Directorate General of Foreign Trade
(PRC Section)

Minutes of the Policy Relaxation Committee Meeting held under the Chairmanship of Shri Alok Vardhan Chaturvedi, Director General of Foreign Trade

Meeting No. 11/AM19 held on 14.08.2018 at 10:30 AM

The following members were present in the meeting:

1.	Shri K. C. Rout	Addl. DGFT
2.	Shri J. V. Patil	Addl. DGFT
3.	Shri S.B.S. Reddy	Addl. DGFT
4.	Shri N K Srivastava	Addl. DGFT
5.	Shri Jay Karan Singh	Jt. DGFT
6.	Shri Akash Taneja	Jt. DGFT
7.	Shri Rajbir Sharma	Jt. DGFT
8.	Shri Lokesh H. D	Jt. DGFT

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

PH Case No.01: M/s Golden Tobacco Ltd., Vadodara
F. No. 01/60/162/147/AM18/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: EOP extension of Advance Authorization No.3410027451 dated 07.07.2010

1. Their company is a sick industrial company and registered with Hon'ble BIFR as case no.17/1997.The company has submitted the modified Draft Rehabilitation Scheme with the BIFR as per the liberty granted by Hon'ble Delhi High Court vide order dated 05.07.2011.

2. Hon'ble BIFR has issued the order dated 07.02.2012 in compliance of order of the Hon'ble Delhi High Court and appointed the Canara Bank as monitoring agency to examine MDRS. The company has submitted the revised MDRS on 14.11.2014 to the BFIR with copy of Canara bank by incorporating the directions issued by BFIR.

3. They approached in RA, Vadodara seeking extension of EOP revalidation of above license but both the request were rejected.

4. RA, Vadodara without appreciating full facts of the matter, issued them a letter dated 04.11.2015 to pay Customs Duty plus Interest in terms of Para 4.49 of HBP 2015-2020.

5. They, being a financially sick company registered with BIFR, are passing through a very difficult phase of recession, liquidity crunch and intense competition and an appropriate relaxation in fulfillment of EO or relaxation by way of extending the EOP for another period of two years will lead to reduction in financially –burdened industry, therefore their case may please be considered with sensitivity.

Decision: No one appeared on behalf of the firm. The Committee, in the interest of natural justice, decided to defer the case and provide the firm another opportunity of personal hearing.

(Action: Applicant)

PH Case No.02: M/s SRV Synthetics, Mumbai
F. No. 01/60/162/675/AM18/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Second Revalidation of Advance Authorization No. 0310804271 dated 29.04.2016.

1. They require 2nd revalidation because their total imports are pending due to description problem. They discussed their issue with DGFT Hqrs Delhi, but they were taking time due to which authorization came to expire on . 29.10.2017 and they were not able to complete the import in short period. They required more time.

2. The firm vide their e mail dated 09.05.2018 has submitted the following:-

3. They had exported 1012 MT - Rs.76667375 as per shipping bill and they have completed the export obligation

4. For import item they had applied for invalidation in the name of M/s Indorama Synthetics India Ltd., and the same had been issued vide invalidation No.0359024497

5. They understood that the condition sheet of export item to be supplied is bearing SION71/63 and description as Polyester Texturised Filament Yarn (Dyed) instead of SION 71/48.

6. As the authorization was expiring on 29.04.2017, they had applied for the amendment of validity for 6 months from 29.04.2017 and the same had been amended from 29.04.2017 to 29.10.2017.

7. Against their application for changing the SION No., the same has been changed to Polyester Texturised Filament Yarn (Dyed/undyed) vide amendment sheet No. 2 dated 28.09.2017.

8. As the decision from norms committee was delayed for amendment of SION No. , there was only one month left for import of material

9. As it was not possible to import 1010 MT with one month they had applied for 2nd revalidation of authorization 10.10.2017 and 06.01.2018 which is still pending

Decision: No one appeared on behalf of the firm. The Committee, in the interest of natural justice, decided to defer the case and provide the firm another opportunity of personal hearing.

(Action: Applicant)

PH Case No.03: M/s. Raj Petro Specialities Pvt. Ltd., Chennai
F. No. 01/60/162/130/AM16/EFGC(PRC)
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Revalidation of Advance Authorization No. 0410141866 dated 18.12.2012.

1. They have fulfilled Export obligation within the first validity of the License without any Import. As they were waiting for fixation of Norms for the License they did not import against the license. Unfortunately the Norms committee inordinately delayed in fixing the Norms which took almost two years for fixing the Norms and as a result the validity of the License expired including one extension of six months. In spite of informing many time to fix the Norms on top priority and urgent being them self being Status Holder and they did not import the committee took their own time ignoring the general norms of time period.

2. Immediately after fixing the Norms they approached PRC to extend the validity of the License for it was the fault and delay in fixing the Norms by the committee which resulted in expiration of the License. But PRC rejected their request for the reason

that they should have imported without waiting for the Norms fixation and not considering the extensive delay by the committee.

3. Again they approached the then DGFT to grant them a Personal Meeting and it was held on Feb. 2017 and the DGFT assured that they would look into the case and advise them.

