



GOVERNMENT OF KERALA

Abstract

Industries Department - M/s Travancore Titanium Products Limited - Import duty concession availed on the machinery imported under EPCG Scheme during 2007-08- Release of funds for the settlement of dues under Amnesty Scheme - Sanctioned- Orders issued.

INDUSTRIES (H) DEPARTMENT

G.O.(Ms)No.14/2024/ID.

Dated, Thiruvananthapuram, 22.02.2024

- Read 1 G.O(Ms) No.51/2005/ID dated 19/5/2005
- 2 G.O. (Ms) No. 55/2008/ID dated 25/04/2008
- 3 G.O. (Ms) No.62/2008/ID dated 14/05/2008
- 4 Letter No. CMD:PS(I):PCP:50:09 dated 31/12/2009 from the Chairman & Managing Director, Travancore Titanium Products Limited, Thiruvananthapuram.
- 5 Letter No. CMD:PS(I):ACS (I):30:10 dated 5/8/2010 from the Chairman & Managing Director, Travancore Titanium Products Limited, Thiruvananthapuram.
- 6 G.O (Ms) No. 67/2011/ID dated 01/03/2011
- 7 Letter No. MD:TTP:Customs:50:2017 dated 7/12/2017 from the Managing Director, Travancore Titanium Products Limited, Thiruvananthapuram
- 8 Government letter No. H3/295/2017/ID dated 15/12/2017
- 9 Letter No. TTPL/PROJ/GOVT/129/2020 dated 23/9/2020 from the Managing Director, Travancore Titanium Products Limited, Thiruvananthapuram
- 10 Letters No. Nil dated 18/4/2023, 26/5/2023 & 04/12/2023 from the Managing Director, Travancore Titanium Products Limited, Thiruvananthapuram.
- 11 Letter No. TTP/MD/1/2024 dated 01/01/2024 from the Managing Director, Travancore Titanium Products Limited, Thiruvananthapuram.
- 12 Judgment of the Hon'ble High Court dated 14/11/2023 in WP(C)No.20903/2020 filed by Sri.S. Jayan.

ORDER

Government, as per the G.O read as 1st paper above have approved the integrated project (Pollution Control measures, Capacity Expansion and Diversification) of the Travancore Titanium products Limited, with two phases, at an estimated cost of ₹ 256.1 Crore (I phase-129.4 Crore and II phase -126.7 Crore), subject to the condition that no Government assistance will be provided for implementation of the project. Phase I of the Project includes Acid Recovery Plant (ARP), Copperas Recovery Plant (CRP), Neutralisation Plant (NP), Capacity

Expansion to 65 TPD through De bottle necking and product diversification into coated Rutile Pigment. The Company engaged M/s MECON, a Central Government organization as the Project Management Consultant (PMC) in 2004.

2) During 2007, the Travancore Titanium Products Limited (TTPL) had availed the benefit under Export Promotion Capital Goods (EPCG) Scheme for getting reduced import duty on the equipments imported for the implementation of Acid Recovery Plant and saved concession on import duty to the tune of Rs.17.33 Crore. But the company was unable to continue with the integrated project due to the paucity of funds.

3) Government have constituted an Expert Committee to study on the feasibility of continuing with the Pollution Abatement -cum-Diversification /Expansion Project of TTPL as per the G.O read as 2nd & 3rd paper above. The Expert Committee suggested that the 1st part of the Phase I Project (ARP) is financially not viable. The Chairman & Managing Director, Travancore Titanium Products Limited as per the letter read as 4th paper above had requested the Government to modify the G.O read as 1st paper above to implement the Copperas Recovery Plant and Neutralization plant at a cost of Rs.83.08 crore without implementing the Acid Recovery Plant and Capacity Enhancement.

