

No. K-43019/9/2024-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

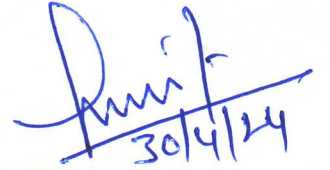
Vanijya Bhawan, New Delhi
Dated the 30th April, 2024

OFFICE MEMORANDUM

Subject: 3rd meeting (2024 Series) of the Board of Approval for Export Oriented Units and 120th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) – Reg.

The undersigned is directed to refer to the subject cited above and to inform that the 3rd meeting (2024 Series) of the Board of Approval for Export Oriented Units and 120th meeting of the BoA for SEZs is **scheduled to be held on 15th May, 2024 (Tentative) at 11.30 A.M, in Room No. 427, Vanijya Bhawan, New Delhi** under the Chairmanship of Commerce Secretary, Department of Commerce in Hybrid Mode.

2. **The Agenda for the 120th meeting of the BoA for SEZs is enclosed herewith.**
3. All the addresses are requested to kindly make it convenient to attend the meeting.
4. The meeting link of the aforesaid meeting will be shared shortly.



(Sumit Kumar Sachan)

Under Secretary to the Government of India

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Email: sumit.sachan@nic.in

To

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

8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)
9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).
11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi - 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhavan, New Delhi
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyaपुरi, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi - 110 001 (Fax: 223329770)
22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai - 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, Atladra Padra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam - 3

36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Development Commissioner, GIFT SEZ, Gujarat
42. Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).
43. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.
44. Government of Karnataka, Principal Secretary, Commerce and Industry Department, Vikas Saudha, Bangalore – 560001. (Fax: 080-22259870)
45. Government of Maharashtra, Principal Secretary (Industries), Energy and Labour Department, Mumbai – 400 032.
46. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
47. Government of West Bengal, Principal Secretary, (Commerce and Industry), IP Branch (4th Floor), SEZ Section, 4, Abanindranath Tagore Sarani (Camac Street) Kolkata – 700 016
48. Government of Tamil Nadu, Principal Secretary (Industries), Fort St. George, Chennai – 600009 (Fax: 044-25370822).
49. Government of Kerala, Principal Secretary (Industries), Government Secretariat, Trivandrum – 695001 (Fax: 0471-2333017).
50. Government of Haryana, Financial Commissioner and Principal Secretary), Department of Industries, Haryana Civil Secretariat, Chandigarh (Fax: 0172-2740526).
51. Government of Rajasthan, Principal Secretary (Industries), Secretariat Campus, Bhagwan Das Road, Jaipur – 302005 (0141-2227788).
52. Government of Uttar Pradesh, Principal Secretary, (Industries), Lal Bahadur Shastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
53. Government of Punjab, Principal Secretary Department of Industry & Commerce UdyogBhawan), Sector -17, Chandigarh- 160017.
54. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
55. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneswar – 751001 (Fax: 0671-536819/2406299).
56. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), VallabhBhavan, Bhopal (Fax: 0755-2559974)
57. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
58. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
59. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
60. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.

61. Government of Chattishgarh, Commissioner-cum-Secretary Industries, Directorate of Industries, LIC Building Campus, 2nd Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

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

Agenda for the 120th meeting of the Board of Approval for Special Economic Zones to be held on 15th May, 2024 at Room No. 427, Vanijya Bhawan, New Delhi.

120.1: Ratification of the minutes of the 119th meeting of the Board of Approval held on 06th March, 2024.

120.2: Request for extension of validity of formal approval (1 proposal)

120.2(i) Request of M/s. Phoenix Spaces Pvt. Ltd. for further extension of the validity period of formal approval, granted for setting up of IT/ITES SEZ at Sy. No. 285, Puppalguda beyond 30.03.2024.

Name of the Developer : M/s. Phoenix Spaces Pvt. Ltd.
Sector : IT/ITES
Location : Sy. No. 285, Puppalguda Village, Rajendra Nagar Mandal, Ranga Reddy District, Telangana
Extension : Formal approval to the developer was granted on 31.03.2017. The Developer has been granted 4 extensions upto 30.03.2024. The SEZ stands notified as on date.
Request : Extension of validity of LoA for a further period from 31.03.2024 to 30.03.2025

Present Progress:

a. Details of Business plan:

Sl. No.	Type of Cost	Proposed Investment (Rs. in crore)
1	Land/JDA Cost	46.00
2	Development/Construction Cost	714.00
3	Finance cost	13.00
	Total	773.00

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

S. No.	Type of Cost	Investment made upto 31.12.2022 (Rs. in crore)	Incremental Investment since last extension (in Rs crore)	Total investment made so far (In Rs crore) upto 31.01.2024
1	Development cost	595.21	126.82	722.03

** Above investment proposed and investment made includes Co-Developer amount as well.

c. Details of physical progress till date:-

S. No.	Activity		% completion	% completion during last one year	Deadline for completion of balance work
		Tower-1	100	Completed	Completed

1	Project Development	Tower-2	80	32	30.3.2025
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Detailed reasons for delay: They have constructed two towers comprising 19,74,405 sft (2.0 million sft). Tower-1 is ready to occupy but there are no takers for IT/ITES space. They are facing it very challenging to lease out the space to IT/ITES SEZ units. They are still confident that due to the proposed new SEZ amendments, the demand for IT/ITES SEZ will once again increase and they will be in a position to lease out the space and make the SEZ operational.

Recommendation of DC, VSEZ: -

The request of the Developer for an extension of the validity of the Letter of Approval for a further period of one year from 31.03.2024 to 30.03.2025 (5th extension) is recommended for consideration of the BoA.

120.3: Request for extension of LoA of Unit (1 proposals)

Rule position:

- As per Rule 18(1) of the SEZ Rules, the Approval Committee may approve or reject a proposal for setting up of Unit in a Special Economic Zone.
- Cases for consideration of extension of Letter of Approval i.r.o. units in SEZs are governed by Rule 19(4) of SEZ Rules.
- Rule 19(4) states that LoA shall be valid for one year. First Proviso grants power to DCs for extending the LoA for a period not exceeding 2 years. Second Proviso grants further power to DCs for extending the LoA for one more year subject to the condition that two-thirds of activities including construction, relating to the setting up of the Unit is complete and a Chartered Engineer's certificate to this effect is submitted by the entrepreneur.
- Extensions beyond 3rd year (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.

120.3(i) Request of M/s. Wockhardt Ltd. Unit 2, located at Plot No. 6 in Wockhardt Infrastructure Development Ltd.-SEZ, Shendre, Aurangabad, Maharashtra, for extension of Letter of Approval dated 25.02.2013, beyond 10th year, for the period of one year, from 01.03.2024 up to 28.02.2025.

LoA Issued on (date)	: 25.02.2013
Nature of business of the unit	: Manufacturing of Nasal and Inhaler Dosage Form for Human usage.
No. of Extensions	: 10 extensions granted – 3 by DC and 7 by BoA
LoA Valid upto (date)	: 29.02.2024
Request	: For further extension for one year, up to 28.02.2025

Present Progress:

i. Details of Business plan:

S.N.	Type of cost	Proposed Investment (Rs. in Cr.)
1	Plant & Machinery	85.80
2	Buildings	1.56
3	R & D Labs Equipments	1.21
4	Computers-Office Equipments	0.33
	Total Capital Investment	88.90

ii. **Investment: Position of capital investment by Wockhardt Ltd.**

S.N.	Particulars	Total investment made so far (Rs. in Crores)
1	Up to December 2022 (i.e. upto Last extension)	88.90
2	After January 2023(till 31 st December 2023)	NIL (Increment)
3	Total capital investment (till 31 st December 2023)	88.90
4	% wise increase	--

Details of physical progress till date:

Physical Progress: The Unit has submitted that there is no change with regards to physical progress as the construction activities of the Unit have already been completed and the plant and machinery has been fully installed to its capacity. The Unit has not commenced operation as they are awaiting approval from regulatory bodies. M/s. Wockhardt Ltd. is committed to make the unit operational and therefore they are taking substantial steps by coming up with the broad banding proposal for adding new product i.e. Human Insulin in their existing LOA to make the unit operational.

S.N.	Activity	Total Area	Deadline for completion of work
1	Approved area	3900.90 Sq. Mtrs.	The construction activity of project is already completed.
2	Area constructed so far	3900.90 Sq. Mtrs.	
3	Incremental area since last extension	Nil	
4	% wise progress since last extension	Nil	

Detailed reasons for delay:

- a. The Specified Officer vide inspection report dated 05.02.2024, reported that the construction activities along with installation of necessary plant and machineries required for smooth operation has been completed by the Unit and the progress of the work done by the unit is found satisfactory. Since the unit will be manufacturing Nasal and Inhaler Dosage only for export for which approvals from the regulatory authorities of countries to which the products will be exported have to be obtained,

they have been regularly applying to USFDA for inspection and paying fee for the same. Due to Covid -19 pandemic the inspection was getting delayed. They have applied to USFDA for product approval for the current year also valid upto 31.12.2024. They are expecting the surprise inspection anytime shortly.

- b. Further the unit has submitted an application dated 12.02.2024 for permission for adding new products i.e. Human Insulin & Insulin Glargine in their existing LOA in order to make unit operational in due course in terms of Rule 19(2) of SEZ Rules, 2006.

