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 21.11.2017</u>

Meeting No. 24/AM18 held on 21.11.2017 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 Jaikant 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

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

Case No.1: M/s. Vedanta Limited (Formerly) know as M/s Sterlite Industries (India) Ltd., Tamilnadu

F. No. 01/60/162/108/AM16/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for Clubbing of 19 Set of Advance Authorisations issued prior to 31.3.2009 and applicability of compositions fee as per provision existing prior to P N No. 16 dated 4.6.2016.

Aggrieved by the committee's decision dated 03.11.2015, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Mukul Agarwal, General Manager from M/s. Vedanta Limited (Formerly) known as M/s Sterlite Industries (India) appeared before the committee and made the following submissions stating inter alia that:

1. In response to PRC decision wherein clubbing was allowed subject to all other conditions prescribed in the Para 4.38 of HBP, 2015-20 as amended vide PN. 16 dt. 04.06.2015 they pointed out that

   Provision of PAYMENT OF COMPOSITION FEE as existing prior to PN. No. 16 dt. 04.06.2015

   <u>Para 4.20.4 of HBP 2009-14 :</u>
   Upon clubbing wherever exports are accounted beyond the EO period of the earlier authorization, a composition fee of 0.5% of the shortfall in EO shortfall in EO shall be levied.

   <u>Provision of PAYMENT OF COMPOSITION FEE R as per PN No. 16 dated 04.06.2015</u>

   As per amended Para 4.38 viz. Para 4.38 (viii) (a)

... for the exports effected after 42nd month till 48th month from the date of earliest Authorization, the composition fee will be @0.5% per month of FOB value of export made."**

2. In support of the request, they made following submissions:

- They had applied for clubbing much before the date when PN 16 came into effect.
- In spite of meeting all the requirements, the RA did not process their case and kept pending without any reason.
- The processing of request of clubbing was delayed by the Regional Authority and composition fee has been charged by PRC. If the firm has to pay the composition fee in terms of PN No. 16 then it will cause them genuine economic hardship.
- The exports are suffering and the country is fighting hard to sustain their exports and the exporting community should not face undue hardship. Any undue economic hardship will harm the growth of exports.
- Had their request for clubbing been accepted upon completion of all the documentation, they would have to pay the composition fee as per the provisions that existed prior to the coming into force of PN No. 16 dt. 04.06.2015.
- In view of the above, the firm requested that the they applied much before the date of issue of PN 16, hence they should be allowed to pay the composition fee as per provision that existed prior to the coming into effect of PN. No. 16 dated 04.06.2015.

Decision: Having heard to the applicant, the case was discussed again at length. It was noted that Authorisation in question were issued prior to 2009 having 24 months obligation which could be extended upto 36 months on payment of composition fee as prescribed under prevalent procedure. The applicant applied for EOP extension/Clubbing after 2013 and policy for EOP extension and clubbing of Authorisation was changed on 05.06.2012. As per Para 4.27 of HBP, except the provisions of EOP extension and clubbing of Authorisation, all provisions of prevalent procedure shall apply in case Authorisation issued prior to 05.06.2012. In other word, EOP extension and clubbing shall be allowed as per procedure in force on the date of application. In case, where Authorisation was issued having 36 months export obligation period, no further extension could be allowed by RAs. PRC allows extension considering genuine hardship subject to payment of composition fee as to be decided by the committee. This is upto the applicant to accept the condition imposed by the committee or follow the provisions of Para 4.49 of HBP for getting the case regularized. The committee, therefore, did not agree to reduce the composition fee.
(Action: Applicant/RA)

Case No.2: M/s Sturdy Industries Limited, Chandigarh

F. No. 01/60/162/79/AM17/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for amendment in Authorisation No.2210015508 dated 17.6.2016 issued under Custom Notification 18/2015 to 21/2015

Aggrieved by the committee's decision dated 17.08.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Amit Gupta, Director from M/s Sturdy Industries Limited appeared before the committee and made the following submissions stating inter alia that:

1. They got advance license for physical exports under Custom Notification from 18/2015.
2. They, however, inadvertently done deemed export against supplies order from Govt. of India.
3. Major quantity of raw material was procured from domestic market against invalidation letter. And, also some raw materials were imported from Nepal and only excise duty/CVD exemption was availed, as no customs duty or antidumping duty/safeguard duty applicable on import from Nepal.
4. They have not taken exemption of any basic custom duty, anti dumping duty and safeguard duty.
5. They have completed 100% export against all three licenses.
6. Hence, they requested to regularize their deemed export against the licenses.

