

भारत सरकार, वाणिज्य एवं उद्योग मंत्रालय, वाणिज्य विभाग
विकास आयुक्त का कार्यालय
नोएडा विशेष आर्थिक क्षेत्र
नोएडा दादरी रोड, फेस-II, नोएडा.201305, जिला - गौतमबुद्ध नगर
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)

फा. सं. 12/01/2018-प्रोज/

दिनांक: 12/10/2018

सेवा मे,

1. मुख्य कार्यपालक अधिकारी, न्यू ओखला औद्योगिक विकास प्राधिकरण, मुख्य प्रशासनिक भवन, सेक्टर - 6, नोएडा।
2. अतिरिक्त महानिदेशक विदेश व्यापार, वाणिज्य एवं उद्योग मंत्रालय, 'ए' विंग, इंद्रप्रस्थ भवन, आई पी एस्टेट, नई दिल्ली।
3. आयुक्त, आयकर, ए 2 डी, आयकर भवन, सेक्टर 24, नोएडा।
4. आयुक्त, सीमा शुल्क, नोएडा सीमा शुल्क आयुक्तालय, इनलैंड कंटेनर डिपो, तिलपता, दादरी, गौतम बुद्ध नगर, उत्तर प्रदेश - २०१३०६.
5. उप सचिव, वाणिज्य विभाग, वाणिज्य एवं उद्योग मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली - 110001।
6. उप सचिव (आई एफ-1), बैंकिंग प्रभाग, आर्थिक मामलों का विभाग, वित्त मंत्रालय, भारत सरकार, तृतीय तल, जीवन दीप बिल्डिंग संसद मार्ग, नई दिल्ली।
7. महाप्रबंधक, जिला उद्योग केंद्र, कलेक्ट्रेट के पास, सूरजपुर, ग्रेटर नोएडा।

विषय: दिनांक 04/10/2018 को पूर्वाह्न 11:30 बजे आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त - एतद संबंधी।

महोदय,

मुझे उपरोक्त विषय का सन्दर्भ लेने और डॉ. एल बी सिंघल, विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में दिनांक 04/10/2018 को पूर्वाह्न 11:30 बजे सम्मेलन हॉल, प्रशासनिक भवन, नोएडा विशेष आर्थिक क्षेत्र, नोएडा में आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त अग्रेषित करने का निर्देश हुआ है।

संलग्नक: उपरोक्त

भवदीय,



(आर.के. श्रीवास्तव)

उप विकास आयुक्त

प्रतिलिपि:

1. विशेष कार्याधिकारी - विकास आयुक्त के सूचनार्थ।
2. वैयक्तिक सहायक - संयुक्त विकास आयुक्त के सूचनार्थ।
3. निर्दिष्ट अधिकारी, नोएडा विशेष आर्थिक क्षेत्र - सूचनार्थ एवं आवश्यक कार्यवाही के लिए।
4. उप विकास आयुक्त (सम्पदा), नोएडा विशेष आर्थिक क्षेत्र - सूचनार्थ एवं आवश्यक कार्यवाही के लिए।

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 04/10/2018 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 Vineet K. Singh, Dy. Commissioner, Commercial Tax, Noida.
- 3) Shri Rajesh Sharma, Asstt. Commissioner, Customs, Noida Commissionerate.
- 4) Shri R.L. Meena, Asstt. DGFT, O/o Addl. DGFT, CLA, New Delhi.
- 5) Shri Mukesh Goyal, Manager, (Rep. of Noida Authority).

2. Besides, during the meeting S/Shri (i) R.K. Srivastava, Dy. Development Commissioner, NSEZ, (ii) Rajesh Kumar, Dy. Development Commissioner, NSEZ (iii) Md. Salik Parwaiz, Specified Officer, NSEZ, (iv) Prakash Chand Upadhyay, OSD to DC, NSEZ, (v) Rajendra Mohan Kashyap, PA to JDC, NSEZ, and (vi) Smt. Archana Bharti, Noida Authority were also present to assist the Approval Committee.

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 05/09/2018.

It was informed that no reference against the decisions of the Approval Committee held on 05/09/2018 was received and, therefore, Minutes of the meeting held on 05/09/2018 were ratified.



Item wise decisions on proposals included in agenda:**1. Proposal in respect of M/s. Advance Valves Global LLP for revision of authorized operation and Monitoring of performance.**

It was informed to the Approval Committee that M/s. Advance Valves Global LLP has been issued LOA dated 22/04/2003 for Manufacturing & Trading of Industrial Valves. The unit commenced its export production w.e.f. 03/07/2003 and LOA is valid till 02/07/2023.

1.1 It was informed that recently while making application for renewal of LOA, unit had informed that they are not involved in trading activities and requested to delete the same from their LOA.

1.2 It was further informed to the Approval Committee that unit has made exports worth Rs. 21267.58 Lakhs and achieved NFE earnings worth Rs. 19564.12 Lakhs during previous block of five years as per APRs for the year from 2013-14 to 2016-17. It was further informed that as per details received from NSDL, unit has made exports worth Rs. 6355 Lakhs during 2017-18. The Approval Committee further observed that unit has not submitted APR for the year 2017-18 till date.

1.3 Shri Chander Shekhar and Shri Satya Pal, authorized representatives of the company appeared before the Approval Committee. Shri Shekhar informed that although they have been allowed trading activities in their authorized operations, they have not been carrying out this activity. He requested to remove 'trading' from their authorized operations.

1.4 It was informed to him that as per SEZ Rules, 2006, APRs for the preceding year needs to be submitted within a period of 180 days of end of that financial year. Hence, the unit was required to submit APR for the year 2017-18 on or before 30th September 2018. However, unit has not submitted the said APR till date, which is violation of SEZ Rules, 2006.

1.5 The Approval Committee, after due deliberations, approved the request of unit for deletion of trading activities from its authorized operations. The Approval Committee further directed the unit's representative to ensure submission of APR for the period



2017-18 within a week failing which action may be taken against them under SEZ Rules, 2006. The Approval Committee decided to defer the matter for monitoring of performance and directed to place the same in its next meeting.

2. Proposal in respect of M/s. Agra Products Pvt. Ltd. for revision of authorized operation and Monitoring of Performance.

It was informed to the Approval Committee that M/s. Agra Products Pvt. Ltd. had been issued LOA dated 18/03/2002 for following activities:

Manufacturing of:

- a) Silver Jewellery studded with stones.
- b) Silverware & gold, diamond jewellery.
- c) Jewellery of silver, gold, palladium and platinum studded and plain, studded with diamond, precious and semi-precious stones and enamel.
- d) Jewellery in white metal and brass plain and studded with real and artificial stones and plain.
- e) Import of semi-finished articles and jewellery in silver, gold, palladium and platinum studded and plain, studded with diamond, precious and semi-precious stones and enamel for further processing and re-export.
- f) Jewellery of other materials viz rubber, wood, threads, leather, steel, any white and yellow metal with silver, gold, platinum and palladium or without them.
- g) Jewellery of other materials viz rubber, wood, threads, leather, steel, any white and yellow metal with silver, gold, platinum and palladium or without them, studded or in combination with precious or semi-precious stones.

Service Activities:

Export of jewellery designing, prototyping and development or any related services pertaining to jewellery industry.

2.1 The unit commenced its export production w.e.f. 01/08/2003 and LOA is valid till 31/07/2023.

2.2 It was informed to the Approval Committee that unit has made exports worth Rs. 21267.58 Lakhs and achieved NFE earnings worth Rs. 19564.12 Lakhs during previous block of five years as per APRs for the year from 2013-14 to 2017-18. However, foreign exchange of Rs. 32.08 Lakhs (pertaining to period 2013-14) has been shown pending for realization as on 31/03/2018. **The Approval Committee monitored the performance of the unit and for the block period 01/08/2013 to 31/07/2018 noted achievement**

Rein Kumar Singh

of positive NFE by the unit.

2.3 It was informed that recently while making application for renewal of LOA, unit had informed that they do not manufacture and export Gold/Palladium/Platinum Jewellery. Further, unit had also informed that they have also not made any export/DTA sale related to service activities. Hence, a view may be taken on the authorized operations as the unit has neither carried out activities related to gold/palladium/platinum Jewellery & service activities nor has given projections for the said activities for next five years.

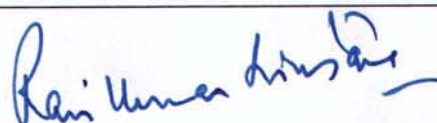
2.4 Shri Rohit Gupta, director of the company appeared before the Approval Committee. Shri Gupta informed that although they have not been carrying out activities related to gold/palladium/platinum Jewellery & service activities, they are likely to get opportunity with respect to these activities in future as they are getting enquiries from their foreign customers regarding Gold/Platinum Jewellery and Jewellery designing.

2.5 Shri Gupta further informed that they are continuously taking action for recovery of outstanding foreign exchange towards export proceeds amounting to Rs. 32.08 Lakhs from ECGC of India Ltd. and the matter is still pending with ECGC. He further informed that they have intimated the same to their AD Bank for extension permission.

2.6 The Approval Committee directed Shri Gupta to resolve the issue of outstanding foreign exchange of Rs. 32.08 Lakhs within 2 months and submit copy of valid permission for extension of time to realize pending foreign exchange within two months. The Approval Committee further decided to defer the matter with reference to monitoring of outstanding forex of Rs. 32.08 Lakhs and directed to place the same again in its meeting to be held in December 2018.

3. **Proposal of M/s. Romsons International (unit-II) for Inclusion of additional authorized operations in LOA.**

It was informed to the Approval Committee that M/s. Romsons International (Unit-II) had been issued an LOA dated 05/10/2006 for (i) Manufacturing of instruments & appliances used in medical, surgical, dental or veterinary sciences (disposable medical devices) and (ii) Trading in 98 instruments/equipments used for medical, surgical, dental or veterinary purpose (as per list in file) [subject to condition that *items approved for manufacturing*



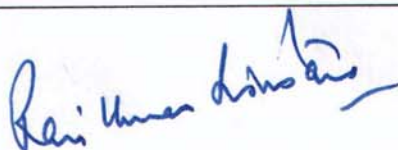
activities will not be traded and trading will be allowed only upto 10% of FOB value of export]. The unit commenced its export production w.e.f. 01/12/2009 and LOA is valid till 30/11/2019.

