

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: 15/05/2017

सेवा में,

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।

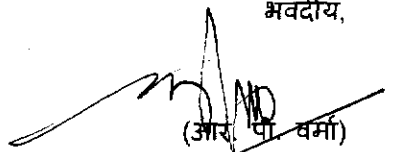
विषय: दिनांक 03/05/2017 को पूर्वाह्न 11:30 बजे आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त - एतद संबंधी ।

महोदय,

मुझे उपरोक्त विषय का सन्दर्भ लेने और डॉ. एल बी सिंघल, विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में दिनांक 03/05/2017 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,


(आर. पी. वर्मा)
सहायक 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. सहायक विकास आयुक्त, सम्पदा अनुभाग, नोएडा विशेष आर्थिक क्षेत्र, सूचनार्थ एवं आवश्यक कार्यवाही के लिए.

सहायक विकास आयुक्त

Minutes of the 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 03/05/2017 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 Gobinda Banerjee, FTDO, O/o Addl. DGFT, CLA, New Delhi.
- 3) Ms. Sandhya Maurya, Income Tax Officer, Income Tax Deptt., Noida.
- 4) Shri Tribhuvan Nath Patel, Addl. Statistical Officer, DIC, Noida (Rep. of Principal Secretary, Industry, Govt. of UP.).
- 5) Dr. B. B. Awasthi, Regional Officer, UPPCB, Noida.
- 6) Shri Mukesh Goyal, Associate Architect, (Rep. of Noida Authority).

2. Besides, during the meeting (i) Smt. Mala Ranagarajan, Dy. Development Commissioner, NSEZ, S/Shri (ii) R.K. Srivastava Dy. Development Commissioner, NSEZ (iii) Md. Salik Parwaiz, Specified Officer, NSEZ, (iv) R.P. Verma, Asstt. Development Commissioner, NSEZ, (v) Rajendra Mohan Kashyap, PA to JDC, NSEZ, (vi) Bhuvan Yadav, AEE, UPPCB, Noida, (vii) G.P. Singh, SDO, UPPCL, Noida and (viii) 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 05/04/2017:-

It was informed that no reference against the decisions of the Approval Committee held on 05/04/2017 was received. It was also informed that during its last meeting, the Approval Committee observed that LOA of M/s. Dwarka Das Seth SEZ India Corporation stands expired w.e.f. expiry of its validity on 26/12/2016 and consequently lease right being co-terminus with validity of LOA also stands expired on 26/12/2016 in terms of



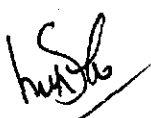
provisions of Rule 11(5) of SEZ Rules, 2006. In the minutes of Approval Committee it was inter alia mentioned that the unit may, under Rule 55 read with Rule 56 of the SEZ Rules, 2006, prefer an appeal against the decision of Approval Committee, to the appropriate Appellate Authority, i.e. Board of Approval, Ministry of Commerce & Industry, Department of Commerce, Udyog Bhavan, New Delhi in accordance with the procedure given in Chapter VII of the SEZ Rules, 2006, if they desire to do so.

It was informed to the Approval Committee that as per Rule 55 of SEZ Rules, 2006, "Any person aggrieved by an order passed by the Approval Committee under section 15 or against cancellation of Letter of Approval under section 16, may prefer an appeal to the Board in the Form J". However in this case no order seems to have been issued either under Section 16 or under section 15 of SEZ Act, 2005. Therefore, Approval Committee's order is not an appealable order in terms of Rule 55 of SEZ Rules, 2006.

The Approval Committee deliberated and decided to delete the last paragraph of the Minutes of meeting held on 05/04/2017 in case of M/s. Dwarka Das Seth SEZ India Corporation. Accordingly, the minutes of the last meeting held on 05/04/2017 were ratified.

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

1.	<p>Proposal of M/s. Shambhu Khaini Pvt. Ltd. for setting up a new Unit in NSEZ.</p> <p>It was informed to the Approval Committee that the applicant has proposed to set up a new unit in NSEZ for Manufacturing & Export of Unmanufactured Tobacco, Flavoured Tobacco, Filtered Khaini etc. under ITC HS Code 24012090 & 24039910 with projected exports of Rs. 2790 Lakhs and the NFE of Rs. 2752 Lakhs over a period of five years.</p> <p>Shri Vishal Garg and Shri Bhushan Garg, Proprietor appeared before the Approval Committee to explain the project. Shri Vishal Garg informed that they are into the business of flavored chewing tobacco since 1989 and had a turnover of approx. Rs. 3.5 Crores during 2015-16. He further informed that the proposed unit shall be a 100% export unit and will employ approx. 22-25 persons initially.</p>
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It was informed to the applicant that the Govt. of Uttar Pradesh vide Notification No. 6288/FSDA/FOOD/2012 dated 04/10/2012 in pursuance of Regulation 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulation 2011, has prohibited, w.e.f. 1st April 2013, in the state of Uttar Pradesh, the manufacture, storage, sale or distribution of Gutkha and Pan Masala containing tobacco or nicotine as ingredients, by whatsoever name it is available in the market.

Shri Garg informed that items proposed to be manufactured fall under heading 24.03 for which Industrial License is not required and they also do not fall under restrictive items. He further informed that the packing of products shall be done in the multi layered pouches exclusively for exports and no DTA sale shall be undertaken. He also informed that their highest annual turnover was Rs. 5.5 Crores (approx.).

The credentials of DTA unit at Delhi were called for from Central Excise, Delhi and Asstt. Commissioner, Central Excise, Delhi has reported that the DTA unit is engaged in manufacturing of Unmanufactured tobacco, Readymade Tobacco and Filter Tobacco under CETSH 24039910. The party is filing the returns regularly and no case has been booked against the party. Further, no Govt. dues are pending against the unit.

The Approval Committee, after due deliberations, approved the proposal of M/s. Shambhu Khaini Pvt. Ltd. for setting up a new unit in Noida SEZ for manufacturing and export of Unmanufactured Tobacco, Flavoured Tobacco, Filtered Khaini under ITC HS Code 24012090 & 24039910 subject to the condition that no DTA sale shall be allowed. Further, unit shall comply with relevant policy of State Government as well and if any point of time Industrial Licence is required, unit will have to obtain the same.

2. Proposal in respect of M/s. Narayan Exports for Monitoring of performance and renewal of LOA.

It was informed to the Approval Committee that the unit has been issued LOA dated 30/11/2005 for Manufacturing & export of Readymade Garments and Fabric Made-ups. The unit has commenced its export production w.e.f. 24/03/2009 and LOA of the unit was valid till 31/03/2017. It was further informed that LOA of the unit was extended for upto 31/05/2017 so that work of the unit does not suffer.

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It was informed that the Approval Committee in its meeting held on 06/04/2016 had decided to renew the LOA of the unit for one year and directed the unit's representative to re-start export activities within the extended validity period of LOA. It was further informed that the unit has informed that they had made exports worth Rs. 53.26 Lakhs during the financial year 2016-17.

Shri T. N. Agrawal, partner in the firm, Shri G.D. Gautam & Shri Naresh Sharma, authorized representatives appeared before the Approval Committee. Shri Agrawal informed that they have good orders for berets (round hat/visor less woolen cap) from France. He also informed that currently there are 5-6 permanent employees working in the unit and they are expecting to increase the export performance in coming years.

The Approval Committee, after due deliberations, decided to renew the LOA for remaining period of five years i.e. upto 23/03/2019.

3. Proposal in respect of M/s. Dr. Fresh Assets Ltd. (Unit-I) for Monitoring of performance and renewal of LOA.

It was informed to the Approval Committee that the unit has been issued LOA dated 19/12/1995 for Manufacturing & Trading activities. The unit had commenced its export production w.e.f. 15/06/1996 and LOA of the unit was valid till 05/04/2017.

It was informed that the unit had been granted in-principle approval for exit on 18.08.2009. The unit had requested for withdrawal of their request of exit, renewal of LOA and inclusion of trading items in their authorized operations, which was considered by the Approval Committee in its meeting held on 06/04/2016. The Approval Committee in the said meeting had approved the proposal of the unit for Withdrawal of exit request and decided to renew the LOA of the unit for a period of one year. Further, the Approval Committee had directed the unit to re-start its activities within the extended validity period.

