

नोएडा विशेष आर्थिक क्षेत्र

**दिनांक 13.02.2019 को 11.30 बजे को एन.एस.ई.जेड., नोएडा में
डॉ. ललित बि. सिंघल, विकास आयुक्त महोदय की अध्यक्षता में हुई 100% निर्यातान्मुख
इकाइयों से संबंधित अप्रूवल समिति की पहली बैठक (2019 सीरीज) का कार्यवृत्त**

The following members of the Approval Committee were present in the meeting:

1. Shri S.S. Shukla, Joint Development Commissioner, NSEZ, Noida.
2. Shri Mukesh Kataria, Deputy Commissioner, (Customs) Office of Commissionerate of Customs Jodhpur.
3. Shri Rajesh Sharma, Assistant Commissioner (Customs), Commissionerate of Customs, ICD Dadri (Greater Noida).
4. Shri V.K. Tiwari, Assistant Commissioner (Customs), Commissionerate of Customs, Lucknow.
5. Shri Chand Singh, Assistant Commissioner (Customs), Commissionerate of Customs, New Delhi.
6. Shri R.L. Meena, Assistant DGFT, Central Licensing Authority, New Delhi.

Besides, during the meeting (i) Shri R.K. Srivastava, Dy. Development Commissioner, NSEZ (ii) Shri Ram Baboo, Assistant Development Commissioner, NSEZ and (iii) Shri Subodh Kumar Jha, Assistant Development Commissioner, NSEZ were also present to assist the Approval Committee.

2. At the outset, Development Commissioner, NSEZ welcomed the participants. After brief introduction, each items included in the agenda were taken up for deliberation one by one.

1.01(2019) दिनांक 12.12.2018 को हुई अनुमोदन समिति की बैठक के कार्य वृत्त का अनुमोदन

It was informed that no reference against the decisions of the Approval Committee held on 12.12.2018 has been received, and therefore the Committee ratified the Minutes of the Approval Committee held on 12.12.2018.

1.02(201) क्रियाविधि पुस्तिका के पैरा 6.36 के तहत ईपीसीजी प्राधिकार के एवज में निर्यात दायित्व को ईओयू योजना में परिवर्तन का प्रस्ताव .(Conversion of EPCG export obligation into EOU scheme)

It was informed to the Committee that M/s D & Y Technologies Private Limited was issued LOP No. 31-01/2012-100%EOU dated 06.07.2012 for manufacture and export of UV Coating of Mobile Phones Cover & Parts. Unit's DCP is 20.09.2012 and during current block 21.09.2017 to 20.09.2022, the NFE of the unit up to the period 31.12.2018 is positive. Further, as per APR submitted by the unit till 2017-18, no foreign exchange is pending for realization.

2. It was informed that after completion of two years as EOU unit vide their letter dated 22.08.2014 had informed this office that they have one EPCG license No. 0530158663 dated 28.06.2012 which was obtained from the O/o of DGFT CLA, New Delhi for a value of Rs. 5,48,08,129.00. By way of this EPCG License they saved duty to the tune of Rs. 1,42,50,114.00. As per condition of said EPCG License they had to fulfill the export obligation to the tune of Rs.8,55,20,684.00 within a period of six years from the date of issue of the license i.e. 28.06.2012.

3. It was informed that while submitting application for setting up 100% EOU on 03.04.2012, the unit had neither informed about EPCG License already obtained from O/o DGFT nor it informed to the UAC during the project discussion/personal hearing



regarding taking over the obligation in EOU. Accordingly, as per available documents project was approved by UAC on 04.07.2012 and LOP for conversion of DTA into EOU was issued on 06.07.2012.

4. Subsequently the unit vide letter dated 22.08.2014 informed about imports of capital goods under EPCG authorization No. 0530158663 dated 28.06.2012 and value of EPCG Rs.5,48,08,129/- and requested for conversion of EPCG scheme into EOU to submerge export obligation under para 6.36 of Handbook of Procedures. Since the unit had not intimated the fact of EPCG license before UAC meeting held in connection with issuance of LOP, Unit was issued Show Cause Notice vide this office letter dated 28.11.2014 for suppression of facts of EPCG License before UAC. Further, after hearing, DC, vide Order-In-original dated 13.01.2015 had imposed a penalty of Rs. 2.00 lakh and the unit was advised to pay duty forgone along with the interest on account of import of machinery under EPCG scheme to Customs authorities.

