

No. K-43016/11/2023-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Vanijya Bhawan, New Delhi
Dated the 14th November, 2023

OFFICE MEMORANDUM

Subject: 5th meeting (2023 Series) of the Board of Approval for Export Oriented Units and 117th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) - regarding.

The undersigned is directed to refer to this Department's O.M. of even number dated 1st November, 2023 and 6th November, 2023 on the subjected cited above and to inform that the 5th meeting (2023 Series) of the Board of Approval for Export Oriented Units and 117th meeting of the BoA for SEZs which was earlier scheduled to be held on 18th November, 2023 at Pune, Maharashtra is **re-scheduled to 17th November, 2023 at 11.00 A.M. in Room No. 427, Vanijya Bhawan, New Delhi** under the Chairmanship of Commerce Secretary, Department of Commerce in Hybrid Mode.

2. The Supplementary Agenda for the 117th meeting of the BoA for SEZs is enclosed herewith.
3. All the addresses are requested to kindly make it convenient to attend the meeting.
4. The meeting link of the aforesaid meeting is being shared in the e-mail body.


(Sumit Kumar Sachan)

Under Secretary to the Government of India

Tel: 23039829

Email: sumit.sachan@nic.in

To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107).
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Shri Sanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), UdyogBhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, ShastriBhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, KrishiBhawan, New Delhi.

8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26862512)
9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).
11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi - 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyapuri, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi - 110 001 (Fax: 223329770)
22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai - 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, Atladra Padra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam - 3

36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Development Commissioner, GIFT SEZ, Gujarat
42. Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).
43. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.
44. Government of Karnataka, Principal Secretary, Commerce and Industry Department, VikasSaudha, Bangalore – 560001. (Fax: 080-22259870)
45. Government of Maharashtra, Principal Secretary (Industries), Energy and Labour Department, Mumbai – 400 032.
46. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
47. Government of West Bengal, Principal Secretary, (Commerce and Industry), IP Branch (4th Floor), SEZ Section, 4, Abanindranath Tagore Sarani (Camac Street) Kolkata – 700 016
48. Government of Tamil Nadu, Principal Secretary (Industries), Fort St. George, Chennai – 600009 (Fax: 044-25370822).
49. Government of Kerala, Principal Secretary (Industries), Government Secretariat, Trivandrum – 695001 (Fax: 0471-2333017).
50. Government of Haryana, Financial Commissioner and Principal Secretary), Department of Industries, Haryana Civil Secretariat, Chandigarh (Fax: 0172-2740526).
51. Government of Rajasthan, Principal Secretary (Industries), Secretariat Campus, Bhagwan Das Road, Jaipur – 302005 (0141-2227788).
52. Government of Uttar Pradesh, Principal Secretary, (Industries), Lal Bahadur Shastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
53. Government of Punjab, Principal Secretary Department of Industry & Commerce Udyog Bhawan), Sector -17, Chandigarh- 160017.
54. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
55. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneswar – 751001 (Fax: 0671-536819/2406299).
56. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), Vallabh Bhavan, Bhopal (Fax: 0755-2559974)
57. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
58. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
59. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
60. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.

61. 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 (LSS) / PPS to JS (VB)/ PPS to Dir (SNS).

Supplementary Agenda for the 117th meeting of the Board of Approval for Special Economic Zones to be held on 17th November, 2023

117.11: Request for extension of LoA of Unit (1 proposal)

Rule position:

- 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 Approval i.r.o. units in SEZs are governed by Rule 19(4) of SEZ Rules.
- Rule 19(4) states that LoA shall be valid for one year. First Proviso grants power to DCs for extending the LoA for a period not exceeding 2 years. Second Proviso grants further power to DCs for extending the LoA for one more year 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 onwards 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.

117.11(i) Request of M/s. Wockhardt Ltd. Unit 03, located at Plot No. E 1 / 2, MIDC in Wokhardt Infrastructure Development Ltd. SEZ, Shendra, Aurangabad, Maharashtra, for extension of LoA beyond 9th year, from 25.10.2023 up to 24.10.2024.

