Directorate General of Foreign Trade
(PRC-section)

Minutes of the Policy Relaxation Committee Meeting held under the Chairmanship of DGFT Shri A.K. Bhalla,Director General of Foreign Trade on 06.02.2017

Meeting No. 31/AM17 held on 06.02.2017 at 11:30 AM

The following members were present in the meeting:

1.	Shri K.C. Rout	Addl. DGFT
2.	Shri Jaikant Singh	Addl. DGFT
3.	Shri Darshan Singh	Addl. DGFT
4.	Shri J.V. Patil	Addl.DGFT
5.	ShriS.B.S Reddy	Addl.DGFT
6.	Shri N. K. Srivastava	Addl. DGFT
7.	Shri Jay Karan Singh	Jt. DGFT
8.	Shri: Rakesh Kumar	Jt.DGFT
9.	Shri S.K. Mohapatra	Dy. DGFT

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

Case No.1: M/s. Shiva Pharmachem Ltd., Vadodara.
F.No. 01/60/162/828(A)/AM16/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for condoning the procedural lapse in obtaining the Bill of Exports pertaining to supplies affected to SEZ units against Advance Authorizations No.3410031726 dt. 27.09.2011 & 3410035378 dt. 31.10.2012.

Decision: The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017 and they were informed about the PH date vide e-mail dated 30.01.2017. The applicant, however, did not appear before the Committee. Hence, it was decided to defer the case.

Case No.2: M/s. Shiva Pharmachem Ltd., Vadodara.
F.No. 01/60/162/903/AM16/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for relaxation to count exports made from SEZ unit against Advance Authorization No.3410039176 dt. 03.02.2014.

Decision: The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017 and they were informed about the PH date vide e-mail dated 30.01.2017. The applicant, however, did not appear before the Committee. Hence, it was decided to defer the case.

Case No.3: M/s. Dhanuka Laboratories Ltd., Gurgaon.
F.No. 01/60/162/675/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for clubbing of 3 Advance Authorizations NO.(i) 0510236541 dt. 16.02.2009, (ii) 0510264089 dt. 11.05.2010 and (iii) 0510271395 dt. 26.08.2010 for closure purpose.

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017.Mr. Manish Dhanuka, Managing Director and Mr. Subhash Sharma, Commercial Manager from M/s Dhanuka Laboratories Limited, Gurgaon appeared before the committee and made the following submissions:

1. That as per Policy Circular 1/2004-2009 dated 17.09.2004, in case import of Penicillin G and its salts, the export obligation period does not start from the date of issue of Advance Authorisation but it starts from the date of import consignment. Also, pre-import condition is applicable only when Penicillin G is imported from unregistered source. The applicant submitted that all imports in their case are from registered source only.
2. That all shipments are within 12 months of import of Penicillin G.
3. At all times the actual cumulative export quantity is higher than cumulative export obligation from the date of Penicillin G imports; therefore, at no point of the time the company has violated the condition to export within 12 months in any of the three Authorisations.
4. Applicants, who comply with the registration procedure under the Drugs and Cosmetics Act, are eligible to apply for Advance Authorisation as per existing Exim Policy provisions and procedures.
5. As per Para 6 of the Policy Circular No.15 dated 17.09.2003 "all importers making imports against Advance Authorisations, which have not been issued in terms of Policy Circular No.9 dated 30.06.2003, will either follow the registration procedure and utilize the licence or get a fresh licence in terms of Policy Circular 9 to clear their consignments.
6. Trade Notice No.5 dated 08.10.2003, in para no. 3(B) states that "As provided under Para 3 (b) of Policy Circular No.15 dated 17.09,2003, the applicants who will import drugs from the registered source and do not wish to seek exemption from registration procedure, they will be issued licences as per existing policy procedure and the licensee will have to comply with the registration procedure under the Drugs and Cosmetics Act for import of any drug against the subject licence.
7. Policy Circular No.12 dated 27.06.2005 clarified that in Para 2 that "once the imports are from registered sources, conditions governing normal Advance Licence are to be applicable, which include normal validity period for import and normal EO period.
8. Even under Appendix -4 J [of 2015-20 and Appendix 30A of HBP 2009-14] Export Obligation Period for specified inputs with Pre-import conditions i.e. if any concerned Advance Authorisation, consisting of Penicillin G, is issued under Policy Circular No.9 dated 30.06.2003 and if Penicillin G is imported from unregistered source, where under Pre-import is a basic condition, then Export Obligation Period for such Advance Authorisation would be 12 months from the date of clearance of each import consignments by Customs Authority.

