No. K-43022/84/2024-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Vanijya Bhawan, New Delhi
Dated the 23rd September, 2024

OFFICE MEMORANDUM

Subject: - 5th meeting (2024 Series) of the Board of Approval for Export Oriented Units and 123rd meeting of the Board of Approval for Special Economic Zones - regarding.

The undersigned is directed to refer to the subject cited above and inform that 5th meeting (2024 Series) of the Board of Approval for Export Oriented Units and 123rd meeting of the Board of Approval for Special Economic Zones is **scheduled to be held on 04th October, 2024 in Bengaluru** under the Chairmanship of Commerce Secretary in hybrid mode.

2. **The Agenda for the 123rd meeting of the BoA for SEZs is enclosed herewith.** The Agenda has also been hosted on the website: **www.sezindia.gov.in.**

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

4. The meeting link of the aforesaid meeting will be shared in due course.

23/9/24

(Sumit Kumar Sachan)
Under Secretary to the Government of India
Tel: 011-23039829
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. ShriSanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), UdyogBhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, ShastriBhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, KrishiBhawan, 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, NirmanBhavan, 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, VikasSaudha, 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 (4^{th} 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), LalBahadurShastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
53. Government of Punjab, Principal Secretary Department of Industry & Commerce UdyogBhawan), 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), VallabhBhavan, 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, 2^{nd} Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

Copy to: PPS to CS / PPS to AS (LSS) / PPS to JS (VA)/ PPS to Dir (SNS).

Agenda for the 123rd meeting of the Board of Approval for Special Economic Zones (SEZs) to be held on 04th October, 2024

Agenda Item No. 123.1:

Ratification of the minutes of the 122nd meeting of the Board of Approval for Special Economic Zones held on 30th August, 2024.

The minutes of the 122nd meeting of the Board of Approval for Special Economic Zones held on 30th August, 2024 are placed at Annexure I.

Agenda Item No. 123.2:

Request for extension of LoA of SEZ Unit [2 proposals – 123.2(i) and 123.2(ii)]

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.*

#123.2(i) - Proposal of M/s. Zen Technologies Limited in M/s. TSIIC Ltd Adibatla SEZ for extension of Letter of Approval (LOA) beyond 02.02.2021 and upto 02.08.2025.

Jurisdictional SEZ – Vishakhapatnam SEZ (VSEZ)

Facts of the case:

LoA issued on (date)	:	03.08.2018
Nature of business of the Unit	:	a)End-to-end IT-Embedded Training Solutions and b)Design, Development and manufacture of simulators for Aerospace, Defence, Home Land Security, Mining and Road Transport Industry
No. of Extensions	:	1 year 6 months extension granted by DC, VSEZ
LoA valid upto (date)	:	02.02.2021
Request	:	For further extension of one year upto 02.08.2025.

Present Progress:

a. **Details of Business plan:**

Sl. No.	Type of Cost	Proposed Investment (Rs. in crores)
1	Proposed cost of Investment for Building	3.50
2	Proposed cost of Plant and Machinery	2.50
3	Proposed cost of Investment for Working Capital	4.00
	Total project cost	**10.00**

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

Sl. No.	Type of Cost	Total investment made so far (In Rs. Crores)	Incremental Investment since last extension (in Rs. Crores)	Total investment made (in Rs. Crores) till date
1	Cost of Investment on Land	0.92	Nil	0.92
	Total	**0.92**	**Nil**	**0.92**

c. **Details of physical progress till date:**

S. No.	Activity	% completion	% completion during last one year	Deadline for completion of balance work
1	Civil works will commence as soon as VSEZ unit is approved	Nil	Nil	Nil
2	Civil constructions	Nil	Nil	12 months
3	Plant & Machinery	Nil	Nil	15 months
4	Operations	Nil	Nil	20 months

Detailed reasons for delay: - The Unit has informed that they have submitted application to M/s. TSIIC Limited for construction permission through iPass online portal vide ack UID dated 04.05.2019 and executed lease deed on 09.04.2019 vide Document No. 10850/2018 at Sub-Registrar Office, Ibrahimpatnam. TSIIC did not process their application dated 04.05.2019 since TSIIC has terminated the Co-

Developer status accorded to M/s. Samuha Engineering Industries Limited. Subsequently, they got permission from TSIIC vide Order dated 11.03.2024 and valid for construction to be commenced on or before 01.09.2025 and to be completed before 11.03.2030.

Additional information: -

- The unit has not commenced operations yet and the LoA has expired on 02.02.2021. VSEZ has not considered the request of the unit for extension of validity of their LoA beyond 02.02.2021 as no activity has been undertaken as per the report of the Specified Officer.
- Subsequently, the unit vide letter dated 12.3.2024 has stated that they are under process of establishment of unit in the above SEZ and have completed the following formalities:
  1. They got LOA from VSEZ on 03.08.2018
  2. They have registered Lease Agreement vide D. No. 10850/2019 dated 09.05.2019.
  3. They have applied for construction permission to TSIIC vide ipass ack No. UID dated 04.05.2019
  4. They have submitted the BLUT on 09.05.2019 and got approved on 04.06.2019
  5. They got construction approval from TSIIC vide letter dated 11.03.2024
- They have further stated that they are ready to construct the unit at the above SEZ within duration specified In the TSIIC approval dated 11.3.2024.
- The Specified Officer vide latter dated 04.07.2024 has stated that the unit has been inspected and found that no construction activity has taken place from the date of issuance of LOA to till date, consequently no further investment has been made and no employees have been recruited. In this regard, the unit has submitted vide their letter dated 01.07.2024 that they could not undertake construction activity as TSIIC has not extended their agreement with Co-Developer viz., M/s. Samuha Engineering Industries Ltd. In view of the same, though the unit has made application for construction on 04.05.2019 vide UID No. SNK006003517829, TSIIC has not given permission for construction. Subsequently, the unit got permission from TSHC vide order dated 11.3.2024 for construction with a condition to commence on or before 11.09.2025 and to be completed before 11.03.2030.

Recommendation by DC, VSEZ:

The request of the Unit for extension of validity of their LoA from 03.02.2021 to 02.08.2024 is duly recommended by DC, VSEZ to BoA for approval.

#123.2(ii) - Proposal of M/s. GAIL Mangalore Petrochemicals Limited, for extension of validity of Letter of Approval dated 16.09.2011.

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Facts of the case:

LoA issued on (date)	:	16th September 2011
Nature of Business of the Unit	:	Manufacture and export of 'Purified Terephthalic Acid' (PTA) and 'Polyethylene Terephthate' (PET)
No. of extensions	:	11 extensions (upto 15.09.2024)
Request	:	Extension of validity of LoA for a further period of one year upto 15.09.2025 (12th extension)

Progress of project since last LoA extension:-

- **Progress in terms of completion of work:-**

Sl. No.	Description	Current status	
		% of work completed	% of work yet to complete
1	Engineering	100	NIL
2	Procurement	99.95	0.05
3	Construction	99.10	0.90
4	Overall	99.80	0.20

- **Progress in terms of investment made:-**

Sl. No.	Description	Investment made upto 15.09.2021 by M/s JBF Petrochemicals Limited (Rs. in crore)	Incremental investment since last extension by M/s GAIL (since 16.09.2023) (Rs. in crore)	Total Investment made so far (Rs. in crore)
1	Salaries & Wages	83.69	18.10	101.79
2	Staff Welfare Expenses	1.08	2.44	3.52
3	**Other Expenses**			
	Tangible Fixed Assets (including material and Civil work)	3529.83	966.76	4496.59
	Intangible Fixed Assets (Software Licence)	1.30	0.00	1.30

