Minutes of the Policy Relaxation Committee Meeting held under the Chairmanship of DGFT, Shri Anup Wadhawan, on 10.08.2016

Meeting No. 15/AM17 held on 10.08.2016 at 4.00 AM

The following Members were present in the meeting:

1.	Shri D.K. Singh	Addl. DGFT
2.	Shri K.C. Rout	Addl. DGFT
3.	Shri Darshan Singh	Addl. DGFT
4.	Shri J.V. Patil	Addl.DGFT
5.	Shri Jay Karan Singh	Jt. DGFT
6.	Shri AkashTaneja	Jt. DGFT
7.	Shri S.K. Mohapatra	Dy. DGFT
8.	Shri Rakesh Kumar	Dy. DGFT

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

Case No.1: M/s. Polycab Wires Pvt. Ltd., New Delhi

F.No. 01/60/162/429/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for relaxation of procedural lapse for TED refund submitted to ADGFT, Mumbai under receipt no. 15564 and Advance Authorization no. 1556417120 dt. 17.12.2008.

Decision:

The committee noted that in this case the supplies were made to a nuclear power project, which could be considered as deemed export provided a certificate from DAE is provided in terms of Para 7.02(h) (iii) of FTP. The committee was of the views that certificate of DAE is mandatory condition for recognition of deemed export and benefits thereunder, the requirement of certificate cannot be waived of. Therefore, the request to waive the requirement of certificate from DAE was not agreed to.

Case No.2: M/s. Sentiss Pharma Pvt. Ltd., Gurgaon.

F.No. 01/60/162/136/AM16/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for Waiver from Destruction certificate as per PC-18 in respect of imported drugs from unregistered sources against Advance Authorization no. 0510267953 dt. 12.07.2010 issued under PC-9 Condition for regularization / closure purpose.

Decision:

The Committee noted that the case was considered in PRC Meeting No. 10/AM16 dt. 13.10.2015 and PRC Meeting No. 09/AM17 dt 24.06.2016. Now, the applicant has requested to review the decision of PRC dated 24.06.2016 and allow waiver of PC-18 dated 30.10.2007 condition on the following grounds:

i. That they have imported 48.44kgs drugs from unregistered sources against the Authorisation.

ii. That they have exported resultant product containing 38.291 kgs under 'Free Shipping Bills', as the shipments were made after expiry of export obligation period.

Hence, the details of advance licence / bill of entry were not mentioned in the said free Shipping Bills.

iii. That they have exported 2.295 kgs under other advance licences using the duty free raw materials imported against the authorisation in question.

iv. That out of balance raw material, 0.306 kgs were used in testing of raw material before commencing production and remaining 7.854 kgs were used in different process such as manufacturing loss, filling loss, finished goods testing and samples loss etc.

v. That they have obtained a consumption certificate from Central Excise Authority mentioning that they have imported 48.44kgs (Tropicamide JP under Bill of Entry No. 660217 & 660219 both dated 29.07.2010 against Advance Authorization No. 0510267953 dt 12.07.2010 and exported 38.291kgs and remaining materials were consumed in their plant only.

vi. That they have already paid duty plus interest of Rs. 16,08,691/- for the entire raw material of 48.44kgs.

Taking into consideration all these facts, the committee decided to modify the decision taken in the meeting dated 24.06.2016 as under:

a. PC-18 dated 30.10.2007 conditions on 7.854kgs unaccounted raw materials stands waived to the extent of requirement of destruction certificate.
b. This will, however, be subject to payment of applicable duties and interest to the customs Authority on whole of 48.44kgs duty free import.
c. In addition to that the applicant shall pay Rs.1,00,000(One Lakh only) to RA as composition fee for regularisation.

(Action: RA CLA, New Delhi)

Case No.3: M/s. Thomson Press (India) Ltd., New Delhi

F.No. 01/60/162/416/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for allow redemption of Advance Authorisation No. 0510337414 dt. 08.10.2012 without furnishing bank realization certificate.

Decision:

The committee noted that the applicant has imported duty free raw materials and finished goods were supplied to an EOU(M/s Moser Bear) towards discharge of export obligation against the Advance Authorisation. The committee was of the views that the applicant, before making supply of goods, should have taken necessary step to ensure the realization of payments. Requirement of Bank Realization Certificate (BRC) cannot be waived because no transaction is considered as complete till payments against such supplies are received. The committee further noted from the representation of the applicant that the said EOU is a sick unit and has been registered with BIFR. Further they have filed a civil suit against M/s Moser Bear in Delhi High Court to recover Rs. 1.63 crore. However, no order has been provided for consideration. The request was accordingly rejected.

(Action: RA, CLA, New Delhi)

Case No.4: M/s. Thomson Press (India) Ltd., New Delhi

F.No. 01/60/162/415/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for allow redemption of Advance Authorisation No. 0510312734 dt. 29.12.2011 without furnishing bank realization certificate.