Decision: The committee discussed the case at length. It was noted that the applicant has imported first consignment on 15.03.2010 under AA No 0510236541 dated 16.02.2009. Accordingly, initial export obligation was upto 31.03.2011. From the submissions by the applicant it is noticed that last date of shipment against Authorisation No 0510271395 dated 26.08.2010 was 24.08.2012. In view of the new facts brought to the notice by the applicant, the committee, decided the following:

i. Export obligation period be extended from 12 months to 18 months against import of first consignment under AA dated 16.02.2009 i.e. upto **30.09.2011**.
ii. This will, however, be subject to payment of a composition fee @ 0.5% per months of FOB value of exports made after 31.03.2010 but upto 30.09.2011, which will be accounted for clubbing.
iii. Clubbing of above referred three Advance Authorisations be allowed.
iv. RA shall ensure accounting of inputs as per SION.
v. Value Addition of minimum 15% shall be maintained on clubbing.
vi. Shortfall, if any, shall be regularised as per Para 4.49 of HBP, 2015-2020.

(Action: RA, CLA)

Case No.4: M/s. DSM Sinochem Pharmaceuticals India P. Ltd., Gurgaon.
F.No. 01/60/162/482/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for clubbing of 2 Advance Authorizations No.2210013402 dt. 21.11.2012 and 2210013773 dt. 09.04.2013 for closure purpose.

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017. Mr. Rajeev Balyan, Senior Manager and Mr. Vikram Chopra,Senior Executive from M/s DSM Sinochem Pharmaceuticals India Pvt Ltd., Gurgaon appeared before the committee and made the following submissions:

1. The case was considered in PRC Meeting dated 19.07.2016 and was rejected.
2. They have contended that they had always used imported Penicillin G whether for manufacturing and sale in the Local market or for Export purpose. In this case for manufacturing of resultant products for export purpose they had used 100% imported Pen.G from registered sources only either by way of payment of custom duties or under Advance Authorisations.
3. They have claimed to have fulfilled the conditions of Policy Circular No.1/2004-09 dated 17.09.2004 and of PC-12 dated 27.06.2005 since they have imported Pen.G from registered /approved sources and not from unregistered/ unapproved sources..
4. That for exports made in the Authorization No. 2210013402 dated 21.11.2012; imported Pen.G was used after payment of duties as it was needed for manufacturing purposes.
5. That the purpose of imposition of condition of importing the material and exporting it within 12 months was not violated as they used the imported materials only in the exports made under AA No. 22100013402 dt

21.11.2012. These authorizations are issued for import of Pen.G and from 27.08.2009 the EOP of Pen.G had been increased from 6 months to 12 months from the date of 1st import vide PN No. 2/2009-14 dated 27.08.2009.

__Decision:__ The committee discussed the case at length. It was noted that the subject Advance Authorisations were issued with condition of Appendix-30A of HBP 2009-14, which prescribes 12 months export obligation from import of each consignment. The applicant imported first consignment on **08.02.2013** under AA No 2210013402 dated 21.11.2012. Accordingly, initial export obligation was up to **28.02.2014**. Imports were made from registered sources and last date of shipment in the subsequent Authorisation is 30.04.2013. The committee, therefore, in the light of the new facts submitted by the applicant, reviewed its earlier decision dated 19.07.2016 and decided the following:

i. Clubbing of two Authorisations as mentioned above be allowed.
ii. Exports made upto **28.02.2014** shall only be taken into accounts for clubbing.
iii. Minimum Value Addition of 15% shall be maintained.
iv. RA shall ensure accounting of inputs as per SION and check that imports of Penicillin G were made from registered sources only.

