

**Supplementary Agenda for the 84<sup>th</sup> meeting of the Board of Approval to be held on 12<sup>th</sup> September, 2018 at 11.30 A.M. in Room No. 108 , Udyog Bhawan, New Delhi**

**Item No. 84.9 Request for extension of LoP beyond 3<sup>rd</sup> Year onwards (3 proposals)**

**84.9(i) Request of M/s Bansal Inc., a unit in the Moradabad SEZ for extension of Letter of Permission (LOP) beyond 3<sup>rd</sup> year from 24.07.2018 up to 23.07.2019**

- **LOP issued on :** 24.07.2015
- **Nature of business of the Unit :** Handicraft
- **No. of Extension:** 01 by DC Moradabad SEZ for 2 years (from 24.07.2016 to 23.07.2018)
- **LOP valid up to:** 23.07.2018
- **Request:** For further extension for 4<sup>th</sup> year, up to 23.07.2019

**Present Progress:**

**(a) Details of Business plan:**

S No.	Type of Cost	Proposed Investment (Rs. In Lakhs)
1.	Land Site Development	31.82 Lakhs
2.	Building	25 Lakhs
3.	Plant & machinery	10 Lakhs
4.	Margin Money for working	5 Lakhs
	<b>Total</b>	<b>71.82 Lakhs</b>

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

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

**\* Unit has submitted that it will make efforts to commence export production within this year only.**

**Detailed reason for delay:-**

The unit has submitted that due to financial crisis in their family business, they were not able to setup their unit by 23.07.2018. And as of now, they are financially stable and getting Bank loan for setting up of their SEZ unit. The unit has also submitted that if their extension of LOA is approved up to 23.07.2019, they will finish their construction work and start their authorized operations.

### Recommendation by DC:

Under second proviso to Rule 19(4) of SEZ Rules, 2006 the LOA can be extended upto fourth year by Development Commissioner subject to the condition that 2/3<sup>rd</sup> of activities including construction, relating to the setting up of Unit is complete and a chartered engineer's certificate to this effect is submitted by the entrepreneur.

As per third proviso, the Board of Approval may, upon a request in writing by the entrepreneur, and after being satisfied that it is necessary and expedient so to do grant further extension for a further period not exceeding one year, at a time.

In the instant case, the unit could not start activity on site and is not able to produce the CE certificate for completion of 2/3<sup>rd</sup> activities. In the absence of CE certificate for completion of 2/3<sup>rd</sup> activities, the instant proposal does not fall within the delegated powers of DC, Moradabad SEZ under Rule 19(4) of SEZ Rules, 2006.

Development Commissioner has recommended the request of the unit for extension of LOP for a period of one year beyond 24.07.2018 i.e. up to 23.07.2019.

The request is placed before BOA for its consideration.

**84.9(ii) Request of M/s. Dorf Ketel Chemicals (India) Pvt. Ltd., Plot No Z-108, Dahej SEZ Ltd, Part II, Dahej SEZ, Tal: Vagra, Dist: Bharuch, Gujarat for the Extension of the Letter of Approval (LOA) beyond 4<sup>th</sup> year upto 01-03-2020.**

- **LOA issued on** : 02-09-2014
- **Nature of business of the unit:** Manufacturing of Specialty Chemical and Intermediate
- **No. of extensions** : 3 by DC Dahej SEZ 1 by BOA
- **LOA valid upto (date):** 01-09-2018
- **Request :** For further extension for one and half years upto 01-03-2020

### Present Progress

#### (a) Details of Business plan:

Sl.No.	Type of Cost	Proposed Investment (Rs. in crores)
1	Building	20
2	Plant & Machinery	38
3	Others	42
	TOTAL	100

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

Sl.No.	Type of Cost	Total investment made so far (In Rs. crores)	Incremental Investment since last extension (in Rs crores)
1	Land improvement	13.55	2.00
2	Building	5.00	5.00
3	Plant & Machinery	1.17	1.17
4	Others	1.57	1.57
	Total	21.29	9.74

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

S.No.	Activity	% Completion	% Completion during last one year	Deadline for completion of balance work
1	Land & Improvement	25	25	Dec-2019
2	Building			
3	Plant & Machinery	3.07	3.07	Dec- 2019

**Detailed reasons for delay:-**

- Environment Clearance Certificate under EIA Notification 2006 was received on 01/05/2017. Hence, the construction activity could be initiated only after receipt of the same.
- The revised development plan for Phase-I of the said project was approved by Developer on 26/06/2018.
- There has been substantial delay in construction activities due to unfavorable site conditions which require significant amount of earth filling. Also, subsoil water level at the plot is high due to which civil construction activities are difficult and takes more time.

