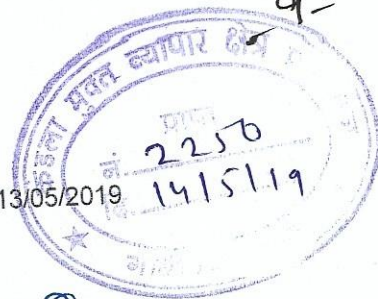


9

FORM OF APPLICATION UNDER RTI ACT, 2005 (UNDER SECTION 6(1))

Dt.13/05/2019



BY HAND DELIVERY

To,
The Central Public Information Officer &
The Deputy Commissioner of Customs,
Office of the Development Commissioner,
Ministry of Commerce & Industry, Department of Commerce,
Kandla Special Economic Zone
Gandhidham - Kutch - 370230

श्री लीकेश
IA-I का लिखी

श्री
14/5/19

1 Name of the Applicant

Mr. Sameer Porwal S/O Prakashchand Porwal.

2 [a] Mailing Address

Flat No.1, Second Floor, Plot No.30, Sector-5,
Koteshwar Road,
Gandhidham (Kutch) 370201

[b] Telephone No.
[c] Email

97277261161 (Mobile)
sameerporwal@rediffmail.com

3 Whether a citizen of India

Yes No

4 Details of information sought
A. Nature of Information sought

[a] Life of Liberty of the Person
[b] Other than [a]

B. Type of information required

[a] Copy of documents
[b] Inspection of records
[c] Sample of material
[d] Other information

C. [a] Whether information sought related to third party
[b] If yes his/her name & address

Yes No

D. Specify the particulars of information required :-

The coccorspondence pertaining to the Policy to regulate functioning of Plastic Recycling Units in SEZ more particularly detailed in the Annexure-1 attached herewith.

5 Time period for which information sought

Not Applicable

6 Whether applicant belongs to BPL category

Yes No

7 Details of Fee paid

IPO No. 39F 449028 dt.31/05/2018 for Rs.10/-

(SAMEER PORWAL)
Signature of Applicant

Place : Kandla SEZ
Date 13/05/2019



14/5/19
आबका लिपिक
क.वि.आ.क्षेत्र प्रशासन,
गांधीधाम (कच्छ)

- 7 -

Annexure-I

- [1] Letter No.KASEZ/IA/Misc. Plastic/2015-16 Vol-1 and Letter No.KASEZ/IA/Misc. Used Cloths/13-14/PT-III both dt.14/02/2018 addressed to Ministry of Commerce & Industry, Department of Commerce, New Delhi by the Development Commissioner, Kandla SEZ.
- [2] Reply to the above 2 letters given by the Ministry of Commerce & Industry, Department of Commerce, New Delhi to the Development Commissioner, Kandla SEZ vide Letter No.D.12/20/2015-SEZ (Vol-III) dt.21/02/2018
- [3] Letter No.KASEZ/IA/MIS/Used Cloth/13-14/PT-III/886 dt.19/04/2018 addressed to Ministry of Commerce & Industry, Department of Commerce, New Delhi by the Development Commissioner, Kandla SEZ.
- [4] Reply to the above letter given by the Ministry of Commerce & Industry, Department of Commerce, New Delhi to the Development Commissioner, Kandla SEZ vide Letter No.D-12/20/2015-SEZ (Vol-III) dt.04/05/2018.
- [5] Letter No.KASEZ/IA/G-64/98/Vol.III/2290 dt.29-30/05/2018 addressed to Ministry of Commerce & Industry, Department of Commerce, New Delhi by the Development Commissioner, Kandla SEZ.
- [6] Reply to the above letter given by the Ministry of Commerce & Industry, Department of Commerce, New Delhi to the Development Commissioner, Kandla SEZ vide Letter No.D-12/20/2015-SEZ (Vol-III) dt.25/07/2018.
- [7] Clarification received from the Ministry of Commerce & Industry, Department of Commerce, New Delhi on applicability Rule-80 of the SEZ Rules,2006 prospectively vide letter dt.14/03/2019
- [8] Letter No.KASEZ/IA/Used Cloth/13-14/Pt.III dt.19/04/2018 addressed to Ministry of Commerce & Industry, Department of Commerce, New Delhi by the Development Commissioner, Kandla SEZ along with a copy of Minutes of Meeting dt.23/08/2017 and 29/08/2017.



KASEZ

Office of the Development Commissioner
Kandla Special Economic Zone
Ministry of Commerce & Industry
Gandhidham-Kutch-370 230
Phone (02836)-253300, 252475, 252273
Fax (02836) – 252250 & 252194
E-mail: admn.kasez-gj@gov.in
Website: www.kasez.gov.in

F.No. KASEZ/ RTI/09/2019-20/ 3167 3197

Dated: 19.06.2018

To,

By Speed Post

Shri Sameer Porwal,
S/o Sh. Prakashchand Porwal,
Flat No. 1, 2nd Floor, Plot No. 30,
Sector- 5, Koteshwar Road,
Gandhidham (Kutch)- 370201

Gentlemen,

Sub: RTI application dated 13.05.2019 - seeking information under RTI Act, 2005- m/r.