(Action: RA, Chandigarh)

Case No.5: M/s. VikasEcotech Ltd. (formerly Vikas Globalone Ltd.), New Delhi.
F.No. 01/60/162/277/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for clubbing of 2 Advance Authorizations NO.0510259478 dt. 25.02.2010 & 0510350475 dt. 01.04.2013.

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017. Learned Advocate Mr. Harish Gosain of HMG Associates appeared before the committee to represent M/s Vikas Ecotech Ltd., New Delhi. He made the following submissions:

1. That the case was earlier considered in PRC meeting dated 06.07.2016 & 22.11.2016 but rejected on the ground that all the exports against both the above Authorisations are not within the 36 months from the date of issuance of 1st Advance Authorisation.
2. They had obtained Authorisation No 0510259478 dt. 25.02.2010 and started to discharge export obligation. However, the norms committee fixed the lower wastage, which resulted shortfall in fulfilment of export obligation.
3. They represented to the norms committee and norms committee approved the revised norms on 06.08.2014. Meanwhile the export obligation period expired.
4. They had obtained another Authorisation on 01.04.2013 for the same resultant products. They therefore exported surplus quantity in the said Authorisation.
5. They therefore requested to allow clubbing of both the Authorisations.

__Decision:__ The committee discussed the case at length. It was noted that the Authorisation No 0510259478 dt. 25.02.2010 was obtained on self-declaration basis as per para 4.7 of 2009-14 HBP. All applicants seeking grant of Advance

Authorisation submit a declaration to the effect that they shall abide by the norms fixed by the committee and in case of any excess import, they shall pay duty with applicable interest to the customs Authority. Hence the applicant due to this declaration was liable to pay duty plus interest on the excess raw material remaining with him. The total Export Obligation period in case of the authorisation was 36 months.
The committee further observed that the applicant has sought clubbing of Advance Authorization No.0510259478 dt.25.02.2010 with Advance Authorization No. 0510350475 dt. 01.04.2013. The first was having export obligation period of 36 months, which was up to 28.02.2013. Whereas, the second Advance Authorization No. 0510350475 dt. 01.04.2013 was obtained by applicant on 1.04.2013 and as per the relevant Policy provisions applicable at time of issue of authorisation, the initial Export obligation period was 18 months i.e. EOP valid up to 30.10.2014. Moreover, the second Advance Authorisation dt. 01.04.2013 was issued after expiry of export obligation period of Authorisation No. 0510259478 dt. 25.02.2010. Clubbing of such Authorisations is not permitted, because it would amount allowing extension of export obligation period beyond 36 months. Para 4.38 of HBP, 2015-2020 relating to clubbing allows clubbing of Authorisations, which are issued within 18 months. However, PRC allows relaxation provided exports are completed within initial export obligation period of first Authorisation, and this condition is not fulfilled in this case here. The committee, therefore, did not accede to the request of the applicant. The applicant is hereby directed to get their case regularized in terms of Para 4.49 of HBP 2015-20.

(**Action: RA CLA New Delhi** - If the firm fails to get the case regularized in terms of Para 4.28 of HBP within a month from the date of communication of this decision, RA shall take action against the firm under the provision of FT (D&R) Act. 1992 and submit an Action Taken Report).

Case No.6: M/s. Nagel Special Machines Pvt. Ltd., Bangalore.
F.No. 01/60/162/230/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for relaxation for submitting the bill of export against Advance Authorization No.0710079345 dt. 24.05.2011.

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017. Mr. Hanumanth R, Deputy Manager and Mr. Nagesh, Manager appeared before the committee on behalf of M/s Nagel Special Machines Pvt Ltd, Bangalore and made the following submissions:

1. The case was considered in PRC meeting dated 24.06.2016 but rejected.
2. They have completed the supply vide their tax invoice no. 732 dt 08.10.2011 along with ARE-1 no. 001/11-12 dt 08.10.2011, subsequently goods have been duly endorsed at SEZ unit and receipt has been duly acknowledged by Supt. of Customs, Authorized Officer, Mahindra City-SEZ.
3. They had supplied the said items to an SEZ unit under cover of invoice and ARE-1 and Advance License details have been mentioned on Invoices.
4. They were not aware of the requirement of Bill of Export.