3.1 It was informed to the Approval Committee that unit has submitted a proposal for inclusion of Trading items related to Medical Dental Surgical or Veterinary Science (Disposable medical devices) namely: "Gloves(40151100), Surgical Blades(90189022), Thermometer(90251110), Sphygmomanometer(90189011), Electraa(90189025), Grounding Pads(90189099), Neocare(90183930), Paediatric Anaesthesia Circuit(90192090), Ventilator Circuit-Plain(90192090), Ventilator Circuit(90192090), Ventilator Circuit-Tip up(90192090), Paediatric Ventilator Circuit(90192090)" in its authorized operations.

3.2 Shri Mukesh Agarwal, authorized representative of the company appeared before the Approval Committee. He informed that they have sourced one order from Libya. This order includes both manufacturing as well as trading items but in order to get this order, they have to supply all the products; therefore they have taken complete order. He requested to grant them permission for these additional trading items so as to fulfill their export commitments.

3.3 The Approval Committee, after due deliberations, approved the proposal of unit for inclusion of Trading items related to Medical Dental Surgical or Veterinary Science (Disposable medical devices) namely: "Gloves(40151100), Surgical Blades(90189022), Thermometer(90251110), Sphygmomanometer(90189011), Electraa(90189025), Grounding Pads(90189099), Neocare(90183930), Paediatric Anaesthesia Circuit(90192090), Ventilator Circuit-Plain(90192090), Ventilator Circuit(90192090), Ventilator Circuit-Tip up(90192090), Paediatric Ventilator Circuit(90192090)" in its authorized operations subject to the following additional conditions:-

- (i). No DTA sale of trading goods shall be allowed.
- (ii). 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(z) of SEZ Act, 2005.



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

(iv). NFE status for manufacturing activity and trading activity will be seen separately.

4. Proposal of M/s. Groz Engineering Tools Pvt. Ltd. for Inclusion of additional authorized operation in LOA.

It was informed to the Approval Committee that M/s. Groz Engineering Tools Pvt. Ltd. had been issued an LOA dated 19/03/2009 for following activities:

Manufacturing & Trading of:

- (i) *Lubrication tools of all types and spares, parts and accessories thereof.*
- (ii) *Accessories (couplers, connection hoses, bulk loader valves, etc) and spares, parts and accessories thereof.*
- (iii) *Pumps of all types and spares, parts and accessories thereof.*
- (iv) *Hose reels of all types, spares parts and accessories thereof.*
- (v) *Engineering tools of all types, spares, parts and accessories thereof.*
- (vi) *Industrial tools of all types, spares, parts and accessories thereof.*
- (vii) *Striking tools of all types, spares, parts and accessories thereof.*
- (viii) *Clamping tools of all types, spares, parts and accessories thereof.*
- (ix) *Hand Tools of all types, spares, parts and accessories thereof.*

2. Trading of Tools for Working Hand Tools, Pneumatic, Hydraulic or with Self-contained Electric or Non-electric Motor

(Condition: Trading only upto 5% of FOB value of export and no DTA sale for trading items is allowed.)

4.1 The unit commenced its export production w.e.f. 26/04/2013 and LOA is valid till 25/04/2023.

4.2 It was informed to the Approval Committee that the unit has submitted a proposal for inclusion of Trading items related to Measuring Instruments & Tools (9026), Automotive garage equipment and tools (8425), Fuel handling equipment and tools (8428), Maintenance and rust preventive oils/formulations (3403), LED Work lights / torches (9405), Wipes/Squeeze (8512) in its authorized operations.

4.3 Shri Arun Gupta and Shri Ram Bhardwaj, authorized representatives of the company appeared before the Approval Committee. Shri Gupta informed that they have got orders for these above products from their customers. However, as these products are not



manufactured by them, they have decided to trade these in order to complete the export obligation. Shri Gupta further informed that they will import these items from China. He also informed there will be no change in their existing projections of import/Export.

4.4 Shri Gupta also requested to increase the limit on trading activities from 5% of FOB Value of Exports to 10% to which the Approval Committee agreed in-principle subject to receipt of unit's written request.

4.5 The Approval Committee accordingly directed Shri Gupta to submit a written request for the same.

4.6 The Approval Committee, after due deliberations, approved the proposal of unit for inclusion of Trading items related to Measuring Instruments & Tools (9026), Automotive garage equipment and tools (8425), Fuel handling equipment and tools (8428), Maintenance and rust preventive oils/formulations (3403), LED Work lights / torches (9405), Wipes/Squeeze (8512) in its authorized operations in its authorized operations subject to the following conditions:-

- (i). No DTA sale of trading goods shall be allowed.
- (ii). 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(z) of SEZ Act, 2005.
- (iii). Unit will maintain separate area earmarked for manufacturing and trading activities and maintain separate records/accounts of NFE for manufacturing and trading activities.
- (iv). NFE status for manufacturing activity and trading activity will be seen separately.

5. Proposal in respect of M/s. Capgemini Technology Services India Ltd. (Unit-I) for Monitoring of Performance and Renewal of LOA.

It was informed to the Approval Committee that M/s. Capgemini Technology Services India Ltd. (Unit-I) had been granted an LOA dated 17/02/2006 for IT/ITES. The unit has

Ravi Kumar Singh

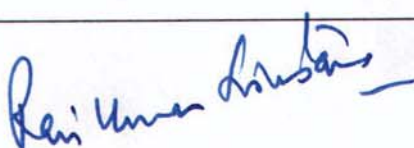
commenced its export activities w.e.f. 19/06/2008 and extended validity of LOA of the unit is valid up to 18/10/2018.

5.1 It was informed to the Approval Committee that unit has made exports worth Rs. 99918.34 Lakhs and achieved NFE earnings worth Rs. 95131.26 Lakhs during previous block of five years. It was further informed that unit has rendered services worth Rs. 34,80,765/- 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. 34,80,765/- had to be against free foreign exchange but the unit has received payments in INR.

5.2 Shri Anurag Olhyan and Shri Papinder Pal Singh, authorized representatives of the company appeared before the Approval Committee. 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.

5.3 It was also informed to Shri Olhyan that as per section 11(4) of the Foreign Trade (Development & Regulation) Act, there is a provision to settle the cases where a person admits any contravention. The Approval Committee gave him the option if he so desires to settle the matter as per section 11(4) of the FT(D&R) Act, 1992 for violation of SEZ Act and Rules by imposing penalty to regularize authorized operations. The representatives informed that they will bring the above aspect of the case in the notice of the promoters/appropriate authority of their company and requested for some time to take a decision in the matter. Approval Committee agreed for the same.

5.4 The Approval Committee, after due deliberations, decided to renew the LOA for remaining period of current five years block i.e. upto 18/06/2023 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. The Approval Committee deferred the matter of monitoring of performance and the matter for sale of services in DTA in INR in place of free foreign exchange for its next meeting.



6. Proposal in respect of M/s. Bhayani Plastic India Pvt. Ltd. for Monitoring of performance and Review of LOA.

It was informed to the Approval Committee that M/s. Bhayani Plastic India Pvt. Ltd. had been granted an LOA dated 18/01/2012 for (i) Manufacturing of Plastic Hangers and Plastic Sizers; (ii) Trading in Plastic Hangers and Plastic Sizers and (iii) Manufacturing of Plastic Clips. The unit commenced its export production w.e.f. 25/09/2012 and LOA of the unit was valid up to 24/09/2017.

6.1 It was informed that Unit vide its letter dated 03/02/2017 had applied for exit from SEZ scheme. Subsequently, unit vide this office letter dated 23/02/2017 was requested to complete exit formalities for issuance of final exit permission. However, instead of completing exit formalities, the unit vide its letter dated 31/08/2017 had applied for renewal of LOA. The unit vide this office letter dated 24/09/2017 was asked to submit some documents/information related to renewal of LOA along with APR for the period 2013-14 & 2016-17. However, unit has till date not submitted said documents as asked vide this office letter dated 24/09/2017.

6.2 It was further informed that lease rent amounting to Rs. 99,501/- (approx. 5 qtrs) (upto 30/09/2018) is outstanding against the unit.

6.3 Shri Atul Bhayani, director of the company appeared before the Approval Committee. He informed that he basically belongs to Chennai. Over the period they lost orders drastically and production came down substantially. Further, due to economic slowdown in the world market and introduction of GST, they could not revive their export business from NSEZ and they were working from their Chennai unit. His major works at Chennai were severely adversely affected due to floods. In Noida now they have planned to revive their export production from Noida SEZ and requested to renew their LOA.

6.4 Shri Bhayani assured that they will clear entire outstanding lease rent; submit APRs for the period 2013-14, 2016-17 & 2017-18 and submit online application within a week after getting online registration revived through NSDL.

6.5 The Approval Committee, after due deliberations, decided to renew the LOA for a period upto 24/09/2019 subject to the condition that unit shall first comply with



following:

- (i) Submit APRs for the year 2013-14, 2016-17 & 2017-18 (upto 24/09/2017).
- (ii) Submit online application for renewal of LOA at SEZonline system.
- (iii) Clear entire outstanding lease rent.
- (iv) Submit documents/information as asked vide this office letter dated 24/09/2017.

The Approval Committee granted two weeks' time to the unit and directed Shri Bhayani to comply with above, within this time. The Approval Committee also decided to take up the matter for monitoring of performance in its next meeting once outstanding APRs mentioned above are received.

7. Proposal of M/s. Oriental Agencies for Exit and transfer of assets & liabilities including building at Plot No.142A/14, NSEZ to M/s. Orient International under Rule 74A of SEZ Rules, 2006.

It was informed to the Approval Committee that M/s. Oriental Agencies had been granted an LOA dated 22/07/2003 for manufacturing & trading of Self Adhesive Labels, manufacturing of Self Adhesive paper in various sizes by the processing of cutting. The unit commenced its export production w.e.f. 14/10/2003 and LOA of the unit is valid up to 12/10/2018.

7.1 It was further informed that M/s. Oriental Agencies has submitted a proposal for Exit from SEZ scheme and transfer of assets & liabilities including building at Plot No.142A/14, NSEZ to M/s. Orient International under Rule 74A of SEZ Rules, 2006.