LoA issued on (date)	: 25.10.2013
Nature of business of the unit	: Manufacturing of oral solid dosage form for human usage
No. of extensions granted	: 9 extensions (upto 24.10.2023) three by DC, SEEPZ and six by BoA
LoA Valid up to (date)	: 24.10.2023
Request	: For further extension for one year, up to 24.10.2024

Present Progress:

a. Details of Business plan:

S. No.	Type of cost	Proposed investment (Rs. In Cr.)
1.	Plant & Machinery	72.37
2.	Building civil work	8.41
	Total capital investment	80.78

The Unit has submitted chartered Accountant's Certificate dated 05.10.2023 for above-mentioned investment.

(ii) Investment: Position of capital investment by Wockhardt

S. No.	Particulars	Total investment made so far (Rs. in Cr.)
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1.	Up to September 2022	80.78
2.	October 2022 to September 9, 2023	NIL (increment)
	Total capital investment up to September 9, 2023	80.78

The Unit has submitted chartered Accountant's Certificate dated 05.10.2023 for above-mentioned investment.

(iii) Details of physical progress till date:

Physical Progress: The Unit has submitted that there is no change with regard to physical progress as the construction activities of the Unit have already been completed and the plant and machinery has been fully installed to its capacity. The Unit has not commenced operation as they are awaiting approval from regulatory bodies. M/s Wockhardt Ltd. has informed that they are committed to make the unit operational and are taking substantial steps to make the unit operational.

S No.	Activity	Total area	Deadline for completion of work
1.	Approved area	22382 sq. mtrs.	The construction activity of project is already completed.
2.	Area constructed so far	22382 sq.mtrs.	
3.	Incremental area since last extension	Nil	
4.	% wise progress since last extension	Nil	

Detailed reasons for delay:

The Specified Officer in his report dated 23.10.2023 had stated that on physical inspection of the site it is found that the construction work of the built-up area 22382 sq.mtr. is completed & Total capital investment up to September 9, 2023 is Rs. 80.78 Crores. The Unit has applied to USFDA for product approval with a renewal fee up to 31.12.2023. However, due to the global COVID-19 pandemic, the inspection got delayed and they are expecting the surprise inspection anytime shortly as the situation is again back to the normal. They are hopeful that the Regulatory Authority shall visit their plant and accordingly they will start their commercial production in due course and vis-à-vis they are preparing for regulatory inspection of other countries also.

It is further informed by the unit vide e-mail dated 27.10.2023 that apart from renewing USFDA fee for inspection consecutively, they are planning to make the unit operational by adding Human Insulin, which is currently being manufactured in their EOU unit and exported to UK and Ireland, for which, they are in the process of applying for requisite permission from the Approval Committee in terms of provisions of Rule 19(2) of the SEZ Rules, 2006.

Details from CE's Certificate: The Unit has submitted Chartered Engineer's Certificate dated 12.10.2023. The details mentioned in the CE's Certificate are as follows:

- Approved area as per approved plan: 22382 sq. mtrs.
- Constructed area so far: 22382 sq. mtrs.
- Incremental area since last LOA approval: NIL
- Area of difference in % - NIL (Construction completed in last extension of (LOA)
- Material used are of approved quality
- All structural work including brick walls, roofing, plastering, etc. are being implemented to satisfaction.

Recommendation by DC, SEEPZ SEZ:

DC, SEEPZ SEZ has recommended the request for extension of LoA.

117.12: Request for full/partial de-notification of SEZ (2 proposals)

Relevant provision: In terms of first proviso to rule 8 of the SEZ Rules, 2006, the Central Government may, on the recommendation of the Board (Board of Approval) on the application made by the Developer, if it is satisfied, modify, withdraw or rescind the notification of a SEZ issued under this rule.

Further, in the 60th meeting of the Board of Approval held on 08.11.2013, the Board after deliberations specified the following conditions for partial/full de-notification of SEZs: -

- DC to furnish a certificate in the prescribed format certifying inter-alia that;
- the Developer has either not availed or has refunded all the tax/duty benefits availed under SEZ Act/Rules in respect of the area to be de-notified.
- there are either no units in the SEZ or the same have been de-bonded.
- The State Govt. has no objection to the de-notification proposal and
- Subject to stipulations communicated vide DoC's letter No. D.12/45/2009-SEZ dated 13.09.2013.

