

**Supplementary Agenda for the 69<sup>th</sup> meeting of the Board of Approval to be held on 23<sup>rd</sup> February, 2016, in the Room No. 47, Udyog Bhawan, New Delhi**

**Item No. 69.7 : Requests for extension of validity of formal approvals**

**(i) Request of M/s. Mahindra World City (Jaipur) Ltd. for further extension of the validity period of formal approval, granted for setting up of sector specific SEZ for Gems & Jewellery at Village Kalwara, Tehsil Sanganer, District Jaipur, Rajasthan, beyond 1<sup>st</sup> February, 2016**

**Name of the developer:** Mahindra World City (Jaipur) Ltd.

**Sector :** Gems & Jewellery

**Location :** Village Kalwara, Tehsil Sanganer, District Jaipur, Rajasthan

**Extension :** The developer has been granted two extensions, validity period of which was upto 1<sup>st</sup> February, 2016.

**Basic facts:** Formal approval to the developer was granted on 2<sup>nd</sup> February, 2011. The SEZ stands notified as on date.

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

The developer has made following investments/plans.

- (i) Investment made on land till 31<sup>st</sup> August, 2015 is Rs. 4.76 crores and other investment Rs. 2.36 crores
- (ii) **Incremental Investment since last extension** – 4.43 crores
- (iii) **Physical progress till date** – The developer has stated that they have made the investment amounting to Rs. 4.76 crores till 31<sup>st</sup> August, 2015 and will start balance work after getting the extension. Master plan for Gems & Jewellery 11.08 hectares is approved by RICCO.

DC NSEZ has recommended the proposal for extension of formal approval for a period of one year.

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

**(ii) Request of M/s. Kumar Builders Township Ventures Pvt. Ltd. for further extension of the validity period of formal approval, granted for setting up of sector specific SEZ for IT/ITES at Village Hinjewadi & Mann, Taluka - Mulshi, Pune, Maharashtra, beyond 27<sup>th</sup> August 2014**

**Name of the developer:** Kumar Builders Township Ventures Pvt. Ltd.

**Sector :** IT/ITES

**Location :** Village Hinjewadi & Mann, Taluk Mulshi, Pune, Maharashtra

**Extension :** The developer has been granted five extensions, validity period of which was upto 27<sup>th</sup> August, 2014.

**Basic facts:** Formal approval to the developer was granted on 28<sup>th</sup> August, 2006. The SEZ stands notified as on date.

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

The developer has made following investments/plans.

1. Investment towards development/construction
    - (a) Construction of Building D is Rs. – 11.78 crores
    - (b) Construction of Infrastructure (including boundary wall) – Rs. 19.91 crores
    - (c) Incubation Centre 2 – Rs. 8.94 crores
    - (d) Incubation Centre/Office – 7.47 crores
  2. Consultant Fees, overheads and Misc. Expenses – 12.52 crores
  3. Market fees to promote SEZ – Rs. 0.83 crores
- Total – Rs. 58.451 crores**
4. **Investment since last extension - Rs. 4.84 crores**

Steps taken towards development of SEZ:-

- (a) Completed a steel bridge between Hinjewadi and Mahalunge village for easy access to the SEZ.
- (b) Completed construction of incubation space of 1548.51 sqm.

**Reason for Delay:-** (a) Due to economic slowdown and adverse market conditions, the demand for space in the SEZ for IT/ITES and electronic hardware had gradually decreased. (b) Due to changes in the tax regime it was difficult for the developer to lease space and the development of the area had become unviable and (c) The amendment to tax provisions such as applicability of MAT and withdrawal of benefits under DTC had a cascading effect on the development of the SEZ.

DC SEEPZ has recommended the proposal for extension of the validity period of formal approval for a period from 28.08.2014 to 27.08.2017.

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

### **Item No. 69.8 : Requests for extension of LoP beyond 3<sup>rd</sup> Year onwards**

#### **(i) Request of M/s. Zydus Technologies Ltd., a unit in Zydus Pharma SEZ at Ahmedabad, Gujarat for extension of validity period of its LoP beyond 28<sup>th</sup> June 2016**

- **LoP issued:** 29<sup>th</sup> June, 2009 for manufacturing and export of various transdermal patches (medical patches).
- **Extensions:** 6 (six) up to 28<sup>th</sup> June, 2016
- **Request:** For further extension.

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

The unit has made the following investment/plans:-

- (i) Invested Rs. 546.74 crores on construction of factory premises, value of plant and machineries installed, expenses incurred towards product development and land.
- (ii) **Incremental investment made by the unit: Rs. 96.84 crores.**
- (iii) Completed construction of the factory premises
- (iv) Installed the required plant and machineries
- (v) Initiated trial production and developed 2 products which have been filed for USFDA approval.

DC KASEZ has recommended the request of extension of LoP for one year.

The request is placed before BoA for its consideration.

#### **(ii) Request of M/s. Anushakti Specialities LLP, a unit in the multi product SEZ being developed by M/s. Dahej SEZ at Bharuch, Gujarat for extension of LoP beyond 13<sup>th</sup> March 2016**

- **LoP issued:** 14<sup>th</sup> March, 2012 for manufacture and export of “2-Methyl-6Ethyl Aniline and other Ethylation Product, Chloro Aniline, Dichloro aniline and other Hydrogenation products, Mono Chlorobenzene and other chlorination products & By Product AI (OH) A1203”. manufacturing and export of various transdermal patches (medical patches).
- **Extensions:** 3 (three) up to 13<sup>th</sup> March, 2016
- **Request:** For further extension.

