



GOVERNMENT OF INDIA
MIN. OF COMMERCE & INDUSTRY, DEPTT. OF COMMERCE
OFFICE OF THE DEVELOPMENT COMMISSIONER
NOIDA SPECIAL ECONOMIC ZONE
NOIDA DADRI ROAD, PHASE-II, NOIDA-201305
DISTT. GAUTAM BUDH NAGAR (UP)

फा०सं०.10/20/2007-SEZ/

दिनांक : 29/06/2020

सेवा मे ,

1. उप सचिव, वाणिज्य विभाग, वाणिज्य एवं उद्योग मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली- 110001।
2. अतिरिक्त महानिदेशक विदेश व्यापार, वाणिज्य एवं उद्योग मंत्रालय, 'ए' विंग, इंद्रप्रस्थ भवन, आई पी एस्टेट, नई दिल्ली – 110002।
3. आयुक्त, सीमा शुल्क, नॉएडा सीमा शुल्क आयुक्तालय, इनलैंड कंटेनर डिपो, तिलपता, दादरी, गौतम बुद्ध नगर, उत्तर प्रदेश -201306.
4. प्रधान आयुक्त, आयकर, प्लॉट सं- ए-2 डी, आयकर भवन, सेक्ट- 24, नोएडा।
5. उपसचिव आई एफ - 1, बैंकिंग प्रभाग, आर्थिक मामलों का विभाग, वित्त मंत्रालय, भारत सरकार, तृतीय तल, जीवन दीप बिल्डिंग संसद मार्ग, नई दिल्ली।
6. मुख्य कार्यकारी अधिकारी, न्यू ओखला औद्योगिक विकास प्राधिकरण, मुख्य प्रशासनिक भवन, सेक्टर - 6, नोएडा (उत्तर प्रदेश)।
7. मुख्य कार्यकारी अधिकारी, ग्रेटर नोएडा औद्योगिक विकास प्राधिकरण, प्लॉट नं 01, नॉलेज पार्क -4, ग्रेटर नोएडा, गौतम बुद्ध नगर, (उत्तर प्रदेश)।
8. महाप्रबंधक, जिला उद्योग केंद्र, कलेक्ट्रेट के पास, सूरजपुर, ग्रेटर नोएडा (उत्तर प्रदेश)।
9. उपाध्यक्ष, बुलन्दशहर खुर्जा विकास प्राधिकरण, ओल्ड जी टी रोड, श्री आनंद वाटिका कॉलोनी, खुर्जा- 203131
10. संबंधित विशेष आर्थिक क्षेत्र विकासकर्ता।

विषय: नोएडा, ग्रेटर नोएडा और खुर्जा में स्थित निजी विशेष आर्थिक क्षेत्रों के संबंध में डॉ० एल० बी० सिंघल, विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में अनुमोदन समिति की दिनांक 12.06.2020 को दोपहर 12:00 बजे विडियो कॉन्फ्रेंसिंग के माध्यम से आयोजित बैठक का कार्यवृत्त - एतद संबंधी।

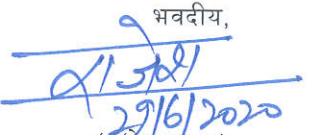
महोदय,

उपरोक्त विषय के सन्दर्भ में नोएडा, ग्रेटर नोएडा और खुर्जा में स्थित निजी विशेष आर्थिक क्षेत्रों के संबंध में डॉ० एल० बी० सिंघल, विकास आयुक्त नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में अनुमोदन समिति की दिनांक 12.06.2020 को दोपहर 12:00 बजे विडियो कॉन्फ्रेंसिंग के माध्यम से आयोजित बैठक का कार्यवृत्त संलग्न है।

संलग्नक : उपरोक्त

प्रतिलिपि:-

सहायक विकास आयुक्त (प्रशासन) - कार्यवृत्त की एक प्रति हिंदी अनुवाद हेतु संलग्न है।

भवदीय,

29/6/2020
(राजेश कुमार)
उप विकास आयुक्त

नोएडा विशेष आर्थिक क्षेत्र

नोएडा, ग्रेटर नोएडा और खुर्जा में स्थित निजी विशेष आर्थिक क्षेत्रों के संबंध में डॉ० एल० बी० सिंघल, विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में अनुमोदन समिति की दिनांक 12.06.2020 को दोपहर 12:00 बजे विडियो कॉन्फ्रेंसिंग के माध्यम से आयोजित बैठक का कार्यवृत्त।

The following members of Approval Committee participated in the meeting through video conferencing:-

- (i) Shri S. S. Shukla, Joint Development Commissioner, NSEZ (physically present in NSEZ).
- (ii) Shri Shyopat Singh, Asstt. Commissioner (Customs), Noida (present through video conferencing).
- (iii) Shri Sachin Jain, Asstt. Commissioner, DIC, Noida Shri Sachin Jain, Asstt. Commissioner, DIC, Noida
- (iv) Shri Chaman Lal, FTDO, O/o Addl. DGFT, CLA, New Delhi (present through video conferencing).
- (v) Ms. Sandhya Marurya, Income Tax Officer, Noida (present through video conferencing).
- (vi) Representative of SEZ Developers concerned, Special Invitee (present through video conferencing).

❖ Besides, during the meeting i) Shri Rajesh Kumar, DDC, ii) Shri S.K. Tyagi, Specified Officer (In-Charge), iii) Shri Prakash Chand Upadhyay, ADC also participated in the meeting through video conferencing to assist the Approval Committee.

❖ At the outset, the Chairman welcomed the participants. After brief introduction, each items included in the agenda were taken up for deliberation one by one. After detailed deliberations amongst the members of the Approval Committee as well as interaction with the applicants / representatives of the developers / units, the following decisions were taken:-

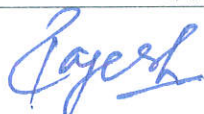
1. दिनांक 15.05.2020 को आयोजित अनुमोदन समिति की बैठक की कार्यवृत्त का अनुसमर्थन :-

The Approval Committee was informed that no reference in respect of the decisions of the Approval Committee held on 15.05.2020 was received from any of the members of the Approval Committee or Trade and therefore, Minutes of the Meeting held on 15.05.2020 were ratified.

2. मै० एचसीएल टेक्नोलॉजीज लि०, विकासकर्ता का प्लॉट सं० 3A, 3B & 2C, सेक्टर- 126, नोएडा (उत्तर प्रदेश) स्थित आईटी / आईटीईएस विशेष आर्थिक क्षेत्र में अधिकृत संचालन के लिए सामग्री की सूची के अनुमोदन का प्रस्ताव सम्बन्धी।

2.1. It was brought to the notice of the Approval Committee that M/s. HCL Technologies Ltd., Developer of IT/ITES SEZ at Plot No. 3A, 3B & 2C, Sector- 126, Noida (U.P) had submitted proposal for approval of list of materials to carry on following default authorized operations in their SEZ:-

S. No.	Name of Authorized Operation	S. No. at default list of Auth. Opr. as per Inst. No. 50 & 54	Estimated Cost (Rupees in lakhs)
i)	Water treatment plant, water supply lines (dedicated lines up to source), sewage lines, storm water drains and water channels of appropriate	02	144.50



	capacity.		
ii)	Fire protection system with sprinklers, fire and smoke detectors.	07	295.82
		Total:	440.32

2.2. Mr. D.K. Sharma, Associate Director of M/s. HCL Technologies Ltd. joined the meeting through video conferencing and explained the requirement of proposed materials.

