GOVERNMENT OF INDIA
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF FOREIGN TRADE
UDYOG BHAWAN, NEW DELHI – 110 011

Policy Circular No**. 38 / 2009-14** **Dated: 15th July 2010**

To

All Regional Authorities
All Service Providers in Telecom Sector
All Service Providers

Subject: Telecom Sector and their entitlement under SFIS scheme and other issues of SFIS scheme.

Attention is invited to Minutes of the PIC Meeting No. 04/AM11 held on 5.7.2010. In the PIC meeting, the issues regarding the entitlement of the Telecom Sector applicants under SFIS scheme were deliberated de-novo.

1. As decided in the PIC meeting No. 04/AM11 held on 5.7.2010:
   a. The words 'relating to exports' appearing in Para 9.53(iv) would cover services provided in relation to export of goods (like for the port services on export cargoes). Since the Policy Circular No. 6 (RE-2005)/2004-2009 dated 8.6.2005 is not in consonance with the above interpretation, and consequently Policy Circular No. 6 (RE-2005)/2004-2009 dated 8.6.2005 is hereby rescinded ab-initio.

   b. As decided in the PIC meeting No. 04/AM11 held on 5.7.2010, Para 3(i) of Policy Circular 25(RE-2007)/2004-2009 dated 1.1.2008 is not in consonance with the above interpretation, and consequently Para 3(i) of Policy Circular 25(RE-2007)/2004-2009 dated 1.1.2008 is hereby deleted ab-initio.

2. RAs shall review all the previously sanctioned Telecom Sector SFIS Cases (as well as DFCE for Service Providers cases of EXIM Policy (RE2003)) as per this Policy Circular and the Minutes of the PIC meeting No. 04/AM11 held on 5.7.2010. It may also be noted that in the Telecom Sector, there are 3 types of services, namely ILDO, NLDO and AP (for mobile network). A telecom company /firm could either be AP or NLDO as well as an ILDO. Thus, each applicant shall be directed to clearly indicate whether he is an ILDO or NLDO or AP or a combination of these and segregate the FX earned for each type. Further, against each type, there could be subcategories as detailed in PIC minutes for meeting No. 04/AM11 held on 5.7.2010. Moreover, a telecom company / firm could also earn FX from Data Service or Maintenance Service etc. These are listed in the Minutes at Sr. No. 4(i) to 4(v) and each applicant should clearly indicate FX earned for each such subcategory.

3. RAs are required to take the following action in a time bound manner for SFIS Cases of Telecom Sector (including the DFCE for Service Providers cases of EXIM Policy (RE2003)) and cases relating to PC 6 dated 8.6.2005:

   a. Re-open to review all the SFIS cases for re-computing the entitlement in each case in terms of the decision in the PIC meeting No. 04/AM11 held on 5.7.2010 and call information as required, within a time bound manner.
   b. Recover or adjudicate (at appropriate level as per financial powers)
      i). in case the review finds any excess grant of SFIS benefits; or
      ii). in case the applicant is not providing the required information in a time bound manner.
   c. Since the interpretation of the SFIS policy has taken place in PIC meeting recently held on 5.7.2010, no malafide can be ascribed to the applicants in cases where excess grant of SFIS benefit is established and duty credit amount, so granted in excess, be recovered without imposing any penal recovery of interest. This would uphold the principle of natural justice.
   d. Report the progress to DGFT headquarters on a monthly basis, for each telecom sector applicant.

The review exercise should be completed within 6 months from the date of this Policy Circular.

4. Further, it is pointed out to RAs that in terms of Para 3.6.1(h) of the HBPv1 2009-14 read with Policy Para 3.12.2, 3.12.3, & 3.12.4 of the FTP 2009-14, Telecom Sector is not entitled for SFIS benefits on foreign exchange earned from the year 2009-10 onwards.

This issues with the approval of DGFT.

Sd/-
(A.K. Singh)
Joint Director General of Foreign Trade

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