

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

Vanijya Bhawan, New Delhi
Dated the 02nd June, 2024

OFFICE MEMORANDUM

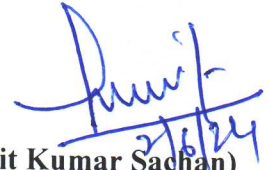
Subject: 120th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) scheduled to be held on 10th June, 2024 - regarding.

The undersigned is directed to refer to this Department's OMs of even number dated 30th April, 2024 and 14th May, 2024 on the subject cited above and to inform that the 120th meeting of the BoA for SEZs is scheduled to be held on 10th June, 2024 at 3.00 P.M. in Room No. 427, Vanijya Bhawan, New Delhi under the Chairmanship of Commerce Secretary in hybrid mode.

2. The Supplementary Agenda for the 120th meeting of the BoA for SEZs is enclosed herewith.

3. All the addresses are requested to kindly make it convenient to attend the meeting.

4. The meeting link of the aforesaid meeting will be issued shortly.



(Sumit Kumar Sachan)

Under Secretary to the Government of India

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To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107).
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Shri Sanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), UdyogBhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, ShastriBhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, KrishiBhawan, New Delhi.
8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)
9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.

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

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

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

Supplementary Agenda for the 120th meeting of the Board of Approval for Special Economic Zones to be held on 10th June, 2024 at Room No. 427, Vanijya Bhawan, New Delhi

120.9 Request of M/s. Rain CII Carbon (Vizag) Limited, a unit in M/s. APIIC Multi product SEZ, Atchuthapuram for import of RPC & CPC with reference to CAQM Order Dt. 15.02.2024.

Name of the Unit : M/s. Rain CII Carbon (Vizag) Limited (RCCVL)
LOA details : LOA No. 2(20)/APSEZ/2017 dated 14.09.2017
Authorised operations : Manufacturing of :

1. Calcined Petroleum Coke (different densities High/Low/ Blended) (ITC HS: 27131200) and
2. By product – Electrical Power (ITC HS: 27160000)

Date of Commencement of: 09.09.2021

Production

Validity of LOA : 08.09.2026

Export Turnover for FY 2023-24 : Rs. 627.12 Cr.

Present status : NFE Positive and effecting exports

At the time of granting Letter of Approval to the unit, both Raw Petroleum Coke (RPC) (their Raw Material to produce Calcined Petroleum Coke) & Calcined Petroleum Coke (CPC) proposed for blending were FREE for import as per Foreign Trade Policy 2015-20. However, the Hon'ble Supreme Court of India, in its Order dated 26.07.2018 and subsequent orders, in W.P. (C) No. 13029/1985, imposed quantitative restrictions on import of RPC and CPC to 1.4 MMT and 0.5 MMT per annum respectively to the existing calcining units and aluminium industries.

Consequently, DGFT vide Notification No. 42/2015-20 dated 23.10.2018, amended import policy conditions for RPC. As per this notification, CPC manufacturing units can import RPC not exceeding 1.4 MMT per annum. RCCVL was set up after the judgment rendered by the Apex Court imposing quantitative restriction. As such, they were not allocated any volume to import RPC and CPC by the DGFT. The unit has made several efforts by approaching the Supreme Court and High Courts for import of RPC above the quantitative restrictions imposed by the Apex court. However, their applications were dismissed.

Permissions granted by BoA & DGFT:

Meanwhile, the unit's request for procurement of Raw Pet Coke (RPC) from DTA units was also considered by BoA in its meeting held on 04.10.2019. The Board, after deliberations, approved the request of the Unit for procurement of Raw Pet Coke (RPC) from DTA units in terms of Rule 27(1) of the SEZ Rules, 2006. Further, DGFT, vide letter No. 01/93/180/03/AM-10/PC-

2/A/Part-1/682 dated 03.09.2021, has conveyed that in terms of Rule 43 of the SEZ Rules, 2006, the Unit may on the basis of annual permission from the Specified Officer, undertake sub-contracting / Job Work for export on behalf of a Domestic Tariff Area (DTA) exporter, subject to the conditions stipulated in the said rule. The finished goods (CPC) shall be exported directly by the SEZ unit on behalf of the DTA exporter. The unit has declared the commencement of production on 09.09.2021. Subsequently, the unit was conveyed that the validity of LoA will be valid for a period of five years from 09.09.2021 to 08.09.2026, in terms of SEZ Rules.

Later, RCCVL has filed an application dated 21.01.2021 requesting for approval for the “Toll/ Contract Manufacturing”, wherein foreign buyer supply RPC as raw materials for calcining under clause 4.19 of FTP 2015-20 and Rule 27 of the SEZ Rules, 2006 and take back finished product i.e. CPC. The BoA, in its 108th meeting held on 27.01.2022, noted that the request of the unit is not tenable unless the unit is provided explicit relief by the Hon’ble Supreme Court.

Thereafter, the Hon’ble Supreme Court, vide its Order Dt 10.10.2023 in WP(c) No. 13029 of 1985, delegated certain issues related to pet coke to the Commission for Air Quality Management in National Capital Region and Adjoining Areas (CAQM). In the same order, Hon’ble SC wrt IA No. 115613/2021 (Appln. For clarification of order Dt 09.10.2018 on behalf of Rain CII Carbon (Vizag) limited) observed that the reliefs in this application are also delegated for consideration before Commission (CAQM).

Based on Hon’ble SC orders, CAQM has considered import policy for calciners and aluminium smelters afresh. CAQM has issued order dated 15.02.2024 for import of RPC and CPC by calciners and smelters respectively. As per para 10 (I) of the above order 1.9 MMT RPC for CPC Manufacturers and 0.5 MMT CPC for Aluminium industry respectively permitted during 2024-25 and 1.9 MMT RPC for calciners and 0.8 MMT CPC for Aluminium industry respectively from 2025-26 onwards. Accordingly, DGFT amended import policy condition of RPC and CPC vide Notification No 68/2023 dated 7.3.2024. With respect to the SEZ unit of RCCVL, Para 10 (II) (i) of CAQM Order dated 15.02.2024 is reproduced below: -

“ Import of RPC/CPC by the SEZ shall be permitted, subject to the quantities as permitted for in their CTO/CFO, duly factoring in any RPC sourced domestically by the SEZ unit, strictly subject to the following:

- a. *Use of pet coke shall be permitted only as a feedstock / raw material and under no circumstances to be used as fuel;*
- b. *SO₂ emissions shall be managed and controlled through a flue gas desulphurization system, so as to comply with the standards of emissions prescribed;*
- c. *Continuous analysers for measurement of PM, SO_x, NO_x shall be installed by the calciners in the stacks processes where waste/process gases are used;*
- d. *Regulation and monitoring of such import shall be as per the guidelines of MoEF&CC’s OM Dt 10.09.2018;*
- e. *The SEZ unit shall ensure time bound compliance of environmental safeguarding measures as decided by the concerned authorities from time to time;*

- f. *Establishment of any new such CPC manufacturing unit in any SEZ or capacity expansion of existing unit in the SEZ in question shall not be permitted. ”*

RCCVL, vide letter dated 16.02.2024, requested DC, APIIC SEZ, Atchuthapuram to implement above CAQM order and requested for permission to import 488,000 MT of RPC and 370,000 MT of CPC per annum. The matter was brought to the notice of the DoC vide DC, APIIC SEZ, Atchuthapuram letter dated 29.02.2024 and requested to take up the issue with DGFT for issuance of necessary permission to M/s. Rain CII Carbon (Vizag) Limited for import of RPC/CPC.

DGFT, vide OM dated 15.04.2024, examined the issue and said that Import of RPC under ITS (HS) Code 27131110 and CPC under ITC (HS) Code 27131210 as such are “Prohibited” as per Policy condition 6 of Chapter 27 of Schedule-I (Import Policy) of ITC (HS) 2022. As per Rule 27 of SEZ Rules, 2006 prohibited items can be imported to SEZ with the prior approval of Board of Approval. Further, they said that M/s Rain CII Carbon (Vizag) Ltd., has two units (i) SEZ Unit (ii) DTA Unit; DGFT have allocated M/s Rain DTA Unit a quota of RPC for the Year 2024-24 @ 4,84,169 MT (25.48% of total allocation). RCCVL SEZ unit is given permission by CAQM as special case (even as CAQM noted that exports should be discouraged) to enable RCCVL to utilize their investment in an environmentally compliant manner.

RCCVL, vide letter dated 26.4.24 requested to implement CAQM order Dt 15.2.24 for import of RPC and CPC in quantities as allowed by CAQM order. Further, they submitted that CPC production is two-step process where first step involves calcination and second step involves blending of CPC produced in first step with imported CPC resulting in high quality finished product i.e. CPC to compete in Global markets.

The observations of DGFT and the remarks of APIIC SEZ, Atchuthapuram thereon are as below:

Observation of DGFT	Remarks of APIIC Multiproduct SEZ, Atchuthapuram
(a) Import quotas for CPC and RPC have been set based on the overall domestic CPC requirement of smelters and the domestic availability of RPC for calciners. The availability of domestic RPC is considered while establishing the overall RPC import limit of 1.9 MTPA for DTA units. While fixing quota it was assumed that all the domestic RPC is available to DTA units. Based on MoPNG, it was assumed that Approx. 0.453 MMT of domestic RPC is available for the calciners in the Country. This qty has been taken into account while fixing overall quota (1.9 MTPA) for DTA units. If M/s Rain SEZ Units is allowed to procure domestic	<p>With respect to the SEZ unit RCCVL, Para 10 (II) (i) of CAQM Order dated 15.02.2024 is reproduced below :</p> <p><i>“Import of RPC/CPC by the SEZ shall be permitted, subject to the quantities as permitted for in their CTO/CFO, <u>duly factoring in any RPC sourced domestically</u> by the SEZ unit, strictly subject to the following: ... ”</i></p> <p>This does not put any restriction on domestic procurement of RPC by the SEZ unit.</p>

<p>RPC, the DTA units are deprived of RPC and have the effect of undermining the calculation behind the quota determination. It may be considered that M/s Rain SEZ unit may only be allowed to import RPC without domestic procurement so that calculations arriving at DTA quotas are not disturbed.</p>	<p>Also, BoA has approved the procurement of RPC from DTA units vide Item no 92.6(ii) of minutes of 92nd BoA held on 04.10.2019.</p>
<p>(b)The overall RPC quota has been set in such a way that DTA calcining units can operate @ 85% of their permitted capacity. Further, the DTA calciners are not allowed to export CPC except as supply to M/s Vedanta SEZ (aluminium smelter) as deemed exports. The quota allocated to DTA units makes certain capacity unusable even if they are environmentally compliant with the CTO conditions. It may be considered for placing similar quota restrictions on M/s Rain SEZ unit to operate @ 85% of its rated capacity similar to DTA units to ensure SEZ unit is not rewarded over units serving the domestic industry.</p>	<p>As per Para 10 (II) (i) of CAQM Order dated 15.02.2024, <i>“Import of RPC/CPC by the SEZ shall be permitted, subject to the quantities as permitted for in their CTO/CFO, duly factoring in any RPC sourced domestically by the SEZ unit, strictly subject to the following: ...”</i>. <i>Here also, no such restrictions are imposed.</i></p>
<p>(c)As per CAQM order, DTA calciners are not allowed to export except supply to M/s Vendanta SEZ (Aluminium smelter) as deemed exports. M/s Vedanta SEZ capacity also been factored in calculations while fixing entitlements of RPC/CPC for domestic units. Therefore, while allocating quota to M/s Rain SEZ unit, it may be considered to allow only physical exports outside territory of India by the SEZ unit.</p>	<p>BoA may take a view.</p>
<p>(d)M/s Rain SEZ unit has received consent to operate on 06 Mar 2020 (prior to CAQM Order of 15.02.24) from APPCB. In approval letter, details of feedstock has been mentioned. In the feed stock the items (i) Anhydrous Carbon Pallets and (ii) Green Petroleum Coke (also called as Raw Petroleum Coke) were mentioned. In their letter M/s Rain SEZ unit has requested for import of Calcined Petroleum Coke (CPC) also even though same is not mentioned as feed stock in CTO. It may be noted that CPC is allowed only by Smelters for 0.5 MPTA in 2024-25 and 0.8 MPTA in 2025-26 onwards. In case M/s Rain SEZ unit imports CPC it may be treated as trading and whether trading in otherwise prohibited items</p>	<p>CPC (High/Low/Blended) was permitted as item of manufacture in the LoA issued to the unit on 14.09.2017.</p> <p>As per Para 10 (II) (i) of CAQM Order dated 15.02.2024, <i>“Import of RPC/CPC by the SEZ shall be permitted, subject to the quantities as permitted for in their CTO/CFO, duly factoring in any RPC sourced domestically by the SEZ unit, strictly subject to the following: ...”</i>.</p> <p>As per the APPCB CTO order Dt 06.03.2020, which was effective as on the date of CAQM order, the unit was permitted to procure 4,88,000 tonnes/annum of RPC (OR) 4,62,500</p>

<p>should be encouraged or not may be decided by BOA. M/s Rain SEZ may take a plea that it is needed for blending. However, in last five years domestic calciners were allocated quota for only RPC and not CPC. DGFT have not permitted any CPC to Calciners for blending. Further, there was no demand from domestic calciners to allow CPC for blending. Blending if at all required it should be only done by aluminium smelters at their end. Allowing CPC for blending to Rain SEZ unit may amounts to giving differential treatment to SEZ unit compare to Domestic calciners. If SEZ unit is allowed to import CPC, DTA units may also demand such treatment in future.</p>	<p>tonnes/annum of Anhydrous Carbon Pellets only as raw materials.</p> <p>But, later as per APPCB CTO amendment dated 24.04.2024, the unit has been allowed to import 3,70,000 tonnes/annum of “Blending of procured CPC” as raw material in addition to 4,88,000 tonnes/annum of RPC.</p>
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The Unit, vide their letter dated 18.04.2024, requested DoC for provisional permission for import of RPC and CPC of at least 25% of their annual consumption. Accordingly, the unit has requested for import of 1,25,000 MT of RPC and 90,000 MT of CPC to tide over this immediate crisis. DC, VSEZ recommended to provisionally allow M/s. Rain CII Carbon for import of 1,00,000 MT of RPC, for which the DGFT had no objection. Subsequently, vide DoC’s letter dated 25.04.2024, the Unit was granted provisional and limited permission to import 100,000 MT of RPC only.

Meanwhile, the Unit has also filed a Writ Petition (C) No. 6392/2024 before the Hon’ble High Court of Delhi praying for implementation of the Order dated 15.02.2024, passed by the CAQM. In the matter, the Hon’ble High Court, vide Order dated 06.05.2024, has listed the case next on 05.07.2024. Further, the Hon’ble High Court has directed that the pendency of this Writ Petition should not be taken as an impediment for consideration of the case of the Petitioner in the BoA to be held on 15.05.2024 (scheduled earlier).

Relevant provisions under the SEZ law: -

- **Rule 27 regarding Import and procurement:**

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

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

Recommendation by DC, APIIC Multiproduct SEZ, Atchuthapuram: -

Import of RPC and CPC may be permitted as per the quantities permitted in CAQM order dated 15.02.2024 and APPCB CFO/CTO permit, subject to the conditions imposed by para 10(II)(i) of the CAQM order.

120.10 Request of M/s. Raj Rajeshwar Lalita Tripursundari Private Limited, Atchuthapuram, Anakapalli Dist. APSEZ Unit for permission to import of qty 69,255 MT Ferro Manganese Slag for authorized operations.

M/s. Confidence Petroleum India Limited (CPIL) a Unit in APSEZ, LoA No.22/12(5)/VSEZ/2008 dated 17.04.2008, manufacturing and export of CNG & LPG Cylinders had opted for transfer of their assets and liabilities to M/s. Rajadhiraj Tirupani Vinayak Natraj Private Limited (RTVNL) by way of transfer of ownership including sale of SEZ Unit under an agreement for transfer of LoA.

While granting the change of name of the unit from M/s. Confidence Petroleum India Limited to M/s. Rajadhiraj Tirupani Vinayak Natraj Private Limited in the UAC meeting held on 23.08.2021, the UAC has granted the change of name of unit and discontinued the LOA for manufacturing of CNG & LPG Cylinders. The unit was granted change in the item of manufacture as diversification of item such as Ferro Manganese (ITC HS: 72021100) and Silico Manganese (ITC HS: 72023000) with an annual capacity of 58,108 MTs and with an investment of Rs.125.95 Crores and generation of employment of 700.

The unit was granted for trading activity of Silicon Manganese 65 grade and Silicon Manganese 60 grade vide letter dated 08.12.2020, the unit commenced trading activity (export sales) from 02.09.2021 and effected exports Rs. 491.24 crores till 31.03.2022.

In view of NOC issued by the Developer (APIIC), M/s. Rajadhiraj Tirupani Vinayak Natraj Private Limited has been accorded permission for transfer of ownership / shareholding pattern and for transfer of lease hold rights of land to M/s. Raj Rajeshwar Lalita Tripursundari Private Limited and the same was approved in UAC meeting held on 11.04.2022. M/s. Raj Rajeshwar Lalita Tripursundari Private limited commenced its operations for manufacture and exports from November 2022 and effected exports for a value of Rs.1016.31 Crores till 30.04.2024.

