

No. F.2/3/2019-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Udyog Bhawan, New Delhi
Dated the 23rd May, 2019

OFFICE MEMORANDUM

Subject: 90th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) scheduled to be held on 6th June, 2019 at 11.30 A.M in Room No. 141 - forwarding of Agenda thereof – Reg.

In continuation to this Department's O.M. of even number dated 8th May, 2019 on the above mentioned subject, the undersigned is directed to enclose herewith the Agenda for the 90th meeting of the BoA for SEZs scheduled to be held on 6th June, 2019 at 11:30 A.M. in Room No. 141 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.



(Aditya Narayan)

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To

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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. Joint Secretary, Department of Industrial Policy and Promotion, 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.
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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, Mihan 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, Bhubaneswar – 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) / PA to DS (SNS).

Agenda for the 90th meeting of the Board of Approval to be held on 6th June, 2019 at 11.30 A.M. in Room No. 141, Udyog Bhawan, New Delhi

Item No. 90.1: Confirmation of minutes of the meeting of the 89thBoA held on 22nd April, 2019.

Item No. 90.2: 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".

90.2(i) Request of M/s. Jawaharlal Nehru Port Trust for further extension of the validity period granted for setting up of SEZ in an existing Port at Nhava Sheva, JNPT Port, Taluka Uran, Navi Mumbai, for one year beyond 15.07.2019 up to 15.07.2020.

- Name of the developer : Jawaharlal Nehru Port Trust
- Sector : SEZ in an existing Port
- Location : Nhava Sheva, JNPT Port, Taluka Uran, Navi Mumbai
- **Extension:** Formal approval to the developer was granted on 16.07.2014. The SEZ was notified on 11.08.2014. The last extension is valid upto 15.07.2019. The developer has requested for further extension upto 15.07.2020.

DC, SEEPZ has informed that as per the developer they have already started construction work and so far invested **Rs. 398.59/-Crores** into the project under various heads.

Financial progress so far:-

S.No	Type of Cost	Total investment made so far(Rs. in cr) till 24.04.2019	Investment made since last extension (Rs. In cr)
1.	Land Cost	02.88	0.00
2.	Cost of Development on EPC mode (Construction) + Cost of Compound wall	277.62	80.63
3.	Project Management Consultancy Fees	4.49	1.83
4.	Cost of soil filling	70.00	0.00
5.	Other services like marketing, DPR preparation, consultation etc	43.60	14.61
	TOTAL	398.59	97.07

Further, the Developer has submitted the Chartered Engineer's Certificate certifying that 38.41% of the total project construction activity has been completed.

Status of physical progress on ground:

Percentage wise details of current physical progress as per EPC completion Status is to the tune of **38.41%** of Total weightage as on date:

Sr. No.	Authorized Activity	Total Weightage in overall infrastructure of SEZ (A)	% Completion out of total Weightage as mentioned in Column A on 24.04.2019	% Completion out of total Weightage as mentioned in Column A since last extension application i.e from 18.05.18 to 24.04.19	Deadline for completion of balance work according to Individual weightage
1	Ground Improvement	33%	32.00%	4.28%	Estimated till May 2019
2	Water Supply Network	3.00%	0.85%	0.20%	Estimated till Dec 2019
3	Building	2.80%	1.50%	0.12%	Estimated till Dec 2019
4	Grade Separator	7.00%	2.50%	0.80%	Estimated till Dec 2019
5	Internal Roads	28.00%	0.97%	0.97%	Estimated till Dec 2019
6	Recycled Water Network	1.00%	0.38%	0.23%	Estimated till Dec 2019
7	Sewerage Water Network	6.00%	0.13%	0.13%	Estimated till Dec 2019
8	Power Supply Distribution and Lighting	13.50%	0.08%	0.08%	Estimated till Dec 2019
9	Landscaping	0.70%	0.00%	0.00%	Estimated till Dec 2019
10	Project Commissioning	5.00%	0.00%	0.00%	Estimated till Dec 2019
	Total	100%	38.41%	6.80%	

Detailed Reasons for delay:

The Developer has stated that the major reason behind the delay in project implementation is due to slow progress of work by the EPC contractor, detailed activity is mentioned below:-

- i. Initially JNPT SEZ was planning to have both PA and NPA, which later on was changed to 100% PA based on guidance received from Ministry of Shipping, considering the demand for SEZ Land.
- ii. Due to this major change, JNPT SEZ was required to revisit its Master Plan and infrastructure plans as the non-processing area consisting of residential, commercial, social usage were now removed from JNPT-SEZ as the same are not permitted in Processing Area.
- iii. The time period required in revisions of planning and designing of revised infrastructure based on minor revision of master plan caused delay. However, these revisions were essential considering the change in composition of SEZ. Due to this major reason the execution of infrastructure works was further delayed.
- iv. Minor modifications were required in ground improvement work for the reason of minor changes in plan for certain area additional ground improvements were required to be done. These additional works further delayed the progress.
- v. Ground improvement work which is a major part of the SEZ infrastructure project is delaying the entire infrastructure project progress due to marshy land in SEZ area where the land settling is taking place (i.e. soil consolidation which is a natural process). Ground improvement is a technical pre-requisite for this type of strata and mandatory.
- vi. To expedite soil consolidation latest technology of Physical Vapor Deposition has been used even then the soil consolidation being natural process which is taking additional time against envisaged, Hence, the same is being closely monitored (it is observed over the period that the said soil consolidation is taking more time).
- vii. It is necessary to take the ground improvement work initially to ensure that required bearing capacity of the soil/land is achieved prior to taking up further infrastructure work in the SEZ land.
- viii. EPC contractor could not keep the pace of work as per schedule because of the problem of getting earth for loading to achieve consolidation from nearby area. This has also caused delay in the work at site.

Recommendation by DC:

DC, SEEPZ SEZ has recommended the proposal.

The request is placed before BOA for its consideration.

Item No. 90.3 Requests for extension of LoP beyond 3rd Year onward (Two 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.

90.3(i) Request of M/s. Mundra Solar Limited (MSL) a manufacturing unit of M/s. Adani Ports & SEZ at Mundra for extension of the validity of Letter of Approval (LOA) beyond 19.04.2019 for one year up to 18.04.2020.

- LOA issued on : 20.08.2015
- Nature of business of the unit : Phase 1 – Solar Module, Cell
- No. of Extensions : 3 (Three) by DC APSEZ(Third extension was granted for 8 months)
- LoA valid upto : 19.04.2019
- Request : For further extension for 1 (One) year

Present Progress:**a) Details of Business Plan:**

Sr No	Type of Cost	Proposed Investment on phase 1 (Rs. In crore)
1	Building	344.05
2	Plant & Machinery	1870.69
3	Projected Related cost	646.11
	Total	2,860.85

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

Sr No	Type of Cost	Total Investment made so far (Rs in Cr)	Incremental Investment since last extension (Rs in Cr)
1	Land cost	46.0	0

c) Details of the physical progress till date:

Sr No	Activities	%completion	% completion during last one year	Deadline for the Completion of the Balance work
1	Design	95%	20%	30.06.2019
2	Procurement (capital)	0	0	Oct 2019
3	Construction	0	0	Oct 2019
4	Commissioning	0	0	April 2020

The unit has submitted certificate from Chartered Engineer on 04.04.2019 regarding Construction Commissioning Plan.

Detailed Reasons for Delay:

The agenda is being forwarded to BoA by DC, APSEZ because inspite of three extensions granted to the unit, they have not initiated any activity on the ground. However, the unit has submitted that they have completed the Environment Impact study Assessment (EIA) in last eight months for EC-SEIAA process of getting the Environment clearance from GPCB, the same report has been submitted at Environment clearance and accepted by SEAC for approval to be included in next SEAC meeting which was expected to be held in April 2019. The unit has also submitted that the construction activity will commence as early as the unit will receive Environment Clearance.

Recommendation by the DC:-

In view of the above and also that it is an environment friendly project. The request of the unit has been recommended by DC, APSEZ for consideration for extension of the LoA for a period of one year i.e. upto 18.04.2020.

The request is placed before BOA for its consideration.

90.3(ii) Request of M/s Xenosoft Technologies (India) Pvt. Ltd. Unit in M/s. APIIC Ltd. Madhurwada IT/ITES SEZ at Visakhapatnam for extension of Letter of Approval beyond 3 Years for a period of 6 months up to 19th January, 2020.

- LOA issued on (Date) : 20.01.2015
- Nature of business of the unit : IT/ITES
- No. of Extensions : 3 (Three) by DC, last extension granted by BoA in its 86th meeting for a period of 6 months upto 19.07.2019.
- LoA valid upto : 19.07.2019
- Request : For further extension for 6th months up to 19.01.2020

Present Progress:**a) Details of Business Plan:**

SI No	Type of Cost	Proposed Investment (Rs. In crore)
1	Building	30.00
2	Plant & Machinery	5.00
3	Projected Related cost	5.00
	Total	40.00

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

Sr No	Type of Cost	Total Investment made so far (Rs in Cr)	Incremental Investment since last extension (Rs in Cr)
1	Land cost	1.86	0.00
2.	Material procurement	16.42	5.38
3.	Construction	10.23	3.04
	Total	28.51	8.42

c) Details of the physical progress till date:

Sr No	Authorized Activity	% over all completion	% completion	% completion during last one year	Deadline for the Completion of the Balance work
1	Land cost		100%	-	January, 6, 2020
2	Procurement (capital)		50%	25%	
3	Construction		90%	25%	

Detailed Reasons for Delay:

- The plot allotted to the unit is unique with 120 Mtrs slope from road level
- The activity of digging of pits for footings and pillars has consumed longer time as the depth of minimum excavation recommended by the Geo Technical Investigation Team is 4 meters and some other places due to contours has to go up to 9 meters.
- Since the Plot is full of rocks, excavation work for footings and columns has taken longer time and due to lack of availability of soil, pits & footings were filled with soil brought from outside and thereafter chemically packing the soil for stabilization,
- High wind speed obstructed the progress of the work several times.
- Getting the structure to the 1st slab level (From 120m slope to 1st Slab level) itself took a lot of time and they have completed slabs for 4 No cellars, ground floor and first floor (Total slab area so far achieved 2,50,000 Sft.)