5. They, therefore, requested to condone the procedural lapse.
6. The ARE-1 has been duly countersigned by the SEZ officer and further the SEZ unit has also confirmed the receipt of the goods in their unit.
7. They have been issued a Show Cause Notice by the Customs Department at Bangalore for non-submission of the EODC to prove that they have used the duty free inputs in an export project and fulfilled their export obligation.
8. They, therefore, requested to review the decision of the committee and direct the RA concerned to issue EODC so as to prevent the Customs Department from forfeiting the bank guarantee.

Decision: The case was discussed again at length. It was noted that an application for redemption of Advance Authorisation is required to be submitted on ANF-4F. In the ANF-4F under Para (a) (ii) of guidelines for application (HBP, 2009-2014 Vol-I), it is clearly mentioned that exporter shall submit 'Bill of Export' along with other prescribed documents. And, in terms of Para 4.12 of FTP, exporter is required to indicate consumption of inputs in the export documents. Further, for getting incentive on supply of goods to SEZ, "Bill of Export" is a prescribed document under Rule 30 of SEZ, Rule, 2006. In view of these provisions, it becomes imperative that Export obligation against an Advance Authorisation cannot be discharged without establishing nexus of duty free imported inputs [or procured indigenously against advance authorization] and resultant product supplied to the SEZ Unit. Since ARE-1 does not have such information, the committee was of the view that requirement of 'Bill of Export' cannot be dispensed with. Further, no valuation of ARE-1 is being carried out by the Customs/Excise Authority at receiving end; such supplies are considered free shipment meaning thereby that the exporter/supplier do not intend to take any benefit against the supply made. The Committee, therefore, decided to re-iterate its decision taken in Meeting No. 09/AM 17 dated 24.06.2016 and directed the applicant to get the case regularised as per the provisions in Para 4.49 of HBP, 2009-2014.

(Action: Applicant/ RA, Bangalore shall initiate action as per the provisions of F.T. (DR) Act, against the applicant if fails to get the case regularized within a month from the date of uploading of these minutes on the Directorate website.**)**

Case No.7: M/s. Lubi Industries LLP, Ahmedabad.
F.No. 01/60/162/087/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for Automatic extension of EOP under Para 4.42 (e) until the authorization is amended under Rule 8 of FT(R) Rules, 1993 and make it available in customs EDI with new IEC No.0812023862 against Advance Authorization No.0810086954 dt. 03.03.2010.

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017. Mr. C.R. Pillai, Export Manager and Mr. Rajendra, Manager Admin from M/s Lubi Industries LLP, Ahmedabad appeared before the committee and made the following submissions:

1. M/s.Lubi Submersibles Limited, holding IEC No.0893001457 obtained the subject Advance Authorisation for export of Submersible Pumps and initial EOP was

36 months. The original EOP ended on 31.03.2013. Due to amalgamation and subsequent changes as allowed to transferee company by Registrar of Companies, the authorization and it's liabilities were deemed to have transferred to LUBI INDUSTRIES LLP. The brief of changes effected on the original authorization holder are as under:-

a) The company M/s.Lubi Submersibles Ltd has amalgamated with M/s Arvind Iron Pvt. Limited with all assets and liabilities by order issued by the Hon'ble High Court of Gujarat dated 05.12.2012.
b) The transferee Company M/s.Arvind Iron Pvt.Limited has changed its name as Lubi Industries Pvt. Limited vide fresh certificate of incorporation issued by Registrar of Companies dated 10.12.2012 and subsequently converted to LLP vide certificate issued by Registrar of Companies and finally the name of the entity has become "LUBI INDUSTRIES LLP" w.e.f. 14.02.2013.
c) After the above changes, Lubi Industries LLP has obtained its new IEC No.0812023862 from RA, Ahmedabad and all export business is continued under this IEC. **The new IEC was issued by RA, Ahmedabad on 22.02.2013.**

