MINUTES OF THE 10th EPCG COMMITTEE MEETING HELD UNDER THE CHAIRMANSHIP OF SHRI SATYAN SHARDA, ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE AT 11.00 A.M. ON 13.02.2019

Following officers attended the meeting**:**

1. Shri Rajbir Sharma, Joint Director General of Foreign Trade, DGFT
2. Shri Randheep Thakur, Deputy Director General of Foreign Trade, DGFT
3. Shri Vaibhav Bhatnagar, OSD, Department of Revenue

II. Minutes of the last Meeting held on 24.01.2019 were confirmed.

III. The Committee deliberated upon all the cases and following decisions were taken:

Sl. No.	**Firm's Name and Numbers**	**EPCG Authorisation No.**	**Subject**	**Decision of the EPCG Committee**
1.	M/s. AGL Polyfil Pvt. Ltd, Howrah, West Bengal 01/36/218/146/ AM-19/EPCG-I	i. 0230008630 dated 19.02.2013 ii. 0230008443 dated 22.11.2012	Request for extension of block-wise EOP.	The Committee took into account submission of the party that due to clerical mistake, they could not take advantage of the provisions of Public Notice No.35/2015-20 dated 25.10.2017 to get extension of block-wise EOP. The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to **allow** extension of block-wise EOP, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on the duty saved amount in proportion to the shortfall at the end of first block in terms of the provisions of Para 5.8.3 of HBP 2009-14, and further subject to payment of composition fee of Rs. 5000/- against each authorisation for delay in applying. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs

				and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
2.	M/s. Annamalai Agencies (P) Ltd, Tamil Nadu 01/36/218/193/ AM-19/EPCG-I	3530005033 dated 16.10.2012	Request for extension of EOP for 2 years.	The Committee took into account submission of the party that they could not fulfil EO in stipulated time due to instability in the export market and the foreign buyers had cancelled their orders. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to **allow** extension in EOP for 2 years on payment of composition fees equal to 2% of proportionate duty saved amount on unfulfilled EO or an enhancement in EO imposed to the extent of 10% of total EO at the choice of the exporter, for each year of extension sought in terms of provisions contained in Para 5.11 of HBP 2009-14. This shall subject to payment of composition fee of Rs. 5000/- against authorisation for delay in applying. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
3.	M/s. Chhaya Industries Pvt Ltd., Sholapur 01/36/218/170/ AM-19/EPCG-I	3130007520 dated 16.08.2013	Request for 1st block wise extension in EO.	The Committee noted that the party has fulfilled 95.49% EO in second block of EOP and the EOP of the subject EPCG authorisation is still valid.

				The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to **allow** extension of block-wise EOP, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of 2 % composition fee on the duty saved amount for each year of extension sought in proportion to the shortfall at the end of first block in terms of the provisions of Para 5.8.3 of HBP 2009-14, subject to payment of composition fee of Rs. 5000/- against the authorisation for delay in applying. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
4.	M/s. Emson Gears Ltd, Ludhiana 01/36/218/181/ AM-19/EPCG-I	3030009709 dated 13.06.2012	Request for extension of EOP.	The Committee noted that the party has fulfilled 87% EO in the second block of EOP and seeks extension in EOP to fulfil remaining EO in the extended EOP. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to **allow** extension of EOP for 2 years on payment of composition fees equal to 2% of proportionate duty saved amount on unfulfilled EO or an enhancement in EO imposed to the extent of 10% of total EO at the choice of the exporter, for each year of extension sought in terms of provisions contained in Para 5.11 of HBP 2009-14 and further subject to payment of composition fee

				of Rs. 5000/- against authorisation for delay in applying. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
5.	M/s. Jiwan Polycot, Haridwar 01/36/218/164/ AM-15/EPCG-I	0530141250 dated 08.06.2006	Extension of one year beyond first and second extension of two years each granted and waiver of applicable interest on duty saved amount.	The Committee noted that the party has not fulfilled EO in spite of obtaining block wise extension in EOP and extension in EOP for two years in its meeting held on 22.01.2015 and also second extension of two years in its meeting held on 19.12.2016. The party has now sought extension in EOP beyond first and second extension in EOP already granted to fulfil EO. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
6.	M/s. Shree Khatuwal Industries, Kota (Raj.) 01/37/218/156/ AM-19/EPCG-II	1330002612 dated 03.06.2010	Request for extension of block-wise EOP.	The Committee noted that the party has claimed to have fulfilled their entire EO in the second block of EOP and paid composition fee for unfulfilled portion of EO. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to **allow** extension of block-wise EOP, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on the duty saved amount in proportion to the shortfall at the end of first block in terms of the provisions of Para 5.8.3 of HBP 2009-14.