Shri Sumit Nanda and Shri Vijay Pathak, Directors of the company appeared before the Approval Committee. Shri Nanda informed that they have made export worth Rs. 3.30 Lakhs during 2016-17 and no imports have been made during the said period. They further mentioned that their second unit viz. M/s. Dr. Fresh Assets Ltd. (Unit-II) has done



reasonably good export worth approx. Rs. 90 Lakhs from the same premises.

The Approval Committee expressed its displeasure over the negligible performance with respect to exports made. Shri Nanda stated that as the company was closed since 2009, it will take some time to start the full-fledged operations.

The Approval Committee, after due deliberations, decided to renew the LOA for six months and directed the unit to start its full-fledged operations failing which no further extension shall be allowed.

4. **Proposal in respect of M/s. Supra India Tech Pvt. Ltd. for Monitoring of performance and renewal of LOA.**

It was informed to the Approval Committee that the unit has been issued LOA dated 20/09/2011 for Software Development. The unit has commenced its export production w.e.f. 01/03/2012 and LOA of the unit was valid till 28/02/2017. It was further informed that LOA of the unit was extended for upto 28/05/2017 so that work of the unit does not suffer.

It was informed that the unit vide this office letter dated 18/04/2017 has been asked to submit online application for renewal of LOA and submit following documents related to renewal of LOA:

1. Online application for renewal of LOA.
2. Whether any exemption is being claimed and if yes, under which section and whether Income Tax Deptt. has disallowed exemption at any time?
3. Whether any penalty has been imposed by Income Tax Deptt.? If yes, give complete details thereof.
4. Details of transaction with sister concerns raising issue of transfer pricing, if any.

However, the said documents are still awaited.

The promoters were informed through the email to attend the meeting. However, no one from the unit appeared for the meeting. The Approval Committee directed that the promoter(s) of the unit be called before JDC, NSEZ to clarify as to why they are not



complying with the above requirement.

The Approval Committee, after due deliberations, decided to extend the validity of LOA for 3 months. The Approval Committee also decided that the proposal of unit for further renewal of LOA will be placed before the Approval Committee, once the required documents are received from them.

5. Proposal of M/s. Sahdev International for permission to import "Glass Block with diamond finish" and export "Handicraft of Glass Artware".

It was informed to the Approval Committee that M/s. Sahdev International has been issued an LOA dated 31/12/1991 for Manufacturing & Export of Plain & Studded Gold Jewellery. The unit has commenced its export production w.e.f. 01/01/1992 and LOA is valid till 31/03/2020.

It was informed to the Approval Committee that the unit has requested to grant them short term permission for Export of Handicraft of Glass Artware for six months. It was further informed that the proposed activities belong to a different sector (Handicraft) from those in which the unit is currently working (Gems & Jewellery).

Shri Shashi Sahdev, proprietor of the firm appeared before the Approval Committee. He informed that they have received some enquiries from abroad for manufacturing of Crystal based products with diamond finish. He further stated that apart from using crystals in studding of jewellery, they are also proposing to make artware products out of this crystal glass through high level of skilled labour and knowhow, which will give them very high value addition. He also informed that majority of the plant & machinery and processes in their existing authorized operations would be common to new operation proposed to be undertaken. He also mentioned that at present their annual export turnover is about Rs. 200 Crores and more than 50 persons are employed. Further, he clarified that they do not intend to import or procure Diamonds from DTA.

The Approval Committee, after due deliberations, approved the proposal of unit for short term permission for Export of Handicraft of Glass Artware for six months, as requested by the unit. The Approval Committee on the suggestion of Dy. Commissioner Customs, NSEZ directed the unit to give prior intimation of export of these items to NSEZ Customs.



6. Proposal of M/s. Vikas Ecotech Ltd. for inclusion of additional authorized operations in LOA.

It was informed to the Approval Committee that M/s. Vikas Ecotech Ltd. has been issued an LOA dated 18/10/2016 for Manufacturing & Export of Methyl Tin Mercaptide (MTM) and PVC Compound. The unit has recently commenced its export production w.e.f. 20/03/2017 and LOA is accordingly valid till 19/03/2022.

It was informed to the Approval Committee that the unit has submitted a proposal for inclusion of "Thermoplastic Compound (TPR/TPE, Brand name Veeprene) [ITC-40021990]; and SOE Compound (Brand name - V Blend) [ITC- 39039090]" as authorized operations in their LOA.

Shri Sunil Dhameja and Shri Nishesh Kumar, authorized representatives of the company appeared before the Approval Committee. Shri Dhameja informed that they have made capital investment approx. Rs. 1 Crore in the unit and the present premises with installed capacity would be sufficient to cater to this broadbanding. He further informed that currently there are 3 officials and 8 labours working in the unit.

Shri Dhameja stated that the base polymer and additives in required quantities are put into a blending machine. The final product is put into the extrusion machine to obtain granules. He further informed that the machine generates the material at a rate of 250-300 Kg/hour.

The Approval Committee observed that the unit has projected export turnover worth Rs. 805.58 Crores over a period of five years with an investment of Rs. 2 Crores (Rs. 1 Crore existing and another one crore proposed). The Approval Committee observed that the export projections were too high as compared to investment in Plant & Machinery and employment.

Shri Dhameja stated that the company have established export markets in Middle East, Africa, CIS, South East Asian Countries. He further stated that the product cost is very high in range of Rs.600-700/kg. However, the Approval Committee was not satisfied with the export projections.



Noida Special Economic Zone

(Minutes of Meeting of Approval Committee of Noida SEZ held on 03/05/2017)

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The Approval Committee, after due deliberations, decided that a Committee comprising Md. Salik Parwaiz, DCC, NSEZ, Smt. Mala Rangarajan, DDC, NSEZ and Dr. B. B. Awasthi, representative of UPPCB, Noida may be constituted to visit the premises of the unit and submit a feasibility report on the manufacturing facilities & number of employees vis-à-vis their export projections. The Approval Committee accordingly deferred the proposal for its next meeting.

7. **Proposal of M/s. Ian Macleod Distillers India Pvt. Ltd. for inclusion of additional authorized operations in LOA.**

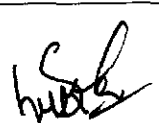
It was informed to the Approval Committee that M/s. Ian Macleod Distillers India Pvt. Ltd. has been issued an LOA dated 21/03/2016 for i) Trading of Bottled Single Malt Whisky and Blended Scotch Whisky; and ii) Trading of Gift Boxes, Printed Cardboard Cartons and Cardboard Canister. The unit has commenced its activities w.e.f. 08/07/2016 and LOA is accordingly valid till 07/07/2021.

It was informed to the Approval Committee that the unit has submitted a proposal to allow them permission for (1) Trading of promotional materials for supporting the brands at Airport Duty Free Shops like Bags (i.e. Trolley Bags, Handbags, Backpacks) covered under ITC HS - 420012 to be used as gifts to customers in Duty Free Shops; (2) Re-export to Asian Countries - Middle East (UAE), Singapore, Sri Lanka, Maldives in USD for sale in duty free outlets and (3) Transfer non-saleable stocks to customs bonded warehouse once or twice in a financial year (approx. \$10000-\$15000).

Shri R.V. Subramanian, director of the company appeared before the Approval Committee. Shri Subramanian stated that the supply prices of their brands will be increased to accommodate the cost of free gifts. He further informed that this will be limited to 3-4% of the FOB value of export. He also informed that they have received orders from other countries and would like to export their brand to these locations as well.

Shri Subramanian further informed that they have decided to withdraw their third request i.e. Transfer non-saleable stocks to customs bonded warehouse and they will not carry out this activity.

