

No. K-43022/69/2023-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Vaniya Bhawan, New Delhi
Dated the 23rd August, 2023

OFFICE MEMORANDUM

Subject: 4th Meeting (2023 Series) of Board of Approval (BoA) for EOUs and 116th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) - regarding.

The undersigned is directed to refer to this Department's O.M. of even number dated 17th August, 2023 on the subject cited above and to inform that the 4th Meeting (2023 Series) of Board of Approval (BoA) for EOUs and 116th meeting of the BoA for SEZs which was earlier scheduled to be held on 2nd September, 2023 at Pune, Maharashtra **is postponed until further direction** and is **likely to be held vert shortly**.

2. The **agenda for the 116th meeting of the BoA for SEZs** is enclosed herewith.
3. The Schedule, Venue and meeting link of the aforesaid meeting will be shared shortly.

(Sumit Kumar Sachan)

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To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107).
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Shri Anil Agarwal, Additional Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi

7. Joint Secretary, Ministry of Agriculture, Plant Protection, Krishi Bhawan, New Delhi.
8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)
9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).
11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi – 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyapuri, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi – 110 001 (Fax: 223329770)
22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat

33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai – 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, Atladra Padra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam – 3
36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Government of Andhra Pradesh, Principal Secretary and CIP, Industries and Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).
42. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.
43. Government of Karnataka, Principal Secretary, Commerce and Industry Department, Vikas Saudha, Bangalore – 560001. (Fax: 080-22259870)
44. Government of Maharashtra, Principal Secretary (Industries), Energy and Labour Department, Mumbai – 400 032.
45. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
46. Government of West Bengal, Principal Secretary, (Commerce and Industry), IP Branch (4th Floor), SEZ Section, 4, Abanindranath Tagore Sarani (Camac Street) Kolkata – 700 016
47. Government of Tamil Nadu, Principal Secretary (Industries), Fort St. George, Chennai – 600009 (Fax: 044-25370822).
48. Government of Kerala, Principal Secretary (Industries), Government Secretariat, Trivandrum – 695001 (Fax: 0471-2333017).
49. Government of Haryana, Financial Commissioner and Principal Secretary, Department of Industries, Haryana Civil Secretariat, Chandigarh (Fax: 0172-2740526).
50. Government of Rajasthan, Principal Secretary (Industries), Secretariat Campus, Bhagwan Das Road, Jaipur – 302005 (0141-2227788).
51. Government of Uttar Pradesh, Principal Secretary, (Industries), Lal Bahadur Shastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
52. Government of Punjab, Principal Secretary Department of Industry & Commerce Udyog Bhawan), Sector -17, Chandigarh- 160017.
53. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
54. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneshwar – 751001 (Fax: 0671-536819/2406299).
55. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry),

Vallabh Bhavan, Bhopal (Fax: 0755-2559974)

56. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
57. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
58. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
59. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
60. 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 (VB)/ PPS to Dir (SNS).

Agenda for the 116th meeting of the Board of Approval for Special Economic Zones

116.1: Ratification of the minutes of the 115th meeting of the Board of Approval held on 17th June, 2023.

116.2: Request for extension of LoA of Unit (two proposals)

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 (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.

116.2(i) Request of M/s. Jaypee Capital Services IFSC Pvt. Ltd. in the GIFT-SEZ for extension of Letter of Approval (LoA) for a period of six months i.e., up to September 30, 2023.

LoA issued on (date)	:	June 9, 2020
Nature of business of the unit	:	Financial Services unit (as Capital Market Intermediary in accordance with regulations issues by SEBI
No. of extensions granted	:	2 (Two) - 1 st extension up to June 8, 2022 and 2 nd extension up to March 31, 2023, by DC, GIFT-SEZ
LoA Valid up to (date)	:	March 31, 2023
Request	:	For further extension for six months, up to (date) September 30, 2023

Present Progress:

a. Details of Business plan:

Sl. No.	Type of Cost	Proposed investment (Rs. In crores)	Total investment made so far. (Rs. In crores)
1.	Software, office equipment, servers, computers, office furniture etc.	1	-
2.	Working Capital for business use and running expenses	14.00	0.14
Total		15.00	0.14

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

Sl. No.	Type of Cost	Total investment made so far (In Rs.)	Incremental Investment since last extension (in Rs.)
1.	Incorporation expenses and rent and consultancy fees.	3,42,000.00	-
2.	Fees/stamp duty of increase in Authorized Capital	10,62,000.00	10,62,000.00
Total		14,04,000.00	10,62,000.00

c. Details of physical progress till date:

Sl. No.	Activity	% Completion	% Completion during last one year	Deadline for completion of balance work
1.	USD and INR Bank Account opened	100	100	-
2.	NOC from SEBI	100	100	-
3.	Filled application for NOC from IFSCA	100	100	-
4.	NOC from exchanges (NSE/BSE/MCX)	100	100	-
5.	Applied for membership to NSE/IFSC	100	100	-

Detailed reasons for delay:

1. Their main aim was to relocate their SGX-NIFTY business from Singapore to India (On average, their turnover at the SGX-NIFTY in Singapore accounts for 10% of the total turnover of the exchange), which has already shifted to India and became operational w.e.f. July 3, 2023. Before that, they did not find enough liquidity and viable products to trade in the GIFT-SEZ.
2. There was a fatal accident involving the company's main promoter/founder. He had several fractures, was hospitalized in New Delhi, and underwent surgery. Subsequently, the situation became more critical, and doctors advised graft (transplant) of muscles and blood vessels. The situation in Delhi was out of control, so he was transferred to Mount Elizabeth Hospital in Singapore. He has undergone six surgeries in Singapore, including a graft (transplant) of muscles and blood vessels in the last four months. They made every effort to commence operations in IFSC GIFT. However, regrettably, a tragic accident involving the Founder/Promoter had occurred which resulted in delay. They have attached the doctor's prescription from Singapore, which recommends and advises further consultation in the USA/UK.

Recommendation by DC, GIFT SEZ:

Since SGX Nifty has become operational w.e.f. July 3, 2023, and the unit is ready to commence the business. Therefore, it is recommended to extend the validity of the Letter of Approval (LoA) for a period of six months, upto September 30, 2023.

116.2(ii) Request of M/s GAIL Mangalore Petrochemicals Limited (erstwhile M/s JBF Petrochemicals Limited), for extension of validity of Letter of Approval (LoA) for a period of two years i.e., upto 15.09.2025.

LoA issued : 16th September, 2011
 Nature of Business of the Unit : Manufacture and export of Purified Terephthalic Acid' (PTA) and 'Polyethylene Terephthate (PET)
 No. of extensions granted : 10 extensions (upto 15.09.2023)
 Request : Extension of validity of LoA for a further period of two years upto 15.09.2025 (11th extension)

Progress of project from last LoA extension:-

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

Sl.No.	Description	Current status	
		% of work completed	% of work yet to complete
1	Engineering	100	NIL
2	Procurement	99.9	0.1
3	Construction	98.7	1.3
4	Overall	99.6	0.4

It is observed that the status of completion of work is the same as during the last application.

