

No. K-43019/19/2024-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Vanijya Bhawan, New Delhi
Dated the 17th July, 2024

OFFICE MEMORANDUM

Subject: 121st Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) scheduled to be held on 26th July, 2024 – Agenda - regarding.

The undersigned is directed to refer to this Department's O.M. of even number dated 16th July, 2024 on the subject cited above and to inform that the 121st meeting of the BoA for SEZs is scheduled to be held on 26th July, 2024 at Hyderabad under the Chairmanship of Commerce Secretary in hybrid mode. The Agenda has also been hosted on the website: www.sezindia.gov.in.

2. **The Agenda for the 121st meeting of the BoA for SEZs is enclosed herewith.**
3. All the addresses are requested to kindly make it convenient to attend the meeting.
4. The meeting link of the aforesaid meeting will be shared in due course.



(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)

10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, NirmanBhavan, 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, PariyavaranBhavan, CGO Complex, New Delhi – 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, ShastriBhavan, 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, ShastriBhawan, 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, VikasBhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, UdyogBhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi – 110 001 (Fax: 223329770)
22. Dr. RupaChanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai – 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, AtladraPadra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, UdyogBhawan, 9th Floor, Siripuram, Visakhapatnam – 3
36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Development Commissioner, GIFT SEZ, Gujarat

42. Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).
43. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.
44. Government of Karnataka, Principal Secretary, Commerce and Industry Department, Vikas Saudha, Bangalore – 560001. (Fax: 080-22259870)
45. Government of Maharashtra, Principal Secretary (Industries), Energy and Labour Department, Mumbai – 400 032.
46. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
47. Government of West Bengal, Principal Secretary, (Commerce and Industry), IP Branch (4th Floor), SEZ Section, 4, Abanindranath Tagore Sarani (Camac Street) Kolkata – 700 016
48. Government of Tamil Nadu, Principal Secretary (Industries), Fort St. George, Chennai – 600009 (Fax: 044-25370822).
49. Government of Kerala, Principal Secretary (Industries), Government Secretariat, Trivandrum – 695001 (Fax: 0471-2333017).
50. Government of Haryana, Financial Commissioner and Principal Secretary), Department of Industries, Haryana Civil Secretariat, Chandigarh (Fax: 0172-2740526).
51. Government of Rajasthan, Principal Secretary (Industries), Secretariat Campus, Bhagwan Das Road, Jaipur – 302005 (0141-2227788).
52. Government of Uttar Pradesh, Principal Secretary, (Industries), Lal Bahadur Shastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
53. Government of Punjab, Principal Secretary Department of Industry & Commerce UdyogBhawan), Sector -17, Chandigarh- 160017.
54. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
55. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneshwar – 751001 (Fax: 0671-536819/2406299).
56. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), VallabhBhavan, Bhopal (Fax: 0755-2559974)
57. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
58. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
59. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
60. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
61. Government of Chattishgarh, Commissioner-cum-Secretary Industries, Directorate of Industries, LIC Building Campus, 2nd Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

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

Agenda for the 121st meeting of the Board of Approval for Special Economic Zones to be held on 26th July, 2024

121.1: Ratification of the minutes of the 120th meeting of the Board of Approval held on 18th June, 2024.

121.2: Request for setting up of new SEZ (1 proposal)

121.2 Request of Bihar Industrial Area Development Authority (BIADA), Department of Industries, Government of Bihar for setting up of a Multi-Sector SEZ at Nawanagar, District-Buxar (Bihar) - FSEZ.

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

S. No.	Conditions / Documents required	Status
A.	Documents required for setting up of SEZ in terms of Rule 3 of SEZ Rules, 2006:	
(i)	Completed Form-A (with enclosures) A. Total Proposed investment : Rs. 102.25 Crore B. FDI (in US \$) : Not Applicable C. Source of FDI : Not Applicable E. Employment (in Nos.) : 1500 (approx.)	Yes, provided
(ii)	DC's Inspection Report	Yes, provided
(iii)	State Government's Recommendation	Additional Chief Secretary, Deptt. of Industries, Govt. of Bihar has recommended the proposal.
(iv)	Recommendation for National Security Clearance (NSC) from Ministry of Home Affairs as per Rule 3 of SEZ Rules, 2006.	DC has recommended/confirmed that with reference to the inputs provided by the Developer and the guidelines of MHA regarding (i) Country Sensitivity, (ii) Geographical sensitivity and (iii) Sector sensitivity, NSC is not required for the proposed SEZ.
B.	Minimum area requirement in terms of Rule 5 of SEZ Rules, 2006.	As the proposed area is 50.58 Ha (125 acres), the proposal meets the minimum area requirement.
C.	Details to be furnished in terms of Rule 7 of SEZ Rules, 2006:	
(i)	Certificate from the concerned State Government or its authorised agency stating that the Developer has: • Legal Possession, and	• Govt. of Bihar, Industry Deptt. vide notification dated 26.05.2020 has transferred the land to BIADA for

	<ul style="list-style-type: none"> • Irrevocable rights to develop the said area as SEZ, and • That the said area is free from all encumbrance. 	<ul style="list-style-type: none"> • Industry development. • BIADA, Kumarbagh Industrial Area vide Certificate dated 01.07.2024 has certified that the land is free from any dispute and borrowings. The land is proposed for setting up of SEZ. • Further, BIADA vide Inspection Report has stated that the proposed land is in possession of BIADA, Govt. of Bihar and it is free from any encumbrance.
(ii)	Whether the Developer has leasehold right over the identified area. The lease shall be for a period not less than twenty years.	
(iii)	The identified area shall be Contiguous, Vacant and No thoroughfare.	As per physical inspection report, the proposed land is Vacant, Contiguous, Vacant and No thoroughfare.

In terms of DoC's Instruction No. 102 dated 18.11.2019, a Joint Physical Inspection of the site was carried out on 26.06.2024 by DC and ADCs Falta SEZ alongwith Circle Officer, Nawanagar(Buxar), Manager (Ind. Development) and Assistant Area Manger, BIADA. The following are the observations: -

- i. Total area of land demarcated is a single piece of land, contiguous in nature, admeasuring 50.58 Ha (125 acres approx). The land has no public thoroughfare.
- ii. This area is vacant land and it has been certified by the Revenue Officer of the State Govt. that the entire land is free from all encumbrances and has been acquired by BIADA for industrial use.
- iii. The land is about 1 km from the National Highway (NH-120) and is approachable with a road having width of 45 meter. The nearest port is Kolkata which is 642 km away. The nearest railway station Dumraon is 20 km away from the site. The nearest airport Patna is 112 km away. Therefore, the proposed site is well connected.
- iv. There are no forest land or water bodies within the proposed SEZ area.
- v. It was reported by the BIADA officials that the power in the proposed SEZ will be sources from the South Bihar Distribution Company Ltd.
- vi. The industrial water supply will be made by the ground water sources.
- vii. The Developer i.e., BIADA, Deptt. of Industries, Govt. of Bihar will have irrevocable rights and legal possession to develop the said area as multi-sector SEZ and free from all encumbrances.

Recommendation by DC, Falta SEZ:

DC, FSEZ has recommended the proposal for its consideration by the BoA.

121.3: Request for conversion of processing area into non-processing area under Rule 11(B) (2 proposals)

Rule position: -

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

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

TABLE

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

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

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

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

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

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

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

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

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

Technology Enabled Services Special Economic Zone, as specified by the Central Government.

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

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

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

TABLE

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

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

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

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

- Consequent upon insertion of Rule 11 B in the SEZ Rules, 2006, Department of Commerce in consultation with Department of Revenue has issued Instruction No. 115 dated 09.04.2024 clarifying concerns/queries raised from stakeholders regarding Rule 11B.
- Further, as per the directions of the BoA in its 120th meeting held on 18.06.2024, there shall be a clear certification of Specified Office and the Development Commissioner that the Developer has refunded the duty as per the provisions of Rule 11B of SEZ Rules, 2006 and Instruction No. 115 dated 09th April, 2024 issued by DoC. Accordingly, DoC vide letter dated 27.06.2024 has issued one such Certificate to be provided by Specified Officer and Countersigned by Development Commissioner.

121.3(i) Request of M/s. DLF Info City Chennai Limited, Developer, for demarcation of SEZ Processing Built-up area (33901sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, amended in 2023 - MEPZ.

M/s. DLF Info City Chennai Limited was issued a Letter of Approval No. F.2/124/2005-EPZ dated 22nd June 2006 for setting up of a Sector Specific SEZ for IT/ITES in Shivaji Garden, Manapakkam, Ramapuram Chennai -600089, Tamil Nadu over an area of 13.2923 Ha. The SEZ was notified by Government of India vide Gazette Notification S.O.No.1978 (E) dated 16th November 2006. The SEZ became operational on 16th November 2006. Subsequently, the Department of Commerce, as per Rule 8 of SEZ Rules 2006, had notified 3.4384 Ha & 0.069 Ha and de-notified 1.7782 Ha of SEZ notified land area vide Gazette Notification No.S.O. 5320 (E) dated 06.12.2023 and thereby, the area of SEZ became 15.6508 Ha.

Request of the Developer:

The Developer vide letter dated 13th June, 2024 has requested for demarcation of 33,901sq.mtr. built-up area as non-processing area in terms of Rule 11 B of SEZ Rules.2006. (amended in 2023) The Developer states that a portion of built-up area is lying vacant in the SEZ. Hence their management decided to demarcate the vacant built-up area as Non-Processing Area. The details of SEZ are as under:-

Area (Hectares) : 15.6508
 Date of Notification : 16.11.2006, 19.03.2007, 02.02.2008&20.02.2009
 Date of operation : 16.11.2006
 No. of Units : 94
 Total built-up area (Sq.mtr.) : 9,09,873

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

Particulars	Details		
Name of Developer	M/s. DLF Info City Chennai Limited		
Address of SEZ	1/124, Shivaji Gardens, Ramapuram, Chennai – 600089, Tamil Nadu		
Sector	IT/ITES		
Formal Approval	F.2/124/2005-EPZ/ DATED 22.06.2006		
Total Notified land area (in Hectares)	15.6508 Ha.		
Total Built-up area in Processing Area (in Square meters), as informed by the developer.	9,09,873Sq.mtrs.		
Total Built-up area	Building/Tower / Block/Plot No.	No. of floors	Total built-up area (in Sq.mt.)
	Block-1A		32,552.02
	Block-1B		31,786.86
	Block-1C		40,413.13
	Basements		50,525.62
	LT Panel Rm		732.80
	Block-7		41,299.12

	Block-5		57,916.31
	Block-10		66,299.78
	Block-9		1,05,643.87
	Block-4		24,858.07
	Block-3		1,02,223.44
	Basements		1,77,413.79
	Block-8		34,991.93
	Basements		10,705.27
	Block-2		38,826.89
	Basements		16,498.80
	Sub -st Block		1989.45
	Block-15		3,642.63
	Block-12		26,116.31
	Block 11 – Basement		14,129.00
	Block 6 – GKS		31308.00
	Total BUA of		9,09,873
Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)	Building /Tower / Block/ Plot No.	No. of floors	Total built-up area (in Sq.mt.)
	Block-1B	1st Floor	2917
	Block-1C	1st Floor	4355
	Block-1C	7th Floor	4050
	Block-1C	8th Floor	4050
	Block-5	1st Floor	4663
	Block-7	8th Floor	3666
	Block-10	Ground Floor	5479
	Block-10	1st Floor	4721
	TOTAL		33901
Balance Built-up Processing Area after demarcation.	8,75,972 Sq.mtrs.		
Whether minimum built-up processing area norms fulfilled after demarcation?	Yes		
Details of social or commercial infrastructure and other facilities proposed to be used by IT/ ITES business engaged in proposed NPA.	The Developer has informed, that the common and commercial infrastructure in the proposed building / blocks, includes car parking, Atrium , ATM, Net Working services, Lifts, stairs, basement, building services control rooms, food court, security access control mechanisms etc.,		

Whether any SEZ Unit operating on the area proposed to be demarcated as Non-Processing Area under Rule 11B. If yes, what is the future plan for such SEZ units?	The Developer has confirmed that the building proposed for demarcation as a non-processing area is vacant and no SEZ unit is operational as on date in the said proposed non-processing area.
Status of refund of applicable tax / duty benefits availed on the area proposed for demarcation as Non-Processing Area.	As per Chartered Engineer Certificate, The Developer has paid their duties Rs.91,66,35,836 on 11.06.2024 , No Dues Certificate has been issued by Specified Officer on 13.06.2024.
Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	The Developer / Co-developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of movement of persons as well as goods in SEZ premises for the SEZ units and business engaged IT/ITES services in the proposed Non processing area.

