

No. K-43016/16/2023-SEZ  
Government of India  
Ministry of Commerce and Industry  
Department of Commerce  
(SEZ Section)

Vanijya Bhawan, New Delhi  
Dated the 17<sup>th</sup> January, 2024

**OFFICE MEMORANDUM**

**Subject:** 1<sup>st</sup> meeting (2024 Series) of the Board of Approval for Export Oriented Units and 118<sup>th</sup> Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) - regarding.

The undersigned is directed to refer to this Department's O.M. of even number dated 1<sup>st</sup> January, 2024 on the subjected cited above and to inform that the 1<sup>st</sup> meeting (2024 Series) of the Board of Approval for Export Oriented Units and 118<sup>th</sup> meeting of the BoA for SEZs which was earlier scheduled to be held on 20<sup>th</sup> January, 2024 at Surat, Gujarat is **re-scheduled to 30<sup>th</sup> January, 2024 at 1600 Hrs 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 118<sup>th</sup> 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. A weblink for the same shall be shared by this Department shortly.



**(Sumit Kumar Sachan)**

Under Secretary to the Government of India

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To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107).
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Shri Sanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), 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, 7<sup>th</sup> Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).
11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi - 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyapuri, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8<sup>th</sup> 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, 4<sup>th</sup> 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, 9<sup>th</sup> 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, VikasSaudha, 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 (4<sup>th</sup> 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 ShastriBhawan, Lucknow – 226001 (Fax: 0522-2238255).
53. Government of Punjab, Principal Secretary Department of Industry & Commerce UdyogBhawan), Sector -17, Chandigarh- 160017.
54. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
55. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneshwar – 751001 (Fax: 0671-536819/2406299).
56. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), VallabhBhavan, Bhopal (Fax: 0755-2559974)
57. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
58. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
59. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
60. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
61. Government of Chattishgarh, Commissioner-cum-Secretary Industries, Directorate of Industries, LIC Building Campus, 2<sup>nd</sup> Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

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

**Agenda for the 118<sup>th</sup> meeting of the Board of Approval for Special Economic Zones to be held on 30<sup>th</sup> January, 2024, 1600 Hrs at Vanijya Bhawan, New Delhi**

**118.1: Ratification of the minutes of the 117<sup>th</sup> meeting of the Board of Approval held on 17<sup>th</sup> November, 2023.**

**118.2: Request for extension of validity of formal approval of Developer (3 proposals)**

**Rule position:** In terms of Rule 6(2) of the SEZ Rules, 2006, the letter of approval of a Developer shall be valid for a period of three years within which time at least one unit has commenced production and the SEZ become operational from date of commencement of such production. The Board may on an application by the developer for reasons to be recorded in writing extend the validity period.

**118.2(i) Request of M/s. Phoenix Tech Zone Private Limited, IT/ITES SEZ at Sy. No. 118 (P), 120 (P), 121 (P), 122 (P) & 138 (P) Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana, for extension of the validity period of formal approval beyond 06.12.2023.**

**Name of the Developer** : M/s. Phoenix Tech Zone Pvt. Ltd.  
**Sector** : IT/ITES  
**Location** : Sy. No. 118 (P), 120 (P), 121 (P), 122 (P) & 138 (P), Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana  
**Extension** : Formal approval to the developer was granted on 07.12.2016. The developer has been granted 4 extensions and the validity of the LoA was upto 06.12.2023. The Developer has requested for further extension upto 31.12.2024. The SEZ stands notified as on date.

**Present Progress:**

**a. Details of Business plan:**

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

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

Sl. No.	Type of Cost	Total investment made so far (In Rs crores) upto 30.9.2023	Incremental Investment since last extension (in Rs crores)
1	Development Cost	528.05	156.63

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

S. No.	Activity		% completion	% completion during last one year	Deadline for completion of balance work
1.	Project Development	Tower-1	95	10	30.06.2024
		Tower-2	60	15	31.12.2024

**Detailed reasons for delay:** They have constructed two towers comprising of 26,70,188 sq. ft. (2.6 million sq.ft.) which is totally ready to occupy, but there are no takers for IT/ITES space.

**Recommendation by DC, VSEZ:**

DC VSEZ has recommended the request of extension of LoA for a period upto 06.12.2024.

**118.2(ii) Request of M/s. Laxmi Infobahn Aquaduct Private Limited, IT/ITES SEZ at Sy. No. 21/P, 22/P, 23 and 24, Kokapet Village, Gandipet Mandal, Ranga Reddy District, Telangana, for extension of the validity period of formal approval beyond 18.01.2024.**

**Name of the Developer** : M/s. Laxmi Infobahn Aquaduct Private Limited  
**Sector** : IT/ITES  
**Location** : Sy. No. 21 (P), 22 (P), 23 and 24, Kokapet Village, Gandipet Mandal, Ranga Reddy District, Telangana.  
**Extension** : Formal approval to the Developer was granted on 19.01.2017. The Developer has been granted 4 extensions and the validity of the LoA was up to 18.01.2024. The Developer sought approval for extension of validity of LoA for another one year from 19.01.2024 to 18.01.2025. The SEZ stands notified as on date.

**Present Progress:**

a. **Details of Business plan:**

Sl. No.	Type of Cost	Proposed Investment (Rs. in crores)
1	Land Cost	0.76
2	Construction Cost	850 proposed till end of the project
3	Completion of project	18.01.2024
	<b>Total</b>	<b>850.76</b>

**Note: Expenditure made so far for the development of site is Rs. 199.23 Crores** (for payment of various fees like building application, land conversion, Earth Work, Environmental Clearance, Project Consultants, Construction Expenses, DTA

procurement, Advance to suppliers, Advance to Contractors and Finance Expenses and Cost)

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

Sl. No.	Type of Cost	Total investment made so far (In Rs crores) up to October 2022	Incremental Investment since last extension from Oct 2022 to Sep 2023 (in Rs crores)	Total investment made till date
1	Land cost	0.76	0	0.76
2	Material procurement from DTA & Services	85.08	0.90	85.98
3	Construction Expenses	98.79	0	98.79
	<b>Total Construction /Cost including (DTA procurement and services (They constructed G+5 Floors)</b>	<b>184.63</b>	<b>0.90</b>	<b>185.53</b>
4	Expenditure made for site development for various fees like Building Application, Land Conversion, Earth Work and Environmental Clearance, Admin Expenses, Project Consultants, Construction Expenses, Advance to Suppliers, Advance to Contractors and Finance & Cost	<b>13.70</b>	<b>0.00</b>	<b>13.70</b>
	<b>Total</b>	<b>198.33</b>	<b>0.90</b>	<b>199.23</b>

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

S. No.	Activity	% Completion	% Completion during last one year	Deadline for completion of balance work
1	Excavation is completed	100	0	NIL
2	Compound wall is completed	100	0	NIL
3	Completion of the project	45.00	03.42	18.01.2025

**Detailed reasons for delay:** The Developer had constructed tower comprising built-up area of 5,22,814 sq.ft. wherein an IT Unit namely M/s. Capgemini Technology Services India Limited was issued LoA on 07.09.2021 and since the Unit did not commence operations, the Developer has requested for extension.

**Recommendation by DC, VSEZ:**

DC, VSEZ has recommended the request of extension of LoA for a period upto 18.01.2025.

**118.2(iii) Request of M/s. Infosys Ltd. for (i) extension of the validity period of formal approval granted for setting up of IT/ITES SEZ at Plot No. A-01 to A-06, Sector-85, Noida (U.P.) beyond 14.04.2024, & (ii) extension of time to construct minimum built-up area in terms of Rule 5(7) of SEZ Rules, 2006.**

Name of the developer : M/s. Infosys Ltd.  
Sector : IT/ITES  
Location : Plot No. A-01 to A-06, Sector-85, Noida (U.P.)  
Extension : Formal approval to the developer was granted on 15.04.2015. SEZ was notified vide Notification dated 10.07.2015. The developer has been granted 03 extensions by BoA. Last extension was valid upto 14.04.2024. The developer has requested for further extension upto 14.09.2025

**Present Progress:**

**(a) Details of business plan: -**

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

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

S. No.	Type of Cost	Total Investment made so far (Rs. in Crore)	Incremental investment since last extension (Rs. in Crore)
1	Land Cost	161.00	0.00
2	Material Procurement	0.04	0.04
3	Service Cost	72.06	57.40
4	Other Overheads (civil work)	42.61	27.67
	Total:	275.71	85.11

**(c) Details of Physical progress till date: -**

S. No.	Authorised activity	% completion as on date	% completion during last one year	Deadline for completion of balance work
1	SDB-1	20	20	Sept' 25
2	Food Court-1	20	20	Mar' 25
3	Basement Area	75	75	Dec' 24

4	Service Block	15	15	Mar' 25
5	Security Block-1	10	10	Dec' 24
6	Security Block-2	20	20	Dec' 24

**Reasons for seeking extension:**

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

The developer has mentioned that they are expecting to achieve completion of Phase-1 plan by the end of September, 2025.

**Observation:**

The said SEZ was notified on 10.07.2015. The validity for construction of minimum built-up area in terms of SEZ Rule 5(7) was extended by one year by BoA in its meeting held on 29.05.2020. However, the developer has not applied for further extension of timeline for construction of minimum built-up area.

**Rule Provision regarding construction of minimum built-up area:**

**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.

**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.

In the instant case, as per Annexure IV-A appended to Rule 5(2)(b) of SEZ Rules, 2006, Noida City falls in Category 'A' cities and the minimum built up area requirement for the same is 50,000 sq. mtrs. As per the Developer, they have already constructed 23,466.50 sq.mtrs. area out of total area of 73,310 sq.mtrs.

**Recommendation by DC, NSEZ:**

DC, NSEZ has recommended the request of the Developer for extension of formal approval and also extension in timeline for completion of minimum built-up area.

**118.3: Request for extension of LoA of Unit (2 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 3<sup>rd</sup> 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.

**118.3(i) Request of M/s. Atar Mohd. Saeed Dawood Private Limited, a Unit in the JNPA-SEZ, for extension of LoA beyond 20.08.2023 for 5<sup>th</sup> extension upto 19.08.2024.**

LoA issued on (date)	:	21.08.2018.
Nature of business of the Unit	:	Manufacturing and Export of Attar, Perfume & Perfumery Compounds (with Alcohol & without Alcohol), Agarbatti & Dhoop, Sandalwood Handicraft article for packing, Sandalwood Oil, Agarwood & Agar wood oil, Natural Essential Oils, Refused Dust, Synthetic Cosmetics, Other Packing Material for export
No of Extensions	:	2 Extensions (i.e. 1 <sup>st</sup> & 2 <sup>nd</sup> ) granted by DC SEEPZ-SEZ.

LoA valid upto (date) : 20.08.2023  
 Request : 2 Extensions (i.e. 3<sup>rd</sup> & 4<sup>th</sup>) granted by BOA  
 : For further extension for one year, up to (date)  
 19.08.2024

**Present Progress:**

**a. Details of Business plan:**

S. No	Type of Cost	Proposed Investment (Rs. In Lakhs)
1	Land Cost	274.26
2	Construction Cost (Civil, Electrical, Mechanical, Structural, ETP, Fire, etc.)	400.00
3	Plant & Machinery	100.00
4	Computers, Software's, Licenses etc.	4.00
5	Office Capital Goods includes AV Equipment's, PA Systems, Access Control systems, etc	4.00
6	Office Furniture, Chairs, Workstation and other fit out related items such as carpets etc	5.00
7	Other pre-operative expenses	25.00
<b>TOTAL</b>		<b>812.26</b>

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

S. No.	Type of Cost	Investment made during last 1 year (Rs. In Lakhs) (Upto 30.06.2023)	Total investment made so far (Rs. In Lakhs)
1	Land Cost	0.80	259.18
2	Construction Cost (Civil, Electrical, Mechanical)	94.66	388.68
3	Plant & Machinery	8.50	8.50
4	Computers, Software's, Licenses	NIL	NIL
5	Office Capital Goods includes AV Equipment's, PA Systems, Access Control systems etc	0	3.70

6	Office Furniture, Chairs, Workstation and other fit out related items such as carpets etc	0.25	4.45
7	Other pre-operative expenses	0.50	21.15
	<b>TOTAL</b>	<b>104.71</b>	<b>685.66</b>

\*\*\* The applicant has already invested Rs. 685.66 Lakhs against proposed investment of Rs. 812.26 Lakhs i.e. 85% of the total proposed investment is already done.