				This shall be subject to payment of composition fee of Rs. 5000/- against authorisation for delay in applying. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
7.	M/s. Soccer International (Pvt) Ltd., Jalandhar 01/37/218/146/ AM-19/EPCG-II	i.3030015812 dated 20.07.2016 ii.3030015462 dated 21.04.2016	Request for condonation of delay in installation of Capital Goods.	The Committee noted that the EOP of subject EPCG authorisation is still valid. The installation of capital goods has been done within stipulated time but the installation certificate has been submitted to the concerned RA beyond 18 months time. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to **allow** condonation of delay in submission of installation certificate, subject to payment of Rs. 5000/- as composition fee against the authorisation. **This has the approval of DG.**
8.	M/s. Tex Bond Nonwovens, Puducherry 01/37/218/88/AM-19/EPCG-II	0430012699 dated 08.07.2013	Request to consider exports under Post Export EPCG Scheme.	The Committee noted that the request of the party is for consideration of exports made under Post Export EPCG Scheme which is not transmitted online to Customs EDI system. As per para 5.22 (a) of HBP (RE: 2013)/2009-14, an exporter has to file an application in ANF 5A with the concerned RA, selecting an option for this Scheme. The Customs Circular No. 10/2013 dated 06.03.2013 stipulates registration of authorisation (for importing capital goods) at the port of registration which the party states that they could not do as the Post Export EPCG Scrip is not online

				authorisation. The representative of the party presented their case before the Committee. The Committee observed that at present there is no provision for online transmission of Post Export EPCG Scrips to Customs EDI system and the party should have registered the Post Export EPCG Scrips manually. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
9.	M/s. Thermosol Glass Pvt Ltd 01/37/218/129/ AM-19/EPCG-II	i.0830004636 dated 19.01.2012 ii.0830004541 dated 30.11.2011 iii.0830004980 dated 25.07.2012	Request for block wise EO extension and extension in EOP.	The Committee noted that the party has not fulfilled any EO in the stipulated EOP and also not submitted the installation certificate to the concerned RA. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request for block wise EO extension and extension in EOP.
10.	M/s. Uniglobe Packaging Pvt Ltd, Mumbai 01/37/218/319/ AM-17/EPCG-II	0330018156 dated 20.11.2007	Request for waiver of EO on account of loss of machinery imported under EPCG Scheme or to consider exports of their Group company M/s. Amcor Flexibles India Pvt Ltd, towards 100% fulfilment of EO.	The Committee observed that the case is being placed for the fourth time before the EPCG Committee. In the meeting held on 29.11.2018, the Committee deliberated upon the case and decided to defer it to call the party for PH. The party earlier did not appear for PH in the meeting held on 03.01.2019 & 24.01.2019 and, therefore, it was decided to defer the case again and give one last chance to the party to appear for PH in the meeting. The representative of the party presented their case before the Committee. The Committee noted that the request of the party is for waiver of Export Obligation on account of loss of

				machinery imported under EPCG Authorization in fire or in the alternative, to consider exports of group company, i.e., Amcor Flexibles India Pvt. Ltd (AFIPL) towards 100 % fulfilment of export obligation which has not been endorsed in the subject EPCG authorisation and hence, the shipping bills in respect of exports made by AFIPL are free shipping bills. The Committee deliberated upon the case and decided to **reject** it as there is no merit for consideration of export of group company prior to endorsement in the EPCG authorisation.
11.	M/s. Uniglobe Packaging Pvt Ltd., Mumbai 01/37/218/318/ AM-17/EPCG-II	i.0330020491 dated 30.06.2008 ii.0330020120 dated 28.05.2008	Request for transfer of the capital goods and export obligation from M/s. Uniglobe Packaging Pvt Ltd to Group Company.	The Committee observed that the case is being placed for the fourth time before the EPCG Committee. In the meeting held on 29.11.2018, the Committee deliberated upon the case and decided to defer it to call the party for PH. The party earlier did not appear for PH in its meeting held on 03.01.2019 & 24.01.2019 and, therefore, it was decided to defer the case and give one last chance to the party to appear for PH in the meeting. The representative of the party presented their case before the Committee. The Committee noted that the request of the party is for waiver of Export Obligation on account of loss of machinery imported under EPCG Authorization in fire or in the alternative, to consider exports of group company, i.e. Amcor Flexibles India Pvt. Ltd (AFIPL) towards 100 % fulfilment of export obligation which has not been endorsed in the subject EPCG authorisation and hence, the shipping bills in respect of exports made by AFIPL are free shipping bills.

				The Committee deliberated upon the case and decided to **reject** it as there is no merit for consideration of export of group company prior to endorsement in EPCG authorisation.
12.	M/s. Jiwan Polycot, Haridwar, Uttarakhand 01/36/218/168/ AM-17/EPCG-I	0530147361 dated 30.09.2008	Request for 2nd Extension of EOP.	The Committee noted that the even after obtaining extension of block-wise EOP extension and extension of EOP for 2 years in its meeting held on 19.12.2016, the party has not made any export in stipulated EOP and also not submitted installation certificate in original to concerned RA. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
13.	M/s. Ashok Leyland Vehicles Limited (Formerly Ashok Leyland Nissan vehicles Limited). 01/36/218/245/ AM-17/EPCG-I	26 EPCG authorisations	(i) Permission for shifting of capital goods in respect of 26 Authorisations to the premises of M/s, Ashok Leland ltd/ M/s. Ashok Leyland Vehicles Ltd; (ii) The earlier installation of the Capital goods covered from Serial No. 18 to 26 may be condone and regularized, however, at this stage all the capital goods covered from Serial No. 1 to 26 may be allowed to be allowed to be shifted to the	The Committee noted that in this matter M/s. Ashok Leyland Nissan Vehicles Limited, a joint venture between M/s. Ashok Leyland Limited and M/s. Nissan Motors Co. Limited, had obtained fifty one (51) EPCG Authorisations to manufacture and export passenger vehicles. In respect of these 51 Authorisations, DRI had started the investigation and issued a Show Cause Notice F.No. DRI/CZU/VIII/26/32/2016-DRI and DRI/CZU/VIII/48/ENQ-1/INT-12/2016 dated 15.09.2016 to the party alleging the following violations: (a) Failure to achieve the minimum 50% export obligation in respect of 23 Authorisations and thus liable to pay proportionate customs duty with interest; (b) Diversion of capital goods to unauthorised premises imported under nine authorisations, including six out of the 23 mentioned at (a) above, and

