

No.14/3/2015-EOU
Government of India
Ministry of Commerce & Industry
Department of Commerce


Udyog Bhawan, New Delhi
Dated 11th August, 2015

OFFICE MEMORANDUM

Subject: 3rd Meeting (2015 series) of the Board of Approval (BOA) for EOU Scheme scheduled to be held on 27th August, 2015 – forwarding Agenda reg.

The undersigned is directed to forward here-with a copy of Agenda Items for the 3rd Meeting (2015 series) of the Board of Approval for EOU Scheme scheduled to be held on 27th August, 2015 at 10:30 A.M. in Room No. 47 Udyog Bhawan, New Delhi under the Chairmanship of Commerce Secretary.

2. May kindly make it convenient to attend the Meeting.


11/8/2015
(S.S.Kumar)

Under Secretary to the Govt. of India
Tel. 23062496
E-mail: kumar.ss@nic.in

1. D/o Industrial Policy & Promotion.
2. CBEC [Member (Customs)], M/o Finance.
3. CBDT [Member(Income Tax)], M/o Finance.
4. DG, DGFT.
5. The Joint Secretary, M/o Environment & Forest.
6. The Joint Secretary, M/o Science & Technology.
7. M/o Micro, Small and Medium Enterprises.
8. All DCs.

Copy to: PPS to CS/PS to JS(GPM)/PS to Dir (MV)

**AGENDA FOR THE 3rd BOA MEETING (2015 SERIES) FOR EOU SCHEME TO BE HELD
ON 27.08.2015 AT 10.30 A.M.**

3.1 (15) Confirmation of Minutes of the 2nd BOA (2015 Series) meeting held on 19.05.2015.

3.2 (15) M/s. Deco De Trend, an EOU at Kancheepuram under MEPZ – Consolidation of goods related to manufactured articles and export thereof along with manufactured articles.

The unit was granted LoP dated 05.05.2003 for manufacture and export of handicraft items i.e decorative items out of dry flowers, dried parts of plants, sea shells, stones/pebbles, spices, terracotta items and angel hair (metal fibres) and potpourri, processed incense sticks and perfume oil herb extracts and started their commercial production activities on 16.5.2003. The total exports made by the unit during the year 2014-15 is Rs. 53.17 Crores.

Now, the unit has requested permission to import or procure indigenously following materials without payment of duty and re-export the same along with their export products that are used by the end customers to decorate or to fragrance their homes:

- i. Glass products (Glass Bottles, Glass Chips etc.)
- ii. Ceramic Products (Terracotta, Ceramic Ware etc.)
- iii. Textile Products (Cotton Ribbon, Clothes etc.)
- iv. Jute Products (Jute bags, Jute clothes etc.)
- v. Wooden Products & Decoration (Wooden Stand, wooden articles etc.)
- vi. Electric Products (Electric Lamps, Electrical Fittings)
- vii. Metal Products (Iron & steel, Brass, Aluminium)
- viii. Paper Products (Handmade Paper, Corrugated Paper)
- ix. Sea Products (Sea Shells, Star Fish Bones etc.)
- x. Exfoliated Vermiculite (Perfumed)
- xi. Plastic Products (Plastic Balls, Plastic Containers etc.)

Relevant provision of FTP:

Para 6.01 (k) of FTP 2015-20 states that:

“BOA may allow, on a case to case basis, requests of EOU / EHTP / STP/ BTP units in sectors other than Gems & Jewellery, for consolidation of goods related to manufactured articles and export thereof along with manufactured article. Such goods may be allowed to be imported / procured from DTA by EOU without payment of duty, to the extent of 5% FOB value of such manufactured articles exported by the unit in preceding financial year. Details of procured / imported goods and articles manufactured by the EOU will be listed separately in the export documents. In such cases, value of procured / imported goods will not be taken into account for calculation of NFE and DTA sale entitlement. Such procured / imported goods shall not be allowed to be sold in DTA. BOA may also specify any other conditions”.

