

**SEEPZ SPECIAL ECONOMIC ZONE
ANDHERI (EAST), MUMBAI.**

**16th MEETING OF THE APPROVAL COMMITTEE FOR
SECTOR SPECIFIC SPECIAL ECONOMIC ZONE FOR POWER
SECTOR AT WARORA DIST. CHANDRAPUR OF M/S. SAI
WARDHA POWER LIMITED.**

AGENDA FOR

**VENUE : CONFERENCE HALL, BFC BUILDING, 2ND FLOOR,
BEHIND THE OFFICE OF DEVELOPMENT
COMMISSIONER, SEEPZ - SEZ, ANDHERI (EAST),
MUMBAI - 400 096.**

DATE : 05th JUNE, 2015.

TIME : 1.10 P.M.

16th MEETING OF THE APPROVAL COMMITTEE FOR SECTOR SPECIFIC SPECIAL ECONOMIC ZONE FOR POWER OF M/S. SAI WARDHA POWER LIMITED AT WARORA DISTRICT CHANDRAPUR UNDER THE CHAIRMANSHIP OF DEVELOPMENT COMMISSIONER, SEEPZ-SEZ TO BE HELD ON 05TH JUNE, 2015 .

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| Agenda Item No. | Subject |
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| Agenda item No. 01 :- | Confirmation of Minutes of the Meeting held on 09.01.2015. |
| Agenda item No. 02 :- | Approval for Recognition of MSEDCL grant of open access in 2012 for correct reckoning of 5 years period and further time extension for NFE fulfillment. |

S/D

Minutes of the 15th Meeting of the Approval Committee held under the Chairmanship of Development Commissioner for Sector Specific Special Economic Zone for Power Sector at Warora, District Chandrapur of M/s. Wardha Power Company Pvt. Ltd. held on 09.01.2015.

1. Name of the SEZ : M/s. Wardha Power Company Pvt. Ltd., Dist. Chandrapur.
2. Sector : Power Sector.
3. Meeting no. : 15.
4. Date : 09.01.2015.

Members Present: -

1. Shri. P. S. Raman, Jt. Development Commissioner, SEEPZ- SEZ. : Member
2. Shri. P. G. Rathod, Dy. Director of Industries. : Office of the Jt. Director of Industries(Mumbai).
3. Smt. S. R. Motwani, Asstt. DGFT. : Nominee of Zonal Additional DGFT, Mumbai.
4. Shri. S. B. Akashi, Joint Commissioner : Nominee of Commissioner of Central Excise and Custom, Nagpur.
5. Shri. Manoj Kumar Saraf, Manager - Accounts : Nominee of Developer.

IN ATTENDANCE

6. Shri. Sayed Gulfam Ali, Asstt. Commissioner of Central Excise, M/s. Wardha Power Company Pvt. Ltd. - SEZ. Chandrapur

Agenda Item No. 01: Confirmation of Minutes of the meeting held on 05.12.2014.

The Minutes of the 14th Meeting held on 05.12.2014 were confirmed.

Agenda Item No. 02: Representation of problem being faced on the matter of obtaining Form A1/A2 for claiming ab-initio exemption from payment of Services Tax. (M/s. Wardha Power Company Pvt. Ltd.)

This office vide even letters dated 01.08.2014 and 09.10.2014 has directed the Specified Officer to submit a detailed report under what circumstances the A1 Form have been cancelled. In reply to above letters the Specified Officer has submitted report as stated under:-

1. The unit has submitted Form A1 on 18.07.2013 to Specified Officer, which was duly verified and issued by the Specified Officer on 18.07.2013.