The Unit, vide letter dated 14.05.2024, has requested permission for import of Ferro Manganese Slag (B1210) (ITC HS: 26190090) for a quantity of 69,225 MT per annum. APPCB vide consent order APPCB/VSP/11022/59/CFO/HO/2022 dated 14 Oct 22 has approved for manufacture of 1,15,425 MTPA Silico Manganese (SiMn) by the unit till 30 Apr 27. The unit, vide the aforesaid letter, states that each ton of Silico Manganese (SiMn) alloys production there is a need of 860 kgs to 1000 kgs Ferro Manganese slag.

Since the unit's requirement is very high and considering the non-availability of the required grade (High MnFe ratio and Low Phosphorous) material in the domestic market, the unit started import of FeMn slag from outside of the country by obtaining proper approval from the competent authorities.

As per recommendations of the Expert Committee, the Ministry of Environment Forest and Climate Change vide letter 23/15/2023-HSMD dated 17.02.2023, the unit M/s. Raj Rajeshwar Lalita Tripursundari Private limited has been accorded permission for import of 46,170 MT (40% of 1,15,425 MT) Ferro Manganese Slag (B 1210) for production of Silico Manganese under the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016 subject to the following conditions:-

- a. Granting for import of remaining 60% (69,255 MT) Ferro Manganese Slag (B 1210) shall be accorded post visit report of CPCB stating compliance of SOP.
- b. The import shall be only for the intended use of recovery/manufacture/recycling at the unit and the imported material shall not be sold further.
- c. In case of any illegal imports, the consignment will have to be sent back to the exporting country and the importer shall bear the cost for the same.
- d. The import shall be regularly monitored by the concerned SPCB and the Ministry will be kept informed.

The permitted Ferro Manganese Slag for a qty of 46,170 (40% 1,15,425 MT) vide 114th BoA in its meeting held on 15th April, 2023 was fully utilized by unit. The MoEF & CC vide letter dated 18.12.2023 has stated that site visit was conducted on 25 May, 2023 by CPCB and CPCB submitted the inspection report by e-mail dated 22 Nov, 2023 stating that the unit is complying SOP. Now the unit is requesting permission for import of qty 69,255 MT Ferro Manganese Slag (B 1210) for production of Silico Manganese under the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The Expert Committee, Ministry of Environment, Forest and Climate Change vide letter 23/15/2023-HSMD dated 18 December, 2023 accorded no objection to import of 69,255 MT (60% of 1,15,425 MT) of Ferro Manganese Slag (B 1210) for production of Silico Manganese to M/s. Raj Rajeshwar Lalita Tripursundari Private Limited as per terms and conditions of Ministry of Environment, Forest and Climate Change above.

The Ferro Manganese Slag (B1210) (ITC HS: 26190090) is a Restricted Item for Import under Foreign Trade Policy. The unit has submitted justification for import of Ferro Manganese Slag. The Unit states that they have obtained consent from the APPCB vide letter dated 14.10.2022 to operate a facility for collection, storage, treatment, transport etc., for production of Silicon Manganese shall not exceed 1,15,425 MTPA and Hazardous waste authorization shall be valid for a up to the 30th April, 2027.

Relevant Rule position:

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

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

Recommendation by DC, APSEZ: -

The Unit may be permitted for import of Ferro Manganese slag (B 1210) for a quantity of 69,255 MT (60% of 1,15,425 MT), subject to compliance of prescribed conditions stipulated in the MoEF&CC’s letter dated 17.02.2023 and 18.12.2023.

120.11 Proposal of M/s. Skyroot Aerospace Pvt. Ltd. for (i) Inclusion of Satellite launch services from ISRO facilities (ii) Waiver for bringing back the sub-contracted goods and sending the same to the ISRO satellite launch site (iii) Waiver from the condition of bringing back the procured goods first to SEZ unit from the vendor unit and then ship to ISRO launch facility and (iv) Inclusion of business support services to be availed from ISRO/ISTRAC/any other similar agency and not at Skyroot SEZ Unit for the authorized operations of the SEZ unit.

M/s. Skyroot Aerospace Pvt. Ltd. was issued LoA dated 04.02.2021 for setting up of a Unit in area admeasuring 55,000 sq. ft. on 0.50 Acres of land for manufacture and export of "Small Satellite Launch Vehicle" and manufacturing of a) Composite Motor Castings, b) Composite Nozzles, c) Composite Structures (Monolithic and Sandwich), d) Composite Igniter Castings and e) Thermal Projection (TP) Rubber" in M/s. GMR Hyderabad Aviation SEZ Ltd., SEZ in an Existing Airport at Mamidipalli Village, Shamshabad Mandai, Ranga Reddy District, Telangana. The unit is yet to commence operations. The LoA is valid upto 03.02.2025.

The Unit has now requested for necessary approval for (i) Inclusion of Satellite launch services from ISRO facilities (ii) Waiver for bringing back the sub-contracted goods and sending the same to the ISRO satellite launch site (iii) Waiver from the condition of bringing back the procured goods first to SEZ unit from the vendor unit and then ship to ISRO launch facility and (iv) Inclusion of business support services to be availed from ISRO/ISTRAC/any other similar agency and not at Skyroot SEZ Unit for the authorized operations of the SEZ unit.

The details of the proposal are as below: -

- i. **Inclusion of “ Satellite Launch Services from ISRO facilities as export of services in the LoA” – Amendment to Rule 76 of SEZ Rules, 2006.**

M/s. Skyroot Aerospace Pvt. Ltd. has entered into a MoU with Department of Space (DoS), Indian Space Research Organisation (ISRO) and Indian National Space Promotion and Authorisation Centre. The MoU with DoS, IN-Space provides for sharing of data, technical

information and access to ISRO facilities related to the development and testing of sub-system/systems of space launch vehicles and launch of vehicles etc.

The unit has informed that after commencement of the operations, the unit has to transport the launch vehicles in parts due to its size and other conditions associated with its movement to ISRO launch facility as the launch of Satellite launch vehicles is possible through SDSC, Sriharikota only, in the absence of such launch facility in SEZs.

In view of the above, the unit has requested to include the “Satellite Launch Services from ISRO facilities as export of services” in the Letter of Approval.

The services proposed by the unit broadly falls under the category of Services mentioned at Rule 76 of SEZ Rules, 2006 i.e., transport services, services auxiliary to all modes of transport and Business support services.

Since launching of satellite launch vehicles is possible only from Satish Dhawan Space Centre (SDSC), Sriharikota, M/s. Skyroot needs to transport the launch vehicles to SDSC in parts due to its size including customer’s payloads for assembling, testing etc., before launching from ISRO facility (SDSC). At present, SDSC is one of the ISRO facility which provides launch base infrastructure for launching of Satellites. M/s Skyroot has entered into an agreement with ISRO to use the Indian Space Agency to access the launch facilities of ISRO.

Ministry of Finance vide circular No.2/1/2017-IGSt dated: 27.09.2017 has clarified that “Satellite launch Services” to international customers would be considered as **export of services** in case of Antrix Corporation. But, in the case of M/s. Skyroot, the unit is planning to launch their satellites (to provide Satellite launch services to foreign customers) from launch facility of SDSC, Sriharikota, a place outside the SEZ.

DC, VSEZ has stated that to facilitate the SEZ unit M/s. Skyroot to undertake the above activities and to consider them as exports, the following two actions are required:

- a. A similar kind of notification issued in the case of Antrix Corporation needs to be issued by Ministry of Finance in case of M/s.Skyroot also who is engaged in launching of satellites and rendering Satellite launch services to foreign clients to consider them as export of services.
 - b. Amending the Rule 76 of SEZ Rules, 2006 by inclusion of “**Satellite Launch Services by SEZ units from ISRO’s launch facilities which are outside the SEZs**” in the list of services mentioned in the Rule 76 of SEZ Rules 2009.
- ii. **Waiver from the condition of bringing back the subcontracted/job work goods to SEZ Unit and allowing the vendors to move the goods from their place directly to ISRO launch facility - Amendment to Rule 41 & 42 of SEZ Rules, 2006.**

M/s. Skyroot has informed that as per the arrangement reached between them and the vendors located in DTA, M/s. Skyroot will send raw-materials to vendor’s located in DTA for processing of material into finished goods to be used in the making of launch vehicle.

As per the provisions of Rule 41 & 42 of SEZ Rules, 2006, the goods manufactured at Job-workers premises have to be returned to the SEZ Unit for export from the SEZ premises.

Whereas, M/s. Skyroot has informed that it is not feasible to bring back the goods from Job workers premises to SEZ as the final satellite has to be launched from the ISRO launch facility. The unit has informed that bringing back the manufactured goods from Job workers premises by road will damage the parts that go into making of a rocket which are very critical and need to be handled with care. The final products after the job work are to be transported in a special containers as per the requirement of ISRO. Moreover, the parts are very heavy and require special care to ensure they do not get damaged in transit. Movement of finished goods from job-workers premises to SEZ site and from there to ISRO launch facility may damage the goods during transit and result in loss of time etc.,

In view of the above, M/s. Skyroot has requested to permit them to send the manufactured goods from Job-workers premises to the ISRO launch facilities directly instead of bring back the same to the SEZ site.

DC, VSEZ has stated that to accommodate the request of the unit to allow them to send the manufactured goods from Job workers premises to ISRO launch site without bringing back the finished goods to SEZ Unit premises, requires amendment of Rule 41 & 42 of SEZ Rules, 2006 as below:

Proposed Proviso to Rule 41(1)(a):

“Provided that in case of a Satellite Launch Vehicle Manufacturing/Satellite Launch service unit, the finished goods requiring further processing or semi-finished goods taken outside the SEZ for sub-contracting by the unit may bring back the goods into the unit or send directly from sub-contractors premises to the ISRO launch facility.”

iii. **Waiver from the condition of bringing back the procured Goods first to SEZ from the vendor unit and then ship them to ISRO launch facility - Amendment to Rule 33 of SEZ Rules, 2006:-**

M/s. Skyroot has informed that they will be procuring a number of goods/materials from the vendors for satellite launch vehicle and these goods are to be sent to ISRO facilities where the same are used for assembling/testing of launch vehicle at the launch site.

As per the provisions of Rule 33 of SEZ Rules, 2006, the goods procured by the SEZ unit are to be brought to the SEZ Unit.

The unit has informed that certain goods which are required for manufacture/assembling of Satellite have to be procured and the same are to be sent directly to the ISRO facility as these goods will be assembled/fitted to the launch vehicle at ISRO site only. Whereas, as per Rule-33 of SEZ Rules, 2006, the goods procured are to be brought into the SEZ Unit premises and after the entry into the SEZ only the goods can be removed are to be transferred. As mentioned above, the goods such as propellant etc., which are highly

combustible are to be directly sent to the ISRO launch facility without bringing the same to the SEZ Unit premises keeping in view of the explosive nature of goods to avoid damage of goods due to movement of the same from Vendor to SEZ and from SEZ to ISRO facility. In order to avoid damage to the goods and accidents/fire etc., bringing the goods from Vendor location to SEZ can be eliminated as no further processing/manufacturing activity is carried out at SEZ Premises in respect of the above goods, sending of goods from Vendor location in DTA to ISRO launch facility will ensure safety and also save time.

In view of the above, M/s. Skyroot Aerospace Pvt. Ltd. has requested to permit them to send the goods procured from DTA to the ISRO launch facilities directly instead of bring them to the SEZ site.

The request of the unit to allow them to send the goods procured directly to the ISRO launch facility requires amendment of Rule-33 of SEZ Rules, 2006.

DC, VSEZ has stated that keeping in view of the specialised nature of goods and the activity of the unit, Ministry may consider to amend the Rule 33 of SEZ Rules, 2006 to allow the unit to source/procure the goods from DTA and send them directly to the ISRO facility for manufacture/assemble of the launch vehicle keeping in view the specified nature of goods as suggested below: -

Proposed Proviso to Rule 33(i):

“Provided that in case of a Satellite Launch Vehicle Manufacturing/Satellite Launch service unit, the goods imported or procured from DTA vendors shall be brought into the premises of the Unit or can be sent directly to the ISRO launch facility by the vendors”.

- iv. **Inclusion of business support services to be availed from ISRO/ISTRAC/any other similar agency and not at Skyroot SEZ Unit for the authorized operations of the SEZ unit.**

M/s. Skyroot has informed that the completion of Satellite launch services by Skyroot's SEZ unit is contingent upon receiving specific services from SDSC Sriharikota, which are accessible only after availing certain services from ISRO, ISTRAC, or similar agencies. These services include mission review, integration of launch vehicle parts, technical support throughout various stages, conducting tests, design reviews, readiness assessments, post-test evaluations, coordination, and monitoring of activities, data sharing from tests, securing clearances, and providing network and telemetry services, among others.

Aforementioned services will be collectively considered as Business Support Services and will be utilized by the SEZ unit of Skyroot for its authorized operations.

The unit has submitted that all services rendered at the ISRO facility fall under the category of 'Business Support Services'. These services are integral to conducting business operations, specifically satellite launches. Therefore, they should be considered allowable

input services, even if they are procured at the ISRO facility rather than within the SEZ premises. This is because the final export or launch will occur at the ISRO facility.

Recommendation by DC, VSEZ: -

The request of the Unit may be considered for necessary changes/amendment to the relevant provisions in the said Rules, as mentioned above which will facilitate the unit to manufacture/assemble and undertake the launch of satellites from ISRO Facility.

Keeping in view of new emerging sector and involvement of Government agencies therein, the proposal is being placed before the BoA for its consideration.

120.12: Appeal (3 cases)

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

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

120.12(i) Appeal filed by M/s. Margo Impex Private Limited against the decision of UAC, NSEZ meeting held on dated 04.04.2024.

120.12(ii) Appeal filed by M/s. Srikaram Prescience Private Limited against the decision of UAC, NSEZ meeting held on dated 04.04.2024.

(i) M/s. Margo Impex Private Limited was issued LoA dated 10.10.2022 for setting up of a unit in the Arshiya Northern FTWZ Ltd. Free Trade and Warehousing Zone at Village Ibrahimpur, Junaidpur urf Maujpur, Khurja Distt. Bulandshair (U.P.) to undertake 'warehousing Trading (with or without labeling), packing or re-packing (without any processing), Assembly of Completely Knocked Down or Semi Knocked Down kits for the items (as per list of 62 No. HS Codes & item description) except 'Restricted' & 'Prohibited' items. The unit executed Bond-Cum-Legal Undertaking which was accepted by the Competent Authority. The unit had commenced operations w.e.f. 17.12.2022, accordingly the LoA of the unit is valid upto 16.12.2027. The list of items under the LoA dated 10.10.2022 includes HS Code 0801 & 0802.

(ii) M/s. Srikaram Prescience Private Limited was issued LoA dated 08.06.2012 for setting up of a unit in the for setting up a unit in the Arshiya Northern FTWZ Ltd. Free Trade and Warehousing Zone at Village- Ibrahimpur, Junaidpururf Maujpur, Khurja Distt- Bulandshahr (U.P.) to undertake '*Trading, Warehousing, labelling, packing or re-packing with or without any processing as per owner's instructions (Foreign supplier or buyer / DTA supplier or buyer), Transport services & distribution services (excluding retail services), Assembly of CKD or SKD,*

cutting, polishing, blending, segregation, mixing, weighing, fumigation, quality control, safety control, testing and survey service'. The unit has executed Bond-Cum-Legal Undertaking which has been accepted by the Competent Authority. The unit commenced operations w.e.f. 07.05.2015, accordingly the LoA of the unit is valid upto 18.01.2025.

Brief facts of the case:

The Unit Approval Committee, Noida SEZ in its meeting held on 04th January, 2024, decided that all LoAs of the existing units in FTWZ/SEZs having precious metals and related goods and other sensitive goods for warehousing/trading activities shall be amended to the following extent:-

- a. Trading/warehousing of all precious metals and related goods falling under Harmonised System (HS) Chapter 71, HS 2616 and HS 9608 shall be removed;
- b. **Goods under ITC HS Codes 080132, 080280, 0904, 9101, 9111, 91149030 shall be removed from LoAs of all such existing trading / warehousing units.**
- c. However, precious metals goods in stock of the unit at FTWZ/SEZ may be allowed to be re-exported by the unit. Goods other than precious metal which are in stock of the unit at FTWZ/SEZ and being excluded herewith may be allowed transaction as per existing policy condition of DGFT and/or any other Government agency.

Further, in case of warehousing units, each unit will exercise due diligence and shall ensure KYC in respect of its clients wherein copies of following documents shall be invariably ensured:

- a. Copy of Business Agreement.
- b. Copy of Passport/ Valid ID of the promoter/director.
- c. Copy of Undertaking to the effect that the warehousing unit has verified the KYC, antecedents and financial standing of their clients.
- d. Copy of Bank Statement and financial credentials.

Consequently, the items under the above HS Code 0801 & 0802 were removed from the LoA of the Units and they were directed to ensure compliances as stated above. Aggrieved with the decision, both the Units had filed appeal before the BoA in terms of Rule 55 of the SEZ Rules, 2006. The appeals of the above Units were considered in the 119th meeting of the BoA held on 06.03.2024.

The Board heard the appellants and observed that there was vitiation of the proceedings in issuing Order and withdrawing the permissions by DC, NSEZ. The Board, after deliberations, agreed to the prayer of the appellants and remanded the appeals back to DC, NSEZ with direction to grant the Units an opportunity of being heard and thereafter, decide the case on merit.

