No. K-43013/7/2025-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Vanijya Bhawan, New Delhi
Dated the 30th April, 2025

OFFICE MEMORANDUM

Subject: 3rd meeting (2025 Series) of the Board of Approval for Export Oriented Units and 128th 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 3rd meeting (2025 Series) of the Board of Approval for Export Oriented Units and 128th meeting of the BoA for SEZs is scheduled to be held on **9th May, 2025 at Ahmedabad** under the Chairmanship of Commerce Secretary, Department of Commerce in **Hybrid Mode**.

2. The **Agenda for the 128th 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 addresses are requested to kindly make it convenient to attend the meeting.

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

30/4/25

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

To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107)
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Shri Sanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, Krishi Bhawan, New Delhi.
8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)
9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.

10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).
11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi – 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyapuri, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi – 110 001 (Fax: 223329770)
22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai – 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, Atladra Padra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam – 3
36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Development Commissioner, GIFT SEZ, Gujarat
42. Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).

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

Copy to: PPS to CS / PPS to SS (LSS) / PPS to JS (VA)/ PPS to Dir (GP).

Agenda for the 128th meeting of the Board of Approval for Special Economic Zones (SEZs) to be held on 09th May 2025

Agenda Item No. 128.1:

Ratification of the minutes of the 127th meeting of the Board of Approval for Special Economic Zones (SEZs) held on 8th April, 2025.

Agenda Item No. 128.2:

Request for extension of LoA [3 proposal – 128.2(i) – 128.2(iii)]

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 forwarded 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.

128.2(i) Request of M/s. Phoenix Spaces Pvt. Limited for further extension of the validity period of formal approval, granted for setting up of IT/ITES SEZ at Sy. No. 285, Puppalguda Village, Rajendra Nagar Mandal, Ranga Reddy District, Telangana beyond 30.3.2025

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Facts of the case:

Name of the Developer	M/s. Phoenix Spaces Pvt. Ltd
Sector	IT/ITES
Location	Sy. No. 285, Puppalguda Village, Rajendra Nagar Mandal, Ranga Reddy District, Telangana
Extension	Formal approval to the developer was granted on 31.03.2017. The Developer has been granted 5 extensions upto 30.03.2025. The SEZ stands notified as on date.
Request	Extension of validity of LoA for a further period from 31.03.2025 to 30.03.2026

Present Progress:

a. **Details of Business plan:**

Sl. No.	**Type of Cost**	**Proposed Investment (Rs. in crore)**
1	Project Cost	After de-notification for a single tower in an area of 1.40 Ha
	Total	**475**

Sl. No.	**Type of Cost**	**Proposed Investment (Rs. in crore)**
1	Project Cost	475
A	Land/JDA Cost	10
B	Development/Construction Cost	405
C	Finance cost	60
D	Taxes	--
	Total	**475**

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

S. No.	Type of Cost	Investment made upto 31.12.2023 (Rs. in crore)	Incremental Investment since last extension (in Rs crore)	Total investment made so far (In Rs crore) upto 31.12.2024
1	Development cost	311.00	54.24	365.24

**** The above details on investment proposed and investment made are excluding Co-Developer's investment as the Co-Developer's area has been de-notified**

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

S. No.	Activity		% completion	% completion during last one year	Deadline for completion of balance work
1	Development cost	Tower-2	77	11	31.3.2026

Detailed reasons for delay: Due to the present market condition of reduced demand for office spaces and sunset on income tax benefits to the new units, there are no takers for IT/ITES SEZ space. Yet, they are confident that with the proposed new SEZ amendments, the demand for SEZs will expand in future and they will be able to lease out the space and make the SEZ operational

Recommendation by DC, VSEZ:

Considering the above, the request of the Developer for an extension of the validity of the Letter of Approval for a further period of one year from 31.03.2025 to 30.03.2026 (6th extension) is recommended and forwarded for consideration of the BoA.

128.2(ii) Request of M/s. Phoenix Spaces Pvt. Limited for further extension of the validity period of formal approval, granted for setting up of IT/ITES SEZ at Sy. No. 286 & 287, Puppalguda Village, Rajendra Nagar Mandal, Ranga Reddy District, Telangana beyond 30.3.2025

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Facts of the case:

Name of the Developer	M/s. Phoenix Spaces Pvt. Ltd
Sector	IT/ITES
Location	Sy. No. 286 & 287, Puppalguda Village, Rajendra Nagar Mandal, Ranga Reddy District, Telangana
Extension	Formal approval to the developer was granted on 31.03.2017. The Developer has been granted 5 extensions upto 30.03.2025. The SEZ stands notified as on date.
Request	Extension of validity of LoA for a further period from 31.03.2025 to 30.03.2026

Present Progress:

d. **Details of Business plan:**

S. No.	**Type of cost**	**Proposed Investment (Rs. in Crores)**
1	Project Cost	After de-notification for a single tower in an area of 0.62 ha)
	Total	**180**

S. No.	**Type of cost**	**Proposed Investment (Rs. in Crores)**
		After de-notification
1	Project Cost	**180**
Break- up		
A	Land/ JDA Cost	NA
B	Development / Construction Cost	180
C	Finance cost	NA
D	Taxes	-
	Total	**180**

a. **Incremental investment since last extension:**

S. No.	**Type of cost**	**Total Investment made so far (Rs. in Crores) upto 31.12.2023**	**Incremental investment (Rs. in Crores) since last extension**	**Total investment made so far (Rs. in Crores) upto 31.12.2024**
1	Development	105.23	7.03	112.26

	cost			

(c) Details of physical progress till date:

S. No.	Authorized activity	% Completion	% Completion during last one year	Deadline for completion of balance work
1.	Project Development	62.37	3.91	**31st March, 2026**

Detailed reasons for delay: They have stated that they are facing it challenging to lease out the space to IT/ITES SEZ units. Yet, they are confident that with the proposed new SEZ amendments, the demand for IT/ITES SEZ will increase in future and they will be able to lease out the space to make the SEZ operational.

Recommendation by DC, VSEZ:

Considering the above, the request of the Developer for an extension of the validity of the Letter of Approval for a further period of one year from 31.03.2025 to 30.03.2026 (6th extension) is recommended and forwarded for consideration of the BoA.

128.2(iii) Request of M/s. State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT) for further extension of the validity period of LoA in respect of multi sector SEZ for granite processing at Bargur, Uthangari & Pochampalli Taluk, Krishnagiri District, Tamil Nadu beyond 31.3.2025

Jurisdictional SEZ – MEPZ SEZ

Facts of the case:

Name of the Developer	M/s. State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT)
Sector	Granite Processing
Location	Bargur, Uthangari & Pochampalli Taluk, Krishnagiri District, Tamil Nadu
Extension	Formal approval to the developer was granted on 10.03.2010. The Developer has been granted 8 extensions upto 33.03.2025. The SEZ stands notified as on date.
Request	Extension of validity of LoA for a further period from 31.03.2025 to 31.03.2030

Present Progress:

a) Details of Business Plan:

Sl.No.	Type of Cost	Proposed Investment (Rs.in Lakh)
1.	Land Cost	294.98
2.	Development work cost (As per Execution)	2569.07
3.	Layout approval	23.28
4.	Providing sign boards	15.30
	Total Cost	2902.63

b. **Incremental investment since last extension:**

Sl.No	Type of Cost	Total Investment made so far (R in Lakh)	Incremental Investment since last extension
1.	Land Cost	294.98	-
2.	Development work cost (As per Execution)	2569.07	-
3.	Layout approval	23.28	-
4.	Providing sign boards	15.30	-

Total Cost	2902.63	-

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

Sl.No	Authorised Activity	% of Completion	% of completion on during last one year	Deadline of completion of balance work
1.	Development work Cost (As per final bill)	95%	100%	-
2.	Layout approval	100%	100%	-
3.	Providing sign boards	100%	100%	-
4.	any other, specify			-

Reason and justification:

The Developer has also informed that they have developed all infrastructures like internal roads, water supply system, street lights and compound wall at a cost of Rs. 26.07 crore along with TNEB sub-station.

The Developer has allotted land to nine companies within the SEZ, and the UAC, during its meetings held in 2024-25, has issued Letters of Approval (LOAs) to these manufacturing Units. All nine Units have initiated physical construction activities; however, additional time is required for them to complete their manufacturing facilities and commence DCP.

Notably, one of these Unit is an existing operational Unit in IG3 SEZ, Uthukulli and it intends to relocate its production operations from IG3 SEZ, Uthukulli to SIPCOT SEZ, Bargur. This Unit is expected to commence its DCP within the next six months. Upon initiating DCP, the zone will become operational within Six months.

Therefore, an extension of the SEZ's validity is crucial to enable the timely completion of the ongoing construction work across all units. Such an extension will facilitate the early commencement of production and enable the Zone to become operational.

Recommendation by DC, MEPZ:

In view of the justification and supporting documents submitted by the Developer, the request for extension of formal approval of LOA for further period of five years w.e.f. 01.04.2025 to 31.03.2030 is recommended for consideration of BOA.

Agenda Item No. 128.3:

Request for extension of LoA of SEZ Unit [2 proposals – 128.3(i) - 128.3(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.

128.3(i) Request of M/s Bliss Aerospace Components Private Limited, a unit in KIADB Aerospace SEZ, Bangalore, for extension of validity of Letter of Approval No.KA:38:11:KIADB(Aero)2F dated 06.07.2015

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Facts of the case:

LoA issued	6th July 2015
LoA valid upto	6th July 2017
Nature of Business of the Unit	Manufacture and export of Aerospace components
No. of extensions	1 extension (upto 05.07.2017 by DC)
Request	Extension of validity of LoA upto 30.09.2025 (11th year, 10th extension)

Total proposed investment: Not Available

Progress of project since last LoA extension:-

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

Sl. No.	**Description**	**Current status**	
		% of work completed	**% of work yet to complete**
1	Land Acquisition	100	NIL
2	Building construction	40	60
3	Machinery	NIL	100
	Overall	**46.67**	**53.33**

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

Sl. No.	**Description**	**Investment made upto 05.07.2016 by (Rs. in crore)**	**Incremental investment since last extension by (Rs. in crore)**	**Total Investment made upto 31.12.2024 (Rs. in crore)**
1	Land & Building	1.28	--	1.28
2	Capital work in progress	1.83	1.56	3.39
3	Machinery	0.95	--	0.95
	Total	**4.06**	**1.56**	5.62

Reason for delay in implementation of the project:

- The company started as a small unit intending to supply parts to Aerospace Industry units like HAL, etc. When the unit first invested in the SEZ they

were under the impression that the supplies made to Defence Public Sector Undertakings (DPSU) will be treated as deemed exports from SEZs. However, DPSUs like HAL didn't locate itself in SEZ which was their main Customer.

- The unit had limited market exposure and low volume of orders. As suggested by their clients, they established SEZ unit to enhance connectivity with global players. However, the SEZ units setup by their clients are yet to commence operation in the SEZ.
- As a new entrant to the SEZ scheme, the company was unfamiliar with compliance requirements and personnel managing the compliance process left the company during Covid pandemic. Believing all compliance matters were addressed, the company prioritized expanding its market presence.

Reasons for seeking extension: -

The company's unit functioning in the DTA is a recognized player in the Aerospace industry with a turnover exceeding Rs.30.00 crore and have clients viz., Boeing, Moog Inc., Rafael Advanced Defence Systems Limited, Collins Aerospace. Hence, the company has taken steps to implement their SEZ project to serve their clients.

Recommendation by DC, CSEZ:-

Considering the investment made and that the unit is under revival stage, the request for extension of the validity of LoA No.KA:38:11:KIADB(Aero)2F dated 6th July 2015 of M/s Bliss Aerospace Components Private Limited, upto 30.09.2025 (11th year, 10th extension) after regularizing the gap of non-extension period of LoA from 06.07.2017 is recommended and forwarded for consideration of the BoA.

128.3(ii) Request of M/s. Envopap Private Limited in the JNPA-SEZ for extension of LOA beyond 13.10.2024 for 3rd extension up to 12.10.2025.

Jurisdictional SEZ – SEEPZ SEZ

Facts of the case:

Name of the Unit	:	M/s. Envopap Private Limited
LoA issued on (date)	:	13.10.2021
Nature of business of the unit	:	Manufacturing and export items Envopap/ Copy paper, Envo offset/ Map litho paper, writing Printing paper, Kraft Ecomm/Kraft Paper Bleached & Kraft White/ Kraft White paper Bleached, Kraft Natural/Bold/Kraft paper unbleached.
No. of extensions granted	:	2nd extension (approved for a period till 12.10.2024), 1st Extension (approved, vide letter dated 14.03.2023) valid until 12.10.2023
LoA valid upto (date)	:	12.10.2024
Request for	:	For further extension of one year up to 12.10.2025

Present Progress:

a. **Details of Business Plan**

S. No.	**Type of cost**	**Proposed Investment (Rs. In Lakhs)**
1.	Land Cost	272.80
2.	Construction Cost (Civil, Electrical, Mechanical, Structural, ETP, Fire, etc.)	92.35
3.	Plant and Machinery	500.00
4.	Computers, Software's, Licenses etc.	4.50
5.	Office capital goods includes AV Equipments, PA Systems, Access Control systems, etc	6.71
6.	Office Furniture, chairs, Workstation and other fit out related items such as carpets etc	10.07
	Total	**886.06**

b. **<u>Incremental investment since last extension: -</u>**

S. No.	**Type of Cost**	**Investment made so far (Rs. In Lakhs)**	**Investment made during last 1 year (Rs. In Lakhs)**
1	Land cost	272.80	0

2.	Land Development Reports, legal & Scrutiny Charges, Development Charges, etc	42.88	5.5
3.	Construction cost (Civil, electrical, mechanical, structural, ETP, Fire etc) – 100% indigenous)	135.00 (advance)	135.00
4.	Plant and equipment including material handling equipment – (60% indigenous and 40% indigenous)	0.00	0.00
5.	Computer, software, licenses, trademarks & patents (100% indigenous)	11.00	0.00
6.	Office capital goods includes AV Equipment, PA Systems, Access Control systems, etc (80% indigenous & 20% imported)	0.00	0.00
7.	Office furniture, chairs, workstation and other fit out related items such as carpets etc. (80% indigenous % 20% imported)	0.00	0.00
Total		**461.68**	**140.50**

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

S. No.	Authorized Activity	% Completion as on current date	% Completion during last one year	Deadline for completion of balance work
1	Generator Room/Electric Substation/ FO Generators (To augment MSEB Power)/ UPS Room/ Distribution substation/HSD Yard	0%	0%	30.09.2025
2	Internal Roads with street lighting and signage's	0%	0%	30.09.2025
3	Boundary walls/gates/fencing/security office/security posts	10%	30%	30.09.2025
4	All civil and Interior work/Electrical work/BMS/Air Conditioning/Fire Protection System	0%	0%	30.09.2025
5	Development of Landscaping/Garden space & Soil testing	0%	2%	30.09.2025

6	Recruitment of Employees	0%	20%	30.09.2025
7	Building Completion certificate and occupancy certificate	0%	0%	30.09.2025

Detailed reason for delay: -

Major Reasons for Delay in Starting SEZ Operations

The commencement of their SEZ operations has been delayed due to several significant challenges encountered during the initial phases of construction. A detailed account of the primary causes is as follows:

- **Unexpected Depth of Hand Rock for Foundation Work**

After receiving the building plan approval in August 2023, they initiated construction activities as planned. However, during the excavation, they discovered that the hard rock base was located approximately 20meters deep from the surface level. This was a significant deviation from initial estimates, the posed substantial challenges for their foundation work.

- **Increased costs for pile footing :**

To proceed with the deep foundation required for stability, their pile footing expenses increased by Rs. 6 Crore be yond the originally projected budget. This unexpected cost escalation required us to secure additional funding, which took approximately 6-7 months to arrange. The funding adjustment was crucial to ensure that the construction could continue without compromising structural integrity and safety.

- **Seasonal Delays Due to Monsoon:**

After arranging the necessary funds, the onset of the monsoon season in the region further delayed their construction activities. Heavy rains disrupted the excavation and foundation work, marking it unsafe and impractical to continue operations during this period. The monsoon added delay to their timeline, as they had to wait for suitable weather conditions to resume work safely and efficiently.

- **Delays in licensing and documentation:**

Parallel to the construction challenges, they also faced delays in obtaining critical regulatory approvals and completing necessary documentation. The outstanding requirements included;

-Fire No Objection Certificate (NOC): Obtaining the fir NOC involved several rounds of inspections and approvals, which took longer than anticipated.

-Registration and compliance procedures: Additional delays were encountered in securing the final building plan approval and completing various registration processes necessary for compliance with SEZ regulations.

- **Local Issues**

Construction start and completion dates

They intend to commence the construction phase promptly after receiving the extended LOA, with preparations set to begin in December 2024. The construction will involve foundational work, building erection, and infrastructure installation. They aim to complete construction activities, including interior setup and compliance with safety regulations, by JUNE 2025. This timeline has been planned to accommodate any unforeseen delays, ensuring that they stay on track to meet their operational deadlines.

Machinery and operational work start date

Following the completion of construction, they expect to initiate the installation and testing of machinery, with the operational setup targeted to begin in August 2025. After all equipment is installed, calibrated, and inspected to meet industry standards, they will begin preliminary operations. Full-scale production is anticipated by September 2025. This phased approach allows time for staff training and equipment trials, which are essential to maintaining quality and operational, efficiency.

• Comments from Developer (CEO/JNPA)

1. JNPA has been consistently following up with all unit holders to ensure the implementation of the SEZ Project at JNPA SEZ M/s. Envopap Private Limited has assured JNPA that they will complete the construction activities and commence operations of their unit within one year.

2. Furthermore, JNPA has no objection to grant an extension of the Letter of Approval (LOA) to M/s. Envopap Private Limited as per extant of SEZ Act provisions so as to facilitate M/s. Envopap to proceed further for setting up of their unit and to operationalize the same.

Recommendation by DC, VSEZ:

The proposal is recommended on the request of the unit for granting 3rd extension of LOA w.e.f. 13.10.2024 to 12.10.2025 in terms of Rule 19 (4) of SEZ Rule, 2006 and the Development Commissioner agrees with comments received from CEO, JNPA vide letter dated 13.03.2025.

Agenda Item No. 128.4:

Request for Co-Developer status [1 proposal – 128.4(i)]

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.*

128.4(i) Request of M/s. WTC Trades and Projects Private Limited, Bengaluru for approval as Co-Developer within 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

Facts of the case:

1.	Name of the Developer & Location	M/s. GIFT SEZ Limited, Gandhinagar, Gujarat.
2.	Date of LoA to Developer	07-01-2008
3.	Sector of the SEZ	Multi-services-SEZ
4.	Date of Notification	18-08-2011
5.	Total notified area (in Hectares)	105.4386 Hectares
6.	Whether the SEZ is operational or not	SEZ operational
	(i) If operational, date of operationalization	21-04-2012
	(ii) No. of Units	673
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 42649.00 Imports - 36786.00
	(iv) Total Employment (In Nos.)	5935
7.	Name of the proposed Co-developer	M/s. WTC Trades and Projects Private Limited, Bengaluru.
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Facility operations and maintenance of office building located at Plot No. 14A of Brigade (Gujarat) Projects Private Limited, GIFT-SEZ, Gandhinagar.
9.	Total area on which activities will be performed by the co-developer	3,15,000 square feet.
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 40.00 crores.
11.	Net worth of the Co-developer (Rs. in Cr.)	Rs. 59.13 crores for f. y. 2022-23 (as on 31-03-2023)

12.	Date of the Co-developer agreement	Supplemental agreement-3 to co-development agreement dated 02- 01-2025.

Recommendation by DC, GIFT SEZ:

DC, GIFT SEZ has recommended the proposal of M/s. WTC Trades and Projects Private Limited, Bengaluru to undertake facility management services at Plot No. 14A (Brigade International Financial Centre-BIFC), already developed by M/s. Brigade (Gujarat) Projects Private Limited, in the processing area of GIFT- SEZ, Gandhinagar in accordance with the Agreement dated 20-06-2023, and supplemental agreement-3 to co-development agreement dated 02-01-2025 for consideration of BOA.

Agenda Item No. 128.5:

Request for increase/decrease in area by Co-developer [6 proposals- 128.5(i)- 128.5(vi)]

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

128.5(i) Request of approved Co-Developer M/s. Artesania Infraprojects LLP, GIFT-SEZ, Gandhinagar, Gujarat for approval of additional built-up area

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 – 48450.00 Imports - 36786.00
	(iv) Total Employment (In Nos.)	5935
7.	Name of the Co-developer (already approved)	M/s. Artesania Infraprojects LLP, GIFT-SEZ, Gandhinagar.
8.	Details of Infrastructure facilities/authorized operations to be undertaken by the co-developer	Development, construction, maintenance, and operation of commercial building in Block-15 Plot No. 15-D) in the processing area.
9.	Total area (in Hectares) on which activities will be performed by the co-developer	5008 square meters. (approved) 1656 square meters (additional sought) Revise building extent from 2854 sq. mtr. to 4056 sq. mtr. Additional Development Rights of 1,65,335 sq. ft.
10.	Proposed investment by the Co-developer (Rs. in Cr.)	200.00
11.	Net Worth of the Co-developer (Rs. in Cr.)	1007.27 (combined net worth of promoters)
12.	Date of the Co-developer agreement	Supplemental agreement-1 to co-developer agreement dated 23- 10-2024

Recommendation by DC, GIFT SEZ:

In view of the increase in economic activity and other developments at GIFT-SEZ, Gandhinagar, the O/o DC has recommended the proposal of M/s. Artesania Infraprojects LLP, for approval of additional area building in Block-15 within the processing area in GIFT-SEZ, Gandhinagar for consideration of BOA.

128.5(ii) Request of approved Co-Developer M/s. Savvy Realty Creators LLP, GIFT-SEZ, Gandhinagar, Gujarat for approval of additional built-up area – Reg.

Jurisdictional SEZ – GIFT SEZ

Facts of the Case:

1.	Name of the Developer & Location	M/s. GIFT SEZ Limited, Gandhinagar, Gujarat
2.	Date of LoA to Developer	07-01-2008
3.	Sector of the SEZ	Multi-services-SEZ
4.	Date of Notification	18-08-2011
5.	Total notified area (in Hectares)	105.4386 Hectares
6.	Whether the SEZ is operational or not	SEZ operational
	i. If operational, date of operationalization	21-04-2012
	(ii) No. of Units	673
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 48450.00 Imports - 36786.00
	(iv) Total Employment (In Nos.)	5935
7.	Name of the Co-developer (already approved)	M/s. Savvy Realty Creators LLP, GIFT-SEZ, Gandhinagar.
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Development, construction, maintenance, and operation of commercial building in Block-15 in the processing area.
9.	Total area (in Hectares) on which activities will be performed by the co- developer	4461 square meters. (approved-1) 2385 square meters. (approved- 2) 1355 square meters. (approved- 3) **2478 square meters (additional sought)** Total development rights of 1,45,650 square feet

10.	Date of the Co-developer agreement	Supplemental agreement-1 to co-developer agreement dated 22- 11-2024

Recommendation by DC, GIFT SEZ:

In view of the increase in economic activity and other developments at GIFT-SEZ, Gandhinagar, DC, GIFT SEZ has recommended the proposal of M/s. Savvy Realty Creators LLP, for approval of additional area with additional development rights in Block-15 within the processing area in GIFT-SEZ, Gandhinagar for consideration of BOA.

128.5(iii) Request of approved Co-Developer M/s. Shivalik SEZ Projects LLP, GIFT-SEZ, Gandhinagar, Gujarat for approval of additional built-up area.

