**Directorate General of Foreign Trade**

**(PRC Section)**

**Minutes of the Policy Relaxation Committee Meeting held under the Chairmanship of DGFT Shri A.K. Bhalla, Director General of Foreign Trade on 11.04.2017**

**Meeting No. 01/AM18 held on 11.04.2017 at 10:00 AM**

The following members were present in the meeting:

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|---|---|---|
| 1. | Shri K.C. Rout | Addl. DGFT |
| 2. | Shri Jaikant Singh | Addl. DGFT |
| 3. | Shri Darshan Singh | Addl. DGFT |
| 4. | Shri J.V. Patil | Addl. DGFT |
| 5. | Shri S.B.S. Reddy | Addl. DGFT |
| 6. | Shri Jay Karan Singh | Jt. DGFT |
| 7. | Shri AkashTaneja | Jt. DGFT |
| 8. | Shri Rakesh Kumar | Jt.DGFT |
| 9. | Shri S.K. Mohapatra | Dy. DGFT |

Following cases were discussed. The decision taken on the individual cases are as under:

**Case No.1: M/s. Scott-Edil Pharmacia Ltd., Chandigarh. (P.H. Case)**
F.No.**01/60/162/841/AM16/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for extension of EOP and regularization of the export made after EO period against Advance Authorization No.2210014379 dt. 14.11.2013 issued under PC-9 condition.

In terms of Para 2.59 of FTP, 2015-2020, the applicant had sought personal hearing, which was afforded to them. Mr. Anil Goel, Director and Mr. Gurjit Singh, Manager from M/s. Scott-Edil Pharmacia Ltd. appeared before the committee on 11.04.2017 and made the following submissions:

(i) They had obtained the Advance Authorisation against export orders from buyers in Syria.
(ii) However, due to disturbances in Syria, they could not export to that country.
(iii) They started looking for alternative markets and exported more than 48% of the export item to Afghanistan and Cambodia.
(iv) They had applied to PRC for extension of export obligation period. The committee in its meeting dated 08.03.2016 has extended EOP upto 30.06.2015.

(v) However, the balance export obligation was completed beyond the extended export obligation period.

(vi) In the process of getting new export order from other country, there was a delay of 3 months and 10 days in fulfilling the entire export obligation.

(v) Therefore, the Committee may consider their as a case of force majeure and extend the export obligation period so as to regularize the exports completed beyond the original / extended export obligation period.

**<u>Decision:</u>** Case was deliberated at length. Having hard to the circumstances explained by applicant that the Authorisation was obtained against export order from a Syrian buyer and the fact that there is disturbance in the said country, the Committee decided the following:

(i) Export Obligation period against Advance Authorisation No. 2210014379 dated 14.11.2013 be extended further from 18 months to 21 months i.e. till 30.09.2015.

(ii) This is subject to a payment of composition fee @ 1% per months of FOB value of export made after 18 months but upto 21st month for regularization of exports already effected.

(iii) RA shall verify the facts that the Authorisation in question was obtained against an export order from a Syrian buyer.

(iv) The minimum value addition of 15% as prescribed under Para 4.09 of FTP (2015-2020) shall be maintained.

**(Action: Applicant / RA, Chandigarh)**

**Case No.2: M/s. Renaissance RTW Asia Pvt. Ltd., Tirupur. (P.H. Case)**
F.No.**01/60/162/824/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for extension of EOP against Advance Authorization No.3210049129 dt. 29.07.2011 without imposition of composition fee.

In terms of Para 2.59 of FTP, 2015-2020, the applicant had sought personal hearing, which was afforded to them. Mr. C. Anandha Kumar, Director of the company appeared before the committee on 11.04.2017 and made the following oral as well as written submissions:

1. Renaissance RTW Asia Private Limited is a Small and Medium Enterprise, located at Tirupur in the State of Tamilnadu engaged in exporting of garments to USA and Europe since 1994. The Company employs directly more than 1500 workers and other staff whose families depend upon the sustained operations of the Company.

2. State Bank of India (SBI), Commercial branch, Coimbatore being their sole working

capital banker, marketed unauthorized foreign currency derivative products (contracts) contrary to law of land i.e. RBI guidelines to their company in the year 2007-2009 in the form of hedging to protect their export receivables from currency fluctuations.

3. As per Reserve Bank of India (RBI) guidelines, in derivative contracts, underlying of the business (exports / imports / exposure to foreign currency) is mandatory; accordingly, currency fluctuations risks are protected. Further there are two clauses in RBI guidelines, one is market maker who is authorized dealers in foreign currency and vested with commercial banks and in their case it was SBI, other one is user who are exposed to foreign currency i.e. exporters/ importers who uses the derivative contract to protect the currency fluctuations. In their case as user of hedging contracts, they have physically exported the garments as per export orders (business underlying) given for hedging, accordingly received USD and delivered to bank thereby satisfying the obligations under the contract, accordingly company had to receive money. Since subject contracts were unauthorized and not in compliance with RBI guidelines, State Bank of India, made an unauthorized claim that company have to pay money, to cover up wrongfulness committed by Bank, they wanted to convert the same to corporate loan and the applicant company did not agree to it. To put pressure on the company, SBI voluntarily stopped the business operations for 256 days from 1.4.2012- 28.2.2013 and from there permanently stopped until they come up with compromise proposal on 27.10.2015 and the matter has been completely settled on 27.11.2015 but the due to above developments company have lost heavily.

