) of the Finance Act, 1994, enables the Government to exempt generally or subject to such conditions taxable service of specified description. By virtue of the said power, Government has issued a notification No.25/2012-ST dated 20th June, 2012, exempting certain services. Sl.no.9 thereof reads as follows:

“Services provided to an educational institution in respect of education exempted from service tax, by way of,-

- (a) auxiliary educational services; or
- (b) renting of immovable property;”.

As defined in the said notification, “auxiliary educational services” means any services relating to imparting any skill, knowledge, education or development of course content or any other knowledge-enhancement activity, whether for the students or the faculty, or any other services which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, including services relating to admission to such institution, conduct of examination, catering for the students under any mid-day meals scheme

sponsored by Government, or transportation of students, faculty or staff of such institution.

3. By virtue of the entry in the negative list and by virtue of the portion of the exemption notification, it will be clear that all services relating to education are exempt from service tax. There are many services provided to an educational institution. These have been described as "auxiliary educational services" and they have been defined in the exemption notification. Such services provided to an educational institution are exempt from service tax. For example, if a school hires a bus from a transport operator in order to ferry students to and from school, the transport services provided by the transport operator to the school are exempt by virtue of

the exemption notification.

4. In addition to the services mentioned in the definition of "auxiliary educational services", other examples would be hostels, housekeeping, security services, canteen, etc.

5. Thus the apprehensions conveyed in the representations submitted by certain educational institutions and organizations have no basis whatsoever. These institutions and organizations are requested not to give credence to rumours or mischievous suggestions. If there is any doubt they are requested to approach the Chief Commissioner concerned.

6. All concerned are requested to acknowledge the receipt of this circular.

F. No.B1/14/2013-TRU

in force.

This is the third dispute between the two countries regarding the latter's customs measures on similar categories of products. The first dispute (DS348) dates back to 2006, and was settled through a mutually agreed solution. The second (DS366) advanced to the panel stage, with the panel report adopted in 2009.

COOL Compliance Panel Established

The WTO's Dispute Settlement Body (DSB) also agreed this week to establish a compliance panel in the country of origin labelling (COOL) disputes, following the second requests of Canada and Mexico (DS384 and DS386, respectively). The first requests were blocked by the US last month.

The compliance panel will determine whether the amended COOL measure is in line with Washington's WTO obligations, following the Appellate Body's 2012 ruling that found the original measure to be in violation of international trade rules. Canada and Mexico have complained that the changes the US introduced in order to comply with the ruling are actually more trade-restrictive and discriminatory than the original policy.

In a separate development earlier this month, a US domestic court denied the request of a coalition of meat and livestock organisations for a preliminary injunction against enforcing the amended COOL rule. One of the plaintiffs, the Canadian Cattlemen's Association, has already promised to appeal the court's decision.

"The cost of COOL to Canadian producers and industry is unacceptable and we will continue until a viable remedy is reached," the group said.

Panel Established in Colombia-Panama Textiles Case

A panel is also set to hear Panama's complaint against Colombia regarding Bogota's tariff and customs measures on imports of certain textiles, apparel, and footwear (DS461). The compound tariff at issue, which entered into force in March for a one-year period, consists of both an ad valorem levy - expressed as a percentage of the customs value of the goods -

and a specific levy, expressed in units of currency per unit of measurement. The two are applied simultaneously.

Panama City argues that this compound tariff exceeds the Bogotá's bound levels in its tariff schedule for such products, and that it is not applied to imports originating from countries with which the latter has free trade agreements

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Customs Valuation Exchange Rates			
20 September 2013			
		Imports	Exports
Schedule I [Rate of exchange of one unit of foreign currency equivalent to Indian Rupees]			
1	Australian Dollar	59.80	58.35
2	Bahrain Dinar	172.65	163.20
3	Canadian Dollar	62.20	60.65
4	Danish Kroner	11.50	11.15
5	EURO	85.45	83.45
6	Hong Kong Dollar	8.25	8.10
7	Kenyan Shilling	74.40	70.25
8	Kuwaiti Dinar	229.25	216.55
9	New Zealand Dollar	52.60	51.30
10	Norwegian Kroner	10.85	10.55
11	Pound Sterling	101.75	99.45
12	Singapore Dollar	50.80	49.60
13	South African Rand	6.65	6.25
14	South Arabian Riyal	17.35	16.40
15	Swedish Kroner	9.95	9.65
16	Swiss Franc	69.15	67.50
17	UAE Dirham	17.70	16.75
18	U.S. Dollar	63.80	62.75
Schedule II [Rate of exchange of 100 units of foreign currency equivalent to Indian rupees]			
1	Japanese Yen	64.55	62.95

(Source: Customs Notification 100(NT)/19.09.2013)

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