5. It was informed that the unit then filed an appeal in the O/o DGFT against the Order-In-original dated 13.01.2015 of the Development Commissioner, NSEZ, Noida and the Appellate Authority DGFT vide their Order in Appeal No. 01/92/171/103/AM16/PC-VI/118 dated 07.09.2018 had passed the following order:

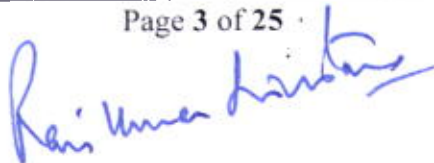
“Order-in-Original No. 31/01/2012-100%EOU/467 dated 13.01.2015 passed by the Development Commissioner, Noida SEZ is set aside and the case remanded back to the DC for de novo consideration of the firm’s request based on the submission

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made and to be made by appellant taking all the provisions of the scheme into consideration keeping in view the fact that the appellant only informed about the procedural irregularities and the fact that there was no intention to defraud the government. The appellant may submit the relevant submissions, if any, it intends to the DC in this regard within 30 days from the date of issue of the order. However, the penalty imposed by the DC as per the order is upheld.”

6. As per appellate authority order unit was asked to deposit penalty amount. Unit has deposited the penalty amount vide their letter dated 18.01.2019. Further, unit has submitted representation dated 03.12.2018 for de-novo consideration by DC, NSEZ as per order of appellate authority as follows:

7. In its detailed reply dated 03.12.2018, unit has stated that they had applied for LOP in April 2012. Since the unit was not issued LOP after expiry of almost 2 month of application, the unit got clearance of Capital Goods worth Rs. 8.59 crore arrived at Port and the unit had cleared the said consignment after payment of applicable custom duty amounting to Rs.23,81,675/-. As again some machinery of value Rs. 5.56 crore arrived at customs port the unit decided to avail EPCG benefit. After that on the basis of meeting of UAC held on 04.07.2012, unit was issued LOP. Thus there is only procedural violation and not any intention of the unit for misleading the UAC. The unit applied on 22.08.2014 before Development Commissioner, NSEZ, Noida for conversion of EPCG export obligation into EOU scheme.

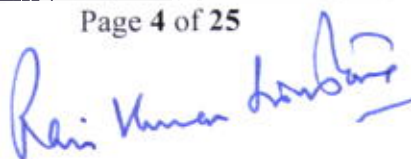
8. Shri R.K Sharma, authorized Legal representative, Ms. Lee, Director and Shri Vivek Misra, Manager, M/s D & Y Technologies Private Limited appeared before

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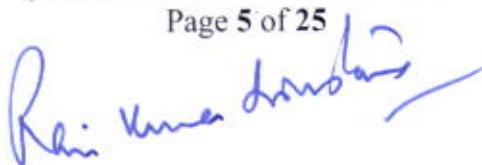
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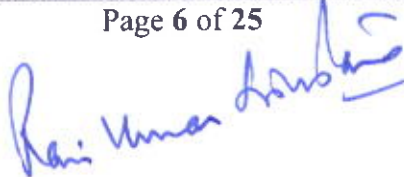
the Approval Committee and explained the facts. They stated that the unit had applied for conversion of DTA into 100% EOU in April'2012. Since there was a delay in grant of EOU permission and as their import consignment of capital goods machines had arrived at Indian port, the unit got the clearance of capital goods machines on payment of applicable Customs duty. They further informed that second lot of machines arrived in the last week of June'12 but since the LOP was not issued till that date, the unit Management decided to opt for EPCG to get the clearance from Customs port. The unit had also submitted that it had no intention of suppressing the information and that the person who was handling EOU work suddenly left the company without proper briefing and handing over the charge. However, once the matter came to their knowledge, they took immediate steps to get it regularized.

8.1 Further, they stated that the unit has made exports as deemed exports as per para 6.9(c) of HBP to M/s Elantec India Pvt. Ltd. which is a 100%EOU, who supplies the goods to M/s Samsung. They further informed that M/s Elantec India Pvt. Ltd. is an STPI unit situated in Greater Noida.

