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MINUTES OF 5th MEETING OF AM-24 OF THE EPCG COMMITTEE HELD UNDER THE CHAIRMANSHIP OF SHRI AKASH TANEJA, ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE AT 03.00 PM ON 27.09.2023.

Fifth Meeting for AM-24 of the EPCG Committee was held on 27.09.2023 at 03.00 PM under the chairmanship of Shri Akash Taneja, Additional Director General of Foreign Trade in Room No. 142 at Vanijya Bhawan, New Delhi. Following officers attended the meeting:-

i. Shri Sandeep Poonia, 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

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: Jain Amar Clothing Private Ltd.
F. No. HQREPCGPRAPP00000384AM23

Subject: Request for review of EPCG Meeting decision held on 04.05.2022 i.e. Re-fixation of Average EO (AEO) in respect of EPCG Authorization No. 3030016648 dated 09.06.2017 under 0% Concessional Duty.

The firm stated that they obtained EPCG authorisation No. 3030016648 dated 09.06.2017. However, at the time of application the CA Certificate given by them included total exports of all products of past three years. On realizing the mistake they submitted a revised CA Certificate containing the export of previous three years pertaining to the relevant product. RA, Ludhiana has sought clarification in this regard for re-fixation of AEO in their EPCG authorisation.

2. It was decided that a report may be called from RA, Ludhiana. Accordingly, RA, Ludhiana was requested vide e-mail dated 09.02.2021 to send a report.

3. EPCG Committee in its meeting held on 04.05.2022 took the following decision:-

> *"The Committee deliberated the case at length and observed that there is no merit in the request for re-fixation of average AEO on the grounds cited by the firm. Hence, the committee decided to reject the request of the applicant."*

4. The firm vide e-mails dated 29.06.2022, 15.07.2022 and 20.07.2022 stated that they have submitted all the information and documents but their case was rejected by the RA, Ludhiana due to non-submission of requisite information by them. The firm requested for re-consideration of their case. The request was again examined by the EPCG Committee in its meeting held on 30.05.2023. The decision of the Committee as under:-

> *"The Committee went through the statements made by the applicant and noted that the applicant has not submitted any cogent reason/justification or any genuine hardship faced by them and accordingly, the Committee decided to maintain the rejection of the request of the applicant."*

5. Now, the firm vide e-mail dated 26.06.2023 has stated that without looking at the facts their case was dismissed. The request was again examined by the EPCG Committee in its meeting held on 12.09.2023 and decided as under:

> *"The request to be decided after grant of an opportunity of Personal hearing to the party. The case stands deferred."*

6. The representative of the firm (Shri Vikrant Verma, Advocate) appeared through Video Conferencing and made the following submissions:-

Applicant's statement: The export of product under HSN code/Chapters 42, 62, 64, 71, 73 & 90 are not covered under Average EO as the export product is knitted embroidered readymade garments which are covered under Chapter 61. It was also stated that there is no separate Chapter or HSN Code for embroidery product and manufacturing process is different from the general knitted readymade garments and as such these do not fall under category of same or similar products.

Decision: The Committee went through the request made by the applicant and submissions of the representative of the firm in the PH.

The Committee deliberated upon the case and decided that the firm will submit written submissions to substantiate their contention within a week which shall be forwarded to concerned RA for examination of the request for re-fixation of Average EO on merits. The case stands disposed.

<u>Case No- 2: Vani Spinners Pvt. Ltd</u>
F. No. 01/37/218/128/AM-18/EPCG-II
Subject: Civil Writ Petition No. 22023 of 2020- Counting of third-party exports regarding.

The Petitioner/applicant has stated that it obtained EPCG authorization No. 3030006613 dated 28.04.2010 under 3% EPCG scheme for duty saved amount of Rs. 31,85,047/- with an export obligation (EO) equal to 8 times of duty saved amount. The Respondent No. 2 after considering requests made by the Petitioner and PN No. 67/2015-20 dated 31.03.2020 extended the EO period of the said EPCG authorization and issued licence amendments sheets on 28.09.2017, 04.05.2018, 30.05.2019, 20.03.2020, 17.06.2020 and 04.09.2020 in terms of FTP.