4. But their case has not been considered favorably despite the fact that the fixation of Norms was extensively delayed beyond the validity of the license to import. They have fulfilled EO without seeking any extension of validity and earned valuable Foreign Exchange for the country as well as arrested import and Foreign Exchange drain by actual users such as Auto Tyre manufacturers who now take supplies from them locally and their Product has been accepted widely.

5. They are surprised to know from the net that PRC meeting no. 26/AM18 held on 19.12.2017 has approved for extension of validity of the license to import who appealed on the same grounds as that of them and granted to Shree Ganesh Metals Sirmour HP file no. 01/60/162/366/AM16/PRC. (Advance License no. 3310026241 dt. 22.05.2013). in this case PRC recognized the delay in fixation of Norms by the committee and granted extension of validity of the License to import and the same reason was not considered in their case.

6. Thus gross injustice has been done to them in not granting the extension of validity to import only when their grounds of appeal are same as that of Shree Ganesh Metals and also the PRC granted extension of the validity of licenses in the following cases. (i) BHEL, Bhopal, License to import validity extended by 4 years (license no. 1110021687 dt. 29.01.2010) (ii) Hindustan Platinum, Mumbai, validity extended by 4 years (License no. 0310716794 dt. 10.12.2012) but whereas DGFT has not granted to extend the validity to them to import which is not at all acceptable. Thus PRC erred in their decision in their case which shows partial attitude of PRC.

7. They have already lost sufficient time in this regard and day by day import prices are hardening.

<u>**Decision**</u>: No one appeared on behalf of the firm. The Committee noted that the firm has not been responding to the repeated intimations sent to it by mail giving them opportunity of personal hearing. The committee decided to provide one last opportunity of personal

hearing to the firm in the interest of natural justice, decided to defer the case. The firm would be intimated by speed post as well as mail.

(Action: Applicant)

PH Case No.04: M/s. Mittal Pigments Pvt. Ltd., Kota
F. No. 01/60/162/84/AM19/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Clubbing of four Advance Authorisation No.(1) 1310047095 dated 16.05.2014, (2) 1310047379 dated 12.06.2014, (3) 1310048140 dated 26.02.2016 and (4) 1310048495 dated 16.12.2016.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 14.08.2018. Shri Ramesh Agarwal, Director/CEO appeared before the committee on behalf of the firm and submitted the following:-

2. After importing Raw material in AA No.1310047095 d& 1310047379. They supplied 132 MT Rod Red Lead (Finish Goods) to their Foreign buyer in AA No.1310047095.

3. They have submitted their application to RA Jaipur for clubbing of the above authorization and redemption on 15.01.2018. However RA vide letter dated 05.04.2018 inform that authorisation that cannot be clubbed as it is not fulfilling the condition. As per PN 34/2015-20 dated 24.10.2017.

4. Their customer canceled the order. Long Correspondence, e mail etc were exchanged. All their effort in vain. Finally order was cancelled. Due to worldwide recession in the market they could not complete the export obligation.

5. Fortunately they were able to find some new customer with the same import item they approached DGFT or addition of export product in their existing authorization. But it was informed that it cannot be done due to software problem. They obtain two fresh advance authorizations 1310048140 & 1310048495 and export the material using unutilized imported material lying in stock so that EO should be fulfilled and there should be no revenue loss to their country.

<u>**Decision**</u>: The Committee went through the above statements made by the firm in its application and during the personal hearing. It was noted that the firm had fulfilled the

export obligation within the extendable EOP period and hence decided to allow clubbing with the following conditions:

i. No further imports or exports shall be allowed under the subject authorizations.
ii. The EOP of the authorizations with EO shortfall shall be extended upto 24 months subject to payment of composition fee @ 0.5% of the unfulfilled FOB value of the said authorizations before clubbing with the authorizations with excess EO.
iii. The EOP of the authorizations with EO shortfall shall be extended upto 30 months subject to payment of composition fee @ 1.0 % of the unfulfilled FOB value of the said authorizations before clubbing with the authorizations with excess EO.

(Action: Applicant)

PH Case No.05: M/s Tetra Pak India Private Limited, Pune
F. No. 01/60/162/694/AM18/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Condonation of procedural lapse of not mentioning GSM of bleached paper/Bleached Paper Board/Duplex Paper Board on shipping bill of exports made against following Ten Advance Authorizations: Nos. (1) 3110053613 dated 20.04.2012, (2) 3110059464 dated 18.07.2013, (3) 3110057232 dated 21.02.2013, (4) 3110053031 dated 20.02.2012, (5) 3110053140 dated 24.02.2012, (6) 3110053614 dated 04.02.2012, (7) 311000054518 dated 30.05.2012, (8) 3110054840 dated 26.06.2012, (9) 3110059371 dated 16.07.2013 and (10) 3110051992 dated 20.12.2011.

1. Out of the above 10 licences case of three advance authorisations No.3110053613 dated 20.04.2012, 3110059464 dated 18.07.2013 and 3110057232 dated 21.02.2013 have already been placed in PRC Meeting dated 06.03.2018 and rejected as per above decision.

