

No. K-43022/154/2024-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Vanijya Bhawan, New Delhi
Dated the 26th December, 2024

OFFICE MEMORANDUM

Subject: - 1st meeting (2025 Series) of the Board of Approval for Export Oriented Units and 126th Meeting of the Board of Approval for Special Economic Zones - Reg.

The undersigned is directed to refer to the subject cited above and to inform that the 1st meeting (2025 Series) of the Board of Approval for Export Oriented Units and 126th Meeting of the Board of Approval for Special Economic Zones is **scheduled to be held on 03rd January, 2025, at Ahmedabad** under the chairmanship of Commerce Secretary in hybrid mode.

2. The **Agenda for the 126th meeting of the BoA for SEZs is enclosed herewith.** The same has also been hosted on the website: www.sezindia.gov.in.
3. All the addressees are requested to kindly make it convenient to attend the meeting.
4. The venue and meeting link of the aforesaid meeting will be shared shortly in due course.


(Sumit Kumar Sachan)

Under Secretary to the Government of India

Tel: 23039829

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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 Sanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, Krishi Bhawan, New Delhi.
8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)

9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).
11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (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), LalBahadurShastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
53. Government of Punjab, Principal Secretary Department of Industry & Commerce Udyog Bhawan), Sector -17, Chandigarh- 160017.
54. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
55. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneshwar – 751001 (Fax: 0671-536819/2406299).
56. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), Vallabh Bhavan, Bhopal (Fax: 0755-2559974)
57. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
58. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
59. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
60. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
61. Government of Chattishgarh, Commissioner-cum-Secretary Industries, Directorate of Industries, LIC Building Campus, 2nd Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

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

**Agenda for the 126th meeting of the Board of Approval for Special
Economic Zones (SEZs) to be held on 03rd January, 2025**

Agenda Item No. 126.1:

**Ratification of the minutes of the 125th meeting of the Board of Approval
for Special Economic Zones (SEZs) held on 06th December, 2024.**

Agenda Item No. 126.2:

Request for extension of validity of In-principle/Formal approval [2 proposals – 126.2(i) and 126.2(ii)]

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

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

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

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

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

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

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

126.2(i) Proposal of M/s. Phoenix Tech Zone Private Limited for further extension of the validity period of formal approval, granted for setting up of IT/ITES SEZ at Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana.

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Facts of the case:

LoA issued on (date) : 07.12.2016 (Formal Approval)
 Sector : IT/ITES
 Area (in Hectares) : 5.78 (notified)
 No. of Extensions granted : 5 extensions
 LoA valid upto (date) : 06.12.2024
 Request : For further extension of one year up to 06.12.2025

Present Progress:

a. Details of Business plan:

Sl. No.	Type of Cost	Proposed Investment (Rs. in crores)
1	Land Cost	----
2	Development Cost	1030.00
	Total	1030.00

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

Sl. No.	Type of Cost	Total investment made so far (In Rs crores) upto 30.09.2023	Incremental Investment since last extension (in Rs crores)	Total investment made so far (In Rs crore) upto 31.10.2024
1	Development Cost	528.05	181.90	709.95

c. Details of physical progress till date: -

S. No.	Activity	Towers	% completion	% completion during last one year	Deadline for completion of balance work
1	Project Development	Tower-1	98	3	31.3.2025
		Tower-2	85	25	06.12.2025

Detailed reasons for delay: They have constructed two towers comprising of 26,70,188 sq. ft. (2.6 million sft) which is ready to occupy. Despite their best efforts to lease out the space, the IT/ITES units are not inclined to operate from the SEZs as they are seeing a good potential demand from the domestic markets. They are inclined to operate from the SEZs only if they are allowed to service the domestic markets in domestic currency (INR). In view of the Ministry allowing this, the spaces within SEZs will be occupied by the IT/ITES units.

Recommendation by DC, VSEZ:

The proposal of M/s. Phoenix Tech Zone Private Limited (Survey No.118) for extension of the validity period of formal approval upto Dec.2025 has duly been recommended for its consideration by the BoA.

126.2(ii) Proposal of M/s. Infosys Limited for extension of the validity period of formal approval granted for setting up of IT/ITES SEZ at Plot No. A-01 to A-06, Sector-85, Noida (U.P.) beyond 14.04.2025.

Jurisdictional SEZ – Noida SEZ (NSEZ)

Facts of the case:

LoA issued on (date) : 15.04.2015 (Formal Approval)
Sector : IT/ITES
No. of Extensions granted : 4 extensions
LoA valid upto (date) : 14.04.2025
Request : For further extension of one year up to 14.04.2026

Present Progress:

(a) Details of business plan: -

S. No.	Type of Cost	Proposed Investment (Rs. in Crore)
1	Land Cost	Already acquired
2	Construction Cost	300.00
3	Plant & Machinery	183.00
4	Other Overheads	0.00
	Total:	483.00

(b) Investment made so far & incremental investment since last extension: -

S. No.	Type of Cost	Total Investment made so far (Rs. in Crore)	Incremental investment since last extension (Rs. in Crore)
1	Land Cost	161.00	0.00
2	Material Procurement	0.05	0.01
3	Service Cost	132.13	60.07
4	Other Overheads (Civil work)	106.99	64.38
	Total:	400.17	124.46

(c) Details of Physical progress till date:-

S. No.	Authorised activity	% completion as on date	% completion during last one year	Deadline for completion of balance work
1	SDB-1	55	38	Sept' 25
2	Food Court-1	60	50	June' 25
3	Basement Area	90	90	June' 25

4	Service Block	60	25	June' 25
5	Security Block-1	60	15	May' 25
6	Security Block-2	90	90	Mar' 25

The developer has submitted physical status of the construction activities, as given below: -

S. No.	Authorised activity	Total area (in Square meter)	Area already constructed (in Square meter)	% completion as on date	% completion during last one year	Deadline for completion of balance work
1.	SDB-1	52770	52770	55	38	Sept' 25
2.	Food Court-1	4980	4980	60	50	June' 25
3.	Basement Area	12913	12913	90	90	June' 25
4.	Service Block	2006	2006	60	25	June' 25
5.	Security Block-1	376	376	60	15	May' 25
6.	Security Block-2	265	265	90	90	Mar' 25
	Total area (in Sqmt.):	73310	73310			

Reasons for seeking extension: The Developer has mentioned that during the last renewal of LOA, they have started the construction activities in SEZ for Phase-1. The construction is in progress and they are expected to get this completed by September 2025. The structural works for all the buildings have been completed and services & interior works are in progress. The need additional time of 6-8 months in getting the occupancy certificate from the authorities and getting a unit functional.

Reasons for delay: The Developer has informed that the reasons for delay in start of the project include changes in business scenario and global challenges for IT sector, delay in permission from state bodies etc. Their journey in Noida has been slower over last 8 years, as the IT/ITES Ecosystem itself is evolving at a slow pace and the on-going Covid-19 pandemic crisis, which started in beginning of 2020 had worsened the situation and compelled to re-align the business operations for this campus. Large campus will need time to evolve and has to be flexibly developed and holistically curated to meet the requirements of a varied set of clienteles with international standards and global expectations. Considering this, they have compelled to shrink their earlier projections and plan and come with a revised plan at small level.

Recommendation by DC, NSEZ:

DC, NSEZ has duly recommended the proposal of the Developer for extension of formal approval for further period of one year beyond 14.04.2025.

Agenda Item No. 126.3:

Request for extension of LoA of SEZ Unit [1 proposal – 126.3(i)]

Relevant Rule position:

- As per Rule 18(1) of the SEZ Rules, the *Approval Committee may approve or reject a proposal for setting up of Unit in a Special Economic Zone.*
- Cases for consideration of extension of Letter of Approval i.r.o. units in SEZs are governed by Rule 19(4) of SEZ Rules.
- Rule 19(4) states that LoA shall be valid for one year. First Proviso grants power to DCs for extending the LoA for a period not exceeding 2 years. Second Proviso grants further power to DCs for extending the LoA for one more year subject to the condition that two-thirds of activities including construction, relating to the setting up of the Unit is complete and a Chartered Engineer's certificate to this effect is submitted by the entrepreneur.
- Extensions beyond 3rd year (or beyond 2nd year in cases where two-third activities are not complete) and onwards are granted by BoA.
- BoA can extend the validity for a period of one year at a time.
- There is no time limit up to which the Board can extend the validity.

126.3(i) Proposal of M/s. RoboMQ Private Limited for grant of LoA extension for a period of one-year, located at Plot No. IT-B-02, Multi-Product SEZ of Mahindra World City (Jaipur) Ltd. at Vill. Kalwara, Jhai, Bhamboriya, Bagru Khurd & Newta, Tehsil-Sanganer, Distt. Jaipur (Rajasthan).

Jurisdictional SEZ – Noida SEZ (NSEZ)

Facts of the case:

Name of the Unit : M/s. RoboMQ Private Limited
 LoA issued on (date) : 11.11.2021
 Nature of business of the unit : Information Technology Software
 No. of extensions granted : Two extensions by the UAC
 LoA Valid upto (date) : Upto 10.11.2024
 Request for : One year extension

(a) Details of business plan: -

S. No.	Type of Cost	Proposed Investment (Rs. in Crores)
1	Land Cost	3.465
2	Construction Cost	14.40
3	Plant & Machinery	2.00
4	Other Overheads	4.11
	Total:	23.975

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

S. No.	Type of Cost	Total Investment made so far (Rs. in Crores)	Incremental investment since last extension (Rs. in Crores)
1	Land Cost	2.60	0.80
2	Material Procurement	-	-
3	Service Cost	0.015	0.015
4	Other Overheads	-	-
	Total:	2.615	0.815

Details as informed by the Unit:

1. The incremental investment in the land cost was done in form of interest and principal amount payment.

2. An additional principal amount repaying of Rs.0.61 crores was done since last extension.
3. Rs. 0.015 crores were paid as a service fee to the architect.