<u>Decision</u>: Having heard to the applicant, the case was discussed at length. It was noted that under duty exemption scheme, export obligation could be fulfilled by physical export or deemed export. However, in case of deemed export, exporter is not exempted from payment of safeguard duty and antidumping duty if any applicable on inputs at the time of import. In the case under consideration, the applicant has procured goods from indigenous sources on which antidumping or safe guard duty is not applicable. In case import from Nepal also no antidumping or safeguard applicable. Taking into consideration the above facts, the committee decided the following:

i. Exports made indicating Authorisation details on export/supplies documents shall be taken into account towards fulfilment of export obligation.
ii. RA shall check that no import other than Nepal was made against the Authorisation.

(Action: Applicant/RA, Chandigarh)

Case No.3: M/s Sturdy Industries Ltd., Chandigarh
F. No. 01/60/162/81/AM18/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for amendment in Authorisation No.2210015500 dated 14.06.2016 issued under Customs Notification No.18/2015 to 21/2015

The applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Amit Gupta, Director from M/s Sturdy Industries Limited appeared before the committee and made the submissions as stated in the case No 2 above.
<u>Decision:</u> Decision as per case No 2 above is reiterated.

Case No.4: M/s Sturdy Industries Ltd., Chandigarh
F. No. 01/60/162/80/AM18/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017
Subject: Request for amendment in Authorisation No.2210015507 dated 14.06.2016 issued under Customs Notification No.18/2015 to 21/2015.

The applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Amit Gupta, Director from M/s Sturdy Industries Limited appeared before the committee and made the submissions as stated in the case No 2 above.
<u>Decision:</u> Decision as per case No 2 above is reiterated.

Case No.5: M/s Nico Extrusions Limited, Mumbai
F. No. 01/ 60/162/474/AM18/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for allowing re-export of defective goods imported under Advance Authorisation No.0310490685 dated 16.10.2008 for export obligation purpose.

The applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Vipul Porwal, ED from M/s. Nico Extrusions Limited appeared before the committee and made the following submissions stating inter alia that:

1. The raw material procured was substandard and not suitable for production of export product due to extreme small size of scrap pieces shipped by the overseas supplier which was practically impossible to segregate and separate impurities to enable manufacture the resultant product.
2. Customer had refused to extend the supply contract period and they initiated the process of findings suitable customers for the other alternative resultant product. Just then the global recession came, particularly in Western countries, which were their major markets, prevalent from early 2008 and still continuing. This fact was well acknowledged by the Government of India well evident from their negative growth exports.
3. The adverse climate conditions viz. Torrential rains in their factory area during 2011, the roof of their factory building collapsed injuring few labours who were hospitalized. Consequently, the power supply and factory had to be shut own until the entire factory roof was reconstruction and NOC was received from the Factory Inspector much later to commence the operations. This process took for over one year to restart norms product to their export product.
4. They made all efforts to utilize the defective/substandard inputs imported under the above referred Advance Authorization but could not succeed and by the time they finally persuaded with their overseas suppler to accept back the defective sub-standard inputs, the above advance authorization expired and they could not re-export the defective materials.
5. Their company had been struggling for a very long time to carry forwards its business commitments and export obligation. However, due to the compelling circumstances explained above, they could not succeed in their efforts to overcome from the global economic slowdown and to become a successful enterprise. To get their sick unit revived, they had registered with the BIFR for a restructure under SICA Act but before the restructure could be sanctioned, the act was repealed about one year back the positions on which they were facing tremendous pressure to fulfil the export obligation against above authorization.
6. Hence they have requested to allow re-export of defective goods imported under Advance Authorisation No. 0310492661 dated 03.11.2008 for the purpose of Export obligation.

Decision: The applicant was given a patient hearing. After discussing the case at length, the committee noted that goods were imported 9 years back in 2008. The committee did not accept the contention of the applicant that the goods so imported were sub-standard and they did not re-export the same to the supplier within the permissible time under the Customs Act. The committee, therefore, was of the view that the goods imported in 2008 might not be available intact for 9 long years. It is also not possible to ascertain that goods available with the exporter are the same which were imported under the Authorisation. Further, Committee felt that Advance authorisation scheme works on fixed time schedules and in this case, the original Export Obligation period is valid for 24 months from date of issue of Authorisation and extendable by only six months on payment of 5% of the duty based on all the unutilized imported items. More than six years have passed after expiry of export obligation period. Committee felt that it could set a bad precedent for future cases. The committee, therefore, did not accede to the request.

The applicant is hereby directed to get the case regularized 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, Mumbai)

Case No.6: M/s Nico Extrusions Limited, Mumbai
F. No. 01/ 60/162/952/AM17/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017
Subject: Request for Personal Hearing for re-export defective goods imported under Advance Authorisation No.0310492661 dated 03.11.2008 for re-export purpose

The applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Vipul Porwal, ED from M/s. Nico Extrusions Limited appeared before the committee and made the same submissions as stated in the case No 5 above.

Decision: Decision as per case No 5 above is reiterated.