In support of proposal, the Developer has submitted the following documents: -

- a. No Dues Certificate from the Specified Officer.
- b. Undertaking.
- c. Chartered Engineer Certificate.
- d. Proof of payment of duty benefits.

Recommendation by DC, MEPZ SEZ: -

The proposal of M/s DLF Info City Chennai Limited, the Developer for demarcation of processing area of 33,901sq.mtrs. built-up area as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006 (amended), is recommended for consideration of BoA.

121.3(ii) Request of M/s Manyata Promoters Private Limited, Developer, for demarcation of SEZ Processing Built-up area (1,08,681 sq.mtr.) as Non-Processing Area in terms of Rule 11B of SEZ Rules 2006 read with Instruction No.115 dated 09.04.2024 - CSEZ.

Area (Hectares)	:	19.1991
Date of Notification	:	16.11.2006 & 06.03.2012
Date operationalized	:	10.01.2007
No. of Units	:	27
Export (2023-2024) (Rs. in crore)	:	19901.00
Total built-up area (Sq.mtr.)	:	877024.14
Built-up area after demarcation (sq.mtr.)	:	768343.14

Request of the Developer

The Developer vide letters dated 24th May 2024 and 9th July 2024 has requested for demarcation of 108681 sq.mtr. built-up area as non-processing area in terms of Rule 11 B of

SEZ Rules.2006 read with Instruction No.115 dated 09.04.2024. The Developer states that significant built-up area is lying vacant in the SEZ since long, due to multiple factors like Sunset Clause for Income Tax benefit, Covid 19 pandemic and consequent work from home facility available to the units. Therefore, they are not able to get SEZ clients despite their wholehearted efforts and hence their management decided to demarcate the vacant built-up area as Non-Processing Area.

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

Particulars	Details		
Name of Developer	M/s. Manyata Promoters Private Limited		
Address of SEZ	Villages Rachenahalli, Nagavara and Tanisandra, Bangalore District, Karnataka State		
Sector	IT/ITES		
Formal Approval	F.2/96/2005-EPZ dated 16 th June 2006		
Total Notified land area (in Hectares)	19.1991		
Total Built-up area in Processing Area (in Square meters), as informed by the developer.	877024.14 Sq.mtr.		
Total Built-up area in the SEZ	Building /Tower / Block/ Plot No.	No. of floors	Total built-up area (in Sq.mt.)
	Block C2	B+G+8	52156.14
	Block C3-MLCP	B+G+12	31982.72
	Block C4 (Annexure building A)	B+S+4	17754.28
	Block C4 (Annexure Building B)	B+S+6	26629.00
	Block D4	B+G+10	49528.00
	Block F3	2B+G+10	98894.00
	Block G1	2B+G+8	56030.00
	Block G2	2B+G+8	50703.00
	Block G3	2B+G+10	71994.00
	Block G4	2B+G+10	55288.00
	Block G6 MLCP	2B+G+12	32668.00
	Block H1	B+G+6	45620.00
	Block H2 (Annexure Building A)	2B+G+10	42290.00
	Block H2 (Annexure Building B)	2B+G+10	42290.00
	Block L1	2B+G+10	59705.00
	Block L2	2B+G+10	65875.00
	Block L3	2B+G+10	69550.00
Block L MLCP	G+3	8067.00	
Total		877024.14	
Total area to be demarcated as	Building /Tower / Block/	No. of	Total

Non-Processing Area (NPA) out of Built-up area (in Square meter)	Plot No.	floors	built-up area (in Sq.mt.)
	Building C4 (Annexure Building A)	3 rd & 4 th Floors	6133.16
	Building C4, (Annexure Building B)	2 nd , 5 th & 6 th Floors	6953.62
	Block G1 (Entire building)	2B+G+8 Floors	56030.00
	Building G4	6 th to 10 th Floors	17154.55
	Building H2 (Annexure Building A)	7 th to 9 th Floors	8625.34
	Building L3	G+1 st to 4 th Floors	13784.33
		Total:	108681.00
Balance Built-up Processing Area after demarcation.	768343.14 Square meter.		
Whether minimum built-up processing area norms fulfilled after demarcation?	Yes		
Details of social or commercial infrastructure and other facilities proposed to be used by IT/ ITES business engaged in proposed NPA.	The Developer confirmed that while assessing the tax liability all social and common infrastructure facilities built up in the processing and proposed non-processing area and they have refunded the entire amount and submitted No Due Certificate from the Specified Officer.		
Whether any SEZ Unit operating on the area proposed to be demarcated as Non-Processing Area under Rule 11B. If yes, what is the future plan for such SEZ units?	The Developer has confirmed that the built-up area proposed for demarcation as a non-processing area is vacant and no SEZ unit is operational as on date.		
Status of refund of applicable tax / duty benefits availed on the area proposed for demarcation as Non-Processing Area.	The Developer has refunded an amount of Rs.15,60,03,018/- (Rupees Fifteen Crore sixty lakh three thousand eighteen only) towards the duty/tax exemption availed for the area proposed to be demarcated as NPA and the common facilities vide TR-6 Challan No.NPA 01 on 06.07.2024. In this regard, the Specified Officer has also issued No Due Certificate dated 12.07.2024 alongwith the certificate certifying that the Developer has refunded the duty as per the provisions of Rule 11B of SEZ Rules 2006 and Instruction No.115 dated 9 th April 2024 (copies enclosed)		
Access Control Mechanism for movement of employees &	The developer has mentioned that they will maintain the appropriate access control mechanisms to ensure		

good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	adequate screening of movement of persons as well as goods in SEZ premise for the SEZ unit and the businesses engaged in IT/ITES services in the proposed non processing areas.																														
Total Exports & Imports for the last 5 years (Rs. in crore)																															
<table border="1"> <thead> <tr> <th colspan="2">2019-2020</th> <th colspan="2">2020-2021</th> <th colspan="2">2021-2022</th> <th colspan="2">2022-2023</th> <th colspan="2">2023-2024</th> </tr> <tr> <th>Export</th> <th>Import</th> <th>Export</th> <th>Import</th> <th>Export</th> <th>Import</th> <th>Export</th> <th>Import</th> <th>Export</th> <th>Import</th> </tr> </thead> <tbody> <tr> <td>17513.66</td> <td>159.89</td> <td>14258.54</td> <td>220.63</td> <td>18099.68</td> <td>179.63</td> <td>21513.78</td> <td>89.62</td> <td>19901.00</td> <td>75.12</td> </tr> </tbody> </table>		2019-2020		2020-2021		2021-2022		2022-2023		2023-2024		Export	Import	Export	Import	Export	Import	Export	Import	Export	Import	17513.66	159.89	14258.54	220.63	18099.68	179.63	21513.78	89.62	19901.00	75.12
2019-2020		2020-2021		2021-2022		2022-2023		2023-2024																							
Export	Import	Export	Import	Export	Import	Export	Import	Export	Import																						
17513.66	159.89	14258.54	220.63	18099.68	179.63	21513.78	89.62	19901.00	75.12																						

The Specified Officer of the SEZ vide letter dated 12th July 2024 has issued No Due Certificate and certified that the Developer has refunded all the duty as per the provisions of Rule 11B of SEZ Rules 2006 and Instruction No.115 dated 9th April 2024 issued by Department of Commerce.

In support of proposal, the Developer has submitted the following documents: -

- No Dues Certificate from the Specified Officer.
- Undertaking.
- Chartered Engineer Certificate.
- Proof of payment of duty benefits.

Recommendation by DC, CSEZ:

The proposal of M/s. Manyata Promoters Private Limited, the Developer for demarcation of **1,08,681 sq.mtr.** built-up area as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006 read with Instruction No.115 dated 9th April 2024, is recommended for consideration of BoA.

121.4: Co-Developer status proposal (1 proposal)

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.

121.4(i) Request of M/s. Sundar Sons (India) Exports for Co-developer status in M/s. ELCOT, Salem, Tamil Nadu – MEPZ.

1.	Name of the Developer & Location	Electronics Corporation of Tamil Nadu Limited, Jagirammalayam (IT SEZ), Salem, Tamil Nadu – 636 302
2.	Date of LoA to Developer	F.1/57/2007-SEZ dated 26 July, 2007
3.	Sector of the SEZ	Specific Sector – IT/ ITES
4.	Date of Notification	30-04-2008

5.	Total notified area (in Hectares)	21.5819 Hectares
6.	Whether the SEZ is operational or not	Operational
	(i). If operational, date of operationalization	1 April, 2019
	(ii). No. of Units	Eleven (11 Numbers)
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Total Exports: INR 110 crores; Total Imports: INR 0.03 Crores last FY 2023-2024
	(iv). Total Employment (In Nos.)	1560 numbers
7.	Name of the proposed Co-developer	SUNDAR SONS (INDIA) EXPORTS
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	To Create, Maintain and Operate infrastructure Facilities, for the Prospective Units, with export Potential, within the Zone
9.	Total area (in Hectares) on which activities will be performed by the co-developer	1.07 Hectares
10.	Proposed investment by the Co-developer (Rs. in Cr.)	INR 25.89 Crores (Note below may be seen)
11.	Net worth of the Co-developer (Rs. in Cr.)	INR 8.36 Crores
12.	Date of the Co-developer agreement	29/05/2024

Note: - As regards net-worth of the applicant, it is informed that the partnership firm is in the business for three decades and the partners can bring in the funds as and when required in individual capacity based on the business requirement. The proposed co-developer has given a declaration in this respect and also attached the same as a part of project report. The details of Source of fund are as follows: -

A. Capital Contribution and retained earnings	:	Rs. 8.36 Cr.
B. Additional Capital infusion from the existing partners	:	Rs. 17.53 Cr.
Total	:	Rs. 25.89 Cr.

