

SEEPZ SPECIAL ECONOMIC ZONE AUTHORITY

ANDHERI (E), MUMBAI – 400 096.

AGENDA FOR THE 12TH MEETING OF THE
SEEPZ SPECIAL ECONOMIC ZONE AUTHORITY

VENUE :- CONFERENCE HALL OF SEEPZ SERVICE CENTRE,
2ND FLOOR, ANDHERI (E), MUMBAI – 400 096.

ON 30TH AUGUST, 2011 AT 03.00. P.M.

12th Meeting of the SEEPZ Authority to be held on 30th August, 2011.

List of Agenda Item :-

1. Budget estimate of the Authority for 2011-12
2. Outsourcing of services of Accounts Clerk.
3. Appointment of Legal Consultant.
4. Housekeeping Contract
5. Revision of Lease Rent
6. Administrative charges in respect of transfer of premises
7. Outsourcing of Helpers and 2 Data Entry Operators
8. Proposal for payment of incentive in the form of fee to the Officers/staff attending to the Authority's work.
9. Present status of various projects approved by the Authority

Present status of Action taken in respect of decision taken in the 11th Meeting of SEEPZ-SEZ Authority held on 26.05.2011.

Agenda item	Action taken
Item No.1: Bio-Methanization Plant	The draft agreement has been forwarded to Mr. Ashokan, Legal Counsel for vetting vide this office letter dt. 19.07.2011 and the same is under examination.
Item No.2: Occupational Health Centre	A Circular dt. 19.07.11 was issued intimating that a committee will be formed for monitoring and reviewing the delivery of the services of the dispensary on regular basis and also intimating the unit to make an initially one-time remittance to the SEEPZ Authority for setting up a corpus to facilitate the Occupational Health Centre. The civil works have been completed. The partition work is nearing completion. MARG in association with SEEMA & SGJMA are in the process of procuring necessary equipments for the dispensary.
Item No.3: Creche facility	The payment for quarter amounting to Rs. 88,550/- has been made to SMS and the Zone Administration is in the process of intimating SMS for a review meeting w.r.t. running the creche.

MINUTES OF THE SPECIAL MEETING OF THE SEEPZ-SEZ AUTHORITY
TAKEN BY DEVELOPMENT COMMISSIONER, SEEPZ-SEZ HELD ON
26.05.2011.

Present:

- 1. Smt. Anita Agnihotri, DC, SEEPZ-SEZ : Chairperson
- 2. Ms. Reshma Lakhani, JDC, SEEPZ SEZ : Member
- 3. Shri Rajeev Sheth, Managing Director, Tara Ultimo : Member
- 4. Shri P.S. Raman, DDC, SEEPZ-SEZ : Secretary
- 5. Smt. M.J. Kulkarni, ADC, SEEPZ-SEZ : Manager (Estate)

I. Bio-Methanization Plant

The Committee noted that estimated cost for setting up of the Methanization Plant is Rs.95.00 lakhs and that Rs.27.50 lakhs has been approved as grant from the MN&RE and equal amount of the grant i.e. Rs.27.50 lakhs will be invested by the Promoter M/s. Ashoka Biogreen Pvt. Ltd. (ABPL). The issue therefore, financing the remaining amount of Rs.32.50 lakhs.

It was noted that M/s. ABPL have given the following proposals with regard to funding of the balance amount of Rs.32.50 lakhs:-

- (a) In case SEEPZ enters as an investor then ABPL shall be charging Rs.4.80 lacs p.a. to SEEPZ as a Royalty and R&D charges OR 10% of the annual sales by AOP, whichever is higher.
- (b) In case of a 0% /nominal interest loan, the repayment will start after 15 years.

It was further noted that the Zone Administration incurs approximately Rs.15.00 lakhs for disposal of wet garbage to the BMC and for removal of greens, which will not be required after commissioning of the methanization plant. Thus, setting up of the Bio-Methanation plant would resolve the day-to-day problems relating to disposal of wet garbage / greens, which gets segregated whenever the BMC staff go on strike or on account of shortage of compactor vehicle, causing an adverse effect on the industrial ambience, health and sanitation of the Zone Complex & should be seen as a social infrastructure.

Decision: After detailed discussion on the subject, the Authority approved investing a sum of Rs.32.50 lakhs as investment by the Authority for meeting the balance amount of estimated project cost for implementation of the methanization plant. The Authority will get a share of 49% of the profits of the project as indicated in the letter by the ABPL and will pay 10% of annual sales.

irrespective of any minimum amount. An agreement between ABPL and SEEPZ SEZ will be drawn up considering this.

II. Occupational Health Centre

It was noted that the Industry Association SG&JMA would be providing equipments worth Rs.10.00 lakhs through MARG for the Occupational Health Centre and the recurring establishment expenditure for running the Health Centre by way of salary for the physician, Staff Nurse, Technician and Attendant and expenditure for Telephone/Water/Electricity Bills works out to approx. Rs.2.00 lakhs per month. It was further noted that at present adequate health check up/emergency care facility is not available within the Zone Complex and that there are nearly 85,000 persons employed in the Zone, out of which nearly 40% women employees.

Decision: Considering the need for providing health care/emergency care facility for the employees working in the Zone Complex, the Authority approved recurring expenditure of Rs.2.00 lakhs per month for incurring from the Authority fund for running the Occupational Health Centre. The arrangement will continue till the Centre stabilizes with health check up fully funded by Units which will create a viable business model. Any services provided by Centre to employees of units will be free. Special/Annual check ups will have to be funded by Units. It was directed that a Committee should be constituted with representatives from the Zone Administration, MARG and one nominee from SEEMA, SG&JMA and the jurisdictional Asstt. Director of Directorate of Health & Safety, for co-ordination of the establishment related issues. The engagement of medical/para medical personnel will be by MARG by way of outsourcing arrangement and there will be no responsibility on part of SEEPZ SEZ.

III. Crèche Facility

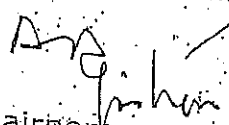
The Committee noted that an area of 700 sq.ft. has been earmarked on the ground floor of BFC building for locating the Crèche facility. It was also noted that in consultation with the Industry Associations and MARG, it has been decided to associate Stree Mukti Sanghatana (SMS), which is an NGO having professional expertise in running crèche facility, who have already been running "Amche Ghar" crèche facility in various locations in Mumbai. It was noted that SMS has estimated an annual expenditure

Rs. 3,54,200/- p.a. which includes remuneration of the Supervisor and attendants, actual cost of milk, food etc. and an administrative charge of 10% towards supervision and implementation plus electricity/telephone/water bills at actual, for running the creche facility estimating for the initial stage (estimating 10 children and 3 staff members and the shift time from 9.00 a.m. to 7.00 p.m.).

It was noted that providing proper creche facility is mandatory under the Factories Act, 1948. The MARG has been collecting sum of Rs. 2,000/- p.a. from about 50 units so far.