Case No.7: M/s Shalina Laboratories Pvt. Ltd., Mumbai
F. No. 01/60/162/281/AM18/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for Clubbing of two Advance Authorisations No 0310768359 dated 29.01.2014 and 0310786800 dated 14.07.2014 issued under PC-9 condition

Aggrieved by the committee's decision dated 31.08.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Sushil Agarwal, Vice President from M/s. Shalina Laboratories Pvt. Ltd. appeared before the committee and made the following submissions stating inter alia that:

1. The PRC did not consider the case on the ground that export has been made only 4% and 10.45% in both the authorization. However the actual export is more than 100% in one authorization. The details have been given in ANF 2D.
2. Drug Raw material indigenously procured against invalidation & consumed under the both authorizations is the same. Raw material has been procured from **registered source**.
3. They were facing lot of challenges for over past three years due to the currency depreciation in the African Countries, Softening of Crude Oil prices which has affected their purchasing power and also due to political and social unrest in their key markets of Nigeria and Angola.
4. Inspite of the above challenges, the firm completed their export obligation on time and also realized their export proceeds.
5. Hence, they requested PRC to allow clubbing of the above licenses based on the above submission and not penalize them for technical deviation.

Decision: Having heard to the applicant, it was noted that no policy relaxation is required in the case. If imports were made from registered sources or procured indigenously, PC-9 shall not apply. Further, vide Public Notice 32 dated 18.10.2017, Para 4.42 and 4.49 have been amended to regularize cases where imports have been made from unregisterted sources subject to certain conditions. The applicant is hereby directed to approach the RA concerned. **(Action: Applicant/RA, Mumbai)**

Case No.8: M/s Venus Industries Corporation, Ludhiana
F. No. 01/60/162/269/AM18/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for condonation of delay to the file SHIS application against the exports made during 2011-12 for Rs.22,14,022/- owning to misinterpretation of policy regarding eligibility of zero duty EPCG and SHIS scrip

Aggrieved by the committee's decision dated 31.08.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. 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.9: M/s Man Industries Ltd., Mumbai
F. No. 01/60/162/931/AM17/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017
Subject: Request for clubbing of four advance authorization No.(1) 0310719152 dated 03.01.2013 (2) 0310754593 dated 21.10.2013 (3) 0310755802 dated 28.10.2013 and (4) 0310777050 dated 04.04.2014

Aggrieved by the committee's decision dated 11.04.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri N Nagarajan, Sr. GM Marketing & Execution from M/s. Man Industries Ltd., appeared before the committee and made the following submissions stating inter alia that:

1. They have effected deemed exports under two authorizations Nos (1) 0310755802 dated 28.10.2013, (2) 0310777050 dated 04.04.2014 by exporting the goods against the EPCG Authorization in terms of para 8.2(C) of FTP 2009-14 . in respect to two authorization having Nos. 0310719152 dt. 03.01.2013 and 0310754593 dt. 21.10.2013 they have made physical exports.
2. All the authorization is issued within 15 months time. The overall exports under the authorization are made within 16 months time. The quantum of customs duty is same in respect to all the authorization.
3. They have imported the goods under the said authorization during the period 22.01.2013 to 01.11.2015.
4. They have imported items 1. Non Alloy HR Plates, 2. Welding Wire, 3. Welding Flux & 4. Alloy HR Plates under the said authorization without payment of any antidumping or safeguards duty.
5. The Antidumping duty and Safeguard duty came into effect against their inputs w.e.f dated 14.09.2015, in terms of Customs notification nos. 2/2015-Customs (SG) dated 14.09.2015 and 44/2016-Cus (ADD) dated 08.08.2016 respectively, and their entire imports under the subject's authorization has taken place before these dates.
6. They submit that their entire imports under the said authorizations are not subjected to antidumping or safeguards duty.
7. Hence, they have requested for clubbing of above authorizations.

Decision: The case was discussed at length. It was noted that Authorisations were issued under two different Customs Notification No 96/2009 and 112/2009 which represents to physical export and deemed export, respectively. In case of deemed export, antidumping and safeguard duty is not allowed to be exempted. Rests of duties exemption are common under both the exemption Notification. Committee noted the contention of the applicant that they have not availed the antidumping duty and safeguard duty exemption under the Authorisations issued having Customs Notification No 112/2009 and their exports made under all Authorisations could be clubbed because in terms of Para 4.1.3 of FTP, export obligation could be discharged by physical export or deemed export. Taking into consideration the above facts, the committee decided the following:

i. Clubbing of all 4 above mentioned Authorisations be allowed for discharge of export obligation.
ii. This will, however, be subject to the condition that exports under all Authorisations are completed within initial export obligation period of the first Authorisation and no benefit of antidumping duty and safeguard duty exemption have been availed in any authorisation.
iii. Duty free inputs are accounted as per SION/Norms fixed by NC;
iv. Minimum 15% Value Addition is achieved on clubbed CIF and FOB value;
v. Shortfall, if any, shall be regularized in terms of Para 4.49 of HBP, 2015-2020.

