

MINUTES OF 12th MEETING OF AM-23 OF THE EPCG COMMITTEE HELD UNDER THE CHAIRMANSHIP OF SHRI S.B.S. REDDY, ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE AT 3:30 PM ON 23.02.2023

Twelfth Meeting for AM-23 of the EPCG Committee was held on 23.02.2023 at 3:30 PM under the chairmanship of Shri S.B.S. Reddy, 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 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: Supreme Solar Systems, Bangalore
F. No. HQRPRCAPPLY00016259AM22

Subject: Requested for:

- i. To allow the fulfillment of EO by the Private Limited Company as the Proprietorship Firm is not in existence.
- ii. Extension of 1st block to fulfill the EO.

In respect of EPCG Authorization no. 0730015848 dated 26.09.2016 under 0% Concessional Duty.

The firm has stated that they had availed the above EPCG Authorization in the year 2016 and have imported the capital goods under the Proprietorship concern named Supreme Solar Systems and the machinery has been installed. Subsequently, a Private Limited Company in the name and style of Supreme Solar Projects Private Limited was incorporated in the year April 2016. The Proprietor of Supreme Solar Systems Sri H Narasimha became Managing

Director of the said Private Limited Company. The business of the Proprietorship concern was taken over by the Private Limited Company and the corresponding MGT-14 form was filed in the ROC. A business transfer agreement was also executed in furtherance to the same. The entire business activity of manufacturing and sale was moved to the Private Limited Company and the Proprietorship ceased to exist from the date of takeover. The export product declared in the EPCG license is being exported from a Private Limited Company.

2. The firm submitted that based on a reference from the DRI, the RA had cancelled the EPCG authorisation on 24.03.2021. The firm filed a WP before the Hon'ble High Court of Karnataka against the decision to cancel the EPCG authorisation which vide its interim order dated 20.04.2021 in the WP has asked not to take any precipitative action pursuant to the directions.

3. The case was considered in the 5th EPCG Committee of AM-23 Meeting held on 08.07.2022 wherein the following decision was taken :-

“The Committee deliberated upon the case and observed that the matter is subjudice. Accordingly, the firm may approach the Committee after the matter is decided by the Hon'ble High Court of Karnataka.”

4. The firm vide e-mail dated 21.11.2022 has stated that as per Hon'ble High Court Order dated 09.09.2022 :-

(i) The rejection order dated 24.03.2021 of RA stands quashed meaning thereby that their EPCG Authorization No. 0730015848 dated 26.09.2016 is in force and their pending request before the EPCG Committee can now be considered.

(ii) RA was directed by Hon'ble High Court to consider the request for cancellation of the impugned authorization on the letter of DRI after issuance of notice to all concerned which RA Bangalore has not done till date.

Firm further stated that DRI has no case against them as the capital goods imported under concerned EPCG Authorization continue to be with them in private limited company that has taken over the proprietorship not in existence now and the Installation Certificate submitted to RA is the one where capital goods are installed. RA is unable to take action against them as per advice of DRI Bangalore and Hon'ble High Court of Karnataka order dated 09.09.2022. The firm has requested EPCG Committee to consider their pending request.

5. The representative of the firm appeared before the EPCG Committee to explain their case. It was prayed to exclude the entire time since 24.03.2021 to till the order of EPCG Committee from the EOP as the entire time has been lost due to unjustified order passed by RA Bangalore. It was also requested that further EO period extension of 2 years for fulfillment of EO may be granted. It was informed that they have also submitted additional submissions dated 22.02.2023 in support of their request.

Decision: The Committee heard the submissions of the representative of the firm and noted that RA, Bengaluru was the only respondent in the WP No. 8106 of 2021 and as per the available records it is yet to comply with the order dated 09.09.2022 of the Hon'ble High Court. In order to enable the Committee to dispose off the pending request of the firm filed before it, RA to take a final decision in the matter immediately and latest within a period of four weeks from the date of uploading of the Minutes.

Case No- 2: Supreme Solar Systems, Bangalore
F. No. HQRPRCAPPLY00016331AM22

Subject: Requested for:

- i. To allow the fulfillment of EO by the Private Limited Company as the Proprietorship Firm is not in existence.
- ii. Extension of 1st block to fulfill the EO.

In respect of EPCG Authorization no. 0730015849 dated 26.09.2016 under 0% Concessional Duty.

The firm has stated that they had availed the above EPCG Authorization in April 2016 and have imported the capital goods under the proprietor firm name Supreme Solar Systems and the machinery also was installed. Subsequently, a Private Limited Company in the name and style of Supreme Solar Projects Private Limited was incorporated in the year April 2016. The proprietor of Supreme Solar Systems Sri HosangadyNarasimha became Managing Director of the company Supreme Solar Projects Private Limited. The business of the proprietor firm was taken over by the Private Limited Company and the corresponding MGT-14 form was filed in the ROC. A business transfer agreement was also executed. The entire business activity of manufacturing and sale was moved to the Private Limited Company and the Proprietorship Firm ceased to exist from the date of takeover. The export product declared in the EPCG license is being exported from a Private Limited Company.

