S.MURUGAPPAN
ADVOCATE, HIGH COURT

ASSISTED BY:
J. RAGINI, B.A., B.L.,
K.NANCY, B.COM., B.L. (HONS.),
M.S.HARSHA PRABHU, L.L.M.

CONSULTANTS:
GST, CUSTOMS,
FOREIGN TRADE LAWS,
FOREIGN EXCHANGE MANAGEMENT ACT.

BY E-MAIL / COURIER

File No.146/2022-Opinion

08.07.2022

M/s. Scope Ingredients Pvt. Ltd.,
S-10, 2nd Floor, Raja Annamalai Building,
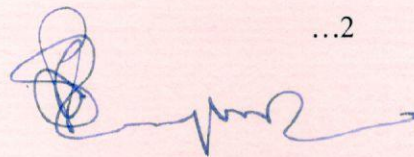No.19, Marshalls Road, Egmore,
Chennai – 600 008.

Attn.: Mr. Ramamurthy Srinath, Director-Finance <ramamurthy.sri@scope-india.com>

Sir,

Sub.: Import of Whey Permeate Powder for direct supply to Sri Lanka.

1. Kindly refer to the discussions we had a few days back at my office on the above subject.

2. It is reported that the company is contemplating to procure Whey Permeate Powder on regular basis from Lactalis Ingredients, Les Placis, 35230 Bourgbarre and supply the procured goods directly to their Sri Lankan buyer Perfetti Van Melle Lanka (Private) Limited, No.785/1, Colombo- Negombo Main Road, Liyanagemulla, Seeduwa, Sri Lanka. Or in other words, the goods will not reach any Indian port and the shipment will take place directly from Bourgbarre to Sri Lankan port.

3. In this context, you wanted to know the documentation requirement and the provisions from the view point of Foreign Exchange Management Act and the formalities required for inward as well as outward remittances.

4. It is a common practice in international trade that goods are procured by one entity from a third party and directly supplied to another party located in another country without importing the goods into the country where the entity is carrying out such transactions. This will provide several advantages including savings on freight elements and avoidance of any delay in transhipment / re-shipment of cargo.

5. As per the Master Directions issued by the Reserve Bank of India under the Foreign Exchange Management Act in respect of outward remittances for effecting imports, the importer is required to provide evidence of import, such as bill of entry. Similarly, for receiving inward remittances for goods supplied abroad, as per the Master Directions for export of goods and services, export shipping documents are necessary.

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A-2, Srivatsam, 58, Thirumalai Pillai Road, T.Nagar, Chennai – 600 017.
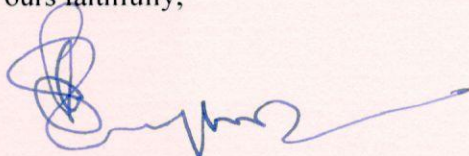Email: smurugappan53@yahoo.com
Website: www.smurugappan.com
Phone: 044-28340431

6. However, in respect of direct shipments, there will not be any import into the country and then subsequent export from that country.

7. In respect of such transactions, the Master Directions on import of goods and services, updated as on 31st May 2022, provides for a procedure. Such a procedure is given in detail under title "Merchanting Trade" in clause C.14. Clauses C.14.1 and C.14.2 explain in detail the procedure to be followed and the documentation requirements in respect of such imports which are directly supplied to a third-party buyer in another country without the import goods entering into the domestic tariff area. Relevant extracts of the Master Directions in this regard are attached.

8. Some of the important points to be noted in this connection are as mentioned below.

    a) The entire merchanting trade i.e., import procurement as well as export supply is to be routed through the <u>same AD</u> bank.

    b) The entire transactions should be completed within an overall period of <u>nine months</u>.

    c) If export payments are received first then the amount should be parked in <u>EEFC</u> account.

    d) Advance payment in respect of import is permitted for a maximum of USD 500,000/- per transaction, subject to providing of bank guarantee / unconditional and irrevocable LC.

    e) LC for making import is permitted against confirmed export order.

9. The detailed procedure set out in Clauses C.14.1 and C.14.2 may be seen. The procedural requirements and documents to be made available as per these clauses may be kept in mind and the bank approached for permitting the outward as well as inward remittances.

10. Hope the above clarifies your queries. Should you require any further clarification in this regard, please contact us.

11. Also, find attached our bill towards fees for giving the above opinion. Kindly arrange for payment.

Yours faithfully,

S. MURUGAPPAN

Attached: as above.

sm/ss