2. Now the firm vide letter dated 18.06.2018 submit the following:-

3. They have imported three types of paper namely (a) Bleached Paper (b) Bleached Paper Board (c) Duplex Paper Board. These papers were imported in which GSM against each type of paper was mentioned the time of filing Bill of Entry.

4. The end product was manufactured by them using either of the three types of papers.

5. The firm had stated that RA Pune has raised an objection and directed them to produce a certification from either from Customs or Central Excise certifying the GSM content in an product.

6. Accordingly, they approach Central Excise Authority (now GST) with a request for checking all the import and export related records/documents and issuing a certificate in accordance. The Central Excise Authority (now GST) after checking their factory records/documents maintained in SAP for material receipts and issue related to post export made and consumption thereon.

7. After verification a certificated 13.06.2018(in file) was issued by Custom Authority which has been submitted by the firm alongwith PRC representation.

8. The rejection will definitely put them adverse impact on their business. They obtained this advance authorisation to save duties on inputs in order to remain competitive in the international market. All the duties saved were taken into costing and accordingly export sale price was determined.

9. The firm has further stated that manufacturing of end product i.e. aseptic Packaging Material they use only imported Paper hence benefiting from import and not using it in the export product does not have any benefit to their company in any way.

<u>Decision</u>: No one appeared on behalf of the firm. The Committee, in the interest of natural justice, decided to defer the case and provide the firm another opportunity of personal hearing.

(Action: Applicant)

PH Case No.06: M/s Arvind Limited., Bangalore
F. No. 01/60/162/638/AM15/EFGC(PRC)
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: EOP extension of Advance Authorization No. 0710080779 dated 20.07.2011 and 0710080780 dated 20.7.2011.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 14.08.2018. Shri Tyagraj Mudaliyar, Chief Manager – Export

Commercial and Shri Ashok Kaushik, Senior Manager – Corporate Affairs appeared before the committee on behalf of the firm and submitted the following:-

2. The firm has stated that above referred advance authorizations could not be completed within the initial validity of authorization due to delay in Norms Fixation. DGFT Norms Committee after a protracted communication could not consider their "adhoc norms request" despite putting their efforts to comply with the norms requirement. During the intervening period, the delivery period had lapsed, orders got cancelled and they could not complete the export obligation.

3. The Advance Authorizations in caption was initially issued on "No Norms basis" for fixation of a higher norms over and above the given SION No.J275 (1 pece:2.25 sq.metres) for export of Men's/Women Trousers which was delayed in protracted communication leading to lapse in delivery and consequently, their request for extension of the EOP to at least to complete the export with available given norms under said SION, was also not considered for EOP extension despite having regular orders on hand for export without due evaluation of the given extraordinary circumstances on the events.

Decision: The committee went through the statements made by the firm its application and during the personal hearing. It was noted that the firm had applied for the review of the norms and the decision regarding the same was communicated the firm on 26.07.2012. However, the firm has not made any exports within the EOP or extendable EOP as per the provisions of the Handbook of Procedures. Further the firm has also not made exports within the 48 period for any regularization as per public notice 34. The firm has made exports beyond the period of 60 months. The firm has not been able to specify any grounds of genuine hardships. Hence the Committee decided to reject the request of the firm.

(Action: Applicant)

PH Case No.07: M/s. Arvind Limited, Bangalore
F. No. 01/60/162/226/AM19/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Extension in EOP of Advance Authorization No. 0710086037 dated 06.02.2012.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 14.08.2018. Shri Tyagraj Mudaliyar, Chief Manager – Export

Commercial and Shri Ashok Kaushik, Senior Manager – Corporate Affairs appeared before the committee on behalf of the firm and submitted the following:-

2. The firm has stated that the worst ever and longest recessionary period was witnessed by the Global Industry including the Textile and Apparel Business, triggered on the aftermath of the USA sub-prime crises during October 2008. The effects of the Industry was deep and equally wide spread across Global Apparel Industry , as at retain level major Stores and Brands were having bare minimum footfalls and sales, due to economic depression and slow down. This tripped and disrupted the market triggering off a long recessionary trend, driving many stores and brands into bankruptcy. During this period Apparel Export Industry was losing customers, and even the ECGC cover was declined for a score of USA Canada and Europe buyers. All exporters were forced to engage in new products, value added products, markets and work with reliable buyers only. The echoing effect is felt even today with the new of Chapter 11 cases I US courts and Mergers and Acquisition of brands and Ownership.

Decision: The committee went through the statements made by the firm in its application and during the personal hearing. It was noted that the firm had applied for the review of the norms and the decision regarding the same was communicated to the firm on 26.07.2012. However, the firm has not made any exports within the EOP or extendable EOP as per the provisions of the Handbook of Procedures. Further the firm has also not made exports within the 48 months period for any regularization as per Public Notice 34 dated 24.10.2017. The firm has made exports beyond the period of 60 months. The firm has not been able to specify any grounds of genuine hardships. Hence the Committee decided to reject the request of the firm.