			premises as mentioned above; (iii). That extension in EOP for 2 years may be granted for all the 26 Authorisations for fulfilment of EO.	(c) Non-availability of some of the capital goods imported under 5 authorisations as they appeared to have been destroyed/consumed in wear and hence not available at the installed location. The DRI accordingly issued SCN to the party as to why they should not pay duty with interest and why other penal action shall not be taken against the party. 2. The Committee observed that the case was first deferred in its meeting held on 06.12.2017 for calling report from DoR. The case was again placed in EPCG Committee meeting held on 18.02.2018 wherein the Committee decided to reject the request as the request was premature in view of the adjudication proceedings by the Customs. Subsequently, the party vide letter dated 19.05.2018 and 25.06.2018 requested for review of the decision taken in the EPCG Committee meeting. The request was taken up in its meeting held on 03.01.2019 and the Committee noted that comments of DoR were received vide their OM No. 607/13/2017-DBK dated 26.11.2018 which are given below: “2. The matter has been examined. Complete and detailed facts of the case are enumerated in the Show Cause Notice dated 15.09.2016 issued by DRI, Chennai Zonal Unit (CZU). Further, copy of DRI, CZU's letter dated 02.11.2017, reporting facts of the case and suggesting denial of request of the party during EPCG Committee meeting was made available to DGFT vide this Department's OM of even No. dated 08.01.2018. 3. It is noticed that in their representations dated 19.05.2018 and

				25.06.2018, the party has reiterated their earlier submissions and repeatedly emphasized on the problems faced by them in their joint venture with M/s Nissan Motors. They have reiterated their commitment to fulfil the export obligation. This Department has no comments to offer on this as the DoR comments in the case are already on record as conveyed earlier. DGFT may like to decide the matter in view of the facts of this case and statutory provisions of Foreign Trade Policy and Hand Book of Procedures." 3. The request was deferred to examine it further in view of the facts of this case and statutory provisions of Foreign Trade Policy. 4. In this regard, the Committee noted that earlier the party vide letter dated 22.05.2017 had requested for the following :- (a) Extension of EOP against 28 EPCG authorizations; (b) Condonation of delay in submission of installation certificates in respect of 51 EPCG authorizations; (c) Acceptance of installation certificate from Chartered Engineer instead of Central Excise Authorities in respect of 42 EPCG authorizations; (d) Regularization of shifting of capital goods to the premises of the sister concern/ sub-contractor of the supporting manufacturer and (e) Change of name in all 51 EPCG Authorizations from M/s. Ashok Leyland Nissan Vehicles Limited to M/s. Ashok Leyland Vehicles Ltd.

				Now the party, vide its letter dated 14.12.2018, has requested for: (i) Permission for shifting of Capital Goods in respect of 26 Authorizations covered by Sl. No. 6 to 28 and Sl. Nos. 32 to 34 of the Show Cause Notice dated 15.09.2016) to the premises of M/s. Ashok Leyland Ltd/M/s. Ashok Leyland Vehicles Ltd; (ii) Condonation and regularization of the earlier installation of the Capital Goods covered under 9 authorisations covered by Sl. Nos. 18, 22, 24, 25, 26, 27, 32, 33 and 34 of the said Show Cause Notice dated 15.09.2016). (iii) To allow shifting of all the capital goods covered under the above mentioned 26 authorisations to the premises of M/s. Ashok Leyland Ltd/M/s. Ashok Leyland Vehicles Ltd; and (iv) Extension in EOP for 2 years may be granted for all the 26 Authorizations for fulfilment of EO. 5. The representative of the party appeared for personal hearing before the Committee and explained the case. He also informed that since NCLT vide its order dated 17.12.2018 has approved the amalgamation of M/s. Ashok Leyland Ltd and M/s. Ashok Leyland Vehicles Ltd. 6. The Committee has examined the contents of the SCN dated 15.09.2016 mentioned above issued by the DRI; the comments of the DoR on the matter

				offered in its above mentioned OM dated 26.11.2018 and the requests of the party made vide representation dated 14.12.2018 and observed the following: (i) The party has requested for extension in EOP for 2 years for the 26 Authorizations for fulfilment of EO covered by Sl. Nos. from 6 to 28 and from Sl. Nos. 32 to 34 in the Table-I of the said Show Cause Notice dated 15.09.2016. (ii) The party in its representation dated 14.12.2018 has mentioned that the capital goods imported under 17 authorisations covered by Sl. Nos. 6 to 17; Sl. Nos. 19 to 21 and Sl. Nos. 23 and 28 in the Table-I of the said Show Cause Notice dated 15.09.2016 have been installed at the location as approved in the EPCG Authorisations. (iii) As per the DRI's said SCN dated 15.09.2016, in respect of 23 authorisations covered by Sl. Nos. 6 to 28 in the Table-I of the SCN, minimum 50% of the EO that was to be fulfilled in the first block has not been fulfilled; in respect of six authorisations out of these 23 authorisations covered by Sl. Nos. 18, 22, 24, 25, 26 and 27 in the Table-I of the SCN dated 15.09.2016, the capital goods were found to have been diverted to an unauthorised location and in respect of five authorisations covered under Sl. Nos. 2, 3, 6, 7 and 8 in the Table-I of the SCN dated 15.09.2016, imported goods are not available due to wear and tear etc. 7. In view of the above mentioned observations at 5 (i), (ii) and (iii), the Committee noted that the only cause of action taken by the DRI against the

