URGENT

No. F. 2/10/2008-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

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Udyog Bhawan, New Delhi
Dated the 18th November, 2008

OFFICE MEMORANDUM

Subject: Agenda for the 29th meeting of the Board of Approval of Special Economic Zone (SEZ) to be held on 19th November, 2008 at 5.00 PM in Room No. 141 at Udyog Bhawan, New Delhi -- Reg.

The undersigned is directed to refer to this Department's OM of even number dated 17th November 2008 on the subject mentioned above.

2. The Agenda note with relevant documents about the item to be considered by the BOA i.e. appeal of M/s Quest Life Sciences Pvt. Limited, a unit in MEPZ SEZ is enclosed.

3. Kindly make it convenient to attend the meeting.

Encls: **As above**

(R.K. Pandey)
Under Secretary
Telefax: 2306 3418
E-mail: rk.pandey@nic.in

As per the list enclosed

① Rs 5 Lac penalty for DTA Sale - Stay By High Court
② Exporting Services without filing Shipping bills or Softex Forms
③ Selling into DTA without following procedures.
④ Not paying duty for DTA Sales Duty + Penalty Rs 24.48 Lacs
⑤ 2006-07 - Same Rs 25.43 Lacs
⑥ APRs/Actuals

1. Central Board of Excise and Customs, (Shri J.K. Batra), Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes (Shri Dinesh Verma, CIT (ITA), Department of Revenue, North Block, New Delhi. (23095479)
3. Ministry of Finance (Smt. Ravneet Kaur, Joint Secretary), Banking Division, Department of Economic Affairs. (Fax: 23367702/23360250)
4. Department of Industrial Policy and Promotion (Shri Gopal Krishna, Joint Secretary).
5. Ministry of Science and Technology (Dr. Laxman Prasad, Adviser & Head (TDT & NSTMIS), Technology Bhavan, Mehrauli Road, New Delhi. (Telefax: 26510686)
6. Additional Secretary and Development Commissioner (Small Scale Industry) (Shri Jawhar Sircar), Room No. 701, Nirman Bhavan, New Delhi. (Fax: 23062315)
7. Department of Information Technology (Shri Jainder Singh, Secretary), Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
8. Ministry of Home Affairs (Shri Dipti Vilasa, Joint Secretary), North Block, New Delhi. (Fax: 23093153)
9. Ministry of Defence (Shri Anand Misra, Joint Secretary (Coordination). (Fax: 23792043), South Block, New Delhi.
10. Ministry of Environment and Forests (Ms. Nalini Bhat, Adviser), Pariyavaran Bhavan, CGO Complex, New Delhi - 3. (Telefax: 24364592)
11. Legislative Department (Shri S.R.Dalheta, Joint Secretary and Legislative Counsel, Room No. 430, A-Wing, Shastri Bhavan, New Delhi). (Fax: 23384832)
12. Ministry of Overseas Indian Affairs (Shri G. Gurucharan, Joint Secretary (FS), Akbar Bhawan, Chankyapuri, New Delhi. (Fax: 24674140)
13. Department of Urban Affairs, Town Country Planning Organisation, (Shri J.B.Kshirsagar, Chief Planner), Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
14. Director General of Foreign Trade (Shri R.S.Gujral, DG), Department of Commerce, Udyog Bhavan, New Delhi.
15. Shri L.B. Singhal, Director General, Export Promotion Council for EOUs/SEZ Units, 705, Bhikaji Cama Bhavan, Bhikaji Cama Place, New Delhi - 110 066. (26165538).
16. Dr. Rupa Chanda, Professor, Indian Institute of Management, Banglore, Bennerghata Road, Banglore, Karnataka
17. Development Commissioner, Noida Special Economic Zone, Noida.
18. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
19. Development Commissioner, Falta Special Economic Zone, Kolkata.
20. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
21. Development Commissioner, Madras Special Economic Zone, Chennai
22. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam

23. Development Commissioner, Cochin Special Economic Zone, Cochin.
24. Development Commissioner, Indore Special Economic Zone, Indore.
25. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
26. Government of Tamil Nadu (Shri Shakthikanta Das, Secretary (Industries)), Fort St. George, Chennai - 600009 (Fax: 044-25670822).