(Action: Applicant/ RA, Mumbai)

Case No.10: M/s Medchl Chemicals and Pharmaceuticals Pvt. Ltd. Secunderabad
F. No. 01/60/162/1036/AM17/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for count the supply of Invoice No.022/09-10 dated 13.7.2009 towards fulfillment of EO against Advance Authorization No.0910039024 dated 18.08.2009

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 21.11.2017. Shri R. Pakshirajan, Director from M/s. Medchl Chemicals and Pharmaceuticals Pvt. Ltd appeared before the committee and made the following submissions stating inter alia that:

1. They have supplied goods to AA holder i.e. M/s. Axon Drugs Pvt. Ltd. against invalidation letter dated 26.05.2009 with an intention to apply for AA for importing raw material. In order to meet their demands they have commenced supplies before making an application for AA, therefore, could not mention authorization no. or application no. on the supply invoice No.022/09-10 dated 13.07.2009.
2. After completion of stipulated export obligation when they have approached RA, Hyderabad, they have rejected their application for redemption.
3. Hence, they have requested to count the supply of invoice No.022/09-10 dated 13.07.2009 towards fulfillment of EO against AA No. 0910039024 dated 18.08.2009.

Decision: Having heared to the applicant, the case was discussed again at length. It was noted that for correlating discharge of stipulated export obligation against a particular Authorisation, it is necessary to indicate Authorisation/File Number on exports documents. The objective of indicating the Authorisation/File Number is to avoid accounting of same shipping bills against any other Authorisation and/or double benefits against the same export. Therefore, in terms of Para 4.27 of HBP, export/supply made from the date of EDI generated File No shall only be accounted towards discharge of export obligation. Exporter is required to indicate Authorisation No/File No on export documents. Therefore, exports made before generating EDI File No for Authorisation cannot be taken into account towards discharge of EO. The committee, therefore, did not accede to the request and reiterated its earlier decision dated 27.03.2017.

The applicant is hereby directed to get the case regularized 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, Hyderabad)

Case No.11: M/s Handfac Home, Panipat
F. No. 01/60/162/319/AM17/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for revalidation of SHIS scrip No.3310028666 dated 06.01.2014 for 6 months from the date of endorsement

Aggrieved by the committee's decision dated 14.07.2016, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Prashant K Tahiliani, Advocate from M/s Handfac Home appeared before the committee and made the following submissions stating inter alia that:

1. The duty credit scrip was issued on 06.01.2014 and was valid for a period 18 months.
2. When they made an application 13.07.2015 for transferability of scrip as per para 3.16.3 of FTP 2009-14, RA Panipat denied same saying that the scrip was expired on 05.07.2015 and para 2.12.1and 2.12. of HBP 2009-14 is not applicable in the case of duty credit scrip issued under chapter-3 of FTP 2009-14 as mentioned in para 2.12.3 of HBP 2009-14.
3. Jt. DGFT, Panipat has again rejected their request on 16.03.2016.They approached DGFT but Hon'ble PRC did not accede their request in its meeting no.14/AM18 dated 22.08.17.
4. Impugned decision of the Hon'ble PRC was contrary to the provisions contained in the HBP and unreasonable and arbitrary.
5. Because the applicant's right to transfer the abovementioned SHIS is sought to be denied by Hon'ble PRC by placing erroneous, illegal and arbitrary reliance on para 2.12.3 of HBP.
5. They have stated that in the present case ,PRC while rejecting the request for transferability of SHIS has held that the said scrip, being a duty credit scrip, was covered under para 2.12.3 of HBP and on account of the same ,the scrip should be valid on the date of import. The said finding recorded by the PRC was based on a complete misreading of the provisions of the HBP.
6. In this regard, the provisions of HBP, dealing with the validity of authorization/scrips, are extracted hereunder:

   "2.12.1. Where an authorization expires during the month, such authorization shall be deemed to be valid until last day of concerned month. This proviso would be applicable event for a revalidated authorization.

   2.12.2. Validity of an import authorization is decided with reference to date of shipment / dispatch of goods from supplying country as given in paragraph 9.11.A of HBP v I and not the date of arrival of goods at an Indian Port.

   1.12.3 Provisions of paragraph 2.12.1 above shall not be applicable to DEPB, Service Providers under SFIS, VKGUY and duty credit scrips issued under FMS and FPS, which are duty credit entitlements and must be valid on date on which actual debit of duty is made".

