



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. स.10/173/2007-सेज/

दिनांक: 08/06/2017

सेवा मे,

1. निदेशक, वाणिज्य विभाग, वाणिज्य एवं उद्योग मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली -110001।
2. अतिरिक्त महानिदेशक विदेश व्यापार, वाणिज्य एवं उद्योग मंत्रालय, 'ए' विंग, इन्द्रप्रस्थ भवन, आई पी एस्टेट, नई दिल्ली - 110002।
3. आयुक्त, केंद्रीय उत्पाद शुल्क (नोएडा- प्रथम), सी - 56/42, सेक्टर - 62, नोएडा।
4. आयुक्त, केंद्रीय उत्पाद शुल्क (नोएडा- द्वितीय), फॉर्मूला- एक होटल, वेगमॅस बिजनेस पार्क, प्लॉट नं. 3, नॉलेज पार्क -3, ग्रेटर नोएडा।
5. आयुक्त, आयकर, ए 2 डी, आयकर भवन, सेक्टर 24, नोएडा।
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. मुख्य कार्यकारी अधिकारी, न्यू ओखला औद्योगिक विकास प्राधिकरण, मुख्य प्रशासनिक भवन, सेक्टर - 6, नोएडा।
8. मुख्य कार्यकारी अधिकारी, ग्रेटर नोएडा औद्योगिक विकास प्राधिकरण, 169 चितवन एस्टेट, सेक्टर गामा - द्वितीय, ग्रेटर नोएडा, गौतम बुद्ध नगर, (उत्तर प्रदेश)।
9. महाप्रबंधक, जिला उद्योग केंद्र, कलेक्ट्रेट के पास, सूरजपुर, ग्रेटर नोएडा।
10. उपाध्यक्ष, बुलन्दशहर खुर्जा विकास प्राधिकरण, ओल्ड जी टी रोड, श्री आनंद वाटिका कॉलोनी, खुर्जा - 203131 (उत्तर प्रदेश)।
11. संबंधित विशेष आर्थिक क्षेत्र विकासकर्ता।

विषय: दिनांक 02/06/2017 को पूर्वाह्न 11.00 बजे सम्मेलन हॉल, प्रशासनिक भवन, नोएडा विशेष आर्थिक क्षेत्र, नोएडा में आयोजित नोएडा, ग्रेटर नोएडा एवं खुर्जा (उत्तर प्रदेश) में स्थित निजी विशेष आर्थिक क्षेत्रों की अनुमोदन समिति बैठक का कार्यवृत्त - एतद संबंधी।

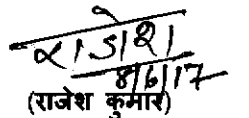
महोदय,

उपरोक्त विषय के सन्दर्भ में डा० एल बी सिंघल, विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में दिनांक 02/06/2017 को पूर्वाह्न 11.00 बजे सम्मेलन हॉल, प्रशासनिक भवन, नोएडा विशेष आर्थिक क्षेत्र, नोएडा में आयोजित सम्मेलित नोएडा, ग्रेटर नोएडा एवं खुर्जा (उत्तर प्रदेश) में स्थित निजी विशेष आर्थिक क्षेत्रों की अनुमोदन समिति बैठक का कार्यवृत्त संलग्न है।

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

संलग्नक : उपरोक्त

भवदीय,


(राजेश कुमार)

उप विकास आयुक्त

NOIDA SPECIAL ECONOMIC ZONE

Minutes of meeting of the Approval Committee of Private SEZs located in Noida, Greater Noida & Khurja (Uttar Pradesh) held under the Chairmanship of Dr. L.B. Singhal, Development Commissioner, Noida SEZ at 11:00 AM on 02.06.2017 in the Conference Hall of NSEZ.

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

1. Shri S. S. Shukla, Joint Development Commissioner, NSEZ
2. Shri R.A. Singh, Asstt. Commissioner, Central Excise Noida-I.
3. Shri Manbir Singh, Asstt. Commissioner, Customs Noida-I.
4. Shri A.K. Agarwal, Asstt. Commissioner, Central Excise, Noida-II.
5. Shri Gobinda Banerjee, FTDO, O/o. Addl. DGFT, New Delhi.
6. Mr. T. N. Patel, Addl. Statistical Officer, DIC, G.B. Nagar.
7. Representative of SEZ Developers concerned, Special Invitee

2. Besides, during the meeting i) Shri Salik Parwaiz, Specified Officer, ii) Shri Rajesh Kumar, DDC, Shri Prakash Chand Upadhyay, ADC & iii) Shri Mohan Veer Ruhella, ADC 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 amongst the members of the Approval Committee as well as interaction with the applicants / representatives of the developers / units, the following decisions were taken by a general consensus of the Members present:-

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

It was informed that no reference against the decisions of the Approval Committee held on 05.05.2017 has been received from any of the members of the Committee or Trade and accordingly, Minutes of the meeting held on 05.05.2017 were ratified.

