

No. F.2/1/2019-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Udyog Bhawan, New Delhi
Dated the 18th February, 2019

OFFICE MEMORANDUM

Subject: 88th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) scheduled to be held on 25th February, 2019 at 3.30 P.M in Room No. 108 - forwarding of Agenda thereof – Reg.

In continuation to this Department's O.M. of even number dated 6th February, 2019 on the above mentioned subject, the undersigned is directed to enclose herewith the Agenda for the 88th meeting of the BoA for SEZs scheduled to be held on 25th February, 2019 at 3:30.P.M. in Room No. 108 for information and necessary action. Soft copy of the agenda has also been hosted on the website: www.sezindia.gov.in. The addressees located outside Delhi are requested to download the agenda from the above mentioned website.

2. The addressees are requested to make it convenient to attend the meeting.



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To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107).
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Joint Secretary, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, Krishi Bhawan, New Delhi.
8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)
9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).

11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi – 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyapuri, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi – 110 001 (Fax: 223329770)
22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai – 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, Atladra Padra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam – 3
36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Government of Andhra Pradesh, Principal Secretary and CIP, Industries and Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).
42. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.

43. Government of Karnataka, Principal Secretary, Commerce and Industry Department, Vikas Saudha, Bangalore – 560001. (Fax: 080-22259870)
44. Government of Maharashtra, Principal Secretary (Industries), Energy and Labour Department, Mumbai – 400 032.
45. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
46. Government of West Bengal, Principal Secretary, (Commerce and Industry), IP Branch (4th Floor), SEZ Section, 4, Abanindranath Tagore Sarani (Camac Street) Kolkata – 700 016
47. Government of Tamil Nadu, Principal Secretary (Industries), Fort St. George, Chennai – 600009 (Fax: 044-25370822).
48. Government of Kerala, Principal Secretary (Industries), Government Secretariat, Trivandrum – 695001 (Fax: 0471-2333017).
49. Government of Haryana, Financial Commissioner and Principal Secretary), Department of Industries, Haryana Civil Secretariat, Chandigarh (Fax: 0172-2740526).
50. Government of Rajasthan, Principal Secretary (Industries), Secretariat Campus, Bhagwan Das Road, Jaipur – 302005 (0141-2227788).
51. Government of Uttar Pradesh, Principal Secretary, (Industries), Lal Bahadur Shastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
52. Government of Punjab, Principal Secretary Department of Industry & Commerce Udyog Bhawan), Sector -17, Chandigarh- 160017.
53. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
54. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneswar – 751001 (Fax: 0671-536819/2406299).
55. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), Vallabh Bhavan, Bhopal (Fax: 0755-2559974)
56. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
57. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
58. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
59. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
60. Government of Chattishgarh, Commissioner-cum-Secretary Industries, Directorate of Industries, LIC Building Campus, 2nd Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

Copy to: PPS to CS / PPS to AS (BBS) / PA to DS (SNS) / PA to DS (GSN).

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Agenda for the 88th meeting of the Board of Approval to be held on 25th February, 2019 at 3:30 P.M. in Room No. 108, Udyog Bhawan, New Delhi.

Item No. 88.1: Confirmation of minutes of the meeting of the 87th BoA held on 09th January, 2019.

Item No. 88.2: Requests for extension of validity of formal approvals (2 proposals)

BoA in its meeting held on 14th September, 2012, examining similar cases observed as under: -

"The Board advised the Development Commissioners to recommend the requests for extension of formal approval beyond 5th year and onwards only after satisfying that the developer has taken sufficient steps towards operationalisation of the project and further extension is based on justifiable reasons. Board also observed that extensions may not be granted as a matter of routine unless some progress has been made on ground by the developers. The Board, therefore, after deliberations, extended the validity of the formal approval to the requests for extensions beyond fifth years for a period of one year and those beyond sixth year for a period of 6 months from the date of expiry of last extension".

88.2 (i) Request of M/s. Indus Gene Expressions Ltd-SEZ for further extension of the validity period of formal approval, granted for setting up of Bio-tech Specific sector at Kodur and Settipali Villages, Chilamathur Mandal, Anantapur Distt, Andhra Pradesh beyond 13.02.2019.

Name of the developer : M/s. Indus Gene Expressions Ltd

Sector : Specific Sector (Bio-tech)

Location: Kodur and Settipali Villages, Chilamathur Mandal, Anantapur Dist, A.P.

Extension: Formal approval to the developer was granted on 14.02.2011 and was notified on 18.04.2011. The developer has been granted five extensions, last extension on 16.04.2018, validity period of which was upto 13.02.2019. The developer has requested for further extension upto 13.02.2020.

Present Progress:

(a) Details of business plan

Sl. No.	Type Of Cost	Proposed Investment (in crores) (Rs. In Crores)
1.	Land	0.6
(i)	Excavation	0.15

(ii)	Land scaping	0.35
2.	Infrastructure	
(i)	Boundary walls, roads, drainage, water	5.50
(ii)	Ready Built up Research premises 4.05 Lakhs Sft @ Rs 3000	121.50
(iii)	SEZ Office buildings	0.40
(iv)	Contingencies at 5% of	3.50
	Total	132.00

(b) Incremental Investment since last extension :

Sl. No	Type of Cost	Total Investment Made so far (Rs. In Crores) up to 30.11.2018	Incremental Investment since last extension(Rs. In Crores)
1	Land Cost	0.87	NIL
2	Material Procurement	6.22	3.26
3	Construction	23.19	3.18
	Total	30.28	6.44

(c) Details of Physical Progress till date:-

S.No	Authorized activity	% Completion	% Completion during lost one year	Deadline for completion of balance work
1.	Internal Lab Drain (Ground Floor and 2nd floor)	100%	15%	Completed
2.	Internal Gas distribution System in ground and 2nd floor)	100%	15%	Completed
3.	Fire Hydrant Systems inside	100%	5%	Completed
4.	Reception Ramp	100%	10%	Completed
5.	Granite & Marble flooring (R&D, Admin SEZ and Security)	100%	10%	Completed
6.	Internal Painting	95%	5%	Feb-19
7.	External Paint	95%	45%	Feb-19
8.	Plumbing work inside	95%	20%	Feb-19
9.	Security and SEZ Blocks	95%		Feb-19
10.	lab HVAC (Inside)	95%	5%	Mar-19
11.	UPVC windows	30%	10%	Mar-19

12.	Office AC (Inside)	80%	30%	Mar-19
13.	Internal Electrical System	95%	20%	Apr-19
14.	False Ceiling (Lab and Other areas)	70%	60%	Apr-19
15.	False Ceiling (Office area and admin Block)	20%	10%	Apr-19
16.	Fire Hydrant Systems outside	50%	25%	May-19
17.	Lab HVAC (Outside)	70%	10%	May-19
18.	Office AC (inside)	40%	30%	May-19
19.	SS railing	5%		May-19
20.	Main Entrance Arch	75%		Jun-19
21.	Internal road	75%		Jun-19
22.	External Electrical System	10%	10%	Jun-19
23.	Clean Rooms	40%	40%	Jun-19

Other related Works to Complete the Project

S.No	Category of Work	Completion
1	SIP	Apr-19
2	ETP	Apr-19
5	Gas Yard	Jun-19
6	Wash Room Fixtures Fitting	Jun-19
7	RO Plant - 10K Capacity for Daily	Jun-19
8	Glass Lifts at R&D	Jul-19
9	Lab Chairs and Stools	Jul-19
10	Office Furniture	Jul-19
11	Street Lights.	Aug-19
12	Main Gate - Telescopic.	Aug-19
13	Sign and Main Name boards.	Sep-19
14	Fridges <i>and</i> Monitors.	Sep-19
15	Lab Instruments.	Sep-19
16	Laptop and Computers.	Sep-19
17	Flag Poles	Sep-19
18	Stationary Items & Letter heads	Sep-19

Detailed Reasons for delay:

The R&D building construction related works completed and general laboratory facilities installed. The unit will be ready for the full operation after the remaining external works completion. Most of the internal works completed; however, some of the vendors related to external works dropped their job uncompleted, and the selection procedure of new vendors delayed the R & D activity. The unit had some hurdles with their Bankers (Loan) for releasing of

sanctioned facilities. They have initiated the application for APSPDCL to convert power connection from construction to commercial purpose as it takes around 3 months-time to get approval.

The facility will be ready mechanically by the end of September 2019, the commercial operations of the Laboratory will start from October 2019.

Recommendation by DC

DC, VSEZ has recommended the request for extension of LOA for a period of one year upto 14.02.2020.

The request is placed before BoA for its consideration.

88.2(ii) Request of M/s. SEZ Biotech Services Pvt. Ltd. for further extension of the validity period of formal approval, granted for setting up of Poonawala Bio Technology Park – SEZ at Manjri Budruk, Taluka Haveli, District – Pune beyond 27.03.2019.

- **Name of developer:** M/s. SEZ Biotech services.
- **Sector:** Biotechnology
- **Location:** Manjri Budruk, Taluka Haveli, District - Pune.
- **Extension:** Formal approval to the developer was granted on 27.03.2012. The developer has been granted 4 extensions, last extension which was upto 27.03.2019. The developer has requested for further extension upto 31.03.2020.

Present Progress

(a) Details of business plan:-

Sr. No.	Type of Cost	Proposed Investment (Rs. In Lakhs)
1	Land Cost: Investment made in land up to 30.11.2018 (Lease rent paid).	175.08
	Cost of 25 R owned by Applicant	210.70
2	Construction Cost: Investment made in infrastructure as on 30.11.2018. Construction of 4 buildings in processing area admeasuring 87,176,96 Sq. Mtrs. And other utility infrastructure which is in	45312.10

	progress.	
	Total	45,697.88

(b) Incremental investment since last extension:-

S. No.	Type of Cost	Total Investment made so far (Rs. In lakhs) up to 12.12.2018	Incremental investment (Rs. in Lakhs) since last extension
1.	Land cost (Lease rent 175.08 lakhs + land cost for 25 R 210 lakhs)	385.78	261.97
2.	Material Procurement/Construction	45312.10	10745.1
	Total	45697.88	11007.07

(c) Details of physical progress till date:-

S. No.	Authorised activity	% completion	% completion during last one year	Deadline for completion of balance work
1.	Development of SEZ.	The Developer has stated percentage of progress as per Annexure attached to Form – C1& not given the details of completion of work during the last year.		31.03.2020

Detail Reasons for delay:

- Industrial infrastructure such as Effluent Treatment Plant, Solvent Store for keeping Hydrocarbons, Canteen Building and provision of Air Conditioner and Refrigerating System and construction of Cold room suitable for Biotech unit are in progress. It will be completed before March 2020.
- The unit whom LOA is issued is installing their Capital goods for validation and to commence production before March 2020. They are confident that the unit will be functional by March 2020. Hence, they seek this extension.

Recommended by DC:

On considering the reason of delay, DC SEEPZ SEZ has recommended the request of extension of LOA for a period of 1 year i.e. up to 26.03.2020.

The request is placed before BoA for its consideration.

Item No. 88.3 Requests for extension of LoP beyond 3rd Year onward (9 proposals)

- As per Rule 18(1) of the SEZ Rules, the Approval Committee may approve or reject a proposal for setting up of Unit in a Special Economic Zone.
- Cases for consideration of extension of Letter of Permission (LoP)s i.r.o units in SEZs are governed by Rule 19(4) of SEZ Rules.
- Rule 19(4) states that an LoP shall be valid for one year. First Proviso grants power to DCs for extending the LoP not exceeding 2 years. Second Proviso grants further power to DCs for extending the LoP for one more year but subject to the condition that two-thirds of activities including construction, relating to the setting up of the Unit is complete and a Chartered Engineer's certificate to this effect is submitted by the entrepreneur.
- Extensions beyond 3rd year (in cases where two-third activities are not complete) and 4th year are granted by BoA.
- BoA can extend the validity for a period of one year at a time.
- There is no time limit up to which the Board can extend the validity.

88.3(i) Request of M/s. Camlin Fine Sciences Ltd in the Plot No Z/96/D, Dahej SEZ Ltd, Part II, Dahej, Village: Luvara, Tal: Vagra, Dist: Bharuch, Gujarat for the Extension of the Letter of Approval (LOA) beyond 4th year upto 09.03.2020.