Jurisdictional SEZ – GIFT SEZ

Facts of the case:

1.	Name of the Developer & Location	M/s. GIFT SEZ Limited, Gandhinagar, Gujarat
2.	Date of LoA to Developer	07-01-2008
3.	Sector of the SEZ	Multi-services-SEZ
4.	Date of Notification	18-08-2011
5.	Total notified area (in Hectares)	105.4386 Hectares
6.	Whether the SEZ is operational or not	SEZ operational
	(i) If operational, date of operationalization	21-04-2012
	(ii) No. of Units	673
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 48450.00 Imports - 36786.00
	(iv) Total Employment (In Nos.)	5935
7.	Name of the Co-developer (already approved)	M/s. Shivalik SEZ Projects LLP, GIFT-SEZ, Gandhinagar.
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Development, construction, maintenance, and operation of commercial building in Block-13 (Plot No. 13-C) in the processing area.
9.	Total area on which activities will be performed by the co-developer	47379.54 square meters. (approved) 4738 square meters (additional sought) **Total development rights for 5,61,000 square feet.**
10.	Proposed investment by the Co-developer (Rs. in Cr.)	405.00

11.	Net Worth of the Co-developer (Rs. in Cr.)	147.46
12.	Date of the Co-developer agreement	Supplemental agreement-2 to co-developer agreement dated 29- 10-2024

Recommendation by DC, GIFT SEZ:

In view of the increase in economic activity and other developments at GIFT-SEZ, Gandhinagar, DC, KASEZ has recommended the proposal of M/s. Shivalik SEZ Projects LLP, for approval of additional area building in Block-13 within the processing area in GIFT-SEZ, Gandhinagar for consideration of BOA.

128.5(iv) Request of approved Co-Developer M/s. SYB Shilp LLP, GIFT-SEZ, Gandhinagar, Gujarat for approval of additional built-up area

Jurisdictional SEZ – GIFT SEZ

Facts of the case:

1.	Name of the Developer & Location	M/s. GIFT SEZ Limited, Gandhinagar, Gujarat.
2.	Date of LoA to Developer	07-01-2008
3.	Sector of the SEZ	Multi-services-SEZ
4.	Date of Notification	18-08-2011
5.	Total notified area (in Hectares)	105.4386 Hectares
6.	Whether the SEZ is operational or not	SEZ operational
	(i) If operational, date of operationalization	21-04-2012
	(ii) No. of Units	673
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 48450.00 Imports - 36786.00
	(iv) Total Employment (In Nos.)	5935
7.	Name of the Co-developer (already approved)	M/s. SYB Shilp LLP, GIFT-SEZ, Gandhinagar.
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Development, construction, maintenance, and operation of commercial building in Block-15 (Plot No. 15-E) in the processing area.

9.	Total area (in Hectares) on which activities will be performed by the co- developer	5028 square meters. (approved) 1463 square meters (additional basement extent sought) 1,45,519 sq. ft. (additional development rights sought) **6491 square meters (total)** **Total development rights for 6,45,519 square feet (59,970 square meters).**
10.	Proposed investment by the Co-developer (Rs. in Cr.)	200.00
11.	Net Worth of the Co-developer	1007.27 (combined net worth of
	(Rs. in Cr.)	promoters)
12.	Date of the Co-developer agreement	Supplemental agreement-1 to co-development agreement dated 09-12-2024

Recommendation by DC, GIFT SEZ:

In view of the increase in economic activity and other developments at GIFT-SEZ, Gandhinagar, DC, GIFT SEZ has recommended the proposal of M/s. SYB Shilp LLP, for approval of additional area building in Block-15 within the processing area in GIFT-SEZ, Gandhinagar for consideration of BOA.

128.5(v) Proposal of M/s. Adhisthan Investments India Pvt. Limited, co-developer for surrender of land measuring an area of 4.822 Ha (11.916 acres) out of the allotted area of 94.76 Ha (234.157 acres) to M/s. Brandix India Apparel City Limited, Developer at Pudimadaka Road, Atchuthapuram Mandal, Visakhapatnam– reg.

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Facts of the case:

M/s. Adhisthan Investments India Private Limited, co-developer in M/s. Brandix India Apparel City Pvt. Limited has informed that they intend to surrender a portion of land measuring an area of 4.822 Ha (11.916 acres) out of an area of94.76 Ha (234.157 acres) as M/s. Brandix India Apparel City Pvt. Limited, developer propose to allot the surrendered land by bringing in new co-developer to invest for development of social infrastructure.

The co-developer has submitted the following documents:

1. Co-developer agreement dated 09th July 2009 between Brandix and Adhisthan
2. Sub-lease agreement dated 13.03.2010
3. Copy of the Addendum agreement with revised land to an extent of 222.241 acres
4. Copy of the Authorisation agreement

Recommendation by DC, VSEZ:-

In view of the above, the proposal along with the above documents are forwarded herewith for information and consideration of the request of M/s. Adhisthan Investment India Pvt. Limited, co-developer for surrender of a portion of the land measuring an area of 4.822 ha (11.916 acres) out of an area of 94.76 Ha (235.157 acres). The proposal is duly recommended by DC.

128.5(vi) Request of M/s ANSR Global Corporation Private Limited, Co-Developer in Embassy Property Developments Private Limited SEZ, at Outer Ring Road, Rachenahalli Village, Bangalore, Karnataka for expansion of built-up area

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Facts of the case:

Area (Hectares)	:	2.5906
Date of Notification	:	03.05.2017
Date operationalized	:	01.04.2024
No. of Units	:	5
Export (2024-2025 from 01.04.2024 to 31.03.2025)	:	Rs.2771.60 crore
Total built-up area	:	148644.86 sq.mtr.
Name of the Co-Developer	:	M/s ANSR Global Corporation Private Limited
LoA No. & Date of Co-Developer	:	F.1/1/2017-SEZ dated 14.11.2023 for infrastructure development, conversion of bare shell building into warm shell building, leasing out the built-up space, facility management service in 2,04,198 sq.ft. built-up area at Block B Building (17th Floor: 62,737 sq.ft., 18th Floor: 70,699 sq.ft. & 19th Floor: 70,762 sq.ft.) in the Embassy Property Developments Private Limited SEZ, Bangalore.
Present Request of Co-Developer	:	Inclusion of additional built-up area admeasuring 69,674 sq.ft. in Parcel 2 Acacia (9th Floor) in Embassy Property Development Private Limited to undertake the authorized operation of conversion of bare shell buildings into warm shell buildings, lease the built-up space and to provide facility management services to IT/ITES. At present the Co-Developer is having the following build-up area in the Embassy Property Developments Private Limited SEZ, Bangalore for infrastructure development, conversion of bare shell building into warm shell building, leasing out the built-up space, facility management service.

Building	**Floor**	**Area in sq.ft.**
Parcel 2 Acacia	17	62737
Parcel 2 Acacia	18	70699
Parcel 2 Acacia	19	70762

		Parcel 2 Acacia	12	68835
		Parcel 2 Acacia	11	69737
		Total		342770
		On approval of the proposal for addition of 69,674 sq.ft. area in Parcel 2 Acacia (9th Floor), the net built-up area of the Co-Developer shall be 4,12,444 sq.ft.		
Observation		The Co-Developer has also submitted the following: • "No Objection Certificate" issued by M/s Embassy Property Developments Private Limited, the Developer for allotment of additional space to the co-developer. • Copy of Co-Developer agreement dated 9th April 2025 for the entire area. • Copy of Networth certificate.		

Recommendation by DC, CSEZ:

The request of M/s ANSR Global Corporation Private Limited, Co-Developer for inclusion of additional built-up area admeasuring 69,674 sq.ft. to carry out the activities of Co-Developer in Embassy Property Development Private Limited SEZ, Bangalore is recommended and forwarded for consideration of the BoA.

Agenda Item No. 128.6:

Request for conversion of Processing Area into Non-Processing Area under Rule 11(B) [5 proposals – 128.6(i) - 128.6(v)]
Rule position:

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

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

TABLE

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

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

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

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

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

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

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

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

TABLE

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

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

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

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

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

- Further, as per the directions of the BoA in its 120th meeting held on 18.06.2024, there shall be a clear certification of Specified Office and the

Development Commissioner that the Developer has refunded the duty as per the provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09th April, 2024 issued by DoC. Accordingly, DoC vide letter dated 27.06.2024 has issued one such Certificate to be provided by Specified Officer and Countersigned by Development Commissioner.

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

128.6(i) Request of M/s Embassy Commercial Projects (Whitefield) Private Limited, Co-Developer in Vikas Telecom Private Limited SEZ, at Devarabeesanahalli and Kariyammana Villages, Varthur Hobli, Bengaluru District, Karnataka for demarcation of SEZ Processing Built-up area (40811 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006 read with Instruction No.115 dated 09.04.2024.

Jurisdictional SEZ –Cochin SEZ (CSEZ)

Brief facts of the case:

Particulars	**Details**		
Name of Developer	M/s Vikas Telecom Private Limited		
Address of SEZ	Devarabeesanahalli and Kariyammana Villages, Varthur Hobli, Bengaluru District, Karnataka State		
Sector	IT/ITES		
Formal Approval	F.2/33/2006-EPZ dated 7th April 2006		
Total Notified land area (in Hectares)	21.7468		
Total Built-up area in Processing Area **(in M²)**, in the SEZ	**705639**		
Name of the Co-Developer	M/s Embassy Commercial Projects (Whitefield) Private Limited		
Total Built-up area of Co-Developer **(in M²)**	**237744**		
Details of processing (Built-up) area in the SEZ	**Building /Tower / Block/Plot No.**	**No. of floors**	**Total built-up area (in M²)**
	3A, North Tower (Wing A)	G+10+Terrace	40531
	Car Parking and Basement specific to North Tower (Wing A)	LB+3	30415
	3A, South Tower (Wing B)	G+10+Terrace	47734
	Car Parking and Basement specific to South Tower (Wing B)	UB+G+1st ,4th &5th Floors	34812
	3B	3B+G+10+Terrace	84252
	Total		**237744**
Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area	**Building /Tower / Block/Plot No.**	**No. of floors**	**Total built-up area (in M²)**

(in Square meter)	3A, South Tower (Wing B)	G+8th, 9th & 10th Floors + Terrace	19700
	Car Parking and Basement specific to South Tower (Wing B)	UB+G	21111
		Total	**40811**

Balance Built-up Processing Area after demarcation with Co-Developer **(in M²)**	**196933**
Balance Built-up Processing Area after demarcation in SEZ **(in M²)**	664828
Whether tax/duty calculated has been made as per SEZ Rule 11 (B)(5)?	Yes
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 **₹25,47,41,613/-** (Rupees Twenty five crore forty seven lakh forty one thousand six hundred thirteen only) towards tax/duty exemptions availed for the proposed area to be demarcated as NPA alongwith common facilities. (**₹17,07,24,339/-** for built-up space & **₹8,40,17,275/-** for common infrastructure) (Copy of challans enclosed).
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,	Yes. The Developer has considered the duty/tax exemptions availed attributable to the common infrastructure facilities while calculating the amount paid

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.	
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 **₹8,40,17,275/-** The Co-Developer has paid ₹8,40,17,275/- towards the duty/tax exemptions availed for the common infrastructure for the proposed area (Challan copy enclosed)
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 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 664828 sq.mtr., and hence fulfills the condition.
Reason for demarcation of built-up area as NPA	The Co-Developer states that due to Sunset Clause for Income Tax benefit to the units, change in the SEZ development plans to

	reduce SEZ area, uncertainty surrounding the IT industry and terminal decline in the revenue streams resulted in less demand for IT/ITeS SEZ space. Hence the management decided to demarcate the vacant 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 15.11.2024 issued by Shri Deepak N, Chartered Engineer, Reg. No. AM162085-4, towards calculation of taxes / duty to be refunded by the developer.
iii. 'No Dues Certificate' issued by Specified Officer vide letter F.No. SO/06/ETV SEZ/MISC/2025 dated 19.03.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, 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 40811 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 Embassy Commercial Projects (Whitefield) Private Limited, the Co-Developer for demarcation of 40811 sq.mtr. processing (built-up) area as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006 read with Instruction No.115 dated 9th April 2024, is recommended and forwarded for consideration of BoA.

128.6(ii) Request of M/s Manyata Promoters Private Limited, Developer, at Villages Rachenahalli, Nagavara and Tanisandra, Bangalore District, Karnataka for demarcation of SEZ Processing Built-up area (11567 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006 read with Instruction No.115 dated 09.04.2024.

Jurisdictional SEZ –Cochin SEZ (CSEZ)

Brief facts of the case:

Particulars	**Details**		
Name of Developer	M/s Manyata Promoters Private Limited		
Address of SEZ	Villages Rachenahalli, Nagavara and Tanisandra, Bangalore District, Karnataka State		
Sector	IT/ITES		
Formal Approval	F.2/96/2005-EPZ dated 16th June 2006		
Total Notified land area (in Hectares)	19.1991		
Total Built-up area in Processing Area **(in M²)**, as informed by the developer.	**761970.14**		
Details of processing (Built-up) area in the SEZ	**Building /Tower / Block/Plot No.**	**No. of floors**	**Total built-up area (in M²)**
	Block C2	B+G+8	52156.14
	Block C3-MLCP	B+G+12	31982.72
	Block C4 (Annexure building A)	B+S+1st floor	11621.12
	Block C4 (Annexure Building B)	B+S+1st, 3rd & 4th Floors	19675.38
	Block D4	B+G+10	49528.00
	Block F3	2B+G+10	98894.00
	Block G2	2B+G+8	50703.00
	Block G3	2B+G+10	71994.00
	Block G4	2B+G+1st to 5th Floors	38133.45
	Block G6 MLCP	2B+G+12	32668.00
	Block H1	B+G+6	45620.00
	Block H2 (Annexure Building A)	2B+G+1st to 6th & 10th Floors	33664.66
	Bock H2 (Annexure	2B+G+1st to 6th & 9th to 10th Floors	35917.00

	Building B)		
	Block L1	2B+G+10	59705.00
	Block L2	2B+G+10	65875.00
	Block L3	2B+5th to 10th Floors	55765.67
	Block L MLCP	G+3	8067.00
	Total		**761970.14**

Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)	**Building /Tower / Block/Plot No.**	**No. of floors**	**Total built-up area (in M²)**
	Building H2 (Annexure Building B)	9th Floor	3241.00
	Building H2 (Annexure Building B)	10th Floor	3196.00
	Block L3	6th Floor	5130.00
		Total	**11567.00**
Balance Built-up Processing Area after demarcation **(in M²)**	**750403.14**		
Whether tax/duty calculated has been made as per SEZ Rule 11 (B)(5)?	Yes		
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 Developer has paid an amount of **₹1,04,78,733/-** (Rupees One crore four lakh seventy eight thousand seven hundred thirty three only) towards tax/duty exemptions availed for the proposed area to be demarcated as NPA alongwith common facilities. (Rs.92,01,145/- for built-up space & Rs.12,77,588/- for common area) (Copy of challan enclosed).		
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-	Yes **Rs.12,77,588/-** The Developer has paid Rs.12,77,588/- towards the duty/tax exemptions availed for the common assets (Electrical installations, Fire fighting systems, HV AC Systems,		

processing area?	Window Grills) for the proposed area. Earlier, on request of the Developer, the 121st BoA held on 31st July 2024, was granted approval for demarcation of 108681 sq.mtr. built-up area as Non-Processing area, which was conveyed by DoC vide letter dated 9th September 2024. At that time, the Developer has refunded an amount of **₹5,26,39,623/-** vide challan No.NPA01 dated 06.07.2024 (Challan copy enclosed) towards the entire duty/tax exemptions availed for the common amenities viz.Internal road, common parking facilities, sewage, drainage, compressor room, landscapes, gardens, utilities like generation and distribution of power including power back up, HVAC facilities, ETP, ETP. Since the Developer refunded the entire duty/tax exemptions availed for creating the common amenities, the present proposal does not involve payment of the same.
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 During the earlier proposal approved by BoA, the Developer has already been refunded an amount of **₹5,26,39,623/-** towards the entire duty/tax exemptions availed for the common facilities in the said building vide challan No.NPA01 dated 06.07.2024 (Challan copy enclosed)
Whether the area to be demarcated as NPA is included to be strictly used	Yes

for IT/ITES Units, any in terms of SEZ Rules 11 (B)(2)?	
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 **750403.14** sq. mtr., and hence fulfills the condition.
Reason for demarcation of built-up area as NPA	The Developer states that the proposed built-up area is lying vacant in the SEZ since long, due to multiple factors like Sunset Clause for Income Tax benefit, Covid 19 pandemic and consequent 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 08.03.2025 issued by Shri R Arunkumar Chartered Engineer, Reg. No. F-111508-8, towards calculation of taxes / duty to be refunded by the developer.

iii. 'No Dues Certificate' issued by Specified Officer vide letter KA:10:06:MEBP:SEZ:1A(VOL IV)/839/2024-25 dated 14.03.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, 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 11567 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 Manyata Promoters Private Limited, the Developer for demarcation of 11567 sq.mtr. processing (built-up) area as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006 read with Instruction No.115 dated 9th April 2024, is recommended and forwarded for consideration of BoA.

128.6(iii) M/s. Oxygen Business Park Private Limited, Developer – Proposal for demarcation of '23013 Square Meter at Ground floor, Podium floor & 1st to 6th floor, Tower-2' into Non-Processing area of IT/ITES SEZ at Plot No. 7, Sector-144, Noida (Uttar Pradesh), under Rule 11B of SEZ Rules, 2006.

Jurisdictional SEZ –Noida SEZ (NSEZ)

Brief facts of the case:

<table>
<tr><th>S.No.</th><th>Particulars</th><th colspan="2">Details</th></tr>
<tr><td>1.</td><td>Name and address of the Developer</td><td colspan="2">M/s. Oxygen Business Park Private Limited</td></tr>
<tr><td>2.</td><td>Letter of Approval No. and date.</td><td colspan="2">No. F.2/719/2006-SEZ dated 07.02.2008</td></tr>
<tr><td>3.</td><td>Date of Notification</td><td colspan="2">15.05.2008</td></tr>
<tr><td>4.</td><td>Name of the sector of SEZ for which approval has been given.</td><td colspan="2">IT/ITES</td></tr>
<tr><td>5.</td><td>Total Notified land area (in Hectares)</td><td colspan="2">10.0498 hectare</td></tr>
<tr><td>6.</td><td>Total land area of SEZ:
(i). Processing Area
(ii). Non-Processing Area</td><td colspan="2">
Land area 10.0498 hectare.
NIL</td></tr>
<tr><td rowspan="13">7.</td><td rowspan="13">Details of Built-up area in Processing Area:

(i). No. of towers with built-up area in each tower (in Square meter) (as per records)</td><td>Building / Tower / Block No.</td><td>Total built-up area (in Sqmt.)</td></tr>
<tr><td>Tower-A</td><td>18764.00</td></tr>
<tr><td>Tower-B</td><td>17253.00</td></tr>
<tr><td>Tower-C</td><td>17298.00</td></tr>
<tr><td>Tower-D</td><td>15314.00</td></tr>
<tr><td>Tower-E</td><td>19075.00</td></tr>
<tr><td>Tower-F</td><td>16601.00</td></tr>
<tr><td>Tower-1</td><td>88325.00</td></tr>
<tr><td>Tower-2</td><td>42625.00</td></tr>
<tr><td>Tower-3</td><td>44430.00</td></tr>
<tr><td>Food Court</td><td>2532.00</td></tr>
<tr><td>Total:</td><td>282217.00</td></tr>
<tr><td colspan="2"></td></tr>
<tr><td>(ii). Total Built up area :</td><td colspan="2">282217.00 Sqmt.</td></tr>
<tr><td>(iii) Area already demarcated as NPA:</td><td colspan="2">101950.50 Sqmt. (88325.50 + 10154.00 + 3471.00)</td></tr>
<tr><td>(iv) Remaining Built-up Processing area:</td><td colspan="2">180266.50 Sqmt.</td></tr>
</table>

8.	Total Built-up area in:	Processing Area: 180266.50 Sqmt. Non-Processing Area: 101950.50 Sqmt.
9.	Total number of floors in the building wherein demarcation of NPA is proposed:	12 floors (Ground+Podium)
10.	Total Built-up area proposed to be demarcation of NPA for setting up of Non SEZ IT/ITES Units:	23013.00 Sqmt.
11.	How many floors area proposed for demarcation of NPA for setting up of Non SEZ IT/ITES Units:	8 floors (Ground floor, Podium floor & 1st to 6th floor, Tower-2)
12.	Remaining Built-up Processing Area after instant proposed demarcation:	157253.50 Sqmt.
13.	Whether duty benefits and tax exemption availed have been refunded and NOC from Specified Officer has been obtained?	Yes, Refunded and 'No Dues Certificate' of Specified Officer has been obtained.
14.	Reasons for demarcation of NPA	The Developer has mentioned that due to multiple factors including Sunset clause for Income Tax Benefits, Covid 19 Pandemic and Work From Home facility etc.
15.	Whether remaining built-up area fulfils the minimum built-up area requirement as per Rule 5 of SEZ Rules, 2006.	Yes.
16.	Whether application in the format prescribed vide Instruction No. 115 dated 09.04.2024, has been submitted.	Yes.
17.	Whether copy of Chartered Engineer Certificate has been submitted?	Yes. Chartered Engineer Certificate dated 21.02.2025 of Shri R. Arunkumar, Chartered Registration No. F-111508-8.
18.	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineers Certificate.	Rs.23,81,72,914/- (Rs.23.82 Crores)

19.	Whether 'No Dues Certificate' of Specified Officer has been submitted?	Yes. The Developer has submitted copy of 'No Dues Certificate' issued by Authorised Officer on 13.03.2025.
20.	Whether Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024, has been submitted?	Yes. The same has been signed by the Specified Officer and countersigned by DC, NSEZ.
21.	Whether Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024, has been received?	Yes. The same has been signed by the Specified Officer and DC, NSEZ.
22.	Whether required Undertaking has been submitted:	Yes. The Developer has submitted an undertaking 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 total NPA area @23013 Sqmt. [including 3413 Sqmt. at Ground floor (400 Stack Parking G+1)] located at Tower-2 (Ground, Podium, 1st to 6th floor) of built-up area proposed to be demarcated as NPA of Ground floor for usage as per Rule 11B of SEZ Rule (fifth Amendment), 2023.
23.	Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	The Developer has mentioned that they will ensure adequate control of the movement of employees as well as goods pertaining to SEZ units and Non-Processing Area units. Also, the company will maintain registers at gate, install CCTV's, and issue ID cards to NPA unit employees to ensure adequate controls. Separate colour gate pass or identity cards for both PA & NPA unit's employees. Separate car sticker for different colour for both PA & NPA unit's employees. Round-the-clock security measures are already in place. Separate security for each building and block with scanning.
24.	Purpose and usage of such	Renting the space to IT-ITES Clients (as

	demarcation of NPA.	mentioned by the Developer)

Recommendation by DC, NSEZ:

In view of above, the proposal of M/s. Oxygen Business Park Private Limited, Developer for demarcation of built-up Processing Area of **'23013 Square Meter at Ground floor, Podium floor & 1st to 6th floor, Tower-2'** into the Non-Processing Area, in terms of Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024 & DoC letter dated 27.06.2024 & 09.09.2024, along with following documents, are forwarded herewith for consideration by the Board of Approval:-

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, NSEZ.
ii. Chartered Engineer Certificate dated 21.02.2025 issued by Shri R. Arunkumar, Chartered Registration No. F-111508-8, towards calculation of taxes / duty to be refunded by the developer.
iii. 'No Dues Certificate' issued by Authorised Officer vide letter F.No. SEZ/Oxygen/Dev.01 /2023 dated 13.03.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, NSEZ.
v. Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024 duly signed by Specified Officer and DC, NSEZ.
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 total NPA area @23013 Sqmt. [including 3413 Sqmt. at Ground floor (400 Stack Parking G+1)] located at Tower-2 (Ground, Podium, 1st to 6th floor) of built-up area proposed to be demarcated as NPA of Ground floor for usage as per Rule 11B of SEZ Rule (fifth Amendment), 2023.