7.2 It was also informed to the Approval Committee that the above proposal of M/s. Oriental Agencies was placed before the Committee constituted under the chairmanship of JDC, NSEZ to examine the case under Rule 74A and 3rd proviso to Rule 19(2) in its meeting held at NSEZ on 27/09/2018. The Committee noted that Rule 74A of the SEZ Rules, 2006 inter alia provides as under:-

'The unit may opt out of Special Economic Zone by transferring its assets and liabilities to

Ravi Kumar Singh

another person by way of transfer of ownership including sale of Special Economic Zone units inter alia subject to the following conditions:-

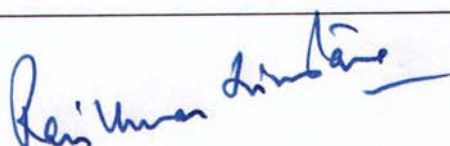
- (i). *The unit has held a valid Letter of Approval as well as lease of land for not less than a period of five years on the date of transfer.*
- (ii). *The unit has been operational for a minimum period of two years after the commencement of production as on the date of transfer.*
- (iii). *Such sale or transfer transactions shall be subject to the approval of the Approval Committee;*
- (iv). *The transferee fulfils all eligibility criteria applicable to a unit; and*
- (v). *The applicable duties and liabilities, if any, as calculated under rule 74, as well as export obligations of the transferor Unit, if any, shall stand transferred to the transferee Unit which shall be under obligation to discharge the same on the same terms and conditions as the transferor Unit."*

7.3 It was further informed that the said Committee observed that the transferor unit has held a valid LOA and lease deed for more than 5 years and has been in operation for more than two years. The Committee further observed that transferee unit has also valid LOA and has given an undertaking on Rs.100/- non-judicial stamp paper bearing No. EG737763 dated 08/08/2018 to take over all the assets & liabilities of transferor unit. Thus, the Committee observed that the proposal meets all the conditions of Rule 74A.

7.4 Accordingly, the Committee recommended the proposal of M/s. Orient Agencies for transfer of assets & Building/Plot at Plot No. 142 A/14, NSEZ to M/s. Orient International in terms of Rule 74A of SEZ Rules, 2006.

7.5 Shri Dinesh Mahajan, Shri Neeraj Mahajan, partners of M/s. Oriental Agencies and Smt. Sheely Mahajan and Smt. Ritu Mahajan partners in M/s. Orient International appeared before the Approval Committee. Shri Dinesh Mahajan informed that M/s. Oriental Agencies is engaged into manufacturing of Self Adhesive Labels for barcoding, garments etc. He further stated that the machines installed in M/s. Oriental Agencies has now become old and thus productivity of these machines have decreased over time. Subsequently, export performance of the unit also decreased substantially.

7.6 Shri Mahajan further informed that M/s. Orient International is also their family



	<p>business and which was established in NSEZ in 2009 and they have good export orders and productivity from the said unit. Hence, they decided to run only one unit from NSEZ.</p> <p>7.7 The Approval Committee observed that M/s. Orient International has not submitted APR for the period 2017-18 till date, which should have been submitted before 30th September 2018. Shri Mahajan assured that they will submit the APR within 1-2 days.</p> <p>7.8 The Approval Committee, after due deliberations, accepted the recommendations of the Committee examining the case under Rule 74A and approved the proposal of M/s. Orient Agencies for exit and transfer of assets & Building/Plot at Plot No. 142 A/14, NSEZ to M/s. Orient International in terms of Rule 74A of SEZ Rules, 2006 subject to fulfillment of exit formalities by transferor and payment of applicable transfer charges.</p>
8.	<p>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:-</p> <p>(i) M/s. SSA Infosystems Pvt. Ltd. - The Approval Committee monitored the performance of the unit on the basis of APRs and noted achievement of positive NFE by the unit for the block period 30/09/2013 to 29/09/2018.</p> <p>(ii) M/s. Divya Creations (Unit-I) - The Approval Committee monitored the performance of the unit on the basis of APRs and noted achievement of positive NFE and achievement of prescribed value addition by the unit for the block period 06/06/2013 to 05/06/2018. The Approval Committee also noted that unit has submitted copy of extension permission from AD Bank to realize the pending foreign exchange worth Rs. 25.16 Lakhs.</p>
9.	<p>Proposal of M/s. Garmex India for extension of validity of LOA.</p> <p>It was informed to the Approval Committee that M/s. Garmex India had been granted an LOA dated 19/09/2016 for Manufacturing & Export of Readymade Garments. The unit is yet to commence its export production. LOA of the unit was valid up to 18/09/2017. The unit has been allotted Plot No. 142, NSEZ to carry out its authorized operations.</p>

Ravi Kumar

9.1 It was further informed that neither application for extension of LOA validity was submitted timely nor the Bond-cum-LUT has been executed by the unit till date. It was further informed that as per the provisions of Rule 11(5) of SEZ Rules, 2006, "the lease rights would cease to exist in case of the expiry or cancellation of LOA" and in this case, LOA of M/s. Garmex India had expired 18/09/2017.

9.2 It was also informed that Eviction Notice under Section 4 of PP Act was issued to the unit on 28/08/2018 directing unit to vacate the premises by 13/09/2018 as their LOA was not valid. However, unit has requested not to take any action and applied for extension of LOA on 17/09/2018.

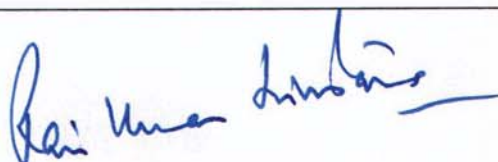
9.3 Shri J.D. Giri and Shri B. Parameshwaran, authorized representatives of the unit appeared before the Approval Committee. Shri Giri informed that due to unfavorable market conditions during the last 2/3 years, they were unable to carry out export activities. He also stated that now market is looking favorable and they plan to start their manufacture activity.

9.4 The Approval Committee observed that LOA of the unit has already expired one year back and unit had not made any application for its extension in time. It made request for extension of LOA only when notice for eviction of space under P.P. Act was issued on 28/08/2018. The Approval Committee expressed its displeasure to the unit for not submitting the application for extension in the validity of LOA in time and stressed that assets in NSEZ are for utilization for doing export/investment and not to keep these idle.

9.5 Shri Giri regretted for the delay in LOA extension application and requested to grant them one chance to revive their business.

9.6 The Approval Committee, after due deliberations, directed the unit to first submit the following:

- (i). Projections of export, employment, investment for next five years.
- (ii). Written submission on the reasons for delay in submission of application for extension of LOA.



(iii). Detailed business plan and implementation schedule of the project in NSEZ.

(iv). Submit request for LOA Extension on SEZonline system.

(v). Clearance of pending lease rent.

9.7 The Approval Committee further deferred the matter for its next meeting.

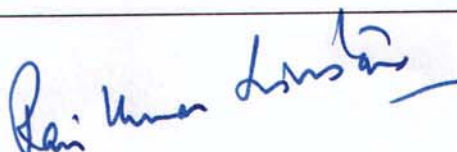
10. Proposal of M/s. Jagan Automotives Pvt. Ltd. for Monitoring of performance in view of exit request of unit.

It was informed to the Approval Committee that M/s. Jagan Automotives Pvt. Ltd. had been issued an LOA dated 04/10/2006 for Manufacturing of Autoparts, Electrical & Engineering Goods and Trading of Autoparts, Electrical & Engineering Goods such as Silicon Paint, Bulbs, Measuring of Internal Dimensions (Profile Projector), Measuring of Photoelectric Values (Colorimeter), Polycarbonate Forming, Sealing & Cutting Measuring of Lamp Base and Gauge. The unit commenced its export production w.e.f. 25/05/2007 and LOA is valid till 24/05/2022.

10.1 It was informed that Unit was granted In-principle exit approval for exit from SEZ scheme vide this office letter dated 15/01/2018 and unit was advised to submit requisite documents for compliance with exit formalities. Unit vide its letter dated 05/03/2018 and subsequent letters received on 12/06/2018, 16/06/2018, 07/07/2018, 26/07/2018, 04/08/2018 & 30/08/2018 has submitted all the documents related to exit from SEZ scheme as asked vide this office letter dated 15/01/2018. 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.

10.2 It was informed that unit had submitted separate details of NFE for Manufacturing & trading activities for the current block and informed that they have not done any trading activities during the current block.

10.3 It was also informed that the details submitted by the unit have been forwarded to the NSEZ Customs for verification. Now, NSEZ Custom has informed that the data given by the unit do not match with the Custom's record.



10.4 No one from the unit appeared before the Approval Committee.

10.5 The Approval Committee monitored the performance of the unit under Rule 54 of SEZ Rules, 2006 on the basis of APRs and noted the achievement of positive NFE by the unit. The Approval Committee further observed that no foreign exchange is pending for realization as on date.

10.6 The Approval Committee directed to examine rest of the formalities related to issuance of final exit on file. The Approval Committee further directed to ascertain as to whether payments against trading activity in DTA have been received in INR. In case trading has been made in DTA against payment in INR, then the matter may be placed again before the Approval Committee alongwith recalculated NFE achieved by the unit.

11. Proposal in respect of M/s. Cleartrail Technologies Pvt. Ltd. (Unit-I) for Monitoring of performance in view of exit request of unit.

It was informed to the Approval Committee that M/s. Cleartrail Technologies Pvt. Ltd. (Unit-I) had been issued an LOA dated 13/08/2007 for Computer/Electronic, IT and IT Enabled Services. The unit commenced its export activities w.e.f. 01/06/2008 and LOA was valid till 31/05/2018.

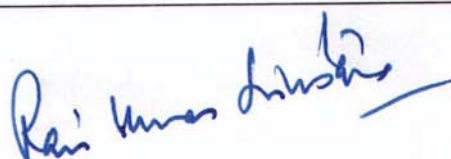
11.1 It was informed that Unit was granted In-principle exit approval for exit from SEZ scheme vide this office letter dated 31/05/2018 and unit was advised to submit requisite documents for compliance with exit formalities. Unit vide its letter dated 28/05/2018 and subsequent letters received on 29/06/2018, 09/07/2018, 08/08/2018 & 03/09/2018 has submitted all the documents related to exit from SEZ scheme as asked vide this office letter dated 31/05/2018. 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.

