

भारत सरकार, वाणिज्य एवं उद्योग मंत्रालय, वाणिज्य विभाग  
विकास आयुक्त का कार्यालय  
नोएडा विशेष आर्थिक क्षेत्र  
नोएडा दादरी रोड, फेस-II, नोएडा.201305, जिला - गौतमबुद्ध नगर  
Government of India, Min. of Commerce & Industry, Deptt. of Commerce,  
Office of the Development Commissioner  
NOIDA SPECIAL ECONOMIC ZONE  
Noida Dadri Road, Phase-II, NOIDA-201305, Distt. Gautam Budh Nagar (UP)

फा. सं. 12/01/2017 -प्रोज/

दिनांक: 11/06/2018

सेवा मे,

1. मुख्य कार्यपालक अधिकारी, न्यू ओखला औद्योगिक विकास प्राधिकरण, मुख्य प्रशासनिक भवन, सेक्टर - 6, नोएडा।
2. अतिरिक्त महानिदेशक विदेश व्यापार, वाणिज्य एवं उद्योग मंत्रालय, 'ए' विंग, इंद्रप्रस्थ भवन, आई पी एस्टेट, नई दिल्ली।
3. आयुक्त, आयकर, ए 2 डी, आयकर भवन, सेक्टर 24, नोएडा।
4. आयुक्त, सीमा शुल्क, नोएडा सीमा शुल्क आयुक्तालय, इनलैंड कंटेनर डिपो, तिलपता, दादरी, गौतम बुद्ध नगर, उत्तर प्रदेश - २०१३०६.
5. 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 06/06/2018 को पूर्वाह्न 11:30 बजे आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त - एतद संबंधी।

महोदय,

मुझे उपरोक्त विषय का सन्दर्भ लेने और डॉ. एल बी सिंघल, विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में दिनांक 06/06/2018 को पूर्वाह्न 11:30 बजे सम्मेलन हॉल, प्रशासनिक भवन, नोएडा विशेष आर्थिक क्षेत्र, नोएडा में आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त अग्रेषित करने का निर्देश हुआ है।

संलग्नक: उपरोक्त

भवदीय  
रवि कुमार श्रीवास्तव  
(आर.के. श्रीवास्तव)  
उप विकास आयुक्त

प्रतिलिपि:

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

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 06/06/2018 in the Conference Hall of NSEZ.

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

- 1) Shri S.S. Shukla, Jt. Development Commissioner, NSEZ.
- 2) Shri Nitesh Srivastava, Addl. Commissioner, Customs, Noida Commissionerate.
- 3) Shri R.L. Meena, Asstt. DGFT, O/o Addl. DGFT, CLA, New Delhi.
- 4) Ms. Sandhya Maurya, Income Tax Officer, Income Tax Deptt., Noida.

2. Besides, during the meeting S/Shri (i) R. K. Srivastava, Dy. Development Commissioner, NSEZ (ii) Md. Salik Parwaiz, Specified Officer, NSEZ, (iii) Prakash Chand Upadhyay, Asstt. Development Commissioner, NSEZ, (iv) Rajendra Mohan Kashyap, PA to JDC, NSEZ, (v) Rahul Pandey, SDO, UPPCL, Noida, and (vi) 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 02/05/2018.**

It was informed that no reference against the decisions of the Approval Committee held on 02/05/2018 was received and therefore, Minutes of the meeting held on 02/05/2018 were ratified.



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### Item wise decisions on proposals included in agenda:

1. **Proposal of M/s. MRA Fragrances Pvt. Ltd. for setting up a new 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 Manufacturing & Export of (i) Filter Tobacco, (ii) Hooka Tobacco Paste (Jurak), (iii) Flavoured Hooka Tobacco (Mossel), (iv) Readymade Khaini, (v) Zafrani Zarda, (vi) Spit Tobacco, (vii) Mouth Freshener, (viii) Essential & Carrier Oils, (ix) Indian Attar & Fragrances and (x) Various Kinds of Areca Nut under HS Code 2403 with projected exports of Rs. 13500 Lakhs and NFE earnings worth Rs.13500 Lakhs over a period of five years.

