



GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
OFFICE OF THE DEVELOPMENT COMMISSIONER  
NOIDA SPECIAL ECONOMIC ZONE  
NOIDA DADRI ROAD, PHASE-II, NOIDA - 201305  
DISTT. GAUTAM BUDH NAGAR (UTTAR PRADESH)

फ. स.10 / 191/2008-सेज/

दिनांक: 26/04/2016

1. निदेशक, वाणिज्य विभाग, वाणिज्य एवं उद्योग मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली-110001।
2. संयुक्त महानिदेशक विदेश व्यापार, उद्योग भवन, तिलक मार्ग, जयपुर (राजस्थान)।
3. आयुक्त आयुक्त, (सीआईटी-तृतीय-जयपुर), न्यू सेंट्रल रेवेन्यू बिल्डिंग, स्टैचू सर्किल, सी-स्कीम, जयपुर (राजस्थान)।
4. आयुक्त केन्द्रीय उत्पाद शुल्क, जयपुर-1, न्यू सेंट्रल रेवेन्यू बिल्डिंग, स्टैचू सर्किल, सी-स्कीम, जयपुर (राजस्थान)।
5. प्रबंध निदेशक, रीको लिमिटेड, उद्योग भवन तिलक मार्ग, जयपुर (राजस्थान)
6. उपसचिव (आई एफ - 1), बैंकिंग प्रभाग, आर्थिक मामलों का विभाग, वित्त मंत्रालय, भारत सरकार, तृतीय तल, जीवन दीप बिल्डिंग संसद मार्ग, नई दिल्ली।
7. आयुक्त, उद्योग विभाग, उद्योग भवन, तिलक मार्ग, जयपुर (राजस्थान)।
8. महाप्रबंधक, रीको लिमिटेड, उद्योग भवन तिलक मार्ग, जयपुर (राजस्थान)
9. महिंद्रा वर्ल्ड सिटी (जयपुर) लिमिटेड (विकासकर्ता), 411, नीलकंठ टावर, भवानी सिंह मार्ग, सी स्कीम, जयपुर-302001 (राजस्थान)

विषय: दिनांक 22/04/2016 को अपराह्न 12:15 बजे रीको बोर्ड रूम, उद्योग भवन, तिलक मार्ग, जयपुर में आयोजित महिंद्रा वर्ल्ड सिटी (जयपुर) लिमिटेड सेज के यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त - एतद संबंधी।


महोदय,

मुझे उपरोक्त विषय का सन्दर्भ लेने और डा० एल बी सिंघल, विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में दिनांक 04/03/2016 को अपराह्न 12:15 बजे रीको बोर्ड रूम, उद्योग भवन, तिलक मार्ग, जयपुर में आयोजित महिंद्रा वर्ल्ड सिटी (जयपुर) लिमिटेड सेज के यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त प्रेषित का निर्देश हुआ है।

इसे विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र, नोएडा का अनुमोदन प्राप्त है।

संलग्नक : उपरोक्त

भवदीय,

  
(राकेश कुमार)

उप विकास आयुक्त

प्रतिलिपि:

विकास आयुक्त - सूचनार्थ ।

## **NOIDA SPECIAL ECONOMIC ZONE**

### **Minutes of the meeting of the Approval Committee of SEZs of M/s. Mahindra World City (Jaipur) Ltd. held under the Chairmanship of Dr. L.B. Singhal, Development Commissioner, NSEZ at 12.15 PM on 22/04/2016 in the Board Room of RIICO, Udyog Bhawan, Tilak Marg, Jaipur.**

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

1. Shri R.C. Saini, Asstt. Commissioner, Central Excise, Jaipur-I.
2. Shri Vivek Singh, Asstt. DGFT, Jaipur.
3. Shri Dinesh Pahadia, AGM, RIICO Jaipur
4. Shri Harish Mishra, Income Tax Officer, Ward 7(3), Jaipur.
5. Shri Sanjay Jain, CFO, Mahindra World City (Jaipur) Ltd.(Developer).

2. Besides, during the meeting Shri Rakesh Kumar (Dy. Development Commissioner), & Shri J.C. Gupta (Specified Officer) 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 amongst members as well as interaction with the applicants / representatives of the units/developer, the following decisions were taken:-

#### **(i) Ratification of Minutes of last meeting of the Approval Committee:-**

The Approval Committee was informed that no reference against the decisions of the Approval Committee held on 04/03/2016 was received from any of the members of the Approval Committee or Trade and therefore, Minutes of the meeting held on 04/03/2016 were ratified.