7. In the light of above it is clear that para 2.12.3 of HBP makes an exception to the provisions of para 2.12.2 and states that the validity of certain authorization/scrips, as specified therein, shall be decided with reference to the date on which actual debit of duty made.
8. The Impugned decision taken by PRC was violative of article 14 of the constitution of India.
9. Hence, they prayed to set aside /quash the impugned decision dated 14.07.2016 taken by PRC and accept the request for transferability of abovementioned SHIS.

Decision: Having heard to the applicant, the case was discussed again at length. It was noted that in the case under consideration, Duty Credit Scrip was issued under SHI Scheme. Scrip under the scheme was issued having 18 months validity. Duty Credit Scrips are valid till the specific date indicated in the scrip and not till last date of month. Para 2.12.1 of HBP cited by the applicant is applicable for Authorisation and not for Duty Credit Scrip, which is at par with the hard cash. The applicant submitted request for transferability after expiry of the scrip. Therefore, decision of the RA was correct. The applicant could not give any reason of genuine hardship due to which they could not utilize the scrip within its validity. The committee, therefore, did not accede to the request.
(Action: Applicant)

Case No.12: M/s Sathe Synthetics, Delhi

F. No. 01/60/162/159/AM17/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for issuance of Duplicate Advance Authorisation with revalidation of Advance Authorisation No.0510382914 dated 27.03.2014.

Aggrieved by the committee's decision dated 19.07.2016, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Rakesh Mohan, Director and Shri N.C. Sharma, General Manager (Marketing) from M/s. Sathe Synthetics appeared before the committee and made the following submissions stating inter alia that:

1. They have completed the export obligation under the said authorization and import was pending to be done.
2. A major fire accident happened in their factory on 27.10.2014 and their complete factory with all set up was destroyed in fire.
3. They had submitted request to RA for issue of duplicate authorization with 6 months revalidation but due to non receiving of utilization report from Customs, their request was not considered.
4. The above authorization was expired for import on 31.3.2015 and they applied to RA on 01.04.2015, therefore there was no delay on their part as mentioned in PRC decision. As per FTP one revalidation of 6 months could be granted by RA.
5. RA send a letter to Customs for utilization report and customs did not sent the utilization report even after lapse of long time therefore RA has not issued the duplication authorization with revalidation.
6. It is submitted that they have already suffered a lot due to massive fire in their factory and incurred heavy financial losses. They have also completed export obligation to the tune of 100% against the said authorization however not import any duty free materials.
7. Hence, requested for issuance of duplicate Advance Authorization for the purpose of imports with a validity of 6 months after issuance of duplicate Advance Authorization.

Decision: It was noted by the committee that the applicant has submitted request to RA on 01.04.2015 whereas the Authorisation was valid till 31.03.2015. However, in terms of Para 4.41 of HBP, RA is empowered to allow six months further revalidation in continuity. The

customs Authority took one year to issue utilization certificate. Meanwhile, extendable validity of the Authorisation got expired. Taking into consideration the facts, it was decided to allow duplicate Authorisation having six months validity provided all other condition, as prescribed in the HBP, are met for issue of duplicate Authorisation. The applicant is hereby directed to submit all prescribed documents to RA concerned within a month from the date of uploading of these minutes on the Directorate website.
(Action: Applicant/RA, CLA)

Case No.13: M/s K E C International Ltd., Mumbai
F. No. 01/60/162/471/AM18/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for revalidation of DFIA No.0310636996 dated 17.06.2011

The applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Ashwin A. Gaikwad, Manager –Commercial from M/s. K.E.C International Ltd appeared before the committee and made the following submissions stating inter alia that:

1. They obtained Authorisation No 01036996 dated 17.6.2011 issued against export of Galvanised Transmission Line/Telecom Towers & Part as per SION A0220.
2. The EODC and transferability was endorsed on the licence on 26.4.2017.
3. RA has issued EODC vide amendment sheet No.4 dated 26.4.2017. However, request of the revalidation was not considered.
4. They again requested to RA Mumbai vide their dated 08.06.2017. The above said request was rejected by the RA Mumbai on 20.6.2017.
5. They were unable to submit the application for EODC and redemption of said DFIA to RA within the stipulated time due to late receipt of payment and BRC's and subsequent development with regard to export made under DEPB scheme.
6. It is submitted that their company was put under DEL in the year 2013, 2014 and 2015 apparently for the reasons of non submission of BRC's and the ongoing matter.
7. It is submitted that since 2011, EODC or waiver of bond is allowed only against online application. They could not submit EODC application on line within validity of the DFIA as more than 30 shipping bill were not transmitted by ICEGATE to DGFT repository within the validity of the licence. Due to that reason they could not import/transfer the balance inputs. Statement of exports indicating the details of shipping bills and the date on which the EDI copy of shipping bill was generated is annexed and marked as Annexure A and Annexure-B, indicating the number of days the shipping bills got delayed in transfer from ICEGATE to DGFT
8. In view of the aforementioned technical issue i.e. non-transferring of EP copies of shipping bill, they were unable to obtain EODC/Transferability and revalidation of the said license during its validity period.
9. They had submitted request for EODC revalidation and transferability to RA Mumbai. However, Ra has allowed only EODC/Transferability without revalidation on 26.04.2017.
11. Hence they requested for revalidation of above DFIA for six months.