117.12(i) Proposal of M/s. Phoenix IT City Pvt. Limited, SEZ for IT/ITES at Sy. No. 53/ paiki/ part, Gachibowli Village, Serilingampally, Mandai, Ranga Reddy District, Telangana for full de-notification of their SEZ.

M/s. Phoenix IT City Pvt. Ltd was issued Formal Approval on 31.03.2017 for setting up IT/ITES SEZ at Sy. No. 53/paiki/part, Gachibowli Village, Serilingampally Mandai, Telangana in an area of 1.78 Hectares (4.40 Acres) and the area was on 14.06.2017. The SEZ was accorded approval for inclusion of additional area of 0.80 Ha on 15.09.2017 making the total area of the SEZ to 2.58 Ha.

The Developer vide letter dated 8.05.2023 has stated that due to various factors such as work from home and also the demand of IT/ITES SEZ space reducing, most of the IT companies prefer to have their office in DTA due to the flexibility they can work with. Gradually, the demand for IT/TES space is decreasing. They have invested close to Rs. 800 Crores till date and availed

duty benefit to the extent of Rs. 116.71 Crores on the 4 Towers, but do not have any enquiries so far. At the same time, they have good many enquiries from the non-SEZ space. They are not in a position to hold on to such a huge financial burden any further and want to de-notify the space. They want to convert the space into regular commercial office spaces. Hence, the Developer has requested to de-notify their SEZ.

In terms of DoC's O.M. dated 14.07.2016, the Developer has submitted the following requisite documents for full de-notification: -

- (i). Form-C6 for full area de-notification along with DC's recommendation
- (ii). DC Certificate in prescribed format
- (iii). "No-Objection Certificate" from the State Government w.r.t. instructions issued by DoC vide its instruction No.D.12/45/2009-SEZ dated 13.09.2013 for full de-notification shall be complied with
- (iv). 'No Dues Certificate' from Specified Officer.

Further, M/s. Cybercity Infopark and M/s. Stellar IT Society were issued Co-Developer status in the above SEZ. The Co-Developers vide letters dated 09.05.2023 have submitted their 'No Objection Certificates' for the de-notification of the above SEZ.

The Principal Secretary (ITE&C), Govt. of Telangana vide letter dated 3.06.2023 has communicated its 'No Objection' to the proposal. With regard to de-notification criteria, the Developer in their Undertaking furnished to the Government has informed that they abide to commit that such de-notified land parcel will conform to Land Use Guidelines/master plans of the respective State Governments

The Specified Officer vide letter dated 6.11.2023 has stated that the Developer vide letter dated 7.8.2023 has requested to revise the cutoff date from 31.3.2023 to 15.7.2023 for de-notification and accordingly, made the following payments towards duty drawbacks as mentioned under:

Goods/ Services	Customs Duties	IGST	Total Indirect Taxes Remitted
Imported Goods	21,52,002	47,07,735	68,59,737
Imported Services	0	2,14,814	2,14,814
DTA Goods	0	6,39,56,828	6,39,56,828
DTA Services	0	122,51,60,447	122,51,60,447
Total	21,52,002	129,40,39,824	129,61,91,826
Payment made towards the clearance of the Tower Crane and Crane Parts to DTA vide Bills of Entry dated 17.9.2023 for Rs. 3,69,29,900/-			
Total Duty paid is Rs. 129,61,91,826/- +3,69,29,900/-- Rs. 133,31,21,726			

In view of the above facts and as per the available office records, the Specified Officer has certified that there are no more dues payable by the Developer towards the Customs exemption availed on imported goods and IGST availed on DTA procured goods and services.

Recommendation by DC, VSEZ:

DC, VSEZ has recommended the proposal.