M/s Dorf Ketel Chemicals Pvt. Ltd. is a specialty chemicals manufacturing company with total turnover of Rs. 832.11 Cr. for FY 2017-18. They also have manufacturing unit in Mundra SEZ which was established and started commercial production in the year 2011-12. Total value of export from this unit is Rs.402.29 Cr.

**Rule Position:**

As per third proviso to Rule 19(4) of the SEZ Rules, 2006, the Board of Approval may, upon a request in writing by the entrepreneur, and after being satisfied that it is necessary and expedient so to do grant further extension for a further period not exceeding one year, at a time.

### Recommendation by DC:

The case is recommended to Board of Approval for extension in validity of LOA dated 02/09/2014 as amended and extended upto 01/09/2018 for a further period of one and half years i.e. upto 01/03/2020 in terms of Rule 19(4) of SEZ Rules, 2006.

The request is placed before BOA for its consideration.

**84.9(iii) Request of M/s. Aurobiondo Pharma Limited, unit in M/s. APIIC MP SEZ, Naidupeta, Nellore SEZ for extension of Letter of Approval beyond 24.07.2018 for a period of one year upto 24.07.2019.**

- **LoP issued on** : 25.07.2014
- **Nature of business of the Unit** : Manufacture of Pharmaceuticals Products
- **No. of Extension** : 3 (three)
- **LOP valid up to** : 24.07.2018
- **Request:** For further extension for one year, upto 24.07.2019

### Present Progress:

#### (a) Details of Business plan:

S No.	Type of Cost	Proposed Investment (Rs. In crores)
1.	Building	2.26
2.	Plant & Machinery	39.70
3.	Project related cost	68.07
	<b>Total</b>	<b>110.03</b>

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

S No.	Type of Cost	Total investment made so far (In Crores)	Incremental Investment since last extension (in Rs Crores)
1	Land cost	10.28	0.20
2	Material procurement	376.57	198.33
3	Construction	151.28	34.91
	<b>Total</b>	<b>538.12</b>	<b>233.44</b>

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

Sl No.	Authorized Activity	% over all completion	% Completion	% completion during last one year	Deadline for completion of balance work
1	Land cost	83%	100%	2%	31.3.2019
2	Procurement (Capital)		80%	34%	
3	Construction		92%	19%	

**Detailed reasons for delay:**

The unit has informed that the project of Aurobindo Pharm Ltd. Unit-X at Naidupeta is one the verge of final stage. The task of commercial production has been delayed only for the reason of unit's strict adherence to GMP and regulatory norms.

**Rule position :**

Under second proviso to Rule 19(4) of SEZ Rules, 2006 the LOA can be extended upto fourth year by Development Commissioner subject to the condition that 2/3<sup>rd</sup> of activities including construction, relating to the setting up of Unit is complete and a chartered engineer's certificate to this effect is submitted by the entrepreneur.

As per third proviso, the Board of Approval may, upon a request in writing by the entrepreneur, and after being satisfied that it is necessary and expedient so to do grant further extension for a further period not exceeding one year, at a time.

**Recommendation by DC:**

DC, VSEZ has recommended the request of extension of LOA for a period of one year upto 24.07.2019.

The request is placed before BOA for its consideration.

**Item No. 84.10 Requests for co-developer (3 proposals)**

**84.10 (i) Request of M/s. Experion Hospitality Hyderabad Pvt. Ltd for co-developer status in M/s. Phoenix Ventures Pvt. Ltd SEZ at Sy. No. 35 P & 36, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Telangana for providing infrastructure facilities and other operations.**

The above mentioned SEZ stands notified over an area of 2.89 Hectares.

