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. 08/AM19 held on 17.07.2018 at 10:30 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.B.S. Reddy	Addl. DGFT
5.	Shri N.K.Srivastava	Addl. DGFT
6.	Shri Jay Karan Singh	Jt. DGFT
7.	Shri Akash Taneja	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 Century Pulp & Paper, Kolkata.
F. No. 01/60/162/42/AM18/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Review against PRC decision in its meeting no.04/AM19 dated 05.06.2018 for grant of EOP extension against Advance Authorisation No.0210204815 dated 19.08.2014 to complete the balance E.O.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 17.07.2018. Shri Debasish Dan, Senior General Manager (Supply Chain and Raw Material) appeared before the committee on behalf of the firm and made the following submissions:

2. Para 4.7.8 HBP 2009-14 states "in such cases, where norms are not finalized by NC within four months from Authorisation issue date, norms as applied for shall be treated as final and no adjustment will be made".

3. In their case, although the copies of the application, Advance authorisation date 19.08.2014 as well as flow chart in triplicate were forwarded by RA Kolkata as far back as 19.08.2014, it is observed from the Minutes of the meeting No.03/83

ALC2016 dated 11.05.2016, that a decision to forward a copy of the application to DIPP for their comments was taken after 19 months from the date of issue of the licence which is 15 months more than the prescribed period of 4 months in the HBP 2009-14.

4. In view of the above, the Norms as applied should be treated as final and no adjustment should be made in the true spirit of the Policy. If this genuine proposal is accepted by the PRC, the balance EO unfulfilled will be only 622 MT for which they may be given 3 months EO extension instead of 19 months they are entitled since the adhoc norms were fixed after 23 months whereas the mandatory period fixed in the FTP is 4 months only.

5. However, if the above plea is not acceptable to the Govt. for certain reasons they may be grated a further extension of 6 months from the date of endorsement by RA Kolkata which will enable them to fulfill the EO fully including the enhanced portion of EO now decided by Norms committee in its meeting No.7/83 ALC1 dated 13.07.2016 (Case No.18/18/83-ASLC-1/2014).

6. That Customs had not allowed them to export beyond 30 months in the absence of specific decision by DGFT on extension of EOP to 36 months and the while they had requested the PRC for EO extension on 05.03.2017, the decision to extend the EOP upto 36 months was taken by PRC on 08.08.2017.

7. This EO extension will compensate them for delay of 5 months in granting E.O. extension by PRC in its meeting held on 08.08.2017 against their request date 05.03.2017.

Decision: The Committee noted that there was significant time involved in finalizing the norms of the applicant and the norms committee had reduced the wastage in the case of the applicant. Hence the Committee decided that the firm be given EOP extension of 3 months from the date of endorsement subject to payment of composition fee @ 1% for each month of extension on the unfulfilled EO.

(Action: Applicant)

PH Case No.02: M/s. Abdul Gaffar Siddick Khatri, Mumbai
F. No. 01/60/162/723/AM18/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Request to accept their DFIA claim against File no. (i) 03/81/076/00028/AM16/27.02.2016, (ii) 03/81/076/00005/AM17/06.06.2016 and (iii) 03/81/076/00022/AM17/21.09.2016.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on **17**.07.2018. Shri Gulam Mohamed Shaikh, Adviser and Mohamed Kalimuddin Shaikh, appeared before the committee on behalf of the firm and made the following submissions:

2. They exported their product under SION No. J-124. Their claim for DFIA is yet not accepted on the ground that input claimed should be pre-imported and subject to actual user condition.

3. It can observed from the provision of the policy that there is no such stipulation such as actual user condition or pre-imports for the above norm vide either notes attached to this norm or elsewhere in all the clauses of the provision.

4. Para 4.25(b) of the FTP does not prescribe that the Para 4.13 (that specifies about pre-import condition and Appendix 4J) of the FTP is applicable to DFIA.

5. Prior to 21.03.2017, Para 4.29(viii) states that No DFIA shall be issued for an export product where SION prescribes Actual User Condition for any input and that the SION applicable to them does not prescribe actual user condition.

6. They are said to have completed the exports before the issue of Notification No.42 dated 21.03.2017 which amended the Para 4.29(viii) to read as No Duty Free Import Authorisation shall be issued for an input where SION prescribes 'Actual User' condition and/or Appendix-4J prescribes pre import condition for such an input.

7. The Notification no. 42/2015-2020 dated 21st March 2017 imposes pre-import condition is prospective in nature and not retrospective.