	Technology, Licence & Construction related fees	545.05	1.30	546.35
	Legal & Professional fees & Guarantee Commission	293.22	0.65	293.87
	Miscellaneous expenses (Power, Diesel, Admin Expenses,Rent, Travelling & Conveyance etc.)	450.77	33.67	484.44
	Borrowing Cost (interest)	1466.90	129.70	1596.60
	Foreign Exch. Fluctuation	148.02	0.00	148.02
	Fixed Assets	160.14	1.18	161.32
	Total	**6680.00**	**1153.80**	7833.80

Some achievements

	Sl. No.	Package	Target Completion (After takeover by M/s GMPL)
ISBL	1	ISBL-PTA Unit Mechanical Completion	Mechanical work completed (maintenance under progress)
	2	Commissioning trials	Commissioning trials of individual systems completed (maintenance under progress)
OSBL	1	Nitrogen PSA	Commissioned (maintenance under progress)
	2	FW System	Commissioned (maintenance under progress)
	3	6 Nos. of bagging machine	Ready for trial (maintenance under progress)
	4	Cooling Water systems	Commissioned (maintenance under progress)
	5	Insulation & Painting	Completed (maintenance under progress)

Details of completion of work

Sl. No.	Package	Status (After takeover by M/s GMPL)
1	Solo run of process air compressor	Completed (maintenance under progress)
2	Commissioning of oxidation system	Completed (maintenance under progress)
3	Commissioning of vent gas system	Completed (maintenance under progress)
4	Commissioning PTA feed & Filtration system	Completed (maintenance under progress)
5	Commissioning of bagging system	Completed (maintenance under progress)
6	Final commissioning i.e. PX cut-in	Yet to start

Reason for delay in implementation of the project:

- Erstwhile JBF Petrochemicals Limited was acquired by GAIL vide **NCLT order No.IA/899(AHM)2022 in CP(IB)232 of 2018, order under section 31IBC,2016** dated 13.03.2023 and it was renamed to M/s GAIL Mangalore Petrochemicals Limited (GMPL). GMPL has started execution of revival activities at the site. The unit was not under preservation since 2020, and power supply was cut off due to non-payment of dues, plant and machinery including electronic hardware underwent lot of deterioration. As they are lining up different agencies including Original Equipment Manufacturers (OEMs), it is repeatedly observed that different components are required to be temporarily removed from GMPL site (inside MSEZ area) to DTA for repair and maintenance. Considering the plant was taken over on "as is where is basis" after a non-operational period of 5 years from 2017-18, it is very difficult to trace inward passes for these components and their invoices.

- The following activities are under progress:-
- Boiler revamp awarded to M/s Thermax. Two Oil and Gas boilers will be revamped using major components of the old boilers. One coal fired boiler is being converted to oil and Gas fired boiler. The activities are likely to be completed and boiler will be ready for commissioning in August 2025.
- Infrastructure for P xylene and Acetic Acid handling is being developed from port to site. Engineering is finalised and construction will begin shortly and will take around 10 months to complete.
- Process Air Compressor spare parts ordered and likely to arrive by Feb-March 2025. Post arrival of spare parts Siemens team from Germany will start revival jobs at site and likely to complete the job by July 2025.
- Offsite units are getting into operation one by one and are likely to be ready by March 2025.
- WWTP is under revival and is likely to be ready by June -July 2025 for commissioning
- 350 out of 400 rotating equipment maintenance completed and trial run getting started.
- 96 out of 106 static equipment inspection completed and ready for water run and will take 10 months for trial run to get completed
- 870 control valves out of 1500 valves maintenance completed and rest are under progress and likely to be completed within 6-7 months
- Civil works such as storm water drain, boundary wall balance work, product warehouse, bagging machines and revival & store building revival job just got started and likely to take 10 months to complete
- The unit informed that they can implement the project by September, 2025.

Recommendation by DC, CSEZ:-

Considering the investment made and that the unit is under revival stage, the request of M/s. GAIL Mangalore Petrochemicals Limited (erstwhile M/s. JBF Petrochemicals Limited) for extension of the validity of LoA No.KA:16:07:MSEZ:2B dated 16.09.2011 for a further period of one year from 16.09.2024 to 15.09.2025 (12th extension) is duly recommended by DC, CSEZ to the BoA for its consideration.

Agenda Item No. 123.3:

Request for approval of Restricted/Prohibited items [2 proposals – 123.3(i) and 123.3(ii)]

#123.3(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 (U.P.).

Jurisdictional SEZ – Noida SEZ (NSEZ)

M/s. HCL Technologies Limited, Developer vide its letter dated 14.08.2024 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 (U.P.):-

S. No.	Authorized Operation / item description	Sl. No. at default list of Autho. Opr. as per Inst. No. 50 & 54	Estimated Cost (Rs. in Crores)
i.	Air Conditioning of processing area. (i) Refrigerant - R407C (HSN 38276400) (ii) Refrigerant - R410A (HSN 38276300) (iii) Refrigerant - R32 (HSN 29034200) (iv) Refrigerant – R134A (HSN 29034500) (v) Refrigerant – R404 (HSN 38276100)	21	0.84

The Developer has informed that they need to procure these refrigerant gases from DTA supplier for filing the heating, ventilation and air conditioning (HVAC Machine) – Type DX (Direct Expansion) installed in the SEZ and required for day-to-day business operation. The Developer has mentioned that these 'Refrigerant Gases' are 'Restricted' and are compatible with their HVAC machine.

Relevant provisions: -

- As per Notification No.62/2015-2020 dated 23.03.2022 issued by DGFT, HS Codes 38276400, 38276300, 29034200, 29034500 & 38276100 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.'*

Recommendation by DC, NSEZ:-

In view of above, the proposal of M/s. HCL Technologies Limited, Developer for duty free procurement of 'Restricted' items - 'Refrigerant Gases' under HS Code 38276400, 38276300, 29034200, 29034500 & 38276100 - from DTA, to carry on authorized operation in the IT/ITES SEZ at Plot No. 3A, 3B & 2C, Sector-126, Noida (U.P.), is duly recommended by DC, NSEZ to BoA for its consideration, in terms of proviso to Rule 27(1) of SEZ Rules, 2006.

#123.3(ii) - Proposal of M/s. V.M. Maniyar Exports, Plot No. 103-104-A, 73 & 74, Surat SEZ for Export of Prohibited Items.