128.6(iv) Proposal of M/s. ACE Urban Hitech City Limited at Sy.No.53/1, Kesarapalli Village, Gannavaram Mandal, Krishna District, Andhra Pradesh for demarcation of the built-up area as Non-processing area under Rule-11(B) of SEZ Rules, 2006

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Brief facts of the case:

Sl.No.	Particulars	Details
1	Name and address of the Developer	ACE URBAN HITECH CITY LIMITED Sy.No.53/1, Kesarapalli Village, Gannavaram Mandal, Krishna District, Andhra Pradesh- PIN:521102
2	Letter of Approval No. and date	LOA No. No.F.2/63/2006-EPZ Dt.22.06.2006.
3	Date of Notification	S.O. 2257(E) Dt. 23.05.2018
4	Name of the sector of SEZ for which approval has been given	Sector specific SEZ for IT/ITES
5	Total Notified Area of Special Economic Zone (in hectares)	2.60 Ha.
6	Total area of: i. Processing Area (in hectare) ii. Non-Processing Area (in hectares)	 2.60 Ha NIL
7	Details of Built up area: i. No. of towers with built-up area of each tower (in square meter) ii. Total Built-up area (in square meter).	 2 Buildings i. Medha-I Tower – 17,631 sq.mtrs. ii. Medha- II Tower-49,284 sq.mtrs 66,915 sq.mtrs
8	Total Built up area in: i. Processing Area – (in square meter. ii. Non - Processing Area - Square meter.	 66,915 sq. mtrs NIL
9	Total numbers of floors in the building wherein demarcation of NPA is proposed	5 Floors (Ground + 4 Upper Floors)
10	Total Built up area proposed for demarcation of NPA for setting up of Non SEZ IT/ITES units.	3,609 sq.mtrs

11	How many floors are proposed for demarcation of NPA for setting up of Non SEZ IT/ITES units	One Floor in Medha-I Tower (4th Floor) Built-up Area of 4th Floor- 3,609 Sq.Mtrs.
12	Total Duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineers certificate (in Rupees Crore)	**Rs.0.99 Crores**
13	Whether duty benefits and tax exemptions availed has been refunded and NOC from specified officer has been obtained (please enclose NOC from specified officer)	Yes NOC from Specified Officer has been obtained and the same has been enclosed.
14	Reasons for demarcation of NPA:	Due to "Work From Home" Facility, facilitated to the IT Companies after COVID-19 pandemic and also non-availability of Income Tax incentives for SEZ Units, the demand for SEZ IT/ITES space has been reduced and most of the SEZ office space is lying vacant. We are not able to get SEZ clients despite our sincere efforts. Hence our management has decided to demarcate 4th Floor of the Medha-I Tower as Non-Processing area for IT/ITES Units under Rule 11B of the SEZ Rules, so that we can lease the same to Non-SEZ IT/ITES Units which do not wish to operate under SEZ scheme.
15	Total remaining built up area (in sq. mt)	Balance built-up area after demarcation of Non-Processing Area for Non-SEZ IT/ITES Units is **63,306** 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	Our management has decided to demarcate 4th Floor of the Medha-I Tower as Non-Processing area for IT/ITES Units under Rule 11B of the SEZ Rules, so that the space can be leased to Non-SEZ IT/ITES Units which do not wish to operate under SEZ scheme.

The following requisite documents have been submitted:

i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, VSEZ.
ii. Chartered Engineer Certificate dated 04.03.2025 issued by Dr. S. Chandrsekharan, Chartered Engineer, Reg. No.043478 towards calculation of taxes / duty to be refunded by the developer.
iii. 'No Dues Certificate' issued by Specified Officer vide letter dated 21.03.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, VSEZ.
v. Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024 duly signed by Specified Officer and DC, VSEZ.
vi. An Undertaking from the Developer to the effect that they shall pay the differential short paid / unpaid duty / tax benefits if any so determined at the later date on being demanded by the department or any statutory authority without any demur or protest w.e.t. repayment of taxes and benefits availed in respect of 3,609 sq.mtrs of built-up area proposed to be demarcated as per Rule 11B of SEZ Rule (fifth Amendment), 2023.

Recommendation by DC, VSEZ:

DC, VSEZ has recommended the proposal.

128.6(v) Request of M/s Vikas Telecom Private Limited, Developer, at Devarabeesanahalli and Kariyammana Villages, Varthur Hobli, Bengaluru District, Karnataka for demarcation of SEZ Processing Built-up area (68543 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006 read with Instruction No.115 dated 09.04.2024

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Facts of the case:

Particulars	**Details**		
Name of Developer	M/s Vikas Telecom Private Limited		
Address of SEZ	Devarabeesanahalli and Kariyammana Villages, Varthur Hobli, Bengaluru District, Karnataka State		
Sector	IT/ITES		
Formal Approval	F.2/33/2006-EPZ dated 7th April 2006		
Total Notified land area (in Hectares)	21.7468		
Total Built-up area in Processing Area **(in M²)**, in the SEZ	**664828**		
Total Built-up area of Developer **(in M²)**	467895		
Details of processing (Built-up) area in the SEZ	**Building /Tower / Block/Plot No.**	**No. of floors**	**Total built-up area (in M²)**
	Parcel 1A Tower1	2B+G+10	57886
	Parcel 1A Tower 2	2B+G+10	57128
	Parcel 1A	G+1	3852
	Parcel 2A East Wing	2B+LG+UG+6	56266
	Parcel 2A West Wing	2B+LG+UG+6	56266
	Parcel 2B Tower 1	1B+G+7	17999
	Parcel 2B Tower 2	1B+G+7	17999
	Parcel 2B Tower 3	1B+G+7	17999
	Parcel 2 C Multi Used building	2B+G+1+4 floors of MLCP	8109
	Parcel 2D	1B+G+6	21967
	Block 7B Office	2B+G+10	99920

	Block		
	Block 7B MLCP	2B+G+11	49888
	Parcel 6 (DG Block)	G+1+Terrace	2614
	Total		**467895**

Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)	**Building /Tower / Block/Plot No.**	**No. of floors**	**Total built-up area (in M²)**
	Parcel 2A East Wing	2B+G+1st & 2nd Floors	23226
	Parcel 2A West Wing	2B	17739
	Parcel 2B Tower 1	B+G+1st to 3rd Floors	8548
	Parcel 2B Tower 2	B+2nd & 3rd Floors	4933
	Parcel 2B Tower 3	B+3rd Floor	2604
	Parcel 2 C Multi Used building	2B+G+1+4 Floors of MLCP	8109
	Parcel 2D	B	770
	Parcel 6 (DG Block)	G+1+Terrace	2614
		Total	**68543**

Balance Built-up Processing Area after demarcation with Developer **(in M²)**	**399352**
Balance Built-up Processing Area after demarcation in SEZ **(in M²)**	**596285**
Whether tax/duty calculated has been made as per SEZ Rule 11 (B)(5)?	Yes
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 Developer has paid an amount of **₹16,02,48,466/-** (Rupees Sixteen crore two lakh forty eight thousand four hundred sixty six only) towards tax/duty exemptions availed for the proposed area to be demarcated as NPA alongwith common facilities. (**₹4,58,11,909**/- for built-up space & **₹₹11,44,36,557/-** for common infrastructure) (Copy of challans enclosed).
Whether the calculation sheet has included the original duty or tax benefit availed for creation of social or commercial infrastructure and other	Yes

facility in the SEZ to be used by both SEZ processing and non-processing area?	
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 **₹11,44,36,557/-** The Developer has paid ₹11,44,36,557/- (Rupees Eleven crore forty four lakh thirty six thousand five hundred fifty seven only) towards the duty/tax exemptions availed for the common infrastructure for the proposed area (Challan copy enclosed)
Whether the area to be demarcated as NPA is included to be strictly used for IT/ITES Units only, 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 **596285** sq.mtr., and hence fulfills the condition.
Reason for demarcation of built-up area as NPA	The Developer states that due to Sunset Clause for Income Tax benefit to the units, work from home facilities to the unit after Covid 19 pandemic, resulted in less demand for IT/ITeS SEZ space and the proposed built-up area is lying since long. Hence the management decided to demarcate the vacant 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 26.03.2025 issued by Shri R. Arunkumar, Chartered Engineer, Reg. No. F-111508-8, towards calculation of taxes / duty to be refunded by the developer.
iii. 'No Dues Certificate' issued by Specified Officer vide letter No. KA:04:06:VTV: 1 (VOL(ll)/466 dated 07.04.2025.
iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, 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 68543 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 Vikas Telecom Private Limited, Developer for demarcation of 68543 sq.mtr. processing (built-up) area as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006 read with Instruction No.115 dated 9th April 2024, is recommended and forwarded for consideration of BoA.

Agenda Item No. 128.7:

Request for notification or partial/full de-notification [4 proposals 128.7(i) – 128.7(iv)]

<u>Procedural guidelines on de-notification of SEZ</u>:

- In terms of first proviso to rule 8 of the SEZ Rules, 2006, *the Central Government may, on the recommendation of the Board (Board of Approval) on the application made by the Developer, if it is satisfied, modify, withdraw or rescind the notification of a SEZ issued under this rule.*
- In the 60th meeting of the Board of Approval held on 08.11.2013, while considering a proposal of de-notification, the Board after deliberations decided that henceforth all cases of partial or complete de-notification of SEZs will be processed on file by DoC, subject to the conditions that:

(a) DC to furnish a certificate in the prescribed format certifying inter-alia that;

- the Developer has either not availed or has refunded all the tax/duty benefits availed under SEZ Act/Rules in respect of the area to be de-notified.
- there are either no units in the SEZ or the same have been de-bonded.

(b) The State Govt. has no objection to the de-notification proposal and

(c) Subject to stipulations communicated vide DoC's letter No. D.12/ 45/2009-SEZ dated 13.09.2013.

128.7(i) Proposal of M/s. Tata Steel SEZ Limited (formerly M/s. Gopalpur SEZ Limited) for partial de-notification of 282.7351 Ha out of 588.6514 Ha of their multi product SEZ at Gopalpur, Ganjam, Odisha

Jurisdictional SEZ – Falta SEZ (FSEZ)

Facts of the case:

M/s Tata Steel SEZ Limited has requested for decrease in the SEZ area by de-notifying the area.

Name of Developer	:	M/s. Tata Steel SEZ Limited (formerly M/s. Gopalpur SEZ Limited)
Location	:	Gopalpur, Ganjam, Odisha
LoA issued on (date)	:	18.06.2007 (Formal Approval)
Sector	:	Multi Product
Operational or not operational	:	Operational
Notified Area (in Hectares)	:	588.6514 Ha.
Area proposed for de-notification (in Hectares)	:	282.7351 Ha.

Reasons for de-notification proposal:

- Investments coming to DTA area

Requisite documents for considering de-notification proposal:

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

S. No.	Documents/Details Required	Status
(i)	Form-C5 for decrease in area along with DC's recommendation	Yes, provided
(ii)	DC's certificate in prescribed format	Yes
(iii)	Developer's Certificate countersigned by DC	Yes, provided
(iv)	Land details of the area to be de-notified countersigned by DC	Yes, provided
(v)	Colored Map of the SEZ clearly indicating area to be de-notified and left-over area duly countersigned by DC	Yes, provided
(vi)	"No Objection Certificate" from the State Government w.r.t. instructions issued by DoC vide its instruction No.	Yes, Provided

	D.12/45/2009-SEZ dated 13.09.2013 for partial de-notification shall be complied with	
(vii)	'No Dues Certificate' from specified officer	Yes, provided

Key Findings in the Proposal:

1. **DC, FSEZ Certification:**

a. There are no unit in the SEZ
b. The developer has not availed any tax/duty benefits, under the SEZ Act/rules, in r/o the land being de-notified.
c. The SEZ shall remain contiguous even after de-notification of the area of 282.7351 Ha and shall meet the minimum land requirement prescribed for the multi product sector which is 50 Ha.
d. The State Government has given its 'No objection' regarding de-notification of the above state area of the SEZ.

2. **NOC for De-notification:** With regard to NOC from the State Government for de-notification, it has been stated that M/s. TSSEZL for de-notification of a land area of 704.073 acres (284.928 Ha) from SEZ to DTA being developed by Tata Steel Special Economic Zone Limited (TSSEZL) for partial de-notification by Govt. of India. The entire land parcel has been transferred in the name of Tata Steel Special Economic Zone Limited and as a developer, Tata Steel Special Economic Zone Limited has irrevocable rights to develop the said area as SEZ. The area is required to be de-notified from SEZ to sub-lease the land from Tata Steel Special Economic Zone Limited to various industries for setting up their units in the DTA

3. **Inspection of Partial De-notification Area:** M/s Tata Steel SEZ Limited for partial de-notification of 282.7351 hectares area from their total SEZ area of 588.6514 hectares, and in terms of SEZ Rules, 2006, a committee from O/o Zonal Development Commissioner, Falta Special Economic Zone comprising 2 ADCs, Authorized Officer and Head of Corporate Services of said SEZ visited the subject SEZ on 08.04.2025 and conducted the site inspection. A team from M/s Tata Steel SEZ Limited, headed by Shri Rakesh Patro, Head Corporate Services accompanied during the site inspection. M/s Tata Steel SEZ Limited team briefed about the development activities made in the SEZ

The site inspection report is placed below:

1. Presently two Units namely M/s East Coast oversea Private Limited & M/s Odimet Resources Private Limited are operating in the SEZ and occupying 02 Ac of land each. Further, Four Units namely M/s Avaada GreenH2 Private Limited, M/s Ocior Energy Gopalpur One Private Limited, M/s ACME Clean Energy Private Limited and M/s HHP Five Private Limited have been issued with Letters of Approval for manufacturing of Green Ammonia/ Anhydrous ammonia. Two Units M/s Avaada

GreenH2 Private Limited & M/s ACME Clean Energy Private Limited have been subleased area admeasuring 120 Ac & 130 Ac respectively by the TATA Steel SEZ. The other two Units M/s Ocior Energy Gopalpur One Private Limited & M/s HHP Five Private Limited are in the process of getting subleased areas of 50 Acres & 100 Acres respectively. Rest of the SEZ land is lying vacant since inception and presently in demand as DTA land.

2. There are no Units in the proposed area for partial de-notification.

3. After the proposed partial de-notification, the SEZ land area will be reduced to 305.9163 hectares, and this has been clearly earmarked in the coloured map.

4. The said 305.9163 hectares SEZ land remains contiguous and shall meet the minimum land requirement prescribed for the Multi-Product SEZ which is 50 Ha.

Recommendation by DC, FSEZ:

The Development Commissioner, Falta SEZ has recommended the proposal of M/s. Tata Steel SEZ Limited, Gopalpur, Odisha for partial de-notification of land admeasuring 282.7351 hectares, out of 588.6514 hectares for multi-product SEZ at Gopalpur, Dist. Ganjam in the State of Odisha

128.7(ii) M/s. State Industries Promotion Corporation of Tamil Nadu (SIPCOT) Limited for decrease in area of 36.07 Hectare (89.15 acres i.e. above 10%) and additional increase in area of 7.50 Hectare (18.54 acres i.e. upto 10%) to their existing Multi-product SEZ at Panapakkam Village, Ranipet District, Tamil Nadu, notified area of 81.35 Hectares (201.03 acres).

Jurisdictional SEZ – MEPZ SEZ (MEPZ)

Facts of the case:

Brief background of the SEZ: M/s. State Industries Promotion Corporation of Tamil Nadu Limited was granted formal approval on 04.07.2023 for setting up of a Multi-Sector SEZ at Panapakkam Village, Ranipet District, Tamil Nadu. The SEZ was notified vide Gazette notification dated 21.12.2023 over an area of 52.2065 Ha (129 acres). Later, after the approval of BoA, an additional area of 29.14 Ha was notified and added to the then existing area of the SEZ vide Gazette notification dated 20.02.2024. Now, the total area of SIPCOT SEZ, Panapakkam amount to 81.35 Ha (201.03 acres).

Additional Area/ Partial de-notification proposal: DC, MEPZ SEZ vide the instant proposal has forwarded the following request of the Developer:

i. The increase in area of 7.50 Ha/ 18.54 acres (upto 10%) which is adjacent to their existing notified area of 81.35 Ha (201.03 acres). As regards reasons, during the time of initial notification, the requested additional land was named as Meichal al & Mandeveli (Poromboke land) which was not under possession of SIPCOT, now, the land is free from any encroachment, litigations and is in possession of SIPCOT.
ii. The partial de-notification of 36.07 Ha/ 89.15 acres (beyond 10%) out of 81.35 Ha. As regards reasons, SIPCOT has issued in-principle allotment to the extent of 80.93 Ha/200 acres of land under SEZ format to M/s Grand Atlantica Panapakkam SEZ Developers Pvt. Ltd. Now, the company has requested to amend the allotment as 52.602 Ha/ 130 acres of land in SEZ format and remaining 28.32 Ha/ 70 acres as DTA format for setting up of industrial units in both DTA and SEZ for non-leather footwear manufacturing.

It is also informed that the proposed additional land of 52.78 Ha, after the proposed additional notification and partial denotification, shall bring a substantial FDI in the Non-Leather footwear manufacturing sector and generate additional FDI Investment of ₹ 1000 Crores and will create an employment of 17250 persons which will boost the economic development of the region.

As per DoC's O.M. dated 14.07.2016, the documents required for additional area notification and partial denotification, the status thereof in the instant case are as below: -

A. Additional area notification

Table A

S. No.	Documents/Details Required	Status
(i)	Certificate from concerned State Government or its authorized agency stating that the developer has irrevocable rights to the said area as SEZ.	Yes, provided, comments of Zone may be seen at Note 1 (a)
(ii)	Form-C4 along with DC's recommendation	Yes, provided
(iii)	Inspection Report in prescribed format	Yes, provided
(iv)	Developer's Certificate Countersigned by DC	Yes, provided
(v)	Legal Possession Certificate from Revenue Authorities	Yes, provided
(vi)	Non-Encumbrance Certificate from Revenue Authorities	Yes, provided
(vii)	Land details of the area (with clearly specified survey numbers) to be notified duly certified by revenue authorities	Yes, provided
(ix)	Colored Map clearly indicating Survey numbers and duly certified by revenue authorities	Yes, provided (comments of Zone may be seen at Note 2 (a))
(x)	Copy of Registered Lease/Sale deed	Not provided, comments from Zone may be seen at Note 1 (b)

Note 1:

S. No.	Clarification Sought	Comments form MEPZ
(a)	A certificate from the concerned State Government or its authorized agency confirming that the developer possesses irrevocable right to the specified area as an SEZ	The concerned State Government has submitted a certificate stating that M/s. State Industries Promotion Corporation of Tamil Nadu (SIPCOT), Government of Tamil Nadu, holds "Irrevocable rights" to develop the land area of 52.78 hectares. This certification was issued by the Project Officer of SIPCOT, Panapakkam, and counter signed by Tahsildar of Nemili Taluk, Ranipet District, State Revenue Department. The land area admeasuring 52.78 Ha with survey no's are free from any encroachment, Litigations and in possession of SIPCOT and the same was certified by Tahsildar, Nemil Taluk, Ranipet District.
(b)	A copy of the registered lease deed or sale deed for the additional area	The additional area of 7.50 hectare is Poromboku land which means the land belongs to Government. Now, the land acquired by M/s.

		SIPCOT, owned by Government of Tamil Nadu and the Patta for the same land has been transferred in the name of SIPCOT. The particular land details with survey no's has dully signed by Project officer, SIPCOT Panapakkam and Land Tahsildar (State Revenue Department) Nemili Taluk, Ranipet district. Hence, Registered lease deed or sale deed for the additional area is not applicable.

B. Partial denotification

Table B

S. No.	Documents/Details Required	Status
(i)	Form-C5 for decrease in area along with DC's recommendation.	Yes, provided
(ii)	DC certificate in prescribed format	Yes, provided
(iii)	Developer's Certificate countersigned by DC	Yes, provided
(iv)	Land details of the area to be de-notified countersigned by DC	Yes, provided
(v)	Colored Map of the SEZ clearly indicating area to be de-notified and left over area duly countersigned by DC.	Yes, provided (comments of Zone may be seen at Note 2 (a))
(vi)	"No-Objection Certificate" from state government w.r.t. instructions issued vide by DoC vide its instruction No. D.12/45/2009-SEZ dated 13.09.2013 for partial de-notification shall be complied with.	Yes, provided
(vii)	'No Dues Certificate' from specified officer.	Yes, provided

Note 2:

S. No.	Clarification Sought	Comments form MEPZ
(a)	Clarification on the area marked in "Blue" on the enclosed coloured map of the SEZ, specifying whether this area is officially part of the SEZ or remains classified as government property.	The blue colour is used to mark the water body officially included within the SEZ. This designation is due to the specific survey number, which is intended solely for the purpose of establishing and supplying water to the units within the SEZ. The particular survey no's has exclusively part of the SEZ. The Developer (SIPCOT) has clarified that this particular land parcel is not allocated to any other units for commercial or industrial purposes. As a result, it is marked with a

		distinct colour within the SEZ boundaries.

In compliance of DoC's Instruction No.102 dated 18.11.2019 regarding physical inspection and contiguity condition; physical inspection was conducted on 05.02.2025 by DDC, MEPZ SEZ in the presence of Tahsildar, Nemli Taluk; Revenue Inspector, Panapakkam; VAO, Agavalam Village; VAO, Panapakkam and Nedumbuli Village; and Project Officer, Panapakkam. As per the report, the Developer fulfills the Contiguity condition stipulated under Rule 5 (Read with Rule 7) of the SEZ Rules, 2006.

Recommendation by DC, MEPZ.

DC, MEPZ has recommended the proposals

128.7(iii) Proposal of M/s. ELCOT Limited for partial de-notification of 2.3997 Ha out of 80.8810 Ha of their IT/ITES SEZ at Gangaikondan Village, Tirunelveli Taluk & District, Tamil Nadu

Jurisdictional SEZ – MPEZ SEZ

Facts of the case:

M/s. ELCOT Limited has requested for decrease in the SEZ area by de-notifying the area.

Name of Developer	:	M/s. ELCOT Limited
Location	:	Gangaikondan Village, Tirunelveli Taluk & District, Tamil Nadu
LoA issued on (date)	:	26.07.2007 (Formal Approval)
Sector	:	IT/ITES
Operational or not operational	:	Operational
Notified Area (in Hectares)	:	80.8810 Ha.
Area proposed for de-notification (in Hectares)	:	2.3997 Ha.

Reasons for de-notification proposal: ELCOT have informed that, currently there are requirements arising from reputed companies for allotment of land for Non IT and Non SEZ purposes. Hence, ELCOT have proposed to de-notify a partial land for allotment to Non SEZ category companies. Also, ELCOT have undertaken to pay the applicable taxes and duties if availed in respect of the above said land proposed for denotification. ELCOT have also submitted that post denotification, the land will not be utilized for any other use.