Decision: The Committee examined the case in detail and noted that the firm had made application for DFIA and completed the exports prior to 21.03.2017 on which the Para 4.29(viii) of FTP was amended to read as No Duty Free Import Authorisation shall be issued for an input where SION prescribes 'Actual User' condition and/or Appendix-4J prescribes pre import condition for such an input. The Committee noted that exports had already taken place and decided to accede to the request of the firm for relaxation of pre-import condition in respect of the above three DFIA authorizations.

(Action: Applicant)

PH Case No.03: M/s Economic Traders (GUJ) Pvt. Ltd., Rajkot.
F. No. 01/60/162/642/AM18/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Revalidation of DEPB license no.2410029109 dated 22.07.2010 which was not verified by Mundra Port Customs due to technical error 02 & 97.

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

(Action: Applicant)

PH Case No.04: M/s. Zaveri & Co. Pvt. Ltd., Ahmedabad
F. No. 01/60/162/619/AM17/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Request for extension in EOP of Advance Authorisation no.0810140247 dated 05.05.2017.

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

(Action: Applicant)

PH Case No.05: M/s. Dataflow Services (India) Pvt. Ltd., Noida
F. No. 01/60/162/117/AM/19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Relaxation from having an IEC as prescribed under para 3.08 (f) of FTP 2015-20 for SEIS claim for the year (2015-16)

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 17.07.2018. Ms Swati Dhamija and Shri Nishant Bhutani, Authorised Representatives appeared before the committee on behalf of the firm and made the following submissions:

2. They are new entrants in the filed of Service Exports and were not conversant with the provisions of FTP.

3. For export of services, having an IEC is a procedural requirement.

4. Not having an IEC does not come in the way of export of Services and realization of payment thereof.

5. They had fulfilled all the criteria of eligibility except as mentioned in the Para 3.08 (f).

6. They have obtained a valid IEC on 27.07.2016

7. They have filed an application for claiming SEIS benefit on 30.03.2017 and same was rejected by RA stating that the request cannot be considered in terms of Para 3.08 (f) of FTP 2015-20.

8. In order to sustain their efforts and to increase Service Export from India, it is imperative to avail this benefit which has already been factored in their costs at the time of undertaking the export of Services.

Decision: The Committee noted that the Para 3.08(f) clearly specifies that, in order to claim reward under the scheme, Service provider shall have to have an active IEC at the time of rendering such services for which rewards are claimed and hence did not accept the request of the firm.

(Action: Applicant)

PH Case No.06: M/s Jubilant Lifesciences Limited, Noida.
F. No. 01/60/162/83/AM19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: **One time permission for issuance of duty credit scrip manually against following eight shipping bills:** (1)2509653 dated 20.08.2015, (2) 4346186 dated 27.11.2015, (3) 4519217 dated 04.12.2015, (4) 4574581 dated 08.12.2015, (5) 4809537 dated 19.12.2015, (6) 4809544 dated 19.12.2015, (7) 5378079dated 20.01.2016, and (8) 7219073 dated 22.04.2016.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on **17**.07.2018. Shri Mukesh Kanwal, Associate Vice President-

Exim appeared before the committee on behalf of the firm and made the following submissions:

2. They have made shipment to Busan Port at South Korea (Korea Republic) vide above eight s/bills. In all the shipping bills port of discharge has been selected as "BUSAN" but by mistake country of export has been selected as "Korea DPR" i.e. North Korea instead of Korea Republic (South Korea).

3. Later on they filled a request for amending county of destination from "Korea DPR" to "Korea Republic" in the office of customs.

4. Consequently, office of customs examined /verified their documents and issued them certificates of amendment in this reference .However, they regretted for correction in EDI System.

5. They have to apply for issuance of MEIS Scrip against above shipping bills but due to non-correction in EDI system, they are unable to file their claim.

6. The fact is they have made exports to an eligible country and payment also realized but still they are unable to claim their MEIS entitlement.

7. They have stated that similar type of cases have been approved by PRC such as M/S Florence Shoes Company Pvt. Ltd., Chennai case approved vide PRC meeting no.13/AM17 dated 26.07.2016 and most recently case of M/S K.H. Exports Pvt. Ltd., Chennai also approved vide meeting no.08/AM18 dated 06.06.2017.

Decision: The Committee noted that the firm had by mistake selected the country of export as "Korea DPR" i.e. North Korea instead of Korea Republic (South Korea) even though they had specified the port of discharge as "BUSAN" in the shipping bill and the Customs is stated to have amended the shipping bills to this effect. It was noted that change in EDI shipping bill is not allowed through system and manual amendment cannot be transmitted to DGFT server. However, from the shipping bills and the amendment issued by Customs, it is established that goods were exported to Busan, South Korea and not North Korea, which is a separate country. Hence, the applicant is eligible for MEIS benefits. Therefore, it was decided to allow issue of duty credit manually if not possible through EDI. However, the duty scrip shall be transmitted to ICEGAT with a special flag after obtaining the same from ICEGATE by EDI (NIC).

