

**Supplementary Agenda for the 44th meeting of the Board of Approval to be held on
14th January 2011 at 10.30 AM in the Room No. 47, Udyog Bhawan**

Item No. 44. 24 (a): Refund of service tax paid on taxable services provided in relation to the authorized operations in SEZs.

Notification No. 9/2009-Service Tax dated 03.03.2009 was issued to provide refund of service tax paid on taxable services specified in Section 65 (105) of the Finance Act, 1994 which are provided in relation to authorized operations (as defined under SEZ Act, 2005) in a Special economic Zone (SEZ), and received by a developer or units of a SEZ, whether or not the said taxable services are provided inside the SEZ. Subsequently, notification No. 15/2009-Service tax dated 20.05.2009 was issued to amend the aforesaid notification No. 15/2009-Service Tax dated 03.03.2009 to provide unconditional exemption to services consumed within the SEZ without following the refund route thus dispensing with the requirement of first paying the tax by the service provider and then claiming the refund thereof by developer/unit. The exemption by way of refund was thus limited to situations only when taxable services provided to SEZ are consumed partially or wholly outside the SEZ.

In cases where refund needs to be claimed, CBEC circular No. 114/8/2009-Service Tax dated 20.05.2009 requires that the refund claim shall be accompanied by the following documents:-

1. A copy of the list of specified services required in relation to the authorized operations in the SEZ, as approved by the Approval Committee;
2. Documents evidencing payment of service tax

The CBEC circular further states that 80% of the service tax refund amount due is to be sanctioned as *ad-hoc* interim refund to developer or unit of SEZ within 15 days of filing of a refund claim, *subject to the condition that refund claim is complete and contains the requisite documents*. The circular also states that the refund claims should be finalized within a maximum period of 30 days from the date of filing of refund claim and in any case not beyond 45 days from the date of filing of the refund.

There is a basic problem with this service tax refund arrangement for SEZs. Usually refund claims should be made by the service providers. Here, however, the refund claims are filed by the service users (SEZ Developers/Units). The CBEC instruction states that the refund claim should be supported by documents evidencing payment of service tax. These documents can be sourced only from the service provider who makes the payment. As per the current procedures, it is not possible for the service user to make direct payment of service tax. The services providers deposit the service tax collected by them into government account vide GAR-7 challan. The service tax deposited by them may include the service tax collected by the service provider from the SEZ Unit/Developer as well as other DTA service recipients.

The unit in SEZs are finding it difficult to obtain the copies of GAR-7 challan through which the service provider deposits the service tax collected by them into Government account (document evidencing payment of service tax). Without this document, the jurisdictional Customs & Central Excise authorities are not settling the service tax refund claims filed by the SEZ Units/Developers.

Hence, it is suggested that Department of Revenue may consider introducing a procedure wherein the SEZ Units/Developers as service users/receivers can directly deposit the service tax into Government account. The SEZ Unit/Developer will then give a copy of the challan to the service provider, instead of paying service tax to the service provider. This procedure will safeguard the interests of the Government as well as facilitate speedy service tax refund to SEZ Units/Developers. The matter was considered in the BoA meeting held on 18th November 2010 wherein it was deferred for the next meeting as the Department of Revenue desired more time to furnish their views.

Item No. 44.24 (b): Exemption of service tax paid on taxable services provided in relation to the authorized operations in SEZs.

During the course of the Open House Meeting in Hyderabad, the issue regarding exemption of service tax provided in relation to authorized operations in the SEZs was raised by the developers and units. While Rule 31 of the SEZ Rules provide for service tax exemption, however, the same has been replaced by Department of Revenue with reimbursement procedure for services rendered outside the SEZs and exemption for services rendered inside the SEZs. The Developers and units expressed their difficulties in claiming the reimbursement and would like exemption as provided for in the SEZ Rules irrespective of services availed inside or outside. The matter was considered in the BoA meeting held on 18th November 2010 wherein it was deferred for the next meeting as the Department of Revenue desired more time to furnish their views.

