

MINUTES OF THE POLICY RELAXATION COMMITTEE
MEETING NO.09/AM07 HELD ON 22nd NOVEMBER, 2006

The meeting was held under the Chairmanship of DG and the list of officers present in the meeting is given in Annexure-I.

At the outset, DG observed that in a number of cases, that had been presented before the Committee, the agenda papers did not reflect details as to when the request had initially been received in the concerned division, how long the Committee, recommending relaxation, had taken to process the case and whether the applicant had been called for personal hearing before deciding the issue. Even a copy of the formal request made by the applicant was not found annexed to the agenda in a number of cases.

To streamline the procedure, DG directed that henceforth all the cases/requests relating to a grievance or policy relaxation will be marked direct to the Grievance Committee. The secretariat for Grievance Committee will also provide secretarial assistance to the Policy Relaxation Committee. Upon receipt of the formal request/receipt from R&I or any other source as the case may be, the requests will be segregated and sent to concerned Committees like Norms Committee, EPCG Committee etc. for further examination. The requests/applications which do not fall under the domain of any Committee will be referred to the concerned Policy Division for appropriate comments. The secretariat for Grievance Committee will send such receipts to the appropriate Committee/Policy division within a weeks' time. The concerned Committee/Division will ensure to examine the request and provide inputs and send their recommendations back to the Secretariat of Grievance Committee along with agenda for Policy Relaxation Committee, wherever necessary within 30 days of receipt of request in the division concerned. Whenever there is a delay beyond 30 days, the same will be recorded in the

agenda with adequate justification. It was decided that a suitable O&M Circular be issued immediately to give shape to this procedure.

Thereafter, the cases listed in the Agenda were taken up for discussion and decision taken in each of these cases is detailed below:-

Case No.	1.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Masturlal Pvt. Ltd., Bangalore.
File No.	01/84/162/276/AM07/DES-V
Subject:	Request for revalidation of advance licence No. 0710022414 dated 12.7.2003.

It is observed that the Regional Authority is empowered to allow revalidation with a total validity period of 30 months from the date of issue of licence/Authorisation. In the instant case the licence is stated to have been issued on 12.7.2003 which would mean that the 30 months period available to the applicant for utilizing the licence expired on 11.1.2006. As per the details available in the Agenda the request for revalidation has been received with the concerned DES division of DGFT on 3.7.2005 which inter alia would mean that the same is submitted within a period of 6 months from the date of expiry of 30 months period. The Committee considered this as a reasonable time frame for submission of request for revalidation. Moreover, taking into account the fact that the applicant had fulfilled the EO as detailed in the Agenda, a lenient view should be taken to enable the applicant to replenish the stocks. Taking these factors into consideration, it was decided in relaxation of the policy provision, to allow revalidation in the instant case for a period of 3 months and this 3 months period will commence from the date endorsement to this effect is made on the licence. This will further be subject to the condition that (i) the applicant pays the composition fee equivalent to 2% of the unutilized CIF value of the licence; and (ii) the applicant approaches the Regional Authority concerned within a period of 15 days from the date of issue of communication conveying decision of the PRC for seeking endorsement of revalidation.

It was also decided that Norms Committee / concerned DES division will ensure to issue a formal communication to the applicant and the Regional Authority concerned apprising them of the decision of the PRC within a period of 7 days from the date of receipt of minutes in the DES division.

Case No.	2.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s.Vinifine Textile Mills Pvt. Ltd., Mumbai
File No.	01/84/162/1084/AM 04/DES-V
Subject:	Request for revalidation of DEPB No. 2410006237 dt. 27.12.2002, 2410006290 dt. 30.12.2002 and 2410006241 dt. 27.12.2002.

