

Minutes of the 124<sup>th</sup> Unit Approval Committee Meeting of Kandla SEZ held on 27.02.2018 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. Satyadeep Mahapatra : Joint Development Commissioner, KASEZ.
2. Shri. Lalit P. Jain : Additional Commissioner of Income Tax, Gandhidham.
3. Shri. Pradeep Sharma : 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 : General Manager, DIC, Bhuj.

**Absentees:-**

1. Director (Banking)
2. SDM

**Review/Confirmation of the minutes of last meeting (123<sup>rd</sup> UAC) of the Approval Committee: -**

Minutes of the last meeting of Approval Committee was confirmed.



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### **124.1 NEW UNIT APPLICATION**

#### **AGENDA ITEM NO. 124.1.1**

**Application for setting up of a unit in KASEZ namely M/s. Om Aromatic Solvents, Office No.112, First Floor, Mani Complex, Plot No.84, Sector-8, Gandhidham, Gujarat.**

Nobody appeared for the personal hearing. M/s. Om Aromatic Solvents has intimated vide letter dated 24.02.2018 about their unavailability to attend the meeting. Hence, it was decided to defer the proposal.

### **124.2 REQUEST FOR BROADBANDING**

#### **AGENDA ITEM NO. 124.2.1**

**Request for broad banding of manufacturing of DC Motor Controller/ Spare Parts in their existing Letter of Approval No. KASEZ/IA/20/2004-05 dated 14.09.2004 of M/s Saietta Engineering Pvt. Ltd., KASEZ.**

M/s. Saietta Engineering Pvt. Ltd. (earlier known as M/s Agni Motors) has been granted Letter of Approval No. KASEZ/IA/020/2004-06/5289 dated 13.08.2004 for manufacturing of Electric D. C. Motors and further broad banding was granted for "Parts and accessories of Electric D.C. Motors" and "D.C.Motor with water pumps" in their existing LoA.

Now the said unit has requested to grant permission of broad banding for manufacturing of DC Motor Controller/ Spare parts in their existing LoA.

Shri. Hasmuk Rabadia, Director of the unit appeared before the Approval Committee and explained their proposal.

Shri Rabadia explained that they are getting enquiry from their buyers for DC motor controller/spare parts also along with DC Motors and there is good demand for these in the international market and hence they want to include the said items in their existing LoA.

The Approval Committee noted that the description of items and ITC HS Code of list of raw materials submitted by the unit is not tallying with the ITC HS Code available in DGFT website.

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The Approval Committee after due deliberation approved the proposal for broad-banding subject to the unit submitting the list of raw materials with correct description and its corrected ITC HS Code.

**AGENDA ITEM NO. 124.2.2**

**Request of M/s Commodities Trading for inclusion of LDO falling under HS Code (27101940).**

M/s Commodities Trading is an approved unit at KASEZ vide LoA No. 007/2013-14 issued under F.No. KASEZ/IA/007/2013-14 dated 19.08.2013 as amended from time to time and for a period up to 14.07.2020 for Warehousing services and Trading activity.

The said unit has now requested for addition of LDO in their trading activity.

Shri. Devendra Bansal, Partner of the unit appeared before the Approval Committee and explained their proposal.

Shri Bansal informed that before GST regime there were importing Other Petroleum Products under ITC HS 2710 1990 and after GST regime the import of the said item has become difficult. Now, they intend to import LDO under their existing trading activity. He further informed that they would be supplying the same to SEZ units and that also to foreign going vessels and that they will not make DTA Sale of the aforesaid requested items.

The Approval Committee noted that the LDO is a canalized item for import and that its import is permitted only through STE subject to para 2.11 of FTP. Further, Committee also noted in terms of third proviso to Rule 26 of SEZ Rules that the FTP restrictions on STE shall not apply to SEZ manufacturing units.

The Approval Committee after due deliberation approved the proposal for inclusion of LDO in their trading permission subject to the condition that the unit will procure the LDO from the authorised state trading enterprises and that they will not supply the same in DTA.



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**AGENDA ITEM NO. 124.2.3**

**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 proposal of the said unit is for addition of Wheat Flour in Starch, ITC (HS) code – 11081100 and the raw material to be used for production of Wheat Flour in Starch is Wheat Grain ITC (HS) Code 11010000.