- LOA issued on (Date) : 10.03.2015
- Nature of business of the unit : Manufacturing of Diphenols like Catechol and Hydroquinone and downstream products Guaiacol and Vanillin
- No. of Extensions : 2 (Two) by DC Dahej SEZ, one by BOA
- LoA valid upto : 09.03.2019
- Request : For further extension for 1 (One) year upto 09.03.2020

Present Progress:

a) Details of Business Plan:

Sr No	Type of Cost	Proposed Investment (INR Crore)
1	Land	8.92
2	Land Development and Factory Building	20.89
3	Plant and Machinery	55.05
4	Utility, Safety Equipments	10.00
5	ETP System	2.00
6	Piping Erection	11.01
7	Misc	35.00
	Total	142

b) Incremental Investment made so far and incremental investment since last extension:

Sr No	Type of Cost	Total Investment made so far (INR in Cr)	Incremental Investment since last extension (INR in Cr)
1	Capital work in progress	50.65	40.71
2	Advances for Capital Goods	20.79	18.16
3	Other Overheads	04.50	0.32
4	Other Assets	0.090	00
5	Deposits	0.011	00
	Total	76.04	59.20

c) Details of the physical progress till date:

Sr No	Activities	%tage completion	%tage completion during last one year of LoA extension	Deadline for the Completion of the Balance work
1	Compound wall	Completed	00	-
2	Land Filling	Completed	00	-
3	Security Building and Water tank	Completed	00	-
4	Manufacturing plant, warehouse, Utility building, Tank farm, admin building	40%	40%	May, 2019
5	Tendering and ordering of major equipments	Completed	100%	Completed
6	Electrical work	45%	45%	June 2019
7	Utilities	50%	50%	June 2019
8	ETP	35%	35%	July, 2019
9	Plant installation work	25%	25%	June, 2019
10	Water Trial	0%	0%	July, 2019
11	Trial and Commercial Production	0%	0%	August 2019

Detailed Reasons for Delay:

- Delay in the delivery of the equipment from vendors.
- They had to reappoint Engineering consultant as the earlier one delayed the details desired by their project team.
- The problem of villagers got resolved in September 2018, thereafter work is uninterrupted.

They had already EOU manufacturing unit at Mumbai running in full swing with a turnover of 400 crores per year. They also have four international units at different locations abroad.

The Board of Approval approved the last extension on 19.06.2018 upto 09.03.2019 wherein they made total investment of about Rs.16.84 crores. Now the applicant unit has made total investment of Rs.76.04 crores including incremental investment of Rs.59.20 crores.

Recommendation by the DC:-

In view of the above development activities carried out by the applicant unit, the case is recommended to the Board of Approval, for extension in validity of LOA for the further period of one year i.e. upto 09.03.2020.

The request is placed before BOA for its consideration.

88.3(ii) Request of M/s. Indus Gene Expressions Ltd., a unit in M/s. Indus Gene Expressions Ltd SEZ for Biotechnology for extension of Letter of Approval beyond 01.01.2019 for a period of one year up to 01.01.2020.

LOA issue on (date) : 02.01.2014

Nature of business of Unit : Bio-Tech

No of extension : Three extensions issued by DC, VSEZ

LOA valid up to (date) : 01.01.2019

Request: For further extension for one year, up to (date) 01.01.2020

Present Progress:

(a) Details of business plan:

Sl.NO	Type Of Cost	Proposed Investment (Rs. In Crores)
1	Plant and Machinery	
	(i) Indigenous	12.26
	(ii) Import CIF value	10.24
2	Contingencies	1.82
3	Office Furniture, fittings, and Computers	0.85
4	Pre-Operative Expenses	0.79
5	Interest during Construction Period	1.64
6	Margin Money for Working capital	1.78
	Total	29.38

(b) Incremental Investment made so far and Incremental Investment since last extension :

SL.NO	Type of Cost	Total Investment Made so far (Rs. in Crores)	Incremental Investment since last extension
1	Laboratory Fume Hoods, Furniture &	2.69	NIL
	Total	2.69	

(c) Details of Physical Progress till date:-

Installation of Laboratory Fume Hoods, Furniture & Accessories

Detailed reasons for delay:

They have already established Lab Furniture at their Unit. They have done all set up except import and installation of Plant and Machinery at Unit. The Unit can't bring the equipment which is needed for commercial operations till the Developer completes its infrastructure activity. They will be able to import and install Plant and Machinery once allotted space handover by the developer.

The unit is unable to be fully active until the Developer completes the total infrastructure.

Recommendation by DC:

DC, VSEZ has recommended the request for extension of LOA for a period of one year upto 01.01.2020.

The request is placed before BoA for its consideration.

88.3(iii) Request of M/s Dr Reddy's Laboratories Limited, FTO SEZ Process Unit-II in DRL-SEZ for extension of Letter of Permission (LOP) beyond 25.02.2019 for fifth extension up to 25.02.2020.

LoP issued on : 26.02.2014

Nature of Business of the unit: Manufacture of Formulations – Ointments/Gels

No. of Extensions: Three by DC, VSEZ and one by BoA

Request: For further extension for one year up to (date) 25.02.2020

Present progress:

(a) Details of Business Plan:

Sl. No.	Type of cost	Proposed investment (Rs. In crores)
1.	Manufacture of Pharmaceutical Formulations – Ointments/Gels	177.34
Total		177.34

(b) Investment made so far and incremental investment since last extension:

Sl. No.	Type of Cost	Total investment made so far (in Rs. Crores)	Incremental Investment since last extension (In Rs. crores)
1.	Building plant & Machinery	240.42	16.76 crores
Total		240.42	16.76 crores

(c) Details of physical progress till date:

S. No	Activity	% completion	% completion during last one year(*)	Deadline for completion of balance work
1.	Building	100%	Nil	Already completed
2	Installation of machinery	100%	Nil	Already completed

() The work on Building, plant and machinery completed in all respects. Presently trial runs are in progress. Facility approval from USFDA received. Product approval from USFDA are in pipeline and expected to go in to production in second/third quarter of 2019-20*

Detailed reasons for delay:

The unit has indicated that, they have completed all the works and presently trial batches are in progress continuously for the last one year for bringing stabilization in the process and to meet the standards of USFDA for filing DMFs. The site qualification process by USFDA was completed and product approval with filing DMFs with USFDA is in progress and the same may be approved in second/third quarter of 2019-20. After the approval of products, the unit shall file commercial batches and declare commercial production in the second/third quarter 2019-20.

Recommendation by DC:

DC, VSEZ has recommended the request of extension of LOA for a period of one year up to 25.02.2020.

The request is placed before BoA for its consideration.

88.3(iv) Request of M/s. Amazon IT Services (India) Pvt. Ltd., a unit in M/s. TSIC Limited SEZ for extension of Letter of Permission (LoP) beyond 3rd year upto 04.03.2020.

- LoP issued on (Date): 05.03.2015
- Nature of Business of the Unit : IT/ITES
- No of Extensions: 3 Extensions by DC, VSEZ
- LoP valid upto (date) : 04.03.2019
- Request: For further extension for one year upto 04.03.2020

Present Progress:**(a) Details of Business plan:**

Sl. No.	Type of Cost	Proposed Investment (Rs. In crores)
1.	Land Cost	2.84
2.	Construction cost	1536.50 (including procurement of capital goods and indigenous goods)
Total		1539.34

(b) Incremental Investment made so far and incremental investment since last extension:

Sl. No.	Type of Cost	Total investment made so far (In Rs. Crores)	Incremental investment since last extension (in Rs. Crores)
1.	Land cost	2.84	0
2.	Material cost	--	--
3.	Construction Cost	820 (as on 31.10.2018)	381
Total		822.84	381

(c) Details of physical progress till date:-

S. No.	Activity	% completion	% completion during last one year	Deadline for completion of balance work
1.	Sub structure	100	0	NA
2.	Super structure	95	29	31.3.2019

Detailed reasons for delay: As per the original approvals, they were to complete the construction by March, 2019. They are confident of meeting this deadline and do not anticipate any delays.

Recommendation by DC:

DC, VSEZ has recommended the request of extension of LoA for a period of one year up to 04.03.2020.

The request is placed before BoA for its consideration.

88.3(v) Request of M/s. Wockhardt Ltd., (Unit-II) in the sector specific SEZ for Pharmaceuticals being developed by M/s. Wockhardt Infrastructure Development Limited at Shendre, Aurangabad, Maharashtra for extension of Letter of Permission (LOP) beyond 25th February, 2019.

- **Name of unit:** M/s. Wockhardt Ltd. (Unit-II)
- **LoP issued:** 25th February, 2013 for oral solid dosage for human usage.
- **Extensions:** 5 (five) up to 25.02.2019.
- **Request:** For further extension for one year.

Present progress of the unit as declared by the unit is as follows:-

Construction progress:-

S. No.	Activity	Total area
1.	Approved area	3900.90 sq. mtr.
2.	Constructed area so far	3900.90 sq. mtr.
3.	Incremental construction since last extension	Nil (Construction already complete)

Investment details:-

S. No.	Particular	Total Investment made so far (Rs. In crores)
1.	Upto December, 2017 (i.e. upto last extension)	87.48
2.	After December 2017 (till 31 st December, 2018) Plant & Machinery	1.42
	Total capital investment (till December 2018)	88.90

Detailed reason for delay:

- (i) The unit has stated in its letter that they are going to manufacture inhalation dosage products which involve product development, execution of registration batches, clinical studies and filling a product dossier to government agencies for its marketing authorization or product approval.
- (ii) Further, the unit stated that for USFDA inspection, they have already paid registration fees upto December 2019 and are expecting the same will happen any time before Dec, 2019. The unit has copy of fee payment.
- (iii) Also they are exploring some new emerging markets like Europe and the rest of world. This process involves Regulatory Body Audit of respective country, which is a lengthy and time consuming process, leading to longer implementation schedule.

Specified Officer Report:-

The specified officer vide letter dated 04.02.2019 also submitted a report on the progress of construction after the physical inspection of the site. The Specified Officer has declared that on visiting the site it was found that the construction of the built up area (3900.90 sq.mtr) is complete and also the unit has installed the machinery procured through import and DTA procurement.

Recommendation by DC:

DC, SEEPZ SEZ has recommended the proposal for approval of the BoA as per Rule 19(4) of SEZ Rules, 2006.

The request is placed before BoA for its consideration.

88.3(vi) Request of M/s. Pako Communications Pvt. Ltd. a SEZ unit in MIDC SEZ, Hinjewadi, Phase III, Pune(IT/ITES) for approval of the third extension of the validity period of LOA for a further period of one year for LOA dated 16.06.2015 from 16.06.2018 to 15.06.2019.

- **Name of unit:** M/s. Pako Communications Pvt. Ltd.
- **LoP issued:** 16th June, 2015
- **Extensions:** 2 (two) extensions by DC up to 15.06.2019.

Investment details: -**a) Proposed Investment:**

S.No.	Type of Cost	Rs. in Lakhs
1	Land Cost	296.40
2	Cost of construction of Building (25% Imported and	5320.00

	75% Indigenous)	
3	Plant and Machinery – Both Imported and Indigenous.	2200.00
	Total	7816.40

b) Investment made so far and since last extension:

S.No.	Type of Cost	Total Investment made so far (Rs. in Lakhs)	Investment made since last extension (Rs. in Lakhs)
1	Land Cost	401.68	2.46 (Towards legal fees for lease deed registration, SEZ maintenance & Administrative charges paid to MIDC)
2	Cost of construction of Building (25% Imported and 75% Indigenous) (Including the consultation cost)	194.12	5.27
	Total	595.80	7.73

c) Time line for completion of Project and making it operational: -

S.No.	Authorized Activity	% Completion as on 31.01.2019	% Completion during last one year	Deadline for completion of balance work
1	Generator room/Electric Substation FO Generators (To augment MSEB Power)/UPS Room/Distribution substation/HSD Yard	Nil	Nil	Estimated till December 2019
2	Internal roads with street lighting & signage's	Nil	Nil	Estimated till December 2019
3	Boundary walls/ Gates/ Fencing/ Security Office/ Security posts	75%	25%	Estimated till April 2019
4	All civil and interior work/ Electrical work/BMS/Air Conditioning/Fire Protection system	2%	Nil	Estimated till November 2019
5	Development of landscaping/ Garden space	Nil	Nil	Estimated till February 2020
6	Recruitment of employees	Nil	Nil	Estimated till February 2020
7	Building completion certificate and occupancy certificate	Nil	Nil	Estimated till February 2020

The specified officer also vide letter dated 29.11.2018 submitted a report on the progress of construction after the physical inspection of the site. The Specified Officer has declared that on visiting the site it was found that the unit has not started the construction activity yet.

The unit has undertaken following activities to implement the project:

S. No.	Name of the Activity	Date
1	Allotment order from MIDC for Plot no. 23/5 admeasuring 12,000 sq. mtr.	25.08.2015
2	Possession of plot	11.09.2015
3	Execution and registration of lease deed with MIDC	09.11.2015
4	Approval of BLUT	07.01.2016
5	Approval of default list of services	14.03.2016
6	Building plan approval from MIDC	14.06.2016

Reason for delay:

The unit stated in its letter that they intend to build a complex electronics manufacturing and integration facility capable of providing state of art services to their clients, both within and outside India.

To meet the said requirement, they need to follow careful proceed to meet the standards desired by their clients.

To meet up the standards required to set up the facility unit's representatives visited numerous factories overseas and also visited manufacturing facilities of their clients to understand the requirement needed by the facility.

Hence the unit requested for further extension of 1 year i.e. 16.06.2018 to 15.06.2019.