(Action: Applicant)

PH Case No.08: M/s. Arvind Limited, Bangalore
F. No. 01/60/162/188/AM19/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Extension in EOP of Advance Authorization No. 0710085753 dated 23.01.2012.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 14.08.2018. Shri Tyagraj Mudaliyar, Chief Manager – Export Commercial and Shri Ashok Kaushik, Senior Manager – Corporate Affairs appeared before the committee on behalf of the firm and submitted the following:-

2. The firm has stated that the worst ever and longest recessionary period was witnessed by the Global Industry including the Textile and Apparel Business, triggered on the aftermath of the USA sub-prime crises during October 2008. The effects of the Industry was deep and equally wide spread across Global Apparel Industry , as at retain level major Stores and Brands were having bare minimum footfalls and sales, due to economic depression and slow down. This tripped and disrupted the market triggering off a long recessionary trend, driving many stores and brands into bankruptcy. During this period Apparel Export Industry was losing customers, and even the ECGC cover was declined for a score of USA Canada and Europe buyers. All exporters were forced to engage in new products, value added products, markets and work with reliable buyers only. The echoing effect is felt even today with the new of Chapter 11 cases I US courts and Mergers and Acquisition of brands and Ownership.

Decision: The committee went through the statements made by the firm in its application and during the personal hearing. It was noted that the firm had applied for the review of the norms and the decision regarding the same was communicated to the firm on 26.07.2012. However, the firm has not made any exports within the EOP or extendable EOP as per the provisions of the Handbook of Procedures. Further the firm has also not made exports within the 48 months period for any regularization as per Public Notice 34 dated 24.10.2017. The firm has made exports beyond the period of 60 months. The firm has not been able to specify any grounds of genuine hardships. Hence the firm decided to reject the request of the firm.

(Action: Applicant)

PH Case No.09: M/s. Arvind Limited, Bangalore
F. No. 01/60/162/224/AM19/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Extension in EOP of Advance Authorization No. 0710084370 dated 01.12.2011.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 14.08.2018. Shri Tyagraj Mudaliyar, Chief Manager – Export Commercial and Shri Ashok Kaushik, Senior Manager – Corporate Affairs appeared before the committee on behalf of the firm and submitted the following:-

2. The firm has stated that the worst ever and longest recessionary period was witnessed by the Global Industry including the Textile and Apparel Business, triggered on the aftermath of the USA sub-prime crises during October 2008. The

effects of the Industry was deep and equally wide spread across Global Apparel Industry , as at retain level major Stores and Brands were having bare minimum footfalls and sales, due to economic depression and slow down. This tripped and disrupted the market triggering off a long recessionary trend, driving many stores and brands into bankruptcy. During this period Apparel Export Industry was losing customers, and even the ECGC cover was declined for a score of USA Canada and Europe buyers. All exporters were forced to engage in new products, value added products, markets and work with reliable buyers only. The echoing effect is felt even today with the new of Chapter 11 cases I US courts and Mergers and Acquisition of brands and Ownership.

Decision: The committee went through the statements made by the firm in its application and during the personal hearing. It was noted that the firm had applied for the review of the norms and the decision regarding the same was communicated to the firm on 26.07.2012. However, the firm has not made any exports within the EOP or extendable EOP as per the provisions of the Handbook of Procedures. Further the firm has also not made exports within the 48 months period for any regularization as per Public Notice 34 dated 24.10.2017. The firm has made exports beyond the period of 60 months. The firm has not been able to specify any grounds of genuine hardships. Hence the firm decided to reject the request of the firm.

(Action: Applicant)

PH Case No.10: M/s. Arvind Limited, Bangalore
F. No. 01/60/162/225/AM19/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Extension in EOP of Advance Authorization No. 0710070138 dated 20.02.2010.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 14.08.2018. Shri Tyagraj Mudaliyar, Chief Manager – Export Commercial and Shri Ashok Kaushik, Senior Manager – Corporate Affairs appeared before the committee on behalf of the firm and submitted the following:-

2. The firm has stated that the worst ever and longest recessionary period was witnessed by the Global Industry including the Textile and Apparel Business, Triggered on the aftermath of the USA sub-prime crises during October 2008. The effects of the Industry was deep and equally wide spread across Global Apparel Industry , as at retain level major Stores and Brands were having bare minimum footfalls and sales, due to economic depression and slow down. This tripped and

disrupted the market triggering off a long recessionary trend, driving many stores and brands into bankruptcy. During this period Apparel Export Industry was losing customers, and even the ECGC cover was declined for a score of USA Canada and Europe buyers. All exporters were forced to engage in new products, value added products, markets and work with reliable buyers only. The echoing effect is felt even today with the new of Chapter 11 cases I US courts and Mergers and Acquisition of brands and Ownership.

Decision: The committee went through the statements made by the firm in its application and during the personal hearing. It was noted that the firm had applied for the review of the norms and the decision regarding the same was communicated to the firm on 26.07.2012. However, the firm has not made any exports within the EOP or extendable EOP as per the provisions of the Handbook of Procedures. Further the firm has also not made exports within the 48 months period for any regularization as per Public Notice 34 dated 24.10.2017. The firm has made exports beyond the period of 60 months. The firm has not been able to specify any grounds of genuine hardships. Hence the firm decided to reject the request of the firm.