Jurisdictional SEZ – Surat SEZ

M/s. V.M. Maniyar Exports was granted LOA vide SSEZ/II/16/2011-12/476, dated 09.06.2011 for manufacturing activity and amended/renewed from time to time and the unit has commenced their manufacturing activity on 15.01.2014. Now, the unit vide letter dated 05.09.2024 has requested for broad banding of prohibited items which are as under:-

Sr. No.	Items Description for manufacturing	Annual Capacity (M. Tons)	Item Code (ITC HS Code No.)
1.	Sandalwood Heartwood Billets	150	44039922
2.	Sandalwood Heartwood Roots	50	44039922
3.	Sandalwood Heartwood Logs	250	44039922
4.	Sandalwood Heartwood Butts	50	44039922
5.	Sandalwood Heartwood Artefacts	50	44039922
6.	Sandalwood Heartwood Pieces	150	44039922
7.	Sandalwood Sapwood Billets	75	44039922
8.	Sandalwood Sapwood Roots	25	44039922
9.	Sandalwood Sapwood Logs	125	44039922
10.	Sandalwood Sapwood Butts	25	44039922
11.	Sandalwood Sapwood Artefacts	25	44039922
12.	Sandalwood Sapwood Pieces	75	44039922

Relevant provisions: -

- As per Notification No. 37/2015-2020 dated 27.01.2017 issued by the DGFT, the above goods is Prohibited for export.
- **As** per **Rule 18** of the SEZ Rules, 2006 - Consideration of proposals of Unit in an SEZ: -
  (3) The proposal shall also fulfil the following sector specific requirements, namely: -

(a) export of the goods from Special Economic Zones shall be subject to export policy in force, as provided in Schedule 2 to the Indian Trade Classification (Harmonised System) of Export and Import Items, 2017;

- As per **Rule 45 of SEZ Rules, 2006 -**

  (1) A Unit may export goods or services as per the terms and conditions of Letter of Approval including agro-products, partly processed goods, sub-assemblies and components except prohibited items under the Import Trade Control (Harmonized System) Classification of Export and Import Items and the Unit may also export byproducts, rejects, waste scrap arising out of the manufacturing process.

  Provided that a unit may export prohibited items to a place outside India with prior approval of Board of Approval: Provided further that such prohibited items cannot be procured from Domestic Tariff Area.

- **As per Fifth and Sixth Proviso of Rule 26 of SEZ Rules, 2006:-.**

  26. General Conditions of Import and Export.-

  Provided also that Special Economic Zone Units shall be permitted to export prohibited items, if they import raw-material for the same, but each such case shall be placed before Board of Approval for approval:

  Provided also that items which are prohibited for import, Special Economic Zone Units shall be permitted to import the same if they export goods made out of the same but each such case shall be placed before Board of Approval for approval.

The unit has undertaken as follows: -

a. They will not procure any sandalwood raw material, product or items from Domestic Tariff Area.
b. Entire products manufactured from imported sandalwood will be exported and will not be diverted to DTA either in raw material or finished products.
c. They will maintain Positive NFE for their entire manufacturing activity.
d. They will fulfill other standard terms and conditions of LOA.
e. They will execute a fresh Bond cum Legal Undertaking.

Recommendation of DC, Surat SEZ: -

i. Currently, the unit exports articles manufactured from imported items only and there is no DTA sale or procurement.
ii. Board of Approval in its 122nd meeting held on 30.08.2024 has already allowed exports of similar prohibited items in the matter of M/s. Aurascent Essence Pvt. Ltd.

Accordingly, the proposal of the unit is duly recommended by DC, Surat SEZ to BoA for its consideration.

Agenda Item No. 123.4:

Request for approval of Partial/full de-notification [1 proposal – 123.4(i)]

Procedural guidelines on de-notification of SEZ:
• *In terms of first proviso to rule 8 of the SEZ Rules, 2006, the Central Government may, on the recommendation of the Board (Board of Approval) on the application made by the Developer, if it is satisfied, modify, withdraw or rescind the notification of a SEZ issued under this rule.* • *In the 60th meeting of the Board of Approval held on 08.11.2013, while considering a proposal of de-notification, the Board after deliberations decided that henceforth all cases of partial or complete de-notification of SEZs will be processed on file by DoC, subject to the conditions that:* *(a) DC to furnish a certificate in the prescribed format certifying inter-alia that;* o *the Developer has either not availed or has refunded all the tax/duty benefits availed under SEZ Act/Rules in respect of the area to be de-notified.* o *there are either no units in the SEZ or the same have been de-bonded* *(b) The State Govt. has no objection to the de-notification proposal and* *(c) Subject to stipulations communicated vide DoC's letter No. D.12/45/2009-SEZ dated 13.09.2013.*

#123.4(i) - Proposal of M/s. Brandix India Apparel City Private Limited for partial de-notification of 25.428 Ha out of 386.806 Ha of their Textile SEZ at Anakapalli District, Andhra Pradesh.

Jurisdictional SEZ – Vishakhapatnam SEZ (VSEZ)

Facts of the case:

Name of Developer	:	M/s. Brandix India Apparel City Private Limited
Location	:	Duppituru, Moturpalem, Rambilli, Moruturu, Gurujapalem Villages, Atchutapuram Mandal, Anakapalli District, Andhra Pradesh

LoA issued on (date)	:	21.08.2006 (Formal Approval)
Sector	:	Textile
Operational or not operational	:	Operational
Notified Area (in Hectares)	:	386.806 Ha.
Area proposed for de-notification (in Hectares)	:	25.428 Ha.

The Developer has proposed for partial de-notification of 25.428 Ha out of 386.806 Ha. As regards reasons for the decrease, the Developer has mentioned the following: -

(i) Slowdown for setting of SEZ units due to imposition of Minimum Alternative Tax (MAT) and Dividend Distribution Tax (DDT) on SEZ units.
(ii) Absence of level playing field between DTA and SEZ in the form of:
a) Non-availability of Duty Drawback Incentive for Apparel units set up in SEZ, even if they use local materials compared to the availability of the same for DTA units.
b) Requirement to pay Customs Duty additionally for sales from SEZ to Local Market against no such duty for the Local units
(iii) Due to the above reasons, against 15 units set-up by the Overseas Companies in BIAC SEZ, not even a single Indian company has chosen to invest in BIAC though, it has the suitable world class infrastructure and other facilities in the country.
(iv) Creation of DTA would result in Indian companies investing in BIAC, as well as, Overseas Companies catering to both Indian and Overseas market. This will create huge employment opportunities especially, for the unemployed women in the rural Andhra Pradesh and
(v) Instruction of Sunset Clause for starting new units in the SEZ beyond 31st March, 2020.

As per DoC's O.M. dated 14.07.2016 regarding required documents for partial de-notification and the status thereof are as below:

S. No.	Documents/Details Required	Status
(i)	Form-C5 for decrease in area along with DC's recommendation	Yes, provided
(ii)	DC's certificate in prescribed format	Yes, provided
(iii)	Developer's Certificate countersigned by DC	Yes, provided

(iv)	Land details of the area to be de-notified countersigned by DC	Yes, provided
(v)	Colored Map of the SEZ clearly indicating area to be de-notified and left-over area duly countersigned by DC	Yes, provided
(vi)	"No Objection Certificate" from the State Government w.r.t. instructions issued by DoC vide its instruction No. D.12/45/2009-SEZ dated 13.09.2013 for partial de-notification shall be complied with	Yes, provided
(vii)	'No Dues Certificate' from specified officer	Yes, provided

The State Govt. of Andhra Pradesh vide letters dated 17.01.2024 and 11.03.2024 has conveyed their No Objection to the proposal subject to the following conditions: -

i. Such de-notified parcels would be utilized towards creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged.
ii. Such land parcels after de-notification will confirm to land use guidelines/master plans of the respective State Governments.
iii. Exemptions availed under SEZ Act in proportion to de-notified area be re-paid to Govt. Of India/State Government as applicable on confirmation of the same by Development Commissioner, VSEZ.
iv. Any incentives availed under State policy has to be repaid to the State Govt. Such as Stamp Duty Exemptions and other benefits sanctioned by State Govt.
v. Such land parcels after de-notification shall be utilized only for industrial purpose.