In compliance of the above direction, the matter was placed before the UAC, NSEZ in its meeting held on 04.04.2024. The **decision of the UAC** is re-produced below: -

1. *The Committee observed that a personal hearing was given to these units by the Development Commissioner, NSEZ on 22.03.2024 and by the UAC on 04.04.2024.*

2. *On the issue of the power of the UAC to remove products from those in the LOA, the UAC examined Sections 14, 15 and 16 of the SEZ Act as well as Rules 18 and 19 of the SEZ Rules. It noted the arguments of the unit as well as the internal legal opinion. Some of the relevant aspects which were duly considered on the power of the UAC to amend a good in the LOA were Section 14(1)(c) on monitoring of the utilization of goods, Section 16 on cancellation of LOA and Rule 19(2) on change in the item of manufacture. A view was taken that cancellation of an LOA is a harsh measure and removal of some sensitive goods is a more trade facilitatory measure which allows the unit to function. Therefore, under the ambit of monitoring, it was felt that the UAC had the power to remove sensitive goods.*

3. *Secondly, on the issue of sensitivity, the UAC noted the quality concerns, possibility of diversion during the long inland transport, lack of economic rationale in incurring such high freight cost, sensitivity of goods as manifested by investigation carried out by agencies, import value below which some goods are prohibited with attendant difficulty in valuation due to volatility in prices, possibility of trading in precious metals and their products and informal meeting in the Department of Commerce to discuss FTWZs based on concerns raised by Department of Revenue.*

4. *In the light of this, the UAC reiterated and upheld its decision of removing specific sensitive products from the LOA of the unit.*

The decision of the UAC was conveyed to the above Units vide O/o the NSEZ's letters dated 23.04.2024. Being aggrieved with the decision of the UAC, both the Unit have filed the instant appeals before the BoA in terms of Rule 55.

Grounds of Appeal:

- i. That since the LoA permits the Appellant to undertake import/ export of all goods, except the ones classified as prohibited/ restricted under the ITC (HS) or under any other law and/or covered under SCOMET list, as per DGFT notifications/ public notice/ instructions issued from time-to-time, the **Impugned Order erringly removed the Impugned HSNs from the Company's LoA**. In this regard, it is pertinent to note that the Chapter-11 of the Foreign Trade Policy (2023) (hereinafter referred to as "FTP") defines 'restricted', 'prohibited' and 'free' under definition 11.48, 11.41, and 11.23, respectively. For the ease of reference, the definitions of such expressions are extracted hereunder:
 - i. 11.23. **"Free"** as appearing in context of import/export policy for items means goods which do not need any 'Authorization'/ License or permission for being imported into the country or exported out.
 - ii. 11.41 **"Prohibited"** indicates the import / export policy of an item, as appearing in ITC (HS) or elsewhere, whose import or export is not permitted.
 - iii. 11.48 **"Restricted"** is a term indicating the import or export policy of an item, which can be imported into the country or exported outside, only after obtaining an Authorization from the offices of DGFT.
- ii. That since the LoA permits the goods classified as 'restricted' under the FTPI Customs to be imported/ exported subject to the conditions prescribed to undertake import/ export of such goods, the Appellant's LoA with regard to the Impugned HSNs ought not to be

cancelled, for the reason being that the **ITC(HS) policy conditions specify such goods either as free or restricted**. With respect to the goods classified as 'restricted' in terms of the ITC(HS), the Appellant duly complies with the conditions stipulated thereunder for undertaking import/ export of such goods, and the same founds due accord with the terms and conditions prescribed under the LoA.

- iii. That by virtue of condition no. (xxi) of the LoA, the LoA was granted to the Appellant for a period of five years effective from the date of commencement of service activities, and having cancelled the same with regard to the Impugned HSNs, including the Subject HSNs *sans* observing the mandatory provisions of the SEZ Act prescribed in that behalf makes the entire Impugned Order *non-est* in the eyes of law.
- iv. That on a bare perusal of the aforesaid ITC(HS) Import policy condition in relation to the Chapter Sub-Heading 080280, it is quite easily discernible that though the goods falling under the said sub-heading is prohibited, however, import thereof is free in case the CIF value of such goods is INR 351/- or above per kg. As also, the said MIP for CIF is not applicable for the EOUs and the units in the SEZ, thereby indicating that the EOUs and units in SEZ can cause importation of goods falling under Chapter Sub-Heading 080280 below the specified MIP in terms of CIF, subject to the condition that no DTA sale shall be allowed thereof.
- v. It is relevant to mention herein that the LoA itself mandates that no DTA sale shall be made for the goods falling under Chapter Heading 0802 and the Appellant has been complying with such requirement without any adverse observation by the concerned authority in this regard. Further, the Appellant, by way of abundant precaution and to doubly assure itself, does not provide its service to such client with regard to goods falling under Chapter Sub-Heading 080280 where MIP is less than INR 351/-.
- vi. That in terms of the authorized operations permitted to the Appellant under its LoA, the Appellant undertakes activities of causation of importation/ re-exportation of goods on the sole and exclusive instructions of its concerned client, subject to the compliance that no infringement of the terms and conditions stipulated under the LoA is being committed while undertaking such activities on behalf of its clients.
- vii. That it presents a perplexing scenario that how come goods classified as free/ not prohibited upon complying with specified conditions, if any, could be removed from the LoA without any substantial basis, especially when the provisions of Rule 45 of the SEZ Rules enable the concerned unit holder to even export prohibited goods with the prior approval of this Hon'ble Board, subject to the condition that such goods cannot be procured from the DTA for such exports.
- viii. That the Appellant respectfully raises its solemn concern about picking, selecting and choosing specific goods under certain HSNs without any substantial basis and branding them as sensitive, as it could verily undermine the core objectives and purposes of the SEZ Act, and may severely impede the economic advantages being accrued to the Indian economy by such SEZs, which are strategically and specially designed to support ease of doing business and contribute to the accumulation of a significant convertible foreign exchange reserve.
- ix. That it is quite surprising for the Appellant to come across the fact that the goods falling under the Subject HSNs could be regarded as sensitive when they are explicitly classified as 'free' by the competent governmental authority having expertise in international trade, i.e., DGFT. Moreover, in case some of such HSNs are classified as prohibited, they are

- permitted to be freely imported/ exported subject to the conditions prescribed in that behalf under the ITC(HS) import/ export policy. To brand the goods falling under some of the Subject HSNs as sensitive without any material basis is nothing but illogical, illegitimate and unjustifiable. More so, when the primary authorities of regulating the activity of import/ export, i.e., Customs and DGFT, does not give them such a hue of sensitive.
- x. That on account of reasoning as to goods falling under Impugned HSNs to be sensitive, the Impugned Order merely records the reasons as (i) quality concerns; (ii) possibility of diversion; (iii) lack of economic rationale in incurring high freight cost; (iv) sensitivity of goods, import value below which some goods are prohibited with attendant difficulty in valuation due to volatility in prices; (v) possibility of trading in precious metals and their products; and (vi) informal meeting in the Department of Commerce to discuss FTWZs based on concerns raised by Department of Revenue. The said reasons are merely too cryptic, broad-based and amorphous to regard the goods falling under Impugned HSNs as sensitive.
 - xi. That when the customs and DGFT do not regard the goods falling under the Subject HSNs to be sensitive, it is but unreasonable and arbitrary to use a cherry-pick approach under the garb of trade facilitatory measure. Moreover, such classification without any justification impinges on the fundamental right of the Appellant in terms of Article 14, Article 21 and Article 19(1)(g), for the reason being that DTA units not being subjected to the SEZ Act would be permitted to import/ export the goods falling under such HSNs should they comply with the conditions prescribed by the DGFT and customs in that regard, but the units based out in SEZ would not be able to deal in that, resulting in a benefit being accrued to the DTA units rather than SEZ units, thereby frustrating the entire object and purpose of the said enactment. Such discrimination of SEZ units vis-a-vis DTA units is unjustifiable and arbitrary without any intelligible differentia being present to create such classification between the two with respect to the Impugned HSNs, including Subject HSNs.
 - xii. That assuming without admitting the goods falling under Impugned HSNs, including Subject HSNs, are sensitive, however, such should be made applicable for all the SEZs uniformly rather than for some of the SEZs only, as SEZ Act, being a central enactment, does not apply to a particular state, and sensitivity, if any, of goods under the Impugned HSNs, including Subject HSNs, is traced to its nature and character, rather than positioning of a SEZ unit in the geographical territory of India. That said, such discrimination of against the Appellant vis-a-vis other SEZ units across the Indian territory falls foul of Article 14, Article 19 (1) (g) and Article 21 of the Indian Constitution as equals ought to be treated equally.
 - xiii. That it is relevant to mention herein that the Impugned Order takes shelter of an informal meeting in the Department of Commerce to discuss FTWZs based on concerns raised by Department of Revenue, however, no basis has been provided in that regard in any manner whatsoever. Moreover, the meeting being informal and its discussion being not made public, its observations and recommendations, if any, cannot be applied summarily in so casual and cavalier a manner. Furthermore, it has been handed down by the Hon'ble Supreme Court of India that where a discretionary power or authority has been delegated to a specific authority, then it is incumbent upon such authority to exercise and discharge its duties by its own dictates of conscience in a reasonable and judicial manner rather than solely adhering to instructions from other authorities.

- xiv. That with respect to the power to cancel the Appellant's LoA with regard to the Impugned HSNs, the UAC via the Impugned Order traced its power to Section 14, Section 15, Section 16 of the SEZ Act and Rule 18 and Rule 19 of the SEZ Rules. It however portrayed the cancellation of Appellant's LoA as removal of goods and called such an action impugned in this present appeal as removal of goods in terms of trade facilitatory measure rather than cancellation of the Company's LoA, which is verily harsher than such trade facilitatory measure. As no specific power and authority vest in the UAC with respect to such part-cancellation of the Company's LoA, the UAC endeavored to read such power-cum-authority as an aspect of monitoring, as provided to the UAC under Section 14 (1) (c) of the SEZ Act.
- xv. That before putting its submission in respect of the monitoring involving such removal powers, may your kind attention be drawn to the fact that the SCN did not mention such provision as in the such SCN, the shelter of first proviso to Rule 19(2) was exclusively taken to cancel the Appellant's LoA *qua* the Impugned HSNs, including the Subject HSNs. That said, it clearly depicts that the Impugned Order travelled beyond the contours of such SCN, and hence, the Impugned Order, on this sole ground itself, deserves to be set aside, for the reason being that the Appellant has not been provided with any reasonable, not to mention reasonable, opportunity to put forth its case with respect to such provisions of which the UAC took shelter, to the Appellant's surprise, in the Impugned Order itself.
- xvi. That with respect to the power delegated and vested in the UAC under the provision of Section 14(1)(c) of the SEZ Act, it is hereby submitted that such monitoring power, being of functional and regulatory in nature, has been given to all the competent jurisdictional Approval Committees, and such being the case, the UAC could not exercise this power-cum-authority in a manner that sets it apart from all other SEZs' concerned competent Approval Committees. More so, such monitoring function could not impinge upon the fundamental rights of the Appellant unless the SEZ Act itself specifically provides so. Furthermore, under the pretext of monitoring, the UAC could not have overpowered the ITC (HS) Policy for Import/ Export of the DGFT, as such authority rest exclusively with the DGFT, and by having cancelled the Appellant's LoA *qua* the Impugned HSNs, the UAC indirectly encroaches upon the regulatory territory of the DGFT as ITC (HS) Policy for Import/ Export specifically provides preferential treatment to the SEZ units.
- xvii. That the action of modification in terms of removal or cancellation of the Company's LoA could exclusively and solely be undertaken in terms of the provisions of Section 16 of the SEZ Act, and such stance is further bolstered by the fact that Section 14 does not empower the Approval Committee to modify, rescind or cancel a letter of approval once granted to an entrepreneur in terms of Section 15(9) read with Section 2(j) of the SEZ Act. Furthermore, the provision of Section 14, which lays down the powers and functions of the Approval Committee, does not find any mention of such power and authority to revoke, rescind, amend or cancel a letter of approval *suomoto*, except in accordance with the provision of Section 16 of the SEZ Act. It is the proposal as against a "letter of approval" which could be modified, rejected or approved by the Approval Committee in terms of Section 14 (1)(d) of the SEZ Act, and not the Appellant's LoA.
- xviii. That the provision of Rule 18 of the SEZ Rules elaboratively sets out the considerations to be taken into account by the concerned competent jurisdictional Approval Committee prior to granting a letter of approval to any prospective unit under the SEZ Act. That said, once a letter of approval stood granted, some rights and privileges stood accrued to the

- entrepreneur under the SEZ Act and the SEZ Rules made thereunder, though subject to certain terms and conditions and corresponding duties and reciprocally obligations. Such letter of approval cannot be equated with a policy incentive being given or granted to an eligible person which could be unilaterally modified, rescinded or revoked at the will and discretion as and when the government deems fit and proper to do so without any rational and justified reason therefor.
- xix. That the provision of Section 16(1) of the SEZ Act empower the Approval Committee to cancel a letter of approval in case of commission of "*persistent contravention of any of the terms and conditions or obligations subject to which the letter of approval was granted to the entrepreneur*". However, in the present case no such contravention, not to mention the persistent ones, has ever been committed by the Appellant, which would have stimulated the UAC to cancel the Appellant's LoA against the Impugned HSNs, including the Subject HSNs.
- xx. That as the Appellant has been strictly and duly complying with the terms and conditions of the LoA, and hence the action took against it vide the Impugned Order should be held untenable. Moreover, the effect of such adverse action would perforce spiral into the positive NFE required to be maintained by the Appellant, failure whereof would invite the wrath of cancellation of the Appellant's LoA in entirety. It cannot be persisted and insisted upon the Appellant to meet the positive NFE and earn the requisite convertible forex even after having the Impugned HSNs, including the Subject HSNs, removed from its LoA as it is a matter of commercial call and trade that to which clients and *qua* which goods the Company would deal into.
- xxi. That having a rich professional network base of foreign clients dealing in goods having HSNs 080280, the Appellant endeavored to leverage on the opportunity put forth by the SEZ framework, which happened to have well aligned with the Appellant's clientele base, and now, on the plank of conjectures and surmises, the Appellant should not be desisted and proscribed from dealing in the goods having the Impugned HSNs, including the Subject HSNs. More so when the goods falling under such HSNs being freely and/or conditionally free available for import/export, though subject to the conditions specified by the DGFT and no contravention of any law for the time being in force being made by the Company.
- xxii. That as the services are being supplied by the Appellant to its clientele on a principal-to-principal basis and that too to the extent the authorized operations permit, subject to the terms and conditions prescribed in the LoA, the Appellant should not be vicariously held liable so as to pepper it with the punishment on the basis of some undisclosed intelligence, if any, received by the UAC regarding any suspicious legal wrong, if any, committed by its clientele, or some other person.
- xxiii. That though the SIIB conducted an investigation *qua* the Appellant, however, the Appellant stood cleared of the allegations fastened upon it by the SIIB, which further corroborates the fact that it undertakes its activities in due accordance with the law and terms and conditions of the LoA.
- xxiv. That without prejudice to the aforesaid submissions, since no material evidence or information or any incriminating material showing the presence of "persistent contraventions of the provisions of the SEZ Act" has been found against the Appellant, and hence, the action taken against the Appellant in the Impugned Order falls foul of the absence of requisites of the provision of Section 16 of the SEZ Act.

- xxv. That as the Appellant has never committed nor attempted to commit any breach of terms of conditions or the obligations fastened upon it under the LoA, the UAC ought not to have cancelled the LoA against the Impugned HSNs, including the Subject HSNs.
- xxvi. That majority of the client of the Appellant deals with goods categorized under HS 0802 and they are supposed to fulfill their contractual obligations and commercial commitments, be it with suppliers or customers of the Appellant's clients. Such contractual obligations and commercial commitments were taken up and entered into prior to such adverse action having had been taken against the Appellant. That such adverse measures and decisions would go a long way to cause disruption to its operations due to the removal of Impugned HSNs, including Subject HSNs, from its LoA, for it would not only jeopardize its commitments to its clients, but would also impede their ability to contribute to the overall economic activity within the SEZ by maintaining optimally-desired NFE in terms of the LoA and the SEZ Act.
- xxvii. That the Impugned Order remained sheer silence in respect of the goods-in-stock and the goods that were in transit prior to the communication of the said Order having the Subject HSNs as to whether the Appellant could dispose them in due accordance with the contractual obligations undertaken by it with its customers, as failing to discharge and honor thereof would bring disrepute, damages and losses to the Appellant.
- xxviii. That the Impugned Order squarely strikes at the fundamental rights of the Appellant as granted to it and enshrined under Article 14 read with Article 19(1)(g) of the Constitution of India, as it is arbitrary and travels beyond the gamut of reason able restriction as designed and laid down as provisions legislated under the SEZ Act and the SEZ Rules made thereunder.
- xxix. That the Impugned Order falls foul of the Article 301 of the Constitution of India as the said Article allows the trade, commerce and intercourse throughout the territories of India as free, however, the Impugned Order saddled the Appellant with unreasonably burdensome directions which bears no relation either with the state exchequer or the interest, sovereign or otherwise of the India or its applicable laws for the time being in force.

PRAYER: -

- i. Set aside the decision taken by the UAC against the Appellant in its meeting held on April 04, 2024 *via* which the Appellant's LoA has been cancelled *qua* the Subject HSNs;
- ii. Quash the Impugned Order dated April 23, 2024 *in toto* and restore the Appellant's LoA, as it originally stood before the passing of corresponding decision taken by the UAC against the Appellant in its meeting held on April 04, 2024;
- iii. Allow the Appellant to file any additional document(s)/ ground(s)/ information or likewise, as and when the need arises, if any, at a subsequent date to the filing of this Appeal; and
- iv. Pass such other or further order(s) as your good self may deem fit and proper in the facts and circumstances of the case, and to secure the ends of justice.

