

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

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Udyog Bhawan, New Delhi
Dated the 12th April, 2019

OFFICE MEMORANDUM

Subject: Supplementary Agenda for the (89th) Meeting of the Board of Approval on Special Economic Zones (SEZs) scheduled to be held on 22nd April, 2019 at 11.30 A.M in Room No. 108 Udyog Bhawan, New Delhi – Forwarding supplementary agenda thereof.

In continuation of this Department's O.M of even number dated 5th April, 2019 the undersigned is directed to forward herewith the **Supplementary Agenda** for the 89th meeting of the Board of Approval for SEZs scheduled to be held on 22nd April, 2019, for information and necessary action. Soft copy of the supplementary agenda has also been hosted on the website: www.sezindia.gov.in. The addressees located outside Delhi are requested to download the supplementary agenda from the above mentioned website.

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



(Aditya Narayan)

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To

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4. Joint Secretary, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, Krishi Bhawan, New Delhi.
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17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi
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20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
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22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai - 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, Atladra Padra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam - 3
36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.

40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
42. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), Vallabh Bhavan, Bhopal (Fax: 0755-2559974)

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

Supplementary Agenda for the 89th meeting of the Board of Approval to be held on 22nd April, 2019 at 11.30 A.M. in Room No. 108 , Udyog Bhawan, New Delhi

89.12 Request for extension of LoP for 3rd year

- *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 (LoA)s i.r.o units in SEZs are governed by Rule 19(4) of SEZ Rules.*
- *Rule 19(4) states that an LoA shall be valid for one year. First Proviso grants power to DCs for extending the LoA not exceeding 2 years. Second Proviso grants further power to DCs for extending the LoA for one more year but subject to the condition that two-thirds of activities including construction, relating to the setting up of the Unit is complete and a Chartered Engineer's certificate to this effect is submitted by the entrepreneur.*
- *Extensions beyond 3rd year (in cases where two-third activities are not complete) and 4th year are granted by BoA.*
- *BoA can extend the validity for a period of one year at a time.*
- *There is no time limit up to which the Board can extend the validity.*

89.12 (i) Request of M/s. Lupin Ltd. in Indore SEZ for extension of Letter of Permission (LOP) beyond 11.04.2019 for one year upto 11.04.2020.

- LOP issued on (date) : 12.04.2016
- Nature of business of the Unit : Manufacturing of Pharmaceutical Formulations – Metered Dose Inhalers (MDI) and Dry Powder Inhalers (DPI)
- No of Extensions : Two by DC, Indore
- Lop valid upto (date) : 11.04.2019
- Request : for further extension for one year, up to 11.04.2020

(a) Details of Business plan:

S.No	Type of Cost	Proposed investment (Rs. in Cr)
1	Land	3.86
2	Land and site development	1.00
3	Civil Construction work	46.97
4	Plant & Machinery (including Electrical Installation, Utilities and Computers etc.)	143.86
5	Other Pre-Operative Expense	10.00
Total		205.69

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

S.No.	Type of Cost	Total Investment made so far (Rs. in Cr) upto 28.03.2019	Incremental Investment since last extension (Rs. in Cr) upto 28.03.2019
1	Land	3.72	0.00
2	Civil	18.39	18.39
3	Electrical	0.06	0.06
4	Equipment	20.46	20.46
5	HVAC	0.27	0.27
6	Utility	0.03	0.03
7	QC Instruments	0.18	0.18
	Total	43.11	39.39

(b) Details of Physical Progress till date (28.03.2019):-

S.No.	Activity	% completion	% completion during last one year	Deadline for completion of balance work
1	Main Building	65%	65%	31 st October, 2019
2	Utility/Pump Room	62%	62%	
3	ETP	35%	35%	
4	Road	20%	20%	

Detailed reasons for delay:

The unit was allotted plot no. M-1 admeasuring 50,039 sq. mtrs. of land in SEZ Phase II by the Developer against a separate LoA. However, owing to the change in business plan, out of the allotted 50,039 sq. mtrs. of land, 36,035 sq.mtrs. was demarcated for the SEZ unit under the instant LoA dated 12.04.2016 and an additional land measuring 16,754 sq. mtrs. in Plot No. M-3A was taken from the Developer. Therefore, the SEZ unit under the instant LoA is on plot nos.M-1 and M-3A comprises of 52,789 sq. mtrs. of land. The delay in apportionment of land resulted in delayed start of the project as there was delay in execution of the Bond-cum-LuT which could be executed only on 16.03.2018, pursuant to which the unit initiated procurement of goods and in the past 11 months have so far placed orders worth Rs.13,684 lacs in relation to the construction activity undertaken on the above plots. .