In compliance of DoC's Instruction No.102 regarding physical inspection and contiguity condition, an Inspection Report dated 07.08.2024 has been provided. As per the report, Physical Inspection was conducted on 07.08.2024 by Development Commissioner, VSEZ along with ADC, VSEZ, Specified Officer and Mandal Revenue Officer/Tahsildar. The lands proposed for partial de-notification are having existing infrastructure. The area remaining after the proposed partial de-notification is contiguous meeting all the requirements of area/built-up area in terms of SEZ Act and Rules and without any public thoroughfare.

DC, VSEZ has certified that;

a. The existing units have been de-bonded following the procedure prescribed in Rule 74 of the SEZ Rules. The lands proposed for partial de-notification are having existing infrastructure.
b. The developer had availed the tax/duty benefits under the SEZ Act/Rules:

The Specified Officer vide letters dated 14.06.2024 and 21.06.2024 has stated that the Developer and Co-Developer has paid a total amount of Rs. 6,58,22,629 towards Customs duties, Service Tax/IGST on duty benefits availed by them on goods used in the proposed de-notification area of 25.428 hectares. Hence No customs/Central excise duty dues are pending in respect of goods used in the proposed partial de-notification area.

All tax/duty benefit indicated above have been refunded by the developer and Co-Developer to DC's satisfaction.

c. The SEZ shall remain contiguous even after de-notification of the area of 25.428 Ha and shall meet the minimum land requirement prescribed for the SEZ in an Existing Area. Area after de-notification would be 361.378 Ha.

Recommendation by DC, VSEZ:-

The proposal of partial de-notification of 25.428 Ha by M/s. Brandix India Apparel City Pvt. Ltd. is duly recommended by DC, VSEZ to BoA for its consideration.

Agenda Item No. 123.5:

Miscellaneous [1 proposal – 123.5(i)]

#123.5(i) - Proposal in respect of M/s. Digiflex India Limited for Revival of Sick Unit and transfer of assets & liabilities to M/s. Knitpro International.

Jurisdictional SEZ – Noida SEZ (NSEZ)

M/s. Digiflex India Limited and M/s. Knitpro International has submitted proposal dated 11/07/2024 wherein M/s. Knitpro has proposed to take over the assets of sick unit i.e. M/s. Digiflex at Plot No. 55 & 58D, NSEZ.

Brief history of M/s. Digiflex India Limited: -

i. LOA No. 08/43/88-NEPZ was issued to M/s. Digiflex India Ltd. for manufacturing of Latex Gloves on 05.01.1989.
ii. Plot No. 55, NSEZ measuring 2999.7 sq. mtrs. and Plot No. 58D, NSEZ measuring 4961.25 sq. mtrs. were allotted to the unit on 17.01.1989 & 25.06.1993 respectively.
iii. The unit commenced its production on 01.02.1991.
iv. LOA was valid upto 31.03.2001 and lease deed of Plot No. 55 & 58D, NSEZ were valid upto 31.12.2003 & 31.05.2008 respectively.
v. On 23.07.1998, the Unit informed that they suffered due to losses by the company and has come under the definition of 'Sick Company' under SICA and BIFR. The Unit also stated that they have stopped production and requested not to take any coercive action against the company and its directors.
vi. The unit approached BIFR on 25.03.1998 and was declared sick under BIFR on 30.09.1998. On recommendation of the BIFR, the Hon'ble High Court of Delhi vide its order dated 12.12.2002 passed an order for winding up of Digiflex India Ltd. and the Official Liquidator took over the assets of the company.
vii. On 11.09.2002, Notice under Section 4 of P.P. Act 1971 was issued for recovery of lease rent Rs.7,17,605/- outstanding as on 24.09.2002 in respect of Plot No. 58D, NSEZ. On 11.09.2002, Notice under Section 4 of P.P. Act 1971 was issued for recovery of lease rent Rs.10,68,801/- outstanding as on 30.09.2002 in respect of Plot No. 55, NSEZ.
viii. On 27.07.2004, Asstt. Official Liquidator, Delhi informed that Hon'ble High Court vide its order dt. 15.07.2004 had sold the Plant & Machinery situated at Plots has to be removed by the Auction Purchaser against the total bid amount of Rs. 68 Lacs only.

ix. On 11.10.2004, an Affidavit was filed by NSEZ before Hon'ble High Court against the Auction of Plant & Machinery with the prayer to allow clearance of goods on payment of duty and pay outstanding dues of Customs.

x. On 23.02.2005, the Lease rent dues, Customs Dues and Labour Dues were informed to CGSC appearing in High Court of Delhi on behalf of NSEZ. On 24.02.2005, the Hon'ble High Court of Delhi directed to file an affidavit indicating the dues of NSEZ.

xi. On 09.03.2005, an affidavit informing dues of NSEZ (Total Rs.29,54,149/- in respect of Plot No. 55 & 58D) were provided to Central Govt. Standing Counsel.

xii. The unit filed a petition No. 266/2009 before Hon'ble High Court of Delhi seeking approval/sanction of the Scheme of Revival. Under the scheme, the promoters of the unit made a provision of 20% payment towards the amount claimed by the unsecured creditors and approached all the secured creditors namely PICUP, UPFC, IDBI Bank, Lord Kishna Bank and Bank of Baroda and entered into a One Time Settlement (OTS). The promoters found an investor M/s. AKM Systems Pvt. Ltd. which was willing to invest Rs.12 Crores into the company through issue of equity and loan.

xiii. Under the scheme of revival, the unit proposed to restart its Latex Glove Operation at Vill Thirumalayapalayam in Coimbatore District and its already built 50,000 sq. ft. facility at NSEZ.

xiv. On 25.04.2013, M/s. Digiflex India Ltd. informed that the scheme for revival had been approved by High Court of Delhi on 27.05.2011 and requested to renew the lease deed of plots. A reminder was also given on 23.10.2013.

xv. M/s. Digiflex India Ltd., vide its letter dated 23.05.2019, submitted the copy of petition and order of High Court of Delhi sanctioning the revival of the Company and requested NSEZ to provide them details and breakup of outstanding lease rent. The scheme for revival was approved by the High Court of Delhi on 27.05.2011.

xvi. The breakup of outstanding lease rent was provided to the unit vide NSEZ's letter dated 24.06.2019 as requested by the unit. The unit was advised vide NSEZ letter dated 18.09.2019 to clear the outstanding lease rent and revive their business & submit fresh projections for import, export, Capital investment, list of CG/RM alongwith feasibility and viability report within 30 days so as to forward to BOA for consideration. If the unit fails to submit the report within 30 days, it will be presumed that the unit is not willing to re-start their business and the possession of the said premises shall be taken over by NSEZ.

xvii. The unit, vide its letter dated 25.11.2019, had filed an application in Form F for issuance of LOA for warehousing and other services. The proposal of the unit was placed in the UAC meeting held on 05.02.2020.

2. Previous details of consideration by Approval Committee & subsequent decision/action: -

i. The Approval Committee in its meeting held on 05/02/2020 observed that the proposal was not in conformity with High Court Order/ Revival scheme. In fact there was a new entity application for issuance of new LOA. The Approval Committee further observed that DOC vide its letter dated 07/03/2017 had informed that "only fresh allotments are to be allowed and no sharing of space by sister concern with the original allottee can be allowed". Therefore, the applicant will need to apply for fresh allotment of space in NSEZ for instant project and surrender the space occupied by it in NSEZ against the LOA dated 05/01/1989.

ii. Subsequently, the Unit vide its letter dt. 11.10.2021 submitted the followings: -

(a) Unit has stated that they have provided detailed project report as per proforma and placed the application online as required with all the details of Company, etc. It has been mentioned that since they had left with buildings in the Zone as the machinery has been disposed of by the Official Liquidator to complete payment of the financial institutions, They had requested to allow them to do trading activity as any plan to re-install the machinery will take time. If they had been issued LOA/Lease deed and their unit had been operational during Covid time as they had knowhow for the very essential item required in the pandemic time which can be vouched from the fact that all glove, syringes manufacturing units had done well during that period. Unit has further mentioned that in the absence of any LOA they had lost this opportunity of reviving the unit in a big way.

