

Minutes of the 143rd Unit Approval Committee Meeting of Kandla SEZ held on 05.04.2019 at 11:30 hrs. under the Chairmanship of Dr. Amiya Chandra, Development Commissioner, Kandla Special Economic Zone.

Following were present:

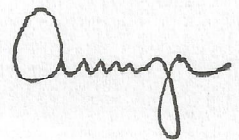
1. Shri. Satyadeep Mahapatra : Joint Development Commissioner, KASEZ.
2. Ms. J. Bhuvaneshwary : Deputy Commissioner of Income Tax, Gandhidham.
3. Shri. Yatish G. Patil : Deputy Commissioner, Customs, Kandla, Gandhidham-Representative of Commissioner of Customs Kandla.
4. Shri. Jaykumar S. Shah : Representative of DIC, Bhuj.

Absentees:-

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

Review/Confirmation of the minutes of last meeting (142nd UAC) of the Approval Committee: -

Minutes of the last meeting of Approval Committee was confirmed.



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143.1 REQUEST FOR BROADBANDING

AGENDA ITEM NO. 143.1.1

Request of M/s. Shivam Betelnut Pvt. Ltd., KASEZ for Broad-banding of five new items into their Manufacturing activity.

M/s Shivam Betelnut Pvt. Ltd., KASEZ is an approved unit for manufacturing of Pan Masala and Pan Masala Containing Tobacco, Zarda (Gutkha) in Kandla Special Economic Zone, Gandhidham vide LoA No. KASEZ/IA/12/2016-17 dated 10.08.2016.

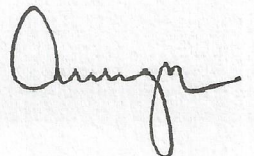
Now the said unit has requested for broad-banding for inclusion of following additional five items in their manufacturing activity in their existing LoA.

Sl. No.	Item	ITC (HS) Code
1.	Kimam	24039960
2.	Chewing Tobacco	24039910
3.	Zarda/Scented Tobacco	24039930
4.	Preparation containing Chewing Tobacco	24039920
5.	Split Betel Nut	21069030 08028020

Shri Bhagwati Kumar, Director of the company appeared before the Approval Committee and explained their proposal.

Shri Kumar stated that for expansion of their business they want to add some items of manufacturing in their existing LoA and for manufacturing the said items they will procure raw materials fully from DTA and no import of raw materials are envisaged.

The Approval Committee after due deliberation decided to approve the broad-banding of manufacturing activity of above five items in their existing



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LoA subject to the condition that the said items will be 100% exported & no import of any raw materials for the said broad-banded items and no DTA sale will be allowed.

AGENDA ITEM NO. 143.1.2

Request of M/s. Universal Confectionary & Food Products Pvt. Ltd., KASEZ for Broad-banding of new item into their Manufacturing activity.

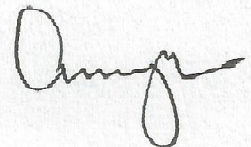
M/s Universal Confectionary & Food Products Pvt. Ltd., KASEZ is an approved unit for manufacturing of biscuits and confectionary items in Kandla Special Economic Zone, Gandhidham vide LoA No. KASEZ/IA/24/2007-08/3326 dated 23.06.2011.

The unit vide their letter dated 23.03.2019 has now requested for broad-banding for inclusion of following additional item in their manufacturing activity in their existing LOA:

Sl. No.	Item	ITC (HS) Code
1.	Double Edged Shaving Blade	82122019

Shri Suresh Bherwani, Director of the company appeared before the Approval Committee and explained their proposal.

Shri Bherwani stated that their existing business of biscuits manufacturing has been shut down since last 1 year due to unviability and now they want to diversify from biscuits to double edged shaving blade manufacturing activity in which they have expertise and their group company is already in business of blade manufacturing since 2011 at Dholka, Gujarat i.e. in DTA area.



The Committee informed the applicant that their original manufacturing activity of biscuits and the request for addition of new item viz. double edged shaving blade is not having any forward/backward linkage to their existing line of manufacture, as such, such broad-banding of un-related goods cannot be permitted.