Decision:

The committee noted that the applicant has imported duty free raw materials and finished goods were supplied to an EOU(M/s Moser Bear) towards discharge of export obligation against the Advance Authorisation. The committee was of the views that the applicant, before making supply of goods, should have taken necessary step to ensure the realization of payments. Requirement of Bank Realization Certificate (BRC) cannot be waived because no transaction is considered as complete till payments against such supplies are received. The committee further noted from the representation of the applicant that the said EOU is a sick unit and has been registered with BIFR. Further they have filed a civil suit against M/s Moser Bear in Delhi High Court to recover Rs. 1.63 crore. However, no order has been provided for consideration. The request was accordingly rejected.

(Action: RA, CLA, New Delhi)

Case No.5: M/s. Thomson Press (India) Ltd., New Delhi

F.No. 01/60/162/419/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for allow redemption of Advance Authorisation No. 0510330510 dt. 25.07.2012 without furnishing bank realization certificate.

Decision:

The committee noted that the applicant has imported duty free raw materials and finished goods were supplied to an EOU(M/s Moser Bear) towards discharge of export obligation against the Advance Authorisation. The committee was of the views that the applicant, before making supply of goods, should have taken necessary step to ensure the realization of payments. Requirement of Bank Realization Certificate (BRC) cannot be waived because no transaction is considered as complete till payments against such supplies are received. The committee further noted from the representation of the applicant that the said EOU is a sick unit and has been registered with BIFR. Further they have filed a civil suit against M/s Moser Bear in Delhi High Court to recover Rs. 1.63 crore. However, no order has been provided for consideration. The request was accordingly rejected.

(Action: RA, CLA, New Delhi)

Case No.6: M/s. Thomson Press (India) Ltd., New Delhi

F.No. 01/60/162/417/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for allow redemption of Advance Authorisation No. 0510312733 dt. 29.12.2011 without furnishing bank realization certificate.

Decision:

The committee noted that the applicant has imported duty free raw materials and finished goods were supplied to an EOU(M/s Moser Bear) towards discharge of export obligation against the Advance Authorisation. The committee was of the views that the applicant, before making supply of goods, should have taken necessary step to ensure the realization of payments. Requirement of Bank Realization Certificate (BRC) cannot be waived of because no transaction may said to be completed till payments against such supplies are received. The committee further noted from the representation of the applicant that the said EOU is a sick unit and has been registered with BIFR. Further they have filed a civil suit against M/s Moser Bear in Delhi High Court to recover Rs. 1.63 crore. However, no order has been provided for consideration. The request was accordingly rejected.

(Action: RA, CLA, New Delhi)

Case No.7: M/s. Emami Ltd., Kolkata

F.No. 01/60/162/467/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for condonation of delay in claim of benefit of refund of TED of Rs. 3,17,240/- against invoice No. 863 dated 12.09.2008.

Decision:

The committee noted that in terms of para 8.3.1 (iv) of HBP, 2009-2014, read with Para 9.3 of HBP, 2009-2014, claim for TED refund could be filed within 36 months from the date of payment. Whereas, in this case, the supplies were effected on 12.09.2008 and the date of realization of payments is 03.10.2008 and the application for claim of TED refund is made on 06.01.2015. The applicant could not give any cogent reason of not filling application within three years with prescribed late cut. There is no case of genuine hardship established. The committee, therefore, did not accede to the request.

Case No.8: M/s. Bholanath Industries Ltd., And M/s. BIL Continental Ltd., Varanasi.

F.No. 01/60/162/645/AM16/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Policy relaxation under Para 2.42 and 9.62 of FTP, 2015-20 for admissibility of DTA sale permission for export made by EOU through third party.

Decision:

The committee deferred for seeking a detailed report from DC, NSEZ as to why the shipping bills were not taken into account for NFE calculation.

(Action: DC, NSEZ)

Case No.9: M/s. M/s. Lupin Ltd, Mumbai

F.No. 01/60/162/515/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP extension of Advance Authorization No. 0310775893 dated 26.03.2014 issued under PC-9 conditions.

Decision:

The Committee noted that the Authorization No. 0310775893 dated 26.03.2014 was issued with conditions stipulated under PC-9 dated 30.06.2003, which allows 12 months period for EO fulfillment from import of each consignment. The imports were made on 15.04.2014, 03.05.2014 & 30.06.2014. Accordingly, initial obligation period was upto 30.04.2015, 31.05.2015 & 30.06.2015, respectively. The applicant has fulfilled less than 50% export obligation during the initial export obligation period. Taking all these facts into account, the Committee decided the following:

I. Export obligation period be extended from 12 months to 18 months against import of each consignments i.e. upto **31.10.2015, 30.11.2015 & 31.12.2015**, respectively.
II. This is only for accounting and regularization of exports already effected.

III. This is subject to a payment of composition fee @ 0.5% per month on FOB value of export made after initial obligation period.
IV. The minimum value addition of 15% as prescribed under Para 4.09 of FTP(2015-2020) shall be maintained.
V. The applicant has to pay duty plus interest on inputs consumed and exported after 18 months from the date of import consignment.
VI. PC-18 dated 30.10.2007 condition shall be followed for shortfall, if any.

