

No. K-43022/3/2020-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Udyog Bhawan, New Delhi
Dated the 4th February, 2020

OFFICE MEMORANDUM

Subject: 95th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) scheduled to be held on 14th February, 2020 at 11.00 A.M in Room No. 108 - forwarding of Agenda thereof - Reg.

In continuation to this Department's O.M. of even number dated 13th January, 2020 on the above mentioned subject, the undersigned is directed to enclose herewith the Agenda for the 95th meeting of the BoA for SEZs scheduled to be held on 14th February, 2020 at 11:00 A.M. for information and necessary action. Soft copy of the agenda has also been hosted on the website: www.sezindia.gov.in. The addressees located outside Delhi are requested to download the agenda from the above mentioned website.

2. The addressees are requested to make it convenient to attend the meeting.



(Darshan Kumar Solanki)

Under Secretary to the Government of India

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To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107).
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Shri Anil Agarwal, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, Krishi Bhawan, New Delhi.
8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)
9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).

11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi – 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyapuri, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi – 110 001 (Fax: 223329770)
22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai – 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, Atladra Padra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam – 3
36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihaan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Government of Andhra Pradesh, Principal Secretary and CIP, Industries and Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).
42. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.

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

Copy to: PPS to CS / PPS to AS (BBS) / PPS to DS (SNS).

**Agenda for the 95th meeting of the Board of Approval to be held on
14th February, 2020 at 11:00 A.M. in Room No. 108, Udyog Bhawan, New Delhi**

Item No. 95.1: Confirmation of minutes of the meeting of the 94th BoA held on 3rd January, 2020.

Item No. 95.2: Requests for extension of validity of formal approval (one proposal)

BoA in its meeting held on 14th September, 2012, while examining such proposals observed as under: -

“The Board advised the Development Commissioners to recommend the requests for extension of formal approval beyond 5th 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”.

95.2(i) Request of M/s. Indus Gene Expressions Ltd for further extension of the validity period of formal approval, granted for setting up of Bio-tech sector Specific SEZ at Kodur & Settipali Villages, Anantapur Distt, beyond four years.

Name of the developer : M/s. Indus Gene Expressions Ltd

Sector : Specific Sector (Bio-tech)

Location : Kodur Village, Chilamathur Mandel, Anantapur Dist

Extension: Formal approval to the developer was granted on 14th February 2011 and notified on 18th March 2011. The developer has been granted six extensions, last extension was granted on 8th March 2019, validity period of which was upto 13th February 2020. The developer has requested for further extension upto 13th February 2021.

Present Progress:

a. Details of business plan:

Sl.No.	Type of Cost	Proposed Investment (Rs. In crores)
1	Land	0.6
(i)	Excavation	0.15
(ii)	Land scaping	0.35
2	Infrastructure	
(i)	Boundary walls, roads, drainage, water supply, electricity, etc	5.50
(ii)	Ready Built up Research premises 4.05 lakhs sft @ Rs. 3000	121.50
(iii)	SEZ Office buildings	0.40
(iv)	Contingencies at 5% of project cost	3.50
	Total	132.00

b. Incremental Investment since last extension:

Sl.No.	Type of cost	Total investment Made so far (Rs. In crores) up to 30.11.2019	Incremental investment since last extension (Rs. In crores)
1.	Land cost	0.87	NIL
2.	Material Procurement	5.28	0.84
3.	Construction	28.75	3.78
	Total	34.90	4.62

c. Detail of Physical Progress till date:-

S.No.	Authorised activity	% completion	% completion during last one year	Deadline for completion of balance work
1.	Internal Lab Drain (Ground Floor and 2 nd Floor)	100%	--	Completed
2.	Internal Gas distribution System in ground and 2 nd Floor	100%	--	Completed
3.	Fire Hydrant Systems inside	100%	--	Completed
4.	Reception Ramp	100%	--	Completed
5.	Granite & Marble flooring (R&D, Admin SEZ and Security)	100%	--	Completed
6.	Plumbing work inside	100%	5%	Completed
7.	Internal Electrical System	100%	5%	Completed
8.	False Ceiling (Lab and Other areas)	100%	30%	Completed
9.	Lab Chairs and Stools	100%	100%	Completed
10.	Internal Painting	95%	--	Jan-20
11.	External Paint	95%	--	Jan-20
12.	Security and SEZ Blocks	95%	--	Feb-20
13.	Lab HVAC (inside)	95%	5%	Feb-20
14.	UPVC windows	90%	10%	Feb-20
15.	Office AC (Inside)	90%	10%	Feb-20
16.	False Ceiling (Office area and admin Block)	50%	30%	Feb-20
17.	Fire Hydrant Systems outside	90%	25%	Feb-20
18.	Lab HVAC (Outside)	80%	10%	Feb-20
19.	Office AC (Outside)	50%	10%	Feb-20
20.	Wash Room Fixures Fitting	50%	50%	Feb-20
21.	Glass Lifts at R&D	20%	20%	Feb-20
22.	Office Furniture	50%	50%	Feb-20
23.	SS railing	5%	--	Mar-20
24.	Main Entrance Arch	75%	--	Mar-20
25.	Internal road	75%	--	Mar-20
26.	External Electrical System	30%	20%	Mar-20
27.	Clean Rooms	70%	30%	Mar-20
28.	Gas yard	40%	40%	Apr-20
29.	Land Scaping	20%	20%	Apr-20
30.	Utility Rooms Civil Work	40%	40%	Mar-20

Other Related Works to complete the project:

S. No.	Category of Work	Completion schedule
1.	STP	Apr-20
2.	ETP	Apr-20
3.	RO Plant – 10K Capacity for Daily use	Apr-20
4.	Street Lights	Apr-20
5.	Main Gate – Telescopic	Apr-20
6.	Lab Instruments	Apr-20
7.	Laptop and Computers	Apr-20
8.	Sign and Main Name boards	May-20
9.	Fridges and Monitors	May-20
10.	Flag Poles	May-20
11.	Stationary Items & Letter heads	May-20

Detailed Reasons for delay:

- Loan from Andhra bank worth 25 Cr has been closed and applied for a new loan from Syndicate bank and the same is sanctioned in the month of December 2019. This is the major setback which decelerated the progress of the project.
- The lab furniture and cabin furniture for Scientists and top management has been custom made from China and there has been a long delay in the shipment. The lab furniture installation is the preliminary need to start the procurement of instruments and install.
- During 2019 general elections, labour shortage, economic slowdown and advent of monsoon crippled the construction sector including us.

R & D Labs are completely ready but the required utilities like RO, Purified water, Steam, Gases and Chilled water are to be made available in connection to that all the utility rooms are now under construction which may take another two month to complete. Land scaping and road construction are under progress and it may take another three months to complete. Ancillary rooms like server room UPS room electrical panel room and board room are now getting ready. The pump house and water sumps for fire hydrant system are under construction.

The facility will be ready mechanically by the end of June 2020, the commercial operations of the Laboratory will start from August 2020.

Recommendation by DC, VSEZ:

DC, VSEZ has recommended the request of extension of LoA for a period of one year upto 13.02.2021.

The request is placed before BOA for its consideration.

95.3 Request for extension of LoA beyond 3rd year onwards (4 proposals)

- 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 3rd year (in cases where two-third activities are not complete) and 4th 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.

95.3(i) Request of M/s. Indus Gene Expressions Ltd., an SEZ unit in M/s. Indus Gene Expressions Ltd-SEZ for extension of Letter of Approval beyond 01.01.2020 for a period of one year up to 01.01.2021

- LOA issue on (date) : 02.01.2014
- Nature of business of Unit : Bio-Tech
- No of extension : Five extensions by DC, VSEZ
- LOA valid up to (date) : 01.01.2020
- Request : For further extension for one year, up to 01.01.2021

Present Progress:

(a) Details of business plan:

Sl.No	Type Of Cost	Proposed Investment (Rs. In Crores)
1	Plant and Machinery	
	i. Indigenous	12.26
	ii. Import CIF value	10.24
2	Contingencies	1.82
3	Office Furniture, fittings, and Computers	0.85
4	Pre-Operative Expenses	0.79
5	Interest during Construction Period	1.64
6	Margin Money for Working capital	1.78
	Total	29.38

b. Incremental Investment made so far and 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.	Laboratory Fume Hoods, Furniture & Accessories	2.69	NIL
2.	Office Furniture & laboratory chairs	3.46	3.46
	Total	6.15	3.46

(c) Details of Physical Progress till date:-

- Installation of Laboratory Fume Hoods, Furniture & Accessories
- Installation of Office Furniture

Detailed Reasons for delay:

- Loan from Andhra bank worth 25 Cr has been closed and applied for a new loan from Syndicate bank and the same was sanctioned in the month of December 2019. This is the major setback which decelerated the progress of the project.
- The lab furniture and cabin furniture for Scientists and top management has been custom made from China and there has been a long delay in the shipment. The lab furniture installation is the preliminary need to start the procurement of instruments and install.
- During 2019 general elections, labour shortage, economic slowdown and advent of monsoon crippled the construction sector including us.

R & D Labs are completely ready but the required utilities like RO, Purified water, Steam, Gases and Chilled water are to be made available in connection to that all the utility rooms are now under construction which may take another two month to complete. Land scaping and road construction are under progress and it may take another three months to complete. Ancillary rooms like server room UPS room electrical panel room and board room are now getting ready. The pump house and water sumps for fire hydrant system are under construction.

