Directorate General of Foreign Trade
(PRC-section)

<u>Minutes of the Policy Relaxation Committee Meeting held under the Chairmanship of DGFT Shri Alok Vardhan Chaturvedi, Director General of Foreign Trade on 12.09.2017</u>

Meeting No. 17/AM18 held on 12.09.2017 at 10:00 AM

The following members were present in the meeting:

1.	Shri N. P. S. Monga	Addl. DGFT
2.	Shri K. C. Rout	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 N.K.Srivastava	Addl. DGFT
7.	Shri Jay Karan Singh	Jt. DGFT
8.	Shri Akash Taneja	Jt. DGFT
9.	Shri S.P.Roy	Jt. DGFT

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

Case No.1: M/s Medicamen Biotek Ltd., Delhi
F. No. **01/60/162/658/AM16/PRC**
PRC Meeting No. 17/AM18 dated 12.09.2017

Subject: Review request for grant the waiver/relaxation in the Policy Circular No. 9 and 18 condition imposed in Advance Authorization No.0510372970 dated 09.12.2014.

<u>Decision:</u> Aggrieved by the committee's decision dated 27.03.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 12.09.2017. The date of personal hearing was communicated to them through e-mail. However, no one turned up for PH nor they requested for postponement of date. The committee, however, in the interest of natural justice decided to defer the case. The applicant may seek next date.

(Action: Applicant)

Case No.2: M/s. Alcon Food Packaging, Kolkata
F. No. **01/60/162/933/AM17/PRC**
PRC Meeting No. 17/AM18 dated 12.09.2017

Subject: Request for regularization of export against Advance Authorization No. 0210204275 dated 30.06.2014.

Aggrieved by the committee's decision dated 07& 09.03.2017 and 08.08.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 12.09.2017. Shri Kunal Saraogi, Chief Executive from M/s Alcon

Food Packaging appeared before the committee and made the following submissions stating inter alia that:

1. Their case has been rejected due to only 0.18% export within initial obligation period. In fact, they have fulfilled 100% export obligation outside the EOP but within 36 months i.e. upto 30.6.2017.
2. Hence they have requested to allow accounting of exports made within 36 months from the date of issue of the Authorisation.

Decision: It was noted that the Authorisation in question was issued having initial export obligation period of 18 months. On request of the applicant, RA had allowed six month's further extension. Despite of that they could not fulfill stipulated EO. However, it has been stated that they have fulfilled 100% exports within 36 months. The committee, therefore, decided the following:

I. Export obligation period be extended by 12 months in continuity.
II. This will, however, be subject to payment of a composition fee @ 0.5% per month of unfulfilled FOB value of exports made after 24th month but upto 30th month and @1% per month of unfulfilled FOB value of exports made after 30th month but upto 36th month.
III. Exports affected indicating EDI File No/Authorisation No on shipping bills shall only be taken into account.
IV. Minimum 15% VA shall be maintained.

(Action: Applicant/RA, Kolkata)

Case No.3: M/s Kineco Limited
F. No. **01/60/162/1211/AM17/PRC**
PRC Meeting No. 17/AM18 dated 12.09.2017

Subject: Request to count export of 29 Shipping Bills against Advance Authorization No. 1710003514 dated 30.09.2010.

Decision: Aggrieved by the committee's decision dated 23.05.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 12.09.2017. Shri Prashant Naik, Asst. V.P. Finance from M/s Kineco Limited appeared before the committee and made the following submissions stating inter alia that:

1. The firm has submitted the exports under shipping bill, which are not "Free shipping Bills" but are "Drawback Shipping Bills" prepared under Drawback Sr. No.9801 which means that they are going to apply for brand rate fixation and also EPCG Scheme. They imported some of the components by paying Custom Duty and were going to apply brand rate fixation for the said shipping bill. But, since the export under the Advance licence were short, they did not claim drawback and would like to opt for claiming the exports made against the advance Authorization. At the time of export the said goods good were examined by the O/o Central Excise which were cleared under the ARE-1Drawback Scheme and under EPCG Scheme. The firm has submitted copies of shipping

bill, invoices and ARE-I duly certified by the Central Excise and Customs officers. they further clarify that the Brand Rate for claiming the Duty Draw Back against the export under the shipping bill was not availed by the company and accordingly the application for claiming the drawback was not processed.