Decision: After detailed discussion on the subject, the Authority approved that the expenditure of Rs. 3,54,200/- p.a. plus electricity/telephone/water bills at actual to be incurred from the Authority funds. The contributions collected through MARG from the employers can be used as contribution towards meeting creche related expenditure additionally as and when required. A quarter (3 months) payments should be paid in advance to SMS to enable them to run the creche smoothly and pay attendants on time. They will keep annual statement of actual expenses made. A Committee with SMS, SEEPZ & MARG may be formed to oversee working of creche and receive parents feedback. There should also be an agreement between SEEPZ & SMS regarding running the creche.

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


Chairperson-cum-
Development Commissioner.

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Agenda for the 12th Authority Meeting

Item No. 1: Budget estimate of the Authority for 2011-2012:

The Budget estimate of the Authority for the financial year 2011-12 was submitted for consideration of the Authority in its 10th Meeting held on 27.04.2011. The Authority observed that the (i). Details furnished under the statement "operating income" need to be elaborated indicating the basis of estimation), (ii). Capital works and minor repairs need to separately listed mentioning works approved last year and payment to be made in current year and project proposed to be taken up during current year, and (iii). In respect of contraction of tower approved under Aside Scheme only the contribution to be made from the authority need to be mention. (iv) It was directed to submit revise details prepared by the CA to the Authority.

Accordingly, the revise details prepared by the CA after modifying the details as above are submitted for consideration of the Authority. The budget estimate of Authority envisages the total receipt of **Rs. 35.15 crores** and expenditure on capital works of **Rs. 6.73 crores** and **Rs. 21.44 crores** on M & R works and administrative expenditure.

Item No. 2: Outsourcing of services of Accounts Clerk:

The Assistant posted in the Accounts Section, who was also attending to the Ministerial work of the Authority has since been promoted and assigned other nature of responsibilities. It is therefore necessary to outsource services of Accounts Clerk for attending to the work of the Authority. Accordingly, M/s. B.N.Kedia & Company, Chartered Accountant Firm appointed for maintaining and auditing the accounts of the Authority, was requested to provide services of an Accounts Clerk. They have provided the services of Account Clerk w.e.f August, 2011 at a monthly compensation of Rs. 13,000/- .

Approval of the Authority sought in respect of the above.

Item No. 3: Appointment of Legal Consultant:

In response to Zone Administration's advertisement published in the Newspaper inviting application from Law Ministry approved Panel Counsel, 9 applications were received. All the 9 applicants were requested to appear for any interaction on 26.5.2011. However, the following 5 applicants appeared for interaction:-

1. Shri S.B. Pawar for S.K. Legal Associates .
2. Shri Ramesh Pande
3. Smt. Sunitha & Associates
4. Shri R. Asokan
5. Shri Vikash Gupta

Out of the above, it was seen that only Shri R. Asokan is in the Panel of the Law Ministry. He has been in the Panel for the last 20 years. Shri. R. Asokan is also a Sr. Standing Council for the CBEC. As per the Dept. of Revenue communication dt. 05.10.2007, the charges applicable to the Jr. Standing Counsel and Sr. Standing Counsel have been prescribed by CBEC. A copy of which is attached as Annexure A. A copy of the Law Ministry approved schedule of fees is attached as Annexure B.

Shri Asokan has vide his letter dt. 30.05.2011 (Copy annexure at C) stated as follows:-

- (i) The Schedule of fees as per CBEC letter dated 5.12.2007 to be followed.
- (ii) In respect of legal service not covered in the CBEC Circular, Ministry of law Schedule may be followed.
- (iii) For Service not covered in both the Schedule, fee will be fixed by mutual consultation.
- (iv) Out of pocket expenses such as steno/typing charges/Xerox charges, Miscellaneous expenses incurred for which as far as possible supporting vouchers wherever possible to be reimbursed.
- (v) Drafting/vetting of agreements/contracts which are unique in nature and are not listed either in CBEC/MOL Schedule will be charged @ Rs.5000/- per job.
- (vi) Reply to Legal Notice, fee will be equivalent to the preparation of counter in WP/Suits.
- (vii) For briefing of the case to Law Ministry nominated Counsels, the fees will be paid as if appearing along with Counsel nominated, if any by the MOL and the fees will be claimed as per MOL Schedule.
- (viii) For visit to SEEPZ will be charged at par with compensation entitled for absence from Headquarters (High Court) as per CBEC Schedule i.e. Rs.3,600/- per visit plus road mileage @ Rs.16/- per km.

As there are number of Court Cases and Legal issues requiring consultation with the Counsel, services of a Legal Consultant is essentially required. In view of the Authority's approval is solicited in respect of the Schedule of fee indicated in letter dated 30.5.2011 of Shri R. Asokan, Sr. Counsel for Union of India (Gr-I) and Sr. Standing Counsel for CBEC.

Item No. 4: Housekeeping Contract:

The housekeeping contract awarded to M/s BVG was upto 08.02.2011. We had invited fresh tender by publishing the tender details in to new papers viz. Times of India and Navbharat Times. 4 tenders were received in response to our tender notice as indicated below:

Name of the Housekeeping Company	Amount Quoted	Remarks
S.R.P Clean Environment Engg.	Envelope no. 2 relating to financial bid was not opened since the bidder has not submitted the requisite documents prescribed in the tender	The bidder did not fulfill the requirement of sr. no. 2 of the terms and conditions of the Housekeeping contract
Smart Processor, Pune	Envelope no. 2 relating to financial bid was not opened since the bidder has not submitted the requisite documents prescribed in the tender	The bidder did not fulfill the requirement of sr. no. 2,4,5 & 6 of the terms and conditions of the Housekeeping contract
Krystal Integrated Services Pvt. Ltd., Mumbai	Rs. 1,80,00,000/-	The bidder has submitted all the documents. However the bid was higher as compared to BVG India
BVG India	Rs. 1,55,88,000/-	The documents prescribed has submitted copy of audited balance sheet in place of IT Return

It may be seen that the tender at sr. no. 4 mentioned above M/s. BVG is west.

The contract amount for M/s. BVG for the year 2010-11 was Rs. 85/-

. As the amount quoted by them in the current year tender is very high

Item No. 5: Revision of Lease Rent:

The proposal of revision of Lease Rent to the extent of 40% was approved in the 10th meeting of the Authority held on 27.04.2011. Accordingly, yearly bills for 2011-12 have been issued to the allottees. The SEEPZ Gems and Jewellery Manufacturers Association vide communication dated 25.07.2011 have request to review the revision of Lease Rent.

It may be stated that the rent is revised once in three years in terms of Ministries, Letter No. 02/02/87-NEPZ Dated 28.04.2000 (copy attached as Annexure D) which prescribes to take into account capital expenditure and M&R expenditure incurred during the preceding three years for calculating the revision of the rent.

In the present case, on the basis of expenditure incurred on M &R and capital works during the preceding three years, the rent works out to more than 100% and in some cases almost to 100% as compared to existing rent. The Ministries letter dated 28.04.2000 mentions above prescribes an increase of at least 25% should be affected. In order to avoid hardship to the Industries, it was decided to affect an increase of only 40% though the revision on the basis of expenditure incurred on capital work and M& R work has been working out to be much higher.