The Developer has completed the internal works of the facility and will connect all the utility rooms in few months and will occupy. The UNIT has occupied the labs and started procurement of material and the UNIT is unable to be fully active until the Developer completes the total infrastructure.

The facility will be ready mechanically by the end of June 2020, the commercial operations of the Laboratory will start from August 2020.

Recommendation by DC VSEZ:

DC, VSEZ has recommended the request of extension of LoP for a period of one year upto 01.01.2021.

The request is placed before BOA for its consideration.

95.3(ii) Request of M/s Vidya Herbs Private Limited in the KIADB (Pharmaceutical) SEZ, Hassan, Karnataka for extension of Letter of Approval (LOA) beyond 27.10.2019 for a period of one year upto 26.10.2020.

- LoA issued on (date) : 27th Oct 2016
- Nature of business of the Unit : Manufacture and export of
 1. Coffee bean extract
 2. Turmeric extract
 3. Arnia extract and
 4. Holy basil extract tulsi
- No of Extensions : One - by DC, CSEZ
- LOP valid upto : 26.10.2019
- Request : For extension for one year, up to 26.10.2020

Present Progress:

a. Details of Business Plan:

Sl. No.	Type of Cost	Proposed Investment (Rs. in crores)
1	Land	3.5
2	Construction cost	40
Total		43.5

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

Sl. No	Type of Cost	Total investment (Rs in Crores)	Incremental Investment since last extension
1	Land	3.5	0
2.	Material Procurement	0	0
3.	Construction	40	38.5 (Billing pending)

Detailed reasons for delay:-

The project got delayed due to delay in handing over the possession of plots by the Developer, KIADB. The Unit also faced stiff resistance from local landowners claiming additional compensation. Now these issues are resolved and on receipt of approval of building plan in May 2019, the unit commenced construction activities. The Unit has requested for extension of LOA for one year up to 26.10.2020.

Recommendation by DC, CSEZ:

Considering the substantial investment made by the unit and also considering the reasons for the delay in project implementation, the request of the unit for extending the validity of LoA for the 4th Year (third extension) w.e.f. 27.10.2019 to 26.10.2020 may be considered favorably.

The request is placed before BOA for its consideration.

95.3(iii) Request of M/s BEML Limited in KIADB Aerospace SEZ for extension of Letter of Approval (LOA) beyond 05.01.2019 for a period of one year upto 05.01.2021.

- LoP issued on (date) : 06.01.2012
- Nature of business of the unit : Aerospace mechanical Components
- No. of Extensions : 06 by DC, CSEZ/BOA
- LoA valid upto : 05.01.2020
- Request : For further extension upto 05.01.2021

a. Details of Business Plan:

Sl. No	Type of Cost	Proposed investment (₹ Cr)
1	Land	51.26
2	Compound wall	0.9
3	Machinery	13.00
4	Other statutory fee etc.	0.78
	TOTAL	65.94

b. Incremental Investment made so far and incremental investment since last extension

Sl. No	Type of Cost	Total investment (₹ Cr)	Incremental Investment since last extension
1	Land	51.26	Nil
2	Compound wall	0.9	Nil
3	Machinery	13.00	Nil
4	Other statutory fee etc.	0.78	Nil
	TOTAL	65.94	Nil

c. Details of Physical Progress till date:

Sl. No.	Activity	% Completion	% Completion during last one year	Deadline for completion of balance work
1	Land, Construction of Compound wall	100	Nil	Pending in City Civil Court

Detailed reasons for delay:

As stated by DC, CSEZ, M/s BEML Ltd. informed that the project came to a standstill when the contractor for Civil/PEB works invoked arbitration clause. Arbitration Centre of Karnataka High Court heard issues, and Arbitration award was passed on 20.08.2016. The Contractor challenged this Award before the City Civil Court, Bangalore (Nos. 175 & 176 dated 16.11.2016) and the matter is pending in the Court.

Recommendations of DC, CSEZ:

DC, CSEZ, has recommended for extension of LOA for one year up to 05.01.2021.

The request is placed before BOA for its consideration.

95.3(iv) Request of M/s Biocon Pharma Ltd. in Biocon SEZ for extension of Letter of Permission (LOP) beyond 22.02.2020 for six months upto 01.09.2020.

- **LoP issued on (date)** : 23.02.2015
- **Nature of business of the Unit** : Manufacture and Export of Pharmaceuticals & Biopharmaceutical products
- **No of Extensions** : 4 (four) extension upto 22.02.2020
- **LOP valid upto** : 22nd Feb 2020

- **Request:** : For further extension for six months, up to 01.09.2020

Present Progress:

a. Details of Business plan:

Sl. No.	Type of Cost	Proposed Investment (Rs. in crores)
1	Land cost	NIL*
2	Construction cost	63
3	Plant & Machinery	239
4	Other cost/overheads	24
Total		326

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

Sl. No.	Type of Cost	Total investment made so far (In Rs crores)	Incremental Investment since last extension (in Rs crores)
1	Land cost	NIL*	NIL*
2	Construction cost	63	NIL
3	Plant & Machinery	214	66
4	Service Cost	25	7
5	Other cost/overheads	24	3
Total		326	76

**Land taken on lease*

c. Details of physical progress till date:- The construction and commissioning of plant have been completed fully.

Initial trial and exhibit batches of the products have been run for getting approvals from the drug regulatory authorities.

Detailed reasons for delay:-

On 06.12.2019, the Unit applied for the manufacturing license from the Karnataka state Drugs control department and this license is awaited. The unit is expecting to get this license within a period of 6 months and therefore requested extension of the validity of Letter of Approval by another period of six months i.e., till 01.09.2020.

Recommendation by DC :

DC, CSEZ, has recommended for extension of LOA six months up to 01.09.2020.

The request is placed before BOA for its consideration.

95.4 Request for co-developer status (2 proposals)

95.4(i) Request of M/s. Pi Datacenters Private Limited for co-developer status in the Infoparks Kerala SEZ, Puthencruz, Ernakulam for development of IT/ITeS infrastructure – Cloud enabled datacenter together with relevant amenities.

The above mentioned SEZ stands notified on 16th May 2011 over an area of 41.3064 Hectares.

M/s. Pi Datacenters Private Limited has submitted a proposal for becoming a co-developer in the aforesaid SEZ for establishing a Data Center with all relevant amenities and facilities so that it can be used by both SEZ and non-SEZ units i.e. for dual use of infrastructure as envisaged under Rule 11A of the SEZ Rules 2006. The facility is coming up in an area of 5.66 acres of non-processing area in the Infoparks Kerala SEZ, Puthencruz, Ernakulam District.

DC has stated that the developer has entered into a Co-developer agreement dated 3rd June 2019 with the developer. The proposed amount of investment by the co-developer in the SEZ is Rs.268 Crore (Rs.98 Crore in the first phase and Rs.170 Crore in the second phase).

Recommendation by DC, CSEZ:

DC, CSEZ has recommended the proposal.

The request is placed before BOA for its consideration.

95.4(ii) Request of M/s. Embassy Commercial Projects (Whitefield) Private Limited (ECPPL) for co-developer status to develop, operate and maintain land parcels 3A, 3B, 4A and 4B over an area of 8 hectares in Vikas Telecom Pvt. Ltd. SEZ.

The above mentioned SEZ stands notified on 8th September, 2006 by Notification No.SO 1465 E over an area of 22.5 hectares. The SEZ became operational on 26.06.2009. There are 44 functional units in the SEZ.

M/s. Embassy Commercial Projects (Whitefield) Private Limited has submitted a proposal for becoming a co-developer in the aforesaid SEZ to develop, operate and maintain parcels 3A, 3B, 4A and 4B over an area of 8 hectares in Vikas Telecom Pvt. Ltd. SEZ.

The Co-developer agreement dated 5th December 2019 entered into with the developer has been provided. The proposed amount of investment by the co-developer in the SEZ is Rs.1600 crore.

Recommendation by DC:

The matter was deferred by the BOA in the meeting held on January 03, 2020 citing non-compliance of Section 185 of the Companies Act, 2013 by the holding company.

Now, the holding company, M/s Embassy Property Developments Private Limited, has resolved the issues relating to non-compliance of section 185 by taking appropriate steps.

Considering the investment, employment and additional economic activity to be created in the SEZ, the proposal DC has recommended the proposal.

The request is placed before BOA for its consideration.

95.5 Increase in area of co-developer (6 proposals)

95.5(i) Request of M/s. Phoenix Tech Zone Pvt. Ltd an IT/ITES SEZ at Sy. No. 115/35, Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana for increase in allotment of constructed space to the Members of the Co-Developers.

M/s. Phoenix Tech Zone Pvt. Ltd (Earlier M/s. Phoenix Embassy Tech Zone Pvt. Ltd) was granted LoA on 17.2.2017 for setting up sector specific SEZ for IT/ITES at Sy. No. 115/35 at Nanakramguda Village, Serilingampally Mandal, Telangana on a contiguous stretch of land measuring 2.02 Hectares (5 Acres). The SEZ was notified on 17.3.2017.

M/s. Nectar IT Society was granted co-developer status on 31.3.2017 for providing infrastructure facilities or to undertake any authorized operations in an area of 0.35 million sq. ft. in the above SEZ.

