

**Agenda for the 73<sup>rd</sup> meeting of the Board of Approval to be held on  
3<sup>rd</sup> November, 2016, at 11.00 A.M. in the Room No. 47, Udyog Bhawan, New Delhi**

**Item No. 73.1: Requests for extension of validity of formal approvals**

BoA in its meeting held on 14<sup>th</sup> September, 2012, examining similar cases observed as under: -

*“The Board advised the Development Commissioners to recommend the requests for extension of formal approval beyond 5<sup>th</sup> year and onwards only after satisfying that the developer has taken sufficient steps towards operationalisation of the project and further extension is based on justifiable reasons. Board also observed that extensions may not be granted as a matter of routine unless some progress has been made on ground by the developers. **The Board, therefore, after deliberations, extended the validity of the formal approval to the requests for extensions beyond fifth years for a period of one year and those beyond sixth year for a period of 6 months from the date of expiry of last extension”.***

**(i) Request of M/s. G.P. Realtors Private Limited for further extension of the validity period of formal approval, granted for setting up of sector specific SEZ for Electronic Hardware & IT/ITES at village Behrampur, Gurgaon, Haryana for acquired of two years, beyond 13<sup>th</sup> November, 2016**

**Name of the developer:** G.P. Realtors Private Limited

**Sector :** Electronic Hardware & IT/ITES

**Location :** Village Behrampur, Bandhwari and Balola, Gurgaon, Haryana

**Extension :** The developer has been granted six extensions, validity period of which was upto 13<sup>th</sup> November, 2016.

**Basic facts:** Formal approval to the developer was granted on 14.11.2006. The SEZ stands notified as on date.

The developer has requested for further extension so as to implement the project.

The developer has made following investments/plans.

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

S. No.	Type of Cost	Proposed Investment (Rs. In Lakhs)
1.	Land Cost	16725.00
2.	Construction Cost	37275.00
3.	Plant & Machinery	--
4.	Other Overheads	--
	Total	54000.00

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

S. No.	Type of Cost	Total Investment made so far (Rs. In Lakhs)	Incremental investment since last extension (rs. In lakhs)
1.	Land Cost	16725.00	--
2.	Material Procurement	7800.00	6600.00
3.	Service Cost	--	--
4.	Other Overheads	--	--
	Total	24525.00	6600.00

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

S. No.	Authorised activity	% completion as on date	% completion during last one year	Deadline for completion of balance work
1.	Block-1 of Phase-I building	13.8%	13.8%	December, 2017
2.	Block-2 of Phase-I building	6.9%	6.9%	April, 2018
3.	Boundary wall	58.8%	58.8%	June, 2017

DC NSEZ has recommended the proposal.

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

**Item No. 73.2 : Requests for extension of LoP beyond 3<sup>rd</sup> Year onwards**

- 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 Permission (LoP)s i.r.o units in SEZs are governed by Rule 19(4) of SEZ Rules.
- Rule 19(4) states that an LoP shall be valid for one year. First Proviso grants power to DCs for extending the LoP not exceeding 2 years. Second Proviso grants further power to DCs for extending the LoP for one more year but subject to the condition that two-thirds of activities including construction, relating to the setting up of the Unit is complete and a Chartered Engineer's certificate to this effect is submitted by the entrepreneur.
- Extensions beyond 3<sup>rd</sup> year (*in cases where two-third activities are not complete*) and 4<sup>th</sup> year 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

**(i) Request of M/s. Benzo Chem Industries Pvt. Ltd., a unit in M/s. Dahej SEZ Limited, Gujarat for extension of LoP beyond 7<sup>th</sup> September, 2016**

- **LoP issued:** 8<sup>th</sup> September, 2011 for manufacture and export of goods under chapter 28,29 & 31 of ITC (HS) Code.

- Extensions: 5 (five) up to 7<sup>th</sup> September, 2016
- **Request:** For further extension.

The unit has requested for further extension so as to implement the project.

The unit has made the following investment/plans:-

- The unit has made total invested Rs. 7.10 crores on the project.
- Incremental investment made since last extension is Rs. 0.86 crore.
- The unit received Environment Clearance on 29.10.2015 from Ministry of Environment, Forests & Climate Change, New Delhi. After that unit started land development activities. Land soil test have been completed. Plot cleaning work is in progress and compound wall work order has been placed. They intend to invest around Rs. 152.00 crores in the SEZ project and will generate man power employment of approx. 150 persons including displaced persons.

DC, Dahej SEZ has informed that the entrepreneur/approval holder could not complete the project and commence production within the stipulated and extended time of the LoA for the following reasons:-

- Environment Clearance received on 29.10.2015 from M/o Environment, Forests & Climate Change, New Delhi.
- Based on the soil test pile the unit had to redesign the structural part of the factory building.

DC Dahej SEZ has recommended the proposal for extension by one year.

The request is placed before BoA for its consideration.

**(ii) Request of M/s. J.S. Designer Ltd., a unit in NSEZ for extension of LoP beyond 21<sup>st</sup> November 2014.**

- **LoP issued:** 22<sup>nd</sup> November, 2011 for manufacturing & export of readymade garment of ladies and kids.
- Extensions: 2 (two) up to 21<sup>st</sup> November, 2011
- **Request:** For further extension up to 21/11/2017.

The unit has requested for further extension so as to implement the project.

The unit has made the following investment/plans:-

(a) Details of Business plan

S. No.	Type of cost	Proposed Investment (Rs. In crores)
1.	Land cost	4.30
2.	Construction cost	0.50

3.	Plant & Machinery	0.75
4.	Other overheads	0.50
	Total	6.05

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

S. No.	Type of cost	Total Investment made so far (Rs. In crores)	Incremental investment since last extension (Rs. In crores)
1.	Land cost	4.30	0.13
2.	Material Procurement	0.00	0.00
3.	Service Cost	0.00	0.00
4.	Other Overheads	0.00	0.00
	Total	4.30	0.13

(c) Details of physical progress till date:-

S. No.		% of completion as on date	% completion during last one year	Deadline for completion of balance work
1.	Civil work done	10	10	3-4 months

The LoA was valid till 21.11.2014. No reasons for sending the proposal belatedly for consideration of BoA has been furnished.

DC NSEZ has recommended the proposal for extension upto 21.11.2017.

The request is placed before BoA for its consideration.

**(iii) Request of M/s Sterling Biotech Ltd., a unit in Sterling SEZ at Bharuch, Gujarat for extension of validity period of its LoP beyond 30<sup>th</sup> September, 2015**

- **LoP issued:** 4<sup>th</sup> September, 2009 for manufacture of Gelatin and Di-Calcium Phosphate
- **Extensions:** 6 (six) up to 30<sup>th</sup> September, 2016
- **Request:** For further extension.

The unit has requested for further extension so as to implement the project.

The unit has made the following investment/plans:-

**(i) Details of Business Plan**

- The unit in DTA is the largest manufacturers and exporter of Di-calcium phosphate in India and one the leading manufacturer of Gelatin in the world.
- The unit has informed that due to some state Government's ban on Beef sale and very strictly followed by few states, they are unable to procure their main Raw material (consist 97% of total Raw Material) i.e. Animal Crushed Bones for manufacturing of Gelatin even for their existing DTA plant situated at Dist. Vadodara.

**(ii) Investment made till date – separately on land and other infrastructure**

- As on 31.08.2016, the unit has made total investment of Rs. 981.80 crore, on various activities like land and other infrastructure activities Rs. 64.84 crore invested in land development & Rs. 916.96 crore invested in other infrastructure.

**(iii) Incremental investment since last extension**

- The incremental investment made for the SEZ project is Nil from the date of last extension granted in 2015 further activities have been stopped due to non availability of Raw Material i.e. Animal Crushed Bones.

**(iv) Details of physical progress till date in quantifiable terms**

- Store and Laboratory Building, Utility Building, RO Plant Area, Cooling Tower, Tank Farm Area, Civil work of A wing Building, Acidulation vats, DCP Godown, Bone Handling Area, B wing Building, Liming vats, Log (the unit has completed 95% of work)
- Log Washer building – 100%
- Log Washer Tanks – 70%
- C wing building 95%
- Dryer Building – 95%
- Gelatin Handling Area – 95%
- Gelating Godown – 95%
- Equalization Tanks – 80%
- Final Treated Water Storage (10000 M3) (75%)

**No physical progress since last extension**

DC Sterling SEZ has recommended the proposal for a period of one year.

The request is placed before BoA for its consideration.

**(iv) Request of M/s. HAAAS Corporation Pvt. Ltd., a unit in MIHAN SEZ for extension of LoP beyond 14.09.2016**

- **LoP issued:** 16.09.2013 for IT/ITES.
- **Extensions:** 2 (two) up to 16.09.2016

- **Request:** For further extension by one year.

The unit has requested for further extension so as to implement the project.

The unit has made the following investment/plans:-

**(a) Proposed investment**

S. No.	Type of Cost	Rs. In lakhs
1.	Land Cost	172
2.	Construction cost	1048
3.	Plant and Machinery – Imported and Indigenous both	371
4.	Other overheads	102
	Total	1693

**(b) Investment made so far and during last 1 year:-**

S. No.	Type of cost	Total investment made so far (Rs. In lakhs)	Investment made during last 1 year (Rs. Lakhs)
1.	Land cost	172.10	--
2.	Construction & material procurement cost	314.28	300.72
3.	Services cost	17.30	8.26
4.	Other overheads	10.67	1.03
	Total	514.35	310.01

**(c) Physical progress since last extension:-**

S. No.	Authorized activity	% completion as on 14.09.2016	% completion during last one year	Deadline for completion of balance work
1.	Generator Room/Electric Substation/FO Generators (to augment MSEB Power)/Chiller Plant/UPS Room/Distribution substation/HSD Yard	Nil	Nil	April 2017
2.	Internal Roads with street lighting and Signage's	Nil	Nil	July 2017
3.	Boundary walls/ gates/ fencing / security office/ security posts	100	50	Completed in January 2018
4.	All civil and Interior work/ Electrical work/ BMS / Air conditioning/ Fire protection system	30	30	April 2017
5.	Development Landscaping/ garden space	5	5	July 2016
6.	Recruitment of Employee	Nil	Nil	June 2017
7.	Building completion certificate and company certificate	Nil	Nil	July 2017

DC MIHAN SEZ has recommended the proposal.

