Directorate General of Foreign Trade
Udyog Bhawan,New Delhi

Minutes of the 6th Meeting of EPCG Committee of AM 2007 held on 10.10.2006 at 3.30P.M.

The 6th meeting of the EPCG Committee for the licensing year 2006-07 was held on 10.10.06 at 3.30P.M. in Room No.4 under the chairmanship of Shri N.K.Gupta, Addl. DGFT to consider the cases under the EPCG Scheme of Foreign Trade Policy.

The following were present in the meeting:

1. Shri N.K.Gupta,Chairman
2. ShriV.C.Agarawal,AddlIndustrial Adviser,DIPP
3. Shri Anurag Bakshi,STO,Drawback,Deptt.of Revenue.
4. Shri B.S.Rawat,Under Secretary M/o Information & Broadcasting
5. Shri M.K. Parimoo, Jt.DGFT
6. Shri C.V.L.N.Prasad,Dy.DGFT
7. Shri Brajesh Sikka,FTDO
8. Shri S.S.Prasad, FTDO

Initiating the discussion, the Chairman welcomed the Members of the Committee. Thereafter individual cases under EPCG Scheme were discussed and following decisions were taken: -

Case No.1	M/s.DiGold Gem & Jewellery Exports, Jaipur
6/AM07 dated.10.10.06	F. No.23/794/AM03/EPCGI

The Committee considered the case as per agenda note. It was noted that the export product was Studded gold/Silver Jewellery. Licence was issued on 28.6.2002 and nexus was certified with the import items (1) vacuum & pressure casting unit (2) Vaccum wax injector machine and auto controller regulator and vacuum pump. However nexus was rejected for Automatic investing machine EB 8. Firm has represented for import of the same with justification. They have also stated that Policy Circular No.10 dated 14.6.2000 provided for the import of various CGs which includes Vaccum Investment Mixing Machine with vaccum pump, for the export of plain & studded gold Jewellary. It is noted that DIPP has given written comments vide their U.O. No.IPP/6/13/2006-TSW/125 dated 14.09.2006 recommending import of the said items with additional export obligation. The Committee therefore decided to allow import of Automatic Investing Machine EB 8

Case No.2	M/s.K.P.Sanghi and Sons, Mumbai

6/AM07 dated.10.10.06	F. No.01/36/218/66/AM06/EPCG-I

The Committee considered the case as per agenda note. It is seen that the export product in this case is Cut & polished Diamonds. The firm had imported 4 items i.e. (1) UNO DIODE PUMPED ND – YAG LASER MODEL DQY 1- S IN QEM (2) Complete diode pumped ND (3) New Diode pumper Chamber with 10000 hours (4) RICO excelsiordop 24 X with guage etc. The Committee decided to allow nexus between items imported and the export product against EPCG licence No.0330002612 dated 27.9.2002 except at Sr. No. (3) on the basis of comments of DIPP vide their letter U.O.No.IPP/6/18/2005-TSW/105 dated 10.09.2006. The Committee decided to reject the request for nexus approval in respect of item No. (3) i.e. New Diode pumper chamber with 10000 hours, since the import is for replacement.

Case No.3	M/s. Cactus Imaging India Pvt Ltd., Chennai
6/AM07/dated.10.10.06	F.No.No.01/36/218/15/AM07/EPCG-I

The Committee considered the case as per agenda note. The firm had requested for condonation of delay in fulfillment of blockwise EO with the permission to carry forward the EO to last block period against EPCG licence No.0430000206 dated 18.10.2000. The Committee noted the reasons given by the firm and decided to allow carry forward the shortfall of 2nd and 3rd block periods to final block for regularization of exports, with the condition that no request for refixation of E.O will be allowed.

Case No.4	M/s.Ballarpur Industries Ltd.,Pune
6/AM07 dated.10.10.06	F. No.20/925/AM96/EPCG-I

The Committee considered the case as per agenda note. The firm has requested to take on record the transfer of 30MW Turbine with all accessories imported under EPCG Scheme, on paper to M/s BILT Power Ltd, which was created as per demerger scheme approved by Hon'ble courts of Bombay/Nagpur/Delhi. As per the demerger order, the court has directed all the assets, liabilities, employees in respect of power operations are to be transferred to BILT Power Ltd. from Ballarpur Industries Ltd. The Committee also noted that imported CG shall not be displaced from its installed place, and the export obligation shall be fulfilled by the licencee firm only. There is no provision for physical transfer of CG till export obligation imposed is fulfilled by the license against EPCG license No.01500186 dated 12.01.96.

