

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.10/13/2006 -प्रोज/

दिनांक: 08/01/2016

सेवा मे,

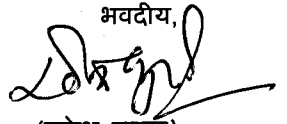
1. मुख्य कार्यपालक अधिकारी, न्यू ओखला औद्योगिक विकास प्राधिकरण, मुख्य प्रशासनिक भवन, सेक्टर - 6, नोएडा।
2. अतिरिक्त महानिदेशक विदेश व्यापार, वाणिज्य एवं उद्योग मंत्रालय, 'ए' विंग, इंद्रप्रस्थ भवन, आई पी एस्टेट, नई दिल्ली।
3. आयुक्त, आयकर, ए 2 डी, आयकर भवन, सेक्टर 24, नोएडा।
4. आयुक्त, सीमा शुल्क, नोएडा सीमा शुल्क आयुक्तालय, इनलैंड कंटेनर डिपो, तिलपता, दादरी, गौतम बुद्ध नगर, उत्तर प्रदेश - २०१३०६.
5. निदेशक, 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 06/01/2016 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 मे दिनांक 06/01/2016 को पूर्वाह्न 11.30 बजे सम्मेलन हॉल, प्रशासनिक भवन, नोएडा विशेष आर्थिक क्षेत्र, नोएडा मे आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त अग्रेषित करने का निर्देश हुआ है।

संलग्नक : उपरोक्त

भवदीय,

(राकेश कुमार)
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. सहायक विकास आयुक्त, सम्पदा अनुभाग, नोएडा विशेष आर्थिक क्षेत्र, सूचनार्थ एवं आवश्यक कार्यवाही के लिए।

उप विकास आयुक्त

Noida Special Economic Zone

(Minutes of Meeting of Approval Committee of Noida SEZ held on 06/01/2016)

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Minutes of the 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 06/01/2016 in the Conference Hall of NSEZ.

The following members of UAC were present during the meeting:-

- 1) Shri S.S. Shukla, Jt. Development Commissioner, NSEZ.
- 2) Smt. Sangeeta Karmakar, Dy. Commissioner, Customs, Noida Commissionerate.
- 3) Shri Rajiv Kumar Soni, Asstt. DGFT, CLA, New Delhi.
- 4) Shri Narendra Singh, Income Tax Officer, Income Tax Deptt., Noida.
- 5) Shri Praveen Srivastav, Architect, Noida Authority.

2. Besides, during the meeting S/Shri (i) Rakesh Kumar, Dy. Development Commissioner, NSEZ, (ii) R.K. Srivastava, Dy. Development Commissioner, NSEZ, (iii) A.K. Srivastava, Specified Officer, NSEZ, (iv) R.P. Verma, Asstt. Development Commissioner, NSEZ (v) Rajendra Mohan Kashyap, PA to JDC, NSEZ, (vi) Shri Tribhuvan Nath Patel, Addl. Statistical Officer, DIC, Noida (Rep. of Principal Secretary, Industry, Govt. of UP.), (vii) Bhuvan Yadav, AEE, UPPCB, Noida and (viii) Shyam Milan Yadav, SDO, UPPCL, Noida were also present to assist the UAC.

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:-

It was informed that no reference against the decisions of the UAC held on 02/12/2015 was received and therefore, Minutes of the meeting held on 02/12/2015 were ratified.



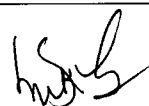
Noida Special Economic Zone

(Minutes of Meeting of Approval Committee of Noida SEZ held on 06/01/2016)

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Item wise decisions on proposals included in agenda:

1.	<p>Proposal in respect of M/s. Xavient Software Solutions India Pvt. Ltd. for setting up a new unit in NSEZ.</p> <p>The UAC noted that the applicant has requested for deferment of their proposal. The UAC accordingly decided to defer the proposal.</p>
2.	<p>Proposal in respect of M/s. AOV International for setting up a new unit in NSEZ.</p> <p>It was informed to UAC that that the applicant has proposed to set up a new unit in NSEZ to undertake the manufacturing & export of i) Deepwell Handpump with / without connecting Rod, ii) Afridev Deepwell Handpump with / without connecting Rod, iii) Galvanized Pipes, iv) Handpumps Parts, v) Connecting Rod, vi) Stainless steel pipes, vii) Rigid PVC Pipe/ Rigid PVC Casing Pipe/ Rigid PVC Screen Pipe, viii) Vaccine Carrier, ix) Vaccine Cold Box and x) Ice Packs with projected exports of Rs. 12500 Lakhs and the NFE of Rs. 12475 Lakhs over a period of five years.</p> <p>Shri A. K. Singhal, Authorized Representatives of the company appeared before UAC to explain the project. The representative informed that the promoters have another unit in NSEZ in the name of M/s. India Craft Loom at Plot No. 129G/3. The representative stated that their proposed unit in NSEZ shall undertake the manufacturing & export of Hand Pump and no galvanizing process will be done in the zone.</p> <p>After due deliberations, the Unit Approval Committee approved the application of M/s. AOV International for setting up a new unit in Noida SEZ.</p>
3.	<p>Proposal in respect of Appeal of M/s. Indo Widecom International Ltd. against the decision of UAC dated 17/10/2014 for cancellation of LOA.</p> <p>It was informed to UAC that LOA of unit was cancelled vide Order-in-Original dated 07/01/2015 as per the decision of UAC taken in its meeting held on 17/10/2014. Against the decision of UAC, the unit preferred an appeal before the BOA, which was heard in the meeting of BOA held on 27/08/2015. The BOA reverted the appeal to DC, NSEZ for verifying the contentions of the appellant from official records and decide the appeal accordingly.</p>



The promoters were informed through the email to attend the meeting. However, no one from the unit appeared for the meeting. The Committee decided to grant one last opportunity of being heard. It was decided that a communication may be sent to the unit through registered/speed post as well to ensure their presence in the next UAC which meets on 1st Wednesday of every month. Case was deferred for next UAC.

4. Proposal in respect of M/s. Regal Jewellery Mfg. Co. for transfer of its assets under Rule 74A.

It was noted by the UAC that the Approval Committee in its meeting held on 22/06/2015 approved the proposal for transfer of assets of M/s. Regal Jewellery Mfg. Co. at Plot No. 159 and Plot No. 160, NSEZ in favour of M/s. SI Overseas Jewellers and M/s. Bera Enterprises respectively, subject to fulfillment of exit formalities by M/s. Regal Jewellery Mfg. Co., payment of applicable transfer charges and submission of an Undertaking by incoming entrepreneurs regarding taking over the assets and liabilities of existing unit. However, before issuing the actual transfer permission, it was seen that M/s. Regal Jewellery Mfg. Co. has not executed lease deed for Plot No. 159. NSEZ vide its letter No. EM/121/92-93 Dated 06/05/2003 had categorically advised the unit to execute lease deed. The firm operated in this plot without executing lease deed since 2003.

Shri B.K. Jain, proprietor of the company appeared before the UAC. He accepted the lapse on the part of his unit. He submitted that it was purely unintentional and the unit has been working from both the plots mentioned above and paying lease rents regularly. He also pleaded that since this lapse has taken place inadvertently, lenient view in the matter may be taken in the case.

The UAC observed that the unit has violated the conditions of allotment contained in the allotment letter to the extent that it has failed to execute fresh sub lease agreement with NSEZ in respect of Plot No. 159, NSEZ. **UAC observed that Rule 74A (i) categorically provides “the unit has held a valid Letter of Approval as well as lease of land for not less than a period of five years as on date of transfer”.** Hence, it does not meet the requirement of Rule 74A (i) of SEZ Rules to the extent that the unit did not have held valid Lease of Land for not less than a period of five years in respect of Plot No. 159, NSEZ as on the date of transfer. The



committee further observed that the transferor unit was issued single LOA against which it was doing export production from both the plots.

In the light of foregoing, the UAC was of the view that as the transferor unit does not meet the conditions of Rule 74A, the proposed transfer of assets and liabilities in respect of Plot No. 159 cannot be approved. The UAC after due deliberations gave two options to the unit:

i) In case the unit wants to continue its operations in NSEZ, their LOA & lease of land will be renewed and the transfer charges paid by them shall be refunded.

OR

ii) In case unit still wants to exit, then they will have to surrender Plot No. 159, to the NSEZ Authority as its lease deed has not been executed and UAC will allow transfer of Plot No. 160, NSEZ. Once he surrenders Plot No. 159 to the NSEZ, a valuation may be carried out by Govt. approved valuer and the Plot will be put up for auction for valid LOA holder as per the provisions prescribed by NSEZA. The value of building will be given to the unit as assessed by Govt. approved valuer.

