भारत सरकार
वाणिज्य एवं उद्योग मंत्रालय , वाणिज्य विभाग
विकास आयुक्त का कार्यालय
नौएडा विशेष आर्थिक क्षेत्र
नौएडा दादरी रोड , फेज-II, नौएडा-201305, जिला गौतम बुद्ध 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)

नौएडा विशेष आर्थिक क्षेत्र

दिनांक 10.03.2023 को पूर्वाह्न 11.00 बजे श्री ए. बिपिन मेनन, विकास आयुक्त महोदय की अध्यक्षता में हुई 100% ईओयू से सम्बंधित यूनिट अनुमोदन समिति की तीसरी बैठक (2023 सीरीज) का कार्यवृत्त

ईओयू स्कीम हेतु यूनिट अनुमोदन समिति की तीसरी बैठक (2023 सीरीज) दिनांक 10.03.2023 को श्री ए. बिपिन मेनन, विकास आयुक्त, नौएडा, एनएसईजेड की अध्यक्षता में संपन्न हुई.

बैठक, ऑनलाइन विडियो कॉन्फ्रेंसिंग के माध्यम से संपन्न हुई बैठक में यूनिट अनुमोदन समिति के निम्नलिखित सदस्य उपस्थित थे:-

1. श्री सुरेन्द्र कुमार मालिक, संयुक्त विकास आयुक्त
2. श्री राजेश कुमार, उप विकास आयुक्त
3. श्री चंचल कुमार तिवारी, संयुक्त आयुक्त सीमाशुल्क, लखनऊ
4. श्री शलभ गोयल, उप आयुक्त सीमाशुल्क, **JRF**, कानपुर
5. श्री भारत भूषण अटल, उप आयुक्त सीमाशुल्क जयपुर.
6. श्री चमन लाल,एफटीडीओ, कार्यालय अतिरिक्त डीजीऍफ़टी, सेंट्रल लाइसेंसिंग अथॉरिटी, नई दिल्ली.
7. डॉ. डी.आर. बाबू रेड्डी, डिप्टी डायरेक्टर (रिसर्च), कॉफ़ी बोर्ड भी विशिष्ट अतिथि के रूप में समिति की बैठक में उपस्थित थे.

इसके अतिरिक्त, यूएसी की बैठक के दौरान यूएसी की सहायता के लिए श्री एच.के. मीना, सहायक विकास आयुक्त एवं श्री सुनील गुल्यानी, स्टेनोग्राफर भी उपस्थित थे.

2. अध्यक्ष महोदय द्वारा यूएसी के सभी सदस्यों का स्वागत किया गया. तत्पश्चात, कार्यसूची पर विचार-विमर्श शुरू हुआ.

3.01 (2023) दिनांक 03.02.2023 **को हुई यूनिट अनुमोदन समिति की बैठक के मिनट्स का रैटीफिकेशन**

चूंकि दिनांक 03.02.2023 को आयोजित अनुमोदन समिति के निर्णयों के संबंध में अनुमोदन समिति या व्यापार के किसी भी सदस्य से कोई संदर्भ प्राप्त नहीं हुआ था, अतः दिनांक 03.02.2023 को आयोजित बैठक के कार्यवृत्तों का सर्वसम्मति से अनुमोदन किया गया.

3.02 (2023) Proposal to clear Caffeine Anhydrous Natural in DTA in terms of Para 6.08 (a) of FTP of Shri Ahimsa Mines and Minerals Limited, 100%EOU of Bagru, Jaipur, Rajasthan.

It was informed to the Committee that:

1. Office of DGFT, vide letter dated 30.08.2007, in consultation with Department of Chemicals & Petrochemicals had clarified to DRI that manufacturing of Caffeine Anhydrous, whether the imported Crude is Monohydrate or Anhydrous, will fall under the category of minor process like

conversion of Monohydrate form of chemical to anhydrous form, through minor process like filtration, centrifugation, drying and grinding, falling under negative list in para 6.8 of FTP. Therefore, DTA sale of Caffeine Anhydrous Natural on concessional rate of duty is not permissible. Since then, the unit had cleared Caffeine Anhydrous Natural in DTA on full rates of duties in terms of para 6.08 (h) of FTP.

2. As per revised FTP w.e.f. 05.12.2017 (which came after introduction of GST), the concept of clearance of finished goods in DTA on concessional rates of duties has been abolished as well as para 6.08 (h) of FTP deleted. However, as per para 6.08 (a) (ii) of FTP, " .... *Such DTA sale shall also not be permissible to units engaged in activities of packaging / labelling / segregation / refrigeration / compacting / micronisation / pulverization / granulation / conversion of monohydrate form of chemical to anhydrous form or vice-versa.*"

3. Unit applied for DTA sale of Caffeine Anhydrous Natural and Green Coffee Bean Extracts for the period Apirl-Sept'2018 vide letter dated 23.03.2019 and submitted manufacturing process flow chart showing that manufacturing process of Caffeine Anhydrous Natural involves **major processing**.