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

M/s JBF Petrochemicals Limited has made an investment of Rs. 6680 crores for setting up of the Unit. The details are as under:-

Sl. No.	Description	Investment made upto 15.09.2021 (Rs. in crore)	Incremental investment since last extension (Rs. in crore)	Total Investment made so far (Rs. in crore)
1	Salaries & Wages	83.69	NIL	83.69
2	Staff Welfare Expenses	1.08		1.08
3	Other Expenses			
	Tangible Fixed Assets (including material and Civil work)	3529.83		3529.83
	Intangible Fixed Assets (Software Licence)	1.30		1.30
	Technology, Licence & Construction related fees	545.05		545.05
	Legal & Professional fees and Guarantee Commission	293.22		293.22
	Miscellaneous expenses (Power, Diesel, Admin Expenses, Tent, Travelling & Conveyance etc.)	450.77		450.77

Borrowing Cost (interest)	1466.90		1466.90
Foreign Exch. Fluctuation	148.02		148.02
Fixed Assets	160.14		160.14
Total	6680.00	NIL	6680.00

Some achievements

	Sl. No.	Package	Target Completion
ISBL	1	ISBL-PTA Unit Mechanical Completion	Mechanical work completed
	2	Commissioning trials	Commissioning trials of individual systems completed
OSBL	1	Nitrogen PSA	Commissioned
	2	FW System	Commissioned
	3	6 Nos. of bagging machine	Ready for trial
	4	Cooling Water systems	Commissioned
	5	Insulation & Painting	Completed

Details of completion of work

Sl.No.	Package	Status
1	Solo run of process air compressor	Completed
2	Commissioning of oxidation system	Completed
3	Commissioning of vent gas system	Completed
4	Commissioning PTA feed & Filtration system	Completed
5	Commissioning of bagging system	Completed
6	Final commissioning i.e. PX cut-in	Yet to start

Reason for delay in implementation of the project:

- Due to financial issues and at present, the Company is under proceedings in NCLT for bankruptcy.
- The NCLT while admitting the Insolvency Resolution process appointed Mr. Sundaresh Bhat as Interim Resolution Professional (IRP) vide Order dated 01.02.2022.
- The consortium of bankers led by IDBI Bank had declared the Unit as NPA and initiated the Insolvency proceedings under Section 7 of Insolvency and Bankruptcy Code (IBC) 2016 and filed application before the NCLT. As per Section 14 of IBC 2016, the Hon'ble NCLT declared a moratorium till completion of CIRP process, subject to prohibition of the following:-
 - a. the institution of suits or continuation of pending suits of proceedings against corporate debtor including execution of any judgement, decree or order in any court of Law, tribunal, arbitration panel or other authority;
 - b. transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - c. any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement Security Interest Act 2002 (54 of 2002);

- d. the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

The Hon'ble NCLT vide Order No. IA/899(AHM) 2022 dated 13.03.2023 in CP(IB) 232 of 2018 allowed the application of M/s. GAIL (India) Limited and approved the Resolution Plan for an amount of Rs. 2101,00,00,000/-. Subsequently, M/s. JBF Petrochemicals Limited has been renamed to M/s. GAIL Mangalore Petrochemicals Limited (GMPL) and they propose to invest an amount of Rs. 2082 crores within 2 years, as part of their revival plan.

Reasons for seeking extension:-

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

Recommendation by DC, CSEZ:-

Considering the investment made by the unit and that the unit has been taken over by M/s GAIL Mangalore Petrochemicals Limited for revival, the request for extension of the validity of LoA dated 16.09.2011 of M/s GAIL Mangalore Petrochemicals Limited (erstwhile M/s JBF Petrochemicals Limited), for a further period of two years from 16.09.2023 to 15.09.2025 (11th extension) is recommended for the consideration of the BoA.

116.3: Request for Co-developer status (Six proposals)

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.

116.3(i) Request of M/s. Tec City Bullion Refinery Limited for approval as Co-Developer within the processing Area in GIFT-Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. GIFT SEZ Limited.

1.	Name of the Developer & Location	M/s. GIFT SEZ Limited, Gandhinagar, Gujarat.
2.	Date of LoA to Developer	07-01-2008
3.	Sector of the SEZ	Multi services SEZ

4.	Date of Notification	18-08-2011, as amended on 06-07-2023
5.	Total notified area (in Hectares)	105.4386 hectares
6.	Whether the SEZ is operational or not	21-04-2012
	(i) If operational, date of operationalization	SEZ operational
	(ii) No. of Units	Functional – 211 units Under implementation – 306 units
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 16048.38 Imports – 559.61
	(iv) Total Employment (In Nos.)	4637
7.	Name of the proposed Co-developer	M/s. Tec City Bullion Refinery Limited, Mumbai
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Development of commercial building for precious metal refinery, conference room & common infrastructure; offices – 2 units on each floor & common infrastructure (from 2 nd Floor to 12 th Floor)
9.	Total area (in Hectares) on which activities will be performed by the co-developer	Land area of 11,334.12 square meters with built-up area of 15,487.87 square meters
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 73.37 crores
11.	Net worth of the Co-developer (Rs. in Cr.)	Rs. 94.22 crores
12.	Date of the Co-developer agreement	20-03-2023

Recommendation by DC, GIFT SEZ: -

In view of the increase in economic activities like Bullion Exchange, and other related verticals at GIFT-SEZ, Gandhinagar, DC, GIFT SEZ has recommended the proposal of M/s. Tec City Bullion Refinery Limited, Mumbai as a Co-Developer, for development of commercial building- precious metal refinery over land area of 11,334.12 square meters (1,22,000 square feet) with built-up area of 15,487.87 square meters (1,66,710 square feet).

116.3(ii) Request of M/s. Access Healthcare Services Pvt. Ltd. for approval of Co-developer status in M/s. ELCOT SEZ at Vilankurichi, Coimbatore, Tamil Nadu.

1.	Name of the Developer & Location	ELCOT SEZ –Vilankurichi, Coimbatore
2.	Date of LoA to Developer	16-06-2006
3.	Sector of the SEZ	IT/ITES

4.	Date of Notification	11.04.2007
5.	Total notified area (in Hectares)	22.49 Ha.
6.	Whether the SEZ is operational or not	Operational
	(i). If operational, date of operationalization	30-07-2011
	(ii). No. of Units	83
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Export -7224.6 Cr. Import – 40.83 Cr.
	(iv). Total Employment (In Nos.)	19732 Nos.
7.	Name of the proposed Co-developer	M/s. Access Healthcare Services Pvt. Ltd.
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	IT Services
9.	Total area (in Hectares) on which activities will be performed by the co-developer	0.8094 Ha (2 Acre)
10.	Proposed investment by the Co-developer (Rs. in Cr.)	129.77 Cr.
11.	Net worth of the Co-developer (Rs. in Cr.)	263.37 Cr
12.	Date of the Co-developer agreement	09.08.2023

Recommendation by DC, MEPZ SEZ:-

DC, MEPZ SEZ has recommended the proposal.