2. Immediately upon the changes as narrated in para.1 above, they had sought transfer of Authorization to new IEC which was the primary requirement in legal terms as the liabilities under the authorisation are deemed to have transferred to the new entity by the amalgamation order issued by Hon'ble High Court and subsequent changes as allowed by Registrar of Companies. RA vide letter dated 14.03.2013 has rejected this request stating that *"there is no provision in HBP to transfer the authorisation to new IEC"*

3. Since the original authorisation holder company is no more in existence, it was necessary to amend the authorization endorsing the change of ownership of the authorization holder by virtue of High Court order and subsequent changes as endorsed by concerned department of the Government. Continuing exports in fulfilment of EO by the new entity and/or seeking extension of EOP in terms of the policy and HBP were subsequent actions to be followed by the new entity after endorsing the amendment. But, in this case, the decision taken by RA disallowing the transfer of authorisation to new entity has rendered the authorisation in-operative. In the absence of the endorsement for transfer of authorization, the new entity (i.e the existing exporter) is prevented from filing shipping bills under the authorisation in customs EDI to fulfil the export obligation undertaken by the original licence holder.

Similarly, the existing exporter (Applicant) is neither authorised nor entitled to apply for extension of EOP unless and until the transfer of authorization is endorsed by the competent authority. Thus, as on this date, exporter is prevented from exporting goods under the authorization in absence of the required amendment.

This is a genuine hardship to consider the case for allowing relaxation under para 4.42(e) of HBP until the amendment is endorsed on the authorization.

4. Though the production and export business are being continued in the name of new exporter and obligation against other advance authorizations issued under

the new IEC are being fulfilled, the exporter is prevented from fulfilling the obligations undertaken by them from the company legally amalgamated with them. This is the restriction imposed on the exporter and the root cause that the exporter intends to emphasise before the committee to consider the case for grant of automatic extension in terms of para 4.42(e) of HBP until the authorisation is amended for the changes as requested before RA.

5. It is understood from the minutes of meeting No.18/AM17 dated 20.09.2016 that the report from RA does not indicate a clear or satisfactory reason for rejecting exporter's request for amending the authorization in line with the amalgamation order. The exporter believes that the case was handled at lower level in RA's office (i.e.at FTDO level) and hence a prompt decision could not be taken in such an important legal matter involving amalgamation order issued by High Court and subsequent changes allowed by ROC. In order to resolve the technical difficulty in making the licence available in customs EDI and facilitate filing EDI shipping bills under the authorisation, a new authorization for the specific purpose (i.e disallowing imports and indicating new EOP) may be recommended with automatic extension in terms of para 4.42(e) of current HBP without any period restrictions to provide true and legitimate justice to the regular exporter.

Decision:

The committee discussed the case at length. It was noted that the Advance Authorisation in question was issued on 03.03.2010 having initial export obligation period of 36 months to export and having 24 months to import duty free goods. The applicant has imported 100% goods permitted in the Authorisation and has effected only 7.78% export obligation within initial obligation period.

It was further noted that M/s Lubi Submersible Limited was amalgamated with M/s Arvind Iron Pvt. Ltd. vide Hon'ble High Court, Gujarat order dated 05.12.2012. Subsequently, M/s Arvind Iron Pvt. Ltd. has changed its name as M/s Lubi Industries LLP. The company was aware of the fact that merging company was under obligation to fulfil balance export obligation by 31.03.2013. There was no provision of export obligation period extension in the prevalent policy and procedure. The applicant should have had got the case regularised on payment of duty and applicable interest to the Customs Authority before acquiring the company by another company.

The applicant has quoted Para 4.42(e) of HBP, 2015-2020, which states that *"Whenever a ban / restriction is imposed on export of any product, export obligation period in respect of Advance Authorisation already issued prior to imposition of ban, would stand automatically extended for a period equivalent to the duration of ban, without any composition fee."* Committee noted that the instant matter is not covered by the said para since , in the case under consideration no ban on export product permitted in the Authorisation was imposed by the Government. Therefore, provision quoted by the applicant is not applicable to the present matter.