Decision: Having heard to the applicant, the case was discussed at length. It was noted from the screen shots and other deatils provided by the applicant that there was unreasonable delay (two months to twelve months) in transmission of shipping bills from ICEGATE to DGFT repository. And, in case of EDI shipping bill, request for EODC can be filed online only. Taking into consideration the facts of genuine hardship, the committee decided the following:

i. Revalidation of six months from the date of endorsement be allowed.
ii. The applicant shall submit DFIA to RA for necessary endorsement within a month from the date of uploading of these minutes.

(Action: Applicant/RA, Mumbai)

Case No.14: M/s K E C International Ltd., Mumbai
F. No. 01/60/162/600/AM18/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: M/s Request for revalidation of DFIA No.0310653755 dated 15.09.2011

The applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Ashwin A. Gaikwad, Manager –Commercial from M/s. K E C International Ltd appeared before the committee and made the same submissions as stated in the case no 13 above.
Decision: Decision as per case no 13 above is reiterated.

Case No.15: M/s SSUV Services Pvt. Ltd., Kanpur
F. No. 01/60/162/964/AM16/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for revalidation of two DFIAs No.0610024034 dated 04.10.2011 & and 0610026372 dated 26.03.2012

Aggrieved by the committee's decision dated 29.11.2016, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Prashant K Tahiliani, Learned Advocate from M/s SSUV Services Pvt. Ltd appeared before the committee made the following submissions stating inter alia that:

1. The above DFIAs were originally issued to M/s Omega International, Kanpur for export of finished leather from Hide of Cow/Buffalo. Subsequent to completion of E.O. the above DFIA was made transferable and it was purchased by them being transferable.
2. In terms of the said license they imported various input and originally these were allowed by the Customs Authorities by accepting the license. However, the DRI Lucknow took up an investigation and it was contended that these inputs are not permitted under the subject DFIA License.
3. Under such circumstances waving the show cause notice, they have agreed to pay the duty involved along with interest. In this regard, copies of the TR6/GAR 7 challan evidencing the payments of Rs.2,24,623/- and Rs.19,08,445/ made by the applicant towards the applicable Customs duty along with interest in respect of the inputs imported under the above mentioned DFIA Licences.
4. It is submitted that DRI vide letter dated 26.9.2013 advised them to take up the matter regarding re-credit and revalidation of the abovementioned DFIA licenses with the concerned Customs and DGFT authorities.
5. Based on their request, the Customs authorities have re-credited the license on 8.1.2015 however, by the said time, the above mentioned DFIA had already expired.
6. It is submitted that on account of the investigation initiated by the DRI against the applicant as well as by the Customs authorities for permitting re-credit of the amounts debited in the abovementioned DFIA licences, the applicant could not utilize the said licences for completing imports permitted therein. Thus, the observation recorded by PRC that the applicant had enough time to complete the imports during the validity period of the above mentioned licence and that no cogent reasons for not completed such imports within the 30 months period has been furnished by the applicant are incorrect.

7. The request for revalidation of DFIA Licences cannot be denied when there was no lapse attributable and the delay has been caused by the Customs authorities in accepting the request of the applicant for permitting re-credit of the amounts debited in the said licences in respect of inputs imported under such license. In this regard, reliance is placed on the decision of the Hon'ble Delhi Court in Ajay Industrial Corporation VS Union of India 2002 (143) ELT 280(DEL) wherein the high court has observed to the following effect"-

> *"The controversy lies in a very narrow compass. Though petitioner had submitted license for the purpose of clearance during November, 1997, no final decision was taken thereon and ultimately on 28th December, 1999 respondent NO.2 indicated to the petitioner that since 30 months period had lapsed the license cannot be revalidated. From the counter affidavit we find that the matter was consider by the Policy Review Committee on 9th February 2000 and it was decided that " for the present" it may not be possible to consider such request for revalidation. It is an undisputed position that the licence was lying with the Customs authorities and DGFT and, therefore, no lapse can be attributed to the petitioner. In the circumstances following the directions given in similar matter earlier we direct that the licence shall be revalidation for a period of seven months from the date of endorsement which we direct to be done within two weeks from today. The petition stands disposed of"*

8. Hence they requested for revalidation of DFIA for six months from the allowing of the revalidation by PRC.

Decision: having heard to Shri Prashant K Tahiliani, Advocate, the case was deferred, as he failed to give details of B/E filed under the said DFIAs and detail of Authorisations given was different in the Customs letter. The applicant may seek fresh date of hearing.
(Action: Applicant)

