No. K-43022/86/2025-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)
****

Vanijya Bhawan, New Delhi
Dated the 26th May, 2025

OFFICE MEMORANDUM

Subject: 4th meeting (2025 Series) of the Board of Approval for Export Oriented Units and 129th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs).- Reg.

The undersigned is directed to enclose herewith the **Agenda for the 129th meeting of the BoA SEZ** to be **held on 1st Week of June in Delhi** under the Chairmanship of Commerce Secretary, Department of Commerce in Hybrid Mode, for information necessary action.

2. Weblink for the said meeting will be shared by this Department shortly.

3. All the addresses are requested to kindly make it convenient to attend the meeting.

(Sumit Kumar Sachan)
Under Secretary to the Government of India
Tel: 23039829
Email: sumit.sachan@nic.in

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. Shri Sanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), 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. Development Commissioner, GIFT SEZ, Gujarat
42. Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).
43. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.
44. Government of Karnataka, Principal Secretary, Commerce and Industry Department, Vikas Saudha, Bangalore – 560001. (Fax: 080-22259870)
45. Government of Maharashtra, Principal Secretary (Industries), Energy and Labour Department, Mumbai – 400 032.
46. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
47. Government of West Bengal, Principal Secretary, (Commerce and Industry), IP Branch (4th Floor), SEZ Section, 4, Abanindranath Tagore Sarani (Camac Street) Kolkata – 700 016
48. Government of Tamil Nadu, Principal Secretary (Industries), Fort St. George, Chennai – 600009 (Fax: 044-25370822).
49. Government of Kerala, Principal Secretary (Industries), Government Secretariat, Trivandrum – 695001 (Fax: 0471-2333017).
50. Government of Haryana, Financial Commissioner and Principal Secretary), Department of Industries, Haryana Civil Secretariat, Chandigarh (Fax: 0172-2740526).
51. Government of Rajasthan, Principal Secretary (Industries), Secretariat Campus, Bhagwan Das Road, Jaipur – 302005 (0141-2227788).
52. Government of Uttar Pradesh, Principal Secretary, (Industries), Lal Bahadur Shastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
53. Government of Punjab, Principal Secretary Department of Industry & Commerce Udyog Bhawan), Sector -17, Chandigarh- 160017.
54. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
55. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneshwar – 751001 (Fax: 0671-536819/2406299).
56. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), Vallabh Bhavan, Bhopal (Fax: 0755-2559974)
57. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
58. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
59. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).

60. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
61. 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 SS (LSS) / PPS to JS (VA)/ PPS to Dir (GP).

Agenda for the 129th meeting of the Board of Approval for Special Economic Zones (SEZs) to be held on *First week of* June 2025

Agenda Item No. 129.1:

Ratification of the minutes of the 128th meeting of the Board of Approval for Special Economic Zones (SEZs) held on 16th May, 2025.

Agenda Item No. 129.2:

Request for extension of LoA of SEZ Unit [1 proposal – 129.2(i)]

Relevant Rule position:

- 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 Approval i.r.o. units in SEZs are governed by Rule 19(4) of SEZ Rules.
- Rule 19(4) states that LoA shall be valid for one year. First Proviso grants power to DCs for extending the LoA for a period not exceeding 2 years. Second Proviso grants further power to DCs for extending the LoA for one more year 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 (or beyond 2nd year in cases where two-third activities are not complete) and onwards 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.

129.2(i) Proposal of M/s. Mundra Crude Oil Terminal Limited, APSEZ, Mundra for grant of LOA extension for a period of one-year.

Jurisdictional SEZ: Adani Port & SEZ

Facts of the Case:

Name of the Unit	Mundra Crude Oil Terminal Ltd.
LOA issued on (date)	21-05-2021
Nature of business of the unit	Services
No. of extensions granted	3 years by the Development Commissioner
LOA Valid up to (date)	20-05-2025
Request for	One-year extension upto 20-05-2026

Investment progress in the SEZ-

Sl. No.	Particulars	Amount (INR, In Cr.)
1	Investment made as of May, 2024	610.26
2	Investment made as of April, 2025	642.36
3	Incremental investment made in last 1 year	32.09

Activities Completed:

S. No.	Activity	Progress Status
1.	Service platform	Completed (100%)
2.	Berthing dolphin	Completed (100%)
3.	Mooring dolphin	Completed (100%)
4.	Fendering and mooring arrangement	Completed (100%)
5.	Structure steel walkway	Completed (100%)
6.	Pipelines	Completed (100%)
7.	Hydro Testing	Completed (100%)

Activities to be performed before operationalization-

Anti-corrosion coating works, painting works, ventilator fixing associated works, miscellaneous masonry and paver block works, safety checks, commissioning fire detection system, pipeline pigging, trail runs of pumps, PA system, and Capstan, statutory approvals like PESO.

Reason for the delay-

The project envisaged the development of advanced jetty and back up evacuation infrastructure which can accommodate and serve Very Large Crude Carriers. Against the projected investment of INR 400 Cr., they have already made an investment of more than INR 640 Cr. in setting up of the unit

The project activities, including hydro testing, were adversely affected due to Cyclone Asna in August/September 2024.

Still, considerable work has been completed, and balance activities are likely to get completed by the end of this fiscal year, and hence the unit is expected to start operations thereafter.

Recommendation by DC, APSEZ:

The Sr. Development Commissioner, APSEZ, Mundra has recommended for extension of the LOA for 1 year i.e. upto 20-05-2026.

Agenda Item No. 129.3:

Request for Co-Developer status [4 proposal – 129.3(i) – 129.3(iv)]

Relevant provision: In terms of sub-section (11) under Section 3 of the SEZ Act, 2005, *Any person who or a State Government which, intends to provide any infrastructure facilities in the identified area or undertake any authorized operation after entering into an agreement with the Developer, make a proposal for the same to the Board for its approval.*

129.3(i) Request of M/s. High Glory Footwear India Pvt. Ltd., Co-Developer status in M/s. SIPCOT, A Sathanur Village Ullundurpet Kallakurichi-Tamil Nadu-MEPZ

Jurisdictional SEZ – MEPZ

Facts of the case:

1.	Name of the Developer & Location	State Industries Promotion Corporation of Tamil Nadu 19-A, Rukmani Lakshmipathy Road, Egmore, Chennai, Tamil Nadu, India-600 008.
2.	Formal Approval No.& Date of LoA to Developer	K-43016/3/2023-SEZ dated 04.07.2023
3.	Sector of the SEZ	Multi sector SEZ (Foot wear)
4.	Date of Notification	22.11.2023
5.	Total notified area (in Hectares)	77.095(Hectares)
6.	Whether the SEZ is operational or not	Under implementation
	(i). If operational, date of operationalization	Not Applicable
	(ii). No. of Units	
	(iii). Total Exports & Imports for the last 3 years (Rs. in Cr.)	
	(iv). Total Employment (In Nos.)	
7.	Name of the proposed Co-developer	M/s High Glory Footwear India Pvt. Ltd .
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	To create, maintain, and operate infrastructure facilities for captive unit.
9.	Total area (in Hectares) on which activities will be performed by the co-developer	73.9563 (Hectares)
10.	Proposed investment by the Co-developer (Rs. in Cr.)	INR 2850 Cr.
11.	Net worth of the Co-developer (Rs. in Cr.)	INR 39564Cr. (Audited) upto Dec 2023 INR 39759 Cr. (Unaudited) upto June 2024
12.	Date of the Co-developer agreement	22.04.2025

Recommendation by DC, MEPZ:

The proposal of M/s. High Glory Footwear India Private Limited, Plot No. A-1, SIPCOT Industrial Park (SEZ), Mangalampettai Elavanasaur Kottai Road, A Saathanur Village,

Ullundurpet Kallakurichi, Tamil Nadu for grant of co-developer status in M/s. SIPCOT-SEZ has been recommended by DC, MEPZ SEZ for consideration in the BoA Meeting.

129.3(ii) Proposal of M/s TransGenz Infotech, for Co-Developer status in MIDC Pune, SEZ, Rajiv Gandhi Infotech Park, Phase III, Hinjewadi, Pune Jurisdictional SEZ – SEEPZ SEZ

Facts of the case:

1.	Name of the Developer & Location	Maharashtra Industrial Development Corporation (MIDC), Rajiv Gandhi Infotech Park, Phase III, Hinjewadi, Pune - 411057
2.	Date of LOA to Developer	LOA No. F-2/129/2005-EPZ dated 03.04.2006
3.	Sector of the SEZ	Sector Specific, IT/ITES
3	Date of Notification	07.06.2007
4	Total Notified area of Special Economic Zone (in Hectares)	223.56 Hectares
5	i. If operational, date of operationlization	30.09.2008
	ii. No. of Units	49
	iii. Total Export and Import for the last 5 years in (Rs. in Cr.)	Total Export from MIDC Pune SEZ during last 5 years is Rs. 1,66,433 Crores and Import during last 5 years is Rs. 703 Crores
	iv. Total Employment (in Nos)	Current Employment 1,09,458
7	Name of the proposed Co-Developer	M/s TransGanz Infotech
8	Details of Infrastructure facilities/ authorized operations which will be undertaken by the Co-Developer (mention)	Construction of buildings and related infrastructure for IT/ITES Units, Development of space for IT/ITES Unit and all default authorized operations as per Instruction No 50 issued by MoC&I.
9	Total area on which the activities are to be proposed by the Co-Developer	0.8208 Hectares (i.e. 8208 Sq. Meters)
10	Proposed Investment by the Co-Developer (in Rs. Crores)	Rs. 8 Crores
11	Net Worth of the Co-Developer including promoters (in Rs. Crores)	Rs. 34.94 Crores of Net worth + Rs. 16.33 Crores of Capital and Reserves as per FY 2023-24 Financial Statement of Bhor Engineering Pvt. Ltd. which is partner in applicant entity.
12	Date of Co-Developer Agreement	05.02.2025

Recommendation by DC, SEEPZ:

The request of the applicant viz. M/s. TransGenz Infotech, for Co-Developer status is recommended to the Board of Approval for consideration.

129.3(iii). Request of M/s. Centaurus Spav Ventures LLP seeking co-developers status in M/s. Phoenix Tech Zone Pvt. Ltd. SEZ at Sy. No. 203/P at Manikonda Village, Rajendra Nagar Mandal, Telangana

Jurisdictional SEZ – Vishakhapatnam SEZ (VSEZ)

Facts of the case:

1.	Name of the Developer & Location	M/s. Phoenix Tech Zone Pvt. Ltd, Sy. No. 203 (P) at Manikonda Village, Rajendra Nagar Mandal, Telangana
2.	Date of LoA to Developer	17.02.2017
3.	Sector of the SEZ	IT/ITES
4.	Date of Notification	17.03.2017
5.	Total notified area (in Hectares)	2.02
6.	Whether the SEZ is operational or not	Yes
	(i). If operational, date of operationalization	1.04.2022
	(ii). No. of Units	7
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports from 2022-23 to 2024-25 - Rs. 4148.43 Crores Imports from 2022-23 to 2024-25 – Rs. 47.23 Crores
	(iv). Total Employment (In Nos.)	Employment from 2022-23 to 2024-25 – 2923 Nos
7.	Name of the proposed Co-developer	M/s. Centaurus Spav Ventures LLP
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	To manage office space for IT/ITES units, its maintenance including upgrading the premises to meet specific client requirements, interior fit-outs, built-to-suit systems, additional facilities to establish a Plug & Play environment, along with other operational enhancements and undertaking other default authorized operations in the above said area
9.	Total area on which activities will be performed by the co-developer	1,25,048.98 sq. ft.
10.	Proposed investment by the Co-developer (Rs. in Cr.)	124.3846
11.	Net worth of the Co-	200.99

	developer (Rs. in Cr.)	
12.	Date of the Co-developer agreement	Co-Developer Agreement dated 02.04.2025 for an area of 1,25,048.98 sq. ft. at 14th Floor in the above SEZ.

Examination of the case:

Facts:

i. M/s. Athena Global Technologies Pvt. Ltd (Athena) was issued Formal Approval No. F.1/25/2016-SEZ Dt.08.02.2022 as Co-Developer for providing infrastructure facilities for upgradation of the allotted built-up space to create plug & play environment, operate and maintain the built-up space over an area of 5,00,000 sq. ft. from 14th Floor to 17th Floor in the above SEZ.
ii. Now, M/s. Centaurus Spav Ventures LLP (Centaurus) vide letter Dt. 02.04.2025 has stated that the existing Co-Developer (Athena) intends to sub-lease a portion of their built-up space admeasuring 1,25,048.98 sq. ft. on the 14th Floor with proportionate car parking area and proportionate undivided share of land admeasuring 1477.24 sq. yards of the subject property to them (Centaurus) for managing office space for IT/ITES units as a Co-Developer and requested for approval as a new Co-developer in M/s Phoenix Tech Zone Pvt Ltd SEZ.
iii. A Tripartite Agreement between Developer i.e. M/s. Phoenix Tech Zone Pvt. Ltd, Co-Developer-1 i.e. M/s. Athena Global Technologies Pvt. Ltd and Co-Developer 2: M/s. Centaurus Spav Ventures LLP have been entered into dated 02.04.2025.

Rule position:

i. There is no specific provision in SEZ Act and SEZ Rules for sub-leasing of space by one existing Co-Developer to a new Co-Developer in the SEZ.
ii. Subsection (11) of the Section 3 of the SEZ Act 2005 and Rule 3A of the SEZ Rules, 2006 prescribes the procedure for approval as a Co-Developer.

Precedence:

A proposal of M/s. Tranquillity Properties LLP, Ahmedabad for Co-developer status in GIFT Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. Gujarat International Finance Tech City Limited, another existing Co-Developer (M/s. ATS Savvy Developers LLP) which was approved by BOA in its 124th Meeting held on 5th November 2024.

Recommendation by DC, VSEZ:

The proposal of M/s. Centaurus Spav Ventures LLP for approval as a Codeveloper by taking built-up space on sub-lease from an existing Co-developer, M/s. Athena Global Technologies Pvt. Ltd has been forwarded to Board of Approval for consideration.

129.3(iv) Request of M/s. Saini Electrical & Engineering Works as co-developer within the processing area in MIHAN SEZ, located at Plot No. 6B1, Sector – 11 at MIHAN SEZ, Nagpur.

Jurisdictional SEZ – MIHAN SEZ

Facts of the case:

1.	Name of the Developer & Location	M/s Maharashtra Airport Development Company Ltd. Central Facility Building, B-Wing (North), 1st Floor, MIHAN-SEZ, Khapri (Rly), Nagpur- 441 108
2.	Date of LoA to Developer	06.11.2006
3.	Sector of the SEZ	Multi Product
4.	Date of Notification	29.05.2007
5.	Total notified area (in Hectares)	1236.21 hectares
6.	Whether the SEZ is operational or not	Operational
	(i). If operational, date of operationalization	01.12.2008
	(ii). No. of Units	Operational – 45 Under implementation – 9
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – Rs. 15410 Cr. Imports – 4219 Cr
	(iv). Total Employment (In Nos.)	1,10,000 (Approx)
7.	Name of the proposed Co-developer	M/s. Saini Electrical & Works
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Construction of Building and demarcation of plot for SEZ units for Multi-Products and Service Industries with associated infrastructure as constructed bare warm shell and warm shell with Plug & Play facilities, demarcated plot, Internet & Wi-fi facility, Common Cafeteria, Common Garden, Power and its back-up facilities and maintenance thereof, Roads network, Water, Electricity, Security, Fire and Protection Systems etc.
9.	Total area (in Hectares) on which activities will be performed by the co-	37080.169 sq. mtr. (9.16 acres)

	developer	
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 15.00 crores
11.	Net worth of the Co-developer (Rs. in Cr.)	Rs. 381.94 crores
12.	Date of the Co-developer agreement	29.04.2025

Recommendation by DC, MIHAN SEZ:

M/s. Saini Electrical & Engineering Works proposal is recommended by the DC, MIHAN-SEZ for consideration and approval by the Board for designating as a co-developer, in terms of sub section (11) of Section 3 read with Rule 3A of SEZ Rules.

Agenda Item No. 129.4:

Request for increase/decrease in area by Co-developer [2 proposals- 129.4(i) - 129.4(ii)]

Rule position:

In terms of sub-section (11) under Section 3 of the SEZ Act, 2005, any person who or a State Government which, intends to provide any infrastructure facilities in the identified area or undertake any authorized operation after entering into an agreement with the Developer, make a proposal for the same to the Board for its approval.

129.4(i) Request of M/s. ANSR Global Corporation Pvt. Ltd. [Co- Developer] for increase in area in M/S. Phoenix Tech Zone Pvt. Ltd SEZ at Sy. No. 203 (P), Manikonda Village, Rajendra Nagar Mandal, Telangana
Jurisdictional SEZ – VSEZ

Facts of the case:

1.	Name of the Developer & Location	M/s. Phoenix Tech Zone Pvt. Ltd, Sy. No. 203 (P) at Manikonda Village, Rajendra Nagar Mandal, Telangana
2.	Date of LoA to Developer	17.02.2017
3.	Sector of the SEZ	IT/ITES
4.	Date of Notification	17.03.2017
5.	Total notified area (in Hectares)	2.02
6.	Whether the SEZ is operational or not	Yes
	(i). If operational, date of operationalization	1.4.2022
	(ii). No. of Units	7
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports from 2022-23 to 2024-25 - Rs. 4148.43 Crores Imports from 2022-23 to 2024-25 – Rs. 47.23 Crores
	(iv). Total Employment (In Nos.)	Employment from 2022-23 to 2024-25 – 2923 Nos
7.	Name of the proposed Co-developer	M/s. ANSR Global Corporation Pvt. Ltd
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	To undertake the authorized operations of conversion of warm shell buildings into fully fitted office space and to lease built up space in the SEZ as contracted
9.	Total area (in Hectares) on which activities will be performed by the co-developer	Existing Area – 1,80,947 sq. ft Proposed Area – 66,046 sq. ft.) Total Area – 2,46,993 sq. ft.)
10.	Proposed investment by the Co-developer (Rs. in Cr.)	15.50
11.	Net worth of the Co-developer (Rs. in Cr.)	251.94
12.	Date of the Co-developer agreement	Amendment to Co-Developer Agreement dated 23.4.2025 for an area of 66,046 sq. ft. on 6th Floor (North Tower) in the above SEZ

Recommendation by DC, VSEZ:

The request of M/S. ANSR Global Corporation Pvt. Ltd. Co-Developer for expansion by an area of 66,046 sq. ft. duly recommended by the Development Commissioner, VSEZ is forwarded to Board of Approvals for approval please.

129.4(ii). Request of existing Co-Developer M/s. Nila Urban Living Private Limited, GIFT-SEZ at Gandhinagar, Gujarat for approval of additional land area below grade level.

Jurisdictional SEZ – GIFT SEZ

Facts of the case:

1.	Name of the Developer & Location	M/s. GIFT SEZ Limited, Gandhinagar, Gujarat
2.	Date of LoA to Developer	07.01.2008
3.	Sector of the SEZ	Multi-services SEZ
4.	Date of Notification	18.08.2011
5.	Total notified area (in Hectares)	105.4386 hectares
6.	Whether the SEZ is operational or not	SEZ operational
	(i). If operational, date of operationalization	21.04.2012
	(ii). No. of Units	673
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 48450.00 Imports – 36786.00
	(iv). Total Employment (In Nos.)	5935
7.	Name of the proposed Co-developer	M/s. Nila Urban Living Private Limited, GIFT SEZ, Gandhinagar
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Development, Construction, Maintenance, and Operation of Residential Building in Plot No. 26C in Block No. 26 in dual use area of non-processing area
9.	Total area (in Hectares) on which activities will be performed by the co-developer	Activities will be performed by the co-developer on 6,001 sq. mt. of land (a. 5,550 sq. mt of land area at grade level already approved + additional appurtenant land admeasuring 451 sq. mt. below grade level beyond the basement extent).
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs.695.00
11.	Net worth of the Co-developer	Rs. 129.99

	(Rs. in Cr.)	
12.	Date of the Co-developer agreement	Co-Developer Agreement dated 04.10.2024.

Recommendation by DC, GIFT SEZ:

DC, GIFT SEZ recommended the proposal of M/s. Nila Urban Living Private Limited, for approval of additional appurtenant land admeasuring 451 sq. mt. below grade level beyond the basement extent for the residential building in Plot No. 26C at Block No. 26 in dual use area of non-processing area in GIFT-SEZ, Gandhinagar.

Agenda Item No. 129.5:

Request for conversion of Processing Area into Non-Processing Area under Rule 11(B) [4 proposals – 129.5(i) - 129.5(iv)]

Rule position:

- **In terms of the Rule 5(2) regarding requirements of minimum area of land for an IT/ITES SEZ: -**

(b) There shall be no minimum land area requirement for setting up a Special Economic Zone for Information Technology or Information Technology enabled Services, Biotech or Health (other than hospital) service, but a minimum built up processing area requirement shall be applicable, based on the category of cities, as specified in the following Table, namely: –

TABLE

Sl. No. **(1)**	**Categories of cities as per Annexure IV-A** **(2)**	**Minimum built-up processing Area** **(3)**
1.	Category 'A'	50,000 square meters
2.	Category 'B'	25,000 square meters
3.	Category 'C'	15,000 square meters

(c) The minimum processing area in any Special Economic Zone cannot be less than fifty per cent. of the total area of the Special Economic Zone.

- **In terms of the Rule 11 B regarding Non-processing areas for IT/ITES SEZ**:

(1) Notwithstanding anything contained in rules, 5,11,11A or any other rule, the Board of Approval, on request of a Developer of an Information Technology or Information Technology Enabled Services Special Economic Zones, may, permit demarcation of a portion of the built-up area of an Information Technology or Information Technology Enabled Services Special Economic Zone as a non-processing area of the Information Technology or Information Technology Enabled Services Special Economic Zone to be called a non-processing area.
(2) A Non-processing area may be used for setting up and operation of businesses engaged in Information Technology or Information Technology Enabled services, and at such terms and conditions as may be specified by the Board of Approval under sub-rule (1),
(3) A Non-processing area shall consist of complete floor and part of a floor shall not be demarcated as a non-processing area.
(4) There shall be appropriate access control mechanisms for Special Economic Zone Unit and businesses engaged in Information Technology or Information Technology Enabled Services in

non-processing areas of Information Technology or Information Technology Enabled Services Special Economic Zones, to ensure adequate screening of movement of persons as well as goods in and out of their premises.

(5) Board of Approval shall permit demarcation of a non-processing area for a business engaged in Information Technology or Information Technology Enabled Services Special Economic Zone, only after repayment, without interest, by the Developer, —

(i) tax benefits attributable to the non-processing area, calculated as the benefits provided for the processing area of the Special Economic Zone, in proportion of the built up area of the non-processing area to the total built up area of the processing area of the Information Technology or Information Technology Enabled Services Special Economic Zone, as specified by the Central Government.

(ii) tax benefits already availed for creation of social or commercial infrastructure and other facilities if proposed to be used by both the Information Technology or Information Technology Enabled Services Special Economic Zone Units and business engaged in Information Technology or Information Technology Enabled Services in non-processing area.

(6) The amount to be repaid by Developer under sub-rule (5) shall be based on a certificate issued by a Chartered Engineer.

(7) Demarcation of a non-processing area shall not be allowed if it results in decreasing the processing area to less than fifty per cent of the total area or less than the area specified in column (3) of the table below:

TABLE

Sl. No. **(1)**	**Categories of cities as per Annexure IV-A** **(2)**	**Minimum built-up processing Area** **(3)**
1.	Category 'A'	50,000 square meters
2.	Category 'B'	25,000 square meters
3.	Category 'C'	15,000 square meters

(8) The businesses engaged in Information Technology or Information Technology Enabled Services Special Economic Zone in a non-processing area shall not avail any rights or facilities available to Special Economic Zone Units.

(9) No tax benefits shall be available on operation and maintenance of common infrastructure and facilities of such an Information Technology or Information Technology Enabled Services Special Economic Zone.

(10) The businesses engaged in Information Technology or Information Technology Enabled Services Special Economic Zone in a non-processing area shall be subject to provisions of all Central Acts and rules and orders made thereunder, as are applicable to any other entity operating in domestic tariff area.

- Consequent upon insertion of Rule 11 B in the SEZ Rules, 2006, Department of Commerce in consultation with Department of Revenue has issued Instruction No. 115 dated 09.04.2024 clarifying concerns/queries raised from stakeholders regarding Rule 11B.

- Further, as per the directions of the BoA in its 120th meeting held on 18.06.2024, there shall be a clear certification of Specified Office and the Development Commissioner that the Developer has refunded the duty as per the provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09th April, 2024 issued by DoC. Accordingly, DoC vide letter dated 27.06.2024 has issued one such Certificate to be provided by Specified Officer and Countersigned by Development Commissioner.

Moreover, in the 122nd meeting of the BoA held on 30th August, 2024, the Board directed all DCs to ensure the implementation of the checklist (formulated by DoC and DoR) for all the cases including the past cases.

129.5(i) M/s. DLF Cyber City Developers Limited, developer of IT/ITES SEZ at Sector- 24 & 25A, DLF Phase-III, Gurugram (Haryana) – Proposal demarcation of built-up Processing Area admeasuring '1585.54 Sqmt. at 6th floor, Block-C, Building No. 6' into Non-Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024 - Reg.