The DEPB licences in this case has been issued in December, 2002 and were valid for a period of 12 months i.e. upto December, 2003. Since the foreign exchange was not realized they were issued DEPB subject to actual user condition based upon an application made by them. They have now claimed that they have realized the foreign exchange, and because, they have not utilized DEPB already issued within its original validity, they should be allowed revalidation of these DEPBs along with endorsement of transferability. The issue was deliberated upon and it was seen that the applicant had DEPB licences in hand and they were at liberty to utilize the same with actual user condition. There is no justifiable reason given by them for not utilizing these DEPBs within their original validity and seeking revalidation now. There being no merit in the request of the applicant, the same was rejected.

Case No.	3.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Zeal Exports, West Bengal.
File No.	01/84/162/364/AM07/DES-V
Subject:	Request for further revalidation of advance licence No. 0210059954 dated 16.1.2004 for six months.

It is observed that the Regional Authority is empowered to allow revalidation with a total validity period of 30 months from the date of issue of licence/Authorisation. In the instant case the licence is stated to have

been issued on 16.1.2004 which would mean that the 30 months period available to the applicant for utilizing the licence expired on 15.7.2006. As per the details available in the Agenda the request for revalidation has been received with the concerned DES division of DGFT on 21.6.2006 which inter alia would mean that the same is submitted within 30 months period available to the applicant to utilize the licence. The Committee considered this as a reasonable time frame for submission of request for revalidation. Moreover, taking into account the fact that the applicant had fulfilled the EO as detailed in the Agenda, a lenient view should be taken to enable the applicant to replenish the stocks. Taking these factors into consideration, it was decided in relaxation of the policy provision, to allow revalidation in the instant case for a period of 6 months and this 6 months period will commence from the date endorsement to this effect is made on the licence. This will further be subject to the condition that (i) the applicant pays the composition fee equivalent to 2% of the unutilized CIF value of the licence; and (ii) the applicant approaches the Regional Authority concerned within a period of 15 days from the date of issue of communication regarding decision of the PRC for seeking endorsement of revalidation.

It was also decided that Norms Committee/concerned DES division will ensure to issue a formal communication to the applicant and the Regional Authority concerned apprising them of the decision of the PRC within a period of 7 days from the date of receipt of minutes in the DES division.

Case No.	4.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/S. Zenith Birla (India) Ltd.
File No.	1/81/162/141/AM07/DES-II
Subject:	Request for (A) clubbing three licences (1) 3110083623 dt. 09.05.2001 (2) 310088613 dt. 9.5.2001 (3) 310158648 dt. 16.9.2002 and (B) for revalidation of advance licence No. 310158648 dated 16.9.2002 for two months.

This is regarding clubbing of advance licences issued in different licensing periods under different Customs Notifications. Policy does provide for clubbing of advance licences issued under similar customs Notification. Here the case is of licenses issued under different Customs Notifications. In the

agenda placed before the committee it has been stated that in respect of the last licence issued in September 2002 exports have been made prior to issue of a licence which is not permitted in the policy and hence the relaxation has been sought. No justifiable reason has been given as to why exports against the licence issued in September 2002 have been made even before the issue of the licence itself. To that extent, there is no merit in the request made by the applicant and therefore, stands rejected by the Committee.

Case No.	5.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Buchh Sons, New Delhi.
File No.	1/84/162/1221/AM05/DES-V
Subject:	DEPB claim against S/bill Nos. 6591628, 6643671, 6669706, 6694285, 6549374 and S/bill Nos. 6555233, 6542668, 6535897, 6708612, 6598684, 6520734, 6528589 and 6555149.

This case has come with the approval of GRC and GRC has taken a view that applications be accepted against the Shipping Bills under question for grant of DEPB in 9 cases without 10% cut, in respect of 3 SBs with 10% cut and in respect of one SB it has been recommended that the benefit should not be allowed. The plea put forth by the applicant that it was delay on the part of the Bank authority in issuing BRC, which resulted delay in filing of the application has been accepted by the GRC.

Perusal of the agenda papers however revealed that details supported by documentary evidence as to when the applicant had actually approached the bank authorities for issue of bank realization certificate has not been annexed to the agenda. Grievance Committee in its recommendations has also not given these details as also the details of the documents relied upon to substantiate the claim of the applicant. PRC was not in a position to implement the GRC decision suo motto without going into these details. It was therefore decided that the case be referred back to the GRC with a request to reconsider the directions issued by that Committee in this case.