(Action: RA, Mumbai)

Case No.10: M/s. M/s. Lupin Ltd, Mumbai

F.No. 01/60/162/500/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP extension of Advance Authorization No. 0310762533 dt. 19.12.2013 issued under PC-9 conditions.

Decision:

The Committee noted that the Authorization No. 0310762533 dt. 19.12.2013 was issued with conditions stipulated under PC-9 dated 30.06.2003, which allows 12 months period for EO fulfillment from import of each consignment. The imports were made on 03.03.2014, 29.07.2014, 27.10.2014. Accordingly, initial obligation period was upto 31.03.2015, 31.07.2015, 31.10.2015, respectively. The applicant has fulfilled 88% export obligation during the initial export obligation period and remaining 12% thereafter. Taking all these facts into account, the Committee decided the following:

I. Export obligation period be extended from 12 months to 18 months against import of each consignments i.e. upto **30.09.2015, 30.11.2015 & 30.04.2016**, respectively.
II. This is only for accounting and regularization of exports already effected.
III. This is subject to a payment of composition fee @ 0.5% on FOB value of export made after initial obligation period.
IV. RA shall check that 50% exports against each consignment were made within initial export obligation period. If not, composition fee will be charged @ 0.5% per month on unfulfilled FOB.
V. The minimum value addition of 15% as prescribed under Para 4.09 of FTP(2015-2020) shall be maintained.

(Action: RA, Mumbai)

Case No.11: M/s. M/s. Lupin Ltd, Mumbai

F.No. 01/60/162/752/AM16/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for Waiver from destruction certificate as per PC-18 in their Advance Authorization No. 0310617409 dt. 23.02.2011 for closure purpose.

Decision:

The Committee noted that the Authorization No. 0310617409 dt. 23.02.2011 was issued with conditions stipulated under PC-9 dated 30.06.2003, which allows 12 months period for EO fulfillment from import of each consignment. The applicant has imported 680kgs drugs from unregistered sources but could not make any export due to not getting approval of USFDA. The applicant has destroyed 594.674kgs raw materials in the presence of the Excise Authority and remaining 85.954kgs have been used for trial run. Taking into consideration the genuine hardship, the Committee decided the following:

I. PC-18 dated 30.10.2007 condition stands waived on 85.954kgs to the extent of requirement of destruction certificate.
II. This will, however, be allowed subject to payment of customs duty plus applicable interest on entire 680kgs unutilised imported drugs.
III. The applicant shall furnish destruction certificate from the concerned excise Authority for 594.674kgs
IV. RA shall verify the required documents carefully.

(Action: RA, Mumbai)

Case No.12: M/s. M/s. Lupin Ltd, Mumbai

F.No. 01/60/162/513/AM16/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP extension of Advance Authorization No. 0310776877 dt. 03.04.2014 issued under PC-9 conditions.

Decision:

The Committee noted that the Authorization No. 0310776877 dt. 03.04.2014 was issued with conditions stipulated under PC-9 dated 30.06.2003, which allows 12 months period for EO fulfillment from import of each consignment. The imports were made on 02.06.2014. Accordingly, initial obligation period was upto 30.06.2015. The applicant could not make any export during initial obligation period but fulfilled 63% export obligation thereafter. Taking all these facts into account, the Committee decided the following:

I. Export obligation period be extended from 12 months to 18 months i.e. upto 31.12.2015.
II. This is only for accounting and regularization of exports already effected.
III. This is subject to a payment of composition fee @ 0.5% per month on FOB value of export made after initial obligation period.
IV. The minimum value addition of 15% as prescribed under Para 4.09 of FTP(2015-2020) shall be maintained.
V. The applicant has to pay duty plus interest on inputs consumed and exported after 18 months from the date of import consignment.
VI. PC-18 dated 30.10.2007 condition stands waived on 63% exports however, for unutilised quantity, procedure provided in PC-18 read with Para 4.49 of HBP, 2015-2020 shall be followed.

(Action: RA, Mumbai)

Case No.13: M/s. M/s. Lupin Ltd, Mumbai

F.No. 01/60/162/514/AM16/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP extension of Advance Authorization No. 0310776878 dt. 03.04.2014 issued under PC-9 conditions.

Decision:

The Committee noted that the Authorization No. 0310776878 dt. 03.04.2014 was issued with conditions stipulated under PC-9 dated 30.06.2003, which allows 12 months period for EO fulfillment from import of each consignment. The imports were made on 25.04.2014, 13.05.2014 & 30.06.2014. Accordingly, initial obligation period was upto 30.04.2015, 31.05.2015 & 30.06.2015, respectively. The applicant has fulfilled 37% export obligation during the initial export obligation period and 28% thereafter. Taking all these facts into account, the Committee decided the following:

I. Export obligation period be extended from 12 months to 18 months against import of each consignments i.e. upto **31.10.2015, 30.11.2015 & 31.12.2015,** respectively**.**
II. This is only for accounting and regularization of exports already effected.
III. This is subject to a payment of composition fee @ 0.5% per month on FOB value of export made after initial obligation period.
IV. The minimum value addition of 15% as prescribed under Para 4.09 of FTP(2015-2020) shall be maintained.
V. The applicant has to pay duty plus interest on unutilised inputs as well as inputs consumed and exported after 18 months from the date of import consignment.
VI. Only inputs, which has been imported prior to export shall be taken into account.
VII. PC-18 dated 30.10.2007 condition shall be followed on unutilised raw materials, if any.