11.2 No one from the unit appeared before the Approval Committee. It was also informed to the Approval Committee that unit has intimated this office that the employees working in Unit-I have been transferred to their Unit-II situated at SDF No. K-12.

11.3 The Approval Committee monitored the performance of the unit under Rule 54 of



	<p>SEZ Rules, 2006 on the basis of APRs submitted by it up to 2018-19 and noted achievement of positive NFE by the unit. The Approval Committee further observed that no foreign exchange is pending for realization as on date. The Approval Committee also directed to examine rest of the formalities related to issuance of final exit on file.</p>
12.	<p>Proposal in respect of M/s. Jindal Dyechem Industries Pvt. Ltd. for Monitoring of performance in view of exit request of unit.</p> <p>It was informed to the Approval Committee that M/s. Jindal Dyechem Industries Pvt. Ltd. had been issued an LOA dated 05/01/2005 for Manufacturing of Gold Jewellery. The unit commenced its export production w.e.f. 05/01/2005 and LOA was valid till 26/05/2018.</p> <p>12.1 It was informed that the proposal of unit for Renewal of LOA was placed before Approval Committee meeting held on 07/03/2018. During consideration of the same, Shri S.K. Jindal, Director informed that they want to close their unit and exit from NSEZ. The Approval Committee, after due deliberations, decided to revalidate the LOA for a period of two months from date of issuance of letter, to complete the exit formalities.</p> <p>12.2 Accordingly, unit was granted In-principle exit approval for exit from SEZ scheme vide this office letter dated 27/03/2018 and unit was advised to submit requisite documents for compliance with exit formalities within two months i.e. 26/05/2018. However, unit could not complete exit formalities till date. 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.</p> <p>12.3 Shri Manoj Kumar, authorized representative of the unit appeared before the Approval Committee. He informed that there are some issues in obtaining NOC from Custom department due to which they could not complete the exit formalities. He requested to grant some time to complete exit formalities.</p> <p>12.4 The Approval Committee monitored the performance of the unit under Rule 54 of SEZ Rules, 2006 on the basis of APRs submitted by it up to 2018-19 and noted that unit has been lying non-functional since 2012-13. The Approval Committee further observed that no foreign exchange is pending for realization as on date.</p>



12.5 The Approval Committee directed the unit to resolve the issues related to NSEZ Customs within a week and complete the exit formalities. The Approval Committee also decided that as and when the unit resolves the issues with NSEZ Customs, the LOA would be renewed for one month to complete the exit formalities. The Approval Committee further directed to examine rest of the formalities related to issuance of final exit on file.

13. Proposal in respect of M/s. Jindal Exports & Imports Pvt. Ltd. for Monitoring of performance in view of exit request of unit.

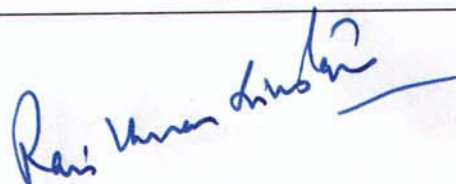
It was informed to the Approval Committee that M/s. Jindal Exports & Imports Pvt. Ltd. had been issued an LOA dated 10/02/2004 for Manufacturing of Gold Jewellery. The unit commenced its export production w.e.f. 08/04/2004 and LOA was valid till 26/05/2018.

13.1 It was informed that the proposal of unit for Renewal of LOA was placed before Approval Committee meeting held on 07/03/2018. During consideration of the same, Shri S.K. Jindal, Director informed that they want to close their unit and exit from NSEZ. The Approval Committee, after due deliberations, decided to revalidate the LOA for a period of two months from date of issuance of letter, to complete the exit formalities.

13.2 Accordingly, unit was granted In-principle exit approval for exit from SEZ scheme vide this office letter dated 27/03/2018 and unit was advised to submit requisite documents for compliance with exit formalities within two months i.e. 26/05/2018. However, unit could not complete exit formalities till date. 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.

13.3 Shri Manoj Kumar, authorized representative of the unit appeared before the Approval Committee. He informed that there are some issues in obtaining NOC from Custom department due to which they could not complete the exit formalities. He requested to grant some to complete exit formalities.

13.4 The Approval Committee monitored the performance of the unit under Rule 54 of SEZ Rules, 2006 on the basis of APRs submitted by it up to 2018-19 and noted achievement of positive NFE/Value Addition by the unit. The Approval Committee further



observed that no foreign exchange is pending for realization as on date.

13.5 The Approval Committee directed the unit to resolve the issues related to NSEZ Customs within a week and complete the exit formalities. The Approval Committee also decided that as and when the unit resolves the issues with NSEZ Customs, the LOA would be renewed for one month to complete the exit formalities. The Approval Committee further directed to examine rest of the formalities related to issuance of final exit on file.

14. Proposal in respect of M/s. J & S Exports for Monitoring of performance of the unit.

It was informed to the Approval Committee that M/s. J & S Exports had been issued an LOA dated 28/02/2007 for following activities:

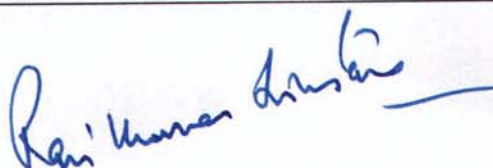
1. *Manufacturing of all kinds of Ladies Garments (top, skirt, dress hand-embroidered)*
2. *Manufacturing of Scarves, pants, blouse, Capri, home-furnishing, embroidered fabric panels, garments accessories.*
3. *Relabeling/ Repackaging/ Trading Activities of:*
 - i) *All kinds of ladies/Men's Garments*
 - ii) *All kind of kids/Child Garments*
 - iii) *All kind of Boys/Girls Garments.*
 - iv) *All kind of artificial jewellery.*

[Trading activities were permitted on 16/10/2015 subject to condition that No DTA sale of trading goods shall be allowed]

14.1 The unit commenced its export production w.e.f. 11/10/2007 and LOA was valid till 10/10/2017.

14.2 It was informed that unit has not made application for renewal of LOA on time. Unit applied for renewal of LOA after much delay on 15/03/2018 and subsequently vide this office letter dated 02/04/2018 unit was requested to submit some documents/ information related to LOA Renewal. However, unit has not submitted the said details till date.

14.3 It was further informed that lease rent amounting to Rs. 10,10,283/- (upto



30/09/2018) is outstanding against the unit and recovery certificate under section 14 of P.P. Act 1971 was issued on 08/08/2018.

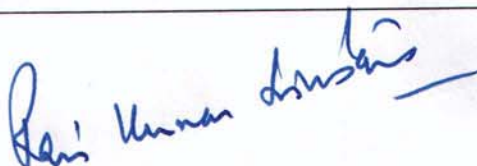
14.4 Shri Pankaj K. Gupta, authorized representative of the unit appeared before the Approval Committee. He informed that promoters of the unit are out of station and hence could not attend the meeting.

14.5 He further stated that there was issue relating to Bank finance amounting to Rs. 60 Crores. They have gone through the financial crunch and due to that they could not deposit the lease rent and other dues. Now, they are recapitalizing their assets for financial support and they have already resolved the issues with bank. He requested for some time and assured to deposit outstanding lease rent, at the earliest. It was informed to him that recovery certificate has already been issued against the promoters for recovery of lease rent, which cannot be called off until the payment has been made.

14.6 The Approval Committee, after due deliberations, deferred the matter for its next meeting to be held in November 2018 and directed the unit to clear entire outstanding lease rent and submit the information/documents as asked vide this office letter dated 02/04/2018 within 15 days time from the date of issuance of letter. The Approval Committee made it clear that this is last opportunity being given to the unit and also directed that the next meeting should positively be attended by the promoters of the unit and directed that a communication may be sent to promoters through registered/speed post at their residential address also so as to ensure their presence in the next meeting of Approval Committee which generally meets on 1st Wednesday of every month (in case the day of meeting happens to be a holiday, the meeting shall automatically be shifted to next working day), failing which the Approval Committee will be constrained not to renew the LOA.

15. Proposal in respect of M/s. Evinix Industries Ltd. for Monitoring of performance of the unit.

It was informed to the Approval Committee that M/s. Evinix Industries Ltd. had been issued an LOA dated 20/04/2006 for (i) Manufacture of travel goods, handbags and similar containers, finished leather, cotton fabric, carpets & other textile floor coverings,



special woven fabric, tufted textile fabrics, lace tapestries, trimmings embroidery, knitted or crocheted fabric, articles of apparel & clothing accessories knitted or crocheted, articles of apparel & clothing accessories not knitted or crocheted, made up textile articles, head gears and parts thereof, umbrellas and sun umbrellas and (ii) Design of garment and accessories. The unit commenced its export production w.e.f. 24/08/2006 and LOA was valid till 23/08/2016.

15.1 It was informed that unit has not applied for extension in the validity of LOA till date. Further, APR for the period 2011-12 onwards has also not been submitted by the unit. It was also informed that Plot No. 138, NSEZ allotted to the unit has already been transferred to M/s. Haldiram Snacks Pvt. Ltd. on 14/09/2018 by way of auction conducted by Official Liquidator, Chandigarh.

15.2 No one from the unit appeared for the meeting. The Approval Committee was informed that LOA of the unit has already expired on 23/08/2016 and no request for its extension has been made by the unit. The Plot has already been transferred to other unit.

15.3 The Approval Committee, after due deliberations, decided not to renew the LOA any further and to treat the LOA cancelled as already as lapsed.

16. Proposal in respect of M/s. Educomp Solutions Ltd. for Monitoring of performance of the unit.

No one from the unit appeared for the meeting. A letter was submitted only in the morning of 04/10/2018 stating that the concerned person is not available and could not be contacted and requesting for adjournment for hearing. The letter was signed without mentioning name and designation of authorized signatory. The Approval Committee deferred the matter for its next meeting and directed to send a communication to promoters through registered/speed post on the official/residential addresses so as to ensure their presence in the next meeting of Approval Committee. Approval Committee further decided that the last opportunity may be provided to the unit for appearing in its next meeting failing which the matter shall be decided on merit on the basis of available records.