Details from CE's Certificate: The Unit has submitted Chartered Engineer's Certificate (Mrs. Swapna Khandekar, registration No. CA/2001/28101) dated 24.01.2024. The details mentioned in the CE's Certificate are as follows:

- Approved area as per approved plan: 3900.90 sq. mtrs.
- Constructed area so far: 3900.90 sq. mtrs.
- Incremental area since last LOA approval: NIL
- Area of difference in % - NIL (Construction completed in last extension of LOA)
- Material used are of approved quality
- All structural work including brick walls, roofing, plastering, etc. are being implemented to satisfaction.

Recommendation by DC, SEEPZ SEZ: -

DC SEEPZ-SEZ has recommended the request of the Unit for extension of LoA for a period of one year up to 28.02.2025 as per Rule 19(4) of SEZ Rules, 2006.

120.4: Request for setting up of new SEZ (2 proposals)

120.4(i) Request of M/s. Delhi International Airport Limited (DIAL) for setting up of two Multi-Product SEZ (SEZ-1) at Indira Gandhi International Airport, New Delhi over an area of 2.02 Ha.

120.4(ii) Request of M/s. Delhi International Airport Limited (DIAL) for setting up of a Multi-Product SEZ (SEZ-2) at Indira Gandhi International Airport, New Delhi over an area of 2.02 Ha.

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

S. N.	Conditions / Documents required	Status	Status
A.	Documents required for setting up of SEZ in terms of Rule 3 of SEZ Rules, 2006:	DIAL SEZ-1	DIAL SEZ-2

(i)	Completed Form-A (with enclosures) A. Total Proposed investment B. FDI (in US \$) C. Source of FDI D. Proposed Exports E. Employment (in Nos.)	Yes, provided Rs.108.11 Crore Nil Not Applicable Rs.133.22 Crore Direct - 4491 Nos. Indirect - 1809 Nos.	Yes, provided Rs.108.11 Crore Nil Not Applicable Rs.133.22 Crore Direct - 4491 Nos. Indirect- 1809 Nos.
(ii)	DC's Inspection Report	Yes, provided	Yes, provided
(iii)	State Government's Recommendation	Yes, provided Deputy Commissioner Industries, Govt. of NCT of Delhi vide letter dated 22.03.2024, has informed that Hon'ble Lt. Governor, Delhi has agreed in-principle with the proposal. It is also informed that the matter was taken up with DDA and Director, (MPD), DDA vide letter dated 03.01.224 has conveyed that <u>"MPD-2021 vide Table 12.7 stipulates that the activities permitted in Use Premise 'Airport' are to be decided by Airport Authority of India."</u>	
(iv)	Recommendation for National Security Clearance (NSC) from Ministry of Home Affairs as per Rule 3 of SEZ Rules, 2006.	A Self-Declaration by the applicant duly countersigned by DC, NSEZ has been provided. DC has stated that no country sensitivity, Geographical sensitivity and Sector sensitivity applied on the proposal.	A Self-Declaration by the applicant duly countersigned by DC, NSEZ has been provided. DC has stated that no country sensitivity, Geographical sensitivity and Sector sensitivity applied on the proposal.

B.	Minimum area requirement in terms of Rule 5 of SEZ Rules, 2006.	The proposal does not fulfil minimum land requirement (i.e., 50 Ha) for Multi-Product SEZ. However, DC, NSEZ has recommended that relaxation on minimum land requirement may be considered by the Board of Approval in terms of Rule 7(2) of SEZ Rules, 2006, on the basis of merit of the proposal.	The proposal does not fulfil minimum land requirement (i.e., 50 Ha) for Multi-Product SEZ. However, DC, NSEZ has recommended that relaxation on minimum land requirement may be considered by the Board of Approval in terms of Rule 7(2) of SEZ Rules, 2006, on the basis of merit of the proposal.
C.	Details to be furnished in terms of Rule 7 of SEZ Rules, 2006:		
(i)	<p>Certificate from the concerned State Government or its authorised agency stating that the Developer has:</p> <ul style="list-style-type: none"> • Legal Possession, and • Irrevocable rights to develop the said area as SEZ, and • That the said area is free from all encumbrance. 	<p>The applicant has submitted a copy of letter No. AV- 16026/22/2023-ER dated 25th Oct, 2023 of Ministry of Civil Aviation addressed to DIAL CEO.</p> <p>As per Para 2(a)(i) of the said letter, DIAL has exclusive rights to develop, finance, design, construct, modernize, operate, maintain, use and regulate the use by third parties at Airport. As per DIAL's master Plan the location of the land identified by DIAL for the development of SEZ is planned to be used for Cargo.</p> <p>Regarding "Area is free from all encumbrances" applicant has referred Para 2(a)(ii) of the said letter where it has been validated that DIAL enjoy complete and uninterrupted possession and control of the Airport Site. The land has been leased to DIAL as demised premises for carrying its functions as per terms and conditions of the agreement.</p> <p>Regarding "Not falling under reserved or ecological fragile area" the applicant has again referred para 2 (a) of the said letter, the land has been referred as 'Airport Site and Demised Premises' for carrying out the functions, as per terms and conditions of the agreement.</p>	

(ii)	Whether the Developer has leasehold right over the identified area. The lease shall be for a period not less than twenty years.	Applicant has submitted copy of registered Lease deed dated 25.04.2006 executed between Airport Authority of India & M/s. Delhi International Airport Private Limited for the renewable term of 30 Years w.e.f. 25.04.2006. As per Form-A, the land has been licensed under OMDA for till FY 2036 with a provision of extension for another 30 years for Operation, Management and Development of Airport Infrastructure at IGI Airport.	
(iii)	The identified area shall be Contiguous, Vacant and No thoroughfare.	As per physical inspection report, the proposed land is Vacant, Contiguous, Vacant and No thoroughfare.	As per physical inspection report, the proposed land is Vacant, Contiguous, Vacant and No thoroughfare.

Note: - The applicant has proposed 2.02 hectare land for each SEZ. In this regard, the applicant has stated that the Ministry of Civil Aviation has intent to grow the Air Cargo business in the country from the current levels of 3.1 MMT in FY23 and Hon'ble Union Minister of Civil Aviation, has given a vision of achieving 10 Million tons of cargo by Year 2030. To achieve this vision, the Industry has highlighted in various Cargo forums like Air Cargo Forum of India (ACFI), Association of Private Airport Operators (APAO) the need of creating Air Cargo Hubs in India which will have complete cargo ecosystem Tier 1, Tier 2 and Tier 3 (SEZ/FTWZ) infrastructure at the Indian Airports and which will benchmark our airports with global Air Cargo Hubs like Hong Kong, Changi Singapore and Dubai etc. The same has been appreciated by Hon'ble Union Minister of Civil Aviation, Shri Jyotiraditya M. Scindia in the Cargo Advisory Council meetings. The trade fraternity has requested MoC through MoCA for relaxing the minimum area requirement from 50 Hectares to 5 Acres. Applicant has further stated that Senior Economic Adviser MoCA is kind enough to seek clarification from Ministry of Commerce and communicate through letters dated 13.05.22 and 06.06.22, suggesting to apply for Special Economic Zone (SEZ) instead of FTWZ to the Board of Approval (BoA) through the Development Commissioner and confirming that the BOA is empowered to take all decisions (including area relaxation) related to granting approvals for setting up On-Airport SEZ so as to promote Air Cargo.

In terms of DoC's Instruction No. 102 dated 18.11.2019, Physical Inspection of the site was carried out on 08.11.2023 by JDC, DDC, NSEZ along with Representative Revenue/Land Authority and Representative of Delhi International Airport Ltd. It is noted that there are two separate pieces of lands, each proposed for setting up of two separate SEZs named as SEZ 22(A1) and SEZ22(A2). The proposed land is situated within the master plan area of Indira Gandhi International Airport (IGI Airport). Both plots of land were found to be contiguous and vacant. The land proposed for SEZ 22(A1) is presently being utilized for vehicle parking and the land proposed for SEZ 22(A2) is being used for storing loose construction materials for renovation and repair of runway inside the airport.

Recommendation by DC, NSEZ:

There is no SEZ in Delhi. This one near Delhi Airport is strategically located and has tremendous potential for manufacturing, services and warehousing. Airport Authority of India, a Central government entity has a 26% stake in the applicant entity. The proposal does not fulfill the minimum land requirement for Multi-Product SEZ and the remainder of the lease period is less than the prescribed 20 years. However, given the strategic location and potential of the SEZ, it is recommended for relaxation of the minimum land requirement and the lease period may be considered by the Board of Approval in terms of Rule 7(2) of SEZ Rules, 2006, on the basis of merit of the proposal. The proposal is recommended for grant of formal approval for setting up Multi-Product SEZs (SEZ-1 & SEZ-2) over an area of 2.02 hectares each at Zone Ref. 22A(1) & 22A(2) in Cargo Zone, Portion of 22 at Indira Gandhi International Airport, New Delhi by M/s. Delhi International Airport Limited, in relaxation of the SEZ Rules as deemed appropriate by the Board of Approval.

Both the proposals were earlier considered in the 117th meeting of the BoA held on 17th November, 2023. The Board, after deliberations, deferred the cases with direction to DC, NSEZ to seek clarification from the applicant on the following points: -

- i. Fulfilment of minimum area requirement for setting up of SEZ in terms of Rule 5(2) of the SEZ Rules, 2006.
- ii. Leasehold rights over the identified area in terms of the rule 7(1) of the SEZ Rules, 2006.
- iii. National Security Clearance in terms of the rule 3 of the SEZ Rules, 2006.
- iv. State Government's recommendation in terms of the rule 3 of the SEZ Rules, 2006.