Item No. 6: Administrative charges in respect of transfer of premises:

This matter was discussed in the 9th meeting of the Authority held on 14.03.2011. The Authority held the view that *"the matter may require a comparative study of (1) what is the transfer charges of MIDC as per their Guidelines and (2) whether the existing transfer charges of SEEPZ Administration is comparable to what MIDC's charges, etc. it was decided that a comprehensive note on the above may be circulated among Members of the Authority and the proposal may be included in the Agenda for discussion in the next Meeting of the Authority"*.

Accordingly, calculation details were sent to the members of the Authority requesting them to communicate their views. Subsequently, they were also reminded wide Zone Administration's letter dated 13.07.2011. However, no response has been received so far.

It may be mentioned that the existing transfer charges at the rate of 5% of differential asset value, applicable to premises SDF and G&J building, works out to more or less comparable to the charges levied by MIDC in respect of the premises in the MIDC constructed buildings i.e. SDF VII, SEEPZ++ Towers and Multistoried building.

We have been charging transfer charges of a lumpsum amount of Rs. 15,000/- in respect of plot holders and MIDC constructed buildings. It is proposed to increase this to Rs. 1.00 Lakh for each transfer.

As regards surrounded premises re-allotted in SDF and G&J buildings, we have not been charging any transfer charges. Since it is a direct allotment to the new allottees. If the premises were allotted to new entrepreneur on the basis of transfer policy, the existing allottee is liable to pay transfer charges to the Authority at the rate of 5% to the differential asset value as per the Stamp Duty Ready Reckoner. A view need to be taken as to whether an administrative charge of 5% which is charged in the case of transfer of premises also needs to be charged in respect of fresh allotment of surrounded premises. In case it is decided to charge, the amount will be payable by the new allottee since the earlier allottee would have already de-bonded and surrendered the premises.

Submitted for consideration of the Authority.

Item No. 7: Outsourcing of Helpers and 2 Data Entry Operators:

On the basis of limited tender procedure, the Zone Administration has approved M/s. Prompt Personnel Consultancy Services Pvt. Ltd. for outsourcing of services of Data Entry Operators, helpers as their service charge is the lowest. There are 14 helpers and 2 data entry operator presently outsourced through MIDC. Services of these persons are presently provided through various contractors of MIDC. They have not been receiving uniform wages, though the nature of work is similar. Further there were also complaints of payment less than the minimum wages. Further the Zone Administration incurs 15% ETP on the expenditure as MIDC's charges.

Considering the above issues, it was decided to outsource the services of the existing 14 helpers and 2 data entry operators through M/s. Prompt Personnel Consultancy Services Pvt. Ltd. so as to ensure compliance of relevant Labour Laws and also to have uniform wages for similar works performed. The charges for outsourcing helpers including the Administrative charges of the Agency works out to Rs. 7943/- per month and Rs. 9975/- for the data entry operator. The Annual expenditure for outsourcing services of these persons (14 helpers and 2 data entry operators) works out to be Rs. 15,73,824/- The increase in expenditure would be depending upon the increase in the DA granted by State Government from time to time as per minimum wages.

As per Rule 9(4) of the Notified SEZ Authority Rules, specifies that ***"The total expenditure of all employees of the Authority shall not exceed fifteen percent of its own revenues of the previous financial year or as specified by the Central Government from time to time in this regard:***

Provided further that for incurring expenditure beyond fifteen percent, a proposal shall be made to the Central Government

adequate justifications and the additional expenditure may be incurred only with the prior approval of the Central Government”.

At present we have been incurring expenditure on outsourcing services of 25 ex-servicemen Security Guards, from the Authority Fund. We are in the process of publishing a fresh tender for outsourcing 60-80nos. of ex-servicemen Security Guards. The Annual expenditure incurred for outsourcing of services of 25 ex-servicemen Guards for the year 2010-11 works out to Rs. 18,89,009/- (w.e.f. Aug. 2010 to Mar. 2011). During the financial year 2011-12, the expenditure is likely to be incurred on payment of salary/remuneration for the outsourced services from the Authority Fund is as follows:-

(i)	25 ex-servicemen Security Guards (@ approx. Rs. 14,268/- per person per month for a year)	Rs. 42,80,400/-
(ii)	14 helpers and 2 data entry operators (@ Rs. 1,13,152 per month w.e.f. Sept. 2011 to Mar. 2012)	Rs. 9,18,064/-
(iii)	Accounts Clerk for attending to Accounts work of Authority (@ Rs. 13,000/- for 8 months w.e.f. Aug. 2011 upto Mar. 2011)	Rs. 1,04,000/-
(iv)	There is a requirement of additional 35 ex-servicemen security guards. As the contract period of the existing agency is expiring on 14.09.2010, a fresh tender notice is being published for the total requirement of 60 ex-servicemen security guards. Based on the existing remuneration per security guard per month at present, the additional expenditure during the current year would work out to Rs. 34,95,700/- (i.e. @ Rs. 14,268/- per person per month for 35 persons for 7 months w.e.f. Sept. 2011 upto Mar. 2012). However the actual expenditure would be known only after finalization of the tender.	Rs. 34,95,700/-
	Total	Rs. 87,98,164/-

The existing employees in the Security wing as well as the officers and Staff attending to the Authority work continue to draw salary from the SEEPZ budget as their deputation and/or appointment in Authority is possible only after creation of posts in the Authority.

The Annual receipt of the Authority including Lease Rent, service charges and miscellaneous receipts for the year 2011-12 is likely to be **Rs. 35.15 crores** and 15% of the same works out to **Rs. 5.75 crores**. It may thus be seen that the total expenditure on remuneration of outsourcing the services of persons for attending to the Authority work, works out to approximately **2.56%**

which is within the permissible limit of 15% in terms of Rule 9(4) of the Notified SEZ Authority Rules.

Item No. 8: Proposal for payment of incentive in the form of fee to the officers/staff attending to Authority's work:

It was noted that the proposal for payment of incentive in the form of fee for the Officers/staff of the Zone Administration who have been attending to the work of the Authority was considered in the 10th Authority Meeting held on 27.04.2011. The Authority held the view that proposal would require further examination as to whether specific enabling Rule is existing for payment of monthly fee. It was also directed that in case such a payment of monthly recurring nature is not permissible, proposal can be considered as a payment for honorarium as per the Rules/Orders/Instructions of the GoI.