(Action: Applicant)

PH Case No.11: M/s Arvind Limited, Bangalore
F. No. 01/60/162/180/AM19/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Extension in EOP of Advance Authorisation No.0710085752 dated 23.01.2012.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 14.08.2018. Shri Tyagraj Mudaliyar, Chief Manager – Export Commercial and Shri Ashok Kaushik, Senior Manager – Corporate Affairs appeared before the committee on behalf of the firm and submitted the following:-

2. The firm has stated that the worst ever and longest recessionary period was witnessed by the Global Industry including the Textile and Apparel Business, triggered on the aftermath of the USA sub-prime crises during October 2008. The effects of the Industry was deep and equally wide spread across Global Apparel Industry , as at retain level major Stores and Brands were having bare minimum footfalls and sales, due to economic depression and slow down. This tripped and disrupted the market triggering off a long recessionary trend, driving many stores and brands into bankruptcy. During this period Apparel Export Industry was losing customers, and even the ECGC cover was declined for a score of USA Canada and

Europe buyers. All exporters were forced to engage in new products, value added products, markets and work with reliable buyers only. The echoing effect is felt even today with the new of Chapter 11 cases I US courts and Mergers and Acquisition of brands and Ownership.

Decision: The committee went through the statements made by the firm in its application and during the personal hearing. It was noted that the firm had applied for the review of the norms and the decision regarding the same was communicated to the firm on 26.07.2012. However, the firm has not made any exports within the EOP or extendable EOP as per the provisions of the Handbook of Procedures. Further the firm has also not made exports within the 48 months period for any regularization as per Public Notice 34 dated 24.10.2017. The firm has made exports beyond the period of 60 months. The firm has not been able to specify any grounds of genuine hardships. Hence the firm decided to reject the request of the firm.

(Action: Applicant)

PH Case No.12: M/S. Spray Engineering Devices Limited, Chandigarh
F. No. 01/60/162/183/AM19/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Consideration of Shipping Bill No. 25233 dated 01.12.2013 & Shipping Bill no. 26618 dated 31.12.2013 for exports against Advance Authorization no. 2210014079 dated 06.08.2013 & Advance Authorization no. 2210014466 dated 20.12.2013 as the same being endorsed by Custom officer on S/Bills.

1. They have been issued Advance Authorization no. 2210014079 dated 06.08.2013 & Advance Authorization No. 2210014466 dated 20.12.2013 by the RA, Chandigarh for import of Welded Plate SS 3161, Gear Box and Export of Automated Co-Generation Condensing system & Evaporator Condenser.

2. Export Obligation has been fulfilled within the Original EOP after taking into consideration the Clubbing of above stated Advance Authorization no. 2210014079 dated 06.08.2013 & Advance Authorization no. 2210014466 dated 20.12.2013.

3. They have put forth their case with RA Chandigarh on 05.03.2015 for clubbing of Advance Authorization and issuance of EODC as the Exports have been done within the EOP available to them. Deficiency has been raised vide department office letter dated 21.12.2016 that since the Drawback has been availed against Advance Authorization No. 2210014079 dated 06.08.2013 & Advance Authorization No.

2210014466 dated 20.12.2013, hence the Exports made are not admissible for EODC.

4. Deficiency letter issued by RA, Chandigarh was replied with the facts vide their office letter dated 22.12.2016 that "NO Drawback benefit has been availed in respect of Items Imported against Advance Authorization and used in Exported product as is evident from the Shipping Bill itself, but despite of same, RA Chandigarh has not accepted the facts put forth.

5. It is not in dispute by RA, Chandigarh that Exports have not been fulfilled, but the contention remains that since the S/Bills has been filed under drawback and the said benefit has been availed, whereas they completely deny that benefit of drawback has been availed and facts are not record and mentioned in succeeding Paras.

6. Manual Shipping Bills (2 nos- S/B no. 25233 & 26618) were filed as the EDI system was not in place at ICP Amritsar. Manual Shipping bills were filed under Drawback but with the Endorsement of Custom Officer on the face of shipping bill that items i.e. Imported Welded Plates" have been used in the goods specified against particular Sr. No. of packing list and furthermore the Export value for calculation of Drawback is Exclusive of value of such exported goods which is manufactured from Inputs imported against Advance Authorizations.

7. Manual Shipping bill filed has all elements as those of EDI shipping bills on its face that which particular is cleared under Advance Authorization and what's under Drawback benefit. Only exception being is that EDI Shipping bill at present mentions incentive to be availed against each item, whereas Manual S/Bill from its headings mention of Shipping Bill under drawback but endorsement on same stated by Custom Officer for items wherein benefit of Advance Authorization has been claimed.

8. They submitted the fact with RA Chandigarh that the copies of S/Bill 25233 dated 01.12.2013 & shipping bill no. 26618 dated 31.12.2013 itself reveals the fact of non-a ailment of Duty Drawback, but the same has not considered / accepted for EO fulfillment by the office of RA, Chandigarh.

