



भारत सरकार  
वाणिज्य एवं उद्योग मंत्रालय  
वाणिज्य विभाग  
विकास आयुक्त का कार्यालय  
नॉएडा विशेष आर्थिक क्षेत्र  
नॉएडा-दादरी रोड, फेज-II, नॉएडा- 201305  
जिला: गौतम बुद्ध नगर (उत्तर प्रदेश)



फ.सं. 10/18/2012-SEZ

दिनांक: .06.2020

सेवा में,

उप सचिव (एसईजेड),  
भारत सरकार,  
वाणिज्य विभाग, वाणिज्य और उद्योग मंत्रालय,  
उद्योग भवन, नई दिल्ली ।

विषय: Liquidation Proceedings of M/s Earth Iconic Infrastructure Pvt. Ltd. Co-Developer of M/s. Ansal IT City & Parks Ltd. (developer), IT/ITES at Plot No. TZ-06, Sector- Techzone, Greater Noida, Uttar Pradesh- के सन्दर्भ में ।

महोदय,

In continuation to this office letter dt.12.06.2020 (copy enclosed), it is informed that this office is in receipt of an email dt.20.06.2020 from Sh. Manchanda forwarding therewith another letter No.15/2020 dated 20.06.2020 (copy enclosed) wherein it has been mentioned that as a liquidator, he has to dispose of the property to repay the dues of the creditors. The sale in this case, can only be done by an open auction and a successful bidder is not known till the auction process is concluded. Under these circumstances prior approval of the BOA cannot be obtained for each bidder.

2. Sh. Manchanda has further requested this office to submit suitable recommendations to the BOA for waiving the condition of their prior approval- for reorganization, change of share holders, change of share holding pattern, change of constitution or business transfer arrangements of M/s Earth Iconic Infrastructure Pvt. Ltd. The Board may lay down some eligibility criteria for the prospective bidder relating to net worth and prior experience, so that auction could be conducted and the tenets of the law are also observed.

3. Sh. Manchanda has mentioned that under section 10 (10) of the SEZ Act, 2005, the Board of approval is empowered to issue such directions or formulate such schemes as it may consider necessary for operation of the SEZ, in order to promote exports, or to protect the interest of the units or in the Public Interest (as per para 4 of the Instruction No.89 dated 17.05.2018, issued by Govt. of India, MOCI).

4. Sh. Manchanda has further mentioned that the above auction shall not only serve the public interest but also result in release of the blocked land for the use of the Industry. Keeping the status quo vis-a-vis the land in question, shall defeat the very purpose of the SEZ scheme.

5. Sh. Manchanda also mentioned that GNIDA has not extended any co-operation despite repeated reminders from this office and his personal visit to their office. The developer (i.e. Ansal IT City and Parks Ltd.) has also not shown any interest in resolving the issue. Sh. Manchanda has requested that as a liquidator of M/s Earth Iconic Infrastructure Pvt. Ltd., he may be provided an opportunity of personal hearing before the Board of Approval.

जारी है..

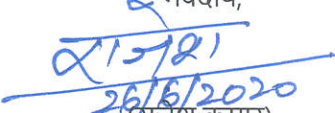


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6. In view of above, the request of Sh. Manchanda is being forwarded for appropriate action at your end.
7. This issues with the approval of Competent Authority.

संलग्नक: उपरोक्तानुसार

भवदीय,  
  
26/6/2020  
(राजेश कुमार)  
उप विकास आयुक्त

प्रतिलिपि सूचनार्थ: Sh. Harish Chand Manchanda, (Resolution Professional), M/s Earth Iconic Infrastructure Pvt. Ltd., 1085, SBI Enclave, H-block, Vikas Puri, New Delhi-110012.