Requisite documents for considering de-notification proposal:

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

S. No.	Documents/Details Required	Status
(i)	Form-C5 for decrease in area along with DC's recommendation	Yes, provided
(ii)	DC's certificate in prescribed format	Yes
(iii)	Developer's Certificate countersigned by DC	Yes, provided
(iv)	Land details of the area to be de-notified countersigned by DC	Yes, provided
(v)	Colored Map of the SEZ clearly indicating area to be de-notified and left-over area duly countersigned by DC	Yes, provided
(vi)	"No Objection Certificate" from the State Government	Yes, Provided

	w.r.t. instructions issued by DoC vide its instruction No. D.12/45/2009-SEZ dated 13.09.2013 for partial de-notification shall be complied with	
(vii)	'No Dues Certificate' from specified officer	Yes, provided

Key Findings in the Proposal:

1. **DC, MEPZ Certification:**

e. There are no unit in the area proposed to be de-notified in the SEZ
f. The developer has not availed any tax/duty benefits, under the SEZ Act/rules, in r/o the land being de-notified.
g. The SEZ shall remain contiguous even after de-notification of the area of 2.3997 Ha and shall meet the minimum land requirement prescribed for the SEZ.
h. The land details with survey no's for the partial de-notification and a coloured map of the SEZ showing the area to be de-notified has duly countersigned by DC.
i. The State Government has given its 'No objection' regarding de-notification of the above stated area of the SEZ.

2. **Inspection of Partial De-notification Area:**

In compliance of Instruction No 102 dated on 18-11-2019, issued by Department of Commerce, New Delhi, the proposed SEZ area of M/s. ELCOT Limited, Developer of the SEZ located at Gangaikondan Village, Tirunelveli Taluk and District, Tamil Nadu, was inspected on 25.02.2025 by DDC, MEPZ in presence of

S. No.	Name of the Official Shri/Smt.	Position
1	Shri R. Manickavasagam	Tahsildar
2	Smt. S. Jeyanthi	Revenue Inspector
3	Smt. S. Nishana	Firka Surveyor
4	Shri C. Ponnumuthu	Village Administrative Officer

The area notified in SEZ on 08.09.2022 is 80.8810 Hectare (199.86 acres) out of which the area proposed for denotification is 2.3997 Hectare (5.93 acres). After de-notification, the total area of ELCOT SEZ, Gangaikondan, Tirunelveli, Multisector SEZ, amounts to 78.4813 Hectare (193.93 acres) and ELCOT Limited (Developer) of the SEZ fulfils the Contiguity conditions stipulated under Rule 7of SEZ Rules, 2006.

In view of the above foregone, DC, MEPZ satisfied that, the Developer of the SEZ meets the parameter required as per SEZ Rules, 2006, after inspecting, the total area of 78.4813 Hectare for setting up of "ELCOT Multisector SEZ "at Gangaikondan Village, Tirunelveli Taluk and District, Tamil Nadu 627352.

Recommendation by DC, MEPZ:

The proposal for de-notification of 2.3997 hectares is recommended by DC, MEPZ SEZ.

128.7(iv) Proposal of M/s. Infosys Limited IT SEZ for partial de-notification of 20.234 Ha out of 52.643 Ha of their IT/ITES SEZ at Scheme No. 151 & 169B, Village Tigariya Badshah and Bada Bangarda, near Super Corridor, Tehsil Hatod, Indore (M.P.)

Jurisdictional SEZ – Indore SEZ (ISEZ)

Facts of the case:

M/s. Infosys Limited has requested for decrease in the SEZ area by de-notifying the area.

Name of Developer	:	M/s. Infosys Limited
Location	:	Scheme No. 151 & 169B, Village Tigariya Badshah and Bada Bangarda, near Super Corridor, Tehsil Hatod, Indore (M.P.)
LoA issued on (date)	:	27.03.2012 (Formal Approval)
Sector	:	IT/ITES
Operational or not operational	:	Operational
Notified Area (in Hectares)	:	52.643 Ha.
Area proposed for de-notification (in Hectares)	:	20.234 Ha.

Reasons for de-notification proposal: They have completed Phase 1 milestone and due to various challenges including un-precedented pandemic situation and lockdowns, resulted in uncertainty regarding Phase 2 and Phase 3 development/completion in terms of Principal Lease Deed. Further the said situation also led to Hybrid Operating model as a norm for IT industry and consequently we are contemplating optimization of allotted land to us to create conducive IT eco-system for other prospective companies. Hence, we have surrendered the portion of unutilized land.

Requisite documents for considering de-notification proposal:

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

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

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

Key Findings in the Proposal:

DC, Indore Certification:

j. There are no unit in the land being de-notified
k. The developer had availed the tax/duty benefits amounting to Rs. 40.01.242/- towards 1322 meters of boundary wall constructed on the land which has been demolished, under the SEZ Act/Rules, and has deposited the said duty amount vide TR-6 challan dated 11.03.2024.
l. The SEZ shall remain contiguous even after de-notification of the area of 20.234 Ha
m. The land details for de-notification and a coloured map of the SEZ showing the area being de-notified, duly countersigned by DC.
n. Note applicable
o. All conditions subject to which the BoA has granted the approval for de-notification of the above area of the SEZ have been fulfilled to DC satisfaction
p. The State Government has given its "No Objection" regarding, de-notification of the above stated area of the SEZ.

NOC for De-notification: Government of Madhya Pradesh has recommended the proposal

Inspection of Partial De-notification Area:

In compliance of Instruction No 102 dated on 18-11-2019, issued by Department of Commerce, New Delhi, the proposed SEZ area of M/s. Infosys Limited, Developer of the SEZ located at Scheme No. 151 & 169B, Village Tigariya Badshah and Bada Bangarda, near Super Corridor, Tehsil Hatod, Indore (M.P.), was inspected on 25.03.2025 by the Revenue Authorities viz Ms. Nidhi Verma, SDM (Revenue), Sh. Shewal Singh, Tehsildar and Sh. Mayank Chaturvedi, Patwari, Sh. D.K. Saraf, General Manager, Madhya Pradesh State Electronic Development Corporation (MPSEDC) Ltd. and Sh. Santosh Kumar, Specified Officer and Sh. Ravi Chhangani, ADC, Indore SEZ along with representatives of the Developer Sh. Santosh Kamath and Sh. Yogendra Parmar. A land area statement duly certified by the SDM, Tehsildar, MPSEDC Ltd. and Developer representatives with a copy of panchnama is

enclosed. The State Government has also issued NOC for partial de-notification of the land and the de-notified land would be utilized to sub-serve the objective of the SEZ and Master Plan of the State Government

Recommendation by DC, Indore SEZ

DC, Indore SEZ has recommended the proposal.

Agenda item no. 128.8:

Request for setting up of new SEZ [1 proposal 128.8(i)]

Relevant provisions under the SEZ law: -

- **Rule 5. Requirements for establishment of a Special Economic Zone. –**

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

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

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

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

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

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

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

Explanation. For the purpose of this clause, a "multi-sector Special Economic Zone"

means a Special Economic Zone for more than one sector where Units may be setup for manufacture of goods falling in two or more sectors or rendering of services falling in two or more sectors or any combination thereof including trading and warehousing.

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

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

128.8(i) Proposal of M/s. Rackbank Datacenters Pvt Limited for setting up of a SEZ for IT/ITES for Al Data Center at Plot No.CF7, Sector-22, Nava Raipur, Atal Nagar, Chhattisgarh over an area of 2.70 Hectares

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Brief facts of the case:

The status of documents required for setting up of a new SEZ for consideration of the BoA and grant of LoA are as follows: -

S. No.	Conditions / Documents required	Status
A.	Documents required for setting up of SEZ in terms of Rule 3 of SEZ Rules, 2006:	
(i)	Completed Form-A (with enclosures) A. Total Proposed investment : Rs. 1754.41 lakhs B. FDI (in US $) : Nil C. Proposed Exports (5 years) : 1169.88 lakhs D. Employment (in Nos.) : 91 (both Direct/ Indirect)	Yes, provided
(ii)	DC's Inspection Report	Yes, provided
(iii)	State Government's Recommendation	Secretary, Deptt. of Commerce & Industries, Govt. of Chhattisgarh has recommended the proposal.
(iv)	Recommendation for National Security Clearance (NSC) from Ministry of Home Affairs as per Rule 3 of SEZ Rules, 2006.	A self-declaration certificate from the Developer confirming that the proposed SEZ is neither located in the vicinity of 50 Kms from LoC/LAC/International Border nor in proximity of nuclear, space, defence installations etc. The developer is not in receipt of any foreign investment from any tax haven for the proposed SEZ.
B.	Minimum area requirement in terms of Rule 5 of SEZ Rules, 2006.	There is no minimum area stipulated for IT/ITES SEZ
C.	Details to be furnished in terms of Rule 7 of SEZ Rules, 2006:	
(i)	Certificate from the concerned State Government or its authorised agency stating	Possession Certificate dated 15.04.2025.

	that the Developer has: • Legal Possession, and • Irrevocable rights to develop the said area as SEZ, and • That the said area is free from all encumbrance.	
(ii)	Whether the Developer has leasehold right over the identified area. The lease shall be for a period not less than twenty years.	
(iii)	The identified area shall be Contiguous, Vacant and No thoroughfare.	In the Inspection Report, JDC has stated that the lands are Vacant, Contiguous and there is no public throughfare.

In terms of DoC's Instruction No. 102 dated 18.11.2019, a Joint Physical Inspection of the site was carried out on 16.04.2025 by JDC and ADCs VSEZ alongwith Smt. Sangeeta Agarwal, Dy. Collector, Shri Arvind Sharma, Dy. Collector, Smt. Priyanka Dhiwar, Tehsildar. The following are as under: -

It is observed that the lands measuring an area of 2.70 Hectares have been proposed for setting up Of Special Economic Zone at Plot No, CFL Sector-22, Nava Raipur, Ata; Nagar - 492002, Chhattisgarh for IT/ITES for Development of Al Data Center including development of infrastructure such as ready to use buildings other service units, utilities. roads etc and other allied infrastructure development by M/s. Rackbank Datacenters private Limited, 37 Shanti Nagan Manoramaganj, Indore, Madhya Pradesh-452001.

The records/documents and coloured maps submitted during the inspection have been verified and observed that the land proposed for setting up Of SEZ measuring an area of 2.70 Hectares is owned by Nava Raipur Atal Nagar Vikas Pradhikaran (Special Area Development Authority Established by Government of Chhattisgarh) and the same were allotted to Ws. Rackbank Datacenters private Limited by way of Notice of Award,

As per the Registered Lease cum Development Agreement dated: 20.03.2025, the land has been allotted to M/s. Rackbank Datacenters Private Limited on lease basis for a period of 90 years. An area measuring 13.37 Acres has been allotted on lease basis and out of which an area of 2.70 Hectares has been proposed for Setting up of SEZ. The lands proposed for SEZ are in the possession of the Developer and are free from encumbrance, the lands measuring an area of 2.70 Hectares proposed for SEZ are vacant without any public through fare.

As per the possession certificate dated: 15.04.2025 issued by Nava Raipur Atal Nagar Vikas Pradhikaran the lands measuring an area of 2.70 Hectares which are proposed for setting up of IT/ITES SEZ for Development of Al Data Center SEZ are in the possession of the Developer.

The lands proposed for setting up of IT/ITES SEZ for Development of Al Data Center are free from encumbrance and the entire land of 2.70 Hectares is vacant and there is no public through fare passing through the lands proposed for SEZ. The lands are contiguous.

Recommendation by DC, VSEZ:

DC, VSEZ has recommended the proposal for its consideration by the BoA.

Agenda Item No.128.9:

Appeal [5 cases: 128.9(i) to 128.9(v)]

Rule position: - *In terms of the rule 55 of the SEZ Rules, 2006, any person aggrieved by an order passed by the Approval Committee under section 15 or against cancellation of Letter of Approval under section 16, may prefer an appeal to the Board in the Form J.*

Further, in terms of rule 56, an appeal shall be preferred by the aggrieved person within a period of thirty days from the date of receipt of the order of the Approval Committee under rule 18. Furthermore, if the Board is satisfied that the appellant had sufficient cause for not preferring the appeal within the aforesaid period, it may for reasons to be recorded in writing, admit the appeal after the expiry of the aforesaid period but before the expiry of forty-five days from the date of communication to him of the order of the Approval Committee.

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

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

Jurisdictional SEZ – MEPZ SEZ

Brief Facts of the case:

1. M/s. V.J.P. Shipping India Pvt Ltd. is a private company based in Chennai, engaged in import/export services as a licensed customs broker under the Customs Broker Licensing Regulations, holding a CB license granted by the Principal Commissioner of Customs (General) Chennai.
2. The appellant had applied to set up a unit in the MEPZ Special Economic Zone (SEZ) at Nandiyambakkam Village in Tamil Nadu for providing warehousing and logistics services. And, the saction was granted with a Letter of Permission (LOP) vide letter dated 03.05.2021. The appellant also entered into a Bond-cum-Legal Undertaking as required under the SEZ Rules.
3. the Directorate of Revenue Intelligence (DRI) investigated imports made by other importers whose goods were stored at the appellant's FTWZ warehouse. The investigation implicated the appellant because the imports were made using Importer Exporter Codes (IECs) lent by others for a fee, and the

appellant facilitated these imports as a customs broker. There was no evidence that the appellant had knowledge of any mis-declarations related to these goods.

4. As a result of the investigation, show cause notices were issued to the appellant and its directors. In addition, the Principal Commissioner of Customs and the Licensing Authority initiated proceedings to revoke the appellant's customs broker (CB) license twice. In the first set of proceedings, the appellant was fined Rs. 50,000 but no revocation occurred. The appellant is considering filing an appeal against this penalty. In the second set of proceedings, the Licensing Authority suspended the appellant's CB license beyond the allowed period, which also affected one of the appellant's sister companies, K.Y.P. Logistics India Pvt. Ltd., despite that company not being involved in the disputed imports. The appellant appealed this decision to the CESTAT (Chennai), which ruled in the appellant's favor. The CESTAT set aside the suspension order issued by the Principal Commissioner of Customs, declaring it invalid in law as per its final order dated December 9, 2024.
5. The appellant claims that penalties were unjustly imposed on them and their employees under the Customs Act, despite not being involved in the importation or ownership of the goods. They have filed statutory appeals under Section 128 of the Customs Act, challenging the orders, which are still pending and have not reached a final decision.
6. The appellant's client, Samyga International, imported goods declared as printer accessories, which were investigated by the DRI. This led to a show cause notice being issued to the importer and the appellant, proposing penalties for mis-declaration. The Development Commissioner (DC) noted the suspension of the appellant's CB license and issued a show cause notice on August 8, 2024, questioning why their LOA should not be canceled under the SEZ Act, alleging violations of SEZ Rules. The appellant argues that no specific violations of the LOA or BLUT were cited.
7. The appellant filed objections to the show cause notice, arguing that the notice was invalid as the alleged violations under the Customs Act or Customs Brokers Licensing Regulations had not been finalized. They emphasized that they were only providing warehousing services and did not violate SEZ rules. The appellant attended a hearing on 16.10.2024 and submitted written submissions on 24.10.2024, seeking to have both their reply and written submission included in their appeal.
8. The appellant contends that the Development Commissioner (DC) did not properly consider their submissions and showed bias in the decision-making process and issued an order on 11.11.2024, recommending cancellation of the appellant's LOA and imposing a penalty of Rs. 10,000, despite the fact that the provisions cited were not applicable to their case.
9. The UAC meeting minutes from 18.11.2024 confirmed approval of the DC's proposal to cancel the LOA, and the appellant received the final order on 26.11.2024. The appellant filed an appeal with the Appellate Committee under the FTDR Act on 11.12.2024 but has not received acknowledgment of the appeal.

10. The appellant was informed that they could also appeal the cancellation of the LOP under Rule 55 of the SEZ Rules to the Hon'ble Board of Approval, and they wish to avail this option in addition to the appeal under the FTDR Act. The appellant's appeal under Rule 55 was due by 25.12.2024, but they seek the condonation of a 13-day delay, supported by an affidavit, as the revocation of their FTWZ license has significantly impacted their livelihood and employees.
11. The appellant also alleged that on 13th June 2024, they applied for setting up another SEZ unit in New Chennai Township Pvt. Ltd., for warehousing and logistics, after obtaining provisional land allotment. On 8th July 2024, their request to set up the new SEZ unit was rejected due to alleged submission of false information in an affidavit (concerning the antecedents). However, the appellant's Bond-cum-legal undertaking was later accepted without issue on 2nd August 2024 for their NDR FTWZ unit. The appellant mentioned that the revocation of the FTWZ license has affected the appellant's business, depriving them of their livelihood and impacting the employment of around 20 employees.

Grounds of the Appeals:

1. The impugned order passed by the learned respondent herein and as approved by the UAC is totally unjust, unfair, unreasonable, weight of evidence contrary to law and therefore ex-facie illegal besides being violative of the principles of natural justice and hence not sustainable and liable to be vacated in the interest of justice
2. The impugned order passed by the learned respondent and approved by the UAC suffers from gross violations to the principles of natural justice as the said respondent did not at all consider any of the subtle grounds canvassed by them both in their reply and in the written submission filed by them which warrant his order to be vacated in limini
3. The learned respondent further ought to have considered that when the notice issued to them had only alleged that they had contravened the provisions of invoked rule 18 [51 of te SEZ Rules and the instructions issued in the year 2010 which provisions only authorised and permitted them to hold the goods in their licensed unit on account of the foreign or the DTA suppliers for dispatches as per the owner's instructions and for trading, making- its invocation possible read with the LOA and the Bond cum undertaking if they had unreasonably refused to hold the goods on behalf of any foreign or DTA suppliers, or undertook any unauthorised operations relating to the said goods in their warehouse or not achieving the norms prescribed which alone could be said to be contrary to the LOA or the bond cum undertaking furnished by them whereas the impugned order finding no answer to the said ground and in fact admitting to the said position of law in para 18 of the impugned order unreasonably and as an afterthought had citing violation of condition no. 1 of the bond cum legal undertaking and condition x of the LOA without even being aware that the stipulation therein is a general clause binding them to observe

the SEZ Act and the rules framed thereunder in respect of the goods for the authorised operation and which by no stretch of imagination could attract the facts relied in support of the notice namely the so-called investigation carried out by the DRI that too concerning their performance as a customs broker as the sole reason for the draconian action against them depriving them and their employees of their livelihood believing the version of the DRI as gospel truth for the sole reason of which alone the impugned order merits to be set aside in limini

4. The learned respondent also erred in not correctly appreciating the express provisions contained in Sec. 16 of the SEZ Act invoked by him which uses the terms persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted making it amply and unambiguously, clear that his power to cancel the LOA could be exercised only when it is shown that they have not fulfilled the obligation undertaken in terms of the LOA namely achievement of the value addition and that too repeatedly and not for a single violation and therefore also the impugned order passed by the respondent being beyond the statutory mandate as provided under Sec. 16 of the SEZ Act cannot be sustained on account of total abuse of powers conferred on the said authority under the Act and exceeding his authority, for the reason of which also the impugned order merit to be set aside
5. The learned respondent also failed to recognize that the various provisions of the SEZ Act and the rules made thereunder invoked by him namely Sec. 16, 21, or 25 of the SEZ Act and rules 18 [5] or 54 [21 of the SEZ Rules which only concerned either certain general provision for administration of the Act, more particularly for monitoring. and enforcing the obligation to achieve value addition undertaken by a unit in the SEZ [refer rule 54] and never provided for any violations with regard to either the customs Act or the FTDR Act the order passed based on facts not relating to the said obligation to achieve specified value addition undertaken by them renders the impugned proceedings void ab-initio and redundant for want of jurisdiction
6. The learned respondent further Committed total injustice to them by passing the impugned order depriving the appellant and their employees of their livelihood resulting gross violation to their fundamental right guaranteed under Art. 19 [1] [g] of the Constitution of India to carry on any trade or profession in as much as the reasons recorded in the impugned order and approved by the UAC is totally improper unreasonable biased and therefore unjustified
7. The learned respondent before invoking notification no. S.O. 77 [E] dated 13.01.2010 and notification S.O. No. 2665 [E} dated 05.08.2016 which are notifications issued in exercise of the powers conferred under Sec 21 of the SEZ for notifying single enforcement officer or agency for taking action against notified offences and that too by observing that their contention that violations committed under the rules are not sustainable under the SEZ Act which was never their contention whereas their contention was that the offences alleged against them invoking the customs provisions for which the notice has been issued to them by the customs authority in respect of the goods imported by their customer Samyga International cannot result in making the specific

allegation of violation of rule 18 [5] of the SEZ rules read with the instruction issued in 2010 and which by no stretch of imagination could be got over by citing the above notifications issued for the purpose of notifying the specified offences and the single enforcing agency only and not as assumed and recorded by the learned respondent in the impugned order

8. The learned respondent further committed gross judicial improprietory in traversing beyond the show cause notice issued to them so as to record certain self-serving incorrect and extraneous findings to sustain the impugned order against them which per-se renders the order totally devoid of merits and unsustainable
9. The action of the learned respondent in accepting the bond cum undertaking from them executed on 08.07.2024 and accepting it on 02.08.2024 by which time he was well aware of the rejection of their application for setting up the FTWZ unit at New Chennai Township Pvt Ltd., IT-ITES, the issue of the notice to them within 6 days when no new facts have emerged exposed the total bias and prejudice of the learned Development commissioner which require the impugned order passed by him and approved by the UAC to be set aside in the interest of justice and fair play
10. The impugned order passed placing reliance on the only fact of alleged misuse of the IEC provision, even without invoking or showing the- specific provision under the FTDR or the rules providing for any contravention relating to the use of others IEC and by totally overlooking the judgment of the Hon'ble Kerala High Court by recording the frivolous and extraneous finding on a totally assumed basis that the IEC was misused by the appellant who is supposed to hold the imported goods on behalf of his client even when the true fact is that they only acted as the CB for the IEC Samyga International with his consent and approval and never were concerned with the subject goods in any manner which render his finding totally incorrect and therefore unsustainable
11. The learned respondent without prejudice to any of the foregoing submissions also committed gross improprietory in traversing beyond the show cause notice to record the findings in paras 15 to 19 of the impugned order which are not only excessive but also contrary to the true facts as the observations made therein against the appellant as if they had imported the goods into India which is totally denied as false and, untrue on account of which the impugned order passed by the learned respondent and approved by the UAC require to be vacated in the interest of justice
12. The learned Development Commissioner ought to have been oblivious of the fact that when the notice under customs Act had already been issued to them on the investigation carried out by DRI the jurisdiction to deal with such issue squarely lies with the customs and the development commissioner is not authorised to conduct parallel proceedings by citing the aforementioned notifications issued with a specific purpose to notify a single enforcement agency for dealing with certain specified offences and if the said proceedings are permitted to be approved then it would amount to double jeopardy attracting the bar as provided under Art 20 [2] of the Constitution of India
13. The learned respondent also ought to have appreciated and accepted that when only a show cause notice had been issued to them by the Customs it only

•remained as allegations yet to be proved as per law and yet to attain finality he ought not to have initiated the proceedings against them resulting in the draconian punishment of losing their entire business whereas he ought to have awaited the final outcome of the notice even if had the legal authority to proceed against them instead of rushing to hold the appellant guilty which is highly improper and arbitrary and which only expose not only his bias and prejudice but also predetermination

14. The learned respondent's further finding recorded in para 20 as if the IEC holder during the course of the investigation stated that he had not imported the goods and no KYC authorisation has been given by him to the appellant herein to file the BE and to handle his goods is denied as totally incorrect and untrue not borne out of the records and in any case even if it were so the IEC holder ought to have filed necessary complaint either with the police or with the DGFT authorities which is not the case
15. The learned respondent exposed his highhandedness and bias by recording the finding in para 21 of the impugned order as if the used parts and accessories of Multi-function devices invoking para 2.31 of the FTP even without considering their plea that the even used MFD machines itself are not restricted in terms of the judgments of the Supreme Court/ High Court and Tribunal when the subject import is admitted to be only parts and the machines which render his order totally bad and unsustainable
16. The finding recorded by the learned respondent in para 15 of the impugned order that the investigation had brought out the fact that the FTWZ unit has imported the goods without knowledge or consent of the actual IEC holder is totally untrue and in correct as they only acted as the CB for the said importer and IEC holder for the act of which only they were proposed for the imposition of the penalties under the Customs Act and their CB license suspended a fact relied in support in the impugned order
17. The reliance placed by the learned respondent on the fact of their CB license being kept under continued suspension by the licensing authority under the customs no more survives in view of the recent orders passed by the Hon' ble Customs Excise Service Tax Tribunal Chennai vacating the said order vindicates their stand
18. The learned respondent in any case ought to have known that the CB license held by them being governed by a totally separate legislation namely Customs Brokers Licensing Regulations, 2018 question of invoking the alleged contravention for cancellation of their LOA issued in terms of the SEZ Act and the rules made thereunder is highly improper and incorrect more particularly when the Hon'ble Madras High Court had categorically held that the violation if any by a customs broker in terms of the regulation cannot result in invocation of any penal provisions under the Customs Act
19. The appellant submits that the recent circular issued by the CBIC instructing officers not to indiscriminately proceed against any Customs Broker unless there is an allegation of abetment against them made in the show cause notice issued under the Customs Act also squarely support the case of the appellant
20. The findings recorded by the learned respondent in para 24 of the impugned order clearly evidence to the fact that he was acting in terms of the suggestions

issued by the Ministry of Commerce purely concerning the verification of antecedents for approving new units and monitoring existing units and that too for the reason of the recent growing trend of DTA supplies and increased in the import of risky consignments involving mis-declaration of description and value by unscrupulous CHA's and their clients thus only sounding a caution to carry out proper antecedent verification whereas the learned respondent had beyond the said suggestion to rely upon certain cases registered against their clients leading to issue of the show cause notice to the said clients and to them in their capacity as their Customs Broker even when the proceedings initiated against them under the CBLR relied upon in support of the issue of the impugned order _ stood set aside making the said order totally devoid of any merits

PRAYER:

The appellant prayed for the following:

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

INPUTS RECEIVED FROM DC, MEPZ SEZ:

1. M/s VJP Shipping India Pvt Ltd operates as an FTWZ unit in the NDR Free Trade Warehouse Zone (FTWZ) in Tamil Nadu, with a Letter of Approval (LoA) dated 03.05.2021 from the Development Commissioner, MEPZ-SEZ, for trading and warehousing services.
2. A consignment from M/s Samyga International, Chennai, declared as "Printer Accessories," was investigated by the Directorate of Revenue Intelligence (DRI) in 2022.
3. The investigation revealed violations of the Customs Act, including misdeclaration and misuse of the Importer Exporter Code (IEC), resulting in the issuance of a Show Cause Notice (SCN) to M/s VJP Shipping, its employees, and directors.
4. Further, M/s VJP Shipping's Customs Broker License was suspended due to irregularities in various import transactions, with the suspension continued by an order dated 21.05.2024.
5. Meanwhile on 13.06.2024, M/s VJP Shipping applied for approval to set up a **new FTWZ unit at New Chennai Townships Pvt Ltd SEZ in Kancheepuram.** The said proposal was placed before the Unit Approval Committee (UAC) on 08.07.2024. UAC had found that M/s VJP Shipping had

submitted false information regarding their antecedents and issued SCNs. As a result, the UAC rejected the proposal on 08.07.2024.