2. In August, 2020, it attempted to make third party export against the said EPCG authorization through M/s. Rishav Exports who presented Shipping Bill No. 3225866 dated 16.06.2020 in terms of section 50 of the Customs Act, 1962 and uploaded the particulars of EPCG authorization. However, the system of the Respondent No. 1 instead of accepting it had reflected it as expired. Thereafter, the Petitioner wrote many emails requesting the Respondent No. 1 to update their system. However, the Respondent No. 1 failed to upload the amended EPCG authorization in their system inspite of the fact that portal maintained by the Respondent No. 2 reflected the acceptance of the amended authorization by the Respondent No. 1. Due to technical fault on the part of the Respondent No. 1, the Petitioner failed to export goods against the EPCG authorization. Hence, Rishav Exports made export without considering the EPCG authorization of the Petitioner. Resultantly, goods were exported without reflecting name and detail of the EPCG authorization of the Petitioner in shipping bill as required under the FTP. Further, the EO period expired on 27.10.2020 and it could not fulfill its EO because the Respondent No. 1 did not upload the extended authorization in its system well within time.

3. The Hon'ble Court vide order dated 18.12.2020 has directed the Respondents to look into the grievance of the petitioner. In case it is found that there is some genuine technical problem, effort should be made to resolve the same. The Petitioner should be informed within two weeks by way of a speaking order.

4. RA, Ludhiana vide letter dated 06.02.2021 has intimated that Vani Spinners (P) Limited, applied and obtained EPCG License No. 3030006613 dated 28.04.2010, Duty Saved Amount: Rs 3185047.00, EO imposed USD 555128 and EO till 27.04.2018. EO has been extended from 27.04.2018 to 27.04.2020 as per para 5.11 HBP (2009-14) on 30.05.2019. This Amendment was not transmitted to Custom Server. The firm brought to notice on 19.03.2020 and 26.05.2020. The firm applied for EO extension under Notification dated 07.04.2020 (corona time relaxation) and RA extended EO period from 27.04.2020 to 27.10.2020. This amendment was not transmitted to the Custom. The firm brought to our notice that amendment was not transmitted to the custom vide email dated 03.07.2020. This office informed vide email dated 06.07.2020 that the authorisation was correctly transmitted to the Custom and screenshot where amendment sheet No. 5 was shown as transmitted. DGFT HQ NIC (Shri Raj Shekhar) informed RA that same amendment cannot be transmitted again to Custom since both have same number. The firm applied for amendment of Authorisation, so fresh amendment can be transmitted to the Custom. The firm vide email dated 19.12.2020 requested for consideration of third party exports from M/s Rishav Exports with SB no 3225866 dated 16.06.2020, since EPCG was not transmitted to the Custom and SB does not have EPCG number mentioned on it. The firm also requested for six months' extension. RA rejected the request vide email dated 23.12.2020 since there is no such provision in policy. RA has also given them opportunity of personal hearing. RA, Ludhiana has requested to advise on the following issues:-

i. Whether we should count third party export (M/s Rishav Export SB no 32258866 dated 16.06.2020 or not.
ii. Whether we should extend EO again to six months from date of transmission the Custom since the firm cannot do exports against EPCG

5. The request was examined by the EPCG Committee in its meeting held on 13.04.2021. The decision of the Committee as under:

> *"This case is court matter and DoR comments are required in this matter. DoR was requested to expedite their comments. The Committee decided to* ***defer*** *the case."*

6. As per decision of the EPCG Committee, comments from DoR were called for vide letter dated 24.05.2021. The case was again examined by EPCG Committee in its meetings held on 11.06.2021 and 04.08.2021 and decided to defer it with the direction to call a report from DoR.

7. The request was again examined by the EPCG Committee in its meeting held on 15.09.2021. The Chairman advised the representative of DoR to expedite the comments and decided to place the case in the next meeting.

8. In the EPCG Committee meeting held on 29.09.2021, the representative of DoR informed that the matter is under examination and comments of DoR would be sent soon.

