MINUTES OF 1st EPCG COMMITTEE MEETING HELD UNDER THE CHAIRMANSHIP OF SHRI SATYAN SHARDA, ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE AT 11.00 AM ON 24.05.2019.

Following officers attended the meeting**:**

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

II. Minutes of the last Meeting held on 29.03.2019 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 Committee**
1.	M/s. Sri Kumarswamy Mineral Exports, Bangalore 01/37/218/371 /AM-18/EPCG-II	i.0730006486 dated 07.01.2008 ii.0730006499 dated 09.01.2008	Request for condonation of maintenance of annual average and regularization/ closure of 02 EPCG authorizations.	The Committee observed that the case was first placed in its meeting held on 29.11.2019 and it was decided to defer the matter for examination of the issue on file. The Committee noted that the party has stated the following: i. They were regularly exporting "Iron Ore Fines" to China & other countries but due to ban on mining in Karnataka, imposed by the Hon'ble Supreme Court, they were forced to stop all export activities and, therefore, could not maintain Annual Average in respect of the subject EPCG authorisations. ii. Para 5.20 of HBP stipulates that whenever a ban/restriction is imposed on export of any product, export obligation period in respect of EPCG authorisations already issued prior to imposition of ban on such export products would stand automatically extended for a period equivalent to duration of such ban, without any composition fee & authorisation holder would not be required to maintain average E.O. as well for the ban period. iii. Therefore, their AEO be condoned. The Committee observed that there was no general ban on export of iron ore from the country. The Committee took into account

				the report of Department of Mines and Geology, Government of Karnataka, that the Government of Karnataka had initiated several measures to curb the illegal mining and imposed ban on export of iron ore from 10 small ports of Karnataka and subsequently, prohibited issuing mineral despatch permits for Iron ore for the purpose of export. Subsequently, the Hon'ble Supreme Court of India had suspended the mining operations in Bellary and extended the ban to Chitradurga and Tumkur districts. The Committee noted that the matter has already been examined in consultation with DoR pertaining to request of M/s.MSPL Limited, Hospet, Karnataka. In this connection, DoR vide OM dated 24.10.2018 has stated as following: Para 5.11 of HBP 2009-14 provides for automatic extension of export obligation period equivalent to the duration of the ban/restriction imposed on export of any product. In the present case, there appears to be no ban on export of Iron Ore pellets/fines from India except in case of iron ore produced in Karnataka from the mines which were subject matter of SC judgment cited by the petitioner. The Committee deliberated upon the case and decided to **call from the party the details** regarding location of their mines in Karnataka, specific and average EO fulfilled before imposition of the ban.
2.	M/s. Top Gear Garments, Ludhiana 01/60/162/30/AM-20/PRC/EPCG	3030009676 dated 11.06.2012	Condonation for installation certificate issued from Chartered Engineer instead of Central Excise Authority.	The Committee took into account submission of the party that they are no longer registered with Central Excise Authority and hence they have obtained installation certificate from the Chartered Engineer instead of Central Excise Authority. The Committee noted that the party has now submitted the installation certificate from the Chartered Engineer. As per installation certificate, the BOE is dated 15.06.2012 and

				date of installation is 10.11.2012. The Committee deliberated upon the case and noted that the current FTP allows that the Authorization holder can produce the installation certificate from the jurisdictional customs authority or an independent Chartered Engineer, at the option of the authorisation holder and further that where the authorisation holder opts for independent Chartered Engineer's certificate, he shall send a copy of the certificate to the jurisdictional Customs Authority for intimation/ record. The Committee decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to allow** acceptance of installation certificate from Chartered Engineer, subject to intimation to the Jurisdictional Customs Authority and subject to payment of Rs.5000/- against the Authorisation. Further, RA to verify that no ECA/DRI/Customs action against the party is pending. **This has the approval of DG.**
3.	M/s. Katco Food & Research Laboratory, Ludhiana 01/36/218/149 /AM-19/EPCG-I	i.3030006165 dated 07.01.2010 ii.3030006272 dated 08.02.2010 iii.3030006717 dated 19.05.2010 iv.3030006389 dated 04.03.2010 v.3030006312 dated 18.02.2010 vi.3030006939 dated 02.07.2010	Request for review of the rejection of their request for extension in EOP.	The Committee observed that the case was rejected in its meeting held on 24.01.2019 on the ground that the party has not fulfilled any EO in their Zero Duty EPCG authorisations even after three years of expiry of EOP. The extended EOP of Zero Duty EPCG authorisations, if granted, would also have expired by May, 2018. The Committee noted that in their request for review of the decision taken in its meeting held on 24.01.2019 the party has submitted that the subject EPCG authorisations are under 3% EPCG Scheme having export obligation of 8 years instead of 6 years. 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 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 on payment of composition fee equal to 2% of proportionate duty saved amount on unfulfilled export obligation or an enhancement in EO imposed to the extent of 10% of total EO imposed at the choice of exporter, for each year of extension sought in terms of provisions contained in Para 5.11 (a) of HBP 2009-14, as the party could not apply to RA within the prescribed time period. This shall be subject to payment of composition fee of Rs.5000/- against each authorisation. Further, RA to verify that no ECA/DRI/Customs action is pending against the EPCG authorisation. **This has the approval of DG.**
4.	M/s. Replica Packarts Pvt Ltd, Pune 01/37/218/296/AM-17/EPCG-II	3130005601 dated 22.03.2011	Clarification sought by RA, Pune regarding addition of new export product and extension of block and EO period.	RA, Pune, vide letter dated 20.02.2019, has requested to issue instructions with regard to the firm's request for extension of block wise EOP/export obligation period with prospective effect for the period during which the issue was pending with DGFT office. The Committee has noted the following: i. The party's request for addition of alternate products in respect of EPCG authorisation No.3130005601 dated 22.03.2011 was rejected in EPCG Committee meeting held on 31.05.2017 on the ground that the party tried to get EO discharged through third party endorsements in unconnected third party shipping bills and on the basis of alert from DRI . ii. The request of the party for review of the decision of the EPCG Committee meeting held on 31.05.2017, for withdrawal

				of their request for addition of alternate product and **application for addition of alternate product for fulfillment of EO afresh was taken up in its meeting held on** 04.10.2017 and it was decided to maintain its earlier decision as the party had submitted no new facts. iii. Subsequently, the EPCG committee again took up the party's request for review of the decision taken in EPCG committee meeting held on 04.10.2017 in its meeting held on 05.06.2018 and directed RA, Pune to examine the request of the firm based on the nexus certificate issued by chartered engineer for prospective exports and with remarks that final redemption will be subject to DRI enquiry report. iv. RA, Pune vide DO letter dated 18.09.2018 stated that EOP extension and block extension cannot be allowed as per PN35 & PN36 as they stipulate that no extension shall be granted wherever cases are pending with investigative agencies. Now DRI, Bangalore has vide letter dated 14.12.2018 informed that they do not propose to register any offence in this case. v. DRI, Mangalore has vide their letter dated 14.12.2018 informed that they do not propose to register any offence case in the matter. The Committee deliberated upon the case and decided to **defer** it with the direction to seek the current status of DRI enquiry from RA, Pune, particularly to know that whether the DRI has dropped the investigation altogether or they are not registering any offence in this case for the time being.
5.	M/s. Madura Coasts Pvt Limited, Bangalore 01/36/218/246 /AM-	3530003618 dated 16.03.2009	Request for condonation of procedural lapse of non – mentioning of supporting manufacturer'	The request of the party is for condonation of procedural lapse of non-mentioning of supporting manufacturer's name in the shipping bills in respect of EPCG authorisation. The Committee noted that the capital goods