5. Proposal in respect of M/s. Interactivity Broadband Telecommunications Private Limited for Change of Name / Constitution, Non filing of Softex Forms.

It was informed to the UAC that unit has not been filing Softex Forms in respect of their business. It was further informed that the name/status of company had been changed from a Private Limited to a Public Limited Company w.e.f. 19/09/2013 & the unit informed about the change to this office on 31/12/2014 i.e. after more than one year, which was a violation of Condition No. 14 of Bond-cum-LUT. It was further informed that the UAC in its meeting held on 04/11/2015 had deferred the matter and advised the unit representative to inform the exact date of submission of intimation for change of constitution w.e.f. 19.09.2013 with documentary proof. UAC further directed NSEZ Customs to submit a report on filing of Shipping bills by the unit since inception till date.

Shri Satish Mehta, Director appeared on behalf of the company. He stated that they had not made any software export in 2009-10. The only receipts/income since that period pertain to advertising revenue on free video content hosted on servers prior to



September 2013 on sites like Netflix etc. He informed that no softex/shipping bill has been filed by them after 2009-10. He further stated that they had informed about change in name/constitution of the company on time. However, he failed to submit any proof of the said intimation to NSEZ. Shri Mehta requested for help in sorting these issues out so that they can restore business operations immediately from their NSEZ unit. He categorically informed that no shipping bill was filed because no goods was exported. He also categorically stated that no softex was filed because individual transaction was less than the USD 25000. In fact he stated that the transaction value was as low as 3 cents per transaction.

It was informed to him that as per section 11(4) of the Foreign Trade (Development & Regulation) Act, there is a penalty provision to settle the cases where a person admits any contravention. Shri Mehta consented to settle the case as per section 11(4) of the FT(D&R) Act, 1992 for non-intimation of change in name/constitution timely. He further requested for acceptance of Bond-cum-LUT so as to enable them to start their business in the NSEZ.

In the light of facts & circumstances of the case, DC, NSEZ on the recommendation of UAC imposed a penalty of Rs. 10,000/- on the unit in terms of section 11(4) of FT(D&R) Act, 1992.

After due deliberations, the UAC decided to take note of change of name/constitution subject to deposit of penalty of Rs. 10,000/-. The UAC also decided to accept the Bond-cum-LUT once the change of name/constitution of the company is taken on records.

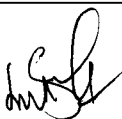
In respect of non-filing of softex forms, the UAC directed the unit to submit his written submissions along with transaction wise evidence of realization of payment since 2009-10. In view of the facts stated by him in the UAC that every transaction by the firm since 2009 was a value of less than USD 25000, UAC advised Mr. Satish Mehta, Director present in the UAC to submit the detailed report regarding each transaction, value of transaction, value received and evidence of realization from 2009 onwards so that issue could be finally decided. The UAC accordingly deferred the matter of non-filing of Softex Forms for its next meeting.



6.	<p>Proposal of M/s. Sterling Ornaments Pvt. Ltd. for Amendment in LOA.</p> <p>It was informed to the UAC that the unit has requested for "Trading in Silver minted ingot and Silver Coins with Laxmi-Ganesh on the observe and Swastika/Om on the reverse in 0.999 purity" procured in various weights like 5gm, 10gm, 20gm, 50gm etc.</p> <p>Shri Vishal Gupta, Director and Shri Deepak Sharma, Dy. Manager appeared on behalf of the company. Shri Gupta informed that currently they proposed for trading in Sliver minted ingots & Silver coins procured from DTA. It was informed to him that trading is not allowed to Gems & Jewellery units in SEZ (except inter-unit transfer between Gems & Jewellery units within the same SEZ) as per DOC's letter dated 25/04/2013 & subsequent letter dated 18/06/2014. Further, in view of the restriction on manufacturing of coins & medallions in SEZ vide DOC's letter dated 25/04/2013, their proposal cannot be accepted at this stage.</p> <p>The UAC, therefore, rejected the proposal of unit for trading in Silver minted ingot & Silver Coins.</p>
7.	<p>Request of M/s. Indo Aerospace Pvt. Ltd. regarding inclusion of manufacturing activities in their authorized operations.</p> <p>The UAC noted that the applicant has requested for deferment of their proposal. The UAC accordingly decided to defer the proposal.</p>
8.	<p>Proposal of M/s. H & S Industries for Amendment in LOA.</p> <p>It was informed to the UAC that the unit has proposed for inclusion of additional manufacturing activities in their LOA. It was further informed that some information/documents related to the above proposal have not been given by the unit and the same were requested vide this office letter dated 23/11/2015. The unit has submitted the said documents on 05/01/2016.</p> <p>Shri Sukhwinder Singh, Partner appeared on behalf of the company. He stated that their unit will be fully operational within 3 months and requested for an early approval of LOA amendment. The UAC noted that the documents have been submitted by the unit on 05/01/2016 and has not yet been examined/verified.</p> <p>The UAC, after due deliberations, approved inclusion of additional manufacturing</p>



