

No. K-43022/26/2025-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

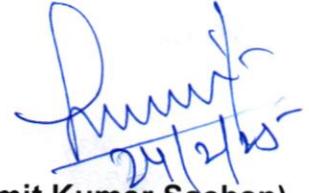
Vaniya Bhawan, New Delhi
Dated the 24th February, 2025

OFFICE MEMORANDUM

Subject: 2nd meeting (2025 Series) of the Board of Approval for Export Oriented Units and 127th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs)- Reg.

The undersigned is directed to refer to the subject cited above and to inform that the 2nd meeting (2025 Series) of the Board of Approval for Export Oriented Units and 127th meeting of the Board of Approval for Special Economic Zones is scheduled to be held on **7th March, 2025 at Kandla SEZ, Kandla, Gujarat** under the Chairmanship of Commerce Secretary in hybrid mode.

2. The **Agenda for the 127th meeting of the BoA for SEZs is enclosed herewith**. The same has also been hosted on the website: www.sezindia.gov.in.
3. All the addressees are requested to kindly make it convenient to attend the meeting.
4. The venue and meeting link of the aforesaid meeting will be shared shortly in due course.



(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 AS (LSS) / PPS to JS (VA)/ PPS to Dir (GP).

Agenda for the 127th meeting of the Board of Approval for Special Economic Zones (SEZs) to be held on 07th March 2025

Agenda Item No. 127.1:

Ratification of the minutes of the 126th meeting of the Board of Approval for Special Economic Zones (SEZs) held on 24th January, 2025.

Agenda Item No. 127.2:

Request for extension of LoA [1 proposal – 127.2(i)]

Rule position: Rule 6 (2) of the SEZ Rules, 2006: -

- a. *The letter of approval of a Developer granted under clause (a) of sub-rule (1) (Formal Approval) shall be valid for a period of three years within which time at least one unit has commenced production, and the Special Economic Zone become operational from the date of commencement of such production.*

Provided that the Board may, on an application by the Developer or Co-Developer, as the case may be, for reasons to be recorded in writing extend the validity period.

Provided further that the Developer or Co-developer as the case may be, shall submit the application in Form C1 to the concerned Development Commissioner as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendations.

- b. *The letter of approval of a Developer granted under clause (b) of sub-rule (1) (In-principle approval) shall be valid for a period of one year within which time, the Developer shall submit suitable proposal for formal approval in Form A as prescribed under the provisions of rule 3:*

Provided that the Board may, on an application by the Developer, for reasons to be recorded in writing, extend the validity period:

Provided further that the Developer shall submit the application in Form C2 to the concerned Development Commissioner, as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendations.

127.2(i) Request of M/s. VSF Projects Limited for first extension of validity of LoA granted for setting up of FTWZ at Survey Nos. 782 to 1236, Ankulapatur Village, Chiiakur Mandal, Tirupati District, Andhra Pradesh.

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Facts of the case:

LoA issued on (date)	:	03.11.2021 (Formal Approval)
Sector	:	FTWZ
Area (in Hectares)	:	50 (notified)
No. of Extensions granted	:	0
LoA valid upto (date)	:	02.11.2024
Request	:	For further extension up to 02.11.2026

Present Progress:

a. Details of Business Plan:

Sl. No.	Type of Cost	Proposed investment (Rs. in crore)	Total investment made so far (Rs. in crore)
1	Land Cost	151	103
2	Construction cost	434	-
Total		585	103

b. Details of physical progress till date:

Sl. No.	Authorised Activity	% completion	% completion during last one year	Deadline for completion of balance work
1	Multi Sector Free Trade Warehousing Zone (Construction of Warehouse-I)	78%	60%	30 th June 2025
2	Multi Sector Free Trade Warehousing Zone (Construction of Warehouse-II & III)	8%	8%	31 st December 2026

Reasons for delay:

The Developer has informed that due to climatic condition i.e. due to unforeseen Cyclones and Depressions in Bay of Bengal, they have lost 6000 working man days which caused the delay for commencing their project. The Developer has stated that during the first phase, they have completed the construction of basic infrastructure of the zone and the remaining infrastructure is expected to be completed by 31.03.2025

Recommendation by DC, VSEZ:

The proposal of M/s. VSF Projects Limited, Multi Product Free Trade Warehousing Zone at Survey Nos. 782 to 1236, Ankulapatur Village, Chiiakur Mandal, Tirupati District, Andhra Pradesh for extension of validity of Formal Approval upto 03.11.2027 is recommended for consideration of BoA.

It is pertinent to note that the SEZ Rules do not specify the duration for extensions of validity under Rule 6(2)(a), leaving it to the discretion of the approving authority. In this case, while the Developer has requested an extension of over one year and the DC has recommended the same, past practice has been to grant first and second extensions for one year only to ensure regular review of the SEZ's progress.

Agenda Item No. 127.3:

Request for extension of LoA of SEZ Unit [2 proposals – 127.3(i)-127.3(ii)]

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.

127.3(i) Proposal of M/s. Skyroot Aerospace Private Limited, unit in M/s. GMR Hyderabad Aviation SEZ Limited for extension of Letter of Approval (LoA) beyond 4th February, 2025 for extension of one year i.e. upto 3rd February, 2026.

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Facts of the case:

Name of the Unit : M/s. Skyroot Aerospace Private Limited
 LoA issued on (date) : 04.02.2021
 Nature of business of the unit : Manufacturing, Testing and launching of small satellite launch manufacture and sale of Satellite.
 No. of extensions granted : 3 (three) by DC, VSEZ
 LoA valid upto (date) : 03.02.2025
 Request for : One-year extension i.e. upto 03.02.2026

a. Details of business plan:

Sl. No.	Type of Cost	Proposed Investment (Rs. in Crores)
1	Office Building Fit outs and Infrastructure	25.6
2	Machines and Equipment	54.4
	Total project cost	80.0

b. Investment made so far & incremental investment since last extension:

Sl. No.	Type of Cost	Total Investment made till 03.02.2024 (Rs. in Crores)	Incremental investment since last extension (Rs. in Crores)	Total investment made till date (Rs. In Crores)
1	Capital Expenditure	51.0	10.7	61.7
2	Materials Procurement	5.4	12.1	17.5
	Total	56.4	22.8	79.2

c. Details of physical progress till date:

S. No.	Activity	% completion	% completion during last one year	Deadline for completion of balance work
1	Rocket Motors and related components and manufacturing and testing	60%	60%	June 2025
2	Avionics Components manufacturing and testing	70%	70%	
3	Inter Stage Structures manufacturing	75%	75%	
4	Rocket Designing	80%	80%	
5	Testing of Rocket Components	60%	60%	
6	Micron Structures	40%	40%	August 2025
7	Satellite Structures	15%	15%	December 2025

Detailed reasons for delay:

- The unit was handed over by the Developer to Skyroot in April, 2023 for Corporate office fit outs, setting up Infrastructure and installation of machines and equipment. Skyroot had completed these activities and started the work in October 2023.
- Rocket manufacturing and launching involves precision manufacturing and testing of many components including Motors, related components, Inter Stage structures and Avionics Packages and and doing multiple ground tests before actual actual flying into Space.
- Due to the technical complexity and qualification requirements of the rocket and dependency on external agencies for testing, their launch has been delayed.
- Multiple milestones are scheduled in the next 6 months for completion of manufacturing and ground testing of rocket and its components post which launch will be completed.

Authorised Officer's Report:

The unit is functional to their optimum levels and the current status of the unit, both from outside and inside of the unit, may be taken note from the photos taken very recently. In view of the above practical difficulties as enumerated above by the unit and considering the significant technological advancements and upgrade requirements to align with evolving client demands, their request for extension of the validity of the LoA by an additional one year may be considered in terms of 3rd proviso to Rule 19(4) of the SEZ Rules, 2006.

Recommendation by DC, VSEZ:

DC, VSEZ has recommended the request of extension of LoA for a period of one year i.e., up to 03.02.2026.

127.3(ii) Request of M/s. Transhermes Aero IFSC Private Limited in the GIFT-SEZ for extension of Letter of Approval beyond 3 years i.e. upto 10.08.2025

Jurisdictional SEZ – GIFT SEZ

Facts of the case:

Name of the Unit : M/s. Transhermes Aero IFSC Private Limited
 LoA issued on (date) : 11.08.2021
 Nature of business of the unit : Aircraft Leasing activities
 No. of extensions granted : 03 (total extension given for 02 years)
 LoA Valid upto (date) : Upto 10.12.2024
 Request for : For further extension for 10 months i.e. upto 10.08.2025.