2. It was informed that the Approval Committee in its last meeting held on 02/05/2018 had deferred the proposal of M/s. MRA Fragrances Pvt. Ltd. with a direction to the applicant to submit revised project report indicating correct projections for the period of five years. Approval Committee also directed that Jurisdictional Central Excise & Income Tax Deptt. may be approached again for their comments in response to this office letter dated 26/04/2018. The Approval Committee further directed the Specified Officer, NSEZ to undertake background verification/ physical inspection of existing businesses of the applicant.

3. Shri Mukesh Khandelwal and Shri Rajesh Arora, directors appeared before the Approval Committee to explain the project. Shri Khandelwal informed that he has more than 30 years of experience in the tobacco business. He further informed that they have not made any export from the company till date. However, other companies of promoters are also operating and one of their partner's firm has achieved business turnover of Rs. 1 Crore.

4. The Specified Officer, NSEZ informed that as per decision of earlier Approval Committee meeting, site inspection of declared registered office premises of M/s. MRA Fragrances Pvt. Ltd. at 2<sup>nd</sup> Floor, 600 Katra, Ishwar Bhawan, Chandni Chowk, Delhi - 110006 has been got done and report has been submitted. Extract of the report given by Inspecting Officer is as under:

*"As directed by the Deputy Commissioner (Customs), NSEZ the undersigned*

visited the declared Registered Office premises of M/s. MRA Fragrances Pvt. Ltd., 2<sup>nd</sup> Floor, 600 Katra, Ishwar Bhawan, Chandni Chowk, Delhi-110006 on 29/05/2018. The said premises were found at the second floor of an old building in Khari Baoli. On the top of the entrance of the said premises, a sign board of M/s. MRA Fragrances Pvt. Ltd. was found. After knocking the door, a person opened the door and on being enquired about M/s. MRA Fragrances Pvt. Ltd., he said he has no idea about the said company and further informed that this is a residential premise and he works there as a cook. The undersigned found inside the premises, a hall type room and a dining table was found placed in the hall. Further a kitchen was also noticed in the said premises. On being asked about the owner of the said premises, the person informed that the owner of the said premise have a shop in one of the lanes surrounding the said building. The undersigned requested the said person to help in locating the shop but he politely refused citing the reason that he has some other engagement.

After that, the undersigned tried its best to locate the said shop as told by the aforementioned person but no such shop was found there in the name of M/s. MRA Fragrances Pvt. Ltd. On being enquired with other shop owners of the lane they also could not tell about any such shop. The undersigned found that the whole area have huge number of shops engaged in the business of whole sale of dry fruits and medicinal herbs.

The undersigned also visited the premises at 1-E, North End Road, Civil Lines, Delhi. The said premise is a tall building with high boundary wall. The gate of the boundary wall was found closed from inside. Some cars were found parked inside the said premises. North End Road, Civil Lines, Delhi is primarily a residential area and the said building premises at 1-E, North End Road, Civil Lines, Delhi also appears to be a residential premises."

5. Shri Khandelwal informed that the said premise at Chandni Chowk is owned by the family of directors and is used only as registered office address. He further informed that no business work is done at the said premise. He also informed that M/s. MRA Fragrances Pvt. Ltd. is a newly established company, hence, no one knows its name in the area. The



Committee observed that since the company is registered under Companies Act, as per the requirement of this Act, records pertaining to the company must have been available at Registered Office.

6. Then, Shri Khandelwal informed that they have a factory/working unit in Bawana, Delhi in the name of M/s. Knock Out Fragrances Pvt. Ltd. and records are kept there. He also informed that the said unit was established primarily for manufacturing activities. However, no manufacturing activity is currently being carried and mere trading business is being carried out. Shri Khandelwal admitted that they had made a mistake for not informing about Bawana address.