The Approval Committee, after due deliberations, approved the proposal of unit for (1)



	<p>Trading of promotional materials for supporting the brands at Airport Duty Free Shops like Bags (i.e. Trolley Bags, Handbags, Backpacks) covered under <u>ITC HS - 420012</u> to be used as gifts to customers in Duty Free Shops, supply will have to be against Free Foreign Exchange; and (2) International Trading to Asian Countries - Middle East (UAE), Singapore, Sri Lanka, Maldives against payments received in Free Foreign Exchange.</p>
8.	<p>Proposal in respect of M/s. Interglobe Technology Quotient Pvt. Ltd. for Monitoring of performance in view of exit request of unit.</p> <p>It was informed to the Approval Committee that M/s. Interglobe Technology Quotient Pvt. Ltd. was issued an LOA dated 23/02/2005 for Data Processing. The unit commenced its activities w.e.f. 01/06/2006 and LOA was valid till 31/05/2016.</p> <p>It was informed that unit vide this office letter dated 12/05/2016 was advised to submit requisite documents for compliance with exit formalities. Unit has now submitted all the documents related to exit from SEZ scheme. Besides, NSEZ Customs has also issued NOC to the unit on 06/10/2016. It was further informed that in terms of Rule 54, it is for Approval Committee to arrive at conclusion that unit has achieved positive NFE.</p> <p>Shri Munish Gupta and Shri Neeraj Jain, authorized representative of the company appeared before the Approval Committee. Shri Gupta informed that they have a DTA unit in Gurgaon and they are merging the activities of all their units into DTA unit.</p> <p>The Approval Committee monitored the performance of the unit on the basis of APRs up to 2015-16 and noted achievement of positive NFE by the unit. The Approval Committee further observed that no foreign exchange is pending for realization as on date.</p>
9.	<p>Proposal in respect of M/s P.P. Jewels Pvt. Ltd. Plot No. 142A/17, NSEZ for Monitoring of performance; Review of LOA and Eviction of unauthorized Occupancy.</p> <p>It was informed to the Approval Committee that M/s. P.P. Jewels Pvt. Ltd. was issued an LOA dated 25/09/2007 for Manufacturing & Export of Plain & Studded Gold/Platinum/Silver jewellery. The unit commenced its export production w.e.f. 01/02/2010 and LOA was valid till 31/01/2015. The unit has been allotted Plot No.</p>



142A/17, NSEZ admeasuring 450 Sq. mtrs.

It was further informed that the Approval Committee in its meeting held on 12/03/2015 had approved renewal of the LOA of unit for further five years subject to submission of APR for 2013-14, details of achievement of value addition during 2013-14 and projections for next five years. However, unit has till date not submitted the said documents inspite of repeated reminders by this office.

It was further informed that unit has not been paying lease rent regularly and lease rent amounting to Rs. 1,84,341/- (Approx. 10 quarters) is outstanding up to 30/06/2017. It was also informed that unit has been issued several notices under Section 4 and Section 7 of P.P. Act, 1971, however no response has been received from the unit. It was further informed that another unit namely M/s. PP Jewellers (Delhi) which is a group company of the promoters working at Plot No. 129G/17, NSEZ is also defaulter in paying lease rent and currently lease rent amounting to approx. Rs. 1.22 Lakhs is outstanding against it.

Shri G.P. Singh, SDO, UPPCL, Noida informed that they have pending dues against M/s. P.P. Jewels Pvt. Ltd. and M/s. PP Jewellers (Delhi) amounting to Rs. 44,114/- in respect of Plot No. 129G/17, NSEZ and Rs. 1,14,229/- in respect of Plot No. 142A/17, NSEZ. It was also discussed that details of pending foreign exchange realization be called for and if need be these details may be obtained from RBI.

The Approval Committee, after due deliberations, decided to grant one last opportunity for personal hearing and directed to inform the unit to clear entire outstanding lease rent in respect of both plots along with dues of UPPCL. It was decided that a communication may be sent to the unit (all representatives also) through registered/speed post so as to ensure their presence in the next meeting of Approval Committee which will be convened on 07/06/2017. In case authorized representative of unit fails to appear before the Approval Committee for personal hearing, Eviction Proceedings under provisions of P.P. Act shall be initiated. Accordingly, case was deferred for next meeting.



10. **Proposal for adjudication of Notice dated 14/03/2017 issued to M/s. Shri Lal Mahal Ltd. in the wake of report of DRI about Diversion of duty free imported gold and contravention of provisions of SEZ Act, 2005, SEZ Rules 2006, Conditions of LOA and conditions of Bond-cum-LUT.**

It was informed to the Approval Committee that M/s. Shri Lal Mahal Ltd. has been issued an LOA dated 22/02/2010 for Manufacturing & export of Jewellery made from Gold and precious stones. The unit commenced its export production w.e.f. 08/05/2012 and accordingly LOA is valid upto 07/05/2017.

2. Unit has submitted APRs upto the year 2014-15. As per APRs, performance of unit is as under:

Yearwise performance of the unit during current five years block	Values In Rs. Lakhs			
	Year	FOB Value of Export	Forex Outgo	NFE Earning
	2012-13	1549.23	1449.37	99.86
	2013-14	7027.49	6923.27	104.22
	2014-15	24998.16	24231.92	766.24
	Total	33574.88	32604.56	970.32

Despite repeated reminders APR for the year 2015-16 has not been given by the unit till date.

3. The Approval Committee in its earlier meeting held on 01/03/2017 had examined the case of M/s. Shri Lal Mahal Ltd. in the wake of report of DRI about Diversion of duty free imported gold and contravention of provisions of SEZ Act, 2005, SEZ Rules 2006, Conditions of LOA and conditions of Bond-cum-LUT. The Approval Committee had observed that M/s. Shri Lal Mahal Ltd. has been issued an LOA dated 22/02/2010 for Manufacturing & export of Jewellery made from Gold and precious stones, inter-alia, subject to the following conditions:-

"(i) Condition No. (i) of Letter of Approval dated 22/02/2010 "You shall export the goods manufactured as per Provisions of the Special Economic Zones Act, 2005 and Rules made there-under for a period of five years from the date of commencement of production. For this purpose, you shall execute the Bond-cum-Legal Undertaking as prescribed under the Special Economic Zone Rules, 2006".

(ii) Condition No. (x) of Letter of Approval dated 22/02/2010 "You shall abide by the provisions of Special Economic Zones Act, 2005 and the Rules and orders/Instructions made there-under."

(iii) Condition No. (xiii) of Letter of Approval dated 22/02/2010 "if you fail to comply with the conditions stipulated above, this Letter of Approval shall be cancelled as per the provisions of the Special Economic Zones Act, 2005 and the rules and orders made there-under".

4. The unit had executed Bond-cum-LUT on 20/06/2011, which was jointly accepted by the Specified Officer and the Development Commissioner, NSEZ and acceptance of the same was conveyed to the unit vide this office letter dated 02/08/2011.

5. It was informed to the Approval Committee that recently a letter dated 16/02/2017 had been received from DRI, Noida regional Unit in case of M/s. Shri Lal Mahal Ltd. stating as under:

"5.1. Acting upon a specific intelligence, teams of the DRI, Lucknow conducted searches on 22-23/12/2016 at various places in case of M/s. Shri Lal Mahal Ltd, SDF No. F-10, A & B, NSEZ, Noida, in accordance with the provisions of Customs Act, 1962, SEZ Act, 2005 read with notification No. 2666(E) dated 05.08.2016 issued by Ministry of Commerce and Industry. The main findings of the said searches are as follows:

(i) **"Search at SEZ Unit of M/s Shree Lal Mahal Limited., situated at F- 10, A&B, NSEZ, Noida:** At the premises, Stock taking/verification was done by the team of DRI officers and against the stock of approx. 238 KG (238000gms), only the Jewellery weighing 647 gm was found in the premises and on further asking about the details of gold, Sh. Tapan Kumar Bera(Authorised Representative/ Signatory) stated that approx. 2.572 KG gold was taken as sample by the SEZ Customs Officers during stock taking in the month of August, 2016. **Accordingly, the quantity of approx. 235 KG of gold was found short from the stock at the premises.** On being enquired about the shortage of gold, it was informed that the gold was taken out of the SEZ unit premises by Sh. Prem



Chand Garg, Sh. Devasish Garg, Sh. Rajendra Garg, and by Sh. Rajesh on the directions of Sh. Prem Garg and Sh. Devasish Garg from time to time. Also, there was shortage of approx. 19.5 KG of silver bars from the quantity of the 35 KG of silver bars imported vide two bill of entries. From the search of the premises, 80.2 KG of silver in the form of rods and bricks was found and recovered. Since, there were no documents relating to the said quantity of silver, the same was seized under Section 110 of the Customs Act, 1962.

In addition, it was informed and evident from the documents that 196 KG of duty free gold has been sent to M/s. Polaris Overseas Pvt. Ltd., Delhi for job work. During the search operation at the premises of M/s. Polaris Overseas Pvt. Ltd., Delhi no facility and manpower was found existing and this Jewellery appears to be manufactured out of unaccounted gold and not out of duty free gold imported by the NSEZ Unit. 15KG of gold Jewellery lying at CWC, SEZ Noida made out of non-existent M/s. Polaris Overseas Pvt. Ltd., (6 KG) and other (9KG) was initially detained. Since, no manufacturing facility was found to be existent at M/s. Polaris Overseas Pvt. Ltd., and in the given facts there was a reason to believe that the said 15KG gold Jewellery was not culminated out of "authorised operations". The said 15.829KG gold Jewellery was seized.