Inputs received from DC, NSEZ: -

- Subsequent upon the direction of the BoA, Show Cause Notices dated 08.03.2024 to M/s. Margo Impex Pvt. Ltd. and 08.03.2024 to M/s. Srikaram Prescience Pvt. Ltd. were issued by O/o the NSEZ calling upon to **show cause as to why following decision are not be taken by the Unit Approval Committee** in its meeting held on 04.01.2024:
 - a. Trading/warehousing of all precious metals and related goods falling under Harmonised System (HS) Chapter 71, HS 2616 and HS 9608 shall be removed;
 - b. Goods under ITC HS Codes 080132, 080280, 0904, 9101, 9111. 91149030 shall be removed from LOAs of all such existing trading I warehousing units.
- As per directions of the Board of Approval, both the Units were granted opportunity for **personal hearing on 22.03.2024 before the Development Commissioner**. The representatives of the units appeared before the Development Commissioner on the said date wherein the **representatives from the units stated that there were no enabling provisions taking Sections 14, 15 and 16 of SEZ Act and Rules 18 and 19(2) of the SEZ Rules which permitted the UAC to remove goods from an LOA**. For this the Act and Rules would need to be amended and made uniform across SEZs.
- A **legal opinion on the matter** was also sought by NSEZ wherein the following was provided:

'We have gone through the query along with Sections 14, 15, 16 of SEZ Act and Rules 18 and 19 of SEZ Rules.

In terms of Section 14 (1)(g), which reads:

"14. Powers and functions of Approval Committee

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

- g. perform such other functions as may be entrusted to it by the Central Government or the State Government concerned, as the case may be. ••*

Further. Section 14(1)(c), which reads:

"14. Powers and functions of Approval Committee

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

(c) monitor the utilisation of goods or services or warehousing or trading in the Special Economic Zone;"

Since, one of the duties in terms of discharging functions of the Approval Committee is to monitor the utilisation of goods trading in Special Economic Zone therefore if the approval committee is of the view or has a reason to believe that:

- *Utilisation of goods*
- *Trading at SEZ*

Could be misused and/ or has a reason to believe that there is a high possibility that the product could be easily diverted

Keeping the above in mind the Approval Committee can exercise its Powers and amend/restrict the list as has been mentioned in LOA of the Unit.”

- In the light of this legal opinion, the matter was again placed before the Approval Committee in its meeting held on 04.04.2024. The said meeting was conducted in Virtual mode and web-link of the meeting was sent to the unit with request to attend the meeting either in physical presence or through video conferencing. However, no one from M/s. Margo Impex Pvt. Ltd. was appeared before the Approval Committee. The representatives of M/s. Srikaram Prescience Pvt. Ltd. were appeared before the Approval Committee and explained the matter.
- **The UAC reiterated and upheld its decision of removing specific sensitive products from the LoA of the Unit.** The decision of the Approval Committee was conveyed to M/s. Margo Impex Pvt ltd. vide O/o the NSEZ’s letter dated 23.04.2024.
- Further, recently NSEZ had received a letter No. DRI/NRU/CI-26/Int-0/Enq- 19/2023/530 dated 26.04.2024 from Sh. Dinesh Singh. Additional Director General, Directorate of Revenue Intelligence (DRI), Lucknow Zonal addressed to Joint Secretary, SEZ DOC informing that **DRI, Noida has seized the goods declared as "Betel Nuts (08028090)-others" in 31 bills of entries having cumulative value of Rs. 133,21,77,876/ filed by M/s. Margo Impex Pvt. Ltd.** and goods declared as "Betel Nuts (08028090)others". Seizure Memo No. DRI/NRU/CI-26/Int-0/Enq-1 9/2023/539-557 dated 26.04.2024 has been issued in respect of M/s. Margo Impex Pvt. Ltd. by DRI, Noida for "Contravention of the Customs Act, 1962" with observation that "the sample does not meet the requirement of Betel Nut / areca nut and is not fit for human consumption as per FSSAI 2011 and IS:169:2018.
- Further, recently NSEZ had received a letter No. DRI/NRU/CI-26/Int-0/Enq-19/2023/530 dated 26.04.2024 from Sh. Dinesh Singh, Additional Director General, Directorate of Revenue Intelligence (DRI), Lucknow Zonal addressed to Joint Secretary, SEZ DOC informing that **DRI, Noida has seized the goods declared as "Betel Nuts (08028090)-others" in 2 bills of entries having cumulative value of Rs. 6,64,70,3891 filed by M/s. Srikaram Prescience private Limited.** Seizure Memo No. DRI/NRU/CI-26/Int-0/Enq-19/2023/531-538 dated 26.04.2024 has been issued in respect of M/s. Srikaram Prescience Private Limited by DRI Noida for "Contravention of the Customs Act, 1962" with

observation that "the sample does not meet the requirement of Betel Nut / areca nut and is not fit for human consumption as per FSSAI 2011 and IS:169:2018.

Relevant provisions under the SEZ law: -

• **Section 14(1) regarding Powers and functions of Approval Committee:**

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

(a) approve the import or procurement of goods from the Domestic Tariff Area, in the Special Economic Zone for carrying on the authorised operations by a Developer;

(b) approve the providing of services by a service provider, from outside India, or from the Domestic Tariff Area, for carrying on the authorised operations by the Developer, in the Special Economic Zone;

(c) monitor the utilisation of goods or services or warehousing or trading in the Special Economic Zone;

(d) approve, modify or reject proposals for setting up Units for manufacturing or rendering services or warehousing or trading in the Special Economic Zone other than the grant of licence under clause (e) of sub-section (2) of section 9 in accordance with the provisions of sub-section (8) of section 15:

Provided that where the approval committee is unable to decide whether a particular process constitutes manufacture or not, it shall refer the same to the Board of Approval for decision;

(e) allow, on receipt of approval under clause (c) of sub-section (2) of section 9, foreign collaborations and foreign direct investments (including investments by a person outside India) for setting up a Unit;

(f) monitor and supervise compliance of conditions subject to which the letter of approval or permission, if any, has been granted to the Developer or entrepreneur; and

(g) perform such other functions as may be entrusted to it by the Central Government or the State Government concerned, as the case may be.

• **Section 16(1) regarding Cancellation of letter of approval to entrepreneur:**

(1) The Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its

obligations subject to which the letter of approval was granted to the entrepreneur, cancel the letter of approval:

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

- **Rule 18(5) regarding FTWZ Unit:**

(5) The Units in Free Trade and Warehousing Zones or Units in Free Trade and Warehousing Zone set up in other Special Economic Zone, shall be allowed to hold the goods on account of the foreign supplier for dispatches as per the owner's instructions and shall be allowed for trading with or without labelling, packing or re-packing without any processing:

- **Rule 19 regarding Letter of Approval of Unit:**

(2) The Letter of Approval shall specify the items of manufacture along with the corresponding Indian Trade Classification (Harmonised System) of Export and Import Items, 2017 or particulars or service activity, including trading or warehousing, projected annual export and Net Foreign Exchange Earning for the next first five years of operations, limitations, if any on Domestic Tariff Area sale of finished goods, by-projects and re-exports and other terms and conditions, if any, stipulated by the Board or Approval Committee:

Provided that the Approval Committee may also approve proposals for broad-banding, diversification, enhancement of capacity of production, change in the items of manufacture or services activity, if it meets the requirements of rule 18.

The appeals are being placed before the BoA for their consideration.

120.12(iii) Appeal filed by M/s. Tristar Global Traders Pvt. Ltd. against the decision of UAC, FSEZ regarding cancellation of their LoA.

Brief facts of the case: M/s. Tristar Global Traders Pvt. Ltd. was issued LoA dated 18.06.2020 for setting up a Unit for 'Trading, Warehousing, Labeling etc.' and allotted 50 sq.mtr of space at Falta SEZ. The LoA of the Unit was valid upto 17.06.2022. Thereafter, in the 176th meeting of the UAC held on 27.03.2024, the LoA of the Unit was cancelled and the decision was conveyed vide FSEZ's letter dated 03.04.2024. Being aggrieved with the decision of the UAC, the Unit has now filed an appeal before the BoA in terms of Rule 55.

Grounds of the appeal

- The appellant has stated that the validity of the LoA was extended till 17 June, 2022 in the 134th Meeting of the UAC held on 29.09.2021. Owing to circumstances beyond the control

of the Appellant Unit, the Unit could not commence operations within 17.06.2022 and applied for further time for commencement of operations.

- On 06th September, 2023, the Appellant Unit was issued a Show Cause Notice dated 06.09.2023 asking for filing a reply to the Notice for cancellation of the LoA w.e.f. 18.06.2022.
- On 13th September, 2023, the Appellant Unit submitted a reply addressing all the points. The Unit also cleared on 09.11.2023 the rental dues for the space allotted till 31.12.2023. There was no further action on the Show Cause Notice nor was it taken up for consideration.
- On 16th October 2023, there was a video conference taken by DC FSEZ and the Unit made its representation, which were recorded in a letter to DC FSEZ on 17.10.2023.
- The matter was followed up and later discussed formally in the meeting of UAC on 27th March, 2024 and the Unit further clarified all points and submitted the Road Map for commencement of operations on 17.01.2024 and list of items to be dealt with on 12.03.2024. They showed that the application for extension of the validity of the LoA was under active consideration of the O/o the Development Commissioner.
- The Appellant Unit was asked to appear in the meeting of the UAC on 27th March, 2024 but no opportunity was given to state its case and was informed that the LoA would be treated as lapsed which subsequently was conveyed through the communication dated 03.04.2024 from the O/o the Development Commissioner and received on 09th April, 2024.

Reasons as to why the decision needs review: -

1. Decision has been taken without considering the merit and background of the case and the fact that since June 2023 the Unit had complied with all references and directions of the O/o the Development Commissioner. The competent authority had merely stated the situation as on 18.06.2022 and treated the LOA as lapsed and cancelled without considering the additional inputs provided and reasons stated by the management of the Unit.
2. The decision has been taken based on a restricted procedural consideration and has not taken into account the actions taken by the Unit. The correspondences from the O/o the Development Commissioner and the steps taken by them in the interim does indicate a favorable inclination for consideration of the matter but it is not reflected in the decision.
3. There are precedents of similar cases having been considered. The Unit in particular had taken steps such as obtaining space for operations submission of Bond Cum LUT indicating its decision and seriousness to start operations.
4. The decision as prayed for the Appellant Unit for extension of the validity of LoA would have no adverse implications for any other Unit or the Zone, nor would have granted any undue benefit to the Appellant Unit and on the other hand, boosted the export performance of the Zone.
5. The decision would not be in conflict with the objective of the Zone or the spirit of the SEZ Rules.
6. The alternative viz. to apply afresh would be time consuming, uncertain.
7. Based on the interactions in the interim since submission of the application for renewal of LOA, the Management had worked hard to prepare a revised Business Plan, had prepared and submitted a Road Map for commencement of operations and cleared the rental dues.

Cancellation of the LOA at this stage would put the appellant to considerable stress and distress.

8. The Business Associates had also been mounting pressure on the Appellant Unit for commencement of business and conveyed their readiness to extend assistance and cooperation for doing business. The unit had also prepared and submitted a road map and business plan to the Office of the DC, FSEZ which it is understood had been duly considered.
9. During 2022-23, the senior Director Binode Kumar Garodia had fallen sick and required prolonged treatment outside Kolkata. He had to spend a good part of his time outside Kolkata. Coupled with this was the business uncertainty post Covid 19 While the main items for trade were available, the demand for the same was depressed and subject to regulatory scrutiny and control in the main export markets.
10. If the overall balance of convenience is weighed, it is in favour of grant of approval to the extension of the validity of the LOA as the Unit had not availed of any benefit or entitlements, nor have misused any such entitlement and grant of approval would enable the Appellant Unit to resume operations quickly as a brownfield rather than a greenfield Unit.
11. It is apparent that these cogent submissions had not been considered by the Committee in its meeting on 27th March, 2024.
12. Though the LOA is treated as lapsed and cancelled with effect from 18.06.2022 the rent for the Shed allotted was charged and paid till 31.12.2024. The management of the Unit had offered to clear the rent up to 31.03.2024.

Inputs received from DC, FSEZ:

- a. M/s. Tristar Global Traders Pvt. Ltd., holding LoA No. FSEZ / LIC/T- 11/ 2019 /50 dated 18.06.2020 has been permitted to set up a Unit at FSEZ for '*Trading, Warehousing, Labeling etc.*' and allotted 50 sq.mtr of space at FSEZ.
- b. The said unit has not commenced the production after lapse of one year. On request, the LoA of the Unit was further extended for another one (01) year w.e.f. 18.06.2021 to 17.06.2022 by 134th UAC held on 29.09.2021.
- c. Further, the Unit was issued a letter dated 11.05.2022 with a request to submit their renewal request immediately and copy of a valid IEC (Importer Exporter Code), since the status of IEC showed in DGFT site was suspended. Thereafter, the Unit has replied vide their letter dated 15.06.2022 wherein they had simply requested to extend their LoA beyond 17.06.2022 without submitting the copy of valid IEC.
- d. Further, O/o DC, FSEZ has again requested vide letter dated 20.06.2022 to comply with earlier letter 11.05.2022. After no reply in line of FSEZ's letter, a show cause notice was issued to the Unit vide letter dated 06.09.2023 wherein the Unit was directed to explain the reason why their LoA should not be cancelled from the date of its lapse i.e. 18.06.2022 for violating the provisions of Rule 19(4), 19(5) of SEZ Rules, 2006 and terms & conditions of the LoA dated 18.06.2020.
- e. The Unit has replied the SCN vide their letter dated 13.09.2023 wherein they had explained their situation and clarified that suspension of IEC is not for any penal action but only as a

matter of course following lack of transactions and again requested to renew their LoA and requested to withdraw the SCN.

- f. The Unit was given opportunity to appear before Personal Hearing with DC in virtual mode on 16.10.2023 at 3.00 PM. and thereafter the unit has again submitted a representation dated 17.10.2023 wherein they had referred their discussion in the above said PH and explained the circumstances and assured that steps will be taken for revival of IE Code (IEC).
- g. The unit was again requested vide letter dated 14.12.2023 to submit valid IEC and future road map of their project. The unit has submitted future road map and reason for suspension of their IEC vide their letter dated 17.01.2024 finally, O/o the DGFT, Kolkata has revoked their suspended IEC vide their letter issued dated 08.01.2024.
- h. The entire above said matter was discussed in the 176th UAC Meeting held on 27.03.2024 and the Committee observed that the LOA of the Unit deemed to have lapsed on 17.06.2022 without commencing the production and canceled the same.

Further, DC, FSEZ has submitted the following:

- a. Vide FSEZ letter dated 11.05.2022 the unit was intimated that as per Rule 19(6A) (1) of SEZ Rules, 2006 the renewal request for LOA should be submitted before two months of its expiry. Accordingly, the unit was requested to submit the renewal request alongwith copy of valid IEC. The Unit replied vide their letter dated 15.06.2022 wherein they had requested to extend their LoA beyond 17.06.2022 without submitting the copy of valid IEC.

However, first Proviso to Rule 19(4) of SEZ Rules, 2006 mentions the following: *"PROVIDED that upon a 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"*.

From perusal of Rule 19 it may be interpreted that for units which have not commenced production, Rule 19(6A)(1) is not be applicable to them. For them renewal can be made in terms of First Proviso of Rule 19(4) of SEZ Rules, 2006.

Also the First Proviso of Rule 19(4) does not mention about submission of valid IEC. Since the Unit vide its letter dated 13.09.2023 stated that their IEC was suspended due to inactivity, granting of extension of LOA w.e.f. 18.06.2022 and starting of their activities might have renewed / revoked the IEC suspension which was done at later date by DGFT i.e. 08.01.2024.

- b. Its LOA was not extended w.e.f. 18.06.2022 till 17.06.2023 on its second request for extension. Thereafter, applicability of First Proviso of Rule 19(4) became void. The Unit could have been given extension for another 1year, under First Proviso of Rule 19(4).
- c. Lease Deed, BLUT was executed by the Unit and also paid rent till December 2023.
- d. UAC in its 176th meeting held on 27.03.2024 cancelled the LOA as the same was already deemed cancelled w.e.f. 18.06.2022 and neither UAC nor DC has any specific power / mandate to revive LOA of such Units which fail to commence production / business / trade within the validity of LOA.

- e. It emerges from the foregoing that the LOA of the Unit could have been extended from 18.06.2022 for another year on its request subject to revival of IEC and this would have changed the entire scenario for the Unit.

Relevant provisions under the SEZ law: -

• **Rule 19 regarding renewal of LoA of a Unit:**

(4) The Letter of Approval shall be valid for one year within which period the Unit shall commence production or service or trading or Free Trade and Warehousing activity and the Unit shall intimate date of commencement of production or activity to Development Commissioner:

Provided that upon a 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:

(5) If the Unit has not commenced production or service activity within the validity period or the extended validity period under sub-rule (4), the Letter of Approval shall be deemed to have been lapsed with effect from the date on which its validity expired.

(6) The Letter of Approval shall be valid for five years from the date of commencement of production or service activity and it shall be construed as a license for all purposes related to authorized operations, and, after the completion of five years from the date of commencement of production, the Development Commissioner may, at the request of the Unit, extend validity of the Letter of Approval for a further period of five years, at a time.