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

The unit has made the following investment/plans:-

- (i) Investment made till date is Rs. 51.36 crores on various heads like land, building and plant & machinery.
- (ii) Incremental investment is Rs. 41.86 crores from the date of last extension in 2015

- (iii) Physical progress till date: - The unit has completed civil construction work 75%, Bioler erection 90%, plant & machinery 95% procured & installation work under progress, E.T.P. 40%

DC Dahej SEZ has recommended the proposal for extension of LoP by one year.

The request is placed before BoA for its consideration.

#### **Item No. 69.9 : Requests for co-developer**

**(i) Request of M/s. Adani International Container Terminal Pvt. Ltd. (AICTPL) a co-developer in the multi product SEZ at Mundra, Kutch, Gujarat, being developed by M/s. Adani Ports and Special Economic Zone Ltd. for additional authorized operations**

The above mentioned SEZ stands notified over an area of 6456.3349 hectares.

M/s. Adani International Container Terminal Pvt. Ltd. has already been conferred the co-developer status in the aforesaid SEZ on 8<sup>th</sup> April, 2013 to develop, operate and maintain container Terminal and related infrastructure facilities and services within the processing area as per the following details:-

- (a) Container jetty and related facilities over an area of 43740 sq. meters
- (b) Container yard and related facilities over an area of 422750 sq. meters.

They expected that the container traffic of the country will grow substantially due to Government of India's "Make in India" initiative as well as improvements in the global trade. They informed that the on-going cluster based projects including Electronics Manufacturing Cluster, Mega Food Park and other upcoming mega projects at Mundra are likely to generate substantial export-import activities in APSEZ. Further, the co-developer has also informed that this infrastructure would attract additional FDI of approx. US \$ 54.5 million in country's infrastructure space.

Now, M/s. AICTPL has requested for additional authorized operation to develop, operate and maintain additional container jetty and yard having an area of 35,100 sq. mtrs and 238,100 sq. mtrs respectively.

Co-developer agreement dated 12<sup>th</sup> October, 2011 entered into with the developer has been provided. Draft Sub Lease Deed has also been provided. Sub Lease is for a period upto 16<sup>th</sup> February, 2031. Annual sub-lease rent of Rs. 123 per sq. meter payable annually. Annual sub-lease shall be paid in advance in full without any deductions and shall be escalated every 3 years at the rate of 10%.

**The above proposal was considered in the 68<sup>th</sup> BoA meeting held on 30<sup>th</sup> December, 2015. After the deliberations, the board decided to defer the proposal.**

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

**(ii) Request of M/s. Adani LPG Terminal Pvt. Ltd. for co-developer status in the multi product SEZ at Mundra, Kutch, Gujarat, being developed by M/s. Adani Port and Special Economic Zone Ltd. alongwith specific authorized operations**

The above mentioned SEZ stands notified over an area of 6456.3349 hectares.

M/s. Adani LPG Terminal Pvt. Ltd. has submitted a proposal for becoming a co-developer in the aforesaid SEZ to develop, operate and maintain LPG Storage & Evacuation Terminal and related infrastructure facilities, over an area of 26 hectares.

Co-developer agreement dated 28<sup>th</sup> November, 2015 entered into with the developer has been provided. Draft Lease Deed has also been provided. Sub-lease for a period upto 16<sup>th</sup> February, 2031. Annual lease rent is Rs. 200/- per square meter which is payable annually. Annual sub-lease rent shall be paid in advance in full without any deductions and shall be escalated every 3 years at the rate of 20%. The sub-lease shall pay SEZ maintenance charges being the maintenance charges of the SEZ to be paid @ Rs. 18/- per square meter per annum for the maintenance and upkeep of all the infrastructure facilities provided around the land.

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

S. No.	Authorized Operations	No. of units	Area per unit (in sqm.) as per FSI / FAR norms as applicable	Total area (in sqm.) / capacity (in MW)
1.	Pipeline from Jetty to Terminal Area and Tanker Loading area (1.1 km pipe route corridor from jetty to terminal area with width of around 3-4 meters. 3.5 km route corridor from terminal to tanker loading area with width of around 3-4 meters)	4 nos	NA	20.0 km

**The above proposal was considered in the 68<sup>th</sup> BoA meeting held on 30<sup>th</sup> December, 2015. After deliberations, the Board noted that the proposal is not clear and directed DC, APSEZ to discuss the matter with the developer to understand the business plan.**

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

**(iii) Request of M/s. Adani CMA Mundra Terminal Pvt. Ltd. for co-developer in the multi product SEZ at Mundra, Kutch, Gujarat, being developed by M/s. Adani Port and Special Economic Zone Ltd alongwith specific authorized operations**

The above mentioned SEZ stands notified over an area of 6456.3349 hectares.

M/s. Adani CMA Mundra Terminal Pvt. Ltd. has submitted a proposal for becoming a co-developer in the aforesaid SEZ to develop, operate and maintain Container Terminal (CT-4) and related infrastructure facilities & services, over an area of 27.27 hectares.