Jurisdictional SEZ – Noida SEZ (NSEZ)

Facts of the case:

<table>
<tr><th>S. No.</th><th>Particulars</th><th colspan="2">Details</th></tr>
<tr><td>1.</td><td>Name and address of the Developer</td><td colspan="2">M/s. DLF Cyber City Developers Limited, Sector-24 & 25A, DLF Phase-III, Gurugram (Haryana).</td></tr>
<tr><td>2.</td><td>Letter of Approval No. and date.</td><td colspan="2">LOA No. F.2/126/2005-EPZ dated 25.10.2006.</td></tr>
<tr><td>3.</td><td>Date of Notification</td><td colspan="2">13.04.2007 & 12.03.2010</td></tr>
<tr><td>4.</td><td>Name of the sector of SEZ for which approval has been given.</td><td colspan="2">IT/ITES</td></tr>
<tr><td>5.</td><td>Total Notified land area (in Hectares)</td><td colspan="2">10.30 hectare</td></tr>
<tr><td>6.</td><td>Total land area of SEZ:
(i). Processing Area
(ii). Non-Processing Area</td><td colspan="2">
Land area 10.30 hectare.
NIL</td></tr>
<tr><td>7.</td><td>Details of Built-up area in Processing Area:

(i). No. of towers with built-up area in each tower (in Square meter) (as per records)</td><td>Building / Tower / Block No.</td><td>Total built-up area (in Sqmt.)</td></tr>
<tr><td></td><td></td><td>Building No. 6 [Block-A]</td><td>17844</td></tr>
<tr><td></td><td></td><td>Building No.6 [Block-B]</td><td>24373</td></tr>
<tr><td></td><td></td><td>Building No.6 [Block-C]</td><td>23147</td></tr>
<tr><td></td><td></td><td>Floors Parking</td><td>7345</td></tr>
<tr><td></td><td></td><td>Basements of Building No. 6 (Block A, B & C)</td><td>29268</td></tr>
<tr><td></td><td></td><td>Building No.14 [Block-A]</td><td>16037</td></tr>
<tr><td></td><td></td><td>Building No.14 [Block-B]</td><td>28490</td></tr>
<tr><td></td><td></td><td>Building No.14 [Block-C]</td><td>50418</td></tr>
<tr><td></td><td></td><td>Building No.14 [Block-D]</td><td>57298</td></tr>
<tr><td></td><td></td><td>Floors Parking</td><td>49584</td></tr>
<tr><td></td><td></td><td>Basements of Building No.14 (Block A,B,C & D)</td><td>83298</td></tr>
<tr><td></td><td></td><td>Total:</td><td>387102</td></tr>
<tr><td></td><td>(ii). Total Built up area :</td><td colspan="2">387102 Sqmt.</td></tr>
<tr><td></td><td>(iii) Area already demarcated as NPA:</td><td colspan="2">26795.918 Sqmt. (18868.83 + 5544.827 + 2382.261)</td></tr>
</table>

	(iv) Remaining Built-up area:	360306.082 Sqmt.
8.	Total Built-up area in Sqmt.:	Processing Area: 360306.082 Sqmt. Non-Processing Area: 26795.918 Sqmt. (as demarcated under Rule 11B)
9.	Total number of floors in the building wherein demarcation of NPA is proposed:	Ground+14(15 floors)
10.	Total Built-up area proposed to be demarcation of NPA for setting up of Non SEZ IT/ITES Units:	**1585.54 Sqmt.**
11.	How many floors area proposed for demarcation of NPA for setting up of Non SEZ IT/ITES Units:	**1 floor (6th floor, Block-C, Building No.6)**
12.	Whether copy of Chartered Engineer Certificate has been submitted?	Yes. Chartered Engineer Certificate dated 23.04.2025 of Shri Chaitanya Jee Srivastava, Chartered Engineer Membership No. M-163947-6.
13.	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineer Certificate:	Rs.16,38,569/- (Rupees sixteen lakhs thirty eight thousand five hundred sixty nine only)
14.	Whether duty benefits and tax exemption availed have been refunded and NOC from Specified Officer has been obtained?	Yes, The Developer has submitted copy of 'No Dues Certificate' issued by Specified Officer vide letter No. CUC/DCCDL/SEZ/ MISC/03/24/52 dated 17.04.2025. The Specified Officer has mentioned that the Developer has made payment of Rs.16,38,569/- towards refund of duties / tax benefits through TR-6 / GAR-7 & DRC-03, as the case may be. The Specified Officer has further mentioned that the developer has already deposited the due duty / taxes of the entire common infrastructure facilities of the said SEZ at the time of demarcation of 18,868.83 Sqmt. 5544.827 Sqmt. and 2382.261 in respect of which 'No Dues Certificate' had already been issued vide their letter dated 07.06.2024, 09.07.2024 & 04.12.2024, respectively.
15.	Reasons for demarcation of NPA	To give Non-Processing Area on lease to domestic IT/ITES units who does not wish to setup as SEZ unit.

16.	Remaining Built-up Processing Area after instant proposed demarcation:	358720.542 Sqmt.
17.	Whether remaining built-up area fulfils the minimum built-up area requirement as per Rule 5 of SEZ Rules, 2006.	Yes.
18.	Whether application in the format prescribed vide Instruction No. 115 dated 09.04.2024, has been submitted.	Yes.
19.	Whether Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024, has been submitted?	Yes
20.	Whether required Undertaking has been submitted:	Yes
21.	Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	The Developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of movement of persons as well as goods, in SEZ premise for the SEZ unit and the businesses engaged in IT/ITES services in the proposed non processing areas.
22.	Purpose and usage of such demarcation of NPA.	To give Non-processing area on lease to Domestic IT/ITES Units.

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, NSEZ.

ii. Chartered Engineer Certificate dated 23.04.2025 of Shri Chaitanya Jee Srivastava, Chartered Engineer Membership No. M-163947-6, towards calculation of taxes / duty to be refunded by the Developer.
iii. 'No Dues Certificate' issued by Specified Officer vide F. No. CUC/DCCDL/SEZ/ MISC/03/24/52 dated 17.04.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, NSEZ.
v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, NSEZ.
vi. An Undertaking from the SEZ Developer to the effect that they shall pay the differential / short paid / non-paid duty / tax benefits, if so determined at a later date on being demanded by the department or any statutory authority without any demur or protest w.r.t. demarcation of built-up area admeasuring 1585.54 Sqmt. into Non-Processing Area for use by IT/ITES businesses as per Rule 11Bof the SEZ (Fifth Amendment) Rule, 2023.
vii. Details of total Buildings / built-up area with their floor-wise area along with built-up area already demarcated as Non Processing Area and floor-wise built-up Processing Area proposed to be demarcated as Non Processing Area.

Recommendation by DC, NSEZ:

The proposal M/s. DLF Cyber City Developers Limited, Developer for demarcation of 1585.54 Sq.mt. at 6th floor, Block-C, Building No. 6" of the IT/ITES SEZ at Sector- 24 & 25A, DLF Phase-III, Gurugram (Haryana), into Non-Processing Area, is recommended for consideration by the Board of Approval, in terms of Rule 11B of SEZ Rules. 2006, read with Instruction No. 115 dated 09.04.2024.

129.5(ii) M/s. GTV SEZ Phase-1 Private Limited, Co-developer of the GTV Tech SEZ Private Limited Electronic Hardware & Software including IT/ITES SEZ at Village Ghamroj, Tehsil-Sohna, Distt- Gurugram (Haryana) – Proposal for demarcation of built-up processing area into Non-Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024 - Reg.

Jurisdictional SEZ – Noida SEZ (NSEZ)

Facts of the case:

<table>
<tr><th>S.No.</th><th>Particulars</th><th>Details</th></tr>
<tr><td>1.</td><td>Name and address of the Developer</td><td>M/s. GTV Tech SEZ Private Limited Electronic Hardware & Software including IT/ITES at Village Ghamroj, Gurgaon-Sohna Road, Tehsil-Sohna, Gurugram (Haryana)</td></tr>
<tr><td>2.</td><td>Letter of Approval No. and date.</td><td>LOA No. F.2/203/2006-EPZ dated 26.06.2006</td></tr>
<tr><td>3.</td><td>Date of Notification</td><td>17.04.2007, 31.12.2010, 14.12.2011 & 26.03.2013.</td></tr>
<tr><td>4.</td><td>Name of the sector of SEZ for which approval has been given.</td><td>Electronic Hardware & Software including IT/ITES.</td></tr>
<tr><td>5.</td><td>Total Notified land area (in Hectares)</td><td>25.266 hectare</td></tr>
<tr><td>6.</td><td>Demarcation of PA & NPA:

(i). Processing Area
(ii). Non-Processing Area</td><td>

Land area
13.347 hectare.
11.919 hectare.</td></tr>
<tr><td>7.</td><td>Details of Built-up area in Processing Area:

(i). No. of towers with built-up area in each tower (in Square meter)</td><td>68777.11 Sqmt. of Tower-1
Details are as under:-
<table>
<tr><th>Floor No.</th><th>Built-up Area (in Sqmt)</th></tr>
<tr><td>Basement-1</td><td>10132.91</td></tr>
<tr><td>Basement-2</td><td>10347.40</td></tr>
<tr><td>Basement-3</td><td>3455.84</td></tr>
<tr><td>Ground floor</td><td>6459.29</td></tr>
<tr><td>1st floor</td><td>6520.89</td></tr>
<tr><td>2nd floor</td><td>5310.13</td></tr>
<tr><td>3rd floor</td><td>5310.13</td></tr>
<tr><td>4th floor</td><td>5310.13</td></tr>
<tr><td>5th floor</td><td>5310.13</td></tr>
<tr><td>6th floor</td><td>5310.13</td></tr>
<tr><td>7th floor</td><td>5310.13</td></tr>
<tr><td>Total:</td><td>68777.11</td></tr>
</table></td></tr>
</table>

<table>
<tr><td></td><td>(ii). Total Built up area :
(iii) Area already demarcated as NPA:
(iv) Remaining Built-up area:</td><td>68777.11 Sqmt.
Nil
68777.11 Sqmt.</td></tr>
<tr><td>8.</td><td>Total Built-up area in Sqmt.:</td><td>Processing Area: 68777.11 Sqmt.
Non-Processing Area: Nil</td></tr>
<tr><td>9.</td><td>Total number of floors in building wherein demarcation of NPA is proposed:</td><td>Tower-1= [Ground to 7th floor with Basement-1, Baasement-2 & Basement-3 (Total Builtup area-68777.11 Sqmt.)].</td></tr>
<tr><td>10.</td><td>Total Built-up area proposed to be demarcation of NPA for setting up of Non SEZ IT/ITES Units:</td><td><u>Request from developer:</u>

<table><tr><th>Floor No.</th><th>Total built-up area (in Sqmt.)</th></tr><tr><td>6th floor</td><td>5310.13</td></tr><tr><td>7th floor</td><td>5310.13</td></tr><tr><td>Total:</td><td>10620.26</td></tr></table>
Basement / Parking area including ramp area for common usage:
<table><tr><th>Location</th><th>Area (in Sqmt.)</th></tr><tr><td>3rd Basement</td><td>3455.84</td></tr><tr><td>Ramp area</td><td>817.45</td></tr><tr><td>Total:</td><td>4273.29</td></tr></table>
Green area including landscaping and road and parking area:
<table><tr><th>Location</th><th>Area (in Sqmt.)</th></tr><tr><td>Green area including landscaping</td><td>16025.55</td></tr><tr><td>Road and open parking area</td><td>7689.03</td></tr><tr><td>Total:</td><td>23714.58</td></tr></table>
<u>DC Recommendation:</u>

The Ramp area of 817.45 Sqmt. is not a part of total built-up area of SEZ, hence, it could not be demarcated as NPA.</td></tr>
</table>

		<table><tr><th>Floor No.</th><th>Total built-up area (in Sqmt.)</th></tr><tr><td>6th floor</td><td>5310.13</td></tr><tr><td>7th floor</td><td>5310.13</td></tr><tr><td>3rd Basement</td><td>3455.84</td></tr><tr><td>Total:</td><td>14076.10</td></tr></table>
11.	How many floors area proposed for demarcation of NPA for setting up of Non SEZ IT/ITES Units:	**The Co-developer has mentioned that they intend to demarcate 2 floors (6th & 7th floor, Tower-1)**
12.	Whether copy of Chartered Engineer Certificate has been submitted?	Yes. Chartered Engineer Certificate dated 05.02.2025 of Shri Vijay D. Khamkar, Chartered Engineer, Registration No. F-25651, M-1535875
13.	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineer Certificate:	Rs.5,31,64,206/- (Rupees five crores thirty one lakhs sixty four thousand two hundred six only)
14.	Whether duty benefits and tax exemption availed have been refunded and NOC from Specified Officer has been obtained?	Yes, the Co-developer has submitted copy of revised 'No Dues Certificate' issued by Specified Officer vide letter No. CUS/GTV SEZ/Demarcation/01/2025/230 dated 25/04/2025. The Specified Officer has mentioned that the Developer has made payment of Rs.5,31,64,207/- towards refund of duties / tax benefits through ICEGATE Challan / DRC-03. The area proposed to be demarcated has been mentioned as per application of the co-developer.
15.	Reasons for demarcation of NPA	To free the unutilised space and letting out such space to the business engaged in IT/ITES units who do not intend to setup as SEZ Unit.
16.	Remaining Built-up Processing Area after instant proposed demarcation:	54701.01 Sqmt.
17.	Whether remaining built-up area fulfils the minimum built-up area requirement as per Rule 5 of SEZ Rules, 2006.	Yes.
18.	Whether application in the	Yes.

	format prescribed vide Instruction No. 115 dated 09.04.2024, has been submitted.	
19.	Whether Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024, has been submitted?	Yes
20.	Whether checklist in the format prescribed by DoC has been received from the Specified Officer.	Yes
21.	Whether required Undertaking has been submitted by developer / co-developer:	Yes
22.	Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	The Co-developer has mentioned that they will ensure adequate control on movement of persons as well as goods pertaining to processing area (PA) and non-processing area units. They have already placed requisite access control measures to monitor the entry and exit of people and goods from such demarcated area which are follows:- • Separate coloured gate passes / identity cards for both PA and NPA units employees; • Separate Car sticker with different coloured for both PA and NPA unit employees; • Separate lift for the floors which are proposed to be demarcated; and • Round the clock security measures are already in place.
23.	Purpose and usage of such demarcation of NPA.	To free the unutilsed space and letting out such space to the business engaged in IT/ITES units who do not intend to setup as SEZ Unit.

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, NSEZ.

ii. Chartered Engineer Certificate dated 05.02.2025 of Shri Vijay D. Khamkar, Chartered Engineer, Registration No. F-25651, M-1535875, towards calculation of taxes / duty to be refunded by the Developer.
iii. 'No Dues Certificate' issued by Specified Officer vide F.No. No. CUS/GTV SEZ/Demarcation/01/2025/230 dated 25/04/2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, NSEZ.
v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, NSEZ.
vi. An Undertaking from the Co-developer to the effect that they shall pay the differential / short paid / non-paid duty / tax benefits, if any so determined at a later date on being demanded by the department or any statutory authority without any demur or protest w.r.t. repayment of taxes and benefits availed in respect of 10,620 Sqmt. At 6th & 7th floor of Tower-1, 3455.84 Sqmt. At 3rd Basement / Parking area as Non-Processing Area as per Rule 11Bof the SEZ (Fifth Amendment) Rule, 2023.
vii. 'NOC/Consent' letter dated 05.02.2025 issued by M/s. GTV Tech SEZ Private Limited, SEZ Developer in respect of proposed demarcation of processing area into non-processing area.

Recommendation by DC, NSEZ:

The proposal of M/S. GTV SEZ Phase-I Private Limited, Co-developer for demarcation of '14076.10 Sqmt. at 6th & 7th floor of Tower-I including Basement-3" of the Electronic Hardware & Software including IT/ITES SEZ of M/S. GTV Tech SEZ Private Limited at Village-Ghamroj, Tehsil-Sohna, Distt- Gurugram (Haryana), into Non-Processing Area, is recommended for consideration by the Board of Approval, in terms of Rule 11B of SEZ Rules, 2006, read with Instruction No. 115 dated 09.04.2024

129.5(iii). Proposal of M/s. Phoenix Tech Zone Pvt. Ltd., developer at Sy. No. 203/P at Manikonda Village, Rajendra Nagar Mandal, Telangana for demarcation of SEZ under Rule 11B of SEZ (Fifth Amendment Rule, 2023
Jurisdictional SEZ – Vishakhapatnam SEZ (VSEZ)
Facts of the case:

Sr.No	Particulars	Details			
1	Name and address of the Developer:	M/s. Phoenix Tech Zone Private Limited - IT/ITES SEZ, Survey No. 203/P, Manikonda Jagir Village, Rajendranagar Mandal, Ranga Reddy District – 50003			
2	Letter of Approval No. and date	Formal Approval No. F.1/25/2016-SEZ dated 17.02.2017			
3	Date of Notification	S. O. 919 (E), 17th March, 2017			
4	Name of the sector of SEZ for which approval has been given	IT / ITES			
5	Total Notified Area of Special Economic Zone(in Hectare)	2.02			
6	Total Area	**2,61,466.64** Sqmts (including Floor and Parking areas)			
7	Details of Built-up area	1,63,073.2 Sq mts.			
	Tower	Centaurus			
	Area details	**Floors**	**Gross BUA**	**Net BUA**	
				Parking	**Office**
		Basement-3	16588.88	16368.79	
		Basement-2	16588.88	14448.54	
		Basement-1	16588.88	12055.57	2276.53
		Ground Floor/ Stilt-1	8533.90	2150.20	5656.61
		Surface parking	-	1514.54	
		Stilt-2	8209.31	7803.31	286.50
		Stilt-3	8966.68	8575.73	59.52
		Stilt-4	9670.79	9278.83	59.52
		Stilt-5	9670.79	9278.83	59.52
		Stilt-6	9670.79	9278.83	86.12
		Level-1	9181.21		9042.58
		Level-2	9181.21		9042.58
		Level-3	**9181.21**		**9042.58**
		Level-4	**9181.21**		**9042.58**
		Level-5	9181.21		9042.58
		Level-6	9181.21		9042.58

		Level-7	9181.21		9042.58
		Level-8	9181.21		9042.58
		Level-9	9181.21		9042.58
		Level-10	9181.21		9042.58
		Level-11	9181.21		9039.64
		Level-12	9181.21		9039.64
		Level-13	9181.21		9039.64
		Level-14	9181.21		9039.64
		Level-15	9181.21		9039.64
		Level-16	9181.21		9039.64
		Level-17	9181.21		9039.64
		Terrace	897.17		885.18
		Total	**261466.64**	**90753.17**	**163072.78**
8	Total Built up area	Processing Area –**1,63,072.78 Sq mts.**			
		Non-Processing Area –**Zero**			
9	Total No. of Floors in the Building wherein demarcation of Non Processing Area is proposed	**3 Basements + 6 Stilts + 17upper floors**			
10	Total Built up area Proposed for demarcation of Non Processing Area for setting up of Non SEZ IT/ITES units.	Office area : 18,085.16 sq.mts in 3rd floor& 4th floor			
11	How many floors are proposed for demarcation of Non Processing Area for setting up of NON SEZ IT/ITES Units	2 Floors (3rdfloor & 4th floor)			
12	Total Duty benefits and Tax exemption availed on the built area proposed to be demarcated as Non Processing Area, as per Charted Engineers Certificate(In Rupees Crore)	**Under 11B(5)(i):** Paid back the duty benefit availed for proposed NPA of **3rd& 4th floor** of area of **18085.16 Sq.Mtrs** and duty paid is **Rs. 7,06,56,944/-**. **Under 11B(5)(ii):** Paid back duty benefits taken for construction of common infrastructure of complete building including common areas in basements, ground floor, stilts and office floors like Lobby, Lift lobbies, service areas, Food courts and other common areas including parking at basement 3 for 3rd& 4th floor office area of			

		19,712.33 Sq.Mtrs and duty paid is **Rs. 23,80,69,592/-**. Total Paid back the duty benefit availed is **Rs. 30,87,26,536/**
13	Whether duty benefits and tax exemptions availed has been refunded and NOC from specified officer has been obtained	Yes, enclosed NOC from Specified Officer. The duty benefits have been paid. Copies of challans enclosed.
14	Reasons for demarcation of Non Processing Area.	Recently we have been able to secure client(s) interested in non-SEZ space within our building. Hence, we have decided to convert the SEZ area to non SEZ area under Rule 11B – conversion of processing area (PA) to non-processing area (NPA) in the third and fourth floors of the SEZ as per the requirements of the clients.
15	Total remaining built-up area	1,44,987.62Sq. mts.
16	Whether remaining built-up area fulfils the minimum built up area requirement as per Rule 5 of SEZ Rules,2006	Yes
17	Purpose and usage of such demarcation of NON PROCESSING AREA	The area will be used for setting up and operation of Non SEZ units engaged in IT / ITES sector

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, VSEZ.
ii. Chartered Engineer Certificate dated 28.03.2025 issued by Shri M.L. Srinivasa Rao, Chartered Engineer, towards calculation of taxes / duty to be refunded by the developer.
iii. 'No Dues Certificate' issued by Specified Officer vide letter dated 30.04.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, VSEZ.
v. Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024 duly signed by Specified Officer and DC, VSEZ.
vi. An Undertaking from the Developer to the effect that they shall pay the differential short paid / unpaid duty / tax benefits if any so determined at the later date on being

demanded by the department or any statutory authority without any demur or protest w.e.t. repayment of taxes and benefits availed in respect of 37,797.49 sq. mtr. **(**Non Processing Area of 18,085.16 Sq. + Common area 19,712.33 Sq. Mtrs) of built-up area proposed to be demarcated as per Rule 11B of SEZ Rule (fifth Amendment), 2023.

Recommendation by DC, VSEZ:

The proposal of M/s. Phoenix Tech Zone Pvt. Ltd for demarcation of built up area of 18,085.16 Sq. mtrs (1,94,667 sq. ft.) on 3rd & 4th floors as Non Processing Area is recommended by the Development Commissioner, VSEZ for considering of BOA.

129.5(iv) Request of M/s. ESNP Property Builders and Developers Private Limited, Co-Developer of SNP Infrastructure LLP at Zamin Pallavaram Village, Chengalpatu, Kancheepuram Dist, Chennai, Tamil Nadu for demarcation of a portion of SEZ Processing Built-up area (55,209 sq. mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, amended in 2023

Jurisdictional SEZ – MEPZ SEZ

Brief facts of the Case:

<table>
<tr><th>Sr.No</th><th>Particulars</th><th colspan="4">Details</th></tr>
<tr><td>1</td><td>Name of Developer</td><td colspan="4">SNP Infra Structure LLP</td></tr>
<tr><td>2</td><td>Name of Co-Developer</td><td colspan="4">ESNP Property Builders and Developers Private Limited</td></tr>
<tr><td>3</td><td>Address of SEZ</td><td colspan="4">Embassy Splendid Tech Zone, Zamin Pallavaram Village, Chengalpatu, Kancheepuram Dist, Chennai, Tamil Nadu 600043</td></tr>
<tr><td>4</td><td>Sector</td><td colspan="4">IT/ITES</td></tr>
<tr><td>5</td><td>Formal Approval</td><td colspan="4">F.2/644/2006-SEZ dated 12th July 2016</td></tr>
<tr><td>6</td><td>Total Notified land area (in Hec)</td><td colspan="4">10.241 Ha.</td></tr>
<tr><td>7</td><td>Total Built-up area in Processing Area (in Square meters), as informed by the developer.</td><td colspan="4">Processing Area: 3,68,548 Sq.mtr
Non-Processing Area: NA

<table>
<tr><td>Total Built-up area</td><td>Building/Tower / Block/Plot No.</td><td>Building Configuration</td><td>Total built-up area (in Sq.mt.)</td></tr>
<tr><td></td><td>Block 1</td><td>3B+G+9 Upper Floors</td><td>69,680</td></tr>
<tr><td></td><td>Block 2</td><td>3B+G+9 Upper Floors</td><td>71,392</td></tr>
<tr><td></td><td>Block 3</td><td>3B+G+9 Upper Floors</td><td>69,289</td></tr>
<tr><td></td><td>Block 4</td><td>3B+G+9 Upper Floors</td><td>74,752</td></tr>
<tr><td></td><td>Block 9</td><td>3B+G+9 Upper Floors</td><td>37,338</td></tr>
<tr><td></td><td>Food Court</td><td>3B+G+2 Upper Floors</td><td>39,609</td></tr>
<tr><td></td><td>Utility Block</td><td>1B+G+2 Upper Floors</td><td>6,488</td></tr>
<tr><td></td><td>Total BUA Sq.mts.</td><td></td><td>3,68,548</td></tr>
</table></td></tr>
</table>

<table>
<tr><td></td><td></td><td></td></tr>
<tr><td>8</td><td>Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)</td><td>
<table>
<tr><th>Block/Tower</th><th>Floor No.</th><th>Built Up Area (sq. mtrs.)</th></tr>
<tr><td>Block 2</td><td>3rd Floor</td><td>4391</td></tr>
<tr><td rowspan="10">Block 4</td><td>Ninth Floor</td><td>5467</td></tr>
<tr><td>Eighth Floor</td><td>5467</td></tr>
<tr><td>Seventh Floor</td><td>5467</td></tr>
<tr><td>Sixth Floor</td><td>5467</td></tr>
<tr><td>Fifth Floor</td><td>5467</td></tr>
<tr><td>Fourth Floor</td><td>5467</td></tr>
<tr><td>Third Floor</td><td>5467</td></tr>
<tr><td>Second Floor</td><td>5467</td></tr>
<tr><td>First Floor</td><td>4211</td></tr>
<tr><td>Ground floor</td><td>2871</td></tr>
<tr><td>Total in sq. mts.</td><td></td><td>55,209</td></tr>
</table>
</td></tr>
<tr><td></td><td>Balance Built-up Processing Area after demarcation.</td><td>3,13,339 Sq.mtrs.</td></tr>
<tr><td>9</td><td>Total No. of Floors in the Building wherein demarcation of Non Processing Area is proposed</td><td>Block 2- 3 Basements, Ground Floor, 9 Upper Floors
Block 4- 3 Basements, Ground Floor, 9 Upper Floors</td></tr>
<tr><td>10</td><td>Total Built up area Proposed for demarcation of Non Processing Area for setting up of Non SEZ IT/ITES units.</td><td>Build up area for NPA – 55,209 sq mtrs.</td></tr>
<tr><td>11</td><td>How many floors are proposed for demarcation of Non Processing Area for setting up of NON SEZ IT/ITES Units</td><td>Total 11 Floors in respective 2 buildings</td></tr>
<tr><td>12</td><td>Total Duty benefits and Tax exemption availed on the built area proposed to be demarcated as Non Processing Area, as per Charted Engineers</td><td>The Customs Empaneled Charted Engineer has carried out the duty assessment and computation and issued a CE certificate with the Duty Amount of Rs. 18,39,84,069/- and M/s. ESNP Property Builders and Developers Private Limited have remitted the full duty amount through TR6 having TR6 no NPA-01 dated 22.04.2025 and DD No. 500018 dated 22.04.2025</td></tr>
</table>

	Certificate(In Rupees Crore)	
13	Whether duty benefits and tax exemptions availed has been refunded and NOC from specified officer has been obtained	As per Chartered Engineer Certificate, The Co-Developer has paid their duties Rs. **18,39,84,069** on 22.04.2025, No Due Certificate has been issued by Specified Officer on 06.05.2025
14	Reasons for demarcation of Non Processing Area.	Due to multiple factors including Sunset clause for Income Tax Benefit, Covid 19 Pandemic and work from home facility etc.
15	Total remaining built-up area	3,13,339 Sqmts
16	Whether remaining built-up area fulfils the minimum built up area requirement as per Rule 5 of SEZ Rules,2006	Yes
17	Purpose and usage of such demarcation of NPA	To lease the built-up office space to Non-SEZ IT/ITES Clients/Tenants

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, MEPZ.
ii. Chartered Engineer Certificate dated 11.04.2025 issued by Shri R. Arun Kumar, Chartered Engineer, towards calculation of taxes / duty to be refunded by the developer.
iii. 'No Dues Certificate' issued by Specified Officer vide letter No. MEPZ-MSMO37A/02/2025-SEZ Chennai dated 02.05.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, MEPZ.
v. Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024 duly signed by Specified Officer and DC, MEPZ.

vi. An Undertaking from the Developer to the effect that they shall pay the differential short paid / unpaid duty / tax benefits if any so determined at the later date on being demanded by the department or any statutory authority without any demur or protest w.e.t. repayment of taxes and benefits availed in respect of 55209 sq. mtr. of built-up area proposed to be demarcated as per Rule 11B of SEZ Rule (fifth Amendment), 2023.