	19/EPCG-I		s name in the shipping bills.	imported under the subject EPCG authorisation were initially installed at party's own manufacturing unit mentioned in EPCG authorisation at Waterraill, Papavmasam Mills Post, Ambasraudram. However, the party has shifted one machine to their Supporting Manufacturer, viz., M/s. S & P Thread, 16/2 Mathura Road, Faridabad-121002 in November 2013 and another machine to their own unit at Panoli in Dec 2011 without taking prior permission from concerned RA. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request for favourable consideration.
6.	M/s. S.L.V. Spinning Mills Limited, Bangalore 01/37/218/142 /AM-19/EPCG-II	i.0730005824 dated 11.07.2007 ii.0730005441 dated 27.03.2007 iii.0730005319 dated 28.02.2007 iv.0730005852 dated 18.07.2007	i. Extension of block-wise EOP. ii. Condonation of delay in installation of capital goods and, iii. Condonation of procedural lapse of wrong mention of EPCG authorisation number in shipping bills.	The party has requested for condonation of block-wise EO extension, condonation of delay in installation of capital goods and export product description mismatch between license and shipping bills in respect of subject EPCG authorizations. The Committee noted that the party has not made any exports even after about four years of expiry of the EOP. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
7.	M/s. RSB India Limited, Kolkata 01/37/218/197 /AM-19/EPCG-II	0230000515 dated 03.03.2004	Request for regularisation of shifting of capital goods to new premises on the basis of verification report from Central Excise and installation of imported	The Committee noted that the party has claimed to have fulfilled entire EO and submitted the application for redemption to RA on 15.05.2017. The Committee took into account submission of the party that due to closure of their old unit they have shifted capital goods to the new premises but these are still not installed due to their obsolescence and non-availability of new machinery to make the plant functional. Therefore, the party has requested for acceptance of verification

			capital goods at the new factory premises.	certificate issued by Central Excise verifying the existence of capital goods at new premises. The Committee deliberated upon the case and decided to **call a report** from the RA including the details of the EO fulfillment by the party.
8.	M/s. KSV Cotton Mills (P) Ltd, Tamil Nadu 01/36/218/158 /AM-18/EPCG-I	i.3230008685 dated 22.12.2006 ii.3230008997 dated 05.02.2007 iii.3230009069 dated 12.02.2007	Extension of EOP to 4 years (i.e. 2+2 years) and adjustment of Bank Guarantee enchased in respect of 03 EPCG authorizations.	The Committee deliberated upon the case and decided to **defer** it for calling RA's comments.
9.	M/s. Shyamrai Ecopack Inc., New Delhi 01/37/218/179 /AM-19/EPCG-II	0530151422 dated 04.03.2010	i. Addition of Woven Fabrics, Made UPS & Readymade Garments with ITCH Codes, ii. Extension of block-wise EO and extension of EOP.	The Committee deliberated upon the case and decided to **defer** it for calling RA's report.
10.	M/s. Rukshmani Syntex Pvt Ltd, Mumbai 01/37/218/177 /AM-19/EPCG-II	i.0330022881 dated 04.05.2009 ii.0330024063 dated 23.10.2009 iii.0330024997 dated 22.01.2010 iv.0330019363 dated 10.03.2008	Request for acceptance of installation certificate issued by Chartered Engineer instead of Central Excise.	The Committee took into account submission of the party that due to procedural lapse they could not obtain installation certificate from Central Excise authorities. The Committee noted that the party has now submitted the installation certificate from the Chartered Engineer. As per installation certificate issued by Chartered Engineer the capital goods have been installed in stipulated time. The Committee deliberated upon the case and noted that the current FTP allows that the Authorization holder can produce the

				installation certificate from the jurisdictional customs authority or an independent Chartered Engineer, at the option of the authorisation holder and further that where the authorisation holder opts for independent Chartered Engineer's certificate, he shall send a copy of the certificate to the jurisdictional Customs Authority for intimation/ record. The Committee decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to allow** acceptance of installation certificate from Chartered Engineer, subject to intimation to the Jurisdictional Customs Authority and subject to payment of Rs.5000/- against each Authorisation. Further, RA to verify that no ECA/DRI/Customs action against the party is pending. **This has the approval of DG.**
11.	M/s. Manjeet Hotels Pvt Ltd, Mumbai 01/36/218/364 /AM-18/EPCG-I	i.0330019008 dated 11.02.2008 ii.0330018138 dated 19.11.2007	Re-fixation of Average Export Obligation in view or force majeure and appropriation of excess foreign exchange earned towards average Export Obligation.	The request of the party is for re-fixation of annual average EO in respect of EPCG authorisations issued on 11.02.2008 and 19.11.2007. The Committee observed that earlier, the request of the party for waiver of annual average was taken up in the EPCG Committee meeting held on 03.01.2019 and was rejected. The Committee deliberated upon the case and decided that since no new facts have emerged, the request for re-fixation is **rejected**.
12.	M/s. YSI Automotive Pvt Ltd, Tamil Nadu 01/37/218/349 /AM-18/EPCG-II	i.0430005407 dated 25.09.2007 ii.0430005560 dated 21.11.2007 iii.0430007277 dated 08.04.2009 iv.0430008225 dated 19.02.2010 v.0430009951 dated 08.06.2011 vi.0430010184 dated 16.08.2011 vii.0430010892 dated 24.02.2012	Request for allowing for fulfilment of EO through third party export and shipping bills of third party exporter towards redemption.	The Committee noted that the party has requested for allowing for fulfillment of EO through third party, i.e., M/s.Glovis India Pvt Ltd. The third party shipping bills are neither endorsed with the EPCG Authorisations nos. and date, nor is endorsed with M/s.YSI Automotive Pvt Ltd as supporting manufacturer at the time of export. The Committee further noted that as per RA's report the party has not submitted complete export documents to RA.

		viii.0430012957 dated 24.02.2013		The Committee deliberated upon the case and decided to **reject** the request as there is no merit in accepting such shipping bills towards export obligation fulfillment.
13.	M/s. Sanyo Koreatex Pvt Ltd, New Delhi 01/37/218/06/ AM-19/EPCG-II	i.0530150187 dated 28.10.2009 ii.0530149687 dated 21.08.2009	Request for acceptance of installation certificate from Chartered Engineer instead of Central Excise authority.	The Committee observed that the case is being placed **second** time before the EPCG Committee. The case deferred in EPCG Committee meeting held on 29.08.2018 for RA's report. The Committee took into account submission of the party that they had imported capital goods during 2003 when they was registered under EOU and also with Central Excise Authority but due to lack of knowledge, installation certificate was taken from Chartered Engineer. After surrender of EOU during AM-10 the registration with Central Excise was also withdrawn. The Committee deliberated upon the case and noted that the current FTP allows that the Authorization holder can produce the installation certificate from the jurisdictional customs authority or an independent Chartered Engineer, at the option of the authorisation holder and further that where the authorisation holder opts for independent Chartered Engineer's certificate, he shall send a copy of the certificate to the jurisdictional Customs Authority for intimation/ record. The Committee decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to allow** acceptance of installation certificate from Chartered Engineer, subject to intimation to the Jurisdictional Customs Authority and subject to payment of Rs.5000/- against each Authorisation. Further, RA to verify that no ECA/DRI/Customs action against the party is pending. **This has the approval of DG.**
14.	M/s. Inter Globe Aviation Ltd,	0530146185 dated 23.05.2008	Request to regularization of shifting of	The Committee observed that the case is being placed second time before the EPCG Committee. The case was first placed in its