4. The following relevant details have already been submitted by them as a proof of their averments:

   i. The details of voluntarily stopping of banking operations by SBI.

   ii. The company receivables from bank are more than payables to the bank, accordingly no outstanding to SBI, on the day SBI have voluntarily stopping of bank account.

   iii. Copy of letter from Company to SBI on 04.03.2010 stating as per contract and in compliance with RBI guidelines, company have only to receive money and not SBI and no reply till the matter been voluntarily settled by SBI on 27.11.2015.

   iv. The company made a detailed legal representation to various Hon'ble courts wherein SBI have not filed any meritable counter for more than 52 hearings.

   v. Reserve Bank of India have come up with following directions on these contracts:

(a) Circular Ref No. DBOD.BP.BC.NO.69/21.03.009/2008-09 dated 29.10.2008 to keep this disputed claim in separate account.

(b) Based on above, SBI issued circular to their all branches Ref No: CCO/CPPD-ADV/60/2008-09 dated 03.11.2008 to keep this in separate account. None of the above circular been followed by SBI.

(c) RBI levied penalty on SBI for the 19 Foreign Exchange Management Act (FEMA) violations committed on contracts under dispute on 26.04.2011 and SBI admitted and paid the penalty unconditionally without appeal thereby accepting the guilt.

(d) RBI filed the details of 19 violations committed by the bank on 04.06.2013.

(e) As these contracts had originated from abroad especially from USA and UK, American department of Justice on 20.5.2015 levied billions of USD as penalty on the foreign banks in their country and further investors recovered the money.

vi. While so, on 27.10.2015 SBI voluntarily come up with compromise proposal and their disputed claim on foreign currency derivative contracts has been withdrawn, accordingly matter has been settled on 27.11.2015. Whatever money due to the bank on the regular business transactions been adjusted from the deposit and other receivables with bank.

5. Even though SBI admitted and come up with compromise proposal on 27.10.2015 and the matter been completely settled on 27.11.2015, while on the whole interim period, the company has lost heavily.

6. As State Bank of India being their sole working capital banker, stopped the entire banking operations led to the situation whereby company became unable to run and they had no other choice, therefore, entire export came to grinding halt.

7. When the goods were imported under the Authorisation, SBI stopped the business operations for 256 days during FY 2012-13, entire year of during FY 2013-14 and 2014-15 and up to 27.10.2015 during FY 2015-16. In the meanwhile, the Authorisation lost its validity to fulfill export obligation.

8. Company tried a lot to export goods after 27.10.2015 but Customs Authority did not allow shipments due to expiry of the Export Obligation period. They therefore requested to allow six months EOP extension from the date of endorsement considering force majeure, as they were helpless to discharge EO in time.

**Decision:** Having hard to the applicant at length, the committee, after deliberations decided the following;

i. Export obligation period be extended for six months from the date of endorsement.
ii. Minimum 15% value addition shall be maintained.
iii. The applicant shall execute Bank Guarantee of an amount equal to duty saved plus interest @ 18% per annum having validity of 18 months to RA.
iv. The applicant shall submit original Authorisation and BG within a month from the date of uploading of these minutes on the Directorate website for necessary endorsement on the Authorisation.
v. The applicant shall furnish export documents within one month from expiry of export obligation period evidencing fulfillment of stipulated export obligation. In case of failure, the BG executed by the applicant shall be forfeited.

**(Action: Applicant / RA, Coimbatore)**

**Case No.3: M/s. Renaissance RTW Asia Pvt. Ltd., Tirupur. (P.H. Case)**
**F.No.01/60/162/823/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for extension of EOP against Advance Authorization No.3210051882 dt. 30.12.2011 without imposition of composition fee.

In terms of Para 2.59 of FTP, 2015-2020, the applicant had sought personal hearing, which was afforded to them. Mr. C. Anandha Kumar, Director of the company appeared before the committee on 11.04.2017 and made the following oral as well as written submissions. The submissions are same as in case no.2.

**Decision:** Decision at the case number 2 is reiterated.

**(Action: Applicant / RA, Coimbatore)**

**Case No.4**: **M/s. Renaissance RTW Asia Pvt. Ltd., Tirupur.** (**P.H. Case)**
**F.No.01/60/162/822/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject:** Request for extension of EOP against Advance Authorization No.3210051346 dt. 09.12.2011 without imposition of composition fee.
In terms of Para 2.59 of FTP, 2015-2020, the applicant had sought personal hearing, which was afforded to them. Mr. C. Anandha Kumar, Director of the company appeared before the committee on 11.04.2017 and made the following oral as well as written submissions. The submissions are same as in case no.2.