Recommendation by DC, MEPZ:

The proposal of M/s ESNP Property Builders and Developers Private Limited, the Co-Developer of SNP Infrastructure LLP for demarcation of a portion of processing area of 55209 sq.mtr. built-up area as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006 (amended), is recommended by the Development Commissioner and forwarded for consideration of BoA.

Agenda item no. 129.6:

Request for setting up of new SEZ [2 proposal 129.6(i) - 129.6(ii)]

Relevant provisions under the SEZ law: -

- **Rule 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 sub-rule (2).

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

*(a)**A Special Economic Zone or Free Trade Warehousing Zone other than a Special Economic Zone for Information Technology or Information Technology enabled Services, Biotech or Health (other than hospital) service, shall have a contiguous land area of fifty hectares or more**:*
Provided that in case a Special Economic Zone is proposed to be set up in the States of Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur, Tripura, Himachal Pradesh, Uttarakhand, Sikkim, Goa or in a Union territory, the area shall be twenty-five hectares or more.

(b)There shall be no minimum land area requirement for setting up a Special Economic Zone for Information Technology or Information Technology enabled Services, Biotech or Health (other than hospital) service, but a minimum built up processing area requirement shall be applicable, based on the category of cities, as specified in the following Table, namely:

SL.No.1	*Categoryof cities as perAnnexure IV A*	*Minimumbuilt up area requirement*
(1)	*(2)*	*(3)*
1.	*Category'A'*	*1,00,000sq mts*
2.	*Category'B'*	*50,000sq mts*
3.	*Category'C'*	*25,000sq mts*

(c)The minimum processing area in any Special Economic Zone cannot be less than fifty per cent. of the total area of the Special Economic Zone.

(d)All existing notified Special Economic Zone shall be deemed to be a multi-sector Special Economic Zone.

Explanation. For the purpose of this clause, a "multi-sector Special Economic Zone" means a Special Economic Zone for more than one sector where Units may be setup for manufacture of goods falling in two or more sectors or rendering of services falling in two or more sectors or

any combination thereof including trading and warehousing.

- **Rule 7. Details to be furnished for issue of notification for declaration of an area as Special Economic Zone. –**

(1) The Developer shall furnish to the Central Government, particulars required under sub-section (1) of section 4 with regard to the area referred to in sub-section (2) or sub-section (4) of section 3 (hereinafter referred to as identified area), with a certificate from the concerned State Government or its authorized agency stating that the Developer(s) have legal possession and irrevocable rights to develop the said area as SEZ and that the said area is free from all encumbrances:
Provided that where the Developer has leasehold rights over the identified area, the lease shall be for a period not less than twenty years.

In-Principle Approval:

So far as "in-principle" approval is concerned, it may be noted that as per Rule 6 of the SEZ Rules, 2006, Letter of Approval (LoA) will be granted to the Developer by the Central Government if the Board approves proposals for setting up of SEZ, with or without modification under clause (a) of (b) of sub-section 9 of Section 3 of the SEZ Act, 2005. **Formal Approval will be granted in cases where land is in possession of the Developer and in principle approval in other cases**.

129.6(i) In principle approval to M/s Hubballi Durable Goods Cluster Private Limited for setting up a Sector Specific Special Economic Zone for IT/ITES - Electronics Components manufacturing & Services in Itigatti Village, Dharwad, Karnataka State of over an area of 11.549 Ha.

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Facts of the case: -

M/s Hubballi Durable Goods Cluster Private Limited, #55, Aequs towers, Mahadevapura, Whitefield, Bangalore has submitted an application for setting up a sector specific Special Economic Zone for IT/ITES - Electronics Components manufacturing & Services at Sy.No. 10,11 hissa 4, 7 to 10 & 12, Sy.No.12, Sy. No.13 hissa 1&2, Sy. No.21 hissa 1 located at Sy.No.27, NH 4, Itigatti Village, Dharwad District, Karnataka–580 009. The total area proposed to be developed as SEZ is 11.549 Ha. The Company was incorporated on 23rd November 2020 under the Companies Act 2013. The Karnataka Industrial Area Developments Board (KIADB), Bangalore has allotted 101.545 Ha (250 acres 37 guntas) of land to M/s Hubballi Durable Goods Cluster Private Limited on lease-cum-sale basis at Itigatti Village, Dharwad District. Out of 101.545 Ha of land, the company proposes to set up a sector specific SEZ in an area of 11.549 Ha.

Earlier, M/s Hubballi Durable Goods Cluster Private Limited had earlier submitted an application for setting up a sector specific SEZ for IT/ITES – Electronics components manufacturing & services in the same location in an area of 3.982 hectares. The proposal was placed before BoA in the 125th meeting held on 06.12.2025 wherein it was observed that proposed activity includes manufacturing of electronic components, therefore, the same could be considered under the manufacturing category, where the extant rule prescribed a minimum land area requirement of 50 Hectares. However, the proposed land in the proposal is 3.982 Hectares, which did not meet this criterion. Further, Board directed to take necessary recommendation from MeitY with regard to the optimum size or minimum land area requirement catering to various electronics manufacturing activities.

MeitY informed that the electronics product involves various steps of manufacturing inter-alia including Designing, Engineering, prototyping, sourcing and manufacturing and different parameters like component requirement, scale of production etc. Accordingly, land requirement may vary from one vertical to other vertical. Henceforth, there should not be any specific minimum land requirement for electronics/electronics components manufacturing. Further, MeitY has recommended the application of M/s Hubballi Durable Goods Cluster Private Limited to be considered for approval at the earliest.

Additionally, Directorate General of Export Promotion, DoR, vide its letter dated 16.05.2025, has concurred the proposal of DoC to amend the SEZ Rules, 2006 effecting reduction in requirement of minimum contiguous land area requirement from 50 Ha to 10 Ha for setting up of SEZs for manufacturing of Semiconductors and electronic components.

The status of documents/ conditions required for setting up of new SEZ is as under:

Sl.No.	Conditions/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 Investment : ₹96.24 crore B. FDI (in US$) : 3.396 Million C. Source of FDI : Aequs Infrastructure II Pvt. Ltd.,Mauritius D. Proposed Exports (5 years) : ₹1257.00 crore E. Employment (Nos.) : 4360 (Direct:3380 & Indirect:980)	Yes, Provided
(ii)	DC's Inspection Report	Provided with earlier proposal of land measuring 3.982 Ha. o/o DC has informed that revised inspection report will be furnished.
(iii)	State Government's Recommendation	Provided with earlier proposal of land measuring 3.982 Ha. o/o DC has informed that revised NOC/Recommendation of State Government report will be furnished.
(iv)	Recommendation for National Security Clearance (NSC) from Ministry of Home Affairs as per Rule 3 of SEZ Rules 2006	The proposed SEZ is neither located in the vicinity of 50 Kms from LOC/LAC/ International Border nor in the proximity of nuclear, space, defence installation or installations notified under the Official Secret Act 1923. Hence, recommendation of NSC is not required (Declaration & Undertaking attached).
B	**Minimum area requirement in terms of Rule 5 of SEZ Rules 2006**	No, (11.549 Ha Land in possession). DGEP has concurred the proposal for relaxation of the minimum contiguous land area requirement from 50 Ha to 10 Ha for setting up of SEZs for manufacturing of semiconductors and electronic components. The matter of seeking approval for giving effect to the above amendment in Rule 5(2) of the SEZ

		Rules and issuing the notification is under consideration.
C	**Details to be furnished in terms of Rule 7 of SEZ Rules 2006**	
(i)	Certificate from the concerned Sate Government or its authorized agency stating that the Developer has • Legal Possession, and • Irrevocable rights to develop the said area as SEZ; and • That the said area is free from all encumbrances	Provided with earlier proposal of land measuring 3.982 Ha. O/o DC has informed that revised recommendation of State Government will be furnished.
(ii)	Whether the Developer has leasehold right over the identified area. The lease shall be for a period not less than twenty years	Not Applicable The KIADB allotted the said land on lease-cum-sale basis
(iii)	The identified area shall be Contiguous, Vacant and no thoroughfare	The Site Inspection Report was earlier provided for land measuring 3.982 Ha. However, certificate stating vacancy and contiguity of land has been submitted by Developer, which is countersigned by DC.

Total Investment proposed in the project:

Sl. No.	Description	Amount (Rs. in crore)
1	Land cost	18.51
2	Development of Land	0.55
3	Boundary Walls, Roads, Drainage, water supply, electricity etc.	7.87
4	Ready built-up factory premises	67.77
5	Others (Canteen, OHC etc.)	1.54
	Total investment plan	**96.24**

The investment for implementation of the proposed project will be met from the Equity (₹28.87 crore) and Term loan (₹67.37 crore).

Comments of the SEZ, Division:

Pending the issuance of notification for amendment of Rule 5(2) of SEZ Rules, 2006 which will enable the instant SEZ applicant to set up an SEZ on the available land (less than 50 Ha), in view of the concurrence received from Department of Revenue for carrying out the said amendment, the matter may be considered by the BoA for SEZs for granting in-principle approval.

Recommendation by DC:

The proposal for "In-principle Approval" of request of M/s Hubballi Durable Goods Cluster Private Limited for setting up a Sector Specific SEZ for IT/ITES - Electronics Components manufacturing & Services in Dharwad District, Karnataka State over an area of 11.549 Ha is recommended and forwarded for consideration of the BoA.

129.6 (ii) Request of M/s. Micron Semiconductor Technology India Pvt. Ltd. seeking in-principle approval for setting up of a multi-product SEZ at Sanand, Ahmedabad, Gujarat in an area of 37.64 Ha.

Jurisdictional SEZ – Kandla SEZ (KASEZ)

Brief facts of the case:

M/s. Micron Semiconductor Technology India Pvt. Ltd. Is seeking "In-principle Approval" for setting up of SEZ for manufacturing services of semiconductor sector at Sanand, Ahmedabad, Gujarat over an area of 37.64 Ha.

The prescribed documents for setting up of new SEZ for the consideration of the BoA and the status thereof are as follows: -

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 : b. In case of FDI amount & Source of origin : c. Proposed Employment (in Nos.) : d) Proposed Exports (in US$) :	Yes, Provided Rs. 13060 crore Rs. 3918 crore (99.9999%), Singapore and From Micron Semiconductor Asia Operations Pte. Ltd. (0.0001), Singapore Figures not available. Figures not available.
(ii)	DC's Inspection Report	Yes, Proposed area to be notified found contiguous except the pond area which is within the proposed notified area.
(iii)	State Government's recommendation	Yes, Provided. Received from Department of Science and Technology, Govt of Gujarat

(iv)	Recommendation for National Security Clearance (NSC) from Ministry of Home Affairs as per Rule 3 of SEZ Rules, 2006	Yes, Provided.
B.	Minimum area requirements in terms of Rule 5 of SEZ Rules, 2006:	No, (37.64 Ha Land in possession). DGEP has concurred the proposal for relaxation of the minimum contiguous land area requirement from 50 Ha to 10 Ha for setting up of SEZs for manufacturing of semiconductors and electronic components. The matter of seeking approval for giving effect to the above amendment in Rule 5(2) of the SEZ Rules and issuing the notification is under consideration.
	Fulfilment of minimum land area requirement in terms of the Rule 5 of the SEZ Rules, 2006 (50 hectares)	
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	Yes, Provided
(ii)	Irrevocable rights to develop the said area as SEZ	As per Joint Inspection Report, the Developer is in possession of 37.64 hectare land from Gujarat Industrial Development Corporation (GIDC) under agreement executed under regulation 08 of the Land Regulation Sanand-II Industrial Area effective from 02.08.2023 for a period of 99 years and lease deed registered no. SND No. 2334 of 2025.
(iii)	that the said area is free from all encumbrances	Yes, Provided
(iv)	Where the Developer has leasehold right over the identified area, the lease shall be for a period not less than twenty years	Yes, Provided
(v)	The identified area shall be Contiguous, Vacant and No public thoroughfare	**The physical inspection report suggest that the proposed notification area is contiguous,**

		excluding the pond measuring 11534 sq mts, which is located within the proposed notified boundaries. **Further, DC vide letter dated 09.05.2025 has stated that as per the definition of 'vacant land' defined in SEZ Rule 2(zf), the area is vacant.**

Comments of the SEZ, Division:

Pending the issuance of notification for amendment of Rule 5(2) of SEZ Rules, 2006 which will enable the instant SEZ applicant to set up an SEZ on the available land (less than 50 Ha), in view of the concurrence received from Department of Revenue for carrying out the said amendment, the matter may be considered by the BoA for SEZs for granting in-principle approval.

Recommendation of DC:

DC, KASEZ has forwarded the proposal for "in-principle approval" for consideration of BoA.

Agenda item no. 129.7:

Industrial License [1 proposal: 129.7(i)]

Relevant provision: As per section 9 (e) of the SEZ Act, 2005, the Board has powers and functions of granting, notwithstanding anything contained in the Industries (Development and Regulation) Act, 1951, a license to an industrial undertaking referred to in clause (d) of section 3 of that Act, if such undertaking is established, as a whole or part thereof, or proposed to be established, in a Special Economic Zone.

129.7(i) Proposal of M/s DCX Systems Limited, a SEZ unit at KIADB Aerospace SEZ, Bengaluru for Industrial License under IDR Act, 1951.

Jurisdictional SEZ – Cochin SEZ

Brief facts of the Case:

M/s DCX Systems Limited (SEZ unit under jurisdiction of CSEZ) was issued LoA dated 13.12.2019 for setting up a SEZ unit at KIADB Aerospace SEZ, Bengaluru for manufacturing and export of Mechanical Assembly, Turn-Key Assembly, DC Motor Assembly, Power supply, Customs and Mil-Spec/ Aerospace Connector Assemblies, Wire Harness, IVSU General Assembly, Filter Assemblies, Aerospace Cable Assemblies, Transmission receiver group Module (Box build). The unit was issued an Industrial Licence on 17.07.2023 for manufacture of Sub Module for communication Equipment including Antenna and Microwave components & Modules for RADAR and EW Subsystem. **The unit has now requested for Industrial License under IDR Act, 1951 for manufacturing following items:**

I. Production, Assembly and Testing of Radar Systems and EW Systems.
II. Repair of Radar and EW Systems Apparatus viz. providing Warranty Support and Carrying Out Repair of Airborne, Shipborne and Ground Based Systems (Which shall include Installation and Commissioning Support).
III. Integration and Manufacture of Avionics & Defence Electronic Equipment.

The location proposed by the unit for manufacturing above items is Aerospace SEZ sector, Plot No. # 29, 30 & 107, Hitech Defence & Aerospace Park, KIADB Industrial Area, Kavadanahalli Village, Devanahalli Taluk, Bengaluru Rural, Karnataka – 562110.

As per DPIIT's Press Note 3 dated 11.09.2019 (2019 series), following four industries are compulsory licensable under IDR Act, 1951:

I. Cigar and Cigarettes of tobacco and manufactured tobacco substitutes
II. Electronic Aerospace and Defence equipment
III. Industrial Explosives
IV. Hazardous Chemicals

Further, in respect of defence equipment, DPIIT vide its Press Note 1 (2019 series) dated 01.01.2019 has issued a list of defence items which require Industrial License under IDR Act, 1951.

The proposal of the unit was shared with various departments for their comments which has been received as under:

Departments	Comments
IS-I Division, (Security Desk), MHA	Vide OM dated 11.12.2023, Security Desk-MHA has **conveyed security clearance in respect of M/s DCX Systems Limited and its directors** namely **S/Shri Raghavendra Rao Hosakote Shama Rao, Neal Jeremy Castleman, Sankarakrishnan Ramalingam, Kalyanasundaram Chandrasekaran, Panchangam Nagashayana, Lathika Siddharth Pai and Krishna Bhagawan Srinivasa Ranga** subject to the conditions/compliances mentioned in para 3 of OM No. II/20034/166/2010-IS-II dated 23/24.01.2014 of MHA and further that in areas where which are notified/declared sensitive by MHA, the relevant guidelines shall be made applicable. Security Desk-MHA has further stated that MoD may recommend appropriate security and auditing procedures for the firm as well as its supply-chain depending upon the threat perception and sensitivity of the products to be manufactured, as per the security instructions/ architecture prescribed in the Security Manual for Licensed Defence Industries, issued by MoD. **The MoCI should ensure instructions/architecture prescribed in the Security Manual for lndustries, issued by MoD from time to time are strictly adhered to.**
IS-I Division, (Arms Section), MHA	Vide OM dated 20.09.2023, Arms Section-MHA has offered **No Comments** as the subject items do not fall under the category of small arms and ammunitions as per the Arms Act, 1959 & the Arms Rules, 2016.
DPIIT	DPIIT vide OM dated 23.07.2024 has offered **No Objection** from FDI and Explosive angle. DPIIT has further stated that in case manufacturing of the subject items requires any kinds and quantities of explosives covered under Explosives Rules, 2008, a license under the said rule is obligatory for manufacturing/possession/use and transport of the same.
D/o Defence Production	Vide OM dated 09.01.2024, DoDP has offered **No Objection** for grant of license for manufacture of items as mentioned below only specially designed for military application subject to standard terms and conditions under IDR Act, 1951: 1. Production, Assembly and Testing of Radar Systems and EW Systems: 2. Integration and Manufacture of Avionics & Defence Electronic

	Equipment. **<u>Further, the activity repair of radar and EW systems apparatus Viz. providing Warranty support and carrying out repair of Airborne, Shipborne and ground-based systems (which shall include installation and commissioning support) is non-licensable as it is covered under MRO.</u>** The decision on MRO activities has earlier been communicated to DPIIT by DDP. MoD vide OM No. 7(8)/2013/D(DIP) dated 26th June. 2014. Further, the company may be directed to follow the security guidelines for **Category 'A'** mentioned in the Security Manual available at DDP's website while undertaking manufacturing of items for defence use.
M/o EF&CC	Vide OM dated 31.07.2024, M/o EF&CC has stated that the following may please be taken note of: i. The proposed project doesn't attract the provisions of EIA Notification, 2006 and accordingly, Environment Clearance (EC) is not applicable in the extant matter. ii. However, if the proposed project involves the construction of a building exceeding 20,000 sqm., it would fall under item 8(a) of the Schedule of the EIA Notification, 2006, and its subsequent amendments and accordingly prior EC will be required. iii. Further, the construction of NSEZ may require prior EC as per provision of EIA Notification, 2006, if applicable iv. The provisions of the E-Waste (Management) Rules, 2022, and the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 shall be applicable depending on the waste generated in the proposed project. v. If the proposed project/activity involves the diversion of forest land, or passes through any Protected Area or Eco-sensitive zone, provisional of Forest (Conservation) Act, 1980 and Wildlife (Protection) Act, respectively would be applicable. vi. Consent to Establish (CTE) and Consent to Operate (CTO) from the concerned State Pollution Control Board would be required under the provision of Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974, if applicable.
M/o Civil Aviation	Vide OM dated 01.03.2024 (received vide email dated 20.05.2025), M/o Civil Aviation has stated that in case the industry referred to above carries out civil aviation related activities, it would be required to seek the permission of Directorate General of Civil Aviation / Ministry of Civil Aviation.

State Govt. of Karnataka	Vide letter dated 03.11.2023, O/o of the Commissioner for Industrial Development and Director of Industries & Commerce, State Govt. of Karnataka has only provided details about the company, details of items being manufactured by the unit along with its turnover and no. of employees and has recommended to consider the application of the unit.
CSEZ	Vide letter dated 14.011.2023, O/o CSEZ has offered **No Objection** to the proposal.

The above proposal of the unit for Industrial License under IDR Act, 1951 for manufacturing (as detailed above), in light of the comments of various Ministries/ Department (specifically Department of Defence Production), is placed before the Board of Approval for consideration.

Agenda item no. 129.8:

Miscellaneous [2 proposal: 129.8(i)-129.8(ii)]

129.8(i) Proposal of M/s. HCL Technologies Limited, Developer for approval of 'Restricted' item to carry on authorized operations in the IT/ITES SEZ at Plot No. 3A, 3B & 2C, Sector-126, Noida (Uttar Pradesh).

Jurisdictional SEZ – Noida SEZ(NSEZ)

Brief facts of the Case:

M/s. HCL Technologies Limited, Developer vide its letter dated 16.04.2025 has submitted a proposal for approval of duty free procurement of 'Refrigerant Gases' from DTA under the following authorized operation in the IT/ITES SEZ at Plot No. 3A, 3B & 2C, Sector-126, Noida (Uttar Pradesh):-

S. No.	Authorized Operation / item description	Sl. No. at default list of Autho. Opr. as per Inst. No. 50 & 54	Estimated Cost (Rs. in lakhs)
i .	Air Conditioning of Processing Area 1. Refrigerant – R32 (HSN 29034200) 2. Refrigerant – R404 (HSN 38276100) 3. Refrigerant – R22 (HSN 29037100) 4. Refrigerant – R- 410/410A (HSN 38276300) 5. Refrigerant – R407C (HSN 38276400) 6. Refrigerant – R134A (HSN 29034500	21	146.00

The Developer has informed that they need the said gases for their day- to- day business operation. The said Refrigerant gases are restricted and are comparable with HVAC machines which were installed from time to time for upgradation of infrastructure facility. The said gases will be used for controlling the temperature, maintaining the indoor air quality inside the critical data Centers/Server Rooms and workplace areas for human comfort along with protecting the various critical equipment across different units of the Noida SEZ Campus.

Relevant Provisions:

- As per Notification No.62/2015-2020 dated 23.03.2022 issued by DGFT & Import policy, HS Codes 38276400, 38276300, 29034200, 29034500, 38276100 & 29037100 are 'Restricted' for Export.
- As per Section 2(m)(ii) of the SEZs Act, 2005 supplying goods, or providing services, from the Domestic Tariff Area (DTA) to a Unit or Developer shall be treated as 'Export'.

- Further, as per proviso to Rule 27(1) of SEZ Rules, 2006,'Supply of Restricted items by a Domestic Tariff Area Unit to Special Economic Zone Developer or Unit, the Domestic Tariff Area Unit may supply such items to a Special Economic Zone Developer or Unit for setting up infrastructure facility or for setting up of a Unit and it may also supply raw materials to Special Economic Zone Unit for undertaking a manufacturing operation except refrigeration, cutting, polishing and blending, subject to the prior approval of Board of Approval.'
- The developer has submitted a Chartered Engineer Certificate along with list of materials, duly certified by a Chartered Engineer in the prescribed format. As per CE Certificate the proposed materials will be used for development / maintenance & upkeep of Infra Block (Tower-1), Software Block-1(Tower-2), Software Block-2 (Tower-3), Software Block-3 (Tower-4), Software Block-4(Tower- 5), Software Block-5(Tower-6) (Built-up area 398277.94 Sqmt).

