Directorate General of Foreign Trade
(PRC Section)

Minutes of the Policy Relaxation Committee Meeting held under the Chairmanship of Shri Alok Vardhan Chaturvedi, Director General of Foreign Trade

Meeting No. 03/AM19 held on 17.05.2018 at 11:00 AM

The following members were present in the meeting:

1.	Shri N. P. S. Monga	Addl. DGFT
2.	Shri K. C. Rout	Addl. DGFT
3.	Shri J. V. Patil	Addl. DGFT
4.	Shri S. K. Samal	Addl. DGFT
5.	Shri Jay Karan Singh	Jt. DGFT
6.	Shri Akash Taneja	Jt. DGFT
7.	Shri S. P. Roy	Jt. DGFT
8.	Shri Rajbir Sharma	Jt. DGFT
9.	Shri Lokesh H. D	Jt. DGFT

Following cases were discussed. The decision taken on the individual cases are as under:-

PH Case No.01: M/s Shiva Pharmachem Ltd., Vadodara (PH Case)

F. No. 01/60/162/903/AM16/EPGC (PRC)
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Request for condoning the procedural lapse in obtaining the Bill of Exports pertaining to supplies affected to SEZ units against Advance Authorizations No. 3410031726 dated 27.09.2011 and 3410035378 dated 31.10.2012.

1.

Shri Animon Nair, Manager of the firm appeared before the Committee and made the following submissions in support of his request:

1. Their supplies were made to SEZ unit under coverage of Central Excise ARE-1 forms against discharge of export obligation under Advance Authorization, but without coverage of Bills of Export. SEZ Customs have entered and admitted the goods into SEZ units with proper endorsements in the supply documents including ARE-1 forms.

2. They have submitted 6 Nos. of ARE-1 and 22 Nos. ARE-1 copies of along with original consumption certificate issued by their Jurisdictional Central Excise Authority. The original ARE-1 forms (re-warehousing) were submitted to RA, but they insisted for Bills of Export, failing which, it directed them to regularize the case, by payment of duty with interest.

3. Since there is no provision for filing bill of export retrospectively, there request is that ARE-1 forms along with original consumption certificate issued by their Jurisdictional Central Excise Authority addressed to RA, in lieu of bill of export, may be accepted.

Decision: The Committee noted that the firm has exported goods towards discharge of export obligation against the Authorization in question. However, exports were made to SEZ unit without generating Bill of Export. Such supplies to SEZ unit are not checked / assessed by the Customs Authority. Therefore, accountability of duty free imported inputs under Advance Authorization cannot be ensured. For that reason, such supplies to SEZ unit are not accounted towards discharge of export obligation against Advance Authorization. The case was rejected earlier for that reason. Now, during personal hearing, the applicant requested to the committee to allow six months extension in export obligation period so that they could export afresh towards discharge of export obligation. The proposal of the applicant was found to be reasonable. The Committee, therefore, considering the genuine hardship decided the following:

1. Export obligation period be extended for six months from the date endorsement.
2. DEL order, if any, issued by RA shall be placed under abeyance for the period of extension plus two months.
3. The applicant is directed to submit Authorisation to RA concerned immediately for necessary endorsement. However, he can also make provisional shipments against the Authorisation on the basis of PRC decision, which would be accounted for discharge of EO.

(Action: Applicant/ RA, Vadodara)

PH Case No.02. M/s Economic Traders (GUJ) Pvt. Ltd., Rajkot (PH Case)

F. No. 01/ 60/162/642/AM18/ PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Revalidation of DEPB License No. 2410029109 dated 22.07.2010 which was not verified by Mundra Port Customs due to technical error 02 & 93.

Decision: No one appeared for PH on behalf of the firm. The Committee, however, in the interest of natural justice decided to defer the case.

PH Case No.3: M/s Fresenius Kabi Oncology Ltd., New Delhi (PH Case)

F. No. 01/60/162/685/AM17/EPGC(PRC)
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Review application for relaxation in EOP extension in respect of Advance Authorisation issued with pre-import conditions as per policy Circular No. 9

Shri Rakesh Singh, General Manager (Supply) of the firm appeared before the Committee and submitted that their original application has not been referred while giving decision in the PRC Meeting No 30 AM-17 dated 1.2.2017 (case no 31). Instead PRC's decision has been made on the basis of their reply dated 27.10.2016 in response to DGFT's letter dated 18.10.2016. As per their initial application, they had requested for following relaxations:-

(i) EOP extension by six months:
  (a) Last import date under this license was 02.12.2013, as per para 2.12.14 HBP 2009-14, original EOP was vide upto 31.12.2014.
  (b) However, while they submitted their redemption application, CLA informed that original EOP will be valid upto 01.12.2014 only and exports made between 01.12.2014 to 31.12.2014 were not considered towards EO fulfillment.
  Thus, their request is for Extension of EOP by six months, as relaxation.

(ii) Waiver from PC-18 conditions, against shortfall in EO:
  (a) Shortfall in EO has already been regularized by payment of custom duty and interest against proportionate import quantity in terms of Para 4.49 of HBP. Proof of payment has been submitted to CLA as well as to Hqrs. under their reply letter dated 18.10.2016.

(b) In terms of Para 3 of PC-18 dated 30.10.2007, they have used the remaining imported raw material for production of finished products for exports only. As proof of export, they have already provided copies of S/Bills to RA along with their redemption application.

©. Since RA insists for certification from Customs, and since Customs do not certify such data, hence they have sought relaxation from PC-18 condition.

Decision: The Committee considering the facts and having observed that the firm has complied with the direction of the RA and has deposited Customs duty on unutilized imported units with interest, the Committee decided to allow extension in EOP till 31.12.2014 and also granted waiver from PC-18 condition, against the shortfall in EO.

The applicant is directed to submit the AAs to RA concerned for necessary endorsement within a month from the date of uploading of these minutes on the Directorate website.