Present Progress:

a. Details of Business plan:

S. No	Type of Cost	Proposed Investment (Rs. In Crores)	Total investment made so Far (Rs. In Crores)
1	Cost of project	270 Crores	3.25 Crores (Paid as an advance to Airbus for Helicopter acquisition)

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

S. No	Type of Cost	Total investment made so Far (In Rs.)	Incremental investment since the last extension (In Rs.)
1	Incorporation expenses and rent and consultancy fees.	61,12,396	0
2	Fees/stamp duty of increase in Authorized Capital	0	0

c. Details of physical progress till date:

Sl. No	Activity	% Completion	% Completion during last one year	Deadline for completion of balance work
1	IEC of the Unit has been obtained	100	100	Not Applicable
2	Registration cum Membership Certificate (RCMC) of the Unit	100	100	Not Applicable
3	GST of the Unit	100	100	Not Applicable
4	Bond Cum Legal Undertaking for the IFSC Unit	100	100	Not Applicable
5	Lease Deed for the IFSC Unit	100	100	Not Applicable
6	Interior of the office work for IFSC Unit	10	10	31.03.2025

d. Details of operational progress under IFSCA Regulations till date:

Sl. No	Activity	% Completion	% Completion during one last year	Deadline for completion of balance work
1	Identification of helicopters for acquisition by the parent Ireland entity	100	100	NA
2	Execution of agreement for acquisition of helicopters by the parent Ireland entity	0	0	Not provided by the unit
3	Execution of Lease agreement for leasing-in the helicopters by IFSC unit from the parent Ireland entity	0	0	Not provided by the unit
4	Sourcing of credit for acquisition (or) leasing-in of the helicopters	0	0	Not provided by the unit

5	Details of appointment of Principal Officer and Designated Director in the IFSC unit	The Unit has informed that Mr. Amit Dutta, Director of the Company is acting as the Principal Officer and Designated Director of the Unit. <u>However as per the relevant IFSCA guidelines, the same person shall not be the Designated Director and the Principal Officer.</u> <u>This matter has been intimated to IFSCA for appropriate action/resolution.</u>
---	--	--

Reasons for the delay as per the Unit:

a. Regulatory Approvals:

The Management of the Company has done the re-structuring in shareholding of the Company to raise the funds from international investors, who were interested in investing in their operations and craft acquisition alternative structure i.e. Ireland routing plan with a contemplated mission of completion of De Spac deal which was duly notified to the IFSCA Authority vide letter and email dated 4th March 2024. Post restructuring, their project was dependent on securing regulatory approvals of the change in shareholding/management structure from Department of Finance & Regulatory of International Financial Services Centers Authority and IFSCA Administrator because the change was more than 25%. These approvals experienced delays and it took 4 months to obtain the approval to commence the operations. These approvals were critical for compliance and commencement of operations.

b. Loss of Aircraft Provider Commitment:

As part of their aircraft leasing operations, they had entered into a Letter of Intent (LOI) with Simrik Air, a Nepal-based aircraft provider, to secure the necessary aircraft for their leasing activities. However, due to delays in obtaining critical regulatory approvals from International Financial Services Centers Authority and IFSCA Administrator, they were unable to proceed within the agreed timelines. As a result, they lost their commitment with Simrik Air, which has further delayed the acquisition of the required aircraft.

c. Delays in Aircraft Financing:

Several of their potential financial institutions faced challenges in securing necessary financing for aircraft acquisition. Due to the complex structure majorly being jurisdiction and guidelines of GIFT City (Gujarat International Finance Tec-City) as highlighted by EXIM India and Punjab National Bank GIFT City, securing financing for the purchase of aircraft has posed additional challenges. Banks and financial institutions have expressed concerns about financing aircraft transactions, repossession of the aircraft mainly under the GIFT City framework, resulting in delays in obtaining the necessary funds.

Recommendation by DC, GIFT SEZ:

- From the facts on records, it is noted that the Unit has made statutory compliances mandated for a IFSC Unit. The unit has submitted, that they have already made an investment of Rs. 3.25 crores (Paid as an advance to Airbus for Helicopter acquisition) in their project till now.
- They have also submitted that they have made some progress towards commencement of authorised operations, and have stated that if given the requested extension of their LOA upto 10.10.2025, they will be able to commence their operation.
- Further, as per the records till date nothing untoward has been observed on the part of the Unit and IFSCA has confirmed that the unit has paid the Annual Fees for the F.Y. 2024-25.
- In view of this, DC, GIFT SEZ has requested for extension of LOA for the period upto 10.10.2025 for the consideration of the BOA.

Agenda Item No. 127.4:

Request for Co-Developer status [2 proposals – 127.4(i) - 127.4(ii)]

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.*

127.4(i) Request of M/s. Shivalik Developers Private Limited, Ahmedabad for approval as Co-Developer within the dual-use area of non-processing Area in GIFT-Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. GIFT City Company Limited (formerly M/s. GIFT SEZ Limited).

Jurisdictional SEZ – GIFT SEZ

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 – 42649.00 Imports - 36786.00
	(iv) Total Employment (In Nos.)	5935
7.	Name of the proposed Co-developer	M/s. Shivalik Developers Private Limited, Ahmedabad.
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Development, construction, maintenance, and operation of residential building at Plot No. 26D in Block-26 in the dual-use area of non-processing area.
9.	Total area (in Hectares) on which activities will be performed by the co-developer	4305 square meters.
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 192.50 crores
11.	Net worth of the Co-developer (Rs. in Cr.)	Rs. 213.09 crores.
12.	Date of the Co-developer agreement	20-03-2024, as supplemented vide agreement dated 29-10-2024,

Recommendation by DC, GIFT SEZ:

In view of the increase in economic activity and other developments coupled with generation of additional employment at GIFT-SEZ, Gandhinagar, the O/o DC recommends the proposal of M/s. Shivalik Developers Private Limited, Ahmedabad as a Co-Developer, for development, construction, maintenance, and operation of residential building over land area ad-measuring 4305 square meters at Plot No. 26D, in Block-26 in the dual-use area within the non-processing area in GIFT-SEZ, Gandhinagar.

127.4(ii) Request of M/s SOTI Kochi India Private Limited for Co-Developer status in SmartCity (Kochi) Infrastructure Private Limited SEZ, Kochi.

Jurisdictional SEZ – Cochin SEZ (CSEZ)

1.	Name of the Developer & Location	M/s. SmartCity (Kochi) Infrastructure Private Limited Block-09, Kakkanad Village, Kanayanoor Taluk, Ernakulam District Kerala									
2.	Date of LOA to Developer	21 st April 2008									
3.	Sector of the SEZ	IT/ITeS									
4.	Date of Notification	1.03.2011 & 26.02.2014									
5.	Total notified area (in Hectares)	3.9165									
6.	Whether the SEZ is operational or not	Operational									
	i) If operational, date of operationalization	17.06.2016									
	ii). No. of Units	37									
	iii). Total Exports & Imports for the last 5 years (Rs. in Cr.) -										
		2019-2020		2020-2021		2021-2022		2022-2023		2023-2024	
		Export	Import	Export	Import	Export	Import	Export	Import	Export	Import
		262.51	21.20	332.24	30.60	393.87	19.81	639.08	8.62	962.97	6.21
	iv). Total Employment (In Nos.)	7129 Nos.									
7.	Name of the Co-Developer sought approval for Co-Developer status	M/s SOTI Kochi India Private Limited									
8.	Details of Infrastructure facilities/ authorized operations to be undertaken be the co-developer	IT/ITES Infrastructure development, Operation and maintenance of buildings in an area of 1.769 Ha (4.37 acre)									
9.	Total area (in Hectares) on which activities will be performed by the co-developer	1.769 Ha									
10.	Proposed investment by the Co-developer Rs. in Cr.	Rs. 180.00 crore									
11.	Net worth of the Co-developer (Rs. In Cr.)	Rs.40.00 crore (The net worth of M/S Rodrigues Holdings Inc., the holding company is more than Rs.2000 crore. It is undertaken by M/s. Rodrigues Holdings Inc. that it will sufficiently capitalize SOTI Kochi India Private Limited from time to time to cover the development cost of proposed project)									
12.	Date of the Co-developer agreement	13.12.2024									

Recommendation by DC, CSEZ:

The request of M/s SOTI Kochi India Private Limited for granting Co-Developer status in SmartCity (Kochi) Private Limited SEZ, Bangalore for providing IT/ITES Infrastructure development, operation and maintenance of buildings in an area of 1.769 Ha (4.37 acre), is recommended, in terms of Section 3(11) of SEZ Act 2005 & Rule 3-A of SEZ Rules 2006 and forwarded for consideration of the BoA.

