



Government of India
Ministry of Commerce & Industry
Department of Commerce
Office of the Development Commissioner
Indore Special Economic Zone
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F. No. D-3/ISEZ/2006-07/ 1309.

Dated: 22.12.2022

OFFICE – MEMORANDUM

Sub: Eighth Meeting (2022-23 series) of the Approval Committee for Indore SEZ to be held on 26.12.2022 at 3:00 p.m. – Reg.

The undersigned is directed to inform you that the Eighth Meeting (2022-23 series) of the Approval Committee constituted by the Govt. of India vide Notification dated 07.02.2007 has been scheduled to be held in this office at 3:00 p.m. on 26.12.2022 under the chairmanship of the Development Commissioner, Indore SEZ. Agenda Item(s) for the same are enclosed as Annexure A.

2. You are requested to kindly make it convenient to attend the meeting.

(Ravi Chhangani)

Asstt. Development Commissioner
For Development Commissioner

To

1. The Commissioner, Indore Division, Moti Bungalow, Indore (**Member representing Govt. of Madhya Pradesh**) or his nominee of suitable seniority.
2. The Managing Director, MPIDC, CedmapBhawan, 16-A, Jail Road, Arera Hills Bhopal (**Member representing Govt. of Madhya Pradesh**) or his nominee of suitable seniority.
3. The Commissioner, Customs, Office of the Commissioner of Customs, B-Zone, Business Space, 3rd Floor, 12/27 & 12/28 Village Pipliakumar, Nipania, Indore-452010 (M.P.) (**Member representing Deptt. of Revenue, Govt. of India**) or his nominee of suitable seniority.
4. The Commissioner of Income Tax (CIT-I), Office of the Chief Commissioner of Income Tax, AayakarBhawanAnnexe, Opp. White Church, Indore-1 (**Member representing Deptt. of Revenue, Govt. of India**) or his nominee of suitable seniority.
5. The Jt. Director General of Foreign Trade, NirmanSadon, Arera Hills, Hoshangabad Road, Bhopal (**Member**) or his nominee.

6. The Executive Director, MPIDC Regional Office, 1st Floor, Atulya IT Park, Near Crystal IT Park, Khandwa Road, Indore or his representative (**Special Invitee**).
7. The Dy. Secretary to the Govt. of India, Ministry of Commerce & Industry, Deptt. of Commerce, SEZ, UdyogBhawan, New Delhi (**Member**) or his nominee.
8. The Dy. Secretary (IF-I), Ministry of Finance, Department of Financial Services, Jeevan Deep Building, Parliament Street, New Delhi (**Member**) or his nominee.
9. The Specified Officer, Indore SEZ (**Special Invitee**).

INDORE SPECIAL ECONOMIC ZONE**AGENDA FOR THE EIGHTH MEETING OF UNIT APPROVAL COMMITTEE
(2022-23 series) TO BE HELD AT 3:00 p.m. ON 26.12.2022**

Venue: Office of the Development Commissioner, Indore SEZ
207,2nd Floor, Atulya IT Park, Near Crystal IT Park, Khandwa
Road, Indore

Time: 3:00 p.m.

ITEM NO - 1

Ratification of the Minutes of the Seventh Meeting (2022-23 series) held on 03.11.2022 as at Appendix 'X'.

ITEM NO - 2**PROPOSAL RELATED TO EXISTING UNIT(S)**

PROPOSAL NO. 2(i): M/s Geotech Worldwide (a division of Neo Corp International Ltd.) and M/s Techtex(a unit of Commercial Syn Bags Limited)

<u>I. COMPANY/UNIT PROFILE</u>	
(a)Name and address, telephone/fax/email id	M/s Techtex(a unit of Commercial Syn Bags Limited) Address: 'Commercial House', 3-4 Jaora Compound, M.Y.H Road, Indore – 452 001
(b) Issue	Acquisition of leasehold land, building and allied structures, plant and machinery of Geotech Worldwide, a division of New Corp International Ltd.- Application for transfer of LoA in the name of M/s Techtex(a unit of Commercial Syn Bags Limited) :- M/s Geotech Worldwide (a division of New Corp International Ltd.) was granted LoA No. C-57/ISEZ/Proj./2010-11/1861 dated 15.02.2011 for manufacturing Low Shrinkage Carpet Fabric, Geotextile, Ground cover, PP Woven Fabric (Ventilated) and PP Tape. The unit executed lease deed of plot Nos. A-12 & A-13 in SEZ Phase II, Pithampur with the Developer, MPIDC Ltd., Regional Office, Indore (erstwhile MPAKVN (Indore) Ltd.) on 27.04.2011. As per records, the unit commenced production on the allotted plots on 02.04.2013. Upon the request of the unit the subject LoA was renewed for a further period of five years and is presently valid up to 31.03.2023.