DC's Recommendation: DC has informed that the unit will abide by the cap on the value of their consolidation of 5% of FOB value of the previous years exports of the articles exported.

3.3 (15) M/s. Emcure Pharmaceuticals Ltd. – Proposal for conversion of DTA unit into an EOU under SEEPZ

The applicant company has submitted application for grant of LoP for conversion of existing DTA unit situated at Plot Number P1, I.T.B.T. Park Phase II, MIDC, Hinjewadi, Pune into an EOU for manufacturing of Allopathic Pharmaceuticals products in form of injectables namely vials and pre-filled syringes.

The Assistant Commissioner of Central Excise, Pune submitted the Inspection Report of the proposed factory premises and informed that the proposed location is on lease basis from MIDC for a period of 95 years commencing from 01.08.2004. The proposed plan of premises/building is suitable for necessary permission under Section 58 & 65 to be issued by Central Excise and Customs Authority.

The applicant has obtained Advance Authorization and EPCG Authorizations for import of capital goods. The unit has intimated that they would approach DGFT for reduction of the export obligation against the Open/un-fulfilled Authorizations and obtain NOC/Redeem and submit the same to the Office of DC, SEEPZ within due course of time. It is also informed by the unit that if any new authorizations are obtained before conversion, the same will be intimated to DC, SEEPZ and the export obligation would be fulfilled from the proposed EOU after complying the procedure specified.

The investment in plant and machinery is Rs. 119.61 crores and exports for the year 2014-15 is Rs. 157.70 crores.

Relevant provision of FTP: Para 6.07 (d) states that:

“Applications for conversion into an EOU / EHTP / STP / BTP unit from existing DTA units, having an investment of Rs. 50 crores and above in plant and machinery or exporting Rs. 50 crores and above annually, shall be placed before BOA for a decision”.

The detailed guidelines for conversion of DTA unit into an EOU where the advance authorization is pending redemption and there is an outstanding export commitment under EPCG Scheme are defined in Appendix 6M of FTP 2015-20.

DC's Recommendation: The applicant company fulfills the provision as stipulated for setting up of an EOU and DC has recommended that the request of the unit may be considered.

3.4 (15) M/s MKU (P) Ltd. (Optics Division), an EOU at Kanpur under NSEZ – Extension of LoP for 5th year

The unit was granted LoP dated 12.05.2011 for manufacture and export of binoculars and monoculars. The unit has not commenced its production yet.

The unit had applied for setting up of an EOU in Noida for manufacture and export of passive night vision goggles, night vision devices and optics, binoculars, monoculars and refracting telescope, astronomical instruments, night vision sight, parts and accessories (including mountings). The UAC in its meeting dated 28.04.2011 accorded approval for manufacture

and export of two products only namely, binoculars and monoculars as only these items are exempted from Industrial Licence.

After expiry of first 3 years, LoP was further extended for one year upto 11.05.2015 on the grounds that the location had to be shifted to Kanpur, U.P due to overheads and expenses at Noida.

Relevant provision of FTP:

As per para 6.05(a) of FTP, extension beyond 4 years, if necessary, will be granted by BoA.

DC's Recommendation: Unit's request for extension of LoP for the 5th year 12.05.2015 to 11.05.2016 under Para 6.05 (a) may be considered.

3.5 (15) M/s Geetanjali Woolens and M/s Prayas Woolens, EOUs under KASEZ-Proposal for extension of LoP of units engaged in reprocessing of used/worn clothing.

There are two EOUs namely M/s Prayas Woolens Pvt. Ltd. and M/s Geetanjali Woolens Pvt. Ltd. located in Gujarat under the jurisdiction of KASEZ engaged in reprocessing of used/worn clothing. BoA in its meeting held on 18.11.2010 approved the proposal of M/s Geetanjali Woollens Pvt. Ltd. for extension of LoP for next 5 year block i.e upto 23.10.2015. However, BoA did not allow the extension of M/s Prayas Woolens Pvt. Ltd. beyond 30.09.2012 and directed to curtail the validity of M/s Geetanjali Woollens Pvt. Ltd. from 23.10.2015 to 31.03.2013 in the BoA meeting held on 14.09.2012. M/s Geetanjali Woollens Pvt. Ltd. filed SCA in Gujarat High Court and the Hon'ble Court gave directions to extend the LoP upto 23.10.2015.

