

No. K-43022/114/2024-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)


Vanijya Bhawan, New Delhi
Dated the 25th October, 2024

OFFICE MEMORANDUM

Subject: - 5th meeting (2024 Series) of the Board of Approval for Export Oriented Units and 124th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) scheduled to be held on 8th November, 2024 - Reg.

The undersigned is directed to refer to this Department's O.M. of even no. dated 17.10.2024 on the subject cited above and to inform that the 5th meeting (2024 Series) of the Board of Approval for Export Oriented Units and 124th meeting of the BoA for SEZs is scheduled to be held on 8th November, 2024 (tentatively) under the chairmanship of Commerce Secretary in hybrid mode.

2. The Agenda for the 124th 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 shortly in due course.



(Sumit Kumar Sachan)

Under Secretary to the Government of India

Tel: 2303 9829

Email: sumit.sachan@nic.in

To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107).
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. ShriSanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), UdyogBhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, ShastriBhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, KrishiBhawan, New Delhi.
8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)

9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, 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 (DIP), D/o Defence Production, Ministry of Defence, Sena Bhawan
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 UdyogBhawan), Sector -17, Chandigarh- 160017.
54. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
55. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneshwar – 751001 (Fax: 0671-536819/2406299).
56. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), VallabhBhavan, Bhopal (Fax: 0755-2559974)
57. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
58. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
59. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
60. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
61. Government of Chattishgarh, Commissioner-cum-Secretary Industries, Directorate of Industries, LIC Building Campus, 2nd Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

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

Agenda for the 124th meeting of the Board of Approval for Special Economic Zones (SEZs) to be held on 08th November, 2024

Agenda Item No. 124.1:

Ratification of the minutes of the 123rd meeting of the Board of Approval for Special Economic Zones (SEZs) held on 04th October, 2024.

The minutes of the 123rd meeting of the Board of Approval for Special Economic Zones (SEZs) held on 04th October, 2024 are placed at Annexure I.

Agenda Item No. 124.2

**Request for extension of validity of In-principle/Formal approval [3 proposals
– 124.2(i) and 124.2(iii)]**

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

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

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

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

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.

#124.2(i) Proposal of M/s. Dahej SEZ Limited for extension of “in-principle approval” granted for setting up of a Multi-Sector SEZ at Pakhajan, Tal. Vagra, Dist. Bharuch, Gujarat over an area of 650 Ha.

Jurisdictional SEZ – Dahej SEZ

Facts of the case:

LoA issued on (date)	: 03.11.2021 (In-principle approval)
Sector	: Multi-Sector SEZ
Area (in Hectares)	: 650 Ha
No. of Extensions	: 2 extensions granted
LoA valid upto (date)	: 02.11.2024
Request	: For further extension of one year up to 02.11.2025

M/s. Dahej SEZ Ltd. vide their letters dated 11.09.2024 & 20.09.2024 has requested for extension of “in-principle approval” of the proposed SEZ on the ground that 647.16 Ha of land has been acquired and remaining land acquisition is in process.

On the measures taken for implementation as on date, they have informed that: -

- a. The public hearing for Environmental Clearance (EC) was conducted on 26.07.2023. The Developer has obtained Environmental Clearance from Ministry of Environment, Forest, and Climate Change, GoI vide letter dated 14.11.2023.
- b. The Developer has already paid Rs. 500.00 Crore towards land to GIDC and other expenditure incurred around Rs. 66.00 Crore. Hence, Total investment of project is around Rs. 566.00 Crore as on 18.09.2024.
- c. Basic infrastructure works like Approach Road is in progress at site.

Recommendation by DC, Dahej SEZ:

In view of the above, the proposal has been duly recommended by DC, Dahej SEZ to BoA for its consideration.

#124.2(ii) Proposal of M/s. Venkatesh Coke & Power Ltd. for extension of the validity of Formal Approval granted for setting up an FTWZ at Athipattu, Nandiambakkam and Puludivakkam Villages, Ponneri, Thiruvallur District, Tamil Nadu over an area of 42.84 Ha.

Jurisdictional SEZ – MEPZ SEZ

Facts of the case:

LoA issued on (date) : 03.07.2017 (Formal approval)
Sector : FTWZ
Area (in Hectares) : 42.829 Ha (notified)
No. of Extensions : 2 extensions
LoA valid upto (date) : 02.10.2024
Request : For further extension of three years up to 02.10.2027

The Developer received “Formal Approval” dated 03.07.2017 for 46.71 Ha, however the FTWZ has not notified due to encumbrance of some land. The developer had requested for setting aside 3.87 Ha of land and notifying the remaining 42.84 Ha of land from the total area of 46.71 Ha. In the BOA meeting held on 29.10.2022, the request of the Developer was considered by the Board and after deliberation, the Board directed to set aside 3.87 Ha and notify 42.84 Ha of land. Subsequently, vide letters dated 01.02.2024 and 21.08.2024, Land ownership/Possession certificates over an area of 42.829 Ha have been provided and the FTWZ has been notified vide Gazette Notification vide No. S.O.3881(E) dated 09.09.2024 over an area of 42.829 Ha.

The Developer has stated that the Project Master Plan is ready, and MoU signed to start the Project work. The Project implementation work will commence immediately post notification of their FTWZ. Since the above said FTWZ has been notified on 09.09.2024, the developer has stated that having binding a MOU with one Multinational Company to carry out their International Trading Business, all the efforts will be taken in implementing the project with all initial infrastructure work. Since, it will take few more years to complete the physical infrastructure to make the FTWZ operational, the developer has requested for extension of the validity for further 3 years beyond 03.10.2024.

Recommendation by DC, MEPZ SEZ:

The request of the Developer for extension of validity of their FTWZ for an area of 42.84 Ha, situated at Athipattu, Nandiambakkam and Puludivakkam Villages, Ponneri Taluk, Thiruvallur District, Tamil Nadu for a further period of one year from 03.10.2024 to 02.10.2025 has been duly recommended by DC, MEPZ to BoA for its consideration.

#124.2(iii) Proposal of M/s. Nagaland Industrial Development Corporation Ltd. SEZ for further extension of the validity period of formal approval, granted for setting up of Agro & Food Processing Sector at IDC House, Opp. Super Market, Dimapur, Nagaland, beyond 02.12.2024.

Jurisdictional SEZ – Falta SEZ

Facts of the case:

LoA issued on (date) : 12.10.2007 (Formal approval)
Sector : Agro & Food Processing Sector
Area (in Hectares) : 50.70 Ha (notified)
No. of Extensions : 9 extensions
LoA valid upto (date) : 02.12.2024
Request : For further extension of one year up to 02.12.2025

Present Progress:

a. Details of business Plan: -

S. No	Type of cost	Proposed Investment (Rs. in Crore)
1.	Land Cost	Nil
2.	Construction Cost	35.00
	Total	35.00

b. Incremental investment since last extension: -

S. No.	Type of Cost	Total Investment made so far (Rs. in Crore) up to Sept. 2024	Incremental investment (Rs. In Crore) since last extension
1.	Land cost	Nil	Nil
2.	Material Procurement	Not Applicable	
3.	Construction	23.1108 Crore	Nil
	Total	23.1108 Crore	Nil

c. Details of physical progress till date: -

Sl. No.	Authorised activity	% completion	% completion during last one year	Deadline for completion of balance work
1.	Site Development for Industrial Plots	100%	--	--
2.	Boundary Walls	100%	--	--
3.	Administrative Block	100%	--	--
4.	Guest House	100%	--	--
5.	Electrification	90%	Nil	2024-25
6.	Internal Roads	100%	--	--
7.	Water Pipes	100%	--	--
8.	Water Treatment Plant	100%	--	--
9.	C.E.P.T.	In the pipeline	Nil	2024-25
10.	Cold Storage	In the pipeline	Nil	2024-25
11.	Residential Block	100%	--	--
12.	Factory Shed (3 Nos)	100%	--	--
13.	Standard Design Factory (02 Nos)	100%	--	--

Reason for seeking extension: The Developer has stated that although there are not many export-oriented units in the state, NIDC has been able to recognize M/s W J Décor (AeroBio), Indi Dent Pvt. Ltd, M/s Imchen Tea Products & Cold Mountain Organic Farmers Welfare Foundation. These units have been given earmarking letter and additional time is required for them to set up their units after availing LOA from the Falta SEZ.

Recommendation by DC, Falta SEZ:

O/o the FSEZ has received one new Unit Application from M/s Indi Dent Pvt. Ltd. with a proposed investment of Rs.5.1 Crores and employment of 10 Men and 100 Women. The application is under scrutiny.

In view of the significant progress of development work on ground by the developer to attract entrepreneurs to invest in the Zone, DC has recommended the extension of the formal approval of SEZ for a period of (01) year beyond 02-12-2024 i.e., up to (date) 02-12-2025 to BoA for its consideration.

Agenda Item No. 124.3

Request for extension of LoA of SEZ Unit [1 proposal – 124.3(i)]

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.*

#124.3(i) Proposal of M/s. Anthea Aromatics Private Limited, a Unit in Mangalore SEZ, Karnataka for extension of Letter of Approval beyond 30th October 2024.

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Facts of the case:

LoA issued (date)	: 31 st October, 2018
Nature of Business of the Unit	: Manufacture and export of Undecavertrole, Anethole, Boisamber, Cyclamenaldehyde, P-Hydroxy Bezaldehyde, Sylvial, Mesityl Oxide, Tonalid, Kephalis, Raspberry Ketone, Ethyl Safranate, Herbanate, Peonile, Karanal, Tops and Higher Boiling fractions of above products.
No. of Extensions	: 1 st extension (2 years) up to 30.10.2021 by DC, CSEZ and 3 extensions by BoA upto 30.10.2024
Request of the Unit	: Extension of validity of LoA for a further period of two years upto 30.10.2026 (5 th extension)

Progress of Project from the last LoA extension:

a. Production, employment generation and estimated investment in plant and machinery

Products proposed to be manufactured.	Employment proposed to be generated	Estimated Investment in plant and machinery
Undecavertrole, Anethole, Boisamber, Cyclamenaldehyde, P-Hydroxy Bezaldehyde, Sylvial, Mesityl Oxide, Tonalid, Kephalis, Raspberry Ketone, Ethyl Safranate, Herbanate, Peonile, Karanal, Tops and Higher Boiling fractions of above products.	150 Nos	201.00 crore

b. Investment: The Unit had already invested Rs.14.00 crore for acquiring 10 acres of land and they are planning to invest Rs.201.00 crore in the future.

- c. **Estimated Net Foreign Exchange Earnings:** The Unit has projected Rs.16,510 crore for exports with NFE to the tune of Rs.11,097crore during the first block of five-year period.

Reasons for delay in implementing the project:

- The unit applied for Environment Clearance from the State Environment Impact Assessment Agency, Govt. of Karnataka on 6th January 2017 and got the approval only on 3rd March 2021 followed by an amendment dated 22nd June 2021. On receipt of Environment Clearance, they submitted an application on 20th July 2021 to the Karnataka State Pollution Control Board (KSPCB) for consent for the construction of plant & building. The approval was obtained on 10th August 2023 (copy enclosed). Due to delay in receiving the consent they could not start the construction activities.
- The project has been delayed due to financial difficulties and business setbacks in the company. The company has entered into a shareholders' agreement on 17.06.2024 with India Resurgence Asset Management Business Private Limited (Investor), Mumbai regarding the proposal share purchase and investment in the company by the investor for acquiring controlling interest in the shareholding company. The change in the shareholding pattern was considered by the Unit Approval Committee in its meeting held on 22.07.2024 and granted in-principle approval. The proposed share purchase and investment is expected to be completed shortly. After getting investment, the construction of factory will be started and the first phase will be completed within 18 months.