	New Delhi 01/36/218/279 /AM-18/EPCG-I		capital goods.	meeting held on 28.09.2018 and was deferred for examination on file and also to call from the party as to whether shifting of the capital good to Mumbai airport was brought to the knowledge of the jurisdictional central excise authority or not, and if not, what were the reasons. The representative of the party appeared for the PH and presented his case. The Committee took into account submission of representative of the party that InterGlobe Aviation Limited (IndiG) is the largest airline in India and fliers to 39 domestic and 7 international destinations. The capital goods "Aircraft Pushback Tractor" imported were supposed to be installed at Bangalore and Hyderabad airports. However, at the time of import there was an urgent requirement of one aircraft pushback tractor at Mumbai airport. Therefore, instead of being used at Hyderabad, one Pushback Tractor was shifted to the Mumbai airport. They got the said location added in their IEC in 2010 and in RCMC in 2019. The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to grant ex-post facto approval** regarding shifting of capital goods from Hyderabad airport to Mumbai airport, subject to condition that new address is mentioned in the IEC and RCMC and any investigation/adjudication proceeding by DRI/Customs/ ECA action is not pending in respect of the subject EPCG authorisation. Further the party will give intimation to Jurisdictional Customs Authority about the new address and deposit composition fee of Rs.5000/- to RA. **This has the approval of DG.**
15.	M/s. AP Refinery Pvt Ltd, Ludhiana	3030007619 dated 10.12.2010	Review of the decision taken in EPCG	The Committee observed that the request for extension in EOP was first placed in its meeting held on 13.02.2019 and was rejected

	01/36/218/198 /AM-19/EPCG-I		Committee meeting dated 13.02.2019 regarding extension of block-wise EOP and extension of EOP for 2 years.	as 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 **defer** it to call RA's report regarding status of EO fulfilment.
16.	M/s. Rattha Somerset Greenways Pvt Ltd, Chennai 01/37/218/216 /AM-19/EPCG-II	i.0430005892 dated 29.02.2008 ii.0430005960 dated 19.03.2008 iii.0430006107 dated 06.05.2008 iv.0430006227 dated 11.06.2008 v.0430006426 dated 24.07.2008 vi.0430006441 dated 31.07.2008 vii.0430006456 dated 07.08.2008 viii.0430006564 dated 27.08.2008 ix.0430006754 dated 22.10.2008 x.0430006755 dated 22.10.2008 xi.0430006763 dated 22.10.2008 xii.0430006824 dated 10.11.2008 xiii.0430006825 dated 10.11.2008 xiv.0430006882 dated 24.11.2008 xv.0430006934 dated 11.12.2008 xvi.0430006951 dated 16.12.2008 xvii.0430006993 dated 30.12.2008 xviii.0430007064 dated 21.01.2009 xix.0430007102 dated 03.02.2009 xx.0430007217 dated 24.03.2009	Condonation for delay in submission of installation certificate.	The Committee took into account submission of the party that their project was proposed to be completed by 2009, but it was delayed due to financial crisis and economic recession and also increased budget in cost of construction. The Committee noted that as per details of installation certificate submitted by the party the import of capital goods has been done during the period from 26.04.2008 to 22.06.2009 and installation of capital goods has completed during the period from 20.05.2011 to 30.04.2012, a delay of more than 18 months in all authorisations. 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. 5000/- to concerned RA against each authorisation and to the condition that no ECA/DRI/Customs action has been initiated against the subject EPCG authorisations. **This has the approval of DG.**
17.	M/s Pragati Transmission Pvt Ltd,	0730004339 dated 11.07.2006	i. Request for extension in EOP.	The Committee deliberated upon the case and decided to **defer** it with the direction to call RA's report.

	Bangalore 01/37/218/242 /AM-19/EPCG-II		ii. Regularization of shifting of capital goods and; iii. Acceptance of installation certificate from chartered engineer instead of central excise.	
18.	M/s. Aqeel Leathers, Chennai 01/36/218/107 /AM-15/EPCG-I	0430003704 dated 11.05.2006	Request for counting of exports made by Group company for fulfilment of EO.	The representative of the party appeared for the PH and presented his case. The Committee observed that the request of the party for condonation of EO fulfilled by third party export with alternate product case was taken up in EPCG Committee meeting held on 01.11.2019 and the Committee decided to **reject** it as exports of alternate product which are manufactured by third party are not permitted for fulfilment of export obligation under EPCG Scheme. The Committee noted that now the party has requested for counting of exports made by M/s. Mohib Shoes Pvt Ltd, a Group Company of M/s. Aqeel leathers, Chennai, which is a partnership firm. The Committee deliberated upon the case and decided to **defer** if for further examination.
19.	M/s. Vipra Closures Pvt Ltd, Mumbai 01/60/162/928 /AM-19/PRC/EPCG	0330029963 dated 08.07.2011	Request for condonation of delay in payment of excess utilization fee.	The Committee noted that in the case of the party, the authorisation was utilised for import of goods in excess of duty saved amount by more than 10% by customs authority as per para 5.16 of HBP of FTP 2015-20. They have fulfilled the export obligation and submitted the documents for redemption to the RA and the request is to allow regularisation of late payment of additional fee to cover excess imports. The Committee took into account the

				deficiency letter raised by RA, advising the party to approach EPCG committee for condonation of delay in submission to the request to the RA. The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20** for condonation of procedural lapse of delay in payment of fee for excess duty saved amount as envisaged in Para 5.16(a) of HBP 2015-20. **This has the approval of DG.**
20.	M/s. Xindia Steel Limited, Bangalore 01/37/218/11/AM-16/EPCG-II	i.0730008401 dated 27.11.2009 ii.0730008402 dated 27.11.2009 iii.0730008512 dated 05.01.2010 iv.0730008541 dated 19.01.2010 v.0730010074 dated 04.05.2011 vi.0730011384 dated 26.06.2012 vii.0730013381 dated 01.05.2014	Request for automatic extension in EOP during the ban period under Para 5.11.3 of HBP 2009-14.	The Committee observed that the case is being placed third **time** before the EPCG Committee. The case was first taken up in EPCG Committee meeting held on 29.08.2018 and it was decided to **defer** the case with the direction for further examination by DoR. The case was again taken up in EPCG Committee meeting held on 29.11.2018 and following decision was taken: The Committee noted that the party's submission is for automatic EO extension in the event of ban of export of Iron Ore in the state of Karnataka. The Committee observed that there was no general ban on export of iron ore from the country. The Committee took into account the report of Department of Mines and Geology, Government of Karnataka stating that the Government of Karnataka had initiated several measures to curb the illegal mining and imposed ban on export of iron ore from 10 small ports of Karnataka and subsequently, prohibited issuing mineral despatch permits for Iron ore for the purpose of export. Subsequently, the Hon"ble Supreme Court of India had suspended the mining operations in Bellary and extended the ban to Chitradurga and Tumkur districts. The matter has already been examined in consultation with DoR pertaining to M/s.MSPL Limited, Hospet, Karnataka. In