Recommendation by DC, MEPZ-SEZ: -

DC, MEPZ has recommended the proposal for its consideration by the BoA.

121.5: Request for cancellation of Co-developer status (3 proposals)

121.5(i): Request of M/s. Access Healthcare, Co-developer in M/s. Electronics Corporation of Tamil Nadu Limited, Jagirammalayam (IT SEZ), Salem, Tamil Nadu, for cancellation of Co-Developer status – MEPZ.

The Developer M/s. Electronics Corporation of Tamil Nadu (ELCOT) has allotted 4.01 acres of land at Vadapalanji Village, Madurai South Taluk, Madurai District, Tamil

Nadu to the Co-Developer M/s. Access healthcare Service Private Limited based on the Board of approval in its 110th meeting held on 26.05.2022. The approval was granted to M/s. Access healthcare Service Private Limited as Co-Developer to set up an IT/ITES SEZ campus as a captive Unit in the total area with three blocks (A, B & C). Each block consisting of 4 floors (Ground Floor +3 Floors) will be developed with parking facilities, gymnasium, outdoor sport courts for employees' recreation facilities and construction of service apartments for employees' accommodation with an area of 4.01 acres (1,74,240 Sq. Foot) in Plot No.13 at the ELCOT SEZ. The authorised operations of the proposed co-developer shall include, "Revenue cycle management services to medical billing companies, hospitals, physician practices etc. and also provide software development services (Services) & Service Apartments for employees, accommodation."

The Co-developer has informed that, the project allocations from their prospective clients are getting delayed and hence they are not in a position to ascertain the exact date to initiate their project. As the space was identified to exclusively cater to the operational needs of the prospective client, the delay in work allocation has indirectly placed them in a situation which envisages them to surrender the aforesaid plot and proposed to cancel the aforesaid Co-Developer status.

Considering the indefinite timeline on the commencement of the project, they have decided to tender their intension to withdraw their application and requested that the, approval granted for their co-developer status may kindly treated as withdrawn from their end.

The Co-developer has submitted the following supporting documents: -

- i. Termination Agreement
- ii. No Dues Certificate from the Specified Officer
- iii. NoC from the Developer

Recommendation by DC, MEPZ SEZ: -

The request of M/s. Access Healthcare Services Private Limited for cancellation of Co-Developer status is recommended for consideration of Board of Approval.

121.5(ii) Request of M/s. Arshiya Data Centre Private Limited for cancellation of Co-developer status granted in Arshiya Limited SEZ, Sai Village, Taluka- Panvel, District- Raigad, Maharashtra - SEEPZ.

M/s. Arshiya Data Centre Private Limited was granted Co-developer status vide LoA No. F.2/172/2007-SEZ dated 16.01.2020 in Arshiya Limited SEZ, Sai Village, Taluka- Panvel, District- Raigad, Maharashtra.

The Co-developer vide letter dated 28.05.2024 has submitted their application for cancellation of their co-developer status. The following are the reasons for exit from the SEZ: -

- i. Due to prevailing pandemic situation the developmental plan could not be initiated.
- ii. Due to delay in implementation plan and not availability of requisite funds, the project could not be started.

- iii. The proposed project of Date Centre is power intensive and the requires huge, connected load of Power that is to be drawn from the distribution Hub 30 Km away and requires host of approvals from Forest Department, NHAI, CIDCO, the State Electricity Distribution Company besides it requires heavy investment which makes the project unviable.
- iv. Owing to delays and advancement of the technology the costing and profitability in long run has diminished. There was huge cost escalation which also made the project untenable.
- v. Even the proposed investors have gradually backed-off.

The Co-developer has submitted the following supporting documents: -

- i. No Dues Certificate from the Specified Officer
- ii. NoC from the Developer
- iii. Undertaking

Recommendation by DC, SEEPZ SEZ: -

DC, SEEPZ has recommended the request for its consideration by the BoA.

121.5(iii) Request of M/s. Unrivalled Infrastructure Private Limited for cancellation of Co-developer status granted in Arshiya Limited SEZ, Sai Village, Taluka- Panvel, District- Raigad, Maharashtra - SEEPZ.

M/s. Unrivalled Infrastructure Private Limited was granted Co-developer status vide LoA No. F.2/172/2007-SEZ dated 05.08.2021 in Arshiya Limited SEZ, Sai Village, Taluka- Panvel, District- Raigad, Maharashtra.

The Co-developer vide letter dated 28.05.2024 has submitted their application for cancellation of their co-developer status. The following are the reasons for exit from the SEZ:

- i. Due to prevailing pandemic situation the developmental plan could not be initiated.
- ii. Due to delay in implementation plan and not availability of requisite funds, the project could not be started.
- iii. Due to slow down in the global market the business scenario doomed, thereby forcing them to defer the commencement of the project.
- iv. Even after three years, they are not enable to mobilise funds and courage to kick start the project and therefore, decided to apply for cancellation of the LoA granted to them as Co-developer.

The Co-developer has submitted the following supporting documents: -

- i. No Dues Certificate from the Specified Officer
- ii. NoC from the Developer
- iii. Undertaking

Recommendation by DC, SEEPZ SEZ: -

DC, SEEPZ has recommended the request for its consideration by the BoA.

121.6: Request for partial/full de-notification (4 proposals)

Procedural guidelines on de-notification of SEZ:

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

(a) DC to furnish a certificate in the prescribed format certifying inter-alia that;

- the Developer has either not availed or has refunded all the tax/duty benefits availed under SEZ Act/Rules in respect of the area to be de-notified.
- there are either no units in the SEZ or the same have been de-bonded.

(b) The State Govt. has no objection to the de-notification proposal and

(c) Subject to stipulations communicated vide DoC's letter No. D.12/45/2009-SEZ dated 13.09.2013.

121.6(i) Request of M/s. TSIIC Limited, SEZ for Biotechnology at Lalgadi Malakpet Village, Shameerpet Village, Medchal-Malkajgiri District, Telangana for full de-notification of their SEZ – VSEZ.

M/s. TSIIC Ltd. was issued Formal Approval No. F. 1/23/2009- SEZ dated 14.7.2009 for setting up SEZ for Biotechnology at Lalgadi Malakpet Village, Shameerpet Mandal, Medchal-Malkajgiri District, Telangana in an area of 20.44 Hectares of land in Sy. Nos. 101 (P), 119, 120 and 121 (P). The SEZ got notified vide Gazette Notification No. 2636 (E) dated 20.10.2009. The present area of the SEZ is 10.2263 Ha after a) addition of an area of 2.136 Ha and deletion of an area of 12.35 Ha which was published vide Gazette Notification S.O. No. 1324 (E) dated 31.3.2016. The SEZ is operational since 1.10.2012.

The Developer vide letter dated 17.5.2021 has stated that one of the units viz., M/s. Lonza India Pvt. Ltd has requested for Exit from SEZ scheme. In this regard, it is to mention that one more unit viz., M/s. Agri Genome Labs Pvt. Ltd was issued LoA on 20.12.2016 and the LoA was cancelled on 1.1.2024. Final Exit Order was issued M/s. Lonza India Pvt. Ltd on 9.5.2024.

As regards reasons for de-notification, the Developer has mentioned in the application that M/s. Lonza India Pvt Ltd who is only allottee in SEZ has requested for exit from SEZ as the SEZ policy not being favourable by the time Lonza has commenced its operation and their expansion plans stand still, With the rising demand in Lab space and life sciences infrastructure in and around Genome Valley they requested for exit from SEZ. In view of the request of Lonza, de-notification proposed for expansion.

The Specified Officer vide letter dated 3.7.2024 has stated that DGM (Projects), M/s. TSIIC Limited vide email dated 1.7.2024 has submitted that as per the information received from

Zonal Manager, Medchal, Siddipet have not claimed any exemptions on the above SEZ. Hence, it is submitted that there are no dues payable and the request of the Developer for full de-notification may be considered.

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 below: -

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

The State Government of Telangana vide letters dated 17.05.2021 and 18.05.2021 has conveyed their No-objection to the proposal subject to the following conditions: -

- i. That such de-notified parcels would be utilized for industrial purpose and creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged.
- ii. That such land parcel after de-notification will confirm to land use guidelines / master plans of the respective State Government.

DC, VSEZ has certified that;

- a. The existing units have been de-bonded following the procedure prescribed in Rule 74 of the SEZ Rules.
- b. The Developer had not availed any tax/duty benefits, under the SEZ Act/ Rules, in respect of the land being de-notified.
- c. The State Government has given its 'No Objection Certificate' regarding de-notification of the above stated area of the SEZ.

Recommendation by DC, Visakhapatnam SEZ: -

DC, VSEZ has stated that the developer has not availed any duty benefits and hence there are no dues to be paid back by the developer. The proposal of full de-notification of SEZ is recommended for consideration of BoA as there are no takers for setting up of units in the SEZ.

121.6(ii) Request of M/s. AIGP Developers (Pune) Pvt. Ltd. for full de-notification their IT/ITES SEZ at Pune – SEEPZ.

M/s. AIGP Developers (Pune) Private Limited was granted formal approval on 08.02.2019 for setting up of an IT/ITES SEZ at above mentioned at Wagholi and Kharadi Villages, Pune, Maharashtra. The SEZ stands notified over an area of 1.72 Ha. The SEZ has not become operational yet.

The Developer has submitted application for full de-notification of their SEZ. As regards reasons, the Developer has mentioned as poor market response and lack of demand for space in SEZ due to change in the fiscal incentive regime, non-extension of direct tax benefits to SEZ.

The Specified Officer vide letter dated 13.07.2024 has informed that,

- The Developer has paid “Tax liability” amounting to Rs. 68,31,759/- on account of “Final Denotification of area of 1.72 Ha vide T.R.6/GAR Challan No.001/2022 dated 13.06.2022.
- AIGP has made voluntary payment of IGST of Rs. 19,100/- vide DRC 03Challan dated 01.07.2024, indicating payment of additional benefit availed of Rs. 19021/- against procurements from 31.10.2022 to 14.03.2024 and the same has been verified from relevant GSTR2B data of AIGP.

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 below: -

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

The State Government of Maharashtra vide letter dated 26.06.2024 has conveyed their No-objection to the proposal informing that Govt. of Maharashtra will ensure that de-notified parcels of land will be utilised toward creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged. The State Govt. also certified that the de-notified parcels of land will conform to land use guidelines/ master plan of the State Govt.

DC, SEEPZ has certified that;

- i. There are no units in the SEZ
- ii. The Developer has availed the following tax/duty benefits under the SEZ Act/Rules: -
 - a. The tax benefit availed of Rs. 0.68 Cr, mentioned in the Form C6, is towards the services procured by the Developer.
 - b. The Developer has paid the duty amount of Rs. 0.68 Cr.
 - c. The Developer has made voluntary payment of IGST of Rs. 19,100 against additional benefit availed of Rs. 19,021 from 31.10.2022 to 14.03.2024.

