

Minutes of the 121st Unit Approval Committee Meeting of Kandla SEZ held on 13.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

Following were present:

1. Shri. Lalit P. Jain : Additional Commissioner of Income Tax, Gandhidham.
2. Shri. Rajesh Kumar : Joint Development Commissioner(I/C), KASEZ.
3. Shri. S. C. Sahoo : Assistant Commissioner, Customs, Kandla, Gandhidham-Representative of Commissioner of Customs Kandla.
4. Shri. P. C. Ravindran : Assistant DGFT, Rep. of Jt. DGFT, Rajkot.
5. Shri. Jaykumar S. Shah : Manager, DIC, Bhuj.
6. Shri. R. H. Jivani & Shri R. J. Acharya : Representatives of GPCB, Gandhidham.

Absentees:-

1. Director (Banking)
2. SDM

Review/Confirmation of the minutes of last meeting (120th UAC) of the Approval Committee: -

Minutes of the last meeting of Approval Committee was confirmed.

Minutes of the 121st Unit Approval Committee Meeting of Kandla SEZ held on 13.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

121.1 MISCELLANEOUS ITEMS

AGENDA ITEM NO. 121.1.1

Intimation regarding change in constitution from partnership to proprietorship and change in name of the company from M/s Link International to M/s Link Enterprises.

M/s. Link International has been granted approval for the following activity vide LoA No. KASEZ/IA/31/2007-08 dated 16.10.2007, as amended from time to time.

Sl. No.	Activity	Items
1	Manufacturing	Plastic Injection Molding, Plastic Blow Moulding / Plastic Stretch Moulding (Raw Material – Polypropylene)
2	Trading Activity	Pefumes, Body Spray, Attars, Bakhur, Coal, Burner, Loose Oil, Cosmetics, Furnace Oil, High Speed Diesel Oil (HSD)
3	Warehousing Service Activity	

The said unit has intimated that presently there are two partners viz. Shri Harendra Mohanlal Karia and Shri Mohanlal Mangalji Karia holding 50% shares each. Now one partner i.e. Shri Mohanlal Mangalji Karia is relieved from the partnership due to old age. After retirement of one partner, the existing partner i.e. Shri Harendra Mohanlal Karia will carry-on business as 'Proprietor' in the name of M/s Link Enterprises.

Before the retirement of one partner, they were holding 50% share each, which was taken on the records by this office. Thus, the present proposal involves transfer of 50% share in favour of another partner and conversion of partnership firm into proprietorship firm.

The BoA in its 69th meeting held on 23.02.2016 has decided that such cases involving change in shareholding upto 50% can be considered by the UAC under Rule 19(2) of SEZ Rule, 2006.



Minutes of the 121st Unit Approval Committee Meeting of Kandla SEZ held on 13.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

The Committee noted that the change in shareholding pattern is 50%. Therefore, the Approval Committee after due deliberation decided to approve the proposal of change in constitution of the firm from partnership to proprietorship and consequently change in share of 50% of the firm and also change in name of the firm from M/s. Link International to M/s. Link Enterprises subject to following conditions: -

1. Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered unit entity.
2. Fulfillment of all eligibility criteria applicable to unit, including security clearances etc. by the altered unit entity and its constituents.
3. Applicability of and compliance with all Revenue/Company Affairs/SEBI etc. rules which regulate issues like capital gains, equity change, transfer, taxability etc.
4. Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member(IT), CBDT, Department of Revenue and to the Jurisdictional Authority.
5. The Assessing Officer shall have the right to assess the taxability of the gain/loss arising out of the transfer of equity or merger, demerger, amalgamation, transfer and ownerships etc as may be applicable and eligibility for deduction under relevant sections of the Income Tax Act, 1961.
6. The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.

Minutes of the 121st Unit Approval Committee Meeting of Kandla SEZ held on 13.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

7. The unit shall furnish details of PAN and jurisdictional assessing officer of the unit to CBDT.

AGENDA ITEM NO. 121.1.2

Request of M/s Keval Exports, Kandla SEZ for Broadbanding of their LoP for addition of Wheat Flour in their manufacturing activity.

M/s Keval Export has been granted approval vide letter F.No. KASEZ/IA/043/2007-08/1665-67 dated 09.05.2008 for manufacturing activity of Micro Crystalline Cellulose Powder.