M/s. Experion Hospitality Hyderabad Pvt. Ltd has submitted a proposal for becoming a co-developer in the aforesaid SEZ for providing infrastructure facilities and other operations in built-up area of 83,610 sq. ft.

Co-developer agreement dated 14.8.2018 entered into with the developer has been provided. The proposed amount of investment by the co-developer in the SEZ is Rs. 5.50 Crores.

**Recommendation by DC:**

DC, VSEZ has recommended the proposal.

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

**84.10 (ii) Request of M/s Embassy Services Private Limited for co-developer status in the Electronics Technology Parks Kerala (Technopark) SEZ for providing operations and Maintenance of buildings and other infrastructure facilities as authorized operations as contracted under the tripartite co-development agreement dated 14.8.2018.**

The above mentioned SEZ stands notified over an area of 19.45.53 hectares.

M/s Embassy Services Private Limited has submitted an application for becoming a Co-developer in the aforesaid SEZ for providing operations and maintenance of buildings and other infrastructure facilities as authorized operations over an area of 10 acres as contracted under the tripartite co-development agreement dated 14.8.2018.

Co-developer agreement dated 14.8.2018 entered into with the developer and the co-developer has been provided. The proposed amount of investment by the Co-developer in the SEZ is Rs. 7.5 Crores.

**Recommendation by DC:**

DC Cochin SEZ has recommended the proposal.

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

**84.10 (iii) Request of M/s. Laxmipati Balaji Supply Chain Management Limited for co-developer status for distribution of utilities (electricity and water supply) in both the Sectors of FTWZ and Additional Sector for Electronic Hardware and Software (Including ITES) at Arshiya-FTWZ, SEZ, Raigad.**

M/s. Laxmipati Balaji Supply Chain Management Limited is a subsidiary company of Arshiya Limited, the developer of the Free Trade and Warehousing Zone (FTWZ) and Electronics Hardware and Software (Including Information Technology Enabled Services) (IT-SEZ) under the SEZ Act, 2005 and SEZ Rules, 2006 at Panvel, Mumbai. The FTWZ and IT-SEZ of Arshiya Limited has developed FTWZ on an area of 47 hectares (approx) and operational since August, 2010 and the IT-SEZ is to be developed on an area of 10 hectares (approx). Arshiya's SEZs are spread on a total notified area of 57.045 hectares.

M/s. Laxmipati Balaji Supply Chain Management Limited has executed Co-Developer agreement dated 31.08.2018 with M/s. Arshiya Limited (Developer) for Distribution of Utilities in both the sectors i.e. FTWZ & Electronic Hardware and Software (including ITES).

**Recommendation by DC:**

DC, SEEPZ has recommended the proposal.

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

**Item No. 84.11 : Proposals for setting up of SEZ (one proposal)**

**84.11 (i) Request of M/s. AIGP Developers (Pune) Private Limited for setting up of a sector specific SEZ for IT/ITES at Wagholi and Kharadi Village, Pune, Maharashtra over an area of 6.69 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. AIGP Developers (Pune) Private Limited	Wagholi and Kharadi Village, Pune, Maharashtra	IT/ITES	6.69	Yes	Yes (01.06.2018)	New

- (i) Proposed Investment : Rs. 893 crores
- (ii) Projected employment of the project : 22000
- (iii) Foreign Investment : Yes

DC SEEPZ SEZ has recommended the proposal.