In compliance of the direction of the Board, DC, NSEZ has forwarded the point-wise clarification received from the applicant as below: -

1. Fulfilment of minimum area requirement for setting up of SEZ in terms of Rule 5(2) of the SEZ Rules, 2006:

The applicant has submitted that DIAL has proposed to develop each of the two SEZs on 5 acre land parcel each at IGI Airport and has requested to relax the minimum land requirement condition from 50 Hectares to 5 Acres. The reasons for the proposed relaxation are as follows: -

- a. This initiative of having an SEZ at the capital airport of the country is a matter of National pride and is directly contributing to the four of the seven engines of growth namely Airports, Logistics Infrastructure, roads and railways considered in the visionary PM Gati Shakti programme of our Hon'ble Prime Minister, Shri Narendra Modi.
- b. Air Cargo globally is only 2% by Weight and 35% by value. It is low volume and high value, typically requiring smaller areas and fast processing. These SEZs are proposed at Airport land where minimum land area conditions cannot be met.
- c. Indian aviation is the 3rd largest and fastest-growing market in the world. Airport SEZ will complement the Indian Aviation growth. This would be the first SEZ of Delhi Union Territory and would be of strategic importance as it will be centrally located right on to the Airport land which will provide Multi Modal connectivity. It is also noteworthy to mention that the MoCA in its National Air Cargo Policy 2019 ("NACP") outline has specified that 'Special

Economic Zones (SEZ) or Free Trade Zones (FTZ) is to be established at or adjacent to major international airports to promote India as a global transshipment hub'. Currently, Ministry of Civil Aviation have designated IGI Airport as pilot Air Cargo Hub, and SEZ at Airport will play a major role in transforming India as a global Cargo Hub.

- d. Airport based SEZ will further reduce overall logistics cost from current 13% to less than 10%, making India's overall logistic cost at par with the developed nations and will also ensure 'Just in Time' availability of the required inputs/goods for overall growth of commerce in the country.

The matter with regard to relaxation of minimum area requirement for setting of SEZs was taken up by DoC with D/o of Legal Affairs. In this regard, vide ID Note dated 26.03.2024, D/o Legal Affairs has opined as follows:

- (i) Sub-Section (8) of Section 3 of the Act empowers Central Government to prescribe the requirements for establishment of a Special Economic Zone.
- (ii) Under Proviso to Sub-section (g) of Section 3 of the Act different minimum area of land and other terms and conditions referred to in clause (a) of Sub-Section (g) may be prescribed by the Central Government for a class or classes of Special Economic Zones.
- (iii) The term "prescribed" means prescribed by Rules made by the Central Government under the Act.
- (iv) In view of the position at (i) to (iii) the Central Government may consider different minimum area of land and other terms and conditions for Special Economic Zones on case to case basis by exercising the Rule making power conferred under Section 55 of the Act.
- (v) Taking any other route may be questionable and may not withstand the judicial security. Therefore, in order to do so it may warrant suitable amendments in the extant Rules.

Further, DoC had received one D.O. letter dated 09.03.2022 from Secretary, Ministry of Civil Aviation informing that they are exploring the possibilities for the development/improvements in the air cargo logistics industry for bringing in efficiencies and ease of doing business. In this regard, M/o Civil Aviation has recommended DoC to relax the minimum land area requirement from 50 Ha to 5 Acres (2.02 Ha) for setting up of SEZ/FTWZ within the airport land. This will enable major airports to plan such facilities as per land available with the airports which will enhance the Air Cargo EXIM Growth for the Country.

Considering the legal opinion tendered by D/o Legal Affairs and recommendation of Secretary, M/o Civil Aviation; DoC is in the process of suitable amendment in the extant rules facilitating relaxation of minimum area requirement for setting up of SEZ/FTWZ at Airport.

2. Leasehold rights over the identified area in terms of the rule 7(i) of the SEZ Rules, 2006:

In this regard, the applicant has informed that as per OMDA clause 18.1(b), Term and Expiry; DIAL reserves right to extend the term for an additional 30 years on the same terms and conditions. The clause is as referenced below:

"Prior to the expiry of 30 years from Effective Date, JVC shall have the right to extend the Term hereof by a written notice for an additional term of 30 years on the same terms and conditions as contained herein subject to the following:

- i. *No JVC Event of Default, has occurred during the preceding five (5) years of the 25th year from the Effective Date; and*
- ii. *Such right of extension being exercised prior to the 25th anniversary from the Effective Date, but not earlier than six (6) months from the 25th anniversary from the Effective Date."*

If the extension is not available to DIAL, Delhi Airport will continue to operate and the land will always remain Airport Land and will come under the purview of MoCA and through the Letters Dated 13.05.22 & 6.06.22, Letter No. AV-16026/22/2023-ER dated 25.10.23, both MoCA and AAI have given their concurrence for SEZ at IGIA.

3. National Security Clearance in terms of the rule 3 of the SEZ Rules, 2006:

The applicant has submitted 'Self Declaration' with their application as Security Clearance dated 29.10.2019 has already been issued to them by Ministry of Civil Aviation. Further, DC has stated that no country sensitivity, Geographical sensitivity and Sector sensitivity applied on both the proposals.

4. State Government's recommendation in terms of the Rule 3 of the SEZ Rules, 2006:

Vide letter dated 22.03.2024, Deputy Commissioner Industries, Govt. of NCT of Delhi has informed that Hon'ble Lt. Governor, Delhi has agreed in-principle with the proposal.

It is also informed that the matter was taken up with DDA and Director, (MPD), DDA vide letter dated 03.01.224 has conveyed that "MPD-2021 vide Table 12.7 stipulates that the activities permitted in Use Premise 'Airport' are to be decided by Airport Authority of India."

120.5: Request for approval of 'Restricted' item (1 proposal)

120.5(i) Proposal of M/s. ASF Insignia SEZ Private Limited, Developer for approval of 'Restricted' item to carry on authorized operations in the IT/ITES SEZ at Village Gwal Pahari, Gurugram (Haryana).

M/s. ASF Insignia SEZ Private Limited was granted formal approval on 26.07.2007 for setting up of an IT/ITES at Village Gwal Pahari, Gurugram, Haryana. The SEZ stands notified over an area of 14.8305 Ha and it became operational w.e.f. 30.11.2011.

The Developer vide its letter dated 22.11.2023 has submitted a proposal for approval of duty free procurement of 'Refrigerant Gases' from DTA the authorized operation namely 'Air Conditioning of processing area' in the IT/ITES SEZ at Village Gwal Pahari, Gurugram (Haryana). On being asked by the Approval Committee in its meeting held on 07.12.2023, the Developer vide its email dated 24.12.2023 & subsequent email dated 26.01.2024 has

informed that the proposed 'Refrigerant Gas' shall be read as '**Tetrafluoroethene Gas (HFC-134a) (HS Code: 29034500)**' which is falling under Sl. No. 151E of the Notification dated 62/2015-2020 of DGFT.

As per Notification No.62/2015-2020 dated 23.03.2022 issued by DGFT, 'Tetrafluoroethene Gas (HFC-134a) (HS Code: 29034500) is 'Restricted' for Export.

Relevant provisions under the SEZ law: -

- **Section 2(m)(ii) of the SEZs Act, 2005: "export" means –**

Supplying goods, or providing services, from the Domestic Tariff Area to a Unit or Developer.

- **Rule 27(1) of SEZ Rules, 2006 : Import and Procurement –**

(1) A Unit or Developer may import or procure from the Domestic Tariff Area without payment of duty, taxes or cess or procure from Domestic Tariff Area after availing export entitlements or procure from other Units in the same or other Special Economic Zone or from Export Oriented Unit or Software Technology Park Unit or Electronic Hardware Technology Park Unit or Bio-technology Park Unit or warehouse, all type of goods including capital goods (new or second hand), raw materials, semi-finished goods (including semi-finished jewellery), component, consumables, spares goods and materials for making capital goods required for authorized operations except prohibited items under the Import Trade Control (Harmonized System) Classifications of Export and Import Items:

Provided that exemptions from payment of duty, taxes or cess, drawbacks and concessions on all types of goods and services, required for setting up and maintenance of the factory building, allowed to a Unit shall also be available to the contractors including sub-contractors appointed by such Unit and all the documents in such cases shall bear the name of the Unit along with the contractor and these shall be filed jointly in the name of the Unit and the contractor:

Provided further that the unit shall be responsible and liable for proper utilization of such goods and services in all cases.

Provided also that items prohibited for import can be procured by a Special Economic Zone unit or Developer from a place outside India to the Special Economic Zone with the prior approval of Board of Approval.

Provided also that for supply of Restricted Items by a Domestic Tariff Area Unit to Special Economic Zone Developer or Unit, the Domestic Tariff Area Unit may supply such items to a Special Economic Zone Developer or Unit for setting up infrastructure facility or for setting up of a Unit and it may also supply raw material to Special Economic Zone Unit for undertaking a manufacturing operation except refrigeration, cutting, polishing and blending, subject to the prior approval of Board of Approval:

Provided also that supplies from Domestic Tariff Area to Special Economic Zones shall attract export duty, in case, export duty is leviable on items attracting export duty.