The tax/duty benefit indicated above have been refunded by the Developer to DC’s satisfaction.

Recommendation by DC, SEEPZ SEZ: -

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

121.6(iii) Request of M/s. MIDC Phaltan for full de-notification of their Multi-sector SEZ at MIDC, Phaltan, Satara, Maharashtra -SEEPZ.

M/s. MIDC Phaltan was granted Formal Approval vide letter No. F.2/224/2007-SEZ Dt.04.12.2008 for setting up of an Engineering Specific sector at the Special Economic Zone for at MIDC Phaltan, Satara, Maharashtra. The SEZ was notified on 04.08.2010 over an area of 53.0805 Ha. The SEZ become operational later.

The Developer has submitted application for full de-notification of their SEZ. As regards reasons, the Developer has mentioned that in the area 53.0805 Ha, Cummins India limited has set up their two SEZ Units viz: 1. Cummins India Limited (Power Generation Business Unit) at plot No. B-2. 2. Cummins Technologies India Private Limited (Phaltan High Horsepower Unit) at plot No. B3/1, in MIDC Phaltan SEZ, Dist- Satara and now Cummins India Limited has applied for EXIT from SEZ Scheme. They "MIDC" would like to apply for de-notification of full area, so that said area can be used as DTA area .

The Jurisdictional Specified Officer vide letter dated 12.03.2024, has informed that, the Tax benefit amounting to Rs. 87,480/- availed by the Developer has been refunded by the Developer vide Challan No. 1 dated 19.06.2023 amounting to Rs. 38880/- and vide challan No.2 dated 26.02.2024 amounting to Rs. 48,600/-. Accordingly, the Specified Officer has issued "No Dues Certificate" in respect of M/s MIDC, Phaltan (Developer).

The Tax benefit availed of Rs. 1.31 Lakhs mentioned in Form C6 is towards services procured which have been consumed in providing their authorized services. Out of the total benefit availed of Rs.1.31 lakhs, the Developer had filed DSPF amounting to Rs.0.44 lakhs and due to non filing of DSPF of Rs.0.87 lakhs, they have refunded the benefit of Rs. 0.87 lakhs under challans dated 19.06.2023 & 26.02.2024

Further, there are 2 SEZ Units viz Cummins India Limited at Plot No. B-2 & Cummins Technologies India Private Limited at Plot No. B3/1, in MIDC Phaltan SEZ which will also 'EXIT' from SEZ simultaneously along with De-notification of MIDC Phaltan.

As directed by MOC&I, vide letter dated 22.09.2023, both the SEZ units (i) Cummins India Limited (ii) Cummins Technologies India Pvt. Ltd. are functioning as a DTA unit and no benefit under the SEZ law will be applicable to the unit from 12.10.2023.

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 below: -

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

(vii) | 'No Dues Certificate' from specified officer | Yes, provided |

The State Government of Maharashtra vide letter dated 27.07.2023 has conveyed their No-objection to the proposal informing that Govt. of Maharashtra will ensure that de-notified parcels of land will be utilised toward creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged. The State Govt. also certified that the de-notified parcels of land will conform to land use guidelines/ master plan of the State Govt.

DC, SEEPZ has certified that;

- a. The existing units have been de-bonded - M/s Cummins India Ltd. & M/s Cummins Technologies India Pvt. Ltd. were operating in MIDC Phaltan SEZ. MOC&I vide letter issued under F.No. K-43022/83/2023-SEZ dated 22.09.2023 had permitted both the units viz. M/s Cummins India Ltd. & M/s Cummins Technologies India Pvt. Ltd to operate as a DTA unit. The Units have started operating as DTA units w.e.f. 12.10.2023 after proper de-bonding from SEZ Scheme.
- b. The Developer has not availed any tax/duty benefits, under the SEZ Act/Rules in respect of the land being de-notified except tax benefit availed on the Consultancy services procured by them, the details of which are as under :
 - i. The tax benefit availed of Rs.1.31 lakhs, mentioned in Form C6, is towards Consultancy services procured.
 - ii. Out of the total benefit availed of Rs.1.31 lakhs, the Developer had filed DSPF amounting to Rs.0.44 lakhs and due to non filing of DSPF of Rs.0.87 lakhs, they have refunded the benefit of Rs. 0.87 lakhs under challans dated 19.06.2023 & 26.02.2024.

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

Recommendation by DC, SEEPZ SEZ: -

- a. Units in the Zone have been debonded.
- b. An amount equivalent to the tax/duty exemption availed has been deposited to the Government account.

121.6(iv) Request of M/s. Nalanda Shelter Pvt. Ltd. for partial de-notification of 1.11 Ha of their IT/ITES SEZ at Pune -SEEPZ.

M/s. Nalanda Shelter Pvt. Ltd. was granted formal approval on 31.03.2017 for setting up of an IT/ITES SEZ at Hinjewadi, Taluka- Mulashi, District Pune, Maharashtra. The SEZ stands notified over an area of 5.06 Ha. The SEZ is operational since 2020.

The Developer vide application has requested for partial de-notification of 1.11 ha out of 5.06 Ha. As regards reasons, the Developer has mentioned that due to the changes in SEZ Act/ Policy leasing out is not happening. All the IT/ITES Companies taking the space in Non SEZ IT PARKS.

The Jurisdictional Specified Officer vide letter dated 09.07.2024, has informed that, the Tax benefit amounting to Rs. 10,41,744/- availed by the Developer has been refunded by the

Developer vide Challan No. 2023- 24/000001 dated 10.05.2023. Accordingly, the Specified Officer has issued “No Dues Certificate” in respect of partial De-Notification of 1.11 Ha area of M/s Nalanda Shelter Pvt. Ltd. Pune.

The Tax benefit availed of Rs. 10,41,744/- mentioned in Form C5 is towards procurement of goods and services utilized for construction of wall.

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

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

The State Govt. of Maharashtra vide letter dated 18.06.2024 has conveyed their No-objection to the proposal informing that Govt. of Maharashtra will ensure that the de-notified parcels of land will be utilized toward creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged. Further, they also certified that the parcel land will conform to the land guidelines/master plan of the State Government.

In compliance of DoC’s Instruction No. 102 dated 18.11.2019 regarding Physical Inspection and Contiguity Condition, the Physical Inspection was carried on 08.07.2024 by JDC, SEEPZ along with Revenue Officer, Revenue Department, Govt. of Maharashtra. Upon physical inspection of the site, it is verified that upon partial de-notification of 1.11 Ha, the remaining area of 3.95 Ha will remain contiguous.

DC, SEEPZ has certified that;

- a. The Developer has availed the following tax/duty benefits under the SEZ Act/Rules:
 - i. The tax benefit availed of Rs. 10,41,744/-, mentioned in Form C5, is towards procurement of goods and services utilized for construction of wall.
 - ii. The Developer has paid the duty amount of Rs. 10,41,744/- vide Challan No. 2023-24/000001 dated 10.05.2024.

All tax/duty benefit indicated above have been refunded by the Developer to DC’s satisfaction.
- b. The SEZ shall remain contiguous even after de-notification of the area of 1.11 Ha. and shall meet the minimum land/built up area requirement prescribed for the IT/ITES sector which is 50,000 Sq.Mtr.

Recommendation by DC, SEEPZ SEZ: -

DC has visited this site and the land is open. The SEZ rules and Instruction have been complied by the Developer. Hence, DC has recommended the proposal for partial de-notification.

121.7: Request for extension of LoA of Unit (1 proposal)**121.7 Request for grant of LOA extension for a period of one-year upto to 03.12.2025 of M/s. Hishimo Pharmaceuticals Private Limited. Plot No. PA-010-22 & 23 SEZ of Mahindra World City Multi-product SEZ at Village Kalwara, Tehsil Sanganer, Jaipur, Rajasthan**

Name of the Unit : M/s. Hishimo Pharmaceuticals Private Limited
 LOA issued on : 04.12.2020
 Nature of business of the unit : Manufacturing of Herbal Medicine in form of Capsules (ITC HS 30049011), Herbal Medicine in form of Oil (ITC HS 30049011), Herbal Medicine in form of Powder (ITC HS 30049011) , Herbal Medicine in form of Syrups(ITC HS 30049011)
 No. of extensions : No extensions have been granted.
 LOA Valid upto : 03.12.2021.
 Request : Unit has requested for extension of LOA upto 03.12.2025.

a. Details of business plan:-

S. No.	Type of Cost	Proposed Investment (Rs.in Cr)
1	Land Cost	5.30
2	Construction Cost	4.98
3	Plant & Machinery	7.28
4	Other Overheads (Give details)	2.20
	Total:	19.78

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

S. No.	Type of Cost	Total Investment made so far (Rs. in Cr)	Incremental investment since last extension (Rs. in Cr.)
1	Land Cost	5.30	-
2	Material Procurement	-	-
3	Service Cost	2.00	2.00
4	Other Overheads (give details)	0.50	0.50

Total:	7.80	2.50
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c. Details of Physical progress till date: -

S. No.	Authorized activity	% completion as on date	% completion during last one year	Deadline for completion of balance work
1.	Lease deed extension	100%	100%	-
2.	Appointment of Architect & Contractor	100%	100%	-
3.	Application in statutory approvals-CTE	100%	100%	-
4.	Site preparedness	100%	100%	-

Reason for Delay: The unit has informed that they could not find a contractor due to Corona for two years 2021 and 2022.

Rule Position: As per Rule 19(4) of SEZ Rules 2006: -

"Upon request by the entrepreneur, further extension may be granted by the Development Commissioner for valid reasons to be recorded in writing for a further period not exceeding two years.

Provided that Development Commissioner may grant further extension of one year subject to the condition that two third 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 entrepreneurs.

Provided further that "Board of Approval may, upon a request in writing by the entrepreneur, and after being satisfied that it is necessary and expedient so to do grant further extension for a further period not exceeding one year, at a time."

As per above provisions, two years extension i.e. upto 03.12.2023 in this case, can be allowed by the Development Commissioner. Further, extension of one year i.e. upto 03.12.2024 can be granted by Development Commissioner after submission of Chartered Engineer's certificate towards completion of two-third construction activity.

However, in this case, the unit had neither executed Bond-cum-Legal Undertaking nor submitted Chartered Engineer's certificate as required under proviso to Rule 19(4) of SEZ Rules, 2006. Therefore, no extension has been granted to the unit. Now, the unit has sought extension of validity of LOA upto 03.12.2025.

Recommendation by DC, NSEZ:-

The unit has informed that in last 4 months, they have finalized everything with one company such as agreement, advance given, construction design, maps, unit designed etc.

They have also submitted all papers to SEZ Customs. DC, NSEZ has recommended for regularization of LOA upto 03.12.2024 and extension of LOA upto 03.12.2025.

121.8: Miscellaneous (1 case)

121.8 Request of M/s. GIFT SEZ Limited, Multi-services SEZ at Gandhinagar, Gujarat for amendment in their notification due to merger/amalgamation of the Developer Company with the parent Company i.e., Gujarat International Finance Tec-City Company Limited.