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

**Item No. 84.12 Change of Shareholding Pattern/Change of Name Cases/merger/demerger (2 proposals)**

**84.12 (i) Request of M/s. G.P. Realtors Pvt. Ltd., Developer of Electronic Hardware & IT/ITES SEZ at Village Behrampur, Distt- Gurugram (Haryana) for transfer of formal approval in the name of M/s. G.P. Realtors 1 Pvt. Ltd. alongwith change in shareholding pursuant to the approval of the composite Scheme of Arrangement by NCLT, Chandigarh vide Order dated 11.07.2018 and Change of name of M/s. G.P. Realtors 1 Pvt. Ltd. to 'ITPG Developers Pvt. Ltd.'**

M/s. G.P. Realtors Pvt. Ltd. was granted LOA dated 14.11.2006 for setting up of Electronics Hardware & IT/ITES SEZ. The SEZ was originally notified in an area of 18.86858 hectares on 04.05.2009. After various addition & deletion of land, the present notified area of SEZ is 25.59723 hectares. The developer had executed Bond-cum-Legal Undertaking which has been accepted by the Competent Authority. One Power Plant unit namely M/s. G.P. Realtors 1 Pvt. Ltd. has been approved by the Approval Committee in the said SEZ. This SEZ is yet to become operational. Formal approval of the SEZ is valid upto 13.11.2018.

M/s. G.P. Realtors 1 Pvt. Ltd. has requested for approval of BoA for transfer of formal approval on 14.11.2006 from M/s. G.P. Realtors Pvt. Ltd. to M/s. G.P. Realtors 1 Pvt. Ltd. pursuant to the approval of the composite Scheme of Arrangement by the Hon'ble

National Company Law Tribunal (NCLT), Chandigarh Bench vide Order dated 11.07.2018 and Change of name of M/s. G.P. Realtors 1 Pvt. Ltd. to 'ITPG Developers Pvt. Ltd.'.

The following details have been submitted by the developer through the DC office:

- (i) The present directors of the company are :-
- Mr. Balaji Vijayaraghavan Vaniyambadi
  - Mr. Bhavesh Prafulchandra Madeka
- (ii) CA Certified details of shareholding pattern of M/s. G.P. Realtors 1 Pvt. Ltd. as given below:-

Existing shareholding pattern of M/s G.P. Realtors 1 Pvt. Ltd., as on 03.08.2018		Proposed shareholding pattern pursuant to the composite scheme of arrangement filed before the Hon'ble NCLT	
Name of Shareholder	% of shares	Name of Shareholder	% of shares
G.P. Realtors Pvt. Ltd.	99.99998%	Daisu Ltd. (Earlier known as AZCO Ltd.) (including shares held by its nominee M/s. IREO Management I Ltd.)	100%
Sharad Agrawal (Nominee of G.P. Realtors Pvt. Ltd.)	0.00001%	-	-
<b>Total :</b>	<b>100%</b>	<b>Total :</b>	<b>100%</b>

- (iii) Details of shareholding pattern of the M/s. G.P. Realtors Pvt. Ltd., duly certified by CA on 31.07.2018, as given below:-

Name of Shareholder	% Share
Daisu Ltd., Mauritius (Earlier known as AZCO Ltd.)	99.99%
Ireo Management I Ltd., (Nominee of G.P. Realtors Pvt. Ltd. )	0.01%
<b>Total:</b>	<b>100%</b>

- (iv) Copy of Certificate of Incorporation, M&AOA & list of present directors of M/s. G.P. Realtors Pvt. Ltd. Following are present directors of the company:-
- Mr. Sanjeev Dasgupta
  - Mohammad Asim
  - Mr. Abhijit Kamalakar Kukade
  - Mr. Vinamra Srivastava
- (v) Copy of Board Resolution dated 22.12.2015 of M/s. G.P. Realtors 1 Pvt. Ltd. regarding proposed Composite Scheme of Arrangement and authorisation in favour of Mr. Sharad Agarwal & Mr. Munish Mathur.



- (vi) Copy of Board Resolution dated 12.12.2015 of M/s. G.P. Realtors Pvt. Ltd. regarding proposed Composite Scheme of Arrangement and authorisation in favour of Mr. Sharad Agarwal & Mr. Munish Mathur.
- (vii) An Undertaking on Rs.101/- Non-judicial Stamp Paper from M/s. G.P. Realtors 1 Pvt. Ltd. to comply with the conditions post consummation of the proposed transaction being the transfer of the letter of approval of Demerged SEZ from M/s. G.P. Realtors Pvt. Ltd.
- (viii) Copy of letter dated 13.08.2018 of Assistant Registrar of Companies, Central Registration Centre regarding No Objection in the availability of the changed name "ITPG Developers Pvt. Ltd." from the existing name G.P. Realtors 1 Pvt. Ltd.