- (ii) The records available at the SEZ Unit further indicated that out of the total quantity of gold shown as sent for job work to company M/s. Polaris Overseas Pvt. Ltd., B-16, Bhagwan Dass Nagar, New Delhi-26, the balance 196 KG of Gold has not been shown received from the so called job worker. This quantity is excluding the stock, which should have been in the factory.
- (iii) **Search at premises of M/s. Polaris Overseas Pvt. Ltd. Situated at B- 16. Bhagwan Dass Nagar. New Delhi:** During the search of the premises, no stock of gold in any form was found. Neither any machinery nor any artisan/labour was found. The premises was being used as the place for rest of the drivers, etc.
- (iv) At the SEZ Unit and at the address of B-16, Bhagwan Dass Nagar, N Delhi (address of M/s. Polaris Overseas Pvt. Ltd. - shown as job worker), no one was able to show the quantity of the gold as shown in the records. Hence, in brief,



diversion of approx. 235 KG of gold and 19.5 KG of silver from the SEZ Unit was detected. Since no gold was found at the premises of B-16, Bhagwan Dass Nagar, N Delhi (address of Polaris Overseas Pvt. Ltd. - shown as job worker), approx. 196 KG of gold appears to be diverted from the job worker's end.

- (v) Hence, in total, approx. 431 KG quantity of duty free imported gold appears to be diverted from the SEZ unit premises and job worker premises. Also, unaccounted quantity of silver of 80.2 KGs, found at SEZ Unit premises was recovered and seized.
- (vi) Statements of Sh. Rajendra Kumar Garg (Accountant), Maharishi Dadhichi (Ex-Authorised Signatory and presently looking after all import/export related work), Tapan Kumar Bera (Authorised Signatory) and Rajesh Kumar Singh (Driver) employees of M/s. Shri Lal Mahal Limited were recorded under Section 108 of the Customs Act, 1962 wherein they disclosed that Shri Prem Chand Garg is the mastermind of the entire syndicate and on his instructions the entire show is being run and duty free gold in question was diverted on his instruction. They further admitted that the said goods has been taken out from SEZ unit by Shri Prem Chand Garg or Shri Devasish Garg or Shri Rajesh Kumar Singh on the directions of Shri Prem Chand Garg, Shri Devasish Garg and Smt. Anita Garg.
- (vii) That further investigation of the case is going on and involvement of the other persons is yet to be worked out. Beside that despite of the repeated summons; Smt. Anita Garg Director of M/ s Shree Lal Mahal Limited, Shri D. S. Bali and Shri Sunil Bansal (Director of M/s. Bindra Sales Pvt. Ltd., and M/s. Polaris Overseas Pvt. Ltd.] are not joining the investigation.
- (viii) M/s. Shri Lal Mahal Limited was authorised to carry out the operation of "Manufacturing of Jewellery made from gold and precious stones and manufacturing of Diamond Jewellery"; as per the authorization given by the office of Development Commissioner, SEZ under the provisions of Section 2 of SEZ Act, 2005. Under the provisions of Section 15 of SEZ Act, 2005 they were required to carry out such authorised operations, which are mentioned in the



letter of approval F.No. 07 /10/2009-PROJ/ 1463 dated 22.02.2010 and 07/10/2009-PROJ/2255 dated 01.03.2013 issued by the Assistant Development Commissioner, Special Economic Zone, Noida.

- (ix) As provided under Section 26 of the SEZ Act, 2005 an entrepreneur is entitled to exemption from, inter-alia, duty of customs under the Customs Act, 1962 or the Customs Tariff Act, 1975 or any other law for the time being in force, on the goods imported into an SEZ Unit to carry out the "Authorised Operations". The Central Government may prescribe the manner in which and the terms & conditions subject to which the exemption is granted.
- (x) The Rule 35 of the SEZ Rules, 2006 mandates that unit shall "account for" the entire quantity of the goods imported or procured duty free, by way of export, sales, or supplies in DTA or transfer to other Special Economic Zone Unit or Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit or bonded warehouses and the balance held in stock.
- (xi) The Rule 25 of the SEZ Rules, 2006 mandates that where an entrepreneur does not utilize the goods on which exemption have been availed for the "authorised operations" or is unable to "account for" the same, the entrepreneur is required to refund an amount equal to the benefit of exemption availed without prejudice to any other action under the relevant provisions of the Customs Act, 1962, the Foreign Trade (Development and Regulation) Act, 1992, etc.
- (xii) The Rule 34 of the SEZ Rules, 2006 mandates that the goods admitted into a Special Economic Zone shall be used by the Unit or the Developer only for carrying out the "authorized operations" but if the goods admitted are utilized for purposes other than for the authorized operations or if the Unit or Developer fails to "account for" the goods as provided under these rules, duty shall be chargeable on such goods as if these goods have been cleared for home consumption.
- (xiii) Therefore prima facie it is apparent that M/s. Shri Lal Mahal Ltd. has grossly



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misused the provisions of the SEZ Act/ Rules, the Customs Act, 1962 & other exemption granted to the NSEZ units. The duty Involvement on 431 KG Gold found short on 23.12.2016 (235 KG found short at factory & 196 KG at job worker's end) alone is approx. INR 13.12 crore besides the interest and penalty. Further investigation in the matter is underway.

(xiv) Till now five persons namely Shri Prem Chand Garg, Shri Rajendra Kumar Garg, Shri Maharishi Dadhichi, Shri Rajesh Kumar Singh and Shri Tapan Kumar Bera, have been arrested for their involvement in this activity of diversion of duty free imported gold and are under judicial custody in Meerut Jail.

(xv) In view of above, you may like to initiate process of cancellation of letter of approval granted to M/s. Shri Lal Mahal and other suitable action as applicable under the provisions of the SEZ Act/Rules at your end."

6. As per reports received from NSEZ Customs, the unit had taken out gold on sub-contracting basis on 7 different occasions between 10/05/2016 to 25/07/2016. The NSEZ Customs verified the details of sub-contracting permissions as under:

S.No.	Goods taken out on	Quantity of goods taken out (Kgs)	Goods brought back to SEZ on	Quantity of Goods brought back to SEZ (Kgs)	Quantity pending for bringing back (Kgs)
1	10/05/2016	75	19/05/2016	9	Nil
			23/06/2016	60	
			29/06/2016	6	
2	12/05/2016	78	29/06/2016	34	Nil
			12/07/2016	40	
			19/12/2016	4	
3	26/05/2016	20	19/12/2016	2	18
4	23/06/2016	10	--	--	10
5	14/07/2016	50	--	--	50
6	15/07/2016	73	--	--	73
7	25/07/2016	45	--	--	45
	Total	351		155	196

[Source- Customs, NSEZ]

7. The Specified Officer, NSEZ informed Approval Committee that unit was given sub-contracting permission only for 7 days. Neither the unit had sought extension of the said



period nor was the same extended by Specified Officer, NSEZ.

8. The Approval Committee observed that as per Rule 42(1)(h) of SEZ Rules, 2006 [Source- SEZ Rules, 2006 - with amendments upto July, 2010 as available on sezindia website <www.sezindia.nic.in>], "A Unit may take goods, including finished goods requiring further processing or semi-finished or semi-processed goods, including studded jewellery or inputs to the sub-contractor's premises -

(i) For sub-contracting any production process; or

(ii) Part of the production, without payment of duty, subject to the condition that

(h) the goods sent out for sub-contracting shall be returned to the Unit within one hundred and twenty days from the date of removal or within such period as may be extended by the Specified Officer for reasons to be recorded in writing for granting such extension;"

9. Accordingly, Approval Committee observed that unit has persistently violated Rule 42(1)(h) of SEZ Rules, 2006 as it has taken the Gold out for sub-contracting on 5 different occasions starting 26th May, 2016 to 25th July, 2016 and the goods have not been brought back in the permitted period of 7 days. The Approval Committee further observed that even the unit has failed to bring back the goods within stipulated period of 120 days as per Rule 42(1)(h) of SEZ Rules, 2006 on 5 different occasions. Further, unit has neither applied for extension nor such extension has been granted/given by the Specified Officer, NSEZ.