(6A)(1) The Units which intend to renew the validity of Letter of Approval shall submit, before two months from the date of expiry of the Letter of Approval, the completed application in form F1 along with requisite document, to the Development Commissioner, duly signed by the proprietor or managing partner or if it is a company, by the Managing Director or the Director(s) or any person who has or have been duly authorised for this purpose by a resolution of the Board of Directors of the Company:

Provided that in case an application is submitted after the said period of two months, reasonableness of the delay shall be examined on the merits and circumstances of the case and the request for renewal of Letter of Approval shall be decided by the Development Commissioner.

(2) in case of non-compliance of the procedures specified in clause (1), the Letter of Approval shall not be considered for renewal.

(3) the Development Commissioner may renew the Letter of Approval for a period of five years or for a shorter period, in form F 2, based on the evaluation of the Unit as per sub-rule (6B):

(6B) The process of renewal of Letter of Approval shall take into account the efforts made and the results achieved or status of the following criteria, namely: -

(i)Export performance of the Unit in the last block.

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

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

120.13: Request for conversion of processing area into non-processing area under Rule 11(B) (3 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 11B in the SEZ Rules, 2006, Department of Commerce in consultation with Department of Revenue has issued Instruction No. 115 dated 09.04.2024 clarifying concerns/queries raised from stakeholders regarding Rule 11B.

120.13(i) Request of M/s. Candor Kolkata One Hi-Tech Structures Private Limited for conversion of Retail area and Common area of Level – G of Tower A I, Tower A II, Tower A III, Tower B II, B III, Tower C I, Tower G III and Basement area of Block B, C and dedicated ramp to a Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006.

M/s. Candor Kolkata One Hi-Tech Structures Private Limited was granted LOA on 23 May, 2007 for setting up of IT/ITE SEZ at Kolkata. It was notified vide Gazette Notification No. S.O. 2002 (E) dated 28.11.2007. The said SEZ is operational w.e.f. 11.08.2008.

The Developer has submitted proposal for conversion of retail area and common area of Level – G of Tower A I, Tower A II, Tower A III, Tower B II, Tower B III, Tower C I, Tower G III and Basement area of Block B, C and dedicated ramp to a Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006.

In this regard, the following details have been submitted by the Developer:-

Particulars	Details
Total Notified land area(in Hectares)	18.37 HECTARES
Total Built-up area in Processing Area including basement (in Square meters)	4,25,252 Square meter (Total Built up area 340038 sqmt + Total basement area 85214 sqmt)
Total number of Towers constructed in processing area	12 Towers
Total area to be demarcated as Non- Processing Area(NPA)out of common infrastructure and retail area (in Square meter)	(a) 12,685.61 Square meter (Level – G of Tower A I, Tower A II, Tower A III, B II, B III, C I, G III) (b)20,494 square meter (Basement area of Block B, C and dedicated ramp)

	<p>Total = 33,179.61. sqm.</p> <p>(BoA in its 118th meeting held on 06.02.2024 have approved conversion of 44,271.31 sqmt. of built up area)</p>
Balance Built-up Processing Area after demarcation.	3,47,801.08 Square meter
Whether minimum built-up processing Area norms fulfilled after demarcation	Yes
Whether Non-Processing area proposed for demarcation exceeding 50% of total built-up area	No, proposed built up Non-Processing area shall be 18.21% of total built up area. [(33,179.61+44271.31 / 425252)%]
Status of refund of applicable tax duty benefits availed on the area proposed for demarcation as Non-Processing Area.	<p>The Developer has submitted the 'No Dues Certificate' No. F.No. CANDOR/SEZ/CUS/09/ 2023-24 dated 03.05.2024 and Chartered Engineer's Certificate No. ASG/CANDOR/NPA/01 dated 15.04.2024 and Proof of Payment of Duty Benefits against payment of following duty amount:</p> <p>INR 20.69 crores,</p> <p>The Developer has submitted Undertaking to pay differential amount of duty if determined at a later stage and comply with provisions of Rule 11B.</p>
Status of refund of applicable tax duty benefits availed on the creation of social or commercial infrastructure and other facilities if proposed to be used by both the IT or ITES SEZ Unit and IT or ITES business engaged in NPA	The Developer has paid the duty benefits of Rs. 20.69 Crores for total area of 77,450.92 sqm (44,271.31 sqm of built up area and 33,179.61 sqm of common area/basement area)

Recommendation by DC, FSEZ:-

DC, FSEZ has recommended the proposal for consideration of the BOA.

120.13(ii) Request of M/s. EON Infrastructure Pvt. Ltd, Phase-I for approval of Demarcation of Built up Floors as Non-Processing Area (NPA) of notified IT/ITES SEZ.

Sr. No.	Particulars	Details			
1	Name and Address of the SEZ	EON Kharadi Infrastructure Pvt. Ltd. Phase-I Developer, Plot No.1, Survey No.72/2/1, MIDC Knowledge Park, Village Kharadi Pune- 411014.			
2	Letter of Formal Approval No. and Date	F.2/59/2005-SEZ Dated 17.07.2006 Phase-I			
3	Date of Notification	28.09.2006			
4	Name of the Sector of SEZ for which approval has been given	IT/ITES			
5	Total area of SEZ i Processing area ii Non-Processing area	18 Hectares 18 Hectares <u>Break up:</u> Total built up area 2,40,441.68 Sq.mtr in Processing Zone – The built up area consists of 5 Buildings namely Cluster A, B, C, D & E. NIL			
6	Details of Built Up area: No of Buildings with built up area (in Sq. Meter)	Sr. No	Bldg. No. / No.	Floor detail	Area in Sq. Meter
		1	Cluster A	Ground floor plus Seven floors Wing 1, 2, 3 and 4	53,448.13
		2	Cluster B	Ground floor plus Seven floors Wing 1, 2, 3 and 4	53,448.13
		3	Cluster C	Ground floor plus Seven floors Wing 1, 2, 3 and 4	53,448.13
		4	Cluster D	Ground floor plus Seven floors Wing 1, 2, 3 and 4	53,448.13
		5	Cluster E	Ground floor plus Seven	26,649.17

				floors Wing 1 & 2	
				Total	240,441.69

Floor-wise built up area of each building (in Sq. Meters)

EON FREE ZONE I - CLUSTER A

FLOORS	WING 1	WING 2	WING 3	WING 4	Total
SEVENTH FLOOR		1895.70	1794.78		3690.48
SIXTH FLOOR		2457.12	2451.36		4908.48
FIFTH FLOOR	1538.36	2177.85	2172.10	1538.36	7426.67
FOURTH FLOOR	1719.11	2180.93	2175.18	1720.10	7795.32
THIRD FLOOR	1739.66	2198.84	2193.08	1739.66	7871.24
SECOND FLOOR	1714.77	2188.19	2182.43	1715.71	7801.1
FIRST FLOOR	1690.89	2007.78	2002.04	1691.82	7392.53
	1690.89	2007.78	2002.04	1691.82	7392.53
GROUND FLOOR	1496.65	1814.26	1754.75	1496.65	6562.31
TOTAL AREAS	9899.44	16,920.67	16,725.72	9,902.30	53448.13

EON FREE ZONE I - CLUSTER B

FLOORS	WING 1	WING 2	WING 3	WING 4	Total
SEVENTH FLOOR		1895.70	1794.78		3,690.48
SIXTH FLOOR		2457.12	2451.36		4,908.48
FIFTH FLOOR	1538.36	2177.85	2172.10	1538.36	7,426.67
FOURTH FLOOR	1719.11	2180.93	2175.18	1720.10	7,795.32
THIRD FLOOR	1739.66	2198.84	2193.08	1739.66	7,871.24
SECOND FLOOR	1714.77	2188.19	2182.43	1715.71	7,801.10
FIRST FLOOR	1690.89	2007.78	2002.04	1691.82	7,392.53
GROUND FLOOR	1496.65	1814.26	1754.75	1496.65	6,562.31
TOTAL AREAS	9,899.44	16,920.67	16,725.72	9,902.30	53,448.13

EON FREE ZONE I - CLUSTER C

FLOORS	WING 1	WING 2	WING 3	WING 4	Total
SEVENTH FLOOR		1895.70	1794.78		3690.48
SIXTH FLOOR		2457.12	2451.36		4908.48
FIFTH FLOOR	1538.36	2177.86	2172.10	1538.36	7426.68

FOURTH FLOOR	1719.11	2180.93	2175.18	1720.10	7795.32
THIRD FLOOR	1739.66	2198.84	2193.08	1739.66	7871.24
SECOND FLOOR	1714.77	2188.19	2182.43	1715.71	7801.10
FIRST FLOOR	1690.89	2007.78	2002.04	1691.82	7392.53
GROUND FLOOR	1496.65	1814.26	1754.75	1496.65	6562.31
TOTAL AREAS	9899.44	16920.68	16725.72	9902.30	53448.13

EON FREE ZONE I - CLUSTER D

FLOORS	WING 1	WING 2	WING 3	WING 4	Total
SEVENTH FLOOR		1895.70	1794.78		3690.48
SIXTH FLOOR		2457.12	2451.36		4908.48
FIFTH FLOOR	1538.36	2177.85	2172.10	1538.36	7426.67
FOURTH FLOOR	1719.11	2180.93	2175.18	1720.10	7795.32
THIRD FLOOR	1739.66	2198.84	2193.08	1739.66	7871.24
SECOND FLOOR	1714.77	2188.19	2182.43	1715.71	7801.10
FIRST FLOOR	1690.89	2007.78	2002.04	1691.82	7392.53
GROUND FLOOR	1496.65	1814.26	1754.75	1496.65	6562.31
TOTAL AREAS	9899.44	16920.67	16725.72	9902.30	53448.13

EON FREE ZONE I - CLUSTER E

FLOORS	WING 1	WING 2	Total
SEVENTH FLOOR	1668.65	1669.11	3337.76
SIXTH FLOOR	1668.69	1669.07	3337.76
FIFTH FLOOR	1668.89	1668.87	3337.76
FOURTH FLOOR	1701.05	1701.04	3402.09
THIRD FLOOR	1701.05	1701.04	3402.09
SECOND FLOOR	1701.05	1701.04	3402.09
FIRST FLOOR	1701.05	1701.02	3402.07
GROUND FLOOR	1513.77	1513.77	3027.54
TOTAL AREAS	13324.2	13324.96	26649.16

7	Total Built up area in	i. Processing area- 240,441.69Sq.Mtrs ii. Non-Processing area - Nil			
8	Total built up area with floor wise details proposed for demarcation of	Cluster	Wing	Floor de tai l	Area in Sq. Meter

NPA for setting up of Non-SEZ IT/ITES units	Cluster A	Wing 2	Ground floor, first floor and second floor	6,010.23
		Wing 3	Ground floor, first floor, second floor, third floor, fourth floor, fifth floor, sixth floor and seventh floor	16,725.72
		Wing 4	Ground floor, first floor, second floor, third floor, fourth floor, and fifth floor	9,902.30
	Cluster B	Wing 1	Ground floor, first floor, second floor, third floor, fourth floor, and fifth floor	9,899.44
		Wing 4	Ground floor, and first floor	3,188.47
	Cluster C	Wing 1	Ground floor, and Third floor	3,236.31
		Wing 4	Ground floor, first floor, and second floor	4,904.18
	Cluster D	Wing 2	Ground floor, first floor, third floor, fifth floor and sixth floor	10,655.85
		Wing 4	Ground floor, first floor, and fourth floor	4,908.57
	Grand total			69,431.07

9	Total built up area proposed for demarcation of NPA for setting up of Non-SEZ IT/ITES units	69,431.07 Square Meter.
10	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineers Certificate in Rs. Crores	The duty benefits availed on built up area to be demarcated of area 69431.07 sq.mtrs. - Rs.22.61 crore Further, the Developer has also remitted the duty benefits availed on total common area of 74972.85 sq. mtrs - Rs.24.41 crore s Total tax be ne fit remitted - Rs.47.02 crore s
11	Whether duty benefits and tax exemptions availed has been refunded and NOC from Specified Officer has been obtained (Please enclose NOC from Specified Officer).	Yes. The Specified Officer has issued No Dues Certificate vide F.No. Cus-11/37/2024- CUSTOM-SEEPZ-MUMBAI dated 06.05.2024 wherein it has been intimated that the Developer has remitted the duty benefits availed of Rs.47.02 crores vide D/D No. 673146 dated 06.05.2024 (Challan No. EKIPL- SEZ/2024-25/001)
12	Reasons for demarcation of NPA	There are vacant spaces in the buildings due to subdued demand for SEZ spaces. Given there is demand for space from Non SEZ IT/ITES clients, NPA demarcation shall help leasing these spaces
13	Total remaining built up area	1,71,010.62 Sq.mtr.
14	Whether total remaining built up area fulfils the minimum built up area requirement as per Rule 5 of SEZ Rules, 2006	Yes
15	Purpose and usage of such demarcation of NPA	To demarcate vacant buildings as NPA so that they can lease the same to DTA.

Reason for demarcation:

There are vacant spaces in the buildings due to subdued demand for SEZ spaces. Given there is demand for space from Non SEZ IT/ITES clients, NPA demarcation shall help leasing these spaces.

Repayment of Tax benefits:

The Specified Officer vide No Dues Certificate issued vide F.No. Cus- 11/37/2024-CUSTOM-SEEPZ-MUMBAI dated 06.05.2024 has intimated that the Developer has remitted the duty benefits availed of Rs.47.02 crores vide D/D No. 673146 dated 06.05.2024 (Challan No. EKIPL-SEZ/2024-25/001)

Access Control Mechanism:

The Developer has stated that they shall establish a clear boundary and demarcation of the SEZ, between processing area and non-processing area with separate checkpoint and have separate lifts.

The Developer has mentioned that they will ensure adequate control of the movement of persons as well as goods pertaining to SEZ Units and Non- Processing Area Units as they are demarcating the floors. At the same time they will place adequate security and gate entry management system to ensure goods pertaining to Non-Processing Area Units and Processing Area Units are not mixed with each other including other mechanism like:-

- i. Separate color gate passes or identity cards for both PA and NPA Unit's employees;
- ii. Separate car stickers with different colors for both PA and NPA Unit's employees;
- iii. Separate security for PA and NPA.
- iv. Access control through separate lifts.

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

- 1) Application of the Developer for demarcation of built up area as NPA.
- 2) No Dues Certificate from the Specified Officer.
- 3) Undertaking for payment of additional duty liability if any.
- 4) Undertaking for not availing tax benefits for operation and maintenance of common infrastructure.
- 5) Chartered Engineer Certificate.
- 6) Proof of payment of duty benefits

Observation:

The Developer in their earlier proposal submitted for demarcation had sought permission for demarcation of built up area of 75,522.74 Square Mtr. However, the Developer has vide their letter dated 04.05.2024 informed that considering the market requirement and the amount of duty to be repaid, they have reduced the built up area to be considered for demarcated which is 69,431.07 sq.mtr. The revised area for demarcation is being submitted for consideration.

Recommendation by DC, SEEPZ SEZ: -

The request of M/s. EON Infrastructure Pvt. Ltd., Phase I for approval of Demarcation of Built up Area of 69,431.07 sq. mtr. as Non-Processing Area (NPA) of notified IT/ITES SEZ, upon already deposited amount of Rs.47.02 crores relating to (i) the duty benefits of Rs.22.61 crore availed on built up area of 69431.07 sq.mtrs. to be demarcated and (ii) duty benefits of Rs.24.41 crores availed on total common area of 74972.85 sq. mtrs, may be considered.

120.13(iii) Request of M/s. Oxygen Business Park Private Limited, developer of IT/ITES SEZ at Plot No. 7, Sector-144, Noida (Uttar Pradesh) for demarcation of additional built-up processing area of SEZ as Non-Processing Area under Rule 11B of SEZ Rules, 2006.

M/s. Oxygen Business Park Private Limited, Developer had been granted LOA No. F.2/719/2006-SEZ dated 07.02.2008 for setting up of IT/ITES SEZ over an area of 10.0498 Hectares at Plot No. 7, Sector-144, Noida (Uttar Pradesh). It was later notified over an area of 10.0498 Hectares vide S.O. No. 1150(E) dated 15.09.2008. The said SEZ is operational w.e.f. 03.09.2010.

Earlier, the Board of Approval in its 119th meeting held on 06.03.2024 has approved the proposal of M/s. Oxygen Business Park Private Limited, Developer for demarcation of built-up processing area of **88325.50 Square meter built-up area of Tower-1 (including Basement, Stilt floor + 13 floors + Terrace)**, into the Non-Processing Area in terms of Rule 11B of SEZ Rules, 2006. The Developer had already deposited amount of tax / duty benefits in respect of area proposed to be demarcated as NPA and also submitted required undertaking. Thereafter, the approval of BoA has been conveyed by DOC vide letter No. F.2/719/2006-SEZ dated 15.03.2024.

Now, M/s. Oxygen Business Park Private Limited, Developer has submitted another proposal for demarcation of additional '**10,154.00 Square meter built-up processing area of 10th, 11th& 12th floor of Tower-3**' into a Non-Processing Area in terms of Rule 11B of SEZ Rules, 2006, out of the **remaining built-up processing area of 1,93,891.50 Square meter**. The developer has informed that significant built-up area is lying vacant since long, due to multiple factors including sunset date of Income Tax benefit, thereafter Covid-19 pandemic and Work From Home facility available to the units. Therefore, they are not been able to get SEZ clients despite wholehearted efforts and hence their management has decided to demarcate vacant building as Non-Processing Area (NPA) in terms of Rule 11B of SEZ Rules, 2006 for the purpose of IT/ITES Units, so that they can lease the same to Domestic Tariff Area.