The Developer has stated that the members of the Co-Developer Societies re-negotiated with them for increase in their built-up areas. The details are as under:

Total area of the SEZ (in Ha)	Name of the co-developer	Built-up Area (Original area in million sft)	Built-up Area (revised area in million sft)
2.02 (1.50 million sq.ft)	M/s. Nectar IT Society	0.35	0.515

The Developer has submitted the addendum dated 19th December, 2019 to the Co-Developer Agreement mentioning the increase in area to the members of the Co-Developer Societies of the constructed space. All other terms and conditions of the Co-Developer agreement would remain unaltered/same.

Recommendation by DC VSEZ:

The proposal of M/s. Phoenix Tech Zone Pvt. Ltd. for increase in allotment of constructed space to the Members of M/s. Nectar IT Society, co-developer in the above SEZ is recommended by DC VSEZ for placing the same in the BoA.

The request is placed before BOA for its consideration.

95.5(ii) Request of M/s. Phoenix Tech Zone Pvt. Ltd, SEZ for IT/ITES at Sy. No. 118, 120, 121, 122, 138/P, Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District, Telangana for increase in allotment of constructed space to the Members of the Co-Developers.

M/s. Phoenix Tech Zone Pvt. Ltd (Earlier M/s. Phoenix Embassy Tech Zone Pvt. Ltd) was granted LoA on 7.12.2016 for setting up sector specific SEZ for IT/ITES at Sy. Nos. 118, 120, 121, 122 & 138/P, Nanakramguda Village, Serilingampally Mandal, Telangana on a contiguous stretch of land measuring 6.07 Hectares (15 Acres). The SEZ was notified on 22.2.2017.

M/s. Jell IT Society was granted co-developer status on 31.3.2017 for providing infrastructure facilities or to undertake any authorized operations in an area of 0.66 million sq. ft. in the above SEZ and M/s. Oryx IT Society was granted co-developer status on 31.3.2017 for providing infrastructure facilities or to undertake any authorized operations in an area of 0.20 million sq. ft. in the above SEZ.

The Developer has stated that the members of the Co-Developer Societies re-negotiated with them for increase in their built-up areas. The details are as under:

Total area of the SEZ (in Ha)	Name of the co-developer	Built-up Area (Original area in million sft)	Built-up Area (revised area in million sft)
6.07 (4.20 million sq.ft.)	M/s. Jell IT Society	0.66	1.131
	M/s. Oryx IT Society	0.20	1.190

The Developer has submitted the amendments dated 19.12.2019 each to the Co-Developer Agreements mentioning the increase in area to the members of the Co-Developer Societies of the constructed space. All other terms and conditions of the Co-Developer agreement would remain same.

Recommendation by DC, VSEZ:

The proposal of M/s. Phoenix Tech Zone Pvt. Ltd for increase in allotment of constructed space to the Members of M/s. Jell IT Society and M/s. Oryx IT Society, Co-Developers in the above SEZ is recommended by the Development Commissioner, VSEZ.

The request is placed before BOA for its consideration.

95.5(iii) Request of M/s. Phoenix Spaces Pvt. Ltd, SEZ for IT/ITES at Sy. No 286 & 287, Puppalguda Village, Rajendra Nagar Mandal, Ranga Reddy District, Telangana for increase in allotment of constructed space to the Members of the Co-Developers.

M/s. Phoenix Spaces Pvt. Ltd was granted LoA on 31.3.2017 for setting up sector specific SEZ for IT/ITES at Sy. No. 286 & 287, Puppalguda Village, Rajendranagar Mandal, Telangana on a contiguous stretch of land measuring 3.46 Hectares (8.55 Acres). The SEZ was notified on 19.6.2017.

M/s. Fortune IT Society was granted co-developer status on 31.3.2017 for providing infrastructure facilities or to undertake any authorized operations in an area of 0.21 million sq. ft. in the above SEZ.

The Developer has stated that the members of the Co-Developer Society re-negotiated with them for increase in their built-up areas. The details are as under:

Total area of the SEZ (in Ha)	Name of the co-developer	Built-up Area (Original area in million sft)	Built-up Area (revised area in million sft)
3.47 (2 million sq.ft.)	M/s. Fortune IT Society	0.21	0.433

The Developer has submitted the amendment dated 20.12.2019 to the Co-Developer Agreement mentioning the increase in area to the members of the Co-Developer Society of the constructed space. All other terms and conditions of the Co-Developer agreement would remain the same.

Recommendation by DC, VSEZ:

The proposal of M/s. Phoenix Spaces Pvt. Ltd for increase in allotment of constructed space to the Members of M/s. Fortune IT Society, Co-Developer in the above SEZ is recommended by the Development Commissioner, VSEZ.

The request is placed before BOA for its consideration.

95.5(iv) Request of M/s. Phoenix Spaces Pvt. Ltd, SEZ for IT/ITES at Sy. No. 285, Puppalguda Village, Rajendra Nagar Mandal, Ranga Reddy District, Telangana for increase in allotment of constructed space to the Members of the Co-Developers.

M/s. Phoenix Spaces Pvt. Ltd was granted LoA on 31.3.2017 for setting up sector specific SEZ for IT/ITES at Sy. No. 285, Puppalguda Village, Rajendranagar Mandal, Telangana on a contiguous stretch of land measuring 2.63 Hectares (6.50 Acres). The SEZ was notified on 21.6.2017.

The SEZ was accorded approval for addition of an area admeasuring 3.14 Hectares (7.75 Acres) vide letter dated 01.10.2018 thereby making the total area of the SEZ to 5.77 Hectares (14.25 Acres).

M/s. Spectrum IT Society was granted co-developer status on 31.3.2017 for providing infrastructure facilities or to undertake any authorized operations in an area of 0.16 million sq. ft. in the above SEZ.

The Developer has stated that the members of the Co-Developer Society re-negotiated with them for increase in their built-up areas. The details are as under:

Total area of the SEZ (in Ha)	Name of the co-developer	Built-up Area (Original area in million sft)	Built-up Area (revised area in million sft)
2.63+3.14=5.77 (5.38 million sq.ft)	Spectrum IT Society	0.16	1.178

The Developer has submitted the amendment dated 20.12.2019 to the Co-Developer Agreement mentioning the increase in area to the members of the Co-Developer Society of the

constructed space. All other terms and conditions of the Co-Developer agreement would remain the same.

Recommendation by DC, VSEZ:

The proposal of M/s. Phoenix Spaces Pvt. Ltd for increase in allotment of constructed space to the Members of M/s. Spectrum IT Society, Co-Developer in the above SEZ is recommended by the Development Commissioner, VSEZ.

The request is placed before BOA for its consideration.

95.5(v) Request of M/s. Phoenix Ventures Pvt. Ltd, SEZ for IT/ITES at Sy. No. 35/P and 36, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Telangana for increase in allotment of constructed space to the Members of the Co-Developers.

M/s. Phoenix Ventures Pvt. Limited was granted LoA on 26.4.2017 for setting up SEZ for IT/ITES at Sy. No. 35 P & 36, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Telangana in an area of 2.39 Hectares (5.93 Acres) of land. The SEZ was notified on 16.8.2017.

The SEZ was accorded approval for addition of an area of 0.50 Hectares (1.20 Acres) thereby making the total area of the SEZ to 2.89 Hectares (7.13 Acres).

M/s. Magnum IT Society was granted co-developer status on 76.4.2017 for providing infrastructure facilities or to undertake any authorized operations in an area of 0.37 million sq. ft. in the above SEZ.

The Developer has stated that the members of the Co-Developer Society re-negotiated with them for increase in their built-up areas. The details are as under:

Total area of the SEZ (in Ha)	Name of the co-developer	Built-up Area (Original area in million sft)	Built-up Area (revised area in million sft)
2.39+0.50=2.89 (2 million sq.ft.)	M/s. Magnum IT Society	0.37	1.513

The Developer has submitted that the amendment dated 19.12.2019 to the Co-Developer Agreement mentioning the increase in area to the members of the Co-Developer Society of the constructed space. All other terms and conditions of the Co-Developer agreement would remain the same.

Recommendation by DC, VSEZ:

The proposal of M/s. Phoenix Ventures Pvt. Ltd for increase in allotment of constructed space to the Members of M/s. Magnum IT Society, Co-Developer in the above SEZ is recommended by the Development Commissioner, VSEZ.

The request is placed before BOA for its consideration.

95.5(vi) Request of M/s. Phoenix IT City Pvt. Ltd, SEZ for IT/ITES at Sy. No. 53/paiki/part, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Telangana for increase in allotment of constructed space to the Members of the Co-Developers.

M/s. Phoenix IT City Pvt. Ltd was granted Formal Approval on 31.3.2017 for setting up sector specific SEZ for IT/ITES at Sy. No. 53/Paiki/part, Gachibowli Village, Serilingampally Mandal, Telangana on a contiguous stretch of land measuring 1.78 Hectares (4.40 Acres). The SEZ was notified on 19.6.2017.

The SEZ was accorded approval for addition of an area admeasuring 0.80 Hectares (2 Acres) thereby making the total area of the SFZ to 2.58 Hectares (6.40 Acres).

