भारत सरकार, वाणिज्य एवं उद्योग मंत्रालय, वाणिज्य विभाग
विकास आयुक्त का कार्यालय
नोएडा विशेष आर्थिक क्षेत्र
नोएडा शहरी टॉयलेट, फेस-II, नोएडा.201305, जिला - गोतमबुद्ध नगर
government of India, min. of Commerce & Industry, Dept. of Commerce,
Office of the Development Commissioner
NOIDA SPECIAL ECONOMIC ZONE
Noida Dadri Road, Phase-II, NOIDA-201305, Distt. Gautam Budh Nagar (UP)

फ. स.12/01/2018 - प्रोजेक्ट/

दिनांक: 10/07/2018

सेवा में,

1. मुख्य कार्यालय अधिकारी, न्यू ओखला ओर्डर्स्क विकास प्राधिकरण, मुख्य प्रशासनिक भवन, सेक्टर - 6, नोएडा।
2. अतिरिक्त महानिदेशक विदेश व्यापार, वाणिज्य एवं उद्योग मंत्रालय, 'ए' विंग, इंद्रप्रस्थ भवन, आई पी एसटेट, नई दिल्ली।
3. आयुक्त, आयकर, ए 2 डी, आयकर भवन, सेक्टर 24, नोएडा।
4. आयुक्त, सीमा शुलक, नोएडा सीमा शुलक आयुक्तालय, इलेक्ट्रॉनिक केंटर डिपो, तिलपता, दादरी, गोतम बुझ नगर, उत्तर प्रदेश - 201306,
5. निदेशक, वाणिज्य विभाग, वाणिज्य एवं उद्योग मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली - 110001।
6. उप अधिकारी (आई एफ-1), बैंकिंग प्रबंध, आर्थिक मामलों का विभाग, वित्त मंत्रालय, भारत सरकार, वृत्तीय तल, जीवन दीप वित्त विकास संस्थान मार्ग, नई दिल्ली।
7. महाप्रबंधक, जिला उद्योग केंद्र, कलेक्टर के पास, सुरजपुर, प्लेटर नोएडा।

विषय: दिनांक 04/07/2018 को पूर्वांग 11:30 बजे आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवाहक - प्रथम संबंधी।

महोदय,
मुझे उपरोक्त विषय का संदर्भ देने और डा. एल बी सिंहल, विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में दिनांक 04/07/2018 को पूर्वांग 11:30 बजे सम्मेलन होने, प्रशासनिक भवन, नोएडा विशेष आर्थिक क्षेत्र, नोएडा में आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवाह कार्य करने का निर्देश हुआ है।

संलग्न: उपरोक्त

प्रतिलिपि:
1. विशेष कार्याधिकारी - विकास आयुक्त के सूचनार्थी।
2. वैविक कश्यप - संयुक्त विकास आयुक्त के सूचनार्थी।
3. निदेशक अधिकारी, नोएडा विशेष आर्थिक क्षेत्र - सूचनार्थी एवं आयुक्त कार्यवाही के लिए।
4. उप विकास आयुक्त (सम्पदा), नोएडा विशेष आर्थिक क्षेत्र - सूचनार्थी।

उप विकास आयुक्त

(आर. के. श्रीभक्ति)
उप विकास आयुक्त

प्रतिलिपि:
1. विशेष कार्याधिकारी - विकास आयुक्त के सूचनार्थी।
2. वैविक कश्यप - संयुक्त विकास आयुक्त के सूचनार्थी।
3. निदेशक अधिकारी, नोएडा विशेष आर्थिक क्षेत्र - सूचनार्थी एवं आयुक्त कार्यवाही के लिए।
4. उप विकास आयुक्त (सम्पदा), नोएडा विशेष आर्थिक क्षेत्र - सूचनार्थी।

उप विकास आयुक्त
Minutes of meeting of the Approval Committee of Noida SEZ held under the Chairmanship of Dr. L.B. Singhal, Development Commissioner (DC), Noida SEZ at 11:30 AM on 04/07/2018 in the Conference Hall of NSEZ.

The following members of the Approval Committee were present during the meeting:-

1) Shri S.S. Shukla, Jt. Development Commissioner, NSEZ.

2) Shri Nitesh Srivastava, Addl. Commissioner, Customs, Noida Commissionerate.

3) Shri Deependra Kumar, Asstt. Commissioner, DIC, Noida (Rep. of Principal Secretary, Industry, Govt. of UP.)

4) Shri R.L. Meena, Asstt. DGFT, O/o Addl. DGFT, CLA, New Delhi.


3. At the outset, DC, NSEZ welcomed the participants. After brief introduction, each items included in the agenda were taken up for deliberation one by one. After detailed deliberations as well as interaction with the applicants / representatives of the units, the following decisions were taken:-

(i) Ratification of Minutes of last meeting of the Approval Committee held on 06/06/2018.

