Directorate General of Foreign Trade
(PRC-Section)

Minutes of the Policy Relaxation Committee Meeting No. 28/AM18 held on 06.02.2018 at 10:00 AM under the Chairmanship of Shri Alok Vardhan Chaturvedi, Director General of Foreign Trade

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 J V Patil	Addl. DGFT
4.	Shri S B S Reddy	Addl. DGFT
5.	Shri N K Srivastava	Addl. DGFT
6.	Shri Jay Karan Singh	Jt. DGFT
7.	Shri Akash Taneja	Jt. DGFT
8.	Shri R B S Sharma	Jt. DGFT
9.	Shri S P Roy	Jt. DGFT

The cases discussed and decisions taken are as under:-

Case No.1: *M/s. SMC Pneumatics (India) Pvt. Ltd., Noida (PH Case)*
F. No. 01/60/162/249/AM15/PRC
PRC Meeting No. 28/AM18 dated 06.02.2018

Subject: Permission to allow shipping bill to be counted for discharge of export obligation of Advance Authorization no. 0510290853 dated 16.05.2011. (Shipping Bill No. 4886619 dated 09.09.2014)

The firm sought review of the earlier decision of PRC taken its meeting on 03.10.2017 through Personal Hearing in terms of Para 2.59 of FTP 2015-20 which was afforded to them. Shri Atul Asthana, Assistant Manager (Commercial) and his associate from the firm appeared before the Committee and made the following submissions:

- The firm applied for EOP extension of above authorization on 23.05.2014. The PRC considered the case in its meeting on 30.09.2014 and granted extension up to 31.03.2015.
- In the meantime, due to buyer pressure, they made a shipment under Shipping Bill No. 4886619 dated 09.09.2-014.
- The firm requested the Customs Authority to endorse the authorization number on Shipping Bill on the basis of Policy Para 4.43 of HBP which says exporter is allowed to export under authorization if the authorization holder has applied for extension of EOP to RA concerned only.

dhuy

- In the present case, request of EOP extension was dealt in DGFT between 23.05.2014 to 30.09.2014 and shipment was made on 09.09.2014 i.e. between the period of processing of the case at DGFT.
- Hence, the request to count the Shipping Bill No. 4886619 dated 09.09.2014 for discharge of export obligation of AA No. 0510290853 dated 16.05.2011.

Decision:
The Committee considered the request of the firm and noted that genuine hardship has indeed been caused to the firm as explained by their representatives. It was noted that exports under the S/b No 4886619 dated 09.09.2014 were made towards discharge of export obligation against two Authorizations. However, 36 items were exported as free shipments and 15 items under Authorization No. 0510204889 dated 10.11.2011. Most of inputs are on net to net basis. The Committee, therefore, after detailed deliberations decided to accede to the request with the following conditions:

i. Accounting of 21 export items from s/b No 4886619 dated 09.09.2014 be allowed towards discharge of export obligation against Authorization No 0510290853 dated 16.05.2011.
ii. The applicant shall submit packing list and invoice, pertaining to the said shipping bill and consumption of duty free inputs certified by an Independent Chartered Accountant, in order to proof consumption of duty free inputs in the said shipment.
iii. RA shall ensure that such items have not been accounted towards discharge of export obligation against any other Advance Authorization.
iv. The applicant shall furnish an affidavit cum indemnity bond duly notarized, affirming therein that 36 items exported under S/B 4886619 dated 09.09.2014 have not been/shall not be accounted towards discharge of any other Authorization and no any other benefits including duty drawback have been availed/shall be availed against said resultant products. In case any loss/demurrage to the exchequer is noticed in future, they will refund the same with applicable interest immediately without any protest, on demand by the RA/Customs Authority.

(Action: Applicant/RA, CLA)

<u>Case No.2</u>: *M/s. Toshiba JSW Power System Pvt. Ltd., Chennai (PH Case)*

F. No. 01/60/162/783/AM17/PRC
PRC Meeting No. 28/AM18 dated 06.02.2018

Subject: Request for permission to claim duty drawback on import of duty paid material as replacement for the same material imported under Advance Authorization but damaged during the floods in Chennai – December 2015 and rendered as useless.

<u>Decision:</u>
The Committee decided to defer the case as no one from the firm appeared for Personal Hearing despite reminder. The applicant may seek next date for personal hearing.

<u>Case No.3</u>: *M/s. Unique Wire Industries Ltd, Mumbai*

F. No. 01/60/162/651/AM18/PRC
PRC Meeting No. 28/AM18 dated 06.02.2018

Subject: Relaxation of Policy Provision of Advance Authorization no. 0310430720 dated 25.05.2005

The firm submitted as under:

- They had presented the shipping documents for EODC/Redemption purposes wherein six Shipping Bills namely 1) 6486707 dated 15.07.2008; 2) 6497082 dated 17.07.2008 ; 3) 6545117 dated 02.08.2008; 4) 6474143 dated 13.08.2008; 5) 6725989 dated 04.10.2008 and 6) 6725987 dated 04.10.2008 are not carrying Advance License details.
- They may be allowed to consider these six Shipping Bills under the above Advance Authorization relaxing the Policy provisions. The error took place due to lack of knowledge of their staff at their end. The shipments took place in the year 2008/09. Hence, correction/addition is not possible at this stage.
- The firm is manufacturer/exporter and above relaxation is sought to regularize the Authorization for Redemption/EODC purpose only.

