

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.10/13/2006 -प्रोज/

दिनांक: 16/02/2016

सेवा मे,

- ✓ मुख्य कार्यपालक अधिकारी, न्यू ओखला औद्योगिक विकास प्राधिकरण, मुख्य प्रशासनिक भवन, सेक्टर - 6, नोएडा।
- अतिरिक्त महानिदेशक विदेश व्यापार, वाणिज्य एवं उद्योग मंत्रालय, 'ए' विंग, इंद्रप्रस्थ भवन, आई पी एस्टेट, नई दिल्ली।
 - आयुक्त, आयकर, ए 2 डी, आयकर भवन, सेक्टर 24, नोएडा।
 - आयुक्त, सीमा शुल्क, नोएडा सीमा शुल्क आयुक्तालय, इनलैंड कंटेनर डिपो, तिलपता, दादरी, गौतम बुद्ध नगर, उत्तर प्रदेश - २०१३०६.
 - निदेशक, वाणिज्य विभाग, वाणिज्य एवं उद्योग मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली -110001।
 - उप सचिव (आई एफ-1), बैंकिंग प्रभाग, आर्थिक मामलों का विभाग, वित्त मंत्रालय, भारत सरकार, तृतीय तल, जीवन दीप बिल्डिंग संसद मार्ग, नई दिल्ली।
 - महाप्रबंधक, जिला उद्योग केंद्र, कलेक्ट्रेट के पास, सूरजपुर, ग्रेटर, नोएडा।

विषय: दिनांक 10/02/2016 को अपराह्न 03:30 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 मे दिनांक 10/02/2016 को अपराह्न 03:30 बजे सम्मेलन हॉल, प्रशासनिक भवन, नोएडा विशेष आर्थिक क्षेत्र, नोएडा मे 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:

- विशेष कार्याधिकारी - विकास आयुक्त के सूचनार्थ।
- व्यक्तिगत सहायक - संयुक्त विकास आयुक्त के सूचनार्थ।
- निर्दिष्ट अधिकारी, नोएडा विशेष आर्थिक क्षेत्र - सूचनार्थ एवं आवश्यक कार्यवाही के लिए.
- सहायक विकास आयुक्त, सम्पदा अनुभाग, नोएडा विशेष आर्थिक क्षेत्र, सूचनार्थ एवं आवश्यक कार्यवाही के लिए.

सहायक विकास आयुक्त

Noida Special Economic Zone

(Minutes of Meeting of Approval Committee of Noida SEZ held on 10/02/2016)

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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 3:00 PM on 10/02/2016 in the Conference Hall of NSEZ.

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

- 1) Shri S.S. Shukla, Jt. Development Commissioner, NSEZ.
- 2) Smt. Sangeeta Karmakar, Dy. Commissioner, Customs, Noida Commissionerate.
- 3) Shri Rajiv Kumar Soni, Asstt. DGFT, CLA, New Delhi.
- 4) Shri Sudhir Kumar, Income Tax Officer, Income Tax Deptt., Noida.
- 5) Shri V.K. Kaushal, Asstt. Commissioner, DIC, Noida (Rep. of Principal Secretary, Industry, Govt. of U.P.)
- 6) Shri A.K. Mishra, Sr. Town Planner, Noida Authority.

2. Besides, during the meeting S/Shri (i) Rakesh Kumar, Dy. Development Commissioner, NSEZ, (ii) Samir Sinha, Appraiser, NSEZ, (iii) Mukesh Goyal, Architect, Noida Authority, (iv) Bhuvan Yadav, AEE, UPPCB, Noida and (v) Shyam Milan Yadav, SDO, UPPCL, Noida were also present to assist the UAC.

3. At the outset, DC, NSEZ welcomed the participants. After brief introduction, each items included in the agenda were taken up for deliberation one by one. After detailed deliberations 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:-

It was informed that no reference against the decisions of the UAC held on 06/01/2016 was received and therefore, Minutes of the meeting held on 06/01/2016 were ratified.



Item wise decisions on proposals included in agenda:

1.	<p>Proposal in respect of M/s. Xavient Software Solutions India Pvt. Ltd. for setting up a new unit in NSEZ.</p> <p>The UAC was informed that the applicant vide their email dt. 08.02.2016 had submitted that their internal planning to go for new LOA in NSEZ is under review and requested to put the same on hold till further confirmation. The UAC accordingly decided to defer the proposal till the unit submits the request for placing the case before UAC.</p>
2.	<p>Proposal of M/s. Aryan International for amendment in LOA due to revision in project.</p> <p>It was informed to UAC that the proposal of M/s. Aryan International for setting up a new unit was approved by the UAC in its meeting held on 02.12.2015. During the meeting, the UAC had observed that as against proposed manpower of 100 persons, the applicant had projected NFE of Rs. 471 Lakhs. The project seemed to be unviable as the anticipated cost for hiring of manpower at minimum wages applicable in U.P. comes to around Rs. 450 Lakhs and lease rent for two SDFs for 5 years works out to be around Rs.97 Lakhs. Besides ITC (HS) codes of the items indicated by them were also incorrect. Their registration with Spices Board shows them as a Merchant Exporter.</p> <p>The UAC had approved the project with the direction that the applicant shall submit revised project report alongwith the documents as discussed above. Accordingly Letter of Approval was issued to the applicant on 11/12/2015.</p> <p>Subsequently, the unit submitted revised project report as directed by UAC and submitted <u>that they shall hire a total of 10 employees costing Rs. 45.60 Lakhs for five years</u>. Thereby taking into account the cost of manpower, cost of lease rent (Rs. 97 Lakhs) and cost of electricity (Rs. 20 Lakhs) for five years, total expense comes to Rs. 162.60 Lakhs as against projected NFE of Rs. 471 Lakhs. <u>The unit has further stated that their production capacity is 4 Tonnes per day instead of 4 Tonnes/year as mentioned in LOA and requested to revise the same.</u> However, unit has not submitted amended registration with Spices Board as "Manufacturer Exporter".</p>