M/s. Cybercity Infopark was granted co-developer status on 31.3.2017 for providing infrastructure facilities or to undertake any authorized operations in an area of 0.26 million sq. ft. in the above SEZ and M/s. Stellar IT Society was granted co-developer status on 31.3.2017 for providing infrastructure facilities or to undertake any authorized operations in an area of 0.11 million sq. ft. in the above SEZ.

The Developer has stated that the members of the Co-Developer Societies renegotiated with them for increase in their built-up areas. The details are as under:

Total area of the SEZ (in Ha)	Name of the co-developer	Built-up Area (Original area in million sft)	Built-up Area (revised area in million sft)
12.58 (1.80 million sq.ft)	Cybercity Infopark	0.26	0.286
	M/s. Stellar IT Society	0.11	0.272

The Developer has submitted the amendments dated 19.12.2019 each to the Co-developer Agreement mentioning the increase in area to the members of the Co-Developer Societies of the constructed space. All other terms and conditions of the Co- Developer agreement would remain unaltered/ same.

Recommendation by DC:

The proposal of M/s. Phoenix IT City Pvt. Ltd. for increase in allotment of constructed space to the Members of M/s. Cybercity Infopark and M/s. Stellar IT Society, co-developers in the above SEZ is recommended by DC VSEZ.

The request is placed before BOA for its consideration.

95.6 Proposal for change in Shareholding Pattern (one proposal)

In terms of DoC's Instruction No. 89 dated 17.05.2018, re-organization in respect of developer and co-developer including change in shareholding pattern, business transfer arrangements, court approved mergers and de-mergers in case of developer/co-developer etc. are to be undertaken by the Board of Approval.

95.6(i) Request of M/s. Sundew Properties Ltd, Developer a sector specific SEZ for IT/ITES at Madhapur, Near Hyderabad, Ranga Reddy District, Telangana for change in shareholding pattern of their SEZ post participation in the proposed REIT.

M/s. Sundew Properties Ltd. was granted LoA on 30.6.2006 for setting up of an IT/ITES SEZ at Madhapur, Near Hyderabad, Ranga Reddy District, Telangana. The SEZ was notified on 16.10.2006 over an area of 16.29 Hectares. The area has been now reduced to a net area of 14.02 Hectares.

As informed by Dc, VSEZ, Sundew is a part of the K Raheja Corp Group (KRC) which is one of India's leading real estate corporate houses with extensive experience in developing and operating assets across various real estate verticals. The KRC group has set up a trust, known as Mindspace Business Parks REIT (REIT) which has been registered with the SEBI as a real estate investment trust in accordance with the SEBI (Real Estate Investment Trusts) Regulations, 2014, as amended from time to time. The REIT shall, subject to favorable market conditions, on receipt of requisite approvals and certain other considerations, undertake an initial public offering of the units of the Mindspace REIT. Pursuant to the offer, Sundew shall form part of the Mindspace REIT portfolio on execution of the share acquisition agreement between the shareholders of Sundew (other than the APIIC Limited), the REIT and the Manager, whereby 89% of the equity shareholding of Sundew will be transferred to the Mindspace REIT (and its nominees) in exchange for the units of the Mindspace REIT. In accordance with the REIT Regulations, such transfer shall be completed prior to the allotment of the units of the Mindspace REIT in the offer.

The details of the key parties to the REIT are set out below:

S.No.	Key parties	Particulars
1.	Sponsors	1. Abnee Constructions LLP 2. Cape Trading LLP
2.	Manager	K Raheja Corp Investment Managers LLP
3.	Trustee of the REIT	Axis Trustee Services Limited

The current and proposed shareholding patterns of Sundew are set out below for your reference.

A. Current Shareholding Pattern of Sundew:

No.	Name of shareholders	Shareholding percentage (%)
1	Mr. Chandra L. Raheja Jointly with Mrs. Jyoti C. Raheja	3.69
2	Mr Ravi C Raheja Jointly with Mr. Chandru L. Raheja Jointly with Mrs. Jyoti C. Raheja	2.77
3	Mr. Neel C. Raheja Jointly with Chandru L. Raheja Jointly with Mrs. Jyoti C. Raheja	2.77
4	Mr. Chandru L. Raheja jointly with Mrs. Jyoti C. Raheja (Trustee of IPT)	9.97
5	K. Raheja Corp Private Limited	0.00

6	Anbec Constructions LLP	5.23
7	Cape Trading LLP	5.23
8	Capstan Trading LLP	5.85
9	Casa Maria Properties LLP	5.85
10	Genext Hardware & Parks Private Limited	19.20
11	Ivory Properties and Hotels Private Limited	1.76
12	Raghukool Estates Development LLP	5.85
13	Palm Shelter Estate Development LLP	5.85
14	BREP VIII SBS Pearl holding (NQ) Limited	0.02
15	BREP ASIA SBS Pearl Holding (NQ) Limited	0.03
16	BREP ASIA SG Pearl Holding (NQ) Pte. Limited	14.95
17	Andhra Pradesh Industrial Infrastructure Corporation Limited	11
	Total	100

B. Proposed Shareholding Pattern of Sundew (post acquisition of shares by the Mindspace REIT)

S. No.	Name of Shareholders	Shareholding Percentage (%)
1.	Mindspace Business Parks REIT (together with its nominee(s))	89
	Total	89

Thus, upon exchange of 89% of the equity shares of Sundew against issuance of units of the Mindspace REIT to the shareholders of Sundew (other than the APIIC Limited), Mindspace REIT shall become the shareholder of Sundew and accordingly the shareholders of Sundew (other than the APIIC Limited) shall become the unit holders of the Mindspace REIT. The aforesaid exchange will result in a change at the shareholder's level and not at the entity level.

Post registration of the REIT and upon completion of the offer, the board of directors of Sundew may change. That the changes (if any), will be intimated to our office at the relevant time. On listing of the Mindspace REIT, since 89% of the shareholding of Sundew will be held by the Mindspace REIT, post-listing the directors of Sundew will be nominees of the Mindspace REIT and APIIC Limited.

Under the circumstances, the development of the project i.e., Sundew will remain the same as there will be no transfer of the Formal Approval. The development of the project by Sundew is not affected in any manner and thus will continue without any disruption in accordance with the SEZ Notifications and Sundew will continue to operate as a going concern. Further, they confirmed that there will be seamless continuity of the SEZ activities with respect to the Project, and the responsibilities and obligations of the Developer with respect to the Project will remain unchanged.

In view of the aforesaid, this application is being made for a change in equity shareholding of Sundew being the Developer of the Project and that the change in equity shareholding would result in the present equity shareholders (other than APIIC Limited)

acquiring interest in the form of proportionate unit holding in the Mindspace REIT in place of their equity shareholding in Sundew.

Recommendation by DC, VSEZ:

The proposal of M/s. Sundew Properties Ltd for change in shareholding pattern of their SEZ is recommended by the Development Commissioner, VSEZ.

The request is placed before BOA for its consideration.

95.7 Miscellaneous cases (Eight proposals)

95.7(i) Cancellation of liquor shop of Planet F&B Park operational in the premises of Hotel Beitel (M/S Hirise Hospitality Pvt. Ltd.) and imposition of penalty on the co-developer and unit.

Planet F& B Park is a trading unit operating in APSEZ, Mundra approved on 12.06.2009 for 03 premises in the Processing area of APSEZ, Mundra as follows:-

1. Space at Container Terminal No. 02
2. Open yard near sub-station 7
3. 320 sq. feet at west Basin near sub-station No.1

As per LOA the unit trades in Liquor, food, beverages, vegetables and other beverages. Though vide the LoA approval was given to the Unit for the above locations, it is also functional from the premises of Hotel Beitel (M/s. Hirise Hospitality Pvt Ltd.), a Co-Developer in the non-processing area of APSEZ, Mundra without any prior approval from Approval Committee or BoA.

The matter was taken up in the 80th UAC meeting of APSEZ, Mundra held on 20.12.2019. The Unit briefed the issue as follows:

- M/s Adicorp Mundra SEZ Infrastructure Pvt. Ltd. has been approved by the BoA as a Co-Developer for providing infrastructure facilities in APSEZ, Mundra and it has constructed a township with shopping complex in the Non-processing area of APSEZ, Mundra. The co-developer had allotted space to Planet F&B Park vide letter dtd. 30th May, 2009 stipulating the conditions for availing its area in the non-processing area of Samundra Township, APSEZ, Mundra without intimation to the Development Commissioner's office.
- The Unit also stated that it had sought a No Objection Certificate from the O/o the Development Commissioner for doing the business of liquor at shop No.11 in Samundra Commercial Complex, for further submission to Prohibition Department, Ahmedabad.
- The NOC was granted by the then Officer on Special Duty, MPSEZ, Mundra vide letter dtd. 24.06.2009 without the approval of the Development Commissioner.
- Subsequently, Planet F&B Park was asked to move out of Samundra Township by the Co-Developer, M/s Adicorp Mundra SEZ Infrastructure Pvt. Ltd., to a vacant land in the non-processing area stating the reason that Samundra Township is a residential place and a liquor shop in the vicinity may be a nuisance. No written communication to this effect is available with the Unit or with the Development Commissioner's Office.