Agenda Item No. 127.5:

Request for conversion of Processing Area into Non-Processing Area under Rule 11(B) [4 proposals – 127.5(i) - 127.5(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	50,000 square meters
2.	Category 'B' 25,000 square meters	25,000 square meters
3.	Category 'C' 15,000 square meters	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	50,000 square meters
2.	Category 'B' 25,000 square meters	25,000 square meters
3.	Category 'C' 15,000 square meters	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.

127.5(i) Request of M/s Primal Projects Private Limited, Developer, for demarcation of SEZ Processing Built-up area (52418.47 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006.

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Fact of the Case:

Particulars	Details		
Name of Developer	M/s Primal Project Private Limited		
Address of SEZ	Survey No.51 to 64/4, Outer Ring Road, Varthur Hobli, Bangalore, Karnataka		
Sector	IT/ITES		
Formal Approval	F.2/14/2006-EPZ dated 23 rd October 2006		
Total Notified land area (in Ha)	12.673		
Total Built-up area in Processing Area (in Square meters), as informed by the Developer.	578745.85 Sq.mtr.		
Total Built-up area (Co-Developer)	Building/ Tower/ Block/Plot No.	No. of floors	Total built-up area (in M²)
	Block 6	2B+G+6+Terrance	73355.16
	Block 10	2B+G+10+Terrance	82015.58
	Block 11	2B+G+8+Terrance	65724.31
	Total		221095.05
Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)	Building/ Tower / Block	No. of floors	Total built-up area (in M²)
	Block 11 (Wing A)	2 nd to 8 th Floors	18420.87
	Block 11 (Wing B)	2 nd to 8 th Floors	18204.98
	Block 11 (Wing A & B)	Lower Basement	9308.81
	Block 11 (Wing A & B)	Upper Basement	6483.81
Total		52418.47	
Balance Built-up Processing Area after demarcation in the SEZ (in sq.mtr.)	495272.15		
Balance Built-up Processing Area after demarcation in the SEZ with Developer (in sq.mtr.)	168676.58		
Whether the calculation sheet has mentioned the tax or duty benefit originally availed for the built-up	Yes		

space to be demarcated as Non-Processing Area (NPA)?	
If yes, above then whether repayment has been made? Please mention the amount repaid?	The Developer has paid an amount of ₹9,56,86,800/- (Rupees Nine crore fifty six lakh eighty six thousand eight hundred only) (Built-up area: ₹8,20,75,384/- & Common facilities ₹1,36,11,416/-) towards tax/duty exemptions availed for the proposed area to be demarcated as NPA alongwith common facilities.
Whether the calculation sheet has included the original duty or tax benefit availed for creation of social or commercial infrastructure and other facility in the SEZ to be used by both SEZ processing and non-processing area?	Yes
Does the common infrastructure mentioned above inter-alia include internal roads, common parking facilities sewerage, drainage, food courts/hubs cafeteria, restaurants, canteen, gymnasium, catering area, health center, community center, club, sports complex compressor room, hospitals, landscapes, gardens, pedestrian walk way, foot over bridge, utilities like generation and distribution of power, including power back up, HVAC facilities, ETP, WTP, solar panel installed, compressor room, air conditioning and chiller plant, etc.	Yes. The Developer has considered the duty/tax exemptions availed attributable to the common infrastructure facilities while calculating the amount paid
If yes, then whether repayment has been made of all tax/duty benefits availed on developing all these facilities? Please mention amount re-paid.	Yes The Developer has refunded an amount of ₹1,36,11,416/- towards the entire duty/tax exemptions availed for the common facilities in the said building
Whether the area to be demarcated as NPA is included to be strictly used for IT/ITES Units, any in terms of SEZ Rules 11 (B)(2)?	Yes
Whether the demarcation is proposed for complete floor as per SEZ Rule 11(B)(3)?	Yes

Whether compliance to SEZ Rule 11 (B)(9) has been made regarding “no tax benefits” shall be available for operation and maintenance of common infrastructure?	Yes
Whether appropriate access control mechanism is in place of screen movement of goods or persons between processing area and non processing area in order to rule out any probable diversion of duty free goods from processing area and 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.
Whether as a result of the proposed demarcation, the condition of maintaining minimum built-up area requirement in compliance to SEZ Rule 11(B)(7) is adhered to	Yes. The SEZ is coming under Category ‘A’ City and the minimum built-up area required for Category ‘A’ is 50,000 sq.mtr. After demarcation of the proposed built-up area, the remaining built-up area in the SEZ shall be 495272.15 sq.mtr., and hence fulfills the condition.
Reason for demarcation of built-up area as NPA	The Co-Developer states that the proposed built-up area is lying vacant in the SEZ due to multiple factors like Sunset Clause for Income Tax benefit and work from home facility available to the SEZ units, resulted in less demand for space from SEZ units. Hence, their management decided to demarcate the said built-up area as Non-Processing Area.
Purpose and usage of such demarcation	To allot the same to non-SEZ 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, Cochin SEZ.
- ii. Chartered Engineer Certificate dated 12.11.2024 issued by Shri P. Ramaprasad, Chartered Engineer, Reg. No. F21453, towards calculation of taxes / duty to be refunded by the developer.
- iii. ‘No Dues Certificate’ issued by Specified Officer vide letter F.No. SO/o8/PRISEZ/MISC/2024 dated 22.11.2024.
- 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, CSEZ.
- v. Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024 duly signed by Specified Officer and DC, CSEZ.

- 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 52418.47 sq. mtr. of built-up area proposed to be demarcated as per Rule 11B of SEZ Rule (fifth Amendment), 2023.

Recommendation by DC, CSEZ:

The proposal of M/s Primal Project Private Limited, Developer, for demarcation of 52418.47 M² built-up area as Non-Processing Area in terms of Rule 11 B of SEZ Rules 2006 read with Instruction No.115 dated 09.04.2024, is recommended and forwarded for consideration of BoA.

127.5(ii) Request of M/s RGA Software Systems Private Limited, Co-Developer in Primal Projects Private Limited SEZ, for demarcation of SEZ Processing Built-up area (31055.23 M²) as Non-Processing Area in terms of Rule 11 B of SEZ Rules 2006 - reg.

Fact of the case:

Particulars	Details		
Name of Developer	M/s Primal Project Private Limited		
Address of SEZ	Survey No.51 to 64/4, Outer Ring Road, Varthur Hobli, Bangalore, Karnataka		
Sector	IT/ITES		
Formal Approval	F.2/14/2006-EPZ dated 23 rd October 2006		
Total Notified land area (in Ha)	12.673		
Total Built-up area in Processing Area (in M ²), as informed by the Developer.	578745.85		
Name of the Co-Developer	M/s RGA Software Systems Private Limited		
Total Built-up area (Co-Developer)	Building/ Tower/ Block	No. of floors	Total built-up area (in M²)
	Block 5 (Wing A)	G+6+Terrace	26242.41
	Block 5 (Wing B)	G+6	9156.34
	Block 5 (Wing A & B)	Lower+ Upper Basements	11562.22
	Block 6	2 Floors	7516.99
	Block 7	2B+9+Terrace	84163.66
	Block 8	2B+G+8+Terrace	23975.94
	Block 9	2B+G+9+Terrace	71236.53
	Block 11	1 Floor	5290.67
	Block 12	2B+G+10+Terrace	93216.93
	MLCP	2B+G+7	23136.61
	Utility Block	1B+G+1	2152.50
	Total		
Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in M ²)	Building/ Tower/ Block	No. of floors	Total built-up area (in M²)
	Block 5 (Wing A)	1 st , 3 rd , 4 th & 5 th Floor	15047.23
	Block 5 (Wing B)	1 st to 4 th Floors	7220.78
	Block 5	Lower Basement	3006.11
	Block 5	Upper Basements	5781.11
Total			31055.23