Recommendation by DC:-

DC, VSEZ has recommended the request of extension of LoA for a period of six months up to 19th January, 2020.

The request is placed before BOA for its consideration.

Item No. 90.4 Requests for co-developer (Eight proposals)

90.4(i) Request of M/s. ANSR Global Corporation Pvt. Ltd for co-developer status in the M/s. Laxmi Infobahn Pvt. Ltd SEZ at Sy. No. 107 (P), Kokapet Village, GandipetMandal, Ranga Reddy District, Telangana for development, operation and maintenance of the SEZ and other activities

The above mentioned SEZ stands notified on 8.11.2016 over an area of 2.22 hectares.

M/s.ANSR Global Corporation Pvt. Ltd has submitted a proposal for becoming a co-developer in the aforesaid SEZ for development, operation and maintenance of the SEZ and other activities.

Co-developer agreement dated 25.4.2019 entered into with the developer for a space of 8000 sq.ft. on 1st floor of tower-2 to the said SEZ has been provided. The proposed amount of investment by the co-developer in the SEZ is Rs. 2.80 Crores.

Recommendation by DC:

DC, VSEZ has recommended the proposal

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

90.4(ii) Request of M/s. IIC Technologies Limited for co-developer status in the M/s. APIIC Limited IT/ITES SEZ at Hill No. 3, Madhurwada, Visakhapatnam.

The above mentioned SEZ stands notified on 28.12.2006 over an area of 36 hectares.

M/s. IIC Technologies Limited has submitted a proposal for becoming a co-developer in the aforesaid SEZ for undertaking infrastructure facilities in the form of construction of building with 50,000 sft. (approx.) for the unit including existing space and authorized operations in an area of 2.00 acres of SEZ.

Co-developer agreement dated 31.10.2015 entered into with the developer has been provided. The proposed amount of investment by the co-developer in the SEZ is Rs. 13.89 Crores.

Recommendation by DC:

DC VSEZ has recommended the proposal

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

90.4(iii) Request of M/s. ANSR Global Corporation Pvt. Ltd for co-developer status in the M/s. GAR Corporation Pvt. Ltd SEZ at Sy. No. 89 (P), Kokapet Village, SerilingampallyMandal, Ranga Reddy District, Telangana for development, operation and maintenance of the SEZ and other activities

The above mentioned SEZ stands notified on 27.3.2017 over an area of 1.66 hectares. M/s. ANSR Global Corporation Pvt. Ltd has submitted a proposal for becoming a co-developer to undertake development, conversion of warm shell building into fully fitted office space, operation and maintenance of the SEZ and other activities as may be authorized by the SEZ authorities.

Co-developer agreement dated 5.12.2018 entered into with the developer for a space (a) 1,28,594sq.ft. in 9th and 10th and (b) 1,22,619 sq.ft. in 11th & 12th Floor, Tower-8 in the above SEZ has been provided. The proposed amount of investment by the co-developer in the SEZ is Rs. 87.92 Crores.

Recommendation by DC:

DC VSEZ has recommended the proposal

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

90.4(iv) Request of M/s. Tata Consultancy Services Ltd. for co-developer status in M/s. Maharashtra Airport Development Company Ltd. at Nagpur, Maharashtra

The above mentioned SEZ stands notified over an area of 1578.41 hectares.

M/s. Tata Consultancy Services Ltd., has submitted a proposal for becoming a co-developer in the aforesaid SEZ for infrastructure facilities for IT/ITES.

Co-developer agreement has not been provided. Draft Lease Deed has been provided. The proposed amount of investment by the co-developer in the SEZ is Rs. 740 crores

Recommendation by DC:

Development Commissioner MIHAN SEZ has recommended the proposal

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

90.4(v) Request of M/s. Arshiya Data Centre Private Limited for co-developer status in M/s. Arshiya Limited at Panvel, Mumbai, Maharashtra

The FTWZ and IT-SEZ of Arshiya Limited has developed FTWZ on an area of 47.628 hectares and is operational since August, 2010 and Arshiya Limited in addition to FTWZ sector, is developing Electronics Hardware and Software (Including Information Technology Enabled Services) sector on an area of 10.27 ha and a total notified area of 57.898 hectares. M/s. Arshiya Data Centre Pvt. Ltd. is a subsidiary company of Arshiya Limited, the developer of the Free Trade and Warehousing Zone (FTWZ) and SEZ Act, 2005 and SEZ Rules, 2006 at Panvel, Mumbai.

M/s. Arshiya Data Centre Private Limited has submitted a proposal for becoming a co-developer in the aforesaid SEZ for construction, operation & maintenance of one new building for Data Centre for an area of 1.3607 ha.

Co-developer agreement dated 22.02.2019 entered into with the developer has been provided. The proposed amount of investment by the co-developer in the SEZ is Rs. 62.70 Crores.

Recommendation by DC:

Development Commissioner SEEPZ SEZ has recommended the proposal

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

90.4(vi) Request of M/s. Cella Warehousing Private Limited for co-developer status in M/s. J. Matadee Free Trade Zone Private Limited at Sriperumbudur Taluk, Kancheepuram District, Tamil Nadu.

The above mentioned SEZ was notified on 23.05.2007 over an area of 84.7412484 hectares.

M/s. Cella Warehousing Private Limited has submitted an application for co-developer status in M/s. J. Matadee Free Trade Zone Private Limited for development of the SEZ area specifically to undertake construction-development of warehouses on the co-developer land area and to provide other infrastructure facilities for the operation and maintenance of the completed warehouse(s) in the FTWZ as contracted under co-development agreement. The co-developer proposes to develop a part of the FTWZ by acquiring 7.91 acres in the already notified area of the FTWZ.

Co-developer agreement dated 11.02.2019 entered into with the developer has been provided. The company has committed to bring an investment of Rs.82.89 Crores over a period of five years.

The proposal was deferred in the 89thBoA meeting held on 04.04.2019.

Recommendation by DC:

DC, MEPZ SEZ has recommended the proposal for placing before the Board.

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

90.4(vii) Request of M/s. ANSR Global Corporation Pvt. Ltd for co-developer status in the M/s. Laxmi Infobahn Pvt. Ltd SEZ at Sy. No. 107 P, Kokapet Village, Gandipet Mandal, Ranga Reddy District, Telangana for development, operation and maintenance of the SEZ and other activities.

The above mentioned SEZ stands notified on 8.11.2016 over an area of 2.22 hectares.

M/s. ANSR Global Corporation Pvt. Ltd has submitted a proposal for becoming a co-developer in the aforesaid SEZ for development of SEZ area specifically to undertake the authorized operations of conversion of bare shell buildings into warm shell buildings and to lease the built-up space in the SEZ as contracted under the de-developer agreement.

Co-developer agreement dated 21.2.2019 entered into with the developer has been provided. The proposed amount of investment by the co-developer in the SEZ is Rs. 35.41 Crores in an area of 1,01,168 sq. ft.(49,977 sq.ft. in 14th floor Tower 2 and 51,191 sq.ft. in 15th floor, Tower-2).

The proposal was deferred in the 89th BoA meeting held on 04.04.2019.

Recommendation by DC:

DC VSEZ has recommended the proposal

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

90.4(viii) Request of M/s. ANSR Global Corporation Pvt. Ltd for co-developer status in the M/s. Milestone Buildcon Pvt. Ltd. SEZ at Chokkanahalli Village, Bengaluru, Karnataka.

The above mentioned SEZ stands notified on 27.09.2010 over an area of 10.11 hectares.

M/s. ANSR Global Corporation Pvt. Ltd has submitted a proposal for becoming a co-developer in the aforesaid SEZ for development of the SEZ area specifically to undertake the authorized operations of conversion of bare shell buildings into warm shell buildings and to lease the built-up space in the SEZ as contracted under the co-development agreement.

Co-developer agreement dated 13.2.2019 entered into with the developer has been provided. The proposed amount of investment by the co-developer in the SEZ is Rs. 14.42 Crores.

The proposal was deferred in the 89th BoA meeting held on 04.04.2019.

Recommendation by DC:

DC CSEZ has recommended the proposal

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

Item No. 90:5 Change of Shareholding Pattern/Change of name (Five proposals)

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, court approved mergers and de-mergers in case of developer/co-developer are to be undertaken by the Board of Approval.

90.5(i) Request of M/s. Sierra Atlantic Software Services Limited a co-developer in M/s. TSIIC Ltd. an IT/ITES SEZ at Nanakramguda village, Serilingampally Mandal, Ranga Reddy District, Telangana for change in name to M/s. Hitachi Consulting Software Services India Pvt. Ltd.

M/s. TSIIC Ltd. was notified on 25.04.2007 over an area of 20.53 hectares. M/s. Sierra Atlantic Software Services Limited was granted co-developer status on 07.05.007 for developing total infrastructure in an area admeasuring 2.91 hectares.

The co-developer has submitted a copy of Certificate of Incorporation consequent upon change of name on 31.10.2012 issued by Registrar of Companies, Andhra Pradesh.

The co-developer has submitted original and amended Lease Deed with the developer.

Recommendation by DC:-

DC, VSEZ has recommended the proposal for change of name of the co-developer from M/s. Sierra Atlantic Software Services Limited to M/s. Hitachi Consulting Software Services India Pvt. Ltd.

The request is placed before BOA for its consideration.

90.5(ii) Request of M/s RattanIndia Nasik Power Limited, co-developer of M/s. Indiabulls Industrial Infrastructure Ltd. SEZ at Village Musalgaon and Gulvanch, Taluka Sinner District, Maharashtra Jamnagar for change of name to M/s. Sinner Thermal Power Limited.

M/s. RattanIndia Nasik Power Limited was granted co-developer status on 22.12.2009 for Infrastructure facilities (for setting up a 1200MW Power Plant) in the multi-product SEZ at Indiabulls Industrial Infrastructure Ltd.-SEZ, Village-Musalgaon and Gulvanch, Taluka-Sinner, District – Nasik.

As informed by DC, SEEPZ SEZ the co-developer has stated that there is no change in shareholding pattern and list of directors, only name has been changed. A Certification of Incorporate pursuant to change of name issue by the office of Registrar of Companies dated 05.02.2019 has also been provided.

