

05/06/2024



भारत सरकार
वाणिज्य एवं उद्योग मंत्रालय, वाणिज्य विभाग
विकास आयुक्त का कार्यालय
नौएडा विशेष आर्थिक क्षेत्र
नौएडा दादरी रोड, फेज-II, नौएडा - 201305
टेलीफोन: 0120-2567268/69/70



ईमेल: dc@nsez.gov.in, वेबसाइट: www.nsez.gov.in

दिनांक:...../06/2024

सेवा में,

1. मुख्य कार्यपालक अधिकारी, न्यू ओखला औद्योगिक विकास प्राधिकरण, मुख्य प्रशासनिक भवन, सेक्टर - 6, नौएडा।
2. अतिरिक्त महानिदेशक विदेश व्यापार, वाणिज्य एवं उद्योग मंत्रालय, 'ए' विंग, इंद्रप्रस्थ भवन, आई पी एस्टेट, नई दिल्ली।
3. प्रधान आयकर आयुक्त, आयकर भवन, प्लाट सं.- ए-2डी, सेक्टर 24, नौएडा।
4. आयुक्त, सीमा शुल्क, नौएडा सीमा शुल्क आयुक्तालय, इनलैंड कंटेनर डिपो, तिलपता, दादरी, गौतम बुद्ध नगर, उत्तर प्रदेश - 201306.
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 नौएडा।

विषय: दिनांक 27/05/2024 को पूर्वाह्न 10:30 बजे आयोजित नौएडा विशेष आर्थिक क्षेत्र की अनुमोदन समिति की बैठक का कार्यवृत्त - एतद संबंधी।

महोदय,

मुझे उपरोक्त विषय का सन्दर्भ लेने और श्री ए. बिपिन मेनन, विकास आयुक्त, नौएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में दिनांक 27/05/2024 को पूर्वाह्न 10:30 बजे आयोजित नौएडा विशेष आर्थिक क्षेत्र की अनुमोदन समिति की बैठक का कार्यवृत्त अग्रेषित करने का निर्देश हुआ है।

संलग्नक: उपरोक्त

भवदीय,



(किरण मोहन मोहाडीकर)

उप विकास आयुक्त

प्रतिलिपि:

1. विशेष कार्याधिकारी - विकास आयुक्त, नौएडा विशेष आर्थिक क्षेत्र के सूचनार्थ।
2. वैयक्तिक सहायक - संयुक्त विकास आयुक्त, नौएडा विशेष आर्थिक क्षेत्र के सूचनार्थ
3. विनिर्दिष्ट अधिकारी, नौएडा विशेष आर्थिक क्षेत्र - सूचनार्थ एवं आवश्यक कार्यवाही के लिए।
4. सचिव, नौएडा विशेष आर्थिक क्षेत्र प्राधिकरण - सूचनार्थ एवं आवश्यक कार्यवाही के लिए।
5. कार्यपालक अभियंता, उत्तर प्रदेश पॉवर कारपोरेशन लिमिटेड, इ.यु.डी.डी.-II, सेक्टर - 18, नौएडा।
6. उप आयुक्त, व्यापार कर, खण्ड-14, सेक्टर -18, नौएडा।
7. क्षेत्रीय अधिकारी, उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड, इ-12/1, सेक्टर -1, नौएडा।

: सूचनार्थ


उप विकास आयुक्त

नौएडा विशेष आर्थिक क्षेत्र

(दिनांक 27/05/2024 को आयोजित अनुमोदन समिति की बैठक का कार्यवृत्त)

Minutes of meeting of the Approval Committee of Noida SEZ held under the Chairmanship of Shri A. Bipin Menon, Development Commissioner (DC), Noida SEZ at 10.30AM on 27/05/2024 through hybrid mode.

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

- (1) Shri Kiran Mohan Mohadikar, Deputy Development Commissioner, NSEZ (Nominee of Deptt. of Commerce in terms of letter dated 23/09/2008).
- (2) Shri Mayank Kumar, Assistant Manager, DIC, Noida (Rep. of Principal Secretary, Industry, Govt. of UP.).
- (3) Shri Jagdish Chander, Assistant DGFT, O/o Addl. DGFT, CLA, New Delhi.
- (4) Shri Vinay Kumar, Representative of New Okhla Industrial Development Authority, Noida.

B. Besides, during the meeting S/Shri (i) Amit Kumar Gupta, Specified Officer, NSEZ,, (ii) Pramod Kumar, Assistant Development Commissioner, NSEZ, (iii) Rajendra Mohan Kashyap, Assistant Development Commissioner, NSEZ, (iv) Bharat Bhushan, Assistant, Project Section, NSEZ, (v) Arun Singh Parihar, Stenographer, NSEZ and (vi) Rajeev Kumar, J.E., UPPCL, Noida were also present to assist the Approval Committee. It was informed that the stipulated quorum for holding the meeting was available and the meeting could proceed.