Now, representations have been received from both the unit requesting for extension of their LoP. Policy review for EOUs engaged in reprocessing of used/worn clothing is undergoing.

Relevant provision of FTP: Sector specific requirements for EOUs are specified in Appendix-6B of Appendices and ANF of FTP 2015-20 which covers the textile Sector. As per these guidelines:

"Activities pertaining to reprocessing of garments/ used clothing /secondary textiles materials / clipping/ rags/ industrial wipers/shoddy wool/ yarn/ blankets/ shawls and other recyclable textile materials will not be allowed under EOU schemes".

3.6 (15) M/s Sapling Agrotech Pvt. Ltd. – Proposal for revalidation of their LoP which was cancelled by DC, FSEZ.

The said unit was issued LoP on 05.05.2003 for setting up of an EOU in Kolkata for manufacture and export of Mushrooms. The LoP was extended upto 04.01.2007. The unit informed the zone that they started commercial production from 16.03.2007. However APRs and QPRs were not submitted by the unit for FY 2007-08 and 2008-09. Asst. Commissioner of Central Excide informed the zone that:

- i. The factory was closed as per version of gate keeper.
- ii. The factory gate was under lock and key and there was none in the factory except the gate keeper.
- iii. The gate keeper was unable to give any information.

SCN was issued to the unit on 10.07.2013 by DC, FSEZ for non-implementation of the project, non-submission of APRs for violation of the terms and conditions of the LoP and LUT. O-I-O was issued to the unit on 23.09.2013 and it was found out that the production was there on 16.03.2007 for a value of approx. Rs. 34 lakhs and no further production took place. In any case, the production was sold in DTA without prior approval. The unit did not submit APRs for the year 2010-11, 2011-12 and 2012-13 and unit had not paid dues to large number of investors including Exim Bank. In view of non performance of the unit, DC canceled the LoP of the unit which expired on 16.03.2012 and imposed penalty of Rs. 10 crores for non-fulfillment of NFE, imposed penalty of Rs. 5 lakhs on each of the Directors for non-performance and penalty of Rs. 75,000 for non-submission of APRs for 3 years.

Thereafter, the unit preferred an appeal before Appellate Committee, DGFT. DGFT gave its Interim Order-in-Appeal on 22.06.2015 and directed the unit to:

- i. Settle all outstanding dues of all the banks.
- ii. Seek revalidation/extension of LoP from BoA, which is competent authority in this regard, in terms of provisions of FTP and submit decision of BoA to Appellate Committee.
- iii. The commitments made by the appellant in LUT shall be reflected in the balance sheet and Accounts of the firm and evidence of the same shall be submitted to Appellate Committee.

Next date of personal hearing is fixed on 15.09.2015 at 03:00 PM by Appellate Committee.

DC's Recommendation: DC has stated that as per Appellate Committee's direction, the unit has applied directly to DoC. Specific comments on the application of the unit are awaited.

3.7 (15) M/s Canfruit Exports India Ltd. – Proposal for revalidation of their LoP which was cancelled by DC, VSEZ.

