F.No. 01/36/218/222/AM-21/EPCG

MINUTES OF 1st MEETING OF AM-22 OF THE EPCG COMMITTEE HELD UNDER THE CHAIRMANSHIP OF SHRI S.B.S. REDDY, ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE AT 3.00 PM ON 13.4.2021

First meeting for AM-22 of the EPCG Committee was held at 3.00 pm on 11.3.2021 under the chairmanship of Shri S.B.S. Reddy, Additional Director General Of Foreign Trade through Video Conferencing mode on Cisco webex cyber meeting app due to Covid-19 restrictions (Meeting Number: ***184 984 4550*****).** Following officers attended the meeting:

i. Shri Chandan Kumar, OSD, Department of Revenue
ii. Shri Indrajeet Yadav, DIA, Ministry of Steel
iii. Shri Shobhit Gupta, Deputy Director General of Foreign Trade, DGFT

2. DDG(SG) informed the Committee that last meeting No. 8/AM-21 of the EPCG Committee was held on 11.03.2021. The minutes were finalized and uploaded on DGFT's website on 30.03.2021. However, while finalising the minutes, a typographical error had occurred inadvertently in the decision of case No. 22 of the minutes pertaining to Indian Oil Corporation, as informed by the applicant vide email dated 13.4.2021. The Committee decided to amend the decision taken in the last meeting as under:

S.No.	Applicant's name	Subject	Decision in 8th meeting held on 11.03.2021	Amended Decision
22.	Indian Oil Corporation Ltd., New Delhi 01/36/218/171/AM-21/EPCG	0530152540 dated 24.06.2010 : Request for Condonation of procedural lapse of endorsement of wrong EPCG License number in a shipping bill.	The Committee took into account the submission of the party that they had inadvertently endorsed wrong EPCG Authorization no. 0530158600 dated 26.06.2012 and 0530157040 dated 24.11.2011 in shipping bills No. 9547937 dated 17.01.2014 and 4515 dated 22.11.2013 respectively instead of correct EPCG Authorization number 0530152540 dated 24.06.2010 on both shipping bills. It has also been noted that wrongly endorsed EPCG authorization nos. 0530158600 and 0530157040 are not closed and are yet to be redeemed. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to allow consideration of the wrongly mentioned EPCG authorization no. 0530152540 dated**	The Committee took into account the submission of the party that they had inadvertently endorsed wrong EPCG Authorization no. 0530158600 dated 26.06.2012 and 0530157040 dated 24.11.2011 in shipping bills No. 9547937 dated 17.01.2014 and 4515 dated 22.11.2013 respectively instead of correct EPCG Authorization number 0530152540 dated 24.06.2010 on both shipping bills. It has also been noted that wrongly endorsed EPCG authorization nos. 0530158600 and 0530157040 are not closed and are yet to be redeemed. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to allow consideration of the wrongly mentioned EPCG authorization no. 0530158600 dated 26.06.2012 in shipping bill**

			24.06.2010 in a shipping bill No. 7913766 dated 07.03.2012 instead of the correct Authorization number 0530153073 dated 16.08.2010 towards fulfillment of the specific EO. The above recommendation is subject to the condition that: (i) The Company had not submitted the shipping bill to be counted to the RA for redemption of EPCG Authorization. RA to verify this aspect carefully. (ii) The EPCG authorizations under consideration have not been redeemed. (iii) This is not a free shipping bill. (iv) All the EPCG Authorisations under consideration have the same export product. (v) All the EPCG Authorisations under consideration are issued in the same Policy period. (vi) The specific export obligation that was to be fulfilled within the Block and within the EOP has been fulfilled within the valid EOP. (vii) There is no double counting of exports. The Shipping Bill has not been/shall not be considered towards the discharge of E.O. against any 3 other EPCG Authorisation. (viii) Annual Average EO, if imposed, has to be maintained in respect of the EPCG Authorisations. (ix) Payment of a composition fee of Rs. 200/- per export document is to be made by the party. (x) Any investigation/adjudication proceeding by DRI/ Customs/ ECA action is not pending in respect of the subject EPCG authorisations.	**No. 9547937 dated 17.01.2014 and No. 0530157040 dated 24.11.2011 in shipping bill No. 4515 dated 22.11.2013 instead of the correct Authorization number 0530153073 dated 16.08.2010 towards fulfillment of the specific EO.** The above recommendation is subject to the condition that: (i) The Company had not submitted the shipping bill to be counted to the RA for redemption of EPCG Authorization. RA to verify this aspect carefully. (ii) The EPCG authorizations under consideration have not been redeemed. (iii) This is not a free shipping bill. (iv) All the EPCG Authorisations under consideration have the same export product. (v) All the EPCG Authorisations under consideration are issued in the same Policy period. (vi) The specific export obligation that was to be fulfilled within the Block and within the EOP has been fulfilled within the valid EOP. (vii) There is no double counting of exports. The Shipping Bill has not been/shall not be considered towards the discharge of E.O. against any 3 other EPCG Authorisation. (viii) Annual Average EO, if imposed, has to be maintained in respect of the EPCG Authorisations. (ix) Payment of a composition fee of Rs. 200/- per export document is to be made by the party. (x) Any investigation/adjudication proceeding by DRI/ Customs/ ECA action is not pending in respect of the subject EPCG authorisations. **This has the approval of DG.**