9. The Committee observed that the unit had applied for conversion of DTA into 100% EOU in April'2012. The Committee further observed that at the time of submitting application for conversion of DTA into 100% EOU in April'2012, the value of imported capital goods in the application was mentioned USD 857.00 thousand (Rs.429.00 lakh



approx.). Accordingly the LOP was issued with approved value of imported capital goods of Rs.429.00 lakhs only against which unit had imported capital goods worth Rs.1880.23 lakh till date. Out of that the unit had imported capital goods worth Rs.1567.12 lakh (Rs.1413.48 lakh in APR 2012-13 and Rs.153.64 lakh in APR for 2013-14) before applying vide letter dated 22.08.2014 for conversion of said EPCG licenses into EOU to submerge export obligation. Thus in the application made for conversion of DTA into 100%EOU, value of capital goods projected for five years was much less than the total value of capital goods actually imported under EPCG license as well as after obtaining LOP for EOU. Further, it was observed that the unit did not inform these facts to the UAC held on 04.07.2012. They have brought it to the notice of this office only on 22.08.2014, whereas import of capital goods worth Rs.1415.00 lakh (Rs.859.00 lakh duty paid capital goods + Rs.556.00 lakh capital goods procured on EPCG authorization) had already been effected under EPCG in 2012 itself. Hence the contention of the unit that it was done inadvertently cannot be accepted. The Committee observed that based on projection of capital goods worth Rs.429.00 lakh only for five years, the import of capital goods worth Rs.556.00 lakh against EPCG License and total import of Rs.1800.23 lakh is not justified and it also doesn't support the contention of the representative of the unit that they had intended for conversion of DTA unit into 100%EOU unit and that they had no intention to import under EPCG scheme. It is also not correct to say that they had to import under EPCG only when issuance of LOP for setting up of 100%EOU got delayed.



10. Hence the Approval Committee decided that it is not possible for the Committee to consider this application of subsuming EPCG License into the EOU retrospectively after seven years. Accordingly, the Approval Committee rejected the request of the unit.

11. The Approval Committee further directed the unit to submit copy of LOP of M/s Elantac India Pvt Ltd and also details of actual exports made as deemed exports to M/s Elantac India Pvt. Ltd., an STPI unit so that NFE calculation can be done. The committee also directed that the same may be get verified from DC, STPI. Further since the unit has informed that there is no segregation of capital goods between EPCG scheme or EOU scheme, the Committee also directed the unit to submit revised APRs with exclusion of capital goods procured under EPCG scheme.

1.03 (2019) स्वीकृति-पत्र में 'Jewellery with Watch' उत्पादन एवं निर्यात के लिए नया मद जोड़ने के लिए प्रस्ताव.

It was informed to the Approval Committee that the proposal of M/s Vaibhav Global Limited is for broad banding under para 6.34 (5) of HBP by inclusion of additional item viz. Silver/ Gold/ Platinum / Base Metal Plain/ Studded with Precious, Semi Precious, Synthetic Stone and Diamond with Watch in their LOP. It was informed that M/s Vaibhav Global Limited is 100% EOU for manufacturer and exporter of Colored Gem Stone (precious & semi-precious Stones and Synthetic Stones & Pearls, (2) Studded

Gold/Silver/Platinum Jewellery, (3) Plain Jewellery (Gold/silver/ platinum), (4) Gold/Silver/Platinum Mounting and Finding, (5) Cut & Polished Diamonds, (6) Unutilized Rough (Raw) of Colored Stone (Precious and Semi precious), (7) Articles of Precious semi-precious stones, (8) Copper/ Bronze/ Brass/ German Silver/ Gillette/ Stainless Steel Jewellery Plain & studded, and (9) Reimport of jewellery for repair.