- Ironically, the area where Planet F&B Park was shifted, was subsequently allotted to Hotel Beetel (M/s. Hirise Hospitality Pvt Ltd.), approved as a Co-Developer of APSEZ, Mundra by BoA on 27.12.2011 for setting up a hotel having not more than 150 hotel rooms wherein no permission was accorded for sale of liquor.
- An agreement was executed by Hotel Beetel (M/s. Hirise Hospitality Pvt. Ltd) with Planet F&B Park for subletting its premises on monthly rental basis in contravention to its LoA. (As per para 3(iii) of the LoA "The Co-Developer shall obtain the approval of Board for specific activities proposed to be undertaken for development, operation and maintenance of Special Economic Zone"). No prior approval was sought by M/s. Hirise Hospitality Pvt. Ltd before entering in to an agreement to let out its premises to Planet F&B Park.

The Committee after deliberations at length decided to refer the matter to BoA for clarification as to whether Planet F&B can be permitted to function in the premises of the Co-developer M/s. Hirise Hospitality Pvt. Ltd, since the matter of Co-developer doesn't come under the ambit of UAC.

Recommendation by DC AP&SEZ

Development Commissioner, APSEZ, Mundra has recommended for cancellation of the liquor shop of Planet F&B Park operational in the premises of Hotel Beetel(M/s. Hirise Hospitality Pvt. Ltd) and imposition of heavy penalty on the Co-Developer/Unit.

The request is placed before BOA for its consideration.

95.7(ii) Proposal of M/s C S Performance Chemicals Pvt. Ltd., a unit in Plot No. Z/33 at Dahej SEZ for the procurement of restricted items for infrastructure development & repairing facility in terms of SEZ Rule 27 of Rule 2006.

M/s C S Performance Chemicals Pvt Ltd, a unit in Dahej SEZ, was granted LoA dated 24.02.2009 for manufacturing of product under Chapter Code 32 of ITC HS.

The unit has requested for permission for procurement of restricted items such as sand, Black Soil, Yellow Soil etc. as detailed below for SEZ Unit for setting up & repairing of infrastructure facilities in terms of SEZ Rule no 27 of Rule 2006.

Description	Estimated Quantity
SAND	5000 MT
Stones (Kapchi)	8000 MT
Rubbles	1500 MT
Greet	2000 MT
Bricks	75000 Nos
Black Soil	4000 MT
Yellow Soil	2500 MT

The details of Export Policy for such items is as below:-

ITC (HS), 2018

S. No.	Tariff Item	Unit	Item Description	Export Policy	Policy Conditions
98	2505 10 11 2505 10 12 2505 10 19 2505 10 20 2505 90 00 2530 90 99	Kg	Sand and Soil	Restricted	Exports permitted under licence

Recommendation by DC, Dahej SEZ:-

DC, Dahej SEZ has recommended the proposal of M/s. C S Performance Chemicals Pvt Ltd to procure restricted item for setting up and repairing of infrastructure facility to Board of Approval for consideration.

The request is placed before BOA for its consideration.

95.7(iii) Proposal of M/s C S Specialty Chemicals Pvt. Ltd., a unit in Plot No. Z/81/82 at Dahej SEZ for the procurement of restricted items for infrastructure development & repairing facility in terms of SEZ Rule 27 of Rule 2006..

M/s C S Specialty Chemicals Pvt Ltd, a unit in Dahej SEZ was granted LoA on 01.11.2018 for manufacturing of product under chapter code 29 of ITC HS.

The unit has requested for permission for procurement of restricted items such as Sand, Black Soil, Yellow Soil etc. as detailed below for SEZ Unit for setting up & repairing of Infrastructure facilities in terms of SEZ Rule no 27 of Rule 2006.

Description	Estimated Quantity
SAND	8000 MT
Stones (Kapchi)	7000 MT
Rubbles	3000 MT
Greet	4000 MT
Bricks	100000 Nos
Black Soil	3000 MT
Yellow Soil	1500 MT

The details of Export Policy for such items is as below:-

ITC (HS), 2018

S. No.	Tariff Item	Unit	Item Description	Export Policy	Policy Conditions
98	2505 10 11 2505 10 12 2505 10 19 2505 10 20 2505 90 00 2530 90 99	Kg	Sand and Soil	Restricted	Exports permitted under licence

Recommendation by DC, Dahej SEZ:-

DC, Dahej SEZ has recommended the proposal of M/s. C S Specialty Chemicals Pvt Ltd to procure restricted item for setting up and repairing of infrastructure facility to Board of Approval for consideration.

The request is placed before BOA for its consideration.

95.7(iv) Proposal of M/s Ana Industries Pvt. Ltd., a unit in Dahej SEZ for procurement of restricted items for infrastructure development & repairing facility in terms of Rule 27 of SEZ Rules 2006 dated 10.02.2006.

M/s Ana Industries Pvt Ltd, a unit in Dahej SEZ was granted Letter of Approval on 16.10.2014 for manufacturing of product under chapter code 28 & 38 of ITC HS.

The unit has requested for the permission for procurement of restricted items for SEZ Unit for setting up & repairing of Infrastructure facilities in terms of Rule 27 of SEZ Rules 2006 dated 10.02.2006.

The details of Export Policy for such items is as below:-

ITC (HS), 2018

S. No.	Tariff Item	Unit	Item Description	Export Policy	Policy Conditions
98	2505 10 11 2505 10 12 2505 10 19 2505 10 20 2505 90 00 2530 90 99	Kg	Sand and Soil	Restricted	Exports permitted under licence

The unit has stated that they had purchased restricted items such as Stones, Soils & Sand and has requested for permission to procure following restricted items for setting up repairing of Infrastructure facilities:-

Description	Estimated Quantity
Stones	UT to 3000 MT
Soils	Up to 2000 MT
Sand	lip to 2000 MT

Recommendation by DC Dahej:-

DC, Dahej SEZ has recommended the proposal of M/s. Ana Industries Pvt Ltd requesting to procure restricted items for setting up and repairing of infrastructure facility.

The request is placed before BOA for its consideration.

95.7(v) Request of M/s. GIFT SEZ Limited, Gandhinagar for permission to procure Sand from DTA units as prescribed under Rule 27(1) of the SEZ Rules, 2006.

M/s. GIFT SEZ Ltd., Gandhinagar was notified on 18.08.2011 over an area of 105-43-86 Hectares at Gandhinagar, Gujarat. M/s. GIFT SEZ Limited has sought approval/permission for procurement of 10,000 MTs (ten thousand metric tons) of Sand, a restricted item under ITC (HS) classification (Head No. 2505-10-11).

In terms of third proviso to Rule 27 (1) of the SEZ Rules, 2006, for procurement of restricted items from Domestic Tariff Area (DTA), the same shall be subject to prior approval of BoA.

Recommendation by DC, KASEZ:

The proposal of M/s. GIFT SEZ Limited for procurement of restricted items i.e. 10,000 MTs of Sand from DTA has been recommended by DC for favorable consideration.

The request is placed before BOA for its consideration.

95.7(vi) Proposal of M/s Jyoti Industries, a unit in KASEZ for renewal of its LOA for next five years block.

M/s Jyoti Industries had been issued LOA on 26/27.12.2005 for "Manufacturing of Aluminium caps for bottles and aluminium containers, Plastic inserts for aluminium caps, Plastic caps for bottles and Plastic formed items". The unit commenced its authorized operation in KASEZ w.e.f. 31.10.2008 and its LOA was valid till 30.10.2013.

The unit has requested for renewal of their LoA for further period of 5 years which was expiring on 30.10.2013. That the DC office vide letter dated 06.05.2014 had requested the unit to furnish reasons for low performance of exports, as there was Nil exports during 2012-13 and also during the last five year block there was exports of only Rs. 14.19 lakhs. However, no reply was received from the unit.

For non-payment of plot rent and user charges, the unit was evicted from the public premises on 29.09.2016 as they have arrears of rental dues & user charges of Rs. 2,25,489/-.

Therefore, their issue was taken up in the 114th UAC meeting held on 27.06.2017 wherein the Committee after due deliberation directed to suspend the IEC of the unit till the unit pay the dues/penalty and to initiate proceedings for recovery of Govt. dues through land revenue and cancel the Letter of Approval of the unit.

Mrs. Smita Ramesh Dedhia, only surviving partner of the unit, vide letter dated 21.11.2019, 27.12.2019 and 10.01.2020 has requested for revival of their unit in KASEZ and submitted that her husband alongwith him and their son started this unit in in 2006 with full force. The business was going great but unfortunately his by birth illness of heart aggravated and so he was shifted to Chennai for Heart Transplant Surgery but unfortunately he couldn't survive and passed away on 8th September, 2013. His loss was a tremendous blow to their business. Nevertheless, her son continued with the business and was all set to sail aboard but unfortunately his health deteriorated and blood formation stopped in his body and due to that

he also could not concentrate on their business and he also couldn't survive for long and expired on 27th April, 2018. She had to suffer these two huge blows of her life i.e. one losing her husband and other her son in a short span of time. This trauma was unbearable for her and it also took a toll on her health. Due to death of her husband and her son (other two partners/family members) they could not pay attention to their business in KASEZ.

She further submitted that she is determined to again live the dream of her husband and son and now want to revive their family grown business. She is also assisted by her daughter, who also has an expertise in this business field as she was closely associated with the family business earlier. They are trying their level best and leaving no stone unturned in reviving their business. The demand for their products had been always there because of their strict adherence to quality, punctuality of delivery schedules and good relations with clients. They have also successfully received advance orders amounting to USD 176856 on monthly basis from their past clients because of their past goodwill in the business.

