

**Agenda for the 72<sup>nd</sup> meeting of the Board of Approval to be held on 12<sup>th</sup> August, 2016, at 11:00 A.M. in the Room No. 47, Udyog Bhawan, New Delhi**

**Item No. 72.1: 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. Kerala State IT Infrastructure Ltd. (KSITIL) for further extension of the validity period of formal approval, granted for setting up of sector specific SEZ for IT/ITES at Cheemeni Village, Kasaragod District, Kerala, beyond 18<sup>th</sup> September 2016**

**Name of the developer:** M/s. Kerala State IT Infrastructure Ltd. (KSITIL)

**Sector :** IT/ITES

**Location :** Cheemeni Village, Kasargod District, Kerala

**Extension:** The developer has been granted five extensions, validity period of which is upto 18<sup>th</sup> September, 2016.

**Basic facts:** Formal approval to the developer was granted on 19<sup>th</sup> September, 2008. 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:-

<b>S. No.</b>	<b>Type of Cost</b>	<b>Proposed Investment (Rs in crores)</b>
1.	Land Cost	25
2.	Construction Cost	80.66
3.	Plant & Machinery	--
4.	Other Overheads	6.18
	<b>Total</b>	<b>111.84</b>

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

S. No.	Type of Cost	Proposed Investment made so far (Rs. In crores)	Incremental investment since last extension (Rs. In crores)
1.	Land Cost	25	--
2.	Material Procurement	--	--
3.	Service Cost	0.06	--
4.	Other Overheads (Const.)	3.37	3.37
	Total	28.43	3.37

(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.	Construction of 50,000 sq.ft IT building	40%	40%	31.04.2017

DC CSEZ has recommended the proposal for extension by one year.

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

**(ii) Request of Kerala State Information Technology Infrastructure Limited for further extension of the validity period of formal approval, granted for setting up of sector specific SEZ for IT/ITES at Eramam Village, Kannur District, Kerala, beyond 18<sup>th</sup> September 2016**

**Name of the developer:** M/s. Kerala State IT Infrastructure Ltd. (KSITIL)

**Sector :** IT/ITES

**Location :** Eramam Village, Kannur District, Kerala

**Extension:** The developer has been granted five extensions, validity period of which is upto 18<sup>th</sup> September, 2016.

**Basic facts:** Formal approval to the developer was granted on 19<sup>th</sup> September, 2008. 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 crores)
1.	Land Cost	1.27
2.	Construction Cost	60.01
3.	Plant & Machinery	--
4.	Other Overheads	--
	Total	61.28

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

S. No.	Type of Cost	Proposed Investment made so far (Rs. In crores)	Incremental investment since last extension (Rs. In crores)
1.	Land Cost	0.77	--
2.	Material Procurement	--	--
3.	Service Cost	0.81	0.81
4.	Other Overheads (Const.)	2.05	2.05
	Total	3.63	2.86

(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.	Construction of 50,000 sq.ft IT building	40%	40%	31.03.2017

DC CSEZ has recommended the proposal for extension by one year.

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

**Item No. 72.2 : 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. JBF Petrochemicals Limited, a unit in Mangalore (Multi Product) SEZ at Mangalore, Bangalore for extension of LoP beyond 15<sup>th</sup> September, 2016**

- **LoP issued:** 16<sup>th</sup> September, 2011.
- **Extensions:** 4 (four) up to 15<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) The unit has stated that the total investment of the project is with a revised estimated investment of Rs. 4750 crores against which they have already invested Rs. 4250 crores with a remaining investment for the balance work to the tune of Rs. 500 crores i.e. 10.53% during the extended period of LoA.
- (ii) The implementation status already submitted alongwith relevant photographs shows that the construction activities of the project is in full swing and construction of Site Office, Main Plant Area, Cooling Tower, Effluent Treatment plant (ETP), Surge Tank for ETP, UASB Reactor for ETP, demineralization Plant, 6.5 KV – 33KV, 415 KV sub station, etc, have already been over.
- (iii) Progressively, the unit have constructed Diesel and LSHS Storage Tank, Demin Water Plant and Liquid Nitrogen Plant, Cooling Tower, Instrument Air Receiver and Buffer Vessel, Biomass Fuel Boiler, Witch Yard, Substation, Central Control Room, Pipe Rack, Para xylene Storage Tank, Waste Water Treatment Plant, Guard Pond.
- (iv) The construction work is completed 78.6% and whereas Engineering and procurement has been completed nearly cent per cent. The unit has stated that the entire project will be completed by December, 2016.

**Reason for delay:** The project was initiated with the technology given by Invista (Du Pont). After 1 year British Petroleum offered to sell its superior state of the art technology which was accepted by their management. The unit has stated that they have already completed 92.3% of the project with an investment of Rs. 4250/- crores till date with an incremental implementation progress of 13.70% from that of 78% during last one year period of extension. They state that they could not complete the project as speedy as expected as they faced an excessive delay in receiving some important equipment/machinery to equip the various process involved in the petrochemical plants and to mention some of them, most important titanium cladded distillation columns from L&T which were delayed due to IR problems (strike) for more than six months despite L&T shifting half made vessel to some

other place to avoid IR issues. So also, PTA Reactor, the hearth of the mother plant was delayed by TSM of South Korea by over six months as company became sick and closed down. Their Reactor was the last vessel TSM made with considerable delay.