The minutes of last meeting, as corrected, are unanimously approved.

3. The Committee deliberated upon all the cases as per agenda and following decisions were taken:-

Sl. No.	Firm's Name and file Numbers	EPCG Authorisation no.	Subject	Decision of the Committee
1.	ETA Technology Pvt. Ltd., Bangalore 01/36/218/297/AM-18/EPCG-I	0730008384 dated 19.11.2009	Request to set off the shortfall in average EO during some financial year, by excess exports made during the subsequent years against the EPCG authorization no. 0730008384 dated 19.11.2009.	The party has requested to set off the shortfall in average EO during some financial year, by excess exports made during the subsequent years in the subject. The Committee observed that party should first approach RA in terms of para 5.19A of Handbook of procedures and if they face any further difficulties then only they should approach EPCG committee.
2.	Veer Energy & Infrastructure Ltd, Mumbai 01/37/218/213/AM-19/EPCG-II	0830005281 dated 22.01.2013	Request for extension of 2nd block and extension of EOP for 1 year in respect of zero duty EPCG authorization No. 0830005281 dated 22.01.2013	The party seeks extension in export obligation period against the subject EPCG authorisations issued under 0% concessional duty EPCG Scheme on the grounds that their exports have been adversely affected by Covid-19 pandemic. The Committee decided to **defer** the case for detailed examination.
3.	Standard Cartons Pvt. Ltd., New Delhi 01/60/162/381/AM21/PRC	0530155092 dt. 22.03.2011	Request for extension of EOP and addition of export item in the Authorization in respect of EPCG License No. 0530155092 dt. 22.03.2011.	The party seeks extension for EOP against the subject EPCG authorisation issued under zero duty EPCG Scheme due to adverse impact of Covid-19 on exports. The Committee noted that the extended EOP in

				the subject EPCG Authorisation had expired before the Covid-19 pandemic period and the firm even after 8 years of issue of authorisation could not export at all. The Committee further noted that as per CLA's report the party has done **Nil** export. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
4.	Shell Apparels Pvt. Ltd., Bangalore 01/36/218/193/AM-21/EPCG	i.0730012367dt. 14.05.2013, ii.0730013007 dt. 30.12.2013 iii.0730009776dt.13.01.2011	Request for extension of EOP in respect of EPCG Authorization nos.0730012367 dt. 14.05.2013, 0730013007 dt. 30.12.2013 and 0730009776 dt. 13.01.2011	The party seeks extension in export obligation period against the subject EPCG authorisations issued under 0%, 3% concessional duty EPCG Scheme on the grounds that their exports have been adversely affected by Covid-19 pandemic. The Committee decided to **defer** the case for detailed examination.
5.	Savvak Eng. Innovation Pvt. Ltd., New Delhi 01/36/218/162/AM-19/EPCG-II	0530155730 dt. 10.06.2011	i. Request for extension of EOP for two years in respect of EPCG License No.05301557 30 dt. 10.06.2011. ii. Addition of additional HSN Code in their License. iii. Consideration of shipping bills in which EPCG License no. is not mentioned	The party has requested for (i) Request for extension of EOP for two years in respect of EPCG License No.05301557 30 dt.10.06.2011.(ii) Addition of additional HSN Code in their License. (iii) Consideration of shipping bills in which EPCG License no. is not mentioned. In this case the firm has ststed that they could not complete EO within stipulated time period due to delay in dispatch of machine by the exporter. Decline in demand for the film solar panel technology. The firm has further