As per Scheme of Arrangement the purpose of scheme of amalgamation is given as under:-

- (i) Amalgamation Platoon, as going concern, into and with GPRPL; and
- (ii) Demerging and vesting, as going concern, the Demerged Undertaking of GPRPL into GPRPL-1.

As per para 2 of Judgment dated 11.07.2018 of NCLT, Petitioner Company No. 2 (M/s. Platoon Propbuild Pvt. Ltd.) will be amalgamated into Petitioner Company No.1 (M/s. G.P. Realtors Pvt. Ltd.) and demerging the Demerged undertaking of petitioners (as Company No.1, G.P. Realtors Pvt. Ltd., defined in Clause 2.1.6 of the Scheme) into Petitioner Company No.3 (M/s. G.P. Realtors 1 Pvt. Ltd.). The scheme has been sanctioned as per Para 40 of the Judgment. As per the "Scheme" the Appointed Date is 01.10.2015 or any other date as may be directed by the Appropriate Authority.

Further, as per Clause 2.1.6 of the Scheme, "Demerged Undertaking" means GPRPL's undertaking, business, properties, liabilities, activities and operations of whatsoever nature and kind and where so ever situated, in relation to and pertaining to **SEZ-1** on a going concern basis, comprising of all the assets, liabilities, contracts and employees which relate thereto or are necessary therefore and including the details mentioned in sub-clause (i) to (viii) of the said Clause 2.1.6 of the Scheme. Further, in Covering letter dated 07.08.2018, it has been mentioned that "Demerged SEZ" shall mean the land area admeasuring 25.59723 hectares comprising of SEZ-1 as defined in the Scheme.

Besides, as per Clause 2.1.19 of Scheme approved by Hon'ble NCLT, "SEZ 1" means and includes land area admeasuring 25.12123 hectares (62.08 acres), which has been licensed in favour of GPRPL. The DC office has observed that the said SEZ i.e. IT/ITES SEZ of M/s. G.P. Realtors Pvt. Ltd. located at Village Behrampur, Distt- Gurgaon (Haryana) had been notified on 04/05/2009 and presently admeasures 25.59723 hectare. In this regard, the applicant has clarified that as on the date of filing of application for composite scheme of arrangement and as on the appointed date of the scheme being October 1, 2015, SEZ1 encompassed an area of 25.12123 hectares (62.08 acres) which has been licensed in favour of GPRPL vide Notification No. S.O. 2605(E) dated 08.10.2014. The additional area of 0.476 hectares was notified vide Notification No. S.O. 2293(E) dated 06.06.2018 after filing the Scheme with Hon'ble NCLT. The applicant has stated that the company is not required to intimate the addition or deletion of assets subsequent to the date of filing the application for approval of the scheme with the Honb'ble High Court / NCLT

and hence, the same is not captured in the order. The applicant has further stated that pursuant to the Hon'ble NCLT Order, the entire undertaking as on the date of the order will get demerged into the company as on the Appointed date and accordingly the subsequent addition of land area will be deemed to be transferred pursuant to the Hon'ble NCLT Order dt. 11.07.2018.

As regards, Copy of fresh Certificate of Incorporation issued by ROC for change of name from M/s. G.P. Realtors 1 Pvt. Ltd. to "ITPG Developers Pvt. Ltd.", the applicant has stated that the Instruction No. 90 dated 03.08.2018 states that no prior approval of BoA is required for approaching ROC for effecting reservation of name. However, Instruction No.89 dated 17.05.2018 states that prior approval of BoA is required for usage of name.

### **Recommendation by DC**

The proposal has been recommended by DC, NSEZ for consideration by the BoA in terms of Instruction No. 89 dated 17.05.2018 & subsequent clarification issued by DOC vide Instruction No. 90 dated 03.08.2018.