(**Action:** RA, CLA/Applicant)

PH Case No.4: M/s Astra Microwave Products Ltd., Hyderabad (PH Case)

F. No. 01/60/162/1123/AM17/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Request to (a) relax the provisions in Para 3.17.2 (vi) of FTP (2009-14) (b) grant the benefit of FPS and (c) exports made under the Defense Offset Export Policy ought to be treated as Free Exports and out of the scope of SCOMET list.

Shri K. Venkateswara Rao, Senior Manager of the firm appeared before the Committee and submitted that they have filed 14 FPS applications in RA, Hyderabad, out of which 4 applications were for F.Y.2013-14 and 10 files for the F.Y.2014-15. RA rejected the FPS applications (09/21/87/0380/ AM 15; 09/21/87/0387/AM15; 09/21/87/0399/AM 15 and 09/51/087/80070/AM15 vide letter dt.03.07.2014 on the basis that the items were covered under Restricted Category, as they were either under the SCOMET list or required an export license, and therefore in terms of Para 3.17.2(vi) of FTP 2009-2014, the items exported were ineligible for FPS benefits.

The firm represented that they undertake export of Dual Receiver Modules classified under tariff item 85.29.10.99 of the customs Tariff Act, 1975 having description "Aerials & Aerials Reflectors of All Kinds Part Suitable for Use Therewith". The subject goods are also known as Antenna Transmitter/Receiver Module and part of antenna array of the complete ground and Naval Radar System. DGFT vide Public Notice No.2/(RE2010)/2009-2014 dated 23.08.2010 had amended appendix 37D of FPS by adding serial no.116 to table 4 with description "Aerial & Aerial Reflectors of all kinds parts suitable for use therewith" Accordingly they have sought for these benefits.

Decision: The Committee noted that the firm had already obtained AA for SCOMET and is engaged in designing and manufacturing high value added radio frequency, microwave super components etc which they export to Israel and Israel in turn supplies finished radar systems to IAF. Committee further noted that Aerial & Aerial Reflectors was included in Appendix 37D of the Focus Product Scheme. However, item exported in this case is freely exportable subject to SCOMET Authorisation and, SCOMET Authorisation is issued for tracking of end user under international compulsion. The Committee noted that in the earlier PRC meeting dated 23.5.2017 SCOMET list has been interpreted as "restricted" and hence, rejected. But SCOMET items are restricted items in its formal sense and not in the substantive sense. It is not that Government does not want to promote the export of these items; it is due to International obligations that these are regulated and requires license for export. Therefore, provisions of Para 3.17.2(b) should not be applicable on such export items. The

Committee, therefore, decided to relax the provision in Para 3.17.2 (b) and grant the benefit of FPS, treating the exports made under DOEP, as free exports.

(**Action** : Applicant/ Policy 3 Div.)

PH Case No.5: M/s. Indoco Remedies Limited, Mumbai. (PH Case)

F. No.01/60/162/822/AM18/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Granting of 2% wastage as per SION Norms 62/A-412 General Norms for tablets/capsules against Advance Authorization No. 0310793104 dated 20.01.2015 issued under PC-9 conditions.

Shri Navnit Chauhan Dy. Manager – International Business of the firm appeared before the Committee and submitted that they had obtained above AA under para 4.7 on repeat bases and applied for 5% wastage. However ALC approved on net to net vide its meeting no.16/82/ALC 4/2015 dated 14.01.2016 case no. 52/5/82. However, in their earlier advance license no.0310791183 dated 18.11.2014 they have received 2% wastage vide ALC meeting no.12/82/4/2015 dated 18.11.2015 case no. 129/5/82. The representative submitted that since above quantity is approved on net to net basis, it does not meet their requirement. In the process of tablets manufacturing some quantity wastage occurs as process loss and this is up to 5%. Since this is their production loss, it will ultimately effect on their costing also. Meanwhile, they have received a letter from RA to close the matters. Considering that they have completed the imports and exports and also realized all the payments, they requested for grant of 2% wastage as per SION norms.

Decision: The Committee noted that SION at Sl No A 412 provides 2% wastage for tablets/capsules under chapter 62. The applicant approached NC for allowing 5% wastage instead 2% which was rejected by the NC. Now, they have requested to allow regularization as per the existing SION. The Committee, therefore, decided to allow 2% wastage, as per SION 62/A-412 for tablets/capsules against AA No.0310793104 dated 20.01.2015 issued under PC-9 with pre-import condition.

(**Action:** RA, Mumbai)

PH Case No.6: M/s Amrut International, Ahmedabad (PH Case)

F. No. 01/ 60/162/498/AM15/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Request for Revalidation of DFIA License No. 0810112570 dated 14.06.2012 due to non-transferability of data to customs site.

Decision: No one appeared for PH on behalf of the firm. The Committee, however, in the interest of natural justice decided to defer the case.

PH Case No.7: M/s Nilkamal Ltd., Mumbai (PH Case)

F. No. 01/ 60/162/899/AM14/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Revalidation of Advance Authorization No. 0310634819 dated 07.06.2011.

Decision: No one appeared for PH on behalf of the firm. The Committee, however, in the interest of natural justice decided to defer the case.

PH Case No.8: M/s Cargill India Pvt. Ltd., New Delhi (PH Case)
F. No. 01/ 60/162/05/AM19/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Second Revalidation of Advance Authorization No. 0510397689 dated 23.02.2016

Shri Ashok Sahijwani, Adviser of the firm along with his associate, Ms Richa Bisht appeared before the Committee and made the following submissions in support of his request:

The firm had obtained above AA for export of Refined Soya Bean Oil 10000 MT with prescribed E.O. 18 months. The additional sheet attached to subject Authorization stipulates " First export will take place and after grant of EODC., only import will be allowed as per policy Circular No.13 dated 29.06.2016 & SION E-121.