C. At the outset, the Chairman welcomed the participants. After a brief introduction, the agenda was taken up sequentially. After detailed deliberations amongst the members of the Approval Committee as well as interaction with the applicants / representatives of the units, the following decisions were unanimously taken:-

D. Item wise decisions on proposals included in agenda:

(1) Ratification of Minutes of last meeting of the Approval Committee held on 15/05/2024.

There were neither any references nor objections against the decisions of the Approval Committee held on 15/05/2024. Hence, the Approval Committee took note of the same and accordingly, the Minutes of the meeting held on 15/05/2024 were unanimously ratified by the Approval Committee.

(2) Arditi India Pvt. Ltd. – Renewal of LOA, updation of production capacity.



inclusion of additional authorized operations and monitoring of performance.

2.1 It was informed that M/s Arditi India Private Limited had submitted an application for renewal of LOA for 3rd block of five years i.e. upto 09/12/2028, updation of production capacity of existing manufacturing items and inclusion of additional authorized operations. These operations included "Trading of (i) LED Bulb (85395200); (ii) Electronic components for lighting and parts thereof including LED Modules & Fixtures/ String Light (94054900); (iii) Adapter with USB Connector (85041020); (iv) Solar Panel with LED bulb/String (85414900); (v) Wi Fi Charger (85044030); (vi) Connectors (85369090)", (vii) Wire Rolls (85441920), (viii) Power Cords (85444220), (ix) Others (85441990), (x) Lamp Holders (85366190), (xi) Heat Shrinkable Components (85469010).

2.2 The performance of the unit as per APRs submitted by the unit are as under:

Year	Export		Forex Outgo	NFE Earning	DTA Sale of finished goods	Pending FE
	Physical	Under Rule 53A				
2018-19	0.00	452.41	317.86	134.55	65.15	0.00
2019-20	0.68	409.36	261.02	149.02	49.00	0.00
2020-21	0.00	259.99	161.69	98.30	43.64	0.00
2021-22	5.06	321.81	198.92	127.95	410.20	0.00
2022-23	0.00	228.64	209.22	19.42	32.00	0.00
Total	5.74	1672.21	1148.71	529.24	599.99	0.00

As per NSDL Data, unit had not made any export during 2023-24. However, unit had made supplies under Rule 53(A) worth Rs. 0.23 Crores during 2023-24. Further, unit informed that the supplies under Rule 53(A) had been made under sub-rule (j), (k), (g), (h) of Rule 53(A) of SEZ rules 2006.

2.3 Shri Rohit Kapoor, Director and Shri Bhanu Chatterji, representative appeared before the Approval Committee and explained the proposal. Shri Kapoor however could not explain satisfactorily about the supplies under Rule 53(A) of SEZ Rules, 2006.

2.4 The Approval Committee discussed the agenda in detail and after due deliberations, decided to renew the LOA of the unit for one year i.e. upto 09/06/2025 . Further it also approved the proposal for updation of production capacity of existing manufacturing items and inclusion of additional items of trading in authorized operations as proposed by the unit. The Approval Committee further directed the unit to submit complete and clear yearwise details of supplies made by the unit under Rule 53A under sub-rule (g), (h), (j), (k), of Rule 53(A) of SEZ rules

2006 of SEZ Rules, 2006 separately in respect of manufacturing & trading activities. The Committee also directed the unit to clarify mismatch in data between the data of APR and that under SEZ online.

(3) Neokraft Global Pvt. Ltd. -Merger of two LOAs in terms of Proviso 4 to Rule 19(2) of SEZ Rules, 2006.

3.1 It was informed that M/s. Neokraft Global Private Limited had submitted a request for merger of their two existing LOAs in NSEZ in terms of provisions of Rule 19(2) of SEZ Rules, 2006. The details are as under:

Particulars	Unit-I	Unit-II
LOA No.	10/27/2011-Proj/2357	02/05/2019-Proj/9880
Date of LOA	29/03/2011	29/08/2019
DCP	11/05/2011	24/06/2020
LOA Valid upto	10/05/2026	23/06/2025
Authorized operations	Unit-1 (A). Manufacturing of: 1. Chandeliers [pendent] and other electric ceiling or wall lighting fittings: Designed for use solely with light-emitting diode (LED) light sources (94051100) (1000000 pieces/annum); 2. Chandeliers [pendent] and other electric ceiling or wall lighting fittings: Designed for use solely-Other (94051900)(5000000 pieces/annum); 3. Electric Table, Desk, Bedside, Floor Luminaire with Led (94052100) (1000000 pieces/annum); 4. Electric Table, Desk, Bedside, Floor Standing Luminaires (94052900) (2000000 pieces/annum); 5. Lighting Sets Of A Kind Used For Christmas Trees (94053100) (1 pieces/annum); 6. Other Electric Lamp And Lamp Fitting (94053900) (1000000 pieces/annum); 7. Other, Non-Electrical Lamps And Lighting Fittings (94055000) (1 pieces/annum); 8. Parts Of Glass Of Other Lamps (94059100) (100000 pieces/annum); 9. Others (94032090) (10000 pieces/annum); 10. Other (94033090) (10000 pieces/annum); 11. Other (94035090) (10000 pieces/annum); 12. Other (94038900) (10000 pieces/annum); 13. Parts (94039900) (10000 pieces/annum); 14. Hings Of Steel (83021010) (2000000 pieces/annum); 15. Of Brass (83021020) (1 pieces/annum); 16. Other (83021090) (10000 pieces/annum); 17. Castors (83022000) (1 pieces/annum); 18. Tower Bolts (83024120) (10000 pieces/annum); 19. Others (83024190) (10000 pieces/annum); 20. Upholstered (94016100) (10000 pieces/annum); 21. Other Seats, With Metal Frames Upholstered (94017100) (1 pieces/annum); 22. Other (94017900) (1 pieces/annum); 23. Other Seats (94018000) (1 pieces/annum); 24. Parts (94019900) (10000 pieces/annum); 25. Nails, Tacks, Staples Other Than Those Of Kg. 10 - Heading 8305, Screws, Bolts, Nuts, Screw Hooks, Rivets, Cotters, Cotter-Pins, Washers And Similar Articles-Other (76161000) (10000 pieces/annum);	

	<p>26.Other (76169990) (10000 pieces/annum); 27.Table, Kitchen Or Other Household Articles And Parts Thereof Of Iron Or Steel: Iron Or Steel Wool; Pot Scourers And Scouring Or Polishing Pads, Gloves And The Like, Of Iron Or Steel Of Cast Iron, Not Enamelled (73239110) (10000 pieces/annum); 28.Other (73239190) (10000 pieces/annum); 29.Of Cast Iron, Enamelled (73239200) (10000 pieces/annum);30.Other (73239390) (10000 pieces/annum); 31.Ghamellas (73239410) (10000 pieces/annum); 32.Other (73239990) (1 pieces/annum); 33.Other (39259090) (10000 pieces/annum); 34.Electrical Lighting Or Signaling Equipment, Lighting Or Visual Signaling Equipment Of A Kind Used On Bicycles. (85121000) (1 pieces/annum); 35. Other Lighting Or Visual Signaling Equipment, Head Lamps, Tail Lamp, Stop Lamp, Side Lamp And Blinkers (85122010) (1 pieces/annum); 36.Other Automobile Lighting Equipment (85122020) (1 pieces/annum); 37.Other (85122090) (1 pieces/annum); 38. Parts (85129000) (1 pieces /annum)</p> <p>(B). Trading of: 1. Trading Activity Related To Home Lights, Home Light Systems & Home Light Parts, Components And Home Furnishing Products And Above Mentioned HSN Code Products (9405); 2. Electrical Lighting Or Signaling Equipment, Lighting Or Visual Signaling Equipment Of A Kind Used On Bicycles (85121000); 3. Other Lighting Or Visual Signaling Equipment, Head Lamps, Tail Lamp, Stop Lamp, Side Lamp And Blinkers (85122010); 4. Dies For Drawing Or Extruding Metal (82072000); 5. Tools For Pressing, Stamping Or Punching (82073000); 6. Other (82074090); 7. Tools For Drilling, Other Than Rock Drilling (82075000); 8. Tools For Turning (82078000); 9. For Metal Working Hand Tools (82079010); 10. Other (82079090); 11. Other Tools (84623900); 12. Other Tools (84624900); 13. Injection Or Compression Types (84807100); 14. Other (84807900); 15. Other, Suitable For Furniture (83024200); 16. Other (83024900); 17. Hat-Racks, Hat-Pegs, Brackets And Similar Fixtures (83025000); 18. Other (94014900); 19. Other – Other Seats, With Wooden Frames (94015900)</p> <p>C. Service Activities: Services other Professional, Technical and business services (except research, development, Legal and accounting services)</p>																		
	<p>Unit-2 Base metal mounting fittings and similar articles suitable for furniture, door, staircases, windows (Door/ Furniture Knobs, Hooks, Handles, etc.) of Zinc/ Aluminium/ Iron/Wood/Stainless Steel (ITC HS Code- 8302 & 9403)</p>																		
<p>Factory Address</p>	<p>Plot No. 137, NSEZ</p>																		
	<table border="1"> <tr> <td colspan="3" style="text-align: center;">Values in Rs. Lakhs</td> <td colspan="3" style="text-align: center;">Values in Rs. Lakhs</td> </tr> <tr> <th>Year</th> <th>FOB Value of Export</th> <th>NFE Earning</th> <th>Year</th> <th>FOB Value of Export</th> <th>NFE Earning</th> </tr> <tr> <td>2019-20</td> <td>5047.18</td> <td>3909.00</td> <td>2020-21</td> <td>976.76</td> <td>952.83</td> </tr> </table>	Values in Rs. Lakhs			Values in Rs. Lakhs			Year	FOB Value of Export	NFE Earning	Year	FOB Value of Export	NFE Earning	2019-20	5047.18	3909.00	2020-21	976.76	952.83
Values in Rs. Lakhs			Values in Rs. Lakhs																
Year	FOB Value of Export	NFE Earning	Year	FOB Value of Export	NFE Earning														
2019-20	5047.18	3909.00	2020-21	976.76	952.83														

