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MINUTES OF 3rd MEETING OF AM-24 OF THE EPCG COMMITTEE HELD UNDER THE CHAIRMANSHIP OF SHRI AKASH TANEJA, ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE AT 3.30 PM ON 12.07.2023.

Third Meeting for AM-24 of the EPCG Committee was held on 12.07.2023 at 3.30 PM under the chairmanship of Shri Akash Taneja, Additional Director General of Foreign Trade through Video Conferencing. Following officers attended the meeting:-

i. Shri Chandan Kumar, OSD, Department of Revenue
ii. Shri Randheep Thakur, Joint Director General of Foreign Trade, DGFT
iii. Shri Rajesh Malhotra, Deputy Director General of Foreign Trade, DGFT
iv. Shri Satish Kumar Oza, Foreign Trade Development Officer, DGFT

2. Minutes of the last Meeting were confirmed. Thereafter, the Committee deliberated upon all the cases and following decisions were taken:-

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Case No- 1: General Motors India Pvt. Ltd. (GMIPL), Pune
F. No. HQREPCGPRAPP00102216AM22
Subject: Request for post facto regularization of shifting and installation of certain capital goods imported under EPCG Authorisations No. 3130009582 dated 23.08.2016 at the supporting manufacturer's premises.

The firm has informed that they have fulfilled requisite EO and EODC has been issued by RA, Pune on 23rd March, 2021. At the time of initiation of the dismantling process of EPCG goods, post EODC, it was noticed by them that 2 Nos. of Capital Goods imported under the EPCG authorization were inadvertently shifted and installed at premises of their supporting manufacturer viz. Posco India Pune Processing Centre Pvt. Ltd. However, due to inter-functional miscommunication, they were unable to inform the RA and seek prior permission for such shifting and installation. On noticing the said error, they came forth to disclose the same and requested for post-facto regularization of the shifting and installation of 2 Nos. of EPCG goods at Posco India's premises in accordance with the relevant provisions of the Foreign Trade Policy (FTP).

2. The firm has also enclosed a letter provided by Posco India dated 25th May, 2021 which confirms the above stated fact that the Dyes were used for exclusive supply of parts to GM India. The firm engaged an independent Chartered Engineer (CE) and conducted a physical

verification of all EPCG goods imported under the aforesaid EPCG Authorizations. Accordingly, inspection stands completed and the CE has issued certificate confirming the location of installation of EPCG goods. The current CE certificate dated 27th May, 2021 should be treated as a replacement and update to earlier CE certificate dated 13th March, 2018.

3. In view of the above, the firm has stated that it is a bonafide inadvertent error only while internal discussions were being held about dismantling all the EPCG goods, post obtaining the EODC. On noticing the said error, they came forth to disclose the same and request for post-facto regularization of the shifting and installation of 2 Nos. of EPCG goods at Posco India's premises, in accordance with the relevant provisions of the FTP.

4. The matter was examined by EPCG Committee in its meeting held on 15.09.2021. The Committee deliberated upon the case and decided to defer it with the direction to call a report from RA.

5. RA, Pune vide letter dated 31.03.2023 has furnished a report.

Decision: The Committee deliberated upon the case and decided to **defer** it for further examination.

Case No- 2: TRDP Happy World Private Limited, New Delhi
F. No. HQRPRCAPPLY00002785AM23
Subject: Request for Removal of Annual Average Export Obligation (AAEO) as there were no average export shipments in 3 preceding Financial years before EPCG License issue date in respect of EPCG Authorization No. 0530171722 dated 30.01.2018 under 0% Concessional Duty.

The firm has stated that there were no annual average export shipments in 3 preceding financial years before the license issue date. The firm had audited their books of accounts from CAs regarding the subject matter and have found out nil annual average export shipments in 3 preceding financial years before the license issue date and hence the firm stated that they are not liable to maintain annual average EO.

Decision: After deliberation on the request of the firm, the Committee decided to **defer** the case with the directions to call for clarification along with Appendix 5B (CA Certificate) from the RA concerned.

Case No- 3: TRDP Happy World Private Limited, New Delhi
F. No. HQRPRCAPPLY00002784AM23
Subject: Request for Removal of Annual Average Export Obligation (AAEO) as there were no average export shipments in 3 preceding Financial years before EPCG License issue date in respect of EPCG Authorization No. 0530168282 dated 08.08.2016 under 0% Concessional Duty.

The firm has stated that there were no annual average export shipments in 3 preceding financial years before the license issue date. The firm had audited their books of accounts from

CAs regarding the subject matter and have found out nil annual average export shipments in 3 preceding financial years before the license issue date and hence the firm stated that they are not liable to maintain annual average EO.

Decision: After deliberation on the request of the firm, the Committee decided to **defer** the case with the directions to call for clarification along with Appendix 5B (CA Certificate) from the RA concerned.

<u>Case No- 4: Green Fields Recreation & Convention Center Pvt. Ltd., Hyderabad</u>
F. No. HQREPCGPRAPP00000494AM23
Subject: Requests against EPCG Authorization No. 0930011453 dated 27.08.2015 under 0% Concessional duty:

i. **Request for extension of 1st Block upto 26.08.2021 against above EPCG Authorization.**
ii. **Extension of EOP for 2 years upto 26.08.2023 against above EPCG Authorization.**
iii. **Request for condonation for late submission of Installation certificate against above EPCG Authorization.**

Decision:

In respect of 1st & 2nd request: The firm has stated that they could not fulfill their EO due to Covid-19. The Committee went through the statements made by the applicant and observed that the EPCG authorization was issued beyond 31.03.2015 and decided that the applicant may approach RA for extension of 1st block and EOP in accordance with the Public Notice No. 03/2015-20 dated 13.04.2022.

In respect of 3rd request: The firm has stated that due to change of concerned employee during time of Installation, the Installation Certificate was inadvertently not submitted. As per Installation Certificate issued by Chartered Engineer on 03.10.2015, CGs were imported on 05.09.2015 & 07.09.2015 and installed at the premises on 30.09.2015. The Committee was informed that the matter is under consideration in the DGFT HQ for issuance of Public Notice for general relaxation in such cases.

<u>Case No- 5: Citizen Umbrella Manufacture Ltd., Kolkata</u>
F. No. HQREPCGPRAPP00000531AM23
Subject: Review of decision taken in the EPCG Committee meeting dated 08.12.2021 i.e. acceptance installation certificate issued by Chartered Engineer instead of Central Excise in respect of EPCG License No. 0230007154 dated 19.09.2011 under 3% concessional duty.

The firm has stated that they obtained the installation issued by the Central Excise Authority and an independent chartered engineer, but the original Central Excise installation was lost/misplaced and only for the same to avoid cumbersome procedure etc. The firm has also said that when they noticed, it was the GST regime, everything/all the system changed. As they have submitted the installation issued by an independent chartered engineer, as per this office PN.37 dated 25.10.2017, submitted in GST regime dated 27.03.2018, it is to be mentioned that the installation certificate from the jurisdictional The requirement of excise authorization is only a procedural condition which can be waived by the Committee and the procedures laid down under the Rules cannot be strictly enforced to defeat the legitimate incentives to which an exporter would otherwise have been entitled. The firm has further stated that the CG imported under EPCG have been installed certified by an independent chartered engineer and the EO fulfilled against the EPCG license No. 0230007154 dated 19.09.2011

Decision: The Committee was informed that the matter has been separately taken up in the Policy Relaxation Committee. Accordingly, Committee decided to **withdraw** the case.

Case No- 6: Alok Industries Limited, Mumbai
F. No. HQREPCGPRAPP00000572AM23
Subject: Request for regularization of import under EPCG License No. 0330050606 dated 01.02.2019 under 0% Concessional duty for redemption purpose.

The firm has stated that they obtained EPCG authorization from RA, Mumbai for imports of spare parts for duty saved value INR 44.77 crores and they have utilized license for actual duty saved value for INR 22.79 crores. As per actual duty saved of US$ 37589744 requested EO to be fulfilled was US$ 19136282 against which they have completed EO of US$ 18907923(98.81% of required EO). The firm has mentioned that as per the para 5.09 of FTP 2015-20 75% of EO are required for fulfilment provided export is completed within 3 years of issuance of license. For the benefit of early EO fulfilment 75% of actual EO US$ 37589744 comes to US$ 14352212 where as they have fulfilled EO of US$ 17354161 as on 31.03.2020 within 2 years of issue of license.

2. The firm has also stated that they have completed the required AEP and EO within 2 years from the date of issue of license but some imports under license occurred after expiry of validity due to inspection and maintaining validity in custom system. The possible reason could be prior to FTP 2015-20 where there was a provision where the license expired during the month; such authorization would be considered valid till the last date of the concerned month which was not there in FTP 2015-20.

3. The firm has further stated that as per FTP 2015-20, EPCG license is valid only for 24 months and the above clause of validity till last date of the month was not mentioned. But it may not have been modified in the custom system and it considers validity till the last date of the month of expiry of license as per earlier provision in FTP prior to 2015-20. Since the date of issue of license was 01.02.2019, the custom system has considered the validity of license up to 27.02.2021, whereas it should be 31.01.2021 as per FTP 2015-20.

Decision: After deliberation on the request of the firm, the Committee decided to **defer** the case with the directions to call for a report from Department of Revenue (Customs) in the matter.

Case No- 7: Nextgen Printers Private Limited, Kolkata
F. No. HQREPCGPRAPP00000636AM23
Subject: Request for EOP Extension for 2 years i.e. beyond 6+2 years in respect of EPCG Authorization No. 0230010363 dated 05.06.2015 under 0% Concessional Duty.
The firm stated that they were firm regarding the revival of business from the beginning of this year and that they should attain pre-Covid turnover figures within 6 months. The firm has also stated that they couldn't fulfill their 100% EO in stipulated and extended EOP due to worsening economic scenario, abnormal shortage of raw materials, effects of Russian invasion on imports in Europe and subsequent exorbitant hike in freight rates which had reduced foreign indents to considerable extent.

Decision: The Committee deliberated upon the case and decided to advise the firm to **approach RA** for extension of EO Period beyond 8 years in terms of Public Notice No. 53/2015-20 dated 20.01.2023 where extension is permitted on account of COVID.

Case No- 8: Ratan Projects and Engineering Co. Pvt. Ltd., Kolkata
F. No. HQREPCGPRAPP00000660AM23
Subject: Request for Acceptance of Installation Certificate issued by Foreign Engineer in respect of EPCG Authorization No. 0230009804 dated 29.09.2014 under 0% Concessional duty.