				this connection, DoR vide OM dated 24.10.2018 has stated as following: "Para 5.11 of HBP 2009-14 provides for automatic extension of export obligation period equivalent to the duration of the ban/restriction imposed on export of any product. In the present case, there appears to be no ban on export of Iron ore pellets/fines from India except in case of iron ore produced in Karnataka from the mines which were subject matter of SC judgment cited by the petitioner. Therefore**,** the provision regarding automatic extension of EO period does not appear to be applicable in this case". The Committee deliberated upon the case and decided to **defer** the matter for examination of the issue on file.
21.	M/s. Farm Implements (India) Pvt Lt, Chennai 01/36/218/57/ AM-18/EPCG-I	0430005497 dated 31.10.2007	i. Extension of EOP for 2 years, and ii. Inclusion of alternate product and iii. Condonation of delay in installation of capital goods.	The party has requested for (i) Extension of EOP for 2 years, (ii) Inclusion of alternate product and (iii) Condonation of delay in installation of capital goods. The Committee took into account submission of the party that they could not fulfil EO in stipulated time due to world wise recession. However, they have export orders in hand for export of alternate product, i.e., Baler and Soil Testing equipment and are hopeful of fulfilling EO in the extended EOP. The Committee noted that as per installation certificate submitted by the party the capital goods have been imported vide BOE dated 31.10.2007 and installed on 19.09.2010, after more than three years of import. 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. 5000/- to concerned RA against each authorisation and to the condition that no ECA/DRI/Customs action has been initiated against the subject EPCG authorisations. The party may approach concerned RA for their request for extension in EOP. RA may examine the request in terms of provisions of Public Notice No.36/2015-20 dated 25.10.2017 read with the Public Notice No.78/2015-20 dated 11.03.2019, on merit. The request for allowing export of Baler and soil Testing equipment as an alternate product may also be considered by RA on the basis of nexus certificate and relevant provisions of the FTP. **This has the approval of DG.**
22.	M/s. Dr. Reddy's Laboratories, Hyderabad 01/36/218/157/AM-19/EPCG-I	i.0930004100 dated 12.06.2018 ii.0930004154 dated 26.06.2008 iii.0930004555 dated 21.112008 iv.0930005065 dated 12.08.2009 v.0930005274 dated 30.10.2009 vi.0930007816 dated 04.01.2012 vii.0930008499 dated 24.08.2012 viii.0930008703 dated 29.10.2012 ix.0930009543 dated 05.08.2013 x.0930009704 dated 11.10.2013 xi.0930010014 dated 05.02.2014 xii.0930010104 dated 11.03.2014 xiii.0930010199 dated 22.04.2014 xiv.0930010494 dated 01.08.2014 xv.0930010516 dated 07.08.2014 xvi.0930010677 dated 10.10.2014 xvii.0930003506 dated 04.10.2007 xviii.0930004088	Request for acceptance of installation certificate issued by chartered Engineer instead of Central Excise Authority.	The Committee noted that the party has failed to obtain installation certificate from Jurisdictional Central Excise Authority due to procedural lapse at their end and has now submitted the same from the Chartered Engineer. The Committee deliberated upon the case and noted that the current FTP allows that the Authorization holder can produce the installation certificate from the jurisdictional Customs authority or an independent Chartered Engineer, at the option of the authorisation holder and further that where the authorisation holder opts for independent Chartered Engineer's certificate, he shall send a copy of the certificate to the jurisdictional Customs Authority for intimation/ record. The Committee **decided to recommend to DG for relaxation under Para 2.58 of FTP** 2015-20 to allow acceptance of installation certificate from Chartered Engineer, subject to intimation to the Jurisdictional Customs Authority and subject to payment of composition fee of Rs.5000/- against each Authorisation. Further, RA to verify that no ECA/DRI/Customs is pending.

		dated 06.06.2008 xix.0930004958 dated 25.06.2009 xx.0930006369 dated 01.11.2010 xxi.0930006950 dated 25.03.2011 xxii.0930006953 dated 29.03.2011 xxiii.0930008544 dated 05.09.2012 xxiv.0930008949 dated 08.01.2013 xxv.0930009038 dated 07.02.2013 xxvi.0930009253 dated 14.05.2013 xxvii.0930009291 dated 24.05.2013 xxviii.0930009606 dated 30.08.2013 xxix.0930009698 dated 09.10.2013 xxx.0930010103 dated 11.03.2014 xxxi.0930010276 dated 13.05.2014 xxxii.0930010317 dated 28.05.2014 xxxiii.0930010444 dated 14.07.2014 xxxiv.0930010659 dated 30.09.2014 xxxv.0930010913 dated 19.01.2015 xxxvi.0930011058 dated 24.03.2015		**This has the approval of DG.**
23.	M/s. Okay Paper Products Pvt Ltd, Thane 01/37/218/241 /AM-19/EPCG-II	i.0330040347 dated 01.12.2014 ii.0330027904 dated 25.11.2010	Request for permission of regularization of excess DSV.	The Committee noted that in the case of the party, the authorisation was utilised for import of goods in excess of duty saved amount by more than 10% by customs authority as per para 5.16 of HBP of FTP 2015-20. They have fulfilled the export obligation and submitted the documents for redemption to the RA and the request is to allow regularisation of late payment of additional fee to cover excess imports. The Committee took into account the deficiency letter raised by RA, advising the party to approach EPCG committee for condonation of delay in submission to the request to the RA.

				The Committee deliberated upon the case and **decided to recommend to DG for relaxation under Para 2.58 of FTP 2015-20** for condonation of procedural lapse of delay in payment of fee for excess duty saved amount as envisaged in Para 5.16(a) of HBP 2015-20. **This has the approval of DG.**
24.	M/s Novares India Automotive Pvt Ltd, Tamil Nadu 01/60/162/813 /AM-19/PRC	0430010566 dated 29.11.2011	Acceptance of supplies to private bonded warehouse for fulfilment of EO in respect of EPCG authorisation.	The Committee deliberated upon the case and decided to **defer** it for further examination.
25.	Tata Steel Ltd, New Delhi 01/37/218/19/ AM-18/EPCG-II	023000995 dated 10.11.2014	Acceptance of installation certificate issued by Chartered Engineer instead of Central Excise	The Committee took into account submission of the party that due to business exigency some of the capital goods imported vide BOE dated 10.12.2014 were urgently required to be deployed at their projects at Joda for use for which they have obtained permission from RA, Kolkata. However, despite regular follow up Central Excise authority has not issued installation certificate. The Committee deliberated upon the case and noted that the current FTP allows that the Authorization holder can produce the installation certificate from the jurisdictional customs authority or an independent Chartered Engineer, at the option of the authorisation holder and further that where the authorisation holder opts for independent Chartered Engineer's certificate, he shall send a copy of the certificate to the jurisdictional Customs Authority for intimation/ record. The Committee decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to allow** acceptance of installation certificate from Chartered Engineer, subject to intimation to the Jurisdictional Customs Authority and subject to payment of composition fee of Rs.5000/- against the

				Authorisation. Further, RA to verify that no ECA/DRI/Customs action against the party is pending. **This has the approval of DG.**
26.	Tata Steel Ltd, New Delhi 01/37/218/05/ AM-20/EPCG	0230009213 dated 06.12.2013	Extension in time for re-export of part of machinery for repair	The Committee took into account submission of the party that they have set up a Welding laboratory in collaboration with Ministry of Steel in Brownfield environment at Jamshedpur and have imported Microscope with Nano Indenter under the subject EPCG authorisation. The import was completed in December, 2013 and the capital goods were installed in October, 2015. Subsequently, one of the parts (Nano Indentation Head) of Nano Indenter has become non-functional. The supplier has agreed to repair the part for which it is to be sent to their factory at Switzerland. Since the time period of 3 years has expired the party has requested to allow extension in time for re-export of part of the equipment to foreign supplier at Switzerland for repair and re-import again against the EPCG licence no. 0230009213 dated 06-12-13 The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20** to allow re-export of the equipment to supplier, subject to the condition that the equipment will be re-imported within 6 months of posting of minutes of this meeting on the DGFT"s website. RA shall re-fix the EO as per para 5.25 (c) of HBP 2015-20. **This has the approval of DG.**
27.	M/s. Uttam Galva Metallics Limited, Mumbai 01/37/218/15/ AM-20//EPCG	i. 0330026093 dated 21.05.2010 ii.0330030839 dated 14.10.2011 iii. 0330032098 dated 14.03.2012	Request for regularization of Group Company Exports.	The Committee took into account the submission of the party that due to delay in installation and commissioning of the steel plant they could not fulfil EO in stipulated time. However, they have fulfilled 50% EO through their Group Company, i.e., M/s. Uttam Galva Steels Limited and have applied for regularisation of exports made by them. Further, the RA has stated that as per Company Secretary's declaration, majority of the Directors of both the companies are common and M/s. Uttam Galva Steel Limited is their Group company.