7. It was observed that for financial viability the promoters are banking on M/s. Knock Out Fragrances Pvt. Ltd. (director's other venture) but from the balance sheet of M/s. Knock Out Fragrances Pvt. Ltd. for the year 2016-17 it was observed that against revenue from operations of Rs. 2,03,63,842/- from sale in DTA, profit for the said period is Rs. 5758/- only, which is very low and makes the whole venture business unviable. Shri Khandelwal informed that they had incurred loss during previous years and due to that the profit for year 2016-17 was so low.

8. The Approval Committee observed that applicant has proposed to manufacture (i) Filter Tobacco, (ii) Hooka Tobacco Paste (Jurak), (iii) Flavoured Hooka Tobacco (Mossel), (iv) Readymade Khaini, (v) Zafrani Zarda, (vi) Spit Tobacco, (vii) Mouth Freshener, (viii) Essential & Carrier Oils, (ix) Indian Attar & Fragrances and (x) Various Kinds of Areca Nut under Chapter 2403. However, it has been observed that Essential and Carrier Oils and Attar & Fragrances fall under Chapter 3301, which belongs to altogether a different product/sector than tobacco sector. In terms of Instruction No. 69 issued by DOC, permission for unrelated items cannot be given.

9. The Approval Committee discussed the matter in detail and was of the unanimous view that the directors during the previous meeting held on 02/05/2018 had not informed about the factory address at Bawana even when they were informed that site inspection of their premises will be done.

10. The Approval Committee, after due deliberations, rejected the proposal of M/s. MRA



Fragrances Pvt. Ltd. for setting up a unit in NSEZ in terms of section 15(3) of SEZ Act, 2005 & Rule 18 of SEZ Rules, 2006 on the following grounds:

- (i) Mis-representation by the applicants as explained in detail in Para 4-6 above. While submitting the application as well as during the hearing in the last Approval Committee meeting held on 2nd of May, 2018, applicant did not inform that firm's office at Chandni Chowk is a non-functional office. As the verification report in para 4 shows that there was only a sign board of MRA Fragrances Pvt. Ltd., it was a residential premise and only a cook available there. In respect of second firm i.e. M/s Knock Out Fragrances Pvt. Ltd. also the Registered Office shown is the same as that of M/s MRA Fragrances Pvt. Ltd. i.e. the said Chandni Chowk address which as explained in Para 4 was merely a residential address with only a cook available. This clearly amounts to gross mis-representation of the facts and providing misleading information for taking approval of this unit in Noida SEZ.
- (ii) Applicant company has been incorporated only in December 2017 and it has not done any manufacture & export of proposed items.
- (iii) Negative verification report, as per inspection report provided by DC(Customs) as given in Para 4 above. Operations of the promoters of the company do not match with ground realities.
- (iv) Letter which was sent to the promoters by Speed Post at the address given in the application came back as undelivered with the remarks "Left".
- (v) For financial viability the applicant were banking on the operations of M/s. Knock Out Fragrances Pvt. Ltd. Financial viability projected to be relied upon is not viable from business point of view as mentioned in Para 7 above and that too is not working, at the moment. Applicant has shown profit of Rs.5758/- only for the year 2016-17 and is projecting to achieve export of Rs.13500 Lakhs in next five years in this firm. Clearly this is absolutely unjustified.
- (vi) Lack of experience in the relevant field to achieve Rs.135 Crores export turnover in five years and
- (vii) Seeking approval of manufacturing of dissimilar products which is in contravention of Instruction No.69 of DOC.

The applicant may under Rule 55 read with Rule 56 of the SEZ Rules, 2006, prefer an appeal, to the appropriate Authority, if they desire to do so.