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

### **84.12 (ii) Request of M/s. IBS Software Services Private Limited, a co-developer in Infopark SEZ (I) for permission for transfer of LoA dated 21.07.2008 to holding company M/s. IBS Software Private Limited in accordance with amalgamation order issued by NCLT.**

M/s. IBS Software Services Private Limited, co-developer is holding a valid LoA dated 21.07.2008 for providing infrastructure facilities in the IT/ITES SEZ at Infopark SEZ (I). Now M/s. IBS Software Services Pvt. Limited has informed that M/s. IBS Software Services Private Limited has merged with its holding company, M/s. IBS Software Private Limited by virtue of the Order issued by National Company Law Tribunal on 27<sup>th</sup> March, 2018, whereby, IBS Software Private Limited is surviving company in India. They have filed the confirmation with ROC in 10<sup>th</sup> April, 2018. Consequent upon amalgamation, they have requested for permission to transfer the LoA in the name of IBS Software Private Limited the surviving entity.

Details of shareholding pattern of the company are given below:-

Shareholding pattern before transferor (IBS Software Services Private Limited)

<b>Name of shareholder</b>	<b>% of shareholding</b>
<b>Series A Equity shares of Rs. 10 each</b>	
IBS Software Private Limited*	100%

<b>Name of shareholder</b>	<b>% of shareholding</b>
<b>Series B Equity shares of Rs. 10 each</b>	
IBS Software Private Limited	96.621%
V K Mathews	0.002%
Latha Mathews	0.000%
Pietro Cafai	2.157%

Philip Ddward Hinton	0.750%
William James Milne	0.469%
Total	100%

\* Series 'A' equity share having no voting rights.

Shareholding pattern before transferee (IBS Software Private Limited)

Name of shareholder	% of shareholding
<b>Equity shares of Rs. 10 each</b>	
IBS Software Pte Limited	99.990%
Sivakumar Puzhankara	0.010%
<b>Total (A)</b>	<b>100%</b>
<b>Compulsorily Convertible Preference shares of Rs. 10 each</b>	
V K Mathews	75%
Latha Mathews	25%
<b>Total (B)</b>	<b>100%</b>

Shareholding pattern after merger (IBS Software Private Limited)

Name of shareholder	% of shareholding
IBS Software Pte Limited	99.990%
Sivakumar Puzhankara	0.010%
<b>Total (A)</b>	<b>100%</b>
<b>Compulsorily Convertible Preference shares of Rs. 10 each</b>	
V K Mathews	75%
Latha Mathews	25%
<b>Total (B)</b>	<b>100%</b>
<b>Compulsorily Convertible Preference shares of Rs. 10 each</b>	
Pietro Cafai	64.017%
Philip Ddward Hinton	22.176%
William James Milne	13.808%
<b>Total (C)</b>	<b>100%</b>

As per merger order, all the Series A and Series B equity shares of the transferor company viz., M/s. IBS Software Services Private Limited held by the Transferee company M/s. IBS Software Private Limited was stand cancelled and no shares were issued to Transferee company in lieu of such shares held by it in Transferor company. They were cancelled pursuant to clause 14.1 of the scheme of Amalgamation.

#### **Recommendation by DC:-**

DC CSEZ has recommended the proposal.

The request is submitted for consideration of BoA.

### **Item No. 84.13 Miscellaneous cases (one proposal)**

#### **84.13 (i) Restoration of LoA of M/s. Sarthak Warehousing & Trading Co. (SWTC), Gandhidham**

M/s. Sarthak Warehousing & Trading Co (SWTC) was granted LoA on 25.06.2010 for trading & warehousing under Rule 18(5) with the specific condition that they shall not be permitted to import any second hand materials such as used clothes or plastic scrap. The 72<sup>nd</sup> UAC in its meeting held on 04.09.2014 noted that there was no restriction in SEZ Act & Rules for keeping second hand goods in warehousing units since such storage would not amount to manufacturing activity which is prohibited under Rule 18(4) (c) and the said goods would also be exported on 100% basis. Therefore, the UAC decided that such relaxation (of permitting storage of second hand goods) shall be subject to the condition that no DTA sale will be allowed under any circumstances by such units and 100% of their imported second hand goods will be exported out of the country.