Co-developer agreement dated 19<sup>th</sup> December, 2014 entered into with the developer has been provided. Draft Sub-Lease has also been provided. Sub-Lease rent of Rs. 125/- per square meter is payable annually from the Effective Date, which shall be escalated every three years @10%. Sub-lease period is upto 16<sup>th</sup> February, 2031.

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

S. No.	Authorized Operations	Area per unit (in sqm.) as per FSI / FAR norms as applicable	Total area (in sqm.) / capacity (in MW)
1.	Development, Operation & maintenance of Container Jetty, Yard and related facilities	NA	Jetty: 35100 Sqm. Yard: 272700 Sqm.

The proposal was deferred in the 64<sup>th</sup> BOA in its meeting held on 20<sup>th</sup> February, 2015. The minutes are as under:-

*“The Board noted that the proposal of the co-developer is to develop, operate and maintain Container Terminal and related infrastructure facilities & services and for approval of authorized operations in the processing area of the SEZ. The Board, after deliberations decided to defer the proposal.”*

**The above proposal was considered in the 68<sup>th</sup> BoA meeting held on 30<sup>th</sup> December, 2015. After deliberations, decided to defer the proposal with direction to DC, APSEZ to check with the developer whether they want to operate as a unit in processing area. The Board also directed that a team comprising the representatives of DoC and DoR will examine the proposals at Item Nos. 68.3 (ii), (iii) and (iv) and come out with clear guidelines on priority so that such proposals can be considered by BoA without any delay**

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

**(iv) Request of M/s. Wockhardt Ltd. a co-developer in the sector specific SEZ for Pharmaceuticals at Shendre, Aurangabad District, Maharashtra, being developed by M/s. Wockhardt Infrastructure Development Ltd. for expansion of scope of existing activity**

The above mentioned SEZ stands notified over an area of 107.06 hectares.

M/s. Wockhardt Ltd. had been conferred the co-developer status in the aforesaid SEZ on 28<sup>th</sup> September, 2015 to construct, manage and operate a world class school in the non processing area. Now the developer intends to broaden the scope of existing approval of co-developer and appoint Wockhardt Ltd. as co-developer for Central Utilities also in its SEZ Wockhardt Ltd. as a co-developer will establish, operate, maintain and manage all the existing and future utilities which are set up in processing area of the developer.

Mutual Development agreement dated 3<sup>rd</sup> December, 2015 entered into with the developer has been provided. Draft sub lease deed has also been provided. Lease period is 30 years. The annual ground rent of Rs. 1.86.89,160/- per annum shall be liable to be increased

on the expiry of 30 years from the date of execution of this deed and also at subsequent intervals of 30 years provided that the increase on each occasion may not exceed on quarter of the rent fixed for the preceding 30 years.

The developer has further stated that the existing utilities will be transferred on payment of actual cost and land admeasuring 20,670 sqm. approximately will be transferred through sub lease agreement for 30 years to the co-developer. The land for future utilities will be transferred through sub lease agreement to the co-developer as and when future utilities will be planned. Existing units and future units shall pay charges for utilization of said utilities.

The developer has granted consent to M/s. Wockhardt Ltd. to become a co-developer for the following activities are below:-

1. Central utility
  - (i) Utility block and distribution network
  - (ii) Steam generation plant and chimney
  - (iii) Clean steam generation and supply system Chilled water generation and pumping system
  - (iv) Cooling water generation and pumping system
  - (v) Water for Injection (WFI) generation and pumping system
  - (vi) Demineralized water generation and pumping system
  - (vii) Purified water generation and pumping system
  - (viii) Compressed Air system
2. Heating ventilation & Air conditioning system.

DC, SEEPZ SEZ has recommended the proposal.

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

#### **Item No. 69.10 : Proposals for setting up of SEZs**

**(i) Request of M/s. Saltire Developers Private Limited for setting up of a sector specific SEZ for IT/ITES at Outer Ring Road, Rachanahalli Village, Nagavara, Bangalore, Karnataka, over an area of 4.05 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(i)	M/s. Saltire Developers Private Limited	Outer Ring Road, Rachanahalli Village, Nagavara, Bangalore, Karnataka	IT/ITES	4.05	Yes	NO*	New

*\* The developer vide email dated 05.02.2016 has informed that the above proposal has been considered and approved by the State High Level Clearance Committee (SHLCC) headed by Hon'ble Chief Minister, Government of Karnataka, Constituted in the Department of IT, BT and S&T meeting held on 01.02.2016.*

DC CSEZ has recommended the proposal.

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

**(ii) Request of M/s. Amin Properties LLP for setting up of a sector specific SEZ for IT/ITES at Pujanahalli Village, Devanahalli Taluk, Bangalore, Karnataka, over an area of 2.76 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(ii)	M/s. Amin Properties LLP	Pujanahalli Village, Devanahalli Taluk, Bangalore, Karnataka	IT/ITES	2.76	Yes	NO*	New

*\* The developer vide email dated 05.02.2016 has informed that the above proposal has been considered and approved by the State High Level Clearance Committee (SHLCC) headed by Hon'ble Chief Minister, Government of Karnataka, Constituted in the Department of IT, BT and S&T meeting held on 01.02.2016.*

DC CSEZ has recommended the proposal.