2. It was informed that unit's proposal is for manufacturing & export of Silver/ Gold/ Platinum / Base Metal Plain/ Studded with Precious, Semi Precious, Synthetic Stone and Diamond with Watch. Unit has also submitted copies of images of such Watches. It was informed to the Committee that M/s Vaibhav Global Limited, an SEZ unit in Jaipur Special Economic Zone, had submitted a similar proposal for inclusion of Watch Gadget Jewellery in their LOA and the same was approved by the Approval Committee in its meeting held on 20.07.2018 at Jaipur. However, Specified Officer, Jaipur SEZ vide letter dated 08.08.2018 had raised the issue stating that 'Gadget Jewellery' and 'Watch Jewellery' does not fall under any of the sub-headings of Chapter 71 of the Customs Tariff Act, 1975 and could not be called a piece of Jewellery. Watches and Gadgets falls under their respective chapter headings but undoubtedly not under Chapter 71.

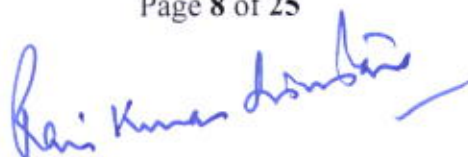
3. It was informed that subsequently, M/s Vaibhav Global Limited (SEZ Unit) vide letter dated 04.09.2018 had requested for deletion of Watch/ Gadget Jewellery which was approved by Approval Committee in its meeting held on 20.07.2018.

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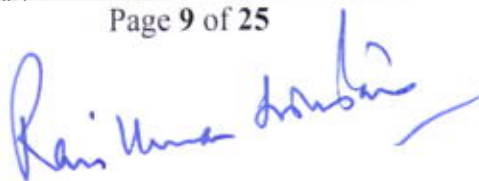
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4. Shri Prabhash Kumar Jha, Assistant General Manager, Sh. Sachidanand Sharma, Dy. Manager and Sh. Narendra Kumar, Assistant Manager of M/s Vaibhav Global Limited appeared before the Committee and explained the proposal. They informed that they are engaged in manufacture and export of jewellery made out of precious and semi-precious stones, plain and studded gold, silver platinum jewellery and now they want to manufacture and export Silver/ Gold/ Platinum / Base Metal Plain/ Studded with Precious, Semi Precious, Synthetic Stone and Diamond with Watch. They informed that around 200 people are employed in their EOU and their exports during 2018-19 is about Rs. 225.00 crore . They further informed that have export orders worth Rs.4 to5crore for in hand for supply of this proposed item which will increase manifold in future.

5. The Committee deliberated the project and observed that item may not come under 'jewellery' under sub-headings of Chapter 71 of the Customs Tariff Act, 1975 as based upon its usage, the item is 'watch' and should be covered under sub-headings of Chapter 9101 of the Customs Tariff Act, 1975. Heading 9101 covers only watches with case wholly of precious metal or of metal clad with precious metal, or of the same materials combined with natural or cultured pearls, or precious or semi-precious stones (natural, synthetic or reconstructed) of headings 7101 to 7104. Watches with case of base metal inlaid with precious metal fall in heading 9102. Thus the Committee observed that ideally the items proposed to be included in the LOA should be classified under Chapter 91 of ITC (HS) Classification.



6. Accordingly, the Approval Committee, after deliberations, approved the proposal of the unit for manufacture and export of Silver/ Gold/ Platinum / Base Metal Plain/ Studded with Precious, Semi Precious, Synthetic Stone and Diamond with Watch. However, the Committee advised the unit to consult local Customs Commisoinerate regarding the tariff head before doing exports.

1.04 (2019) पूंजीगत माल के मूल्यों में बढ़ोत्तरी और अनुमानित विदेशी मुदा लेखा में संशोधन तथा विधिक सह वचन-पत्र में अतिरिक्त मदों को शामिल करने के लिए पुष्टिकरण मै० आइसलैंड स्टोन इंडिया प्राइवेट लिमिटेड, 100% निर्यात एकक.

It was informed to the Approval Committee that M/s Island Stone India (Private) Limited has been issued LOP No. 12-337/2005-100%EOU/224 dated 09.01.2006 for manufacture and export of Natural Stone Tiles and Sand Stone Tiles.

2. It was informed that vide letter dated 31.12.2018 and subsequent email dated 02.02.2019 unit had submitted a request for inclusion of value of capital goods and revision of projections and also inclusion of new items in the Annexure of LUT. In this connection, the Committee was informed that at the time of extension of validity of LOP of the unit in April'2016, the value of imported capital goods was NIL.

