

Minutes of the 122<sup>nd</sup> Unit Approval Committee Meeting of Kandla SEZ held on 28.12.2017 at 12:00 hrs. under the Chairmanship of Shri Upendra Vasishth, Development Commissioner, Kandla Special Economic Zone.

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**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.

**Absentees:-**

1. Director (Banking)
2. SDM
3. DIC

**Review/Confirmation of the minutes of last meeting (121<sup>st</sup> UAC) of the Approval Committee: -**

Minutes of the last meeting of Approval Committee was confirmed.

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## **122.1 NEW UNIT APPLICATION**

### **AGENDA ITEM NO. 122.1.1**

#### **Application for setting up a Trading unit in KASEZ by M/s. FIVE CORE ELECTRONICS LIMITED, WZ-15B, UGGERSAIN MARKET, ASHOK NAGAR, NEW DELHI**

Their proposal is for setting up of a Trading unit in Kandla Special Economic Zone.

Shri Amarjit Singh Kalra, Director of the company appeared before the Approval Committee and explained the proposal.

Shri Kalra informed that they are already in the business of manufacturing and trading of electronic products like Public Address Systems, Car Speakers, Woofers, Amplifiers, headphones, etc. since last 15 years and are exporting 85% of their products and 15% products are sold in DTA. Their exports during last financial year were to the tune of Rs. 170 crores and are exporting their products worldwide. The brand name of their products is 5 Core. He further informed that to start with they intend to set up a trading unit in KASEZ for Public Address Systems, Car Speakers, Woofers, Amplifiers, Bass Tubes and Tweeters, Home Theaters, Computer Speakers, Personal Speaker System, Headphones and Earphones and later on they will also start manufacturing activities in KASEZ. They will import the products from China and after branding the same will be exported. He also informed that they do not propose to do any DTA sales of the products they propose for trading activity. He also informed that their group companies total exports during last year is to the tune of Rs. 800 crores and are employing about 1300 persons.

The Committee noted that the unit is already in the business of electronics and they are also in the field of manufacturing of the said item. During interview, they informed that they also intend to go for manufacture of these items. Therefore, they were advised by the Approval Committee to apply separately for manufacturing activity. It was also decided that the next UAC may discuss its proposal for manufacturing activity if the application is received.

Further, the Approval Committee after due deliberation decided to approve the proposal for trading activity subject to standard terms and conditions.

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**AGENDA ITEM NO. 122.1.2**

**Application for setting up of a Manufacturing and Trading unit in KASEZ namely M/s. San Enterprises, Plot No.3, Sector-II, GIDC, Gandhidham, Gujarat.**

Nobody appeared for the personal hearing. Hence, it was decided to defer the proposal.

**122.2 MISCELLANEOUS ITEMS**

**AGENDA ITEM NO. 122.2.1**

**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.**

At present there are 16 worn & used clothing units working in KASEZ. 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.

In reference to said letter dated 17.09.2013 and as per decision taken in the 60<sup>th</sup> BoA meeting held on 08.11.2013, this administration had renewed LoP's of worn & used clothing units of KASEZ for further period of 5 years w.e.f. 01.12.2013 to 30.11.2018.

As per the conditions of the said renewal letters, each unit has to achieve a minimum physical export level prescribed at the end of specified period is as follows :-

PERIOD	Minimum Physical Export Obligation
At the end of 2 <sup>nd</sup> year	Not less than 40% of the total annual turnover
At the end of 4 <sup>th</sup> year	Not less than 80% of the total annual turnover
5th year onwards	100% of the total annual turnover

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The issue was discussed in detail by the Committee. The Committee noted that 3 units have met the condition of achieving 80% of export at the end of fourth year. It is noted that LoA of M/s. Kandla Exim Pvt. Ltd., KASEZ was renewed on 11.06.2014 for the period of 5 years from 01.05.2014 to 30.04.2019, therefore four years period was not completed for the said unit, as on today. The Committee further noted that rest 12 units have not met the condition of achieving 80% of export at the end of fourth 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. Similarly, during the pendency of SCAs filed by Plastic Recycling units before single Judge, it was opined by the ASG that legally issuance of show cause notices cannot be termed as a coercive step in itself and accordingly SCNs were issued to all erring units. Therefore, Committee decided to issue Show Cause Notice to 12 units for not achieving the condition of 80% physical export at the end of 4<sup>th</sup> 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 Gujarat High Court bench as the matter is still sub-judice.