(ii) Item wise decisions on proposals included in agenda are as under:

1. Proposal of M/s. Axtria India Pvt. Ltd. for setting up a unit in IT/ITES SEZ of M/s. Seaview Developers Pvt. Ltd. at Plot No. 20 & 21, Sector-135, Noida (U.P.).

It was brought to the notice of the Approval Committee that M/s. Axtria India Private Limited had submitted a proposal for setting up a unit over an area of 18910 Sqft. at 13th floor, Tower-5 in the IT/ITES SEZ of M/s. Seaview Developers Pvt. Ltd. located at Plot No. 20 & 21, Sector-135, Noida (U.P.) to undertake service activities namely "Computer Software Services including Information Enabled Services being Database Management, Development of Analytical Software Tools and Services".

It was informed to the Approval Committee that the applicant had projected exports of Rs. 9299 Lakhs and the cumulative NFE of Rs.8990 Lakhs over a period of five years. It was also informed that the proposed investment of Rs.279 Lakhs towards imported Capital Goods & Rs.430 lakhs towards indigenous Capital Goods etc. and other cost of project shall be met by the unit from internal accruals / advance against services to customers. It was further informed that the SEZ developer has given provisional offer for allotment of proposed space to the applicant.

It was also informed that the following discrepancies were observed in the application in the first instance:-

1. Name of SEZ has been mentioned as Candor Techspace instead of 'Seaview Developers Pvt. Ltd.'
2. Copy of driving license of Mr. Jaswinder Singh Chadha has expired.
3. List of Capital Goods for Rs. 279 lakhs (imported) of Rs. 430 lakhs (Indigenous) need to be submitted.

Mr. Manish Mittal, Country Head, Mr. Anurag Agarwal, Financial Controller & Mr. Aditya Sharma, India Controller appeared before the Approval Committee on behalf of the applicant and explained the proposal. It was informed by them that they have submitted the requisite documents.

After due deliberations, the Approval Committee **approved** the proposal, subject to condition that the formal approval shall be issued only after compliance of requirements as indicated above.

2. Proposal of M/s. NIIT Technologies Ltd. (Unit-I) for expansion of area of the unit located in the IT/ITES SEZ of M/s. NIIT Technologies Ltd. at Plot No. T22 & 2A, Sector-Techzone, Greater Noida.

It was brought to the notice of Approval Committee that M/s. NIIT Technologies Ltd. (Unit-I) had applied for expansion of area of the unit located in the IT/ITES SEZ of M/s. NIIT Technologies Ltd. at Plot No. TZ 02 & 2A, Sector-Techzone, Greater Noida (U.P.). It was informed to the Committee that presently unit has been occupying an area of 18274.63 Sqm at 2nd floor (Wing A & part of Wing B, 3rd to 6th floor (Wing A & B) & Part of 5th floor in SDB-II and requested for addition of 415.75 Sqm at Part area of 1st floor in SDB-II of SEZ. It was also informed that the unit has mentioned that the proposed additional area is required for support to existing business of SEZ Unit-I and there is no additional imported / indigenous capital goods requirement for the proposed expansion. Further, Export / NFE projections already approved will remain unchanged.

Mr. Mukesh Chauhan, Group Manager appeared before the Approval Committee on behalf of the unit and explained the proposal.

After due deliberations, the Approval Committee **approved** the expansion of area.



3. Proposal of M/s. NIIT Technologies Ltd., developer for approval of list of materials to carry on authorized operations of their IT/ITES SEZ at Plot No. TZ02 & 2A, TechZone, Gr. Noida.

It was brought to the notice of Approval Committee that M/s. NIIT Technologies Limited, Developer of IT/ITES SEZ at Plot No. TZ-2 & 2A, Sector-Techzone, Greater Noida (U.P) had submitted a proposal for approval of a list of materials to carry on following default authorized operation in their SEZ:-

S. No.	Authorized Operation	Sl. No. at default list of materials as per Inst. No. 50 & 54	Estimated Cost (Rs in Lakhs)
1.	Power (including power backup facilities) for captive use only.	23	212.00
2.	Telecom and other communication facilities including internet connectivity.	05	1.04
		Total:	213.04

Mr. Mukesh Chauhan, Group Manager appeared before the Approval Committee on behalf of the developer and explained the requirement of proposed materials. He informed that the items proposed under 'Power (including power backup facilities) for captive use only' are Batteries for UPS and not for power generation.

After due deliberations, the Committee **approved** the proposed list of materials.

3. Proposal of M/s. HCL Technologies Ltd., developer for approval of list of materials to carry on authorized operations in their IT/ITES SEZ at Plot No. 3A, 3B & 2C, Sector- 126, Noida.

