

OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT)

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F.No. S/12-Gen-02/06-07 AM (Exp) **23/05/2007**

Standing Order No. 21 /2007

Sub: Scope and coverage of goods imported under Target Plus Scheme
clarification reg.

Attention of officers posted in Customs House is drawn to Board Circular No. 21/2007 (Cus) dt. 08.05.2007 notified vide Public Notice No. 22 dt. 23.05.2007

regarding scope and coverage of goods allowed to be imported under Target Puls Scheme (TPS).

- The Target Plus Scheme (TPS) for the Star Export Houses was introduced in the Foreign Trade Policy (FTP) which came into force on 01.09.2004. Under the scheme the exporter gets entitled to rewards in the form of duty free credit based on incremental exports. In terms of pare 3.7.6 of the FTP the duty credit may be used for import of any inputs, capital goods including spares, office equipment, professional equipment and office furniture provided the same is freely importable, for their own use or that of the supporting manufacturer(s). In terms of para 3.2.5 (II) of the Handbook of Procedures, Vol 1 (2005 edition), goods imported under this scheme shall have a **broad nexus** with the products exported. In terms of condition No. 3 of Notification Nos. 32/2005 Cus dt. 08.04.2005 and 73/2006 Cus dt. 10.07.2006 the certificate and the goods imported against it shall not be transferred or sold.

2. It has been brought to the notice of the Ministry by the trade that some exporters had obtained duty credit certificates against exports of rice and using these certificates they have imported almonds which, after removal of the shells, have been sold in the market without payment of duty. As dry fruits / almonds cannot be used in the processing / manufacture of rice, it is alleged that the condition of broad nexus stipulated in the Handbook is not fulfilled. The actual-user condition specified in the Policy and the Customs notification is also violated because almonds, after removal of shells, are being sold in the open market. It has been alleged that the act of importation of almonds which are neither inputs not capital goods in relation to rice is nothing but misuse of the TPS.
3. The matter has been examined in consultation with the Ministry of Law (MOL). After examination of the provisions of Para 3.7.6 of the FTP and Para 3.2.5 (II) of the HBP, the MOL has opined that the FTP does not use the expression broad nexus and, therefore, the same cannot be dissociated from the words input and use mentioned in the Policy. The MOL has categorically stated that the addition in Para 3.2.5 (II) of the HBP is to facilitate the search for inputs and use and any interpretation so as to dissociate the import from the inputs and use in the export goods would make it **ultra vires** the FTP. The MOL has further stated that the words inputs and use can not be brushed aside and have to be in focus for the intended import. Together these words indicate that the item sought to be imported should be an input in the manufacture of the exported items which is required for use by the exporter or the supporting manufacturer, as the case may be. For this purpose, the intended input must have a relationship with the export product. Whereas SION will act as a prima facie evidence of the inputs, the exporter is not debarred from satisfying the authorities that there is a broad nexus between the intended import item as an input with the export product, both falling within the same product group. Ignoring to give effect to the words inputs in the beginning and own use towards the end in Para 3.7.6 of the FTP would mean to render a part of it redundant and would not be in keeping with the objective and framework of the scheme.

