

भारत सरकार, वाणिज्य एवं उद्योग मंत्रालय, वाणिज्य विभाग
विकास आयुक्त का कार्यालय
नौएडा विशेष आर्थिक क्षेत्र
नौएडा दादरी रोड, फेस-II, नौएडा.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: 12/12/2018

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, नौएडा 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।

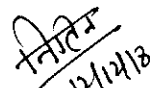
विषय: दिनांक 05/12/2018 को पूर्वाह्न 11:30 बजे आयोजित नौएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त - एतद संबंधी।

महोदय,

मुझे उपरोक्त विषय का सन्दर्भ लेने और डॉ. एल बी सिंघल, विकास आयुक्त, नौएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में दिनांक 05/12/2018 को पूर्वाह्न 11:30 बजे सम्मेलन हॉल, प्रशासनिक भवन, नोएडा विशेष आर्थिक क्षेत्र, नौएडा में आयोजित नौएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त अद्योषित करने का निर्देश हुआ है।

संलग्नक: उपरोक्त

भवदीय,


(नितिन गुप्ता)

उप विकास आयुक्त

प्रतिलिपि:

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

उप विकास आयुक्त

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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 05/12/2018 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 Harish Kumar, Asstt. Commissioner, Customs, Noida Commissionerate.
- 3) Shri Sachin Jain, Asstt. Commissioner, DIC, Noida (Rep. of Principal Secretary, Industry, Govt. of UP.).
- 4) Shri R.L. Meena, Asstt. DGFT, O/o Addl. DGFT, CLA, New Delhi.
- 5) Smt. Durgesh Nandini, Income Tax Officer, Income Tax Deptt., Noida.

2. Besides, during the meeting S/Shri (i) Nitin Gupta, Dy. Development Commissioner, NSEZ, (ii) Sanjay Tyagi, Specified Officer, NSEZ, (iv) M.V. Ruhella, ADC, NSEZ, (v) Shri Rajendra Mohan Kashyap, PA to JDC, NSEZ, (vi) Vijay, SDO, UPPCL, Noida, and (vii) Kapil Muni, JE, UPPCL, Noida 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 12/11/2018.

It was informed that no reference against the decisions of the Approval Committee held on 12/11/2018 was received and, therefore, Minutes of the meeting held on 12/11/2018 were ratified.



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Item wise decisions on proposals included in agenda:

1.	<p>Proposal of M/s. Lister Moessner India Pvt. Ltd. for setting up a unit in NSEZ.</p> <p>It was informed to the Approval Committee that the applicant has proposed to set up a new unit in NSEZ to undertake Manufacturing & Export of (1).(i) Hookscrews, Bonds Rings (made of steel wire); (ii) Insulators made of plastic; (iii) Builders Hardware made of C.R./H.R. Stainless Steel, Aluminium, Copper and Brass; (ITC HS 83024190) (2).Clamps made out of M.S. Strip, Coil, Sheet and Wire, Aluminium, Stainless and Plastic Washers (ITC HS 730779990) with projected exports of Rs. 5700.00 Lakhs and NFE earnings worth Rs. 4275.00 Lakhs over a period of five years.</p> <p>1.2 S/Shri Sushil Kumar Chaudhry, B.K. Gupta and Patrick Arun Chaudhry, directors of the company appeared before the Approval Committee to explain the project. Shri Sushil Chaudhry informed that they have existing NSEZ unit, which is running at its full capacity from a small plot of 1000 sq.mtrs. They are getting more export orders and in order to execute the export orders based on quantum of enquiry, their management has decided to set up one more unit with new plant & machinery (additional) with more semi-auto process of manufacturing to achieve higher growth as projected.</p> <p>1.3 The Approval Committee observed that the applicant has shown requirement of built up area of 5000 sq. mtrs. The Approval Committee informed Shri Chaudhry that in NSEZ, land belongs to NSEZ Authority and the land is allotted to valid LOA holder on sub-lease basis. As on date, no plot of area of 5000 sq. mtrs. is available for allotment. However, a few plots of lesser area are available for auction through MSTC Ltd./financial institution. They may explore possibilities to participate in the auction. Shri Chaudhry submitted that they may be granted second LOA registration and they will explore possibilities including participating in auction to locate this proposed unit.</p> <p>1.4 The Approval Committee further informed the directors that after recent amendment in SEZ Rules vide notification dated 21/09/2018, the value of indigenous requirement of raw material, components, consumables, packing material, fuel etc. are also required to be taken into account while calculating NFE. After taking into account this; the revised NFE would be Rs. 27.36 Crores only.</p>
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	<p>1.5 The Approval Committee, after due deliberations, approved the proposal of M/s. Lister Moessner India Pvt. Ltd. for setting up a second unit in NSEZ for Manufacturing & Export of (i) Hookscrews, Bonds Rings (made of steel wire); (ii) Insulators made of plastic; (iii) Builders Hardware made of C.R./H.R. Stainless Steel, Aluminium, Copper and Brass; 2. Clamps made out of M.S. Strip, Coil, Sheet and Wire, Aluminium, Stainless and Plastic Washers with revised NFE projections of Rs. 27.36 Crores.</p>
2.	<p>Proposal of M/s. Affix Scaffolding India Pvt. Ltd. for setting up a unit in NSEZ.</p> <p>It was informed to the Approval Committee that the applicant has proposed to set up a new unit in NSEZ to undertake Manufacturing & Export of Scaffolding and Ladder and Accessories with projected exports of Rs. 8250.00 Lakhs and NFE earnings worth Rs. 7000.00 Lakhs over a period of five years.</p> <p>2.2 Shri Mohammad Shakeb Ahsan, director of the company, appeared before the Approval Committee to explain the project. Shri Ahsan informed that he is an NRI based in Qatar and they have a similar company already established and manufacturing same items in Qatar having annual turnover of 25 Million Qatari Riyal (approx. Rs. 50 Crores). He further informed that they have proposed to shift part manufacturing to India for export from India, as the company is importing most of raw materials and manpower from India only.</p> <p>2.3 He further informed that the entire cost of project will be funded by way of transfer of plant & machinery from Qatar. The requirement of funds will be borne by them and new funds will be infused whenever required for the project in India.</p> <p>2.4 The Approval Committee observed that the applicant has shown requirement of built up area of 2600 sq. mtrs. The Approval Committee informed Shri Ahsan that in NSEZ land belongs to NSEZ Authority and that is allotted to valid LOA holder on sub-lease basis. As on date, no plot in size of 2600 sq. mtrs. is available for allotment. However, a few plots of lesser area are available for auction through MSTC Ltd./financial institution. They may explore possibilities to participate in the auction. Shri Ahsan submitted that they may be granted LOA registration and they will explore possibilities including participating in auction to locate this proposed unit.</p>

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	<p>2.5 The Approval Committee further informed the directors that after recent amendment in SEZ Rules vide notification dated 21/09/2018, the value of indigenous requirement of raw material, components, consumables, packing material, fuel etc. are also required to be taken into account while calculating NFE. After taking into account of this; the revised NFE would be Rs. 20 Crores.</p> <p>2.6 The Approval Committee, after due deliberations, approved the proposal of M/s. Affix Scaffolding India Pvt. Ltd. for setting up a unit in NSEZ for Manufacturing & Export of Scaffolding and Ladder and Accessories with revised NFE projections of Rs. 20 Crores.</p>
3.	<p>Proposal of M/s. Uniperm International Pvt. Ltd. for setting up a unit in NSEZ.</p> <p>It was informed to the Approval Committee that the applicant has proposed to set up a new unit in NSEZ to undertake "Trading of all kind of healthcare products" with projected exports of Rs. 3100.00 Lakhs and NFE earnings worth Rs. 775.00 Lakhs over a period of five years.</p> <p>3.2 Shri K C Sharma, director of company appeared before the Approval Committee to explain the project. Shri Sharma informed that he has experience of approx. 25 years in local trading of medical devices. He further informed that he has another unit in DTA namely, M/s. G Healthcare, which is engaged in trading business since 2001 in the field of Cardiology, Nephrology & some General Surgical Disposables. They deal in the products of various brands such as Newtech Medical Devices, Cordis(Johnson & Johnson), Medtronic, Abbott Vascular, Boston Scientific, Terumo and various other companies.</p> <p>3.3 He further informed that the proposed NSEZ unit will be engaged in import and export of various healthcare items to various markets of US, Europe, South-East Asia and African Countries.</p> <p>3.4 The Approval Committee observed that the applicant has proposed for a space of 100 Sq. mtrs. It was informed that such a small space is not available in the zone. The minimum available space is around 330 sq. mtrs.. The applicant agreed that he would go for the SDF of the minimum available size.</p> <p>3.5 The Approval Committee, after due deliberations, approved the proposal of M/s.</p>