116.3(iii) Request of M/s. Sreeka Builders Pvt. Ltd. for Co-Developer status in M/s. Phoenix Tech Zone Pvt. Ltd. SEZ, Sy. No. 115/35 at Nanakramguda Village, Serilingampally Mandal, Telangana.

1.	Name of the Developer & Location	M/s. Phoenix Tech Zone Pvt. Ltd.
2.	Date of LoA to Developer	17.2.2017
3.	Sector of the SEZ	IT/ITES
4.	Date of Notification	17.3.2017
5.	Total notified area (in Hectares)	2.02
6.	Whether the SEZ is operational or not	Yes
	(i). If operational, date of operationalization	28.2.2020
	(ii). No. of Units	4

	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports from 2019-20 to 2022-23 – Rs. 2312.38 Crores Imports from 2019-20 to 2022-23 – Rs. 331.98 Crores
	(iv). Total Employment (In Nos.)	Employment from 2019-20 to 2022-23 – 3353 Nos.
7.	Name of the proposed Co-developer	M/s. Sreeka Builders Pvt. Ltd
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Upgrade, operate, lease and maintain the authorized operations
9.	Total area (in Hectares) on which activities will be performed by the co-developer	46,669 sq. ft. in 3rd Floor in Tower-B of the SEZ
10.	Proposed investment by the Co-developer (Rs. in Cr.)	41.50
11.	Net worth of the Co-developer (Rs. in Cr.)	100% subsidiary of M/s. Phoenix Tech Zone Pvt. Ltd.
12.	Date of the Co-developer agreement	06.03.2023

Recommendation by DC, VSEZ:-

DC, VSEZ has recommended the proposal.

116.3(iv) Request of M/s Sreeka Infra Pvt. Ltd. for Co-Developer status in M/s. Phoenix Tech Zone Pvt. Ltd SEZ, Sy. No. 115/35 at Nanakramguda Village, Serilingampally Mandal, Telangana.

1.	Name of the Developer & Location	M/s. Phoenix Tech Zone Pvt. Ltd.
2.	Date of LoA to Developer	17.2.2017
3.	Sector of the SEZ	IT/ITES
4.	Date of Notification	17.3.2017
5.	Total notified area (in Hectares)	2.02
6.	Whether the SEZ is operational or not	Yes
	(i). If operational, date of operationalization	28.2.2020
	(ii). No. of Units	4
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports from 2019-20 to 2022-23 – Rs. 2312.38 Crores

		Imports from 2019-20 to 2022-23 – Rs. 331.98 Crores
	(iv). Total Employment (In Nos.)	Employment from 2019-20 to 2022-23 – 3353 Nos
7.	Name of the proposed Co-developer	M/s. Sreeka Infra Pvt. Ltd
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Upgrade, operate, lease and maintain the authorized operations
9.	Total area (in Hectares) on which activities will be performed by the co-developer	46,669 sq. ft. in 4th Floor in Tower-B of the SEZ
10.	Proposed investment by the Co-developer (Rs. in Cr.)	41.50
11.	Net worth of the Co-developer (Rs. in Cr.)	100% subsidiary of M/s. Phoenix Tech Zone Pvt. Ltd
12.	Date of the Co-developer agreement	06.03.2023

Recommendation by DC, VSEZ:

DC, VSEZ has recommended the proposal.

116.3(v) Request of M/s Evermark SEZ Developers Pvt. Ltd. for Co-Developer status in M/s. Phoenix Tech Zone Pvt. Ltd SEZ, Sy. No. 115/35 at Nanakramguda Village, Serilingampally Mandal, Telangana.

1.	Name of the Developer & Location	M/s. Phoenix Tech Zone Pvt. Ltd.
2.	Date of LoA to Developer	17.2.2017
3.	Sector of the SEZ	IT/ITES
4.	Date of Notification	17.3.2017
5.	Total notified area (in Hectares)	2.032
6.	Whether the SEZ is operational or not	Yes
	(i). If operational, date of operationalization	28.2.2020
	(ii). No. of Units	4
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports from 2019-20 to 2022-23 – Rs. 2312.38 Crores Imports from 2019-20 to 2022-23 – Rs. 331.98 Crores
	(iv). Total Employment (In Nos.)	Employment from 2019-20 to 2022-23 – 3353 Nos
7.	Name of the proposed Co-developer	M/s. Evermark SEZ Developers Pvt. Ltd.
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Upgrade, operate, lease and maintain the authorized operations

9.	Total area (in Hectares) on which activities will be performed by the co-developer	46,669 sq. ft. in 5 th Floor in Tower-B of the SEZ
10.	Proposed investment by the Co-developer (Rs. in Cr.)	41.50
11.	Net worth of the Co-developer (Rs. in Cr.)	100% subsidiary of M/s. Phoenix Tech Zone Pvt. Ltd.
12.	Date of the Co-developer agreement	06.03.2023

Recommendation by DC, VSEZ:

DC, VSEZ has recommended the proposal.

116.3(vi) Request of M/s Evermark Spaces Pvt. Ltd. for Co-Developer status in M/s. Phoenix Tech Zone Pvt. Ltd SEZ, Sy. No. 115/35 at Nanakramguda Village, Serilingampally Mandal, Telangana.

1.	Name of the Developer & Location	M/s. Phoenix Tech Zone Pvt. Ltd
2.	Date of LoA to Developer	17.2.2017
3.	Sector of the SEZ	IT/ITES
4.	Date of Notification	17.3.2017
5.	Total notified area (in Hectares)	2.032
6.	Whether the SEZ is operational or not	Yes
	(i). If operational, date of operationalization	28.2.2020
	(ii). No. of Units	4
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports from 2019-20 to 2022-23 – Rs. 2312.38 Crores Imports from 2019-20 to 2022-23 – Rs. 331.98 Crores
	(iv). Total Employment (In Nos.)	Employment from 2019-20 to 2022-23 – 3353 Nos
7.	Name of the proposed Co-developer	M/s. Evermark Spaces Pvt. Ltd
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Upgrade, operate, lease and maintain the authorized operations
9.	Total area (in Hectares) on which activities will be performed by the co-developer	34,743 sq. ft. in 6 th Floor in Tower-B of the SEZ
10.	Proposed investment by the Co-developer (Rs. in Cr.)	30.50
11.	Net worth of the Co-developer (Rs. in Cr.)	100% subsidiary of M/s. Phoenix Tech Zone Pvt. Ltd
12.	Date of the Co-developer agreement	06.03.2023

Recommendation by DC, VSEZ:

DC, VSEZ has recommended the proposal.

The above four proposals [item no. 116.3(iii) to 116.3(vi)] were earlier placed before the 115th meeting of the BoA held on 17th June, 2023. The Board, after deliberations, deferred these proposals with direction to DC, VSEZ to re-examine the proposal in greater detail including aspects such as business model, capital employed, equity holding, net worth of co-developer, actual status of the company and its parent company, etc.

In pursuance of the above direction of the BoA, DC, VSEZ has informed that M/s. Phoenix Tech Zone Pvt. Ltd., IT/ITES SEZ at Sy. No. 115/35, Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana has become operational w.e.f. 28.02.2020. At present, 5 units are working in the SEZ with an employment of 3353 people and export of Rs. 1274 crores effected for the year 2022-23. The total built up area is 1.80 million sqft. They have a net worth of Rs. 195 crores.