3. It was also informed that vide letter dated 31.12.2018, unit had submitted that they want to import capital goods but since they have NIL approved value for import of capital goods and the projection may be revised as they have to import machinery. Hence the unit

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has requested to include the value of imported capital goods to the tune of Rs.38.34 lakh.

The details of revised projections submitted by the unit are as under:-

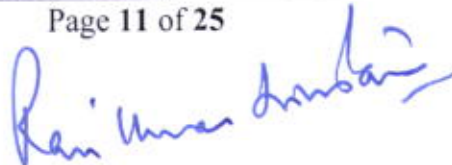
(Rs.in lakh)

Description	Approved projection vide this office letter dt 01.04.2016	Revised projections (Actual for first two years 2016-17 and 2017-18 + projected details for 2018-19 to 2020-21)
1.FOB value of exports	1562.74	1454.53
Foreign exchange outgo on.		
-Import of machinery	Nil	38.34
-Import of raw material and components	297.66	128.20
-Import of spares and consumables	Nil	Nil
-Commission on Export etc.	Nil	Nil
-Foreign Travel	Nil	Nil
Total:	297.66	166.55
Net foreign Exchange earnings	1265.08	1287.99

4. The Committee was informed that in terms of para 6.34 (3) of HBP, Development Commissioner can enhance the value of imported capital goods in case of fluctuation in the exchange rate of currency. In other cases, inclusion of value of imported capital goods will be considered by the Unit Approval Committee.

5. However, keeping in view the urgency shown by the unit, Development Commissioner has approved the proposal of the unit for import of machinery and has also approved the revised projections.

6. The proposal was placed before the Committee for ratification and after due deliberations, the Approval Committee ratified the same.

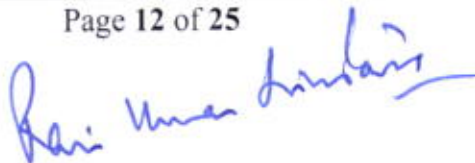


1.05(2019) ईओयू की 2017-18 की वार्षिक निष्पादन रिपोर्ट के अनुसार यूनिटों की लम्बित विदेशी मुद्रा की स्थिति

1.05 (1) M/s Parveen Industries:

It was informed to the Approval Committee that unit is working since July' 2008 and the LOP is valid upto 31.03.2023. The unit is having positive NFE but as per APR 2017-18 foreign exchange of Rs.543.13 lakhs is pending for realization.

2. Shri Anjani Kumar Misra, Manager appeared before the Committee and explained the status. He stated that they are manufacturer of Oil Field Equipment and about 250 people are presently working. He stated that the foreign exchange pending for realization pertains to export made to Venezuela and that they have got extension from AD Bank upto March'2019 for realization of same. It was advised by the Committee that if the pending foreign exchange is not realized upto March'2019, then unit may seek further extension from the concerned AD Bank and copy of the same may be provided to this office. In case the unit feels that the pending foreign exchange is not going to be realized, unit have option of self write off or write off by the concerned AD Bank. For the unrealized export proceeds unit has to pay applicable customs duties with interest in terms of para 2.54 (a) of FTP read with para 2.87 of HBP. The Committee also directed jurisdictional Customs to look into the matter and ascertain applicable customs duties with interest if unit decides to write off the foreign exchange pending for realization.



1.05 (2) **M/s HGS India Limited:**

It was informed to the Approval Committee that unit is working since March'2006 and the LOP is valid upto 08.03.2021. The unit is having positive NFE but as per APR 2017-18 foreign exchange of Rs.253.69 lakhs is pending for realization.

2. Shri Dhiraj Vashist Kaushal, Assistant Manager appeared before the Committee and explained the status. He stated that they are manufacturer of parts and accessories of Geo String Instruments using in Oil Fields. He stated that the foreign exchange pending for realization pertains to exports made to ONGC Vietnam and it has already been realized. He also submitted copies of Bank Certificate dated 11.02.2019 before the Committee. The Committee directed Shri Kaushal to ascertain whether the pending foreign exchange has been realized within nine months of exports or not and if the pending foreign exchange has been realized beyond nine months then extension from AD Bank/ RBI, as the case may be, obtained and submitted to this office within a period of one month for information and records.