Item No.44.25: Request for co-developer

(i) Request of M/s. Hind Terminals (Mundra) Private Limited for co-developer in the multi product SEZ at Mundra, Kutch, Gujarat, developed by M/s. Mundra Port and Special Economic Zone Limited

The above multi product SEZ is notified over an area of 6472.8684 hectares. M/s. Hind Terminals (Mundra) Private Limited has requested for becoming a co-developer for developing and operating a Container Freight Station and Warehousing Facilities on an area of 16.19 hectares. The proposal was re-considered in the BoA meeting held on 18th November 2010, and was deferred for the next BoA meeting as the Department of Revenue had not crystallize their views on the proposal.

Item No.44.26: Request for authorized operations

(i) Request of M/s. Hiranandani Builders for authorized operations in the sector specific SEZ for IT/ITES at Powai, Mumbai, Maharashtra

The above mentioned SEZ is notified on an area of 12.5891 hectares. The developer has requested for construction of Helipad in the non-processing area of the SEZ. The developer has also stated that it would not avail any duty free benefits for the Helipad. DC, IT/ITES SEZ has recommended the request of the developer. The report of the DC along with the request of the developer is at **Annexure - 1**. The request of the developer is placed before the BoA for consideration.

Item No. 44.27: Contiguity Relaxation

(i) Request of M/s. Vedanta Aluminium Limited, Jharsuguda, Orissa for relaxation of contiguity setting up of railway line in non-processing area of SEZ

The sector specific SEZ for Manufacture & Export of Aluminium at Jharsuguda, Orissa being developed by M/s. Vedanta Aluminium Limited stands notified over an area of 220.568 hectares. The developer has stated that Aluminium SEZ is a power intensive SEZ. Further, the captive power plant, approved in the SEZ, could not be materialized due to paucity of space. Also, power scarcity in the state of Orissa makes it difficult to get uninterrupted power from an outside source. To overcome this difficulty, M/s. Sterlite Energy Limited (SEL) has put a 2400 MW power plant adjacent to the SEZ, which will cater to the need of the SEZ.

The Power Plant is coal based thermal power plant which requires 17 Lakh MT per annum coal to run the plant at 100% PLF. The required coal has to be sourced from coal mines located about 250 Km away from the power plant. The movement of coal from coal mines to power plant can take place through rail transportation starting from Brundamal station to SEL plant passing through the non-processing area of the SEZ. The developer has stated that the railway connectivity is essential for SEL as coal movement will not be feasible by other mode of transportation and in case of rail transportation, railway track has to necessarily pass through said SEZ area in order to have straight railway track. The developer has, therefore, requested for relaxation of contiguity condition for allowing railway track to pass through the non-processing area of the SEZ. The developer has stated that contiguity shall be maintained by way of a dedicated security gate and also fence side of the road facing processing area. The developer has also confirmed will not avail any of the SEZ benefits on this portion of railway lines.

The request of the developer was placed before the BoA in the meeting held on 18th November 2010 and was deferred and the DC, FSEZ, was directed to submit a report of the alignment of the proposed railway track and submit the same for consideration of the Board before its next meeting. DC, FSEZ, has submitted a report which is at **Annexure - 2**.

(ii) Request of M/s. Navi Mumbai SEZ Private Limited for relaxation of conditions of LoA regarding contiguity and multiple entry/exit gates

M/s. Navi Mumbai SEZ Private Limited was granted formal approval for setting up of multi product SEZ at Dronagiri, Navi Mumbai, Maharashtra vide LoA dated 30.07.2007. The said SEZ was notified on 21.11.2007 over an area of 1233.6767 hectares. In the BoA meeting held on 5th November 2009 the following request of the developer was considered:-

- (a) Relaxation of condition originally imposed for ensuring contiguity;
- (b) Relaxation of the condition of construction of under passes, for which they have suggested secured connectivity on the ground, and
- (c) Approval for construction of seven multi entry/exit points in their Multi Product SEZ at Dronagiri, Navi Mumbai, Maharashtra **(in view of relaxation sought vide (b) above)**;
- (d) Approve two numbers of sky walks in place of flyovers for establishing contiguity between processing areas.

Further the proposal was considered by BoA in its meeting held on 18th November 2010 and was deferred for next meeting on the request of Department of Revenue. Meanwhile, the DC, Navi Mumbai SEZ, has forwarded a revised proposal submitted by the developer for relaxation of contiguity is at **Annexure - 3**. The proposal is placed before BoA for consideration.