Please refer to your RTI application dated 13.05.2019 received in this office on 14.05.2019 and also refer to this office letter of even no. 2356 dated 27.05.2019 & 2863 dated 11.06.2019 vide which you were requested to submit a fresh IPO of Rs. 10/- for RTI fee and additional fee of Rs. 40/- (Rs. 2/- per page for 20 pages). This office received the requisite RTI fee and additional fee vide your letter dated 14.06.2019 received in this office on 18.06.2019.

In this regard, as per information received from concerned branches/sections, the point-wise desired information is as under:-

1. The copy of letter No. KASEZ/IA/Misc. Plastic/2015-16/Vol. I and letter No. KASEZ/IA/Mis Used Cloth/13-14/Pt. III both dated 14.02.2018 addressed to DoC, New Delhi by DC, KASEZ are enclosed as **Annexure- 'A'**.
2. The copy of reply letter No. D. 12/20/2015-SEZ (Vol.II) dated 21.02.2018 addressed to DC, KASEZ by DOC, New Delhi is enclosed as **Annexure- 'B'**.
3. The copy of letter No. KASEZ/IA/Mis Used Cloth/13-14/Pt. III dated 19.04.2018 addressed to DoC, New Delhi by DC, KASEZ is enclosed as **Annexure- 'C'**.
4. The copy of reply letter No. D. 12/20/2015-SEZ (Vol.III) dated 04.05.2018 addressed to DC, KASEZ by DOC, New Delhi is enclosed as **Annexure- 'D'**.
5. The copy of letter No. KASEZ/IA/G-64/98/Vol.III/2290 dated 29/30.05.2018 addressed to DoC, New Delhi by DC, KASEZ is enclosed as **Annexure- 'E'**.
6. The copy of reply letter No. D. 12/20/2015-SEZ (Vol.III) dated 25.07.2018 addressed to DC, KASEZ by DOC, New Delhi is enclosed as **Annexure- 'F'**.

7. The copy of clarification letter No. K.43013(16)/1/2019-SEZ dated 14.03.2019 addressed to all DC, SEZ by DoC, New Delhi is enclosed as **Annexure- 'G'**.
8. The copy of minutes of the meetings held on 23.08.2017 and 29.08.2017 in letter No. KASEZ/IA/Mis Used Cloth/13-14/Pt.III dated 19.04.2018 addressed to DoC, New Delhi by DC, KASEZ are enclosed **Annexure- 'H'**.

This information is being supplied under section 7 of the RTI Act, 2005. In case, the applicant is not satisfied with the information supplied, he may prefer an appeal within 30 days from the receipt of this information before the Development Commissioner, KASEZ.

Encl:- As above.

Yours faithfully,

A2
19/6

(Arun Kumar)

P/c Deputy Commissioner of Customs/CPIO
Kandla Special Economic Zone.

By hand
Received
Q

By
(Saneer)
Porwal
19/6/19
9727726161

KANDLA SPECIAL ECONOMIC ZONE

I.A-1 Section

U.O.Note

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Please refer to U.O. Note F.No. KASEZ/RTI/09/2019-20/2027 dated 15.05.2019 forwarding RTI application dated 13.05.2019 received from Shri. Sameer Porwal, Gandhidham

The available information pertaining to this section is as under:-

1. The copy of letter No. KASEZ/IA/Misc. Plastic/2015-16/Vol.I and letter No. KASEZ/IA/Mis Used Cloth/13-14/Pt.III both dated 14.02.2018 addressed to DoC, New Delhi by DC, KASEZ are enclosed herewith.
2. The copy of reply letter No. D.12/20/2015-SEZ (Vol.II) dated 21.02.2018 addressed to DC, KASEZ by DoC, New Delhi is enclosed herewith.
3. The copy of letter No. KASEZ/IA/Mis Used Cloth/13-14/Pt.III dated 19.04.2018 addressed to DoC, New Delhi by DC, KASEZ is enclosed herewith.
4. The copy of reply letter No. D.12/20/2015-SEZ (Vol.III) dated 04.05.2018 addressed to DC, KASEZ by DoC, New Delhi is enclosed herewith.
5. The copy of letter No. KASEZ/IA/G-64/98/Vol.III/2290 dated 29/30.05.2018 addressed to DoC, New Delhi by DC, KASEZ are enclosed herewith.
6. The copy of reply letter No. D.12/20/2015-SEZ (Vol.III) dated 25.07.2018 addressed to DC, KASEZ by DoC, New Delhi is enclosed herewith.
7. The copy of clarification letter No. K.43013(16)/1/2019-SEZ dated 14.03.2019 addressed to all DC, SEZ by DoC, New Delhi is enclosed herewith.
8. The copy of minutes of the meetings held on 23.08.2017 and 29.08.2017 in letter No. KASEZ/IA/Mis Used Cloth/13-14/Pt.III dated 19.04.2018 addressed to DoC, New Delhi by DC, KASEZ are enclosed herewith.