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

**(iii) Request of M/s. Infosys Limited for setting up of a sector specific SEZ for IT/ITES at Plot No. I-3, IT City, Sector – 83, Alpha, SAS Nagar, Mohali, over an area of 20.234 hectares.**

S. No	Name of the Developer	Location	Sector	Area (in ha)	Land Possession	State Govt. Recommendation	Status of application
(ii)	M/s. Infosys Limited	Plot No. I-3, IT City, Sector – 83, Alpha, SAS Nagar, Mohali	IT/ITES	20.234	Yes	Yes (11.07.2014)	New

DC NSEZ has recommended the proposal.

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

#### **Item No. 69.11 : Miscellaneous Cases**

**(i) Request of M/s. Tech Mahindra Limited (formerly M/s. Satyam Computer Services Limited), a co-developer in the sector specific SEZ for IT/ITES at Kancheepuram, Chennai, Tamil Nadu, being developed by Electronic Corporation of Tamil Nadu Limited (ELCOT) for authorized operations.**

The SEZ stands notified over an area of 152.66.5 hectares. M/s. Tech Mahindra Limited (formerly M/s. Satyam Computer Services Limited) is a co-developer for developing an area of 20.23 hectares in the processing area of the SEZ.

Earlier M/s. Satyam Computer Services Limited had requested the following authorised operation in the processing area of the SEZ:



S. No.	Name of the activity	No. of units	Area per unit (in sqm) as per FSI/FAR norms as applicable	Total area (in sqm)
1.	Construction of Guest House/Dormitories	160 rooms in ground + 3 floors	NA	9289.36

The proposal was considered in the 54<sup>th</sup> meeting of BoA held on 14<sup>th</sup> September, 2012 and was rejected as such activities are not permitted in the processing area.

The co-developer has stated that they have constructed Software Development Blocks and Food courts in the allotted area. Since their projects would be running 24/7, they require employee stay facility within the campus which would be used as resting rooms for employees who would be working in critical projects/working late hours for completing the projects and to accommodate their employees travelling from other locations for official purpose. The co-developer has also stated that in the 65<sup>th</sup> BoA meeting held on 19<sup>th</sup> May, 2015, similar proposals were approved by BoA for employee stay facilities in processing area, hence requested to reconsider their proposal.

DC MEPZ SEZ has requested to consider the proposal.

The request of the co-developer for the above authorized operations is placed before BoA for its consideration.

**(ii) Request of M/s Gujarat Industrial Development Corporation (GIDC), for allocation of 5.00 mtr wide corridor through SEZ area at Dahej SEZ for laying pipelines carrying treated effluent from 40 MLD CETP of Dahej**

M/s Gujarat Industrial Development Corporation (GIDC), a Govt. of Gujarat Undertaking has requested for allocation of 5.00 mtr wide corridor passing through Dahej SEZ for laying drainage pipelines carrying treated effluent from 40 MLD CETP at Dahej which is under construction and is expected to be completed by February, 2017.

DC, Dahej SEZ has stated that the proposal was placed in UAC meeting held on 15<sup>th</sup> December, 2015. During the meeting, the representative of GIDC informed that a Common Effluent Treatment Plant (CETP) for Dahej-I and Dahej-II Industrial Estate is under construction. Two proposed pipelines carrying the treated effluent from Pumping Station of CETP to the Final Pumping Station at Ambheta passing through Dahej SEZ have to be laid. Their request is to permit the ROU for 5.00 mtr wide corridor for laying the proposed pipelines passing through the SEZ area. On being asked to explore some other route for laying the pipelines, not passing through the SEZ area the representative of GIDC informed that they have studied various alternative routes but each had some hindrances related to land issues, Gas pipeline corridors, lack of width etc. The representative of Dahej SEZ Ltd.(DSL) present in the meeting informed that the proposal of GIDC submitted to them has been examined at their end and after verification of the proposed route of the pipelines they have given in-principle approval for ROU within the SEZ subject to certain conditions to be strictly followed by GIDC.

After detailed discussion in the committee, it was decided to recommend the request of GIDC for consideration in the forthcoming meeting of BoA as no SEZ benefits will be availed

by GIDC and they agree to strictly abide by the conditions imposed by DSL or any other condition/s imposed by BoA.

DC Dahej SEZ has recommended the proposal.

The proposal is placed before BoA for its consideration.

**(iii) Request of M/s. Indiabulls Industrial Infrastructure Limited, for relaxation of the contiguity of the multi product SEZ at Sinnar MIDC area, Village Musalgaon and Gulvanch, Taluka Sinnar, District Nasik, Maharashtra**

M/s. Indiabulls Industrial Infrastructure Limited was given formal approval on 25<sup>th</sup> June, 2007. The SEZ stands notified, over an area of 1011.264 hectares out of which 512.068 hectares of area is demarcated as processing area and 499.196 hectares is demarcated as non-processing area.

The developer is developing the total processing area of 512.068 hectares in two phases i.e. phase-I for 347.399 hectares of area & phase-II for 164.669 hectares. This processing area has been separated by a road.