				party in respect of 14 authorisations covered by Sl. Nos. 9 to 17; Sl. Nos. 19 to 21 and Sl. Nos. 23 and 28 in the Table-I of the Show Cause Notice dated 15.09.2016 is that the party has not been able to fulfil the minimum 50% of the EO that was to be fulfilled in the first block and that in respect of these 14 authorisations the imported capital goods have been installed at the location as endorsed on the EPCG Authorisations. Therefore, the Committee was of the view that there should not be a problem in granting the extension in EOP as per the provisions of the FTP in these 14 authorisations provided these cases have not been adjudicated upon by the concerned customs authority. 8. In view of the above, the Committee after deliberations was of the opinion that as far as 14 EPCG authorisations bearing numbers 0430010495 dated 15.11.2011; 0430010607 dated 13.12.2011; 0430010683 dated 03.01.2012; 0430010755 dated 17.01.2012; 0430010806 dated 03.02.2012; 0430010837 dated 09.02.2012; 0430010851 dated 14.02.2012; 0430010916 dated 02.03.2012; 0430010917 dated 02.03.2012; 0430010919 dated 02.03.2012; 0430010928 dated 06.03.2012; 0430010929 dated 06.03.2012; 0430010932 dated 07.03.2012 and 0430010990 dated 19.03.2012 where the goods were installed at the premises duly endorsed on the authorisations and the request is for only extension of the export obligation period to fulfil the export obligation, there is merit in the request of the party to allow them such extension. On the other requests, the Committee decided not to take any

				decision at this stage as the authorisations involved issues other than the extension in export obligation period also. 9. The Committee, therefore, decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow: (a) extension of block-wise EOP in respect of fourteen EPCG authorisations mentioned above subject to payment of 2% composition fee on the duty saved amount in proportion to the shortfall at the end of first block in terms of the provisions of Para 5.8.3 of HBP 2009-14. (b) extension of EOP for two years in respect of fourteen EPCG authorisations mentioned above on payment of composition fee equal to 2% of proportionate duty saved amount on the unfulfilled export obligation for each year of extension sought in terms of provisions contained in Para 5.11 of HBP 2009-14. (c) This shall be subject to payment of composition fee of Rs. 5000/- against each authorisation for delay in applying. Further, RA to verify that these authorisations have not been adjudicated upon by the concerned customs authority and the party has submitted the installation certificate from jurisdictional Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
14.	M/s. Alliance Formulation Solan (H.P.)	i.2230001057 dated 12.12.2008	Review of the decision of EPCG	The Committee observed that the case was first taken up in its meeting held on 20.02.2018 wherein it was decided to

	01/36/218/115/ AM-18/EPCG-I	ii.2230001136 dated 11.05.2009	Committee- condonation of procedural lapse of mentioning wrong EPCG authorization number in shipping bills.	reject it with the direction that RA may consider the request for clubbing purpose as per policy/provisions. Subsequently, the party vide letter dated 20.09.2018 requested for review of the decision taken in EPCG Committee meeting held on 20.02.2018 and submitted that they applied for clubbing at RA Chandigarh office on16.01.2017 which was delayed only by 36 days after expiry of EPCG authorization No. 2230001057 dated 12.12.2008. They were not fully aware of all rules and conditions required to fulfil EPCG obligations and this error occurred only because of unawareness and this is not done intentionally. The request was taken up in its meeting held on 29.11.2018 and it was decided to defer it with the direction to call report from RA, which is now available. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow condonation of procedural lapse of delay in applying for clubbing of EPCG authorisations subject to fulfilment of other conditions of clubbing provisions. **This has the approval of DG.**
15.	M/s. Toray Kusumgar Advanced Textiles Pvt Ltd, Gujarat 01/37/218/63/AM-19/EPCG-II	i.5230017412 dated 09.07.2015 ii. 5230017378 dated 07.07.2015, iii.5230020338 dated 12.04.2016 iv.5230017377 dated 07.07.2015 v.5230017379 dated	Request for redemption in respect of 11 EPCG authorizations- regarding.	The Committee noted that the party has requested for counting of excess exports against one EPCG authorisation towards other EPCG authorisations. The Committee deliberated upon the case and decided to **remand the case back to RA**. RA to examine the request as per the policy/provision.

		07.07.2015 vi.5230017380 dated 07.07.2015 vii.5230018043 dated 07.07.2015, viii.5230017082 dated 15.06.2015 ix.5230017763 dated 06.08.2015 x.5230017376 dated 07.07.2015 xi.5230017059 dated 12.04.2015		
16.	M/s. Agrim Creations., Ludhiana 01/36/218/197/ AM-19/EPCG-I	3030014930 dated 30.11.2015	Request for condonation of delay in submission of installation certificate.	The Committee noted that the EOP of subject EPCG authorisation is still valid. The installation of capital goods has been done within stipulated time but the installation certificate has been submitted to the concerned RA beyond 18 months time. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow condonation of delay in submission of installation certificate, subject to payment of Rs. 5000/- as composition fee against the authorisation. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation. **This has the approval of DG.**
17.	M/s. VVF Limited, Mumbai 01/37/218/267/ AM-16/EPCG-II	0000114101 dated 08.09.1999 & 18 others	Request for condonation of various procedural deficiencies as per summary of RA letters for 19 EPCG	The Committee noted that the party has requested for condonation of procedural lapses of several types because of various reasons and has sought relaxation in procedure. The party has submitted request for redemption of their 19 EPCG authorizations to the office of RA, Mumbai in 2014 – 2015.

