

Minutes of the 40th (fortieth) meeting of the Approval Committee for sector specific Pharmaceuticals – Special Economic Zone developed by M/s. Zydus Infrastructure Pvt. Ltd., held on 22-02-2017, at 1615 hours, under the Chairmanship of Shri Upendra Vasishth, ndc, Zonal Development Commissioner, Kandla Special Economic Zone, in the Seminar Hall, Central Excise Bhawan, Ambawadi, Ahmedabad.

List of participants is annexed as Annexure-I

Approved minutes of the previous meeting were confirmed by the Approval Committee.

A) Other proposals:-

40-A-01) Approval of list of items required for Authorized Operations:

Shri Kailash Bahuguna, COO, of M/s. Zydus Infrastructure Pvt. Ltd., appeared before the Committee and explained their requirement for duty-free goods for expansion of existing Common Effluent Treatment Plant (CEPT), as per their request letter dated 16-01-2017. After due deliberation and diligence the Committee approved the proposal, subject to standard terms and conditions of the SEZ Rules, 2006, consumption and utilization of duty-free goods shall be as per the SEZ Rules, 2006.

40-A-02) Proposal for reversal of one taxable services from the default list in the case of M/s. Intas Pharmaceuticals Ltd., unit in Zydus - Pharma-SEZ.

Shri Sree Ram Kaza, VP – Indirect Taxation, and Shri Tejas Shah, GM – Indirect Taxation of the applicant company (M/s. Intas Pharmaceuticals Ltd.) had appeared before the Committee and extensively explained to maintain one service viz. **“Business Auxiliary Services (activity – Brokerage activity on land acquire).”**

- i. They have procured various services, such as architectural, legal, liaison etc., from M/s Maruti Associates LLP (hereinafter referred to as the “service provider”)and it was by mistake that they have mentioned the services as brokerage services for procuring the land from developer in the SEZ;
- ii. They have entered into a legal contract with M/s. Maruti Associates LLP for the said services;
- iii. They will continue to receive the services from the said service provider, till their project of setting up another plant is complete, under the said contract,

On being asked as to whether any payment to the said service provider is made, Mr. Sriram Kaza submitted that total payment has already been made in advance to the service provider, though the services will be provided for another one to two years.

The Approval Committee perused all the documents available on records and observed that:

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- i. The said SEZ unit in its A-1 form has clearly mentioned the scope of work under Business Auxiliary Service as “Brokerage activity on land acquire”. Since in a SEZ the land is never sold but is only given on lease and since in SEZ there is no scope of any land broking activity so far as the activity of leasing of the land by developer to the unit is concerned, the explanation of the unit, on the issue, was called upon by the Specified Officer.
- ii. Vide letter No. Nil dated 18.11.2016 addressed to the jurisdictional Specified Officer, the said SEZ unit M/s. Intas Pharmaceuticals Limited have submitted that the services provided by the service provider is towards consultancy which incorporated negotiation and finalization of land with the SEZ developer M/s. Zydus Infrastructure Pvt. Ltd., service related to title, execution of Sale deed, coordination with lawyer, surveyor, contractor, architect and various agencies.
- iii. It has been observed that vide said letter itself the unit has categorically submitted that they have not entered into any type of written agreement with the service provider and so far as scope of the work is concerned, the same is specified in the invoice raised by the service provider.
- iv. The unit has further submitted that the service provided by the service provider is nothing but an agent’s service and the same is covered under ‘Business Auxiliary Service’.
- v. The unit has also submitted that they appointed the service provider to ensure that the entire land deal is complete in all respect and any sort of non-compliance/discrepancy issued from state government can be avoided.
- vi. The unit has submitted that it is their practice to hire a professional consultant for any land deal – be it in SEZ or any part of country.

After thorough perusal of the documents and extensive deliberations the Approval Committee came to the conclusion that the unit’s contention that the services provided by the service provider were actually utilized for approved authorized operations and hence was eligible from exemption of service tax, cannot be accepted on the following grounds:

- i. The said SEZ unit in its A-1 form has clearly mentioned the scope of work under Business Auxiliary Service as “Brokerage activity on land acquire” and when it dawned upon them that their A-1 application might run into rough weather, they came up with excuse of human error.
- ii. The unit’s submission dated 18.11.2016, that they appointed the service provider to ensure that the entire land deal is complete in all respect and any sort of non-

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compliance/discrepancy issued from state government can be avoided, is very contradictory in nature because in case of SEZ the land available with the Developer is already cleared of all the State Government regulations and requirements under the respective SEZ Act of the State Government and further sale of the land by developer to the unit is not permitted under the provisions of SEZ Act, 2005 and the rules framed thereunder.

- iii. The units submission that it is their practice to hire a professional consultant for any land deal – be it in SEZ or any part of country, itself proves that they had appointed the said service provider for the land deal with the SEZ developer M/s. Zydus Infrastructure Pvt. Ltd. and the activity of the service provider is nothing but land broking.
- iv. The said SEZ unit themselves in their communication dated 18.11.2016, have categorically submitted that they have not entered into any written agreement with the service provider, so the effort of the unit during the meeting to claim that the scope of the work of the service provider was well laid out in agreement, appears to be far from the truth and an afterthought on part of the unit.
- v. Approach to SEZ Developer for procurement of land on lease by the unit does not form part of approved authorized operation and such activities has no locus-standi.

Accordingly, the Approval Committee after due deliberation and discussion with the concerned Specified Officer of the SEZ, make to conclusion that the said such services cannot be allowed in the SEZ as far exemption from payment of Service Tax is concerned and finally decided to reverse the approval in respect of services in question for the above activities in case of M/s. Intas Pharmaceuticals Limited.



(Upendra Vasishth ndc)
Chairman of Approval Committee,
& Zonal Development Commissioner,
Gujarat SEZs
(HQ: Kandla-SEZ)

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ANNEXURE-I

The following members were present:-

01.	Shri Upendra Vasishth, ndc Development Commissioner, KASEZ.	Chairman
02.	Shri Anand Jagtiani, IRS, JDC (i/c), KASEZ City Office, Ahmedabad.	Nominee for the Director – SEZ, DOC, MOC&I.
03.	Shri R. N. Raval, GM, DIC, Ahmedabad.	Member
04.	Shri Rajesh Kumar, Deputy Commissioner.	Nominee of the Commissioner of Central Excise, Ahmedabad-II.
05.	Shri Kailash Bahuguna, CEO, Zydus Infrastructure Pvt. Ltd.,	Representative of the Developer – Zydus.