The request is placed before BoA for its consideration.

**(v) Request of M/s. Saraf Agencies Pvt. Ltd., a unit in M/s. Saraf Agencies Pvt. Ltd. SEZ at Chatrapur, Ganjam, Odisha for extension of Letter of Permission (LOP) beyond 5<sup>th</sup> February, 2015**

- **LoP issued:** 17<sup>th</sup> October, 2012
- **Extensions:** The validity of the LoP was extended by DC till 16.10.2016.
- **Request:** For further extension.

The unit has requested for further extension so as to implement the project.

- (i) The unit has already completed all construction work and installation of machinery.
- (ii) The unit have already completed almost 95% of work for commissioning of plant.
- (iii) The cold trial is going on.

DC FSEZ has recommended the request of extension of LoP by six months in terms of the provisions of Rule 19(4) of SEZ Rules 2006.

The request is placed before BoA for its consideration.

**Item No. 73.3 : Requests for co-developer**

**(i) Request of M/s. ATS Savvy Developers LLP, Ahmedabad for co-developer in the sector specific SEZ for multi services at Ratanpur, District Gandhinagar, Gujarat, being developed by M/s. GIFT SEZ Ltd.**

The above mentioned SEZ stands notified over an area 105.4386 hectares.

M/s. ATS Savvy Developers LLP has submitted a proposal for becoming a co-developer in the aforesaid SEZ for construction development, maintenance and operate SEZ building for units to undertake export of services in the processing area of SEZ, over an area of 400000 sq.ft. BUA in Block 15 Zone within GIFT SEZ processing area.

Co-developer agreement dated 2<sup>nd</sup> August, 2016 entered into with the developer has been provided. Draft Lease period is for 30 years renewable upto 99 years.

DC KASEZ has recommended the proposal.

The request of the co-developer is submitted for consideration of BoA.

**(ii) Request of M/s. Classic Info Tech LLP for co-developer in the sector specific SEZ for electronic Hardware and Software including IT/ITES at Nanakramguda village, Serilingampally Mandal, Ranga Reddy District, Telangana, being developed by M/s. Mantri Developers Pvt. Ltd.**

The above mentioned SEZ stands notified over an area of 1.0504 hectares.

M/s. Classic Info Tech LLP has submitted a proposal for becoming a co-developer in the aforesaid SEZ for development of the infrastructure facilities needed for setting up of a IT/ITES SEZ such as Interior fit outs & services, electrification, fire fighting, providing 24x7 uninterrupted power supply at stable frequency, 100% power back up, reliable data connectivity, Central air conditioning system (HVAC), and to upgrade other infrastructure facilities of Mantri Cosmos Tower I as per the requirement of the Lessee, over an area of 30,115,190 sqm. The developer in pursuant to the development agreement with the land owners, they have developed an IT/ITES SEZ by constructing to commercial block of 1,03,502.50 sqm. at Sy. No. 130(p), Nanakramguda, RR District, Hyderabad.

The developer has informed that in terms of Development Agreements, the developer allocated 30,115,190 sqm. of space to the land owners is a bare shell. The land owners have decided to invest, upgrade the bare shell to warm shell, operate and maintain their share of space for the purpose of negotiating with the tenant and all the land owners have formed an LLP in the name of "Classic Info Tech LLP" for the purpose. All the land owners who have become members of the LLP have agreed to invest about Rs. 9 crores each to take up the additional modifications/up gradation works which was already approved in the 71<sup>st</sup> BoA held on 22.06.2016.

Now, the developer has informed that the tenant (unit) has suggested certain additional modification/up-gradation works for the said premises. As per the development agreement, the developer has allocated 30115.190 sqm. of space to the land owners. Land owners formed an LLP in the name of "Classic Info Tech LLP". M/s. Classic Info Tech LLP entered into a co-developer agreement with the developer. They have submitted copy of registration certification and memorandum of LLP.

Co-developer agreement dated 1<sup>st</sup> June, 2016 entered into with the developer has been provided.

DC VSEZ has recommended the proposal.

The request of the co-developer is submitted for consideration of BoA.

**(iii) Request of M/s. C.B. Global IT Park & Infra Pvt. Ltd. as a Co-Developer in the sector Specific SEZ, Rajiv Gandhi Infoteck Park, Phase-II, Hinjewadi, Pune being developed by Maharashtra Industrial Development Corporation.**

The above mentioned SEZ stands notified over an area 5,827 Sq mt.

The proposal was considered in the 71<sup>st</sup> BoA meeting held on 22.06.2016 and was deferred.

Now the DC SEEPZ has observed that M/s. Koriv Info Solution had earlier failed to implement the project as a unit and also the area for development is only 5827 sqm. Also being a co-developer they would get unlimited time for implementation of the project. Therefore, keeping in view the BoA decision in the 72<sup>nd</sup> meeting held on 12.08.2016 in the case of M/s. J.K. Builders, the proposal is placed before the BoA.

M/s. C.B. Global IT Park & Infra Pvt. Ltd. has submitted a proposal for becoming a co-developer in the aforesaid SEZ for construction of IT/ITES building to be undertaken in



the notified area of SEZ admeasuring 5,827 Sq mt. The projected investment is Rs. 28.56 Cr. including cost of land. The total of finance including Capital contribution and Term loan is Rs. 23.00 Cr. The projected employment generation during 5 years would be 2048 persons.

M/s. C.B. Global IT Park & Infra Pvt. Ltd. has acquired the land from M/s Koriv Info Solution Pvt. Ltd which had a LOA which expired on 10.10.2013 and was not extended. M/s. C.B. Global IT Park & Infra Pvt. Ltd. and M/s Koriv Info Solution Pvt. Ltd are the same group (Chordia group). DC SEEPZ SEZ had sought a clarification from the developer i.e. MIDC as to how the applicant i.e. M/s. C.B. Global IT Park & Infra Pvt. Ltd. would fulfill the parameters for functioning as a co-developer to conduct the authorized operations as the same group could not set up a unit in the same plot. MIDC has intimated that the proposal for co-developer is viable for implementing the authorized operations.

Recommendations of DC SEEPZ: DC has observed that M/s Koriv Info Solution Pvt. Ltd. had failed to implement the project and subsequent third extension was not granted as they had not done any work since possession of the plot within the stipulated time as per the SEZ Rules, 2006. Now, the same group has requested for co-developer status and on going through the proposal, their credentials cannot be accepted as a co-developer. DC, SEEPZ had therefore **not recommended** the proposal.

The request of the co-developer is again submitted for consideration of BoA.

**(iv) Request of M/s. Arshiya Rail Siding and Infrastructure Limited for co-developer in the FTWZ at Village SAI, Taluka – Panvel, Maharashtra, being developed by M/s. Arshiya Limited**

The above mentioned SEZ stands notified over an area 57.045 hectares.

M/s. Arshiya Rail Siding and Infrastructure Limited is a wholly owned subsidiary of Arshiya Ltd. which is focusing on infrastructure based logistic which includes development operation and maintenance of FTWZ. Further, the company requested for the grant of co-developer status for operation and maintenance of six warehouses at Arshiya Ltd.

Draft Co-developer agreement entered into with the developer has been provided. Draft Lease Deed has been provided. Lease period is 30 years.

As per section 3(11) of SEZ Act, 2005 (Any person who, or a State Government which, intends to provide any infrastructure facilities in the identified area referred to in sub-section (2) to (4), or undertake any authorised operation may, after entering into an agreement with the Developer referred to in sub-section (10), make a proposal for the same to the Board for its approval and the provisions of sub-section (5) and sub-sections (7) to (10) shall, as far as may be, apply to the said proposal made by such person or State Government.

DC SEEPZ has recommended the proposal.

The request of the co-developer is submitted for consideration of BoA.

**(v) Request of M/s. Brigade (Gujarat) Projects Pvt. Ltd. for co-developer in the sector specific SEZ for multi services at Ratanpur, District Gandhinagar, Gujarat, being developed by M/s. GIFT SEZ Ltd. for additional built up area admeasuring 7,456.71 sqft. (431.572 sqm.)**

The above mentioned SEZ stands notified over an area 105.4386 hectares.

M/s. Brigade (Gujarat) Projects Pvt. Ltd. has been granted co-developer status in the above mentioned SEZ by the BoA in its 72<sup>nd</sup> meeting held on 12<sup>th</sup> August 2016 for construction and development of office building within the GIFT SEZ in processing area, over an area of 2,60,000 sq.ft. (24,155 sq.mtrs).

Now the co-developer has requested for additional building up area admeasuring 7,456.71 sqft. (431.572 sqm.)

The co-developer entered the co-development agreement dated 29<sup>th</sup> January, 2016 along with supplementary co-development agreement dated 27<sup>th</sup> July, 2016 requesting for approval of additional built up area of 7,456,71 sqft. due to increase in final approved plans of the proposed building by the GIFT development committee of the developer i.e M/s. GIFT SEZ Ltd.

DC KASEZ has recommended the proposal.

The request of the co-developer is submitted for consideration of BoA.

#### **Item No. 73.4 : Proposals for setting up of SEZs**

**(i) Request of M/s. Vaxenic India Private Limited for setting up of a sector specific SEZ for Biotechnology & Bio-Pharmaceuticals at Kolthur village, Shameerpet Mandal, Ranga Reddy District, Telangana, over an area of 11.473 hectares.**

<b>S. No</b>	<b>Name of the Developer</b>	<b>Location</b>	<b>Sector</b>	<b>Area (in ha)</b>	<b>Land Possession</b>	<b>State Govt. Recommendation</b>	<b>Status of application</b>
(i)	M/s. Vaxenic India Private Limited	Kolthur village, Shameerpet Mandal, Ranga Reddy District, Telangana	Biotechnology & Bio-Pharmaceuticals	11.473	Yes	Yes	New

DC VSEZ has recommended the proposal.