9. The request was again examined by the EPCG Committee in its meeting held on 12.09.2023 and decided as under:

> *"The request to be decided after grant of an opportunity of Personal hearing to the party. The case stands deferred."*

10. The representative of the firm (Shri Naveen Kandhari) appeared through Video Conferencing and made the following submissions:-

Applicant's statement: Due to technical fault on the part of the DoR, they failed to export goods via the subject EPCG authorization. Hence, the third-party exporter could make export without considering the EPCG authorization of the firm. Resultantly, goods were exported without reflecting name and detail of the EPCG authorization of the firm in shipping bill as required under the Foreign Trade Policy.

Decision: The Committee went through the request made by the applicant and submissions of the representative of the firm in the PH. Department of Revenue was once again requested to expedite their comments. The Committee decided to **defer** the case with directions to place it in the next meeting.

<u>Case No- 3: General Motors India Pvt. Ltd. (GMIPL), Pune</u>
F. No. HQREPCGPRAPP00000664AM23

Subject: Request for review of EPCG Meeting decision held on 03.08.2022 i.e. request for post facto regularization of shifting and installation of certain capital goods imported

under EPCG Authorizations No. 3130009468 dated 13.06.2016 at the supporting manufacturer's premises under 0% Concessional Duty.

The firm had earlier requested for post facto regularization of shifting and installation of certain capital goods imported under EPCG Authorization No. 33130009468 dated 13.06.2016 at the supporting manufacturer's premises. The firm stated they imported capital goods, Checking fixtures and Installation material under subject EPCG authorization.

2. The firm informed that they have fulfilled requisite EO and EODC was issued by RA, Pune on 23.03.2021. At the time of initiation of dismantling process of EPCG goods, post EODC, it was noticed that two numbers of Capital Goods imported under the EPCG authorization were inadvertently shifted and installed at their supporting manufacturer viz. Posco India Pune Processing Centre Pvt. Ltd. premises. 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 Capital goods (more specifically Dies) at Posco India's premises in accordance with the provisions of the FTP.

3. The firm had also enclosed a letter provided by Posco India dated 25.05.2021 which confirms the fact that the Dyes were used for exclusive supply of parts to GM India. The firm has also informed that on noticing the same, they 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 27.05.2021 should be treated as a replacement and update to earlier furnished CE certificate dated 13.03.2018.

4. In view of the above, the firm had said that it is a bonafide inadvertent error only. 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.

5. The request of the firm was considered in the 4th Meeting of EPCG Committee held on 15.09.2021 and decided as under:-

> *"The applicant has informed that they have fulfilled requisite EO and EODC has been issued by RA, Pune on 23 March 2021. The firm has further stated that after issuance of EODC, they noticed that two Capital Goods imported under the EPCG authorization were inadvertently shifted and installed at their supporting manufacturer viz. Posco India Pune Processing Centre Pvt. Ltd. premises. However, due to inter-functional miscommunication, they could not inform the RA and seek prior permission for such shifting and installation. On noticing the said error by them, they came forth to disclose the same and requested for post-facto regularization of such shifting and installation. They have enclosed a copy of Posco India letter dated 25 May 2021 confirming that the Dyes were used for exclusive supply of parts to GM India. They have enclosed a CE certificate also. Hence, the firm has requested for post facto regularization of shifting and installation of 2 Nos. of EPCG goods at the supporting manufacturer's premises.*

The Committee deliberated upon the case and it was decided to defer it with the direction to call a report from RA."

6. The request of the firm was considered in the 6th Meeting of EPCG Committee held on 03.08.2022 and decided as under:

"….The Committee heard the submissions of the representative of the firm.

The Committee went through the statements made by the firm and noted that they have not fulfilled the EO on the date of shifting and installation of Capital Goods as well as supporting manufacturer name not mentioned in the EPCG authorization.

The Committee deliberated upon the case and decided to reject the request and directed RA concerned to recover duties along with interest immediately as per policy provisions."

7. Now, the firm vide application dated 23.01.2023 has requested for review of EPCG Meeting decision dated 03.08.2022 and also requested for Personal Hearing.