Recommendation by DC, NSEZ:

The proposal of M/s. HCL Technologies Limited, Developer for duty free procurement of 'Restricted' items under HS Code 38276400, 38276300, 29034200, 29034500, 38276100 & 29037100 from DTA, to carry on authorized operation in the IT/ITES SEZ at Plot No. 3A, 3B & 2 C, Sector 126, Noida (U.P.) is forwarded for consideration by the Board of Approval, in terms of proviso to Rule 27(1) of SEZ Rules, 2006.

129.8(ii) Proposal of M/s. Quarkcity India Pvt. Ltd., Developer for approval of 'Restricted Gases' item to carry out authorized operations in the IT/ITES SEZ at A40A, Industrial Area, Phase-VIIIB, Mohali, Punjab.

Jurisdictional SEZ – Noida SEZ(NSEZ)

Brief facts of the Case:

M/s. Quarkcity India Pvt. Ltd., Developer has submitted a proposal for approval of duty free procurement of 'Refrigerant Gases' from DTA under the following authorized operation in the IT/'TES SEZ at A-40A, Industrial Area, Phase-VIIIB, Mohali, Punjab:

S.No.	Authorized operations	S.No. at Default list of materials as per Inst. No. 50 & 54	Estimated Cost Lakhs)
i.	Air Conditioning of processing area GAS (ITC HS Code: 2903) (S. No. 43 of list of material)	21	3.00
		Total	3.00

The Developer has informed that the refrigerant gas is classified under ITC HS Code 2903 and is utilized in air conditioners such as refrigerators, split air conditioners, window air conditioners and chillers. It also includes R 134, R22 and R410 gases. Developer has not given 8 digit ITC HS Code. However, as import & export policy issued by DGFT, many items under 2903 is Restricted for export.

Relevant Provisions:

- As per Section 2(m)(ii) of the SEZs Act, 2005 supplying goods, or providing services, "from the Domestic Tariff Area (DTA) to a Unit or Developer shall be treated as 'Export'.

- Further, as per proviso to Rule 27(1) of SEZ Rules, 2006, 'Supply of Restricted items by a Domestic Tariff Area Unit to Special Economic Zone Developer or Unit, the Domestic Tariff Area Unit may supply such items to a Special Economic Zone Developer or Unit for setting up infrastructure facility or for setting up of a Unit and it may also supply raw materials to Special Economic Zone Unit for undertaking a manufacturing operation except refrigeration, cutting, polishing and blending, subject to the prior approval of Board of Approval.'

- The developer has submitted a Chartered Engineer Certificate along with list of materials, duly certified by a Chartered Engineer in the prescribed format. As per CE Certificate the proposed materials are required by the Developer M/s. Quarkcity India Pvt. Ltd. at A-40A, Industrial Area, Phase-VIII Extn. Mohali, Punjab, to be utilized for

the construction, internal furnishing and maintenance work of SEZ building Landmark Plaza. It has also been stated that the said materials would be utilized within one year from the date of its purchase.

Recommendation by DC, NSEZ:

The proposal of M/s. Quarkcity India Pvt. Ltd., Developer for duty free procurement of 'Restricted' items under HS Code 2903 from DTA, to carry on authorized operation in the IT/ITES SEZ at A-40A, Industrial Area, Phase-VIIIB, Mohali, Punjab has been forwarded for consideration by the Board of Approval, in terms of proviso to Rule 27(1) of SEZ Rules, 2006.

Agenda Item No.129.9:

Appeal [5 cases: 129.9(i) - 129.9(v)]

Rule position: - *In terms of the rule 55 of the SEZ Rules, 2006, any person aggrieved by an order passed by the Approval Committee under section 15 or against cancellation of Letter of Approval under section 16, may prefer an appeal to the Board in the Form J.* *Further, in terms of rule 56, an appeal shall be preferred by the aggrieved person within a period of thirty days from the date of receipt of the order of the Approval Committee under rule 18. Furthermore, if the Board is satisfied that the appellant had sufficient cause for not preferring the appeal within the aforesaid period, it may for reasons to be recorded in writing, admit the appeal after the expiry of the aforesaid period but before the expiry of forty-five days from the date of communication to him of the order of the Approval Committee.*

129.9(i) Appeal filed by M/s. VJP Shipping India Pvt. Ltd. against the Order-in-Original dated 18.11.2024 passed by DC, MEPZ SEZ regarding cancellation of license to operate the FTWZ at NDR Infrastructure Pvt Ltd.

129.9(ii) Appeal filed by M/s. VJP Shipping India Pvt. Ltd. against the Order-in-Original dated 18.11.2024 passed by DC, MEPZ SEZ regarding cancellation of request to set up a SEZ unit in New Chennai Township Pvt. Ltd.

Jurisdictional SEZ – MEPZ SEZ

Brief Facts of the case:

1.
    1. M/s. V.J.P. Shipping India Pvt Ltd. is a private company based in Chennai, engaged in import/export services as a licensed customs broker under the Customs Broker Licensing Regulations, holding a CB license granted by the Principal Commissioner of Customs (General) Chennai.
    2. The appellant had applied to set up a unit in the MEPZ Special Economic Zone (SEZ) at Nandiyambakkam Village in Tamil Nadu for providing warehousing and logistics services. And, the saction was granted with a Letter of Permission (LOP) vide letter dated 03.05.2021. The appellant also entered into a Bond-cum-Legal Undertaking as required under the SEZ Rules.
    3. the Directorate of Revenue Intelligence (DRI) investigated imports made by other importers whose goods were stored at the appellant's FTWZ warehouse. The investigation implicated the appellant because the imports were made using Importer Exporter Codes (IECs) lent by others for a fee, and the appellant facilitated these imports as a customs broker. There was no evidence that the appellant had knowledge of any mis-declarations related to these goods.
    4. As a result of the investigation, show cause notices were issued to the appellant and its directors. In addition, the Principal Commissioner of Customs and the Licensing Authority initiated proceedings to revoke the appellant's customs broker (CB) license twice. In the first set of proceedings, the appellant was fined Rs. 50,000 but no revocation occurred. The appellant is considering filing an appeal against this penalty. In the second set of proceedings, the Licensing Authority suspended the appellant's CB license beyond the allowed period, which also affected one of the appellant's sister companies, K.Y.P. Logistics India Pvt. Ltd., despite that company not being involved in the disputed imports. The appellant appealed this decision to the CESTAT (Chennai), which ruled in the appellant's favor. The CESTAT set aside the suspension order issued by the Principal Commissioner of Customs, declaring it invalid in law as per its final order dated December 9, 2024.
    5. The appellant claims that penalties were unjustly imposed on them and their employees under the Customs Act, despite not being involved in the importation or ownership of the goods. They have filed statutory appeals under Section 129 of

the Customs Act, challenging the orders, which are still pending and have not reached a final decision.

6. The appellant's client, Samyga International, imported goods declared as printer accessories, which were investigated by the DRI. This led to a show cause notice being issued to the importer and the appellant, proposing penalties for mis-declaration. The Development Commissioner (DC) noted the suspension of the appellant's CB license and issued a show cause notice on August 8, 2024, questioning why their LOA should not be canceled under the SEZ Act, alleging violations of SEZ Rules. The appellant argues that no specific violations of the LOA or BLUT were cited.
7. The appellant filed objections to the show cause notice, arguing that the notice was invalid as the alleged violations under the Customs Act or Customs Brokers Licensing Regulations had not been finalized. They emphasized that they were only providing warehousing services and did not violate SEZ rules. The appellant attended a hearing on 16.10.2024 and submitted written submissions on 24.10.2024, seeking to have both their reply and written submission included in their appeal.
8. The appellant contends that the Development Commissioner (DC) did not properly consider their submissions and showed bias in the decision-making process and issued an order on 11.11.2024, recommending cancellation of the appellant's LOA and imposing a penalty of Rs. 10,000, despite the fact that the provisions cited were not applicable to their case.
9. The UAC meeting minutes from 18.11.2024 confirmed approval of the DC's proposal to cancel the LOA, and the appellant received the final order on 26.11.2024. The appellant filed an appeal with the Appellate Committee under the FTDR Act on 11.12.2024 but has not received acknowledgment of the appeal.
10. The appellant was informed that they could also appeal the cancellation of the LOP under Rule 55 of the SEZ Rules to the Hon'ble Board of Approval, and they wish to avail this option in addition to the appeal under the FTDR Act. The appellant's appeal under Rule 55 was due by 25.12.2024, but they seek the condonation of a 13-day delay, supported by an affidavit, as the revocation of their FTWZ license has significantly impacted their livelihood and employees.
11. The appellant also alleged that on 13th June 2024, they applied for setting up another SEZ unit in New Chennai Township Pvt. Ltd., for warehousing and logistics, after obtaining provisional land allotment. On 8th July 2024, their request to set up the new SEZ unit was rejected due to alleged submission of false information in an affidavit (concerning the antecedents). However, the appellant's Bond-cum-legal undertaking was later accepted without issue on 2nd August 2024 for their NDR FTWZ unit. The appellant mentioned that the revocation of the FTWZ license has affected the appellant's business, depriving them of their livelihood and impacting the employment of around 20 employees.

Grounds of the Appeals:

1. The impugned order passed by the learned respondent herein and as approved by the UAC is totally unjust, unfair, unreasonable, weight of evidence contrary to law and therefore ex-facie illegal besides being violative of the principles of natural justice and hence not sustainable and liable to be vacated in the interest of justice
2. The impugned order passed by the learned respondent and approved by the UAC suffers from gross violations to the principles of natural justice as the said respondent did not at all consider any of the subtle grounds canvassed by them both in their reply and in the written submission filed by them which warrant his order to be vacated in limini
3. The learned respondent further ought to have considered that when the notice issued to them had only alleged that they had contravened the provisions of invoked rule 18 [51 of te SEZ Rules and the instructions issued in the year 2010 which provisions only authorised and permitted them to hold the goods in their licensed unit on account of the foreign or the DTA suppliers for dispatches as per the owner's instructions and for trading, making- its invocation possible read with the LOA and the Bond cum undertaking if they had unreasonably refused to hold the goods on behalf of any foreign or DTA suppliers, or undertook any unauthorised operations relating to the said goods in their warehouse or not achieving the norms prescribed which alone could be said to be contrary to the LOA or the bond cum undertaking furnished by them whereas the impugned order finding no answer to the said ground and in fact admitting to the said position of law in para 18 of the impugned order unreasonably and as an afterthought had citing violation of condition no. 1 of the bond cum legal undertaking and condition x of the LOA without even being aware that the stipulation therein is a general clause binding them to observe the SEZ Act and the rules framed thereunder in respect of the goods for the authorised operation and which by no stretch of imagination could attract the facts relied in support of the notice namely the so-called investigation carried out by the DRI that too concerning their performance as a customs broker as the sole reason for the draconian action against them depriving them and their employees of their livelihood believing the version of the DRI as gospel truth for the sole reason of which alone the impugned order merits to be set aside in limini
4. The learned respondent also erred in not correctly appreciating the express provisions contained in Sec. 16 of the SEZ Act invoked by him which uses the terms persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted making it amply and unambiguously, clear that his power to cancel the LOA could be exercised only when it is shown that they have not fulfilled the obligation undertaken in terms of the LOA namely achievement of the value addition and that too repeatedly and not for a single violation and therefore also the impugned order passed by the respondent being beyond the statutory mandate as provided under Sec. 16 of the SEZ Act cannot be sustained on account of total abuse of powers conferred on the

said authority under the Act and exceeding his authority, for the reason of which also the impugned order merit to be set aside

5. The learned respondent also failed to recognize that the various provisions of the SEZ Act and the rules made thereunder invoked by him namely Sec. 16, 21, or 25 of the SEZ Act and rules 18 [5] or 54 [21 of the SEZ Rules which only concerned either certain general provision for administration of the Act, more particularly for monitoring. and enforcing the obligation to achieve value addition undertaken by a unit in the SEZ [refer rule 54] and never provided for any violations with regard to either the customs Act or the FTDR Act the order passed based on facts not relating to the said obligation to achieve specified value addition undertaken by them renders the impugned proceedings void ab-initio and redundant for want of jurisdiction
6. The learned respondent further Committed total injustice to them by passing the impugned order depriving the appellant and their employees of their livelihood resulting gross violation to their fundamental right guaranteed under Art. 19 [1] [g] of the Constitution of India to carry on any trade or profession in as much as the reasons recorded in the impugned order and approved by the UAC is totally improper unreasonable biased and therefore unjustified
7. The learned respondent before invoking notification no. S.O. 77 [E] dated 13.01.2010 and notification S.O. No. 2665 [E} dated 05.08.2016 which are notifications issued in exercise of the powers conferred under Sec 21 of the SEZ for notifying single enforcement officer or agency for taking action against notified offences and that too by observing that their contention that violations committed under the rules are not sustainable under the SEZ Act which was never their contention whereas their contention was that the offences alleged against them invoking the customs provisions for which the notice has been issued to them by the customs authority in respect of the goods imported by their customer Samyga International cannot result in making the specific allegation of violation of rule 18 [5] of the SEZ rules read with the instruction issued in 2010 and which by no stretch of imagination could be got over by citing the above notifications issued for the purpose of notifying the specified offences and the single enforcing agency only and not as assumed and recorded by the learned respondent in the impugned order
8. The learned respondent further committed gross judicial improprietory in traversing beyond the show cause notice issued to them so as to record certain self-serving incorrect and extraneous findings to sustain the impugned order against them which per-se renders the order totally devoid of merits and unsustainable
9. The action of the learned respondent in accepting the bond cum undertaking from them executed on 08.07.2024 and accepting it on 02.08.2024 by which time he was well aware of the rejection of their application for setting up the FTWZ unit at New Chennai Township Pvt Ltd., IT-ITES, the issue of the notice to them within 6 days when no new facts have emerged exposed the total bias and prejudice of the learned Development commissioner which require the impugned

order passed by him and approved by the UAC to be set aside in the interest of justice and fair play

10. The impugned order passed placing reliance on the only fact of alleged misuse of the IEC provision, even without invoking or showing the- specific provision under the FTDR or the rules providing for any contravention relating to the use of others IEC and by totally overlooking the judgment of the Hon'ble Kerala High Court by recording the frivolous and extraneous finding on a totally assumed basis that the IEC was misused by the appellant who is supposed to hold the imported goods on behalf of his client even when the true fact is that they only acted as the CB for the IEC Samyga International with his consent and approval and never were concerned with the subject goods in any manner which render his finding totally incorrect and therefore unsustainable
11. The learned respondent without prejudice to any of the foregoing submissions also committed gross improprietory in traversing beyond the show cause notice to record the findings in paras 15 to 19 of the impugned order which are not only excessive but also contrary to the true facts as the observations made therein against the appellant as if they had imported the goods into India which is totally denied as false and, untrue on account of which the impugned order passed by the learned respondent and approved by the UAC require to be vacated in the interest of justice
12. The learned Development Commissioner ought to have been oblivious of the fact that when the notice under customs Act had already been issued to them on the investigation carried out by DRI the jurisdiction to deal with such issue squarely lies with the customs and the development commissioner is not authorised to conduct parallel proceedings by citing the aforementioned notifications issued with a specific purpose to notify a single enforcement agency for dealing with certain specified offences and if the said proceedings are permitted to be approved then it would amount to double jeopardy attracting the bar as provided under Art 20 [2] of the Constitution of India
13. The learned respondent also ought to have appreciated and accepted that when only a show cause notice had been issued to them by the Customs it only •remained as allegations yet to be proved as per law and yet to attain finality he ought not to have initiated the proceedings against them resulting in the draconian punishment of losing their entire business whereas he ought to have awaited the final outcome of the notice even if had the legal authority to proceed against them instead of rushing to hold the appellant guilty which is highly improper and arbitrary and which only expose not only his bias and prejudice but also predetermination
14. The learned respondent's further finding recorded in para 20 as if the IEC holder during the course of the investigation stated that he had not imported the goods and no KYC authorisation has been given by him to the appellant herein to file the BE and to handle his goods is denied as totally incorrect and untrue not borne out of the records and in any case even if it were so the IEC holder ought to have filed necessary complaint either with the police or with the DGFT authorities which is not the case

15. The learned respondent exposed his highhandedness and bias by recording the finding in para 21 of the impugned order as if the used parts and accessories of Multi-function devices invoking para 2.31 of the FTP even without considering their plea that the even used MFD machines itself are not restricted in terms of the judgments of the Supreme Court/ High Court and Tribunal when the subject import is admitted to be only parts and the machines which render his order totally bad and unsustainable
16. The finding recorded by the learned respondent in para 15 of the impugned order that the investigation had brought out the fact that the FTWZ unit has imported the goods without knowledge or consent of the actual IEC holder is totally untrue and in correct as they only acted as the CB for the said importer and IEC holder for the act of which only they were proposed for the imposition of the penalties under the Customs Act and their CB license suspended a fact relied in support in the impugned order
17. The reliance placed by the learned respondent on the fact of their CB license being kept under continued suspension by the licensing authority under the customs no more survives in view of the recent orders passed by the Hon' ble Customs Excise Service Tax Tribunal Chennai vacating the said order vindicates their stand
18. The learned respondent in any case ought to have known that the CB license held by them being governed by a totally separate legislation namely Customs Brokers Licensing Regulations, 2018 question of invoking the alleged contravention for cancellation of their LOA issued in terms of the SEZ Act and the rules made thereunder is highly improper and incorrect more particularly when the Hon'ble Madras High Court had categorically held that the violation if any by a customs broker in terms of the regulation cannot result in invocation of any penal provisions under the Customs Act
19. The appellant submits that the recent circular issued by the CBIC instructing officers not to indiscriminately proceed against any Customs Broker unless there is an allegation of abetment against them made in the show cause notice issued under the Customs Act also squarely support the case of the appellant
20. The findings recorded by the learned respondent in para 24 of the impugned order clearly evidence to the fact that he was acting in terms of the suggestions issued by the Ministry of Commerce purely concerning the verification of antecedents for approving new units and monitoring existing units and that too for the reason of the recent growing trend of DTA supplies and increased in the import of risky consignments involving mis-declaration of description and value by unscrupulous CHA's and their clients thus only sounding a caution to carry out proper antecedent verification whereas the learned respondent had beyond the said suggestion to rely upon certain cases registered against their clients leading to issue of the show cause notice to the said clients and to them in their capacity as their Customs Broker even when the proceedings initiated against them under the CBLR relied upon in support of the issue of the impugned order _ stood set aside making the said order totally devoid of any merits

PRAYER:

The appellant prayed for the following:

1. The learned appellate authorities may be pleased to consider their submissions judiciously and sympathetically.
2. The learned appellate authorities may be pleased to set aside the impugned order and restore their license to operate the FTWZ at NDR Infrastructure Pvt Ltd.
3. The learned appellate authorities may also direct the respondent to grant them the permission to run the FTWZ unit at New Chennai Township Pvt Ltd., IT-ITES as per their application dated 13,96.2024 and render justice

INPUTS RECEIVED FROM DC, MEPZ SEZ:

1. M/s VJP Shipping India Pvt Ltd operates as an FTWZ unit in the NDR Free Trade Warehouse Zone (FTWZ) in Tamil Nadu, with a Letter of Approval (LoA) dated 03.05.2021 from the Development Commissioner, MEPZ-SEZ, for trading and warehousing services.
2. A consignment from M/s Samyga International, Chennai, declared as "Printer Accessories," was investigated by the Directorate of Revenue Intelligence (DRI) in 2022.
3. The investigation revealed violations of the Customs Act, including misdeclaration and misuse of the Importer Exporter Code (IEC), resulting in the issuance of a Show Cause Notice (SCN) to M/s VJP Shipping, its employees, and directors.
4. Further, M/s VJP Shipping's Customs Broker License was suspended due to irregularities in various import transactions, with the suspension continued by an order dated 21.05.2024.
5. Meanwhile on 13.06.2024, M/s VJP Shipping applied for approval to set up a **new FTWZ unit at New Chennai Townships Pvt Ltd SEZ in Kancheepuram.** The said proposal was placed before the Unit Approval Committee (UAC) on 08.07.2024. UAC had found that M/s VJP Shipping had submitted false information regarding their antecedents and issued SCNs. As a result, the UAC rejected the proposal on 08.07.2024.
6. Later on 08.08.2024, M/s VJP Shipping was issued a Show Cause Notice regarding the cancellation of their LoA, of their unit in the NDR Free Trade Warehouse Zone (FTWZ) in Tamil Nadu, due to violations of SEZ Act provisions. M/s VJP Shipping responded, denying any contraventions and reiterated their position in written submissions on 24.10.2024.
7. Subsequently, the Development Commissioner issued an order on 11.11.2024, finding that M/s VJP Shipping violated LoA conditions and Bond cum Legal Undertaking (BLUT). Accordingly, a penalty of ₹10,000 was imposed, and the cancellation of the LoA was recommended to the UAC. Based on the recommendation of Development commissioner, the UAC approved the cancellation of the LoA of their unit in the NDR Free Trade Warehouse Zone

(FTWZ) on 18.11.2024 and also rejected the proposal for a new FTWZ unit at New Chennai Townships Pvt Ltd SEZ.

8. M/s VJP Shipping has filed an instant appeal before the Board of Approval (BOA) against the Development Commissioner's decision to cancel the LoA issued to their NDR SEZ unit. The appellant prays for the restoration of the license to operate their FTWZ at NDR SEZ. The appellant also seeks the reversal of the UAC's decision to reject the proposal to set up the FTWZ unit at New Chennai Township Pvt Ltd SEZ.
9. M/s VJP Shipping is claiming that they did not contravene any conditions or obligations under the SEZ Act and asserts that the Show Cause Notice and the subsequent orders are unwarranted. They also argue that the false information regarding antecedents was unintentional or had no material impact on the application process.

