

Supplementary Agenda for the 48th meeting of the Board of Approval to be held on 19th September, 2011 at 10.30 A. M. in the Room No. 47, Udyog Bhawan

Item No. 48.1: Request for first extension of validity of formal approvals

(i) Request of M/s. Enfield Energy Limited for extension of the validity period of formal approval, granted for setting up of sector specific SEZ for non-conventional Energy including Solar Energy Equipment/Cell at Kanksa, Panagar, District Burdwan, West Bengal, beyond 25th June, 2011.

Item No. 48.2: Delayed requests for first extension of formal approval

(i) Request of M/s. Enfield Realtors Limited for extension of the validity period of formal approval, granted for setting up of sector specific SEZ for Non-conventional Energy including Solar Energy Equipment/Cell at Kanksa, Panagarh, District Burdwan, West Bengal, beyond 22nd May, 2010.

The developer was granted formal approval for setting up the above mentioned SEZ, over an area of 10 hectares, vide LoA dated 23rd May, 2007. The SEZ was notified on 24th March, 2011 over an area of 10.28 hectares. The validity of the formal approval has already expired on 23rd May, 2010. The developer has made delayed request for seeking extension up to 22nd May, 2012. The developer has not given any reasons for delay in extension. As regards reasons for seeking extension, the developer has stated that formalities for conversion of land is in progress and the project IEM and master planning is in process. DC, FSEZ has recommended the request of the developer. In this case BoA is to consider granting two years extension w.e.f. 23rd May, 2010.

The request of the developer for extension of the validity of formal approval is placed before the BoA.

(ii) Request of M/s. Enfield Infrastructure Limited for extension of the validity period of formal approval, granted for setting up of sector specific SEZ for IT/ITES at Chandpur Champagachi, near Rajarhat District, 24 Parganas (N), West Bengal, beyond 22nd May, 2010.

The developer was granted formal approval for setting up the above mentioned SEZ, over an area of 20 hectares, vide LoA dated 23rd May, 2007. The SEZ is yet to be notified. The validity of the formal approval has already expired on 23rd May, 2010. The developer has made delayed request for seeking extension up to 22nd May, 2012. The developer has not given any reasons for delay in extension. As regards reasons for seeking extension, the developer has stated that Mutation of land and other land related clearance from the State Government is still pending. DC, FSEZ has recommended the request of the developer. In this case BoA is to consider granting two years extension w.e.f. 23rd May, 2010.

The request of the developer for extension of the validity of formal approval is placed before the BoA.

(iii) Request of M/s. Enfield Infrastructure Limited for extension of the validity period of formal approval, granted for setting up of sector specific SEZ for IT/ITES at Mouza – Uttar Gazipur, South 24 Parganas, West Bengal, beyond 14th October, 2010.

The developer was granted formal approval for setting up the above mentioned SEZ, over an area of 16 hectares, vide LoA dated 15th October, 2007. The SEZ is yet to be notified. The validity of the formal approval has already expired on 15th October, 2010. The developer has made delayed request for seeking extension up to 14th October, 2012. The developer has not given any reasons for delay in extension. As regards reasons for seeking extension, the developer has stated that Mutation of land and other land related clearance from the State Government is still pending. DC, FSEZ has recommended the request of the developer. In this case BoA is to consider granting two years extension w.e.f. 15th October, 2010.

The request of the developer for extension of the validity of formal approval is placed before the BoA.

Item No. 48.3: Requests for second extension of validity of formal approvals

(i) Request of Andhra Pradesh Industrial Infrastructure Corporation Limited (APIIC) for second extension of the validity period of formal approval, granted for setting up of sector specific SEZ for IT/ITES at Madikonda village, Hanamkonda Mandal, Warangal District, Andhra Pradesh, beyond 25th June, 2011

The developer was granted formal approval for setting up the above mentioned SEZ, over an area of 14.32 hectares, vide LoA dated 26th June, 2007. The SEZ was notified on 12th December, 2007 over an area of 14.50 hectares. The developer has been granted first extension of the formal approval, the validity of which was up to 25th June, 2011. The developer given the details of the steps taken towards implementation of the project and has stated that the as Warangal district being a Economically and industrially backward area, expected demand has not been materialized from the unit holders. Further, the State Government is taking measures to assist the units which have come up in this IT sector to implement their projects at the earliest. Therefore, it may take some more time for coming up of IT units in this sector. The developer has, therefore, requested for two years extension w.e.f. 25th June, 2011. DC, VSEZ, has recommended grant of further extension for a period of one year.

The request of the developer for grant of second extension of the validity of formal approval is placed before the BoA.