DC's Recommendation: -

The proposal for 3rd extension of the LOA in respect of M/S Pako Communications Pvt. Ltd. is recommended for approval of the BOA as per the Rule 19(4) of the SEZ Rules, 2006.

The request is placed before BoA for its consideration.

88.3(vii) Request of M/s. Gowra Aerospace Technologies Pvt. Ltd., unit in M/s. TSHC Ltd. SEZ for Precision Engineering at Adibatla Village, Ibrahimpatnam Mandal, Ranga Reddy District, Telangana for extension of validity of their LoA beyond 12.12.2013.

- LoP issued on (Date): 12.12.2013
- Nature of Business of the Unit : for manufacture and export of (i) Instrument Panel Housings (ii) Brackets, (iii) Landing Gear Parts, (iv) Engine Components, (v) Aero Structure Parts and (iv) Special Treatment Parts

- No of Extensions: Nil
- LoP valid upto (date) : 11.12.2014
- Request: For further extension

The unit has executed Bon cum Legal Undertaking of Rs. 1,71,09,000/- on 06.03.2014 and the same has been accepted on 20.03.2014. The LoA has expired on 11.12.2014. The unit performed Bhoomi Puja in June, 2014 and area ready for starting the construction activity.

The unit vide letter dated 8.10.2018 has stated that their project was delayed due to reasons like state bifurcation and despite efforts at indigenizing, no major contracts have been awarded by the Ministry of Defence as the technology tie-ups in this cutting edge area were few and far between.

They have paid building permission fee of Rs. 4,09,954/- to TSIIC, IALA. They cannot proceed with the construction unless VSEZ renews the sanction letter.

DC, VSEZ has informed that M/s. Gowra Aerospace Technologies Pvt. Ltd. has requested their office to condone the delay and request VSEZ to help them with the construction permission so that they may go ahead with the construction work.

Recommendation by DC:

Since more than 4 years have lapsed with the expiry of LoA and the matter is not in purview of the Development Commissioner, the same is forwarded for consideration of Board of Approval, as per Rule 19(4) of SEZ Rules, 2006.

The request is placed before BoA for its consideration.

88.3(viii) Request of M/s. Tata Power Company Ltd. a unit in KIADB Aerospace SEZ for extension in the validity period of Letter of Approval beyond 06.03.2019.

- LoP issued on (Date): 07.03.2014
- Nature of Business of the Unit : for undertaking authorized operations namely Litening Airborne Navigation & Targeting pod for military Aircraft, Launcher sub-system for unmanned Aerial Vehicle, other electronic, engineered or communication related products, devices, equipments and systems for Aerospace & Defence sector etc.
- No of Extensions: 4 (four) extension upto 06.03.2019
- LoP valid upto (date) : 06.03.2019
- Request: For further extension for a period of one year upto 06.03.2020

The unit has informed that the construction work of the site got completed in February 2018 and that all the machineries and equipments required for setting up of the unit were received and installed at the site by May 2018. NOC from Fire Department, Factory License, and Consent for Operations from Pollution Control Board have also been obtained. The only regulatory approval pending is Occupancy Certificate from KIADB and this also has been applied for.

However, in the financial year 2018-19 as part of consolidation of Defence products manufacturing entities across Tata group, M/s. Tata Power Company Limited has decided to transfer its Strategic Engineering Division (SED), as a going concern, by way of slump sale pursuant to a scheme of arrangement under Sections 230 to 232 of the Companies Act, 2013 to M/s. Tata Advanced Systems Ltd. (TASL) a wholly owned subsidiary of Tata Sons Ltd. As this merger/transfer is subject to receipt of requisite corporate and regulatory approvals and third party consents, they expect to be finalized only in the FY 2019-20. Post-merger, SEZ unit will be moved to TASL and will be utilized by them for execution of orders. Due to this intended merger of SED of Tata Power Company Ltd. with TASL, setting up and commencement of operations of the unit is delayed and they have sought an extension in the validity period of LoA for another period of one year i.e. from 07.03.2019 to 06.03.2020.

Recommendation by DC:

The power to grant extension beyond 4th year vests with the Board of Approvals as per proviso to Rule 19(4) of SEZ Rules, 2006. Considering the huge investment made by the unit and also taking into account the fact that the unit is all set to commence its operations once this transfer merger is finalized and approved the request of the unit for extending the validity of Letter of Approval for 6th year fifth extension w.e.f. 07.03.2019 to 06.03.2020 may be considered favorably.

The request is placed before BoA for its consideration.

88.3(ix) Request of M/s. Biocon Pharma Ltd. in the Biocon SEZ for extension of Letter of Permission (LoP) beyond 22nd February, 2019 for one year upto 22nd February, 2020.

- **Name of unit:** M/s Biocon Pharma Ltd.
- **LOA (dated):** 23rd February, 2015
- **Nature of Business of the unit:** Manufacture and Export of Pharmaceuticals & Biopharmaceutical products
- **No. of Extension:** Three by DC CSEZ
- **LoP valid upto:** 22nd February, 2019.
- **Request:** For further extension for one year upto 22nd February, 2020.

Present progress

(a) Details of Business plan:

Sl. No.	Type of Cost	Proposed Investment (Rs. In crores)
1.	Land cost	Nil
2.	Construction cost	63
3.	Plant & Machinery	155
4.	Other cost/ overheads	47
Total		265

(b) Incremental investment made so far and incremental investment since last extension:

S.I. No.	Type of Cost	Total investment made so far (in Rs. Crores)	Incremental investment since last extension (in Rs. Crores)
1.	Land cost	Nil*	Nil*
2.	Construction cost	63	2
3.	Plant & Machinery	148	41
4.	Service cost	18	13
5.	Other cost/overheads	21	22
Total		250	78

*Land taken on lease

(c) Details of physical progress till date:

Sl. No.	Activity	% Completion	% completion during last one year	Deadline for completion of balance work
1.	Construction and commissioning of plant	100%	5%	--

Construction and commissioning of plant have been completed fully. Initial trial and exhibit batches of the products have been run for getting approvals from the drug regulatory authorities.

Detailed reasons for delay:

Initial trial and exhibit batches of the products have been run and the reports were submitted with the USFDA and European drug authorities. Based on the reports submitted, unit has been audited by the said agencies and they have suggested certain corrective and preventive

actions, which are having carried out now. The approval from the said agencies is awaited for commencing manufacturing and export activities.

Recommendation by DC:

DC, CSEZ has recommended the proposal

The request is placed before BoA for its consideration.

**Item No. 88.4: Change of Shareholding Pattern/Change of name/merger-demerger/others
(8 proposals)**

88.4(i) Request for change in name of M/s. HBS Pharma SEZ Pvt. Ltd., to M/s. HBS Auto and Anc SEZ Pvt. Ltd.

M/s. HBS Pharma SEZ Pvt. Ltd., (formerly known as M/s. JB SEZ Pvt. Ltd.) Panoli, Dist: Bharuch was granted LoA on 17.06.2008 to set-up a sector specific SEZ for Pharmaceutical products at GIDC, Panoli Industrial Estate, Panoli, District Bharuch, Gujarat [extended upto 16.06.2019]. This SEZ was notified on 09.01.2009 over an area of 125-04-94 hectares.

Subsequently, the BoA in its 83rd meeting held on 19th June, 2018 has approved the request for change in sector from "Pharmaceutical" to "Automobile, Automobile ancillary & Engineering" for the above mentioned SEZ.

Now, M/s. HBS Pharma SEZ Pvt. Ltd., has requested to change its name from M/s. HBS Pharma SEZ Pvt. Ltd., to M/s. HBS Auto and Anc SEZ Pvt. Ltd. The said Developer also informed that to reflect the change in sector from "Pharmaceutical" to "Automobile, Automobile ancillary & Engineering". The Board of Directors of the Company has already changed the name from M/s. HBS Pharma SEZ Pvt. Ltd., to M/s. HBS Auto and Anc SEZ Pvt. Ltd., for which ROC has issued a fresh Certificate of Incorporation to the Company. Further, they have also informed that there is no change in the share holding pattern after the change of name and the shareholding stands the same. The said Developer has submitted the following documents for ready reference:-

- a) Fresh Certificate of Incorporation to the Company
- b) Certified true copy of shareholders, resolution of the company for change of the name
- c) Share holding pattern of the company
- d) List of the Board of the Directors of the company.

As per Instruction No. 89, dated 17-05-2018, and 90, dated 03-08-2018 issued from file No. H-5/1/2013-SEZ, by the Ministry of Commerce & Industry, Department of Commerce, SEZ Section, New Delhi guidelines in the case of share holding pattern, name change of the SEZ developers and units, etc. are issued. As per the said guidelines re-organization including change of name, change of share holding pattern, business transfer arrangements, court approved

mergers and de-mergers, change of constitution may be undertaken with the prior approval of the Board of Approval in respect of Developer/co-developer subject to the condition that the Developer/co-developer shall not opt out or exit out of the Special Economic Zone and continues to operate as a going concern. All the liabilities of the Developer/co-developer will remain unchanged on such re-organization. Such re-organization shall be subject to the safeguards as mentioned in Para-6 of Instruction No. 89, dated 17-05-2018.

In view of the above, it is found that the Developer has submitted all the required documents and there is no change in the share holding pattern after the change of name and the share holding stands the same. Further the said developer has also submitted fresh Certificate of Incorporation to the company for the change of name from M/s. HBS Pharma SEZ Pvt. Ltd., to M/s. HBS Auto and Anc SEZ Pvt. Ltd., and not applied for opt out or exit out of the SEZ. Therefore, request of the developer may be considered as per Instructions No. 89 dated 17-05-2018, and 90 dated 03-08-2018.

Recommendation by DC:

The case is recommended favourably.

The request is placed before BOA for its consideration.

88.4(ii) Request of M/s. India Power Corporation (Tuticorin) Private Limited (co-developer) in M/s. AMRL Hitech City Ltd., multi product SEZ at Nanguneri, Tirunelveli District, Tamil Nadu for change of name to M/s. Tuticorin Electricity Supply Private Limited and change in shareholding.

M/s. India Power Corporation (Bihar) Private Limited, Kolkata was granted LoA for co-developer status on 19.01.2017. Subsequently, the name of the co-developer was changed to M/s. India Power Corporation (Tuticorin) Private Limited on 19.04.2017.

M/s. India Power Corporation (Tuticorin) Private Limited has now once again requested for change of name in the LoA and change in shareholding. The request is based on the change of its name from M/s. India Power Corporation (Tuticorin) Private Limited to Tuticorin Electricity Supply Private Limited through Certificate of Registration issued by the Registrar of Companies on 21.12.2018.

The shareholding pattern of the co-developer, both existing and proposed is as per the table below:-

Shareholding pattern prior to Name change of the company:-		Shareholding pattern post name change of the company	
Name of the shareholder	Percentage	Name of the shareholder	Percentage
Power Trust	80.214	Power Trust	99.9898
Prashant Kapoor (Nominee of Power Trust)	0.010	Anthony Dilip Rozario (Nominee of Power Trust)	0.0102

India Power Corporation Limited	19.776		
Total	100.00	Total	100.00

Recommendation by DC

The application of M/s. India Power Corporation (Tuticorin) Private Limited a co-developer in M/s AMRL Hitech City Ltd. Multiproduct SEZ, Nanguneri, Tirunelveli District, Tamil Nadu for change in name to M/s. Tuticorin Electricity Supply Private Limited and change in shareholding, may be placed before the BoA for consideration.

The request is placed before BoA for its consideration.

88.4(iii) Request of M/s. Candor Gurgaon Two Developers & Projects Pvt. Ltd., Co-developer of IT/ITES SEZ of M/s. Gurgaon Infospace Ltd. at Village Dundahera, Sector-21, Gurugram (Haryana) for change in shareholding pattern of the company.

M/s. Candor Gurgaon Two Developers & Projects Pvt. Ltd. had been granted LOA on 21.01.2008 as co-developer in the IT/ITES SEZ of M/s. Gurgaon Infospace Ltd. at Village Dundahera, Sector-21, Gurugram (Haryana) for construction of IT Buildings in said SEZ. The co-developer had executed Bond-cum-LUT which had been accepted by the Competent Authority.