DC, Mangalore SEZ, has recommended the request of the unit for extension of validity of LoP for one year.

The request is placed before BoA for its consideration.

**(ii) Request of M/s. Sameer Industries, a unit in KASEZ for extension of Letter of Permission (LoP)**

The unit had been issued LoP dated 23.09.1995 for “Recycled items for imported scrap such as MS Scrap, MH Scrap, CI Scrap, Copper-Brass-Aluminium and other minor metal scrap, and recycling of brass and copper dross”. The LoP of the unit has expired on 02.04.2016 and requested for further extension for a period of three years from the date of expiry i.e. 02.04.2016.

The proposal was considered in 71<sup>st</sup> BoA meeting held on 22<sup>nd</sup> June, 2016 and was deferred. The minutes are as under:-

*“The Board, after deliberations deferred the proposal and directed DC, KASEZ to verify the correct Block of five years and verify the NFE performance of the unit during that period”.*

Now DC KASEZ has stated that:-

(a) Correct block of five years period:-

- (i) The unit was issued with the LoP on 23.09.1995 and the unit had started its commercial production with effect from December, 1995. However, Letter of Approval of all units of KASEZ functioning under erstwhile Kandla Free Trade Zone as on 31.10.2000 was validated upto 31.10.2005 due to conversion from FTZ to SEZ. Therefore, (a) their first five year block period was from 01.11.2000 to 31.10.2005 after such conversion. (b) Second block of five years period was 01.11.2005 to 31.10.2010. However, the LoP was operative only for the period from 26.06.2009 to 31.10.2010 as the LoP was renewed by BoA 33<sup>rd</sup> meeting held on 02.06.2009 only restoring the above five years block period from 01.11.2005 to 31.10.2010.
- (ii) Their chain of third block of five years period i.e. 01.11.2010 to 31.10.2015 was broken due to their proposal for further renewal of LoP was either rejected/or deferred by BoA. Their request for extension was first rejected in the 44<sup>th</sup> meeting of BoA held on 14.01.2011 on the ground of no activity in the previous five years and it was also observed that such unit of recycling of scrap should be discouraged in SEZ. Further, BoA in its 53<sup>rd</sup> meeting of BoA held on 06.06.2012 deferred their proposal as DC, KASEZ did not recommend their case on the ground that it will generate waste & scrap in the zone. Finally their extension of LoA was approved by BoA in its 61<sup>st</sup> meeting held on 06.06.2014 after positive report/recommendation of this office but only for two years period from 03.04.2014 to 02.04.2016. Thus, third five year block

period may be taken up 03.04.2014 to 02.04.2019, if BoA decides to extend LoP.

(b) NFE performance of the said unit during the above block period:-

- (i) During the period from 01.11.2000 to 31.10.2005:- on the basis of APR submitted by the said unit, they achieved cumulative NFE of Rs. 5.93 crore positive (Approx.) during their first five year block period i.e. 01.11.2000 to 31.10.2005.
- (ii) During the period from 01.11.2005 to 31.10.2010:- They achieved nil NFE during their second five year block period i.e. 01.11.2005 to 31.10.2010; during this period no activity was undertaken by the unit. However, it is pertinent to mention that their LoA was renewed/extended for the same period vide this office letter dated 26.06.2009 on the basis of the 33<sup>rd</sup> BoA held on 02.06.2009 conveyed vide Ministry's letter dated 05.06.2009. Thus, the unit was inactive up to 26.06.2009 for want of extension/renewal their LoA. In fact, LoA period available to the unit was one year and four months only. The unit has now been issued SCN for not achieving positive NFE for this period.
- (iii) During the period from 03.04.2014 to 02.04.2016:- They have achieved negative NFE of Rs. 5.25 crore during the financial year 2014-15 and 2015-16.

DC KASEZ has recommended the proposal, subject to following conditions:-

- (i) The extension of LoP will be subject to fulfillment of all the conditions mentioned in GPCB's permission and other usual conditions of LOP.
- (ii) No broad banding of any other item shall be allowed.
- (iii) The pending export obligation of previous two years shall be achieved during next further period of three years.
- (iv) No import of any items falling under the Schedule VI of new HW (MH&TM) Rules, 2016 w.e.f. 04.04.2016 which is prohibited for import shall be allowed.

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

**(iii) Request of M/s. Kitchen Xpress Overseas Limited, a unit in KASEZ for renewal of LoP**

M/s. Kitchen Xpress Overseas Limited was granted approval on 24/25-06-2010, for manufacturing and trading activity of processed pulses, grains, spices, lentils etc. The validity of LoP of the said unit is upto 31.05.2016. Further, 43<sup>rd</sup> BoA held on 28.11.2010 has stated that pulses put a condition that no procurement will be made from DTA till prohibition on exports continue in Foreign Trade Policy.