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S/Shri Atul Kumar, Krishna Kumar and Vikas Yadav, Authorised Representatives of the unit attended the meeting and explained their proposal. It was admitted by them that due to mistake, manpower and capacity was written as 100 persons and 4 tonnes per year in the previous project report. Since the mechanised process is involved so the manpower of 10 persons would serve the purpose. It was further stated that they cannot operate from the SDF due to use of heavy machinery which may cause vibration/noise and it may disturb the work of neighbouring units. Besides, the proposed items are food items and they are required to maintain the environment as per International standards, which can be possible in their own building on a plot. It was informed to them that in NSEZ land belongs to NSEZ Authority and that is allotted to valid LOA holder on sub-lease basis on auction basis wherein they can participate.

The representative of the unit requested to keep their project on hold till such time they acquire a plot or building.

In view of above, UAC deferred the matter. However, it was informed to them that unit is required to implement the project within a period of one year from the date of LOA and in case any extension is required, the unit shall have to apply in advance with full justification.

3. Proposal of M/s. Lakeland Gloves and Safety Apparel Pvt. Ltd. for change in Directors.

It was informed to the UAC that LOA of the unit was amended vide this office letter dated 26/02/2015. However, in spite of reminder dated 17/04/2015 the unit till date has neither accepted terms & conditions of the said letter nor executed Bond-cum-LUT. Besides, the unit has intimated about the change in directors after delay of around two months, which is violation of condition No. 14 of Bond-cum-LUT executed by the unit which states that "the obligor, shall intimate any changes in the Board of Directors/Partners, telephone No., E-mail address, Web-Site, Pass port No., Bank Address and Factory address, forthwith, to the Development Commissioner and the Specified Officer".

S/Shri Vishal Kumar and Anil Thomas, Directors attended the UAC and regretted for delay in intimation of change in Directors and stated that they were not aware of the



time period during which the intimation is to be sent to the department. It was further stated that the LOA Amendment letter dated 26.02.2015 was misplaced by their security guard and in the meantime the process of changeover of director was going on, hence they failed to fulfill the terms & conditions as mentioned therein. The representatives requested to condone both the lapses on their part and assured that such delay/lapses will not occur in future.

UAC after due deliberation decided to take note of change of Directors on record. UAC also warned the unit to ensure that such lapses do not occur in future.

4. Proposal of M/s. Groz Engineering Tools Pvt. Ltd. for approval of additional Service namely "Business Auxiliary Service"

It was informed to the UAC that the unit has sought approval of additional service namely 'Business Auxiliary Service.'

Shri Ram Bhardwaj, Asstt. Manager attended the meeting and he requested that the 'Business Auxiliary Services' are required by them for Job Work and pest control/fumigation of their export consignments.

After due deliberation UAC approved the services namely 'Business Auxiliary Services related to fumigation of export consignment' only.

5. Proposal of M/s. Indo Aerospace Solutions Pvt. Ltd. to include manufacturing activities as authorized operations in LOA.

It was informed to the UAC that the unit is engaged in trading in Consumables needed in aerospace including hardware, aerosols and chemicals, paints, lubricants, oils and greases, aircraft tyres, raw material to include metals and composites to be used by both Aerospace and other industries and Aircraft rotables and expendables. Now, the unit has proposed Manufacturing of Raw material / Metals Composites to be used by both Aerospace and other industries for inclusion in their LOA. Separate projections for manufacturing activities are awaited from the unit.

Shri Ajay Singh, Managing Director and Shri Arun Kaushal, Director informed that they are planning to introduce a Band saw and a plate saw in their facility so that the material viz. "Aluminium, Stainless Steel, Titanium, Copper etc" can be cut into a specific size before the finished product is manufactured/machined. For this purpose they will



import "Metal Cutting machine" worth Rs. 150 Lakhs to meet the manufacturing requirement, which shall be procured from their internal source of finance. It has further been stated that company will import Aluminium, Stainless Steel, Titanium, Copper etc in various forms for trading & manufacturing activities.

The representatives were informed that cutting and polishing tantamount to manufacturing. Further, unit shall be required to maintain separate accounts for Trading Activity and Manufacturing Activity. However, positive NFE shall have to be achieved cumulatively over a period of 5 years in respect of both activities. The representatives of the unit assured to fulfil all the statutory requirements to undertake their existing and proposed activities at SEZ unit.

After due deliberation, the UAC approved the manufacturing activity in existing LOA subject to the submission of separate projections for manufacturing and trading activity. The unit shall be required to maintain separate accounts for Trading Activity and Manufacturing Activity and will execute fresh Bond-cum-LUT.