**Decision:** Decision at the case number 2 is reiterated.

(Action: Applicant / RA, Coimbatore)

**Case No.5: M/s. Exide Industries Ltd., Kolkata. (P.H. Case)**
**F.No.01/60/162/044/AM15/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for revalidation of Advance Authorization No.0210163431 dt. 09.08.2011.

In terms of Para 2.59 of FTP, 2015-2020, the applicant sought personal hearing which was afforded to them. Mr. M.G. Krishnan, Sr. Manager - Export of the company appeared before the committee on 11.04.2017 and made the following oral as well as written submissions:

i. They had obtained the Advance Authorisation No 0210163431 dated 09.08.2011 having 12 months' validity to import and 18 months for fulfillment of export obligation.
ii. They fulfilled more than 200% export obligation within initial export obligation period and submitted documents to RA on 09.10.2013 with request to allow revalidation and enhancement. RA vide amendment sheet No 01 dated 04.12.2013 allowed the same but the enhanced quantity was not transmitted to the ICEGATE server.
iii. Therefore, they could not import the enhanced quantity and value. He, therefore, requested to allow revalidation of the Authorisation for six months, as they could not utilize the Authorisation due to data transmission problem.

**Decision:** Having heard to the applicant, the case was discussed at length. It was noted from the screen shot of ICEGATE provided by the applicant that value and quantity enhanced vide amendment sheet No 01 dated 04.12.2013 was not transmitted to the Customs Authority. ICEGATE window still showing original quantity and value of the Authorisation. The Committee, therefore, decided the following:

i. RA shall issue fresh amendment enhancing CIF value and quantity on pro-rata basis and ensure transmission of the same to ICEGATE.
ii. The Authorisation be revalidated for three months from the date of transmission of data to ICEGATE server.
iii. The applicant shall submit Authorisation within a month from the date of uploading of these minutes on the Directorate website.

**(Action: Applicant / RA, Kolkata)**
**Case No.6: M/s. Radiant RSCC Specialty Cable P. Ltd., Telangana. (P.H. Case)**

**F.No.01/60/162/947/AM16/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for extension of EOP against Advance Authorization No.0910047350 dt.28.06.2011.

In terms of Para 2.59 of FTP, 2015-2020, the applicant had sought personal hearing which, was afforded on 11.04.2017. Mr. Ashok Kundalia, Managing Director and Mr. K. Janardhan Rao, Manager of the company appeared before the committee and made the following submissions:

1. They stated that **the following circumstances were the force majeure factors**, which caused delay in fulfilling the balance of about 5% of export obligation in the stipulated E.O. period from 36 months to 51 months:

    a) Their export product is called Metal Clad (MC) Cable, which is the first and only manufactured in India by them and even world-wide there are only two known companies manufacturing this Metal Clad Cable.

    b) MC Cable contains an insulated grounding conductor which, when properly terminated at both ends, makes a reliable return path for fault current, enabling the over current device to perform its protective role. The metal jacket serves to supplement the equipment grounding conductor since it is firmly clamped to grounded metal enclosures at both ends – so that the unit cannot become energized without instantly causing the over current device to trip out. MC Cable employs thermoset or thermoplastic insulated conductors, and the high end manufacturing technology, amongst other processes lies in welding the steel snugly encapsulated over the insulated conductor without affecting/melting the insulation. This Metal Clad cable is the lifeline for Oil & Gas wells. There is no scope for any kind of defect or fault in this cable.

2. Due to technical problems on the customized and high precision state of the art machine that is required to ensure the cable should match the stringent requirement of the critical application. The production failures caused by the frequent breakdown of the Tube Mill machine ultimately warranted import of critical key part numbered components and items that were required to be fitted / repaired on the machine by their Joint Venture Partners, RSCC, USA, one of the two manufacturers in the world.

3. Weld Machine failure/improper welding on the cable lead to damage of the insulation on the 18 AWG Cable which was manufactured by them indigenously.

4. The high rejection occurring, due to blow holes, in the cables manufactured during that period. The root cause of analysis was that the blow holes were due to improper welding.

The improper welding was primarily due to the problem in input power supply, malfunction of the drive and other electrical circuits; these resulted in affecting the welding process, thereby causing below holes.

5. Improper welding, leading to breakdown of critical components on the Tube Mill machine, including the weld box, needing importation.
6. The above said exception and extraordinary breakdowns in the production process and subsequent installation of new parts caused huge adverse impact on the exportable production and thereby leading to failure in fulfilling the export obligation within the stipulated period of 36 months.
7. The jurisdictional Central Excise Authorities has certified that from January, 2013 to Feb. 2013 (2 months), April, 2013 to July, 2013 (4 months), Sept.,2013 to October, 2013 (2 months) January, 2014 to May, 2014 (5 months), August, 2014 to Dec., 2014 (5 months), April, 2015 to June, 2015 (3 months) and August, 2015 to October, 2015 (3 months) totaling to 24 months, the export product manufacturing machinery namely Tube Mill & Weld Machines were under frequent breakdown and no manufacturing activity was carried out with respect to the export product.
8. Hence, they have requested to extend the E.O. period for 51 months considering force majeure conditions, which were beyond their control.