Case No.16: M/s Tina Organics (P) Ltd. New Delhi
F. No. 01/60/162/150/AM17/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for condonation of the procedural lapse of obtaining the bill exports of Advance Authorisation No.0510245912 dated 15.07.2009

Aggrieved by the committee's decision dated 01.08.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Lalit Jain, Managing Director from Tina Organics (P) Ltd. appeared before the committee and made the following submissions stating inter alia that:

1. They exported the goods to SEZ under ARE1 in supervision/certification of Central Excise Authorities. Advance Authorizations No. and other requisite details were duly mentioned in all ARE-1. The documents & ARE 1 clearly proves the export made to SEZ under the Advance Authorization.
2. The firm completed the export through ARE-1 and got BRC in App. 22-B, considering it as Deemed exports. They applied for redemption of Authorization and RA has returned it that it falls under 'Physical Exports' and not 'Deemed Exports', S/Bills and BRC in App.22a is required.
3. They have stated that there was no revenue loss, and an exports has taken place against ARE-1 and BRC in 22B are obtained instead of Bill of exports and BRC in 22A, this technical mistake be condoned and ARE-1 and BRC in 22B may be accepted.
4. The PRC had already condoned the procedural lapse of not generating bill of export against SEZ in various PRC meeting. An extract of Minutes of the meeting No. 12/AM15 dt. 18.11.14 (case 40), Meeting No. 04/AM15 dt. 8.7.14 (case 22), Meeting No. 30/AM14 dt. 26.11.13 (case 13), Meeting No. 13AM14 dt. 9.7.13 (case 1) and

Meeting no. 40/AM14 dt. 11.3.14 (case 16, 17, 18 & 19), are enclosed wherein PRC waived off the procedural lapse of not generating bill of export against SEZ.

They, therefore, requested to condone /waive off the requirement of BoE in the present case.

Decision: After giving patient hearing the case was discussed again at length. The committee was of the view that no ground or reason of genuine hardship is given by the applicant, which warrants relaxation in policy and procedure. Under Advance Authorisation, duty free imports of inputs are allowed. Accounting of such inputs is mandatory requirement. Export of goods under cover of Bill of export are assessed and evaluated by the Customs Authority. Whereas export of goods under cover of ARE-1, are simply allowed to be bonded without any assessment or valuation. Therefore, such export cannot be accepted towards discharge of export obligation against an Advance Authorisation, as no incentives are allowed against such supplies under Rule, 30 of SEZ, Rules, 2006.

The committee, therefore, did not accede to the request and reiterated its earlier decision dated 01.08.2017.

The applicant is hereby directed to get the cases regularized in terms of Para 4.49 of HBP, 2015-2020 within a month from 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, CLA)

Case No.17: M/s Tina Organics (P) Ltd., New Delhi
F. No. 01/60/162/151/AM17/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for condonation of the procedural lapse of obtaining the bill exports of Advance Authorisation No.0510278028 dated 22.11.2010

Aggrieved by the committee's decision dated 01.08.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Lalit Jain, Managing Director from Tina Organics (P) Ltd. appeared before the committee and made the same submissions as stated in the case No 16 above.
Decision: Decision as per case No 16 above is reiterated.
(Action: Applicant/RA, CLA)

Case No.18: M/s Tina Organics (P) Ltd., New Delhi
F. No. 01/60/162/152/AM17/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for condonation of the procedural lapse of obtaining the bill exports of Advance Authorisation No.0510267699 dated 07.07.2010

Aggrieved by the committee's decision dated 01.08.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Lalit Jain, Managing Director from Tina Organics (P) Ltd. appeared before the committee and made the same submissions as stated in the case No 16 above.
Decision: Decision as per case No 16 above is reiterated.
(Action: Applicant/RA, CLA)

Case No.19: M/s Tina Organics (P) Ltd., New Delhi
F. No. 01/60/162/287AM18/PRC

PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for condonation of the procedural lapse of obtaining the bill exports of Advance Authorisation No.0510381739 dated 13.03.2014

Aggrieved by the committee's decision dated 01.08.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Lalit Jain, Managing Director from Tina Organics (P) Ltd. appeared before the committee and made the same submissions as stated in the case No 16 above.
Decision: Decision as per case No 16 above is reiterated.
(Action: Applicant/RA, CLA)

Case No.20: M/s Tina Organics (P) Ltd., New Delhi
F. No. 01/60/162/288/ AM18/PRC
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request for condonation of the procedural lapse of obtaining the bill exports of Advance Authorisation No.0510328532 dated 28.06.2012