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

Particulars	Details	
Name of Developer	M/s. Oxygen Business Park Private Limited	
Address of SEZ	Plot No. 7, Sector-144, Noida (Uttar Pradesh)	
Sector	IT/ITES	
Formal Approval	No. F.2/719/2006-SEZ dated 07.02.2008	
Total Notified land area (in Hectares)	10.0498 hectare	
Land demarcated as Processing Area	10.0498 hectare	
Total Built-up area in Processing Area (in Square meters)	193891.50 Square meter (after excluding the 88325.50 Square meter approved for demarcation as NPA vide DOC letter dated 15.03.2024)	
Building / Tower / Block wise details of total built-up processing area of the SEZ.	As provided by the developer vide letter dated 15.02.2024:-	
	Building / Tower / Block No.	Total built-up area (in Sqmt.)

	<table border="1"> <tbody> <tr> <td>Tower-A</td> <td>18764.00</td> </tr> <tr> <td>Tower-B</td> <td>17253.00</td> </tr> <tr> <td>Tower-C</td> <td>17298.00</td> </tr> <tr> <td>Tower-D</td> <td>15314.00</td> </tr> <tr> <td>Tower-E</td> <td>19075.00</td> </tr> <tr> <td>Tower-F</td> <td>16601.00</td> </tr> <tr> <td>Tower-2</td> <td>42625.00</td> </tr> <tr> <td>Tower-3</td> <td>44430.00</td> </tr> <tr> <td>Food Court</td> <td>2532.00</td> </tr> <tr> <td></td> <td>193892.00</td> </tr> </tbody> </table>	Tower-A	18764.00	Tower-B	17253.00	Tower-C	17298.00	Tower-D	15314.00	Tower-E	19075.00	Tower-F	16601.00	Tower-2	42625.00	Tower-3	44430.00	Food Court	2532.00		193892.00
Tower-A	18764.00																				
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Tower-2	42625.00																				
Tower-3	44430.00																				
Food Court	2532.00																				
	193892.00																				
Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)	<p>As provided in the attached map by the developer:-</p> <table border="1"> <thead> <tr> <th>Building / Tower / Block No.</th> <th>Floor no. to be demarcated as NPA</th> <th>Total built-up area (in Sqmt.)</th> </tr> </thead> <tbody> <tr> <td rowspan="4">Tower-3</td> <td>10th floor</td> <td>3212.00</td> </tr> <tr> <td>11th floor</td> <td>3471.00</td> </tr> <tr> <td>12th floor</td> <td>3471.00</td> </tr> <tr> <td>Total:</td> <td>10154.00</td> </tr> </tbody> </table>	Building / Tower / Block No.	Floor no. to be demarcated as NPA	Total built-up area (in Sqmt.)	Tower-3	10 th floor	3212.00	11 th floor	3471.00	12 th floor	3471.00	Total:	10154.00								
Building / Tower / Block No.	Floor no. to be demarcated as NPA	Total built-up area (in Sqmt.)																			
Tower-3	10 th floor	3212.00																			
	11 th floor	3471.00																			
	12 th floor	3471.00																			
	Total:	10154.00																			
Balance Built-up Processing Area after demarcation.	183737.50 Square meter.																				
Whether remaining Built-up Processing Area fulfills requirement of minimum built-up area as per Rule 11B(7) of SEZ Rules, 2006.	Yes. 183737.50 Square meter will remain balance built-up processing area.																				
Details of social or commercial infrastructure and other facilities proposed to be used by IT/ ITES business engaged in proposed NPA.	Not provided																				
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 mentioned that they are proposing demarcation of vacant building as NPA.																				
Status of refund of applicable tax / duty benefits availed on the area proposed for demarcation as Non-Processing Area.	The developer has submitted copy of 'No Dues Certificate' issued by Authorised Officer vide F.No. SEZ/Oxygen/Dev./01/2023/22 dated 08.05.2024 indicating that the developer has paid duty of Rs. 15,03,32,734/- (8,71,15,477/- +6,32,17,258/-) vide TR-6 Challan No. 90 dated 02.05.2024 (DD No. 502090 dated 02.05.2024.																				
Status of refund of applicable tax / duty benefits availed on the creation of social or commercial infrastructure and other facilities, if proposed to be used by both the IT or ITES SEZ Unit and IT or ITES business engaged in NPA.	The developer has further mentioned that they have paid all the duties for conversion of the area from Processing Area (PA) to Non-Processing																				

	Area (NPA) of floor No. 10, 11 & 12 of Tower – 3 with common facilities such as food court, gymnasium, crèche, Road, Landscaping, Basement, Common Parking, sewage, Drainage, Utilities like Generation and Distribution of Power including power back up and HVAC facilities.
Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	The developer has mentioned that they will ensure adequate control of the movement of persons and goods in the SEZ units operating in the processing area SEZ Units and non-processing area. Further, the company will adhere to all SEZ conditions / regulations that may be prescribed in this regard.

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

- i. Copies of formal approval and Gazette Notifications of SEZ along with name change approval.
- ii. Coloured map showing location of existing Towers in SEZ (including Tower-3 which has already demarcated as NPA) along with floor-wise details of Tower-3.
- iii. Floor-wise map of 10th, 11th& 12th floor of Tower-3.
- iv. Copy of Board Resolution dated 31.01.2024 in favour of Mr. Paul Thomas Jayraj, Authorised Signatory.
- v. Common application Form
- vi. No Dues Certificate from the Authorised Officer
- vii. Chartered Engineer Certificate
- viii. Undertaking for payment of additional duty liability, if any
- ix. Proof of payment of duty benefits

Recommendation by DC, NSEZ:-

The proposal of M/s. Oxygen Business Park Private Limited, developer for demarcation of '10154.00 Square meter built-up processing area of 10th, 11th & 12th floor of Tower-3' into Non-Processing Area, has been recommended for consideration by the Board of Approval, in terms of Rule 11B of SEZ Rules, 2006.

120.14: Request for partial de-notification (5 proposals)

Procedural guidelines on de-notification of SEZ:

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

- In the 60th meeting of the Board of Approval held on 08.11.2013, while considering a proposal of de-notification, the Board after deliberations decided that henceforth all cases of partial or complete de-notification of SEZs will be processed on file by DoC, subject to the conditions that:

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

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

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

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

120.14(i) Request of M/s. Manyata promoters Pvt. Ltd., an IT/ITES SEZ at Bangalore, Karnataka for partial de-notification of 4.9026 Ha out of 24.1017 Ha.

M/s. Manyata Promoters Pvt. Ltd. was granted formal approval on 16.06.2006 for setting up of an IT/ITES SEZ at Bangalore, Karnataka. It was later notified/de-notified as per the details given below in the table: -

S. No.	Notification No.	Notification Date	Notified Area (in Hectares)	De-notified Area (in Hectares)	Resultant notified area (in Hectares)
i.	S.O.1980(E)	16.11.2006	22.348	-	22.348
ii.	S.O.388(E)	06.03.2012	6.9517	3.0980	26.2017
iii.	S.O.3842(E)	29.08.2023	-	2.10	24.1017

Further, the SEZ has become operational w.e.f. 10th January, 2007 and 27 operational units are there. Total exports and imports of the SEZ in the last 5 financial years are ₹ 91,286.66/- Cr. and ₹ 724.89 Cr., respectively.

M/s. Manyata Promoters Pvt. Ltd. has requested for partial de-notification of 4.9026 Ha out of 24.1017 Ha. As regards reasons for the partial de-notification, the Developer has submitted the following: -

- Major IT exemptions for the Developer/units have been withdrawn by SEZ due to sunset clause 2020
- In the prevailing situation, the demand for SEZ space substantially decreased.
- To operate as Industrial IT park for non-SEZ clients.

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 Government of Karnataka vide letter dated 25.01.2024 has recommended the proposal for partial de-notification. Further, it is also informed that the partial de-notified land will be utilized towards creation of IT infrastructure (Non-SEZ), which would sub-serve the objective of the SEZ and this land will conform to the land use/master plan of the State Government.

DC, CSEZ has certified that;

- a. There are no units in the SEZ land area proposed for de-notification.
- b. The Developer had availed the following Tax/Duty benefits under the SEZ Act/Rules:
 - (i) The Developer has refunded an amount of Rs. 2,75,18,419/- (Rupees Two Crore Seventy Five lakh eighteen thousand four hundred nineteen only) towards duty/Tax exemptions availed, vide Challan Nos. 359670 dated 06.10.2023 for Rs. 92,75,483/- & 361476 dated 19.04.2024 for Rs. 1,82,42,936/-.

All the tax/duty benefit indicated above have been refunded by the Developer to DC's satisfaction.
- c. The SEZ shall remain contiguous even after de-notification of the area of 4.9026 Ha and the net area of the SEZ after the de-notification is 19.1991 Ha.

Furthermore, DC has stated that the remaining built-up area of the SEZ after the proposed de-notification is admeasuring 5,91,866.47 sq.mtrs. meeting the built-up area requirement for IT/ITES SEZ Category "A" City in terms of Rule 5(2).

In compliance of DoC's Instruction No. 102 dated 18.11.2019 regarding Physical Inspection and Contiguity Condition, an Inspection report has been provided. As per the report, Physical Inspection was conducted by DC, CSEZ along with State Govt. Revenue Authorities. DC has certified that the Developer has complied with the contiguity condition in terms of the said DoC's Instruction.

As regards land utilisation of the land area proposed for de-notification, DC has stated that the proposed area will be utilized for allocation to DTA unit in IT/ITES Sector.

Recommendation by DC, Cochin SEZ: -

DC, Cochin has recommended the proposal for its consideration.

The above case was earlier submitted on-file for its consideration and approval. However, it was directed to move it to the BoA. Accordingly, the case is being placed before the BoA for its consideration.

120.14(ii) Request of M/s. Magarpatta Township Development and Construction Company Ltd., an Electronics Hardware and Software including IT/ITES SEZ at Magarpatta City, Village Hadapsar, District Pune, Maharashtra for partial de-notification of 0.66 Ha out of 11.98 Ha.

M/s. Magarpatta Township Development and Construction Company Ltd. was granted formal approval on 21.08.2006 for setting up of an Electronic Hardware and Software including IT/ITES SEZ at Magarpatta City, Village Hadapsar, District Pune, Maharashtra. It was later notified vide gazette notification dated 20.07.2007 over an area of 11.98 Ha. Further, the SEZ is operational and total 21 units are working there. Total Exports and Imports of the SEZ for the last five financial years are ₹ 267 Cr. and ₹ 3.12 Cr., respectively.

M/s. Magarpatta Township Development and Construction Company Ltd. has requested for partial de-notification of 0.66 Ha out of 11.98 Ha. As regards reasons for decrease, the Developer has mentioned in the application that due to business requirement other than SEZ they have planned to decrease the area from SEZ.

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 Government of Maharashtra vide letter dated 09.10.2023 has recommended the proposal for partial de-notification 0.66 Ha. Further, it is informed that the State Govt. will ensure that the 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 parcel of land will conform to land use guidelines/ master plan of the State Govt.

DC, SEEPZ has certified that;

- a. There are no units in the Building B2 (proposed to be de-notified), Magarpatta Township Development and Construction Company Ltd –SEZ.
- b. The Developer had availed the following tax/duty benefits, under the SEZ Act/Rules:-
 - i. Tax/duty benefits of Rs. 4,24,23,617/- (Four Crores Twenty Four Lakhs Twenty Three Thousand Six Hundred and Seventeen only) towards Imported & Indigenous capital goods and Services under the SEZ Act/Rules, as stated by the Developer in Form C5.

Total Tax/Duty benefits amounting to Rs. 2,46,38,799/- (Two Crores Forty Six Lakhs Thirty Eight Thousand Seven Hundred and Ninety Nine only) has been refunded by the Developer as verified by the Specified Officer after taking benefit of depreciation on capital goods in terms of clarification No. F.2/15/2005-SEZ(Vol-III)(pt) dated 10.04.2024 issued by MOC&I. Details of these tax/duty benefits are as follows:

A.	Total tax/duty benefit availed by the Developer	Rs. 4,24,23,617
B.	Depreciation value on capital goods	Rs. 1,77,84,818
C.	Balance tax/duty benefit refunded by the Developer (A-B)	Rs. 2,46,38,799

All tax/duty benefits indicated above have been refunded by the developer to DC's satisfaction.

In compliance of DoC's Instruction No. 102 dated 18.11.2019 regarding Physical Inspection and Contiguity Condition, an Inspection Report has been provided. As per the report, the site was inspected on 19.06.2023 by JDC, SEEPZ along with Circle Officer, Hadapsar, Haveli, Pune from Land Revenue Department. It is noted that upon partial de-notification of 0.66 Ha, the remaining area of 11.32 Ha will remain contiguous.

As regards land utilisation of the proposed de-notifying area, it is informed that the area proposed for de-notification and the building constructed thereon shall be utilized towards IT/ITES which would sub-serve the objective.

Recommendation by DC, SEEPZ SEZ: -

DC, SEEPZ has recommended the proposal for its consideration.

The above case was earlier submitted on-file for its consideration and approval. However, it was directed to move it to the BoA. Accordingly, the case is being placed before the BoA for its consideration.

120.14(iii) Request of M/s. GMR Hyderabad Aviation SEZ Limited for partial de-notification of 3.22 Hectares out of 84.10 Hectares of their Multi-Sector SEZ at Mamidipalli Village, Shamshabad Mandal, Ranga Reddy District, Telangana.

M/s. GMR Hyderabad International Airport was granted formal approval on 26.07.2007 for setting up of an SEZ for Aviation Sector at Mamidipalli Village, Shamshabad Mandal, Ranga Reddy District, Telangana. It was later notified vide Gazette Notification dated 20.10.2009 over an area of 101.92 Hectares. Subsequently, the request of the Developer for transfer of approval to their subsidiary, M/s. GMR Hyderabad Aviation SEZ Limited was considered and the approval was conveyed vide letter dated 03.03.2010. The Sector of the SEZ was later changed on 08.08.2011 from "Aviation" to "SEZ in existing Airport". A partial area of 8.92 Ha was de-notified vide Gazette Notification dated 24.03.2014 making the resultant notified area 93 (101.92-8.92) Ha, at present. The SEZ is currently operational and total no. of 17 units is working there. Total exports and imports of the SEZ for the last five financial years are ₹ 1,732 Cr. and ₹ 848 Cr, respectively.

M/s. GMR Hyderabad Aviation SEZ Limited has requested for partial de-notification of 3.22 Hectares out of 84.10 Hectares. As regards reasons for decrease, the Developer has mentioned in the application that the decrease in area is necessitated to provide domestic tariff area land to prospective companies to set up their manufacturing/Services facilities and currently non-Processing area is unused, and they would like to De-notify 3.22 Ha.

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 Telangana vide letter dated 11.03.2024 has conveyed their "No Objection" to the proposal. Further, it is stated that the Developer will abide by the following conditions:

1. 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 the land use guidelines/master plans of the respective State Government.

DC, VSEZ has certified that;

- a. The developer not availed any duties/taxes under the SEZ Act/Rules.
- b. The State Government has given its “No Objection Certificate” regarding de-notification of the above stated area of the SEZ.

In compliance of DoC’s Instruction No. 102 dated 18.11.2019 regarding contiguity condition and physical inspection, an Inspection Report has been provided by VSEZ. As per the report, Joint Physical Inspection was conducted on 16.02.2024 by DC, VSEZ along with DDC, VSEZ; Specified Officer and Mandal Revenue Officer/Tahsildar. It is noted that the area proposed to be de-notified is vacant and having no units in the said area. The area remaining after the proposed partial de-notification is contiguous meeting all requirements of area/built-up area in terms of SEZ Act and Rules and without any public thoroughfare.

Recommendation by DC, VSEZ: -

DC, VSEZ has recommended the proposal.

The above case was earlier submitted on-file for its consideration and approval. However, it was directed to move it to the BoA. Accordingly, the case is being placed before the BoA for its consideration.

120.14(iv) Request of M/s. Kerala State Information Technology Infrastructure Limited (KSITIL) for partial de-notification of 5.0609 Ha out of 7.4909 Ha of their IT/ITES SEZ at Muringur and Thekkumuri Villages, Chalakudy Taluk, Koratty Panchayat, Thrissur District, Kerala.

M/s. Kerala State Information Technology Infrastructure Limited was granted formal approval on 31.12.2013 for setting up of an IT/ITES SEZ at Muringur and Thekkumuri Villages, Chalakudy (formerly Mukundapuram) Taluk, Koratty Panchayat, Thrissur District, Kerala. It was later notified vide Gazette Notification dated 23.06.2014 over an area of 7.4909 Ha. Further, the SEZ is operational w.e.f. 21.04.2016 and the total 31 operational units are there. Total Exports and Imports of the SEZ for the last five financial years are ₹ 245.24 Cr. and ₹ 1.19 Cr., respectively.

M/s. KSITIL has requested for partial de-notification of 5.0609 Ha out of 7.4909 Ha. As regards reasons for decrease, the Developer has submitted the followings: -

- The proposed land is lying vacant since long.
- A proposal has been received from M/s. Karkions Health Care Pvt. Ltd for establishment of a Cancer care and Innovation Hub. Hence the Developer in its 59th Board meeting decided for de-notification of the vacant notified SEZ land area.