6. Later on 08.08.2024, M/s VJP Shipping was issued a Show Cause Notice regarding the cancellation of their LoA, of their unit in the NDR Free Trade Warehouse Zone (FTWZ) in Tamil Nadu, due to violations of SEZ Act provisions. M/s VJP Shipping responded, denying any contraventions and reiterated their position in written submissions on 24.10.2024.
7. Subsequently, the Development Commissioner issued an order on 11.11.2024, finding that M/s VJP Shipping violated LoA conditions and Bond cum Legal Undertaking (BLUT). Accordingly, a penalty of ₹10,000 was imposed, and the cancellation of the LoA was recommended to the UAC. Based on the recommendation of Development commissioner, the UAC approved the cancellation of the LoA of their unit in the NDR Free Trade Warehouse Zone (FTWZ) on 18.11.2024 and also rejected the proposal for a new FTWZ unit at New Chennai Townships Pvt Ltd SEZ.
8. M/s VJP Shipping has filed an instant appeal before the Board of Approval (BOA) against the Development Commissioner's decision to cancel the LoA issued to their NDR SEZ unit. The appellant prays for the restoration of the license to operate their FTWZ at NDR SEZ. The appellant also seeks the reversal of the UAC's decision to reject the proposal to set up the FTWZ unit at New Chennai Township Pvt Ltd SEZ.
9. M/s VJP Shipping is claiming that they did not contravene any conditions or obligations under the SEZ Act and asserts that the Show Cause Notice and the subsequent orders are unwarranted. They also argue that the false information regarding antecedents was unintentional or had no material impact on the application process.

Para-wise comments:

Para No.	Ground of the Appeal	Comments of the zone
1	The impugned order passed by the learned respondent herein and as approved by the UAC is totally unjust, unfair, unreasonable, weight of evidence contrary to law and therefore ex-facie illegal besides being violative of the principles of natural justice and hence not sustainable and liable to be vacated in the interest of justice	The impugned order passed by the Development commissioner is based on the facts and circumstances of the case and as per the law.
2	The impugned order passed by the learned respondent and approved by the UAC suffers from gross violations to the principles of natural justice as the said respondent did not at all consider any of the subtle grounds	The appellant was issued with a show cause notice and given sufficient time and opportunity to reply to the SCN and was offered with an opportunity to contest his case before the adjudicating authority through personal hearing.

	canvassed by them both in their reply and in the written submission filed by them which warrant his order to be vacated in limini	Further all their contention raised in their written as well as oral submissions are discussed and negated in the facts and evidence of the case and the impugned order is a speaking order.
3	The learned respondent further ought to have considered that when the notice issued to them had only alleged that they had contravened the provisions of invoked rule 18 [51 of te SEZ Rules and the instructions issued in the year 2010 which provisions only authorised and permitted them to hold the goods in their licensed unit on account of the foreign or the DTA suppliers for dispatches as per the owner's instructions and for trading, making- its invocation possible read with the LOA and the Bond cum undertaking if they had unreasonably refused to hold the goods on behalf of any foreign or D TA suppliers, or undertook any unauthorised operations relating to the said goods in their warehouse or not achieving the norms prescribed which alone could be said to be contrary to the LOA or the bond cum undertaking furnished by them whereas the impugned order finding no answer to the said ground and in fact admitting to the said position of law in para 18 of the impugned order unreasonably and as an afterthought had citing violation of condition no. 1 of the bond cum legal undertaking and condition x of the LOA without even being aware that the stipulation therein is a general clause binding them to observe the SEZ Act and the rules framed thereunder in respect of the goods for the authorised operation and which by no stretch of imagination could attract the facts relied in support of the notice namely the so-called investigation carried out	Rule 18(5) of SEZ Rules read with Instruction 60/2010 clearly provides for holding goods by the Unit holder, on behalf of Foreign supplier & buyer and DTA supplier & buyer. Whereas, the appellant in respect of subject goods, did not do so. The said goods were disowned by M/s. Samyga International who is shown as importer of the goods as per the Tokha No. No. 1003244 dated 11.10.2022 filed by the appellant. Further it is observed from statement recorded from the actual IEC holder Shri Mydeen Gane during the investigation by DRI that he has not imported any of those consignment, and that no payment to any of the supplier had been made from the account of the IEC holder and the IEC holder has also not given the KYC or authorisation to the noticee to act as his agent and to hold his goods in the unit. Further this fact has not at all been denied by the appellant either before the adjudicating authority or in the present appeal. Hence, the fact of holding of goods, which was not pertaining to the alleged importer/buyer - viz., M/s. Samygya, by the appellant is undisputed. Thereby they have clearly violated Rule 18(5) of SEZ Rules read with Instruction 60/2010.

	by the DRI that too concerning their performance as a customs broker as the sole reason for the draconian action against them depriving them and their employees of their livelihood believing the version of the DRI as gospel truth for the sole reason of which alone the impugned order merits to be set aside in limini	
4	The learned respondent also erred in not correctly appreciating the express provisions contained in Sec. 16 of the SEZ Act invoked by him which uses the terms persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted making it amply and unambiguously, clear that his power to cancel the LOA could be exercised only when it is shown that they have not fulfilled the obligation undertaken in terms of the LOA namely achievement of the value addition and that too repeatedly and not for a single violation and therefore also the impugned order passed by the respondent being beyond the statutory mandate as provided under Sec. 16 of the SEZ Act cannot be sustained on account of total abuse of powers conferred on the said authority under the Act and exceeding his authority, for the reason of which also the impugned order merit to be set aside	The appellant has been a habitual violator of law as seen from the facts given in table A of para 11 of the impugned Order No in F.No. 8/208/2021/NDR FTWZ dated 11.11.2024. Further, even in respect of M/s. Samyga International, Chennai, the appellant had handled two consignments, one on 25.07.2024 and another on 30.09.2024. Hence it is obvious that the appellant persistently held and cleared goods in the name of M/s. Samyga International without their (IEC holder's) involvement, consent and ownership. The appellant, using an unconnected/ unauthorised IEC operated, imported and cleared their (appellant's) own goods and thus supply of the goods to the Domestic Tariff Area have been made in violation of the provisions of the Instruction 60 dated 06.07.2010 read with Rule 18(5) of SEZ Rules.
5	The learned respondent also failed to recognize that the various provisions of the SEZ Act and the rules made thereunder invoked by him namely Sec. 16, 21, or 25 of the SEZ Act and rules 18 [5] or 54 [21 of the SEZ Rules which only concerned either certain general provision for administration of the Act, more particularly for monitoring. and enforcing the obligation to achieve value addition undertaken by a unit in the SEZ [refer	Section 16, 21 and 25 of SEZ Act and Rule 18(5) of SEZ Rules are not just administrative provisions; they are enforceable provisions. Any provision of law is for compliance and violation of them obviously warrants action by the authority. If it is not done so then the law becomes infructuous. Further it is stated that SEZ Act and Rules not only aims at monitoring and enforcing the obligations to achieve value addition but also provides to check for violations

	rule 54] and never provided for any violations with regard to either the customs Act or the FTDR Act the order passed based on facts not relating to the said obligation to achieve specified value addition undertaken by them renders the impugned proceedings void ab-initio and redundant for want of jurisdiction	under '' notified offences" in terms of Rule 21 of SEZ Rules. As seen from Notification issued by the Department of Commerce vide S.O. No.77 (E) dated 13.01.2010 and S.O.No.2665(E) dated 05.08.2016, it is clear that the offences punishable/ covered under FT (DR) Act, 1992 and Customs Act 1962 are notified as offenses under SEZ Act, 2005 and violation committed under customs Act and FT(D&R) Act are very much sustainable under SEZ Act. Hence commission of notified offences is also inextricably linked to violation of terms of conditions under which LOA is issued. Thus it can be said that the order passed for violation of notified offense is legally tenable.
6	The learned respondent further Committed total injustice to them by passing the impugned order depriving the appellant and their employees of their livelihood resulting gross violation to their fundamental right guaranteed under Art. 19 [1] [g] of the Constitution of India to carry on any trade or profession in as much as the reasons recorded in the impugned order and approved by the UAC is totally improper unreasonable biased and therefore unjustified	Article 19(1)(g) states: "All citizens of India have the right to practice any profession, or to carry on any occupation, trade or business." However, this right is not absolute and is subject to reasonable restrictions imposed by the state. The Supreme Court has consistently held that the right to carry on business under Article 19(1)(g) is not unfettered and must be exercised in a lawful manner. In other words, the right to carry on business cannot be used to justify or cover up unlawful activities, such as tax evasion, money laundering, or other illegal practices. To sum up, the right to carry on business cannot be used to justify an unlawful act and hence SEZ Unit's contention is not tenable. As already stated, it is clearly established by the investigation that the appellant had handled their own goods in the name of M/s. Samyga International, who (M/s. Samyga) had categorically stated under Section 108 of Customs Act, 1962 that they have not imported subject goods and also not

		authorised the appellant to use their IEC. Further the appellant has manipulated and forged the signature of Shri. Gane, the proprietor of M/s. Samyga International. It is well settled law that fraudsters cannot claim rights under law.
7	The learned respondent before invoking notification no. S.O. 77 [E] dated 13.01.2010 and notification S.O. No. 2665 [E} dated 05.08.2016 which are notifications issued in exercise of the powers conferred under Sec 21 of the SEZ for notifying single enforcement officer or agency for taking action against notified offences and that too by observing that their contention that violations committed under the rules are not sustainable under the SEZ Act which was never their contention whereas their contention was that the offences alleged against them invoking the customs provisions for which the notice has been issued to them by the customs authority in respect of the goods imported by their customer Samyga International cannot result in making the specific allegation of violation of rule 18 [5] of the SEZ rules read with the instruction issued in 2010 and which by no stretch of imagination could be got over by citing the above notifications issued for the purpose of notifying the specified offences and the single enforcing agency only and not as assumed and recorded by the learned respondent in the impugned order	Once the goods are attempted to be cleared into DTA, all the provisions of Customs Act are applicable to the goods and to the Unit holder and the violations committed in the subject case by the Unit Holder falls under the notified offences of SEZ Act and hence violation committed under FT(D&R) Act and Customs Act is punishable (sustainable) under SEZ Act.
8	The learned respondent further committed gross judicial improprietory in traversing beyond the show cause notice issued to them so as to record certain self-serving incorrect and extraneous findings to sustain the impugned order against them which per-se renders the order	This is a general ground devoid of any specific instance and evidences and hence warrants no comments.

	totally devoid of merits and unsustainable	
9	The fact that the learned respondent and his committee have now given up their objection on non-furnishing of the correct information with regard to their KYC and have only placed reliance on -the fact of cancellation of their LOA granted to them for operating at the NDR FTWZ Nandhiyambakkam Village Minjur Panchayat Ponneri Taluk Tiruvallur District in the state of Tamil Nadu as the reason for rejecting their application to set up the new FTWZ unit at the New Chennai Township Pvt Ltd., IT-ITES is also not proper or sustainable more so because the cancellation of the LOA is not proper or correct	As discussed above, the cancellation of LOA granted to M/s VJP shipping at NDR is legal and proper and there is nothing wrong to reject the application of VJP Shipping to set up the FTWZ Unit at New Chennai Township Pvt ltd on the ground of cancellation of LOA at NDR- SEZ. When a Letter of Approval (LoA) of an SEZ unit is cancelled, it typically nullifies the unit's privileges and benefits under the SEZ scheme. As a consequence, the cancellation of the LoA would also impact the unit's ability to set up another unit in a different SEZ. It is pertinent to note that the Ministry of Commerce has taken various initiatives to streamline the functioning FTWZs and has suggested the field formations to exercise due diligence and caution while approving new Units and monitoring existing warehousing units in SEZs. The Ministry has suggested various measures which inter-alia includes verification of applicant credentials (CHAs, clients, etc.) jointly with UAC members from Customs, GST, and Income Tax, conducting thorough examinations of track records, Monitoring goods movement from FTWZ units to prevent irregularities and strengthening the internal controls and streamline FTWZ functioning. In the light of the above, the decision taken in rejecting the application of VJP unit to set up a new Unit on the ground of LOA cancellation at NDR SEZ is legal and proper.
10	The action of the learned respondent in accepting the bond cum	When additional BLUT was executed by VJP Shipping, the same was accepted

	undertaking from them executed on 08.07.2024 and accepting it on 02.08.2024 by which time he was well aware of the rejection of their application for setting up the FTWZ unit at New Chennai Township Pvt Ltd., IT-ITES, the issue of the notice to them within 6 days when no new facts have emerged exposed the total bias and prejudice of the learned Development commissioner which require the impugned order passed by him and approved by the UAC to be set aside in the interest of justice and fair play	on 02.08.2024 in view of the fact that the FTWZ unit at NDR Zone was operational on that date. The contention of the Appellant that the issuance of SCN is borne out of prejudice lacks any basis as the SCN has been issued in view of the violations committed by the FTWZ Unit (Appellant).

11	The impugned order passed placing reliance on the only fact of alleged misuse of the IEC provision, even without invoking or showing the-specific provision under the FTDR or the rules providing for any contravention relating to the use of others IEC and by totally overlooking the judgment of the Hon'ble Kerala High Court by recording the frivolous and extraneous finding on a totally assumed basis that the IEC was misused by the appellant who is supposed to hold the imported goods on behalf of his client even when the true fact is that they only acted as the CB for the IEC Samyga International with his consent and approval and never were concerned with the subject goods in any manner which render his finding totally incorrect and therefore unsustainable	The subject LoA cancellation order stems from the irregularities in the import transactions of the importer M/s Samyga International by way of misdeclation of description/ value and various acts of omission and commissions by the FTWZ unit M/s VJP Shipping India Pvt Ltd by way of misuse of IEC of the importer. It is observed from statement recorded from the actual IEC holder Shri Mydeen Gane (Prop. Of M/s Samyga international) during the investigation by DRI that he has not imported any of those consignment, and that no payment to any of the supplier had gone from the account of the IEC holder and the IEC holder has also not given the KYC or authorisation to the Appellant to act as his agent and to hold his goods in the unit. From the DRI investigations , it was clear that Smt R Jothi (w/o KY Prasad) of M/s VJP Shipping India Pvt Ltd (as per the instructions of Shri KY Prasad) obtained IEC in the name of M/s Samyga International using the credentials of Shri Sardar Mydeen Gane and that Shri KY Prasad and M/s VJP Shipping India Pvt Ltd mis-used the IEC of M/s Samyga International for various imports in their name for which monetary consideration was paid to Shri Sardar Mydeen Gane. Further it was revealed in the investigations of DRI that Shri Sardar Mydeen Gane lent his IEC and banking credentials to Shri KY Prasad and Smt Jothi and allowed his bank account to be used for making money transactions with regard to the imports made in the name of M/s Samyga International, for monetary consideration; Further it is pertinent to observe that as per rule 18(5) of SEZ Rules read with instruction 60 / 2010 dated 6/7/2010,

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

	prejudice to any of the foregoing submissions also committed gross improprietory in traversing beyond the show cause notice to record the findings in paras 15 to 19 of the impugned order which are not only excessive but also contrary to the true facts as the observations made therein against the appellant as if they had imported the goods into India which is totally denied as false and, untrue on account of which the impugned order passed by the learned respondent and approved by the UAC require to be vacated in the interest of justice	passed the order taking into consideration the findings of the DRI investigation. Further it is stated that the charges against the Appellant about the misuse have been confirmed by the Adjudicating authority vide order no 110493 dated 27.11.2024 wherein it is interalia held that Shri KY Prasad of M/s VJP Shipping is the beneficial owner of the impugned imported goods vide bill of entry number 1003244 dated 11.10.2022 under Section 2(3A) of the Customs Act 1962. Hence the contention of the Appellant is not sustainable.
13	The learned Development Commissioner ought to have been oblivious of the fact that when the notice under customs Act had already been issued to them on the investigation carried out by DRI the jurisdiction to deal with such issue squarely lies with the customs and the development commissioner is not authorised to conduct parallel proceedings by citing the aforementioned notifications issued with a specific purpose to notify a single enforcement agency for dealing with certain specified offences and if the said proceedings are permitted to be approved then it would amount to double jeopardy attracting the bar as provided under Art 20 [2] of the Constitution of India	The contention of the Appellant that the Development commissioner is conducting the parallel proceedings in respect of the notified offences is not correct. It is to be noted that the jurisdictional Customs Authority is the competent authority to conduct the proceedings arising out of the notified offences. In the subject case, it is seen in terms of Bond cum legal undertaking, the Appellant has undertaken to abide by the Act and Rules. As per Rule 18 (5) of SEZ Rules read with instruction no 60 dated 6/7/2010, the Appellant unit holder has to hold goods only on behalf of the importer or buyer,Whereas in the subject case, the buyer(importer) has categorically stated that the goods were not imported by them, and hence the Appellant has clearly violated Rule 18 (5) of the said Rules and the said circular. Therefore, it is clear that the violations under FTDR Act, Customs Act and rules made thereunder have resulted in the violation of provisions of SEZ Act and Rules made thereunder, **and hence the action was taken by the Development commissioner against the Appellant in view of**

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

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

20	The appellant submits that the recent circular issued by the CBIC instructing officers not to indiscriminately proceed against any Customs Broker unless there is an allegation of abetment against them made in the show cause notice issued under the Customs Act also squarely support the case of the appellant	
21	The findings recorded by the learned respondent in para 24 of the impugned order clearly evidence to the fact that he was acting in terms of the suggestions issued by the Ministry of Commerce purely concerning the verification of antecedents for approving new units and monitoring existing units and that too for the reason of the recent growing trend of DTA supplies and increased in the import of risky consignments involving mis-declaration of description and value by unscrupulous CHA's and their clients thus only sounding a caution to carry out proper antecedent verification whereas the learned respondent had beyond the said suggestion to rely upon certain cases registered against their clients leading to issue of the show cause notice to the said clients and to them in their capacity as their Customs Broker even when the proceedings initiated against them under the CBLR relied upon in support of the issue of the impugned order _ stood set aside making the said order totally devoid of any merits	
22	The appellant further for the sake of brevity craves leave of the Board of Approval New Delhi to treat the grounds of the memorandum filed by them against cancellation of their LOA granted to them for operating at the NDR FTWZ Nandhiyambakkam Village Minjur Panchayat Ponneri Taluk Tiruvallur District in the state	Further it is stated that all the grounds have suitably countered in the order in original Passed by the Development commissioner. In view of the above, the appeal filed by the VJP Unit against cancellation of LOA and rejection of application for setting up FTWZ Unit may be set aside.

	of Tamil Nadu	

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

The appellant has submitted the following.

