

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, AT NEW DELHI
APPEAL NO. 36 OF 2024**

IN THE MATTER OF:

Petro Carbon and Chemicals Ltd.

...Appellant

VERSUS

Commission for Air Quality Management
In NCR & Adjoining Areas & Anr.

...Respondents

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, AT NEW DELHI**

APPEAL NO. 36 OF 2024

IN THE MATTER OF:

Petro Carbon and Chemicals Ltd. ...Appellant

VERSUS

Commission for Air Quality Management ...Respondents
In NCR & Adjoining Areas & Anr.

**REJOINDER ON BEHALF OF THE APPELLANT TO THE
COUNTER AFFIDAVIT DATED 20.12.2024 FILED BY
RESPONDENT NO.1 (COMMISSION FOR AIR QUALITY
MANAGEMENT FOR DELHI NCR & ADJOINING AREAS)**

MOST RESPECTFULLY SHOWETH:-

1. That the Appellant herein is filing the present Rejoinder to the Counter Affidavit dated 20.12.2024 filed by Respondent No.1 (Commission for Air Quality Management for Delhi NCR and Adjoining Areas or CAQM) and in terms of the liberty granted vide Order dated 24.12.2024 passed by this Hon'ble Tribunal.
2. That at the outset, the Appellant confirms and reiterates its averments and submissions made in appeal, which are not being repeated herein for sake of brevity and the same should be considered as part of this Rejoinder. Further, the Appellant denies all averments made in the Counter Affidavit filed by Respondent No.1 and nothing stated therein shall be deemed to be admitted by the Appellant by virtue of not being specifically denied herein.

3. That the Respondent No. 1 (CAQM) filed its Counter Affidavit dated 20.12.2024 raising the following allegations, albeit wrongly and without any basis in law –
 - 1) The Appeal is barred by limitation in view the period of limitation prescribed in Section 16 the NGT Act, 2010
 - 2) CAQM has exercised its jurisdiction in view of the Order dated 10.10.2023 of the Hon’ble Supreme Court, whereby the Commission was directed to look into the issue of distribution of the Pet Coke available in the country and Pet Coke required to be imported and how both of them should be distributed inter se the industries.
 - 3) The assessment of CPC was based on the quantity given by the calciners in their Consent and on the information shared by the stakeholders.
4. That the Appellant herein seeks to respond to the abovementioned allegations raised by the Respondent No. 1 in its Preliminary Objections before submitting the para-wise response on merits.

I. Preliminary Objections

- A. Response to the allegation - The Appeal is barred by limitation in view of the period of limitation prescribed in Section 16 of the NGT Act, 2010**
5. That the Respondent No. 1 has raised an objection that the Appeal is barred by limitation by relying upon Section 16 of the National Green Tribunal Act, 2010. The Appellant humbly submits that the

limitation period as prescribed in Section 16 of the NGT Act, 2010 is not applicable to Appeal filed under Section 18 of the CAQM Act, 2021. Further the present appeal is not barred by limitation due to the following reasons:-

- a) Section 16 of the NGT Act contains a list of Orders or Decisions passed under specific Acts against which the appeal can be preferred to the Hon'ble NGT. There is no mention of CAQM Act (since it was enacted subsequently in 2021) but also there is no general/residuary clause for Orders or Decisions passed by other Tribunals under any other Act;
- b) Section 18 of CAQM Act, 2021 provides for an appeal specifically to the Hon'ble NGT against any Order issued by the CAQM and that section does not prescribe any time-period for preferring such Appeals.
- c) Section 18 of the CAQM Act gives a separate, independent and distinct remedy under the CAQM Act which has no connection with the NGT Act, 2010 apart from the fact that the appeal can only be filed before the NGT established under NGT Act, 2010.
- d) Hence, it is safe to conclude that the Legislature deliberately didn't give a time limit for filing such appeal under Section 18 of CAQM Act.

Thus, one cannot read the time limit prescribed under Section 16 of the NGT Act, 2010 into the CAQM Act, 2021 without any specific

provision related to that effect neither in the CAQM, Act, 2021 nor in the NGT Act, 2010.

6. There are certain judgments which categorically cover the subject and are described in brief as below.
7. The Hon'ble Supreme Court in the case of *State of Maharashtra v. Borse Bros. Engineers & Contractors (P) Ltd., (2021) 6 SCC 460* while examining the argument that whether period of limitation contemplated under Section 34(3) of the Arbitration & Conciliation Act, 1996 can also be read for an appeal filed under Section 37, due to the absence of any period of limitation prescribed for Section 37, held as follows:-

“43. ..., the argument that absent a provision curtailing the condonation of delay beyond the period provided in Section 13 of the Commercial Courts Act would also make it clear that any such bodily lifting of the last part of Section 34(3) into Section 37 of the Arbitration Act would also be unwarranted. We cannot accept Shri Navare's argument that this is a mere casus omissus which can be filled in by the Court.

48. Given the “Lakshman Rekha” laid down in this judgment, it is a little difficult to appreciate how a cap can be judicially engrafted onto a statutory provision which then bars condonation of delay by even one day beyond the cap so engrafted.”

8. Further in the case of *North Eastern Chemicals Industries (P) Ltd. and Another vs. Ashok Paper Mill (Assam) Ltd. and Another, 2023 SCC OnLine SC 1649* the Hon'ble Court considered the following:-

“B) Contingently, if the Limitation Act does not apply then, in the absence of Limitation being placed within the text of the Statute in question, could the Appeal filed against the Order of the Commissioner of Payments be held as maintainable

having been filed after a period of nearly three years from the said order?

54. *When a statute, either general or specific in application, provides for a limitation within which to file an appeal, the parties interested in doing so are put to notice of the requirement to act with expedition. However, opposite thereto, in cases such as the present one where neither statute provides for an explicit limitation, such urgency may be absent. While it is still true that, as held in Ajaib (supra), this does not entitle parties to litigate issues decades later, however shorter delays, in such circumstances, would not attract delay and laches.*
56. *Consequent to the discussion made hereinabove, i.e., neither the general nor the specific statute providing for an appeal from an order of the Commissioner of Payments within a specified period of time, the Claimant - Appellants' appeal cannot be said to be barred by time. The same would therefore, be maintainable.*
59. *In the absence of any particular period of time being prescribed to file an appeal, the same would be governed by the principle of 'reasonable time', for which, by virtue of its very nature, no straitjacket formula can be laid down and it is to be determined as per the facts and circumstances of each case..."*

9. Thus, it is clear that in the absence of any statutory time period being prescribed for filing an Appeal under Section 18 of the CAQM Act, 2021 and further the present appeal being filed by the Appellant within a reasonable time, the present appeal is not barred by limitation and is therefore maintainable.

B. Response to the allegation - CAQM has exercised its jurisdiction in view of the Order dated 10.10.2023 of the Hon'ble Supreme Court, whereby the Commission was directed to look into the issue of distribution of the Pet Coke available in the country and Pet Coke required to be

imported and how both of them should be distributed inter se the industries .

10. That in its Counter Affidavit, the Respondent No.1 apart from reiterating the contents of the Impugned Order dated 15.02.2024, has not given any specific justification or reasons to the averments made by the Appellant in the Appeal.
11. That at the outset, it is pertinent to mention that the Hon'ble Supreme Court merely directed the Respondent No. 1 to take a decision on the allocation of the balance quantity of the RPC. It does not vest the Respondent No. 1 (CAQM) with the power to issue Directions to other Ministries such as the MOEF&CC to override the provisions of the Environment Impact Assessment Notification, 2006 and also impinge upon the powers of the Regulatory Authority empowered under the EIA Notification, 2006 for taking decisions with respect to the Application for Environmental Clearance for expansion of an existing utility in accordance with the EIA Notification, 2006.
12. That the Respondent No. 1, CAQM, by virtue of the impugned orders dated 15.02.2024 (Annexure A1 at Pg 49 of the Appeal) whereby a restriction has been imposed on the establishment of any new Calcined Petroleum Coke Manufacturing Unit or capacity augmentation of existing units, and Letters 19.04.2024 (Annexure A2, Pg 59 of the Appeal) and 17.05.2024 (Annexure A3, Pg 60 of the Appeal) has restricted the right of the Appellant herein for expansion of its Calciner unit, which was being undertaken in due compliance with the EIA Notification, 2006, which is impermissible.

13. That further, the Respondent No. 1, CAQM, vide the impugned order of 15.02.2024 and letter, has overridden the provisions of the EIA Notification, 2006 , and that too based on a report pending consideration of the Hon'ble Supreme Court. It is a settled principle of law that Orders issued by one government department cannot override statutory provisions of the other Department.

C. Response to the allegation - The assessment of CPC was based on the quantity given by the calciners in their Consent and on the information shared by the stakeholders.

14. That the Appellant at the outset submits that their requirement for RPC for its expanded calcining unit is very minor and can be easily accommodated by CAQM, MoEF&CC and the DGFT. Moreover, the Respondent No. 1, CAQM, in its Counter Affidavit as well as the Sub Committee and the Impugned Order has clearly noted that the requirement of CPC and RPC for the aluminium industry has been dynamic. Moreover, the aluminium production is expected to increase in the future and there may be a need to import additional quantity of RPC. Thus, these are clearly contrary statements of the CAQM, whereby on one hand it assumes increase in demand and on the other hand has suggested the restriction on the expansion of the Appellant's Calciner unit under EIA Notification, 2006.
15. That it is also pertinent to note that the Petroleum Planning and Analysis Cell or the Ministry of Petroleum and Natural Gas in its January 2025 report on Industry Consumption Report – POL and NG has clearly stated that petcoke consumption during the month of

January 2025 has witnessed a 14.3% year on year growth. Thus, clearly there is a greater chance of demand increasing in the future which may lead to further allocations. However, the impugned order of the CAQM has restricted the expansion of the calciner unit of the Appellant herein merely based on the existing Consent.

A copy of the relevant extract of Industry Consumption Report-POL & NG for January 2025 is annexed herewith and marked as **ANNEXURE-“A”**

16. That further, all the documents, including the MoEF&CC Application on Parivesh were enclosed for ready reference and perusal of the Respondent No.1, CAQM. This included the ongoing expansion activities, board resolutions and detailed studies conducted prior to the submission of the TOR. The Letter of 14.11.2023 of the Appellant herein to Respondent No. 1, CAQM clearly highlights the plan of the Appellant for expansion and the total requirement for RPC including the expanded capacity. (Refer Annexure A15, Page 165 of the Appeal). Thus, the Respondent No.1, CAQM was clearly aware of the expansion plans of the Appellant.
17. That in fact, DGFT had requested the Appellant on 06.11.2024 for details of utilisation of RPC including any further expansion. On 28.11.2024, the DGFT had accepted the enhancement request for the additional allocation.

A copy of the emails dated 06.11.2024 and 28.11.2024 sent by DGFT are annexed herewith and marked as **ANNEXURE-“B”**.

18. That there are similar industrial units whose capacity have been allowed to be expanded although the certainty of allocation of RPC was not there while they were expanding. Applying the same principle , the present Appellant may also be allowed to expand and therefore the uncertainty of allocations may not be treated as a barrier for augmenting their capacity. The vehemence of CAQM for not allowing the expansion of Appellant therefore may be more than what meets the eye.

19. The Appellant's requirement for RPC, even for its expanded unit can be accommodated within the CAQM's current prescription of 1.9 MMT per year from FY 2024-25 as it is understood that various calciners across the country have surrendered some quantity (around 0.5MMT) from the initial allocation of 1.9 MMT for the year 2024 - 25. Hence the Appellant's requirement of increased quantity of RPC can very well be adjusted from this quota of 1.9 MMT without hampering with the revised import capacity as per order dated 15.02.2024. Infact, in the past too, various calciners have surrendered RPC allocated to them. The DGFT re-allocates the surrendered quantity of RPC after considering the requests received from various calciners and their approved quota.

A copy of minutes of meeting of DGFT regarding allocation of surrendered quantity of RPC for CPC manufacturing for various financial years are annexed herewith and marked as ANNEXURE-
"C".

Therefore, when the Appellant's requirement for RPC for its augmented capacity can be met with the already available RPC,

there can be no detriment to the environment. The Respondent No.1's finding in the Impugned Order dated 15.02.2024 which bans capacity augmentation purely in the overall interest of the environment is thus unfounded and without any rationale.

20. That the Appellant is the only calciner unit who is negatively impacted by the Impugned Order dated 15.02.2024. All the other calciners whose RPC requirements are quite substantial and also the pollution load is proportionately higher than the Appellant, have been accommodated by the CAQM. This clearly violates the basic constitutional and fundamental right to equality.
21. Further, the Appellant humbly submits that the MoEF&CC have not taken any independent decision on the application for grant of TOR made by the Appellant. It was only the Expert Appraisal Committee (EAC) who pursuant to the letter dated 19.04.2024 issued by the CAQM, withdrew its recommendation for the grant of TOR. Thus, the Appellant's fundamental right to carry on its business has been curtailed in an arbitrary and casual manner, without proper consideration of the same on merits.
22. That it is settled principle that Statutory Authorities/ agencies cannot assume jurisdiction beyond their statutory prescription. The CAQM has a jurisdiction over the National Capital region as well as areas adjoining the same (see Section 12 of CAQM Act, 2021). In the present case the CAQM has gone beyond its jurisdiction to suggest restriction/prohibition of expansion of a unit operating in the State of West Bengal which is impermissible by a catena of judgments of the Hon'ble Supreme Court. Moreover the specific order dated

10.10.2023 of the Hon'ble Supreme Court with regard to allocation of RPC to calciners units is being misinterpreted by the Ld. CAQM which is encroaching upon not only a capacity augmentation of a unit established in the State of West Bengal which is beyond their jurisdiction but also interfering in another Ministries regular statutory procedures for consideration of expansion of unit under a specific Legislation i.e., EPA, 1986 and the Notification issued therein i.e., EIA,2006. The Hon'ble Supreme Court has nowhere in the above said Order empowers the CAQM to regulate and interfere with the capacity augmentation of calciners units.

PARA-WISE REPLY

23. That the paragraph 1 of the Counter Affidavit does not merit any response.
24. That the contents of paragraph 2 of the Counter Affidavit are denied as false and without any merit. The contents of para 5 to 9 of the preliminary objections especially on the issue of limitation may be read as a response to the contents of this para..
25. That the contents of paragraphs 3 to 4 of the Counter Affidavit do not merit any response.
26. Paragraphs 5 to 10 of the Counter Affidavit are factual in nature and are a matter of record but one important fact that needs to be noticed from the contents of these paragraphs is that CAQM has exercised its jurisdiction in view of the Order dated 10.10.2023 of the Hon'ble Supreme Court, whereby the Commission was directed to look into the issue of distribution of the Pet Coke available in the country and

Pet Coke required to be imported and how both of them should be distributed inter se the industries. Despite these categorical directions CAQM in the humble opinion of the Appellant has exceeded its jurisdiction. The contents of para 22 may also be read as a part of response to these paras.

27. That the contents of Paragraphs 11 to 13 of the Counter Affidavit are denied as false and without any merit except those that are matter of records. While the sub committee was formed by CAQM, but it did not hold a 'number of meetings' to deliberate upon the issues relating to distribution of Pet Coke. It is further disputed that the said sub-committee 'heard' the CPC Manufacturers and Aluminium Industries during the process. The Appellant states that apart from the Notice dated 09.11.2023 calling for a meeting on 15.11.2023, no other notice was ever received by the Appellant. As already stated by the Appellant in its appeal, it is reiterated that during the meeting dated 15.11.2023, only the RPC allocation of 0.40 MMT for FY 2023-2024 was discussed by the sub-committee with the CPC Manufactures. No other issue relating to capacity augmentation or future requirements of RPC was ever discussed in the meeting dated 15.11.2023. Further, no minutes of meeting dated 15.11.2023 were provided by the Respondent/sub-committee. Even in its Counter Affidavit, the Respondent has failed to produce the minutes of meeting dated 15.11.2023, despite of the specific averment of the Appellant in this regard in its appeal. Further, the Respondent only makes a vague averment regarding holding a number of meetings without providing any specific details of any of the meetings or annexing any minutes of such meetings along with its Counter Affidavit. The claim and statement made by the Respondent in its

Counter Affidavit and/or pleadings that it held a number of meetings with regard to assessment of RPC/CPC requirement and holding consultative meeting, calls for strict proof in absence of which the alleged claim and statement will tantamount to falsity and misrepresentation before this Hon'ble Tribunal.