During the five years block period, as per the APRs for the F.Y. years 2011 to 2015-16 the performance of units is as under:-

- (i) The unit has achieved positive NFE of Rs. 45.67 crores involving the physical export of Rs. 193.70 crores.
- (ii) Investment in Building and Plant & machinery to tune of Rs. 11.55 crores
- (iii) Generated employment for 60 persons.

Since the items of the trading & manufacturing activity of Processed Pulses, Grains, Spices and Lentils are freely importable but the Pulses and Lentils falling under ITC (HS) code of Chapter Heading 0713 are continue to be prohibited for export as per the existing Foreign Trade Policy. In terms of first proviso of Rule 45 of SEZ Rules, 2006. Every such proposal whose export is prohibited requires to be approved by BoA. LoA in respect of items of grains & spices falling under ITC (HS) code of chapter 09 which otherwise are freely importable & exportable & does not require BoA approval, has been renewed by this administration for the further five year period and for the products, viz. pulses and lentils, case is recommended for approval of BoA with same terms of conditions that no DTA procurement shall be permitted till export of lentils/pulses is prohibited.

Since the above proposal was already approved by the BoA for pulses and lentils being prohibited items the extension of above unit for a period of five years from 01.06.2016 to 31.05.2021 is submitted for consideration of BOA.

DC KASEZ has recommended the proposal for consideration.

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

**(iv) Request of M/s. Biomedical Lifesciences Pvt. Ltd., a unit in Zydus Pharma SEZ at Village Matoda, Sanand, Ahmedabad, Gujrat for extension of LoP beyond 23.06.2016**

- **LoP issued:** 06.06.2008.
- **Extensions:** 5 (five) up to 23<sup>rd</sup> June, 2016
- **Request:** For further extension.

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

The unit failed to commence commercial production with the stipulated and extended time limit and therefore, the said LoA dated 06.06.2008 was treated to have been deemed lapsed w.e.f. 31.03.2011 vide cancellation order on 22.03.2012 in terms of Rule 19 (5) of the SEZ Rules, 2006.

Thereafter, the unit had filed SLP before the Hon'ble High Court of Gujarat which was dismissed vide order dated 03.07.2013, and 17.09.2013. Subsequently, the unit had filed an appeal before the BoA for restoration of aforesaid LoA 06.06.2008. The BoA in its 60<sup>th</sup> meeting held on 08.11.2013 had directed the DC to grant personal hearing to the unit and developer and to pass speaking order within 30 days.

As per directions, after following principles of natural justice, the DC, KASEZ had issued an order on 10/13.01.2014 confirming suo-moto lapse of LoA conveyed to the unit vide letter dated 02.04.2012. However, being aggrieved, aforesaid SEZ unit had approached BoA and thereafter BoA in 61<sup>st</sup> meeting which was held on 03.04.2014 had set-aside aforesaid order dated 10/13.01.2014 of the DC and restored LoA a period of one year from the date of handing over possession of the plot to the applicant by the developer.

The unit has made the following investment/plans:-

- (i) The unit has fail to start commercial production, however the trial production has start with one machine w.e.f. 23.05.2016
- (ii) Their construction activities are also going on in full swing and shall be completed with six months
- (iii) Till date the unit has spent Rs. 11 crores on this project and Phase-I work is completed.

DC KASEZ has recommended the proposal for consideration of BoA.

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

### **Item No. 72.3 : Requests for co-developer**

**(i) Request of M/s. J.K. Builders for co-developer in the sector specific SEZ for IT/ITES at Rajiv Gandhi Infotech Park, Phase-Iii, Hinjewadi, Pune, Maharashtra, being developed by M/s. Maharashtra Industrial Development Corporation**

The above mentioned SEZ stands notified over an area 223.56 hectares.

M/s. J.K. Builders has submitted a proposal for becoming a co-developer in the aforesaid SEZ for construction of buildings and related infrastructure for It/ITES units, Development space for IT/ITES unit and all default authorized operation, over an area of 13200 sq. mtrs.

Co-developer agreement dated 19<sup>th</sup> October, 2016 entered into with the developer has been provided. Lease deed dated 7<sup>th</sup> June, 2014. Lease period is 95 years. The payment to the corporation by the Lessee/s of the sum of Rs. 1109500 as and by way of differential premium paid of Rs. 1109500/- vide D.R. No. IT/RGIP PH-3/333925 dated 25<sup>th</sup> August, 2015.

DC SEEPZ has observed that the applicant for co-developer status, M/s. J.K. Builders had earlier applied for a unit i.e. M/s. J.K. Infotech and had failed to implement the project. Therefore it is doubtful that the applicant can fulfill the parameters for functioning as a co-developer to conduct the authorized operations when he could not set up a unit.

DC SEEPZ SEZ has **not recommended** the proposal.

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

**(ii) 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.**

The above mentioned SEZ stands notified over an area 105-43-86 hectares.