Details of shareholding pattern of the company are given below:

- Shareholding pattern of the company approved by the BoA in its meeting held on 28.04.2016:-

S. No.	Name of Shareholder	No. of shares	% shareholding (Approx.)
1	BSREP India Office Holdings III Pte. Ltd.	76,216	99.99
2	BSREP Moon C1 L.P.	1	0.0013
3	BSREP Moon C2 L.P.	1	0.0013
4	BSREP Moon C3 L.P.	1	0.0013
5	BSREP Moon C4 L.P.	1	0.0013
6	BSREP Moon C5 L.P.	1	0.0013
7	BSREP Moon C6 L.P.	1	0.0013
	Total:	76222	100%

holding pattern:- (w.e.f. 08.01.2019)

S. No.	Name of Shareholder	No. of shares	% shareholding (Approx.)
1	Candor Kolkata One Hi-Tech Structures Private Limited	58,449	99.99
2	BSREP Moon C1 L.P.	1	0.0016
3	BSREP Moon C2 L.P.	1	0.0016

4	BSREP Moon C3 L.P.	1	0.0016
5	BSREP Moon C4 L.P.	1	0.0016
6	BSREP Moon C5 L.P.	1	0.0016
7	BSREP Moon C6 L.P.	1	0.0016
	Total:	58,455	100%

Reason for change in shareholding:

The Co-developer has informed that pursuant to obtaining approval for scheme of capital reduction filed in High Court of Bombay, Candor Gurgaon Two Developers & Projects Pvt. Ltd. reduced its share capital from 76222 equity shares to 58455 equity shares by cancelling 17767 equity shares with effect from 23.11.2016. Consequent to such capital reduction, the share capital of Co-developer company was revised as on 23.11.2016, as given below:-

S. No.	Name of Shareholder	No. of shares	% shareholding (Approx.)
1	BSREP India Office Holdings III Pte. Ltd.	58,449	99.99
2	BSREP Moon C1 L.P.	1	0.0016
3	BSREP Moon C2 L.P.	1	0.0016
4	BSREP Moon C3 L.P.	1	0.0016
5	BSREP Moon C4 L.P.	1	0.0016
6	BSREP Moon C5 L.P.	1	0.0016
7	BSREP Moon C6 L.P.	1	0.0016
	Total:	58,455	100%

The Co-developer has further informed that there has been intra-group transfer of shares and Candor Kolkata One Hi-Tech Structures Private Limited, which is also an indirect subsidiary of BSREP, has acquired all the shares held by BSREP III, which is a direct subsidiary of BSREP, on 08.01.2019. Further it has been clarified that even after the transfer of shares from BSREP III to Candor Kolkata One Hi-Tech Structures Private Limited, Candor Gurgaon Two Developers & Projects Pvt. Ltd. remains an indirect subsidiary of BSREP.

Recommendation of DC:

Development Commissioner, NSEZ has recommended the proposal.

The request is placed before BoA for its consideration.

88.4(iv) Request of M/s. Phoenix Embassy Tech Zone Pvt. Ltd. for change in shareholding pattern and change of name of their company to M/s Phoenix Tech Zone Pvt. Ltd..

M/s. Phoenix Embassy Tech Zone Pvt. Ltd. and to state that there is a joint venture company of M/s. Phoenix Infratech (India) Pvt. Ltd. and M/s. Embassy Property Developments

Pvt. Ltd. and three other individuals, engaged in the development of three IT/ITES SEZs as detailed below:-

S. No.	Developer	Notification	Extent of Land
1.	Phoenix Embassy Tech Zone Pvt. Ltd. Survey no.115/35, Nanakramguda Village, Serilingampally Mandal, Ranga Reddy Distt, Hyderabad, Telangana	17.03.2017	5 acres
2.	Phoenix Embassy Tech Zone Pvt. Ltd. Survey No.118(P), 121(P), 122(P) & 138(P), Nanakranguda Village, Serilingampally Mandal, Ranga Reddy District, Hyderabad, Telangana	04.07.2017	15.46 acres
3.	Phoenix Embassy Tech Zone Pvt. Ltd. Survey No.203(P), Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Hyderabad, Telangana	17.03.2017	5 acres

Present shareholding pattern			Proposed shareholding pattern	
S.No.	Name of shareholder	Percentage	Name of shareholder	Percentage
1.	Phoenix Infratech (India) Private Limited	46.50%	Phoenix Infratech (India) Private Limited	100.00%
2.	Embassy Property Developments Private Limited	46.50%		
3.	Mrs. Gayatri Shah	4.90%		
4.	Mr. Jagadeesh Babu Ramanathan	1.40%		
5.	Mr. Nilesh Jani	0.70%		
	Total	100%		100.00%

On approval of BoA for the transfer of shareholding, they propose to change the name of the company from M/s. Phoenix Embassy Tech Zone Private Limited to M/s. Phoenix Tech Zone Private Limited.

Recommendation by DC

The request of M/s. Phoenix Embassy Tech Zone Pvt. Ltd. for transfer of share of M/s. Embassy Property developments Pvt. Ltd. and other individuals to M/s. Phoenix Infratech (India) Pvt. Ltd. and change in name is forwarded to BoA in terms of Instruction No. 89 read with Instruction No. 90 issued by MoC.

The request is placed before BoA for its consideration.

88.4(v) Request of M/s. Harman Connected Services Technologies Private Limited a co-developer in M/s. Manyata Embassy Business Park SEZ for change of name to M/s. Harman Connected Services Corporation India Private Limited

M/s. Aditi Technologies Private Limited was granted co-developer status in M/s Manyata Embassy Business Park SEZ on 12.07.2016. The name of co-developer was changed to M/s. Harman Connected Services Technologies Private Limited from M/s Aditi Technologies Private Limited in the 71st meeting of the Board of Approval held on 22.06.2016. Now, the Co-developer has again requested for change of name from M/s. Harman Connected Services Technologies Private Limited to M/s. Harman Connected Services Corporation India Private Limited. They have intimated that there is no change in the Director of the company and shareholding pattern.

Recommendation by DC:

DC, CSEZ has recommended the proposal.

The request is placed before BoA for its consideration.

88.4(vi) M/s. DLF Infocity Developers (Chennai) Ltd., developer for IT/ITES SEZ at Shivaji Gardens, Moonlight Stop, Nandampakkam Post, Ramapuram, Chennai for transfer of LoA M/s. DLF Home Developers Ltd. to M/s. DLF Info City Chennai Ltd. due to de-merger-NCLT orders.

M/s. DLF Infocity Developers (Chennai) Ltd., developer for IT/ITES SEZ at Shivaji Gardens, Moonlight Stop, Nandampakkam Post, Ramapuram, Chennai was granted LoA on 22.06.2007. Subsequently, the name of the developer was changed to M/s. DLF Home Developers Ltd. based on the Court orders passed by Hon'ble High Court of Punjab and Haryana and Hon'ble High Court of Delhi in the matter of "Scheme of amalgamation" and the same was approved by the BoA in its meeting held on 08.03.2017.

DC, MEPZ has informed that in pursuant to the scheme of de-merger, based on the orders passed by the Hon'ble NCLT, Principal Bench Delhi, New Delhi vide orders dated 04.01.2019 sanctioning the Scheme of Arrangement involving de-merger of SEZ undertaking viz. M/s. DLF Home Developers Ltd. into M/s. DLF Info City Chennai Limited, the developer has requested for transfer of LoA from M/s DLF Home Developers Ltd. into M/s. DLF Info City Chennai Limited.

Recommendation by DC.

DC, MEPZ SEZ has recommended the proposal for consideration of BoA in terms of Instruction No. 89 dated 17.05.2018 and Instruction No. 90 dated 03.08.2018 issued by DoC.

The request is placed before BoA for its consideration.

88.4(vii) (a) Request for Change in shareholding of M/s Tanglin Developments Limited (TDL) on a fully diluted basis pursuant to investment by a subsidiary of M/s.BREP Asia II Indian Holding Co I(NQ) Pte Ltd, Singapore (a member of Blackstone Group) through Convertible Debentures.

M/s. Tanglin Developments Limited was granted LoA on 28.06.2006 for setting up of a sector specific SEZ for IT/ITES over an area of 27.16 hectares. The SEZ stands notified over an area of 26.673, 0.20 and 0.12 hectares.

DC, CSEZ has informed that the proposed shareholder company, M/s. BREP Asia II India Holding Co I (NQ) Pte Ltd., Singapore (a member of Blackstone Group), being the Investor company stated that they are global alternative asset manager and provider of financial advisory services. It is one of the largest real estate developers and a premier investment partner with various real estate players across the world has significant experience and expertise in developing and operating industrial parks and has made investment into various commercial projects in India including SEZs.

The developer has stated that subsidiary of M/s. BREP Asia II Indian Holding Co I (NQ) Pte Ltd , Singapore (a member of Blackstone Group) would subscribe to optionally convertible debenture or compulsorily convertible debentures (Convertible Debentures) issued by TDL, which would result in entitling M/s.BREP Asia II Indian Holding Co I (NQ) Pte Ltd , Singapore a stake of up to 95% in Tanglin Developments Ltd on a fully diluted basis. This investment will help the Global Village Division (SEZ) to strengthen its operations by utilizing the investment amount for repayment of existing debts in TDL.

Existing and proposed Shareholding pattern

Shareholder	Existing % of shareholding	Shareholder	Proposed % of shareholding (diluted basis %)
Coffee Day Enterprises Limited	100%	Coffee Day Enterprises Limited	5%
		A subsidiary of M/s. BREP Asia II India Holding Col (NQ) Pte Ltd., Singapore (a member of Blackstone Group)	95%

(b) Approval for demerger of Global Village SEZ developed by M/s. Tanglin Developments Limited (TDL) into a subsidiary of M/s.BREP Asia II Indian Holding Co I (NQ) Pte Ltd, Singapore (a member of Blackstone Group).

DC, CSEZ has informed that the developer will undertake a Scheme of Arrangement for demerger resulting in transfer and vesting of all the assets and liabilities pertaining to Global Village SEZ of TDL to a subsidiary of M/s.BREP Asia H Indian Holding Co I (NQ) Pte Ltd , Singapore (a member of Blackstone Group).

Recommendation by DC:

In view of the foregoing developments, the proposals for change in shareholding and de-merger of the Global Village SEZ of TDL to a subsidiary of M/s. BREP Asia II Indian Holding Co I(NQ) Pte Ltd , Singapore (a member of Blackstone Group) are recommended for favourable consideration of the Board of Approval for SEZs under Department of Commerce.

The request is placed before BoA for its consideration.

88.4(viii) Request of M/s. Pesh Infra Builders LLP.-Co-developer in MIDC SEZ, Hinjewadi, Pune for prior approval for change in capital contribution and retirement and admission of partners of the company.

M/s. Pesh Infra Builders LLP. has been granted co-developer status on 19.01.2017.

The co-developer has stated that due to non-availability of the clients for renting of space for IT/ITES purpose since last 2 years because of frequent changes in SEZ policies, it has become very difficult to generate the revenue for the LLP. Hence, they decided to come out from this project. In this connection, they have been approached by M/s. Tudip Technologies Pvt. Ltd. for taking over the Pesh Infra Builders LLP's entire business and entire capital contribution of LLP, so that in future they can set up the IT & ITES units for their captive consumption.

DC, SEEPZ SEZ states that the co-developer has requested for Change in capital contribution and retirement and admission of partners. The details of the existing and proposed designated partners along with existing and proposed fixed and floating capital contribution of designated partners is as follows.

Sr. No	Name of the partners	Existing Capital contribution & Existing Partners			Proposed Capital contribution & Proposed Partners		
		Designation	Capital contribution (Fixed + Floating) (in Rs.)	%	Designation	Capital contribution (Fixed + Floating) (in Rs.)	%
1	Sunil Ram Peswani	Designated Partner	28,52,78,000.00	98	-	-	-
2	RashmiPeswani	Designated Partner	58,22,000.00	2	-	-	-
3	Tudip Technologies Pvt. Ltd. (Through Authorized Representative DiptiRamnlal Agarwal)	-	-		Designated Partner	28,52,78,000.00	98

4	DiptiRamanlal Agarwal	-	-		Designated Partner	29,11,000	1
5	Tushar Vijay Apshankar	-	-		Designated Partner	29,11,00,0	1
Total			29,11,00,000.00/-	100		29,11,00,000.00/-	100

Recommendation by DC:-

The proposal for change in capital contribution and retirement and admission of partners of M/s Pesh Infra Builders LLP is recommended for prior approval of the BoA as per the guidelines of the Instruction No. 89 dated 17.05.2018 issued by DoC

The proposal is placed before the BoA for consideration.

Item No. 88.5 Requests for co-developer (one proposal)

88.5(i) Request of M/s. Torrent Power Ltd. for approval as Co-developer for development of infrastructure viz. proposed installation of 33 KV Sub-Station as a part of Electricity distribution network at Plot No. 23 as well as 09 nos. of small sub-stations of 11KVs already installed in Sector Specific SEZ for the Sector "EHTP & IT/ITES" (known as GIDC-EP SEZ) at Gandhinagar.

M/s. Torrent Power Limited is engaged in the business of generation, transmitting and distribution of electrical energy within the licensed area of city of Ahmedabad and Gandhinagar. It is pertinent to mention here that Sector Specific SEZ for the sector viz. "EHTP & IT/ITES" (known as GIDC-EP SEZ) is developed by the developer namely "Gujarat Industrial Development Corporation (GIDC-a Govt. of Gujarat undertaking)" situated at Kolvada Road, Gandhinagar is also covered under the said licensed area.