It was informed that no reference against the decisions of the Approval Committee held on 06/06/2018 was received and therefore, Minutes of the meeting held on 06/06/2018 were ratified.
### Item wise decisions on proposals included in agenda:

<table>
<thead>
<tr>
<th></th>
<th>Proposal in respect of M/s. Cyfuture India Pvt. Ltd. for Monitoring of performance and Renewal of LOA.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>It was informed to the Approval Committee that M/s. Cyfuture India Pvt. Ltd. has been granted an LOA dated 28/09/2007 for service activities viz. 1) BPO- International Call Centre, Back Office Services, IT Services – Software + Internet Marketing Services. 2) Services: - i) Data center Services ii) Web hosting iii) Cloud Computing. The unit has commenced its export activities w.e.f. 15/04/2008 and LOA of the unit is valid up to 14/07/2018.</td>
</tr>
<tr>
<td></td>
<td>It was informed to the Approval Committee that unit has made exports worth Rs. 5444.72 Lakhs and achieved NFE earnings worth Rs. 5076.35 Lakhs during previous block of five years. It was further informed that unit has rendered services worth Rs. 10815.06 Lakhs in DTA against payment in INR. As per Section 2(z)(iii) of SEZ Act 2005, “Services means such tradable services which earn foreign exchange”. Hence, the above sales are not as per SEZ Act/Rules and value of Rs. 10815.06 Lakhs had to be against free foreign exchange but the unit has received payments in INR.</td>
</tr>
<tr>
<td></td>
<td>It was also informed that the said proposal was earlier considered by the Approval Committee in its meeting held on 06/06/2018, wherein on being asked about the sale of services in DTA, the representatives of unit informed that their finance team deals with the subject and they will check the status with them and inform accordingly. It was informed to them that in terms of Section 2 (z) (iii) of the SEZ Act, 2005, services means such tradable services which earn foreign exchange. In case the unit has rendered services in DTA against INR, the same is violation of the said section of the SEZ Act. The Approval Committee gave him the option to settle the matter as per section 11(4) of the FT(D&amp;R) Act, 1992 for violation of SEZ Act and Rules by imposing penalty to regularize authorized operation. The representatives of the unit informed that they will bring the above aspect of the case to the notice of their promoters/appropriate authority of their company and requested for some time to take a decision in the matter. Hence, Approval Committee agreed for the same and accordingly the matter was deferred for next meeting.</td>
</tr>
</tbody>
</table>
It was further informed that on specific request of the unit, the Approval Committee in its meeting held on 06/06/2018 had also decided to renew the LOA for one month only, subject to deposit of lease rent by the unit and subject to condition that unit shall comply with Section 2(z)(iii) of SEZ Act, 2005 and no further service in DTA shall be rendered in INR.

Shri Hemendra Bhardwaj and Shri Shailendra Shukla, authorized representatives of the company appeared before the Approval Committee. Shri Shukla informed that they have checked the status of services rendered in DTA from their finance team and it has been observed that they have mistakenly shown cumulative figures of services rendered in DTA made by the company from its SEZ and DTA units in the APRs of NSEZ unit. He also informed that from the NSEZ unit they have rendered services in DTA worth approx. Rs.9.81 Crores only. It was explained to the representative of the unit that in terms of provisions of Section 2(z) of SEZ Act 2005, DTA sale by Trading/Service units can be done only against free foreign exchange.

The Approval Committee directed the unit to submit following:

(i) Reasons for submission of wrong data in APRs.

(ii) Revised APRs for the current block of five years i.e. from 2012-13 to 2017-18 duly certified by Chartered Accountant.

(iii) Break-up of DTA sales in foreign exchange and Indian Rupees duly certified by Chartered Accountant.

Unit requested 15 days’ time to submit the aforesaid documents to which Approval Committee agreed.

The Approval Committee, after due deliberations, decided to renew the LOA for remaining period of five years i.e. upto 14/04/2023 subject to the condition that unit shall comply with Section 2(z)(iii) of SEZ Act, 2005 and no further service in DTA shall be rendered in INR. The Approval Committee also decided to defer the matter for monitoring of performance till the submission of above data by the unit.

It was informed to the Approval Committee that M/s. Heuer International (A division of G.S.T. Corporation Ltd.) has been issued LOA dated 07/07/2006 for (i) Manufacturing of medical/surgical devices, including manufacture of orthopedic implants, instruments accessories, orthotics aids, resuscitator silicon project and ii) Trading items as per list in file (52 items). The unit has commenced its export production w.e.f. 27/07/2007 and LOA of the unit was valid till 26/05/2018.

It was informed that the said proposal was earlier considered by the Approval Committee in its meeting held on 03/01/2018 wherein Shri Manu Grover, Director of the company appeared and informed that they have achieved negative NFE in respect of the Trading Activities performed by them, as they were not aware that they have to make DTA sale against foreign exchange only, otherwise it will not be counted towards NFE. The Approval Committee had also observed that the data furnished by NSEZ Customs does not match with the data indicated in APRs submitted by the unit. The Approval Committee had directed the unit to reconcile the data as indicated by them in APRs with the data provided by Customs, NSEZ and submit reconciled data to this office. The Approval Committee in its meeting held on 03/01/2018 had extended the validity of LOA for a period of 3 months subject to condition that no DTA sale will be allowed in respect of Trading Activities except clearance of remaining stock of Rs.20 Lakhs and further decided that the proposal of unit for renewal of LOA for remaining period of 5 years should again be placed before the Approval Committee, once the required documents are received from them.