8. In the review application, the firm has submitted as under:

i. The EPCG Committee has rejected the post facto regularization request on the ground that the company has not completed the EO on the date of transfer and installation of the capital goods, even under the normal case where the subsidiary is required to install the capital goods at the manufacturer's premises. Where permission is sought, it was never intended that the EO be completed prior to the date of shifting and installation. This is not practically possible and feasible as EPCG goods are procured for manufacture of export goods and hence installation of such capital goods at the subsidiary manufacturer will always precede export and not vice-versa. GMIPL has completed the requisite EO and also obtained EODC certificate. Therefore, it cannot be said that the company has not fulfilled the EO.

ii. Another ground for rejection of the request by the EPCG committee is that the name of the supporting manufacturer was not mentioned on the EPCG authorization. It may be relevant to note here that the whole genesis of the application for exemption is the fact that the name and address of the supporting manufacturer was not mentioned in the EPCG application and hence the name and address were not endorsed on the EPCG authority. This was an inadvertent genuine error and a genuine oversight due to inter-company miscommunication.

iii. The two numbers of EPCG goods (which were installed at the premises of POSCO India) were imported under India-Korea FTA (CEPA) and basic customs duty and Cess was exempted. Therefore, EPCG exemption was availed only in respect of creditable portion of Additional Duty of Customs (CVD and SAD). If the Company would not have claimed benefit under the EPCG Notification, the Company would have paid CVD and SAD at the time of import, which would have been available as CENVAT Credit thereby making the situation revenue neutral.

iv. The non-declaration of details of supporting manufacturers during EPCG application and/or inability to inform and obtain permission before shifting EPCG goods to their premises is a mere inadvertent procedural lapse. The firm has also stated that they have complied and fulfilled EPCG obligations and there is no revenue implication due to above mentioned procedural lapse.

v. GMIPL has discontinued manufacturing export product, being motor vehicles, at Talegaon facility since 24.12.2020. Thus, it is important for the firm to obtain post facto regularization permission for further disposal of these 2 Nos. of Capital goods.

9. In view of the above, the firm has requested for grant of post facto approval for inclusion of name of the supporting manufacturer in the authorization and exemption for non-compliance due to oversight.

10. The request was examined by the EPCG Committee in its meeting held on 12.09.2023. and decided as under:

> *"The request to be decided after grant of an opportunity of Personal hearing to the party. The case stands deferred."*

11. The representative of the firm (Shri Sandeep Narvekar) appeared through Video Conferencing and made the following submissions:-

Applicant's statement: The firm has not completed the EO on the date of transfer and installation of the capital goods. Even where permission is sought, it is never intended that the EO be completed prior to the date of shifting and installation. This is not practically possible and feasible as EPCG goods are procured for manufacture of export goods and hence installation of such capital goods at the subsidiary manufacturer will always precede export and not vice-versa. GMIPL has completed the requisite EO and also obtained EODC certificate. Therefore, it cannot be said that the company has not fulfilled the EO.

Decision: The Committee went through the request made by the applicant and submissions of the representative of the firm in the PH.

The Committee deliberated upon the review application of the applicant and decided **to recommend to DG for relaxation under Para 2.59 of FTP, 2023** to allow post facto regularization of shifting and installation of two Capital goods imported under EPCG Authorization No. 3130009468 dated 13.06.2016 under 0% Concessional Duty at the supporting manufacturer's premises subject to payment of composition fee of Rs. 25,000. This will be further subject to furnishing of documentary evidence that the supporting manufacturer at whose premises the Capital Goods were installed was a supporting manufacturer of the General Motors India Pvt. Ltd., Pune.

Case No- 4: Rasandik Engineering Industries India Limited, Haryana
F. No. HQRPRCAPPLY00004000AM23

Subject: Request to Exempt Duty and Interest imposed in respect of EPCG Authorization No. 0530155571 dated 24.05.2011 under 0% Concessional Duty.

The firm had earlier requested for waiver in fulfillment of EO in respect of EPCG Authorization No. 0530155571 dated 24.05.2011 under 0% Concessional duty. The case was considered in the 4th EPCG Committee Meeting of AM-23 held on 03.06.2022 wherein 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.