In terms of the Lease Deed executed between the said company namely M/s. Torrent Power Limited and Gujarat Industrial Development Corporation (GIDC) and registered on 06.03.2009, the said M/s. Torrent Power Limited was granted Plot No. 23 (having area of 2687.60 Sq. Mtrs.) and 09 nos. of other small land packets (08 nos. of 40.50 Sq. Mtrs. each & 01 no. of 42.93 Sq. Mtrs. which totaling to 366.93 Sq. Mtrs.) on lease for a period of 30 years.

M/s. Torrent Power Limited had installed 11 KV substations on all the 09 nos. of the small land packets (situated at different places within the processing area of EP-SEZ) as a part of power distribution network to cater the power requirements of the units situated within the said SEZ. As stated in their letter dated 30.10.2018, they have not availed any tax/duty benefit while installing the said substations.

M/s. Torrent Power Limited has submitted that they intend to construct 33 KV Sub-Station at Plot No. 23 of EP-SEZ to cater the forthcoming requirements of the units. They have also submitted that the total power requirements of SEZ will be met from the newly established

33 KV Sub-Station which shall be connected with the existing 33 KV and 11 KV network outside the SEZ area for enhancement of reliability and shall be used during any contingency condition. Moreover, it is also mentioned that the facility going to be created is primarily to be meant for SEZ units, however, the same may be used by entities outside SEZ in case of any requirements/exigencies. They have specifically mentioned that they are not going to claim any duty benefits while installation/establishment of said 33 KV substation.

The Regional Manager, GIDC vide their letter dated 03.01.2019 also informed that the Lease Deed clearly mentions the purpose for which the land is to be used by the said M/s. Torrent Power Limited which is generation, transmitting and distribution of electric energy within the licensed area and accordingly, also requested to consider the request submitted by said M/s. Torrent Power Limited.

DC, KASEZ has invited an attention to Section 3(11) of the Special Economic Zones Act, 2005 which reads as under:

“Any person, who, or a State Government which, intends to provide any infrastructure facilities in the identified area referred to in sub-sections (2) to (4), or undertake any authorized operations may, after entering into an agreement with the Developer referred to in sub-section (10), make a proposal for the same to the Board for its approval and the.....”

In view of the above, the Board of Approval may like to take the matter into consideration for approval to the said “Application as a Co-developer” submitted by M/s. Torrent Power Ltd. for their proposed installation of 33 KV Sub-Station at Plot No. 23 (having area of 2687.60 Sq. Mtrs.) as well as 11 KV Sub-Stations already installed/operational at 09 nos. of other small land packets (08 nos. of 40.50 Sq. Mtrs. each & 01 no. of 42.93 Sq. Mtrs. which totaling to 366.93 Sq. Mtrs.) in GIDC EP-SEZ Gandhinagar.

Co-developer Agreement not provided.

Recommendation by the DC:-

The case is recommended for approval.

The request is placed before BOA for its consideration.

Item No.88.6 Proposal for setting up of new SEZs (one proposal)

88.6(i) Request of M/s. Adani Power (Jharkhand) Ltd. for setting up of sector-specific SEZ for power at Villages – Motia, Mali, Gaighat & adjacent villages in Godda District, Jharkhand over an area of 425 Ha (formal approval for the land in possession of 222.68 Ha area and In-principle approval for remaining 202.32 hectares).

Documents required for setting up of new SEZ for the consideration of the BoA and grant of LoA:-

S. N.	Condition/Documents required	Status
A.	Documents required for setting up of SEZ in terms of Rule 3 of SEZ Rules, 2006:	
(i)	Completed Form A (with enclosures) a) Total Proposed Investments : Rs. 810.05 (Cr.) b) In case of FDI amount & Source of origin : No c) Proposed Employment (in Nos.) : Construction phase 199 (Direct) & 15000 (Indirect) Operation phase 2000 (Direct) & 4000 (Indirect) d) Proposed Exports (in US\$) : 6 Billion	Yes, provided
(ii)	DC's Inspection Report	Yes, (provided Inspection Report/ Certificate Certified by DDC)
(iii)	State Government's recommendation	Yes, provided
(iv)	Recommendation for National Security Clearance (NSC) from Ministry of Home Affairs as per Rule 3 of SEZ Rules, 2006	DC has recommended that NSC is not required.
B.	Minimum area requirements in terms of Rule 5 of SEZ Rules, 2006:	
	Fulfillment of minimum land area requirement in terms of the Rule 5 of the SEZ Rules, 2006 (50 hectares)	Yes, (condition met)
C.	Details to be furnished for issue of notification for declaration of an area as SEZ in terms of Rule 7 of SEZ Rules, 2006:	
	Certificate from the concerned State Government or its authorized agency stating that the Developer(s) have;	
(i)	Legal possession	Certificate provided for area of 209.24 Ha
(ii)	Irrevocable rights to develop the said area as SEZ	Not provided
(iii)	that the said area is free from all encumbrances	Not provided
(iv)	Where the Developer has leasehold right over the identified area, the lease shall be for a period not less than twenty years	Lease deed for 30 years provided for an area of 13.44 Ha
(v)	The identified area shall be Contiguous, Vacant and No public thoroughfare	Yes, Certified by DDC

Recommendation by DC:

DC, FSEZ has recommended the proposal for formal approval for the land in possession of 222.68 Ha area and In-principle approval for remaining 202.32 hectares.

The proposal is placed before the BoA for consideration.

Item No. 88.7 Miscellaneous Cases (9 proposals)**88.7(i) Request of Indian Oil Corporation Ltd. (IOCL) for permission to lay Petroleum Pipe Line along with Optical Fiber Cable as part of their Paradeep — Hyderabad Pipe Line Project through APSEZ notified area and Industrial Cluster — Atchutapuram & Rambilli Mandals.**

M/s. IOCL has requested DC, APSEZ seeking permission to allow their material and men to lay an Under Ground Petroleum Pipeline at a depth-of 1.20Mts to 1.50Mts from the ground level with a width of 1.50M covering a length of 4Kms (approx) along the internal Roads of Processing Area of the Zone. They stated that the proposed Paradeep — Hyderabad Pipe Line project was identified in National Perspective Plan under 'Sagarmala programme and they got the Right of Way from APIIC Ltd, the Developer of Multi product SEZ at Atchutapuram, Visakhapatnam District, Andhra Pradesh subject to certain conditions prescribed.

The Dy. Development Commissioner along with the Officials of Developer and Indian Oil Corporation Ltd visited the zone premises and noticed that the proposed underground pipe line will be running in a length of 4 Kms (approx), through the road margins in front of the existing Units inside SEZ area. The- proposed pipe line does not fall under any category of authorised operations of the Developer nor will serve any infrastructure needs of the SEZ Units.

As per Rule 11(5), (6), (7), (8) & (10) of the SEZ Act 2006, the Developer may allot land in the processing area on lease basis to a person desiring to create infrastructure facilities for use by the prospective Unit. No vacant land in the Non- processing area shall be leased for business and social purposes to any persons except a Co-Developer as approved by the Board.

In this case, the proposed pipe line is to run through road margins of the processing area and the Developer has sold- the Right of Way for laying the pipe line through notified SEZ area to the IOCL. Hence approval of the BoA is required for laying the proposed Pipe Line and their men to enter the notified SEZ area of the APSEZ for their subsequent maintenance operations.

Recommendation by DC:

In view of the above, the request of the Indian Oil Corporation Ltd., has been forwarded for consideration and decision of the BoA.

The request is placed before BoA for its consideration.

88.7(ii) Request of Ms. Transworld Business Corporation for Inclusion of additional items of Virgin Plastic Scrap/Waste/Lump (Virgin grade) with Annual Capacity of 7500 MT in their existing valid Letter of Approval(LOA).

M/s. Transworld Business Corporation, is a Manufacturing unit, located at Falta SEZ, Distt. South 24 Parganas in the State of West Bengal, for manufacture & export of Lay Flat Tubes/Garbage Bags/Sheet/Film(LDPE/HDPE/PP/BOPP requested for Inclusion of additional Items of Plastic -Scrap/Waste/Lump (Virgin grade) with Annual Capacity of 7500 MT in their existing valid Letter of Approval(LOA) dated 12.05.1999. Its existing LoA is valid up to 27.12.2019.

In this regard, aforesaid unit is importing Plastic Floor Sweep, Granules etc. from European Countries, Middle East Countries and USA. In the last 3 to 4 years, the situation has been changed and the consumption of secondary materials and availability for import in India has become very scarce.

In view of the situation survival of their unit has become very difficult due to non availability of such materials at competitive price. For survival of their unit they intend to make backward integration in plastic recycling by importing plastic scrap/waste/lumps etc. and then processing the same to make- granules for captive consumption. They will also be able to export at least 50/55% of plastic agglomerates and granules, as a finished product.

They have also produced a copy of projected Balance Sheet for the next five years for such inclusion:

(Rs. In lakhs)					
Calendar Year	2019	2020	2021	2022	2023
Foreign Exchange Earnings	23.00	33.00	35.50	37.00	40.00
Import of Raw Material	21.00	30.00	32.00	33.00	35.00
NFE	2.00	3.00	3.50	4.00	5.00

The Annual Performance of the Firm based on APR And Customs data the Block-wise for the FY 2009-10 to 2013-14, 2014-15, 2015-16 & 2016-17 has been monitored by the Unit Approval Committee in its Meeting held from time to time and achieved (+) NEE. The unit has also submitted their performance for the 4th Block of 1st year i.e. from 2014-15 to 2017-18. The details are as follows :

(Rs. In lakhs)				
Calendar Year	2014-15	2015-16	2016-17	2017-18
Export	539.00	146.80	258.44	187.80
Import of Raw Material	444.24	131.22	221.77	180.64
NFE	94.76	15.58	36.67	7.16

The matter of Ms. Transworld Business Corporation for inclusion of additional items of Plastic Scrap/Waste/Lump (Virgin grade) with Annual Capacity of 7500 MT in their existing

valid Letter of Approval (LOA) dated 12.05.1999 was placed before the Unit Approval Committee in its meeting held on 08.01.2019.

After deliberation, the Committee decided to forward the matter for inclusion of Plastic Scrap/Waste/Lumps (Virgin Grade) with Annual Capacity of 7500 MT to MOC for placing the same in the BOA for consideration of their request.

The Board of Approval in its 85th meeting held on 02.11.2018 and 86th meeting held on 22.11.2018 constituted a Committee to examine the extension of LOP of Plastic Recycling Units and worn and used clothing units and issues related thereto. The recommendations of the Committee are awaited.

Recommendation of DC/FSEZ

The matter may be examined with a sympathetic view since they would like to continue their existing unit with additional and related items i.e. for export of Plastic Granules/Agglomerates by import of Plastic Scrap/Waste/Lump in Virgin Mode with annual capacity of 7500 M/T. On the other hand it is also to be noted that number of unskilled labour who are only dependent on the existing Plastic Units, if there is any possibility to consider their case it will be helpful to achieve our goal for the objectives, environmental, social and domestic industries. Even the competent authority may consider this case with the larger policy objectives since the aforesaid unit has committed to export their entire product as they will be able to export at least 50/55% of plastic agglomerates and granules as their finished products and earn foreign currency for our country as confirmed vide their letter dated 13/12/2018.

Virgin Scrap is allowed with license by DGFT vide P.N.392, Para (ii) dated 01.01.1997 as Such Virgin/ new Plastic scrap/ waste shall be permitted for import in the following forms i.e. compressed, films in cut condition, cut tape soft waste, flakes, powders pieces of irregular shape (not exceeding the size of 3"x3"). On the other hand after deleting sub para 53(n) of Amended SEZ Rule dated 19.9.2018, the firm will not supply of its goods to DTA under EEFC Account and will not achieve positive foreign exchange. After inclusion of Additional items of Plastic Scrap/Waste/Lump (Virgin grade) with Annual Capacity of 7500 MT in their existing valid Letter of Approval(LOA), they will able to export at least 50/55% of plastic agglomerates and granules, as a finished product & earn positive foreign exchange. Therefore it recommends having level playing field for doing business in SEZ.

The request is placed before BoA for its consideration.

88.7(iii) Request of M/s Zest Marine Service Pvt. Ltd., Kandla SEZ for broad-banding of Cigarettes and filter cigarettes of various brands for trading in their existing LoA – BoA Approval.

M/s. Zest Marine Services Pvt. Ltd., KASEZ is an approved unit for trading activity for lubricants, marine chemicals, wire ropes and plastic ropes, hatch sealing tapes, ship spares, paints and navigation equipment for ships vide letter dated 12.08.2010. Later vide letter dated

01.11.2013, DC, KASEZ approved their request for trading activity of Cigarettes and filter cigarettes of various brands in their existing trading LoA.

At the time of renewal of their LoA after completion of their first five years period in 2016, the UAC in its 104th meeting held on 15.11.2016 had decided to renew their LoA for further 5 years period for original trading activity approved in LoA dated 12.08.2010 and the broad-banding approved vide letter dated 01.11.2013 viz. Cigarettes and filter cigarettes of various brands were not allowed. Accordingly, their LoA is extended for further 5 years period upto 03.08.2021.