	activities as proposed by the unit subject to verification of the documents submitted by them and rectification of deficiencies by the unit, if any.
9.	<p>Review of compliance with exit formalities by M/s. Bullet International.</p> <p>It was informed to the UAC that M/s. Bullet International has been issued two LOAs in NSEZ for manufacturing and trading activities and in both LOAs, the unit have been granted "in-principle" approval for exit from SEZ scheme on 15.01.2013 and 24/07/2012 respectively. It was further informed that The UAC in its meeting held on 29/01/2015 granted extension of time upto 28/02/2015 for completing exit formalities in respect of both LOAs, failing which eviction proceeding shall be initiated against the unit. However, unit has failed to comply with exit formalities within the extended time frame, though LOA issued to M/s. Bullet International for manufacturing activity is still valid upto 31/03/2016.</p> <p>The UAC observed that the promoters of M/s. Bullet International have been issued another LOA dated 17/03/2011 in the name of M/s. GSR Industries for manufacturing activities, which is working from the building of M/s. Bullet International at Plot No. 187-189, NSEZ on sharing basis.</p> <p>Shri Prakash Sinha, authorized representative appeared on behalf of the company. He stated that they are in process of exit and will surrender the above Plots to NSEZ Authority so that the same can be transferred to their another unit i.e. M/s. GSR Industries. It was informed to him that the building once surrendered cannot be transferred to them directly and they may also participate the process of auction proceedings for allotment of the said Plots.</p> <p>The UAC, after due deliberations, directed the unit to submit their detailed future plan and proposal in respect of M/s. Bullet International and M/s. GSR Industries. Accordingly, the matter was deferred for the next meeting of UAC.</p>
10.	<p>Review of implementation of LOA by M/s. Moser Baer India Ltd.</p> <p>The UAC noted that the applicant has requested for deferment of their proposal. The UAC accordingly decided to defer the proposal.</p>
11.	<p>Proposal of M/s. Jindal Dyechem Industries Pvt. Ltd. for renewal of LOA for next</p>



five years and Adjudication of SCN dated 16/04/2015.

It was informed to the UAC that the unit has been issued an SCN dated 16/04/2015 for lying non-functional and non-utilization of space allotted for the purpose to carry out authorized operations & earn foreign exchange. It was further informed that proposal in respect of M/s. Jindal Dyechem Industries Pvt. Ltd. for Adjudication of SCN, Renewal & Amendment of LOA was placed before the UAC in its meeting held on 07.10.2015. The UAC rejected the proposal of unit for amendment in LOA for diversification of authorized operation to manufacture Sputtering Targets as inter-alia unit had not projected value addition correctly and also the sputtering target being article of gold was not permissible activity in SEZ. However, no decision had been taken in the matter of renewal of LOA and adjudication of SCN.

Shri S.K. Jindal, Director appeared on behalf of the company. He stated that previously they were doing mainly manufacturing of gold medallions from their SEZ unit. However, due to change in Govt. Policies, restrictions imposed, they started working from their DTA units for manufacturing of gold medallions as it is not allowed in SEZ now. He informed that now they have orders for gold jewellery and they will continue with manufacturing of plain Gold Jewellery as already allowed to them. He further stated that initially they shall be employing around 25-50 people for manufacturing of gold jewellery.

The UAC observed that the value addition projected by the unit is 3% for plain jewellery, which is below 3.5% prescribed under extant policy. Attention of Shri Jindal was invited to the prescribed value addition norms, to which he agreed and stated to comply with the same.