It is understood that the Cochin SEZ Authority has granted incentive in the form of fee to the Officers/staff who have been attending to the work of the Authority as follows:-

Sr. No.	Name of the Officer/Official & Designation	Amount (Rs.) per month	Eligible from
1	Shri T.V. Chandran, ADC	Rs. 5,000/-	01.04.10
2	Shri S.P. Rajendran, ADC	Rs. 5,000/-	01.06.10
3	Shri E.V. Gokulnath, SO (Acct.)	Rs. 3,000/-	01.04.10
4	Shri Harikumar, K.K. Asstt.	Rs. 3,000/-	01.04.10
5	Shri Pramodu S, Asstt.	Rs. 3,000/-	01.04.10

It is proposed that payment of incentive in the form of fee may be considered in respect of following Officers / Staff attending to the work of SEEPZ Authority:-

Sr. No.	Name of the Officer/Official & Designation	Work of the Authority assigned as additional charge	Amount (Rs.) per month	Eligible from
1	Shri P.S. Raman, Dy. Development Commissioner	Secretary	Rs. 5,000/-	01.04.10
2	Smt. M.J. Kulkarni, Asstt. Development Commissioner,	Manager (Estate)	Rs. 5,000/-	01.04.10
3	Shri O.P. Dave, Pay. & Accounts Officer	PAO	Rs. 5,000/-	01.04.10
4	Smt. Rekha S. Nair, Upper Division Clerk	Executive (Estate)	Rs. 3,000/-	01.04.10
5	Smt. M Chandrabose, Steno.	Steno (Grade-I)	Rs. 3,000/-	01.04.10

Submitted to the Authority for consideration

Item No. 9: Present Status of various projects approved by the Authority:

(1) Creche Facility: -

The crèche facility started functioning from the new premises on the ground floor of the BFC building w.e.f 07.05.2011. The existing facility is adequate to take care of 10 children. At present there are 12 children and Stree Mukti Sangathan has increased the number of attendants from 3 to 4.

(2) Occupational Health Centre:-

An area of 1500 sq.ft. has been ear marked for the dispensary on the ground floors of the BFC Building. The civil works of providing tiles, window grills, bathroom fittings etc. have been completed. The work of providing partition is in progress.

The MARG in Association with SEEPZ Gems and Jewellery Manufacturers Association and SEEMA have finalized the equipments to be purchased and also the manpower requirements. The dispensary is expected to be operational in the first week of September 2011.

(3) Gymnasium: -

The Gym has become operational w.e.f 01.07.2011 and at present 3 trainers have been deployed and individual members using the facility has reached nearly 102 persons. No corporate membership has so far been confirmed. The general feedback from the users is that the gym is run professionally.

The progress of working of the gym will be reviewed at the period of 6 months as directed by the Authority in its meeting held on 27.04.2011.

(4) Guest House:-

The Indian Coffee Workers Cooperative Society Ltd. has been running the guest house facility w.e.f. 14.12.2010. They incurred and expenditure of Rs. 2,09,706/- for providing the facility of TV, Fridge, Pantry facility, Bed Sheets, Towels etc. in the guest rooms. As per the decision taken, the guest house is to be charged at the rate of Rs. 2000/- per room out of which Rs. 500/- will be retained by M/s. ICH towards recovery of their capital expenditure. As on 31.07.2011, the total remittance received from the guest house works out as

- a. Amount remitted from 14.12.2010 to 31.07.2011 Rs. 5,35,000/-.
- b. Amount retained @ of Rs. 500/- during the period Rs. 1,53,000/-.

It may be seen that the balance amount recovered for full payment of capital expenditure incurred by M/s. ICH, as on 31.07.2011 is Rs. 56,706/-.

The general feedback from users of the guest house has been that the service provided is satisfactory.

(5) Bio-Methanization Plant:-

M/s. Ashoka Bio-green have issued work order dated 03.05.2011 for implementing the project. The project work is expected to be commence shortly and expected to be completed by end of November 2011.

(6) Providing 2 bikes for the Security wing for patrolling:-

As per the approval, two Yamaha bikes have been purchased as per DGS&D rate and provided to the Security Wing on 03.08.2011.

S.O. No. ANN - A

GUIDELINES FOR APPOINTMENT OF STANDING COUNSELS FOR HANDLING DEPARTMENT CASES BEFORE HIGH COURTS

Address
@ Controller
@ Asst. Commr
@ Sh. ...
@ P. ...
@ T. ...
@ M. ...

Chief Commissioner of Customs
10 DEC 2007
NEW CUSTOMS HOUSE
NEW DELHI

F.No.278A/43/2007-Legal
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

New Delhi, dated the 05th December, 2007

To
All the Chief Commissioners of Customs / Central Excise, Customs (Prev.)
D.G.R.I./D.G.C.E.I.

Sir / Madam,

Sub-Powers assigned to CBEC for appointment of Standing Counsels to handle litigation of Indirect Taxes before various High Courts - guidelines regarding mechanism of appointment of Counsels and their terms and conditions- Reg.

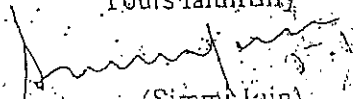
Central Board of Excise & Customs has been assigned the powers to appoint Standing Counsels to handle the litigation of Indirect Taxation before the various High Courts / Tribunal / BHR / AAR / DRT and other statutory authorities and also to regulate their terms and conditions of engagement etc.

2. The procedure for appointment of Counsels and renewal of their terms has been prescribed by specifying the requisite qualification and terms and conditions of their engagement which is annexed as Annexure-I. The Schedule of fee and allowances etc. is annexed as Annexure-II.

3. This is issued with the concurrence of Ministry of Law & Justice vide their Dy.No.3513/2007-Judl. dated 22.11.2007 and the Integrated Finance Unit (IFU) Dy.No.3112/2007.

Encl: as above

Yours faithfully


(Simmi Jain)
Director (Legal)

ANNEXURE - I

1. Category and qualification of Counsels:

Counsels are engaged by the department for representing the department before High Courts/other judicial bodies in cases relating to the indirect taxation. The Counsels engaged by the department will fall into three categories viz-

- a. Junior Standing Counsels
- b. Senior Standing Counsels
- c. Standing Counsels

Qualifications of each category of counsel will be as under:

A. Junior Standing Counsel: In order to be eligible for appointment as Junior Standing Counsel a person should

- i. be enrolled/registered as an advocate with the High Court
- ii. have a minimum experience of three years of handling preferably Customs and Central Excise and Service Tax matters before High Courts or Tribunals

OR

Have been an officer of the Custom & Central Excise Department who retired/resigned from the post of Additional Commissioner of Custom/Excise or below and is enrolled/registered as an advocate in the High Court. Provided that he has not been removed/dismissed or compulsorily retired from service on account of disciplinary action against him and no disciplinary proceeding under service rules or pension rules is pending against him.

B. Senior Standing Counsels: In order to be eligible for appointment as Senior Standing Counsel a person should

- i. be enrolled/registered as an advocate with the High Court
- ii. have a minimum experience of five years of handling preferably Customs and Central Excise and Service Tax matters before High Courts or Tribunals

OR

Have been an officer of the Custom and Central Excise Department who retired/resigned from the post of Commissioner of Customs / Central Excise or above or retired/resigned as Member/Vice President/President of CESTAT/Settlement Commission and is enrolled/registered as an advocate in the High Court. Provided that he has not been removed/dismissed or compulsorily retired from service on account of disciplinary action against him and no disciplinary proceeding under service rules or pension rules is pending against him.

C. Standing Counsels: In a station where counsels do not have sufficient experience to be appointed as Senior Standing Counsels, the senior most among the panel of Junior Standing Counsels of the Department at that station may be designated by the Chief Commissioner of Custom/Central Excise as the Standing Counsel while other Counsels should be categorized as Junior Standing Counsels.

The Standing Counsel so designated shall perform the duties of a Standing Counsel before the Hon'ble High Court/CESTAT/other forums in the absence of a Standing Counsel.