Case No.5	M/s.BRT Spinners Ltd., Annur

6/AM07 dated.10.10.06	F.No.01/36/218/198/AM02/EPCG-I

The Committee considered the case as per agenda note. The firm has requested for condonation of shortfall in block wise EO fulfillment and to accept the EO achieved in the final block for issuance of discharge certificate, since the entire EO has been fulfilled against EPCG licence No.P/CG/2144511 dated 28.12.99. The Committee decided to allow condonation of blockwise EO fulfillment against EPCG licence No.P/CG/2144511 dated 28.12.1999 subject to the condition that no request for refixation of EO shall be considered.

Case No.6	M/s. Adlabs Films Ltd. Mumbai
6/AM07 dated.10.10.06	F.No.01/36/218/17/AM07/EPCG-I

The Committee considered the case as per agenda note. The firm has requested for approval of nexus between capital goods imported and the export product(s) against EPCG licence No.083001406 dated 12.7.2006. The Committee noted that as per the views of Ministry of I & B conveyed vide their letter No.803/14/2006-FM dated 22.09.2006, the CG imported are related to setting up of radio station. However, since the EPCG licence has been obtained by the firm in July, 2006, and the value of the licence is less than Rs 50 Cr, the Committee decided that the nexus may be decided by the concerned RLA, as per the established procedure and rules within limited financial powers. In case they want to seek some clarification, the request may be sent to the HQ by RLA indicating the specific issue where clarification is required.

Case No.7	M/s.Adlabs Films Ltd.,Mumbai
6/AM07 dated.10.10.06	F.No.01/36/218/14/AM07/EPCG-I

The Committee considered the case as per agenda note. The Committee noted that the capital goods sought for import is in the Restricted category of items with Code 85251010 of ITC(HS) Classification of Export and Import items. The Committee decided that the firm might apply and obtain import licence from the Import Licensing Section. Since the licence value is within the financial powers of RLA, they may decide upon the matter, and refer to Hqrs if any specific clarification or point of issue is involved.

Case No.8	M/s.JSW Steel Ltd, Mumbai
6/AM07 dated.10.10.06	F. No.18/49/AM07/EPCG-II

The Committee considered the case as per agenda note. The firm has requested for grant of fresh EPCG licence for export of various products i.e. Granulated Slag,Iron Ore Pellets, Non alloy Steel Slabs , Hot rolled Non alloyed Steel Coils/Plates/Sheets Cold Rolled Non alloy Steel sheet/Plates/Coils Cold rolled Non alloy galvanized Steel sheet/ Coils (corrugated/plain) and Cold rolled Non alloy galvanized Colour Coated Steel sheet/ coils. The import items include equipments for cold Compact Mills, Skin pass Mills, Batch annealing Furnaces & Motor and Drives along with (Commissioning and operating spares for cold rolling mills complex). The Committee allowed nexus keeping in view the comments received from Ministry of Steel vide their letter No. 13/8/2006-IDW dt. 13.9.2006, which recommended nexus between proposed items of import & export, and granted in principle approval for issue of fresh EPCG license to the firm. RLA concerned shall, however look into other aspects like fixation of Average E.O, and eligibility of the firm for license under project imports in terms of provisions of Foreign Trade Policy /HBP, before issuance of license.

Case No. 9	M/s Alchemist Ltd, CHD
6/AM07 dated.10.10.06	F.No. 18/01/AM.07/EPCG.II

The Committee considered the case as per agenda note. The firm has requested for condonation of blockwise E.O. fulfillment and condone for late installation of imported machinery against the EPCG license No. (1) 0132974 dt. 25.05.01 (2) 0132966 dt 10.10.2000 (3) 0132963 dt. 24.08.2000. The Committee noted that the firm gave reasons for failure to do export in 2nd & 3rd block and also for late installation of CG. The Committee decided to allow condonation of blockwise E.O fulfillment in respect of 2nd and 3rd blocks so that the same may be fulfilled in 4th block period. Committee also gave permission for late installation of machinery imported against the above mentioned licences. However no refixation of EO will be considered.

Case No. 10	M/s Arthanari Loom Centre, Coimbatore
6/AM07 dated.10.10.06	18/16/AM07/EPCG-II

The Committee considered the case as per agenda note. The firm has requested for conversion of EPCG licence No. 2124446 dtd 20.10.99 from zero duty to 10% duty scheme. The initial validity of EO period under zero duty scheme was six years. The committee noted that the request for conversion was received from the firm after the EO period was over, against the subject EPCG license. Accordingly, the Committee decided not to agree to the request of the firm for conversion from zero duty to ten percent duty EPCG scheme. Representative of DOR suggested that matter may be under adjudication. Hence, It was decided to confirm from the Deptt. of Revenue if adjudication orders have been issued by the customs authorities to the firm.