**Decision:**

Having heard to the MD and Manager of the company, the Committee discussed the matter at length. It was opined that breakdown of machinery of a unit cannot be construed as a case of force majeure. Breakdown of machinery can be attributed to various causes and one of those can be poor maintenance. The Authorisation in question was issued having initial obligation period of 36 months and the committee in its meeting dated 02.11.2016 has already allowed extension in EOP upto 48 months, the Committee decided that 48 months was a sufficient time for the applicant to assess the situation and take necessary steps. Hence, the request of the applicant was not acceded to.

The applicant is hereby directed to get the case regularised in terms of Para 4.49 of HBP, 2015-2020.

**(Action: Applicant / RA, Hyderabad)**

**Case No.7: M/s. Radiant RSCC Specialty Cable P. Ltd., Telangana. (P.H. Case)**
**F.No.01/60/162/298/AM17/PRC**

PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for EOP extension upto 41 months against Advance Authorization No.0910053518 dt. 16.08.2012.

In terms of Para 2.59 of FTP, 2015-2020, the applicant had sought personal hearing which, was afforded on 11.04.2017. Mr. Ashok Kundalia, Managing Director and Mr. K. Janardhan Rao, Manager of the company appeared before the committee and made the following submissions:

The same arguments have been put forth by the MD and Manager of the company which are given above in case No. 6. They have requested to extend the E.O. period for 41 months considering force majeure conditions, which were beyond their control.

**Decision:**

The decision taken in case No. 6 above is re-iterated.

**(Action: Applicant / RA, Hyderabad)**

**Case No.8: M/s. Chemocid Impex Pvt. Ltd., Mumbai. (P.H. Case)**
**F.No.01/60/162/233/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for 2nd revalidation of Advance Authorization No.0310777264 dt. 07.04.2014.

**Decision:** The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 11.04.2017 and they were informed about the PH date vide e-mail dated 20.03.2017. The applicant, however, did not appear before the Committee. Hence, it was decided to defer the case.

**Case No.9: M/s. Man Industries (India) Ltd., Mumbai. (P.H. Case)**
**F.No.01/60/162/907/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject:** Request for 2nd revalidation of Advance Authorization No.0310790368 dt. 20.10.2014.

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 11.04.2017. Mr. Vinod Mehta, Adviser of the company appeared before the committee and submitted that they could not complete the imports since the import item

Non-alloy HR Steel Coils was not available in the international market. Therefore, requested to allow second revalidation.

**Decision:**

The committee, deliberated the case at length. The argument put forth by Shri Mehta does not appear to be convincing. HR steel coil is not such item, which could have not been available internationally. Moreover, this item is also easily available in domestic market. Moreover, if the situation was so grave then how the company could fulfil their export obligation to the extent of 83.91%% and imported 79%. Mr. Mehta, was asked by the Committee to submit proof of their claim that the import item Non-alloy HR Steel Coils was not available in the international market during the validity period of the Authorisation. However, he could not provide any such details. The committee, therefore, did not accede to the request.

**(Action: Applicant / RA, Mumbai)**

**Case No.10: M/s. Man Industries (India) Ltd., Mumbai. (P.H. Case)**
**F.No.01/60/162/908/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for 2nd revalidation of Advance Authorization No.0310790365 dt.20.10.2014.

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 11.04.2017. Mr. Vinod Mehta, Adviser of the company appeared before the committee and submitted that they could not complete the imports since the import item Non-alloy HR Steel Coils was not available in the international market. Therefore, requested to allow second revalidation.

**Decision:**

The committee, deliberated the case at length. The argument put forth by Shri Mehta does not appear to be convincing. HR steel coil is not such item, which could have not been available internationally. Moreover, this item is also easily available in domestic market as well. Moreover, if the situation was so grave then how the company could fulfil their export obligation to the extent of 73.97%. Mr. Mehta, was asked by the Committee to submit proof of their claim that the import item Non-alloy HR Steel Coils was not available in the international as well as domestic market during the validity period of the Authorisation. However, he could not provide any such details. The committee, therefore, did not accede to the request.

**(Action: Applicant / RA, Mumbai)**

**Case No.11: M/s. Techfab (India) Industries Ltd., Mumbai. (P.H. Case)**
**F.No.01/60/162/829/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for (i) extension of EO. period & (ii) 2nd revalidation of Advance Authorization No.0310795268 dt. 13.04.2015.

**Decision:** The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 11.04.2017 and they were informed about the date of hearing vide e-mail dated 20.03.2017. The applicant, however, did not appear before the Committee. Hence, it was decided to defer the case.

**Case No.12: M/s. Continental India P. Ltd., New Delhi.** (**P.H. Case)**
**F.No.01/60/162/382/AM15/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject:** Request for condoning of delay in submission of applications for DEPB claim of Rs.30, 76,348/- against export made during 2009, 2010 & 2011.