The UAC further observed that though the unit has not been working for past few years, however the unit has achieved positive NFE during the block of five years.

The UAC after due deliberation decided to withdraw the show cause notice dated 16/04/2015 issued to the unit as unit has achieved positive NFE & accordingly no action is called for under Rule 54 of SEZ Rules, 2006. The UAC further decided to renew the LOA of M/s Jindal Dyechem Industries Pvt. Ltd. for one year from the date of UAC subject to submission of revised projection as per prescribed value addition



norms.

12. Proposal of M/s. Jindal Dyechem Industries Pvt. Ltd. for renewal of LOA for next five years and Adjudication of SCN dated 16/04/2015.

It was informed to the UAC that the unit has been issued an SCN dated 16/04/2015 for lying non-functional and non-utilization of space allotted for the purpose to carry out authorized operations & earn foreign exchange. It was further informed that proposal in respect of M/s. Jindal Dyechem Industries Pvt. Ltd. for Adjudication of SCN, Renewal & Amendment of LOA was placed before the UAC in its meeting held on 07.10.2015. The UAC rejected the proposal of unit for amendment in LOA for diversification of authorized operation to manufacture Sputtering Targets as inter-alia unit had not projected value addition correctly and also the sputtering target being article of gold was not permissible activity in SEZ. However, no decision had been taken in the matter of renewal of LOA and adjudication of SCN.

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The UAC after due deliberation decided to withdraw the show cause notice dated 16/04/2015 issued to the unit as unit has achieved positive NFE & accordingly no action is called for under Rule 54 of SEZ Rules, 2006. The UAC further decided to



	renew the LOA of M/s Jindal Exports & Imports Pvt. Ltd. for one year from the date of UAC subject to submission of revised projection as per prescribed value addition norms.
13.	<p>Proposal of M/s. Impetus Infotech (India) Pvt. Ltd. for approval of additional service namely 'Event Management Service'.</p> <p>It was informed to the UAC that M/s. Impetus Infotech (India) Pvt. Ltd. has applied for approval of additional service namely 'Event Management Service' for availing service tax exemption. It has been further informed that such requests need approval of UAC as per guidelines laid down in Instruction No. 79 dated 19.11.2013 and DOC letter dated 24th June, 2014.</p> <p>No one from the unit appeared for the meeting. The UAC observed that "Event Management Service" is not related to the authorized operation of the unit. The UAC, after due deliberations rejected the proposal of unit for approval of Event Management Service.</p>
14.	<p>Proposal of M/s. Gripwel Fasteners Pvt. Ltd. for approval of additional service namely 'Director Sitting Fees'.</p> <p>It was informed to the UAC that M/s. Gripwel Fasteners Pvt. Ltd. has applied for approval of additional service namely 'Director Sitting Fees' for availing service tax exemption. It has been further informed that such requests need approval of UAC as per guidelines laid down in Instruction No. 79 dated 19.11.2013 and DOC letter dated 24th June, 2014.</p> <p>Smt. Asha Negi, authorized representative appeared on behalf of the company. She informed that they are liable to pay Service tax on Sitting fees paid to Directors for attending meetings of the Board and the Committees of Board, travelling and incidental expenses for attending such meetings, commission or other remuneration paid, if any.</p> <p>The representative of Noida Customs Commissionerate explained that in continuation with the Government's endeavour to tap the service sector's potential in nation building by introduction of the negative list approach of taxation of services, another concept of 'partial reverse charge' was introduced w.e.f. 1st July 2012 vide</p>