(Action: RA, Mumbai)

Case No.14: M/s. Fredun Pharmaceuticals Ltd., Mumbai

F.No. 01/60/162/454/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for clubbing of 4 Advance Authorization no. 0310746673 dt. 23.08.2013, 0310747298 dt. 28.08.2013, 0310783389 dt. 29.05.2014 & 0310791949 dt. 12.12.2014.

Decision:

The committee noted that above mentioned four Authorizations were issued with PC-9 conditions. Import in the first Authorization was made on 27.09.2013. Accordingly, initial export obligation was upto 30.09.2014. Export obligation in the subsequent Authorizations have been completed within 18 months from the date of import. The committee, therefore, decided the following:

i. Clubbing of above referred four Advance Authorisations be allowed.
ii. Export obligation period be extended from 12 months to 18 months against Advance Authorization No. 0310746673 dt. 23.08.2013 i.e. upto **31.03.2015.**
iii. Exports made upto **31.03.2015** in the subsequent Authorisations shall only be accounted for clubbing and redemption.
iv. This will be subject to payment of composition fee @ 0.5% on FOB value of export made after initial obligation period of 12 months i.e. after **30.09.2014**.
v. On clubbing, minimum value addition of 15% shall be maintained. The 15% value addition for evaluating entitlement shall be applied on the clubbed FOB and CIF of the Authorizations.
vi. Only inputs, which has been imported prior to export shall be taken into account.
vii. RA shall ensure proper accounting of inputs with reference to export products, as per SION.

(Action: RA, Mumbai)

Case No.15: M/s. Indeutsch industries Pvt. Ltd., New Delhi

F.No. 01/60/162/469/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request to condone procedural Lapse for not making the declaration of intent to claim the MEIS Benefit', in the 93 (21+72) shipping bills.

Decision:

The committee noted that in terms of Para 3.14(a) of HBP 2015-20,in order to claim rewards under MEIS, exporters were required to declare in Export shipments filed under all categories of the Shipping Bills as : "we intend to claim rewards under Merchandise Export From India Scheme". Such declaration was required even for export shipments under any of the schemes of Chapter-4(including drawback), Chapter-5 or Chapter-6 of FTP. In the case of shipping bills (other than free shipping bills), such declaration of intent was mandatory with effect from 1st June 2015. Grace period of 2 months (from 01.04.2015 to 31.05.2015) was given because of the new policy even though the system of marking "Y" or "N" was not new and was in operation since 2012.

It was brought to the notice of this Directorate that many of the exporters even though they had indicated the wordings "we intend to claim rewards under Merchandise Export from India Scheme" in the shipping bill, they had inadvertently ticked "N" in the reward item box while filing the shipping bills with the Customs. Since, Para 3.01(g)of the HBP 2015-20 does not allow manual feeding of EDI shipping bill details, filing of MEIS claims was not possible manually in case of such shipments.

In order to address such type of grievance, this Directorate had issued Public Notice No.40 dated 09th October 2015 specifying the procedure to be followed for obtaining the benefit under the MEIS Scheme in case of shipping bills, where "N" has been ticked inadvertently in the reward item box while filing shipping bills in Customs for exports made between 01.04.2015 to 31.05.2015.

Further, representations were received from trade and industry that such procedure should also be made applicable to exports made beyond 31.05.2015. Accordingly, this Directorate vide Public Notice No 47 dated 08.12.2015 specified procedure to be followed where exports have been made between 1.6.2015 to 30.9.2015 through EDI generated shipping bills, and where the exporter has inadvertently marked "N" in the "reward item box" but has declared his intention in the affirmative on the shipping bill.

However, in the instant case, exports were made between 01.06.2015 to 12.07.2015 and the exporter has neither marked his intent as "Y" in the "reward item box" nor has he declared his intention in the affirmative on the shipping bills.

Hence, the committee did not accede to the request of the firm.

Case No.16: M/s. Torrent Pharmaceuticals Ltd, Ahmedabad

F.No. 01/60/162/490/AM17/EFGC(PRC))

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP extension of Advance Authorization No. 0810133918 dt. 25.11.2014 issued under PC-9 conditions.

Decision:

The Committee noted that the Authorization No. 0810133918 dt. 25.11.2014 was issued with conditions stipulated under PC-9 dated 30.06.2003, which allows 12 months period for EO fulfillment from import of each consignment. The imports were made on 20.03.2015. Accordingly, initial obligation period was upto 31.03.2016. The applicant did not make any export during the initial export obligation period but fulfilled 100% obligation thereafter. Taking all these facts into account, the Committee decided the following:

I. Export obligation period be extended from 12 months to 18 months i.e. upto **30.09.2016**.
II. This is subject to a payment of composition fee @ 0.5% per month on FOB value of export made after initial obligation period.