Case No. 11	M/S Eesha Tools Ltd, Mumbai
6/AM07 dated.10.10.06	18/30/AM06/EPCG-II

The Committee considered the case as per agenda note .The import item is CNC machine and the export item is Plastic Injection Mould. The committee noted that the request was to treat the group company exports as third party exports and to condone the procedural lapse of not mentioning EPCG licence No., date and name of the licencee on shipping bills. The committee also took note of the Central Excise letter dated 09.01.2006, where in it was certified that the major machining work was done by the licencee and exports were done by M/s Comec, by using the machines brought under EPCG scheme. The letter of the Central Excise is non conclusive and representative of DOR agreed that such general letter from the DS level are exceptional. Hence it require examination & comments at the higher level for confirmation of facts in specific & conclusive manner.

Case No. 12	M/s R.D. Dyechem PVt. Ltd
6/AM07 dated.10.10.06	F.No. 18/94/AM06/EPCG-II

The Committee considered the case as per agenda note. The firm has requested (i) to count the exports from the date of import/installation of final machine, (ii) to condone the blockwise EO fulfillment, and (iii) to accept value added production toward fulfillment of E.O against EPCG licence No. 0230000009 dt 31.01.2000. The items imported by the firm were High Temperature Rapid Dyeing Machine and Compacting Machine and the export products were " Cotton Textiles". Value added product sought for inclusion was "Ready made garments". The Committee decided to allow condonation of E.O shortfall in the first two blocks and to allow fulfillment of the E.O in the last block of the E.O period for regularization of case. Committee also agreed to allow export of “Cotton Ready made garment” with 50% value addition for regularization of export, in view of the fact that the firm was holding industrial licence for manufacturing facilities for ready-made garments. It was decided not to agree to count the E.O period from the date of import/installation of CG.

Case.13	M/s Great India Health Care Management Ltd,
6/AM07 dated.10.10.06	F No.18/85/ AM06/EPCG-II

The Committee considered the case as per agenda note. The firm has requested for import of laboratory furniture & Vinyl flooring. The Committee noted that the DoR Circular permits import of consumer items to such service providers who actually requires these consumable items. After elaborate deliberations, the committee decided to allow the firm import of laboratory furniture against the licence to be issued by the RLA concerned. Vinyl flooring was not allowed to be included by the Committee.

Case No. 14	M/s Vinod Srivastava, Jabalpur
6/AM07 dated.10.10.06	F.No. 18/103/AM06/EPCG-II

The Committee considered the case as per agenda note. The firm has requested to waive the E.O imposed on the licence, in view of the fact that the imported CG was destroyed in an accident.The Committee decided to reject the request since there is no provision under the FTP/HBP to support waiver of E.O. and licencee may be advised to pay duty and interest to regularize the case.

Case No. 15	M/s Stallion Garments, Tirupur
6/AM07 dated.10.10.06	F.o.18/37/AM07/EPCG-II

The Committee considered the case as per agenda note. The firm has requested for condonation of blockwise EO fulfillment in respect of the 1st and 2nd block years, in view of the fact that they completed E.O in the final block against EPCG licence No. 2135178 dtd 29.7.99. The Committee decided to allow condonation of blockwise E.O. for regularization purpose since the firm has completed total exports within E.O period .

Case No. 16	M/s. Ford India Ltd,
6/AM07 dated:10.10.06	F.No. 01/36/22/38/AM98/EPCG-II

The Committee considered the case as per agenda note. It noted that Central Excise authorities have requested to review the decision of extending the EO period from 8 years to 12 years in licence No. 01500681 dtd 16.12.97, on the ground that the Policy provision of 12 years E.O period in case of CIF value of Rs. 100 crores or more came in to effect at a later date, and also that the firm has misdeclared about export activities. Committee observed that provision of EO period of 12 years in licences with a CIF value of Rs. 100 crores or more came with effect from Policy of 1.4.2002. However, Customs vide notification No. 49/2002-customs dated 24.4.02 have, made amendments in their Notification No.111/95 dtd 5.6.95 (0 duty EPCG license); 29/97-Cus 1.4.97 (0 duty EPCG licences); and 49/2000 dated 27.4.2000. If the intention was to issue corresponding custom notification in line with policy of 1.4.02, there was no need to amend notification governing 0 duty EPCG licence because in policy of 1.4.2002, the provision was for 5% duty EPCG license only. The Committee decided to refer the matter to DGFT policy division for their opinion on applicability of notification No.49 dated.24.4.2002 in licenses issued under 0 duty EPCG scheme.