2. Now, the firm vide application dated 12.12.2022 has requested to exempt Duty and Interest imposed in respect of subject EPCG Authorization. The firm has submitted the following:-

i. The firm imported CGs for manufacture and supply of automotive components to M/s Tata Motors Ltd. (TML) for its Nano car to be manufactured at Singur Plant near Kolkata. The firm was allotted 10.23 acres of land by West Bengal Industrial Corporation Limited (WBIDC) in vendors park within premises of TML Nano car plant with possession letter dated 11.05.2007.
ii. The firm were in the process of clearing CGs from Haldia Port but due to agitation of farmers, continuous road blocks and violence they had to stop their further action. The firm filed a case in Calcutta High Court regarding this matter and faced huge financial loss.
iii. The CGs which were imported are still packed and have not been used for any manufacturing activities and were constrained to keep the imported consignment of machines in bonded warehouse at Haldia and continued to pay warehouse rents.
iv. The new Government formed in West Bengal in 2011 made legislation on 20.06.2011 the Singur Land Rehabilitation and Development Act 2011 wherein District Magistrate and Collector, Hooghly vide letter dated 21.06.2011 asked them to restore vacant possession of their land to Government of West Bengal. The possession of land was taken from them illegally as the Singur Land Rehabilitation and Development Act 2011 was later held to be void and unconstitutional by the Division Bench of Calcutta High Court vide decision dated 20.06.2012.
v. During 2007, Govt. of West Bengal had fraudulently allotted them land through WBIDC as they were not the legal owners of the land and had acquired from farmers without complying the provisions of land acquisition Act, evident from the judgment of Supreme Court dated 31.08.2016.
vi. Since the machines were never installed they could not fulfill EO due to force majeure conditions beyond control of the management and thus EODC could not be applied for. Firm further stated that they were compelled to file a Plaint and Petition at Calcutta High Court to indict WBIDC and Government of West Bengal in view of fraud and misrepresentation.
vii. The firm has requested for exempting them to pay principal amount of duty along with interest thereon as a victim of fraud and misrepresentation, Covid-19 pandemic and difficulty in surviving in competitive markets.
viii. In view of the above, the firm has requested to Exempt Duty and Interest imposed against the above authorization and asked for Personal hearing. The firm has also requested to visit their premises to verify and examine the imported Capital Goods.
ix. The request was examined by the EPCG Committee in its meeting held on 12.09.2023 and decided as under :-

> *"The request to be decided after grant of an opportunity of Personal hearing to the party. The case stands deferred."*

3. The representative of the firm (Shri Gautam Bhattacharya) appeared through Video Conferencing and made the following submissions:-

Applicant's statement: Since the machines were never installed, they could not fulfill EO due to force majeure conditions beyond control of the management and thus EODC could not be applied for. The firm was compelled to file a Plaint and Petition at Calcutta High Court to indict WBIDC and Government of West Bengal in view of alleged fraud and misrepresentation.

Decision: The Committee went through the request made by the applicant and submissions of the representative of the firm in the PH.

The Committee deliberated upon the review application and decided to **maintain** the rejection. However, the Committee decided to advise the firm 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- 5: Mulkanoor Cooperative Rural Credit & Marketing Society Limited, Hyderabad</u>
F. No. HQREPCGPRAPP00000661AM23

Subject: Request for

i. **Block-wise extension**
ii. **Automatic Rice Ban period extension**
iii. **1st EOP extension**
iv. **2nd EOP extension**
v. **Special EOP extension EOP extension for 2 years from the date of approval.**

In respect of EPCG Authorizations No. 0930001170 dated 14.10.2004, 0930002423 dated 14.10.2004 and 0930004565 dated 27.11.2008 under 0% Concessional Duty.

The request was examined by the EPCG Committee in its meeting held on 12.09.2023 and it was decided as under:-

> *"The request to be decided after grant of an opportunity of Personal hearing to the party. The case stands deferred."*

Decision: The Committee deliberated upon the case and decided to **defer** it as the applicant did not appear before EPCG Committee for Personal Hearing to explain their case.