It was brought to the notice of Approval Committee that M/s. HCL Technologies Ltd., Developer of IT/ITES SEZ at Plot No. 3A, 3B & 2C, Sector- 126, Noida (U.P) had submitted a proposal for approval of a list of materials to carry on following default authorized operations in their SEZ:-

S. No.	Authorized Operation	Sl. No. at default list of materials as per Inst. No. 50 & 54	Estimated Cost (Rs in Lacs)
1.	Construction of all types of building in processing area as approved by the Unit Approval Committee.	22	122.39
2.	Power (including power backup facilities) for captive use only.	23	128.84
3.	Air Conditioning of processing area.	21	36.98
4.	Access Control and Monitoring System.	24	25.63
5.	Telecom and other communication facilities including internet connectivity.	05	56.15
6.	Employee welfare facilities like Creche, Medical Center and other such facilities.	20	3.15
7.	Fire protection system with sprinklers, fire and	07	14.40

smoke detectors.		
	Total :	387.54

Mr. Sunil Agarwal, AVP, Mr. D.K. Sharma, GM & Shri Subhash Chandra, Dy. Manager appeared before the Approval Committee on behalf of the developer and explained the requirement of proposed materials.

After due deliberations, Approval Committee approved the proposed list of materials.

4. Proposal of M/s. Capgemini India Pvt. Ltd., a unit in Seaview Developers Pvt. Ltd., Noida for change of entrepreneur of the company to Capgemini Technology Services India Ltd. pursuant to Scheme of Amalgamation with IGATE Global Solutions Ltd. approved by the Hon'ble Bombay High Court vide order dated 29.09.2016 – regarding.

It was brought to the notice of Approval Committee that M/s. Capgemini India Pvt. Ltd., a unit in IT/ITES SEZ of M/s. Seaview Developer Pvt. Ltd., Plot No. 20 & 21, Sector-135, Noida had submitted a proposal for change of entrepreneur in the wake of merger of Capgemini India Pvt. Ltd. with IGATE Global Solutions Ltd. pursuant to scheme of amalgamation approved by Hon'ble Bombay High Court vide order dated 29.09.2016 and subsequently change of name from IGATE Global Solutions Ltd. To Capgemini Technology Services India Ltd.. It was informed that there are following changes in shareholding of the company:-

Name of shareholder	% shareholding pattern of Capgemini India Pvt. Ltd. (pre-amalgamation with IGATE Global Solutions Ltd.)	% Shareholding pattern of M/s. IGATE Global Solutions Ltd. (now M/s. Capgemini Technology Services India Ltd.) post-amalgamation of Capgemini India Pvt. Ltd. with IGATE w.e.f. 25.11.2016
Foreign Promoters: PAN Asia IGATE Solutions	--	23.10%
Foreign Promoters : IGATE Corporation	--	21.58%
Foreign Promoters : IGATE Technologies Inc	--	0.96%
Foreign Promoters : Capgemini America Inc	77.85%	42.14%
Foreign Promoters : Capgemini SA	22.15%	11.99%
Bodies Corporates	--	0.01%
HUF's	--	0.01%
NBFC	--	0.00%
Non Resident Indians	--	0.01%
Employees	--	0.00%
Indian Financial Institutions	--	0.00%
Residential Individuals	--	0.21%
Total:	100.00%	100.00%

It was informed that as per above shareholding pattern submitted by the unit there are approx. 45.87% changes in the shareholding of M/s. Capgemini India Pvt. Ltd. post amalgamation with IGATE Global Solutions Ltd..

It was also informed that BOA in its 69th 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.

Mr. Anurag Olhyan, Manager & Mr. P.P. Singh, Sr. Executive appeared before the Approval Committee for explaining the proposal for amalgamation of unit.

After due deliberations, the Committee **approved the proposal** of the unit for change of entrepreneur to Capgemini Technology Services India Ltd. pursuant to Scheme of Amalgamation with IGATE Global Solutions Ltd. approved by the Hon'ble Bombay High Court vide order dated 29.09.2016 and change of shareholding pattern, as per guidelines issued by the Board of Approval in its 69th meeting held on 23.02.2016, subject to the condition that all the assets & liabilities of Capgemini India Pvt. Ltd. under LOA No. 10/30/2015-SEZ/756 dated 20.01.2016 shall be taken over by M/s. Capgemini Technology Services India Ltd. and revised Bond-Cum-LUT shall be executed by M/s. Capgemini Technology Services India Ltd.. The Committee also directed the representative of the unit to submit Undertaking on Rs.100/- non-judicial stamp paper duly notarized, towards takeover of all the assets and liabilities under LOA No. 10/30/2015-SEZ/756 dated 20.01.2016 by M/s. Capgemini Technology Services India Limited.

5. Proposal of M/s. Artha Infratech Private Limited., developer for approval of list of materials to carry on authorized operation in IT/ITES SEZ of at Plot No. 21, Sector-Techzone-IV, Greater Noida.