The committee, therefore, did not accede to the request and reiterate its earlier decision taken in PRC meeting No 18/AM17 dated 20.09.2016.

The applicant is hereby directed to get the case regularised in terms of para 4.49 of HBP, 2015-2020.

(Action: RA, Ahmedabad shall initiate action as per the provisions of F.T. (DR) Act, against the applicant if fails to get the case regularized within a month from the date of uploading of these minutes on the Directorate website.)

Case No.8: M/s. Sentiss Pharma Pvt. Ltd., New Delhi.
F.No. 01/60/162/412/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for relaxation condonation of requirement of destruction stipulated in PC-9 dt. 30.06.2003 and subsequent Circular No.15 dt. 17.9.2003 in respect of Advance Authorization No.0510181841 dt. 01.05.2006 for regularization purpose.

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017. Mr. M.K. Garg, Director and Mr. Nagesh, manager commercial from M/s Sentiss Pharma Pvt. Ltd. appeared before the committee and made the following submissions.

1. They have been issued Advance Authorisation for export of 87941 packs of Captopril Tablets(25mg and 50mg) net content of bulk drug 392.15kgs against import of 400kgs.
2. They had imported 350kgs Captopril USP on 23.08.2006 vide two bill of entries.
3. Accordingly, they were under obligation to export 76950 packs containing 343.137kgs drug.
4. They have claimed to have exported 50.65 kgs within EOP and 298.522kgs after EOP and 0.826kgs under another Licence No 0510174222 dated 13.01.2006 which has already been redeemed. Under this Licence they had imported 125 kgs raw materials and exported 217.366 kgs thereby excess exports of 92.366 kgs.
5. Hence, they stated that they have consumed all raw materials imported from unregistered sources.
6. They have paid duty + interest on 299.348 kgs and no materials is lying with them which requires to be destroyed. They, therefore, requested to waive the PC-18 condition and allow regularisation of the case.

Decision: The committee discussed the case at length. It was noted that as per section 10 of Drugs and Cosmetic Act, 1940, import of unapproved drugs are not allowed to be imported. However, FTP allows import of unapproved drugs for manufacturing of resultant products and the same are required to be exported. However, such drugs imported from unregistered sources are not allowed to be diverted in the domestic market. The Authorisation in question was issued as per the prevalent Policy with Circular PC-9 dated 30.06.2003 condition, which allows import of unapproved drugs from unregistered sources for export purpose only. However, as per PC-18 dated 30.10.2007, if an exporter fails to export such drugs, the same needs either to be destroyed in the presence of the Excise Authority or it should be re-exported to the supplier or resultant products manufactured out of it are exported against some other licence/ scheme. The applicant has stated to have utilised whole drugs imported from unregistered sources and exported the same partially under the Authorisation in question and remaining quantity under another Authorisation obtained for the same resultant product. Taking into consideration the facts brought to the notice by the applicant, the committee decided the following:

i. The Applicant shall submit proof of consumption of drugs imported under the Authorisation from unregistered sources and export of resultant products manufactured out of it either against the Authorisation in question or under any other Authorisation.
ii. RA shall examine the case as per PC-18 dated 30.10.2007 to see that no diversion of the imported drugs in the domestic market has taken place.
iii. The case shall be regularised provided proof of duty and interest paid to the customs Authority on drug consumed and exported outside the initial export obligation period is submitted by the applicant to the RA.

(Action: RA, CLA)

Case No.9: M/s. Sentiss Pharma Pvt. Ltd., New Delhi.
F.No. 01/60/162/413/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for relaxation condonation of requirement of destruction stipulated in PC-9 dt. 30.06.2003 and subsequent Circular No.15 dt. 17.9.2003 in respect of Advance Authorization No.0510160876 dt. 29.06.2005 for regularization purpose.

Decision:

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017. Mr. M.K. Garg, Director and Mr. Nagesh, manager commercial from M/s Sentiss Pharma Pvt. Ltd. appeared before the committee and made the following submissions.