117.12(ii) Request of M/s. Electronics Corporation of Tamil Nadu Limited (ELCOT), an IT/ITES SEZ at Jagir Ammapalayam Village, Salem Taluk, Salem District, Tamil Nadu, for partial de-notification of 44.9231 Ha.

M/s. Electronics Corporation of Tamil Nadu Limited was granted formal approval on 26.07.2007 for setting up of an IT/ITES SEZ at Jagir Ammapalayam Village, Salem Taluk, Salem District, Tamil Nadu. It was notified vide Gazette Notification No. 1063(E) dated 30.04.2008 over an area of 66.505 Ha. The SEZ has become operational w.e.f. 17.02.2017 and there are total 6 no. of Units. Total exports and imports of the SEZ for the last five years (FY 2018-19 to FY 2022-23) are Rs. 365 Cr. and Rs. 8 Cr, respectively.

The Developer has now requested for partial de-notification of 44.9231 Ha. As regards reasons for decrease, the Developer has mentioned that the land is being handed over to the State Government as there is lack of demand for vacant land for setting-up of IT Companies.

As per DoC's OM dated 14.07.2016 required documents for partial de-notification and the status thereof are as follows: -

S. No.	Documents/Details Required	Status
(i).	Form-C5 for decrease in area along with DC's recommendation	Yes , provided
(ii).	DC's certificate in prescribed format	Yes, provided
(iii).	Developer's Certificate countersigned by DC	Yes, provided
(iv).	Land details of the area to be de-notified countersigned by DC	Yes, provided
(v).	Colored Map of the SEZ clearly indicating area to be de-notified and left-over area duly countersigned by DC	Yes, provided
(vi).	"No Objection Certificate" from the State Government w.r.t. instructions issued by DoC vide its instruction No. D.12/45/2009-SEZ dated 13.09.2013 for partial de-notification shall be complied with	Yes, provided
(vii).	'No Dues Certificate' from specified officer	Yes, provided

Physical Inspection was conducted on 19.01.2021 by ADC, MEPZ-SEZ along with Authorised Officer of the SEZ, representative of the Developer and the Officials from the Revenue Department, Government of Tamil Nadu. The SEZ shall remain contiguous even after de-notification of the area of 44.9231 Ha and no connectivity with the balance land area of 21.5819 Ha owned and is in possession of the Developer. The land area of SEZ with ELCOT can be fenced and there will not be any public thoroughfare through the SEZ area.

DC, MEPZ has certified that;

- i. There are no unit in the SEZ area proposed for de-notification.
- ii. The Developer has not availed any tax/duty benefit under the SEZ Act/Rules in respect of the land being de-notified.
- iii. The SEZ shall remain contiguous even after de-notification of the area of 44.9231 Ha (110.93 Acres) and shall meet the minimum land requirement prescribed for SEZ and satisfies the requirement specified in Rule 5 of the SEZ Rules, 2006 (amended as on 17.12.2019) for IT/ITES SEZ located in "C" Class cities.

Further, the Built-up area is of 15,090.71 Sq.mtr. in the land area of 21.5819 Ha post partial-de-notification.

Secretary, Information Technology & Digital Services, Govt. of Tamil Nadu vide letter dated 22.06.2023 has informed that the land proposed for partial de-notification is needed back to Government of Tamil for Public purpose.

Recommendation by DC, MEPZ:

DC, MEPZ has recommended the proposal.

117.13: Request for Co-developer status (1proposal)

117.13(i) Request of M/s ANSR Global Corporation Private Limited for Co-Developer status in Embassy Property Developments Private Limited SEZ, Bangalore, Karnataka.