6. **M/s. Jet Tech Systems, SDF No. C-6 (B), NSEZ, NOIDA - Monitoring of performance of the unit:**

It was informed to UAC that the case was placed before the UAC in its meeting held on 06/01/2016 but no one from the unit appeared for the last meeting. Accordingly, the matter was deferred to the instant meeting. The unit has not furnished details of export, import and NFE w.e.f. 01.04.2015 to till date so far. The promoters were informed through the email to attend the meeting. However, no one from the unit appeared for the meeting.

After due deliberation UAC decided to grant one more opportunity of being heard. It was decided that a communication may be sent to the unit & its promoters through registered/speed post as well to ensure their presence in the next UAC. UAC accordingly deferred the proposal for next meeting of UAC and directed to call the Directors or authorized representative of the unit in the next meeting of UAC to explain the reason for dismal performance and concrete business plan as to how the unit is going to boost the export performance in the remaining period of five years block.



7. Review of implementation of LOA of M/s. Moser Baer India Ltd.

It was informed to UAC that the UAC in its earlier meeting held on 29/01/2015 had approved renewal of LOA upto 31/03/2017 subject to the condition that unit shall commence commercial activities within four months. The unit vide its letter dated 09/06/2015 has requested for extension of time for six months for re-commencement of activities. The above case was placed before the UAC in its meeting held on 06/01/2016. At that time, the applicant had requested for deferment of their proposal and accordingly the matter was deferred to the instant meeting.

Shri P.D. Mishra, AVP informed that they had to face financial problems due to strike in their main plant. He further assured that they intend to recommence the activities at the earliest. As on date they are in process of strategic tie-ups with the overseas clients. The proposed investment shall be Rs.10 crores and initially there shall be a manpower requirement of 50 persons. With these submissions, he requested to grant an extension of six months to recommence the export activities.

After due deliberations, UAC agreed with the proposal and decided to review the performance of the unit after 6 months.

8. Appeal of M/s. Noida Plast Pvt. Ltd. against order of the UAC dated 28/09/2015 - case remanded back by the BOA.

It was informed to the UAC that against the cancellation of LOA and allotment of Plot No.69, M/s. Noida Plast Pvt. Ltd. had preferred an appeal with BOA. The BOA in its meeting held on 30/12/2015 heard the appellant and after detailed deliberations, remanded the case back to DC, NSEZ to consider it in UAC after examining the business plan and other relevant details of the applicant and take appropriate decision.

M/s. Noida Plast Pvt. Ltd. vide its letter dated 07.01.2016 referring to the decision of BOA stated that they have applied online for renewal of LOA and submitted copy of project report and requested to renew their LOA.

Shri O.P. Arora, Director and Shri A.K. Singhal, Director attended the meeting and explained their proposal. The unit has stated that they will manufacture and export Hand Pump, their Spares and Pipes with ITC HS Code 84132000, 84139190 & 84131910. The



projected FOB value of exports shall be Rs.100 crores with NFE of Rs.73.75 crores over a period of five years. The construction of building has already been completed and they have already applied to Noida Authority for issuance of Completion Certificate. The completion certificate is still awaited. They expect to start operations in 2-3 months once the completion certificate is received.

The matter was examined afresh and after due deliberations, taking into consideration decision of BOA, UAC decided to renew the validity of LOA for a period of one year from the date of UAC, subject to submission of requisite information/documents. The progress of the project shall be reviewed in the UAC to be held in January, 2017.

9. **Proposal of M/s. Icreon Communications Pvt. Ltd. (Unit-II) for Extension of validity of LOA under rule 19(4) of SEZ Rules, 2006:-**

It was informed to the UAC that the LOA of the unit was last extended by the BOA for one year upto 28.02.2016. The unit has stated that they are still waiting for the approval of building plans for their building at Plot No. 96, NSEZ. The unit has also requested for an early sanction of their building plan as their project has been delayed for too long now.

The building plan submitted by the unit was forwarded to Noida Authority on 26.09.2013 by NSEZ along with a clarification dated 28.11.2013. Several reminders dated 28.08.2014, 02.03.2015, 17.04.2015, 28.08.2015, 20.10.2015, 02.11.2015 & 17.12.2015 have been sent to the Chief Architect Planner by NSEZ office and the unit. However, the unit is still awaiting approval of the building plans. This office has taken up the matter with Noida Authority and D.O. letters had been written by the JDC & DC, NSEZ to Chairman, Noida Authority for early approval of building plan pending with Noida Authority.

Sh. A.K. Mishra, Sr. Town Planner & Sh. Mukesh Goyal, Architect, Noida Authority explained that unit has not submitted the requisite documents as per Noida Authority bye-laws. They have provided Check List of Noida Authority Bye-laws.

UAC directed that the checklist provided by Noida Authority be provided to the representative of the unit for early compliance of formalities so that approval of building plan by Noida Authority is expedited. UAC further directed that a meeting may be held by



JDC with representatives of Noida Authority and representative of the units whose proposal for approval of building plan are pending in Noida for expediting the decision.

Further it was informed to the UAC that LOA dated 29/02/2012 issued to the unit is valid upto 28/02/2016 and the unit has requested for further extension. The Committee observed that request of the unit for extension in the validity of LOA for fifth year is not covered under the powers delegated to UAC. In view of the above circumstances of the case, UAC decided to recommend the proposal to BOA for extension of the validity of LOA for one year.