17. Proposal in respect of M/s. VKM Exports for Monitoring of performance of the unit.

It was informed to the Approval Committee that M/s. VKM Exports had been issued an LOA dated 24/07/2007 for Manufacturing of Gold Silver, Platinum, Diamond and Studded Jewellery. The unit commenced its export production w.e.f. 15/10/2007 and LOA was valid till 14/10/2017.

17.1 It was informed that unit has not applied for extension in the validity of LOA till date. It was also informed that unit was working from Plot No. 86, NSEZ on sharing basis with M/s. Gold Craft International.

17.2 Shri S.K. Mittal, promoter of the unit appeared before the Approval Committee. He informed that they do not have export orders in the said unit and stated that he had submitted application for exit from SEZ scheme. It was observed that no such communication was received in this office.

17.3 The Approval Committee directed the unit to submit either acknowledged copy of the application submitted earlier or apply for exit from SEZ scheme and complete the exit formalities. Shri Mittal assured to submit the application for exit shortly.

18. Proposal in respect of M/s. In Vogue Jewellers for Monitoring of performance of the unit.

It was informed to the Approval Committee that M/s. In Vogue Jewellers had been issued an LOA dated 06/03/2002 for Manufacturing of (1) Studded Gold, Silver & Platinum Jewellery (2) Plain Gold & Silver Jewellery. The unit commenced its export production w.e.f. 07/05/2002 and LOA was valid till 31/03/2017. Unit was allotted SDF No. C-3(A), NSEZ.

18.1 It was informed that unit has earlier requested for exit from SEZ scheme. The unit vide this office letter dated 18/01/2016 was requested to submit No Dues Certificates and other documents for consideration of their exit request. It was further informed that unit was also requested to submit APRs since 2013-14 to till date so as to ascertain exact status of NFE achievement during current block of five years. However, unit has till date not complied with the said letter dated 18/01/2016.



	<p>18.2 It was also informed that lease rent amounting to Rs. 26,84,860/- (upto 30/09/2018) is outstanding against the unit for Recovery certificate has been issued. Internal Note has also been issued to DC Custom on 02/08/2018 for Custom Dues.</p> <p>18.3 No one from the unit appeared before the Approval Committee. The Approval Committee observed that unit has already applied for exit from SEZ scheme and validity of LOA stands lapsed w.e.f. 31/03/2017.</p> <p>18.4 The Approval Committee directed to send a communication to the unit for submission of APRs and other details. In case no reply is received, action shall be taken on the basis of records available in this office. For the purpose of monitoring of NFE/Value Addition, if need be export/import date would be taken from NSDL/NSEZ Customs. The Approval Committee also directed NSEZ Customs to take necessary action for duty on the goods lying in the premises. The Approval Committee further directed Estate Management division, NSEZ to pursue the matter of recovery of lease rent.</p>
19.	<p>Proposal in respect of M/s. Panna Jewellery for Monitoring of performance of the unit.</p> <p>No one from the unit appeared for the meeting. The Approval Committee decided to grant last opportunity for hearing to the unit and deferred the matter for its next meeting. The Approval Committee directed that a communication may be sent to promoters through registered/speed post on their official/residential addresses so as to ensure their presence in the next meeting of Approval Committee which generally meets on 1st Wednesday of every month (in case the day of meeting happens to be a holiday, the meeting shall automatically be shifted to next working day), failing which the case will be decided on merit on the basis of records available in this office.</p>
20.	<p>Proposal of M/s. ANG Industries Ltd. (Unit-I) for Monitoring of performance of the unit.</p> <p>It was informed to the Approval Committee that M/s. ANG Industries Ltd. (Unit-I) had been issued an LOA dated 03/05/2005 for Manufacturing of Automatic slack adjustor, Manufacture and assembling of non-driving axles and parts thereof including suspension for trailers, Trading in automatic slack adjustor. The unit commenced its export</p>



production w.e.f. 04/10/2005 and its LOA was valid till 03/10/2015.

20.1 It was further informed that the unit vide this office letter dated 28.03.2016 & followed by reminder letter dated 16.06.2016 was informed that validity of their LOA has expired on 03.10.2015 and consequently lease deed rights have ceased to exist in terms of Rule 11(5) of SEZ Rules, 2006. Accordingly, the unit was requested to complete the exit formalities as per Rule 74 of SEZ Rules, 2006; handover the possession of allotted premises and pay applicable duties on imported or indigenous capital goods, raw materials, component, consumables, spares and finished goods lying in stock & any other Government dues. The unit was also given option that in case they desire to continue export production in Noida SEZ, they may apply for renewal of LOA along with credible business plan, which will be considered on merit. However, no reply of the unit has been received till date.

20.2 It was further informed that Lease rent amounting to Rs. 37,44,046/- (upto 30/09/2018) is outstanding against the unit. Order under Section 5 of P.P. Act was issued on 22/12/2016 and RC reminder issued on 11/07/2017.

20.3 Shri Baljit Singh, representative of the company appeared before the Approval Committee. He informed that a case has been filed before the NCLT, New Delhi regarding insolvency resolution process in respect of M/s. ANG Industries Ltd.

20.4 The Approval Committee observed there is no merit in giving further extension to the unit keeping in view that LOA has already been expired; no request for extension has been made and there is outstanding lease rent against the unit. The Approval Committee further observed that as per the APRs submitted upto 2014-15, unit has achieved positive NFE earnings.

20.5 The Approval Committee, after due deliberations, decided that LOA of M/s. ANG Industries Ltd. (Unit-I) stands cancelled as already lapsed w.e.f. 03/10/2015 and unit may be directed to complete the exit formalities. The Approval Committee further directed NSEZ Customs to re-examine the performance of unit and in case trading has been made in DTA against payment in INR or there is negative NFE, then the matter may be placed again before the Approval Committee. The Approval Committee further directed Estate



	Division, NSEZ to inform NCLT about dues of this office on M/s. ANG Industries Ltd. for recovery.
21.	<p>Proposal of M/s. ANG Industries Ltd. (Unit-II) for Monitoring of performance of the unit.</p> <p>It was informed to the Approval Committee that M/s. ANG Industries Ltd. (Unit-II) had been issued an LOA dated 11/08/2005 for following activities:</p> <ul style="list-style-type: none">(i) Manufacturing of Differential Spiders.(ii) Manufacturing of Automotive Components including Differential Spider, Worm, Gear, Axle parts/Brake parts and other Related Products(iii) Trading in Automotive Components including Differential Spider, Worm, Gear, Axle parts/Brake parts and other Related Products.(iv) Manufacture of Automatic Slack Adjuster.(v) Repair and Service of Automatic Slack Adjuster. <p>21.1 The unit commenced its export production w.e.f. 21/08/2006 and its LOA was valid till 20/08/2016.</p> <p>21.2 It was informed that the proposal of M/s. ANG Industries Ltd. (Unit-II) for monitoring of performance & renewal of LOA for five years was placed before Approval Committee in its meeting held on 04/01/2017. The Approval Committee observed that total lease rent of Rs. 31,71,944/- (Rs. 8,89,421/- in respect of Plot No. 150A, NSEZ + Rs. 22,82,523/- in respect of SDF No. I-11, NSEZ) outstanding against the company. Eviction Orders in respect of Plot No. 150A and SDF No. I-11, NSEZ have been issued in pursuance of the provisions of P.P. Act 1971 and Rule 11(5) of SEZ Rules, 2006. The Approval Committee also observed that incomplete proposal for renewal of LOA in respect of Unit-II at Plot No. 150-A, NSEZ was received in November 2016. The promoters were called to attend the meeting held on 04/01/2017. However, no one turned up in the said meeting.</p> <p>21.3 It was further informed that currently lease rent amounting to Rs. 18,72,753/- (upto 30/09/2018) has been outstanding against the unit. Order under Section 5 of P.P.</p>



Act was issued on 09/11/2016.

21.4 Shri Baljit Singh, representative of the company appeared before the Approval Committee. He informed that a case has been filed before the NCLT, New Delhi regarding insolvency resolution process in respect of M/s. ANG Industries Ltd.

21.5 The Approval Committee observed there is no merit in giving further extension to the unit keeping in view that LOA has already been expired; no request for extension has been made and there is outstanding lease rent against the unit. The Approval Committee further observed that as per the APRs submitted upto 2014-15, unit has achieved positive NFE earnings.

21.6 The Approval Committee, after due deliberations, decided that LOA of M/s. ANG Industries Ltd. (Unit-II) stands cancelled as already lapsed w.e.f. 20/08/2016 and unit may be directed to complete the exit formalities. The Approval Committee further directed NSEZ Customs to re-examine the performance of unit and in case trading has been made in DTA against payment in INR or there is negative NFE, then the matter may be placed again before the Approval Committee. The Approval Committee further directed Estate Division, NSEZ to inform NCLT about dues of this office on M/s. ANG Industries Ltd. for recovery.

22. Proposal in respect of M/s. Hanung Toys & Textile Ltd. (Unit-II) for Monitoring of performance of the unit.

It was informed to the Approval Committee that M/s. Hanung Toys & Textile Ltd. (Unit-II) had been issued an LOA dated 29/06/2006 for Manufacturing of Soft Toys (Stuffed Toys). The unit commenced its export production w.e.f. 20/12/2006 and its LOA was valid till 19/12/2016. Unit has been allotted Plot No. 129E, NSEZ.

22.1 It was further informed that the unit has made exports worth Rs. 6666.49 Lakhs and earned positive NFE earnings worth RS. 18.77 Lakhs during previous block of five years i.e. from 20/12/2011 to 31/03/2016. APR for the period 2016-17(upto 19/12/2016) has not been submitted by the unit.

22.2 Attention of the members was invited to Rule 11(5) of SEZ Rules, 2006, which says



that notwithstanding any other conditions in the Lease Deed, the lease rights would cease to exist in case of the expiry or cancellation of LOA and in this case, LOA of M/s. Hanung Toys & Textile Ltd. (Unit-II) had expired 19/12/2016. Also, the unit has not submitted any request for extension of validity of its LOA.