Item No. 44.28: Request of DC VSEZ for clarification on the procedure for Procurement of “Cotton Yarn”, a restricted item, by SEZ units

M/s. Brandix India Apparel City Private Limited is a notified sector specific SEZ in Textile & Apparel sector. At present 8 units have been given Letters of Approval in the SEZ. The developer has brought to the notice of DC, VSEZ about the notification No. 14 (RE-2010)/2009-14 of DGFT dated 22.12.2010 according to which the export of cotton yarn (Tariff Codes 5205, 5206 & 5207) has been restricted and export is permitted only under license. The developer has requested DGFT for advice on the procedure under which spinning mills in India could continue supplying cotton yarn to the units in the SEZ. The developer informed that a unit in their SEZ “M/s. Ocean India Private Limited” needs to source cotton yarn of around 170 Tonnes per month. The developer also indicated that in the absence of suitable clarification, spinning mills are reluctant to supply cotton yarn to SEZ units.

As per Rule 27 of the SEZ Rules, restricted items of export can be procured by SEZ units without any license. Further, in terms of Instruction No. 47 [Item no. (iii)], procurement of restricted items of export by SEZ unit requires prior approval of the Board of Approval. DC, VSEZ submitted that in the instant case, substantial value addition is being made in the SEZ units by way of conversion of yarn into fabric before the goods are exported outside India and recommended that the SEZ units should be allowed to procure cotton yarn from DTA without any license.

The proposal of DC, VSEZ is placed before BoA for consideration

Item No. 44.29: Request of M/s. Tata Consultancy Services Limited for two additional gates in the sector specific SEZ for IT/ITES at Gandhinagar, Gujarat

The above mentioned SEZ was notified on 18th November, 2008 over an area of 10 hectares. The developer has requested for approval of two additional gates for the SEZ i.e. one for the operational area and the other for emergencies and utility area. It has been stated that the proposed SEZ has been planned to cater 10,000 employees during normal office hours in 1.5 million sqft. with three IT buildings and one services building. Besides this, there will be additional shifts on required basis round the clock for which additional employees would be employed. The developer has requested for two additional gates to cater for safety, logistical and traffic convenience, to avoid traffic bottleneck along the public road. DC, KASEZ, has recommended the proposal. The detailed comments of DC KASEZ along with the request of the developer are at **Annexure - 4**.

The request of the developer is placed before the BoA for consideration.

Item No. 44.30: Request of M/s. CCCL Pearl City Food Port SEZ Limited for broad banding of the sector of the SEZ for “food processing” by including allied industries relating to food processing industry

The above mentioned sector specific SEZ for “Food Processing” near Tuticorin, Tamil Nadu was notified on 23.04.2009 over an area of 119.145 hectares. The developer had requested for broad banding of sector so as to include allied industries like packaging industries and equipment manufactures relating to food processing industry.

The request of the developer was considered by the BoA in its meeting held on 18th November 2010 and was rejected as the Board noted that the request of the developer was for broad banding of the sector of the SEZ by including manufacturing of machinery for food processing industry. This would correctly fall under the category of Engineering industries and cannot be approved for the purpose of broad banding in the SEZ for food processing.

The developer has requested for re-consideration of its request and has given a detailed justification for the same (**Annexure - 5**).

The request of the developer is submitted for re-consideration of BoA

Item No.44.31: Request for first extension of validity of formal approvals

(i) Request of M/s. Dr. Reddy’s Laboratories Limited for extension of the validity period of formal approval, granted for setting up of sector specific SEZ for Pharmaceuticals at Lingampally & Melasangam village, Munipally Mandal, Medak District, Andhra Pradesh beyond 3rd February 2011.

Item No.44.32: Requests for second extension of validity of formal approvals

(i) **Request of M/s. Hetero Infrastructure SEZ Limited for second extension of the validity period of formal approval, granted for setting up of sector specific SEZ for Pharmaceuticals at N. Narasapuram village, Nakkapalli Mandal, Visakhapatnam District, Andhra Pradesh, beyond 25th June 2010**

The developer was granted formal approval for setting up the above mentioned SEZ, over an area of 100 hectares, vide LoA dated 26th June 2006. The SEZ was notified on 11th January, 2007 over an area of 100.28 hectares. The developer has been granted first extension of the formal approval, the validity of which was up to 25th June 2010. The developer has stated that the Pharma industry requires more time for declaration of production due to prolonged regulator approvals. These include USFDA. The trial runs with validations take at least six months to one year and this need to be approved by USFDA. The units have intimated that, they are likely to obtain USFDA approval by the end of February, 2011. The developer has, therefore, requested for extension of validity of formal approval by one year.