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Uniperm International Pvt. Ltd. for setting up a unit in NSEZ for "Trading of all kind of healthcare products subject to condition that:

- i) No DTA sale of trading items shall be allowed and unit will 100% export its products.
- ii) All transactions would be only in freely convertible currency.
- iii) Import/export of restricted/prohibited items would not be allowed and
- iv) Policy condition, if any, attached with any item of export/import would be strictly adhered to.

The Approval Committee further decided that the unit shall comply with relevant statutory compliance, if any, before commencement of operations at NSEZ.

4. Proposal of M/s. Royalux Exports for setting up a unit in NSEZ.

It was informed to the Approval Committee that the applicant has proposed to set up a new unit in NSEZ to undertake manufacture & export of LED Lighting with projected exports of Rs. 24200.00 Lakhs and NFE earnings worth Rs. 16700.00 Lakhs over a period of five years. They have also projected to provide employment to 400 persons (200 male and 200 female).

4.2 Shri Hardeep Singh proprietor of the firm appeared before the Approval Committee to explain the project. Shri Singh informed that he entered in the electronics consumer durable business in early 1980s and LED lighting business in 2008. His company made a very good reputation in the LED lighting industry resulting in getting business from global lighting leaders Philips which also helped them to achieve a milestone of reaching group's annual turnover over Rs 200 CR. They have been awarded by "Phillips game changer award" for LED Lighting Production.

4.3 He further informed that future plans are to capture International markets. They have setup a LED Lighting Company in USA which is presently importing the LED Lights from China & catering to US markets. The US business viz. IKIO Led Lighting Co. is being headed by his son Mr Ekamdeep Singh. Under this company more than 1000 products are

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DLC listed & UL Certified.

4.4 Shri Singh also informed that now Royalux Export will start doing business with its US counter parts after starting production and supply from India to USA. Annual turnover of US Company is expected to be more than Rs 200 Crores in five years i.e. US \$30Million through a new facility set up in NOIDA SEZ. He further stated that they will establish the proposed unit for complete manufacturing in the zone.

4.5 The Approval Committee observed that the applicant has shown requirement of built up area of 2500 sq. mtrs. The Approval Committee informed Shri Singh that as on date, no plot in size of 2500 sq. mtrs. is available for allotment. Shri Singh submitted that to begin with, they may be allotted four SDFs to which Approval Committee agreed, subject to fulfillment of requisite formalities.

4.6 Shri Singh further informed that there was a mistake in the export projections while filing the application and the correct projections of export is Rs. 242 Crores instead of Rs. 2420 Crores and accordingly projected NFE for the five years are 129.90 Crores.

4.7 The Approval Committee informed Shri Singh that after recent amendment in SEZ Rules vide notification dated 21/09/2018, the value of indigenous requirement of raw material, components, consumables, packing material, fuel etc. are also required to be taken into account while calculating NFE. After taking into account of this; the revised NFE would be Rs. 94.90 Crores.

4.8 The Approval Committee, after due deliberations, approved the proposal of M/s. Royalux Export for setting up a unit in NSEZ for manufacture and export of LED Lighting, with revised NFE projections of Rs. 94.90 crore in five years.