This is issued with the approval of JDC, KASEZ.



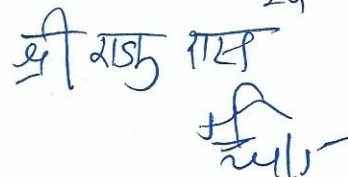
(P.C.Das)

Appraising Officer (I.A-1)

F.No:-KASEZ/IA/RTI(III)/14/2017-18/ 2274

Dated :- 23.05.2019

To,
APIO
Kandla SEZ





सत्यमेव जयते
KASEZ

विकास आयुक्त कार्यालय
Office of the Development

Commissioner

कांडला विशेष आर्थिक क्षेत्र

Kandla Special Economic Zone

वाणिज्य तथा उद्योग मंत्रालय

Ministry of Commerce & Industry

गांधीधाम - कच्छ

Gandhidham-Kutch-370 230

Phone (02836)-253300, 252475, 252273

Fax (02836) - 252250 & 252194

E-mail adm.kasez-gj@gov.in

Website: www.kasez.gov.in

(BY EMAIL/SPEED POST)

No. KASEZ/IA/ Misc. Plastic/2015-16/Vol.I/

Dated: - 14.02.2018

12119

To
The Secretary to the Government of India,
Ministry of Commerce & Industries,
Department of Commerce (SEZ Division),
Udyog Bhawan, New Delhi.

(Kind Attention: Shri T. V. Ravi, Director)

Madam,

Sub: - Policy on units in SEZs carrying on recycling of plastic
scrap or waste in SEZs - Reg.

Kindly refer to Ministry's letter F. No. D-12/20/2015-SEZ dated 13.02.2018 on the above subject whereby the entire para 3(x) of the Policy Guidelines dated 17.09.2013 has been replaced with immediate effect with a new para incorporating changed export obligations. The other conditions laid down in the original policy guidelines dated 17.09.2013 have been kept unchanged.

This Administration after due examination with regard to implementation of the changed condition may like to put forth the following salient points having ramifications which, your good self may appreciate, require clarification: -

1. The existing policy dated 17.09.2013 except a changed para in 3(x) has been retained. As the Ministry is aware that earlier the said policy was struck down by a single Judge of Hon'ble High Court of Gujarat vide his order dated 24.01.2017. The same was struck down in the case of Special Civil Applications filed by the plastic recycling units which amongst other issues was a challenge to imposing any additional conditions other than NFE

obligations under Rule 53. The single Judge in his order quashed the policy on the ground that no policy guidelines/additional conditions can be imposed in the LoA without incorporating the same in the Rules. The relevant portion of the order is reproduced below:

"19. Section 55 of the SEZ Act empowers the Central Government to make Rules for carrying out the provisions of the Act. However, any rule made by the Central Government is required to be placed before each House of Parliament as provided under Sub-Section (3) of Section 55."

"20. Now, as per the relevant provisions discussed and reproduced herein above, the conditions imposed by the Authority while issuing the LoA to each petitioner are in consonance with the guidelines of 2013. The relevant conditions which are referred to herein above are not in consonance with the Rules since none of the Rules prohibit the unit established in SEZ to remove the goods in DTA."

23. It is true that when a Policy is laid down by the Government, the High Court would be at loath to interfere with the same. However, if mandatory provisions are enacted to frame Rules, and are not followed by the authority, as in the present case, the Court can quash and set aside such Policy.

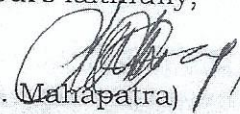
2. We i.e. this office alongwith the B.O.A & U.O.I are presently in appeal before the Divisional Bench of the Hon'ble High Court and the bench has not granted stay on the operation of the single Judge order dated 24.01.2017. Therefore the matter is presently sub-judice before the Hon'ble bench of High Court of Gujarat. Moreover, the present status of the issue is that the policy dated 17.09.2013 has been struck down by the Court in toto and not presently in force. Therefore, any partial modification in the policy dated 17.09.2013 does not take away the fact that policy is non-existent legally. Further, the policy has only been partially modified and the new modified conditions have not been effected through the route of amending the Rules but continues through policy guidelines. Therefore, it will remain an unanswered issue unless the issue is settled finally decided by the Division bench of the High Court of Gujarat.

- 3. Further, as we are in Appeal against the impugned order of the Hon'ble High Court of Gujarat, acting against the speaking order of the High Court needs careful consideration to avoid contempt and legal examination.
- 4. The replaced new para 3(x) does not specify the period as to when to monitor the compliance of the altered conditions whether annually or on completion of the five-year period as is done in the case of NFE monitoring under Rule 53. Since the altered para starts with the words "... in addition to meeting the NFE obligation..." (which is monitored after completion of five year period), it appears that the above new changed obligation is also required to be monitored at the completion of five year period. The same requires clarification.
- 5. Further in case of plastic recycling units the words used in regard to export obligations are - 'exports' not less than 35% of the total annual turnover. This creates doubt whether the word 'exports' not preceded with the word 'physical' means exports as defined under Section 2(m) of the SEZ Act which includes the category of intra-zone and inter-unit supplies also. However, this office is assuming that both the phrases mean physical exports abroad. However, there is a possibility that in the absence of explicit clarification the word may give rise to challenge to its legality.