III. The minimum value addition of 15% as prescribed under Para 4.09 of FTP(2015-2020) shall be maintained.

(Action: RA, Ahmedabad)

Case No.17: M/s. Torrent Pharmaceuticals Ltd, Ahmedabad

F.No. 01/60/162/493/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP extension of Advance Authorization No. 0810105104 dt. 25.10.2011 issued under PC-9 conditions.

Decision:

The Committee noted that the Authorization No 0810105104 dt. 25.10.2011 was issued with conditions stipulated under PC-9 dated 30.06.2003, which allows 12 months period for EO fulfillment from import of each consignment. The imports were made on 28.11.2011 & 09.02.2012. Accordingly, initial obligation period was upto 30.11.2012 & 28.02.2013, respectively. The applicant has fulfilled 90% export obligation during the initial export obligation period and remaining 10% thereafter. Taking all these facts into account, the Committee decided the following:

I. Export obligation period be extended from 12 months to 18 months against import of each consignments i.e. upto **31.05.2013 & 31.08.2013,** respectively.
II. This is only for accounting and regularization of exports already effected.
III. This will be subject to a payment of composition fee @ 0.5% on FOB value of export made after initial obligation period.
IV. RA shall check that 50% exports against each consignment were made within initial export obligation period. If not, composition fee will be charged @ 0.5% per month on unfulfilled FOB.
V. The minimum value addition of 15% as prescribed under Para 4.09 of FTP(2015-2020) shall be maintained.

(Action: RA, Ahmedabad)

Case No.18: M/s. Asian food Industries, Gujarat

F.No. 01/60/162/504/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP extension for Advance Authorization no. 3410035918 dt. 23.01.2013 and condone the procedural lapse of not mentioning the Advance Authorization.

Decision:

The committee noted that the Advance Authorization no. 3410035918 dt. 23.01.2013 is issued to import inputs under ITC (HS) 09103010 that is spices. As per Appendix-4J, the export obligation period for such item is 90 days from the date of import and not 18 months, as printed wrongly in the said Authorization. The RA, while issuing Authorisation, should have amended the obligation period. However, issued Authorisation without amending the obligation period. The applicant has fulfilled 74.15% export obligation but without mentioning the Authorisation details on the shipping bills. Exports made under 'free shipping bills' cannot be taken into account towards discharge of export obligation. The committee, therefore, did not accede to the request. The applicant is directed to get the case regularized in terms of Para 4.49 of HBP, 2015-2020.

(Action: Applicant/RA, Vadodara)

Case No.19: M/s. Sathe Synthetics (Prop. Rakesh Fules Pvt. Ltd.,) Delhi
F.No. 01/60/162/502/AM17/EFGC(PRC)
PRC Meeting No. 15/AM17 dated 10.08.2016
Subject:- Request for revalidation of Advance Authorization no. 0510392429 dt. 16.12.2014.

Decision:

The Committee observed that the Authorization was issued having initial validity of 12 months. RA has allowed 6 months revalidation as per request of the applicant. Despite that they could not utilize the Authorization. The applicant plea that they could not utilised the Authorisation due to fire accident in their factory. However, the committee noted that the fire accident took place on 27.10.2014 and Authorisation is obtained on 16.12.2014 that is after the fire accident. Hence, the applicant was aware of these facts. Further, the applicant was exporting during this period thus, imports should had been made. The justification given by applicant could not convince the committee. The Committee, therefore, did not accede to the request.

Case No.20: M/s. Gland Pharma Ltd., Hyderabad
F.No. 01/94/180/223/AM08/PC-4/PRC
PRC Meeting No. 15/AM17 dated 10.08.2016
Subject:- Request for revalidation & EOP extension against Advance Authorization no. 0910011982 dt. 13.11.2002.

Decision:

The committee noted that the case was discussed at length in the PRC meeting held on 10.05.2016 and it was rejected with a reasoned order recorded in the minutes. The applicant has submitted the following grounds for review of the said decision:

i. It was delay on the part of norms committee. Instead of prescribed 4 months, the NC took 61 months to fix the norms.
ii. There will be huge liability of interest that will be much more than the duty liability.
iii. Imposition of duty and interest will cause extreme hardship and financial loss which will have an adverse impact on their export trade activities.

The committee again discussed the case at length. It was noted that the Authorisation was obtained by the applicant under self-declaration scheme to import duty free goods and making export against a confirmed export order to meet the commitments. Therefore, exports should had been made within the stipulated export obligation period of 18 months. As per the prevalent procedure, the applicant was allowed three extension of six months each on merit of the case and subject to payment of composition fee in continuation but the applicant did not avail the facility. The applicant had approached PRC on 24.07.2006 that was after expiry of 36 months and exported only 5.2%. Therefore, the committee had rejected the request considering no merit.