M/s Commercial Syn Bags Ltd. is holding LoA No. C-114/ISEZ/Proj./2016-17/1543 dated 02.12.2016 for manufacturing and export of Jumbo Bags (FIBCs), PP/HDPE Woven Sacks/Bags, PP/HDPE Woven Fabric & HDPE/PP Tarpauline and is operational on plot Nos. 16 to 18 in SEZ Phase I.

M/s Commercial Syn Bags Ltd. submitted the captioned request intimating this office that they have acquired the subject assets i.e. leasehold land, building and allied structures, plant and machinery of M/s Geotech Worldwide, a division of New Corp International Ltd. lying at plot Nos. A-12 & A-13 admeasuring 16,423 sq. mtrs. in SEZ Phase II, Pithampur, Distt. Dhar, M.P. under an e-auction from the Official Liquidator with the bid amount of Rs. 30,51,46,643/- on 30.06.2022.

The Company informed that they have accepted the Letter of Intent dated 02.07.2022 for sale of assets issued by the Official Liquidator and has made the full payment of the sale consideration pursuant to which the Certificate of Sale and possession letter has been issued to them by the Official Liquidator.

The Company further informed that as per the certificate of sale dated 22.07.2022 and Hon'ble NCLT, Mumbai Bench Order dated 05.08.2021, M/s Geotech Worldwide, a division of New Corp International Ltd. has been sold as a going concern by the Official liquidator appointed by the Hon'ble NCLT, Mumbai Bench through the Order dated 05.08.2021 to them. Further, as per the Certificate of Sale dated 22.07.2022, the above assets have been sold to the purchaser against receipt of Rs. 30,51,46,643/- and that the Official Liquidator has handed over the possession of the said property to them. The Letter of Possession is on "as is where is basis" and the Certificate of Sale is being made without any encumbrances and liabilities on their part.

The proposal was placed before the Approval Committee for consideration in terms of provisions of Rule 19(2) read with Rule 74A of SEZ Rules, 2006 and Instruction No. 109 dated 18.10.2021 of MOC&I in its earlier meetings held on 30.08.2022 and 28.09.2022. The proposal was last considered in the Seventh meeting (2022-23 series) of the Committee held on 03.11.2022. The minutes of the meeting are reiterated below:

"The Committee deliberated in detail on the contents of the Agenda. The Committee discussed regarding implementation of the Order of Hon'ble NCLT in terms of the provisions of the Income Tax Act, Customs Act, the Land Rules of the State Government and SEZ Act and Rules made there under. The representatives of the applicant unit informed that the Official Liquidator has already received the claim of Rs. 50,40,69,251/-

from the Office of the Assistant Commissioner of Customs Tihi, Mhow, M.P. and admitted Rs. 21,56,16,648/- out of the claimed amount. Further, the demand of the Income Tax department of Rs. 1,52,78,26,497 /- has also been received by the Official Liquidator and the admitted demand by the Liquidator is Rs. 1,01,04,40,885/-. The representatives stated that the provisions of IBC, 2016 clearly bars any type of recovery from the auction purchaser. The Committee noted that the opinion of the Income Tax department, Customs department and MPIDC Ltd., RO, Indore are yet awaited. Accordingly, after deliberations, as a temporary relief to the applicant unit, the Committee decided to accord permission for repair and maintenance of building and plant & machinery lying at plot No. A-12 & A-13, SEZ Phase II for a period of sixty days with extended facility as applied by the unit."

In view of the decision of the Approval Committee, requisite permission for repair and maintenance of building and plant & machinery lying at plot No. A-12 & A-13, SEZ Phase II for a period of sixty days with extended facility as applied by the unit was accorded to the unit.

Further, the complete facts of the case were forwarded vide letter dated 16.11.2022 to the Central Government Standing Counsel (CGSC), High Court of M.P., Bench at Indore seeking legal opinion on the following two points, and the Sr. CGSC vide letter dated 08.12.2022 has opined inter-alia as under :

- (i) Whether in this case any dues pending to the Government Departments are to be recovered from the auction purchases i.e. M/s Commercial Syn Bags Ltd.