				stated that as the demand for film solar panel declined, they manufactured and exported other sheet metal components of different HSN Code. The Committee also noted that as per CLA's report the firm has done **NIL** export in the 1st Block whereas in the 2nd block has done export US$ 2444.61(25% approx) as free shipping bills without EPCG authorisation number. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
6.	Haldex India Pvt. Ltd 01/36/218/77/AM-19/EPCG-I	i. 3130000726 dated 31.05.2004 ii. 3130000784 dated 09.08.2004	Request for review of decision taken in the EPCG Committee Meeting dated 10.6.2020.	The party has requested for review of decision taken in the EPCG Committee Meeting dated 10.6.2020. The Committee deliberated upon the case and decided to reject the case for EO extension as there is no merit. Regarding acceptance of duty drawback shipping bills, The Committee decided to remand the case to RA. The RA may examine the request on the basis of relevant policy provisions.
7.	IRIS Pvt. Ltd., Gandhinagar, Gujarat 01/36/218/186/AM-19/EPCG	i. 0830006017 dated 12.12.2013 ii. 0830006033 dated 30.12.2013 iii.0830006135 dated 14.02.2014 iv.0830006058 dated 06.01.2014 v.0830006080 dated 12.01.2014	Request for exemption from Customs Duty with interest.	The Committee heard the representative of the applicant during personal hearing. The representatives stated that they could not import the raw material i.e. Corn Flour into India due to plant Quarantine Regulation

		vi. 0830009677 dated 25.05.2017		Order. Further they could not use corn grown in India for manufacture of exporting items because as per international market requirement as well as food safety level, Indian corn does not meet the international standards. Hence, the representative requested for exemption from paying Customs Duty with interest in the above mentioned EPCG authorisations. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
8.	KCL Ltd. (formerly Khemka Containers Ltd.), New Delhi 01/36/218/61/AM-21/EPCG	05301426060 dated 12.12.2006	Request for issue EODC/Redemption letter in respect of EPCG Authorization No. 05301426060 dt. 12.12.2006.	The Committee noted that the party has made supplies to various 100% EOUs, under the deemed export category for fulfilment of EO in the subject EPCG Authorisation. The party applied to RA for EODC along with ARE-3 certificates. RA objected that the rubber stamp affixed on ARE-3 certificates showing EPCG Authorisation Number and date is without any authentication of concerned Central Excise Authority. The Committee noted the contention of the party that Central Excise Department is no longer in existence and GST has replaced that department. The Committee deliberated upon the case and decided to advise the party to approach the concerned Export Promotion Circle (EPC) which is

				performing duties of erstwhile Central Excise authorities and obtain authentication on the ARE-3 certificates.
9.	Electroforce India Pvt. Ltd., Thane 01/36/218/174/AM-21/EPCG	0330028528 dated 01.02.2011	Request for extension of EOP in respect of EPCG Authorization no. 0330028528 dt. 01.02.2011.	The party seeks extension for EOP against the subject EPCG authorisation issued under zero duty EPCG Scheme due to cancellation of orders of exports. Earlier the case was examined by EPCG Committee held on 10.06.2020 wherein the Committee decided to reject it as the party did not give any meritorious reason for further extension in EOP and the party could able to complete only 40% EO even after expiry of the extended EOP. The firm has again made similar request. The Committee noted that the extended EOP in the subject EPCG Authorisation had expired before the Covid-19 pandemic period and the firm, even after 8 years of issue of authorisation, could not fulfil the EO. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
10.	Kumaran Fishnets Export Corporation, Tamil Nadu 01/36/218/384/AM-20/EPCG	i. 3530002251 dated 21.12.2006 ii. 3530003206, dated 29.04.2008	Request for clubbing of two EPCG Authorization No. 3530002251 dt 21.12.2006 & 35300003206 dt. 29.04.2008.	The party has requested for clubbing permission of two EPCG Authorization No. 3530002251 dt 21.12.2006 & 35300003206 dt. 29.04.2008. The Committee observed that both license issued in the different licensing years. Therefore, the request was rejected by the concerned RA in

				view of Para 5.18.2 of HBP (RE:2006)/2004-09. As per the said para, the request for clubbing can only be considered on the fulfillment of the following conditions: a. The EPCG Authorisations have been issued during the same licensing year. b. The EPCG Authorisations have been issued under the same Customs Notification, c. EPCG Authorisations must be for the export of the same product(s) or same services. The Committee noted that as per RA's report, EPCG authorizations have not been issued in the same licensing year. EPCG Authorization no. 3530002251 dt 21.12.2006 was issued in AM07 licensing year under 5% EPCG Scheme and EPCG Authorization no. 35300003206 dt. 29.04.2008 was issued in AM09 licensing year under 3% EPCG scheme. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
11.	JSW Steel Ltd, Mumbai 01/36/218/224/AM-21/EPCG	28 EPCG Authorisations	Request for Condonation of procedural	The Committee considered the application dated