The developer submitted the undertaking to provide an underpass/overpass of 60 mtrs X 12 mtrs passing under the village road and internally connecting the SEZ area. This issue was considered in the 27<sup>th</sup> meeting of the BoA held on 01.08.2008. The BOA approved relaxation of contiguity of the SEZ, subject to the following conditions:-

- (i) The developer shall maintain contiguity by dedicated security gates/over bridges/underpass over the road and also fence both sides of the road.*
- (ii) No tax benefits would be available for measures taken to establish contiguity.*
- (iii) No LOA for any units would be issued till the entire measures to establish contiguity and securitization of the processing area are complete.*

The Developer has stated that after obtaining the environment clearance developer has started attempt to attract investors in SEZ. The developer at present is in the process of developing Phase – I of the processing area and following activities have been undertaken after MoEF clearance.

- (a) Master plan layout alongwith necessary drawings and required documents have been submitted to Chief Planner, MIDC along with security fees of Rs. 57.44 lacs.
- (b) Feasibility report regarding Road, Electric Line, drainage line, water supply etc. have been submitted to MIDC.
- (c) Out of 28 kms, 27 kms (approx.) boundary wall have been constructed except 1200 meter pending in Processing area (phase-II).

The development of Phase-II area will be undertaken at a later stage. The construction of underpass/over bridge will result in substantial cost without any immediate business gain the phase-II processing area. Further, out of 6 clients offered the letter of Indent of allotments, 2 units applied for letter of permission. However, UAC in its meeting held on 8.1.2016 has deferred the proposal as the developer has not complied with the condition of maintaining contiguity of the SEZ by constructing an underpass. The developer has requested to defer the condition of connecting the processing area of Phase – I and Phase

– II through underpass/overbridge as compliance of this condition will cool down the recently awakened investor's interest and operationalization of the SEZ will get delayed.

DC, SEEPZ has stated that recently they have received an application of M/s. Koso India Pvt. Ltd. seeking permission to set up a new unit in the SEZ. However, the approval committee deferred to proposal in view of the condition no. (iii) above.

DC SEEPZ SEZ has submitted the proposal for consideration of the Board.

The proposal is placed before BoA for its consideration.

**(iv) Request of M/s. Gigaplex Estate Pvt. Ltd. the developer of sector specific SEZ for IT/ITES at MIDC – TTC, Airoli Knowledge Park, Navi Mumbai, District Thane, Maharashtra for change in shareholding pattern**

The above mentioned SEZ stands notified over an area of 12.91 hectares.

The equity shares of M/s. Gigaplex Estate Pvt. Ltd. were held by 2 entities – namely M/s. K. Raheja Corp Pvt. Ltd. (50.10%) and M/s. J.P. Morgan (49.90%) respectively at the time of receiving the 1<sup>st</sup> LoA on 06.01.2012. Further, the developer has stated that the same shareholding pattern continued up to the 2<sup>nd</sup> notification (addition of area) dated 18.02.2015 and till date. The developer also stated that the business demands have promoted J.P Morgan(JPM)to divest its shareholding within the company. K. Raheja Corp group, by virtue of its larger shareholding status through group entity namely K. Raheja Corp Pvt. Ltd. (KRCPL) has decided to consolidate its shareholding within Gigaplex Estate Pvt. Ltd. (GEPL).

Therefore, 49.90% of the stake hold by M/s. J.P. Morgan would be divested partially to K. Raheja Corp Pvt. Ltd. & M/s. Mindspace business Parks Pvt. Ltd. another company of K. Raheja Corp Group.

DC SEEPZ SEZ has recommended the proposal.

The proposal is placed before BoA for its consideration.

**(v) Proposal of M/s Plastic Processors & Exporters Pvt. Ltd. for reconsideration of request for extension of LoA.**

M/s. Plastic Processors & Exporter Pvt. Ltd. under Noida SEZ was issued LOA dated 05/11/1997 for following activities.

- 1) Plastic Agglomerates /Granules and Plastic Components and Articles
- 2) Production of Silk Yarn
- 3) Trading Activities

The Unit commenced its export activities w.e.f. 15/04/1998. LOA of the unit was originally valid till 31/03/2011. Thereafter LOA was extended by the BOA on yearly/half yearly/quarterly basis upto 30/11/2013 from time to time.

The DOC on 03/10/2013 had sought details of all such similar cases from NSEZ for placing the same before BOA to be held on 17/10/2013. NSEZ vide letter dated 20/09/2013,

requested the Unit to submit APRs for the year 2011 to 2013 along with supporting documents, so as to forward their case to the BOA. However, unit could submit above documents only on 25/11/2013. The unit was issued a show cause notice by NSEZ on 08/09/2014 for non-achievement of positive NFE earnings. In reply, the unit, vide its letter dated 22/09/2014 stated that due to global recession in the year 2008 their orders were suspended and the unit in loss from the period 2009 to 2011. Further the units stated that had their case was been forwarded to the BOA on time, their LOA would also have been extended for 5 years.

The proposal for adjudication of SCN & renewal of LOA was placed before the UAC in its meeting held on 17/10/2014, wherein the UAC perused the contents of SCN and after due deliberations decided to impose a penalty @ 1% of the value of imported goods to be calculated by NSEZ Customs in respect of negative NFE. The UAC also directed the unit to submit revised business plan for next five years along with an affidavit to comply with the guidelines issued by DoC for plastic units so as to forward their request to BOA for consideration of renewal of LOA.