2. Appointment of Counsels.

2.1 For the purpose of appointment, the Chief Commissioner of Customs/Central Excise will call for applications in Proforma -A & A-1 (as applicable), either by advertisement in local newspapers, or from the Bar Council of High Court or otherwise. Terms and conditions of appointment should be in accordance with Annexure I & II as enclosed.

2.2 Particulars of the applicants' expertise in handling indirect tax matters by the applicant will be examined by the Chief Commissioner of Customs/Central Excise matters and an evaluation report along with recommendation of the Chief Commissioner concerned will be sent to the Board in Proforma -B.

2.3 The First appointment of each Counsel shall normally be for a period of three years.

3. Performance Review:

The following procedure shall be adopted for reviewing performance of the Counsels appointed by the department:

a. The Commissioner of Customs/Central Excise having jurisdiction over a case shall submit a half yearly report to the Chief Commissioner in Proforma C in respect of the cases represented by the Counsel.

b. On the basis of the reports received from the Commissioners, the Chief Commissioners will review the performance of the appointed Counsels every year before 30th June of each year and send an annual report to the Board in Proforma-D.

4. Renewal of appointment :

4.1 Proposals for renewal of terms of the Counsels should be submitted to the Board at least 3 months before the expiry of the existing term.

4.2 The renewal of a term of a Counsel can be made for a period of three years if his performance is found to be satisfactory. Before making recommendation for renewal of appointment of the Counsel, the Chief Commissioner should necessarily make an evaluation of the performance of the Counsel during the preceding term and forward it to the Board alongwith the proposal for renewal in Proforma -E.

5. Allocation of cases to Counsel:

The Chief Commissioner of Customs/Central Excise will be overall in charge of entire litigation work on behalf of the Commissionerates falling within his jurisdiction. In respect of cases taken up by the DGDRI/DGCEI, the DG concerned will be the incharge. Allocation of cases to the Counsel may be made by the Chief Commissioner/Director General or by the Commissioner/Director authorized by them.

6. Termination of appointment/resignation:

The appointment/empowerment of the Counsel would be terminable on one month's notice in writing by either side without assigning any reason.

7. Duties of the Counsel.

The Counsel shall:

(i) appear in the High Court in the cases assigned to him and also appear, if so required on behalf of the Department, in other High Courts, Tribunals, BJFR, AAIFR/ DRT / other Tribunals/ Settlement Commission, Commissioner (Appeals) and other courts and statutory bodies;

(ii) give legal advice to the Department on such civil, criminal and revenue matters pertaining to indirect taxes and such other matters arising in the course of administration of the Department as are referred to him by the officers of the Department including:

- (a) examination and settling of drafts of legal nature;
- (b) drafting of applications, petitions etc. to be filed in courts of law;
- (c) prompt removal/curing of defects in appeals/petitions filed, as may be pointed out by the registry.

(iii) when any case attended to by him is decided against the Department, give his opinion regarding the advisability of filing an appeal from such a decision not later than 5 working days of the order (kuchha copy).

(iv) apply for the copy of the judgement of the Court in a case attended by him on the same day or the next day and provide the same within 10 days of the receipt of the order (excluding the time taken by the Court in preparation of the copy);

(v) if required, render all assistance to the Law Officers, Advocate General of the State Government, Special or Senior Counsel, who may be engaged in a particular case before the Supreme Court, High Courts, Tribunal, etc;

(vi) keep the department informed of the important developments in the case from time to time particularly with regard to drafting, filing of papers, dates of hearing of the case, order of the Court on the date of its pronouncement, supplying copies of judgement etc;

(vii) furnish to the Department monthly statement about the cases represented by him before the High Court or any other authority.

(viii) perform such other duties of legal nature, which may be assigned to him by the Department.

8. Right to private practice.

The Counsel will have the right of private practice, which should not however, interfere with the efficient discharge of work of the Department but he shall not advise, hold briefs or appear against the Department before any authority, tribunal or court in matters under the statutes relating to indirect taxes.

If the counsel happens to be a partner of the firm of lawyers or solicitors, it will be incumbent on the firm, not to take up any case against the Department in the same High Court, before

any authority, tribunal or any case arising in other courts or of those cases e.g. appeals and revision in the High Court or the Supreme Court.

ANNEXURE - II

1. Schedule of Fees and allowances

The fees and allowances for Senior Standing Counsel and Junior Standing Counsel are given hereunder. The Standing Counsel and Junior Standing Counsel shall be entitled to only 2/3rd of the amount specified against each item of work (except item no. 7). The Junior Standing Counsel shall not be entitled to retainerhip payable to Sr. Standing Counsel and Standing Counsel mentioned at S.No.7, below.

1. For appearance in the High Court

Appeals under section 150/150A of the Customs Act 1962/Section 35G/35H of Central Excise Act, 1944/Finance Act 1994/
Civil or Criminal Writ Petition under Articles 226 and 227 of the Constitution/ orders made in such Petition, including appearance at admission Stage/ for cases before other Authorities

~~Rs. 4500/-~~

However, for each substantial and effective hearing following the first hearing an additional fee of Rs. 500/- for each substantial and effective hearing may be payable for fees.

2. Certificate of fitness

3. For Civil Miscellaneous Application

Rs. 1500/- (for each application)
Rs. 1500/- per case

4. For Civil or Criminal revision Petition

Rs. 2100/- per case

5. For drafting pleadings, written statements in suits, counter affidavits/returns/answers pleading to the writ petition, grounds of appeal, etc. application for leave to appeal to Supreme Court;

~~Rs. 1500/- per case~~

If substantially identical affidavits, written statements etc are drafted in connected cases, only one drafting fee will be payable in the main case and the same shall be payable in connected cases.

Other than what is referred in para 1/11 of Annexure I

~~Rs. 1500/- per case~~

7. Retainership

The senior Standing Counsel and Standing Counsel will be entitled to a Retainership of Rs. 6,000/- per month (which includes charges for staff, office rent, postage and all other establishment charges).

8. Clerkage

Clerkage at the rate of 10% of the hearing fee subject to a maximum of Rs. 3,600/- in a case or batch of cases before the High Court.

9. Out of pocket expenses

The amount required for court fees at the time of filing a case and other miscellaneous expenses should be paid to the Counsel in advance by the Commissioner concerned. A final bill of the expenses incurred should be rendered to the Commissioner while presenting the

10. Perquisite

The reimbursement of telephone expenditure, subject to a maximum of Rs. 1,000/- per month, shall be made by the Commissioner for calls that have been made in connection with Departmental litigation matters only.

11. For appearance before any other Courts, CESTAT, BIFR /AAIFR/ DRT /other Tribunals and other Statutory bodies and authorities.