	<p>Notification No. 30/2012-ST dated 20-6-2012 wherein in respect of specified services, part of service tax is to be paid by service provider and balance by the service receiver. She further stated that according to Rules 2(1)(d)(EE) of Service Tax Rules, 1994 read with Notification No. 30/2012-ST, dated 20-6-2012 amended w.e.f. 7-8-2012 and further amended vide notification no.9/2014 of Service Tax dated 11th July, 2014, the Company receiving the services of Directors is liable to pay Service tax under reverse charge mechanism.</p> <p>The UAC, after due deliberations, acceded to the request of M/s. Gripwel Fasteners Pvt. Ltd. and approved "Director Sitting Fees" as additional service to the unit. The UAC further decided to make a reference to the Department of Commerce for addition of "Director Sitting Fees" into the default list of services.</p>
15.	<p>Proposal of M/s. SRHR Exports for Permission for import of machinery.</p> <p>It was informed to the UAC that the unit has proposed to allow them import of machinery worth Rs. 25.00 Lakhs to be financed from their own resources. It was further informed that the unit has stated that exports will be mainly of casting jewellery, instead of handcrafted jewellery and proposed that additional staff of approx. eight persons shall be engaged.</p> <p>The UAC observed that during the year 2013-14 and 2014-15, the unit has indicated 100% NFE achievement, which is a unique case of a unit in Gem & Jewellery sector who has indicated such achievement. It was informed to the UAC that there appears to be indigenous inputs used in export production and a clarification has been sought to ascertain the correct value addition achieved by the unit.</p> <p>No one from the unit appeared for the meeting. The UAC, however, acceded to the request of M/s. SRHR Exports and granted permission for import of machinery worth Rs. 25 Lakhs for manufacturing & export of jewellery.</p> <p>The UAC further directed to separately ask for clarification to ascertain the correct value addition achieved by the unit in respect of for (i) plain jewellery; and (ii) studded jewellery (with precious/semi-precious stones, pearls & diamonds) gold/silver articles'</p>
16.	<p>Proposal of M/s. Nikka Mal Jewellers for renewal of LOA for next five years.</p>



It was informed to the UAC that LOA of unit has already expired on 04/01/2014 and unit has not applied for renewal of LOA within due date. Besides, unit has been lying non-functional since 2012-13. It was further informed that the UAC in its meeting held on 02/12/2015 deferred the above proposal with direction to the unit to ensure its presence before the UAC in its meeting.

Shri Krishna Soni, authorized representative appeared on behalf of the unit. He stated that due to recession in the jewellery sector and non-availability of export orders, they were not working since last 2-3 years. He accepted lapse on the part of unit for not applying on time for renewal of LOA and stated to be punctual in future. He further stated that they are interested in restarting their operations in NSEZ at the earliest.

After due deliberations, it was decided by UAC to renew the LOA for six months from the date of UAC with the condition that unit shall re-start the business within this period. The progress shall be reviewed by the UAC after six months for further extension.

17. Proposal in respect of M/s. Taurus Englobe Ltd. for Ratification of approval.

It was informed to the UAC that in its meeting held on 04/11/2015, the UAC approved the proposal of unit to include manufacture and export of Bulk Molding Component, Dough Molding Component, Sheet Molding Component and Molded Components etc., which was conveyed to the unit on 27/11/2015. It was further informed that in LOA Amendment letter dated 27/11/2015, Bulk Molding Components was mistakenly written as Welding Molding Component.

It was further informed that the unit vide its letter dated 08/10/2015 stated that they applied for 'Compounds' instead of 'Components'. Accordingly this office has issued revised LOA amendment letter dated 28/12/2015 for inclusion of Bulk Moulding Compound, Dough Moulding Compound, Sheet Moulding Compound and Moulded Components, subject to ratification by UAC.

After due deliberations, UAC ratified the approval to include Bulk Moulding Compound, Dough Moulding Compound, Sheet Moulding Compound and Moulded Components as conveyed to the unit vide revised LOA amendment letter dated 28/12/2015.



18.	<p>Monitoring of performance of M/s. AMS Fashions Pvt. Ltd.</p> <p>It was informed to the UAC that the performance of M/s. AMS Fashions Pvt. Ltd. was monitored by the UAC in its meeting held on 22.06.2015, wherein the UAC observed the dismal performance of unit during the current block of five years and decided to issue SCN to the unit calling upon them to explain as to why their LOA and allotment of Plot No. 59G should not be cancelled. It was further informed that the LOA of the unit is valid upto 30.08.2016.</p> <p>It was also informed that the unit has been requested to explain the reason for dismal performance and concrete business plan as to how the unit is going to boost the export performance in the remaining period of five years block, so that UAC can decide further course of action in the light of its decision in its earlier meeting dated 22.06.2015.</p> <p>Shri Sanjeev Gupta, Director appeared on behalf of the unit. He stated that they are doing business mainly with ITC since 2007 and they have also got Export Awards for three years. However, due to recession in the market their business was down during previous 3-4 years. He further informed that they have resumed their collaboration with ITC and are going to start the export production of Garments in the February 2016.</p> <p>After due deliberations, the UAC decided to drop the SCN as decided in its earlier meeting dated 22/06/2015 and directed the unit to re-start operations expeditiously.</p>
19.	<p>Monitoring of performance of M/s. Jet Tech Systems.</p> <p>No one from the unit appeared for the meeting. The UAC decided to defer the proposal.</p>
20.	<p>Review of Authorized Operations of M/s. Morgan Tectronics Ltd. in the wake of number of reports about contravention of provisions of SEZ Act, 2005, SEZ Rules 2006, Conditions of LOA and conditions of Bond-cum-LUT.</p> <p>1. It was informed to the UAC that the unit has been granted permission vide letter No.3/18/90-Proj/Vol.IV/4119 dated 30.06.2003 to undertake following activities for manufacture/Trading:-</p>