Recommendation by DC, NSEZ: -

The proposal of M/s. ASF Insignia SEZ Private Limited, Developer for duty free procurement of 'Restricted' items namely **"1000 Kg Refrigerant Gas-Tetrafluoroethene Gas (HFC-134a) (HS Code: 29034500)" for estimated cost of Rs.8.00 lakhs**, to carry on authorized operation namely 'Air Conditioning of processing area' in the IT/ITES SEZ at Village Gwal Pahari, Gurugram (Haryana), is forwarded herewith for consideration by the Board of Approval, in terms of proviso to Rule 27(1) of SEZ Rules, 2006.

The proposal was earlier placed before the 119th meeting of the BoA held on 06.03.2024. The Board has observed that DoR requires some clarifications in the matter. Accordingly, the Board deferred the proposal.

The proposal is again placed before the BoA for its consideration.

120.6: Partial/full de-notification (3 proposals)

Procedural guidelines on de-notification of SEZ:

- In terms of first proviso to rule 8 of the SEZ Rules, 2006, the Central Government may, on the recommendation of the Board (Board of Approval) on the application made by the Developer, if it is satisfied, modify, withdraw or rescind the notification of a SEZ issued under this rule.
- In the 60th meeting of the Board of Approval held on 08.11.2013, while considering a proposal of de-notification, the Board after deliberations decided that henceforth all cases of partial or complete de-notification of SEZs will be processed on file by DoC, subject to the conditions that:
 - (a) DC to furnish a certificate in the prescribed format certifying inter-alia that;
 - the Developer has either not availed or has refunded all the tax/duty benefits availed under SEZ Act/Rules in respect of the area to be de-notified.
 - there are either no units in the SEZ or the same have been de-bonded
 - (b) The State Govt. has no objection to the de-notification proposal and
 - (c) Subject to stipulations communicated vide DoC's letter No. D.12/45/2009-SEZ dated 13.09.2013.

120.6(i) Request of M/s. Information Technology Park Limited for partial de-notification of 1.78 Ha out of 10.87 Ha of their IT/ITES SEZ at Bangalore, Karnataka.

M/s. Information Technology Park Limited was granted formal approval on 26.06.2006 for setting up of an IT/ITES SEZ at Sadaramangala/Pattandur Agrahara, International Tech Park, Whitefield Road, Bangalore, Karnataka. It was later notified vide Gazette Notification dated 10.04.2007 over an area of 10.87 Ha. Further, the SEZ is operational w.e.f. 07.04.2008 and total no. of 16 units are working there. Total Exports and Imports of the SEZ for the last five FYs are ₹ 51735 Cr. and ₹ 215 Cr., respectively.

M/s. Information Technology Park Limited has requested for partial de-notification of 1.78 Ha. As regards reasons for decrease, it is informed that demand for SEZ office space has reduced over the last couple of years and the said land was not being optimally utilised. Hence, the Developer decided for partial de-notification of 1.78 Ha of notified SEZ land area for construction of IT buildings for non-SEZ which would help in better revenue generation, more taxes and better usage of resources of the State.

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

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

The State Government of Karnataka vide letter dated 05.10.2023 has recommended the proposal for its consideration. Further, they informed that partial de-notified land will be utilised toward creation of IT infrastructure (Non-SEZ), which would sub-serve the objective of the SEZ and this land will comply with the land use/master plan of the Government.

DC, CSEZ has certified that;

- a. There are no units in the SEZ land area proposed for de-notification.
- b. The Developer had availed the following Tax/Duty benefits under the SEZ Act/Rules:-

(i) The Developer had constructed a Multi-Level Car Parking facility in the proposed land in anticipation of higher demand for parking space in the future as it was estimated that there would be inadequate parking in the basement of each building in the SEZ area. Due to lack of demand for space in the SEZ, this facility was not optimally utilized; hence demolition of the MLCP facility has been carried out, after payment of the duty/tax exemptions availed with the approval of DC, CSEZ. The details are as under:-

Sl. No.	Description	Duty/Tax exemptions availed			Date of remittance
		Principal	Interest	Total	

1.	Construction of MLCP	16835445.00	16797970.00	33633415.00	21.08.2021
2.	Tax benefits availed for operation of MLCP	3834018.00	3302009.00	7136027.00	31.10.2023
	Total			40769442.00	

All tax/duty benefit indicated above have been refunded by the Developer to DC's satisfaction.*

In compliance of DoC's Instruction No. 102 dated 18.11.2019, physical inspection was conducted on 17.01.2024 by DC, CSEZ along with State Revenue Authorities. Further, DC has certified that the Developer has complied with the contiguity condition. As regards land utilisation post de-notification, DC has informed that the proposed area will be utilised for construction of IT building to the DTA customers.

Recommendation by DC, CSEZ: -

DC, CSEZ has recommended the proposal for its consideration.

120.6(ii) Request of M/s. Mahindra World City Developers Ltd. for partial de-notification of 42.073 Ha out of 288.406 Ha of their Multi-sector SEZ at Thenmelpakkam Village, Chengalpattu District, Tamil Nadu.

M/s. Mahindra Industrial Park Ltd. was granted approval on 08.09.2004 for setting up of three sector specific SEZs namely (a) **IT (including services, electronics hardware and bio-informatics) – stands notified over 210.01 Ha**, (ii) Apparel & Fashion Accessories SEZ – stands notified over 32.478 Ha and (iii) Auto Ancillary SEZ – stands notified over 45.918 Ha, all located at Chengalpattu District, Tamil Nadu. The approval for change in name from M/s. Mahindra Industrial Park Ltd. to M/s. Mahindra World City Developers Ltd. was later conveyed on 14.12.2006. Further, all three SEZs are currently operational and total 26 number of Units (including 6 Units in IT SEZ) are working there. Total Exports and Imports of the IT SEZ for the last four FYs are ₹ 46,197 Cr. and ₹ 137 Cr., respectively.

M/s. Mahindra Industrial Park Ltd. has requested for partial de-notification of 42.073 Ha. As regards reasons for decrease, the Developer has mentioned that due to the withdrawal of income tax and other incentives from SEZ Scheme, Units are not keen to continue the operations in SEZ. Further, MEPZ has informed that the Developer intent to de-notify an area of 42.073 Ha, comprising 36.50 Ha owned by M/s. Wipro Ltd., 4.992 Ha of roads and 0.593 Ha of other areas including tank bunds and Tharishu (waste land).

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

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

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

The State Government of Tamil Nadu vide letter dated 06.12.2023 has conveyed their No-objection to the proposal subject to the following conditions:-

- i. After de-notification, the contiguity should not be affected. Also, access to the de-notified sites is to be ensured. Mahindra World City Developers will have to re-align the compound wall/ fencing at their cost to maintain the contiguity for the SEZ area after de-notification.
- ii. Mahindra World City Developers Ltd. will have to refund all the duties & tax concessions availed in respect of land, buildings and machinery in respect of the area proposed for de-notification including road area. Once the dues are paid, the No Dues Certificate obtained from the relevant authorities should be forwarded to Government for record purposes.
- iii. Such de-notified parcels of land would be utilized toward creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged.
- iv. Such land parcels after de-notification will conform to Land Use guidelines/master plans of the Government of Tamil Nadu.

DC, MEPZ has certified that;

- a. There is no unit in the SEZ area proposed for de-notification.
- b. The developer has not availed any tax/duty benefits, under the SEZ Act/Rules in respect of the land being de-notified.
*All the Tax/duty benefit indicated above have been refunded by the developer to DC’s satisfaction.
- c. The SEZ shall remain contiguous even after de-notification of the area of 42.073 and shall meet the minimum land requirement prescribed for the SEZ, which is 246.33 Hectares.

In compliance of DoC’s Instruction No. 102 dated 18.11.2019 regarding Physical Inspection and Contiguity Condition, a Physical Inspection was conducted on 13.12.2023 by DDC and ADC, MEPZ along with Tahsildar, Revenue Inspector, VAO. It is noted that after the proposed de-notification, the Developer fulfils the contiguity condition stipulated under Rule 5 (read with 7) of the SEZ Rules, 2006.

Recommendation by DC, MEPZ SEZ: -

DC, MEPZ has recommended the proposal for its consideration.

120.6(iii) Request of M/s. Electronics Corporation of Tamil Nadu (ELCOT) Ltd. for partial de-notification of 18.9535 Ha out of 70.01 Ha of their Multi-Sector SEZ at Hosur, Tamil Nadu.

M/s. Electronics Corporation of Tamil Nadu (ELCOT) Ltd. was granted formal approval on 26.07.2007(pg.135/C) for setting up of an IT/ITES SEZ at Viswanathapuram Village, Hosur Taluk, Krishnagiri District, Tamil Nadu. The SEZ was later notified on 04.05.2009(pg.140/C) over an area of 70.01 Ha. Further, MEPZ has informed that the SEZ is operational and currently there are three operational units. Total imports and exports of the SEZ for the last two and current FY are ₹ 63 Cr. and ₹ 0.61 Cr.

M/s. ELCOT has now requested for partial de-notification of 18.9535 Ha out of existing notified area of 70.01 Ha. As regards reasons for decrease in area, the Developer has mentioned in the application that they have received request from reputed companies for allotment of land for Non-IT and Non-SEZ purposes. The proposal was earlier examined in this Department and some deficiencies were observed. Accordingly, vide DoC's letter dated 08.02.2023 followed by 06.03.2023 and 11.05.2023, MEPZ was requested to rectify the deficiencies observed.