(c) Details of Physical progress till date: -

S. No.	Authorized activity	% completion as on date	% completion during last one year	Deadline for completion of balance work
1	Approval of Maps for Office Building	100	-	-
2	Detailed Architectural design	30	20	February 2025
3	Electrical Design	30	30	April 2025
4.	Engagement of Construction Contractor	100	-	-

(C) Project Implementation schedule: - Unit has informed they will start the building construction by March 2025 and commence operations by July 2026.

Reason for Delay: The unit has informed that they were unable to commence operations as the construction of the building was delayed. The financing for building construction expected from US concern, was delayed due to US recession.

Recommendation by DC, NSEZ:

The Unit has informed that they will start the building construction by March 2025 and commence operations by July 2026 and approval of map for office building alongwith engagement of Construction contractor has been done. Considering this, DC, NSEZ has recommended the extension of LOA for a further period of one year i.e. upto 10.11.2025.

Agenda Item No. 126.4:

Request for conversion of Processing Area into Non-Processing Area under Rule 11(B) [4 proposals – 126.4(i) to 126.4(iv)]

Rule position:

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

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

TABLE

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

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

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

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

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

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

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

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

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

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

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

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

TABLE

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

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

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

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

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

126.4(i) Proposal of M/s. Oxygen Business Park Private Limited, Developer, for demarcation of '3471 Square Meter at 13th floor, Tower-3' into Non-Processing area of IT/ITES SEZ at Plot No. 7, Sector-144, Noida (Uttar Pradesh), under Rule 11B of SEZ Rules, 2006.

Jurisdictional SEZ – Noida SEZ (NSEZ)

Facts of the case:

S.N.	Particulars	Details	
1.	Name and address of the Developer	M/s. Oxygen Business Park Private Limited	
2.	Letter of Approval No. and date.	No. F.2/719/2006-SEZ dated 07.02.2008	
3.	Date of Notification	15.05.2008	
4.	Name of the sector of SEZ for which approval has been given.	IT/ITES	
5.	Total Notified land area (in Hectares)	10.0498 hectare	
6.	Total land area of SEZ: (i). Processing Area (ii). Non-Processing Area	Land area 10.0498 hectare. NIL	
7.	Details of Built-up area in Processing Area: (i). No. of towers with built-up area in each tower (in Square meter) (ii). Total Built up area: (iii) Area already demarcated as NPA: (iv) Remaining Built-up Processing area:	Building / Tower / Block No.	Total built-up area (in Sqmt.)
		Tower-A	18764.00
		Tower-B	17253.00
		Tower-C	17298.00
		Tower-D	15314.00
		Tower-E	19075.00
		Tower-F	16601.00
		Tower-1	88325.00
		Tower-2	42625.00
		Tower-3	44430.00
		Food Court	2532.00
		Total:	282217.00
		282217.00 Sqmt.	
		98479.50 Sqmt. (88325.50 + 10154.00)	
		183737.50 Sqmt.	
8.	Total Built-up area in:	Processing Area: 183737.50 Sqmt.	

		Non-Processing Area: 98479.50 Sqmt.
9.	Total number of floors in the building wherein demarcation of NPA is proposed:	13 th floor, Tower-3 (1 floor)
10.	Total Built-up area proposed to be demarcation of NPA for setting up of Non SEZ IT/ITES Units:	3471.00 Sq.mt.
11.	How many floors area proposed for demarcation of NPA for setting up of Non SEZ IT/ITES Units:	1 floor (13 th floor, Tower-3)
12.	Remaining Built-up Processing Area after instant proposed demarcation:	183737.50 Sqmt.
13.	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineer Certificate:	Rs.2,97,79,183/-
14.	Whether duty benefits and tax exemption availed have been refunded and NOC from Specified Officer has been obtained?	Yes, Refunded and 'No Dues Certificate' of Specified Officer has been obtained.
15.	Reasons for demarcation of NPA	The Developer has mentioned that due to multiple factors including Sunset clause for Income Tax Benefits, Covid 19 Pandemic and Work From Home facility etc.
16.	Whether remaining built-up area fulfils the minimum built-up area requirement as per Rule 5 of SEZ Rules, 2006.	Yes.
17.	Whether application in the format prescribed vide Instruction No. 115 dated 09.04.2024, has been submitted.	Yes.
18.	Whether copy of Chartered Engineer Certificate has been submitted?	Yes. Chartered Engineer Certificate dated 15.10.2024 of Shri Anantkrishna Vithal, Chartered Engineer Membership No. M-148707-2.
19.	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered	Rs.2,97,79,183/-

	Engineers Certificate.	
20.	Whether 'No Dues Certificate' of Specified Officer has been submitted?	Yes. The Developer has submitted copy of 'No Dues Certificate' issued by Authorised Officer vide letter F.No. SEZ/Oxygen/Dev.01 /2023/40 dated 26.11.2024. Original 'No Dues Certificate' date 26.11.2024 has also been received from the Authorised Officer.
21.	Whether Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024, has been submitted?	Yes. The same has been signed by the Specified Officer and countersigned by DC, NSEZ.
22.	Whether Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024, has been received?	Yes. The same has been signed by the Specified Officer and DC, NSEZ.
23.	Whether required Undertaking has been submitted:	Yes. The Developer has submitted an undertaking that they shall pay the differential short paid / unpaid duty / tax benefits if any so determined at the later date on being demanded by the department or any statutory authority without any demur or protest w.e.t. repayment of taxes and benefits availed in respect of 3471 Sqmt. at Tower-3, 13 th floor of built-up area proposed to be demarcated as NPA and 3500 Sqmt. of basement area for parking usage as per Rule 11B of SEZ Rule (fifth Amendment), 2023.
24.	Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	The Developer has mentioned that they will ensure adequate control of the movement of employees as well as goods pertaining to SEZ units and Non-Processing Area units. Also, the company will maintain registers at gate, install CCTV's, issue ID cards to NPA unit employees to ensure adequate controls.
25.	Purpose and usage of such demarcation of NPA.	Renting the space to IT-ITES Clients (as mentioned by the Developer)

The following requisite documents have been submitted: -

- i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, NSEZ.
- ii. Chartered Engineer Certificate dated Nil issued by Shri Anantkrishna Vithal, Chartered Engineer Membership No. M-148707-2, towards calculation of taxes / duty to be refunded by the developer.
- iii. 'No Dues Certificate' issued by Specified Officer vide letter F.No. SEZ/Oxygen/Dev.01 /2023/40 dated 26.11.2024.
- iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, NSEZ.
- v. Checklist for demarcation of NPA, in the format prescribed vide DoC letter dated 09.09.2024 duly signed by Specified Officer and DC, NSEZ.
- vi. An Undertaking from the Developer to the effect that they shall pay the differential short paid / unpaid duty / tax benefits if any so determined at the later date on being demanded by the department or any statutory authority without any demur or protest w.e.t. repayment of taxes and benefits availed in respect of 3471 Sqmt. at 13th floor of built-up area proposed to be demarcated and 3500 Sqmt. of basement area for parking usage as per Rule 11B of SEZ Rule (fifth Amendment), 2023.

Recommendation by DC, NSEZ:

The proposal has been examined and keeping in view that M/s. Oxygen Business Park Private Limited, Developer has refunded all duty benefits & tax exemption availed on the proposed area as well as common facilities and obtained 'No Dues Certificate' from Specified Officer, the proposal for demarcation of '3471 Sqmt. built-up processing area of 13th floor of Tower-3' of the IT/ITES SEZ at Plot No. 7, Sector-144, Noida (Uttar Pradesh), into Non-Processing Area, is recommended for consideration by the Board of Approval, in terms of Rule 11B of SEZ Rules, 2006, read with Instruction No. 115 dated 09.04.2024.

126.4(ii) Proposal of M/s. Seaview Developers Private Limited, Developer, for demarcation of additional built-up Processing Area of 9935.32 Sqmt. at Ground to 3rd floor, Tower-2 of the IT/ITES SEZ at Plot No. 20 & 21, Sector- 135, Noida (U.P.) into Non-Processing Area, under Rule 11B of SEZ Rules, 2006.

Jurisdictional SEZ – Noida SEZ (NSEZ)

Facts of the case:

S. No.	Particulars	Details	
1.	Name and address of the Developer	M/s. Seaview Developers Private Limited Plot No. 20 & 21, Sector-135, Noida, Uttar Pradesh.	
2.	Letter of Approval No. and date.	LOA No. F.2/40/2006-EPZ dated 21.06.2006	
3.	Date of Notification	12.12.2007	
4.	Name of the sector of SEZ for which approval has been given.	IT/ITES	
5.	Total Notified land area (in Hectares)	12.00 hectare	
6.	Total land area of SEZ: (i). Processing Area (ii). Non-Processing Area	Land area 12.00 hectare. NIL	
7.	Details of Built-up area in Processing Area: (i). No. of towers with built-up area in each tower (in Square meter)	Tower Number	Built-up area (in Square meter)
		Tower-1	15772.92
		Tower-2	19270.46
		Tower-3	15772.92
		Tower-4	21720.16
		Tower-5	21621.71
		Tower-6	28098.35
		Tower-7	20138.61
		Tower-8	17059.44
		Tower-9	28573.12
		Tower-10	18684.69
		Tower-11	51704.35
		Tower-11A	32020.50
		Amenity Block -1	1081.12
		Amenity Block-2	3277.59
Guard Rooms	/296.73		

		Customs office	
		Other Common area i.e. Basement etc.	170143.10
			465235.77
	(ii). Total Built up area :	465235.77 Sqmt.	
	(iii) Area already demarcated as NPA:	15772.92 Sqmt. (Ground to 6 th floor, Tower-1)	
	(iv) Remaining Built-up area:	449462.85 Sqmt.	
8.	Total Built-up area in:	Processing Area: 449462.85 Sqmt. Non-Processing Area: 15772.92 Sqmt. (as demarcated under Rule 11B)	
9.	Total number of floors in the building wherein demarcation of NPA is proposed:	Ground to 7 th floor (total 19270.46 Sqmt.)	
10.	Total Built-up area proposed to be demarcation of NPA for setting up of Non SEZ IT/ITES Units:	9935.32 Sqmt. as NPA and 6782.00 Sqmt. as Basement / Parking	
11.	How many floors area proposed for demarcation of NPA for setting up of Non SEZ IT/ITES Units:	Tower	Floor
			Built-up area (in Square meter)
		Tower-2	Ground floor
			1 st floor
			2 nd floor
			3 rd floor
		Total:	G to 3rd floor 9935.32
		Common Infrastructure area for common usage:	
		Basement / Parking	6782.00 Sqmt.
		Area of Tower-2	
12.	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineer Certificate:	Rs.3,97,11,167/- (Rupees three crores ninety-seven lakhs eleven thousand one hundred sixty seven only)	
13.	Whether duty benefits and tax exemption availed have been refunded and NOC from Specified Officer has been obtained?	Yes. The Developer has submitted 'No Dues Certificate' of Authorised Officer issued vide letter No. SVDL/Developer/Rule-11B/17/2024/15 dated 10.12.2024.	
14.	Remaining Built-up Processing	439527.53 Sqmt.	