			authorizations at Appendix 5(Page 6) with brief summary of issues at Appendix-6 (pages 7-10) and authorization-wise details of issues/requests for 19 EPCG authorizations at Appendices – 10A (1) to 10A(19) and Appendix 10B (Pages 31 to 142) pf the enclosed booklet with letter dated 28.04.2017 of the firm.	RA, Mumbai, has raised several queries regarding procedural lapses. The Committee deliberated upon the case and decided to **defer** it for further examination on file.
18.	M/s. S.S.D. Oil Mills Company Limited, Chennai 01/37/218/303/ AM-18/EPCG-II	0430000746 dated 12.09.2002	Reckoning of alternate products for fulfilment of E.O.	The Committee noted that in W.P. Nos. 21208 & 21209 of 2017 filed by the Party, the Hon’ble High Court of Judicature at Madras has passed an order dated 24.10.2018 that the DGFT has to consider the matter once again afresh after giving an opportunity of hearing to the Petitioner. The background of the case is as under: i. The Petitioner company was granted an EPCG Authorization No. 0430000746 dated 12.09.2002 for export of Vanaspathi and Margarine. Later on the company had requested the DGFT for inclusion of Cotton Seed Hulls and Cotton Seed Linters as alternate export products for fulfilment of the Export Obligation on the ground that due to intense competition it was difficult to export Vanaspathi and Margarine. This request was not allowed as there was no provision for

				EO fulfilment by export of alternate products on the date of issuance of authorisation, i.e., 12.09.2002. ii. The Petitioner Company submitted that the export of edible oil was banned through Notification No. 85 (RE-2007)/2G04-2009 dated 17th March 2008 which was extended till 30.09.2010 vide Notification No. 04/ 2009-14- dated 04.09.2009. Therefore, they were unable to export the same and the export was Nil during the year 2008-09. It was reckoned that export of alternate products was inadmissible as the EPCG Authorization had been issued in September 2002, whereas the amended Para 5.4(l) of FTP was applicable for EPCG Authorizations issued after the change was notified in January, 2004. iii. Aggrieved by the decision, the Petitioner Company filed a WP No.384 of 2017 in High Court of Madras and as per the order of the High Court dated 06.01.2017 ECPG Committee in its meeting held on 29.03.2017 considered the case and called the representative of the Petitioner for personal hearing. The request was rejected on the following grounds that a) The ban imposed vide Notification No.85 (RE-2007) 2004-2009 dated 17.03.2008 was partial and some categories of vegetable oils were allowed for export subject to certain conditions including to 100% EOU and SEZ units. In partial modification of Notification No. 85 (RE-2007)/2004-09 dated 17.03.2008, vide Notification No. 60(RE-2008)/2004-9 dated 20.11.2008, the export of edible oils was permitted in branded consumer packs of up to 5 kgs, subject to a limit of 10,000 tons up

				to 31.10.2009. Further vide Notification No. 04/2009-2014 dated 04.09.2009, the applicability of Notification No.85(RE-2007)/2004-2009 dated 17.03.2008 was extended upto 30.09.2010 and it was clarified that the notification shall not be applicable to the extension granted by Notification No.33(RE-2008)/2004-09 of 19.08.2008 and Notification No.60(RE-2008)/2004-09 dated 20.11.2008. The party therefore, had about 5½ years during which there was no restriction as imposed by Notification No. 04/2009-2014 dated 04.09.2009; b) The Export Obligation Period (EOP) of the EPCG authorisation No. 0430000746 was valid for export from 12.09.2002 to 01.09.2010. The party had the option to obtain further extension in EOP for two years from the date of expiry of the EOP in terms of para 5.11 of HBP 2002-07 and also a further EOP extension of another two years which was permitted w.e.f. 01.04.2005 which were not availed; c) The party had obtained the Authorisation in September, 2002 whereas the amended policy provision of EO fulfilment by export of alternate products came into being w.e.f. 28.01.2004 and which is not retrospectively applicable as there is no provision in the Foreign Trade (Development and Regulations) Act, 1992 to amend the Foreign Trade Policy with retrospective effect. Subsequently, the High Court of Judicature at Madras had sent a copy of order dated 06.11.2017 passed by Hon'ble High Court in respect of W.P. No. 21208 to 21209 of 2017 filed by the company.

				Now, the Hon'ble High Court in its order dated 24.10.2018 has ordered that DGFT has to consider the matter once again afresh after giving an opportunity of hearing to the Petitioner and consider the claim of the party and pass order on merit and in accordance with the law applying the relevant provisions. In compliance of the Order dated 24.10.2018, the Petitioner was requested to appear before the Committee for Personal Hearing in its meeting held on 24.01.2019. The Petitioner vide email dated 24.01.2019 intimated its inability to attend the Hearing and requested for appearing in the next meeting. The Committee decided to defer it for the next meeting. The representatives of the firm were granted Personal Hearing by the EPCG Committee in its meeting held on 13.02.2019 in accordance with the order of Hon'ble High Court dated 25.10.2018. The representatives of the firm appeared before the Committee and presented the case. The Committee gave a patient hearing to the authorized representatives of the party. The representatives of the party submitted that: (i) As per para 5.11.3 of HBP 2009-14 whenever a ban or restrictions is imposed on export of any product, the EO would be automatically extended for a period equivalent to the duration of such ban. In the present case as there was a ban of export of edible oil for a period of around 2 ½ years, the EO deemed to have been automatically extended for a period of 2 ½ years from 01.09.2010. Therefore, the application dated 16.06.2012 for