Recommendation by DC

The instant request for extension of validity is beyond the 2nd year of expiry of the original validity, and as per 2nd proviso of Rule 19(4) of SEZ Rules, 2006, the Development Commissioner may grant further extension of one 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.

In this case, however, the requisite two third activities have not been completed as the unit is still under construction. The unit had submitted the CA certificate and actual site photographs to DC, Indore SEZ.

DC, Indore SEZ has recommended the request of extension of LOP for a further period of one year up to 11.04.2020 in view of the following:

- (i) Unit has made expenditure of Rs.43.11 crores till 28.03.2019 and the construction activities are in full swing and are expected to be completed by November, 2019.
- (ii) The unit has expressed their commitment to commence production before 31.03.2020.

The request is placed before BOA for its consideration.

Item No. 89.13 Proposal for setting up of an SEZ (one proposal)

89.13 (i) Request of M/s. Yash Technologies Pvt. Ltd. for setting up of an SEZ for IT/ITES at Plot No. 1, Scheme No. 166, Distt. Indore, Madhya Pradesh over an area of 5.719 hectares.

The prescribed documents for setting up of new SEZ for the consideration of the BoA and the status thereof as informed by DC, Indore are as follows:-

S. N.	Condition/Documents required	Status
A.	Documents required for setting up of SEZ in terms of Rule 3 of SEZ Rules, 2006:	
(i)	Completed Form A (with enclosures)	
	a) Total Proposed Investments :	Rs.199.54 crores
	b) In case of FDI amount & Source of origin :	Nil
	c) Proposed Employment (in Nos.) :	Direct : 16200 Indirect : 2048
	d) Proposed Exports (in US\$) :	Rs.2000 crores
(ii)	DC's Inspection Report	As in the forwarding letter
(iii)	State Government's recommendation	Industrial Policy & Investment Promotion Department of Govt. of Madhya Pradesh vide letter dated 08.04.2019 has recommended the proposal for grant of formal approval.
(iv)	Recommendation for National Security Clearance (NSC) from Ministry of Home Affairs as per Rule 3 of SEZ Rules, 2006	DC, Indore has stated that the company setting up SEZ is based in India and all the Directors are Indian nationals. However the project is coming up in Indore and has proximity to Raja Rammanna Centre for Advanced Technology, which is a unit of Department of Atomic Energy, Otherwise also, there are number of Defence installations in Mhow, which is adjoining Indore. <u>Accordingly, National Security Clearance may be obtained. Self declaration of the developer not received.</u>
B.	Minimum area requirements in terms of Rule 5 of SEZ Rules, 2006:	
	Fulfillment of minimum land area requirement in terms of the Rule 5 of the SEZ Rules, 2006 (40 hectares)	DC, Indore has stated that the minimum built up area requirement is 50,000 sq. mtr. And the Developer in its proposal has undertaken

		to have minimum built up area of 50,000 sq. mtr. for the SEZ. The minimum built up area. Undertaking of the developer not available.
C.	Details to be furnished for issue of notification for declaration of an area as SEZ in terms of Rule 7 of SEZ Rules, 2006:	
	Certificate from the concerned State Government or its authorized agency stating that the Developer(s) have;	
(i)	Legal possession	The Indore Development Authority has certified the legal possession, free hold rights of developer and free from all encumbrances vide letter dated 11.04.2019. Land allotment order dated 13.03.2019 has been provided.
(ii)	Irrevocable rights to develop the said area as SEZ	
(iii)	that the said area is free from all encumbrances	
(iv)	Where the Developer has leasehold right over the identified area, the lease shall be for a period not less than twenty years	Land is under legal possession
(v)	The identified area shall be Contiguous, Vacant and No public thoroughfare	The Indore Development Authority has certified that the area is contiguous, vacant and there is no public thorough fare.