1. They have imported 150 kgs Captopril USP on 16.07.2005
2. Accordingly, they were under obligation to export 147.06 kgs.
3. They have exported 3 kgs within EOP and 7 kgs after EOP and 88 kgs under another Licence No 0510174222 dated 13.01.2006 which has already been redeemed. Under this Licence they had imported 125 kgs raw materials and exported 217.366 kgs thereby excess exports of 92.366 kgs.
4. Hence, they have consumed all raw materials imported from unregistered sources for export purposes only.
5. They have paid duty + interest on 147 kgs and no materials lying with them which needs to be destroyed. They, therefore, requested to waive the PC-18 condition and allow regularisation of the case.

Decision: The committee discussed the case at length. It was noted that as per section 10 of Drugs and Cosmetic Act, 1940, import of unapproved drugs are not allowed to be imported. However, FTP allows import of unapproved drugs for manufacturing of resultant products and export of the same. However, such drugs imported from unregistered sources are not allowed to be sold in the domestic market. The Authorisation in question was issued as per the prevalent Policy with PC-9 dated 30.06.2003 condition, which allows import of unapproved drugs from unregistered sources for export purpose only. However, as per PC-18 dated

30.10.2007, if an exporter fails to export such drugs, the same has either to be destroyed in the presence of the excise Authority or it has to be re-exported to the supplier. Therefore, the objective to allow import of such drug from unregistered sources is to execute export order but at the same time it is to be ensured that such materials are not diverted in the domestic market. The applicant has stated to have utilised whole drugs imported from unregistered sources and exported the same partially under the Authorisation in question and remaining quantity under another Authorisation obtained for the same resultant product. Taking into consideration the facts stated by the applicant, the committee decided the following:

i. The Applicant shall submit proof of consumption of drugs imported under the Authorisation from unregistered sources and export of resultant products manufactured out of it either against the Authorisation in question or under any other Authorisation.
ii. RA shall examine the case in view of PC-18 dated 30.10.2007.
iii. The case shall be regularised provided proof of duty and interest paid to the customs Authority on drug consumed and exported outside the initial export obligation period is submitted.
iv. RA shall also ensure that there was excess export of 92.366kgs in Advance Authorisation No 0510174222 dated 13.01.2006 and exports were made after imports under Authorisation No **0510160876 dt. 29.06.2005.**

(Action: RA, CLA)

Case No.10: M/s. Sentiss Pharma Pvt. Ltd., New Delhi.
F.No. 01/60/162/414/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for relaxation condonation of requirement of destruction stipulated in PC-9 dt. 30.06.2003 and subsequent Circular No.15 dt. 17.9.2003 in respect of Advance Authorization No.0510156539 dt. 29.04.2005 for regularization purpose.

<u>Decision:</u>

The applicant had sought personal hearing in terms of Para 2.59 of FTP, 2015-2020, which was afforded on 06.02.2017. Mr. M.K. garg, Director and Mr. Nagesh, manager commercial from M/s Sentiss Pharma Pvt. Ltd. appeared before the committee and made the following submissions.

1. They have imported 250kgs Captopril USP vide two bill of entries dated 09.05.2005 and 17.08.2005.
2. Accordingly, they were under obligation to export 245.10kgs drug.
3. They have exported 203kgs within EOP and 35kgs after EOP and 11kgs under another Licence No 0510163840 which has already been redeemed. Under this Licence they had imported 200kgs raw materials and exported 291kgs thereby excess exports of 91.00kgs.
4. Hence, they have consumed all raw materials imported from unregistered sources.

5. They, have paid duty on 46 kgs. Therefore, requested to waive the PC-18 condition and allow regularisation of the case.