(ii) Request of State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT) for second extension of the validity period of formal approval, granted for setting up of sector specific SEZ for Engineering goods at SIPCOT Industrial Complex, Ranipet, Phase – III, Tamil Nadu, beyond 29th July 2011

The developer was granted formal approval vide LoA dated 30th July, 2007. The SEZ was notified on 27th November, 2007 over an area of 104.76 hectares. The developer has been granted first extension of the formal approval, the validity of which was up to 29th July, 2011. The developer given the details of the steps taken towards implementation of the project and has requested for further extension. The developer has stated that due to global recession the units

could not take up their projects and start commercial production. The developer has however stated that the commercial production is expected in the year 2012. DC, MEPZ has recommended the request of the developer.

The request of the developer for grant of second extension of the validity of formal approval is placed before the BoA.

Item No.48.4: Request for third extension of validity of formal approvals

(i) Request of M/s. Jubilant Infrastructure Limited for third extension of the validity period of formal approval, granted for setting up of sector specific SEZ for Chemicals at Bharuch, Gujarat, beyond 20th August 2011

The developer was granted formal approval for setting up the above mentioned SEZ, over an area of 100 hectares, vide LoA dated 21st August 2006. The SEZ was notified on 11th February 2008 over an area of 107.16.50 hectares. The developer has already been granted two extensions. The validity of the last extension is up to 20th August, 2011. The developer has given the details of the steps taken towards implementation of the project and has stated that so far Rs. 129.2 crores have been invested in the project and the SEZ is likely to be operational by October, 2011. DC, KASKEZ has recommended the request of the developer stating that the developer has completed most of the infrastructure related work and one of the units has even started commercial production w.e.f. 10.08.2011.

The request of the developer for grant of third extension of the validity of formal approval is placed before the BoA.

Item No. 48.5: Request for Authorized Operations

(i) Request of M/s Divi's Laboratories Ltd. for authorized operations in the sector specific SEZ for Pharmaceuticals at Chippada village, Bhimili Mandal, Visakhapatnam, Andhra Pradesh

The above mentioned SEZ stands notified over an area of 132.643 hectares. The developer has requested for the following authorized operations in the **non-processing area** of the SEZ:-

S. No.	Authorized Operations	No of Units	Area per unit (in sqm) as per FSI/FAR norms as applicable	Total area (in sqm)
(1)	(2)	(3)	(4)	(5)
1.	Employee Hostels	400	9	3600
2.	Dining Halls	2	288	576
3.	Recreation Halls	2	216	432
4.	Community Stores	2	72	144
5.	Warden room	2	9	18
6.	Common Areas (Stairs, Toilets, Corridors, Sewage)			7200
			Total	11970

DC VSEZ has recommended the request of the developer. The request of the developer is placed before the BoA for consideration.

Item No. 48.6: Request for de-notification

(i) Request of M/s. Omnibus Industrial Development Corporation of Daman & Diu and Dadra & Nagar Haveli Limited for de-notification of the sector specific SEZ for Gems & Jewellery at Kharadpada, Naroli, Dadra & Nagar Haveli, notified over an area of 10.30 hectares

The above mentioned SEZ was notified on 10th June, 2009 over an area of 10.30 hectares. Now, the developer has requested for de-notification of the SEZ stating that the SEZ would not be viable as Diamond industry at Surat has not succeeded. The developer has also informed that no duty benefits have been availed. DC, SEEPZ SEZ, has recommended the request of the developer.

The request of the developer for de-notification of SEZ is placed before the BoA for consideration.

Item No. 48.7: Approval of list of goods to be imported for authorized operations and default operations at the sector specific SEZ for chemicals at Vilayat, Taluka Vagra, Dist. Bharuch, Gujarat being developed by M/s. Jubilant Infrastructure Limited

The SEZ was notified on 11th February, 2008 over an area of 107.16.50 hectares. In the BoA meeting held on 16th May, 2008, the developer was granted approval for setting up of a power plant having capacity of 50 MW in the non-processing area of SEZ, for captive use only. DC, KASEZ has informed that the developer has submitted a list of goods for both indigenous and imported items for the authorized operations relating to setting up of the power plant. The list was considered in the UAC meeting held on 3rd June, 2011. While, the UAC has approved the list of indigenous goods, a decision was taken to refer the list of imported items to BoA for approval in terms of Rule 27(3) of the SEZ Rules which provides that the import of duty free material for any facilities in the non-processing area shall be approved by the Board. DC, KASEZ has, therefore, requested for placing the matter before the BoA. The list of item to be imported by the developer is at **Annexure -1**.

Accordingly, the request is placed before the BoA for consideration.

Item No. 48.8: Request of M/s. Zeus Infrastructure Private Limited for reduction of height of the boundary wall of the SEZ and approval for construction of FRP boundary wall

The sector specific SEZ for IT/ITES at District Thane, Maharashtra being developed by M/s. Zeus Infrastructure Private Limited was notified on 23rd April, 2008 over an area of 57.0979 hectares.