2020-21	8189.69	7079.96	2021-22	3252.25	3223.34
2021-22	7418.93	6128.61	2022-23	3146.15	3043.49
2022-23	6279.92	4977.99	Total	7375.16	7219.66
Total	26935.72	22095.56	As per NSDL Data, unit has made exports worth Rs. 31.44 Crores during 2023-24.		
As per NSDL Data, unit has made exports worth Rs. 74.95 Crores & Rs. 74.85 Crores during 2021-22 & 2023-24 respectively.					

3.2 Shri Mukul Kant Verma, CEO and Shri Rajeev Ranjan, authorized representative of the company appeared before the Approval Committee and explained the proposal. Shri Verma informed that new customers were reluctant in creating two customer codes of company. Moreover, they were experiencing difficulty in accounting reconciliation with one customer from two units. Hence, they had decided to consolidate their operations under one unit instead of maintaining two separate units. This facilitated the optimization of all available resources and synergy in operations of both units.

3.3 The Approval Committee also observed that the unit had submitted the following changes in their authorized operations and projections after proposed merger over for next two years:

Particular	Proposed details after merger
Authorized operations	Authorized operations of Unit-1 along with following: Manufacturing of: (i) Sanitary ware & Parts: 73242900 Other 73249000 Other including parts (ii) Other Article of Zinc: 79070010 Sanitary Fixture 79070090 Other (iii) Base Metal Mounting fitting & similar article: 83024900 Other
Projections for two years (remaining period of current block of Unit-I) (Rs. in lakhs)	
Export	26133
Forex Outgo	3800
NFE Earnings	22333

3.4 The Approval Committee discussed the agenda in detail and after due deliberations, approved the proposal of M/s. Neokraft Global Private Limited for merger of Unit-II (LOA No. 02/05/2019-Proj/9880 dated 29/08/2019) into Unit-I (LOA No. 10/27/2011-Proj/2357 dated 29/03/2011) in terms of Proviso 4 to Rule 19(2) of SEZ Rules, 2006. The approval is subject to the following conditions:

(i) After merger, the block period for calculation of Net Foreign Exchange shall be from the date of commencement of production of the Unit which commenced operation first i.e. LOA No. 10/27/2011-Proj/2357 dated 29/03/2011 (Unit-I).

(ii) Income tax exemption period shall be considered from the date of start of operation of the first Unit i.e. from 11/05/2011, subject to provisions of Income Tax Act, 1961.

3.5 The Approval Committee also approved the consolidation of the authorized operations and revised projections after merger as proposed by the unit.

(4) PS Autotech International LLP – Review of LOA.

4.1 It was informed that Ms P.S Autotech International LLP was issued an LOA dated 02/02/2012 for “Manufacturing of Automatic Slack Adjuster, Manual Slack Adjuster, Axle & Suspension component and Trading of Axle and Suspension components”. The unit commenced its export production w.e.f. 11/05/2012 and its LOA was valid till 10/05/2022.

4.2 It was further informed that the unit had earlier applied for exit from SEZ scheme. However, till date unit had neither completed exit formalities as requested vide this office letter dated 01/11/2022 nor submitted APRs from 2019-20 onwards. Besides, lease rent amounting to Rs. 40,63,079 upto 30.06.2024 was also outstanding against the unit.

4.3 No one from the unit appeared for the meeting either physically or virtually. The Approval Committee viewed this absence seriously.

4.4 The Approval Committee discussed the agenda in detail and after due deliberations, deferred the proposal with a direction to the promoters to appear for personal hearing in the next meeting. The Approval Committee also directed the unit to complete the exit formalities on priority.

(5) Deepak Enterprises – Review of LOA.

5.1 It was informed that M/s Deepak Enterprises had been issued an LOA dated 10/04/2003 for “Trading of Medical Goods, Medicines and Hospital Goods”. The unit commenced its export activities w.e.f. 11/02/2004 and its LOA was valid till 10/02/2019.