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: -

Sl. 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.	Coloured 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 Kerala vide letter dated 09.01.2024 has conveyed their 'No Objection' to the proposal. Further, it is informed that the de-notified land parcel would be utilized towards creation of infrastructure for Non SEZ activities. The land parcel after de-notification will conform to Land Use guidelines of Government of Kerala/master plans.

DC, CSEZ has certified that;

- There are no units in the SEZ land area proposed for de-notification.
- The Developer has not availed any Tax/Duty benefits under the SEZ Rules, in r/o the land being de-notified.
- The SEZ shall remain contiguous even after de-notification of the area of 5.0609 Ha.

In compliance of DoC's Instruction No. 102 dated 18.11.2019 regarding physical inspection and contiguity condition, an Inspection Report has been provided. The site was inspected by DC, CSEZ along with Land/Revenue Authorities. Further, DC has certified that the Developer has complied with the contiguity condition in terms of DoC's said Instruction.

Furthermore, remaining built-up area of the SEZ after the proposed de-notification would be 31,643 sq.mtrs which meets the built-up area requirement of 15,000 sq.mtrs in category 'C' cities. As regards land utilization after the proposed de-notification, it is informed that the proposed area will be allotted to M/s. Karkions Healt Care Pvt. Ltd. for establishment of a Cancer care and Innovation Hub.

Recommendation by DC, CSEZ:-

DC, CSEZ has recommended the proposal.

The above case was earlier submitted on-file for its consideration and approval. However, it was directed to move it to the BoA. Accordingly, the case is being placed before the BoA for its consideration.

120.14(v) Request of M/s. Kerala State Information Technology Infrastructure Limited (KSITIL) for partial de-notification of 11.4525 Ha out of 24.5313 Ha of their IT/ITES SEZ at Pallipuram Village, Cherthala Taluk, Alappuzha District, Kerala.

M/s. Kerala State Information Technology Infrastructure Limited was granted formal approval on 19.09.2008 for setting up of an IT/ITES SEZ at Pallipuram Village, Cherthala Taluk, Alappuzha District, Kerala. It was later notified vide Gazette Notification dated 08.06.2009 over an area of 24.531313 Ha. Further, the SEZ is operational w.e.f. 15.03.2012 and the total 23 operational units are there. Total Exports and Imports of the SEZ for the last five financial years are ₹ 55.94 Cr. and ₹ 0.03 Cr., respectively.

M/s. KSITIL for partial de-notification of 11.4525 Ha out of 24.5313 Ha. As regards reasons for decrease, the Developer has submitted the followings: -

- Due to the locational disadvantages IT companies are not interested to operate from the SEZ.
- Major IT exemptions for the Developer/units have been withdrawn by SEZ due to sunset clause 2020.
- No co-Developers are interested to take the vacant land area of the area SEZ as the demand for plug and play area is very low.
- Major portion of the existing IT building in the SEZ is lying vacant due to less demand.

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: -

Sl. 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.	Coloured 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
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The State Govt. of Kerala vide letter dated 17.11.2023 has conveyed their No-objection to the proposal. Further, it is informed that the de-notified land parcel would be utilized towards creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged. The land parcel after de-notification will conform to land use guidelines of Govt. of Kerala/ master plan.

DC, CSEZ has certified that;

- a. There are no units in the SEZ land area proposed for de-notification.
- b. The Developer had availed the following Tax/Duty benefits under the SEZ Act/Rules:
 - i. Rs. 71,345/- (Principal: ₹ 22,757 + Interest: ₹ 48,588) - duty/tax exemption availed for construction of compound wall.
 - ii. All Tax/Duty benefit indicated above have been refunded by the Developer to DC's satisfaction.
- c. The SEZ shall remain contiguous even after de-notification of the area of 10.0756 Ha.

In compliance of DoC's Instruction No. 102 dated 18.11.2019 regarding physical inspection and contiguity condition, an Inspection Report has been provided. The site was inspected by DC, CSEZ along with Land/Revenue Authorities. Further, DC has certified that the Developer has complied with the contiguity condition in terms of DoC's said Instruction.

Furthermore, remaining built-up area of the SEZ after the proposed de-notification would be 22,296 sq.mtrs which meets the built-up area requirement of 15,000 sq.mtrs in category 'C' cities. As regards land utilization after the proposed de-notification, it is informed that the proposed area will be allotted for non-SEZ units.

Recommendation by DC, CSEZ: -

DC, CSEZ has recommended the proposal.

The above case was earlier submitted on-file for its consideration and approval. However, it was directed to move it to the BoA. Accordingly, the case is being placed before the BoA for its consideration.

120.15: Request for co-developer status (7 proposals)

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

120.15(i) Request of M/s. Wynfra Cybercity LLP for grant of co-developer status in the Electronic Hardware and Software including IT/ITES SEZ of M/s. KGISL Infrastructure Private Limited located at Saravanampatti, Coimbatore.

1	Name of the Developer & Location	M/s. KGISL Infrastructures Private Limited (Formerly known as Coimbatore Hitech Infrastructure Private Limited) 365, KGISL Campus, Thudiyalur Road Saravanampatti, Coimbatore – 641 035 Tamil Nadu.
2	Date of LOA to Developer	No.F.2/110/2005-EPZ dated 20 th August, 2006.
3	Sector of the SEZ	Sector Specific Special Economic Zone for “Electronic Hardware and Software including IT/ITES”
4	Date of Notification	S.O.1936 (E) dated 9 th November, 2006 S.O.1558 (E) dated 17 th September, 2007 S.O.1060 (E) dated 28 th April, 2009
5	Total notified area (in Hectares)	51.25.5 Hectares
6	Whether the SEZ is operational or not	Yes. SEZ is operational
	(i) If operational, date of operationalization	Since September,2009
	(ii) No. of Units	44 Units
	(iii) Total Exports & Imports for the last 5 years (Rs.in Cr)	Exports Rs. 21,741.83 Crores
	(iv) Total Employment (In Nos.)	38,000 Employment
7	Name of the proposed Co-Developer	M/s. WYNFRA CYBERCITY LLP 365, KGISL Campus, Thudiyalur Road Saravanampatti, Coimbatore – 641 035 Tamil Nadu
8	Details of the infrastructure facilities/ authorised operations to be undertaken by the co-developer	<ul style="list-style-type: none"> • Office space • Food Services including Cafeteria, food court(s), coffee shops, canteens and catering facilities.
9	Total area on which the activities are to be performed by the co-developer	1.89.50 Hectares
10	Proposed amount of investment by the Co-developer (in Rs. crore)	Rs.400 Crores (note below may be seen)
11	Net worth of the Co-developer (in Rs. crore)	Rs. 128 Cr. (note below may be seen)
12	Date of the Co-Developer Agreement	8 th April, 2024

Note: - As regards proposed investment and net-worth, the applicant has submitted that M/s. WYNFRA CYBERCITY LLP is a joint venture between M/s. KGISL Infrastructure Pvt. Ltd. and M/s. BNR Infrastructure Projects Pvt. Ltd. and it was incorporated on 13.08.2023. They have planned to invest Rs. 400 crores in a phased manner as detailed below: -

Proposed investment details: -

S. No.	Particulars	Amount (Rs. in Crores)
1.	Equity Capital	50 Cr.
2.	Term Loan	250 Cr.
3.	Other Sources	100 Cr.
Total proposed investment		400 Cr.

Net worth details of the JV Companies: -

S. No.	Name of the partner Company	Amount (Rs. in Crores)
1.	KGISL Infrastructure Private Limited	72.86 Cr.
2.	BNR Infrastructure Projects Private Limited	55.14 Cr.
Total Net worth		128 Cr.

Recommendation by DC, MEPZ SEZ: -

DC, MEPZ SEZ has recommended the proposal.

120.15(ii) Request of M/s. Shivalik SEZ Projects LLP, Ahmedabad for approval as Co-Developer within the processing Area in GIFT-Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. GIFT SEZ Limited.

1	Name of the Developer & Location	M/s. GIFT SEZ Limited, Gandhinagar, Gujarat.
2	Date of LoA to Developer	07-01-2008
3	Sector of the SEZ	Multi-services-SEZ
4	Date of Notification	18-08-2011
5	Total notified area (in Hectares)	105.4386 Hectares
6	Whether the SEZ is operational or not	SEZ operational
	(i) If operational, date of operationalization	21-04-2012
	(ii) No. of Units	673
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 42649.00 Imports - 36786.00
	(iv) Total Employment (In Nos.)	5935
7	Name of the proposed Co-developer	M/s. Shivalik SEZ Projects LLP, Ahmedabad

8	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Development, construction, maintenance, and operation of commercial building in Block-13 in the processing area.
9	Total area (in Hectares) on which activities will be performed by the co-developer	47379.54 square meters.
10	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 376.77 crores (note below may be seen)
11	Net worth of the Co-developer (Rs. in Cr.)	Rs. 157.77 crores (note below may be seen)
12	Date of the Co-developer agreement	01-02-2024

Note: - As regards proposed investment and net-worth, the applicant has submitted that the financing for the project shall through multi-faceted funding approach, viz. through borrowing unsecured loans from third parties, friends, relatives leveraging the group's established relationships & network with the financial community.

The above proposal was earlier considered in the 119th meeting of the BoA for SEZs held on 06.03.2024. The Board has observed some deficiencies in the proposal and after deliberations, deferred the proposal with directions to DC, KASEZ/GIFT SEZ to seek details from the applicant viz. their plan with regard to financial closure, arrangement of money, funding of the project, break-up of equity to debt etc.

In compliance of the above direction, the applicant, viz. M/s. Shivalik SEZ Projects LLP, Ahmedabad, vide their letter dated 21-03-2024 has given financial aspects of the proposed project, as against the projected investment of Rs. 376.77 crores, they have confirmed financing upto Rs. 407.70 crores supported with certificate from Chartered Accountant. The details are as below: -

Sr. No.	Particulars	Amount (Rs. in crores)
1	Projected cost/proposed investment	376.77

Sr. No.	Particulars of funding by promoters, group entities net worth and proposed equity stake holders	Amount (Rs. in crores)
1	Net worth of the promoters and group companies	157.77
2	Proposed equity stake holders	
	a. Contribution already received	39.39
	b. Contribution yet to be received	140.54
	Total contribution	179.93
3	Secured line of credits from Banks	70.00
	Grand Total	407.70

Recommendation by DC, GIFT SEZ: -

In view of the above financial clarification for the proposed project, DC, GIFT SEZ has re-submitted the proposal of M/s. Shivalik SEZ Projects LLP, Ahmedabad as a Co-Developer, development, construction, maintenance, and operation of commercial building in Block-13 within the processing area in GIFT-SEZ, Gandhinagar.

120.15(iii) Request of M/s. ACubetech Solutions Private Limited for Co-developer status in M/s. ELCOT, Multi-Sector SEZ at Village Viswanathapuram, Hosur Taluk, Krishnagiri District, Tamil Nadu.

1	Name of the Developer & Location	Electronics Corporation of Tamil Nadu Limited, Viswanathapuram Village, Hosur Taluk, Krishnagiri District, Tamil Nadu – 635 109.
2	Date of LoA to Developer	26/7/2007
3	Sector of the SEZ	Multi – Sector
4	Date of Notification	04/05/2009
5	Total notified area (in Hectares)	70.01 Hectares
6	Whether the SEZ is operational or not	Operational
	(i). If operational, date of operationalization	03-02-2020
	(ii). No. of Units	11
	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	Total Exports – 6.52 Crore including deemed exports
	(iv). Total Employment (In Nos.)	58 Numbers
7	Name of the proposed Co-developer	ACubetech Solutions Private Limited
8	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	To create, operate and maintain Infrastructure facilities within the Zone.
9	Total area (in Hectares) on which activities will be performed by the co-developer	0.7851
10	Proposed investment by the Co-developer (Rs. in Cr.)	INR 10.56 Crores (note below may be seen)
11	Net worth of the Co-developer (Rs. in Cr.)	INR 3.61 Crores (note below may be seen)
12	Date of the Co-developer agreement	06.03.2024

Note: - The applicant has provided the following details in respect of their source of funding for the proposed investment: -

S. No.	Source of funding	INR in Crores
1.	Additional Share capital infusion from the Promoters being planned	6.95 Cr.
2.	Existing reserves available with the company & other internal sources – as per the Net worth certificate	3.61 Cr.
Total		10.56 Cr.

Recommendation by DC, MEPZ SEZ: -

DC, MEPZ has recommended the proposal for the consideration of the BoA.

120.15(iv) Request of M/s. WOLP II Warehouse VA Private Limited for Co-developer status in M/s. Jawaharlal Nehru Port Authority, a Multi-sector SEZ at Administration Building, Nhava Sheva, Taluka Uran, Navi Mumbai.

1	Name of the Developer & Location	M/s. Jawaharlal Nehru Port Authority. Administration Building, Nhava Sheva, Taluka Uran, Navi Mumbai – 400707.		
2	Date of LOA to Developer	F.1/4/2010-SEZ Dated: 16.07.2014.		
3	Sector of the SEZ	Multi-Product / Multi-Sector SEZ		
4	Date of Notification	S.O. (E) Dated 11.08.2014.		
5	Total Notified area (in Hectares)	277.38 Ha.		
6	Whether the SEZ is operational or not	Operational SEZ		
	i. If operational, date of Operationalization	24.06.2020		
	ii. No. of Units	61 Units		
	iii. Total Exports & Imports for the last 5 years (Rs. In Cr.)		Import (Rs. In Cr.)	Export (Rs. In Cr.)
		2020-21	40	02
		2021-22	189	43
		2022-23	599	203
		2023-24	9403	5024
		Total :	10231	5272
	iv. Total Employment (In Nos.)	772 Nos. (Direct + Indirect)		
7	Name of the proposed Co-Developer	M/s. WOLP II Warehouse VA Private Limited		

8	Details of Infrastructure facilities / authorized operations to be undertaken by the Co-developer	Multi-Sector (i.e. Construction of buildings and creation of infrastructure for SEZ/FTWZ units, with default authorized operations as per MOCI Instruction No. 50 dated 15.03.2010.)
9	Total area (in Hectares) on which activities will be performed by the Co-developer	4.080 Ha. (40806 Sq.mtrs.)
10	Proposed investment by the by the Co-developer (Rs. In Cr.)	Rs. 109.48 Crores
11	Net Worth of the Co-developer (Rs. In Cr.)	Rs. 3778 Crores
12	Date of the Co-developer agreement	21.03.2024

Recommendation by DC, SEEPZ SEZ: -

DC, SEEPZ has recommended the proposal for the consideration of the BoA.

120.15(v) Request of M/s. WOLP II Warehouse VIA Private Limited for Co-developer status in M/s. Jawaharlal Nehru Port Authority, a Multi-sector SEZ at Administration Building, Nhava Sheva, Taluka Uran, Navi Mumbai.

1	Name of the Developer & Location	M/s. Jawaharlal Nehru Port Authority. Administration Building, Nhava Sheva, Taluka Uran, Navi Mumbai – 400707.		
2	Date of LOA to Developer	F.1/4/2010-SEZ Dated: 16.07.2014.		
3	Sector of the SEZ	Multi-Product / Multi-Sector SEZ		
4	Date of Notification	S.O. (E) Dated 11.08.2014.		
5	Total Notified area (in Hectares)	277.38 Ha.		
6	Whether the SEZ is operational or not	Operational SEZ		
	i. If operational, date of Operationalization	24.06.2020		
	ii. No. of Units	61 Units		
	iii. Total Exports & Imports for the last 5 years (Rs. In Cr.)		Import (Rs. In Cr.)	Export (Rs. In Cr.)
		2020-21	40	02
		2021-22	189	43
		2022-23	599	203
		2023-24	9403	5024
		Total :		10231

	iv. Total Employment (In Nos.)	772 Nos. (Direct + Indirect)
7	Name of the proposed Co-Developer	M/s. WOLP II Warehouse VIA Private Limited
8	Details of Infrastructure facilities / authorized operations to be undertaken by the Co-developer	Multi-Sector (i.e. Construction of buildings and creation of infrastructure for SEZ/FTWZ units, with default authorized operations as per MOCI Instruction No. 50 dated 15.03.2010.)
9	Total area (in Hectares) on which activities will be performed by the Co-developer	18.162 Ha. (1,81,625 Sq.mtrs.)
10	Proposed investment by the by the Co-developer (Rs. In Cr.)	Rs. 519.37 Crores
11	Net Worth of the Co-developer (Rs. In Cr.)	Rs. 3778 Crores
12	Date of the Co-developer agreement	21.03.2024

Recommendation by DC, SEEPZ SEZ: -

DC, SEEPZ has recommended the proposal for the consideration of the BoA.

120.15(vi) Request of M/s. Bakeri Spaces LLP, Ahmedabad for approval as Co-Developer within the processing Area in GIFT-Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. GIFT SEZ Limited.