28. Paragraphs 14 to 16 of the Counter Affidavit are a matter of record and merit no response. However, it is pertinent to note that at Paragraph 14 of the Counter Affidavit, CAQM has reproduced the contents of recommendation of Sub Committee which is also mentioned in the Para 7 of the Impugned Order dated 15.02.2024. Paragraph 14(i) of the Counter Affidavit states as follows:-

“Irrespective of the geographical location, all such calciner industries which have obtained all due statutory permissions and clearances need to be treated at par, in as far as allocation of imported RPC is concerned. The import of RPC should be based on the demands as well as the current levels of quantities permissible under the respective CTO / clearance of all such calcining units;”

However, the underlined portion of Paragraph 14(i) of the Counter Affidavit which was in fact the recommendation of the Sub Committee is missing in the final text of the Impugned Order dated 15.02.2024. Thus, the Respondent has deviated from the Sub Committee suggestion without giving any justification for the same. It appears that the impugned Order removes the content relating to import of RPC based on future demands for reasons best known to them while categorically stating that the recommendation of sub Committee is stated verbatim. The other reason that the subcommittee recommends for discouraging capacity enhancement is that CPC may also be directly imported. This is not only strange

but is an observation which is completely beyond the jurisdiction of CAQM and this is more in the domain of EXIM policy of the Government under the Foreign Trade Act and clearly against the basic principle of “ATMANIRBHAR” and “MAKE IN INDIA”. Further vide Notification No. 27/2024-25 dated 04.09.2024 of the Directorate General of Foreign Trade allows the import of RPC and CPC to cater entirely to the domestic needs of aluminium industry *and other industry*, for the processes as permitted under the relevant regulations/statutes.

29. That in the contents of Paragraph 17 of the Counter Affidavit, the Respondent itself admits that the Impugned Order dated 15.02.2024 was addressed to all concerned ministries including Respondent No.2-MoEF&CC. It was only during the 55th meeting dated 29.02.2024 to 01.03.2024, that the Expert Appraisal Committee was pleased to recommend the grant of TOR to the Appellant for its expansion project. Thus, the Respondent No. 2 being fully aware of the Impugned Order dated 15.02.2024 issued by the CAQM, recommended the grant of TOR on 01.03.2024 to the Appellant’s expansion project. It was only after the CAQM issued the Impugned Letter dated 19.04.2024, that the EAC subsequently withdrew its recommendation for grant of TOR to the Appellant on 25.04.2024 without any justified reason. Thus, the Respondent No.2 without appreciating the merits of the Appellant’s Application for expansion, merely acted pursuant to the CAQM’s letter dated 19.04.2024.
30. That paragraph 1 of the para-wise response of the counter affidavit does not merit any response.

31. The contents of Paragraph 2 of the para-wise response of the counter affidavit are wrong and denied. CAQM's contention that point no. viii of the Notice dated 02.11.2023 was to be read in consonance with point no. iv, is unreasonable, wrong and denied. A perusal of the notice dated 02.11.2023 makes it very clear that in point no. iv, CAQM was seeking information regarding the present CPC manufacturing capacity with proof of Consent to Operate (CTO) and in point viii, the Calciners were required to inform about the "*Desired annual quantity for import of RPC*". The desired annual quantity did not have to be backed by any CTO or any other document. Moreover, the import of RPC was regulated by the Hon'ble Supreme Court since 2018 and it was only on 10.10.2023 that the task was delegated to CAQM to look after all the issues. The Appellant being a law-abiding company, had refrained from carrying out any expansion of its existing unit pursuant to Supreme Court's Order dated 09.10.2018. However, after the delegation of task to CAQM, the Appellant made a proposal for expansion of its unit. The Appellant is praying for the requisite permission to expand its existing CPC Unit at Haldia for future allocation of RPC, if available at that time. Even CAQM in its counter affidavit have admitted at Para 7 that "*That in view of changing scenarios with time, the requirement of CPC and RPC for aluminium industry as well the CPC manufacturing industries has also been dynamic...*". Thus it is an admitted position by CAQM itself that whatever is the requirement and availability of RPC at the moment, it can change/vary at any time. Further as stated earlier, vide Notification No. 27/2024-25 dated 04.09.2024 of the Directorate General of Foreign Trade allows the import of RPC to cater entirely to the

domestic needs of aluminium industry *and other industry*, for the processes as permitted under the relevant regulations/statutes.

Thus, depriving the Appellant of a chance to expand its existing manufacturing unit without any cogent reason is arbitrary and illegal.

32. That the contents of Paragraph 3, 5, 6 & 9 are denied as false and without any merit. Apart from making a bald averment that the meeting on 15.11.2023 was not limited to interim directions for allocation of 0.40 MMT RPC for FY 2023-24, CAQM has not provided any document or even the minutes of meeting of the said meeting along with its Counter Affidavit. The Appellant states and submit that no meeting other than the one on 15.11.2023 was ever held by CAQM to discuss RPC related issues. In fact, post 15.11.2023, no other meeting or consultative process was held by CAQM, to the best of the Appellants knowledge as no cogent documents have been produced by the Respondent No 1. Furthermore, it is surprising and peculiar that CAQM held a meeting for distribution of 0.40 MMT RPC for FY 2023-24, however, no meeting was ever held for much larger and important issues of import quantity of RPC and its allocation amongst various industries. CAQM has produced no documentary proof of any meeting or consultative process to discuss issues pertaining to import of RPC and is only making vague statements before this Hon'ble Tribunal. The CAQM's failure to engage with stakeholders and industry players through a consultative process before issuing decisions reflects a fundamental breach of natural justice. Unlike the EPCA's inclusive approach, which actively engaged with all

stakeholders, the CAQM's actions demonstrate a lack of transparency and disregard for industry-wide feedback. This absence of meaningful consultation not only undermines the regulatory framework but also clearly points towards biased decision-making.

33. That the contents of Paragraph 4 and 7 merit no response.
34. That the contents of Paragraph 8 are denied as false and without any merit. It is submitted that apart from making unsubstantiated averments and without giving any specifics, CAQM is merely making vague submissions. If any data-supply analysis was at all carried out by the Sub-Committee, the same could have been supplied with the reply to the RTI or could have been reproduced in the Impugned Order dated 15.02.2024 or could have even been annexed with its counter affidavit also. It is pertinent to note that its response dated 11.07.2024 to the RTI, the Respondent No.1 has admitted that it does not have the calciner wise breakup of production capacity. But the statement made in the present Counter Affidavit is totally contradictory to their previous statement made in reply to Appellant's RTI. This kind of statement in the pleadings as made by Respondent No.1 is another blatant example of falsity and misrepresentation.
35. That the contents of Paragraph 10 are denied as false and without any merit. Respondent No.1 in its present counter affidavit as well as in the Impugned Order dated 15.02.2024, merely stated that capacity augmentation of existing calcining units may not be allowed purely in the interest of environment. But what environmental factors are being considered, what precautions can be

taken, no specific information has been provided. It is submitted that from the year 2025, it is mandatory to install a Flue Gas Desulfurization (FGD) unit in all calcining units for absorption of SO₂ emissions (upto 95%) to reduce the emission impact of CPC manufacturing. In line with such directions of MoEF&CC, the Appellant herein is in the process of installing FGD to negate the environmental impact of CPC manufacturing. The Respondent's blanket denial of capacity augmentation for calcining units is arbitrary and disproportionate. It is further submitted that the Respondents have failed to consider the Appellant's substantial investments in environmental compliance measures, including the installation of FGD systems and adherence to emission norms prescribed by the MoEF&CC. The Appellant humbly submits that it may even use new cleaner technology which can match the norms set by the Government, in its expanded unit. Thus, without giving an opportunity to the Appellant to make its case, a blanket ban has been arbitrarily imposed by the Respondent. The contents of para 28 may also be read as a part of this para and is not being repeated for the sake of brevity.

36. That with regard to contents of Paragraph 11 of the counter affidavit, it is submitted that the Impugned Order dated 15.02.2024 at Paragraph 9 stated that "*vi. The applicant submitted that its unit would suffer substantial monetary loss if this unit in the APSEZ is not allowed to operate, as a huge investment of Rs. 650 crores has already been made for the unit and that the unit has obtained all necessary permissions to conduct their business under the relevant laws i.e. environmental laws and SEZ related law to operate in the SEZ Area;*". Then at Paragraph 10(II) of the Impugned Report, the

said unit is allowed to operate. Thus, another applicant who had set up its calcining unit in SEZ area, even though the same is highly polluting was allowed to operate by the CAQM. If expansion/setting up of new unit is to be allowed, it should be done on an equal footing for all calciners, with clear timelines and regulatory framework. The decision should not favour one player over others, especially when all parties are supposed to comply with the same legal framework and environmental regulations. Hence, the Appellant submits that the Respondent's Impugned Letter dated 19.04.2024 is violative of the principles of equality and the Appellant has been erroneously deprived from expanding its existing calcining unit under the garb of protecting the environment.

37. That with regard to contents of Paragraph 12 it is submitted that the Appellant is not claiming any right to allocation of extra RPC presently. The Appellant is merely seeking a fair opportunity for consideration of its proposal for expansion of its calcining unit by the MoEF&CC for both future demands as and when it arises and also the utilization of surrendered stocks from those units who are not utilizing to its full capacity . Furthermore, it is submitted that any proposed expansion project requires time to be finalized as there are a lot of aspects at play. Post the Supreme Court Order dated 10.10.2023, the Appellant had internally moved the expansion plan , study and impact of the expansion including preparation of feasibility reports, detailed project report, greenbelt development plan consumed certain reasonable time along with verifying the commercial aspect of the same. Within a period of two months from the Supreme Court's Order dated 10.10.2023, the Appellant applied

to the MoEF&CC for the grant of TOR, which is a reasonable time for submitting an application with all reports and studies.

38. That the contents of Paragraph 13 of the para-wise response to the counter affidavit merit no response.
39. That in response to Paragraph 14 of para-wise response to the counter affidavit, it is submitted that CAQM's response is contradictory to the Impugned Order dated 15.02.2024. On one hand, the Impugned Order at Para 10(i)(i) states "*The suggested caps on the import of respective quantities of RPC/ CPC is considering the present capacities / consents of the regulatory authorities including the ongoing manufacturing capacity augmentations and is expected to take care of the requirements in all sectors for the next five years and thus ordinarily a review would be required accordingly, except for emergent and unforeseen conditions that may arise in future...*". The Appellant submits that the process of obtaining requisite approvals from the authorities is also an ongoing capacity augmentation task. The Appellant had contemplated and planned for its capacity augmentation way back in the year 2018-19, however could not implement the same due to the Orders of the Hon'ble Supreme Court. Immediately after the Order dated 10.10.2023 was passed by the Hon'ble Apex Court, the Appellant company passed a Board Resolution dated 11.10.2023 to take its project of capacity augmentation forward and file for the requisite permissions. Even in its reply dated 14.11.2023 to CAQM, the Appellant had indicated about their plans for capacity augmentation. The Appellant had initiated and made substantial progress in preparations and actions for the expansion well before the CAQM

order was issued as the application for expansion was formally uploaded/submitted on the Parivesh portal on 16.12.2023. The said application included detailed studies such as greenbelt development plan, plan layout, summary on baseline etc, which were conducted by the Appellant prior to its submission of TOR. The Appellant's application was formally accepted by the authorities on 08.02.2024 as available on their website. CAQM unjustifiably and arbitrarily interfered in the process of obtaining approvals from the MoEFCC by the Appellant and exceeded its jurisdiction. The Hon'ble Supreme Court delegated the task to assess the requirement of import of RPC related issues to CAQM and did not give CAQM powers to ban/prohibit any capacity augmentation of the existing calciners which is being done in accordance with the extant law.

40. That the contents of Paragraph 15 to 17 of the para-wise response of the counter affidavit are wrong and denied. It is denied that the Appellant failed to disclose the Report dated 15.02.2024 to MoEF&CC. It is further denied that it was the Appellant's 'duty' to disclose an already publicly available Report dated 15.02.2024 to MoEF&CC or the EAC.

Firstly, it is submitted that the Impugned Order dated 15.02.2024 was uploaded on the CAQM website and was publicly available. Secondly, CAQM has itself admitted in Paragraph 17 of the Counter Affidavit that the Impugned Order dated 15.02.2024 was addressed by it to all concerned ministries including Respondent No.2-MoEF&CC. It was only during the meeting dated 29.02.2024 to 01.03.2024 of the MoEF&CC that the 55th Expert Appraisal

Committee was pleased to grant recommendation for TOR to the Appellant for its expansion project.

Thus, the MoEF&CC being fully aware of the Impugned Report dated 15.02.2024 issued by the CAQM, granted TOR to the Appellant's expansion project.

It was only after the CAQM issued the Impugned Letter dated 19.04.2024 subsequently, that the EAC withdrew its recommendation for grant of TOR to the Appellant. Thus, the MoEF&CC without appreciating the merits of the Appellant's Application for expansion, merely acted mechanically, pursuant to the CAQM's illegal letter dated 19.04.2024. It must be emphasised that the EIA process is an independent regulatory process and any such capacity augmentation could have been examined on merits and such clearance if granted could be subjected to the availability of RPC in the future. Similarly the CAQM has no authority or jurisdiction to interfere in an otherwise legally appropriate procedure envisaged under the EPA, 1986.

41. That in response to Paragraphs 18 to 20 of the para-wise response of the counter affidavit, the corresponding paragraphs of the appeal are reiterated. It is submitted that even in the counter affidavits, Respondent No.1 has not been able to show any justification or evidence for banning capacity augmentation of existing calciner units or for not considering the Appellant's case as an ongoing capacity augmentation. Furthermore, Respondent No.1 has not provided any basis for banning the capacity augmentation of existing

calciner units. Nor has it provided any data, analysis or documents that were considered for arriving at such a drastic decision.

42. That the contents of Paragraph 21 are wrong and denied. As already explained above, the present Appeal filed by the Appellant under the CAQM Act, 2021 is not barred by limitation. In fact, no limitation period has been prescribed by the legislature for filing an appeal under Section 18 of the CAQM Act. In absence of any statutory period prescribed for filing the appeal under Section 18, no other time-limit can be assumed. The Appellant has filed the present appeal within a reasonable time period from Impugned Orders and letters, is thus maintainable. Further the contents of para 5 to 9 of preliminary objections may be read as an additional response to the contents of this para.
43. That in response to Paragraph 22 and 23 it is stated that the appeal filed by the Appellant is maintainable and humbly prays to this Hon'ble Tribunal to grant the prayers sought for by the Appellant.

FILED BY



MADHAVI AGARWAL
ADVOCATE FOR THE APPELLANT
GROUND FLOOR, MERCANTILE HOUSE
15, K.G. MARG, NEW DELHI – 110 001
Phone: 011-42200000
EMAIL: mail@aglaw.in

PLACE: NEW DELHI
DATED: 09.04.2025

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, AT NEW DELHI

MEMORANDUM OF APPEAL

APPEAL NO. 36 OF 2024

IN THE MATTER OF:

Petro Carbon And Chemicals Limited ...Appellant

VERSUS

Commission for Air Quality Management in NCR & Adjoining Areas & Anr. ...Respondents

AFFIDAVIT

I, Souvik Gupta, S/o Late Somsubhra Gupta, aged about 24 years, having its office at 6th Floor, 91/A/1, Avani Signature, Park Street, Kolkata – 700016, do hereby solemnly affirm and say as follows:-

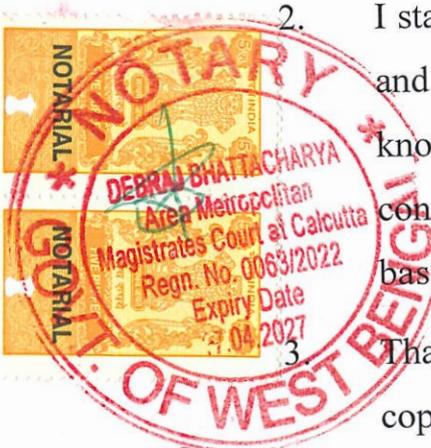
1. I am the Authorised Signatory of the Appellant in the aforesaid appeal, and fully conversant with the facts and circumstances of the present case and competent to swear this affidavit.

2. I state that I have read the contents of the accompanying Rejoinder and state that the contents of the same are true and correct to my knowledge based on the record and nothing material has been concealed therefrom. The legal submissions made therein are based on the advice of the Counsel and believed by me to be true.