	Area after instant proposed demarcation:	
15.	Whether remaining built-up area fulfils the minimum built-up area requirement as per Rule 5 of SEZ Rules, 2006.	Yes.
16.	Whether any SEZ Unit operating on the area proposed to be demarcated as Non-Processing Area under Rule 11B.	The Developer in its letter dated 24.07.2024 had mentioned that there is no SEZ unit or any other business currently operating out of the said area proposed to be demarcated. The said premise is completely vacant.
17.	Whether application in the format prescribed vide Instruction No. 115 dated 09.04.2024, has been submitted.	Yes.
18.	Whether copy of Chartered Engineer Certificate has been submitted?	Yes, Chartered Engineer Certificate dated 25.10.2024 issued by Shri R.K. Aggarwal, Chartered Engineer (Production / Mechanical) and Shri Mahesh Swaroop, Chartered Engineer (Civil).
19.	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineers Certificate.	Rs.3,97,11,167/- (Rupees three crores ninety-seven lakhs eleven thousand one hundred sixty seven only)
20.	Whether 'No Dues Certificate' of Specified Officer has been submitted?	Yes
21.	Whether Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024, has been submitted?	Yes
22.	Whether required Undertaking has been submitted:	Yes
23.	Access Control Mechanism for movement of employees & goods for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing	The Developer has submitted an Undertaking that they shall ensure appropriate access control mechanism is in place to screen movement of goods or persons between Processing Area and

	Area.	Non-Processing Area in order to rule out any probable diversion of duty-free goods Processing Area and Non-Processing Area.
24.	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 (as mentioned by the Developer in Application form)

It may be mentioned here that as per approval granted by the Board of Approval in its meeting held on 06.02.2024, M/s. Seaview Developers Private Limited, Developer has been issued approval dated 05.11.2024 for demarcation of following built-up processing area into Non-Processing Area under Rule 11B of SEZ Rules, 2006: -

Date of meeting	BoA Building / Tower / Block No.	Floor no. to be demarcated as NPA	Total built-up area (in Sqmt.)
06.02.2024	Tower-1	Ground to 6 th floor	15772.92

The following documents have been submitted: -

- i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, NSEZ.
- ii. Chartered Engineer Certificate dated 25.10.2024 towards calculation of taxes / duty to be refunded by the Developer in respect of built-up area proposed to be demarcated as NPA. Shri R.K. Aggarwal, Chartered Engineer (Production / Mechanical) and Shri Mahesh Swaroop, Chartered Engineer (Civil) has issued Certificate ascertaining amount of Rs.3,97,11,167/- as tax / duties to be refunded by the Developer.
- iii. 'No Dues Certificate' issued by Authorised Officer vide letter No. SVDL/Developer/Rule-11B/17/2024/15 dated 10.12.2024 along with copies of TR-6 & DRC-03 towards deposit of applicable tax / duty. The Authorised Officer has mentioned that the Developer has paid total duties / taxes amounting to Rs.3,97,11,167/- (Rupees three crores ninety-seven lakhs eleven thousand one hundred sixty seven only) vide TR-6 challan / DRC-03.
- iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024. The same has been countersigned by DC, NSEZ.
- v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, NSEZ.
- vi. An Undertaking dated 13.12.2024 that they shall pay the differential / short paid / non paid taxes / duties along with the applicable interest if any being pointed out / demanded by the department or any statutory agency without

any demur or protest, pertaining to their SEZ operations period but may arising from any audit, verification or investigation in this regard for the proposed demarcation of built up area into Non Processing Area for use by IT/ITES Units as per Rule 11B of SEZ (Fifth Amendment) Rule, 2023.

- vii. Copy of Board Resolution dated 23.07.2024 regarding consent for demarcation of part of Tower-2 along with other common area of SEZ and resolution in favour of directors and authorised signatories Mr. Vipin Malik, Mr. Sanjay Yadav, Mr. Saurabh Jain and Mr. Jairaj Vikas Verma to sign on behalf of the company. The Developer has mentioned that Mr. Munish Dayal Mathur, Director is authorised signatory of the company.

Recommendation by DC, NSEZ:

The proposal has been examined and keeping in view that M/s. Seaview Developers Private Limited, Developer has refunded all duty benefits & tax exemption availed on the proposed area as well as common facilities and obtained 'No Dues Certificate' from Specified Officer, the proposal for demarcation of **'9935.32 Sqmt. built-up Processing Area at Ground to 3rd floor, Tower-2'** of the IT/ITES SEZ at Plot No. 20 & 21, Sector-135, Noida, Uttar Pradesh, into Non- Processing Area, is recommended for consideration by the Board of Approval, in terms of Rule 11B of SEZ Rules, 2006, read with Instruction No. 115 dated 09.04.2024.

126.4(iii) Proposal of M/s. DLF Cyber City Developers Limited, developer of IT/ITES SEZ at Sector- 24 & 25A, DLF Phase-III, Gurugram (Haryana) for demarcation of built-up Processing Area admeasuring ‘2382.261 Sqmt. at 8th floor, Block-B, Building No. 14’ into Non-Processing Area under Rule 11B of SEZ Rules, 2006 read with Instruction No. 115 dated 09.04.2024.

Jurisdictional SEZ – Noida SEZ (NSEZ)

Facts of the case:

S. No.	Particulars	Details																											
1.	Name and address of the Developer	M/s. DLF Cyber City Developers Limited, Sector-24 & 25A, DLF Phase-III, Gurugram (Haryana).																											
2.	Letter of Approval No. and date.	LOA No. F.2/126/2005-EPZ dated 25.10.2006.																											
3.	Date of Notification	13.04.2007 & 12.03.2010																											
4.	Name of the sector of SEZ for which approval has been given.	IT/ITES																											
5.	Total Notified land area (in Hectares)	10.30 hectare																											
6.	Total land area of SEZ: (i). Processing Area (ii). Non-Processing Area	Land area 10.30 hectare. NIL																											
7.	Details of Built-up area in Processing Area: (i). No. of towers with built-up area in each tower (in Square meter)	<table border="1"> <thead> <tr> <th>Building Tower / Block No.</th><th>No. of floors</th><th>Total built-up area (in Sqmt.)</th></tr> </thead> <tbody> <tr> <td>Building No. 6 [Block-A]</td><td>LG+9</td><td>17844</td></tr> <tr> <td>Building No.6 [Block-B]</td><td>LG+11</td><td>24373</td></tr> <tr> <td>Building No.6 [Block-C]</td><td>LG+13(14)</td><td>23147</td></tr> <tr> <td>Floors Parking</td><td>-</td><td>7345</td></tr> <tr> <td>Basements of Building No. 6 (Block A, B & C)</td><td>B(1 – 3)</td><td>29268</td></tr> <tr> <td>Building No.14 [Block-A]</td><td>G+9</td><td>16037</td></tr> <tr> <td>Building No.14 [Block-B]</td><td>G+16(17)</td><td>28490</td></tr> <tr> <td>Building No.14</td><td>G+18(19)</td><td>50418</td></tr> </tbody> </table>	Building Tower / Block No.	No. of floors	Total built-up area (in Sqmt.)	Building No. 6 [Block-A]	LG+9	17844	Building No.6 [Block-B]	LG+11	24373	Building No.6 [Block-C]	LG+13(14)	23147	Floors Parking	-	7345	Basements of Building No. 6 (Block A, B & C)	B(1 – 3)	29268	Building No.14 [Block-A]	G+9	16037	Building No.14 [Block-B]	G+16(17)	28490	Building No.14	G+18(19)	50418
Building Tower / Block No.	No. of floors	Total built-up area (in Sqmt.)																											
Building No. 6 [Block-A]	LG+9	17844																											
Building No.6 [Block-B]	LG+11	24373																											
Building No.6 [Block-C]	LG+13(14)	23147																											
Floors Parking	-	7345																											
Basements of Building No. 6 (Block A, B & C)	B(1 – 3)	29268																											
Building No.14 [Block-A]	G+9	16037																											
Building No.14 [Block-B]	G+16(17)	28490																											
Building No.14	G+18(19)	50418																											