The appellant above named submits that they had filed two appeals in terms of rule 55 of the SEZ Rules against order dated 18.11.2024 passed by the learned Development Commissioner MEPZ Chennai one involving revocation of their FTWZ license and the other against refusal to grant them a fresh FTWZ warehouse license at the Chennai covered by the supplementary agenda points 128.9 [i] and 128.9 [ii] respectively

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

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

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

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

6. The appellant submits that based on the recommendations of the DRI their CB license was also suspended by the licensing customs authority besides passing the orders for continuing the suspension and on the appellant preferring an appeal in terms of the customs Act the said order of continued suspension came to be quashed by the Hon'ble Customs Excise Service Tax Appellate Tribunal vide its order

dated 18.12.2024 vide copy enclosed at page 62 of the type set. Thus, no reliance could be placed against them on the fact of suspension of their CB license

7. The appellant submits that one of the case registered by the DRI related to the import of printer accessories by one Samyga International which upon reference to them by their CB firm they filed the Thoka Bill of Entry based on the documents provided to them and while the goods remained in their warehouse with no bill filed for its clearance in the DTA the said goods were seized under the pretext that its description and value were mis-declared and that the import was made by misusing the IEC to cause the issue of a common notice dated 16.10.2023 enclosed with additional documents sent through email [page 22] wherein their CB firm was only implicated as could be seen from para 39 of page 60. The notice eventhough recorded the statement of the IEC reproduced at para 10 informing that he had taken the IEC and filed the Bill at the behest of one Safeel a Srilankan national residing at Dubai the notice for reasons best known implicated one of their directors of CB Mr. K.Y. Prasad in his individual capacity as the beneficial owner without in any manner establishing that he had ordered for the subject goods and had full over the goods as required under Sec. 2 [3A] of the Customs Act. In any case, since the notice only implicated Mr. K.Y. Prasad in his individual capacity the appellant is advised to submit that the said allegation could in no way result in implicating their company must less the FTWZ SEZ unit the appellant herein. The appellant further submits that each one of the noticees named in the said common show cause notice are contesting the allegations and would avail the statutory appellate remedy available under the customs Act

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

8. The appellant submits that in the above factual position just six days prior to accepting the renewal of their existing SEZ unit and accepting the bond cum legal undertaking on 08.08.2024 they were issued with the impugned show cause notice asking them to show cause as to why the LOA should not be cancelled under Sec. 16 of the SEZ Act, 2005 and action should not be taken under Sec. 25 ibid. The notice in

support of the proposals made the following averments/allegations based on the report said to have been received from the DRI namely

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

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

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

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

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

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

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

10. The learned DC passed the impugned order under challenge to be approved by the BoA traversing beyond the show cause notice [1] to rely upon Sec. 21 read with the notification claiming that offences under the Customs Act are notified offences even when he had not invoked the said provision in the impugned notice and more so when the said provision only provided for single enforcement officer or agency with the DRI not dealing with violation of any of the provisions of the SEZ

Act or rules made thereunder and in fact having not proceeded against their SEZ unit but only against their CB company rendering his above finding suffer from excesses apart from being not supported by the said provisions invoked besides being totally devoid of any merits

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

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

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

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

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

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

17. As regards the finding recorded in para 21 of the order the appellant submits that the import of restricted goods by an importer which are warehoused by them cannot be a ground for revocation of their license. In any case the DC MEPZ Chennai

failed to appreciate that they had filed the subject Thoka BE only and not any DTA BE to allege any attempted improper clearance by them. Above all as regards used MFDs the Supreme Court and High Court of Madras were allowing the clearance of these goods by recording the finding that the MeiTy notification will have no application to these goods and is a matter for adjudication by the customs department against the importer with they being only an SEZ unit have nothing to do with the said import

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

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

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

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

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

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

24. The appellant therefore submits that they have not committed any violation of the provisions of the SEZ Act or the rules is concerned so far as the services

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

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

Dated at Chennai this the 8th day of April 2025

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

Jurisdictional SEZ – APSEZ, Mundra

Brief facts of the Case:

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

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

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

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

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

PRELIMINARY OBJECTIONS:

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

A. Show Cause Notice issued without jurisdiction

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

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

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

a. Imposition of penalty
b. Adjudication of confiscation

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

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

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

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

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

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

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

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

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

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

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

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

B. Violation of Section 16(1) Requirements

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

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

2.10 Two essential prerequisites emerge:

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

2.11 Neither requirement is satisfied in the present case:

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

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

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

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

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

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

<u>Background and proposition:</u>

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

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

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

Background and proposition:

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

Grounds of Appeal:

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

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

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

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

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

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

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

i. In M/s. Steel Authority of India Ltd., v. STO, Rourkela-l Circle & Ors. reported in 2008 (5) Supreme 281, the Hon'ble Supreme Court testing

the correctness of an order passed by the Assistant Commissioner of Sales Tax against the assessment, at Paragraph 10, held as follows:

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

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

51. Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
b. A quasi-judicial authority must record reasons in support of its conclusions.
c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.
f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi judicial and even by administrative bodies.
g. Reasons facilitate the process of judicial review by superior Courts.
h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.
i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.
j. Insistence on reason is a requirement for both judicial accountability and transparency.
k. Ifa Judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.
l. ***Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or rubber stamp reasons' is not to be equated with a valid decision-making process.***

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harvard Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EINCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"9. In J.S. Yadav v. State of Uttar Pradesh and another [(2011) 6 SCC 5701 it has been held that no order can be passed behind the back of a person adversely

affecting him and such an order, if passed, is liable to be ignored being not binding on such a party as the same has been passed in violation of the principles of natural justice."

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

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

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

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

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

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

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

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

vii. Pertinently, although the SCN alleges that the "long duration of time spent by vehicles between exit and re-entry from Rangoli gate testifies" the illegal

de-stuffing of Areca Nuts and replacement with LDPE granules, no evidence whatsoever has been brought on record to substantiate this bald allegation.

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

ix. Thus, the Impugned Order is based on mere surmises, conjectures and uncorroborated assumptions without any credible evidence on record. The Hon'ble Supreme Court in E. P. Royappa vs State Of Tamil Nadu & Anr (1974 AIR 555) held that:

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

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

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

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

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

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

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

i. It is well settled that Article 14 strikes at arbitrariness and prohibits unreasonable discrimination. The scope of article 14 was drastically increased by the Supreme Court by including the executive discretion under its ambit. In the case of E.P. Royappa v. State of Tamil Nadu, 1974, the court said that Article 14 gives a guarantee against the arbitrary actions of the State. The Right to Equality is against arbitrariness. They both are enemies to each other. So, it is important to protect the laws from the arbitrary actions of the Executive.
ii. In S.G. Jaisinghani v. Union of India, Supreme Court, for the first time held "absence of arbitrary power" as sine qua non to rule of law with confined and defined discretion, both of which are essential facets of Article 14. Justice Subba Rao elaborating on the wide expanse of Article 14, vide para 14 held thus: "In this context it is important to emphasize that the absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits."

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

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

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

f. There is no evidence that any other co-noticee such as the importer M/S Omkar International had been penalized in a similar fashion for the alleged offences. Singularly picking on the Appellant without any incriminating evidence demonstrates the bias and discrimination in decision making.

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

iv. The Court further held that:

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

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

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

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

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

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

The Madras High Court's judgment in Abdul Samad Mohamed Inayathullah v. The Superintendent of CGST and C. Excise (WP(MD)No.8016 of 2023, WMP(MD)

No.7445 of 2023) addresses the intersection of taxation law and constitutional rights, specifically examining how GST registration cancellation impacts small-scale entrepreneurs' fundamental rights to trade and livelihood. This judgment builds upon significant precedents and establishes comprehensive guidelines for balancing tax compliance with business continuity.

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

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

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

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

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

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

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

Prayer:

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

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

COMMENTS RECEIVED FROM DC, APSEZ, Mundra::

Comments/Grounds/Observation:

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

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

Copy of FIR (**Exhibit-1**) clearly mentioned that 04 containers of M/s. Shivansh Terminal LLP reached at Adinath Cargogodown, Mundra, outside SEZ area. These

04 containers were loaded with areca nuts (restricted / prohibited item) were dumped there and other material named PVC Regrind – raw material which was already in the godown (which was declared in the concerned bill of entry **Exhibit-3**) was loaded into 04 containers.

Preliminary Objections:

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

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

The appellant has also relied upon some judgment in their favor. Since the matter which is being appealed for in about the Show Cause Notice. It appears that they all are not required to be taken into consideration. Also, we have already a judgment of Hon'ble High Court of Gujarat which belongs to this case, as mentioned above (**Exhibit-02**)

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

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

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

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

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

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

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

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

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

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

Comments on Grounds of Appeal:

S. No.	Grounds of the Appeal	Comments of the Zone
A.	**The Impugned Order suffers from total non-application of mind and has been passed in gross violation of the principles of natural justice:**	The impugned Order suffers from total non-compliance of mind and has been passed in gross violation of the principles of natural justice: The appellant is saying that their submission has not been discussed and the development commissioner has without application of mind passed the order without any discussion. It is to re-iterate the fact that the said Order-In-Original is merely a form of communication. It was the Approval

		Committee who cancelled their Letter of Approval. Approval committee in their minutes clearly mentioned that they have gone through their written submission and records of personal hearing. Even though, this office wants to emphasize the fact that when there are enough facts available on records, which proves that contravention is there, not each and every point is required to be discussed.
B.	**No case for cancellation of LOA is made out under Section 16(1) of SEZ Act:**	i. With regard to persistent contravention, it is to submit that in the present case, M/s. Shivansh Terminal LLP jointly filed a Bill of Entry for import of goods with 04 containers. Transshipment permission was given to M/s. Shivansh Terminal LLP for movement of containers from port terminal to SEZ unit. One-by-One all the containers were gone out of the SEZ are and as alleged in the FIR Copy, the said containers were emptied at Adinath Godown Shed-1 (which is about 10 km away from the port exit gate). So, not only one containers, they persistently moved out four containers in contravening provision of SEZ Rules, 2006. Also, for such serious violations on their behalf, persistent contraventions should not be waited for to be happened. It appears that although law says for consistent contravention, but the nature of consistent contravention is contextual. In the present context, wait for further contraventions might have lead to much more heinous act. ii. The appellant is pleading that they were not involved in or aware of the illegal import. It is to submit that the said case of illegal import of areca nut is still pending with SIIB, Custom House, Mundra. And it is important to mention that SIIB Mundra had withdrawn the NOC which was earlier

		given to M/s. Shivansh Terminal LLP. Also, the investigation is still pending with them. However, it shows that SIIB might have some proofs against M/s. Shivansh Terminal LLP. iii. The appellant submitted that they were only custodian of the goods. Having been custodian was not a mere. It is to submit that being a SEZ / warehousing unit, it was their responsibility to place the goods in their unit after getting transshipment approval from the authorized officers of the SEZ. However, the containers went out from the SEZ area taking benefit of being transporter also (these facts were mentioned in show cause notice also). It was also admitted during the course of personal hearing that the drivers of the 04 containers were hungry so they went outside which was very lame excuse as the inside SEZ area, there are such facilities. No one is above the law. It was their responsibility to get the containers inside the SEZ unit, however, they failed in doing so and violated the provisions of Rule 28 & 29 of the SEZ Rules, 2006. iv. The appellant is saying that Gujarat Police did not find anything and the chargesheet filed by them does not implicate their name. It is to submit that copy of chargesheet was never provided by M/s. Shivansh Terminal LLP. Here are some key facts available, related to the appellant and Gujarat Police: **<u>Gujarat Police investigation:</u>** It is important to note that A Police case was also registered at Adinath Cargo, a godown where the areca nuts imported through the subject 04 containers were dumped and PVC regrind as per FIR copy, was loaded on those containers. Copy of FIR also suggests that

		containers of M/s. Shivansh Terminal were loaded with areca nuts which were unloaded and then loaded with material PVC Regrind-Raw Material already lying there. The name coming into the FIR itself tells the crux of the case. v. The appellant submitted that as per Custom panchnama, the seal was found intact and granules were found in the containers. It is to re-iterate that if this being a simple case, SIIB would have completed their investigation. Also, the NOC given to them for starting their operations was also withdrawn. It is also interesting to know the fact that whatever Gujarat Police registered in the FIR, "PVC Regrind-Raw material" has been referred which was alleged to have been loaded into the 04 containers which were first unloaded and areca nuts were dumped. So, the material which was found by Gujarat Police and which was declared in Bill of Entry was same. It does not seem coincidence. vi. The appellant's plea that movement of trucks outside SEZ for a few hours does not lead to tampering or replacement of goods. It is to submit that first, why the drivers went out from the SEZ area for eating food when there is facility in port area itself. Second, being a LoA granted SEZ unit, it was their responsibility to move the goods directly into SEZ area. The Show Cause Notice mentions all these facts precisely that how they managed to carry out such illegal activities. vii. It is to submit that Show Cause Notice as well as Order-In-Original may be referred where relevant provisions and violations thereof are clearly mentioned. viii. All the facts available with this case

		clearly transpires that the appellant was involved in illegal import of areca nuts.
C.	**The SCN issued under Section 13 of FTDR Act does not empower the adjudicating authority to cancel LOA:**	i. As pointed out in the written submissions dated 17.09.2024 and 07.10.2024, the SCN has been issued under Section 13 of FTDR Act, 1992 which empowers the adjudicating authority only to impose penalty or order confiscation. It does not provide for cancellation of LOA. ii. The SCN does not even refer to or allege any contravention under Section 16(1) of SEZ Act which is the only provision dealing with cancellation of LOA on account of persistent contraventions. iii. It is trite law that a show cause notice is the foundation of any quasi-judicial proceedings and the adjudicating authority cannot travel beyond it. When the SCN does not invoke the correct legal provision (Section 16(1) of SEZ Act) or make out grounds for cancellation of LOA, the Impugned Order passed on this basis is without authority of law. • The Hon'ble Supreme Court in J.S.Yadav vs State Of U.P & Anr on 18 April, 2011 (2011 AIR SCW 3078) held that: It is a settled principle of law that no one can be condemned unheard and no order can be passed behind the back of a party and if any order is so passed, the same being in violation of principles of natural justice, is void ab initio. This legal proposition was reiterated by Supreme Court in Ranjan Kumar vs State of Bihar & Ors on 16 April, 2014 (2014) 16 SCC 187 it was held by that: "9. In J.S. Yadav v. State of Uttar Pradesh and another [(2011) 6 SCC 5701 it has been held that no order can be passed behind the

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

		case laws relied upon are not applicable in the present case.

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

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

The appellant has submitted the following.

1. INTRODUCTION

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

2. JURISDICTIONAL DEFECT IN THE SHOW CAUSE NOTICE

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

Relevant Case Law:

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

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

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

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

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

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

4. VIOLATION OF NATURAL JUSTICE NON-

SPEAKING ORDER

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

Relevant Case Law:

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

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

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

Relevant Case Law:

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

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

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

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

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

Relevant Case Law:

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

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

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

8. ADDITIONAL EQUITABLE AND POLICY-BASED CONSIDERATIONS

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

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

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

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

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

b) Reinstate the LOA with operational continuity.

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

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

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

This detailed written submission in continuation of the same.

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

Jurisdictional SEZ – Falta SEZ (FSEZ)

Brief facts of the Case:

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

Brief on the Fire incident in the Falta SEZ:

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

Grounds of the Appeal:

The appellant has submitted the following grounds in the appeal:

1. **Failure to Fulfill Statutory Obligations**

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

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

The damage caused by the fire in June 2016 was extensive. The appellant's repeated requests for repairs, alternate safe storage, and restoration of the premises were

ignored or inadequately addressed until 2020. Even then, the repairs were incomplete, leaving the premises unfit for full-fledged operations.

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

Despite the premises being unfit for use due to fire damage, the Falta SEZ Authority coerced the appellant into submitting undertakings to pay rent for the non-operational period (2016–2021). This is contrary to the principle that rent is not payable for periods when the premises are uninhabitable due to no fault of the lessee.

4. **Economic Duress and Unconscionable Demands**

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

5. Unlawful Rejection of Requests for Rent Waiver

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

6. Persistent Delays in LoA Renewal

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

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

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

8. **Cancellation of LoA Without Justification**

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

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

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

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

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

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

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

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

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

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

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

REASONS AS TO WHY THE DECISION NEEDS REVIEW: -

The appellant submitted the following reasons to review the decision:

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

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

2. **Failure to Consider Fire Incident**

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

3. **Delay in Repair and Restoration**

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

4. **Delay in LoA Renewal**

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

5. **Inability to Operate**

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

6. **Reciprocal Obligations Under Lease**

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

7. **Failure of Consideration**

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

8. **Undertakings Obtained Under Duress**

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

9. **Post-Renewal Damages**

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

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

11.

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

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

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

12. **Arbitrary and Unreasoned Order**

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

13. **Excess of Jurisdiction**

The Authority exceeded its jurisdiction in passing the Impugned Order.

14. **Misinterpretation of Facts**

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

15. **Perversity in the Order**

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

16. **Final Consideration**

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

COMMENTS RECEIVED FROM DC, FSEZ: -

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

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

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

2. **Fire Incident and Damages**

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

3. **Repair Delays**

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

4. **Lease Rent and Waiver Requests**

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

5. Undertakings for Renewal

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

6. Personal Hearing and Show Cause Notice

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

7. Cancellation of LoA

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

8. Rejections of Waiver Requests

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

9. Allegations Against SEZ Authority

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

10. Justification for Impugned Order

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

Relevant provisions under the SEZ law:

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

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

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

2. *Where the letter of approval has been cancelled under sub-section (1), the Unit shall not, from the date of such cancellation, be entitled to any exemption, concession, benefit or deduction available to it, being a Unit, under this Act.*
3. *Without prejudice to the provisions of this Act, the entrepreneur whose letter of approval has been cancelled under sub-section (1), shall remit, the exemption, concession, drawback and any other benefit availed by him in respect of the capital goods, finished goods lying in stock and unutilised raw materials relatable to his Unit, in such manner as may be prescribed.*
4. *Any person aggrieved by an order of the Approval Committee made under sub-section (1), may prefer an appeal to the Board within such time as may be prescribed.*

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

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

128.9(v) Appeal filed by M/s. Hindustan Oil Industries, at Kandla SEZ under Rule 55 of the SEZ Rules, 2006 against the decision taken during the 207th UAC meeting held on 28.10.2024.

Jurisdictional SEZ – Kandla SEZ (KASEZ)

Brief facts of the case:

M/s. Hindustan Oil industries is partnership firm who has been operating a manufacturing unit in Kandla Special Economic Zone from August, 2013 onwards. The appellant has been conducting manufacturing and related business operations in this Unit in accordance with the permission and terms conditions laid down under Letter of Approval (LOA) issued by the office of the Development Commissioner, KASEZ on 8.8.2023; and though the appellant has not contravened any of the terms and conditions of the LOA nor has the appellant contravened any of the provisions of the Special Economic Zones Act, 2005 or the Special Economic Zone Rules, 2006, the permission granted to the appellant for importing specified inputs has been unilaterally withdrawn by the UAC, and the office of the Development Commissioner, KASEZ has issued a Corrigendum dated 19.11.2024 thereby unilaterally amending the LOA granted in the appellant's favour thereby seriously impacting the business and SEZ operations of the appellant.

Being aggrieved and feeling dissatisfied by this decision of withdrawing the permission granted to the appellant for importing raw material viz. used oil specified in the LOA the appellant is preferring the present appeal for appropriate reliefs. orders and directions to the authorities of Kandla SEZ for ensuring that the appellant's authorized operations are allowed to continue in accordance with licence granted in their favour by virtue of Section 15 of the SEZ Act read with Rule 18 of the SEZ Rules.

2. Brief facts relevant for the present appeal are as under:

2.1 The appellant has been allowed to set up a unit in KASEZ tor manufacture of goods in the nature of Light solvents. Fuel Oil, Light Viscosity (L.V). Base oil, High Viscosity Base oil LDO, and Rubber process oil/Residue the like, by virtue of Letter of Approval F.No.KASEZ/1A/006/2013-14-4965 dated 8.8.2013 issued by the office of the Development Commissioner, KASEZ. Accordingly, the appellant has been undertaking the authorized operations from August, 2013 till now strictly in accordance with the terms and conditions of the LOA and also in strict compliance of provisions of the SEZ ACT and the Rules framed thereunder as well as other relevant provisions of statutes like the Customs Act, the CST Law etc.

2.2 For setting up of the Unit, the appellant submitted a proposal before the office of the Development Commissioner in December, 2012, as contemplated under Section 15(1) of the SEZ Act read with Rule 17 (1) of the SEZ Rules. This application dated 5.12.2012 was scrutinized by the office of the Development Commissioner and

then placed before the Approval Committee for its consideration and the proposal was approved by the UAC under Section 15(3) of the said Act read with Rule: 9(1) of the said Rules. Consequently, the office of the Development Commissioner has issued the above referred LOA dated 3.8.2013. This LOA has been renewed and extended from time to time the last extension having been granted in the appellant's favour vide letter F. No. KASEZ/1A/006/ 2013-14-14369 dated 21/22.4.2020, thereby extending the block period for allowing the appellant to operate the Unit till 14.4.2025.

2.3 In accordance with the above referred LOA, which is a licence as provided under sub-rule (6) of Rule 19 at the said Rules, the appellant has been conducting manufacturing operations the Unit. There has been no default or irregularity in the appellant's authorized operations, and it is a matter of record that has been operating the Unit strictly in accordance with the law.

3. Over a period of time, the appellant has made substantial investment in the Unit for authorized operations, and the appellant has been generating sizeable employment also. The appellant's exports have been increasing year after year, and substantial foreign exchange has been earned by the appellant as price of the goods sold from the Unit. A statement showing details of the employment generated by the appellant, foreign exchange earnings of the appellant and value as well as quantity of goods manufactured and export from the Unit for last 5 years.
Amongst other compliance by the appellant, the condition of Net Foreign Exchange Earning has also been fulfilled by the appellant in respect of the SEZ operations.
4. By virtue of the LOA dated 8.8.201 3, the appellant is authorized and licenced to manufacture goods like Base oil, etc. The appellant has been allowed permission to expand the manufacturing activities by permitting broad banding of the above licence from time to time. The Approval Committee as well as the office of the Development Commissioner have considered the operations undertaken by the appellant as "manufacturing" and therefore the applicant's authorized operations are referred to as "manufacturing" in all the statutory documents i.e. LOA, broad-banding permissions and letters for extending the appellant's LOA.
4.1 The issue now raised against the appellant is that the authorized operations conducted by them in respect of raw material viz, used oil are not in the nature of "manufacture", and therefore some relevant facts and documents in this regard may be referred to herein.
a) When the appellant applied for permission to set up the Unit, all the details of the proposed operations and activities with details of the raw materials required and final products produced were submitted with the application; end it was after properly and thoroughly examining the application and the documents submitted therewith that the LOA dated 88.2013 had been granted by the UAC. The concerned authorities have thus considered the relevant factors like the activities and operations proposed to be conducted by the appellant and also the raw materials as well as the finished goods to be produced by the appellant while considering and then granting permission to the appellant for setting up of the Unit.
b) During the 60th meeting of UAC held on 12.9.2013, the appellant's case was considered because a request was made by them for addition of manufacturing

activity of "vacuum distillation for reclamation of used oil". It is on record that comments and views from the Kanda Customs authorities were invited by the UAC, which were received on 22.11.2013, and thereupon the appellant's request was again considered during the 64th meeting of the UAC; and after considering all relevant details, data and comments/views of all concerned authorities, the UAC approved the request for broad-banding of the appellant's operations by including “vacuum distillation for reclamation of used oils" in the authorized operations for the appellant’s Unit, and a formal permission letter dated 10.02.2014 was thereupon issued such broad-banding.

c) It is noteworthy that all the operations undertaken by the appellant are in the nature of "manufacture" of goods, and the appellant has been manufacturing i.e. bringing into existence new products with new name, characteristics and use as a result operation, and processes undertaken in the Unit.

4.2 The above referred facts and developments clearly show that the operations proposed to be undertaken by the appellant in the Unit, including the operation of vacuum distillation for reclamation of used oil, were considered to be "manufacturing" by all concerned authorities, namely, the UAC as well as the office of Development Commissioner, and this view has been formed by these authorities based on relevant data and material about the manufacturing activities and also the comments and views of other departments like Kandla Customs.

5. The appellant has been complying with Pollution Control norms also. The Gujarat Pollution control has issued NOC (i.e. No Objection Certificate) in the appellant’s favour thereby granting consent to the manufacturing activities undertaken in the appellant's Unit.

6. The LOA issued in the appellant's favour on 8.8.2013 was operative for a period of 5 years by virtue of sub-rule (6) of Rule 19 of the said Rules: and therefore the appellant has been applying for extending validity of the LOA as and when the period of validity of the LoA was to expire. Each of the applications and requests made the appellant for extension of validity of the LOA has been scrutinized and allowed by the office of the Development Commissioner in consultation with the UAC.

The last extension has been allowed in the appellant's favour by virtue of the letter/approval dated 22.4.2020 thereby extending the appellant's authorized operations till 14.04.2025. All such extensions have been allowed in the appellant's favour by the concerned authorities upon being satisfied that the appellant has complied with terms and conditions to the licence and also with provisions of the SEZ Act, SEZ Rules and other applicable laws including the pollution control norms. The facts that the appellant has been manufacturing specified goods and has been earning considerable foreign exchange have also been considered by the authorities while accepting the appellant's requests and applications for validity of their licence/LOA.