10. The Approval Committee further observed that as per condition No. 7 of Bond-cum-Legal Undertaking executed by the unit, it had undertaken as under:-

"We, the obligors shall, after the commencement of production or service activities, submit to the Development Commissioner and the Specified Officer, Annual Performance Return within a period of ninety days following the close of financial year, in the form prescribed under the Special Economic Zone Rules, 2006, certified by a Chartered Accountant. In case of wrong submission of such information or failure to submit such information within the stipulated time, the permission granted to us for carrying out the



authorized operations may be withdrawn and/or the permission for further imports and sales in the Domestic Tariff Area may be stopped."

However, the unit has not submitted APR for the year 2015-16 till date despite email letter dated 12/09/2016 followed by several reminders dated 27/09/2016, 29/12/2016 and 30/12/2016, which is a violation of the said condition of Bond-cum-LUT executed by the unit. Further, it has also been observed that APR for the year 2012-13, 2013-14 & 2014-15 had been submitted on 16/07/2013, 09/09/2015 & 16/09/2015 respectively by the unit. Hence, unit has persistently failed to submit APRs on time during previous years also.

11. In this case, on the basis of documents/information placed before it, the Approval Committee in its meeting held on 01/03/2017 observed as under:

- i) The unit has persistently violated the provisions of SEZ Act/SEZ Rules and terms & conditions of LOA/Bond-cum-LUT.
- ii) The unit has persistently violated Rule 42(1)(h) of SEZ Rules, 2006 by not bringing back the Gold sent out for sub-contracting within 120 days as required under Rule 42(1)(h) of SEZ Rules, 2006.
- iii) The unit has consistently failed to submit APRs within stipulated time.
- iv) The unit has grossly misused the provisions of Section 26 of the SEZ Act, 2005; Rule 35, Rule 25 and Rule 34 of the SEZ Rules, 2006 & other exemption granted to the NSEZ units as explained by the DRI mentioned above.

12. The Approval Committee further observed that unit has persistently violated the terms & conditions of the LOA/Bond-cum-LUT and SEZ Rules, 2006. The Approval Committee observed that Section 16(1) of the SEZ Act, 2005 provides that Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms & conditions subject to which LOA was granted to the entrepreneur, cancel the LOA but such cancellation will not be done unless the entrepreneur has been afforded a reasonable opportunity of being heard.

13. In the light of above observations, the Approval Committee in its meeting held on



01/03/2017 decided as under:

i) In view of the gravity of violations mentioned above, a notice under Section 16(1) of the SEZ Act, 2005 may be issued calling upon the unit to explain within 21 days of issuance of notice as to why LOA issued to them should not be cancelled for persistently contravening the provisions of SEZ Act/SEZ Rules and terms & conditions of LOA/ Bond-cum-LUT.

ii) The above actions would be without prejudice to any other action under any other law.

14. The Approval Committee further directed that notice for cancellation of LOA be issued by email as well as registered post and the case may be placed in the next meeting of Approval Committee and unit may be provided an opportunity of personal hearing in the next meeting of Approval Committee proposed to be held in NSEZ Service Centre, Noida at 11:30 AM on 05/04/2017. Accordingly, notice dated 14/03/2017 was issued to the unit as per decision of the Approval Committee for persistently contravening the provisions of SEZ Act/SEZ Rules and terms & conditions of LOA/ Bond-cum-LUT.

15. A letter dated 27/03/2017 was received in this office on 30/03/2017 from Smt. Anita Garg, Director stating that Shri Prem Chand Garg, Shri Sushil Kumar Valecha and Shri Ram Kumar Gupta have resigned from the Board of Directors. It was stated that an updated list of directors is annexed with letter. However, the same was not found attached.

16. It was further stated that the Gold division of company was under supervision of Shri Har Narayan Aggarwal, Director, who has been hospitalized since last 2 months and all the documents pertaining to export/import of gold have been seized by the DRI due to ongoing investigation. It was requested to grant 4 weeks time to them to furnish a reasonable response to the notice as well as a workable opportunity for hearing.

17. The said matter was considered by the Approval Committee in its meeting held on 05/04/2017. The Approval Committee, after due deliberations, decided to accept the request of firm and grant time upto 28th of April 2017 to the unit to submit reply of the Notice dated 14/03/2017 issued to them. The Approval Committee also **decided to**



provide one more opportunity as a last opportunity, to the unit of personal hearing in the next meeting of Approval Committee proposed to be held in NSEZ Service Centre, Noida at **11:30 AM on 03/05/2017**. It was also decided that if the unit fails to do so, it will be presumed that they have nothing to say in their defence and the matter will be decided on the basis of records available in this office, on merits.

18. The decision of the Approval Committee was conveyed to the unit vide this office letter dated 10/04/2017 with a request to ensure their presence before the Approval Committee on 03/05/2017.

19. In reply of this office letter dated 10/04/2017, again a letter dated 17/04/2017 was received in this office on 20/04/2017 from Shri Samrat Mehta wherein it was reiterated that the Gold division of company was under supervision of Shri Har Narayan Aggarwal, Director, who has been hospitalized since last 2 months and all the documents pertaining to export/import of gold have been seized by the DRI due to ongoing investigation. It was requested to allow two months time for an effective and adequate reply to the notice dated 14/03/2017.

20. Case was taken by Approval Committee for discussion in its meeting held on 03/05/2017. Members of Approval Committee were informed that as per Section 13(3) of SEZ Act, the Approval Committee may invite to its meetings, such persons as the Committee deems fit, whose assistance and advice it may consider necessary. The Committee was informed the action of cancellation of LOA was initiated after receipt of DRI letter 16/02/2017. The Approval Committee was informed that the Office of DRI has desired that on the defence reply of M/s Shri Lal Mahal, comments from DRI may be considered. (Subsequently a written communication was also received from DRI). DRI has further stated that the Committee may like to involve representatives of DRI during personal hearing so that facts of the case being investigated by DRI may be brought to the notice. The request of DRI was considered by the Approval committee and the committee decided to invite officers of DRI in the Approval Committee meeting in terms of Section 13 (3) of SEZ Act. Accordingly, Shri Rohit Dwivedi, Dy. Director, DRI and Shri V.P. Singh, Superintendent, DRI attended the Approval Committee meeting, for this case.

21. Shri Rajesh Gupta, Authorized representative of the company appeared before the



Approval committee and submitted as under:

- i) The Gold division of the Company was under the direct supervision of Shri Harnarayan Agarwal (Director of the Company) who was admitted in the hospital on 22/12/2016. He is critically ill and is on ventilator.
- ii) All the documents pertaining to export-import of the gold has been seized by the DRI during their search and seizure operations and have not been returned back to the company for making an appropriate reply to notice of the Approval committee.
- iii) That in wake of ongoing investigation the employees were dealt with the company's gold division operation during the period under notice or also not presently available due to fear instilled by DRI during their search & seizure operations.
- iv) That the company is of the view that the explanation given to Show Cause Notice could be used by DRI for their Show Cause Notice.

In view of the above facts, the representative requested for four weeks' time to enable them to given an effective and adequate reply to the notice.

22. The Approval Committee specifically asked Shri Gupta whether he is aware that unit had sent gold for job-work on the different occasions and that the goods have not been brought back within the period of 7 days as permitted by NSEZ Customs. He was also asked whether he is aware that the unit has not sought extension of time for bringing back the goods and no extension has been granted by the NSEZ Customs.

Shri Gupta stated that as per SEZ Rules time period of 120 days is allowed for bringing back the goods. He further stated that the unit is aware that (i) Sub-contracting permission was granted by the Specified officer only for 7 days; (ii) Golds was taken out on sub-contracting and has not been brought back within 120 days on different occasions and (iii) neither any permission for extension of time was sought by the unit nor the NSEZ Customs had ever given such permission for extension. He also admitted the violations on this account on the company's behalf as the company is aware that the goods have not been brought back within 120 days.