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

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

The State Govt. of Tamil Nadu vide letter dated 23.09.2022 has conveyed their No-Objection to the proposal subject to the following conditions: -

- i. After de-notification, the contiguity should not be affected. Also, access to the de-notified sites should be ensured. ELCOT has to re-align the compound wall /fencing at their cost to maintain the contiguity for the SEZ area after de-notification.
- ii. ELCOT has to refund all the duties and tax concessions availed, if any, in respect of the area proposed for de-notification including the road area.
- iii. The de-notified land parcels have to be utilized towards creation of infrastructure which would sub-serve the objective of SEZ as originally envisaged.
- iv. Post de-notification, use of such land parcels will have to conform to the land use guidelines/ master plans of the Govt. of Tamil Nadu.

DC, MEPZ-SEZ has certified that;

- a. There are no units in the area proposed to be de-notified in the SEZ.

- b. The Developer has availed tax/duty of ₹ 1,13,01,048/- and the same have been deposited into Govt. account in respect of the land being de-notified.
- c. The SEZ shall remain contiguous even after the partial de-notification of the area of 18.9535 Ha and shall meet the minimum land/space required prescribed for the SEZ.

As regards built-up area of the SEZ post proposed de-notification, MEPZ has informed that the Developer has confirmed that the built-up area (admeasuring 7,081.3 sq.mtrs.) in ELCOT-Hosur does not change with the proposed de-notification. Furthermore, in response to DoC's letters 08.02.2023, 06.03.2023 and 11.05.2023 seeking clarification on fulfillment of built-up area requirement, DC, MEPZ vide letter dated 15.11.2023 has stated that M/s. ELCOT has clarified that in terms of Rule 5(2) of the SEZ Rules, 2006, all the existing SEZs shall be deemed to be multi-sector SEZ, hence, the minimum built-up area requirement is not applicable for ELCOT SEZ, Hosur. Further, the Developer has already allotted 17.04 acres of land and the developer is in process of allotting 26 acres of land to IT/ITES/Multi-Sector Companies. M/s. ELCOT is aggressively taking marketing efforts to companies to establish Units for remaining area.

In compliance of DoC's Instruction No. 102 dated 18.11.2019 regarding physical inspection and contiguity condition, DDC has provided an Inspection Report. As per report, the site was inspected on 28.10.2022 by DDC, MEPZ along with Tahsildar, Hosur Taluk, Revenue Inspector, Village Administrative Officer, Surveyor. It is noted in the report that after proposed de-notification of 18.9535 Ha (46.84 Acres), the Developer fulfils the Contiguity Condition stipulated under Rule 5 (read with Rule 7) of the SEZ Rules, 2006.

As regards land area utilisation after the proposed de-notification, MEPZ vide e-mail dated 06.02.2023 has informed that the land proposed for de-notification (18.95.35 Ha) is currently vacant except for an Overhead Tank and the said land parcel is not put to any commercial usage. The proposed de-notified land is to be handed over to reputed companies for allotment of land for Non- IT and Non- SEZ purposes.

Recommendation by DC, MEPZ SEZ: -

DC, MEPZ has recommended the proposal for its consideration.

120.7: Request for conversion of processing area into non-processing area under Rule 11(B) (1 proposal)

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.

120.7(i) Request of M/s Shyamaraju & Company (India) Private Limited, Developer, for demarcation of SEZ Processing Built-up area (201654.29 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006.

Area (Hectares)	:	13.20
Date of Notification	:	16.10.2006 & 11.07.2014
Date operationalized	:	05.04.2007
No. of Units	:	07
Export (2023-2024) (Rs. in crore)	:	5258.86
Total built-up area (Sq.mtr.)	:	451674.83

Request of the Developer

The Developer vide letter dated 3rd January 2024 has requested for demarcation of 201654.29 sq.mtr. built-up area as non-processing area in terms of Rule 11 B of SEZ Rules.2006. The Developer states that due to Sunset clause for Income Tax benefit, Covid-19 pandemic and introduction of work from home facility to the units, they are not able to get SEZ clients and the built-up area in the SEZ is lying vacant since long. Hence, the management decided to demarcate the vacant building as Non-Processing Area. The details of SEZ are as under:-

In this regard, the Developer has submitted the following details:

Particulars	Details		
Name of Developer	M/s Shyamaraju and Company (India) Private Limited		
Address of SEZ	Kundalahalli Village, Krishnarajapuram, Hobli, Bangalore East Taluk, Bangalore Dist., Karnataka		
Sector	IT/ITES		
Formal Approval	F.2/120/2005-EPZ dated 9 th June 2006		
Total Notified land area (in Hectares)	13.20		
Total Built-up area in Processing Area (in Square meters), as informed by the developer.	Building /Tower / Block/Plot No.	No. of floors	Total built-up area (in Sqmt.)
	A01	2 B+G+ 8 floors	60983.37
	A02	2 B+G+ 6 floors	33686.10
	A03	2 B+G+ 6 floors	32373.16
	A04	2 B+G+ 10 floors	57996.75
	A05	3 B+G+ 9 floors	58284.53
	A06	3 B+G+9 floors	32753.72
	B04	3 B+G+ 8 floors	59483.30
	B05	2 B+G+ 8 floors	18619.00
	C01	3B+G+11 floors	97494.90
Total Built-up area (sq.mtr.)	451674.83		
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 Sqmt.)
	A01	2 B+G+ 8 floors	60983.37
	A03	2 B+G+ 6 floors	32373.16
	C01	3B+G+11 floors	97494.90
	A04	Lower Basement (1430.22 Sq.mtr.) & Upper Basement: (1622.86 Sq.mtr.) (Car parking)+ 9 th & 10 th floors	10802.86
		Total:	201654.29
Balance Built-up Processing Area after demarcation.	250020.54 Sq.mtr.		
Whether minimum built-up processing area norms fulfilled after demarcation?	Yes		

Details of social or commercial infrastructure and other facilities proposed to be used by IT/ ITES business engaged in proposed NPA.	The Developer has refunded the duty/tax exemptions availed for the common infrastructure facilities as per Rule 11B of SEZ Rules 2006 and the Specified Officer vide letter dated 5 th April 2024 has confirmed that no dues /tax benefits are pending in respect of the proposed demarcation.																																																				
Whether any SEZ Unit operating on the area proposed to be demarcated as Non-Processing Area under Rule 11B. If yes, what is the future plan for such SEZ units?	The Developer has confirmed that the building proposed for demarcation as a non-processing area is vacant and no SEZ unit is operational as on date in the said proposed non-processing area.																																																				
Status of refund of applicable tax / duty benefits availed on the area proposed for demarcation as Non-Processing Area.	<p>In this connection, the Developer has refunded an amount of ₹20,58,27,061/- (Rupees Twenty crore fifty eight lakh twenty seven thousand sixty one only) towards the duty/tax exemptions availed for the proposed built-up area for demarcation including the common infrastructure facilities as per Rule 11B of SEZ Rules 2006. The details of duty/tax exemptions refunded are as under:-</p> <table border="1" data-bbox="558 1070 1364 1641"> <thead> <tr> <th>Sl. No.</th> <th>Challan No.</th> <th>Date</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>23092900075951</td> <td>14.09.2023</td> <td>8368292</td> </tr> <tr> <td>2</td> <td>359525</td> <td>16.09.2023</td> <td>13843406</td> </tr> <tr> <td>3</td> <td>361357</td> <td>03.04.2024</td> <td>873776</td> </tr> <tr> <td>4</td> <td>361355</td> <td>03.04.2024</td> <td>80331218</td> </tr> <tr> <td>5</td> <td>24042900019512</td> <td>03.04.2024</td> <td>7289915</td> </tr> <tr> <td>6</td> <td>24042900019364</td> <td>03.04.2024</td> <td>20000000</td> </tr> <tr> <td>7</td> <td>24042900019411</td> <td>03.04.2024</td> <td>20000000</td> </tr> <tr> <td>8</td> <td>24042900019435</td> <td>03.04.2024</td> <td>15120354</td> </tr> <tr> <td>9</td> <td>24042900019467</td> <td>03.04.2024</td> <td>20000000</td> </tr> <tr> <td>10</td> <td>24042900019494</td> <td>03.04.2024</td> <td>20000000</td> </tr> <tr> <td>11</td> <td>DRC 03 Debit</td> <td>17.04.2024</td> <td>100</td> </tr> <tr> <td></td> <td>Total</td> <td></td> <td>205827601</td> </tr> </tbody> </table> <p>Further, the Developer has given an undertaking that they shall pay the differential/short paid/non-paid duty/tax benefits, if any, so determined in a later date without any demur or protest. In this regard, the Specified Officer has also issued No Due Certificate vide letter dated 5th April 2024 stating that there are no dues pending in respect of the proposed demarcation.</p>	Sl. No.	Challan No.	Date	Amount	1	23092900075951	14.09.2023	8368292	2	359525	16.09.2023	13843406	3	361357	03.04.2024	873776	4	361355	03.04.2024	80331218	5	24042900019512	03.04.2024	7289915	6	24042900019364	03.04.2024	20000000	7	24042900019411	03.04.2024	20000000	8	24042900019435	03.04.2024	15120354	9	24042900019467	03.04.2024	20000000	10	24042900019494	03.04.2024	20000000	11	DRC 03 Debit	17.04.2024	100		Total		205827601
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Access Control	The Developer has mentioned that they will maintain the																																																				

Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	appropriate access control mechanism to ensure adequate screening of movement of persons as well as goods, in SEZ premise for the SEZ unit and the business engaged in IT/ITES services in the proposed non-processing area. Other mechanism such as separate colour gate passes or ID cards for both PA and NPA unit employees; separate car stickers with different colours for both PA & NPA units employees; and separate security for each building and block with proper scanning.																														
Total Exports & Imports for the last 5 years (Rs. in crore)																															
<table border="1"> <thead> <tr> <th colspan="2">2019-2020</th> <th colspan="2">2020-2021</th> <th colspan="2">2021-2022</th> <th colspan="2">2022-2023</th> <th colspan="2">2023-2024</th> </tr> <tr> <th>Export</th> <th>Import</th> <th>Export</th> <th>Import</th> <th>Export</th> <th>Import</th> <th>Export</th> <th>Import</th> <th>Export</th> <th>Import</th> </tr> </thead> <tbody> <tr> <td>5005.73</td> <td>53.31</td> <td>3911.88</td> <td>43.91</td> <td>5310.29</td> <td>64.33</td> <td>5887.15</td> <td>17.82</td> <td>5258.86</td> <td>16.96</td> </tr> </tbody> </table>		2019-2020		2020-2021		2021-2022		2022-2023		2023-2024		Export	Import	Export	Import	Export	Import	Export	Import	Export	Import	5005.73	53.31	3911.88	43.91	5310.29	64.33	5887.15	17.82	5258.86	16.96
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5005.73	53.31	3911.88	43.91	5310.29	64.33	5887.15	17.82	5258.86	16.96																						

Recommendation by DC, CSEZ: -

The proposal of M/s Shyamaraju & Company (India) Private Limited, the Developer for demarcation of **201654.29** sq.mtr. built-up area as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006, is recommended and forwarded for consideration of BoA.

120.8: Miscellaneous (6 cases)

120.8(i) Request of M/s. Indian Oil Corporation Limited (IOCL), Co-Developer, Puthuvypeen SEZ, Ernakulam for restoration of duty/tax benefits and continuation of Co-Developer status.

Puthuvypeen SEZ was granted Letter of Approval (LoA) on 18.04.2006 and was notified on 02.11.2006 over an area of 285.8413 Ha. The following three co-developers were later granted permission for infrastructural development in the said SEZ:

Sl. No.	Name of the co-developer	Date of LoA
(i)	M/s. Petronet LNG Limited (PLL)	14.02.2007
(ii)	M/s. Bharat Petroleum Corporation Ltd (BPCL)	27.02.2009
(iii)	M/s. Indian Oil Corporation Ltd. (IOCL)	17.06.2011

Subsequently, M/s. Gas Authority of India Limited (GAIL) was issued LoA on 27.07.2010 to operate as a unit in the SEZ with authorized operation as 'Regasified LNG transmission and distribution' and became operational on 25.08.2013. LOA was further renewed upto 31.03.2019.

In connection to a tourism project in the area, a team of officers of Development Commissioner, Cochin SEZ took a tour of the SEZ on 22.01.2019 and the following lapses were observed:

- i. No secured compound wall – violation of Rule 11(2)
- ii. Non-contiguity – violation of Rule 5(2)(a) and Rule 7(2)

- iii. Co-developer IOCL has not started work yet
- iv. Co-developer BPCL is operating like a unit without any LOA and without fulfilling NFE obligation. Authorized operation is to develop infrastructure facility whereas involved in pumping of crude oil from the Zone to refinery located in DTA.
- v. Unit GAIL did not achieve NFE obligation in 5 years block period 2013-14 to 2017-18. GAIL vide its letter dated 29.03.2019 requested for exit from SEZ scheme w.e.f. 31.03.2019 (last date of validity of LOA).

Insisting for an exit and de-notification, GAIL had filed a Writ Petition before the Hon'ble High Court of Kerala which was disposed of by the Court vide judgment dated 31.05.2019 directing the Board of Approval (BoA) to finalize the application for unit for exit and de-notification. The BoA, in its 91st meeting held on 06.08.2019, directed DC, CSEZ to work out settlement of NFE status and necessary recovery of dues i.r.o. the unit. After subsequent communications and further deliberations with the Development Commissioner and the concerned parties. The matter was again placed before the BoA in its 96th meeting held on 26.02.2020. The Board, after deliberations, decided the following: -

- i. Exit of GAIL as a unit from SEZ and the de-notification of area occupied by it are joint activities. In pursuance of the direction of the High Court of Kerala, BoA directed the DC, CSEZ to allow M/s GAIL exit as a unit from the SEZ scheme after repaying the duty benefits, if any, availed by them.
- ii. Thereafter, DC, CSEZ shall process the request of the developer, if any, for de-notification of the area occupied by M/s GAIL. If no such request has been received, DC may take up the matter with the Developer in the light of the request made by M/s GAIL and direction of the High Court in this regard.
- iii. BoA granted in-principle approval to the recommendation of the DC, CSEZ for providing a time period of one year to the Developer to bring another Unit having direct relationship with the activities of Developer/ Co-Developers in the SEZ to render it operational.
- iv. Till such time a new Unit is brought in, the Developer/Co-Developers shall not be allowed any duty-free procurement/import.
- v. BoA directed DC, CSEZ to ensure that the Developer constructs a compound wall for maintaining contiguity of the entire area of the Zone before it becomes operational again.

In pursuance of the above directions of the BoA, an exit order to M/s. GAIL (India) Ltd. was issued on 23.11.2020, after repaying the duty/tax benefits. LoA was issued to M/s. IOCL on 18.02.2021 for setting up of unit in Puthuvypeen SEZ for manufacturing and Lubricant, which is a standalone Unit.

Further, the Developer sought extension of time for compliance of 96th BoA directions and the same was considered in the 103rd meeting of the BoA held on 18.03.2021. The Board took

note of the following observations of the DGEP, DoR:

- i. IOCL's co-developer status, vide LOA dated 17.06.2011 should be surrendered under Section 10 of SEZ Act. Subsequent to that the developer can allocate the said built up area to IOCL as a unit. The LOA issued on 18.02.2021 by UAC to IOCL may accordingly be examined for compliance under SEZ law.
- ii. Suitable action may be initiated against BPCL who was issued LOA to operate as a co-developer, but has been operating as a unit for violating provisions under the SEZ law.

The Board, after deliberations, decided to approve the request of the developer for extension of time for compliance of BoA's directions regarding de-notification and construction of compound wall for a period of six months till 31.08.2021 (Expired). Further, DC, CSEZ was also requested to examine the comments of DoR and submit a report.

M/s Indian Oil Corporation Limited (IOCL), vide their letters dated 31.10.2023 and 02.01.2024, has submitted request for restoration of duty/tax benefits under the SEZ Scheme with retrospective effect, as they have complied with the directions of the 96th BoA in respect of (c) & (d) at Para No.2 above and continuation of Co-Developer status. In this connection, it is brought to the notice that: -

- Letter of Approval was issued to M/s Indian Oil Corporation Limited on 18.02.2021 for setting up of a unit in Puthuvypeen SEZ for manufacture and export of Lubricants, which is a standalone unit. The unit is yet to be operationalized.
- Subsequently, they have submitted an application for setting up of another new SEZ unit for manufacture of LPG from propane and butane using the infrastructure created by the Co-Developer. The LPG manufactured in the unit is intended to be supplied to DTA. This activity though does not generate any foreign exchange, will qualify to be an SEZ activity as per Rule 53(d) of SEZ Rules for calculation of NFE. The application was considered by the UAC in its meeting held on 18.04.2023 and the LoA was issued to the unit and commenced its operation.

Further, the reasons submitted by M/s IOCL for continuation of Co-Developer status are as under:

- The role of Co-Developer and the unit are distinct under the SEZ provisions and they require the status for its business needs as well as the overall development of SEZ.
- They have entered into various agreements in the capacity of a Co-Developer with Developer to operate in SEZ and on withdrawal of the status, all such agreements become null and void.

Observation:

The BoA in its 96th meeting held on 27.02.2020, had granted extension of one year to the Developer to bring another unit and decided that till a new unit is brought in, no tax/duty

benefits shall be given to Developer/Co-Developer of Puthuypeen SEZ, Ernakulam.

Now DC, CSEZ vide her letter dated 08.01.2024 has informed that two new units of IOCL have been set up in Puthuypeen SEZ. Since the conditions invoked by BoA have been complied with, the DC has proposed to restore the duty/tax benefits under the SEZ Scheme and to allow IOCL to continue their Co-Developer status in the SEZ.

Recommendation by DC, CSEZ: -

The request of M/s. Indian Oil Corporation Limited for restoration of duty/tax benefits under the SEZ Scheme, as they have complied with the directions of the 96th BoA and also allow them to continue their Co-Developer status in the SEZ is recommended for consideration of BoA.

The proposal was earlier placed before the 118th meeting of the BoA held on 06.02.2024. The Board, after deliberations, deferred the case to the next meeting. Subsequently, DGEP vide O.M. dated 23.02.2024 sought report of DC, CSEZ regarding IOCL explanation and compliance details as per direction of the BoA given in its 103rd meeting held on 18.03.2021. In response, DC, CSEZ vide letter dated 27.02.2024 has submitted the report along with their previous letter dated 16.08.2021 already sent in compliance of direction of BoA given in its 103rd meeting. The report received from CSEZ was sent to DGEP on 28.02.2024.

