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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE

PUBLIC NOTICE NO. 40 (RE-2003)/2002-2007 NEW DELHI:
Dated :28th January , 2004

In exercise of powers conferred under Paragraph 2.4 of the Export and Import Policy 2002-2007, the Director General of Foreign Trade hereby makes the following amendments in Handbook of Procedures (Vol. I):

1. Attention is invited to Para 3.7.2.1 of Exim Policy for Status Holders related to Duty Free Credit Entitlement for Status Holders. Large number of exporters have requested for clarifications relating to the policy/ procedure for implementing the scheme.

The Scheme was announced as part of the initiatives taken in the Exim Policy announced on 31st March 2003 with the specific objective of accelerating the incremental growth in exports and to facilitate India emerging as a major base for sourcing different products and services for the rest of the world. It was recognized that status holders would continue playing a significant and increasing role for boosting exports particularly from the small-scale sector, as most of the small scale units would not be in a position to directly access the international market. In view of this, duty free import entitlement @ 10% of the incremental growth in value of exports was allowed, subject to the condition of eligibility on actual user condition, which could be passed on to supporting/associate manufacturers/job worker for ultimate production. Since the Scheme was intended to be a specific incentive for fast growing status holders, the benefits would be available w.e.f 1st April 2004.

Being a new initiative, a large number of representations have been received from Trade Associations/ Export Promotion Councils as well as the individual exporters seeking clarifications on various points relating to the implementation of the Scheme. At the same time, Government has received reports that some Status Holders are trying to increase their export turnover by taking credits for the export of others without putting any significant efforts in increasing exports. Such diversion/enhancement of exports merely to increase benefits under the Scheme in this manner would not lead to the intended objectives of incremental growth in exports. Such transactions amount to misuse of the Scheme. In view of this, on both these counts it has become essential to lay down specific norms for the implementation of the Scheme.

In view of the above considerations and in exercise of powers conferred under Para 2.4 of the Export and Import Policy, 2002-2007, the Director General of Foreign

Trade hereby makes the following insertions below paragraph 3.2.5 of Handbook of Procedures (Volume 1):-

Duty Free Import Entitlement for Status Holders-Guidelines	**3.2.6 A**	The scheme will be applicable to status holders who were also status holders as on 31.3.2003 and who had achieved minimum export turnover of 25 crores in the year 2003-04 - I. For direct as well as third party exports, the Export documents viz Export Order, Invoice, GR form, Bank Realization Certificate should be in the name of applicant only. However for the third party exports, where goods have been procured from a manufacturer, the shipping bill should contain the name of the exporter as well as the supporting manufacturer. II. Goods allowed to be imported under this scheme shall have a nexus with the products exported and a declaration in this regard shall be made by the applicant in Appendix 17D. III. The licensing authority shall at the time of issuance of the duty free credit entitlement certificate endorse the name of the associate manufacturer/ supporting manufacturer/job worker on the certificate as declared by the applicant. Goods imported against such entitlement certificate shall be used by the status holder or his supporting manufacturer/ job worker in proportion to the value of their direct contribution to the entitlement. IV. The last date for filing of such applications shall be 31^{st} December. V. The duty free credit entitlement certificate shall be issued with a single port of registration. For each duty free credit entitlement certificate, split certificates subject to a minimum of Rs 5 lakh each and multiples thereof may also be issued. A fee of Rs 1000/- each shall be paid for each split certificate. However, a request for issuance of split certificate(s) shall be

		made at the time of application only and shall not be considered at a later stage. VI. The duty free import entitlement certificate shall be valid for a period of 12 months from the date of issue. The status holder shall within one month of the last imports made under this certificate or within one month of expiry of the certificate which ever is earlier, submit a statement of imports/ utilization made under the certificate as per Appendix 17E, to the jurisdictional Regional Licensing Authority who have issued the Certificate with a copy to the jurisdictional Excise authorities.

2. In terms of Para 3.2.5 of Handbook of Procedures (Volume 1), the following items would not be taken into account for computation of entitlement and export performance under Duty Free Credit Entitlement Scheme for Status Holders:

a. Rough, uncut and semi polished diamonds
b. Gold, silver in any form including plain jewellery thereof
c. Food grains sourced from central pool maintained by FCI
d. Items exported under free shipping bills

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3. In terms of Para 3.2.5 of Handbook of Procedures (Volume 1) the following items would not be allowed for imports under Duty Free Credit Entitlement Certificate for Status Holders:

a. Agricultural products which fall under Chapters 1-24 of ITC (HS) Classification of Export and Import items