The developer has requested for the following:-

- (i) reduction of height of the boundary wall of the SEZ from 2.4 m to 1.8 m and
- (ii) approval for construction of FRP boundary wall

As regards the request at (i) above, the developer has stated that the SEZ is an IT/ITES SEZ and hence no heavy industrial manufacturing activities will be taking place in SEZ and also the chance of pilferage and thefts is very less. They have therefore, requested for approval for reduction of height of boundary wall from 2.4 m to 1.8 m.

As regards the request at (ii) above, the developer has stated that the entire SEZ fall CRZ-III area and 85% of the SEZ area is facing the sea. Therefore, the developer has proposed to construct FRP (Fiber Reinforced Plastic/Polymer) type so that it will not stop any water flow during high/low tide in the sea. The developer has also enclosed a design of the FRP boundary wall proposed to be constructed in the SEZ (**Annexure -2**).

The second proviso of the Rules 11 (2) provides that in case the developer proposes to create two hundred and forty centimeters high wall with top sixty centimeters being barbed wire fencing and single entry and exit point, no separate approval shall be required. Any deviation from the above norms is requires approval of BoA. As per the decision of BoA in its meeting held on 2nd June, 2009, powers have been delegated to the DCs to take a decision regarding height of the boundary wall in r/o IT/ITES SEZs. Since the proposal also seeks approval to construct FRP boundary wall, the requests are placed before the BoA for consideration.

Both the above requests of the developer have been recommended by DC, SEEPZ.

Item No. 48.9: Revision of guidelines dated 27th February, 2009 regarding power generation, transmission and distribution in SEZs

The guidelines for power generation transmission and distribution in SEZs were issued by DoC on 27th February 2009. As per these guidelines power plants can *inter-alia* be set up by developer/co-developer in an SEZ as part of infrastructure facility in the non-processing area. Consequent upon issue of power guidelines, the matter was discussed with Ministry of Power and Department of Revenue. It was felt that there is a need to simplify the guidelines to make it practical and realistic and at the same time conducive to power SEZ Developers and units. As against the restrictive clause that power plant can be set up as a infrastructure only in the non-processing area and thereby restricting the fiscal benefits to initial setting up, it was proposed that a power plant can be set up an infrastructure in the processing area or non-processing area and it will be entitled to all fiscal benefits under Section 26 of the SEZ Act and benefits for its operation and maintenance.

The matter for allowing developer/co-developer to set up a power plant in the processing area of the SEZ as an infrastructure facility was examined in consultation of the D/o Legal Affairs who has advised that a developer (as well as a co-developer) can set up power plants in the processing area as infrastructure facility and not just as a unit. In view of the above advice of Ld AG received through the D/o Legal Affairs, the power guidelines dated 27th February 2009 needs to be revised. Accordingly, revised draft guidelines are at **Annexure-3**. These guidelines are placed before the BoA for consideration.

Item No. 48.10: Clarification on issues related to dilution of equity in the developer company, transfer of promoter's equity etc.

A number of cases seeking clarification on issues related to dilution of equity in the Developer Company, transfer of promoter's equity, transfer of Developer JV, Amalgamation / Merger of Developer Company etc are being received from various SEZs. Three such specific requests from Developers are as follows:

- **M/s. Aachvis Softech Private Limited** and its co-developers for change/transfer of equity of the companies.
- **M/s. DLF Ackruti Info Parks (Pune) Ltd.** for sale of shares of the company to the foreign Investor.
- **M/s. Sterling Addlife Mundra Hospital Private Limited (M/s. SAMHPL). Approval of the scheme of amalgamation between M/s. SAMHPL and M/s. Sterling Addlife India Limited (M/s. SAIL), by the Hon'ble High Court of Gujarat at Ahmedabad.**

Similar requests which were considered in the BoA meeting held on 25th March, 2011 were not approved as the representatives of D/o Revenue reiterated their objection that these transactions would amount to sale of the land, which is not permissible under the SEZ Act/Rules.

Subsequently the matter of the above three cases was examined on file by DoC and the advised of D/o Legal Affairs was sought as to whether change in equity structure through transfer/sale/amalgamation etc. are in the nature of sale of land barred by rule 11(9) of the SEZ Rules or it is a sale of business rather than sale of land. D/o Legal Affairs have since clarified that identity of a company does not change with any change in management or pattern of shareholding. Further, a share is not a sum of money, it represents an interest measured by a sum of money. Therefore, change in equity structure through transfer/sale/amalgamation etc. and consequent change in the management cannot be said transfer or sale of land. The land would continue to vest in the company. They have also clarified that while it may be considered as sale or transfer of the business of the company but not a sale of land. A copy of the advice received from the D/o Legal Affairs is at **Annexure - 4**.

In order to arrive at a uniform view on such issues the matter is placed before the BoA for consideration.