It was brought to the notice of the Approval Committee that M/s. Artha Infratech Pvt. Ltd. , developer of Electronics Hardware & Software including IT/ITES SEZ at Plot No. 21, Sector-Techzone-IV, Greater Noida, had submitted a proposal for approval of a list of materials to carry on following default authorized operation in SEZ:-

S. No.	Name of Authorized Operation	S. No. at default list of Auth. Opr. As per Inst. No.	Estimated value (Rs. in lacs)
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		50 and 54	
1.	Construction of all type of buildings in processing area as approved by the UAC.	22	28.75

Shri Rajiv Baghel, Manager & Shri Ashish Garg, Manager appeared before the Approval Committee on behalf of the developer and explained the requirement of proposed materials.

After due deliberations, Approval Committee **approved** the proposed list of materials.

6. Proposal of M/s. Trustone Wegmans Developers Pvt. Ltd., co-developer for approval of list of materials to carry on authorized operation in IT/ITES SEZ of M/s. Artha Infratech Pvt. Ltd. at Plot No. 21, Sector- Techzone-IV, Greater Noida.

It was brought to the notice of the Approval Committee that M/s. Trustone Wegmans Developers Pvt. Ltd., Co-developer of Electronics Hardware & Software including IT/ITES SEZ of M/s. Artha Infratech Pvt. Ltd. at Plot No. 21, Sector-Techzone-IV, Greater Noida, had submitted a proposal for approval of list of materials to carry on following default authorized operations in SEZ:-

S. No.	Name of Authorized Operation	S. No. at default list of Auth. Opr. As per Inst. No. 50 and 54	Estimated value (Rs. in lakhs)
1.	Construction of all type of buildings in processing area as approved by the Unit Approval Committee.	22	27.50

It was informed that Co-developer has not submitted Half Yearly returns and Utilisation Certificate for the period ending 30th September, 2016 & 31st March, 2017.

Shri Rajiv Baghel, Manager & Shri Ashish Garg, Manager appeared before the Approval Committee on behalf of the Co-developer and explained the requirement of proposed materials. It was informed by them that they have already submitted Half Yearly returns and Utilisation Certificate for the period ending 30th September, 2016 & 31st March, 2017. Further, they have obtained Completion Certificate in respect of Tower-1 and therefore extension in building plan is not required.

After due deliberations, Approval Committee **approved** the proposed list of materials. Further, the Approval Committee directed the representatives of co-developer to submit copies of Half Yearly returns and Utilisation Certificate for the period ending 30th September, 2016 & 31st March, 2017 submitted by them along with copy of Completion Certificate in respect of Tower-1.



7. Proposal for monitoring of performance of M/s. Moser Baer Solar Ltd.(Unit-II), under rule 54 of SEZ Rules, 2006.

It was brought to the notice of the Approval Committee that M/s Moser Baer Solar Ltd. (Unit-II) was issued LOA dated 24/06/2010 for manufacturing of 'crystalline silicon based 'high efficiency solar cells' & solar modules and parts thereof. Unit commenced production on 09/09/2011 and accordingly LOA was valid up to 08/09/2016. It was informed that as per APRs upto 2015-16 cumulative NFE of unit is negative by Rs. 9619.04 lakhs as on 31/03/2016 with unrealized forex of Rs. 812.86 lakhs. It was further informed that upon request of the unit temporary extension in the validity period of LOA had been granted from time to time and presently LOA is renewed up to 07/10/2017.

Further, it was informed that the unit has reiterated its registration with BIFR in 2015 in view of the requirements of section 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), on the erosion of net worth of the company. It was further informed that the unit had also stated that the new law "Insolvency Bankruptcy Code" (IBC) which replaced SICA effective December 1, 2016 does not make it mandatory for any company - even a sick company like Moser Baer Solar Ltd., to register with them because of negative net worth. And there is no provision to transfer cases from BIFR automatically. And as they have now embarked on their turnaround plan, they do not intend to register themselves under IBC though they continue to be sick Company because of negative Net worth in common and general parlance.

It was further informed that the unit had also mentioned that during 2016-17 their NFE has been positive and the overall cumulative negative NFE till 2016-17 has been brought down to Rs. 7667.30 lakhs from Rs. 9619.11 lakhs (as on 31.03.2016). Unit had subsequently informed that the unrealized amount (pending beyond 9 month) was around Rs. 6.55 lakhs approx).

Further, it was informed that, the matter of non-realization of export proceeds of the unit was placed before the Approval Committee in its meeting dated 02.12.2016. After due deliberations, the Approval Committee directed to send a letter to the unit to complete the write off process within 3 months and submit write off certificate form A.D. and also will have to deposit the duty benefit availed on such unrealized amount. Approval Committee also directed the Specified Officer to calculate the duty liability on the unrealized foreign exchange. Accordingly letter dated 26.12.2016 was issued. However unit has not submitted compliance as yet.