Recommendation by DC:-

DC, SEEPZ SEZ has recommended the proposal as per the instruction no. 89 dated 17.05.2018 and instruction no. 90 dated 03.08.2018.

The proposal is submitted for consideration of BoA.

90.5(iii) Proposal of M/s. NIIT Technologies Limited developer of IT/ITES SEZ at Plot No. TZ-02 & 2A, Sector-Techzone, Greater Noida (Uttar Pradesh) for change in shareholding pattern of the company.

M/s. NIIT Technologies Ltd. was granted LOA on 24.08.2006 for setting up of IT/ITES SEZ at Plot No. TZ-02 & 2A, Techzone, Gr. Noida (Uttar Pradesh). The SEZ was notified on 29.05.2007 over an area 10.20 hectares. The developer had executed Bond-Cum-Legal Undertaking which had been accepted by the Competent Authority. The SEZ is operational w.e.f. 30.06.2011. Presently, three units of M/s. NIIT Technologies Ltd. are operating from SEZ.

Details of existing & proposed shareholding pattern of the company are given below:

Existing shareholding pattern			Shareholding pattern after proposed transfer of shares	
Name of Shareholder	% of Share		Name of Shareholder	% of Share
Individuals, Corporates & others	11.983%		Individuals, Corporates & others	11.983%
FII's & FPI	41.032%		FII's & FPI	41.032%
Financial Institutions & Mutual Funds	15.379%		Financial Institutions & Mutual Funds	15.379%
OCB & NRI	1.099%		OCB & NRI	1.099%
Promoters (as per below breakup):	30.507		HULST BV, Netherland	30.507%
NIIT	14493480	--		
Vijay Kumar Thadani (as Trustee)	2175911	--		
Rajendra Singh Pawar	2175911	--		

(as Trustee)				
V.K. Thadani	759	--		
Renuka Vijay Thadani	998	--		
Vijay Kumar Thadani	100	--		
R.S. Pawar	759	--		
NeetiPawar	100	--		
Rajendra Singh Pawar	100	--		
	Total	100.00%		

Reason for change in shareholding:

As informed by DC, NSEZ NIIT has signed a Share Purchase Agreement with Hulst B.V. for acquiring the entire Promoters stake (30.507% of the total capital consisting of 18348118 equity shares- of Rs. 10/- each) in the company under the Securities and Exchange Board of India (Substantial Acquisition of Shares & Takeover) Regulation, 2011 and subsequent amendments thereto (the "Takeover Regulations").

Further, developer has mentioned that as agreed between MIT and Acquirer i.e. Hulst B.V., post transfer of promoters stake to the tune of 30.507% to the acquirer as proposed above, the Acquirer will also participate in Open Offer to Public Shareholders of the company to acquire upto 16229173 equity shares, representing 26% of the Total Equity Share Capital of the Company depending upon the public response in due course, resulting into the total shareholding upto 56.507% of the Share capital of the company. Therefore, a separate application for change in Shareholding shall be submitted post open offer transaction completion.

Recommendation of DC:

DC, NSEZ has recommended the proposal

The request is placed before BOA for its consideration.

90.5(iv) Request of M/s RGA Infrastructure SEZ, Bangalore, Developer, for change in shareholding pattern.

The above mentioned SEZ was granted formal approval on 05.01.2017 for developing land area of 7,09,624 sq.feet.

Details of shareholding pattern of the company are given below:

Sl.No	Shareholding pattern before change (%)		Shareholding pattern after change (%)	
1	Sri. Naveen Kumar Daga	6.16	Sri. Naveen Kumar Daga	6.16
2	Sri. Dhiraj Daga	6.16	Sri. Dhiraj Daga	6.16
3	Sri.Champala Daga	6.2	Sri.Champala Daga	6.2
4	Sri. Jaichand Laldaga	6.16	Sri. Jaichand Laldaga	6.16
5	Sri.Kamal Chand Daga	6.16	Sri.Kamal Chand Daga	6.16
6	Sri. Vimal Chand Daga	6.16	Sri. Vimal Chand Daga	6.16
7	RGA Software System Pvt Ltd	63	RGA Software Systems Pvt Ltd	33
			Sri.Dayaram Agarwal	10.20
			Sri. Suyash Rajendra Goel	02.48
			Sri. Sireesh Kupendra	15.30

			Sri. Aayush Goel	02.02
	Total	100	Total	100

Recommendation by DC:

DC, CSEZ has recommended the proposal.

The proposal is submitted for consideration of BoA.

90.5(v) Request of M/s Pritech Projects, Co-Developer, for change of shareholding pattern.

M/s.Pritech Projects, the Co-developer to M/s Pritech Park SEZ, Bangalore was granted co-developer status on 27.09.2012. The details of shareholding pattern of co- developer existing and proposed are detailed below:

Sl.No	Shareholding pattern before (%)		Shareholding pattern after (%)	
1	M/s HNR Associates	25.6%	M/s HNR Associates	25.6%
2	M/s RGA Software Systems Pvt Ltd	61.37%	M/s RGA Software Systems Pvt Ltd	31.37%
3	M/s Primal Projects PVT Ltd.	7.61%	M/s Primal Projects Pvt Ltd	7.61%
4	Sri.D Kupendra Reddy	5.42%	Sri.D Kupendra Reddy	5.42%
			Sri Dayarama Agarwal	10.20%
			Sri Raghav Rajendra Goel	2.47%
			Sri Sireesh Kupendra	15.30%
			Sri Aayush Goel	2.03%
	Total	100%	Total	100%

Recommendation by DC:

DC, CSEZ has recommended the proposal.

The proposal is submitted for consideration of BoA.

Item No. 90.6 Proposals for renewal of LoP for worn and used clothing units (one proposal).

90.6(i) Request of M/s. Gujarat Textiles, a garments re-cycling unit, for renewal of its LoA beyond 30.04.2019

M/s. Gujarat Textiles, a garments re-cycling unit in FSEZ was granted LoA on 02.05.2000 for manufacturing and export of 'All kinds of re-processed garments/used clothing/secondary textile materials/clippings/ rags/Industrial wipers/shoddy wool/ yarn/blanket/ shawls and other re-cyclable textile materials. The unit has requested for renewal of LoA for a further period of 05 years. The unit had commenced its production on 17.07.2000 and the LoA of the unit expired on 30.04.2019.

As informed by O/o DC, FSEZ, the unit has submitted its application in Form F1 in terms of Rules 19(6A)(1) of SEZ Rules, 2006. The details of the FOREX Balance Sheet (Rs. In lakh) for current Block as per the Form F1 submitted by the unit are as follows:-

S. No.	Item	1 st Yr	2 nd	3 rd	4 th	5 th	Total
1.	Free on Board value of Exports in first 5 years	0.00	48.07	0.00	0.00	0.00	48.07
2.	Foreign Exchange Outgo on for the first five years	0.00	1.00	0.00	0.00	0.00	1.00
3.	Net Foreign Exchange Earnings for the first five years (1-2)	0.00	47.07	0.00	0.00	0.00	47.07

The details of the FOREX Balance Sheet (Rs. In lakh) for next Block as per the Form F1 submitted by the unit are as follow:-

S. No.	Item	1 st Yr	2 nd	3 rd	4 th	5 th	Total
1.	Free on Board value of Exports in first 5 years	1620.00	1797.00	2130.00	2560.00	3175.00	11282.00
2.	Foreign Exchange Outgo on for the first five years	1130.00	1236.00	1550.00	1935.00	2220.00	8071.00
3.	Net Foreign Exchange Earnings for the first five years (1-2)	490.00	561.00	580.00	625.00	955.00	3211.00

The details of investment & employment as submitted by the unit to DC, FSEZ are as follows:-

S. No.	Activity of unit		Existing	Proposed for renewed period
1.	Investment in Capital goods (Rs. In lakhs)	Indigenous	12.00	240.00
		Import	0.00	0.00
2.	Investment in Raw Materials (Rs. In lakhs)	Indigenous	0.00	200.00
		Import	2.50	1134.00
3.	Employment	Men	12	55
		Women	0.	219

Rule position:-

In terms of Rule 18(4)(c) of SEZ Rules 2006, which states no proposal shall be considered for:-

(c) Reprocessing of garments or used clothing or secondary textiles materials and other recyclable textile materials into clipping or rags or industrial wipers or shoddy wool or yarn or blankets or shawls.

Provided that extension of Letter of Approval for an existing unit shall be decided by the Board.

The BoA earlier in its 86th meeting held on 22.11.2018 has approved renewal of 15 worn and used clothing units for further period of one year whose validity was expiring on 30.11.2018. The BOA also directed to constitute a Committee to examine all the issues related to used/Worn

clothes as well as plastic recycling units, the larger policy objectives, environment, social and domestic industries concern in consultation with major stakeholders including representatives of the various industries for its consideration. The recommendations of the Committee are still awaited.

Recommendation by DC:-

DC, FSEZ has recommended the proposal.

The request is placed before BOA for its consideration.

Item No. 90.7 Miscellaneous Cases(Eight proposals)

90.7(i) Proposal of M/s. DLF Cyber City Developers Ltd., Developer of Cyber City IT/ITES SEZ for approval for passage of proposed Skywalk through the area of the SEZ at Sector-24 & 25A DLF Phase-III, Gurugram (Haryana)

M/s. DLF Cyber City Developers Ltd., Developer has submitted proposal for allowing passage of proposed 'Skywalk' through the area of IT/ITES SEZ at Sector-24 & 25A, DLF Phase-III, Gurugram (Haryana). The developer has informed that they are planning a 'Safe walk passage' in Cybercity for mitigating the transportation problem of the area by ensuring Safety of pedestrians. Developer has informed that the project will be implemented by DLF cyber City Developers Ltd, and part of this skywalk will pass through the SEZ parallel to rapid metro lane.

Developer has informed that only 19 piers or columns of the Skywalk would be located inside the SEZ boundary and the cost of constructing the piers or column would be borne by them. The Developer has further mentioned that during the construction process the corridor would be barricaded and no benefit of SEZ would be availed in the construction of skywalk. Developer has mentioned that post completion of construction work, one would be able to move below the skywalk hence maintaining the contiguity of the land. Further, no movement of men or material would be there through the SEZ once the construction is over. Further, developer has informed that the land used for the piers shall continue to be in ownership of the developer. The cost of constructing the piers or columns would be borne by the developer.