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

S. No.	Authorised Activity	% Completion as on date	% Completion during last one year	Deadline for completion of balance work
1.	Generator Room/ electric Substation /FO Generators (To augment MSEB Power)/ UPS Room/ Distribution substation/HSD Yard	65%	15%	June, 2024
2.	Internal Roads with street Lighting and Signage's	35%	10%	June, 2024
3.	Boundary walls/Gates/ Fencing/Security office/ Security Posts	100%	0%	-
4.	All Civil and Interior work/Electrical Work/BMS/Air Conditioning/Fire Protection system.	30%	30%	June, 2024
5.	Development of Landscaping / Garden space	Nil	Work Awarded	July 2024
6.	Recruitment of Employees	2	2	July 2024
7.	Building Completion certificate and occupancy certificate for phase-1	Nil	Partial Completion Certificate be obtained for Phase-1	May 2024
8.	Installation of Plant & Machinery	50%	50%	June 2024
9.	Commencement of trails & commencement of	Nil	Nil	July/Aug 2024

production			
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**Detailed reasons for delay: -**

- a. **Unforeseen Circumstances:** They encountered unexpected circumstances during the construction phase, which hindered the timely completion of their unit. There unforeseen challenges included unforeseen weather conditions supply chain disruptions and unforeseen regulatory approvals.
- b. **Contractor backed out:** The contractor backed out from this assigned project and left the construction in the midway. As a result, there has been a significant delay in completing the construction and subsequently initiating the operations of the project.
- c. **Identification of New Contractor:** Due to the aforementioned challenges, they had to identify a new contractor capable of fulfilling the remaining project requirements. This process took additional time and disrupted the project's process, causing further delays.
- d. **Changes in Income Tax Benefits:** In the year 2018, when the LOA was issued to them, they were given to understand that there would be significant income tax benefits. However, in 2021, they learned that these income tax benefits had been withdrawn. As result, profitability of the entire project is changed. They had to adopt a different strategy, which required additional time and resources.
- e. **Impact of the Pandemic:** The COVID-19 pandemic and the subsequent stoppage of work during the past two years had a significant impact on their project. The HR cost of the project has changed, and they have had adopt their plans accordingly. This has been a learning and time-consuming process for them, as they navigated the challenges posed by the pandemic.

**Recommendation by DC, SEEPZ-SEZ: -**

DC, SEEPZ-SEZ has recommended the request of extension of LoA for a period of one year up to 19.08.2024.

**118.3(ii) Request of M/s. Rusan Pharma Ltd. in Indore SEZ for extension of Letter of Approval (LoA) beyond 01.12.2023 for a further period of eight months i.e. up to 31.07.2024.**

LoA issued on (date) : 02.12.2016  
Nature of business of the Unit : Manufacturing of API, Bulk Drugs  
No. of Extensions : (02) by DC Indore SEZ beyond original validity and (04) by BoA  
LoA valid upto : 01.12.2023  
Request : Further extension for eight months up to 31.07.2024

**(a) Details of Business plan:**

S. No.	Type of Cost	Proposed Investment (Rs. in crores)
1.	Land	3.19
2.	Site Development – Road works, Boundary walls,	11.41

	Façade and Landscaping etc.	
3.	Civil Construction Work – Main Production Blocks, Miscellaneous Building (including structure, partition walls and floor finishing) utility, security office, security cabin, ETP/STP and Pump house + UG/OG Tanks, Fuel Yard, HT Yard, Solvent Tank Farm	37.39
4.	Plant & Machinery (including of Electrical Installation, Utilities and process equipment, fire safety& QC lab etc.)	65.07
5.	Other Pre-Operative Expense	8.46
<b>Total</b>		<b>125.52</b>

**(b) Incremental Investment made so far and incremental investment since last extension –**

**As per the Certificate issued by the Chartered Accountant, M/s Gupta Saharia & Co., Mumbai, is as under:**

**(Rs. In Crores)**

S.No.	Type of Cost	Total investment made so far	Incremental Investment since last extension up to 01.12.2023
1.	Land	3.19	0.00
2.	Building & Construction	39.13	9.94
3.	Computer, Printer and Server	0.87	0.67
4.	Plant & Machinery	30.25	14.03
5.	Utility Equipment Cost	33.02	19.59
6.	Fire & Safety	1.40	0.71
7.	Motor vehicle	0.19	0.00
8.	Electricity installation	8.65	3.11
<b>Total</b>		<b>116.71 crores</b>	<b>48.05 crores</b>

**(c) Details of physical progress till date: -**

**As per the Certificate issued by the Chartered Engineer, M/s Satisfaction Engineers Indore, 95% work has been completed out of which 25% has been completed in last one year:**

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

2.	<p>Civil Work – Land excavation, cutting filling and levelling of plot done and internal roads has been excavated.</p> <p>The slab casting of major building – Production Block has already been completed for 3 modules and for remaining 2 modules, it will be done in next 15 days.</p> <p>Other Ancillary Building like utility block, R&amp;D, So 1 and So 2 are already completed</p> <p>Other work like drain and road work has also been intimated and is under process</p>	100%	30%	--
3.	Water & Temporary electrical connections	100%	Already done	--
4.	<p>Major Ordering completed and delivered on site – Items delivered at site</p> <ol style="list-style-type: none"> <li>1. Chillers</li> <li>2. Brine</li> <li>3. Boiler</li> <li>4. Thermopack</li> <li>5. Nitrogen</li> <li>6. Air Compressor</li> <li>7. Water system</li> <li>8. ETP</li> <li>9. STP</li> <li>10. Cooling Towers</li> <li>11. Vacuum pump</li> <li>12. Chimney</li> <li>13. Fire Pump</li> <li>14. UG Solvent tank</li> <li>15. Solvent Recovery Column</li> <li>16. File Compactor</li> </ol>	100%	<p>Items delivered on site from Nov. 2021 to till date (80%).</p> <p>Ordering completed and Delivered on site</p>	<p>-- (Installation and Commissioning done)</p>

	17. Lab furniture (R&D) 18. DG Sets 19. Cable 20. UPS and Batteries 21. VCB 22. Transformer 23. UG Tanks 24. GLR 25. Network and LV 26. C22 ANFD 27. Process Pumps 28. NFLP and Street Light 29. QC and R&D Equipments 30. RCVD Accessories 31. HDPE/MS tanks 32. MS Structure for pipeline and utilities 33. Server and computers 34. Automation Cable			
5.	Major Orders in queue / or Major Equipment / Utility under installation  1. Lift 2. Scrubber 3. SSR (05 Nos) their relevant piping connections	95%	90%	02 months

**(d) Detailed reasons for delay –**

- i. The Company has submitted that they were allotted plot No. M-21 in SEZ Phase II for which payment was made to the MPIDC Ltd., Regional Office, Indore, the Developer on 05.07.2017, while the lease deed was registered in December 2017. While registering the lease deed, the concerned Sub-Registrar Office was erroneously imposing Rs. 77,15,112/- as stamp duty on the allotted plot and owing to this legal issue the Company represented before the State Govt., and the matter was finally heard and decided by the Commissioner, Indore Division in favour of the Company on 11.09.2019. Accordingly, the registered lease deed could only be handed over to the Company in the month of November, 2019.
- ii. As the company has planned implementation of a Bulk Drug and Active Pharmaceutical Ingredient (API) manufacturing unit in Indore SEZ, it is required to obtain Environment Clearance from the State Environment Impact Assessment Authority (SEIAA) before starting the project implementation activities. As per the norms of MP Pollution Control Board (MPPCB), no Bulk Drug and Active Pharmaceutical Ingredient (API) manufacturing unit can start its project implementation at its site in the Industrial area

before taking Environment Clearance from the Competent Authority i.e. the SEIAA-M.P., Ministry of Environment, Forest and Climate Change (MoEF&CC). The unit received the Environment Clearance on 21.08.2020.

- iii. The total project cost was initially projected as Rs. 58.94 crores but due to increased demand in Pharma sector the Company decided to increase its capacity and as a result the project cost has also increased from the earlier proposed Rs. 58.94 crores to Rs. 125.52 crores. Due to this, the process of allocation of funds from Bank got delayed by six months and finally in the month of September 2021, the bank has disbursed the funds to the Company.
- iv. Due to the Covid-19 pandemic, initially the project implementation was delayed by 6-7 months last year. Thereafter, the company started project implementation in September - October 2020 and then again due to second wave the project was further delayed by another 5-6 months. Further, due to heavy rainfall during the current year, there was water logging at site due to sloppy terrain which affected the construction work. According to the unit, being a rocky terrain, rock cutting was a major time consuming part in civil work. The Company has designed the building without disturbing the natural terrain of the plot thus tried to minimize rock cutting. Therefore, on account of delay in environment clearance, delay in lease deed registration, Covid-19 pandemic situation and heavy rainfall etc., the project implementation activities of the company got delayed.

#### **Reason for demanding LoA extension for a further period of 8 months: -**

According to the Company, some of the civil work and installation is pending and till March 2024 the plant/facility will be ready for production. From April onwards for first 3 months (April – May 2024), they will undergo production trials for process validation, thereafter, their product will undergo for stability studies of next two months (by July 2024) after which the Company would commercialize their first batch.

#### **Steps taken to implement the project:**

- i. The Company has received Environment Clearance from the State Environment Impact Assessment Authority (SEIAA-M.P.), Ministry of Environment, Forest & Climate Change (MoEF & CC) on 21.08.2020 and Consent to Establish from M.P. Pollution Control Board on 04.09.2020.
- ii. The Company has obtained financial sanction from its Bank.
- iii. The Company has obtained approval of building plans.
- iv. The Company has obtained GST Registration certificate.
- v. The Company has appointed the Civil Contractor, M/s Eco Build and the civil work will be completed by December 2022.
- vi. Temporary electricity connection and permanent water connection has been installed at site.
- vii. The Company has obtained registration as Principal Employer under Contract Labour Act.
- viii. The Company has amended IEC and taken membership of Pharma council.
- ix. The Company has executed Bond-cum-Legal Undertaking under SEZ Rules.
- x. The Company has procured almost all major plant & machinery and utilities.



### **Recommendation by DC, Indore SEZ:**

Pursuant to allotment of land and registration of lease deed of the allotted plot No. M-21 in SEZ Phase II in December 2017, due to stamp duty issues the lease deed was handed over to the unit in November, 2019, and the unit could start its construction activities only in the month of October, 2020. The Company has incurred investment of Rs. 116.71 crores out of the projected Rs. 125.52 crores and the facility is now ready at site.

DC Indore SEZ has, therefore, recommended the request of extension of LoA for a further period of eight months up to 31.07.2024 as requested by the unit.