During initial EOP of 18 months they had exported 7041.85 of Refined Soya Bean Oil 70.42%) involving 268 shipments, export proceeds realized and thereafter applied for four part EODC's vide their letter of 23.08.2016, 20.02.2017, 20.04.2017 and 05.07.2017 involving 54, 73, 85, and 56 shipments covering export of 393.63 MT, 1971.04 MT 2286.40 MT and 1390.75 MT totaling to 7041.82 MT. They were issued respective four EODC's by CLA New Delhi on 30.09.2016, 25.04.2017, 02.06,2017 and 19.08.2017 respectively. The License validity has been changed to 22.08.2017 vide amendment sheet No.1 dated 25.04.2017, while issuing second EODC on 25.04.2017.

Against quantity of 7260.294 MT they were able to import quantity of only 3219.99 MT during the validity of 18 months and thus, there is absolute need to replenish their stock for balance quantity of 4040.30 MT, mainly arising out of third and fourth EODC issued to them in June 2017 and August, 2017.

4. Since, the fourth EODC was issued to them through post on 19.08.2017, whereas the validity of AA was expiring on 22.08.2017, therefore import from Customs at Kandla Port was completely out of question, as EODC with original AA was received at their Head Office at Gurugram beyond expiry date 22.08.2017. Accordingly, they have sought for six months further revalidation in AA No.0510397689 dated 23.02.2016.

Decision: The Committee noted that the firm had obtained the said AA for export of refined soybean oil export of 10,000 M.T. with EOP of 18th months and validity of 12 months to import. However, the Authorization was issued with pre-export condition and import could be made after EODC only, as per Note 2 to SION E121. The committee noted that the condition is contradictory to validity clause. The export obligation period is 18 months which could be extended up to 30 months and validity of Authorization is 12 month which could be extended up to 18 months only. As per RBI guidelines, payment can be realized within 6 months from the date of export. The application for EODC can be submitted only after realization of export proceeds. Therefore, practically no exporter will be in position to utilize such Authorization unless exports are completed within 12 months from issue of Authorization. The Committee, therefore, decided the following:

1. The validity of the Authorization will be extended for six months from the date of endorsement.
2. The applicant shall submit Authorisation to the RA concern for necessary endorsement within a month from uploading of these minutes on the Directorate website.
3. NC-6 and Policy-4 shall examine the issue to remove anomaly.

(Action: Applicant/RA, CLA/NC-6/Policy4)

PH Case No.9: M/s Vedanta Ltd, New Delhi (PH Case)

PRC Meeting No. 03/AM19 dated 17.05.2018 wherein the requests as in the following files were considered:

(i) F.No.01/60/162/14/AM19/PRC; (ii) 01/60/162/12/AM19/PRC;
(iii) 01/ 60/162/10/AM19/PRC; (iv)01/60/162/11/AM19/PRC;
(v) 01/ 60/162/13/AM19/PRC

Subject: Relaxation of Para 4.29 (vii) of 2015-20 against RA F. no. 05/28/076/00001/AM18, 05/28/076/00017/AM18, 05/28/076/00011/AM18, 05/28/076/00013/AM18, 05/28/076/00015/AM18 filed of issuance of transferable DFIA.

Shri Ashok Kumar Patro, General Manager (IDT) of the firm appeared before the Committee and stated that after completion of their E.O. they applied for Post DFIA under para 4.25 of FTP 2015-20. RA vide letter dated 21.03.2018 has turned down their request on the ground that they have exported from two different ports. Their contention is that FTP has always allowed exports from any of EDI ports and there was no restriction of exports from a single port.

In this regard, they drew attention to para 5 of the Customs Notification No.19/2015 which states that Commissioner of Customs can permit export through any other port. Further, Para 4.37 of (a) HBP states that exports may be made through any of the specified ports. Accordingly, they were under the impression that exports can be made more than one port.

Now considering that RA has disallowed their claim, they requested for relaxation of condition as in Para 4.29 (vii) of FTP which states that exports shall be made only from a single port

Decision: The Committee noted that the exports were made from EDI port and Customs Notification allows export from any of the specified ports. In view of this the Committee decided to accede to the request of the firm for relaxation in Para 4.29 (vii) of the FTP 2015-20. RA is directed to consider the case accordingly.

(Action: RA, CLA)

PH Case No.10: M/s. Caterpillar India Private Ltd., Chennai. (PH Case)

F. No. 01/60/162/773/AM18/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Considering the request of grant of Duty drawback against File No. 04/41/081/00013/AM16, for the supplies made through invalidation letter.

Decision: No one appeared for PH on behalf of the firm. The Committee, however, in the interest of natural justice decided to defer the case.

PH Case No.11: M/s Emcure Pharmaceutical Ltd., Pune (PH Case)

F. No. **01/60/162/57/AM18/PRC**
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Second EOP Extension of Advance Authorization No. 3110065907 dated 04.02.2016 issued under PC-9 Condition.

Shri Amit Kumar, Manager of the firm appeared before the Committee and made the following submissions in support of his request:

They have filed on line application for grant of extension of EOP with respect to export of Pharmaceutical Product namely "Etomidate Injection". Advance license has been issued with Pre-import condition as PC – 9 dated 30.06.2003.

Their import of relevant bulk drug being from Un-Registered Source and their advance license has been issued on 04.02.2016 they are not covered under para 2 (c) of the PN no. 34 dated 24.10.2017.

As per US FDA guidelines export of any pharmaceutical product needs to be approved by the US Agency / FDA. They have manufactured the product and filed application for site transfer manufacturing of product / registration for exports. They are awaiting their approval and till such time they are not permitted to export the goods to US (as per their application filed on line) and as such, they could not export the goods within the initial EOP and extended EOP (18 Month).

Since now they have received the approval, they only need extension till June 2018, to complete their EO.

Decision: The Committee noted that the firm has made imports up to 100% as on 20.04.2018. Further their exports are fully dependent on approval by USFDA. Since the same was delayed, the firm was unable to export within even the extended EOP. The Committee, after detailed discussion, considered the difficulty being faced by the firm and decided to extend the EOP up to the end of June, 2018.