No one from the unit appeared for the meeting. It was informed to the Approval Committee that the unit has requested for deferment of the proposal. It was also informed that the separate details of NFE earnings in respect of trading activities are still awaited from the unit.

The Approval Committee observed that unit has been doing well in manufacturing and has made cumulative exports worth approx. Rs. 13.37 Crores during previous block of five years. The Approval Committee further observed that LOA of the unit has already expired
on 26/05/2018.

The Approval Committee, after due deliberations, decided to renew the validity of LOA for remaining period of current block of five years i.e. upto 26/07/2022 subject to the following conditions:-

1. No DTA sale of trading goods shall be allowed.

2. Trading will be allowed only for physical export to any other country, for supply to other units and Developers in the same or other SEZ or EOUs, against freely convertible currency.

3. Unit will maintain separate area earmarked for manufacturing and trading activities and maintain separate records/accounts of NFE for manufacturing and trading activities.

4. NFE status for manufacturing activity and trading activity will be seen separately.

The Approval Committee also decided to defer the matter for monitoring of performance for its next meeting and directed that representatives of the unit may be called for appearing before it in its next meeting.

3. **Proposal in respect of M/s. Kriti Metform Ltd. for Monitoring of performance and renewal of LOA.**

It was informed to the Approval Committee that M/s. Kriti Metform Ltd. has been issued an LOA dated 28/12/2004 for manufacturing & trading activities. The unit has commenced its export production w.e.f. 05/10/2007 and LOA of the unit was valid till 04/10/2017.

It was informed to the Approval Committee that unit has made exports worth Rs. 716.53 Lakhs and achieved NFE earnings worth Rs. 673.32 Lakhs during previous block of five years. It was further informed that the unit has informed that they have not made any trading activities either export or DTA sale during last five years.

No one from the company appeared for the meeting whereas the communication for appearing before the Approval Committee was sent through Email. The Approval
Committee observed that unit has not submitted its application for renewal of LOA on time and lease rent amounting to Rs. 5,67,120/- is also pending against the unit. The Approval Committee was informed that export proceeds worth Rs. 2.74 Lakhs is pending for realization. The Approval Committee directed that the unit may be asked to clarify as to whether this is beyond stipulated period of 9 months. If yes, whether extension from ADB or RBI, as the case may be, has been sought.

The Approval Committee, after due deliberations, decided to defer the proposal for its next meeting as no one appeared before the Approval Committee and directed that a reminder be sent through registered post/email to the unit & its directors on all official and residential addresses with a direction to ensure presence in next Approval Committee and also to deposit the lease rent. Further, Approval Committee also observed that their LOA has already been expired on 04/10/2017. Hence, Approval Committee directed the unit to ensure their presence in its next meeting failing which their LOA shall not be renewed further.

4. **Proposal in respect of M/s. Golden Peakock overseas Ltd. for inclusion of additional authorized operations in LOA.**

   It was informed to the Approval Committee that unit has requested for deferment of the proposal. Accordingly, the Approval Committee agreed and deferred the proposal for its next meeting.

5. **Proposal in respect of M/s. Shinpak Overseas Exports for inclusion of trading items in its authorized operations.**

   It was informed to the Approval Committee that M/s. Shinpak Overseas Exports has been issued an LOA dated 05/01/2010 for Manufacturing of Bags. The unit commenced its export production w.e.f. 18/08/2010 and LOA is valid till 17/08/2020.

   It was informed to the Approval Committee that the unit has submitted a proposal for inclusion of Trading of (i) Coated Fabric (ITC HS 5903) (ii) Lining Fabric (ITC HS 5407) (iii) Knitted Fabric (ITC HS 6006) (iv) Woven Fabric of Article Staple Fibres (5516) and (v) Bags (4202) in its authorized operations.
Shri Deepak Singla, partner in the firm appeared before the Approval Committee. He informed that the unit is exporting Soft luggage bags, Travel bags, trolley bags and school bags mainly to UAE. Currently there are 70 employees working in the unit. He also mentioned that his another unit in NSEZ viz. M/s. Ganpati Overseas has done export turnover of Rs. 24 Crores during previous year.

He further informed that they have got orders for fabrics which are used in manufacturing of bags. However, as these fabric are not manufactured by them, they have requested for trading activities. He further informed that some of the bags like trekking bags are currently not being manufactured by them as they do not have machineries for its manufacturing. He also mentioned that if proposal is agreed, his export is likely to increase significantly.