  
उप विकास आयुक्त



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वाणिज्य विभाग  
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नॉएडा विशेष आर्थिक क्षेत्र



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क.सं. 10/18/2012-SEZ 3817  
12/06/20

दिनांक: 06.2020

मेवा में,

Sh. Harish Chand Manchanda, (Resolution Professional),  
M/s Earth Iconic Infrastructure Pvt. Ltd.,  
1085, SBI Enclave, H-block,  
Vikas Puri, New Delhi-110012.

**विषय: Liquidation Proceedings of M/s Earth Iconic Infrastructure Pvt. Ltd. Co-Developer of M/s. Ansal IT City & Parks Ltd. (developer), IT/ITES at Plot No. TZ-06, Sector- Techzone, Greater Noida, Uttar Pradesh- के सन्दर्भ में।**

महोदय,

I am directed to refer to your email dt.03.06.2020 and to forward comments/opinion of this office on the three options suggested by you in respect of the liquidation proceedings of M/s Earth Iconic Infrastructure Pvt. Ltd. Co-Developer of M/s. Ansal IT City & Parks Ltd. (developer), IT/ITES SEZ, as under:

**Proposal 1 : Sale of Company as a going concern:-**

- In terms of sub-clause (3) of Regulation 32A of Liquidation Process Regulations, the liquidator is mandated to identify and group the assets and liabilities to be sold as a going concern, in consultation with the consultation committee.*
- Since the CD (Co-Developer) has obtained various licenses and approvals from the State/Central Government for execution of a business plan. Such approvals and licenses can be revived at the application of the purchaser as on the date of start of CIRP, it shall be in the interest of the Creditors to sell the company as a going concern. The buyer in this case shall automatically get the status of developer of SEZ and also shall be entitled to the various approvals (sanction of building plans) granted by GNIDA for construction of residence and other building in the SEZ. The details of approvals and sanctions are available on the website earth-iconic.com*
- As per regulation 39.C(2), where the Committee recommends sale as a going concern, it shall identify and group the assets and liabilities, which according to its commercial considerations, ought to be sold as a going concern under clause (e) or clause (f) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.*
- As Per regulation 32 (A) (3) Where the committee of creditors has not identified the assets and liabilities under subregulation (2) of regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for corporate Persons) Regulations, 2016, the liquidator shall identify and group the assets and liabilities to be sold as a going concern, in consultation with the Committee.*

Since the assets to be sold have not been identified for sale as a going concern I recommend that only the land of the company admeasuring 37.5 Acre situated in Techzone 6, Greater Noida, Uttar Pradesh be

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ई-मेल: <dc@nsez.gov.in> : वेबसाइट: <www.nsez.gov.in>



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allowed to be sold (along with the approvals obtained by the company from Board of Approval, Ministry of Commerce as a co-developer of the SEZ and approvals for construction obtained from GNIDA) as a going concern.

Sh. Manchanda has also sought Consent/ approval/ opinion for the above grouping of assets.

**Our Comments/Observations:**

a. As per Section 2 (g) of SEZ Act, 2005 "Developer" means a person who, or a State Government which, has been granted by the Central Government a letter of approval under sub-section (10) of section 3 and includes an Authority and a Co-Developer;

As per Section 2 (f) "Co-Developer" means a person who, or a State Government which, has been granted by the Central Government a letter of approval under sub-section (12) of section 3;

b. Rule 11 (9) of SEZ Rules, 2006: "The developer shall not sell the land in a Special Economic Zone."

c. As per Instruction No.89 dt.17.05.2018 read with Instruction No. 90 dated 03.08.2018 issued by DOC, "Re-organisation including change of name, change of shareholding pattern, business transfer arrangements, court approved mergers and demergers, change of constitution may be undertaken with the prior approval of Board of Approval in respect of Developer/Co-developer subject to the condition that the Developer/Co-developer shall not opt out or exit out of the Special Economic Zone and continues to operate as a going concern. All liabilities of the Developer/ Co-developer will remain unchanged on such reorganization".