22.3 It was further informed that Lease rent amounting to Rs. 12,36,948/- (upto 30/09/2018) has been outstanding against the unit. Order under Section 7 of P.P. Act was issued on 22/01/2015. It was further informed that M/s. Hanung Toys and Textiles Ltd. has been declared NPA by Punjab National Bank and action has been taken under SARFAESI Act 2002. Bank has filed suit for recovery in DRT, Delhi. Approx. Rs. 3000 Crores is due to banks on 31/12/2015.

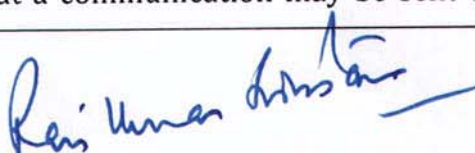
22.4 No one from the unit appeared for the meeting.

22.5 The Approval Committee observed there is no merit in giving further extension to the unit keeping in view that LOA has already been expired; no request for extension has been made and there is outstanding lease rent against the unit. The Approval Committee further observed that as per the APRs submitted upto 2015-16, unit has achieved positive NFE earnings.

22.6 The Approval Committee, after due deliberations, decided that LOA of M/s. Hanung Toys and Textiles Ltd. (Unit-II) stands cancelled as already lapsed w.e.f. 19/12/2016 and unit may be directed to complete the exit formalities. The Approval Committee further directed NSEZ Customs to re-examine the performance of unit upto 2016-17 and in case there is negative NFE, then the matter may be placed again before the Approval Committee for monitoring. The Approval Committee further directed Estate Division, NSEZ to inform Official Liquidator about dues of this office on M/s. Hanung Toys & Textiles Ltd.(Unit-II) for recovery.

23. Proposal in respect of M/s. RNB International Pvt. Ltd. for Monitoring of performance of the unit.

No one from the unit appeared for the meeting. The Approval Committee decided to grant last opportunity for hearing to the unit and deferred the matter for its next meeting. The Approval Committee directed that a communication may be sent to promoters through



registered/speed post on the official/residential addresses so as to ensure their presence in the next meeting of Approval Committee which generally meets on 1st Wednesday of every month (in case the day of meeting happens to be a holiday, the meeting shall automatically be shifted to next working day), failing which the case will be decided on merit on the basis of records available in this office.

24. Proposal of M/s. Suprajit Engineering Ltd. for merger of two LOAs.

It was informed to the Approval Committee that M/s. Suprajit Engineering Ltd. has been issued two LOAs viz. (i) LOA No. 08/18/91-Proj dated 05/08/1991 and (ii) 02/06/2004-Proj/7179 dated 15/09/2004. Details of both units are as under:

Particulars	Unit-I	Unit-II						
Date of LOA	05/08/1991	15/09/2004						
DCP	15/02/1992	05/02/2005						
LOA Valid upto	31/03/2022	04/02/2020						
Authorized operations	Manufacturing of: Electric Lamps/Electric Fluorescent Lamps – All Types and parts thereof. Emergency Kit for Automobiles comprising Halogen Lamps, Stop & Tail Lamps, Fuss & Kit Box Trading in: Plastic/Rubber articles & parts thereof, Mineral products, Textile & Articles thereof, Ceramic Product, Glass & Glassware, Base metal & article of base metal, Mechanical appliances & parts thereof, Electrical equipments & parts thereof, Article of leather, Article of paper, Electric Lamps of all kind & parts thereof, Photographic/ cinematographic goods, Auto Components, Electrical fittings of all types & parts thereof.	Manufacturing of: Electric Lamps of all type including Automotive and General Lighting, Halogen Fluorescent Lamps, Fixtures, Fittings and parts thereof. Trading in: Plastic/Rubber articles & parts thereof, Mineral products, Textile & Articles thereof, Ceramic Product, Glass & Glassware, Base metal & article of base metal, Mechanical appliances & parts thereof, Electrical equipments & parts thereof, Article of leather, Article of paper, Electric Lamps of all kind & parts thereof, Photographic/ cinematographic goods, Auto Components, Electrical fittings of all types & parts thereof.						
Factory Address	Plot No. 59-A, B, C, NSEZ	Plot No. 59-D, E, F, NSEZ						
Yearwise performance of the units during last five years	Values in Rs. Lakhs				Values in Rs. Lakhs			
	Year	FOB Value of Export	Forex Outgo	NFE Earning	Year	FOB Value of Export	Forex Outgo	NFE Earning
	2013-14	5672.69	1977.10	3695.59	2013-14	6204.76	1529.69	4675.07
	2014-15	5042.52	1481.54	3560.98	2014-15	5092.56	1236.61	3855.95
	2015-16	4869.29	1284.50	3584.79	2015-16	4360.59	1023.63	3336.96
	2016-17	5774.01	1095.25	4678.76	2016-17	4196.46	844.34	3352.12
	2017-18	4667.92	1054.63	3613.29	2017-18	3108.33	1060.64	2047.69
	Total	26026.43	6893.02	19133.41	Total	22962.70	5694.91	17267.79

Ravi Kumar

24.1 Shri Sumit Tomar, Shri Narayan Shetty, Shri Sanjeev Malik and Shri Anand Negi, authorized representatives of the unit appeared before the Approval Committee. Shri Tomar informed that 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.

24.2 He further stated 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.

24.3 He also stated that there will not be any loss of employment or loss of production by merger of the aforesaid units under two LOAs. All production facilities as are being run presently, will continue to operate in future as well. He requested to grant them permission for merger of both LOAs and stated that they will operate against LOA No. 08/18/91-Proj dated 05/08/1991 (i.e. old unit).

24.4 It was informed to the Approval Committee that recently the SEZ Rules has been amended as published in Gazette Notification dated 19/09/2018 wherein in Rule 19, in sub-rule (2) after the third proviso, the following proviso has been inserted, namely:-

"Provided also that the Approval Committee may also approve proposals for merger of Letters of Approval of two or more Units of the same company or firm subject to the condition that these Units fall within the same Special Economic Zone and after merger, block period for calculation of Net Foreign Exchange shall be from the date of commencement of production of the Unit which commenced operation first and the Income tax exemption period shall be considered from the date of start of operation of the first Unit.";

24.5 The Approval Committee observed that following are common features of both the units:

Per: Uma Kishore

1. Plots of both the units are adjoining to each other;
2. Both the unit take no special incentives as on date;
3. Both the above plots are under same management;
4. Both the units are having same authorized operations;

24.6 On being asked, Shri Tomar informed that both units do not claim Income Tax exemption as on date.

24.7 The Approval Committee, after due deliberations, concluded that as on date both the units have achieved positive NFE. Thereafter, Approval Committee approved the proposal of M/s. Suprajit Engineering Ltd. for merger of both LOAs viz. (i) LOA No. 08/18/91-Proj dated 05/08/1991 and (ii) 02/06/2004-Proj/7179 dated 15/09/2004 in terms of Rule 19(2) proviso 4 of SEZ Rules, 2006 subject to the following conditions:

- (i). After merger, block period for calculation of Net Foreign Exchange shall be from the date of commencement of production of the Unit which commenced operation first;
- (ii). No Income tax exemption will be available as representatives informed that they do not claim Income Tax exemption.

25. Proposal of M/s. Intelligrape Software Pvt. Ltd. for change of Shareholding pattern pursuant to amalgamation/merger order passed by National Company Law Tribunal(NCLT) and change in CIN No.

It was informed to the Approval Committee that M/s. Intelligrape Software Pvt. Ltd. had been issued an LOA dated 21/09/2010 for Software Development. The unit commenced its export activities w.e.f. 18/03/2011 and LOA was valid till 17/03/2021. Unit has been allotted SDF No. L-6 & L-10A, NSEZ for carrying out its export activities.

25.1 It was informed that the unit has submitted a request for change of Shareholding pattern pursuant to amalgamation/merger order passed by National Company Law Tribunal(NCLT) on 15/06/2018 and change in CIN No. w.e.f. 29th August 2018.

25.2 Shri Sanjay Jain and Shri Anurag Mittal, authorized representative of the company appeared before the Approval Committee. Shri Jain informed that existing unit i.e. M/s.

Sanjay Jain

Intelligrape Software Pvt. Ltd.(PAN: AABCI9247F; CIN No. U72300DL2008PTC179627) got merged into its parent (100% holding) company M/s. Tangerine Digital Entertainment Pvt. Ltd.(PAN: AACCT4800A with CIN No. U72900DL2006PTC23508) as approved by the NCLT order dated 15/06/2018.

25.3 Shri Jain further informed that after merger, name of M/s. Tangerine Digital Entertainment Pvt. Ltd. has been changed to M/s. Intelligrape Software Pvt. Ltd.(PAN: AACCT4800A with CIN No. U72900DL2006PTC23508) w.e.f. 29/08/2018.

25.4 Shri Jain also stated that shareholding pattern prior to and after merger/amalgamation are as under:

- Shareholding pattern of M/s. Intelligrape Software Pvt. Ltd. **before merger:**

Name of shareholder	No. of shares held	% shareholding
1. Tangerine Digital Entertainment Pvt. Ltd.	107355	100%

- Shareholding pattern of M/s. Tangerine Digital Entertainment Pvt. Ltd. (name changed to Intelligrape Software Pvt. Ltd.) **after merger:**

Name of shareholder	No. of shares held	% shareholding
1. Four Cross Media Holding 2 Cyprus Limited	41100	48%
2. B.K. Communication Limited	40000	47%
3. Mr. Puneet Johar	4500	5%

25.5 It was informed to the Approval Committee that the DOC vide Instruction No. 89 dated 17/05/2018 (copy placed at F/A) 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

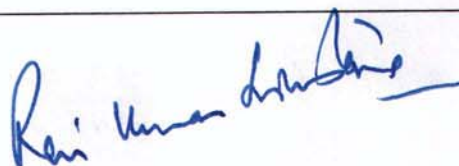
Ravi Kumar

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 ownerships 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."*

25.6 It was further informed to the Approval Committee that DOC vide Instruction No. 90 dated 03/08/2018 has also clarified that "it may not be interpreted that prior approval of BOA/UAC is to be taken before approaching the Registrar of Companies or the National Company Law Tribunal as is being some in some cases came to the notice of this department".