2.3. After due deliberations, Approval Committee approved the proposed list of materials.

3. मै० एनआईआईटी टेक्नोलॉजीज लि०, विकासकर्ता का प्लॉट नंबर TZ-2 & 2A, सेक्टर-टेकज़ोन, ग्रेटर नोएडा (उत्तर प्रदेश) स्थित आईटी / आईटीईएस विशेष आर्थिक क्षेत्र में अधिकृत संचालन के लिए सामग्री की सूची के अनुमोदन का प्रस्ताव।

3.1. It was brought to the notice of the Approval Committee that M/s. NIIT Technologies Ltd., Developer of IT/ITES SEZ at Plot No. TZ-02 & 2A, Sector-Techzone, Gr. Noida (Uttar Pradesh) had submitted proposal for approval of list of materials to carry on following default authorized operations in their SEZ:-

S. No.	Authorized Operation	Sl. No. at default list of materials as per Inst. No. 50 & 54	Estimated Cost (Rs in Lakhs)
(i)	Construction of all type of buildings in processing area as approved by the Unit Approval Committee.	22	162.54
(ii)	Electrical, Gas and Petroleum Natural Gas Distribution Network including necessary sub-stations of appropriate capacity, pipeline network etc.	04	114.99
(iii)	Air Conditioning of Processing area.	21	78.00
(iv)	Access Control and Monitoring System.	24	63.75
(v)	Fire protection system with sprinklers, fire and smoke detectors.	07	7.40
(vi)	Cafeteria / Canteen for staff in processing area.	27	10.00
(vii)	Telecom and other communication facilities including internet connectivity.	05	15.00
		Total:	451.68

3.2. Shri Rahul Sood, Sr. V.P. & Shri Mukesh Chauhan, Sr. Manager of M/s. NIIT Technologies Limited joined the meeting through video conferencing and explained the requirement of proposed materials.

3.4. After due deliberations, Approval Committee approved the proposed list of materials except 'Dishwasher' proposed under the authorised operation namely "Cafeteria / Canteen for staff in processing area" (Annexure-VI).

S. Sood

4. सह-विकासकर्ता, मै० ट्रस्टोन वेगमंस डेवेलपर्स प्रा० लि० का मै० आर्था इंफ्राटेक प्रा० लि० के प्लॉट सं० 21 सेक्टर-टेकज़ोन-4, ग्रेटर नोएडा (उत्तर प्रदेश) में स्थित आईटी /आईटीईएस विशेष आर्थिक क्षेत्र में अधिकृत संचालन के लिए सामग्री की सूची के अनुमोदन का प्रस्ताव ।

4.1. It was brought to the notice of the Approval Committee that M/s. Trustone Wegmans Developers Pvt. Ltd., Co-developer of IT/ITES SEZ of M/s. Artha Infratech Pvt. Ltd. at Plot No. 21, Sector-Techzone-IV, Greater Noida, had submitted proposal for approval of list of materials to carry on following default authorized operations in the said SEZ:-

S.No.	Name of Authorized Operations	Sl.No at default list of materials as per Inst. No.50 and 54	Estimated Cost (Rs. in lakhs)
(i).	Construction of all type of buildings in processing area as approved by the Unit Approval Committee.	22	361.70
(ii).	Air Conditioning of Processing area.	21	247.78
(iii).	Electrical, Gas and Petroleum Natural Gas Distribution Network including necessary sub-stations of appropriate capacity, pipeline network etc.	04	188.51
(iv).	Telecom and other communication facilities including internet connectivity.	05	88.28
		Total:	886.27

4.2. It was informed that the Co-developer has submitted Quarterly Report for the period upto December, 2019 & Half Yearly Report for the period upto September, 2019, which have been forwarded to CA firm, NSEZ for scrutiny. However, Quarterly Report for the period Jan-March, 2020 & Half Yearly Report for the period Oct'2019-March'2020, are awaited.

4.3. After due deliberations, Approval Committee approved the proposed list of materials. The Approval Committee directed to issue reminder to the Co-developer to expedite submission of Quarterly Report for the period Jan-March, 2020 & Half Yearly Report for the period Oct'2019-March'2020.

5. सह-विकासकर्ता, मै० पी एल जी इन्क्यूबेसन सर्विसेज प्राइवेट लिमिटेड का मै० आर्था इंफ्राटेक प्रा० लि० के प्लॉट सं० 21 सेक्टर-टेकज़ोन-4, ग्रेटर नोएडा (उत्तर प्रदेश) में स्थित आईटी /आईटीईएस विशेष आर्थिक क्षेत्र में अधिकृत संचालन के लिए सामग्री की सूची के अनुमोदन का प्रस्ताव ।

5.1. It was brought to the notice of the Approval Committee that M/s. P.L.G. Incubation Services Pvt. Ltd., Co-developer of IT/ITES SEZ of M/s. Artha Infratech Pvt. Ltd. at Plot No. 21, Sector-Techzone-IV, Greater Noida, had submitted proposal for approval of list of materials to carry on following default authorized operations in the said SEZ:-

S.No.	Name of Authorized Operations	Sl.No at default list of materials as per Inst. No.50 and 54	Estimated Cost (Rs. in lakhs)
-------	-------------------------------	--	-------------------------------



(i).	Construction of all type of buildings in processing area as approved by the Unit Approval Committee.	22	263.45
(ii).	Air Conditioning of processing area	21	243.78
(iii).	Telecom and other communication facilities including internet connectivity.	05	88.28
		Total:	595.51

5.2. It was informed that the Co-developer has submitted Quarterly Report for the period upto December, 2019 & Half Yearly Report for the period upto September, 2019, which have been forwarded to CA firm, NSEZ for scrutiny. However, Quarterly Report for the period Jan-March, 2020 & Half Yearly Report for the period Oct'2019-March'2020, are awaited.

5.3. After due deliberations, Approval Committee approved the proposed list of materials. The Approval Committee directed to issue reminder to the Co-developer to expedite submission of Quarterly Report for the period Jan-March, 2020 & Half Yearly Report for the period Oct'2019-March'2020.

6. मै० न्यूजेन सॉफ्टवेयर टेक्नोलॉजीज लि० का मै० ऑक्सीजन बिज़नेस पार्क प्राइवेट लिमिटेड के प्लॉट संख्या -07, सेक्टर -144, नोएडा (उत्तर प्रदेश) में स्थित आईटी / आईटीईएस विशेष आर्थिक क्षेत्र में स्थापित इकाई के क्षेत्र में कमी एवं प्रोजेक्संस में संशोधन का प्रस्ताव

6.1. It was brought to the notice of Approval Committee that M/s. Newgen Software Technologies Ltd. had applied for partial deletion of area & revision in projections of the unit located in the IT/ITES SEZ of M/s. Oxygen Business Park Pvt. Ltd. at Plot No.7, Sector-144, Noida (Uttar Pradesh). It was informed to the Committee that presently unit has been operating over an area of 113924 Sqft. at Ground to 3rd floor, Tower-E and the unit has requested for deletion of 56625 Sqft. on 2nd & 3rd floor, Tower-E of SEZ. It was informed that SEZ Developer has given its 'NOC' for surrender of proposed area.

6.2. It was also informed that the unit has submitted revised projections, as given below, on account of proposed expansion of unit:-

Particulars (for five years)	(Rs. in lakhs)	
	Existing Projection	Revised Projection
Projected FOB value of exports	111000.68	140168.32
Foreign Exchange Outgo	15824.25	19854.61
NFE Earnings	95176.43	120313.71
Imported Capital Goods	480.00	480.00
Indigenous Capital Goods	400.00	400.00
Indigenous Raw materials, consumables & components.	30.00	30.00

6.4. After due deliberations, the Approval Committee approved the proposal for partial deletion of area & revision in projections of the unit subject to submission of 'NOC' from the Specified Officer.