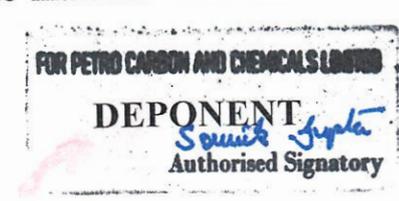
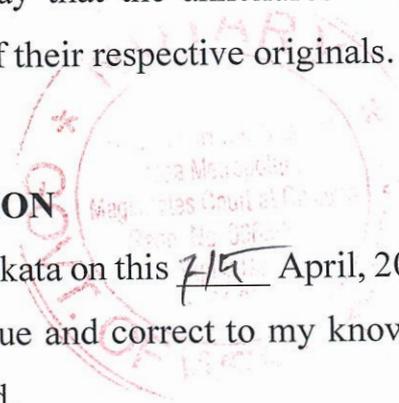
3. That I say that the annexures annexed to the Rejoinder are true copies of their respective originals.

VERIFICATION

Verified at Kolkata on this 7th April, 2025 that the contents of the above affidavit are true and correct to my knowledge and no material facts has been concealed.



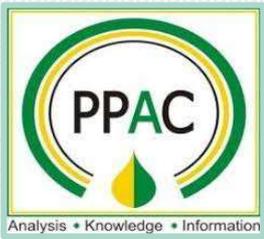
Debraj Bhattacharya
Notary, Govt. of W.B.
Regd. No. 063/2022
Bar/High Court, Calcutta



Identified by me
Amadri Chakraborty
Advocate
Enrolment No. WB/154-A/1991
M.M. Court, Kolkata

Solemnly Affirmed and
Declared Before me Deponents
Signature Identified by Advocate
D. B. Chatterjee
Notary

07 APR 2025



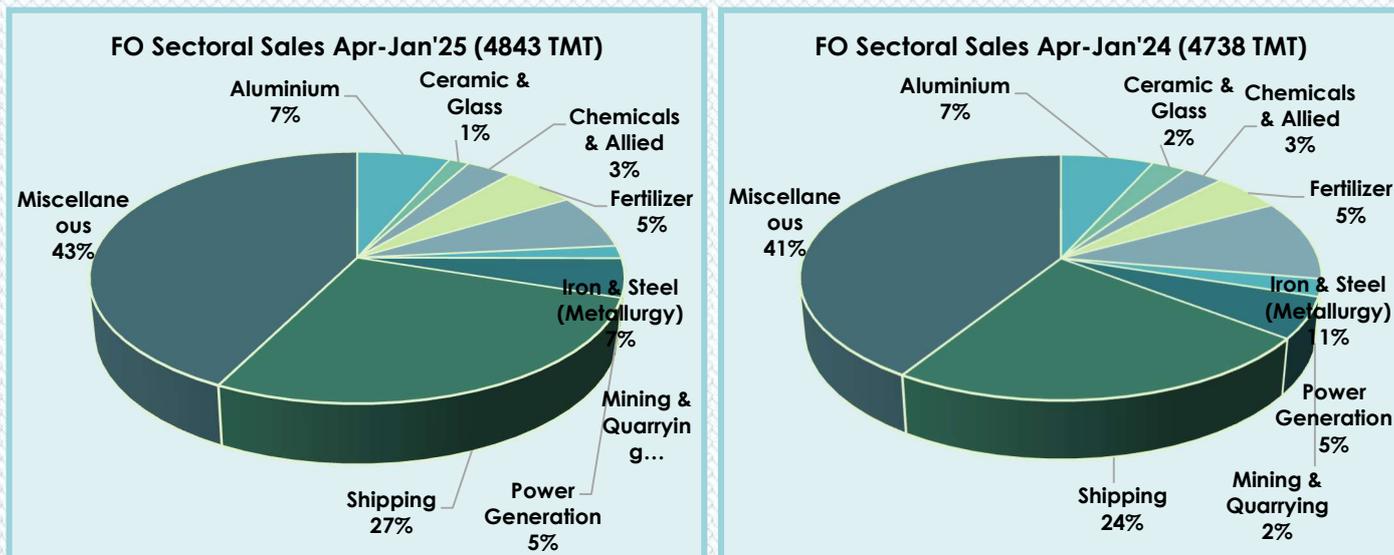
**Industry CONSUMPTION Report-POL & NG,
January 2025**

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Highlights on Industry Consumption-POL & NG, Jan 2025	6
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Furnace oil & Low sulphur heavy stock (FO/LSHS):	22
Petcoke:	23
Light Diesel Oil:	24
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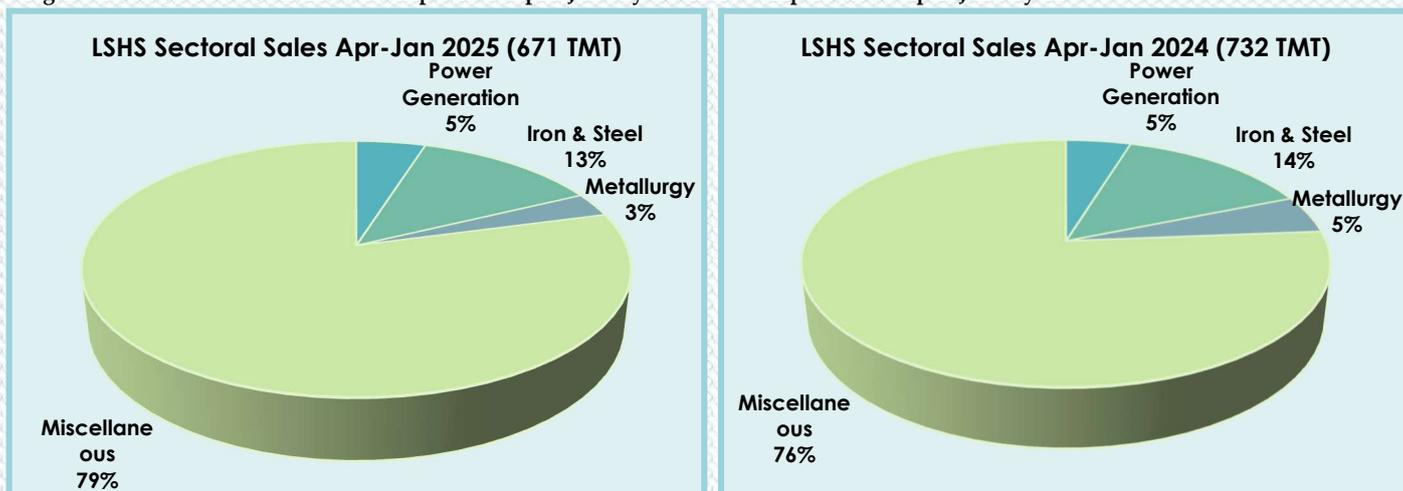
Figure-Q: Sector wise FO+LSHS consumption of 'April-January-25 and its comparison to 'April-January-24



Apr-January 25:- Shipping sector have the share of 27%, up from 24% from previous period, followed by Iron & steel, fertilizer and Aluminium.

Apr- January 24:- Shipping contributes the highest share with 24% followed by Iron & Steel, Aluminium, Glass, Fertilizer & Power generation.

Figure-R: Sector wise FO+LSHS consumption of 'April-January-25 and its comparison to 'April-January-24



Apr-January 25:- Iron & Steel sector contributed to be the largest sector followed with 13% by Power Generation 5%

Apr- January 24:- Iron & steel contributes the highest share with 14% followed by Power generation & Metallurgy

Petcoke:

Petcoke consumption during the month of January 2025 with a volume of 1.90 MMT with a growth 19.1% over the volume of 1.59 MMT same period last year.

Directorate General of Foreign Trade (DGFT) under Ministry of Commerce and Industry has banned import of petcoke for use as fuel but has allowed its import only for use as feedstock in some select industries such as cement, lime kiln, calcium carbide and gasification industries.

Various factors attributing to Petcoke consumption trend are listed here:-

- Petcoke still in demand by the Cement industry for the clinker production.
- Few Small scale industries like Iron & steel etc use petcoke as a fuel, as also gassified for synthetic gas production.

Petcoke consumption grew during the month due to improved availability from cement industries, refineries and an uptick in private imports.

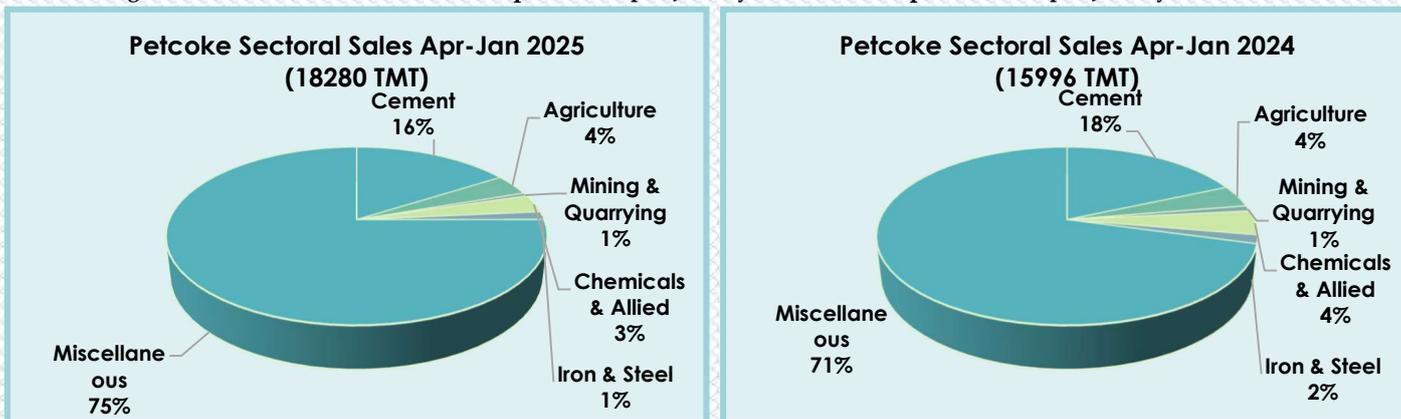
Sectoral consumption of Petcoke:

During 'April-January-25', total petcoke cumulative domestic consumption with a volume of 18.28 MMT registered 14.3% growth Year-on Year basis over the volume of 16.00 MMT in 'April-January-24'.

The cement sector continues to occupy the largest share in 'April-January-25-' (P) at 16% followed by other industries.

On YoY basis, sectoral consumption for April-January-25 is shown in the following figures:-

Figure-S: Sector wise Petcoke consumption of 'April-January-25 and its comparison to 'April-January-25



Apr-January 25:- Cement industry occupied the highest share at 16%, followed by other sectors.

Apr-January 24:- Cement industry occupied the highest share at 18%, followed by other sectors.

Light Diesel Oil:

LDO consumption during the month January 2025 with a volume of 0.076 MMT registered a 11.7% growth over the volume of 0.068 MMT in January 2024.

January 2025 LDO consumption growth was attributed to following reasons:-

LDO consumption in the power sector is primarily associated with initial light-ups. During the month, its usage rose due to heightened demand from thermal power stations, especially those located in the Eastern region.

Sectoral consumption of Light Diesel Oil:

During 'April-January-25, total LDO domestic consumption with a volume of 0.68 MMT registered a 5.0% growth Year-on Year basis over the volume of 0.65 MMT in 'April-January-24.

The cumulative consumption of Light Diesel oil (LDO) during 'April-January-25' was driven by 'Power Generation' 39% followed by Iron & Steel at 5%. Detailed comparisons are pictorially presented in the following figures



Table-10

Industry Consumption Trend Analysis 2024-25 (Provisional)												
('000 MT)												
Product	April-January 2024-25			January								
	FY2023-24	FY2024-25	Growth(%)_2024-25 over 2023-24	2021	2022	2023	2024	2025	Growth(%)_2024 over 2021	Growth(%)_2024 over 2022	Growth(%)_2024 over 2023	Growth(%)_2025 over 2024
(A) Sensitive Products												
LPG	24443	26035	6.5	2490	2562	2507	2698	2844	14.2	11.0	13.5	5.4
SKO	411	343	-16.6	146	126	33	36	35	-76.3	-72.5	4.0	-3.2
Sub Total	24855	26378	6.1	2636	2688	2540	2733	2879	9.2	7.1	13.3	5.3
(B) Major Decontrolled Product												
HSD	74176	75989	2.4	6806	6366	7178	7424	7739	13.7	21.6	7.8	4.2
MS	30873	33318	7.9	2611	2473	2827	3100	3308	26.7	33.8	17.0	6.7
Naphtha	11535	11204	-2.9	1209	1196	1133	1312	1149	-5.0	-3.9	1.4	-12.4
ATF	6784	7449	9.8	441	456	668	717	784	78.0	72.2	17.5	9.4
Bitumen	6874	6535	-4.9	821	826	708	754	767	-6.6	-7.2	8.2	1.7
FO & LSHS	5470	5515	0.8	516	543	595	562	549	6.4	1.1	-7.7	-2.3
Lubricants & Greases	3375	3806	12.8	392	310	302	321	398	1.5	28.4	32.0	24.0
LDO	653	685	5.0	87	92	50	68	76	-12.8	-17.2	50.9	11.7
Sub Total	139740	144500	3.4	12883	12260	13461	14257	14770	14.6	20.5	9.7	3.6
Sub - Total (A) + (B)	164595	170878	3.8	15519	14949	16001	16991	17648	13.7	18.1	10.3	3.9
(C) Other Minor Decontrolled Products												
Petroleum coke	15996	18280	14.3	1004	1782	1382	1591	1895	88.8	6.4	37.1	19.1
Others	11904	10060	-15.5	1119	1017	1127	1282	946	-15.5	-7.0	-16.1	-26.2
Sub Total	27899	28340	1.6	2122	2799	2509	2873	2841	33.8	1.5	13.2	-1.1
Total	192494	199219	3.5	17642	17747	18511	19864	20489	16.1	15.4	10.7	3.1
*Others include sulfur, propylene, propane, reformat, L.A.B.F.S, CBFS, butane, MTO etc.												

SS
Table-11

Industry Consumption Trend Analysis 2024-25 (Provisional)												
(Million Barrels per Day)												
Product	April-January 2024-25			January								
	FY2023-24	FY2024-25	Growth(%)_2024-25 over 2023-24	2021	2022	2023	2024	2025	Growth(%)_2024 over 2021	Growth(%)_2024 over 2022	Growth(%)_2024 over 2023	Growth(%)_2025 over 2024
(A) Sensitive Products												
LPG	0.93	0.99	6.5%	0.93	0.96	0.94	1.01	1.06	14.2%	11.0%	13.5%	5.4%
SKO	0.01	0.0091	-16.6%	0.04	0.03	0.01	0.01	0.01	-76.3%	-72.5%	4.0%	-3.2%
Sub Total	0.9	1.0	6.2%	1.0	1.0	0.9	1.0	1.1	10.7%	8.2%	13.4%	5.4%
(B) Major Decontrolled Product												
HSD	1.85	1.90	2.4%	1.67	1.56	1.76	1.82	1.90	13.7%	21.6%	7.8%	4.2%
MS	0.90	0.97	7.9%	0.75	0.71	0.81	0.89	0.95	26.7%	33.8%	17.0%	6.7%
Naphtha	0.33	0.32	-2.9%	0.34	0.34	0.32	0.37	0.32	-5.0%	-3.9%	1.4%	-12.4%
ATF	0.18	0.20	9.8%	0.12	0.12	0.17	0.19	0.20	78.0%	72.2%	17.5%	9.4%
Bitumen	0.14	0.13	-4.9%	0.16	0.16	0.14	0.15	0.15	-6.6%	-7.2%	8.2%	1.7%
FO & LSHS	0.12	0.12	0.8%	0.11	0.12	0.13	0.12	0.12	6.4%	1.1%	-7.7%	-2.3%
Lubricants & Greases	0.08	0.09	12.8%	0.09	0.07	0.07	0.07	0.09	1.5%	28.4%	32.0%	24.0%
LDO	0.02	0.02	5.0%	0.02	0.02	0.01	0.02	0.02	-12.8%	-17.2%	50.9%	11.7%
Sub Total	3.6	3.7	3.6%	3.3	3.1	3.4	3.6	3.8	15.2%	21.1%	10.0%	3.5%
Sub - Total (A) + (B)	4.6	4.7	4.1%	4.2	4.1	4.4	4.6	4.8	14.2%	18.0%	10.7%	3.9%
(C) Other Minor Decontrolled Products												
Petroleum coke	0.29	0.33	14.3%	0.18	0.32	0.25	0.28	0.34	88.8%	6.4%	37.1%	19.1%
Others	0.31	0.27	-15.5%	0.29	0.26	0.29	0.33	0.25	-15.5%	-7.0%	-16.1%	-26.2%
Sub Total	0.6	0.6	-1.2%	0.5	0.6	0.5	0.6	0.6	24.2%	0.3%	8.2%	-5.4%
Total	5.2	5.34	3.5%	4.7	4.7	4.9	5.3	5.4	15.2%	15.8%	10.4%	2.8%
*Others include sulfur, propylene, propane, reformat, L.A.B.F.S, CBFS, butane, MTO etc.												