1. Consumer Electronic Hardware items.
2. Loader with Lens for VCD player
3. Trading activities.

Unit at present has not been doing manufacturing and **undertaking mainly trading activities.**

2. As per section 5 of SEZ Act, 2005, the basic objective of SEZ include the following:

- (a) Generation of additional economic activity;
- (b) Promotion of exports of goods and services;
- (c) Promotion of investment from domestic and foreign sources;
- (d) Creation of employment opportunities;
- (e) Development of infrastructure facilities; and
- (f) Maintenance of sovereignty and integrity of India, the security of the State and friendly relations with foreign States.

3. The complete facts of the case were placed before the UAC. The unit was granted an opportunity for personal hearing before the UAC in its meeting today and email to this effect was issued to unit on 01/01/2016. Subsequently, the promoter Shri P.V. Khullar visited this office on 05/01/2016 and he was personally handed over a copy of above email with the request to appear before the UAC in its meeting scheduled to be held on 06/01/2016. However, no one appeared before the UAC on behalf of the company. Instead the unit requested for adjournment of matter vide letter dated 05/01/2016 on the ground that they have some work.

It was explained that unit has been persistently contravening the provisions of SEZ Act, Rules, LOA and has been regularly indulging in mis-declaration of goods. The facts placed before the UAC categorically pointed out that the unit was not doing any export activity, which is the main objective of SEZ Scheme. Rather than the unit is working only as a conduit for domestic importer by importing the goods and selling it entirely in the domestic market and on top of it, has been indulging in mis-declaration of goods as brought out clearly in the following facts:

- i) The D.R.I., New Delhi, on intelligence of undervaluation of imported goods for



trading activity, found that M/s Morgan Tectronics Ltd. imported "disassembled LED TVs" by mis-declaring the same as "LED Panels" and clearing the same into DTA after availing exemption of Basic Customs duty. The investigation of the DRI further indicated that M/s Morgan Tectronics Ltd. was playing the role of facilitator for actual importer of the goods. The duty free goods imported after availing benefit of Customs duty exemption in the name of SEZ units (M/s. Morgan Tectronics Ltd.) were cleared as DTA clearances to the actual importer of the goods, as intimated by the DRI vide letter F.No. DRI/DZU/23/Enq-35/15/2014/2921 dated 11.06.2015 by DRI, DZU, New Delhi.

ii) Recently, a letter dated 23/10/2015 from Asstt. Commissioner (SIIB) addressed to the Specified Officer (Customs), NSEZ Noida was received mentioning that on a specific intelligence that an NSEZ unit would be attempting to mis-declare the goods for clearance from Noida SEZ, a watch was kept on the movement of goods imported in the name of Morgan Tectronics Ltd., G-6A, SDF, NSEZ, Noida. For the sake of ready reference, the observations/findings of Asstt. Commissioner (SIIB) are reproduced below:

"It was observed that the Morgan had filed Bill of Entry No. NEZ0008568 dated 05/10/2015 for which the goods arrived at ACC import, New Delhi for onward transfer to NSEZ under Custom Squad. Preventive check was applied in respect of the consignment. Examination of consignment covered under NSEZ bill of Entry No. NEZ0008568 dated 05/10/2015 was conducted in the presence of the importer Shri Pramod Vijay Khullar of M/s. Morgan Tectronics Ltd. and two independent witnesses and also in the company of Shri Padam Chand Agarwal, Preventive Officer (Customs), NSEZ. Upon examination it was found that the shipment was consisting of mobile phones of HTC brand model desire 820G+(592 pieces), ZTE Brand model Star1 (1400 pieces) and V 811W (2000 pieces). It was found that the importer had not declared the brand HTC in the NSEZ bill of entry. The R.S.P. of the said mobile phones was also not declared whereas R.S.P. stickers reflecting the R.S.P. of Rs. 20900 for HTC Desire 820G+, Rs.1000/- for both the ZTE brand phones were found