Recommendation by DC, CSEZ:

M/s. Anthea Aromatics is a Unit in Mangalore SEZ, holding LoA dated 31st October 2018 and the validity of LoA is upto 30.10.2024. Delay in getting Environmental Clearance, consent from the State Pollution Control Board and financial crisis were the main reasons for the delay in implementing the project. The unit started to raise the funds through sale of shares and the funds expected to be received shortly. Considering these, the request of the unit for extension of the validity of LoA for a further period of one year from 31.10.2024 to 30.10.2025 (5th extension) is duly recommended to BoA for its consideration.

Agenda Item No. 124.4

Request for Co-developer status [2 proposals – 124.4(i) and 124.4(ii)]

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

#124.4(i) Proposal of M/s. Patanjali Ayurved Limited for Co-developer status in M/s. MIHAN SEZ at Plot No. 15,16 & 18, Sector – 12A, Nagpur.

Jurisdictional SEZ – MIHAN SEZ

Facts of the case:

1.	Name of the Developer & Location	M/s. Maharashtra Airport Development Company Ltd. Central Facility Building, S-Wing (North), 15 Floor, MIHAN-SEZ, Khapri (Rly), Nagpur- 441108
2.	Date of LoA to Developer	06.11.2006
3.	Sector of the SEZ	Multi-Sector
4.	Date of Notification	29.05.2007
5.	Total notified area (in Hectares)	1236.21 Hectares
6.	Whether the SEZ is operational or not	Operational
	(i) If operational, date of operationalization	01.12.2008
	(ii) No. of Units	Operational- 45, Under implementation- 9
	(iii). Total Exports & Imports for the last 5 years (FY 2019-20 to 2023-24)	Exports - Rs 15,764 Cr Merchandise-Rs 6,655 Cr Services- Rs 9,109 Cr Imports - Rs 5,587 Cr

	(iv). Total Employment In Nos.)	21,700 (Approx.)
7.	Name of the proposed Co-developer	M/s. Patanjali Ayurved Ltd.
8.	Details of Infrastructure facilities/ authorized operations to be undertaken by the co-developer	Construction of buildings, demarcation of plot for SEZ units for multi-products and Services industry with associated infrastructure as constructed, bare warm shell and warm shell with Plug & Play facilities, Internet & Wi-Fi facilities, Common Cafeteria, Common Garden, Power and its back-up facilities and maintenance thereof, Roads Networks, Water, Electricity, Security, fire and water protection system and other Authorized Operation as allowed under Instruction No. 50 dated 15.03.2010 issued by DoC.
9.!	Total area (in Hectares) on which activities will be performed by the co-developer	4,29,199.89 Sq. Mtr. (106.0576 Acres)
10.	Proposed investment by the Co-developer	Rs 150 Cr
11.	Net worth of the Co-developer as on 31.03.2023	Rs 7,061.83 Cr
12.	Date of the agreement with the Co-developer	02.01.2024

Recommendation by DC, MIHAN SEZ:

DC, MIHAN SEZ has duly recommended the proposal for its consideration by the BoA.

#124.4(ii) Proposal of M/s. Tranquillity Properties LLP, Ahmedabad for Co-developer status in GIFT Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. Gujarat International Finance Tec-city Limited.

Jurisdictional SEZ – GIFT SEZ

Facts of the case:

1.	Name of the Developer & Location	M/s. Gujarat International Finance Tec-City Limited (formerly 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. Tranquillity Properties LLP, Ahmedabad
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	To manage, upgrade, maintain already existing SEZ premises for unit admeasuring 8472.50 square meters (20 th to 24 th Floors) in 'Pragya Tower' Block-15-A in the processing area. (Note below may be seen)
9.	Total area (in Hectares) on which activities will be performed by the co-developer	8472.50 square meters.
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 50.00 crores (this projected investment has already been disbursed on behalf of the co-

		developer applicant viz. M/s. Tranquillity Properties LLP, with intent for co-developing and providing services to SEZ units).
11.	Net worth of the Co-developer (Rs. in Cr.)	Rs. 150.00 crores (including the individual net worth of each of the promoters/designated partners of the applicant firm viz. M/s. Tranquillity Properties LLP).
12.	Date of the Co-developer agreement	16.08.2024

Note: - DC has informed that the said commercial building viz. 'Pragya Tower' is already fully developed by an approved co-developer i.e., M/s. ATS Savvy Developers LLP, vide DoC's approval letter No. F.1/145/2007-SEZ, dated 05-12-2016. Further, the said premises is already leased out to an approved SEZ unit viz. M/s. BA Continuum Private Limited (back-office company for Bank of America). This aspect is also physically verified by a field visit on 28-02-2024 by the officers of the Office of the Development Commissioner, GIFT-multi-services-SEZ, Gandhinagar. The said application is accompanied by consent letter dated 27-12-2023 from the Developer (GIFT), provisional allocation of co-development and lease rights in the already constructed commercial building namely 'Pragya Tower' letter dated 19-02-2024 from the Co-developer i.e., M/s. ATS Savvy Developers LLP, GIFT-SEZ, Gandhinagar.

Recommendation by DC, GIFT SEZ:

DC, GIFT SEZ has recommended the proposal to the BoA for its consideration.

Agenda Item No. 124.5:

Request for conversion of processing area into non-processing area under Rule 11(B) [1 proposal – 124.5(i)]

Rule position:

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

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

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

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

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

(1) Notwithstanding anything contained in rules, 5,11,11A or any other rule, the Board of Approval, on request of a Developer of an Information Technology or Information Technology Enabled Services Special Economic Zones, may, permit demarcation of a portion of the built-up area of an Information Technology or Information Technology Enabled Services Special Economic Zone as a non-processing area of the Information Technology or Information Technology Enabled Services Special Economic Zone to be called a non-processing area.

(2) A Non-processing area may be used for setting up and operation of businesses engaged in Information Technology or Information Technology Enabled services, and at such terms and conditions as may be specified by the Board of Approval under sub-rule (1),

(3) A Non-processing area shall consist of complete floor and part of a floor shall not be demarcated as a non-processing area.

(4) There shall be appropriate access control mechanisms for Special Economic Zone Unit and businesses engaged in Information Technology or Information Technology Enabled Services in non-processing areas of Information Technology or Information Technology Enabled Services Special Economic Zones, to ensure adequate screening of movement of persons as well as goods in and out of their premises.

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

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

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

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

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

TABLE

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

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

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

(10) The businesses engaged in Information Technology or Information Technology Enabled Services Special Economic Zone in a non-processing area shall be subject to

provisions of all Central Acts and rules and orders made thereunder, as are applicable to any other entity operating in domestic tariff area.

- Consequent upon insertion of Rule 11 B in the SEZ Rules, 2006, Department of Commerce in consultation with Department of Revenue has issued Instruction No. 115 dated 09.04.2024 clarifying concerns/queries raised from stakeholders regarding Rule 11B.
- Further, as per the directions of the BoA in its 120th meeting held on 18.06.2024, there shall be a clear certification of Specified Office and the Development Commissioner that the Developer has refunded the duty as per the provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09th April, 2024 issued by DoC. Accordingly, DoC vide letter dated 27.06.2024 has issued one such Certificate to be provided by Specified Officer and Countersigned by Development Commissioner.
- Moreover, in the 122nd meeting of the BoA held on 30th August, 2024, the Board directed all DCs to ensure the implementation of the checklist (formulated by DoC and DoR) for all the cases including the past cases.

#124.5(i) Proposal of M/s. Divyasree NSL Infrastructure Pvt. Ltd. for Demarcation of Built-Up Area as Non-Processing Area of a notified IT/ITES SEZ.

Jurisdictional SEZ - Visakhapatnam SEZ (VSEZ)

Facts of the case:

1	Name & Address of the SEZ	M/s. Divyasree NSL Infrastructure Private Limited Raidurga Village, Serilingampally Mandal, Ranga Reddy District, Telangana.
2	Letter of Approval No. and Date	i. F.2/301/2006-EPZ dated August 22, 2006 and ii. F.2/301/2006-SEZ dated June 17, 2020 (Addition of Area)
3	Date of Notification	i. May 18, 2007 and ii. June 24, 2020 (Addition of Area)
4	Name of the Sector of SEZ for which approval has been given	IT/ITES
5	Total Notified Area of SEZ	11.88 Hectares
6	Total area of – i. Processing Area (ii) Non-Processing Area	11.88 Hectares Nil
7	Detail of Built-up Area: i. No. of towers with built-up area of each tower (in sq. mtr.) - BUA as per following table. ii. Total built up area -	9 Towers (Tower B1A, B1B, B2, B3, B4, B5, B6, B7 & B8) Developer Towers: 5 Towers (Tower B1A, B1B, B2, B5 & B8) Co-Developer Towers: 4 Towers (Tower B3, B4, B6 & B7) 7,89,818.10 Sq. Mtrs.
8	Total Built up area in sq mtrs	7,89,818.10 Sq. Mtrs.
9	Total number of floors in bldg. wherein demarcation of NPA is proposed:	Block-5 – 1st to 14 th Floor + Terrace + Ground Floor + Basement 1 + Basement 2 (East & West Wing)

10	Total number of floors proposed for demarcation of NPA for setting up of Non SEZ IT/ITES units. Block-5	S. No.	FLOORS	GROSS BUA (SQM)
		1.	Basement-1	14315.94
		2.	Basement-2	14315.94
		3.	Ground Floor	6650.45
			First Floor	6342.48
			Second Floor	6708.78
			Third Floor	6756.17
			Fourth Floor	6600.99
			Fifth Floor	6676.48
			Sixth Floor	6830.05
			Seventh Floor	6676.48
			Eighth Floor	6676.48
			Ninth Floor	6830.05
			Tenth Floor- East Wing	3250.91
		14.	Tenth Floor- West Wing	3425.57
			Eleventh Floor- East Wing	3259.27
		16.	Eleventh Floor- West Wing	3417.21
			Twelfth Floor-- East Wing	3115.51
		18.	Twelfth Floor-- West Wing	3485.48
		19.	Thirteenth Floor	6754.67
		20.	Fourteenth Floor	6600.99
		21.	Terrace Floor	739.22
			Total	129429.12 Sq. Mtrs.
11	Total built up area proposed for demarcation of NPA for setting up of Non-SEZ IT/ITES units	36,919.21 Sq Mtrs		
12	Total Built Up area already applied/approved for demarcation of NPA for setting up of Non SEZ	The Developer is demarcating 5 th Floor and 6 th Floor (East & West Wing), 10 th Floor, 11 th Floor and 12 th Floor (East Wing) of Block-5 as below:		

	IT/ITES Units in the IT/ITES SEZ	Floors	Net BUA (Sq Mtrs)
		5 th Floor (East Wing)	3250.90
		5 th Floor (West Wing)	3425.57
		6 th Floor (East Wing)	3327.70
		6 th Floor (West Wing)	3502.36
		10th Floor (East Wing)	3250.90
		11th Floor (East Wing)	3259.27
		12th Floor (East Wing)	3115.51
		Total	23,132.21
		Proposed NPA area for IT-ITES - 23,132.21 Sq. mtrs	
Basement 1 (East and West Wing) - 7136.54 Sq. Mtrs			
Ground Floor (East and West Wing) - 6650.45 Sq. Mtrs			
Total proposed NPA area towards common infrastructure is - 13,786.99 Sq. Mtrs			
In this regard, the Developer has refunded the duty/tax amount on common infrastructure/area for Basement/parking area			
Hence, the total NPA including common infrastructure/area is 36,919.21 sq mtrs			
13	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineers Certificate (in Rs. Crores)	Rs. 17.62 Crores	
14	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 dated 26.9.2024 from Specified Officer is enclosed (5 sheets)	
15	Reasons for demarcation of NPA	To give Non processing area on lease to Domestic units who does not wish to set up as SEZ Unit	

16	Total remaining built-up area	Balance Built Up Processing area after Demarcation: 92,509.91 sq. mtrs
17	Whether total remaining built-up area fulfils the minimum built up area requirement as per Rule 5 of SEZ Rules 2006	Yes, which is more than 50,000 sq mtrs
18	Purpose and usage of such demarcation of NPA	To give Non processing area on lease to Domestic units who does not wish to set up as SEZ Unit

- **Repayment of Tax benefits:**

The Developer have refunded an amount of Rs. **17,61,55,772/-** towards the exemption and benefits availed calculated as per principle under Rule 11B (5) (i) and 11B (5) (ii) and the clarification issued vide Instruction no. 115 dated 9th April 2006. They further undertake to pay, any additional amount, which would be found payable at a later date with respect to the current proposal for the demarcation of built-up area as Non-Processing Built up area.