It was informed that the unit has requested to grant extension of block period under Rule 72 of SEZ Rules, 2006 for two years.



However, no one from the unit appeared before the Approval Committee to explain the proposal.

In view of above facts and keeping in view the circumstances of this industry, the Approval Committee decided to recommend the proposal for extension of LOA to BoA under Rule 72. It was decided that it may be specifically informed to the BoA that the case is not getting specifically covered under Rule 72 of the SEZ Rules and consideration of this request will require relaxation of Rule 72 position. In view of the position explained by the unit regarding new Insolvency Bankruptcy Code (IBC), industry position, their performance in 2016-17 and their turnaround plan, Approval Committee recommends extension of first Block of five years effective from 09/09/2011 for two years i.e. upto 08/09/2018.

8. Proposal in respect of M/s Arshiya Supply Chain Management Pvt. Ltd. for monitoring of performance/NFE, extension of LOA, consideration of revised authorized operations and decision on non submission of regd. Lease deed by FTWZ units.

It was brought to the notice of the Approval Committee that the proposals in respect of M/s Arshiya Supply Chain Management Pvt. Ltd. for allowing withdrawal of LOA amendment proposal submitted on 02.08.2016; review of authorized operations and consideration of revised/proposed authorized operations; review of performance/achievement of NFE and consideration of further renewal of LOA; and discussion /decision regarding non-submission of copy of Regd. Lease Deed by such units in FTWZ and execution of BLUT etc. were considered by the Approval Committee in its meeting held on 09.01.2017. Accordingly unit was conveyed the decision of the Committee vide letter dt. 25/01/2017. Also a reference on the issues of determination of NFE earning by FTWZ units was also sent to DOC as per decision of said UAC. Thereafter the case for review of performance/consideration of LOA renewal etc. was placed before the UAC held on 07/04/17 which directed the unit to provide the requisite information.

In this regard, the unit vide its letter dated 09.04.2017 submitted query-wise reply to the queries raised by the UAC held on 07/04/17 is as under:-

S. No.	Queries by UAC held on 07/04/17	Reply by unit
1.	Out of total inbound value of Rs. 551.07 in the block period what is the value of the goods which has been held by the unit on account of foreign supplier & foreign buyer.	The value of goods held on account of foreign supplier & foreign buyer is Rs. 129.58 Crores.
2.	In respect of these goods which have been held on account of foreign supplier and the buyer whether the service charge have been taken by the unit in free foreign currency, if yes, this is to be confirmed in writing supported by the documentary	The unit has collected a USD 52,95,858.10 towards the service charges from its clients during the said period.



	evidence.	
3.	Out of Rs. 551.07 cr. of the total inbound value what is the value of the goods held on account of DTA supplier and buyer.	The value of goods held on account of DTA supplier & buyer is Rs. 421.48 Crores.
4.	Out of these goods which were held on account of the domestic supplier and buyer, provide the break-up of the value of the exports and the value of the goods supplied in the DTA.	The domestic supplier and buyer have cleared the goods as under:- <ul style="list-style-type: none"> • Value of goods exported: Rs. 22.05 Crores • Value of goods cleared into DTA in INR: Rs. 113.71 Crores.
5.	Out of the value of the goods on account of DTA supplier & buyer and whether these supplies were made in the free foreign exchange or in Indian Rupees. What is the status of NFE in respect of these goods.	The DTA supplier and buyer have cleared the goods have supplied the goods as under: <ul style="list-style-type: none"> • Value of goods supplied in DTA in INR: Rs. 267.29 Crores • Value of goods supplied in DTA in Foreign Currency: Rs. 124.06 Crores • Value of goods supplied in DTA against Stock transfer for which the DTA buyer has made payment to overseas supplier in Foreign currency: 153.58 Crores.
6.	Out of the value of the goods held on account of DTA supplier and buyer whether the remittance of foreign exchange has been done by the unit or the client in the FTWZ or remittance has been done by the DTA buyer and provide the break-up of these values.	The Unit M/s. Arshiya Supply Chain Management Pvt. Ltd. is a service unit. It does not have control over the payment collection arrangement of their clients. The data provided in the annexure is based on the invoices raised by their respective clients to their DTA buyers.

It was further informed that unit, vide its letter dt. 30/05/17, inter alia reiterated as under and requested for LOA renewal for five years:

- i) That the goods warehoused by unit belong to foreign supplier, foreign buyer, DTA supplier and DTA buyer and unit is not the owner of these goods at any point of time.
- ii) That in case of sale and purchase transaction between DTA entities in respect of goods held in FTWZ, the remittance is required to be made in INR as clarified by RBI vide letter dt. 08/04/2011.
- iii) That Rule 53(k) of SEZ Rules, 2006 should apply to the unit for calculation of NFE in FTWZ for rendering services by an FTWZ unit as also validated by DOC vide its clarification dt. 31/01/2017, and Rule 53(o) of the SEZ Rules, 2006 is not applicable in their case for calculation of NFE.
- i) That there is no stipulation for considering value of goods belonging to foreign supplier/buyer DTA supplier/buyer for calculation of NFE of a service unit in FTWZ.
- ii) That in case of any doubt regarding calculation of NFE of service unit in FTWZS, a reference may be made to DOC/Director SEZ who have also been marked copies of instant letter for suitable instruction or clarification.