Recommendation of DC:

DC, Indore SEZ has requested to place the proposal before the Board of Approval for consideration.

Accordingly, the request is placed before BoA for its consideration.

89.14 Proposal of the unit for renewal of LoA for next five years.

89.14(i) Proposal of M/s Sameer Industries for renewal of LOA for next five years in terms of Rule 18(4) (d) of SEZ Rules 2006.

M/s Sameer Industries had been issued LOA dated 23.09.1995 for "Manufacture of Recycled Items from imported scrap such as Mild Steel Scrap, Heavy Melting Scrap, Cast Iron Scrap, Copper, Brass, Aluminium and other Minor Metal Scrap, etc". The unit commenced its production w.e.f. 01.07.1996.

The unit was given permission for broad banding for "cleaving of rough diamonds" and "processing of cereals, oil seeds and agro products" from time to time. The renewal of LoA was due w.e.f. 01.11.2005 which was not considered for want of clearance from GPCB for consent and authorization. Gujarat Pollution Control Board issued the NOC on 24.10.2008.

In the 33rd meeting of the BoA held on 02.06.2009, the extension of LoA was granted for a period of five years viz. 31.10.2005 to 31.10.2010. Thus actually the validity left for operation of the unit was only for the period between 02.06.2009 to 31.10.2010. The unit again applied for further extension on 30.11.2010 which was rejected by BoA in its 44th meeting held on 14.01.2011 on the ground that there was no activity during the last five years. The request for renewal of the unit was deliberated in the 61st meeting of the BoA held on 03.04.2014 keeping in

view the certificate issued by GPCB which was valid upto 20.08.2014 and the positive NFE achieved by the unit in the previous block of five years as stated by DC, KASEZ. The Board after deliberations extended the validity of the LoP for a further period of two years from 03.04.2014 upto 02.04.2016 subject to the following conditions:-

- (i) The extension of LoP will be subject to further extension of their permission by GPCB beyond 20.08.2014.
- (ii) The extension of LOP will be subject to fulfillment of all the conditions mentioned in GPCB's permission and other usual conditions of LOP.
- (iii) The extension of LOP is only i.r.o. items and quantity indicated in the original LOP and no broad-banding of any other item shall be allowed.

The Board also directed DoC to come up with the policy for such recycled items in a time bound manner.

Thereafter, the request of the unit for further extension of LoA was considered in the 71st meeting of the BoA held on 22.06.2016 wherein the Board deferred the proposal and directed DC, KASEZ to verify the correct block of five years and verify the NFE performance of the unit during that period. The matter was again placed before the Board in its 72nd meeting held on 12.08.2016 along with the details of NFE performance and correct block of five years. The Board, after deliberations extended the validity of the LoP for the remaining period of 5 year block till 02.04.2019 subject to the conditions recommended by DC, KASEZ i.e.

- (i) The extension of LoP will be subject to fulfillment of all the conditions mentioned in GPCB's permission and other usual conditions of LoP.
- (ii) No broad banding of any other item shall be allowed.
- (iii) The pending export obligation of previous two years shall be achieved during next further period of three years.
- (iv) No import of any items falling under the schedule VI of new HW(MH&TM) Rules, 2016 w.e.f. 04.04.2016 which is prohibited for import shall be allowed.

The unit has now requested for further renewal of their LoA for next five years. As per Rule 19 (6A)(1) of SEZ Rules, the units which intend to renew the validity of Letter of Approval shall submit, before two months from the date of expiry of the LOA, the completed application in Form F1 alongwith requisite documents to DC. The unit has filed form F-1 for renewal of their LoA on 27.03.2019 i.e. after a delay of 54 days and the Development Commissioner has condoned the delay.