*hush*

2. **Proposal in respect of M/s. Cyfuture India Pvt. Ltd. for Monitoring of performance and Renewal of LOA.**

It was informed to the Approval Committee that M/s. Cyfuture India Pvt. Ltd. has been granted an LOA dated 28/09/2007 for service activities viz. 1) BPO- International Call Centre, Back Office Services. IT Services – Software + Internet Marketing Services. 2) Services: - i) Data center Services ii) Web hosting iii) Cloud Computing. The unit has commenced its export activities w.e.f. 15/04/2008 and LOA of the unit is valid up to 14/06/2018.

It was informed to the Approval Committee that unit has made exports worth Rs. 5444.72 Lakhs and achieved NFE earnings worth Rs. 5076.35 Lakhs during previous block of five years. It was further informed that unit has rendered services worth Rs. 10815.16 Lakhs in DTA against payment in INR. As per Section 2(z)(iii) of SEZ Act 2005, "Services means such tradable services which earn foreign exchange". Hence, the above sales are not as per SEZ Act/Rules and value of Rs. 10815.06 Lakhs had to be against free foreign exchange but the unit has received payments in INR.

Shri Munish Mahajan and Shri Shailendra Shukla, authorized representatives of the company appeared before the Approval Committee. It was informed by them that their LOA is valid upto 14/06/2018 and they have already completed all the documentation required for LOA renewal. On being asked about the sale of services in DTA, they informed that their finance team deals with the subject and they will check the status with them and inform accordingly. It was informed to them that in terms of Section 2 (z) (iii) of the SEZ Act, 2005, services means such tradable services which earn foreign exchange. In case the unit has rendered services in DTA against INR, the same is violation of the said section of the SEZ Act.

It was also informed to Shri Mahajan 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. The representatives informed that they will bring the above aspect of the case in the notice of the promoters/appropriate



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authority of their company and requested for some time to take a decision in the matter. Hence, Approval Committee agreed for the same and accordingly deferred the matter for next meeting.

During the discussions, it was also observed that lease rent of approx. Rs.13 Lakhs is also lying outstanding in respect of SDF No. G-13 & 14. The Approval Committee directed the unit representatives to clear the lease rent within a week. Shri Mahajan ensured to look into the matter and deposit the lease rent at the earliest.

The Approval Committee, after due deliberations, deferred the matter for the next meeting. However, on specific request of the representatives to further renew the LOA, it was decided to renew the LOA for one month only, subject to deposit of lease rent by the unit and subject to condition that unit shall comply with Section 2(z)(iii) of SEZ Act, 2005 and no further service in DTA shall be rendered in INR. Approval Committee further directed the representative of the unit to appear before Approval Committee along with a documentary evidence of deposit of lease rent.

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

It was informed to the Approval Committee that M/s. GPL Exports Ltd. has been issued an LOA dated 06/03/2003 for Manufacturing & trading activities. The unit has commenced its export production w.e.f. 01/05/2003 and extended validity of LOA is valid till 30/06/2018.

It was further informed that unit has made exports worth Rs. 4504.21 Lakhs and earned positive NFE earnings worth Rs. 3150.83 Lakhs during previous block of five years i.e. 2013-14 to 2016-17. The Approval Committee observed that unit has made DTA sale worth Rs. 467 Lakhs against trading activities during previous block of five years.

It was further informed that the Approval Committee in its meeting held on 01/02/2017 had decided that Trading will be allowed only for physical export to any other country, for supply to other units and Developers in the same or other SEZ or EOUs, against freely convertible currency. However, on request of the unit, the Approval Committee allowed the unit to clear existing stock (as on 01/02/2017) in DTA in freely convertible currency





as permissible under Rule 53 of SEZ Rules, 2006 till 31/08/2017 (again extended upto 28/02/2018 by the Approval Committee held on 06/09/2017 and further extended for three months by the Approval Committee held on 07/03/2018). Thereafter, no DTA clearance for trading goods shall be allowed.