2. Exports were made under EPCG cum Drawback scheme under Sl No 9801 for which no all industry rates are available. They have to file application for brand rate fixation. However, since there was shortfall under the Advance Authorisation, they will not file application for brand rate.
3. Hence, they have requested to relax the condition for not mentioning the file no./Advance license no. on 29 s/bills (as per annexure-A) and count the export against AA 1710003514 dated 30.09.2010 towards discharge of EO.

Decision: The committee heard the applicant patiently. The applicant had no answer to the query of the committee, as to why they exported finished goods under drawback where raw materials were imported without payment of duties under the Authorisation in question? The FTP make it clear that the exporter can either avail Duty Exemption Scheme(DES) or Drawback Scheme in respect of an input.

It was noted that the Authorisation in question was issued to allow duty free imports of inputs under duty exemption scheme of FTP, 2009-2014. The Authorisation was issued with 24 month's validity to import and 36 month's period to exports. The applicant has imported 100% without making any exports. In terms of Para 4.12 of FTP, consumptions of duty free inputs are required to be indicated in shipping bills. Further, in terms of Para 4.27 of HBP, 2015-2020, exports made indicating File No/Authorisation No on shipping bills can only be accounted for discharge of export obligation. Consumption of duty free inputs are not declared in the Drawback shipping bill, as drawback is allowed on duty paid inputs used in the resultant product. The applicant had option of getting the shipping bills converted into Duty Exemption Scheme (DES) from DBK under the Customs Act, as per CEBC Circular No 36 of 2010, The committee, therefore, did not accede to the request.

The applicant is hereby directed to get the case regularised, in terms of Para 4.49 of HBP, 2015-2020, within a month from the date of uploading of these minutes on the Directorate website, failing which RA shall initiate action under the provisions of FT(DR)Act, 1992, as amended.

(Action: Applicant/RA,Goa)

Case No.4: M/s Ognibene India Pvt. Ltd., Pune
F. No. **01/60/162/989/AM17/PRC**
PRC Meeting No. 17/AM18 dated 12.09.2017

Subject: Request for relaxation of requirement of export documents in Advance Authorization No. 3110052275 dated 30.09.2010.

Decision: Aggrieved by the committee's decision dated 07.03.2017 &09.03.2017 , the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 12.09.2017. The date of personal hearing was communicated to them through e-mail. However, no one turned up for PH nor they requested for postponement of date. The committee, however, in the interest of natural justice decided to defer the case. The applicant may seek next date.

(Action: Applicant)

Case No.5: M/s Ognibene India Pvt. Ltd., Pune
F. No. **01/60/162/990/AM17/PRC**
PRC Meeting No. 17/AM18 dated 12.09.2017

Subject: Request for relaxation of requirement of export document in Advance Authorization No. 3110062548 dated 14.02.2014.

Decision: Aggrieved by the committee's decision dated 07.03.2017 &09.03.2017 , the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 12.09.2017. The date of personal hearing was communicated to them through e-mail. However, no one turned up for PH nor they requested for postponement of date. The committee, however, in the interest of natural justice decided to defer the case. The applicant may seek next date.

(Action: Applicant)

Case No.6: M/s Ognibene India Pvt. Ltd., Pune
F. No. **01/60/162/955/AM17/PRC**
PRC Meeting No. 17/AM18 dated 12.09.2017

Subject: Request for relaxation of requirement export document in Advance Authorization No. 3110045249 dated 27.10.2010.

Decision: Aggrieved by the committee's decision dated 07.03.2017 &09.03.2017 , the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 12.09.2017. The date of personal hearing was communicated to them through e-mail. However, no one turned up for PH nor they requested for postponement of date. The committee, however, in the interest of natural justice decided to defer the case. The applicant may seek next date.

(Action: Applicant)

Rest of agenda items were deferred.

The meeting ended with vote of thanks to the Chair.

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