DC, NSEZ has referred to a similar proposal of the developer where the BoA in its meeting held on 19.06.2009 had granted permission to M/s. DLF Cyber City Developers Ltd, to allow passage of metro corridor through this SEZ wherein 5 to 6 piers were proposed to be laid within the SEZ area.

In this regard, DC, has obtained a report regarding maintenance of security and contiguity of SEZ as per provisions of SEZ Act / Rules from the Specified Officer of SEZ. The Specified Officer has informed:-

(i) Maintenance or contiguity..-

As per the proposal and drawing submitted by the developer, the proposed Skywalk passage will be elevated, standing on 19' columns laid within the area, while passing through the Cyber City SEZ. From the skywalk no entry or exit is given within the SEZ premises. The whole land under the Skywalk will remain with developer as part of the SEZ and post completion of the construction work, one would be able to move freely as per the existing condition below the skywalk and therefore the contiguity of SEZ will not be impacted.

(ii) Maintenance of Security:-

- (a) The material & services procured for construction of proposed skywalk will be on payment of duty and no SEZ tax benefits will be taken for this purpose.
- (b) During the construction work the area will be barricaded for safety purpose; and movement of material and men used in course of construction process will be fully recorded & accounted by the developer under control of his office.
- (c) SEZ security will be maintained and will not get disturbed due to the proposed skywalk, since the passage is fully elevated; there will be no movement of un-authorised persons through the SEZ land on the ground level.

Specified officer has further mentioned that the proposed skywalk passage will be constructed parallel to the earlier approved passage for elevated rapid metro lane while passing through the Cyber City SEZ & the entry & exit to skywalk will be outside the SEZ gates.

Recommendation by DC:-

Keeping in view the earlier approval granted to M/s. DLF Cyber City Developers Ltd. by the BoA in its meeting held on 19.06.2009, allowing passage of metro corridor through this SEZ; the proposal of the developer for allowing passage of proposed 'Skywalk' through the area of IT/ITES SEZ at Sector 24 & 25A, DLF Phase-III, Gurugram (Haryana) is recommended for consideration of BoA.

The request is placed before BOA for its consideration.

90.7(ii) 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. World Window Infrastructure & Logistics Pvt. Ltd. had been granted co-developer approval for development of SEZ for the purpose of Free Trade Warehousing Zone in Kandla SEZ vide DoC's letter dated 20.09.2010. Based on their approval as co-developer in Kandla SEZ, DC, Kandla had allotted an area of 25 acres (this area was further reduced to 21.724 acres by excluding road area) vide Allotment Order dated 20.09.2010.

As the Co-developer had not been able to implement the project even after 4½ years from the date of allotment on the request of DC, Kandla the proposal for cancellation of approval of Co-Developer M/s. World Window Infrastructure & Logistics Pvt. Ltd. was placed before BoA in its 66th meeting held on 27.08.2015. After due deliberations, the BoA cancelled the co-developer status of M/s. World Window Infrastructure & Logistics Pvt. Ltd. and directed DC, KASEZ to issue show cause notice to the company for non-implementation of the project.

As informed by DC, KASEZ a Show Cause Notice 26.11.2015 was issued to M/s. World Window Infrastructure & Logistics Pvt. Ltd. for surrender of the allotted land. Further, Order in Original dated 03.03.2016 was also issued to M/s. World Window Infrastructure & Logistics Pvt. Ltd. for surrender/taking over possession of the land allotted.

Aggrieved with the cancellation of their co-developer status by BoA and eviction proceedings initiated by DC, KASEZ, M/s. World Window Infrastructure & Logistics Pvt. Ltd. had filed Special Civil Application No. 4765 of 2016 before the Hon'ble High Court of Gujarat

at Ahmedabad. The Hon'ble High Court of Gujarat vide its Oral Order dated 02.05.2019 (copy of the said Order enclosed herewith for ready reference) has allowed the Petition of M/s. Worlds Window Infrastructure & Logistics Pvt. Ltd. by quashing and setting aside the consequential order dated 03.03.2016 of the Development Commissioner and relegate the Petitioner to the Board of Approval at the stage prior to the decision dated 27.08.2015 in the 66th Meeting of the Board of Approval. The relevant extract of the Hon'ble High Court Order dated 02.05.2019 is reproduced below: -

"14. In the instant case, nothing is coming on record to indicate that any notice was issued to the petitioner before taking a decision on 27.08.2015. This Court is therefore, of the view that the decision of cancelling the status of 'Co-Developer' which has a consequential effect of suspending the Letter of Approval is in breach of Sections 10(3) of the SEZ Act. The Court therefore, proposes on this very ground to allow the petition by quashing and setting aside the consequential order of the respondent No.2 – the Development Commissioner dated 03.03.2016 and relegate the petitioner to the Board of Approval at the stage prior to the decision dated 27.08.2015 in the 66th Meeting of the Board of Approval.

15. It is open for the Board of Approval thereafter to initiate action that may be proposed upon compliance of Section 10(3) of the SEZ Act."

Recommendation by DC:

In view of the above Hon'ble High Court's Order, the DC, KASEZ has recommended to place the matter before the Board of Approval.

The request is placed before BoA for consideration.

90.7(iii) Request of M/s. Venus Garments, a unit in Surat Apparel Park SEZ, Surat for renewal of Letter of Approval (LoA).

M/s. Venus Garments, Plot No. 28, Surat Apparel Park SEZ, Village Vanz, Sachin, Surat, was granted LOA on 21.07.2005 by DC, KASEZ as amended from time-to-time, to set-up a new unit in sector specific Apparel SEZ, Surat for manufacture and export of Seamless Garments and not dealing with worn clothing subject to conditions imposed therein. The said unit vide their letter dated 01-08-2005 conveyed their agreement to all the terms and conditions mentioned in the said LOA.

The said unit, vide request dated 05.12.2018 have sought extension of LOA dated 21.07.2005 for 3rd block of five years, on completion of five (05) years from the date of commencement of production.

The brief facts of the case are as under:

Letter of Approval (LOA) issue:	21-07-2005
Commencement of production:	19-04-2006
First Block period :	From 19.04.2006 to 18.04.2011
Second Block period :	From 19.04.2011 to 18.04.2016

As informed by DC, KASEZ the said unit had applied for exit from the SEZ Scheme vide their letter dated 10.08.2016. However, it was noticed that the said unit had not filed any APRs

for the period from 2007-08 to 2010-11. Later on, the said unit vide letter dated 05-02-2018 has submitted APRs for the period from 2007-08 to 2010-11. The APR for fiscal year 2006-07 was filed before the Surat-SEZ Officer, years ago. The said unit vide their letter dated 02.08.2018 submitted APR for fiscal year 2006-07, and also submitted revised APRs for the period from 2007-08 to 2016-17 to DC office.

All these APRs of the said unit were put-up before the Approval Committee for GIDC Apparel Park SEZ, Surat in its 18th meeting, which was held at Surat on 11-06-2018, as required under the provisions of Rule-54 of SEZ Rules, 2006. The Approval Committee in its said meeting noticed that the export performance of the said unit of first block period of five year ending 18-04-2011 was positive. However, the export performance of the said unit for the second block period of five years ending on 18-04-2016 was negative by (-) Rs. 48.14 lakhs, therefore the Approval Committee had directed to the Development Commissioner's office to issue Show Cause Notice to the said unit for violation of Rule-54 (2) of the SEZ Rules, 2006, read with Foreign Trade (Development & Regulation) Act, 1992.

Accordingly Show Cause Notice dated 20-06-2018 was issued to the said unit for imposing penalty under the proviso to Rule-25 of the SEZ Rules, 2006 and sub-rule (2) of Rule-54 of the SEZ Rules, 2006 read the provisions of FT (D&R) Act, 1992. Further, the Development Commissioner, KASEZ on 02.08.2018 imposed a penalty of Rs. 2,50,000/- on the said unit for achieving negative NFE to the tune of (-) Rs. 48.14 lakhs and failed to achieve positive NFE at the end of second block period of five years ending on 18-04-2016.

DC, has further informed that the said unit has informed that they have paid Rs. 2,50,000/- as a penalty imposed upon them vide O-I-O No. 07/SAP-SEZJ'2018 dated 02.08.2018. The Specified Officer, Surat Apparel Park, Sachin, Surat have also confirmed that Ms. Venus Garments had paid penalty of Rs. 50,000/- against vide O-I-O No. 02/2018 dated 25.05.2018 for non-submission of APRs in time and Rs. 2,50,000/- vide O-I-O No. 07/SAP-SEZ/2018, dated 02.08.2018 for not achieving positive NFE.

At this juncture the said unit has requested for renewal of their LOA. But the LOA of the said unit expired on 18.04.2011 and they had not applied for renewal of their LOA, at that time. The said unit has also filed APR for the year 01.04.2017 to 31.03.2018 on 31.12.2018.

As per, Rule 19 (5), of the SEZ Rules, 2006, after completion of the five years from the date of commencement of the production, the Development Commissioner may, at the request of the unit, extend validity of the LOA for a further period of five years, at a time.

DC, KASEZ has informed that the unit vide their letters dated 08.01.2019 and 02.02.2019 has given following clarification for late application for LoA renewal:-

- a. They have made LoA renewal application on SEZ online website vide reference ID 201800005072 dated 05.12.2018
- b. As per amendment in Rule 19 of SEZ Rules, 2006 they have submitted Form F1 in prescribed format for renewal of LoA.
- c. LoA has been expired on 31.07.2017, however no manufacturing activity at the said SEZ unit has been carried out since April, 2009.
- d. They have already filed exit application, before one year ago.
- e. Now, at this point of time before exit from SEZ, they have to clear capital goods, raw materials and finished goods, which were lying at the unit for more that 7 to 8 years.