The firm has stated that the Installation Certificate dated 31.05.2016 was issued by the Central Excise Department, but the date of installation of machines (under BOE 7232610 dated 31.10.2014) was not mentioned. The firm has further stated that as per D/L dated 07.11.2022 issued by RA, Kolkata, they have submitted that since the Central Excise Department is no longer functional post the implementation of GST regime, they are submitting the Installation Certificate issued by a Foreign Engineer, wherein the date of issue of certificate is mentioned as 15.12.2014. However, the date of Installation of CGs is not mentioned.

Decision: The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification in support of any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request.

Case No- 9: Tiruchirapalli Engineering and Technology Cluster
F. No. HQRPRCAPPLY00004108AM23
Subject: Request to consider Shipping Bills towards fulfilment of Specific Export Obligation for not mentioning of Supporting manufacturer's name and license numbers for the exports made through third-party exporters, in order to obtain EODC in respect of EPCG Authorization No. 0430014614 dated 16.04.2015 under 0% concessional duty.

The firm has obtained EPCG Authorization for import of capital goods. Subsequent to import and installation of the CGs, the machineries were utilized by the member units for manufacture of the finished products i.e. Boiler & boiler components and fabrication of structural. The firm has also submitted that they are a company registered under Section 8 of the Companies Act, a non-profit organization, meant, formed, and intended for achieving charitable purposes and per se incorporated, not with a profit motive, but to support MSME industries in Tiruchirapalli. The company was formed with the financial assistance in the form of Central Grant of Rs. 58.28 Cr. under the scheme of Industrial Infrastructure and Up-gradation Scheme (IIUS) sanctioned by DPIIT, Ministry of Commerce.

2. Further, the firm has submitted that they provide infrastructure exclusively to their member industries, who manufacture various items in and around Tiruchirapalli area, utilizing the machined facilities of TREAT for executing critical manufacturing process for their export orders.The firm applied for the EPCG licenses for machineries which would cater to the needs of member industries and this is the reason as to why third-party exports against the EPCG licenses were projected and permitted to them.

3. The firm while permitting the member industries to manufacture the export goods using their infrastructure, they insisted that they should export the goods by declaring these EPCG licenses in the export documents such as shipping bills, export invoices, etc. so that they could correlate such exports against their export obligations and to seek EODC. Unfortunately, the member industries, who are new to this concept, failed to indicate the EPCG license, although none of them availed any other export incentives for such exports.

Decision: The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification in support of any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request.

Case No- 10: Tiruchirapalli Engineering and Technology Cluster
F. No. HQRPRCAPPLY00004107AM23
Subject: Request to consider Shipping Bills towards fulfilment of Specific Export Obligation for not mentioning of Supporting manufacturer's name and license numbers for the exports made through third-party exporters, in order to obtain EODC in respect of EPCG Authorization No. 0430015490 dated 19.02.2016 under 0% concessional duty.

The firm has obtained EPCG Authorization for import of capital goods. Subsequent to import and installation of the CGs, the machineries were utilized by the member units for manufacture of the finished products i.e. Boiler & boiler components and fabrication of structural. The firm has also submitted that they are a company registered under Section 8 of the Companies Act, a non-profit organization, meant, formed, and intended for achieving charitable purposes and per se incorporated, not with a profit motive, but to support MSME industries in Tiruchirapalli. The company was formed with the financial assistance in the form of Central Grant of Rs. 58.28 Cr. under the scheme of Industrial Infrastructure and Up-gradation Scheme (IIUS) sanctioned by DPIIT, Ministry of Commerce.

2. Further, the firm has submitted that they provide infrastructure exclusively to their member industries, who manufacture various items in and around Tiruchirapalli area, utilizing the machined facilities of TREAT for executing critical manufacturing process for their export orders. The firm applied for the EPCG licenses for machineries which would cater to the needs of member industries and this is the reason as to why third-party exports against the EPCG licenses were projected and permitted to them.

3. The firm while permitting the member industries to manufacture the export goods using their infrastructure, they insisted that they should export the goods by declaring these EPCG licenses in the export documents such as shipping bills, export invoices, etc. so that they could correlate such exports against their export obligations and to seek EODC. Unfortunately, the member industries, who are new to this concept, failed to indicate the EPCG license, although none of them availed any other export incentives for such exports.

Decision: The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification in support of any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request.

Case No- 11: YNG Steels Limited, Delhi
F. No. HQRPRCAPPLY00004082AM23
Subject: Request for acceptance of Chartered Engineer Certificate in respect of EPCG License No: 0530159531 dated 17.10.2012 under 0% Concessional Duty for closure of license.

The firm has stated that the original installation certificate issued by Central Excise authority for import of dies & moulds along with original EPCG License, Shipping Bills, Bill of Entry etc. were mis-placed / lost during transit. At the time of closure, they have submitted chartered engineer certificate towards installation for the import of dies & moulds imported against the license. The firm has also stated that they have fulfilled 100% EO.

Decision: The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification in support of any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request.

Case No- 12: Akums Drugs & Pharmaceuticals Ltd., New Delhi
F. No. HQREPCGPRAPP00000584AM23
Subject: Request for re-fixation of AEO as nil against EPCG Authorization No. 0530165167 dated 16.06.2015 under 0% Concessional duty.

The firm has stated that at the time of filing of application, they submitted the C.A. certificate of preceding 3 years FOB value export without excluding the specific EO of other EPCG Authorization obtained earlier from CLA, New Delhi. Accordingly the AEO was imposed against above EPCG authorization. The firm has further stated that they have completed EO for the above EPCG Authorizations and filed EODC application with the request for re-fixation of AEO to CLA, New Delhi. CLA, New Delhi directed them to approach EPCG Committee for re-fixation of AEO.

Decision: After deliberation on the request of the firm, the Committee decided to **defer** the case with the directions to call for a report from RA concerned on the submissions made by the applicant.

<u>Case No- 13: Tufropes Private Limited, Mumbai</u>
F. No. HQREPCGPRAPP00000575AM23
Subject: Request for Condonation of delay in submission of enhancement fees for excess duty saved value less than 10% in respect of EPCG Authorization No. 0330031827 dated 09.02.2012 under 03% Concessional Duty.

The firm has stated that as per Para 5.10 of HBP if authorization issued has actuallybeen utilized for import of vale in excess upto 10% of CIF Value/ Duty saved amount of authorization, authorization shall be deemed to have been enhanced by that proportion. Custom shall automatically allow clearance of goods in excess up to 10% of authorization value/ duty saved amount without endorsement by concerned RA. The firm has further stated that subject license had been issued to them with duty saved value of Rs. 19906145.0 and duty saved value utilized for import of goods was Rs. 20270806.0 i.e. enhancement of duty saved value made by Custom of Rs. 364661.0 which is less than 10% due to fluctuation of dollar exchange rate. The firm has stated that at the time of filing application the exchange rate of dollar was 1 USD= Rs. 53.25 and at time of filing of Bill of Entry the dollar was 1 USD= Rs. 49.4 dated 10.03.2012 and Rs. 55.55 dated 08.06.2012.

Decision: The Committee deliberated upon the case and decided to advise applicant to **approach RA** concerned as per Public Notice No. 58/2015-20 dated 24.02.2023 for condonation of excess duty utilization.

<u>Case No- 14: Borosil Glass Works Ltd., Mumbai</u>
F. No. HQREPCGPRAPP00000331AM23
Subject: Request for transfer of EPCG Licence No. 0330047937 dated 09.10.2017 from Borosil Glass Works Limited (BGWL) to Borosil Limited.

Earlier, Borosil Glass Works Ltd., Mumbai vide application No. HQRPRCAPPLY00119242AM22 date 21.06.2021 requested for change of IEC Code from IEC 0388038772 (Borosil Glass Works Ltd.) to IEC 1310021236 (BOROSIL LIMITED) in respect of EPCG Authorization No. 0330047937 dated 09.10.2017. The request of the firm was considered in the 6th Meeting of the EPCG Committee held on 03.08.2022 and decided as under:

> *"The Committee deliberated upon the case and decided to direct RA concerned to follow the circular issued by DGFT in case of proceedings initiated before NCLT under IBC Code, 2016 against firm/company which have outstanding export obligation/liabilities under the FTP Schemes."*

2. Accordingly, RA, Mumbai informed for the same vide e-mail dated 20.10.2022.

3. Now, the firm has requested for transfer of EPCG Licence No. 0330047937 dated 09.10.2017 from Borosil Glass Works Limited (BGWL) to Borosil Limited. the firm has stated that M/s. Borosil Glass Works Ltd. had obtained EPCG Licence for import of Handle Bending

Machine HBA08 including conveyor with Standard Accessories and Spares and Handle Welding Machine HAMA4 with Standard Accessories and Spares.

4. The firm has informed that an Order dated January 15th, 2020 passed by NCLT, Mumbai bench sanctioning a Composite Scheme of Amalgamation & Arrangement in Company Petition No. 2018 of 2019, inter-alia, demerger of the Scientific and Industrial products and Consumer products business of BGWL into Borosil Limited As such all the contractual rights, assets, liabilities and obligations of BGWL was assigned and transferred to Borosil Limited. Accordingly, Borosil Limited has assumed and will perform and carry out all contractual arrangements and accepts the assets and liabilities of BGWL.

Decision: The Committee deliberated upon the case and decided to **defer** it for further examination.

Case No- 15: PNR Industries Limited, Surat

F. No. HQREPCGPRAPP00000732AM23

Subject: Request for Condonation of procedure lapse of non-mentioning of EPCG Authorization number in the Shipping Bills in respect of EPCG Authorization No. 5230025853 dated 30.01.2018 under 0% Concessional Duty.

The firm has stated that they have fulfilled specific EO by making direct exports against 3 shipping bills within the 1st block EOP. But, mistakenly, they did not mention the EPCG Authorization No. and date in the 3 shipping bills. The firm has further stated that the above bills are duty drawback bills i.e. not free shipping bills. Further, the firm has stated that they have submitted an affidavit/undertaking on duly certified and notarized stamp paper in terms of Policy Circular No. 7/2002 dated 11th July, 2002, copy of which is not enclosed, for condonation of procedural lapse for not mentioning EPCG Authorization No. and date on shipping bills relating to exports affected for fulfilment of specific EO.

Decision: The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification in support of any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request.

Case No- 16: Bihani Agro Foods Pvt. Ltd., Punjab

F. No. HQREPCGPRAPP00000646AM23

Subject: Requests against EPCG Authorization No. 3030013239 dated 10.11.2014 under 0% Concessional duty :

i. **Extension of 1st Block.**
ii. **Extension of EOP for 1 years i.e. upto 31.12.2021 as per Notification No. 28/2015-20 dated 23.09.2021.**
iii. **Extension of EOP for two years i.e. upto 31.12.2023.**
iv. **Condonation of late submission of Installation Certificate issued by Chartered Engineer.**

The firm has stated that they exported under the Free Shipping Bills, they were unable to complete EO in the first block. The firm has further stated that during the 2017–2018 fiscal years, they did not receive any export orders. After that Covid, they experienced a financial setback, and as a result of their tight financial conditions, they were unable to file even for installation or extension requests within the required time frames.