The said unit has requested for Broad Banding of their LoA for addition of following items for trading activity:-

Sl. No.	Item	ITC (HS) Code	Description of goods as per DGFT website	Import / Export Policy
1.	Cigarettes and filter cigarettes of various brands	2402 2030	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 65 millimetres	Free
2.	Juices	2202 9920 2009 8990	Fruit pulp or fruit juice based drink Other	Free
3.	Soft Drinks	2202 1010 2202 9990	Aerated waters Other	Free
4.	Wine	2204 1000 2204 2210	Sparkling wine Port and other red wines	Free
5.	Beer	2203 0000	Beer made from malt	Free
6.	Whisky	2208 3019	Other	Free

The said proposal was discussed in the 139th Unit Approval Committee meeting of Kandla SEZ held on 11.01.2019. The Committee noted that item such as Cigarettes and filter cigarettes of various brands falls under the category of Industrial Licensing requirement and the UAC is not the competent authority to approve such items. Therefore, the Approval Committee after due deliberation decided to approve the items at Sr. No. 2 to 6 only mentioned in the table above for trading activity subject to the condition that the same will be supplied to foreign bound vessels calling at Kandla Port & Mundra Port and also an Affidavit that no DTA sale of any traded goods even if damaged or otherwise will be allowed and if the traded goods are found to be sold in DTA penal action will be initiated against them and will be liable for cancellation of the above approval of trading activity.

Now, the unit vide letter dated 11.02.2019 has requested to consider their request for addition of cigarettes and filter cigarettes in their existing LoA for trading activity which was not approved in the 139th UAC meeting and forward their application of cigarettes and filter cigarettes to BoA. They have further stated that they are going to undertake trading activity only and there will not be any manufacturing activity as per the industrial licensing.

In the 45th meeting of the BoA held on 25.03.2011, the request of M/s. La Spirit Liquor Trading Co., KASEZ, for broadbanding/inclusion of cigarettes (covered under ITS-HS 2402) in their existing LoA was approved by the Board subject to the following conditions:-

- (i) No DTA procurement of Cigarettes shall be made by the unit;
- (ii) There will be no DTA sale of cigarettes
- (iii) The Cigarettes shall be supplied only to Bonded Warehouses, Foreign Vessels calling at Kandla Port and Mundra Port and the duty free shops in these ports.

A similar request of M/s. A One Duty Free Private Limited for procurement of Cigarette from ITC Limited without paying duty against ARE-1 form and supplies to Duty Free Shops Bonded Warehouses & Foreign Vessels was placed before the BoA in its 74th meeting held on 06.01.2017. The Board, after deliberations, deferred the proposal with directions that policy on allowing trading activities in SEZs as well as trading in sensitive items may be examined in detail. In light of the directions of the BoA, the unit was informed that DTA procurement and sale of cigarettes are not permissible in SEZs.

Recommendation by DC:-

In a similar matter of M/s. La Spirit Liquor Trading Co., KASEZ, the Board of Approval in its 45th meeting held on 25.03.2011 approved the request of the unit for trading of Cigarettes (covered under ITS-HS 2402) subject to certain conditions imposed. Therefore, the request of M/s. Zest Marine Services Pvt. Ltd., KASEZ is also placed before the BoA for its consideration.

The request is placed before BoA for its consideration.

88.7(iv) Request for permission for conversion of M/s. Mahindra World City SEZ from sector specific SEZ to Multi Product SEZ.

M/s. Mahindra World City SEZs were notified on 08.09.2004 by Ministry of Commerce and Industry and later on notified by the Ministry of Finance on 01.04.2005. Their 3 sector specific SEZs were approved prior to the SEZ Act and Rules coming into force and is an existing SEZ in terms of Section 44 of SEZ Act.

In the auto ancillary SEZ, the area is fully occupied by the units. The Developer has informed that they have received requests from multi-national companies in the Light Engineering and Auto Ancillaries sectors for space in the SEZ to set up their manufacturing facilities. Some of the operational units in Auto SEZ are looking for more space for expansion of their units.

By converting from sector specific SEZ into multi product SEZ, unproductive lands and built up space in the SEZ as a whole could be used in an effective way so that more foreign exchange may be earned by allotting more space in the SEZ to new functional units.

M/s. Mahindra World City SEZ has three sector specific SEZs viz. (i) Information Technology (including services, electronics, hardware and bio-informatics), (ii) Apparel and Fashion

Accessories and (iii) Auto Ancillaries with a total area of 344 hectares (213.730 hectares of processing area and 130.270 hectares of non-processing area).

The following are the details of the 3 different SEZs:

	Number of units functioning	Total area (in hectares)	Area utilized (in hectares)	Area allotted but not utilized by the units (in hectares)
MWC IT SEZ	12	135.33	128.25	7.08
MWC Apparel SEZ	8	32.48	24.16	8.32
MWC Auto SEZ	14	45.92	45.92	0.00

The export turnover of the units in the Mahindra World City SEZ for the year 2017-18 is Rs. 11,206.82 crores.

Rule position:-

5. Requirements for establishment of a Special Economic Zone —

(1) The Board may approve as such or modify and approve a proposal for establishment of a Special Economic Zone, in accordance with the provisions of sub-section (8) of section 3, subject to the requirements of minimum area of land and other terms and conditions indicated in subrule (2).

(2) The requirements of minimum area of land for a class or classes of Special Economic Zone in terms of sub-section (8) of section 3 shall be the following, namely:—

(a) A Special Economic Zone for multi product shall have a contiguous area of one thousand hectares or more but not exceeding 5000 hectares: Provided that in case a Special Economic Zone is proposed to be set up in Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur, Tripura, Himachal Pradesh, Uttarakhand, Sikkim, Jammu and Kashmir, Goa or in a Union Territory, the area shall be two hundred hectares or more :

Provided further that at least fifty per cent of the area shall be earmarked for developing the processing area:

Provided also that the Central Government may consider on merit the clubbing of contiguous existing notified Special Economic Zones notwithstanding that the total area of resultant Special Economic Zone exceeds 5000 hectares.

Recommendation by DC:-

The proposal of M/s. Mahindra World City Developers Ltd., the Developer of Mahindra World City SEZ, Chengalpattu is recommended for consideration of BoA to relax the Rule 5(2)(a) of SEZ Rules, 2006 for conversion from sector specific SEZ to multi product SEZ.

The request is placed before BoA for its consideration.

88.7(v) Request of M/s Mahindra Residential Developers Limited (MRDL), Co-Developer of M/s Mahindra World City Developers Limited SEZ, Central Avenue, Chengalpet, Kancheepuram, Tamil Nadu for surrender of Co-developer status.

M/s Mahindra Residential Developers Limited (MRDL), Co Developer of M/s Mahindra World City Developers Limited SEZ, Central Avenue, Chengalpet, Kancheepuram, Tamil Nadu was issued LoA on 25.04.2008 for developing residential facilities in the SEZ over an area of 22.257 hectares.

The Co-developer has now requested for surrender of Co-developer status and transfer of Co-developer area and the inventories to M/s Mahindra Integrated Township Limited, another Co-developer through a Tri-partite Agreement between the Co-developers M/s Mahindra Residential Developers (MRDL) and the Developer M/s Mahindra world City Developers Limited.

DC, MEPZ has stated that in terms of the Tripartite Agreement, M/s Mahindra Residential Developers Limited will relinquish all its rights and obligations arising out of its authorized operations in regard to the entire project area of 55 acres in favour of MITL upon receipt of requisite approvals from BoA. MITL shall thereafter be responsible for the authorized operation in regard to the entire project area of 55 acres. Out of the total area of 55 acres allotted, the Co-developer has constructed 575 residential units over an area of 52 acres have already been leased out. It is further stated in the agreement that post transition of leasehold rights from MRDL to MITL, all the liabilities and obligations of MRDL, present, past and future relation to its Co-Developer's authorized operations will be taken over by MITL.

The Developer and the three Co-developers were issued SCN dated 18.02.2014 against the allotment of the residential units constructed using duty free goods to persons other than units/employees of the SEZ who are not connected with SEZ tantamounting to real estate/commercial activity which is a gross violation of Instruction 65 dated 27.10.2010 issued by DoC and the spirit of SEZ Act/Rules and asking them to Show Cause as to why the duty benefits availed by them should not be refunded back to the Government.

The Developer and the three Co-developers has filed WPs No. 26122 to 26126/2014 stating that enforcement of Instruction 65 is more in the nature of guidelines and it is issued much after their completion of their residential project. Moreover, the petitioners reiterated that the approval granted to them for residential allotments does not specify that residential facilities will be exclusive use of the SEZ employees. Subsequently, the Developer had withdrawn their

case and order dated 29.04.2016 was issued by the Hon'ble High Court of Madras dismissing the W.P. No. 26126/2014 as withdrawn. However, the Writ Petition filed by the three Co-developers is still pending in the Hon'ble High court of Madras.

In addition they have filed W. P. Nos. 4651, 4652, 4675 and 4679 of 2018 in the High Court of Madras praying for issue of Writ of Declaration declaring Rule 11A inserted into the SEZ Rules, 2006 as ultra vires to the provisions of Sections 7, 26, 27 and 57 of the SEZ Act, 2005.

DC, MEPZ has informed that as the above WPs are pending in the Hon'ble High Court of Madras, a legal opinion was sought from M/s Zenith Lex & Co., Panel Advocates of MEPZ-SEZ Authority, who stated that since the matter is pending consideration of the high Court, acceding to the request of MRDL in relinquishing all its rights and obligations as a Co-developer in favour of MITL is not advisable. That another legal opinion was sought from the Department of Legal Affairs, Branch Secretariat, Chennai, whether to consider the request of the Co-developer. DLA, Branch Secretariat, Chennai replied that since the cases are pending before the Hon'ble High Court of Madras and the issued involved are sub-judice, they are refrained from rendering opinion on sub judice matters. The O/o DC, MEPZ is taking up the issue with the Panel Counsels for an early hearing and has requested to place the matter before the BoA.

The matter is placed before BoA for consideration.

88.7(vi) Request of M/s. Embassy Office Parks Pvt. Ltd. for setting up of sector specific SEZ for IT/ITES at Plot No. PLL-3, Rajiv Gandhi Infotech Park, Hinjewadi, Phase II, Village-Marunji, Taluka Mulashi, District Pune, Maharashtra, for increase in an area of 7.298 hectares.

The above mentioned SEZ stands notified over an area of 17.12 hectares. Formal approval has been issued to the developer for developer of 20 hectares. Out of this 17.12 hectares is notified. Rest 2.88 hectares is formally approved and the same is being submitted to this Department for notification separately.

Now the developer has requested for addition of an area of 7.298 hectares land which is adjacent to this existing SEZ and contiguous and without any public thoroughfare.

Government of Maharashtra has recommended the proposal.

DC's recommendation:-

DC, SEEPZ SEZ has recommended the proposal

The request is placed before BoA for its consideration.

88.7(vii) Application submitted by M/s. Rajesh Exports Ltd., Bangalore for setting up a Unit in Cochin SEZ for manufacture/ export of Gold Bars and Silver Bars.

M/s. Rajesh Exports Limited, No.4, Batavia Chambers, Kumara Krupa Road, Kumara Park East, Bangalore submitted an application for setting up a new Unit in Cochin SEZ for undertaking the following authorised operation:

Item(s) Description	Capacity (in Tonnes)
Gold bars of 995 fineness & above	410
Silver bars of 999 fineness & above and	100

The total projected export during 5 year period is ₹2.55 trillion, the details of which is given in the following table.

Projected Foreign Exchange Earnings (in ₹crore)

Particulars	Year 1	Year 2	Year 3	Year 4	Year 5	Total
FOB Value of Exports	30,000	40,000	55,000	60,000	70,000	2,55,000
Foreign Exchange Outgo	29,997	39,960	54,945	59,940	69,930	2,54,745
Net Foreign Exchange Earnings	30	40	55	60	70	255

The proposal was placed before the Unit Approval Committee in its meeting dated 31.08.2018. The UAC decided to defer the matter for a detailed discussion and was again considered for a detailed discussion in its meeting on 04.01.2019.

Shri Prashant Mehta, Managing Director, appeared before the Committee to clarify and apprise the Committee about the proposal. He informed that the proposal is to bring impure gold from their subsidiary company in Switzerland, M/s Valcambi, and to purify the impure gold in the proposed new Unit in CSEZ through refining process. After the refining process, they produce pure gold bars of Valcambi brand and export the gold bars of Valcambi brand back to Valcambi, Switzerland. He also informed that the refining process is done in Switzerland now and their plan is to shift some part of the refining process to the proposed new Unit as a part of their cost cutting measure. Thus, the proposed authorised operation in the new Unit in Cochin SEZ would be purification of impure gold and silver and export of gold and silver of fineness above 995 and 999 respectively, back to their subsidiary in Switzerland, for which only labour charges shall be collected. He also informed that some quantity would be exported to Dubai, the world's biggest gold market. He also informed that the value addition for the proposed activity would be 0.1%, which is the internationally prevailing standard rate of value addition for such activity.

