MINUTES OF 14th MEETING OF AM-22 OF THE EPCG COMMITTEE HELD UNDER THE CHAIRMANSHIP OF SHRI S.B.S. REDDY, ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE ON 30.03.2022

Fourteenth meeting for AM-22 of the EPCG Committee which was earlier scheduled for 29.03.2022 was held at 3.00 PM on 30.03.2022 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

2. Minutes of the last Meeting were confirmed. Thereafter, the Committee deliberated upon the cases where applicants were called for Personal hearing and following decisions were taken:-

Sl. No.	Firm's Name and file Numbers	EPCG Authorization no.	Brief history and decision of the Committee
1	**MWN Press, Chennai** 01/36/218/93/AM-21/EPCG	0430011019 dated 23.03.2012	**Order dated 24.02.2022 in the W.P. No. 4102 of 2022 and WMP No. 4234 of 2022 filed before Hon'ble High Court, Madras (MWN Press v/s PRC, DGFT & 3 Others)** To recapitulate, Applicant vide letter dated 07.10.2020 had requested for extension of Export Obligation (EO) period 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 and also during extended period due to cancelation of order by their customer. Now, they have enough orders from their customer in order to complete to export obligation. The firm has requested for extension of EOP by further 2 years and they are ready to pay composition fee for extension of EO. The matter was examined by EPCG Committee in its 7th meeting of AM-21 held on 14.01.2021. The decision of the

				Committee is 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 fulfill the Export Obligation. The Committee deliberated upon the case and decided to* ***reject*** *it as there is no merit in the request."* ***MWN Press, Chennai has forwarded a copy of interim order dated 24.02.2022 in the W.P. No. 4102 of 2022 and WMP No. 4234 of 2022 filed before Hon'ble High Court, Madras directing 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 2nd 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 2nd and 4th 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/AM12* *(IEC 0492007136), and from taking coercive measures/precipitative actions for non-fulfillment 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 RAO, 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."* 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 up to 31.12.2021 in accordance with DGFT PN No. 67 dated 31.03.2020 read with Notification No. 28 dated 23.09.2021.

2	**Dhanalakshmi Srinivasan Sugars Pvt. Ltd., Tamil Nadu** 18/54/AM-20/P-5	0430007661 dated 15.09.2009	**Request for:-** 1. **Consider the base EOP of 12 years and EO of 6 times of duty saved as for the Agro units under the Para 5.2 of FTP 2009-14.** 2. **Extension of EOP for a period of 3 years owing to the restrictions which is also in line with Para 5.11.3 of the extant HBP.** The Committee heard the submissions of the representative of the firm. The Committee deliberated upon the issue and decided to refer to DoR for their comments for consideration in the upcoming EPCG committee meeting. The case is **deferred.**
3	**Victor Reinz India Pvt. Ltd., Pune** 01/37/218/150/AM-19/EPCG-II	3130003933 dated 31.03.2009	**Request for** **i. consideration of Deemed Export where EPCG Authorization has not been mentioned on supply invoice to M/s Nissan Motor India Pvt. Ltd.** **ii. Consideration of similar export products and ITC (HS) code in respect of EPCG License No. 3130003933 dt. 31.03.2009.** The Committee heard the submissions of the representative of the firm. *The firm has stated that have completed the export obligation which includes the Deemed Exports made to Nissan Motor India Ltd. The firm has requested for consideration of their deemed export where EPCG Authorization could not be mentioned by them on supply invoice to Nissan Motor India Pvt. Ltd. The firm*

			has stated that it made local supply to export warehouse of M/s Nissan Motor India Pvt. Ltd. of their export product which were used at Nissan's overseas manufacturing locations. But they failed to request Nissan Motor India Pvt. Ltd. to mention the third party name as supporting manufacturer on the shipping bills of M/s Nissan Motor India Pvt. Ltd. as they were a new and non-experienced entity. *The firm has stated that they had mentioned export products under EPCG license of Auto-Parts- Gasket (ITC HS-84841090) but by mistake they forget to mention export item of Cover Assy Exh Manif under ITC HS Code is 87089900 which is connected to the export product item mentioned in the license. The firm has requested to consider similar export products and ITC(HS) code in respect of EPCG License No. 3130003933 dated 31.03.2009.* *Committee observed that all supplies to exporters cannot be termed as deemed exports and what can be classified as deemed exports have been specified in Chapter-7 of Foreign Trade Policy.* The categories of deemed exports have been mentioned in Para 7.02 of Foreign Trade Policy. Committee observed that the supplies effected by the applicant have not been classified in any category of deemed exports and therefore same cannot be treated as deemed exports. The Committee went through the statements made by the firm and noted that the applicant as not submitted any cogent reason/justification in support of any genuine hardship faced by them and accordingly, the committee decided to **reject** the request of the applicant.