1.	Name of the Developer & Location	M/s. Embassy Property Developments Private Limited, Outer ring Road, Rachenahalli Village, Bangalore, Karnataka
2.	Date of LoA to Developer	2 nd March, 2017
3.	Sector of the SEZ	IT/ITES SEZ
4.	Date of Notification	03.05.2017
5.	Total notified area (in Hectares)	2.5906 hectares
6.	Whether the SEZ is operational or not	Yet to be operationalized
	(i) If operational, date of operationalization	NA
	(ii) No. of Units	NIL
	(iii) Total Exports & Imports for the last 5 years (Rs. in Cr.)	NA

	(iv) Total Employment (In Nos.)	NA
7.	Name of the proposed Co-developer	M/s. ANSR Global Corporation Private Limited
8.	Details of Infrastructure facilities / authorized operations to be undertaken by the co-developer	Infrastructure development, conversion of bare shell building into warm shell building, leasing out the built-up space, facility management service in 204198 sq.ft. built-up area at Block 'B' building in the Embassy Property Developments Private Limited SEZ; 62737 sq.ft. : 17 th Floor 70699 sq.ft. : 18 th Floor & 70762 sq.ft. : 19 th Floor
9.	Total area (in Hectares) on which activities will be performed by the co-developer	204198 sq.ft. built-up area at Block 'B' building
10.	Proposed investment by the Co-developer (Rs. in Cr.)	Rs. 81.67 crores
11.	Net worth of the Co-developer (Rs. in Cr.)	Rs. 228.39 crores
12.	Date of the Co-developer agreement	19.10.2023

Recommendation by DC, CSEZ:

DC, CSEZ has recommended the proposal.

117.14: Appeal (2 cases)

Rule position: - In terms of the rule 55 of the SEZ Rules, 2006, any person aggrieved by an order passed by the Approval Committee under section I5 or against cancellation of Letter of Approval under section 16, may prefer an appeal to the Board in the Form J.

Further, in terms of rule 56, 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.

117.14(i) Appeal filed by M/s. Plastic Processors & Exporter Pvt. Ltd. against the Order dated 21.04.2023 issued by DDC, Noida SEZ regarding non-renewal of their LoA.

The appeal of M/s. Plastic Processors and Exporter Pvt. Ltd. was earlier considered in the 115th meeting of the BoA held on 17.06.2023. The Board heard the appellant and, after deliberations, advised the appellant to submit their written submissions to the Department. Further, the Board decided to take up the appeal for further discussion and decision in the next BoA after duly considering all materials on record including further written submission, if any that might be filed by the appellant.

In compliance of the direction of the BoA, the appellant vide letter dated 26.06.2023 submitted written submissions. The submissions made by the appellant were placed before the 116th meeting of the BoA held on 05.09.2023 for further discussion and decision on the same. The submissions made by the Unit were noted by the Board and it is observed that: -

- i. The Unit was non-functional during the stipulated period of 18 months (i.e., 27th January, 2021 to 26th July, 2022) due to accidental fire in 2019 at their premises.
- ii. Prior to the fire incident, the Unit was operational effecting exports and maintaining positive NFE.
- iii. The Unit is now keen on resuming operations and fulfilling all statutory obligations with long term stability and growth.

The Board, after deliberations, decided to defer the matter with direction to DoC to collect the details of such Units, in KASEZ and Falta SEZ, which were operational and effecting exports prior to the stipulated period of 18 months but were not in operation during this stipulated 18 months period.

In pursuance of the direction of the BoA, Kandla SEZ and Falta SEZ have submitted the following details of the Units which were operational and effecting exports prior to the stipulated period of 18 months but were not in operation during this stipulated 18 months period: -

- **Details submitted by KASEZ:** There is one unit in KASEZ viz. M/s. New Plastomers India Ltd., which LoA was not renewed as per decision taken in the 112th BoA meeting minutes held on 29.10.2022 as the unit has not met the conditions stipulated in the 112th BoA meeting viz. the Unit has not carried out any production activity/exports during the stipulated period of 18 months. The details of the Unit are as below: -

1. M/s. New Plastomers India Ltd. had been issued LoA dated 20.05.1996 for "All types of plastic bags, garbage collection bags, carry bags, shopping bags, household and allied items". The unit commenced its export production w.e.f. 18.04.1997 and its LoA was valid till 31.12.2020.
2. Performance of the Unit for the financial year 2017-18 to 2020-21 is as under:

Year	Export (including other NFE entitlement)	NFE obligations (Rs. in Lakhs)	
		Forex Outgo	NFE Earning
2017-18	340.00	209.00	130.75
2018-19	1236.10	1065.77	170.33
2019-20	397.43	339.31	58.12
2020-21	277.00	0.00	277.00