Further, it was informed that the unit vide its letter dt. 07/03/17 has referred the following Rule position and requested to include the following activities in its authorized operations:



- (i) **As per Rule 18(5):** "Trading, Warehousing, labeling or relabeling/ Packing or re-packing without any processing as per owner's instructions [Foreign supplier or buyer / DTA Supplier or buyer], assembly of CKD/ SKD.
- (ii) **As per Instruction 49:** Cutting, polishing, blending etc. on a case to case basis with the approval of Approval Committee.
- (iii) **As per Rule 76: Ancillary Services** for the purpose of Authorised Operations. However, specific name of services not provided.

It was further informed that the Approval Committee in its meeting held on 09/01/2017 had expressed its concern over non-submission of copy of registered lease deed by unit which is required to be furnished as per SEZ Rule 18(2)(ii) to the Development Commissioner within six months from the issuance of the letter of approval. The Approval Committee directed the representative of the unit to submit copy of registered lease deed immediately and in any case before Approval Committee meeting which would be held in April, 2017.

In this regard, it was informed that unit had vide its letter dt. 07/03/17 and subsequent letter dt. 06/04/17 has inter alia informed that they have approached the local registration office at Khurja, Bulandshahar, UP for execution of their agreement with the Developer. However the Registration Authority has impounded the agreement. The unit has further mentioned that the Registration Department is having an opinion that the stamp duty shall be applicable in this execution and they will issue an SCN and the matter will be decided by the adjudicating authority. Unit has informed that thus they have initiated the required registration process as per directions of the UAC.

Mr. Victor Vincet, Head, Mr. P. Raghunath, AVP & Mr. D.K. Taunk, DGM appeared before the Approval Committee & explained the proposal. They produced a copy of letter submitted by them to local registration office at Khurja, Bulandshahar for execution of their agreement with the Developer.

Approval Committee considered the issue in detail and decided as follows :

- 1) In respect of the goods held by the FTWZ units on account of foreign supplier and buyer , the unit has collected commission in foreign currency. DOC vide its letter dt. 31.01.2017 has clarified that *if goods are held by a FTWZ unit in FTWZ Warehousing Zone on behalf of foreign supplier and thus rendering warehousing services, the value of goods kept in warehouse in SEZ will not be part of NFE calculations. This should be dealt as per Rule 53A(k) of SEZ Rules, 2006 dealing with rendering of services. However, if the goods are purchased by an FTWZ unit and sold, that should be dealt as per Rule 53A(o) and value of goods kept in SEZ warehouse will form part of NFE calculation*". Accordingly, this transaction is admissible for the purpose of NFE.



- 2) They have done physical exports outside of India to the extent of Rs.100.50 Crores on account of exports made by foreign client and on account of exports made by Indian clients. This being physical export is clearly admissible for purpose of NFE calculation.
- 3) They have done DTA clearances by way of stock transfer in foreign currency to the extent of Rs.124.06 Crore. Since this transaction in foreign currency, this is also admissible in terms of 18(5) of SEZ Rules, 2006 read with Rule 53 A(o).
- 4) They have made DTA clearances by way of stock transfer to the extent of Rs.153.58 Crores and in respect of this stock transfer no foreign transaction has been done from the FTWZ unit with the DTA buyer and it was stated that in respect of this stock transfer payment in foreign currency was made by the DTA buyer to the foreign supplier. This is not specifically envisaged/included in the Rule 18(5). Rule 18(5) of the SEZ Rules, 2006 emphasize that all transactions by a unit in FTWZ shall only be in convertible foreign currency. Hence this transaction of Rs.153.58 Cr. also cannot be admitted towards NFE calculation and is not admissible as per Rule 18(5). Unit has clearly indicated that these supplies were invoiced in Indian Rupees [Invoice in Indian Rs.267.26 Cr. = 153.58 Cr. +113.71 Cr.].
- 5) The unit has stated that they have made DTA clearances in Indian rupees to the extent of Rs.113.71 Crores. Again this transaction is inadmissible in terms of Rule 18(5) of the SEZ Rules, 2006.
- 6) As stated in above paragraphs, the unit has stated that DTA invoices issued in Indian rupees are equivalent to Rs.267.29 Crores, which is the combination of Rs.153.58 Cr. on account of DTA clearances by way of stock transfer and Rs.113.71 Crores on account of DTA clearances made in Indian rupees. Accordingly Approval Committee decided that this entire transaction of Rs.267.29 Crores is inadmissible in terms of Rule 18(5) of the SEZ Rules, 2006. Accordingly there is a negative NFE to the extent of Rs.267.29 crores.
- 7) Approval Committee also took into consideration the RBI clarification quoted by the representative and decided that this transaction is not between two DTA units but between a FTWZ unit namely; M/s Arshiya Supply Chain Management Pvt. Ltd. and the DTA buyer as FTWZ unit is holding goods and is filing documents for import and for clearance of goods in the DTA.
- 8) In terms of Rule 54 of SEZ Rules, 2006 Approval Committee is required to conclude about the NFE status of the unit. In pursuance of Rule 54, the Approval Committee arrives at the conclusion about the unit that it has not achieved positive NFE and is having negative NFE of Rs.267.29 Crore. It was decided that further necessary action on the non-achievement of positive NFE may be taken and SCN under FTDR Act may be issued.