The Developer has filed application for co-developer status for four of their 100% subsidiary companies namely a) M/s. Sreeka Builders Pvt. Ltd., b) Sreeka Infra Pvt. Ltd., c) M/s. Evermark SEZ Developers Pvt. Ltd. and d) M/s. Evermark Spaces Pvt. Ltd. The proposed Co-developers will operate, upgrade, maintain and lease the space to the SEZ units. The Developer has the option of leasing the space to their own SPVs and further transfer the shares of the co-developer company to potential investors (with a condition to continue in SEZ) to generate revenue.

The proposed capital employed is either at the time of incorporation or to be raised through different sources like financial institutions and by way of advance of the lease rentals.

The above proposals are covered under Section 3(11) of the SEZ Act, 2005. The Developer has submitted all the requisite documents (viz. Certificate of Incorporation, Memorandum of Association, Capital Structure, List of Shareholders, Share Certificate and List of Directors) for the Co-developer status of their four SPVs.

In view of above, DC, VSEZ has stated that the proposals for Co-developer status to the above companies which are 100% subsidiaries of the Developer may be considered.

116.4: Request for addition area by Co-developer (two proposals)

116.4(i) Request of M/s. Ozone Vishwanath Developer, a Co-developer in GIFT-Multi-Services-SEZ, Gandhinagar for amendment in area by addition of space in Co-Developer Approval for development of incubation structure in processing Area in GIFT-Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. GIFT SEZ Limited.

1.	Name of the Developer & Location	M/s. GIFT SEZ Limited, Gandhinagar, Gujarat.
2.	Date of LoA to Developer	07-01-2008
3.	Sector of the SEZ	Multi-services-SEZ

4.	Date of Notification	18-08-2011, as amended on 06-07-2023
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	Functional – 232 units Under implementation – 302 units
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 26291.62 Imports - 783.17
	(iv) Total Employment (In Nos.)	4792
7.	Name of the proposed Co-developer	M/s. Ozone Vishwanath Developers, GIFT-Multi-Services-SEZ, Gandhinagar
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Develop and operate SEZ building for units in Block 14 in the Processing Area of GIFT SEZ.
9.	Total area (in Hectares) on which activities will be performed by the co-developer	Addition in area of 369 square meters appurtenant land below grade level beyond the basement extent to maximize parking efficiency, with increase 682.12 square meters of built-up on Plot No. 14, Block No. 14.
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 100.00 crores
11.	Net worth of the Co-developer (Rs. in Cr.)	R. 215.00 crores
12.	Date of the Co-developer agreement	03-07-2023

Recommendation by DC, GIFT SEZ: -

In view of the increase in economic activity and other developments at GIFT-SEZ, Gandhinagar, DC, GIFT SEZ has recommended the proposal of M/s. Ozone Vishwanath Developers, Co-Developer, GIFT-multi-services-SEZ, Gandhinagar, for Addition in area of 369 square meters appurtenant land below grade level beyond the basement extent to maximize parking efficiency, with increase 682.12 square meters of built-up on Plot No. 14, Block No. 14 in the Processing Area of GIFT SEZ.

116.4(ii) Request of M/s. Bhandari & Sangath Builders LLP, a Co-developer in GIFT-Multi-Services-SEZ, Gandhinagar for amendment in area by addition of space in Co-Developer Approval of Residential Building in the dual use non-processing Area in GIFT-Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. GIFT SEZ Limited.

1.	Name of the Developer & Location	M/s. GIFT SEZ Limited, Gandhinagar, Gujarat.
2.	Date of LoA to Developer	07-01-2008
3.	Sector of the SEZ	Multi-services-SEZ
4.	Date of Notification	18-08-2011
5.	Total notified area (in Hectares)	105.4386 Hectares
6.	Whether the SEZ is operational or not	SEZ operational
	(i) If operational, date of operationalization	21-04-2012
	(ii) No. of Units	Functional – 232 units Under implementation – 302 units
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 26291.62 Imports - 783.17
	(iv) Total Employment (In Nos.)	4792
7.	Name of the proposed Co-developer	M/s. Bhandari & Sangath Builders LLP, GIFT-Multi-Services-SEZ, Gandhinagar
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Development of residential building at Plot No. 16C, Block 16 in the Non-Processing Area (dual use) of GIFT SEZ.
9.	Total area (in Hectares) on which activities will be performed by the co-developer	Addition of 97,728.54 square feet area at Plot No. 16C, Block 16 in the Non-Processing Area (dual use) of GIFT SEZ.
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 175.00 crores
11.	Net worth of the Co-developer (Rs. in Cr.)	Rs. 239.00 crores
12.	Date of the Co-developer agreement	29-05-2023

Recommendation by DC, GIFT SEZ:-

In view of the increase in economic activity and other developments at GIFT-SEZ, Gandhinagar, DC, GIFT SEZ has recommended the proposal of M/s. Bhandari & Sangath Builders LLP, Co-Developer, GIFT-multi-services-SEZ, Gandhinagar, for addition/increase of 97,728.54 square feet area at Plot No. 16C, Block 16 in the Non-Processing Area (dual use) of GIFT SEZ.

116.5: Request for full de-notification of SEZ/FTWZ (one proposal)

Relevant provisions: 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.

Further, in the 60th meeting of the Board of Approval held on 08.11.2013, the Board after deliberations specified the following conditions for partial/full de-notification of SEZs: -

- a. The State Govt. has no objection to the de-notification proposal and
- b. Subject to stipulations communicated vide DoC's letter No. D.12/45/2009-SEZ dated 13.09.2013 that;
 - o the Developer has either not availed or has refunded all the tax/duty benefits availed under SEZ Act/Rules in respect of the area to be de-notified.
 - o there are either no units in the SEZ or the same have been de-bonded.
- c. DC to furnish a certificate in the prescribed format certifying inter-alia that;

116.5(i) Request of M/s. Arshiya Limited for full de-notification of 46.874 Ha of their FTWZ at Village Bori, Taluka and District Nagpur, Maharashtra.

Brief background of the SEZ: M/s. Arshiya International Limited was granted formal approval on 10.03.2010 for setting up of an FTWZ at Village Bori, Taluka and District Nagpur, Maharashtra. The FTWZ was later notified vide Gazette notification dated 30.09.2010 over an area of 43.258 Ha. An additional area admeasuring 3.616 Ha was later notified vide Gazette Notification dated 10.02.2012. Subsequently, the name of the FTWZ was changed to M/s. Arshiya Limited. At present, the FTWZ stands notified over an area of 46.874 Ha.

Current request: The Developer has requested for full de-notification of the FTWZ. As regards reasons for de-notification, the Developer has submitted the followings: -

- 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 for the SEZ units set up after March 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.

Documents/details submitted: In terms of DoC's O.M. dated 14.07.2016, the Developer has submitted the following requisite documents for full de-notification: -

- (i). Form-C6 for full area de-notification along with DC's recommendation
- (ii). DC Certificate in prescribed format
- (iii). "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 full de-notification shall be complied with
- (iv). 'No Dues Certificate' from Specified Officer.