2. The firm submitted that based on a reference from the DRI, the RA had cancelled the EPCG authorisation on 24.03.2021. The firm filed a WP before the Hon'ble High Court of Karnataka against the decision to cancel the EPCG authorisation which vide its interim order dated 20.04.2021 in the WP has asked not to take any precipitative action pursuant to the directions.

3. The case was considered in the 5th EPCG Committee of AM-23 Meeting held on 08.07.2022 wherein the following decision was taken :-

“The Committee deliberated upon the case and observed that the matter is subjudice. Accordingly, the firm may approach the Committee after the matter is decided by the Hon'ble High Court of Karnataka.”

4. The firm vide e-mail dated 21.11.2022 has stated that as per Hon'ble High Court Order dated 09.09.2022 :-

(i) The rejection order dated 24.03.2021 of RA stands quashed meaning thereby that their EPCG Authorization No. 0730015849 dated 26.09.2016 is in force and their pending request before the EPCG Committee can now be considered.

(ii) RA was directed by Hon'ble High Court to consider the request for cancellation of the impugned authorization on the letter of DRI after issuance of notice to all concerned which RA Bangalore has not done till date.

Firm further stated that DRI has no case against them as the capital goods imported under concerned EPCG Authorization continue to be with them in private limited company that has taken over the proprietorship not in existence now and the Installation Certificate submitted to RA is the one where capital goods are installed. RA is unable to take action against them as per advice of DRI Bangalore and Hon'ble High Court of Karnataka order dated 09.09.2022. The firm has requested EPCG Committee to consider their pending request.

5. The representative of the firm appeared before the EPCG Committee to explain their case. It was prayed to exclude the entire time since 24.03.2021 to till the order of EPCG Committee from the EOP as the entire time has been lost due to unjustified order passed by RA Bangalore. It was also requested that further EO period extension of 2 years for fulfillment of EO maybe granted. It was informed that they have also submitted additional submissions dated 22.02.2023 in support of their request.

Decision: The Committee heard the submissions of the representative of the firm and noted that RA, Bengaluru was the only respondent in the WP No. 8106 of 2021 and as per the available records it is yet to comply with the order dated 09.09.2022 of the Hon'ble High Court. In order to enable the Committee to dispose off the pending request of the firm filed before it, RA to take a final decision in the matter immediately and latest within a period of four weeks from the date of uploading of the Minutes.

Case No- 3:Tata Motors, Mumbai

F. No. HQREPCGPRAPP00161620AM22

Subject: Request for:

- i. Regularization of installation of capital goods at new place of locations in Sanand, Gujarat instead of location mentioned in the EPCG authorization.
- ii. Condonation of delay in submission of installation certificate beyond 18 months.
- iii. Acceptance of installation certificate issued by Chartered Engineer instead of Central Excise authority as per justification.

In respect of EPCG Authorization No. 0330020586 dated 08.07.2008 under 03% Concessional Duty.

The applicant has stated that they have imported capital good for installation at their plant for Nano car in Singur, West Bengal. The capital goods could not be installed at their

Singur plant due to political disturbances and had to be moved to Sanand, Gujarat for installation. Their case was earlier taken up in the EPCG Committee No. 07/AM15 held on 19.11.2014 at S. No. 08. The case was deferred and not considered for want of first installation certificates from Central excise authorities in respect of the imported Capital Goods.

2. The applicant has submitted that EPCG committee seems to have assumed as if the capital goods were first installed at original place of installation hence directed to get certificate of installation from Central excise authorities. The capital goods were not installed at the original place of installation at Singur, West Bengal and were installed first time only at Sanand in Gujarat. Hence the certificate of installation in absence of non-installation was not possible to get from Central excise authorities. The installation certificate for new locations in Gujarat also could not be obtained in absence of the new locations not endorsed in the EPCG License.

3. The applicant has requested for regularization of installation of capital goods at Sanand instead of original place of installation, delay in submission of installation certificate beyond 18 months and for acceptance of Installation certificate of Chartered Engineer Certificate instead from Central Excise Authorities stating that Nano Car Project stopped for implementation due to political disturbances at Singur, West Bengal however successfully shifted, installed and project implemented at Sanand, Gujarat.

4. The case was considered in 11th EPCG Committee Meeting of AM-22 held on 22.12.2021 wherein the Committee deliberated upon the case and decided to defer it for further examination on file.

5. The representative of the firm appeared before the EPCG Committee to explain their case.

Decision: The Committee deliberated upon the case and decided to refer the matter to Department of Revenue for further examination.

Case No- 4: Big Box Containers Private Limited, Ahmedabad
F. No. 01/36/218/181/AM-21/EPCG (HQRPRCAPPLY00351752AM22)

Subject: Request for granting exceptional condonation for EO in respect of EPCG Authorization Nos. 0830008821 dated 06.10.2016 under 0% Concessional duty.