- f. Upto FY 2006-07, they have utilized their production capacity maximum, however, due to adverse industrial policy regarding apparel Industry, the production cost went high and they had not opt to produce more goods.
- g. They have generated employment for 20 people during the period from FY 2006-07 to FY 2008-09. They have already applied for exit from the SEZ scheme; they are not able to submit projected employment.
- h. They have filed APRs of their unit after the due date and for that they have paid penalty Rs. 50,000/-
- i. As per SEZ Rules, they have not achieved positive NFE during the second block period and authority had passed the penalty order. However, they have paid said penalty amount of Rs. 2,50,000/-, instead of preferring the appeal against the said order.
- j. They have not made any default regarding statutory payment.
- k. They have not undertaken any activity which has not been approved or sanctioned by the Development Commissioner.

DC, KASEZ has stated that M/s. Venus Garments, Plot No. 28, Surat Apparel Park SEZ, Village Vanz, Sachin, Surat, had applied for exit on 10.08.2016 from the SEZ scheme and now before exit they require to clear their capital goods, raw materials and finished goods, which were lying at the unit for more that 7 to 8 years, from the SEZ. Therefore, they have applied for renewal of their LOA, vide request dated 05.12.2018. They have already paid penalty of Rs. 50,000/- against vide O-I-O No. 02/2018 dated 25.05.2018 for non-submission of APRs in time and Rs. 2,50,000/- against O-I-O No. 07/SAP-SEZ/2018, dated 02.08.2018 for not achieving positive NFE. Now, it is found that LoA had expired on 18.04.2011, and they have applied on 05.12.2018 for renewal of their LoA, after the expiry of approximately six and half years. As per Rule 19 (5), of the SEZ Rules, 2006, the Development Commissioner may, at the request of the unit, extend validity of the LOA for a further period of five years, at a time. Accordingly, the Development Commissioner is not empowered to extend the validity of LOA, after approximately six and half years are over. Therefore, request of the said unit is forwarded herewith for extension of LOA.

Recommendation by DC:

DC, KASEZ has recommended the proposal of the unit as on date. Further, the said unit i.e. M/s. Venus Garments, Plot No. 28, Surat Apparel Park SEZ, Surat is required to remove their old stock after payment of appropriate Duty, before exit from the SEZ scheme.

The proposal is submitted for consideration of BoA.

90.7(iv) Request of M/s. Reliance Industries Ltd., a unit in Reliance Jamnagar SEZ at Village- Meghpar/Padana, Taura- Lalpur, Jamnagar for procurement of restricted items from the DTA for Infrastructure development & repairing facility of existing infrastructure facilities.

M/s. Reliance Industries Ltd. was granted LoA on 04th April, 2006 as amended for setting up of petroleum refinery and operation and maintenance of the same at Jamnagar. The NFE for their unit in last 10 years is positive.

DC has further stated that the unit procure civil and other materials from the domestic market for the development of the unit and repairing works, however, due to recent amendment in the Rule 27(1) vide notification no. G.S.R. 909(E) dated 19.09.2018 the new proviso is now inserted in Rule 27(1) as below:-

"Provided also that for supply of Restricted Items by a Domestic Tariff Area Unit to Special Economic Zone Developer or Unit, the Domestic Tariff Area Unit may supply such items to Special Economic Zone Developer or Unit for setting up infrastructure facility or for setting up of a Unit and it may also supply raw material to Special Economic Zone Unit for undertaking a manufacturing operations except refrigeration, cutting, polishing and blending, subject to the prior approval of Board of Approval:

Provided also that supplies from Domestic Tariff Area to Special Economic Zones shall attract export duty, in case, export duty is leviable on items attracting export duty."

The unit has requested for permission to procure following restricted items from the DTA for infrastructure development & repairing of existing infrastructure facilities as unit:

Description	Quantity required for Unit (in MT)
AAGREGATE, STONE VARIOUS SIZE	45000
CRUSHED SAND	30000
CRUSHER FILLING SAND	16000
SAND, RIVER, FINE	5000
SIEVED RIVER SAND, 4 MM DOWN	5000

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:

DC, Reliance Jamnagar SEZ has recommended and forwarded the proposal of M/s. Reliance Industries Ltd. SEZ Unit for consideration of the BoA.

The issue was deliberated on file and a view was taken that since putting up such matter before BoA every time will delay the matter, a proposal may be put up in the BoA for delegation to Commerce Secretary and for decision to treat such matter on file.

The proposal is submitted for consideration of BoA.

90.7(v) Request of M/s. Reliance Industries Ltd., SEZ (Developer) at Village-Meghpar/Padana, Tauka- Lalpur, Jamnagar for procurement of restricted items by SEZ developer for Infrastructure development & repairing facility of existing infrastructure facilities in terms of Rule 27 of SEZ Rules, 2006.

M/s. Reliance Industries Ltd. was granted LoA on 07th April, 2006 as amended. They have been granted approval for development, operation and maintenance of the SEZ Jamnagar, Gujarat.

DC has further stated that the unit procure civil and other materials from the domestic market for the development of the unit and repairing works, however, due to recent amendment in the Rule 27(1) vide notification no. G.S.R. 909(E) dated 19.09.2018 the new proviso is now inserted in Rule 27(1) as below:-

"Provided also that for supply of Restricted Items by a Domestic Tariff Area Unit to Special Economic Zone Developer or Unit, the Domestic Tariff Area Unit may supply such items to Special Economic Zone Developer or Unit for setting up infrastructure facility or for setting up of a Unit and it may also supply raw material to Special Economic Zone Unit for undertaking a manufacturing operations except refrigeration, cutting, polishing and blending, subject to the prior approval of Board of Approval:

Provided also that supplies from Domestic Tariff Area to Special Economic Zones shall attract export duty, in case, export duty is leviable on items attracting export duty."

The Developer has requested for permission to procure following restricted items from the DTA for infrastructure development & repairing of existing infrastructure facilities as Developer:

Description	Quantity required for Unit (in MT)
AAGREGATE, STONE VARIOUS SIZE	3000
CRUSHED SAND	1500
SAND, RIVER, FINE	2500
SIEVED RIVER SAND, 4 MM DOWN	2500

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:

DC, Reliance Jamnagar SEZ has recommended the proposal of M/s. Reliance Industries Ltd. SEZ for consideration of the BoA.

The proposal is submitted for consideration of BoA.

90.7(vi) Proposal of M/s. Orvi Design Studio for import / procurement of 'Mother of Pearl' as raw material in respect of its unit located in the Multi-Product SEZ of M/s. Mahindra World City (Jaipur) Ltd. at Village Kalwara, Jhai, Bhamboriya, Bagru Khurd & Newta, Tehsil-Sananer, Distt- Jaipur (Rajasthan).

M/s. Orvi Design Studio a unit in M/s. Mahindra World City (Jaipur) Ltd. was granted LOA dated 28.02.2011 & subsequent amendment letters dated 13.07.2017 & dated 08.03.2018

for setting up of unit in the Handicraft SEZ (now merged as Multi-Product SEZ) of Mahindra World City (Jaipur) Ltd. at Jaipur (Rajasthan) for manufacturing of following items:-

(i)	Handicraft Stone Tiles
(ii)	Handcrafted Raku Ceramic Tiles (HS Code-69010030)
(iii)	Handcrafted Shattered Glass tiles (with & without inlaywork) (HS Code-70169000)
(iv)	Handcrafted Wooden with Metal Tiles (HS Code-44219190)
(v)	Handcrafted Glass with Metal Tiles (HS Code-70200090)
(vi)	Handcrafted Liner with Copper, Brass & Steel (HS Code- 74071030, 74199930, 73269099)
(vii)	Handcrafted Marble (With & without Inlay Work) (68022190), Limestone (25210090), Sandstone (25162000), Granite (With & Without Inlay Work) (68022310), Slate Stone(68030000) Quartzite (25062090)

Further, the Approval Committee in its meeting held on 17.12.2018 had approved the proposal of the unit for inclusion of following items of manufacture in LOA:-

- (i). Handicrafts all type of stone with inlay work with semi precious stones.
- (ii). Handicrafts glass tiles with inlay work with semi precious stones.
- (iii). Handicrafts wooden tiles with inlay work with semi precious stones.
- (iv). Handicraftdraku ceramic tiles with inlay work with semi precious stones.

DC, NSEZ has stated that the unit executed Bond-cum-Legal Undertaking which had been accepted by the Competent Authority. The unit had commenced its operation w.e.f. 01.11.2013 and after completion of first five years, the LOA of the unit has been renewed upto 31.10.2023.

While considering of the proposal of the unit for inclusion of above additional items of manufacture in LOA, the Approval Committee in its meeting held on 17.12.2018 clarified that import of Mother of Pearl (ITC HS Code 96019090) is 'Restricted', hence import of Mother of Pearl shall not be allowed. However, Approval Committee pointed out that import of the restricted item i.e. Mother of Pearl can be allowed by Board of Approval.

In this regard, the unit vide its letters dated 21.02.2019 requested to forward its proposal to BOA for import / DTA procurement of 'Mother of Pearl (ITC HS Code 96019090)' as raw material for carrying out manufacture of following final product using Mother of Pearl:-

Item name to export & sale in local market	ITC(HS) Code
(i). Handicrafts all type of stone with inlay work with Mother of Pearl &semi precious stones.	68029900
(ii). Handicrafts glass tiles with inlay work with Mother of Pearl &semi precious stones.	70169000
(iii). Handicrafts wooden tiles with inlay work with Mother of Pearl &semi precious stones.	44209010
(iv). Handicraftdraku ceramic tiles with inlay work with Mother of Pearl &semi precious stones.	69149000

Unit has submitted manufacturing process (flow-chart) in respect of 'Mother of Pearls' for manufacturing of tiles. The manufacturing process (flow chart) indicates following steps of process:

- Step 1- procure different types of Mother of pearl from authorized dealers across India and Overseas.
- Step 2- sorting it according to the standards and then process it according to the usage of the design and elements that will be incorporated into the base material like all type of stone, Wood, Glass, Vitrified tiles.
- Step 3- inlaying Mother of pearl into the base material like all type of stone, Wood, Glass, Vitrified tiles with the help of adhesives.
- Step 4- polishing of the tile

In this regard, it may be mentioned here that as per Point No. (iii) of Instruction No. 47 dated 04.03.2010 issued by DOC, *"In respect of supply of Restricted items by a DTA unit to SEZ Developer / Unit, the DTA unit can supply such items to a SEZ Developer or unit for setting up infrastructure facility or for setting up of a unit. It can also supply raw material to SEZ unit for undertaking a manufacturing operation except refrigeration, cutting, polishing and blending. However, it will require prior approval of BOA."* Accordingly, the proposal of M/s. Orvi Design Studio for import / DTA procurement of 'Mother of Pearl', as raw material in respect of its unit located in the Multi-Product SEZ of M/s. Mahindra World City (Jaipur) Ltd. at Jaipur (Rajasthan), was forwarded by DC, NSEZ for consideration by BoA. The proposal was placed before 89th meeting of BoA held on 22.01.2019 and the Board directed that defer the matter and DC, NSEZ was advised to re-examine proposal in light of discussion on the matter in the BOA meeting.