The State Govt. of Maharashtra vide letter dated 28.11.2022 has recommended the proposal for the de-notification stating that Govt. of Maharashtra 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 Govt. also certified that the parcel of land will conform to land use guidelines / master plan of the State Govt.

DC, SEEPZ-SEZ has certified that;

- a. There are no Units in the proposed area for de-notification.
- b. As per the State Govt. letter dated 28.11.2022, the Developer has not availed any Tax/Duty benefits/concessions/exemptions in respect of the notified area under the SEZ Act & Rules made there under.

As regards land area utilisation, 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.

DC, SEEPZ's recommendation: -

- a. There is no unit in the FTWZ or the Unit in the FTWZ have been de-bonded.
- b. No benefit/ concession/ exemption have been availed for the notified area.

116.6: Miscellaneous Cases (Two cases)

116.6(i) Request of M/s. Abhijeet Ferrotech Ltd, Atchutapuram for permission to import Ferro Manganese Slag for authorized operations.

M/s Abhijeet Ferrotech Ltd. was granted LoA dated 05.03.2010 for manufacture & export of Ferro Manganese Silico Manganese and Manganese Ore Sinter. The Unit commenced production on 24.03.2012. The Unit effected exports for a value of Rs.1956.78 crores and Rs.7028.20 crores during the First and Second block of 5 years period and achieved positive NFE to the tune of Rs.852.67 crores and Rs.3682.92 crores, respectively. The Unit was granted extension of SEZ status for a further period 5 years from 24.03.2022 to 23.03.2027. The Unit has effected exports for a total value of exports up to March, 2022 for Rs.8984.98 cores. The Value of exports for 2022-23 for Rs. 2112.18 crores and value of Rs. 426 crores in the current financial year.

Now, the Unit has requested permission for Import of 1,50,000 Tons of Ferro Manganese Slag (ITC HS: 26190090). MoEF&CC vide letter dated 13.07.2023 has issued no objection for import of 1,50,000 MT of Ferro Manganese Slag for recycling purpose with certain conditions stipulated therein within a period of 18 months for the production of Silico Manganese.

The unit requires Ferro Manganese Slag as one of the raw material for their authorized operations to re-cycle & manufacture Silico Manganese (capacity 2,92,000 TPA). Ferro Manganese Slag is a Restricted Item for Import under Foreign Trade Policy (ITC (HS) 26190090). The unit has submitted justification for import of Ferro Manganese Slag.

Whereas, the Unit has also obtained consent from the APPCB vide letter dated 22.11.2022 to operate a facility for collection, storage, treatment, transport etc., for production of Silicon Manganese shall not exceed 2,92,000 TPA and Hazardous waste authorization shall be valid for a period ending with the 31st December, 2027.

Rule position

*As per Rule 27(1), “a unit may import all types of goods including capital goods, raw materials, semi finished goods etc. required for authorized operations **except prohibited** items under ITC (HS) classification of Export and Import Items.”*

*Further as per Rule 26, “if any **permission** is required for import under any other law, the same shall be allowed with the approval of the Board of Approvals.”*

Recommendation by DC, VSEZ:

The Unit may be permitted for import of Ferro Manganese slag for a quantity of 1,50,000 MTs, since the unit was obtained permission from MoEF&CC, New Delhi vide letter dated 13.07.2023 and the AP Pollution Control Board consent and authorization order valid for a period upto 31.12.2027, subject to compliance of prescribed conditions stipulated in the MoEF&CC’s letter dated 13.07.2023.

116.6(ii) Clarification on instruction no. 95 allowing SEZ unit to set up cafeteria, crèche, gymnasium and similar facilities.

Instruction no. 95 dated 11.06.2019 was issued by Department of Commerce for allowing SEZ units to set up cafeteria, crèche, gymnasium and similar facilities in the premises of a unit for the exclusive use of such units under the proviso to Rule 11(5) of the SEZ Rules, 2006 subject to the condition that the unit shall not be eligible for any exemptions, drawbacks, concessions or any other benefits available under Section 7 or Section 26 of the SEZ Act for creating or operating such facilities.

In this connection, Department of Commerce received various representations for withdrawal/modification of instruction no. 95 to the extent it restricts the exemptions/concessions and other benefits to SEZ units for setting up and operating cafeteria, crèche, gymnasium etc. Further, it also came into light that the Specified Officers were issuing notices for curtailing GST zero-rating benefit on lease rental services provided by developer to SEZ units on such portion of space which are utilised for creating such employee welfare facilities.

The matter was examined by DoC in consultation with DGEP and GST Policy Wing. DGEP has drawn reference to Section 16 (1) of IGST Act, 2017 that provides that supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit are to be treated as zero rated supply. Further, second proviso to Rule 89(1) of CGST Rules, 2017 requires endorsement by the specified officer that the service has been received by the SEZ unit/ SEZ developer for authorized operations.

With regard to the denial of GST zero rating benefit on lease rental for the space utilised for creation of such employee welfare facilities, DGEP has opined that any view on the same is to be taken by the Board of Approval/ Development Commissioner. The instant issue appears to stem out of Instruction No. 95 dated 11.06.2019 issued by the SEZ Division, Department of Commerce. Para 3(b) of the same reads as follows:

"b. The units shall not be eligible for any exemptions, drawback, concessions or any other benefit available under Section 7 or Section 26 of the SEZ Act, for creating or operating such facilities."

Section 7 of SEZ Act pertains to Exemption from taxes, duties or cess and Section 26 of SEZ Act pertains to Exemptions, drawbacks and concessions to every Developer and entrepreneur. Further, it appears that it is prerogative of the Board of Approval/Development Commissioner to decide what services are meant for authorized operations. Also, exemptions, drawbacks and concessions under section 7 or 26 of the SEZ Act for creating or operating such facilities, has been barred by the Department of Commerce itself vide Instruction No. 95 dated 11.06.2019.

GST Policy Wing, CBIC vide their O.M no. CBEC-20/16/16/2018-GST(Vol.II) dated 03rd January, 2023 has informed that the reply of DGEP dated 08.07.2022 incorporates the views of GST Policy Wing, CBIC.

DoC is of the view that denial of benefits of zero rating on lease / other charges collected by the Developer from the units was never the intention of the said instruction. Accordingly, DoC is proposing to issue a clarification stating that the zero rating benefit continues to be available for lease rental / other charges collected by Developer from units for the space utilised for creation of employee welfare facilities exclusively for the employees of SEZ units.

The matter was also placed before Board of Approval during its 114th meeting held on 15th April, 2023 wherein BoA decided that the matter may be discussed with DoR and after obtaining their concurrence, required clarification / amendment in instruction be issued and put up for the information of BoA.

Subsequently, a meeting was held with DoR on 1st August, 2023. The matter was discussed in detail and it was decided on consensus basis to issue another instruction clarifying that denial of benefits of zero rating on lease / other charges collected by the Developer from the units was never the intention of the said instruction and the zero rating benefit continues to be available for lease rental / other charges collected by Developer from units for the space utilised for creation of employee welfare facilities exclusively for the employees of SEZ units. The draft instruction proposed by Department of Commerce was also discussed and vetted by the representatives of DGEP and GST PW.