Case No.	6.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Pragati Offset Pvt. Ltd.
File No.	01/94/162/Pragati Offset DEP/AM07/PC-I
Subject:	Condonation of delay in filing DEP Claim-7 DEPs issued on 14.7.2006

The case relates to condonation of delay in filing DEP claim in respect of 305 SBs with the claim amount of R.27 lakhs. In this case GRC has taken a view that there were some changes in the policy of which the applicant was unaware and they had already accounted for this DEP component while executing the orders. The Committee took note of the above directions of GRC and observed that although GRC has taken a view in condoning the delay for filing the application, the merits of the case have not been elaborated and relaxation in such a situation has wide ranging implications because applicants may come up with similar requests in future thus making the scheme open ended without any cut off date for filing applications.

The directions of the GRC issued in this case also did not reflect as to whether these aspects of the case had been examined and taken care of while deciding the issue. It was, therefore, decided to refer the case back to GRC with the request to reconsider the decision conveyed to DGFT in the instant case.

Case No.	7.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s India Foils Ltd, Kolkata
File No.	01/80/162/380/AM07/DES-I
Subject:	Request for grant of EOP extension in respect of advance licence No.02006875 dated 27.5.1999, in terms of Para 4.22.1 of HBP, Vol.1, 2004-09, (updated as on 31.3.2005).

This is an issue where EO period extension has been sought by the applicant and recommended by the Norms Committee. The Norms Committee has stated that obligation to the extent of 196.001 MT has been fulfilled and

EO extension is required for fulfilling only a meagre quantity of 3.989 MT. The Committee perused the details and felt that the licence is dated May 1999 and allowing extension for such a long period (which would mean 7 years in the instant case) is not warranted there being no merit in the request. It was decided that no extension in the instant case should be allowed and applicant should get the default settled in the normal course by way of payment of duty plus interest on the default and regularize their case.

Case No.	8.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Mangal Steel Enterprises Ltd., Howrah.
File No.	01/80/162/404/AM07/DES- I
Subject:	Clubbing of advance licence No. 0210042831 dt. 23.12.2002 and 0210046238 dt. 26.3.2003.

Clubbing of licences issued under similar customs notifications is permitted in the policy. However, the import items have also to be same or similar. In the present case, the first parameter of licence issued under similar customs notification is met with within the scope of the policy. However, the item of import in two licences sought to be clubbed is different. In one licence it is alloy steel wire rods and another licence it is stainless steel rods. There is no scope for clubbing of licences with different inputs as accountability is not possible. Taking these factors into consideration, it was decided to reject the request.

Case No.	9.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Royal Industries , Delhi
File No.	1/93/180/1388/AM99 PC- I (A)
Subject:	Release of shipment vide B/E No. 525683 dated 04.08.2006 to be imported under ITC(HS) Code 292910.

It was decided that the facts of the case be brought up on file and put up to DG for appropriate orders.

Case No.	10.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Vatanu-Cool Rotaryvanes Limited, Pune
File No.	18/27/AM07/EPCG- I I
Subject:	Request for amendment of EPCG licence as per Order No.11/36A/2005-06/ECA.I dated 3.2.2006 passed by Addl. DGFT, New Delhi.

The case has been adjudicated and at appeal stage remanded back to the Licensing authority for denovo consideration and licensing authority has sent the case for policy relaxation. The licence has been issued under EPCG scheme in January 1996 and the primary issue is extension in EO period. There is total default even after a lapse of more than 10 years and there is no merit in considering this request. It was accordingly decided to reject the request.

Case No.	11.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Viking Knit Process, Tirupur.
File No.	18/92/AM06/EPCG- I I
Subject:	Condonation of block wise EO fulfillment.