25.7 The Approval Committee after due deliberations, approved the proposal of unit for change of Shareholding pattern pursuant to amalgamation/merger order passed by National Company Law Tribunal(NCLT) on 15/06/2018 and change in CIN No. w.e.f. 29th August 2018 in terms of Instruction No. 89 dated 17/05/2018 and Instruction No. 90 dated 03/08/2018. The Approval Committee also decided that applicability of transfer charges, in this case, will be examined separately as per decision of NSEZA.

26. Proposal of M/s. Pertech Exports Pvt. Ltd. for inclusion of additional authorized operations in LOA.

It was informed to the Approval Committee that M/s. Pertech Exports Pvt. Ltd. had been issued an LOA dated 10/05/2006 for following activities:

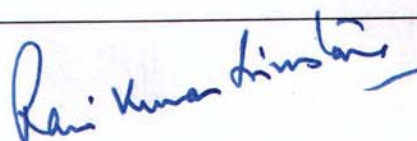
1. Manufacturing of Electronic Consumer Goods: LCD TV Sets, Plasma TV Sets, Satellite Receiver (DTH), C.A.S. (Set Top Box for TV Sets) and RO Water Systems, CTV, CFL, DVD, VCD, Chassis of Color and B&W TV Sets.
2. PCB as part of items to be used in the authorized operations.
3. Assembly/ manufacturing of (i) Main PCB Board, Power Supply board and operating unit/ card for TV, LED TV and Smart TV sets. (ii) LED Bulb, Tubes and its power supply. (iii) CFL Bulb, Tubes and its power supply. (iv) Mobile Phones (Bar phone), Touch phone and Smart phones. (v) P.C. Computer and P.C. Tablets.

26.2 The unit commenced its export production w.e.f. 06/08/2007 and LOA is valid till 05/08/2022.

26.3 It was informed that unit has submitted an application for inclusion of following authorized operations in LOA:

(a) Manufacturing & Assembly of Parts & Accessories of Mobile Phones and PC Tablets viz.:

- i) Memory Cards - 85235220
- ii) Tempered Glass - 85176970, 85177000
- iii) LCD Display - 85177090, 85176970
- iv) Ear Phone - 85177090, 85176970, 85183000
- v) Charger - 85044030, 85044090, 48191010, 48191090
- vi) USB Cable - 85176970, 85176990, 39231090
- vii) Blue Tooth(Beacon) - 85177090



(b) Manufacturing of: (i) Power Bank – 85176970; (ii) CCTV Cameras – 85258010, 85258020; and (iii) Digital Cameras

(c) Trading of:

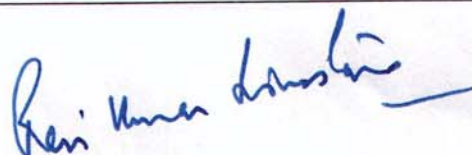
- (i) LED TV/Smart TV (All types) – 8528
- (ii) Mobile Phones (Bar phone/Touch Phones/ Smart phones)(All types) – 85171210, 85171290
- (iii) LED TV/Smart TV Panels (All types) – 8529
- (iv) Projector – 8528
- (v) Headphone/Bluetooth/Tempered Glass 85176970
- (vi) P.C. Tablet – 84713090
- (vii) Memory Card – 85235220
- (viii) CCTV Camera/Digital Camera – 8525
- (ix) LCD/LED Display – 8531

26.4 Shri PV Khullar, representative of the unit appeared before the Approval Committee. Shri Khullar informed that they have got orders for these products from their buyers. He further informed that they will procure goods from China and export the finished products to Middle East, Africa, Singapore etc. He also informed that the value addition in the manufacturing activity shall be about 5-10% and that for trading activity will be about 2-5%.

26.5 The Approval Committee, after due deliberations, approved the request of unit for inclusion of additional authorized operations subject to following conditions:

- (i) 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(z) of SEZ Act, 2005.
- (ii) No DTA sale of trading goods would be allowed.
- (iii) Unit will maintain separate area earmarked for manufacturing and trading activities and maintain separate records/accounts of NFE for manufacturing and trading activities.
- (iv) NFE status for manufacturing activity and trading activity will be seen separately.

26.6 The Approval Committee also directed that the Specified Officer, NSEZ should carry out 100% examination of import/export, in terms of quantity, value and other aspects for trading items. In cases of manufactured goods, Specified Officer, NSEZ will carry out examination as and when required.



27. Proposal in respect of M/s. Mahalaxmi Jewel Exports, NSEZ, Noida for Review of LOA in the wake of issues raised by DRI vide their SCN dated 09/06/2017.

27.1 It was informed to the Approval Committee that M/s. Mahalaxmi Jewel Export had been issued an LOA dated 07/04/2008 for manufacturing of Plain Gold Jewellery inter-alia, subject to the following conditions:-

"(i) Condition No. (i) of Letter of Approval dated 07/04/2008 "You shall export the goods manufactured as per Provisions of the Special Economic Zones Act, 2005 and Rules made there-under for a period of five years from the date of commencement of production. For this purpose, you shall execute the Bond-cum-Legal Undertaking as prescribed under the Special Economic Zone Rules, 2006".

(ii) Condition No. (x) of Letter of Approval dated 07/04/2008 "You shall abide by the provisions of Special Economic Zones Act, 2005 and the Rules and orders made there-under."

(iii) Condition No. (xiii) of Letter of Approval dated 07/04/2008 "if you fail to comply with the conditions stipulated above, this Letter of Approval shall be cancelled as per the provisions of the Special Economic Zones Act, 2005 and the rules and orders made there-under".

27.2. The unit had executed Bond-cum-LUT on 05/11/2008, which was jointly accepted by the Specified Officer and the Development Commissioner, NSEZ and acceptance of the same was conveyed to the unit vide this office letter dated 18/11/2008. The unit commenced its export activities w.e.f. 09/06/2010. As per extension granted on 23/06/2015, LOA is valid up to 08/06/2020. The unit has been allotted Plot No. 186, NSEZ for carrying out its authorized operations.

27.3. As per submitted APRs, performance of unit since inception is as under:

Values in Rs. Crores

Year	FOB Value of Export	Forex Outgo	NFE Earning
2010-11	17.74	16.63	1.11
2011-12	0.00	0.00	0.00
2012-13	0.00	0.00	0.00
2013-14	42.38	41.18	1.20
2014-15	23.67	23.12	0.55
2015-16	82.11	79.66	2.45
Total	165.90	160.59	5.31



27.4. As per details received from NSDL, following imports and exports have been made by the unit during 2013-14 to 2017-18:

Value in Rs. Crores

Year	Export	Import
2013-14	41.67	42.05
2014-15	18.28	23.06
2015-16	73.05	78.75
2016-17	143.50	145.99
2017-18	0.00	0.00

27.5. Dy. Commissioner (Customs) vide Internal Memo dated 27/09/2018 has informed that M/s. Mahalaxmi Jewel Exports has not been issued any job-work permission since inception. Details of export, import and duty on imported items are as under:

Value in Rs. Crores			
Year	Export	Import	Duty on import
2010-11	17.77	13.50	0.23
2011-12	0.00	0.00	0.00
2012-13	0.00	0.00	0.00
2013-14	41.66	42.77	3.98
2014-15	18.27	23.66	2.83
2015-16	73.05-	80.83	8.92
2016-17 (upto Nov'2016)	137.88-	145.28	15.09
Total	288.63	306.04	31.05

27.6. It was informed to the Approval Committee that a show cause notice dated 09/06/2017 issued to M/s. Mahalaxmi Jewel Exports by the DRI in case of Mis-declaration in export of articles from SEZ, Noida declared as gold jewellery and diversion of imported gold from SEZ, Noida, was received in this office. It has been stated in the SCN that on the basis of specific intelligence gathered in the DRI, Delhi that M/s. Mahalaxmi Jewel Exports was mis-declaring their export goods and besides mis-declaring the export goods, the gold bullion imported duty free in the name of said unit was being diverted in the domestic market, instead of making gold jewellery out of the said import, thereby misusing the SEZ scheme.

27.7. It was further stated in the SCN dated 09/06/2017 that based on intelligence and consequent enquiry, search operations were conducted on 16/17.12.2016 by the officers of DRI at different premises/office/factory/residence of the unit and its promoters and

Raj Kumar Singh

their statements were recorded.

27.8. Based on the investigations conducted in the case, various statements tendered by the concerned persons under the Act *ibid*, the evidences brought on record and discussed, the DRI has *inter alia* observed following:

“27.8.1 That M/s. Mahalaxmi Jewel Exports, SEZ, Noida, misused the provisions of various laws of SEZ Act and Rules, the Exim (Foreign Trade) Policy, the Customs Act, 1962 etc.

27.8.2. That M/s Mahalaxmi Jewel Exports, SEZ, Noida, hatched a conspiracy to misuse the facilities provided under Special Economic Zone (SEZ) scheme and were exporting jewellery made of metals other than gold, to fulfil the export obligation of SEZ Unit by mis-declaring the said copper and copper mixed jewellery as gold jewellery, while the duty free gold imported by the SEZ unit as raw material for manufacture of gold jewellery for export, was clandestinely diverted to local/domestic market in violation of the provisions of SEZ Act and Rules. From the evidences brought on record and discussed, it also appears that M/s Mahalaxmi Jewel Exports, SEZ, Noida had made arrangements with his Dubai based trading partners and procured duty free primary gold from companies at Dubai for manufacture of gold jewellery, whereas the said duty free gold was clandestinely removed from the SEZ units as such without carrying out any process, and then delivered/sold the same in the local market. It also appears that a part of jewellery manufactured at the premises M/s. Mahalaxmi Jewel Export was clandestinely diverted to the firm, M/s. Mine O Gold and the said jewellery was further exported by M/s. Mine O Gold to his Dubai based client.

27.8.3 M/s. Mahalaxmi Jewel Exports, SEZ, Noida, appears to have contravened the following provisions of law also as under:-

(i) Rule 27(10) and 75 of SEZ Rules 2006, and Section 46 of the Customs Act 1962- As much as the unit misused the benefit of assessment of imported goods on the basis of 'self-declaration' without examination, as the subsequent seizures of imported goods from their factory premises and investigations revealed that the units have shown/declared the imported duty free gold consumed for

Ravi Kumar

manufacturing and export of gold jewellery. However, the said gold was lying in their factory premises. The gold imported as raw material for the purpose of manufacture and export of gold jewellery, was also not as per the permission granted under the LOA issued to the SEZ unit, as the same was imported by M/s Mahalaxmi Jewel Exports with ulterior motive for removing the same from SEZ units clandestinely with an intent to divert and sale the same in the local market.