Therefore, the Approval Committee after due deliberation directed the applicant to apply afresh for setting up a separate unit for manufacturing of Double Edged Shaving Blade. However, if they have adequate space they may make a new application for new product as Unit-II with separate demarcation of space from the existing unit as both products have no compatibility and hence broadbanding cannot be permitted.

AGENDA ITEM NO. 143.1.3

Request of M/s Palmon Exports, KASEZ for Broad Banding of their LoA for addition of additional 55 trading items.

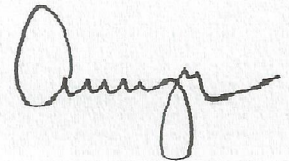
M/s. Palmon Exports, KASEZ is an approved Unit for trading activity of 50 items vide LoA No. KASEZ/IA/09/2018-19/6208 dated 30.08.2018.

Now the said unit for Broad Banding of their LoA for Trading activity for additional 55 items.

Shri Sunil Lahori, Partner of the firm appeared before the Approval Committee and explained their proposal.

Shri Lahori stated that they want to add further items in their existing trading LoA.

The Committee informed the unit that they were earlier asked to start their original activity of manufacturing of garments and that they have made only sample exports and not yet started full fledged regular manufacturing of Garments. Further, the unit has not submitted APR for the year 2017-18



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despite elapse of more than 6 months and that have pending rental dues of about Rs. 20 lakhs against them.

Therefore, the Approval Committee after due deliberation decided to defer their proposal with the direction to the unit to submit the APR for their manufacturing unit for the year 2017-18, clear the pending rental dues and also submit confirmed orders for the trading items proposed to be included in their existing LoA for trading activity.

AGENDA ITEM NO. 143.1.4

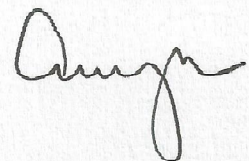
Request for broad banding of additional items and also to set up plastic cans/jars manufacturing plant in their existing Letter of Approval/Permission No. KASEZ/IA/17/2015-16 dated 29.01.2016 of M/s Royal Petro Oil Refinery LLP, KASEZ.

M/s. Royal Petro Oil Refinery LLP, KASEZ is an approved unit for manufacturing of recycling of used lubricating oil and gas oil vide letter F.No. KASEZ/IA/17/2015-16/1665 dated 29.01.2016. They have commenced their authorised operation in KASEZ w.e.f. 11.12.2018 and accordingly their LoA is valid up to 10.12.2023.

Their proposal was discussed in the 142nd UAC meeting held on 04.03.2019 and the Approval Committee after due deliberation had decided to defer the proposal.

Now, the unit has submitted consent to operate their existing unit of GPCB and also clarification on incinerator installed, waste/effluent generated & packing plant for captive consumption.

Shri Vishal Ved, Partner of the firm appeared before the Approval Committee and explained their proposal.



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The Committee informed the unit that the installed incinerator requires confirmation of the GPCB for compliance of specification mentioned in their consent letter and for plastic packing material they may procure the same from the domestic procurements for their proposal for captive plastic manufacturing plant and no import of plastic items will be permitted. They can apply for import of said items which will be referred to BoA.

Therefore, the Approval Committee after due deliberation decided to defer their proposal with the direction to the unit to comply with environmental norms with regard to incinerator installed and submit specific order/consent of the GPCB that the installed incinerator fulfils all the criteria laid down by the GPCB and can go into operation.

143.2 MISCELLANEOUS ITEMS

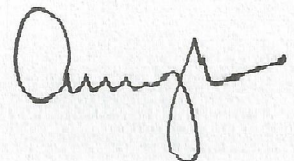
AGENDA ITEM NO. 143.2.1

Intimation for change in the name of the unit and change in constitution from Proprietorship to Partnership of M/s Shiv Construction, KASEZ

M/s Shiv Construction, Plot No. 461 & Shed No. 355, Sector 1, Kandla Special Economic Zone, Gandhidham, is an approved unit for Warehousing Service Activity and Construction & Related Services vide LoA No. F. No. KASEZ/IA/034/2010-11/711 dated 29.11.2010 as amended from time to time.