Total	2250.53	1614.08	636.20
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3. The LoA of the Unit was valid upto 31.12.2020 and their request for renewal of LoA along with other similar plastic recycling units of KASEZ were forwarded to the BoA and the BoA in its 102nd meeting minutes held on 06.01.2021 has decided to grant extension of LoA of the 47 existing plastic recycling and worn & used clothing units in SEZs viz. NSEZ, FSEZ and KASEZ in terms of Rule 18(4) of the SEZ Rules, 2006 for a further period of six months upto 30.06.2021 subject to clearance of all government dues including penalties and rents by the Unit.
4. Further, on the request of KASEZ vide letter dated 13.01.2021 on the issue of clarification on penalties imposed wherein stay has been obtained by such units from DGFT/High Court/Supreme Court, DoC vide letter dated 20.01.2021 has clarified that only in cases where there is an effective stay order against the recovery of penalty imposed, renewal of LoA may be considered without payment of penalty subject to fulfillment of other conditions.
5. With regard to penalty imposed against the unit -
 - i. O/o DC, KASEZ has issued SCN to the unit for non-fulfillment of positive NFE for the 5 year block period 2006-07 to 2010-11 and penalty was imposed vide O-I-O for Rs. 2 crores. However, the unit being aggrieved with the O-I-O has filed appeal before the DGFT and the DGFT has dismissed the appeal of the unit. The unit has preferred appeal before the Appellate Committee of DGFT which is still pending.
 - ii. Two show cause notices dated 14.07.2016 & 10.04.2019 were issued to the unit for non-compliance of physical export conditions and penalty of Rs. 39.37 lakhs has been imposed vide OIO No. KASEZ/ 29-30/2019-20 dated 02.05.2019. The Unit filed appeal before the DGFT against this OIO and the DGFT has dismissed the appeal of the unit. The unit has preferred appeal before the Appellate Committee of DGFT which is still pending.
6. Thus, the LoA of the Unit was not renewed after 01.01.2021 as the unit has not obtained any effective stay on the penalty imposed and rental dues were also pending against the unit.

Further, as per the decision taken in 112th Board of Approval meeting held on 29.10.2022 and 113th Board of Approval meeting held on 17.01.2023, O/o DC, KASEZ vide letter dated 23.01.2023 has cancelled their Letter of Approval dated 20.05.1996 w.e.f. 01.01.2021.

Aggrieved with the above decisions of BoA and cancellation of their LoA by KASEZ, the Unit has approached the Hon'ble High Court of Gujarat and has filed Special Civil Application No. 12595 of 2023 which is pending before the Hon'ble High Court of Gujarat.

- **Details submitted by Falta, SEZ:** As per records, following units of Falta, SEZ were operational and effecting exports prior to the stipulated period of 18 (eighteen) months, but were not in operation during the stipulated 18 (eighteen) months period: -

Name of the unit	Period 27.08.2017 to 26.01.2021	
	FOB Value of Export (Rs. In crores)	DTA Sale (Rs. In Crores)
M/s. Nara Exim Pvt. Ltd.	10.92	26.63

In this context, it may be mentioned that M/s. Kkalpana Industries (India) Ltd., was operational and effecting exports prior to the stipulated period of 18 (eighteen) months, and also was in operation during the 18 (eighteen) months period but had not exported during the period of 18 (eighteen) months.

The details submitted by KASEZ and Falta SEZ are being placed before the BoA for further discussion and decision on the appeal of M/s. Plastic Processors & Exporter Pvt. Ltd. .

117.14(ii) Appeal filed by M/s. MNR Exports Private Limited against the Order dated 06.09.2023 issued by DC, Falta SEZ.