#### **118.4: Request for setting up of FTWZ (1 proposal)**

##### **118.4(i) Request of M/s. NDR Infrastructure Private Limited for Formal Approval for setting up FTWZ at Village Palasdhari and Talavali, Taluka Karjat, Dist. Raigad, Maharashtra over an area of 51.31.60 hectares.**

M/s. NDR Infrastructure Private Limited was granted in-principle approval on 16.12.2020 for setting up FTWZ at Village Palasdhari and Talavali, Taluka Karjat, Dist. Raigad, Maharashtra over an area of 50.98 hectares. One extension to the validity of In-principle approval was granted and the same was valid upto 15.12.2022. The Developer has informed that they approached and submitted their application for Formal Approval for setting up the FTWZ to Industries Department, Govt. of Maharashtra on 5th December, 2022 before expiry of In-Principle approval. The Developer has now submitted complete proposal for Formal Approval.

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

<b>S.N.</b>	<b>Conditions/Documents required</b>	<b>Status</b>
<b>A.</b>	<b>Documents required for setting up of SEZ in terms of the Rule 3 of the SEZ Rules, 2006:</b>	
(i)	Completed Form-A (with enclosures)  A. Total Proposed investment : Rs. 1,008.79 Cr.  B. FDI (in US \$) : Nil  C. Source of FDI : N.A.  D. Proposed Exports : Rs. 1,117.38 Cr.  E. Employment : 10,000 (Both direct & indirect)  (in Nos.)	Yes, provided

	F. Equity : Rs. 554.79 Cr.	
(ii)	DC's Inspection Report.	Yes, provided
(iii)	State Government's recommendation	Yes, provided
(iv)	Dc's Recommendation for National Security Clearance as per guidelines issued by the Ministry of Home Affairs	DC has stated that as per revised guidelines of MHA National Security Clearance is not required. Self-declaration of the Developer has been provided.
<b>B.</b>	<b>Minimum land area requirements in terms of Rule 5 of the SEZ Rules, 2006:</b>	
	Fulfillment of minimum land area requirement in terms of the Rule 5 of the SEZ Rules, 2006	The proposed land area by the Developer is 51.316 Ha (Processing Area of 42 Ha and Non-processing of area 9.316 Ha)
<b>C.</b>	<b>Details to be furnished for issue of notification for declaration of an area as SEZ in terms of Rule 7 of SEZ Rules, 2006:</b>	
(i)	<p>Certificate from the concerned State Government or its authorised agency stating that the Developer has:</p> <ul style="list-style-type: none"> <li>• Legal Possession, and</li> <li>• Irrevocable rights to develop the said area as SEZ, and</li> <li>• That the said area is free from all encumbrance.</li> </ul>	<p>Tahasildar, Karjat vide letter dated 29.12.2023 has inter-alia certified that;</p> <ul style="list-style-type: none"> <li>• the land is free from all encumbrances and</li> <li>• the Developer has legal possession and irrevocable right to develop the said area as SEZ/FTWZ.</li> </ul>
(ii)	Where the Developer has leasehold right over the identified area, the lease shall be for a period not less than twenty years	Sale Deeds and Lease deed (in favour of the Developer for a period of

		28 years) have been provided.
(iii)	The identified area shall be Contiguous, Vacant and No public thoroughfare	Tahasildar, Karjat vide letter dated 29.12.2023 has inter-alia certified that the proposed land is contiguous and there is no public thoroughfare. Further, in the Inspection report, DC has certified that the land is Vacant.

In compliance of DoC's Instruction No. 102 dated 18.11.2019 regarding Physical Inspection and Contiguity condition, Joint Inspection was carried out by DC, SEEPZ SEZ with Revenue Department officer on 11.12.2023. It is noted that the land is vacant and contiguous. Also, the documents related to the possession of the land have been verified.

**Recommendation by DC, SEEPZ-SEZ: -**

The proposal of M/s. NDR Infrastructure Private Limited for obtaining Formal Approval for setting up FTWZ at Village Palasdhari and Talavali, Taluka Karjat, Dist. Raigad, Maharashtra over an area of 51.31.60 hectares is within the parameters of Rule 2(zf), 3, 5 & 7 of SEZ Rules, 2006 and is, accordingly, recommended to the Board for consideration.

**118.5: Request for Co-developer status (2 proposals)**

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

**118.5(i) Request of M/s Intellicus Technologies Private Limited for approval as Co-Developer within the processing and non-processing area of M/s. Impetus IT/ITES SEZ at Survey No. 291, Village - Badiyakeema, Indore, Madhya Pradesh.**

1.	Name of the Developer and Location	Impetus Technologies India Pvt. Ltd. SEZ, Impetus IT Park SEZ, Survey No. 291, Village - Badiyakeema, Indore (M.P.)
2.	Date of LOA to Developer	05.12.2012
3.	Sector of the SEZ	IT/ITES
4.	Date of Notification	05.02.2013
5.	Total notified area (in hectares)	10 hectares
6.	Whether the SEZ is operational or not	Yes
(i)	If operational, date of operationalization	21.11.2016
(ii)	No. of Units	Functional – 04 units

(iii)	Total Exports and Imports for last 5 years (Rs. In crores)	Export –Rs. 656.00 Imports – Rs. 32.00
(iv)	Total Employment (In Nos.)	1722 persons
7.	Name of the proposed Co-developer	M/s Intellicus Technologies Private Limited, Indore
8.	Details of infrastructure facilities/authorized operations to be undertaken by the Co-developer	<p>Impetus IT Park SEZ has a land area of 59018 sq. mtrs. demarcated as Processing area. The Co-developer M/s Intellicus Technologies Private Limited proposes to develop a land area of 23847 sq.mtr with below infrastructure:</p> <p>(a) Development of two new IT buildings with requisite infrastructure including other buildings and facilities viz. Sports Complex, Badminton hall, Basketball, Tennis Court, Amfi Theatre and Cafeteria having total built-up area admeasuring 23317.5 square meters.</p> <p>(b) Operation, maintenance and repair of infrastructure facilities including internal roads, parking, drainage, pump room, firefighting instruments etc. in the land area of 23847 sq.mtr.</p> <p>Impetus IT Park SEZ has a land area of 33197 sq. mtr. demarcated as Non-processing area. The Co-Developer M/s Intellicus Technologies Private Limited proposes to develop the entire land area of 33197 sq. mtr. with below infrastructure:</p>
		Construction, operation, maintenance and repair of health centre, education centre, shopping complex, residential complex, guest house, hotel along with operation maintenance and repair of existing infrastructure facilities including internal road, external road, parking, boundary wall main gate, pump room, STP, landscaping etc.
9.	Total area (in hectares) on which activities will be performed by the Co-developer	5.70 Hectares (Processing area – 2.38 Hectares and Non-Processing are – 3.32 Hectares)

10.	Proposed investment by the Co-developer (Rs. In crores)	Rs. 5.00 crores (Initial investment proposed during first phase. The Co-developer has proposed further investment of Rs. 14.00 crores to be arranged by way of infusion of capital or borrowed fund)
11.	Net worth of the Co-developer (Rs. In crores)	Rs. 8.89 crores (as on 31.03.2023)
12.	Date of the Co-developer agreement	01.08.2023

**Recommendation by DC, Indore-SEZ:**

DC, Indore SEZ has recommended the proposal of M/s Intellicus Technologies Pvt. Ltd., Indore, Madhya Pradesh for becoming a Co-developer in the Impetus IT Park SEZ developed by M/s Impetus Technologies India Pvt. Ltd., at Survey No. 291, Village Badiyakeema, Indore.

**118.5(ii) Request of M/s. E Sollutions Consultancy Private Limited for Co-Developer status in M/s. Aspen Infra Padubidri Private Limited SEZ, Karnataka.**

1.	Name of the Developer & Location	M/s. Aspen Infra Padubidri Private Limited, Padubidiri Village, Nadsal, District Udupi, Karnataka					
2.	Date of LoA to Developer	23 <sup>rd</sup> May 2007					
3.	Sector of the SEZ	IT/ITES					
4.	Date of Notification	11.09.2007, 17.05.2016 & 09.08.2016					
5.	Total notified area (in Hectares)	98.13878 Ha					
6.	Whether the SEZ is operational or not	Operational					
	(i) If operational, date of operationalization	01.09.2008					
	(ii) No. of Units	02					
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	FY	2018-19	2019-20	2020-21	2021-22	2022-23
		Export	0.66	6.90	7.64	14.38	5.19
		Import	12.00	9.20	1.02	1.79	0.00
	(iv) Total Employment (In Nos.)	2003					
7.	Name of the proposed Co-developer	M/s. E Sollutions Consultancy Private Limited					
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	<ul style="list-style-type: none"> <li>• Management &amp; Administration Service</li> <li>• Security Services</li> <li>• Technical &amp; Maintenance Services</li> <li>• Housekeeping services</li> <li>• Repair and renovation activities</li> <li>• Other services in the processing area</li> </ul>					

9.	Total area (in Hectares) on which activities will be performed by the co-developer	98.13878 Ha including built-up area of 12432.30 sq.ft.
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 1.17 crore
11.	Net worth of the Co-developer (Rs. in Cr.)	Rs. 1.79 crore
12.	Date of the Co-developer agreement	19 <sup>th</sup> December 2023

**Recommendation by DC, CSEZ:**

The request of M/s E Sollutions Consultancy Private Limited for granting Co-Developer status in Aspen Infra Padubidri Private Limited SEZ, Karnataka is recommended, in terms of Section 3(11) of SEZ Act 2005 and Rule 3-A of SEZ Rules 2006 and forwarded for consideration of BoA.

**118.6: Request for increase/decrease in area of Co-developer (2 proposals)**

**118.6(i) Request of M/s Harman Connected Services Corporation India Private Limited, Co-Developer in Manyata Embassy Business Park SEZ for partial surrender of built-up area to the Developer.**

1.	Name of the Developer & Location	M/s. Manyata Promoters Private Limited, Vilalges Rachenahalli, Nagavara and Tanisandra, Bangalore District, Karnataka					
2.	Date of LoA to Developer	16 <sup>th</sup> June, 2006					
3.	Sector of the SEZ	IT/ITES					
4.	Date of Notification	16.11.2006, 06.03.2012 & 29.08.2023					
5.	Total notified area (in Hectares)	24.1017 Ha					
6.	Whether the SEZ is operational or not	Operational					
	(i) If operational, date of operationalization	10.01.2007					
	(ii) No. of Units	27					
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	FY	2018-19	2019-20	2020-21	2021-22	2022-23
		Export	13349.44	17513.66	14258.54	18099.68	15211.42
		Import	260.42	159.89	220.63	179.63	89.62
	(iv) Total Employment (In Nos.)	72365					
7.	Name of the proposed Co-developer	M/s. Harman Connected Services Corporation India Private Limited (Existing co-developer)					
8.	Details of Infrastructure facilities / authorized operations to be undertaken	<ul style="list-style-type: none"> <li>Developing infrastructure facilities</li> </ul>					

	by the co-developer	in 95,877 sq.ft. built-up area
9.	Total area (in Hectares) on which activities will be performed by the co-developer	At present the co-developer is having 95,877 sq.ft. built up area and has proposed to surrender an area of 29,597 sq.ft. to the developer and retaining the co-developer status with 66,280 sq.ft. area (2 <sup>nd</sup> & 3 <sup>rd</sup> Floor of Block C-4 Building)
10.	Proposed investment by the Co-developer (Rs. in Cr.)	NIL
11.	Net worth of the Co-developer (Rs. in Cr.)	Rs. 590.95 crore
12.	Date of the Co-developer agreement	07.11.2023

**Recommendation by DC, CSEZ:**

The request of M/s Harman Connected Services Corporation India Private Limited for surrender of 29,597 sq.ft. built-up area to the Developer is recommended for consideration of BoA.