The said unit vide its letter dated 01.04.2019 has intimated regarding change in the name of the unit and change in constitution from proprietorship to partnership. They have submitted copy of notarized partnership deed dated 28.03.2019 alongwith their application.

Now, the unit has intimated that their firm name has been changed from **"SHIV CONSTRUCTION"** to **"DYNAMIC DUTY FREE WAREHOUSES"**



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and also the constitution of the firm has been changed from Proprietorship to Partnership.

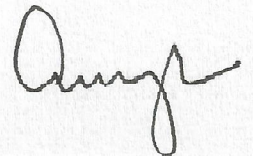
The Committee noted Shri Narain M. Rajani was the Proprietor of the firm and after change in constitution from Proprietorship to Partnership and as per the partnership deed dated 28.03.2019 submitted by the unit, the current share in profit/loss ratio of the firm is as below:

Sl. No.	Name of the partners	Share in Profit/Loss
1	Shri Narain M. Rajani	60%
2	Shri Kiran Singh Kouchar	25%
3	Shri Clarence Philip Samuel	15%
	Total	100%

The Committee noted that Department of Commerce vide Instruction No. 89 dated 17.05.2018 has issued guidelines regarding change in shareholding pattern, name change pertaining to SEZ units wherein change of name, change of shareholding pattern, etc. may be undertaken with the prior approval of Approval Committee in respect of units.

The Committee noted that the changes in share in profit/loss of the firm is to the extent of 40%. Therefore, the Approval Committee after due deliberation decided to approve and take on record the proposal of change in the name of the unit from **“SHIV CONSTRUCTION” to “DYNAMIC DUTY FREE WAREHOUSES”** and change in constitution from proprietorship to partnership as above 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. 143.2.2

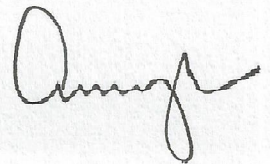
Change in constituents from Proprietorship firm to Partnership firm {M/s Bajaj Warehousing Services, a Proprietorship firm}.

M/s Bajaj Warehousing Services, KASEZ has been issued Letter of Approval (LoA) No. 26/2010-11 dated 25.10.2010 for Warehousing Service Activity.

Now, Shri. Nikhil Mohinder Bajaj, Proprietor of the firm has submitted that in order to expand the current business, he has introduced one new partner to accompany and develop the business. The Proprietorship firm has been changed to Partnership firm.

The Committee noted Shri Nikhil Mohinder Bajaj was the Proprietor of the firm and after change in constitution from Proprietorship to Partnership and as per the partnership deed dated 01.04.2019 submitted by the unit, the current share in profit/loss ratio of the firm is as below:

Sl. No.	Name of the partners	Share in Profit/Loss
1.	Mr. Nikhil Mohinder Bajaj	52%



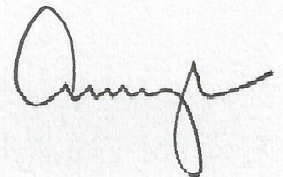
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2.	Mr. Akhil Mohinder Bajaj	48%
	Total	100%

The Committee noted that Department of Commerce vide Instruction No. 89 dated 17.05.2018 has issued guidelines regarding change in shareholding pattern, name change pertaining to SEZ units wherein change of name, change of shareholding pattern, etc. may be undertaken with the prior approval of Approval Committee in respect of units.

The Committee noted that the changes in share in profit/loss of the firm is to the extent of 48%. Therefore, the Approval Committee after due deliberation decided to approve and take on record the proposal of change in constitution from proprietorship to partnership as above 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. 143.2.3

Intimation for change in Partnership of M/s Palmon Export, KASEZ

M/s Palmon Export, KASEZ is an approved unit for manufacturing and trading & also warehousing activity in Kandla Special Economic Zone, Gandhidham.

Now the said unit has intimated regarding change in partnership of the firm and have submitted copy of notarized partnership deed dated 01.01.2019 for change in partnership firm with admission and retirement of partners in the firm.