Shri Praveen Gupta and Shri Gulshan Kumar, authorized representatives of the company appeared before the Approval Committee. Shri Gupta informed that all the trading stocks have been cleared now.

It was further informed to them that trading is part of services as per Rule 76 of SEZ Rules, 2006. Accordingly, in terms of Section 2(z) of the SEZ Act, 2005, sale of trading goods which have been done in the DTA has to be only in free foreign exchange. Unit has sold traded goods into DTA in INR which is a violation of SEZ Act and Rules made thereunder.

It was also informed to Shri Gupta 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 Gupta gave his consent to settle the case under section 11(4) of the Foreign Trade (Development & Regulation) Act. Shri Gupta, however, requested for a minimum penalty.

In the light of facts & circumstances of the case, DC, NSEZ in discussion with members of the Approval Committee imposed a penalty @ 0.1% of the actual amount of trading sales done in INR by the unit in terms of section 11(4) of FT(D&R) Act, 1992. Since, the details of sales given by the unit and the details available with Custom Wing do not match; it was advised to the representatives to approach Dy. Commissioner (Customs), NSEZ to get the figures reconciled to arrive exact amount of penalty.

After due deliberations, the approval committee also decided to renew the LOA for remaining period of current five years block i.e. upto 30/04/2023, subject to the following conditions:-



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1. No DTA sale of trading goods shall be allowed.
2. Trading will be allowed only for physical export to any other country, for supply to other units and Developers in the same or other SEZ or EOUs, against freely convertible currency.
3. Unit will maintain separate area earmarked for manufacturing and trading activities and maintain separate records/accounts of NFE for manufacturing and trading activities.
4. NFE status for manufacturing activity and trading activity will be seen separately.

4. **Proposal in respect of M/s. India Exports for inclusion of additional authorized operations in LOA.**

It was informed to the Approval Committee that M/s. India Exports has been issued an LOA dated 06/10/2004 for Manufacturing of Artistic Furniture in Wood and Metal, Misc. Interior Product & Accessories & Trading Activities. The unit has commenced its export production w.e.f. 06/10/2005 and LOA is valid till 05/10/2020.

It was informed to the Approval Committee that the unit has submitted a proposal for inclusion of Manufacturing of Misc. Interior products & accessories covered under HSN Code Heading 7301, 7308, 7606, 7009, 7610, 9404, 9405 in its authorized operations.

Shri Subodh Chadha, authorized representative appeared before the Approval Committee. He informed that the unit is doing exports to US, Dubai, Sweden, England and other countries. He further informed that currently approx. 250 employees are working in the unit. He also informed that they procure wood for their product from local market mainly from Gujarat. He also informed that they have one another unit in Greater Noida which is engaged into DTA sale.

It was observed that As per APR for the year 2016-17, foreign exchange of Rs.3.82 Lakhs has been shown pending for realization as on 31/03/2017. Unit had earlier submitted copy of letter for write-off of Forex amount of Rs. 3.82 Lakhs submitted with the Authorized Dealer i.e. Bank of India, New Friends Colony, New Delhi. However, copy of approval has not been given till date. On being asked about the said pending foreign



exchange, Shri Chadha requested to give them time of one month to close the issue. The Approval Committee allowed the request of unit with the direction that necessary approval for write-off of forex amount is submitted within one month.

The Approval Committee, after due deliberations, approved the request of unit for inclusion of manufacturing of 'Misc. Interior products & accessories covered under HSN Code Heading 7301, 7308, 7606, 7009, 7610, 9404 and 9405 in its authorized operations. The Approval Committee further directed to monitor the aforesaid issue of foreign exchange realization.

**5. Proposal in respect of M/s. CHL Ltd. for diversification of authorized operations in LOA.**

It was informed to the Approval Committee that M/s. CHL Ltd. has been issued an LOA dated 19/06/2008 for Pharmaceutical Formulations. The unit is yet to commence its export production and LOA is valid till 29/04/2019.