The matter is being placed before the BoA for information.

116.7: Appeal (Three cases)

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.*

116.7(i) Appeal filed by M/s. Global Export House for Export of restricted items and distillation on Job work of Scrape acquired by Import Sandalwood in SEZ unit.

Brief facts of the case: M/s. Global Export House was granted LoA on 19.09.2014 for setting up of a Unit in Moradabad SEZ. The main authorised operations granted were “Manufacturing & Export of Handicrafts of Sandalwood and other species (44219990), Attars of all kinds in fixed oil base (33019031), Agarbatti & odiferious powder (33074100), Sandalwood finger chips (12119050) and Sandalwood oil (33012937)”. The Unit commenced commercial production on 20.01.2016 and the date of expiry of LoA is 19.01.2026. The NFE by the Unit for the period 2016 to 2023 stands at ₹ 7.96 Cr.

The unit has informed that they are eligible for import of Sandalwood HS 44039922, with permission of DC, NSEZ, vide their dated 18.01.2023 and for the export of Sandalwood Handicrafts, Sandalwood finger chips, HS 12119050, Sandalwood oil HS 33012937 etc. vide their LoA dated 29.12.2022 valid till 19.01.2026.

The Unit is having current Export orders for Sandalwood finger Chips HS 12119050 & Sandalwood oil HS 33012937 worth ₹ 6.00 Crores (USD 7,35,000) and for this after UAC approval, DC, NSEZ issued permission for export of the same vide their letter dated 01.03.2023. However, after 8-10 days, the DC has withdrawn the permission for export of "Restricted Items" from SEZ and issued orders to obtain permission from DGFT for export of restricted items.

As regards their second issue, the Unit has informed that they have already got ready Sandalwood finger Chips HS 12119050 for export and also having Sandalwood Scrape in form of flacks/ roots/ powder quantity only 45 MT for Job Work distillation of Sandalwood Oil HS 33012937 for the time being to till their new distillation unit set up in SEZ in next 7-8 months. However, the UAC has not allowed the Job-work permission request of the Unit. Being aggrieved, the Unit has filed the instant appeal before the BoA.

Observations of DC/UAC Noida SEZ: The Unit vide e-mail dated 08.02.2023 requested for (i) permission for job-work for Sandalwood Oil and (ii) permission for export of Sandalwood finger chips (12119050) and Sandalwood Oil (33012937). The case of the unit was placed before Approval Committee in its meeting held on 14.02.2023. The Approval Committee, after due deliberations, decided as below:

i. The committee will take suggestion from the government testing agency FFDC (Fragrance & Flavour Development Centre, Kannauj) as to whether there is any process to find out that the extracted oil is of the imported Sandalwood or not. The committee further decided that the permission of Job work for extracting Sandalwood Oil and export of Sandalwood Oil will be decided after receipt of response from FFDC.

ii. Based on harmonious interpretation of DGFT letter dated 07.08.2018 regarding “Regulating export and import of Red Sanders wood and Sandalwood Products from DTA and SEZ” and letter from DoC, SEZ Section dated 23.11.2022 regarding “Guidelines/instructions in the matter of Import/Export of Restricted items such as Sandalwood by SEZ unit”, the Approval Committee granted permission to M/s Global Export House for export of Sandalwood Finger chips under ITC(HS) code 12119050 subject to the condition that the export product i.e. Sandalwood Finger Chips will be manufactured and processed only from imported Sandalwood in the unit’s SEZ premises only.

UAC NSEZ’s decision regarding Export of ‘Restricted’ items: NSEZ has informed that the agenda “Export of ‘Restricted’ products by SEZ units under jurisdiction of Noida SEZ” was taken up in the UAC held on 09.03.2023 for the sake of providing clarity regarding export of products restricted under the Foreign Trade Policy (FTP). The Approval Committee was informed that Rule 18(3) and Rule 26 of SEZ Rules, 2006 provides as below:

Rule 18(3): *The proposal shall also fulfil the following sector specific requirements, namely: [(a) export of the goods from Special Economic Zones shall be subject to export policy in force, as provided in Schedule 2 to the Indian Trade Classification (Harmonised System) of Export and Import Items, 2017;]*

Rule 26: *General Conditions of Import and Export: - A unit may export goods and services, including agro-products, partly processed goods, sub-assemblies, components, by-products, rejects, waste or scrap except prohibited items of exports indicated in the Import Trade Control (Harmonized System) Classifications of Export and Import items:*

The Approval Committee, after due deliberations, decided that “Any product which is ‘Restricted’ for export under the FTP, the Unit shall obtain an ‘Export License’ from the office of DGFT for that specific product before exporting.” The Committee further decided that the above decision is effective immediately and a communication may be sent to all SEZ units under jurisdiction of Noida SEZ for compliance in the matter. For the sake of clarity, all the LoAs issued would have this as one of the general conditions.

UAC NSEZ’s decision regarding Export of ‘Restricted’ items: NSEZ has informed that the agenda “Export of ‘Restricted’ products by SEZ units under jurisdiction of Noida SEZ” was taken up in the UAC held on 09.03.2023 for the sake of providing clarity regarding export of products restricted under the Foreign Trade Policy (FTP). The Approval Committee was informed that Rule 18(3) and Rule 26 of SEZ Rules, 2006 provides as below:

Rule 18(3): *The proposal shall also fulfil the following sector specific requirements, namely: [(a) export of the goods from Special Economic Zones shall be subject to export policy in force, as provided in Schedule 2 to the Indian Trade Classification (Harmonised System) of Export and Import Items, 2017;]*

Rule 26: *General Conditions of Import and Export: - A unit may export goods and services, including agro-products, partly processed goods, sub-assemblies, components, by-products, rejects, waste or scrap except prohibited items of exports indicated in the Import Trade Control (Harmonized System) Classifications of Export and Import items:*

The Approval Committee, after due deliberations, decided that “Any product which is ‘Restricted’ for export under the FTP, the Unit shall obtain an ‘Export License’ from the office of DGFT for that specific product before exporting.” The Committee further decided that the above decision is effective immediately and a communication may be sent to all SEZ units under jurisdiction of Noida

SEZ for compliance in the matter. For the sake of clarity, all the LoAs issued would have this as one of the general conditions.

UAC NSEZ's decision against the instant request of the Unit: The request of unit for (i) import of 25.610 M. Tons of Sandalwood and (ii) Job-work permission for Sandalwood waste was placed before Approval Committee in its meeting held on 25.04.2023 wherein after due deliberations, the UAC has decided as follows:

- i. Allowed the unit to import current consignment(s) of Sandalwood (Santalum Album) under HS 44039922 weighing 25.610 M. Tons from Mauritius.
- ii. Job-work permission is not allowed for extraction of Sandalwood Oil at Kannauj from imported Sandalwood.
- iii. For any product which is 'Restricted' for exports under the FTP, the unit shall obtain an 'Export License' from the office of DGFT for that specific product before exporting. This had also been made clear through a clarification.

