



PHD House, 4th Floor, Ramakrishna Dalmia Wing
4/2, Siri Institutional Area, August Kranti Marg, New Delhi – 110016,
Tel# 9599665859 E-mail: ceo@mait.com • Website: http://www.mait.com

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February 18, 2022

Shri Saurabh Gaur, IAS
Jt. Secretary
Ministry of Electronics & IT

Sub: Request to MeitY on changing the status of Certain “Restricted” HS Codes to “Free”

Ref: DGFT Notification No.54/2015-2020 dated 09th February 2022

Respected Sir,

Greetings from MAIT!

We are writing this to you regarding an issue of immediate and urgent concern for the industry with reference to the Ministry of Commerce & Industry Notification referred above dated 9th February 2022. In the referred notification, policy on various import items has undergone revision. Most importantly, many items that the IT Industry has been importing freely since years have now been positioned under “Restricted” Category. This means that these are now importable against ‘Authorization’ (**Refer Annexure A for details**).

Further, while these changes have been implemented without prior industry consultation and participation, it also comes at a time when supply chains are already under stress due to COVID and has the potential to impact the industry adversely.

In view of the facts mentioned above, **the industry requests MeitY the following: -**

1. Change from “**Restricted**” status to “**Free**” status for the mentioned HS Codes (Refer Table-I below) with immediate effect.
2. As the HS Codes brought under “**Restricted**” cater to a wide spectrum of products and sub-assemblies, kindly give an extension of six months to discuss the change so that industry can provide nuanced inputs towards the same **and avoid the immediate disruption of business**.
3. We also request that this change should not be implemented as retrospect as few applications with the old HSN Code are in place. These applications should be basis the previous HSN.

Specifically, we would like to draw your attention to the following items which are included in the Restricted Category:

Table - I

HSN Codes						
S. No.	Product Name*	Old HSN	Free/ Restricted	Product Name	New HSN	Free/ Restricted
	Pre-modification (Till 31.12.2021)			Post-modification (Effective 1.1.2022)		
1	Digital Cameras	85258020	Free	Digital Camera- Others	85258900	Restricted
2	Video Camera recorders	85258030	Free	Video Camera recorders -Others	85258900	Restricted
3	Smart Cameras	85258010	Free	Smart Cameras- Others	85258900	Restricted

4	Smart Cameras	85258030	Free	Camera Module	85258900	Restricted
				Web cameras both standalone and for Notebook computers.		
5	Smart Cameras	85258090	Free		85258900	Restricted
6	CCTV	85258020	Free	CCTV	85258900	Restricted
				Flat Panel Display (LED/LCD)- used in Mobiles, Notebook Computers, Tablet computers, All-in-One PCs (Touch & Non-touch).		
7	Flat Panel Display-LCD	Multiple	Free		85249100	Restricted
	Flat Panel Display-LED/OLED	Tariff heading was not defined earlier		Flat Panel Display (OLED)	85241100/ 85241200/ 85241900	Restricted
9				Flat Panel Display (OLED)	85249200	Restricted
10	Flat Panel Display Module for Computer Monitor	Multiple	Free	Flat Panel Display Module for Computer Monitor	85249900	Restricted
Note: - Display Assembly for Mobiles: Earlier the industry used to classify under 8517, now customs are insisting under 8524 (even if it is under 8524, the restriction to be removed)						

*** Please note that this is the product name as per industry may or may not be as per HS Code Description**

Looking forward to a favorable consideration of our request.

With regards,



George Paul
Chief Executive Officer

CC: Shri Ajay Prakash Sawhney, IAS, Secretary, Ministry of Electronics & IT
CC: Ms. Asha Nangia, Sr. Director, Ministry of Electronics & IT

NOTES

Why a said item gets “Restricted”? Principles are laid down in the Foreign Trade Policy vide Para 2.07. A clear logic and reasoning are laid down by DGFT themselves.

- (a) Restriction on imports for application of standards or regulations for classification, grading or marketing of commodity in international trade – There is no ambiguity whatsoever for these products Worldwide HSN is followed across the globe and India has no deviation.
- (b) Restriction on imports to promote establishment of a particular industry.
- (c) For preventing sudden increase in imports from causing serious injury to domestic producers or to relieve producers who have suffered such injury- There is no question of causing any injury whatsoever to any person located in India for the HS Codes referred above

In addition to the above, restriction imposed by DGFT is for protection of human health or safety; animal or plant life or health; security and environment. In no manner whatsoever, allowing import of the products mentioned above will not impact any of the above.

Once goods are “Restricted”, DGFT prefer to exercise their discretionary grounds to grant an Import Authorization as the objective of bringing certain goods as “Restricted” is to allow imports at very minimal. On the contrary, IT industry genuinely require these products time and again for meeting India customer needs.

Further, there exist Actual User Condition in Foreign Trade Policy.

Para 2.10 Actual User Condition: Goods which are importable freely without any ‘Restriction’ may be imported by any person. However, if such imports require an Authorization, actual user alone may import such good(s) unless actual user condition is specifically dispensed with by DGFT.

Goods that are freely importable, once “restricted” requires Authorization. In the said instance, persons seeking Authorization is not actual user as the aforesaid goods. These products are meant for customer needs. Meaning, the said goods would be imported and thereafter offered for sale to customers or meant for warranty services to customers. This being the scenario, importer unlikely to get an Authorization because of the Actual User Condition prevailing in Foreign Trade Policy.

Imposition of “restricted” category specificized in the letter is uncalled for, unilateral and contrary to Ministry’s Principles of Restrictions. Therefore, we request to roll back as “free” from “restricted” with immediate effect.