

Policy for Re-constitution of ownership of Plots

The Board of Directors in their meeting of 10th May, 2006 had taken a decision to put a blanket ban on all transfers, name changes, reconstitution of ownership etc. of plots allotted at various SIDCUL industrial estates. The blanket ban was imposed to stop trading and speculation in plots by allottees instead of using it for industrial purposes. Reconstitution and name change was also banned as these could be used as indirect instrument for transfer of ownership.

Subsequent to 25th May, 2005, SIDCUL has been obtaining an Undertaking from the allottees that they will not apply for either transfer, name change or change of constitution of ownership. This ban was put in place till 31 March, 2007, the last date for commercial operations to be entitled to the CIP benefits.

Although, this has gone a long way in ensuring proper utilization of plots and has considerably reduced instances of transfers, as a result of this ban, certain genuine cases, where the change in constitution has been required to take additional loans from the banks (from partnership/proprietorship to Limited Company) or tax planning (from Company to partnership/proprietorship) or even infusion of new partner(s)/shareholder(s) without sacrificing the majority, inclusion of family members as partner(s)/shareholders(s), to strengthen the financial/managerial capabilities.

On August, 02, 2006, the Government of India, extended the CIP by 3 years.

The Board of Director in their meeting of 10th August, 2006 discussed the issue of reconstitution in light of the problems being faced by the allottees and extension of CIP by Government of India and authorized the Managing Director/Joint Managing Director to allow reconstitution even in cases an Undertaking has been obtained in the past, having passed a reasoned order in writing and where they are satisfied that the case so merits the consideration and is unlikely to be a pseudo transfer.

Consequently, the Managing Director has directed that the Allotment Committee constituted under the Office Order dated 23rd February, 2005 be deemed as the committee for considering all cases for re-constitution as well. The Company Secretary would be additional

member of both the committees and would have analyzed all cases before they are brought to the consideration of the committee.

The committee while considering cases of reconstitution of vacant plots/non-operational (provided an application is made within 24 months of allotment) will look into the following aspects/documentation:

1. A detailed questionnaire giving all the details of the case in question is filled by the concerned allottee;
2. Partners/Shareholders at the time of the allotment;
3. Partners/Shareholders at the time of application for reconstitution;
4. Documentary evidence, proving beyond doubt, for the above & whether majority (51%) of the original proprietor/partners/shareholders will be retained;
5. Reasons for applying for reconstitution & where stated reason is loan from the banks, then a letter be obtained from the bank, confirming the necessity for reconstitution as well as the amount of loan and proportion of loan in the total funding of the project;
6. Reasons for tax planning would involve conversion of a limited company to proprietorship/partnership and should not involve any change in ownership;
7. Changing ownership by bringing in family members as laid down in the current policy should be allowed;
8. Once the change in reconstitution has been allowed, second reconstitution should be allowed only when the committee is convinced beyond doubt that there is a genuine need for the reconstitution;
9. All approved reconstituted allottees should be required to file an annual statement of partnership/directorship/shareholding, duly certified by the Statutory Auditor of the Company;
10. By operation of law in case of death or permanent disability of a partner/proprietor;
11. In cases of changes in constitution/name on account of operation of law and particularly in case of order of an High Court for amalgamation/merger etc. the same be allowed under the existing policy for reconstitution/change in name;
12. A levy of 15% of the current SIDCUL base rate will be applicable in case of reconstitution is allowed beyond 24 month period;
13. Any other case, where the Committee is satisfied and records so in writing that the case other consideration is not a transfer but that of a genuine business need.

In case of plots where a unit has become commercially operational, the reconstitution will be allowed on payment of reconstitution levy of:

- (a) nil-in case the consequent change in shareholding/proportionate capital control changes by less than 24%;
- (b) 5% of the current SIDCUL base price-in case the consequent change in shareholding/proportionate capital control changes by less than 49%.

However in case of listed companies in both the above mentioned cases, a change in shareholding pattern shall not be treated as reconstitution of the company for this purpose.