23. The Approval committee on the basis of the above facts came to the following conclusion:

- (i) In respect of issues being examined by the DRI and the investigations being carried out by DRI, view will be taken by DRI, as considered appropriate. The decision of the Approval Committee under Section 16(1) of SEZ Act will not come in the way of DRI proceedings in any manner.
- (ii) This action of the Approval committee under Section 16 (1) of SEZ Act shall be independent of any other action which may be taken by any other authority under any other Act, Rules, Regulations etc.
- (iii) It has been categorically established from the information made available by NSEZ Customs that on 5 different occasions the gold has not been brought back within 120 days (even if submission of the representative that 120 days is permitted is accepted). It has also been categorically established by NSEZ Customs that no further extension has been sought by the firm nor any extension has been granted by NSEZ Customs for returning the goods back to the unit. This fact has also been clearly admitted by the representative that goods were not brought back within 120 days and no extension has been taken by the firm. Hence, it has been established beyond doubt that Rule 42 (1) (h) of SEZ Rules 2006 has been violated persistently since the violation has taken place on more than one occasion, i.e. on 5 occasions, and it has taken place in different time period. Goods were removed on 5 different occasions between 26/05/2016 to 26/07/2016 and 120 days expired between 23/09/2016 to 22/11/2016. Gold to the extent of 196 Kg has still not been brought back to the unit. The entrepreneur clearly has persistently contravened the provisions of Rule 42 (1) (h) of SEZ Rules and terms and Condition No. (i) & Condition No. (x) of LOA dated 22/02/2010 and Bond-cum-LUT.

Condition No. (i) and Condition No. (x) of LOA dated 22/02/2010 are



reproduced below:

Condition No. (i): You shall export the goods manufactured as per provisions of the Special Economic Zones Act, 2005 and Rules made there under for a period of five years from the date of commencement of production. For this purpose, you shall execute the Bond-cum-legal undertaking as prescribed under the Special Economic Zone Rules, 2006)"

Condition No. (x): You shall abide by the provisions of Special Economic Zones Act, 2005 and the rules and orders made there under."

- (iv) The unit has consistently failed to submit APRs within stipulated time. The unit has not submitted APR for the year 2015-16 till date despite repeated reminders.

24. In the light of above observations/conclusions, the Approval Committee decided as under:

- i) To cancel the LOA dated 22/02/2010 issued to M/s Shri Lal Mahal Ltd., forthwith, under Section 16 (1) of SEZ Act 2005 and in terms of condition No. (xiii) of LOA dated 22/02/2010. Condition No. (xiii) of LOA dated 22/02/2010 is as under:

"If you fail to comply with the conditions stipulated above, this letter of Approval shall be cancelled as per the provisions of the Special Economic Zones Act, 2005 and the rules and order made there under."

No further import & export will be allowed to the unit. Accordingly, no further extension in the validity of LOA shall be given.

- ii) NFE/achievement of value addition will be calculated as per SEZ Rules/FTP and in case unit has failed to achieve positive NFE/prescribed value addition, suitable action in terms of Rule 54 of SEZ Rules, 2006 and Foreign Trade (Development & Regulation) Act, 1992 may be taken.
- iii) The unit shall complete exit formalities under Rule 74 of SEZ Rules, 2006.
- iv) In respect of issues being examined by the DRI and the investigations being carried



out by DRI, view will be taken by DRI, as considered appropriate, and the decision of the Approval Committee under Section 16(1) of SEZ Act 2005 will not come in the way of DRI proceedings, in any manner.

- v) This action of the Approval committee under Section 16 (1) of SEZ Act shall be independent of any other action which may be taken by any authority under any Act, Rules, Regulations etc.

If aggrieved by this order of Approval Committee, the unit may prefer an appeal, against the decision of the Approval Committee, under Rule 55 read with Rule 56 of the SEZ Rules, 2006, to the Appropriate Appellate Authority i.e. Board of Approval, Ministry of Commerce & Industry, Department of Commerce, Udyog Bhawan, New Delhi, in accordance with the procedures given in Chapter VII of the SEZ Rules, 2006.

11. **Following cases for monitoring of performance/APRs under Rule 54 of SEZ Rules, 2006 were also placed before the Approval Committee. The unit wise decision of the Approval Committee are indicated below:-**

- i) **M/s. Corbus India LLP** - The Approval Committee monitored the performance of the unit on the basis of APRs up to 2015-16 and noted achievement of positive NFE by the unit.
- ii) **M/s. Global Dent Aids Pvt. Ltd.** - The Approval Committee monitored the performance of the unit on the basis of APRs up to 2015-16 and noted achievement of positive NFE by the unit.
- iii) **M/s. Excalibur India Pvt. Ltd.** - The Approval Committee monitored the performance of the unit on the basis of APRs up to 2015-16 and noted achievement of positive NFE by the unit.
- iv) **M/s. Tech Mahindra Ltd. (Unit-I)** - The Approval Committee monitored the performance of the unit on the basis of APRs up to 2015-16 and noted achievement of positive NFE by the unit.



12. Proposal of M/s. Advance Nanomedics 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 for Manufacturing & Export of Nutraceuticals and Dietary Supplements with projected exports of Rs. 1586.55 Lakhs and the NFE of Rs. 882.43 Lakhs over a period of five years.

Shri Sunil Agarwal, partner in the firm appeared before the Approval Committee to explain the project. Shri Agarwal informed that they are already running a unit in NSEZ namely Advance Informatics for IT/ITES. He further informed that they have specialized team for the products and they will primarily export their products to USA to their associated partner i.e. Advance Nanomedics LLC. He further mentioned that Dr. Iqbal Ahmad, who will be looking after the work mainly of SEZ unit, has done Ph.D. in Pharmaceuticals and Nanomedicines.

He further stated that they will also export the products to Vietnam, Cambodia, Sri Lanka etc. He also stated that initially approx. 10-12 employees will be working in the proposed unit, which will eventually increase with growth in business. He further informed that this unit will be setup exclusively for exports and no DTA sale will be done.

The Approval Committee, after due deliberations, approved the proposal of M/s. Advance Nanomedics for setting up a new unit in Noida SEZ for manufacturing and export of Nutraceuticals and Dietary Supplements.

13. Proposal of M/s. Onnsynex Ventures 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 for Warehousing, Trading and Value Added Services with projected exports of Rs. 3859.66 Lakhs and the NFE of Rs. 3409.40 Lakhs over a period of five years.

Shri Sivasankaran E. and Shri Harshpaul Singh Takkar, directors appeared before the Approval Committee to explain the project. Shri Sivasankaran informed that they are proposing to set up a unit in NSEZ for different types of Warehousing (*General Warehousing; Temperature Controlled Storage; Cold Storage; Vault facility*), Trading and Value added services such as Repacking, Relabeling etc. with modern & advance facilities.



It was informed to the Approval Committee that in terms of Rule 18 (5) of the SEZ Rules, 2006, the Units in Free Trade and Warehousing Zones or Units in Free Trade and Warehousing Zone set up in other Special Economic Zone, shall be allowed to hold the goods on account of the foreign supplier for dispatches as per the owner's instructions and shall be allowed for trading with or without labelling, packing or re-packing without any processing:

Provided that refrigeration for the purpose of storage and assembly of Completely Knocked Down or Semi Knocked Down kits shall also be allowed by the Free Trade and Warehousing units undertaking the said activities:

Provided further that these Units may also re-sell or re-invoice or re-export the goods imported by them:

Provided also that all transactions by a Unit in Free Trade and Warehousing Zone shall only be in convertible foreign currency.

It was further informed that Rule 5(2)(c) of the SEZ Rules, 2006, provides that "Free Trade and Warehousing Zone may also be set up as part of a Special Economic Zone for multi-product: Provided also that in a Special Economic Zone having area less than one thousand hectares, Free Trade and Warehousing Zone may be permitted with no minimum area requirement but subject to the condition that the maximum area of such Free Trade and Warehousing Zone shall not exceed twenty percent of the processing area."

The Approval Committee observed that the instant proposal is for setting up a warehousing unit. Hence, it can be set up only in a Free Trade Warehousing Zone (FTWZ) i.e. either in a standalone FTWZ or FTWZ setup in other SEZ, in terms of Rule 18(5) of SEZ Rules, 2006. Provisions given in Rule 18(5) & Rule 5(2)(c) of SEZ Rules, 2006 are quite explicit. It was further observed that there is no FTWZ setup in NSEZ.

In view of above Rule position, the Approval Committee, after due deliberations and referring the Section 15(3) of SEZ Act 2005, rejected the proposal of M/s. Onnsynex Ventures Pvt. Ltd. for setting up a unit for Warehousing, Trading and Value Added Services. The Approval Committee, however, observed that in case the promoters want to



set up a unit for Trading and value added services, they may file a separate application for the same.

It was further decided that the applicant if aggrieved by this order of Approval Committee may, under Rule 55 read with Rule 56 of the SEZ Rules, 2006, prefer an appeal against the decision of Approval Committee, to the appropriate Appellate Authority, i.e. Board of Approval, Ministry of Commerce & Industry, Department of Commerce, Udyog Bhavan, New Delhi in accordance with the procedure given in Chapter VII of the SEZ Rules, 2006, if they desire to do so.