7. Suddenly, a Show Cause Notice F. No KASEZ/IA/006/2013 dated 30.1 2.2022/02.01.2023 came to be served upon the appellant by the office of the

Development Commissioner for proposing to cancel the LOA for not complying with the SEZ Rules. The non-compliance alleged is that Rule 18(4) (d) of the SEZ Rules provides for not considering a proposal for setting up a Unit in a SEZ for "import of other used goods for recycling" and that therefore the appellant should not be allowed to import "used oil for “recycling", and that the LOA issued in the appellant's favour was wrong in view of Rule 18(4)(d) of the Rules. This objection and the show cause notice have been raised only because of an observation of the Senior Audit Officer about Rule 18, as recorded in the Notice itself.

The appellant has also submitted two notes of additional submissions before the Development Commissioner in of this show cause notice. By way of the first note dated 8.3.2323, the appellant has submitted evidence of letters of approval in favour of other similarly situated entrepreneurs in Mundra SEZ and FALTA SEZ, whereas the appellant has submitted further points under the second additional note dated 10.3.2023 for consideration of the Development Commissioner.

8. The above referred show-cause notice is pending, and no adjudication order is made thereon so far meanwhile, the appellant has been allowed to continue the authorized operations in accordance with the LOA, and accordingly the appellant has been manufacturing the goods specified under the LOA and exporting them in accordance with the applicable legal provisions. During the period from January, 2023 (when the show cause notice has been issued) till the end of October, 2024, the appellant has generated employment and also earned foreign exchange by exporting goods including Base oil, Fuel oil and the like.

9. But now the appellant has received a corrigendum F. No. KASEZ/IA/006/2013-14/5118 dated 19.11.2024 (signed by the Joint Development Commissioner on 18.11.2024) referring to 207th UAC meeting held on 28.10.2024 and informing the appellant that the UAC decided to withdraw the permission granted to the appellant for import of used oil under clause (d) of Rule 18(4) of the SEZ Rules for vacuum distillation for reclamation of used oil. The renewal of LOA granted vide letter dated 22.4.2020 is accordingly treated as withdrawn in respect of import of raw material i.e. used oil/waste oil for vacuum distillation for reclamation of oil.

This corrigendum/decision was preceded by a meeting of the UAC, and the minutes of this 207th UAC are published on the website of the Ministry of Commerce. It is recorded therein that the approval granted to the appellant and also to one M/s. Royal Petro Oil Refinery LLP of KASEZ were considered as agenda item no. 207.4.5 in the meeting held on 28.10.2024 under the chairmanship of the Development Commissioner, KASEZ, and the Committee formed the view that the recycling processes or reclamation process was nothing but refining process and was not a manufacturing process and thus the permission granted for import of used oil must be withdrawn. Accordingly, the UAC decided to withdraw the permissions granted to the appellant for import of used oil, and directed the Development Commissioner's officer to issue amendment to the LOA/broad-banding permission.

10. The result of the above decision of the UAC and Corrigendum dated 19.11.2024 issued by the office of the Development Commissioner is that the appellant's licence/LOA to import raw materials in the nature of used oil stands withdrawn and the appellant is therefore unable to continue the authorized operations of manufacturing goods like Base oil and Fuel oil. The appellant's authorized operations have now come to a standstill because the appellant is not to import raw materials in the nature of used oil, and the specified items like base oil and fuel oil cannot be manufactured by the appellant in absence of the required raw materials. The manufacturing operations in the Unit have come to a complete halt by the second week of November. 2024 in view of the decision of the UAC and the order/corrigendum dated 19.11.2024 issued from the office of the Development Commissioner, KASEZ.

Therefore being aggrieved and feeling dissatisfied by the decision of the UAC and the Corrigendum/order dated 19.11.2024 issued by the IASEZ authority, the appellant prefers the present appeal on following main amongst other grounds which may be urged at the time of hearing of the present appeal: the ground being set out hereunder without prejudice to one another:-

GROUNDS of appeal

A**) Manufacture:**

The operations undertaken by the appellant in the Unit are in the nature of "manufacture" of goods. and therefore the impugned decision now taken by the UAC is wholly illegal and without any justification. Apart from the fact that these operations have been considered and examined on various occasions in past and then the appellant has been allowed to set up Unit for "manufacturing" the specified goods and the appellant has also been allowed broad-banding permission for such "manufacturing" processes, it is also an undeniable fact that the goods with new name, use and new characteristics emerge as a result of the operations and processes undertaken by the appellant on used oil, and therefore the final goods, namely, base oil and fuel oil arc commodities manufactured by the appellant. The UAC has misdirected itself in recycling on totally different and distinguishable case law while keeping the relevant facts about the processes undertaken by the appellant out of consideration; and therefore the impugned decision of the UAC is not real but a purported determination of the issue whether the appellant’s operations and processes were "'manufacture" or not.

i) "Manufacture" means bringing into existence new product having a distinct name, character or USC. The process undertaken for bringing into existence a new product may be simple or complex, and the process may involve one operation or several the test is that the process should transform, the material into a new product and then such process is "manufacture". In the present case, the processes undertaken by the appellant on raw material, namely, waste oil or used oil is not mere recycling but the process that involves a series of operations result in a new product which can be used directly as fuel or as lubricating oil and such industrial purposes.

On the raw material (namely used Oil the undertakes a series of processes which involve (i) dehydration process at temperature of 120°C under vacuum for 6 to 9 hours, (ii) then de-gassing at temperature of 220°C is undertaken under high processing vacuum for 4 to 5 hours. (iii) then pre-heating of oil from 220°C to 320°C is undertaken under high vacuum processing (iv) thereafter WFE distillation of the material is undertaken at temperature 320°C by way of ultra-high vacuum processing for about 30 minutes (v) thereupon base oil (lubricating oil) is produced whereas about 25% of initial raw materials are in the nature of residue (vi) base oil/lubricating oil so produced is further processed on polishing plant; (vii) thereafter base lubricating oil is further processed by way of indexing mixing at temperature of 70°C to 90°C for 2 to 4 hours; and (viii) fully finished final product in the nature of base oil/lubricating oil is produced and packed in drums and cans.

As regards fuel oil manufactured by the appellant, the raw material in the nature of used oil after dehydration and degassing is subjected to different processes which include (i) solvent and lighter fuel oil after de-gassing (ii) blending of fuel oil for heating and (iii) fuel oil so produced is packed in drums and cans.

Various equipment, machinery and plant arc utilized for the above referred processes in regard to manufacturing base lubricating oil as well as fuel oil. The UAC however mis-directed itself in believing that the appellant was only recycling the imported raw materials, while turning a blind eye to the series of processes actually undertaken by the appellant in their Unit for manufacturing goods having distinct name, use and character. The impugned decision of UAC and the impugned Corrigendum dated 19.112024 issued by the office of the Development Commissioner are not based on true and correct facts about the processes actually undertaken by the appellant which amount to "manufacture" and hence impugned decision and corrigendum deserve to be quashed end set in the interest of justice.

(ii) The details submitted at Annexure- “D” to this appeal highlight the series of processes undertaken by the appellant on the raw materials, namely, used oil. A series of undertaken on this raw material; many equipment, machinery and plant are utilized for such processes; the process are undertaken for specified period of time and in controlled temperature for each of the processes; and new product new name, use and characteristics emerges when these processes are undertaken n used oil. The goods used as raw material are known and identified in the trade as “used oil” or used motor oil” or “used lubricating oil” and these raw materials are classified under Tariff Item 27109900. The Taw materials cannot be used for any industrial purpose or utility, like fuel or lubricating oil.

After conducting series of processes on the material, the goods manufactured by the appellant are known, identified, bought and sold in the trade as "fuel oil" or "base oil" or "fuel oil L.V. (Low Viscosity)" and "fuel oil H.V". These goods are classified under Tariff Item 2710197) and 27101950. A few invoices and bill of entry DTA sale and a few shipping bills for export of the goods manufactured by the appellant.

The goods manufactured by the appellant are used for purposes like fuel and lubricating oil. As aforesaid, the raw cannot be used for such purposes, and thus the use of the goods manufactured by the appellant is different from that of the raw materials used.

The characteristics of the raw materials on one and the goods manufactured by the appellant on the other hand are also different and distinguishable. Various parameters like viscosity, moisture, flash point, density, pore point, colour are totally different in this regards to base oil and fuel oil manufactured by the appellant: and it is for reason that these goods possess such characteristics they can be used and are actually Used for purpose like fuel and lubricating oil. At the time of importing raw materials. samples are taken by the Custom authorities and characteristics of such imported raw materials namely, used engine oil are analysed and tested at the Customs House Laboratory. When the goods produced by the appellant, namely, base oil L.V. and fuel oil L.V. are removed from the appellant's unit, at that time also samples are taken and they are tested and analysed at the Customs House Laboratory.

A perusal of these analysis reports shows that the characteristics of the raw materials as well as the manufactured goods like density, flash point, water content, viscosity etc. are very different. The series of processes and operations undertaken by the appellant on the raw materials thus bring into existence new product having distinctive characteristics.

Thus, the goods manufactured by the appellant different names, different use, and different characteristics compared to the raw material: and therefore the processes undertaken by the appellant are "manufacture" as held by the Hon'ble Court in a long chain of judgments starting with Delhi cloth and General Mills Company Ltd. — 1977 (I) ELT (I) ELT (J199). But this vital aspect has escaped the attention of the UAC, and hence its impugned decision that the; activities undertaken by the appellant were not manufacture is wholly unjustified and unauthorized.

(iii) The UAC has relied upon decision of the Appellate Tribunal in case of Collector V/s. Mineral Oil Corporation: 1999 (114) ELT 166 and Circular No. 1204/12/201 6-CX dated 1 1.4.201 6 far taking the impugned decision. But there is a clear error in taking the impugned decision on the basis of this decision and the Board's circular. The facts about manufacturing processes undertaken by the appellant were not involved in the case decided by the Appellate Tribunal nor in the case considered by the Board.

In case of Mineral Oil Corporation (supra), the assessee brought used transformer oil and removed impurities for making it again usable as transformer oil. Except removal of impurities, no other process was undertaken by the assessee; and it was found the Appellate Tribunal that the product was only transformer oil before and after the processing. A perusal of the decision of the Appellate Tribunal shows that removing the impurities was the only process by the assessee and the goods were known as transformer oil before and after such processing: whereas the processes

undertaken by the appellant in the present case involve a series of operations employing several machineries, equipment and plant, and the raw materials used by the appellant were different having different name, use and characteristics compared to the goods manufactured by the appellant. The product in case of Mineral Corporation (supra) remained the same after removing the impurities i.e. the product was only transformer oil before and after the processing: which is not the case herein because the raw material; used are "used oil" meriting classification under a particular Tariff Item whereas the goods emerging after a serious of processes and operations are base oil and fuel oil meriting classification under other Tariff Items.

The product in case of Mineral Oil Corporation (supra) was lubricating oil whereas the products involved in the present case are different, and the use of the raw materials on one hand and the use of goods manufactured by the appellant on the other hand are undoubtedly different. It is nobody's case that the appellant's raw materials i.e. used oil was capable of being used for purposes like fuel or lubricating, or that used oil was actually used by any one for purposes like fuel or lubricating oil; and therefore the decision in case of Mineral Oil Corporation based on a finding that both before and after the processes, the product was only transformer oil, could not have been considered by the UAC for taking the impugned decision in the appellant's case.

The circular dated 11.4.2016 clarifies that labelling or relabelling of containers and repacking from bulk pack to retail packs or the adoption of any other treatment to render the product marketable lo the consumers shall amount to manufacture by virtue of Chapter Note 4 of Chapter 27 of the Central Excise Tariff; and therefore processes like labelling or relabelling of containers, repacking from bulk pock to retail pocks or adoption of any other treatment to render the products marketable to the consumers was to be treated as manufacture in case of lubricating oils and lubricating preparations of leading 2710 of The Tariff. However, the processes and operations undertaken by the appellant on the raw materials shall be manufacture even in view of the clarification issued by the Board under this Circular. The goods produced by the appellant namely, base oil and fuel oil are sold in packings of drums and cons of 1 litre 5 litres. 20 litres and 200 litres; and thus the goods produced by the appellant ore pocked in consumer packs while selling. On such packs labels are also affixed with details of the goods so as to inform the buyers about the nature of the goods, grade of oils, weight and quantity of the good, etc. and such labelling of the packs is also a process undertaken by the appellant while selling the goods.

The processes undertaken by the appellant on set all are necessary for rendering the goods marketable to the consumers, and accordingly such treatments are manufacture because they are treatment to render the product marketable to the consumers. Pocking in containers of specified quantity and labeling is also a treatment for rendering the goods marketable to the consumers. Therefore, as clarified by the Board under the above Circular and as held by the Hon'ble Supreme Court in case of M/s. Air Liquid North India Ltd. 2011(271) ELT 321 (SC), the

processes by the appellant are even otherwise treated as manufacture because they are treatments for rendering the goods marketable to the consumers. But the UAC has misread the Board's clarification also though it supports the appellant's case and therefore the impugned decision taken by the UAC is wholly illegal and without jurisdiction.

(iv) The processes undertaken by the appellant on waste oil are in the nature of manufacture, and the goods obtained by the appellant (namely, fuel oil L.V.) are in the nature of goods manufactured by the appellant. The impugned decision that used oil processing would not amount to manufacture is without any merit and without any justification in the facts of the present case. This decision is contrary and de-horse the above evidence about different name. characteristics of the raw materials and the final products, and different use of the raw materials and final products.

Under Section 2(r) of the SEZ Act, the term "manufacture" is defined to mean "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, aqua-culture, animal husbandry, aqua-culture, flori-horticulture, horticulture, pisciculture, poultry, sericulture, viticulture, and mining". Thus. process or processing in the nature of repair, remaking or re-engineering is also manufacture for SEZ operations, in the present case, the appellant has actually brought into existence a new product having a distinctive name, character and use but assuming without admitting that processes undertaken by the appellant were in the nature of recycling or remaking or relining of fuel oil then also such processes are "manufacture" under Section 2(1) of the SEZ Act. The UAC has not considered the definition of "manufacture" given by the Parliament for purpose of SEZ Act while relying upon a decision of the Appellate Tribunal for the concept of "manufacture" under the Central Excise Act, and thus grave errors are committed in the decision making process by the UAC.

In the above premises, the appellant submits that the impugned decision that the processes undertaken by the appellant on waste oll were not manufacture and that the products, namely, fuel oil LV. produced by the appellant were not manufactured goods is liable to be set aside in the interest of justice.

B) Principles of Natural Justice:

The impugned decision for withdrawal of the permission for import of used oil suffers from gross violation of principles of natural justice, and hence the impugned decision and the corrigendum dated 19.11.2024 are void in law. The impugned decision is token without affording any opportunity of being heard to the appellant, without serving any notice of the proposed decision against the appellant, and without disclosing to the appellant the evidence and documents used against the appellant. The decision making process is in breach of appellant's fundamental right of equality before the law under Article 14 of the Constitution of India. The Impugned decision taken against the appellant's interest without observing the

principles of natural Justice and without disclosing the material/evidence utilized by the UAC and the office of the Development Commissioner are void, and hence liable to be quashed and set aside at once in the interest of justice.

i. The Corrigendum dated 19.11.2024 served upon the appellant for withdrawing the permission for importing used all as raw materials and amending the LOA granted in the appellant's favour is based on the decision taken by the UAC in its 207th meeting held on 28.10.2024; but the decision so taken by the UAC is without any notice or without any opportunity of being heard to the appellant as regards the adverse decision that the UAC has taken on 28.10.2024. No show-cause notice has been served upon the appellant by the UAC for amending the appellant's LOA, and it is also an undisputable fact that the UAC has not invited any objections or explanation from the appellant nor has the UAC afforded any opportunity of hearing to the appellant before taking the impugned decision on 28.10.2024. The show-cause notice dated 30.12.2022/2.1.2023 that has been issued by the office of the Development Commissioner, KASEZ, is still pending, though SCN dated 30.12.2022/02.01.2023 is not for cancellation or modification of the appellant's LOA, and there is no proposal therein to withdraw the permission for importing used oil as raw materials. This show cause notice dated 30.12.2022/02.01.2023 is not for the impugned decision that has now been taken by the UAC. In any case, this show cause notice is still pending and no order has been made thereon by the competent authorized person.

In these circumstances, the impugned decision for withdrawing the permission for importing used oil could not have been token by the UAC without any show cause notice to the appellant and without affording opportunity of hearing to the appellant before taking such decision. The impugned decision results in grove civil consequences affecting the fundamental right of doing business granted to the appellant under Articles 19 and 14 of the Constitution of India, and such decision could not have been taken without complying with the principles of natural justice. The impugned decision taken by the UAC without any notice and without any hearing to the appellant is therefore void in law.

ii. The minutes of agenda item No.207.4.5 show that a letter dated 10.7.2024 was received by them from the Ministry of Commerce and Industry, SEZ Section, and the minutes also show that this letter of the Ministry of Commerce and Industry has been taken into consideration by the UAC for taking the adverse decision in this case. But this letter has not been given to the appellant and the contents of this letter dated 10.7.2024 have not been disclosed to the appellant, though this letter is one of the reasons for taking the decision averse to the appellant's interest. Secondly, observations of a committee of three officers of KASEZ are also taken into consideration by the UAC for the impugned decision adversely affecting the appellant's interest: but the observations and the report of such committee have also not been given to the appellant nor are the contents thereof disclosed to the appellant by the UAC or the office of the

Development Commissioner. KASEZ. A perusal of the minutes of the UAC meeting clearly shows that the observations and report of such committee is the base for taking the impugned decision against the appellant, and it is the observations and the report of the committee of three officers that forms the basis of the impugned decision against the appellant.

However, such vital evidence is not disclosed to the appellant and accordingly this is a case where report and observations of a committee and also a letter of the Ministry are used against a citizen without supplying such documents to the citizen arid without affording any opportunity of defence and submitting explanation to such documents. There is a gross violation of the principles of natural justice on this count also.

iii. It also appears that the UAC has considered a decision of the Appellate Tribunal in case of Collector V/s. Mineral Oil Corporation upheld by the Hon'ble Supreme Court, and a Circular issued by the CBIC has also been taken into consideration for taking the impugned decision; but the appellant has never been afforded any opportunity of submitting their explanation and comments about such case law or the Board's Circular. The UAC has thus used some material behind the back of the appellant, and it has come to the appellant's notice that such material is used against their interest only when the impugned decision has been taken and communicated to them. This is also a violation of principles of natural justice rendering the whole decision making process to be illegal and invalid. Secondly, the case law and the Board's circular are clearly distinguishable, and they are not at all applicable to the facts of the present case where an elaborate process of "manufacture" is undertaken by the appellant on the raw materials in the nature of used oil. The appellant has not been allowed any opportunity of explaining how the case law and the Board's circular above referred were not applicable in the present case, but the impugned decision is taken on the basic cave law and the circular were squarely applicable to the forth of the present case. The impugned decision taken by me UAC without affording any opportunity of being heard to the appellant as it such case law and circular is in violation of the principles of natural justice.

iv. In the above premises, the appellant submits that there is on overall failure by the UAC as well as the office of the Development Commissioner. KASEZ in the decision making process in compliance with the principles of natural justice. The impugned decision is taken without following the principles of fair play and equity, and also without affording any opportunity of defence and explanation to the appellant. in the decision making process followed by the UAC and the office of the Development Commissioner, material evidence and documents not even disclosed to the appellant are relied upon and thus the doctrine of audialterampartem i.e. no one should be condemned unheard "stands completely violated. The impugned decision taken at the cost of the principles of natural

justice therefore deserves to be quashed and set aside of once in the interest of justice.

(c) Non-compliance of SEZ Provisions:

The UAC as well as the office of the Development Commissioner. KASEZ, have acted without any authority in law in withdrawing the permission for Importing the concerned raw materials inasmuch as no provision of the SEZ low permits and empowers these authorities for taking such decision. A licence in form of LCA has been granted to the appellant as far back as August, 2013 and the appellant has been allowed to set up a Unit in Kandla SEZ by virtue of such licence that remains in operation till now, and therefore such valid and subsisting licence (LOA) could not have been amended by withdrawing certain facilities granted thereunder when the appellant's case was not before the Approval Committee for setting up of the Unit or for any other purpose. The action of taking up the appellant's case suomoto though the licence i.e. the LOA granted in August, 2013 was valid and in force fill 14th April. 2025 is illegal, without jurisdiction and beyond the provisions of Rule 18 of the SEZ Rules.

There is a total non-compliance with statutory provisions of the SEZ law in the decision making process by the UAC.

i. It is an admitted position in this case that the appellant's proposal for setting up a Unit in SEZ was submitted before the Development Commissioner on 5.12.2012. and this application/proposal submitted under Section 15(1) of the SEZ Act had been scrutinized by the Development Commissioner's office under Rule 17(2) of the SEZ Rules and thereupon the Approval Committee has approved the proposal under Section 15(3) of the Act read with Rule 18(1)8 (2) of the Rules. It is also an admitted position that the validity of this LOA, which is a licence to set up and operate an SEZ Unit, has been extended by the competent authority from time to time and the last extension allowed vide letter/order dated 22.4.2020 has been in force and valid fill 14 April, 2025. **Now in this view of the matter, Rule 18(4)(d) of the Rules was not at all applicable, and the UAC as well as the Development Commissioner had no jurisdiction to take the impugned decision under this provision of the SEZ Rules.**

Sub Rule (4) of Rule 18 provides that no provides tor setting up a Unit is SEZ shall be considered in various circumstances, and clause (of Section 18/4) of the Rules refers to a situation where a Unit was proposed to be set up for import of other used grounds for recycling. Any proposal forwarded to Approval Committee by the Development Commissioner under Rule 17/2) of the Rules could have been denied and rejected by the UAC of the time of considering the proposal for setting up of the Unit if the UAC found that the proposal could not be considered under Rule 18(4)(d) of the Rules but this provision and a decision for not approving the proposal were permissible at the lime of granting approval for a proposal to set up a unit and not in a case where such approval had already been granted after proper scrutiny and verification, and such approval resulting in a licence in the nature of LOA had been

in operation for more than a decade. The appellant's LOA has been in force right from August, 2013 and the LOA has been issued by the Development Commissioner pursuant to the approval of the UAC as far back as 8th August, 2013: and therefore the UAC as well as the Development Commissioner had no authority nor any jurisdiction to nullify such licence/LOA under Rule 18(4)(d), which was applicable only of the time of considering proposal of an entrepreneur to set up a Unit in any SEZ for the first time.

The appellant submits that Rule 18(4) of the Rules was not applicable in the present case because this rule was applicable only at the time of considering the appellant's proposal for setting up of a Unit that was submitted on 5.12.2012. The impugned decision taken under Rule 18(4) (d) of the SEZ Rules is therefore ex-facie illegal.

ii. The impugned decision the withdrawing the permission for importing certain inputs it in the nature of cancellation of the LOA inasmuch as the appellant is now debarred from importing inputs in the nature of used oil for manufacturing goods like base oil and fuel oil; and consequently the LOA (i.e. the licence) granted to the appellant as on SEZ entrepreneur for manufacturing the above referred goods stands cancelled. But such cancellation is permissible only when the entrepreneur has persistently contravened any of the terms and conditions or its obligations for which the LoA was granted. In the present case, the appellant is admittedly not guilty of contravention of any of the term and conditions or their obligations subject to which the LOA has been granted and it nobody's case that the appellant has committed contraventions persistently. Therefore, the impugned decision and order resulting in cancellation of the LoA is respect of authorized operations of manufacturing base oil and fuel oil is wholly illegal and unauthorized.