Balance Built-up Processing Area after demarcation in the SEZ (in M ²)	495272.15
Balance Built-up Processing Area after demarcation in the SEZ with Co-Developer (in M ²)	326595.57
Whether the calculation sheet has mentioned the tax or duty benefit originally availed for the built-up space to be demarcated as Non-Processing Area (NPA)?	Yes
If yes, above then whether repayment has been made? Please mention the amount repaid?	The Co-Developer has paid an amount of ₹7,39,78,732/- (Rupees Seven crore thirty nine lakh seventy eight thousand seven hundred thirty two only) (Built-up area: ₹4,97,35,784/- & Common facilities ₹2,42,42,948/-) towards tax/duty exemptions availed for the proposed area to be demarcated as NPA alongwith common facilities.
Whether the calculation sheet has included the original duty or tax benefit availed for creation of social or commercial infrastructure and other facility in the SEZ to be used by both SEZ processing and non-processing area?	Yes
Does the common infrastructure mentioned above inter-alia include internal roads, common parking facilities sewerage, drainage, food courts/hubs cafeteria, restaurants, canteen, gymnasium, catering area, health center, community center, club, sports complex compressor room, hospitals, landscapes, gardens, pedestrian	Yes. The Co-Developer has considered the duty/tax exemptions availed attributable to the common infrastructure facilities while calculating the amount paid

walk way, foot over bridge, utilities like generation and distribution of power, including power back up, HVAC facilities, ETP, WTP, solar panel installed, compressor room, air conditioning and chiller plant, etc.	
If yes, then whether repayment has been made of all tax/duty benefits availed on developing all these facilities? Please mention amount re-paid.	Yes The Co-Developer has refunded an amount of ₹2,42,42,948/- towards the entire duty/tax exemptions availed for the common facilities in the said building
Whether the area to be demarcated as NPA is included to be strictly used for IT/ITES Units, any in terms of SEZ Rules 11 (B)(2)?	Yes
Whether the demarcation is proposed for complete floor as per SEZ Rule 11(B)(3)?	Yes
Whether compliance to SEZ Rule 11 (B)(9) has been made regarding "no tax benefits" shall be available for operation and maintenance of common infrastructure?	Yes
Whether appropriate access control mechanism is in place of screen movement of goods or persons between processing area and non-processing area in order to rule out any probable diversion of duty free goods from processing area and non-processing area?	The Co-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.
Whether as a result of the proposed demarcation, the condition of maintaining	Yes. The SEZ is coming under Category 'A' City and the minimum built-up area required for Category 'A' is 50,000 sq. mtr. After demarcation of the proposed built-

minimum built-up area requirement in compliance to SEZ Rule 11(B)(7) is adhered to	up area, the remaining built-up area in the SEZ shall be 547690.62 sq. mtr., and hence fulfills the condition.
Reason for demarcation of built-up area as NPA	The Co-Developer states that the proposed built-up area is lying vacant in the SEZ due to multiple factors like Sunset Clause for Income Tax benefit and work from home facility available to the SEZ units, resulted in less demand for space from SEZ units. Hence, their management decided to demarcate the said built-up area as Non-Processing Area.
Purpose and usage of such demarcation	To allot the same to non-SEZ 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, Cochin SEZ.
- ii. Chartered Engineer Certificate dated 12.11.2024 issued by Shri P. Ramaprasad, Chartered Engineer, Reg. No. F21453, towards calculation of taxes / duty to be refunded by the developer.
- iii. 'No Dues Certificate' issued by Specified Officer vide letter F. No. SO/07/PRISEZ/MISC/2024 dated 22.11.2024.
- 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, CSEZ.
- v. Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024 duly signed by Specified Officer and DC, CSEZ.
- 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 31055.23 sq. mtr. of built-up area proposed to be demarcated as per Rule 11B of SEZ Rule (fifth Amendment), 2023.

Recommendation by DC, CSEZ:

The proposal of M/s RGA Software Systems Private Limited, Co- Developer for demarcation of 31055.23 sq.mtr. built-up area as Non-Processing Area in terms of Rule 11 B of SEZ Rules 2006 read with Instruction No.115 dated 09.04.2024, is recommended and forwarded for consideration of BoA.

127.5(iii) Request of M/s. Synergy Infotech Pvt. Ltd. (SEZ Co-Developer) for approval of Demarcation of Built up Floors as Non-Processing Area (NPA) of notified IT/ITES SEZ.

Jurisdictional SEZ – SEEPZ SEZ

Facts of the case:

Sr. No.	Particulars	Details																								
1	Name and Address of the Co-Developer	M/s. Synergy Infotech Pvt Ltd., Plot No. 20 in MIDC IT/ITES-SEZ, Rajiv Gandhi Infotech Park, Hinjewadi, Phase III, Pune 411057.																								
2	Letter of Formal Approval No. and Date	Formal Approval no. F.2/129/2005-SEZ Dated 28.06.2018																								
3	Date of Notification	07.06.2007																								
4	Name of the Sector of SEZ for which approval has been given	IT/ITES																								
5	Total Area of SEZ <ul style="list-style-type: none"> • Total processing Area • Non processing Area Total Processing Built up Area of the Developer (MIDC Pune)	223.56 Hectares 222.36 Hectares 1.20 Hectares 838073 Sq. Meter																								
6	Details of Built Up area: <ul style="list-style-type: none"> i. No of towers with built-up area of each tower (in sq. mtr.)- Total Built up Area (Sq. Meters) 	Tower A – Incubation Centre – 9831.48 Sq. Mtrs. Tower A (Under Construction) – 34447.09 Sq, Mtrs, 44447.09 Sq. Mtrs.																								
7	Total Built up are in Sq. Meter	Processing area: 44447.09 Sq. Mtrs. Non Processing Area – Not applicable																								
8	Total Numbers of floors in Building wherein demarcation of NPA is proposed	Tower A – Incubation Centre : <table border="1" style="width: 100%;"> <thead> <tr> <th>Floor</th> <th>Sq. Mtrs.</th> </tr> </thead> <tbody> <tr> <td>Ground Floor</td> <td>382.16</td> </tr> <tr> <td>Podium 1st Floor</td> <td>3032.72</td> </tr> <tr> <td>Podium 2nd Floor</td> <td>3013.22</td> </tr> <tr> <td>Podium 3rd Floor</td> <td>3403.38</td> </tr> <tr> <td>Total</td> <td>9831.48 Sq. Mtrs.</td> </tr> </tbody> </table> Tower A- Under Construction <table border="1" style="width: 100%;"> <thead> <tr> <th>Floor</th> <th>Sq. Mtrs.</th> </tr> </thead> <tbody> <tr> <td>Podium 4th Floor</td> <td>2279.45</td> </tr> <tr> <td>1st Floor</td> <td>3380.58</td> </tr> <tr> <td>2nd Floor</td> <td>3668.20</td> </tr> <tr> <td>3rd Floor</td> <td>3668.20</td> </tr> <tr> <td>4th Floor</td> <td>3668.20</td> </tr> </tbody> </table>	Floor	Sq. Mtrs.	Ground Floor	382.16	Podium 1 st Floor	3032.72	Podium 2 nd Floor	3013.22	Podium 3 rd Floor	3403.38	Total	9831.48 Sq. Mtrs.	Floor	Sq. Mtrs.	Podium 4 th Floor	2279.45	1 st Floor	3380.58	2 nd Floor	3668.20	3 rd Floor	3668.20	4 th Floor	3668.20
Floor	Sq. Mtrs.																									
Ground Floor	382.16																									
Podium 1 st Floor	3032.72																									
Podium 2 nd Floor	3013.22																									
Podium 3 rd Floor	3403.38																									
Total	9831.48 Sq. Mtrs.																									
Floor	Sq. Mtrs.																									
Podium 4 th Floor	2279.45																									
1 st Floor	3380.58																									
2 nd Floor	3668.20																									
3 rd Floor	3668.20																									
4 th Floor	3668.20																									