			lapse for mentioning wrong EPCG Authorisation Number in Shipping Bills.	11.03.2021 of the applicant and their submissions that they had inadvertently endorsed wrong EPCG Authorization nos in shipping bills. It was also noted that wrongly endorsed EPCG authorization nos. are not closed and are yet to be redeemed. **The Committee deliberated upon the case and decided to recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to allow consideration of the wrongly mentioned EPCG authorization no. In the shipping bills instead of the correct Authorization number as mentioned in the application dated 11.03.2021 (Copy enclosed) towards fulfillment of the specific EO.** The above recommendation is subject to the condition that: i) There is no double counting of exports ii) No free shipping bills or third party exports shall be counted. iii) payment of composition fee of Rs.200/- per shipping bill is made by the party. iv) all other conditions of EPCG authorisations shall be met as per FTP and Handbook of procedures. v) Any investigation/adjudication proceeding by DRI/ Customs/ ECA action is not pending in respect of the subject EPCG authorisations. **This has the approval of DG.**

12.	Shahi Exports Pvt Ltd., New Delhi 01/60/162/401/AM-19/PRC/EPCG	0530155841 dated 24.06.2011	Request for redemption.	The party has requested for redemption against EPCG Authorisation no. 0530155841dt. 24.06.2011. The Committee noted that earlier their request was placed before the EPCG Committee meeting held on 13.09.2019 and the case was rejected with the observation that the import item "Glass Wool" cannot be considered as capital goods under EPCG Scheme. The \party again requested to review the decision. The Committee examined the case and decided to maintain the **rejection** on the above grounds.
13.	Amba River Coke Ltd., Mumbai 01/36/218/169/AM-21/EPCG	0330036918 dated 30.09.2013	Request for inclusion of item Hot/Cold Rolled Steel /coils in the list of export item allowed for fulfillment of EO in EPCG License No. 0330036918 dt. 30.09.2013 under 0% concessional duty.	The Committee deliberated upon the case and decided to call the applicant to appear for **Personal Hearing** to explain the case.
14.	Replica Packers Pvt Ltd, Pune 01/60/162/262/AM-21/PRC	3130005601 dated 22.03.2011	Request for extension in EOP.	The Committee decided to defer the case for consideration in the next EPCG committee meeting.
15.	Tata Steel Limited., Kolkata 01/36/218/213/AM-21-EPCG	14 EPCG Authorisations	Request for seeking condonation of delay and extension of time or alternatively waiver for consumption of spares procured under EPCG scheme (IEC 0388039124) under 14 EPCG licenses.	Committee deliberated upon the case and decided to defer it to consider the same after obtaining comments from **DoR**.
16.	Sisecam Flat Glass India Pvt. Ltd., Gujarat 01/36/218/187/AM-21/EPCG	0230003951 dated 14.01.2009	Request for extension of EOP in respect of EPCG Authorization no. 0230003951 dt. 14.01.2009.	The party seeks extension in export obligation period against the subject EPCG authorisations issued under 3% concessional duty EPCG Scheme on the grounds that their exports have been

				adversely affected by Covid-19 pandemic. The Committee decided to **defer** the case for detailed examination.
17.	VaccuPlast (India) Pvt. Ltd., Mathura, Kanpur 01/60/162/528/AM21/PRC/EPCG	0630003880 dated 08.03.2013	Request for extension of EOP for One year in respect of EPCG Authorization no. 0630003880 dt. 08.03.2013.	The party seeks extension in export obligation period against the subject EPCG authorisations issued under 0% concessional duty EPCG Scheme on the grounds that their exports have been adversely affected by Covid-19 pandemic. The Committee decided to **defer** the case for detailed examination.
18.	Premier Paper Packaging, Greater Noida (U.P.) 01/60/162/392/AM-21/PRC/EPCG	0530143048 dated 09.02.2009	Request for condonation of non-availability of Bill of Export for redemption in respect of EPCG Authorization No. 0530143048 dt. 09.02.2009.	The party has requested for condonation of lapse in fulfilment of EO without insisting on submission of Bill of Exports in respect of subject authorisations for the goods manufactured by them and exported to a SEZ unit The firm has submitted only ARE 1 form as proof of supply to SEZ unit. The Committee observed that Bill of Exports is a mandatory document for claiming benefit under FTP for supply of goods from DTA to SEZ unit as per Rule 30(3) read with Rule 23 of the SEZ Rules, 2006. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.19.