14. Proposal in respect of M/s. Panna Jewellery for Monitoring of performance and renewal of LOA.

It was informed that the Approval Committee that M/s. Panna Jewellery has been issued an LOA dated 25/09/2007 for Manufacturing & export of Plain and Studded Gold/Silver/Platinum Jewellery. The unit has commenced its export production w.e.f. 03/07/2009 and LOA of the unit was valid till 06/03/2017.

It was further informed that the Approval Committee in its meeting held on 07/09/2016 has extended the validity of LOA initially for a period of 6 months upto 06/03/2017 and directed the unit to re-start its full-fledged operations during extended period. In case unit fails to do so, no further extension shall be allowed and possession of the plots allotted to them would be taken over by NSEZ Authority. Unit was also required to execute Bond-cum-LUT within 15 days i.e. by 07/10/2016.

Shri Lokesh Jain, partner in the firm appeared before the Approval Committee. He informed that currently there are 30 employees working in the unit. He further informed that that they accept some laxity on their part in submission of Bond-cum-LUT which was due to the fact that all partners were intermittently not in India from Sep' 2016 to March 2017 on account of their attending the International Exhibitions in various places.

Shri Jain informed that approx. 520 gms of gold jewellery is ready for export and will be exported as soon as the bond is cleared and online registration is done. He also informed that no sub-contracting is being done and they are carrying out complete in-house manufacturing activity.



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	<p>The Approval Committee, after due deliberation, decided to grant one last opportunity in view of the position of manufacturing being carried out in the unit as explained by the partner and extended the validity of LOA for further period of 6 months, subject to condition that no further extension may be allowed in case performance of the unit is not found to be satisfactory during the extended period.</p>
15.	<p>Proposal in respect of M/s. Meenakshi International for Monitoring of performance and renewal of LOA.</p> <p>No one from the unit appeared for the meeting. It was informed that the promoter of the unit has informed that he is unable to attend the meeting due to some personal reasons. The Approval Committee decided to defer the proposal for its next meeting.</p>
16.	<p>Proposal in respect of M/s. Royal Exports for Monitoring of performance and renewal of LOA.</p> <p>It was informed that the Approval Committee that M/s. Royal Exports has been issued an LOA dated 15/03/2000 for Manufacturing & export of Plain and Studded Gold/Silver/Platinum Jewellery. The unit has commenced its export production w.e.f. 29/03/2000 and LOA of the unit was valid till 31/03/2017.</p> <p>It was further informed that the Approval Committee in its meeting held on 06/04/2016 has extended the validity of LOA initially for a period of one year upto 31/03/2017 and directed the unit to re-start its operations during extended period for consideration of further extension of LOA validity.</p> <p>Shri Arun Soni, partner in the firm appeared before the Approval Committee. He informed that they are now an active unit and exporting regularly and made exports worth Rs. 1,34,56,992/- during 2016-17. He further informed that currently there are 7-8 employees working in the unit and sub-contracting in DTA has been made. He also informed that shipment of approx. Rs.1 Crore is ready for export.</p> <p>It was observed that unit has not made any import during the said period. Shri Soni informed that they have taken diamonds worth approx. Rs. 10 Crores from M/s. Global Diamonds Pvt. Ltd. on the inter unit transfer.</p>



	<p>It was informed that the Specified Officer, NSEZ carried out a physical inspection of the unit and did not find any manufacturing activity in progress. Shri Soni stated that the work has been halted since march 2017 as their LOA was not valid. He requested to extend their LOA for at least one year and assured that full-fledged operations shall be started within this period.</p> <p>The Approval Committee, after due deliberation, decided to extend the validity of LOA for further period of one year i.e. upto 31/03/2018, subject to condition that no further extension may be allowed in case performance of the unit is not found to be satisfactory during the extended period.</p>
17.	<p>Proposal in respect of M/s. Sahasra Electronics Pvt. Ltd. for deletion of Trading activities from its authorized operations.</p> <p>It was informed that the Approval Committee that M/s. Sahasra Electronics Pvt. Ltd. has been issued an LOA dated 09/07/2001 for Manufacturing & Trading activities. The unit has commenced its export production w.e.f. 01/11/2001 and LOA of the unit is valid till 31/10/2021.</p> <p>It was further informed that unit has requested to delete the trading activities from their authorized operations.</p> <p>Shri Varun Manwani, director appeared before the Approval Committee. He informed that they are not doing any trading activities as covered in their LOA and hence want to delete the same from their authorized operations.</p> <p>The Approval Committee, after due deliberations, approved the proposal of unit for <u>deletion</u> of trading activities from their authorized operations.</p>
18.	<p>Proposal in respect of M/s. Prabhat Zarda Factory (Overseas) for taking the Date of Commencement of Production/Activities on Records.</p> <p>It was informed to the Approval Committee that M/s. Prabhat Zarda Factory (Overseas) has been issued an LOA dated 14/06/2016 for manufacturing & export of (i) Flavoured Chewing Tobacco, (ii) Saffron Flavoured Silver Coated Cardamom and Supari. LOA of the</p>



unit is valid till 13/06/2017.

It was further informed that unit has recently informed about commencement of export production on 19/01/2017 through third party in accordance with provision of Rule 46(10) and Rule 46(11) of SEZ Rules, 2006 and para 9.60 of FTP (2015-2020). However, It was observed from the online print of IEC downloaded from DGFT website that the status of IEC of the unit is Suspended.

Smt. Chhaya Devi, proprietor of the firm appeared before the Approval Committee. She informed that her late husband had been issued an IEC in the name of 'Prabhat Zarda factory (Overseas)', which she did not know about. She further stated that afterwards she was also granted another IEC in the same name from DGFT. She also stated that they are in touch with the DGFT to resolve the issue.

The Approval Committee, after due deliberations, directed the unit to resolve the issue and submit the valid IEC once the issue is resolved and took note of date of commencement of production w.e.f. 19/01/2017.

19. Proposal in respect of M/s. Indo Widecom International Ltd. for Review of LOA.

It was informed to the Approval Committee that M/s. Indo Widecom International Ltd. was issued an LOA dated 21/10/1997 for Manufacturing of WIDE Format Fax machines (scanner/plotter). The unit commenced its export production w.e.f. 06/10/1998 and LOA was valid till 30/04/2013.

It was further informed that LOA of the unit was cancelled by the Approval Committee in its meeting 17/10/2014 and unit was directed to clear the outstanding lease rent failing which recovery certificate shall be enforced against the promoter. The unit filed an appeal before the Board of Approval and the same was reverted back to DC, NSEZ for verifying the contentions of the appellant from official records and to decide the appeal accordingly.

The Approval Committee in its meeting held on 10/02/2016 considered the appeal and decided that request for further renewal of LOA will be examined if they clear the entire outstanding lease rent first. Shri Parminder Singh Bhullar, Advocate (authorized



representative of the unit), present during the said meeting requested that exact amount due to be paid may be provided to them. Accordingly, Approval Committee decided that NSEZ will re-calculate the complete dues payable by the unit as on date and will inform to the unit with a copy to their advocate.

Accordingly, vide this office letter dated 29/03/2016, details of calculation of lease rent, dues and interest amounting to Rs. 18,75,934/- (upto 31/03/2016) in respect of SDF No. D-7(A), NSEZ outstanding against the unit along with decision of the Approval Committee taken in its meeting held on 10/02/2016 was conveyed to the unit. However, unit has not deposited any outstanding lease rent till date.

It was further informed that now a letter dated 27/02/2017 has been received in this office on 02/03/2017 signed by Mr. Manpreet Singh Sood, General Council on behalf of the unit wherein it has been stated that

"4. for reasons known to yourself and being mysterious our communication sent in compliance of BOA order dated 27/08/2015, have neither been acknowledged nor any action taken nor a personal effective hearing granted.

5. Illegal and malafide demands are being raised against us alleged rent payable and matter is not being settled, although under law yourself is bound by orders of BOA".

The unit has also requested to place their matter again before BOA.

The Approval Committee observed that matter has been already considered by BOA and as per decision of BOA personal hearing was accorded to the unit by the Approval Committee in its meeting held on 06/01/2016 and 10/02/2016. The unit has till date not complied with the decision of the Approval Committee taken in its meeting held on 10/02/2016. Currently lease rent amounting to Rs.29,35,809/- (along with interest for the period 2016-17) is outstanding against the unit.