7. मै० आर1 आरसीएम ग्लोबल प्राइवेट लिमिटेड का मै० सीव्यू डेवलपर्स प्रा० लि० के प्लॉट संख्या- 20 एवं 21, सेक्टर- 135, नोएडा (उत्तर प्रदेश) में स्थित आईटी / आईटीईएस विशेष आर्थिक क्षेत्र में स्थापित इकाई के क्षेत्र में कमी एवं प्रोजेक्संस में संशोधन का प्रस्ताव।

7.1. It was brought to the notice of Approval Committee that M/s. R1 RCM Global Pvt. Ltd. had applied for partial deletion of area & downward revision in projections of the unit located in the IT/ITES SEZ of M/s. Seaview Developers Pvt. Ltd. at Plot No. 20 & 21, Sector-135, Noida (Uttar Pradesh). It was informed that the present approved area of the unit is 83733 Sqft. at 6th floor, Building No.3, 7th floor, Building No.9 & 7th floor, Building No.7 and 45688 Sqft. at 8th floor (22844 Sqft.) & 10th floor (22844 Sqft.), Building No.7. The unit has requested for deletion of 22844 Sqft. at 10th floor, Building No.7 of SEZ. The SEZ Developer has given its 'NOC' for surrender of proposed area.

7.2. It was further informed that the Approval Committee in its meeting held on 06.03.2020 had approved the proposal of the said unit for expansion of area by addition of 45688 Sqft. at 8th floor (22844 Sqft.) & 10th floor (22844 Sqft.), Building No.7 and revision in projections. The approval had been conveyed to the unit vide this office letter dated 19.03.2020. The unit had not executed revised BLUT in respect of approved additional area. The unit had informed that due to the unforeseen circumstances brought in by the ongoing pandemic of COVID-19 globally and subsequent collapse of the global economy, it would be difficult for them to achieve the expected business growth. As a result, they intend to surrender 22844 Sqft. area at 10 floor, Building No.7.

7.3. It was also informed that the unit has submitted revised downward projections, as given below:-

(Rs. in lakhs)

Particulars (for five years)	Existing Projection	Revised Projection
Projected FOB value of exports	60605.34	59592.30
Foreign Exchange Outgo	4744.86	4189.73
NFE Earnings	55860.48	55402.57
Imported CG	3210.50	2678.49
Indigenous CG	1607.54	1191.90

7.4. After due deliberations, the Approval Committee approved the proposal for partial deletion of area & downward revision in projections of the unit subject to submission of 'NOC' from Specified Officer.

8. मै० अर्शिया 3पीएल सर्विसेज प्राइवेट लिमिटेड, का मै० अर्शिया नोर्दर्न एफटीडब्लूजेड लिमिटेड की ग्राम इब्राहिमपुर, जुनैदपुर उर्फ मौजपुर, तहसील खुर्जा, जिला-बुलंदशहर (उत्तर प्रदेश) स्थित फ्री ट्रेड एंड वेयरहाउसिंग जोन में स्थापित इकाई के एलओए में अतिरिक्त वस्तुओं को शामिल करने का प्रस्ताव।

8.1. It was brought to the notice of the Approval Committee that M/s. Arshiya 3PL Services Limited had submitted proposal for inclusion of following 02 nos. of items with Exim Codes, in the Annexure-A

of LOA dated 30.10.2018 of the unit located in the Free Trade and Warehousing Zone of M/s. Arshiya Northern FTWZ Ltd. at Village- Ibrahimpur, Junaidpur urf Maujpur, Khurja Distt- Bulandshahr (U.P.):-

Sl. No.	Exim Code proposed by the unit	Item description	DGFT Policy
(i)	2309	PREPARATIONS OF A KIND USED IN ANIMAL FEEDING	Free
(ii)	2933	HETEROCYCLIC COMPOUNDS WITH NITROGEN HETERO-ATOM(S) ONLY [Excluding ITC(HS) Code 29333300, 29334100, 29335200, 29335300, 29335500, 29335940, 29337200, 29339100 & 29339200].	Free

8.2. Shri Pramod Chhoker, Sr. Manager of M/s. Arshiya 3PL Services Limited joined the meeting through video conferencing and explained the proposal. He informed that one of their client M/s. United Raw Material PTE., Singapore intends to do trading of aforesaid items. He further informed that they have done KYC of United Raw Material PTE., Singapore. On being asked about items proposed under Exim Code 2933, the representative of the unit informed that these compounds are being used in Crockery items. The Approval Committee directed the representative of the unit to submit specific name of items proposed under Exim Code 2933.

8.3. After due deliberations, the Approval Committee approved the proposal, subject to the condition that the unit shall submit specific name of items proposed under Exim Code 2933 and further subject to the following terms & conditions:-

- (i). No export / import of any items will be allowed, which comes under "Prohibited/Restricted" items/Negative list under Import policy given in ITC(HS) Classification or any other law and/or covered under SCOMET list as per DGFT Notifications / Public Notice / Instructions issued from time-to-time.
- (ii). The scope of authorized operations of the unit will be strictly as per Rule 18(5) of SEZ Rules, 2006.
- (iii). Port restrictions as per DGFT Notifications / Public Notice / Instructions issued from time-to-time, shall be applicable.
- (iv). Any sale in DTA shall be only in convertible foreign currency in terms of proviso to Rule 18(5) of SEZ Rules, 2006.

9. मै० अवत लोजिस्टिक्स का मै० अर्शिया नोर्दर्न एफटीडब्लूजेड लिमिटेड की ग्राम इब्राहिमपुर, जुनैदपुर उर्फ मौजपुर, तहसील खुरजा, जिला-बुलंदशहर (उत्तर प्रदेश) स्थित फ्री ट्रेड एंड वेयरहाउसिंग जोन में इकाई स्थापित करने का आवेदन।

9.1. It was brought to the notice of the Approval Committee M/s. Awat Logistics had submitted a proposal for setting up a unit in the Free Trade & Warehousing Zone of M/s. Arshiya Northern FTWZ Ltd. located at Village Ibrahimpur, Junaidpur urf Maujpur, Distt- Bulandshahr (U.P.) to undertake "Warehousing, Trading with or without labeling, packing or re-packing without any processing,

Assembly of Completely Knocked Down or Semi Knocked Down kits for the items as per item list attached with the application, except restricted & prohibited items". It was informed that the applicant had enclosed list of 25 Nos. of ITC(HS) Codes and their items description:-

S.No.	Items	ITC(HS) Code	Import Policy
1.	Printing Ink	32151190	'Other' / Free
2.	Coloured Printing Ink	32151990	'Other' / Free
3.	Varnish	32082090	'Other' / Free, However, actual Code of 'Varnishes' is '32082030'
4.	Paint and Varnish	32099090	'Other' / Free
5.	Silicons	39100090	'Other' / Free
6.	Solvents	38140010	Free
7.	Initiators	38159000	'Other' / Free
8.	Printed Labels	48211010	Free [Item description: Paper tags]
9.	Rubber sheets	40082110	Free [Item description: Used in the manufacture of soles, heels, or soles and heels combined, for footwear]
10.	EVA Sheets	39211900	Free [Item description: Of other plastic]
11.	Empty Pallets	39259090	'Other' / Free
12.	Domz Camera	85258090	'Other' / Free
13.	Recorder	85219090	'Other' / Free
14.	NVR	85176990	'Other' / Free
15.	Vodka	22086000	'Other' / Free However, actual Code of 'Vodka' is '22086093'
16.	Whisky	22083012	Free [Item description: Scotch]
17.	Wine	22041000	Free [Item description: Sparkling Wine]
18.	Gin	22085011	Free
19.	Automatic Solder paste printer / machine	84799090	'Other' / Free
20.	Temperature logger	90258090	'Other' / Free
21.	Almonds	08021200	Free
22.	Cashew Nuts	08013100	Free
23.	Black Pepper	09041140	Prohibited However, import is free if CIF is above Rs.500/ per kg. MIP, however, will not be applicable for imports under Advance Authorisation Scheme, imports by 100% Export Oriented Units (EOUs) and units in the SEZ.
24.	Whiskey	22083091	Free
25.	Machinery	84538000	Free

9.2. It was informed that in project report, the proposed service activities mentioned as "**Logistic Services, Warehousing, Trading, Labeling, Packing, Re-packing, Reselling & Re-invoicing, Re-exporting of the imported goods, Assembly of CKD/ SKD kits, Segregation, Mixing.**" It was informed to the Approval Committee that the unit had projected exports of Rs.262 Lakhs and the cumulative NFE of Rs.94.20 Lakhs over a period of five years. It was also informed that the applicant has not proposed any requirement of Plant & Machinery / Capital goods / Raw materials for 5 years.