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affixed. Further, in respect of the HTC Desire 820G+ mobile phones, name and address of the importer was mentioned as M/s. MPS Telecom Pvt. Ltd., D-55, 1st and 2nd floor, Okhla Industrial Area, Phase-I, New Delhi-110020. The import price of all the mobile phones was declared at USD 16 per piece. Since the declared price of USD 16 per piece did not appear to be representing the correct value of goods under import especially in respect of HTC Brand mobile phones, where the R.S.P. stickers suggested the retail sale price as Rs. 20,900/- and also the mobile phones were declared as Chinese mobile phones. Whereas the brand HTC had not been declared by the importer, it appear to be a case of mis-declaration of Brand, description and value of and accordingly the said consignment with a declared value of Rs. 42,67,384/- was seized under section 110 of Customs Act 1962. Three sealed samples were also drawn for market enquiry and to determine the appropriate value of goods under import.

It was further found that the importer M/s. Morgan Telectronics Ltd. had filed two more bills of entry No. NSEZ0008527 dated 03/10/2015 and NSEZ 0008457 dated 30/09/2015 at NSEZ. Suspecting a mis-declaration these two bills of entry as well preventive check was applied SIIB, ACC import in respect of these two consignment and the examination of goods was also conducted by the officers of SIIB, ACC Import in the company of the officer from NSEZ where upon examination of goods declared in NSEZ bill of entry No. 0008527 dated 30/10/2015 were found mis-declared in as much as the importer had declared 13000 sets of mobile phones, plastic front cover fitted with mounted PCB with earphone, Jack, Camera, Plastic front cover with LCD Screen and keypad component for bar phone (Chinese model No. C2829, S800, SP5406, C130). However, upon examination 17300 sets of mobile phones in complete assembled form, except back cover and battery of various brands were found.

With reference to NSEZ Bill of entry No. 0008457 dated 30/09/2015,



it was found that the importer had declared therein the parts of mobile phones (battery of 1000MAh lithium), Data cable, back cover, charger with lid, earphone, user manual, model No. K-9, MMX 344, C2829, 229, T6, T7(9000 pieces) and part of Chinese mobile phones packing box, whereas upon examination, the goods found were 9000 sets of plastic back covers of mobile phones with headphones, charger, user manual and each set of these items were found packed individually ready to sell packing box of mobile phone of different brands viz. Micromax, Karbonn, Telego and MTS. Further for the battery declared as 1000MAh (9000pieces), 9000 Batteries of different specifications viz. 4000mAh, 1400mAh, 1800mAh and 1000mAh were found. Both these consignments of declared assessable value of Rs. 34,74,198/- and Rs. 9,99,555/- respectively were also seized.

Statement of Shri Pramod Vijay Khullar, Director of M/s. Morgan Tectronics Ltd. was recorded on 16/10/2015 under section 108 of Customs Act 1962, where he admitted the mis-declaration of the goods covered under all three NSEZ Bills of Entry. However, he has stated that the extra goods had been sent by the supplier without his knowledge. The importer has deposited an amount of Rs. 50 Lakhs (Rs. 35 Lakh vide challan No. 730468 dated 20/10/2015 and Rs. 15Lakhs vide challan No. 730467 dated 20/10/2015 towards his duty/penalty/fine liability emerging as the outcome of investigation. **He also requested to decide the matter on merits and stated that he did not want any Show Cause Notice or personal hearing.**

iii) Further in view of search and seizure case by SIIB, NCH, New Delhi goods imported by M/s Morgan Tectronics vide BOE No. 8667 dated 07.10.2015, 9641 dated 05.11.2015, 8947 dated 15.10.2015, 8898 dated 14.10.2015, 8897 dated 14.10.2015, 8942 dated 15.10.2015, 8946 dated 15.10.2015 and 9903 dated 16.10.2015 have been subjected to 100% examination. During the course of examination of the goods imported vide BOE No. 8667 dated 07.10.2015, a mis-declaration regarding size of the mobile phone was found as the said model bearing