4	**Narmathaa Textiles Limited., Chennai** 01/36/218/65/AM-20/EPCG	i.01500374 dated 23.04.1996 ii.0430000008 dated 15.09.1999	**Request for one time extension of export obligation:** The Committee heard the submissions of the representative of the firm. The Committee deliberated upon the case and decided to **defer** it for the next EPCG Committee Meeting for further examination.
5	**Continental Electrical industries Pvt. Ltd, Lucknow** 01/36/218/132/AM-17/EPCG-I	0630001231 dated 19.02.2008	**Request for review of decision taken in the EPCG Committee Meeting dated 23.11.2016:** The request of the firm was considered by the EPCG Committee in 8th meeting of AM-22 held on 10.11.2021 and it was decided to defer the case to call the applicant for Personal Hearing (PH) to explain the case. The Committee heard the submissions of the representative of the firm. The Committee deliberated upon the case and decided to refer to Department of Revenue for submitting their comments on the request. Accordingly, it was decided to **defer** it for the next EPCG Committee Meeting.
6	**Chandra Polyplast Pvt. Ltd., Aurangabad** 01/36/218/32/AM-21/EPCG	P-CG-0110918 dated 11.08.1999	**Request for year-wise and overall extension of EO against EPCG License No. P-CG-0110918 dt. 11.08.1999 under 10% EPCG Scheme-reg.** The request was examined by the EPCG Committee in its meeting held on 11.09.2020. The decision of the Committee as under: *"The party has stated that due to adverse financial position and bad international market conditions for their product they faced hardships and could not make any exports in first four years*

			of EOP. They completed 60% EO in 5th year and 40% in 6th year. *The party has sought following relaxations :- (i) To condone the condition of fulfillment of EO to the extent of 10%, 20% and 30% for the 2nd, 3rd and 4th year respectively (block-wise extension in EOP). (ii) To allow one year extension in EOP from August 2004 to August 2005 to regularize and close their case.* *The Committee deliberated upon the case and decided to reject it as there is no merit in the request."* 2. The review application of the firm was considered by the EPCG Committee in 8th meeting of AM-22 held on 10.11.2021 and it was decided to defer the case to call the applicant for Personal Hearing (PH) to explain the case. In the review application, the firm has also made a new request for conversion of FOB value of EO based on duty saved amount instead of CIF value in terms of Notification no. 28 dated 28-1-2004. 3. The firm in its review application has reiterated its earlier request as under: i. They have been issued License no. P-CG-0110918 for import of capital goods for Duty saved amount of INR 17,68,023/- against fulfillment of export obligation of PP Mats for FOB value of INR 1,41,44,184/- (USD 3,31,246/-), equal to 8 times of duty saved amount, with Average Export Obligation of USD 2,261/- as they made request for

			amendment of EO under the said authorization based on duty saved amount as per policy. ii. As per Para 6.11 of HBP RE-1999, it was mandatory to fulfill EO of 0% in 1st year, 10% in second year, 20% in third year, 30% in the fourth year and balance 40% in fifth year. iii. Due to adverse financial position and bad international market conditions for their product they faced lot of hardships initially, and could not make any exports for first 4 years of the Export Obligation Period. iv. Despite, all these problems due to their relentless efforts, finally they succeeded to complete the export in full and realized the proceeds. v. They exported 60% in last and 5th year and balance 40% within one year from the original EOP i.e. within 6th year. Thus, succeeded to export 100%. The Committee heard the submissions of the representative of the firm. After due deliberations, the Committee decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow condonation of condition of fulfillment of EO to the extent of 10%, 20% and 30% for the 2nd, 3rd and 4th year respectively (block-wise extension in EOP). The Committee noted that as regards the request to allow one year extension in