Your urgent directions in the matter is solicited please.

This issued with the approval of the Development Commissioner, KASEZ.

Yours faithfully,


 (S. Mahapatra) 14/02/18
 Joint Development Commissioner
 Kandla Special Economic Zone.



सत्यमेव जयते
KASEZ

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-49
विकास आयुक्त कार्यालय
**Office of the Development
Commissioner**
कांडला विशेष आर्थिक क्षेत्र
Kandla Special Economic Zone
वाणिज्य तथा उद्योग मंत्रालय
Ministry of Commerce & Industry
गांधीधाम - कच्छ
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Fax (02836) - 252250 & 252194
E-mail adm.kasez-gj@gov.in
Website: www.kasez.gov.in

No. KASEZ/IA/Mis Used Cloth/13-14/Pt.III/

(BY EMAIL/SPEED POST)

Dated: -/4.02.2018

To
The Secretary to the Government of India,
Ministry of Commerce & Industries,
Department of Commerce,
Udyog Bhawan, New Delhi.

12/20

(Kind Attention: Shri T. V. Ravi, Director)

Madam,

Sub: - Policy to regulate functioning of Worn/Used Clothing
units in SEZs - Reg.

Kindly refer to Ministry's letter F. No. D-12/20/2015-SEZ dated 13.02.2018 on the above subject whereby the entire para 3(iv) of the Policy Guidelines dated 17.09.2013 has been replaced with immediate effect with a new para incorporating changed export obligations. The other conditions laid down in the original policy guidelines dated 17.09.2013 has been kept unchanged.

This Administration after due examination with regard to implementation of the changed condition may like to put forth the following salient points having ramifications which, your goodself may appreciate, require to be clarified: -

1. The existing policy dated 17.09.2013 except a change in 3(iv) has been kept unaltered. As the Ministry is aware earlier the said policy was struck down by a single Judge of the Hon'ble High Court of Gujarat vide its order dated 14.02.2017. The same was done by the Hon'ble High Court in the case of Special

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Civil Applications filed by the used and worn clothing units which amongst other was challenge to imposing any additional conditions other than NFE obligations under Rule 53. The single Judge quashed the policy in the above SCAs on the ground that no policy guidelines/additional condition in the LoA without incorporating the same in the Rules as a specific condition can be imposed.

"18. On law points, learned counsel for the petitioners argued that the Competent Authority cannot issue order / office memorandum, instructions in contravention to the statutory rules. It can only be issued to supplement the statutory rules but not to supplant it."

and

"That even the imposition of new condition is required to be amended by the legislature itself and therefore, the policy of the Government cannot amend the Act itself and therefore, the conditions cannot be imposed by way of policy as it is against the law."

In addition as per para 26

" Considering the provision of Section 15(8) (B) read with Section 2(w) of the Act it is apparently clear that no new condition can be imposed on the petitioners in their LoA without amending the relevant rules as such, policy dated 17.09.2013 is without any authority of law. The provisions of Section 55(3) lays a certain provision for making any amendment in the rules, which obviously has not been done in the present case."

2. Therefore, we i.e. this office alongwith the B.O.A & U.O.I are presently in appeal before the Divisional Bench of the Hon'ble High Court and the bench has already granted stay on the operation of the single Judge order dated 14.02.2017. Therefore, the matter is presently sub-judice before the Hon'ble bench of High Court of Gujarat. Since the policy dated 17.09.2013 has only been partially modified and the new modified conditions have not been imposed through the route of amending the Rules but continued through policy guidelines it will remain an unanswered issue unless the issue is settled finally.

- 3. Further, as we are in Appeal against the impugned order of the Hon'ble High Court, Gujarat, acting against the speaking order of the Hon'ble High Court needs careful consideration to avoid contempt and legal examination.
- 4. The replaced new para 3(iv) does not specify the period as to when to monitor the compliance of above conditions whether annually or on completion of the five year period as is done in the case of NFE monitoring under Rule 53. Since the replaced para starts with the words in addition to meeting the NFE obligation (which is monitored after completion of five years period) it appears that the above new changed obligation is also required to be monitored at the time of completion of five years period.
- 5. Further in case of worn clothing two phrases dealing with export obligations have been used - 'exports' not less than 66.67% i.e. 2/3rd of the total annual turnover. Thereafter the next sentence starts with the words 'physical export' obligation (by volume) of 50% shall also apply. This creates doubt whether the exports not preceded with word 'physical' means exports as defined under Section 2(m) of the SEZ Act which includes the category of intra-zone and inter-unit supplies also. However, this office is assuming that both the phrases means physical exports abroad. In this context, there is a possibility in the absence of explicit clarification may give rise to challenge to its legality.

Your urgent directions in the matter is solicited please.

This issued with the approval of the Development Commissioner, KASEZ.