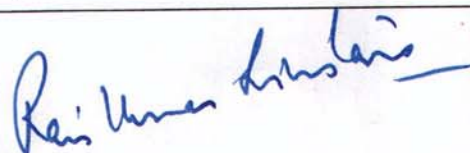
(ii) Section 26 of the SEZ Act 2005, Rule 25, 27(1) and 34 of SEZ Rules 2006 -

as much as the unit have failed to utilize the duty free gold imported from Dubai, UAE for carrying out the authorized operations. The SEZ unit secreted the said duty free imported gold clandestinely as such without carrying out any process, for further diversion in the local market and fulfilled the export obligation by resorting to mis-declaration of export articles, leading to fraudulent import and export.

(iii) Rule 45(i) of the SEZ Rules, 2006 - as much as the unit have not complied the terms and conditions as laid down in LOA with regard to export of goods. The unit also misused the facilities and exemption granted under the provisions of Exim Policy, SEZ Acts and Rules and does not follows the procedures prescribed in the various provisions of Handbook of Procedures. The export obligations were fulfilled by the SEZ unit by resorting to mis-declaration of exported jewellery as gold jewellery, leading to fraudulent export.

(iv) Rule 46(1), 46(2)(i), 46(6) and 75 of SEZ Rules 2006 and Section 50 of the Customs Act 1962- as much as the unit availed the undue benefit on the basis of fraudulent 'self-certification', whereas on examination the contents of the seized export consignment and from the evidences discussed above, it appears that the jewellery made of metals (copper mixed jewellery) other than gold, were exported in the guise of mis-declaration i.e. export of the gold jewellery. However, the unit is required to mandate that the gold being imported was redirected to be exported in gold jewellery form, after carrying out authorization processes.

(v) M/s. Mahalaxmi Jewel Exports, SEZ, Noida was authorized to carry out the operations of 'Manufacturing of jewellery made from duty free imported gold', as

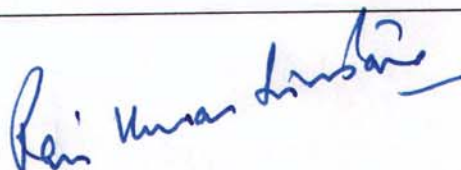


per the authorization given by the office of Development Commissioner, SEZ, Noida, under the provisions of SEZ Act, 2005. M/s. Mahalaxmi Jewel Exports, SEZ, Noida, misused the facilities provided under Special Economic Zone (SEZ) scheme and were exporting jewellery made of metals other than gold, to fulfil the export obligation of SEZ Unit by mis-declaring the said copper and copper mixed jewellery as gold jewellery. **In terms of Section 30 of the SEZ Act, 2005, Rule 25 and 34 of the SEZ Rules, 2006, customs duty leviable on duty free imported gold bars (21 kg) procured from Dubai, which was clandestinely kept in the firm premises of SEZ unit as such without carrying out any process for further diversion in the local market, are liable to recoverable /demandable."**

27.9. In view of the above observations, DRI has issued an SCN under Section 28 read with Section 124 of the Customs Act, 1962 to M/s. Mahalaxmi Jewel Exports, NSEZ; M/s. Mine O Gold (DTA unit of the promoter), 2645, Poonam Chamber, Bank Street, Karol Bagh, New Delhi-05; Shri Prem Sagar Arora, promoter of above two firms; and others as to why the goods seized should not be confiscated; Penalty should not be imposed and Customs Duties and interest should not be demanded/recovered from them. It has further been stated that investigation with regard to imports and exports made by the firms, M/s. Mahalaxmi Jewel Exports and M/s. Mine O Gold is in progress and a show cause notice in this regard shall be issued by the Directorate in due course.

27.10. It was further informed that DRI vide its letter dated 20/07/2017 had informed about brief facts of the case as under:

(i) On the basis of specific information that articles other than gold were being attempted to export from SEZ by mis-declaring the export consignment as gold jewellery by M/s Mahalaxmi Jewel Exports, Plot No. 186, NSEZ, Noida Dadri Road, Phase-II, Noida, DRI on 16.12.2016, intercepted the said consignment at Air Cargo (Export), IGI Airport, New Delhi. The consignment was covered under Master Air Way Bill No. 514 0326 3072, Invoice No. MJE/26/2016-17 dated 14.12.2016 having declared value of Rs. 5,61,74,496/- and declared to contain gold jewellery. On examination of the said package, the jewellery articles other than gold articles

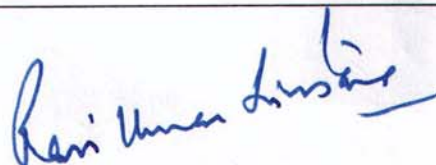


(copper or alloy) were found in 10 cardboard boxes out of total 16 boxes in the said export consignment. Out of the declared quantity of 23.55 kg. gold jewellery, only 3.164 kg. gold was found on appraisalment. Rest of the quantity was copper and other alloys weighing 20.386 kg. The said package was seized under the provisions of the Customs Act, 1962.

(ii) Subsequently, search was conducted by Directorate at the factory/firm premises of the said firm and one self – sealed box of the said firm, said to contain jewellery articles collectively weighing 16.242 Kg. was recovered. On examination of the resumed articles by the Jewellery Appraiser, the gold contained in the articles of gold was found weighing approx. 3180.60 grams while the remaining quantity weighing approx. 13 kg. was found of yellow colour jewellery made of copper & alloy. The gold bars/gold cut piece resumed from the above premises were found to be the gold bars against which export was already declared to have been made by the said firms, M/s Mahalaxmi Jewel Exports, SEZ, Noida and the said bars were stored in the factory premises apparently for diversion of the same. On a reasonable belief that the goods were liable to confiscation under the provisions of the Customs Act, 1962, the same was seized under the seizure Memo dated 18.12.2016.

(iii) Further, Searches were also conducted at the residential and office premises of Sh. Prem Sagar Arora, Prop. of M/s Mahalaxmi Jewel Exports, SEZ, Noida and gold , other jewellery articles, Indian currency of Rs. 20 lakh and certain documents were seized under the provisions of the Customs Act, 1962. In all, gold in various forms weighing approx. 40 kg. valued approx. Rs. 12 crores (approx.) was seized.

(iv) Shri Prem Sagar Arora, in his voluntary statement dated 17/18.12.2016 tendered under Section 108 of the Customs Act, 1962 inter alia admitted that he had mis declared copper jewellery articles as gold jewellery articles in the consignment seized by the DRI; that he had mis declared the package of the said consignment as gold jewellery articles; that he used to divert the imported gold; that sometimes he also manufactured gold articles from imported gold and diverted the same to his other firm, M/s Mine O Gold; that he has also admitted



other incriminating facts regarding the practice for mis declaring the export articles other than gold to gold jewellery articles and illegal diversion of imported gold for sale in market; that he stated doing such mal practices since December, 2015.

27.11. Approval Committee was informed that DRI had also informed that the duty evasion for the past consignment of gold imported by M/s. Mahalaxmi Jewel Exports is being investigated and another show cause notice for this part would be finalised on completion of investigation.

27.12. DRI vide this office letter dated 18/09/2018 has been reminded to provide current status of the Show Cause Notice dated 09/06/2017 issued by the DRI and other Show Cause notice, if any, issued again by them to the unit. Reply is awaited.

27.13. It was further informed to the Approval Committee that as per condition No. 7 of Bond-cum-Legal Undertaking executed by the unit, it had undertaken as under:-

"We, the obligors shall, after the commencement of production or service activities, submit to the Development Commissioner and the Specified Officer, Annual Performance Return within a period of ninety days following the close of financial year, in the form prescribed under the Special Economic Zone Rules, 2006, certified by a Chartered Accountant. In case of wrong submission of such information or failure to submit such information within the stipulated time, the permission granted to us for carrying out the authorized operations may be withdrawn and/or the permission for further imports and sales in the Domestic Tariff Area may be stopped."

However, the unit has not submitted APR for the year 2016-17 & 2017-18 till date, which is a violation of the said condition of Bond-cum-LUT executed by the unit.

27.14. In this case, on the basis of documents/information placed before it, the Approval Committee observed as under:

- i) The unit seems to have persistently violated the provisions of SEZ Act/SEZ Rules and terms & conditions of LOA/Bond-cum-LUT as explained by its activities/statements in para 27.10 above.
- ii) The unit has consistently failed to submit APRs within stipulated time as



explained in Para 27.13 above.

- iii) The unit seems to have grossly misused the provisions of SEZ Act, 2005 and SEZ Rules, 2006 & other exemption granted to the NSEZ units as explained by the DRI mentioned in the para 27.8 above.

27.15. The Approval Committee further observed that Section 16(1) of the SEZ Act, 2005 provides that Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms & conditions subject to which LOA was granted to the entrepreneur, cancel the LOA but such cancellation will not be done unless the entrepreneur has been afforded a reasonable opportunity of being heard.

27.16. In the light of above observations, the Approval Committee decided as under:

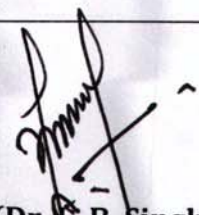
- i) In view of the gravity of violations mentioned above, a notice under Section 16(1) of the SEZ Act, 2005 may be issued calling upon the unit to explain within 21 days of issuance of notice as to why LOA issued to them should not be cancelled for persistently contravening the provisions of SEZ Act/SEZ Rules and terms & conditions of LOA/ Bond-cum-LUT.
- ii) The above actions would be without prejudice to any other action under any other law.
- iii) This action would be independent of any action by DRI and will not effect proceeding/action of DRI in any manner.

27.17. Approval Committee further directed that notice for cancellation of LOA be issued to the unit and its promoters by email as well as registered post at official/residential address. The case may be placed in the meeting of Approval Committee and unit may also be provided an opportunity of personal hearing in the meeting of Approval Committee.

Meeting ended with a vote of thanks to the Chair.


(S. S. Shukla)

Jt. Development Commissioner


(Dr. B. B. Singhal)

Development Commissioner