

SEEPZ SPECIAL ECONOMIC ZONE

ANDHERI (EAST), MUMBAI.

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MISCELLANEOUS AGENDA FOR

**MEETING OF THE APPROVAL COMMITTEE FOR
SECTOR SPECIFIC SPECIAL ECONOMIC ZONE**

Via Video Conferencing

DATE : 27.06.2023

TIME : 03:30 P.M.

**MEETING OF THE APPROVAL COMMITTEE FOR SECTOR
SPECIFIC SPECIAL ECONOMIC ZONE FOR BIOTECHNOLOGY AT
PUNE, UNDER THE CHAIRMANSHIP OF DEVELOPMENT
COMMISSIONER, SEEPZ-SEZ ON 27.06.2023**

INDEX

Agenda Item No.	Subject
Agenda Item No. 01 :-	Confirmation of the Minutes of the Meeting held on 30.05.2023
Agenda Item No. 02 :-	Clarification with regard to Virtual Transfer of Assets and Duty payment on cafeteria Services

I/2152/2023

1

Minutes of the Miscellaneous Agenda of the Approval Committee meeting held under the Chairmanship of Zonal Development Commissioner SEEPZ-SEZ, Mumbai for SEZ-Pune cluster, held on 30.05.2023 via video conferencing.

Members present

Sr	Name and Designation (S/Shri.)	Department
1	Smt. Mital Hiremath Joint Development Commissioner	Pune Cluster SEZ, Pune
2	Smt. Pradnya R. Gholap, DCIT (TDS) Pune	Nominee of Income Tax, Pune
3	Dr. Dileeraj Dabhole Dy. DGFT	Nominee of DGFT, Pune
4	Smt. Sunita Jagtap, Superintendent	Nominee of Customs, Pune

Special Invitee

Sr	Name and Designation	Department
1	Shri B. Ajay Kumar Specified Officer	M/s. The Manjari Stud Farm Pvt. Ltd.- SEZ

Agenda Item No. 01: Approval for change in vendors for cafeteria are to be placed before UAC for approval or the same can be taken on record only.

After deliberation, the committee has concluded that in cases where the existing rules or regulations are silent on a specific matter, it is always prudent to table the issue in the Unit Approval Committee (UAC). This is essential, especially when considering the duty aspect and ensuring adherence to the due process.

In light of this, the committee has deferred the proposal for the application concerning the change in vendors for the cafeteria. The committee has directed that such applications be tabled in the Unit Approval Committee Meeting for further discussion and consideration.

Signed By: (Shyam Jagannathan, IAS)
Chairman - Development
Date: 08.06.2023 04:17:22
Reason: Approved
Email: dcseepz-mah@nic.in

GOVT. OF INDIA,
OFFICE OF THE ZONAL DEVELOPMENT COMMISSIONER,
SEEPZ – SEZ (PUNE CLUSTER)

AGENDA NOTE FOR CONSIDERATION OF APPROVAL COMMITTEE

a) Proposal: -

Proposal submitted by M/s.Springer Nature Technology and Publishing Solutions Pvt. Ltd., (3 units) an IT/ITES unit located at Magarpatta, SEZ, Pune – Exit from SEZ Scheme under Rule 74 of the SEZ Rules, 2006 – Clarification with regard to virtual transfer to assets (IUT) and duty payment on cafeteria services

Specific Issue on which decision of Approval Committee is required: -

The unit has submitted that they have applied for exit from SEZ Scheme under Rule 74 of the SEZ Rules, 2006. They have completed all the necessary activities but are facing delay on account of virtual transfer of assets (IUT) and duty payment of cafeteria services. The Final Exit Order has not been issued to them due to final decision pending on the above issues. In the absence of Final Exit Order they are facing huge revenue loss towards payment of monthly rental for their three units.

They have sought clarification that instead of paying taxes under protest, if they could submit the bank guarantee against the duty payment for the amount payable towards such zero-rated benefits availed in the past. They can additionally submit an undertaking to pay the applicable interest on such taxes. Execution of bank guarantee will help them in going through the tedious process asking for refund later.

The proposal of the units for permission for virtual transfer of assets was referred to the Ministry seeking clarification whether Instruction No. 105 dated 05.02.2021 permitting one time waiver of physical inspection of duty free goods upon exit of units under Rule 74 of the SEZ Rules can still be considered, in view of provisions of Rule 43A, and whether the same is applicable when goods are removed to other than DTA unit i.e. to SEZ, EOU, EHTP, STP & Bio-technology Part Unit.

MOC&I vide Office Memorandum dated 15.05.2023 addressed to ADG, DGEP, has stated that “DoC is of the view that since SEZ, EOU, EHTP, STP and BTP units are also having similar kind of benefits in case of imported goods, the request of SEEPZ, SEZ may be considered. However, modalities for the same to prevent revenue leakage may be decided. Accordingly, DGEP is requested to consider the proposal and furnish comments/concurrence on the same. It is also requested that modalities for the same may also please be suggested.”

Further, on the issue of payment of applicable duties/taxes on the zero benefits availed by units on cafeteria, the said issue is already covered in the agenda of BOA meetings and BOA has directed that “the matter be discussed with DoR and after obtaining their concurrence, required clarification/amendment in instruction be issued and put up for the information of BoA”.

As directed the Specified Officers' examination report was also sought on the above issue. The Specified Officer vide letter dated 23.06.2023 has submitted that

The unit has proposed for furnishing of the bank guarantee (BG) against :

- i) The duty benefit availed on the services used for setting up and running of the cafeteria***
- ii) The duty liability involved in the assets/goods transferred under Rule 43A to their employees for WFH facility***

In this regard, it is to report that there is no specific provision provided under SEZ Rules, 2006 for accepting BG to cover the tax/duty liability arising in the above mentioned situation.

However, there are two situations wherein furnishing of Bank Guarantee had been prescribed under SEZ Rules, 2006 :

- a) Under Rule 42(d) to cover the duty element involved in the material for job work***
- b) Under Rule 74(2)(i) - Penalty imposed by the competent authority and if an appeal against the order imposing penalty is pending, exit shall be considered if the Unit has obtained a stay order from competent authority and has furnished a Bank Guarantee for the penalty adjudicated by the appropriate authority unless the Appellate Authority makes a specific order exempting the Unit from this requirement.***

Proposal for consideration :

The above proposal of submission of Bank Guarantee towards duty payable on the zero rated benefit availed by the units on the cafeteria has been submitted by other units also to this office who have applied for exit from SEZ scheme and the final exit order in respect of all the units is pending clarification on the above issues.

It is seen that there are no specific provisions for refund for the amount paid 'Under Protest' under the GST regime unlike the earlier indirect tax legislations (Rule 233B of Central Excise Rules, 1944). Such provisions are not provided under GST regime and hence obtaining a refund of the taxes paid 'Under Protest' in the GST regime would be a challenge in case the MOC&I issues instruction in favour of SEZ units.

The proposal of the unit is placed before Approval Committee for consideration.