In terms of Para 2.59 of FTP, 2015-2020, the applicant had sought personal hearing, which was afforded on 11.04.2017. Mr. Niranjan Pattnayak, Sr. Manager – Indirect Tax and Mr. Harish Mohan Gosain, Advocate of the company appeared before the committee to represent M/s. Continental India P. Ltd., New Delhi. They made the following submissions:

1. They submitted that **M/s. Modi Tyres** Co. Ltd. **taken over by M/s. Continental India Ltd.** owned by Germany based Group, resulted the change of management, due to unawareness of Exim Policy and VRS taken by the majority of employees which were close related to the management of Modi Group, the eligible claim of DEPB could not be filed in time. The provision of the time limit was oversight and now it is completely over passed.
2. Hence, they requested to condone the delay in filing of claim of DEPB Scheme.

**Decision:**

The committee found the submissions made by the applicant about ignorance of prevalent provisions of Foreign Trade Policy (FTP) / Handbook of Procedure (HBP), to be not convincing. It cannot be a ground for non-compliance of the statutory obligations under any law, let alone, the FTP/HBP. Therefore, this matter cannot come under the category of genuine hardship. It is well known that the takeover of accompany is always with assets and liabilities. Policy provides to submit claim within 12 months from the date of export or

6 months from the date of realization of proceeds and 3 months from the date of release of shipping bills, whichever is later. Further, application can be filled with 10% late cut within 36 months from the date of exports. This prescribed time period was reasonable to file claim by the applicant. The Committee, therefore, decided to reiterate its earlier decision taken in the meeting No.16/AM17 dated 29.08.2016.

**(Action: Applicant / RA, CLA, New Delhi)**

**Case No.13: M/s. Maharashtra Seamless Ltd., New Delhi.**
F.No.**01/60/162/062/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject**: Request of waiver of composition fee against already permitted clubbing of 9 Advance Authorisations (i) 0510223556 dt. 09.07.2008; (ii) 0510223555 dt. 09.07.2008; (iii) 0510226507 dt. 29.08.2008; (iv) 0510233370 dt. 24.12.2008; (v) 0510244956 dt. 01.07.2009; (vi) 0510245972 dt. 16.07.2009; (vii) 0510262835 dt. 24.04.2010; (viii) 0510276939 dt. 12.11.2010 and (ix) 0510287935 dt. 08.04.2011for redemption purpose.

**Decision:** The committee discussed the case at length and decided to reject the request because extension in the export obligation period is allowed with composition fee, and the same are clearly stipulated in the HBP, except in cases covered by force majeure. The applicant is, therefore, directed to get the Authorizations individually regularized in terms of Para 4.49 of HBP of 2015-20, if not willing to avail the facility extended by the PRC.

**(Action: Applicant/RA, CLA)**

**Case No.14: M/s. eShakti.com Pvtt. Ltd., Chennai.**
F.No.**01/60/162/005/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for waiver of procedural requirement as per HBP.

**Decision:** The Committee observed that the applicant has not submitted any new facts or evidence which justifies their request for review of the earlier decision. Hence, the Committee decided to reiterate its earlier decision taken in the meeting No.23/AM17 dated 08.11.2016.

**(Action: Applicant / RA, Chennai)**

**Case No.15: M/s. HLL Lifecare Ltd., Trivandrum.**
F.No.**01/60/162/271/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject**: Request for waiver of procedural requirement of HBP/condonation of procedural lapse of not mentioning Advance Authorization No.5310013562 dt. 05.09.2011 in the S/Bills submitted towards fulfillment of E.O.

**Decision:** The applicant has informed that they have approached the CESTAT for getting the free shipping bills converted into DES against the rejection order passed by the Commissioner of Customs, Cochin. However, on the basis of minutes of the PRC meeting dated 20.09.2016, RA, Trivandrum has issued Demand Notice and insisting for regularisation on payment of duty. The committee, therefore, decided to allow six months time for final outcome of appeal pending before the CESTAT. However, in order to protect the revenue loss, the applicant shall furnish Bank Guarantee of equal amount of duty and applicable simple interest to RA. The BG should remain valid for 18 months. In case the matter takes more than 6 months, the applicant will suo-moto inform RA for seeking further time subject to furnishing extended BG, if their request is found to be genuine. Action of RA will be kept on hold during the pendency of appeal before CESTAT.

**(Action: Applicant / RA,Trivandrum)**

**Case No.16: M/s. HLL Lifecare Ltd., Trivandrum.**
F.No.**01/60/162/267/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for waiver of procedural requirement of HBP/condonation of procedural lapse of not mentioning Advance Authorization No.5310010501 dt. 26.05.2010 in the S/Bills submitted towards fulfillment of E.O.

**Decision:** Decision at case No 15 is reiterated.

**(Action: Applicant / RA,Trivandrum)**

**Case No.17: M/s. HLL Lifecare Ltd., Trivandrum.**
F.No.**01/60/162/270/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject:** Request for waiver of procedural requirement of HBP/ condonation of procedural lapse of not mentioning Advance Authorization No.5310015321 dt. 06.07.2012 in the S/Bills submitted towards fulfilment of E.O.

**Decision:** Decision at case No 15 is reiterated.

**(Action: Applicant / RA,Trivandrum)**

**Case No.18: M/s. Sai Sulphonates P. Ltd., Kolkata.**
F.No.**01/60/162/871/AM16/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for 2nd revalidation of Advance Authorization No.0210204024 dt. 11.06.2014.