19.	Bhartiya International Ltd., Gurugram 01/36/218/217/AM-21/EPCG	i.0530148664 dated 23.03.2009 ii.0530154096 dated 30.11.2010 iii.0530152703 dated 07.07.2010	Request for condonation of procedural lapse of not mentioning the name of the supporting manufacturer in the shipping bills in respect of EPCG Authorization Nos. 0530148664 dt. 23.03.2009, 0530154096 dt. 30.11.2010 and 0530152703dt. 07.07.2010.	The request of the party is for relaxation for non-mentioning of supporting manufacturer's name in the shipping bills in respect of EPCG authorization Nos. 0530148664 dt.23.03.2009, 0530154096 dt. 30.11.2010 and 0530152703dt. 07.07.2010. The Committee deliberated upon the case and observed that EPCG authorisation has been obtained by the exporter and exported goods were finally manufactured in EPCG authorisation holders premises after some part manufacturing done by supporting manufacturer and therefore decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20** for not mentioning of supporting manufacturer's name in the shipping bills. **This has the approval of DG.**
20.	Sliver Spark Apparel Ltd., Mumbai 01/36/218/131/AM-21/EPCG	i. 0730017370 dated 28.02.2018 ii.0730017761 dated 30.07.2018 iii.0730018222 dated 05.02.2019 iv.0730018307 dated 20.03.2019 v. 0730018924 dated 1812.2019	Request for change of authorization holders in respect of EPCG Authorization Nos. 0730017370 dt. 28.02.2018, 0730017761 dt. 30.07.2018, 0730018222 dt. 05.02.2019, 0730018307 dt. 20.03.2019 and 0730018924 dt. 1812.2019.	The Committee noted the contention of the applicant that the subject the authorizations were obtained by Dress Master Apparel Pvt. Ltd. (DMAPL) which has now been merged with Sliver Spark Apparel Ltd. (SPAL) (IEC No. 0303079196) as per agreement duly approved by NCLT. After the merger; SPAL has taken over all the assets and liabilities of DMAPL

				and added plant address of DMAPL Ltd. in its IEC under branch code by adding the plant address. Now, EO against the above authorisations would be fulfilled by SPAL. The Committee deliberated upon the request of SPAL for endorsement of its name in the said EPCG Authorisations and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20**, to allow the name change in EPCG authorizations without any change in description of import & export product, quantity and value of authorizations. This is further subjected to a condition that average export obligation shall be refixed based by adding AEO of SPAL based on past export performance of SPAL with reference to the date of merger. **This has the approval of DG.**
21.	Arisudana Industries Ltd., Ludhiana 01/36/218/212/AM-21/EPCG	3030015936 dated 22.08.2016	Request for regularisation of excess duty credit utilized within 10% on EPCG Licence No. 3030015936 dt. 22.08.2016.	The party has requested to allow regularization of late payment of additional fee to cover excess imports. The Committee noted that para 5.16 (a) of HBP 2015-20, as amended, provides that if authorization issued has been utilized for import of goods in excess of duty saved amount indicated on the authorization by not more than 10%, the RA may accept additional fee to cover

				excess imports effected, in terms of duty saved amount, even beyond one month but within two years of the excess import taking place, subject to payment of composition fee of Rs. 5000/- per authorization. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20 for condonation of procedural lapse of delay of more than a month in payment of fee for excess duty saved amount** as envisaged in the para 5.16(a) of HBP 2015-20, subject to payment of composition fee of Rs. 5000/- per year per authorisation and to the condition that the excess utilization is not more than 10% of duty saved mentioned in the subject EPCG authorisations. The party is also required to pay an additional composition fee of Rs. 5,000/- per authorisation for each year of delay beyond the expiry of the period of two years of the excess import taking place. **This has the approval of DG.**
22.	Neosym Industry Ltd., Mumbai	0330031772 dated 02.02.2012	Request for regularisation of excess duty credit	The party has requested to allow regularization of late