- **Access Control Mechanism:**

They shall ensure adequate control of the movement of person and goods in SEZ units operating in the processing area and non-processing area. Further, they shall ensure and implement, any additional access Control measures, which may be suggested by the Development Commissioner-VSEZ.

- The Developer has conveyed that since the units would become operational in the NPA area and will not be eligible for any exemption and benefits as available and applicable to the SEZ units, all the document accompanying such goods shall be examined at the entry and exit level to ensure that all material pertaining to the units occupying the NPA area are without any exemption and benefits of taxes and duties which otherwise they would be available to an SEZ unit. They also assure that, if required, they would be open to discuss and implement any other suggestion to enhance the existing control measures.

The following supporting documents have been provided –

- i. Application in required Format
- ii. Built-up Area Statement of all the buildings in the Processing Area, being proposed for NPA demarcation, area already applied/ approved for NPA Demarcation and balance processing Built Up Area.
- iii. BUA statement for the building of which floor/s are being proposed for NPA demarcation

- iv. Copies of challans vide which total duty of Rs. **17,61,55,772/-** has been refunded.
- v. Chartered Engineer Certificate certifying the area proposed for demarcation as Non-Processing area.
- vi. Copy of the application submitted.
- vii. Undertaking for refund of any amount found payable at a later date.
- viii. No dues certificate w.r.t. partial demarcation of non-processing area obtained from Specified Officer.
- ix. Certificate in the prescribed format signed by Specified Officer and countersigned by DC, SEEPZ
- x. Checklist

Recommendation by DC, VSEZ:

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

Agenda Item No. 124.6:

Request for full/partial de-notification [7 proposals – 124.6(i) to 124.6(vii)]

Procedural guidelines on de-notification of SEZ:

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

#124.6(i) Proposal of M/s. Kerala State Information Technology Infrastructure Limited (KSITIL) for cancellation of LoA and de-notification of entire SEZ at Cheemeni Village, Hosdurg Taluk, Kasaragod District, Kerala.

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Facts of the case:

Name of Developer	:	M/s. Kerala State Information Technology Infrastructure Limited
Location	:	Cheemeni Village, Hosdurg Taluk, Kasaragod District, Kerala
LoA issued on (date)	:	19.09.2008 (Formal Approval)
Sector	:	IT/ITES
Operational or not operational	:	Non-operational
Notified Area (in Hectares)	:	40.4711 Ha.
Area proposed for de-notification (in Hectares)	:	40.4711 Ha.

The Developer has requested to de-notify the entire area of the SEZ. As regards reasons, the Developer has stated that due to lack of demand for SEZ space, their Board has decided to transfer the land to the Industries Department (KINFRA) for setting up an Industrial Park.

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

S. No.	Documents/Details Required	Status
(i)	Form-C6 for decrease in area along with DC's recommendation	Yes, provided
(ii)	DC certificate in prescribed format	Yes, provided
(vi)	"No Objection Certificate" from the State Government w.r.t. instructions issued by DoC vide its instruction No. D.12/45/2009 SEZ dated 13.09.2013 for partial de-notification shall be complied with	Yes, provided
(vii)	'No Dues Certificate' from specified officer	Yes, provided

The State Govt. of Kerala vide letter dated 05.10.2024 has conveyed their No-objection to the proposal stating that the land parcel after de-notification will conform to land use guidelines/master plans of the State Govt.

DC, CSEZ has certified that;

- a. There are no unit in the SEZ.
- b. The Developer had availed the following tax/duty benefits under the SEZ Act/Rules: -
An amount of ₹ 32,13,676/- towards tax/duty exemptions availed by the Developer on account of compound wall, foundation of IT building etc. have been refunded by the Developer to DC's satisfaction.

Reason for delay in submitting the application: - M/s. KSITIL was issued Letter of Approval on 19.09.2008 and the LoA was valid till 18.09.2017. The Developer has not submitted application for further extension of their LoA. Subsequently, as decided by the KSITIL Board, the Developer requested for full de-notification of the above SEZ. CSEZ vide letter dated 15th October 2018 requested the Developer to submit the required documents for referring the proposals to DoC and also informed the Specified Officer to issue the demand notice for refund of duty tax exemptions, if any availed by the Developer.

The Specified Officer vide letter dated 29.10.2018 had issued demand notice for ₹27,60,160/- with a request to remit the same for further process. Meanwhile, the Developer approached DoC for waiving off/exempt from refund of duty/tax exemption availed as demanded by the Specified Officer in public interest on the ground that the Developer being a public sector unit, which is fully owned by Govt. of Kerala. Since there is no provision in the SEZ Rules for exempting the Developer for refund of duty/tax exemption availed under SEZ Scheme, CSEZ vide letter dated 17th June 2019 informed that as per Rule 8 of SEZ Rules 2006, the Development Commissioner has to recommend the de-notification proposal on receipt of No Due Certificate from the Specified Officer and NoC from the State Government. Since the Developer did not remit the duty/tax exemptions availed and pending issuance of NoC from the State Government, the matter has been brought to the notice of the State Government authorities and meetings were also conducted. Now, the State Government initiated action and remitted the entire duty/tax exemptions availed by the Developer and obtained NoC from the State as well as No Due Certificate from the SEZ Customs. Pending receipt of No Due certificate from Specified Officer and NoC from the State Government, the proposal could not be referred to DoC.

Land utilization of the proposed 40.4711 Ha after de-notification: - The land will be transferred to KINFRA, Industries Department, Government of Kerala for setting up an Industrial Park.

The proposal of M/s. Kerala State Information Technology Infrastructure Limited, the Developer of KSITIL SEZ, Kasargod for de-notification of the entire notified SEZ area of 40.4711 Ha is forwarded for consideration of BoA, in terms of Rule 8 of SEZ Rules 2006.

Recommendation by DC, CSEZ:

- a. There is no unit in the Zone/ Units in the Zone have been de-bonded.
- b. An amount equivalent to the tax/duty exemption availed has been deposited to the Government Account.

The proposal has been duly recommended by DC, CSEZ to BoA for its consideration in terms of Rule 8 of the SEZ Rules, 2006.

#124.6(ii) Proposal of M/s. Kerala State Information Technology Infrastructure Limited (KSITIL) for cancellation of LoA and de-notification of entire SEZ at Eramam Village, Thaliparambu Taluk, Kannur District, Kerala State.

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Facts of the case:

Name of Developer : M/s. Kerala State Information Technology Infrastructure Limited
Location : Eramam Village, Thaliparambu Taluk, Kannur District, Kerala State.
LoA issued on (date) : 19.09.2008 (Formal Approval)
Sector : IT/ITES
Operational or not : Non-operational
operational
Notified Area (in : 10.375 Ha.
Hectares)
Area proposed for de- : 10.375 Ha.
notification (in Hectares)

The Developer has requested to de-notify the entire area of the SEZ. As regards reasons, the Developer has stated that due to lack of demand for SEZ space, their Board has decided to transfer the land to the Industries Department (KINFRA) for setting up an Industrial Park.

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

S. No.	Documents/Details Required	Status
(i)	Form-C6 for decrease in area along with DC's recommendation	Yes, provided
(ii)	DC certificate in prescribed format	Yes, provided
(vi)	"No Objection Certificate" from the State Government w.r.t. instructions issued by DoC vide its instruction No. D.12/45/2009-SEZ dated 13.09.2013 for partial de-notification shall be complied with	Yes, provided
(vii)	'No Dues Certificate' from specified officer	Yes, provided

The State Govt. of Kerala vide letter dated 05.10.2024 has conveyed their No-objection to the proposal stating that the land parcel after de-notification will conform to land use guidelines/master plans of the State Govt.

DC, CSEZ has certified that;

- a. There are no unit in the SEZ.
- b. The Developer had availed the following tax/duty benefits under the SEZ Act/Rules: -

An amount of ₹ 1,53,87,463/- towards tax/duty exemptions availed by the Developer on account of compound wall, foundation of IT building with steel structure etc. have been refunded by the Developer to DC's satisfaction.

Reason for delay in submitting the application: - M/s. KSITIL was issued Letter of Approval on 19.09.2008 and the LoA was valid till 18.09.2017. The Developer has not submitted application for further extension of their LoA. Subsequently, as decided by the KSITIL Board, the Developer requested for full de-notification of the above SEZ. CSEZ vide letter dated 15th October 2018 requested the Developer to submit the required documents for referring the proposals to DoC and also informed the Specified Officer to issue the demand notice for refund of duty tax exemptions, if any availed by the Developer.

The Specified Officer vide letter dated 29.10.2018 had issued demand notice for ₹43,29,216/- with a request to remit the same for further process. Meanwhile, the Developer approached DoC for waiving off/exempt from refund of duty/tax exemption availed as demanded by the Specified Officer in public interest on the ground that the Developer being a public sector unit, which is fully owned by Govt. of Kerala. Since there is no provision in the SEZ Rules for exempting the Developer for refund of duty/tax exemption availed under SEZ Scheme, CSEZ vide letter dated 17th June 2019 informed that as per Rule 8 of SEZ Rules 2006, the Development Commissioner has to recommend the de-notification proposal on receipt of No Due Certificate from the Specified Officer and NoC from the State Government. Since the Developer did not remit the duty/tax exemptions availed and pending issuance of NoC from the State Government, the matter has been brought to the notice of the State Government authorities and meetings were also conducted. Now, the State Government initiated action and remitted the entire duty/tax exemptions availed by the Developer and obtained NoC from the State as well as No Due Certificate from the SEZ Customs. Pending receipt of No Due certificate from Specified Officer and NoC from the State Government, the proposal could not be referred to DoC.

Land utilization of the proposed 10.375 Ha after de-notification: - The land will be transferred to KINFRA, Industries Department, Government of Kerala for setting up an Industrial Park.

Recommendation by DC, CSEZ:

- a. There is no unit in the Zone/ Units in the Zone have been de-bonded.
- b. An amount equivalent to the tax/duty exemption availed has been deposited to the Government Account.

The proposal has been duly recommended by DC, CSEZ to BoA for its consideration in terms of Rule 8 of the SEZ Rules, 2006.

#124.6(iii) Proposal of M/s. Arshiya Limited, for full de-notification of their FTWZ at Village Bori, Taluka and District Nagpur, Maharashtra.