10. Adjudication of Show Cause Notice dated 02/06/2015 & Extension in the validity of LOA issued to M/s. Aksasia Creations Pvt. Ltd. (Unit-II).

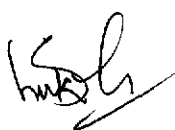
It was informed to the UAC that a Show Cause Notice dated 02.06.2015 was issued to M/s. Aksasia Creations Pvt. Ltd. (Unit-II) for cancellation of LOA on the grounds of failure on the part of unit to implement the project within the validity period of Letter of Approval (LOA), comply with the decision of Approval Committee and non-submission of documents on time.

Sh. Arvind Kumar Singh, Director attended the meeting and he requested to consider their request to extend the validity of the LOA, so that they can start their work immediately by doing some business at the earliest. He submitted that an export of Rs. 60 lacs in 3 months from their IT unit is expected.

After due deliberation UAC decided to extend the LOA upto 02.07.2016 with the direction to start exports activity in both LOA. The progress shall be reviewed after 02.07.2016.

11. Review of compliance with Exit permission by M/s. Bullet International:-

It was informed to the UAC that M/s. Bullet International were issued two LOAs in NSEZ for manufacturing and trading activities. It was further informed that in both LOAs, the units have been granted "in-principle" approval for exit from SEZ scheme on 15/01/2013 and 24/07/2012 respectively. The UAC was further informed that the promoters of M/s. Bullet International have been issued another LOA dated 17/03/2011 in the name of M/s. GSR Industries for manufacturing activities, which is working from



the building of M/s. Bullet International at Plot No. 187-189, NSEZ on sharing basis.

For review of compliance with Exit formalities by the unit, the matter was heard by the UAC in its meeting held on 06.01.2016. In the said meeting Shri Prakash Sinha, authorized representative of the unit had appeared on behalf of the company who was directed by UAC to submit detailed future plan and proposal in respect of M/s. Bullet International and M/s. GSR Industries. Accordingly, the matter was deferred for the next meeting of UAC. The decision of UAC was conveyed to the unit on 14/01/2016. However, reply of unit is still awaited. Also despite suitable communication to them, no one from the unit appeared for the meeting.

In view of above, after due deliberation, UAC decided to grant one more opportunity to the unit of being heard. It was further directed that a communication may be sent to the unit and the promoters separately through registered/speed post with a request to ensure their presence in the next UAC, failing which the case will be decided on the basis of records available in this office. Accordingly the case was deferred for next meeting of UAC.

12. Review of Authorized Operations of M/s. Morgan Tectronics Ltd. in the wake of number of reports about contravention of provisions of SEZ Act, 2005, SEZ Rules 2006, Conditions of LOA and conditions of Bond-cum-LUT.

1. The UAC in its meeting held on 06/01/2016 had reviewed Authorized Operations of M/s. Morgan Tectronics Ltd. in the wake of number of reports about contravention of provisions of SEZ Act, 2005, SEZ Rules 2006, Conditions of LOA and conditions of Bond-cum-LUT.

2. The UAC was further informed that the unit has been granted permission vide letter No.3/18/90-Proj/Vol.IV/4119 dated 30.06.2003 to undertake following activities for manufacture/Trading:-

- 1. Consumer Electronic Hardware items.
- 2. Loader with Lens for VCD player
- 3. Trading activities.

Unit at present has not been doing manufacturing and undertaking mainly trading activities. As would be evident from the following table prepared on the basis of APRs provided by the unit from the year 2003-04:

	Export		Import	(Rs. In Lakhs)
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(Minutes of Meeting of Approval Committee of Noida SEZ held on 10/02/2016)

Year	GCA (i)	RPA (ii)	Under Rule 53A (a to o) (iii)	(i+ii+iii)	DTA Sales	Capital Goods	Raw mat.	Oth Outflow	NFE	Pending FE
2003-04	236.00	0.00	0.00	236.00	0.00	0.00	203.00	0.00	32.00	0.00
2004-05	78.00	0.00	0.00	78.00	0.00	0.00	106.00	0.00	-29.00	0.00
2005-06	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2006-07	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2007-08	0.00	0.00	604.05	604.05	0.00	0.00	258.19	0.00	345.86	0.00
2008-09	0.00	0.00	598.20	598.20	0.00	0.00	300.09	0.00	298.11	0.00
2009-10	0.00	0.00	836.87	836.87	0.00	0.00	609.90	0.00	226.97	0.00
2010-11	0.00	0.00	1361.18	1361.18	0.00	0.00	953.26	0.00	407.92	0.00
2011-12	0.00	0.00	475.68	475.68	0.00	0.00	405.64	0.00	70.04	0.00
2012-13	1001.36	0.00	104.96	1106.32	0.00	0.00	118.30	0.00	988.02	0.00
2013-14	1.22	0.00	6144.46	6145.68	0.00	0.00	5607.40	0.00	538.28	0.00
2014-15	11.08	0.00	4850.97	4862.05	0.00	0.00	4649.81	0.00	212.24	0.00
Total	1327.66	0.00	14976.37	16304.03	0.00	0.00	13211.59	0.00	3090.44	0.00