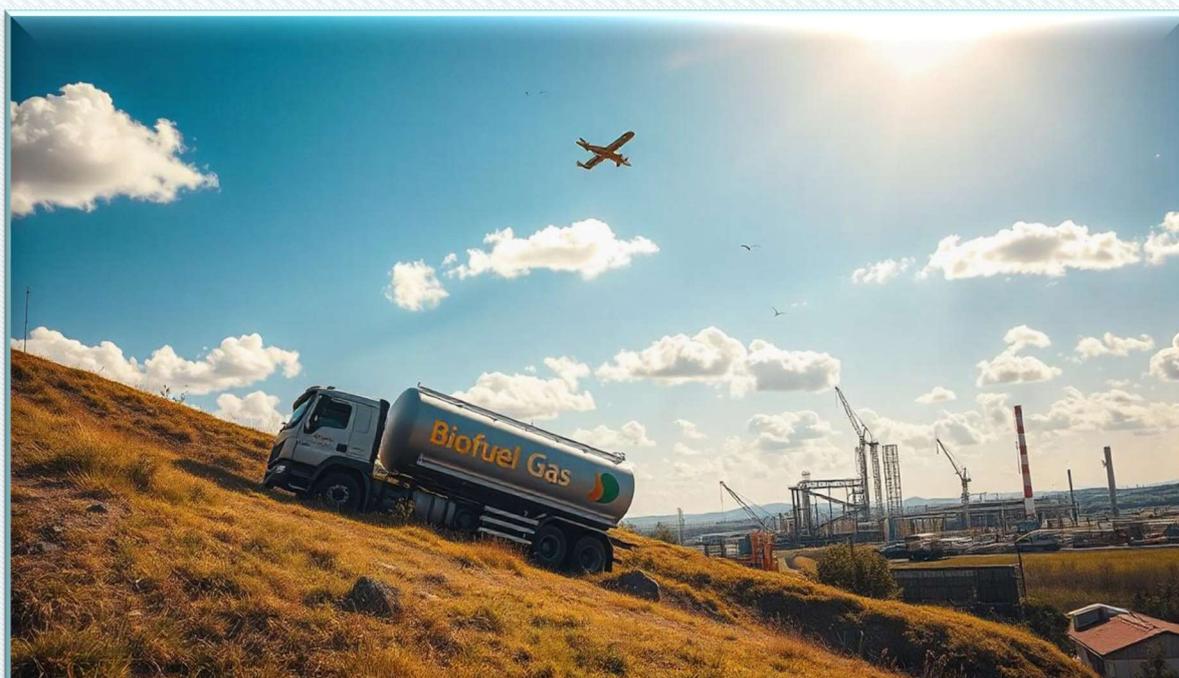


Petroleum Planning & Analysis Cell

Ministry of Petroleum & Natural Gas, Government of India

Har Kaam Desh Ke Naam

Petroleum Planning and Analysis Cell (PPAC)
Ministry of Petroleum & Natural Gas
2nd Floor, Core-8, SCOPE Complex
7, Lodhi Rd, Institutional Area,
New Delhi, 110003
<https://www.ppac.gov.in>



FW: "Submission of Quota Utilisation details for Review of Allocation of Raw Petroleum Coke for CPC manufacturing and Calcined Petroleum Coke for Aluminium Industry for File No. HQRXIMLAPPLY00005235AM24".

1 message

Birendra Singh <birendra.singh@athagroup.in>
To: souvik.gupta@athagroup.in

Tue, Dec 24, 2024 at 11:38 AM

From: Birendra Singh [mailto:birendra.singh@athagroup.in]

Sent: 11 November 2024 15:29

To: Rajesh Vadera

Cc: Sumit Sultania

Subject: "Submission of Quota Utilisation details for Review of Allocation of Raw Petroleum Coke for CPC manufacturing and Calcined Petroleum Coke for Aluminium Industry for File No. HQRXIMLAPPLY00005235AM24".

Dear Sir,

Please find the attached data as required by DGFT.

Regards

Birendra

From: Rajesh Vadera [mailto:rajesh.vadera@athagroup.in]

Sent: 06 November 2024 12:15

To: Gajendra Jhawar

Cc: Vishal Atha; Birendra Singh; Sumit Sultania

Subject: Fwd: "Submission of Quota Utilisation details for Review of Allocation of Raw Petroleum Coke for CPC manufacturing and Calcined Petroleum Coke for Aluminium Industry for File No. HQRXIMLAPPLYxxxxxxxAM24".

Sir,

Forwarded for your information please

Rgds

RV

----- Forwarded message -----

From: **IMPORT DGFT** <import-dgft@nic.in>

Date: Wed, 6 Nov 2024, 12:00 pm

Subject: "Submission of Quota Utilisation details for Review of Allocation of Raw Petroleum Coke for CPC manufacturing and Calcined Petroleum Coke for Aluminium Industry for File No. HQRXIMLAPPLYxxxxxxxAM24".

To:

Cc: Satya Raja Sekhar Grandhi <satya.grandhi@gov.in>, deepakjhalani <deepak.jhalani@gov.in>, Vishal Yadav <vishal.yadav02@govcontractor.in>

Dear Importer,

This is regarding the Quota allocated for FY 24-25 for **Import of Raw Petroleum Coke for CPC manufacturing and Calcined Petroleum Coke for Aluminium Industry.**

2. In this regard, all the Authorisation Holders are requested to provide the Utilization details of the Authorisations issued (in the format enclosed) along with copies of Bills of entry.

337

3. Any request for retaining, surrendering, or enhancing your allocation must be Accompanied by the utilisation details (as sought in Para 2 above) along with a clear justification in the **Letter Head of your organisation duly signed by Authorised signatory.**

4. The above information should be sent on import-dgft@nic.in by **11.11.2024 (Monday) before 5.00 P.M.**

Important Instructions:

1. **Request to Retain/Surrender/Enhance:** Any request for retaining, surrendering, or enhancing your allocation must be accompanied by the utilisation details and submitted in the **prescribed format (attached Excel file) in**

Excel as well as on Letter Head of your organisation duly signed by Authorised signatory.

2. **Utilisation Details:** You are required to submit the details of your quota utilisation. This must be supported with copies of the Bill of Entries for the relevant transactions.

3. **Submission Format:**

- o The Excel file should be named as "**HQRXIMLAPPLYxxxxxxxxAM24**" where "xxxxxxxx" represents your specific File Number.
- o The subject of your email must be: "**Submission of Quota Utilisation details for Review of Allocation of Raw Petroleum Coke for CPC manufacturing and Calcined Petroleum Coke for Aluminium Industry for File No. HQRXIMLAPPLYxxxxxxxxAM24**".

4. **Penalisation for Over-Allocation:** Please be reminded that Seeking allocation more than your actual requirement, which remains unutilised, may lead to imposition of penalties under the FTDR Act and Rules.

5. **Non-Compliance:** Kindly note that submissions without the correct email subject, file number, or in the prescribed format will **not be considered**. Submissions not adhering to these guidelines, as detailed above, or any prior submissions will not be taken into account.

6. **Deadline:** The last date for submitting the required information is **11.11.2024 (Monday) before 5.00 P.M.** Any non-response or delayed submissions beyond this deadline will not be considered. In such cases, the revision of allocation will be based on the utilisation information available with this Directorate.

7. **Submission Email:** Kindly send the information to the following email address: import-dgft@nic.in by **11.11.2024 (Monday) before 5.00 P.M.**

Regards,

Import Cell,

Directorate General of Foreign Trade

Vanijya Bhawan, New Delhi

8 attachments

 **BOE_3879778.pdf**
300K

 **BOE_5049680.pdf**
300K

 **BOE_5049682.pdf**
300K

 **BOE_3673045.pdf**
300K

 **BOE_5829954.pdf**
300K

 **Contract_BCR2024-32A, both signed.pdf**
1952K

 **Application Letter for Re allocation and amendment_111124.pdf**
783K

 **HQRXIMLAPPLY00005235AM24.xlsx**
13K

From: Birendra Singh [mailto:birendra.singh@athagroup.in]

Sent: 10 December 2024 12:22

To: 'souvik.gupta@athagroup.in'

Subject: FW: Revised Allocation of Raw Petroleum Coke for CPC manufacturing and Calcined Petroleum Coke

338

From: Rajesh Vadera [mailto:rajesh.vadera@athagroup.in]

Sent: 28 November 2024 13:33

To: Gajendra Jhawar; Birendra Singh

Cc: Vishal Atha; Sumit Sultania; vlshah@scseximonline.com

Subject: Fwd: Revised Allocation of Raw Petroleum Coke for CPC manufacturing and Calcined Petroleum Coke

Forwarded for your information and necessary action please...

Rgds

RV

----- Forwarded message -----

From: Policy DGFT <policy2-dgft@gov.in>

Date: Thu, 28 Nov 2024, 1:30 pm

Subject: Revised Allocation of Raw Petroleum Coke for CPC manufacturing and Calcined Petroleum Coke

To: rajeshvadera <rajesh.vadera@athagroup.in>

Cc: proommr-port- <cuskol@gov.in>, satya <satya.grandhi@gov.in>

Sir/Ma'am,

Please refer to the email dated 06.11.2024 from DGFT, requesting for details of utilization of the Authorisation issued for import of Raw Petroleum Coke. It was further requested therein that request for retention/surrender/enhancement may be communicated to this Office.

2. Based on your reply (copy attached), the competent authority has approved the enhanced quantity as per your requested amount:

Name	File No.	IEC	Licence No.	Port code	Qty Allocated (In Mts)	Imported Quantity (in Mts) (upto 31st October)	Enhancement/ Surrender/Retain	Additional Allocation (If Enhancement Requested, over and above the current allocation)	Surrender Allocation (Quantity in Mts to be surrendered)	Total Quantity	Total CIF Value(USD)	Total CIF Value(Rs)	Total CIF Value(FC)	Approved Total CIF (in Rs)	Approved Total CIF (in FC)
PETRO CARBON AND CHEMICALS LIMITED	HQRXIMLAPPLY00005235AM24	208007598	111015371	INCCU1	88822	77445.224	Enhancement Request	38670.00	0	88822.000	6,39,36,286.57	5,35,46,64,000.00	6,39,36,286.57	3730524000.000	4,45,43,570.15

3. Further, you are requested to file an Amendment Letter, revising the quantity to reflect the total approved amount.

Regards,

Policy-2 Division,

Directorate General of Foreign Trade

2 attachments

petro carbon_0001.pdf
498K

Application Letter for Re allocation and amendment_02122024.pdf
685K

Minutes of the Meeting held on 22/4/2019 in DGFT (HQ), Udyog Bhavan, New Delhi to finalise the allocation of Calcined Pet Coke (CPC) (.5 MT) for Aluminium Industry and Raw Pet Coke (RPC) (1.4 MT) for CPC manufacturing to be allotted in pursuance of the Public Notice No. 81 dated 22.3.2019 and minutes of the meeting dated 5.4.2019.

In Chair, Shri K.C. Rout, Additional DGFT

The following officers attended the meeting:

- i. Shri S.P. Roy, Joint DGFT, DGFT
- ii. Dr. Priti Singh, Scientist C, M/o Environment, Forests & CC
- iii. Shri Santanu Dhar, Under Secretary, M/o Petroleum & Natural Gas (MoP&NG)
- iv. Shri Arun Sehgal, GM(IB), Indian Oil Corporation Ltd., DSO
- vi. Shri Rajan Kapoor, GM, Coord, M/o Petroleum & Natural Gas (MoP&NG)
- vii. Shri Nirmal Kumar, DDG, DGFT

2. The Committee noted that in pursuance of the Public Notice no 81 dated 22.03.2019 four (04) applications were received for import of Calcined Pet Coke (CPC) and ten (10) applications for Raw Pet Coke (RPC). The Committee had earlier met on 5.4.2019 and had decided provisional allocation for CPC industry and sought complete information/ documents from the Aluminium industry. The minutes of the meeting were accordingly uploaded on the DGFT's website (https://dgft.gov.in/sites/default/files/Draft%20Minutes._0.pdf). The committee again met on 22.4.2019 to finalise the allocation.

Calcined Pet Coke (CPC) for Aluminium Industry

3. The Committee noted that it had decided to seek from the applicants their latest SPCB certificates by 15th April, 2019 (6.00 p.m). Based on the capacity of imported CPC indicated in these SPCB certificates submitted by the applicants, the Committee decided to provisionally allocate the total available quantity of 0.5 MT CPC on proportionate basis as detailed in para. 8 of the draft minutes dated

5.4.2019 and as indicated in Annexure I. The applicants are advised to file their objections/comments, if any, by 25th of this month so that the final allocation can be made by 26th of this month.

Raw Pet Coke for CPC manufacturing

4. While considering the allocation for the quota of 1.4 MT for Raw Pet Coke, the Committee observed that there were 10 applicants. However, as M/s. Refrathern International Pvt. Ltd. had applied only on 02.04.2019 i.e. after the last date for submission of application, the Committee had decided to reject the case. Of the remaining nine applicants four applicants have represented. The Committee considered these representations and recorded its observation as under.

5. M/s. Rain CII Carbon (Vizag) Ltd. has submitted additional requirement of 4,88,000 MT of RPC for its AP SEZ Visakhapatnam Plant, which is yet to be operational. Similarly, M/s. Sanvira Ltd. has also submitted its requirement for meeting the additional capacity of 1,30,000 MT. In this regard, the Committee noted that the request for additional requirement of Raw Pet Coke by these two applicants had been set aside by the Hon'ble Supreme Court, vide Order of the Supreme Court dated 09.10.2018. The Hon'ble Supreme Court in its order dated 28.1.2019 while disposing off the I.A. No.168847/2018, 1451/2019 & 1847/2019 (filed on behalf of Rain carbon); I.A. No.12291/2019(filed on behalf of Sanvira Ind.Ltd.) and I.A. No.164303 (filed on behalf of Saket Agarval) and I.A.No.13210/2019 (filed on behalf of Goa Carbon Ltd) had pronounced that *"the order passed by this Court is clear. This Court has set the outer limit for import of raw pet coke cannot exceed 1.4 MT per annum in total. In view of the aforesaid, prayers made on the basis of expansion etc. are totally misconceived and cannot be entertained. No further orders are required to be passed on these I.A.s. The same are hereby dismissed."* The Committee accordingly decided to reject the request for additional quantity of RPC for the additional capacity added by applicants after the Hon'ble Supreme Court's order dated 9.10.2018.



6. Further, on the other issue raised by M/s Rain CII that the requirement of Fuel Gas Desulphurisation (FGD) system with an efficiency of over 90% may also be made a criteria for allocation of RPC amongst the applicants, the Committee observed that while this (FGD) was referred to in the judgment of the Hon'ble Supreme Court's order dated 9.10.2018; it was not a pre-condition for allocation of 1.4 MT of RPC. The Committee observed that its jurisdiction is restricted only to the allocation of RPC. Hence, the Committee decided that for enforcement of FGD system/ emission requirement the Ministry of Environment, Forest and Climate Change (MoEF&CC) may examine the matter and issue necessary guidelines and advisory to the industry, if required.

7. The committee also observed that M/s Rain (CII) has drawn attention to DGFT's Office Memorandum No. 01 /93/180/03/AM-I O/PC-2(A)/P-12485 dated 5th December, 2018. The Committee decided that in view of the order of the Hon'ble Supreme Court dated 28.1.2019 (as detailed in para. 5 in this minutes), the above communication dated 5th December, 2018 is infructuous.

8. In case of M/s Sanvira Industries Ltd. also, the Committee noted that the additional capacity of 1,30,000 MT was created after the Hon'ble Supreme Court's Order dated 9.10.2018 as per the official record. Hence, the request for additional quantity for the new capacity was rejected by the Committee.

9. The Committee accordingly reconsidered the quantity allocated vide Minutes of the Meeting dated 5.4.2019 and finalized the allocation of RPC as per **Annexure-II**

10. The Committee further decided that the applicants are required to intimate the quantity of pet coke imported by them at the end of each quarter, i.e., by 30th June, 30th September, 31st December and 31st March within one month of the end of the each quarter. Further, applicants have to intimate the quantity imported by them against the quota allocated to them for the FY 2018-19 by end of April, 2019.

