

# Rectifications such as these are welcome



## EXIM MATTERS

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Last week, the Directorate General of Foreign Trade (DGFT) gave an option to exporters who had incorrectly availed of twin benefits. Namely, the benefit of duty credit scrips under the Status Holder Incentive Scheme (SHIS) and authorisations under the zero duty Export Promotion Capital Goods (EPCG) scheme in the same year. They could surrender one of the two and regularise the matter.

This is a welcome dispensation. It will give needed relief to exporters who were facing duty demands, penalties and litigation.

The SHIS and zero duty EPCG schemes were introduced in 2009. SHIS gave rewards by way of duty credit scrips, based on exports made in the previous year. The zero duty EPCG scheme allowed duty-free import

against an obligation to export in future (except in the case of the post-export EPCG scheme). The Foreign Trade Policy (FTP) allowed claim of either SHIS or zero duty EPCG benefit in the same year. However, there was no bar to claim of SHIS and three per cent EPCG authorisation in the same year.

The restriction against claiming benefits under both SHIS and zero duty EPCG in the same year were not worded precisely in the FTP and the related customs exemption notification. Many exporters understood the provisions to mean that the SHIS benefit could be claimed on the basis of previous year exports, along with zero duty EPCG authorisation. Even some departmental officers understood the provisions the same way and issued duty credits under SHIS and zero duty EPCG authorisation in the same year to exporters.

Later, the wordings in FTP and the exemption notification were amended but, by then, enough damage had been done. The department of revenue intelligence raided the premises of many exporters, seized capital goods imported under the schemes and issued showcause notices, most of which are yet to be adjudicated. Such cases can be closed if exporters take advantage of the flexibility now given by the DGFT.

The essence of DGFT's public notice (number 30, dated September 8) is that exporters should either surrender one of

the benefits or convert their zero duty EPCG authorisations into three per cent ones. This has to be done by the exporter who claimed the benefits and not the person to whom the SHIS was transferred. The amount of duty credit transferred will be treated as utilisation by the exporter to whom SHIS was issued by DGFT.

The return of benefit must be by way of surrender of unutilised SHIS duty credit scrips or zero duty EPCG authorisations or by payment of the utilised amount in cash or debit to any other transferable duty credits issued under the FTP. The interest has to be paid in cash. No penalty will be levied. A time limit of nine months has been given to exporters to regularise their cases. The Central Board of Excise and Customs (CBEC) will issue a separate circular for guidance of its field formations, says DGFT.

The public notice is worded clearly and gives a table detailing different scenarios for dealing with incorrect availing of SHIS and zero duty EPCG benefits. It is a well-thought notice. DGFT and the revenue department deserve appreciation for understanding a genuine problem, caused by incorrect drafting, and giving the necessary relief that can put an end to all unnecessary litigation on this issue.

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