5. Proposal in respect of M/s. Virtual Studio Pvt. Ltd. for renewal of LOA and revision in authorized operations.

It was informed to the Approval Committee that M/s. Virtual Studio Pvt. Ltd. has been granted an LOA dated 22/11/2010 for service activities viz. Designing, development, maintenance and promotion of sites; Live & on demand solutions for Internet & Mobile Broadcasters; and Creative Audio and Video recording, production & post production

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	<p>related facilities including corporate films. The unit has commenced its export activities w.e.f. 15/10/2012 and LOA of the unit is valid up to 14/01/2019.</p> <p>5.2 Shri Venkatesh Sharma and Smt. Sangeeta Sharma, directors appeared before the Approval Committee. Shri Sharma informed that their unit is very small with a promising potential. He further stated that now they have shifted their focus on their much needed marketing steps to enhance foreign exchange earnings.</p> <p>5.3 The Approval Committee observed that along with renewal of LOA, unit has also applied for revision in its authorized operations. Shri Sharma informed that the authorized operations are still the same as earlier however now they have indicated specific terms used for their service inline with current trend in the business.</p> <p>5.4 The Approval Committee, after due deliberations, approved the request of unit for renewal of LOA for remaining period of current block of five years i.e. upto 14/10/2022 subject to condition that unit shall comply with section 2(z)(iii) of SEZ Act, 2005. The Approval Committee also approved the proposal of unit for revision in the authorized operations.</p>
6.	<p>Proposal in respect of M/s. RA International for dissolution in partnership deed and change in shareholding of the company.</p> <p>No one from the unit appeared for the meeting. The Approval Committee deferred the matter for its next meeting.</p>
7.	<p>Proposal in respect of M/s. Interactivity Broadband Telecommunications Ltd for renewal of LOA and revision in authorized operations.</p> <p>It was informed to the Approval Committee that M/s. Interactivity Broadband Telecommunications Ltd had been issued an LOA dated 23.11.2005 for (i) Data Processing and Management and other IT Enabled Services and (ii) Movie Merchandising. The unit commenced its export activities w.e.f. 25/03/2008 and its LOA was valid upto 24/03/2018.</p> <p>7.3 It was informed that unit has applied for renewal of its LOA as well as revision in authorized operations. It was also informed that unit had also applied for prior approval</p>

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for change of name of company from M/s. Interactivity Broadband Telecommunications Ltd. to "M/s. Ionique Technologies Ltd."

7.4 It was also informed that the unit had initially applied for renewal of LOA in the month of February 2018 without any projections for next five years. The application of the unit was examined and unit vide this office letter dated 05/03/2018 was requested to submit requisite documents/information for consideration of renewal of LOA. However, unit had not submitted reply of the said letter dated 05/03/2018 till 15/11/2018. LOA of the unit could not be renewed in the absence of said details and currently LOA of the unit stands expired w.e.f. 24/03/2018.

7.5 It was informed to the Approval Committee that the unit has made exports worth Rs. 412.00 Lakhs and earned positive NFE earnings worth Rs. 385.50 Lakhs during previous block of five years between 2012-13(from 25/03/2013) to 2017-18. It was also informed that unit has not been working since 2015-16.

7.6 Shri Satish Mehta, director of company appeared before the Approval Committee and apologized for the delay in responding to this office letter dated 05/03/2018 and stated that the letter got misplaced at their end because NSEZ unit was closed between February 15th to March end for some structural repairs that were being carried out in the building.

7.6 Shri Mehta further informed that in compliance with RBI instructions, they have not made any exports from zone since September 2013 and thus there is no EDF or softex form required to be filled. The income between 2008 and 2013 was in nature of royalty/view income from exports made in 2008-09 in physical form.

7.7 He further informed that now they have shifted focus from movie merchandising to "the development of non-polluting, fuel cell powered systems for the media industry". Further, India is extremely competitive location for the production of bespoke and low quality equipment used in the media industry which includes equipment such as satellite vans, satellite teleports, drones for film shooting, power packs to back digital equipment at film shooting sites and accompanying digital infrastructure such as cloud data centres and video playout facilities. Shri Mehta further stated that they will procure the vans from

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other manufacturers and assemble all the parts like fuel cells, solid state batteries into the van and then will export the same. He also mentioned that unit would make fresh investment of Rs. 250 crores (Rs.179 crores on indigenous capital goods and Rs.71 crores on imported capital goods).

7.8 Shri Mehta further stated that they have proposed to change name of company from M/s. Interactivity Broadband Telecommunications Ltd. to "M/s. Ionique Technologies Ltd.". However, there will not be any change in shareholding pattern of the company pursuant to said change of name.