Syesh

9.3. It was also informed that the following discrepancies were observed in the application in the first instance:-

- (i) Applicant has proposed export of Rs.262 lakhs during 5 years of operation. Whereas total expenditure has been shown as Rs.412.51 lakhs (Rs.167.80 lakhs + Rs.244.71 lakhs) in P&L Statement. Hence, viability of the project may be called for from the applicant.
- (ii) In Affidavit, Mr. Harvinder Singh Panesar has been shown as Director of the company. Further, a List of Directors showing two directors in company has been submitted, whereas application has been submitted by a Proprietorship firm.
- (iii) Date of application wrongly mentioned in the Affidavit submitted by the applicant.
- (iv) Breakup of proposed foreign exchange outgo of Rs.167.80 lakhs required to be submitted.

9.4. Shri Harvinder Singh Panesar, Proprietor of M/s. Awat Logistics joined the meeting through video conferencing and explained the proposal. He informed that he is engaged in the field of CHA services, Transportation and cargo handling services since last 07 year's. He informed that now he intends to setup his own FTWZ unit in Arshiya FTWZ, Kurja. On being asked about Vodka, Whisky, Wine & Gin proposed in the list of items, the representative of the unit informed that the proposed unit will be holding these items on behalf of foreign clients and will be delivered in DTA / exported as per their directions. The Approval Committee directed the representative of the unit to submit quantity of these items and details of foreign client in respect of each of these items. The Approval Committee further observed that the unit has proposed 'Black Pepper' [ITC(HS) Code 09041140] which is 'Prohibited' for import. The Approval Committee directed the representative of the unit to elaborate the activities to be undertaken and details of client who will be dealing with 'Black Pepper'.

9.5. After due deliberations, the Approval Committee deferred the proposal with the direction to obtain following information/ clarification from the application in addition to the observations pointed out at Para 9.3 above:-

- (i). Details of activities to be undertaken and details of client who will be dealing with 'Black Pepper'.
- (ii). Quantity of Vodka, Whisky, Wine & Gin along with details of foreign client in respect of each of these items.
- (iii). In project report, the application has proposed service activities as "Logistic Services, Segregation, Mixing", which are not covered under Rule 18(5) of SEZ Rules, 2006. This need to be clarified.

10. विकासकर्ता ,मै० आर्था इन्फ्राटेक प्रा० लि० का प्लॉट सं० 21 सेक्टर-टेकज़ोन4-, ग्रेटर नोएडा) उत्तर प्रदेश (में स्थित आईटी /आईटीईएस विशेष आर्थिक क्षेत्र में अधिकृत संचालन के लिए सामग्री की सूची के अनुमोदन का प्रस्ताव ।

10.1. It was brought to the notice of the Approval Committee that M/s. Artha Infratech Pvt. Ltd., Developer of IT/ITES SEZ at Plot No. 21, Sector-Techzone-IV, Greater Noida, had submitted



proposal for approval of list of materials to carry on following default authorized operations in the said SEZ:-

	Name of Authorized Operations	Sl.No at default list of materials as per Inst. No.50 and 54	Estimated Cost (Rs. in lakhs)
(i).	Construction of all type of buildings in processing area as approved by the Unit Approval Committee.	22	127.02
(ii).	Electrical, Gas and Petroleum Natural Gas Distribution Network including necessary sub-stations of appropriate capacity, pipeline network etc.	04	25.25
(iii).	Access Control and Monitoring System.	24	18.38
(iv).	Telecom and other communication facilities including internet connectivity.	05	36.88
(v).	Landscaping and water bodies	08	2.60
(vi).	Solid and liquid waste collection, treatment and disposal plants including pipelines & other necessary infrastructure for sewage and garbage disposal, sewage treatment plants.	03	24.00
(vii).	Employee welfare facilities like Crèche, Medical center and other such Facilities.	20	67.50
		Total:	301.63

10.2. After due deliberations, Approval Committee approved the proposed list of materials. The Approval Committee directed to issue reminder to the developer to expedite submission of Quarterly Report for the period Jan-March, 2020 & Half Yearly Report for the period Oct'2019-March'2020.

11. **Application of M/s. Arshiya 3PL Services Private Limited and M/s. Arshiya Logistics Services Private Limited, both Units in Arshiya Northern FTWZ Ltd., Free Trade Warehousing Zone in Khurja (Uttar Pradesh) seeking In-Principle approval for undertaking specific activities as part of assembly process of Integrated Air Defence Weapons System in Agreement with foreign companies within Arshiya FTWZ for the purpose of transferring to Indian Air Force through US Government.**

11.1. It was informed that two FTWZ units M/s. Arshiya 3PL Services Private Limited and M/s. Arshiya Logistics Services Private Limited, both located in the Arshiya Northern FTWZ Ltd. Free Trade and Warehousing Zone at Khurja (Uttar Pradesh) had submitted a proposal jointly with Raytheon Company, USA & Kongsberg Defence & Aerospace, Norway, seeking In-Principle approval for undertaking specific activities as part of assembly process of Integrated Air Defence Weapons System in Agreement with foreign companies within Arshiya Northern FTWZ Ltd. Free Trade and Warehousing Zone at Khurja (Uttar Pradesh) for the purpose of transferring to Indian Air Force through US Government. The brief background of the proposal are as under:-

- (i) Raytheon Company, USA ('Raytheon') is a major U.S. Defence contractor and industrial corporation with core manufacturing concentrations in defence products and electronics.



- (ii) Kongsberg Defence & Aerospace, Norway ('KDA') is a leading supplier of defence products and systems for command and control, surveillance, space, tactical communications, remote weapon stations and missiles, as well as advanced composites, engineering products and repair and overhaul services for aircraft and helicopters.
- (iii) ~~In anticipation of~~ U.S. Government (USG) ^{anticipates} entering into a contract with Indian Air Force ('IAF')/Ministry of Defence ('MoD') ⁱⁿ India for supply of Integrated Air Defence Weapons System (IADWS). When the IAF/MoD signs a Letter of Acceptance (LOA) for Foreign Military Sales (EMS) Case, the USG would procure such IADWS from Raytheon, US, for onward supply to IAF. Raytheon anticipates entering into a subcontract with KDA to support this procurement. The IADWS to be supplied by Raytheon and KDA would broadly comprise of the following equipment which shall be assembled together so as to form the entire IADWS:
- EO/IR Sensor System
 - High Mobility Launcher System ('HMLS')
 - Fire Distribution Centre System (FDCS')
 - Canister Launcher System (CLS)
 - Sentinel AN/ MPQ-64F1
 - Radar Command Post System Dual Mount Stinger (DMS)
 - System Rapid Ranger Vehicle Mounted Stinger System ('RRUMSS)
 - Communication Relay System
- (iv) Further, in order to supply the said IADWS, Raytheon is currently evaluating the opportunity to enter into a contractual arrangement with Arshiya 3PL Services Private Limited ('A3PL'), which currently operates a FTWZ unit at Khurja, Uttar Pradesh, (having LOA No. F. No. 10/42/2018 SEZ/12011 dated 30.11.2018) so as to avail storage and warehousing services in its unit at the said FIWZ.
- (v) Similarly, KDA is evaluating the opportunity to enter into contractual arrangement for similar services with Arshiya Logistics Services Private Limited (ALSL) which is also operating a FTWZ unit at Khurja, Uttar Pradesh (having LOA No. F. No. 10/25/2017-SEZ/8437 dated 08.08.2017).
- (vi) Subsequently, certain proposed activities which would form part of the overall assembling process of IADWS, would be carried out within the said FTWZ unit by Raytheon/KDA/ Indian vendors (to be identified by Raytheon after MoD signs LOA) or in combination support of each other commencing from the 1 quarter of FY 2021.