Para-wise comments:

Para No.	Ground of the Appeal	Comments of the zone
1	The impugned order passed by the learned respondent herein and as approved by the UAC is totally unjust, unfair, unreasonable, weight of evidence contrary to law and therefore ex-facie illegal besides being violative of the principles of natural justice and hence not sustainable and liable to be vacated in the interest of justice	The impugned order passed by the Development commissioner is based on the facts and circumstances of the case and as per the law.
2	The impugned order passed by the learned respondent and approved by the UAC suffers from gross violations to the principles of natural justice as the said respondent did not at all consider any of the subtle grounds canvassed by them both in their reply and in the written submission filed by them which warrant his order to be vacated in limini	The appellant was issued with a show cause notice and given sufficient time and opportunity to reply to the SCN and was offered with an opportunity to contest his case before the adjudicating authority through personal hearing. Further all their contention raised in their written as well as oral submissions are discussed and negated in the facts and evidence of the case and the impugned order is a speaking order.
3	The learned respondent further ought to have considered that when the notice issued to them had only alleged that they had contravened the provisions of invoked rule 18 [51 of te SEZ Rules and	Rule 18(5) of SEZ Rules read with Instruction 60/2010 clearly provides for holding goods by the Unit holder, on behalf of Foreign supplier & buyer and DTA supplier & buyer. Whereas, the

	the instructions issued in the year 2010 which provisions only authorised and permitted them to hold the goods in their licensed unit on account of the foreign or the DTA suppliers for dispatches as per the owner's instructions and for trading, making- its invocation possible read with the LOA and the Bond cum undertaking if they had unreasonably refused to hold the goods on behalf of any foreign or D TA suppliers, or undertook any unauthorised operations relating to the said goods in their warehouse or not achieving the norms prescribed which alone could be said to be contrary to the LOA or the bond cum undertaking furnished by them whereas the impugned order finding no answer to the said ground and in fact admitting to the said position of law in para 18 of the impugned order unreasonably and as an afterthought had citing violation of condition no. 1 of the bond cum legal undertaking and condition x of the LOA without even being aware that the stipulation therein is a general clause binding them to observe the SEZ Act and the rules framed thereunder in respect of the goods for the authorised operation and which by no stretch of imagination could attract the facts relied in support of the notice namely the so-called investigation carried out by the DRI that too concerning their performance as a customs broker as the sole reason for the draconian action against them depriving them and their employees of their livelihood believing the version of the DRI as gospel truth for the sole reason of which alone the impugned order merits to be set aside in limini	appellant in respect of subject goods, did not do so. The said goods were disowned by M/s. Samyga International who is shown as importer of the goods as per the Tokha No. No. 1003244 dated 11.10.2022 filed by the appellant. Further it is observed from statement recorded from the actual IEC holder Shri Mydeen Gane during the investigation by DRI that he has not imported any of those consignment, and that no payment to any of the supplier had been made from the account of the IEC holder and the IEC holder has also not given the KYC or authorisation to the noticee to act as his agent and to hold his goods in the unit. Further this fact has not at all been denied by the appellant either before the adjudicating authority or in the present appeal. Hence, the fact of holding of goods, which was not pertaining to the alleged importer/buyer - viz., M/s. Samygya, by the appellant is undisputed. Thereby they have clearly violated Rule 18(5) of SEZ Rules read with Instruction 60/2010.
4	The learned respondent also erred in	The appellant has been a habitual violator

	not correctly appreciating the express provisions contained in Sec. 16 of the SEZ Act invoked by him which uses the terms persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted making it amply and unambiguously, clear that his power to cancel the LOA could be exercised only when it is shown that they have not fulfilled the obligation undertaken in terms of the LOA namely achievement of the value addition and that too repeatedly and not for a single violation and therefore also the impugned order passed by the respondent being beyond the statutory mandate as provided under Sec. 16 of the SEZ Act cannot be sustained on account of total abuse of powers conferred on the said authority under the Act and exceeding his authority, for the reason of which also the impugned order merit to be set aside	of law as seen from the facts given in table A of para 11 of the impugned Order No in F.No. 8/208/2021/NDR FTWZ dated 11.11.2024. Further, even in respect of M/s. Samyga International, Chennai, the appellant had handled two consignments, one on 25.07.2024 and another on 30.09.2024. Hence it is obvious that the appellant persistently held and cleared goods in the name of M/s. Samyga International without their (IEC holder's) involvement, consent and ownership. The appellant, using an unconnected/ unauthorised IEC operated, imported and cleared their (appellant's) own goods and thus supply of the goods to the Domestic Tariff Area have been made in violation of the provisions of the Instruction 60 dated 06.07.2010 read with Rule 18(5) of SEZ Rules.
5	The learned respondent also failed to recognize that the various provisions of the SEZ Act and the rules made thereunder invoked by him namely Sec. 16, 21, or 25 of the SEZ Act and rules 18 [5] or 54 [21 of the SEZ Rules which only concerned either certain general provision for administration of the Act, more particularly for monitoring. and enforcing the obligation to achieve value addition undertaken by a unit in the SEZ [refer rule 54] and never provided for any violations with regard to either the customs Act or the FTDR Act the order passed based on facts not relating to the said obligation to achieve specified value addition undertaken by them renders the impugned proceedings void ab-initio and redundant for want of jurisdiction	Section 16, 21 and 25 of SEZ Act and Rule 18(5) of SEZ Rules are not just administrative provisions; they are enforceable provisions. Any provision of law is for compliance and violation of them obviously warrants action by the authority. If it is not done so then the law becomes infructuous. Further it is stated that SEZ Act and Rules not only aims at monitoring and enforcing the obligations to achieve value addition but also provides to check for violations under '' notified offences" in terms of Rule 21 of SEZ Rules. As seen from Notification issued by the Department of Commerce vide S.O. No.77 (E) dated 13.01.2010 and S.O.No.2665(E) dated 05.08.2016, it is clear that the offences punishable/ covered under FT (DR) Act, 1992 and Customs Act 1962 are notified as offenses

		under SEZ Act, 2005 and violation committed under customs Act and FT(D&R) Act are very much sustainable under SEZ Act. Hence commission of notified offences is also inextricably linked to violation of terms of conditions under which LOA is issued. Thus it can be said that the order passed for violation of notified offense is legally tenable.
6	The learned respondent further Committed total injustice to them by passing the impugned order depriving the appellant and their employees of their livelihood resulting gross violation to their fundamental right guaranteed under Art. 19 [1] [g] of the Constitution of India to carry on any trade or profession in as much as the reasons recorded in the impugned order and approved by the UAC is totally improper unreasonable biased and therefore unjustified	Article 19(1)(g) states: "All citizens of India have the right to practice any profession, or to carry on any occupation, trade or business." However, this right is not absolute and is subject to reasonable restrictions imposed by the state. The Supreme Court has consistently held that the right to carry on business under Article 19(1)(g) is not unfettered and must be exercised in a lawful manner. In other words, the right to carry on business cannot be used to justify or cover up unlawful activities, such as tax evasion, money laundering, or other illegal practices. To sum up, the right to carry on business cannot be used to justify an unlawful act and hence SEZ Unit's contention is not tenable. As already stated, it is clearly established by the investigation that the appellant had handled their own goods in the name of M/s. Samyga International, who (M/s. Samyga) had categorically stated under Section 108 of Customs Act, 1962 that they have not imported subject goods and also not authorised the appellant to use their IEC. Further the appellant has manipulated and forged the signature of Shri. Gane, the proprietor of M/s. Samyga International. It is well settled law that fraudsters cannot claim rights under law.
7	The learned respondent before invoking notification no. S.O. 77 [E] dated	Once the goods are attempted to be cleared into DTA, all the provisions of

	13.01.2010 and notification S.O. No. 2665 [E} dated 05.08.2016 which are notifications issued in exercise of the powers conferred under Sec 21 of the SEZ for notifying single enforcement officer or agency for taking action against notified offences and that too by observing that their contention that violations committed under the rules are not sustainable under the SEZ Act which was never their contention whereas their contention was that the offences alleged against them invoking the customs provisions for which the notice has been issued to them by the customs authority in respect of the goods imported by their customer Samyga International cannot result in making the specific allegation of violation of rule 18 [5] of the SEZ rules read with the instruction issued in 2010 and which by no stretch of imagination could be got over by citing the above notifications issued for the purpose of notifying the specified offences and the single enforcing agency only and not as assumed and recorded by the learned respondent in the impugned order	Customs Act are applicable to the goods and to the Unit holder and the violations committed in the subject case by the Unit Holder falls under the notified offences of SEZ Act and hence violation committed under FT(D&R) Act and Customs Act is punishable (sustainable) under SEZ Act.
8	The learned respondent further committed gross judicial improprietory in traversing beyond the show cause notice issued to them so as to record certain self-serving incorrect and extraneous findings to sustain the impugned order against them which per-se renders the order totally devoid of merits and unsustainable	This is a general ground devoid of any specific instance and evidences and hence warrants no comments.
9	The fact that the learned respondent and his committee have now given up their objection on non-furnishing of the correct information with regard to their KYC and have only placed reliance on - the fact of cancellation of their LOA granted to them for operating at the	As discussed above, the cancellation of LOA granted to M/s VJP shipping at NDR is legal and proper and there is nothing wrong to reject the application of VJP Shipping to set up the FTWZ Unit at New Chennai Township Pvt ltd on the ground of cancellation of LOA at NDR- SEZ.

	NDR FTWZ Nandhiyambakkam Village Minjur Panchayat Ponneri Taluk Tiruvallur District in the state of Tamil Nadu as the reason for rejecting their application to set up the new FTWZ unit at the New Chennai Township Pvt Ltd., IT-ITES is also not proper or sustainable more so because the cancellation of the LOA is not proper or correct	When a Letter of Approval (LoA) of an SEZ unit is cancelled, it typically nullifies the unit's privileges and benefits under the SEZ scheme. As a consequence, the cancellation of the LoA would also impact the unit's ability to set up another unit in a different SEZ. It is pertinent to note that the Ministry of Commerce has taken various initiatives to streamline the functioning FTWZs and has suggested the field formations to exercise due diligence and caution while approving new Units and monitoring existing warehousing units in SEZs. The Ministry has suggested various measures which inter-alia includes verification of applicant credentials (CHAs, clients, etc.) jointly with UAC members from Customs, GST, and Income Tax, conducting thorough examinations of track records, Monitoring goods movement from FTWZ units to prevent irregularities and strengthening the internal controls and streamline FTWZ functioning. In the light of the above, the decision taken in rejecting the application of VJP unit to set up a new Unit on the ground of LOA cancellation at NDR SEZ is legal and proper.
10	The action of the learned respondent in accepting the bond cum undertaking from them executed on 08.07.2024 and accepting it on 02.08.2024 by which time he was well aware of the rejection of their application for setting up the FTWZ unit at New Chennai Township Pvt Ltd., IT-ITES, the issue of the notice to them within 6 days when no new facts have emerged exposed the total bias and prejudice of the learned Development commissioner which	When additional BLUT was executed by VJP Shipping, the same was accepted on 02.08.2024 in view of the fact that the FTWZ unit at NDR Zone was operational on that date. The contention of the Appellant that the issuance of SCN is borne out of prejudice lacks any basis as the SCN has been issued in view of the violations committed by the FTWZ Unit (Appellant).

	require the impugned order passed by him and approved by the UAC to be set aside in the interest of justice and fair play	
11	The impugned order passed placing reliance on the only fact of alleged misuse of the IEC provision, even without invoking or showing the-specific provision under the FTDR or the rules providing for any contravention relating to the use of others IEC and by totally overlooking the judgment of the Hon'ble Kerala High Court by recording the frivolous and extraneous finding on a totally assumed basis that the IEC was misused by the appellant who is supposed to hold the imported goods on behalf of his client even when the true fact is that they only acted as the CB for the IEC Samyga International with his consent and approval and never were concerned with the subject goods in any manner which render his finding totally incorrect and therefore unsustainable	The subject LoA cancellation order stems from the irregularities in the import transactions of the importer M/s Samyga International by way of misdeclation of description/ value and various acts of omission and commissions by the FTWZ unit M/s VJP Shipping India Pvt Ltd by way of misuse of IEC of the importer. It is observed from statement recorded from the actual IEC holder Shri Mydeen Gane (Prop. Of M/s Samyga international) during the investigation by DRI that he has not imported any of those consignment, and that no payment to any of the supplier had gone from the account of the IEC holder and the IEC holder has also not given the KYC or authorisation to the Appellant to act as his agent and to hold his goods in the unit. From the DRI investigations , it was clear that Smt R Jothi (w/o KY Prasad) of M/s VJP Shipping India Pvt Ltd (as per the instructions of Shri KY Prasad) obtained IEC in the name of M/s Samyga International using the credentials of Shri Sardar Mydeen Gane and that Shri KY Prasad and M/s VJP Shipping India Pvt Ltd mis-used the IEC of M/s Samyga International for various imports in their name for which monetary consideration was paid to Shri Sardar Mydeen Gane. Further it was revealed in the investigations of DRI that Shri Sardar Mydeen Gane lent his IEC and banking credentials to Shri KY Prasad and Smt Jothi and allowed his bank account to be used for making money transactions with regard to the imports made in the name of M/s Samyga International, for monetary consideration;

		Further it is pertinent to observe that as per rule 18(5) of SEZ Rules read with instruction 60 / 2010 dated 6/7/2010, a unit holder shall hold goods on behalf of supplier or buyer or DTA supplier or buyer However, it is seen from the DRI investigation that the Appellant , instead of merely holding the goods on behalf of the importer, he has stepped into the shoes of the importer by way of misusing third party IEC for import of restricted goods viz., used parts and accessories of multi- functional device, MFD) under concealment in the name of M/s Samyga International , without the consent/ authorisation signature of actual importer and KYC. Further it was evident from the statement of actual IEC holder Shri Mydeen Gane, the actual IEC holder of M/s Samyga International that the goods were not purchased or imported by M/s Samyga International .Therefore, it is clear that the Appellant had actually acted in a malafide way to clear the undervalued and restricted goods and the same is corroborated by the statements of actual IEC holder Shri Mydeen Gane of Samyga International, Thus misuse of IEC by the FTWZ Unit has been clearly proved in the investigation and charges against the Appellant have been confirmed by the Adjudicating Authority vide order no 110493 dated 27.11.2024 wherein the imported goods have been held to be liable for confiscation and penalties have been imposed on Appellant M/S VJP Shipping as well as the employees/Directors of the Appellant. Hence the contention of the Appellant that he has not misused the IEC is not correct. Further the case law cited by the

		Noticee is not applicable to the mis-use of IEC code by the FTWZ unit, who is supposed to hold the imported goods on behalf of his clients.
12	The learned respondent without prejudice to any of the foregoing submissions also committed gross improprietory in traversing beyond the show cause notice to record the findings in paras 15 to 19 of the impugned order which are not only excessive but also contrary to the true facts as the observations made therein against the appellant as if they had imported the	The Development Commissioner has passed the order taking into consideration the findings of the DRI investigation. Further it is stated that the charges against the Appellant about the misuse have been confirmed by the Adjudicating authority vide order no 110493 dated 27.11.2024 wherein it is interalia held that Shri KY Prasad of M/s VJP Shipping is the beneficial owner of

	goods into India which is totally denied as false and, untrue on account of which the impugned order passed by the learned respondent and approved by the UAC require to be vacated in the interest of justice	the impugned imported goods vide bill of entry number 1003244 dated 11.10.2022 under Section 2(3A) of the Customs Act 1962. Hence the contention of the Appellant is not sustainable.
13	The learned Development Commissioner ought to have been oblivious of the fact that when the notice under customs Act had already been issued to them on the investigation carried out by DRI the jurisdiction to deal with such issue squarely lies with the customs and the development commissioner is not authorised to conduct parallel proceedings by citing the aforementioned notifications issued with a specific purpose to notify a single enforcement agency for dealing with certain specified offences and if the said proceedings are permitted to be approved then it would amount to double jeopardy attracting the bar as provided under Art 20 [2] of the Constitution of India	The contention of the Appellant that the Development commissioner is conducting the parallel proceedings in respect of the notified offences is not correct. It is to be noted that the jurisdictional Customs Authority is the competent authority to conduct the proceedings arising out of the notified offences. In the subject case, it is seen in terms of Bond cum legal undertaking, the Appellant has undertaken to abide by the Act and Rules. As per Rule 18 (5) of SEZ Rules read with instruction no 60 dated 6/7/2010, the Appellant unit holder has to hold goods only on behalf of the importer or buyer,Whereas in the subject case, the buyer(importer) has categorically stated that the goods were not imported by them, and hence the Appellant has clearly violated Rule 18 (5) of the said Rules and the said circular. Therefore, it is clear that the violations under FTDR Act, Customs Act and rules made thereunder have resulted in the violation of provisions of SEZ Act and Rules made thereunder, **and hence the action was taken by the Development commissioner against the Appellant in view of violations committed under SEZ Act/Rules and the same is well within the law.**
14	The learned respondent also ought to have appreciated and accepted that when only a show cause notice had been issued to them by the Customs it only •remained as allegations yet to be	In the subject case, the Appellant has been found to be the habitual offender who has involved in the various irregularities in respect of various import transactions effected in Chennai Customs

	proved as per law and yet to attain finality he ought not to have initiated the proceedings against them resulting in the draconian punishment of losing their entire business whereas he ought to have awaited the final outcome of the notice even if had the legal authority to proceed against them instead of rushing to hold the appellant guilty which is highly improper and arbitrary and which only expose not only his bias and prejudice but also predetermination	Jurisdiction for which the Appellant/their Directors/Employees have been imposed penalties under Customs Act. Having coming to know the Appellant's antecedents, it was considered very much necessary to put an end to unethical business practices of the Appellant as the same cannot be allowed to be perpetuated. Hence the action taken by the Development commissioner in recommending for LoA cancellation and UAC's decision in cancelling the LoA is legal and proper .
15	The learned respondent's further finding recorded in para 20 as if the IEC holder during the course of the investigation stated that he had not imported the goods and no KYC authorisation has been given by him to the appellant herein to file the BE and to handle his goods is denied as totally incorrect and untrue not borne out of the records and in any case even if it were so the IEC holder ought to have filed necessary complaint either with the police or with the DGFT authorities which is not the case	The DRI investigation clearly revealed that the Appellant has used the credentials of actual importer and happens to be the beneficial owner of the imported goods and the same has been confirmed by the Adjudicating authority. Further it was proved that the actual owner of M/s Samyga International (importer) has lent their IEC for the monetary consideration to be used by the Appellant. Hence the findings by the Development Commissioner wrt role played by the Appellant in the import transaction is based the results of DRI investigations only.
16	The learned respondent exposed his highhandedness and bias by recording the finding in para 21 of the impugned order as if the used parts and accessories of Multi-function devices invoking para 2.31 of the FTP even without considering their plea that the even used MFD machines itself are not restricted in terms of the judgments of the Supreme Court/ High Court and Tribunal when the subject import is admitted to be only parts and the machines which render his order totally bad and unsustainable	It is stated that the goods imported in this case are "**Used Parts and Accessories of Multi- Functional Device"** as against declared "**'Printer accessories"** fall under the restricted category under Para 2.31 of Foreign Trade Policy 2015-20 and these policy restrictions will apply for these goods at the time of DTA clearance. Irrespective of restrictive or free nature of goods, it is a fact that the Appellant has committed violations under SEZ Act/Rules

17	The finding recorded by the learned respondent in para 15 of the impugned order that the investigation had brought out the fact that the FTWZ unit has imported the goods without knowledge or consent of the actual IEC holder is totally untrue and in correct as they only acted as the CB for the said importer and IEC holder for the act of which only they were proposed for the imposition of the penalties under the Customs Act and their CB license suspended a fact relied in support in the impugned order	**From 17 - 21** As already discussed in above paras, the charges against the Appellant wrt misuse of IEC by the Appellant (in his capacity as FTWZ Unit) has been clearly proved. Further the irregularities committed by the Appellant (in his capacity as Customs Broker) lend credence to his bad antecedents and the same necessitated the Development commissioner to take pro-active action against the Appellant in line with DoC's instructions to streamline the working of FTWZ and preserve the integrity of the SEZ eco System. Hence the order passed by the Development commissioner is legal and proper
18	The reliance placed by the learned respondent on the fact of their CB license being kept under continued suspension by the licensing authority under the customs no more survives in view of the recent orders passed by the Hon' ble Customs Excise Service Tax Tribunal Chennai vacating the said order vindicates their stand	
19	The learned respondent in any case ought to have known that the CB license held by them being governed by a totally separate legislation namely Customs Brokers Licensing Regulations, 2018 question of invoking the alleged contravention for cancellation of their LOA issued in terms of the SEZ Act and the rules made thereunder is highly improper and incorrect more particularly when the Hon'ble Madras High Court had categorically held that the violation if any by a customs broker in terms of the regulation cannot result in invocation of any penal provisions under the Customs Act	
20	The appellant submits that the recent circular issued by the CBIC instructing officers not to indiscriminately proceed against any Customs Broker unless there is an allegation of abetment against them made in the show cause	

	notice issued under the Customs Act also squarely support the case of the appellant	
21	The findings recorded by the learned respondent in para 24 of the impugned order clearly evidence to the fact that he was acting in terms of the suggestions issued by the Ministry of Commerce purely concerning the verification of antecedents for approving new units and monitoring existing units and that too for the reason of the recent growing trend of DTA supplies and increased in the import of risky consignments involving mis-declaration of description and value by unscrupulous CHA's and their clients thus only sounding a caution to carry out proper antecedent verification whereas the learned respondent had beyond the said suggestion to rely upon certain cases registered against their clients leading to issue of the show cause notice to the said clients and to them in their capacity as their Customs Broker even when the proceedings initiated against them under the CBLR relied upon in support of the issue of the impugned order _ stood set aside making the said order totally devoid of any merits	
22	The appellant further for the sake of brevity craves leave of the Board of Approval New Delhi to treat the grounds of the memorandum filed by them against cancellation of their LOA granted to them for operating at the NDR FTWZ Nandhiyambakkam Village Minjur Panchayat Ponneri Taluk Tiruvallur District in the state of Tamil Nadu	Further it is stated that all the grounds have suitably countered in the order in original Passed by the Development commissioner. In view of the above, the appeal filed by the VJP Unit against cancellation of LOA and rejection of application for setting up FTWZ Unit may be set aside.

The above appeals were deferred in the 127th BOA meeting held on 8th April, 2025 **the Board heard the appellant. The appellant requested to submitted the additional written**

submissions, the request was approved by the Board. The Board deferred the case for next meeting of BOA.

The appellant has submitted the following.

The appellant above named submits that they had filed two appeals in terms of rule 55 of the SEZ Rules against order dated 18.11.2024 passed by the learned Development Commissioner MEPZ Chennai one involving revocation of their FTWZ license and the other against refusal to grant them a fresh FTWZ warehouse license at the Chennai covered by the supplementary agenda points 129.9 [i] and 129.9 [ii] respectively

2. The appellant submits that they are filing this written argument as permitted by the Hon'ble BoA on noticing that the system did not enable the hearing of their counsel's argument

3. The appellant submits that they are a private limited company engaged in the business of running the FTWZ warehousing services at the NDR FTWZ Tamil Nadu after having been approved by the BoA on 26.04.2021 having been issued with the LOP dated 03.05.2021 and have been carrying on their services promptly since then fully meeting with the conditions imposed under the LOP. The appellant submits that prior to the said date they obtained a license from the Principal Commissioner of Customs Chennai and licensing authority under the Customs Brokers Licensing Regulation [CBLR] and were carrying on the work as a Custom Broker [CB] also fully meeting the requirements of the CBLR

4. In the above factual position, the officers attached to the DRI instituted certain investigation against the importers for whom they acted as the CB, which investigation never involved their working as an FTWZ SEZ unit

5. The appellant submits that various show cause notices were issued to them by the Customs in respect of their functioning as a CB firm including against their directors and employees in respect of which notices they filed their replies contesting the said notices and wherever orders came to be passed they also filed the statutory appeals as provided under the Customs Act and thus the above issues raised by the DRI have not attained finality

6. The appellant submits that based on the recommendations of the DRI their CB license was also suspended by the licensing customs authority besides passing the orders for continuing the suspension and on the appellant preferring an appeal in terms of the customs Act the said order of continued suspension came to be quashed by the Hon'ble Customs Excise Service Tax Appellate Tribunal vide its order dated 18.12.2024 vide copy enclosed at page 62 of the type set. Thus, no reliance could be placed against them on the fact of suspension of their CB license

7. The appellant submits that one of the case registered by the DRI related to the import of printer accessories by one Samyga International which upon reference to them by their CB firm they filed the Thoka Bill of Entry based on the documents provided to them and while the goods remained in their warehouse with no bill filed for its clearance in the DTA the said goods were seized under the pretext that its description and value were mis-declared and that the import

was made by misusing the IEC to cause the issue of a common notice dated 16.10.2023 enclosed with additional documents sent through email [page 22] wherein their CB firm was only implicated as could be seen from para 39 of page 60. The notice eventhough recorded the statement of the IEC reproduced at para 10 informing that he had taken the IEC and filed the Bill at the behest of one Safeel a Srilankan national residing at Dubai the notice for reasons best known implicated one of their directors of CB Mr. K.Y. Prasad in his individual capacity as the beneficial owner without in any manner establishing that he had ordered for the subject goods and had full over the goods as required under Sec. 2 [3A] of the Customs Act. In any case, since the notice only implicated Mr. K.Y. Prasad in his individual capacity the appellant is advised to submit that the said allegation could in no way result in implicating their company must less the FTWZ SEZ unit the appellant herein. The appellant further submits that each one of the noticees named in the said common show cause notice are contesting the allegations and would avail the statutory appellate remedy available under the customs Act

8. The appellant submits that in the above factual position, they with a view to expand their commercial activities made an application dated 13.06.2024 with the DC MEPZ Chennai for grant of another FTWZ SEZ unit for operating their services at M/S New Chennai Township Pvt Ltd., [Light Engineering]. The appellant entertaining the bonafide belief that the antecedent verification in the form of questions put in the subject application relating to issue of show cause notice against them or against their director related to their SEZ unit in operation answered it as Not Applicable. The appellant deems it necessary to place on record that on 12.07.2024, the appellant's existing SEZ unit license was renewed and on their executing the fresh bond cum letter of undertaking [LUT] the same was accepted by the DC MEPZ on 02.08.2024. However, the BoA communicated to them their decision to reject their application for the grant of the new SEZ unit license at the New Chennai Township Pvt ltd., and consequent to their sending their representation they were asked to give their antecedents for considering their application they also filed the same on 10.11.2024

8. The appellant submits that in the above factual position just six days prior to accepting the renewal of their existing SEZ unit and accepting the bond cum legal undertaking on 08.08.2024 they were issued with the impugned show cause notice asking them to show cause as to why the LOA should not be cancelled under Sec. 16 of the SEZ Act, 2005 and action should not be taken under Sec. 25 ibid. The notice in support of the proposals made the following averments/allegations based on the report said to have been received from the DRI namely

[i] the thoka bill no. 1003244 dated 11.10.2022 filed by them for the importer Samyga International was taken up for investigation to find that the goods were declared as PRINTER ACCESSORIES whereas used parts and accessories of MFD printers were noticed which they called as not declared goods which attracted the restriction under para 2.31 of the FTP and the prohibition under CRO. The value for the goods was alleged to be under-declared

[ii] the show cause notice dated 16.10.2023 issued it was admitted that while filing the subject bill on behalf of Samyga International they have not correctly declared the goods rendering the goods liable for confiscation and they become liable for penalties

[iii] K.Y Prasad one of their directors misused the IEC of Samyga International with the admission that monetary consideration was paid to the IEC holder which allegation was relied in support to render the goods liable for confiscation. The other director K. Vallaraj was charged as having supported the misuse with the claim that it rendered the goods liable for confiscation

[iv] the crux of the above allegation is contained in para 9 of the Show cause notice namely that they mis-declared the goods and misused the IEC

[v] in para 10 of the notice the fact of suspension of their CB license by the principal Commissioner and licensing authority was referred to

[vi] based on the said fact and merely invoking rule 18 [5] of the SEZ Rules and referring to instructions 60 dated 08/07/2010 it was alleged that they had persistently contravened the provisions of the SEZ Act and failed in its obligation stipulated in rule 18 [5] ibid and terms and conditions of the Bond cum letter of undertaking the proposal as indicated above was made

9. The appellant submits that they filed their detailed reply 16.08.2024 followed by a written submission dated 21.10.2023 stoutly contested the above proposal on the ground that the provisions invoked in the light of the admitted facts are not legally sustainable and in any case the proposal made by the DRI for action under the Customs Act which is only at the stage of allegation cannot be a ground for revoking their SEZ warehouse license and in any case there is no merits in the proposal made by furnishing subtle facts and legal grounds.