**118.6(ii) Request of M/s Trish Facilities and Developers Pvt. Ltd. for decrease in area and de-scaling of proposed activities in the approval as Co-Developer in M/s. Impetus IT/ITES SEZ at Survey No. 291, Village - Badiyakeema, Indore, Madhya Pradesh.**

1.	Name of the Developer and Location	Impetus Technologies India Pvt. Ltd. SEZ, Impetus IT Park SEZ, Survey No. 291, Village - Badiyakeema, Indore (M.P.)
2.	Date of LOA to Developer	05.12.2012
3.	Sector of the SEZ	IT/ITES
4.	Date of Notification	05.02.2013
5.	Total notified area (in hectares)	10 hectares
6.	Whether the SEZ is operational or not	Yes
(i)	If operational, date of operationalization	21.11.2016
(ii)	No. of Units	Functional – 04 units
(iii)	Total Exports and Imports for last 5 years (Rs. In crores)	Export –Rs. 656.00 Imports – Rs. 32.00
(iv)	Total Employment (In Nos.)	1722 persons
7.	Name of the proposed Co-developer	M/s Trish Facilities and Developers Pvt. Ltd. (The Co-Developer was approved in the 109 <sup>th</sup> BoA meeting dated 31.03.2022 and is holding Approval dated 21.04.2022)

8.	Details of infrastructure facilities/authorized operations to be undertaken by the Co-developer	Impetus IT Park SEZ has a land area of 59018 sq. mtrs. demarcated as processing area. The Co-developer M/s Trish Facilities and Developers Pvt. Ltd. proposes to develop a land area of 21451 sq.mtr with below infrastructure in the processing area:  (a) Development of two new IT buildings with requisite infrastructure and Cafeteria having total built-up area admeasuring 22385.5 square meters.  (b) Operation, maintenance and repair of infrastructure facilities including internal roads, external road, parking, drainage, pump room, firefighting instruments etc. in the land area of 21451 sq.mtr.
9.	Total area (in hectares) on which activities will be performed by the Co-developer	2.1 Hectares in Processing area
10.	Proposed investment by the Co-developer (Rs. In crores)	Rs. 6.00 crores
11.	Net worth of the Co-developer (Rs. In crores)	Rs. 46.15 crores (as on 31.03.2023)
12.	Date of the Co-developer agreement	Co-Developer Agreement dated 01.02.2022 Amended to Co-Developer Agreement dated 01.08.2023

Impetus SEZ stands notified over an area of 10 hectares of land. The Developer has constructed two buildings in the SEZ along with other infrastructure facilities, fire-fighting system, STP, main gate, pump room, boundary wall of the entire SEZ area, outer connecting road and internal roads within the SEZ.

The BoA in its 109<sup>th</sup> meeting held on 31.03.2023 had approved the proposal of M/s Trish Facilities and Developer Pvt. Ltd. for Co-Developer status in Impetus IT Park SEZ for developing the infrastructure facilities for approved authorized operations over an area of 8 hectares of land consisting of processing and non-processing area and as per the following details:

- i. Development of land area of 50,000 sq.mtr. in the processing area out of the demarcated area of 59,018 sq.mtr. on which the co-developer shall operate, maintain and repair infrastructure facilities including internal roads, external roads, parking, drainage, boundary wall, main gate, pump room , STP, landscaping work etc. along with development of infrastructure facilities for setting up IT SEZ units such as interior fit outs & services, electrification, fire-fighting, 24x7 uninterrupted power supply HVAC and



upgradation of other infrastructure facilities to provide plug and play facilities to SEZ units.

- ii. Development of non-processing area admeasuring 33197 sq.mtr. for construction, operation, maintenance and repair of health center, education center, residential complex, shopping complex, other buildings and infrastructure viz. internal roads, external roads, parking, drainage, boundary wall, landscaping etc.

The above activities were in accordance with the Co-developer agreement dated 01.02.2022. The proposal for becoming Co-developer was for the entire period of lease deed of 99 years ending on 23.10.2111 executed between the Developer and the State Government. The Co-developer had proposed an investment of Rs. 25.00 crores in Phase I.

### **Revised Proposal:**

M/s Trish Facilities and Developer Pvt. Ltd. has now informed that they could not undertake any Co-development activities in the IT Park SEZ because of some unavoidable conditions including limitation of financial resources, other major business commitments, increasing rate of attrition in the IT industries and extension of Work from home facilities during the period of COVID for SEZ units which has reduced the demand of working place of IT SEZs all over India.

As the IT Companies have started the efforts for bringing the manpower at work place, hence, the Co-developer has now proposed to amend clause 2 of Co-development agreement dated 01.02.2022 by reducing the land area from 8 hectares to 2.1 hectare in the processing area of the SEZ and therefore de-scale the scope of work from development of both non processing area and processing area to development of only the processing area in the SEZ. Considering the de-scaling of the activities and reduction in area the Co-developer has therefore proposed to reduce the intended amount of investment from Rs. 25.00 crores to Rs. 6.00 crores.

The Developer and the approved Co-developer have submitted an Amendment to the earlier Co-developer agreement dated 01.02.2022 vide which it has been proposed to amend clause 2 of the aforesaid Co-development agreement. As per the amended Co-developer agreement dated 01.08.2023, the Co-developer has proposed to construct two new IT buildings and cafeteria along with infrastructure facilities having total area of 21456 sq. mtr. of land in the processing area of the SEZ only.

The Co-developer has therefore requested to amend the terms and conditions of the approval accorded vide No. F.1/6/2012-SEZ dated 21.04.2022 as below:

S. No.	Clause No	Existing Clause	Proposed Clause
1.	Clause ii	<p>Details of facilities proposed to be provided:</p> <p>For developing the infrastructure facilities for approved authorized operations over an area of 8 hectares of land consisting of processing and non-processing area as per the following detail:</p>	<p>Details of facilities proposed to be provided:</p> <p>For construction of Buildings and developing the infrastructure facilities for approved authorized operations over an area of 2.1 hectares of land consisting of processing area as per the following details:</p>
2.	Clause (ii) (a)	<p>Development of land area of 50,000 sq.mtr. in the processing area out of the demarcated area of 59,018 sq.mtr. on which the Co-developer shall operate, maintain and repair infrastructure facilities including internal roads, external roads, parking, drainage, boundary wall, main gate, pump room, STP, landscaping work etc. along with development of infrastructure facilities for setting up IT SEZ units such as interior fit outs and services, electrification, fire-fighting 24X7 uninterrupted power supply HVAC and upgradation of other infrastructure facilities to provide plug and play facilities to SEZ units.</p>	<p>Development of land area of 21,456 sq. mtr. in the processing area out of the demarcated area of 59,018 sq. meter on which the Co-developer shall construct operate, maintain and repair Buildings, Cafeteria and infrastructure facilities and repair and maintenance of boundary wall of SEZ for setting up IT SEZ units such as interior fit outs and services, electrification, fire-fighting 24X7 uninterrupted power supply HVAC and upgradation of other infrastructure facilities to provide plug and play facilities to SEZ units.</p>
3.	Clause (ii)(b)	<p>Development of non-processing area admeasuring 33,197 sq.mtr. for construction, operation, maintenance and repair of health centre, education centre, residential complex, shopping complex, other buildings and infrastructure viz. internal roads, external roads, parking, drainage, boundary wall, landscaping etc.</p>	<p>This clause may be deleted</p>

### **Recommendation by DC, Indore:**

DC, Indore SEZ has recommended the proposal of M/s Trish Facilities and Developers Pvt. Ltd., Indore, Madhya Pradesh for decrease in area from development of 8 hectares of land consisting of processing and non-processing area to development of 2.1 hectares of land consisting of processing area including de-scaling of the proposed activities in the approval accorded as Co-Developer in M/s Impetus IT/ITES SEZ being developed by M/s Impetus Technologies India Private Limited at Survey No. 291, Village Badiyakeema, Indore, as per the amended Co-developer agreement dated 01.08.2023 to the earlier Co-developer agreement dated 01.02.2022.

### **118.7: Request for full de-notification of SEZ (2 proposals)**

**Relevant provision:** In terms of first proviso to rule 8 of the SEZ Rules, 2006, the Central Government may, on the recommendation of the Board (Board of Approval) on the application made by the Developer, if it is satisfied, modify, withdraw or rescind the notification of a SEZ issued under this rule.

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

- a. DC to furnish a certificate in the prescribed format certifying inter-alia that;
  - o the Developer has either not availed or has refunded all the tax/duty benefits availed under SEZ Act/Rules in respect of the area to be de-notified.
  - o there are either no units in the SEZ or the same have been de-bonded.
- 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.

### **118.7(i) Request of M/s. Saltire Developers Private Limited, IT/ITES SEZ at Rachenahalli Village, Nagavara, Bengaluru, Karnataka for cancellation of LoA and de-notification of entire SEZ area.**

M/s. Saltire Developers Private Limited was granted Formal Approval on 21.04.2016 for setting up of an IT/ITES SEZ at Rachenahalli Village, Nagavara, Bengaluru, Karnataka. The SEZ stands notified over an area of 4.05 Ha. The SEZ is yet to be operationalised. The Developer has now applied for de-notification of the entire area of the SEZ. The reasons submitted by the Developer for de-notification of the entire SEZ area are as below:

- lack of demand for SEZ space in the last few years
- economic slowdown adversely affected the market conditions
- withdrawal of Income Tax exemptions for new SEZs/Units

Further, the Developer has submitted the following: -

### **1. Reason and delay in implementation of the SEZ project:**

The request for full de-notification is being made as the demand for SEZ space has substantially decreased in the last few years. The SEZ was notified in the gazette dated 13<sup>th</sup> June, 2016 and they were in active discussion with a few of the clients and by the time they would obtain all allied approvals to commence the developmental activities, MAT was made applicable. This led to the withdrawal of expressions of interest by interested clients. Additionally, the proposal of the Central Government to introduce a sunset clause for claiming income tax exemptions further adversely impacted the demand for the SEZ project. The developer made the best efforts to market SEZ and despite all the efforts, they were not able to market SEZ and accordingly, management decided to de-notify the same in year 2020. Thereafter, customs no dues, State Government recommendation process were going on since then. Subsequently, the State Government recommendation was issued only on 13<sup>th</sup> November, 2023.

### **2. Land utilisation after the proposed de-notification of the SEZ:**

The land is presently fully vacant, and the de-notified land will be utilized towards creation of IT infrastructure (Non SEZ), which would sub-serve the objective of the SEZ and operate as DTA without availing duty benefits and develop as Industrial IT Park for non-SEZ clients. Further, the developer will comply with the land use guidelines of the State law.

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

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

The Government of Karnataka vide letter dated 13.11.2023 has recommended for consideration of the proposal and informed that the de-notified land will be utilized towards creation of IT infrastructure (Non SEZ), which would sub-serve the objective of the SEZ and this land will conform to the land use/master plan of the Government.

DC, CSEZ has certified that;

- a. There are no unit in the SEZ.

- b. The Developer had availed the following Tax/Duty benefits under the SEZ Act/Rules:
  - a. The duty/tax exemptions for an amount of 58,70,340/- availed by the Developer on account of construction of compound wall, consultancy services and architect fee.

All Tax/Duty benefit indicated above have been refunded by the Developer to DC's satisfaction.

The land area proposed for de-notification is a private land owned by the Developer.

**Recommendation by DC, CSEZ:**

The proposal of M/s. Saltire Developers Private Limited, the Developer for de-notification of the entire area of 4.05 Ha of the notified SEZ area, is recommended, in terms of Rule 8 of SEZ Rules 2006 and forwarded for consideration of BoA.