11.2. It was informed that the units have mentioned that the Transaction Mechanics of the proposal will be as under:-

- (i) Upon approval, Raytheon desires to enter into a contractual arrangement with Arshiya 3PL Services Private Limited ('A3PL'), which currently operates a FTWZ unit at Khurja, Uttar Pradesh, (having LOA No. F. No. 10/42/2018 SEZ/12011 dated 30.11.2018) so as to avail storage and warehousing services in its unit at the said FTWZ.

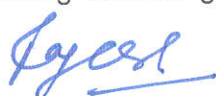
Tajesh

- (ii) Subsequently, Raytheon and its vendors (both Indian and foreign) shall export components/parts to the A3PL, FTWZ unit in India. While the components/parts shall be shipped by the vendors/ suppliers directly to the FTWZ unit in India, however, the title thereof shall be transferred to Raytheon. Similarly, KDA and its vendors (both Indian and foreign) shall export components/parts to the ALSL, FTWZ unit in India. While the components/parts shall be shipped by the vendors / suppliers direct to the FTWZ in India, however, the title thereof shall be transferred to KDA.
- (iii) Once the component/ parts are shipped to the FTWZ unit, the same would be assembled within the FTWZ unit by the Indian supplier/ KDA / Raytheon or in combination support with from each other, so as to form the equipment, which would form part of the IADWS, to be supplied to IAF. KDA will eventually sell its goods to Raytheon within FTWZ (interunit transfer). Further, the activities proposed to be undertaken as part of Assembling process would typically comprise of integration and assembling of components/parts, testing, painting etc. Post completion of the Assembly process, Raytheon shall invoice the IADWS to USG mentioning delivery directly to IAF/Ministry of Defence (MOD) at FTWZ, who shall be the importer into DTA.
- (iv) Subsequently, USG would in turn invoice the same mentioning delivery from Raytheon at FTWZ to AF Ministry of Defence (Mod), who will be the ultimate importer into India. Post sale, IADWS shall be cleared by IAF at FTWZ.

11.3. It was further informed that the units have further stated that to enable A3PL, ALSL, Raytheon, KDA and Indian vendors to undertake the proposed activities as detailed above in the FTWZ unit, Arshiya would install certain capital equipment, tools, undertake capital improvements within the FTWZ, as given below:-

- Paint booth and any painting equipment for applying camouflage overspray to the IADWS major end items.
- Fencing inside the facility and security provisions for the IADWS equipment to be stored and locked secure.
- Classified processing and storage areas inside the facility such as secure Safe and secure office space.
- Modifications to the facility to accommodate the IADWS equipment L.e. door expansions, ramp upgrades, lighting improvements, pneumatic drop lines etc.
- High bay overboard cranes with sling and accessories for lifting IADWS equipment.
- Outdoor booth area for water wash down to clean IADWS equipment.

11.4. It was informed that the proposal had been examined in consultation with Customs, NSEZ and our observations had been communicated to the unit vide this office letter dated 05.06.2020 with request to provide the point-wise clarification along with the relevant Rule provision and self-certified copies of relevant documents including various agreements, contracts etc.

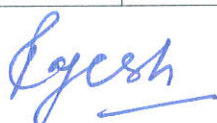


11.5. It was informed that W.r.t. this office letter dated 05.06.2020, M/s. Arshiya 3PL Services Pvt. Ltd., co-developer vide its letter dated 10.06.2020 has submitted point-wise reply, which has been re-produced as under:-

Query	Submissions of the Co-developer
<p><u>1.</u> The proposal mentions that the US Government intends to supply defence equipment to IAF. Further Raytheon and KDA intend to avail services of the FTWZ Units namely A3PL and ALSL. In this regard, self certified copies of the agreement/contract entered into between various parties may be furnished for further examination of the proposal in the light of SEZ Acts/Rules and other statutes.</p>	<p>a) Raytheon is a U.S. based company engaged in defence products and electronics. KDA is a leading supplier of various defence products.</p> <p>b) The U.S. Government (USG) will enter into a contract with Indian Air Force (IAF), Govt. of India for supply of Integrated Air Defence Weapons System (IADWS). These IADWS will be produced by US Government from Raytheon.</p> <p>c) Raytheon will enter into a subcontract agreement with KDA to support this procurement.</p> <p>d) All the above arrangements / contracts (including arrangements / contracts with various other vendors) will materialize only when IAF finally signs the Foreign Military Sales contract (LoA) with the US Govt.. Post award of contract by IAF to USG, formal contracts shall be entered between various parties.</p> <p>e) Since there are Government Defence contracts, the confidentially obligations placed on the parties, prohibit them from sharing any part of the contract, either in draft or final stage due to the highly confidential nature of contract.</p> <p>f) However, for the purpose of the reference and understanding of the proposed arrangement, the complete transaction mechanics have already been details in the application filed in this office after their finalisation to the extent allowed by the USG law and security regulations.</p>
<p><u>2.</u> The proposal mentions that after the final product is transferred to the US Government by Raytheon, the US Government shall invoice the same to IAF. This tantamount to sale of the goods into DTA. Supply of goods from FTWZ to DTA is</p>	<p>USG shall award a contract to Raytheon, USA, for procurement of IADWS. Raytheon will subsequently enter into an agreement with SEZ Unit Arshiya 3PL Services Private Limited as foreign supplier as per the provisions under Rule18(5) of SEZ Rules, 2006 read with Instruction 60 dated 6th July, 2010.</p>