9. They have even foregone Drawback benefit on entire Shipment and have not claimed anything on account of Drawback form Customs offices. The fact of same can be validated from Custom office anytime.

10. In view of the facts stated above, they have requested for Consideration of Shipping bill no. 25233 dated 01.12.2013 & Shipping bill No. 26618 dated 31.12.2013 for

fulfillment of Export Obligation against Advance Authorization no. 2210014079 dated 06.08.2013 & Advance Authorization no. 2210014466 dated 20.12.2013 as no Drawback has been claimed in respect of items imported against Advance Authorization and used in Export of goods.

Decision: The committee went through the statements made by the firm in its application and noted that the firm had availed the Drawback benefits in respect of the relevant shipping bills and the firm was not able to specify any genuine hardships caused to it. Hence the Committee decided that the said shipping bills cannot be counted for the EO fulfillment under the Advance Authorization Scheme.

(Action: Applicant)

PH Case No.13: M/s Filatex India Ltd. New Delhi
F. No. 01/60/162/34/AM19/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Revalidation of Advance Authorization No. 0510399326 dated 02.08.2016.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 14.08.2018. Shri Rajiv Arora, Senior Manager (Commercial), Shri Srinivasulu Papani, DGM (CP-Process) and Shri Sriram Balasubramanian, Assistant General Manager – Materials appeared before the committee on behalf of the firm and submitted the following:-

2. They have stated that they are Merchant cum Manufacturer exporter of Polyester Partially Orient Yarn/Polyester Chips, Synthetic Filament/Monofilament Yarn, Woven Fabrics, and three Start Export house status holder.

3. Their Dahej Plant is based on continuous polymerization of polyster to produce the PTY using melt direct from the reactor as input materials chips cannot be used at their plant as there is no extruder or any other equipment to convert chips into melt for the further processing. Now, they will send the chips to their Dadra Plant on job work. Hence they want to get 2nd revalidation for 6 months of above Advance Authorisation.

Decision: The committee went through the statements made by the firm in its application and during the personal hearing. It was noted that there was a period of 2 months involved in the deficiency being communicated to them by the RA in respect of the application.

Thereafter, the Committee felt that the firm is indeed facing genuine hardship and therefore decided to allow revalidation for a period of 2 months from the date of endorsement.

(Action: Applicant)

PH Case No.14: M/s. Steelman Industries, Ludhiana
F. No. 01/60/162/436/AM17/PRC
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Revalidation of DFIA No.3010103058 dated 01.08.2014.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 14.08.2018. Shri Saran Bhandari, General Manager appeared before the committee on behalf of the firm and submitted the following:-

2. The firms has stated that they have completed export obligation in time with proper realization of payment but were unable to get the transferable license due to non-fetching of correct online details of shipping bill due to EDI error of DGFT. As a result time expired of the license.

3. RA Ludhiana issued them said license on 30.01.2017 for validity period of upto 26.04.2017, but the same was revalidated without transferability effect whereas they had requested to issue them transferable license who informed them about the same. Then they rushed to apply for transferability to RA, Ludhiana, but due to the further discrepancies raised by RA and their subsequent replies which took most of the time, the transferability was issued only on 21.04.2017 leaving with them a very thin margin of 5 days to sell the license which was practically impossible as the expiry of the license was 26.04.2017.

4. Keeping in view the hardships and time involved along with the genuine facts produced, they requested to consider for this last time revalidation for maximum period in which they can practically sell this license.

Decision: The committee went through the statements made by the firm in its application and during the personal hearing. It was stated by the firm that the firm had approached the RA as per decision in PRC meeting No.28/AM17 dated 03.01.2017. The firm is said to have requested the RA for revalidation as well as Transferability. However, the RA is said to have communicated to the firm about the deficiencies in respect of the revalidation and not provided any response on the firm's request for transferability. After compliance of the deficiencies by the firm, RA has granted revalidation for a period of 3 months from the date of endorsement, but without transferability. The firm has subsequently approached the RA for endorsement of transferability which had taken time due to deficiencies raised by the RA and by the time request for transferability has been accepted by the RA, the firm is said to have been left with only 5 days of validity. The Committee noted that the purpose of granting the revalidation for 3 months from the date of endorsement was to enable the firm to make use of the benefit of extended validity. However, due to procedural issues the firm was left with no time for availing the benefit of extended validity since the authorization was not made transferable by the RA at the first request of the firm for revalidation and endorsement of transferability. Hence the Committee decided to extend the validity of the authorization for a period of one moth from the date of endorsement by the RA.