**Decision:** The Committee examined the report received from RA, Kolkata. It has been reported that the Advance Authorisation was issued with the Customs Notification No. 96/2009 (physical exports) by mistake, though the firm opted for deemed export supplies. The request for EODC and revalidation was made on 01.09.2015 but amendment was issued on 03.11.2015. The Authorisation was revalidated till 30.12.2015. Negligence in performing duty of RA was viewed very seriously by the committee and decided the following:

- i. The Authorisation may be revalidated for six months from the date of endorsement.
- ii. The applicant is directed to get the endorsement from RA within one month from the date of uploading of PRC minutes on the Directorate website.
- iii. RA shall ensure that Customs Notification applicable to deemed export i.e. 112/2009 is endorsed on the Authorisation.

**(Action: Applicant/RA, Kolkata)**

**Case No.19: M/s. Thirumalai Chemicals Ltd., Chennai.**
F.No.**01/60/162/999/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for 2nd revalidation of Advance Authorization No.0410160150 dt. 16.02.2015.

**Decision:** The Committee after detailed examination of the submissions of the applicant vis-à-vis the report submitted by RA observed that there is abnormal delay in taking action by RA, which resulted in non-utilization of the Authorisation by the applicant. It is reported by RA that the request of enhancement was considered after three months from the date of application. Whereas, Para 9.11 of HBP, 2009-2014 prescribes time bound disposal of 3 working days for amendment of any category of Authorisation. Further, amendment sheet No 1 dated 18.02.2016 allowing revalidation upto 31.08.2016 was not attached to the Authorisation, which was reprinted on 09.08.2016 leaving merely 20 days for the applicant to import. The committee viewed it a case of genuine hardship to the exporter. Hence, the Committee decided the following:

i. The above mentioned Authorisation be revalidated 6 months from the date of endorsement.
ii. The applicant is directed to get the endorsement from RA within one month from the date of uploading of PRC minutes on the Directorate website.
iii. Head of office of RA shall examine the case and fix the responsibility on the official who was responsible for the delay and negligence and the same shall be reported to H.Qrs. Report in this regard shall be furnished within two months of the PRC decision.

**(Action: Applicant/RA, Chennai)**

**Case No.20: M/s. Man Industries Ltd., Mumbai.**
F.No.**01/60/162/931/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject**: Request for clubbing of 4 Advance Authorizations No.0310719152 dt. 03.01.2013; 0310754593 dt. 21.10.2013; 0310755802 dt. 28.10.2013 & 0310777050 dt. 04.04.2014.

**Decision:** The Committee observed that the applicant has requested for clubbing of four above mentioned advance authorizations which were issued under Custom Notifications No.96/2009 and No 112/2009. The duty structure is totally different for the said two Customs Notifications. Clubbing of such Authorisation is not allowed. Hence, the Committee did not accede to the request. The applicant is directed to get the case regularised in terms of Para 4.49 of HBP, 2015-2020.

**(Action: Applicant/RA, Mumbai:** If the applicant fails to get the cases regularised within a month from the date of uploading of these minutes on the Directorate website, RA shall initiate action under the provision of FT(D&R) Act, 1992 as amended, and furnish a report.**)**

**Case No.21: M/s. Shankar Packagings Ltd., Mumbai.**
F.No.**01/60/162/243/AM16/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for EOP extension of Advance Authorization No.0310726819 dt. 05.03.2013.

**Decision:** The committee noted that the Advance Authorization No.0310726819 dt. 05.03.2013 was issued having initial export obligation period of 18 months from the date of issue. RA has extended Export Obligation Period (EOP) against the authorization upto 24 months i.e. upto 31.03.2015. The applicant has fulfilled more than 59% export obligation within the initial EOP and remaining E.O. beyond the initial EOP. The committee therefore decided the following:

i. Export obligation period be extended from 24 to 36 months i.e. upto**31.03.2016.**
ii. This is subject to a payment of composition fee @ 0.5% per month of FOB value of export after 24 months but upto 30th month and 1% per month of FOB value of export made after 30th month but upto 36th month.
iii. The minimum value addition of 15% as prescribed under Para 4.09 of FTP (2015-2020) shall be maintained.

**(Action: Applicant/RA, Mumbai)**

**Case No.22: M/s. Grindwell Norton Ltd., Bangalore.**
F.No.**01/60/162/932/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject:** Request for clubbing of 3 Advance Authorizations No.0710058096 dt. 24.06.2008; 0710058155 dt. 26.06.2008 & 0710059817 dt. 16.09.2008.