The proposal of the developer is submitted for consideration of BoA.

**(ii) Request of M/s. Phoenix Embassy Tech Zone Private Limited for setting up of a sector specific SEZ for IT/ITES at Sy. No. 115/35, Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana, over an area of 2.02 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. Phoenix Embassy Tech Zone Private Limited	Sy. No. 115/35, Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana	IT/ITES	2.02	Yes*	No	New

\* A Joint Development Agreement has been executed between Phoenix Embassy Tech Zone Private Limited (formerly known as Phoenix Embassy Business Park Private Limited) and the landowner, Neuland Laboratories Limited to develop the SEZ.

DC VSEZ has recommended the proposal, subject to recommendation of the Government of Telangana for consideration of BoA.

The proposal of the developer is submitted for consideration of BoA.

**(iii) Request of M/s. Phoenix Embassy Tech Zone Private Limited for setting up of a sector specific SEZ for IT/ITES at Sy. No. 203 Part, Manikonda Jagir Village, Serilingampally Mandal, Ranga Reddy District, Telangana, over an area of 2.02 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. Phoenix Embassy Tech Zone Private Limited	Sy. No. 203 Part, Manikonda Jagir Village, Serilingampally Mandal, Ranga Reddy District, Telangana	IT/ITES	2.02	Yes*	No	New

\* A Joint Development Agreement has been executed between Phoenix Embassy Tech Zone Private Limited (formerly known as Phoenix Embassy Business Park Private Limited) and the landowner, Athena Global Technologies Limited (formerly known as VJIL Consulting Limited) to develop the SEZ).

DC VSEZ has recommended the proposal, subject to recommendation of the Government of Telangana for consideration of BoA.

The proposal of the developer is submitted for consideration of BoA.

**(iv) Request of M/s. EON Kharadi Infrastructure Private Limited for setting up of a sector specific SEZ for IT/ITES at Sr. No. 72, Village Khardi, Pune, over an area of 4.86 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. EON Kharadi Infrastructure Private Limited	Sr. No. 72, Village Khardi, Pune	IT/ITES	4.86	Yes	Yes (2.07.2016)	New

DC SEEPZ SEZ has recommended the proposal.

The proposal of the developer is submitted for consideration of BoA.

**(v) Request of M/s. GAR Corporation Private Limited for setting up of a sector specific SEZ for IT/ITES at Sy. No. 89 (P), Kokapet Village, Serilingampally Mandal, Telangana, over an area of 1.66 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. GAR Corporation Private Limited	Sy. No. 89 (P), Kokapet Village, Serilingampally Mandal, Telangana	IT/ITES	1.66	Yes	Yes (02.08.2016)	New

DC VSEZ has recommended the proposal.

The proposal of the developer is submitted for consideration of BoA.

**(vi) Request of M/s. GAR Corporation Private Limited for setting up of a sector specific SEZ for IT/ITES at Sy. No. 21 (P), 22 (P), 23 and 24, Kokapet Village, Serilingampally Mandal, Telangana, over an area of 2.56 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. GAR Corporation Private Limited	Sy. No. 21 (P), 22 (P), 23 and 24, Kokapet Village, Serilingampally Mandal, Telangana	IT/ITES	2.56	Yes	Yes (02.08.2016)	New

DC VSEZ has recommended the proposal.

The proposal of the developer is submitted for consideration of BoA.

**(vii) Request of M/s. KRC Infrastructure and Projects Private Limited and M/s. Gera Developments Pvt. Ltd. for jointly setting up of sector specific SEZ for IT/ITES at Kharadi District Pune, Maharashtra, over an area of 4.03 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. KRC Infrastructure and Projects Private Limited (Joint developer M/s. Gera Developments Pvt. Ltd.)	Survey No. 65, Village Kharadi, Taluka – Haveli, Distt. Pune, Maharashtra	IT/ITES	4.03 (1.37 Ha with KRC I & PP) And 2.66 Ha with Gera Developments Pvt. Ltd.	Yes	Yes	Deferred in 71 <sup>st</sup> BoA held on 22.06.2016 (DC SEEPZ has withdrawn the proposal)

However, Section 3(1) of the SEZ Act, 2005 provides as under:-

“A Special Economic Zone may be established under this Act, either jointly or severally by the Central Government, State Government, or any person for manufacture of goods or rendering services or for both of as a Free Trade and Warehousing Zone”.

Further, provision to section 3(10) of SEZ Act, 2005 provides as under:-

*“The Central Government shall, on receipt of communication under clause (a) or clause (b) of sub-section (9), grant, within such time as may be prescribed, a letter of 7 approval on such terms and conditions and obligations and entitlements as may be approved by the Board, to the Developer, being the person or the State Government concerned: Provided that the Central Government may, on the basis of approval of the Board, approve more than one Developer in a Special Economic Zone in cases where one Developer does not have in his possession the minimum area of contiguous land, as may be prescribed, for setting up a Special Economic Zone and in such cases, each Developer shall be considered as a Developer in respect of the land in his possession.”*

**DC recommendation:** It has been stated that a joint developer SEZ proposal has come for the first time, however, there is no guidelines as to how it would be operational. Hence submitted to the Board for consideration.

The proposal was considered in the 71<sup>st</sup> BoA held on 22.06.2016 and the DC, SEEPZ SEZ informed that the developer had withdrawan the proposal.

The proposed SEZ would be established by two developers M/s. KRC Infrastructure & Projects Pvt. Ltd. and M/s. Gera Development Pvt. Ltd.

The proposal of the Joint Developers is submitted for consideration of BoA.

### **Item No. 73.5 : Miscellaneous Cases**

**(i) Request of M/s. Kogta Import Export Pvt. Ltd., a unit in M/s. Indiabulls Industrial Infrastructure Limited at C-8/2, Village Musalgaon & Gulvanch, Taluka Sinnar, Nashik for setting up of a unit in terms of Rule 45(i) & instruction No. 47.**

M/s. Kogta Import Export Pvt. Ltd. has requested for approval for setting up of a new unit in M/s. Indiabulls Industrial Infrastructure Limited for manufacture and export & Import of various Pulses, which are prohibited items as per ITC (HS) Code.

Now, M/s. Kogta Import Export for manufacture of Peass (PISUM Satvum), Chickpeas (Garbanzos), beans of species vigna (Mungo/Hepper or Vigma Radiata Wilczek), Small Red Beans, Kidney beans and horse beans, moong, tur (arhar), Urad and Spilt etc.

(The proposal was placed in the BoA in its 43<sup>rd</sup> meeting held on 18.11.2010 in terms of instruction no. 47 dated 04.03.2010 issued by DoC which stipulates that imports and exports of prohibited items for exports as per ITC (HS) Codes are permitted with prior approval of BoA. The BoA approved the proposal subject to condition that all the pulses will be imported from outside India and no procurement will be made from DTA till prohibition on exports continue in FTP).

DC SEEPZ has recommended the proposal.

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

**(ii) Request for reduction in area of M/s. Kandla Port Trust (KPT) holding LoA for setting up of multi product SEZ at Kandla & Tuna area.**

The above mentioned SEZ was granted formal approval on 7<sup>th</sup> May, 2007 over an area of 5000 hectares. The developer has requested for reduction in area by 1000 hectares, thereby, making the total area of SEZ as 4000 hectares. Therefore, the developer requested to refer the matter to BoA for consideration.

The developer has informed that a mega Renewable Energy Park is planned in 1000 hectares of land at Kandla falling under CRZ. (As per CRZ notification 2011, projects related to non conventional energy such as wind and solar energy are the permissible activities) for both captive consumption and export of surplus power to the DTA.

KPT had conducted an investor conference on April 6, 2015 in which about 25 companies from RE sector participated. As per the feedback received from investor conference and EoIs, the establishment of RE park is preferred in DTA since the power generation capacity from the project will be higher than captive consumption and would need to be evacuated to DTA area. In view of the above KPT proposes to develop the RE Park 1000 Ha as DTA and outside the scope of SEZ Act 2005. Accordingly, KPT land use Plan 2020 had been modified and the 1000 Ha land is reserved for Renewable Energy Park.

DC, KASEZ has recommended the request of the developer.

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

**(iii) Request of M/s. Gujarat Textiles for transfer of unit from Falta SEZ to VSEZ**

The unit was granted LoP on 02.05.2000 for setting up of a manufacturing unit of all kinds of re-processed garments/used clothing's/secondary textile materials/ clippings/ rags/ Industrial wipers/ shoddy wool/yarn/ blanket/ shawls and other re-cyclable textiles materials at Falta SEZ.

Now, the unit has requested for transfer of unit from Falta SEZ to VSEZ

- (i) Non-availability of skilled labourers in Kolkata
- (ii) Better business development
- (iii) Availability of skilled labourers in Vizag region, Andhra Pradesh.

DC, FSEZ has recommended the proposal.

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

**(iv) Request of M/s. Orga Systems India Pvt. Ltd, a unit in M/s. DLF SEZ for change of name to M/s. Redknee India OS Pvt. Ltd. consequent upon change in shareholding.**

The above mentioned unit was granted LoP on 16.05.2011. The LOA is valid up to 15.05.2021.

The unit has submitted a proposal for change in its shareholding pattern as under:-

(a) Before transfer of shares:

Name of the shareholder	No. of share held	% of share held
Orga Systems GmbH	3399164	98.7%
Orga Systems Holding GmbH	35513	1.3%
Total	3434677	100%

(b) After changing the name

Name of shareholder	No. of share held	% of share held
Redknee Germany (OS) GmbH	3399164	98.7%
Redknee Germany (OS) GmbH	35513	1.3%
Total	3434677	100%

With a view to promote the ease of doing business in India and that restructuring of entity/ business is a fairly common occurrence, **BOA in its 69<sup>th</sup> meeting held on 23.02.2016 decided that provisions of Rule 74A shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ Unit continues to operate as a going concern in the situations mentioned above. The UACs concerned, may consider such requests under Rule 19(2) of the SEZ Rules, 2006.**

In so far as Business Transfer Agreement is concerned, it was explained that certain acquisitions happen globally as a result of Business Transfer Agreement which result in transfer of the SEZ unit of the Indian company on a going concern basis to the acquirer. **The BOA decided that such cases resulting in change of ownership would be decided on merits by the Board of Approvals on a case to case basis.**

The unit is not opting out from the SEZ and there is a 100% change in shareholding & as such the proposal is not covered under the powers delegated to the UAC as per the clarification issued by 69<sup>th</sup> BoA held on 23.02.2016.

