

Minutes of the 91st Approval Committee meeting held on 04-02-2016 at 12:00 hrs. under the Chairmanship of ShriUpendraVasishth,ndc, Development Commissioner, KASEZ.

Following were present:

1. Shri. Krishan Kumar : Joint Development Commissioner, KASEZ.
2. Shri. Suresh Kumar : Superintendent
Representative of the Commissioner of Customs
Custom House, Kandla
3. Shri. Rajesh Meena : Superintendent,
Representative of the Commissioner of Customs
Customs House, Kandla.
4. Shri. R. G. Khairkar : Foreign Trade Development Officer,
Rep. of DGFT.
5. Shri. Rikesh Virda : Assistant Environmental Engineer,
GPCB, Bhuj, as a Special Invitee.

Absentees:-

1. Director (Banking)
2. SDM
3. GM, DIG, BHUJ
4. Income Tax

Review/Confirmation of the minutes of last meeting (90th UAC) of the Approval Committee:-

Minutes of the last meeting of Approval Committee was confirmed.

91.1 MISCELLANEOUS

91.1.1 M/s. Om Siddh Vinayak Impex Pvt. Ltd, KASEZ.

M/s Om Siddh Vinayak Impex Pvt. Ltd., KASEZ has requested for allow them to purchase old and used mutilated denim fibre clothing from the DTA unit, M/s. Guru Kripa Trading Co. Panipat as indigenous goods (non-benefit). Shri Hardip Uppal, Director of the firm appeared before the Committee and explained about the proposed activities. He explained that they will pull the yarn from the Denim fibre clothing procured from DTA as they have pulling facility available in their unit in KASEZ.



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The Committee noted that M/s Om Siddh Vinayak Impex Pvt. Ltd., KASEZ is a reprocessing unit of worn and used clothing of KASEZ. As per renewal letter dated 02.05.2014 (condition No. 7), the said unit has to, achieved minimum physical export levels prescribed at the end of specified period is as follows:

Period	Minimum Physical Export Obligation
At the end of 2 nd Year	Not less than 40% of the total annual turnover
At the end of 4 th Year	Not less than 80% of the total annual turnover
At the end of 5 th Year	100% of the total annual turnover

After the fifth year, the unit will be required to continue to physically export 100% of their annual turnover.

Any violation of the above prescribed minimum physical export Obligation at the end of 2nd, 4th and 5th years would lead to imposition of penalty and cancellation of the unit's LOP. It is reiterated that minimum physical export obligation of 40% at the end of 2nd year will have to be fulfilled otherwise the LoP be cancelled for non-fulfillment of this condition. Similarly at the end of 4th & 5th year, the condition of prescribed minimum physical export obligation will have to be fulfilled and non-fulfillment at any stage result in the cancellation of LOP.

In view of the above, it is very difficult for this administration to identify goods imported by the unit and goods procured from the DTA and therefore, achievement of physical export made by the unit at the end of 2nd year, 4th Year and 5th year could not be justified and therefore the said condition is vitiated. Therefore, the Committee decided not to permit any DTA procurement of worn & used cloth inside the Zone and the Committee rejected the request of the unit.

91.1.2 M/s. OPG Power & infrastructure Pvt.Ltd., Co-Developer, KASEZ

M/s OPG Power & Infrastructure Pvt. Ltd. has been granted approval as Co-Developer for providing infrastructure facilities in the KASEZ vide Ministry's letter F.No. 1/10/2011-SEZ dated 17-03-2015.

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M/s OPG Power & Infrastructure Pvt. Ltd. vide letter dated 01-04-2015 has informed that they accepted all the terms and conditions indicated in the Ministry's letter dated 17-03-2015.

Shri. Gulab Gidwani, Vice President of the firm appeared before the Committee. He informed that they have approached Gujarat Electric Regulation Commission for deemed distribution licence of Electricity. However, they come to know that the Govt. of India is reviewing the Power Policy and is expected to release it shortly. He also informed that Gujarat Electricity Rules is also going to amended. Therefore, they are waiting for new power policy and amended Electricity Rules for further development

91.1.3 M/s. Texool Spinners, KASEZ.

M/s Texool Spinners, KASEZ is an approved unit for manufacturing of woolen & Synthetic yarn vide LoA No. KASEZ/IA/010/2004-05 dated 22.06.2004 which is extended for a further period from time to time. At present, the said LoA is valid up to **31.05.2019** vide this office letter No. KASEZ/IA/010/2004-05 dated 14.11.2014.

M/s Texool Spinners, KASEZ has requested to add their name in the list of DTA clearance of worn & used clothing and modify condition No. 2 & 4 of renewal letter dated 14.11.2014.