		[Block-C]		
		Building No.14	G+19(20)	57298
		[Block-D]		
		Floors Parking	-	49584
		Basements of-		83298
		Building No.14 (Block A,B,C & D)		
			Total:	387102
	(ii). Total Built up area:	387102 Sqmt.		
	(iii) Area already demarcated as NPA:	24413.657 Sqmt. (18868.83 + 5544.827)		
	(iv) Remaining Built-up area:	362688.343 Sqmt.		
8.	Total Built-up area in Sqmt.:	Processing Area: 362688.343 Sqmt. Non-Processing Area: 24413.661 Sqmt. (as demarcated under Rule 11B)		
9.	Total number of floors in the building wherein demarcation of NPA is proposed:	Ground+16(17 floors)		
10.	Total Built-up area proposed to be demarcation of NPA for setting up of Non SEZ IT/ITES Units:	2382.261 Sqmt.		
11.	How many floors area proposed for demarcation of NPA for setting up of Non SEZ IT/ITES Units:	1 floor (8 th floor, Block-B, Building No.14)		
12.	Whether copy of Chartered Engineer Certificate has been submitted?	Yes. Chartered Engineer Certificate dated 25.10.2024 of Shri Chaitanya Jee Srivastava, Chartered Engineer Membership No. M-163947-6.		
13.	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineer Certificate:	Rs.31,61,673/- (Rupees thirty-one lakhs sixty-one thousand six hundred seventy three only)		
14.	Whether duty benefits and tax exemption availed have been refunded and NOC from Specified Officer has been obtained?	Yes, The Developer has submitted copy of 'No Dues Certificate' issued by Specified Officer vide letter No. CUC/DCCDL/SEZ/MISC/03/24/93 dated 04.12.2024. The Specified Officer has mentioned that the Developer has made payment of Rs.31,61,673/- towards refund of duties / tax		

		<p>benefits through TR-6 / GAR-7 & DRC-03, as the case may be. The Specified Officer has further mentioned that the developer has already deposited the due duty / taxes of the entire common infrastructure facilities of the said SEZ at the time of demarcation of 18,868.83 Sqmt. and 5544.827 Sqmt. in respect of which 'No Dues Certificate' had already been issued vide their letter dated 07.06.2024 & 09.07.2024, respectively. Original 'No Dues Certificate' of Specified Officer issued vide letter No. CUC/DCCDL/SEZ/ MISC/03/24/94 dated 04.12.2024 has also been received. The Specified Officer vide his letter No. CUC/DCCDL/SEZ/MISC/03/24/05 dated 18.12.2024 has further clarified that the Developer has deposited the total duty / tax of Rs. 31,61,673/- (which comprise the duty tax of Rs.24,61,991/- attributed to creation of the proposed area of 2382.261 Sqmt. and Rs.6,99,682/- i.e. addition made to Common P&M related goods / services for the period 01.07.2024 to 30.09.2024) in terms of Rule 11B of the SEZ Rules and guidelines issued thereunder.</p>
15.	Reasons for demarcation of NPA	To give Non-Processing Area on lease to domestic IT/ITES units who does not wish to setup as SEZ unit.
16.	Whether any SEZ Unit operating on the area proposed to be demarcated as Non-Processing Area under Rule 11B.	The Developer in its letter dated 24.07.2024 has informed that M/s. Resbird Technologies Private Limited (a SEZ unit who had approved on an area of 13383 Sqft. (1243.32 Sqmt.) at 8 th floor, Tower-B, Building No.14), has already submitted exit application dated 02.08.2024 and currently no operation is taking place in the said premise. The Specified Officer has also confirmed that M/s. Resbird Technologies Private Limited is already under the process of vacating the aforementioned premises and they have paid the duty / taxes in respect of goods lying in the said premises by way of filing Bill of Entry and No Dues

		Certificate is in process. The Developer has solemnly affirmed that they will lease the said floor area to non-SEZ IT/ITES units only after obtaining the final exit order by M/s. Resbird Technologies, and final NPA approval from NSEZ.
17.	Remaining Built-up Processing Area after instant proposed demarcation:	360306.082 Sqmt.
18.	Whether remaining built-up area fulfils the minimum built-up area requirement as per Rule 5 of SEZ Rules, 2006.	Yes.
19.	Whether application in the format prescribed vide Instruction No. 115 dated 09.04.2024, has been submitted.	Yes.
20.	Whether Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024, has been submitted?	Yes
21.	Whether required Undertaking has been submitted:	Yes
22.	Access Control Mechanism for movement of employees & goods for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	The Developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of movement of persons as well as goods, in SEZ premise for the SEZ unit and the businesses engaged in IT/ITES services in the proposed non processing areas.
23.	Purpose and usage of such demarcation of NPA.	To give Non-Processing area on lease to domestic IT/ITES units. (as mentioned by the Developer)

It may be mentioned here that as per approval granted by the Board of Approval in its meeting held on 06.02.2024 & 31.07.2024, the M/s. DLF Cyber City Developers Limited, Developer has been issued approval vide NSEZ's letter dated 30.07.2024 & 06.11.2024, respectively, for demarcation of following built-up processing area into Non-Processing Area under Rule 11B of SEZ Rules, 2006:-

Date of meeting	BoA Building / Tower / Block No.	Floor no. to be demarcated as NPA	Total built-up area (in Sqmt.)
06.02.2024	Building No. 6 [Block-A]	5 th , 8 th & 9 th floor	5848.623
	Building No. 6 [Block-B]	4 th & 9 th floor	4019.494
	Building No. 6 [Block-C]	5 th , 7 th & 9 th floor	4756.617
	Building No. 14 [Block-B]	7 th & 15 th floor	4244.10
	Total:	-	18868.83
31.07.2024	Building No. 6 [Block-A]	7 th floor	1949.541
	Building No. 6 [Block-B]	8 th floor	2009.747
	Building No. 6 [Block-C]	8 th floor	1585.539
	Total:	-	5544.827
	Grand total:		24413.657

The following documents have been submitted: -

- i. Duly filled application in the format prescribed vide Instruction No. 115 dated 09.04.2024, for demarcation of proposed built-up Processing Area into Non-Processing Area and recommendation of DC, NSEZ.
- ii. Chartered Engineer Certificate dated 20.10.2024 of Shri Chaitanya Jee Srivastava, Chartered Engineer Membership No. M-163947-6, towards calculation of taxes / duty to be refunded by the Developer.
- iii. 'No Dues Certificate' issued by Specified Officer vide F.No. CUC/DCCDL/SEZ/ MISC/03/24/93 dated 04.12.2024 & subsequent letter No. CUC/DCCDL/SEZ/ MISC/03/24/05 dated 18.12.2024.
- iv. Certificate of Specified Officer in prescribed format, confirming refund of duty as per provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09.04.2024 duly countersignature of DC, NSEZ.
- v. Checklist of Rule 11B in prescribed format, duly signed by Specified Officer and DC, NSEZ.
- vi. An Undertaking from the SEZ Developer to the effect that they shall pay the differential / short paid / non-paid duty / tax benefits, if so determined at a later date on being demanded by the department or any statutory authority without any demur or protest w.r.t. demarcation of built-up area admeasuring 2382.261 Sqmt. into Non-Processing Area for use by IT/ITES businesses as per Rule 11B of the SEZ (Fifth Amendment) Rule, 2023.
- vii. Details of total Buildings / built-up area with their floor-wise area along with built-up area already demarcated as Non Processing Area and floor-wise built-up Processing Area proposed to be demarcated as Non Processing Area.

Recommendation by DC, NSEZ:

The proposal has been examined and keeping in view that M/s. DLF Cyber City Developers Limited, Developer has refunded all duty benefits & tax exemption availed on the proposed area as well as common facilities and obtained 'No Dues Certificate from the Specified Officer, the proposal for demarcation of **'2382.261 Sqmt. at 8th floor, Block-B, Building No. 14'** of the IT/ITES SEZ at Sector-24 & 26A, DLF Phase-III, Gurugram (Haryana), into Non-Processing Area, is recommended for consideration by the Board of Approval, in terms of Rule 11B of SEZ Rules, 2006, read with Instruction No. 115 dated 09.04.2024.

126.4(iv) Proposal of M/s. Manyata Promoters Private Limited, Developer, for demarcation of SEZ Processing Built-up area (6373 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006 read with Instruction No.115 dated 09.04.2024.

Jurisdictional SEZ – Cochin SEZ (CSEZ)

Area (Hectares)	: 19.1991
Date of Notification	: 16.11.2006, 06.03.2012, 29.08.2023&15.07.2024
Date operationalized	: 10.01.2007
No. of Units	: 27
Export (2023-2024) (₹in crore)	: 19901.00
Total Processing (built-up area)(Sq.mtr.)	: 768343.14
Built-up area proposed for demarcation(sq.mtr.)	: 6373.00
Built-up area after demarcation (sq.mtr.)	: 761970.14

Request of the Developer:-

The Developer vide letter dated 26th November 2024 has requested for demarcation of 6373 sq.mtr. built-up area as non-processing area in terms of Rule 11 B of SEZ Rules 2006 read with Instruction No.115 dated 09.04.2024. The Developer states that the proposed built-up area is lying vacant in the SEZ since long, due to multiple factors like Sunset Clause for Income Tax benefit, Covid 19 pandemic and consequent work from home facility available to the SEZ units, resulted in less demand for space from SEZ units. Hence, their management decided to demarcate the said built-up area as Non-Processing Area. The details are as under:-

Particulars	Details		
Name of Developer	M/s. Manyata Promoters Private Limited		
Address of SEZ	Villages Rachenahalli, Nagavara and Tanisandra, Bangalore District, Karnataka State		
Sector	IT/ITES		
Formal Approval	F.2/96/2005-EPZ dated 16 th June 2006		
Total Notified land area (in Hectares)	19.1991		
Total Built-up area in Processing Area (in M²), as informed by the developer.	768343.14		
Details of processing (Built-up) area in the SEZ	Building /Tower / Block/Plot No.	No. of floors	Total built-up area (in M²)
	Block C2	B+G+8	52156.14
	Block C3-MLCP	B+G+12	31982.72
	Block C4 (Annexure building A)	B+S+1 st floor	11621.12
	Block C4 (Annexure Building B)	B+S+1 st , 3 rd & 4 th Floors	19675.38