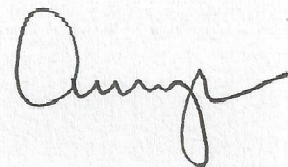
The Committee noted that the share in profit/loss of the firm before change in partnership is as under:

Sl. No.	Name of the Partners	Share in Profit/Loss
1.	Mr. Sunil Mohanlal Lahori	50%
2.	Mrs. Usha Sunil Lahori	50%
	TOTAL	100%

Now, after change in Partnership of the firm, the share in profit/loss is as under:

Sl. No.	Name of the Partners	Share in Profit/Loss
1.	Mr. Sunil Mohanlal Lahori	95%
2.	Mr. Mukesh Prakash Joshi	05%
	TOTAL	100%

The Committee noted that Department of Commerce vide Instruction No. 89 dated 17.05.2018 has issued guidelines regarding change in shareholding pattern, name change pertaining to SEZ units wherein change



of name, change of shareholding pattern, etc. may be undertaken with the prior approval of Approval Committee in respect of units.

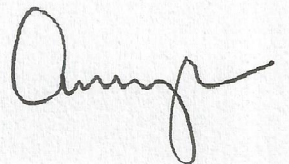
The Committee noted that the changes in share in profit/loss of the firm is to the extent of 50%. Therefore, the Approval Committee after due deliberation decided to approve and take on record the proposal of change in profit/loss sharing ratio of the firm as above subject to following conditions:

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. 143.2.4

Permission to Warehouse goods on behalf of Foreign & DTA Clients {M/s Palmon Exports, KASEZ}.

The Committee observed that the decision taken as recorded in 143.1.3 above holds good here also.



AGENDA ITEM NO. 143.2.5

Request of M/s. Shivam Scrap Recycling Pvt. Ltd., KASEZ for Quantity Enhancement in their existing LoA.

M/s Shivam Scrap Recycling Pvt. Ltd., KASEZ is an approved unit for manufacturing of Recycled Plastic Granules, Flakes, Agglomerates, Pelets Bars, Lumps Powder, etc. vide LoA No. KFTZ/IA/1666/96/2308 dated 04.06.1997, as amended from time to time with annual capacity of 2000 MT. Now the said unit has requested for quantity enhancement from existing 2000 MT per annum to 8000 MT per annum.

The Approval Committee after due deliberations decided to reject the request of the unit in terms of Rule 18(4)(a) of SEZ Rules, 2006.

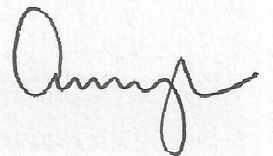
AGENDA ITEM NO. 143.2.6

Removal of rejected goods to its original DTA supplier due to quality issue {M/s Ashmeer Global,204, Vrindavan SDF Complex, KASEZ}.

M/s Ashmeer Global, KASEZ unit has been granted LoA No. 07/2015-16 dated 23.05.2016 for manufacturing of Pan Masala, Guthka, Flavoured Chewing Tobacco & Scented Khaini.

The Customs (Technical Section), KASEZ vide U.O. Note dated 12.02.2019 has submitted that the unit is seeking permission to return the rejected goods due to quality issue to its original DTA supplier.

The Committee noted that unit is engaged in manufacturing of Gutkha etc. items containing tobacco with condition of 100% exports and no DTA sales.



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The Approval Committee after due deliberations decided to reject the request of the unit with a direction to the unit to ensure quality check of the goods before the same enters the SEZ area i.e. by pre-inspection of the goods proposed to be brought into the SEZ unit or ensuring that the goods of right quality are supplied by their vendors through any other means.

AGENDA ITEM NO. 143.2.7

One time permission for export of used/second hand shoes accumulated out of segregation of used & worn clothing – Request of M/s. Tulip Exim Pvt. Ltd., KASEZ.

M/s. Tulip Exim Pvt. Ltd., KASEZ is an approved unit for manufacturing of Reprocessing/Reconditioning of used garments/textiles vide LoA No. KASEZ/IA/1854/2001-02/1188 dated 15.10.2001, as amended from time to time.