**118.7(ii) Request of M/s. Information Technology Park Limited, Sy. No. 80 (part), Sadamangala Village, Sadamangala Industrial Area, Whitefield, Bengaluru, Karnataka State for cancellation of LoA and de-notification of entire SEZ.**

M/s. Information Technology Park Limited was granted Formal Approval on 05.01.2017 for setting up of an IT/ITES SEZ at Sy. No. 80 (part), Sadamangala Village, Sadamangala Industrial Area, Whitefield, Bengaluru, Karnataka. It was later notified on 30.03.2017 over an area of 1.51 Ha. The SEZ is yet to be operationalised and the validity of the LoA expired on 04.01.2020.

The Developer has submitted that the demand for SEZ spaces has reduced over the last couple of years and the land was not being optimally utilized and hence, they decided for de-notification of the SEZ. Further, the SEZ land area proposed to be de-notified does not have any building/structures and the same is lying vacant. In this connection, the Developer has submitted the following reasons: -

**1. Reason for delay in implementation of the SEZ project:**

The Developer had decided to develop/implement this SEZ after the completion of their First SEZ (i.e., M/s. Information Technology Park Limited, IT/ITES SEZ at Bangalore - LoA dated 26.06.2006) depending on the market requirement and Government norms (SEZ Sunset clause). Further, due to the Government's proposal to introduce the DESH Bill and prevailing market conditions, they could not take any decision on the development of SEZ.

In the meanwhile, the land acquisition process for the Metro rail project abutting this SEZ (which measures about 1.51 Hectares) was under process and till 2021, they had not received any notice/intimation from the Metro Rail Authority with regard to acquisition of any portion of the proposed notified SEZ land. Further, they were not clear on road expansion and were under the assumption that there is a possibility of

acquisition of a portion of the SEZ land by Metro Authority. Since the Developer has to invest a significant amount to develop the SEZ, they were waiting for the completion of the Metro Project to initiate the development of the SEZ project.

**2. Reason for the Proposed full de-notification of the SEZ:**

The Developer has submitted that due to insufficient demand for SEZ office spaces over the last couple of years, the land was not being optimally utilized. Hence, they decided for full de-notification of the notified SEZ land for construction of IT Buildings for non-SEZ which would held in revenue generation and better usage of resources of the State.

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

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

The Government of Karnataka vide letters dated 05.10.2023 and 01.01.2024 has recommended the proposal for its consideration and informed that the de-notified land will be utilized towards creation of IT infrastructure (Non SEZ), which would sub-serve the objective of the SEZ and this land will conform to the land use/master plan of the Government.

DC, CSEZ has certified that the Developer has not availed any Tax/Duty benefits under the SEZ Act/Rules in r/o the land being de-notified.

The land area proposed for de-notification is a private land owned by the Developer.

**Recommendation by DC, CSEZ:**

The proposal of M/s Information Technology Park Limited, the Developer for de-notification of the entire area of 1.51 Ha of the notified SEZ area, is recommended, in terms of Rule 8 of SEZ Rules 2006 and forwarded for consideration of BoA.

### 118.8: Miscellaneous (4 cases)

**118.8(i) Proposal of M/s. SFO Technologies Pvt. Ltd., an SEZ unit under CSEZ for grant of Industrial License under IDR Act, 1951.**

M/s SFO Technologies Pvt. Ltd., SEZ unit under CSEZ, had applied for Industrial License under IDR Act, 1951 for manufacturing following items:

- i. Electronic and Electro Mechanical Assemblies for Air Defense System
- ii. Electronic Assembly for Medium Range Surface to Air Missile

The location of the proposed activity is Plot No. 36 & 37, CSEZ, Kakkanad, Kerala – 682037.

The proposal was shared with various departments for their comments, which have been received as under:

Departments	Comments
<b>IS-I Division, (Security Desk), MHA</b>	<p>Security Desk-MHA has conveyed security clearance in respect of the subject unit and its directors namely Shri Nagoor Jehangir Rawther, Althaaf Jehangir and Naazneen Jehangir.</p> <p>MoD may recommend appropriate security and auditing procedures for the firm as well as its supply-chain depending upon the threat perception and sensitivity of the products to be manufactured, as per the security instructions/architecture prescribed in the Security Manual for Licensed Defence Industries, issued by MoD.</p> <p>The Ministry of Commerce &amp; Industry should ensure that all security instructions/architecture prescribed in the Security Manual for Licensed Defence Industries, issued by MoD from time to time are strictly adhered to.</p>
<b>IS-I Division, (Arms Section), MHA</b>	Arms Section-MHA has advised this department to seek comments/views of DPIIT since they are the licensing authority.
<b>DPIIT</b>	No Objection from the FDI and Explosives angle.
<b>D/o Defence Production</b>	<p>No Objection.</p> <p>Further, the company may be directed to follow the security guidelines for Category ‘B’ mentioned in the Security Manual available at DDP’s website while undertaking manufacturing of items for defence use.</p>
<b>M/o EF&amp;CC</b>	<p>M/o EF&amp;CC has stated that the proposed project doesn’t attract the provisions of the EIA Notification, 2006 and accordingly, Environment Clearance (EC) is not applicable in the extant matter. However, M/o EF&amp;CC has stated that the following may please be taken note of:</p> <ol style="list-style-type: none"> <li>i. If the proposed project involves the construction of a building</li> </ol>

	<p>exceeding 20,000 sqm, it would fall under item 8(a) of the Schedule of the EIA Notification, 2006 and its subsequent amendments and accordingly prior EC will be required.</p> <p>ii. Further, the construction of SEZ may require prior EC as per provision of EIA Notification, 2006, if applicable</p> <p>iii. The provisions of the E-Waste (Management) Rules, 2022, and the Hazardous and other Waste (Management &amp; Transboundary Movement) Rules, 2016 shall be applicable depending on the waste generated in the proposed project.</p> <p>iv. If the proposed project/activity involves the diversion of forest land, or passes through any Protected Area or Eco-sensitive zone, provisional of Forest (Conservation) Act, 1980 and Wildlife (Protection) Act, 1972 respectively would be applicable.</p> <p>v. Consent to Establish (CTE) and Consent to Operate (CTO) from the concerned State Pollution Control Board would be required under the provision of Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974, if applicable.</p>
<b>State govt. of Kerala</b>	State Govt. of Kerala has submitted the facts of the unit regarding their location, Directors & turnover etc. for information and necessary action.
<b>CSEZ</b>	No Objection.

**Relevant provision:** As per section 9(e) of the SEZ Act, 2005, the Board has powers and functions of granting, notwithstanding anything contained in the Industries (Development and Regulation) Act, 1951, a license to an industrial undertaking referred to in clause (d) of section 3 of that Act, if such undertaking is established, as a whole or part thereof, or proposed to be established, in a Special Economic Zone.

Since clearances have been received from all concerned departments, the proposal of the unit is placed before BoA for its consideration.

**118.8(ii) Proposal of M/s. Candor Gurgaon One Realty Projects Pvt. Ltd., Developer, for revision in area of authorised operations approved by BoA, in the processing area of the IT/ITES SEZ at Village Tikri, Sector – 48, Gurugram, Haryana.**

M/s. Candor Gurgaon One Realty Projects Pvt. Ltd. (formerly known as Unitech Realty Projects Ltd.), Developer had been granted LoA dated 30.07.2007 for setting up of IT/ITES SEZ. The SEZ was notified on 09.01.2008. The Developer has executed Bond-cum-Legal Undertaking which had been accepted by the Competent Authority. The SEZ is operational w.e.f. 01.11.2012.

The Developer was also granted approval from BoA dated 10.03.2008 for the following authorised operations: -

<b>Activity approved by BoA in processing area</b>	<b>Quantum approved</b>
Power (including power back up facilities)	30 MW



Parking including multi-level car parking (automated or manual)	-
Recreational facilities including club house, indoor or outdoor games, Gym etc.	1000 sqmt.
Food services including cafeteria, food court(s), restaurants, coffee shops, canteens and catering facilities.	2000 sqmt.
Employee welfare facilities like crèche, medical center and other such facilities.	1000 sqmt.
Shopping arcade and /or retail space.	1000 sqmt.
Business and/or convention centre	1500 sqmt.
Wi Fi and/or Wi Max services	750 sqmt.
Drip and Micro irrigation system.	--

An additional area of 0.1519 Ha was later notified on 15.04.2021, thereby making the total notified area of the SEZ as 10.1929 Ha. With the increase in notified SEZ area, they have revised the Master plan of SEZ and on recommendation of DTCP Chandigarh, the revised Master Plan has been approved by UAC vide letter dated 14.02.2023, resulting that the total commercial FAR (including Amenity Block-1 & amenity Block-2) is increased from 6500 sqmt. to 7229.625 sqmt.

On the basis of increased FAR, the Developer has now requested for approval of revision in area of the following authorised operations (approved by BoA), in the processing area of said SEZ: -

Activities approved by BoA in processing area	Area approved	Proposed revised area
Recreational facilities including club house, indoor or outdoor games, Gym etc.	1000 sqmt.	800 sqmt.
Food services including cafeteria, food court(s), restaurants, coffee shops, canteens and catering facilities.	2000 sqmt.	5000 sqmt.
Employee welfare facilities like crèche, medical center and other such facilities.	1000 sqmt.	394 sqmt.
Shopping arcade and /or retail space	1000 sqmt.	400 sqmt.
Business and/or convention centre	1500 sqmt.	635 sqmt.
<b>Total</b>	<b>6500 sqmt.</b>	<b>7229 sqmt.</b>

**Rule position:** - Rule 9 of the SEZ Rules 2006 regarding Grant of Approval for Authorized Operations:

*The Developer shall submit in Form C7 to the Development Commissioner who within a period of fifteen days, shall forward it to the Board with his recommendations, the details of operations proposed to be undertaken in the Special Economic Zone for obtaining*

*authorization under sub-section (2) of section 4 at the time of seeking approval for setting up of Special Economic Zone or thereafter:*

In the instant case, as the activities in processing area were earlier approved by the BoA, the revision in area of the approved activities in processing area is now being placed before the BoA.

**Recommendation by DC, NSEZ: -**

The proposal of M/s. Candor One Realty Projects Pvt. Ltd., Developer, for revision in area of aforesaid approved authorised operations with total increased area from 6500 sqmt. to 7229 sqmt., in the processing area of its IT/ITES SEZ at Village Tikri, Sector-48 Gurugra, Haryana is recommended for consideration by the BoA.

**118.8(iii) 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.**

M/s. Impetus SEZ stands 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 Indore which is a Category-B city.

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 has also been enclosed 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:

- 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 has been 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.

**Reasons 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 has 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 Developer has therefore requested to grant extension of time for a further period of two years beyond the stipulate date 05.02.2023 (the ten-year time period ends on this date) i.e. up to 05.02.2025 for construction of the required minimum built up area of 25000 sq. mtrs. as it would not be possible to comply with the requirements of Rule 5(2)(b) of SEZ Rules, 2006 in a short period till 05.02.2024.

**Rule 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 requirement (proposed)	Built-up area
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 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 extension.

**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 construct a built up area of 16258 sq. mtrs., the Developer may be granted extension for a further period up to 05.02.2024 for constructing the minimum built up area of 25000 sq. mtrs. as specified under Rule 5(2)(b) of SEZ Rules, 2006.

**118.8(iv) 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 granted an 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 96<sup>th</sup> 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 Puthuvyppeen SEZ for manufacturing and Lubricant, which is a standalone Unit.

Further, the Developer sought extension of time for compliance of 96<sup>th</sup> BoA directions and the same was considered in the 103<sup>rd</sup> 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 96<sup>th</sup> 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 96<sup>th</sup> 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 Puthuypéen 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 Puthuypéen 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 96<sup>th</sup> BoA and also allow them to continue their Co-Developer status in the SEZ is recommended for consideration of BoA.