Further, the unit vide letter dated 26.04.2023 requested permission for removal of Sandalwood chips and flacks in DTA on payment of duty which was placed before Approval Committee in its meeting held on 11.05.2023. The Approval Committee, after due deliberations, decided to not-allow the removal of Sandalwood Chips and Flacks under 12119050 into DTA. Further, Approval Committee directed that other SEZs including Indore SEZ and Pune SEZ may be requested to furnish their comments/inputs in the matter. Accordingly, NSEZ vide letter dated 13.06.2023 requested the DC(s) of all Govt. SEZs to provide their valuable inputs in the matter, however, response in the matter is yet to be received.

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

116.7(ii) Appeal filed by M/s. SEZ BIOTECH SERVICES PVT. LTD., an SEZ for Bio-Pharma Sector at Manjari BK, Taluka Haveli, Pune regarding Procurement of Battery Powered Electric Vehicle for Authorised operations.

Brief facts about the case: M/s. SEZ BIOTECH SERVICES PVT. LTD. at Manjari, Pune are the Developer of the Poonawalla Biotechnology Park SEZ and is having Serum Institute of India Pvt. Ltd, as the main unit in the SEZ Serum Institute of India Pvt. Ltd. is the largest manufacturer and Exporter of vaccines in the world. They export their vaccines to 170 countries across geographies and their customers are mainly the governments of various countries and international agencies like UNICEF, PAHO etc. The country heads and inspection agencies of all these countries visit them regularly for business visits and verification Audits.

In the interest of business development and continuity of their dealings, they have to take proper care of these guests when they visit them. For the use of these foreign delegates and heads of states who visit them, they proposed to impart 02 Nos. of Electrically Operated Vehicles for the transportation of distinguished State Heads & dignitaries within the SEZ premises. Their CEO with the VIP dignitary normally drives these battery-operated vehicles during plant visits and takes rounds of the huge campus. These are for exclusive use in the SEZ and are not meant for operations on Indian roads.

In the 28th Meeting of the Approval Committee meeting held under the Chairmanship of Development Commissioner SEEPZ-SEZ, the Approval Committee directed them to provide precedents of similar cases and asked JDC Pune Cluster to seek clarification from the

Ministry of Commerce and Industry. Once the clarification from MoC&I is obtained, they were required to submit a proposal in the subsequent UAC for further consideration.

The JDC as per the above directions sought clarification from MOC&I. The MOC&I clarified that "that Rule 10 of SEZ Rules grants the approval committee the authority to permit goods and services for authorized operations, and action should be taken accordingly following Rule 10 of SEZ Rules".

As per the directions of the UAC, the Developer submitted the copies of the MoM of Noida SEZ and Vizag SEZ as binding precedents wherein it was seen that approvals were given to various parties in Noida SEZ and Vizag SEZ for procurement of battery operated vehicles of various capacities.

In the 29th Meeting of the Approval Committee meeting held under the Chairmanship of Development Commissioner SEEPZ-SEZ, the Committee took on record the following submissions made by the company:

- i. The essentiality of the vehicle duly certified by the Chartered Engineer
- ii. There is no imitation on the seating arrangement for any electric operated vehicles;
- iii. There are set precedents of grant of approval for electric operated mobility vehicles other SEZs.

The Committee, however, observed that in the case of M/s. Serum Institute, they have many foreign and Indian delegates visiting their manufacturing unit, and it would not be case with other developers, who are not similarly placed. These entities may not have the niche requirement of Serum Institute, but they may use this precedence to get vehicles of the same type it was therefore decided by the Committee to disallow the proposal with the suggestion to the Developer to take the proposal to the Ministry or Board of Approval for getting necessary clarification.

Reason as to why the decision needs review-

- The Approval Committee accepts all the essentialities submitted by the Developer for the proposed procurements it also agrees that the Unit of the level and type of Serum institute of India there are many important foreign and Indian delegates visiting the manufacturing unit, but based on an assumption that someone who is not similarly placed as Serum Institute may also seek similar arrangements, the Committee decides to disallow the proposal.
- This denial based only on assumptions and presumptions are bad in law and are not proper and needs review. Once, the purpose and the utilization duly certified by the competent authority is provided and the fact that the operations of the battery-operated vehicle is within the SEZ only is provided then the rejection of their proposal on the grounds of some vague assumption is not proper and legal. There are binding precedents that was provided despite which we have been forced to take the appellate remedy.
- The decision of the Committee is not in consonance with the provisions of Rule 10 of the SEZ Rules, 2006. The Rule 10 of the SEZ Rules 2005 unambiguously provides for permission of goods and services to carry on the authorized operations. Once, having accepted the requirement for the authorized operations, the requested proposal should have been acceded to, and not pushed to the Ministry or Board of Approval for getting further clarification.

- Such procurements have been allowed by other Approval Committees across the country right from 2011. A consistent approach is necessary across SEZs lest it may amount to selective discrimination. Their proposal ought to be allowed on the grounds of equity and fairness. The niche character of a product cannot be the deciding factor for accepting or denying a legitimate benefit.
- When the Chartered Engineer as per the Rule 12(2) of certifies the utility of the proposed vehicles under the SEZ Rules 2006, and the use is within the SEZ for the SEZ use, the approval ought to have been given.

Relevant Rule positions:

Rule 10. Permission for procurement of items:

The Approval Committee may permit goods and services to carry on the operations authorized under rule 9:

Provided that for the Special Economic Zone set up by the Central Government, the goods and services required for the authorized operations may be approved by the Board:

Provided further those exemptions, drawbacks and concessions on the goods and services allowed to a Developer or Co-developer, as the case may be, shall also be available to the contractors including subcontractors appointed by such Developer or Co-developer, and all the documents in such cases shall bear the name of the Developer or Co-developer along with the contractor or sub-contractor and these shall be filed jointly in the name of the Developer or Co-developer and the contractor or sub-contractor, as the case may be:

Provided also that the Developer or Co-developer, as the case may be, or the Special Economic Zone Unit shall be responsible and liable for proper utilization of such goods in all cases.

Rule 12. Import and procurement of goods by the Developer:

(1) The Developer may import or procure goods and services from the Domestic Tariff Area, without payment of duty, taxes and cess for the authorized operations, subject to the provisions contained in the sub-rules (2) to (8).

(2) The Developer shall make an application, after obtaining approval for the authorized operation under rule 9, to the Development Commissioner, along with the list of goods and services, including machinery, equipments and construction materials required for the authorized operations, duly certified by a Chartered Engineer for approval by the Approval Committee.

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

116.7(iii) Appeal filed by M/s. Plastic Processors & Exporter Pvt. Ltd. against the Order dated 21.04.2023 issued by DDC, Noida SEZ regarding non-renewal of their LoA.

The appeal of M/s. Plastic Processors and Exporter Pvt. Ltd. was considered in the 115th meeting of the BoA held on 17.06.2023 at Chennai. The Board heard the appellant and, after deliberations, advised the appellant to submit their written submissions to the Department. Further, the Board decided to take up the appeal for further discussion and decision in the next

BoA after duly considering all materials on record including further written submission, if any that might be filed by the appellant.