The exporter is required to fulfill the EO to the extent of 10% in the 2nd year, 20% in the 3rd year, 30% in the 4th year and 40% in the 5th year which takes care of 100% EO. The export obligation has been fulfilled to the extent of 100% only in the 5th year and no exports are made in 2nd, 3rd and 4th year. Condonation has been sought in meeting export obligation in 2nd, 3rd and 4th year.

The Committee was informed that EPCG Committee has been allowing such requests in the past but PRC has not considered any such request as per our records. It was, accordingly decided to revert the case back to EPCG Committee who could take a view in case it falls within the domain of that Committee. PRC is not willing to give any relaxation if required.

Case No.	12.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Am-Tech Pack Ltd., Mysore.
File No.	01/92/180/312/AM06/PC-II
Subject:	Request for extension of the validity period of Advance DTA sale upto September, 2007.

This case was considered in the PRC in the meeting held on 20.6.2006 where recommendation of Board of Approval (BOA) was accepted and DTA sale permission was extended upto 30.9.2006. The applicant has pleaded that the decision was communicated to them only in July, 2006 and they got only two months and have requested that DTA Sale permission may be extended upto September, 2007. It is not, however, clear from the agenda papers as to when the BOA has actually recommended the case for extension and how much period lapsed between the recommendation of the BOA and the case actually coming to PRC. These details may be brought up on file for suitable decision on the issue.

Case No.	13.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Double Barrel Jean (India) Pvt. Ltd.
File No.	1/93/180/163/AM07PC-II
Subject:	Extension of Letter of Permission (LOP)-Relaxation of Policy –request of applicant for renewal.

The Letter of Permit (LOP) has expired on 1.4.2004 and the applicant was required to file a formal request for extension of LOP by 30.9.2004. Therefore their LOP has lapsed. They have now requested for condonation of delay. The Committee was of the view that this was a technical/procedural lapse on the part of the applicant and decided to condone the same in relaxation of the policy provision to enable them to continue as EOU in spite of this procedural delay and validating LOP beyond 31.3.2004 be considered by the authority concerned if otherwise permissible.

Case No.	14.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s Rajasthan Spinning & Weaving Mills Ltd, Mumbai
File No.	01/84/162/596/AM07/DES-V
Subject:	Request for grant of Drawback claim for furnace oil procured from indigenous sources.

This is a case of advance licence issued in the year 2002-03 where one of the inputs, which could be imported, is Furnace Oil. They got this licence invalidated for Furnace Oil so that they can procure it domestically and inter alia presumed that they would get refund of TED/Deemed Export benefits. However, Deemed Export benefits on Furnace Oil came into effect only on 6.10.2005 and therefore no benefits was allowed. The applicant therefore approached GRC with the request that the Furnace Oil should be re-endorsed on the licence and licence should be revalidated. The Committee on perusal of the agenda papers presented before it found that details of the licences with licence No., date, value of each of the licences was not available. It is further seen that details regarding quantity and value of the furnace oil against which invalidation has been issued and details of quantity and value which has been sought to be re-endorsed on these licences have also not been reflected. It was decided that these details alongwith addition information required to consider the request be brought up on the agenda before the Committee to enable it to take a view on this in line with the recommendations of GRC. In the meantime, the case stands deferred.

Case No.	15.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. K.L.F. Oil Industries, Kerala.
File No.	01/85/162/581/AM06/DES-I
Subject:	Grant of relief against three advance licences Nos. 1010019790 dated 4.3.2005, 1010020931 dated 15.7.2005 & 1010021183 dt. 11.8.2005 for ratification under Para 4.7 of HBP as earlier granted by PRC against advance licence No. 1010016265 dated 11.06.2004.

There were 4 advance licences issued to the applicant firm with one of the inputs as "copra". On 14.1.2005 Copra was reserved for import through STEs and could not be directly imported by the licence holder. One licence was issued before this restriction came into force whereas 3 other licences were issued after this restriction of import through STEs was notified. The applicant has made partial import against these 4 licences directly which has now been objected by customs authorities as unauthorized import. They have come to PRC with the request that the direct import made by them in respect of STEs items may be treated as regular. One licence which was issued in June, 2004 prior to issue of notification and direct import of the licence has been regularized by the PRC. The applicant has come with the request of regularization of the direct import in other 3 licences as well. The Committee observed that since these three licences were issued after the STE stipulation came into force, they should have followed the applicable policy. There is no merit in the request and hence rejected.