The Approval Committee, after due deliberations, approved the proposal of unit for inclusion of Trading of (i) Coated Fabric (ITC HS 5903) (ii) Lining Fabric (ITC HS 5407) (iii) Knitted Fabric (ITC HS 6006) (iv) Woven Fabric of Article Staple Fibres (5516) and (v) Bags (4202) in its authorized operations subject to the following conditions:-

1. No DTA sale of trading goods shall be allowed.

2. Trading will be allowed only for physical export to any other country, for supply to other units and Developers in the same or other SEZ or EOUs, against freely convertible currency in terms of Section 2(2) of SEZ Act, 2005.

3. Unit will maintain separate area earmarked for manufacturing and trading activities and maintain separate records/accounts of NFE for manufacturing and trading activities.

4. NFE status for manufacturing activity and trading activity will be seen separately.


It was informed to the Approval Committee that M/s. Narayan Exports has been issued an LOA dated 30/11/2005 for Manufacturing of Readymade Garments and Fabric Made-ups, Manufacturing of Headgear and Parts thereof under Chapter 65. The unit commenced its
export production w.e.f. 24/03/2009 and LOA is valid till 23/03/2019.

It was informed that name of the unit was changed from M/s. Backbay Clothing to M/s. Narayan Exports after approval of Approval Committee granted in its meeting held on 06/04/2016. It was further informed that Approval Committee had also granted approval for change in partners and shareholding as the change in shareholding was less than 50% as per following details:

<table>
<thead>
<tr>
<th>Name of shareholder</th>
<th>Backbay Clothing</th>
<th>Narayan Exports</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sh Hemant Talwar</td>
<td>33.34%</td>
<td>Resigned</td>
</tr>
<tr>
<td>2. Sh. Triloki Nath Agrawal</td>
<td>33.33%</td>
<td>50%</td>
</tr>
<tr>
<td>3. Smt. Meenu Agrawal</td>
<td>33.33%</td>
<td>25%</td>
</tr>
<tr>
<td>4. Sh. Vipin Kumar Agrawal</td>
<td>--</td>
<td>25%</td>
</tr>
</tbody>
</table>

It was informed to the Approval Committee that the unit has now proposed that one of the main promoters i.e. Mr. T.N. Agrawal (holding 50% shares) will retire from partnership firm and his brother Mr. O.N. Agrawal will join as new partner with the same shareholding as per following details:

<table>
<thead>
<tr>
<th>Name of partners/shareholder</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Shri T. N. Agrawal</td>
<td>50%</td>
<td>--</td>
</tr>
<tr>
<td>2. Smt. Meenu Agrawal</td>
<td>25%</td>
<td>25%</td>
</tr>
<tr>
<td>3. Shri Vipin Kumar Agrawal</td>
<td>25%</td>
<td>25%</td>
</tr>
<tr>
<td>4. Shri O.N. Agrawal</td>
<td>--</td>
<td>50%</td>
</tr>
</tbody>
</table>

The Approval Committee observed that in the instant case total change in shareholding tantamount to 75% as only one of the original promoters (Smt. Meenu Agrawal) is now remaining as the partner in firm with only 25% shareholding.

The Approval Committee further observed that performance of the unit is very poor and unit could make exports worth Rs. 53.23 Lakhs and Rs. 43 Lakhs during 2016-17 & 2017-18 respectively.

Shri Vipin Agrawal, Shri O.N. Agrawal, Shri T.N. Agrawal and Smt. Meenu Agrawal appeared before the Approval Committee for the meeting. Shri Vipin Agrawal informed that currently there are 20-25 employees working in the unit. He further stated that they have achieved turnover of approx. Rs.65 Crores from their DTA units. He also stated that it will take 2-3 years to start full-fledged operations in the NSEZ unit.

Shri Agrawal further informed that they have now submitted a revised proposal for
further change in partners and shareholding in the firm. After this revision, Shri O.N. Agrawal and Shri Vipin Agrawal will be the partners with 75% & 25% shareholding in the partnership firm respectively.

The Approval Committee observed that the original proposal submitted by the unit in this office was that Shri O.N. Agrawal will replace Shri T.N. Agrawal as partner with the same shareholding i.e. 50%. However, the current statement of Shri Vipin Agrawal is totally different from their earlier submitted proposal which was placed before the instant Approval Committee.

The Approval Committee, after due deliberations, deferred the matter with a direction to project section to examine the revised proposal received from the unit and place it before next Approval Committee. Representatives were also advised to submit in writing the reasons for revision along with necessary documents in this regard. They were also directed to improve export performance by March 2019 failing which it would be difficult to renew the LOA.

7. **Proposal in respect of M/s. Tinus Olsen India Pvt. Ltd. for change in Directors and shareholding Patterns and violation of condition No.14 of Bond-cum-LUT.**

It was informed to the Approval Committee that M/s. Tinus Olsen India Pvt. Ltd. has been issued an LOA dated 11/04/2008 for Manufacture of Tension/Compression Materials Testing Machines (Screw Driven) and Associated Accessories including Specimen Gripping Systems, Extensometers, Temperature Chambers, Furnaces and Load Cells, Specimen Preparation Equipment and Rockwell Hardness Testers, Research and Development Centre. The unit has commenced its export production w.e.f. 01/02/2012 and LOA is valid till 31/01/2022.