The promoters/authorized representatives were informed through the email to attend the instant meeting. However, no one from the unit appeared for the meeting.

The Approval Committee, after due deliberations, decided to grant one last opportunity



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for personal hearing and directed to inform the unit through all its directors/representatives at all addresses available in record of NSEZ to clear entire outstanding lease rent. It was decided that a detailed communication containing sequence of events may be sent to the unit through registered/speed post as well to ensure their presence in the next meeting of Approval Committee which meets on 1st Wednesday of every month failing which eviction process under provisions of P.P. Act shall be initiated. Accordingly, case was deferred for next meeting.

20. Proposal of M/s. India Craft Loom for Exit and transfer of assets & building at Plot No. 129G/3, NSEZ to M/s. AOV International LLP under Rule 74A of SEZ Rules, 2006.

It was informed to the Approval Committee that M/s. India Craft Loom has submitted a proposal for exit from SEZ scheme and transfer of its assets & Building at Plot No. 129G/3, NSEZ to M/s. AOV International LLP under provisions of Rule 74A of SEZ Rules, 2006 as per following details:

Name & Address of Transferor	M/s. India Craft Loom Plot No. 129G/3, NSEZ
Whether formal request for exit from SEZ Scheme has been made by the transferor	Yes
<u>Details of LOA of transferor</u>	
Date of LOA	14/06/2007
DCP	30/03/2010
Date of LOA validity	29/03/2020
Whether the unit (Transferor) has held lease of land for not less than a period of 5 years on the date of transfer	Sub-lease deed is valid upto 05/08/2023.
Name & Address of Transferee	M/s. AOV International LLP, Working on sharing at Plot No. 129G/3, NSEZ (with India Craft Loom) and at Plot No. 69, NSEZ (with Noida Plast Pvt. Ltd.)
Whether the transferee fulfils all eligibility criteria applicable to a unit; if yes, details of LOA of transferee:	
Date of LOA	12/01/2016
DCP	18/11/2016
Date of LOA validity	17/11/2021



It was informed to the Approval Committee that the above proposal of M/s. India Craft Loom was placed before the Committee constituted under the chairmanship of JDC, NSEZ to examine the case under Rule 74A and 3rd proviso to Rule 19(2) held at NSEZ on 01/05/2017. The Committee noted that Rule 74A of the SEZ Rules, 2006 inter alia provides as under:-

"The unit may opt out of Special Economic Zone by transferring its assets and liabilities to another person by way of transfer of ownership including sale of Special Economic Zone units inter-alia subject to the following conditions:-

- (i) The unit has held a valid Letter of Approval as well as Lease of Land for not less than a period of five years on the date of transfer;*
- (ii) The unit has been operational for a minimum period of two years after the commencement of production as on the date of transfer;*
- (iii) Such sale or transfer transactions shall be subject to the approval of the Approval Committee.'*
- (iv) The transferee fulfils all eligibility criteria applicable to a unit; and*
- (v) The applicable duties and liabilities, if any, as calculated under rule 74, as well as export obligations of the transferor Unit, if any, shall stand transferred to the transferee Unit which shall be under obligation to discharge the same on the same terms and conditions as the transferor Unit."*

It was further informed that the said Committee observed that the transferor unit meets all the conditions of Rules 74A and the transferee units also have valid LOA. Accordingly the Committee recommended the proposal of M/s. India Craft Loom for exit and transfer of assets & Building at Plot No. 129G/3, NSEZ to M/s. AOV International LLP in terms of Rule 74A of SEZ Rules.

Shri Anil Kumar Singhal, authorized representative of M/s. India Craft Loom and M/s. AOV International LLP appeared before the Approval Committee. Shri Singhal informed that they have decided to club the activities of both the units. He further informed that M/s. AOV International LLP is the main exporter company of their group. Therefore, they have decided to close M/s. India Craft Loom and club its operations into M/s. AOV International LLP.



The Approval Committee, after due deliberations, approved the proposal of M/s. India Craft Loom for exit from SEZ scheme under Rule 74A of SEZ Rules, 2006 and transfer of its assets & building at Plot No. 129G/3, NSEZ to M/s. AOV International LLP subject to fulfillment of exit formalities by M/s. India Craft Loom; payment of applicable transfer charges and submission of an undertaking by incoming entrepreneur regarding taking over the assets & liabilities of existing unit.

21. Proposal in respect of M/s. Handicraft Nation for Change in name of firm and change in partnership deed.

It was informed to the Approval Committee that M/s. Handicraft nation was issued an LOA dated 11/04/2017 for "Brass Artware, Aluminium Artware, Zari Embroidery, Dhup Batti, Agarbatti" pending submission of following documents:

1. Proposed activities have been mentioned differently in Form F and project report. Hence, same needs to be clarified along with ITC HS code of each proposed item.
2. Affidavit on non-judicial stamp paper of Rs. 100/- duly notarized by the notary public has not been given.
3. List of capital goods/Plant & Machineries required for proposed project with cost break up corresponding to the requirement shown in application.
4. Details of shareholding pattern of the firm needs to be given.
5. If any exemption from Income Tax Deptt. is being claimed, the details under which section and whether Income Tax Deptt. has disallowed exemption at any time?
6. If any penalty imposed by the Income Tax Deptt., complete details are to be furnished.
7. Details of transaction with sister concerns raising issue of transfer pricing, if any.
8. Total years of operations and in which line of business.
9. Copy of sanction letter from bank/Financial Inst. in support of loan/financial assistance for the proposed project needs to be given.



However, the applicant has neither submitted above documents nor it has submitted letter for acceptance of terms & conditions of LOA dated 11/04/2017.

It was further informed that the applicant vide its letter dated 02/05/2017 has informed about change in name of partnership firm and new partnership deed (unregistered) as under:

S.No.	Particulars	Previous	Proposed
1	Change in Name	Handicraft Nation	The Handicraft Nation International Centre
2	Partners & Shareholding in percentage	(i) Sunanda Choudhury - 95% (ii) Sreerupa Chaudhury - 5%	(i) Sunanda Choudhury - 95% (ii) Amiya Kumar Choudhury - 5%

Smt. Sreerupa Choudhury, exiting partner appeared before the Approval Committee. She informed that the new partner Shri Amiya Kumar Choudhury is his father and has experience in the day to day business activity. She further informed that they have been looking for space inside NSEZ and will soon start the activities after selecting suitable premises as per their need.

It was informed that Board of Approvals in its 69th meeting held on 23.02.2016 has decided to issue clarification / instruction regarding Rule 74A of SEZ Rules, 2006. The extract of minutes of said meeting is reproduced below here:-

“The Joint Secretary (GPM) explained to the Board that representations have been received on the applicability of Rule 74A of SEZ Rules, 2006 in cases where the operational SEZ units continue to operate as such, i.e. on a going concern basis as a result of 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.

With a view to promote the ease of doing business in India and that restructuring of entity/business is a fairly common occurrence, BOA decided that provisions of 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 unit continues to operate as a going concern in the situations mentioned above. The UACs concerned, may consider such requests under Rule 19 (2) of the SEZ Rules, 2006.

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another person and the SEZ unit continues to operate as a going concern in the situations mentioned above. The UACs concerned, may consider such requests under Rule 19 (2) of the SEZ Rules, 2006.

In so far as Business Transfer Agreement is concerned, it was explained that certain acquisitions happen globally as a result of Business Transfer Agreement which result in transfer of the SEZ unit of the Indian company on a going concern basis to acquirer. The BOA decided that such cases resulting in change of ownership would be decided on merits by the Board of Approval on a case to case basis."

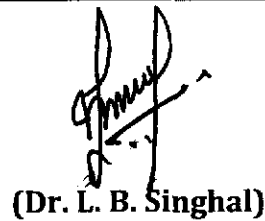
The Approval Committee observed that in the instant case, change in shareholding pattern is 5% which is within the limit of 50% of shareholding.

The Approval Committee, after due deliberations, approved the proposal of unit for change in name/partnership deed of the firm as there is less than 50% change in shareholding, subject to submission of requisite documents/information as well as copy of registered and amended partnership deed, PAN & IEC in the new name of firm.

Meeting ended with thanks to the Chair.


(S. S. Shukla)

Jt. Development Commissioner


(Dr. L. B. Singhal)

Development Commissioner