		5 th Floor	3405.27		
		6 th Floor	3668.20		
		7 th Floor	3668.20		
		8 th Floor	3668.20		
		9 th Floor	2422.59		
		Total	34,447.09		
9	Total built up area proposed for demarcation of NPA for setting up of Non-SEZ IT/ITES units (in sq.mtr.)	Tower A – Incubation Centre :			
		Floor	Sq. Mtrs.		
		Ground Floor	382.16		
		Podium Ist Floor	3032.72		
		Podium 2 nd Floor	3013.22		
		Podium 3 rd Floor	3403.38		
		Total	9831.48 Sq. Mtrs.		
10	Total built up area proposed for demarcation of NPA for setting up of Non-SEZ IT/ITES units	Ground Floor, Podium 1 st Floor, Podium 2 nd Floor and Podium 3 rd Floor Total Area 9831.48 Sq. Meter			
11	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineers Certificate (in Rs. Crores)	Total Benefits of Tax exemption availed on built up area proposed to be demarcated as NPA as per Chartered Engineers Certificate is Rs. 6,31,92,481/- (Details please refer Sr. 12 below)			
12	Whether duty benefits and tax exemptions availed has been refunded and NOC from Specified Officer has been obtained (Please enclose NDC from Specified Officer)	Particular	Valuation	Rate	Duty Paid
		Tower A (Incubation Center Building) (Indigenous)	23,17,99,554	18%	4,17,23,920
		Tower A (Incubation Center Plant and Machinery) (Indigenous)	3,88,90,949	18%	70,00,371
		Tower A (Incubation Center Plant and Machinery)	20,17,050	34.40%	6,93,865

		(imported)			
		Common Area	7,65,24,007	18%	1,37,74,324
			34,92,31,560		6,31,92,480
		Specified Officer has informed that there are no pending dues payable by M/s Synergy Infotech Pvt. Limited w.r.t. conversion of SEZ Built up area admeasuring to 9831.48 Sq. Mtrs. to Non-Processing area for exclusive use by IT/ITES Units in accordance with the provision of Rule 11B of SEZ (Fifth Amendment) Rules, 2023.			
13	Reasons for demarcation of NPA	To give Non processing area on lease to Domestic units who does not wish to set up as SEZ Unit.			
14	Total remaining built up area of MIDC Phase III, Pune SEZ (Developer)	942561.20- 9831.48 = 932729.72 Sq. Meter			
	Remaining built up area of the Co-Developer	44278.57 – 9831.48 = 34,447.09 Sq. Meter.			
15	Whether total remaining built up area fulfils the minimum built up area requirement as per Rule 5 of SEZ Rules, 2006	Yes			
16	Purpose and usage of such demarcation of NPA	To give Non processing area on lease to Domestic Units who does not wish to set up as SEZ Unit.			

- Furthermore, Joint Development Commissioner along with the Specified Officer visited the SEZ on 20.02.2024 for on-site inspection. During the inspection it is observed that proposed area for demarcation for NPA is fully vacant. The Co- Developer stated that they will ensure adequate control of the movement of persons and goods in SEZ units operating in the processing area and non-processing area.

Request of the Co-Developer:

M/s. Synergy Infotech Pvt. Ltd. (SEZ Co-Developer) is seeking approval of demarcation of Built Up area of 9,831.48 Sq Mtrs. as Non-Processing Area (NPA) of notified IT/ITES SEZ.

Reason for demarcation:

[1] The Co-Developer has informed that due to the COVID 19 pandemic, there is currently no operational SEZ Unit in the approved co-developer area admeasuring to 5.21 Ha. The pandemic situation, combined with the sunset date for income tax benefit for SEZ Units, has deterred companies from moving into the SEZ. Consequently, the facility that was constructed remains unoccupied and idle.

[2] Further they have stated that they could able to get only 1 client but at the same time due to the Covid – 19 the client could not start its operation and their LOA is also lapsed and hence there is no operational SEZ Unit in their area.

[3] Co-Developer has made investment of Rs. 111.67 Crores in the SEZ but do not see a rise in the business in the near future due to the non-availability of income tax exemption for the SEZ Units.

[4] They are not been able to get SEZ clients inspite of their wholehearted efforts and hence their management decided to demarcate vacant building as Non-Processing area for the purpose of IT/ITES Units, so that they can lease the same to DTA who does not wish to set up as SEZ Unit.

Rule Provision:

[1] DoC's Instruction No. 115 dated 09.04.2024, wherein para 19(iii) clarifies that:

Issue 19. In the case of SEZ's developed by the Government wherein land was allotted to the Co-Developers for creating infrastructure and built-up space for IT/ITES:

(i) whether any of the Co-Developer can go for demarcation of the Non-processing area, out of their own space (within the limits), without having any bearing/dependency on the Developer OR other Co-Developers of the same SEZ and;

(ii) whether the Developer who created Roads/ water/ drainage etc., in such SEZ layout also need to pay back any benefits in case they availed any. (The Co-Developer will pay back the tax benefits that are availed in his area, as applicable).

(iii) The restriction on availment of tax benefits for operational maintenance of common infrastructure would be limited to such common infrastructure in the building in which floor space is to be demarcated as NPA.

Response:

(i) & (ii) ideally, consent of co-developers should be there. Moreover, BoA may relax this condition on merits of the case.

(iii) Rule 11B(9) clearly states that 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 and Not just the common infrastructure in the Building.

In this regard, it is submitted that

(i) The Developer (MIDC) has submitted their NoC/ Consent. Further as regards to the consent of other Co-Developers, MIDC has stated that since MIDC SEZ is developed by Govt. of Maharashtra, wherein only Open plot were allotted to the Co-Developer/ Units. Such Co-Developers/ Units have created their own infrastructure with separate boundary wall for the allotted plot.

(ii) Further, MIDC has informed that they have already availed duty/ tax benefit for creation, operation maintenance of common infrastructure amounting to Rs. 3,97,08,108/-.

In view of the above stated matter that consent from co-developers and refund of tax benefit [Refer Point (i) and (ii) above], MIDC has requested BOA for grant of waiver w.r.t. conditions outlined in Issue No. 19(i) and 19(ii) of Instruction No. 115.

- 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, SEEPZ SEZ.
 - ii. Chartered Engineer Certificate dated 12.06.2024 issued by Shri Vijay D. Khamkar, Chartered Engineer, Reg. No. F25651, towards calculation of taxes / duty to be refunded by the developer.
 - iii. 'No Dues Certificate' issued by Specified Officer vide letter F.No. MIDC-SEZ/Synergy/Demarcation/2024-25 dated 13.06.2024.
 - 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, SEEPZ SEZ.
 - v. Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024 duly signed by Specified Officer and DC, SEEPZ SEZ.
 - 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 9831.48 sq. mtr. of built-up area proposed to be demarcated as per Rule 11B of SEZ Rule (fifth Amendment), 2023.

Recommendation by DC, SEEPZ SEZ:

Subject to BoA decision on the waivers as sought by MIDC Pune, SEZ (Developer) in issue no 19 of Instruction No 115 dated 09.04.2024 for the following:

- i. Waiver for submission of consent from other Co-Developers.
- ii. Waiver for refund of duty benefits availed for creation of common infrastructure

DC, SEEPZ SEZ has recommended for the proposal to be considered as all other conditions of Rule 11 B of SEZ Rule 2006, have been complied.

127.5(iv) Request of M/s. Sundew Properties Limited for Demarcation of Built up Floors as Non Processing Area of a notified IT/ITES SEZ – VSEZ

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Brief facts of the case:

Sr. No	Particulars	Details																					
1	Name and address of the Developer:	M/s. Sundew Properties Ltd, Madhapur Village, Serelingampally Mandal, RangaReddy District, Telangana																					
2	Letter of Approval No. and date	F. 2/25/2006-SEZ dated 30.06.2006																					
3	Date of Notification	16 th October, 2006																					
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)	14.02 Hectares																					
6	Total Area	i. Processing Area – 14.02 Hectares ii. Non processing Area - 0.00 Hectares																					
7	Details of Built up area	<table border="1"> <thead> <tr> <th>S. No.</th> <th>Building No</th> <th>Total BUA (sq. mtrs)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Building No. 12A</td> <td>1,17,906.96</td> </tr> <tr> <td>2</td> <td>Building No. 12B</td> <td>95,718.86</td> </tr> <tr> <td>3</td> <td>Building No. 12C</td> <td>1,18,681.88</td> </tr> <tr> <td>4</td> <td>Building No. 12D</td> <td>1,52,786.39</td> </tr> <tr> <td>5</td> <td>Building No. 14</td> <td>60,568.00</td> </tr> <tr> <td>6</td> <td>Building No. 20</td> <td>1,32,974.60</td> </tr> </tbody> </table>	S. No.	Building No	Total BUA (sq. mtrs)	1	Building No. 12A	1,17,906.96	2	Building No. 12B	95,718.86	3	Building No. 12C	1,18,681.88	4	Building No. 12D	1,52,786.39	5	Building No. 14	60,568.00	6	Building No. 20	1,32,974.60
S. No.	Building No	Total BUA (sq. mtrs)																					
1	Building No. 12A	1,17,906.96																					
2	Building No. 12B	95,718.86																					
3	Building No. 12C	1,18,681.88																					
4	Building No. 12D	1,52,786.39																					
5	Building No. 14	60,568.00																					
6	Building No. 20	1,32,974.60																					
8	Total Built up area	i. Processing Area - 6,78,636.69 sq. mtrs ii. Non Processing Area – Nil																					
9	Total No. of Floors in the Building wherein demarcation of NPA is proposed	1) Bldg No. 14 – Stilt + 2 Parking + 8 Office Floors 2) Bldg No. 12A – 3 Basements + Stilt + MLCP (Stilt + 4 Parking) + 14 Office Floors																					
10	Total Built up area Proposed for demarcation of NPA for setting up of Non SEZ IT/ITES units	1) Bldg No. 14 – 4779.59 sq. mtrs (4 th Office Floor) 2) Bldg No. 12A – 3808.51 sq. mtrs (14 th Office Floor) Total area for NPA – 8588.10 sq. mtrs																					
11	How many floors are proposed for demarcation of NPA for setting up of NON SEZ IT/ITES Units	1) Bldg No. 14 – one office floor (4 th office floor) 2) Bldg No. 12A – one office floor (14 th office floor)																					

12	Total Duty benefits and Tax exemption availed on the built area proposed to be demarcated as NPA, as per Chartered Engineers Certificate(In Rupees Crore)	Rs. 28,53,89,355/-
13	Whether duty benefits and tax exemptions availed has been refunded and NOC from specified officer has been obtained	Yes
14	Reasons for demarcation of NPA	The office floors proposed for NPA demarcation are vacant due to decrease in demand for SEZ spaces. Given there is demand for built up spaces for Non SEZ IT/ITES clients, NPA, demarcation shall help leasing out these spaces
15	Total remaining built up area	6,70,048.51 sq. mtrs
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	For leasing out to Non SEZ IT/ITES clients

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 Accountant Certificate dated 17.02.2025 issued by Shri Ashish Lodha, Membership No. 418784, towards calculation of taxes / duty to be refunded by the developer.
- iii. 'No Dues Certificate' issued by Specified Officer vide letter F.No. SUNDEW/01/Rule 11B/2024-25 dated 18.02.2025.
- 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 countersigned by 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 8588.10 sq. mtr. of built-up area proposed to be demarcated as per Rule 11B of SEZ Rule (fifth Amendment), 2023.

Recommendation by DC, VSEZ-SEZ:-

In view of the above, the proposal of M/s. Sundew Properties Limited for demarcation of Built up Floors as Non Processing Area of a notified IT/ITES SEZ in terms of Notification No. CG-DL-E-07122023-250457 No. 698 dated 06.12.2023 and Instruction no. 115 dated 09.04.2024 of Ministry of Commerce & Industry is recommended to the Board of Approval for consideration.

Agenda item no. 127.6:

Miscellaneous [1 proposal: 127.6(i)]

127.6(i) Proposal of M/s. Reliance Industries Limited (DTA Unit) for granting permission for laying of power cable (appx. Length 2.1 km) passing through the Reliance Jamnagar SEZ.

Jurisdictional SEZ – Jamnagar SEZ

Facts of the case:

- M/s. Reliance Industries Limited has requested to grant permission for laying of power cable (appx. Length 2.1 km) which will pass through Reliance Jamnagar SEZ.
- In this regard, they have submitted that power is one of the key factors for smooth operations of industry and optimum use of power is dire need of the hour to save energy and reduce carbon footprints. Their Marine Tank Farm (MTF) in DTA requires additional power, whereas the C2 Complex (part of DTA petro Chemical complex), in DTA is having excess power being drawn from CTU (Central Transmission Utility) which they propose to utilize in MTF in DTA, MTF is located to north side of SEZ Manufacturing Complex and C2 Complex is situated in southeast side of SEZ. As per their submission, the only feasible route to safely transmit power from their C2 Complex in DTA to MTF in DTA, runs through SEZ Land. Therefore, they need to lay 6 nos. cable as per details mentioned in their letter through DTA area. In this context, they have further undertaken that:
 - i. These cables passing through SEZ would not cause any hindrance or impact in SEZ operations in any adverse manner.
 - ii. There would not be any tapping in the cable While its passage through SEZ.
 - iii. No SEZ benefit for laying, operation and maintenance, will be taken for cable while its passage through SEZ.
- They have also pointed out that the Government has granted similar permissions in past also to facilitate industry.
- M/s. Reliance Jamnagar SEZ (Developer) & M/S. Reliance Industries Limited (SEZ Unit) have also submitted their consent letter for the said work of laying power cable. As per their submission, it will not pose any kind of hindrances to their existing activities.

Site Visit Report:

- A site visit was conducted on 20.01.2025 by Specified Officer, Appraiser along with Representatives of the Developer, SEZ Unit and DTA Unit.
- During the site inspection of the proposed cable laying, which will be underground in most of the area, was carried out and the proposed area, starting from the point where cable is proposed to enter in SEZ Area from DTA

area till it terminates from SEZ to DTA area, was inspected as per Map furnished by the applicant.

- It was observed that the distance of proposed cable laying area through SEZ territory will be approx. 2.1 Kms. The Developer as well as the unit has submitted undertaking that the above-mentioned cables passing through SEZ would not cause any hindrance or impact in SEZ operations in any adverse manner and there will not be any tapping in the cable while its passage through SEZ. The applicant has also furnished the consent letter both from the Developer of SEZ viz. M/s. Reliance Industries Ltd. as well as SEZ Unit i.e. M/s. Reliance Industries Ltd.

Recommendation by DC, Jamnagar SEZ:

Based on the site visit report, the submissions made by the Company & keeping in view of similar permissions considered by BoA in past and to facilitate smooth operations of the industry & optimum use of power to save energy & reduce carbon footprints, the proposal for laying of power cable (appx. length 2.1 km), through the SEZ, is recommended to the Board of Approval for consideration, subject to the following conditions:

- i. The laying of these cables would not cause any restrictions/hindrances to the free movement within SEZ;
- ii. M/s. Reliance Industries. Limited would not claim any duty exemption from Authority of SEZ for the goods/services required for laying of cables; and
- iii. M/s. Reliance Industries Limited shall undertake to follow all the statutory Rules & Regulations.

Agenda Item No.127.7:

Cancellation of In-Principle Approval Letter [1 case: 127.7(i)]

127.7(i) Request for cancellation of In-Principle Approval Letter in r/o World Wide Oilfield Machines Pvt. Ltd. at Village Kasurdi, Gunjal Maval, Taluka Bhore, Pune.

Rule Position:

<p>[1] Rule 6 (1) (b) of SEZ Rule, envisages In-Principle Approval, [2] Rule 6 (2) (b), envisages that the In-Principle LOA shall be valid for one year with powers to the Board for extension of validity period.</p>
--

Facts of the case:

[1] In-Principle Approval Letter (LOA No F./1/2/2017-SEZ dated 20.02.2017) was issued to M/s Worldwide Oilfield Machine Pvt Ltd (SEZ Developer) for setting up of Sector Specified SEZ for Engineering on 58.23 hectares land at Village Kasurdi, Gunjal Maval, Taluka Bhore, Pune.

[2] As per the request of the Developer, 82nd BOA, in its meeting held on 04.04.2018, had further extended the validity period of In-Principle approval upto 19.02.2019.

Present scenario:

[1] It appears that there are no explicit provisions for cancellation of In-Principle LOA, hence, In-Principle LOA which was issued to the Developer is deemed to have been cancelled on 19.02.2019

[2] In-principle approval is conditional, and no notification was issued for this. Therefore, there is no need for a separate cancellation of this in-principle approval letter and same is no longer valid beyond 19.02.2019.

Reasons for not adhering to Formal Approval Process:

[1] The Formal approval was not applied as complete land of 58.23 hectares is not in possession with the Developer as on date.

Further, the acquired land of 38.3468 hectares so far is not contiguous.