**118.9: Appeal (5 cases)**

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

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

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

The appeal of M/s. Plastic Processors and Exporter Pvt. Ltd. was earlier considered in the 115<sup>th</sup> meeting of the BoA held on 17.06.2023. The Board heard the appellant and, after deliberations, advised the appellant to submit their written submissions to the Department. Further, the Board decided to take up the appeal for further discussion and decision in the next BoA after duly considering all materials on record including further written submission, if any that might be filed by the appellant.

In compliance of the direction of the BoA, the appellant vide letter dated 26.06.2023 submitted written submissions. The submissions made by the appellant were placed before the 116<sup>th</sup> meeting of the BoA held on 05.09.2023 for further discussion and decision on the same. The submissions made by the Unit were noted by the Board and it is observed that: -

- i. The Unit was non-functional during the stipulated period of 18 months (i.e., 27<sup>th</sup> January, 2021 to 26<sup>th</sup> July, 2022) due to accidental fire in 2019 at their premises.
- ii. Prior to the fire incident, the Unit was operational effecting exports and maintaining positive NFE.
- iii. The Unit is now keen on resuming operations and fulfilling all statutory obligations with long term stability and growth.

The Board, after deliberations, decided to defer the matter with direction to DoC to collect the details of such Units, in KASEZ and Falta SEZ, which were operational and effecting exports prior to the stipulated period of 18 months but were not in operation during this stipulated 18 months' period.

In pursuance of the direction of the BoA, Kandla SEZ and Falta SEZ have submitted the following details of the Units which were operational and effecting exports prior to the stipulated period of 18 months but were not in operation during this stipulated 18 months period: -

- **Details submitted by KASEZ:** There is one unit in KASEZ viz. M/s. New Plastomers India Ltd., which LoA was not renewed as per decision taken in the 112<sup>th</sup> BoA meeting minutes held on 29.10.2022 as the unit has not met the conditions stipulated in the 112<sup>th</sup> BoA meeting viz. the Unit has not carried out any production activity/exports during the stipulated period of 18 months. The details of the Unit are as below: -
  1. M/s. New Plastomers India Ltd. had been issued LoA dated 20.05.1996 for "All types of plastic bags, garbage collection bags, carry bags, shopping bags, household and allied items". The unit commenced its export production w.e.f. 18.04.1997 and its LoA was valid till 31.12.2020.
  2. Performance of the Unit for the financial year 2017-18 to 2020-21 is as under:

NFE obligations (Rs. in Lakhs)			
Year	Export (including other NFE entitlement)	Forex Outgo	NFE Earning
2017-18	340.00	209.00	130.75
2018-19	1236.10	1065.77	170.33
2019-20	397.43	339.31	58.12
2020-21	277.00	0.00	277.00
Total	2250.53	1614.08	636.20

3. The LoA of the Unit was valid upto 31.12.2020 and their request for renewal of LoA along with other similar plastic recycling units of KASEZ were forwarded to the BoA and the BoA in its 102<sup>nd</sup> meeting minutes held on 06.01.2021 has decided to grant extension of LoA of the 47 existing plastic recycling and worn & used clothing units in SEZs viz. NSEZ, FSEZ and KASEZ in terms of Rule 18(4) of the SEZ



Rules, 2006 for a further period of six months upto 30.06.2021 subject to clearance of all government dues including penalties and rents by the Unit.

4. Further, on the request of KASEZ vide letter dated 13.01.2021 on the issue of clarification on penalties imposed wherein stay has been obtained by such units from DGFT/High Court/Supreme Court, DoC vide letter dated 20.01.2021 has clarified that only in cases where there is an effective stay order against the recovery of penalty imposed, renewal of LoA may be considered without payment of penalty subject to fulfilment of other conditions.
5. With regard to penalty imposed against the unit –
  - i. O/o DC, KASEZ has issued SCN to the unit for non-fulfilment of positive NFE for the 5-year block period 2006-07 to 2010-11 and penalty was imposed vide O-I-O for Rs. 2 crores. However, the unit being aggrieved with the O-I-O has filed appeal before the DGFT and the DGFT has dismissed the appeal of the unit. The unit has preferred appeal before the Appellate Committee of DGFT which is still pending.
  - ii. Two show cause notices dated 14.07.2016 & 10.04.2019 were issued to the unit for non-compliance of physical export conditions and penalty of Rs. 39.37 lakhs have been imposed vide OIO No. KASEZ/ 29-30/2019-20 dated 02.05.2019. The Unit filed appeal before the DGFT against this OIO and the DGFT has dismissed the appeal of the unit. The unit has preferred appeal before the Appellate Committee of DGFT which is still pending.
6. Thus, the LoA of the Unit was not renewed after 01.01.2021 as the unit has not obtained any effective stay on the penalty imposed and rental dues were also pending against the unit.

Further, as per the decision taken in 112th Board of Approval meeting held on 29.10.2022 and 113th Board of Approval meeting held on 17.01.2023, O/o DC, KASEZ vide letter dated 23.01.2023 has cancelled their Letter of Approval dated 20.05.1996 w.e.f. 01.01.2021.

Aggrieved with the above decisions of BoA and cancellation of their LoA by KASEZ, the Unit has approached the Hon'ble High Court of Gujarat and has filed Special Civil Application No. 12595 of 2023 which is pending before the Hon'ble High Court of Gujarat.

- **Details submitted by Falta, SEZ:** As per records, following units of Falta, SEZ were operational and effecting exports prior to the stipulated period of 18 (eighteen) months, but were not in operation during the 18 (eighteen) months period: -

Name of the unit	Period 27.08.2017 to 26.01.2021	
	FOB Value of Export (Rs. In crores)	DTA Sale (Rs. In Crores)
M/s. Nara Exim Pvt. Ltd.	10.92	26.63

In this context, it may be mentioned that M/s. Kkalpana Industries (India) Ltd., was operational and effecting exports prior to the stipulated period of 18 (eighteen) months, and also was in operation during the 18 (eighteen ) months period but had not exported during the period of 18 (eighteen) months.

The details submitted by KASEZ and Falta SEZ were placed before the BoA in its 117th meeting held on 17.11.2023. The Board, after deliberations, directed to formulate a small committee under the chairmanship of AS, DoC and members from SEZ Division, DoC, DoR and DCs Noida SEZ, Kandla SEZ and Falta SEZ to examine all the aspects of M/s. Plastic Processors & Exporter Pvt. Ltd. and other similarly placed Units. The Committee will provide the report regarding force majeure situation of this and other units.

In compliance of the direction of the Board, a Committee was constituted by DoC under the chairmanship of AS (SEZ), DoC. The meeting of the Committee was held on 14.12.2023 at Vanijya Bhawan, New Delhi. The following observations have been made by the Committee:

- M/s Plastic Processors & Exporter Pvt. Ltd. appears to be the only SEZ unit which claim to be affected by force majeure concerns as there are no other similarly placed units as reported by DC/Kandla SEZ and DC/FALTA SEZ.
- As such, a unit affected by accidental fire (force majeure) incident which curtailed their operations cannot be considered or placed on par with other SEZ recycling units.
- As the Unit has expressed its willingness to resuming their operations, a conditional approval may be considered.

Keeping in view of the above observations, the Committee finally decided to recommend that the Unit may be given an opportunity and renewal of the LoA may be considered for a period of 5 years with the following conditions: -

- i. The Unit shall ensure necessary funding is arranged within 3 months of the date of approval of extension and construction commences immediately to ensure that commercial production commences within 24 months of the date of approval.
- ii. The Unit would ensure their first export orders within 18 months from date of renewal of LoA. No further request will be considered to extend this time limit of 18 months.
- iii. In case of extension of LoA for five years by BoA, no DTA sales would be allowed irrespective of fulfilling of NFE and other conditions. Thereafter, DTA sales may be allowed as per prevailing norms.
- iv. Exit of the Unit in terms of Rules 74 and Transfer of its Assets in terms of Rule 74A of the SEZ Rules, 2006 would not be allowed during the period of this 5-year extension.
- v. Environment Clearance and other statutory clearances, if required, would be obtained by the Unit.
- vi. The Unit will provide a clear roadmap and the UAC, NSEZ would examine the performance of the Unit after every six months period.

- vii. These conditions are over and above the extant conditions of NFE requirements under rule 53 of SEZ Rules.

The report of the Committee is being placed before the Board for its consideration and decision on the appeal.

**118.9(ii) Appeal filed by M/s. MNR Exports Private Limited against the Order dated 06.09.2023 issued by DC, Falta SEZ.**

**Brief facts of the case:** M/s. MNR Exports Private Limited had been permitted under EoU scheme vide Letter of Approval dated 02.06.2003 for manufacture and export of all Kinds or Bags made of Cotton, Jute, Nylon, Straw, PVC and Industrial Gloves / Aprons in Falta SEZ. Subsequently, the location of the Unit was changed from 44, Ezra Street, Kolkata to 1/3 A, Ballygunge place (East), Kolkata and the status of the Unit was changed from 100% EoU to SEZ Unit. The Unit started commercial production w.e.f. 20.08.2008. The LoA was valid upto 19.08.2018 and it was later cancelled by the DC, Falta SEZ vide Order-in-Original dated 06.09.2023 in terms of Section 16 of the SEZ Act, 2005.

M/s. MNR Exports Private Limited has filed an appeal against the said Order-in-Original dated 06.09.2023 passed by the DC, Falta SEZ. The appellant has given the following reasons as to why the decision needs review: -

- a. No show cause notice was received by the appellant at any point of time prior to initiation of the proceedings by the Adjudicating Authority.
- b. No intimation and/or cause papers was ever served to the appellant as such the appellant was in total dark about such proceedings and the order was passed ex-parte without giving any opportunity of hearing to the appellant thereby violating the principles of natural justice.
- c. It was well within the knowledge of the adjudicating authority that the registered office of the appellant has shifted from its initial place and the same was duly intimated to the authority concerned.
- d. It was well within the knowledge of the adjudicating authority that fire broke out and the dispute till date by and between the appellant and the insurance company has not settled as such the business could not be started.
- e. The appellant unit being a net foreign exchange earner as the manufacturing unit used to manufacture handicraft items from jute and its by-products. The question of importing raw materials does not or cannot at all arise. There was only export.
- f. That due to fire a sum of Rs. 6.50 crores is due payable by the authorities concerned to the appellant towards damages and losses suffered by the appellant for non-supply of various documents by the authorities before the Insurance Company.
- g. Annual Performance Report (APR) was filed and acknowledged copies were provided on ample occasions which are also reflected in the impugned order, though the impugned order was passed overlooking the same only on the pretext the APR was not filed. As such filing of APR for the mentioned periods does not or cannot at all arise.
- h. Due to breaking of fire all papers have been lost, the same have gutted with fire and it was beyond the control of the appellant. It is further submitted that the exports

were carried out through NSDL portal and ample time the appellant requested the authorities concerned to retrieve the documents filed online but no heed was paid to such request of the appellant.

The appellant has requested that impugned Order dated 6<sup>th</sup> September, 2023 passed by DC, Falta SEZ be set aside and further direct the concerned authority to release the sum of Rs. 6.5 crores for the loss due to the negligence on the part of the authorities to the appellant.