(Action: Applicant)

Case No.15: **M/s. Glenmark Generics & M/s.Reddy's Laboratories**
F. No. 01/61/180/209/AM17/PC 3
PRC Meeting No. 11/AM19 dated 14.08.2018

Subject: Extension of Chapter 3 benefits under FTP 2009-14 for exports made to Venezuela

1. The Directorate had received requests from two pharmaceutical firms M/s. Glenmark Pharmaceuticals Limited and Dr.Reddy's Laboratories Limited stating that they had exported goods to Venezuela during the FTP 2009-14 period, but were not able to get the repatriation of funds from Venezuela due to shortage of hard-currency in Venezuela (as certified by Embassy of India, Caracas letter dated 01.06.2017

2. The issue was taken up earlier in the Policy 3 section in which the Additional DGFT had remarked that "The fundamentals of MEIS cannot be changed for one country/ one applicant. This will bring systemic distortion. Therefore, we may reject their request for MEIS on unrealized FOB and advise to approach DoR on issues of Duty Drawback. The firm was accordingly informed on 27.12.2016

3. Later, a meeting was held under the chair of DGFT on 10.02.2017 on the same issue. It was noted in the meeting that "Exports to Venezuela are eligible for benefits under FMS and MEIS of the FTP after the exports are complete and money realized. Under the earlier FTP 2009-14 provisions of write-off was also provided with certain conditions. However, the re introduction of those provisions to the current FTP is not feasible, as it was a conscious decision to re write the provisions in the current FTP.

However, benefit of MEIS could be examined by DGFT for transaction which pertained to FTP period 2009-14."

4. Subsequently, representation letters dated 12.04.2017/05.05.2017 by M/s.Glenmark Pharmaceuticals Limited and letter dated 12.04.2017 by the firm Dr.Reddy's Laboratories Limited were received in the Policy 3 divison referring to the Inter Ministerial Meeting held on Feb 10 2017 under the chairpersonship of DGFT on grant of export incentives to exports to Venezuela.

5. The firms are not in a position to upload the relevant Invoices/Shipping Bills on to the online application module and file claims due to mandatory requirement of e-BRC in the online application module

6. The firms have submitted:

i. Request letter to RBI/Authorized dealer Citi Bank-requesting for extension of the ETX
ii. Approval letter from their Banks extending the due dates of Export bills under RBI Guidelines.
iii. List of Shipping Bill/ in Foreign Currency, pharmaceutical products supplied and are pending for repatriation of funds
iv. Letter from Office of Indian Ambassador to Venezuela stating that there is shortage of hard-currency in Venezuela and as a result payment of several Indian Companies have been pending for some time, in many cases for years.
v. Confirmation dated 20.12.2017 of Receivables from their counter part in Venezuela confirming that they have collected all debtors and there are no outstanding on them.

7. The related Policy Provisions are specified below:

a. Para 3.14.2(a) of <u>FTP 2009-14</u>

Exporters of all products to countries notified in Table 1 and 2 of Appendix 37C of HBPv1 shall be entitled for Duty Credit Scrip equivalent to 3 % of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards, unless a specific date of export/period is specified by a public notice/notification

b. Para 2.41 of <u>FTP 2009-14</u>

If an exporter fails to realize export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to action in accordance with provisions of FT (D&R) Act, Rules and Orders made there under and FTP

c. Para 2.52 of FTP 2009-14

Bank Realization Certificates (BRCs), evidencing receipt of export proceeds would be transmitted electronically from the respective banks to the DGFT. This will bring down transaction cost to the exporters as they will not be required to obtain physical copies of BRCs from the banks and then submit such physical copy to DGFT

d. Para 2.20A of HBP 2009-14

At the time of filing application for scrip(s) under DEPB Scheme/Freely transferable incentive Scheme under Chapter 3 of FTP without Bank Realisation Certificate (BRC), the applicant shall execute BG/LUT (as per Customs circular no. 58/2004) with the RA as per Appendix 25C or Appendix 25D respectively

e. Para 2.25.4 of HBP 2009-14

Realization of export proceeds shall not be insisted under any of the Export Promotion Schemes under this Foreign Trade Policy, if the Reserve Bank of India (RBI) writes off the requirement of realization of export proceeds on merits and the exporter produces a certificate from the concerned Foreign Mission of India about the fact of non-recovery of export proceeds from the buyer. However, this would not be applicable in self-write off cases

f. Para 3.11.9 of HBP 2009-14

Application for obtaining Duty Credit Scrip shall be filed within a period of twelve months from the date of export or within six months from the date of realization or three months from the date of printing / release of shipping bill, whichever is later, in respect of shipments for which claim is being filed. Further, for shipments already made prior to the inclusion/modification of the items / markets in relevant appendices by various Public Notices issued from time to time; the last date for filing applications shall be six months from the end of the month of the relevant Public Notice that included/ modified the items/markets, or the time period permitted in the first sentence of this Para, whichever is later.

g. Para 3.11.12 of HBP 2009-14

All the pre-realization cases are to be monitored by RA concerned with respect to realization of export proceeds . The procedure prescribed in Para 4.45 shall apply, mutatis mutandis, to freely transferable Duty Credit Scrip issued under Chapter 3 on the prerealization basis. However for adjustment of excess / short realisation, procedure in Para 3.11.13 is to be followed

h. Para 3.11.13 of HBP 2009-14

(a) In case there is no claim pending for an exporter and there is no cash deposit towards the excess amount claimed by such exporter immediately after the expiry of 12 months time period from the date of issuance of the Scrip, the RA shall initiate necessary action against the exporter. If the Scrip Holder does not pay the amount within 60 days of the expiry of aforesaid 12 months time period, the Scrip Holder shall be required to pay the said amount along with 15% interest per annum from the date of issuance of the Scrip(s) for the Duty Credit for which BRC or Documentary evidence (evidencing realisation of export proceeds as required under FTP or the Procedure laid thereunder) could not be produced . In case the Holder surrenders the valid unutilized / partially utilized Duty Credit Scrip, then unutilized / partially utilized credit shall be deducted from the payable amount.