2. The firm has also stated that they applied for extension of EOP as per Notification No. 28/2015-20 dated 23.09.2021 read with Public Notice No. 03/2015-2020 dated 13.04.2022 and paid extension fee along with penalty to the tune of Rs. 60,107/- to RA Ludhiana, for approval, but the same was marked deficient (Copy not enclosed) stating that it is applicable only for Authorizations issued after 01.04.2015 and requesting them to approach EPCG Committee for certain relaxation.

3. As per Installation certificate issued by Chartered Engineer on 24.12.2014, CG was imported on 19.11.2014 and installed at the premises on 23.12.2014.

Decision:

In respect of 1st, 2nd and 3rd request: The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2023** to allow:-

(a) Extension in block-wise EOP, as the applicant could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on duty saved amount in proportion to the shortfall at the end of each block in terms of the provisions of Para 5.8.3 of HBP 2009-14 and late fee of Rs. 10,000/-.

(b) In respect of request for EOP Extension up to 31.12.2021:

The Committee deliberated upon the case and decided to advise the applicant to approach RA for extension of EO Period up to 31.12.2021 as per DGFT's Public Notice No. 67/2015-20 dated 31.3.2020 and Notification No. 28/2015-2020 dated 23.09.2021.

(c) In respect of request for EOP Extension up to 31.12.2023:

Condonation of delay in approaching RA for EO extension for 2 year (from 6th year to 8th year) i.e. up to 30.12.2023 (subsequent to grant of EO extension upto 31.12.2021) as per DGFT's PN No. 67 dated 31.3.2020 and Notification No. 28/2015-2020 dated 23.09.2021 on payment of composition fee or imposition of additional EO in terms of Para 5.11 of HBP 2009-14 and late fee of Rs. 10,000/- .

The above relaxation is also subject to the condition that the proper installation certificate has been submitted within time limits as specified in FTP/HBP.

This has the approval of DG, DGFT.

In respect of 4th request: The Committee was informed that the matter is under consideration in the DGFT HQ for issuance of Public Notice for general relaxation in such cases.

<u>Case No- 17: NIDEC India Private Limited, Gurugram</u>

F. No. HQREPCGPRAPP00000631AM23
Subject: Requests against EPCG Authorization No. 0530164494 dated 03.03.2015 under 0% Concessional Duty:

> **(i) Condonation of Installation certificate issued from an Independent Chartered Engineer.**
> **(ii) Delay in submission of Installation Certificate.**

The firm has submitted EODC to CLA, Delhi on 23.11.2021 after completion of EO, along with the submission of Installation Certificate on 31.03.2021. CLA, Delhi has requested for Installation Certificate issued from Central Excise, which the firm could not issue within the time period prescribed. Further, GST Department denied the firm to issue the certificate, as the same had already been issued to them earlier. Therefore, the firm has taken the Certificate from an independent chartered engineer.

Decision: The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification in support of any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request.

<u>Case No- 18: P Ankit Gems, Gujarat</u>
F. No. HQRPRCAPPLY00004063AM23
Subject: Requests against EPCG Authorization No. 0330038916 dated 04.06.2014 under 0% Concessional Duty:

> **i. EOP Extension from 7th year to 10th year up to 04.06.2024.**
> **ii. Condonation of delay in submission of Installation Certificate.**

The firm has stated that they could not complete their EO within the stipulated time due to health issues and also due to the pandemic conditions. The firm has stated that they could not submit the Installation Certificate within the stipulated time period. The firm has further stated that they are willing to pay the composition fees for installation certificate and EO Extension for their EPCG License. As per Installation Certificate dated 22.12.2014 issued by Chartered Engineer enclosed by the firm, machinery was installed at the firm's premises on 26.10.2014 vide BOE No. 0003080 dated 15.10.2014.

Decision:

In respect of 1st request, the Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2023 to allow** Condonation of delay in approaching RA for EOP extension for 1 year (from 7th year to 8th year) on payment of composition fee or imposition of additional EO in terms of Para 5.11 of HBP 2009-14 and late fee of Rs. 10,000/-. Regarding further extension beyond 8 years the unit may approach RA in terms of Notification No. 28 dated 23.9.21.

The above relaxation is also subject to the condition that the proper installation certificate has been submitted within time limits as specified in FTP/HBP.

This has the approval of DG, DGFT.

In respect of 2nd request: The Committee was informed that the matter is under consideration in the DGFT HQ for issuance of Public Notice for general relaxation in such cases.

Case No- 19: Siyaram Yarn Private Limited, Surat
F. No. HQRPRCAPPLY00004701AM23
Subject: Request for condonation for wrong mentioning of EPCG Authorization number in the Shipping bills meant for EO Fulfilment in respect of EPCG Authorization No 5230016266 dated 11.03.2015 under 0% Concessional duty.
The firm has stated that they had completed their exports through third-party exporter namely M/s Indo Impex, who mentioned wrong license number in the Shipping Bills. Their exporter also approached customs department for amendment in the License Nos. in the Shipping Bills but they denied changing the same as they cannot make changes in the EDI systems after 90 days. The firm has informed that they have mentioned EPCG No. 5230023527 instead of 5230016266 dated 11.03.2015 in the S/bill No. 3018161 dated 21.02.2018.

Decision: The Committee deliberated upon the case and decided to advise the firm to **approach concerned Customs authorities** for amendment in the Shipping Bills.

Case No- 20: Siyaram Yarn Private Limited, Surat
F. No. HQRPRCAPPLY00004702AM23
Subject: Request for condonation for wrong mentioning of EPCG Authorization number in the shipping bills meant for EO Fulfilment in respect of EPCG Authorization No 5230016267 dated 11.03.2015 under 0% Concessional duty.
The firm has stated that they had completed their exports through third-party exporter namely M/s Indo Impex, who mentioned wrong license number in the Shipping Bills. The firm has further stated that their exporter also approached customs department for amendment in the License Nos. in the Shipping Bills but they denied changing the same as they cannot make changes in the EDI systems after 90 days. The firm has informed that they have mentioned EPCG No. 5230023527instead of 5230016267 dated 11.03.2015 in the following S/bills:

S. No.	Shipping Bill Nos.	S/B date
i.	2758738	09.02.2018
ii.	2798727	12.02.2018
iii.	2964470	19.02.2018
iv.	3270571	05.03.2018
v.	3270559	05.03.2018
vi.	3271178	05.03.2018

Decision: The Committee deliberated upon the case and decided to advise the firm to **approach concerned Customs authorities** for amendment in the Shipping Bills.

<u>Case No- 21: Vijay Textiles, Ludhiana</u>

F. No. HQREPCGPRAPP00000054AM23

Subject: Request for Consideration of 3rd party export and direct export wherein there has been inadvertent mention of their another EPCG Authorization No. 3030015807 in respect of EPCG Authorization No. 3030011387 dated 25.07.2013 under 0% Concessional Duty.

The firm has stated that they are requesting for consideration of exports made against Shipping Bill No. 3742341 dated 10.08.2021 (3rd party) and 1580721 dated 05.05.2021 (direct export) against EPCG Authorization No. 3030011387 dated 25.07.2013 where they have inadvertently mentioned their another EPCG Authorization No. 3030015807 dated 18.07.2016 as they had made excess exports against it and haven't considered it in specific/Average EO against the said authorization and haven't availed any double benefits in their Shipping Bills /authorizations. The firm has further stated that the above inadvertent mention happened because they were using following 4 EPCG Authorizations issued in their name wherein EOP was pending against all:

- 3030015807 dated 18.07.2016 (EODC issued on 23.03.2022)
- 3030011387 dated 25.07.2013 (subject authorization)
- 3030015221 dated 18.02.2016 (EODC issued on 23.03.2022)
- 30300164759 dated 08.09.2017

2. In view of the above, the firm has requested for Consideration of 3rd party export vide S.B. No. 3742341 dated 10.08.2021 and direct export vide S.B. No. 1580721 dated 05.05.2021 wherein there has been inadvertent mention of their another EPCG Authorization No. 3030015807 for the above mentioned license.

3. It was decided that before considering the case in the EPCG Committee meeting, a report may be called from the applicant to ascertain the status of EPCG Authorization No. 3030015807 dated 18.07.2016 whether EODC has been granted or not. Accordingly, the applicant was requested vide deficiency e-mail dated 25.10.2022 to send a report in respect of Request for Consideration of 3rd party export and direct export wherein there has been inadvertent mention of their another EPCG Authorization No. 3030015807 in respect of EPCG Authorization No. 3030011387 dated 25.07.2013 under 0% Concessional Duty . Now, the applicant has furnished the requested details as under:

4. The firm has stated that EPCG Authorization No. 3030015807 dated 18.07.2016 got redeemed on 21.03.2022 without considering the said shipping bills (Shipping Bill Nos.. 3742341 dated 10.08.2021 (3 rd party) and 1580721 dated 05.05.2021 (direct export)). The firm stated that they applied the same for redemption because Custom authority was asking them to get the same redeemed or they will enforce the Bond and appropriate Bank Guarantee and they were left with no other option to get the same redeemed.

Decision: The Committee deliberated upon the case and decided to advise the firm to **approach concerned Export Promotion Circle, Customs** for amendment in the Shipping Bills.

Case No- 22: Valuetex International, Amritsar

F. No. HQREPCGPRAPP00000046AM24
Subject: Request against EPCG Authorization No. 1230001291 dated 20.02.2015 under 0% Concessional Duty:

i. **1st Block Extension.**
ii. **Condonation of delay in submission of Installation Certificate issued by Chartered Engineer.**

The firm has stated that their first block of the authorization expired on 20.02.2019 but due to lack of knowledge of the policy/ EPCG conditions, they did not approach RA for extension within the prescribed time limit. The firm has further stated that later when they approached RA Ludhiana for the extension of the first block under P.N. 03 dated 13.04.2022, but they rejected their request stating that their request cannot be considered under P.N. 30 dated 13.04.2022 as the subject EPCG Authorization is issued under FTP 2009-14. The firm has stated that they did not submit the Installation Certificate within the prescribed time period due to lack of knowledge. As per Installation Certificate dated 28.04.2015 issued by Chartered Engineer enclosed by the firm, the date of installation of CGs is 21.04.2015 under BOE No. 8676520 dated 22.03.2015.

Decision:

In respect of 1st request, the Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2015-20 to** allow extension in block-wise EOP, as the applicant could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on duty saved amount in proportion to the shortfall at the end of each block in terms of the provisions of Para 5.8.3 of HBP 2009-14 and late fee of Rs. 10,000/-.

This has the approval of DG, DGFT.

In respect of 2nd request, Committee was informed that the matter is under consideration in the DGFT HQ for issuance of Public Notice for general relaxation in such cases.