- 9) Approval Committee took into account the submissions made by the unit including written submissions before it. The unit was advised to submit a copy of registered lease deed executed between the FTWZ developer & the FTWZ unit. In this case FTWZ Developer M/s. Arshiya Northern FTWZ Ltd. & FTWZ unit M/s. Arshiya Supply Chain Management Pvt. Ltd.

Rule 18(2)(ii) provides as under :

"Provided that the Developer shall enter into a lease agreement and give possession of the space in the Special Economic Zone to the entrepreneur only after the issuance of Letter of Approval by the Development Commissioner:

Provided further that a copy of the registered lease deed shall be furnished to the Development Commissioner concerned within six months from the issuance of the Letter of Approval and failure to do so, the Approval Committee may take action to withdraw the Letter of Approval after giving an opportunity of being heard;"

In the context the representative of the unit vide its letter dt. 6.4.17 informed as under :

"They have approached the local registration office at Khurja, Bulandshahar, UP for execution of their agreement with the Developer. However the Registration Authority has impounded the agreement. The unit has further mentioned that the Regn. Department is having an opinion that the stamp duty shall be applicable in this execution and they will issue an SCN and the matter will be decided by the adjudicating authority. Unit has informed that thus they have initiated the required registration process as per directions of the UAC" .

Approval Committee took into account the submissions made by the representative of the unit and decided that in terms of Rule 18(2) the lease deed has to be executed between the Developer and the unit. This office has asked for the lease deed between the developer and the unit and not between units and the clients. The unit is operating for the last 5 years without executing lease deed which is required to be submitted under Rule 18(2) of the SEZ Rules, 2006 within a period of six months. Hence in the absence of lease deed, the operations of the unit cannot be continued. However, since unit has already been operating in FTWZ for more than 5 years, the Approval Committee decided that the LOA of the unit may be extended by 3 months. On this issue the specific reference may be made again to DOC that in case a lease deed is not executed in this period between the Developer and the unit it may not be possible for this office to extend the LOA further. Hence Approval Committee decided that a request may be made to the DOC to take a view on this and issue a suitable clarification.



9. Proposal for monitoring of performance of M/s. Helios Photo Voltaic Ltd., under Rule 54 of SEZ Rules, 2006.

It was brought to the notice of the Approval Committee that M/s. Helios Photo Voltaic Ltd., a unit in M/s. Moser Baer India Ltd. SEZ at Greater Noida (U.P), has been granted LOA dated 12.10.2006 for undertaking "Solar Cell & Parts thereof, Solar Module & Parts thereof, High Concentration Photovoltaic Panel and parts thereof, Low concentration Photo Voltaic Panel/ Cells and Parts thereof, Solar Power Systems (Stand Alone/ Grid Tied) 75 MW, Trading Activities of 54 items". The unit commenced production w.e.f. 17.05.2007 & LOA was renewed upto 16.05.2017. The unit vide its letter dated 18.04.2017 had submitted request for extension of the validity of LOA for next five years. However, later the unit vide its letter dated 25.04.2017, withdrew the said proposal and submitted a fresh proposal vide letter dt. 29.04.2017.

It was informed that as per APRs cumulative NFE of unit is negative by Rs. 8794.37 during 2012-13 to 2015-16 (as on 31/03/2016) with unrealized forex of Rs. 163.72 lakhs (as per APR 2015-16). It was further informed that upon request of the unit temporary extension in the validity period of LOA had been granted up to 16.11.2017.

Further, it was informed that the unit has stated that the company got registration with BIFR in 2015 in view of the requirements of section 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), on the erosion of net worth of the company. It was further informed that the unit had also stated that the new law "Insolvency Bankruptcy Code" (IBC) which replaced SICA effective December 1, 2016 does not make it mandatory for any company - even a sick company like Helios Photo Voltaic Ltd., to register with them because of negative net worth.

It was informed that the unit has requested to grant extension for one more year to the 2nd block period, under Rule 72 of SEZ Rules, 2006.