Shri Prashant Mehta informed that the proposal does not fall in the G&J sector and their project is related to refining of gold which is different from the activities under G&J sector. He also expressed confidence in getting all necessary clearances including PCB, once the Approval Committee clears his proposal.

The Committee, after deliberations at length, noted the following:

- (i) The proposal does not adhere to the minimum value addition norms specified under para 4.61 of HBP 2015-20. The value addition norms for G&J sector ranges from 1.5% to 6%, depending on the product, whereas in the instant case the value addition is only 0.1%.
- (ii) Notification No. 21/2015-2020 dated 14th August 2017 issued by DGFT stipulates a maximum limit of 22ct for export of articles containing gold whereas the proposal under consideration is for export of gold bars of 24ct.
- (iii) The Committee also viewed that there are no significant differences among gold medallion, gold coin and gold bar. The word 'etc.' given after the word 'medallions' in the subject part of DoC's letter dated 25th April 2013 indicate that there are further items like gold medallion which also falls within the ambit of the said prohibition.
- (iv) Another contrary view expressed in the Committee's deliberations was that the proposed activity does not fall under the G&J sector; rather it is part of manufacturing activity due to the fact that the product is 'gold bar' which can be exported like any other manufactured product and hence the restrictions put in place for G&J sector cannot be made applicable in the present proposal.

Due to the contrary views expressed by the members of the UAC, the Committee could not arrive at a consensus regarding applicability or otherwise of restrictions placed on G&J sector in the instant case. In the absence of consensus, the Committee could not arrive at a conclusion regarding grant of approval to the proposal. The UAC, after deliberations at length, decided to refer the matter to the Board of Approval for clarification as to whether the instant proposal falls under the definition of 'manufacture' as defined in clause (r) of section 2 of SEZ Act, 2005 or whether it falls under G&J sector, thereby attracting the restrictions placed on the G & J section by the DoR & the DoC.

Rule/Act position:

Sub-section (r) of Section 2 of the SEZ Act, 2005 defines "manufacture" as under:

““manufacture” means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, cutting, polishing, blending, repair, remarking, re-engineering and includes agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining”.

As per DoC's Instruction No. 91, dated 28.11.2018, DGFT Notification No. 43/2015-2010 dated 05.11.2018 allowing exports of findings like posts, push backs, locks which help in collating the jewellery pieces together, containing gold of 3 carats and above upto a maximum

limit of 22 carats from Domestic tariff area EoUs and to say that the provisions contained in the notification will be applicable Mutatis Mutandis for SEZ units.

The request is placed before BoA for its consideration.

88.7(viii) Request of M/s. Abhijeet Ferro Tech Ltd., a unit in APSEZ, Atchutapuram for import of Ferro Manganese slag for a quantity of 1,00,000 MTs for their authorized operations.

M/s Abhijeet Ferro Tech Ltd. has been granted LoA dated 05.03.2010 for manufacture and export of Ferro Manganese and Silico Manganese etc. The Unit commenced production on 24.03.2012 and hold a valid consent order from the AP PCB up to 31.12.2022 to operate a facility for collection, storage, treatment & transport etc. for Ferro Manganese and Silico Manganese up to a capacity of 2,38,082 TPA and a hazardous waste authorization order issued vide their letter dated 01.12.2017. The Unit effected exports for a value of Rs.1956.78 crores during the 1st 5 years block period and achieved positive NFE to the tune of Rs 852.67 crores during this period. The Unit was granted extension of SEZ status for a further period 5 years from 24.03.2017 to 23.03.2022. The Unit effected exports for a value of Rs.2278.88 crores during period from 2017-18 & 2018-19 (upto Jan 2019).

The unit requires Ferro Manganese Slag as one of the raw materials for their authorised operations to re-cycle & manufacture Silico Manganese. Earlier, the request of the Unit for import of Ferro Manganese Slag was considered and approved by the BOA in its 84th meeting dated 12.9.2018 for a quantity of 50,000 MT based on the NOC given by the MoEF & Climate change.

Now, the Unit vide their letter dated 12.02.2019 has requested for permission to Import Ferro Manganese Slag for a quantity of 1,00,000 MT for their authorised operations The unit also enclosed the Agenda of the 92nd meeting of Expert Committee of MoEF (HSM Division) held on 24.10.2018, in which the matter of granting NoC for their unit was examined and stated that their NoC is expected to be received shortly.

Ferro Manganese Slag is a restricted item under FTP 2015-20. SEZ units are allowed to import restricted items without any authorization from DGFT. However as per Rule 26 of the SEZ Rules " that if any permission is required for import under any other law, the same shall be allowed with the approval of the BoA. Since the item may require permission from MoEF & CC, the present case being put up as per past practice under instruction number 47".

Recommendation by DC:

DC, APSEZ recommends the request of M/s Abhijeet Ferro Tech Ltd for import of Ferro Manganese slag for a quantity of 1,00,000 MTs, subject to submission of NOC from the Ministry of Environment, Forests & Climate Change.

The request is placed before BoA for its consideration.

88.7(ix) Request of M/s. Gujarat State Petronet Limited, Dajli SEZ Co-Developer to grant permission for laying 36" dia natural gas pipeline passing through Dajli SEZ

M/s Gujarat State Petronet Limited (GSPL) was approved as Co-Developer in Dajli SEZ on 12/11/2009 for developing gas pipeline infrastructure for transmission of gas in Dajli SEZ.

DC, Dajli SEZ has informed that M/s GSPL, a Government of Gujarat undertaking, requested vide their letter dated 26.12.2018 to grant permission for laying 36" dia natural gas pipeline passing through Dajli SEZ. M/s GSPL planned to lay 36" dia x 36 km natural gas pipeline from their existing LNG terminal of Petronet LNG, Dajli to their existing terminal station at village Bhadbhut, Taluka Vagra, District Bharuch. The length of proposed pipeline is about 35/794.89 km and a part of proposed pipeline about 8.425 km is passing through the Dajli SEZ. The pipeline will be laid at depth of 1.0 mtr from the ground level. All safety precaution shall be maintained as per Oil Industry Safety Directorate (OISD) standard and Petroleum & Natural Gas Regulatory Board (PNGRB) technical specification.

M/s Dajli SEZ Limited, Developer of Dajli SEZ issued vide letter dated 21.12.2018 in principal approval to M/s GSPL for offering land on RoU subject to certain conditions including that M/s GSPL has to follow the rules and regulation prevailing in SEZ area.

The GSPL confirms that the proposed Dajli-Bhabbhut (36" x 8.425 km) pipeline along with Optical Fiber Cable (OFC) will be only passing through Dajli SEZ Limited area and not connecting to any customers within the Dajli SEZ Limited.

Recommendation by DC:

In view of above, the proposal of M/s GSPL a Co- Developer of Dajli SEZ to grant permission for laying 36" dia natural gas pipeline passing through Dajli SEZ is recommended to Board of Approval for consideration subject to that the GSPL will not get any benefits/exemptions of Central and State taxes/duties as per SEZ Act, 2005 and the rules and orders made thereunder.

The request is placed before BoA for its consideration.

Item no. 88.8: Appeals before BoA (3 appeals)

88.8(i) Appeal dated 05.02.2019 filed by M/s MGA & Associates against the order of the UAC, KASEZ dated 28.01.2019 for cancellation of the LoA of the unit.

M/s MGA & Associates, a Partnership Firm was granted LoA dated 17.03.2003 for setting up a unit for manufacturing and trading activity in Repairs, Re-Engineering, Reconditioning, Remaking, Segregation etc. of obsolete/outdated/discarded Electrical, Electronic Components, Devices, Appliances, Instruments, Telecommunication & Transmission Equipments, Computers and

Peripherals, Equipments including I.T. products and such other items in Kandla SEZ.

The unit commenced their authorized operations w.e.f. 06.08.2003 and had applied for extension of the validity of their LoP for further five years i.e. up to 14.08.2023. As per the APR for five year block period 2013-18, the said unit was inactive for whole five years block period with Zero NFE.

DC, KASEZ had renewed the LoA of the said unit on 02.08.2018 for further five years period and given direction to issue SCN for negative (Zero) NFE and non-activity, accordingly, Show Cause Notice dated 07.09.2018 was issued to the unit proposing for cancellation of their LoA under Section 16 of the SEZ Act, 2005 and imposition of penalty under FT (D&R) Act for non-achieving of NFE in the last five year block and in line of the principle of natural justice, personal hearing was granted to them on 17.09.2018. Another opportunity of personal hearing was granted to the unit on 03.10.2018.

The Approval Committee noted that,

- (i) The approved activities of the unit relates to the provision of Rule 18(4)(d) wherein the import of second hand goods are allowed only on one-to-one co-relation on re-export basis and normally such activities are not permitted without any concrete plan meeting to the requirement of the said Rule.
- (ii) Observing the principle of natural justice sufficient opportunity was granted to the unit to present their case and defend the reason for non-activity. However, it is evident from their explanation and submission, they have neither concrete plan to revive the unit considering the sensitive nature of import of second hand electronic items which was otherwise permitted for import only for the purpose of repair, reengineering, reconditioning etc. on re-export basis only.
- (iii) The unit had not submitted their APRs of their each of the annual year of the five year block within the stipulated time under Rule 22 read with condition of BLUT.
- (iv) There is employment of only one person reflected in their APR and that they had not made any additional new investment.
- (v) The activities of the unit are not in consonance with the objectives laid down under Section 5 of the SEZ Act, 2005 and the Committee was of the consensus view that they had persistently violated the terms and conditions of the LoA as well as that of BLUT executed by them under which they were under obligation to achieve positive NFE under the requirement of Rule 53 and thus this is a fit case for cancellation of their LoA under Section 16 of the Act for violation of the condition of terms and conditions of LoA and its obligation as laid down in the SEZ Act & Rules made there under.

The Approval Committee after due deliberation decided to cancel the LoA of the unit and directed the DC being the adjudicating authority to adjudicate the case and impose penalty as deemed fit under the FT(D&R) Act, 1992 as proposed in the SCN dated 07.09.2018.

Accordingly, DC, KASEZ vide their order dated 28.01.2019, cancelled the LoA of the unit under Section 16 of the SEZ Act, 2005 in terms of the decision of the UAC. AS per the said order, the

Noticee shall not be eligible/entitled for any exemption, concession, benefit or deduction available to them from the date of issuance of the order and shall remit all the exemption, concession, drawback and any other benefit availed by them in respect of capital goods, finished goods lying in their stock and unutilized raw materials relatable to them in terms of Section 16(3) of the SEZ Act, 2005.

Contents of Appeal :-

- (i) Vide impugned order the LOA of the Appellant has been cancelled under Section 16 of the SEZ Act, 2005, which is reproduced hereunder :-

" The Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted to the entrepreneur, cancel the letter of approval"

- (i) The LOA of the unit can be cancelled only if unit has contravened the terms and conditions of LOA and/or BLUT persistently. In the present case the alleged contravention of non-achieving positive NFEE is found for the first time and therefore the same cannot be terms as persistent. As such the impugned order cancelling the LOA is bad in law, illegal and not tenable and the same deserve to be quashed/set aside alone on this ground.
- (ii) The Appellant had remained positive in earning of NFE in the 1st block period (2003-2008) and 2nd block period (2008-2013) to the extent of Rs.292.80 lacs which has not been considered while passing impugned order.
- (iii) During the 3rd block period (2013-2018) the Appellant has remained neutral in earning of NFE. In other words their imports were Zero and the exports were also Zero and as such if the Appellant was not positive in NFEE he was not negative in NFEE. Thus the cancellation of LOA will be a grave penalty imposed on the Appellant which could not have been so harsh specially keeping in mind that the investment of Rs.200 lacs made by the Appellant in Building and Plant/Machinery will go waste and it will be a National loss.
- (iv) In the original LOA the Appellant was allowed to sale rejects in DTA, however, the same was disallowed by the Government in 2012-13, which resulted in non-viability of the business. The Adjudicating Authority should have considered this aspect which was beyond the control of the Appellant.
- (v) The LOA of the Appellant was renewed for the 4th block period vide letter dt.03.08.2018 (much before the issue of SCN) and after full application of mind by the then D.C. Kandla SEZ for the period from 15.08.2018 to 14.08.2023. As such the monitoring of NFEE could have been done only after the completion of 5 year i.e. in August-2023. In the present case while considering the renewal of LOA in August-2018 the Adjudicating Authority was fully aware about the performance of the Appellant as the Appellant has filed the last APR for the period April-2017 to March-2018 on 21.07.2018, much before the renewal of the LOA. Thus cancellation of LOA during the currency of validity of the

LOA is highly illegal and not tenable in law.