Based on the aforesaid decision of the UAC, M/s. SWTC applied for modification of their LoA regarding restriction on import of second hand goods such as used clothes & plastic scrap. In the 73<sup>rd</sup> UAC meeting held on 21.10.2014, after discussion of definition of export u/s 2(m) of the SEZ Act and also taking note of various approvals given by BoA including to M/s. Varsha Export, the UAC decided to replace the word “100% export out of the country” with “100% export” thereby enabling IUT for achieving the export condition. However, the condition of no DTA sale remained.

LoA issued to M/s. STWC was modified on 25.06.2010 to permit import/warehousing of second hand goods with 100% export and no DTA sale condition. M/s. SWTC requested for permission to undertake manufacturing process for the leftover non-exportable used and worn clothing into wipers on behalf of their overseas client under Rule 18(6). The 77<sup>th</sup> UAC in its meeting held on 26.02.2015 rejected the request while allowing cutting of clothes into small pieces as part of warehousing activity by relying on Instruction 49 dated 12.03.2010 of DoC, wherein it was clarified that the concerned UAC can consider on a case to case basis on merits, a proposal of FTWZ unit as part of their authorized operations allowing cutting, polishing, blending, etc.

In the 78<sup>th</sup> UAC meeting dated 17.03.2015, it was decided not to ratify the aforesaid decision of the previous UAC and to forward the said proposal to BoA. The BoA rejected the proposal on 19.05.2015 in the 65<sup>th</sup> meeting on the ground that the said activity was not permitted under Rule 18(4)(c). The DoC clarified that 100% export of second hand, worn and used clothing as mentioned in the case of M/s. Varsha Export construes to be physical export out of the country only. Based on the aforesaid clarification, the LoA issued to Ms/. SWTC was modified to reflect that the import and warehousing of second hand goods shall be subject to the condition of 100% physical export out of the country and no intra-zone supplies as well as DTA sales would be permitted. Based on inputs from the DC, DoC directed that the approval given to M/s. SWTC for import of second hand goods should be withdrawn immediately in terms of Rule 18(4) (d) of the SEZ Rules, 2006.

The proposal for restoration was also considered in the 82<sup>nd</sup> meeting of the BoA held on 04.04.2018, however, the same was deferred by the Board after deliberations and DC,

KASEZ was directed to re-examine whether activity proposed by the unit amounts to recycling.

DC, KASEZ has now informed that in order to plug the loopholes in the monitoring system of DTA sale, the examination of sensitive items like reprocessed worn and used clothing into DTA is done in a separate demarcated examination area under closed circuit camera supervision. They ensure that the examination of bales is on a completely random basis without any scope for discretion by the Appraiser/examining officer. No case of any violation has been noticed by their office, however, a few cases of improperly mutilated worn clothing were detected and were heavily penalized for the offence.

#### **Recommendation of DC :**

It is recommended that in order to verify the compliance of import and their 100% re-export of the imported quantity and prevent any intra-zone sales by M/s SWTC they may submit their monthly stock statement of import and export for the purpose of monitoring the compliance of 100% physical re-export, which can be verified by SEZ authorities. In addition they should install cameras on gate to record all movement with recording for 12 months to be made available to office of DC. If these safeguards are taken, MoC may consider issuing permission to M/s SWTC for import /export of worn clothes.

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

#### **Item No. 84.14 Appeals before BoA (one appeal)**

**84. 14 (i) Appeal dated 22.08.2018 of M/s. Accenture Solutions Private Ltd. against the decision of the UAC order dated 06.08.2018 for rejection of proposal of cafeteria measuring 9500 square feet of the application dated 26.06.2018 out of approved additional area of 79, 241 sq. ft.**

#### **Gist of order appealed against**

M/s Accenture Solutions Pvt. Ltd., a unit under the jurisdiction of SEEPZ SEZ was granted LOP dated 16.12.2014 for the authorized operation "Software Development and IT Enable Services". The unit started the commercial production w.e.f. 09<sup>th</sup> April, 2015.