Earlier, the firm vide letter date 15.01.2021 (F.No. 01/36/218/181/AM-21/EPCG), requested for granting condonation for fulfillment of EO in respect of EPCG Authorization nos. 0830009841 dated 25.07.2017 and 0830008821 dated 06.10.2016. In application, the firm stated that there was an unexpected devastating fire in their factory on 28.04.2019 which has resulted in loss of all their inventories, machines, equipment etc. without leaving anything usable. In this regards, they have filed a FIR/Panchnama with local police authorities. They intimated RA, Ahmedabad about the incident with all documentary evidence and requested for relaxation in fulfillment of EO in the above EPCG Authorizations. In response, RA, Ahmedabad issued D/L directing them to submit export documents such as Shipping Bills, BRC, and other relevant

documents. The applicant along with his application has submitted copy Panchnama, news reports and photograph of the fire incident.

2. The matter was examined by EPCG Committee in its meeting held on 24.11.2021. The decision of the Committee as under:

*“The firm has stated that there was an unexpected devastating fire in their factory on 28.04.2019 which has resulted in loss of all their inventories, machines, equipment etc. without leaving anything usable. In this regards, they have filed a FIR/Panchnama with local police authorities. They intimated RA, Ahmedabad about the incident with all documentaries evidence and **requested for relaxation in fulfillment of EO in the above EPCG Authorizations.** In response, RA, Ahmedabad issued D/L directing them to submit export documents such as Shipping Bills, BRC and other relevant documents. The applicant along with his application has submitted copy of Panchnama, news reports and photograph of the fire incident. After due deliberation, the Committee decided to **reject** the case as there is no merit for consideration of the request on the grounds furnished by the party.”*

3. The representative of the firm appeared before the EPCG Committee to explain their case.

Decision: The Committee deliberated upon the case and decided to conduct inspection of the unit through RA, Ahmedabad and submit the detailed report within a latest within a period of four weeks from the date of uploading of the Minutes.

Case No- 5: Big Box Containers Private Limited, Ahmedabad
F. No. 01/36/218/181/AM-21/EPCG (HQRPRCAPPLY00351761AM22)

Subject: Request for granting exceptional condonation for EO in respect of EPCG Authorization nos. 0830009841 dated 25.07.2017 under 0% Concessional duty.

Earlier, the firm vide letter date 15.01.2021 (F.No. 01/36/218/181/AM-21/EPCG), requested for granting condonation for fulfillment of EO in respect of EPCG Authorization nos. 0830009841 dated 25.07.2017 and 0830008821 dated 06.10.2016. In application, the firm stated that there was an unexpected devastating fire in their factory on 28.04.2019 which has resulted in loss of all their inventories, machines, equipment etc. without leaving anything usable. In this regards, they have filed a FIR/Panchnama with local police authorities. They intimated RA, Ahmedabad about the incident with all documentary evidence and requested for relaxation in fulfillment of EO in the above EPCG Authorizations. In response, RA, Ahmedabad issued D/L directing them to submit export documents such as Shipping Bills, BRC, and other relevant documents. The applicant along with his application has submitted copy Panchnama, news reports and photograph of the fire incident. The matter was examined by EPCG Committee in its meeting held on 24.11.2021. The decision of the Committee as under:

*“The firm has stated that there was an unexpected devastating fire in their factory on 28.04.2019 which has resulted in loss of all their inventories, machines, equipment etc. without leaving anything usable. In this regards, they have filed a FIR/Panchnama with local police authorities. They intimated RA, Ahmedabad about the incident with all documentaries evidence and **requested for relaxation in fulfillment of EO in the above***

EPCG Authorizations. In response, RA, Ahmedabad issued D/L directing them to submit export documents such as Shipping Bills, BRC and other relevant documents. The applicant along with his application has submitted copy of Panchnama, news reports and photograph of the fire incident. After due deliberation, the Committee decided to **reject** the case as there is no merit for consideration of the request on the grounds furnished by the party.”

2. The representative of the firm appeared before the EPCG Committee to explain their case.

Decision: The Committee deliberated upon the case and decided to conduct inspection of the unit through RA, Ahmedabad and submit the detailed report within a latest within a period of four weeks from the date of uploading of the Minutes.

Case No- 6: Zazsons Exports Limited and Z Square Mall, Kanpur
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 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. 630001435 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 Z-Square 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.

vii. 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 fulfill 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 old policy provisions quoted by the applicant. Thereafter this case to be placed before EPCG committee.

Case No- 7: Kobelco Industrial Machinery India Pvt. Ltd., Kanchipuram
F. No. 18/82/AM-22/P-5

Subject: Request for issue of EPCG License for import of capital goods i.e. Cranes-reg.

Kobelco Industrial Machinery India Pvt. Ltd., Kanchipuram vide e-mail dated 29.02.2022 has requested RA, Chennai to issue EPCG License for import of capital goods i.e. Cranes required for manufacturing an “over head travelling cranes on fixed support”. In this case EPCG Committee accorded personal hearing to the company to present their case.

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

[DGFT= Directorate General of Foreign Trade, DG = Director General, FTP, = Foreign Trade Policy, HBPv1 = Handbook of Procedure Vol. I, EO = EO, EODC = EO Discharge Certificate, EOP = EO 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. 01/36/218/28/AM-23/EPCG]