It was informed that recently the BOA in its meeting held on 04<sup>th</sup> April 2018 has extended the validity of LOA of M/s. CHL Ltd. and while making request for extension unit has already informed BOA about this change of activity and based on its submissions including contract with Syscom, BOA has approved extension of LOA.

It was informed that unit has requested for diversification of product line from "Pharmaceutical Formulations" to "Manufacturing of Plastic Sheets/ Card body for GSM SIM Cards and Smart Card and packing material" since the machinery of pharmaceuticals products were found to be out of specification for the manufacturing of pharmaceuticals products as per the new GMP Norms, as already explained before BOA also.

Shri Luv Malhotra, Director attended the meeting on behalf the company. He informed that the LOA of unit has been extended upto 28/04/2019 and they have also requested for diversification of authorized operation to undertake manufacturing of Plastic Sheets/Card body for GSM SIM Cards and Smart Card and packing material for supply to M/s. Syscom Corporation as per their agreement with them.

The Approval Committee, after due deliberations, approved the request of unit for



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	<p>diversification of authorized operation to undertake manufacturing of Plastic Sheets/Card body for GSM SIM Cards and Smart Card and packing material.</p>
6.	<p><b>Proposal in respect of M/s. Thomson Digital for extension of time period to complete exit formalities.</b></p> <p>It was informed to the Approval Committee that M/s. Thomson Digital was issued an LOA dated 16/12/1987 for Photo type Set films (Positives/Negatives/CRC Bromides) SGML Files/Postscript Files/PDF Files/Effect Files on CDs or MOD or floppy disks or IOMEGA disks or Cartridges or Tapes. Graphic Files, Compressed Files (Zip etc.)/HTML Files/Audio &amp; Video Files in different format/ASCII Files/Typesetted Files (TEX, 3D) etc. The unit had commenced its export production w.e.f. 09/01/1989 and LOA was valid till 31/03/2018.</p> <p>It was informed to the Approval Committee that the unit has opted to exit from SEZ scheme. This office vide letter dated 26.03.2018 requested them to complete exit formalities, so as to enable this office to consider issuance of final exit from SEZ scheme.</p> <p>Shri Mohan Bansal, authorized representative of the unit attended the meeting on behalf the company. He informed that the unit is in the process of exit from SEZ scheme. However, LOA has expired on 31.03.2018 and they need time upto October, 2018 to remove the scrap from the premises and complete the exit formalities. Shri Bansal further informed that their second unit shall continue its operations from Plot No. 129, NSEZ and the management has decided to obtain exit approval in respect of first unit.</p> <p>The Approval Committee, after due deliberations, decided to extend the validity of LOA upto 31.10.2018 with the direction to the unit to complete the exit formalities within the extended period.</p>
7.	<p><b>Proposal in respect of M/s. Naimex for Monitoring of performance.</b></p> <p>It was informed to the Approval Committee that M/s. Naimex has been issued an LOA dated 22/08/2007 for Manufacturing of Geo Technical Investigation Instruments and Construction Materials testing equipments &amp; Trading Activities. The unit has commenced</p>



its export production w.e.f. 17/12/2008 and LOA is valid till 16/12/2018.

It was informed that recently the unit vide its letter dated 11/05/2018 has executed Bond-cum-LUT. During examination of Bond-cum-LUT executed by the, it was observed that the said Bond-cum-LUT was signed by Mr. Pranav Kapur and Mrs. Vaneeta Kapur in the capacity of partners. However, as per records available in this office, none of the above persons are partner in the unit. As per available records in this office, Shri Arvind Verma and Smt. Neena Verma are partners in the firm. Unit has never intimated this office about change in partners, which is violation of condition No. 14 of Bond-cum-LUT.