It was further informed that the unit has informed about change in directors and shareholding pattern of the company as under:

<table>
<thead>
<tr>
<th>Directors before change</th>
<th>Directors after change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Mr. Charles Robert Tait-III</td>
<td>1. Mr. Charles Robert Tait-III</td>
</tr>
<tr>
<td>2. Mr. Earl Allan Ruth</td>
<td>2. Mr. Arjun Bhushan Uppal</td>
</tr>
<tr>
<td>3. Mr. Arvind Verma</td>
<td></td>
</tr>
</tbody>
</table>
Shri Arjun Bhushan Uppal, director in the company appeared before the Approval Committee. Shri Uppal informed that they are into manufacturing of material testing equipments and they are exporting to 14 different countries including USA, UK. There are 16 employees currently working in the unit.

Shri Uppal further informed that one of the original promoters of the company Shri Arvind Verma has expired in April, 2018. Now, their parent company i.e. “Tinius Olsen Ltd.” has bought all the shares from other shareholder “AIMIL Ltd.” and now holds 99.99% shareholding in the company. He also informed that there was some delay in intimation regarding change in directors as they were pre-occupied in compliance of post death formalities of original promoter Shri Arvind Verma.

It was informed to the Approval Committee that the DOC vide Instruction No. 89 dated 17/05/2018 has issued guidelines regarding change in shareholding pattern, name change of SEZ Developer and SEZ Units which inter alia states as under:

“5(ii) Re-organisation including Change of name, change in shareholding pattern, business transfer arrangements, court approved mergers and demergers, change in constitution of Units located in SEZs may be undertaken with the prior approval of Approval Committee in respect of Units subject to the condition that the unit shall not opt out or exit out of the Special Economic Zone and continues to operate as a going concern. All liabilities of the unit will remain unchanged on such reorganization.

6. Such reorganization shall be subject to the following safeguards:-

   i) Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered entity;

   ii) Fulfilment of all eligibility criteria applicable, including security clearances etc., by the altered entity and its constituents;

   iii) Applicability of and compliance with all Revenue / Company Affairs
/SEBI etc. Acts/Rules which regulate issues like capital gains, equity change, transfer, taxability etc.

iv) Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member (IT), CBDT, Department of Revenue and to the jurisdictional Authority.

v) The Assessing Officer shall have the right to assess the taxability of the gain/loss arising out of the transfer of equity or merger, demerger, amalgamation, transfer and ownership etc. as may be applicable and eligibility for deduction under relevant sections of the Income Tax Act, 1961.

vi) The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.

vii) The unit shall furnish details of PAN and jurisdictional assessing officer of the unit to CBDT.”

The Approval Committee, after due deliberations, decided to take the intimation of unit for change in directors and shareholding pattern of the company on records in terms of Instruction No. 89 dated 17/05/2018. The Approval Committee also warned the unit to be more careful in future for timely compliances.

8. Proposal in respect of M/s. Suprajit Engineering Ltd. for merger of their LOAs.

It was informed to the Approval Committee that M/s. Suprajit Engineering Ltd. has been issued two LOAs dated 05/08/1991 (Unit-I) and 15/09/2004 (Unit-II) for Manufacturing & Export of Electric Lamps/Electric Fluorescent Lamps - All Types and parts thereof. Emergency Kit for Automobiles comprising Halogen Lamps, Stop & Tail Lamps, Fuss & Kit Box and trading activities. Unit-I has commenced its export production w.e.f. 15/02/1992 and its LOA is valid up to 31/03/2022. Unit-II has commenced its export production w.e.f. 05/02/2005 and its LOA is valid up to 04/02/2020. Unit-I has been allotted Plot No. 59-A, B, C and Unit-II has been allotted Plot No. 59-D, E, F, NSEZ.

It was informed to the Approval Committee that unit has submitted a request for merger of both LOAs citing following reasons:

1. Both above plots are adjoined to each other;
2. Carries no special incentives as on date;

3. Both the above plots are under same management;

4. 100% ownership changed from previous promoters to new owner "Suprajit Engineering Ltd." now.

5. Both the units carries the same manufacturing activity i.e. manufacture of halogen lamps;

6. The administrative cost to the company will also reduce; and

7. The documentation and compliance will become simple and effective.

Shri Sumeet Tomar, Shri Narayana Shetty, Shri Anand Negi and Shri Sanjeev Malik, authorized representatives of the unit appeared before the Approval Committee. Shri Tomar informed that current management "M/s. Suprajit Engineering Ltd." acquired the majority stake in erstwhile Phoenix Lamps Ltd. on 18th June 2015 and later after approval of NCLT for scheme of amalgamation Phoenix Lamps Ltd. was merged with M/s. Suprajit Engineering Ltd. He further informed that due to separate LOAs, company is required to maintain separate books and comply with separate compliances for both the units. If the units are under the common LOA, this will enable the company and SEZ to monitor and ensure compliances more effectively.