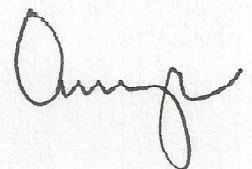
Now the said unit has requested to grant them one time permission for Export of 125 MT of used/second hand Shoes accumulated during the process of segregation of Worn Clothing during the last three years period.

The Committee noted that worn shoes in bales form also fall under ITC (HS) 6309 0000 i.e. same as worn clothing and it complies with chapter note 3 (b) "Footwear and headgear of any material other than asbestos".

The Approval Committee after due deliberation approved the request of the unit for one time permission to export 125 MT of used/second hand Shoes. Further, if any used & worn clothing units intending to clear the shoes they should approach the UAC on case to case basis.

AGENDA ITEM NO. 143.2.8

Request of M/s. Harish Processors Pvt. Ltd., KASEZ for reconsideration of decision taken in the 116th UAC meeting held on 19.07.2017.



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M/s. Harish Processors Pvt. Ltd., KASEZ is an approved unit for Warehousing Service Activity vide LoA No. KASEZ/IA/042/2010-11/673 dated 29.11.2010, as amended from time to time.

Now the said unit has requested to reconsider the decision taken in 116th UAC held on 19.07.2017.

The Approval Committee reconsidered the issue and after due deliberation rejected the request of the unit.

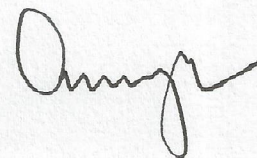
AGENDA ITEM NO. 143.2.9

Monitoring the performance of Plastic Recycling Units of physical export performance as per the changed export obligation as per DoC's Policy guidelines dated 17.09.2013, as amended vide letter dated 13.02.2018.

JDC, KASEZ briefed the Committee about the recent Hon'ble High Court judgement upholding the DoC guidelines dated 17.09.2013 as amended and non-compliance of physical export obligations both in the period upto the end of the fourth year of operation as well as 5th year of their operation from 01.12.2017 to 12.02.2018 & 35% of total annual turnover for the period from 13.02.2018 to 30.11.2018 by the plastic recycling units under the policy guidelines dated 17.09.2013 as amended and the quantum of penalty to be imposed for non-achieving minimum physical export obligations.

The Committee noted that erring unit's default is not a case of bonafide default and therefore they do not deserve to enjoy the benefit of 1% percent lenient penalty under new Rule 80 of the SEZ Rules, 2006.

The Approval Committee after due deliberation decided to issue SCNs to the plastic recycling units for non-compliance of physical export obligations as per policy guidelines dated 17.09.2013 as amended on



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13.02.2018 and adjudicate the same in line with worn clothing units cases, after following the due process of natural justice in this regard.

TABLE AGENDA ITEM NO. 143.3.1

Request of M/s. Jassco Enterprises, 671, Shivaji Road, Azad Market, Delhi-110006 for approval of the items for their approved activities of Trading Activities and warehousing service.

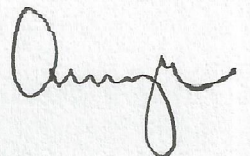
M/s. Jassco Enterprises, KASEZ is an in principally approved unit for Warehousing and Trading activity in the 79th UAC Meeting of Kandla SEZ, held on 01.04.2015 and in principal approval letter has been issued to the unit vide this office letter F. No. KASEZ/IA/JE/044/2014-15/1538 dated 13.05.2015.

Their proposal was discussed in the 135th & 139th UAC and the Committee decided to defer the proposal because a Committee has been constituted consisting of JDC & DC (Cus) which was yet to submit its report related to all business aspects of plastic lumps and other plastic related items requested by such units including marketing extortions, prevailing international business.

Now the unit has requested to consider their request of warehousing activity for the items other than the items falling under Chapter 39 of the ITC HS Policy.

The Committee noted that the other items proposed also requires detailed examination/scrutiny and decided to defer the proposal till the report is received from the Deputy Commissioner of Customs, KASEZ regarding import of "Nutritional Supplements".

TABLE AGENDA ITEM NO. 143.3.2



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Request of M/s. Jindal Fibres, Shed No. 49-58, Sector-II, KASEZ, Gandhidham seeking clarification under the SEZ Act & Rules, 2006 including all amendments upto 07.03.2019.