It was noted that for closing of old pending cases, Government has issued PN 22 dated 12.08.2013 allowing one time facility for closure of old cases on payment of duty corresponding to the shortfall and an amount equal to said duty saved towards interest component. However, the applicant did not avail the facility knowing the facts that their case has already been rejected by the PRC in 2006 for EOP extension. Extension in export obligation period beyond 48 months from the date of issue of Authorisation is

not considered. The committee, therefore, did not accede to the request and reiterated its earlier decision dated 10.05.2016.

(Action: Applicant/RA, Hyderabad)

Case No.21: M/s. Gland Pharma Ltd., Hyderabad

F.No. 01/94/180/348/AM08/PC-4 (PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for revalidation and extension in EOP for Advance Authorization no. 0910014856 dt. 27.06.2003.

Decision:

The committee noted that the case was discussed at length in the PRC meeting held on 10.05.2016 and it was rejected with a reasoned order recorded in the minutes. The applicant has submitted the following grounds for review of the said decision:

i. It was delay on the part of norms committee. Instead of prescribed 4 months, the NC took 41 months to fix the norms.
ii. There will be huge liability of interest that will be much more than the duty liability.
iii. Imposition of duty and interest will cause extreme hardship and financial loss which will have an adverse impact on their export trade activities.

The committee again discussed the case at length. It was noted that the Authorisation was obtained on 27.06.2003 by the applicant under self-declaration scheme to import duty free goods and for making export against a confirmed export order to meet the commitments. The Authorisation was issued having initial export obligation period of 18 months. The applicant had option of getting three extensions of six months each on merit of the case and subject to payment of composition fee as per the prevalent policy. Therefore, exports should had been made within the stipulated export obligation period of 18 months. As per the prevalent procedure, the applicant was allowed three extension of six months each in continuation but the applicant did not avail the facility. The applicant had approached ALC on 15.07.2005 for amending the export product. However, the request was rejected on 07.04.2006 by Norms Committee.

It was noted that for closing of old pending cases, Government has issued PN 22 dated 12.08.2013 allowing one time facility for closure of old cases on payment of duty corresponding to the shortfall and an amount equal to said duty saved towards interest component. However, the applicant did not avail the facility. Extension in export obligation period beyond 48 months from the date of issue of Authorisation is not considered. The committee, therefore, did not accede to the request and reiterated its earlier decision dated 10.05.2016.

(Action: Applicant/RA, Hyderabad)

Case No.22: M/s. Gland Pharma Ltd., Hyderabad

F.No. 01/60/162/544/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP extension for Advance Authorization no. 0910062124 dt. 03.06.2015 issued under PC-9 Condition.

Decision:

The Committee noted that the Authorization No 0910062124 dt. 03.06.2015 was issued with conditions stipulated under PC-9 dated 30.06.2003, which allows 12 months period for EO fulfillment from import of each consignment. The imports were made on 27.06.2015 & 22.04.2016. Accordingly, initial obligation period was upto 26.06.2016 & 21.04.2017, respectively. The applicant has fulfilled more than 50% export obligation during the initial export obligation period against import of first consignment. Export obligation period against second consignment is still valid till 21.04.2017. Taking all these facts into account, the Committee decided the following:

I. Export obligation period be extended from 12 months to 18 months against import of first consignments i.e. upto **31.12.2016.**
II. This will be subject to a payment of composition fee @ 0.5% on FOB value of export made after initial obligation period.
III. RA shall check that minimum 50% exports against first import consignment were made within the initial export obligation period of 12 months. If not, composition fee will be charged @ 0.5% per month on unfulfilled FOB.
IV. The minimum value addition of 15% as prescribed under Para 4.09 of FTP(2015-2020) shall be maintained.

(Action: RA, Hyderabad)

Case No.23: M/s. Intas Pharmaceuticals Ltd., Ahmedabad

F.No. 01/60/162/517/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP Extension of Advance Authorization no. 0810134636 dt. 19.02.2015 issued under PC-9 condition.

<u>**Decision:**</u>

The Committee noted that the Authorization No 0810134636 dt. 19.02.2015 was issued with conditions stipulated under PC-9 dated 30.06.2003, which allows 12 months period for EO fulfillment from import of each consignment. The imports were made on 09.03.2015. Accordingly, initial obligation period was upto 31.03.2016. The applicant has fulfilled more than 50% export obligation during the initial export obligation period. Taking all these facts into account, the Committee decided the following:

I. Export obligation period be extended from 12 months to 18 months against import of each consignments i.e. upto **30.09.2016.**
II. This is subject to a payment of composition fee @ 0.5% on FOB value of export made after initial obligation period.
III. RA shall check that 50% exports against each consignment were made within initial export obligation period. If not, composition fee will be charged @ 0.5% per month on unfulfilled FOB.
IV. The minimum value addition of 15% as prescribed under Para 4.09 of FTP(2015-2020) shall be maintained.

(Action: RA, Ahmedabad)

Case No.24: M/s. Larsen & Toubro, Mumbai

F.No. 01/60/162/551/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for relaxation in the Policy / Procedure to accept ARE 1 as export documents as against bill of export for supplies made to SEZ against advance authorization no 0310424318 dt. 26.03.2007.