Decision: The committee discussed the case at length. It was noted that as per section 10 of Drugs and Cosmetic Act, 1940, import of unapproved drugs are not allowed to be imported. However, FTP allows import of unapproved drugs for manufacturing of resultant products and export of the same. However, such drugs imported from unregistered sources are not allowed to be sold in the domestic market. The Authorisation in question was issued as per the prevalent Policy with PC-9 dated 30.06.2003 condition, which allows import of unapproved drugs from unregistered sources for export purpose only. However, as per PC-18 dated 30.10.2007, if an exporter fails to export such drugs, the same has either to be destroyed in the presence of the excise Authority or it has to be re-exported to the supplier. Therefore, the objective to allow import of such drug from unregistered sources is to execute export order but at the same time it is to be ensured that such materials are not diverted in the domestic market. The applicant has stated to have utilised whole drugs imported from unregistered sources and exported the same partially under the Authorisation in question and remaining quantity under another Authorisation obtained for the same resultant product. Taking into consideration the facts stated by the applicant, the committee decided the following:

i. The Applicant shall submit proof of consumption of drugs imported under the Authorisation from unregistered sources and export of resultant products manufactured out of it either against the Authorisation in question or under any other Authorisation.
ii. RA shall examine the case in view of PC-18 dated 30.10.2007.
iii. The case shall be regularised provided proof of duty and interest paid to the customs Authority on drug consumed and exported outside the initial export obligation period is submitted.
iv. RA shall also ensure that there was excess export of 91.00 kgs in Advance Authorisation No 0510163840 and the same were effected after issue of Authorisation dated 29.04.2005.

(Action: RA, CLA)

Case No.11: M/s. Viraj Syntex (P) Ltd., Kanpur.
F.No. 01/60/162/940/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for EOP extension of Advance Authorization No.0610017134 dt. 29.01.2010.

Decision:

The case was deferred.

Case No.12: M/s. Mepro Pharmaceuticals Pvt. Ltd., Mumbai.
F.No. 01/60/162/943/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017

Subject: - Request for EOP extension of Advance Authorization No.0310778663 dt. 17.04.2014 issued under PC-9 condition.

Decision:

The case was deferred.

Case No.13: M/s. Lupin Ltd., Mumbai.
F.No. 01/60/162/935/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for EOP extension of Advance Authorization No.0310790700 dt. 03.11.2014 issued under PC-9 conditions.

Decision:

The case was deferred due to paucity of time.

Case No.14: M/s. Ognibene India Pvt. Ltd., Pune.
F.No. 01/60/162/955/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for relaxation of requirement in Advance Authorization No. or File Number on export documents in Advance Authorization No.3110045249 dt. 27.10.2010.

Decision:

The case was deferred.

Case No.15: M/s. Ognibene India Pvt. Ltd., Pune.
F.No. 01/60/162/989/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for relaxation of requirement in Advance Authorization No. or File Number on export documents in Advance Authorization No.3110052275 dt. 06.01.2012.

Decision:

The case was deferred.

Case No.16: M/s. Ognibene India Pvt. Ltd., Pune.
F.No. 01/60/162/990/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for relaxation of requirement in Advance Authorization No. or File Number on export documents in Advance Authorization No.3110062548 dt. 14.02.2014.

Decision:

The case was deferred.

Case No.17: M/s. JTL Infra Ltd., Chandigarh.
F.No. 01/60/162/995/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for 2nd revalidation of DFIA No.3010103401 dt. 04.03.2015.

Decision:

The case was deferred.

Case No.18: M/s. Rusan Pharma Ltd., Mumbai.
F.No. 01/60/162/939/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for waiver of PC-18 condition of Advance Authorization No.0310700241 dt. 29.06.2012 issued under PC-9 conditions.

Decision:

The case was deferred.

Case No.19: M/s. Best Corporation (P) Ltd., Tirupur.
F.No. 01/61/180/047/AM17/PC-3/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for relaxation of the policy for condoning of notional delay of four days in filing application of SHIS (Textiles & Jute Sector) No.3210077024 dt. 08.07.2014 for Rs.2,10,32,902/-.

Decision:

The case was deferred.

Case No.20: M/s. Ryders Equestrian Products (P) Ltd., Kanpur..
F.No. 01/60/162/930/AM17/PRC
PRC Meeting No. 31/AM17 dated 06.02.2017
Subject: - Request for EOP extension of Advance Authorization No.0610023395 dt. 24.08.2011.

Decision:

The case was deferred.

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

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