Yours faithfully,

(Signature) 14/02/18
 (S. Mahapatra)
 Joint Development Commissioner
 Kandla Special Economic Zone.

SM 22/02/18
A.O (IA - 1)
for m a.
21.2.18

No.D.12/20/2015-SEZ (Vol.II)
Government of India
Ministry of Commerce & Industry
Department of Commerce
SEZ Division

Udyog Bhavan, New Delhi
Dated: 21 February, 2018

To
Development Commissioner
Kandla Special Economic Zone

Subject: Policy to regulate functioning of Worn/Used Clothing units and Plastic scrap or waste recycling units in SEZs-reg.

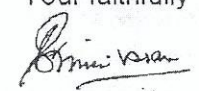
Sir,

I am directed to refer to your letters no. KASEZ/IA/Mis Used Cloth/13-14/Pt.III dated 14.02.2018 & KASEZ/IA/Misc. Plastic/2015-16/Vol.I dated 14.02.2018 on the subject mentioned above and to say that on examination of the issues raised the following points emerge: -

- (i) The Central Government has inherent powers to lay down conditions for DTA sale and functioning of SEZ Units under Section 55 of SEZ Act, 2005.
- (ii) Annual turnover is to be taken as the period for monitoring the compliance of the altered conditions.
- (iii) The term 'Exports' means the export of goods to any place outside India.

2. This issues with the approval of AS(SK).

Your faithfully


(G. Srinivasan)

Under Secretary to the Govt. of India
Tel. 011-2306 2496
Email: srinivasan.g@nic.in



KASEZ

विकास आयुक्त कार्यालय
Office of the Development
Commissioner
कांडला विशेष आर्थिक क्षेत्र
Kandla Special Economic Zone
वाणिज्य तथा उद्योग मंत्रालय
Ministry of Commerce & Industry
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Fax (02836) - 252250 & 252194
E-mail adm.kasez-gj@gov.in
Website: www.kasez.gov.in

(BY EMAIL/SPEED POST)

No. KASEZ/IA/Mis Used Cloth/13-14/Pt.III/ -886 Dated: - 19.04.2018

To,
The Secretary to the Government of India,
Ministry of Commerce & Industries,
Department of Commerce (SEZ Division),
Udyog Bhawan, New Delhi.

(Kind Attention: Shri T. V. Ravi, Director)


Sir,

Sub: - LPA No. 694 to 702 of 2017 in respect of Worn & Used
clothing units and LPA No. 1548 to 1564 of 2017 in
respect of plastic recycling units in Kandla SEZ before
Hon'ble HC Bench of Gujarat High Court - reg.

This is in continuation of this office letter of even number dated
18.04.2018 on the above subject.

In this regard, please find enclosed herewith draft letter prepared
on the basis of minutes of the meetings held on 23.08.2017 and
29.08.2017 to review the policy on used/worn cloth recycling units and
recycling of plastic scrap or waste for your vetting/approval so that the
same may be forwarded to the Assistant Solicitor General/Central
Government Standing Counsel, High Court of Gujarat for appraising the
Hon'ble High Court bench.

Yours faithfully,


(Satyadeep Mahapatra) 19/04/18

Development Commissioner(i/c)
Kandla Special Economic Zone.

Encl: - As above.

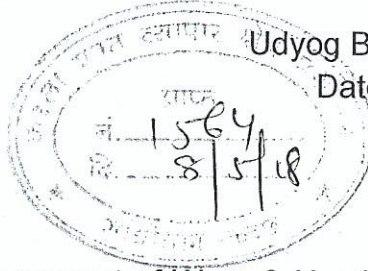
No.D.12/20/2015-SEZ (Vol.III)
Government of India
Ministry of Commerce & Industry
Department of Commerce
SEZ Division

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23
- 99

Udyog Bhavan, New Delhi

Dated: 4th May, 2018

To
Development Commissioner
Kandla Special Economic Zone



Subject: LPA No. 694 to 702 of 2017 in respect of Worn & Used clothing and LPA No. 1548 to 1564 of 2017 in respect of plastic recycling units in Kandla SEZ before Hon'ble HC Bench of Gujarat High Court-reg.

Sir,

I am directed to refer to the letter No. KASEZ/IA/Mis Used Cloth/13-14/Pt.III/886 dated 19.04.2018 on the subject mentioned above and to say that this Ministry is in agreement with the position mentioned in the draft letter prepared except that there is nothing on record that this Ministry would ideally like to impose 100% export obligation and hence the same may not be incorporated in the draft letter.

2. Further, it is to inform that DC-KASEZ & DC-FSEZ in their report had pointed out that achieving 100% export was perhaps not techno-commercially viable and hence a decision to amend the export conditions was taken on the basis of this ground reality.