DC FSEZ has recommended the proposal.

The request of the unit is submitted for consideration of BoA.

**(v) Request of M/s. Chordia Brothers, a unit at Plot No. F-20, SEZ-II, Sitapura, Jaipur for change of name of partners and shareholding of the firm.**

The above mentioned unit was granted LoP on 08.04.2005. The LOA is valid up to 08.08.2019.

The unit has submitted a proposal for change in partners and also informed that the shareholding of the firm has undergone a change w.e.f. 26.01.2016 as per details given below:-

<b>Name of Partners</b>	<b>Shareholding at the time of unit's approval</b>	<b>Revised shareholding after change of partnership</b>
Sh. Ashok Kumar Jain	40%	1%
Sh. Anil Kumar Chordia	15%	--
Sh. Sampat Kumar Chordia	30%	--
Sh. Abhay Chordia	5%	99%
Sh. Akshay Chordia	5%	--
Sh. Vikash Chordia	5%	--

With a view to promote the ease of doing business in India and that restructuring of entity/ business is a fairly common occurrence, **BOA in its 69<sup>th</sup> meeting held on 23.02.2016 decided that provisions of Rule 74A shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ Unit continues to operate as a going concern in the situations mentioned above. The UACs concerned, may consider such requests under Rule 19(2) of the SEZ Rules, 2006.**

In so far as Business Transfer Agreement is concerned, it was explained that certain acquisitions happen globally as a result of Business Transfer Agreement which result in transfer of the SEZ unit of the Indian company on a going concern basis to the acquirer. **The BOA decided that such cases resulting in change of ownership would be decided on merits by the Board of Approvals on a case to case basis.**



The unit is not opting out from the SEZ and there is a 90% change in shareholding & as such the proposal is not covered under the powers delegated to the UAC as per the clarification issued by 69<sup>th</sup> BoA held on 23.02.2016.

DC NSEZ has recommended the proposal.

The request of the unit is submitted for consideration of BoA.

**(vi) Request of M/s. Artesian Software Technologies LLP, a unit in M/s. Quarkcity India Pvt. Ltd. at Mohali, Punjab for inclusion of partner with 60% shareholding in the firm.**

The above mentioned unit was granted LoP on 29.10.2012. The LOA is valid up to 19.12.2017.

The unit has submitted a proposal for inclusion of new Director Mr. Amit Sharma with 60% shareholding in the firm w.e.f. 01.10.2015 as per details given below:-

Name of shareholder	Shareholding prior to change in inclusion of partner (No. of shares)	Shareholding after change in inclusion of partner (No. of shares)
Ms. Priya Sharma	70%	10%
Mr. Sumit Sharma	30%	30%
Mr. Amit Sharma	--	60%

With a view to promote the ease of doing business in India and that restructuring of entity/ business is a fairly common occurrence, **BOA in its 69<sup>th</sup> meeting held on 23.02.2016 decided that provisions of Rule 74A shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ Unit continues to operate as a going concern in the situations mentioned above. The UACs concerned, may consider such requests under Rule 19(2) of the SEZ Rules, 2006.**

In so far as Business Transfer Agreement is concerned, it was explained that certain acquisitions happen globally as a result of Business Transfer Agreement which result in transfer of the SEZ unit of the Indian company on a going concern basis to the acquirer. **The BOA decided that such cases resulting in change of ownership would be decided on merits by the Board of Approvals on a case to case basis.**

The unit is not opting out from the SEZ and there is a 60% change in shareholding & as such the proposal is not covered under the powers delegated to the UAC as per the clarification issued by 69<sup>th</sup> BoA held on 23.02.2016.

DC NSEZ has recommended the proposal.

The request of the unit is submitted for consideration of BoA.

**(vii) Request of M/s. DLF Utilities Ltd., a co-developer in the sector specific SEZ for IT/ITES at New Town, Rajarhat, Kolkata being developed by M/s. DLF Limited for transfer of Co-developer LoA including all authorized operations, assets & liabilities to M/s. DLF Power & Services Ltd.**

M/s. DLF Utilities Ltd. was granted co-developer status in the sector specific SEZ for IT/ITES at New Town, Rajarhat, Kolkata, West Bengal on 16<sup>th</sup> September, 2013.

Now, the co-developer proposed to transfer their co-developer approval (including all assets & liabilities related to power, maintenance and business support services from DUL to M/s. DLF Power & Services Ltd., a fellow subsidiary (“DPSL”) on a going concern basis by way of slump sale, to undertake to maintain the seamless continuity of the Company’s IT/ITES activities for authorized operations vide resolution passed by Board of Directors of the company. The other terms and conditions for the transfer of co-developer from M/s. DLF Utilities Ltd. to M/s. DLF Power & Services Ltd. are covered as per the MoA.

DC FSEZ has recommended the proposal.

The proposal is placed before BoA for its consideration.

**(viii) Request of M/s. DLF Utilities Ltd., a co-developer in the sector specific SEZ for IT/ITES at Gachibowli village, Serilingampally Mandal, Ranga Reddy District, Telangana being developed by M/s. DLF Commercial Developers Limited for transfer of Co-developer LoA including all authorized operations, assets & liabilities to fellow subsidiary**

The co-developer status was issued to M/s. DLF Assets Pvt. Ltd. and M/s. DLF Utilities Limited by the Ministry. Accordingly, the co-developer agreement was executed with the DLF Commercial Developers Ltd. as a developer and with two co-developers i.e. DLF Utilities Ltd. and DLF Assets Pvt. Ltd. on 01.05.2008 as amended time to time.

The co-developer has authorized for providing the infrastructure facilities like electricity, chilled water, building operation and maintenance and business support services (herein after referred to as ‘Power, maintenance and business support services’), in the SEZ as authorized operations, duly approved from MOC.

Now, the co-developer proposed to transfer their co-developer approval (including all assets & liabilities related to power, maintenance and business support services from DUL to M/s. DLF Power & Services Ltd., a fellow subsidiary (“DPSL”) on a going concern basis by way of slump sale, to undertake to maintain the seamless continuity of the Company’s IT/ITES activities for authorized operations vide resolution passed by Board of Directors of the company. The other terms and conditions for the transfer of co-developer from M/s. DLF Utilities Ltd. to M/s. DLF Power & Services Ltd. are covered as per the MoA.

Board of Directors of their company including DLF Commercial Developers Limited (Developer), DAPL and DPSL has given approval/ consent to go ahead with the Business Transfer Agreement (BTA). Accordingly, BTA agreement was accorded on 16.09.2016 between DLF Utilities Ltd. and DLF Power & Services Limited a fellow subsidiary of DLF utilities Ltd.

DC VSEZ has recommended the proposal.

The proposal is placed before BoA for its consideration.

**(ix) Request of M/s. DLF Utilities Ltd., a co-developer in the sector specific SEZ for IT/ITES at Sector – 24 & 25A, DLF Phase-III, Gurgaon, Haryana, being developed by M/s. DLF Cyber City Developers Ltd. for transfer of LoA to fellow subsidiary company M/s. DLF Power & Services Ltd., pursuant to slump sale under the Business Transfer Agreement.**

The above mentioned co-developer was granted co-developer status on 20<sup>th</sup> August, 2009 for setting up a co-generation plant to install and commission gas turbine based power generating sets in the SEZ. The co-developer has entered the co-developer agreement executed with DLF Cyber City Developers Ltd. (DCCDL) as a developer and DLF Assets Pvt. Ltd. (DAPL) as another co-developer on dated 16.04.2008.

As per the Board of Directors of the company, the co-developer proposed to transfer co-developer approval including all assets and liabilities related to power, maintenance and business support services business from DLF Utilities Ltd. to DLF Power & Services Ltd.

The Board of Directors of the company including DLF Cyber City Developers Limited, DLF Assets Private Limited and DLF Power & Services Limited has given approval/consent for Business Transfer Agreement (BTA) on 16<sup>th</sup> September, 2016 and in this respect to seek the necessary permission from BoA

As per decision of BoA in its 69<sup>th</sup> meeting held on 23.02.2016.

With a view to promote the ease of doing business in India and that restructuring of entity/ business is a fairly common occurrence, BOA decided that provisions of Rule 74A shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ Unit continues to operate as a going concern in the situations mentioned above. The UACs concerned, may consider such requests under Rule 19(2) of the SEZ Rules, 2006.

In so far as Business Transfer Agreement is concerned, it was explained that certain acquisitions happen globally as a result of Business Transfer Agreement which result in transfer of the SEZ unit of the Indian company on a going concern basis to the acquirer. The BOA decided that such cases resulting in change of ownership would be decided on merits by the Board of Approvals on a case to case basis.

DC NSEZ has recommended the proposal.

The proposal is placed before BoA for its consideration.

**(x) Request of M/s. DLF Utilities Ltd., a co-developer in the sector specific SEZ for IT/ITES at Village Silokhera, Sector – 30, Gurgaon, Haryana, being developed by M/s. DLF Ltd. for transfer of LoA to fellow subsidiary company M/s. DLF Power & Services Ltd., pursuant to slump sale under the Business Transfer Agreement.**

The above mentioned co-developer was granted co-developer status on 17<sup>th</sup> June, 2008 for setting up of 60 MW capacity of co-generation plant to install and

commission gas turbine based power generating sets in the SEZ. The co-developer has also granted approval from DoC vide letter dated 16.09.2013 for additional authorized operations namely (i) development and/or operation & maintenance of SEZ building (ii) engineering maintenance including electrical and mechanical works, heating, ventilation & Air conditioning (HVAC) system, fire detection and alarm systems, water supply, storm, drainage and sewage disposal, building upkeep services including maintenance of Lift lobby, conference hall, parking area, utilities area, Garbage & scrap disposal, Horticulture, pest control, façade cleaning services, (iii) security services, and fire and life safety measures.