4) As per the notification No. 97/2004 customs dated 17-09-2004, to avail duty concession @ 5%, the Company has to fulfill the Export Obligation equivalent to eight times the duty saved of the Capital Goods imported within a period of 8 years from the date of issue of the EPCG licenses. As per the bond executed between Company & Central Government under Sec 143(1) of the Customs Act,1962, the capital goods and the spares imported should be installed in the importer's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Asst. Commissioner of Central Excise as the case may be, should be produced confirming installation, and the use of the capital goods in the importer's factory or premises, within six months from the date of completion of imports or within such extended period as the Deputy Commissioner of Customs or Asst. Commissioner of Central Excise as the case may be, may allow. As the ARP project was dropped, the equipments imported for the project could not be used by TTPL and the company failed to comply with the conditions stipulated in the Customs Act 1962.

5) The Commissioner of Customs, issued notice dated 20/5/2010 for the recovery of a sum of Rs.17,32,80,557/-with applicable interest under Section 142 of the Customs Act, 1962 due to the non-installation of the equipment imported under the EPCG scheme. The Chairman & Managing Director, TTPL as per letter read as 5th paper above had requested Government to provide financial support to the Company for Rs. 17.33 Crore for settling dues with the Customs authorities and thereby avoiding recovery proceedings and further punitive damages to the Company.

6) As per the G.O read as 6th paper above, Government approved the revised project proposal submitted by the Travancore Titanium Products Limited for the pollution control methods at an estimated cost of Rs. 83.08 Crore, as per letter read as 4th paper above. It was also ordered that Government will sanction an amount of Rs. 14.63 Crore plus applicable interest at the rate of 15% from the date of import of equipment and penalty therein will be sanctioned to enable the Company to refund the import duty concessions availed and to come out of the EPCG commitments so that the Company could sell off the imported equipment of

Acid Regeneration Plant in the open market. It was ordered for departmental enquiry for the expenditure of Rs.80 crore for the unviable Acid Recovery Project and to constitute a Technical Committee to evaluate the market value of the equipment imported and to explore the means to optimize the salvage value.

7) The Director General of Foreign Trade vide order dated 3/2/2017 imposed a fiscal penalty to the tune of Rs.35 Crore to TTPL for the non-fulfillment of export obligation. The Commissioner of Customs, Cochin issued Detention Notice on 24/11/2017 to the Company & Board of Directors and ordered for recovery of Rs.17,32,80,577/- with interest @ 15% with effect from the date of import. Government of Kerala, as per the letter read as 8th paper above had requested the Commissioner of Customs to refrain from the recovery proceedings initiated against the TTPL. The TTPL, as per the letters read as 9 & 10 paper above had requested Government to release funds for the settlement of EPCG commitment, as ordered in the G.O read as 6th paper above. The EPCG committee rejected the review petition filed by TTPL on the basis of the decision of the committee held on 14/10/2022 & 17/10/2022. In 2017, the work for Neutralization Plant was completed. The CRP project was completed in 2023 and its commissioning is under progress.

8) A Vigilance Case, VC1/2015/SIU-1 was registered against the corruption & irregularities in Pollution Abatement cum Capacity Expansion Project of TTPL. Vigilance Enquiry in the matter have not been completed. As per the judgment read as 12th paper above, the Hon'ble High Court directed the CBI to take over the investigation in VC1/2015/SIU-1.

9) The Managing Director, TTPL as per the letter read as 11th paper above had reported that the total customs import duty payable towards the import of capital equipments and the interest due on the duty from the date of import is Rs. 56.70 Crore. If the company pay off Rs.19.57 Crore before 31/3/2024, under the Amnesty Scheme, interest of Rs.39.25 Crore will be waived off. TTPL had already settled the dues towards 2 EPCG licenses (5330001099, 5330001049), amounting to Rs.63.16 Lakh in the current financial year. Rs.18.93 Crore has to be paid for the remaining 6 EPCG licenses (5330001038, 5330001042, 5330001058, 5330001075, 5330001081, 5330001093). The Managing Director, TTPL reported that if the dues are settled before 31/3/2024, the company will get concession in the interest part amounting Rs. 35.92 Crore and can also save further expenses towards litigation. The M.D, TTPL requested Government to release Rs.18.93 Crore to settle the dues under Amnesty Scheme, from the current financial year's budget allocation under the H/A 6853-60-190-97 (P) of the company.