They further submitted that for revival of their family business they are going to invest Rs. 65.00 Lakhs (approx) on building, machines, raw material etc. Out of which Rs 30.00 lakhs will be self financed and the remaining Rs. 35.00 lakhs will be sourced from friends and relatives. They have submitted copy of income tax returns of their two friends for last three years. Details of the same are as under:-

Name/F.Y.	2016-17	2017-18	2018-19
Shri Sameer Mehta	11,64,296	12,13,610	12,68,532
Smt. Jigna Mehta	4,68,669	5,26,797	5,51,045

Dc has informed that the unit has submitted Form F-1 for revival of their unit and projected FOB value of exports for next five years as under:-

Items	1st	2nd	3rd	4th	5th	Total
Free on Board value of Exports for 5 years	110.60	290.32	457.27	640.15	540.15	2338.52
Foreign Exchange outgo on for the five years	98.40	255.96	402.97	563.54	738.96	2060.83
Net Foreign Exchange earnings for five years (1-2)	12.20	34.36	54.30	76.61	101.22	277.69

They further submitted that they will achieve positive NFE to the tune of Rs. 277.69 Lakhs in coming block of five year period. They also submitted that after revival of their unit they will generate employment for 25 (Men 20 and Women 5) unskilled and skilled labour initially.

That for manufacturing activities the basic raw materials are aluminum slugs, sheet coils and plastic granules which will be procured either indigenously or imported from other countries. Raw material is freely importable and is available in abundance with no problems of seasonal or demand shortages.

They also requested to consider their request of revival of their unit and waive off user charges keeping all the facts and circumstances in mind and treat their matter with kindness and sympathy as their business was closed due to two big blows to their family i.e.

death of both other partners i.e. her husband and her son and after passing through all such trauma, still they are trying their level best to revive their unit.

That request of the unit was placed before the 152nd UAC and the UAC noted that the unit has already been evicted by the Development Commissioner on 29.09.2016 and therefore, the UAC after due deliberation decided to refer their matter to Board of Approval for consideration.

Further as regards instances of violation of applicable statutes related to the functioning of the unit and cases of default, if any, of statutory payments, during previous 5 years of operations it was noticed that –

- I. No instances of violation of applicable statutes related to the functioning of the unit was noticed.
- II. The unit has rental dues and user charges amounting to Rs. 2,25,489/- till 29.09.2016.

Recommendation by DC, KASEZ:

The request of M/s Jyoti Industries for renewal of LOA for next five years block is recommended by DC, KASEZ for consideration by Board of Approval.

The request is placed before BOA for its consideration.

95.7(vii) Judgment dated 02.05.2019 of the Hon'ble High Court of Gujarat in Special Civil Application No. 4765 of 2016 filed by M/s World Window Infrastructure & Logistics Pvt. Ltd.(co-developer) Vs UoI regarding cancellation of co-developer approval by BoA.

M/s. Worlds Window Infrastructure & Logistics Pvt. Ltd. was granted LoA as co-developer on 20.09.2010 in the Kandla SEZ, Kutch, Gujarat for setting up a Free Trade Warehousing Zone (FTWZ). The co-developer was allotted Plot No.501-A admeasuring 25 acres to develop the said area subject to terms and conditions mentioned in the LoA. In terms of the LoA, the co-developer had to implement the project within three years of the approval. However, the co-developer neither implemented the project even after 4.5 years from the date of allotment nor sought any extension.

The BoA in its 66th meeting held on 27.08.2015 reviewed the co-developer status of M/s. Worlds Window Infrastructure & Logistics Pvt. Ltd. and decided to cancel the co-developer status and directed DC, KASEZ to issue show cause notice for non-implementation of the project. Accordingly, DC, KASEZ issued show cause notice to the co-developer on 26.11.2015. After giving personal hearing and considering the written submissions, O/o KASEZ vide their Order in Original (OIO) dated 03.03.2016 asked the co-developer to surrender Plot No.501-A within 15 days. However, the co-developer failed to surrender the same.

Aggrieved with the decision of the BoA, the co-developer filed SCA no. 4765/2016 before the Hon'ble High Court of Gujarat thereby challenging cancellation of decision taken by the BoA on 27.08.2015 and consequential OIO dated 03.03.2016 passed by O/o the DC, KASEZ.

The Hon'ble High Court of Gujarat vide its Order dated 02.05.2019 held that in terms of Section 10(3) of the SEZ Act, 2005 before suspension of LoA of the developer/co-developer, notice of period of at least three months is must and in the present case no notice was served to the co-developer. Therefore, the decision of the BoA dated 27.08.2015 and consequential OIO dated 03.03.2016 was set aside and the matter was relegated back to the BoA at stage prior to decision of the BoA in its 66th meeting held on 27.08.2015. Further, the Court vide its Order specifically held that it is open for the BoA to initiate action that may be proposed upon compliance of Section 10(3) of the SEZ Act, 2005 which stipulates that,

No letter of approval shall be suspended under sub-section (1) unless the board has given to the Developer not less than three months' notice, in writing stating the ground on which it proposes to suspend the letter of approval, and has considered any cause shown by the developer within the period of that notice, against the proposed suspension.

In compliance of the directions of the Court, the matter was again placed before the BoA in its 90th meeting held on 18.06.2019 and the Board directed DC, KASEZ to issue show cause notice in terms of Section 10(3) of the SEZ Act, 2005. Accordingly, KASEZ issued Show cause Notice on 29.07.2019 to the co-developer thereby proposing to suspend its LoA under Section 10 of the SEZ Act on grounds of violation of Rule 6(2), 12(6), 12(7) of the SEZ Rules, 2006 and terms & conditions of bond-cum legal undertaking and the LoA. The co-developer was asked to submit reply to the Notice and attend personal hearing before DC, KASEZ.

However, even after granting reasonable opportunities of personal hearing on August 13, August 28 and September 12, 2019, the co-developer failed to appear before the DC on any of the said scheduled dates of hearing. The co-developer later vide letter dated 12.09.2019 made written submissions against the Notice. The co-developer had submitted that they have sub-leased the land parcels to units and spend approx. 3 crores for development of infrastructure at FTWZ including construction of boundary walls, kuccha road, electricity and water supply etc. The co-developer has further stated that they intend to start metal scrap segregation which would amount to recycling.

DC had gone through the submissions and found that even though the co-developer claimed to have offered area/land to different units, but not a single project could take off for one reason or other. DC, KASEZ had stated that their office is regularly getting enquiries for establishment of new units and the UAC is approving proposals on a regular basis. As such, area in this zone is now saturated and many a times the UAC has to reject proposals for want of space. Keeping the space idle for so many years has adversely affected the rental collections of the authority as well as valuable Foreign Exchange which otherwise would have been earned if the space was utilized properly. Also, there has been a loss of investment and employment opportunities due to co-developer's inactivity. DC, KASEZ had recommended that cancellation of co-developer status of M/s. Worlds Window Infrastructure & Logistics Pvt. Ltd. by the BoA in its 66th meeting held on 27.08.2019 is amply justified.

The matter was placed before the Board of Approval in its 94th meeting held on 03.01.2020. The Board noted that the petitioner did not appear for personal hearing before the UAC despite granting three reasonable opportunities. The Board, after deliberations, decided to grant a personal hearing to the petitioner. Accordingly, the petitioner has been called to appear before the Board.

Submitted for consideration of the BoA.

95.7(viii) Request of M/s Anita Exports, a plastic recycling unit in KASEZ for renewal of their LoP in view of judgment dated 07.01.2020 of the Hon'ble Supreme Court of India in SLP (Civil) Diary No. 36257/2019 filed by UoI & Ors Vs M/s Anita Exports & Anr. against order dated 18.04.2019 of the Hon'ble High Court of Gujarat at Ahmedabad in SCA No. 17013/2018 filed by the unit.

M/s. Anita Exports, a unit at KASEZ was granted LoA on 15.05.1996 for recycling plastic waste & scrap and for re-processing worn and used clothing. The proposal for renewal of their LoA was rejected by BoA in its 78th meeting held on 03.07.2017. The unit filed SCA No. 19048 of 2017 before the Hon'ble High Court of Gujarat at Ahmedabad against the decision of the Board. The Hon'ble High Court of Gujarat vide their order dated 08.05.2018 quashed and set aside BoA's decision of rejecting the proposal for extension/renewal of LoA of the unit.

The request of the unit for renewal of LoA was considered by the BoA in its 84th meeting held on 12.09.2018, taking cognizance of the directions of the Hon'ble High Court. The matter was deferred for further deliberations and again taken up in the follow up meeting of the BoA held on 05.10.2018. The Board noted that the past trend of operations of these units indicated that they used the provisions of SEZ Rules, 2006 to clear goods into DTA to a large extent to show positive NFE which was not in consonance with the overall aims of the SEZ policy that seeks to boost actual exports.

The Board was of the view that if the renewal of this case of extension of LoA is considered, this again would become precedent for such cases in future and consequently the larger policy intent of phasing out such units in the interest of environment would remain unachievable. The Board was not inclined to consider the proposal for renewal favourably. The unit had been closed for 7 years and the balance of convenience was in maintaining that position. Accordingly, the BoA decided not to accede to the request of M/s Anita Exports for renewal of LoA.