4. The DTA sale of Caffeine Anhydrous Natural matter was discussed with DGFT at that time and noted that it is covered under para 6.08(ii) of FTP 2015-2020 (as on 05.12.2017) and hence not allowed.

5. Accordingly, DTA sale only for Green Coffee Bean Extract was considered and for unauthorized clearance of "Caffeine Anhydrous Natural', Show Cause Notice dated 12.09.2019 was issued for clearance of Caffeine Anhydrous Natural and Green Coffee Bean Extract in DTA w.e.f. 05.12.2017 to 11.01.2019 in DTA; and vide Order-in-Original dated 01.11.2019, a penalty of Rs.1,17,581.00 was imposed upon the Unit which has been deposited by the Unit.

6. Unit vide letter dated 10.11.2021, once again requested DTA sale permission for 'Caffeine Anhydrous Natural' in which Unit has stated as under:-

a) Their request for clarification regarding DTA sale permission for

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Caffeine Anhydrous natural manufactured from Crude Caffeine is pending for review with DGFT since last two years. The earlier restriction imposed was due to wrong interpretation given by the Department of Chemicals, and now the Department of Chemicals has restrained to make comment on the subject on the ground that it is not under their purview. Therefore, Unit has further written a letter dated 10.11.2021 to DGFT in this regard.

b) Previously their plant was based on raw material Crude Caffeine which was imported by them. The Crude Caffeine contained 40% to 80% Caffeine with other impurities. They manufactured 'Caffeine Anhydrous Natural' of purity more than 99% and made it suitable for food and pharma uses. The raw material and finished product were totally different.

c) Now they have also started manufacturing 'Caffeine Anhydrous Natural' using Coffee Wax and Tea Waste as raw material. Manufacturing Process and Process Flow Chart provided.

d) Unit has stated that **since there are different raw materials and the manufacturing processes are not covered under the para 6.08(a)(ii) of FTP**, unit has requested to grant approval for DTA sale of Caffeine Anhydrous Natural manufactured from Coffee Wax and Tea Waste to the extent eligible, and help in smooth running of their Unit. Earlier, the DTA sale of 'Caffeine Anhydrous Natural' was denied based upon DGFT report dated 08.07.2019.

7. Vide this office letter dated 11.01.2022 followed by letter dated 11.04.2022, unit's request was forwarded to the Ministry of Food Processing Industries (MoFPI) – to examine the matter and inform this office whether (i) the raw material i.e. Crude Caffeine falls under Caffeine Monohydrate or otherwise. (ii) Furthermore, whether manufacture of Caffeine Anhydrous Natural from Coffee Wax and Tea Waste falls under para 6.08(a)(ii) of FTP 2015-2020 or not.

8. Through Office Memorandum dated 25.04.2022 issued by Deputy Director, Ministry of Food Processing Industries, (MoFPI) Panchsheel Bhawan, New Delhi-49 has conveyed that "*the caffeine anhydrous may not be permissible as per para 6.08(a)(ii) of FTP 2015-2020 for DTA sales by*

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100%EOU. The raw material Crude Caffeine does not fall under Caffeine Monohydrate but Caffeine Monohydrate may be extracted from processing Crude Caffeine into Caffeine and removal of the water content."

9. Vide this office letter dated 16.06.2022, it was once again requested to MoFPI to clarify whether the manufacture of Caffeine Anhydrous Natural from Coffee Wax and Tea Waste falls under Para 6.08 (a) (ii) of FTP 2015-2020 or not. However, no reply till dated has been received from them. No representative of MoFPI was present in the meeting.

10. The Deputy Director of the Coffee Board was also present in the meeting as Special Invitee. He informed that manufacture of Caffeine Anhydrous Natural from Coffee Wax and Tea Waste do not fall under their jurisdiction. Even Coffee Wax do not fall under their jurisdiction.

11. Unit's Managing Director Shri Nemi Chand Jain appeared before the Committee and placed his contention as mentioned above. The Committee advised him to submit a brief note on manufacturing process of Caffeine Anhydrous Natural from Coffee Wax and Tea Waste so that the issue may be taken up afresh with the appropriate authority in the MoFPI. Mr Jain was specifically asked to provide arguments as to why the process of manufacture is different from "*conversion of monohydrate form of chemical to anhydrous form or vice versa*" as mentioned in para 6.08(a)(ii) of FTP.