Brief facts of the case: M/s. MNR Exports Private Limited had been permitted under EoU scheme vide Letter of Approval dated 02.06.2003 for manufacture and export of all Kinds or Bags made of Cotton, Jute, Nylon, Straw, PVC and Industrial Gloves / Aprons in Falta SEZ. Subsequently, the location of the Unit was changed from 44, Ezra Street, Kolkata to 1/3 A, Ballygunge place (East), Kolkata and the status of the Unit was changed from 100% EoU to SEZ Unit. The Unit started commercial production w.e.f. 20.08.2008. The LoA was valid upto 19.08.2018 and it was later cancelled by the DC, Falta SEZ vide Order-in-Original dated 06.09.2023 in terms of Section 16 of the SEZ Act, 2005.

M/s. MNR Exports Private Limited has filed an appeal against the said Order-in-Original dated 06.09.2023 passed by the DC, Falta SEZ. The appellant has given the following reasons as to why the decision needs review: -

- No show cause notice was received by the appellant at any point of time prior to initiation of the proceedings by the Adjudicating Authority.
- No intimation and/or cause papers was ever served to the appellant as such the appellant was in total dark about such proceedings and the order was passed ex-parte without giving any opportunity of hearing to the appellant thereby violating the principles of natural justice.
- It was well within the knowledge of the adjudicating authority that the registered office of the appellant has shifted from its initial place and the same was duly intimated to the authority concerned.

- d. It was well within the knowledge of the adjudicating authority that fire broke out and the dispute till date by and between the appellant and the insurance company has not settled as such the business could not be started.
- e. The appellant unit being a net foreign exchange earner as the manufacturing unit used to manufacture handicraft items from jute and its by products. The question of importing raw materials does not or cannot at all arise. There was only export.
- f. That due to fire a sum of Rs. 6.50 crores is due payable by the authorities concerned to the appellant towards damages and losses suffered by the appellant for non supply of various documents by the authorities before the Insurance Company.
- g. Annual Performance Report (APR) was filed and acknowledged copies were provided on ample occasions which are also reflected in the impugned order, though the impugned order was passed over looking the same only on the pretext the APR was not filed. As such filing of APR for the mentioned periods does not or cannot at all arise.
- h. Due to breaking of fire all papers have been lost, the same have gutted with fire and it was beyond the control of the appellant. It is further submitted that the exports were carried out through NSDL portal and ample time the appellant requested the authorities concerned to retrieve the documents filed online but no heed was paid to such request of the appellant.

The appellant has requested that impugned Order dated 6th September, 2023 passed by DC, Falta SEZ be set aside and further direct the concerned authority to release the sum of Rs. 6.5 crores for the loss due to the negligence on the part of the authorities to the appellant.

Inputs received from DC, Falta SEZ: -

1. Due to non-submission of APR for the FY 2014-15, a Show Cause Notice dated 21.08.2015 was issued to the Unit. In response vide letter dated 26.09.2015, the Unit stated that they are in the process of the filing the APR and requested to condone the delay and not impose any penalty and oblige. Accordingly, vide letter dated 06.05.2015, DC, FSEZ condoned the delay in submission of the APR and requested to expedite the submission of the APR for the FY 2014-15. Finally, the Unit submitted the APR for the FY 2014-15 on 31.12.2015.
2. Due to non-submission of APR for FY 2013-14 & 2015-16 within the prescribed time limit, letters dated 13.12.2016, 11.01.2017, 09.08.2017, 11.09.2017 and 18.01.2018 were issued to the Unit. In response, the Unit, vide letter dated 27.02.2018 submitted that due to fire incident on 08.06.2016, many of their office files remain untraceable and they could trace the copies of the APR for the FY 2012-13, 2014-15, 2015-16 duly acknowledged. Further, the unit has stated that no export has taken place in the FY 2016-17 and thus, the data may be treated as 'NIL'.
3. Vide letter dated 19.04.2021, the Unit was requested to appear for a personal Hearing before the DDC, FSEZ for discussion of their non-performance, however, no one from the Unit appeared for discussion. The Performance of the Unit in the last 5 (five) years is as given below:-

FY	2014-15	2015-16	2016-17	2017-18	2018-19
FOB value of export (Rs. in crore)	2.83	0.75	Nil	Nil	Nil

