

File No.01/92/180/168/AM05/PC-VI  
Government of India  
Ministry of Commerce and Industry  
Directorate General of Foreign Trade  
Udyog Bhavan, New Delhi

Policy Circular No 1 (RE-2013/2009-14)

Dated: 29<sup>th</sup> May, 2013

**To**  
**All Regional Authorities/DCs**

A reference has been received from trade seeking certain clarifications on admissibility of deemed export benefits under para 8.2(f) of FTP. The issues have been considered for issuance of appropriate clarifications under para 2.3 of FTP.

2. Chronological sequence is described as under:

(i) **21<sup>st</sup> March, 2012: Notification No. 107(RE-2010)-2009-14**

This Notification inserted para 8.7 in the FTP. This para provided that notwithstanding any thing contained either in FTP or HBP vol.1, supply to Non-Mega Power Project shall not be entitled to any deemed export benefit.

At the bottom of this Notification, under heading "Effect of this Notification" it was stated that when the Annual Supplement to FTP is brought out, the consequential changes of this decision will be reflected in the various provisions of Chapter 8 of FTP and also HBP vol.1

(ii) **5<sup>th</sup> June, 2012: Release of Annual Supplement to FTP**

In consequence to position given in para 2 (i) above, several changes were carried out in Chapter 8 of FTP in this Annual Supplement. Para 8.2(g) of FTP (which was related to deemed export benefits for supply of goods to Power Projects and Refineries not covered in para 8.2(f) of FTP) was deleted. Non-Mega Power Project were covered under para 8.2.(g) of FTP as Non-Mega Power Projects were not entitled for zero duty import and accordingly, in view of Notification given in para 2(i) above, this para was deleted. Similarly, provisions relating to deemed export benefits for Non-Mega Power Projects were also deleted from para 8.4.4(iv) of FTP.

3. **Redrafting of para 8.2(f) in the Annual Supplement**

In the Annual Supplement released on 05.06.2012, para 8.2(f) was redrafted. This para was split in two parts. First para, 8.2(f)(i), allows deemed export benefits to supply of goods to any project or purpose which are entitled to import goods at zero customs duties in terms of the Notification No.12/2012-customs dated 17.03.2012. Second paragraph, 8.2.(f)(ii), elaborates that deemed exports benefits on such supply shall be available only if the supply is made under procedure of ICB. However, in regards to mega power project, the procedure of ICB is not required if the project has been awarded through tariff based competitive bidding or requisite quantum of power has been tied up through tariff based competitive bidding

4. **Clarifications**

In view of the position explained above, following clarifications are issued:

(i) Deemed export benefits are not available for supplies to Non-Mega Power Projects.

(ii) Para 8.2(f)(i) and para 8.2(f)(ii) of FTP are in continuation and hence to be read in conjunction. Para 8.2(f) (ii)

- of FTP lays down conditions in respect of supplies covered under para 8.2(f) (i) of FTP.
- (iii) Benefits of deemed exports under para 8.2(f) are available only if supplies are under ICB, except for Mega Power Projects. For Mega Power projects it could be ICB or other than ICB, as given in para 3 above. Para 8.3(c)(i) and para 8.4 of FTP (table given in this para) clearly provide that if supplies are under ICB, then such supplies are exempted from payment of TED. If supplies are not under ICB, then such supplies are eligible for refund.

This has been issued with the approval of DG.

(Jay Karan Singh)  
Joint Director of Foreign Trade