#### **(ii) Item wise decisions on proposals included in agenda:**

1. **Proposal of M/s. Dynamic Powertech Pvt. Ltd. for approval of services to carry on authorized operation in Engineering & Related industries SEZ of M/s. Mahindra World City (Jaipur) Ltd. at Village Kalwara, Tehsil Sanganer, Distt. Jaipur (Rajasthan).**

It was brought to the notice of the Approval Committee that M/s. Dynamic Powertech Pvt. Ltd. has applied for approval of service namely 'Business Auxiliary Services' in terms of Notification No. 12/2013-ST dated 01.07.2013 to carry on authorized operations in its SEZ unit. It was informed that the proposed service is in addition to the list of default services (60 Nos. & 6 Nos.) approved by UAC in its meetings held on 05.12.2013 & 02.09.2014.

The representative of the unit informed the Approval Committee that during the course of import and export, shipping lines are issuing invoices for "Business Auxiliary Service" and charging service tax but they are unable to take exemption in the absence of approval.

After due deliberations, UAC approved 'Business Auxiliary Service' to the unit for use in Import & Export related to their authorised operations.

**2. Adjudication of Show Cause Notice dated 06.08.2015 issued to M/s. Systweak Software for import of capital goods beyond approved value.**

It was brought to the notice of the Approval Committee that M/s. Systweak Software had been issued Show Cause Notice on 06.08.2015 for import of Rs.40415.70 lacs against the limit of Rs.210 lacs approved by the Approval Committee. Thereafter, the case of unit for Personal Hearing against SCN dated 06.08.2015 was placed before UAC in its meeting held on 23.11.2015. The Approval Committee deferred the matter and directed the promoters of the unit to submit audited balance sheet for the last three years and details of import & export made during the years 2012-2013 & 2013-2014, in the proforma provided to the promoters. The Approval Committee further directed that on receipt of the above information the same would be forwarded to the Additional Commissioner, Customs & Central Excise, Jaipur & Income Tax Department.

It was further informed that as per the directions of the Approval Committee held on 23/11/2015, the documents submitted by M/s. Systweak Software were forwarded to Additional Commissioner, Customs & Central Excise, Jaipur and Commissioner, Income Tax-III, Jaipur, vide separate letters dated 09/02/2016. Further, a set of submitted documents was also forwarded to the Specified Officer vide this office letter dated 09/02/2016 with the request to examine the same in respect of imports & exports made by the unit and submit his report.

The Approval Committee was informed about some variation of figures of export and import given in APRs vis-à-vis Balance Sheet for the year 2012-13 & 2013-14 in addition to the following observations:-

1. As per LOA unit has been allowed '**Software Development**' however in the details of export provided by the unit, unit has mentioned the export item as '**Application Software**'. Whereas, in the SOFTEX forms the export item is mentioned as '**Software License**'.
2. Email id of the buyers / suppliers not provided.
3. Copy of audited balance sheet for the year 2014-15 not given.

Specified Officer informed before the Approval Committee that the software imported by the unit was exempted from all duties and as such there was no revenue implication in

the case. He also informed the Approval Committee that the imports made so far by the unit are within the accepted Bond value.

Shri Shrishail Rana, Proprietor & Shri Shashank Rana, G.M, M/s. Systweak Software appeared before the Approval Committee. It was stated by them that they were not aware about the requirement to get approval for enhancement in the value of imported inputs. It was further informed by them that the raw material imported by the unit was free from levy of duty. The representatives of the unit informed the Committee that during the course of communication they used the terms 'Application Software' & 'Software License' as their products/activities. It was further clarified by them that all these nomenclature were synonymous terms for 'software development' and were used interchangeably as part of their colloquial informal language and their activities are in line with the LOA issued to them without any deviation from the same. They further informed that email id of suppliers / buyers are not available with the unit, however, addresses of the buyers have already been provided. They further clarified that the export figures mentioned in the Balance Sheet for the year 2012-13 & 2013-14 are Net Export Value. Besides, they assured to provide written explanation on variation in export figures and copy of Audited Balance sheet for the year 2014-15. The representatives of the unit admitted the procedural mistakes on their part and requested for help in sorting these issues out and take a lenient view in the matter. They further assured that they will be more careful in future.