(Action: RA, Pune)

PH Case No.12: M/s. Universal Precision Screws, Rohtak (PH Case)

F. No. 01/60/162/789/AM17/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Request for EOP extension of Advance Authorization No. 3310023560 dated 27.07.2012.

Shri Rajesh Jain, General Manager of the firm appeared before the Committee and made the following submissions in support of his request:

The above said license was issued for the validity period of 18 months from the date of issuance, whereas they were in the impression that they same was for 36 months, because their earlier license was issued with 36 Months Validity.

Further they have applied extension of 6 months to concerned RA and got it extended till 27.07.2014. During that period they have exported their goods against the said license and achieved approx 20 % of the obligation imposed.

Subsequently, they applied for extension to PRC on 12.09.2014 and got decision on 28.11.2016 that the EOP approved till 31.07.2015, whereas they continued exporting their good till 31.07.2016 without availing any benefit of DBK under the impression that they got approved extension till 31.07.2016 i.e. up to (4 years). Accordingly, they have made the request.

Decision: The Committee noted that case of the firm was considered in PRC meeting held on 08.11.2016 in which EOP was extended from 18 months to 36 months i.e. up to 31.07.2015 subject to payment of composition fee at 1% per month of unfulfilled FOB value of exports, made after 24th month but up to 36th month. Further, it had directed that no extension beyond 36 months would be allowed and short fall if any shall be regularized in terms of 4.49 of HBP 2015-20. From the submissions made during PH, the Committee noted that the firm continued their export till 31.07.2016 under the wrong impression that there extension was valid till 31.07.2016. The Committee observed that wrong impression cannot be a ground for genuine hardship. It accordingly, decided to reject the request and to reiterate its decision dated 8.11.2016.

PH Case No.13: M/s. A. S. T. Pipes Pvt. Ltd., Ghaziabad (PH Case)

F. No. 01/60/162/15/AM19/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Condonation of delay to file FPS benefit against the exports made during the period 2012-13, 2013-14 and 2014-15 filed vide following eight file number:-
1). 05/50/087/80001/AM18 dated 03.04.2017; 2) 05/50/087/80003/AM18 dated 03.04.2017
3). 05/50/087/80412/AM18 dated 30.01.2018; 4) 05/50/087/80413/AM18 dated 30.01.2018
5). 05/50/087/80414/AM18 dated 30.01.2018; 6) 05/50/087/80415/AM18 dated 30.01.2018
7). 05/50/087/80416/AM18 dated 30.01.2018; 8) 05/50/087/80417/AM18 dated 30.01.2018

Shri Nitin Agarwal, Director of the firm appeared before the Committee and stated that during 2015 they gained understanding of the fact that the tariff classification adopted by it was incorrect and the pipes exported by them was correctly classifiable under Customs tariff item 73063090 of schedule 1 to the customs Tariff Act. Thus thereafter, shipping bills for export of pipes were filed under Customs tariff item 73063090.

Realizing that the classification adopted earlier was incorrect, they filed an application for amendment of 298 shipping bills on **19.05.2015** before the Additional Commissioner (Customs), Dadri and on **18.11.2015** before the Additional Commissioner (Customs), Loni. Additional Commissioner (Customs), Loni vide his letter dated 29.12.2016 and Additional Commissioner (Customs), Noida vide his letter dated 06.06.2017 has allowed amendment in RITC code from 73061919 to 73063090.

After allowing amendment in RITC from73061919 to 73063090, under shipping bills from customs, they have filed applications for grant of FPS benefit in RA since FPS benefit was not available on RITC 73061919. RA has however rejected their above applications stating that case is time barred. Accordingly, in light of their genuine hardship, they requested PRC to condone the delay.

Decision: The Committee considered the submissions and noted that the firm filed shipping bills for export of pipes under wrong customs tariff classification under wrong impression. There after the firm filed the shipping bills under correct custom tariff classification No.73063090. The firm had approached AC (Customs) Dadri and AC (Customs) Loni who have allowed the amendment. The Committee noted that Customs took more 2 years to amend the shipping bills only after which the firm was eligible to apply for FPS. The Committee accordingly, decided to condone the delay in filing FPS benefits, and allowed the same from the date of customs letter amending the shipping bills, with a late cut fee of 5%.

PH Case No.14: M/s. A. S. T. Pipes Pvt. Ltd., Ghaziabad (PH Case)

F. No. 01/60/162/23/AM19/PRC

PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Waiver of late cut imposed against following applications filed after amendment in RITC from 73061919 to 73063090 for grant of FPS benefit under chapter-3:-
1). 05/50/087/80002/AM18 dated 03.04.2017 ; 2). 05/50/087/80004/AM18 dated 03.04.2017
3). 05/50/087/80177/AM18 dated 26.07.2017; 4). 05/50/087/80194/AM18 dated 07.07.2017
5. 05/50/087/80195/AM18 dated 07.07.2017

Shri Nitin Agarwal, Director of the firm appeared before the Committee and stated that during 2015 they gained understanding of the fact that the tariff classification adopted by it was incorrect and the pipes exported by them was correctly classifiable under Customs tariff item 73063090 of schedule 1 to the customs Tariff Act. Thus thereafter, shipping bills for export of pipes were filed under Customs tariff item 73063090.

Realizing that the classification adopted earlier was incorrect, they filed an application for amendment of 298 shipping bills on 19.05.2015 , 26.11.2015, 25.2.2016 and 12.5.2017 before the Additional Commissioner (Customs), Dadri. Additional Commissioner (Customs), Dadri vide his letter dated 06.06.2017 allowed amendment from 73061919 to 73063090. Similarly, they had filed application in ICD Loni, on 18.11.2015 and 03.12.2015 and an appeal dated 11.01.2016, subsequent to which an amendment certificate was issued by Asstt. Commissioner, Loni on 29.12.2016.