	01/36/218/179/AM-21/EPCG		utilized within 10%.	payment of additional fee to cover excess imports. The Committee noted that para 5.16 (a) of HBP 2015-20, as amended, provides that if authorization issued has been utilized for import of goods in excess of duty saved amount indicated on the authorization by not more than 10%, the RA may accept additional fee to cover excess imports effected, in terms of duty saved amount, even beyond one month but within two years of the excess import taking place, subject to payment of composition fee of Rs. 5000/- per authorization. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20 for condonation of procedural lapse of delay of more than a month in payment of fee for excess duty saved amount** as envisaged in the para 5.16(a) of HBP 2015-20, subject to payment of composition fee of Rs. 5000/- per year per authorisation and to the condition that the excess utilization is not more than 10% of duty saved mentioned in the subject EPCG authorisations. The

				party is also required to pay an additional composition fee of Rs. 5,000/- per authorisation for each year of delay beyond the expiry of the period of two years of the excess import taking place. **This has the approval of DG.**
23.	Samsung India Electronics Pvt. Ltd. , Noida 01/36/218/218/AM-21/EPCG	i. 0530173156 dated 12.10.2018 ii. 0530172732 dated 01.08.2018	Request for regularisation of excess duty credit utilized within 10% on EPCG Licence Nos. 0530173156 dt. 12.10.2018 and 0530172732 dt. 01.08.2018.	The party has requested to allow regularization of late payment of additional fee to cover excess imports. The Committee noted that para 5.16 (a) of HBP 2015-20, as amended, provides that if authorization issued has been utilized for import of goods in excess of duty saved amount indicated on the authorization by not more than 10%, the RA may accept additional fee to cover excess imports effected, in terms of duty saved amount, even beyond one month but within two years of the excess import taking place, subject to payment of composition fee of Rs. 5000/- per authorization. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20 for condonation of procedural lapse of**

				delay of more than a month in payment of fee for excess duty saved amount as envisaged in the para 5.16(a) of HBP 2015-20, subject to payment of composition fee of Rs. 5000/- per year per authorisation and to the condition that the excess utilization is not more than 10% of duty saved mentioned in the subject EPCG authorisations. The party is also required to pay an additional composition fee of Rs. 5,000/- per authorisation for each year of delay beyond the expiry of the period of two years of the excess import taking place. **This has the approval of DG.**
24.	Fresenius Kabi Oncology Ltd., New Delhi 01/36/218/102/AM-21/EPCG	i.0530163668dt. 05.11.2014 ii.053166829 dt. 27.01.2016	Request for regularisation of excess duty credit utilized within 10% on EPCG License Nos. 0530163668 dt. 05.11.2014 and 053166829 dt. 27.01.2016	The party has requested to allow regularization of late payment of additional fee to cover excess imports. The Committee noted that para 5.16 (a) of HBP 2015-20, as amended, provides that if authorization issued has been utilized for import of goods in excess of duty saved amount indicated on the authorization by not more than 10%, the RA may accept additional fee to cover excess imports effected, in terms of duty saved amount, even beyond one

				month but within two years of the excess import taking place, subject to payment of composition fee of Rs. 5000/- per authorization. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20 for condonation of procedural lapse of delay of more than a month in payment of fee for excess duty saved amount** as envisaged in the para 5.16(a) of HBP 2015-20, subject to payment of composition fee of Rs. 5000/- per year per authorisation and to the condition that the excess utilization is not more than 10% of duty saved mentioned in the subject EPCG authorisations. The party is also required to pay an additional composition fee of Rs. 5,000/- per authorisation for each year of delay beyond the expiry of the period of two years of the excess import taking place. **This has the approval of DG.**
25.	Shrijee Lifestyle Pvt. Ltd., Mumbai 01/36/218/192/AM-21/EPCG	i.0330035725dt. 09.05.2013 and ii.0330035698 dt. 08.05.2013	Request for regularisation of excess duty credit utilized within 10% on EPCG Licence Nos. 0330035725 dt. 09.05.2013 and 0330035698	The party has requested to allow regularization of late payment of additional fee to cover excess imports. The Committee noted that

			dt. 08.05.2013	para 5.16 (a) of HBP 2015-20, as amended, provides that if authorization issued has been utilized for import of goods in excess of duty saved amount indicated on the authorization by not more than 10%, the RA may accept additional fee to cover excess imports effected, in terms of duty saved amount, even beyond one month but within two years of the excess import taking place, subject to payment of composition fee of Rs. 5000/- per authorization. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20 for condonation of procedural lapse of delay of more than a month in payment of fee for excess duty saved amount** as envisaged in the para 5.16(a) of HBP 2015-20, subject to payment of composition fee of Rs. 5000/- per year per authorisation and to the condition that the excess utilization is not more than 10% of duty saved mentioned in the subject EPCG authorisations. The party is also required to pay an additional composition fee of Rs. 5,000/- per