d. Instruction No. 90 dated 03.08.2018: 'prior approval of Board of Approval (BOA)/ Unit Approval Committee (UAC)' in para 5 (i) & (iii) of the said guidelines in respect of Developers/ SEZ units means that approval of BoA/ UAC, as the case may be, taken before the SEZ entity/unit is recognized by the new name or such arrangements in all the records. It may not be interpreted that prior approval of BoA/UAC is to be taken before approaching the Registrar of Companies or the National Company Law Tribunal as is being done in some cases came to the notice of this Department.

e. As indicated above, sale is not permitted under SEZ Act/Rules and instructions issued by GOI in the matter. Only change of name, change of shareholding pattern, business transfer arrangements, court approved mergers and demergers, change of constitution etc. are permitted as per Instruction No.89 and 90 with approval of BOA. For this purpose, the Co-Developer is required to submit a request along with following documents as per Instruction No.89 and 90 for consideration by the BoA:

- i Co-developer Agreement on non-judicial stamp paper entered into with SEZ Developer inter alia giving details of infrastructure facilities/authorized operations proposed to be carried out in SEZ as a co-developer, financial consideration, details of land/building etc. (with khasra wise land details/built up area/schedule) for development of infrastructure by the proposed Co-developer.
- ii Draft/Revised Lease Agreement / Sub-Lease Agreement proposed to be executed between SEZ Developer & proposed Co-developer.
- iii Copy of PAN Card of firm/company.
- iv Company / Firm Profile & Vision.

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- v Promoters/directors bio-data (incorporating their background, professional qualification and experience etc).
- vi Copy of Memorandum & Articles of Association (M&AoA) along with Certificate of Incorporation in case of Pvt. Ltd. or Ltd. Company.
- vii Form INC 22 in support of Regd. Office address in case of company and self-certified copy of Regd. lease deed in support of Head Office address in case of FIRMS.
- viii Copies of residential address proof (Passport/Ration Card/Voter ID/Driving Licence), PAN Card and IT returns (for last three years - along with annexures/computation sheet) in respect of all partners/Proprietor, as the case may be.
- ix Form-32 / DIR 11/12 of appointment of directors (other than the first directors as mentioned in M&AoA) of company. In case of cessation of first director(s), Form 32 / DIR-11/12 showing their cessation may also be submitted.
- x Copy of Board Resolution in case of company, deciding to become co-developer in SEZ and authorization in favour of authorized signatory (also giving the specimen signature of authorised director/person). Copy of power of attorney/authority to be given in case of partnership firms.
- xi Current shareholding details of applicant company/firm duly certified by CA.
- xii Current Net-worth Certificate in respect of applicant company/firm issued by CA.
- xiii Copy of Registered Partnership deed in case of partnership firm.
- xiv If a company/firm is already incorporated/working, copies of COMPLETE audited balance sheet of the company/firm for last three years. In case of firm, copies of ITRs (along with annexures) of partners for last three years.

After receipt of the above documents, the same will be forwarded to the BoA for taking a view as desired appropriate.

f. It is informed that the “Request for revocation/de-notification of SEZ status given to M/s. Ansal IT City & Parks Ltd. (developer) and M/s. Earth Iconic Infrastructure Pvt. Ltd. (co-developer) and illegal sale of land at Tech Zone-06, Greater Noida” was discussed by the BoA in its 91<sup>th</sup> meeting held on 06.08.2019. As directed by the BOA in the said meeting, a meeting was held on 14.08.2019 at 03:00 P.M under the Chairmanship of DC, NSEZ with the representative of Greater Noida Authority, the Resolution Professional (RP), Authorized Representative of Creditors and M/s Ansal IT City & Parks Lts. Developer for consideration of case (s) relating to M/s Earth Iconic Infrastructure Pvt. Ltd. Co-developer.