<u>Case No- 6: Maryan Apparel Pvt. Ltd., New Delhi</u>
F. No. HQREPCGPRAPP00000677AM23

Subject: Request for review of EPCG Meeting decision held on 08.05.2022 i.e. request to condone the procedure lapse for endorsement of the EPCG Authorization in favour of Bombay Rayon Fashions Limited to whom the unit was transferred as per the MOU dated 04.03.2008 and sale agreement dated 30.06.2008 against EPCG Authorization No. 0530146724 dated 22.07.2008 under 03% Concessional duty.

The request was examined by the EPCG Committee in its meeting held on 12.09.2023 and it was decided as under:-

> *"The request to be decided after grant of an opportunity of Personal hearing to the party. The case stands deferred."*

Decision: The Committee deliberated upon the case and decided to **defer** it as the applicant did not appear before EPCG Committee for Personal Hearing to explain their case.

<u>Case No- 7: Skypack India Private Limited, Kolkata</u>

F. No. HQREPCGPRAPP00001078AM23

Subject: Review Application for consideration of the request for:

i. **1 year Extension to fulfill EO from the date of endorsement OR**
ii. **Second EOP Extension for 1 year i.e. beyond 6+2 years**

In respect of EPCG Authorization No. 0530151549 dated 16.03.2010 under 0% Concessional Duty.

The firm had earlier requested for (i) 1 year Extension to fulfill EO from the date when the same is approved in Minutes of the meeting (1 year extension in present year) OR (ii) Second EOP Extension of one year post 15.03.2018 i.e. beyond 6+2 years.

2. The matter was considered in the 10th EPCG Meeting on 18.01.2023 and 20.01.2023 wherein 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.

3. Now, the firm vide Review Application has requested for (i) 1 year Extension to fulfill EO from the date of endorsement OR (ii) Second EOP Extension for 1 year i.e. beyond 6+2 years in respect of subject EPCG Authorization. The firm has submitted the following:-

i. The decision by EPCG Committee is in violation of the Principle of natural justice as no Personal hearing was given to them.
ii. The firm has further stated that :-
    a. The amount reported by them in the redemption form is an aggregate of Direct Exports, Third Party Exports and Deemed Exports. They have reported exports other than direct exports amounting to Rs. 5,55,71,267/- which is denied to be considered as exports. The said amount is an aggregate of third-party exports and deemed exports.
    b. In the present scenario, they are a manufacturer of packaging material and have split their sales into direct export of packaging material and sale of packaging material to other exporters in India, who further use the packaging material to pack the goods they are exporting.

4. The request was examined by the EPCG Committee in its meeting held on 12.09.2023 and decided as under:

> *"The request to be decided after grant of an opportunity of Personal hearing to the party. The case stands deferred."*

5. The representative of the firm (Shri S.C. Jain, Advocate) appeared through Video Conferencing and made the following submissions:-

Applicant's statement: The subject EPCG Authorisation was valid upto 16.03.2018 (after extension of two years by RA) for fulfilment of EO. There is a total EO shortfall of about Rs. 8 crores. In case one year extension of EO period beyond 16.03.2018 or one year extension in the EO period from the date of approval of the EPCG Committee, they would be able to meet the EO and close the EPCG licence. In the year 2018-19, the Company made significant exports of about Rs. 13 crores whereas the shortfall is only about Rs. 8 crores.

Decision: The Committee went through the request made by the applicant and submissions of the representative of the firm in the PH. The Committee 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 **maintain** the rejection.

Case No- 8: MWN Press, Chennai
F. No. HQRPRCAPPLY00003641AM23

Subject: Request for extension of EOP from the date of endorsement as per the previous decision of the PRC against EPCG Authorization No. 0430011019 dated 23.03.2012 under 0% Concessional duty.