M/s. Brigade (Gujarat) Projects Pvt. Ltd. has submitted a proposal for becoming a co-developer in the aforesaid SEZ for construction and development of commercial building within the GIFT SEZ in processing area, over an area of 2,60,000 acres (24,155 sq.mtrs).



Co-developer agreement dated 12<sup>th</sup> April, 2016 entered into with the developer has been provided. Draft Agreement to Lease-Cum- Development has also been provided. Lease period is 99 years. The co-developer shall pay a total consideration of approximately Rs. 26,00,00,000/- @ Rs. 1,000/- per sq.ft. of 2,60,000 sq. ft. of BUA. In case of any change in the building plan and consequential increase in BUA, a supplemental agreement will be executed between the parties for grant of the additional development rights and the co-developer shall pay the consideration for such development rights for those additional BUA at the rate of Rs. 1,000/- per sq. ft of BUA.

DC KASEZ has recommended the proposal.

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

#### **Item No. 72.4 : Proposals for setting up of SEZs**

**(i) Request of M/s. Infosys Limited for setting up of a sector specific SEZ for IT/ITES at Action Area-IIIG, New Town, Kolkata Po-Kolkata Leather Complex, District South 24, Praganas, over an area of 20.148.**

<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. Infosys Limited	(Action Area-IIIG, New Town, Kolkata Po-Kolkata Leather Complex, District South 24, Praganas	IT/ITES	20.148	Yes	No	New

DC FSEZ has recommended grant of in-principle approval subject to State Government clearance which has been sought for from the applicant.

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

**(ii) Request of Devbhumi Realtors Private Limited for setting up of a sector specific SEZ for IT/ITES at (Sy. No. 83/1, Raidurg Panmakhtha Village, Serilingampally Mandal, Ranga Reddy District, Telangana.**

<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. Devbhumi Realtors Private Limited.	(Sy. No. 83/1, Raidurg, Panmakhtha Village, Serilingampally Mandal, Ranga Reddy District, Telangana	IT/ITES	2.02 ( 5 Acres)	Yes	Yes	New

DC VSEZ has recommended the proposal.

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

**(iii) Request of M/s. Phoenix Living Spaces Private Limited for setting up of a sector specific SEZ for IT/ITES at Ameenpur Village, Patancheru Mandal, Medak District, Telangana, over an area of 5.67 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. Phoenix Living Spaces Private Limited	Ameenpur Village, Patancheru Mandal, Medak District, Telangana	IT/ITES	5.67	Yes*	Yes (20.05.2016)	Deferred in 71 <sup>st</sup> BoA meeting held on 22.06.2016

*\*The proposed development is a joint venture between the landowners and the developer with irrevocable rights.*

The above proposal came before 71<sup>st</sup> BoA held on 22.06.2016 and BoA directed to DC VSEZ to examine the legal possession w.r.t. the agreement between the developer and the land owners. DC VSEZ vide letter dated 23.06.2016 has examined the case and approved the matter for the consideration in the next BoA (72<sup>nd</sup> BoA to be held on 12.08.2016) at **(Annexure-1)**.

DC VSEZ had recommended the proposal.

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

**(iv) Request of M/s. Phoenix Embassy Tech Zone Private Limited for setting up of a sector specific SEZ for IT/ITES at Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana, over an area of 6.07 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	Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana	IT/ITES	6.07	Yes*	Yes (20.05.2016)	Deferred in 71 <sup>st</sup> BoA meeting held on 22.06.2016

*\*The proposed development is a joint venture between the landowners and the developer with irrevocable rights.*

The above proposal came before 71<sup>st</sup> BoA held on 22.06.2016 and BoA directed to DC VSEZ to examine the legal possession w.r.t. the agreement between the developer and the land owners. DC VSEZ vide letter dated 24.06.2016 has examined the case and approved the matter for the consideration in the next BoA (72<sup>nd</sup> BoA to be held on 12.08.2016) at **(Annexure-2)**.

DC VSEZ had recommended the proposal.

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

**(v) Request of M/s. Chhindwara Plus Developers Ltd. for multi product SEZ at Tehsil Sausar, Distt. Chhindwara, Madhya Pradesh, over an area of 1320.065 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. Chhindwara Plus Developers Ltd.	Tehsil Sausar, Distt. Chhindwara, Madhya Pradesh	Multi Product	1320.065	Yes	Yes (25.06.2016)	Deferred in 71 <sup>st</sup> BoA meeting held on 24.04.2016 due to non receipt of SGR.

Now the State Government Recommendation received.

DC Indore SEZ has recommended the proposal.

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

**Item No. 72.5 : Miscellaneous Cases**

**(i) Request of M/s. Click Apps Co. Pvt. Ltd., a unit in M/s. Quarkcity India Pvt. Ltd. at Mohali, Punjab for change of Directors and shareholding of the company.**

The above mentioned unit was granted LoP on 10.03.2015. The LOA is valid up to 26.03.2020.