M/s. GIFT SEZ Limited was issued Formal Approval on 7th January, 2008 for setting up of sector specific SEZ for Multi-Services SEZ at Villages Ratanpur and Phiropur, District Gandhinagar, Gujarat. It was later notified vide Gazette Notification dated 18.08.2011 over an area of 105.4386 Ha and it was later revised vide Notification dated 06.07.2023.

The Developer has informed O/o the GIFT SEZ of statutory proceeding initiated under the Companies Act, 2013 for approving the composite scheme of arrangement in nature of amalgamation between M/s. Gujarat International Finance Tec City Company Limited and its six wholly owned subsidiaries including the Developer Company (M/s. GIFT SEZ Limited). The said application for amalgamation has been approved by Ministry of Corporate Affairs vide Order dated 26.09.2023.

Subsequently, the matter was placed before the UAC, GIFT SEZ in its 131st meeting held on 10.10.2023 in terms of DoC's Instruction No. 109 dated 18.10.2021. The UAC has accorded its approval to the said scheme of amalgamation as approved by Ministry of Corporate Affairs.

The Developer has now sought amendment in Notification dated 06.07.2023 to insert the name of the current developer company i.e., M/s. Gujarat International Finance Tec-City Company Limited in the said notification.

The relevant guidelines for notification and amendment thereof are as follows: -

- **Rule 8. Notification of Special Economic Zone.**- *After the submission of details as required under rule 7 and other details, if any, required by the Central Government and on acceptance of the conditions specified in the Letter of Approval, the Central Government shall notify the identified area as a Special Economic Zone under sub section (1) of section 4, if the area proposed for notification is not less than the minimum area prescribed under rule 5.*

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

- **DoC's Instruction No. 109 dated 18.10.2021:** As per the guidelines issued vide the said instruction, reorganization including change of name, change of shareholding pattern, business transfer arrangements, court approved mergers and demergers,

change of constitution, change of Directors etc. may be undertaken by the UAC concerned subject to certain conditions and safeguards.

Recommendation by DC, GIFT SEZ: -

DC, GIFT has recommended the proposal for necessary action by DoC.

121.9: Appeal (1 case)

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.

120.9 Appeal filed by M/s. Garden Foods Corporation against the decision of UAC, KASEZ.

Brief facts of the case:

- M/s. Garden Foods Corporation was granted Letter of Approval (LoA) on 24.07.2007 for carrying out trading activity, manufacturing activity and warehousing activity, as amended. The Unit vide application dated 21.03.2023 sought to include manufacturing and export of the following new products to the already existing activities in their Manufacturing LoA: -

Sl. No.	Product Details	HS Code
1	Garnet	2513 20 30
2	Fused Aluminium Oxide	2818 20 90
3	Other natural abrasive	2513 20 90

- The aforementioned Application dated 21.03.2023 was taken up for consideration by the UAC, KASEZ in its 190th meeting held on 28.04.2023. During the meeting, the UAC *inter alia*, made the following observations:
 - a. The description and the ITC HS of the finished goods and their raw materials were the same.
 - b. The Appellant was not registered with the Indian Rare Earth Limited ('IREL'), a State Trading Enterprise ('STE') as required under the Foreign Trade Policy ('FTP').

Accordingly, the UAC decided to defer the proposal with a direction to the Appellant to get themselves registered with the IREL before proceeding.

- Thereafter, in December 2023, the Unit’s request for broad banding was included in the agenda of the 197th meeting of the UAC held on 29.12.2023. After the personal hearing, the UAC noted the following:
 - a. One of the manufacturing items can be imported only by STE *viz.*, IREL.
 - b. The manufacturing process of the Appellant needs further examination by the UAC.

Accordingly, the UAC decided to defer the proposal for further examination. However, no details were sought for further examination by the UAC thereafter.

- The Unit later filed a fresh proposal vide Application dated 18.03.2024 for broad banding existing Manufacturing LoA with the following products:

Sl. No.	Product Details	HS Code
1	Ramming Mass/ Refectory material	3816 00 00
2	Other natural abrasive	2513. 20 90

The application of the Unit was taken up in the 200th meeting of the UAC held on 18.03.2024. After due deliberations, the UAC rejected the proposal of the Unit.

- The Unit filed a fresh proposal *vide* Application dated 21.05.2024 requesting for broad banding by inclusion of the following additional products to their existing Manufacturing LoA:

Sl. No.	Product Details	HS Code
1	Garnet abrasive mesh	2513 20 30
2	Other natural abrasive	2513 20 90
3	Ramming Mass/ Refectory Material	3816 00 00

- During the meeting, the UAC observed the following:
 - a. The representative of the Appellant was not able to explain as to how two different products *viz.*, garnet abrasive mesh and other natural abrasive can be manufactured using the same raw material and same manufacturing process.
 - b. Garnet could be exported only through a STE and hence Appellant was directed to get themselves registered with IREL during the 190th UAC meeting held on 28.04.2023.
 - c. The representative of the Appellant was not able to provide any satisfactory reply as to how they are going to manufacture garnet abrasive mesh when they do not propose to procure natural garnet.
 - d. The Appellant was directed to submit a concrete business plan with regard to re-commencement of manufacturing and trading business within one month from the end of 198th UAC meeting held on 25.01.2024.
 - e. In all proposals submitted by the Appellant and considered from 190th UAC meeting till 202nd UAC meeting, only the finished goods and raw materials were different whereas, no changes were made with respect to manufacturing process, capital goods.

Accordingly, the proposal pertaining to manufacture of 'Ramming Mass'/ 'Refractory Material' was accepted by UAC. However, the proposal relating to manufacture of 'garnet abrasive mesh' and 'other natural abrasive' was rejected.

Being aggrieved by the above decision of the UAC, the Unit has filed the instant appeal in terms of Rule 55 of the SEZ Rules, 2006.

Submissions of the Unit

A. The appellant is exempt from registering with IREL. Therefore, denial of permission for broadbanding for this reason is incorrect.

- The UAC has held that garnet can be exported only through IREL, an STE, and thus the Appellant was directed to get themselves registered with IREL.
- In this regard, it is humbly submitted that the requirement of export through STE arises from para 2.21 of the Foreign Trade Policy. As per the same, specific goods can be imported or exported only through STEs.
- However, the Appellant submits that the said restriction is not applicable when the goods are imported or exported by a manufacturing unit located in a SEZ. The *third proviso* to Rule 26 of the SEZ Rules excludes the manufacturing units located in a SEZ from the above requirement. The relevant portion of the .Rule is extracted below for ready reference:

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

Provided that ...: Provided further that

Provided also that the Foreign Trade Policy restrictions on State Trading Enterprises shall not apply to Special Economic Zone manufacturing Units .."

- Similarly, Rule 45(4) of the SEZ Rules also provides that the restrictions under the FTP regarding the STEs shall not apply to SEZ manufacturing units. Relevant portion of the rule is extracted below for ease of reference:

"(4) The Foreign Trade Policy restrictions on State Trading Enterprises shall not apply to Special Economic Zone manufacturing Units:

Provided that export of iron ore shall be subject to conditions as may be laid down by the Central Government from time to time."

- The Appellant submits therefore that the restriction of import/export through the STEs imposed under the FTP is not applicable to the manufacturing units located in a SEZ.
- The above averment was put forth by the Appellant even during UAC's 197th meeting held on 29.12.2023. However, the UAC did not consider the submission made thereunder.

- Therefore submitted that the decision of UAC directing the Appellant to get registered with the IREL, is legally un-sustainable and the impugned order is liable to be set aside to this extent.

B. THE PROCESS PROPOSED TO BE CARRIED OUT BY THE APPELLANT AMOUNTS TO 'MANUFACTURE'.

- The impugned order has held that the Appellant has not explained the process to be carried out in detail. The impugned order has also proceeded on an incorrect understanding that the two new products proposed to be manufactured, viz., 'garnet abrasive mesh' and 'other natural abrasive', are manufactured out of the same raw material and same manufacturing process.
- As per the proposal filed by the Appellant for broad banding of LoA, the Appellant sought to manufacture 'garnet abrasive mesh' and 'other natural abrasive':

Garnet Abrasive Mesh

Garnet is a mineral substance which, due to hardness, qualifies to be an abrasive used in polishing wood and metal surfaces. Garnet is a naturally occurring substance in the mines found along with other minerals as part of rocks.

In support of the above, reliance is placed on *Britannica Micropedia* wherein, garnet is defined as a member of the group of common silicate minerals that have a similar crystal structure. Due to the hardness of garnets and their sharp fractures, they are suitable for use as abrasives for wood, leather, glass, metals and plastics. Further reliance is placed on *Britannica Macropedia* which describes garnet as valuable substance for coated abrasive products and that they possess considerable toughness. Furthermore, the *Encyclopedia of Metallurgy* describes garnet as a group of minerals found in limestone, dolomite, granite and metamorphic rocks. Reliance is also placed on the *Dictionary of Raw Material*⁴ which *inter alia* discusses the usage of garnet.

It is provided that the most important use of garnet is as an abrasive. About 90% of abrasive garnet is used in the manufacture of garnet-coated paper, cloth and discs. The remainder is used in the form of grains for surfacing and polishing soft stones (marble, slate, soapstone, etc.) and plate glass and in sand-blast operations. Garnet abrasive is used for sawing and grinding stones. Further, it is mentioned that garnet paper and cloth are used in wood and leather industries. They are used also for polishing hard rubber, celluloid and soft metals, finishing felt and silk hats, and rubbing down painted surfaces of car bodies. Also, abrasive discs are employed in dental work.

Having seen the description and usage of garnet, it is pertinent to note the manufacturing process proposed to be undertaken by the Appellant to produce 'garnet abrasive mesh' which is discussed hereinunder:

- a. Procurement of raw material: The Appellant will procure 'raw unrefined earth having garnet ore with other impurities/ other native mineral/ unrefined rocky lump' from mines located in Rajasthan and under rare circumstances from abroad.

- b. Material Sieving and magnetic separation: The procured raw material contains garnet apart from various impurities. Thus, as a first step, the raw material will be subject to the process of magnetic separation with the help of heavy rare earth magnets to separate magnetic particles from non magnetic particles and impurities. This will result in upgradation of ore (raw material).

Secondly, the, upgraded ore will be sieved by semi-skilled trained personnels to be employed by the Appellant at their unit. This ensures that foreign materials and uneven size particles will be removed and separated for further processing.

Next, the sieved raw material will pass through low-speed air blowing system to remove light weight foreign particles through the concept of gravity separation.

- c. Sizing roller process: The raw material from the previous stage will be subject to size rolling operation wherein other impurities are removed and size correction takes place.
- d. Tumbler processing: the final manufacturing process will involve mixing and grading, post which the finished goods will be sent for quality testing.
- e. Quality testing: Once the aforementioned processes are complete, the finished goods will be tested for quality adherence by the personnel to be appointed by the Appellant. The finished goods will be subject to conductivity test, chloride test and hardness test. Once the finished goods pass the tests, they will be further sent for packing.
- f. Final packing and dispatch: Once the quality check is completed, the finished goods i.e., 'garnet abrasive mesh' will be packed and dispatched as per orders of the customers.