3. UAC in its earlier meeting held on 06/01/2016 was also informed that a letter dated 23/10/2015 from Asstt. Commissioner (SIIB) addressed to the Specified Officer (Customs), NSEZ Noida was received mentioning that on a specific intelligence that an NSEZ unit would be attempting to mis-declare the goods for clearance from Noida SEZ, a watch was kept on the movement of goods imported in the name of Morgan Tectronics Ltd., G-6A, SDF, NSEZ, Noida. In the said letter, the Asstt. Commissioner (SIIB) had inter alia made the following observations:

"It was observed that the Morgan had filed Bill of Entry No. NEZ0008568 dated 05/10/2015 for which the goods arrived at ACC import, New Delhi for onward transfer to NSEZ under Custom Squad. Preventive check was applied in respect of the consignment. Examination of consignment covered under NSEZ bill of Entry No. NEZ0008568 dated 05/10/2015 was conducted in the presence of the importer Shri Pramod Vijay Khullar of M/s. Morgan Tectronics Ltd. and two independent witnesses and also in the company of Shri Padam Chand Agarwal, Preventive Officer (Customs), NSEZ. Upon examination it was found that the shipment was consisting of mobile phones of HTC brand model desire 820G+(592 pieces), ZTE Brand model Star1 (1400 pieces) and V 811W (2000 pieces). It was found that the importer had not declared the brand HTC in the NSEZ bill of entry. The R.S.P. of the said mobile phones was also not declared whereas R.S.P. stickers reflecting the R.S.P. of Rs. 20900 for



HTC Desire 820G+, Rs.1000/- for both the ZTE brand phones were found affixed. Further, in respect of the HTC Desire 820G+ mobile phones, name and address of the importer was mentioned as M/s. MPS Telecom Pvt. Ltd., D-55, 1st and 2nd floor, Okhla Industrial Area, Phase-I, New Delhi-110020. The import price of all the mobile phones was declared at USD 16 per piece. Since the declared price of USD 16 per piece did not appear to be representing the correct value of goods under import especially in respect of HTC Brand mobile phones, where the R.S.P. stickers suggested the retail sale price as Rs. 20,900/- and also the mobile phones were declared as Chinese mobile phones. Whereas the brand HTC had not been declared by the importer, it appear to be a case of mis-declaration of Brand, description and value of and accordingly the said consignment with a declared value of Rs. 42,67,384/- was seized under section 110 of Customs Act 1962. Three sealed samples were also drawn for market enquiry and to determine the appropriate value of goods under import.

It was further found that the importer M/s. Morgan Tectronics Ltd. had filed two more bills of entry No. NSEZ0008527 dated 03/10/2015 and NSEZ 0008457 dated 30/09/2015 at NSEZ. Suspecting a mis-declaration these two bills of entry as well preventive check was applied SIIB, ACC import in respect of these two consignment and the examination of goods was also conducted by the officers of SIIB, ACC Import in the company of the officer from NSEZ where upon examination of goods declared in NSEZ bill of entry No. 0008527 dated 30/10/2015 were found mis-declared in as much as the importer had declared 13000 sets of mobile phones, plastic front cover fitted with mounted PCB with earphone, Jack, Camera, Plastic front cover with LCD Screen and keypad component for bar phone (Chinese model No. C2829, S800, SP5406, C130). However, upon examination 17300 sets of mobile phones in complete assembled form, except back cover and battery of various brands were found.

With reference to NSEZ Bill of entry No. 0008457 dated 30/09/2015, it was found that the importer had declared therein the parts of mobile phones (battery of 1000MAh lithium), Data cable, back cover, charger with lid, earphone, user manual, model No. K-9, MMX 344, C2829, 229, T6, T7(9000 pieces) and part of Chinese mobile phones packing box, whereas upon examination, the goods found were 9000 sets of plastic back covers of mobile phones with headphones, charger, user manual and each set of these items were found packed individually ready to sell packing box of mobile phone of different brands viz. Micromax, Karbonn, Telego and MTS. Further for the battery declared as 1000MAh (9000pieces), 9000 Batteries of different specifications viz. 4000mAh, 1400mAh, 1800mAh and 1000mAh were found. Both these consignments of declared assessable value of Rs. 34,74,198/- and Rs. 9,99,555/- respectively were also seized.



Statement of Shri Pramod Vijay Khullar, Director of M/s. Morgan Tectronics Ltd. was recorded on 16/10/2015 under section 108 of Customs Act 1962, where he admitted the mis-declaration of the goods covered under all three NSEZ Bills of Entry. However, he has stated that the extra goods had been sent by the supplier without his knowledge. The importer has deposited an amount of Rs. 50 Lakhs (Rs. 35 Lakh vide challan No. 730468 dated 20/10/2015 and Rs. 15Lakhs vide challan No. 730467 dated 20/10/2015 towards his duty/penalty/fine liability emerging as the outcome of investigation. He also requested to decide the matter on merits and stated that he did not want any Show Cause Notice or personal hearing."

4. In view of the above facts, UAC in its meeting held on 06/01/2016 had discussed that in view of the gravity of violations mentioned above and in view of the fact that the unit has admitted mis-declaration and paid the duty/penalty/fine amounting to Rs. 50 Lakhs, a Show Cause Notice under Section 16(1) of the SEZ Act, 2005 may be issued calling upon the unit to explain 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 and as to why penalty should not be imposed on the unit in terms of Rule 54 of SEZ Rules, 2006 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992.