Mr. Sajdeh, Partner of the firm appeared before the Committee. He explained that their original LoP was issued in 2004 wherein the following condition was mentioned at Sr. No. 2(i) :

"The Unit shall export its entire items, excluding rejects and sales in the Domestic Tariff Area as per the Provisions of SEZ Scheme"

Further at the time of renewal of said LOA vide letter dated 22.10.2009, original condition as mentioned above was amended and one new condition was mentioned. Both the said conditions are reproduced here below:

"1. The unit shall export the entire item, excluding manufacture waste not being worn / used clothing, worn / used textile articles and rags.

3. No DTA clearance of worn / used clothing, worn / used textile articles and rags shall be allowed."



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In this regard, they had made many representations in respect of the modifications/amendment done in the original condition of their LoA dated 22.06.2004, at the time of renewal vide letter dated 22.10.2009. After giving the opportunity of hearing to them, the Order dated 26/11/2010 passed by the then Development Commissioner that it is decided to restore the original conditions of LOA, as imposed at the time of issue of LoA No.KASEZ/IA/010/2004-05/2755 dated 22.06.2004. According to the said Order, it has been decided to restore the original condition of LOA dated 22.06.2004 and accordingly allowed regular DTA clearance of the said unit.

However, while considering the renewal of their LOA vide letter dated 14.11.2014 the two conditions are mentioned. Both the said conditions are reproduced here below:

“2. The unit shall export the entire items, excluding manufacturing waste not being worn / used clothing, worn / used textile articles and rags.

4. No DTA clearance of worn/used clothing, worn clothing, worn/used textile articles but only manufacturing waste will be allowed.”

Shri Sajdeh also informed that in view of above both the conditions their DTA sale was stopped by the Customs, KASEZ

The Committee asked Shri Sajdeh as to why they have not raised objection / representation, when above mentioned both the conditions mentioned in their renewal letter dated 14-11-2014. Shri Sajdeh informed the Committee that their DTA clearance was not stopped till September 2015, and they have already submitted documentary evidence in this regard.

The Committee also noted that once order passed by the then Development Commissioner vide his order dated 26-11-2010, for restoring the original conditions as mentioned at Sr. No. 2(i) of original LOA dated 22-06-2004, the Administration has modified the said condition and incorporate two more conditions at the time of renewal of their LOA vide letter dated 14-11-2014 is not proper / justified, and no reasons for this are recorded.

After considering all aspects and due deliberations, the Committee decided to restore the original conditions of LoA dated 22-06-2004 mentioned at Sr. No. 2(i), as per order passed by the then Development Commissioner vide his order dated 26.11.2010 and accordingly directed Development Commissioner to

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allow regular DTA clearance of the said unit. The Committee also direct to the Office of the D.C., KASEZ amended suitably conditions of renewal letter dated 14-11-2014.

91.2 Proposals of new application.

91.2.1 M/s. Deepak Acid and Chemical Industries.

The proposal is for setting up a Trading activity unit in KASEZ for various chemicals. Shri. Vicky & Shri Abhishek, Partners of the firm appeared before the Committee. They projected foreign exchange earnings of Rs.576.49 lakhs in 5 years period. They explained that they are already in this business in DTA and now they want to set up a unit inside SEZ.

After due deliberations, the proposal is approved by the Committee subject to condition that they should obtain permissions/approvals from GPCB and other authorities as required in this case. The Committee also informed the partners of the firm to participate in the open bidding for getting suitable space for their proposal.

91.3 MISCELLENEOUS

91.3.1 Review of condition mentioned in LoA of Warehousing Units of KASEZ for Worn & Used Clothing.

There are sixteen worn & used clothes processing unit in the Kandla Special Economic Zone as on today. The Ministry of Commerce and Industries vide their letter number C.6/35/2012-SEZ dated 17-09-2013 issued policy regarding worn and used clothing units in SEZs .

In reference to said letter dated 17-09-2013, the Approval Committee of KASEZ in its 63rd meeting held on 17.12.2013 (item No. 63.2) approved imposition of following conditions in LoP to be issued for worn & used cloth processing units:-

“The unit’s operations shall be restricted to the premises authorized to it and reasonably required for the quantity exported by the unit. The unit shall not be permitted to avail any additional space from the date of issue this LoP through allotment/ warehousing/ any other mode”.

The said condition was reviewed during the 72nd Unit Approval Committee meeting held on 04.09.2014 (Item No. 72.3.3), and the Committee after due deliberation was of the view that since warehousing unit is also allowed to

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import goods from its principals and as per their Principal's orders/directions can either export the goods or supply to DTA buyers. Permitting such activities in warehouses i.e keeping worn and used clothing in warehousing units may not be feasible as the distinct identity of the goods warehoused by one unit with those of other unit cannot be maintained (due to the nature of the goods) and may lead to diversion under the guise of above supplies posing difficulties to check as to whether the goods going out of the zone are of the foreign principals or otherwise. The Committee, therefore, decided to allow additional premises on lease rent to cater such instances of handling excess quantities, if any.