(b) It has been stated that they had been requesting this office to revive the LOA/Lease deed so that they could start the unit and pay the lease rent without accumulating any interest. Unit has mentioned that this office had not recovered its dues at the time of disposal of machinery by Official Liquidator whereas Customs levy have been recovered. Unit further mentioned that it is true that in the order of the Delhi High Court it is mentioned that this order does not reflect on any exemption and if the order of the Delhi High Court had been implemented in 2012 itself, there would not have been any due from them. Unit has stated that it is not reasonable to ask for lease rent along with interest for the period there was no LOA or lease deed issued by this office. Unit has requested to relook the dues as per above justification and they will implement the same after waiver of the period when no LOA/lease was issued/ valid.

(c) Unit has mentioned that they have decided to close the Company that was proposed to run the project due to legacy issue of Digiflex India Ltd. It is therefore, requested that LOA for the existing product may please be issued along with lease deed renewal so that they start the unit and make payment of lease rent in future and run the existing Company M/s Digiflex India Ltd.

iii. The Approval Committee in its meeting held on 17/12/2021 deferred the matter with a direction to obtain the legal opinion in the matter.

iv. The Approval Committee in its meeting held on 07/06/2022 observed that as already communicated to the unit vide letter dt. 26.02.2020, the submitted proposal by the unit is not in line with the decision of High Court. The Approval Committee deferred the matter with the direction to the unit to submit its detailed proposal for revival of LOA in line with the scheme of revival approved by Hon'ble High Court along with complete details of proposed authorized operations alongwith ITC(HS) Code, list of raw material, capital goods, projection for next five years, deposition of outstanding lease rent etc. The unit was also asked to provide reply to the issues raised in the office letter dated 26.02.2020. A PH was also granted to unit by DC, NSEZ on 5.9.2022

3. **Current proposal:** - Now, M/s. Digiflex India Limited and M/s. Knitpro International has submitted proposal dated 11/07/2024 wherein M/s. Knitpro has proposed to take over the assets of M/s. Digiflex at Plot No. 55 & 58D, NSEZ. Details of proposal are as under:

(A) In the said letter, M/s. Digiflex India Limited has stated as under:

(i) They refer to the various correspondence and personal hearing in the matter of revival of LOA and Lease Deed in respect of plots with M/s Digiflex India Ltd. The Company was set up in 1987 and had been allotted two industrial plots (1) Plot No. 55 measuring 2999.7 sqm and (2) Plot No.58D measuring 4961.25 sqm in the Noida Special Economic Zone. The Company had been functioning and exporting Latex Examination Gloves/Surgical Gloves for over ten years from the NSEZ. Due to international market situation, the Company had become sick and was referred to BIFR and liquidation proceedings held as per orders of the High Court of Delhi. The decision of the Court for successful resolution of Liquidation wherein the Company had to clear all the outstanding of Financial Institutions, labour, Customs, etc. was implemented by the Company.

(ii) They have since then been trying to revive the unit to manufacture latex gloves. They have assessed the market situation and found that over 50 industrial units established in EPZ/SEZ/EOU during the period 1987-1995 have become sick and could not be revived. In NSEZ also out of four functional units approved in 1987 only one unit is functioning that too with diversified range of products. Moreover, large capacities have been set up in countries in South East Asia, in Malaysia and China where captive latex raw material is produced in abundance and have captured the international market almost as a monopoly in this segment.

(iii) In view of above, they have found that they will not be able to restart the unit in the same line of manufacture as was envisaged in 1987 onward. They had invested over Rs.10 ten crores towards payment of dues of financial institutions and other in order to secure the property that they have built for the export business.

(iv) They have been looking for Companies who can take over the property and export from the NSEZ utilising their infrastructure in land and building. In this connection, M/s Knitpro International, a Company already existing in NSEZ has shown interest in acquiring their property. They have approved LOA in the NSEZ. Unit has requested to consider transfer of the property to M/s Knitpro International under Rule 72 of the SEZ.

(v) In the order of liquidation as approved by the Delhi High Court some payment of dues of Customs, labour, NSEZ has been mentioned. The same have already been paid to the Customs and labour.

(B) Unit has requested to consider transfer of assets to Knitpro International and waive the lease rent dues in the interest of future prospects of putting the infrastructure in use at the earliest.

(C) Besides, M/s. Knitpro International vide its letter dated 11/07/2024 has submitted following:

(i) That Under the provisions of Rule 72 of The SEZ Rules 2006, M/s. Digiflex is now approaching this office with its revival proposal wherein they have approached their unit (KnitPro International) to take over all the assets and liabilities of their unit as far as the same pertains to their SEZ operations covered under the ambit of its earlier LOA no. 08/43/88-NEPZ dated 05 January, 1989.

(ii) That they are willing to take over the unit along with building/super structure built on Plot no. 55 & Plot No. 58D, Noida SEZ that will be allotted to them under the provisions of Rule 72 in case the application is approved by this office. Taking over of this unit will help them in implementing their plans for long term expansion of their business which is currently amongst the global market leader in field of hobby & craft products.

(iii) They are currently running units under existing LOA in Noida SEZ and Mahindra Worldcity SEZ, Jaipur. Their business group is present in the NSEZ since 1987 and was amongst the first units to commence operations here at NSEZ. Their total group turnover (KnitPro International and Indeutsch Industries Pvt. Ltd.) for financial year ended 31 March, 2024 is close to Rs. 400 crores and they currently employ more than 2000 persons in their various units in Noida and Jaipur.

(iv) The main business activity of KnitPro International is manufacture and sales of Hand Knitting Tools & Accessories, Knitting Yam, Carbon fiber products, Bags & Cases, Stainless Steel Tubes, Wooden Products, etc. at units at Noida SEZ and Mahindra Worldcity SEZ, Jaipur.

(v) They are now further expanding into other hobby & craft products such as Punch Needles, Rug Hooking Tools, Wooden Frames, etc. which also have a large global market. Along with the same, they would be making further expansion in their existing business, specially the knitting & crochet yam business where their products are gaining more and more worldwide acceptance.

(vi) As part of their expansion plans, while they have acquired business of two leading American hobby brands (Lantern Moon & The Oxford Company) in the last 5 years, they would continue to acquire more businesses overseas that would enable them to move more manufacturing to India from these companies.

(vii) In case units situated at Plot no. 55 & Plot No. 58D, Noida SEZ are allotted to them under Rule 72, they would be investing an additional amount of about Rs. 30 crores in these units over the course of coming time period. Further with the completion of this project, they expect to achieve enhanced production and additional exports of minimum Rs. 100 crores over a period of five years with additional employment generation of about 200 workers.

(viii) Unit has requested to positively consider the application of Digiflex India Ltd. for revival of their project by their unit, M/s KnitPro International, in line with their above proposal.

4.1 The said proposal was considered by the Approval Committee in its meeting held on 27/08/2024 wherein Shri Arun Khanna, Managing Director of M/s. Digiflex India and Shri R.C. Jain, partner of M/s. Knitpro International appeared before the Approval Committee and explained the proposal.