3. This issues with the approval of Competent Authority.

Your faithfully

G. Srinivasan

(G. Srinivasan)

Under Secretary to the Govt. of India

Tel. 011-2306 2496

Email: srinivasan.g@nic.in



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सत्यमेव जयते

KASEZ

विकास आयुक्त कार्यालय
Office of the Development Commissioner

कांडला विशेष आर्थिक क्षेत्र

Kandla Special Economic Zone

वाणिज्य तथा उद्योग मंत्रालय

Ministry of Commerce & Industry

गांधीधाम-कच्छ

Gandhidham-Kutch-370 230

Phone (02836)-253300, 252475, 252273

Fax (02836) - 252250 & 252194

E-mail adm.n.kasez-gj@gov.in

Website: www.kasez.gov.in

F.No.KASEZ/IA/G-64/98/Vol.III/ 2290

Dated: - 29.05.2018

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To,
The Secretary to the Government of India,
Ministry of Commerce & Industries,
Department of Commerce (SEZ Division),
Udyog Bhawan,
New Delhi.

By Speed Post

(Kind Attention : Shri G. Srinivasan, Under Secretary)

Subject: Monitoring of performance of Plastics Recycling Units and Worn & Used Clothing Units – regarding.

Consequent upon Ministry amending the export obligations in respect of both plastic recycling units and worn & used clothing units regulation Policy dated 17.09.2013 w.e.f. 13.02.2018 and subsequent clarifications issued vide Ministry's letter F.No. D.12/20/2015-SEZ (Vol.II) dated 21.02.2018, it is clear that new amended export obligation will have prospective effect w.e.f. 13.02.2018 and monitoring will be done on annual turnover basis annually.

In this regard, it is to state that it may be appreciated that both APRs as well as the annual financial accounts of the units are based on financial year i.e. from April to March whereas the changed export obligation which is effective from 13.02.2018 will have quite evidently annual period of monitoring as 13.02.2018 to 12.02.2019 and subsequent years thereafter. Therefore, there may arise a difficulty in monitoring the changed export obligation as their APRs will not be in sync with the monitoring period of export obligation. Therefore, in order to have a seamless and effective mechanism of monitoring the changed export obligation, it would be appropriate if the annual period is considered from April to March rather than involving a split period of 13.02.2018 to 12.02.2019. Many of representatives of both the recycling industries have represented to this office to consider the annual monitoring from April, 2018 to March, 2019 for the purpose of monitoring of changed export obligations.

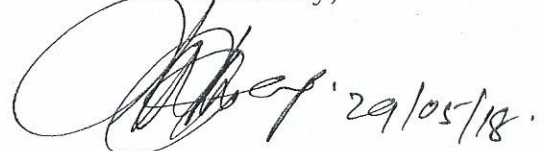
Ministry may like to consider the above as deemed fit.

ii. Further more, as both the recycling industries LoAs are coming nearer to expiry of five years period after the formulation of the policy dated 17.09.2013, it is to report that both our LPAs in respect of both these two industries are still pending before the Hon'ble HC bench. This office has earlier sought legal opinion, copy of which is enclosed herewith for ready reference, about speedy disposal of the said pending cases however the legal opinion of the ASG is still awaited despite several reminders and visit to their office by our officers. It may also be appreciated that since the changed export obligations will have prospective effect and that compliance of physical export obligations for the past period of four years as per old conditions may not be possible in the light of the litigation on the issue pending before the Hon'ble HC bench. Since performance of their past 4 years will have quite evidently also have relevance regarding their physical export performance, this is to further inform that this office is closely monitoring the hearing of our LPAs in respect of both these industries before the Hon'ble HC bench.

In view of the above, Ministry may like to guide this office about the information required for the purpose of renewal of their LoA of these units before BoA which is due on 30.11.2018. This office will shortly provide the details of the NFE performance for the last 4 and half years as well as their physical export performance.

This is issued with the approval of the Development Commissioner, KASEZ.

Yours faithfully,



(Satyadeep Mahapatra)

Joint Development Commissioner
Kandla Special Economic Zone

Encl: - As above.


29-05-2018

No.D.12/20/2015-SEZ (Vol.III)
Government of India
Ministry of Commerce & Industry
Department of Commerce
SEZ Division

Udyog Bhavan, New Delhi
Dated: 25 July, 2018



To
Development Commissioner
Kandla Special Economic Zone

Subject: Monitoring of performance of Plastics Recycling Units and Worn & Used Clothing Units - reg.

Sir,

I am directed to refer to KASEZ letter No. KASEZ/IA/G-64/98/Vol. III/2290 dated 29/30.05.2018 on the subject mentioned above and to state that the issues were examined and it has been decided that being the administrative head of SEZs, it is requested to take appropriate steps to monitor the annual performance of units through APRs.

2. This issues with the approval of Competent Authority.

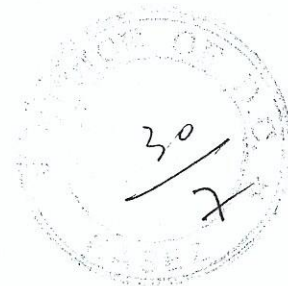
Your faithfully

(G. Srinivasan)

Under Secretary to the Govt. of India

Tel. 011-2306 2496

Email: srinivasan.g@nic.in



No. K.43013(16)/1/2019-SEZ
Government of India
Ministry of Commerce & Industry
Department of Commerce
(SEZ Section)

15678
18/3/19

Udyog Bhawan, New Delhi
Dated: 14th March, 2019

To
All Development Commissioner
Special Economic Zone.