[2] The Developer doesn't comply with the minimum land area requirement as per SEZ rules 2006.

Hence, the area is not notified as SEZ by BOA (Board of Approval) and Development Commissioner.

[3] The Developer has neither applied to the Maharashtra State Government recommendation for full area notification nor having legal possession certificate from revenue authorities for minimum land in possession.

Request of the Developer:

[1] M/s. Worldwide Oilfield Machine Pvt Ltd is seeking cancellation of the In-Principle Letter of Approval.

[2] The Developer with its application has submitted a copy of the following NOC's:

- Stamps & registration department
- Sales Tax/GST
- Royalty on minor minerals
- Payment of electricity duties, payment of Income Tax
- Payment of non- agriculture assessment
- Land celling Approval

Agenda Item No.127.8:

Appeal [2 cases: 127.8(i) to 127.8(ii)]

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.

127.8(i) 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 initially 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 earlier placed before the Board in its 126th meeting held on 24.01.2025. The Board was informed that the appellant was unable to attend the hearing and had requested to defer their case. Accordingly, the Board **deferred** the case.

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

127.8(ii) Appeal filed by M/s. Royal Petro Oil Refinery LLP, under Rule 55 of the SEZ Rules, 2006 against the decision taken during the 207th UAC meeting held on 28.10.2024.

Jurisdictional SEZ – KASEZ SEZ (KASEZ)

Brief facts of the case:

M/s. Royal Petro Oil Refinery LLP (Previously Known as M/S. Radiant Recycler LLP), Unit No.204, F.F Kaveri Complex, Kutch is a SEZ unit and granted LOA No. 17/2015-16 dated 29.01.2016 for manufacturing of recycling of used lubricating oil and gas oil. The Appellant commenced the authorize operation on W.E.F 11-Dec-2018.

The Audit of Office of the Development Commissioner, KASEZ for the period 2019-21 was conducted by the Senior Audit Officer (CRA-I) and made an observation that permission for import of "Used Oil for recycling" granted to M/S. Royal Petro Oil Refinery LLP, KASEZ was a case of disregard and misrepresentation of SEZ Rules. The said observations were communicated to the Office of Development Commissioner, KASEZ vide Para 01 of the LAR 13/2021-22 dated 03.11.2021 which are as under:

Rule 18 of the SEZ Rules, 2006 read with its clause (4) and sub-clauses there under inter-alia provide that no proposal for setting up of unit in SEZ shall be considered for "Import of other used goods for recycling". Thus, the rules, without any ambiguity, disallow recycling activity in SEZs, to new Units applying for this.

Despite the specific mention, In-principle Letter of Approval (LOA) was granted to the Unit for the proposed activities included recycling of Used Oil.

Department's action to issue LOA dated 29.01.2016 is wrong for the following reasons:

- Recycling any material is a manufacturing process, but when the recycling of used goods is prohibited in law, it means that the manufacturing process of recycling is prohibited in law.
- Though the second proviso of clause (d) of Rule 18(4) of the SEZ Rules, permits the reconditioning, repair and re-engineering of imported goods, the permission is subject to the condition that exports shall have one to one correlation with imports and all the reconditioned or repaired or engineered product and scrap or remnants or waste shall be exported and none of these goods shall be allowed to be sold in the Domestic Tariff Area or destroyed.

It was also informed that after obtaining lubricating oil and gas oil from the used oil, the fuller earth (sand) will remain as a waste which will be used for making bricks and also used for construction, land filling. Thus, these wastes were not exported. Accordingly, The LOA was wrong for the reasons that it was used Oil which is debarred under Clause (d) of Rule 18(4) of the SEZ Rules, 2006 and was used for recycling.

The Development Commissioner, KASEZ issued Show Cause Notice dated 30.12.2022 under Section 16 of SEZ Act, 2005 based on objection raised by the audit officer.

A Committee of three officers visited the premises of M/S. Royal Petro Oil Refinery LLP on 18.09.2024 and enquired about the process adopted during processing from

used oil to Base Oil/ lubricant oil and discussed about other relevant laws related with pollution control board etc. Based on visit report submitted by the Committee and other facts & provision related with it, the Approval Committee decided to withdraw the permissions granted to the unit for import of used oil and directed the DC office to issue amendment to the Letter of Approvals/ Broad-banding permission issued to the unit. The same was reflected in minutes of 207th UAC meeting held on 28.10.2024.

GROUND OF APPEAL:

1. In the 207th UAC meeting held on 28.10.2024, the Respondent (KASEZ) has taken decision to withdraw the permissions granted to the unit for import of used oil.
2. The unit has carried out the manufacturing activities exactly as per approval given in LOA and have not violated any of the condition of LOA.

The project of the unit for re-refining of used oil was approved in SEZ 76th UAC meeting held on 21.01.2015, though, the LOA was issued after a lapse of one year in Jan, 2016.

In their project report, the unit had specifically mentioned that their operations will be re-refining of used oil and also specifically clarified that raw material for re-refining will be used oil. The LOA was issued with consultation with Ministry of Commerce, New Delhi. Thereafter, Letter of Approval was issued on 29.01.2016 for authorized activity "Manufacturing of recycling of used lubricating oil and gas" by the Development Commissioner which shows that the activity was considered by DC Office as well as Ministry of Commerce, New Delhi as manufacturing activity under provision of law.

The Letter of Approval (LOA) issued to us includes the term "Manufacturing." However, it mistakenly refers to "Manufacturing of Recycling of used lubricating oil and gas oil." The CAG auditors have picked the word "USED" for our classification under 18(4)(d) without thoroughly examining the specifics of our unit.

3. The objective of clause 18(4)(d) was to protect SEZ and the country from being a dumping ground of used / waste material from foreign countries which could cause harm to environment.
4. The unit is the manufacturer of Automotive and Industrial lubricants such as Lubricating Oil/ Gas Oil/ Engine oil/ Hydraulic Oil/ Gear Oil/ Greases i.e. finished products. These finished products are packed in retail packs, are entirely distinct from used oil, our primary raw material. The emphasis is given on that all finished products manufactured from imported used oil are entirely exported out of India.
5. The question arises whether manufacturing of Lubricating Oil/ Gas Oil / Engine oil / Hydraulic Oil / Gear Oil / Greases is in the nature of "recycling of used goods"; and whether importing the required raw materials Used oil etc. as specified in the LOA is in the nature of "import of other used goods for recycling"?

There is no "recycling" of the goods in the Unit, but the unit is using such imported goods as raw materials for manufacturing different goods.

The restriction of Rule 18(4) (d) is for recycling of used goods, and this restriction is not applicable in the instant case where such goods are used as raw materials for manufacturing different goods i.e. lubricating oil, grease etc.

6. The goods imported as raw materials are in the nature of Used oil - Non-hazardous, classified under I-ISN Code/ Customs Tariff Heading 27109900. For each of the raw materials, the documents like invoice and bill of lading are received from the overseas suppliers, and sample is invariably taken from the imported raw materials for testing and analysis, and the test reports are rendered by the Customs House Laboratory, Kandla, through the office of the Development Commissioner, KASEZ ensuring imported goods are used oil having non-hazardous nature.

7. The attention is drawn to the definition of manufacture as per SEZ Act. Section 2 (r) of SEZ Act reads as under; "manufacture" means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, cutting, polishing, blending, repair, remaking, re-engineering and includes agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining;

The primary raw material is used engine/ motor oil, which undergoes a comprehensive re-refining process to produce high quality finished products, including Lubricating Oil, Gas Oil, Engine Oil, Hydraulic Oil, Gear Oil, and Greases. These finished products have distinctive names, characteristics, uses, and classifications that are entirely different from the raw material. The transformation involves significant physical and chemical processes, ensuring that the end products meet specific performance standards and are marketable for diverse industrial and automotive applications. Therefore, it is beyond doubt that the unit operate as a bona fide manufacturing unit, as their activities go far beyond mere recycling. The re-refining process and production of these finished products demonstrate the creation of entirely new goods with added value, aligned with the core principles of manufacturing.

Prayer of the appellant:

[1] The decision taken by the UAC, KASEZ on 207th UAC meeting may kindly be quashed and set aside.

[2] the implementation of the decision may kindly be stayed till the disposal of the appeal.