The appellant submitted an application dated 26.06.2018 for the addition of location admeasuring an area of 79,241 sq.ft. at Building A of Manjri Stud Farm Private Ltd. –SEZ and revised projection of the exports, Foreign Exchange Inflow & Outflow.

The proposal of the appellant was considered in the UAC meeting of Manjri Stud Farm Pvt. Ltd SEZ dated 26.07.2018 held at SEEPZ Mumbai.

The UAC approved the revised projection and additional space of 79,241 sq.ft. excluding cafeteria area of 9500 sq. ft. (within in the additional approved area). The proposal for cafeteria was rejected by the UAC as not related to the authorized operation of the unit.

## **Contents of Appeal**

The UAC erred in treating the proposal not related to the authorized operation due to the following reasons :

- a) Appellant being an IT/ITES company operates 24\*7 and cafeteria is one of the prerequisite infrastructure required to run 24\*7 other than few more services like transportation etc.
- b) Approximately 5000 workforces will be deployed in this facilities, which also includes women workforce in good numbers and considering 24\*7 operation, it is necessary to provide an in-house cafeteria facility for the exclusive use of the units.

That under section 46 of the Factory Act, the State Government may require that in any specified factory wherein more than 250 workers are employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers. Under section 47 shelters, lunch rooms and restrooms to e maintained for the use of workers. If SEZ units are now allowed to run in house cafeteria/canteen for them they will not be able to comply with the statutory requirement also.

If the permission is not granted it will jeopardize the implementation and execution of project plan of the appellant and it will require reworking on the entire project which may lead to delay and increased cost, over and above, negatively impact on export revenue/delivery commitments to clients and employment generation. It will also have the impact in the ease of working for employees including female employees. The Government policy of ease of doing business is also defeated. If the permission is granted that Government of India will earn valuable foreign exchange due to increase in exports.

## **Rule Position**

### **Rule 11 of the SEZ Rules, 2006: Processing and non-processing area**

(5) The land or built up space in the processing area or Free Trade and Warehousing Zone shall be given on lease only to the entrepreneurs holding a valid Letter of Approval issued under rule 19 and the lease period shall not be less than five years but notwithstanding any other condition in the lease deed, the lease rights would cease to exist in case f the expiry or cancellation of the Letter of Approval:

Provided that the Developer may, with the prior approval of the Approval Committee, grant on lease land or built up space, for creating facilities such as canteen, public telephone booths, first aid centres, crèche and such other facilities as may be required for the exclusive use of the Unit.

The appeal is placed before the BoA for consideration (**Annexure-1**).

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FORM FOR APPEAL

[Refer rule 55]

FOR OFFICIAL USE

Date 22-08-2018

1. Name of the Appellant: M/s Accenture Solutions Private Limited
2. Address: Ground and 1<sup>st</sup> Floor of Building no 4, Block - 'B' & 'C'  
Manjri Stud Farm Pvt Ltd - SEZ, SP Infocity, S.No.  
209, Next to Satyapuram Society, Pune - 412308
3. Name and address of the authority, whose decision or order is brought up in appeal Government of India, Ministry of Commerce & Industry  
Office of the Zonal Development Commissioner, Special  
Economic Zone - Pune
4. Brief of the decision against Which appeal is made Rejection of the proposal of cafeteria measuring 9500  
square feet of the application dated 26-06-2018 out of  
approved additional area of 79241 sq.ft vide letter  
SEEPZ-SEZ/MSF-SEZ/ASPL/13/2014-15/VOL-II/  
128/06-08-2018
5. Reason as to why the decision needs review The statement of facts is attached as per Annexure 1.
6. Any other remarks No



Signature of the appellant: .....

Name in Block Letters: SANJEEV KUMAR GHAI

Designation: V.P. LOGISTICS & COMPLIANCE

Place: Bangalore

Mob. No +919845013140

E-mail Address: Sanjeev.kumar.ghai@accenture.com

Date: 22-08-2018

Fax: +91 80 4077 0001

Documents to be enclosed with the appeal:

1. Copy of the decision/rejection letter
2. Demand Draft of Rs. 2,500/- in favour of Pay and Accounts Officer, Department of Commerce, New Delhi.