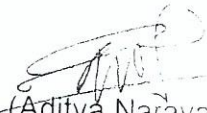
Subject: Request for clarification on Rule 80 of SEZ (Amendment) Rules, 2006

Sir,

I am directed to refer to MEPZ SEZ letter no. 8/3/2007/Oragadam-SEZ/1015 dated 13.02.2019 on the above mentioned subject and to state that NFE are calculated cumulatively for 5 years performance of the unit and the amended rule 80 came into force from the date of publication in official gazette i.e. 19.09.2018. As such NFE calculation for a unit completing the reckoning period of five years as per relevant rule prior to the amendment dated 19.09.2018 would be dealt with under the provision of FTD&R Act. The rule 80 inserted in the SEZ Rules on 19.09.2018 would apply prospectively.

2. This issues with the approval of the competent authority.

Yours faithfully,


(Aditya Narayan)
Under Secretary to the Govt.
of India
Tel. 23062496
e-mail: aditya.n@nic.in

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Record of discussion of the meeting to Review the policy on Used/worn Cloth recycling units in SEZ & EOU held on 23rd August, 2017 at 1100 AM in Room No. 249, Udyog Bhawan, New Delhi under the Chairmanship of Shri Sunil Kumar, Additional Secretary, Department of Commerce.

A meeting to review the policy on Used/Worn Cloths Recycling Units in SEZ & EOU was held on 23th August, 2017 under the Chairmanship of Shri Sunil Kumar, Additional Secretary, Department of Commerce. A list of participants is annexed.

2. After a round of introduction, AS (SK) desired to know whether any reference from Ministry of Textile on the Clothing Manufacturing Association of India (CMAI) has been sent to SEZ Division. Director, M/o Textile has handed over copies of the correspondence between SEZ Division and M/o Textile on the issue. It was observed there from that M/o Textile on 06.05.2016 had forwarded the CMAI representation to SEZ Division requesting to keep worn/ used clothing under chapter 63.09 in the restricted list in the interest of local Textile and Garment industry.
3. Further, DC, KASEZ has explained the background of the case stating that 16 used /worn cloth recycling established prior to enactment of SEZ Act, 2005, are operational in KASEZ and providing employment to over 10000 persons. These units are governed by the DoC policy dated 17.09.2013 prescribing norms for minimum physical exports obligation over the five years. These units are exporting and NFE positive however the remaining mutilated clothes are being cleared into the DTA. This policy has been challenged before the court of Law on ground that these units needs to be NFE positive only and there is no restriction on DTA clearance in the SEZ Act/ Rules and the Court struck down the aforesaid policy. However, a stay has been taken by the Government on the High Court Order.
4. DC, KASEZ has informed that he alongwith DC, FSEZ has submitted a report on the applicability of this Department policy dated 17.09.2013. The Report suggested that physical export obligation was practically not achievable, by these units. He was of the view that a limit of 2/3 or 66.6% in turn over and 50 % in quantity of terms would be reasonable export obligation. He stated that these units have been strictly adhering to the norms of pollution and customs. In view of the aforesaid Court directions and also considering the employment provided by these units, the policy of DoC dated 17.09.2013 needs to be relooked. He further informed that there is a supply of approximately 4 lakhs tons of mutilated clothes in the DTA, out of which only 2 lakhs tons is being cleared by SEZ to DTA.
5. AS(SK) desired to know how the remaining 2 lakh ton of used and worn clothes (other than cleared from SEZ) are coming into the DTA. He further inquired from DGFT as to whether any license has been given for import of used/worn clothes into the DTA. Jt. DG, DGFT informed that, being restricted item, DGFT has not given any license for import of worn/used clothes in DTA, however, Cotton rags are permitted for import in completely mutilated form without a licence subject to the condition that mutilation must conform to the requirement specified by Customs Public Notice or Trade Notice as per Chapter-63, Schedule-1 of Import Policy. As such, these used and worn clothes may have been coming to

India through this channel. Accordingly, it was decided that the source of the approximately 2 lakh tons coming into DTA is required to be ascertained.

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6. It was decided that the policy dated 17.09.2013 needs to be amended considering the report submitted by the two DCs in the past and Court direction. However, AS (SK) has desired that a comprehensive report from M/o Textile by 30th August, 2017 on the following issues:

- (i) Comments of Textiles on the representation of "CMAP" on the points raised.
- (ii) Domestic requirement of mutilated worn/used clothes, in quantity terms.
- (iii) How does the supply of mutilated cloths are made in DTA? Whether through import from foreign country or SEZ?
- (iv) Present Policy on import of mutilated Worn/Used clothing to India.

7. Further it was also decided that a report from Customs as to how mutilated Used/Worn clothes (restricted) are being imported in DTA will be sought.