	Block D4	B+G+10	49528.00
	Block F3	2B+G+10	98894.00
	Block G2	2B+G+8	50703.00
	Block G3	2B+G+10	71994.00
	Block G4	2B+G+1 st to 5 th Floors	38133.45
	Block G6 MLCP	2B+G+12	32668.00
	Block H1	B+G+6	45620.00
	Block H2 (Annexure Building A)	2B+G+1 st to 6 th & 10 th Floors	33664.66
	Block H2 (Annexure Building B)	2B+G+10	42290.00
	Block L1	2B+G+10	59705.00
	Block L2	2B+G+10	65875.00
	Block L3	2B+5 th to 10 th Floors	55765.67
	Block L MLCP	G+3	8067.00
	Total		768343.14
Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)	Building /Tower / Block/Plot No.	No. of floors	Total built-up area (in M²)
	Building H2 (Annexure Building B)	7 th & 8 th Floors	6373.00
	Total		6373.00
Balance Built-up Processing Area after demarcation (in M²)		761970.14	
Whether tax/duty calculated has been made as per SEZ Rule 11(B)(5)?		Yes	
Whether the calculation sheet has mentioned the tax or duty benefit originally availed for the built-up space to be demarcated as Non-Processing Area (NPA)?		Yes	
If yes, above then whether repayment has been made? Please mention the amount repaid?		The Developer has paid an amount of ₹75,09,876/- (Rupees Seventy five lakh nine thousand eight hundred seventy six only) towards tax/duty exemptions availed for the proposed area to be demarcated as NPA alongwith common facilities. (Copy of challan enclosed).	
Whether the calculation sheet has included the original duty or tax benefit availed for creation of social or commercial infrastructure and other facility in the SEZ to be used by both		Yes Earlier, on request of the Developer, the 121 st BoA held on 31 st July 2024, was granted approval for demarcation of 108681 sq.mtr. built-up area as Non-Processing area, which was conveyed by DoC vide letter dated 9 th September 2024. At that time, the Developer has refunded an amount of ₹5,26,39,623/- vide challan No.NPA01 dated 06.07.2024 (Challan copy enclosed) towards the	

SEZ processing and non-processing area?	entire duty/tax exemptions availed for the common amenities viz. Internal road, common parking facilities, sewage, drainage, compressor room, landscapes, gardens, utilities like generation and distribution of power including power back up, HVAC facilities, ETP, ETP. Since the Developer refunded the entire duty/tax exemptions availed for creating the common amenities, the present proposal does not involve payment of the same.
Does the common infrastructure mentioned above inter-alia include internal roads, common parking facilities sewerage, drainage, food courts/hubs cafeteria, restaurants, canteen, gymnasium, catering area, health center, community center, club, sports complex compressor room, hospitals, landscapes, gardens, pedestrian walk way, foot over bridge, utilities like generation and distribution of power, including power back up, HVAC facilities, ETP, WTP, solar panel installed, compressor room, air conditioning and chiller plant, etc.	Yes. The Developer has considered the duty/tax exemptions availed attributable to the common infrastructure facilities while calculating the amount paid
If yes, then whether repayment has been made of all tax/duty benefits availed on developing all these facilities? Please mention amount re-paid.	Yes During the earlier proposal approved by BoA, the Developer has already been refunded an amount of ₹5,26,39,623/- towards the entire duty/tax exemptions availed for the common facilities in the said building vide challan No.NPA01 dated 06.07.2024 (Challan copy enclosed)
Whether the area to be demarcated as NPA is included to be strictly used for IT/ITES Units, any in terms of SEZ Rules 11 (B)(2)?	Yes
Whether the demarcation is proposed for complete floor as per SEZ Rule 11(B)(3)?	Yes
Whether compliance to SEZ Rule 11 (B)(9) has been made regarding "no tax benefits" shall be available for operation and maintenance of common infrastructure?	Yes
Whether appropriate access control mechanism is in place of screen movement of goods or persons between processing area and non processing area in order to rule out any probable diversion	The developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of movement of persons as well as goods in SEZ premise for the SEZ unit and the businesses engaged in IT/ITES services in the proposed non

of duty free goods from processing area and non-processing area?	processing areas.
Whether as a result of the proposed demarcation, the condition of maintaining minimum built-up area requirement in compliance to SEZ Rule 11(B)(7) is adhered to	Yes. The SEZ is coming under Category 'A' City and the minimum built-up area required for Category 'A' is 50,000 sq.mtr. After demarcation of the proposed built-up area, the remaining built-up area in the SEZ shall be 761970.14 sq.mtr., and hence fulfills the condition.
Reason for demarcation of built-up area as NPA	The Developer states that the proposed built-up area is lying vacant in the SEZ since long, due to multiple factors like Sunset Clause for Income Tax benefit, Covid 19 pandemic and consequent work from home facility available to the SEZ units, resulted in less demand for space from SEZ units. Hence, their management decided to demarcate the said built-up area as Non-Processing Area.
Purpose and usage of such demarcation	To allot the same to non-SEZ units

The following 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. Diagrammatical representation of the Building within the Notified SEZ Boundary
- 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, CSEZ
- x. Checklist

Recommendation by DC, CSEZ:-

The proposal of M/s Manyata Promoters Private Limited, the Developer for demarcation of **6373** sq.mtr. processing (built-up) area as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006 read with Instruction No.115 dated 9th April 2024, is recommended for its consideration of BoA.

Agenda Item No. 126.5:

Miscellaneous [2 cases – 126.5(i) and 126.5(ii)]

126.5(i) Proposal of M/s. ANSR Global Corporation Pvt. Ltd. For surrender of partial space of their co-developer area.

Jurisdictional SEZ – Visakhapatnam SEZ (VSEZ)

Facts of the case:

M/s. ANSR Global Corporation Pvt. Ltd. was issued Formal Approval No. 11/25/2016-5EZ dated 1.5.2023 for Co-Developer status in M/s. Phoenix Tech Zone Pvt. Ltd, IT/ITES SEZ at Sy. No. 203 (P), Manikonda Village, Rajendra Nagar Mandal, Telangana for development of the SEZ area specifically to undertake the authorized operations of conversion of warm shell buildings into fully fitted office space and to lease built up space in the SEZ as contracted, aver of 0.52 Ha (55,538 sq. ft. located on the 6th Office Floor). Subsequently, the Co-developer was accorded approval for increase in area to 2.46 Ha (2,65,151 sq. ft.) in 4th Office Floor (South & North Towers), 5th Office Floor (North Tower) and 6th Floor (North Tower) making the total area of the SEZ Co-Developer to 3.50 Ha (3,76,227 sq. ft.).

The Co-Developer vide letter dated 22.10.2024 has requested to surrender partial space as under:

Floor	Area (in sq.ft.)
4 th Floor (south & North Towers)	1,25,409
6 th Floor (North Tower)	69,871
Total space	1,95,280

The Co-Developer has submitted the following documents: -

- NoC from the Developer viz., M/s. Phoenix Tech Zone Pvt. Ltd, Sy. No. 203 (P), Manikonda SEZ
- NoC dated 19.11.2024 from the Specified Officer.

Recommendation by DC, VSEZ: -

In view of the above, the request of M/s. ANSR Global Corporation Pvt. Ltd, Co-Developer for partial surrender of an area of 1.95,280 sq. ft. duly recommended by the Development Commissioner, VSEZ is forwarded to Board of Approvals for approval please.

126.5(ii) Request for permission for amalgamation of the three sector-specific SEZs into one multi-sector SEZ in Mahindra World City.

Jurisdictional SEZ – MEPZ SEZ (MEPZ)

Facts of the case:

M/s. Mahindra World City SEZ was issued approval letter dated 08.09.2005 for setting up of three sector specific SEZs over an area of about 1343 acres. The three sector specific SEZs are as follows: -

- i. Information Technology (including services, electronics, hardware and bio-informatics)
- ii. Apparel and Fashion Accessories
- iii. Auto Ancillaries

The three sector SEZs were notified by Ministry of Finance vide Gazette notifications all three dated 01.04.2005. The following are the details of these three different SEZs:

Name of the SEZ	Processing Area (in hectares)	Non-Processing Area (in hectares)	Total Area (in hectares)	Area utilized (in Hectares)	Number of units
Mahindra World City-IT SEZ	93.137	74.80	167.93	167.93	8
Mahindra World City – Apparel SEZ	32.478	-	32.478	32.478	7
Mahindra World City – Auto Ancillary SEZ	45.918	-	45.918	45.918	17

Proposal for Amalgamation of three SEZs: -

M/s. Mahindra World City Developers Ltd, the Developer of Mahindra World City SEZ, Chengalpattu has submitted a request for amalgamation of the three sector-specific SEZs into one multi-sector SEZ.

Rule 5(2)(a) of SEZ Rules, 2006 read with Gazette Notification No. 940(E) dated 17.12.2019, a Multi-Product SEZ should have a minimum area of 50 Hectares. However, the amalgamated Mahindra World City SEZ would possess 246.33 hectares, which is contiguous.

The reasons for the amalgamation: -

- a. Merging the three sector-specific SEZs into a single multi-sector SEZ will simplify data collection and operational management under a single Letter of Approval (LOA).
- b. The Developer has informed that they have received requests from Multi-National Companies in the Light Engineering and Auto Ancillaries sectors for space in the SEZ to set up their manufacturing facilities. Some of the operational units in Auto SEZ are looking for more space for expansion of their units;
- c. By converting from Sector Specific SEZ into Multi-Product SEZ, unproductive lands and built-up space in the SEZ as a whole could be used in an effective way so that more foreign exchange may be earned by allotting more space in the SEZ to new functional units.