The proposal is again placed before the BoA for its consideration.

120.8(ii) Request of M/s. Impetus Technologies India Private Limited, developer of Impetus IT/ITES SEZ at Survey No. 291, Village - Badiyakeema, Indore, Madhya Pradesh for extension of time period for construction of the minimum built up area for a further period of one year beyond the stipulated period of ten years from the date of Notification of the SEZ i.e. beyond 05.02.2024 and up to 05.02.2025.

M/s. Impetus Technologies India Private Limited (formerly M/s. Impetus Infotech (India) Private Limited) was issued formal approval on 05.12.2012 for setting up an IT/ITES SEZ at Indore, Madhya Pradesh. It was notified vide Notification dated 05.02.2013 over an area of 10 hectares of land. The land has been granted on 99 years lease by the Department of Information Technology, Government of Madhya Pradesh for undertaking IT activities. The SEZ commenced commercial operation w.e.f 21.11.2016 and is having four operational units with total foreign exchange generation of more than Rs.850.00 crores and employment generation of more than 1700 employees.

The Developer has constructed a total built up processing area of 16258 sq. mtrs., out of which 14864 sq. mtrs. has been constructed before 04.02.2018 i.e. within first 5 years from the date of Notification of the SEZ. Therefore, the constructed built up processing area is more than the required area of 12500 sq. mtrs. i.e. more than 50% of the required built up processing area as per the requirements of Rule 5(7) of SEZ Rules, 2006 for category-B city like Indore.

The Developer has completed additional built up area of 1393 sq. mtrs. during the next 5 years between 05.02.2018 to 04.02.2023, and therefore the completed total built up

processing area in the SEZ is 16258 sq. mtr. A Chartered Engineer's certificate issued by M/s Kukreja & Associates, Indore in support of the total built up area constructed thus far duly certifying that the total built up area in processing zone of Impetus IT Park SEZ is 175000 sq. ft. (16258 sq. mtr.) which includes built up area of following facilities was submitted by the Developer at the time of seeking extension of time period for construction of minimum built up area beyond the stipulated period of ten years from the date of Notification:

- i. Two office buildings
- ii. One building for recreational Facilities including indoor games zone, gymnasium
- iii. STP block
- iv. Security office and cabins including access control and monitoring system rooms
- v. MEPB Block including electrical room and rain water harvesting plant
- vi. Pump room and fire station block
- vii. Storage hub and house
- viii. House service and common utilities block
- ix. Air conditioning facilities and AHU blocks

It was further certified that the Developer has also constructed landscaping, gardens and water bodies, outdoor sports facilities and amenities, internal and external roads, recreation sheds, parking, bus bay and boundary wall for the entire SEZ including boundary wall between processing and non-processing area which is not included under the calculation of the above built up area of 175000 sq. ft. in processing area of Impetus IT Park SEZ.

Reason for not being able to comply with the requirements of Rule 5(7) of SEZ Rules, 2006 i.e. constructing the minimum built up area within a period of ten years from the date of Notification of the SEZ:

- i. The declaration of Nation-wide lock down during the Covid-19 pandemic situation was a major constraint for the construction of built up processing area because of non-availability of resources including machines, material and manpower. This situation of non-availability of resources continued even after the period of lockdown.
- ii. Declaration of Work from Home policy reduced the demand of built up space in the IT SEZs hence it was not commercially prudent to create the built up space in the SEZ because of lack of demand.
- iii. The Developer appointed M/s Trish Facilities and Developers Pvt. Ltd. as Co-developer for the IT SEZ to expedite the construction activities and creation of built up space. However, the Co-developer could not initiate the construction activities.

The Developer submitted that in order to carry out development of Impetus IT Park SEZ they have executed a revised amended Co-Development agreement with existing approved Co-developer M/s Trish Facilities and Developers Pvt. Ltd. for development of 21451 sq. mtrs. of land in processing area and a fresh Co-development agreement with M/s. Intellicus Technologies Pvt. Ltd. for development of 23847 sq. mtrs. area of land in processing area & 33197 sq. mtrs. of land in non-processing area.

The Board of Approval in its 118th meeting held on 06.02.2024 has approved for development of 2.1 hectares of land in processing area of the SEZ by the approved Co-Developer, M/s. Trish Facilities and Developers Pvt. Ltd. along with appointment of a new Co-Developer, M/s Intellicus Technologies Pvt. Ltd for development of 23847 sq. mtrs. of land in processing area and 33197 sq. mtrs. of land in non-processing area of the SEZ.

The Board of Approval has also granted permission to the Developer for extension of time period for construction of the minimum built up area of 25000 sq. mtrs. in terms of Rule 5(7) of SEZ Rules, 2006 for a further period of one year up to 05.02.2024.

The Developer has now submitted that the extension time granted by the Board is already over on 05.02.2024, and that with the existing approved Co-Developers, they shall have adequate financial and technical resources for completion of the required minimum built up area of 25000 sq. mtrs. within a period of one year. The Developer has therefore requested to grant extension of time for a further period of one year beyond the earlier extension granted up to 05.02.2024 i.e. for a further period up to 05.02.2025 for construction of the required minimum built up area of 25000 sq. mtrs. in order to comply with the requirements of Rule 5(2)(b) of SEZ Rules, 2006 for category-B city like Indore.

Relevant Provision:

- **Rule 5(2)(b) of SEZ Rules, 2006** - There shall be no minimum land area requirement for setting up a Special Economic Zone for Information Technology or Information Technology Enabled Services, Biotech or Health (other than Hospital) service, but a minimum built up processing area requirement shall be applicable based on the category of cities, as specified in the following Table, namely:-

Sl. No.	Categories of cities as per Annexure IV-A	Minimum Built-up area requirement (proposed)
1.	Category 'A'	50,000 sq. mtrs.
2.	Category 'B'	25,000 sq. mtrs.
3.	Category 'C'	15,000 sq. mtrs.

(As per Annexure IV-A appended to Rule 5(2)(b) of SEZ Rules, 2006, Indore falls in category B cities and the minimum built up area requirement proposed is 25,000 sq. mtrs.)

- **Rule 5(7) of SEZ Rules, 2006** - The Developer or Co developer shall have to construct the minimum built up area specified in this rule within a period of ten years from the date of notification of the Special Economic Zone in which at least fifty percent of such area to be constructed within a period of five years from the date of such notification.

Provided that the Board of Approval may, upon request in writing by the Developer, and after being satisfied that it is necessary and expedient to do so, grant extension beyond the said period of ten years for a further period of not exceeding one year, at a time, subject to maximum up to ten such extensions.

Recommendation by DC, Indore SEZ: -

DC, Indore SEZ has recommended the proposal of M/s Impetus Technologies India Private Limited, Developer of Impetus IT SEZ at Survey No. 291, Village Badiyakeema, Indore in view of the above facts and considering that the Developer has already constructed a built up area of 16258 sq. mtrs., the Developer may presently be granted extension for a further period of one year up to 05.02.2025 as per the provisions of Rule 5(7) of SEZ Rules, 2006 for constructing the minimum built up area of 25000 sq. mtrs. as specified under Rule 5(2)(b) of SEZ Rules, 2006.

120.8(iii) Cancellation of Formal Approval pertaining to M/s. Madhusheel Infra Projects Pvt. Ltd, SEZ for IT/ITES at Sy. No. 229-232, Gaganpahad Village, Rajendra Nagar Mandai, Ranga Reddy District, Telangana.

M/s. Madhusheel Infra Projects Pvt. Ltd. was issued Formal Approval dated 06.10.2008 for setting up of an IT/ITES SEZ at Sy. No. 229-232, Gaganpahad Village, Rajendra Nagar Mandal, Ranga Reddy District, Telangana over an area of 10.88 Hectares. The Formal Approval was lapsed on 05.10.2011 and the SEZ is yet to be notified.

DC, VSEZ has informed that the Developer has not approached to O/o the VSEZ after 2009. VSEZ vide letter dated 05.03.2013 had issued Show Cause Notice to the Developer as to why action should not be taken against them for imposition of penalty under FTDR Act, 1992 and for refund of exemption availed, if any. No reply was received from the Developer. VSEZ vide letter dated 08.11.2023 has once again requested the Developer to submit their response to the SCN dated 05.03.2013 issued to them on or before 15.11.2023. No reply has been received from the Developer.

Relevant provisions: -

- **Rule 6(A) of the SEZ Rules, 2006 : Power of Central Government to review letter of approval: -**

The Central Government may review the letter of approval granted under sub-rule (1) of rule 6 on the recommendation of the Board.

- **Section 9 (2) of the FTDR Act, 1992 : Issue, suspension and cancellation of licence: -**

The Director General or an officer authorised by him may, on an application and after making such inquiry as he may think fit, grant or renew or refuse to grant or renew a licence to import or export such class or classes of goods or services or technology as may be prescribed and, grant or renew or refuse to grant or renew a certificate, scrip or any instrument bestowing financial or fiscal benefit, after recording in writing his reasons for such refusal.

Recommendation by DC, VSEZ: -

DC, VSEZ has recommended the cancellation of the Formal Approval issued to M/s. Madhusheel Infra Projects Pvt. Ltd, SEZ for IT/ITES at Gaganpahad Village, Rajendra Nagar Mandai, Ranga Reddy District, Telangana for placing the same in the BoA meeting.