(ii) Request of M/s. Navi Mumbai SEZ Private Limited for second extension of the validity period of formal approval, granted for setting up of multi product at Dronagiri, Navi Mumbai, Maharashtra, beyond 29th July 2011

The developer was granted formal approval for setting up of multi product SEZ at Dronagiri, Navi Mumbai, Maharashtra vide LoA dated 30.07.2007. The said SEZ was notified on 21.11.2007 over an area of 1233.6767 hectares. The developer has been granted first extension of the formal approval, the validity of which is up to 29th July 2011. The developer has stated that the project has been delayed due to (i) delay in approval of its request for relaxation of contiguity (ii) poor response by the entrepreneurs for setting of units due to non availability of fiscal benefits concerning to state Levies in absence of Maharashtra State SEZ Act (iii) uncertainty of the incentives available in the proposed Direct Tax Code to developers and units. (iv) poor response by entrepreneurs for setting up of units due to economic slowdown in the major export markets in USA and Europe. The developer has, therefore, requested for extension of validity of formal approval by one year. DC, Navi Mumbai SEZ has recommended the request of the developer

(iii) Request of M/s. Navi Mumbai SEZ Private Limited for second extension of the validity period of formal approval, granted for setting up of sector specific SEZ for IT/ITES at Kalamboli, Navi Mumbai, Maharashtra, beyond 25th July 2011

The developer was granted formal approval for setting up of IT/ITES SEZ at Kalamboli, Navi Mumbai, Maharashtra vide LoA dated 26th July 2007. The said SEZ was notified on 19th May 2009 over an area of 103.0727 hectares. The developer has been granted first extension of the formal approval, the validity of which is up to 25th July 2011. The developer has stated that the project has been delayed due to (i) poor response by the entrepreneurs for setting of units due to non availability of fiscal benefits concerning to state Levies in absence of Maharashtra State SEZ Act (ii) uncertainty of the incentives available in the proposed Direct Tax Code to developers and units. (iii) poor response by entrepreneurs for setting up of units due to economic slowdown in the major export markets in USA and Europe (iv) delay in approval by Central railway of the proposed RoB to be constructed by GoI and passing over area of this SEZ. The developer has, therefore, requested for extension of validity of formal approval by one year. DC, Navi Mumbai SEZ has recommended the request of the developer

(iv) Request of M/s. Navi Mumbai SEZ Private Limited for second extension of the validity period of formal approval, granted for setting up of sector specific SEZ for Multi Services at Kalamboli, Navi Mumbai, Maharashtra, beyond 25th July 2011

The developer was granted formal approval for setting up of IT/ITES SEZ at Kalamboli, Navi Mumbai, Maharashtra vide LoA dated 26th July 2007. The said SEZ was notified on 28th August 2008 over an area of 176.7080 hectares. The developer has been granted first extension of the formal approval, the validity of which is up to 25th July 2011. The developer has stated that the project has been delayed due to (i) poor response by the entrepreneurs for setting of units due to non availability of fiscal benefits concerning to state Levies in absence of Maharashtra State SEZ Act (ii) uncertainty of the incentives available in the proposed Direct Tax Code to developers and units. (iii) poor response by entrepreneurs for setting up of units due to economic slowdown in the major export markets in USA and Europe (iv) delay in approval by Central railway of the proposed RoB to be constructed by GoI and passing over area of this SEZ (v) delay in approval by MSRDC for RoW at Kalamboli SEZ under Mumbai Pune Express Highway. The developer has, therefore,

requested for extension of validity of formal approval by one year. DC, Navi Mumbai SEZ has recommended the request of the developer.