Case No- 23: Valuetex International, Amritsar

F. No. HQREPCGPRAPP00000045AM24
Subject: Requests against EPCG Authorization No. 1230001270 dated 13.01.2015 under 0% Concessional Duty:

i. 1st Block Extension.

ii. Condonation of delay in submission of Installation Certificate issued by Chartered Engineer.

The firm has stated that their first block of the authorization expired on 13.01.2019 but due to lack of knowledge of the policy/ EPCG conditions, they did not approach RA for extension within the prescribed time limit. The firm has further stated that later when they approached RA Ludhiana for the extension of the first block under P.N. 03 dated 13.04.2022, but they rejected their request stating that their request cannot be considered under P.N. 03 dated 13.04.2022 as the subject EPCG Authorization is issued under FTP 2009-14 .The firm has stated that they did not submit the IC within the prescribed time period due to lack of knowledge. As per Installation Certificate dated 10.03.2015 issued by Chartered Engineer enclosed by the firm, the date of installation of CGs is 01.03.2015 under BOE No. 8173046 dated 02.02.2015.

Decision:

In respect of 1st request, the Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2015-20 to** allow extension in block-wise EOP, as the applicant could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on duty saved amount in proportion to the shortfall at the end of each block in terms of the provisions of Para 5.8.3 of HBP 2009-14 and late fee of Rs. 10,000/-.

This has the approval of DG, DGFT.

In respect of 2nd request, Committee was informed that the matter is under consideration in the DGFT HQ for issuance of Public Notice for general relaxation in such cases.

Case No- 24: Tenco Systems & Switch Gears Pvt. Ltd, Indore

F. No. HQRPRCAPPLY00003593AM23

Subject: Request for redemption of EPCG Authorizations where export proceeds have not been realized through Foreign Currency Account (FCA) of SEZ Unit in respect of EPCG Authorization No. 5630000261 dated 13.03.2013 and 5630000414 dated 31.10.2013 under 0% Concessional Duty.

The firm has stated that machine imported under first license got damaged due to accident in 2013 during transportation to their factory in Indore and the EPCG Committee vide its meeting dated 19.12.2013 directed them to complete their EO even when their machines wasn’t installed and returned to Insurance co. due to which the firm purchased new machinery. The firm stated that they had to fulfilll EO of 2 authorizations wherein machinery for one got damaged in transit and the Committee had advised them to club both the authorizations and then close. The firm hasalso stated that major exports under both the subject authorizations are to SEZ units and addition of some direct USD exports and that they have fulfilled AEO and EO as per duty saved amount after clubbing of both authorizations. The firm further stated that in terms of SEZ exports they have received all eBRC from bank and have copies of Bill of Export duly endorsed by Customs as proof of export already submitted to RA Indore for Clubbing and Redemption purpose.

2. The firm has further stated that RA Indore asked them to submit letter issued by Buyer’s bank stating realization through Foreign Currency Account of buyer’s (SEZ) but the firm had a

follow up with the buyer multiple times for not providing the letter with mentioning that payment through foreign currency account was made because they had made the payment through their regular account. The firm stated fault of SEZ buyers for providing excuses against their centralized payments, conditions for cancellation of orders etc. The firm has clarified that they were unaware about DGFT Trade Notice 10/2016 dated 20.07.2016 which mandate that realization must be from Foreign Currency Account of SEZ buyer and were new as exporters wherein machinery was their first import.The firm has further stated that due to shorten of documents as evidence that payment realized is from Foreign Currency Account towards SEZ supply their redemption/EODC for both authorizations is pending with RA Indore.

Decision: The Committee went through the statements made by the firm and noted that the applicant has not submitted any cogent reason/justification or any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request of the applicant.

Case No- 25: Toyota Kirloskar Motor Pvt. Ltd, Bengaluru
F. No. HQREPCGPRAPP00000683AM23

Subject: **Request for Refixation of Average EO in respect of 13 EPCG Authorization Nos. under 0% Concessional Duty:**

i. 0731000393 dated 29.01.2021
ii. 0731000708 dated 18.03.2021
iii. 0731000702 dated 17.03.2021
iv. 0731000829 dated 01.04.2021
v. 0731000828 dated 01.04.2021
vi. 0731000827 dated 01.04.2021
vii. 0731000826 dated 01.04.2021
viii. 0731001002 dated 29.04.2021
ix. 0731001024 dated 04.05.2021
x. 0731001415 dated 06.07.2021
xi. 0731002450 dated 24.11.2021
xii. 0731003703 dated 12.04.2022
xiii. 0731003878 dated 28.04.2022

The firm has stated that they are engaged in manufacture and export of the passenger cars with Petrol engines, Diesel engines and Hybrid version i.e., electric and Petrol or Diesel engines. Now, they have commenced manufacture of new line of products i.e., Sport Utility Vehicles (SUV) which uses different type of power, such as, CNG, Gasoline, and Electric power. The firm has further stated that they had setup a production line with the help of imported and locally sourced capital goods integrated with latest technology. Further, they had undertaken technological up-gradation with respect to the existing machineries by using imported capital goods to suit for manufacturing of the said SUVs. The SUVs manufactured from the imported Capital goods are completely different with respect to features, such as, engine type, engine capacity, transmission type, safety features, emission norms, mileage and shape, etc., from the one which the firm was manufacturing and exporting out of India.

2. The firm has also stated that while filing the applications for issuance of said EPCGs, they provided the details of 'export turnover' of the Passenger cars which are entirely different from the SUVs manufactured from the imported capital goods and exported under said EPCG Authorizations. Accordingly, the average EO (AEO) has been fixed based on the export turnover of different products which is incorrect as per the EPCG Scheme, since the EPCG Scheme requires maintenance of average export turnover of same or similar goods. Exports exported during past period and SUVs under consideration as different goods.

Decision: The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification in support of any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request.

Case No- 26: Apex Auto Ltd., Jamshedpur
F. No. HQREPCGPRAPP00000635AM23
Subject: Request for extension of EOP for two years i.e. upto 31.03.2022 beyond 6+2 years in respect of EPCG authorization No. 2130000137 dated 24.01.2012 under 0% Concessional duty -reg.

The firm has stated that the EOP was extended by RA, Patna without specifying the extension period or the beginning and end of the block year, so they assumed the extension for the first block year. However, they later found that the fee has been charged on the full reduction value for both the block periods. They have applied for extension of 2nd block period and their application has been rejected by RA, Kolkata due to delay in submission of application. The delay was only due to Covid. They have completed the EO by March 2022. Hence the firm has requested for extension of EOP in order to complete EODC.

2. Earlier, the firm vide application No. HQRPCAPPLY00087214AM21 dated 11.03.2021 has requested for the same subject against the above mentioned EPCG authorization. The matter was examined on file and decided for report from RA, Kolkata. Accordingly a request was made to RA, Kolkata. The report is still awaited.

Decision: The Committee deliberated upon the case and decided to **defer** it as the report is still awaited from RA Kolkata.

Case No- 27: Lifelong India Pvt. Ltd., New Delhi
F. No. HQREPCGPRAPP00000638AM23

Subject: Request against EPCG authorization No. 0530156429 dated 06.09.2011 under 0% Concessional duty:

i. Seeking relaxation for delay in obtaining of Installation certificate from the Custom & Central Excise.

ii. In the Installation certificate, the date of receipt has been wrongly written in place of the date of Installation. Hence the date of receipt is to be treated as the date of installation

The firm has stated that in the Installation certificate, they had erroneously mentioned the date of receipt in place of the date of installation. Later when it came to their notice, they approached the concerned Central Excise Department to get the necessary amendments, but since the Central Excise Department has been converted into GST Department, they could not get necessary amendments done by the Department. As per Installation certificate issued by Chartered Engineer on 19.04.2014, CG was imported on 17.09.2011 and installed at the premises on 30.09.2011. The firm has also enclosed the revised copy of Installation certificate attested by Customs and Central Excise, Haridwar which is issued on 06.05.2014.

Decision: The Committee deliberated upon the case and decided to advise the firm **to approach concerned Export Promotion Circle, Customs** for necessary rectification in the Installation Certificate.

Case No- 28: U-Turn Minerals Private Limited, Udaipur
F. No. HQRPRCAPPLY00004146AM23

Subject: Request for EOP Extension for 4 years i.e. 8+4 years in respect of EPCG Authorization No. 1330003411 dated 07.05.2012 under 03% Concessional Duty.
The firm has stated that they are in the business of manufacturing of marble and granite slabs for the purpose of which, they have purchased 2 (one block dressing and one slab cutting) Machines from "Krishna Engineers" Ahmedabad and one slab polishing machine was imported against EPCG license. The firm purchased the above mentioned machines from Krishna Engineers which malfunctioned and just production of 45-50 slabs was received in the time. The firm filed a police complaint against the manufacturer for non-repair or replacement of the machines. Due to which, they could not fulfill their EO.

Decision: The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2023** to allow:-

i. Condonation of delay in approaching RA for EO extension for 2 years (from 8th year to 10th year) on payment of composition fee or imposition of additional EO in terms of Para 5.11 of HBP 2009-14 and late fee of Rs.10,000/-.
ii. Condonation for delay in approaching RA for second extension in EOP (10th year to 12th year) with a condition that 50% of duty payable in proportion to the unfulfilled EO is paid by the authorization holder to custom authorities in terms of provisions contained in Para 5.11 of HBP 2009-14 and late fee of Rs. 10,000/.

The above relaxation is also subject to the condition that the proper installation certificate has been submitted as specified in FTP/HBP

This has the approval of DG, DGFT.

Case No- 29: ANY Graphics, New Delhi
F. No. HQREPCGPRAPP00309478AM22
Subject: Request for extension of 1st Block and extension of EOP for 2 years in respect of EPCG Authorization No. 0530163629 dated 30.10.2014 under 0% Concessional duty.

The firm has stated that they couldn't fulfill their EO due to Covid-19 pandemic. The firm has further stated that they have export orders for fulfilment of EO. Therefore, the firm has requested for extension of 1st Block and extension of EOP for 2 years.

Decision: The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2023** to allow:-

(a) Extension in block-wise EOP, as the applicant could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on duty saved amount in proportion to the shortfall at the end of each block in terms of the provisions of Para 5.8.3 of HBP 2009-14 and late fee of Rs. 10,000/-.

(b) Condonation of delay in approaching RA for EO extension for 2 years (from 6th year to 8th year) on payment of composition fee or imposition of additional EO in terms of Para 5.11 of HBP 2009-14 and late fee of Rs. 10,000/-.

The above relaxation is also subjected to the condition that the proper installation certificate has been submitted as specified in FTP/HBP.

This has the approval of DG, DGFT.