The Approval Committee observed that there is no provision for merger of two LOAs of same unit in SEZ Act 2005 and SEZ Rules 2006. The Approval Committee further observed that in a similar case, the BOA in its 78th meeting held on 03.07.2017 had considered the appeal of M/s. Steria (India) Ltd. for allowing merger of three LOAs and approved the same after getting approval of Hon’ble CIM, subject to condition that Income Tax benefits would be available to only with reference to the oldest unit.

The Approval Committee, after due deliberations, on the request of the representatives of unit decided to defer the matter for two months.

9. **Proposal in respect of M/s. Goldwyn Ltd. for Monitoring of performance in terms of Rule 54 of SEZ Rules, 2006 in view of exit request of unit.**

It was informed to the Approval Committee that M/s. Goldwyn Ltd. was granted an LOA

It was informed that Approval Committee in its meeting held on 03/05/2017 had approved the proposal for exit from SEZ scheme under Rule 74A of SEZ Rules, 2006 and transfer of its assets & building at Plot No. 15 & 16, NSEZ to M/s. Victora Auto Pvt. Ltd. subject to fulfillment of exit formalities by M/s. Goldwyn Ltd. and payment of applicable transfer charges. Accordingly, decision of the Approval Committee was conveyed to the unit vide this office letter dated 16/04/2018.

It was further informed that in terms of Rule 54 of SEZ Rules, 2006, it is for Approval Committee to arrive at conclusion that unit has achieved positive NFE. It was also informed that unit is yet to comply with the exit formalities.

Shri Jagpal Sharma, authorized representative of the unit appeared before the Approval Committee. He informed that pending forex of EURO 77194.42 has been net off by their Bank i.e. IDBI Bank Ltd. vide its letter dated 04/06/2018.

The Approval Committee monitored the performance of the unit on the basis of APRs submitted by it up to 2017-18 and noted achievement of positive NFE by the unit. The Approval Committee also took note of netting off of pending forex worth EURO 77194.42 and observed that no foreign exchange is pending for realization as on date. The Approval Committee also directed the unit to submit unconditional NOC from IDBI and return clear property to NSEZ and complete exit formalities at the earliest. The Approval Committee also directed that a letter may be written to Commissioner, CGST, Noida regarding No Dues for Service Tax.
10. Following cases for monitoring of performance/APRs under Rule 54 of SEZ Rules, 2006 were also placed before the Approval Committee. The unit wise decision of the Approval Committee are indicated below:-

(i) M/s. Noida Plast Pvt. Ltd. - The Approval Committee monitored the performance of the unit on the basis of APRs up to 2016-17 and noted achievement of positive NFE by the unit.

(ii) M/s. United Drilling Tools Ltd. - The Approval Committee monitored the performance of the unit on the basis of APRs up to 2016-17 and noted achievement of positive NFE by the unit.


It was informed to the Approval Committee that M/s. Plastic Processors & Exporter Pvt. Ltd. has been issued LOA dated 05/11/1997 for "1. Plastic Agglomerates /Granules and Plastic Components and Articles". Unit commenced its export activities w.e.f. 15/04/1998. LOA issued to the unit has been extended by the BOA and the same is valid till 29/11/2018.

2. It was informed that the unit has intimated about change in its registered office address and has also submitted list of directors as on 30/01/2017. Further, unit vide its letter dated 10/04/2017 and subsequent letter dated 29/06/2018 has submitted copy of DIR-11/12 in respect of cessation/appointment of directors and details of shareholding pattern of the company before and after change in directors.

3. Details of change in directors w.e.f. 15/10/2016 are as under:

<table>
<thead>
<tr>
<th>Directors before change</th>
<th>Directors after change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Mohd. Naseem Khan</td>
<td>1. Mr. Rajneesh Sharma</td>
</tr>
<tr>
<td></td>
<td>3. Mr. Asipi Uma Chandra Rao</td>
</tr>
</tbody>
</table>

4. Details of shareholding pattern of the company are given below:
(a) Shareholding pattern before transfer/change in directors i.e. prior to 15/10/2016:

<table>
<thead>
<tr>
<th>Name of shareholder</th>
<th>No. of shares held</th>
<th>% of shareholding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mohd. Naseem Khan</td>
<td>45000</td>
<td>90%</td>
</tr>
<tr>
<td>Mohd. Yasin Naseem</td>
<td>5000</td>
<td>10%</td>
</tr>
</tbody>
</table>

(b) Shareholding pattern after transfer/change in directors i.e. w.e.f. 15/10/2016:

<table>
<thead>
<tr>
<th>Name of shareholder</th>
<th>No. of shares held</th>
<th>% of shareholding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kkalpana Industries (India) Ltd.</td>
<td>45000</td>
<td>90%</td>
</tr>
<tr>
<td>Shyambaba Trexim Pvt. Ltd.</td>
<td>5000</td>
<td>10%</td>
</tr>
</tbody>
</table>

After change in directors, there is 100% change in shareholding.