5.2 It was further informed that LOA of the unit had already expired on 10/02/2019



but they neither had applied for renewal of LOA nor submitted an application for exit. Besides, the unit had also not submitted APR for the period 2018-19.

5.3 No one from the unit appeared for the meeting. It was informed that the lease rent amounting to Rs. 6,28,224/- upto 30.06.2024 was outstanding against the unit. Plot No. 93 allotted to the unit had been taken over by NSEZ Authority under proper panchnama on 11/09/2020. Further, Plot No. 93, NSEZ had been put for auction and outstanding lease rent as well as customs dues had been accounted for in the reserve price of the auction.

5.4 The Approval Committee discussed the agenda in detail and after due deliberations, directed the Estate Management Division, NSEZ to ascertain dues of UPPCL before the next auction. The Approval Committee further noted that LOA had already lapsed w.e.f. 10/02/2019 and directed the Project Division to inform the unit to complete exit formalities. The Approval Committee also directed that a letter be sent to GST Division, Noida to inform their dues, if any, within 15 days.

(6) Onnsynex Ventures Pvt. Ltd. -Representation against the decision of UAC dated 06/02/2024 and request for DTA sale of Liquor.

6.1 Shri Sivasankaran E. Director and Shri Arun Shanker, authorized representative of the company appeared before the Approval Committee through video conferencing. Shri Sivashankaran informed that as per decision of Approval Committee, they were asked for the due diligence and ensuring of KYC for clients. Further, a condition has also been imposed that the unit will monitor the remittances received against the supply of the goods. They viewed this as harsh in the context of warehousing units.

6.2 He further stated that as per CBIC norms, only two documents namely proof of identity and proof of address were required for KYC verification. Hence, the conditions put by Approval Committee for KYC and monitoring of remittances will put an extra burden on them.

6.3 The Approval Committee observed that a Committee headed by Additional DGFT (SCA) had been constituted by Department to examine the matter related to operations and functions of FTWZ.

6.4 The Approval Committee discussed the agenda in detail and after due deliberations, deferred the proposal and decided to wait for the report of the aforesaid Committee .

(7) Pertech Exports Pvt. Ltd. -Representation of unit for Renewal of LOA as

13/01

per Hon'ble High Court Order dated 14/05/2024.

7.1 It was informed that a copy of order dated 14.05.2024 issued by Hon'ble High Court of Delhi in the matter of Writ Petition filed by M/s. Pertech Exports Pvt Ltd. has been received in this office. The Order of Hon'ble High Court is as under:-

"1. At the very outset, learned counsel for petitioner in all fairness submits that without prejudice to the contentions raised by the petitioner in this writ petition, the petition can be disposed of directing the respondent to treat this petition as representation and dispose of the same within fixed time period. It is submitted by learned counsel that copy of the representation referred to in prayer clause (a) has not been filed by him with this writ petition.

2. Learned counsel for respondent who has appeared on advance notice, accepts notice.

3. Considering the nature of these proceedings and the submissions made above, this writ petition is disposed of, directing the respondent to treat the present petition as representation of the petitioner and dispose of the same by way of reasoned order within four weeks after giving a personal hearing to the petitioner or its counsel.

4. Accordingly, pending application also stands disposed of."

7.3 The Approval Committee was apprised of the brief background of various cases of violations of Customs Act, 1962 as well as SEZ Act and Rules as under:

(A) The Specified Officer, NSEZ informed about following cases booked against M/s. Pertech Exports Pvt. Ltd.:

S. No.	Case	Details	Show Cause Notice	Order In Original
1	Attempt for clandestine removal of dutiable goods from SEZ	Unit attempted to remove the manufactured goods (PCB) for the value of Rs. 87.86 lacs which were dutiable in terms of Section 2(14) of Customs Act, 1962. The goods along with vehicle carrying them were seized. The SCN and OIO had already been issued. The adjudicating authority ordered confiscation of goods valued Rs 87.86 Lakhs; confirmed demand of Rs 15.81 Lakh of Customs Duty; ordered confiscation of the vehicle valued at 7.99 Lakh and imposed penalty of Rs 15.81 Lakh each on the company and its director Sh Pramod Vijay Khullar.	SCN No. 16/2021 issued vide C.No. VIII(30)Cus/ICD-DD/PERTECH EXPORT/22/2021 dated 30.12.2021.	29/Pr Commr./Noida-Cus/2022-23 dated 31.01.2023