g. In the above meeting, participants were informed about the relevant provisions of SEZ Act & Rules for setting up of SEZ, grant of status of Developer/co-Developer, provisions/procedures for full/partial de-notification of notified land etc. It was also informed that land is a subject matter of the concerned State Govt. and specifically explained the following provisions of Rule 7(1) of SEZ rules :

*The Developer shall furnish to the central Govt., particulars required under sub-section (1) of Section 4 with regard to the area referred to in sub-section (2) or sub-section (4) of Section 3, (hereinafter referred to as identified area), **with a certification from the concerned State Govt. or its authorised agency stating that the developer(s) have legal possession and irrevocable rights to develop the said area as SEZ and that the said area is free from all encumbrances:***



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*PROVIDED that where the Developer has leasehold rights over the identified area, the lease shall be for a period not less than twenty years."*

h. It was further informed that once approved by BOA, Deptt. of Commerce issues LOA to the Developer for development, operation and maintenance of the SEZ. After satisfying itself regarding submission of details in terms of Rule 7 and other required details, Department of Commerce (DoC) notifies the identified area as an SEZ in terms of Rule 8 of the SEZ Rules. In terms of Rule 6(2)(a) of the SEZ Rules, 2006, if at least one unit commences production from the notified SEZ, the said SEZ becomes operational from the date of commencement of such production. When the SEZ becomes operational, its LOA shall be valid till the validity of notification of the SEZ. Similarly the proposal for approval as Co-developer under Section 3(11), of the SEZ Act for providing infrastructure facilities in the SEZ is made in prescribed Form to the concerned Development Commissioner in terms of Rule 3 A of SEZ Rules, 2006, who forward it to the Board of Approval (BOA) for consideration.

i. The meeting was also informed that as per proviso 2 to Rule 8, Developer shall apply for de-notification (full/partial) in prescribed Form (Form C-6)/C-5) to the concerned DC who shall forward the same to BoA along with his recommendation and requisite documents.

j. It was decided in the meeting to constitute a Committee comprising of Sh. Anil Sharma, DGM(IT), GNIDA, Sh. Harish Chander Manchanda, RP, Sh. Shyam Arora, Authorised representative of Creditors & Sh. Sunil Mirakhur, Vice President, M/s Ansal IT City & Parks Ltd. which will discuss the issues and based on their discussions, Developer/Co-Developer shall submit a proposal to the Development Commissioner's Office.

k. It was also decided that GNIDA will take a decision, as considered appropriate, on the Show Cause Notice issued by it to the Developer and Co-Developer. It was agreed that DGM(IT), GNIDA will coordinate the meetings of this group.

l. Further it was decided that once the proposal from this group is received by Office of the Development Commissioner, then the Office of the Development Commissioner shall forward the proposal to the SEZ Division of the Department of Commerce for placing it before the BOA.

m. It was also agreed that while forwarding such proposal, office of the Development Commissioner, shall also make a request to the Department of Commerce that while taking a decision on the subject, BoA may also provide a Personal Hearing to the above four members Committee.

n. Committee members had agreed that they shall strive to submit a proposal to the office of the Development Commissioner, within month time.

o. However, no proposal from the Committee constituted during the above meeting held on 14.08.2019 has been received till date even after issuance of reminder to DGM (IT), GNIDA for the same on 22.11.2019, 17.03.2020 and 28.05.2020.



भारत सरकार  
वाणिज्य एवं उद्योग मंत्रालय  
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जिला: गाँतम बुद्ध नगर (उत्तर प्रदेश)



Proposal 2 : In case Liquidator is unable to sell the Company (Corporate Debtor) as a going concern then he shall proceed to sell the entire land of the company after getting the same denotified from SEZ Authority.