Case No.	16.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Birla Corporation Ltd., New Delhi.
File No.	1/83/162/2628/AM01/DES-IV
Subject:	Request for discharge of EO against advance licence No. P/B/1957497 dated 4.8.1995 against 3rd party exports to erstwhile Russia.

This is a case where advance licences were issued in 1995 for exports to Russia against State Credit. Although the 3rd party exports were permitted the same was not allowed against State Credit. Subsequently, a clarification was issued in the form of Policy Circular stating that 3rd party exports are not permitted against the State Credit. Norms Committee has pleaded that since Policy Circular was issued subsequently there was no bar prior to Policy circular on 3rd party exports. However they have ignored the fact that the policy circular is only clarificatory in nature and does not change the policy and policy not permitting 3rd party exports against State Credit policy was already deemed to be in place. To that extent there is no merit in the request and the same stands rejected.

Case No.	17.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. The National Leather Cloth Manufacturing Co., Mumbai
File No.	01/87/162/507/AM05/DES-VIII
Subject:	Grant of extension in EO period under 12 advance licences issued during AM 1997-98 for a period of 12 months without payment of composition fee.

The Committee observed that the licence in question have been issued as back as February 1997 to January 1998 and allowing extension at this stage would mean virtual open ended policy on EO extension. Although the case had come to PRC with the recommendation of GRC, it was not clear from the agenda placed before the Committee whether these factors have been taken into account and the facts have been brought up before the Hon'ble C&IM before getting his approval on this issue. It was, therefore decided to refer

the case back to GRC with the request that they may reconsider the decision in the light of these observations of PRC.

Case No.	18.
PRC Meeting No.	No.09/AM07
Date.	22.11.2006
Firm's Name	M/s. Armour Polymers Ltd., Mumbai.
File No.	01/87/162/641/AM06/DES-VIII
Subject:	Revalidation of following advance licences: 0334833 dt. 23.6.1995 0310009745dt. 20.9.1999 0310079119 dt. 12.4.2000. 0310057631 dt. 18.10.2000. 0310078001 dt. 22.3.2001. 0310106501 dt. 17.10.2001. 0310106285 dt. 16.10.2001. 0310106286 dt. 16.10.2001.

The licence in the instant case has been issued as back as June, 1995 to October, 2001 and in some cases the EO has not even been fulfilled. Therefore allowing revalidation at this stage would mean long importability period against the licence, in some cases beyond a period of 11 to 12 years, thus making it virtually open ended. This has not been the intention of the policy because the Committee felt that a line has to be drawn somewhere for allowing such revalidations and permitting licence holders to utilize the licences. The agenda papers also do not reflect whether these facts have been brought to the notice of the Hon'ble C&IM before approval on this issue had been obtained. It was decided that the case be referred back to GRC with the request to reconsider their directions issued in this case.

The meeting ended with vote of thanks to the Chair.

LIST OF PARTICIPANTS

1. Shri Neeraj Gupta, Addl.DGFT
2. Dr(Ms.) Maya D.Kem, Addl.DGFT
3. Shri Surat Singh, Addl.DGFT
4. Shri S.K. Prasad, Addl.DGFT
5. Shri Sanjay Rastogi, Export Commissioner
6. Shri S.K. Samal, Jt. DGFT
7. Shri O.P. Hisaria, Jt.DGFT
8. Shri Tapan Mazumdar, Jt. DGFT
9. Ms. Kiran Sehgal, Dy.DGFT
10. Shri P.K. Santra, Dy.DGFT
11. Shri Rajinder Pal Singh, Dy.DGFT
12. Shri M.K.Parimoo, Jt.DGFT