Aggrieved by the committee's decision dated 01.08.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Lalit Jain, Managing Director from Tina Organics (P) Ltd. appeared before the committee and made the same submissions as stated in the case No 16 above.
Decision: Decision as per case No 16 above is reiterated.
(Action: Applicant/RA, CLA)

Case No.21: M/s Ford India Pvt. Ltd., Gurgaon
F. No. 01/89/180/01/AM13/PC-2(A)
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request to import of 2 LHD Ford Figo Vehicle from Australia and relax policy provisions under para 2 (ii) (ii) of Chapter 87 of ITC (HS) 2017 Schedule – I (Import Policy)

Decision: It was noted that Policy-2 has allowed import of 2 LHD Ford Fiago Vehicle. The committee, therefore, agreed to allow ex-post facto approval for the same.
(Action: Policy-2)

Case No.22: M/s Hindustan Zinc Limited, Udaipur
F. No. 01/89/180/67/AM09/PC-2 (A) / Vol-V/Part-1
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Grant of relaxation in provision of 126 CMVR 1989 and Clause 2(II) (a) (i) (II) & (III) ,(b) (c) (i) (ii) (iii) and Clause 7 of Chapter 87 ITC HS 2012 for import of 20 Nos of underground mining equipment

Decision: It was noted that Policy-2 has allowed import of 20 Nos of underground mining equipment. The committee, therefore, agreed to allow ex-post facto approval for the same.
(Action: Policy-2)

Case No.23: M/s Hindustan Zinc Limited Udaipur
F. No. 01/89/180/67/AM09PC-2 (A) Vol. V Part -I
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Grant of relaxation in provision of 126 CMVR 1989 and Clause 2(II) (a) (i) (II) & (III), (b) (c) (i) (ii) (iii) and Clause 7 of Chapter 87 ITC HS 2012 for import of 20 Nos of underground mining equipment

Decision: It was noted that Policy-2 has allowed import of 20 Nos of underground mining equipment. The committee, therefore, agreed to allow ex-post facto approval for the same.

(Action: Policy-2)

Case No.24: M/s Focus Energy Limited, New Delhi
F. No. 01/89/180/20/AM09/PC-2 (A)
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: Request to permit relaxation from compliances of provisions of I (ii) (a), (b) (d) (ii) of import licensing Notes of Chapter 87 of ITC (HS) for import of Second Hand Equipment for our Oil & Gas Exploration, Production and Development Projects

Decision: It was noted that Policy-2 has allowed import of Second Hand Equipment for our Oil & Gas Exploration. The committee, therefore, agreed to allow ex-post facto approval for the same.

(Action: Policy-2)

Case No.25: M/s JSW Energy Ltd., Mumbai
F. No. 01/89/180/MISC14 (AM10)
PRC Meeting No. 24/AM18 dated 21.11.2017

Subject: New Business for electric Vehicles Approval for import of new vehicles with left hand steering and control for R & D purpose

Decision: It was noted that Policy-2 has allowed import of new vehicles with left hand steering and control for R & D purpose. The committee, therefore, agreed to allow ex-post facto approval for the same.

(Action: Policy-2)

Case No.26: M/s. Eastman International. Ludhiana
F. No. 01/60/162/633/AM17/PRC)
PRC Meeting No. 24/AM18 dated **21.11**.2017

Subject: Request for Revalidation of DFIA no. 3010050096 dt. 14.12.2006

Aggrieved by the committee's decision dated 06.06.2017, the applicant sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded to them on 21.11.2017. Shri Rakesh Gupta, President Director General from M/s. Eastman International appeared before the committee and made the following submissions stating inter alia that:

1. The basic issue on which their representation for grant of extension in revalidation for the subject DFIA's was based viz. the computer system migration from version 1.00 to 1.5 undertaken by customs at Ludhiana and Other PAN india, ports. The consequent adverse impact this system migration had on the cut of working, both on export and import, clearance procedures, from one the up-gradation of system from version 1.0 to 1.5, was undertaken, till the time said up-gradation was finally completed. The impact was so severely adverse that total custom procedures had literally come to a standstill and things were moving in kicks and starts for almost 6 month. Existence of such situation has for a change been owned by senior officer, that too in writing. Seeking the subject PH & review of the earlier decision basically to bring attention of the authority concerned of these facts.

2. More over that PRC has delved upon in detail in its decision on the fact of the said DFIA's were granted additional revalidation by DGFT on its own; the circumstances and reasons for said extension in revalidation of DFIA's and whey they could not utilize the said DFIA's in time.

Decision: Having heard to the applicant, the case was discussed again at length. It was noted that DFIA under consideration was issued having validity of 24 months. The applicant has been granted revalidation till 40 months to compensate the disputed period. No cogent reason of genuine hardship is given which warrants policy relaxation. The committee, therefore, did not accede to the request and reiterated its earlier decision dated 06.06.2017.
(Action: Applicant)

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

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