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'Export obligation can be discharged only by earning foreign currency'



CHATROOM

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We had imported certain goods from China and payment was made under I.C. We find that the goods are sub-standard. We have taken this up with the supplier but he is not responding properly to our requests. Before we look at the legal options, we want to know if there is any way our government can help us.

You may refer to 'Guidelines for settlement of Trade Disputes and Complaints' given in Appendix-16 of the Handbook of Procedures, Vol. 1 (HB-1). The last Para of the guidelines says

that "the complaints of Indian exporters/importers against their importers/exporters abroad received in the office of the 'Nodal Officer' in the office of Director General of Foreign Trade (DGFT) be referred to the concerned Missions abroad for arranging for their amicable settlement. The Missions shall keep the 'Nodal Officer' informed of the action taken on such reference with an endorsement directly to such complainants and respective EPCs/CBs for any follow-up action such as publication of the names of such defaulting Importers/exporters in their journal by way of information/warning to all concerned exporter and importer firms. A data base of such cases shall also be maintained in the Trade Disputes Cell in the office of DGFT."

As manufacturers of dutiable products availing of Cenvat Credit, are we required to pay an amount of 6 per cent of the value of final products, when

we clear them without duty payment against debit to Served From India Scrip, under notification no. 34/2006-CE dated 14.06.2006?

'No', says the Tribunal, in the case of Universal Power Transformer Pvt. Ltd. [2010 (256) ELT 244 (Tri. Bang.)]. That judgment has been followed in the case of Voltamp Transformers Ltd. [2012 (276) ELT 238 (Tri. Ahmd.).

Can we discharge our export obligation against advance authorisation by export to Nepal, where payment will be received in Indian rupees?

According to Para 9.2.1 of the HB-1, "discharge of export obligation against Authorisation shall be regulated in freely convertible currency", and according to Para 9.2.4 of HB-1, "on Advance Authorisation(s), issued for exports to ACU countries, export obligation shall be denominated and discharged in ACU dollars." So, you have to realise payment in

foreign currency or ACU dollars.

Can we use duty credit scrips issued under the Target Plus Scheme (TPS) issued in August 2011 for payment of 3 per cent duty under EPCG (Export Promotion Capital Goods) scheme, according to Para 3.17.5 of the Foreign Trade Policy (FTP) or for towards payment of duty in case of defaults, according to Para 3.17.11 of the FTP? If this is not possible, can we get special permission from DGFT to do so?

Para 3.17.5 and 3.17.11 refer to duty credits issued according to the current 2009-14 FTP. Duty Credits under TPS are issued under Chapter 3 of the previous 2004-09 FTP. Therefore, in my opinion, you cannot utilise duty credit scrips issued under TPS for payment of duties according to Para 3.17.5 or 3.17.11 of the 2009-14 FTP, and you may not get any special permission to do so.

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