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

Name of shareholder	Shareholding prior to change in Directors (No. of shares)	Shareholding after change in Directors (No of shares)
Aditya Kumar	5000 (50%)	--
Ms. Inderjit Kaur	5000 (50%)	--
Mr. Dharamrajan	--	5000 (50%)
Ms. Hemlatha Purshothama	--	5000(50%)

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 NSEZ has recommended the proposal.

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

**(ii) Request of M/s. Avnet Services Private Limited, a unit in M/s. TRIL at Chennai for change of name to M/s. Sirius Computer Solutions India Private Limited.**

The above mentioned unit was granted LoP on 21.04.2014.

The shareholding pattern of the SEZ unit viz. M/s. Avnet Services Private Limited before and after the name change to M/s. Sirius Computer Solutions India Private Limited are given below:-

Before name change:

Name of shareholder	Face value of Security in INR	Number of equity shares	Total amount in INR
Avnet, Inc.	1	1,390,000	1,390,000
Avnet Asia Pte. Ltd.	1	10,000	10,00

After name change:-

Name of shareholder	Face value of Security in INR	Number of equity shares	Total amount in INR
SCS Holdings I Inc.	1	1,399,999	1,399,999
Sirius Computer Solutions, Inc	1	1	1

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 MEPZ has recommended the proposal.

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

**(iii) Request of M/s. UnitedHealth Group Information Services Pvt. Ltd., a unit in M/s. Oxygen Business Park Pvt. Ltd. at Plot No. 7, Sector-144, Noida, Uttar Pradesh for change of shareholding.**

The above mentioned unit was granted LoP on 02.05.2012. The LOA is valid up to 07.08.2017.

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

Types of shares	Existing Shareholder	New Shareholder
Equity	1. UnitedHealth Group International B.V. (UHGI BV)-99.37% 2. UnitedHealth International Inc. – 0.63%	1. Optum Global Solutions International BV (OGSI BV) – 99.37% w.e.f. 08.12.2014 2. UnitedHealth International Inc – 0.63%
Preference	UnitedHealth Group International B.V. (UHGI BV) – 100%	Optum Global Solutions International BV (OGSI BV) – 100% w.e.f. 26.11.2014

Further, the unit vide its letter dated 24.05.2016 inter-alia submitted copy of balance sheet for 2014 in respect of M/s. Optum Global Solutions International BV (OGSI BV).

In this regard the unit has also informed that there will be no change in the nature of company's business and all assets and liabilities in respect of said unit occupied by UnitedHealth Group India shall continue. The unit had also undertaken that all Government taxation and other liabilities will continue to be complied with by the company.

It may be mentioned that, the BoA in its meeting held on 23.02.2016 has inter-alia decided that 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 units continues to operate as a going concern in the situation such as change of name, court approved mergers/de-mergers, slump sale, change of constitution from proprietorship to partnership & vice-versa, change of constitution from public limited company to private/limited liability company & vice-versa, company to partnership & vice-versa, change in shareholding up to 50% etc. and per se are not opting out/exiting out of the SEZ Scheme. The UACs concerned may consider such requests under Rule 19(2) of the SEZ Rules, 2006.

It has been observed that there is 99.37% change in shareholding of company, however the unit has neither proposed any transfer under Rule 74A nor does it envisage any change under Rule 19(2)

DC NSEZ has recommended the proposal.

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

**(iv) Request of M/s. Volupia Developers Pvt. Ltd. for co-developer in Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, being developed by M/s. GIFT SEZ Ltd. for conversion of entity from Pvt. Ltd. to Limited Liability Partnership (LLP)**

The above mentioned SEZ stands notified over an area of 105.43.86 hectares.

M/s. Volupia Developers Pvt. Ltd. has already been conferred the co-developer status in the aforesaid SEZ on 1<sup>st</sup> July, 2015 to develop, maintain and operate office building for units to undertake export of services in the processing area, over a built up area of 2,50,000 sq.ft. Subsequently, an additional area of 50,237 sq.ft. thereby making the total area of the co-developer is 3,00,237 sq.ft.

Now the co-developer has requested for conversion of entity from Pvt. Ltd. to LLP as under:-

- (i) Vesting of co-developer status to M/s. Volupia Developers LLP upon conversion from Private Company into LLP
- (ii) Vesting of Class A Membership Rights to the current Promoters upon conversion to LLP and;
- (iii) Obtaining exemption from BoA on issue and transfer of Class B Membership Rights in Volupia Developers LLP to foreign and domestic investors.

In this regard, DC KASZ vide letter dated 12.04.2016 has requested Shri Devang Vyas, Assistant Solicitor General of India, Gujarat High Court to furnish his legal opinion on the above matter i.e. conversion of entity from Private Limited to LLP. Lt. ASG of Gujarat High Court vide his letter 22.06.2016 has opined that in absence of any enabling provision in the SEZ Act and Rules, it would not be advisable to grant co-developer's status to a new entity with completely new partners than the original individuals whose case was considered and it would be only from authority of the Government of India (BoA) only to consider any fresh application of any entity (be it an LLP) subject to any terms and conditions that Government of India may deem fit and also it is for BoA to consider ground of any such change, which amounts to transfer a co-developer's status to a new developer or an entity.