				The Committee deliberated upon the case and decided to **remand the case to RA** who may deal with the request as per the applicable provisions of the Policy.
28.	M/s. Ceeyes Engineering Industries Pvt. Ltd, Tamil Nadu 01/36/218/240/AM-19//EPCG-I	i.0430006196 dated 04.06.2008 ii. 0430006195 dated 04.06.2008 iii. 0430005835 dated 21.02.2008 iv. 0430005089 dated 20.06.2007	i. waiver of the maintenance of Annual Average exports which is not the same and similar Nexus product. ii. Consideration of Group Company exports for fulfilment of Annual Average.	The request of the party is for (i) waiver of the maintenance of Annual Average exports which is not the same and similar nexus product or (ii) consideration of Group Company exports for fulfilment of Annual Average. The Committee took into account submission of the party that their company had 2 manufacturing facilities, one at Trichy for the manufacture of 'Cam Shafts' and the other at Chennai for the manufacture of 'Refrigerant Pumps'. At the time of submitting application, they have submitted the past export details of 'Refrigerant Pump's done by their Chennai unit on which the Annual average is fixed by the Licensing authority whereas the nexus product of export is 'Cam Shafts', which is totally different from the product of past exports. This is happened by mistake. Subsequently, due to bifurcation of the Chennai unit as a separate company the annual average could not be maintained though they fulfilled Specific Export Obligation by exporting the nexus product 'Cam Shaft'. The Committee deliberated upon the case and decided to **reject** the request for consideration of Group Company exports for fulfilment of Annual Average as there is no merit in the request. The request of the party for waiver of the maintenance of Annual Average exports which is not the same and similar Nexus product is remanded back to RA to examine the request on the basis of nexus certificate and relevant provisions of the FTP.
29.	M/s Kumaragiri Electronic	0430002924 dated 12.05.2005	Condonation of procedural lapse for not-	The Committee observed that the request of the party was placed before the EPCG Committee meeting held on 26.09.2016

	Ltd., Chennai 01/36/218/61/AM-15/EPCG-I		mentioning the name and authorization number in third party shipping bill no. 3884210 dt. 03.02.2013.	wherein committee allowed counting of the shipping bill no. 3884210 dated 03.02.2013 for fulfilment of EO in respect of said authorization. Subsequently, in response to EPCG Committee decision dated 26.09.2016, RA, Chennai vide their e-mail dated 18.11.2016 pointed out that the shipping bill mentioned in the decision of the Committee is a third party shipping bill, and the name of manufacturer and the EPCG authorization no. was not indicated in the shipping bill. The said decision of EPCG Committee does not cover the lapse relating to mention of third party in the shipping bill. This may require a specific decision of EPCG Committee. The case was again taken up in the EPCG Committee meeting held on 29.03.2017. The representative of DoR stated that they need to get the ARE-1 verified from the concerned Jurisdictional Central Excise authority. Therefore, the Committee decided to defer the case and advised RA, Chennai to take no further action till the verification report is received and further decision is taken. DoR, vide email dated 20.05.2019 has stated that upon perusal it is noticed that the EPCG Authorisation No. is not mentioned on the ARE1. This fact may be brought to the notice of EPCG Committee for further examination of the petitioner's request during the meeting. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request for favourable consideration.
30.	M/s. Assam Carbon Products	i.0230001033 dated 16.06.2005 ii. 0230001133	Condonation of procedural lapse for	The Committee noted that the EPCG authorisation No.0230000747 dated 15.10.2004 from which excess exports are intended to be taken for redemption of other

	Limited, Guwahati	dated 02.09.2005 iii. 0230001332 dated 08.02.2006	mentioning wrong EPCG authorisation number in Shipping Bills	EPCG authorisations has already been redeemed on 30.01.2017. However, the party has requested for counting of shipping bills dated after 31.01.2017 in which EPCG authorisation No.0230000747 dated 15.10.2004 was continued to be mentioned by mistake. 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 wrong mentioning of the EPCG Authorisation No.0230000747 dated 15.10.2004 in the Shipping Bills dated after 15.10.2004 (details of SBs to be considered will be sent to the RA separately). RA to facilitate EODC/closure of cases subject to the condition that: (i) Conditions of clubbing as well as EODC are met with; (ii) No free shipping bills/third party exports are to be counted; (iii) There is no double counting of exports and payment of a composition fee of Rs.200/- per export document is made by the party; and (iv) The excess shipping bills, i.e., on which the already redeemed EPCG Authorisation No. 0230000747 dated 15.10.2004 is mentioned and which are to be counted/utilised towards the EO fulfilment of other EPCG authorisation, were not submitted to the RA for redemption of EPCG Authorisation No. 0230000747 dated 15.10.2004. If these shipping bills had already been submitted to RA at the time of application of redemption of the said EPCG Authorisation, even if in excess, they should not be now considered for redemption of other Authorisations. **This has the approval of DG.**
31.	M/s. Shiv Shakti Thermo Pvt. Ltd, Kantkabirnagar	1530000683 dated 07.03.2011	Request for acceptance of FIRE in lieu of E BRC for	The Committee noted that the party has made exports to Nepal by road and stated that as their export document is bill of export, and not shipping bill, they have not

	01/37/218/121/ AM-19/EPCG-II		grant of EODC.	been issued e-BRC and instead they have FIRC which may be accepted for EODC. The Committee decided to **call for a report** from RA on these issues.
32.	M/s. Volkswagen India Pvt. Ltd, Pune 01/60/162/23/ AM-20/PRC/EPCG	NA	Request for exemption from maintenance of average level of export achieved under EPCG scheme.	The Committee noted that the party is manufacturing passenger cars on "PQ" manufacturing platform since the year 2008 and intend to discontinue the current car models on PQ manufacturing platform and launch new models on "MQB-AD" manufacturing platform, which is more advanced than the existing technology and that from the year 2021 onwards the new car models cannot be manufactured with the old technology. The company seeks waiver of annual average export obligation as it will be fixed on the basis of products manufactured on old platform which the company intends to discontinue. The Committee deliberated upon the case and decided to **reject** it as there is no merit in the request.
33.	M/s. PI Cottex, Ludhiana 01/36/218/08/ AM-20/EPCG	3030014695 dated 16.09.2015	Request for condonation of delay in payment of excess duty saved amount.	The Committee noted that in the case of the party, the authorisation was utilised for import of goods in excess of duty saved amount by more than 10% by customs authority as per para 5.16 of HBP of FTP 2015-20. They have fulfilled the export obligation and submitted the documents for redemption to the RA and the request is to allow regularisation of late payment of additional fee to cover excess imports. The Committee took into account the deficiency letter raised by RA, advising the party to approach EPCG committee for condonation of delay in submission to the request to the RA. The Committee deliberated upon the case and **decided to recommend to DG for relaxation under Para 2.58 of FTP 2015-20** for condonation of procedural lapse of delay in payment of fee for excess duty saved amount as envisaged in Para 5.16(a) of HBP 2015-20. **This has the approval of DG.**