The Business Transfer Agreement (BTA) signed on 16<sup>th</sup> September, 2016 between M/s. DLF Utilities Ltd. and M/s. DLF Power & Services Ltd. as per clause 3.1 lump sum financial consideration of Rs. 85 crores.

As per decision of BoA in its 69<sup>th</sup> meeting held on 23.02.2016.

With a view to promote the ease of doing business in India and that restructuring of entity/ business is a fairly common occurrence, BOA decided that provisions of Rule 74A shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ Unit continues to operate as a going concern in the situations mentioned above. The UACs concerned, may consider such requests under Rule 19(2) of the SEZ Rules, 2006.

In so far as Business Transfer Agreement is concerned, it was explained that certain acquisitions happen globally as a result of Business Transfer Agreement which result in transfer of the SEZ unit of the Indian company on a going concern basis to the acquirer. The BOA decided that such cases resulting in change of ownership would be decided on merits by the Board of Approvals on a case to case basis.

DC NSEZ has recommended the proposal.

The proposal is placed before BoA for its consideration.

**(xi) Request of M/s. DLF Utilities Ltd. (DUL), a co-developer in the sector specific SEZ for IT/ITES at Ramapuram, Chennai being developed by M/s. DLF Info City Developers (Chennai) Ltd. for transfer of Co-developer LoA to M/s. DLF Power & Services Ltd. (DPSL)**

M/s. DLF Utilities Ltd. was granted co-developer status in the sector specific SEZ for IT/ITES at Ramapuram, Chennai on 17.06.2008, initially for setting up of 48 MW capacity power plant. Subsequently, it was modified to 84 MW on 27.10.2008.

They were permitted to include additional authorized operations in the processing area viz. Development and/or operation and maintenance of SEZ buildings; Engineering Maintenance including electrical and mechanical works, HVAC systems, etc; security services; and fire & lift safety measures in the SEZ.

The Board of Directors of M/s. DUL in a meeting held on 19.05.2016 consented to sell/transfer/dispose off the whole of their business on slump sale basis under the Business Transfer Agreement (BTA) for a lump sum consideration of minimum Rs. 75 crores plus working capital adjustments to M/s. DLF Power & Services Limited, their fellow subsidiary company and M/s. DPSL passed a resolution in its Board meeting held on 20.05.2016, to

acquire/purchase/takeover/undertake the whole of power and maintenance business from M/s. DUL along with all the assets, liabilities, debts, approval, sanctions, licenses, permissions, etc. from governments/regulatory authorities on a slump sale basis which includes their co-developer status in DLF SEZ, Chennai.

Both the companies viz. M/s DLF Utilites Ltd and M/s. DLF Power & Services Ltd. (DPSL) entered into BTA on 16.09.2016.

DC MEPZZ has forwarded/recommended the proposal.

The proposal is placed before BoA for its consideration.

**(xii) Request of M/s. Embassy Services Pvt. Ltd., a co-developer in the sector specific SEZ for Electronic Hardware and Software including IT/ITES at Rachenhalli and Nagavara Villages, Hobli, Outer Ring Road, Bangalore District, Karnataka, being developed by Manyata Promoters Pvt. Ltd. for authorized operations.**

The SEZ stands notified over an area of 26.2017 hectares. M/s. Embassy Services Pvt. Ltd. is a co-developer for Operation and Maintenance of buildings and other infrastructure facilities at the SEZ.

Now the co-developer has submitted application for additional authorized operation in the processing area as per details given below:-

S. No.	Name of the activity	No. of units	Area per unit (in sqm) as per FSI/FAR norms as applicable	Total area (in sqm)
1.	Operation and maintenance of Building and other infrastructure /facilities to be undertaken in the entire area of the SEZ	NA	NA	NA
2.	Engineering Maintenance including electrical and mechanical works, heating, ventilation and air conditioning (HVAC) systems, fire detection & alarm systems, water supply, storm drainage and sewage disposal, building upkeep services including maintenance of lift, lobby, conference hall, parking area utility area/ garbage and scrap disposal, horticulture, pest control, façade cleaning services	NA	NA	NA
3.	Security services	NA	NA	NA
4.	Fire & life safety measures	NA	NA	NA
5.	Generation and distribution of back-up power and supply of chilled water	NA	NA	NA

DC CSEZ has recommended the proposal.

The request of the co-developer for the above authorized operations is placed before BoA for its consideration.

As per section 3(11) of SEZ Act, 2005 (Any person who, or a State Government which, intends to provide any infrastructure facilities in the identified area referred to in sub-

section (2) to (4), or undertake any authorised operation may, after entering into an agreement with the Developer referred to in sub-section (10), make a proposal for the same to the Board for its approval and the provisions of sub-section (5) and sub-sections (7) to (10) shall, as far as may be, apply to the said proposal made by such person or State Government.

**(xiii) Request of M/s. Shriram Properties and Infrastructure Private Limited developer for sector specific SEZ for IT/ITES at Perungulathur, Chennai, for transfer of shareholding pattern of the company**

The above mentioned SEZ stands notified over an area of 15.06.51 hectares and the SEZ is operational w.e.f. 26.11.2007. There are 19 units in the SEZ which had effected exports of Rs. 1451 crores during the financial year 2015-16.

Now the developer has indicated the existing shareholding pattern and the proposed shareholding pattern as under:-

**Existing shareholding pattern**

S. No.	Name of shareholder	No. of equity shares	Percentage
1.	Shriram Properties Private Limited	2,95,76,161	50%
2.	SUN-Apollo Investment Holding I LLC	2,95,76,161	50%

**Proposed shareholding pattern**

S. No.	Name of shareholder	No. of equity shares	Percentage
1.	Ascendas Property Fund (India) Pte. Ltd.	2,95,76,161	50%
2.	SUN-Apollo Investment Holding I LLC	2,95,76,161	50%

DC MEPZ has recommended the proposal for consideration by BoA.

The proposal is placed before BoA for its consideration.

**(xiv) Request of M/s. Super Gems, a unit in Plot No. H-119, SEZ-II, Sitapura, Jaipur for change of partners and shareholding of the company.**

The above mentioned unit was granted LoP on 17.07.2004. The LOA is valid up to 23.06.2019

The unit has submitted a proposal for change in partnership of the firm. The details of shareholding pattern of the existing/new partners are as under:-

<b>Partners/shareholding at the time of unit's approval</b>		<b>Revised partners/shareholding</b>	
Name of partner	Share %	Name of partner	Share %
Shri Subhash Agarwal	50%	Shri Subhash Agarwal	10%
Smt. Beena Agarwal	25%	Shri Ramesh Chand Prajapati	45%
Shri Anurag Agarwal	25%	Smt. Kamala Prajapati	45%

With a view to promote the ease of doing business in India and that restructuring of entity/ business is a fairly common occurrence, **BOA in its 69<sup>th</sup> meeting held on 23.02.2016 decided that provisions of Rule 74A shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ Unit continues to operate as a going concern in the situations mentioned above. The UACs concerned, may consider such requests under Rule 19(2) of the SEZ Rules, 2006.**

In so far as Business Transfer Agreement is concerned, it was explained that certain acquisitions happen globally as a result of Business Transfer Agreement which result in transfer of the SEZ unit of the Indian company on a going concern basis to the acquirer. **The BOA decided that such cases resulting in change of ownership would be decided on merits by the Board of Approvals on a case to case basis.**

The unit is not opting out from the SEZ and there is a 90% change in shareholding & as such the proposal is not covered under the powers delegated to the UAC as per the clarification issued by 69<sup>th</sup> BoA held on 23.02.2016.

DC NSEZ has **not** recommended the proposal.

The request of the unit is submitted for consideration of BoA.

**(xv) Request of M/s. Symphony Jewels Pvt. Ltd., a unit in Plot No. H-119, SEZ-II, Sitapura, Jaipur for change of Directors and shareholding of the company.**

The above mentioned unit was granted LoP on 11.08.2008 is functional. The LOA is valid up to 06.04.2020.

The unit has submitted a proposal for change of Directors and also informed that the shareholding of the company has undergone a change as per details given below:-

S. No.	Name of shareholder	Existing	Revised
1.	Shri Dayaram Khanchandani	55000 (4.23%)	--
2.	Shri Kanhaiya Lal Khanchandani	--	--
3.	Shri Shyam Khanchandani	455000 (35%)	--
4.	Shri Nitin Khanchandani	790000 (60.76%)	--
5.	Shri Harshit Soni (w.e.f 01.10.2015)	--	1000000 (76.92%)
6.	Smt. Indu Mayach (w.e.f. 01.10.2015)	--	300000 (23.07%)
	Total	1300000 (100%)	1300000 (100%)

With a view to promote the ease of doing business in India and that restructuring of entity/ business is a fairly common occurrence, **BOA in its 69<sup>th</sup> meeting held on 23.02.2016 decided that provisions of Rule 74A shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ Unit continues to operate as a going concern in the situations mentioned above.**

**The UACs concerned, may consider such requests under Rule 19(2) of the SEZ Rules, 2006.**

In so far as Business Transfer Agreement is concerned, it was explained that certain acquisitions happen globally as a result of Business Transfer Agreement which result in transfer of the SEZ unit of the Indian company on a going concern basis to the acquirer. **The BOA decided that such cases resulting in change of ownership would be decided on merits by the Board of Approvals on a case to case basis.**

The unit is not opting out from the SEZ and there is a 90% change in shareholding & as such the proposal is not covered under the powers delegated to the UAC as per the clarification issued by 69<sup>th</sup> BoA held on 23.02.2016.

DC NSEZ has recommended the proposal.

The request of the unit is submitted for consideration of BoA.