- (a) at headquarters: same as payable for appearance before the High Court.
- (b) out of headquarters: when the Counsel is required to go out of headquarters in connection with any litigation matter e.g. for conference with a Senior Counsel/ Special Counsel or with the Law Officer or for appearance in any Courts/Tribunal/other Statutory Bodies etc. outside the headquarters, he will be entitled to a daily fee of Rs. 3,600/- per day for the days of his absence from the Hqrs. including the days of departure from, intervening holidays and arrival back at the headquarters. However, no fee will be paid for the day of departure if he leaves headquarters after court hours and for the date of arrival if he arrives at the headquarters before the court hours.
- (c) travel/hotel expenses : in addition to the daily fee, the Counsel will be entitled to travel expenses for travel by air (economy class) or first class AC by train. Road mileage for the journey from his headquarters to the airport/railway station and vice versa and from the airport/railway station to the place of his stay out of headquarters and vice-versa will be paid at the rates admissible to Class I officers of the Central Government (having basic +NPA +SI in the pay range Rs. 8000/- to Rs. 10399/-). He will also be paid a lump-sum amount of Rs. 600/- as conveyance charges for performing local journey while outside the headquarters. He will also be entitled to actual expenses for stay in hotel, subject to maximum for Rs. 1,200/- per day.

12.1. General.

The rates specified above are primarily applicable to Central Excise/Customs/Service Tax cases but will apply mutatis mutandis to cases relating to other matters assigned by the Department. In all cases effective appearance is necessary for the Counsel to claim fee.

12.2. No fee will be payable in cases where no legal work is required to be done. For example, cases in, which the interest of the Department is to be watched pending instructions, the cases involving transmission of records to the Supreme Court, inspection of the Court record for ascertaining the position of the case or other information needed.

12.3 If the Counsel appears at the instance of the Union of India or for parties other than the Union of India whose scales of fee are not inconsistent with that of the Union of India, he will be entitled to only one set of fees.

12.4 Appeals, revision or petitions arising from one common judgement or order will be considered together as one case if they are heard together.

12.5. Uncontested matters.

In uncontested cases, the fee shall be 1/3rd of the fees otherwise payable but if such a case is later on restored and decided in contest, the remaining 2/3rd of the fee will be payable. A case shall be regarded as contested when a decision is given after hearing arguments on both sides. The case shall be deemed to be uncontested if the court decides that the case is a covered one. For example if the court follows its own judgement or judgement of the Supreme Court, the case is considered to be a covered one. In case of any dispute, the Chief Commissioner/Director General/Commissioner/Director shall decide whether the case is uncontested or not.

12.6 No fees for adjournment

No fee will be payable to the Counsel if an advance notice about the adjournment has been issued or the case has been adjourned at his request due to the reasons personal to him.

12.7 Late submission of certified copies of the judgement:

30% of the fees payable to the Counsel shall be deducted if the Certified copy of the judgement is not handed over to the Commissioner/Director of the Department within ten days (excluding the time taken by the Court) from the date of judgement.

12.8 Where there are two or more cases (but not more than 10 cases) involving substantially identical questions of law or facts, one such case will be treated as the main case and the others as connected cases. The fees in such cases will be regulated as provided in succeeding paras, irrespective of the fact whether or not such cases are heard together.

12.8.1 When the Counsel files separate and materially different affidavits, applications or grounds of appeal etc. in more than one case but the argument is heard in the main case and the other cases are decided accordingly, the Counsel shall be paid the full fees in the main case and Rs.200/- for each of the connected cases.

12.8.2 When the main case has been heard as in para 12.8.1, but in the connected cases either affidavit or grounds of appeal or petition similar to the one in the main case has been

13.3 Covered cases

Where an identical issue stands decided by the same High Court or by the Supreme Court and the judgement in the relevant case is squarely based on such earlier decision of the same High Court or by the Supreme Court, the case shall be deemed to be a covered case.

13.4 Substantial work

Hearing of applications u/s 130/130A of the Customs Act/Sec 35 G/Sec 35 H of the Central Excise Act and the Finance Act, 1994 shall be treated as substantial work. Where a case has been admitted by the court after hearing of preliminary objections or filing of affidavits/counter affidavits etc. by the counsel, substantial work will be deemed to have been carried out.

13.5 Monthly fixed cost

Charges such as retainership fees, telephone charges and such other fixed charges, if any, payable to a Counsel shall be borne by one Commissioner only, so nominated in this regard by the Central Board of Excise and Customs.

KIND ART OF SHRI V. K. AORRIVAL

ANN- B

F. No. 23(2)/2001-Judl.
 Government of India
 Ministry of Law, Justice & Company Affairs
 Department of Legal Affairs
 Judicial Section

New Delhi, the 14th May, 2001.

OFFICE MEMORANDUM

Subject: Revision of fee payable to Special Counsel/Senior Panel Counsel Group I, Senior Panel Counsel Group II and Junior Counsel in the Bombay High Court, Mumbai Bench.

The undersigned is directed to refer to this Department's O.M. No. 23(1)/87-Judl. dated 24th April, 1987 on the above subject and to state that the question of further revision of fee payable to Panel Counsel of Bombay High Court, Mumbai, was under consideration of the Government and the Government has decided to revise the fee terms w.e.f. 14th May, 2001, as under:-

(a) Annexure I to the Scheme of terms and conditions contained with this Department's O.M. No. 23(1)/87-Judl. dated 24.04.1987 shall be replaced by the Annexure to this O.M.

(b) Term IV of the Scheme of terms and conditions contained with this Department's O.M. dated 24.04.1987 shall be substituted by the following, namely:-

IV. TERM OF ENGAGEMENT

(1) Initial/further engagement :- The term of engagement of the Counsel would be for a period of three years or until further orders whichever is earlier. The term may be extended further at the discretion of the Government of India.

(2) Termination of engagement :- The engagement of the Counsel would be terminable at any time without assigning any reason.

(c) In term IX.2. of the Scheme, the amounts of Rs. 100/- and Rs. 200/- shall be revised to Rs. 300/- and Rs. 600/- respectively.

(d) In term XIII.10, the existing amounts of Rs. 25/- and Rs. 50/- wherever occurring shall be revised to Rs. 75/- and Rs. 150/- respectively.

The Counsel will be paid fee at the old rates in respect of their appearance in the High Court, etc. and other work done by them prior to 14th May, 2001 and at the revised rates in respect of work done by them on/after 14th May, 2001.

3. The other provisions of this Department's O.M.No.23(1)/87-Judl. dated 24.04.1987 and the scheme contained therein shall remain the same.

4. The Scheme of terms and conditions contained with this Department's O.M. dated 24.04.1987 as amended by this O.M. shall also be applicable to the Panel Counsel of Central Administrative Tribunal, Mumbai. However, the fee payable to them will be borne by the Ministries/Departments themselves.