(Action: NIC/Applicant)

PH Case No.07: M/s. **JMG Corporation Ltd., Haryana**
F. No. 01/60/162/462/AM13/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Relaxation regarding mentioning of license no. 0510176361 dated 14.02.2006 / File No. 05/24/40/00895/AM06/Dt. 07.02.2006 on Shipping Bill No. 1843483 dated 28.04.2008 as a special case.

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

(Action: Applicant)

PH Case No.08: M/s Global Trade, Delhi
F. No. 01/60/162/727/AM/18/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: **Condonation of delay in filing the Focus Product Application in terms of Para 3.15 & 9.02 of HBP for the export of nine shipping bills. (Shipping bill no. 2112917 dated 11.04.2014, 2688936 dated 13.05.2014, 3310289 dated 16.06.2014, 4691007 dated 28.08.2014, 4842480 dated 05.09.2014, 5487017 dated 13.10.2014, 5618185 dated 20.10.2014, 6605091 dated 12.12.2014 and 7886358 dated 18.02.2015)**

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

(Action: Applicant)

Case No.09: M/s Danopharm Chemicals Pvt. Ltd., Mumbai.
F. No. 01/60/162/ 114/AM19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Extension of EOP against Advance Authorization No. 0310796676 dated 17.06.2015 for the export made outside the EOP.

1. They had obtained above Advance Authorization as per the export order received from their overseas buyers. They have fulfilled 56% export obligation within the E.O. Period.

2. But Unfortunately because of technical issue at customer's plant they have stopped taking deliveries in the month of December 2017.

3. Later on in January, 2018 they have re-started their production again and purchased their balance quantity from January to April 2018 and fulfill their commitments. Hence they have fulfilled their balance exports obligation

Decision: The Committee noted that the firm has already fulfilled the stipulated export obligation. The Committee decided to extend the EOP by 3 months in continuity to existing EOP subject to payment of composition fee @1% per month on the unfulfilled FOB value of Export Obligation.

(Action: Applicant)

Case No.10: M/s. Glenmark Pharmaceuticals Ltd., Mumbai
F. No. 01/60/162/165/AM19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Accounting of Export made under 3 shipping bills towards Regularization and discharge of Export Obligation in Advance Authorization no. 0310799944 dated 02.11.2015.

1. They have exported finished goods (equivalent to 47.014 kgs of raw material) manufactured from the same imported material under the subject mentioned 3 shipping bills. However inadvertently the export was made under Drawback scheme.

2. The fact that the export made under subject mentioned shipping bills which were inadvertently exported in drawback scheme took place within the export obligation period of the subject mentioned Advance no. 0310799944 dated 02.11.2015.

3. Also, they would like to return the Drawback amount received with interest to Custom authorities & hereby declare that subject mentioned 3 shipping bills will be utilized for redemption / regularization of Advance license no. 0310799944 dated 02.11.2015 only and shall not be accounted for any other advance authorization for redemption purpose.

Decision: The Committee noted that the request for conversion of Scheme of the shipping bills is to be considered by the Customs Authorities and therefore did not accede to the request of the firm.

(Action: Applicant)

Case No.11: M/s. Glenmark Pharmaceuticals Ltd., Mumbai
F. No. 01/60/162/166/AM19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Accounting of Export made under below mentioned 2 shipping bill Nos. 1319178 dated 28.09.2016 and 1314862 dated 28.09.2016 to Authorization no. 0310796899 dated 26.06.2015, instead of Authorization No. 0310800087 dated 06.11.2015 for Regularization and closure purpose.

1. They have procured Naproxen USP & subsequently Exported finished goods manufactured from the imported raw material against two Advance License both of which are issued without Drug condition

2. There is excess export made under Advance license No. 0310800087 dated 06.11.2015, and also that these is a short fall in Export obligation of Advance license no. 0310796899 dated 26.06.2015. thus they want to account the export made under the subject mentioned two shipping bills (equivalent to 2599.164 kgs) for Advance License no. 0310796899 dated 26.06.2015 fulfill the short-fall of export obligation equivalent to 2544.26 Kgs.

3. Advance license no. 0310796899 dated 26.06.2015 is valid for 18 months i.e. 26.06.2015 to 25.12.2017, and the above said shipping bill nos. 1319178 dated 28.09.2016, 1314862 dated 28.09.2016 also fall within the validity period of the same.

4. They also hereby declare that the subject mentioned shipping bills will be utilized for redemption / regularization of Advance license no. 0310796899 dated 26.06.2015 only & not for any other Advance Authorization.