**Inputs received from DC, Falta SEZ: -**

1. Due to non-submission of APR for the FY 2014-15, a Show Cause Notice dated 21.08.2015 was issued to the Unit. In response vide letter dated 26.09.2015, the Unit stated that they are in the process of the filing the APR and requested to condone the delay and not impose any penalty and oblige. Accordingly, vide letter dated 06.05.2015, DC, FSEZ condoned the delay in submission of the APR and requested to expedite the submission of the APR for the FY 2014-15. Finally, the Unit submitted the APR for the FY 2014-15 on 31.12.2015.
2. Due to non-submission of APR for FY 2013-14 & 2015-16 within the prescribed time limit, letters dated 13.12.2016, 11.01.2017, 09.08.2017, 11.09.2017 and 18.01.2018 were issued to the Unit. In response, the Unit, vide letter dated 27.02.2018 submitted that due to fire incident on 08.06.2016, many of their office files remain untraceable and they could trace the copies of the APR for the FY 2012-13, 2014-15, 2015-16 duly acknowledged. Further, the unit has stated that no export has taken place in the FY 2016-17 and thus, the data may be treated as 'NIL'.
3. Vide letter dated 19.04.2021, the Unit was requested to appear for a personal Hearing before the DDC, FSEZ for discussion of their non-performance, however, no one from the Unit appeared for discussion. The Performance of the Unit in the last 5 (five) years is as given below: -

FY	2014-15	2015-16	2016-17	2017-18	2018-19
FOB value of export (Rs. in crore)	2.83	0.75	Nil	Nil	Nil

4. FSEZ observed that the Unit is non-functional for a long period of time and occupying Govt. space without any activity. Also, the Unit has not applied for renewal of their LoA dated 02.06.2003 beyond 19.08.2018, thus, the LoA is deemed to be lapsed w.e.f. 20.08.2018 in terms of Rule 19(6A)(2) of SEZ Rules, 2006.

5. Subsequently, another Show Cause Notice was issued on 08.03.2022 by FSEZ directing the Unit, as to why the LoA should not be cancelled for violating the provisions of Sl. No. 7 of Bond-cum- LUT, as submitted by the Unit, in terms of Section 16 of SEZ Act, 2005, Rule 25 & Rule 54 of SEZ Rules, 2006; and as to why the IEC of the Unit should not be suspended; and as to why penalty should not be imposed under FT (D&R) Act, 1992 for contravention SEZ Act, 2005 & SEZ Rules, 2006. However, no reply of the SCN issued has been received from the Unit till date.
6. Vide letter dated 24.05.2023, the Unit was again requested by FSEZ to appear for a Personal Hearing. However, no one from the Unit appeared for the Personal Hearing.
7. The matter was placed before the 166<sup>th</sup> meeting of the Unit Approval Committee (UAC) held on 25.08.2023. The Unit was requested to appear before the UAC physically to present their case, however, no one from the Unit appeared in the said UAC meeting. The UAC, after deliberation, decided ex-parte to cancel the LoA.
8. As per the directions of the UAC, DC, FSEZ issued an Order-in-Original dated 06.09.2023 cancelling the LoA of the Unit in terms of the Section 16 of the SEZ Act, 2005.

Thus, the contention of the appellant that the impugned Order dated 06.09.2023 passed by the Zonal DC and Adjudicating Authority, Falta SEZ was passed without giving any opportunity of hearing to the appellant thereby violating the principles of natural justice is incorrect, as several correspondences have been made to the Unit for Personal Hearing before the Authority as natural justice, however, no one appeared to present their case. Also, prior intimation for the 166<sup>th</sup> meeting of the UAC was sent to the Unit requesting them to be physically present in the meeting held on 25.08.2023 wherein decision for cancellation of the LoA was taken.

**Relevant provisions under the SEZ law: -**

**Section 16 of the Special Economic Zones Act, 2005**

16. Cancellation of letter of approval to entrepreneur. —

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

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

**Rule 19 of the SEZ Rules, 2006**

19. Letter of Approval to a Unit: -

- 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.

- Further, in terms of rule 19(5), if the Unit has not commenced production or service activity within the validity period or the extended validity period under sub-rule (4), the Letter of Approval shall be deemed to have been lapsed with effect from the date on which its validity expired.
- In terms of rule 19(6), the LoA shall be valid for five years from the date of commencement of production or service activity and it shall be construed as a licence for all purposes related to authorized operations, and, after the completion of five years from the date of commencement of production, the Development Commissioner may, at the request of the Unit, extend validity of the Letter of Approval for a further period of five years, at a time.
- In terms of rule 19(6A)(1), the Units which intend to renew the validity of Letter of Approval shall submit, before two months from the date of expiry of the Letter of Approval, the completed application in Form F1 along with requisite document, to the Development Commissioner.
- Further, in terms of rule 19(6A)(2), in case of non-compliance of the procedures specified in clause (1), the Letter of Approval shall not be considered for renewal.
- In terms of rule 19(6B), the process of renewal of Letter of Approval shall take into account the efforts made and the results achieved or status of the following criteria, namely: -
  - i. Export performance of the Unit in the last block.
  - ii. Employment generated.
  - iii. Instance of violation of applicable statutes related to the functioning of the Unit.
  - iv. Cases of default, if any, of statutory payments.
  - v. Undertaking of any activity not sanctioned or approved by the Development Commissioner.
  - vi. The decision of the Development Commissioner or Approval Committee in this regard shall be final and binding on the Unit except in cases where the Unit prefers an appeal before the Board of Approval, in accordance with rule 55.

The appeal was earlier placed before the 117<sup>th</sup> meeting of the BoA held on 17.11.2023. Since, the appellant requested to list their case for the next meeting and give them at least one-month notice to attend the same. Accordingly, the Board deferred the case to the next meeting.

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

**118.9(iii) Appeal filed by M/s. MGA & Associates, Unit-II against the Order dated 13.11.2023 issued by DC, KASEZ withdrawing the permissions for warehousing of Arecanut/Betelnut and Pepper.**

**118.9(iv) Appeal filed by M/s. Varsur Impex Pvt. Ltd. against the Order dated 09.11.2023 issued by DC, KASEZ withdrawing the permissions for warehousing of Arecanut/Betelnut and Pepper.**

**118.9(v) Appeal filed by M/s. Shriji Overseas against the Order dated 09.11.2023 issued by DC, KASEZ withdrawing the permissions for warehousing of Arecanut/Betelnut and Pepper.**

**Brief facts of the case:**

(i) M/s. MGA & Associates Unit-II is an approved unit for warehousing activity in KASEZ. The unit have been granted Letter of Approval dated 26.10.2012, as amended. The unit has commenced their authorised operation in KASEZ w.e.f. 11.11.2014 and their LoA is valid up to 10.11.2024.

(ii) M/s. Varsur Impex Pvt. Ltd. is an approved unit for warehousing activity in KASEZ. The unit have been granted Letter of Approval dated 30.04.2021, as amended. They have commenced their authorised operation in KASEZ w.e.f. 18.06.2021 and accordingly their LoA is valid up to 17.06.2026.

(iii) M/s. Shriji Overseas is an approved unit for manufacturing of Gutkha, Khaini, Zarda, Pan Masala, Chewing Tobacco & Filter Tobacco/Kaini and warehousing service activity in Kandla Special Economic Zone, Gandhidham vide Letter of Approval dated 09.12.2020, as amended. They have commenced their authorised operation in KASEZ w.e.f. 31.03.2021 and accordingly their LoA is valid up to 30.03.2026.

The 195<sup>th</sup> meeting of the Unit Approval Committee (UAC), KASEZ was held on 19.10.2023. As per Agenda Item No. 195.3.11, the Committee decided to withdraw all the approvals granted to the Units in KASEZ for warehousing Arecanut/Betelnut & Pepper which are only involved in providing warehousing services on behalf of their clients. Subsequently, the decision of the UAC was conveyed to the concerned Units. Aggrieved with the decision, all the above three Units have filed appeals before the BoA in terms of Rule 55 of the SEZ Rules, 2006.

**Grounds of Appeal:**

**1. Beyond power of the UAC to issue Ordinance like Order affecting en masse:**

The appellants have submitted that a Unit Approval Committee is authorized to deliberate only on those issues and discharge such functions which are provided in Section 14 of the Special Economic Zone Act, 2005. It cannot travel beyond the domain of Section 14 of the Act, *ibid*. In this regard, kind attention is invited to Section 14 of the Special Economic Zone Act, 2005, which, *inter-alia*, provides as follows:

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

1. approve the providing of services by a service provider from outside India, or from the Domestic Tariff Area, for carrying on the authorized operations by the Developer, in the Special Economic Zone;

2. monitor the utilization of goods or services or warehousing or trading in the Special Economic Zone;
3. approve, modify or reject proposals for setting up Units for manufacturing or rendering services or warehousing or trading in the Special Economic Zone other than the grant of license under clause(e) of sub-section (2) of section 9 in accordance with the provisions of sub-section (8) of section 15;
4. monitor and supervise compliance of conditions subject to which the letter of approval or permission, if any, has been granted to the Developer or entrepreneur; and
5. perform such other functions as may be entrusted to it by the Central Government or the State Government concerned, as the case may be.

Thus, according to above provisions, the powers & functions of Approval Committee consist of grant of approval/ permission/approval with modifications or rejection of the proposals for setting up unit in a particular zone; monitoring and supervision of the performance units in Special Economic Zone. It may further be seen that Section 14 does not confer any power on the approval committee to withdraw the existing approvals, much less, by way of issuing Ordinance like order affecting the units in bulk. Hence, the impugned action of UAC is beyond their power. On this ground alone, the decision of the 195<sup>th</sup> UAC is liable to be set aside.

**2. There is nothing on record to show as to under which Section, the decision is taken. No allegation of any contravention or dereliction against the unit. Action does not appear to be under Section 16 of the Act, ibid either.**

The appellants have submitted that Section 16 of the Act ibid does confer power of cancellation/withdrawal with the UAC BUT THAT is limited to an individual unit only, to whom some contravention is attributed. In this regard, kind attention is invited to Section 16 of the Act, ibid, which, inter alia, provides:

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

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

So, even as per the provisions of Section 16, the Committee is empowered to cancel letter of approval of an entrepreneur only i.e. a particular unit (not, en mass of multiple units). Further, in the instant matter, the decision of the 195<sup>th</sup> UAC neither falls within their powers or functions, nor does it appear to be an exercise having been undertaken in terms of the provisions of Section 16 of the Act, ibid. Furthermore, there is nothing on record to show as to under which Section or Rule or instructions or Circular or Notification, the Agenda Point No 195.3.11 was taken up for deliberations by the 195<sup>th</sup> UAC and decision was taken. Accordingly, on this ground also, the impugned decision is liable to be set aside.



### **3. Principal of Natural Justice not followed.**

The appellants have submitted that there are three key Principles of natural justice which needs to be ensured in Quasi-Judicial or Judicial proceedings viz. Rule Against Bias, Rule of Fair Hearing, and Reasoned Decision. These principles ensure that decision-makers are impartial. Also, these principles make sure that all the parties have an opportunity to present their case, and decisions are based on reasoning and not arbitrary or biased or targeted.

In the instant matter, there is no notice to the units of proposed Agenda Point, any allegations attributing any contravention to the affected units by this illegal decision, leave aside giving them opportunity of making submissions or personal hearing. So, the decision is arbitrary, biased and against the principles of law. There are explicit provisions under the Special Economic Zone Act, 2005 that opportunity of personal hearing before any decision is taken by the UAC is mandatory. This mandatory provision has been ignored by the 195<sup>th</sup> UAC with regard to Agenda Point no 195.3.11. On this ground also, this decision of UAC is liable to be set aside.