Relevant rule provisions under the SEZ Rules, 2006: -

- **Rule 5(2)(a). The requirements of minimum area of land for a class or classes of Special Economic Zone in terms of subsection (8) of section 3 shall be the following, namely: -**

(a) A Special Economic Zone or Free Trade Warehousing Zone other than a Special Economic Zone for Information Technology or Information Technology enabled Services, Biotech or Health (other than hospital) service, shall have a contiguous land area of fifty hectares or more:

- **Rule 8. Notification of Special Economic Zone. –**

After the submission of details as required under rule 7 and other details, if any, required by the Central Government and on acceptance of the conditions specified in the Letter of Approval, the Central Government shall notify the identified area as a Special Economic Zone under sub-section (1) of section 4, if the area proposed for notification is not less than the minimum area prescribed under rule 5.

Provided that the Central Government may, on the recommendation of the Board on the application made by the Developer, if it is satisfied, modify, withdraw or rescind the notification of a Special Economic Zone issued under this rule:

Recommendations by DC, MEPZ:

The proposal of M/S. Mahindra World City Developers Ltd., the Developer of Mahindra World City—SEZ, Chengalpattu is recommended for consideration of BOA in terms of the Rule 5(2)(a) of SEZ Rules, 2006 for amalgamation of the three SEZs into one multi sector SEZ.

Agenda Item No.126.6:

Appeal [2 cases – 126.6(i) and 126.6(ii)]

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

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

126.6(i) Appeal filed by M/s. Aquapetro Solutions LLP, under Rule 55 of the SEZ Rules, 2006 against the Order dated 29.10.2024 passed by UAC, KASEZ.

Jurisdictional SEZ – KASEZ SEZ (KASEZ)

Brief facts of the case:

M/s. Aquapetro Solutions LLP submitted an application for setting up of a warehousing unit in KASEZ. The proposal was taken up in the 206th UAC held on 30.09.2024 and it was decided that the UAC has already taken a decision of not to permit setting up of any new warehousing unit in KASEZ as already ample number of warehousing units has already been set up in KASEZ and rejected the proposal. Therefore, the UAC, after deliberation, decided to reject the proposal of M/s. Aquapetro Solutions LLP. The decision passed by the UAC was communicated to the applicant on 29.10.2024. Being aggrieved with the decision of the UAC, M/s. Aquapetro Solutions LLP has filed the instant appeal before the BoA in terms of the Rule 55 of the SEZ Rules, 2006.

Grounds of the Appeal:

[1] In the 206th meeting of UAC held on 30/09/2024, the Respondent has taken the decision of rejecting the proposal of the Appellant in mechanical manner without application of mind.

[2] As per rule 18 of the SEZ Rules, 2006, the UAC can either approve the proposal or approve the proposal with modification or reject the proposal by giving a reasoned order. In the present case the Appellant has not given any reasoned order for rejecting the proposal.

[3] The Respondent has grossly misunderstood the contents of the proposal of the Appellant. In the Impugned Order the Respondent has stated the "UAC has already taken the decision of not to permit setting up of any new warehousing unit in Kandla SEZ as already ample number of warehousing units have been already set up in Kandla SEZ."

The Appellant submits that in fact there are about 22 warehousing units engaged in the business of packing & re-packing (i.e. drumming) in Kandla SEZ and as on date only 6 units have commenced their authorized operations. Therefore, the significant numbers 6 units cannot be considered as ample units as held in the decision of 206th UAC meeting.

The above interpretation of the Respondent is not only incorrect but the same is far away from the truth. In the 204th UAC meeting held on 30/07/2024, the Committee has decided to re-look of warehousing units who indulged in drumming of chemicals and petroleum products. For this purpose, the Committee decided to first get the inspection and review of all such warehousing and trading units which are dealing in chemicals and petroleum products for compliance as per the Petroleum Act and Fire Safety prospects.

It was further decided by the Committee that till the inspection and review of existing warehousing and trading units is conducted not to grant any approval for chemicals & petroleum products.

It is evident from the above decision that the UAC has decided not to approve any new proposal of warehousing activity for petroleum products till the review of existing units dealing in chemicals and petroleum products is completed. In that situation the Respondent ought to have deferred the proposal instead of rejecting the same.

[4] The Respondent did not find any objection or discrepancy in the Project Report submitted by the Appellant and therefore there is no any valid reason for not considering the proposal and rejecting the same.

[5] Rule 18 (5) of the SEZ Rules, 2006 provides that a warehousing unit can undertake the work of packing and re-packing without any process. The proposal of the Appellant was that they will carry out the drumming facility (i.e. packing & re-packing) for chemical and petroleum products for their Foreign clients and earn

valuable Foreign Exchange and remain positive in Net Foreign Exchange Earning (NFEE).

[6] The Respondent also utterly failed to appreciate that the proposal of the Appellant was for 100% re-export only and without seeking any clearance in DTA. Therefore, the bonafide operations of the Appellant could not have been denied on the basis of decision of 204th UAC meeting.

[7] Even as per the decision of 204th UAC meeting till the inspection and review of existing warehousing units dealing in chemicals and petroleum products is completed all the new proposals could have been deferred till such reports are received and should not have straight away rejected the proposals.

[8] The Appellant has guaranteed Constitutional Right to make business and earn bread as per the Article 19 (1) (g) of the Constitution of India, which says that every citizen has constitutional right to practice any profession or carry out any occupation, trade or business. The Appellant relies upon the landmark judgment of Supreme Court in case of Chindamanrao v/s State of M.P. (AIR 1951) in this regard.

[9] The Respondent has grossly failed in appreciating that the Appellant is already doing the same activity/operation in DTA in a Bonded Warehouse, but in Bonded Warehouse there is limitation of working hours and recovery of cost by Customs, which is the main reason for the Appellant to divert the business in Kandla SEZ. Therefore, the skill of doing business by the Appellant is beyond doubt.

Prayer of the appellant:

[a] To admit this Appeal and decide on merits.

[b] The decision of 206 UAC meeting as it relates to the Appellant and the Impugned Order dt 29/10/2024 of the Respondent may kindly be quashed and set aside.

[c] Alternatively to kindly direct the Respondent to treat the proposal of the Appellant as deferred instead of rejecting the same and to consider the same after review of working of warehousing units dealing with chemicals and petroleum products as decided in 204th UAC meeting.

[d] Or alternatively remand back the matter to the Respondent for de-novo reconsideration.

[e] To grant personal hearing.

[f] Any other order in the facts and circumstances of the case may also be passed.

Para-wise Comments received from DC, KASEZ: -

Grounds	Comments from DC, KASEZ
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appeal													
Para 01—UAC has taken the decision without application of mind.	<p>The Committee has not been considering the proposal for setting up of unit for trading and warehousing activity for more than one year. Hence, to say that UAC has rejected the proposal without application of mind is totally preposterous.</p> <p>ITR details of the partners of the firm are provided below: -</p> <table><tr><th>A.Y/Name of company/persons</th><th>2022-23</th><th>2023-24</th><th>2024-25</th></tr><tr><td>Harsoara Rushikant Smyakant</td><td>498000</td><td>496840</td><td>671180</td></tr><tr><td>Amit Akshav Pathak</td><td>497310</td><td>496470</td><td>668580</td></tr></table> <p>On examining the ITR of the partners of the firm, it is evident that partners having monthly income between 45-55 thousand per month barely while unit in their proposal has shown the investment of Rs.101 lakh rupees which is not backed by the facts and figures.</p> <p>Above mentioned facts have been due to diligently verified in term of para (i) of Instruction No.117 dated 24.09.2024 issued by the Department of Commerce (SEZ section) which is reproduced below:-</p> <p><i>① There should be due diligence in verifying the credentials including KYC norms of the applicant entities for setting up of FTWZ/ Warehousing zones/units as well as the clients of such units Aadhaar based authentication for Indians and Passport based authentication for foreign clients are to be considered. The Income tax return for the last three years in respect of the proprietor/ Partners/ Director/ s or audited balance sheets for the last three years in case of Limited Company/ Private Limited Company should be part of KYC.</i></p> <p>Further, SEZ law was envisaged primarily to facilitate the manufacturing activity in SEZs while in past there is a steady rise in flow of risky consignments from the warehousing units. Therefore, to curb these activities and to promote the manufacturing activities in KASEZ, this decision has been taken unanimously by the UAC to not to</p>	A.Y/Name of company/persons	2022-23	2023-24	2024-25	Harsoara Rushikant Smyakant	498000	496840	671180	Amit Akshav Pathak	497310	496470	668580
A.Y/Name of company/persons	2022-23	2023-24	2024-25										
Harsoara Rushikant Smyakant	498000	496840	671180										
Amit Akshav Pathak	497310	496470	668580										

	take up the proposal of trading and warehousing activity of new unit in the KASEZ.
Para 02—Appellant has not given any reasoned order for rejecting the proposal.	<p>The Committee cited that the UAC has already taken a decision of not to permit setting up of any new warehousing unit in KASEZ as already ample number of warehousing units has already been set up in KASEZ. Further, this decision has been taken uniformly and applicable to all proposals which have come and will come in future.</p> <p>Further, credentials of the appellant do not appear in consonance in term of clause (i) of the Instruction No. 117 dated 24.09.2024 and directions enshrined in the para. 5 of the Addl. Secretary letter dated 08.01.2024.</p>
Para 03 - The appellant on the basis of some points cited that decision taken by the UAC is not appropriate.	<p>Appellant's contention is totally devoid of facts.</p> <p>The appellant has wrongly and deliberately linked their decision taken in the 206th UAC with the decision of 204th UAC meeting held on 30.07.2024 wherein <i>UAC has taken the decision that to first get the inspection and review of all such warehousing and trading units which are dealing in the chemical and petroleum products for compliances as per the Petroleum Act and Fire safety prospects and decided not to grant any approval for chemicals & petroleum products in the warehousing and trading activity henceforth till the inspection and review of the existing warehousing & trading units are decided.</i></p> <p>Here it is to submit that it is one of the decisions taken for the warehousing and trading activity of chemical and petroleum products in month of July, 2024 while it is again reiterated that UAC has not been considering the proposal for setting up of unit for trading and warehousing activity for more than one year irrespective of their business module.</p> <p>Hence, there is no doubt that decision of 204th UAC is also applicable on the unit as unit wants to engaged in the chemical and petroleum products besides earlier decision of UAC mainly important wherein UAC has decided not to</p>