The said issue was again put up before the 73rd Unit Approval Committee meeting held on 21-10-2014 (Item No. 73.3.5), on request of a warehousing unit, M/s Associate High Pressure Technologies Pvt. Ltd, (Unit-II) of KASEZ. The Committee after due deliberation decided that the Worn & Used clothing units/Plastic Recycling units/other units dealing with second hand goods can warehouse the goods; however, such warehouses will cater solely to one unit/entity at one time.

In view of the above Committee noted that both the decisions taken during the 72nd and 73rd UAC of KASEZ are contradictory to each other, in the said issue. The Committee also noted that after the decision taken during the 72nd and 73rd UACs of KASEZ, condition of LOAs of warehousing units as well as Worn & Used clothing units/Plastic Recycling units/other units dealing with second hand goods are not modified suitably by the Administration. The Committee also noted that during the 46th Meeting of Approval committee of KASEZ, held on 11-07-2011 the following decision was taken and decided that same was imposed in the LOA issued to the Warehousing Activity unit under Rule 18(5):-

"JDC informed that they have incorporating a condition restricting import of second hand materials such as used / worn clothes, Plastic scrap, etc. in the LOAs issued to warehousing units. This was as per the decision taken in the 6th AC held on 22/ 12/2008. A number of proposals for warehousing were approved, thereafter, by subsequent Approval committee; however, the said condition was not incorporated in the minutes. Committee noted the point raised and ratified the same and also clarified that this should be made a standard condition in the LOAs for warehousing activity in future also."

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In view of the above the Committee after due deliberation decided that:

1. Decisions taken by the earlier UACs of KASEZ in its 72nd (Item No. 72.3.3) & 73rd (Item No. 73.3.5) meeting held on 04-09-2014 & 21-10-2014 respectively, are rescind.
2. Henceforth, all the warehousing units approved by the Approval Committee, KASEZ on or after 22-12-2008 cannot warehouse second hand goods such as Worn & Used clothes /Plastic scrap/other second hand goods
3. Decision taken by the Approval Committee in its 63rd meeting held on 17-12-2013 (item No. 63.2) will remain unaltered and henceforth operation of all the worn & used clothing units shall be restricted to the premised authorized to them and reasonably required for the quantity exported by the unit. The unit shall not be permitted to avail any additional space from the date of issue this LOP through allotment / warehousing / any other mode.
4. Henceforth, all the Worn & Used clothing units/Plastic Recycling units/other units dealing with second hand goods and warehousing units will work with their original condition as mentioned as such in LOPs / Renewal letters issued by this Administration.

Further, the Committee also decided that the Development Commissioner, KASEZ will form a Committee to conduct the audit of the warehousing units of KASEZ, specifically to ensure that warehousing units of which LOA were issued on or after 22-12-2008 do not keep Worn & Used clothes units/Plastic scrap units/other second hand goods, as per condition of condition of their LoA.

91.3.2 M/s. Shubh Exports, KASEZ

M/s Shubh Exports, KASEZ is an approved unit in Kandla Special Economic Zone vide Letter of Approval No. KASEZ/IA/002/2014-15 dated 10.07.2014 for manufacturing activity of Readymade Garments and made ups.

M/s Shubh Exports, KASEZ vide letter dated 08-01-2016, has requested for extension of validity of their LoA issued for Trading activity of Readymade garments & made ups in their existing LoA. The validity of Trading permission in the LoA expired on 25.08.2015.

Shri Pradeep Jain, Partner of the said unit appeared before the Committee and explained about their activities. He informed that they have already commenced their trading activity. However, they have not got adequate space to carry on their manufacturing activity in the Zone. They have only small space in SDF Ganga of 20.00 sq. mtrs., in which they could not started manufacturing activity.

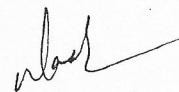
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The Committee noted that the unit has commenced its trading activities and therefore their LOP become valid for 5 years. The Committee also noted that they have not started their Manufacturing activity, however, commencement of Manufacturing cannot be linked with validity of LoP as they have already started Trading activity. Therefore, administration cannot insisted for commencement of manufacturing activity.

The Committee also noted that the said unit has also requested for Broad Banding of trading activity for Yarn and Fabrics vide their letter dated 08-01-2016. After due deliberation Committee approved the Broad Banding of both the items i.e Yarn and Fabrics subject to condition that both the items are falling under the free category as per Import Export Policy.

The Committee also advised the partner of the said unit to participate in the open bidding for getting suitable space for their manufacturing activity.

The meeting ended with vote of thanks of the chair.



(UPENDRA VASISHTH)
Development Commissioner,
Kandla Special Economic Zone