Decision: The Committee went through the statements made by the firm and decided to inform the firm to apply for clubbing of the two Advance Authorizations.

(Action: Applicant)

Case No.12: M/s. Zephyr Aerospace Pvt. Ltd., Coonoor, Tamil Nadu.
F. No. 01/60/162/00090/AM19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Application for seeking policy/procedure relaxation in terms of Para 2.58 of HBP. F.No.32/21008/0001/AM19 (Import License No. 3250000402 dated 08.05.2018.

1. The firm have obtained Import Authorization No.3250000402 dated 08.05.2018 for import of 01 No. of Hawker 800 Aircraft Manufacturer's Sl. No.258211, Tail No.LY 7701 from USA for a cif value of Rs.5,49,16.225/- (US $ 8,44,865/-) for supply Electronics & Radar Development Establishment Government of India Ministry of Defence, DRDO, Bengaluru.

2. Since the above item has already been arrived the following endorsement will be made on import authorization.

"Goods already arrived but not cleared from Customs"

Decision: The Committee deliberated on the issue in detail and noted that the supply is to be made to Electronics & Radar Development Establishment Government of India Ministry of Defence, DRDO, and Bengaluru. The committee decided to accede to the request of the firm.

(Action:Applicant/RA)

Case No.13: M/s R R Kabel Ltd., Mumbai.
F. No. 01/60/162/82/AM19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Request for Revalidation of Advance Authorization No.0310807285 dated 22.08.2016.

1. They have applied AA for enhancement of quantity and value purpose on 30.01.2018 and disposal call date was 02.02.2018 but the enhancement amendment sheet no.4 issued on 19.02.2018 and received on 20.02.2018 .Thus total no. of processed time 20 days taken by RA, Mumbai and Advance authorization expiry date was 22.02.2018. They have received such enhancement before 2days of expiry of Advance Authorization. They have tried their level best to utilize the same but could not succeed since enhancement quantity & value not reflected in Custom.

2. The said amendment sheet no.4 dated 19.02.2018 also not reflected in Nhava Sheva custom portal. Due to this reason/problem they have lapsed to import material to import.

3. They request to allow 1 month revalidation so that they can import material to prevent big loss of company. They also approached to RA, Mumbai but they rejected their case.

Decision: After going thought the issues stated by the firm, the Committee noted that there was very little time left for the firm to utilize the authorization after amendment and therefore decided to extend the validity for a period of one month from the date of endorsement.

(Action: Applicant)

Case No.14: M/s Caterpillar India Private Ltd., Chennai
F. No. 01/60/162/773/AM18/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

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

1. They have received an EPCG Invalidation letter issued from the EPCG authorization holder to supply the Capital Goods .Accordingly the supplies were made to the EPCG Authorisation holder by CIPL. Upon completion of supplies, as per the Policy Provisions give in chapter 8, they have applied for Brand rate Duty Drawback (Custom duty portion) with RA Chennai for the duty paid imported parts and components.

2. 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) dt.30 Oct. 2013 their supplies are entitle for Brand rate duty drawback.

3. Based on provisions in the above Para of FTP, they have submitted their application with RA, Chennai for claiming brand rate duty drawback. RA, Chennai have 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.

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

FTP. You are therefore be advised to approach PRC in the prescribed format along with deposit of requisite fee"

5. With respect to Para 5.5.2 of HBP 2012-13, they have stated that said Para refers that the indigenous manufacturer intending to supply capital gods to EPCG authorization holder may avail the benefit of Advance Authorisation 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.

6. 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.

7. In view of the facts stated above, they have requested to grant of Duty drawback against above file for the supplies made through invalidation letter.

Decision: The Committee deferred the case, with a decision to call for the copy of the invalidation letter from the firm.

(Action:PRC/Applicant)

Case No.15: M/s Dhamm Steel Services Pvt. Ltd., Mumbai
F. No. 01/60/162/615/AM18/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Second Revalidation of advance authorization No.0310802951 dated 01.03.2016 and 0310802717 dated 19.02.2016.

1. The firm has stated that both above advance authorizations expired on 31.08.2017 and 18.08.2017. First extension period for six months was obtained from RA Mumbai.

2. Due to unavailability of input permitted on the authorization as also due to financial condition prevailing in the market, the import could not affected.

Decision: After going through the statements made by the firm in its representation, the Committee noted that there is no hardship caused to the firm and decided not to accede to the request of the applicant.