Jurisdictional SEZ – SEEPZ SEZ

Facts of the case:

Name of Developer	:	M/s. Arshiya Limited
Location	:	Village Bori, Taluka and District Nagpur, Maharashtra
LoA issued on (date)	:	10.03.2010 (Formal Approval)
Sector	:	FTWZ
Operational or not operational	:	Non-operational
Notified Area (in Hectares)	:	46.874 Ha.
Area proposed for de-notification (in Hectares)	:	46.874 Ha.

The proposal of M/s. Arshiya Limited for full de-notification of their FTWZ was earlier placed before the Board in its 116th meeting held on 05.09.2023. DC, SEEPZ- SEZ requested the Board to withdraw the proposal in light of some new facts brought before them. Accordingly, the Board granted permission to withdraw the proposal. The Board further directed to examine the matter in detail and submit a report to the BoA.

DC, SEEPZ SEZ has now submitted the details as below: -

The reasons for full de-notification, the Developer has mentioned that following:

- i. Lack of clear guidelines for FTWZs by the Ministry of Commerce & Industry and Ministry of finance.
- ii. Withdrawal of MAT.
- iii. Withdrawal of Income Tax benefit 2014 under the DTC regime.
- iv. Non-Enactment of state SEZ Act by Govt. of Maharashtra.
- v. Global slowdown & recession.
- vi. Lack of external infrastructure.
- vii. Cost escalation of setting up world class FTWZ.

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

S. No.	Documents/Details Required	Status
(i)	Form C6 for decrease in area along with DC's	Yes, provided

	recommendation	
(ii)	DC certificate in prescribed format	Yes, provided
(vi)	"No Objection Certificate" from the State Government w.r.t. instructions issued by DoC vide its instruction No. D.12/45/2009-SEZ dated 13.09.2013 for partial de-notification shall be complied with	Yes, provided
(vii)	'No Dues Certificate' from specified officer	Yes, provided

The State Govt. of Maharashtra vide letter dated 28.08.2024 has recommended the proposal certifying that the parcel of land will conform to land use guidelines/mast plan of the State Govt.

DC, SEEPZ SEZ has certified that;

- a. There are no units in the proposed area for de notification of the SEZ.
- b. As per the State Govt. Letter No. SEZ-2022/CR-93/IND-2 dated 28.08.2014, the Developer has not availed the tax/duty benefits/concessions/ exemption in respect of proposed Notified area under the SEZ Acts & Rules made there under.

A Physical Inspection of the site was also conducted on 14.04.2023 by O/o the SEEPZ SEZ. With regard to the FTWZ, the following have been noted: -

1. There is no boundary wall erected to demarcate the FTWZ area.
2. The boundary has been partially demarcated by barbed wire along with RCC short pillars. However, the same is not continuous and is broken in certain areas.
3. No construction has been observed in the said area and the area is covered with vegetation.
4. An old temple is situated 600 ft. from main Road to the entrance site.

As regards land utilization of the 46.874 Ha after the proposed de-notification, the Developer has stated that the said land parcel would continue to be put to industrial use only and a Warehousing and Industrial Complex has been proposed to be set up at the location. Further, it is observed that physical possession of the said land parcel has been taken over by M/s. Adani Agri Logistics Ltd. and in this regard, vide letter dated 13.10.2023, they have requested M/s. Arshiya Ltd. to complete the de-notification process of their FTWZ.

Recommendation by DC, SEEPZ SEZ:

The proposal has been duly recommended by DC, SEEPZ to BoA for its consideration.

#124.6(iv) Proposal of M/s. Qubix Business Park Pvt. Ltd. for partial de-notification of 1.4787 Ha out of 10.1766 Ha of their IT/ITES SEZ at Rajiv Gandhi Infotech Park, Phase-I, Hinjewadi Pune, Maharashtra.

Jurisdictional SEZ – SEEPZ SEZ (SEEPZ)

Facts of the case:

Name of Developer : M/s. Qubix Business Park Pvt. Ltd.
Location : Rajiv Gandhi Infotech Park, Phase-I,
Hinjewadi Pune, Maharashtra
LoA issued on (date) : 23.08.2006 (Formal Approval)
Sector : IT/ITES
Operational or not : Operational with 69 units
operational
Notified Area (in : 10.1766 Ha.
Hectares)
Area proposed for de- : 1.4787 Ha.
notification (in Hectares)

The Developer has submitted proposal for partial de-notification of 1.4787 Ha out of 10.1766 Ha of their IT/ITES SEZ. As regards reasons, it is informed that the request for de-notification is being made as the demand for SEZ space have substantially decreased in the last few years and the sunset clause for availing of Income tax benefits has also lapsed. Therefore, the developer wishes to operate as a DTA without availing duty benefits and operate as industrial IT park for non-SEZ clients.

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

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

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

The State Govt. of Maharashtra vide letter dated 15.07.2024 has recommended the proposal stating they will ensure that, the de-notified parcels of land will be utilized toward creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged. The State Government also certified that the parcel of land will conform to land use guidelines/master plan of the State Government.

In compliance of DoC's Instruction No.102 regarding physical inspection and contiguity condition, an Inspection Report has been provided. As per the report, the site was inspected on 16.08.2024 by JDC, SEEPZ-Pune and Tahsildar, Paud, Mulshi. It is verified that upon partial de-notification of 1.4787 Ha, the remaining area of 8.6979 Ha will remain contiguous.

DC, SEEPZ SEZ has certified that;

- a. The Developer has availed the following tax/duty benefits under the SEZ Act/Rules:
 - i. The tax benefit availed of Rs. 7,26,02,910/- towards procurement of goods and services utilized for IT 1 Building.
 - ii. The developer has paid the duty amount of Rs. 6,15,14,547/- vide Challan No. QBPPL/De-notification/24-25/001 dated 12.04.2024 & Rs. 74,88,363/- vide TR-6 Challan No. QBPPUOE-NOTIFICATION/24/25/002 dated 27.09.2024 i.e., total duty amount of Rs. 7,26,02,910/-
All tax/duty benefit indicated above have been refunded by the developer to DC's satisfaction.
- b. The SEZ shall remain contiguous even after de-notification of the area of 1.4787 Ha. and shall meet the minimum land/built up area requirement prescribed for the IT/ITES sector which is 50,000 sq. mtr.

Recommendation by DC, SEEPZ SEZ:

As the Developer fulfil all the criteria, DC, SEEPZ SEZ has duly recommended the proposal to BoA for its consideration.

#124.6(v) Proposal of M/s. Vikas Telecom Private Limited for partial de-notification of 0.75 Ha out of 22.50 Ha of their IT/ITES SEZ at Vrindavan Tech Village SEZ, Bangalore.

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Facts of the case:

Name of Developer	: M/s. Vikas Telecom Private Limited
Location	: Devarabeesanahalli and Kariyammana Villages, Varthur Hobli, Bengaluru District, Karnataka
LoA issued on (date)	: 07.04.2006 (Formal Approval)
Sector	: IT/ITES
Operational or not operational	: Operational with 33 units
Notified Area (in Hectares)	: 22.50 Ha.
Area proposed for de-notification (in Hectares)	: 0.75 Ha.

M/s. Vikas Telecom Private Limited has request for partial de-notification of 0.75 Ha out of 22.50 Ha. As regards reasons, the developer has submitted the following: -

- The proposed land is lying vacant since long.
- Demand for SEZ space has substantially decreased in the last few years.
- Implementation of sunset clause for availing of Income Tax benefits.

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

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

The State Govt. of Karnataka vide letter dated 21.09.2024 has recommended the proposal informing that the partial de-notified land will be utilized towards creation of IT infrastructure (Non SEZ) which would sub-serve the objective of the SEZ and this land will conform to the land use/master plan of the State Govt.

In compliance of DoC's Instruction No.102 regarding physical inspection and contiguity condition, Physical Inspection of the site was conducted on 22.10.2024 by DC, CSEZ along with Tahsildar, Bangalore East Taluk, K.R. Puram. Further, DC has certified that the Developer has complied to the contiguity condition in terms of the said DoC's instruction.

DC, CSEZ has certified that;

- (a) There are no units in the SEZ land area proposed for de-notification.
- (b) The Developer has not availed any duty/tax exemptions under the SEZ Scheme for the land area proposed for de-notification.
- (c) The SEZ shall remain contiguous even after de-notification of the area of 0.75 Ha and is the net area of the SEZ after de-notification is 21.75 Ha. Further, remaining built-up area of the SEZ after the proposed de-notification will be 4,67,895 sq.mtrs. which meets the requirement of minimum built-up area of 50,000 sq.mtrs. for Category 'A' City.

Recommendation by DC, CSEZ:

- a. There is no unit in the Zone/ Units in the Zone have been de-bonded.
- b. No duty exemption has been availed by the Developer/ An amount equivalent to the tax/duty exemption availed has been deposited to the Government Account.

The proposal has been duly recommended by DC, CSEZ to BoA for its consideration in terms of Rule 8 of the SEZ Rules, 2006.

#124.6(vi) Proposal of M/s. Zydus Infrastructure Pvt. Ltd. for partial de-notification of 22.9187 Ha out of 114.7708 Ha of their Pharmaceutical SEZ at Matoda, Ahmedabad.

Jurisdictional SEZ – Kandla SEZ (KASEZ)

Facts of the case:

Name of Developer	:	M/s. Zydus Infrastructure Pvt. Ltd.
Location	:	Matoda, Ahmedabad, Gujarat
LoA issued on (date)	:	21.06.2006 (Formal Approval)
Sector	:	Pharmaceutical Sector
Operational or not operational:		Operational with 13 units
Notified Area (in Hectares)	:	114.7708 Ha.
Area proposed for de-notification (in Hectares)	:	22.9187 Ha.

The Developer has proposed for partial de-notification of 22.9187 Ha out of 114.7708 of their SEZ. As regards reasons, the Developer has stated that the purpose of this partial de-notification is that Zydus group of companies have intended to utilize these lands for establishment of a Medical Device Park majorly for domestic tariff area market and also for the reasons that the Developer is not receiving any query for setting up of units in their SEZ.

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

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

The State Govt. of Gujarat vide letter dated 09.08.2024 has conveyed their NoC to the proposal as per the DoC's letter dated 13.09.2013 and requested to process the partial de-notification proposal.

In compliance of DoC's Instruction No. 102 dated 18.11.2019 regarding contiguity condition and physical inspection, physical inspection was conducted on 19.09.2024 by DDC, KASEZ, Specified Officer of the SEZ along with Mamalatdar, Sanand and Representative of M/s. Zydus. It is noted that the contiguity of the remaining SEZ area is retained after consideration of the proposed decrease of 22.9187 Ha.

DC, KASEZ has certified as follows: -

- a. There is no unit in the proposed area for de-notification.
- b. The Developer has availed the following tax/duty benefits under the SEZ Act/Rules:

S. No.	Particular	Amount (In Rs.)
1.	Stamp Duty	41,19,333/-
2.	IGST	1,91,13,527/-

All tax/duty benefits indicated above have been refunded by the developer to DC's satisfaction.

- c. The SEZ shall remain contiguous even after de-notification of the area of 22.9187 Ha and shall meet the minimum land area requirement which is 50 Ha.

Recommendation by DC, KASEZ:

DC, KASEZ has duly recommended the proposal to BoA for its consideration.

#124.6(vii) Proposal of M/s. Gujarat Industrial Developer Corporation (GIDC) for partial de-notification of 15.652487 Ha out of 20.4149 Ha of their Apparel Park SEZ at Khokhra, Ahmedabad.

Jurisdictional SEZ – Kandla SEZ (KASEZ)

Facts of the case:

Name of Developer	:	M/s. Gujarat Industrial Developer Corporation
Location	:	Khokhra, Ahmedabad, Gujarat
LoA issued on (date)	:	10.04.2007 (Formal Approval)
Sector	:	Apparel Sector
Operational or not operational	:	Operational
Notified Area (in Hectares)	:	20.4149 Ha.
Area proposed for de-notification (in Hectares)	:	15.652487 Ha.