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

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

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

- i) Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered entity;*
- ii) Fulfilment of all eligibility criteria applicable, including security clearances etc., by the altered entity and its constituents;*
- iii) Applicability of and compliance with all Revenue / Company Affairs /SEBI etc. Acts/Rules which regulate issues like capital gains, equity change, transfer, taxability etc.*
- iv) Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished*

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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."

7.10 It was informed that Department of Commerce 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".

7.11 The Approval Committee observed that lease rent amounting to Rs. 42,85,945/- is currently outstanding against the unit. Shri Mehta stated that as the company was closed for so much time, financial condition of the company is not good. He requested to renew their LOA for new items and give them some time for payment of lease rent.

7.12 The Approval Committee , after due deliberations, took following decision:

- (i). In-principle approval for renewal of LOA for one year subject to deposition of entire lease rent by 31.03.2019.
- (ii). Formal LOA renewal letter will be issued only after payment of entire lease rent.
- (iii). Full facts of the case alongwith updated status will be put up before Approval Committee in its meeting to be held in April, 2019.
- (iv). The authorized operations of the company have been revised as under, which

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	<p>would be adjusted as per ITC(HS):</p> <ul style="list-style-type: none">a) Data Broadcast.b) Movie merchandisingc) Assembly of Speciality vehicles having fuel cells and solid state batteries. <p>(v). Change of name of company from M/s. Interactivity Broadband Telecommunications Ltd. to "M/s. Ionique Technologies Ltd." was approved in terms of Instruction No. 89 dated 17/05/2018 and Instruction No. 90 dated 03/08/2018 and subject to submission of required documents for change of name.</p>
8.	<p>Proposal in respect of M/s. Groupe iSOURCE for Monitoring of Performance and Renewal of LOA.</p> <p>It was informed to the Approval Committee that M/s. Groupe iSOURCE has been issued an LOA dated 21/02/2008 for Information Technology Enabled Services. The unit commenced its export activities w.e.f. 01/10/2008 and LOA is valid till 30/11/2018.</p> <p>8.2 It was informed to the Approval Committee that the unit has made exports worth Rs. 573.70 Lakhs and earned positive NFE earnings worth Rs. 558.13 Lakhs during previous block of five years between 2013-14 to 2017-18.</p> <p>8.3 The Approval Committee observed that unit has achieved positive NFE earnings during previous block of five years and took note of the same. The Approval Committee further observed that no foreign exchange is pending for realization.</p> <p>8.4 The Approval Committee after due deliberations, decided to extend the validity of LOA for remaining period of current five years block i.e. upto 30/09/2023 subject to condition that unit shall comply with section 2(z)(iii) of SEZ Act, 2005.</p>
9.	<p>Proposal in respect of M/s. Coster India Packaging 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. Coster India Packaging Pvt. Ltd. had been issued an LOA dated 02/02/2005 for (1) Mechanical Spray Pumps (2) Trading of:</p>



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Aerosol Valves & Sprayers, Semi Assembled Aerosol Valve, Pumps & Sprayers Components for above Item, Aerosol Crimping Machine. Assembling Machine Dip Tube Fitting Machine (3) Manufacturing of: Aerosol Valve and Sprayers. Semi Assembled Mechanical Spray Pumps, Aerosol Valve and Sprayers. . The unit commenced its export activities w.e.f. 25/09/2007 and LOA was valid till 24/09/2017.

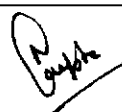
9.2 It was further informed that Approval Committee in its meeting held on 12/11/2018 monitored the performance of the unit under Rule 54 of SEZ Rules, 2006 on the basis of APRs and noted the achievement of positive NFE by the unit. The Approval Committee in its earlier meeting held on 12/11/2018 had also 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.

9.3 It was informed to the Approval Committee that the unit has submitted details in respect of trading activities and on examination; it has been observed that although the unit has achieved positive NFE earnings, the unit has made total DTA sale worth Rs.1,07,04,297/- against payment in INR.

9.4 Shri Suresh Sareen, authorized representative of the unit appeared before the Approval Committee. It was informed to him that 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. 1,07,04,297/- had to be against free foreign exchange but the unit has received payments in INR.