Reference is also made to *Dictionary of Raw Material (Supra)* which provides a brief insight into the treatment of garnet. It is provided that the ore containing material derived from gneisses, schists and mica pegmatites are quartz, felspar and mica and since they are lighter than garnet they can be removed by gravity concentration.

In the case of material derived from hornblende-bearing gneisses, schists and amphibolite, it is difficult to eliminate the hornblende by gravity separation, as its specific gravity is close to that of garnet. The presence of hornblende in small quantities is not detrimental to the use of garnet as an abrasive. Hornblende and magnetite, often present with garnet, can be removed by magnetic separation.

It is submitted that the main object of concentrating and grading garnet for abrasive purposes is to obtain a material with as large as mesh as possible and to avoid fines. Grading consists in alternately crushing and screening to obtain the various grades (mesh sizes) required for the abrasive industry.

Tests, specifications-toughness and hardness of crushed grains are of prime importance in the use of garnet as an abrasive. Garnet is not of much value as the

grains are smooth and round. Crystals which are shattered or those containing embedded impurities are also not useful as they readily crumble to dust under pressure. Granular garnets usually break into rounded grains and are therefore not suitable. Massive garnet commonly used for abrasive purposes breaks on crushing into sharp angular fragments. Crushed particles possess high capillary attraction and adhere firmly.

Thus, the process proposed to be carried out by the Appellant for manufacture of 'garnet abrasive mesh' is a common method for manufacture of garnet abrasives.

Other Natural Abrasive

Abrasives in general include hard natural materials which are used to grind/ polish materials softer than itself. Apart from 'garnet abrasive mesh', the Appellant proposes to manufacture 'other natural abrasives' which are a mixture of naturally occurring abrasive substances such as quartz, rhyolite, etc.

In support of the above, reliance is placed on the *Britannica Micropedia* which defines an abrasive as a hard natural or synthetic material used to grind or polish materials softer than itself e.g., Sandpaper. High-precision components and extremely smooth surfaces essential in modern machine tools, electronic equipment, and spacecraft can be obtained only through abrasive grinding operations.

It is also provided that some natural abrasives mined throughout the world include flint (a form of quartz commonly used in sandpaper) and sand (a naturally granulated quartz used in sand blasting and other abrasive processes).

Further, as per the *Britannica Macropedia (Supra)* at Pg. No. 246, quartz in the form of sand is used as an inexpensive disposable abrasive for sandblasting building and metal. As per the *Penguin Encyclopedia*⁶, abrasive is defined as a hard, rough or sharp textured material used to wear down, rub, or polish materials which are less hard, as in the traditional grindstone or whetstone. It is also provided that naturally occurring abrasive substances include various forms of silica (sand, quartz, or flint), etc.

The Appellant proposes to manufacture 'other natural abrasive' from mixing 'quartz' and 'crushed stones'/ 'rhyolite' to be procured both locally and from abroad. The brief manufacturing process proposed to be undertaken is explained as above.

- Having seen the detailed process proposed to be carried out by the Appellant in their SEZ unit, it is pertinent to find out whether such process amounts to manufacture:

The processes proposed to be carried out amounts to manufacture

The term manufacture has been defined in the SEZ Act under Section 2(r) which reads as

under:

"(r) "manufacture" means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, cutting, polishing, blending, repair, remaking, re-engineering and includes agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, Viticulture and mining;"

From the above extract, it can be seen that the term manufacture has been given a wider connotation to *inter alia*, include activities such as bringing into existence a new product having a distinctive use.

In the present case, as explained in detail in the foregoing paras, the raw materials after its procurement will be subject to various processes such as sieving, air blowing, magnetic separation, crushing/ rolling, tumbling, mixing and grading, etc. before it is tested for quality and packed for final sale.

As supported by the technical literature elaborated above the ores/ raw materials are procured and processed to produce abrasives having distinct usage in the metal, plastic, rubber, leather industries.

Therefore, without a doubt, the raw materials and the finished goods have different usages, names and characteristics. Thus, through the processes proposed to be carried out in the SEZ, the Appellant would have brought into existence products having different usages from the raw materials with which they would be produced.

To this extent, the Appellant humbly submits that the processes proposed to be carried out by the Appellant amounts to 'manufacture'.

Further, it is submitted that the processes proposed to be carried out by the Appellant is one of beneficiation as defined under Rule 3(d) of the Mineral Conservation and Development Rules, 1988. The definition is extracted for ease of reference:

"(d) beneficiation means processing of minerals or ores for the purpose or

- i. regulating the size of a desired produce;*
- ii. removing unwanted constituents; and*
- iii. improving quality, purity or assay grade of desired product;"*

In the present case, as a result of the process proposed to be carried out on the ore/ raw material *viz.* sieving, magnetic separation, air blowing, grading, etc., the resultant goods are improved in terms of quality and purity. The finished goods are also free from unwanted constituents. Further, through the process of grading, the size is also regulated.

Reliance in this regard is placed on the decision of the Hon'ble Tribunal of Chennai in *V.V. Minerals vs. Commissioner of Customs, Tuticorin, 2016 (332) ELT. 888 (Tri. - Chennai)* wherein, it was held that the process of separating ore from mined sand is covered under definition of beneficiation as per Rule 3(d) of the Mineral Conservation and Development Rules, 1988. Relevant portion extracted:

"8. We have carefully considered the submissions of both sides and examined the records. The short issue in the instant appeal is related to classification dispute of the exported goods as to whether the Ore Ilmenite is classifiable under Chapter sub-heading 2614 00 20 or under chapter sub-heading 2614 00 10 of CTH. On perusal of 010 passed by the adjudicating authority, we find that he had passed the order only on classification and finalised all the 85 shipping bills and there is no demand of export duty. There is no dispute in the fact that the appellant is an EOU had set up plant for processing of ore and regularly exporting Ilmenite in the past as there was no export duty and classification was not disputed by either side. Consequent on imposition of export duty on Ilmenite in the year 2013 (w.e.f 1-3-2013) the rate of duty on export has been prescribed under Notfn. 1512013- Cus. for unprocessed Ilmenite falling under CH 2614 00 10 is chargeable @ 10% and the Ilmenite upgraded (Beneficiated Ilmenite) falling under chapter 2614 00 20 chargeable @ 5%. Apparently the two different rates of export duty on the Ilmenite prompted the appellant to reclassify the goods and the appellant's claim that the goods are rightly classifiable under CH 2614 00 10 as Ilmenite upgraded (Beneficiated) whereas the Revenue choose to classify the goods under Ch 2614 00 10 as Ilmenite unprocessed. It was brought to our notice that the department insisted on higher rate of duty and the appellant paid export duty @ 10% under protest for all the regular exports.

9. On perusal of original adjudication order wherein he recorded the various processes undertaken by the appellant plant from raw beach sand to Ilmenite and there is no dispute on these processes. The Revenue's plea for classifying the goods under CH 2614 00 10 as "Ilmenite unprocessed" is that the ore has not undergone the process of roasting and Acid Treatment and therefore the Ilmenite cannot be considered as Ilmenite Beneficiated or upgraded. Revenue also contended that various processes undertaken by the appellant are only mechanical processes for separation.

It is seen from the above classification, there are only two (3 ---) sub headings under major heading CH 2614 - Titanium Ores & Concentrates. CH 2614 00 10 - --Ilmenite Unprocessed and CH 2614 00 20 --- Ilmenite upgraded (beneficiated Ilmenite including Ilmenite ground). The above description Ilmenite upgraded is qualified with the words used in the brackets i.e. Beneficiated Ilmenite clearly indicates that Ilmenite upgraded should be beneficiated, in other words, the ore should have undergone beneficiation process. In the absence of any definition of word "beneficiation" in the Chapter 26 of the CTH, the definition provided in the other enactments becomes relevant. Rule 3(d) of Mineral Conservation and Development Rules, 1988 defines "beneficiation". The said rule is reproduced as under:

4.5 Mineral Conservation and Development Rules, 1988.

3. Definitions. - In these rules, unless the context otherwise requires-
- 3(d) "beneficiation" means process of minerals or ores for the purpose of
- i. Regulating the size of a desired produce;
 - ii. Removing unwanted constituents; and
 - iii. improving quality, purity or assay grade of desired product.

The above statutory definition of 'beneficiation' is for 3 purposes either for regulating the size of desired produce or removing unwanted materials for the purpose of easy transportation and also for improving the quality, purity of the product. Anyone or all the 3 activities carried out on ore/mineral is known as 'beneficiation'. On perusal of flow chart of various processes of beneficiation plant of the appellant which is duly approved by Ministry of Mines & Department of Atomic Energy clearly confirm the appellant's carrying out the activities stipulated under Rule 3(d) of Mineral Conservation and Development Rules. By this process the unprocessed ore becomes upgraded Ilmenite.

The process of beneficiation has been held as 'manufacture' by the Hon'ble Bombay High Court in *Commissioner of Income Tax vs. Ramacanta Velingkar Minerals*, 2020 SCC OnLine Bom 3662. Relevant portion is extracted below for ease of reference:

"The assessee purchases ROM, which includes a lot of impurities ;it is crude ore, practically of no use unless it is processed and made suitable for its intended end-use. True, very low-grade iron ore cannot be used in metallurgical plants, for it needs to be upgraded to increase the iron content. In the assessee's case, iron ore concentrates are manufactured by the process of magnetic separation. It essentially amounts to "manufacture" or "process". Therefore, we find no reason to interfere with the Tribunal's findings on this sole substantial question of law."

Further, reliance is also placed on the decision of the Hon'ble Tribunal of Kolkata in *Indian Rare Earths Ltd. vs. Commissioner of C. Ex. & S.T., BBSR-1, 2016 (338) E.L. T. 274 (Tri. - Kolkata)* wherein, it was held that separation of various minerals like Ilmenite, Sillimenite, Rutile, Zircon and Garnet from beach sand amounts to manufacture under Section 2(f) of the Central Excise Act.

Therefore, in view of the above cases and submissions, it is humbly submitted that the process proposed to be carried out amounts to manufacture and the manufacturing process has been explained in detail above. Thus, the impugned order to this extent is liable to be set aside.

C. SPECIFIC REBUTTAL TO OTHER FINDINGS IN THE IMPUGNED ORDER.

- The impugned order has rejected the proposal since the Appellant has not included 'natural garnet' as a raw material for manufacturing 'garnet abrasive mesh'. It has also been found that the HSN of the finished goods proposed to be manufactured and HSN of the raw materials used therein, are the same. Further, it has held that the Appellant had submitted multiple proposals. However, except for the raw materials and finished goods, all other aspects of the proposals remained the same. It has also been held the Appellant has failed to provide a concrete business plan with respect to its existing LoAs despite repeated directions to file such correspondence.
- Manufacture of 'garnet abrasive mesh' without 'natural garnet'

The impugned order has rejected the proposal on the ground that the Appellant has not included 'natural garnet' as a raw material for manufacturing 'garnet abrasive mesh'.