			EOP from August 2004 to August 2005, may examine the request as EO extension as per policy and procedures Committee decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow condonation of delay in applying for EO extension. In respect of request for conversion of EPCG authorization from CIF to duty saved, the Notification no-28 says that *"14…………. The licensee can also opt for the re-fixation of the balance export obligation based on the 8 times of the duty saved amount for the CIF value in proportion to the balance Export obligation under the scheme. The aforesaid facilities shall only be available to manufacturer exporters/ service provider on all the licenses where export obligation period including extended export obligation period valid on the date of application. In this regard, exports made only on or after submission of application for alternate item and/ or re-fixation of the export obligation based on duty saved amount will be taken into account for fulfillment of export obligation."* As EO period is not valid on the date of request, the committee is not recommending the relaxation of conversion of EPCG authorization from CIF to duty saved. **This has the approval of DG, DGFT.**
7	**Anshika Fasteners Pvt. Ltd. , Nagpur** HQRPRCAPPLY00087202AM21	5030000112 dated 09.06.2011	**Requests:** i. **Grant further EOP Extension up to 31-03-2022 against payment of composition fee.** ii. **To relax the provision for further EOP Extension for the fulfillment of balance EO up to 31-03-2022.**

			iii. **To relax the provision for payment of 50% Customs Duty to grant for further EOP Extension.** iv. **Personal hearing before taking any decision in this regard.** Earlier, the firm requested for extension of EOP for two years (under F. No. 01/60/162/372/AM-20/PRC/EPCG). The request was examined by the EPCG Committee in its meeting held on 14.02.2020. The decision of the Committee as under: *"The Committee noted that the party has completed only 43.53% of EO in the stipulated EOP of 6 years and extended period of EOP for two years. The party seeks further two years extension for fulfillment of remaining EO. The Committee deliberated upon the case and decided to reject the request for EOP extension being devoid of merit."* In its review application, the firm has stated that they have tried to secure overseas orders but faced stiff competition from neighboring countries like China, Taiwan, and Korea. Finally, they were able to get orders from Dubai, UAE and they continued to export and were able to complete EO to the tune of 43%. The prices for raw material are comparatively very high for "Fasteners Industrial Segment" hence they could not compete with other overseas competitors. Bangladesh, Sri Lanka, etc. Governments had levied heavy import duty for their export products. Therefore, they could not export in these countries. The firm has also stated that their firm has undergone huge financial losses in the year 2016-17 and 2017-18. Due to financial crisis spread across the country and present

			COVID-19 circumstances. They are not in a position to afford any payment of "Customs Duty along with applicable interest on the Duty Saved Value in proportion to the un-fulfilled SEO due to the huge financial losses. The Committee heard the submissions of the representative of the firm. The Committee deliberated upon the review application filed by the applicant and decided to maintain **rejection**.
51	**Shri Jagannath Steels & Power Ltd, Keonjhar.** 01/37/218/166/AM-18/EPCG-II	2330001011 dated 05.06.2014	**Review of the decision taken in EPCG Committee meeting held on 03.01.2019 regarding condonation of delay in submission of installation certificate:** Review application was taken up in the EPCG Committee meetings held on 24.05.2019, 10.06.2020 and 09.03.2022 but was deferred. The Committee heard the submissions of the representative of the firm. It was informed that the EPCG authorization was issued on 05.06.2014 and order issued in 17.05.2014 issued by Deputy Director (Mines) for closure of all mining activities with indefinite period of Kay Pee enterprises from which the raw material was sourced by the firm. Deputy Director (Mines) permitted opening of mines vide order dated 13.05.2015. Installation Certificate was issued by Customs on 04.07.2017 and the delay in installation of CGs was 18 months and 10 days. The Export obligation to be completed within the EO period of 6 years has already been fulfilled by more than 600 times. The Committee deliberated upon the case and decided to **defer** it for the next EPCG Committee meeting for further examination. In the meantime, DoR to

			examine the case and furnish their comments.

The Agenda cases at S. No. 8 to 50 will be taken up in the next EPCG Committee meeting.

The meeting ended with a vote of thanks to the Chair.

[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.].

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