4. Paragraph 3.18 pertaining to the "Duty Free Credit Entitlement for Service Providers" is amended as under:

a. Service providers (other than hotels and service providers in the tourism sector fulfilling the criteria mentioned in paragraph 9.47 of the Policy shall be entitled to duty free credit for imports equivalent to 10% of the average foreign exchange earned by them in the preceding three licensing years. However, hotels (one star and above), heritage hotels, stand-alone restaurants and other service providers in tourism sector approved and registered with Department of Tourism, Govt. of India, shall be entitled to duty free imports equivalent to 5% of the average foreign exchange earned by them in the preceding three licensing years. For one & two star hotels and stand-alone restaurant, the free foreign exchange earned through international credit cards only shall be taken into account for the entitlement under the scheme and the same would be vetted through a bankers statement that forms part of the application under Appendix 36A.

b. All categories of Service providers will be entitled for benefits under the scheme subject to achieving a minimum total free foreign exchange of Rs 30 lakhs in the preceding 1/2/3 licencing years.

c. The duty free credit entitlement certificate shall be used for import of any capital goods including spares, office equipment(s) & professional equipment(s), office furniture(s) & consumables provided such goods are freely importable under ITC(HS). However, import of agricultural products, dairy products, motor cars, sports utility vehicles and all purpose vehicles shall not be allowed even if such items are freely importable under ITC(HS).

d. The benefit under this scheme is subject to actual user condition. The duty free credit entitlement certificate and the goods imported thereunder shall be non-transferable.

e. A single consolidated application for the duty free credit entitlement certificate shall be filed with the jurisdictional regional licensing authority in Appendix-36A by the Registered office in case of a company and Head Office in case of others. The last date for filing of such application shall be 31st December.

f. Where the applicant is the branch office or the individual units of the service provider, it shall furnish (i) self certified copy of any valid documentary evidence such as tax return etc. Where the name of the branch/unit is given and (b) an authority letter from the Registered Office of a company or head office of a firm, clearly, indicating that the Registered/Head office or its branches and unit(s) have not been declared defaulter or otherwise made in eligible for import/export under any of the provisions of the policy.

g. The Applicant can apply for split up of licence subject to the condition that each such licence will be of a minimum value of Rs.5 Lakhs and the applicant will be required to pay additional fee of Rs.1000/- per split up licence in addition to the application fee for the duty free entitlement certificate as per Appendix-29 of Handbook of Procedure. The request for split up licence shall be entertained only at the time of submission of initial application.

h. The certificate holder intending to procure the item (s) from the indigenous sources/State Trading Enterprises in lieu of direct import has the option to source them against Advance Release Order (ARO) or invalidation letter, as the case may be, which shall be denominated in foreign exchange/Indian Rupees.

i. The entitlement can be used for import from private/public bonded warehouses subject to the fulfillment of provision of paragraph 2.28 of Exim Policy and the terms and conditions of the notification issued by Department of Revenue from time to time in respect of private/public bonded warehouses.

j. The duty free entitlement certificate shall be valid for a period of 12 months. The service provider shall within one month of the completion of imports made or the expiry of the validity of the duty free entitlement certificate whichever is earlier, submit a statement of imports made under the certificate as per Appendix-36B to the jurisdictional Regional Licensing Authority with a copy to the jurisdictional Excise authorities (service tax cell).

The amended version of Appendix 36A pertaining to “application form for duty free entitlement to service providers” is appended to this Public Notice.

This issues in Public Interest.

(L. MANSINGH)
DIRECTOR GENERAL OF FOREIGN TRADE

File No: 01/94/180/Public Notice/ AM04/ PC IV

Appended to Public Notice No 40 Dated 28th January, 2004

APPENDIX 36-A

APPLICATION FORM FOR DUTY FREE ENTITLEMENT TO SERVICE PROVIDERS

(Please see paragraph 3.8 of the Policy and 3.18 of the Handbook)

FOR OFFICIAL USE

File No.:-------------------------------- Date:-----------------------------
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1. Name and address : ....

2. I E Code Number : ....

3. Category of service provider : a) Hotels/ Stand-alone restaurants
   b) Others (pl. indicate serial number as per Appendix-36)

4. Whether holding a status certificate : Yes/No. [ ]

5. Service Tax Registration No:
   (unless exempted)

6. Details of services:

Services rendered in free foreign exchange			Average service rendered in the	Duty free entitlement
2000-01 (1)	2001-02 (2)	2002-03 (3)		

						preceding three years (in Indian rupees)	
Direct	*Indirect	Direct	*Indirect	Direct	*Indirect	(4)	(5) = 0.1* (4) /0.05*(4) for hotels and restaurants

7. Port of Registration (for import purposes) :……………………………………………………

DECLARATION

I/We hereby declare that this application is based on services rendered in free foreign exchange during the preceding three licencing year.