**(xvi) Request of M/s. Ansal IT City & Parks Ltd. to grant extension in timeline for construction of minimum built area in the IT/ITES at Plot No. TZ-06, Sector Tech Zone, Gr. Noida, Uttar Pradesh**

The developer was granted formal approval for setting up the above mentioned SEZ, vide LoA dated 7<sup>th</sup> April, 2006. The SEZ was notified on 29.08.2006. The SEZ is operation w.e.f. 22.04.2014. Presently, two units namely; (i) Vidya Mantra Edusystems Pvt. Ltd. & (ii) Hanu Software Pvt. Ltd. are in operation in the SEZ.

As per Rule 5(7) of SEZ Rules, 2006, the developer or co-developer shall have to construct the minimum built up area (100000 sqmt.) within a period of ten years from the date of notification of the SEZ in which at least fifty percent of such area to be constructed within a period of five years from the date of notification.” In instant case 10 years of SEZ notification has already been completed on 28.08.2016 and approx. 15000 sqm (1,65,000 sqft.) of built up area have been constructed in the processing area of SEZ.

The developer and co-developer have appealed to grant them permission to construction minimum built up area by giving them additional three years period beyond 28.08.2016. The reason for delay is as under:-

- (i) GNIDA has allotted 75 acre of land for the developer and lease deed executed on 10.02.2006 for 90 years. Subsequently, the developer applied to the BoA for setting up of IT/ITES SEZ project and the SEZ was notified on 29.08.2006.
- (ii) The UP State Government and the Board of GNIDA recognized and supplementary deed executed 2009 between GNIDA Authority and developer and thereafter the construction started only after 11.02.2009.
- (iii) Development of the project was delay due to long distance, remote location with complete absence of public transport system, extremely poor safety/security perception in the isolated region without any habitation, movement in the vicinity, global economic recession faced by IT Industry during year 2009-2010. Further, financial institutions were not encouraged to sanction construction loans for developer of the project.



- (iv) Due to violent agitation of farmers regarding acquisition of land by GNIDA affected construction activity at the site and the matter was resolved only after the stay order was given by Hon'ble High Court of Allahabad on 21.11.2012 and the same was only cleared by the Hon'ble High Court on 24.08.2012.
- (v) Further Tripartite Sub Lease Deed was entered between the Lessor (GNIDA), Lessee (M/s. Ansal IT City & Parks Ltd.) and the sub Lessee (Earth Iconic Infrastructure Pvt. Ltd.) vide which 5 years time period was granted to construct the required area from the date of execution of lease deed i.e. till 30.04.2018. The co-developer submitted its layout plan/building plan to GNIDA and only after pursuing constantly, approval was granted for the processing area by GNIDA.

**Infrastructure development:-**

- (i) The developer after obtaining building plan sanction/approvals from GNIDA, has constructed 15,000 sqm. in Signature Tower on IT-1A. Subsequently, the developer has submitted building plans to the GNIDA for the construction of additional area of 9824.55 sqm. on the existing site which was approved by GNIDA on 20.10.2015
- (ii) The developer has also applied financial institutions/banks for sanction of term of Rs. 25 crores which is expected to be sanctioned by mid August 2016 thereafter the construction of additional likely to be completed by mid 2017.

**Investment in the Project as on 31.05.2016:-**

- (i) The company has already made an investment of Rs. 133.30 crores as on 31.05.2016 for acquisition of land, development of infrastructure and built up area.

**The development activities by co-developer**

The MoC vide letter dated 17<sup>th</sup> July, 2012 has given the co-developer status to M/s. Earth Iconic Infrastructure Pvt. Ltd. to build 50,000 sqm area and subsequently, the co-developer has executed Tripartite Sub Lease Deed on 01.05.2013 with the developer and GNIDA. Further, the co-developer has given 5 years period for construction of above site by the GNIDA Authorities, however the above said work was delayed due to the obtaining approval on 07.11.2014 and 18.12.2014 from the Mining Department of UP Government.

The developer and the co-developer have appealed to grant them permission to construct minimum built up area by giving additional 3 years period by 28.08.2016. The developer has cited the above reasons for the delay in achieving their objective. However, with the recent progress & development activities in Greater Noida region i.e. connectivity of metro rail, the developer wanted to constructing the above site and start the development work of IT/ITES SEZ.

Keeping in view the position stated above, the Approval Committee observed that the construction work as per Rule 5 (7) of the SEZ Rules, 2006 has not been completed within 5 or 10 years and there is no enabling provision in the SEZ Act/Rule for completion of the construction of minimum built up area. Thus the matter referred to BoA for consideration.

DC NSEZ has the following:-

- (i) Suitable provision may be incorporated in SEZ Rules empowering BoA for considering request of extension after 5 years, in case 50% of work is not completed and after 10 years, when 100% work is not completed.
- (ii) This request may be considered after such enabling provision.

The request of the developer is submitted for consideration of BoA.

**(xvii) Proposal of M/s. MMG Impex, a unit in MEPZ to reconsider the proposal for manufacture of additional items of sandalwoods.**

The above mentioned unit was granted LoP on 6<sup>th</sup> June, 2012 for manufacture and export of sandalwood. The proposal was came before the 60<sup>th</sup> meeting of BOA held on 08.11.2013 for manufacturing of following items:-

- (i) Sandalwood handicraft products
- (ii) Sandalwood machine made products
- (iii) Sandalwood chips (upto 50 grams per piece)
- (iv) Sandalwood power/dust
- (v) Sandalwood flakes/scrap/waste

However, the BoA after deliberations had rejected the proposal due to MoEF expressed his reservations on the said proposal.

Again, the unit vide letter dated 30.12.2013 applied to the MOC to reconsider the proposal at par with M/s. Sai Lalith Fragrances which was granted approval for manufacture of similar products by the 35<sup>th</sup> BoA held on 11<sup>th</sup> August, 2009. The matter was considered in 63<sup>rd</sup> BoA meeting held on 18.09.2014. "After deliberations, the Board approved the proposal for setting up export unit in respect of machine finished sandalwood products (ITC(HS) Code 44090000) & finished handicraft products of sandalwood (ITC(HS) Code 44200000)".

It may be pointed out that in the 35<sup>th</sup> meeting held on 11.08.2009, the BoA had approved the broad banding to manufacture machine finished sandalwood, chips, dust and powder from ingeniously procured sandalwood i.r.o. M/s. Sai Laith Fragrances, a similar unit in MEPZ SEZ. DC MEPZ was also directed to certify the source of procurement so as to ensure that no contraband sandalwood is used by the firm.

Now, the unit has again requested for consideration of following three items before BOA.

- (a) Sandalwood chips (upto 50 grams per piece)
- (b) Sandalwood powder/dust
- (c) Sandalwood flakes/scrap/waste

The proposal was again came before the 69<sup>th</sup> meeting of BOA held on 23.02.2016. The BoA, after deliberations, has approved for the manufacturing of sandalwood handicraft products and sandalwood machine made products which are restricted items. Further, the Board has not allowed the manufacturing of (i) Sandalwood chips (upto 50 grams per piece) (ii) Sandalwood powder/dust and (iii) Sandalwood flakes/scrap/waste as these are prohibited

items. The Board also directed DC, MEPZ to seek reports from Ministry of Environment, Forests & Climate Change and DGFT on the prohibited items.

Now, the MoEF&CC O.M. dated 26.05.2016 & 21.07.2016 informed that “prior to year 2012, entries in respect of Sandalwood were against S.No. 148 to 153 of the EXIM Policy, which in present EXIM Policy are referred to at S.No. 182 to 187. It has further started that the products namely dust, flakes, small piece of Sandalwood obtained from wood scrap/waste after manufacturing of Machine finished Sandalwood products and Powder, Machine Finished Chips manufactured from cracked portions of Sandalwood billets (each piece – not exceeding 50 gms) can be considered under S. No. 187 of Chapter 44 i.e. other forms of Sandalwood as specified under ITC (HS) classification for Export & Import.

In the light of reports from MOEF&CC and DGFT (**Annexure-1**), the DC MEPZ SEZ has referred the for the consideration of BoA under broad banding for manufacture and export of following items:-

- (a) Sandalwood chips upto 50 grams per piece Machine Finished.
- (b) Sandalwood waste upto 50 gms generated during Machining process
- (c) Sandalwood dust, powder generated during machining process.

The proposal is placed before BoA for its consideration.

**(xviii) Proposal of M/s. Global Export House for addition of Sandal Wood Oil and Chips.**

The above mentioned unit was granted LoP on 19.09.2014 for manufacture and export of Brass Art-wares, Aluminium Art Wares, Metal, Glass, Textile, Leather, all type of wooden items including sandal wood & its oil and chips. The unit has commenced commercial production w.e.f. 20.01.2016 by exporting its first consignment export.

The unit requested for addition of Sandal wood oils ad chips also in broad banding of items of manufacture by including the items as Sandalwood chips (50 grams or less), sandalwood oil, sandalwood beads (of various sizes for mala) and other handicraft articles of sandalwood.

The unit has stated that it will not procure sandalwood from Indian market except for the Government Auctions and it proposes to import the sandalwood from overseas markets and proposes to export all the made-ups and wastages back to overseas buyers. It has also stated in its application that these times are allowed for export from India.

In terms of export Policy for ITC HS classification and it has been noted that sandalwood in any form except finished handicraft products of sandalwood oil is prohibited and not allowed for export. The sandalwood oil is freely allowed for export with the restrictions subject to quantitative ceiling and conditions as may be notified by the DGFT from time to time. As per policy provision handicraft sandalwood items, machine finished sandalwood items and sandalwood oil is allowed for export, however, sandalwood in any other form cannot be exported out from India.