12. The Committee, after due deliberations, decided the unit would submit its manufacturing process with clear arguments as to why its different from "*conversion of monohydrate form of chemical to anhydrous form or vice versa*". This would then be forwarded to MoFPI under intimation to DGFT for clarification.

3.03 (2023) Request for permission to manufacture Ceramic Plate & Tiles by M/s Magnus Industrial Enterprises Pvt Ltd without Industrial Licence.

The proposal of M/s Magnus Industrial Enterprises Pvt ltd for manufacture of Ceramic Plates and Tiles (Technical Ceramic for various applications) under ITC HS Code 69091200 with Annual capacity 42091 Kgs per annum was placed before the Approval Committee's meeting dated 11.03.2022. The Committee decided to accord "in principle" approval to the proposal , subject to receipt of reply from DPIIT / Department of Commerce (DOC) on the requirement of Industrial Licence as per the IDR Act, 1951.

2) DPIIT, vide letter dated 16.03.2022, informed that Ceramic Plates and Tiles provide ballistic protection of Level III (NIJ 0101.06. July 2008 or national equivalent and above) and have usage in Bullet Proof Jackets/Helmets/Vest/Vehicle armouring / Body armouring. Therefore, the manufacture of Ceramic Plate and Tiles are also covered under licensing requirement and mandatorily require an Industrial Licence under IDR Act, 1951. The same was communicated to the Unit vide this office letter dated 25.03.2022 with advise to comply with the directions of the DPIIT.

3) Unit, vide its letter dated 02.04.2022, stated that ceramic plates and tiles do not provide ballistic protection themselves. These are raw materials which can be used in the manufacture of protection equipment like Bullet Proof Jackets etc. which provide ballistic protection and neither specifically included in Press Note 1 nor do they provide ballistic protection equivalent to Level III or above as per NIJ standard and thus do not fall within the purview of compulsory licensing under the IDR Act 1951; and requested to consider their submission and issue LOP. Unit's submission was forwarded to DoC vide this office letter dated 07.04.2022 with all enclosures.

4) In a further development, vide letter dated 04.11.2022, the Unit has stated that as on date large investment has been made on account of import of machines and other manufacturing infrastructure in the proposed premises. One machine valued at Rs.97.24 lakhs has already been imported under EPCG and installed while another valued at Rs.692.47 lakhs has been imported and warehoused in the customs bonded warehouse at Mundra port. They have requested to issue them a conditional LOP to import the machines under EOU scheme.

5) Accordingly, LOP dated 16.12.2022 was issued with specific condition that the, "*LOP is being issued for ease of doing business and only to clear the imported capital goods worth Rs.692.47 lakhs vide Bill of Entry No. 7815711 dated 10.03.2022. As per minutes of UAC held on 10.03.2022 and as per directions of DPIIT in their letter dated 16.03.2022, manufacture of Ceramic Plates and Tiles are also covered under licensing requirement and mandatorily require an Industrial Licence under IDR Act, 1951. Hence, the unit would submit a copy of Industrial Licence for manufacture of Ceramic Plates and Tiles to this office. Only after the requisite permission of this office can the unit commence production*". An Undertaking also sought to the effect that they shall not start their commercial production without industrial licence, if any.

6) Vide letter dated 06.02.2023, the Unit has informed that the Ceramic Plate

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and Tiles do not provide ballistic protection themselves. The same were tested by GFSU, Gujarat and said plates were completely perforated even when tested by a 9mm bullet (level-IIIA).

7) Unit has stated that as per test reports, ceramic plate and tiles do not provide protection of Level III and above. However, they have undertaken not to manufacture the ceramic plates and tiles, if they provide ballistic protection of level III (NIJ 0101.06 July or equivalent and above).

10) On being asked whether they have applied for Industrial Licence in the light of DPIIT's letter dated 16.03.2022 and as per S.No. 1.(i) of the Letter of Permission dated 16.12.2022, Unit, vide email dated 03.03.2023 , they have replied in the negative. Their reasoning is that the ceramic plates and tiles proposed to be manufactured by the unit do not provide ballistic protection equivalent to level III or above as per NIJ standard. Thus they do not fall within the purview of IL and the same has already been undertaken in unit's letter dated 06.02.2023.

11) The Unit's representative appeared before the Committee and reiterated their side.

12) The Committee, after deliberations, decided to send the unit's representation along with the copy of the test report to DPIIT and Department of Commerce for their opinion in the matter.

अध्यक्ष महोदय को धन्यवाद के साथ बैठक समाप्त हुई.

राजेश

(राजेश कुमार)
उप विकास आयुक्त

ए. बिपिन मेनन

(ए. बिपिन मेनन)
विकास आयुक्त