5. Accordingly vide letter No. 03/18/90-Proj/430 dated 14/01/2016 in exercise of the powers vested with the Unit Approval Committee under Section 16 of SEZ Act, 2005 and the powers vested with the Development Commissioner under Section 13 of Foreign Trade (Development & Regulation) Act, 1992, as mentioned in Gazette Notification No. 20 (RE-2013)/2009-2014 dated the 13th June, 2013, M/s. Morgan Tectronics Ltd. was called upon to explain within 21 days from the date of issue of the said letter, as to why the Letter of Approval granted to them should not be cancelled under the provisions of Section 16 of SEZ Act, 2005 and Rules made thereunder and as to why penalty should not be imposed on them under Section 11 of Foreign Trade (Development & Regulation) Act, 1992 for persistently contravening the provisions of SEZ Act, 2005 & Rules made thereunder and terms & conditions of LOA/ Bond-cum-LUT.

6. The Firm was requested to submit its written reply along with the corroborative evidence in support of their explanation/defence within 21 days from the date of issue of the above letter and also to appear for Personal Hearing before UAC in its next meeting scheduled to be held on 10th February 2016.

7. The Firm in response to above letter submitted detailed reply vide letter dated 04/02/2016 and also Shri P V Khullar, Director of the Firm appeared for personal hearing before the UAC in its meeting on 10/02/2016 at 3:00 PM. He explained his stand. UAC also examined in detail the written submissions of the Firm as well as the submissions made by Shri Khullar during personal hearing.

8. UAC specifically asked Shri Khullar the following:-



- i) Whether in respect of Bill of Entry No. NSEZ0008527 dated 03/10/2015 the unit had declared 13000 sets of mobile phones, plastic front cover fitted with mounted PCB with earphone, Jack, Camera, Plastic front cover with LCD Screen and keypad component for bar phone (Chinese model No. C2829, S800, SP5406, C130)? However, on actual examination 17300 sets of mobile phones in complete assembled form, except back cover and battery of various brands were found. Shri Khullar admitted that instead of declared 13000 sets of mobile phones, 17300 mobile phones were found.
- ii) UAC specifically asked Shri Khullar whether in respect of Bill of Entry No. NEZ0008568 dated 05/10/2015, though the bill of entry was filed by M/s. Morgan Tectronics Ltd. however actual consignment against this bill of entry was in the name of M/s. MPS Telecom Pvt. Ltd., D-55, 1st and 2nd floor, Okhla Industrial Area, Phase-I, New Delhi-110020? He admitted that the name and address of the importer was M/s. MPS Telecom Pvt. Ltd.
- iii) Shri Khullar was specifically asked whether in respect of Bill of Entry No. NEZ0008568 dated 05/10/2015, the import price of the mobile phones was declared at USD 16 per piece whereas in the stickers put on the mobile phones of HTC Desire 820G+ brand was indicated as Rs. 20,900/-. He admitted this fact as well.

9. Shri Pramod Vijay Khullar, Director of M/s. Morgan Tectronics Ltd. informed to UAC that he had deposited an amount of Rs. 50 Lakhs (Rs. 35 Lakh vide challan No. 730468 dated 20/10/2015 and Rs. 15Lakhs vide challan No. 730467 dated 20/10/2015 towards his duty/penalty/fine liability emerging as the outcome of investigation. He also admitted to the fact that he had requested SIIB to decide the matter on merits and stated that he did not want any Show Cause Notice or personal hearing. Payment of Rs. 50 Lakhs on account of duty differential etc. also conclusively establishes gross mis-declaration on account of quantity and value."

10. The Committee on the basis of the above 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 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 Brach (SIIB) to decide the matter on merits and stated that he did not want any Show Cause



Notice or personal hearing.

11. 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.

12. In the light of above observations/conclusions, the UAC decided as under:

- i) 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.
- ii) NFE will be calculated as per SEZ Rules and in case unit has failed to achieve positive NFE suitable action in terms of Rule 54 of SEZ Rules, 2006 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992 may be taken.
- iii) The unit shall complete exit formalities under Rule 74 of SEZ Rules, 2006.
- iv) The above actions would be without prejudice to any other action under any other law.

The unit, if aggrieved by this order of UAC may, under Rule 55 of the SEZ Rules, 2006, file an appeal against the decision of UAC 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.

13. Appeal of M/s. Indo Widecom International Ltd. against the decision of UAC dated 17/10/2014 for cancellation of LOA - case remanded back by the BOA.

It was informed that against cancellation of LOA by UAC, M/s Indo Widecom International Ltd. has preferred an appeal before BOA. The said appeal was heard by BOA on 27/08/2015. Shri Manpreet Sood, Advocate appeared in the said meeting and pleaded the case on behalf of the appellant. The BOA had noted that the Unit has been lying non-functional since 2009-10. The LOA has expired on 30.04.2013. During last five years block, unit has made export of Rs. 1.02 Lacs and achieved NFE of Rs. 12000/- only upto 31.3.2012. The unit has not submitted APRs on time. Lease rent of Rs.18,27,758/- is outstanding against the Unit as on 5th November, 2012. In addition, the unit has not submitted rectified Bond-Cum-Legal-Undertaking and thus non-compliance of terms of LOA/SEZ Act/Rules. After deliberating on the facts mentioned above, the BOA had reverted the appeal to DC, NSEZ for verifying the contentions of the appellant from



official records and decide the appeal accordingly.