Case No. 17	M/s. Ford India Ltd,
6/AM07 dated 10.10.06	F.No. 01/36/22/19/AM99/EPCG-II

Committee considered the case as per agenda note. It was noted by the Committee that the firm's request was to allow export of vendor-sourced components towards fulfillment of EO against EPCG licenses. Policy Division of DGFT has also clarified that vendors sourced components do not qualify for EO fulfillment. It also noted that Central Excise authorities are carrying out investigations and are proceeding against the firm. The Committee decided not to agree to firm's request, as there is no merit in their request.

Case No. 18	M/s. Shree. Rayalseema Alkalies and Allied Chemical Ltd,
6/AM07 dated.10.10.06	F. No18/563/AM04/EPCG-II EPCG Lic.No.2108667 dated 22.07.99

The Committee considered the case as per agenda note. It was noted by the Committee that the firm had requested to delete the average EO since it was imposed on the basis of exports made against previous EPCG licence No.01500428 dated. 16.5.96 which was not redeemed. The request was made by the firm in terms of para 5.7.4 of HBP. Committee noted that the policy of the licensing year 1999-2000 also contained provision for exclusion of export made against non-redeemed licences for average E.O purpose. The issue also came up before Grievance Committee, which noted that EPCG Committee would consider the request in its meeting. The

Committee decided that average E.O may be calculated as per the relevant policy provisions of 1999-2000, by excluding export of non-redeemed EPCG licence for the purpose of imposing average E.O.

Case No.19	M/s.Autobhan Motor Products (P) Ltd
6/AM07 dated.10.10.06	F.No.18/19/AM07/EPCG-II

The Committee considered the case as per agenda note. The firm has requested for 2 years extension in EO period under para 5.11 of HBP against EPCG licence No. 0430000221 dtd 1.11.2000 and 0430000199 dtd 1.10.2000 where EO validity period is up to 2008. The Committee noted that Grievance Committee has recommended the case to EPCG Committee for grant of extension in E.O period for two years.

The Committee noted the facts that there was no export performance by the firm in 5 years from 2000 to 2005, and the water deluge quoted by them as reason occurred in only 2005. The Committee decided that there is no merit in the case for considering any extension at this stage as original E.O period expires only in 2008. However Committee decided to allow condonation of blockwise E.O against the above licences. The firm may be advised to continue exports in the valid E.O period. Convener GC may be informed about the decision.

Case No.20	M/s Quality Cine Labs Pvt Ltd, Mumbai
6/AM07 dated.10.10.06	F.No. 18/37/AM07/EPCG-II

The Committee considered the case as per the agenda note. It was noted that Zonal Joint DGFT imposed the condition of 2% composition fee or 10% enhancement in E.O while considering the firm request for condonation of blockwise E.O (carry forward of blockwise E.O to the next block). The Committee decided to inform the RLA that the above provision of 5.11 of HBP are applicable while granting extension in E.O period beyond original E.O period and these provisions need not be applied while considering condonation of block wise E.O.

Case No.21	M/s.Kalyan Silks, Trichur
6/AM07 dated.10.10.06	F. No.20/008/2006-07/EPCG-III

The Committee considered the case as per agenda note. It was noted by the Committee that EPCG licence was issued on 8.12.2005. The firm approached for invalidation of licence for import after the domestic supplier had dispatched the goods. The reason quoted by them was that they were unaware of the dispatch of goods by suppliers on 8.12.2005. RLA could not consider the request of invalidation against EPCG licence No. 1030000723 dated 8.12.2005 because actual dispatch of machine was made on 8.12.2005, i.e date of issue of licence. The Committee decided that matter may be referred to PRC for relaxation of the policy provisions on issuing invalidation letter, in the present case.

Case N0.22	M/s Shree. Rayalseema Alkalies and Allied Chemical Ltd, F.NO. 01/36/22/074/AM96
06/AM07 dated.10.10.06	Licence No.01500428 dt. 16.5.2004.

The Committee considered the case as per agenda note. The firm had requested for refixation of balance EO on the basis of 2 times duty saved amount as per para 5.19(d) of HBP. Paragraph 5.19(d) of current Hand Book of Procedures provides refixation of EO at two times duty saved amount basis, if the application is made within original E.O. period; remaining original EO Period is less than two years on the date of application for refixation and the mandated block wise EO as been fulfilled. In the present case the application for refixation of EO on two times duty saved basis was made on 11.12.2004 where as the original EO period has already expired on 15.5.2004. The Committee accordingly decided to reject the firm's request for refixation on two times duty saved basis, as per the conditions of para 5.19(d) are not met.

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