Reply :

A perusal of the history of the present case reveals that the demands of the departments have already been admitted by the Official Liquidator, Mumbai and therefore, the Official Liquidator, Mumbai is liable to pay / settle the claims which have been admitted by him. Thus, it is opined that the Government department cannot recover any dues from the auction purchaser i.e. M/s Commercial Syn Bags Limited.

- (ii) Whether the provisions of IBC, 2016 overrides the provisions of SEZ Act, 2005 and the Rules made thereunder, the Income Tax Act, the Customs Act and the Land Rules of the State Government.

Reply :

Section 238 of IBC, 2016 reads thus:

"238. The provisions of this code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."

A plain reading of section 238 of Indian Bankruptcy Code, 2016 reveals that the section 238 gives a paramount effect to the IBC Act, 2016 therefore, the provisions of the Indian Bankruptcy Code, 2016 overrides, the provisions of SEZ Act, 2005 and the Rules made thereunder, the Income Tax Act, the Customs Act and the Land Rules of the State Government.

Subsequently, M/s Commercial Syn Bags Ltd. vide letter dated 01.12.2022 has submitted a copy of the Managing Director, MPIDC Ltd., Bhopal letter dated 28.11.2022 addressed to the Executive Director, MPIDC Ltd. RO, Indore, Developer, vide which permission has been accorded for transfer of lease deed of plot Nos. A-12 & A-13, SEZ Phase II admeasuring 16423.36 sq. mtrs. in favour of M/s Commercial Syn Bags Ltd. as per extant land rules.

Furthermore, in view of the observations of the UAC, the Income Tax Department vide letter No. ACIT/Cen.-Ujjain/at Indore/2022-23/239 dated 12.12.2022 has informed inter-alia that :

"Proof of claim by operational creditors was duly filed by the Income Tax Department to save the interest of the department in respect of tax demand outstanding against M/s Neo Corp International Ltd., before the Liquidator and the final admission of the department's claim was accepted by the Official Liquidator at Rs. 101,04,40,885/- as intimated vide 'Final admission of Claim' dated 22.10.2021. Since the auction process was conducted by Shri Santanu T. Ray, Liquidator appointed by NCLT, and as mentioned above, claim of the Income Tax Department as operational creditor has already been accepted by the Liquidator appointed, the department is going to make its claim before the Liquidator for its share in realisation value from this auction.

In view of the above position, there is not any legality involved so far as interest of revenue is concerned, in executing the process of acquisition of leasehold land, building and allied structure, plant and machinery of M/s Geotech Worldwide by company M/s Techtex (a unit of M/s Commercial Syn Bags Ltd.)

<p>Rule provision w.r.t SEZ Rules, 2006</p>	<p>and the same may be executed as per applicable rules.”</p> <p>As regards, the comments of the O/o the Commissioner of Customs, Indore it was informed earlier that a claim of Rs. 50,40,69,251/- has already logged before the Hon'ble liquidator Shri Santanu T Ray, Resolution Professional for Neo Corp International Ltd., 301, A Wing, BSEL Tech Park, Sector-30A, Opposite Vassi Railway Station, Vasi, Thane, Navi Mumbai vide letter No. VIII(CUS)28-01/Adj/ICD/PITH/2010/693 dated 09.09.2021 and all the dues are pending for recovery with said liquidator.</p> <p>The provisions of Rule 19(2) read with Rule 74A of SEZ Rules, 2006 and instruction No. 109 dated 18.10.2021 of MOC&I applies to the issue.</p> <p>Accordingly, in view of the afore-said receipts from the MPIDC Ltd., Bhopal, Income Tax department and opinion of the CGSC, the proposal of M/s Techtex (a unit of Commercial Syn Bags Limited) regarding acquisition of leasehold land, building and allied structures, plant and machinery of Geotech Worldwide, a division of New Corp International Ltd. in terms of NCLT Mumbai Bench Order dated 05.08.2022 and transfer of LoA thereof in their name as a case of change of entrepreneur is therefore placed before the Committee for consideration in terms of provisions of Rule 19(2) read with Rule 74A of SEZ Rules, 2006 and instruction No. 109 dated 18.10.2021 of MOC&I.</p>
<p>Decision required from UAC</p>	<p>Acquisition of leasehold land, building and allied structures, plant and machinery of Geotech Worldwide, a division of New Corp International Ltd.- Request for transfer of LoA issued to M/s Geotech Worldwide in the name of M/s Techtex(a unit of Commercial Syn Bags Limited).</p>
<p>DECISION OF THE UAC</p>	

PROPOSAL NO. 2(ii): M/s Devshri Impex Pvt. Ltd.