2	<p>Suspected case of smuggling of goods into Domestic Tariff Area under the guise of export to Nepal through LCS</p>	<p>Proof of export in form of EP Copy of the shipping bills were submitted by the unit w.r.t. three distinct export consignments to Nepal (SB No. 4046965 Dt 16.12.2022, 4048407 Dt 29.12.2022 & 4008180 Dt 03.03.2023) was verified from the concerned LCS, Raxaul. LCS Raxaul informed that the goods were not cleared by them clearly indicating the possibility of forged proof of exports being submitted.</p> <p>Subsequently, the unit submitted the EP copies indicating that the goods have been cleared from LCS Sonauli. However some other discrepancies including extraordinary delay between clearance of goods from NSEZ and their clearance from Sonauli and mismatch in the vehicle numbers indicated were noticed. The unit also couldn't explain submission of forged documents earlier. This indicated the strong possibility of goods being diverted into DTA instead of being exported.</p> <p>As per the directions of the UAC, case has been transferred to the Noida Customs for further investigation.</p>	Investigation under process	Investigation under process
3	<p>Mis-declaration and overvaluation of goods</p>	<p>Unit had imported goods vide 15 Bill of Entry (s) declared to be Memory Cards (Blank) of 256 GB. Upon examination and sample testing of the said goods by IIT Delhi, New Delhi they were found to be non-functional, were found to be not valid memory cards and did not met the capacity/ considerations claimed. Therefore the impugned goods amounting to declared values i.e. Rs. 18.47 Crores, were seized.</p> <p>Subsequently a SCN proposing to reject the declared value of Rs 18.47 Cr and imposing penalty on the company and their directors viz. Sh Pramod Vijay Khullar and Sh Vishal Mohan Khullar was issued.</p>	<p>SCN No. 09/PC/Noida-Cus/2022-23 dated 19.10.2022</p>	Under adjudication

4	Clandestine removal of goods	<p>On perusal of the inventory of goods prepared while performing eviction proceedings against the unit on 03.01.2024, it was noticed that 12659 nos of mobile phones which were imported vide Bill of Entry No. 1000252 Dt 10.01.2023 have not been reported in the Inventory annexed to the Panchnama dated 03.01.2024.</p> <p>Therefore, it appears likely that the unit might have removed the subject goods i.e. 12659 nos of mobile phones (key pad-without battery) clandestinely from its premises without the strength/cover of any documents & without paying applicable duty/taxes & compliance.</p> <p>Reconciliation of Import/Export/RC-DC/DTA Sale/DTA Procurement data etc. vis-à-vis goods reported in the eviction proceedings (as detailed in the Inventory dated 03.01.2024) is under process and Shri Vishal Khullar, director of the unit, had been issued summon under section 108 of the customs act 1962 for his statement recording & further investigation in the matter.</p>	Investigation under process	Investigation under process
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(B) The Estate Management Division, NSEZ informed following facts to Approval Committee:

- i. Possession of SDF No. F-08(A), NSEZ was given on 07.03.2007.
- ii. Notice under Section 7 of Public Premises Act, 1971 was issued on 06.11.2019.
- iii. Order under Section 7 of Public Premises Act, 1971 was issued on 06.12.2019.
- iv. Recovery Certificate under Section 14 of Public Premises Act, 1971 was issued on 19.02.2021.
- v. Notice under Section 4 of Public Premises Act, 1971 was issued on 17.08.2022.
- vi. The unit failed to follow payment schedule which was promised by themselves. The unit failed to follow payment schedule granted to them.
- vii. Eviction Order under Section 5 of Public Premises Act, 1971 was issued on 13.12.2023.
- viii. On 02.01.2024, possession of SDF was taken by this office under Panchnama.

(C) Brief facts related to Project Section, NSEZ were informed as under:

1. LOA was issued on 10/05/2006 (as amended from time to time) for manufacturing & trading of various items.
2. Unit commenced its export activities 06/08/2007 and third block of five years was valid till 05/08/2022.
3. Subsequently LOA was initially extended for shorter period upto 31/03/2023 in view of non rectification of deficiencies observed in application like pending foreign exchange of Rs. 8137.22 Lakhs, incorrect APRs and non-deposition of lease rent. LOA was further extended upto 31/10/2023 by UAC exclusively for carrying out one time DTA sale against which unit representatives namely Shri Vishal Khullar and Shri P.V. Khullar informed the Committee in the meeting held on 03/10/2023 that they have taken advance from the party for this DTA sale.
4. The Approval Committee in its meeting held on 07/11/2023 keeping in view the serious nature of case as informed by the NSEZ Customs, unclear plan for deposition of lease rent and future business plan by the unit, decided to defer the proposal with a direction to the unit to first deposit the lease rent and submit the proper business plan & complete documents. The Approval Committee observed that in view of serious nature of issues, NSEZ Customs may further refer the matter to Noida Customs for investigation & on receipt of the report along with complete documents & clearance of lease rent by the unit, matter may be placed before the Approval committee.
5. As per decision of UAC dated 07/11/2023, unit vide this office letter dated 13/12/2023 was requested to submit the required documents. However, unit has not submitted the required documents till date.