M/s. MWN Press, Chennai vide letter date 07.10.2020 (F. No. 01/36/218/93/AM-21/EPCG), requested for extension of EOP for further two years i.e. beyond 6+2 years in respect of EPCG Authorization No. 0430011019 dated 23.03.2012. The firm stated that they were unable to export the product in stipulated time/ extended period due to cancellation of order by their customer. The request of the firm was considered in the 7th Meeting of AM-21 of the EPCG Committee held on 14.01.2021 and it was decided as under :-

> *"The party seeks extension for 2 years against the subject EPCG authorization issued under the Zero duty EPCG Scheme. The Committee noted that even after more than eight years of obtaining subject EPCG authorization the party has not been able to fullfill the Export Obligation. The Committee deliberated upon the case and decided to reject it as there is no merit in the request."*

2. Later, M/s. MWN Press, Chennai forwarded a copy of direction in the W.P. No. 4102 of 2022 and WMP No. 4234 of 2022 filed before the Hon'ble High Court, Madras. Hon'ble High Court vide Interim Order dated 24.02.2022 directed as under:

" Writ Petition under article 226 of the Constitution of India praying that in these circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a WRIT OF MANDAMUS or any other appropriate writ, order or direction in the nature of writ of mandamus directing the 1st and 2 nd respondents herein to accept and grant Extension of Export

Obligation period for 2 years made vide request application reference No.MWN/2021/EPCG, dated 05.10.2020 for complying the conditions of EPCG Authorization No. 0430011019, dated 23.03.2012, which is pending disposal till date. (in WP. No. 4102 of 2022) and;

(ii) To pass an INTERIM INJUCTION restraining the 2 nd and 4 th respondents herein or his men from proceeding all further actions including passing any final order pursuant to the notice dated 07.01.2022 vide F. No. 04/21/021/01287/AM129IEC 0492007136), and from taking coercive measures/precipitative actions for non-fulfilment of Export obligation under EPCG Authorization No. 0430011019, dated 23.03.2012 (in WMP. No. 4234 of 2022) pending disposal of the above WP. No. 4102 of 2022.

Order: This petition and miscellaneous petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/s. A.K. JAYARAJ, Advocate for the petitioner in both the petitions and of MR. J. MADANA GOPAL ROA, SPECIAL PANEL COUNSEL on behalf of the Respondents in both the petitions, the court made the following order:-

Mr. J. Madana Gopal Rao, learned special Panel Counsel accepts notice for respondents and seeks some time to obtain instructions and to file counter.

2. The pendency of this Writ Petition will not stand in the way of the respondents considering the application filed by the petitioner as early as on 05.10.2020 after hearing the petitioner and in a manner known to law.

3. List on 24.03.2022. Counter/written instructions by then with an advance copy served upon the petitioner."

3. The request of the firm was considered in the 14th Meeting of AM-22 of the EPCG Committee held on 30.03.2022 and decided as under :-

"... The Committee heard the submissions of the representative of the firm and noted that the extended EO period against the EPCG Authorization No. 0430011019 dated 23.03.2012 has expired on 22.03.2020.

After due deliberation, the Committee decided that the applicant may approach RA for extension of EO period upto 31.12.2021 in accordance with DGFT PN No. 67 dated 31.03.2020 read with Notification No. 28 dated 23.09.2021."

4. The firm vide application dated 20.09.2022 has requested for extension of EOP from the date of endorsement as per the previous decision of the PRC against EPCG Authorization No. 0430011019 dated 23.03.2012 under 0% Concessional duty. In its application, the firm has stated that the EPCG Committee had not taken any substantive decision except the direction to consider the EOP upto 31.12.2021 as per the PN and notification. The firm approached RA, Chennai as per decision of the Committee meeting but the relief required by them cannot be granted due to the EOP recommended is only upto 31.12.2021 and the matter is back to square one.

5. In view of the above, the firm has requested for extension of EOP for two more years as per the previous decision of the PRC in the case of M/s. Metal Forms Pvt. Ltd., Chennai (S. No. 1 dated 22.12.2021 meeting No. 18/AM22 held on 07.12.2021) as a measure of export promotion.

6. The firm has also stated that they will withdraw the WP pending before the Hon'ble High Court Madras, namely, WP No. 41.02 of 2022 and WMP No. 4234 of 2022 Order dated 24.02.2022.