Item No.44.33: Requests for transfer/change of equity

(i) Request of M/s. Aachvis Softech Private Limited, developer of the sector specific SEZ IT/ITES at Noida, Uttar Pradesh, for changing the shareholding of the company

Sector specific SEZ for IT/ITES at Plot No. 7, Sector 144, Noida, Uttar Pradesh, being developed by M/s. Aachvis Softech Private Limited was notified on 15th May 2008, over an area of 10.0498 hectares. The present shareholding pattern of the company as under:-

Name of the Shareholder	Percentage (%)
Vistar Constructions Pvt. Ltd.	99.99
Mr. Supreet Singh Suri (as a nominee of Vistar Constructions Pvt. Ltd.	0.01
Total	100

The promoters/shareholders of the developer (i.e. Vistar Constructions Pvt. Ltd. (together with its nominee, Mr. Supreet Singh Suri) propose to sell their entire shareholding in the developer to Acme Living Solutions Pvt. Ltd. and TRIF Constructions (Mauritus) Limited. Upon the consummation of the aforesaid proposed transaction, the shareholding pattern of the developer will be as follows:-

Name of the Shareholder	Percentage (%)
Acme Living Solutions Pvt. Ltd.	6.67
TRIF Constructions (Mauritus) Limited	93.33
Total	100

The developer has, therefore, requested for grant of approval for the revised shareholding pattern as stated above. The request of the developer is at **Annexure – 6**.

(ii) Request of M/s. Aachvis IT SEZ Infra Private Limited a co-developer in the sector specific SEZ IT/ITES at Noida, Uttar Pradesh, being developed by M/s. Aachvis Softech Private Limited, for changing the shareholding of the company

M/s. Aachvis IT SEZ Infra Private Limited is a co-developer in the Sector specific SEZ for IT/ITES at Plot No. 7, Sector 144, Noida, Uttar Pradesh, being developed by M/s. Aachvis Softech Private Limited over an area of 10.0498 hectares. The present shareholding pattern of the co-developer company is as under:-

Name of the Shareholder	Percentage (%)
Aachvis Softech Pvt. Ltd.	99.99
Mr. Supreet Singh Suri (as nominee of Aachvis Softech Private Limited	00.01
Total	100

Acme Living Solutions Pvt. Ltd. (Investor 1) and TRIF Trivandrum Info Park (Mauritius) Ltd. (Investor 2) propose to invest in one or more permissible instruments to be issued by the co-developer and Mr. Supreet Singh Suri (nominee of the Aachvis Softech Pvt. Ltd.) proposes to transfer 1 equity share of co-developer to investor 1. The ultimate

shareholding pattern of the co-developer after considering the aforesaid instruments on a fully diluted/as-if-converted basis will be as follows:-

Name of the Shareholder	Percentage (%)
Aachvis Softech Pvt. Ltd.	0.4
Acme Living Solutions Pvt. Ltd.	6.6
TRIF Trivandrum Info Park (Mauritius) Ltd.	92.9
Total	100

The co-developer has, therefore, requested for grant of approval for the revised shareholding pattern as stated above. The request of the co-developer is at **Annexure – 7**.

(iii) Request of M/s. Standard IT Web Solutions Private Limited a co-developer in the sector specific SEZ IT/ITES at Noida, Uttar Pradesh being developed by M/s. Aachvis Softech Private Limited, for changing the shareholding of the company

M/s. Standard IT Web Solutions Private Limited is a co-developer in the Sector specific SEZ for IT/ITES at Plot No. 7, Sector 144, Noida, Uttar Pradesh, being developed by M/s. Aachvis Softech Private Limited over an area of 10.0498 hectares. The present shareholding pattern of the co-developer company is as under:-

Name of the Shareholder	Percentage (%)
Aachvis Softech Pvt. Ltd.	99.99
Mr. Supreet Singh Suri (as nominee of Aachvis Softech Private Limited)	00.01
Total	100

Acme Living Solutions Pvt. Ltd. (Investor 1) and TRIF Gandhinagar Info Park (Mauritius) Ltd. (Investor 2) propose to invest in one or more permissible instruments to be issued by the co-developer and Mr. Supreet Singh Suri) (nominee of the Aachvis Softech Pvt. Ltd.) proposes to transfer 1 equity share of co-developer to investor 1. The ultimate shareholding pattern of the co-developer after considering the aforesaid instruments on a fully diluted/as-if-converted basis will be as follows:-

Name of the Shareholder	Percentage (%)
Aachvis Softech Pvt. Ltd.	0.9
Acme Living Solutions Pvt. Ltd.	6.6
TRIF Gandhinagar Info Park (Mauritius) Ltd.	92.5
Total	100

The co-developer has, therefore, requested for grant of approval for the revised shareholding pattern as stated above. The request of the co-developer is at **Annexure – 8**.