10) Government have examined the matter in detail and are pleased to accord sanction to release an amount of ₹18.93 Crore to M/s Travancore Titanium Products Limited from the current financial year's budget allocation under the H/A 6853-60-190-97 (P) to settle the dues towards the concession availed on import duty worth Rs.17,32,80,577/- with interest, under Amnesty Scheme announced by the Director General of Foreign Trade, in connection with the machinery imported under EPCG Scheme during 2007-08 for the Pollution Abatement Project of TTPL in light of the GO(MS)No.67/2011/ID dated 1-3-2011.

11) The release of fund shall be in accordance with the usual terms and conditions of fund release. The Director/Additional Director of Industries & Commerce will draw and disburse the amount to the Managing Director, Travancore Titanium Products Limited.

(By order of the Governor)
SUMAN BILLA
PRINCIPAL SECRETARY

To:

The Director/Additional Director, Industries & Commerce, Thiruvananthapuram.

The Managing Director, Travancore Titanium Products Limited, Kochuveli, Thiruvananthapuram.

The Treasury Officer, District Treasury, Thiruvananthapuram.

The Executive Chairman, Board for Public Sector Transformation, Thiruvananthapuram.

The Principal Accountant General (E&RSA/G&SSA), Kerala, Thiruvananthapuram.

The General Administration (SC) Department (Item No.....dated.....)

Web & New Media, Information & Public Relations Department.

The Finance Department (Vide U.O (F)No.PU -D1/175/2015 -Fin dt 4-12-2023)

The Finance (GIMC) Department

The Planning & Economic Affairs Department.

Stock File/ Office Copy.

Forwarded /By order
Signed by AJITHKUMAR A
Date: 22-02-2024 21:47:30
Reason: Approved
Section Officer

Copy to:

The P.S to Hon'ble Minister Industries

The C.A to Principal Secretary /Officer on Special Duty/ Additional Secretary



രഹസ്യം

കേരള സർക്കാർ

മന്ത്രിസഭായോഗത്തിന്റെ നടപടിക്കുറിപ്പുകൾ

തീയതി : 21-02-2024

ഫയൽ നം. വ്യവ-എച്ച്3/295/2017/വ്യവ.

ഇനം നം: 2072

വിഷയം : വ്യവസായ വകുപ്പ് - ട്രാവൻകൂർ ടൈറ്റാനിയം പ്രോഡക്ട്സ് ലിമിറ്റഡ് - ടി.ടി.പി.എൽ.-ന് മലിനീകരണ നിയന്ത്രണ പദ്ധതി ആവിഷ്കരിക്കാനായി യന്ത്രസാമഗ്രികൾ ഇറക്കുമതി ചെയ്തത് വഴി ഇറക്കുമതിച്ചുങ്കത്തിൽ ഇളവ് ലഭിച്ച തുക തിരിച്ചടയ്ക്കുന്നതിനുള്ള സാമ്പത്തിക സഹായം നൽകുന്നത്.

തീരുമാനം : കുറിപ്പിലെ നിർദ്ദേശം അംഗീകരിച്ചു.

(ഒപ്പ്)
പിണറായി വിജയൻ
മുഖ്യമന്ത്രി
(ശരിപ്പകർപ്പ്)

ഡോ. വേണു. വി.
ചീഫ് സെക്രട്ടറി

പ്രിൻസിപ്പൽ സെക്രട്ടറി, വ്യവസായ വകുപ്പ്.