Meanwhile, the Board of Approval in its 86th meeting held on 22.11.2018 decided to constitute a Committee comprising DC, KASEZ, DC, NSEZ and DC, FSEZ and representatives from DGEP, DGFT and MoEF&CC to consider all issues related to Plastic recycling and used/worn clothing units in SEZ. The Committee was required to examine the larger policy objective, environmental, social and domestic industries concerns. Subsequently, the validity of the units that were expiring on 30.11.2018 was extended for a period of one year upto 30.11.2019.

Aggrieved with the decision of the Board for rejection of the request for renewal of their LoA, the unit namely, M/s Anita Exports had filed Special Civil Application No. 17013/2018 before the Hon'ble High Court of Gujarat at Ahmedabad. The reply affidavit on behalf of the respondents were filed before the Hon'ble Court. The Hon'ble Court vide judgment dated 18.04.2019 allowed the petition. The operative part of the said order read as under:

"18. In the opinion of this court, the decision of the Board taken in its meeting held on 5th October, 2018 rejecting the request of the petitioners for renewal of Letter of Approval for extension of recycling of plastic waste scrap, suffers from the vice of being discriminatory, arbitrary and capricious and flies in the face of the order dated 8th May, 2018 of this court, and cannot be sustained.

19. For the foregoing reasons, the petition succeeds and is, accordingly, allowed. The impugned decision dated 10th October, 2018 of the Board of Approval, to the extent the same relates to the petitioners herein, is hereby quashed and set aside. The request of the petitioners for renewal of Letter of Approval for extension of recycling of plastic waste and scrap is hereby allowed. The petitioners are granted extension of its Letter of Approval for a period of one year as extended by the Board in respect of twenty eight plastic recycling units in its 86th meeting held on 26th December, 2018. It is further clarified that the petitioner shall be treated on a par with such other twenty eight units as and when the question of further extension of the Letter of Approval arises in future."

On perusal of the overall judgment, it was noticed that before rendering the aforesaid judgment, the Court had primarily observed the follows points:

- (i) It is clear that such decision has been taken in the light of the larger policy intent of phasing out such units in the interest of the environment, however, it appears that the petitioner is singled out for implementation of such policy, whereas in case of similarly situated units, approval is granted by the BoA and the LoA has been extended for a further period of one year.
- (ii) In so far as the larger policy intent of phasing out such units is concerned, no such policy has been placed on record nor is the learned counsel for the respondents in a position to produce such policy. It appears that the Central Government has not taken any policy decision to phase out plastic recycling units.
- (iii) That the Board while discharging its duties and functions, is bound by the policies framed by the Central Government, but has no power to frame policies on its own.
- (iv) For the purpose of phasing out units involved in recycling of scrap and plastic waste, there has to be a policy of the Central Government in this regard. Furthermore, such policy has to be in writing. There is no material on record to show that the Central Government has framed any policy for phasing out units involved in recycling of scrap and plastic waste.
- (v) The only policy embedded in sub-rule (4) of Rule 18 of the SEZ Rules is a policy not to permit new units for recycling of scrap being set up and that is now the board has been reading the sub-rule till date by granting extension of LoA by exercising the powers vested in it under the proviso.
- (vi) Having regard to the chequered history of the case and the fact that time and again the petitioners' case has been deferred by the Board on one ground or the other, it seems that the Board for reasons best known to it, is trying to evade granting extension of LA to the petitioner.
- (vii) That the petitioners were better placed than the other two parties viz., M/s R. R. Vibrant Polymers Ltd., Kandla SEZ and M/s Plastic Processors & Exporters Pvt. Ltd., Noida SEZ and as per the report of the Development Commissioner, the petitioners were similarly situated to the other two units which were granted extension of LoA by the Board.

This Department decided to challenge the judgment rendered by the Hon'ble High Court by way of filing an SLP in the Hon'ble Supreme Court after obtaining legal opinion from the ASG. The Special Leave Petition (C) Dy. No. 36257/2019 filed by the Union of India & Others Vs M/s Anita Exports & Anr has been dismissed by the Hon'ble Supreme Court of India at the admission stage vide order dated 07.01.2020.

Meanwhile, it was learnt from O/o DC, KASEZ that the Central Govt. Standing Counsel, Gujarat High Court has informed regarding the hearing dated 31.01.2020 in connection to the Misc. Civil Application no. 1 of 2020 in SCA No. 17013/2018 (Anita Exports Vs UoI) that the Hon'ble High Court has passed an order asking the Development Commissioner to issue formal letter of approval to the petitioner in the referred matter forthwith by 05.02.2020 and comply with the judgment of the High Court dated 18.04.2019, failing which the Hon'ble Court would impose exemplary costs upon the authorities. The matter is now posted for hearing on 05.02.2020. DoC has accordingly directed DC, KASEZ to implement the order dated 18.04.2019 of the Hon'ble High Court and the same is being submitted for post facto approval of the Board of Approval.

95.8 Appeal (One appeal)

95.8(i) Appeal of M/s. HCL Technologies Limited against the decision of the UAC, Noida Special Economic Zone vide order dated 07.01.2020 rejecting the request of the unit for Group Health and Medical Insurance Services as authorized operations of the unit and its coverage under default service namely "General Insurance Business Services".

M/s HCL Technologies Ltd. (Unit -I), a unit located in the IT/ITES SEZ of M/s HCL Technologies Ltd. at Plot no. 3A, 3B & 2C, Sector -126, Noida (UP), has submitted representation on coverage of 'Group Health and Medical Insurance' of its employees, under the authorized operations as well as coverage under the default service namely 'General Insurance Business Services'. It may be noted that DoC's Instruction No. 79 provides "General Insurance Business Services" as a default service.

The unit submitted that none of the 'Group Health and Medical Insurance' received by them are in the nature of life insurance services. As per the unit the list of these services received by them during GST regime are as follows:-

S. No.	Name of Insurance Co.	Category of IRDA License	IRDA License No.	Nature of policy
(i)	Oriental Insurance Co.	General Insurance Business	556	Group Mediciclaim
(ii)	United India Insurance Co. Ltd.	General Insurance Business	545	Group Health Policy
(iii)	Tata AIG General Insurance Co. Ltd.	General Insurance Business	108	Group Personal Accident

The unit had referred Rule 27(2) of SEZ Rules, 2006, which provides that 'in case of any doubt as to whether any goods or services are required by a unit or developer for authorized operations or not, it shall be decided by the Development Commissioner'. Further, in terms of proviso to Rule 27(3) of the SEZ Rules, 2006, "Provided further that any goods for the personal use of, or consumption by officials, workman, staff, owners or any other

person in relation to a Unit or Developer, shall not be eligible for exemption, drawback and concessions or any other benefit in accordance with the provisions of Section 7 or 26."

The unit had requested to (i) Whether the 'Group Health and Medical Insurance' received by the unit, are covered within the default authorized services issued by DoC under the title 'General Insurance Business Services' for the purpose of SEZ Act, and (ii) whether they are entitled to SEZ law benefits thereon.

The request was considered by the Approval Committee in its meeting held on 06.12.2019. The representatives of the unit informed that in general, a group or corporate health insurance policy is purchased by an employer for employees of company. By insuring the health, medical needs of the employees, the company inter alia ensure productivity in their operations keeping their employees healthy. This is besides the other legal and moral obligations on their part employer. Accordingly, they have requested to consider "Group Health and Medical Insurance (which are not in the nature of life insurance services)" as part of authorized operation only.

The Approval Committee observed that exemption available to the SEZ units is only on input services related to authorized operations of the unit. The Group Insurance of employees related to individuals and not related to authorized operations of the SEZ unit. The actual beneficiary of said service is an individual. The Committee also observed that income earned by an unit account of export is exempted from payment of Income Tax, whereas individual employees are given the benefit of Income Tax exemption.

The Approval Committee clarified that the 'Group Health and Medical Insurance' of its employees is not related to the authorized operations of the SEZ unit, hence not covered under default authorized services namely "General Insurance Business Services". Further, the Approval Committee directed that a reference may be sent to DoC informing them about the request of the unit and about the observations of the Approval Committee. The decision of the Approval Committee was conveyed to the unit vide order dated 07.01.2020.

Grounds of Appeal :- The instant appeal has been filed by the unit stating the following grounds:

- i. That being an SEZ unit, they are eligible for the zero-rated benefit under Section 16(1) of the IGST Act on the health insurance services received under the health insurance policies as they are used for the authorised operations of the Appellant.
- ii. The health insurance policies provide insurance cover to its employees that are engaged in carrying out the authorised operations for the Appellant. Further, the Appellant pays the premium amount for such employees.
- iii. Section 2(c) of the Special Economic Zones Act, 2005 (hereinafter referred to as "SEZ Act") defines 'authorized operations' to mean operations which may be authorised under Section 4(2) and Section 15(9).
- iv. Section 15(9) of the SEZ Act provides that the DC may grant a letter of approval to the person concerned to set up a unit and undertake such operations which the DC may authorise and every such operation so authorised shall be mentioned in the letter of approval (LoA).
- v. Further, Section 26 of the SEZ Act provides for exemption, drawback and concessions to every developer and entrepreneur for its authorised operations.