After amendment in RITC from 73061919 to 73063090 under shipping bills from Customs, they filed five applications for grant of FPS benefit in CLA who has issued FPS Scrip no.0519082628 and 0519082630 dt.22.06.2017, 0519087334, 0519087336 and 0519087337 dt.23.08.2017 against above five applications after imposing late cut by counting the time limit to file the application from the date of exports instead of amendment on shipping bills. Thus total amount of Rs. 9, 84,937.96 has been deducted against above five files on account of late cut. Accordingly, they have come to PRC to waive off the late cut.

Decision: The Committee noted that the Customs Authority has allowed amendment in ITC HS code, which makes the applicant eligible for FPS. However, it was also noted that in this case the request for amendment was made to the Customs Authority in 20015 but application for FPS were made to RA after two years. Considering the date of amendment as the date of release of shipping bill, RA decided to allow FPS with 5% late cut. The Committee, accordingly, did not find any reason/ ground to interfere with the CLA's order.

PH Case No.15-21: M/s. Mylan laboratories Ltd., Hyderabad

F.No.01/60/162/155/AM18/PRC,01/60/162/196/AM18/PRC,01/60/162/197/AM18/PRC,01/60/162/198/AM18/PRC,01/60/162/199/AM18/PRC,01/60/162/200/AM18/PRC,01/ 60/162/201/AM18/PRC

PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Request for condonation of delay for filing of claim for reimbursement of CST
1. 25,906/- for the period April, 2012 to June, 2012.
2. 5,76,069/- for the Period Oct., 2012 to Dec., 2012.
3.12,47,111/- for the period July, 2012 to Sept., 2012.
4. 6,73,046/- for the period April, 2012 to June, 2012.
5. 1,03,35,179/- for the period Oct., 2012 to Dec., 2012.
6. 43,78,167/- for the period July, 2012 to Sept., 2012.
7. 7,52,989/- for the period Jan., 2013 to March, 2013.

Shri B. Chandra Sekhar, General Manager of the firm appeared before the Committee and stated that they had applied for reimbursement of CST for the relevant period which had been rejected by the Deputy Development Commissioner on the ground of Para 9.4 of HBP 2009-14. However, Mylan had handled about 1500 "C" form during the relevant period wherein only these 20 specific "C" forms were lost. The said loss was noticed after due diligence by Mylan and subsequently efforts were made to procure duplicate "C" forms. Due process of law under the relevant central/state regulations were followed for issuance of "C" Forms and the same were issued only after a period of 2 years by the concerned VAT authorities.

Since Mylan does not have any control on the issuance of the said forms which are in the direct preview of the local VAT authorities and the other allied authorities i.e. Police Department, etc., it took substantial time to complete the whole process for issuance of the duplicate forms whereby the current situation has arisen.

Decision: The Committee having heard the applicant observed that Mylan had made efforts for issuance of the duplicate "C" Forms to comply with the reimbursement process as is evident from the documents submitted. It accordingly decided to condone the delay in filing of claim for reimbursement, subject to a 10% late cut.

(**Action:** DC, SEEPZ)

PH Case No.22: M/s. Primacy Industries Ltd., Mangalore (PH Case)

F. No. 01/60/162/219/AM18/EFGC (PRC)
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Relaxation of period for filling claim under focus product Scheme.

Shri K.L. Rao, Director of the firm appeared before the Committee and made the following submissions in support of his request:

The company received Duty Product Scripts under FPS from November 01, 2011. However, they have also have submitted claims online under the FPS for a period from 28.8.2009 to 31.10.2011, as per the details below. Through they have exported over Rs.340 Crores worth of candles, they could file claim for only Rs. 2,84,16,33,777.59 based on the records available with them

Year	FOB Value (In Rs.)	Claim (in Rs.)
2009-10	59,79,95,144.56	Rs.2,98,99,562.00
2010-11	1,24,64,60,331.28	Rs.8,73,83,149.00
2011-12	99,71,78,301.75	Rs.6,98,02,139.00
Total	2,84,16,33,777.59	Rs.18,70,84,850.00

2. The reason for late filing is that their Manager had not revealed to them that this was not being done and subsequently, when it was noticed, he refused to co-operate. Thus while Company filed claims after Nov 2011, they could not do so for earlier period. Meanwhile because of a fire incident in January, 2013, their Mangalore unit was destroyed. FIR was filed in Mangalore Police Station in this regard on 15.01.2013. Most of the records got completely destroyed in the fire causing irretrievable damage to the data base. Subsequently the management approached banks and raised loans, reconstructed the whole factory and office within a period of 8 months. In view of the challenges they faced, they have sought relaxation in the time limit fixed for submission of claims.

Decision: The Committee recalled that the case was considered in it meeting held on 31.08.2017 in which the Committee didn't accede to the request of the firm since the firm didn't submit application during the 3 years before the fire incident. However during PH after hearing the submission made by the applicant and in light of the documents furnished, the Committee observed that the oldest shipping bill is dated 1.11.2011, whereas the fire incident took place in 2013. As per Para 3.10.3 of FTP (a) The last date for filing SHIS application for exports made during 2009-10/ 2010-11/ 2011-12 and 2012-13 was 31st March 2011/2012/2013/2014 respectively. Late cut provision as in Para 9.3 (HBP-2009-14) allows submission of application after 12 months from the prescribed date of submission but not later than 2 years from the prescribed date with a 10% late cut. As the firm didn't file the claim for 2009-2010 shipment within 3 years prior to fire accident, no relaxation is allowed. However, for the years 2010-11 and 2011-12, the applicant had three years' time to file claim, at the time of the incident of fire. As documents were not available with them, due to fire accident, they lost another year's time in generating duplicate bills. The Committee, therefore, decided to allow claim for exports made during 2010-2011 and 2011-2012 with 10% late cut for export made from Mangalore factory only.