Case No- 30: Brijwasi Developers Pvt. Ltd., Surat
F. No. HQRPRCAPPLY00004140AM23
Subject:Request for extension of EOP for 4 years i.e. from 29.04.2019 to 29.04.2023 against EPCG Authorization No. 5230008763 dated 29.04.2011 under 03% Concessional duty.

The firm has stated that they could not complete their EO within the stipulated time period i.e. 8 years. Therefore, the firm has requested for extension of EOP for 4 years i.e. i.e. from 29.04.2019 to 29.04.2023 in order to fulfill their EO against above EPCG Authorization.

Decision: The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2023** to allow:-

a. Condonation of delay in approaching RA for EO extension for 2 years (from 8th year to 10th year) on payment of composition fee or imposition of additional EO in terms of Para 5.11 of HBP 2009-14 and late fee of Rs.10,000/-.
b. Condonation for delay in approaching RA for second extension in EOP (10th year to 12th year) with a condition that 50% of duty payable in proportion to the unfulfilled EO is paid by the authorization holder to custom authorities in terms of provisions contained in Para 5.11 of HBP 2009-14 and late fee of Rs. 10,000/.

The above relaxation is also subject to the condition that the proper installation certificate has been submitted as specified in FTP/HBP

This has the approval of DG, DGFT.

<u>Case No- 31: Vineet Plastics Ltd</u>
F. No. HQREPCGPRAPP00000620AM23
Subject: Request for second EOP Extension up to 21.11.2023 i.e. beyond 6+2 years in respect of EPCG Authorization No. 1530000910 dated 21.11.2012 under 0% Concessional Duty.

The applicant has obtained subject EPCG Authorization for duty saved value of Rs. 41,783,280.00 and EO worth US$ 785,400.00. As per License Amendment sheet, EOP has been extended from 6^{th} year to 7^{th} year. The applicant has stated that they did not apply for EOP Extension for the year December 2019 to December 2020 due to adverse market conditions.

2. DRI, Lucknow has sent letter dated 07.03.2023 and 03.04.2023 regarding Investigation w.r.t imports made by M/s. Vineet Plastics Limited against EPCG License No. 1530000910 dated 21.11.2012. DRI has initiated an investigation against the mentioned firm. After initiation of enquiry, the firm vide letter dated 30.12.2022 approached DGFT for extension of the said license from December 2021 to December 2023 on the following grounds:

a. The date of issuance of license is 21.11.2012
b. The date of expiry of license is 21.11.2018
c. One year extension granted till 21.11.2019
d. One more to be granted till 21.11.2020 (but not applied within due date and not submitted any documents for such extension)
e. Further extension of 01 year till 31.12.2021as per Notification No. 28.
f. Further extension for 02 years extension is the please taken by the notice.

3. DRI has stated that they are of the opinion that the firm is not liable for such extension as they have not taken any further extension beyond 2019 to fulfill their EO.

4. Further, DRI has stated that the benefit of Notification No. 28/2015-2020 dated 23.09.2021 is applicable to only those licenses *"where original or extended Export obligation (EO) period is expiring during the period between 01.08.2020 and 31.07.2021".* As per records, the extended validity of EO period in respect of the subject license expired on 21.11.2019 and the firm has not applied any request for further extension during the relevant time. Thus, the firm clearly does not fall under this category.

Decision: The Committee deliberated upon the case and decided to **defer** the case for further examination.

Case No- 32: Precise Small Motors Private Limited, Bangalore
F. No. HQREPCGPRAPP00000676AM23
Subject: Requests against EPCG Authorization No. 0730011749 dated 19.10.2012 under 0% Concessional Duty:

i. **1st Block Extension**
ii. **EOP Extension for 2 years upto 19.10.2020 i.e. 6+2 years**

The firm has stated that they have exported some shipments after the expiry of license. If these shipping bills are counted for specific EO, their shortfall could be reduced. The firm has also stated that they tried to apply for EO Extension. But, due to shortfall in the first block, they could not apply. Further, the firm has stated that they obtained the installation certificate from the Central Excise Authority, but they are not able to trace the submission acknowledgement to DGFT, hence they have requested to permit the submission of a copy of the same to the RA Bangalore.

Decision: The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2023** to allow:-

(a) Extension in block-wise EOP, as the applicant could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on duty saved amount in proportion to the shortfall at the end of each block in terms of the provisions of Para 5.8.3 of HBP 2009-14 and late fee of Rs. 10,000/-.

(b) Condonation of delay in approaching RA for EO extension for 2 years (from 6th year to 8th year) on payment of composition fee or imposition of additional EO in terms of Para 5.11 of HBP 2009-14 and late fee of Rs. 10,000/-.

The above relaxation is also subjected to the condition that the proper installation certificate has been submitted as specified in FTP/HBP.

This has the approval of DG, DGFT.

The Committee deliberated upon the case and decided that the applicant may **approach RA** for extension in EOP till 31.12.2021 in accordance with Notification No. 28/2015-20 dated 23.09.2021. The Committee further deliberated upon the case and decided to advise that if they desire, the applicant may approach RA for regularising the case under the Amnesty Scheme notified vide Public Notice No. 02/2023 dated 01.04.2023 as per the conditions specified therein. RA may examine such request as per policy on merit.

<u>Case No- 33: Icon Hospitality Pvt. Ltd., Bangalore</u>
F. No. HQRPRCAPPLY00170962AM22
Subject: Request for Re-fixation of Average Export Obligation in respect of EPCG Authorization Nos. 0530152323 dated 03.06.2010, 0530157474 dated 24.01.2012 and 0530157375 dated 10.01.2012 under 03% Concessional duty.

The request of the firm was considered in the 5th Meeting of the EPCG Committee held on 08.07.2022 and decided to defer the case to call for a justification from the applicant in support of its request.

Accordingly, the firm was requested vide letter dated 12.08.2022 to furnish clear justification for the request. Now, the firm has justified their request as follows:

> *" While calculating export turnover for fixation of average export performance for the EPCG Authorization No. 530152323 dated 03.06.2010, 0530157474 dated 24.01.2012 and 0530157375 dated 10.01.2012 we had considered Foreign Exchange Earnings made for fulfilment of specific export obligation of earlier EPCG LicencesNos.. 0530143852 dt 08-06-2007,0730005447 dt 27-03-2007, 0730005579 dt 09-05-2007, 0730005772 dt 02-07-2007, 0730006529 dt 18-01-2008 and 0530143852 dt 08-06-2007 which were not redeem at time of applying said EPCG Licence.*
>
> *As per 5.7.4(c) "Exports made against EPCG authorizations, which have not been redeemed, shall not be added up for calculating the average export performance for the purpose of subsequent EPCG authorization".*
>
> *By oversight they while calculating annual average they had considered Export made towards fulfilment of specific export obligation of earlier EPCG Authorizations which were not been redeemed at time of issue of EPCG Authorization Nos.. 530152323 dated 03.06.2010, 0530157474 dated 24.01.2012 and 0530157375 dated 10.01.2012 hence by reducing the value of export made towards fulfilment of SEO of earlier EPCG Authorisation, they wish to make correction in annual average fixed against the EPCG by re-fixing the average exports as per Para 5.7.4(c) of HBP 2009-14."*

Decision: The Committee deliberated upon the case and decided to **defer** it for further examination.

<u>Case No- 34: Carborundum Universal Ltd., Chennai</u>
F. No. HQRPRCAPPLY00103161AM21
Subject: Request for condonation of lapse for mentioning wrong EPCG Authorization Number in 36 Shipping Bills in respect of EPCG authorization No. 0430010842 dated13.02.2012.

The applicant has stated that they have fulfilled the entire EO and annual average EO within the EOP itself through direct exports. At the time of shipment, they have endorsed different EPCG License number by oversight. The shipping bills for the purpose of redemption of EPCG

Authorisation No. 0430010842 dated 13.02.2012 with endorsement of different EPCG number(s), were not shown for fulfilment of EO of any other EPCG Licence(s) or for computation of Annual Average EO.

2. The applicant has further stated that they have fulfilled EO under Para 5.09 of FTP (Incentive for early EO fulfilment), 75% or more of specific EO and 100% of Average EO till date, if any, in half or less than half the original EO period specified, remaining EO shall be condoned and the license redeemed by RA concerned and no benefit under para 5.21 of HBP is claimed. RA, Chennai issued D/L dated 08.03.2021 informing them to approach the EPCG Committee as 'Different License Number is endorsed on Shipping Bills'.

Decision: The Committee deliberated upon the case and decided to advise the firm **to approach concerned Export Promotion Circle, Customs** for necessary rectification in the Installation Certificate.

Case No- 35: Simon and Cailand Private Limited, New Delhi
F. No. HQREPCGPRAPP00000682AM23
Subject Requests for against EPCG Authorization No. 0530152222 dated 26.05.2010 under 03% Concessional Duty.

i. **EOP Extension as per P.N. No. 28 dated 23.09.2021.**
ii. **Second EOP Extension for 2 years from 31.12.2021 to 31.12.2023 (i.e. from 10 years to 12 years).**

The firm has stated that they were not able to complete EO within prescribed time period limit, therefore they applied for 2 year extension i.e. 8+2 years upto 25.05.2020 which was granted to them. The firm took further extension for 2 years i.e. 10 to 12 years, which was granted upto 25.05.2022. Now, the firm has requested as under:

S. No.	Extension	EOP Upto
1	Date of Issue of EPCG Authorization (3%)	26.05.2010
2	Initial EOP (8 years) upto	26.05.2018
3	Extension in EOP: 8 to 10 years	25.05.2020
4	Extension in EOP (6 months) as per P.N. 67 dated 31.03.2020	25.11.2020
5	Extension in EOP as per P.N. 28 dated 23.09.2021	31.12.2021
6	Requested Second EOP Extension (10 to 12 years)	31.12.2023

Decision: In respect of 1st request for EOP extension, the Committee deliberated upon the case and decided to advise the firm **to approach RA** for extension of Export Obligation Period up to 31.12.2021 as per Notification No. 28/2015-2020 dated 23.09.2021.

In respect of 2nd request for EOP Extension from 31.12.2021 upto 31.12.2023:

The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2023** to allow Condonation for delay in approaching RA for second extension in EOP (10th year to 12th year) with a condition that 50% of duty payable in proportion to the unfulfilled EO is paid by the authorization holder to custom authorities in terms of provisions contained in Para 5.11 of HBP 2009-14 and late fee of Rs. 10,000/-.

The above relaxation is also subjected to the condition that the proper installation certificate has been submitted as specified in FTP/HBP.

This has the approval of DG, DGFT.

<u>Case No- 36: Sreenivasa Balaji Papers Private Limited, Tamil Nadu</u>
F. No. HQRPRCAPPLY00003642AM23
Subject: Request for second EOP Extension for 6 months i.e. beyond 8+2 years in respect of EPCG Authorization No. 3230016317 dated 10.02.2011 under 03% Concessional Duty.