The said unit has now requested for addition of Wheat Flour in Starch, ITC (HS) code – 11081100 for addition in their existing LoA.

Shri. Kamlesh Patel, Proprietor of the unit appeared before the Approval Committee and explained their proposal.

Shri Patel explained that they will procure wheat grain from local DTA market and will do blending with mixing and after packing the finished goods wheat flour in starch, the same will be exported which will be used in pharma, ice cream, shrikhand, bakery items, etc.

The Approval Committee after due deliberation noted that Wheat is a sensitive consumer item concerning the mass population of India and that its policy of import/export is of the nature of frequent changes. Therefore, after due deliberation the Committee decided to reject the proposal.

AGENDA ITEM NO. 121.1.3

Request of M/s Texool Spinners, Kandla SEZ for allowing them DTA clearance of rejects i.e. wipers.

M/s Texool Spinners, Kandla SEZ were issued with LoA under F.No.KASEZ/IA/010/2004-05 dated 22.06.2004 for **Manufacturing of Woolen and Synthetic Yarn.**

Minutes of the 121st Unit Approval Committee Meeting of Kandla SEZ held on 13.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

This office has vide its letter dated 30.11.2017 directed all the units, dealing with processing of worn and used clothing, to physically export, all their goods as per MoCI Policy condition No. (iv) issued vide F.No: D.6/35/2012-SEZ dated 17.09.2013 making these units ineligible to make any DTA clearance with effect from 01.12.2017 i.e start of 5th year of operation.

M/s Texool Spinners vide their letter dated 03.12.2017, have informed that they are not a part of the "*WORN and USED CLOTHING UNITS*" and are in fact classified as "*MANUFACTURING UNIT, ENGAGED IN SPINNING OF YARN*" and are permitted to clear to the DTA, all rejects and manufacturing unit and have requested for issuing suitable instruction, as necessary to ensure clearance of wipers into DTA.

The Approval Committee after due deliberation noted that the policy dated 17.09.2013 is applicable to this unit also as the activity of the said unit is akin to similar other worn clothing units except they are not allowed to directly import of the worn clothing rather M/s. Texool Spinners are permitted to cater to their requirement of raw material from other worn clothing units on intra-zone purchase basis. The Committee also noted that the unit source their entire procurement of raw materials by way of intra zone purchases of worn clothing from other worn clothing recycling units, imported from outside India, of Zone units and that such intra zone purchases are covered in the definition of import under Section 2(o) of SEZ Act, 2005. Further activity of the unit is nothing but reprocessing of worn & used clothings in terms of Rule 18(4)(c) of SEZ Rules, 2006. Therefore, the Approval Committee decided that the conditions of Policy Circular dated 17.09.2013 shall be squarely applicable to this unit as well and accordingly rejected the unit's proposal.

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Minutes of the 121st Unit Approval Committee Meeting of Kandla SEZ held on 13.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

AGENDA ITEM NO. 121.1.4

Monitoring of policy for units carrying out recycling of plastic scrap or waste circulated by Ministry of Commerce and Industry, Department of Commerce vide their letter C.6/10/2009-SEZ dated 17.09.2013.

The Ministry of Commerce and Industry, Department of Commerce vide their letter No. C.6/10/2009-SEZ dated 17.09.2013 has issued policy for units carrying out recycling of plastic scrap or waste in SEZ's. As per the said policy conditions each such units has to achieve a minimum physical export obligation of not less than 40% of the total annual turnover at the end of 2nd year.

The Monitoring of Policy for plastic scrap recycling units of KASEZ were undertaken in the 92th UAC meeting held on 19.02.2016 and also in 98th UAC meeting held on 21.06.2016 wherein it was decided to issue SCNs to plastic recycling units for non achieving 40% physical export of total turnover at the end of 2nd year and DC's office has issued SCNs to 20 units who have failed to achieve minimum physical exports condition of 40% at the end of 2nd year as stipulated in Policy dated 17.09.2013. However, the review of two units viz. M/s. Rudraksh Plastics Pvt. Ltd. and M/s. R. R. Vibrant Polymers Ltd. (unit is yet to complete two years of operation) could not be undertaken.