				inclusion of alternate product has been made only during the validity of EOP. (ii) As per Chapter 5 of the EXIM Policy 2002-2007 the EO shall be fulfilled by the export of goods capable of being manufactured or produced by the use of capital goods imported under the scheme. The alternate product which the petitioner seeks to include for fulfilment of EO is cotton linters, which is a by product obtained during the manufacture of Vanaspati and Margarine. Therefore, the alternate product is produced only with the capital goods imported under the scheme and the export of the said product should have been considered for fulfilment of EO by the adjudicating authority itself. The Committee deliberated upon the submissions made by the party and observed that even if the automatic extension in EOP is considered in terms of provision of para 5.11.3 of HBP 2009-14, the party was bound to export the original export product as endorsed on the Authorisation in the automatic extended period and the addition of alternate product for export in the automatic extended period can still not be considered as the party had obtained the Authorisation in September, 2002 whereas the amended policy provision of EO fulfilment by export of alternate products came into being w.e.f. 28.01.2004. The Committee, therefore, decided to **reject** the request to consider export of alternate products. The Committee also decided that if any export of the original export product has been made by the party in the EOP by fulfilling the terms and conditions

				of the Authorisation, that may be considered by the RA.
19.	M/s. House of Trims Pvt Ltd, Delhi 01/36/218/299/ AM-18/EPCG-I	0530145576 dated 08.02.2008	Request for permission of EODC through Group Company.	The Committee noted that the request of M/s House of Trims Pvt Ltd is for treating their partnership firm M/s Trend Setters International as a 'group company' under the provision of para 9.28 of FTP 2004-09 and counting of exports made by this partnership firm. The Committee further noted the claim made by the party is that in the absence of definition of "enterprises' in FTP 2004-09, the meaning of the partnership firm should be considered as a Group company. The Committee observed that as per para 9.28 of FTP 2004-09, a "Group Company" means two or more enterprises which, directly or indirectly, are in a position to — (i) exercise twenty-six per cent, or more of voting rights in other enterprise; or (ii) appoint more than fifty percent, of members of board of directors in the other enterprise. The Committee noted that the argument of M/s House of Trims Pvt Ltd that as long as the individual partners hold share in the company, they would satisfy the requirement of Para 9.28 is not acceptable as the word "group company", on a plain reading, means another "company", not a partnership firm. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
20.	M/s. L&T Special Steels and Heavy	0330026708 dated 28.07.2010	i. Extension of export obligation	The Committee observed that the earlier request of the party received vide letter dated 27.02.2015 was taken

	Forgings Pvt Ltd, Mumbai 01/36/218/03/AM-16/EPCG-I		period for 9 years from now in terms of para 5.11.1 of FTP 2009-14 without composition fees. ii. Allow 100% export obligation fulfilment through Group Company. -Review of the decision taken in EPCG Committee meeting held on 22.02.2017.	up in the EPCG Committee in its meeting held on 22.02.2017 wherein it was decided to reject the request as the original EPCG authorisation was still valid and there was no provision in FTP for fulfilment of 100% EO through group company in respect of EPCG authorisations issued after 01.04.2008. The case was again taken up in its meeting held on 29.08.2018 wherein the representatives of the party appeared before the EPCG Committee and presented their case. The case was deferred with the direction to seek comments of DoR and the Deemed Export Division in Headquarters. The party was called for PH in the Meeting but the party expressed its inability to attend the PH due to business exigency. The Committee deliberated upon the case and decided to **defer** the matter.
21.	M/s. Case Cold Roll Forming Limited, Gurgaon 01/36/218/115/AM-19/EPCG-I	0530147626 dated 03.11.2008	i. Consideration of deemed exports where EPCG authorization number could not be mentioned on supply invoices to project authority under category 8.2(d) of FTP and, ii. Consideration of similar export products manufactured in their own unit.	The Committee observed that the case was deferred in its meeting held on 03.01.2019 for further examination on file. The Committee noted that whereas the export products as per subject ECPG authorisation is "Guard Rails & Towers", and goods actually exported are Fabrication, Galvanising and supply of various types of towers & tower parts, towering extensions etc. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow condonation of non-mentioning of EPCG authorization number and date on supply invoices to project authority. As per affidavit submitted by the party RA may see that the party has obtained only three EPCG

				authorisations and supply invoices have not been repeated in any other EPCG authorisation(s) for availing / counting any double benefits. RA may also see that the payments from the project authority have been received and the authorisation holder meets all the conditions of para 8.2(d) of FTP. The Committee also imposed a composition fee of Rs. 200/- per invoice. RA may examine the request for fulfilment of export obligation by similar export products "Galvanised Towers and their components" manufactured by their own unit on the basis of nexus certificate. **This has the approval of DG.**
22.	M/s. Indorama Industries Limited, Chandigarh 01/36/218/311/ AM-18/EPCG-I	i.2230001705dated 05.05.2011 ii.2230001715 dated 12.05.2011 iii.2230001829 dated 25.08.2011 iv.2230001833 dated 30.08.2011 v.2230001832 dated 30.08.2011 vi.2230001836 dated 30.08.2011	Request for second extension in EOP.	The request of the party is for second extension in EOP in respect of Zero Duty EPCG Authorisations. The representative of the party appeared for the personal hearing. The Committee took into account the submission of the party that they have completed more than 55% of EO in the stipulated EOP due to decline in the price of their export product in the international market. The Committee noted that the party vide their email dated 17.01.2019 has stated that they have obtained extension in EOP for two years available under the provision in respect of all Zero Duty EPCG authorisations. The Committee deliberated upon the case and decided to **defer** the matter for further examination on file.
23.	M/s. Kamal Fabric, Ludhiana	3030012707 dated 01.07.2014	Request for extension of block-wise EOP.	The Committee noted that the party could not apply to RA within the prescribed time period for block wise extension whereas overall EOP of