	<p>take up the proposal of trading and warehousing activity of new unit in the KASEZ</p> <p>Therefore, claim of the appellant is uncorroborated.</p>
<p>Para 04- Respondent did not find any objection or discrepancy in the project report and rejected the same.</p>	<p>It is again submitted that proposal was rejected as UAC has not been considering the proposal for setting up of unit for trading and warehousing activity for more than one year. Reasons are mentioned in the para 01 reply.</p>
<p>Para 05 – wherein the appellant has discussed the Rule 18(5) of SEZ Rules, 2006</p>	<p>The appellant has cited the rule position of Rule 18(5) of SEZ Rules, 2006 and assured to earn the valuable NFE.</p> <p>As already there are more than 40 units are dealing in the warehousing and trading activity in the KASEZ and seeing that there is growing trend of business transacted by the warehousing activities and resulting of number of cases booked against the warehousing and trading units in the recent past, therefore, KASEZ can't turn a blind eye to this aspect. Therefore, to maintain the uniformity, unbiased decision was taken by the UAC not to consider the new proposal of warehousing and trading activity in KASEZ</p>
<p>Para 06 - wherein appellant cited that their project is 100% re-export</p>	<p>It is submitted that risky consignments were also reported in the recent past in various other SEZs where units were engaged in importing and exporting the same goods enhancing the value and bringing the higher amount of foreign exchange in India.</p> <p>This aspect is already under investigation by the investigating agency wherein the money laundering aspect is being investigated. Therefore, citing that unit will only make the 100% export, this fact can't override the reason of the UAC to not take up the new proposal of warehousing and trading activity in KASEZ. Further, as per the para 5 of the D.O.No.K- 43022/112/2023-SEZ dated 08.01.2024 issued by the Additional secretary, where it is directed that due diligence and maximum possible caution in approving new units of warehousing units in SEZs as well as in FTWZs. Such measures should include detailed examination of the credentials of applicants as well as users of such units such as CHAs, Clients etc. The examination should be exercised in conjunction with other members of the UAC members from jurisdictional customs, GST as well as income tax officers to verify the track record of applicants seeking LOA as well as other</p>

	<p>approvals in the context of warehousing units</p> <p>The Appellant could not provide the satisfactorily explanation with respect to the methodology mechanism or working capital for achieving the export figures 308 lakhs in the next five years.</p>
Para 7 – appellant cited decision of 204th UAC meeting	It is submitted that comments for the same matter has already been mentioned at the point 3.
Para 8 & 9-Appellant cited the business right as per the Article 19(1)(g) Constitution of India. Further, appellant is also doing business in Bonded warehousing but due to limitation of working hours want to divert to KASEZ	<p>The appellant is having the right to do business, there is no question on it. But sometimes Govt., also issues various notifications via which some commodities are put under category of prohibited/restricted category, some areas of business are restricted to the defence sector. IREL agencies but that does not tantamount to infringement of fundamental rights.</p> <p>Here in this case also unit is free to do such business and also currently doing it in the Bonded Warehouses. Just in the KASEZ as a precautionary measure and understanding the primarily motive of the SEZ laws which envisage to promote the manufacturing activity in the SEZ, therefore, UAC has decided not to grant and consider the permission of granting new license for trading and warehousing and this decision is applicable uniformly to all applicants.</p>

In view of above, prayer of the appellant requires to be summarily rejected and no relief of any kind be granted to them and due diligence has been taken care by the UAC while taking and issuing the proper reasoned legal proper order.

Relevant provisions under the SEZ law: -

- **Rule 18. Consideration of proposals for setting up of Unit in a Special Economic Zone:**

(1) The Approval Committee may approve or approve with modification or reject a proposal placed before it under sub-rule (2) of rule 17, within fifteen days of its receipt:

Provided that where the approval is to be granted by the Board in terms of sub-rule (3) of rule 17, the Board shall approve or approve with modification or reject such proposal within forty-five days of its receipt:

Provided further that the Approval Committee or the Board, as the case may be, shall record the reasons, in writing, where it approves a proposal with

modifications or where it rejects a proposal and Development Commissioner by order shall communicate such reasons to the person making the proposal.

(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 labeling, packing or re-packing without any processing.*

Further, it was earlier observed by DoC that DTA supplies and rising misuse by risky consignments and dubious clients exploiting the absence of ICEGATE RMS; additionally, C&AG Report 19 of 2022 highlights operational irregularities in FTWZs, including non-compliance with SEZ Rules, unfulfilled projections, and issues with APR submissions.

In this regard, Vide DoC's letter No. K-43022/112/2023-SEZ dated 08th January , 2024, all Zonal DCs were requested to be exercise due diligence and maximum possible caution in approving new units as well as in monitoring the working of existing warehousing units in SEZs as well in FTWZs. Such measures should include detailed examination of the credentials of applicants as well users of such units such as CHAs, clients, etc. The examination should be exercised in conjunction with other members of the UAC members from jurisdictional Customs, GST as well as Income tax officers to verify the track record of applicants seeking LoA as well as other approvals in the context of warehousing units. It is also requested to keep strict monitoring of movement of goods from FTWZ units to avoid any kind of irregularities and also take appropriate action to streamline functioning of FTWZs and strengthen their internal controls.

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

126.6(ii) Appeal filed by M/s. Tekwud Products Pvt. Ltd. under Rule 55 of the SEZ Rules, 2006, against the decision of UAC, KASEZ.

Jurisdictional SEZ – Kandla SEZ (KASEZ)

Brief facts of the case:

M/s. Tekwud Products Pvt. Ltd. was issued LoA dated 05.08.2010 by KASEZ to operate as an SEZ Unit and carry out authorized operations of Manufacturing Activity of various types of wood plastic composite products (ITC HS Code 44130000). The UAC, KASEZ in its 205th meeting dated 03.09.2024 observed that the Unit was issued Show Cause Notice dated 02.11.2023 by KASEZ for sub-letting of their premises. Further, the LoA of the Unit was expired on 01.01.2019 and the renewal application has never been submitted by the Unit. Therefore, the UAC decided to cancel the LoA under Section 16 of the SEZ Act, 2005. The decision of the UAC was conveyed by O-I-O dated 25.09.2024 by DC, KASEZ. Being aggrieved with the decision of the UAC, M/s. Tekwud Products Pvt. Ltd. has filed the instant appeal before the BoA in terms of the Rule 55 of the SEZ Rules, 2006.

Grounds of Appeal:

[1] The Respondent has passed the O-I-O in mechanical manner without proper application of mind and without appreciating the facts available on records.

[2] The Respondent has alleged in the impugned Order that the Appellant has sub-letted/rented the self-constructed building/premises on Plot No.438/A to the adjoining unit M/s. Mahamaya Construction & Engineers (MMCE for short). The conclusion drawn by the Respondent is baseless and denied. The fact that M/s. MMCE which is situated adjacent to the Appellant company is a partnership firm of Mr. Swami Subramaniam (General Power of Attorney of the Appellant company) and Mr. Rajesh Bajpai who is the Director of the Appellant company. It was only under warranting situation that due to heavy rain M/s. MMEC was facing acute shortage of space. Therefore, they were permitted by the Appellant company for temporarily use of their premises only for storage purpose. The Respondent has not appreciated that no any rent was paid to the Appellant company and therefore alleging that the Appellant company has sub letted/rented the premises (that too for the short period) is baseless and not supported by any cogent evidence.

[3] In the Impugned Order at para 20, the Respondent has alleged that the Appellant was served with the notices dated 25.05.2016, 03.10.2018, 09.04.2019 and 31.10.2019 under the Public Premises (Eviction of Unauthorized Occupants) ACT, 1971 for non-payment/late payment of rental dues. The Respondent has considered the notices as contravention for purpose of cancellation of LOA u/s 16 of the SEZ Act, 2005. Further the Respondent has also held in the impugned Order that the

Appellant was issued with SCNs dated 18.04.2018 and 17.07.2019 for not/late submission of APRs for the relevant period.

The factual position in respect of Eviction Notice for non-payment of lease rent and non/late submission of APRs as under: -

The Lease Rent was paid by the Appellant along with Penal Interest and such Eviction Notices were dropped. For late/non submission of APR for F.Y. 2016-2017, 2017-2028 a penalty of Rs. 10,000/- was imposed on the Appellant in separate proceedings. For none/late submission APR for F.Y. 2019-2020 a penalty of Rs.20,000/- was paid by the Appellant on adjudication by the Respondent. Thus, the 4 notices for delayed payment of Lease Rent and 3 SCNs for late/non submission of APRs were also adjudicated and the penalties were paid by the Appellant.

Since the Appellant has paid the rental dues with interest for the delayed period and also paid the penalties for late/non submission of APRs the cognizance of such contravention should not have been taken in the Impugned Order as these contraventions were not leveled in the SCN.

[4] It is well settled position of law that the charges leveled in the SCN can only be decided in the adjudication. In the SCN, the conclusion of delayed payment of rental dues and non/late submission of APRs were never alleged in the SCN and therefore concluding such contravention in the Impugned Order is wholly illegal and not permissible in law.

[5] The main ingredient to prove any sub-letting/renting any documentary evidence which can prove that the Appellant has received any amount as rent from M/s MMCE. No such evidence was brought on record by the Respondent. On the contrary the Appellant stated in reply to the SCN that they had allowed M/s. MMCE for temporary use for storage of their material as the Director of the Appellant company is also the partner of in M/s. MMCE. The Impugned Order solely depends on the ground of only subletting/renting, which is not established by the Respondent. Even if the Appellant has temporarily stored the goods of their sister concern M/s. MMEC such violation cannot be considered so grave which warrants cancellation of LOA.