10. The learned DC passed the impugned order under challenge to be approved by the BoA traversing beyond the show cause notice [1] to rely upon Sec. 21 read with the notification claiming that offences under the Customs Act are notified offences even when he had not invoked the said provision in the impugned notice and more so when the said provision only provided for single enforcement officer or agency with the DRI not dealing with violation of any of the provisions of the SEZ Act or rules made thereunder and in fact having not proceeded against their SEZ unit but only against their CB company rendering his above finding suffer from excesses apart from being not supported by the said provisions invoked besides being totally devoid of any merits

11. In para 14 of the order the omission to refer to the appropriate clause in the LUT was filled up by claiming clause 1 which is an undertaking to follow abide by the SEZ Act and the rules was cited which on the face of the record expose the demerits of the said finding and its unacceptability

12. In para 15 the respondent traversed beyond the scope of the notice to observe that the investigation has brought out that the FTWZ unit has imported the goods without the knowledge of the IEC which for this sole reason as well as for the reason of self-contradiction in as much as in the notice it was admitted that the thoka BE was filed by them on behalf of Samyga International and consideration was paid by one of their director to the IEC holder for using his IEC. Again, the fact that only their director Prasad in his individual capacity was charged as the beneficial owner without any evidence being brought on record the DC MEPZ

Chennai recording the finding as if they had imported the goods is totally untrue false and beyond the record

13. Similarly, the entire findings recorded in para 16 of the order apart from being beyond the scope of the notice are also extraneous false and unproved and therefore are not admissible

14. As regards the order in para 17 it has nothing to do with the proceedings initiated in the impugned notice and are therefore are irrelevant and extraneous

15. The findings recorded in para 18 & 19 of the impugned order are totally untrue and incorrect and in any case being finding recorded beyond the scope of the notice issued to them cannot be sustained. The learned DC MEPZ Chennai had introduced certain new facts not alleged in the notice and the accusation that they had imported the goods misusing the IEC of Samyga Internation even the DRI had not alleged so is highly arbitrary and totally uncalled for. In any case these unfounded and unreliable and untrue accusations have no relevance to the allegation that they had violated rule 18 [5] of the SEZ Rules which provision merely stipulates as for what purpose the unit could be licensed and nothing beyond

16. The appellant without prejudice to their contention that they had not imported the subject goods or misused the IEC of a third part and which in any case is not the charge made by the DRI respectfully submits that the above allegation referred to by the respondent in para 20 of his order is also not legally tenable in view of the judgment of the Kerala High Court in the case of Proprietor Carmel Exports and Imports enclosed along with the appeal papers [para 15 refers]

17. As regards the finding recorded in para 21 of the order the appellant submits that the import of restricted goods by an importer which are warehoused by them cannot be a ground for revocation of their license. In any case the DC MEPZ Chennai failed to appreciate that they had filed the subject Thoka BE only and not any DTA BE to allege any attempted improper clearance by them. Above all as regards used MFDs the Supreme Court and High Court of Madras were allowing the clearance of these goods by recording the finding that the MeiTy notification will have no application to these goods and is a matter for adjudication by the customs department against the importer with they being only an SEZ unit have nothing to do with the said import

18 The authority below even without being aware as to whether the cases listed in Table A pertained to the SEZ unit or their CB company and more had placed reliance on the said facts at their back without putting them to notice by referring to the said cases in the impugned notice issued to them had committed total judicial improprietory on account of which the said finding recorded by him in the impugned order is not legally maintainable

19. The show cause notice eventhough referred to the order of suspension issued to their CB company and thus was well aware of the existence of the said company however did not rely upon the allegations based on the said suspension order which in any case was unreliable in the light of the vacation of the said order by the higher appellate authority namely CESTAT Chennai

20. The appellant submits that the learned DC MEPZ based on the cancellation of their existing SEZ unit upon a improper consideration of the fact and law by violating the principles of natural justice by not taking into consideration any of their submissions exposing bias prejudice and pre-determination also rejected their application for setting upon of the new SEZ unit for the only reason of his revoking their existing license which is not fair or reasonable

21 The appellant is constraint to record that even in the impugned order issued by the DC MEPZ Chennai it is stated that an appeal lies against the said order under Sec. 15 of the FTDR Act assuming it to be an order passed under the said Act omitting to take note of the fact that the impugned orders passed only attracted rule 55 of the SEZ Rules which on the face of it expose the non-application and prejudicial attitude of the learned respondent

22. The appellant submits that consequent to their raising the subtle grounds in their appeal memorandum the DC has offered his para wise comments duly communicated to this appellant a perusal of which show that except for his reiterating his above finding he had also further introduced new facts not permissible in law which in any case are not relevant to their case

23. The appellant submits that the revocation of their FTWZ unit license had put them out of business resulting in not only their whole family deprived of their livelihood but also more than 20 others who have been employed by them

24. The appellant therefore submits that they have not committed any violation of the provisions of the SEZ Act or the rules is concerned so far as the services provided by them as a licensed SEZ warehouse unit and that the allegations as made out by the DRI in their show cause notice pertained to their CB company which if at all punishable is under the provisions of the Customs Act and the CBLR and certainly not under the SEZ Act or rules and the allegations made in the notice are only merely allegations finally to be proved and concluded in the manner known to law, and in any case the allegation that they violated rule 18 [5] of the SEZ Rules is totally unfounded and not maintainable and consequently Sec. 16 of the SEZ could not have been invoked especially in the absence of showing any clause in the LoA being violated by them whereas the respondent had only held them to have violated the Bond cum LUT that too the general undertaking to strictly observe the provisions of the SEZ Act and rules and as such there is absolutely no merit in the order passed by the DC MEPZ Chennai in either cancelling their existing SEZ unit license or refusing to grant them a fresh license

24. It is therefore respectfully prayed that this Hon'ble Board of Approval may be pleased to consider their submissions judiciously and in the proper Perspective and may be pleased to allow both their appeals by setting aside the impugned orders passed against them and thus render justice

Dated at Chennai this the 8th day of April 2025

129.9(iii) Appeal filed by M/s. Shivansh Terminals LLP under the provision of Section 16(4) of the SEZ Act, 2005 against the Order-in-Original dated 02.01.2025 passed by DC, APSEZ, Mundra.

Jurisdictional SEZ – APSEZ, Mundra

Brief facts of the Case:

1. The Appellant is a Warehousing Services Provider unit located in APSEZ, Mundra and is engaged in the authorized operations as approved vide LOA dated 05.072021. The Appellant has been carrying out its activities in full compliance with the provisions of the Special Economic Zones Act, 2005 and the Rules made thereunder, the terms & conditions of the LOA as well as other applicable laws.
2. Vide Show Cause Notice F. No. APSEZ/08/STL/2021-22/58 dated 28.04.2023 (hereinafter "the SCN"), the Development Commissioner proposed to cancel the LOA and impose penalty under Section 11(3) of the Foreign Trade (Development & Regulation) Act, 1992 on the ground that certain goods (Areca Nuts) were alleged to have been illegally imported and removed by M/S Omkar International through the Appellant, and that the Appellant transported the containers outside the SEZ with an intent to de-stuff the actual imported cargo (Areca Nuts) and replace it with the declared cargo (LDPE Regrind).
3. The Appellant filed a detailed reply dated 17.09.2024 to the SCN rebutting each of the allegations with substantive submissions on facts and law. It was inter alia submitted that:

    - The Appellant is only a Warehousing Service Provider and not the importer of the goods. It was not aware of and had no role in the alleged illegal import of Areca Nuts.
    - Gujarat Police has no authority to intercept import consignments. Their findings cannot be relied upon without independent corroboration.
    - The Appellant handled the receipt of containers strictly as per laid down procedures. Customs' own Panchnama proves that the container seals were intact and contents matched the import documents.
    - Mere movement of containers outside SEZ gate for a few hours cannot be grounds to allege illegal de-stuffing, especially when there is no evidence of tampering of seals or change of goods.
    - SCN was issued without any tangible evidence and is based on surmises and conjectures.
    - Penalty under Section 11(3) can be imposed only when a person knowingly submits a false/ forged document to authorities. No such act is alleged against the Appellant.

4. Further, during the personal hearing held on 07.10.2024, written submissions dated 07.10.2024 were filed highlighting the following points:

    - The Show Cause Notice was issued under Section 13 of FTDR Act which empowers the adjudicating authority only to impose penalty or confiscation, and not to cancel the LOA.
    - There is no clarity in the SCN as to what specific contravention is alleged against the Appellant to invoke penal action. Simply being a custodian of goods does not make the Appellant liable for any act of the importer.
    - Gujarat Police investigations, which form the basis of the SCN, did not find any involvement of or file any charges against the Appellant, which shows that the Appellant had no role in the alleged offences.

5. However, without considering any of the aforesaid submissions and evidence presented by the Appellant, the Development Commissioner has proceeded to pass the Impugned Order in a mechanical manner, cancelling the LOA of the Appellant.

PRELIMINARY OBJECTIONS:

Before addressing the substantive grounds of appeal, the Appellant raises the following preliminary objections that go to the root of the matter:

A. Show Cause Notice issued without jurisdiction

2.1 The Show Cause Notice dated 28.04.2023 was issued under Section 13 of the Foreign Trade (Development & Regulation) Act, 1992 ("FTDR Act"). Section 13 states:

"Any penalty may be imposed or any confiscation may be adjudged under this Act by the Director General or, subject to such limits as may be specified, by such other officer as the Central Government may, by notification in the Official Gazette, authorise in this behalf. "

2.2 A bare reading of Section 13 makes it clear that it only empowers:

a) Imposition of penalty
b) Adjudication of confiscation

2.3 The provision does not grant any power to cancel a Letter of Approval issued under the SEZ Act. This power vests exclusively with the Approval Committee under Section 16(1) of the SEZ Act.

2.4 It is a settled principle that statutory authorities must act strictly within the four corners of their empowering statute. In The Consumer Action Group & Anr vs State Of Tamil Nadu & Ors [(AIR 2000 SUPREME COURT 30601, the Supreme Court held:

" Whenever any statute confers any power on any statutory authority including a delegatee under a valid statute, howsoever wide the discretion may be, the same has to be exercised reasonably within the sphere that statute confers and such exercise of power must stand the test to judicial scrutiny. This judicial scrutiny is one of the basic features of our Constitution."

"When such a wide power is vested in the Government it has to be exercised with greater circumspection. Greater is the power, greater should be the caution. No pourer is absolute, it is hedged by the checks in the statute itself. Existence of power does not mean to give one on his mere asking. The entrustment of such power is neither to act in benevolence nor in the extra statutory field. Entrustment of such a power is only for the public good and for the public cause. While exercising such a power the authority has to keep in mind the purpose and the policy of the Act and while granting relief has to equate the resultant effect of such a grant on both viz., the public and the individual."

2.5 Similarly, in Sri. Sudarshan V Biradar vs State of Karnataka on 17 April, 2023 [WRIT PETITION No.15800 OF 20221, it was observed:

"Whenever any person or body of persons exercising statutory authority acts beyond the powers conferred upon it by the statute such acts become ultra vires and resultantly void. Therefore, substantive ultra vires would mean delegated legislation goes beyond the scope of the authority conferred on it by the parent statute. It is the fundamental principle of law that a public authority cannot act outside the powers that is conferred upon it."

2.6 The principle that when a statute requires something to be done in a particular manner, it must be done in that manner alone has been consistently upheld by the Supreme Court:

3. **Opto Circuit India Ltd. vs Axis Bank [AIR 2021 SUPREME COURT 7531**

"15. This Court has time and again emphasised that ifa statute provides for a thing to be done in a particular manner, then it has to be done in that manner alone and in no other manner.

3. **Chandra Kishor Jha vs. Mahavir Prasad and Ors. (1999) 8 SCC 266**

"Where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. "

2.7 Therefore, the Development Commissioner could not have cancelled the LOA while exercising powers under Section 13 of FTDR Act. The entire proceedings being without jurisdiction are void ab initio.

B. Violation of Section 16(1) Requirements

2.8 Even assuming the Development Commissioner could exercise powers under Section 16(1) of SEZ Act (though not invoked in SCN), the requirements thereof have not been met.

2.9 Section 16(1) states:
"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.

2.10 Two essential prerequisites emerge:

a. There must be persistent contravention
b. The Approval Committee must cancel the LOA

2.11 Neither requirement is satisfied in the present case:

a. The entire case is based on a single alleged incident of 23.02.2023. No pattern of repeated violations has been shown.
b. The Impugned Order has been passed by the Development Commissioner, not the Approval Committee as required by statute.

2.12 On "persistent contravention", courts have consistently held that isolated incidents do not qualify:

a. **M/S GUPTA BROTHERS v. EAST DELHI MUNICIPAL CORPORATION & ANR [W.P.(C) 2641/2015; Delhi High Court]:**

The word 'persistent ' otherwise means "continuing firmly or obstinately in an opinion or course of action in spite of difficulty or opposition"

b. The word "Persistent" has been discussed in the following judgments:

[1] Vijay Amba Das Diware & others Vs. Balkrishna Waman Dande & another [(2000) 4 SCC 126].

<u>Background and proposition:</u>

This judgment pertains to persistent default in payment of rent. The date to pay rent occurs periodicity on a day fixed for payment in each month. In every month, there is a need to follow the promise to pay the rent.

Failure to perform the duty over a long spell of repetitive acts of omissions proves habit and makes the behaviour persistent in the form.

[2] Vijay Narain Singh Vs. State of Bihar & others [(1984) 3 SCC

Background and proposition:

This case pertains to preventive detention. The acts of detenu, as defined in the law concerned, have to be persistent. To be persistent, the acts have to be committed with repetitiveness and habitualness in those abhorred and anti-social acts.

Grounds of Appeal:

A. **The Impugned Order suffers from total non-application of mind and has been passed in gross violation of the principles of natural justice:**

I. It is settled law that the order of a quasi-judicial authority must be a reasoned and speaking one. The authority is duty bound to analyse the material before it and disclose the reasons which lead to the conclusion arrived at. An order which does not give reasons is not an order in the eyes of law.

II. In the present case, the Development Commissioner has passed the Impugned Order in a highly arbitrary and mechanical manner without even a whisper about the detailed submissions made by the Appellant in its replies dated 17.09.2024 and 07.10.2024. There is not even a single line in the order discussing the Appellant's defence and giving reasons for rejecting the same.

III. It was incumbent upon the Development Commissioner to have dealt with each of the contentions and evidence put forth by the Appellant and given a point-wise rebuttal in the Impugned Order if he wished to reject them. Failure to do so vitiates the order and makes it unsustainable in law.

IV. The Hon'ble Supreme Court in the case of Commissioner of Police, **Bombay vs. Gordhandas Bhanji, AIR 1952 SC 16 held that:**

"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or What he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

The Development Commissioner's order is in teeth of this ratio as it contains no reasons or findings having nexus to the Appellant's submissions.

V. In M/s. Steel Authority of India Ltd., v. STO, Rourkela-l Circle & Ors. reported in 2008 (5) Supreme 281, the Hon'ble Supreme Court testing the correctness of an order passed by the Assistant Commissioner of Sales Tax against the assessment, at Paragraph 10, held as follows:

" 10. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same it becomes lifeless.

vi. In Kranti Associates Private Limited and another vs Masood Ahamed Khan and Others reported in (2010) 9 SCC 496, the Hon'ble Supreme Court has considered a catena of decisions and summarised its finding as under: -

51. Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
b. A quasi-judicial authority must record reasons in support of its conclusions.
c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.
f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi judicial and even by administrative bodies.
g. Reasons facilitate the process of judicial review by superior Courts.
h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.
i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.
j. Insistence on reason is a requirement for both judicial accountability and transparency.
k. Ifa Judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.
l. ***Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or rubber stamp reasons' is not to be equated with a valid decision-making process.***
m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harvard Law Review 731-737).
n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994)

19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EINCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. **In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".**

The Impugned Order woefully falls short of this standard as it does not discuss the evidence or contentions at all.

vii. Thus, the Impugned Order is a non-speaking, unreasoned and perverse one liable to be set aside on this ground alone.

B.

B. **No case for cancellation of LOA is made out under Section 16(1) of SEZ Act:**

i. Cancellation of LOA is a drastic measure having serious civil consequences for a unit. Section 16(1) of the SEZ Act provides that LOA can be cancelled by the Approval Committee only when it has reason to believe that the unit has persistently contravened any of the terms & conditions or its obligations under the LOA.

ii. The Impugned Order does not disclose any persistent or repeated contraventions committed by the Appellant warranting cancellation of LOA. The very basis of the action is an isolated incident of certain goods allegedly imported by a third party through the Appellant's premises.

iii. There is no finding in the order that the Appellant was involved in or aware of the alleged illegal import. At best there are wild inferences drawn merely because the Appellant acted as a custodian of the goods. But there is not an iota of evidence to show abetment or collusion on part of the Appellant.

iv. It is pertinent to note that the detailed investigations conducted by Gujarat Police in the matter did not find any involvement of the Appellant in the alleged illegal import of Areca Nuts. The charge-sheet filed by them does not implicate the Appellant in any manner whatsoever. This crucial fact has been totally ignored by the Development Commissioner.

v. Customs' own Panchnama categorically states that when the containers were opened at the Appellant's premises in presence of Customs officers, the seals were intact and the goods were found to be granules matching the import documents. This clinching evidence demolishes the allegation that goods were changed by de-stuffing containers while in transit.

vi. The movement of containers outside SEZ gates for a few hours by the transporters cannot ipso facto lead to a presumption of tampering or replacement of goods without any corroborative evidence, especially when the same is satisfactorily explained by the vehicle drivers.

vii. The Impugned Order without any cogent basis makes bald allegations of "unauthorized and illegal movement of containers" by the Appellant 'tin gross violation of Customs Act and SEZ Act". The order does not specify which particular provisions were violated and how.

viii. Thus, the Impugned Order does not even remotely make out a case of persistent contravention by the Appellant so as to attract Section 16(1) of SEZ Act for cancellation of LOA. The Appellant cannot be vicariously held liable for any alleged acts of the importer, if any, without any evidence of knowledge or involvement.

C. **The SCN issued under Section 13 of FTDR Act does not empower the adjudicating authority to cancel LOA:**

i. As pointed out in the written submissions dated 17.09.2024 and 07.10.2024, the SCN has been issued under Section 13 of FTDR Act, 1992 which empowers the adjudicating authority only to impose penalty or order confiscation. It does not provide for cancellation of LOA.

ii. The SCN does not even refer to or allege any contravention under Section 16(1) of SEZ Act which is the only provision dealing with cancellation of LOA on account of persistent contraventions.

iii. It is trite law that a show cause notice is the foundation of any quasi-judicial proceedings and the adjudicating authority cannot travel beyond it. When the SCN does not invoke the correct legal provision (Section 16(1) of SEZ Act) or make out grounds for cancellation of LOA, the Impugned Order passed on this basis is without authority of law.

iv. The Hon'ble Supreme Court in J.S.Yadav vs State Of U.P & Anr on 18 April, 2011 (2011 AIR SCW 3078) held that:

It is a settled principle of law that no one can be condemned unheard and no order can be passed behind the back of a party and if any order is so passed, the same being in violation of principles of natural justice, is void ab initio.

This legal proposition was reiterated by Supreme Court in Ranjan Kumar vs State of Bihar & Ors on 16 April, 2014 (2014) 16 SCC 187 it was held by that:

"9. In J.S. Yadav v. State of Uttar Pradesh and another [(2011) 6 SCC 5701 it has been held that no order can be passed behind the back of a person adversely affecting him and such an order, if passed, is liable to be ignored being not binding on such a party as the same has been passed in violation of the principles of natural justice."

v. Viewed thus, the Impugned Order is wholly without jurisdiction, besides being in violation of principles of natural justice. The Development Commissioner could not have passed an order for cancellation of LOA in the absence of any such grounds in the SCN.

D. **Impugned Order is based on mere conjectures and assumptions without any credible evidence on record:**

i. A bare perusal of the Impugned Order shows that it has been passed in a casual and perfunctory manner solely relying upon the investigation report of Gujarat Police, without any independent application of mind by the Development Commissioner.

ii. The entire case in the SCN is projected on the basis of the purported detection of illegal import of Areca Nuts by Gujarat Police. However, it is beyond doubt that Gujarat Police has no authority or jurisdiction under the Customs Act to investigate into import offences. Their findings have no statutory backing.

iii. Curiously, although the Impugned Order heavily relies on Gujarat Police investigation to allege illegal imports through the Appellant's premises, it conveniently glosses over the fact that the charge-sheet filed by Gujarat Police does not implicate or level any allegations against the Appellant. This clearly demonstrates the pick and choose approach adopted by the Development Commissioner to artificially rope in the Appellant.

iv. The Impugned Order alleges "unauthorized and illegal movement of containers" by the Appellant with "active involvement" and "motive to destuff the actual imported cargo i.e. Areca Nuts from the containers and replace it with declared cargo i.e. LDPE Regrind". These are nothing but bald allegations without an iota of evidence in support thereof.

v. There is not even a whisper, leave alone any cogent evidence, to show that the Appellant was in any way involved in or aware of the alleged illegal import of Areca Nuts by M/S Omkar International. No statement of M/ s Omkar International or any other entity has been referred to in the Impugned Order to implicate the Appellant or prove its involvement.

vi. The entire case of alleged tampering and replacement of goods is demolished by the Appellant's own Panchnama which shows that when the containers were opened and examined at the Appellant's premises in presence of the Customs officers, the container seals were found intact and the goods were granules matching the import documents. This vital evidence has been simply brushed aside by the Development Commissioner without giving any reasons.

vii. Pertinently, although the SCN alleges that the "long duration of time spent by vehicles between exit and re-entry from Rangoli gate testifies" the illegal de-stuffing of Areca Nuts and replacement with LDPE granules, no evidence whatsoever has been brought on record to substantiate this bald allegation.

viii. The movement of containers outside the SEZ gate for 4-5 hours cannot by itself lead to any conclusion of tampering of goods. The plausible explanation given by the vehicle drivers that being late hours they had gone out to have food and rest has not been controverted by any evidence and that the drivers were compelled by the security personnels to park the trucks outside when they were going for food. For that purpose only, the cctv footage was demanded.

ix. Thus, the Impugned Order is based on mere surmises, conjectures and uncorroborated assumptions without any credible evidence on record. The

Hon'ble Supreme Court in E. P. Royappa vs State Of Tamil Nadu & Anr (1974 AIR 555) held that:

“Secondly, we must not also overlook that the burden of establishing mala fides in very heavy on the person who alleges it. The allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demands proof of a high order of credibility.”

In Samudabhai Punjabhai Sangada vs State of Gujarat (CRIMINAL APPEAL NO. 1591 of 2013), it has been stated by Gujarat High Court that:

"It is required to be stated that in this very judgment of the Hon'ble Apex Court in the case of Anjan Kumar Sarma (supra), the earlier judgment of the Hon'ble Apex Court has also been referred to which is in the case of Jahnrlal Das v. State of Orissa, reported in AIR SC 1991 SC 1388 —- (199 1) 3 SCC 2711, and it has been observed :

"It is no more res integra that suspicion cannot take the place of legal proof for sometimes, unconsciously it may happen to be a short step between moral certainty and legal proof. At times it can be a case of 'may be true'. But there is a long mental distance between 'may be true' and 'must be true' and the same divides conjecture from sure conclusions.

Similarly, in Assistant Collector of Central Excise vs V.P. Sayed Mohammed [1983 AIR 168]it was held that:

"Hence a mere whim or a surmise or suspicion furnishes an insufficient foundation upon which to raise a reasonable doubt, and so a vague conjecture, whimsical or vague doubt, a capricious and speculative doubt, an arbitrary, imaginary, fanciful, uncertain chimerical, trivial, indefinite or a mere possible doubt is not a reasonable doubt. Neither is a desire for more evidence of guilt, a capricious doubt or misgiving suggested by an ingenious counsel or arising from a merciful disposition or kindly feeling towards a prisoner, or from sympathy for him or his family" (See Woodroffe & Ameer Ali's Law of Evidence, 13th Edn. Vol.I pp. 203-204)."

E. **The Impugned Order is violative of Article 14 of the Constitution being arbitrary, unfair and discriminatory:**

i. It is well settled that Article 14 strikes at arbitrariness and prohibits unreasonable discrimination. The scope of article 14 was drastically increased by the Supreme Court by including the executive discretion under its ambit. In the case of E.P. Royappa v. State of Tamil Nadu, 1974, the court said that Article 14 gives a guarantee against the arbitrary actions of the State. The Right to Equality is against arbitrariness. They both are enemies to each other. So, it is important to protect the laws from the arbitrary actions of the Executive.

ii. In S.G. Jaisinghani v. Union of India, Supreme Court, for the first time held "absence of arbitrary power" as sine qua non to rule of law with confined and defined discretion, both of which are essential facets of Article 14. Justice Subba

Rao elaborating on the wide expanse of Article 14, vide para 14 held thus: "In this context it is important to emphasize that the absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits."