Decision:
It was noted that exports under above mentioned shipping bills were made under free shipping bills, which are not assessed by the Customs Authority. Accounting of free Shipping Bills under Advance Authorization are not allowed because declaring of duty free inputs in Shipping Bills is a mandatory condition in terms of Para 4.12 of FTP, which have not been declared in these Shipping Bills. The Committee considered the case and noted that it was not a case of genuine hardship and therefore decided not to 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.4: *M/s. Maharashtra State Power Generation Co. Ltd. (MAHAGENCO), Mumbai*

F. No. 01/60/162/674/AM18/PRC
PRC Meeting No. 28/AM18 dated 06.02.2018

Subject: Relaxation in FTP regarding setting up of Mega power Projects (MPP) for refund of Terminal Excise Duty paid to M/s. BHEL towards supply of goods to Chandrapur Project before issue of Mega Power Projects Certificate by Ministry of Power.

1. The applicant has submitted that the MAHAGENCO is a Maharashtra State PSU, engaged in generating power from coal, gas, water and solar energy. It has commissioned a green filed thermal power project at Chandrapur, having a generating capacity of 1000MW (2 units of 500 MW each). Accordingly, the project was certified as a Mega Power Project (MPP) and was notified by the Ministry of Commerce & Industry.

2. It has placed an order for supply of main plant equipments on BHEL on 21.01.2009 and BHEL started supplies from 31.03.2009. However MAHAGENCO received MPP certificate on 16.12.2009. During this period, BHEL cleared goods levying an excise duty of Rs. 16,69,88,371/-on material which otherwise was not applicable due to MPP status of the project. BHEL applied to RA, Chennai for refund of excise duty already collected and deposited on the Bills which were raised towards supply of material prior to issue of MPP Certificate. The request was rejected on the

ground that excise duty exemption to MPP supplies is applicable from the date of issue of MPP Certificate.

3. It has been submitted that the Chandrapur project is having a generation capacity of 1000 MW since its inception and hence the project is qualified to be a MPP of Government from the beginning. Therefore, deemed export benefit should be available to Chandrapur project from zero date of the project i.e. 09.02.2009 although the MPP Certificate was issued later on 16.12.2009. In view of the above, it has been requested that relaxation in FTP regarding setting up of MPP for refund of terminal excise duty paid to BHEL towards supplies of equipments for Chandrapur project be allowed.

Decision:

The Committee considered the request and noted that both MAHAGENCO and BHEL are Government PSUs and the Chandrapur project is in public interest. Supplies to mega power project are regarded as deemed export under Para 8.2 of FTP, 2009-2014. The supplier (main/sub-contractor) is eligible for duty exemption provided a certificate from Joint Secretary of Power Ministry is obtained before import/procurement of goods by the project Authority. In the instance case the required certificate was obtained after some supplies were affected. Therefore, excise Authority did not allow exemption from payment of applicable excise duty on such supplies. It was further noted that refund of duty after lapse of a year is not allowed under Excise Rules. As such, the Committee, after detailed deliberations, decided the following:

i. RA shall examine the case as per policy and procedure, 2009-2014.
ii. Refund of TED shall be allowed if the case is otherwise in order.
iii. Requirement of Mega power project certificate from Joint Secretary Power will be accepted if the same was issued for whole project even on later date.

(Action: Applicant/RA, Mumbai)

Case No.5: ***M/s. Ford India Pvt. Ltd., Gurgaon***

F. No. 01/93/180/1483/AM03/PC-2(A) / Vol.- IV
PRC Meeting No. 28/AM18 dated 06.02.2018

Subject: Request for change of port from Mumbai to Chennai for import of used vehicles.

M/s Ford Motor Company was given Policy Relaxation in condition of Para 2(II) (f) of Chapter 87 of Import policy in PRC's Meeting No. 05/AM18 held on 16.05.2017 for import of one Ford Fiesta and one Ford S-Max from Ford Motor Company, UK with following conditions:

(i) Import should be made through the designated ports only.
(ii) Vehicles shall not ply on public roads except at the time of mobilization and demobilization and that the equipment would be used only at the project site.
(iii) The vehicle will be re-exported after completion of project.

Above decision of PRC was conveyed to the firm on 14.06.2017.

Now, the firm has requested to amend the above permission stating that vehicles reached Chennai Port in September, 2017 and since then they have been trying to clear the shipment, but unable to do so, as the vehicles have done some mileage accumulation, during previous laboratory studies in UK, hence they are considered as used vehicles. As per the regulation, used vehicle should get imported through Mumbai Port, but there are instances where DGFT has relaxed this norm and has allowed importation through Chennai Port. The Custom authorities at Chennai Port has advised them to seek an amendment letter from DGFT for change of port from Mumbai to Chennai.

Accordingly, the firm has requested for following relaxation:

(i) Import of used vehicles.
(ii) Port of import, i.e. instead of Mumbai, import be allowed at Chennai.

Decision:

Since the vehicle has already arrived at Chennai Port and change of port will not lead to any financial implication, causing any loss to Government, the Committee decided to accede to the request for change of port, subject to conditions (ii) and (iii) in permission given in PRC's Meeting No. 05/AM18 held on 16.05.2017.

(Action: Policy-2)

The meeting ended with vote of thanks to the Chair.

****

Rey