<p><u>COMPANY/UNIT PROFILE</u></p>		
<p>Name and address, telephone/fax/email id</p>	<p>M/s Devshri Impex Pvt. Ltd. Address: Plot No. P-21, SEZ Phase II, Sector 3, Pithampur, Distt. Dhar</p>	
<p>Issue</p>	<p>Request for addition of items for the purpose of trading submitted by M/s Devshri Impex Pvt. Ltd. – LoA No. C-82/ISEZ/Proj./2012-13/729 dated 04.09.2012 – Broad-banding</p>	

of LoA:-

M/s Devshri Impex Pvt. Ltd. is holding LoA No. C-82/ISEZ/Proj./2012-13/729 dated 04.09.2012 and is located at plot No. P-21 SEZ Phase II, Pithampur. The unit has been granted LoA for trading of Corrugated Boxes and accessories, Plastic Containers & closures' and for carrying warehouse service activities. M/s Devshri Impex Pvt. Ltd. had acquired the SEZ unit (M/s Shriniwas Polyfabrics & Packwell Pvt. Ltd.) by way of change of entrepreneur by sale/transfer of the SEZ unit under Rule 19 & 74A of SEZ Rules, 2006 in terms of the permission granted by the Approval Committee in its fourth meeting (2021-22 series) held on 14.09.2021. Pursuant to transfer, the Developer, MPIDC Ltd., RO, Indore has amended the lease deed of the afore-said plot and the deed registered on 06.12.2021. The unit has also executed a Bond-cum-Legal Undertaking amounting to Rs. 100.00 lacs pursuant to the approval for change of entrepreneur.

The unit submitted the captioned request for broad-banding of its LoA dated 04.09.2012 for addition of new items for trading stating that they have been operating the unit since December 2021 and based on their study of the market demand and requirement they have learned that they need to expand their product list in order to cater to the pharmaceutical companies located within the SEZ. The unit accordingly requested to include the following items for trading to be supplied to the pharmaceutical companies located within the SEZ:

1. Primary, Secondary and Tertiary Pharmaceuticals Packaging and its raw material like polypropylene, HDPE, LDPE, PET etc.
2. Stationary, printer ink, toner and consumables, lab equipments and regents for Pharma.
3. Disposables like Cap, mask apron, gloves, cotton etc.
4. Pharmaceuticals Active Pharma Ingredients, Bulk Drugs, Excipients and Pharma Chemicals.
5. Paper, Paper Boards and Paper products.
6. Cleaning Equipments, Regents, Chemicals and Antiseptic disinfectants for machine cleaning and housekeeping.
7. Adhesives and different type of tapes like BoPP etc.
8. Sanitary pads, Diapers, underpads etc. generally used for distribution under CSR activities.

The unit submitted a project report for the proposed activities. As per the project report, the unit proposed an investment of Rs. 18.00 lacs in addition to the existing investment of Rs. 38.65 lacs in the warehouse building along with a bank finance of Rs. 13.00 lacs for

the trading activities. The existing share capital was intimated as Rs. 1.00 lacs and promoters contribution as Rs. 58.00 lacs. The unit proposed an export sale of Rs. 5.24 crores during the five year period from 2022-23 to 2026-27 for supplies to be made to the pharma units within the SEZ, foreign exchange outgo (CIF value of goods purchased) as Rs. 3.62 crores with NFE earning Rs. 1.62 crores.

Rule 76 of the SEZ Rules, 2006 provides for carrying out services by SEZ units for the purpose of clause (z) of section 2 of SEZ Act, 2005 and inter-alia includes Trading.

The proposal of the unit was placed before the Approval Committee for consideration in its Fourth meeting (2022-23 series) held on 19.07.2022. The Committee, after deliberations, deferred the proposal with the directions to forward the proposal of the unit to the Specified Officer (Customs) for examination and comments. The minutes of the meeting are reiterated below:

“Deferred. The Committee deliberated in detail on the contents of the Agenda. The unit was represented by Sh. Ajay Kasat, CFO who explained the proposal to the Committee. The Committee noted that the unit has submitted an exhaustive list of items requested for the purpose of trading for supplying to SEZ units within the Zone. The Committee decided that the proposal of the unit may be forwarded to the Specified Officer (Customs) for examination and comments. Accordingly, after deliberations, the Committee deferred the proposal.”