(Action:Applicant)

PH Case No.16: M/s Les Ateliers De Pondicherry, Puducherry
F. No. 01/92/180/07/AM19/PC-VI
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Relaxation of para 6.15(b) read with para 6.04 of FTP and para 6.10(a) of HBP 2015-20 and para 6.37(b) of HBP 2015-20.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on **17**.07.2018. Shri Aditya Goenka, Director appeared before the committee on behalf of the firm and made the following submissions:

2. The applicant firm M/s Les Ateliers De Pondicherry, Puducherry, a 100% EOU, was engaged in manufacturer of leather goods in the segment of Medium and Small Industries situated at Puducherry started the commercial production on 02.01.2008. The unit was issued LOP on 12.9.2007 and their DCP was on 2.1.2008. The unit's LOP was valid till 1.1.2018 and the unit has not applied for renewal of their EOU status for the next five year period (3rd five year block).

3. The present owners purchased this firm in June 2011. The unit has intimated that the present management had invested huge amount in buying the 100% EOU and making the unit as operational. However, since 2012 they had faced with several hardships. While in the process of shifting their plants, their workers resorted to sit in strike and went to the court. After prolonged litigation, with the intervention of the Court, they were able to shift their plants under the supervision of an Advocate. The actual shifting was, however, got delayed due to completion of other procedural formalities such as permission of MEPZ and Excise Department and was finally completed on 8.12.2016. During the intervening period, the factory remained closed and in the process, machines which remained inoperative became useless and obsolete and require complete overhaul involving high expenditure to bring down to working condition as they were inoperative.

4. In addition, the foreign buyer who was solely dependent upon supplies from them, made alternative arrangements and was no longer ready to take supplies from them.

5. Under these circumstances, the company finally decided to wind up their business and approached DC(MEPZ) to allow them to dispose of capital goods in DTA by paying duty on depreciated value.

6. However, DC, MEPZ had permitted for de bonding of the unit with depreciation on capital goods for the first five years only stating that firm has not achieved positive NFE. The DC has intimated that ***their request could not be permitted since there is no provision in the FTP for debonding of capital goods under the benefit of depreciation without achieving positive NFEE*** (the unit had achieved negative NFEE of RS.1265.83 lakhs during the current 5 year block period). The procedure for calculation of NFEE is as per Para 6.04 of FTP.

7. The unit has intimated that during the period, the unit was unable to make any export or import due to genuine hardship faced by them, hence the positive NFE could not be achieved during second block. However, in their case, exports were made till 2011-12 and imports were made only till 2009-10. The unit was positive NFE for first five years. However, if taken cumulatively for entire ten year period, the unit is NFE positive to the tune of Rs. 6373.86 Lakhs.

8. The unit has requested for permission to dispose of capital goods in DTA in relaxation of depreciation norms and achievement of positive NEE as prescribed under FTP/HBP.

9. EOU Division has intimated that the request of the firm has been examined in DoC in consultation with MEPZ. As the request of the unit for sale of capital goods at depreciation norms and calculation of NFE of the last 10 years is not covered under the provisions of FTP, it has been decided in DoC that the request of the unit may be considered by Policy Relaxation Committee of DGFT.

10. *Para 6.04 of FTP read with Para 6.10(a) of HBP states that NFE earnings are calculated cumulatively in blocks of five years, starting from commencement of production.*

11. *As per* para 6.37(b) of the current Hand Book of Procedures (Import-Export) 2015-20 "Depreciation up to 100% is permissible for computers and computer peripherals in 5 years and 10 years in case of other items"

12. Para 6.15(b) of FTP 2015-20 interalia states with regard to Capital Goods and spares that "Benefit of depreciation will be available in case of disposal in DTA only when the unit has achieved positive NFE taking into consideration the depreciation allowed.

Decision: The Committee was informed that the matter has been referred to DoR and hence the Committee decided to defer the case of the firm.

(Action: Applicant)

Case No.17: M/s Toyota Kirloskar Motor Private Limited, Karnataka
F. No. 01/89/180/39/AM-11/PC-2(A)/[E-5921]
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: To allow import clearance of ten (10 nos) used electric vehicles for Research & Development (R&D) purpose at Chennai sea port.

1. M/s Toyota Kirloskar Motor Pvt. Ltd. vide letter dated 11.06.2018 has drawn attention to PRC's decision taken in Meeting No. 02/AM-19 dated 24.04.2018 (Case No. 33) wherein the request of firm for relaxation in Para [1][II][d][iv] of Chapter 87 of ITC HS 2017 to allow import of 10 used electric vehicles for R&D purpose was considered and following decision was taken:

    1. Import of 10 used electric vehicles be allowed for R&D purpose.
    2. The imported vehicle shall not ply on public road expect mobilization.
    3. Sale / transfer of imported vehicles shall not be allowed.

    Above decision was conveyed to firm on 07.05.2018.