Action: RA, Bangalore/Applicant

PH Case No.23: M/s. Aquarelle India Pvt. Ltd., Mumbai (Review of PH case Decision)

PRC Meeting No. 03/AM19 dated 17.05.2018 wherein the cases in the following cases were considered: (i) F. No. 01/ 60/162/1148/AM17/PRC; (ii) 01/ 60/162/1149/AM17/PRC; (iii) 01/60/162/1150/AM17/PRC; (iv) 01/ 60/162/1142/AM17/PRC; and (v) 01/60/162/1144/AM17/PRC

Subject: EOP extension of the following Advance Authorization Nos . (1). 0710092791 dt. 31.12.2012; (2) 0710092002 dt. 19.11.2012; (3) 0710091482 dt. 19.10.2012 (4) 0710096581 dt. 10.07.2013 and (5) 0710090725 dt. 14.09.2012.

Shri Raghavendra D., Manager of the firm appeared before the Committee and informed that when they had applied for EOP Extension with PRC Delhi, the above said license had expired and exceeded 30 Months time. As per PN no. 16 & 20, RA was not empowered to give extension beyond 30 Months time, but PRC transferred their case to RA even through the licenses had crossed 30 months instead of giving a decision. Since the above case got transferred to RA, they approached RA on 01.07.2015 seeking the extension. There was no action taken by RA for 6 Months and finally RA issued them the rejection letter on 12.02.2016 & 09.03.2016 stating that they are not empowered to give any extension more than 30 months. Hence, they requested for regularizing the above Licenses by imposing minimum compensation fee, as they are not gaining in the Export orders due to competition in the market and request to apply minimum compensation fee against these EO extensions.

Decision: The committee observed that the issues as being raised now, had been considered by the PRC in its meeting dated 22.8.2017 and nothing additional / extra has been placed before the Committee in the Personal Hearing. The Committee noted that RAs were empowered to allow second extension with composition fee, provided minimum 50% exports were completed within 24 months. In this case, In this case, the authorizations were issued with 18 months validity. However, only 6.25% were completed within initial obligation period. The firm did not approach the RA before expiry of the authorization and approached PRC subsequently. The extendable period has lapsed and accordingly, the Committee decided to reject the request and directed the applicant to regularize their case in terms of Para 4.49 of HBP (2015-20), within a month of uploading the minutes of this meeting.

Action: RA, Mumbai/Applicant

PH Case No.24: M/s. Toshiba JSW Power Systems Pvt. Ltd., Chennai (Review Case / Personal Hearing) (PH Case)

F. No. 01/60/162/783/AM17/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Request for permission to claim Duty drawback on import of duty paid material as replacement for the same material imported under Advance Authorization but damaged during the floods in Chennai in November – December 2015 and rendered as useless.

Shri Hirono Shuji, Chief Marketing Officer of the firm along with his associates appeared before the Committee and made submissions in support of their request, as under :

The floods of November-December 2015 were unprecedented in the history of Chennai and the damages are much beyond the imagination for insurance coverage. The factory was sub-merged in the water to a level of 1.6 Meters height and many items including high end machinery were damaged. Because of this Natural calamity, they incurred huge loss as production was completely halted for many weeks. The sub merged inventory was thoroughly checked by technical experts and disposition were given for repair and re-use to the extent possible with compromising on the quality of the final product i.e. stream Turbine and Generators of 800 MW capacity.

However, they are forced to put aside some items as they are rendered unfit to be used in manufacturing of Steam Turbine and Generators once they were wet and submerged in waters. Majority of these items are imported either by payment the Customs duty or under Advance Authorization. The CIF value of damaged duty free item is about Rs.10 Crore for which were asked to Pay Customs Duty and interest. They informed that there is no recourse for their company to claim from insurance, since the coverage in insurance is only for the value stock lying in factory on the date of the flood, which was not duty suffered. To meet their deemed export obligation they have re-imported to replace the flood damaged items under payment of duty. Had this natural calamity did not occur; this additional payment of duty was not warranted.

Hence, they have requested to permission to dispose off the flood damaged duty free material Raw material and components imported under various AAS along with semi-finished products made out of such imported material as scrap and waive of Customs duty payment and interest for the same.

Decision: The Committee, after having heard the submissions informed the applicant that no permission is required where duty is paid on imported materials, which is otherwise freely importable. As for waiver of interest on customs duties paid on damaged duty free items, the Committee informed that matter falls under the preview of Department of Revenue (DoR) and they should take up the issue with DoR. No relaxation can be granted by DGFT under Customs Act.

PH Case No.25: M/s Jubilant Life Sciences Ltd, Noida (Deferred P H case)
F. No. 01/ 60/162/530/AM1PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Request for considering Export made under shipping bill no. 2876184 dated 23.05.2014, in Advance Authorization no. 0510340432 dated 07.12.2012 towards discharge of EO.

The Committee noted that the firm has submitted the information/documents vide their letter dated 22.03.2018 as asked **in Personal Hearing by PRC meeting held on 21.03.2018.** In their letter firm has stated that:-

1. As advised they have again gone through the provisions of clubbing as per P.N.32 dated 18.10.2017 and P.N. No.34 dated 24.10.2017 in detail and found that clubbing is not feasible in this particular AA. Some of the clubbing criteria they are not meeting like subsequent AA not issued within validity of first AA, in subsequent AA all exports not made within EO period of first AA etc.
2. They are procuring import product from registered source only. They have submitted registration certificate issued by concerned authority in this regard.
3. All imports have been made in AA no.0510340432 dated 07.12.2012 up to 31.03.2014 i.e. before the date of shipping bill (no.2876184 dated 23.05.2014) as questioned in the meeting.
4. Both advance authorizations have been issued for the same export product i.e. Atorvastin Tablets 5mmg and 10mg. Input details and consumption norms of both advance authorization are also same.
5. Above mentioned shipping bill no.2876184 dated 23.05.2014 has been examined and verified properly by customs and advance authorization number also endorsed therein.
6. Advance authorization no.0510340432 dt.07.12.2012 (where they intended to use above shipping bill) is valid up to 30.06.2014. The date of subject shipping bill is within the EOP i.e.23.05.2014 of this AA.
7. They undertake that they will not use this shipping bill for AA No.0510385902 dated 06.05.2014 in future. They are ready to furnish an affidavit cum indemnity bond in this regard, if required.