2. On the basis of Form A1 dated 18.07.2013 the unit has applied for issuance of authorization in Form A2 before the jurisdictional Deputy Commissioner of Central Excise, division Chandrapur.
 3. Deputy Commissioner, Chandrapur, vide their letter dated 07.08.2013 has sent unit's application to SO's office, stating that all the services which are actually used by units are for their two activities - 1) Business of electricity and electricity sale and transfer power Grid. Out of these two only one activity is authorized operation. On the ground mentioned above party's request for ab-initio exemption is not tenable. Also already orders for rejection of refund have been issued and those are pending at various stage.
 4. On basis of ground mentioned in above letter from Deputy Commissioner, Chandrapur, and the Specified officer vide his letter dated 05.09.2013 has cancelled Form-A1 and asked unit to surrender the same.
 5. Further unit vide letter dated 17.12.2013 to Deputy Commissioner, Chandrapur, has submitted the copy of Order-in Appeal dated 29.10.2014 issued by Commissioner of Central Excise (Appeal), Nagpur, wherein the para no. 7.5, it has been clarified that the observation of the lower authority that sale of electricity is a separate business is an incorrect interpretation. Therefore, Unit has again requested Deputy Commissioner, Chandrapur for issuance of Form-A2.
 6. Meanwhile, SO has received a letter dated 24.03.2014 from O/o Commissioner, Central Excise, Nagpur issued by Supretendant (Cust. Tech), wherein the Commissioners Observation was as under:-
 - It was found that the value of export is too low and their NFE is on Negative side.
 - Some of their services are not exclusively used in the Authorized Operations from the SEZ.
- 6(i) The Specified Officer, vide letter dated 15.04.2014 has asked the unit to submit the reason regarding negative NFE. The unit has replied that positive NFE is to be achieved cumulatively for block of 5 years. They are in process of arranging sale of electricity to meet the required NFE within Specified time limit.
- 6(ii) The Specified Officer vide letter dated 09.07.2014 has communicated unit's reply to the Deputy Commissioner, Chandrapur. Also the Specified Officer had suggested Deputy Commissioner to put a question mark on achievement of positive NFE within required time by unit and forward the copy to Development Commissioner, SEEPZ-SEZ.

7. Also Specified Officer has informed that through unit was asked to surrender the Form-A1 but till the date they did not surrender the same. The unit vide letter dated 06.08.2014 to Specified Officer has communicated that in view of the Commissioner Appeals) Order dated 29.10.2013, the unit is having sale of electricity as authorized operation and accordingly the Form-A1 issued by Specified is in order and continue to be valid till the date. And unit further requested to return their application of Form-A2 to Deputy Commissioner of Chandrapur.
8. Accordingly Specified Officer vide letter dated 08.08.2014 has sent back the unit's application of Form-A2 to Deputy Commissioner of Chandrapur.

However, the Specified Officer hasn't replied to this office letter about cancellation of the Form A1. Hence the matter was considered for discussion in the Unit Approval Meeting for detailed discussion held on 05.12.2014. The unit Approval Committee deferred the proposal as the Specified Officer as M/s. Wardha Power Company Pvt. Ltd., Nagpur did not attend the meeting. Hence, the matter is reconsidered before Approval committee for detailed discussion.

Relevant Rule Provision:- Rule 31 of SEZ Rules, 2006 Notification No. 12/2013-Service Tax and Notification No. 7/2014-Service Tax.

Decision:- The committee noted that the matter is sub Judice before The Hon'ble Bombay High Court at Aurangabad bench. The specified officer present for the UAC meeting stated that Form-A1 stands in order in view of the commissioner (Appeal) Order dated 29.10.2013. In regard, Specified Officer was asked to ascertain a detailed report whether A2 has been denied by the Jurisdictional Central Excise Authority and if so, on what grounds.

The meeting ended with the vote of thanks to the Chair.


Chairperson - cum -
Development Commissioner.

**OFFICE OF
THE DEVELOPMENT COMMISSIONER,
SEEPZ SPECIAL ECONOMIC ZONE, GOVT. OF INDIA,
ANDHERI (EAST), MUMBAI**

AGENDA NOTE FOR CONSIDERATION OF UNIT APPROVAL COMMITTEE

a) Proposal: -

Application of M/s. Sai Wardha Power Ltd., for recognition of MSEDCL grant of open access in 2012 for correct reckoning of 5 years period and time extension for NFE fulfillment of SEZ unit.

Specific Issue on which decision of UAC is required: -

Approval for Recognition of MSEDCL Grant of Open Access in 2012 for Correct Reckoning of 5 Years Period and further time extension for NFE Fulfillment of SEZ unit.

b) Relevant provisions of SEZ Act, 2005 & Rules, 2006/ Instruction/ Notification :

Rule 53 of SEZ Rules, 2006.

c) Other Information: -

M/s. Sai Wardha Power Ltd. has been granted Approval No. SEEPZ/NEWSEZ/WARDHA-CHNDPR/01/LOA-01/2008-09/7700 dated 01.10.2008 for electrical energy at Worora growth centre, MIDC-Worora, Dist - Chandrapur.

M/s. Wardha Power Company Ltd. - SEZ was notified on 03.09.2008 vide Notification No. S. O. 2156 (E) over an area of 101.47 hectares. The unit has got approval for setting up a SEZ unit in accordance with Power Guidelines issued by MoCI dated 27.02.2009. The unit stated that they have invested Rs. 2852.66 crores as on 31.03.2014 (as per Audited Balance sheet at 31.03.2014) towards setting up the Power Plant in the capacity as a unit in the processing area of SEZ.

Contd.....2/-

The unit vide letter dated 04.05.2015 made following 2 requests:-

Request 1:

The unit has requested to confirm recognition of the Commercial production of their SEZ unit from 01.04.2012.