In A.K. Kraipak v. Union of India, it was held that Natural Justice (natural justice is technical terminology for the rule against bias and the right to a fair hearing (audi alteram partem)) is an integral part of Article 14. The court held that "the Principle of Natural Justice helps in the prevention of miscarriage of Justice, These Principles also check the arbitrary power of the State."

ii) In the present case, the actions of the Development Commissioner reek of arbitrariness, unfairness and discrimination against the Appellant inasmuch as:

a. The Impugned Order has been passed in a cavalier and casual manner without properly appreciating the evidence on record and the detailed submissions made by the Appellant. This shows total non-application of mind and dereliction of duty on part of the authority.
b. The Appellant's LOA has been cancelled solely relying on uncorroborated investigation by Gujarat Police, an agency having no authority to investigate customs offences. On the other hand, the evidence Authorised of Customs' own Panchnama which exonerates the Appellant has been simply brushed aside. This cherry-picking of evidence is grossly unfair.
c. No reasons whatsoever have been given to reject the Appellant's defence and evidence showing lack of involvement in the alleged offence. Failure to consider a party's submissions and passing cryptic; unreasoned orders is the hallmark of arbitrariness and bias.
d. The SCN does not even allege persistent contraventions under Section 16(1) of SEZ Act, yet the Appellant's LOA has been cancelled on this ground. Imposition of such a disproportionate and harsh penalty de hors the SCN is ex-facie arbitrary and unfair.
e. The Appellant cannot be condemned unheard by-passing orders on grounds which were never put to it in the SCN. This is an affront to the cardinal principles of natural justice enshrined in Article 14.
f. There is no evidence that any other co-noticee such as the importer M/S Omkar International had been penalized in a similar fashion for the alleged offences. Singularly picking on the Appellant without any incriminating evidence demonstrates the bias and discrimination in decision making.

iii. The Apex Court in Maneka Gandhi vs Union of India (1978) I SCC 248 held that Article 14 strikes at arbitrariness in state action and ensures fairness and equality of treatment. It requires that state action must not be arbitrary but must be based on some rational and relevant principle which is non-discriminatory: it must not be guided by any extraneous or irrelevant considerations, because that would be denial of equality.

iv. The Court further held that:

"The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence and the procedure contemplated must answer the test of reasonableness in order to be in conformity with Article 14.

v. Article 14 thus embodies a guarantee against arbitrariness and unreasonableness in state action. Every action of the state or its instrumentalities must pass the test of reasonableness and non-discrimination. Actions which are arbitrary and unreasonable per se fall foul of Article 14.

vi. Tested on the anvil of the aforesaid principles, the Impugned Order is patently arbitrary, unreasonable and discriminatory and suffers from the vice of non-application of mind, bias and non-consideration of the Appellant's submissions and evidence. No reasonable person would have passed such a drastic order in the given facts and circumstances.

vii. Accordingly, the Impugned Order deserves to be set aside being violative of Article 14 of the Constitution on the grounds of arbitrariness, unfairness, unreasonableness and discrimination.

G. The Impugned Order cancelling LOA is violative of right to livelihood, embodied under Article 21 of the Constitution.

The object of any Government is to promote the trade and not to curtail the same, specially units functioning under SEZ as they promote exports. The method which is adopted by the Development Commissioner in cancelling LOA is like strangulating the neck of the Appellant. The cancellation of LOA certainly amounts to a capital punishment so for as the Appellant is concerned. His entire business has come to standstill. He cannot do any business activities and without business, he cannot pay salaries to his employees, pay bills to the loans and ultimately, all his developments over a long period of time could be ruined in few months and it is also very difficult to regain the business in this competitive world. This ultimately affects his right to livelihood, embodied under Article 21 of the Constitution.

The Madras High Court's judgment in Abdul Samad Mohamed Inayathullah v. The Superintendent of CGST and C. Excise (WP(MD)No.8016 of 2023, WMP(MD) No.7445 of 2023) addresses the intersection of taxation law and constitutional rights, specifically examining how GST registration cancellation impacts small-scale entrepreneurs' fundamental rights to trade and livelihood. This judgment builds upon significant precedents and establishes comprehensive guidelines for balancing tax compliance with business continuity.

The Bombay High Court's decision in Rohit Enterprises Vs Commissioner State GST Bhavan (WP.No.11833 of 2022) further developed this framework by recognizing that GST provisions cannot be interpreted to deny fundamental rights to trade and commerce, particularly in the context of post-pandemic recovery. The court emphasized that constitutional guarantees are unconditional and must be enforced regardless of administrative challenges. Relevant excerpts are quoted below:

"9. In our view, the provisions of GST enactment cannot be interpreted so as to deny right to carry on Trade and Commerce to any citizen and subjects. The constitutional guarantee is unconditional and unequivocal and must be enforced regardless of shortcomings in the scheme of GST enactment. The right to carry on trade or profession cannot be curtailed contrary to the constitutional guarantee under Art. 19(I)(g) and Article 21 of the Constitution of India. If the person like petitioner is not allowed to revive the registration, the state would suffer loss of revenue and the ultimate goal under GST regime will stand defeated. The petitioner deserves a chance to come back into GST fold and carry on his business in legitimate manner.

In S A Traders vs Commissioner State Goods And Services [Writ Petition (M/S) No. 113 of 20231, Uttarakhand High Court discussed the violation of Fundamental Right of livelihood in the context of cancellation of GST Registration. Hon'ble HC held that:

"Such denial of registration of GST number, therefore, affects his right to livelihood. If he is denied his right to livelihood because of the fact that his GST Registration number has been cancelled, and that he has no remedy to appeal, then it shall be violative of Article 21 of the Constitution as right to livelihood springs from the right to life as enshrined in Article 21 of the Constitution of India. In this case, if we allow the situation so prevailing to continue, then it will amount to violation of Article 21 of the Constitution, and right to life of a citizen of this country"

H. The impugned order has been issued in utter disregard to the Order dated 13.08.2024 of the Hon'ble High Court of Gujarat in SCA No.16621 of 2023 filed by the appellant

Appellant submits that the impugned order has been issued with prejudice and malice as the Hon'ble High Court of Gujarat in SCA No.16621 of 2023 has specifically ordered vide its order dated 13.08.2024 that the show cause notice should be decided within a period of two months from the date of receipt of the copy of the order of the Hon'ble High Court.

The appellant had fully co-operated with the adjudicating authority and filed its written submissions on 17.09.2024 and attended personal hearing on 07.10.2024. However, the order was not issued within two months from the receipt of the Hon'ble High Court's order and the adjudicating authority waited for the meeting of the Approval Committee so as to place the show cause notice before the committee and get the LOA cancelled. It was only when the meeting was held on 26.12.2024, the notice was placed before the UAC and the LOA was got cancelled and in the impugned order it was mentioned that since a unanimous decision has been taken by the UAC to cancel the LOA, she had to follow the same. The sequence of events clearly shows the prejudice of the learned adjudicating authority and her disrespect towards the order of the Hon'ble High Court.

Prayer:

In view of the aforesaid, it is most respectfully prayed that this Hon'ble Board may be pleased to:

A. Set aside and quash the Impugned Order dated 02.01.2025 passed by the Development Commissioner, APSEZ;
B. Hold and declare that the SCN dated 28.04.2023 is without jurisdiction and not sustainable, and drop all proceedings pursuant thereto;
C. Direct reinstatement of the Appellant's LOA No. APSEZ/08/STL/ 2021-22 dated 05.07.2021 with continuity;
D. Grant an ad-interim stay on the Impugned Order pending final disposal of the appeal;
E. Pass such other and further orders as may be deemed just and proper in the facts and circumstances of the case.

COMMENTS RECEIVED FROM DC, APSEZ, Mundra::

Comments/Grounds/Observation:

M/s. Shivansh Terminal LLP, APSEZ Mundra in their Annexure-A attached with Form of Appeal has mentioned that appeal is being filed under Section 16(2) of the SEZ Act, 2005. However, Section 16(4) of the SEZ Act, 2005 is the provision to file appeal before Board. Therefore, the appeal may be disposed of.

Show Cause Notice clearly mentioned (i) time period to file reply which was 15 days from the receipt of the Show Cause Notice and (ii) date of personal hearing. However, the reply was filed by M/s. Shivansh Terminal LLP on 17.09.2024 i.e. after lapse of 20 months. Also, no one appeared for personal hearing too on the date mentioned in SCN.

Copy of FIR (**Exhibit-1**) clearly mentioned that 04 containers of M/s. Shivansh Terminal LLP reached at Adinath Cargogodown, Mundra, outside SEZ area. These 04 containers were loaded with areca nuts (restricted / prohibited item) were dumped there and other material named PVC Regrind – raw material which was already in the godown (which was declared in the concerned bill of entry **Exhibit-3**) was loaded into 04 containers.

Preliminary Objections:

A. **Show Cause Notice without Jurisdiction:**

It is to mention that the matter in the present appeal is Order-In-Original, not the Show Cause Notice. M/s. Shivansh Terminal LLP even approached the Hon'ble High Court of Gujarat for quashing of Show Cause Notice. However, the court ordered for adjudication of the Show Cause Notice and not questioned the issuance of Show Cause Notice. Even the subject Order-In-Original has been passed as per the direction of the Gujarat High Court.

The appellant has also relied upon some judgment in their favor. Since the matter which is being appealed for in about the Show Cause Notice. It appears that they all are not required to be

taken into consideration. Also, we have already a judgment of Hon'ble High Court of Gujarat which belongs to this case, as mentioned above (**Exhibit-02**)

B. **Violation of Section 16(1) requirements:**

The appellant has stressed on two key points which are required for cancellation of Letter of Approval. The first one is there should be persistent contravention and second one is the approval committee must cancel the LoA.

i. With regard to persistent contravention, it is to submit that in the present case, M/s. Shivansh Terminal LLP jointly filed a Bill of Entry for import of goods with 04 containers. Transshipment permission was given to M/s. Shivansh Terminal LLP for movement of containers from port terminal to SEZ unit. One-by-One all the containers were gone out of the SEZ are and as alleged in the FIR Copy, the said containers were emptied at Adinath Godown Shed-1 (which is about 10 km away from the port exit gate). So, not only one containers, they persistently moved out four containers in contravening provision of SEZ Rules, 2006. Also, if movements of all the 04 containers counted as single contravention, there are several judgments where it is established by the Courts that it is not necessary to wait for further contravention if not in the public interest. Some of these are:

Bombay High Court decision 2004, in case of ***SEBI vs Cabot International Capital Corporation,*** upheld the order of SAT where penalty were imposed upon M/s. Cabot International under SEBI Act. M/s. Cabot contested that "there was no occurrence of default or repetition of the alleged violation by the respondents". However, Bombay High Court decided the matter in favor of SEBI.

ii. With regard to cancellation by approval committee, it is to share that the whole matter along with their written submission and records of personal hearing, was placed in the approval committee in its 112nd meeting held on 26.12.2024. The approval committee unanimously decided to cancel the Letter of Approval after considering the seriousness of the case and to mitigate the unauthorized activities of warehousing units. Also, as per Section 13(7) of the SEZ Act, 2005 which states as:

"(7) All orders and decisions of the Approval Committee and all other communications issued by it shall be authenticated by the signature of the Chairperson or any other member as may be authorised by the Approval Committee in this behalf."

In view of the above provision, it is the function of the Development Commissioner of the SEZ, in the capacity of Chairperson of the Approval Committee, to authenticate and convey the decision of Approval Committee.

Thus, the Development Commissioner has not cancelled the LoA. The subject Order-In-Original is merely a communication and is being authenticated by the DC in terms of above provision. And in the present case, Approval Committee only has decided to cancel the LoA not the Development Commissioner **(Exhibit-4)**.

It is also important to note that appellant chose to challenge the order passed by the Development Commissioner when their LoA got cancelled. However, their Letter of Approval was also signed by the Development Commissioner. This shows their ill presentation of the provisions of Law.

In view of the above facts on record, the contentions raised by the appellant are baseless.

Comments on Grounds of Appeal:

S. No.	Grounds of the Appeal	Comments of the Zone
A.	**The Impugned Order suffers from total non-application of mind and has been passed in gross violation of the principles of natural justice:**	The impugned Order suffers from total non-compliance of mind and has been passed in gross violation of the principles of natural justice: The appellant is saying that their submission has not been discussed and the development commissioner has without application of mind passed the order without any discussion. It is to re-iterate the fact that the said Order-In-Original is merely a form of communication. It was the Approval Committee who cancelled their Letter of Approval. Approval committee in their minutes clearly mentioned that they have gone through their written submission and records of personal hearing. Even though, this office wants to emphasize the fact that when there are enough facts available on records, which proves that contravention is there, not each and every point is required to be discussed.
B.	**No case for cancellation of LOA is made out under Section 16(1) of SEZ Act:**	i. With regard to persistent contravention, it is to submit that in the present case, M/s. Shivansh Terminal LLP jointly filed a Bill of Entry for import of goods with 04 containers. Transshipment permission was given to M/s. Shivansh Terminal LLP for movement of containers from port terminal to SEZ unit. One-by-One all the containers were gone out of the SEZ are and as alleged in the FIR Copy, the said containers were emptied at Adinath

		Godown Shed-1 (which is about 10 km away from the port exit gate). So, not only one containers, they persistently moved out four containers in contravening provision of SEZ Rules, 2006. Also, for such serious violations on their behalf, persistent contraventions should not be waited for to be happened. It appears that although law says for consistent contravention, but the nature of consistent contravention is contextual. In the present context, wait for further contraventions might have lead to much more heinous act. ii. The appellant is pleading that they were not involved in or aware of the illegal import. It is to submit that the said case of illegal import of areca nut is still pending with SIIB, Custom House, Mundra. And it is important to mention that SIIB Mundra had withdrawn the NOC which was earlier given to M/s. Shivansh Terminal LLP. Also, the investigation is still pending with them. However, it shows that SIIB might have some proofs against M/s. Shivansh Terminal LLP. iii. The appellant submitted that they were only custodian of the goods. Having been custodian was not a mere. It is to submit that being a SEZ / warehousing unit, it was their responsibility to place the goods in their unit after getting transshipment approval from the authorized officers of the SEZ. However, the containers went out from the SEZ area taking benefit of being transporter also (these facts were mentioned in show cause notice also). It was also admitted during the course of personal hearing that the drivers of the 04 containers were hungry so they went outside which was very lame excuse as the inside SEZ area, there are such facilities. No one is above the law. It was their responsibility to get the containers inside the SEZ unit, however, they failed in doing so and violated the provisions of Rule 28 & 29 of the SEZ Rules, 2006. iv. The appellant is saying that Gujarat Police

did not find anything and the chargesheet filed by them does not implicate their name. It is to submit that copy of chargesheet was never provided by M/s. Shivansh Terminal LLP. Here are some key facts available, related to the appellant and Gujarat Police:

Gujarat Police investigation:

It is important to note that A Police case was also registered at Adinath Cargo, a godown where the areca nuts imported through the subject 04 containers were dumped and PVC regrind as per FIR copy, was loaded on those containers. Copy of FIR also suggests that containers of M/s. Shivansh Terminal were loaded with areca nuts which were unloaded and then loaded with material PVC Regrind-Raw Material already lying there. The name coming into the FIR itself tells the crux of the case.

v. The appellant submitted that as per Custom panchnama, the seal was found intact and granules were found in the containers. It is to re-iterate that if this being a simple case, SIIB would have completed their investigation. Also, the NOC given to them for starting their operations was also withdrawn. It is also interesting to know the fact that whatever Gujarat Police registered in the FIR, "PVC Regrind-Raw material" has been referred which was alleged to have been loaded into the 04 containers which were first unloaded and areca nuts were dumped. So, the material which was found by Gujarat Police and which was declared in Bill of Entry was same. It does not seem coincidence.

vi. The appellant's plea that movement of trucks outside SEZ for a few hours does not lead to tampering or replacement of goods. It is to submit that first, why the drivers went out from the SEZ area for eating food when there is facility in port area itself. Second, being a LoA granted SEZ unit, it was their responsibility to move the goods directly into SEZ area. The Show Cause Notice mentions

		all these facts precisely that how they managed to carry out such illegal activities. vii. It is to submit that Show Cause Notice as well as Order-In-Original may be referred where relevant provisions and violations thereof are clearly mentioned. viii. All the facts available with this case clearly transpires that the appellant was involved in illegal import of areca nuts.
C.	**The SCN issued under Section 13 of FTDR Act does not empower the adjudicating authority to cancel LOA:**	i. As pointed out in the written submissions dated 17.09.2024 and 07.10.2024, the SCN has been issued under Section 13 of FTDR Act, 1992 which empowers the adjudicating authority only to impose penalty or order confiscation. It does not provide for cancellation of LOA. ii. The SCN does not even refer to or allege any contravention under Section 16(1) of SEZ Act which is the only provision dealing with cancellation of LOA on account of persistent contraventions. iii. It is trite law that a show cause notice is the foundation of any quasi-judicial proceedings and the adjudicating authority cannot travel beyond it. When the SCN does not invoke the correct legal provision (Section 16(1) of SEZ Act) or make out grounds for cancellation of LOA, the Impugned Order passed on this basis is without authority of law. • The Hon'ble Supreme Court in J.S.Yadav vs State Of U.P & Anr on 18 April, 2011 (2011 AIR SCW 3078) held that: It is a settled principle of law that no one can be condemned unheard and no order can be passed behind the back of a party and if any order is so passed, the same being in violation of principles of natural justice, is void ab initio. This legal proposition was reiterated by Supreme Court in Ranjan Kumar vs State of Bihar & Ors on 16 April, 2014 (2014) 16 SCC 187 it was held by that: "9. In J.S. Yadav v. State of Uttar Pradesh and

		another [(2011) 6 SCC 5701 it has been held that no order can be passed behind the back of a person adversely affecting him and such an order, if passed, is liable to be ignored being not binding on such a party as the same has been passed in violation of the principles of natural justice." v. Viewed thus, the Impugned Order is wholly without jurisdiction, besides being in violation of principles of natural justice. The Development Commissioner could not have passed an order for cancellation of LOA in the absence of any such grounds in the SCN.
D.	**Impugned Order is based on mere conjectures and assumptions without any credible evidence on record:**	Impugned Order is based on mere conjectures and assumptions without any credible evidence on record. As mentioned in *para supra,* there are evidences which shows that they were involved in illegal import of areca nuts. Thus, the case laws relied upon are helpless in the subject matter.
E.	**The Impugned Order is violative of Article 14 of the Constitution being arbitrary, unfair and discriminatory:**	The impugned order is violative of Article 14 of the Constitution being arbitrary, unfair and discriminatory Not applicable
F.	**Missing in the Appeal**	Missing in the appeal
G.	**The Impugned Order cancelling LOA is violative of right to livelihood, embodied under Article 21 of the Constitution.**	The impugned order cancelling LoA is violative of right to livelihood, embodied under Article 21 of the Constitution: Not Applicable
H.	**The impugned order has been issued in utter disregard to the Order dated 13.08.2024 of the Hon'ble High Court of Gujarat in SCA No.16621 of 2023 filed by the appellant**	Following the High Court Order and to adjudicate the show cause notice, personal hearing in the matter was given as soon as order was received. However, the adjudication was got delayed because of availability of Approval Committee member's quorum as the Approval Committee is the ultimate authority to decide the cancellation of LoA. As there was not a single person who had to adjudicate the matter, it was the Approval Committee to decide the Show Cause Notice. Thus, the case laws relied upon

		are not applicable in the present case.

- In addition to above submission / comments, the zone also mentioned that there are several instances noticed across all the SEZ's where unauthorized activities by the warehousing units are seen which somehow damage the value of SEZ's. The Ministry of Commerce has also issued several instructions to mitigate such unauthorized activities.
- In view of above, Board of Approval is requested to consider grounds and submission by the zone while judging their appeal.

The above appeal was deferred in the 127th BOA meeting held on 8th April, 2025. **The Board heard the appellant. The appellant requested to submitted the additional written submissions, the request was approved by the Board. The Board deferred the case for next meeting of BOA.**

The appellant has submitted the following.

1. INTRODUCTION

This submission is filed on behalf of Shivansh Terminal, a duly approved SEZ Unit, challenging the cancellation of its Letter of Approval (LOA) on untenable legal, procedural, and constitutional grounds. The cancellation stems from a Show Cause Notice (SCN) dated 28.08.2023 issued under Section 13 of the FTDR Act, 1992, which does not empower cancellation of LOA.
The cancellation, done in disregard of judicial direction, has caused severe financial and reputational loss and threatens employment and investor confidence in the SEZ framework.

2. JURISDICTIONAL DEFECT IN THE SHOW CAUSE NOTICE

The SCN issued under Section 13 of the Foreign Trade (Development & Regulation) Act, 1992, allows only for penalty/confiscation and not cancellation of LOA. Only the Approval Committee under Section 16(1) of the SEZ Act, 2005, has the statutory power to cancel an LOA.

Relevant Case Law:

a) Opto Circuits India Ltd. v. Axis Bank, AIR 2021 SC 753 (Para 11): "When a statute prescribes a specific mode for doing a particular act, it must be done in that manner or not at all."

b) Sri Sudarshan V Biradar v. State of Karnataka (2023, Para 22): "An order passed without authority of law is null and void and deserves to be quashed.

3. NO PERSISTENT CONTRAVENTION AS REQUIRED UNDER SECTION 16(1)

The alleged violation involves a single incident (dated 23.02.2023), which cannot be termed as a 'persistent contravention.'
Relevant Case Law:

a) Gupta Brothers v. East Delhi Municipal Corp, W.P.(C) 2641/2015 (Para 17): "Isolated breach cannot be construed as persistent contravention under law."

b) Vijay Amba Das Diware v. State of Maharashtra, (2000) 4 SCC 126 (Para 10): "Persistent must mean a state of affairs showing continuity or recurrence of non-compliance."

4. VIOLATION OF NATURAL JUSTICE NON-

SPEAKING ORDER

The impugned order is non-speaking, failing to address the detailed submissions dated 17.09.2024 and made in person on 07.10.2024.

Relevant Case Law:

a) Kranti Associates v. Masood Ahmad Khan, (2010) 9 SCC 496 (Para 47): "Reasons substitute subjectivity by objectivity. The requirement of recording reasons ensures transparency and fairness in decision-making."

b) Commissioner of Police v. Gordhandas Bhanji, AIR 1952 SC 16 (Para 6): "Public orders, publicly made, in exercise of statutory authority must be speaking orders."
5. LACK OF EVIDENCE INVOLVEMENT NO TAMPERING OR

Customs Panchnama confirms that the seals were intact. No CCTV or GPS evidence has been presented. The police charge sheet does not name the Appellant. The department's order vaguely mentions the containers were out between "03 to 06 hours," without precise corroboration, making the basis of cancellation speculative and unclear.

Relevant Case Law:

a) Samudabhai Punjabhai Sangada v. State of Gujarat, Cr. App. No. 1591/2013 (Para 22): "Suspicion, however grave, cannot substitute legal proof in any proceedings."

b) Indian Evidence Act, Section 101: "Whoever desires any Court to give judgment as to any legal right or liability... must prove those facts."

6. DISPROPORTIONATE AND ARBITRARY ACTION VIOLATION OF ARTICLES 14 & 21

A single unproven incident cannot result in the cancellation of the LOA, which affects livelihood and commercial operations.

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Relevant Case Law:

a) Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (Para 7 & 8): "Procedure must be right, just and fair and not arbitrary, fanciful or oppressive."
b) K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1 (Para 135): "The doctrine of proportionality ensures that administrative action must not be more drastic than it ought to be for obtaining the desired result."

7. DEFIANCE OF GUJARAT HIGH COURT ORDER DELAY & POST-FACTO VALIDATION

The Gujarat High Court in SCA No. 16621/2023 directed a decision within two months. The authority not only delayed action but also used the UAC meeting dated 26.12.2024 to retrospectively validate the cancellation-an action contrary to judicial directives and natural justice.

8. ADDITIONAL EQUITABLE AND POLICY-BASED CONSIDERATIONS

A. Principle of Proportionality Cancellation is an excessive penalty for a first-time event.

B. Estoppel by Representation - Post-incident compliance was accepted without objection.

C. Public Interest Business continuity protects employment, the logistics chain, and confidence in the SEZ policy.

D. Reverse Burden - The Department has failed to discharge its burden of proof. Absence of CCTV/GPS evidence should go against the authority holding such material.
9. PRAYER FOR RELIEF

a) Quash the impugned cancellation order as illegal and unsustainable.

b) Reinstate the LOA with operational continuity.

c) Pass any other order in the interest of justice and equity.

The appellant requested decide the case at the earliest as directed by the Hon'ble Gujarat High Court in this Board of Approval's 127th meeting itself.

The appellant submitted that his Vakalatnama is already on record in this matter.

This detailed written submission in continuation of the same.

129.9(iv) Appeal filed by M/s. Jiwanram Sheoduttrai Industries Limited under the provision of Section 16(4) of the SEZ Act, 2005 against the Order-in-Original dated 17.10.2024 passed by DC, FSEZ.

Jurisdictional SEZ – Falta SEZ (FSEZ)

Brief facts of the Case:

M/s. Jiwanram Sheoduttrai Industries Limited (formerly M/s. Jiwanram Sheoduttrai Industries Private Limited) was issued a LoA on October 11, 2012, for setting up a unit for manufacturing industrial garments, safety wear, and leather products in Falta SEZ. The unit commenced operations on July 20, 2013, and the LoA was valid until July 19, 2026. However, following a Show Cause Notice dated June 6, 2024, the DC, FSEZ, issued an Order-in-Original on October 17, 2024, cancelling the LoA under Section 16 of the SEZ Act, 2005. Aggrieved by this decision, the unit has filed the present appeal dated 25.11.2024 in accordance with Rule 55 of the SEZ Rules, 2006. Further, in terms of Rule 56(2), the appellant has also filed one application for condonation of the delay of five days in filing the appeal.

Brief on the Fire incident in the Falta SEZ:

The appellant has submitted that on June 8, 2016, a massive fire broke out in the basement of the building occupied by another unit, M/s. Gupta Infotech, and rapidly spread to the appellant's premises on the first floor. The fire, which lasted five days, caused extensive damage to the appellant's factory, machinery, and goods, rendering the premises unfit for occupation. Despite the fire being an irresistible force, the FSEZ Authority failed to promptly repair the damages or provide alternate arrangements, leaving the appellant's operations suspended for years. The prolonged delay and substandard repairs further aggravated the appellant's financial losses, with the total damages assessed at over ₹4.1 crores by certified insurance surveyors.