Decision: Having considered the submissions and based on the documents submitted by the firm, the Committee decided the following:

1. Exports made under Shipping Bill No. 2876184 dated 23.05.2014 indicating Authorisation No 0510385902 dated 06.05.2014 shall be accounted in AA No. 0510340432 dated 07.12.2012 towards discharge of EOP; provided
2. the applicant furnishes an indemnity bond affirming therein that the said shipping has not been/shall not be utilised for any other Authorisation accept Authorisation No0510340432 dt.07.12.2012.
3. RA shall ensure that the said shipping bill has not been used for discharge of EO against any other Authorisation.
4. The applicant shall pay Rs. 200/- composition fee to RA.

(Action: RA, CLA)

PH Case No.26: M/s. Indoco Remedies Ltd., Mumbai

F. No. 01/60/162/550/AM18/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Request for counting of export of four Shipping bills (1149521 dated 12.06.2015, 1124624 dated 11.06.2015, 1821000 dt.16.07.2015 & 3818554 dated 29.10.2015) under Advance Authorization No.0310792676 dated 08.01.2015 issued under PC-9 conditions and waiver the destruction of 0.381gms under PC-18 Condition.
They have obtained three AA no.0310782942 dated 26.05.2014, 0310785225 dated 12.06.2014 and 0310792676 dated 08.01.2015 for import of Latanoprost and export of Latanoprost Opthalmic Solution. All the three Licenses were issued for the same import and export item and under same custom Notification.

At the time of shipment of goods vide Shipping bill no. 1149521 dated 12.06.2015 and 1124624 dated 11.06.2015, they have mentioned AA no. 0310782942 dated 26.05.2014 instead of AA no.0310792676 dated 08.01.2015. Similarly, at the time of shipment of goods vide Shipping bill no.1821000 dated 16.07.2015 & 3818554 dated 29.10.2015, they have mentioned AA no. 0310785225 dated 12.06.2014 instead of AA no.0310792676 dated 08.01.2015.

Decision: The Committee noted that the Authorizations in questions were issued to allow import of drugs from unregistered sources with pre-import and actual user condition. Sale/transfer of such imported raw materials in DTA is not allowed at any cost. From the submissions made by the applicant, it is not established that exports were made by using same imported raw materials. Therefore the Committee rejected the case and directed for consequential action by RA and Drug Controller of India.

(**Action:** RA, Mumbai/ Drug Controller of India)

PH Case No.27: M/s Shri Hari Darshan Jewellers, Ahmedabad

F. No. 01/60/162/976/AM18/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Waiver of procedural part for claiming replenishment gold with nominated agencies as required under Para 4.82 (c) of HBP against Invoice No. 003 to 007.

The firm has exported gold jewellery under replenishment scheme of HBP Para 4.82 on notional rate. Same price was supposed to be fixed with overseas buyer as well as nominated agencies in India. However, due to policy fluctuation of Dubai government as known to them and certain issues with overseas buyer procedure as required couldn't be followed by them. Finally, after rigorous and continuous follow-up they could manage to receive remittance from them as per notional rate after 365 days instead of credit terms. They have accordingly, requested as above

Decision: The Committee, after going through the request, was of the view that this is a case of commercial loss for which no relaxation can be given. Therefore, the Committee decided to reject the case.

PH Case No.28-29: M/s Cambro Nilkamal Pvt. Ltd., Mumbai

F. No. 01/60/162/341/AM18/PRC and F. No. 01/60/162/230/AM18/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Request for Revalidation of Advance Authorization no. 0310798775 dated 09.09.2015 and 0310789348 dt. 17.09.2014.

The firm has enclosed screen shot from customs Authorization against above said authorization wherein no name and address of supporting manufacturer is reflecting in customs system in spite of its mentioned in condition sheet of advance authorization. Their supporting manufacture could not utilize the authorization due to this error.

Decision: The Committee decided to refer the case to NIC for correction and granted 6 months time from endorsement by the RA.

Action: NIC/ Applicant/ RA

PH Case No.30. M/s Anvil Cable Pvt. Ltd., Kolkata

F. No. 01/60/162/615/AM18/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Second Revalidation of Advance Authorization No. 0210206596 dated 06.04.2016.

The firm has got invalidation in favour of Bharat Aluminum Company Ltd and BLS Polymer Ltd for Aluminum wire Rod and LT XLPE Compound respectively. But due to huge demand, Bharat Aluminum Company Ltd was unable to supply material timely. Within the validity period they could lift only 49.85 % of Aluminum wire Rod from Bharat Aluminum Company Ltd. Hence they have sought second revalidation.

Decision: The Committee noted that the firm failed to utilize the Authorization within validity. They were free to import/procure goods from any party. Non supply of good by Bharat Aluminum does not create any ground of genuine hardship. Therefore, committee did not accede to the request.

PH Case No.31: M/s Lupin Ltd., Mumbai

F. No. 01/60/162/1243/AM17/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Waiver of PC-18 condition of three Advance Authorizations Nos. 0310755085 dated 23.10.2013, 0310775893 dated 26.03.2014 and 0310790316 dated 16.10.2014.

The firm has submitted that their product is meant exclusively for exports to USA and same has been manufactured out of US DMF approved source of imports. The firm has submitted consolidated statement to indicate that exports have been done subsequent to imports made while complying with relevant conditions and clauses of FTP.

Decision: The Committee however, observed that the case was earlier considered in its meeting held on 08.08.2017 and the firm's request for waiver of PC9 conditions was not acceded to. Now, after going through the data furnished the firm, the Committee noted that the firm has made exports up to 495% against AA1, 229% against AA2 and 5.20% against AA3 within validity period, without fulfilling the pre-import condition. Import of drug from unregistered sources is not allowed to be transferred in DTA under any circumstances. The Committee, therefore, did not accede to the request.