21/2/24

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**GOVERNMENT OF KERALA
(SRI.PINARAYI VIJAYAN MINISTRY)
DRAFT NOTE FOR THE COUNCIL OF MINISTERS**

- | | | |
|--|---|--|
| 1 File No. | : | IND-H3/295/2017-IND. |
| 2 Department | : | Industries (H) Department |
| 3 Subject | : | Industries Department - Travancore Titanium Products Limited (TTPL) to avail financial assistance to the company to pay off the import duty for the concession availed by the company towards import duty, during the import of equipments for the implementation of Pollution Abatement Project.-reg. |
| 4 Date of Chief Minister's order for placing before the Council. | : | 22/01/2024 |
| 5 (i) Does the case involve financial commitments/implications | : | No |
| (ii) if the answer to the above is in the affirmative, whether Finance Department has been consulted and their remarks incorporated in the Council Note? | : | Yes |
| 6 Are any other Departments concerned with the case and if so, have they been consulted and their remarks incorporated in the Note for the Council? | : | No |
| 7 Name of Additional Secretary who submitted the Draft Note. | : | Smt. M.A. Rajeeva Beegum |
| 8 Name of Principal Secretary who approved the Draft Note. | : | Sri. Suman Billa |
| 9 Date of approval of the Draft Note for the Council by the principal Secretary | : | 13.02.24 |
| 10 Name of Chief Secretary who approved the Draft Note | : | Dr. Venu V. |
| 11 Date of approval of the Draft Note for the Council by the Chief Secretary | : | |
| 12 Name of Minister who approved the Draft Note | : | Sri. P. Rajeeve |
| 13 Date of approval of the Draft Note for the Council by the Minister | : | 18/02/2024 |
| 14 Date of submission of fair copies | : | |
| 15 Date of decision by the Council of Ministers | : | |
| 16 Number and date of the G.O./letter communicating the decision. | : | |

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Draft Note for Council of Ministers

This note deals with the request from the Managing Director, Travancore Titanium Products Limited (TTPL) to sanction financial assistance to the company to pay off the import duty concession availed by the company towards the import of equipments in 2007-2008 for the implementation of Pollution Abatement Project.

p 689 -
691cf

p 10 - 12 cf

2) As per G.O(Ms) No.51/2005/ID dated 19/5/2005, Government approved the project of TTPL for implementing Pollution Control Abatement along with Capacity Expansion for an amount of Rs. 256.1 Crore subject to the condition that no Government assistance will be provided for implementation of the project. M/s MECON, a Central Government Institution have been appointed as Project Consultant by TTPL. The proposed Project ~~proposal~~ contained two phases. Phase I of the Project include Acid Recovery Plant (ARP), Copperas Recovery Plant (CRP), Neutralisation Plant with water module (NP) Debottlenecking of existing plant to achieve 65 tonnes per day

p 2 cf

p 4 cf

3) The TTPL saved import duty to the tune of Rs 17,32,80,577/- under Export Promotion Capital Goods (EPCG) Scheme towards the import of equipments worth Rs. 62.39 Crore for the Pollution Abatement Project. M/s MECON, the project consultant informed the company during 2017 that the cost of the Project has gone up and the project cost as per the revised estimate is Rs. 414.4 Crore. As per G.O. (Ms) No. 55/2008/ID dt. 25/04/2008 and G.O. (Ms) No.62/2008/ID dt. 14/05/2008, Government constituted an Expert Committee for the purpose of studying the feasibility of the Project. The Expert Committee suggested that the first part of the Phase I project (ARP) is not financially viable.

xv p 13 - 16 cf

Flag (A)

p 26

As per G.O (Ms) No. 67/2011/ID dated 01/03/2011, Government approved the revised project proposal of Travancore Titanium Products Limited in modification of the GO (Ms) No. 51/2005/ID dated 19/05/2005 for the pollution control methods at an estimated cost of Rs. 83.08 Crore. It was also ordered therein that Government will sanction an amount of Rs. 14.63 Crore plus applicable interest at the rate of 15% from the date of import of equipments and penalty therein will be sanctioned to enable the Company to refund the import duty concessions availed and to come out of the EPCG commitments so that the Company could sell off the

vv p 591 -

p 595 cf

Subm. by
copy enclosed as annexure

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imported equipment of Acid Regeneration Plant in the open market. It is ordered for departmental enquiry for the expenditure of Rs.80 crore for the unviable Acid Recovery Project.

