



KASEZ

विकास आयुक्त कार्यालय
Office of the Development Commissioner

कांडला विशेष आर्थिक क्षेत्र
Kandla Special Economic Zone
वाणिज्य तथा उद्योग मंत्रालय

Ministry of Commerce & Industry

गांधीधाम - कच्छ

Gandhidham-Kutch-370 230

Phone (02836)-253300, 252475, 252273

Fax (02836) - 252250 & 252194

E-mail kandlasez@gmail.com

Website: www.kasez.com

No. KASEZ/EM/2/937/81/ 2709 - 2713

Dated: - 07/06/2017

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ORDER-IN-ORIGINAL

BRIEF FACTS OF THE CASE:

1. Whereas, as per approval granted by Government of India, this Zone had allotted Shed no. 176, Sector - 1 admeasuring an area of 412.20 Sq. mtrs (the property) vide allotment order dated 22/08/1981 to M/s. Metal Box India Ltd. (the company) for a period of 10 years.
2. From the year 1982, the firm had stopped production activity. Further, the company informed through its letter dated 12/12/1985 about the winding up of their unit in Kandla SEZ. This Administration had written many letters to the company but they did not pay any rent and also did not reply to communication sent to them.
3. Whereas this zone is now saturated and this Administration receive number of enquiries/requests for allotment of space for different purpose, on the other hand the company has been keeping the space without any export production activities for more than three decades and that too without any rent having paid, defeating the very purpose of the FTZ/SEZ Scheme. As the premises is not put to productive use, the objective of the FTZ/SEZ scheme gets defeated.
4. Whereas, space cannot be allowed to lie idle in perpetuity, as it is defeating the main objectives of the SEZ Act, 2005 as given in section 5 of the Act which are:

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- (a) generation of additional economic activity
- (b) promotion of exports of goods and services;
- (c) promotion of investment from domestic and foreign sources;
- (d) creation of employment opportunities;
- (e) development of infrastructure facilities; and
- (f) Maintenance of sovereignty and integrity of India, the security of the state and friendly relations with foreign states.

BACKGROUND

1. Public Notice dated 27/06/2016 was issued by this Administration stating that the lease period of the property is over and so Authority has power to take possession of the premises under section 5(2) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and objections, if any, were invited within 21 days.
2. The company had vide your letter dated 08/07/2016 informed that the matter is still pending with BIRF/AAIFR and requested the Administration/Kandla SEZ Authority not to go ahead with the proceedings under Public Premises (Eviction of Unauthorized Occupants) Act, 1971.
3. The Estate Officer of the Authority issued Show Cause Notice dated 24/08/2016 to the company and asked for written submissions by 06/09/2016 and to furnish necessary proof/explanation to show that the material lying in the said shed is subject matter of BIFR and also to the effect that what efforts have been made by the company to dispose of the material lying in the shed. The company was also given opportunity for personal hearing on 12/09/2016.
4. The company had vide letter dated 06/09/2016 informed this Administration that it was extremely short notice, and requested to grant time for Personal Hearing at the end of September 2016. As per the company's request, the Authority Estate Officer (the Undersigned) again gave an opportunity for Personal Hearing on 23/09/2016.