The said proposal of the unit was discussed in the 121<sup>st</sup> UAC held on 13.12.2017 and 123<sup>rd</sup> UAC held on 16.01.2018. The Committee in its 123<sup>rd</sup> UAC, after due deliberation decided to defer their proposal as procurement of wheat flour is sensitive item concerning the mass population of India and that its policy of import / export is of the nature of frequent changes and directed DC office to collect data on the export of past 3 years for wheat flour and wheat flour in starch and furnish the data for further consideration of the Approval Committee.

The Committee studied the data gathered from the Internet/websites and noted that the wheat starch are being freely exported from Mundra and Nhava Sheva Ports.

The Approval Committee after due deliberation approved the proposal for addition of wheat flour/wheat flour in Starch added with Micro Crystalline Cellulose Powder subject to procurement of maximum quantity of 150 MT per month of wheat grain from local market. Further, this approval will be subject to any changes takes place in the import export policy of wheat grain and wheat starch in future.

**124.3 MISCELLANEOUS ITEMS**

**AGENDA ITEM NO. 124.3.1**

**Request of M/s BASF India Limited, for approval of Business Transfer Agreement of their Kandla SEZ Operation.**

M/s BASF India Limited, is an approved unit for Private Bonded Warehouse and trading activity vide LoA No. KFTZ/IA/1752/99 dated 16.06.1999.

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M/s BASF India Limited, have now informed about execution of a business transfer agreement with M/s Stahl India P. Ltd., whereby their "Leather Chemicals Business" is transferred to M/s Stahl India P. Ltd., as a going concern on a "Slump Sale" basis as defined under Section 2(42c) of the Income Tax Act, 1961 .

The unit have also informed that after the execution of business transfer agreement with M/s Stahl India P. Ltd., their SEZ operation which forms part of Leather Chemicals Business is also transferred to M/s Stahl India P. Ltd. with effect from September 2017.

The Approval Committee noted that as per clarification/ instruction issued regarding Rule 74 A of SEZ Rules, 2006, by the BoA in the 69<sup>th</sup> meeting of the BoA for SEZ held on 23.02.2016, Business Transfer Agreement which result in transfer of the SEZ unit of the Indian Company on a going concern basis to the acquirer is to be decided by the BoA.

The Committee after due deliberation decided to recommend the case to BoA for its consideration/approval.

**AGENDA ITEM NO. 124.3.2**

**Intimation of amalgamation of M/s Hindprakash Tradelink Pvt. Ltd.**

M/s Hindprakash Tradelink Private Limited is an Private Limited company issued with Letter of Approval No. 13/2014-15 dated 12.02.2015 for Trading Activity, they were further granted Broad Banding permission for Warehousing vide letter dated 18.05.2015. .

The unit vide their letter dated 01.11.2017, have informed that they and M/s Ahmedabad Chemicals Private Limited have been ordered to the scheme of amalgamation under Section 230 & 232 of the Companies Act, 2013 vide amalgamation Order No. CP(CAA) No.103/NCLT.AHM/2017 dated 11.10.2017 passed by National Company Law Tribunal, Ahmedabad Bench, Ahmedabad.

Vide above referred Amalgamation order, the M/s HindPrakash Tradelink Pvt. Ltd., is the Transferor Company and M/s Ahmadabad Chemicals Private Limited, is the transferee company. After amalgamation,

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the transferee company shall change its name to M/s. Hindprakash Tradelink Private Limited.

The Committee noted that BOA's in its 69<sup>th</sup> meeting held on 23.02.2016 decided that provisions of Rule 74A shall not apply to SEZ units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ unit continues to operate as a going concern including the court approved merger or amalgamation, the UAC may consider such requests under Rule 19(2) of SEZ Rules.

Accordingly, the Approval Committee after due deliberation decided to take the intimation of amalgamation of M/s Hindprakash Tradelink Pvt. Ltd. on records 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.
7. The unit shall furnish details of PAN and jurisdictional assessing officer of the unit to CBDT.