According to F-1, the annual performance of the unit in the last block of five years is as under-

Year	Free on board value of Export	Foreign Exchange Outgo	(In Lakhs)
			Net Foreign Exchange Earnings
2014-15	342.60	659.70	-317.10
2015-16	921.25	1129.00	-207.75
2016-17	41.04	46.47	-5.43
2017-18	296.16	270.62	25.54
2018-19	836.71	516.69	320.02
Total	2437.76	2622.59	-184.83

The unit has shown projection for next five years as mentioned below-

Year	(In lakhs)		
	Free on board value of Export	Foreign Exchange Outgo	Net Foreign Exchange Earnings
1 st year	730.00	600.00	130.00
2 nd year	847.00	700.00	147.00
3 rd year	978.00	800.00	178.00
4 th year	1109.00	900.00	209.00
5 th year	1250.00	1000.00	250.00
Total	4912.00	4000.00	914.00

Further, in terms of criteria laid down under Rule 19 (6B) evaluation of performance of the unit is as under-

- (i) Export performance of the unit in last five years as mentioned above.
- (ii) Employment generated- Presently, they employ around 33 (Men 30 + Women 3) unskilled and skilled labours. The employment will increase to 53 (Men 50 + Women 3) labours in the next block of five years.
- (iii) Instance of violation of applicable statutes related to the functioning of the unit- No such case noticed in the last five years. However, from the available records of Customs D&R Section of KASEZ, one case is pending against the unit in CESTAT with unconditional Stay granted by CESTAT vide S/1766-1769/WZB/AHD/2012 dated 21.08.2012 till disposal of appeal. Further, SCN dated 03.07.2017 was issued for negative NFE in block period 2006-11 and giving false information in their APRs, the case is presently under adjudication process.
- (iv) Cases of default, if any, of statutory payments- The unit has paid rental dues on account of Lease Rent to KASEZ Authority till 31.03.2019.
- (v) Undertaking of any activity not sanctioned or approved by the Development Commissioner – No such case noticed in the last five years.

For the last five year block period of 2014-2019, the said unit is NFE negative to the tune of Rs. 184.83 lakhs as per renewal application submitted in Form F1 and for such shortfall of NFE, the unit has deposited Rs. 1.85 lakhs being 1% of the short fall in Govt. Account in terms of amended Rule 80 of the SEZ Rules which stipulates that “If an Special Economic Zone Unit, in case of *bona fide* default, fails to achieve the minimum specified Net Foreign Exchange or specified value addition, then such shortfall may be regularised after the Unit deposits an amount equal to one per cent. of shortfall in Free on Board Value.”.

Rule position :

18. Consideration of proposals for setting up of Unit in a Special Economic Zone

(4) No proposal shall be considered for –

d) import of other used goods for recycling;

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

Provided further that reconditioning, repair, and re-engineering may be permitted subject to the condition that exports shall have one to one correlation with imports and all the reconditioned or repaired or re-engineered products and scrap or remnants or waste shall be exported and none of these goods shall be allowed to be sold in the Domestic Tariff Area or destroyed;

Rules 12(6) & (7) of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 dated 04.04.2016 stipulate that

(6) No import of the hazardous and other wastes specified in Schedule VI shall be permitted.

(7) The export of hazardous and other wastes from India listed in Part A and Part B of Schedule III and Schedule VI shall be with the permission of Ministry of Environment, Forest and Climate Change. In case of applications for export of hazardous and other waste listed in Part A of Schedule III and Schedule VI, they shall be considered on the basis of prior informed consent of the importing country.

Recommendation by DC

DC, KASEZ has forwarded the request of M/s Sameer Industries for renewal of LOA for next five years beyond 03.04.2019 for placing before BOA in terms of Rule 18(4) (d) of SEZ Rules, 2006, with the following recommendations:-

- (i) The extension of LoP will be subject to fulfillment of all the conditions mentioned in GPCB's permission and other usual conditions of LoP. As the unit is importing sensitive items and as it has negative Net Foreign Exchange Earning, renewal of their LoA is not recommended.
- (ii) No broad banding of any other item shall be allowed, in case it is renewed.
- (iii) No import of any items falling under the Schedule VI of new HW (MH&TM) Rules, 2016 w.e.f 04.04.2016, as amended, which is prohibited for import shall be allowed.

The request is placed before BoA for its consideration.