Para-wise Comments received from DC, KASEZ:

Ground of the Appeal	Comments of DC, KASEZ
Para [1]: The decision of UAC does not appear to be legal, proper, and correct on the following grounds.	In principle Letter of approval was approved in 76 th UAC meeting held on 21.01.2015. However, a letter dated.02.09.2015 was sent to the Secretary, Department of Commerce, New Delhi for advice as few recycling proposals have been rejected by the Approval Committee as well as BoA. In reply, the Under Secretary vide letter dated. 11.12.2015 requested the information regarding

	<p>export of all the goods produced, including waste generated i.e neutralised burnt ash for examination.</p> <p>Further, M/s. Royal Oil Refinery LLP vide letter dated. 01.01.2016 submitted details of product wise export details for five years by the proposed unit and material wise consumption of the input raw material and product output after processing and manufacturing to DC office in favour of their submission. A letter dated 12.01.2016 addressed to the Under Secretary, Ministry of Commerce was sent from DC Office informing that as per project report submitted by the said unit and letter dated.01.01.2016, it is noticed that their project is a clean tech process based on Eco friendly & Zero Waste Technology. It was also submitted that they shall manufacture/ refine recycled lubricating oil and gas oil (Industrial purpose) from used oil. During manufacturing process of the above said items, Neutralized burned ash will be generated. Further, they have also informed that Recycled lube oil will be exported to M/s. Royal Petrochem, KASEZ as they have long term tie up with the unit and payment of exported goods will be in US dollar. The Gas oil will be exported as fuel and out of residue and clay mixed with residue they will get neutralised ash, which will be used to manufacture Bricks. The said Bricks shall be utilized in the construction activity within the zone for the purpose of new construction or shall be exported.</p> <p>In reply, the Under Secretary vide letter dated. 27.01.2016 informed that KSEZ is now of the view that the process involved in the proposal submitted by M/s. Radiant Recycler LLP, Gandhidham for setting up of manufacturing unit for recycling of used lubricating oil and Gas oil in Kandla SEZ is a manufacturing process and not a recycling process as earlier indicated in KSEZ letter no. KASEZ/IA/RAD/50/2014-15/10623 dated 30.11.2015. In case DC KSEZ is satisfied that the process of M/s. Radiant Recycler LLP is not a recycling process, then a decision may be taken by KASEZ UAC.</p> <p>Therefore, the 76th UAC arrived at conclusion about process decided to approve their proposal for authorised operation “Manufacturing of recycling of used lubricating Oil and Gas Oil”.</p>
<p>Para [2.1]: The audit report of the audit officer</p>	<p>The contention of the appellant is not correct as the appellant has misinterpreted Rule 18(4)(d) which clearly stipulates that “No proposal for import of used goods for recycling shall be considered and the appellant is doing same activity in the unit which was identified by the Audit Officer.</p>

<p>Para [2.2]: The objective of clause 18(4)(d)</p>	<p>The contention of the appellant is not proper w.r.t to definition of Rule 18(4)(d) as the main objective of clause 18(4)(d) was to protect SEZ from being dumping ground of used waste material from foreign countries which could cause harm to environment. The definition of Rule 18(4)(d) clearly depicts <i>“No proposal shall be considered for import of other used goods for recycling”</i>.</p>
<p>Para [2.3]: The question arises whether manufacturing of Lubricating Oil/ Gas Oil / Engine oil / Hydraulic Oil / Gear Oil / Greases is in the nature of "recycling of used goods"; and whether importing the required raw materials Used oil etc. as specified in our LOA is in the nature of "import of other used goods for recycling"?</p>	<p>The contention of the appellant is not tenable as recommendation submitted by the Committee is that the process adopted to manufacture lubricant oil / Gas from used oil is re-refining of used oil.</p>
<p>Para [2.4]: The goods imported by us as raw materials are in the nature of Used oil - Non-hazardous, classified under I-ISBN Code/ Customs Tariff Heading 27109900. A copy of Test Report of used oil of Kandla Customs laboratory is enclosed.</p>	<p>The appellant has submitted that it was ascertained by test report of sample taken of used oil was non-hazardous in nature. However, sample sent vide Test Memo No. 056 dated. 04.07.2022 was examined and test report submitted by Chemical Examiner, Customs House Laboratory, Kandla House states; <i>“the above tested parameters agrees with used oil however, whether it is fit for re-refining or otherwise & its hazardous nature could not be ascertained for want of testing policy”</i>. which represent that the appellant has misinterpreted the test report of used oil.</p>
<p>Para [2.5]: detailed description of the manufacturing process undertaken at our plant.</p>	<p>The appellant submitted manufacturing process flow chart in form of Annexure-F which clearly shows process from used oil to base oil having dehydration process as well as high vacuum distillation vaporization process on different temperature, which represent separation of different types of impurities from used oil and collected in form of Gas Oil (fuel Oil). which is further used in thermic fluid heater for generating heat during manufacturing activity. Thereafter base oil is used to manufacture of lubricating oil by including different additives. From the above, it appear that the process adopted during manufacturing of base oil from used oil is only separation of impurities having different boiling characteristics.</p>
<p>Para [3.2]: The primary raw material is used engine/ motor oil, which undergoes a comprehensive re-refining process to produce</p>	<p>The contention of the appellant is not tenable as the appellant is explaining that they are manufacturing new products from used oil. However, the appellant is re-refining used oil by segregate their impurities through different process and convert it in base oil and then</p>

<p>high quality finished products, including Lubricating Oil, Gas Oil, Engine Oil, Hydraulic Oil, Gear Oil, and Greases. It is beyond doubt that we operate as a bona fide manufacturing unit</p>	<p>manufacture lubricating oil of different category. This same point was raised by the Audit Officer during audit of the unit and reported contravention of Rule 18(4)(d) of SEZ Rules.</p>
<p>Para [4.1] & Para [4.2]: The Judgement of Hon'ble CESTAT in case of Collector vs Mineral Oil Corporation</p>	<p>The appellant has misinterpreted the finding of the Hon'ble Supreme Court, which clearly defined the process of manufacture by accepting judgement of Hon'ble CESTAT by saying that "<i>the appellants bring used transformer oil and by removing impurities, it is made again useable as transformer oil. Both before and after the processing, the product is only transformer oil. That being so, it cannot be said that a new and distinct commodity has come into existence consequent to the process undertaken by the appellants</i>". The process adopted in present case are same as discussed in above judgement of Hon'ble CESTAT and the same was accepted by Hon'ble Supreme Court.</p>
<p>Para [5.1]: CBIC, Circular No. 1024/12/2016-CX dt. 11.04.2016</p>	<p>As discussed in Para [4.1] & Para [4.2], the judgement of Hon'ble Supreme Court was accepted by the Central Board of Excise & Customs and considering the significance of the said judgement, they issued Circular for field formation to define manufacturing process for such commodities. Which clearly defined the process adopted during re-refining of used oil is not manufacturing process.</p>
<p>Para [6]: The Committee has misinterpreted the nature of our activities. The operations carried out by us are not those of recyclers but are, in fact, manufacturing in nature.</p>	<p>As discussed in Para [5.1].</p>
<p>Para [7.1]: The Letter of Approval was granted to the Unit after thorough deliberation and consultation with the Ministry of Commerce, New Delhi, for the manufacturing and recycling of used oil.</p>	<p>As discussed in Para [1]</p>
<p>Para [7.6]: It is clearly evident Setting up a re-refining unit</p>	<p>The contention of the appellant is not tenable as the appellant submitted that the purpose and objective goal of the SEZ Act differ from those of other laws, the primary goal of the SEZ Act & rule i) to promote exports to other</p>

for used oil to manufacture lubricants and grease was a masterstroke and a bold step taken by us to effectively address unexpected market conditions.	countries. Hence there act of re-refining is as per law. However, the SEZ Act & Rules promote foreign business as per provision of SEZ Act, & Rules as well as other allied acts enforced during such activities. In present matter, the appellant has violated the provision of SEZ Act & Rules and therefore, their activity did not fall under the category of authorised activity.
---	--

Relevant provisions under the SEZ Law:

(1) Rule 18(4) (d) of SEZ Rules, 2006:

Import of other used goods for recycling:

Provided further that reconditioning, repair and re-engineering may be permitted subject to the condition that exports shall have one to one correlation with imports and all the reconditioned or repaired or re-engineered products and scrap or remnants or waste shall be exported and none of these goods shall be allowed to be sold in the Domestic Tarrif Area or destroyed

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