The unit vide their letter dated 31/10/2014 had submitted business plan, revised projections and affidavit as per Approval Committee's decision. As per the business plan, the unit stated to have 10 Agglomerator plants, with two generator sets of 250KW each, and as such they have enough resources to produce 15000 Mts of plastic agglomerates. The unit also stated that around 200 unskilled labour employed in their unit and their NFE earning for next 5 years was Rs.7362.80 lakhs (**Annexure-1**). The unit has also submitted affidavit to comply with the guidelines issued by the DOC for plastic units on 17/09/2013.

Subsequently, the proposal of M/s. Plastic Processors & Exporters Pvt. Ltd. was recommended by NSEZ on 05/11/2014 to the BOA for consideration. The above case was considered by the BOA in its meeting held on 19/05/2015, in which the BOA deferred the case to its next meeting.

The case was again considered by the BOA in its meeting held on 09/10/2015. The BOA noted that the unit is lying dormant for many years and has been unable to discharge its prescribed export obligations and therefore rejected the request for renewal of LOA. The unit has stated that opportunity of being heard was not given to them.

The unit, vide its letter dated 12/11/2015, submitted a representation against the decision of BOA and reiterated that their LOA was previously extended for 3 months in installment for last one & half years and due to such practice of extension of LOA for such short time, the logistic & operational problem arose. The unit has stated that due to short extension of LOA, they could not place order to their overseas suppliers for sending raw material in anticipation of extension of LOA, rather they could place order only after extension of LOA. The unit had further stated that since their raw material is voluminous and imported through the sea route only, it takes three to four months to reach the destination. Hence it became impossible to carry out their operation at NSEZ unit within such short time extension of LOA. It is noted that NSEZ has initiated action to evict the unit from their allotted plot.

The request of M/s Plastic Processor for reconsideration of their proposal for grant of LOA for a period of five years is placed before the BOA for a decision.

**(vi) Proposal of M/s. MMG Impex, a unit in MEPZ to reconsider the proposal for manufacture of additional items of sandalwoods.**

The above mentioned unit was granted LoP on 6<sup>th</sup> June, 2012 for manufacture and export of sandalwood. The proposal was came before the 60<sup>th</sup> meeting of BOA held on 08.11.2013 for manufacturing of following items:-

- (i) Sandalwood handicraft products
- (ii) Sandalwood machine made products
- (iii)Sandalwood chips (upto 50 grams per piece)
- (iv)Sandalwood power/dust
- (v) Sandalwood flakes/scrap/waste

However, the BoA after deliberations had rejected the proposal due to MoEF expressed his reservations on the said proposal.

Again, the unit vide letter dated 30.12.2013 applied to the MOC to reconsider the proposal at par with M/s. Sai Lalith Fragrances which was granted approval for manufacture of similar products by the 35<sup>th</sup> BoA held on 11<sup>th</sup> August, 2009. The matter was considered in 63<sup>rd</sup> BoA meeting held on 18.09.2014. “After deliberations, the Board approved the proposal for setting up export unit in respect of machine finished sandalwood products (ITC(HS) Code 44090000) & finished handicraft products of sandalwood (ITC(HS) Code 44200000)”.

It may be pointed out that in the 35<sup>th</sup> meeting held on 11.08.2009, the BoA had approved the broad banding to manufacture machine finished sandalwood, chips, dust and powder from ingeniously procured sandalwood i.r.o. M/s. Sai Laith Fragrances, a similar unit in MEPZ SEZ. DC MEPZ was also directed to certify the source of procurement so as to ensure that no contraband sandalwood is used by the firm.

Now, the unit has again requested for consideration of following three items before BOA.

- (a) Sandalwood chips (upto 50 grams per piece)
- (b) Sandalwood powder/dust
- (c) Sandalwood flakes/scrap/waste

DC MEPZ has recommended the request for its consideration by BoA (**Annexure-2**).

The proposals are placed before BoA for its consideration.

**(vii) Clarification /instruction to be issued regarding Rule 74A of SEZ Rules, 2006.**

The applicability of Rule 74 A of the SEZ Rules, 2006 in the case of change of name, business transfer arrangements, court approved mergers/ de-mergers, slump sale, change of constitution from proprietorship to partnership & vice-versa, change of constitution from public limited company to private/ limited liability company & vice-versa, company to partnership & vice-versa, change in shareholding etc. and whether to treat such cases as an exit from the SEZ scheme has been under consideration. The matter has been raised by the DCs for clarifications. Representations have also been received for issuance of instructions/clarifications in this regard.

2. The different kinds of Business Restructurings so far as SEZ units are concerned where Rule 74 A gets invoked are as under:-

### **Mergers & Amalgamation**

- a 'merger' is a combination of two or more entities into one; the desired effect being not just the accumulation of assets and liabilities of the distinct entities, but organization of such entity into one business. Generally, in a merger, the merging entities would cease to be in existence and would merge into a single surviving entity. Sections 390 to 394 of Companies Act 1956 and Section 230 to 234 of Companies Act 2013 govern mergers and schemes of arrangements between a company, its shareholders and creditors.
- since a merger essentially involves an arrangement between the merging companies and their respective shareholders, each of the companies proposing to merge with the other(s) must make an application to the Company Court having jurisdiction over such company for calling meetings of its respective shareholders and/or creditors. The Court may then order a meeting of the creditors/shareholders of the company. If the majority in number representing 3/4th in value of the creditors and shareholders present and voting at such meeting agree to the merger, then the merger, if sanctioned by the Court, is binding on all creditors/shareholders of the company.
- the Merger Provisions constitute a comprehensive code in themselves, and under these provisions Courts have full power to sanction any alterations in the corporate structure of a company.