4.2 The Approval Committee observed that **Rule 72 of SEZ Rules, 2006** states as under:

(1) A unit which has been declared sick by the appropriate authority shall submit a revival package through Development Commissioner to Board for consideration and the Board shall consider the extension in the period for fulfilment of Positive Net Foreign Exchange for a further period up to a maximum of five years at the prevalent norms.

(2) On extension of the period, unutilized raw material and imported or domestically procured capital goods shall be allowed to be carried forward at their original value and the Bond-cum-Legal Undertaking executed by the unit shall be revised accordingly.

(3) In case a new entity is willing to take over all the assets and liabilities of a sick Unit, transfer of such assets and liabilities as provided under sub-rule (1) shall be considered by the Board.

(4) Where a Unit is granted extension of period for fulfilment of Positive Net Foreign Exchange Earning under sub-rule (1), the space would continue to be in its possession.

(5) Where a Unit is taken over by another unit, the liability shall pass on to the new unit which is taking over the sick unit.

4.3 The Approval Committee discussed the agenda in detail and after due deliberations, directed that the matter may be examined by project section and proposal may be forwarded to Department Of Commerce with complete details, for further consideration of BOA in terms of Rule 72 of SEZ Rules, 2006.

5. As per directions of Approval Committee, the matter has been examined by NSEZ and it is observed that in terms of Rule 72(5) of SEZ Rules, 2006 (*as mentioned above*), all the liabilities of M/s. Digiflex shall pass on to M/s. Knitpro International, if the proposal is approved. Hence, M/s. Knitpro International would be required to pay all the outstanding lease rent and other liabilities, if any, with respect to LOA No. 08/43/88-NEPZ dated 05.01.1989 issued to M/s. Digiflex India Ltd., Plot No. 55 & 58D, NSEZ. Besides, it also appears to be necessary that in case of approval of proposal by the BOA, procedure for transfer of said LOA dt. 05.01.1989 and its liability to another unit i.e. M/s. Knitpro may also kindly be defined by the DOC/BOA.

Recommendation by DC, NSEZ:

In view of above, the above facts related to the proposal of M/s. Digiflex India Limited Revival of Sick unit and transfer of assets to M/s. Knitpro International, the proposal is duly recommended by DC, NSEZ to BoA for its consideration in terms of Rule 72 of SEZ Rules, 2006.

Agenda Item No. 123.6:

Appeal [2 cases – 123.6(i) and 123.6(ii)]

> **<u>Rule position</u>**: - *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.*

#123.6(i) - Appeal filed by M/s. Kutch Polymers against the decision of UAC, KASEZ.

Jurisdictional SEZ – Kandla SEZ (KASEZ)

Brief facts of the case: -

M/s. Kutch Polymers was issued a Letter of Approval (LoA) dated 27/01/1998 for setting up a unit in Kandla Special Economic Zone (KASEZ) to manufacture:

1. All types of reprocessed plastic raw material in granules, Agglomerates, shredding, grinding pieces, crushing chips form, lumps and chunks.
2. Ropes of all types and sizes made of polymers made from raw materials products from (1) above.

The validity of the LoA is up to 26/08/2027. The unit vide letter dated 18.04.2024 requested for Broad-banding of Manufacturing Activity (Addition of new products in the LoA). However, the UAC has rejected the request of the Unit stating that the request does not comes under the purview of UAC in terms of Rule 18(4A)(a) of the SEZ Rules, 2006.

Aggrieved by the decision of the UAC, the unit has filed Appeal before the Board of Approval under the provisions of Rule 55 of the SEZ Rules, 2006.

Grounds of the appeal: -

i. The request of the Appellant was for additional item (Plastic Powder etc.) to be manufactured from virgin plastic waste & scrap in compliance with the DoC's Instruction No.69 dt. 04/11/2010 wherein at para-2(iv), it has been stated that unit must set up facilities to make products out of virgin plastic waste.
ii. As per the DoC's policy dt.17/09/2013 at para (ix), it has been stated that No broad bending of unrelated products shall be allowed. The request of the appellant is to manufacture additional item (Plastic Powder etc.), which is a related item and cannot be considered as unrelated.
iii. As per Rule 18(4A) of the SEZ Rules, 2006:
    a. Broad banding and splitting of license for setting up of sub-unit shall not be allowed.
    b. All such Units shall set up facilities to make products out of plastic waste.
iv. The above provision says that broad bending and splitting of license for set up of a sub-unit shall not be allowed. Thus the intention of Government was that no sub-unit (separate premises) shall be allowed. Further, sub-para (c) of Rule 18(4A) says that the unit shall set up facilities to make products out of plastic waste (similar to Instruction No. 69 dt. 04/11/2010)
v. The appellant do not intend to create any sub-unit as it will manage the item for additional manufacturing within the same premises, under the same LOA and within the Annual Import Quantum (AIQ) permitted in their LOA.
vi. Thus, the permission sought for is for addition in items of manufacturing or enlargement of manufacturing activity to make value added products which are in line with Instruction 69 dt. 04/11/2010 and Rule 18 (4A)(a) & (c).
vii. Even while renewing the LOA vide letter dt. 01/09/2022 [after amendment of Rule 18 (4A) (a)] condition at para 5 of the LoA was put that no broad bending of unrelated products shall be allowed.
viii. The Appellant will invest Rs. 35.00 lakhs for procuring required machineries, which will be procured indigenously and thus there will be no any outflow of foreign Exchange.
ix. The manufacturing of additional plastic products will fetch additional Foreign Exchange.
x. The manufacturing of additional plastic products will resultantly generate more employment as required under the section 5 of the SEZ Act, 2005.

Prayer of the appellant: -

i. Allow the permission sought for by the appellant vide their letter dated 18.04.2024 and 10.06.2024.

ii. Quash and set aside the decision of 201st UAC held on 24.04.2024 and 203rd UAC held on 28.06.2024 as far as the appellant is concerned.
iii. To pass any other order in the facts and circumstance of this case as may be deemed fit.

Comments of the DC, Kandla SEZ: -

i. Instruction No. 69 was issued on 04.11.2010 and one of the conditions imposed was that all units must set up facilities to make products out of used clothing/plastic waste and this need to be done by 31.03.2011. Then the unit should have come up for setting up such facilities keeping in view the futuristic requirement to make products out of plastic waste by 31.03.2011.
ii. Policy dated 17.09.2013 framed by MOC&I has been superseded vide Policy dated 27.05.2021, as amended, vide letter dated 05.05.2022 for plastic recycling units in SEZs/EOUs and as such the argument made by the appellant that the request made by them is to manufacture additional item (plastic powder, etc.) which is related item and cannot be considered as unrelated is not tenable. Further, Rule 18(4A) (a) of the SEZ Rules, 2006 inserted w.e.f. 21.09.2018 clearly stipulates that broad-banding & splitting of licence for setting up of sub-unit shall not be allowed.
iii. The unit has contended that they do not intend to create any sub-unit as it will manage the item for additional manufacturing within the same premises under the same LoA and within the Annual Import Quantum permitted in their LoA and as per Rule 18(4) there is a restriction for not exceeding Annual Import Quantum & in their case Annual Import Quantum is 4500 MTs per annum and they will manage the manufacturing of additional plastic products within the same quantity. However, the facts remains that Rule 18(4A)(a) (inserted w.e.f. 21.09.2018) clearly stipulates that for existing plastic or used clothing units in SEZs, broad-banding and splitting of license for setting up of sub-units shall not be allowed and all transactions of a unit shall be regulated through a single bank account.
iv. The unit has contended that they will invest Rs. 35.00 lakhs for procuring required indigenous machinery, the additional manufacturing items will fetch additional foreign exchange and will resultantly generate more employment as required under Section 5 of the SEZ Act, 2005. However, the facts remains that Rule 18(4A)(a) clearly stipulates that for existing plastic or used clothing units in SEZs, broad-banding and splitting of license for setting up of sub-units shall not
v. be allowed and all transactions of a unit shall be regulated through a single bank account.
vi. In view of the above, prayer of the appellant requires to be summarily rejected and no relief of any kind be granted to them as Rule 18(4A)(a) (inserted w.e.f.