1	Name of the Developer & Location	M/s. Gujarat International Finance Tec-City Company Limited, Gandhinagar, Gujarat.
2	Date of LoA to Developer	07-01-2008
3	Sector of the SEZ	Multi-services-SEZ
4	Date of Notification	18-08-2011, revised by 06-07-2023
5	Total notified area (in Hectares)	105.4386 Hectares
6	Whether the SEZ is operational or not	SEZ operational
	(i) If operational, date of operationalization	21-04-2012
	(ii) No. of Units	673
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 42649.00 Imports - 36786.00
	(iv) Total Employment (In Nos.)	5935
7	Name of the proposed Co-developer	M/s. Bakeri Spaces LLP, Ahmedabad

8	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	For development of commercial project on Plot Nos. 14-D, 14-E, in Block No. 14 over land area admeasuring 4677 square meters, for 9,50,000 square feet built-up area.
9	Total area (in Hectares) on which activities will be performed by the co-developer	4677 square meters.
10	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 565.87 crores (note below may be seen)
11	Net worth of the Co-developer (Rs. in Cr.)	Rs. 223.59 crores (note below may be seen)
12	Date of the Co-developer agreement	19-04-2024

Note: - The co-developer in the above proposed project has projected an investment of Rs. 565.87 crores against the net worth of the promoters at Rs.223.59 crores. In this regard, the applicant i.e., M/s. Bakeri Spaces LLP, has clarified that the financing for the project shall through their existing projects/other sources, promoters funds, bank loans around Rs. 600.00 crores.

Recommendation by DC, GIFT SEZ: -

In view of the increase in economic activity and other developments at GIFT-SEZ, Gandhinagar, DC, GIFT SEZ has recommends the proposal of M/s. Bakeri Spaces LLP, Ahmedabad as a Co-Developer, for development of commercial building on Plot Nos. 14-D, 14-E, in Block No. 14 over land area admeasuring 4677 square meters, for 9,50,000 square feet built-up area within the processing area in GIFT-SEZ, Gandhinagar.

120.15(vii) Request of M/s. Monarch Skyline for Co-developer status in M/s. Adani Ports and Special Economic Zone, Mundra.

1	Name of the Developer & Location	Adani Ports and Special Economic Zone Ltd. [APSEZL] Adani Corporate House Near Vaishno Devi Circle, S. G. Highway, Khodiyar Ahmedabad 382 421
2	Date of LoA to Developer	F.2/11/2003-EPZ dated 12.04.2006
3	Sector of the SEZ	Multi-Product SEZ
4	Date of Notification	Combined Notification dated 21.09.2016 and subsequent notification dated 04.07.2019, 29.11.2021, & 21.09.2022
5	Total notified area (in Hectares)	8234.1840 Hectares
6	Whether the SEZ is operational or not	Yes
	(i). If operational, date of operationalization	03-09-2008
	(ii). No. of Units	59

	(iii). Total Exports & Imports for the last 5 years (Rs. in Cr.)	2019-2020 to 2023-2024 Export- INR 55,531.72 Cr. Approx. Import- INR 1,25,909.36 Cr. Approx..
	(iv). Total Employment (In Nos.)	26325 approx.
7	Name of the proposed Co-developer	M/s. Monarch Skyline 27, 27, 28 Plot No 4 and 6, Fairmount Premises, Sector 17, Palm Beach Road, Sanpada, Navi Mumbai, Thane, Maharashtra-400705
8	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Develop, Operate and maintain a Hotel and service apartment, multi cuisine coffee shop, recreational and entertainment facilities speciality restaurant and convention centre with related facilities (Rooms, Reception Center, Travel Desk, Bar, Banquet Hall/Conference Hall, Gym, and Spa) in the APSEZ, Mundra
9	Total area (in Hectares) on which activities will be performed by the co-developer	0.404686 Hectares
10	Proposed investment by the Co-developer (Rs. in Cr.)	5 Crore
11	Net worth of the Co-developer (Rs. in Cr.)	4.70 Crore as on 21.12.2023
12	Date of the Co-developer agreement	28.05.2024

Recommendation by DC, APSEZ: -

Keeping in view the lack of hotel and recreational facilities in Mundra Township, including nearby areas, and the future requirements for the proposed activities/developments in APSEZ, such facilities are needed.

As per the records available, it is observed that there is only one Hotel is running in the APSEZ area. However, two other firms namely M/s. Eon Hinjewadi Infrastructure Pvt. Ltd. & M/s. DB Hospitality Pvt Ltd. had also been given the co-developer status in the year 2009 to develop the Hotels and its related facilities under Rule 3A of the SEZ rules 2006, but they are yet to develop the same as informed by the Developer to O/o the APSEZ.

It is pertinent to mention here that the approval granted to aforesaid two co-developers who had not commenced the operations would be reviewed under next UAC.

In view of the above, a luxury hotel like application submitted by the applicant is required citing the involvement of multiple stake holder their continuous visits at this port & SEZ.

Therefore, the proposal is recommended for approval.

120.16: Request for increase in area by Co-developer (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.

120.16(i) Request of the co-developer M/s. Brigade (Gujarat) Projects Private Limited, Bengaluru for additional area approved for Building No.14-B in Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. GIFT SEZ Limited.

1	Name of the Developer & Location	M/s. Gujarat International Finance Tec-City Company Limited, Gandhinagar, Gujarat.
2	Date of LoA to Developer	07-01-2008
3	Sector of the SEZ	Multi-services-SEZ
4	Date of Notification	18-08-2011, revised by 06-07-2023
5	Total notified area (in Hectares)	105.4386 Hectares
6	Whether the SEZ is operational or not	SEZ operational
	(i) If operational, date of operationalization	21-04-2012
	(ii) No. of Units	673
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	Exports – 42649.00 Imports - 36786.00
	(iv) Total Employment (In Nos.)	5935
7	Name of the proposed Co-developer	M/s. Brigade (Gujarat) Projects Private Limited, Bengaluru.
8	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	To develop, maintain and operate office building No. 14-B for units to undertake export of services in the processing area of GIFT-SEZ.
9	Total area (in Hectares) on which activities will be performed by the co-developer	2,60,000 square feet (already approved vide DoC's letter dated 02-09-2016, now addition of 1,16,000 square feet sought for approval, thus after approval the total area shall 3,76,000 square feet.
10	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 110.00 crores (note below may be seen)
11	Net worth of the Co-developer (Rs. in Cr.)	Rs. 44.77 crores (note below may be seen)

12	Date of the Co-developer agreement	12-04-2016 & 18-04-2024
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Note: - The co-developer in the above proposed project has projected an investment of Rs. 111.00 crores against the net worth of the promoters at Rs. 44.77 crores. In this regard, the Co-developer i.e., M/s. Brigade (Gujarat) Projects Private Limited, has clarified that the financing for the project shall through their parent company viz. M/s. Brigade Enterprises Limited in the form of equity share capital, compulsory convertible preference share, fully convertible debentures, loans. The net worth of the parent company is Rs. 3,143.69 crores as on 31-03-2023.

Recommendation by DC, GIFT SEZ: -

The above applicant's first approved project in GIFT-SEZ on Plot No. 14-A is occupied by approved SEZ units. In view of the increase in economic activity and other developments at GIFT-SEZ, Gandhinagar, DC, GIFT SEZ has recommended the proposal of the Co-developer M/s. Brigade (Gujarat) Projects Private Limited, Bengaluru, for addition of 1,16,000 square feet of built-up, taking the built-up area to total of 3,76,000 square feet, subject to approval by the Board of Approval.

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

120.17(i) Request of M/s. State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT) Industrial Park, Bargur, Krishnagiri District, Tamil Nadu for extension of validity of LOA in respect of Multi Sector SEZ for Granite Processing at Bargur.

Name of the Developer	:	M/s. State Industries Promotion Corporation of Tamil Nadu Ltd., (SIPCOT)
Sector	:	Multi-sector
Location	:	Bargur, Uthangarai and Pochampalli Taluk, Krishnagiri District, Tamil Nadu
LoA Issued on (date)	:	10.03.2010 and stands notified over an area of 60.71 Ha.
No. of Extension	:	7 extensions (one year at a time)
LoA Valid upto (date)	:	31.03.2024
Request	:	Extension of validity of formal approval from 31.03.2023 to 31.12.2029

Present Progress:

a. Details of Business Plan :

S. No	Type of Cost	Proposed Investment (₹ in Crore)
	Land Cost	2.95
	Development work Cost (As per Execution)	25.69
	Layout approval	0.23
	Providing sign boards	0.15
	Total Cost	29.02

b. Incremental investment since last extension :

S. No	Type of Cost	Total investment made so far (₹ in Crore)	Incremental investment since last extension
1	Land Cost	2.95	-
2	Development work Cost (As per final bill)	25.69	-
3	Layout approval (Paid to DTCP)	0.23	-
4	Providing sign boards	0.15	-
	Total Cost	29.02	-

c. Details of Physical progress till date :

S. No	Authorized Activity	% of Completion	% of Completion During last one year	Deadline for completion of balance work
1	Development work Cost (As per final bill)	95%	100%	-
2	Layout approval	100%	100%	-
3	Providing sign boards	100%	100%	-
4	Any other, specify	-	-	-

Reasons for delay: The Developer has stated that due to introduction of Minimum Alternate Tax and Dividend Distribution Tax (DDT) by GoI, industries are reluctant to take up lands in SEZ and their proposed project in SEZ are not viable when compared to DTA besides low demand due to general industrial recession. However, they are taking all the necessary effective steps to operationalize the SEZ. Further, they have developed all infrastructures like internal roads, water supply system, street lights and compound wall at a cost of 26.07 Crore.

Further, out of total 60.71 Ha (149.95 acres) of present notified SEZ area, saleable area is 85.57 acres (after reducing road, customs buildings, OSR). In this saleable area they have so far allotted 60.23 acres of Industrial Plots to 8 Nos. of companies for setting up their Industrial Unit in SEZ format.

The balance vacant Industrial Plot area is 25.34 acres only. Out of 8 No's of Allotments made two No's of companies allotted in the year 2021 and as per developer started their construction and it will complete in 2024 and two No's of companies allotted in the year 2023 and as per developer started their construction and it will complete in 2026. And, Four No's of companies allotted in this year of 2024 and developer has ensured that they start their commercial production within the stipulated time.

Recommendation by DC, MEPZ: -

DC, MEPZ has recommended the proposal for extension of formal approval of LoA for further period of one year w.e.f. 01.04.2024 to 31.03.2025.

120.18: Request for extension of LoA of Unit (2 proposals)

Rule position:

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

120.18(i) Request of M/s. Biocon Biosphere Limited, a unit in Biocon Limited Special Economic Zone, Bangalore for extension of validity of Letter of Approval for a further period of one year from 12.06.2024 to 11.06.2025 (4th Extension).

LoA issued on (date) : 12.06.2020
Nature of business of the Unit : Manufacture and export of Diabetes, Multiple Sclerosis, Cyclic Lipopeptide Antibiotics, Invasive Candidiasis – Cartridg and Vial Line
No. of extensions granted : 3 extensions by DC, CSEZ
LoA valid upto (date) : 11.06.2024
Request of the unit : Extension of validity of LoA for a further period of one year from 12.06.2024 to 11.06.2025.

Present Progress:

a. Details of Business plan:

Sl. No.	Description	Proposed Investment (Rs. in Crore)
1	Land	On lease
2	Compound Wall	1.00
3	Machinery	278.00
4	Other statutory fees etc.	1.00

5	Investment on facilities/Building (Proposed & Planned)	80.00
Total		360.00

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

Sl. No.	Description	Total investment (Rs in Crore)	Investment till last extension – 11 th June 2023 (Rs in Crore)	Incremental Investment since last extension (12 th June 2023 to till date (Rs in Crore)
1	Land (on lease)	NIL	NIL	Nil
2	Civil Building & Compound Wall	4.50	0.30	4.20
3	Machinery	54.00	3.50	50.50
4	Other statutory fee etc.		0.00	0.00
Total		58.50	3.80	54.70

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

Sl. No.	Activity	% Completion	% Completion during last one year (till 11.06.2023)	Deadline for completion of balance work
1	Sign off Engineering document for BBSL – Injectable plant	100	80	06.07.2023
2	Sign-off architectural layout documents for injectable Plant	95	60	22.12.2023
3	Sign-off major equipment layout for Plant	100	100	06.07.2023
4	Substructure & Super structure completion for Plant	33	2	27.07.2024
5	Mechanical Completion	5	1	10.01.2025
6	I Qualification completion	NIL	NIL	10.01.2025
7	Equipment Trial Run	NIL	NIL	30.06.2025
8	Performance Trial Batches	NIL	NIL	31.07.2025
9	Commercial Batches	NIL	NIL	31.12.2025

Detailed reasons for delay: -

- The project was initiated during 2020, however, the delay in starting the project mainly due to the Covid situations. Change in the preferences has been observed in the healthcare sector during the Covid-19 pandemic. As the corona virus infected people across the world, services of healthcare professionals including equipment manufacturers majorly diverted the funds for the treatment of patients infected, which affected the production of generic injectable thereby affected the growth of the market.
- Delay in implementation of the project was on account of product mix change and changing global strategic environment.
- The Developer has allotted land area admeasuring 51667 sq.ft. to the firm for setting up the unit. During site inspection, it was noticed that they have completed Civil works (Pillar/Slab structure) for Ground and First Floors and civil work in respect of third floor is under progress,
- Out of the total estimated project cost of Rs.360.00 crore, they have made an investment of Rs.58.50 crore towards **construction of building and advance payment for some machinery**. Further, they have issued purchase requisitions/Purchase Orders to the tune of Rs.220.00 crore for machineries and on arrival of the same, they will make the payment.

Recommendation by DC, CSEZ: -

Considering the investment made by the unit, and their initiate for procurement of machinery and the Purchase orders issued to the supplier, the request for extension of validity of Letter of Approval for a further period of one year (4th extension) from 12.06.2024 to 11.06.2025 is recommended for consideration of the BoA.

120.18(ii) Request of M/s. Amiga Informatics Pvt. Ltd, a Unit in NSEZ, for extension of the validity of LoA beyond 3rd Year onwards.

LoA Issued on (date) : 20.02.2018
Nature of business of the unit : (i) Manufacturing of readymade garments (ITC HS Code 6210) (Production Capacity: 1,50,000 pieces/annum); (ii) Job-work activity under Rule 41(1) on behalf of M/s. eShakti.com Pvt. Ltd.” as amended vide letter dated 24/02/2020.

Initially LOA was issued for ‘IT Enabled Services and BPO’. Later the sector/authorized operations were changed to “Textile & Garments” as above.

No. of Extensions : 02 (two) extensions by DC, NSEZ
LoA Valid upto (date) : 19.02.2021
Request : Regularization of LOA for three years (from 20.02.2021 to 19.02.2024) and its further extension

Detailed reasons for delay:

(i) The Unit has stated that they started business in July 2011 in Export/IT/Skill etc sectors. Since they took over the building through auction from Punjab National Bank, they had to complete refurbishment of the building as it was in very bad shape and not in working condition for over 15 years by the previous User. LOA No 05/02/2018-Proj/1830 dated 20/02/2018 was issued to them for IT Enabled Services and BPO and later on dated 24/02/2020 LOA was amended for Manufacturing of readymade garments. LOA was valid till 19/02/2021.

(ii) At the time of pandemic (Corona time), they hadn't started the Manufacturing of readymade garments business due to bad situation and their contract agreement with parties were null and void and we faced business loss, so they were not in a situation to start business at NSEZ unit.

(iii) And when Covid situations were normalized, then Amiga Informatics again applied for extension of LOA for IT Enabled Services and BPO services, which was their core business and they have been doing IT Enabled Services and BPO services for more than the last 10 years. And still they are running the same IT business from their own unit at A-43, Sector 64, Noida office. So they always wanted to run the office from the SEZ unit but the updated LOA was not allotted to them.

Present progress:

(a) Details of Business plan

S. No.	Type of Cost	Total Proposed Investment (Rs. in Crore)
1	25 Personal Computers	0.17
2	1 Server	0.02
3	Furniture	0.10
4	Electricals for IT	0.10
5	Building	1.50
6	Building Renovation	0.15
7	Work Station	0.10
	Total	2.14

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

S. No.	Type of Cost	Total Investment made so far (Rs. in Crore)	Incremental Investment since last extension (Rs. In Crore)
1	Building	1.50	1.50
	Total	1.50	1.50

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

Sl. No.	Activity	Deadline for completion of balance work
1	25 Personal Computers	Within 10 days from renewal of LOA
2	1 Server	Within 10 days from renewal of LOA
3	Furniture	Within 10 days from renewal of LOA
4	Electricals for IT	Within 10 days from renewal of LOA
5	Building Renovation	Within one month from renewal of LOA
6	Work Station	Within one month from renewal of LOA

Additional information: -

DC, NSEZ has informed that the Unit was issued a Show Cause Notice dated 16/01/2024 under Foreign Trade (Development & Regulation) Act, 1992 and for contravention of conditions of LoA and violations of SEZ Act & Rules by doing business and raising invoice without having valid LOA and authorized operations included in the LOA.

The said SCN was adjudicated vide Order in Original dated 27.02.2024 and a penalty of Rs. 50,000/- was imposed upon the unit. The unit had deposited the amount vide Demand Draft No. 521772 dated 21.03.2024 amounting to Rs. 50,000/- in O/o the NSEZ.

Thereafter, complete updated facts, including SCN issued/adjudication done were placed before the Approval Committee in its meeting held on 29/04/2024. The Approval Committee observed that the instant proposal is for 4th, 5th, 6th & 7th year extension in the validity of LOA, beyond 19/02/2021 and now the matter does not fall within the ambit of DC, NSEZ under Rule 19(4) of SEZ Rules, 2006. Hence, the Competent Authority for consideration of any further extension in this case is Board of Approval.

Recommendation by DC, NSEZ:-

Keeping in view the investment in building by the unit, the proposal for regularization of LOA for three years (from 20.02.2021 to 19.02.2024) and its further extension upto 19/02/2025 is recommended.