DC KASEZ has submitted the proposal for consideration of BoA.

The request is submitted for consideration of BoA.

**(v) Request of M/s. Milak Warehouse, KASEZ for import of Beans/Pulses/Lentils from Overseas countries for re-export**

M/s. Milak Warehouse was granted approval on 09.08.2001, for setting up of a unit in the KASEZ, for Trading activity and which was broad banded for providing warehousing service activity on 04.08.2010. The validity of LoP of the said unit is upto 14.08.2016.

Now the unit has requested for permission to import beans, pulses, lentils, split and export after required cleaning/sorting which shall be packed in 25/40/50 kgs. Bags as per

overseas customer requirements under the existing LoP and they have made following submissions:-

- (i) Beans, Pulses, Split, Lentils (ITC (HS) code 0713) are freely importable into India as per existing Import policy.
- (ii) There shall be no domestic procurements of Beans, Pulses, Split and Lentils.
- (iii) They shall 100% import the same from overseas countries and after required cleaning/sorting, the same shall be packed in 25/40/50 kgs bags as per overseas customer requirements and export.
- (iv) No effect of the said trading activity on Indian Domestic Trade or Food Reserves; as the same shall be procured 100% from overseas countries.
- (v) The activity would help in generating Net Forex earnings for country without affecting Indian Domestic Trade and also generate employment for 25-30 persons.
- (vi) The said unit has also submitted projection of Net Foreign Exchange of Rs. 922 lakhs for the five years including pulses, Beans & Lentils.

During the previous five years block period, as per the APRs for the F.Y. years 2011-12 to 2015-16, the performance of units are as under:-

- (i) The unit has achieved positive NFE of Rs. 18.06 crores
- (ii) Investment in Building and Plant & machinery to tune of R.s 0.52 crores
- (iii) Generated employment of 28 persons

Further, the request of the unit for import and re-export of Beans, Pulses, Split and Lentils involving certain process viz. cleaning, sorting and repacking from bulk to bags of 25/40/50 kgs. are not amounting to manufacturing activity as per section 2(r) of SEZ Act 2005. In short import and re-export for the above items is a trading activity.

It is also to mention that while all the items requested for permission of pulses, beans, split & lentils which are falling under ITC (HS) code of Chapter heading 0713 are freely importable but the same are prohibited for export as per the existing Foreign Trade Policy. In terms of first proviso of Rule 45 of SEZ Rules and as also as per ministry's instruction No. 47, every such proposal whose export is prohibited requires to be approved by BoA.

DC KASEZ has forwarded the proposal for consideration of BoA.

The request is submitted for consideration of BoA.

**(vi) Request of M/s. Epsilon Pharmaceuticals Pvt. Limited, a unit in M/s. TSIIC Limited, SEZ for pharmaceutical formulations at Polepally village, Jadcherla Mandal, Mahaboob Nagar District, Telangana for change of name of their company.**

The above mentioned unit was granted LoP on 14.12.2010.

It may be seen that entire share capital (100%) of M/s. Epsilon Pharmaceuticals Pvt. Ltd. has been acquired by M/s. Amneal Oncology Pvt. Ltd. (through a share purchase agreement).

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 VSEZ has recommended the proposal.

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

**(vii) Request of M/s. Dell International Services India Private Limited, a unit in the sector specific SEZ for IT/ITES at Plot No. 7, Sector- 144, Noida being developed by M/s. Oxygen Business Parks Pvt. Ltd. (formerly known as M/s Aachvis Softech Pvt. Ltd.) for change of entrepreneur from Dell International Services India Pvt. Ltd. Ltd. (DIS) to Dell Business Process Solutions India Pvt. Ltd. (DBPS) as per Rule 19 (2) of the SEZ Rules, 2006.**

M/s. Dell International Services India Pvt. Ltd. a unit in the sector specific SEZ for IT/ITES at Plot No. 7, Sector- 144, Noida being developed by M/s. Oxygen Business Parks Pvt. Ltd. (formerly known as M/s. Aachvis Softech Pvt. Ltd.) was granted LoP on 08.08.2012.

Now, the unit had submitted its proposal for transferring the entrepreneurship from Dell International Services India Pvt. Ltd. (DIS) to Dell business Process Solutions India Pvt. Ltd. (DBPS) in accordance with the business transfer agreement entered between the two entities. The unit had mentioned that the change in entrepreneurship of business will be completed by 31.07.2016 and to be effective from 01.08.2016. As per Business Transfer Agreement (BTA) inter alia, it's a sale of going concern, on slump sale basis within the meaning of Section 2(42C) of Income Tax Act, 1961. The unit has stated that it is only the transfer services business, asset & liabilities and has requested to allow the change of entrepreneurship in terms of Rule 19(2) of the SEZ Rules, 2006

Details of shareholding of transferor and Transferee Company before & after the proposed takeover of the SEZ unit duly signed by CA are as under:-