				authorisation for each year of delay beyond the expiry of the period of two years of the excess import taking place. **This has the approval of DG.**
26.	Everest Kanto Cylinder Ltd., Mumbai 01/36/218/207/AM-21/EPCG	0330021573 dated 13.10.2008	Request for regularisation of excess duty credit utilized within 10% on EPCG Licence No. 0330021573 dt. 13.10.2008	The party has requested to allow regularization of late payment of additional fee to cover excess imports. The Committee noted that para 5.16 (a) of HBP 2015-20, as amended, provides that if authorization issued has been utilized for import of goods in excess of duty saved amount indicated on the authorization by not more than 10%, the RA may accept additional fee to cover excess imports effected, in terms of duty saved amount, even beyond one month but within two years of the excess import taking place, subject to payment of composition fee of Rs. 5000/- per authorization. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20 for condonation of procedural lapse of delay of more than a month in payment of fee for excess duty saved amount** as

				envisaged in the para 5.16(a) of HBP 2015-20, subject to payment of composition fee of Rs. 5000/- per year per authorisation and to the condition that the excess utilization is not more than 10% of duty saved mentioned in the subject EPCG authorisations. The party is also required to pay an additional composition fee of Rs. 5,000/- per authorisation for each year of delay beyond the expiry of the period of two years of the excess import taking place. **This has the approval of DG.**
27.	Vani Spinners Pvt. Ltd 01/37/218/128/AM-18/EPCG-II	3030006613 dated 28.04.2010	Civil Writ Petition No. 22023 of 2020	The Committee noted from the report of RA and request of the applicant that validity of EO in r/o EPCG Authorisation no 3030006613 dated 28.04.2010 was extended upto 27.04.2020 as per 5.11 HBP (2009-14) on 30.05.2019. However, this amendment was not transmitted to Customs Server due to some technical fault therein. Thereafter, the Petitioner wrote many emails but customs server failed to upload the amended EPCG authorization in its system despite the fact that the DGFT successfully transmitted the same. Hence, the applicant failed to export goods through its 3rd party i.e. Rishav Exports qua the ECPG

				authorization and the goods were exported without reflecting name and detail of the EPCG authorization in shipping bill. Thereafter, the applicant approached the Hon'ble Court which vide order dated 18.12.2020 has directed the Respondents to look into the grievance of the petitioner and resolve same, if found genuine technical problem within two weeks. RA, Ludhiana has sought guidance on the following issues: i. Whether RA should count third party export (M/s Risav Export SB No. 32258866 dated 16.6.2020 for M/s Vani Spinners Pvt. Ltd. ii. Whether RA should extend EO again for six months from the date of transmission of license details to Customs since the firm cannot do exports against the said EPCG license. The Committee after due deliberation decided to seek comments of DoR with the direction to place the case in the next meeting.
28.	Saraf Infraprojects Ltd., Kolkata 01/36/218/67/AM-21/EPCG	0230006077 dt. 07.12.2010 + 49 Licenses	Request for grant and exemption from fulfilling the Export Obligation.	The party vide letter dated 9.8.2020 has filed an application before the EPCG Committee for grant of relief and exemption under the para 2.58 of the FTP from fulfilling the EO imposed and issue of direction to

				RA, Kolkata to issue them Export Obligation Discharge Certificate(EODC) against the fifty EPCG authorisations issued to them by the RA, Kolkota. The Committee noted that the Hon’ble High Court of Calcutta vide order dated 10.9.2020 in the W.P.A. 6522 of 2020 IA No. CAN 1/2020 (Old No. CAN 5253/2020) in the case of Saraf Infra projects Limited & Anr. v/s The Principal Commissioner of Customs (Port) &Ors. Has directed the EPCG committee to consider the application filed by the petitioner within four weeks and pass a reasoned order after giving opportunity of hearing, not only to the petitioner but also to the customs authority, if required. In compliance of the order dated 10.9.2020, the firm was requested vide letter/e-mail dated 18.9.2020 to send the details of the representative who could attend hearing through teleconferencing. Notice of hearing was later sent on 25.9.2020 for the meeting of EPCG Committee to be held on 1.10.2020. In response, the party informed vide an e-mail dated 29.09.2020 that Shri Rajendra Singhvi, Advocate will