Decision:

The committee noted that application for redemption of Advance Authorisation is submitted in ANF-4F. In the ANF-4F under Para (a) (ii) of guidelines for application (HBP, 2009-2014 Vol-I), it was categorically mentioned that exporter shall submit 'Bill of Export' along with other prescribed documents. And, in terms of Para 4.12 of FTP, exporter shall indicate consumption of inputs in the export documents. Further, for getting incentive on supply of goods to SEZ, Bill of Export is prescribed document under Rule 30 of SEZ, Rule, 2006. And, the PRC has no power to relax the requirement of other Act/Rules. Therefore, the committee was of the view that requirement of Bill of Export cannot be dispensed with. The applicant is hereby directed to get the case regularised as per the provisions in Para 4.29 of HBP, 2009-2014.

(Action: Applicant/RA, Mumbai: if the applicant fails to get the case regularised within a month from the date of uploading of these minutes on the Directorate website, action as per the provision of FT(DR)Act, 1992 as amended shall be initiated)

Case No.25: M/s. Larsen & Toubro, Mumbai

F.No. 01/60/162/550/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for relaxation of Policy to extend Export Obligation period against advance authorization no. 0310777054 dt. 04.04.2014.

Decision:

The committee considered the case and noted that the in terms of Para 4.22 of HBP, 2009-2014, export obligation period was co-terminus with the contractual duration of turnkey project in India. Project abroad was not covered under this provisions. However, in the FTP, 2015-2020 project abroad shall also have the equal treatment. However, the committee was of the view that this provisions cannot be made applicable on Authorisations issued prior to 01.04.2015.

The committee further noted that during the initial obligation period of 18 months the Applicant could not make any export but fulfilled 100% export obligation within 24 months. Para 4.42 of HBP, 2015-2020 allows two extensions of six months each on payment of composition fee. First extension can be granted on payment of 0.5% composition fee on unfulfilled FOB value but second extension is allowed on payment of composition fee @ 0.5% per month of unfulfilled FOB value provided 50% exports are made. However, PRC allows regularisation provided 100% exports are completed within 36 months from the date of issue of Authorisation. The committee, therefore decided the following:

i. **Export obligation period be extended from 18 to 24 months i.e. upto 30.04.2016.**
ii. **This will be subject to payment of composition fee @ 0.5% of unfulfilled FOB value of exports made after 18th months but upto 24th month.**

(Action: RA Mumbai / Applicant)

Case No.26: M/s. Larsen & Toubro, Mumbai

F.No. 01/60/162/552/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for relaxation of Policy to extend Export Obligation period against advance authorization no. 0310756062 dt. 29.10.2013

Decision:

The committee considered the case and noted that the in terms of Para 4.22 of HBP, 2009-2014, export obligation period was co-terminus with the contractual duration of turnkey project in India. Project abroad was not covered under this provisions. However, in the FTP, 2015-2020 project abroad shall also have the equal treatment. However, the committee was of the view that this provisions cannot be made applicable on Authorisations issued prior to 01.04.2015.

The committee further noted that during the initial obligation period of 18 months the Applicant could not make any export but fulfilled 100% export obligation within 30 months. Para 4.42 of HBP, 2015-2020 allows two extensions of six months each on payment of composition fee. First extension can be granted on payment of 0.5% composition fee on unfulfilled FOB value but second extension is allowed on payment of composition fee @ 0.5% per month of unfulfilled FOB value provided 50% exports are made. However, PRC allows regularisation provided 100% exports are completed within 36 months from the date of issue of Authorisation. The committee, therefore decided the following:

i. **Export obligation period be extended from 18 to 30 months i.e. upto 30.04.2016.**
ii. **This will be subject to payment of composition fee @ 0.5% of unfulfilled FOB value of exports made after 18th months but upto 24th month and @ 0.5% per month of FOB value of exports made after 24th month but upto 30th month.**

(Action: RA Mumbai / Applicant)

Case No.27: M/s. Larsen & Toubro, Mumbai

F.No. 01/60/162/553/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for relaxation of Policy to extend Export Obligation period against advance Authorization no. 0310755956 dt. 29.10.2013

Decision:

The committee considered the case and noted that the in terms of Para 4.22 of HBP, 2009-2014, export obligation period was co-terminus with the contractual duration of turnkey project in India. Project abroad was not covered under this provisions. However, in the FTP, 2015-2020 project abroad shall also have the equal treatment. However, the committee was of the view that this provisions cannot be made applicable on Authorisations issued prior to 01.04.2015.