2. The firm has stated that they wanted to import these 10 used vehicles from Chennai Sea Port instead of Mumbai Sea Port as allowed vide Para 1(II)(d)(iv)of Chapter 87 of ITC HS, 2017 on following grounds:

(i) They are utilizing Chennai sea port on regular basis for import and export clearance activities and established smooth logistic operations at the port.

(ii) The grant of permission to import at Chennai sea port will help them in smooth import clearance of vehicles and in meeting the "R&D" activity schedule.

(iii) There will be no financial implication due to change of Port, no loss to the Government as Custom clearance will be made with payment of applicable full Custom duty].

3. In view of above, they have requested to allow them import clearance of ten [10 No's] used electric vehicles at CHENNAI Sea Port under "Research & Development [R&D]" clause [Chapter 87, ILN conditions Para [1][II][d][iv].

4. Policy provisions: 1(II)(d)(iv)of Chapter 87 of ITC HS, 2017 -Import of these vehicles shall be allowed only through the customs port at Mumbai.

Decision: The Committee went through the statements made by the firm and decided allow the imports of the 10 used vehicles from Chennai Sea Port with the other conditions specified in PRC's decision in Meeting No. 02/AM-19 dated 24.04.2018.

(Action:Applicant)

Case No.18: M/s Sukaso Ceracolors Pvt. Ltd., Hyderabad
F. No. 01/60/162/41/AM19/PRC & 01/60/162/42/AM19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Rectify the exports made against advance authorization no.0910046089 and 0910046088 dated 25.03.2011.

1. They have obtained above AA under No Norms Category and subsequently norms have been fixed by the ALC. They have exported "Micronized Zircon Flour" under ITC (HS) code no.25059000.

2. While issuing the above AA, RA has imposed the following condition on the face of the authorizations: "The firm shall obtain separate export license for the exports, and (ii) subject to all conditionality or requirements of exports, authorization or permission, as may be required under schedule 2 of ITC (HS).

3. Here in this case for the ITC(HS) Code 25059000 for the product under export; the policy is "Restricted" and the nature of restriction is such that "Exports permitted under license."

4. As they had taken AA for import of duty free material (either free or restricted) here in this case it is free to export the product which itself is a License. The Customs had allowed exports for both the authorizations for which norms were also fixed subsequently by the DGFT without instating the export the export License for both the AAs in question. Now the RA, Hederabad is insting of export license.

5. Albeit, the item is restricted for exports under the Policy and the exports are permitted under license and the advance authorization itself is a license to make import/export. The customs concerned had cleared their consignments without insisting on specific export license as it not SCOMET item. The export product is used for ceramic industry for glazing purpose only.

6. It is submitted that had they not taken the advance authorizations in order to export the product they should have applied for export licenses(Although their finished product does not fall under SCOMET list and meant for ceramic industry) for restricted items from this Directorate as warranted and that the customs would have allowed exports upon receipt of the export license. Here in this case they had had obtained AA/License to import duty free raw material with the permission to export to finished product, which itself is a permission and license as per policy. In view of this ,customs also didn't insist on export license for restricted item at the time of exports against above AAs in question.

Decision: After going through the statements made by the firm and the inputs provided by the Export Division, the Committee felt, since the export has been made by utilizing the imported inputs, this case may be regularized.

(Action:Applicant/RA)

PH Case No.19: M/s Ravi Foods Pvt. Ltd., Hyderabad.
F. No. 01/60/162/059/AM17/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Revalidation, Transferability and EODC of following 20 DFIAs.
(1) 0910057492 dated 04.09.2013, (2) 0910057477 dated 03.09.2013,
(3) 0910058234 dated 14.11.2013, (4) 0910058236 dated 14.11.2013,
(5) 0910058201 dated 12.11.2013, (6) 0910058235 dated 14.11.2013,
(7) 0910059332 dated 18.02.2014, (8) 0910059714 dated 07.04.2014,

(9) 0910059715 dated 08.04.2015, (10) 0910059761 dated 16.01.2014,
(11) 0910059760 dated 16.04.2014, (12) 0910060696 dated 22.07.2014,
(13) 0910061030 dated 25.09.2014, (14) 0910061031 dated 25.09.2014,
(15) 0910061491 dated 06.01.2015, (16) 0910061490 dated 06.01.2015,
(17) 0910061509 dated 08.01.2015, (18) 0910061780 dated 26.03.2015,
(19) 0910061782 dated 26.03.2015, and (20) 0910061781 dated 26.03.2018.