- M/s Canfruit Exports India Ltd. was granted LoP dated 24.10.1995 for setting up of unit at Sy. No. 12-5/1,3 35th KM Vijaywada-Eluru Highway, Tellaprolu Village, Krishna District, Andhra Pradesh for manufacture and export of fruit juice concentrate. The unit commenced commercial production in 2002
- Made exports upto 2005-06 only.
- The unit earned negative NFE for the period 2002-2007 and penalty of Rs. 2 lakhs was imposed on the unit.
- The unit was granted LoP for further period of 5 years till 2012 subject to the condition that the unit shall restart production on or before 28.5.2008 failing which the LoP stands cancelled automatically.
- Based on the request of the unit, the validity of LoP was extended upto 10.11.2009 but the unit did not effected any exports within the stipulated time.
- The performance of the unit for cumulative period from 10.6.2007 to 09.06.2011 was reviewed and found that the unit was negative NFE as there were no exports and penalty of Rs. 25,000 was imposed on the unit.
- As per the assurance given by the unit at the personal hearing that the exports would start by December, 2013, LoP was renewed upto 31.12.2013 with a condition that the LoP stands cancelled w.e.f 01.01.2014 if exports were not commenced by 31.12.2013.
- The unit did not commence production by 31.12.2013 and requested for further extension of LoP for a period of 6 months i.e upto 30.06.2014.
- The unit paid penalty of Rs. 2 lakhs for negative NFE performance of the 1st block and Rs. 25,000 for 2nd block.

- The LoP of the unit was further extended upto 30.06.2014 with condition to start production by 30.06.2014. However, the unit did not commence production.
- The unit could not establish commencement of production in last week of June, 2014 and therefore SCN was issued to the unit to clarify the factual position.
- No proof was submitted by the unit. Opportunities were given to the unit on several occasions to operationalize the unit, in spite of which, the unit could not utilize the opportunities and repeatedly requested only for extension of their LoP. Taking into account the factual position into consideration, DC cancelled the LoP and imposed penalty of Rs. 50,000.

The unit preferred an appeal against the cancellation order of DC to the Appellate Committee, DGFT. The Appellate Committee dismissed the appeal as the appeal was time barred and upheld the DC's order dated 17.12.2014 and stated that issue of further extension of LoP may be taken by DC, VSEZ/UAC/BoA on merits.

As per order of Appellate Committee, the matter was placed in the UAC meeting held on 15.06.2015. As per the Minutes of Meeting furnished by VSEZ, it was decided by the Committee to refer the request of the unit for extension of LoP w.e.f 01.07.2014 in the block period of 10.6.2012 to 09.06.2017 to BoA for EOUs. It was observed by UAC that Jurisdictional Central Excise Authorities informed that the assessee recently carried out some repairs to the machinery and the adjudication proceedings are yet to be completed at their end.

The Commissioner of Central Excise, Customs and Service Tax, Guntur vide their letter dated 22.07.2015 intimated DC, VSEZ that the unit has failed to commence production even after the extension of LoP till 30.06.2014. They have procured various goods without payment of duty and huge amount of revenue is involved on the said goods. The unit is fruit pulp based industry and the season for mangoes is over for this year, hence commencing of production seems a distant dream. The Commissioner Central Excise has thus felt that the request of the unit for further extension seems not be trustworthy and the same needs to be denied.

Comments of DC: DC, VSEZ has opined that the request of the unit for extension of validity of LoP (already cancelled) for a further period does not contain any merit. DC has requested BoA to take a final decision on the request of the unit for extension of validity of their LoP for a further period from 01.07.2014 to 09.06.2017 (in the block period of 10.6.2012 to 09.06.2017).

PART II

**Approval granted by Development Commissioner Under Delegated Powers for
RATIFICATION OF BOA as per Press Note No. 3 of 1995**

A	Approvals granted under delegated powers for the period November, 2014 to June, 2015	SEEPZ
B	Approvals granted under delegated powers for the period April, 2015 to July, 2015 is NIL	ISEZ
C	Approvals granted under delegated powers for the period April, 2015 to June, 2015	KASEZ
D	Approvals granted under delegated powers for the month of June, 2015 is NIL	MEPZ
E	Approvals granted under delegated powers for the period April, 2015 to June, 2015 is NIL	FSEZ
F	Approvals granted under delegated powers for the month of April, 2015 to July, 2015	VSEZ
G	Approvals granted under delegated powers for the month of June, 2015 to July, 2015	NSEZ