It was informed to them 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. The authorized representatives consented to settle the case as per section 11(4) of the FT(D&R) Act, 1992 for import beyond the approved limit.

In the light of facts & circumstances of the case, DC, NSEZ on the recommendation of the Approval Committee imposed a penalty of Rs. 50,000/- on the unit in terms of section 11(4) of FT(D&R) Act, 1992, as amended.

After due deliberations, the Committee decided to adjudicate the Show Cause Notice dated 06.08.2015 issued to the unit and regularize the imports made by the unit subject to deposit of penalty of Rs. 50,000/- and a written explanation on variation in export figures for the year 2012-13 & 2013-14 along with Audited Balance sheet for the year 2014-15. The Approval Committee also decided that the decision of the Approval Committee will not affect any ongoing/contemplated proceedings, if any, against the unit and the Assessing Officer

will have the right to examine the taxability under the SEZ Act and Income Tax Act, as applicable. The Approval Committee further directed the unit to submit revised projections for the current block of five years, keeping in view the increased amount of forex outgo so that the same could be taken on records with the approval of the Approval Committee.

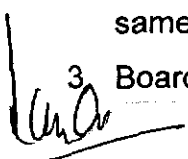
**3. Proposal for slump sale of M/s. Systweak Software unit in favour of M/s The Phone Support Pvt. Ltd., both the unit located in the IT/ITES SEZ of M/s. Mahindra World City (Jaipur) Ltd., Jaipur.**

It was brought to the notice of the Approval Committee that M/s. The Phone Support Pvt. Ltd. (transferee) had submitted proposal to acquire M/s. Systweak Software (transferor), a proprietorship firm owned by Mr. Shrishail Rana, in a slump sale of assets. It was informed that M/s. Systweak Software having LOA No. 10/43/2011-SEZ/4678 dated 23.06.2011 is also involved in similar service activities namely "Software Development" from Ground floor, Tower-B1, Evolve located in same SEZ. It was also stated that both the units share their ownership and are affiliated with each other because of common promoter and major shareholder being Mr. Shrishail Rana.

It was further informed that the transferee had decided to acquire Systweak Software in a slump sale of assets and Systweak Software also agreed to such acquisition by the transferee - M/s. The Phone Support Pvt. Ltd. It was further informed that the transferee unit by way of its Directors, has agreed to take over all assets and liabilities of Systweak Software, including the tangible assets of the unit & liabilities such as Bond-cum-LUT, NFE obligation etc. It was further informed that M/s. Systweak Software vide its letter dated 02.11.2015 had also submitted for similar proposal.

It was further informed that as per records, presently there are two directors in the transferee company, namely Mr. Shrishail Rana and Smt. Nitu Rana (joined w.e.f. 01/07/2013, but her joining discerned recently) however, the inclusion of Smt. Nitu Rana is pending for taking on records in view of the following documents/information awaited from M/s The Phone Support Pvt. Ltd. against this office email dated 05/01/2016:

1. Details of shareholding change as already requested vide email dated 18.11.2015.
2. Copy of Lease Deed submitted, are unregistered, hence copy of Registered lease deed needs to be submitted. Clarification about mention of G2 in Bond whereas the same is not mentioned in submitted lease deed.
3. Board Resolution passed by the company.



It was also informed that the following details / information in respect of instant proposal are awaited from the units: -

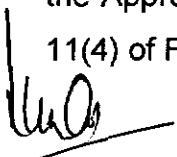
1. Submission of current shareholding details as already requested from the transferee.
2. Complete details of proposed slump sale along with copy of agreement.

It was further brought to the notice of the Approval Committee that recently the BOA in its meeting held on 23.02.2016 has inter alia decided that Rule 74A shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ units continues to operate as a going concern in the situations such as change of name, court approved mergers/ de-mergers, **slump sale**, change of constitution from proprietorship to partnership & vice-versa, change of constitution from public limited company to private/limited liability company & vice-versa, company to partnership & vice-versa, change in shareholding up to 50 per cent, etc. and per se are not opting out/exiting out of the SEZ Scheme. The UACs concerned, may consider such requests under Rule 19(2) of the SEZ Rules, 2006.