It was further informed that during the earlier meeting of Approval Committee held on 07/03/2018, Shri Sudip Chattopadhyay, authorized representative of the company appeared had informed that they have not done any trading activity during previous years and in 2017-18 they have made export of trading goods worth Rs. 4-4.5 Lakhs. However, later unit vide its letter dated 16/03/2018 informed that that they have made trading exports worth Rs.561.92 Lakhs during the period between 2009-10 to 2014-15.

Shri Sudip Chattopadhyay, authorized representative appeared before the Approval Committee. He informed that their unit is engaged both in trading as well manufacturing of testing equipment. They are doing exports to African countries, UK, USA and Arabian countries. He informed that both of the original partners have expired and their legal successors as per the will of the deceased partners have taken charge of partnership firm.

It was informed to him that in terms of condition no. 14 of Bond-cum-LUT, such changes are to be intimated forthwith. Shri Chattopadhyay stated that as informed by his seniors, the intimation of change in partners was submitted in this office.

The Approval Committee, after due deliberations, warned the unit to be careful in timely compliance with SEZ Act/Rules and deferred the proposal for its next meeting with a direction to the unit to submit a detailed write-up including complete facts of the case for change in partners along with copy of intimation letter submitted to this office for consideration. The Approval Committee further directed the unit to submit details in respect of trading activities viz. export, DTA sale and currency of payment received against trading sales etc. The representative of the unit requested for one month time for



submission of the aforesaid documents. Approval Committee agreed for the same.

**8. Proposal of M/s. QA Infotech Pvt. Ltd. for change of name of company pursuant to approval of scheme of demerger by NCLT.**

It was informed to the Approval Committee that M/s. QA Infotech Pvt. Ltd. has been issued an LOA dated 29/07/2008 for Computer Software Development and Software Testing. The unit has commenced its export production w.e.f. 31/03/2009 and LOA is valid till 30/03/2019.

It was further informed that the unit has submitted a request for change of name of the unit from "M/s. QA Infotech Pvt. Ltd." to "M/s. QA Infotech Software Services Pvt. Ltd." w.e.f. 1<sup>st</sup> April 2018 pursuant to approval of scheme of demerger by National Company law Tribunal on 09/04/2018.

Smt. Anu Bali, Smt. Divya Sharma and Shri Ankur Chadha, authorized representatives of the unit appeared before the Approval Committee. Smt. Anu Bali informed that Hon'ble National Company Law Tribunal(NCLT), Ahmadabad Bench on April 09, 2018 approved the scheme of demerger filed in connection with demerger of Software business of M/s. QA Infotech Pvt. Ltd. Ltd. and transfer and vesting of Demerged undertaking to M/s. QA Infotech Software Services Pvt. Ltd. w.e.f. 01/04/2018.

She also informed that details of shareholding pattern prior to and after de-merger are as under:

- Shareholding pattern of M/s. QA Infotech Pvt. Ltd.(existing unit) before de-merger as on 25/10/2017:

Name of shareholder	No. of shares held	% of shareholding
1. Shri Mukesh Sharma	14,98,500	99.9%
2. Shri K.M. Sharma	1,500	0.1%

- Shareholding pattern of M/s. QA Infotech Software Services Pvt. Ltd. before de-merger i.e. as on 25/10/2017:

Name of shareholder	No. of shares held	% of shareholding
1. QA Infotech Pvt. Ltd.	9999	99.99%
2. Shri K.M. Sharma	1	0.01%

- Shareholding pattern of M/s. QA Infotech Software Services Pvt. Ltd. after de-merger w.e.f. 01/04/2018:

Name of shareholder	No. of shares held	% of shareholding
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1. Shri Mukesh Sharma	14,98,500	99.9%
2. Shri K.M. Sharma	1,500	0.1%

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

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

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

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

The Approval Committee observed that although the shareholding of promoters is same



in both the companies i.e. M/s. QA Infotech Pvt. Ltd. and M/s. QA Infotech Software Services Pvt. Ltd., however pursuant to demerger the operations of SEZ unit now stands transferred from original company "M/s. QA Infotech Pvt. Ltd." to altogether a new entity "M/s. QA Infotech Software Services Pvt. Ltd."