In compliance of the direction of the BoA, the appellant vide letter dated 26.06.2023 has submitted written submissions as follows: -

a. The Unit has been fulfilling the main objectives of SEZ like - generation of additional economic activities, promotion of investment, creation of employment opportunities and development of infrastructure. Their unit was employing about 350 unskilled labourers, most of whom were women and indirectly we were providing employment to over 1000 people in ancillary activities.

b. The appellant has stated that drastic changes in policies relating to their industry since 2013 severely affected the operations of their units over the years as they were constrained to make long term agreements with both buyers and suppliers. Many units were forced to stop operations due to unavailability of raw materials. The units have suffered huge financial losses during this period.

c. In July, 2019, a devastating accidental fire razed in the manufacturing facility and they were forced to stop all the commercial operation, subsequently their plans to rebuild and reopen their unit were stalled when the COVID 19 pandemic induced a global economic standstill.

d. Owing to short term renewal of LoP in the subsequent periods, the lending banks were hesitant to clear the unit's proposals for loans and advances needed to rebuild their manufacturing unit and restart operations which are estimated to cost over rupees twelve crores and take around 18 months to complete.

e. The appellant has further stated that they had not closed operations of their unit due to their own volition. That due to an unforeseen accident, which razed their manufacturing unit to the ground, they suffered huge financial loss and that to invests substantially and reopen their unit again, they had to ensure long term stability, which the Board, has now finally allowed to operational units.

f. The condition laid down by the BoA in its 112th meeting regarding renewal of LoA of the recycling plastic units, was apparently with a view that the units which had ceased manufacturing activities on their own volition would not be inclined to comply with the strict compliances, however, in their case, they did not stop production due to their own volition but for the accidental devastating fire incident discussed above. They are very keen on resuming their operations.

g. The unit had endeavoured and explored to find new overseas market like Spain, Netherlands and the UAE which has long term prospects which needed new guidelines. The unit is confident that if they are given a chance they will fulfil obligations and compliances in next five years. They are also exploring to expand their product portfolio to cater to the current trends and demands in international markets.

h. Their spotless record for granting them a fair opportunity to restart operations and fulfil all statutory terms and conditions. Further, short term renewals of LOP

granted to their Unit along with other circumstances affected the business to a great extent, the same may be taken into consideration.

In addition to above, the unit vide letter dated 10.08.2023 has submitted the following submissions: -

i. Their products find application in industries catering to the infrastructure segments like Cable industry and Pipe Industry. Apart from this, their products are also used by MSME sector for making Irrigation Pipes, Tarpaulins, Water Tanks, Ropes, Footwear etc. which help the weaker sections of our economy in providing cost effective products and solutions. They are also under constant endeavor for upliftment and prosperity of the society as a whole.

j. Further, their products are import substitute; therefore they are saving valuable foreign exchange for the country. Products they are manufacturing in the SEZ are also being imported in the country under OGL in substantial quantities.

k. Prior to the fire incident, their unit was fully operational effecting sales of finished goods to the tune of Rs.44.41 crores (including physical exports of Rs.2.12 crores) during 2018-19 and Rs.27.29 crores in 2019-20 while always maintaining positive NFE.

l. The MoC has also promulgated many changes to its policies for plastic recycling units. The validity of LOA for such units was also being extended by very short periods as is evident from chart below stating the renewal details of their LOP:

Renewal date	Validity extended till	Effective period
03.12.2018	30.11.2019	12 months
09.12.2019	31.05 .2020	6 months
09.06.2020	31.08.2020	3 months
13.08.2020	30.09.2020	1 month
28.10.2020	31.12.2020	3 months
10.05.2021	30.06.2021	1 month
25.06 .2021	26 .07.2022	13 months
10.07.2022	26.08.2022	1 month

m. In view of the above changes and uncertainties, they were constrained to invest huge sums of money to rebuild their manufacturing unit and restart operations. In fact, owing to the uncertainties and especially the short-term renewal of LOPs, the banks were reluctant to finance their endeavours to rebuild and restart their unit.

n. In the backdrop of the conundrum, the MoEF Notification dated 27th January 2021, allowing import of post-industrial or pre-consumer polyethylene wastes, has come as a fresh lease of life. The industry is hopeful of a quick revival

o. The unit submit that they are very keen on resuming operations and fulfilling all statutory obligations with long term stability and growth. Therefore, the Unit has

requested to consider their above submissions and support their request for extension of their LOP.

In this regard, DC, NSEZ earlier informed that the Unit was granted Personal hearing by the DC, NSEZ on 15.12.2022 and thereafter the representation submitted by the Unit was forwarded to DoC for re-consideration of the request of the Unit. Further, the BoA in its 112th meeting dated 29.10.2022 had decided to extend the validity of LoA on temporary basis of only those units which fulfil the following conditions:

- i. *Units should have been functional and carried out atleast some production during the stipulated period of 18 months (i.e. 27th January, 2021 to 26th July, 2022).*
- ii. *Units should have made at least some exports during the stipulated period of 18 months (i.e. 27th January, 2021 to 26th July, 2022).*
- iii. *Units shall undertake not to carry out any DTA sales till they fulfil the shortfall of NFE and export obligations for the period upto their period of expiry of validity i.e. 26th August 2022. On fulfilment of shortfall in NFE and other export obligations as stipulated above which shall be confirmed by the jurisdictional DC, and the DC may allow DTA sale to units subject to fulfilling of policy dated 27.05.2021.*
- iv. *The extension would be granted for a further period upto five years from 27th August, 2022 onwards to align the validity with other units. Such extension shall be on temporary basis only, which will be reviewed by Development Commissioner concerned from time to time.*

The said decision for renewal of LoA for 18 months beyond 27.01.2021 was taken by the Board in light of Notification of the Hazardous and Other Waste (Management and Transboundary Movement) Amendment Rules, 2021 issued by MoEF&CC. Further, in terms of Rule 19(6b) of the SEZ Rules, 2006, the renewal of LoA shall be based on the evaluation of the following criteria, namely: -

- i. *Export performance of the Unit in the last block.*
- ii. *Employment generated.*
- iii. *Instance of violation of applicable statutes related to the functioning of the Unit.*
- iv. *Cases of default, if any, of statutory payments.*
- v. *Undertaking of any activity not sanctioned or approved by the Development Commissioner.*
- vi. *The decision of the Development Commissioner or Approval Committee in this regard shall be final and binding on the Unit except in cases where the Unit prefers an appeal before the Board of Approval, in accordance with rule 55.*

In this case, the Unit was lying non-functional since 2020-21. Although, it may be noted that the Unit stood non-operational due to accidental fire in 2019 as represented by the Unit and the same was conveyed to DoC. However, as the Unit did not fulfil the criteria set by the BoA, the LoA of the Unit was not renewed. The decision of non-renewal of LoA was purely on the basis of decision & criteria set by the BoA. Further, with regard to alternative resources like imposition of penalty, there is no provision in the SEZ Rules for imposition of penalty in such cases.

The submissions made by the Unit are being placed before the BoA for further discussion and decision on the same.