9.5 The Approval Committee informed Shri Sareen 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 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 operation. Shri Sareen gave his consent to settle the case under section 11(4) of the Foreign Trade (Development & Regulation) Act. Shri Sareen, however, requested for a minimum penalty.

9.6 In light of facts & circumstances of the case, DC, NSEZ in consultation with the



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members of the Approval Committee, imposed a penalty of 0.1% of the value of trading rendered in DTA against payment in INR subject to minimum Rs.10,000/- on the unit as per section 11(4) of the FT (D&R) Act, 1992.

9.7 The Approval Committee also decided that the unit may be allowed final exit subject to deposition of penalty amount.

10 Proposal of M/s Samsung Overseas Ltd. for Change in directors of the company.

It was informed to the Approval Committee that M/s. Samsung Overseas has been issued LOA dated 05/10/2012 for service activities namely (i) System Software Development, (ii) Financial control and accounting system (iii) Production management and inventory control (iv) Project feasibility studies and project monitoring systems (v) Back office/Remote data entry and (vi) IT Enabled services. The unit commenced its export activities w.e.f. 15/04/2013 and LOA is valid till 30/09/2019.

10.2. It was informed that the unit has intimated about change in directors and as per the DIR-11/12 submitted in respect of cessation/appointment of directors that old directors namely Smt. Jaya Satija & Shri Ashish K Satija had resigned the company on 05/07/2016 and new directors namely, Shri Bhushan Kumar Chandna, Mrs. Rekha Gill and Mr. Vikas Ahlawat were also appointed in the year 2016.

10.3 It was further informed that as per condition No. 14 of Bond-cum-LUT executed by the unit, the unit is required to intimate any changes in the Board of Directors/Partners, telephone No., E-mail address, Web-Site, Pass port No., Bank Address and Factory address, forthwith, to the Development Commissioner and the Specified Officer. However, the unit has failed to comply with the same and intimated about change in directors after delay of 2 years, which is violation of condition No. 14 of Bond-cum-LUT executed by unit.

10.4 Smt. Rekha Gill, director of the company appeared before the Approval Committee. She informed that pursuant to change in directors, there was also minor change in shareholding pattern of the company as under:

Name of shareholder	Shareholding percentage before change (as available in this office records)	Shareholding percentage after change (as intimated by the unit)
i) Mr. Rajesh Satija	83.63%	85.92%
ii) Smt. Renu Satija	3.14%	2.72%

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iii) Satija Stud Farm Pvt. Ltd.	13.23%	11.35%
iv) Shri Parveen Satija	0.001%	0.001%
v) Shri Ashish K Satija	0.001%	0.001%
vi) Smt. Jaya Satija	0.001%	0.001%
vii) Smt. Chand Rani Satija	0.001%	0.001%

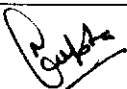
10.5 Smt. Gill further informed that they inadvertently could not inform this office about the said changes due to oversight without any malafide/willful intentions. She apologized for the same and assured that such mistake will not be repeated in future.

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

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

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

- i) Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered entity;*
- ii) Fulfilment of all eligibility criteria applicable, including security clearances etc., by the altered entity and its constituents;*
- iii) Applicability of and compliance with all Revenue / Company Affairs /SEBI etc. Acts/Rules which regulate issues like capital gains, equity change, transfer, taxability etc.*
- iv) Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member (IT), CBDT, Department of Revenue and to the jurisdictional Authority.*



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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."*

10.7 It was informed that Department of Commerce 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".

10.8 The Approval Committee informed Smt. Gill 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 her the option 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. Smt. Gill gave her consent to settle the case under section 11(4) of the Foreign Trade (Development & Regulation) Act. However, she requested for a minimum penalty.

10.9 In light of facts & circumstances of the case, DC, NSEZ in consultation with the members of the Approval Committee, imposed a penalty of Rs. 10,000/- on the unit as per section 11(4) of the FT (D&R) Act, 1992.

10.10 The Approval Committee, after due deliberations, decided to take the intimation of unit for change in directors and shareholding pattern of the company on records subject to deposition of penalty of Rs. 10,000/-. The Approval Committee also warned the unit to be more careful in future for timely compliances.



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11 Proposal in respect of M/s. Encee International for renewal of LOA.