5. Shri Rajneesh Sharma, newly appointed director appeared before the Approval Committee and informed that the change in directors and shareholding has already been effected and has been approved by the competent authority viz. Registrar of Companies (ROC). He further informed that after the approval of change by ROC, new promoters have made significant investment and they have also started export activities from the unit. He further informed that they are manufacturing Granules and exporting it to China. The Approval Committee desired to know as why he is appearing when approval for change in Directors/shareholding has not been given so far. He informed that change has already been effected after approval of ROC.

6. The Approval Committee observed that there is 100% change in shareholding pattern of the company after change in directors. It was informed to the Approval Committee that earlier as per decision of BOA taken in its meeting 23/02/2016 in case there was change in shareholding more than 50%, matter was to be referred to the Department of Commerce for obtaining approval of Board of Approval. Relevant extract of the BOA decision dated 23/02/2016 is as under:

"Rule 74A shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ units continues to operate as a going concern in the situations such as change of name, court approved mergers/ demergers, slump sale, change of constitution from proprietorship to partnership & vice-versa, change of constitution from public limited
company to private/limited liability company & vice-versa, company to partnership & vice-versa, change in shareholding up to 50 per cent, etc. and per se are not opting out/exiting out of the SEZ Scheme. The UACs concerned, may consider such requests under Rule 19(2) of the SEZ Rules, 2006”

In the instant case, since there was 100% change in shareholding pattern the matter was referred to Department of Commerce vide this office letter dated 13/09/2017 for obtaining approval of Board of Approval.

7. Further, as there is 100% change in shareholding and also 100% new Directors have been appointed, this office feels that this tantamounts to setting up new unit in NSEZ for recycling of Plastic. It was also observed that under Rule 18 (4) of SEZ Rules, 2006 setting up of new unit for recycling of Plastic is not permitted. Accordingly, while forwarding the proposal of M/s. Plastic Processors & Exporter Pvt. Ltd. vide this office letter dated 13/09/2017 for consideration of 100% change in shareholding pattern and 100% change in directors, this office in view of Rule 18 (4) of SEZ Rules, 2006 had not recommended the proposal of the unit.

8. It was further informed that the DOC vide Instruction No. 89 dated 17/05/2018 has issued revised guidelines regarding change in shareholding pattern, name change of SEZ Developer and SEZ Units which inter alia states as under:

“5(ii) Re-organisation including Change of name, change in shareholding pattern, business transfer arrangements, court approved mergers and demergers, change in constitution of Units located in SEZs may be undertaken with the prior approval of Approval Committee in respect of Units subject to the condition that the unit shall not opt out or exit out of the Special Economic Zone and continues to operate as a going concern. All liabilities of the unit will remain unchanged on such reorganization.

6. Such reorganization shall be subject to the following safeguards:

i) Seamless continuity of the SEZ activities with unaltered responsibilities
and obligations for the altered entity;

ii) Fulfilment of all eligibility criteria applicable, including security clearances etc., by the altered entity and its constituents;

iii) Applicability of and compliance with all Revenue / Company Affairs /SEBI etc. Acts/Rules which regulate issues like capital gains, equity change, transfer, taxability etc.

iv) Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member (IT), CBDT, Department of Revenue and to the jurisdictional Authority.

v) The Assessing Officer shall have the right to assess the taxability of the gain/loss arising out of the transfer of equity or merger, demerger, amalgamation, transfer and ownership etc. as may be applicable and eligibility for deduction under relevant sections of the Income Tax Act, 1961.

vi) The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.

vii) The unit shall furnish details of PAN and jurisdictional assessing officer of the unit to CBDT."
10. The Approval Committee observed that Instruction No. 89 dated 17/05/2018 has prescribed prior approval of Approval Committee for re-organisation including Change of name, change in shareholding pattern, business transfer arrangements, court approved mergers and demergers, change in constitution of Units located in SEZs. However, in the instant case, the change in directors and shareholding pattern took place on 15/10/2016 i.e. much earlier than issuance of said instruction. The Approval Committee also observed that new promoters based on approval from ROC have already taken over the firm and have been implementing the project. Further, the Approval Committee observed that Rule 18 (4) of SEZ Rules, 2006 does not permit setting up of new unit for recycling of Plastic and as in this case there is 100% change in shareholding and also 100% new Directors have been appointed, this tantamounts to setting up new unit in NSEZ for recycling of Plastic.

11. The Approval Committee also observed that powers for renewal of LOA relating to recycling of Plastic etc. lies with the BOA and validity of LOA of M/s. Plastic Processors & Exporter Pvt. Ltd. is expiring on 29/11/2018.