				be representing them during the scheduled hearing on 01.10.2020. Later, the counsel for the party informed vide e-mail dated 30.9.2020 that the record is quite bulky and as a result it is requested to adjourn the matter for minimum two weeks. It was requested to fix any date once the regular hearing starts. The meeting of the EPCG Committee was postponed to 5.10.2020 and later further postponed to 14.10.2020. Notice of regular hearing for attending the meeting on 14.10.2020 was sent to the counsel of the party vide an email dated 9.10.2020. The counsel of the party informed vide an e-mail dated 13.10.2020 sought adjournment as a fire took place at the premises of Mr NiketSaraf, the instructing person, on 8.10 The Committee decided to defer the case. The case was again considered in the EPCG Committee Meeting dated 06.11.2020. The advocate of M/s Saraf Infraprojects Ltd. informed that he has to submit large number of documents related to the case to the EPCG Committee before it decides upon the case. In a virtual meeting, it will not be possible for him to submit those

				documents. On the request of the advocate of the party, it was decided to defer the case for holding a physical meeting at another date. The documents have been received from the party. As these documents are bulky, the Committee decided to defer the case for consideration in the next meeting of the EPCG Committee. The advocate of the firm vide his email dated 21.12.2020 requested that the matter may be fixed for placing in the EPCG Committee in the 3rd week of January, 2021 as he is travelling out of Delhi. The Committee decided to defer the case as the representative of the firm could not make him available to attend the meeting. The Committee decided to consider the case in the next EPCG Committee Meeting. The case was again considered in the meeting and the Committee noted that the applicant wants a physical hearing. The applicant and the representative of customs authority could not be invited for the same due to surge in Covid cases in Delhi. Hence, the Committee decided to defer and consider the

				case in the upcoming meeting.
29.	Green Valley Industries Limited., Kolkata 01/36/218/241/AM-19/EPCG	i.0230004962 dated 19.02.2010 ii.0230003574 dated 29.08.2008 iii.0230005169 dated 23.04.2010 iv.0230004366 dated 31.07.2009 v. 0230004143 dated 16.04.2009	Request for allowing exports made by the Group Company and allow alternate products towards redemption.	As per directions of Hon'ble Court of Meghalaya dated 9.11.2020 in W.P. (C) No. 299 of 2020, the Committee heard the representatives of the applicant during personal hearing. The representatives stated that they obtained EPCG authorization No. 0230004962 dated 19.02.2010, No. 0230004143 dated 16.06.2009, No. 0230005169 dated 23.04.2010, No. 023004366 dated 31.07.2009 and No. 0230003574 dated 29.08.2008 for import of capital goods under concessional rate of duty with the export obligation, as prescribed. The original export product mentioned in the EPCG authorisation is Clinker and cement under HS code 84740000. However, the Company could not make any export of the said product due to logistic and other commercial difficulties in North-East States. Its group company has made export of alternative product i.e. Iron Ore which could be considered for fulfilment of export obligation. The representatives further stated that the Government has prescribed reduced obligation to the extent of 25% for all units located in North-Eastern States vide insertion of Para 5.12 of the FTP 2009-14 in

				2012 which should be allowed in their case. The representatives requested for (i) extension of EOP up to 12 years. (ii) Reduced EO for units located in N-E states (iii) permission to export alternate products to fulfil EO, (iv) acceptance of export proceeds in INR from Nepal and Bhutan and (v) allowing export made by Group Company. The Committee noted from the report dated 23.04.2019 of RA that the applicant did not take endorsement of Group Company from RA, office, hence their export cannot be counted for fulfillment of EO. Further Shipping bills of Group Company for export of Iron Ore are free S/bills. The Committee, after due deliberation, observed that reduced EO for units located in N-E States was prescribed in 2012 which was applicable prospectively for authorisations issued after the date of notification. Since the EPCG authorisations in question are issued much earlier, the benefit of reduced EO can not be given in the present case. However, the party has quoted a supreme court judgement which says any beneficial provision shall be made applicable to all, which needs a legal scrutiny. Therefore committee decided to

				make a reference to law ministry on this specific point only. The export of alternate product through group company can also not be allowed to it as the applicant did not take such endorsement before making exports. Further, there is no correlation between the original export product and the alternate product. There is also no nexus between capital goods imported and the alternate export product. The free shipping bills produced by the applicant can also not be considered towards fulfilment of export obligation. Keeping in view of the above stated facts and after due deliberation, the Committee decided to reject the request of the applicant except one point on which legal reference to be made to MOL.

DGFT = Directorate General of Foreign Trade, DG = Director General, FTP = Foreign Trade Policy, HBP v1 = 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.