It is submitted that the impugned has factually erred in making such finding. As elucidated above, the finished good 'garnet abrasive mesh' is manufactured using the raw material 'raw unrefined earth' having garnet ore with other impurities/ other native minerals/ unrefined rocky lumps' through the process mentioned in the foregoing sub-ground.

As can be seen from the description of raw material, it contains 'garnet ore' along with other impurities. This raw material is then passed through various stages of manufacture to remove the impurities to make the final finished goods.

Therefore, the finding in the impugned order with respect to the manufacture of 'garnet abrasive mesh' without procuring 'natural garnet', is factually incorrect and deserves to be set aside.

- Observation regarding same HSN of finished goods and their raw materials

The impugned order has found that the HSN of the finished goods proposed to be manufactured and HSN of the raw materials used therein, are the same. The Appellant strongly disagrees with such finding in the impugned order for reasons cited in the following paras.

The impugned order has grossly erred in holding that same HSN has been used for finished goods and the raw materials. The following table captures the HSN for finished goods and its corresponding raw materials:

Sl. No.	Finished goods	HSN	Raw Material	HSN
1	Garnet Abrasive Mesh	2513 20 30	Raw unrefined earth having garnet ore with other impurities/ other native minerals/ unrefined rocky lumps	2513 20 90
2	Other Natural Abrasive	2513 20 90	Quartz	2506 10 20
			Crush Stones/ Rhyolite	25171090

From the above table, it is amply clear that the HSN for a particular finished good is different compared to the HSN pertaining to its corresponding raw material.

Therefore, the impugned order to the extent it rejects the proposal due to identical HSN being used for raw materials and finished goods, is factually incorrect and legally unsustainable and thus, is liable to be set aside.

- Proposal not changed with change in finished goods

The impugned order alleged the Appellant submitted multiple proposals and that except for the finished goods and raw materials, other aspects of the different proposals remained unchanged. The Appellant does not agree with the finding that the particulars were not modified corresponding to the change in proposal.

It is submitted that the Appellant had only proposed additional products to be manufactured in their subsequent proposals. As explained in detail above, the products proposed are commercially different from each other and the raw materials and manufacturing process are also different.

The Appellant, accordingly, submitted proposals to manufacture the additional products in their facility. The capital machinery required for each proposal depends on the manufacturing processes carried out. As discussed above, since the process is same, the capital machinery required to undertake such process has remained unchanged in the proposals.

Further, the cost of capital depends entirely on the type of capital machinery required. As discussed above, since the capital machinery required to carry out the detailed manufacturing process discussed above, the cost of capital remains unchanged. The manpower would vary depending on the projected output to be produced.

Since the Appellant aims to produce a fixed output quantity of finished goods, the manpower expected to be employed has remained unchanged.

Consequently, it is incorrect to say that the Appellant has submitted multiple proposals with common aspects. The rejection of broad banding requested by the Appellant on this ground, is incorrect and not sustainable.

- Concrete business plan not submitted with respect to existing LoAs

The impugned order has held that despite repeated request, the Appellant has not submitted a concrete business plan with respect to its existing LoAs.

The Appellant humbly submits that *vide* email correspondence, it had submitted response to such direction issued by the UAC with respect to submission of concrete business plan.

It was submitted that the Appellant had been carrying out its business of manufacturing of food products (honey) under the existing LOAs. However, due to the adverse effect of Covid19 on business in general and food business in particular, the Appellant faced difficulties in carrying out its business activities under the existing LoAs.

In furtherance, the Appellant filed the Annual Progress Report for the year 2022- 23 ('APR 2022-23') with respect to all three LoAs. It was submitted that despite the struggles faced by the Appellant due to Covid19, the cumulative value of exports achieved during the last 5 years were Rs. 45.32 Lacs. There were no imports. 4 male

employees were on payroll and the Appellant had an indigenous investment of Rs. 41.87 Lacs.

Further, recently, the Appellant effected an export of spices and seeds *viz.* chilli powder, black pepper, cloves, mustard seeds, etc. *vide* shipping bill no.07498 dated 25.04.2024. Furthermore, the Appellant submitted that it has received enquiries regarding supply of garnet abrasive pursuant to which the Appellant has filed the application requesting for broad banding. A copy of the purchase order received by the Appellant for \$117,600/- is enclosed as Annexure-15.

Considering the above, the Appellant submits that there are business opportunities for the Appellant to earn valuable foreign exchange for the country. Hence, it is requested that the Appellant's proposal may be acceded to by the BoA

In any case, the existing LoAs have been renewed till 27.02.2028 subject to achieving the projected amounts made by the Appellant in the request for renewal. The Appellant undertakes to achieve such numbers provided thereunder.

Without prejudice, it is humbly submitted that the existing LoAs must be viewed independently from the broad banding proposal since each LoA comes along with respective set of conditions to be complied with.

Therefore, the impugned order to the extent it proposes to cancel the existing LoAs is not legally sustainable and is liable to be set aside.

D. **UNITS IN OTHER SEZ ARE PROVIDED WITH LOA TO MANUFACTURE GARNET UNDER HSN 2513 20 30.**

Without prejudice to the above submissions, it is humbly submitted that similar units in other SEZ are allowed to process, trade and export minerals *inter alia*, including Garnet under HSN 2513 20 30.

Reliance is placed on Agenda Item No. 169.03 of the UAC, Visakhapatnam SEZ held on 25.08.2023 *vide* which M/s. Salgo Minerals was allowed to process, trade and export garnet. Further, reliance is placed on Agenda Item No. 184.02 of the UAC of Visakhapatnam SEZ recently held on 10.04.2024 *vide* which M/s. Infinity Minerals and Abrasives LLP was allowed to manufacture garnet under the same HSN as requested by the Appellant in its proposal. This being the case, there is no reason for the UAC to take a different stand in the Appellant's case and reject its proposal. It is submitted that the Appellant should not be treated differently from other manufacturers intending to undertake the same business proposed by the Appellant.

Reliance in this regard is placed on the judgement of the Hon'ble Supreme Court in the context of discrimination shown in classification under the Customs Act in *Damodar J. Malpani vs. Collector, 2002 (146) E.L.T. 483 (S.C.)* wherein, it was held that in the interest of uniformity, similar products of two manufacturers must not be classified differently. Reliance is also placed on the judgement of the Hon'ble

Supreme Court in *Unipatch Rubber Limited vs. CCE, Bhopal, 2011 (272) EL T 340 (SC)* wherein a similar view was taken.

PRAYER

In view of the above submissions, it is respectfully prayed that the Board of Approval may be pleased to:

- (a) Set aside the impugned order to the extent it is prejudicial to the Appellant and allow the appeal in full with consequential relief, if any;
- (b) Approve the proposal for broad banding filed by the Appellant vide Application dated. 21.05.2024;
- (c) Grant a personal hearing; and Pass such order or orders as may be deemed fit and proper in the facts and circumstances of the case in the interest of justice.

Comments received from DC, KASEZ:

A. **THE APPELLANT IS EXEMPT FROM REGISTERING WITH IREL. THEREFORE, DENIAL OF PERMISSION FOR BROAD BANDING FOR THIS REASON IS INCORRECT.**

It is submitted that Unit was told to get register with IREL in the 190th UAC. Further, unit submitted in the 197th UAC That they had taken up the issue with the IREL for registration but were made to understand that as the unit is located at the Kandla Special Economic Zone so the same is not applicable as SEZ unit can export canalized/ state trading enterprise items by virtue of Rule 45(4) of SEZ Rules, 2006 while no such communication between the IREL and unit was submitted by the appellant to KASEZ. Moreover, since 190th UAC to 202nd UAC, continuous deviation observed in the appellant's manufacturing proposal. No clear submissions were made by the appellant before the UAC, explaining their manufacturing process is falling under the definition of 2(r) of the SEZ Act, 2005 wherein new product having distinctive name, character or use is coming into the existence, therefore, UAC was constrained to reject the proposal of manufacturing of Garnet. Therefore, UAC's decision directing the appellant to get registered with IREL is legally sustainable as manufacturing process could not be established.

B. **THE PROCESS PROPOSED TO BE CARRIED OUT BY THE APPELLANT AMOUNTS TO 'MANUFACTURE'.**

Mr. Sirohi who is one of the partner of M/s Garden Food Corporation before the 202nd UAC submitted that two different finished products, one is Garnet Abrasive Mesh(25132030) and Other Natural Abrasive (25132090) are going to be manufactured from the single raw material i.e. Natural Abrasive(25132090). Therefore, appellant new submission appears to be manipulative.

It is submitted that appellant has informed about how the Garnet Abrasive Mesh is going to be manufactured from the raw unrefined earth having garnet ore and after removing the all impurities, magnetic separation, sizing and tumbler process the final

product will be produced. The final product i.e. Garnet Abrasive Mesh classified by the appellant under the HSN Code of 25132030 as mentioned in their project report.

It is to bring to kind notice that DGFT vide their notification No.26/2015-20 dated 21.08.2018 had inserted new entry at SI.No.98A in Chapter 26 of Schedule 2 of ITC(HS),Garnet classifiable under HSN Code CTH 25132030 can only be exported through the canalizing agency IREL.

It is undisputed fact that Garnet Abrasive Mesh classifiable under HSN Code CTH 25132030, the tariff item which specifically specifies the item “Natural Garnet”. Therefore, after carrying out some process which is not falling under the definition of manufacturing of Section 2(r) of SEZ Act on the raw material ie. Garnet Ore and forming the Garnet Abrasive Mesh which is none other than the natural garnet classifiable under HSN Code 25132030 can only be exported through STE.

The interpretation done by the appellant which will defeat the basic aim of having the prohibition of Exporting “ Garnet” through STE i.e. IREL.

The appellant has not given any details about the specification, size, quality testing applicable in their proposal. Neither any details of the plant & machinery, their capacity & cost of the machine to work out the project cost.

The Appellant has submitted the manufacturing process Other Natural Abrasive and in this submission appellant has chosen different method of production. Here, appellant has submitted that same is going to be manufactured from the Quartz, Rhyolite and after following the sieving, sizing, tumbler processing, quality testing their final production Other Natural Abrasive (251320900) will be ready.