**Dell Business Process Solutions India Private Limited (Transferee Company)**

	Before Transfer (as on 03.06.2016)		Post transfer of shares as per share/purchase agreement (w.e.f. 01.08.2016)	
Name of the shareholder	No. of equity shares of Rs. 10 each	Percentage of shareholding	No. of equity shares of Rs. 10 each	Percentage of shareholding
Dell Systems TSI (Mauritius) Pvt. Ltd.	96147945	52.14	159836782	86.67
Dell International LLC	63688808	34.53	--	--
Dell International Holdings VIII B.V.	29	0.00	--	--
Dell (PS) Investments B.V.	24583551	13.33	24583551	13.33
<b>Total</b>		<b>100</b>		<b>100</b>

**Dell International Services India Private Limited (Transferor Company)**

	Before Transfer (as on 19.05.2016)		Post transfer (as on 20.05.2016)	
Name of the shareholder	No. of equity shares of Rs. 2 each	Percentage of shareholding	No. of equity shares of Rs. 2 each	Percentage of shareholding
Dell Global B.V.	--	--	69770237	60.81
Dell Systems TSI (Mauritius Pvt. Ltd.)	55703237	48.55	--	--
Dell International LLC	36200126	31.55	36200126	31.55
Dell International Holdings VIII B.V.	16	0.00	16	0.00
Dell (PS) Investments B.V.	14067000	12.26	--	--
Force 10 Networks Global Inc.	4693095	4.09	4693095	4.09
Aventail LLC	2495827	2.18	2495827	2.18
Dell Software Inc.	250	0.00	250	0.00
Wyse Technology LLC	1552961	1.35	1552961	1.35
Wyse Technology International BV	7	0.00	7	0.00
Dell Marketing L.P.	26179	0.02	26179	0.02
<b>Total</b>				<b>100</b>

DC NSEZ has recommended the above proposal for change of entrepreneur from Dell International Services India Pvt. Ltd. (DIS) to Dell Business Process Solutions India Pvt. Ltd. (DBPS).

The DC NSEZ had recommended the proposal and the above proposal has already been approved by DoC.

The proposal is placed before BoA for ratification.

**(viii) Proposal of M/s. Bagmane Developers Private Limited developer in the sector specific SEZ for IT/ITES at Mahadevapura, Bangalore, Karnataka for approval of authorized operation in the non-processing area of the SEZ**

The above mentioned SEZ was notified on 11<sup>th</sup> July, 2008, over an area of 11.31 hectares.

The developer has requested for approval of following specific authorized operations in the **non-processing area** of the SEZ:-

S. No.	Authorized Operations	No. of Units	Area per unit (in sqm.) as per FSI / FAR norms as applicable	Total area (in sqm.) / capacity (in MW)
1.	Food courts/Food kiosks area	10	2418.03	2418.03
2.	Retail spaces, kiosks	1	9.29	9.29
3.	Gym/Health club facilities	1	580.39	580.30
4.	Shopping arcade and/or retail space (in open area – adjacent to amenity block)	10	232.34	232.34
5.	Restaurants serving food, beverages including, spirits and brewery	1	557.62	557.62
6.	Entertainment zone	1	929.37	929.37
7.	Canteen & dining area	1	2416.36	2416.36
8.	Day care center	1	469.33	469.33

DC CSEZ has forwarded the proposal for consideration of BoA.

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

**(ix) Request of M/s. Texool Spinners, a unit in KASEZ (permission of inclusion of manufacture of Sacks & Bags from Old & used clothing) (item no. 97.2.4) against the order dated 06.06.2016 passed by UAC, KASEZ.**

M/s. Texool Limited (Div. Texool Spinners) a unit was issued LoP on 22.06.2004 in r/o permission of inclusion of manufacturing of woolen/synthetic shoddy yarn, with conditions of processing raw material – Old & used clothing inter zone, and explained that SEZ was operating on Free Zone formula – quantity restricted, and that once SEZ Rules are finalized, this restrictions would be lifted automatically. The Managing Director of the unit appeared before the Approval Committee on 06.06.2016 and explained that the product has vast usage in hotel industries and it would be green imitative as these cloth bags will replace the traditional plastic bags.

The above proposal was discussed in 97<sup>th</sup> UAC of KASEZ held on 06.06.2016 regarding permission of inclusion of manufacture of sacks & bags from old & used clothing, the committee after due deliberation observed that the process involves further value addition by the unit; however, as use of worn & used cloth material is involved, the Committee decided to refer the case to BoA.

As per the advice of UAC, the proposal is placed before BoA for consideration.

### **Item No. 72.6 : 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 proposal was placed before the 71<sup>st</sup> BoA meeting held on 22<sup>nd</sup> June, 2016. The Board noted that the matter required detailed consultation with the DGEP and therefore decided to defer the matter.

**(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.**

The proposal was placed before the 71<sup>st</sup> BoA meeting held on 22<sup>nd</sup> June, 2016. The Board noted that the matter required detailed consultation with the DGEP and therefore decided to defer the matter.