7. The request of the firm was considered in the 2nd Meeting of AM-24 of the EPCG Committee held on 30.05.2023 and decided as under :-

> *"After deliberation on the request of the firm, the Committee decided to defer the case to call the applicant for Personal Hearing to explain the case."*

8. The request was again examined by the EPCG Committee in its meeting held on 12.09.2023. and decided as under :-

> *"The request to be decided after grant of an opportunity of Personal hearing to the party. The case stands deferred."*

9. The representative of the firm (Shri K. Raghavan) appeared through Video Conferencing and made the following submissions :-

Applicant's statement: The request for EO period was considered by EPCG Committee held on 30.05.2023. RA, Chennai is yet to implement decision as the relief suggested under PN No.67 & Notification No. 28 could not complement the request of the firm.

i. The applicant has fulfilled the EO to the extent of 90% from 29.10.2022 to 31.12.2022. However, certain amount are yet to be realised and they will have to export balance 10% to fulfill the EO.
ii. It is requested to kindly extend the EO period for one year from the date of endorsement for regularisation of EO already fulfilled and also to fulfill the balance EO if any, upon reconciliation of the exports w.r.t. the BRC data.
iii. Justification –

1. The item of import i.e. Printing Machinery under ITCHS code No. 84388030 from Japan falls under the FTA Category for which the assessable duty works out to 6.8% as per Customs Notification No. 69/2011dated 29.07.2011 mentioned in Table No. 1 vide SI. No. 580 thereof by the Department of Revenue (DoR). As of now, the duty is NIL for the Printing Machineries from Japan.
2. As per online Bill of Entry No. 6504646 dated 10.04.2012 for a CIF value of Rs. 4,48,39,100/-, the total duty saved value @6.8% works out to Rs. 30,49,059/-. The EO@6 times would work out to Rs. 1,82,94,353/-.
3. Somehow the above Custom duty structure issued by the DoR under the above said Notification had not been noticed by the Customs while clearing the goods.
4. After the DOR had issued the duty structure as per the Customs Act, 1962, the EO ought to have been proportionately fixed by the RA as per the FTA Regulations.

5. The EO period may be extended by issuing necessary direction to the RA to re-fix the EO as per the reduced rate of Customs Duty under the Customs Circular No. 69/2011 issued under FTA with Japan and regularise their EO already fulfilled and issue redemption.
6. EO could not be fulfilled earlier due to cancellation of the export order by the firm Motivating Graphics LLC Company USA with whom they had arrangement for buyback of their paper packaging products and mobile boxes etc. This is the reason for delay in completion of EO which is beyond their control.

(iv) Request

1. RA, Chennai maybe directed to give effect to the FTA arrangements for revising the EO w.r.t actual duty saved as per Customs Circular No. 69/2011 dated 29.07.2011. The export done so far under 19 S/Bs for a value of Rs.7,65,62,887/- upto 30.11.2022 may kindly be taken for EO and to regularise their case.
2. The applicant will withdraw the W.P. No. 4102 of 2022 and WMP No. 4234 of 2022 filed before Hon'ble High Court, Madras upon receipt of decision of EPCG Committee.

Decision: The Committee went through the request made by the applicant and submissions of the representative of the firm in the PH. The Committee deliberated upon the case and decided to call for written submission with documents from the applicant. It was also decided that before taking a decision in the matter, comments of Department of Revenue may also be obtained. Accordingly, the case stands **deferred.**

Case No- 9: Haploos Printing House, Delhi
F. No. 01/36/218/131/AM-20/EPCG

Subject:

i. **Request for extension in EOP for one year after expiry of original and extended EOP i.e. beyond 6+2 years for fulfilment of balance EO against EPCG authorization No. 0530154516 dated 12.01.2011.**
ii. **Request for permission to adjust the excess export made other EPCG authorization fulfilment of export obligation against EPCG authorization No. 0530153832 dated 28.10.2010 already redeemed.**

Under 0% Concessional duty.

The request was examined by the EPCG Committee in its meeting held on 12.09.2023 and decided as under:

"The request to be decided after grant of an opportunity of Personal to hearing the party. The case stands deferred."

Decision: The Committee deliberated upon the case and decided to **defer** it as the applicant did not appear before EPCG Committee for Personal Hearing to explain their case.

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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

[Issued from F. No. 01/36/218/27/AM-24/EPCG]