Shri Shrishail Rana, proprietor of transferor company and Director of transferee company & Shri Shashank Rana, G.M of transferee company appeared before the Approval Committee. Shri Rana informed that shareholding of both the directors i.e. Shri Shrishail Rana & Mrs. Nitu Rana are 85% & 15% respectively. He assured to submit details of proposed slump sale along with copy of agreement as well as details of current shareholding of the company. The representatives admitted the delay on their part regarding intimation of appointment of Mrs. Nitu Rana as director and requested for help in sorting out these issues. They further assured that they will be more careful in future.

The Approval Committee noted that the unit has violated the condition No. 14 of the Bond cum Legal Undertaking. The Approval Committee informed the representatives that as per section 11(4) of the Foreign Trade (Development & Regulation) Act, 1992 there is a penalty provision to settle the cases where a person admits any contravention. The authorized representatives consented to settle the case as per section 11(4) of the FT(D&R) Act, 1992 for non-intimation of change in directors timely.

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



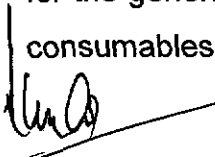
After due deliberations, the Approval Committee **approved** the proposal for slump sale of M/s. Systweak Software in favour of M/s. The Phone Support Pvt. Ltd., as per guidelines issued by the Board of Approval in its 69<sup>th</sup> meeting held on 23.02.2016, subject to the condition that all the assets & liabilities of M/s. Systweak Software shall be taken over by M/s. The Phone Support Pvt. Ltd. and revised Bond-Cum-LUT shall be executed by M/s. The Phone Support Pvt. Ltd. The Approval Committee also directed the representative of the unit to deposit penalty of Rs. 10,000/- and submit above pending documents.

**4. Proposal of M/s. Infosys BPO Ltd., Co-developer for approval of list of goods to carry on default authorized operation in IT/ITES SEZ of M/s. Mahindra World City (Jaipur) Ltd. at Jaipur.**

It was brought to the notice of the Approval Committee that M/s. Infosys BPO Ltd. co-developer of IT/ITES SEZ of M/s. Mahindra World City (Jaipur) Ltd. at Jaipur had submitted proposal for approval of list of material to carry on following authorized operations in SEZ:-

S. No.	Name of Authorized Operation	S. No. at default list of Auth. Opr. as per Inst. No. 50	Estimated Value of goods (Rupees in lacs)
1.	Power (including power back up facilities) for captive use only. -35 KL High Speed Diesel	23	9.50

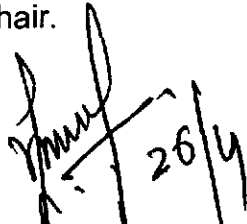
It was informed that, Department of Commerce, Govt. of India vide letter No.P.6/3/2008SEZ (Vol.III) dated 16.02.2016 has issued a new guidelines in supersession of all previous Power guidelines issued by the ministry. In **Para IV** of said guidelines it is prescribed that, "with respect to the IT/ITES SEZs, which require continuous quality power, wherever generation of power has been approved by the BoA, as authorized operation, to the Developer/Co-developer within the processing area, and in respect of which there is a statutory requirement on developer/co-developer to supply 24 hours uninterrupted quality power supply at stable frequency in the Zone , in terms of Rule 5A of SEZ Rules, 2006; in such cases generation of power will be carried out as a unit within the processing area, and such a power plant including non-conventional energy power plant, will be entitled to all the fiscal benefits covered under section 26 of the SEZ Act including the benefits for initial setting up, maintenance and the duty free import of raw materials and consumables for the generation of the power. Such duty free imports of capital goods, raw material and consumables etc. would be counted towards the NFE obligations of the unit".



Shri Vasudev Shenoy, FAC Manager & Shri Puneet Mundhra, Manager-Finance appeared before the Approval Committee on behalf of the Co-developer and explained the requirement of proposed items.

After due deliberations, the Approval Committee **deferred** the proposal with the advice to the co-developer to apply afresh as per the provisions of new power guidelines issued by Department of Commerce, Govt. of India vide letter No.P.6/3/2006-SEZ (Vol.III) dated 16.02.2016.

The meeting ended with vote of thanks to the Chair.

  
(Dr. L.B. Singhal)  
Development Commissioner