Sreenivasa Balaji Papers Private Limited, Tamil Nadu vide F. No. HQREPCGPRAPP00165844AM22 dated 18.08.2021 had requested for second EOP Extension for 2 years i.e. beyond 8+2 years in respect of EPCG Authorization No. 3230016317 dated 10.02.2011 under 03% Concessional Duty. Upon ADG(SBSR) direction, firm was issued a Letter dated 27.01.2022 stating that they can take EO extension up to 31.12.2021 as per Notification No-28 dated 23.9.2021and thereafter can take second EO extension on payment of 50% Customs duty in terms of FTP provisions.

2. Now, the firm vide application dated 20.09.2022 has requested for second EOP Extension for 6 months i.e. beyond 8+2 years in respect of EPCG Authorization No. 3230016317 dated 10.02.2011 under 03% Concessional duty. As per License Amendment Sheet, EOP of the subject license has been changed from 8 years to 10 years.

3. The firm has stated that their EOP was extended from 8 years to 10 years up to 09.02.2021 by RA Coimbatore but couldn't fulfill 100% EO during the same. The firm further stated that they received automatic extension from DGFT HQ up to 31.12.2021 as per Notification No. 28 dated 23.09.2021 but they fulfilled EO up to US$ 516608.58 out of their actual specific EO of US$ 674137 up to 31.12.2021. The firm further stated that they fulfilled EO 100% up to US$ 712419.73 in excess of 5% additional EO as per Notification No. 28 upto 14.06.2022.

4. The request of the firm was considered in the 11th Meeting of the EPCG Committee held on 10.02.2023 and it was decided to call for a report from RA regarding details of EO fulfilled and balance duties of Customs plus interest payable on the unfulfilled EO.

Decision: The Committee deliberated upon the case and decided to advise the firm to **approach RA** for extension of EO Period beyond 10 years in terms of Public Notice No. 53 /2015-20 dated 20.01.2023 where extension is permitted on account of COVID.

The Committee further deliberated upon the case and decided to advise that if they desire, the applicant may approach RA for regularizing the case under the Amnesty Scheme notified vide Public Notice No. 02/2023 dated 01.04.2023 as per the conditions specified therein. RA may examine such request as per policy on merit.

Case No- 37: Karmen International Pvt. Ltd., Chennai

F. No. HQRPRCAPPLY00119082AM22

Subject: Request for re-fixation of annual average EO on the basis of last three years exports for the EPCG authorization No. 0430017454 issued on 13.04.2018 i.e. financial years 2015-16, 2016-17 and 2017-18 instead of 2014-15, 2015-16 and 2016-17.

The firm has applied for EPCG authorization on 28.03.2017 with APPENDIX 5B with average exports made during the Financial Years 2014-15, 2015-16 and 2016-17 with the annual average calculated to Rs.77.74 CR. Their application was processed and EPCG authorization was issued on 13.04.2018.

The firm is stating that if annual average is re-calculated on the basis of financial years 2015-16, 2016-17 and 2017-18, their annual average will come down to Rs. 60.54 CR.

Decision: The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification in support of any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request.

Case No- 38: Baby Engineering Private Limited, Tiruchirapalli

F. No. HQRPRCAPPLY00115995AM21

Subject: Request for waiver of annual average export obligation in respect of EPCG authorization No. 0430007564 dated 31.07.2009 and No. 0430007706 dated 24.09.2009 received from M/s. Baby Engineering Private Limited.

The firm has referred to DL issued by RA, Chennai dated 03.06.2020 and stated that Annual EO under EPCG is not possible for a steel fabrication unit. The firm achieved the total EO (Specific EO) of 6 times / 8 times of duty saved.

2. The firm has submitted that they undertake Steel Fabrication Work and Export Orders will not come on regular basis. Whenever there is a project requiring fabricated steel items then only they can obtain orders. The regular export orders like Components, Spares etc. are not possible. However, they have made Deemed Export of Rs. 1,92,60,300/- by 31.12.2009 and Direct Export of Rs. 1,05,97,744/-. Both Deemed Export and Direct Export were completed within the stipulated period of 8 years.

Decision: The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification in support of any genuine hardship faced by them. Accordingly, the Committee decided to **reject** the request.

<u>Case No- 39: McamSurlon India Limited, New Delhi</u>
F. No. HQREPCGPRAPP00000351AM23
Subject: Request for Condonation of Maintenance of AEO Block-wise in respect of EPCG Authorization No. 0530150656 dated 15.12.2009 under 0% Concessional Duty.

The firm has said that they could not maintain block wise AEOs due to the slowdown in the market. The firm had a substantial order and retained the AEO in the next block. The firm has stated that they had submitted EODC application dated 02.01.2020 after fulfilment of EO but DGFT raised deficiency that AEO was not fulfilled Block-wise but they had fulfilled AEO on overall basis. The firm further stated that they have maintained AEO on overall basis and had completed specific EO block-wise.

Decision: After deliberation on the request of the firm, the Committee decided to **defer** the case with the directions to call for a report from RA concerned on the submissions made by the applicant.

<u>Case No- 40: Fair Exports (India) Pvt. Ltd., Ghaziabad</u>
F. No. HQREPCGPRAPP00000158AM23
Subject: Request for following amendments in respect of EPCG Authorization No.0530172312 dated 23.05.2018 under 0% Concessional Duty:

i. **EPCG Authorization holder name may be changed from Amroon Foods Pvt. Ltd to Fair Exports (India) Pvt. Ltd.**
ii. **IEC Number to be changed from 069903920 to 0391146670.**

The firm stated that subject license was issued to M/s Amroon Foods Pvt. Ltd. Further, vide NCLT Order No. CP(CCA)/586/MB/2019(connected with CA(CCA)76 of 2018, Amroon Foods Pvt. Ltd merged into Fair Exports(India) Pvt. Ltd under the scheme of amalgamation. After the order, the Fair Exports (India) Pvt. Ltd will liable to do EO for above mentioned EPCG Authorization. The firm further stated that address and exporter type remains the same in EPCG Authorization. As per Para 10–(h) of the Hon'ble NCLT Mumbai Order dated 06.11.2019, The Regional Office of the Transferor Company –I is situated in the state of Delhi i.e. outside the jurisdiction of NCLT of Mumbai Bench and falls within the jurisdiction of NCLT of Delhi. Accordingly, similar approval is obtained by the Transferor Co.I from Hon'ble NCLT at Delhi respectively.

2. The case was considered in the 11th meeting of the EPCG Committee held on 10.02.2023 and it was decided as under:

> *"The Committee decided to call for a certified copy of order of the Hon'ble NCLT Delhi from applicant and deferred the case."*

2. Accordingly, the same was requested from the firm. Now the firm vide e-mail dated 13.03.2023 has submitted a certified copy of order of the Hon'ble NCLT Delhi.

Decision: The Committee deliberated upon the case and decided to **defer** it for further examination.

<u>Case No- 41: Fair Exports (India) Pvt. Ltd., Ghaziabad</u>
F. No. HQREPCGPRAPP00000157AM23
Subject: Request for following amendments in respect of EPCG Authorization No. 0530169653 dated 09.02.2017 under 0% Concessional Duty:

i. **EPCG Authorization holder name may be changed from Amroon Foods Pvt. Ltd to Fair Exports (India) Pvt. Ltd.**
ii. **IEC Number to be changed from 069903920 to 0391146670.**

The firm stated that subject license was issued to M/s Amroon Foods Pvt. Ltd. Further, vide NCLT Tribunal Bench Order No. CP(CCA)/586/MB/2019(connected with CA(CCA)76 of 2018 Amroon Foods Pvt. Ltd merged into Fair Exports(India) Pvt. Ltd under the scheme of amalgamation. After the order, the Fair Exports (India) Pvt. Ltd will liable to do EO for above mentioned EPCG Authorization. The firm further stated that address and exporter type remains the same in EPCG Authorization. It is pertinent to mention here that as per Para 10 – (h) Hon'ble NCLT Mumbai Order dated 06.11.2019-The Regional Office of the Transferor Company –I is situated in the state of Delhi i.e. outside the jurisdiction of NCLT of Mumbai Bench and falls within the jurisdiction of NCLT of Delhi. Accordingly, similar approval is obtained by the Transferor Co.I from Hon'ble NCLT at Delhi respectively. It has been noticed that the firm has not furnished a certified copy of the Hon'ble NCLD Delhi order in support of their request. The case was considered in the 11th meeting of the EPCG Committee held on 10.02.2023 and it was decided as under:

> *"The Committee decided to call for a certified copy of order of the Hon'ble NCLT Delhi from applicant and deferred the case."*

2. Accordingly, the same was requested from the firm. Now the firm vide e-mail dated 13.03.2023 has submitted a certified copy of order of the Hon'ble NCLT Delhi.

Decision: The Committee deliberated upon the case and decided to **defer** it for further examination.

<u>Case No- 42: Fair Exports (India) Pvt. Ltd., Ghaziabad</u>
F. No. HQREPCGPRAPP00000156AM23
Subject: Request for following amendments in respect of EPCG Authorization No. 0530168822 dated 20.10.2016 under 0% Concessional Duty:

i. **EPCG Authorization holder name may be changed from Amroon Foods Pvt. Ltd to Fair Exports (India) Pvt. Ltd.**

ii. **IEC Number to be changed from 069903920 to 0391146670.**

The firm stated that subject license was issued to M/s Amroon Foods Pvt. Ltd. Further, vide NCLT Tribunal Bench Order No. CP(CCA)/586/MB/2019(connected with CA(CCA)76 of 2018 Amroon Foods Pvt. Ltd merged into Fair Exports(India) Pvt. Ltd under the scheme of amalgamation. After the order, the Fair Exports (India) Pvt. Ltd will liable to do EO for above mentioned EPCG Authorization. The firm further stated that address and exporter type remains the same in EPCG Authorization. It is pertinent to mention here that as per Para 10 – (h) Hon'ble NCLT Mumbai Order dated 06.11.2019-The Regional Office of the Transferor Company –I is situated in the state of Delhi i.e. outside the jurisdiction of NCLT of Mumbai Bench and falls within the jurisdiction of NCLT of Delhi. Accordingly, similar approval is obtained by the Transferor Co.I from Hon'ble NCLT at Delhi respectively. It has been noticed that the firm has not furnished a certified copy of the Hon'ble NCLTDelhi order in support of their request. The case was considered in the 11th meeting of the EPCG Committee held on 10.02.2023 and it was decided as under:

> *"The Committee decided to call for a certified copy of order of the Hon'ble NCLT Delhi from applicant and deferred the case."*

2. The firm vide e-mail dated 13.03.2023 has submitted a certified copy of order of the Hon'ble NCLT Delhi.

Decision: The Committee deliberated upon the case and decided to **defer** it for further examination.