It was informed to the Approval Committee that M/s. Encee International had been issued an LOA dated 30/04/2002 for Manufacture & Export of plain Gold Jewellery. The unit commenced its export production w.e.f. 05/08/2002 and its LOA was valid till 04/08/2017.

11.2 It was further informed to the Approval Committee that unit has been lying non-functional and has not made any export during previous block of five years since 2012-13. It was also informed that LOA of the unit was already expired on 04/08/2017. However, unit has submitted application for LOA renewal on 17/09/2018 that is after delay of more than one year.

11.3 Shri Rajnish Jain, partner in the firm appeared before the Approval Committee. He informed that they could not apply for renewal of LOA in time due to his illness and lack of marketing & orders. He further stated that now they have started marketing overseas (Dubai) where they used to previously export their consignment of gold jewellery.

11.4 The Specified Officer informed the Committee about an incident in the unit, the details of which are as under:

“On the Basis of an intelligence that some unauthorised activities were being carried out in the factory premises of M/s Encee International, Plot No. 158, NSEZ, Noida, the Deputy Commissioner, (Customs), NSEZ, Noida, deputed a team of Customs officers to conduct necessary enquiry / verification.

The team of Customs officers visited the factory premises M/s Encee International, Plot No. 158, NSEZ, Noida on 29.08.2018. During the visit of the officers three persons namely Shri Nandan Bera, Shri Sujit Kumar Bera and Shri Subhash Chandra Pal were present in the factory premises and five machines installed in the factory premises, out of five machines 03 machines were for chain making, one machine for gold rolling and one for wire drawing and all five machines were in working condition.

The officers conducted the inspection/verification in the presence of two independent witnesses and proceedings were recorded under panchnama dated 29.08.2018. During the visit of the officers the factory was found operational and yellow



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metal was found loaded on the chain making machines and also there was stock of yellow metal in the form of yellow metal wire, raw yellow metal chains and small yellow metal granules /cuttings. On demand by the officers Shri Sujit Kumar Bera produced all the yellow metal available in the factory premises besides the yellow metal being processed on the machines. The officers detained the entire stock of yellow metal collectively weighing 2471 grams as detailed in Annexure-A to the Panchnama dated 29.08.2018 under Section 110 of Customs Act,1962 as on demand by the officers none of the three employees namely Shri Nandan Bera, Shri Sujit Kumar Bera and Shri Subhash Chandra Pal could produce any evidence documentary or otherwise accounting for the same. The detained goods as detailed in Annexure-A to the Panchnama dated 29.08.2018 were handed over to the Manger, CWC, NSEZ Noida for safe custody.

Statement of Shri Sujit Kumar Bera and Shri Nandan Bera were recorded under Section 108 of the Customs Act, 1962. In their statements dated 29.08.2018 both inter alia stated that they were working as gold jewellery artisans in the said factory ; that they had only been involved in making of the gold jewellery and all the function of the unit were being done on the direction of the owner of the Company Shri Sanjeev Kumar Jain; that the such instructions were conveyed to them telephonically; that gold as raw material was received by them through a messenger sent by Shri Sanjeev Kumar Jain and after preparation of gold jewellery the same is handed over to the messenger sent by Shri Jain; that no documents were prepared by them for receiving and disposal of goods.

In the course of investigation summons dated 30.08.2018 were issued to Shri Sanjeev Kumar Jain. In response to the summons Shri Vipul Jain appeared instead of Shri Sanjeev Kumar Jain. In his statement dated 30.08.2018 Shri Vipul Jain inter alia stated that Shri Sanjeev Kumar Jain did not hold any position in the company and that Shri Sujit Kumar Bera and Shri Nandan Bera had mistakenly uttered the name of Shri Sanjeev Kumar Jain as owner of the company; that Shri Rajnish Kumar Jain, his father was looking after all the work of the company but that day he was out of the town.

Shri Rajnish Jain appeared for his statement on 31.08.2018. In his statement dated 31.08.2018 he inter alia stated that M/s ENCEE International, Plot No. 158, NSEZ, Noida is a partnership firm with him, his son Vipul Jain, his brother Neeraj Jain and his sister in law Smt. Bindu Jain were four partners in the above firm; that he was looking after day to day working of the firm and take care all the activities of the firm and the other partners