### **Types of Mergers**

1. *Merger of Subsidiary Co. with Holding Co.*
2. *Merger of Holding Co. with Subsidiary Co.*
3. *Merger of 2 Subsidiary Co. belonging to same Holding Co.*
4. *Merger of 2 Subsidiary Co. belonging to same Ultimate Shareholders.*

### **De-Mergers**

Another form of acquisitions may be by way of demerger. A demerger is a reorganization tool that is increasingly being used by companies to segregate their core and non-core businesses. It is the opposite of a merger, involving the splitting up of one entity into two or more entities. An entity which has more than one business, may decide to 'hive off' or 'spin off' one of its businesses into a new entity. The shareholders of the original entity would generally receive shares of the new entity.

- Demerger is also a scheme of arrangement under sections 391-394 of the Companies Act, 1956, of one or more undertakings of the company. The company transferring the undertakings is referred to as the 'demerged company' and the company to which the undertakings of the demerged company are transferred is referred to as the 'resulting company'.

- As in the case of mergers, demergers are also a court-driven process, which require the sanction of jurisdictional High Courts/the NCLT, along with the approval of shareholders, creditors and other regulatory authorities.

### **Types of De-mergers**

1. *Demerger of Division (ie SEZ Unit) to Wholly Owned Subsidiary (WOS Co)/ THIRD PARTY*
2. *Demerger of Division (ie SEZ Unit) of Step Down subsidiary to THIRD PARTY*

### **Business Acquisitions**

An ‘acquisition’ or ‘takeover’ is the purchase by one person, of controlling interest in the share capital, or all or substantially all of the assets and/or liabilities, of the target. Acquisitions may be by way of acquisition of shares of the target, or acquisition of assets and liabilities of the target. In the latter case the business of the target is usually acquired on a going concern basis.

### **Slump Sale**

- Transfer of identified business for lump sum consideration
- In consideration, buyer issues shares / pays cash to seller
- No Court interference - can be achieved through shareholder resolution and Business Transfer Agreement
- Also possible under High Court approval route through Scheme of Arrangement
- Useful for disinvestment of non-core businesses
- No Tax impact on SEZ Unit of the SUB Co – it continues operations in the SEZ and is eligible for unexpired period of tax holiday as provided under Section 10AA(5) of the Income Tax Act, 1961.
- No impact on customs duty/ VAT/ service tax and other benefits as available to a SEZ Unit.
- NO OPERATIONAL IMPACT under SEZ legislation, only Administrative change in letter of Approval required

3. It has been represented that in such situations, there is no impact to continuity of operations of the SEZ unit but is a change accepted in law. It has therefore been suggested that a clarification may be issued to the effect that as a result of change of name, business transfer arrangements, court approved mergers/ de-mergers, slump sale, change of constitution from proprietorship to partnership & vice-versa, change of constitution from public limited company to private/ limited liability company & vice-versa, company to partnership & vice-versa, change in shareholding etc and per se are not opting out/ exiting out of the SEZ scheme, Rule 74 A of SEZ Rules shall not apply to SEZ Units that do not exit or opt out of the SEZ Scheme by transferring its assets and liabilities to another person and the SEZ Unit continues to operate as a going concern.

4. It has been felt that the suggestion was largely acceptable barring inclusion of business transfer arrangements and cases of change in shareholding of more than 50 %. It has been felt that the cases of business transfer arrangements was a very loose term and need

be excluded while issuing instructions in this regard that such cases if considered to be allowed should only be decided on merits with the approval of the BOA and that only cases where the change in share holding is only up to 50 % should be brought within the ambit of the proposed instructions.

8. A detailed Note in this regard is at **Annexure-3**. The matter is placed before the BOA for consideration and appropriate decision.

#### **Item No. 69.12 : Appeals before BoA**

##### **(i) Appeal of M/s. Regal Jewellery Mfg. Co., a unit in NSEZ against order dated 18<sup>th</sup> January, 2016 passed by UAC, NSEZ**

The Unit was issued LOA on 15.03.2000 for manufacture & export of hand crafted plain gold jewellery. In the year 2000, the unit has started commercial production in November 2000 at the plot no. 160 NSEZ. After the growth of the business, the appellant acquired plot no 159 with built in factory, NSEZ, Noida being the adjacent plot from M/s. Yellow Metal Inc. The NSEZ has granted permission and NOC for transfer of building – plot no. 159 NSEZ, Noida in favour of the appellant/application vide letter dated 06.05.2003 with the following conditions:-

- (a) The unit shall pay the applicable lease rentals and other charges as per applicable rates in respect of plot No. 159, NSEZ (i.e. Rs. 55/per Sq. mtrs per annum) and obtain NOC from financial institutions/banks/UPPCL and payment of Stamp duty etc., if applicable.
- (b) The unit also executes a fresh sub-lease agreement with NSEZ i.r.o Plot No. 159, NSEZ within one month from the date of physical possession of the plot i.e. 01.07.2013.