The details of business plan, investment so far and incremental investment since last extension submitted as under:-

**(a) Details of Business plan**

S. No.	Type of Cost	Proposed investment (Rs. in crore)
1.	Land Cost	Nil
2.	Construction Cost	Nil
3.	Plant & Machinery	Nil
4.	Other overheads	Nil
	Total	Nil

**(b) Investment made so far & incremental investment**

S. No.	Type of Cost	Total Investment made so far (Rs. In crore)	Incremental investment since last extension (Rs. In crore)
1.	Land cost	0.45	NA
2.	Material procurement	0.70	0.00
3.	Service Cost	0.09	0.00
4.	Other overheads	0.014	0.00
	Total	1.25	0.00

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

S. No.	S. No.	% completion as on date	% completion during last one year	Deadline for completion of balance work
1.	Civil work done	100%	80%	NA

Comments of DC NSEZ are as under:-

- (i) DoC in consultation with DGFT may clarify export policy of above items.
- (ii) In case item is prohibited for export, then in respect of prohibited item this office does not recommend the proposal.
- (iii) If them is not prohibited for export then this office recommends the proposal.
- (iv) In respect of sandalwood oil, it may be ascertained from DGFT whether any quantitative ceiling has been released by DGFT or not and whether quantitative ceiling requirement would be applicable for export from SEZ.

The proposal is placed before BoA for its consideration.

**Item No. 73.6 : Cancellation of Formal Approvals**

In terms of Rule 6(2)(a) of SEZ Rules, Formal Approval is valid for a period of three years by which time at least one unit has to commence production and the SEZ becomes operational from the date of commencement of such production. Proviso to this rule provides for extension of this Formal Approval by Board of Approval, for which the Developer will

submit his application in Form C1 to the concerned DC, who shall, within 15 days forward it to the Board with his recommendations.

In the following cases, formal approval has been granted by the DoC. However, since there is no significant progress made by the Developer, the concerned DC has proposed for cancellation of formal approval granted to the Developer. The details of cases are as under:-

Sr. No.	Name of the Developer/co-developer	Sector	Date of formal approval	Zone	Remarks
1.	M/s. Balaji Infra Projects Ltd. (Dighi Port, Raigad)	Multi product inclusive of FTWZ	23.10.2006	SEEPZ	<p>The formal approval granted to the developer has expired on 22.10.2014.</p> <p>The developer had submitted the proposal for 5<sup>th</sup> extension on expiry of the formal approval. However, on scrutiny of the application several discrepancies were found. DC vide letters dated 07.07.2015 &amp; 06.11.2015 had requested the developer to comply with the discrepancies w.r.t. NOC from GoM and clarify as to the land area against Gut Nos. 55,58,65,73 &amp; 74 were in the complete possession of the developer and Gut nos. 40,47,58,65,73 &amp; 74 are forest land and requires prior permission of the State Govt. for use other than forest and the same has been obtained or not. They were also asked to submit the project report for change in the sector from Port based multi product SEZ inclusive of FTWZ to port based FTWZ. However till date they have not replied to the same.</p> <p>A letter dated 12.05.2016 was issued to the developer intimating recommendation for cancellation of Formal Approval to BoA, to which the developer asked for a personal hearing which was granted on 07.06.2016.</p> <p>However, the developer did not turn up for the personal hearing nor did he intimate the reason for the same. Once again a personal hearing was granted to the developer on his request on 26.07.2016. The developer did not turn up for the second consecutive personal hearing. The developer has not adequate interest in implementation of the SEZ even after giving appropriate opportunities.</p> <p>DC SEEPZ has proposed for cancellation of formal approval.</p>

### Item No. 73.7 : Appeals before BoA

#### (i) Appeal of M/s. Moser Baer India Limited (SEZ Power Plant Unit), a unit in NSEZ against order dated 20.08.2015 passed by UAC, NSEZ.

The Unit was issued LOA F.No. 1/03/2009-PROJ/6842 dated 08.10.2009 and subsequently renewed on 04.12.2014 engaged in generation of electricity, which is captivity consumed and also supplied to other SEZ units within the MBIL-SEZ. The Unit vide letter dated 22.03.2016 applied for issuance of fresh LOA for setting up of Power plant unit in Non-conventional Energy SEZ of M/s Moser Baer India Limited(MBIL) at plot No. 66B,

Udyog Vihar, Greater Noida. The same was placed before the UAC in its meeting held on 01.04.2016.

After due deliberations, the DC, NSEZ vide letter dated 18.04.2016 has communicated that the Committee unanimously felt that there is no need to issue a fresh LOA to the unit as the Approved Committee had already approved the said power generation unit. Further, the Committee notes that the O&M benefits were not allowed to the unit during the period 01.04.2015 to 15.02.2016 as per previous power guidelines dated 27.02.2009 restored by DoC vide letter No. .6/3/3006-SEZ dated 06.04.2015 and directed that the same is required to be recovered from the unit. The Committee further decided that the unit will now be eligible for O&M benefits under Para(iii) of new power Guidelines issued by DoC vide letter No. P.6/3/2006-SEZ(Vol.III) dated 16.02.2016 subject to the following conditions that no duty free benefits for transfer of power to EOU shall be allowed. Further, the Committee informed that the unit hereby allowed to continue as a unit under LOA F.No. 1/03/2009-PROJ/6842 dated 08.10.2009 in terms of para(iii) of the Power guidelines issued by DoC dated 16.02.2016 subject to following conditions:-

- (i) The unit will refund an amount of Rs.1,55,76,751/- being the duty foregone on material procured from DTA & imported for operation & maintenance of power plant for the period of 01.04.2015 to 15.02.2016 within a period of 15 days from the date of issue of this letter.
- (ii) Comply the Power Guidelines issued by DoC vide dated 16.02.2016;
- (iii) No duty free benefits for transfer of power to EOU shall be allowed;
- (iv) All other terms and conditions of LoA dated 08.10.2009 shall remain unchanged;
- (v) Execute fresh/ additional Bond-Cum LUT within 15 days of issue of above letter and confirm acceptance of the above terms and conditions.

Aggrieved by the above order, the appellant prayed to the Hon'ble BoA that the O&M benefits were applicable to the units during the period 01.04.2015 to 15.02.2016 may be allowed under SEZ Act, Rules & Regulations and under relevant Power Guidelines and duty free benefits for transfer of power to EOU are admissible under SEZ Act, Rules & Regulations and under relevant Power Guidelines.

The proposal was placed before the 72<sup>nd</sup> BoA meeting held on 12<sup>th</sup> August, 2016. However, the Board deferred the appeal since the matter requires inter ministerial consultation with regard to power guidelines.

The appellant has filed the instant appeal (**Annexure-2**) against the above rejection.

**(ii) Appeal of M/s. Vikas Telecom Private Limited (VTPL), developer Vikas Telecom SEZ at Embassy Tech Village, Bangalore against order dated 30.05.2016 passed by UAC, CSEZ.**

M/s. Vikas Telecom Private Limited (VTPL) was granted permission vide LoA dt.07.04.2006 for IT/ITES Sector at Bangalore East Taluk. VTPL are the SEZ developer of Vikas Telecom SEZ at Embassy Tech Village, Bangalore SEZ. The developer vide letter dated 07.03.2016 has requested DC CSEZ with filled up application in Form F for running the back-up power facility as a unit within the Vikas Telecom SEZ in terms of the revised power guidelines dated February, 16, 2016. M/s. VTPL also requested for running the back-up power facility(DG set) as a SEZ unit w.e.f. 1<sup>st</sup> April, 2015 under the 2009 guidelines, with

clear instructions for releasing the pending ARE1s for the duty benefits already availed on diesel procurements for running the back-up facility during the period 1.04.2015 to 15.02.2016.

DC CSEZ vide letter dated 07.03.2016 (**Annexure-3**) has not conceded request of the applicant. In the contrary, to the DC order, the applicant has stated that The Ministry of Commerce and Industry had originally issued power guidelines for generation, distribution and transmission of power in Special Economic Zones on February 27, 2009 ('2009 Guidelines')

- The above guidelines were superseded by guidelines issued on March 21, 2012('2012 Guidelines')
- Subsequently, the 2012 Guidelines were withdrawn and from April 1, 2015, the 2009 Guidelines were brought back into effect (till February 15, 2016)
- However, wef February 16, 2016 revised power guidelines have been issued '2016 (Guidelines,) which is in force at present.

Both the 2009 Guidelines and 2016 Guidelines, allow IT/ITES SEZ developer to generate power within the PA of the SEZ, 'as a unit', and provide that such power plants will be entitled to all the fiscal benefits covered under section 26 of the Special Economic Zones Act, 2005 ('SEZ Act') including the benefits for initial setting -up, maintenance and the duty free import of raw materials and consumables for the generation of power. Such duty free imports of capital goods, raw materials and consumables, etc. would be counted towards the NFE obligations of the unit.

These units will enjoy duty free import of capital goods, raw materials and consumables for the generation of power and such duty free imports of capital goods, raw material and consumables etc. would be counted towards the NFE obligations of the unit."

*Further, as per 2016 Power Guidelines;*

*"(iv) With respect to the IT/ITES SEZs which requires continuous quality power, wherever generation of power has been approved by the BoA, as authorized operation, to the Developer/Co-developer within the processing area, and in respect of which there is a statutory requirement on developer/co-developer to supply 24 hours uninterrupted quality power supply at stable frequency in the zone, in terms of Rule 5A of SEZ Rules, 2006; **in such case generation of power will be carried out as a unit within the processing area,** and such a power plant including nonconventional energy power plant, will be entitled to all the fiscal benefits covered under section 26 of eh SEZ Act including the benefits for initial setting up, maintenance and the duty free import of raw materials and consumables for the generation of the power. Such duty free imports of capital goods, raw material and consumables etc. would be counted towards the NFE obligations of the unit."*

**Based on the above, VTPL has requested to run the DG sets installed in the Processing Area of SEZ as a SEZ unit, both under the 2009 Guidelines (for the period April 1, 2015 to February 15, 2016) and the 2016 Guidelines (presently in effect from**

**February 16, 2016), M/s VTPL had applied in Form F for approval to run the DG set, ie, the back-up power facility as SEZ unit, within the VTPL Special Economic Zone, w.e.f April 1, 2015.**

However, the Unit Approval Committee has granted the SEZ unit approval only under the 2016 Guidelines w.e.f May 9, 2016.

- i) The appellant has requested that 2009 Guidelines(which was in force for the period April 1, 2015 to February, 15, 2016). As SEZ unit license cannot be denied for this period.
- ii) Denial of SEZ unit Application under the 2009 Guidelines is against the statutory obligation imposed on the VTPL.
- iii) Denial of SEZ unit Approval under the 2009 Guidelines result in denial of substantive benefits provided under the SEZ Act and Rules.