Jyesh

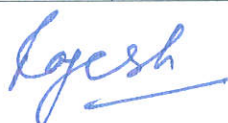
<p>subject to payment of duties of Customs as per Section 30 of SEZ Act, 2005. In this regard, it may clarified :-</p> <p>2(a). What mechanism the US Government intends to adopt to become the owner of the final product? Is there any agreement in place with the FTWZ Unit for this purpose?</p>	<p>Once the said IADWS is ready for delivery at Arshiya FTWZ, Raytheon shall invoice it to USG mentioning direct delivery to IAF/Ministry of Defence (MoD) at FTWZ. In other words, Raytheon shall bill the IADWS to USG and ship the same to IAF.</p> <p>Subsequently, USG would in turn invoice the IADWS to IAF / MoD mentioning delivery from Raytheon at FTWZ to IAF / MoD.</p> <p>Post sale of IADWS by USG to IAF at FTWZ, the IADWS shall be cleared into DTA by IAF/MoD.</p>
<p>2(b). What are the documents/ agreements entered into or intended to be entered into by the US Government with the FTWZ Unit for the purpose of Warehousing and other services to be provided by the FTWZ Unit w.r.t. the goods?</p>	<p>The US Govt. intends to enter into agreement / contract with Raytheon for delivery of IADWS directly to IAF at Arshiya FTWZ.</p> <p>Based on the said agreement / contract, Raytheon shall turn enter into agreement with A3PL and accordingly, shall deliver the IADWS to IAF on production of an authorisation letter from USG.</p> <p>Therefore, they clarified that there shall be no direct agreement between USG and FTWZ Unit.</p>
<p>2(c). Since the creation/transfer of ownership of goods lying in FTWZ in favour of a foreign entity is a legal criterion, what type of contract document has been created for the purpose?</p>	<p>The agreement proposed to be entered into between USG and Raytheon shall contain a clause for transfer of title of IADWS lying in the A3PL FTWZ, from Raytheon to USG.</p>
<p>2(d). M/s Arshiya 3 PL will be holding goods on behalf of M/s Raytheon. So Arshiya 3 PL can either export the goods, or supply it to other Unit, or supply it to DTA as per instructions of the overseas entity viz M/s Raytheon. Therefore, the mechanism of proposed invoicing to US Government and supply to IAF may be clarified in terms of the SEZ Acts/Rules.</p>	<p>In this regard, they have highlighted the provisions of Rule 18(5) of the SEZ Rules, 2006 which provides as under:-</p> <p><i>“the units in a FTWZ or units in FTWZ set up in other SEZ shall be allowed to hold goods on account of the foreign supplier for dispatch as per the owner’s instructions and shall be allowed for trading with or without labelling, packing or repacking without any further processing;</i></p> <p>.....</p> <p><i>Provided further that these units may also re-sell or re-</i></p>



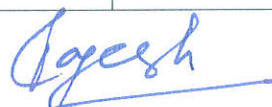
	<p><i>invoice or re-export the goods imported by them”</i></p> <p>In light of above, the IADWS held by A3PL FTWZ on account of foreign supplier i.e. Raytheon shall be invoiced to USG with delivery directly to IAF at FTWZ. Therefore, while the IADWS shall be invoiced to USG, the same shall be delivered to IAF as per the instructions of the owner viz. Raytheon in terms of Rule 18(5) of the SEZ Rules.</p> <p>USG would in turn invoice the same to IAF mentioning that IADWS shall be delivered to the IAF by Raytheon at the FTWZ.</p> <p>IAF shall clear the same to DTA from FTWZ base on invoice, authorisation / delivery order from USG, by filling Bill of Entry for Home Consumption.</p>
<p>2(e). Whether any Custom duty exemption in respect of sale of final product into DTA (to IAF) is intended to be availed? If yes, please mention the details of the exemption notification/authorization issued by the MoF/DGFT/competent authority.</p>	<p>In this regard, they have highlight that vide Notification No. 19/2019-Customs, dated 6th July, 2019, the Ministry of Finance (MoF) has exempted the IADWS from whole of the duty of Customs leviable thereon under the First Schedule of the Customs Tariff Act 1975 and the whole of Integrated Tax leviable thereon under Section 3(7) of the said act, when imported into India by the MoD, Government of India or the defence force.</p> <p>Benefit of the above exemption is intended to be availed in respect of final clearance of goods by IAF into DTA.</p>
<p>3. It may be seen that as per Rule 18(5) r/w Instruction no. 60 issued by DoC(MoC), the Units namely M/s A3PL and M/s ALSL may hold goods on behalf of the Foreign entity(Raytheon or KDA) for dispatches as per owner’s (Raytheon/KDA) instructions. The said provisions allow benefit of Custom duty (import duty) in respect of the goods which are permitted to be imported for the authorized operations. However, as per proposal, it appears that testing equipments, other capital</p>	<p>In this regard, they have highlight the provisions of Section 26(1)(a) of the SEZ Act, 2005, which provides exemption from customs duties on goods imported into an FTWZ unit for carrying out of authorised operations. The relevant extract of the said provision has been reproduced below :</p> <p><i>“exemption from any duty of customs, under the Customs Act 1962, or the Custom Tariff Act 1975, or any other law for the time being in force, on goods imported into, or service provided in, a Special Economic Zone, to carry on the authorised operations</i></p>



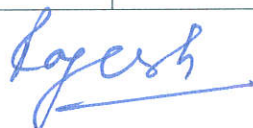
<p>goods, paint etc. to be imported/procured by Raytheon/KDA do not fall under the ambit of the authorised activity of the FTWZ Unit, and accordingly, prima facie benefit of duty/taxes does not appear to be, prima facie, available on such goods. It may, therefore, be clarified whether it is intended to avail the Customs duty/IGST benefits and if yes, then as to how the said benefits are intended to be availed under the SEZ/GST statute.</p>	<p><i>by the Developer or entrepreneur”</i></p> <p>Further, as per Section 2(za) fo the SEZ Act, 2005, the definition of ‘Special Economic Zone’ includes ‘Free Trade and Warehousing Zone’ in its ambit.</p> <p>Also, Section 16 of the IGST Act 2017 provides that supply of goods or services to a SEZ developer or unit shall qualify as ‘zero-rated supply’ on which no GST shall be payable. The said provisions provides as under;</p> <p><i>“(1). ‘zero-rated supply’ means any of the following supplies of goods or services or both namely;</i></p> <p><i>(a) Export of goods or services or both; or</i></p> <p><i>(b) Supply of goods or services or both to a Special Economic Zone Developer or a Special Economic Zone unit”</i></p> <p>In light of above, it may be construed that no taxes shall be allowed levied on inputs, capital goods that shall be procured from the DTA for the purpose of authorised operations to be carried out in the FTWZ unit.</p> <p>Furthermore, they would like to draw attention to S.No. (vi) of the Instruction No. 49 dated 12th March, 2010 issued by MoC wherein it has been mentioned that <i>“the Approval Committee may consider the requests for allowing cutting, polishing, blending etc. as part of the authorised operation of an FTWZ on a case to case basis based on the merits of the case”</i>.</p> <p>Basis the above guidelines and usage of the word ‘etc’ therein, it may be inferred that the intension of the MoC is to allow such other activities which may be essential for carrying out the overall integral process of the permitted activities.</p> <p>Accordingly, both the FTWZ units viz. A3PL and ALSL</p>
---	---



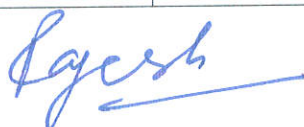
	<p>shall submit proposal to the UAC for inclusion of painting, testing etc to be included in their LOA as part of the authorised operations.</p>
<p><u>4.</u> The proposal mentions that part of the final defence equipment shall be assembled at M/s A3PL and other part at M/s ALSL. As per SEZ statute [proviso to Rule 18(5) refers], assembly of CKD or SKD kits is allowed. The proposal mentions that the one part assembled in one Unit shall be transferred to the other Unit for the purpose of final assembly resulting in the product 'Defence Equipment'. The FTWZ is normally meant for undertaking Trading & Warehousing activities i.e. manufacturing activities are not permitted in FTWZ. However, the assembly of SKD/CKD kits is allowed for the reason that at the time of import/procurement when the consignment is received in CKD/SKD condition, its Customs classification is done as per the HSN code of the finished goods and therefore, no new goods are said to have come into existence after assembly for the purpose of Customs classification. The imports are generally classified as 'Goods in CKD Form' e.g. 'LED TV 60 inch in CKD form'. At the time of removal, the assembled product would be described and classified as "LED TV 60 inch" without any change in Customs HSN Code. On the other hand, from your proposal, it is observed that:-</p> <p><u>4(a).</u> all items will not be imported as one consignment and therefore, these separately imported/procured items shall not merit Custom classification under a single HSN code which otherwise should be the same as the Custom classification of the final assembled product. Accordingly, these separate consignments of parts/components may not be considered as CKD/SKD kits. It may,</p>	<p>In this regard, they have mentioned that 'assemble' means 'to construct something by fitting parts together'.</p> <p>In the instant case, the parts and components albeit imported/procured from various sources will be <i>de facto</i> constitute a kit. This will thereafter be assembled into an IADWS.</p> <p>The IADWS will be assembled in the FTWZ in accordance with the definition of 'assembly' i.e "to construct something by fitting parts together". No manufacturing activity will take place.</p>