34.	M/s. 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.	The representative of the party appeared for the PH and presented his case. The Committee observed that the request was taken up in the EPCG Committee meeting held on 18.04.2018 it was decided to defer the case for seeking comments from DoR. The case was again taken up in its meeting held on 12.07.2018 and deferred again as the report from DoR was not received. In its meeting held on 03.01.2019 it was decided that there was no need to wait for the report from DoR as there is no merit in the justification of the party in installing the machinery after a gap of three years. Therefore, the Committee decided to **reject** the case. The Committee deliberated upon the review petition and decided to **defer** it to examine the DRI notice issued to the party.
35.	M/s. Indian Immunologicals Limited (ILL), Hyderabad 01/36/218/04/ AM-20/EPCG	0930005681 dated 18.03.2010	Condonation of delay in installation of capital goods	The Committee noted that the party has claimed to have completed EO in stipulated time. The Committee took into account submission of the party that the delay in installation of capital goods occurred due to non-readiness of Plant and Building. However, the party has obtained the installation certificate from jurisdictional Central Excise Authorities on 09.07.2013 which was after 3 years 12 days. RA Hyderabad, has issued them a deficiency letter dated 12.03.2019 advising them to approach DGFT HQ New Delhi for condonation of delay. The capital goods have been imported vide BOE dated 28.06.2010 and installed on 09.07.2015. 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.5000/- to

				concerned RA against each authorisation and to the condition that no ECA/DRI/Customs action has been initiated against the subject EPCG authorisations. **This has the approval of DG.**
36.	M/s. Sankalp Engineering & Services Pvt. Ltd, Pune 01/37/218/153 /AM-19/EPCG-II	i.3130002952 dated 08.02.2008 ii. 3130003180 dated 05.06.2008 iii.3130004216 dated 05.10.2009 iv.3130004888 dated 18.06.2010 v.3130006787 dated 10.08.2012 vi.3130006569 dated 07.05.2012 vii.3130006271 dated 11.12.2008 viii.3130006937 dated 15.10.2012 ix.3130007127 dated 11.01.2013 x.3130007252 dated 14.03.2013 xi.3130007251 dated 14.03.2013	Condonation of procedural lapse of mentioning incorrect authorization number in shipping bills.	The Committee noted that there are a large number of shipping bills with procedural lapse. The Committee deliberated upon the case and decided to **defer** it for calling a detailed report from RA.
37.	M/s. Rampal Scientific Dyers, Ludhiana 01/37/218/103 /AM-18/EPCG-II	3030004818 dated 17.12.2008	Condonation of procedural lapse of not mentioning the manufacture's name on shipping bill	The Committee observed that the case was deferred in its meeting held on 03.01.2019 to examine the request on file. The Committee noted that the party has requested for condonation of procedural lapse of not mentioning the supporting manufacture's name on third party shipping bill. The Committee deliberated upon the case and decided to **reject** as there is no merit in the request.
38.	M/s. Balkrishna Industries Ltd, Mumbai	0330045003 dated 04.08.2016	Request for waiver from submission of installation	The Committee noted that the subject EPCG authorisation issued on 04.08.2016 is valid till 04.08.2019. The three years period for installation of spares is also valid.

	01/36/218/167 /AM-19//EPCG-I		certificate in respect of spare parts.	The Committee deliberated upon the case and decided that the **request is premature** as no cause of action has arisen as of now.
39.	M/s. Goan Hotels & Reality Pvt. Ltd, Mumbai 01/60/162/934 /AM-19	0330022589 dated 09.03.2009	Request for condonation of delay in installation of capital goods.	The Committee took into account submission of the party that their labour unrest at construction site of a Five Star Hotel Project resulted in the delayed installation of capital goods. The Committee noted that RA, Mumbai vide Deficiency letter dated 24.11.2017 stated that "the installation is beyond 18 months from the date of imports, hence it cannot be covered under Public Notice No.37/2015-20 dated 25.10.2017. The Committee deliberated upon the case and decided **to recommend to DG for relaxation under Para 2.58 of FTP 2015-20 to allow** condonation of delay in installation of capital goods, subject to payment of composition fee of Rs. 5000/- to concerned RA against each authorisation and to the condition that no ECA/DRI/Customs action has been initiated against the subject EPCG authorisations. **This has the approval of DG.**
40.	M/s Jiwan Polycot, Haridwar 01/36/218/164 /AM-15/EPCG-I	0530141250 dated 08.06.2006	Review of the decision of EPCG Committee meeting held on 13.02.2019 for extension in EOP beyond 2+ 2 years/waiver of applicable interest	The Committee observed that party has obtained block wise extension in EOP and extension in EOP for two years in EPCG Committee meeting held on 22.01.2015. The party has also obtained second extension in EOP for two years in EPCG Committee meeting held on 19.12.2016. Their request for further extension in EOP beyond 2+2 already granted was taken up in the EPCG Committee meeting held on 13.02.2019 and was rejected as there was no merit in the request. The Committee deliberated upon the case and decided to **reject** it as the party has not submitted new facts and circumstances that warrant review of the earlier decision.
41.	M/s. Sri Jayajothi Textile Mills (P) Ltd, Tamil	i.3530002091 dated 31.10.2006 ii. 3530002090 dated 31.10.2006	Review of the decision taken in EPCG committee meeting held	The Committee observed that the request of the party was rejected in its meeting held on 29.11.2018 as there was no merit in the claims of the party.

	Nadu	iii. 3530001982 dated 05.09.2006 iv. 3530001906 dated 26.07.2006	on 29.11.2018 regarding (i) condonation of procedural lapse of mentioning different EPCG authorization number, (ii). non-mentioning of EPCG authorization number in the shipping bills and for (iii) accounting third party shipping bills assessed under drawback scheme for EO fulfilment	Now, the party has requested for review of the decision taken in EPCG committee meeting held on 29.11.2018 regarding (i)condonation of procedural lapse of mentioning different EPCG authorization number, (ii).non-mentioning of EPCG authorization number in the shipping bills and (iii) accounting third party shipping bills assessed under drawback scheme for EO fulfilment. The Committee deliberated upon the case and decided to **reject** it as the party has not submitted new facts and circumstances that warrant review of the earlier decision.
42.	M/s.VVF Limited, Mumbai 01/37/218/267 / AM-16/EPCG- II	03/36/021/00109 /AM-00 & 18 others as per Appendix- 5 (Page 6) of the enclosed booklet with letter dated 28.4.2017 of the firm.	Request for condonation of various procedural deficiencies as per summary of RA letters for 19 EPCG 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	The Committee deliberated upon the case and decided to **defer** it for further examination on file.