The Development Commissioner informed that as per policy condition dated 17.09.2013, the 4<sup>th</sup> year have been completed on 30.11.2017 and from 5<sup>th</sup> year onwards all the worn & used clothing units are required to achieve 100% physical exports of their annual turnover and are not eligible to make any DTA clearance w.e.f. 01.12.2017 i.e. start of their 5<sup>th</sup> year of operation. Accordingly, DC office vide letter dated 30.11.2017 to all the worn & used clothing units have stopped DTA clearance w.e.f. 01.12.2017. This decision was informed to Ministry of Commerce and no directions from the

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Ministry of Commerce or from the Hon'ble High Court has been received. Therefore, the Committee ratified the action taken by DC office regarding stoppage of DTA clearance and if any directions are received in this regard either from Ministry of Commerce or the Hon'ble Court that directions may be followed.

**AGENDA ITEM NO. 122.2.2**

**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.**

At present there are 22 units carrying out recycling of plastic scrap or waste in KASEZ. The Ministry of Commerce and Industry, Department of Commerce vide their letter No. C.6/10/2009-SEZ dated 17.09.2013 issued policy regarding units carrying out recycling of plastic scrap or waste in SEZ's.

In reference to said letter dated 17.09.2013 and as per decision taken in the 60<sup>th</sup> BoA meeting held on 08.11.2013, this administration had renewed LoP's of the units carrying out recycling of plastic scrap or waste of KASEZ for further period of 5 years w.e.f. 01.12.2013 to 30.11.2018.

As per the conditions of the said renewal letters, each unit has to achieve a minimum physical export level prescribed at the end of specified period is as follows :-

PERIOD	Minimum Physical Export Obligation
At the end of 2 <sup>nd</sup> year	Not less than 40% of the total annual turnover
At the end of 4 <sup>th</sup> year	Not less than 80% of the total annual turnover
5th year onwards	100% of the total annual turnover

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The issue was discussed in detail by the Committee. The Committee observed that none of the plastic recycling units have met the condition of achieving 80% of export at the end of fourth year.

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 but no stay has yet been granted and that the status is sub-judice. 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. 122.2.3**

**Request of M/s. Transworld Furtichem Pvt. Ltd. (Unit-II) for permission of Trading Activity of Technical Grade Urea in their existing Letter of Permission (Trading Division)**

M/s Transworld Furtichem Pvt. Ltd. (Unit-II), KASEZ permission for Urea was withdrawn from their LoA by UAC in its 119<sup>th</sup> meeting held on 04.10.2017 during the ratification of renewal of trading activity as the separate Unit-II. Thereafter, the unit vide letter dated 27.10.2017 requested for permission of trading activity of Technical Grade Urea which was taken up for discussion in 120<sup>th</sup> Unit Approval Committee Meeting held on 02.11.2017 wherein the Unit's representative reiterated their above stands and it was decided to request the representative of Customs to give their opinion based on the practice being followed for import of the said item at Customs, Kandla and other ports of the country.

Accordingly, the representative of Kandla Customs has submitted their opinion vide letter dated 28.11.2017. The Committee has gone through the said report and noted that the report instead of giving details of practice/quantum of import prevalent at various ports of country largely

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dwelt on the import export policy pertaining to the said item and its possible misuse and it was further noted that the policy of import/export of technical/industrial grade urea is already available in the DGFT site and therefore the Committee after due deliberation decided not to concur with the views of the said report.

The Committee noted that the import of all kind of Urea including Technical/Industrial Grade Urea (T/IGU) was in restricted category and a canalised item and however the said item viz. T/IGU was made freely importable subject to actual user condition in April, 2015 and the said user condition was also removed vide DGFT Notification No. 26/2015-2020 dated 09.09.2016. Therefore, the Committee noted that there was no restriction for import of the said item in the prevalent FTP policy as of now. The Committee also perused the recent clarification issued by DGFT vide letter No 01/89/180/102/AM-02/PC-2[A]/Part-III (e 1883) dated 22.12.2017 in the case of M/s Kamdhenu Agrochem Industries regarding non clearance of imported Technical Grade/Industrial Grade Urea by DRI/Customs issued by DGFT wherein it was stated that –

*“in the minutes of the meeting of Ministry of Chemicals and Fertilizers held on 24.11.2017 it was observed that importers of T/IGU pays full customs duties at applicable rates and do not avail any subsidy of any nature. Further importers/actual users used different bags with different red borders for the said T/IGU and that these bags do not have BIS marks on its as 100% production of Urea in the world conforms to product specification as per Fertilizer Grade, not as per BIS and that since T/IGU is raw material, BIS standard may not be applicable on the said item.”*