The Developer has proposed for partial de-notification of 15.652487 Ha out of 20.4149 Ha of their SEZ. As regards reason, it is informed that 12 allottees (industrialists) have requested for de-notification.

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

S. No.	Documents/Details Required	Status
(i)	Form-C5 for decrease in area along with DC's recommendation	Yes, provided
(ii)	DC certificate in prescribed format	Yes, provided However, the same is not in the prescribed format (Note below may be seen)
(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	Yes, provided

	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	Not provided (Note below may be seen)

Note: - In respect of DC's Certificate in prescribed format, the DC has stated that after receiving No-dues certificate from the Specified Officer in respect of the Unit's exit from the SEZ, the information in revised format can be sent by them.

As regards No-dues certificate from the Specified Officer, the DC has stated that the Specified Officer has reported that No-dues certificate is pending for want of details/NoC from the Developer/Units with regard to availed Central and State taxes, cess. Duties, fees, and any other levies duly certified by the Chartered Accountant along with payment particulars. It is to further convey that from the units who have given consent towards de-notification, lapse order had been issued to the following 3 units who also include in the interest of partial de-notification: -

- i. M/s. Mahavir Tex Fab, Plot No. 16
- ii. M/s. Kruti Garments, Plot No. 26
- iii. M/s. Krushana Casual Wear Pvt. Ltd, Plot No. 12

Against the lapse order, appeal has been preferred by M/s. Mahavir Tex Fab and M/s. Kruti Garments before the Appellate Committee, Ministry of Commerce and the matter is still pending. Further, against lapse order, M/s. Krushna Casual Wear Pvt. Ltd. has filed SCA No.21234 of 2022 before the Hon'ble High Court of Gujarat and the matter is still pending.

The State Govt. of Gujarat vide letter dated 16.01.2024 has conveyed their NoC to the proposal as per the DoC's letter dated 13.09.2013 and requested to process the partial de-notification proposal.

In compliance of DoC's Instruction No. 102 dated 18.11.2019 regarding contiguity condition and physical inspection, physical inspection was conducted on 11.09.2023 by Specified Officer; OSD SEZ Cluster, Ahmedabad; Representative of the State Revenue/ Land Authority and representative of the Developer. The following key observations have been made by DC, KASEZ: -

- a. After the proposed de-notification, the resultant area of SEZ of 04.762413 Ha will be contiguous.
- b. The proposed SEZ area after partial de-notification will not fulfill the minimum land area requirement (i.e., 20 Ha) in terms of Rule 5 of the SEZ Rules, 2005.

- c. The proposed action plan of the Developer after the proposed de-notification is as below: -
 - (i) For non-SEZ Area: The proposed de-notification area of 15.652487 Ha, is to attract more industries encouraging local manufacturing and promoting the Make in India scheme in the vacant area which will increase investment and also create direct employment of approx. 5000 Nos.
 - (ii) For SEZ Area: GIDC will continue Apparel Park SEZ in the remaining area of 04.762413 Ha.
- d. The Developer has submitted all documents required for partial de-notification except the No-dues certificate from the Specified Officer. Since the units are currently functioning in the SEZ, once the BoA give approval for partial de-notification of the SEZ, a No-dues certificate will be issued.

DC, KASEZ has certified as follows: -

- a. The units in the proposed de-notified area have given their consent to the developer for their exit.
- b. The Developer has stated that they have availed tax benefits and exemptions as per prevailing policies of GoI/GoG.
- c. The SEZ shall remain contiguous after de-notification of the part area of 15.652487 Ha and shall not meet the minimum land requirement prescribed for the 'Textiles and Article of Textiles' Sector which is 20 Ha in terms of Rule 5(3)(c) of the SEZ Rules, 2006.

Rule position: In terms of amended Annexure-II to Rule 5(3)(c) of the SEZ Rules, 2006, the minimum area requirement for 'Textiles and Article of Textiles' sector in Gujarat is 20 Ha.

Recommendation by DC, KASEZ:

DC, KASEZ has recommended the proposal with a request for waiver of minimum land area requirement condition.

Agenda Item No. 124.7

Appeal [3 cases – 124.7(i) to 124.7(iii)]

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.

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

Jurisdictional SEZ – Surat, SEZ

Brief facts of the Case: -

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

Grounds of Appeal: -

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

i. Incorrect Application of Retrospective Penalties and Vindictive Interest:

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

ii. Penalties During the COVID-19 Pandemic

The appellant highlights that penalties have been imposed for periods during which operations were severely impacted by the COVID-19 pandemic. The Development Commissioner appears to have disregarded the extraordinary difficulties faced by the unit from 2019 to 2021, during which the pandemic caused widespread disruption. The appellant

perceives these penalties as being applied vindictively, particularly in light of the various complaints they have filed through the Pradhan Mantri P G Portal.

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

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

iv. Inability to Pay the Penalty Due to Incorrect Instructions

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

v. Use of Unofficial Email Address for Official Correspondence

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

vi. Wrongful Disconnection of Electricity and Negligence by SEZ Developer

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

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

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

viii. Failure of SEZ Developer to Provide Basic Services

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

ix. Denial of Personal Hearing and Request for Video Conference

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

x. Delays in Filing Annual Performance Reports (APRs)

The appellant explains that delays in filing APRs were often due to delays from their CA office in finalizing audit reports, without which the APRs could not be submitted. The appellant, a small proprietorship with limited resources, faces challenges unlike multinational companies with extensive legal and accounting teams. Additionally, the appellant's frequent travel abroad for business development has contributed to delays in document signing, a problem alleviated by the recent introduction of digital signature

services. The appellant assures that these delays were neither habitual nor intentional and commits to timely compliance in the future.

xi. Legal Actions Against Illegal Chinese Competition in the EU

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

xii. Persecution by SEZ Developer and Development Commissioner

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

Comments from the DC, Surat SEZ: -

1. **Performance Evaluation and NFE Calculation:** The appellant has cited a 20-year performance record in their Appeal Form-J. However, as per Rule 53 of the SEZ Rules, 2006, the unit is required to achieve a Positive Net Foreign Exchange (NFE) cumulatively over a five-year Block Period. The performance should be assessed accordingly, not over an extended 20-year period as presented by the appellant.
2. **Guidance on Payment of Penalties:** Contrary to the appellant's claim, the office of the Development Commissioner, Surat SEZ, provided detailed guidance on how to pay the appeal penalty. On 03.07.2024, step-by-step instructions were communicated over the phone to Shri Sachin Deshmukh, the Authorized Person of M/s C. Tech Corporation. Additionally, an email containing the same step-by-step guidance for payment was sent to M/s C. Tech Corporation on 09.07.2024.
3. **Electricity Disconnection and Restoration:** Regarding the disconnection of electricity, DGVCL reported, in a letter dated 07.03.2019, that the LT connection at Plot No. 259, Unit No. 162, SEZ Sachin, under Consumer No. 12322/00362/0, was permanently disconnected on 31.03.2016 after the unit failed to resolve the issues causing the disconnection within the stipulated 180-day period. Subsequently, M/s C. Tech Corporation sought a new LT connection for the same plot during October-November 2017. However, DGVCL informed the appellant that a new connection

could only be granted once the outstanding dues of other units on the same plot were cleared. The appellant then represented their case to the Ministry of Power, Gujarat, and other authorities. The matter was discussed in a Lok-Adalat held on 10.02.2018, where DGDC agreed to clear the outstanding dues. Despite repeated notices from DGVCL on 15.02.2018, 23.02.2018, and 26.02.2018, the unit delayed submitting a fresh application for the connection. The unit eventually applied on 11.10.2018, and the new LT connection was released on 05.03.2019.

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

Relevant provision: - Section 16. Cancellation of letter of approval to entrepreneur. —

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

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

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

The above appeal was earlier placed before the Board in its 123rd meeting held on 04.10.2024. The Board heard the appellant and after deliberations directed DC, Surat SEZ to obtain the details of the business plan, export orders for the next six months and timeframe to start the manufacturing along with specific milestones and timelines for each such milestone. These details will be presented before the Board in the next meeting. Accordingly, the Board deferred the matter to the next meeting.

In pursuance of the above direction of the Board, DC, Surat has submitted the requisite details as follows: -

I. Business Plan Overview:

The appellant has submitted that their business plan for the next six months is centered on expanding the company's export operations by capitalizing on existing market demand while streamlining manufacturing processes. Key objectives include increasing export volumes, penetrating new international markets, and ensuring the timely fulfillment of export orders.

➤ **Market Expansion**

- Targeting high-growth international markets such as USA, Asia, and Australia to boost export volumes.
- During the period where they had no electricity and the pandemic they have gone with regulatory files in Australia, USA, New Zealand, Singapore etc.
- They have also registered their trademarks in USA, Australia, Singapore, New Zealand
- Strengthening relationships with existing clients and identifying new business opportunities in untapped regions.
- They have also tied up with several manufacturers in Europe & USA for co-branded agricultural products www.agrirepel.com who add their products in their end products and co-brand with them.

➤ **Product Line Diversification**

- Focusing on exporting high-demand products, tailored to meet the preferences and regulatory requirements of international markets.
- Introducing new product variations to cater to different market needs, increasing market share.

- Defense Industry in India like the Indian Army, Navy, DRDO & ARDE have approved their products, and they expect the same approval in NATO and US markets for landmine & fiber optic cable protection.
- They also have added consumer products to their B2B products, these products are already being purchased by Indian Navy and Railways and they hope to replicate the same abroad.

➤ **Streamlined Manufacturing Processes**

- Optimizing manufacturing efficiency to ensure a consistent and scalable supply of products to meet rising export demand.
- Implementing faster production turnaround times, ensuring all export orders are fulfilled within agreed timelines.

➤ **Competitive Advantage Through Legal Action**

- Leveraging the formal complaint to the European Commission regarding illegal Chinese goods being sold in the EU to foster fair competition.
- Expecting this to improve market conditions in Europe, benefiting their export operations and positioning them for growth in the European Union.

II. **Export Orders for the Next Six Months:** The appellant has submitted that they are targeting to achieve export sales between 10 to 50 lakhs over the next six months. This projection is based on the following:

- Ongoing discussions with potential clients in EU, USA, Australia, and Asia.
- Their enhanced export strategy focusing on product diversification and market penetration.
- Legal actions taken to address unfair competition, which they anticipate will improve their positioning in key markets such as the EU.
- Their new partner in the EU is expected to give orders in January 2025
- They are confident that with the current strategy in place, these targets are achievable, and they will be able to provide updates on confirmed orders in the near future.

III. **Manufacturing Start Timeline:** The appellant has submitted that they plan to begin manufacturing within the next five months, with necessary equipment repairs as part of the preparatory process. Below is the detailed timeline of key activities:

Milestone	Description	Month
1. Equipment Inspection	Detailed assessment of existing manufacturing equipment	November
2. Equipment Repair and Maintenance	Repair and upgrade of manufacturing equipment	November
3. Facility Preparation	Preparing manufacturing facility and infrastructure	November - December
4. Raw Material Procurement	Sourcing essential raw materials for production	December
5. Staffing and Training	Recruitment and training of key manufacturing staff	December – January
6. Trial Production	Initial trial runs to ensure equipment and process readiness	January – February
7. Full Production Start	Official start of full-scale manufacturing	February - March

Further, the appellant has submitted that the equipment repairs are scheduled to be completed by November, 2024, after which facility preparation and other activities will proceed as planned. Full-scale production is expected to begin by February, 2025.