- A person who buys the land in a SEZ has to obtain approval from Approval Committee of the the SEZ under section 14 (1) (d). This clause severely restricts the marketability of the Land in question. To remove this clause and to increase the market potential of the land it is obligatory to get the land denotified from SEZ Authority under Ministry of Commerce, Govt. of India.*
- As per proviso 2 to Rule 8, Developer shall apply for de-notification (full/partial) in prescribed Form (Form C-6)/C-5 to the concerned Development Commissioner, who shall forward the same to Board of Approval, Ministry of Commerce, Govt of India along with his recommendation and requisite documents.*
- All such proposals must have an unambiguous No Objection Certificate from State Govt. concerned.*
- State Govts. may also ensure that such de-notified parcels would be utilised toward creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged.*
- Such de-notified land parcels after de notification will conform to Land Use guidelines/master plans of the respective State Govts.*
- GNIDA vide its office order has permitted change in land use by other type of industries, on the areas earmarked for IT and ITES units, vide its order no GNIDA/IT /2019/324/71318 dated 18.09.2019.*

**Comments:** In this option the SEZ land in question is proposed to be partially de-notified in accordance with Rule 6 (A) (iii) of the SEZ Rules, 2006. The extract of this Rule is as under for ready reference:-

*"The Developer submits application in Form C5 for decrease in the area to the concerned Development Commissioner, as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendations."*

As per Office Memorandum No. F.1/5/2016-SEZ dated: 14.07.2016 issued by the Department of Commerce following documents are required for partial de-notification of SEZ from the Developer, M/s Ansal IT City & Parks Ltd. are as under:

- Application in Form C5 of SEZ Rules, 2006.
- Revised Developer's Certificate in prescribed format.
- Land details of the area proposed to be de-notified.
- Coloured Map of the SEZ clearly indicating area to be de-notified and left over area.
- No Objection Certificate from the State Government in light of criteria prescribed at Para 5(i), (ii) and (iii) of the Deptt. of Commerce, Govt. of India letter No. D.12/45/2009-SEZ dated 13th September, 2013 along with confirmation of refund of stamp duty exemption on notified SEZ land.
- No Dues certificate from Specified Officer of SEZ.

दा.जी.डी.



भारत सरकार  
वाणिज्य एवं उद्योग मंत्रालय  
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- g) No Objection Certificate / No Dues Certificate for SGST/ VAT/ CST exemption from the concerned department of State Government.
- h) No Dues Certificate regarding Service Tax from CGST Deptt.
- i) No Objection Certificate from Bank/Financial Institutions.
- j) No Dues in respect of Form-I.
- k) No Dues from Labour Department.
- l) Board Resolution/Authorization regarding decision of Company/firm for de-notification of SEZ along with authorization in favor of authorized signatory to sign documents relating to completion of de-notification formalities.
- m) Based on above documents a DC certificate in prescribed format along with Site Inspection report (including contiguity status) carried out by SEZ officials and representative of the State Govt. shall be forwarded to DOC for de-notification of the said land.

**Proposal 3 :** Sale of individual Plots, in case the liquidator is unable to sell the entire land at one go.

- a. This option has an advantage that individuals with smaller net worth shall be able to buy plots for their use.
- b. It shall also provide a wider network of buyers thereby increasing the competition which may lead to enhanced sale price.
- c. Disadvantage:- Sale under this head shall be a long drawn process and unlikely to be completed in one year process. It shall also involve a long distribution process in case all the plots are not sold.

**Comments:**

As per Rule 11 (9) of SEZ Rules 2006: " The developer shall not sell the land in a Special Economic Zone."

This option is not in conformity with SEZ Act/ Rules.

3. This issues with the approval of Competent Authority.

सुं  
12/6/2020 अ. प्र.

भवदीय,  
राजेश कुमार  
(राजेश कुमार)  
उप विकास आयुक्त

**प्रतिलिपि सूचनार्थ :**

The Dy. Secretary, (SEZ) ,Govt. of India, Department of Commerce, Ministry of Commerce & Industry, SEZ Division, Udyog Bhawan, New Delhi- along with copy of email dt.03.June.2020 received from Sh. Harish Chander Manchanda, Resolution Professional of M/s Earth Iconic M/s. Earth Iconic Infrastructure Pvt. Ltd.