**Decision:** The Committee noted that all the 3 above referred Advance Authorisations were issued in 2008. The initial export obligation period was 24 months in all the Authorisations. The exports in the subsequent Authorisations have been completed within the initial export obligation period of the first Authorisation i.e. before 30.06.2010. The Committee, therefore, decided the following:

i. Clubbing of the 3 Advance Authorizations, as referred above be allowed.
ii. Exports made upto 30.06.2010 shall only be taken into account towards clubbing and discharge of EO.
iii. Clubbing will be subject to the condition that all Authorisations are issued under the same Customs Notification.
iv. RA shall examine the case in terms of Para 4.09 of FTP (2015-2020) and ensure value addition of minimum 15%. The 15% value addition for evaluating entitlement shall be applied on the clubbed FOB and CIF of the Authorizations.
v. RA shall ensure proper accounting of the duty free inputs with reference to the export product while clubbing the Authorizations. On clubbing, shortfall if any, shall be regularized in terms of Para 4.49 of HBP, 2015-2020.

**(Action: Applicant / RA, Bengaluru)**

**Case No.23: M/s. Noslar International Ltd., New Delhi.**
F.No.**01/60/162/1151/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for EOP extension of Advance Authorization No.0510394545 dt. 12.06.2015.

**Decision:** The Committee noted that the above Advance Authorisation was issued with condition of Appendix-4J of HBP20015-20. Import of natural rubber is allowed with pre-import condition and 6 months' export obligation period. However, the applicant did not import Natural Rubber so far and intending not to import in future, as the Authorisation has lost its validity. The committee, therefore, decided the following.

i. RA, shall delete import item No 1 that in Natural Rubber from the Authorisation.
ii. Pre-import condition attached to the Authorisation shall become infructuous hence, the same shall also be deleted.
iii. Initial Export obligation period shall be restored to normal 18 months.

**(Action: Applicant/RA, CLA, New Delhi)**

**Case No.24: M/s. Asian Colour Coated Ispat Ltd., Mumbai.**
F.No.**01/60/162/1265/AM17/PRC**
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for EOP extension of Advance Authorization No.0310779095 dt. 23.04.2014.

**Decision:** The committee noted that the Advance Authorization No.0310779095 dt. 23.04.2014 was issued having initial obligation period of 18 months from the date of issue. RA has extended Export Obligation Period (EOP) against the authorization upto 24 months i.e. upto 30.04.2016. The applicant has fulfilled 83.09% within the initial EOP. The committee, therefore, decided the following:

i. Export obligation period be extended 30.04.2017
ii. This will, however, be subject to a payment of composition fee @ 0.5% per months of FOB value of export after 24th month but upto 30th month and 1% per month of FOB value of export made/to be made after 30th month but up to 36th month.
iii. The minimum value addition of 15% as prescribed under Para 4.09 of FTP (2015-2020) shall be maintained.

**(Action: Applicant/RA, Mumbai)**

**Case No.25: M/s. Hindustan Zinc Ltd., Udaipur.**
F.No. 01/89/180/67/AM-09/PC-2(A)/Vol.V/Part-I
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject**: Request for grant of relaxation in provision of CMVR 1989 and Rules 126 of CMVR 1989 and Clause 2 (II) (a) (i) (ii) & (iii) (b), (c) (i) (ii) (iii) and Clause 7 of Chapter 87 of ITC (HS), 2017 for import of following underground Mining Equipment:

i. Low Profile Dumper [LPDT 30MT Model MT436B] along with associated accessories- 3Nos.

ii. Mining utility equipment model RBO with associated accessories- 5Nos
iii. Utility equipment model MF 328 with associated accessories- 2Nos
iv. Utility equipment model base carrier SF 060 along with associated accessories-2Nos.
v. Utility equipment UTIMEC LF600 agitator along with associated accessories-1No.
vi. Low profile dumper [ LPDT 60MT Model AD60] along with associated accessories-6Nos

__Decision:__ The Committee noted that DHI vide its ID note dated 09.03.2017 has informed that low profile dumper trucks for underground mining operations are not manufactured in India at present hence, may be allowed import. The committee, therefore, decided to relax the provisions of Policy Conditions 2 (II) (a) (i) (ii) & (iii) (b), (c) (i) (ii) (iii) and Clause 7 of Chapter 87 of ITC (HS), 2017 for import of 19 nos. of new underground mining equipment subject to the following conditions:

I. Import should be made through the designated ports only.
II. Vehicles shall not ply on public roads except at the time of mobilization and de mobilization and that the equipment would be used only at the project site.
III. Imported equipments shall be re-exported within 6 months after completion of project.

**(Action: Policy-2)**

**Case No.26: M/s. Focus Energy Ltd., New Delhi.**
F.No. 01/89/180/20/AM-09/PC-2(A)
PRC Meeting No. 01/AM18 dated 11.04.2017

**Subject**:-Request for (i) Relaxation from compliance of provisions of 2 [II] of Import Licensing Notes of Chapter 87 of ITC (HS)including waiver of Homologation condition for import of 1 No. Logging Truck having Left Hand Steering and control for Oil & Gas Exploration Project and (ii) Relaxation from compliance of provisions of 2 [II] of Import Licensing Notes of Chapter 87 of ITC(HS) including waiver of Homologation condition for import of 10 Nos. Electric Tricycles for Cargo Oil & Gas Exploration Project.