p 583 c)

4) As per notification No. 97/2004 customs dated 17-09-2004, to avail duty concession @5%, fulfil the Export Obligation equivalent to eight times the duty saved of the Capital Goods imported within a period of 8 years from the date of issue of the EPCG licenses and the company is liable to export Rs.151.38 Crore ^{As per the ~~notification~~} and the bonds executed between Company & Central Government under Sec 143(1) of the Customs Act, 1962, the capital goods and the spares imported should be installed in the importer's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Asst. Commissioner of Central Excise as the case may be, should be produced confirming installation, and the use of the capital goods in the importer's factory or premises, within six months from the date of completion of imports or within such extended period as the Deputy Commissioner of Customs or Asst. Commissioner of Central Excise as the case may be, may allow. The Company had undergone severe financial crisis and hence it ^{was} decided to abandon the ARP project and the imported equipments could not be used by the company. So TTPL could not comply with the conditions stipulated in the Customs Act 1962.

p 195 - 198 c)

5) Company filed appeal before the Central Excise Service Tax Appellate Tribunal (CESTAT) against the notice issued by the Commissioner of Customs for recovery due to the non-payment of EPCG dues. CESTAT allowed the appeal and granted extension for the installation of machinery till 31/12/2015. In 2017, the work for Neutralization Plant was completed. Company requested for extension of ^(CRP) time limit for the implementation of Copperas Recovery Plant. In 2023, CRP was completed and the ^{commissioning} installation of CRP is under progress.

p 645 c)

p 605 - 608 c)

6) A Vigilance Case was registered VC1/2015/SIU-1 against the corruption & irregularities in Pollution Abatement cum Capacity Expansion Project of TTPL. Vigilance Enquiry in the matter have not been completed. Now, the Hon'ble High Court directed the CBI to take over the investigation in VC1/2015/SIU-1.

x p 225 - 230 c)

7) The Director General of Foreign Trade vide order dated 3/2/2017 imposed a fiscal penalty of Rs.35 crores on the company for the nonfulfilment of

export obligation^{xy} by TTPL. The Commissioner of Customs, Cochin issued Detention Notice on 24/11/2017 to the Company & Board of Directors and ordered for the recovery of Rs. 17,32,80,577/- with interest. @ 15% with effect from the date of import. Government of Kerala requested the Commissioner of Customs to refrain from the recovery proceedings initiated against the Company. Company filed Appeal before the DGFT, Bangalore & Dy.DGFT, Thiruvananthapuram and approached CESTAT and the Hon'ble High Court. The Hon'ble High Court in the judgment dated 16/12/2019 in WP(C) No.41370/2017 granted extension of time for the installation of Copperas Recovery Plant till 31/3/2020. Based on the minutes of the meeting of the EPCG committee held on 14/10/2022^{xy} & 17/10/2022, EPCG committee rejected the review petition filed by the company.

xx p336 -
337 c)

xv
p548 -
552 c)

// vudh p1

8) When the file was forwarded to Finance Department for remarks on the proposal for release of fund as ordered in G.O(Ms) No.67/11/ID dated 1/3/2011 to meet the EPCG commitment, that Department remarked as follows;

No 6 #216 nt

"Administrative Department is informed that the fund sanctioned in 2011, can't be released in 2023. Hence Administrative Department's request is declined and also requested to direct TTPL to remit the amount from their own accruals before June 30, 2023."

Sanctioning the fund by holding the present document by Hon'ble Dy. Commissioner

9) When the file was retransmitted to Finance Department for ~~remarks, that~~

^{that} Department remarked as follows;

No 6 #240 nt

'Finance' regrets its inability to agree to the proposal from the M.D., TTPL for the release ^{of} funds for settling the EPCG dues of Rs. 17.33 crores.