### **4. Opinions expressed by the members are devoid of any substance or merits, not relevant and hence, untenable.**

The appellants have submitted that opinions expressed by the members of the 195<sup>th</sup> UAC with regard to Agenda Point No 195.3.11 are devoid of substance or merits & not relevant for the reasons explained in following paras:

a) Letter(s) received from DRI, Ludhiana and Ahmedabad are against specific warehousing unit(s), containing details of the alleged violation/misuse of SEZ schemes committed by a particular warehousing unit.

Under these circumstances, when the specific and actionable details like the name of offender, type of offence, commodity involved, duty element etc. are available with office of the Development Commissioner, then why instead of taking appropriate action against such offenders only as per SEZ law, all and sundry are being targeted, penalized and deprived of legitimate Economic Activity and foreign exchange earnings for the Nation.

b) The opinion expressed by Shri Mehul Desai, Member is erroneous, misplaced and lop sided due to following reasons:

i) In this regard, it is submitted that every item which is stored in any warehousing unit in SEZ does fulfil the objectives/guidelines enshrined in Section 5 of the SEZ Act, 2005 in as much as;

- a. Generate additional economic activity;
- b. Promote export of goods and services as the payment is received in convertible foreign currency by the warehouse

- c. Create employment opportunities consisting of documentation, Customs clearance loading/unloading, handling, upkeep, packing/re-packing, permissible manufacturing activities, accounting, security etc.

c) It will not be out place to state that the facility of duty-free warehousing is devised and intended to offer deferment of Payment of Customs duty, IGST and Cess etc. so that the Indian Manufacturer/ Merchant/ Trader is saved from additional cost and provide them level playing field to compete internationally. Further, most of the foreign clients warehouse their import items for the purpose of international trading and the purpose of warehousing in India is due to competitive handling charges, storage and labour cost and at times, cheaper compared to elsewhere in the world. Accordingly, the warehousing units in the SEZ invariably earn valuable foreign exchange for the country and without fail, meet the objectives of Section 5 of the Act, *ibid*.

d) Further, the opinion of Shri Gajendra Singh Chholak that the commodities like Areca/Betelnut and Pepper are very sensitive and prone to smuggling appears to be the by-product of his unawareness about the similar facilities available in the mainland of the country.

e) The Customs Tariff which is created and designed after mammoth deliberations by the Tariff Research Unit in the Department of Revenue have put both these items in OGL (Open General Licence).

Even all alcoholic beverages, tobacco products, precious stones etc. are in the OGL and the importers of all these products avail warehousing facilities either in SEZs or mainland, depending upon the supply chain and demand pattern. And whether the warehouse is in SEZ or in the mainland, it is under direct control of the Customs Authorities. In addition, other agencies monitor their activities through the EDI and NSDL systems. As such, Sh Gajender Singh's opinion is of general nature based on hearsay, lack of awareness of the control mechanism deployed by the Customs. Hence, it does not merit consideration

In view of explicit provisions of SEZ Act, 2005 mentioned above and in the interest of justice and fair play, the appellants have requested that the impugned decision of the 195<sup>th</sup> Unit Approval Committee withdrawing approvals of certain items from the approved list of items of all warehousing units of KASEZ may be set aside.

#### **Comments received from DC, KASEZ:**

Instances have come to the notice of the Development Commissioner's office that many of the warehousing units of KASEZ are indulging in mis-declaration/mis-use of warehousing of goods viz. Arecanut/Betelnut and Pepper on behalf of their clients. Due to the sensitivity of the goods, permission for warehousing of the subject goods is not being approved by the Unit Approval Committee of KASEZ since June, 2021.

The KASEZ warehousing units contend that they are not importing the subject goods and their clients are importing the same and hence they should not be held responsible for any mis-declaration/mis-use of the subjected goods.

Therefore, it was decided that all such cases wherein warehousing permission was granted to KASEZ units for Arecanut/Betelnut and Pepper may be placed before the UAC for further deliberations and subsequent directions in the matter.

The UAC in its 195<sup>th</sup> meeting held on 19.10.2023 has deliberated on the issue and the recent instances of some of the units of KASEZ were brought to the notice of the Committee members where warehousing units of KASEZ are frequently indulging in mis-declaration/mis-use of warehousing of goods viz. Arecanut/Betelnut and Pepper on behalf of their clients. In view of the above, the Approval Committee unanimously decided to withdraw all the approvals granted to the units in KASEZ for warehousing of Arecanut/Betelnut and Pepper which are only involved in providing warehousing services on the behalf of their clients.

### **Comments on the Grounds of Appeal:**

#### **1. First contention - Beyond power of the UAC to issue Ordinance like order affecting en mass.**

The contention of the Appellant is not tenable as first proviso to Rule 19(2) of the SEZ Rules, 2006 empowers the Approval Committee to approve proposals for broad-banding, diversification, enhancement of capacity of production, change in the items of manufacture or service activity, if it meets the requirements of Rule 18.

In the subject matter, as there were instances of warehousing units indulging in mis-declaration/mis-use in warehousing of arecanut/ betelnut and pepper by some of the warehousing units of KASEZ, therefore, the UAC has taken unanimous decision of withdrawal of all the approvals granted to the units in KASEZ for warehousing of arecanut/betelnut and pepper.

#### **2. Second contention - There is nothing on record to show as to under which Section the decision is taken. No allegation of any contravention or dereliction against the unit. Action does not appear to be under Section 16 of the Act ibid either.**

The contention of the Appellant is not tenable as Section 16 of the SEZ Act, 2005 pertains to cancellation of Letter of Approval to an entrepreneur.

In the instant case, the Letter of Approval of the unit has not been cancelled and only two items approved in their LoA has been withdrawn by the UAC. Thus, Section 16 of the SEZ Act, 2005 has not been invoked on the unit and decision taken by the UAC comes within the ambit of Rule 19 (2) of the SEZ Rules, 2006.

Further, the Investigation agencies have initiated case and investigation is under progress in respect of following KASEZ units: -

1. **M/s. S F Express Pvt. Ltd.** – The Directorate of Revenue Intelligence, Ahmedabad Regional Unit, Ahmedabad vide their letter dated 13.08.2021 has intimated this office that inquiry is initiated against M/s. S F Express Pvt. Ltd., KASEZ for diversion of duty free goods wherein Arecanuts which were meant for export to Bangladesh vide 26 Shipping Bills were diverted into Domestic Tariff Area without payment of duty and the same has been confirmed through transportation details and no proof of export has been submitted by the unit. Further, a communication has also been received from Customs Division, Dubri (Concerned Land Customs Station), vide which they have informed that no goods exported in the subject shipping Bills have been done through their LCS.
2. **M/s. Aditya Exports** – The Directorate of Revenue Intelligence, Regional Unit, Gandhidham vide their letter dated 26.07.2022 has intimated this office that on the basis of information gathered regarding duty evasion by M/s. Aditya Exports, the DRI officers visited the premises of the unit has detained the quantity of Black Pepper, White Pepper, Areca Nut (Split Betel Nut) and Dry Dates under the provisions of the Customs Act, 1962.
3. **M/s. Aditya Exports** – The Directorate of Revenue Intelligence, Ludhiana Zonal Unit, Ludhiana vide their letter dated 04.05.2023 has informed this office that a case has emerged against M/s. Aditya Exports dealing in Black pepper which have indulged in forged Bills of lading and has fraudulently removing goods to persons/units who are non-traceable and non-existing. The unit was alleged to have committed conspiracy to bring Black pepper of unknown origin country into India.
4. **M/s. Rekha Superfine Exporters** - The Directorate of Revenue Intelligence, Ludhiana Zonal Unit, Ludhiana vide their letter dated 18.04.2023 has informed this office that the DRI has been investigating a case pertaining to M/. Rekha Superfine Exporters which has been appearing to import black pepper into the zone and diverting it into local market by taking it out from KASEZ on pretext of job work.
5. **M/s. Summit (India) Water Treatment & Services Ltd. (Unit-II) and M/s. Mahamaya Construction & Engineers** - The Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, Ahmedabad vide their letter dated 18.08.2023 has intimated that above two warehousing units of KASEZ are indulged in the illicit activity of smuggling of Areca Nuts and are importing Areca Nuts by mis-declaring the same as PP Granules and PP Agglomeration from the UAE.
6. **M/s Varsur Impex, KASEZ** - SCN by the Commissioner, New Custom House, Kandla has also been issued to the SEZ unit M/s Varsur Impex, KASEZ, their importer i.e. M/s Global Enterprises, Chennai, Kanchipuram and others for illegally diverting of goods (Areca Nut) to DTA into India.

The above list of cases is just illustrative in nature and not exhaustive. The commodities like arecanut and black pepper are highly sensitive in nature and simply warehousing these commodities poses a risk of opening Pandora box of ingenious/modus operandi for the illicit

diversion and other nefarious activities, thus creating a risk to the officers concerned and consuming valuable time and resources of the officials in dealing with the menace.

### **3. Third contention - Principal of Natural Justice not followed.**

The contention of the Appellant is not justifiable as their Letter of Approval has not been cancelled under Section 16 of the SEZ Act, 2005 and only two items in their warehousing activity has been withdrawn.

In the subject matter, as there were instances of warehousing units indulging in mis-declaration/mis-use in warehousing of arecanut/ betelnut and pepper by some of the warehousing units of KASEZ as mentioned above. Grave concerns were noticed by the UAC on the sensitivity of the items withdrawn and as a measure of safeguard the UAC has taken unanimous decision of withdrawal of all the approvals granted to the units in KASEZ for warehousing of arecanut/betelnut and pepper under Rule 19(2) of the SEZ Rules, 2006.

### **4. Fourth contention - Opinions expressed by the members are devoid of any substance or merits not relevant and hence untenable.**

At the time of deliberation in the 195<sup>th</sup> UAC meeting, the members i.e. Shri Mehul Desai, Member opined that approval for Arecanut/Betelnut and Pepper to SEZ units which are only involved in providing warehousing services on behalf of their clients does not serve any purpose and the objectives of SEZ enshrined under Section 5 of SEZ Act, 2005 are not fulfilled. Further, Shri Gajendra Singh Chholak, Member opined that the commodities like Arecanut/Betelnut and Pepper are very sensitive and prone to smuggling.

The contention of the appellant is not tenable as the opinions expressed by the members of the UAC are considered genuine observations. Further, the members of the committee thoroughly deliberated on the facts and in the light of various letters from investigation agencies and came to conclusion that the actions of unscrupulous units depict an attempt to derail and impede the working and facilitation of SEZ for legitimate SEZ units.

Further, simply warehousing of such sensitive commodities where no manufacturing/value addition is taking place does not appear to satisfy the objectives of Section 5 of the SEZ Act in true letter and spirit.

Furthermore, with regard to appellant's contention to do away with the practice of seeking item-wise permission for warehousing goods from the UAC, the argument submitted by the appellant is not tenable as granting blanket permission of all Customs Tariffs to units will lead to all sorts of nefarious activities. Also information has been called from other SEZs, wherein Falta SEZ and MEPZ SEZ has confirmed that the units have to apply for inclusion of items in their LoA and the same are placed before the UAC for its consideration. As Warehousing unit cannot be fully aware of the specifications, characteristics of all the goods, importers can misuse the unit for fraudulent activities. As mentioned above there have been several instances in warehousing units where importers/units are involved in the mis-declaration/mis-classification/diversion of the duty free imported goods.

Thus, most of the cases investigated by the agencies in KASEZ involve warehousing units and more particularly subject goods like arecanut/betelnut and black pepper. Therefore, the UAC after detailed deliberation has taken a conscious decision of withdrawing permission of warehousing of arecanut/betelnut and black pepper as continuance of warehousing of these commodities will continue to pose a grave risk and will make the zone more prone to evasion as highlighted by various correspondences received from various agencies.

The appeals are placed before the BoA for their consideration.

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