8. At the end, it was also decided that another round of meeting would be held in the next week to expedite the issue.

9. The meeting ended with vote of thanks to chair.

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Annexure

Name of the participants of the meeting dated 23.08.2017

1. Shri Sunil Kumar, Additional Secretary, DoC
2. Shri T.V. Ravi, Director, DoC
3. Shri Upendra Vasishth, Development Commissioner, Kandla SEZ
4. Shri Sushil Gaikwad, Director, M/o Textile
5. Shri Kanti Prakash Brahma, Consultant, M/o Textile
6. Shri Amitabh Dwivedi, Dy. Secretary, DoC
7. Shri S. P. Roy, Joint DGFT, DGFT

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Minutes of the meeting held on 29th August 2017 under the Chairmanship of Additional Secretary (SK), DoC on review of Recycling of Plastic Scrap or Waste in SEZ.

AS(SK) welcomed all the participants (List at Annexure) and requested DC, KASEZ to brief the members on the issue.

2. DC, KASEZ informed that plastic recycling units in KSEZ had been given Letter of Permissions (LOP) in 1997 to 23 units out of which 22 were presently functional. After the enactment of SEZ Act 2006, these units were granted extension of LOP upto 2011. Thereafter, with the approval of the BOA these LOPs were further extended on piecemeal basis upto 2013. In 2013, policy guidelines were issued as per which, these units were required to fulfill physical export obligations and to achieve 100% export in the 5th year i.e. 2018. These units were granted extension upto 2018 under these guidelines. He informed that the Units approached the High Court of Gujarat against the policy. The High Court had held the policy guidelines dated 17.9.2013 to be discriminatory and not as per SEZ Rules. DC KASEZ also informed that this decision of the High Court was appealed against by filing an LPA. However, no stay has been granted by the High Court in this regard.
3. DC KASEZ informed that these units are using virgin plastic scrap as raw material which is being allowed after testing and certification by Central Institute of Plastics Engineering & Technology (CIPET). After segregation, the plastic scrap is shredded and ground into agglomerate. This agglomerate is largely cleared in to DTA. The units are achieving NFE by selling in DTA against foreign exchange. He also informed that these industries are non polluting and have no effluents. He also stated that achieving 100% physical export obligations were neither feasible nor reasonable.
4. The representative from MOEF&CC explained the background of bringing the plastic waste under Schedule VI of Hazardous Wastes and Other Materials Rules and he also stated that these Rules are to meet the requirements of Basel convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. He informed that the reason for

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bring plastic scrap/waste under Schedule VI of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 was primarily due to the reason that the raw material being imported by the plastic recycling units was waste and covered under the above Convention and not because it was plastic. Later on, MOEF&CC allowed these to be imported in SEZs and EOUs because it was for export purpose. He further stated that virgin plastic waste from industry was not generated within the country. He further stated that the process of plastic recycling need to conform to the environmental requirements and are required to be certified by an authorized agency. He also stated that MOEF&CC is actively considering allowing plastic waste/scrap into DTA for recycling.

5. The representatives of the Plastics Export Promotion Council (PLEX) Council informed that there are 2 types of scraps i.e. post industrial scrap which was generally virgin plastic and post consumer waste. He informed that practically no post industrial plastic scrap was available within the country and collection of post consumer scrap was negligible and also difficult. Most of the post consumer scrap was being recycled at local levels. He also informed that there was a shortage of this raw material in India.

6. Joint Secretary EP(CAP) enquired about the Plastic Policy in SEZ. He also opined that the SEZ Rules not allowing new entrants were discriminatory and were creating a monopoly for the existing players.

7. AS(SK) stated that from the discussion it could be understood that these industries were employment intensive and that the local supply of raw material was not meeting the requirements of raw materials. He pointed out that as mentioned by the representative of MOEF&CC, the process of plastic recycling need only to conform to the environmental requirements which are required to be certified by an authorized agency. He then desired to know whether it would be justifiable to allow new units. He also agreed with the opinion that export of 100% of the production by such units was not possible. He then raised the question what will be a reasonable minimum physical export obligation in terms of turnover. He also opined that there should be certain percentage of value addition to be carried out by these units and it needs to be

decided what minimum percentage of value addition can be prescribed. He directed PLEX Council to submit a detailed report on the basis of the discussions held in the meeting. He also desired that a note on the issue may be sent to this Department from the Ministry of Environment, Forests & Climate Control.

The meeting ended with thanks to the Chair.

ANNEXURE

Name of the participants of the meeting dated 29.08.2017

1. Shri Sunil Kumar, Additional Secretary, DoC
2. Shri Shyamal Misra, Joint Secretary, EP(CAP) Division, DoC
3. Shri Upendra Vasishth, Development Commissioner, Kandla SEZ
4. Shri T. V. Ravi, Director, DoC
5. Shri Manoj Kumar Gangeya, Director, M/o EFCC
6. Shri S.P.Roy, Joint DG, DGFT
7. Shri Pradip Thakkar, Chairman, PLEX Council
8. Shri Arvind Goenka, Director, RMG Polyvinyl India Ltd.
9. Shri S. R. Dewan, Regional Director, PLEX Council