7.4 Ms. Nidhi Khullar, Director, Shri Ravi Dangwaal & Shri PV Khullar representatives appeared before the Approval Committee. Ms. Khullar informed that his brother Shri Vishal Khullar, who was earlier a director, has resigned from Board of Directors and Shri Ravi Dangwaal has joined as a new director. She further informed that they have got some new orders for accessories. Their future plan is that they would import goods and sell the same in DTA with payment from EEFC account.

7.5 The Approval Committee observed following provisions under SEZ Act & Rules:

- (a) Rule 54 of SEZ Rules, 2006 provides that performance of the unit shall be



monitored by UAC and in case UAC comes to the conclusion that a unit has not achieved positive NFE or failed to abide by any of the terms & conditions of the LOA/Bond-cum-LUT, without prejudice to the action that may be taken under any other law for the time being in force, the said unit is liable for penal action under FT(D&R) Act 1992.

(b) Rule 19(6A)(3) provides that the Development Commissioner may renew the Letter of Approval for a period of five years or for a shorter period, in form F 2, based on the evaluation of the Unit as per sub-rule (6B):

Rule 19(6B):- The renewal of Letter of Approval shall be based on the evaluation of the following criteria, namely:-

(i) Export performance of the Unit in the last block *vis-a-vis* the initial export projection submitted by the Unit.

(ii) Projected employment with reference to actual employment generated.

(iii) Instance of violation of applicable statutes related to the functioning of the Unit.

(iv) Cases of default, if any, of statutory payments.

(v) Undertaking of any activity not sanctioned or approved by the Development Commissioner.

(vi) The decision of the Development Commissioner or Approval Committee in this regard shall be final and binding on the Unit except in cases where the Unit prefers an appeal before the Board of Approval, in accordance with rule 55.”.

(c) The Committee also observed that Section 16(1) of the SEZ Act, 2005 provides that UAC 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.

7.6 The Approval Committee further observed that as per APRs submitted by the unit, total exports are Rs. 10949.08 Lakhs and NFE earnings achieved are Rs. 4894.92 Lakhs during the period from 2017-18 (06.08.2017-31.03.2018) to 2021-22. However, the unit has shown export proceeds amounting to Rs. 8137.22 Lakhs



pending for realization in APR for the period 2019-20. Due to the same, NFE earnings for the abovesaid period becomes negative to the tune of Rs. 3242.30 Lakhs.

7.7 The Approval Committee further observed that the promoters of unit have earlier been issued two other LOAs namely M/s Morgan Tectronics Ltd and M/s Kassia Couture LLP. The details of said units are as under:

"M/s. Kassia Couture LLP -

1. LOA was initially issued in the name of Shimmer International (Name & constitution of the unit changed from "Shimmer International" **(a proprietorship firm of Ms. Nidhi Khullar)** to "Kassia Couture LLP (LLP Firm with Ms. Nidhi Khullar and Mr. Pramod Vijay Khullar as Partners) on 17.09.2019 as amended from time to time for undertaking activities viz. Manufacture of : (a) Home furnishing (6303 & 6304) Ladies, men's and kids garments apparel clothing (6201, 6202, 6203, 6206) and (b) Cutting, washing and finishing of all types of unfinished carpet rolls (5701, 5702, 5703, 5705); (ii) Manufacturing of leather items, leather bags, wallets and purses, artificial jackets, belts, ladies handbags. (4203100, 42033000, 42034090, 42022110, 42022190), subject to additional condition that No DTA sale of Carpets or Carpet Rolls shall be allowed, and All the import/ export consignments shall be subject to 100% examination in terms of quantity as well as value by Customs at the time of import/export. LOA was last extended upto 15/10/2022 by the Approval Committee.

2. The unit & both its promoters were issued an SCN No. 01/2021-22 dt. 14.06.2021 by Principal Commissioner, Noida Customs Commissionerate for contravening the provisions of Section 46(4) of the Customs Act, 1962 read with Section 26 of the SEZ Act, 2005 and Rule 27 of the SEZ Rules, 2006 by **mis-declaring the imported goods as "Carpet Rolls (unfinished carpets) 80% Wool and 20% Cotton valued at Rs. 4,80,19,853/-** in the Bill of Entry No. 1006864 dated 23.11.2020 whereas the goods imported under the said Bill of Entry are finished goods appears to be ready for use, as per Test reports dated 23.12.2020 & 11.01.2021, having **present market value of Rs. 99,05,868/-** (Rupees Ninety nine Lakhs five thousand eight hundred sixty Eight only)".

3. The Approval Committee in its meeting held on 03/01/2023 observed that the partner of unit could not explain the proposal properly nor did he give any assurance regarding clearance of accumulated lease rent dues of Rs. 15,80,639/- as on 31/12/2022 and hence, rejected the proposal of unit for one time permission to import & export of Shoes. The Approval Committee further noted that LOA had lapsed w.e.f. 15.10.2022 in terms of SEZ Rule 19(5) and directed the Estate Management Division, NSEZ to initiate action under the P.P. Act.