The Approval Committee noted that the Govt. policy dated 17.09.2013 is quashed by the single bench judge of Hon'ble High Court at Ahmedabad and department has filed appeal against the said order by way of Letters Patent Appeal (LPAs) before Divisional Bench of Hon'ble High Court at Ahmedabad and that the said LPAs are currently scheduled for hearing on 21st Dec. 2017 and the status is sub-judice. M/s. Rudraksh Plastics Pvt. Ltd. have not made any physical exports at the end of 2nd year whereas they have to make exports of 40%. However, since the policy has been quashed by the single judge and the LPAs filed by DC office are still pending before

Minutes of the 121st Unit Approval Committee Meeting of Kandla SEZ held on 13.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

Divisional Bench of Hon'ble High Court at Ahmedabad. Therefore, the Approval Committee decided not to take any action till the LPAs are finalised or till any other directions or interim order are passed by the Hon'ble High Court at Ahmedabad.

AGENDA ITEM NO. 121.1.5

Monitoring of policy to regulate functioning of Worn & Used clothing units in SEZ circulated by Ministry of Commerce and Industry, Department of Commerce vide their letter D.6/35/2012-SEZ dated 17.09.2013.

The Ministry of Commerce and Industry, Department of Commerce vide their letter No. D.6/35/2012-SEZ dated 17.09.2013 issued policy regarding functioning of Worn & Used clothing units in SEZ's. As per the said policy conditions each such units has to achieve a minimum physical export obligation of not less than 40% of the total annual turnover at the end of 2nd year.

The UAC in its 92nd Meeting held on 19-02-2016 have monitored the policy for worn & used clothing units. The Committee noted that the 13 units have met the condition of achieving 40% of export at the end of two years. However, the review of remaining three units viz. M/s Kandla Exim P. Ltd. (earlier known as M/s Jindal International), KASEZ, M/s Safari Fine Clothing Pvt. Ltd. & M/s Lotus Recyclers (earlier known as M/s Texool Wastesavers) could not be undertaken.

In the meanwhile, the above policy was challenged by worn & used clothing units of KASEZ in the Hon'ble High Court of Gujarat and the High Court of Gujarat vide single Judge order dated 14.02.2017 quashed the above policy dated 17.09.2013 on the ground that the said policy is not in consonance with SEZ Act and Rules. However, the Department filed LPA before Hon'ble High Court Bench and the said order of Hon'ble single Judge

Minutes of the 121st Unit Approval Committee Meeting of Kandla SEZ held on 13.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

dated 14.02.2017 is currently stayed vide its order dated 01.05.2017 and the said LPA is pending before the said Bench for final decision.

The Approval Committee observed that two units viz. M/s Safari Fine Clothing Pvt. Ltd. & M/s Lotus Recyclers have achieved the condition of 40% physical export of total annual turnover at the end of 2nd year. Whereas, M/s Kandla Exim P. Ltd. (earlier known as M/s Jindal International), KASEZ have not achieved the said condition of 40% physical export of total annual turnover at the end of 2nd year.

The Approval Committee after due deliberation decided that as order of the single HC Judge has been stayed by the Hon'ble High Court Bench and that it can be legally and technically stated that the original policy as it exists is in force and therefore all units are legally duty-bound to comply with that policy. Therefore, Committee decided to issue Show Cause Notice to M/s. Kandla Exim P. Ltd. for not achieving the condition of 40% physical export at the end of 2nd year. However, the Approval Committee directed the DC office not to finalise the adjudication process till the LPAs are finalised or till any other directions are received from the Hon'ble High Court at Ahmedabad as the matter is still sub-judice.

AGENDA ITEM NO. 121.1.6
Ratification issues.

(1) Broad banding for addition of additional items in Trading Activity in Letter Of Approval.

The Approval Committee ratified the permission granted by the Development Commissioner, KASEZ to M/s Gokul Overseas, KASEZ for broad banding and addition of Sebacic Acid in their trading activity in existing LoA.



Minutes of the 121st Unit Approval Committee Meeting of Kandla SEZ held on 13.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

(2) Ratification of decision of adjudicating authority in respect of 3 plastic recycling units for non-achievement of positive NFE.

The Approval Committee ratified the stand taken by the adjudicating authority in adjudication proceedings against the 3 plastic recycling units, which were earlier found to be NFE negative as per decision taken in 50th UAC meeting held on 27.01.2012 to NFE positive due to non-inclusion of trading performance during the said period.

The meeting ended with vote of thanks of the chair.



(UPENDRA VASISHTH)
Development Commissioner