In this regard, it is pertinent to mention here some facts: -

- i. Mr. Sirohi one of the partner of the M/s Garden Food Corporation who presented their project before the 202nd UAC, he himself submitted that Other Natural Abrasive will be manufactured by using the raw material specify i.e. also Other natural abrasive that’s why the same is mentioned as the raw material in the proposal of the appellant.
- ii. Further, appellant has now submitted the separate manufacturing process of ‘Garnet Abrasive Mesh’ and ‘Other Natural Abrasive’ while in their proposal from their first proposal in March 2023 to May 2024, no separate manufacturing process was mentioned in their proposal, which clearly **indicates the deviation in their proposal submitted to the UAC and their submission to BoA.**
- iii. Further, even this new manufacturing process of “Other Natural Abrasive” which is going to manufactured from the Quartz(25061020) and Rhyolite (25171090), then such raw materials were not the part of their proposal which was submitted by the appellant in March 2023 taken up in the 190th UAC, proposal in month Dec,2023 taken up in the 197th UAC, proposal in month of March 2024 taken up in the 200th UAC. For better understanding the same proposal with list of finished goods and raw materials are shown below in the tabular form :-

Finished Goods list

Sr. No.	Items in 190 th UAC	ITC (HS) Code	Items in 197 th UAC	ITC (HS) Code	Items in 200 th UAC	ITC (HS) Code
1	Garnet	25132030	Garnet	25132030	Ramming Mass/Refectory Material	38160000
2	Fused Aluminum Oxide	28182090	Other natural abrasive	25132090	Other natural abrasive	25132090
3	Other natural abrasive	25132090				

Raw Material List

Sr. No.	Raw materials in 190 th UAC	ITC (HS) Code	Raw materials in 197 th UAC	ITC (HS) Code	Raw materials in 200 th UAC	ITC (HS) Code
1	Raw abrasive ore and concentrate	25132030	Raw abrasive ore and concentrate	25132030	Quartz	25132030
2	Other natural abrasive	25132090	Other natural abrasive	25132090	Feldspar	25132090
3	Aluminum Oxide	28182090			Crushed Stone Grit	28182090

From the above facts, it is quite evident that the unit has mis-represented the facts, this much of inconsistency creates doubts in the mind of the authority.

It is submitted that appellant has regularly changed the list of finished goods and raw materials in their proposals and did not provide the complete manufacturing process/ flow chart to UAC which exhibits that appellant himself not sure about the manufacturing process.

Further, on the basis of the proposals submitted by the appellant, UAC on the basis of inconsistency, mis-representation of facts, came on the conclusion that process submitted by the appellant does not amount to manufacture and does not fall under the definition of “manufacture” under Section 2(r) of the SEZ Act,2005.

Various judgments have been submitted by the appellant. In this regard, it is submitted that these judgments vary from case to case. As in this case, unit had not provided the complete manufacturing process and even in their earlier proposals’ raw materials via which their finished products is going to be manufacture, found missing. Therefore, it appears that benefit of these judgements cannot be extended to the appellant as since beginning

inconsistency, deviation and mis-representation have been found in the proposals of the appellant.

C. SPECIFIC REBUTTAL TO OTHER FINDINGS IN THE IMPUGNED ORDER.

It is submitted that the 200th UAC asked to Mr. Sirohi partner of the M/s Garden Food Corporation that **if unit has not sought the permission of natural garnet as raw material in their proposal then how they are going to manufacture the Garnet Abrasive Mesh since the natural garnet is the main and only raw material for the same and also as explained by the Mr. Sirohi during the briefing of their project.**

For which “**Mr. Sirohi again could not give any satisfactorily reply in this matter**”. Same facts are the part of the 200th UAC and same is also enclosed for kind reference please. Therefore, appellant has wrongly submitted the facts of this case.

Further, if agree, that Natural Garnet classified under the HSN Code 25132030 is not required as the raw material in their manufacturing process then why “Garnet” or “HSN Code 25132030” was the part of the raw material list of the appellant in their proposals made and discussed in the 190th UAC, 197th UAC & 200th UAC. Raw Material list is provided in the tabular form for kind reference please.

Sr. No.	Raw materials in 190 th UAC	ITC (HS) Code	Raw materials in 197 th UAC	ITC (HS) Code	Raw materials in 200 th UAC	ITC (HS) Code
1	Raw abrasive ore and concentrate	25132030	Raw abrasive ore and concentrate	25132030	Quartz	25132030
2	Other natural abrasive	25132090	Other natural abrasive	25132090	Feldspar	25132090
3	Aluminum Oxide	28182090			Crushed Stone Grit	28182090

It perspicuously shows that appellant has distorted the facts and misrepresented the facts and information before the department.

It is submitted that no such specific details provided to the UAC that only raw material going to be used for the **Garnet Abrasive Mesh** and **other Natural Abrasive** would be **1.Raw unrefined earth having refined garnet ore with other impurities/ other native minerals/unrefined rocky lumps** and for other second finished product would be **1. Quartz & 2. Crushed Stones/Rhyolite**. Unit has provided the clumsy proposal to the UAC without any separation that specific raw materials would be used for manufacture of specific finished goods as in the appellant proposals discussed in the 202nd UAC, appellant has provided three finished good products besides above two mentioned finished products one is also i.e. **Ramming**

Mass/Refectory Material. But again neither provided the specific raw materials of this finished goods and separate manufacturing process.

When there are so many irregularities in the submission, therefore, UAC's order to reject the proposal is factually correct and legally sustainable.

The Appellant here himself accepted that products proposed are commercially different from each other and the raw materials and manufacturing process are also different.

Here it is submitted that not even a single change has been noticed/observed in the appellant proposal dated 21.03.2023 till their last proposal dated 22.04.2024, **same manufacturing process and single manufacturing process** were produced and submitted for the all the finished goods. Therefore, appellant submission in the appeal that manufacturing process is also different is totally wrong as appellant has submitted same manufacturing process in all proposals.

Appellant has also submitted that they aim to produce a fixed output quantity of finished goods then whether it should impact on the sales income, export income earning of NFE or not. Certainly yes. Let's give a look to the proposals submitted by the appellant.

First it is to mention here that in the all four proposals of the appellant figures like Sales income, Export Income earning, cost of goods etc as submitted in the **projected profitability statements** in all four proposals remained same. Appellant earlier sought the three finished goods, **Garnet, Fused Aluminum Oxide, Other Natural Abrasive** and later on Fused Aluminum Oxide removed and subsequently other finished good came in the proposal i.e. **Ramming Mass/ Refectory Material**. Similarly, in the raw material list, earlier one, there were three raw materials namely **Raw abrasive ore and concentrate, Other Natural Abrasive, Aluminum Oxide** and later on Aluminum Oxide removed and in its place new raw materials came namely, **Quartz, Feldspar, Crushed Stone Grit, Dolomite**.

Then in that scenario considering the fact that valuation of the all-finished goods will be different and as new and more raw materials have been added in the raw material list therefore, it should also impact on the cost of goods procurement considering the different valuation of the raw materials. **Even after considering the all these facts no minor difference has been noticed in the projected profitability statements submitted along with all four proposals. Same figures of sale, export income, cost of goods etc have been incorporated by the appellant in their PROJECTED PROFITABILITY STATEMENTS.**

Therefore, appellant submitted the multiple proposals with common aspects.

The appellant was asked to submit the concrete business plan of their approved manufacturing and trading activity in the 198th UAC. The same has already discussed in the above Para 16 & 17.

It is relevant to mention here that unit has made the exports of Rs.45.32 lakhs and **generated NFE of only 5.46 lacs in the Block year period (2018-19 to 2022-23)**

under the Trading Activity and not even a single transaction under the manufacturing activity. Further, unit also not made any single transaction in Trading activity and Manufacturing Activity for the F.Y. 2023-24. Covid-19 had impacted the each and every corner of India and knocked the door of India in the year 2020 only. It is also to mention here that unit has permission of more than 270 items under the Trading Activity and manufacturing permission of natural honey, mixed condiments and spices, in spite of that unit could not perform and fulfill the objective of Section 5 of SEZ Act.

Further, there is an indigenous investment of Rs.41.87 lacs in the Plant and Machinery and that is also done in the F.Y. 2011-2012.

Further, appellant has submitted they have the purchase order for the Garnet Abrasive of \$117,600/- but that does not provide any binding condition on the UAC to approve any proposal submit by any unit of the SEZ.

For the last five year block period, it is observed that unit is not able to achieve good figures in export and performed very less activity under their authorized operations. Further, only considering that this project of appellant will make them to earn valuable foreign exchange for the country, request of the appellant cannot be considered. There are number of deficiencies noticed in the proposals of the appellant which have been already discussed in the above said paras.

It is submitted that during the time of their renewal of LoA for five year block period from F.Y. 2018-19 to F.Y.2022-2023, unit had projected to undertake/ achieve the figures of export of Rs. 7480 lacs for the manufacturing activity and Trading Activity but at the time of renewal of their LoA for further five year period upto 27.02.2028, it was found that appellant was able to make export of only Rs.45.32 lakhs under trading activity and no transaction under manufacturing activity for the F.Y. 2018-19 to F.Y. 2022-23 which is totally against their undertaking via which appellant gave written assurance to achieve the exports of tune of Rs 7480 lacs.

The Appellant has submitted that existing LoA must be viewed independently from the broad banding proposal. This clearly shows that appellant is well aware that they have not performed as per their undertaking and assurance provided to the UAC at the time of addition of goods under their Trading Activity, Manufacturing Activity and Warehousing Activity.

Further, this broad banding proposal can't be taken independently as it overalls impacts the original LoA provided to the unit. As conditions mentioned in the Letter of permission may vary from product to product but at the time of renewal overall performance of the unit is considered not product wise.

It is submitted that no such Show Cause Notice or Order-In-Original issued to the unit for the cancellation of the LoA. Therefore, appellant claims is again absurd and without any facts.

D. UNITS IN OTHER SEZ ARE PROVIDED WITH LOA TO MANUFACTURE GARNET UNDER HSN 2513 20 30.

The Appellant by referring the other SEZ's decision specially Vishakhapatnam SEZ, submitted that other units in other SEZs have been allowed to manufacture garnet under the HSN code 25132030, therefore same stand should also be taken in the KASEZ. It is totally a vague statement.

Here, it is submitted that other SEZ's UAC decision can only be persuasive in nature, it can't be binding precedent.

Further, it is also added that decision of approval or disapproval of any UAC of any SEZ, varies on the basis of the whole and complete project/proposal submitted by the applicant rather than the objectivity of the commodities only.

It is to pertinent to mention here that similar project like of appellant was filed by another unit of KASEZ and same was also discussed in the 197th UAC meeting vide agenda item no. 197.2.3 which was also deferred for further examination. As both projects were similar in nature therefore, both were examined simultaneously so that same decision and uniformity can be maintained. Therefore, it is to mention here that uniform practice has been adopted by the UAC and followed the Hon'ble Supreme Court judgement in true letter and spirit.

In light of the facts and loopholes as discussed in the appellant's proposal, it appears that request of appellant to broad band its manufacturing LoA to include Garnet abrasive mesh and other natural abrasives should not be allowed.

Further, it is submitted that prima facie, similar modus has been found to be adopted by three other units of KASEZ i.e. M/s Laxmi Impex, M/s Rekha Superfine Exporters & M/s Global Brand Resources Pvt. Ltd. These units were importing the 'Rock Salt' originating from Pakistan where applicable basic customs duties is @200% while at the time of clearance into DTA by showing that manufacturing activity has been carried out in their unit in the Zone, paying the customs duties @5% by declaring country of origin as India. The same modus was brought to notice by the DRI vide their letter dated 13.12.2023. Similarly, in this matter of M/s Garden Food Corporation, the unit was not able to explain how a new product having a distinctive name, character or use coming into the existence despite of the fact that the raw material and finished products appear to be same and falling under the same HSN Codes.

Thus in view of the above facts and persistent inconsistency in the units' proposal, the approval committee was left with no option but after due deliberations decided to reject the proposal.

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