			authorizations at Appendices – 10A (1) to 10A (19) and Appendix 10B (Pages 31 to 142) of the enclosed booklet with letter dated 28.4.2017 of the firm.	
43.	M/s. Sundaram Textiles Ltd, Madurai 01/37/218/99/ AM-19/EPCG-II	Applied for EPCG Authorisation	Writ Appeal Nos. 2421 to 2425 of 2010 - M/s. Sundaram Textiles Ltd. vs. Union of India and others - High Court of Madras judgment dated 01.08.2018 to consider the request on merits for grant of EPCG licence for import of capital machineries during as per Import and Export Policy, 1990-93	The Committee noted that the Division Bench of the Hon'ble High Court of Judicature at Madras has passed a Common Judgment dated 01.08.2018 in the Writ Appeal Nos. 2421 to 2425 of 2010 preferred by M/s Sundaram Textiles Ltd., Chennai. The respondents are M/o Commerce, M/o Finance, DGFT and Customs Deptt., Chennai. The judgement dated 01.08.2018 has been passed by the Division Bench against the common order dated 20.04.2010 passed by the Learned Single Judge of the High Court of Judicature at Madras whereby the Learned Single Judge had dismissed the Writ Petition Nos. 23722 to 23726 of 2004 filed by Sundaram Textiles Ltd. 2. The Division Bench, while allowing the above Writ Appeals, has directed the DGFT to consider grant of EPCG authorisation to the Petitioner in the light of the Public Notice No. 59-ITC (PN)/90-93 dated 7.9.1990 for the relevant period it was sought for (Export Import Policy 1990-93) and without reference to any subsequent policy prevailing. 3. In this connection, the Committee further noted the following: i. Para 197 of the Export and Import Policy Vol.I, 1990-93 provided for import of capital goods at 25% concessional rate of

				custom duty under EPCG Scheme. The Provisions are as under: "197 (1) With a view to reduce the incidence of high capital costs on export prices and thereby making exports competitive in the international market, import of capital goods upto a maximum CIF value of Rs.10 crores will be permitted at concessional rate of customs duty of 25% of CIF value of the capital goods imported. The applications for this purpose shall be considered by an inter-ministerial committee headed by the CCI&E. (2) The above facility will be available to registered manufacturer-exporters who have been regularly exporting for a period of not less than three years. The applicant will have to undertake an export obligation equivalent to three times the CIF value of capital goods permitted for import and the obligation will have to be fulfilled within a period of four years from the date of import of the capital goods. This EO will be independent of any other obligations undertaken by the applicant separately and will be over and above the average level of exports made by him in the preceding three licensing years. Only direct exports of the products manufactured through the Capital Goods permitted for import shall be counted for fulfilment of the obligation. Third party exports will not be accepted under this scheme. (3) Detailed Policy/Procedure in this regard, will be notified separately." ii. Notification No.169/90-Cus dated 3.5.1990: General Exemption No. 184:- By this Notification, the Central Government

				gave concessional rate of import duty for capital goods at 25% *ad valorem* and exempted the imports totally from any additional duty provided the conditions laid down towards export obligations were fulfilled and that in the subsequent four years there must be exports of the value of about three times the CIF value of the capital goods imported and for which a legal agreement and an indemnity bond towards exempted duty were executed by the Importer as per Para 197 of the Import & Export Policy 1990-93. iii. A Public Notice No. 59-ITC (PN)/90-03 was issued on 7th Sept, 1990 bringing an amendment to the Policy (Para 197) that this facility may also be allowed on merits, to other manufacturers who do not fulfill the past three years export performance criteria, as laid down, subject to such conditions as may be prescribed by the Govt. iv. The Petitioner in the meanwhile had made two applications dated 20.08.1990 and dated 17.09.1990 to the erstwhile Office of the Chief Controller of Imports and Exports (CCI&E), now called the Directorate General of Foreign Trade, for import of 6 capital goods machineries for a CIF value of Rs. 129.8 lakhs and 4 capital goods machineries for CIF value of Rs. 57.50 lakhs at 25% concessional rate of duty. v. Before any decision could be conveyed to the Petitioner on the status of his application, he had imported capital machinery and kept it in bonded warehouse. The Petitioner also approached the Hon'ble High Court of Judicature at Madras in WP No. 16596 of 1990 with a request to issue directions to permit clearance of one Autoconer capital machinery already imported. The High Court of Madras vide order dated 31.10.1990 permitted clearance of the capital machinery under certain conditions, observing that no decision has so

				far been taken on the petitioner's request dated 20.08.1990. vi. The Petitioner's request was considered by the EPCG Committee and vide letter dated 20.11.1990, rejection was conveyed to them on the ground that they have a meagre export performance for one year only whereas the value of Capital Goods applied for is large. vii. The Petitioner, vide letter dated 15.01.1991 requested the Office of CCI&E to reconsider the above rejection dated 20.11.1990 and also requested that their applications dated 20.08.1990 and 17.09.1990 for import of a total of 10 capital machineries primarily on the ground that they have made direct as well as indirect exports; that though as per para 197 of the Policy, third party exports would not count towards discharge of EO of Manufacture/Exporter, their case was entirely different as a portion of the export was made through Export House and Merchant Exporters and further they had not claimed any REP benefit against such exports. viii. Their request letter dated 15.01.1991 for review was rejected vide letter dated 31.01.1991 saying that their case was considered by the EPCG Committee carefully but was rejected on the ground that they had a meagre export performance for one year only whereas the value of capital goods licence applied for was large and moreover, third party exports are not to be accepted under this scheme. ix. The Hon'ble High Court vide order dated 09.11.1998 in WP No. 2243/1991 set aside the rejection of their applications dated 20.08.1990 and 17.9.1990, stating that the action of the respondents in rejecting these applications cannot be held to be valid as the impugned order has not taken into consideration the Public Notice

				No.59/ITC/PN/90-93 dated 07.09.1990 bringing an amendment to the Policy (Para 197) that this facility may also be allowed on merits, to other manufacturers who do not fulfill the past three years export performance criteria, as laid down, subject to such conditions as may be prescribed by the Govt. The Court directed this office to pass fresh order taking into consideration the Public Notice No. 59/ITC/PN/90-93 dated 07.09.1990. x. In pursuance of the above Court Order, the Petitioner approached this office and submitted certain documents for consideration of their request for issuance of the EPCG Authorisation. xi. This office, vide letter dated 22.03.2002, again rejected their application dated 20.08.1990 stating that their request was considered by the EPCG Committee in consultation with the Policy Division of this Office as well as Ministry of Law, Justice and Company Affairs (Deptt. Of Legal Affaires) and the Committee had decided to reject the request for issuance of the licence under 25% concessional duty scheme stating that licence under 25% duty scheme as per the policy prevailing during 1990-91 cannot be issued under the current policy which provides for EPCG facility with 5% duty concession with different export obligation/ period. xii. Thereafter, the petitioner filed WP No.23724/2004 in the High Court of Judicature at Madras challenging the rejection order dated 22.03.2002 and again requesting for issuance EPCG licence under 25% concessional duty scheme. The Petitioner also filed WP Nos. 23722, 23723, 23725 and 23726 of 2004 for refund of the excess Customs Duty paid. xiii. On 20.04.2010, a Common judgment in WP Nos. 23722 to 23726 of 2004 was passed by High Court of