[6] The Respondent has also failed to appreciate that the Appellant has spent huge amount of Rs.1.50 crore on construction of building, which will be lost if the LOA is cancelled and resultantly the plot is evicted and possession resumed by the Respondent. Such a disproportionate loss will not be justified for a smaller lapse committed by the Appellant.

[7] Although the lease period of Plot No.438/A had expired on 25/05/2021, but the Respondent has charged and the Appellant has paid the New Lease Rent (about 5

times more than old rate) till September-2023. The Appellant is willing to pay outstanding amount of Lease Rent on demand from the Respondent.

[8] Section 16 of the SEZ Act, 2005 provides that a LOA of any unit can be cancelled for any contravention made by the unit "**persistently**". In case of the Appellant the alleged contravention of sub-letting/renting is the first time and cannot be termed as "**persistent**". Therefore, also the provisions of Section 16 of the SEZ Act, 2005 cannot be invoked against the Appellant.

Prayer of the appellant:

[A] The OIO No. KASEZ/10/2024-25 dt.25/09/2024, the Impugned Order passed by the Respondent may kindly be quashed and set aside.

[B] Alternatively the Impugned Order may kindly remanded back to the Respondent for re-consideration in De-Novo proceedings.

[C] The implementation of the Impugned Order may kindly stayed till the disposal of this Appeal.

[D] The status quo in respect of Plot No.438/A, Sector-IV, Kandla SEZ may kindly be maintained till the disposal of this Appeal.

[E] If the Impugned Order is upheld by the Appellate Authority, then at least the building constructed by the Appellant may kindly be allowed to be transferred to M/s. MMCE, the sister concern of the Appellant

[F] Ad-interim Order in respect of para-C & D may kindly be passed.

[G] To pass any other order in the facts and circumstance of this case as may be deemed fit.

Para-wise Comments received from DC, KASEZ: -

Grounds of appeal	Comments from DC, KASEZ
Para [01] & [02] — Baseless Allegation of Subletting Without Evidence or Proper Consideration of Facts.	The contention of the appellant is not tenable as there are some laws and specific procedures that have been designed by the government which are to be followed by each and every entity to carry out authorize operation well within the legal framework of SEZ laws in the SEZ. If intention of law makers was only to eye on the revenue generation, then legislature would not have put so much efforts in designing SEZ Act and Rules. Therefore, the appellant cannot be exonerated from the responsibility of abiding by the SEZ Act/Rules and terms and conditions mentioned in the LoA issued, as amended time to time to the appellant. Further, the appellant in their written reply to the SCN issued had themselves admitted that due to the limited knowledge of

	provisions of SEZ Act/Rule, they have committed an unintentional mistake in storing the goods of M/s. Mahamaya in bonafide circumstances. Therefore, the appellant had accepted their mistake of violation of LoA issued to them & provisions of SEZ Act/Rules.
Para [3] & [4]: Improper Reliance on Unalleged Contraventions in the Impugned Order Beyond the Scope of the SCN.	The contention of the appellant is not correct as while going through the records of the case it has been noticed that the appellant is an habitual offender and had not been depositing the rental dues on time as per the lease deed executed by them and had also not submitted Annual Performance Report within the stipulated time as provided under the SEZ Rules, 2006 and as such the appellant has violated the terms and conditions of LoA and Allotment Order issued which are serious lapse on the part of the appellant and hence the same has been included in the O-I-O dated 25.09.2024.
Para [5]: Lack of Evidence for Subletting Allegation and Disproportionate Action of LOA Cancellation	The contention of the appellant is not correct as the Specified Officer of the Customs vide their report dated 12.10.2023 had reported that officers of Customs had visited the premises of the appellant i.e. M/s Tekwud Products Pvt. Ltd., KASEZ and reported that at Plot No. 438-A, Sector-IV, KASEZ there is huge stock of import material viz. Plastic Agglomerates, Plastic Regrind, Plastic Lumps, Decorative items etc. lying in the premises of M/s. Tekwud Products Pvt. Ltd. Further, the goods belong to adjacent unit, namely, M/s. Mahamaya Construction & Engineer, Plot No. 438-A2, Sector-IV, KASEZ, a warehousing unit. Further, Specified Officer of Customs, also mentioned in his report that it appears that the appellant has leased/rented out their premises to M/s. Mahamaya Construction & Engineer for storing duty free imported goods and whole activity found at the time of visit as unauthorized activity. Further, the appellant has not been indulged in any manufacturing activity except renting/sub-letting in contravention of the provisions laid down under SEZ law and accordingly no material inward or outward is noticed at the appellant end on the SEZ online portal – either import/export/DTA or inter unit transfer and even their registration on NSDL had already expired. This specifically highlights the fact that the material has been transferred from one unit to another without any documentary evidence and only for storage and carry out unauthorized activity of warehousing which is not permitted in

		the appellant's Letter of Approval. Further, the appellant's activities are not in consonance with the objectives laid down under Section 5 of the SEZ Act, 2005 as their LoA was not renewed from 01.01.2019 and as such the LoA of the appellant unit had expired on 01.01.2019.
Para [6]: Disproportionate Impact of LOA Cancellation on Appellant's Investment		The contention of the appellant that they have constructed their own building by investing Rs. 1.50 crores is not correct as the appellant has been allotted the Plot No. 438/A along with infrastructure as per offer of re-allotment dated 04.10.2010 for re-allotment/transfer of Plot No. 438-A, Sector-IV, KASEZ. Further, the appellant's activities are not in consonance with the objectives laid down under Section 5 of the SEZ Act, 2005 as their LoA was not renewed from 01.01.2019 and as such the LoA of the appellant unit had expired on 01.01.2019 and the unit is not indulged in any activity of exports & imports and generation of employment.
Para [7]: Willingness to Settle Outstanding Lease Rent Despite Expired Lease Period		The contention of the appellant is not correct that the respondent has charged and the appellant had paid the new lease rent (about 5 times more than old rate) till September'2023 as after expiry of their lease period w.e.f. 25.05.2021, their lease rent has never been revised by the respondent. Further, as the appellant's Letter of Approval has already been cancelled and also their premises has been evicted under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, hence the question of appellant's willingness to pay outstanding amount of Lease Rent on demand from KASEZ does not arise. However, the appellant may be directed to clear the outstanding Lease Rent upto the period till the unit is evicted.
Para [8]: Non- Persistent Contravention Invalidates Invocation of Section 16 of the SEZ Act, 2005		Section 16 of the SEZ Act, 2005 stipulates that if the Approval Committee 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. In the instant case, the Appellant has not followed the due procedures set out in the SEZ Act and Rules for SEZ

manufacturing units as well as the conditions of LoA as amended, and Bond-cum-Legal Undertaking by way of giving the entire shed/space allotted to them to other unit of KASEZ i.e. M/s Mahamaya Construction & Engineer, KASEZ for storing of their imported goods contravening the provisions of Rule 18 (5) of the SEZ Rules, 2006 which is clearly not the part of their LoA.

Further, the appellant is a habitual offender and had not been depositing the rental dues on time as per the lease deed executed by them and had also not submitted Annual Performance Report within the stipulated time as provided under the SEZ Rules, 2006 and as such the appellant has violated the terms and conditions of LoA and Allotment Order issued which are serious lapse on the part of the appellant and as such the contraventions made by the appellant is persistent in nature.

Therefore, the Unit Approval Committee in its 205th meeting held on 03.09.2024 had deliberated on the issue and noted that the unit's activities are not in consonance with the objectives laid down under Section 5 of the SEZ Act, 2005 and Show Cause Notice dated 02.11.2023 was issued to the unit for renting/sub-letting of their premises and also for cancellation of LoA under Section 16 of the SEZ Act, 2005. Thus, the Committee was of the view that this is a fit case for cancellation of their LoA under Section 16 of the Act for violation of terms and conditions of LoA and its obligation as laid down in the SEZ Act and Rules made thereunder. Further, the act of the appellant is in contravention of para 2. of Instruction No. 117 dated 24.09.2024 which states that ***"Since sub-letting of SEZ units is not permitted under SEZ law, all the DCs are to take appropriate action to cancel the LoA in case of such violations by any unit"*** Thus, the activity of the appellant clearly falls within the ambit of sub-letting as is evident from the show cause notice issued and the Visit Note of the officers which was conducted to ascertain the factual position.

The grounds for cancellation of Letter of Approval was due to the following reasons: -

	<ol style="list-style-type: none"> 1. The appellant is only engaged in unauthorized activity wherein the facility and infrastructure are used as storage facility and warehousing of imported goods and the appellant is a manufacturing unit and do not have warehousing service activity in their LoA and are actively engaged in renting/sub-letting only which is against the provisions of SEZ Act/Rules. 2. The Letter of Approval of the appellant was valid upto 31.12.2018 and the appellant vide letter dated 19.12.2018 has requested for renewal of their Letter of Approval for further 5 years period, however, the appellant has not submitted their renewal application in Form F1 as required under Rule 19(6A)(1) of the SEZ Rules, 2006 and the DC office vide letter dated 31.12.2018 (copy enclosed) had requested the appellant to submit complete application in Form F1 along with requisite document and also detailed justification for delayed submission of renewal request. But the appellant thereafter never submitted the renewal application in Form F1 and as such the Letter of Approval of appellant has expired on 01.01.2019.
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In view of the above, DC, KASEZ has stated that the prayer of the appellant requires to be summarily rejected and no relief of any kind be granted to them and the O-I-O passed by the DC requires to be upheld as the O-I-O passed is a well-reasoned legal and proper order issued on the basis of the legal provision as well as on the basis of the material facts available on records.

Relevant provision under the SEZ law:

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

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

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