I/We further certify that I/We am/are authorised to verify and sign the statement on behalf of the applicant.

I/We fully understand that any information furnished in the above statement, if proved incorrect or false, will render me/us liable to face any penal action or other consequences as may be prescribed in law or otherwise warranted.

I/We further declare that I/We has/have not applied nor obtained another duty entitlement certificate issued under paragraph 3.8 of the Policy based on the exports in free foreign exchange during the preceding three licencing year.

I/We further declare that I/We shall comply with the provisions of the Exim Policy/Handbook of Procedure (Vol.1) and the relevant Customs notification while importing the goods under the scheme and subsequent use of the same under actual user condition.

1. I/We further declare that in respect of capital goods, a certificate from jurisdictional Deputy Commissioner Central Excise, Assistant Commissioner of Central Excise or an independent Chartered Accountant, as the case shall be produced confirming installation and use of capital goods in the importer's factory or premises, within six months from the date of imports or within such extended period as the said Deputy Commissioner of Customs or Assistant Commissioner of Customs may allow.

2. I/We declare that the receipts of foreign exchange (including payment through international credit cards for one & two star hotels and standalone restaurants) are for bonafide service transactions rendered by the applicant and no services have been purchased from third parties for availing the duty free entitlement facility.

Signature :.............................

Name in Block Letters :.............................

Designation :............................

Place :............................

Date .... Full Official Address :............................

Residential Address :............................

E.Mail address :............................

Official

Stamp/ Seal

CERTIFICATE OF CHARTERED ACCOUNTANT/COST AND WORKS ACCOUNTANT/ COMPANY SECRETARY

I/We hereby confirm that I/We have examined the prescribed registers and also the relevant records of M/s................ for the validity period of Duty Free Credit Entitlement Certificate .... and hereby certify that:

(i) M/s............................. (Name and address of the applicant) who is a service provider under the category .... at S.No. .... of Appendix-36 have made imports under the Duty Free Credit Entitlement Certificate as per the details supplied at Sl.No.6.

(ii) The following documents/records have been furnished by the applicant for services provided against Direct/Indirect foreign exchange and have been examined and verified by me/us:

In respect of direct foreign exchange earnings, we have verified the certified statements from the Banker/ Chartered Accountant of Foreign Exchange Earnings. In respect of *indirect forex earnings duly certified by Chartered Accountant such as amount received from Travel agents/Tour Operators, Foreign Airlines for stay of Crew and Catering, UN organizations and Diplomatic Missions and Encashment Certificate from authorized dealers and others in terms of DGFT Policy circular no.60/97-2002 dated 24.12.1998.

The financial information given in the above statement is in agreement with the relevant register and records; the same has been incorporated in the books of accounts maintained by the Service provider; and is also true and correct.

It has been ensured that the information furnished is true and correct in all respect; no part of it is false or misleading and no relevant information has been concealed or withheld;

It has been ensured that the information furnished is true and correct in all respect; no part of it is false or misleading and no relevant information has been concealed or withheld;

Neither I, nor any of my partners is a partner, director, or an employee of the above-named entity or its associated concerns;

I/we fully understand that any statement made in this certificate, if proved incorrect or false, will render me/us liable to face any penal action or other consequences as may be prescribed in law or otherwise warranted.

(* Strike out whichever are not applicable)

Signature.............................

Place..........   Tel.No. ....

Official Stamp/ Seal

Date...........

Regn. No. and Date of the Corporate Membership..........

BANKERS CERTIFICATE (FOR ONE & TWO STAR HOTELS, STANDALONE RESTAURANTS)

I/We hereby confirm that I/We have examined the also the relevant records of M/s................. for the validity period of Duty Free Credit Entitlement Certificate .... and hereby certify that:

1. We certify that all payments have been made through international credit cards in free foreign exchange as per RBI guidelines in this regard.

2. We have examined all the Foreign Inward Remittance Certificates (FIRC) relating to the transactions for services rendered.

3. We certify that there has been no violation of FEMA in the case of these inward remittances.

Authorised Foreign Exchange Dealer Code No:
Alloted By RBI, ________________
Reference No: __________________
Date:___________________________
Place:__________________________

Bankers name and Address: ____

Signature of banker:_________________________

Official Stamp:

Documents to be enclosed with the application form

1. Copy of the service tax registration if applicable.