				Judicature at Madras, dismissing their Writ Petitions on the ground that the claim of the petitioner that PN. No. 59 dated 07.09.1990 by way of amendment permitted even a new industry to apply for a licence to import capital goods under EPCG licence vide Para 197 of Exim Policy cannot be accepted as the amendment brought out at para 197 in PN. No. 59 date 07.09.1990 states that this facility may also be allowed on merits, to other manufacturers who do not fulfill the past three years export performance criteria, as laid down, subject to conditions laid down by the Government and that para 197 never said that the cases with no export performance or little export performance shall be considered. The Court also observed that the question of fulfilling the export obligation within a given period arises only when import licence certificate is issued by the licensing authority and that further the question of fulfilling export obligations does not arise in this case since the licence was not issued to the petitioner, as the petitioner company failed to satisfy the requirement for import as per the existing policy provisions. xiv. The petitioner filed appeals in WA Nos. 2421 to 2425 of 2010 in High Court of Judicature at Madras against the common judgment dated 20.04.2010. xv. On 01.08.2018, the Division Bench of the High Court allowed the writ appeals, including the writ appeal No.23724 of 2004 which was against the DGFT rejection order dated 22.03.2002 and for issuance of EPCG licence under 25% concessional duty scheme. The operative part of the Oder dated 01.08.2018 is reproduced below: "……….., we are of the view that the order of the learned single Judge is also not correct. Accordingly, the order dated 22.03.2002 stands set aside and consequently, the order of the learned single Judge also stands

				set aside. We once again remit the matter back to the third respondent for fresh consideration. The third respondent is directed to consider the grant of licence to the appellant for the relevant period for which it was sought for and which has been rejected on the earlier occasion in the light of the Public Notice No. 59/ITC/90-93 dated 07.09.1990 without reference to any subsequent policy prevailing thereafter. This is for the reason that the third respondent is duty bound to consider the policy which was available at the time of passing the earlier impugned order dated 20.11.1990, which was confirmed by the order dated 31.01.1991 for the relevant period………..” 4. In view of the foregoing, it was decided that to understand the point of view of the petitioner afresh, it would be better to call the Petitioner for a hearing before the EPCG Committee to explain the case. The meeting of the EPCG Committee was scheduled on 13.02.2019. The representative of the Petitioner, Mr. S. Ramamoorthy, F.C.A., explained the case in detail to the members of the EPCG Committee. 5. It was decided to consider the matter in the EPCG Committee again. The matter was discussed at length in the EPCG Committee in its meeting. In this connection, the Committee noted that: (a) the first rejection order dated 20.11.1990 issued by the DGFT was on the ground that the petitioner had a meagre export performance for one year only whereas the value of capital goods applied for was large. (b) the second rejection order dated 31.01.1991 issued by the DGFT was on the ground that they had a meagre export performance for one year only whereas the value of capital goods licence applied for

				was large and moreover, third party exports were not to be accepted under this scheme. (c) The Hon'ble High Court vide order dated 09.11.1998 had set aside the rejection by this office stating that the action of the respondents in rejecting these applications cannot be held to be valid as the impugned order has not taken into consideration the Public Notice No. 59/ITC/PN/90-93 dated 07.09.1990 bringing an amendment to the Policy (Para 197) that this facility may also be allowed on merits, to other manufacturers who do not fulfill the past three years export performance criteria, as laid down, subject to such conditions as may be prescribed by the Govt. The Court had directed this office to pass fresh order taking into consideration the Public Notice No. 59/ITC/PN/90-93 dated 07.09.1990. (d) This office again rejected their application, vide rejection letter dated 22.03.2002, stating that their request for issuance of the licence under 25% concessional duty scheme as per the policy prevailing during 1990-91 could not be issued under the current policy which provided for EPCG facility with 5% duty concession with different export obligation/ period. (e) The High Court, vide its order dated 01.08.2018, has set aside the DGFT rejection order dated 22.03.2002 primarily on the ground that whereas the earlier Court direction was to consider petitioner's request in the light of the Public Notice No. 59/ITC/90-93 dated 07.09.1990, it was rejected on the ground that issuance of the licence under 25% concessional duty scheme as per the policy prevailing during 1990-91 could not be issued under the current policy which provided for EPCG facility with 5% duty concession with different export obligation/ period, without examining the case in terms of the provisions of Public Notice No. 59/ITC/90-93 dated 07.09.1990. That is why the Court has again remitted the matter back to us for fresh consideration in the light of the Public Notice No.59/ITC/90-

				93 dated 07.09.1990 without reference to any subsequent policy prevailing thereafter. (f) Therefore, at this stage, in pursuance of the Court order dated 01.08.2018, the matter is being examined in the EPCG Committee for fresh consideration of the petitioner's claim for issuance of the EPCG Authorisation in the light of the provisions of the Public Notice No. 59/ITC/90-93 dated 07.09.1990. 6. In this regard, the Committee noted that: 6.1 Under Para 197 of the Export and Import Policy Vol. I, 1990-93 import of capital goods at 25% concessional rate of custom duty under EPCG Scheme could be allowed, inter-alia, to (i) registered manufacturer-exporters who have been regularly exporting for a period of not less than three years and further that (ii) only direct exports of the products manufactured through the Capital Goods permitted for import shall be counted for fulfilment of the obligation and, therefore, third party exports could not be accepted under this scheme; 6.2 Public Notice No. 59/ITC/90-93 dated 07.09.1990 brought about an amendment to the Policy Para 197 to the extent that the facility could also be allowed on merits, to other manufacturers who did not fulfill the past three years export performance criteria, as laid down, subject to such conditions as may be prescribed by the Govt. 6.3 Public Notice No. 59/ITC/90-93 dated 07.09.1990 did not dilute or even touch the other major requirement of the EPCG Scheme that only direct exports of the products manufactured through the Capital Goods permitted for import shall be counted for fulfilment of the obligation and, therefore, third party exports could not be accepted under this scheme;

				6.3 The petitioner has admitted that they have made direct as well as indirect exports and argued that though as per para 197 of the Policy, third party exports would not count towards discharge of EO of Manufacture/Exporter, their case was entirely different as a portion of the export was made through Export House and Merchant Exporters and further they had not claimed any REP benefit against such exports; 6.4 The Committee noted that the Hon’ble Court in its order dated 01.08.2018 has directed that the party’s claim for issuance of the EPCG authorisation in terms of Public Notice No. 59/ITC/90-93 dated 07.09.1990 must be considered. At the same time, the Hon’ble Court has not said that the other vital conditions for issuance of the EPCG Authorisation will not be applicable to the Petitioner. Now, as far as applicability of Public Notice No. 59/ITC/90-93 dated 07.09.1990 to the petitioner’s application is considered, it is seen that EPCG Scheme facility could also be allowed on merits, to other manufacturers who did not fulfill the past three years export performance criteria. In this regard, the Committee observed that the extent of past exports performance which could make the petitioner eligible for issuance of the EPCG Authorisation is again based on the merits like quantum of such past exports; the value of the EPCG Authorisation applied for vis-à-vis the quantum of such past exports and fulfilment of other conditions for issuance of the Authorisation. The Committee noted that in terms of Public Notice No. 59/ITC/90-93 dated 07.09.1990, it is no longer looking at the fact of the petitioner not having past three years exports. However, at the same time the Committee is of the opinion that to have past export performance for only one year and that too meagre, does not merit favourable consideration. Further, the Committee was of the opinion that it cannot examine this claim by ignoring the other

				condition of Para 197 of the Policy, i.e., third party exports would not count towards discharge of EO. 7. The Committee, therefore, concluded that since the petitioner has past export performance for only one year and that too meagre, its application for issuance of the EPCG Authorisation is devoid of merit even in terms of Public Notice No. 59/ITC/90-93 dated 07.09.1990. Further, since party has admittedly made third party exports as well which would not count towards discharge of EO under the prevailing provisions of the then EXIM Policy, these exports also cannot be taken into consideration towards export obligation fulfilment under the applications submitted for issuance of the EPCG Authorisation. 8. The Committee, therefore, **rejected** the request of the petitioner for issuance of the EPCG Authorisation under the para 197 of the Export and Import Policy Vol. I 1993 read with Public Notice No.59/ITC/90-93 dated 07.09.1990 for being devoid of merit.

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.