Policy Regarding Product Change or Permission to add Products without any change in shareholding/proportionate capital control of the allottee

Various instances where an allottee has requested that the project for which a particular plot was allotted be changed or certain other related or non-related product be allowed to manufacture under a second unit on the same plot.

It is desirable that there be least possible obstructions in allowing change in business line, which occur due to several reasons-change in business cycle, change in tax regime or rates (for eg. removal of excise on certain food products) , attractiveness of a certain product (auto ancillaries). However, at the same time it is important to ensure that the product change has not arisen as a result of change in ownership, particularly by transfer of shares of companies.

The following parameters should be thus considered before allowing change of product:

1. Partners/Shareholders at the time of the allotment;
2. Partners/Shareholders at the time of application for product change or product addition;

3. Documentary evidence for the above & confirmation there there is no change in the capital constitution of the original proprietor/partners/shareholders.
4. Reasons for applying for product change or addition of product;
5. Whether change or addition of the product is in the same line of business;
6. Whether substantial construction has commenced;

The allottee would be required to fill in detailed questionnaire providing for all details of original allotment, product planned to be originally manufactured, changes, reason for changes, share capital, details of loans (if any), etc.

All approved allottees should be required to file an annual statement of partnership/directorship/shareholding, duly certified by the Statutory Auditor of the Company;

Any change in product along with change in shareholding/proportionate ownership will be treated under the policy for reconstitution. However, a change in shareholding of a listed company would not be treated as reconstitution of the Company for this purpose.

Policy for Restoration of cancelled Plots

The Board of Directors, on 25th May, 2005, in light of the sunset date of 31 March, 2007 directed SIDCUL management to obtain an undertaking requiring the allottee to take possession and enter into a lease deed within 60 days of allotment and commence construction within 90 days of allotment.

The lease deed requires the lessee to be commercially operational within 24 months of allotment.

Cancellations have been resorted to in cases where any of the above conditions have not been met. The existing policy allows the Managing Director to restore the plots to the allottee on payment of a restoration fees of 7.5% of SIDCUL base rate of allotment, provided an application is made within 45 days of allotment and the management is satisfied that the allottee is indeed interested in setting up the industrial unit within a reasonable time frame.

However, in cases where 24 months have elapsed, no restoration has been allowed as it has been deemed to be more than sufficient time to set up a unit and failure to do so clearly shows disinterest and intentions of trading/speculation in land.

In the case of M/s Pragati Telecom, the Hon'ble High Court of Uttaranchal ordered SIDCUL to restore the plot to the allottee, however, restoration was to be treated as allotment "de novo" and was to be made at the current base price of allotment. Subsequent to the decision of the Hon'ble High Court, in all restoration cases in Haridwar, the same policy has been adopted.

In Pantnagar, however, due to large scale cancellations and in a large number of cases the current base price and allotment price being the same, the original policy of imposing 7.5% of base price as restoration fees has been imposed. However, in addition, a Bank Guarantee with specified time frames for construction has been obtained to ensure timely compliance.

On August, 02, 2006, the Government of India, extended the CIP by 3 years. Several requests have been made to the JMD for reconsidering the current policy of restoration and take a more lenient in light of extension of the CIP. The same was discussed at the Board of Directors meeting of 10th August, 2006 and it was agreed that SIDCUL

should continue its stringent stand on cancellations/restorations, as taking a more lenient view might encourage trading/speculation.

Restorations be allowed, where the Managing Director/Joint Managing Director are satisfied that the allottee is interested in commencing construction immediately and will complete construction within a reasonable time frame, as may be required in the specific industry, provided:

- (a) application for restoration is made within 45-days of the cancellation order laying down the reasons for inability to meet the conditions of allotment, along with the application fees;
- (b) on approval of restoration, the restoration be allowed at the current base price for allotment or 7.5% of the current SIDCUL base rate of allotment, whichever is higher;;
- (c) specific time frame for commencing and completing construction is agreed to and an affidavit to the effect obtained;

Managing Director