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

(Action: Applicant)

PH Case No.20: M/s Arunodaya Marbles (P) Ltd. Nagour, Rajasthan
F. No. 01/60/162/217/AM19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Request for relaxation in deposit of notional custom duty, when only excise has saved EPCG Licence No.1330000513 dated 29.03.2004 R.A. File No.13/36/021/250/AM04.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 17.07.2018. Shri Sunil Vedi, Director and Shri Prafful Ranvaha, Representative appeared before the committee on behalf of the firm and made the following submissions:

2. The firm has procured capital goods against above EPCG licence. They were allowed total duty saved of Rs.1466074 in the said EPCG License. They have procured the capital goods through their local supplier M/s L&T Komatsu Limited, Bangalore works Byatarayana pura Bellary Road, Bangalore and saved Excise duty of Rs.569600/-.

3. They had an obligation to export 8 times the duty saved amount within 8 years, but due slump in international market they could not complete the export obligation and therefore applied for overall extension upto 28.03.2014 on 18.07.2012.

4. They have been granted extension upto 28.03.2014 vide RA Jaipur letter dated 10.4.2013 but again they could not make the full exports as required and applied for second extension on 01.04.2014 to RA as well as Hqrs. New Delhi which has been rejected by the EPCG Committee in its meeting held on 29.03.2016 despite the fact that they have sufficient export orders in hand to fulfill the entire export obligation.

5. Subsequently, they have deposited full excise duty saved amount alongwith interest to settle the case. Duty of Rs.569600/- has been deposited vide Challan No.50038 dated 20.05.2016 and interest amount of Rs.1030415/- has been deposited through a separate Challan No.50023 dated 25.05.2016.

6. They have stated that they have saved only excise duty and their supplier has not imported any spare parts or other materials against the invalidation letter. They have also submitted declaration form the supplier. The supplier/s L&T Komatsu Limited, Bangalore has confirmed vide letter dated 31.08.2016 that no advance authorization or duty drawback was availed against the invalidation issued under the said EPCG authorization.

7. They are small manufacturer and hardly have good margins to fight with global competition so imposition of notional custom duty where only excise duty has been saved and more over supplier also has not taken any benefit is really unjustified.

8. Therefore requested to waive the requirement of notional customs duty liability as no benefit has been availed against the invalidation letter.

Decision: On hearing the submissions of the applicant, the Committee noted that the indigenous supplier has given a letter to the effect that no advance authorization or duty drawback was availed against the invalidation letter issued under the said EPCG authorization. The firm has also deposited full excise duty saved amount along with interest. Hence the Committee decided to accept the request of the applicant subject with the condition that the firm shall submit a self-declaration to indemnify any revenue loss to the government.

(Action:Applicant/RA)

PH Case No.21: M/s. West India Continental Oils and Fats Pvt. Ltd., Mumbai
F. No. 01/60/162/31/AM19/PRC
PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: Revalidation of following seven DFIA's for 45 days:-
(1) 3010103919 dated 04.01.2017, (2) 3010103923 dated 06.01.2017,
(3) 3010103908 dated 23.12.2016, (4) 3010103907 dated 23.12.2016,
(5) 3010103918 dated 03.01.2017, (6) 3010103922 dated 06.01.2017, and
(7) 3010103902 dated 16.12.2016.

1. The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on **17**.07.2018. Shri Parth Upadhyay, Representative appeared before the committee on behalf of the firm and made the following submissions:

2. The above firm had purchased transferable DFIAs which allowed import of RBD Palm oil which were valid until December 2017, January 2018 and onwards until June 2018. RBD palm oil was never imported by them previously and also imported very less into India as it is locally available as produced from refining of crude palm oil.

3. In order to utilise the DFIA's for import, they had booked consignment for import of RBD Palm Oil (ITC HSN Code 15119010) on 15 December 2017 through their indenter for purchase on high seas which was shipped vide bill of Lading number SG/ BLW/ DDY 05-A dated 30th December to clear against DFIAs which were expiring on 31.12. 2017 as per Foreign Trade Policy, customs accepts bill of lading date which is within validity of DFIA for clearance, even though consignment reaches after expiry of DFIA.

4. After booking the consignment for import and as the goods were shipped, they instructed their CHA to start paper work for clearance of the consignment. The CHA informed that there is some confusion in customs in regard to import policy of Refined Palm Oil and the consignment may not be cleared by customs. The RBD palm oil is covered in chapter 15 of the ITC HSN book and there seemed to be some ambiguity in the policy condition of the chapter.

5. They approached Customs for their opinion but they were not forthcoming with any clear opinion.

6. As RBD Palm oil has short shelf life as it turns rancid if stored for more than 20-30 days, thus they cannot afforded any customs problems in case it is delayed in clearance or not allowed to be cleared after arrival at Indian port. Therefore they diverted the consignment to another country and wrote to Our Office on 12.01.2018 for clarification about import policy for RBD palm oil.