M/s. Morgan Tectronics Ltd. -

1. M/s Morgan Tectronics Ltd. was issued a Letter of Approval (LOA) No. 08/07/91-NEPZ dated 31/07/1991 for 1) Manufacturing of Consumer Electronic Hardware items; 2) Manufacturing of Loader with Lens for VCD player; and 3) Trading activities and/or as amended from time to time, subject to the conditions imposed therein. The unit commenced its export productions w.e.f. 10/08/1991 at SDF No. G-6A. LOA of the unit was valid upto 31/03/2017.

3. SIIB vide letter dated 23/10/2015 informed about the mis-declaration of the goods by the unit which was also admitted by **Mr. P.V. Khullar**, director. In view of the gravity of violations mentioned in the SIIB report and in view of the fact that the unit has admitted



mis-declaration and paid the duty/penalty/fine amounting to Rs. 50 Lakhs, as per decision of UAC dated 06/01/2016, an SCN dated 14/01/2016 was issued. The UAC in its meeting held on 10/02/2016 granted a personal hearing to the promoters and on the basis of the facts and with respect to written submissions of the unit contained in their letter dated 04/02/2016 and admission by Shri P V Khullar during the personal hearing came to the following conclusion:

- i. The unit has been persistently violating the provisions of SEZ Act/SEZ Rules and terms & conditions of LOA/Bond-cum-LUT.*
 - ii. The unit has admitted the mis-declaration of goods covered under the Bills of Entry – a) BE No. NSEZ0008568 dated 05/10/2015, b) BE No. NSEZ0008527 dated 03/10/2015 as explained in Para 3 and 8 above.*
 - iii. The unit has deposited an amount of Rs. 50 Lakhs (Rs. 35 Lakh vide challan No. 730468 dated 20/10/2015 and Rs. 15 Lakhs vide challan No. 730467 dated 20/10/2015) towards their duty/penalty/fine liability emerging as the outcome of investigation against the said three Bills of Entry.*
 - iv. The unit had also requested to Special Intelligence & Investigation Branch (SIIB) to decide the matter on merits and stated that he did not want any Show Cause Notice or personal hearing.*
- 4. The Committee further observed that Rule 27(10) of SEZ Rules, 2006 provides that the assessment of imports by a unit shall be on the basis of self-declaration and not subject to routine examination. Hence, the import clearance is on self-declaration basis and trust is imposed on the SEZ unit that it gives correct declaration and files correct Bill of Entries. The unit has persistently violated the rule & persistently mis-declared the goods in Bill of Entries*
- 5. In the light of above observations/conclusions, the UAC decided to cancel the LOA No. 08/07/91-NEPZ dated 31/07/1991 issued to M/s. Morgan Tectronics Ltd. forthwith under Section 16 of SEZ Act, 2005. No further import & export will be allowed to the unit. Accordingly, vide letter dated 23.02.2016, LOA of the unit was cancelled.*
- 6. Against the decision of the Approval Committee for cancellation of LOA, the promoter of the unit had preferred an appeal before the Board of Approval. The Board of Approval in its meeting held on 09/11/2016, considered the appeal and having heard the appellants, **rejected** the appeal."*

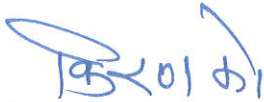
7.8 The Approval Committee in the instant proposal also observed that the proposed business plan to import the goods and sell into DTA would not be authorised operation counted for NFE fulfilment under the SEZ Act and Rules. Moreover, the preamble of the SEZ Act itself provides for promotion of exports as the key objective of the Act, as may be seen from the preamble reproduced below:

"An Act to provide for the establishment, development and management of the Special Economic Zones for the promotion of exports and for matters connected therewith or incidental thereto."

7.9 The Approval Committee, discussed the agenda in detail and after due deliberations and taking into account the serious cases of repeated violations of

SEZ provisions by unit & its promoters, different cases registered by Customs, outstanding lease rent, pending export proceeds for realization, business plan which is both unclear and not intended to be classified as exports under SEZ Rules decided not to renew the LOA of M/s. Pertech Exports Private Limited in terms of Rule 19(6A)(3) of SEZ Rules, 2006. The Approval Committee further empowered the office of Development Commissioner, NSEZ to issue a detailed reasoned order taking into account the facts of the case, statement of unit & its promoters, as above, and decision of this Approval Committee, as per directions of Hon'ble High Court of Delhi and take further necessary action accordingly.

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



(Kiran Mohan Mohadikar)
Deputy Development Commissioner



(A. Bipin Menon)
Development Commissioner