Furthermore, as regards any specific export orders in hand for the next six months, the appellant has informed that they are confident of exporting in January 2025 as customer whom they have been selling have indicated an order of 1-2 MT in the month of January 2025 and orders of 4 MT in the period January 2025 to December 2025. Please note this is because customers in Europe and USA have their financial year from January to December.

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

#124.7(ii) Appeal filed by M/s. Margo Impex Private Limited against the decision of UAC, NSEZ meeting held on dated 04.04.2024.

#124.7(iii) Appeal filed by M/s. Srikaram Prescience Private Limited against the decision of UAC, NSEZ meeting held on dated 04.04.2024.

Jurisdictional SEZ – NOIDA SEZ (NSEZ)

Brief facts of the case: -

(i) M/s. Margo Impex Private Limited was issued LoA dated 10.10.2022 for setting up of a unit in the Arshiya Northern FTWZ Ltd. Free Trade and Warehousing Zone at Village Ibrahimpur, Junaidpururf Maujpur, Khurja Distt. Bulandshair (U.P.) to undertake 'warehousing Trading (with or without labeling), packing or re-packing (without any processing), Assembly of Completely Knocked Down or Semi Knocked Down kits for the items (as per list of 62 No. HS Codes & item description) except 'Restricted' & 'Prohibited' items. The unit executed Bond-Cum-Legal Undertaking which was accepted by the Competent Authority. The unit had commenced operations w.e.f. 17.12.2022, accordingly the LoA of the unit is valid upto 16.12.2027. The list of items under the LoA dated 10.10.2022 includes HS Code 0801 & 0802.

(ii). M/s. Srikaram Prescience Private Limited was issued LoA dated 08.06.2012 for setting up of a unit in the for setting up a unit in the Arshiya Northern FTWZ Ltd. Free Trade and Warehousing Zone at Village- Ibrahimpur, JunaidpururfMaujpur, Khurja Distt-Bulandshahr (U.P.) to undertake '*Trading, Warehousing, labelling, packing or re-packing with or without any processing as per owner's instructions (Foreign supplier or buyer / DTA supplier or buyer), Transport services & distribution services (excluding retail services), Assembly of CKD or SKD, cutting, polishing, blending, segregation, mixing, weighing, fumigation, quality control, safety control, testing and survey service*'. The unit has executed Bond-Cum-Legal Undertaking which has been accepted by the Competent Authority. The unit commenced operations w.e.f. 07.05.2015, accordingly the LoA of the unit is valid upto 18.01.2025.

The Unit Approval Committee, Noida SEZ in its meeting held on 04th January, 2024, decided that all LoAs of the existing units in FTWZ/SEZs having precious metals and related goods and other sensitive goods for warehousing/trading activities shall be amended to the following extent: -

- a. Trading/warehousing of all precious metals and related goods falling under Harmonised System (HS) Chapter 71, HS 2616 and HS 9608 shall be removed;

- b. **Goods under ITC HS Codes 080132, 080280, 0904, 9101, 9111, 91149030 shall be removed from LoAs of all such existing trading / warehousing units.**
- c. However, precious metals goods in stock of the unit at FTWZ/SEZ may be allowed to be re-exported by the unit. Goods other than precious metal which are in stock of the unit at FTWZ/SEZ and being excluded herewith may be allowed transaction as per existing policy condition of DGFT and/or any other Government agency.

Further, in case of warehousing units, each unit will exercise due diligence and shall ensure KYC in respect of its clients wherein copies of following documents shall be invariably ensured: -

- a. Copy of Business Agreement.
- b. Copy of Passport/ Valid ID of the promoter/director.
- c. Copy of Undertaking to the effect that the warehousing unit has verified the KYC, antecedents and financial standing of their clients.
- d. Copy of Bank Statement and financial credentials.

Consequently, the items under the above HS Code 0801 & 0802 were removed from the LoA of the Units and they were directed to ensure compliances as stated above. Aggrieved with the decision, both the Units had filed appeal before the BoA in terms of Rule 55 of the SEZ Rules, 2006. The appeals of the above Units were considered in the 119th meeting of the BoA held on 06.03.2024.

The Board heard the appellants and observed that there was vitiation of the proceedings in issuing Order and withdrawing the permissions by DC, NSEZ. The Board, after deliberations, agreed to the prayer of the appellants and remanded the appeals back to DC, NSEZ with direction to grant the Units an opportunity of being heard and thereafter, decide the case on merit.

In compliance of the above direction, the matter was placed before the UAC, NSEZ in its meeting held on 04.04.2024. The decision of the UAC is re-produced below: -

1. *The Committee observed that a personal hearing was given to these units by the Development Commissioner, NSEZ on 22.03.2024 and by the UAC on 04.04.2024.*
2. *On the issue of the power of the UAC to remove products from those in the LOA, the UAC examined Sections 14, 15 and 16 of the SEZ Act as well as Rules 18 and 19 of the SEZ Rules. It noted the arguments of the unit as well as the internal legal opinion. Some of the relevant aspects which were duly considered on the power of the UAC to amend a good in the LOA were Section 14(1)(c) on monitoring of the utilization of goods, Section 16 on cancellation of LOA and Rule 19(2) on change in the item of manufacture. A view was taken*

that cancellation of an LOA is a harsh measure and removal of some sensitive goods is a more trade facilitatory measure which allows the unit to function. Therefore, under the ambit of monitoring, it was felt that the UAC had the power to remove sensitive goods.

3. *Secondly, on the issue of sensitivity, the UAC noted the quality concerns, possibility of diversion during the long inland transport, lack of economic rationale in incurring such high freight cost, sensitivity of goods as manifested by investigation carried out by agencies, import value below which some goods are prohibited with attendant difficulty in valuation due to volatility in prices, possibility of trading in precious metals and their products and informal meeting in the Department of Commerce to discuss FTWZs based on concerns raised by Department of Revenue.*

4. *In the light of this, the UAC reiterated and upheld its decision of removing specific sensitive products from the LOA of the unit.*

The decision of the UAC was conveyed to the above Units vide O/o the NSEZ's letters dated 23.04.2024. Being aggrieved with the decision of the UAC, both the Unit filed the appeals before the BoA in terms of Rule 55.

Grounds of Appeal:

- i. That since the LoA permits the Appellant to undertake import/ export of all goods, except the ones classified as prohibited/ restricted under the ITC (HS) or under any other law and/or covered under SCOMET list, as per DGFT notifications/ public notice/ instructions issued from time-to-time, the **Impugned Order erringly removed the Impugned HSNs from the Company's LoA**. In this regard, it is pertinent to note that the Chapter-11 of the Foreign Trade Policy (2023) (hereinafter referred to as "FTP") defines 'restricted', 'prohibited' and 'free' under definition 11.48, 11.41, and 11.23, respectively. For the ease of reference, the definitions of such expressions are extracted hereunder:
 - i. 11.23. "**Free**" as appearing in context of import/export policy for items means goods which do not need any 'Authorization'/ License or permission for being imported into the country or exported out.
 - ii. 11.41 "**Prohibited**" indicates the import / export policy of an item, as appearing in ITC (HS) or elsewhere, whose import or export is not permitted.
 - iii. 11.48 "**Restricted**" is a term indicating the import or export policy of an item, which can be imported into the country or exported outside, only after obtaining an Authorization from the offices of DGFT.
- ii. That since the LoA permits the goods classified as 'restricted' under the FTPI Customs to be imported/ exported subject to the conditions prescribed to undertake import/ export of such goods, the Appellant's LoA with regard to the Impugned HSNs

- ought not to be cancelled, for the reason being that the **ITC(HS) policy conditions specify such goods either as free or restricted**. With respect to the goods classified as 'restricted' in terms of the ITC(HS), the Appellant duly complies with the conditions stipulated thereunder for undertaking import/ export of such goods, and the same founds due accord with the terms and conditions prescribed under the LoA.
- iii. That by virtue of condition no. (xxi) of the LoA, the LoA was granted to the Appellant for a period of five years effective from the date of commencement of service activities, and having cancelled the same with regard to the Impugned HSNs, including the Subject HSNs *sans* observing the mandatory provisions of the SEZ Act prescribed in that behalf makes the entire Impugned Order *non-est* in the eyes of law.
 - iv. That on a bare perusal of the aforesaid ITC(HS) Import policy condition in relation to the Chapter Sub-Heading 080280, it is quite easily discernible that though the goods falling under the said sub-heading is prohibited, however, import thereof is free in case the CIF value of such goods is INR 351/- or above per kg. As also, the said MIP for CIF is not applicable for the EOUs and the units in the SEZ, thereby indicating that the EOUs and units in SEZ can cause importation of goods falling under Chapter Sub-Heading 080280 below the specified MIP in terms of CIF, subject to the condition that no DTA sale shall be allowed thereof.
 - v. It is relevant to mention herein that the LoA itself mandates that no DTA sale shall be made for the goods falling under Chapter Heading 0802 and the Appellant has been complying with such requirement without any adverse observation by the concerned authority in this regard. Further, the Appellant, by way of abundant precaution and to doubly assure itself, does not provide its service to such client with regard to goods falling under Chapter Sub-Heading 080280 where MIP is less than INR 351/-.
 - vi. That in terms of the authorized operations permitted to the Appellant under its LoA, the Appellant undertakes activities of causation of importation/ re-exportation of goods on the sole and exclusive instructions of its concerned client, subject to the compliance that no infringement of the terms and conditions stipulated under the LoA is being committed while undertaking such activities on behalf of its clients.
 - vii. That it presents a perplexing scenario that how come goods classified as free/ not prohibited upon complying with specified conditions, if any, could be removed from the LoA without any substantial basis, especially when the provisions of Rule 45 of the SEZ Rules enable the concerned unit holder to even export prohibited goods with the prior approval of this Hon'ble Board, subject to the condition that such goods cannot be procured from the DTA for such exports.
 - viii. That the Appellant respectfully raises its solemn concern about picking, selecting and choosing specific goods under certain HSNs without any substantial basis and branding them as sensitive, as it could verily undermine the core objectives and purposes of the SEZ Act, and may severely impede the economic advantages being accrued to the Indian economy by such SEZs, which are strategically and specially

designed to support ease of doing business and contribute to the accumulation of a significant convertible foreign exchange reserve.