Recommendation by DC:

As directed by the BOA, the proposal was re-examined in light of Instruction No. 47 dated 04.03.2010 issued by DOC and incorporated in Rule 27 of the SEZ Rules 2006 w.e.f. 21.09.2018. Instruction No. 47 and Rule 27 does have cutting and polishing as exception operation for supply of restricted items by a Domestic Tariff Area Unit to SEZ Unit/Developer. However, in the instant case polishing is only last process before that the Mother of pearl will be sorted and inlayed into the base material and the final product will be polished. Hence, in the instant case import/DTA procurement of Mother of Pearl may be permissible. DC, NSEZ has forwarded the proposal for consideration of BoA.

90.7(vii) Proposal of M/s. M&G Impex (India) Pvt. Ltd. for setting up of unit in the Multi-Products SEZ of Mis Mahindra World City (Jaipur) Ltd. for manufacturing of 'Granit Slabs'.

The Approval Committee while considering proposal of M/s. M&G Impex (India) Pvt Ltd. for setting up of unit for manufacturing of 'Granite Slabs- 2131000 Sqft. in the Multi-Products SEZ of M/s. Mahindra World City (Jaipur) Ltd. in its meeting held on 18.03.2019, observed that import of proposed raw material i.e. Rough Block of Granite' is Restricted' as per Exim Code 2516 of ITC(FIS) 2017 Schedule 1 (Import Policy) issued by DGFT, as given below:-

Exim Code	Item Description	Policy
2516	Granite, Porphyry, Basalt, Sandstone and Other Monumental or Building Stone, Whether or Not Roughly Trimmed or Merely Cut, by Sawing or otherwise, into Blocks or Slabs of a Rectangular (Including Square) Shape	
	Granite:	
25161100	Crude of roughly trimmed.	Restricted

25161200	Merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape.	Restricted
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The Approval Committee further observed that as per Point No. (iii) of Instruction No. 47 dated 04.03.2010 issued by DOC, "In respect of supply of Restricted items by a DTA unit to SEZ Developer / Unit, the DTA unit can supply such items to a SEZ Developer or unit for setting up infrastructure facility or for setting up of a unit. It can also supply raw material to SEZ unit for undertaking a manufacturing operation except refrigeration, cutting, polishing and blending. However, it will require prior approval of BOA". In view of the Instruction No. 47 and the fact that unit would be both importing / procuring Granite from DTA, the committee decided to forward the case to BoA for consideration. The Approval Committee also decided to recommend the case for approval,

Further, the Approval Committee took note of the fact that in EOU scheme there is no restriction on DTA sale of Granite Slab. Therefore, on the analogy of DTA sale provisions in respect of EOUS engaged in manufacturing of Granite slabs, the Approval Committee clarified that the proposed SEZ unit may sell / supply finished 'Granite' in DTA subject to payment of applicable duties and fulfillment of positive NFE subject to the condition that it can sell only those Granite slabs which are freely importable in view of the following policy restrictions of DGFT contained in ITC(HS) Classification:-

Exim code	item Description	Policy	Policy Conditions
680223	Granite		
68029300	Granite	Free	Import permitted freely provided CIF value is US\$ 80 & above per Square metre.

After due deliberations, the Approval Committee decided to recommend the proposal to the Board of Approval for consideration, in terms of Instruction No. 47 dated 04.03.2010 issued by DOC, in respect of import / procurement of 'Rough Granite blocks' as raw material which is Restricted under Exim Code 2516. The Committee further decided that in case LOA is granted to the unit by Be A, the unit would fulfill Environment 86 Pollution Control Norms for Air & Water. The Approval Committee also decided that the proposed SEZ unit, if issued LOA, may sell / supply finished 'Granite' in DTA subject to payment of applicable duties and fulfillment of positive NFE subject to the condition that it can sell only those Granite slabs which are freely importable in view the policy restrictions of DCFT contained in JTC(HS) Classification, Accordingly, we wrote to DOC vide our letter dated 01/04/2019 for consideration of the BOA which considered it in its meeting held on 22nd April, 2019 and decided to deferred the matter with the advice to re-examine the proposal.

It is informed that Sh. Praveen Tekriwal, Managing Director of the firm appeared before the Approval Committee on behalf of the applicant firm. He informed the Approval Committee that they have 100% EOU in Hosur (Tamil Nadu) since 2007, which is engaged in manufacturing and export of 'Granite Slabs'. He further informed that around 110 employees have been working in said 100% EOU and export turnover is around 75-80 Crore and the export is mainly to Australia, European & Middle-East countries, On being asked about the proposed SEZ Unit, he informed that due to scarcity of raw material in southern India they are looking in Rajasthan wherein large quantity of raw material is readily available. He further informed that approx. 70% of raw materials i.e. rough blocks of granite, will be procured from DTA and approx. 30% is proposed to be imported. He further informed that

this EOU in Hosur has won large number of awards and from the proposed SEZ unit he is expecting annual turnover/ export of Rs. 60 crore approx. The proposal was placed before 89th meeting of BoA held on 22.01.2019 and the Board directed that defer the matter. DC, NSEZ was advised to re-examine the proposal in light of the discussion in the BOA meeting wherein DOR wanted to know whether cutting and polishing have been excluded as per Instruction No. 47 of DOC.

Recommendation by DC:

As directed by BoA, the proposal has been re-examined in light of Instruction No. 47 dated 4th March 2010 as incorporated in Rule 27 from 21.09.2018. Applicant intends to import as well as domestically procure Granite which is restricted. Hence the case has been referred to BOA. The firm has informed that it is already operating as EOU and as in EOU they have already been importing Granite because as per paragraph 6.01(d)(i) which says that an EOU may import all goods excepting prohibited items hence even restricted items can be imported by the EOU. They intend to set up this Unit in Mahindra SEZ Jaipur so that they do not have to incur transportation cost for transporting raw material i.e. Granite from Rajasthan to South where they are operating as EOU. Keeping in mind this fact Approval Committee decided to recommend this case however it is true that Instruction No. 47 dated 4th March 2010 read with Rule 19 exclude cutting and polishing activity, but it is not clear whether this would include project of this nature as well, which are allowed under the EOU scheme. Accordingly, the matter has been send for reconsideration.

90.7(viii) —Request of M/s Jindal Fibres for extension of the period of one year for achieving NFE.

M/s Jindal Fibres, a unit in Kandla SEZ was granted LoA on 03.03.2003 for "Processing and segregation of Textile waste, reconditioning of clothing and manufacturing of yarn and yarn products". The unit commenced its production w.e.f. 13.04.2005 and its LOA was valid till 30.11.2018. The proposal of the unit for renewal of LoA was considered by the BoA in its 86th meeting held on 22.11.2018.

The Board, after deliberations, observed that the matter required broader discussion and further deliberations and in view of the fact that LoAs of most of the units were lapsing on 30.11.2018 decided to grant an extension of LoA to the 28 plastic recycling units and 15 worn and used clothing units under consideration, by one year. Accordingly, the LoA of the said unit has been extended upto 30.11.2019.

The Board also directed that a Committee consisting of DC, KASEZ; DC, NSEZ and DC, Falta SEZ and representatives from DGEP, DGFT, MoEF&CC may consider all issues related to plastic recycling and worn and used clothing units. That the Committee will examine the larger policy objectives, environmental, social and domestic industries concerns and would also consult major stakeholders including representatives of the various industry. The recommendations of the Committee are awaited.

In the meantime, a representation was received from the company for extension of period for achieving positive NFE by one more year in terms of proviso to Rule 53 of the SEZ Rules, 2006. The reasons for adverse impact to the functioning of the unit and hardships faced by the unit as provided in their representation are as under:

- (i) During the period under consideration some of the countries in Africa increased the Import Customs Duty which affected their exports.

- (ii) Some of the countries in Africa banned the Import of Un-mutilated worn clothing in their countries which resulted into slash of their export business.
- (iii) In last 2 years, the INR has faced de-valuation as the USD became strong which also affected their exports.
- (iv) During the period from 01.12.2017 to 26.02.2018, their DTA clearances were suspended which also caused substantial fall in export activity.

As regards the request of the unit, the O/o DC, Kandla SEZ had stated that the unit was issued an SCN on 29.11.2018 for achieving negative NFEE of Rs.2468.67 lakhs for the five year block of 2013-14 to 2017-18. The unit has claimed negative NFE of Rs.1212.99 lakhs for the Five Year period of 01.12.2013 to 30.11.2018 but on scrutiny of their C.A. certified APRs, it was found that the NFEE is not negative by Rs.1212.99 lakhs as claimed by the unit but actually by Rs.(-)1416.70 lakhs. Further, countering the reasoning of the unit for negative NFEE, the O/o DC, KASEZ has stated that

- (i) That other worn clothing units of this zone (altogether 13 in number), have achieved positive NFEE during the same block period by exporting foods mainly to African countries. Therefore, when other similarly placed units in the zone working under the same market factors and exporting mainly to African countries have been able to achieve positive NFEE during the same block period the contention of hardships faced on this count by the unit does not appear to be genuine and therefore, deserves to be rejected.
- (ii) As regards their contention of devaluation of Indian currency being one of the reasons for not achieving the NFEE also does not appear to be logical as during the same period all such units were working under the same economic conditions and have been able to achieve positive NFE and the case of M/s Jindal Fibres is not an isolated case.
- (iii) The contention of the unit of downfall in exports due to suspension of their DTA clearances during 01.12.2017 to 26.02.2018 is contradictory in itself as stoppage of DTA clearances logically and automatically should lead to an improvement in exports and consequently NFEE rather than having an adverse effect on the same.