(b) (b) In case the FOB value realized in free foreign exchange is higher as per BRC, when compared to the FOB value in free foreign exchange as declared on the Shipping Bill(s) on which the original Duty Credit Scrip was issued, supplementary claim shall be filed within a period of six months from the date of realization.

8. From the above policy/procedural provisions, the firms were required to submit bank realization certificates at the time of filing claims for obtaining chapter 3 benefits (Para 3.14.2(a) of FTP 2009-14 and Para 2.52 of FTP 2009-14) . The firms also had provision for obtaining chapter 3 benefits on the FOB value indicated in the shipping bills prior to realization by submission of Bank Guarantee/Legal Undertaking as applicable (Para 2.20A of HBP 2009-14) . However, the claims granted on pre-realisation basis were monitored for realisation by the Regional Authorities and if the realizations of export proceeds were less than the FOB value on which the benefit was obtained by the firms, such excess amount claimed by such exporter was returnable to the Regional Authority (Para 3.11.12 of HBP 2009-14 and Para 3.11.13 of HBP 2009-14)

9. The e-BRC was introduced vide Public Notice No.02 dated 05.06.2012 which obviated submission of physical copy of BRC to claim benefits of the FTP. The net foreign exchange earnings (in foreign currency) reflected in e-BRC, transmitted by banks would indicate FOB value and while granting Chapter 3 benefits, RA shall consider was to consider this net foreign exchange earnings. DGFT would maintain a Repository of Shipping Bills which would be available for on-line linkage with any

application,for example, DEPB, Chapter 3 Incentive Schemes, and EODC. When requested by exporters, 'e-Shipping Bill' and 'e-BRC' data will be captured and linked automatically. The facility of obtaining chapter 3 benefits on pre-realisation basis was discontinued later.

10. Inputs were sought from the EP(LAC) territorial division from the Dept of Commerce, which in its letter dated 03.05.2018 has stated that:

"the current economic situation in Venezuela which is afflicted with foreign exchange crunch, remains a problem for our exports to Venezuela. There are Indian pharmaceutical companies who are facing huge challenges in terms of realization of their pending payments from Venezuela, which are around to the tune of US$ 110 million. Though the Ministry of External Affairs has proposed an 'Oil for Export Mechanism' to settle the payments of Oil and other affected Indian companies, there has been no official response from the Venezuelan side till date. As was decided in a meeting chaired by Shri Anup Wadhawan, the then DGFT on 16th January, 2017 that the benefit of ME IS could be examined by DGFT for transactions which pertained to FTP 2009-2014, the office of DGFT is therefore requested to kindly examine the proposal of pending pharma payments as per the decision taken in the said meeting. However, FT (LAC) Division has no suggestions with regard to the conditions and documentary requirements. This issues with the approval of Joint Secretary. (FT-LAC)"

11. In view of above, the DG has desired to take up this matter in the PRC, so that a decision may be taken whether the FMS claims of these firms can be processed manually without Bank Realization Certificates in view of the difficulties in repatriation of funds from Venezula.

Decision: The committee went through the agenda of the case and noted that the EP (LAC) territorial division of D/o Commerce has vide its reference dated 03.05.2018 stated that the current economic situation in Venezuela which is afflicted with foreign exchange crunch, remains a problem for our exports of Venezuela. There are Indian pharmaceutical companies who are facing huge challenges in terms of realization of their pending payments form Venezuela. It has also requested to examine the proposal of pending pharma payments as per the decision taken in the meeting chaired by the then DGFT on 16th January 2017, that the benefit of MEIS could be examined by DGFT for transactions which pertained to FTP 2009-2014.

The committee also noted the facts that non repatriation of export proceeds in FFE out of Venezuela has been confirmed by the Embassy of India in Venezuela. The firms have been obtaining extension in period of realization of Export proceeds as per RBI guidelines.

The Committee also noted that, prior to introduction of eBRC for chapter 3 benefits; the exporters had facility for availing chapter 3 benefits by submitting Bank Guarantee/Legal Undertaking. In the absence of issuance of eBRCs the firms are unable to file claims for chapter 3 benefits.

Hence, the Committee decided that PC-3 shall submit a proposal to the Competent Authority for extending the benefits of chapter 3 benefits to the pharmaceutical firms who have make exports to Venezuela during the FTP 2009-14 period on the basis on submission of Bank Guarantee and subject to such terms and conditions to be notified.

Action: (PC-3 Division of DGFT HQs)

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