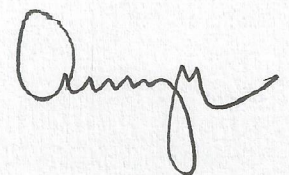
M/s Jindal Fibres, KASEZ is an approved unit for processing and segregation of textile waste, reconditioning of clothing and manufacturing of yarn and yarn product of every description vide LoA No. KASEZ/IA/1890/2002-03/20667 dt. 03-03-2003, as amended/extended from time to time.

The Customs (Technical Section), KASEZ vide U.O. Note dated 02.04.2019 has submitted the letter of M/s Jindal fibre who sought some clarification under SEZ Act & Rules, 2006, that -

“whether the transaction under Rule 53 (a) i.e. the supply of goods against Advance Authorization under Foreign Trade Policy are considered as “export” and Rule 53 (j) i.e. supplies made to the units in SEZ in the same SEZ or other SEZ or EOU are also considered as “export” would be considered for the purpose of Policy dated 17.09.2013 and its amendment dated 13.02.2018.”

The Committee deliberated on the issue and noted that the Ministry vide its letter dated 21.02.2019 had issued clarification that for the purpose of policy to regulate functioning of worn/used clothing units and plastic scrap or waste recycling units in SEZs, the term “Exports” means the export of goods to any place outside India. Further, it is also noted that the export obligations condition in DoC guidelines are over and above the NFE requirement under Rule 53 of SEZ Rules, 2006.

Therefore, the Approval Committee after due deliberation clarified that Rule 53(a) and (j) will not be considered for the purpose of Policy guidelines dated 17.09.2013 as amended on 13.02.2018 and it is reiterated that only



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goods exported out of India will be treated as "Export" for the purpose of compliance of Policy guidelines dated 17.09.2013 as amended.

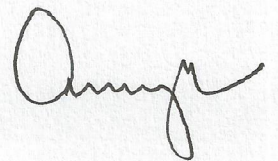
TABLE AGENDA ITEM NO. 143.3.3

Clarification sought by worn clothing units regarding status of O-I-O dated 15.01.2019 passed in the wake of Hon'ble High Court Judgement dated 20.03.2019

Nine of the worn clothing units of KASEZ have sought clarification regarding the status of the O-I-O passed on the basis of non-compliance of the Policy conditions on 15.01.2019 in the wake of Hon'ble High Court Judgement dated 20.03.2019 as to whether the said O-I-O was kept in abeyance or the same is inoperative.

The Committee noted that the Hon'ble High Court has given the following directions in respect of O-I-Os issued: -

"16. Before parting we may note that the respondents – original petitioners have brought to our notice that though the policies in question were quashed and set aside by the learned Single Judge, the Office of the Development Commissioner, Special Economic Zone, pursuant to the show cause notice, has issued an order dated 15.01.2019 pending the present appeals. However, by way of an additional affidavit, the Joint Development Commissioner, Kandla Special Economic Zone has stated that the Orders-in-Original dated 15.01.2019 passed by the Development Commissioner, Kandla Special Economic Zone for non-compliance of export obligations as per Department of Commerce, Government of India's Policy guidelines dated 17.09.2013, as further amended vide letter dated 13.02.2018 have been kept in abeyance with immediate effect till outcome of the present appeals and that the appellant undertakes not to take any coercive action on the basis of the Orders-in-Original till the outcome of the present appeals. Since we have allowed the appeals and the judgements of the learned Single Judge have been quashed and set aside, the order dated 15.01.2019 which has been issued pending these appeals and kept in abeyance till

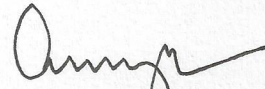


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date shall not be implemented for a further period of four weeks from today."

The Committee noted that the Hon'ble High Court has given clear directions that the O-I-Os dated 15.01.2019 issued and kept in abeyance and till the Court order, shall not be implemented for a further period of four weeks from the date of judgement i.e. 20.03.2019 and is self-explanatory.

The meeting ended with vote of thanks of the chair.



(Dr. Amiya Chandra)
Development Commissioner