<u>Case No- 43: Himalaya International Ltd., New Delhi</u>
F. No. HQRPRCAPPLY00384934AM22
Subject: Request for amendment in Specific EO and Average EO in respect of EPCG Authorization No. 0530154845 dated 22.02.2011 under 3% Concessional duty.

The applicant has stated that they were issued EPCG authorization with the condition to Export 6 times of the Duty saved Value in a period of 12 years. The firm has also stated that their Export products are sweets and appetizers, which are processed foods. Therefore, the condition should be to export 8 times the duty saved value in 8 years. The firm has informed that they have completed their EO accordingly. The applicant has further stated that in the authorization their Average EO was wrongly mentioned as Rs. 257,108,333.33. They were a 100% EOU unit and became a DTA unit in 2006-07 when they were issued EPCG Authorization No. 0530143175 dated01.03.2007 for conversion to DTA. Subsequently they were also issued final de-bonding order Dated 09.05.2007.

2. In view of the above, the applicant has requested to amend their EPCG license as under :-

i. Specific EO terms in the license to 8 Times the Duty saved value in 8 years and
ii. Average EO to be Rs. 0.00.

Decision: The Committee deliberated upon the case and decided to **defer** it for further examination.

Case No- 44: Reynolds Pens India Private Limited, Sriperumbudur

F. No. HQREPCGPRAPP00207836AM22

Subject: Re-fixation of annual average due to wrong mentioning of export turnover for the year 2019-20 in respect of EPCG authorization No.0430018961 dated 08.06.2020.

The applicant has submitted that while applying for zero duty EPCG authorization to RA, Chennai the domestic turnover was wrongly mentioned as export turnover for the year 2019-20. The applicant has submitted revised CA certificate in Appendix 5B along with Shipping bill wise details of exports. The applicant has stated that the CA certificate in Appendix 5B, the turnover for 2019-20 has been wrongly mentioned as USD 7290118.82 and INR 1316863949/- instead of the USD 7283693.72 and INR 50,99.27,880.00. The applicant has requested that the annual average EO may be revised to Rs 31,44,27,557/-.

Decision: The Committee deliberated upon the case and decided to advise the firm to **approach RA** for rectification of export turnover.

Case No- 45: Pilot Industries Ltd., New Delhi

F. No. HQREPCGPRAPP00151117AM22

Subject: Request for condonation of procedural lapse for mentioning wrong EPCG Authorization Number in Shipping Bill in respect of EPCG Authorization No. 0530157766 dated28.02.2012.

The applicant has stated that they mentioned the wrong EPCG Authorization No. 0530154520 dated 12.01.2011 instead of EPCG Authorization No. 0530157766 dated 28.02.2012 in Shipping Bill No. 3989795 dated 09.02.2017 by mistake. The firm has given a declaration to CLA, New Delhi that this Shipping Bill had not been used for EO of EPCG Authorization No. 0530154520 dated 12.01.2011 or any other Authorization(s), as per Policy Circular No. 07/2002 dated 11.07.2002.

Decision: The Committee deliberated upon the case and decided to advise the firm **to approach concerned Export Promotion Circle, Customs** for necessary rectification in the Shipping Bills.

Case No- 46: Sree Sannidhi Foods Private Limited, Chittoor

F. No. HQREPCGPRAPP00163122AM22

Subject: Request for Consideration of Excess Exports made against 5 EPCG Authorizations towards discharge of EO of another EPCG Authorization No. 0930007163 dated 10.06.2011 under 03% Concessional duty.

The applicant has obtained EPCG Authorization No. 0930007163 dated 10.06.2011 for duty saved value of Rs. 34851355.55 and EO worth US$ 1003333.93 i.e. 8 times the duty saved on Capital Goods on FOB basis within a period of 8 years from date of issue of authorization. The annual average of the past export performance is Rs. 0.00 as per the condition sheet. The firm has stated that they have completed their EO 100% in stipulated time and have made excess exports for its following 5 EPCG Authorizations :-

- 0930007248 dated 06.07.2011
- 0930010972 dated 19.02.2015
- 0930010973 dated 19.02.2015
- 0930010975 dated 19.02.2015
- 0930011048 dated 19.03.2015

2. The firm further stated that it couldn't fulfill EO 100% in stipulated time for EPCG Authorization No. 0930007163 dated 10.06.2011. The firm stated that even after completing specific EO of above 5 Licenses they have mentioned the same EPCG Licenses instead of mentioning License No. 0930007163 on the shipping bills.

Decision: After deliberation on the request of the firm, the Committee decided to **defer** the case with the directions to call for clarification from the firm whether the 5 EPCG Authorizations have been redeemed.

<u>Case No- 47: Zazsons Exports Limited and Z Square Mall</u>

F. No. 18/51/AM-21/P-5

Subject: Request for Review of Committee decision taken in 5th EPCG Committee Meeting held on 29.09.2021- Clarification about nexus of Capital Goods in respect of following 5 EPCG Authorizations for processing their EODC Applications:

i. 0630001620 dated 05.12.2008

ii. 0630001690 dated 19.02.2009

iii. 0630001672 dated 30.01.2009

iv. 0630001435 dated 01.07.2008

v. 0630001434 dated 01.07.2008.

The firm vide e-mail dated 03.09.2022 has requested for review of Committee decision taken in 5th EPCG Committee Meeting held on 29.09.2021-Clarification about nexus of Capital Goods in respect of following 5 EPCG Authorizations. The representative of the firm appeared before the EPCG Committee to explain their case. The firm has submitted the following:

i. M/s. Zazsons Exports Limited and Z Square Mall are group companies operating under single IEC. In Z Square Mall, they are having pre-production/production/post-production activities. Some of the raw inputs are first brought at Z-Square Mall, after doing some cutting/initial processes, inputs are sent to Zazsons Exports Ltd., on receipt of finished product from Z-Square Mall, post-production activities such as labelling/packing/dispatch is done in Zazsons Exports Ltd.

ii. The firm has stated that due to inadvertence, the place of installation in EPCG License Nos.. 0630001434 dated 01.07.2008, 0630001672 dated 30.01.2009 & 0630001690 dated

19.02.2009 was mentioned as Zazsons Exports Ltd. Jajmau, Kanpur instead of Z Square Shopping Mall, 16/113 MG Marg, The Mall, Kanpur. Subsequently, request was made to RA Kanpur by letter dated 04.11.2008 to change the factory address as Z-Square Shopping Mall Pvt. Ltd. and accordingly, subsequently installation certificates have been obtained/submitted for said address.

iii. The firm further stated that RA Kanpur team came for inspection at Z-Square Shopping Mall Pvt. Ltd. wherein inspection was conducted and all the activities/manufacturing process of leather shoes was seen by the inspection team at the manufacturing department at Z Square Mall. Also the capital goods imported under EPCG installed at Z Square Mall were inspected and verified and all the facts of nexus were established to their satisfaction. A complete video of the manufacturing process of shoes was also made during inspection by the team

iv. The firm mentioned that as in the record of RA Kanpur, the place of installation of the above capital goods is Z-Square Shopping Mall Pvt. Ltd. 16/113 MG Marg, The Mall, Kanpur, that is why the inspection team came to Z Square Mall. If the place of installation was Zazsons Exports Ltd., Jajmau Kanpur, then the team should have gone there but because the address change was already requested and subsequently in the latest issued EPCG License Nos.. 0630001672 dated 30.01.2009 & 0630001690 dated 19.02.2009, the address is mentioned as ZSquare Shopping Mall Pvt. Ltd. 16/113 MG Marg, The Mall, Kanpur

v. The firm further stated that as per license, the Bill of Entry has been passed by Customs in the name of Z-Square Shopping Mall and there has been no Revenue loss to the Government or misuse of any Government scheme and if there has been any procedural lapse, the same may be condoned to regularize the case.

vi. The firm further stated that EPCG Scheme allows import of capital goods for use at Pre-Production/Production/Post-Production stage and the goods imported by them have been used at Pre-Production & Post-Production Scheme. The firm further stated that the nexus is asked at the time of issuance of license and same has been submitted to them. Escalators/elevators are not allowed to normal unit under EPCG Scheme. These are used by Mall premises where they are having additional activities of stores/packing/dispatch and small manufacturing unit and that the licenses have been granted after checking the nexus. The firm further stated that EPCG scheme allows import of capital goods as per FTP (2008- 09) as per the following provision.

"EPCG for Retail Sector Para 5.1 C

To create modern infrastructure in retail sector, concessional duty benefits under EPCG scheme shall be extended for import of capital goods required by retailers having minimum area of 1000 sq meters. Such retailer shall fulfilll export obligation i.e. 8 times of duty saved, in 8 years."

Therefore, they have stated that EPCG was rightly issued as per the prevailing FTP.

Decision: The Committee deliberated upon the case and decided to **defer** the case for further examination of the request in terms of the policy provisions for EPCG for retail sector.

Case No- 48: Swan Energy Ltd. (SEL), Gujarat

F. No. HQRPRCAPPLY00122391AM22
Subject: Request for EOP Extension till 31.12.2023 for EPCG License No- 0330025407 dated 08.03.2010 including complete relaxation on late penalty under 03% Concessional Duty.

The firm has obtained EPCG Authorization No. 330025407 dated 08.03.2010 for worth US$ 12,398,401.71 i.e. 6 times the duty saved on Capital Goods on FOB basis within a period of 6 years from date of issue of authorization. The firm has given following reasons for non-fulfilment like-

i. India's export of textiles and clothing being severely affected by trade conflicts of US and China, EU's struggle with Brexit, geopolitical tensions in Middle East etc.

ii. Slowdown of trade growth in 2018 due to new tariffs and retaliatory measures along with volatility in financial markets and stringent monetary conditions

iii. Sharp decline in yarn exports, cheaper imports, state and central taxes on export and high interest rates in Indian Textile Market. Further issues listed were volatility in cotton prices and currency values, piling up stocks and production cut, severe liquidity crunch and government arrears such as TUF subsidies, MEIS, GST refund etc.

iv. Affects of Covid-19 on India's export market

Based on above submissions, the firm has requested for EOP Extension till 31.12.2023 with complete relaxation on late penalty keeping in mind their genuineness as they have completed their EO against other 2 EPCG licenses

2. The matter was considered in 6th Meeting of AM-23 of the EPCG Committee held on 03.08.2022 and decided to defer the case for further examination on file. Again the matter was considered in 8th Meeting of AM-23 of the EPCG Committee held on 15.11.2022 and decided to defer it with the request that DoR will furnish the present status of investigation which was instituted by the DRI. The reply was received from DRI vide email dated 16.12.2022.