	01/36/218/174/ AM-19/EPCG-I			subject EPCG authorisation is valid till 30.06.2020. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP2015-20** to allow extension of block-wise EOP, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on the duty saved amount in proportion to the shortfall at the end of first block in terms of the provisions of Para 5.8.3 of HBP2009-14, and further subject to payment of composition fee of Rs. 5000/- against the authorisation for delay in applying. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation. **This has the approval of DG.**
24.	M/s. Jagdambe Rice & General Mills, Moga 01/36/218/195/ AM-19/EPCG-I	3030006171 dated 12.01.2010	Request for extension of block-wise EOP and extension of EOP for 2 years.	The noted that the party has not fulfilled any EO during the entire EOP of 8 years and also did not approach concerned RA for extension in EOP. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
25.	M/s. Hindustan Agencies, Ludhiana 01/36/218/194/ AM-19/EPCG-I	3030012487 dated 13.05.2014	Request for grant of block-wise EOP extension.	The Committee noted that the EOP of the subject EPCG authorisation is valid till 13.05.2020. The Committee took into account submission of the party that they could not fulfil EO in the first block of EOP due to non availability of export orders. However, now they have export orders in hand and expected to fulfil EO in the second block of EOP. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of**

				FTP 2015-20 to allow extension of block-wise EOP, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on the duty saved amount in proportion to the shortfall in EO at the end of first block in terms of the provisions of Para 5.8.3 of HBP 2009-14, subject to payment of composition fee of Rs. 5000/-against the authorisation. RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
26.	M/s. Pushpak Trademech Ltd, Ahmedabad 01/37/218/148/ AM-19/EPCG-II	0830002777 dated 28.01.2009	Request for condonation of delay in installation of capital goods.	The Committee took into account the submission of the party that installation of capital goods was delayed as the capital goods imported, i.e., Upper Gantry Machining centre is the technically most advanced and bulky. On the receipt of the capital good it was realised by them that the factory area is too small to accommodate the said machinery. Hence, simultaneously they started constructing building exclusively for the imported machinery and then started installation work. Subsequently, the installation certificate was denied by Jurisdictional Central Excise authority as they approached them after two and half years from import. It was finally issued on 10.09.2014. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow condonation of

				delay in installation of capital goods, subject to payment of composition fee of Rs. 2000/-, in addition to Rs. 5000/- already paid along with the application, as composition fee against the authorisation. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation. **This has the approval of DG.**
27.	M/s. J.S. Fabrics, Ludhiana 01/36/218/176/ AM-19/EPCG-I	3030012781 dated 09.07.2014	Request for extension of block-wise EOP.	The Committee noted that the EOP of the subject EPCG authorisation is valid till 09.07.2020. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow extension of block-wise EOP, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on the duty saved amount in proportion to the shortfall in EO at the end of first block in terms of the provisions of Para 5.8.3 of HBP2009-14, subject to payment of composition fee of Rs. 5000/- against the authorisation. RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority(from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
28.	M/s. AP Refinery Pvt Ltd, Ludhiana 01/36/218/198/ AM-19/EPCG-I	3030007619 dated 10.12.2010	Request for extension of block-wise EOP and extension of EOP for 2 years.	The Committee noted that the party has not made any exports even in the 8 years of EOP and did not approach concerned RA to avail benefit of Public Notice No. 35 and 36/2015-20 dated 25.10.2017.

				The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
29.	M/s. Shoshi Carpet, Ludhiana 01/37/218/151/ AM-19/EPCG-II	3030014917 dated 24.11.2015	Request for condonation in delay in submission of installation certificate.	The Committee noted that the EOP of subject EPCG authorisation is still valid. The installation of capital goods has been done within stipulated time but the installation certificate has been submitted to the concerned RA beyond 18 months time. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow condonation of delay in submission of installation certificate, subject to payment of Rs. 5000/- as composition fee against the authorisation. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation. **This has the approval of DG.**
30.	M/s. Nagpal Fabrics, Ludhiana 01/37/218/134/ AM-19/EPCG-II	3030015837 dated 27.07.2016	Request for acceptance of late submission of installation certificate.	The Committee noted that the EOP of subject EPCG authorisation is still valid. The installation of capital goods has been done within stipulated time but the installation certificate has been submitted to the concerned RA beyond 18 months time. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow condonation of delay in submission of installation certificate, subject to payment of Rs. 5000/- as composition fee against the authorisation. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation. **This has the approval of DG.**
31.	M/s. Pure Swabs Pvt Ltd, Delhi	0530159188 dated 03.09.2012	Request for extension of block-wise EO,	The Committee noted that the EOP of subject EPCG authorisation is valid till 03.09.2018.