However, no one from the unit appeared before the Approval Committee to explain the proposal.

In view of above facts and keeping in view the circumstances of this industry, the Approval Committee decided to recommend the proposal for extension of LOA to BoA under Rule 72. It was decided that it may be specifically informed to the BoA that the case is not getting specifically covered under Rule 72 of the SEZ Rules and consideration of this request will require relaxation of Rule 72 position. In view of the position explained by the unit regarding new Insolvency Bankruptcy Code (IBC), industry position, their performance in 2016-17 and their turnaround plan, Approval Committee recommends extension of 2nd Block of five years effective from 17.05.2012 for one year i.e. upto 16/05/2018.



10. M/s. HCL Technologies Ltd. (Unit-IX) – Proposal for approval of additional service to carry on authorized operations in IT/ITES SEZ of M/s. HCL Technologies Ltd. at Plot No. 3A, 3B & 2C, Sector-126, Noida- Reg.

It was brought to the notice of the Approval Committee that M/s. HCL Technologies Ltd. (Unit-IX) had submitted proposal for approval of following additional service, in addition to the list of 66 Nos. default services, in terms of Notification No. 12/2013-ST dated 01.07.2013 to carry on authorized operations in the IT/ITES SEZ of M/s. HCL Technologies Ltd. at Plot No. 3A, 3B & 2C, Sector-126, Noida:

S. No.	Proposed Service	Justification for requirement of proposed service given by the unit
1.	Management or business consultant's service.	To hire various management and business consultants which provides advice, consultancy and technical assistance for developing SEZ.
2.	Event management service.	To organize meeting / events to convey the directions with regard to business policy and system of the company to its employees.

Mr. Sunil Agarwal, AVP, Mr. D.K. Sharma, GM & Shri Subhash Chandra, Dy. Manager appeared before the Approval Committee on behalf of the unit and explained the requirement of proposed services. Further, Mr. D.K. Sharma informed that another service namely 'Business Auxiliary Service' is required for carrying out authorized operation, but they had forgotten to apply the same. He requested the Approval Committee to also consider the said service for approval.

After due deliberations and with the consensus of the Members present in the meeting, the Approval Committee **approved** the following additional services:-

1. Management or Business Consultant's Service- To hire various management and business consultants which provides advice, consultancy and technical assistance exclusively for authorized operations carried out within the SEZ only.
2. Event Management Services - To organize promotional events related to their authorized operations within the SEZ.
3. Business Auxiliary Service – for authorized operations carried out within the SEZ.

The Approval Committee directed the representatives of the unit to submit written justification for requirement of 'Business Auxiliary Service'.

11. M/s. HCL Technologies Ltd. (Unit-X) – Proposal for approval of additional service to carry on authorized operations in IT/ITES SEZ of M/s. HCL Technologies Ltd. at Plot No. 3A, 3B & 2C, Sector-126, Noida- Reg.

It was brought to the notice of the Approval Committee that M/s. HCL Technologies Ltd. (Unit-IX) had submitted proposal for approval of following additional service, in addition to the list of 66 Nos. default services, in terms of Notification No. 12/2013-ST dated 01.07.2013 to carry on authorized operations in the IT/ITES SEZ of M/s. HCL Technologies Ltd. at Plot No. 3A, 3B & 2C, Sector-126, Noida:

S. No.	Proposed Service	Justification for requirement of proposed service given by the unit
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1.	Management or business consultant's service.	To hire various management and business consultants which provides advice, consultancy and technical assistance for developing SEZ.
2.	Construction services in respect of commercial or industrial building and civil structure.	For construction of a new building or a civil structure or a part thereof. This is very essential being delivered by service provider for execution and development of project. It is major chunk of the project service.


Mr. Sunil Agarwal, AVP, Mr. D.K. Sharma, GM & Shri Subhash Chandra, Dy. Manager appeared before the Approval Committee on behalf of the unit and explained the requirement of proposed services. Further, Mr. D.K. Sharma informed that another service namely 'Business Auxiliary Service' is required for carrying out authorized operation, but they had forgotten to apply the same. He requested the Approval Committee to also consider the said service for approval.

After due deliberations and with the consensus of the Members present in the meeting, the Approval Committee **approved** the following additional services:-

1. Management or Business Consultant's Service- To hire management and business consultants which provides advice, consultancy and technical assistance exclusively for authorized operations carried out within the SEZ only.
2. Construction services in respect of commercial or industrial building and civil structure – for construction / modification of building to carry out authorized operations within the SEZ.
3. Business Auxiliary Service – for authorized operations carried out within the SEZ.

The Approval Committee directed the representatives of the unit to submit written justification for requirement of 'Business Auxiliary Service'.

The meeting ended with a vote of thanks to the Chair.



(S. S. Shukla)

Joint Development Commissioner



(Dr. L.B. Singhal)

Development Commissioner