7. The wording Äll oils which except coconut oil, RBD Palm oil, RBD palm stearing and palm kernel oil are freely importable. Aerated the ambiguity about the import policy. It suggested that RBD palm oil is either prohibited or restricted, thus customs in spite of their repeated visits was not forthcoming on it opinion regarding import policy for RBD palm oil.

8. In response to their email / letter dated 12.01.2018 to our office, the clarification letter dated 23.01.2018 was received by post on 29.01.2018. However, by that time

few DFIA's expired in Dec. 2017 and January 2018. Though our office response was quick still about it took around 20 days for clarification to reach them resulting in validity of DFIAs getting expired. (Letter not attached).

9. In view of the above circumstances which were beyond their control and required clarification, they could not utilise the DIFA's before expiry though they had made necessary attempts.

Decision: On going through the submissions of the firm, the Committee noted that the firm had booked consignment for import of the RBD Palm Oil thorugh their indenter for purchase on high seas which was shipped vive bill of lading dated 30th December to clear against DFIAs. Further it was also noted that the firm had sought clarification on 12.01.2018 from this Directorate on the stated confusion in regard to import policy. The Committee therefore decided to grant revalidation of 45 days from the date of endorsement in respect of the DFIAs-(1) 3010103919 dated 04.01.2017, (2) 3010103923 dated 06.01.2017,(3) 3010103918 dated 03.01.2017, (4) 3010103922 dated 06.01.2017. The Committee did not accept for revalidation of the DFIAs-(1) 3010103908 dated 23.12.2016, (2) 3010103907 dated 23.12.2016(3) 3010103902 dated 16.12.2016 since these have expired much before the date of bill of lading.

(Action:Applicant/RA)

Case No- 22, Indian Biscuits Manufacturers Association, M/s Desai Brothers Ltd, M/s Heemankshi Bakers Private Limited.

F. No. 01/94/180/343/AM18/PC-4

PRC Meeting No. 08/AM19 dated 17.07.2018

Subject: EODC & Transferability along with revalidation without applying provisions of Notification No-31 dated 1.8.2013 for DFIAs issued prior to 1.8.2013

1. They are exporters of Biscuits, Confectionary and Pickles under DFIA.

2. They have stated that due to amendments in FTP by inserting Para 4.1.15 vide Notification No 31 dated 1.8.2013 and subsequent clarification vide PN No.35 dated 30.10.2013 has put them in complete quandary and has jeopardized their exports.

3. PN 35 dated 30.10.3013 retrospectively implements the restrictions of Notification 31 dated 01.08.2013 even on DFIA that were issued prior to 01.08.2013.

4. They have requested that due to implementation of these restrictions they could not get EODC and transferability.
5. They have requested that for DFIAs issued prior to 1.8.2013, Notification No-31 should not be made applicable. They have further requested that EODC and Transferability with revalidation.

6. Later on 22.5.2018, Indian Biscuits Manufacturers Association has also made representation.

7. This matter was already discussed in PRC meeting No-02/AM19 dated 24.4.2018 under case No-35. The case was referred to PC-4 for detailed examination.

8. In the present representations the applicants requested that Notification-31 and Public Notice-35 should not be made applicable for the DFIAs issued before 1.8.2013.

Decision: Taking into consideration the genuine hardship being faced by exporters of Biscuits, Confectionary and Pickles exporters in getting EODC/transferability under DFIA, the committee decide to allow relaxation for granting EODC/Transferability to such exporters in public interest subject to the following conditions:

(i) DFIA holders shall submit applications for EODC/Transferability to RAs, along with the following documents within two months from the date of uploading of these minutes on this Directorate website.

(ii) DFAI holders for exports made prior to 01.08.2013 shall submit undertaking in terms of Para 2 of Public Notice No-35 dated 30.10.2013.

(iii) For exports made on or after 01.08.2013, they shall submit (a) Declaration and statement of specific inputs used in the manufacturing of product exported under the subject DFIA in question. (b) an affidavit cum indemnity bond affirming therein that in case any revenue loss noticed in future on account of misdeclaration, they will surrender the same to the government without any protest on demand by RA, and (c) a certificate from Chartered Engineer of respective field certifying specific inputs actually used in the manufacturing of export product exported under the subject DFIA in question.

(iv) At the time of discharge of export obligation (EODC) and endorsement of transferability, RA shall allow only those inputs which have been specifically indicated in the declaration given by exporter and in the certificate of Chartered Engineer.

(v) RAs shall also revalidate the DFIAs for six months from the date of endorsement.

The meeting ended with vote of thanks to the Chair.