Once an approval for setting up of Unit has been granted by the UAC under Section 15(3) of the Act such LoA could be cancelled under Section 16(1) of the Act only when the entrepreneur has persistently committed contraventions. Once an approval is granted by the UAC to an entrepreneur for setting up a unit and the entrepreneur sets up and operates the unit for a long lime, then the LOA cannot be cancelled for the reason that such approval was wrongly allowed by the Approval Committee, or that such approval for setting up of a unit for a particular purpose could not have been allowed under the SEZ Act. Once the entrepreneur was allowed to set up a unit by virtue of the approval by the UAC then the LoA could be cancelled only in situations contemplated under sub section (1) of Section 16 of the Act and the situation referred to under Rode 18(4)(d) is not a case covered under sub section (1) of Section 16 of the Act for cancellation of the LOA granted in favour of on entrepreneur, in the facts of the present case. Therefore, the UAC and the Development Commissioner had no authority nor any jurisdiction to take the Impugned decision on the basis of Rule 18[4](0) of the Rules, and the impugned decision taken on the basis of totally inapplicable provision of the Rules is therefore liable to be set aside in the interest of justice.

iii. The appellant submits that the authorized operations approved and allowed in their favour at the time of allowing them to set up the Unit have been in the nature of "manufacture of goods, and not in the nature of "recycling" of goods. If manufacture of goods like Base oil and Fuel oil by utilizing inputs like used oil were really in nature of recycling of goods, then the Approval Committee would not have. approved the appellant's proposal for setting up of the Unit in Kandla SEZ. The appellant's proposal for setting up the Unit was scrutinized by the office of the Development Commissioner and then it was placed before the UAC for its consideration: and thus the decision to approve the appellant's proposal to set up the Unit for manufacture of the goods like Base oil and Fuel oil was taken by the Approval Committee after considering the entire case record including the raw materials required and final products manufactured. After more than a decade. the Approval Committee could not have taken a view that the processes undertaken by the appellant for manufacture of Base oil and Fuel oil, were mere recycling of goods, when the Approval Committee had taken a conscious decision at the lime of granting the approval in August, 2013 that the concerned processes and activities were "manufacture" of goods. The impugned decision taken by the UAC and the Development Commissioner is nothing but a change in view without any basis, without any justification and without any merit in law; and therefore the impugned decision is bad in low.

D) Premature Decision:

The UAC has taken the decision of withdrawing the permission granted to the appellant in ex-facie unreasonable and arbitrary manner inasmuch as a show cause notice issued to the appellant for deciding whether the appellant was "manufacturing goods and the LOA granted to the appellant was for processes in the nature of "manufacture" or not is still pending without any decision thereon. The Adjudicating Authority is yet to take evidence in respect of the proposals levelled in the show cause notice dated 30.12.2022/2.1.2023, and the Adjudicating Authority is yet to consider the submissions and explanation that may be put forth by the appellant in the adjudication. Only after a valid order is made by the Adjudicating Authority after complying with the principles of natural justice and after following the quasi-judicial process in respect of this show cause notice. it would be open to the office of the Development Commissioner to withdraw the permission to import granted to the appellant if an adverse order was passed in proper manner. But the adjudication of the show cause notice is not concluded, and therefore the UAC had no jurisdiction nor any justification in unilaterally deciding to withdraw the permission granted to the appellant while noting that the office of the Development Commissioner was yet to adjudicate the show cause notice.

The impugned decision is premature and hence unreasonable and arbitrary.

i. The impugned decision of the UAC without any decision on the pending show cause notice in like putting cart before the horse, inasmuch as a decision has been rendered by the UAC before a decision is taken in quasi-

judicial manner on the pending show cause notice, which is issued for the same purpose. This is ex-facie unreasonable and arbitrary, and therefore the impugned decision of the UAC and consequent Corrigendum dated 19.11 2024 issued by the office of the Development Commissioner are absolutely bad in law, and liable to be set aside.

ii. The appellant further submits that the impugned decision of the Approval Committee is contrary to the mandatory provision of Section 16 of the SEZ Act, and therefore also the impugned decision deserves to be quashed and set aside.

If the Approval Committee has reason or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its obligations subject to which the LOA was granted to the entrepreneur, then the Approval Committee may cancel the LOA. In the present case, there is no contravention whatsoever by the appellant as regards the terms and conditions as well as obligations allowing from the LOA. The appellant has manufactured only those products which are allowed as authorized operations under our LOA. There is no violation of any pollution control requirements, and there is no case of breach of condition of NFE also. As a Unit in SEZ the appellant is obliged to undertake the authorized operation in accordance with the provisions of the SEZ Act and SE2 Rules and in this regard there is no case alleged against the appellant by the Development Commissioner or the Approval Committee that the appellant has violated any of such statutory provisions. The only case is that the Senior Audit officer hat suggested that the LOA issued to the appellant was wrong, but LOA has been issued by the Development Commissioner upon the approval accorded by the Approval Committee consisting of nine high ranking officers of the Government. When the appellant has undertaken the manufacturing activities as authorised operations strictly in accordance with the terms and conditions of the LOA, there is no contravention for which Section 16(1) of the Act could be invoked. There is no case of persistent contravention of any of the terms and conditions or obligations subject to which the LOA has been granted. Therefore, also, Section 16(1) of the Act is not applicable in this case, and consequently the impugned decision of the UAC in virtually cancelling the LOA and permissions granted to the appellant is de-horse provision of Section 16 of the Act and hence non-est in the eye of law.

(E) The appellant submits that the impugned decision of the UAC and the Corrigendum dated 19.11.2024 Issued by the Development Commissioner are even otherwise illegal, unauthorized, without jurisdiction, unreasonable, arbitrary and beyond the provisions of the SEZ Act and the SEZ Rules.

Prayer of the appellant:

A. That the impugned decision taken by the Unit Approval Committee in its 207th meeting of Kandla SEZ (recorded at agenda Item No.207.4.5(1) of minutes of this meeting held on 28.10.2024) for withdrawal of the permission granted to the appellant as a Unit in Kandla SEZ to import of

used oil may be quashed and set aside, along with quashing and setting aside corrigendum F.No. KASEZ- IA/006/2013-14/5118 dated 19.11.2024 issued by the Development Commissioner, Kandla SEZ, with al consequential reliefs and benefits to the applicant;

B. That the appellant may be allowed to conduct authorized operations as allowed and permitted under LOA F. No.KASEZ/IA/006/2013-14-4965 dated 8.8.2013 as amended and broad-banded from time to time: including import of used all for production of fuel oil L.V. in the Unit located within Kandla SEZ:
C. Any other further relief that may be deemed lit in the facts and circumstances of the case may also please de granted.

<u>Comments received from DC, KASEZ</u>: -

BRIEF FACTS OF THE CASE:

M/s Hindustan Oils & Industries (hereinafter referred to as 'SEZ unit' or 'Noticee') is situated at Shed No.282, Sector-III, Kandla Special Economic Zone, Gandhidham, Kutch. Letter of Approval (LOA) dated 08.08.2013 was granted to them vide F.No. KASEZ/IA/006/2013-14/4965-67 by the Development Commissioner, Kandla SEZ under section 15(9) of the SEZ Act, 2005 read with Rule 17 and 18 of the SEZ Rules, 2006 to operate as an SEZ unit and carry out authorized operations of manufacturing activity. Whereas, the Unit Approval Committee (UAC) after due deliberations has approved the requests of the said SEZ unit for inclusion of additional items in their manufacturing activity and accordingly, amendments in the original LoA have been made from time to time.

2. Whereas, the Noticee has submitted a Bond-Cum-Legal Undertaking (BCLUT) under Rule 22 of SEZ Rules 2006 dated 16.08.2013, in reference to LoA No. 006/2013-14 dated 08.08.2013 and the same was accepted by this office vide letter dated 24.09.2013. Vide the said Bond Cum Legal Undertaking (BCLUT) the Noticee has committed themselves to the following conditions mentioned at Sr. No. 1, among the others:-

1. We, the obligators shall abide by all the provisions of the Special Economic Zone, Act, 2005 and the Rules and orders made there under in respect of the goods for authorized operations in the Special Economic Zone.

3. The activities of admission and clearance of goods by SEZ units, having approval granted under Section 15 of the SEZ Act, 2005 and Rule 18 of the SEZ Rules, 2006, are regulated as per the provisions & procedures contained in the SEZ Act, 2005 and Rules made there-under.

4. During the test check of records by Audit team (CRA), it has been noticed that the said SEZ unit had imported goods declared as "Used Oil for Recycling". Whereas, the audit team noticed that the subject imported goods has been expressly restricted, the same should never have been imported. Further, Audit team noted that "import of

used goods for recycling" has strictly been prohibited vide Rule 18 of the SEZ Rules, 2006.

5. The Audit team noted that Department's action to issue permission letter was wrong for the following reasons: -

i. Recycling of any material is also a manufacturing process, but when the recycling of the used goods is prohibited in law, it means the manufacturing process of recycling is prohibited in law.
ii. Though the second proviso of clause (d) of Rule 18(4) of the SEZ Rules, good permits reconditioning, repair and re-engineering of import of 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 wastes shall be exported and none of these goods shall be allowed to be sold in the Domestic Tariff Area or destroyed.

The Audit team, further, noted that the SEZ Unit had proposed that after obtaining Lubricating oil & Gas oil from the used oil, the fuller earth (sand) will remain as a waste which will be used for construction, land filling, thus the wastes were not exported. Further, it was noted that one to one correlation with the imported used oil is unlikely to happen and the goods were used in DTA/self consumption.

6. The activities of reconditioning, repair and re-engineering of goods by SEZ units, having approval granted Rule 18 of the SEZ Rules, 2006, are regulated as per the provisions & procedures contained in the SEZ Act, 2005 and Rules made there-under. The relevant legal provisions under the SEZ Act, 2005 and the SEZ Rules, 2006 are reproduced as under:

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

No proposal shall be considered for -

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

7. From the above it appears that the Noticee had indulged in "Recycling" of used oil, a restricted item, without a valid LoA for "Recycling" process. The Rule 18(4)(d) of SEZ Rules, 2006 regulates the import of other used goods for recycling and envisages one to one correlation of imports & exports and also envisages no DTA sale including scrap or remnants or waste. In the instant case, the unit has not been permitted for "Recycling" under Rule 18(4)(d) and from the APRs submitted by the unit it is observed that the unit has made DTA clearances.

8. As per BCLUT, the Noticee is bound to abide by all the provisions of the Special Economic Zone Act, 2005 and the Rules and orders made there-under in respect of the goods for authorized operations in the Special Economic Zone. Thus, failing to abide by the terms and condition of Letter of Approval, it appears that the Noticee has violated the terms and conditions of LoA as well as BCLUT and the provisions of the SEZ Act, 2005 and the SEZ Rules, 2006.

9. In view of the above, it appears that the Noticee has contravened and violated:-

a. The conditions envisaged in their Letter of Approval dated 08.08.2013 issued from F.No. KASEZ/IA/006/2013-14/4965-67, as amended, in as much as they have failed to abide by provisions of SEZ Act & Rules issued in this regard;
b. the conditions of Bond-Cum-Letter of Undertaking dated 24.09.2013, in as much they failed to abide by provision of SEZ Act & Rules issued in this regard;

In view of the above, a show cause notice dated 02.01.2023 was issued to the unit as to why the Letter of Approval No. F.No. KASEZ/IA/006/2013-14/4965-67 dt. 08.08.2013, as amended from time to time, for their authorized operation should not be cancelled under Section 16 of SEZ Act for persistent violation of Provisions of the SEZ Act, 2005 and SEZ Rules, 2006 and condition of LoA / BLUT and penalty should not be imposed under Rule 54(2) of SEZ Rules, 2006 read with Section 11 & 13 of FTDR Act, 1992, for violation of terms and conditions of the Letter of Approval and contravention of SEZ Rules. During the written and oral submissions, the unit has submitted that they are doing manufacturing activity and not recycling activity as contended by the CRA Audit.

In view of submissions made by the unit and whether the authorized activities of the unit falls under manufacturing activity or recycling activity cannot be ascertained as recycling is not defined under the SEZ Act/SEZ Rules and also in the Foreign Trade Policy, a reference was made to the Ministry of Commerce & Industry, Department of Commerce, SEZ Section for examination of the issue in consultation with Department of Legal Affairs, if required so that the Show Cause Notice issued by this office may be decided and also a uniform view may be taken whether such units may be allowed or not in the SEZ.

The Ministry of Commerce & Industry, Department of Commerce, SEZ Section vide letter dated 10.07.2024 has stated that “as regards Audit objections, both the units have asserted that they are manufacturing units and not recycling units as their activities use are different. Further, they have also requested to verify the same through physical inspection.” Ministry has requested that to ascertain their activity, a physical inspection of both the units may be done and accordingly, appropriate action may be taken in respect to the audit objection.”

Accordingly, a Committee of 3 Officers of KASEZ was constituted to visit the unit for physical verification. The Committee has visited the unit and recorded their observation with regard to procedure followed in the unit.

The unit has informed the Committee about the process which is reproduced below: -

"we receive used oil and store in storage tank till 24 hours for settling process of water content, sediments. Thereafter we pump it from storage tank to dehydration vessel. After that we heat it through thermic fluid boiler at 165 degree centigrade to 200 degree centigrade and at that temperature we receive water content and fuel in our receiver approx. 5% to 7% quantity. Further, we pump through gear pump ***dehydration vessel*** *to heal exchanger at 200 degree centigrade. After heat exchanger, material is pumped out to W.F.E at temperature 315 degree centigrade to 325 degree centigrade with high vaccum. During the process of cracking (****distillation****) we get base oil approx. 70% of total used oil feeding."*

The Committee has also gone through Hon'ble CESTAT Judgement in case of Collector Vs Mineral Oil Corporation [1999(114) ELT 166] which upheld by Hon'ble Supreme Court [2002(140)ELT 248(SC)], which describe that waste oil after processing become lubricating oil but this process would not amount to manufacture. Further, the CBIC has also issued Circular No. 1024/12/2016-CX dated. 11.04.2016 in this regard that waste oil after processing may become lubricating oil but this process would not amount to manufacture.

Further, the Committee gone through procedure and definition described for processing of used oil/ waste Oil in Hazardous Waste Management Act and also as per norm of Central Pollution Control Board and Gujarat Pollution Control Board which describe it re-recycling of used oil/ waste oil.

Thus, the Committee was of the view that recycling process or reclamation process is nothing but re-refining process and is not a manufacturing process.

In view of the findings of the Committee, the UAC in its 207th meeting decided to withdraw Used Oil/Waste Oil (HSN 27109900) as raw material from LoA.

Aggrieved with the above said decision taken by the Committee in 207th UAC Meeting, M/s Hindustan Oil Industries has filed Appeal before the Board of Approval. Accordingly, Ministry has requested to submit para-wise comments on the appeal filed by the unit.

Para wise comments in respect of appeal filed by M/s. Hindustan Oils & Industries.

S.No.	**Ground of the Appeal**	**Comments of DC, KASEZ**
A		
	Para [i]:	The contention of the appellant is not proper as initially LoA was granted to the appellant vide F.No. KASEZ/IA/006/ 2013-14/4965-67 dated. 08.08.2013 for manufacturing of Light solvent, Fuel Oil, Light Fuel Oil, Light Viscosity (L.V) base oil, High Viscosity (H.V) base oil, LDO, canalised and rubber process oil/ residue only **for crude oil processing**. Further on their request, broad-banding of manufacturing activity in their existing LoA F.No. KASEZ/IA/006/ 2013-14/4965-67 dated 08.08.2013 was given for **"Vaccum Distillation for Reclamation of Used Oil**" by the Development Commissioner on 12.02.2014 after approval of the same by the UAC. As per the definition, Vaccum distillation for reclamation of used oil is a process wherein impurities viz. Water, dust, etc are segregated through heating and then condensed separately. Therefore, Vacuum distillation for reclamation of used oil is a re-refining of used oil which segregate impurities. The LoA granted to the appellant only for vaccum distillation for reclamation of used oil which is mentioned on LoA dt. 12.02.2014 issued by the Development Commissioner. This process is clearly defined as re-refining of used oil by Central Pollution Control Board. The basic process adopted by the appellant is re-refining/ recycling of used oil, which results Base Oil to the tune of 70% of total used oil utilised which was informed by the appellant to

		the Committee member at the time of visit in their premises. The appellant submission are as under: *"we receive used oil and store in storage tank till 24 hours for settling process of water content, sediments. Thereafter we pump it from storage tank to dehydration vessel. After that we heat it through thermic fluid boiler at 165 degree centigrade to 200 degree centigrade and at that temperature we receive water content and fuel in our receiver approx. 5% to 7% quantity. Further, we pump through gear pump* ***dehydration vessel*** *to heal exchanger at 200 degree centigrade. After heat exchanger, material is pumped out to W.F.E at temperature 315 degree centigrade to 325 degree centigrade with high vaccum. During the process of cracking (****distillation****) we get base oil approx. 70% of total used oil feeding."* Further, processing of used oil has also been defined by other allied act. Accordingly definition of recycling as per Hazardous Waste Management Act is as under: *"Recycling means reclamation and processing of hazardous or other wastes in an environmentally sound manner for the originally intended purpose or for other purpose".* Hon'ble CESTAT Judgement in case of Collector Vs Mineral Oil Corporation [1999(114) ELT 166] which has upheld by Hon'ble Supreme Court [2002(140) ELT 248(SC)], which describes that waste oil after processing becomes lubricating oil but this process would not amount to manufacture. Further, the CBIC has also issued Circular No. 1024/12/2016-CX dated 11.04.2016 in

		this regard that waste oil after processing may become lubricating oil but this process would not amount to manufacture. From the above, it appears that used oil re-refining is not a manufacturing process and lubricant oil manufactured by the appellant as their final product is result of two processes recycling of used oil to make base oil and then manufacturing of lubricant oil.
	Para [ii]:	As discussed in para (i).
	Para [iIi]:	As discussed in para (i).
	Para [iv]:	As discussed in para (i).
B	**B) Principles of Natural Justice:**	The contention of the appellant is not correct as the Show Cause Notice was issued by the Development Commissioner on 02.01.2023 based on the submission made by CRA audit objection. The adjudication of above Show Cause Notice was pending as comments was sought from the Ministry on the matter. The Ministry of Commerce & Industry, Department of Commerce, SEZ Section vide letter dated 10.07.2024 has stated that with regard to audit objections, both the units have asserted that they are manufacturing units and not recycling units as their activities use are different and the units have also requested to verify the same through physical inspection. Ministry has requested that to ascertain their activity, a physical inspection of both the units may be done and accordingly, appropriate action may be taken in respect to the audit objection. In compliance of the above directions, a Committee of 3 Officers of KASEZ was

		constituted by the development commissioner to visit both the units for physical verification and the Committee has visited both the units and recorded their observation with regard to procedure followed in both units. During visit of M/s. Hindustan Oil Industries, it was informed about manufacturing process of the company which are as under: *"we receive used oil and store in storage tank till 24 hours for settling process of water content, sediments. Thereafter we pump it from storage tank to dehydration vessel. After that we heat it through thermic fluid boiler at 165 degree centigrade to 200 degree centigrade and at that temperature we receive water content and fuel in our receiver approx. 5% to 7% quantity. Further, we pump through gear pump* ***dehydration vessel*** *to heal exchanger at 200 degree centigrade. After heat exchanger, material is pumped out to W.F.E at temperature 315 degree centigrade to 325 degree centigrade with high vaccum. During the process of cracking (****distillation****) we get base oil approx. 70% of total used oil feeding."* The Committee has also gone through Hon'ble CESTAT Judgement in case of Collector Vs Mineral Oil Corporation [1999(114) ELT 166] which was upheld by Hon'ble Supreme Court [2002(140)ELT 248(SC)], which describe that waste oil after processing become lubricating oil but this process would not amount to manufacture. Further, the CBIC has also issued Circular No. 1024/12/2016-CX dated. 11.04.2016 in this regard that waste oil after processing may become lubricating oil but this process would not amount to manufacture.

		Further, the Committee gone through procedure and definition described for processing of used oil/ waste Oil in Hazardous Waste Management Act and also as per norm of Central Pollution Control Board and Gujrat Pollution Control Board which describe it re-recycling of used oil/ waste oil. Thus, the Committee was of the view that recycling process or reclamation process is nothing but re-refining process and is not a manufacturing process. Thus, the Committee was of the view that recycling process or reclamation process is nothing but re-refining process and is not a manufacturing process.
C	**C) Non compliance of SEZ Provisions:**	The contention of the appellant is not tenable as the committee was constituted after letter was received from Ministry with direction to verify through physical inspection and ascertained their physical activity as raised by audit officer and accordingly appropriate action may be taken i.r.t the audit objection.
D		The contention of the appellant is not correct that decision taken by the approval committee is not as per provision of SEZ Act & Rules. In view of submissions made by the unit and whether the authorized activities of the unit falls under manufacturing activity or recycling activity cannot be ascertained as recycling is not defined under the SEZ Act/SEZ Rules and also in the Foreign Trade Policy, a reference was made to the Ministry of Commerce

		& Industry, Department of Commerce, SEZ Section for examination of the issue in consultation with Department of Legal Affairs, if required so that the Show Cause Notice issued by this office may be decided and also a uniform view may be taken whether such units may be allowed or not in the SEZ. In this regard, the Ministry of Commerce & Industry, Department of Commerce, SEZ Section vide letter dated 10.07.2024 has stated that with regard to audit objections, both the units have asserted that they are manufacturing units and not recycling units as their activities use are different and the units have also requested to verify the same through physical inspection. Ministry has requested that to ascertain their activity, a physical inspection of both the units may be done and accordingly, appropriate action may be taken in respect to the audit objection. Accordingly, a Committee of 3 Officers of KASEZ was constituted to visit the unit for physical verification. The Committee has visited the unit and recorded their observation with regard to procedure followed in the unit. Thus, the Approval Committee in its 207th meeting held on 28.10.2024 has taken decision to withdraw the permission as per Section 14(1)(f) of SEZ Act, 2005 after getting the report of Committee constituted for this purpose and has withdrawn the permission for used oil/waste oil from the list of raw materials which is a well deliberated decision. Copy of minutes of 207th UAC meeting held on 28.10.2024 is enclosed herewith for ready reference.
E	(E) The appellant submitted that the impugned decision of the UAC and the Corrigendum dated 19.11.2024 Issued by the Development Commissioner are even otherwise	The contention of the appellant is not correct that decision of the UAC are illegal, unauthorised and without jurisdiction, unreasonable, arbitrary and beyond the provisions of SEZ Act &

	illegal, unauthorized, without jurisdiction, unreasonable, arbitrary and beyond the provisions of the SEZ Act and the SEZ Rules.	Rules. In view of submissions made by the unit and whether the authorized activities of the unit falls under manufacturing activity or recycling activity cannot be ascertained as recycling is not defined under the SEZ Act/SEZ Rules and also in the Foreign Trade Policy, a reference was made to the Ministry of Commerce & Industry, Department of Commerce, SEZ Section for examination of the issue in consultation with Department of Legal Affairs, if required so that the Show Cause Notice issued by this office may be decided and also a uniform view may be taken whether such units may be allowed or not in the SEZ. In this regard, the Ministry of Commerce & Industry, Department of Commerce, SEZ Section vide letter dated 10.07.2024 has stated that with regard to audit objections, both the units have asserted that they are manufacturing units and not recycling units as their activities use are different and the units have also requested to verify the same through physical inspection. Ministry has requested that to ascertain their activity, a physical inspection of both the units may be done and accordingly, appropriate action may be taken in respect to the audit objection. Accordingly, a Committee of 3 Officers of KASEZ was constituted to visit the unit for physical verification. The Committee has visited the unit and recorded their observation with regard to procedure followed in the unit. Thus, the Approval Committee in its 207th meeting held on 28.10.2024 has taken decision to withdraw the permission based on the report of the Committee constituted for the purpose which is a well deliberated decision.

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