राजेश कुमार  
उप विकास आयुक्त



DDC Rajesh

From: harish manchanda <iamharishmanchanda@gmail.com>  
Sent: 20 June 2020 11:13  
To: dc@nsez.gov.in; DDC Rajesh  
Subject: Earth Iconic Infrastructures Pvt. Ltd. In liquidation  
Attachments: nsez letter dt.20.06.20.pdf

Dear Sir,

Thanks for your response dated 12.06.2020.

I am hopeful of your continued co-operation in the matter so that the issue is resolved.

As this matter is peculiar, it requires out of the box approach, so that the legal tenets are also observed and creditors also get their hard earned money back.

I am submitting my recommendations in light of your observations in the letter dated 12.06.20 for your kind consideration and further necessary action.

Regards  
H.C.Manchanda  
Liquidator  
Earth Iconic Infrastructures Pvt. Ltd.  
IBBI/IPA/002/IP/N00659/2018-19/12109

On Priority  
Cajiva  
22/6  
ADC (P.O.)

(P.O.)  
22/6/20

End

HARISH CHANDER MANCHANDA  
LIQUIDATOR  
Earth Iconic Infrastructures Pvt. Ltd.

OFFICE No 8 SBI ENCLAVE  
H 3 BLOCK VIKAS PURI  
NEW DELHI-110018  
TEL-91+9891918955  
MAIL - amharishmanchanda@gmail.com  
Date 20.06.2020  
Letter No 15/2020

To  
The Development Commissioner,  
Noida Special Economic Zone  
Ministry of Commerce and Industry,  
Department of Commerce  
Noida Dadri Road, Phase-II,  
Gautam Budh Nagar, Uttar Pradesh-201305

Dear Sir,

Reg- File No.10/18/2012-SEZ Dated 12.06.20

Earth Iconic Infrastructures Pvt. Ltd. (In liquidation)

Thanks for your prompt response to my letter no 14/2020 dated 4.06.20 in the above matter. I agree with your observations expressed therein, however, I wish to submit that now as a liquidator, I have to dispose of the property to repay the dues of the creditors. The sale in this case, can only be done by an open auction. As you know the purchaser, who is the successful bidder, is not known till the auction process is concluded. Under these circumstances prior approval of the board can not be obtained for each bidder. (as suggested in para "C" of your comments)

As a special case, I request you to submit suitable recommendations to the Board of approval for waiving the condition of their prior approval - for reorganisation, change of share holders, change of share holding pattern, change of constitution or business transfer arrangements of Earth Iconic Infrastructures Pvt. Ltd. The Board may lay down some eligibility criteria for the prospective bidder relating to net worth and prior experience, so that auction could be conducted and the tenets of the law are also observed.

The Board of approval is empowered under section 10(10) of the SEZ Act 2005 to issue such directions or formulate such schemes as it may consider necessary for operation of the SEZ, in order to promote exports, or to protect the interest of the units or in the Public interest ( As per para 4 of the Instruction No. 89 dated 17<sup>th</sup> may,2018, issued by Govt. of India Ministry of Commerce and Industry.)

The above action shall not only serve the public interest but also result in release of the blocked land for the use of the Industry. Keeping the status quo vis-a-vis the land in question shall defeat the very purpose of the SEZ scheme

It is a matter of record that GNIDA has not extended any co-operation despite your repeated reminders and my personal visit to their office. Developer i.e Ansal IT City and Parks Ltd have also not shown any interest in resolving this issue

As a liquidator of Earth Iconic Infrastructures Pvt. Ltd. I may be provided and opportunity of personal hearing before the Board of approval

Regards



Harish Chander Manchanda  
Liquidator

Earth Iconic Infrastructures Pvt. Ltd  
BBI/IPA/002/IP/N00659/2018-19/12109