	01/37/218/158/ AM-19/EPCG-II		extension of EOP and for change in ITC (HS) code of export product.	The Committee took into account submission of the party that they could not approach concerned RA for extension in EOP due to ignorance of provisions. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow (a) extension of block-wise EOP, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on the duty saved amount in proportion to the shortfall in EO at the end of first block in terms of the provisions of Para 5.8.3 of HBP 2009-14, (b) extension of EOP for two years in respect of fourteen EPCG authorisations mentioned above on payment of composition fee equal to 2% of proportionate duty saved amount on the unfulfilled export obligation for each year of extension sought in terms of provisions contained in Para 5.11 of HBP 2009-14. This shall be subject to payment of composition fee of Rs. 5000/-against the authorisation. RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). The Committee also decided that for

				change in ITC (HS) code of export product, the party may approach concerned RA who may examine the request as per the policy provisions applicable and nexus certificate. **This has the approval of DG.**
32.	M/s. Zafir Shoes Pvt Ltd, Tamil Nadu 01/37/218/152/ AM-19/EPCG-I	0430011411 dated 05.07.2012	Request for extension of block-wise EOP.	The Committee noted that the party has claimed to have fulfilled entire EO in the second block of EOP but they could not approach RA for extension of block-wise EOP in time. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow extension of block-wise EOP, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on the duty saved amount in proportion to the shortfall in EO at the end of first block in terms of the provisions of Para 5.8.3 of HBP 2009-14, subject to payment of composition fee of Rs. 5000/-against the authorisation. RA to verify that party, as claimed, has fulfilled entire EO in the second block of EOP. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority. **This has the approval of DG.**
33.	M/s. Paper Mache Stationery, Hyderabad 01/37/218/373/ AM-18/EPCG-	0930003666 dated 27.11.2007	Request for second extension of EOP.	The Committee noted that the party has claimed to have fulfilled 90% EO in the extended EOP, i.e., 26.11.2017 (8+02 years) and remaining 10 % vide four Shipping Bills dated between 11.12.2017 to 28.12.2017. Therefore, the party has sought second extension

	II			in EOP to regularise these 10% exports made after 26.11.2017 and upto 28.12.2017. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow second extension in EOP beyond 2 years up to 28.12.2017 with a condition that 50% of duty payable in proportion to the unfulfilled EO is paid by the authorization holder to custom authorities before endorsement of extension is made on EPCG authorization by RA concerned in terms of provisions contained in Para 5.11 of HBP 2004-09, subject to payment of composition fee of Rs. 5000/-against the authorisation. RA to also verify that the shipping bills covering exports made after the extended EOP, i.e., 26.11.2017 (8+02 years) are upto 28.12.2017, as claimed by the party. RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
34.	M/s. Sterling Graphics Pvt Ltd., New Delhi 01/37/218/252/ AM-17/EPCG-II	0530158151 dated 16.04.2012	Request for extension of block-wise EOP for 1st block period	The Committee noted that the party has claimed to fulfil entire EO in the second block of EOP. CLA, Delhi vide letter dated 30.11.2019 has advised the party to approach DGFT Headquarters for block wise extension in EOP. The Committee deliberated upon the case and decided to **recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow extension of

				block-wise EOP, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of 2% composition fee on the duty saved amount in proportion to the shortfall in EO at the end of first block in terms of the provisions of Para 5.8.3 of HBP 2009-14, subject to payment of composition fee of Rs. 5000/-against the authorisation. RA to verify that party, as claimed, has fulfilled entire EO in the second block of EOP. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation and the party has submitted installation certificate from jurisdictional Customs and Central Excise Authority (from Chartered Engineer in case the party is not registered with Central Excise Authority). **This has the approval of DG.**
35.	M/s. Calcom Cement India , Guwahati 01/36/218/362/ AM-18/EPCG-I	i.0230003797 dated 21.11.2008 ii.0230003760 dated 07.11.2008 iii.0230003875 dated 16.12.2008 iv.0230004073 dated 12.03.2009 v.0230004426 dated 25.08.2009 vi.0230004441 dated 01.09.2009 vii.0230004483 dated 23.09.2009 viii.0230004484 dated 23.09.2009 ix.0230004497 dated 30.09.2009 x.0230004498 dated 30.09.2009 xi.0230004600 dated 10.11.2009 xii.0230004842 dated 19.01.2010 xiii.0230004313	i. Counting of specific EO in terms of provision of para 5.12 of <u>FTP 2009-14</u>. ii. Extension of EOP for 5 years; and iii. Acceptance of exports proceeds in INR from Nepal and Bhutan.	The Committed observed that the case was deferred in its meeting held on 03.01.2019 with the direction to seek further clarification from the party as to what is the import duty structure for this item in the exporting country and India; what is the usual mode of transport and what kind of packaging is used while exporting the product. The Committed decided to **defer** the case so that the submissions of the party could be examined on the file first.

		dated 08.07.2009 xiv.0230005302 dated 25.05.2010 xv.0230005303 dated 25.05.2010		

DGFT = Directorate General of Foreign Trade, DG = Director General, FTP = Foreign Trade Policy, HBP v1 = Handbook of Procedure Vol. I, EO = Export Obligation, EODC = Export Obligation Discharge Certificate, EOP = Export Obligation Period, B.O.E.=Bill of Entry, EPCG = Export Promotion Capital Goods, RA = Regional Authority, BG = Bank Guarantee, FFE = Free Foreign Exchange, IEC = Importer-Exporter Code, DoR = Department of Revenue, IEM = Industrial Entrepreneurs Memorandum, RCMC = Registration-cum-Membership Certificate.