The proposal was placed before the 72<sup>nd</sup> BoA meeting held on 12<sup>th</sup> August, 2016. However, the Board deferred the appeal since the matter requires inter ministerial consultation with regard to power guidelines.

The appellant has filed the instant appeal (**Annexure-4**) against the above rejection

**(iii) Appeal of M/s. Manyata Promoters Private Limited (MPPL) developer of Manyata Embassy Business Park SEZ at Nagavara, Bangalore against order dated 30.05.2016 passed by UAC, CSEZ.**

M/s. Manyata Promoters Private Limited (MPPL) developer of Manyata Embassy Business Park SEZ at Nagavara, Bangalore was granted permission vide LoA dt. 16<sup>th</sup> June, 2006 for IT/ITES Sector at Nagavara, Bangalore. The developer vide letter dated 07.03.2016 has requested DC CSEZ with filled up application in Form F for running the back-up power facility as a unit within the M/s. Manyata Promoters Private Limited (MPPL) in terms of the revised power guidelines dated February, 16, 2016. M/s. Manyata Promoters Private Limited (MPPL) is also requested for running the back-up power facility(DG set) as a SEZ unit w.e.f. 1<sup>st</sup> April, 2015 under the 2009 guidelines, with clear instructions for releasing the pending ARE1s for the duty benefits already availed on diesel procurements for running the back-up facility during the period 1.04.2015 to 15.02.2016.

DC CSEZ vide letter dated 07.03.2016 (**Annexure-5**) has not conceded request of the applicant. In the contrary, to the DC order, the applicant has stated that The Ministry of Commerce and Industry had originally issued power guidelines for generation, distribution and transmission of power in Special Economic Zones on February 27, 2009 ('2009 Guidelines')

- The above guidelines were superseded by guidelines issued on March 21, 2012('2012 Guidelines')
- Subsequently, the 2012 Guidelines were withdrawn and from April 1, 2015, the 2009 Guidelines were brought back into effect (till February 15, 2016)
- However, wef February 16, 2016 revised power guidelines have been issued '2016 (Guidelines,)' which is in force at present.



Both the 2009 Guidelines and 2016 Guidelines, allow IT/ITES SEZ developer to generate power within the PA of the SEZ, 'as a unit', and provide that such power plants will be entitled to all the fiscal benefits covered under section 26 of the Special Economic Zones Act, 2005 ('SEZ Act') including the benefits for initial setting -up , maintenance and the duty free import of raw materials and consumables for the generation of power. Such duty free imports of capital goods, raw materials and consumables, etc. would be counted towards the NFE obligations of the unit.

These units will enjoy duty free import of capital goods, raw materials and consumables for the generation of power and such duty free imports of capital goods, raw material and consumables etc. would be counted towards the NFE obligations of the unit."

*Further, as per 2016 Power Guidelines;*

*“(iv) With respect to the IT/ITES SEZs which requires continuous quality power, wherever generation of power has been approved by the BoA, as authorized operation, to the Developer/Co-developer within the processing area, and in respect of which there is a statutory requirement on developer/co-developer to supply 24 hours uninterrupted quality power supply at stable frequency in the zone, in terms of Rule 5A of SEZ Rules, 2006; **in such case generation of power will be carried out as a unit within the processing area,** and such a power plant including nonconventional energy power plant, will be entitled to all the fiscal benefits covered under section 26 of the SEZ Act including the benefits for initial setting up, maintenance and the duty free import of raw materials and consumables for the generation of the power. Such duty free imports of capital goods, raw material and consumables etc. would be counted towards the NFE obligations of the unit.”*

**Based on the above, M/s. Manyata Promoters Private Limited (MPPL) has requested to run the DG sets installed in the Processing Area of SEZ as a SEZ unit, both under the 2009 Guidelines (for the period April 1, 2015 to February 15, 2016) and the 2016 Guidelines (presently in effect from February 16, 2016) , M/s. Manyata Promoters Private Limited (MPPL) had applied in Form F for approval to run the DG set, ie, the back-up power facility as SEZ unit, within the Manyata Special Economic Zone, w.e.f April 1, 2015.**

However, the Unit Approval Committee has granted the SEZ unit approval only under the 2016 Guidelines w.e.f May 9, 2016.

- i) The appellant has requested that 2009 Guidelines(which was in force for the period April 1, 2015 to February, 15,2016). As SEZ unit license cannot be denied for this period.
- ii) Denial of SEZ unit Application under the 2009 Guidelines is against the statutory obligation imposed on the M/s. Manyata Promoters Private Limited (MPPL).
- iii) Denial of SEZ unit Approval under the 2009 Guidelines result in denial of substantive benefits provided under the SEZ Act and Rules.

The proposal was placed before the 72<sup>nd</sup> BoA meeting held on 12<sup>th</sup> August, 2016. However, the Board deferred the appeal since the matter requires inter ministerial consultation with regard to power guidelines.

The appellant has filed the instant appeal (**Annexure-6**) against the above rejection

**(iv) Appeal of M/s. Morgan Tecronics Ltd. (MTL) against the order dated 23.02.2016 passed by the DC, NSEZ/UAC.**

This is an appeal from M/s Morgan Tecronics Ltd(MTL) under Rule 55 of the SEZ Rules, 2006 against order dated 23.02.2016 passed by the DC, NSEZ/UAC. The above said appeal came before the 70<sup>th</sup> BoA held on 28<sup>th</sup> April, 2016. It was decided by the BoA that the appellant should furnish the statement in r/o NFE within a week regarding clearances figures for physical export and trading activity separately.

Accordingly, M/s Morgan Tecronics Ltd. had furnished the statement/inputs on 04/05/2016 (**annexure-7**) and same was forwarded vide DoC mail dated 13.05.2016 to DC, NSEZ for verification of data provided by M/s Morgan Tecronics Ltd. in connection with physical export/DTA Sale/NFE.

The DC, NSEZ vide letter dated 02/06/2016 has stated that M/s Morgan Tecronics Ltd. was requested to submit details of physical exports and DTA sale made by the Unit in format as prescribed by the O/o DC, NSEZ so as to calculate correct NFE position. However, M/s MTL vide letter dated 04/05/2016 has submitted details of import, export and DTA sale by them but not in the prescribed format and that M/s. MTL had stated that their records had been seized by the DRI, Delhi and they will submit the details whenever they will get back the records. No documents were given in support of deemed exports made by them under Rule 53(n). As per the provisions of Rule 53(n) of SEZ Rules, 2006;

**“Supply of goods to DTA against payment in foreign exchange form the Exchange Earners Foreign Currency account of the DTA or Free Foreign Exchange received from overseas”.**

DC, NSEZ further stated that since the unit has failed to provide the said documents i.e. details of EEFC Account of DTA Buyer or Free Foreign Exchange received from overseas, NFE position cannot be determined. Further, details of payment received from EEFC account or from overseas buyer should be through normal banking channel and that can be provided by the unit. Thus the contention of the unit that it is unable to provide the detail of EEFC account etc. on account that same has been seized by DRI is untenable.

DC, NSEZ further stated that **as per Rules 22(2) of SEZ rules, 2006, the unit engaged in both trading and manufacturing activities has to maintain separate records for trading and manufacturing activities, whereas the M/s. MTL has not given details of import and exports consignment wise details of import/export. Hence it is not possible to ascertain and the exact NFE position separately for manufacturing & trading activities. Further, as per Rule 27(10) of SEZ Rules, 2006 the assessment of imports by a unit shall be on the basis of self declaration and not subject to routine examination. Hence, the import clearance is on self declaration basis and trust is imposed on the SEZ unit that it gives correct declaration and files correct Bill of Entries. However, the unit**

**had persistently violated the rule & persistently mis-declaration the goods in Bill of Entries.**

Further, it is informed that as per records of customs, NSEZ, the unit had made trading export of 100% viscose woven shawls women & leather garments worth Rs. 11,17,93,278/- in the year 2012-13, Wooden Doors with wooden frame worth Rs. 1,22,400/- in the year 2013-14 and Tablet PC TR10CS1 ECSUSA worth Rs. 11,08,058/- during the year 2014-15. The main authorized operations of the unit are manufacturing of Consumer Electronic Hardware items alongwith trading activities. Unit has also made DTA clearance claiming as deemed export worth Rs. 104.96 lakhs, Rs. 6144.46 lakhs & Rs. 4850.97 lakhs during the year 2012-13, 2013-14 & 2014-15 respectively, which have been taken into account for calculation of NFE earnings by the unit. However, in the absence of the information as called vide this office letters dated 09/03/2016, 30/03/2016 & 25/04/2016, particularly details of receipt of payments from EEFC account of the DTA buyer or payments received from overseas buyers in free foreign exchange, it is not possible to ascertain exact NFE earnings achieved by the unit.

Further, after going through the above details of physical exports and DTA Sales, it was observed that 'data is not complete. Records by DRI are not sufficient cause not to give import/export consignment wise data and sought the information/clarification from the NSEZ, Customs'. With regards to DoC vide letter dated 17<sup>th</sup> June, 2016, DC, NSEZ vide letter dated 21.06.2016 has furnished the data for last 3 years(2012-2013 to 2014-2015) in r/o import and exports made by M/s. Morgan Tectronics Ltd(MTL) as provided by the NSEZ, Customs which may be seen at (**Annexure-8**). Thereafter, it was noted that 'It appears the UAC decision was on persistent violation of rules and to get the particulars of cases booked against the company in past 5 years from DC, NSEZ.

It appears from the report from DC NSEZ that while the decision to cancel the LoA of M/s. MTL was on the ground of persistent violation of Rules, the details of the cases registered/ intimated by DC, NSEZ did not intimate any proven case.

It is however, given to understand that the firm is perhaps under in-voicing its imports and taking advantage of the provision of self-declaration of imports available under Rule 27(10) of SEZ Rules, 2006.

Keeping in view the position stated above, the matter is placed before BoA for consideration.

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