In terms of the decision of the Committee, the proposal of the unit was forwarded to the Specified Officer (Customs) for examination and comments. The Specified Officer vide letter dated 18.08.2022 forwarded his comments and conveyed the following observations

- (j) As per the NFE figures during the years 2022-23 to 2028-29, it is observed that the unit will sell the trading goods to other SEZ units. However, it is not clear from the proposal that their transaction will be made in foreign currency or from the foreign currency account of the purchasing SEZ unit;
- (ii) The unit has shown the value of their purchases for the years from 2022-23 to 2028-29, however, it is not clear that whether these goods will be imported from foreign country or it will be procured from DTA;
- (iii) In the case of procurement from DTA, whether the payment will be made in Indian rupees or whether the unit will pay the DTA supplier in foreign currency account to ascertain positive Net Foreign Exchange Earning requirement;

- (iv) The market survey report has not been submitted as the unit itself mentioned in their letter that they have done a market survey and on the basis of that survey they have applied for the permission to add more items for trading in SEZ;
- (v) The unit has also not provided foreign currency account details;
- (vi) The unit has requested to add many miscellaneous items for trading activity. How does the unit ensure that goods may not contain any harmful/radio-active material/restricted/prohibited scrap/material etc.

The above observations were accordingly intimated to the unit and in response, the unit vide letter dated 06.10.2022 submitted a revised proposal curtailing some of the items from its earlier proposal.

With regard to transaction in foreign currency, the unit informed that they will propose to the purchasing units to make payments in foreign currency account and from foreign currency account and that the unit will positively adhere with the prevailing SEZ Act and Rules. With regard to the purchases, the unit informed inter-alia that they will make the purchases both from DTA as well as from foreign countries depending on better quality, rate and service etc. Unit added that in case of procurement from DTA, the payment would be done to the DTA supplier as per the provisions of SEZ rules and guidelines and the unit would ascertain to achieve positive NFE as per the undertaking given by them at the time of change of entrepreneurship. The unit also assured to open foreign currency account and submitted the market survey/ study report in respect of the revised list of items requested for trading. The unit also attached a duly notarized undertaking ensuring that the traded goods will not contain any harmful / radioactive material / restricted / prohibited scrap / material etc. A revised project report was also submitted.

The above submission of the unit was forwarded to the Specified Officer vide letter dated 13.10.2022 for examination and comments. The unit vide letter dated 07.12.2022 informed the Specified Officer regarding trading of the following items:

1. Primary, Secondary and Tertiary Pharmaceuticals Packaging and its raw material like mono cartons, Poly liner, Aluminium foil, PVC foil etc.
2. Pharmaceuticals Active Pharma Ingredients, Bulk Drugs, Excipients & Pharma Chemicals, Coating materials, Regents and disinfectants.

<p>Rule provision w.r.t SEZ Act, 2005 & SEZ Rules, 2006</p>	<p>The unit also submitted a CA certified project report in support of the above proposed request. As per the project report, the proposed export earnings projected during the five year period from 2022-23 to 2026-27 has been intimated as Rs. 462.76 lacs with NFE earnings during the period as Rs. 128.82 lacs.</p> <p>The Specified Officer vide letter dated 08.12.2022 has informed that the unit has revised the proposal in their letter dated 06.10.2022 and subsequent letter dated 07.12.2022 and requested for trading of the aforesaid mentioned items. As the reply to the points raised earlier in the matter has been submitted, hence, the proposal of the unit may be accepted if approved.</p> <p>As per Section 2(z) of SEZ Act, 2005, "Services" means such tradable services which –</p> <ul style="list-style-type: none"> (i) are covered under the General Agreement on Trade in Services annexed as IB to the Agreement establishing the World Trade Organization concluded at Marrakesh on the 15th day of April 1994; (ii) may be prescribed by the Central Government for the purpose of this Act; and (iii) earn foreign exchange. <p>Rule 76 of the SEZ Rules, 2006 provides for carrying out services by SEZ units for the purpose of clause (z) of section 2 of SEZ Act, 2005 and inter-alia includes Trading.</p> <p>The proposal of the unit for inclusion of above requested items for trading in the LoA dated 04.09.2012 is placed before the Approval Committee for consideration.</p>
<p>Decision required from UAC</p>	<p>Request for addition of the following items for the purpose of trading – Broad-banding of LoA:</p> <ol style="list-style-type: none"> 1. Primary, Secondary and Tertiary Pharmaceuticals Packaging and its raw material like mono cartons, Poly liner, Aluminum foil, PVC foil etc. 2. Pharmaceuticals Active Pharma Ingredients, Bulk Drugs, Excipients & Pharma Chemicals, Coating materials, Regents and disinfectants.
<p>DECISION OF THE UAC</p>	

ITEM NO. - 3

Any other proposal, if received.