**(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.**

The proposal was placed before the 71<sup>st</sup> BoA meeting held on 22<sup>nd</sup> June, 2016. The Board noted that the matter required detailed consultation with the DGEP and therefore decided to defer the matter.

**(iv) Appeal of M/s. ASF Insignia SEZ Pvt. Ltd. developer against order dated 15.07.2016 passed by UAC, NSEZ.**

M/s. ASF Insignia SEZ Pvt. Ltd. developer was approved on 26.07.2007 for operational of IT/ITES SEZ situated at villae Gwal Pahari, off Gurgaon-Faridabad Road, Sohna, District Gurgaon, Haryana. Currently two IT buildings, having built-up space of 161340 sqm. and the amenities block (Podium building) having built-up space of 4740.50 sqm. are operational in the processing zone of the SEZ.

In terms of Rule 11(5) of SEZ Rules, 2006, they had applied to the UAC for allotment of built up space to provide and operate 'Salon' facility/service at the amenity Podium of ASF Insignia SEZ, which has been developed in the processing pursuant to authorized operations having been approved by the BoA vide letter dated 30.05.2008 for operating Essential Commercial – Micro Shopping (Utility Stores/ATMs), Food Courts/Restaurants etc. and by the UAC vide approval letter dated 07.10.2011 for operating Essential Commercial – Micro Shopping (Utility Stores/ATMs/Banks) food courts/restaurants etc., Conference Facility. Even though operation of Salon should generally get covered under overall ambit of Essential Commercial, approval for leasing space for operating a Salon has been declined by the UAC vide letter dated 15.07.2016 with the reason that the proposed activity is not a support service for IT/ITES activity.

Further, the developer has stated that proposed activity Salon is essential service/facility for the associates working in SEZs as the units are operating in 24x7 three shifts. Around 12000 employees were working in that processing area which may increase to

30000. Also there is no facility/service for the said purposes around 10 k.m. radius from that zone/project.

Further, currently due to non-provision of such amenities in SEZ, users to fulfill their basic needs in this regard may visit rural pockets or nearby localities which in turn impact safety and security threat.

Further, the developer cited that in 62<sup>nd</sup> BoA meeting held on 24.07.2014, a similar type decision was given i.r.o. M/s. TRIL Infopark Ltd., developer of sector specific SEZ for IT SEZ Ramanujan IT City, Rajiv Gandhi Salai (OMR) Taramani, Chennai, Tamilnadu (**Annexure-3**).

The proposal for allotment of space to Mr. Ajit Sharma on lease basis to set up & operate Salon in the brand name "Gr 8 Unisex Salon" in the processing area of IT/ITES SEZ at Village Gwal Pahari, Tehsil Sohna, Gurgaon, Haryana was placed before the Approval Committee (UAC) in its meeting held on 01.07.2016. However, the above proposal was cancelled by the DC NSEZ vide letter dated 15.07.2016 stating that the approval committee did not find any merit for approval of such activity as the proposed activity is not a support service for IT/ITES activity.

Thus, the appellant has filed the instant appeal (**Annexure-4**) before BoA against the above cancellation.

**(v) Appeal of M/s. Texool Spinners, a unit in KASEZ (item no. 97.2.3) (against the order dated 06.06.2016 passed by UAC, KASEZ.**

M/s. Texool Limited (Div. Texool Spinners) a unit was issued LoP on 22.06.2004 in r/o permission of inclusion of manufacturing of woollen/synthetic shoddy yarn, with conditions of processing raw material – Old & used clothing inter zone, and explained that SEZ was operating on Free Zone formula – quantity restricted, and that once SEZ Rules are finalized, these restrictions would be lifted automatically. Their request was to remove condition No. 9 of original LoP (the unit shall be using only the material procured by M/s. Texool Wastesavers or other units based on second hand clothing on intra-zone purchase basis and no import of these items shall be permissible) issued dated 22.06.2004.

The Managing Director of the unit appeared before the Approval Committee on 06.06.2016 and explained that procuring raw material from M/s. Texool wastesavers and that after fire in said unit they are finding it difficult to procure raw material for manufacturing of yarn, their end product.

After hearing his submissions, the Committee observed that condition No. 9 is a fundamental condition of original LoA issued in 2004, as even at that time no new LoA for such units will import of worn clothes was allowed. Removing of condition No. 9 of the original LoP dated 22.06.2004 would mean permitting to import worn & used clothes by the unit, thus it will be a new LoA for worn & used clothing under which the said unit will import second hand used clothing, which will violate Rule 18(4)(c) of SEZ Rules.

The above proposal was discussed in 97<sup>th</sup> UAC of KASEZ held on 06.06.2016 regarding permission of inclusion of manufacture of sacks & bags from old & used clothing, the committee after due deliberation observed that the process involves further value addition

by the unit; however, as use of worn & used cloth material is involved, the Committee decided to reject the unit request.

Thus, the appellant has filed the instant appeal (**Annexure-5**) before BoA against the above cancellation.

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