3. The request of the firm was considered in the 10th Meeting of EPCG Committee held on 18.01.2023 and 20.01.2023 and it was decided as under:

> "*The Committee deliberated upon the case and decided to defer it with directions to refer the case to Department of Revenue (Drawback Division) for their comments*."

4. The reply from Department of Revenue is awaited.

Decision: After due deliberation on the request of the firm, the Committee decided to **defer** the case for further examination.

<u>Case No- 49: Narmathaa Textiles Limited.,Chennai</u>
F. No. 01/36/218/65/AM-20/EPCG
Subject: Request for:

(i) One time E.O. Extension for 2 years without imposing composition fee (or) additional E.O.
(ii) Allow re-fixation of EO for the balance EO on the basis of duty saved amount in terms of para 5.19(c) of HBP announced on 1/4/2005 and
(iii) Deletion of erroneously fixed Annual Average in terms of para 5.7.4 of HBP in respect of EPCG authorization No. 01500374 dated 23.04.1996 and in lieu of EPCG authorization No. 0430000008 dated 15.09.1999.

The matter was listed before the EPCG Committee on 24.01.2020, 11.03.2021, 10.11.2021 and 30.03.2022. On 30.03.2022 the matter was deferred for further examination.

2. As report submitted by RA, Chennai is of the opinion that in view of the above force majeure conditions, i.e. prolonged closure of the unit from 2003 to 2019, the following requests made by the party can be considered by the HQ EPCG Committee only.

i. One time extension of 2 years without imposing composition fee or additional EO
ii. Refixation of EO for the balance EO on the basis of duty saved amount in terms of para 5.19(c) of HBP announced on 1.4.2005 and
iii. Deletion of erroneously fixed Annual Average in terms of para 5.7.4 of HBP.

Moreover, Party has requested RA to issue partial EODC to the extent of EO fulfilment made. The provision for issue of Partial EODC was available till 31.3.2015 under para 5.9 of HBP

3. As per the written submissions dated 14.03.2022, the firm is stating that :-

(i) Vide its proceedings dated 25.08.2005, Tamil Nadu Pollution Control Board ordered closure of their unit with immediate effect. This was done as a sequel to PILs filed against all dyeing and textile processing units.

(ii) Due to the closure of their unit during the valid EO period they could not complete the balance 40% EO within the original EO period.

(iii) After protracted correspondences, pleadings and persistence they could prove that they have a state of the Art Zero discharge unit and finally now got consent from the Pollution Control Board.

(iv) Under the above circumstances EPCG Committee may allow request for one-time EO extension of two years without any composition fee or additional EO, since non-fulfilment of EO within the original valid EO period was due to factors beyond their control.

(v) The other request for refixation of EO with reference to the duty saved value and deletion of erroneously fixed Annual Average too may kindly be favorably considered.

Decision: The Committee deliberated upon the case and observed that the case involves policy relaxation on force majeure grounds. Accordingly, the case was **deferred** for further examination.

Case No- 50: Srinidhi Enterprises, Bangalore
F. No. HQREPCGPRAPP00000026AM24
Subject: Request for Condonation for Block-wise EO Fulfilment in respect of EPCG Authorization No. 0730011311 dated 25.05.2012 under 0% Concessional duty.
The firm has stated that their request for Condonation of Procedural Lapse for Consideration of the Undertaking on Stamp Paper and Purchase Order received from exporter as the Agreement in respect of EPCG Authorization No. 0730016014 dated 30.11.2016 under 0% Concessional Duty was considered in the 9th EPCG Committee meeting dated 12.12.2022, wherein " *the Committee deliberated upon the case and decided to recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to allow condonation of procedural lapse for consideration of the undertaking on stamp paper as the agreement in respect of the subject EPCG authorization as stipulated under 5.10 (d)(i) of HBP, 2015-20*."

2. The firm has further stated that when they approached RA, Bangalore for EODC, they were served a DL stating that the firm has not met its block-wise EO. The firm has also stated that they have not met their block-wise EO under first block but overall they have exceeded their EO within the stipulated time. The obligation was to make export turnover of Rs. 89,28,816 and the company has made export to the extent of Rs. 1,00,60,015 via third-party exports.

Decision: The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.59 of FTP, 2023** to allow extension in block-wise EOP, as the applicant could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on duty saved amount in proportion to the shortfall at the end of each block in terms of the provisions of Para 5.8.3 of HBP, 2009-14 and late fee of Rs. 10,000/-.

The above relaxation is also subject to the condition that the proper installation certificate has been submitted as specified in FTP/HBP.

This has the approval of DG, DGFT.

Case No- 51: L&T Special Steels and Heavy Forgings Pvt. Ltd., Mumbai
F. No. 01/36/218/10/AM-21/EPCG
HQRPRCAPPLY00004420AM23

Subject: SCA No. 10010 Of 2023 in the High Court of Gujarat at Ahmedabad in the matter of M/s L&T Special Steels And Heavy Forgings Pvt. Ltd. versus Union of India & Ors.

Earlier, L&T Special Steels and Heavy Forgings Pvt. Ltd., Mumbai vide application No. HQRPRCAPPLY00272838AM22 dated 02.12.2021 had requested for extension of EOP for 6 months in respect of EPCG Authorization No. 0330028459 dated 21.01.2011 under 0% Concessional duty. The applicant stated that their company (L&T Special Steels and Heavy Forgings Pvt. Ltd.) is a strategic Joint Venture of M/s. Larsen & Toubro Ltd. and M/s. Nuclear Power Corporation of India Limited (NPCIL) (Govt. of India Undertaking). The company had secured a contract from M/s. NPCIL to supply critical forgings to the notified Nuclear plants and accordingly had already fulfilled 42.31% EO till date. However due to outbreak of Covid pandemic in February, 2019 and its consequential effect and restrictions since then, the operation of their factory, which is located in Surat, Gujarat, one of the most affected cities, got badly affected. Further, during second wave due to shortage of oxygen supplies, the State and Union government had restricted the industrial supply of oxygen in their factory, which had stalled the manufacturing operation for a few months.

2. The request of the firm was considered in the 3rd Meeting of the EPCG Committee held on 25.05.2022 and it was decided to reject the request.

3. Again, the firm vide application No. HQRPRCAPPLY00004420AM23 dated 17.02.2023 has requested for extension of EOP for one year i.e. upto 31.12.2022 against said EPCG Authorization. The request of the firm was considered in the 2nd Meeting of the EPCG Committee held on 30.05.2023 and deferred for further examination.

4. Now, DGFT has received a copy of Special Civil Application (SCA) No. 10010 of 2023 filed before the Hon'ble High Court of Gujarat, Ahmadabad. The facts submitted in the SCA are as under :-

- Petitioner imported the Capital Goods against EPCG Authorization No. 0330028459 dated 21.01.2011.

- The Original EO Period of six years ended on January, 2017. However, due to the Fukushima Nuclear accident in Japan and consequential disruptions in the Indian Nuclear Program, PRC Section vide Meeting No. 02/AM20 dated 09.04.2019 had relaxed the Foreign Trade Policy and extended the EOP till 31.12.2021.

- Petitioner had furnished a Bank guarantee for Rupees Ten Crores Forty lakhs Sixty Thousand to the Respondent No. 4 [Commissioner of Customs (Export) EPCG (Monitoring Cell)].

- Petitioner had fulfilled the EO to the extent of Rupees Eighty Three Crores by supplies to NPCIL which qualify as "Deemed Export" supplies in terms of para 7.02(f) of the FTP, 2015-20 read with Customs notification 50/2017-Cus dated 30.06.2017.

- Petitioner has a firm Deemed export order of Rupees Three Hundred and Seventy Five Crores (excluding GST) from NPCIL.

- Petitioner could not seek benefit provided vide Public Notice No. 67 dated 31.03.2020 and Notification No. 28 dated 23.09.2021, for the reason that the extended EOP of EPCG Authorization was valid till 31.12.2021 and it fell after the cut-off date of 31.07.2021.

- The Respondent No. 4 vide its demand notice dated 10.01.2023 had asked to furnish the documents in relation to the fulfilment of EO and in absence of proof of such fulfilllment, the Petitioner had been directed to pay the Customs duty along with the interest.

- The Respondent No. 2 (DGFT, HQ) vide PN No. 53/2015-20 dated 20.01.2023 had granted an option to avail extension of EO Period for specified EPCG Authorizations on account of COVID-19 pandemic, by a period of the corresponding number of days that the EO period of EPCG Authorization falls within 01.02.2020 and 31.07.2021.

- The EO Period of the EPCG Authorization No. 0330028459 dated 21.01.2011 had expired on 31.12.2021 and a period of 18 months i.e. from 01.02.2020 till 31.07.2021, falls within the period as prescribed in para 5.17(h) of the aforesaid PN dated 20.01.2023.

- The petitioner vide its application dated 30.01.2023 had approached the Zonal office of Respondent No. 2 seeking extension of EO period citing said Public Notice No. 53/2015-20 dated 20.01.2023. However no action has been taken.

- The Petitioner replied to the demand notice informing Respondent No. 4 vide letter dated 31.01.2023 that they are in process of getting extension of EO in terms of PN No. 53/2015-20 dated 20.01.2023 and till then no recovering proceeding may be initiated.

- The Petitioner has been informed that the Respondent No. 4 vide its letter dated 09.06.2023 had directed the bank of Petitioner (M/s Axis Bank Limited) to invoke the BG.

- The coercive action initiated by Respondent No. 4 by directing the Respondent No. 5 bank to invoke BG pending outcome of the decision by Respondent No. 2 and 3, has left the Petitioner with no alternative but to approach the Hon'ble Court for relief.

Decision: The Committee deliberated upon the case and noted that the firm had been granted EO extension upto 31.12.2021 by the Policy Relaxation Committee in the meeting held on 09.04.2019 in respect of EPCG Authorization No. 0330028459 dated 21.01.2011 under 0% Concessional duty.

The firm is seeking benefit of the Public Notice No. 53/2015-20 dated 20.1.2023 where extension is permitted on account of COVID. However, as per the said Public Notice, relaxation will not be available when the extension in EO period has been obtained under the para 2.58 of the Foreign Trade Policy.

Committee observed that the matter involves policy clarification and decided that matter be **withdrawn** for further examination.

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[DGFT= Directorate General of Foreign Trade, DG = Director General, FTP, = Foreign Trade Policy, HBPv1 = Handbook of Procedure Vol. I, EO = Export Obligation, EODC = Export Obligation Discharge Certificate, EOP = Export Obligation Period, B.O.E. =Bill of Entry, EPCG

= Export Promotion Capital Goods, RA = Regional Authority, BG = Bank Guarantee, FFE = Free Foreign Exchange, IEC = Importer Exporter Code, DoR = Department of Revenue, IEM = Industrial Entrepreneurs Memorandum, RCMC = Registration-cum-Membership-Certificate.].

The meeting ended with a vote of thanks to the Chair

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