Annexure IProvisional Allocation of Calcined Pet Coke

In MTs					
1	2	3	4	5	7
S.no.	Name of the Firm	Date of receipt of application	Quantity applied	Production Capacity as per SPCB Certificate submitted per annum	Total Proportionate allocation
1.	M/s National Aluminium Company Ltd.	30.3.2019	60,000	60000	43162.362
2.	M/s Vedanta Ltd.	26.3.2019	4,00,000	3,74,000	269045.392
3.	M/s Bharat Aluminium Company Ltd.	28.3.2019	81,235	62500	44960.794
4.	M/s Hindalco Industries Ltd.	29.3.2019	1,20,000 (Odisha) 60,000 (M.P.) 20,000 (U.P.) <hr/> 2,00,000 (3 units)	116550 (Odisha) 60,000 (M.P.) 22,000 (U.P.)	142831.450
			741235	695050	499999.998



Annexure IIFinal Allocation of Raw Pet Coke

In MTs

1	2	3	4	5	6	7	8	9
S.no.	Name of the Firm	Date of receipt of application	Quantity applied	Production Capacity as per SPCB Certificate submitted	Input requirement as per EPCA Report @ 1:1.36	Proportionate allocation	Proportionate allocation of excess quantity	Total allocation of RPC (Col. 7 + Col. 8)
1.	Rain CII Carbon (Vizag) Ltd.	27.2.2019	11,93,600	5,11,000	694960	537917.635	15656.602	553574.237
2.	M/s Sanvira Industries Ltd.	27.3.2019	4,95,000	2,00,000	272000	210535.278	6127.828	216663.106
3.	M/s Goa Carbon	28.3.2019	4,15,800	3,08,000	418880	324224..328	9436.856	333661.184
4.	M/s India Carbon Ltd.	30.3.2019	75,600	54,000	73440	56844.525	1654.513	58499.038
5.	M/s Neo Carbon Pvt. Ltd.	28.3.2019	50,000	75,000	102000	78950.729	-	50000*
6.	M/s Amritesh Industries Pvt. Ltd.	30.3.2019	33,600	24,000	32640	25264.233	735.339	25999.572

7.	M/s Kalinga Calciner Ltd.	28.3.2019	80,000	46,200	62832	48633.649	1415.529	50049.178
8.	M/s Vedic Petrochemical Pvt. Ltd.	28.3.2019	10,000	18,000	24480	18948.175	--	10000*
9.	M/s Petro Carbon And Chemicals(P) Ltd.	29.3.2019	1,40,616	93744	127491	98681.445	2872.236	101553.681
					1808723	1399999.997	37898.903	1399999.996

Excess allocation to M/s Neo Carbon Pvt. Ltd 28950.729 and M/s Vedic Petrochemical Pvt. Ltd. 8948.175 = 37898.904 which is re-distributed among other applicants

- Quantity applied by the applicant is less than the input requirement as per EPCA Report i.e. 1:1.36

Minutes of the meeting held on 17.2.2020 in DGFT(HQ). Udyog Bhavan, New Delhi to finalise the allocation of surrendered quantity of (i) Calcined Pet Coke for Aluminium Industry and (ii) Raw Petcoke for CPC manufacturing

In Chair, Shri K.C. Rout, Additional DGFT

The following officers attended the meeting:

Dr. Sudhir Chintalapathi, Joint Director, MoEF

Shri Raghavendra Singh, Senior Manager, IOCL, MoPNG

Shri Nirmal Kumar, Dy. DGFT

Shri Abdul Sadiq Khan, FTDO

2. At the outset the Committee was informed that Hon'ble Delhi High Court in WP(C) 299 of 2020 in its Order dated 5.2.2020 has directed that the exercise of reallocation of Raw Petcoke shall be completed within a period of two weeks from the date of the order.

3. The initial allocation for Calcined Petcoke/Raw Petcoke was made in the EFC meetings held on 5.4.2019 and 22.4.2019. Subsequently, vide e-mail dated 10.12.2019, the applicants were request to intimate the unutilized quantity of CPC/RPC and the quantity they intend to surrender. In response, some of the applicants of RPC sought time up to 31.1.2020 to intimate the quantity they propose to surrender as they were still negotiating their contracts. The applicants vide e-mail dated 22.1.2020, were again reminded to intimate the quantity of RPC they propose to surrender. In response, to the above communications, four applicants viz. (i) M/s Goa Carbon Ltd., (ii) M/s India Carbon Ltd.(iii) M/s Amritesh Industries (P) Ltd. and (iv) M/s Vedic Petrochemicals (P) Ltd. have informed that they propose to surrender whole/part of the quantity of RPC allocated to them (*Annexure I*). As regards, CPC, two applicants viz. (i) M/s National Aluminium Company Ltd. and (ii) M/s Hindalco Industries Ltd. informed that they intend to surrender whole/part of quota of CPC allocated to them(*Annexure II*).

4. The Committee was informed that the total quantity of RPC surrendered by these four firms is **1,44,498.57 MT**. The details are given in *Annexure I*. Three firms viz. M/s Rain CII Carbon (Vizag) Ltd., (ii) Sanvira Industries Ltd. and (iii) M/s Petro Carbon and Chemicals (P) Ltd. have requested for allocation out of the surrendered quantity of RPC to them. As regards CPC, the surrendered quantity by two firms is **85,162.362 MT**. The details are given in *Annexure II*. Two requests are received for allocation of CPC out of the surrendered quantity from M/s Bharat Aluminium Company Ltd. and M/s Vedanta Ltd.

5. The Committee decided that the total quantity of RPC allocation to each applicant for the current financial year (2019-20) shall not exceed their input requirement as per EPCA Report i.e. 1:1.36 of the total Production Capacity. Accordingly, it decided to allocate the surrendered quantity on the same principle which was followed while making the initial allocation of RPC which is as under (*Annexure III*):

Total surrendered quantity of petcoke (X) divided by Total Quantity requirement of all applicants (Y) multiplied by requirement of a particular applicant (subject to maximum input requirement (Z): $\frac{X \times Z}{Y}$ (entitlement per applicant)

6. The Committee noted that M/s Petro Carbon and Chemicals (P) Ltd. have requested for allocation of only 1000 MT of RPC out of the surrendered quota. The Committee decided to allocate 1000 MT to M/s Petro Carbon and Chemicals (P) Ltd. as the total allocation to the firm including the initial allocation will be 1,02,553.68 MT (1,01,553.68 + 1000) which will not exceed the total input requirement of the firm i.e. 1,27,491 MT. As regards allocation of surrendered quota to the other two applicants viz. M/s Rain CII Carbon (Vizag) Ltd., and M/s Sanvira Industries Ltd., the Committee decided to make the allocation as per decision in Para 5 above and allocated 1,03,851.583 MT of RPC to M/s Rain CII Carbon (Vizag) Ltd. and 40,646.986 MT to M/s Sanvira Industries Ltd. as detailed in *Annexure III*.

7. As regards allocation of surrendered quantity of CPC, the Committee decided that the allocation should be restricted to such a quantity that the total allocation of firm should not exceed their capacity as per State Pollution Control Board Certificate. M/s Bharat Aluminium Company Ltd. has request for 17,539.206 MT and M/s Vedanta Ltd. have requested for 65,000 MT for allocation out of surrendered quantity. They have informed their specific quantity requirement to be allocated to them. As the available surrendered quantity of CPC is more than the quantity requested by the firms, and the quantity requested for allocation out of surrendered quota is within the production capacity of the recipient firms, the Committee decided to allocate the surrendered quantity of CPC as per decision in Para 5 above as in *Annexure IV*.

8. The representative of Ministry of Environment, Forests & Climate Change informed the Committee that a representation is under examination in that Ministry which is received from calciners where it is alleged that M/s Rain Carbon CII (Vizag) Ltd. has imported approximately 6.5 MT of Anhydrous Carbon Pellets (ACP) which is made primarily of RPC under ITC(HS) code 38019000 and that this action of M/s Rain Carbon CII (Vizag) Ltd. is an attempt to circumvent the quantitative restriction put by Hon'ble Supreme Court. The Committee decided that if at a later date it is determined by MoEF&CC that firm has actually imported RPC by declaring the item under incorrect ITC(HS) code, the quantity of ACP imported will be deducted from the total allocation of RPC (initial allocation + allocation out of surrendered quantity) allocated to M/s Rain Carbon CII (Vizag) Ltd. either from the current year quota or from the subsequent year quota.

9. The Committee noted that the above allocation is in the spirit of Supreme Courts judgement dated 9.10.2018 and without exceeding the limit of 1.4 Million MT. The Committee also decided that a consolidated report within 30 days of the expiry of import authorization period must be submitted by the applicants to the Regional Authority, DGFT and also copy to DGFT(HQ), giving consolidated details of total imports made during the current Financial Year.



Allocation of Quantity of Raw Petcoke Surrendered

In MTs

1	2	3	4	5	6	7	8
S.no.	Name of the Firm	Quantity applied	Production Capacity as per SPCB Certificate submitted	Input requirement as per EPCA Report @ 1:1.36	Initial allocation of RPC	Quantity surrendered	Remarks
1.	Rain CII Carbon (Vizag) Ltd.	11,93,600	5,11,000	6,94,960	5,52,462	Nil	Filed Writ Petition in Delhi High Court for allocation of surrendered quota.
2.	M/s Sanvira Industries Ltd.	4,95,000	2,00,000	2,72,000	2,16,227	Nil	Request received for allocation of surrendered quantity
3.	M/s Goa Carbon	4,15,800	3,08,000	4,18,880	3,32,991	1,05,000	Surrendered part of allocated quantity
4.	M/s India Carbon Ltd.	75,600	54,000	73,440	58,381	18,899,000	No request received for allocation of surrendered quantity

APL

5.	M/s Neo Carbon Pvt. Ltd.	50,000	75,000	1,02,000	50,000	Nil	Surrendered part of allocated quantity
6.	M/s Amritesh Industries Pvt. Ltd.	33,600	24,000	32,640	25,999.572	10,599.57	Surrendered part of allocated quantity
7.	M/s Kalinga Caleiner Ltd.	80,000	46,200	62,832	50,049.178	Nil	No request received for allocation of surrendered quantity
8.	M/s Vedic Petrochemical Pvt. Ltd.	10,000	18,000	24,480	10,000	10,000	Surrendered part of allocated quantity
9.	M/s Petro Carbon And Chemicals(P) Ltd.	1,40,616	93,744	1,27,491	1,01,553.68	Nil	Request received for allocation of surrendered quantity
Surrendered Quantity						1,44,498.57	1000 MT

RL

Quantity of Calcined Petcoke surrendered

In MTs

1	2	3	4	5	6	7	8
S.no.	Name of the Firm	Quantity applied	Production Capacity as per SPCB Certificate submitted per annum	Total allocation	Balance Quantity available	Quantity of CPC surrendered	Remarks
1.	M/s National Aluminium Company Ltd.	60,000	60,000	43,162.362	43,162.362	43,162.362	Surrendered the entire quantity allocated
2.	M/s Vedanta Ltd.	4,00,000	3,74,000	2,69,045.392	68,600.155	Nil	Request received for allocation of 65,000 MT
3.	M/s Bharat Aluminium Company Ltd.	81,235	62,500	44,960.794	9,310.027	Nil	Request received for allocation of 17,539.206 MT
4.	M/s Hindalco Industries Ltd.	2,00,000	1,98,550	1,42,831.450	1,02,000.000	42,000.000	Surrendered a part of the surrendered quantity
						85,162.362	82,540.000

Allocation of RPC out of surrendered quantityIn MTs

1	2	3	4	5	6	7	8
S.no.	Name of the Firm	Quantity applied	Production Capacity as per SPCB Certificate submitted	Input requirement as per EPCA Report @ 1:1.36	Initial allocation of RPC	Required quantity Col. 5-6	Surrendered quantity allocated
1.	Rain CIL Carbon (Vizag) Ltd.	11,93,600	5,11,000	6,94,960	5,52,462	1,42,498	1,03,851.583
2.	M/s Sanvira Industries Ltd.	4,95,000	2,00,000	2,72,000	2,16,227	55,773	40,646.986
9.	M/s Petro Carbon And Chemicals(P) Ltd.	1,40,616	93,744	1,27,491	1,01,553.68	1,000	1,000.000
Surrendered quantity :144498.57						1,99,271	1,44,498.569

19/

Allocation of Calcined Petcoke out of surrendered quantity

In MTs

1	2	3	4	5	7	8	7
S.no.	Name of the Firm	Quantity applied	Production Capacity as per SPCB Certificate submitted per annum	Initial allocation	Quantity of CPC surrendered	Quantity of CPC requested for allocation	Quantity of CPC allocated out of surrendered quantity
1.	M/s National Aluminium Company Ltd.	60,000	60,000	43,162.362	43,162.362	Surrendered entire allocated quantity	Nil
2.	M/s Vedanta Ltd.	4,00,000	3,74,000	2,69,045.392	Nil	65,000	65,000.000
3.	M/s Bharat Aluminium Company Ltd.	81,235	62,500	44,960.794	Nil	17,539.206	17539.206
4.	M/s Hindalco Industries Ltd.	2,00,000	1,98,550	1,42,831.450	42,000.000	Surrendered a part of the allocated quantity	Nil
					85,162.362	82,540.000	82,540.000

APD

Minutes of the meeting held on 3.6.2020 in DGFT(HQ), Udyog Bhawan, New Delhi to finalise the quantum of (i) Calcined Pet Coke (0.5 Million MT) for Aluminium Industry and (ii) Raw Pet Coke (1.4 Million MT) for CPC manufacturing to be allotted in pursuance to the Public Notice No. 4 dated 17.4.2020

In Chair Shri Hardeep Singh, Additional DGFT

The following officers attended the meeting:

- i. Dr. Sundeep, Scientist `F`, M/o Environment, Forests and Climate Change
- ii. Shri Gaurav Kumar, Director, M/o Petroleum & Natural Gas
- iii. Dr. Sudheer C, Scientist `E`, M/o Environment, Forests and Climate Change
- iv. Shri Gagandeep Singh, Deputy DGFT

2. At the outset, the Committee noted that in pursuance to the Public Notice No. 4 dated 17.4.2020, 4 applications were received for import of Calcined Pet Coke (CPC) and 10 applications for Raw Pet Coke (RPC). The Committee noted that the Hon'ble Supreme Court in Writ Petition No. 13029/1985, vide its order dated 9.10.2018 has decreed that the import of CPC for Aluminium Industry cannot exceed 0.5 Million MT per annum in total. Similarly, import of RPC for CPC manufacturing industry cannot exceed 1.4 Million MT per annum. Accordingly, the Committee decided to make the annual allocation of both, import of CPC and RPC for the fiscal year 2020-2021.

3. Shri Gaurav Kumar, M/o Petroleum & Natural Gas informed that they have sent their comments on the proposal whereby they have mentioned that in light of COVID19 pandemic there is a possibility that the domestic requirement of CPC and RPC may be depressed. MoPNG recommended that DGFT may suitably make the allocation of RPC considering current domestic production and demand scenario while for CPC, DGFT may take a decision at their end. It was discussed that the total demand of RPC for all the companies put together comes out to 24.23 Lakh MT while quota allocation is of 14 Lakh MT. It had been informed to the Committee that the domestic production is around 5 Lakh MT. Hence, there is substantial demand for domestic raw material as well from these 10 firms. Moreover, there are other firms which are not importing any raw material and using

domestic RPC. Hence, the Committee decided to go ahead with the allocation of 1.4 million MT as per limit set up by the Supreme Court.

4. M/s Rain CII Carbon (Vizag) Ltd, SEZ Unit has submitted an application for quantity of 4,88,000 MT of RPC in addition to an application for the DTA unit. It was noted that the CTO from Andhra Pradesh Pollution Control Board had been obtained vide their Consent Letter dated 6.3.2020. The Committee noted that since the CTO does not specify the installed capacity as on 9th October 2018, the Committee accordingly decided to not consider the request for allocation of quota.

5. The Committee also noted that one of the conditions mentioned in the Office Memorandum No. Q-18011/54/2018-CPA dated 10.9.2018 of Ministry of Environment, Forests and Climate Change (MoEFCC) was that the consent issued by the concerned SPCB/PCC shall clearly specify the quantity permitted for import and its use on as per month and per annum basis. The quantity of imported input and capacity as on 9th October 2018 was taken into consideration for all applicants. The requisite document mentioning the imported quantity has not been received from M/s Petro Carbon and Chemicals Pvt. Ltd. The matter was discussed in detail with the representatives from MoEFCC. The Committee decided to provisionally allocate the quota to the firm subject to the condition that they submit the requisite document within 15 days from the date of uploading the Minutes of the Meeting so that their production process does not get hampered. It was also decided that if the quantity permitted in the consent for import by the concerned SPCB/PCC is less than the quantity provisionally allocated, the lower quantity will be permitted.