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5. Shri M.J.Deshmukh, Dy Manager, and Mr.S.M.Algaus, Associate, M.Mulla Associates appeared for Personal Hearing on 23/09/2016. During the personal hearing, the company had inter-alia mentioned that even if the lease period is expired, the company cannot be evicted from the premises in KASEZ, as it will be in contravention of the Scheme approved by the BIFR/AAIFR. The company had also made submission that concurrent proceedings is not allowed and the same would have overriding effect on the implementation of the Scheme and which may amount to contempt on one hand and constitute offence under the SICA.
6. At the time of hearing dated 23/09/2016, the company also mentioned that if any action under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is to be continued, it would like to further plead in the matter. So, again the company vide letter dated 30/03/2016 was given opportunity for Personal Hearing on 13/04/2017.
7. The company had vide letter dated 11/04/2017 mentioned that it did not receive letter on time for preparation; so the company was again given Personal hearing on 27/04/2017.
8. Mr. Chirag Chhag Advocate who appeared on behalf of the company on 27/04/2017 again requested for 30 days' time so the company was again given Personal hearing on 11/05/2017.
9. Mr. Chirag Chhag appeared for Personal Hearing on 11/05/2017 and submitted written submissions. In their submissions it was mentioned about 'Rehabilitation Scheme' having been sanctioned and made operative in terms of Hon'ble High Court's Orders. Thus Mr. Chirag Chhag was asked to make available copies of the said Scheme and Hon'ble High Court's Order.
10. Mr. Chirag Chhag accordingly provided a copy of Rehabilitation Scheme w.e.f 16/07/2001 prepared by ICICI Ltd., operating agency appointed by the BIFR.


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OBSERVATIONS AND FINDINGS

1. I have carefully gone through the submissions put forth by the company. It is a fact that the property was given to the company on lease of 10 years and lease period has expired in 1991.
2. In finalized updated scheme, inter-alia, following salient features of the scheme are given:-
 - a. Closure of the Worli Metal Unit and its shifting to a non-urban area in Maharashtra (shifting cost estimated at Rs.170L) and modernization/product up gradation at an estimated capital expenditure of Rs.330L.
 - b. Transfer to associate companies of the Worli premises comprising of factory, office block and commercial wing under section 18(6A) of the SIVA, 1985 in order to generate interest-free funds in a time bound programme for restoring the viability of the company as a whole.
 - c. Restart of the operations of four units at Deonar, Madras, Faridabad and Calcutta in a phased manner after overhauling, reconditioning and refurbishing of the plant and equipment and carrying out die-design changes and production trial runs. Repairs/renovation of Deonar, Madras, Faridabad and Calcutta units within two to three months to be followed by phased absorption of the workers over four to eight months period depending upon the situation prevalent in each location.
 - d. Closure of machinery building factory and research set up at Calcutta and Cochin metals and Kandla set up and disposal of the assets thereof.
3. As per the scheme, point no (d) above is applicable to their Kandla unit. It is clear from the scheme that closure of machinery, building, factory and research set up at Calcutta and cochin metals and Kandla Set up and disposal of the assets thereof are recommended. At Kandla SEZ, the shed allotted to the unit belongs to the Government and is not an asset created by the Unit.

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4. Rental arrears against the shed amounts to Rs.55,12,720/- as on 30/06/2017 and user charges amounts to Rs.82,423/-. Further, if the premises are rent out today, it will fetch the Kandla SEZ Authority Rs.6,03,987/- per annum.
5. The objectives of SEZ Act, 2005 as given in section 5 of the Act are getting defeated. This property is not being used for employment generation, export activities etc. Further the scheme of Rehabilitation itself speaks of closure of business at Kandla and disposal of assets thereof.

ORDER

1. In view of what is stated above I hereby decide that M/s. Metal Box India Ltd. has no claim over Shed no. 176 which is Government Property and Order for taking over immediate possession of the property under proper panchanama. For taking over possession, under proper panchanama for authorizing the officers separate order will be issued.
2. The materials/machinery as available in the shed (as will be shown in the panchanama) will be sold through MSTC, a PSU which the Authority has entered into an agreement for auction of plot/sheds/materials.
3. Any net amount realized through sale of material will be shown as contingent liability to meet any future contingencies.


(Krishan Kumar) 9/6/17

Jt. Development Commissioner,
Kandla Special Economic Zone &
Member, Kandla SEZ Authority.

To,

1. M/s. Metal Box India Limited, Scindia House, 1st floor, Connaught Place, New Delhi 110001
2. M/s. Metal Box India Limited, Post Box No. 184, Mumbai 400001
3. Ms. Ruby (ACGC), chamber no. 892, Patiala House Courts, New Delhi 110001
4. DC(C), Kandla SEZ,
5. Copy to website.