__**Decision:**__

The Committee decided to relax the provisions of Policy Conditions 2 (II) of import Licensing Note of Chapter 87 of ITC (HS), 2017 including waiver of 'Homologation' condition for import of 1 No. Logging Truck having Left Hand Steering and 10Nos Electric Tricycles for cargo for Oil & Gas Exploration Project subject to the following conditions:

I. Import should be made through the designated ports only.
II. Vehicles shall not ply on public roads except at the time of mobilization and de-mobilization and that the equipment would be used only at the project site.

**(Action: PC-2(A) Section)**

**Case No.27: M/s. Maruti Suzuki India Ltd., Gurgaon.**
F.No. 01/89/180/51/AM-09/PC-2(A)/Part-I
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for policy relaxation for allowing import of one Vehicle of Maruti Suzuki, Model Baleno under R&D certification.

**Decision:**

The Committee decided to relax the provisions of Policy Conditions 1 (II) (b), (c) (d) (i) (ii) (iii) and (e) of Chapter 87 of ITC (HS), 2017 for import of one Maruti Suzuki, model Baleno for R & D certification purpose from Japan subject to the following conditions:

I. Import should be made through the designated ports only.
II. Vehicles shall not ply on public roads except at the time of mobilization and de-mobilization and that the equipment would be used only at the project site.
III. The vehicle will be dismantled after completion of R& D activities.

**(Action: PC-2(A) Section)**

**Case No.28: M/s. Zodiac Clothing Company Ltd., Mumbai**
F.No. 01/60/162/1089/AM17/PRC
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for waiver of GSM condition from Export and Import documents against Advance Authorization No.0310779645 dt. 28.04.2014.

**Decision:**
The committee noted that as per General Note for Textiles under SION book, GSM of fabric shall be mentioned in the Bill of Entry while importing and in the Shipping Bill while exporting. As per Circular No. 19 dated 15.07.2008 consumption of fabrics in Sq. Mtrs. can be calculated as per formula given therein. And, GSM of fabrics can be calculated by applying reversed formula. Hence, in the present case question of policy relaxation does not arise. PRC cannot allow any relaxation to accept non-mentioning of the technical specification i.e. GSM of fabrics, which ensures accountability of imported fabrics in the resultant products. Hence, the committee did not accede to the request. The applicant is directed to get the shortfall regularized as per Para 4.49 of HBP, 2015-20.

This decision shall apply on all other 35 similar requests of the applicant.

**(Action: Applicant/RA, Mumbai:** If the applicant fails to get the cases regularized within a month from the date of uploading of these minutes on the Directorate website, RA shall initiate action under the provision of FT(D&R) Act, 1992 as amended and report.**)**

**Case No.29: M/s. Pidilite Industries Ltd., Mumbai**
F.No. 01/60/162/660/AM17/PRC
PRC Meeting No. 01/AM18 dated 11.04.2017
**Subject**: Request for issue of Duty Credit under focus market scheme against 37 S/Bills filed vide file no. 03/92/087/80162/AM17 of RA, Mumbai.

**Decision:** The committee noted that in terms of Para 3.11.9 of HBP, 2009-2014 read with Para 9.3 of said HBP, application for duty credit scrip under FMS could be filed within 36 months from the date of export or 30 months from the date of realization, whichever is later, with 10% late cut. There is no justification for not filing of claim within this three years' period. The committee did not find this to be a case of any genuine hardship. Hence, the request was not acceded to.

This decision shall apply on other similar 19 requests of the applicant.

**(Action: Applicant/RA, Mumbai)**

Out of agenda case.
**Case No 30: Pushkar Impex Pvt Ltd, Kolkata**
**Ref: Joint DGFT, Kolkata vide letter dated 05.04.2017**

**Decision:**

This case was discussed in the PRC meeting at the request of Additional DGFT, Kolkata in view of urgency expressed for implementation of orders passed by hon'ble High Court of Kolkata. Committee has gone through the letter dated 05.04.2017 written by the Joint Director General of Foreign Trade and various orders passed by the Hon'ble High court as well as Show Cause Notice dated 31.3.2016 issued by DRI.

In this case Hon'ble High Court at Kolkata was pleased to pass the order on 17.02.2017 stating that "*The Joint Director General of Foreign Trade or his delegate is directed to consider renewal of the petitioners' licence, afresh by hearing the petitioners and by a reasoned order to be made within eight weeks of communication of this order. The DRI will also be permitted to participate in the hearing, if so allowed by the Foreign Trade Development Officer*".

Committee felt that as per para 4.23 of handbook of procedure (2009-14) as well as para 4.41 (a) of Handbook of Procedures (2015-20) *"RA may consider a request of original Authorisation holder and grant one revalidation for six months from expiry date. Request(s) for revalidation of Authorisation shall be made in ANF 4E.* RA is not empowered to allow revalidation beyond 6 months.

The competent authority to grant further revalidation beyond the prescribed period mentioned in handbook of procedures rests with Policy Relaxation Committee(PRC). Therefore, it was decided to grant personal hearing to the petitioner before DGFT in PRC meeting. RA Kolkata may be directed to inform the petitioner about the hearing date and time.

**The meeting ended with a vote of thanks to the Chair.**

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