- ix. That it is quite surprising for the Appellant to come across the fact that the goods falling under the Subject HSNs could be regarded as sensitive when they are explicitly classified as '*free*' by the competent governmental authority having expertise in international trade, i.e., DGFT. Moreover, in case some of such HSNs are classified as prohibited, they are permitted to be freely imported/ exported subject to the conditions prescribed in that behalf under the ITC(HS) import/ export policy. To brand the goods falling under some of the Subject HSNs as sensitive without any material basis is nothing but illogical, illegitimate and unjustifiable. More so, when the primary authorities of regulating the activity of import/ export, i.e., Customs and DGFT, does not give them such a hue of sensitive.
- x. That on account of reasoning as to goods falling under Impugned HSNs to be sensitive, the Impugned Order merely records the reasons as (i) quality concerns; (ii) possibility of diversion; (iii) lack of economic rationale in incurring high freight cost; (iv) sensitivity of goods, import value below which some goods are prohibited with attendant difficulty in valuation due to volatility in prices; (v) possibility of trading in precious metals and their products; and (vi) informal meeting in the Department of Commerce to discuss FTWZs based on concerns raised by Department of Revenue. The said reasons are merely too cryptic, broad-based and amorphous to regard the goods falling under Impugned HSNs as sensitive.
- xi. That when the customs and DGFT do not regard the goods falling under the Subject HSNs to be sensitive, it is but unreasonable and arbitrary to use a cherry-pick approach under the garb of trade facilitatory measure. Moreover, such classification without any justification impinges on the fundamental right of the Appellant in terms of Article 14, Article 21 and Article 19(1)(g), for the reason being that DTA units not being subjected to the SEZ Act would be permitted to import/ export the goods falling under such HSNs should they comply with the conditions prescribed by the DGFT and customs in that regard, but the units based out in SEZ would not be able to deal in that, resulting in a benefit being accrued to the DTA units rather than SEZ units, thereby frustrating the entire object and purpose of the said enactment. Such discrimination of SEZ units vis-a-vis DTA units is unjustifiable and arbitrary without any intelligible differentia being present to create such classification between the two with respect to the Impugned HSNs, including Subject HSNs.
- xii. That assuming without admitting the goods falling under Impugned HSNs, including Subject HSNs, are sensitive, however, such should be made applicable for all the SEZs uniformly rather than for some of the SEZs only, as SEZ Act, being a central enactment, does not apply to a particular state, and sensitivity, if any, of goods under the Impugned HSNs, including Subject HSNs, is traced to its nature and character, rather than positioning of a SEZ unit in the geographical territory of India. That said, such discrimination of against the Appellant vis-a-vis other SEZ units across the

Indian territory falls foul of Article 14, Article 19 (1) (g) and Article 21 of the Indian Constitution as equals ought to be treated equally.

- xiii. That it is relevant to mention herein that the Impugned Order takes shelter of an informal meeting in the Department of Commerce to discuss FTWZs based on concerns raised by Department of Revenue, however, no basis has been provided in that regard in any manner whatsoever. Moreover, the meeting being informal and its discussion being not made public, its observations and recommendations, if any, cannot be applied summarily in so casual and cavalier a manner. Furthermore, it has been handed down by the Hon'ble Supreme Court of India that where a discretionary power or authority has been delegated to a specific authority, then it is incumbent upon such authority to exercise and discharge its duties by its own dictates of conscience in a reasonable and judicial manner rather than solely adhering to instructions from other authorities.
- xiv. That with respect to the power to cancel the Appellant's LoA with regard to the Impugned HSNs, the UAC via the Impugned Order traced its power to Section 14, Section 15, Section 16 of the SEZ Act and Rule 18 and Rule 19 of the SEZ Rules. It however portrayed the cancellation of Appellant's LoA as removal of goods and called such an action impugned in this present appeal as removal of goods in terms of trade facilitatory measure rather than cancellation of the Company's LoA, which is verily harsher than such trade facilitatory measure. As no specific power and authority vest in the UAC with respect to such part-cancellation of the Company's LoA, the UAC endeavored to read such power-cum-authority as an aspect of monitoring, as provided to the UAC under Section 14 (1) (c) of the SEZ Act.
- xv. That before putting its submission in respect of the monitoring involving such removal powers, may your kind attention be drawn to the fact that the SCN did not mention such provision as in the such SCN, the shelter of first proviso to Rule 19(2) was exclusively taken to cancel the Appellant's LoA *qua* the Impugned HSNs, including the Subject HSNs. That said, it clearly depicts that the Impugned Order travelled beyond the contours of such SCN, and hence, the Impugned Order, on this sole ground itself, deserves to be set aside, for the reason being that the Appellant has not been provided with any reasonable, not to mention reasonable, opportunity to put forth its case with respect to such provisions of which the UAC took shelter, to the Appellant's surprise, in the Impugned Order itself.
- xvi. That with respect to the power delegated and vested in the UAC under the provision of Section 14(1)(c) of the SEZ Act, it is hereby submitted that such monitoring power, being of functional and regulatory in nature, has been given to all the competent jurisdictional Approval Committees, and such being the case, the UAC could not exercise this power-cum-authority in a manner that sets it apart from all other SEZs' concerned competent Approval Committees. More so, such monitoring function could not impinge upon the fundamental rights of the Appellant unless the SEZ Act itself specifically provides so. Furthermore, under the pretext of monitoring, the UAC

could not have overpowered the ITC (HS) Policy for Import/ Export of the DGFT, as such authority rest exclusively with the DGFT, and by having cancelled the Appellant's LoA qua the Impugned HSNs, the UAC indirectly encroaches upon the regulatory territory of the DGFT as ITC (HS) Policy for Import/ Export specifically provides preferential treatment to the SEZ units.

- xvii. That the action of modification in terms of removal or cancellation of the Company's LoA could exclusively and solely be undertaken in terms of the provisions of Section 16 of the SEZ Act, and such stance is further bolstered by the fact that Section 14 does not empower the Approval Committee to modify, rescind or cancel a letter of approval once granted to an entrepreneur in terms of Section 15(9) read with Section 2(j) of the SEZ Act. Furthermore, the provision of Section 14, which lays down the powers and functions of the Approval Committee, does not find any mention of such power and authority to revoke, rescind, amend or cancel a letter of approval *suomoto*, except in accordance with the provision of Section 16 of the SEZ Act. It is the proposal as against a "letter of approval" which could be modified, rejected or approved by the Approval Committee in terms of Section 14 (1)(d) of the SEZ Act, and not the Appellant's LoA.
- xviii. That the provision of Rule 18 of the SEZ Rules elaboratively sets out the considerations to be taken into account by the concerned competent jurisdictional Approval Committee prior to granting a letter of approval to any prospective unit under the SEZ Act. That said, once a letter of approval stood granted, some rights and privileges stood accrued to the entrepreneur under the SEZ Act and the SEZ Rules made thereunder, though subject to certain terms and conditions and corresponding duties and reciprocative obligations. Such letter of approval cannot be equated with a policy incentive being given or granted to an eligible person which could be unilaterally modified, rescinded or revoked at the will and discretion as and when the government deems fit and proper to do so without any rational and justified reason, therefore.
- xix. That the provision of Section 16(1) of the SEZ Act empower the Approval Committee to cancel a letter of approval in case of commission of "*persistent contravention of any of the terms and conditions or obligations subject to which the letter of approval was granted to the entrepreneur*". However, in the present case no such contravention, not to mention the persistent ones, has ever been committed by the Appellant, which would have stimulated the UAC to cancel the Appellant's LoA against the Impugned HSNs, including the Subject HSNs.
- xx. That as the Appellant has been strictly and duly complying with the terms and conditions of the LoA, and hence the action took against it vide the Impugned Order should be held untenable. Moreover, the effect of such adverse action would perforce spiral into the positive NFE required to be maintained by the Appellant, failure whereof would invite the wrath of cancellation of the Appellant's LoA in entirety. It cannot be persisted and insisted upon the Appellant to meet the positive NFE and

- earn the requisite convertible forex even after having the Impugned HSNs, including the Subject HSNs, removed from its LoA as it is a matter of commercial call and trade that to which clients and *qua* which goods the Company would deal into.
- xxi. That having a rich professional network base of foreign clients dealing in goods having HSNs 080280, the Appellant endeavored to leverage on the opportunity put forth by the SEZ framework, which happened to have well aligned with the Appellant's clientele base, and now, on the plank of conjectures and surmises, the Appellant should not be desisted and proscribed from dealing in the goods having the Impugned HSNs, including the Subject HSNs. More so when the goods falling under such HSNs being freely and/or conditionally free available for import/export, though subject to the conditions specified by the DGFT and no contravention of any law for the time being in force being made by the Company.
- xxii. That as the services are being supplied by the Appellant to its clientele on a principal-to-principal basis and that too to the extent the authorized operations permit, subject to the terms and conditions prescribed in the LoA, the Appellant should not be vicariously held liable so as to pepper it with the punishment on the basis of some undisclosed intelligence, if any, received by the UAC regarding any suspicious legal wrong, if any, committed by its clientele, or some other person.
- xxiii. That though the SIIB conducted an investigation *qua* the Appellant, however, the Appellant stood cleared of the allegations fastened upon it by the SIIB, which further corroborates the fact that it undertakes its activities in due accordance with the law and terms and conditions of the LoA.
- xxiv. That without prejudice to the aforesaid submissions, since no material evidence or information or any incriminating material showing the presence of "persistent contraventions of the provisions of the SEZ Act" has been found against the Appellant, and hence, the action taken against the Appellant in the Impugned Order falls foul of the absence of requisites of the provision of Section 16 of the SEZ Act.
- xxv. That as the Appellant has never committed nor attempted to commit any breach of terms of conditions or the obligations fastened upon it under the LoA, the UAC ought not to have cancelled the LoA against the Impugned HSNs, including the Subject HSNs.
- xxvi. That majority of the client of the Appellant deals with goods categorized under HS 0802 and they are supposed to fulfill their contractual obligations and commercial commitments, be it with suppliers or customers of the Appellant's clients. Such contractual obligations and commercial commitments were taken up and entered into prior to such adverse action having had been taken against the Appellant. That such adverse measures and decisions would go a long way to cause disruption to its operations due to the removal of Impugned HSNs, including Subject HSNs, from its LoA, for it would not only jeopardize its commitments to its clients, but would also impede their ability to contribute to the overall economic activity within the SEZ by maintaining optimally-desired NFE in terms of the LoA and the SEZ Act.

- xxvii. That the Impugned Order remained sheer silence in respect of the goods-in-stock and the goods that were in transit prior to the communication of the said Order having the Subject HSNs as to whether the Appellant could dispose them in due accordance with the contractual obligations undertaken by it with its customers, as failing to discharge and honour thereof would bring disrepute, damages and losses to the Appellant.
- xxviii. That the Impugned Order squarely strikes at the fundamental rights of the Appellant as granted to it and enshrined under Article 14 read with Article 19(1)(g) of the Constitution of India, as it is arbitrary and travels beyond the gamut of reasonable restriction as designed and laid down as provisions legislated under the SEZ Act and the SEZ Rules made thereunder.
- xxix. That the Impugned Order falls foul of the Article 301 of the Constitution of India as the said Article allows the trade, commerce and intercourse throughout the territories of India as free, however, the Impugned Order saddled the Appellant with unreasonably burdensome directions which bears no relation either with the state exchequer or the interest, sovereign or otherwise of the India or its applicable laws for the time being in force.

PRAYER: -

- i. Set aside the decision taken by the UAC against the Appellant in its meeting held on April 04, 2024, *via* which the Appellant's LoA has been cancelled *qua* the Subject HSNs.
- ii. Quash the Impugned Order dated April 23, 2024 *in toto* and restore the Appellant's LoA, as it originally stood before the passing of corresponding decision taken by the UAC against the Appellant in its meeting held on April 04, 2024.
- iii. Allow the Appellant to file any additional document(s)/ ground(s)/ information or likewise, as and when the need arises, if any, at a subsequent date to the filing of this Appeal; and
- iv. Pass such other or further order(s) as your good self may deem fit and proper in the facts and circumstances of the case, and to secure the ends of justice.

Inputs received from DC, NSEZ: -

- Subsequent upon the direction of the BoA, Show Cause Notices dated 08.03.2024 to M/s. Margo Impex Pvt. Ltd. and 08.03.2024 to M/s. Srikaram Prescience Pvt. Ltd. were issued by O/o the NSEZ calling upon to **show cause as to why following decision are not be taken by the Unit Approval Committee** in its meeting held on 04.01.2024:
 - a. Trading/warehousing of all precious metals and related goods falling under Harmonised System (HS) Chapter 71, HS 2616 and HS 9608 shall be removed;
 - b. Goods under ITC HS Codes 080132, 080280, 0904, 9101, 9111. 91149030 shall be removed from LOAs of all such existing trading warehousing units.