12. The Approval Committee deliberated in the matter in detail and observed that though in such cases power vide Instruction No. 89 has been delegated to Approval Committee, the change in shareholding (100%) and directors (100%) has already been effected to on the basis of approval of ROC. Thus this proposal does not meet the criteria of prior approval of Approval Committee. Also being 100% change in shareholding and 100% change in directors, it tantamounts to setting up of new unit indirectly which is in contravention of Rule 18(4) of SEZ Rules, 2006. In the circumstances, after due deliberations, the Approval Committee decided to refer the matter to DOC for clarification as to whether Approval Committee can approve change of 100% in shareholding and 100% change in directors even in case of units given LOA for Recycling of Plastics also. Further, the Approval Committee recommended that DOC may ascertain practice being followed in other SEZs in respect of such units in such cases so that a suitable guideline for uniform application by all SEZs could be issued by DOC. Also view regarding extension of LOA issued to the unit which is expiring on 29/11/2018 may also be taken. The Approval Committee also directed that DOC should be informed that in view of above observations, the Approval Committee does not recommend this proposal.
12. **Proposal in respect of M/s. Devine Meditech Pvt. Ltd. for inclusion of additional items in authorized operations.**

It was informed to the Approval Committee that M/s. Devine Meditech Pvt. Ltd. has been issued an LOA dated 23/05/2018 for Manufacturing & Trading of Medical Devices and Equipments. LOA of the unit is valid till 22/05/2019.

It was further informed that the applicant has initially submitted application for manufacturing & trading of Medical Devices, Equipments and pharmaceuticals. The Approval Committee in its meeting held on 02/05/2018 had approved the request of unit for Manufacturing & Trading of Medical Devices and Equipments and directed the applicant to submit revised application along with a write-up giving name of all pharmaceuticals and purpose of trading of pharmaceuticals and decided that decision on pharmaceuticals shall be taken in the next meeting.

It was further informed that unit has submitted name of the pharmaceuticals (under ITC Chapter 30) as under:-

1. Ophthalmic Eye drop
2. Ophthalmic ointments
3. Ophthalmic generic pharmaceuticals

Shri Vipin Agrawal, director appeared before the Approval Committee. He informed that the company is in business of manufacture and supply of Ophthalmic Medical devices & equipment and these are exported to more than 40 countries worldwide. He also stated that their customers include NGO, Hospitals and doctors in developing countries who wish to purchase complete range of equipments and devices as well as Pharmaceuticals. Hence, to be able to supply comprehensive range of products to Doctors and hospital, who wish to buy these items from reputed manufactures and supplier, they supply Ophthalmic drops and ointments in small quantity to these customers.

Shri Agrawal further informed that the pharmaceuticals will be purchased from Indian Manufacturers and will be exported along with other products.

The Approval Committee, after due deliberations, approved the request of unit for
Trading of (i) Ophthalmic Eye drop; (ii) Ophthalmic ointments; and (iii) Ophthalmic generic pharmaceuticals in its authorized operations subject to the following conditions:

1. No DTA sale of trading goods shall be allowed.

2. Trading will be allowed only for physical export to any other country, for supply to other units and Developers in the same or other SEZ or EOU, against freely convertible currency.

3. Unit will maintain separate area earmarked for manufacturing and trading activities and maintain separate records/accounts of NFE for manufacturing and trading activities.

4. NFE status for manufacturing activity and trading activity will be seen separately.


It was informed to the Approval Committee that M/s. Cadence Design Systems (India) Pvt. Ltd. has been granted an LOA dated 19/07/1987 for Software Development. The unit has commenced its export activities w.e.f. 15/12/1987 and LOA of the unit is valid up to 31/03/2023.

It was further informed that the unit has informed about change in directors of the company as under:

<table>
<thead>
<tr>
<th>Directors before change</th>
<th>Directors after change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Mr. Jaswinder S. Ahuja</td>
<td>1. Mr. Jaswinder S. Ahuja</td>
</tr>
<tr>
<td>2. Mr. Naresh C. Chadha</td>
<td>2. Mr. Naresh C. Chadha</td>
</tr>
<tr>
<td>3. Mr. James Judson Cowie</td>
<td>3. Mr. James Judson Cowie</td>
</tr>
<tr>
<td>4. Mr. Geoffrey George Ribar</td>
<td>4. Mr. John Wall Michael</td>
</tr>
</tbody>
</table>

Shri Prawin Singh, authorized representative of the unit appeared before the Approval Committee. Shri Singh informed that there is no change in shareholding pattern of company prior to and after change in directors.

The Approval Committee observed that the change in directors of company took place on
23/02/2018 and 12/03/2018. However, unit has intimated about the said changes to this office after delay of almost three months on 21/05/2018, which is violation of condition No. 14 of Bond-cum-LUT executed by the Unit.

Shri Prawin Singh regretted for the delay on their part and stated that they got the information about the said change in directors from their Company Secretary very late. Due to the same reasons, the intimation for change in directors got delayed.

The Approval Committee, after due deliberations, decided to take the intimation of unit for change in directors on records. The Approval Committee also warned the unit to be more careful in future for timely compliances.

Meeting ended with a vote of thanks to the Chair.

(S. S. Shukla)
Jt. Development Commissioner

(Dr. L. B. Singhal)
Development Commissioner