Recommendations by DC:

M/s Jindal Fibres as against the obligations to achieve physical export of 80% in terms of turnover (for the period 01.12.2013 to 30.11.2017) and 50% in terms of quantity (for the period 13.02.2018 to 30.11.2018) has achieved a figure of only 63.77% and 14.63% respectively. In view of this, it appears that the request of M/s Jindal Fibres is devoid of any merit and deserves to be rejected.

Rule position

Proviso to Rule 53 of the SEZ Rules, 2006 regarding Net Foreign Exchange Earnings stipulates that,

PROVIDED that where a Unit is unable to achieve Net Foreign Exchange due to adverse market conditions or any ground of genuine hardship having adverse impact on functioning of the Unit, the five years block period for calculation of New Foreign Exchange Earnings may be extended by the board of Approval for a further period of upto one year, on a case to case basis.

The request is submitted for consideration of the Board of Approval.

Item no. 90.8: Appeal before BoA (Three appeals)

90.8(i) Appeal of M/s Kaypee Exports against the decision of the UAC, Jaipur Special Economic Zone vide order dated 08.12.2017 for not accepting the request for withdrawal of in-principle exit permission and transfer of assets/liability in terms of Rule 74A.

Gist of order appealed against

M/s. Kaypee Exports located at Plot No. G-1-42, SEZ-II Sitapura Ind. Area, Jaipur-302022 was granted LoA on 23.07.2004 and its date of commencement is 04.07.2007. The validity of the LoA had expired on 31.12.2017.

The unit had submitted a proposal for withdrawal of the in-principal exit permission granted by the JSEZ office vide letter dated 12.06.2017 and for transfer of assets/liability including Plot No.G1-42, SEZ II to M/s HKJ Studio Pvt. Ltd., 401 AlokikSwarup Residency, Plot no. 60-65, GyanVihar, Janpath, Nirman Nagar, Jaipur-302006. The year-wise export performance of transferor unit during previous five years as provided by the unit before the UAC was as follows:

(Value in Rs.Lacs)							
Financial Year	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Total
FOB Value of Export	374.03	116.70	0.00	0.00	0.55	0.00	491.28
Foreign Exchange outgo	3.93	3.93	3.93	3.93	3.93	0.00	19.65
NFE Earnings	370.10	112.77	-3.93	-3.93	-3.38	0.00	471.63

The Committee was informed that the transferor unit M/s Kaypee Exports had not applied for exit under Rule 74A of SEZ Rules, 2006 by transferring its assets and liabilities to the transferee unit. The Committee was further informed that the transferor unit had applied for exit under Rule 74 of SEZ Rules, 2006. It was therefore given in-principal exit permission under Rule 74 of SEZ Rules 2006 vide letter dated 12.06.2017 and was asked to complete all the exit formalities.

The Committee was further informed that the transferee unit does not hold valid LoA, The Committee therefore observed that the request of the transferor unit could not be accepted as it does not meet the criteria of transfer laid down under Rule 74A of SEZ Rules, 2006. The Committee recommended that the transferor unit i.e. M/s Kaypee Exports may be directed to complete all the exit formalities and surrender the plot to the developer i.e. RIICO. The developer could then allot the plot to any other eligible unit in accordance with prevalent rules and guidelines of the subject. The Approval Committee in its meeting dated 23.11.2017 rejected the request of M/s Kaypee Export for transfer of plot no. G1-42 SEZ-II Sitapura, Jaipur to M/s HKJ Studio Pvt. Ltd. under Rule 74A of SEZ Rules, 2006. The decision of the UAC was conveyed to the unit vide letter dated 08.12.2017.

Contents of Appeal

The unit has now vide their appeal requested to consider their delay condonation for filing the appeal on the following grounds:

- (i) As one of their partner was suffering from cancer since last five years and critically ill during last one and half year and he has finally expired in the month of February, 2019. Therefore, they could not file appeal in time.
- (ii) Now they intend to re start the factory at their own as they have sufficient export orders in their hand including the following buyers:
 - a. Laksvim Gems LLC, USA.
 - b. Allure Gems USA.
 - c. Omnia Jewellery, Hongkong.

The unit requests for reconsideration of the decision of the UAC meeting and extend their LoA for further five years and cancel the exit permission. That the unit assure that they will make all sincere efforts to revive the unit and make good export from the unit in times to come. That their NFE during the past five years was positive and no export payment is pending.

Rule position :-

Rule 56. Time within which appeal is to be preferred

- (1) An appeal shall be preferred by the aggrieved person within a period of thirty days from the date of receipt of the order of the Approval Committee under rule 18.
- (2) When the appeal is preferred after the expiry of the period of thirty days specified in sub-rule (1), it shall be accompanied by an application supported by an affidavit setting forth the facts on which the appellant relies to satisfy the Board that he has sufficient cause for not preferring the appeal within the said period of thirty days:

Provided that if the Board is satisfied that the appellant had sufficient cause for not preferring the appeal within the aforesaid period, it may for reasons to be recorded in writing, admit the appeal after the expiry of the aforesaid period but before the expiry of forty-five days from the date of communication to him of the order of the Approval Committee.

Rule 74A. Transfer of Assets by Special Economic Zone units upon their exit

The Unit may opt out of Special Economic Zone by transferring its assets and liabilities to another person by way of transfer of ownership including sale of Special Economic Zone units subject to the following conditions:-

- (i) the Unit has held a valid Letter of Approval as well as lease of land for Standard Design Factory for not less than a period of five years on the date of transfer;
- (ii) the Unit has been operational for a minimum period of two years after the commencement of production as on the date of transfer;
- (iii) such sale or transfer transactions shall be subject to the approval of the Approval Committee;
- (iv) the transferee fulfills all eligibility criteria applicable to a Unit; and
- (v) the applicable duties and liabilities , if any, as calculated under rule 74, as well as export obligations of the transferor unit which shall be under obligation to discharge the same on the same terms and conditions as the transferor unit.

The appeal is placed before the Board of Approval (**Annexure –1**).

90.8(ii) Appeal filed by M/s Mahalaxmi Jewel Exports against the decision of the UAC for cancellation of their LoA as conveyed vide DC, NSEZ letter dated 20.02.2019.

M/s. Mahalaxmi Jewel Export had been issued an LOA dated 07.04.2008 for manufacturing of Plain Gold Jewellery and allotted plot No. 186, NSEZ for carrying out its authorized operations. The unit commenced its export activities w.e.f. 09.06.2010. As per extension granted to the unit on 23.06.2015, the LoA of the unit was valid upto 08.06.2020.

The performance of the unit as per APRs, since inception is as follows:-

(Value in Crores)			
Year	FOB Value of Export	Forex Outgo	NFE Earning
2010-11	17.74	16.63	1.11
2011-12	0.00	0.00	0.00
2012-13	0.00	0.00	0.00
2013-14	42.38	41.18	1.20
2014-15	23.67	23.12	0.55
2015-16	82.11	79.66	2.45
Total	165.90	160.59	5.31

As per details from NSDI, the status of imports and exports made by the unit during 2013-14 to 2017-18 is as follows:

(Value in Crores)		
Year	Export	Import
2013-14	41.67	42.05
2014-15	18.28	23.06
2015-16	73.05	78.75
2016-17	143.50	145.99
2017-18	0.00	0.00

As per DC, NSEZ, a show cause notice dated 09.06.2017 was issued to M/s. Mahalaxmi Jewel Exports by the DRI in case of Mis-declaration in export of articles from SEZ, Noida declared as gold jewellery and diversion of imported gold from SEZ, Noida. That on the basis of specific intelligence gathered in the DRI, Delhi, the unit was mis-declaring their export goods and besides mis-declaring the export goods, the gold bullion imported duty free in the name of said unit was being diverted in the domestic market, instead of making gold jewellery out of the said import, thereby misusing the SEZ scheme. DC, NSEZ had further stated that DRI vide its letter dated 20.07.2017 had informed about brief facts of the case as under:

- (i) On the basis of specific information that articles other than gold were being attempted to export from SEZ by mis-declaring the export consignment as gold jewellery by the said unit intercepted the said consignment at Air Cargo (Export), IGI Airport, New Delhi. The consignment was covered under Master Air Way having declared value of Rs. 5,61,74,496/- and declared to contain gold jewellery. On examination of the said package, the jewellery articles other than gold articles (copper or alloy) were found in 10 cardboard boxes out of total 16 boxes in the said export consignment. Out of the declared quantity of 23.55 kg Gold jewellery, only 3.164 kg. gold was found on appraisalment. Rest of the quantity was copper and other alloys weighing 20.386 kg. The said package was seized under the provisions of the Customs Act, 1962.
- (ii) Subsequently, search was conducted by Directorate at the factory/firm premises of the said firm and one self - sealed box of the said firm, said to contain jewellery articles

collectively weighing 16.242 Kg. was recovered. On examination of the resumed articles by the jewellery Appraiser, the gold contained in the articles of gold was found weighing approx. 3180.60 grams while the remaining quantity weighing approx. 13 kg. was found of yellow colour jewellery made of copper & alloy. The gold bars/gold cut piece resumed from the above premises were found to be the gold bars against which export was already declared to have been made by the said firm and the said bars were stored in the factory premises apparently for diversion of the same. On a reasonable belief that the goods were liable to confiscation under the provisions of the Customs Act, 1962, the same was seized under the seizure Memo dated 18.12.2016.

- (iii) Further, searches were also conducted at the residential and office premises of Sh. Prem Sagar Arora, Prop. of M/s Mahalaxmi Jewel Exports, SEZ, Noida and gold, other jewellery articles, Indian currency of Rs. 20 lakh and certain documents were seized under the provisions of the Customs Act, 1962. In all, gold in various forms weighing approx. 40 kg. valued approx. Rs. 12 crores (approx.) was seized.
- (iv) Shri Prem Sagar Arora, in his voluntary statement dated 17/18.12.2016 tendered under Section 108 of the Customs Act, 1962 inter alia admitted that he had mis declared copper jewellery articles as gold jewellery articles in the consignment seized by the DRI; that he had mis declared the package of the said consignment as gold jewellery articles; that he used to divert the imported gold; that sometimes he also manufactured gold articles from imported gold and diverted the same to his other firm, M/s Mine O Gold; that he has also admitted other incriminating facts regarding the practice for mis declaring the export articles other than gold to gold jewellery articles and illegal diversion of imported gold for sale in market; that he stated doing such mal practices since December, 2015.