The Approval Committee after due deliberations, approved the proposal of unit for change of name from "M/s. QA Infotech Pvt. Ltd." to "M/s. QA Infotech Software Services Pvt. Ltd." pursuant to approval of scheme of demerger by National Company law Tribunal in terms of Instruction No. 89 dated 17/05/2018 subject to payment of applicable transfer charges.

9. **Proposal in respect of M/s. Agra Products Pvt. Ltd. for inclusion of additional authorized operations in LOA.**

It was informed to the Approval Committee that M/s. Agra Products Pvt. Ltd. has been granted an LOA dated 18/03/2002 for Manufacturing & Export of Gold, Silver, Diamond Jewellery (Plain & Studded); Jewellery of other materials viz rubber, wood, threads, leather, steel, any white and yellow metal with/without silver, gold, platinum and palladium and Export of jewellery designing, prototyping and development or any related services pertaining to jewellery industry. The unit has commenced its export activities w.e.f. 01/08/2003 and LOA of the unit is valid up to 31/07/2018.

It was informed to the Approval Committee that unit has submitted a request for inclusion of manufacturing & export of silver wire, tubes, pipes, strips and other under Chapter 71069210, 71069290 and Silver Coins under Chapter 7118.

Smt. Parul Gupta, authorized representative of the unit appeared before the Approval Committee. She informed that they have received orders for silver wire, tubes, pipes, strips and other which are although, being intermediate product for their finished products, are manufactured by them. However, they have not specific permission for export of such items. She further stated that they have also received orders from Canada, USA etc. for export of Silver Coins.

It was informed to the Approval Committee that as per DOC letter dated 19/22.07.2013, only following two activities with minimum value addition by SEZ units engaged in





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manufacture and export of gold jewellery are allowed:-

Sl. No.	Item of Export	Minimum Value Addition
a.	Plain gold jewellery and articles and ornaments like Mangalsutra containing gold and black beads/imitation stones, except in studded form of jewellery	3%
b.	All types of studded gold jewellery and articles thereof	5%

It was also informed that earlier another jewellery unit viz. M/s. M.D. Overseas had submitted a proposal to allow for manufacture and export of all permissible Gem & Jewellery items under Para 4.61 of HBOP, 2015-20 as under:-

S.No	Items of export	Minimum Value Addition
i)	Plain gold jewellery, Articles, and ornaments like Mangalsutra containing gold and black beads / imitation stones, except in studded form of jewellery.	3.5 %
ii)	All types of Studded gold	6.0% (for those studded with coloured Gem stones) and 7.0% (for those studded with diamonds).
iii)	Any jewellery / articles manufactured by fully mechanised process	2.0 %
iv)	Gold medallions & coins (excluding coins of nature of legal tender)	1.5 %
v)	Gold / silver / platinum findings / mountings manufactured by mechanised process	2.5 %

This request of M/s. M.D. Overseas was referred by NSEZ to DOC vide letter dated 25.05.2015. In response to the aforesaid reference, DOC vide letter dated 11.08.2015 had clarified that in view of the instructions issued vide letters dated 25.04.2013 and 19.07.2013, the request of M/s. M.D. Overseas Ltd. allowing them the export of "Gold medallions & Coins" and value addition norms to be 2.0% for any jewellery/articles manufactured by fully mechanised process may not be accepted.

Thus, as per DOC letter dated 11.08.2015 read with their earlier letters dated 25.04.2013 & 19.07.2013 only two activities in the jewellery sector indicated at (a) and (b) are permitted in SEZ.

The Approval Committee observed that from the reading of the instructions dated 25.04.2013 and 19.07.2013 and further clarification, it is clear that manufacturing of Gold