- vi. The concept of 'zero-rated supply' has been envisaged under Section 16 of the IGST Act. That though, Section 16 of the IGST Act nowhere states that to qualify for zero-rated supplies, the goods/services received by an SEZ should be for the authorised operations. That the Central Board of Indirect Taxes and Customs vide Circular No.48/22/2018-GST dated 14.06.2018 (hereinafter referred to as "SEZ Circular") while dealing with the question that "whether benefit of zero-rated supply can be allowed to all procurements by a SEZ developer or a SEZ unit or not", has clarified that only services received for authorized operations as endorsed by the specified officer of the Special Economic Zone will be eligible for the benefit of zero-rated supply under GST.
- vii. Further Section 16(3) of the IGST Act provides that a registered person making a zero-rated supply shall be eligible to claim refund under either of the following options, namely:
 - a. he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or,
 - b. he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied.
- viii. In light of the aforesaid provisions of the SEZ Act read with provisions of GST Laws and the SEZ Circular, it is clear that with introduction of Goods and Service Tax, the benefit of zero-rated supplies will be available only on those supplies of services/goods which are received for the authorised operations of SEZs.
- ix. The Appellant has entered into contracts with OICL, UIIC and Tata AIG for receipt of health insurance services for the health, safety and well-being of its employees. The insurance premium is also borne by the Appellant. Hence, the Appellant is the recipient of such health insurance services for its own benefit and to run its business effectively. Therefore, it cannot be said that such health insurance services are received for the personal use of individuals i.e. the Appellant's employees. The basis for claiming such services to have been received for authorised operations is further discussed in the subsequent paragraphs.
- x. The Appellant submits that the authorized operations of the Appellant is IT/IT enable services'. It is further submitted that employees and their intellectual faculties are the backbone for provision of IT/IT enabled services. Hence, the general health and well-being of the employees is of paramount importance. Absence of an employee for prolonged period due to his sickness can entail substantial costs to the Appellant. This is for the reason that in case of business of IT/IT enabled services, employees are the main asset and it is their intellect which drives the whole business. Thus, sickness of employees (or even their family members) and also accidents if any, resulting in injuries to the employees lead to loss of man hours and disruption of business of the Appellant.
- xi. The business of the Appellant is totally dependent on the mental health of its employees. By securing health insurance for its employees and their dependents, the Appellant is securing best treatment for its employees and their families at minimal and affordable costs which acts as an incentive for the employees and drives them to perform better at work. This is for the reason that the employees of the Appellant do not have to worry over affordability of the medical treatment in the event they or their dependents suffer any health issues and can fully concentrate on providing the best

services to the Appellant. Similarly, providing Group Personal Accident insurance to the employees provides them security, and mentally they are stress free as they are aware that in case of an accident, they will be provided with good medical facilities by virtue of the health insurance policies taken by the Appellant. Hence, they are motivated to perform better at work.

- xii. The Appellant secures such insurance to avoid any liability resulting disruption of business.
- xiii. That employee linked insurance policies including employee health insurance, personal accident policy are not insurance services used for the personal use or consumption of the employees as it is commercially important for the Appellant to secure such insurance to avoid any vicarious liability in respect of sickness and/or accident of its employees. Hence, the health insurance services received from various health insurance service providers covering the employees of the Appellant are a prerequisite for the Appellant to run its business and are indispensably linked to the authorised operations of the Appellant. In this regard, reliance is also placed on the fact that such expenditure made by the Appellant (being the employer) is claimed as deductions under the Income Tax Act, 1961.
- xiv. Under the provisions of Income Tax Act, 1961 (hereinafter referred to as "Income Tax Act"), section 29 provides the method of computation of income under head profits and gains of business or profession. As per the said section, the income of an assessee shall be computed in accordance with the provisions contained in section 30 to 43D of the Income Tax Act.
- xv. Section 36 of the Income Tax Act provides for allowance of some expenditure as deduction to an assessee. As per section 36(1) the Income Tax Act, deduction of medical insurance paid by an employer for the health insurance of the employee is allowed. Therefore, any expenditure incurred by an employer by way of payment of health insurance for its employees is an expense related to its business and therefore, allowed as a deduction under the provision of Income Tax Act.
- xvi. The appellant quotes various judgments and concludes that the premium paid by the Appellant towards health insurance services covering the employees of the Appellant is an expense related to its business and therefore, eligible for deduction to the employer as an expenditure towards its business under Section 36 of the Income Tax Act.
- xvii. In the instant case, the Appellant is availing the deduction under the Income Tax Act which proves beyond doubt that even the income tax authorities are not treating such transaction to be related to personal advantage (perquisites) or personal use or personal consumption of the employee. Hence, the findings of the UAC to the extent that the actual beneficiary of the health insurance policies provided by various health insurance service providers is the employee and therefore, it is not used for the authorised operations of the Appellant is legally and factually not correct. The impugned order passed by the UAC is liable to be set aside on this ground itself.
- xviii. The restriction regarding 'personal consumption' is only applicable to goods and is not applicable to 'services' under the SEZ Law.
- xix. In terms of second proviso to Rule 27(3) of the SEZ Rules, the restriction on exemptions, drawback and concessions is applicable only when any goods are used for personal use of, or consumption by officials, workmen, staff, owners or any other person in relation to a Unit or Developer. Therefore, health insurance services received by the Appellant, being in the nature of services and not goods, will not be hit by the aforesaid restriction.

- xx. When the legislature has in its wisdom not applied the restriction of 'personal consumption by employees' vis-à-vis services received by the SEZ Unit/Developer, the UAC has legally erred in doing so.
- xxi. That it is a settled legal position that burden of proving that a product is hit by an exclusion clause contained in an exemption notification, is squarely on the department. At this juncture, the Appellant submits that such burden has not been discharged by the department because any exclusions in taxing statutes have to be specifically provided for. In this context, reliance is placed on the decision given in the case of *Uflex Ltd. vs. Commr. Of C. Ex., Cus.& S. T., Noida*, reported at 2016 (335) E.L.T. 376 (Tri. - All.), wherein it was held that the appellants are eligible for exemption under Notification No. 67195-C.E., dated 16-3-1995 as the hard copy shim falling under Chapter 84 is undisputably a "capital goods" manufactured by them for captive use. The proviso to the said notification is applicable only to "inputs" as a bar for exemption in the case of use for exempted final products and not "capital goods".
- xxii. In the present case, if the legislature intended to deny the SEZ benefit to services which are used for personal use or consumption of the employees, the same should have been expressly stated in the provisions of SEZ Act. In absence of such express exclusion, the services received by the Appellant cannot be excluded from the benefits under the SEZ laws by relying on the provisions of proviso to Rule 27(3) which only excludes goods. Hence, the impugned order is liable to be set aside on this ground itself.
- xxiii. The above view is further fortified by a settled legal position of law that taxing statutes have to be strictly interpreted. In the case of *Commissioner of C. Ex., Chandigarh vs. Doaba Steel Rolling Mills* reported at 2011 (269) E.L.T. 298 (S. C.) the Supreme Court reiterated that in a taxing act, one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used.
- xxiv. the Supreme Court in the case of *State of Rajasthan vs. Basant Agrotech (India) Ltd.* reported at 2014 (302) E.L.T. 3 (S. C.) has held that no tax can be imposed by inference or by analogy or by trying to probe intentions of legislature and by considering what was substance of the matter. The court cannot import provisions in statutes so as to supply any assumed deficiency. The Supreme Court relied on the decision given in the case of *Commissioner of Sales-tax, UP. v. Modi Sugar Mills Ltd.* reported at *AIR 1961 SC 1047* wherein the majority in the Constitution Bench, has observed as below:-

"In interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The Court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed; if cannot imply anything which is not expressed; it cannot import provisions in the statutes so as to supply any assumed deficiency."

- xxv. In *Commissioner of Wealth Tax, Gujarat-III, Ahmedabad v. Ellis Bridge Gymkhana* reported at *AIR 1998 SC 120*, the Supreme Court held as under:-

"The rule of construction of a charging section is that before taxing any person, it must be shown that he falls within the ambit of the charging section by clear words used in the section. No one can be taxed by implication. A charging section has to be

construed strictly. If a person has not been brought within the ambit of the charging section by clear words, he cannot be taxed at all."

- xxvi. The rule of strict interpretation, though having a wide application in general laws, has a very important role to play in fiscal laws. When the meaning is plain, no resort could be had to any rules of construction which would denude the provision of its plain and ordinary meaning. There is no question of then interpreting the provision and by finding out the supposed intention of the legislature. It is only when the language is not clear but ambiguous or obscure, there is scope for interpretation.
- xxvii. Hence, merely for the reason that in terms of proviso to Rule 27(3) of the SEZ Rules, goods for personal use or consumption of employees has been excluded from SEZ benefits will not mean that the intention of the legislature is also to exclude services for personal use or consumption of employees from granting such benefits under the SEZ laws. Such interpretation to the proviso to Rule 27(3) would mean adding words to the statute which is legally not permissible when the language of the proviso is clear and unambiguous. Hence, the impugned order is liable to be set aside on this ground itself.
- xxviii. General insurance business service is covered under the default list of services approved by DoC and health insurance service is a subset of general insurance business service.

The appellant has requested the BoA to set aside the impugned order passed by NSEZ and to declare that the health insurance services received by the appellant from various health insurance service providers covering its employees are towards the authorized operations of the appellant.

The appeal is placed before the Board of Approval for consideration.