6. The Committee examined the SPCB certificates of all the applicants for RPC imports. On examination, Committee observed that the SPCBs have adopted varying conversion rates for calculating the requirement of RPC for producing CPC. In their CTO certificates, the Committee also noted that consumption requirement is not indicated in SPCB certificates of all the firms. To bring uniformity, the Committee decided to allocate RPC by adopting following criteria:

- i. The production capacity of the applicant is to be calculated on annual basis. Wherever, SPCB certificates shows production figures in TPD, the annual production capacity is to be arrived at by multiplying the capacity with 350 days (average operational days for the unit) to bring uniformity.

- ii. The production capacity for each applicant to be converted to input/raw material requirement by taking industry average conversion rate i.e. 1:1.36 (as mentioned in the EPCA report).
- iii. The additional capacity added by the applicants after the Hon'ble Supreme Court's order dated 9.10.2018 is not taken into consideration;
- iv. The quota be divided on a proportionate basis as per the following formula :–
Quota allocated = Total Quota available for allotment multiplied by the demand of applicant divided by the Total demand for all applicants
- v. In cases where requested quantity is lower than eligible quantity, the surplus on their heads are redistributed among others proportionately.

11. Accordingly, based on the above principle, the Committee made the allocation as in Annexure 1& 2 of the Minutes of the Meeting.

Annexure 1Allocation of Calcined Pet Coke

1	2	3	4	5	6	7	8
S.No	Name of the Firm	Date of receipt of application	Quantity applied	Production Capacity as per SPCB Certificate (per annum) in MTs	Proportionate allocation in MTs	Quantity of CPC imported through re-validated license of 2019-20*	Total allocation in MTs (Col 6 -7)
1.	M/s National Aluminium Company Ltd.	2.5.2020	60,000	60,000	43,175	nil	43,175
2.	M/s Vedanta Ltd.	19.4.2020	3,89,820	3,73,800	2,68,979	48,610	2,20,369
3.	M/s Bharat Aluminium Company Ltd.	22.4.2020	1,50,000	62,500	44,974	6,540	38,434
4.	M/s Hindalco Industries Ltd.	30.4.2020	1,20,000 (Odisha) 60,000 (MP) 20,000 (UP)	1,16,550 (Odisha) 60,000 (MP) 22,000 (UP)	1,42,872	nil	1,42,872
			Total		6,94,850	5,00,000	-55,150
							4,44,850

***Quantity adjusted in view of Delhi High Court's Order dated 15.5.2020 in WP No. 3112/2020, Bharat Aluminium Company Ltd. & Ors Vs. UoI**

Annexure 2Allocation of Raw Pet Coke

1	2	3	4	5	6	7	8	9
S.no	Name of the Firm	Date of Receipt of application	Quantity Applied	Production Capacity as per SPCB Certificate submitted	Input requirement as per EPCA Report @ 1:1.36	Proportionate allocation	Proportionate allocation of excess quantity	Total allocation of RPC (Col. 7+8)
1	Rain CII Carbon (Vizag) Ltd.	26.4.2020	7,05,600	5,11,000	6,94,960	463959.97	18000.70	4,81,961
2	Sanvira Industries Ltd.	1.5.2020	4,48,800	3,30,000	4,48,800	299621.90	11624.72	3,11,247
3	Goa Carbon	22.4.2020	4,15,800	3,08,000	4,18,880	279647.10	10849.74	2,90,497
4	India Carbon Ltd.	27.4.2020	75,600	54,000	73,440	49029.04	1902.23	50,931
5	Neo Carbon Pvt. Ltd.	1.5.2020	80,000	75,000	1,02,000	68095.89	2641.98	70,738
6	Amritesh Industries Pvt. Ltd.	21.4.2020	33,600	24,000	32,640	21790.68	845.43	22,636
7	Petro Carbon and Chemicals (P) Ltd.	28.4.2020	1,40,616	93,744	1,27,491	85113.85	3302.24	88,416**
8	Paradip Calciner Ltd.	30.4.2020	80,000	46,200	62,832	41947.07	1627.46	43,574
*9	Brahmaputra Carbon	1.5.2020	40,000	1,00,000	1,36,000	90794.51	-50794.51	40,000
		Total	20,20,016	14,11,944	20,97,043	14,00,000	0	14,00,000

10.	Rain CII Carbon (Vizag) Ltd. (SEZ Unit)	4.5.2020	488000	3,70,000	5,03,200	Nil	Nil	SPCB Certificate is dated 6.3.2020
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*Excess allocation to M/s Brahmaputra Carbon 90794.51 MT – 40000 MT = 50794.51 MT is re-distributed among other eligible applicants as they have applied for 40000 MT only.

** Quota is allotted subject to the condition that they submit the consent issued by the concerned SPCB/PCC specifying the quantity permitted for import within 15 days from the date of uploading the Minutes of the Meeting

Minutes of the Meeting held on 17.02.2021 in DGFT (HQ), Udyog Bhawan, New Delhi to finalise the allocation of surrendered quantity of Raw Petcoke for CPC manufacturing

In Chair, Shri Hardeep Singh, Additional DGFT

The following officers attended the meeting:

- i. Dr. Sundeep, Scientist 'F', M/o Environment, Forests and Climate Change
- ii. Dr. Sudheer C, Scientist 'E', M/o Environment, Forests and Climate Change
- iii. Shri S.P. Roy, Joint DGFT, DGFT
- iv. Shri Nirmal Kumar, Deputy DGFT, DGFT

2. The EFC in its meeting held on 03.06.2020 had made the initial allocation for Raw Petcoke. To consider re-allocation of the surrendered quantity based on the requests of some applicants, all RPC applicants were asked to intimate the quantity, it wished to surrender as unutilized, vide emails dated 11.01.2021, 17.01.2021, 22.01.2021 and 17.02.2021.

3. In response, six (06) applicants, viz. (i) M/s Goa Carbon, (ii) M/s India Carbon Ltd., (iii) M/s Neo Carbon Pvt. Ltd., (iv) M/s Amritesh Industries Pvt. Ltd. (v) M/s Paradip Calciners Ltd and (vi) Brahmaputra Carbon have informed that they wish to surrender whole/part of the quantity of RPC allocated to them, as detailed in **(Annexure -I)**.

4. The Committee was further informed that the total quantity of RPC surrendered by the six (06) firms is 2,21,159 MT, as per the details given in Annexure 1; while two firms viz. (i) M/s Rain CII Carbon (Vizag) Ltd and (ii) Sanvira Industries Ltd have requested for allocation out of the surrendered quantity of RPC, as they have fully utilized the initial allotted quota.

5. The Committee discussed in detail and decided that allocation of the surrendered quantity will be done on the same basis on which the original quota was distributed for the year 2020-21 in EFC meeting dated 03.06.2020. It accordingly decided to divide the available quota (on surrender) on a proportionate basis to the firms which have fully utilized the initial allotted quota.

Quota allocated = Total Quota available for allotment multiplied by the demand of applicant divided by the Total demand for all applicants

6. Hence, out of the surrendered quantity, 1, 36,934.86 MT is allocated to M/s Rain CII Carbon (Vizag) Ltd. and 84,224.14 MT is allocated to M/s Sanvira Industries Ltd., as detailed in **Annexure-II**.
7. The committee further held that allocation made in FY 2020-21 is valid till 31.03.2021. The Committee also decided that since allottees have been requested to surrender any unutilized quota and any unutilised quota remaining with the allottees as on 31.03.2021 would be deducted from their entitlement for the year 2021-22.
8. The Committee also decided that a consolidated report within 30 days of the expiry of import authorization period must be submitted by the applicants to the Regional Authority, DGFT and also copy to DGFT (HQ), giving consolidated details of total imports made during the current Financial Year.
9. The Committee further decided that all allottees must ensure the compliance of provision made by MoEF vide OM dt. Q-18011/54/2018-CPA dt. 10.09.2018. Copy of MoEF's OM dt. 10.09.2018 is at **Annexure-III**.

Quantity Surrendered of RPC Quota

S. No.	Firm Name	Total Allocation Made (MT)	Quantity to be Surrendered (MT)
1	Rain CII Carbon (Vizag) Ltd.	481961	0
2	Sanvira Industries Ltd.	311247	0
3	Goa Carbon	290497	75000
4	India Carbon Ltd.	50931	30411
5	Neo Carbon Pvt. Ltd	70738	46938
6	Amritesh Industries Pvt. Ltd.	22636	18236
7	Petro Carbon and Chemicals (P) Ltd.	88416	0
8	Paradip Calciner Ltd.	43574	10574
9	Brahmaputra Carbon	40000	40000
		1400000	221159

Allocation of RPC out of Surrendered Quantity

S.No.	Firm Name	Quantity Applied	Quantity Allotted	Quota Demanded by applicant	Proposed Quantity of RPC to be allocated (approx)
1	Rain CII Carbon (Vizag) Ltd.	7,05,600	4,81,961	2,23,600	1,36,925.77
2	Sanvira Industries Ltd.	4,48,800	3,11,247	1,37,553	84,233.23
				3,61,153	2,21,159.00

No. Q-18011/54/2018-CPA
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE
(CP Division)

2nd Floor, Vayu Wing, IPB, Jorbagh Road
New Delhi-110003

Dated: September 10, 2018

OFFICE MEMORANDUM

Subject: W.P.(C) No. 13029 of 1985 in the matter of M.C. Mehta Vs. Union of India & Ors. before the Hon'ble Supreme Court of India -regarding.

GUIDELINES FOR REGULATION AND MONITORING OF IMPORTED PETCOKE IN INDIA

In exercise of the powers conferred by sub-sections (1) and (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby issues the following Guidelines for Regulation and Monitoring of Imported Petcoke in India, namely: -

1. Guidelines for Regulation and Monitoring of Imported Petcoke in India: -

As per notification of Director General of Foreign Trade (DGFT) dated 17.8.2018, Import of Petcoke for use as fuel is prohibited. However, import of Petcoke is allowed for the following industries namely, cement, lime kiln, calcium carbide and gasification for use as feedstock or in the manufacturing process only on actual user basis as per the conditions stipulated below:

- (1) Petcoke importing industries namely, cement, lime kiln, calcium carbide and gasification shall obtain the consent of and registration with the concerned State Pollution Control Boards (SPCB)/ Pollution Control Committees (PCC).
- (2) Consent issued by the concerned SPCB/ PCC shall clearly specify the quantity permitted for import and its use on a per month and per annum basis.
- (3) Only registered industrial units with valid consent from SPCBs/PCCs as per clause (1) shall be permitted to directly import pet coke and consignment shall be in the name of user industrial units for their own use only.
- (4) Import of pet coke for the purpose of trading shall not be permitted.
- (5) Authorised importers of Petcoke shall furnish opening and closing stock of imported Petcoke to the concerned SPCB/ PCC on a quarterly basis.

- (6) The SPCBs/ PCCs shall develop an electronic record system for uploading of consents, registration and record of use of imported Petcoke by industrial units, as mentioned above and the said Boards/ Committees shall share this data with the Central Pollution Control Board on a quarterly basis. This data shall be published on the Central Pollution Control Board website on receipt from the SPCB/ PCC.

These Guidelines shall come into force from the date of publication of Office Memorandum by Ministry of Environment, Forest and Climate Change.

2. This issues with the approval of Competent Authority.

ch. Murali Krishna
(Dr. Murali Krishna)
Scientist 'D'/ Joint Director
E-mail: cm.krishna@gov.in
Tel: 011-24695414

To

- (1) **Chairman**
Central Pollution Control Board
Parivesh Bhawan, East Arjun Nagar
Delhi-110032
- (2) **Member Secretary**
Central Pollution Control Board
Parivesh Bhawan, East Arjun Nagar
Delhi-110032

-for circulating to SPCBs/PCCs.

CC

DS (IT)- for uploading the Guidelines at the Website of Ministry of Environment, Forest and Climate Change.

Minutes of the Meeting held on 10.05.2021 to finalise the import quantum of (i) Calcined Pet Coke (0.5 Million MT) for Aluminium Industry and (ii) Raw Pet Coke (1.4 Million MT) for CPC manufacturing to be allotted in pursuance to the Public Notice No. 50 dated 31.03.2021

In Chair, Shri Hardeep Singh, Additional DGFT

The following officers attended the meeting:

1. Shri S.P.Roy, Jt.DGFT
2. Shri. Sundeep, Scientist 'F', M/o Environment, Forests and Climate Change
3. Dr. Sudheer Chintalapati, Scientist 'E', M/o Environment, Forests and Climate Change
4. Shri Santanu Dhar, US(S), M/o P&NG
5. Smt. Suminder Kaur, DDG, DGFT

2. At the outset, the Committee noted that in pursuance to the Public Notice No. 50/2015-20 dated 31.03.2021, 03 applications were received for import of Calcined Pet Coke (CPC) and 15 applications for Raw Pet Coke (RPC). The Committee noted that the Hon'ble Supreme Court in Writ Petition No. 13029/1985, vide its order dated 9.10.2018 has decreed that the import of CPC for Aluminium Industry cannot exceed 0.5 Million MT per annum in total. Similarly, import of RPC for CPC manufacturing industry cannot exceed 1.4 Million MT per annum. Accordingly, the Committee decided to make the annual allocation of both, import of CPC and RPC for the fiscal year 2021-2022 within this limit.

3. The Committee noted that M/s Rain CII Carbon (Vizag) Ltd, SEZ Unit has submitted an application for quantity of 4,88,000 MT of RPC in addition to an application for the DTA unit. However, the application for SEZ unit was not considered as the Hon'ble Supreme Court has dismissed IA Nos. 77914, 77903/2019 vide order dated 13.09.2019 where an identical prayer was sought to consider SEZ unit for allocation.

4. The Committee also noted that M/s Paradip Calciner Limited vide email dated 13.04.2021 has requested merging of the quota of RPC of M/s Guwahati Carbon Limited with M/s Paradip Calciner Limited. The Committee however observed that M/s Guwahati Carbon Limited and M/s Paradip Calciner Limited are separate units and therefore decided to decline the request.

5. The Committee noted that for FY 2020-21, only 10 firms had applied for allocation of RPC Quota, however, this year (for FY 2021-22) 05 new firms, (i) M/s Guwahati Carbon Limited, (ii) M/s Carbon Resources Pvt. Ltd, Bihar, (iii) M/s Carbon Resources Pvt. Ltd, Assam, (iv) M/s Digiboi Carbon Private Limited and (v) M/s Raipur Minerals Private Limited have also applied for RPC Quota. The Committee considered applications of these companies as they were in existence prior to the Supreme Court Order dated 9th October,2018.

6. The Committee also observed that in its meeting dated 17.02.2021, held for Re-allocation of the surrendered quantity of quota for RPC in FY 2020-21, it had decided that any unutilized quota remaining with the allottees as on 31.03.2021 would be deducted from their entitlement for the year 2021-22. The same was also informed to the firms vide email dated 17.02.2021 and was mentioned in the Minutes of the Meeting dated 17.02.2021. This was also informed in the Public Notice No 50/2015-20 dated 31.03.2021. Accordingly, the Committee has considered this while allocating the quota.

7. Further, several firms have requested for extension of validity of Import License for the FY 2020–21. However, the Committee in its meeting dated 17.2.2021 had held that allocation made in FY 2020-21 will only be valid till 31.3.2021; and had further observed in its meeting dated 19.3.2021 that allocated quota has to be imported by 31.3.2021. Accordingly, Committee decided to accept only the requests of those firms that have submitted valid Bill of Lading dated on or prior to 31.03.2021 as para 9.11 in 'Handbook of Procedures'. The details of the requests received from the firms are listed in Annexure 1.

8. The Committee also noted that one of the conditions mentioned in the OM No. Q-18011/54/2018-CPA dated 10.9.2018 of Ministry of Environment, Forests and Climate Change (MoEF&CC) was that the consent issued by the concerned SPCB/PCC shall clearly specify the quantity permitted for import and its use on as per month and per annum basis. The quantity of imported input and installed capacity as on 9th October 2018 was taken into consideration for all applicants. The requisite document mentioning the annual imported quantity has not been received from(i) M/s Guwahati Carbon Limited, (ii) M/s Carbon Resources Pvt. Ltd, Bihar, (iii) M/s Carbon Resources Pvt. Ltd, Assam, (iv) M/s Digiboi Carbon Private Limited and (v) M/s Raipur Minerals Private Limited.