PH Case No.32: M/s Sagar Gandhi Exports (P) Ltd., Chennai

F. No. 01/60/162/04/AM19/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Exemption from non compliance of stipulated procedure (MEIS Scheme)

The firm has erroneously filed under HS code 03063600 for 22 Shipping bills instead of HS code 03061790 d. The Customs authority has confirmed in their letter dated 19.02.2018 that upon verification of past and present records of their exports only these 22 shipping bill were filed wrongly. Therefore they request the committee to amend the ITC HS code in the system thereby enabling them to obtain the MEIS benefit. Amendment of ITC HS code in 22 shipping bill for availing MEIS benefits. Export Product Shrimp.

Decision: The Committee having read the letter from Customs, reached the conclusion that it was not a recommendation letter and accordingly, decided to reject the request.

PH Case No.33: M/s Amsal Chem Private Ltd., Gujarat

F. No. 01/60/162/707/AM18/PRC
PRC Meeting No. 03/AM19 dated 17.05.2018

Subject: Extension in EOP of Advance Authorization No. 3410041407 dated 28.07.2015.

The firm has represented that the raw material prices was slashed, as well as Export Product – Nicotinic Acid prices were slashed by 50 % in 2016-17 because of a big recession in the international Market. Further, due to environmental problems, production hampered for 5 months during April-August 2016. Now, since last 6 months Raw Material as well as finished Product prices have increased, hence they are able to sell product in international Market now and accordingly requested for extension in EoP.

Decision: The Committee, after going through the request, was of the opinion that no case of genuine hardship was established and decided to reject the case.

PH Case No.34: M/s. Caterpillar India Private Ltd., Chennai.

F. No. 01/60/162/770/AM18/PRC, 781/AM18/PRC, 762/AM18/PRC, 764/AM18/PRC, 763/AM18/PRC, 767/AM18/PRC, 766/AM18/PRC, 768/AM18/PRC, 769/AM18/PRC, 771/AM18/PRC, 772/AM18/PRC, 786/AM18/PRC, 774/AM18/PRC, 775/AM18/PRC, 776/AM18/PRC, 778/AM18/PRC, 765/AM18/PRC, 779/AM18/PRC, 780/AM18/PRC, 782/AM18/PRC, 783/AM18/PRC, 784/AM18/PRC, 785/AM18/PRC, 787/AM18/PRC, 788/AM18/PRC, 789/AM18/PRC, 790/AM18/PRC, 791/AM18/PRC, 792/AM18/PRC, 793/AM18/PRC

PRC Meeting No. 03/AM19 dated 17.05.2018
Subject: Considering the request of grant of Duty drawback against File No.s

04/41/081/00031/AM15, 04/41/081/0002/AM16, 04/41/081/0004/AM15,
04/41/081/00016/AM16, 04/41/081/00007/AM13, 04/41/081/00032/AM15,
04/41/081/00055/AM14, 04/41/081/00033/AM15, 04/41/081/00052/AM14,
04/41/081/00022/AM13, 04/41/081/00050/AM14, 04/41/081/00028/AM15,
04/41/081/00010/AM16, 04/41/081/00039/AM15, 04/41/081/00049/AM14,
04/41/081/00021/AM15, 04/41/081/00021/AM13, 04/41/081/00021/AM16,
04/41/081/00082/AM15, 04/41/081/00035/AM15, 04/41/081/00026/AM15,
04/41/081/00014/AM16, 04/41/081/00008/AM16, 04/41/081/00025/AM15,
04/41/081/00007/AM15, 04/41/081/00027/AM15, 04/41/081/00009/AM16,
04/41/081/00038/AM15, 04/41/081/00020/AM16, 04/41/081/00019/AM16

for the supplies made through invalidation letter. (Total 30 cases same nature)

The firm has submitted that they received an EPCG Invalidation letter issued from the EPCG authorization holder to supply the Capital Goods .Accordingly the supplies were made to the EPCG Authorization holder by CIPL. Upon completion of supplies, as per the Policy Provisions given in chapter 8, they have applied for Brand rate Duty Drawback (Custom duty portion) with RA Chennai for the duty paid an imported parts and components. They have stated that under the Para 8.2 (C), 8.3(b), 8.4, 8.5, 5.6 of FTP 2012-13 and Policy Circular No.9 (RE-2013) dated 30.10.2013 their supplies are entitle for Brand rate duty drawback.

Based on the provisions in the above Paras of FTP, they submitted their application with RA, Chennai for claiming brand rate duty drawback. RA, Chennai however, has rejected their application vide letter dated 20.02.2015 referring the Para 5.5.2 of HBP 2012-13 stating that the benefit of AA can be availed against these supplies. They approached this Directorate seeking approval quoting the above referred policy provisions.

Vide letter dated 13.12.2017, PC-VI section of this directorate has stated that 'since in this case the ARO has not been obtained and supplies were affected against invalidation letter, as such the issue pertains to relaxation in policy in Para 5.5.2 of FTP.

With respect to Para 5.5.2 of HBP 2012-13, they have stated that said Para refers to the indigenous manufacturer intending to supply capital goods to EPCG authorization holder and may avail the benefit of Advance Authorization for import of inputs like parts and components against deemed export supplies. But it didn't prevent the exporters from claiming the brand rate duty drawback in lieu of advance authorization.

Considering the longer delivery time taken by the vendors they are compelled to use the duty paid input components for manufacturing their final product and supply to the EEPCG authorization holders. They have confirmed that they didn't avail any benefit under advance authorization against said invalidation letter.

Decision: The Committee observed that under the EPCG the system does not issue ARO against EPCG. Only invalidation letter was issued. The committee, therefore, decided the following:

1. DBK shall be allowed against supply made to EPCG Authorisation holder provided no Advance Authorisation is issued against Invalidation letter to the supplier of goods.
2. RA shall ensure from the RA of supplier, as per Invalidation letter, that no Advance Authorisation is issued to supplier.
3. RA shall also ensure that no CENVAT credit was availed on duty paid inputs by the supplier.

(Action: RA, Chennai)

The meeting ended with vote of thanks to the Chair.

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