The unit has stated that after intervention of Hon'ble Maharashtra Electricity Regulatory Commission (MERC), they have received permission from MERC vide letter dated 11.01.2012 for grant of open access to commence supplies. The unit has further stated that the actual initial scheduling to the industrial units commenced on 09.03.2012. However, as per the records, unit has commenced production w.e.f. 05.06.2010.

Request 2:

The unit has requested to grant them additional time of 3 years i.e. from March 2017 (considering the commencement of supplies to industrial units after 09.03.2012) until March 2020 for achievement of positive NFE.

Further the unit has informed that as per the current economic environment their supplies to SEZ/EOU units have been approx. 290 million units per annum at approx. US \$ 0.09/kwh resulting annual Foreign exchange earnings of US\$ 26 million. They expect that once their supplies to SEZ/EOU units goes up to the 450 to 500 million units level annual, their annual exchange earnings will significantly increase and they would be able to achieve positive NFE.

Unit has also stated that, they are expecting pickup in manufacturing in the next quarter coupled with power shortfall in Maharashtra and resulting in additional demand from SEZ/EOU units, their ability would be depending on timely grant of open access by MSEDCL for power supplies to such units.

Contd.....3/-

On requests of the unit, the matter of clarification on date of Commencement of Production was referred to the MOC&I vide letters dated 4.02.2010, 10.01.2011, 19.05.2011, 29.08.2011, 08.12.2011 however, reply is awaited.

The unit has again requested clarification on date of Commencement of Production and grant them additional time of 3 years i.e from March 2017 until March 2020 for achievement of positive NFE. They have received permission from MERC vide letter dated 11.01.2012 for grant of open access to commence supplies. Unit has stated that the actual initial scheduling to the industrial units commenced on 09.03.2012.

The proposal of the unit is submitted to the Approval Committee for consideration of extension of time period for NFE fulfillment.

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Sai Wardha Power Limited

(formerly known as Wardha Power Company Limited)

CIN No : U40109TG2005PLC047917

| | |
|---|---|
| Works | Registered Office |
| B-2, Warora Growth Centre, MIDC, Warora, Chandrapur (Dist.) Maharashtra - 442 907 Tel : 07176-285100, Fax : 07176-285125 | 8-2-293/82/A/431/A, Road No. 22, Jubilee Hills, Hyderabad - 500033 Tel: +91-40-23559922-25 Fax: +91-40-23559930 |

Ref: DC,SEEPZ,MUM/VSR/4160101/621

4th May 2015

The Development Commissioner
SEEPZ Special Economic Zone
Andheri (E), Mumbai-400096

Subject: Requests with respect to unit located at B-2, Maharashtra Industrial Development Corporation, Warora Growth Centre, Warora, Dist: Chandrapur, namely

- (a) Recognition of MSEDCL grant of Open access in 2012 for correct reckoning of 5 year period and
- (b) Grant of further time extension for NFE fulfilment for our SEZ

Dear Sir,

With reference to the subject above, we would like to indicate here that M/S Sai Wardha Power Limited (formerly Wardha Power Company Private Limited) have been granted **Formal** approval for setting up Sector Specific SEZ for **Power Sector** at **B-2, Maharashtra Industrial Development Corporation, Warora Growth Centre, Warora, Dist: Chandrapur**, vide Formal Approval No. F.1/262/2007-SEZ Dated: 14.03.2008

Further the said SEZ was notified on **03.09.2008** vide **Notification No. S.O. 2156 (E)** over an area of **101.47 Hectares**.

Thereafter we got approval for setting up SEZ unit in accordance with Power guidelines issued by MoCI dated **27.02.2009** for "Generation of Power" in the sector specific SEZ for Power Sector being located in the processing area of standalone Power Sector SEZ.

We have so far invested **Rs. 2852.66 Crores** as on **31.03.2014** (as per **Audited Balance sheet at 31-Mar-2014**) towards setting up the Power Plant in the capacity as a unit in processing area of SEZ.

Request No: 1

Further we would like to submit that while unit readiness was achieved earlier, Commercial production from our SEZ unit thereunder for supplies to industrial units could be after 11.01.2012 based on the government

1603
515/115



permission to commence supplies as intimated thereby making the SEZ operational. The same was obtained after intervention of Hon. Maharashtra Electricity Regulatory Commission (MERC) and a copy of the MSEDCL letter dated 11.01.2012 for grant of Open access to commence supplies is annexed as **Annexure 1**. The actual initial scheduling to the industrial units commenced on 9th March 2012 and stabilization towards end of the same month

We request you to kindly confirm recognition of commercial operations from 1st April 2012 onwards as the basis for NFE reckoning to be considered accordingly.