4. FSEZ observed that the Unit is non-functional for a long period of time and occupying Govt. space without any activity. Also, the Unit has not applied for renewal of their LoA dated 02.06.2003 beyond 19.08.2018, thus, the LoA is deemed to be lapsed w.e.f. 20.08.2018 in terms of Rule 19(6A)(2) of SEZ Rules, 2006.
5. Subsequently, another Show Cause Notice was issued on 08.03.2022 by FSEZ directing the Unit, as to why the LoA should not be cancelled for violating the provisions of Sl. No. 7 of Bond-cum- LUT, as submitted by the Unit, in terms of Section 16 of SEZ Act, 2005, Rule 25 & Rule 54 of SEZ Rules, 2006; and as to why the IEC of the Unit should not be suspended; and as to why penalty should not be imposed under FT (D&R) Act, 1992 for contravention SEZ Act, 2005 & SEZ Rules, 2006. However, no reply of the SCN issued has been received from the Unit till date.
6. Vide letter dated 24.05.2023, the Unit was again requested by FSEZ to appear for a Personal Hearing. However, no one from the Unit appeared for the Personal Hearing.
7. The matter was placed before the 166th meeting of the Unit Approval Committee (UAC) held on 25.08.2023. The Unit was requested to appear before the UAC physically to present their case, however, no one from the Unit appeared in the said UAC meeting. The UAC, after deliberation, decided ex-parte to cancel the LoA.
8. As per the directions of the UAC, DC, FSEZ issued an Order-in-Original dated 06.09.2023 cancelling the LoA of the Unit in terms of the Section 16 of the SEZ Act, 2005.

Thus, the contention of the appellant that the impugned Order dated 06.09.2023 passed by the Zonal DC and Adjudicating Authority, Falta SEZ was passed without giving any opportunity of hearing to the appellant thereby violating the principles of natural justice is incorrect, as several correspondences have been made to the Unit for Personal Hearing before the Authority as natural justice, however, no one appeared to present their case. Also, prior intimation for the 166th meeting of the UAC was sent to the Unit requesting them to be physically present in the meeting held on 25.08.2023 wherein decision for cancellation of the LoA was taken.

Relevant provisions under the SEZ law: -

Section 16 of the Special Economic Zones Act, 2005

16. Cancellation of letter of approval to entrepreneur. —

(1) The 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 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 19 of the SEZ Rules, 2006

19. Letter of Approval to a Unit: -

- Rule 19(4) states that LoA shall be valid for one year. First Proviso grants power to DCs for extending the LoA for a period not exceeding 2 years.
- Further, in terms of rule 19(5), if the Unit has not commenced production or service activity within the validity period or the extended validity period under sub-rule (4), the Letter of Approval shall be deemed to have been lapsed with effect from the date on which its validity expired.
- In terms of rule 19(6), the LoA shall be valid for five years from the date of commencement of production or service activity and it shall be construed as a licence for all purposes related to authorized operations, and, after the completion of five years from the date of commencement of production, the Development Commissioner may, at the request of the Unit, extend validity of the Letter of Approval for a further period of five years, at a time.
- In terms of rule 19(6A)(1), the Units which intend to renew the validity of Letter of Approval shall submit, before two months from the date of expiry of the Letter of Approval, the completed application in Form F1 along with requisite document, to the Development Commissioner.
- Further, in terms of rule 19(6A)(2), in case of non-compliance of the procedures specified in clause (1), the Letter of Approval shall not be considered for renewal.
- In terms of rule 19(6B), the process of renewal of Letter of Approval shall take into account the efforts made and the results achieved or status of the following criteria, namely: -
 - vii. Export performance of the Unit in the last block.
 - viii. Employment generated.
 - ix. Instance of violation of applicable statutes related to the functioning of the Unit.
 - x. Cases of default, if any, of statutory payments.
 - xi. Undertaking of any activity not sanctioned or approved by the Development Commissioner.
 - xii. The decision of the Development Commissioner or Approval Committee in this regard shall be final and binding on the Unit except in cases where the Unit prefers an appeal before the Board of Approval, in accordance with rule 55.

The appeal is placed before the BoA for its consideration.