(D.R. MEENA)
Joint Secretary & Legal Adviser to the Government of India

Copy forwarded to :-

1. All Ministries/Departments to the Government of India
2. All Panel Counsel in the Bombay High Court (through Branch Secretariat, Department of Legal Affairs, Mumbai)
3. Department of Expenditure, Ministry of Finance, New Delhi. w.r.t. their L.D.No.9(11)/99-F.I.I(B) dated 12.04.2001
4. Legal Adviser, Railway Board, New Delhi (with 5 s/copies)
5. Joint Secretary (Legal), Department of Revenue, Ministry of Finance, New Delhi (with 5 s/copies)
6. CEM, Department of Revenue, Ministry of Finance, New Delhi (with 5 s/copies)
7. Branch Secretariats - Mumbai/Kolkata/Chennai/Bangalore.
8. Central Agency Section, Litigation, (MG/LC) Section, Cash Section, B&A, Advice A/B/C Sections
9. Pay and Accounts Officer, Department of Legal Affairs, New Delhi.
10. Guard File/Judicial Section (with 250 s/copies)

URGENT

(S.K. TALRA)
Section Officer

REVISED RATES OF FEES PAYABLE TO SPECIAL PANEL COUNSEL, SENIOR COUNSEL GROUP I, SENIOR COUNSEL GROUP II, JUNIOR COUNSEL/ADVOCATE ON RECORD FOR ENGAGEMENT AT BOMBAY HIGH COURT, MUMBAI/BENCH EFFECTIVE FROM 14TH MAY, 2001

Sl. No.	Nomenclature	Special Panel Counsel	Sr. Counsel Gp. I	Sr. Counsel Gp. II	Jr. Counsel/Advocate on Record
1.	2.	3.	4.	5.	6.
	Suits, Appeals, Writ/Revision Petitions including Special Civil Application in the High Court	Rs.3,000/-	Rs.2,000/-	Rs.1,250/-	Rs.650/-
	Conference/consultation (per consultation)	Rs.300/-	Rs.250/-	Rs.200/-	Rs.150/-
	Applications including interim motions, Notices, Appeals, Leave Applications, Arbitration, Company matters, Crml. Revision and other Land Acquisition References (per day per effective hearing)	Rs.1,100/-	Rs.900/-	Rs.700/-	Rs.450/-
	Conference/Consultation (per consultation)	Rs.300/-	Rs.250/-	Rs.200/-	Rs.150/-
	Drafting or settling pleadings, and affidavits (per pleading)	Rs.900/-	Rs.600/-	Rs.500/-	Rs.350/-
	Conference/consultation (per consultation)	Rs.300/-	Rs.250/-	Rs.200/-	Rs.150/-
	Appearance before Arbitrator and Tribunals, etc. and Courts other than the High Court (per day per effective hearing)	Rs.2,500/-	Rs.2,000/-	Rs.1,250/-	Rs.800/-
	Conference/consultation (per consultation)	Rs.300/-	Rs.250/-	Rs.200/-	Rs.150/-
	Chamber applications, including adjournment applications per day, inclusive of consultation	NIL	Rs.500/-	Rs.300/-	Rs.200/-
	Written opinions and written advice including advice on evidence (inclusive of consultation)	Rs.1,350/-	Rs.750/-	Rs.450/-	Rs.350/-

Note :- No ceiling on conference/consultation in the case of Special Panel Counsel whereas in the case of other categories of Counsel, ceiling is four (relaxable to six at the discretion of the Branch Secretariat.)

R.ASOKAN

B.Sc.LL.B

Advocate, High Court, BOMBAY
Sr.Counsel for UNION OF INDIA
Room.No.56, 3rd Floor,
High Court, Main Building
BOMBAY - 400 032.
Mobile :- 9869000461.

ANN-21
Reply:- Laxmi Narayan Niwas,

Near Mhasoba Maidan,
Opp Ammu Arcade,
KALYAN (W) - 421304
MAHARASTRA STATE

☎ : 2209693/2204950

(STD Code : 0251)

E-mail:adv.asokan@gmail.com

Ref :

To,
The Development Commissioner,
SEEPZ-SEZ
Andheri (E), Mumbai -400 096.

Subject : Appointment of Panel Advocates.

Reference ; Your L No:SEEPZ-SEZ/296/Misc/2009-10/8183 dated 20-05-2011.

Madam/Sir,

With reference to the above subject and your letter under reference and the meeting held with the Jt. DC on 26-05-2011, on the Schedule of Fees, it is agreed in the absence of a current/updated Schedule of fees prescribed by the Ministry of Law available, the schedule of fees and the terms and conditions prescribed by the CBEC vide F No.278A/43/2007-Legal dated 05-12-2007 will be followed as a norm (Copy enclosed for ready reference).

> The Fees for any area of legal service required as per your letter under reference, which are not available in the said schedule the current schedule of

(Signature)

Fees prescribed by the Ministry of Law (last updated on 14-05-2001) will be followed as a norm. In the event the CBEC or the Ministry of Law Schedules are revised, the same will be given effect accordingly.

- > If any area of service required to provide are not covered by either of the above schedule referred, fees will be fixed by mutual consultation.
- > It is mutually understood that all out of pocket expenses such as steno/typing charges/Xerox charges, Miscellaneous expenses incurred for which as far as possible supporting vouchers wherever possible will be provided; If not will be certified.
- > In your letter under reference items (i) and (ii) such as drafting/vetting of agreements/contracts which are unique in nature and are not listed either in CBEC/MOL Schedule, I quote a legal fees of Rs.5000/- per Job.
- > Item no (iii) - Reply to legal Notices, The fees will be equivalent to the preparation of counter in WP/Suits.
- > Item No.(vi), As regards the briefing of the case to Law Ministry nominated Counsels, the fees will be paid as if appearing along with Counsel nominated, if any by the MOL and the fees will be claimed as per MOL Schedule.
- > During the Course of interaction, it was stated that a visit to SEEPZ Office, once in a week will be required. The visit can be possible outside the Court Hours or on Holidays. In a case of urgency, visit can be arranged on prior appointment. The charges for such visit will be claimed on par with the compensation entitled for absence from Headquarters (High Court) as per CBEC norm i.e. Rs:3600/- per

[Handwritten signature]

visit. Also reimbursement of to and fro road mileage/conveyance expenses as per the Rules, which is currently understood to be @ of 16/- per Km.

Thanking you in anticipation of your confirmation.

Thanking You,
Yours Sincerely,

R. Asokan

Sr. Counsel for Union of India (Gr-I),
Sr. Stg Counsel for CBEC

Encl: as above

*CBEC F.NO: 2767/M/2007-legal
dt- 5-12-2007*

No. 2/2/87-NEPZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(EPZ Division)

New Delhi, the 29th April, 2000

To
Development Commissioner
SEEPZ/KAFTZ/NEPZ/MEPZ/CEPZ/FEPZ/VEPZ

Subject: Rent structure in EPZs - Reg.

Sir,
I am directed to refer to Item No. 4 of the minutes of general points discussed at the time of EOA meeting on 7.4.2000 under the Chairmanship of Additional Secretary on the subject cited above. You are requested to kindly take necessary steps to implement the following decisions taken in the matter;

Type of Activities	Rent to be charged
Bank warehouse/custom house agent/courier	10% of the rent charged on SDF/plot, as the case may be
Post Office	1% of the lowest rent on SDF
Canteen	The rate decided in auction if the canteen is run on commercial lines. If it is run as a welfare measure and the rates are fixed in consultation with DC, 1% of the lowest rent on SDF
Creche	Token rent of Rs. 1/- p.a.

Rent concession to FEPZ/VEPZ - It was noted that FEPZ/VEPZ is now receiving encouraging entrepreneurial response and a stage has come to discontinue the extended rent concession. This would also introduce uniformity.

2. Rent may be revised every 3 years atleast by 25%. Billing shall be on quarterly basis.

EM
J
SJS

Yours faithfully,
(Anita Prasad)
Director

SEEPZ SPECIAL ECONOMIC ZONE AUTHORITY

ANDHERI (E), MUMBAI – 400 096.