21.09.2018) clearly stipulates that for existing plastic or used clothing units in SEZs, broad-banding and splitting of license for setting up of sub-units shall not be allowed and all transactions of a unit shall be regulated through a single bank account.

Relevant provisions and policy guidelines: -

- **Rule (4A)**: *For existing plastic or used clothing Units in Special Economic Zones:*

  (a) Broad banding and splitting of license for setting up of sub-Units shall not be allowed and all transactions of a Unit shall be regulated through a single bank account;
  (b) no third party exports shall be allowed by any such Unit;
  (c) all such Units shall set up facilities to make products out of used clothing or plastic
  waste;
  (d) 100 per cent. inspection of the consignment of used clothing sale to Domestic Tariff Area shall be under taken.

- **DoC's Instruction No. 69 dated 04.11.2010** issuing Guidelines to regulate functioning of plastics/used clothing units in SEZs: In order to check the aforesaid irregularities in plastics/used clothing units in SEZs, it has been decided to issue the following instructions:-

  (i) Broad banding and splitting of license for setting up of sub-units shall not be allowed. All transactions of a unit shall be regulated through a single bank account.
  (ii) No third party exports shall be allowed by such units.
  (iii) 100% inspection of the consignment of used clothing sales to DTA shall be undertaken at the Gate of the SEZ and not at the premises of the unit.
  (iv)All units must set up facilities to make products out of used clothing/plastic waste. This needs to be done by 31.3.2011.

- **DoC's Instruction Policy dated 17.09.2013** on units in SEZs carrying on recycling of plastic scrap or waste: -

  (ix) The units are required to fulfill the export obligation criteria including positive Net Foreign Exchange (NFE) earnings as provided in Rule 53 of SEZ Rules, 2006, per provisions of this Policy. No broad banding of unrelated products shall be allowed for this purpose.

- **DoC's Policy dated 27.05.2021** for Plastic recycling units in SEZs/EoUs: - On various representations on the policy, the issue got examined in DoC in consultation with all concerned stakeholders and in supersession of extant policy guidelines issued with respect to Plastic and Used/worn clothes recycling units in SEZs/EOUs, following revised policy guidelines for Used/worn clothes and plastic recycling units are hereby prescribed:

B. Plastic Recycling units:

i. Extension/renewal of LoA of existing units will be considered by Board of Approval for a period of 18 months as per notification dated 27.01.2021 issued by MoEF&CC as well as the conditions as laid down by the MoEF&CC. The above condition that the present permission to import the raw material is only for 18 months will be declared upfront so that the existing units may seek extension / renewal factoring in this condition into their business proposal. Such renewal shall also be subject to the condition that the units shall comply with obligations under other legislations as well as compliance with payment of penalty, if any imposed by competent authority under any statute.

ii. DoC will propose suitable amendment in SEZ Rules to provide for setting up of new units engaged in recycling of plastic as SEZ units.

iii. DGFT will propose suitable amendment in FTP to provide for setting up of new units engaged in recycling plastic as EOUs.

iv. Besides the NFE obligations, the units shall be required to comply with to the extent

a. 35% of the exports in terms of annual turnover, and

b. 50% in terms of tonnage.

v. They shall be allowed to make clearance in DTA, other SEZ units as well as EoUs as long as they fulfil the NFE and other conditions. Clearance to other SEZ units/EOUs will not be counted towards mandatory minimum physical export obligations.

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

#123.6(ii) - Appeal filed by M/s. C Tech Corporation under the provision of Section 16(4) of the SEZ Act, 2005 against the Order-in-Original dated 11.06.2024 passed by DC, Surat SEZ.

Jurisdictional SEZ – Surat, SEZ

Brief facts of the Case: -

M/s. C-Tech Corporation was issued LoA dated 15.12.2003 for setting up a Unit at Plot No. 259, Surat SEZ, Sachin, Surat. A Show Cause Notice dated 24.01.2024 was issued to the Unit regarding cancellation of their LoA under Section 16(1) of the SEZ Act, 2005. Subsequently, the UAC in its meeting held on 30.04.2024, cancelled the LoA of the Unit under the said Section. Consequently, O-I-O dated 11.06.2024, conveying decision of the UAC was passed by DC, Surat SEZ to the Unit cancelling their LoA dated 15.12.2003. Being aggrieved with the O-I-O dated 11.06.2024, the Unit has filed the instant appeal in terms of Section 16(4) of the SEZ Act, 2005.

Grounds of Appeal: -

The appellant submits the following grounds for appeal against the Order-in-Original dated 11.06.2024, issued by the Deputy Commissioner (DC), Surat SEZ:

i. Incorrect Application of Retrospective Penalties and Vindictive Interest:

The appellant contends that the Order-in-Original has incorrectly applied penalties with retrospective effect, accompanied by punitive interest. The penalties pertain to the late filing of Annual Performance Reports (APRs) from the operationalization of the Unit in April 2004 to March 31, 2024, without any prior issuance of show-cause notices. The retrospective imposition of penalties, in this case, constitutes a form of retrospective taxation, which is contrary to established legal principles. The appellant questions why no show-cause notices were issued when APRs were filed late between 2006 and 2024. Additionally, the appellant challenges the inclusion of late APR filings as grounds for the cancellation of their Letter of Approval (LOA), given that the original foreign policy did not mandate such a requirement.

ii. Penalties During the COVID-19 Pandemic

The appellant highlights that penalties have been imposed for periods during which operations were severely impacted by the COVID-19 pandemic. The Development Commissioner appears to have disregarded the extraordinary difficulties faced by the unit from 2019 to 2021, during which the pandemic caused widespread disruption. The appellant perceives these penalties as being applied vindictively, particularly in light of the various complaints they have filed through the Pradhan Mantri P G Portal.

iii. Non-Realization of Net Foreign Exchange (NFE) Due to External Factors

The appellant submits that the unit was unable to conduct manufacturing operations for three years due to a lack of electricity, resulting in substantial business losses. Consequently, they were unable to generate any Net Foreign Exchange (NFE) from 2019 to 2024, although their NFE was not negative. The appellant argues that instead of receiving support during these challenging times, they have been subjected to harassment by the Office of the Development Commissioner. They request the immediate waiver of the penalties imposed on them.

iv. Inability to Pay the Penalty Due to Incorrect Instructions

The appellant points out that the Development Commissioner, in the Order-in-Original, instructed them to utilize the e-Miscellaneous Payment Service (eMPS) on the DGFT portal under 'Head of Account' 1453 for Foreign Trade & Exports promotion, with Minor Head 102 for fines and penalties related to Imports & Exports Trade Organization. However, no such Head of Account or Minor Head exists on the eMPS portal, rendering it impossible for them to comply with the payment instructions within the specified timeframe.