M/s Regal Jewellery Mfg. Co. has proposed to transfer of its assets at Plot No. 159 & 160 NSEZ in favour of M/s SI Overseas Jewellery and M/s Bera Enterprises under Rule 74A of SEZ Rules. The matter was placed before the UAC meeting held on 22/6/2015 and approved the proposal subject to fulfillment of exit formalities by M/s Regal Jewellery Mfg. Co., payment of applicable transfer charges and submission of an undertaking by incoming entrepreneurs regarding taking over the assets and liabilities of the existing unit. Subsequently, O/o DC, NSEZ vide letter dated 13/7/2015 has conveyed in-principle approval for transfer of building erected at Plot No. 159, NSEZ in favour of M/s S.I. Overseas Jewellers subject to certain conditions. Further, vide letter dated 24/9/2015, exit of the unit under Rule 74A of SEZ rules was issued. However, subsequently the unit holder was asked to appear before JDC, NSEZ regarding non-execution of lease deed since 2003 for plot No. 159 in spite of DC, NSEZ letter No. EM/121/92-93 dated 06.05.2003 advising the unit to execute lease deed. The proprietor of the company while accepted the lapse on the part of his unit, submitted that it was purely unintentional and the unit has been working from both the plots and paying lease rents regularly. The unit holder also appeared before the UAC meeting held on 6.1.2016 and reiterated his submission.

The UAC in its meeting held on 6.1.2016 has observed that the unit has violated the conditions of allotment contained in the allotment letter and it has failed to execute fresh sub lease agreement with NSEZ in respect of plot No 159. The UAC further observed that the unit does not meet the requirement of Rule 74A which categorically provides ‘ the unit has held a valid LoA as well as lease of land for not less than a period of 5 years as on date of



transfer'. The UAC after deliberation not approved the transfer of assets and liabilities in respect of Plot No. 159 and also gave following two options:

(i) In case the unit wants to continue its operations in NSEZ, their LoA & lease of land will be renewed and the transfer charges paid by them shall be refunded.

**Or**

(ii) In case unit still wants to exit, then they will have to surrender plot no. 159, to the NSEZ Authority as its lease deed has not been executed and UAC will allow transfer of Plot No. 160, NSEZ. Once the surrenders plot no. 159 to the NSEZ, a valuation will be carried out by Government approved valuer and the plot will be put up for auction for valid LoA holder as per the provisions prescribed by NSEZ Authority. The value of building will be given to the unit as assessed by Govt. approved valuer.

The above decision of the UAC was communicated to the unit vide letter dated 18.01.2016. Against the above decision, the appellant has filed the instant appeal (**Annexure-4**).

The appeal is placed before the BoA for consideration.

**(ii) Appeal of M/s. Singhvi Tradelink LLP (formerly M/s. Singhvi Tradelink Private Limited), a unit in KASEZ against order dated 7<sup>th</sup> January, 2016 passed by UAC**

The Unit has submitted application dated 07.10.2015 to the Approval Committee through the DC, KASEZ for approval of proposal for setting up of a unit for manufacturing of LDPE/HD/PP/PVC in flakes, agglomerates, powder etc. and all types of polymer under the Rule 18(4) of the SEZ Rules, 2006. The most important transformation of petrochemical product is polymerization. It is a process through which various combinations of several molecules one single compound viz. Ethylene or propylene gets transformed into a long chain. The compounds of this mature and process are known as Polymers and the material from which they are derived is called monomers. The final product recycled shall be polymer of various types.

The above proposal came for the consideration of 89<sup>th</sup> Approval Committee meeting held on 23.12.2015 and after consideration, the UAC vide letter dated 07.01.2016 has rejected the above proposal stating that the proposal falling under the purview of Rule 18(4) of SEZ Rules, 2006.

Being aggrieved with the impugned order dated 07.01.2016 of the applicant prefer an appeal before the BoA under the provision of Rule 55 of the SEZ Rules, 2006. Further, the Appellant stated that he was not heard by the UAC before passing the above order which is illegal and arbitrary, whereas in the earlier cases like M/s. Swayam Corporation and M/s. Sarthak Warehousing were referred to BoA for consideration.

The appellant has also stated that the recycling of plastic waste is non polluting as there is no any washing involved. The Appellant has undertaken that he will obtain necessary consent/NOC from Gujarat pollution Control Board before starting the production but this has not been considered by the respondent. Further, the appellant has stated that there are about 21 units in KASEZ and 8 unit in FSEZ undertaking / manufacturing of recycling of plastic waste/scrap whereas their LoAs although there is a quantity restriction (as per Rule

18(4) (b) of the SEZ Rules, 2006) about this condition is never insisted or monitored by the DC concerned.

In the light of above mentioned position, the Appellant requested the Hon'ble Board of Approval (BoA) to consider his proposal and set aside and quash the order dated 18.01.2016 passed by the KASEZ and consider the proposal of the Appellant a fresh case and issue the LoA in f/o Appellant for manufacturing of LDPE/HD/PP/PVC in flakes, agglomerates, powder etc and all types of polymers.

The appellant has filed the instant appeal against the above rejection (**Annexure-5**).

The appeal is placed before the BoA for consideration.

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