- As per directions of the Board of Approval, both the Units were granted opportunity for **personal hearing on 22.03.2024 before the Development Commissioner**. The representatives of the units appeared before the Development Commissioner on the said date wherein the **representatives from the units stated that there were no enabling provisions taking Sections 14, 15 and 16 of SEZ Act and Rules 18 and 19(2) of the SEZ Rules which permitted the UAC to remove goods from an LOA**. For this the Act and Rules would need to be amended and made uniform across SEZs.
- A **legal opinion on the matter** was also sought by NSEZ wherein the following was provided:

'We have gone through the query along with Sections 14, 15, 16 of SEZ Act and Rules 18 and 19 of SEZ Rules.

In terms of Section 14 (1)(g), which reads:

"14. Powers and functions of Approval Committee

(1) Every Approval Committee may discharge the functions and exercise the powers in respect of the following matters, namely: -

- g. perform such other functions as may be entrusted to it by the Central Government or the State Government concerned, as the case may be.*

Further. Section 14(1)(c), which reads:

"14. Powers and functions of Approval Committee

- 1. Every Approval Committee may discharge the functions and exercise the powers in respect of the following matters, namely: -*

(c) monitor the utilisation of goods or services or warehousing or trading in the Special Economic Zone;"

Since, one of the duties in terms of discharging functions of the Approval Committee is to monitor the utilisation of goods trading in Special Economic Zone therefore if the approval committee is of the view or has a reason to believe that:

- Utilisation of goods*
- Trading at SEZ*

Could be misused and/ or has a reason to believe that there is a high possibility that the product could be easily diverted

Keeping the above in mind the Approval Committee can exercise its Powers and amend/restrict the list as has been mentioned in LOA of the Unit."

- In the light of this legal opinion, the matter was again placed before the Approval Committee in its meeting held on 04.04.2024. The said meeting was conducted in

Virtual mode and web-link of the meeting was sent to the unit with request to attend the meeting either in physical presence or through video conferencing. However, no one from M/s. Margo Impex Pvt. Ltd. was appeared before the Approval Committee. The representatives of M/s. Srikaram Prescience Pvt. Ltd. were appeared before the Approval Committee and explained the matter.

- The **UAC reiterated and upheld its decision of removing specific sensitive products from the LoA of the Unit.** The decision of the Approval Committee was conveyed to M/s. Margo Impex Pvt ltd. vide O/o the NSEZ's letter dated 23.04.2024.
- Further, recently NSEZ had received a letter No. DRI/NRU/CI-26/Int-o/Enq-19/2023/530 dated 26.04.2024 from Sh. Dinesh Singh, Additional Director General, Directorate of Revenue Intelligence (DRI), Lucknow Zonal addressed to Joint Secretary, SEZ DOC informing that **DRI, Noida has seized the goods declared as "Betel Nuts (08028090)-others" in 31 bills of entries having cumulative value of Rs. 133,21,77,876/ filed by M/s. Margo Impex Pvt. Ltd.** and goods declared as "Betel Nuts (08028090)others". Seizure Memo No. DRI/NRU/CI-26/Int-o/Enq-19/2023/539-557 dated 26.04.2024 has been issued in respect of M/s. Margo Impex Pvt. Ltd. by DRI, Noida for "Contravention of the Customs Act, 1962" with observation that "the sample does not meet the requirement of Betel Nut / areca nut and is not fit for human consumption as per FSSAI 2011 and IS:169:2018.
- Further, recently NSEZ had received a letter No. DRI/NRU/CI-26/Int-o/Enq-19/2023/530 dated 26.04.2024 from Sh. Dinesh Singh, Additional Director General, Directorate of Revenue Intelligence (DRI), Lucknow Zonal addressed to Joint Secretary, SEZ DOC informing that **DRI, Noida has seized the goods declared as "Betel Nuts (08028090)-others" in 2 bills of entries having cumulative value of Rs. 6,64,70,3891 filed by M/s. Srikaram Prescience private Limited.** Seizure Memo No. DRI/NRU/CI-26/Int-o/Enq-19/2023/531-538 dated 26.04.2024 has been issued in respect of M/s. Srikaram Prescience Private Limited by DRI Noida for "Contravention of the Customs Act, 1962" with observation that "the sample does not meet the requirement of Betel Nut / areca nut and is not fit for human consumption as per FSSAI 2011 and IS:169:2018.

Relevant provisions under the SEZ law: -

- **Section 14(1) regarding Powers and functions of Approval Committee:**
 - (1) *Every Approval Committee may discharge the functions and exercise the powers in respect of the following matters, namely:—*
 - (a) *approve the import or procurement of goods from the Domestic Tariff Area, in the Special Economic Zone for carrying on the authorised operations by a Developer;*

(b) approve the providing of services by a service provider, from outside India, or from the Domestic Tariff Area, for carrying on the authorised operations by the Developer, in the Special Economic Zone;

(c) monitor the utilisation of goods or services or warehousing or trading in the Special Economic Zone;

(d) approve, modify or reject proposals for setting up Units for manufacturing or rendering services or warehousing or trading in the Special Economic Zone other than the grant of licence under clause (e) of sub-section (2) of section 9 in accordance with the provisions of sub-section (8) of section 15:

Provided that where the approval committee is unable to decide whether a particular process constitutes manufacture or not, it shall refer the same to the Board of Approval for decision;

(e) allow, on receipt of approval under clause (c) of sub-section (2) of section 9, foreign collaborations and foreign direct investments (including investments by a person outside India) for setting up a Unit;

(f) monitor and supervise compliance of conditions subject to which the letter of approval or permission, if any, has been granted to the Developer or entrepreneur; and

(g) perform such other functions as may be entrusted to it by the Central Government or the State Government concerned, as the case may be.

- **Section 16(1) regarding 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.

- **Rule 18(5) regarding FTWZ Unit:**

(5) The Units in Free Trade and Warehousing Zones or Units in Free Trade and Warehousing Zone set up in other Special Economic Zone, shall be allowed to hold the goods on account of the foreign supplier for dispatches as per the owner's instructions and shall be allowed for trading with or without labelling, packing or re-packing without any processing:

- **Rule 19 regarding Letter of Approval of Unit:**

(2) The Letter of Approval shall specify the items of manufacture along with the corresponding Indian Trade Classification (Harmonised System) of Export and Import Items, 2017 or particulars or service activity, including trading or warehousing, projected annual export and Net Foreign Exchange Earning for the next first five years of operations, limitations, if any on Domestic Tariff Area sale of finished goods, by-projects and re-exports and other terms and conditions, if any, stipulated by the Board or Approval Committee:

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

The appeals were re-placed before the Board in its 120th meeting held on 18.06.2024. The Board heard the representatives of both the Units and observed that the matter requires to be examined holistically. Further, the Board was of the view that for further examination of the matter, documents/details of the above Units in regard to their imports & exports, business model, DTA transfer etc. are required. Accordingly, the Board, after deliberations, deferred both the appeals and directed DC to seek these documents/details from the appellants.

In pursuance of the above direction of the Board, vide DoC's letters dated 10.07.2024, both the appellants were requested to submit the requisite documents/details for further consideration of the matter. In this regard, both the appellants, M/s. Margo Impex Private Limited and M/s. Srikaram Prescience Private Limited, have made their submissions as follows: -

Documents/details sought by the BoA/ DoC	Submissions by M/s. Margo Impex Private Limited	Submissions by M/s. Srikaram Prescience Private Limited
(i). Business Model	Both the appellants have stated that their companies provide warehousing services and services incidental thereto in the FTWZ Unit to their clients in respect of the imported/ to-be export goods of such clients, and in that regard, the Companies stood lawfully permitted by the LoAs, which explicitly authorizes the FTWZ Units to undertake authorized operations in terms of the SEZ Act read with SEZ Rules made thereunder, subject to the terms and conditions prescribed under such LoA.	

<p>Amongst other terms and conditions set out in the LoAs, the Companies as the FTWZ Units stood permitted to undertake the following: -</p> <p>Undertake authorized operations in terms of SEZ Act read with SEZ Rules made thereunder further read with Instruction No. 49 dated March 12, 2010; Import items classified under HS Code 0801, 0802 and 0804, provided no DTA sale of such items will be made, and such imports shall be done exclusively for 100% export only.</p>	<p>Amongst other terms and conditions set out in the LoA, the Company as the FTWZ Unit stood permitted to undertake the following: -</p> <ol style="list-style-type: none"> i. Import or procure from the DTA all the items required for authorized operations under the LoA, except those prohibited under the ITC (HS) Classifications of Export and Import items; ii. Sell services in the DTA in terms of the provisions of the SEZ Act, 2005 and the SEZ Rules and orders made thereunder.
<p>Pursuant to such LoAs, the Companies in the course of their commercial business activities recently inter-alia supplied warehousing services in the FTWZ Units to their clients in respect of item falling under HS Code 0802. In this regard, it is worthwhile to mention herein that all the while ownership to such items dwells exclusively with the concerned clients, as the Companies merely rendered services to them that comes in the gamut of authorized operations to them as FTWZ Units, and that too in due accordance with the laws for the time being in force applicable to the Company as FTWZ Units.</p>	
<p>Though, the ITC (HS) Policy classified items falling under HS Code 0802 as prohibited, however, the same is free subject to the prescribed Minimum Import Price. Moreover, it explicitly sets out that such MIP condition does not extrapolate to EOUs and units in the SEZ, subject to the condition that no DTA sale is allowed thereof. Despite the Companies being governed by</p>	

	<p>the exemption provided to the SEZ units from the MIP condition, the Companies still ensure that such items are being imported at prescribed MIP. Further, such items have not been cleared in DTA and the Companies have complied with the conditions of the LoAs that imports of such items shall be done exclusively for 100% export only.</p>	
	<p>Moreover, given the nature of services provided by the Companies as FTWZ Units, the Companies have been provided with requisite information and particulars from their clients on whose behalf and instructions, which is limited to the extent such information and particulars are necessary for the Companies to file, furnish and complete necessary documentations to ensure the compliance with the legal mandates and regulatory prescriptions as a FTWZ Unit permitted to operate and undertake business activities in the SEZ in due accordance with the SEZ Act read with the SEZ Rules made thereunder.</p>	
(ii). Imports/Exports	<p>The appellant has provided the information/details of the import/export transactions at Annexure II.</p>	<p>The appellant has provided the information/details of the import/export transactions at Annexure II.</p>
(iii). DTA transfer	<p>With respect to the transaction of DTA transfers, both the appellants have submitted that the Companies did not clear any items falling under HS Code 0802 in DTA. More so, when the ITC (HS) also prohibits the DTA clearance of such items falling under HS Code 0802.</p>	

Additional information in the matter: -

Department of Commerce had constituted a committee under the chairmanship of the then DC, GIFT SEZ to review the operational framework of FTWZs and warehousing units. The report submitted by the Committee has been examined in detail by the Department and vide **DoC's Instruction No. 117 dated 24.09.2024**, Guidelines for Operational Framework of FTWZ and Warehousing units in SEZ were issued to all the DCs. As per these guidelines, *DCs shall keep a strict watch on the high-risk commodities such as areca nuts, betel nut,*

black pepper, dates etc. and may consider restricting dealing in such sensitive commodities by FTWZ units and warehousing units. Moreover, the list may further be regularly reviewed by the Unit Approval Committee based on the risk perceptions of the various commodities. DC/UAC may take appropriate action on a case-to-case basis to define a minimum area for the warehousing unit so as to enable the clients to keep their goods in the warehousing for longer period and clear the goods as and when needed, i.e. for the purpose for which it was set up rather than providing scope for abusing the facility for malpractices.

The appeals are being placed again before the Board for their consideration.