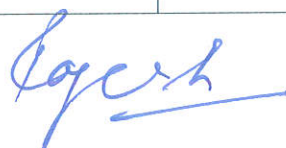
<p>therefore, be clarified as to how it is intended to fulfill the criteria of 'assembly of CKD/SKD kits' laid down under Rule 18(5);</p>	
<p>4(b). it is not clear as to how the processes being undertaken in the two different Units constitute the process 'assembly';</p>	<p>In this regard, they have reiterate that the contract for supply of IADWS shall be entered solely between Raytheon and USG. KDA shall not be a party to the said contract.</p> <p>Further, for the purpose of supplying the said IADWS to USG, Raytheon shall procure various parts / components and services from KDA (<i>which is merely one of the vendors / suppliers for Raytheon</i>).</p> <p>Furthermore, KDA in order to fulfil its contractual obligations towards Raytheon may separately procure components / parts / services from other vendors including ALSL. As part of proposed transaction mechanics, KDA intends to carry out certain assembly operations under ALSL to fulfil its contractual obligations towards Raytheon. Post assembly, KDA shall make an inter-unit transfer of goods to Raytheon under A3PL to fulfil its contractual obligation.</p> <p>Subsequently, Raytheon under A3PL will carry out further assembling / integration of components procured by it directly along with components procured by inter unit transfer from KDA as mentioned above and will then carryout all the testing and finishing and then sell the resultant product viz. IADWS to USG.</p> <p>Therefore, the process of assembly carried out in both</p>



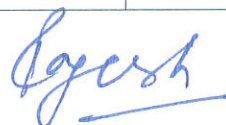
	<p>the units (A3PL and ALSL) is separate and independent, for their respective foreign suppliers (i.e. Raytheon and KDA) so as to fulfil their respective contractual obligations.</p>
<p>5. The proposal mentions that it is intended to seek approval from UAC for the processes like Painting, Testing etc. to be undertaken within FTWZ in terms of Instruction no. 49 for the purpose of authorized operation of assembly of CKD/SKD kits. In this regard, it may be mentioned that a complete specific proposal to include such activities under the Units' 'authorized operations' shall be required to be made by the respective Unit within the ambit of Instruction no. 49. Such inclusion of activity may be considered by the UAC subject to all relevant documents being furnished which may include the agreement between the foreign entity and the Unit wherein the said activities are specifically mentioned as part of the assembly process along with complete description of the process to be undertaken and the process flow diagram.</p>	<p>In this regard, they highlighted that currently no such formal agreement has been entered into between the foreign entity i.e. Raytheon and A3PL FTWZ unit.</p> <p>However, the complete description of processes like painting, testing etc which are proposed to be carried out in the FTWZ unit as a part of the overall assembly / integration process have already been detailed in the application submitted with your good office.</p> <p>Presently they are seeking approval of this office, to the proposed arrangement to carry out overall assembling / integration process within Arshiya FTWZ.</p> <p>Since this is a unique arrangement, we seek your approval to the proposed arrangement, Once an In-principle approval is in place, USG shall enter into an agreement with the Government of India and the other foreign entities shall enter into agreement with the FTWZ Units.</p> <p>Further, they highlighted that both the units shall make application seeking approval of the UAC for inclusion of all the processes such as painting, testing etc, as detailed in the application as part of the authorised operations in light of point no. (vi) of Instruction No. 49 dated 12th March 2010 issued by the MoC.</p>
<p>6. The proposal mentions that after final assembly of the 'Defence Equipment' in one Unit, Raytheon shall invoice the goods to US Government. However, it is observed that Rule 18(5) only permits 'dispatches' of goods as per owner's instructions. As per existing provisions, goods can be removed/transferred from FTWZ in three ways only i.e. Export, Sale into DTA and Inter Unit Transfer. Therefore, it may be clarified as to what</p>	<p>As highlighted in query ref no. 2 (d) above, the provisions of Rule 18(5) of the SEZ Rules 2006 provides that an FTWZ unit can hold goods for foreign entities for further dispatch as per the owner's instructions. The relevant extract of the said provision has been reproduced below for your ready reference.</p> <p><i>"The units in FTWZ or units in FTWZ set up in other SEZ shall be allowed to hold the goods on account of the foreign supplier for dispatches as per the owner's</i></p>



<p>mechanisms you intend to adopt for affecting such transfer. There is no provision in the SEZ Rules to hold the goods within the FTWZ while affecting sale to foreign entity (in your case it is US Government). In this case it appears that by one of the two Units in FTWZ goods are to be imported in CKD/SKD condition and will be required to effect inter Unit transfer for assembly. Further, as per Section 2(z) of the SEZ Act 2005 payment for inter-Unit transfer has to be received in foreign currency.</p>	<p><i>instructions and shall be allowed for trading with or without labelling, packing or repacking without any further processing:</i></p> <p><i>Provided further that these units may also re-sell or re-invoice or re-export the goods imported by them”</i></p> <p>In light of above, the IADWS held by A3PL FTWZ on account of foreign supplier i.e. Raytheon shall be invoiced to USG with delivery directly to IAF at FTWZ. Therefore, while the IADWS shall be invoiced to USG, the same shall be delivered to IAF as per the instructions of the owner viz. Raytheon in terms of Rule 18(5) of the SEZ Rules.</p> <p>USG would in turn invoice the same to IAF mentioning that IADWS shall be delivered to the IAF by Raytheon at the FTWZ.</p> <p>Further, as regards your query regarding payments for inter-unit transfers being received in foreign currency, we confirm that the Inter unit transfers from KDA to Raytheon and vice versa, if any shall be in foreign currency.</p>
<p><u>7.</u> The proposal mentions that Raytheon would bring in capital goods for the purpose of assembly process in FTWZ. Raytheon and KDA also intend to import/procure various other items viz. paint, trucks, testing equipment etc. for the purpose, and theretofore, the ownership of such goods would remain with Raytheon/KDA. In such case, it prima facie appears that the benefit of Customs duty (on import) may not be available for the reason that such exemption is available for trading goods u/r 18(5) which is not the case here. Further, as per Rule 27 of SEZ Rules, the benefit of exemption for import (duties of customs) /procurement of</p>	<p>Yes, it is intended that benefit of Customs duties/ IGST would be availed on aforesaid imports/ procurements.</p> <p>In this regard, they have mentioend that benefit of exemption can be availed on the basis of the provisions of the SEZ Act 2005 and Integrated Goods and Service Tax (IGST) Act 2017.</p> <p>The said provisions have been discussed in response to Query Ref No. 7(b) below.</p>