The committee further noted that during the initial obligation period of 18 months the Applicant could not make any export but fulfilled 100% export obligation within 24 months. Para 4.42 of HBP, 2015-2020 allows two extensions of six months each on payment of composition fee. First extension can be granted on payment of 0.5% composition fee on unfulfilled FOB value but second extension is allowed on payment of composition fee @ 0.5% per month of unfulfilled FOB value provided 50% exports are made. However, PRC allows regularisation provided 100% exports are completed within 36 months from the date of issue of Authorisation. The committee, therefore decided the following:

i. **Export obligation period be extended from 18 to 30 months i.e. upto 30.04.2016.**

ii. **This will be subject to payment of composition fee @ 0.5% of unfulfilled FOB value of exports made after 18th months but upto 24th month and @ 0.5% per month of FOB value of exports made after 24th month but upto 30th month.**

(Action: RA Mumbai / Applicant)

Case No.28: M/s. Krishna Antioxidants Pvt. Ltd., Mumbai
F.No. 01/60/162/651/AM16/EFGC(PRC)
PRC Meeting No. 15/AM17 dated 10.08.2016
Subject:- Request for revalidation of Advance Authorization no. 0310745512 dt. 16.08.2013.

Decision:

The Committee noted that the applicant could not utilize the Advance Authorization No. 0310745512 dt. 16.08.2013 due to data transmission error. The Authorization was valid upto 28.02.2015 (18 months) whereas as per EDI/NIC report, the said Authorization got accepted by the Customs Authority only on 23.02.2015. Hence, the Committee decided to revalidate the aforesaid Advance Authorization for 6 months from the date of endorsement. The applicant is directed to get the endorsement from RA within one month from the date of uploading of these minutes on the Directorate website.

(Action: RA, Mumbai)

Case No.29: M/s. Gopinath Chem-Tech Ltd., Ahmedabad
F.No. 01/60/162/879/AM16/EFGC(PRC)
PRC Meeting No. 15/AM17 dated 10.08.2016
Subject:- Request for clubbing of 2 Advance Authorization nos. (1) 0810120616 dt. 30.04.2013 and (2) 0810133878 dt. 20.11.2014.

Decision:

The committee noted that applicant has fulfilled 184 % export obligation against Authorisation dated 30.04.2013 by 27.01.2014 and Authorisation No 0810133878 was issued on 20.11.2014. In terms of Para 4.12 of HBP, 2009-2014 export made from date of generating EDI file No or issue of Authorisation can only be taken into account towards discharge of export obligation. Hence exports made prior to issue of Authorisation or file number cannot be taken into account for clubbing. Further, clubbing is allowed where imports are made in the first Authorisation and due to mistake excess exports are effected in the subsequent Authorisation using duty free materials imported in the first or subsequent Authorisations. Revalidation of Authorisation beyond 18 months is not allowed. The applicant had have option of getting enhancement in value and quantity within the validity of Authorisation in which surplus exports are made. If clubbing of such Authorisation is allowed, this would amount giving indirect revalidation. The committee, therefore, did not accede to the request.

Case No.30: M/s. Skyrise Overseas Pvt. Ltd., Kolkata
F.No. 01/60/162/147/AM17/EFGC(PRC)
PRC Meeting No. 15/AM17 dated 10.08.2016
Subject:- Request for EOP extension of Advance Authorization no. 0210194887 dated 27.09.2013 for regularization purpose.

Decision:

The Committee noted that the Authorisation was issued allowing import of Silk and export obligation was 9 months from the date of import of each consignment as per Appendix 4-J. The Applicant did not make any export during the initial obligation period of 9 months. The committee in such cases allows maximum 4 months extension in continuation. However, the applicant has approached to the committee after laps of this period and no exports are made within this extendable period also. The committee, therefore, did not accede to the request. The applicant is hereby directed to get the case regularised in terms of Para 4.49 of HBP, 2015-2020.

(Action: RA Kolkata : If the applicant fails to get the case regularized within a month from the date of publication of these minutes on the Directorate website, necessary penal action as per provision under FT(DR) Act, 1992, as amended, should be initiated by the RA)

Case No.31: M/s. Haldia Petrochemicals, Kolkata.

F.No. 01/60/162/498/AM17/EFGC(PRC)

PRC Meeting No. 15/AM17 dated 10.08.2016

Subject:- Request for EOP Extension for Advance Authorization no. 0210122139 dated 13.01.2009.

Decision:

The Committee noted that the Authorisation was issued having initial export obligation period of 36 months. The applicant has fulfilled only 4% export obligation during this initial obligation period of 36 months. In such cases, the committee allows extension beyond 36 months but upto 48 months provided minimum 50% exports are completed within initial obligation period or 100% exports are completed within 48 months. In this case both the conditions are not met. Moreover, as per Cabinet Note moved by Department of Revenue, the cabinet has allowed extension in export obligation period beyond 48 months to the Applicant for Authorizations issued during April 2010 to September 2013. This particular Authorization is issued prior to April 2010 and does not cover in the list of 90 Authorisations for which approval is granted by the Cabinet. The committee, therefore, did not accede to the request. The applicant is hereby directed to get the case regularised in terms of Para 4.49 of HBP, 2015-2020.

(Action: RA Kolkata : If the applicant fails to get the case regularized within a month from the date of publication of these minutes on the Directorate website, necessary penal action as per provision under FT(DR) Act, 1992, as amended, should be initiated by the RA)

The meeting ended with a vote of thanks to the chair.

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