*It was further clarified in the last para at Sr. No. 3 - as urea is classified based on its end use, the item imported under HS Code 3102 10 00 may be termed as Technical Grade Urea/Industrial Grade Urea subject to*

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*payment of applicable import duty and GST on Technical Grade Urea/Industrial Grade Urea and packaged as per specified norms. Such importer/actual user will not claim any subsidy on the imported item under HS code 3102 10 00.*

Shri Dilip Gadia, Director appeared before the Committee and he further stated that they are operating for manufacturing and trading of said T/IGU from the Zone for last 10 years and that they have unblemished record of import, export and DTA clearance; he further stated that their DTA clearance of the said items are confine to three manufacturing units of EOUs and SEZ manufacturing dyes and intermediates products as raw materials and their fourth customer is a trading unit who further supplies goods to small consumers who are end user of this product consisting of plywood, laminates and dyes industry. He further stated that the import of such items are freely taking place from various EDI ports like JNPT, Hazira, Mundra, etc. and he further submitted that they are already given the samples of EDI Bill of Entry of the said product from the above EDI ports.

The Committee noted that their activities for trading of Urea was already approved in 2007 and they were continuing with this authorised activity and only at the time of renewal in September, 2017, the said item was removed and Committee also noted that their present request of inclusion is not for all kind of Urea but only to T/IGU. The Committee also noted that no misuse or any case was noticed during their operation in last 10 years and there is no issue of any claim of subsidy and their clearance are mainly as raw materials to dyes and intermediate/plywood industry.

The Committee after due deliberation decided to approve the trading of Technical/Industrial Grade Urea in their existing trading activities subject to the condition that their DTA sale consignment shall be packaged as per the specified norms and that such DTA importer/actual user shall not claim any subsidy on the said imported T/IGU.



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**AGENDA ITEM NO. 122.2.4**

**Request of the unit M/s Palmon Exports regarding incorporation of reconditioning of used computers, monitors electrical and manufacturing of electronic equipment.**

M/s Palmon Exports, KASEZ is an approved unit vide LoA No. KFTZ/Admn./2/858/80/Vol.II/1098 dated 28-05-2001, as amended from time to time, for manufacturing activity of all types of ready-made garments and made-ups and trading activity of the various items. The validity of their LoA is upto 31-10-2020.

The Committee perused the request of the unit made by them vide email dated 18.12.2017, letter dated 30.10.2017 and email dated 13.11.2017. It was noted that their request was for re-conditioning/dismantling of used computers, monitors, electrical and manufacturing of electronic equipment and for manufacturing of mobiles and LED TV. In this regard the Committee gone through the brief history of their activities including past approvals of various items and their additional broad-banding items granted on 17.06.2016 for assembling of TV set, Mobile and Tablet.

The Committee noted that their renewal of their earlier approval of reconditioning of used electronic/electrical items were already rejected by the BoA in its 17<sup>th</sup> meeting held on 30.08.2007 and that as per the records available, there appears to be no further appeal has been made by them. Therefore, the Committee expressed its displeasure that without exercising the legal remedies available to them and without bringing the above facts in their request they are accusing the DC office for non-cooperation for seeking approval of items which were denied by the higher empowered body of BoA.

As regards their request for manufacturing of electronic TV and Mobile, the Committee noted that all these items except TV below 25 cms were already granted approval in the UAC meeting held on 06.06.2016 with

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the condition that since all these items are sensitive in nature their performance of these items for one year will be monitored. The Committee gone through the data of import, export and DTA sale of the last 1 year and it was noted that only two consignments of parts of mobile were imported by the unit during the above period.

The Committee vide going through their past 10 years performance based on the NSDL data noted that they have been granted large number of items of trading and also as well as manufacturing of readymade garments and further noted that their activities were confined to import and export of very few items only and in many years they have not made any transaction also.

Therefore, the Committee after due deliberation decided to downsize their list of huge items of trading & not to allow both manufacturing and trading activity together in one LoA as has been the stand of UAC in the last one year in case of many such units and further decided to call for personal hearing of the active Partner of the unit in the next UAC meeting scheduled on 08.01.2018 and he was further directed to come up with specific list of items in which they are currently dealing or intend to do with justification in the said scheduled meeting of UAC.

The meeting ended with vote of thanks of the chair.



**(UPENDRA VASISHTH)**  
Development Commissioner