On the basis of documents/information placed before it, the Approval Committee observed as under:-

- (i) The unit seems to have persistently violated the provisions of SEZ Act/SEZ Rules and terms & conditions of LOA/Bond-cum-LUT.
- (ii) The unit has consistently failed to submit APRs within stipulated time.
- (iii) The unit seems to have grossly misused the provisions of SEZ Act, 2005 and SEZ Rules, 2006 & other exemption granted to the NSEZ units.

The Approval Committee further observed that Section 16(1) of the SEZ Act, 2005 provides that Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms & conditions subject to which LOA was granted to the entrepreneur, cancel the LOA but such cancellation will not be done unless the entrepreneur has been afforded a reasonable opportunity of being heard.

In the light of above observations, the Approval Committee in its meeting held on 28.12.2018 decided as under:-

- i) In view of the gravity of violations mentioned above, a notice under Section 16(1) of the SEZ Act, 2005 may be issued calling upon the unit to explain within 21 days of issuance of notice as to why LOA issued to them should not be cancelled for persistently contravening the provisions of SEZ Act/SEZ Rules and

terms & conditions of LOA/ Bond-cum-LUT.

- ii) The above actions would be without prejudice to any other action under any other law.
- iii) This action would be independent of any action by DRI and will not effect proceeding/action of DRI in any manner.

It was noted that the unit also did not respond to the Show cause Notice issued to them on 30.10.2018. The said proposal was also considered by the Approval Committee in its meeting held on 07.01.2019. However, as no one from the unit appeared for the meeting, the Approval Committee decided that the last opportunity may be provided to the unit for appearing in its next meeting failing which the matter shall be decided on merit on the basis of available records. Accordingly, vide this office letter dated 23.01.2019, decision of the Approval Committee was conveyed to the unit & its promoters through registered/speed post on the official/residential addresses to ensure their presence in the next meeting of Approval Committee. However, no one from the unit appeared for the personal hearing before the Approval Committee held on 06.02.2019. In light of the facts and circumstances, the Approval Committee decided that -

- (i) To cancel the LOA dated 07.04.2008 issued to M/s Mahalaxmi Jewel Exports, forthwith, under Section 16 (1) of SEZ Act 2005 and in terms of condition No. (xiii) of LOA dated 07/04/2008 which reads as under:-

"If you fail to comply with the conditions stipulated above, this letter of Approval shall be cancelled as per the provisions of the Special Economic Zones Act, 2005 and the rules and order made there under."

- ii) No further import & export will be allowed to the unit.
- iii) NFE/achievement and value addition will be calculated as per SEZ Rules/FTP and in case unit has failed to achieve positive NFE/prescribed value addition, suitable action in terms of Rule 54 of SEZ Rules, 2006 and Foreign Trade (Development & Regulation) Act, 1992 may be taken.
- iv) The unit shall complete exit formalities under Rule 74 of SEZ Rules, 2006.
- v) In respect of issues being examined by the DRI and the investigations being carried out by DRI, view will be taken by DRI, as considered appropriate, and the decision of the Approval Committee under Section 16(1) of SEZ Act 2005 will not come in the way of DRI proceedings, in any manner.
- vi) This action of the Approval committee under Section 16 (1) of SEZ Act shall be independent of any action which may be taken by any authority under any Act, Rules, Regulations etc.

The Approval Committee conveyed its decision to the unit vide order dated 19.02.2019.

Contentions of the Appellant:

- (i) That the impugned order has been passed ex-parte without appreciating the facts and circumstances of the case in proper perspective.
- (ii) No notice or intimation for hearing before the Approval Committee in the meeting held on 07.01.2018 as well as 06.02.2019 was ever received by the appellant. That Bank had taken over possession of the appellant's property and it has been auctioned and therefore the notices could not be received by them.

- (iii) That the adverse decision has been taken against the appellant merely on the basis of allegations made by DRI in the Customs proceedings initiated by them which culminated into issuance of Show Cause Notice dated 09.06.2017 by DRI. That the allegations made in the Show Cause Notice issued by the DRI are sustainable and the same have neither been confirmed against the appellant till date.
- (iv) That DRI and Adjudicating Authority have not provided that documents requested by the appellant since issuance of show cause notice by the DRI in spite of repeated requests of the appellant. That the appellant could not file APRs for the year 2016-17 and 2017-18 because the data/documents/records/electronic devices etc. were being taken over/seized/resumed by the DRI.
- (v) The appellant alleges that the statement tendered by the appellant before DRI under pressure has been treated as admission and the same has been made basis to cancel the LoA issued to the appellant which is not sustainable.

Rule position:

Section 16(1) of the SEZ Act, 2005 regarding Cancellation of letter of approval to entrepreneur stipulates that

The Approval Committee may, at any time, if it has any reason or cause to believe that he entrepreneur has persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted to the entrepreneur, cancel the letter of approval:

Provided that no such letter of approval shall be cancelled unless the entrepreneur has been afforded a reasonable opportunity of being heard.

Rule 54 of the SEZ rules, 2006 regarding Monitoring of performance stipulates that

- (1) *Performance of the Unit shall be monitored by the approval Committee as per the guidelines given in Annexure appended to these rules.*
- (2) *In case the Approval Committee comes to the conclusion that a Unit has not achieved positive Net Foreign Exchange Earning or stipulated Value Addition as specified in rule 53 or failed to abide by any of the terms and conditions of the Letter of Approval or Bond-cum-Legal-Undertaking, without prejudice to the action that may be taken under any other law for the time being in force, the said Unit shall be liable for penal action under the provisions of the Foreign Trade (Development and Regulation) Act, 1992.*

The appeal is accordingly submitted for consideration of the Board of Approval(Annexure-2).

90.8(iii) Appeal dated 22.06.2018 of M/s. Guruji International, a unit in KASEZ against the decision of the 129th UAC meeting dated 17.05.2018 for rejection of proposal for setting up of a unit for manufacturing of plastic pre-processed crushing/granules from Pet Bottles wastes.

Gist of order appealed against

The proposal of M/s. Guruji International for setting up of unit for manufacturing of plastic pre-processed crushing/granules from Pet Bottles wastes was placed before the UAC in its

129th meeting held on 17.05.2018. The proposal was rejected after due deliberation by the UAC on the ground that plastic bottles waste are presently prohibited items for import under ITC (HS) and the proposal involved primarily reprocessing of imported plastic waste and scrap which in terms of Rule 18(4)(a) of SEZ Rules, 2006, cannot be considered.

Contents of Appeal

The unit proposes for import for the purpose of export. The unit propose for import of plastic bottles from Asia, Australia and Vietnam and after cleaning/segregation and crushing in machine after making granules, the same will be exported. The unit proposes to make 100% export and no DTA sales.

The appeal was placed before the BoA in its 84th meeting held on 12.09.2018 and also in the follow up meeting held on 05.10.2018. However, the appellant could not appear before the Board of Approval. Now the appellant has stated that at the time they were called for the meeting they were travelling abroad and could not attend the same. The Board, after deliberations dismissed the appeal on default. Now, the appellant has requested for granting an opportunity of being heard.

Additional submissions of the appellant received through DC, KASEZ:-

In connection to the appeal, DC, KASEZ has forwarded the additional submissions of the unit vide letter dated 17.05.2019 stating that they have order in hand and will do 100% export and no DTA sale. The unit states that GPCB is giving NoC for manufacturing such products and space is also available in KASEZ. The unit has put forth following submissions in support of their appeal:-

- (i) That even when Plastic Scrap of ITC HS 3915 was placed under "Restricted" category for import, each import consignment was subjected to CIPET Test for conformity about its being virgin plant waste & non –hazardous/non-toxic in terms of Public Notice 392/92, the PET Plastic Bottle Scrap was kept out of purview of the PN 392/92 and was freely importable without any restriction/without being subjected to CIPET Test. That PET Plastic Scrap is always regarded as Environmental Friendly Non-polluted /non-hazardous/non-toxic items.
- (ii) As the provision of Rule 18(4) (a) of SEZ for ban on setting up new units of plastic scrap was based on concept of polluting/toxic/hazardous nature of plastic scrap, but their proposal is recycling of non-polluting/non-toxic/non-hazardous, Pet Bottle Scrap. Therefore, their proposal is out of the ambit of restriction of Rule 18(4) of the SEZ Rules.
- (iii) That their proposal is for 100% export of Pet Plastic granulation/recycled products and that no DTA sales are involved as such rejection of their proposal by UAC is inexplicable. They undertake to furnish affidavit to this effect which included their undertaking to abide by all applicable pollution/environmental law.
- (iv) That in the event the BoA do not find their proposal as permissible activity, they may at least be allowed PET/Plastic lumps import which is otherwise regards as primary plastic form and out of the purview of Chapter heading "Plastic Scrap" '3915' of ITC HS and thus out of the ambit of application of Rule 18(4) as Plastic lumps are not plastic scrap and are freely being imported from all the Indian Ports.

Rule Position

Rule 18 of SEZ Rules, 2006: consideration of proposals for setting up of unit in a Special Economic Zone:

Rule 18(4)(a) of SEZ Rules, 2006 provides that no proposal shall be considered for recycling of plastic scrap or waste:

Provided that extension of Letter of Approval for an existing Unit shall be decided by the Board;

Rule 66(2) of the SEZ Rules, 2006 provides that,

In case the appellant does not appear in person or through an authorized representative when the appeal is called for hearing, the Board may dispose of an appeal on merits:

Provided that where an appeal has been disposed of as provide above and the appellant appears afterwards and satisfied the Board that there was sufficient cause for his non-appearance, when the appeal was called for hearing, the Board shall make an order setting aside the ex-parte order and restore the appeal.

The appeal and submissions are placed before the BoA for consideration (**Annexure-3 & 4**).