9. It was also observed that all RPC and CPC units are yet to provide the CTO compliance certificate from the concerned State Pollution Control boards/PCC for the FY2020-21.

10. Committee Members also observed that the following five applicants for RPC have not submitted their opening and closing stock of imported Petcoke to the concerned SPCB on a quarterly basis for the FY 2020-21 (i) M/s Paradip Calciner Limited, (ii) M/s Neo Carbons Pvt Ltd, (iii) M/s Petro Carbon and Chemicals Private Limited,(iv) M/s Goa Carbon Limited (Goa unit, Odisha unit, Chhattisgarh Unit), and (v) M/s Brahmaputra Carbon Limited.

11. Accordingly, the Committee decided to provisionally allocate the quota to above firms subject to the condition that they submit the deficient documents within 15 days from the date of uploading of the Minutes of the Meeting, so that their production process does not get hampered. It was also decided that if the quantity permitted in the consent for import by the concerned SPCB/PCC is in variance with the quantity provisionally allocated, the allocated quantity shall be restricted to the lower of the two.

12. The Committee examined the SPCB certificates of all the applicants for RPC imports. On examination, Committee observed that the SPCBs have adopted varying conversion rates for calculating the requirement of RPC for producing CPC. In their CTO certificates, the Committee also noted that consumption requirement is not indicated in SPCB certificates of all the firms. To bring uniformity, the Committee decided to allocate CPC and RPC allocation quota by adopting following criteria:

- a) Production capacity of the applicant will be calculated on annual basis. Wherever, SPCB certificates shows production figures in TPD, the annual production capacity will be arrived at by multiplying the capacity with 350 days (average operational days for the unit) to bring uniformity.
- b) The production capacity for applicant for RPC is converted to input/raw material requirement by taking industry average conversion rate i.e. 1:1.36 (as mentioned in the EPCA report).
- c) The additional capacity added by the applicants after the Hon'ble Supreme Court's order dated 9.10.2018 is not taken into consideration;
- d) The quota be divided on a proportionate basis as per the following formula :-

$$Q_A = Q \times (Q_{AD} / Q_{TD})$$

Where,

Q_A	=	Allocation of Import Quota for applicant 'A'
Q	=	Total Import Quota Available for distribution
Q_{AD}	=	Demand of the Applicant 'A'
Q_{TD}	=	Sum of demand by all applicant

For RPC – Demand is calculated based on installed capacity certified by SPCB and the conversion factor of CPC : RPC– 1:1.36.

i.e. – If the unit has installed CPC production capacity of 100 TPD, so, Demand for the unit will be calculated = 136 TPD of RPC

e) In cases where requested quantity is lower than eligible quantity, the arising surplus is redistributed among others proportionately.

13. Accordingly, based on the above principles, the Committee made the allocation as in **Annexure 2 & 3**, subjected to following conditions

- a) Applicants have to submit compliance certificate of CTO of the utilising unit against which the import application has been made, from the concerned state pollution Control Boards for FY 2020-21.
- b) Applicants shall submit the consent issued by the SPCB, clearly mentioning the annual import quantity/ installed capacity of the utilising unit as on 09.10.2018.
- c) Applicants shall furnish copy of the opening and closing stock of the imported petcoke, submitted to the concerned SPCBs and CPCB.
- d) Applicants shall comply with the Guidelines for regulation and monitoring of imported pet coke in India issued by the Ministry of Environment forest and Change vide dated 10.09.2018
- e) The copy of the license issued by DGFT for import of Petcoke shall be submitted to concerned SPCB, CPCB and MoEF&CC for monitoring purposes

14. The above allocation has been made as per the documents submitted by the firm at the time of application. If at any point any discrepancy is found in the documents provided by the firm the allocation will be cancelled and action would be taken as per FTDR Act, 1992 (as amended).

Requests for extension of Import License of FY 2020-21

368 Annexure 1
9

1	2	3	4	5	6	7	8	9
S. No.	Firm Name	Initial Allocation (in MT)	Additional Quota Allocated (in MT)	Quantity Surrendered before 31.03.2021 (in MT)	Quantity Imported as on 31.03.2021 (in MT)	Reasons for not importing before 31.03.2021 and seeking extension of license	Supporting Documents to request	Committee Decision
1	Rain CII Carbon (Vizag) Limited	481961	136925.77	-	558,400.51	Two vessels carrying 18,000 MT and 32,800 MT of RPC will arrive by mid-April, 2021.	Bill of Lading dt. 21.03.2021 and 23.03.2021 for both vessels submitted by firm.	The Committee decided to Approve the request since BoL are dt before 31.03.2021
2	Sanvira Industries Limited	311247	84233.23	60,523.23	301,693.00	Two vessels carrying 33264 MT of RPC are bonded at Vizag port and Two vessels carrying 48702 MT of RPC have departed from port of origin	Bill of Lading dt. 29.03.2021, 22.04.2021 and 30.04.2021 for all four vessels submitted by firm.	The Committee decided to Approve the request only for BoL dt before 31.03.2021
3	Goa Carbon Limited	290497	0	75,000.00	150,375.00	They could not submit any BOL dated prior to 31.03.2021 without a specific approval for extending the validity of the RPC license issued for FY 2020-21.	No documents submitted	The Request for extension not accepted by the Committee.
4	Amritesh Industries Private Limited	22636	0	18,236.00	-	They have been unable to enter into any firm import contracts.	No documents submitted	The Request for extension not accepted by the Committee.
5	Brahmaputra Carbon Limited	40000	0	40,000.00	-	No request for extension made	NA	NA
6	India Carbon Limited	50931	0	30,411.00	9,520.00	They have entered into an Import contract for 11,000 MT (10,000 MT +/- 10%) with M/s Cemerlang Coke Industrial SDN BHD, Malaysia, dated 20th April'2021. As per the said contract the cargo will be shipped by the end of May'2021 and expected to arrive by the 1st week of June 2021.	No documents submitted	The Request for extension not accepted by the Committee.

Requests for extension of Import License of FY 2020-21

1	2	3	4	5	6	7	8	9
S. No.	Firm Name	Initial Allocation (in MT)	Additional Quota Allocated (in MT)	Quantity Surrendered before 31.03.2021 (in MT)	Quantity Imported as on 31.03.2021 (in MT)	Reasons for not importing before 31.03.2021 and seeking extension of license	Supporting Documents to request	Committee Decision
7	Neo Carbons Pvt Ltd	70738	0	46,938.00	8,800.00	They have entered into a Sales Purchase Contract with M/s. Cemerlang Coke Industrial SDN BHD, Malaysia for import of 10,000 MT (±10%) of Raw Petroleum Coke which is scheduled to be shipped during the last week of May, 2021 and arrive around a week thereafter in India.	Copy of Purchase and Sales contract dt 20.04.2021 and Letter of Credit dt. 28.04.2021 submitted by the firm.	The Request for extension not accepted by the Committee.
8	Petro Carbon and Chemicals Private Limited	88416	0	-	62,918.71	They are trying to secure the source of procurement of overseas raw pet coke and finalized contracts of which the shipments to take place by May 2021	No documents submitted	The Request for extension not accepted by the Committee.
9	Paradip Calciner Limited	43574	0	10574 + 17000	11,000.00	No request for extension made	NA	NA

Draft Allocation of Calcined Pet Coke					Annexure 2
1	2	3	4	5	6
S. No.	Firm Name	Date of application	Quantity Applied (in MT)	Production Capacity as per SPCB Certificate (p. a.) in MTs	Proportionate Allocation (in MTS)
1	Vedanta Limited	12.04.2021	389,820	373,800	294,400
2	Bharat Aluminium Company Limited	13.04.2021	150,000	62,500	49,224
3	Hindalco Industries Limited	14.04.2021	120,000	116,550	91,793
			(Odisha)	(Odisha)	(Odisha)
			60,000	60,000	47,255
			(Madhya Pradesh)	(Madhya Pradesh)	(Madhya Pradesh)
			20,000	22,000	17,327
			(Uttar Pradesh)	(Uttar Pradesh)	(Uttar Pradesh)
			739,820	634,850	500,000

Draft Allocation of Raw Pet Coke

Annexure 3

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
S. No.	Firm Name	Date of application	Quantity Applied (in MT)	Production Capacity as per SPCB Certificate (p. a.) in MTs	Input Requirement as per EPCA Report @ 1:1.36	Proportionate Allocation (in MTS)	Surplus quantity (7-4)	Proportionate allocation of Surplus quantity	Provisional Allocation	Unutilised quota	Reallocation of unutilised quota	Total Allocation [10-11+12]	Surplus quantity (12-4)	Proportionate allocation of Surplus quantity	Final Allocation 13-14+15
12	Carbon Resources Pvt Ltd, Bihar	13.04.2021	32,000.00	22,750.00	30,940.00	18,570.11	-	120.09	18,690.20	-	1,800.05	20,490.24	-	59.46	20,549.70
13	Carbon Resources Pvt Ltd, Assam	13.04.2021	20,000.00	24,840.00	33,782.40	20,276.11	276.11	-	20,000.00	-	1,965.41	21,965.41	1,965.41	-	20,000.00
14	**Digiboi Carbon Private Limited	14.04.2021	30,000.00	-	30,000.00	18,005.92	-	116.44	18,122.36	-	1,745.36	19,867.72	-	57.65	19,925.37
15	Raipur Minerals Private Limited	14.04.2021	16,000.00	30,000.00	40,800.00	24,488.05	8,488.05	-	16,000.00	-	2,373.69	18,373.69	2,373.69	-	16,000.00
			2,775,400.00		2,332,566.24	1,400,000.00	8,764.16	8,764.16	1,400,000.00	135,705.56	135,705.56	1,400,000.00	4,339.10	4,339.10	1,400,000.00

** Allocation is subject to the submission of SPCB Certificate indicating production capacity of the unit as on 09.10.2018 on per annum and per monthly basis

Minutes of the Meeting held on 13.01.2022 in DGFT (HQ), Udyog Bhawan, New Delhi to finalise the allocation of surrendered quantity of Calcined Pet Coke for Aluminium Industry and Raw Pet Coke for CPC manufacturing for FY2021-22

The meeting was held under the chairmanship of Shri Hardeep Singh, Additional DGFT. The following officers attended the meeting:

- i. Dr. Sundeep, Scientist 'F', M/o Environment, Forests and Climate Change
- ii. Shri R.N. Pankaj, Scientist 'D', M/o Environment, Forests and Climate Change
- iii. Shri Md. Moin Afaque, Deputy DGFT, DGFT
- iv. Shri W.F. Anal, FTDO, DGFT

2. The initial allocation for Calcined Pet Coke and Raw Pet Coke was made in the EFC meeting held on 10.05.2021. Reference the initial allocation, all CPC and RPC allottees were requested vide emails dated 26.11.2021 and 22.12.2021, to intimate the quantity(s) to be surrendered, in case they are not in position to utilize the same by 31.03.2022. Further, requirements for additional allocation were also sought.

3. In case of Calcined Pet Coke, M/s Hindalco Industries Limited surrendered 27701.573 MT of CPC Quota. The request for re-allocation of surrendered CPC quota was received from M/s Vedanta Limited. The re-allocation of surrendered CPC quota for FY-2021-22 for ex-post facto approval is detailed in **Annexure I**.

4. In case of Raw Pet Coke, six (06) applicants, viz. (i) M/s Amritesh Industries Private Limited, (ii) M/s Brahmaputra Carbon Limited, (iii) M/s Guwahati Carbon Limited, (iv) M/s Carbon Resources Pvt Ltd, Assam (v) M/s Digboi Carbon Private Limited and (vi) M/s Raipur Minerals Private Limited have informed that they wish to surrender whole/part of the quantity of RPC allocated to them (**Annexure II**).

5. The Committee was informed that the total quantity of RPC surrendered by these six (06) firms is 2,06,830.43 MT. The details are given in Annexure-II, for the (7) firms viz. (i) M/s Rain CII Carbon (Vizag) Ltd, (ii) M/s Sanvira Industries Ltd, (iii) M/s Goa Carbon Limited, (iv) M/s India Carbon Limited, (v) M/s Neo Carbons Pvt Ltd, (vi) M/s Petro Carbon and Chemicals Private Limited and (vii) M/s Paradip Calciner Limited who have requested for allocation out of the surrendered quantity of RPC.

6. The Committee discussed in detail and decided that the allocation of surrendered quantity will be done on the pro-rata on the basis of their production capacity. The given reallocation would also be subject to the ceiling of the actual quantity requested for re-allocation together with the quantity yet to be imported and their requirements based on the residual production capacity for the current FY. The additional allocation and the amount to be utilised cannot exceed the requirements for the residual production capacity. The re-allocation of surrendered RPC quota is detailed in **Annexure III**.

7. It is informed that this additional allocation made in FY 2021-22 is valid till 31.03.2022. The Committee also decided that any unutilised allocation remaining with the allottees as on 31.03.2022 would be deducted from their entitlement for the year 2022-23.

8. Further, the Committee decided to request the applicants that have been allocated additional quota, as per Annexure I and Annexure III, to apply for amendment in their existing import through DGFT's online portal in pursuance of Trade Notice No. 47/2015-20 dated 23.03.2021. Further, these firms are also requested to submit the original copy of their import authorisation to DGFT(HQ) for endorsement of amendment in the import authorisation.

Annexure-I

Re-allocation of surrendered Calcined Pet Coke Quota

S. No.	Firm Name	Allocation (in MT)	Quantity Surrendered (in MT)	Reallocation of Surrendered Quantity
1	Vedanta Limited	2,94,400	0	27,701.573
2	Bharat Aluminium Company Limited	49,224	0	0
3	Hindalco Industries Limited	91,793	27,701.573	0
		(Odisha)		
		47,255		
		(Madhya Pradesh)		
		17,327		
		(Uttar Pradesh)		
		5,00,000	27,701.573	27,701.573

Annexure II

Surrendered Raw Pet Coke Quota

S. No.	Firm Name	Allocation (in MT)	Quantity Surrendered (in MT)
1	Rain CII Carbon (Vizag) Limited	451,891.61	0.00
2	Sanvira Industries Limited	298,083.56	0.00
3	Goa Carbon Limited	213,089.32	0.00
4	Amritesh Industries Private Limited	17,278.80	17,278.80
5	Brahmaputra Carbon Limited	90,328.35	67,208.35
6	India Carbon Limited	37,777.31	0.00
7	Neo Carbons Pvt Ltd	52,746.26	0.00
8	Petro Carbon and Chemicals Private Limited	59,180.11	0.00
9	Paradip Calciner Limited	36,731.70	0.00
10	Guwahati Carbon Limited	66,417.90	66,417.90
11	Carbon Resources Pvt Ltd, Bihar	20,549.70	0.00
12	Carbon Resources Pvt Ltd, Assam	20,000.00	20,000.00
13	Digboi Carbon Private Limited	19,925.37	19,925.37
14	Raipur Minerals Private Limited	16,000.00	16,000.00
	Total	14,00,000.00	2,06,830.43

Re-allocation of Surrendered Raw Pet Coke Quota

S. No.	Firm Name	Existing Allocation (in MT)	Total Additional Allocation (in MT)
1	Rain CII Carbon (Vizag) Limited	451,891.61050	82,934.55
2	Sanvira Industries Limited	298,083.55630	51,204.30
3	Goa Carbon Limited	213,089.31920	40,000.00
4	India Carbon Limited	37,777.30921	4,763.69
5	Neo Carbons Pvt Ltd	52,746.26279	2,120.66
6	Petro Carbon and Chemicals Private Limited	59,180.11379	14,378.55
7	Paradip Calciner Limited	36,731.69788	11,428.67
	Total		2,06,830.43

Minutes of the Meeting held on 09.03.2022 to allocate the import quantum of (i) Calcined Pet Coke (0.5 Million MT) for Aluminium Industry and (ii) Raw Pet Coke (1.4 Million MT) for CPC manufacturing for FY2022-23

In Chair, Shri Hardeep Singh, Additional DGFT,

The following officers attended the meeting:

1. Shri. Sundeeep, Scientist `F`, M/o EF&CC
2. Shri Santanu Dhar, US(S), M/o P&NG
3. Shri Md. Moin Afaque, DDG, DGFT

2. At the outset, the Committee noted that in pursuance to the Public Notice No. 48 dated 10.02.2022, 04 applications were received for import of Calcined Pet Coke (CPC) and 22 applications for Raw Pet Coke (RPC). The Committee noted that the Hon'ble Supreme Court in Writ Petition No. 13029/1985, vide its order dated 9.10.2018 has decreed that the import of CPC for Aluminium Industry cannot exceed 0.5 Million MT per annum in total. Similarly, import of RPC for CPC manufacturing industry cannot exceed 1.4 Million MT per annum. Accordingly, the Committee decided to make the annual allocation of both, import of CPC and RPC for the fiscal year 2022-2023 within this limit.