Request No: 2

With the current economic environment our supplies to SEZ /EOU units have been approx. 290 million units per annum at approx. US \$ 0.09/kwh resulting annual Foreign exchange earnings of US\$ 26 million. We expect that once our supplies to SEZ/EOU units goes up to the 450 to 500 million units level annual, not only would our annual exchange earnings significantly increase but catchup would be achieved for positive NFE.

While, we expect with the pickup in manufacturing in the next quarter coupled with power shortfall in Maharashtra and resultant additional demand from SEZ/EOU units pickup, our ability would be depending on timely grant of Open access by MSEDCL for power supplies to such units. We therefore request, with abundant caution, to grant us additional time of 3 years i.e. from March 2017 until March 2020 for achievement of positive NFE

As regards our earlier requests for sector change and conversion, we request that the same may temporarily be kept in abeyance and we shall make detailed submission on the same shortly.

Should you require any further clarification, we would be glad to provide the same

Thanking You

For Sai Wardha Power Limited

A handwritten signature in black ink, appearing to be 'S. Wardha', written over a horizontal line.

Authorized Signatory

Copy: Director, SEZ Section, Ministry of Commerce, Government of India



Maharashtra State Electricity Distribution Co. Ltd.
Chief Engineer (Commercial)
Prakashgad, 5th Floor,
Bandra (6), Mumbai - 400051
Ph. # (P) 26474253 (O) 26474211 Fax: 26472366

No.CP/PPP-OA/987

Date:11.01.2012

To,
M/S Wardha Power Company Limited,
Warora Dist: Chandrapur

Sub: Open Access Permission for self use.

Ref:-1. TOL No.983 Dt:11.01.2012

Dear Sir,

In connection with above subject, It is to inform you that, Open Access permission is granted to you vide above referred letter no.1, for wheeling of power from M/s Wardha Power Company Limited to your fifteen no. of consumers located at different locations in Maharashtra.

This permission shall be operationalised from 14.01.2012 or any time thereafter, after completion of all formalities as per rules & regulations.

This is for your information and further necessary action.

Thanking You.

Yours Faithfully
Chief Engineer (Commercial)

Copy swrto

1. The Director (Operations)), MSEDCL, Mumbai
2. The Director (Operations)), MSETCL, Mumbai
3. The Director (Finance), MSEDCL, Mumbai
4. The Executive Director (Commercial), MSEDCL, Mumbai
5. The Executive Director - II, MSEDCL, Pune
6. The Executive Director - III, MSEDCL, Nagpur

Copy f.w.c. to:

The Chief Engineer, O&M Zone, MSEDCL, Nagpur Zone /Pune Zone/Nashik Zone

The Chief Engineer, STU, MSETCL, Mumbai / CE SLDC, Kalwa, Dist: Thane

Copy to: The SuperIntending Engineer, MSEDCL O&M Circle, Chandrapur / Nagpur (Rural) / Vasai / Nashik (Rural) / Aurangabad (U) / Pen / Baramati / Pune Rural Circle



Maharashtra State Electricity Distribution Co. Ltd.

Chief Engineer (Commercial)

Prakashgad, 5th Floor,

Bandra (B), Mumbai - 700 051

Ph. # (P) 26474753 (O) 26474211 Fax : 26472366

Ref. No. CF /CPP- OA /

NO 00933

Date: 11 JAN 2012

Open Access Permission for Self Use

- | | | |
|----|--|---|
| 1. | Name of Generator & Address of premises to which access is to be provided: | M/s. Wardha Power Company Ltd, Warora Dist. Chandrapur |
| 2. | Power Intended to be Injected under Open Access (in MW/MVA): | 186 MW |
| 3. | Name of Entity and address of premises to which open access is to be provided: | List Attached |
| 4. | Date on which present agreement for supply is to be terminated: | N.A. |
| 5. | Required duration of Connection and Use of Distribution System Agreement i.e. Period for Open Access : | 01.01.12 to 31.03.12 |
| 6. | Injection Point Details: Voltage level : Name of Sub-station and Feeder : | 220 KV 220 KV Warora Substation |
| 7. | Drawl Point Details : Name of user: Consumer No: Voltage level: Contract Demand: | List Attached |
| 8. | Non-refundable Processing Fee : Paid vide Demand Draft No. & Date : Bank Name / Branch : Money Receipt No. & Date : | List Attached. |

Remark: The open access permission will be subject to the enclosed Terms and Conditions.

Chief Engineer (Commercial)

To
M/s. Wardha Power Company Limited
B-2-293/B2/A/131/A, Road No.22,
Jubilee Hills, Hyderabad-500033