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**AGENDA ITEM NO. 124.3.3**

**Intimation for change in Partnership of M/s. Esskay Niryat Corporation, KASEZ.**

M/s Esskay Niryat Corporation is issued with LoA KASEZ/IA/02/2015-16 dated 28.04.2015 for manufacturing of Mouth freshner, Pan Masala & Tobacco Pan Masala with and without Zarda.

Now vide their letter dated 02.01.2018, unit have informed that one of their partner Shri.Sanjay Sethi, is retiring and a new partner Shri. Sachin J.J oshi, is joining as a new partner with 10% share in the profit Loss ratio.

The Committee noted that the details of present Partners as under:-

Sl.No.	Name of Directors	Previous, profit and loss ratio	At present, profit and loss ratio	Change in %
01.	Shri Sanjay Nirmal Sethi	20%	Retiring	--
02.	Shri Manoj Kumar Sharma	20%	20%	No change
03.	Shri Jagdish Prasad Joshi	60%	70%	(+)10%
04.	Shri Sachin Joshi	New Partner	10%	(+)10%
Total			100%	(+)20%

The Committee noted that BOA's in its 69<sup>th</sup> meeting held on 23.02.2016 decided that such cases upto 50% changes in shareholding pattern can be considered by UAC under Rule 19(2) of SEZ Rules.

The Committee noted that the changes in shareholding pattern of the firm is to the extent of 20%. Therefore, the Approval Committee after due deliberation decided to approve the proposal of change in partnership of the firm 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.
7. The unit shall furnish details of PAN and jurisdictional assessing officer of the unit to CBDT.

**AGENDA ITEM NO. 124.3.4**

**Request of M/s Kitchen Xpress Overseas Limited, Kandla SEZ regarding permission for export atta of pulses / lentils / grains and DTA procurement of pulses in the light of amendment in Export Policy of Pulses.**

Nobody appeared for the personal hearing. M/s. Kitchen Xpress Overseas Ltd. has intimated vide letter dated 27.02.2018 about their unavailability to attend the meeting. Hence, it was decided to defer the proposal.



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**AGENDA ITEM NO. 124.3.5**


**Representation of Kandla SEZ Industries Association to re-consider the decision of 116<sup>th</sup> UAC meeting held on 19.07.2017 in respect of Warehousing activity.**

The Unit Approval Committee in its 116<sup>th</sup> meeting held on 19.07.2017 has taken decision on the recommendation of the Warehousing Committee constituted for functioning of all the existing warehousing units of KASEZ.

Pursuance to the above recommendation of the UAC, Kandla SEZ Industries Association has requested to re-consider the following decisions taken in the 116<sup>th</sup> UAC meeting held on 19.07.2017: -

- (i) As far as Rule 18(6) of the SEZ Rules, 2006 is concerned, which mean that "Industrial Activity" within the preview of Rule 18(5) and Rule 76 of the SEZ Rules, 2006 should be considered as a parameter which will solve the issue in hand.
- (ii) The LoAs issued prior to 11.02.2011 which have no restriction of warehousing the Old & Used clothing, may continue to doing so till their LoAs is in force. Alteration/insertion of this condition, if any, may be considered at time of renewal by the UAC.
- (iii) The condition of seeking permission each and every time for warehousing goods (other than Plastic Waste/Scrap and Old and Used Clothing) is really harsh and against the objective of 'ease of doing business' and may be relaxed. Universally, disclosing customer data is always a 'touchy topic'.

The Approval Committee after due deliberation decided as under: -

- (i) All the activities provided under the provisions of Rule 18(6) of the SEZ Rules, 2006 read with all instructions in this regards issued from time to time by MOCI is permitted.
- (ii) UAC agreed. 

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- (iii) UAC did not agree with the Association's request on the ground that UAC must know items to be warehoused as original importer/exporter are third parties under warehousing.

**AGENDA ITEM NO. 124.3.6**

**Ratification of request already approved in file**

The Approval Committee ratified the permission granted by the Development Commissioner, KASEZ to M/s Tubacex India Pvt. Limited, KASEZ for broad banding of trading activity of Nickle Tubes & Pipes and Nickle fittings in their existing LoA.

The meeting ended with vote of thanks of the chair.



**(UPENDRA VASISHTH)**  
Development Commissioner