v. Use of Unofficial Email Address for Official Correspondence

The appellant submits that the Development Commissioner's office used an unofficial and unsecured Yahoo email address for official communications. This issue has previously resulted in the denial of a personal hearing, when the unit requested a meeting via Video Conference for a UAC meeting scheduled with only two working days' notice. The Development Commissioner had earlier cancelled a confirmed meeting that the appellant intended to attend personally.

vi. Wrongful Disconnection of Electricity and Negligence by SEZ Developer

The appellant reports that their SEZ unit experienced a disconnection of electricity from May 2016 to March 2019, despite having paid their electricity bills. The disconnection occurred because two other units sharing the same plot had not paid their bills. The appellant had to escalate the matter to the Chief Minister's office after receiving no response from the Developer, M/s. DGDC Limited, or the electricity provider, DGVCL. The Development Commissioner erred in relying on incorrect information from DGVCL and DGDC Limited, despite acknowledging during a meeting that the dues owed by the two other units were not the appellant's responsibility.

vii. Impact of Electricity Disconnection on Business Operations and Illegal Competition

The appellant submits that the prolonged electricity disconnection severely hindered their ability to manufacture goods, leading to a loss of market share and enabling illegal Chinese competition in the EU markets. The inability to manufacture and export goods from 2016-17 onward has caused significant business setbacks. The appellant notes that their last LOA renewal was in April 2019, but the COVID-19 pandemic further exacerbated their difficulties, especially in combating illegal Chinese imports into the EU market.

viii. Failure of SEZ Developer to Provide Basic Services

The appellant contends that the SEZ Developer, DGDC, has consistently failed to provide even basic services. For instance, the appellant had to construct a road for their unit at their own expense, an issue well-documented by the former Development Commissioner, Shri Yogendra Garg (IRS). The appellant further reports that the Developer has demanded service charges with 24% interest for periods during which they failed to provide these services. Despite repeated requests, the Developer has not provided the necessary ledger for dues, enabling them to accumulate penal interest unfairly.

ix. Denial of Personal Hearing and Request for Video Conference

The appellant recounts that they applied for the renewal of their LOA but were issued a show-cause notice by the Development Commissioner's office. Despite responding to the notice and attending a personal hearing, their concerns were not satisfactorily addressed. When informed of a Unit Approval Committee (UAC) meeting scheduled for 16.04.2024, the appellant arranged to attend in person. However, the meeting was postponed with short notice, and the rescheduled date was provided only three days in advance, making it impossible to rearrange their attendance. The appellant requested the option to attend via video conference, but this request was ignored, forcing them to send a representative instead.

x. Delays in Filing Annual Performance Reports (APRs)

The appellant explains that delays in filing APRs were often due to delays from their CA office in finalizing audit reports, without which the APRs could not be submitted. The appellant, a small proprietorship with limited resources, faces challenges unlike multinational companies with extensive legal and accounting teams. Additionally, the appellant's frequent travel abroad for business development has contributed to delays in document signing, a problem alleviated by the recent introduction of digital signature services. The appellant assures that these delays were neither habitual nor intentional and commits to timely compliance in the future.

xi. Legal Actions Against Illegal Chinese Competition in the EU

The appellant asserts that the Development Commissioner has incorrectly judged the issue of illegal Chinese competition. The Development Commissioner did not request evidence of the appellant's complaints to the European Union Commission. In response, the appellant has enclosed their lawyer's email and complaint to the EU Commissioner of 19 countries, as well as the Head of the European Union Biocidal Product Regulatory Agency, regarding the entry of illegal non-BPR-approved products into the EU market.

xii. Persecution by SEZ Developer and Development Commissioner

The appellant submits that Surat SEZ is a private entity, not owned by the Government of India, and only around 40% of the units are operational. The appellant questions the rationale behind the Development Commissioner's decision to remove their unit from the SEZ when ample space is available. The appellant believes this action is motivated by bias and is intended to punish them for raising concerns about the developer's malpractices, which have persisted since the SEZ's inception.

Comments from the DC, Surat SEZ: -

1. **Performance Evaluation and NFE Calculation**: The appellant has cited a 20-year performance record in their Appeal Form-J. However, as per Rule 53 of the SEZ Rules, 2006, the unit is required to achieve a Positive Net Foreign Exchange (NFE) cumulatively over a five-year Block Period. The performance should be assessed accordingly, not over an extended 20-year period as presented by the appellant.
2. **Guidance on Payment of Penalties**: Contrary to the appellant's claim, the office of the Development Commissioner, Surat SEZ, provided detailed guidance on how to pay the appeal penalty. On 03.07.2024, step-by-step instructions were communicated over the phone to Shri Sachin Deshmukh, the Authorized Person of M/s C. Tech Corporation. Additionally, an email containing the same step-by-step guidance for payment was sent to M/s C. Tech Corporation on 09.07.2024.
3. **Electricity Disconnection and Restoration**: Regarding the disconnection of electricity, DGVCL reported, in a letter dated 07.03.2019, that the LT connection

at Plot No. 259, Unit No. 162, SEZ Sachin, under Consumer No. 12322/00362/0, was permanently disconnected on 31.03.2016 after the unit failed to resolve the issues causing the disconnection within the stipulated 180-day period. Subsequently, M/s C. Tech Corporation sought a new LT connection for the same plot during October-November 2017. However, DGVCL informed the appellant that a new connection could only be granted once the outstanding dues of other units on the same plot were cleared. The appellant then represented their case to the Ministry of Power, Gujarat, and other authorities. The matter was discussed in a Lok-Adalat held on 10.02.2018, where DGDC agreed to clear the outstanding dues. Despite repeated notices from DGVCL on 15.02.2018, 23.02.2018, and 26.02.2018, the unit delayed submitting a fresh application for the connection. The unit eventually applied on 11.10.2018, and the new LT connection was released on 05.03.2019.

4. **Renewal of LoA and Business Performance**: In 2019, the unit's Letter of Approval (LoA) was renewed for the fourth Block Period (01.04.2019 to 31.03.2024) based on the appellant's plea of electricity disconnection. Despite this renewal, the unit has provided zero business and zero employment during the fourth Block Period. As the appellant is now seeking renewal for the fifth Block Period (2024-2029), they have once again raised the issue of electricity disconnection, along with concerns about increasing competition from illegal Chinese imports in the EU market. However, the appellant has failed to provide any evidence that EU authorities have taken cognizance of their complaints regarding these illegal imports.
5. **Personal Hearing and UAC Appearance**: Contrary to the appellant's claim of not being granted a personal hearing, it is confirmed that a Personal Hearing was indeed provided. Shri Sachin Deshmukh, the Authorized Person of the unit, appeared before the Development Commissioner, Surat SEZ, for a Personal Hearing on 14.02.2024. Following the principles of natural justice, the unit was given another opportunity to present their case before the 104th UAC meeting on 30.04.2024. However, during this meeting, the appellant failed to provide a reasonable justification for the unit's non-operation since April 2017.
6. **Cancellation of LoA**: After thorough deliberations, the Committee concluded that the unit holder is not serious about running the unit or providing employment, and is unjustifiably occupying space in the SEZ that could be better utilized by another entrepreneur. Consequently, the Committee decided to cancel the unit's LoA in accordance with Section 16(1) of the SEZ Act, 2005, leading to the issuance of the Order-in-Original dated 11.06.2024.

Relevant provision: - 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.

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

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