It was further informed to the UAC that in view of the above decision of the BOA, the matter was placed before the UAC in its meeting held on 06/01/2016. The promoters were informed through the email to attend the meeting. However, no one from the unit appeared for the meeting. The Committee decided to grant one last opportunity of being heard. It was decided that a communication may be sent to the unit through *registered/speed post as well to ensure their presence in the next UAC which meets on 1st Wednesday of every month. Case was deferred for next UAC. Accordingly, this office had issued a letter dated 20/01/2016 along with an email to all available addresses of unit to ensure their presence before the UAC in its meeting scheduled to be held on 10/02/2016*

Sh. Parminder Singh Bhullar, Advocate appeared on behalf of the unit and he requested that they are willing to re-start their export activity from the zone and requested to allot a small premises of 500 to 700 sq. ft. He also requested that order dt. 07.01.2015 be set aside and the inventory list in respect of goods at SDF D-7(A), NSEZ be provided to them. He further requested to provide a statement of rent dues since inception for reconciliation purpose.

After due deliberation, UAC decided that request for further renewal of LOA will be examined if they clear the entire outstanding lease rent first. It was informed that as per the present information the rent of Rs. 18,27,758/- is due which the unit must clear in the first instance before their request for renewal of LOA is taken up for consideration. Shri Bhullar requested that exact amount due to be paid may be provided to them. Accordingly UAC 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.

14. Monitoring of performance and request for extension of sharing permission to M/s Bikram Exports at Plot No. 129 G/51 & 52 with M/s B. S. Bikram Overseas.

It was informed to the UAC that M/s. Bikram Exports was granted sharing permission with M/s B.S. Bikram Overseas at Plot No. 129 G/51 & 52, NSEZ on 20.04.2010 which was valid upto 31.12.2015. Now unit has applied for extension of sharing permission



beyond 31.12.2015 for further period of one year.

It was observed that main unit namely M/s B.S. Bikram Overseas (Allottee) is not doing any export activity from the said premises since F.Y. 2011-12.

Sh. Shiv Bahadur appeared on behalf of the unit but he could not explain the reason for not doing any activity by M/s B.S. Bikram Overseas.

UAC noted that the said person was not conversant with the facts of the case. Accordingly it was decided to defer the case with the direction to ensure the presence of the Director/partner in the next meeting of UAC.

SUPPLEMENTARY AGENDA:

With the approval of Chair, following matters were placed before the Committee:

1. **Sugandhi Snuff King Pvt. Ltd. - Setting up a new unit in NSEZ.**
No one on the behalf of the applicant attended the meeting to explain the proposal and accordingly UAC decided to defer the proposal, to next meeting with the direction to remind the applicant to remove deficiencies in their applications already intimated to them.
2. **Jassal Impex Pvt. Ltd. - Setting up a new unit in NSEZ.**
No one on the behalf of the applicant attended the meeting to explain the proposal and accordingly UAC decided to defer the proposal, to next meeting with the direction to remind the applicant to remove deficiencies in their applications already intimated to them.
3. **Complete Surveying Technologies Pvt. Ltd. - Setting up a new unit in NSEZ for Table Tennis related products.**
M/s. Complete Surveying Technologies Pvt. Ltd. has submitted application for setting up another unit in Noida SEZ for Manufacturing & Export of Articles and equipments for Table Tennis and accessories/spares thereof.
Maj. Vishwani Puri, President and Sh. Lokesh Kumar, General Manager attended the meeting and explained the proposal in detail. Maj. Puri further informed that initially



	<p>they shall accommodate the proposed unit in the existing building and in future if need be they shall apply for allotment of SDF.</p> <p>After due deliberation UAC approved the proposal of the unit for setting up a new unit in NSEZ for Table Tennis related products subject to the submission of remaining documents. It was also informed to the unit that as per decision of NSEZA sharing of space in the existing building will be allowed only upto 25% of the total built up area.</p>
4.	<p>Complete Surveying Technologies Pvt. Ltd. - Setting up a new unit in NSEZ for Metal Detector.</p> <p>It was informed to UAC that M/s. Complete Surveying Technologies Pvt. Ltd. has submitted application for setting up another unit in Noida SEZ for Manufacturing & Export of Metal Detector (Magnetic Locator) and Spares/parts of thereof.</p> <p>Maj. Vishwani Puri, President and Sh. Lokesh Kumar, General Manager attended the meeting and explained the proposal in detail. Maj. Puri further informed that initially they shall accommodate the proposed unit in the existing building and in future if need be they shall apply for allotment of SDF</p> <p>After due deliberations, UAC approved the proposal of the unit for setting up a new unit in NSEZ for Metal Detector related products subject to the submission of remaining documents. It was also informed to the unit that as per decision of NSEZA sharing of space is allowed upto 25% of the total built-up area.</p>
5.	<p>Atlanta Systems Pvt. Ltd. - Setting up a new unit in NSEZ</p> <p>No one on the behalf of the applicant attended the meeting to explain the proposal and accordingly UAC decided to defer the proposal, to next meeting with the direction to remind the applicant to remove deficiencies in their applications already intimated to them.</p>
6.	<p>Aar Ess Exim Pvt. Ltd. - Setting up a new unit in NSEZ.</p> <p>M/s. Aar Ess Exim Pvt. Ltd. has submitted application for setting up another unit in Noida SEZ for Manufacturing & Export of Plant & Machinery (Mechanical & Electrical) (as given in project report).</p>



Shri Rajendra Mishra, Director attended the meeting and explained the proposal in detail. Shri Mishra informed that they are already running one unit at NSEZ in the same name and currently doing fabrication work for Cement/Steel Industry.