**SUPPLEMENTARY AGENDA FOR THE 12TH MEETING OF THE
SEEPZ SPECIAL ECONOMIC ZONE AUTHORITY**

**VENUE :- CONFERENCE HALL OF SEEPZ SERVICE CENTRE,
2ND FLOOR, ANDHERI (E), MUMBAI – 400 096.**

ON 30TH AUGUST, 2011 AT 03.00. P.M.

12th Meeting of the SEEPZ Authority to be held on 30th August, 2011.

List of Supplementary Agenda Item :-

1. A transparent policy for allotment of space in SEEPZ SEZ - New & Surrender and other related issues

Supplementary Agenda for the 12th SEEPZ SEZ Authority Meeting

Sub.: A transparent policy for allotment of space in SEEPZ SEZ
- new & surrender and other related issues.

Since the impact of recession on SEEPZ SEZ has reduced and there are a large number of units waiting for allotment of space inside SEEPZ SEZ while there are 42 units which are closed and non-functional, it is necessary to bring out a comprehensive guideline for SEEPZ SEZ Authority laying down

- (i) Principles of allotment of land/premises,
- (ii) Conditions for surrender of premises either at the option of the unit holder or after a review by the SEEPZ Authority when the unit is not meeting the conditions of LOP.
- (iii) The comprehensive guideline will also cover other issues as indicated in points 1 to 5, of the 2006 policy, with update of practice.

These guidelines will replace the transfer policy as contained in the Minutes of the meeting of the Committee held on 2nd November, 2006, which will in effect be replaced by a policy of allotment of space upon surrender. If a unit wants to surrender the premises the next allottee will be decided upon by the SEEPZ Authority and the method of compensation of any investment made will be decided by the Development Commissioner, the chairperson of the Authority, by a process of valuation by an authorised valuer. This will bring transparency in the process of reallocation of available space and limit the premium which yields to the unit who do not own the property.

The guidelines will first address the need for fresh allotment and allotment on surrender of the short-term leased space of SDFs and Gem & Jewellery buildings. A Committee will be formed for bringing out the first set of draft guidelines as has been brought out by Cochin SEZ. Space like SEEPZ++, multi-storeyed building, SDF-VII and plots can be covered in the second round as these are obtained on long-term lease from MIDC and upfront lease payments are made from units.

* * * * *

Brief details of Inputs received from DCs on transfer of Companies (Land allotted to the Unit/built up space) in Govt. owned SEZs and Suggested draft guidelines

Sr. no	Situations	Suggested draft guidelines	Remarks from SEEPZ SEZ
1.	<p>Situation when a unit gets much bigger plot allotted from SEZ Authority and utilizes only part of it. Unit may or may not be NFE positive in line with the requirements of the SEZ Act.</p>	<p>If, the unit is not NFE positive up to the 3 years from the date of commencement of production, a Committee Constituted by the Chairman & CEO of the Authority concerned may find out the reason for negative NFE & assess the actual requirement of space. On receipt of report from the Committee, they should be asked to surrender surplus land. If not surrendered, land resumed back by the Zone Authority by cancelling the allotment of surplus land.</p> <p>When the unit is NFE positive and meets other requirements of the SEZ Act, penal rent at five times the normal rent should be levied as per the conditions of sub-lease. Unit should be given a deadline for surrender of balance land in case they do not resume utilization.</p>	<p>➤ Issues may arise when the unit has already constructed the built-up structure. The issues would relate to compensation for the expenses incurred for setting up the built-up space.</p> <p>➤ In the case of SEEPZ partial sublet of the premises is being permitted. This however entails that the unit would in fact earn the rent for permitting usage of those premises which is not in the spirit of the SEZ Rules.</p> <p>➤ In order to ensure this, it would be essential to have the norms of export vis-a-vis space allotted to the unit in order to determine the gap between what was expected and what was achieved.</p>
2.	<p>Unit has got a plot allotted in the Zone and a LOA but not effecting any construction. Unit request that the plot be transferred to some other unit having a valid LOA.</p>	<p>Unit should not be allowed to transfer. The plot should be surrendered back to the Zone Administration. In case of non surrender provisions of the P.P. Act can be used. In case unit has started construction but not obtained completion certificate of the building and LOA has been extended by DC on reasonable ground, the penal rent of 5 times the normal rent may be charged till completion of building in terms of condition no. C of the sub-lease deed.</p>	<p>➤ Issues would arise when the construction has already taken place and the unit has obtained Completion Certificate but not able to carry out exports.</p>

			<p>In case of premises on long term lease for SEEPZ++ and multistoried building the Policy of MIDC is that the unit may surrender back the premises in case the project does not take off and MIDC would charge 5% administrative charges and return the remaining amount back to the unit which sometimes runs into crores of rupees. The allotment is then made to the next person in the waiting list. However, it needs to be discussed with the MIDC whether in those cases where the unit had started production but could not take the project further on for completing the exports as provided under LOP what would be the remedies available since the unit would already have made a preliminary investment in furniture and fixtures of the premises as well as the initial investment on the built up space while taking it on long term lease from MIDC. In such cases, it is suggested that the value of the built-up premises in terms of the Ready Reckoner of the Government of Maharashtra can be arrived at and the price determined can be offered to the next unit in the waiting list who can be considered for a LOA.</p>
3.	<p>Unit wanting to debond/or prematurely exit from SEZ, transferring the plot along with the building. Building may be constructed by Government Agency or unit (long term lease case)</p>	<p>Transfer of building including plot should be allowed to a unit selected from the waiting list by Zone Authority based on projected exports, investment on plant & machinery and employment projections on payment of value evaluated by the Govt. registered valuer and payment of transfer charges as decided by the Authority concerned in terms of sub section 2(d) of section 34 of</p>	<p>Concurrence of agency who constructed the building (e.g. MIDC) may also be required.</p>

		SEZ Act & Rule 6(1) of SEZ Authority Rules.	
4.	Unit desiring to exit out of an SDF / complex gala built by Govt. held on a short term lease or wishing to debond and transfer the gala to a buyer of his choice.	Transfer in such situations should not be permitted. The gala/SDF will automatically be transferred back to the Zone Authority who will then allot it to new units as per the waiting list maintained. In case of willingness of the exiting unit to surrender provisions of P.P Act may be effected. While issuing new LOP to any unit for a SDF/ complex gala it should be made clear that the space has to be surrendered back and the unit cannot expect to recover the value of investments made on interiors.	<p>➤ Issues like compensation for the initial investment made by the units when they themselves acquire the premises and also investment made on furniture and fixtures by the unit would have to be looked into.</p> <p>➤ The issues of re-designing the entire premises so as to suit a unit from another sector would lead to possible redundant expenditure. For example; a jewellery unit would be designed so as to be suited and occupied by another jewellery unit on transfer.</p>
5.	Other establishments of service providers/ long lease holding agencies		The above policy does not take into account provisions for surrender by such occupants who are not in the nature of unit. For example:- surrendering infrastructure facilities like Hotel Heavens in SEEPZ SEZ. We need to have guidelines on the same.