- (vi) That in the identical similar case, of M/s Univae Corporation, M/s Shell Fine Linen Exports and M/s Vishwas Entreprises, their NFEE was neutral and taking a lenient view the concerned DC had not resorted to cancellation of LoA but imposed the minimum penalty of Rs.10,000/- which is bear minimum as per Section 11(2) of the FT(D&R) Act, 1992. That the Adjudicating Authority could have imposed minimum penalty of Rs.10,000/- and he ought not to have cancelled the LoA.

The applicant has requested to quash the impugned order passed by DC, KASEZ based upon the UAC's decision, and that pending final hearing and decision of this Appeal, the impugned order should be stayed and no coercive action should be taken against the appellant till disposal of the Appeal. That the appellant be allowed to resume their authorized operations on execution of Bond or Undertaking that they will abide by the decision of the Appellate Authority/BoA.

Rule Position

Section 16 of the SEZ Act, 2005 - Cancellation of letter of approval to entrepreneur.

16. (1) The Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted to the entrepreneur, cancel the letter of approval:

Provided that no such letter of approval shall be cancelled unless the entrepreneur has been afforded a reasonable opportunity of being heard.

(2) Where the letter of approval has been cancelled under subsection (1), the Unit shall not from the date of such cancellation, be entitled to any exemption, concession, benefit 20 or deduction available to it, being a Unit, under this Act.

(3) Without prejudice to the provisions of this Act, the entrepreneur whose letter of approval has been cancelled under sub-section (1), shall remit, the exemption, concession, drawback and any other benefit availed by him in respect of the capital goods, finished goods lying in stock and un-utilised raw materials relatable to his Unit, in such manner as may be prescribed.

(4) Any person aggrieved by an order of the Approval Committee made under subsection (1), may prefer an appeal to the Board within such time as may be prescribed.

(5) No appeal shall be admitted if it is preferred after the expiry of the time prescribed therefor: Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Board that he had sufficient cause for not preferring the appeal within the prescribed time.

(6) Every appeal made under sub-section (4) shall be in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(7) The procedure for disposing of an appeal shall be such as may be prescribed: Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(Section 11 of The Foreign Trade (Development And Regulation) ACT, 1992 No. 22 OF 1992)

Contravention of provisions of this Act, rules, orders and export and import policy.

11.

(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the export and import policy, he shall be liable to a penalty not exceeding one thousand rupees or five times the value of the goods in respect of which any contravention is made or attempted to be made, whichever is more.

The appeal is placed before the BoA for consideration.

88.8(ii) Appeal of M/s. Encee International against the order dated 22.12.2018 of UAC/NSEZ for non renewal of LoA.

Gist of order appealed against

M/s. Encee International, Plot No. 158, NSEZ was granted LoA on 30.04.2002 for manufacture and export of plain gold jewellery. The unit started export production w.e.f. 05.08.2002 and commenced export of gold jewellery. The LoA was renewed from time to time. The last renewal of LoA was valid till 04.08.2017.

The Approval Committee was informed that the unit has been lying non-functional and has not made any export during previous block of five years since 2012-13. The unit had submitted application for renewal of LoA on 17.09.2018 i.e. after delay of more than one year.

That due to illness of Shri Rajnish Kumar Jain, the working partner of Encee International, the LoA could not be renewed before its expiry on 04.08.2017.

The Approval Committee, after due deliberations, observed that,

- (i) The unit has not done any export from 2012-13.
- (ii) The unit was indulged in un-authorized activities as reported by NSEZ Customs based on their visit of the factory premises on 29.08.2018 (Shri Rajnish Kumar

Jain was unable to disclose the proper source of procurement of yellow metal and acquired in contravention of the provisions of Customs Act, 1962 read with SEZ Rules, 2006 on reasonable belief that the goods liable to confiscate under Customs Act, 1962 were seized under Seizure Memo dated 06.09.2018 under Section 110 of the said Act after appraisalment by the Jewellery Appraiser, NSEZ, Noida).

- (iii) LoA of the unit had already expired on 04.08.2017 and consequently lease deed in respect of Plot No. 158, NSEZ also stand expired in terms of Rule 11 (5) of SEZ Rules, 2006.
- (iv) The unit has not applied for extension of LoA in time.

In view of the above, the Approval Committee was of the view that there was no merit in the case for grant of extension of LoA and decided unanimously not to renew the LoA which had already expired on 04.08.2017 taking into account the facts of the case and Rule 19(6)(B) of SEZ Rules, 2006.

The Approval Committee also observed that the lease rights of Plot No. 158, NSEZ being co-terminus with the validity of LoA also cease to exist on 04.08.2017 in terms of provisions of Rule 11(5) of SEZ Rules, 2006. The Approval Committee directed the Estate Management section to take necessary action against the unit as appropriate under provisions of P.P.Act to takeover possession of space allotted to it.

Contents of Appeal

The letter dated 21.12.2018, conveying to the Appellant that the Approval Committee's view that there is no merit in the case for grant of extension of LoA which has already expired on 04.08.2017, is harsh, not legal, not proper and is liable to be quashed on the following grounds:-

- (i) That the letter is quasi-judicial order having serious adverse consequences upon Appellant's right to earn his livelihood. Such an order should be passed after issuing a notice to the Appellant by the competent authority. In this case the Appellant did not receive any notice proposing the harsh action of not renewing the LoA. The letter dated 21.12.2018 conveying the observations of the Approval Committee appealable under Rule 55 r/w Rule 56 of SEZ Rules 2006 doesn't contain details of members of the Approval Committee the signatures or even the copy of the proceedings of the Approval Committee duly signed by the members of the Approval Committee. Such an order is not legal and proper and is liable to be quashed on this ground alone.
- (ii) That during the period of its operation, the unit has been a positive foreign exchange earner. In as much as imported gold valued at Rs. 56,85,81,561/- was imported (free of cost) by utilizing the said gold, the Appellant exported manufactured gold jewellery valued at Rs. 60,00,45,850/-, thus there has been a positive foreign exchange earning of Rs. 3.15 crores.

- (iii) That there is no allegation whatsoever against the Appellant that any goods imported or procured under SEZ scheme was unauthorizedly used for removed or even attempted to be removed clandestinely without payment of duty. The gold imported without payment of duty was fully accounted for by manufacturing and exporting jewellery utilizing the imported gold.
- (iv) That not being able to export in the previous block of 5 years does not amount to misuse or unauthorized use of the goods imported availing concessions/exemptions under SEZ scheme. The Appellant has been paying the lease rent regularly. There is no evidence whatsoever on record to suggest that there was any fiscal loss to the Government of India or to the SEZ Authorities.
- (v) That the only alleged contumacious act highlighted in the impugned letter dated 21.12.2018 is the seizure of 2471 grams of gold recovered from the Appellant's NSEZ unit. In this connection the Noticee's submissions are as under:-
 - That the Customs Department has not till date issued any SCN alleging contraventions of the provisions of SEZ Act and Rules.
 - The investigating officer could not collect any evidence whatsoever on record to suggest that there was any attempt to remove gold from SEZ into DTA without payment of duty in contravention of any provisions of SEZ Act or Rules. In any event, relying on the evidence collected by the Customs Department during investigation after the visit of the Customs Officers to the unit on 29.08.2018 is pre-mature as even the SCN containing allegation highlighting contraventions of law, has not been issued. The Appellant emphatically submit that the Appellant have not contravened any of the provisions of the Customs Act, 1962 or the SEZ Act, 2005. There is no allegation of fraud, financial loss to the Government or any administrative inconvenience.
 - That submission of belated application for renewal of LoA particularly when such an application was submitted as per the instructions of the DDC, NSEZ vide letter dated 01.11.2018 cannot be a ground warranting cancellation of LoA having serious consequences on the livelihood of the Appellant. All the conditions specified in the last extension in validity of LoA letter dated 30.01.2013 were followed. Even failure to achieve positive NFE as per condition no. 1 provide for penal action under FTDR Act, 1992 and not the harsh action of cancellation of LoA.
 - That it is a well settled law that for minor procedural violations substantive right cannot be denied. In the case of CCE, Kanpur Vs. Ram Shree Steel Pvt. Ltd. reported in 2011(274) E.L.T. 30 it was held that procedural requirements could be dispensed with if sufficient explanation was given, and if there was no allegations of fraud or administrative inconvenience – On facts, held that failure to intimate reading of electricity meter to Assistant Commissioner could not lead rejection of abatement as meter was replaced and meter room was locked by Electricity Department, and there was evidence on record for same. Similarly the Hon'ble Court in the case of Commissioner of Sales Tax,

U.P. Auriaya Chamber of Commerce, Allahabad report in 1986 (25) E.L.T. 867 (S.C.) has held that one should not get entangled in the cobweb of procedures but do substantial justice. In the present case, no mala fide intention can be attributed to the Appellant for not applying for extension before the expiry of LoA or to undertake job work of another NSEZ unit within the same SEZ. There is no evidence whatsoever on record as discussed in the impugned order to suggest any mala fide intention on the part of Appellant.

Rule Position

Rule 19 (6B) of the SEZ Rules, 2006 as amended on 19.09.2018 stipulates that the renewal of Letter of Approval shall be based on the evaluation of the following criteria, namely:-

- (i) Export performance of the Unit in the last block vis-a-vis the initial export projection submitted by the Unit.
- (ii) Projected employment with reference to actual employment generated.
- (iii) Instance of violation of applicable statutes related to the functioning of the Unit.
- (iv) Cases of default, if any, of statutory payments.
- (v) Undertaking of any activity not sanctioned or approved by the Development Commissioner.
- (vi) The decision of the Development Commissioner or Approval Committee in this regard shall be final and binding on the Unit except in cases where the Unit prefers an appeal before the Board of Approval, in accordance with rule 55.

Rule 11(5) of the SEZ Rules, 2006 states that the land or built up space in the processing area or Free Trade and Warehousing Zone shall be given on lease only to the entrepreneurs holding a valid Letter of Approval issued under rule 19 and the lease period shall not be less than five years but notwithstanding any other condition in the lease deed, the lease rights would cease to exist in case of the expiry or cancellation of the Letter of Approval:

Provided that the Developer may, with the prior approval of the Approval Committee, grant on lease land or built up space, for creating facilities such as canteen, public telephone booths, first aid centres, creche and such other facilities as may be required for the exclusive use of the unit.

The appeal is placed before the BoA for consideration.

88.8(iii) Appeal of M/s. Advance Ispat (India) Ltd. against UAC, NSEZ order dated 28/31.12.2018 cancelling the Letter of Approval of the unit.

Gist of order appealed against

M/s Advance Ispat (India) Pvt. Ltd. had been granted an LoA dated 01.06.2004 for Manufacturing & Export of Scaffolding. The unit had commenced their export production w.e.f. 24.11.2006 and LoA of the unit was valid upto 23.11.2016. The Approval Committee in its meeting held on 05.12.2018 had monitored the performance of the unit and observed that during the last block of five years the performance of the unit remained Nil. The LoA of the unit had already expired on 23.11.2016 and the unit did not apply for its extension till that date.

The Approval Committee observed the following:

- (i) There is no export by the unit from 2010-11.
- (ii) LoA has already been expired on 23.11.2016 and consequently lease deed has also expired in terms of Rule 11(5) on 23.11.2016.
- (iii) The unit has not applied for extension of LoA and
- (iv) Despite opportunity no one has appeared before the Approval Committee to explain its position with regard to extension of LoA, there is no merit in the case for further renewal of the LoA.

The UAC, after due deliberations, decided to treat LoA as cancelled as already lapsed w.e.f. expiry of its validity i.e. 23.11.2016. The lease rights of Plot No. 129G/10-12, NSEZ being co-terminus with the validity of LoA also cease to exist on 23.11.2016 in terms of provisions of Rule 11(5) of the SEZ Rules, 2006. The Approval Committee directed the Estate Management section to take necessary action against the unit as appropriate under provisions of The Public Premises Act to take over possession of space allotted to it. Accordingly, the LoA issued to the unit stood cancelled vide UAC's order dated 28/31.12.2018.

Contents of appeal

That the communication for personal hearing before the UAC was not received by them and the decision was taken by the UAC without giving hearing. The unit has stated that they were operational at the time of expiry of LoA and the renewal request skipped their attention. That all dues including Lease Rent has been paid on time till date.

That the unit is a NFE Positive unit which had to be temporarily shut down due to unfavourable market conditions. The promoters have invested heavily by completely constructing state of the art unit with every intention of doing the authorized activities.

Rule position

Rule 11(5) of the SEZ Rules, 2006 states that the land or built up space in the processing area or Free Trade and Warehousing Zone shall be given on lease only to the

entrepreneurs holding a valid Letter of Approval issued under rule 19 and the lease period shall not be less than five years but notwithstanding any other condition in the lease deed, the lease rights would cease to exist in case of the expiry or cancellation of the Letter of Approval:

Provided that the Developer may, with the prior approval of the Approval Committee, grant on lease land or built up space, for creating facilities such as canteen, public telephone booths, first aid centres, creche and such other facilities as may be required for the exclusive use of the unit.

The appeal is placed before the BoA for consideration.