After due deliberations, UAC approved the proposal of the unit for setting up a new unit in NSEZ for Manufacturing & Export of Plant & Machinery (Mechanical & Electrical) (as given in project report) subject to the submission of rectification of deficiencies as observed in their application & already conveyed to them.

7. **Sequel Alloys & Wires Pvt. Ltd. - LOA Amendment**

It was informed to the UAC that M/s. Sequel Alloys & Wires Pvt. Ltd. has requested for inclusion of additional items i.e. **Pasteurization and Packaging of Raw Milk** as authorized operations in LOA.

Shri Asit Kumar, Director appeared on behalf of the unit and informed that India is second largest milk producer in the world. He also informed that there is a very large demand and supply gap for organic milk and there are countries in the neighbourhood of India which have almost zero organic milk production. He further informed that their geographical location gives an edge as it is strategically located to serve South-East Asia, Africa, Middle East and SAARC nations. He also informed that they are looking at optimum utilization of resources that includes land and building, testing equipment, heat treating equipment, chilling machine, cooling tower, electronic weighing balances, manpower, utilities (water, power back-up, digisets), packaging and labeling and in-house inspection. He stressed that majority of the processes in their existing authorized operations would be common to new operation proposed to be undertaken.

Shri Kumar stated that they will procure milk from DTA and do the pasteurization & packing of milk in their unit. He further informed that initially they are going to sell their product into DTA to Embassies and afterwards will go for export. He informed that it will take around 45-50 days for them to commence export activities.

UAC, after due deliberations, approved the proposal for inclusion of Pasteurization and Packaging of Raw Milk subject to submission of separate projections for additional operations and to the condition that unit will obtain necessary permission from all concerned departments and will do 50% physical export.



8. Alcome Perfumes & Cosmetics Pvt. Ltd. – Renewal of LOA

It was informed to the UAC that LOA of the unit was renewed for one year upto 15/07/2015 keeping in view the pending matters with SIDBI. It was further informed to the UAC that unit has currently no space for working in NSEZ, as SIDBI had already taken over the assets of company at Plot No. 59-J(A), NSEZ..

Shri Hansraj Manghani, Director appeared on behalf of the unit. He informed that they have been able to finally do a “One Time Settlement” with SIDBI for the payment of dues for Rs. 5.50 Crores. He further informed that they have submitted a DD of Rs. 8,33, 658/- in respect of the outstanding lease rent against Plot No. 59-J(A), NSEZ and requested to renew their LOA. He informed that they are in process of getting the Plot from SIDBI.


Shri Manghani further informed that they are making exports to leading stores worldwide namely Walmart, Big Lots, Rainbow, Dollar General etc. He also stated that they have invested in International technology with Automated plant & machines from Italy. He further informed that they are expected to make an investment of Rs. 7-8 Crores as working capital through Assets restructuring Company with an export turnover of Rs. 50 Crores during the extended period.

After due deliberations, the UAC decided to approve renewal of LOA in-principle for one year from the date of UAC subject to submission of NOC from SIDBI.

9. Northern Petroleum Co. - Proposal for exit and transfer of assets at plot No. 68AA to M/s. Sahasra Electronics Pvt. Ltd.

It was informed that the UAC in its meeting held on 17/10/2015 approved the proposal for transfer of assets of M/s. Northern Petroleum Co. in favour of M/s Sahasra Electronics Pvt. Ltd., subject to fulfilment of exit formalities by M/s. Northern Petroleum Co.; payment of applicable transfer charges and submission of an undertaking by incoming entrepreneur regarding taking over the assets & liabilities of existing unit.

Shri Amrit Manwani, Proprietor of the unit attended the meeting. It was informed to him that the LOA of unit was not valid as on date of UAC dated 17/10/2014 in which the proposal for change of entrepreneur (by way of transfer of assets) was approved. Hence, as per Rule 74A of SEZ Rules, 2006 their proposal for transfer of assets cannot be



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considered. It was further informed to him that in case the unit wants to continue its operations in NSEZ, their LOA & lease of land will be renewed.

Shri Manwani agreed to that and requested to diversify the authorized operations for manufacturing & export of PCB, assembly etc.

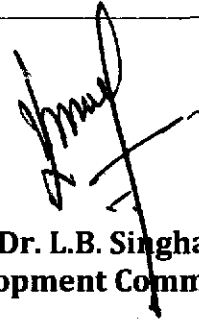
Aftre due deliberations, UAC deferred the matter for its next meeting and directed the unit to submit their detailed proposal for diversification of authorized operations along with projections for next five years for consideration.

Meeting ended with thanks to the Chair.



(S.S. Shukla)

Jt Development Commissioner



(Dr. L.B. Singhal)

Development Commissioner