3. The Committee noted that for FY 2022-23, 08 new firms as follows have applied for RPC Quota.

- i. M/s Sea Som Carbon Private Limited
- ii. M/s Krishna Hydrocarbons Private Limited
- iii. M/s Graphite India Limited
- iv. M/s Upper Assam Petrocoke Private Limited
- v. M/s New Age Petcoke Private Limited
- vi. M/s India Carbon Limited Guwahati
- vii. M/s Bihar Carbons Private Limited
- viii. M/s Premier Industries

The Committee decided to consider only the application of M/s Sea Som Carbon Private Limited for allocation of RPC Quota for FY2022-23 as they had submitted all required documents as per Public Notice No. 48 dated 10.02.2022 before 28.02.2022. The remaining 07 applicants were not considered for allocation of RPC Quota for FY2022-23 due to incomplete submission of application without requisite documents as per Public Notice No. 48 dated 10.02.2022 before the last date for submission.

4. The Committee further noted that as per Public Notice No. 48 dated 10.02.2022, applicants were required to submit undertaking along with the online application regarding utilization of import license issued to them for FY2021-22 and surrender any unutilized quantity by **28.02.2022**. It was decided that any unutilized quota remaining with the allottees would be deducted from their entitlement for the year 2022-23.

5. The Committee stated that Bill of Lading issued on or before 31.03.2022 will be considered as import made in FY 2021-22. The Committee also discussed a case where an applicant's import of RPC for FY2021-22 exceeded the quota allocated to them. It was informed that the department has initiated appropriate action under the FTDR Act against the firm for violation of the related FTP provisions.

6. The Committee noted that some applicants for allocation of RPC Quota have submitted Consent to Operate valid till 31.03.2022. The Committee decided to provisionally allocate RPC Quota to these applicants subject to the submission of Valid Consent to Operate / receipt of application made to concerned SPCB for renewal of Consent to Operate, within 15 days from the date of uploading of the Minutes of the Meeting.

7. The Committee also noted that one of the conditions mentioned in the OM No. Q-18011/54/2018-CPA dated 10.9.2018 of Ministry of Environment, Forests and Climate Change (MoEF&CC) was that the consent issued by the concerned SPCB/PCC shall clearly specify the quantity permitted for import and its use on per month and per annum basis. The quantity of imported input and installed capacity as on 9.10.2018 was taken into consideration for all applicants.

8. The Committee examined the SPCB certificates of all the applicants for RPC imports. On examination, Committee observed that the SPCBs have adopted varying conversion rates for calculating the requirement of RPC for producing CPC. In their CTO certificates, the Committee also noted that consumption requirement is not indicated in SPCB certificates of all the firms. To bring uniformity, the Committee decided to allocate CPC and RPC allocation quota by adopting following criteria:

- a. Production capacity of the applicant will be calculated on annual basis. Wherever, SPCB certificates shows production figures in TPD, the annual production capacity will be arrived at by multiplying the capacity with 350 days (average operational days for the unit) to bring uniformity.
- b. The production capacity for applicant for RPC is converted to input/raw material requirement by taking industry average conversion rate i.e. 1:1.36 (as mentioned in the EPCA report).
- c. The additional capacity added by the applicants after the Hon'ble Supreme Court's order dated 9.10.2018 is not taken into consideration;
- d. The quota be divided on a proportionate basis as per the following formula :-

$Q_A = Q * (Q_{AD} / Q_{TD})$	
Where,	
$Q_A =$	Allocation of Import Quota for applicant 'A'
$Q =$	Total Import Quota Available for distribution
$Q_{AD} =$	Demand of the Applicant 'A'
$Q_{TD} =$	Sum of demand by all applicant
For RPC – Demand is calculated based on installed capacity certified	

by SPCB and the conversion factor of CPC:RPC = 1:1.36.
--

i.i.e. – If the unit has installed CPC production capacity of 100 TPD, so, Demand for the unit will be calculated = 136 TPD of RPC
--

- e. In cases where requested quantity is lower than eligible quantity, the arising surplus is redistributed among others proportionately.

9. Accordingly, based on the above principles, the Committee made the allocation as in **Annexure 1 & 2**, subjected to following conditions

- a. Applicants who have been allotted RPC/ CPC will have to submit compliance certificate of CTO of the utilising unit against which the import application has been made, from the concerned state pollution Control Boards for FY 2021-22.
- b. Applicants shall furnish copy of the opening and closing stock of the imported Pet Coke, submitted to the concerned SPCBs and CPCB.
- c. Applicants shall comply with the Guidelines for regulation and monitoring of imported pet coke in India issued by the MoEF&CC and Change vide dated 10.09.2018
- d. The copy of the license issued by DGFT for import of Pet Coke shall be submitted to concerned SPCB, CPCB and MoEF&CC for monitoring purposes.

10. The committee has noted that the requirements for application for availing RPC quota for FY 2022 – 23 have been published as part of the Public Notice dated 10.02.2022 and sufficient time has been provided for applicants to seek any clarifications. Consequently, the committee has decided to consider only applications with complete documentation for FY 2022 – 23 quota allocation.

11. If, after obtaining permission/license for the year 2022-23, importer cannot utilize/ import the entire quantity for which the license has been issued, the applicant shall intimate the same to DGFT through email at import-dgft@nic.in **on or before 30.09.2022** in order to facilitate distribution of the unutilized quota to other applicants who had applied initially. In case any unutilised quota remains with a licensee as on 31.03.2022, the same would be deducted during the re-allocation to be done after September,2022.

12. The above allocation has been made as per the documents submitted by the firm at the time of application. If at any point any discrepancy is found in the documents provided by the firm the allocation will be cancelled and action would be taken as per FTDR Act, 1992 (as amended).

Allocation of Calcined Pet Coke for FY2022-23					
S. No.	Firm Name	File No	Plant	Production Capacity as per SPCB Certificate (p.a.) in MTs	Provisional Allocation (in MTS)
1	HINDALCO INDUSTRIES LIMITED	HQRXIMLAPPLY00364632AM22	Aditya Unit	1,16,550	83,867
			Mahan Unit	60,000	43,175
			Renukoot Unit	22,000	15,830
2	BHARAT ALUMINIUM CO LTD	HQRXIMLAPPLY00364714AM22	Raipur	62,500	44,974
3	NATIONAL ALUMINIUM COMPANY LIMITED	HQRXIMLAPPLY00368187AM22	Odisha	60,000	43,175
4	VEDANTA LIMITED	HQRXIMLAPPLY00367312AM22	Odisha	3,73,800	2,68,979
				6,94,850	5,00,000

Allocation of Raw Pet Coke for FY2022-23						
S. No.	Firm Name	File No.	Unutilised Quota not declared by 28.02.2022	Production Capacity as per SPCB Certificate (p.a.) in MTs	Input Requirement as per EPCA Report @ 1:1.36	Provisional Allocation (in MTs)
1	RAIN CII CARBON (VIZAG) LIMITED (DTA Unit)	HQRXIMLAPPLY00367 335AM22	0	5,11,000	6,94,960	4,08,928
2	SANVIRA INDUSTRIES LIMITED	HQRXIMLAPPLY00368 401AM22	0	3,30,000	4,48,800	2,64,083
3	GOA CARBON LIMITED	HQRXIMLAPPLY00364 033AM22	20,288	3,08,000	4,18,880	2,21,081
4	BRAHMAPUTRA CARBON LIMITED	HQRXIMLAPPLY00369 087AM22	0	1,00,000	1,36,000	80,025
5	GUWAHATI CARBON LIMITED	HQRXIMLAPPLY00369 572AM22	0	1,00,000	1,36,000	80,025
6	PETRO CARBON AND CHEMICALS PRIVATE LIMITED	HQRXIMLAPPLY00370 802AM22	0	93,744	1,27,492	75,019
7	NEO CARBONS PVT LTD	HQRXIMLAPPLY00369 859AM22	409	75,000	1,02,000	58,366
8	PARADIP CALCINERS	HQRXIMLAPPLY00369 120AM22	1,100	70,000	95,200	53,756
9	INDIA CARBON LIMITED, West Bengal	HQRXIMLAPPLY00363 928AM22	0	54,000	73,440	43,214
10	RAIPUR MINERALS PRIVATE LIMITED	HQRXIMLAPPLY00366 649AM22	0	30,000	40,800	15,000
11	DIGBOI CARBON PRIVATE LIMITED	HQRXIMLAPPLY00370 408AM22	0	30,000	40,800	24,008
12	CARBON RESOURCES PVT LTD, Assam	HQRXIMLAPPLY00368 345AM22	0	24,840	33,782	19,878
13	AMRITESH INDUSTRIES PRIVATE LIMITED	HQRXIMLAPPLY00365 003AM22	0	24,000	32,640	19,206
14	SEA SOM CARBON PRIVATE LIMITED	HQRXIMLAPPLY00368 511AM22	0	24,000	32,640	19,206
15	CARBON RESOURCES PVT LTD, Bihar	HQRXIMLAPPLY00368 343AM22	0	22,750	30,940	18,206
			21,797		24,44,374	14,00,000

Minutes of the Meeting held on 14.10.2022 in DGFT (HQ), Vanijya Bhawan, New Delhi to finalise the allocation of surrendered quantity of Calcined Pet Coke for Aluminium Industry and Raw Pet Coke for CPC manufacturing for FY2022-23

The meeting was held under the chairmanship of Shri Hardeep Singh, Additional DGFT. The following officers attended the meeting:

- i. Dr. Sundheer Chintalapati, Scientist 'E', M/o Environment, Forests and Climate Change
- ii. Shri Santanu Dhar, Under Secretary, M/o Petroleum and Natural Gas
- iii. Shri Md. Moin Afaq, Deputy DGFT, DGFT
- iv. Shri W.F. Anal, FTDO, DGFT

2. The initial allocation for Calcined Pet Coke and Raw Pet Coke for the FY2022-23 was made in the EFC meeting held on 09.03.2022. Reference the initial allocation, all CPC and RPC allottees were requested vide emails dated 19.09.2022, to intimate the quantity(s) to be surrendered, in case they are not in position to utilize the same by 31.03.2023. Further, requirements for additional allocation were also sought.

3. In case of Calcined Pet Coke, M/s Hindalco Industries Limited surrendered 1,760 MT of CPC Quota. The request for re-allocation of surrendered CPC quota was received from M/s Vedanta Limited and M/s Bharat Aluminium Co Ltd. The re-allocation of surrendered CPC quota for FY-2022-23 is detailed in **Annexure I**.

4. In case of Raw Pet Coke, five (05) applicants, viz. (i) M/s Guwahati Carbon Limited, (ii) M/s Raipur Minerals Private Limited, (iii) M/s Digboi Carbon Private Limited, (iv) M/s Carbon Resources Pvt Ltd, Assam and (v) M/s Sea Som Carbon Private Limited have informed that they wish to surrender whole/part of the quantity of RPC allocated to them (**Annexure II**).

5. The Committee noted that M/s Brahmaputra Carbon Limited and M/s Carbon Resources Pvt Ltd, Bihar have utilized less than 50% of the RPC allotted to them. Further, it was noted that the remaining quantities to be imported by these firms is more than their production capacity for the remaining months in this Financial Year. In this regard, the Committee decided to reduce the RPC quota allotted to M/s Brahmaputra Carbon Limited and M/s Carbon Resources Pvt Ltd, Bihar upto the residual processing capacity of the plant as per the firm. Details of reduced allocation are in **Annexure II**.

6. The Committee discussed the application of M/s Graphite India Limited, wherein the documents submitted by the firm were sent to MoEF&CC for verification. The documents were found to be following the guidelines for regulation and monitoring of imported pet coke issued by MoEF&CC vide OM dated 10.09.2018. The Committee decided to allocate RPC quota to M/s Graphite India Limited out of the available RPC quota.

7. The Committee was informed that the total quantity of RPC surrendered by the five (05) firms is 1,48,117 MT. Further, unutilized quota reduced from M/s Brahmaputra Carbon Limited and M/s Carbon Resources Pvt Ltd, Bihar is 10,425.41 MT. The details are given in Annexure II. Seven firms viz. (i) M/s Rain CII Carbon (Vizag) Ltd, (ii) M/s Sanvira Industries Ltd, (iii) M/s Petro Carbon and Chemicals Private Limited, (iv) M/s Neo Carbons Pvt Ltd, (v) M/s Paradip Calciner Limited (vi) M/s India Carbon Limited, and (vii) M/s Amritesh Industries Private Limited have requested for allocation out of the surrendered quantity of RPC.

8. The Committee discussed in detail and decided that the allocation of surrendered quantity will be done on the pro-rata on the basis of their annual production capacity. The given reallocation would also be subject to the ceiling of the actual quantity requested for re-allocation and their production capacity (Oct-March). The additional allocation and the amount to be utilised cannot exceed the production capacity (Oct-March). Therefore, re-allocation of surrendered RPC quota was done as detailed in **Annexure III**.

9. The Committee also decided that allottees would have to submit details regarding utilization of CPC / RPC quota by 31.12.2022. Any unutilized quota not surrendered by 31.12.2022, remaining with the allottees as on 31.03.2023 would be deducted from their entitlement for the year 2023-24.

10. Further, the Committee decided to request the applicants that have been allocated additional quota, as per Annexure I and Annexure III, and applicants whose quota has been reduced as per Annexure-II, to apply for amendment in their existing import through DGFT's online portal in pursuance of Trade Notice No. 47/2015-20 dated 23.03.2021. Further, these firms are also requested to submit the original copy of their import authorisation to DGFT(HQ) for endorsement of amendment in the import authorisation.

Annexure - IRe-allocation of surrendered Calcined Pet Coke Quota

S. No.	Firm Name	Allocation (in MTS)	Quantity Surrendered (in MT)	Allocation of Surrendered Quota (in MT)
1	Hindalco Industries Limited	83,867.02	1,760	0
		43,174.79		
		15,830.75		
2	Bharat Aluminium Co Ltd	44,973.74	0	254
3	National Aluminium Company Limited	43,174.79	0	0
4	Vedanta Limited	2,68,978.92	0	1,506
		5,00,000	1,760	1,760

Annexure-IISurrendered / Unutilized Raw Pet Coke Quota

Firm Name	Allocation (in MTS)	Quantity Surrendered (in MT)	Reduction of Un- utilized Quota
Brahmaputra Carbon Limited	80025.04	0.00	6,658.38
Guwahati Carbon Limited	80025.04	80025.04	0.00
Raipur Minerals Private Limited	15000.00	15000.00	0.00
Digboi Carbon Private Limited	24007.51	24007.51	0.00
Carbon Resources Pvt Ltd, Assam	19878.22	19878.22	0.00
Sea Som Carbon Private Limited	19206.01	9206.01	0.00
Carbon Resources Pvt Ltd, Bihar	18205.70	0.00	3,767.03
		1,48,117	10,425.41

Re-allocation of Surrendered Raw Pet Coke Quota

S. No.	Name of the Firm	Original Allocation (in MTS)	Additional Allocation (in MT)
1	Rain Cii Carbon (Vizag) Limited (DTA Unit)	408927.97	64,697.99
2	Sanvira Industries Limited	264082.64	43,659.30
3	Petro Carbon And Chemicals Private Limited	75018.68	12,202.38
4	Neo Carbons Pvt Ltd	58366.32	9,869.22
5	Paradip Calciners	53756.27	9,211.27
6	India Carbon Limited, West Bengal	43213.52	4,000.00
7	Amritesh Industries Private Limited	19206.01	3,000.00
8	Graphite India Limited	-	11,902.02
			1,58,542.19

Petro Carbon & Chemicals Ltd. vs. CAQM & Anr. | Appeal No. 36 of 2024 | pending before NGT

From Madhavi Agrawal <madhavi@aglaw.in>

Date Wed 4/9/2025 12:01 PM

To caqm-ncr@gov.in <caqm-ncr@gov.in>; secy-moef@nic.in <secy-moef@nic.in>; abhishekatre@gmail.com <abhishekatre@gmail.com>

📎 1 attachment (10 MB)

Rejoinder to CAQM Counter Affidavit.pdf;

Dear Sir,

As and by way of service upon you, please see attached the Rejoinder to the Counter Affidavit filed by CAQM.

Regards,
Madhavi Agrawal
Counsel for Appellant-Petro Carbon & Chemicals Ltd.
Madhavi Agrawal
Advocate

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