The proposal was deferred in the 118th meeting of the BoA held on 06th February, 2024. The proposal was again considered in the 119th meeting of the BoA held on 06th March, 2024. Department of Revenue has noted that cancellation of the formal approval can be done after adjudication proceedings in the matter are completed. Accordingly, the Board, after deliberations, decided to remand back the proposal to DC, VSEZ.

In light of the observations of the DoR, DC, VSEZ has issued Order-in-Original dated 19.03.2024 to M/s. Madhusheel Infra Projects Pvt. Ltd. wherein it was proposed to initiate action for cancellation of the Formal Approval dated 06.10.2008 granted to them under Section 9(2) of the FTDR Act, 1992 as reasonable opportunity has been given to the Developer.

The proposal is again placed before the BoA for its consideration.

120.8(iv) Request of M/s. Luxoft India LLP for transfer of their unit from M/s. RGA Tech Park SEZ, Bangalore, Karnataka to M/s. Quadron Business Park Pvt. Ltd, SEZ, Pune.

M/s. Luxoft India LLP was issued LoA dated 28.01.2020 for setting up of a unit for rendering services of Development of IT Software (Onshore/Offshore) at RGA Tech Park SEZ, Bangalore, Karnataka. Subsequently, the validity of their LoA was extended w.e.f 02.03.2020 to 01.03.2025 from the date of commencement of production (DCP) i.e. 02.03.2020. The Bond-cum-Legal undertaking submitted by the unit, has been accepted by the Competent Authority on 02.03.2020.

M/s. Luxoft India LLP has requested for transfer of their unit from M/s. RGA Tech Park SEZ, Bangalore, Karnataka to M/s. Quadron Business Park Pvt. Ltd, SEZ, Pune. In this regard, the Unit has informed that they are having one SEZ unit in SEEPZ (LoA dated 23.04.2020) which got operationalized w.e.f 01.06.2021. A few projects will be transferred from Bangalore to Pune Unit. Their existing Unit in Bangalore is into automobile related research and the talent is available in Pune. Also some of their automotive clients are specifically interested in support from Pune to avoid competing in the Bangalore market. Further, their employees have shifted to Pune through work from home policy and business attributed to this unit has also been transferred to Pune. Hence, their management has decided to relocate existing unit from RGA Tech Park SEZ, Bangalore, Karnataka to Quadron Business Park Private Limited SEZ, Pune. Post-relocation, they will have two units in Pune functioning separately.

In terms of DoC's Instruction No. 101 dated 01.11.2019, the following documents have been provided: -

S. No.	Documents required for transfer of Unit from one Zone to another Zone	Status

'No Dues Certificate' from the existing Developer	No-Dues Certificate dated 22.12.2023 issued by M/s. RGA Tech Park SEZ has been provided.
Consent Letter/Offer of Space from the Developer, where the unit wants to shift	Letter of Intent dated 22.12.2023 signed between M/s. Quadron Business Park Private Limited and M/s. Luxoft India LLP has been provided.

Relevant provisions on transfer/relocation/shifting of SEZ unit:

- The BoA in its 58th meeting held on 12th June, 2013 directed that request for transfer of Unit from one SEZ to another in future should be processed by DoC on file.
- Vide DoC's Instruction No. 101 dated 01.11.2019, the powers with regard to proposals for shifting of units from one SEZ to another SEZ within same Zone were delegated to DCs. However, in case of shifting of units from one Zone to another Zone, the approval of DoC is required. Further, the request for transfer of unit from one SEZ to another may be considered subject to the following conditions: -
 - i. The unit which had availed of tax incentives under the Income Tax Act for a certain period of time would be eligible for such incentives for the balance period only, as allowed under the Income Tax Act, after its relocation.
 - ii. The assessing officer under the Income Tax Act, shall have the right to assess the taxability arising out of the transfer of the unit.
 - iii. The unit would be liable to refund the duty incentives availed on such assets which are not shifted to the new location of the unit.

Recommendation by DC, CSEZ: -

If so, deemed fit, DoC may consider the proposal of M/s. Luxoft India LLP for transfer of their unit from M/s. RGA Tech Park SEZ, Bangalore, Karnataka to M/s. Quadron Business Park Pvt. Ltd, SEZ, Pune.

120.8(v) Request of M/s. Adani Power (Jharkhand) Ltd, a sector-specific SEZ for Power at Godda District, Jharkhand, for opening of two additional permanent gates in the processing area of their SEZ.

M/s. Adani Power (Jharkhand) Ltd. was granted formal approval over 222.68 Ha and In-principle approval over 202.32 Ha on 20.08.2019 for setting up of a sector-specific SEZ for Power at Village – Motia, Mali, Gaighat & adjacent villages in Godda District, Jharkhand. The SEZ was later notified on 16.09.2019 over an area of 222.668 Ha. The formal approval is valid upto 19.08.2023.

M/s. Adani Power (Jharkhand) Ltd. had requested for creation of five additional entry/exit gates in the processing area. As regards reason, the Developer vide letter dated 01.02.2020 stated that the SEZ is having a single entry/exit gate through which all the movement of vehicles and workers are taking place. The request was considered by DoC and the approval was conveyed on 27.04.2020. Subsequently, the request of the Developer for extension of the said approval upto 31.03.2023 was considered and the approval was conveyed vide DoC's letter dated 30.05.2022. Further extension upto 19.08.2023 was granted and conveyed vide DoC's letter dated 31.03.2023.

The Developer has now requested for opening of two additional permanent gates in the processing area of their SEZ. In this regard, it is informed that two Units (2*800 MW) in the SEZ have been commissioned and are in operation. The Developer has closed 4 temporary gates and operating only 2 permanent gates i.e. Main Gate & Railway Rack for movement of Coal. Presently the main gate is being used for manpower movements as well as for heavy vehicles movements for material supply. For safety and smooth operation, they are proposing for separate gates for the movement of manpower and material supply. Therefore, they have requested for 2 more permanent additional gates. The details of the Gates are as follows: -

Gates Proposed/Existing	Type of Gate	Necessity/Justification
Gate – 1 (Existing main gate)	Permanent	Movement of manpower
Gate – 2 (proposed)	Permanent	Rail Gate : for movement of rail wagons to carry coal etc.
Gate – 3 (proposed)	Permanent	Movements of Heavy vehicle for materials.

The Developer has informed that two additional entry/exit gates are required in the SEZ - one for movement of rail wagons to carry coal and fly ash etc. and the other for movement of heavy vehicles carrying materials for authorised operation. Coal based power plant requires coal supply in bulk and this can be smoothly managed through railway rakes. Similarly, separate gates for movement of heavy vehicle carrying material for authorised operation and manpower will enhance safety.

Recommendation by DC, Falta-SEZ: -

DC, Falta SEZ has recommended the proposal of M/s. Adani Power (Jharkhand) Ltd. for opening of two additional permanent gates, as detailed above, in the processing area of the SEZ.

120.8(vi) Request of M/s. Virtus IT Services Private Limited for cancellation of Co-Developer status in Electronics Technology Parks SEZ Phase-III, Trivandrum.

M/s. Virtus IT Services Private Limited was issued Letter of Approval No.F.1/138/2008-SEZ dated 28th October, 2015 as a Co-Developer in Electronics Technology Parks SEZ (Phase-III) , Trivandrum in an area of 2 acres. The authorised operation of the Co-Developer is for providing infrastructure facilities and development of IT sector industry over an area of 2 acres in the SEZ.

M/s. Virtus IT Services Private Limited has now requested for cancellation of their Co-developer Status in Electronics Technology Parks SEZ Phase-III, Trivandrum.

Reasons for cancellation of Co-Developer status:

The Co-Developer has informed that the demand for SEZ space has substantially decreased post-covid-19 pandemic due to implementation of work from home facilities for IT units. Further, delay in obtaining the licenses, Environment clearances, permits etc. by the Developer, hence their management has decided to cancel the Co-Developer status.

NOC from Electronics Technology Parks-Kerala, Developer:

M/s. Virtus IT Services Private Limited had obtained NOC from the Developer for cancellation of Co-Developer status (copy enclosed).

The comments from the Specified Officer of Electronics Technology Park SEZ (Phase-III), Trivandrum:

The Specified Officer, Electronics Technology Parks SEZ (Phase-III), Trivandrum informed that the Co-Developer has not availed any duty/tax benefits under SEZ Act/Rules and submitted No Due Certificate dated 22.03.2024.

Rule Position:

Section 2 (g) of the SEZ Act 2005, defines Developer as, “a person who, or a State Government which, has been granted by the Central Government a letter of approval under sub-section(10) of section 3 and includes an Authority and a Co-developer”;

Section 10 of the said Act provides for Suspension of Letter of Approval and sub-section (3) stipulates that no letter of approval shall be suspended under sub-section (1) unless the Board has given to the Developer not less than three months’ notice, in writing, stating the grounds on which it proposes to suspend the letter of approval, and has considered any cause shown by the Developer within the period of that notice, against the proposed suspension.

Since the Co-Developer is covered under the definition of Developer, the suspension of LoA of Co-Developer shall also be governed by Section 10 of the SEZ Act. There is no specific provision for cancellation of LoA, however, on the recommendation of the Development Commissioner for such cancellation on the ground of Co-Developer not fulfilling the necessary requirements/ obligations in terms of SEZ Act/ Rules or on the request by the Co-Developer, such cancellation has been considered by the BoA in the earlier cases.

Recommendation by DC, CSEZ:

DC, CSEZ has recommended the proposal for consideration of BoA