<p>goods (IGST) for the purpose of authorized operations (assembly/ painting/ testing as may be permitted by the UAC) is only available to the Unit _which is also not the case here. In this regard, it may be clarified: -</p> <p>7(a). whether it is intended to avail the benefit of exemption from Custom duties/ IGST on aforesaid imports/ procurements?</p>	
<p>7(b). If yes, how and under what provisions of SEZ law/GST law is such exemption intended to be availed?</p>	<p>They have highlighted the provisions of Section 26(1)(a) of the SEZ Act 2005 as mentioned in our response to Query Ref No. 3 above, which provides exemption from Custom duties on goods imported into an FTWZ unit for carrying out of authorised operations. The relevant extract of the said provision has been reproduced below for your ready reference:</p> <p><i>“Section 26 (1) Subject to provisions of sub-section (2), every developer and the entrepreneur shall be entitled to the following exemptions, drawbacks and concessions, namely: -</i></p> <p><i>(a) exemption from any duty of customs, under the Customs Act 1962, or the Custom Tariff Act 1975, or any other law for the time being in force, on goods imported into, or service provided in, a Special Economic Zone, to carry on the authorised operations by the Developer or entrepreneur”</i></p> <p>Further, as per Section 2(za) of the SEZ Act 2005, the definition of “Special Economic Zone” includes “Free Trade and Warehousing Zone” in its ambit.</p> <p>In light of the above provision, it may be construed that no Customs duty shall be levied on inputs, capital goods that shall be imported into the FTWZ unit for the purposes of authorised operations, irrespective of the ownership of such goods being in the name of the foreign entity i.e. Raytheon in the instant case.</p> <p>Additionally, as per Rule 27(1) of the SEZ Rules 2006, a unit or developer may procure goods from DTA</p>



without payment of any taxes which are required for authorised operations. The relevant extract of the said provision is as follows:

“A unit or developer may import or procure from DTA without payment of duty, taxes or cess or procure from DTA after availing export entitlements or procure from other units in the same SEZ or other SEZ or from EOU or STP or EHTP, all types of goods, including capital good required for authorised operations “

Therefore, in light of the above provision, all the procurements by the FTWZ from DTA shall be exempt.

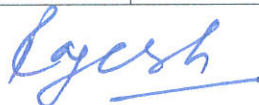
Also, Section 16 of the IGST Act 2017 provides that supply of goods or services to a SEZ developer or unit shall qualify as ‘zero-rated supply’ on which no GST shall be payable. The said provisions provide as under:

“(1) ‘zero-rated supply’ means any of the following supplies of goods or services or both namely

- (a) Export of goods or services or both; or*
- (b) Supply of goods or services or both to a Special Economic Zone Developer or a Special Economic Zone unit”*

In light of the above, it may be construed that no taxes shall be levied on inputs, capital goods that shall be procured from the DTA for the purpose of authorised operations to be carried out in the FTWZ unit. In other words, no taxes shall be payable on goods that are physically supplied to a FTWZ (and billed directly to the overseas entity) for the purposes of carrying out authorised operations. Therefore, no GST shall be payable on goods that are invoiced to the foreign supplier i.e. Raytheon, and shipped to the FTWZ from the DTA, for the purposes of carrying out authorised operations.

Furthermore, they referred the S.no. (vi) of the Instruction No. 49 dated 12th March 2010 issued by MoC wherein it has been mentioned that the Approval Committee may consider the requests for allowing cutting, polishing, blending etc. as part of the authorised operations of an FTWZ on a case to case



	<p>basis based on the merits of the case.</p> <p>Accordingly, both the FTWZ units viz. A3PL and ALSL shall submit proposal to the UAC for inclusion of painting, testing etc to be included in their LOA as part of the authorised operations.</p>
<p><u>8.</u> Ideally Raytheon may set up a Unit in FTWZ and import all components/parts in CKD/SKD, assemble it and then it can supply it to IAF. Therefore, it may be clarified as to how two Units, holding different goods, will assemble these goods.</p>	<p>In this regard, it is submitted that it is not proposed for Raytheon to become a unit as being a foreign entity, it is not permissible under the SEZ Act and Rules. The SEZ Rules clearly provide foreign suppliers to be doing approved activities under the unit whereby the ownership will remain with the foreign suppliers.</p> <p>Here, they reiterated that the contract for supply of IADWS shall be entered solely between Raytheon and USG. KDA shall not be a party to the said contract. Further, for the purpose of supplying the said IADWS to USG, Raytheon shall procure various parts / components and services from KDA (<i>which is merely one of the vendors / suppliers for Raytheon</i>).</p> <p>Further, KDA in order to fulfil its contractual obligations towards Raytheon may separately procure components / parts / services from other vendors including ALSL. As part of proposed transaction mechanics, KDA intends to carry out certain assembly operations under ALSL to fulfil its contractual obligations towards Raytheon. Post assembly, KDA shall make an inter-unit transfer of goods to Raytheon under A3PL to fulfil its contractual obligation.</p> <p>Subsequently, Raytheon under A3PL will carry out certain activities of assembly and will then carryout all the testing and finishing and then sell the resultant product viz. IADWS to USG.</p> <p>Therefore, the process of assembly carried out in both the units (A3PL and ALSL) is separate and independent ,for their respective foreign suppliers (i.e. Raytheon and KDA) so as to fulfil their respective contractual obligations .</p>

11.6. Shri Vinod Parekh, Vice President, Shri Pramod Raghawan, Asstt. Vice President & Shri Pramod Chhoker, Sr. Manager of M/s. Arshiya joined the meeting through video conferencing and explained the proposal. Besides, Shri Sanjeev Venkatesan, Director of M/s. Raytheon, Shri



Agneshwar Sen, Director of E&Y and Ms. Divya Bhushan, Advisor of E&Y also joined the meeting through video conferencing and explained the proposal on behalf of M/s. Raytheon. On being asked about the time frame to get the contract signed between Raytheon and US Government, the representative of the unit informed that they anticipate finalization of an agreement between USG and IAF / Ministry of Defence by September, 2020 and subsequent to that other Agreement / Contracts of M/s. Raytheon, M/s. KDA with A3PL and ALSL will be formalized.

11.7. The Committee observed that the proposal is of such importance that it should be encouraged. However, for setting up of unit and other clearances, an application has to be made in Form-F under Rule 17 of the SEZ Rules so that the same is approved or approved with modification or rejected by the Unit Approval Committee under Rule 18 of the SEZ Rules. There is provision vide Rule 6(1)(b) of the SEZ Rules for in-principle approval of a Developer, however, there is no provision in the SEZ Act/Rules regarding in-principle approval to a unit / activity. Both the units may collect all the information / documents and submit their applications for formal approval for the proposed activities after finalization of contracts. The value of equipment / goods in the proposed activities are also required to be mentioned while submitting the formal application. During the meeting of the Unit Approval Committee the Specified Officer, NSEZ pointed out that when the IADWS sold in Domestic Tariff Area from FTWZ, Customs duty will be exempted in terms of Notification No. 19/2019-Customs dated 6th July 2019, however, IGST will be applicable. The representative of the E&Y informed that there is notification / provision for exemption of IGST also, which will be made available to Customs, NSEZ. The Specified Officer further pointed out that the proposed assembly of parts in the two units of the Arshiya FTWZ do not covered under "assembly of CKD/SKD Kits", which is permissible activity in FTWZ under Rule 18(5) of the SEZ Rules, 2006. The representative of E&Y argued that under the broad definition of "assemble" the assembly of CKD/SKD Kits is covered. In the instant case, the parts and components imported / procured from various sources will *de facto* constitute a kit. This will thereafter be assembled into an IADWS. They further informed that they will further search and submit necessary documents / papers in this regard for examination by Customs, NSEZ. However, keeping in view the importance of the proposal, Committee directed that complete facts of the matter including the reply received from the unit on observation of NSEZ vide letter dated 10.06.2020 be forwarded to Department of Commerce for information.

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



(राजेश कुमार)
उप विकास आयुक्त



(डॉ० एल० बी० सिंघल)
विकास आयुक्त