1.05 (3) **M/s Wipro Limited:**

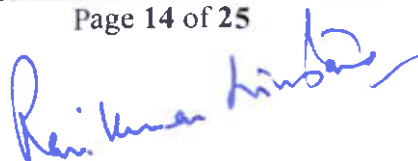
It was informed to the Approval Committee that unit is working since April'2010 and the LOP is valid upto 30.09.2020. The unit is having positive NFE but as per APR 2017-18 foreign exchange of Rs.208.07 lakhs is pending for realization.

2. It was also informed that out of Rs.208.07 pending for realization, Rs.201.87 lakh have been realized and only Rs.6.298 lakh is pending for realization. Shri Raj Kumar Singh, Manager appeared before the Committee and explained the status. He stated that they are regularly following up with their foreign buyer for realization of pending amount. The Committee directed Shri Singh to ascertain whether Rs.201.87 lakh which have been realized within nine months of exports or not and if the pending foreign exchange has been realized beyond nine months then extension from AD Bank/ RBI, as the case may be, obtained and submitted to this office within a period of one month.

3. It was advised by the Committee that it may also be ensured that Rs.6.298 lakh which is still pending for realization is realized within nine months of exports and if the same is not realized within nine months of exports, then unit may seek extension from the concerned AD Bank and copy of the same may be provided to this office for information and records.

1.05 (4) **M/s Glassco Laboratories Equipments Pvt. Ltd.:**

It was informed to the Approval Committee that unit is working since August'2001 and the LOP is valid upto 31.03.2022. The unit is having positive NFE but as per APR 2017-18 foreign exchange of Rs.22.16 lakhs is pending for realization.



2. Shri Rajesh Sharma, Manager and Shri Puneet Jain, C.A appeared before the Committee and explained the status. They stated that the foreign exchange pending for realization pertains to three parties addresses of whom are now not traceable.

3. It was advised by the Committee that if the pending foreign exchange is not realized within nine months of exports, then unit may seek extension from the concerned AD Bank and copy of the same may be provided to this office within a period of one month. In case the unit feels that the pending foreign exchange is not going to be realized, unit have an option of self write off or write off by the concerned AD Bank. For the unrealized export proceeds unit has to pay applicable customs duties with interest in terms of para 2.54 (a) of FTP read with para 2.87 of HBP. The Committee also directed jurisdictional Customs to look into the matter and ascertain applicable customs duties with interest if unit decides to write off the foreign exchange pending for realization.

1.05 (5) M/s VVDN Technologies Pvt. Ltd.:

It was informed to the Approval Committee that unit is working since June'2015 and the LOP is valid upto 04.11.2020. The unit is having positive NFE but as per APR 2017-18 foreign exchange of Rs.4.87 lakhs is pending for realization.

Rajesh Kumar

2. It was also informed that unit had submitted revised APR showing Nil amount against cases of pending foreign exchange with remarks "Bad Debts Write Off". However, unit later informed that the amount shall be realized shortly.

3. Shri Shubham Saxena, Assistant Manager, Finance appeared before the Committee and explained the status. He informed that they will receive the pending foreign exchange mentioned in the APR 2017-18 in the next 30 days.

4. It was advised by the Committee that it may also be ensured that Rs.4.87 lakhs which is still pending for realization is realized within nine months of exports and if the same is not realized within nine months of exports, then unit may seek extension from the concerned AD Bank and copy of the same may be provided to this office by 31.03.2019.

1.05 (6) and 1.05(7) M/s Moser Baer India Ltd. (Greater Noida) and M/s Moser Baer India Ltd. (Noida):

It was informed to the Approval Committee that the unit is in National Company Law Tribunal. The pending foreign exchange in respect of Greater Noida unit is Rs.2964.00 lakh whereas in case of Noida unit Rs.947.42 lakh is pending for realization.

2. Ms. Renu Tyagi, Authorised Signatory appeared before the Committee and explained the status. She informed that the unit is in National Company Law Tribunal and Official Liquidator has already been appointed and therefore everything is now in the