This has the approval of Hon'ble Minister (Finance)"

p 618 c)

10) The Managing Director, TTPL reported that the total customs import duty payable towards the import of capital equipments and the interest due on the duty from the date of import is Rs. 56.70 Crore. But under the Amnesty Scheme, the company ^{has to} will pay Rs.19.57 Crore as EPCG commitment under Amnesty scheme, ~~and that~~ if the company pay off Rs.19.57 Crore before 31/3/2024, interest of Rs.39.25 Crore will be waived off ^{the} and that company settled the payment for 2 EPCG licences(5330001099, 5330001049) to the tune of Rs.63.16 Lakh in the

p 623 - 624 c)

current financial year, ^{out} of 8 licences ~~and that~~ Rs.18.93 Crore ^{has} will have to be paid for the remaining 6 licences (5330001038, 5330001042, 5330001058,

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5330001075, 5330001081, 5330001093). It is reported by the Managing Director of TTPL that the payment of the payable amount under Amnesty scheme will be beneficial

P 6254

benefit to the company as there is concession in interest payment of Rs. 35.92 Crore and ~~in~~ ^{savings on further} expenses for litigations. *The MD, TTPL requested to release Rs. 18.93 Crore to settle the matter under Amnesty scheme.*

II) The Board of the company found that the proposed Acid Recovery Plant Project in Travancore Titanium Products Limited is practically not viable and it is decided to implement the Pollution Abatement Project with some modifications.

Note # 234

E
P 248 nt

Government, as per G.O(Ms) No.67/2011/ID dated 1/3/2011 sanctioned fund towards the import Duty to remit to Customs Department for the equipments imported ^{from} foreign country for the said project under Export Promotion Capital Goods (EPCG) scheme with the concurrence of Finance Department. ~~As~~ TTPL could not pay off the EPCG liability (import duty concession) as Government have not released the fund till date. The DGFT, Cochin had initiated recovery proceedings against the company for the said amount and interest ^{amounting} ~~coming~~ to a total of Rs.35 ^{5% to} Crore because of the non remittance of the EPCG liability. ~~If~~ company

has to

^{remitted} ~~pay~~ Rs.17.33 ^{18.93} Crore excluding interest & penal interest under Amnesty Scheme, ~~company will be discharged from~~ ^{to get from} recovery proceedings. The benefit of projects

have not been acquired as the above said project is abandoned and the same was proposed to be implemented with the imported equipments. There ^{are} ~~were~~ cases filed before the Hon'ble High Court against the Officers who made financial liability to the company with the proposed project without expert study. The financial crisis ~~of~~ ^{due to} low market price for the products manufactured by TTPL resulted in the circumstances that the company could not pay off customs duty. Hence Government have to consider the release of funds ordered as per G.O(Ms) No.67/2011/ID dated 1/3/2011. ~~The M.D, TTPL requested to release Rs.18.93 Crore~~

P 689-691 cl

~~to settle the matter under Amnesty Scheme.~~ In the current Financial Year, Rs.23 Crore is earmarked for the Modernization Project of TTPL under the H/A 6853-60-190-97 (P) of TTPL.

Note #
299 nt

12) When the file was circulated to Hon'ble Chief Minister through Hon'ble minister for Industries for orders to sanction the fund to TTPL as ordered in 2011 vide G.O(Ms) No.67/2011/ID dated 1/3/2011 to discharge the company from

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recovery proceedings initiated by DGFT, Regional Authority, Kochi, it is ordered to place the matter before the consideration of the Council of Ministers.

POINT FOR DECISION

Whether an amount of Rs. 18.93 Crore may be released to the Travancore Titanium Products Limited from the current year budget provision of the company under the H/A 6853-60-190-97 (P) to settle the dues towards concession availed on import duty worth Rs. 17,32,80,577/-with interest, under Amnesty Scheme, in connection with the machinery imported under EPCG Scheme during 2007-08 for the Pollution Abatement Project of TTPL, ~~in respect of the~~ by overruling the remarks of Finance Department and in view of the orders in G.O(Ms) No.67/2011/ID dated 1/3/2011 ?

8/2/2024

9/2/2024

9/2/2024

12/2/24

13/2/24

17/2/24

13/2

18/2/24