Grounds of the Appeal:

The appellant has submitted the following grounds in the appeal:

1. **Failure to Fulfill Statutory Obligations**

The Falta SEZ Authority failed to fulfill its statutory duties under the SEZ Act, SEZ Rules, and the Transfer of Property Act, 1872. Despite the fire rendering the premises unfit for use in June 2016, the authority did not promptly carry out repairs, leaving the appellant's factory inoperable for over four years.

2. **Non-Repair of Premises Post-Fire**

The damage caused by the fire in June 2016 was extensive. The appellant's repeated requests for repairs, alternate safe storage, and restoration of the premises were ignored or inadequately addressed until 2020. Even then, the repairs were incomplete, leaving the premises unfit for full-fledged operations.

3. **Coercion for Payment of Rent During Non-Operational Period**

Despite the premises being unfit for use due to fire damage, the Falta SEZ Authority coerced the appellant into submitting undertakings to pay rent for the non-operational period (2016–2021).

This is contrary to the principle that rent is not payable for periods when the premises are uninhabitable due to no fault of the lessee.

4. **Economic Duress and Unconscionable Demands**

The appellant was forced to submit various undertakings under severe economic duress to secure the renewal of the LoA. The authority demanded payment of back rent for the period the factory remained non-operational, despite this being legally untenable.

5. **Unlawful Rejection of Requests for Rent Waiver**

The appellant's legitimate requests for waiving back rent, given the extraordinary circumstances of fire damage and subsequent economic hardship, were arbitrarily rejected by the Falta SEZ Authority. This exacerbated the appellant's financial difficulties.

6. **Persistent Delays in LoA Renewal**

The renewal of the appellant's LoA was delayed multiple times, causing additional financial strain and operational setbacks. The authority failed to act promptly and demanded compliance with onerous terms before processing renewals.

7. **Bias and Non-Acceptance of Submissions During Personal Hearings**

During the personal hearing on June 19, 2024, the Zonal Development Commissioner acted in a biased manner, refusing to consider the appellant's submissions or acknowledge the statutory breaches and economic distress faced by the appellant.

8. **Cancellation of LoA Without Justification**

The Development Commissioner cancelled the appellant's LoA on October 17, 2024, arbitrarily and without addressing the appellant's valid concerns about statutory breaches and coercive practices. This action further violated the principles of natural justice and fair play.

9. **Violation of Provisions of Transfer of Property Act, 1872**

As per Section 108(e) of the Transfer of Property Act, the lease becomes void at the lessee's option if the property is rendered permanently unfit for the intended purpose due to events like fire. The authority's demand for rent despite this legal provision is unsustainable.

10. **Continued Damage to Property Due to Incomplete Repairs**

Even after partial repairs, ongoing issues such as water leakage and lack of adequate roofing caused additional damage to the appellant's goods and raw materials. The authority failed to address these issues adequately, further hindering the appellant's ability to resume operations.

11. **Financial Loss and Impact on Export Obligations**

The appellant suffered significant financial losses due to the fire, delays in repair, and inability to fulfill export obligations. This situation was further exacerbated by the Falta SEZ Authority's inaction and coercive demands.

12. **Conditional LoA Renewal and Alleged Non-Compliance**

The appellant's LoA renewal on March 13, 2024, was conditional on clearing outstanding lease rentals. Despite submitting an undertaking on April 22, 2024, it was rejected, and the appellant was summoned for a hearing. A show-cause notice dated June 6, 2024, alleged lease rent obligations regardless of premises functionality, contrary to SEZ laws. At the hearing on June 19, 2024, the authority acted with bias, disregarding the appellant's valid submissions.

13. **Non-Consideration of Insurance Litigation Outcome**

The appellant had proposed paying outstanding rent once its insurance claim was settled. This reasonable request was ignored by the authority, demonstrating an arbitrary and unreasonable approach.

REASONS AS TO WHY THE DECISION NEEDS REVIEW: -

The appellant submitted the following reasons to review the decision:

1. **Order Not Tenable in Facts and Law**

The Impugned Order is not tenable in law and lacks a proper basis in facts.

2. **Failure to Consider Fire Incident**

The Development Commissioner failed to acknowledge that a massive fire on June 8, 2016, caused extensive damage to the appellant's premises, rendering them unfit for occupation or use.

3. **Delay in Repair and Restoration**

It was the statutory and contractual duty of the Development Commissioner to repair and restore the premises promptly. However, repairs were delayed for more than four years, leaving the premises unfit for use.

4. **Delay in LoA Renewal**

Even after the premises were repaired and the appellant applied for renewal of the LoA, the renewal process was delayed by more than a year.

5. **Inability to Operate**

From June 8, 2016, until the issuance of the renewal letter on October 6, 2021, the appellant could not operate due to no fault on its part.

6. **Reciprocal Obligations Under Lease**

A lease deed involves reciprocal obligations. Without fulfilling the obligation to provide premises fit for occupation and use, the lessor cannot demand lease rent from the lessee.

7. **Failure of Consideration**

The appellant cannot be held liable for lease rent from June 8, 2016, to October 6, 2021, due to the failure of consideration and unavailability of the premises for use during this period.

8. **Undertakings Obtained Under Duress**

The undertakings for payment of lease rent for the period of June 8, 2016, to October 6, 2021, were obtained under extreme duress and coercion, rendering them null and void.

9. **Post-Renewal Damages**

Even after the renewal on October 6, 2021, the appellant suffered significant losses due to inadequate repairs, including lack of a proper roof, water supply, and sanitation.

10. **Violation of Transfer of Property Act**

The Impugned Order violates Section 108(e) of the Transfer of Property Act, 1872, which absolves a lessee of liability when the premises are unfit for the intended use due to irresistible forces like fire

11. **Violation of SEZ Act and Rules**

The Impugned Order contravenes provisions of the SEZ Act, 2005, and SEZ Rules, 2006.

12. **Arbitrary and Unreasoned Order**

The Impugned Order is arbitrary, irrational, and lacks reasoning, making it unsustainable in law.

13. **Excess of Jurisdiction**

The Authority exceeded its jurisdiction in passing the Impugned Order.

14. **Misinterpretation of Facts**

The findings in the Impugned Order are misconceived and based on a misinterpretation of the material facts.

15. **Perversity in the Order**

The Impugned Order is perverse in law, erroneous, and liable to be set aside.

16. **Final Consideration**

The Impugned Order, in any view, is untenable and must be set aside.

COMMENTS RECEIVED FROM DC, FSEZ: -

DC, Falta SEZ has submitted the following comments/inputs on the appeal:

1. **Establishment and Initial Operations of the unit**

The appellant was issued LoA dated October 11, 2012 for setting up a unit. The premises were handed over on January 18, 2013, following an Allotment Letter dated January 9, 2013. The unit commenced operations on July 20, 2013, as per records, though the appellant claims it started in 2014 after completing its capital investments.

2. **Fire Incident and Damages**

A massive fire broke out on June 8, 2016, causing severe damage to the appellant's premises on the first floor of the SDF General Building. The fire rendered the premises unfit for use, with damage to materials and facilities recorded. However, lease rent was outstanding for the period before the fire incident, as communicated in January 2016.

3. **Repair Delays**

The repairing work was assigned to M/s. WAPCOS Limited on December 31, 2020. Completion was reported on November 29, 2022. During this period, the premises remained unfit for use. The appellant did not request alternate storage for materials during repairs.

4. **Lease Rent and Waiver Requests**

- Rent was assessed for periods before the fire, during the inoperable period, and post-repair completion.
- The period from June 8, 2016, to November 29, 2022, was considered eligible for rent waiver due to the premises' unfitness for use.
- The SEZ Authority has no power to waive rental dues before June 2016 or after November 2022.

5. **Undertakings for Renewal**

The appellant submitted an undertaking in 2021 to clear dues to renew the LoA, as required by SEZ rules. The renewal process was delayed due to non-compliance with these requirements.

6. **Personal Hearing and Show Cause Notice**

In a hearing on June 19, 2024, the appellant's submissions were rejected due to their failure to comply with LoA renewal conditions and pay outstanding dues. A show cause notice dated June 6, 2024 issued to the appellant stating their obligation to pay rent irrespective of premises functionality.

7. **Cancellation of LoA**

The LoA was cancelled vide Order-in-Original dated October 17, 2024. The decision followed the 182nd UAC's resolution, citing non-payment of dues and failure to fulfil statutory obligations.

8. **Rejections of Waiver Requests**

Multiple requests for waiving old lease dues, citing fire damage and financial duress, were rejected. The appellant's proposal to defer dues until the settlement of an insurance claim was also denied.

9. **Allegations Against SEZ Authority**

- Claims of coercion and duress for undertakings were dismissed as unfounded.
- Allegations of negligence in repair were countered with records of WAPCOS completing the repair work.
- FSEZ Authority acted within the provisions of the SEZ Act, SEZ Rules, and the lease agreement.

10. **Justification for Impugned Order**

The cancellation order was in compliance with SEZ rules, justified, and based on rational considerations. Allegations of arbitrariness and violations of statutory provisions were deemed unsubstantiated.

Relevant provisions under the SEZ law:

- **Section 16. Cancellation of letter of approval to entrepreneur** —

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 sub-section (1), the Unit shall not, from the date of such cancellation, be entitled to any exemption, concession, benefit 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 unutilised 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 sub-section (1), may prefer an appeal to the Board within such time as may be prescribed.*

The above appeal was deferred in the 127th BOA meeting held on 8th April, 2025. **The appellant had joined the meeting through VC Link. However, he did not present his case. Hence, The Board deferred the case for next meeting of BOA.**

The appeal is being placed before the Board for its consideration.

129.9(v) Appeal filed by M/s. Varsur Impex Pvt. Ltd. in KASEZ under the provision of Section 16(4) of the SEZ Act, 2005 against the Order-in-Original dated 10.09.2024 passed by DC, KASEZ.

Jurisdictional SEZ – Kandla SEZ (KASEZ)

Brief facts of the Case:

I. M/s. Varsur Impex Pvt. Ltd., a Unit in Kandla SEZ has filed appeal dated 01.03.2025 against the Order -in-original dated 19.09.2024 passed by the Development Commissioner, KASEZ. The appeal has been filed under the provisions of Section 15(1)(b) of the Foreign Trade (Development & regulation) Act, 2010.

II. During its 195th meeting on October 19, 2023, the UAC unanimously decided that Areca Nut/Betel Nut and black pepper should not be permitted for warehousing in the Kandla Special Economic Zone (KASEZ). Consequently, the LOAs for warehousing units with these items were to be revoked.

III. M/s Varsur Impex Pvt Ltd, M/s Shreeji Oversea, and M/s MGA & Associates appealed against this decision under Rule 55 of SEZ Rules, 2006, alleging that:
   a. The UAC exceeded its authority with an ordinance-like order.
   b. There were no allegations of wrongdoing against their units.
   c. Principles of natural justice were not followed.
   d. Opinions expressed by UAC members were irrelevant.

III. A personal hearing took place on 06.03.2024, where the Board of Approval (BOA) in its 119th meeting, acknowledged procedural flaws in the UAC's decision. Despite no ongoing show cause notice or proceedings against the appellants, the BOA instructed the DC to grant an opportunity to us for hearing, leading to confusion about the legal basis for such a hearing.

IV. Since there were no pending notices or proceedings against the appellants, to address this issue, the DC decided to bypass legal processes, contrary to the SEZ Act, resulting in the issuance of a Show Cause Notice (SCN) on 06.04.2024. The issuance of the SCN after the appeal process, indicated a disregard for legal norms.Following the SCN, a personal hearing was held on 09.05.2024. Finally, on 19.09.2024, the DC upheld the SCN and reaffirmed the UAC's decision to remove Areca Nut and black pepper from the warehousing units.

V. The Order dated 19.09.2024 passed by the DC, KASEZ states that any aggrieved person or party can file an appeal against the order under Section 15(1)(b) of the Foreign Trade (Development and Regulation) Act, 1992, as amended by the 2010 Act. And, the appeals must be submitted to the Director General of Foreign Trade, Government of India, within 45 days from the order's service, including a copy of the order and supporting evidence. Later on, the appeal was submitted to the DGFT. In response, vide letter dated 03.02.2025, DGFT had informed the appellant that the Directorate General of Foreign Trade (DGFT) does not have appellate or review jurisdiction under Sections 15 or 16 of the Foreign Trade (Development and Regulation) Act, 1992, for the current appeal. Now, the appellant has filed the instant appeal dated 01.03.2025 within 30 days from issue date of the letter from DGFT i.e. 01.02.2025 in Form-J dated 01.03.2025 pertains to the DC's decision conveyed vide Order dated 19.09.2024 under Section 15(1)(b) of the Foreign Trade (Development & regulation) Act, 2010 to place the matter before BoA for its consideration.

Grounds of the Appeals:

1. The Development Commissioner has not authorized/empowered under the Special Economic Zone Act, 2005 or the Rules made thereunder to review the Decisions of Unit Approval Committee, much less to pass such an order

a. In the order portion of the impugned order, the Development Commissioner, KASEZ has stated that he agrees with the decision taken by the 195th Unit Approval Committee meeting held on 19.10.23 to remove the Areca nut and black pepper from all the warehousing units including the notice. It means that the Development Commissioner has satisfied himself as to the correctness, legality and the propriety of the decision of the 195th UAC SO AS TO MAKE THIS EXPRESSION OF AGREEMENT. IT IS REVIEW OF THE DECISION OR THE ORDER.

b. It is submitted that none of the provisions of the Special Economic Zone Act, 2005 including Section 12 of the SEZ Act, 2005 authorizes or empowers the Development Commissioner to review the decisions of Unit Approval Committee, i.e A HIGHER BODY constituted under the Act, ibid. Further, none of the Rules of SEZ Rules, 2006 or Instructions issued from time to time by the Ministry of Commerce empowers the DC to review the order of a higher body such as UAC. If any such authority is vested with the Development Commissioner under the SEZ Law, it is mandatory for the Development Commissioner to mention the same in the order itself as to under which Section or rule or instructions, the subject order is being reviewed or passed. But I do not find any such mention or reference in the order.

c. However, for the sake of reference, Section 16 of Foreign Trade (Development and Regulation) Act, 1992 stipulates as to which are the authorities, who can review. It reads as follows:

REVIEW: The Central Government, in the case of any decision or order made by the Director General, or the Director General in case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding, for the purpose of satisfying itself or himself, as the case may be, as to correctness, legality or propriety of such decision or order and make such orders thereon as may be deemed fit.

It is crystal clear from the provisions of Section 16 above, that the power of review is vested in Central Government or the Director General only.

Accordingly, the impugned order, reviewing the decision of the 195th UAC held at KASEZ by the Development Commissioner, KASEZ is ultra vires, void ab initio and without the sanctity of SEZ law. On this ground alone, it is liable to be set aside.

2. Neither, the UAC nor the Development Commissioner is not empowered to withdraw the items from the approved lists of items of any unit either under Section 14(1)(f) of the SEZ Act, 2005 or under Rule 19(2) of the Rules ibid., as held in the impugned order.

For ready reference, let us re-visit the provisions of Section 14(1)(f) of the Act ibid which stipulates as follows

'Monitor and supervise compliance of conditions subject to which the letter of approval or permission, if any, has been granted to the Developer or entrepreneur: and

This may kindly be noted that this Sub Section does not empower either the Development Commissioner or for that matter the Approval Committee to withdraw the items from the approved list of items. It only authorizes the UAC to Monitor & supervise compliances of the condition of LOA, nothing beyond that. Hence, placing reliance on this Sub section is not only erroneous but misleading.

Now coming to the First Proviso to Rule 19(2) of the SEZ Rules, 2006 reads as follows:

"Provided that the Approval Committee may also approve proposals for broad-banding, diversification, enhancement of capacity of production, change in the items of manufacture or service activity, if it meets the requirements of rule 18"

i. It is submitted that the pre requisite of the above proviso is 'approval of proposals. So, the first condition is that there has to be a proposal. From whom will it come? Obviously from an entrepreneur only.

But there is no proposal from us before the UAC or the DC.

ii. Secondly, the proposals in relation to the following only may be approved Board Banding, diversification, enhancement of capacity of production, & change in the items of manufacture or service activity, ONLY.

Withdrawal/deletion of items from the approved list does figure among above. However, it is clarified that change amounts to replacement and not deletion or withdrawal.

Further, this proviso does not empower the UAC to deliberate on Suo motto proposals. In addition, the role of UAC is limited to approval of proposals Only and not to withdraw any item from the approved list.

Hence, order of withdrawal of items by the 195th UAC and later its ratification by the DC vide the impugned Order dated 19.09.24 is BEYOND THEIR POWERS,
HENCE, UN-AUTHORISED AND VOID AB INITIO AND MERITS TO BE SET ASIDE FORTHWITH.

3. Withdrawal or deletion of items from the approved list of items of LOA does not amount to achieve the objectives of SEZ law as enshrined in Section 5 of the Act, ibid. Rather, it makes a dent on such activities and is counterproductive.

It is submitted that this finding of the Development Commissioner is not only erroneous and shows non application of mind but mis-leading too. How can withdrawal or deletion resulting into reduction in the business of warehousing units can generate additional economic activities. Can the Development Commissioner Explain to the Appellate Authority as to how this can happen.

I challenge with all the responsibilities that if, Mr. Dinesh Singh, DC or any of his ill-informed aids like Mr. Marut Tripathi who thinks he is Maruti i.e Hanuman without having any quality of Hanuman, with his half cooked & half-baked knowledge, succeeds in explaining and convincing the Director General that withdrawal or deletion of items from approved list will generate additional economic activity and can make it happen through any mechanism, I will withdraw my appeal unconditionally

4. Entire case is about whether the decision of the 195th UAC WITHDRAWING THE ITEMS FROM THE APPROVED LIST OF ITEMS OF ALL THE WAREHOUSING UNTIS AT KASEZ is within their powers under the SEZ law or not and appeal there against before the BOA. The facts of the entire case are about the decision of UAC AND SUBSEQUENT ACTION OF THE DC, KASEZ which are totally out of the purview of the provisions of Section 11(2) of the Foreign out of the purview of the provisions of Section 11(2) of the Foreign Trade (Development and Regulation) Act, 1992 as made applicable under Rule 54(2) of the SEZ Rules, 2006 & Section 13 of the Act, ibid. Hence, in the present case, provisions of these sections are not attracted.

Additionally, it is submitted that the 195th UAC and the DC, KASEZ are trying to make it a 'Commodity Centric' issue in order to justify their decisions. In fact, it is diversion tactics because the main issue and ground of appeal before the BOA and later before DC, KASEZ has been that neither UAC nor DC is not empowered to withdraw any item from the approved list of items under SEZ law.

Though, DC has tried to justify the action of 195th UAC and that of his own, by shuttling from the provisions of Section 14(1)(f) of SEZ Act, 2005 to Section 11(2) & 13 of the Foreign Trade (Development and Regulations) Act, 1992 but have ended in delivering an order again transcending the provisions of the SEZ Act, 2005 and rules made thereunder. He does not appear to be sure as to take shelter of which Act or the Rules and has ended up in exceeding his power and travelling beyond his role. Apart from these serious legal aberrations and infirmities,

there is non- application of mind too. This order is an example of the situation that when the basics are not clear, one tends to beat about the bushes. so much so, stating in the preamble that the appeal lies before the DGFT in the matter.

Prayers:

The impugned order dated 19.09.2024 may be set aside, with consequential relief to the appellant by restoring the items in the approved list of items.

Para-wise comments:

KASEZ vide its letter No. KASEZ/IA/01/2021-22/Vol.I/392 dated 02.05.2025 provided para wise comments on grounds of appeal against the Order-in-original No. KASEZ/11/2024-25 dated 10.09.2024 in the matter of M/s. Varsur Impex Pvt. Ltd., a KASEZ.

Brief detail of Ground of Appeal	Comments from KASEZ
I. The Development Commissioner (DC) lacks authorization under the Special Economic Zone (SEZ) Act, 2005, to review decisions made by the Unit Approval Committee (UAC). The DC's agreement with the UAC's decision to remove certain items indicates a review of the UAC's decision, which is unauthorized. II. The impugned order fails to reference any specific section, rule, or instruction that authorizes the DC to review the UAC's decision. Reference to Section 16 of the Foreign Trade (Development and Regulation) Act, 1992, clarifies that only the Central Government or the Director General can initiate a review.	The contention of the appellant is not correct as the appellant was allowed for warehousing of items namely Areca Nut/ Betel Nut and Black Pepper in their Letter of Approval dated. 30.04.2021. However, during the period various investigating agencies like SIIB, DRI etc have detected clandestine removal, mis-declaration, concealment and diversion of goods in units operational in Kandla Special Economic Zone and through various letters have sensitized this office. The details of communication respect to units registered in Kandla Special Economic Zone, which were engaged in evasion of customs duty (in crores) are as under: (i) ADG, DRI, Ludhiana vide letter F. No. DRI/LDZU/856/INT-NIL/ENQ-15/2023/400 dated 04.05.2023 informed about an investigation a SEZ unit M/s. Aditya Exports (IEC – 3798000212) for mis-declaring Country of Origin of imported goods i.e. Black pepper and mis-using SOFTA Notification no. 99/2011-Cus dated. 09.11.2011 against DTA sale of goods. (ii) ADG, DRI, Ludhiana vide letter F.No.DRI/LDZU/856/INT-NIL/ENQ-12/2023/356-359 dated.18.04.2023 informed about an investigation initiated against a SEZ unit M/s. Rekha Superfine Exporters (IEC – 1300008016) who was importing black pepper and send it to a non-existent unit for job work as manufacturing of black pepper oleoresin.

		(iii) ADG, DRI, Ahmedabad vide letter F.No. DRI/AZU/CI/INT-17/2023 dated 08.08.2023 informed about an investigation initiated against SEZ units M/s. Sumit (India) Water Treatment & Services Ltd and M/s. Mahamaya Construction & Engineers who were importing Areca nut in guise of PP Granules and PP Agglomeration respectively. (iv) Based on investigation initiated by the officers of DRI Regional Unit, Gandhidham, a Show Cause Notice vide F.No.GEN/ADJ/COMM/650/2023-adjn was issued to M/s. Global Enterprises, 1/472, Anna Street East, Laxmi Nagar, Mudichur, Chennai by the Commissioner, New Customs House, Kandla for importing Areca nut at a warehousing unit M/s. Varsur Impex Pvt. Ltd at KASEZ, Gandhidham and diverting it to DTA in gauge of sending it another warehouse at Delhi. The SCN was issued of an amount of Rs.5.61 Cr. (approx.) and M/s. Global Enterprises has accepted and deposited an amount of Rs.2.60 Cr. (approx) against the liability ascertained by the officers of DRI, Gandhidham. Further, Para 54 of the said Show Cause Notice stipulated the illegal activities towards evasion of Customs duty omitted by M/s. Varsur Impex Pvt. Ltd.
III.	Neither the UAC nor the DC has the power to withdraw items from the approved list under Section 14(1)(f) of the SEZ Act or Rule 19(2) of the SEZ Rules. As, Section 14(1)(f) only allows monitoring and supervision of compliance with the conditions of approval, not withdrawal of items. And, the first proviso of Rule 19(2) only allows for the approval of proposals, not for unilateral withdrawals. IV. The DC and UAC cannot act on their own to withdraw items; there must be a formal proposal from the entrepreneur, which	The contention of the appellant is not correct as the Approval Committee had exercised their powers under Section 14(1)(f) of SEZ Act, 2005 for withdrawal of the items Areca nut and Black Pepper as instances of clandestine removal, mis-declaration were detected by various investigating agencies with regard to the subjected goods. Further, as per decision taken by the Approval Committee, the Development Commissioner issued Show Cause Notice to restrict the items as mentioned in letter of approval issued under Rule 19(2) of SEZ Rule, 2006. Thus, the contention of the appellant is based on erroneous assumption/interpretation that "Monitor and supervise compliance of conditions subject to which the letter of approval or permission, if any, has been granted to the Developer or entrepreneur" does not include with its ambit alteration/addition/deletion

	did not occur in this case.	of the items granted in the LoA. The intention of the legislation appears to be that the UAC in the interest of ensuring compliances, plugging the loopholes/misuse of the warehouse can in good faith take such corrective measures including pruning of the items, especially in the light of blatant/gross violations of multiple contraventions brought to the notice by various investigating agencies.
V.	The order's rationale suggesting that item withdrawals could enhance economic activity contradicts the fundamental objectives enshrined in section 5 of the SEZ law.	The import of Areca nut and Black pepper was withdrawn only for warehousing units in SEZ, which do not satisfy the objectives enshrined in Section 5 of SEZ Act, 2005 as much as substantial customs duty evasion of crores has been detected against SEZ warehousing units including the appellant by the various investigating agencies from time to time.
VI.	whether the decision of the 195th UAC withdrawing the items from the approved list of items of all the warehousing units at KASEZ is within their powers under the SEZ law or not.	The contention of the appellant is not correct as the Approval Committee had exercised their powers under Section 14(1)(f) of SEZ Act, 2005 for withdrawal of the items Areca nut and Black Pepper as instances of clandestine removal, mis-declaration were detected by various investigating agencies with regard to the subjected goods. Further, as per decision taken by the Approval Committee, the Development Commissioner issued Show Cause Notice to restrict the items as mentioned in letter of approval issued under Rule 19(2) of SEZ Rule, 2006 and subsequently O-I-O dated 10.09.2024 was issued agreeing with the decision of 195th UAC meeting held on 19.10.2023 to remove the Areca nuts and black pepper from the appellant units and other warehousing units of KASEZ.

The appeal is being placed before the Board for its consideration.

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