Copy to: PPS to CS/PPS to AS (RG)/PPS to JS (AM)/PA to Dir (VK)/ PA to Dir (RKM)

AGENDA NOTE

Appeal of M/s. Quest Life Sciences Pvt. Ltd., a unit in MEPZ SEZ against the order of cancellation of letter of approval.

M/s. Quest Life Sciences Private Limited, a unit in the MEPZ SEZ was granted letter of permission on 24.11.2003 for setting up a unit for generating clinical bio-analytical statistics and data management. They started the commercial production on 31-07.2004. On obtaining the information that the unit was selling their services in the DTA, the Development Commissioner initiated proceeding under the FTDR Act. On completion of the proceedings, a penalty was imposed on the unit. When the case was brought before the Unit Approval Committee, it decided to cancel the letter of approval. Accordingly, the letter of approval was cancelled, vide order dated 23.5.2008 (copy of order is placed at **Annex.I**). The unit had appealed to the Board of Approval against such cancellation order (copy of appeal is placed at **Annex.II**) and the appeal was listed on the Agenda of the BoA during its meeting held on 1.8.2008. In the meanwhile, the unit had also approached Hon'ble High Court, Chennai, vide W.P. No. 17878 and obtained interim orders staying the orders passed by the UAC. In deference to such orders, the BOA did not take up the appeal petition on 1.8.2008. DC, MEPZ SEZ has informed that the above case came up for hearing on 31.10.2008. Hon'ble High Court dismissed the case with a direction to the BoA to dispose of the appeal filed by the petitioner in four weeks' time (copy of Hon'ble Court order is placed at **Annex.III**).

Accordingly, the matter is placed for consideration of the BoA.

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Annexure-I

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F.No.8/30/2003/SEZ
Government of India
Ministry of Commerce and Industry
Office of the Development Commissioner
MEPZ-Special Economic Zone
Tambaram, Chennai – 600 045

Dated: May 23, 2008

ORDERS UNDER SECTION 16(1) OF SEZ ACT 2005 OF THE UNIT APPROVAL COMMITTEE CONSTITUTED FOR MEPZ-SEZ

These orders are being issued for and on behalf of the Unit Approval Committee constituted for MEPZ-Special Economic Zone vide Government of India Gazette Notification S.O.152(E) dated 7th February 2007 by the Development Commissioner, MEPZ-SEZ and Chairman of Unit Approval Committee as authorized by the UAC in its meeting held on 25.4.2008.

2. M/s.Quest Life Sciences Pvt. Ltd. was granted Letter of Permission No.8/30/2003/SEZ dated 24.11.2003 by the Development Commissioner for setting up a Unit for generating Clinical bio-analytical statistics and data management. They started the commercial production on 31.7.2004.

3. On obtaining information that the Unit was selling their services into DTA in violation of rules and procedures in force, the Development Commissioner initiated proceedings under Foreign Trade (Development and Regulation) Act, 1992 by issuing a Show Cause Notice No.8/30/2003/SEZ dated 23.8.2005. On completion of these proceedings, the Development Commissioner came to the conclusion that there were violations regarding sale into DTA and imposed a penalty of Rs.5.00 lakhs (Rupees Five Lakhs only) vide Order No.8/30/2003/SEZ dated 21.02.2006. The Unit appealed against the orders of the Development Commissioner to the Appellate Committee constituted by the Ministry of Commerce, which upheld the DC's orders, vide letter No.12013/14/2006-ADJ/AC dated 10.4.2007., The Unit has gone on appeal to the Hon'ble High Court of Madras, which was pleased to stay the orders of the Appellate Committee.

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Quest Life Sciences Pvt. Ltd. MEPZ

4. As Chapter X-A of the Indian Customs Act was applicable to the SEZs for the year 2004-05 and 2005-06, the Deputy Commissioner of Customs posted to MEPZ-SEZ initiated parallel proceedings for violation of Customs Act like exporting services without filing shipping bills or softex forms and transferring services into DTA without following the procedures and for non-payment of duty while selling into DTA. The Deputy Commissioner of Customs on conclusion of the proceedings imposed a penalty of Rs.24.48 lakhs and duty of Rs.24.48 lakhs. The Unit has appealed to the Appellate Commissioner of Customs, Chennai. The final orders are yet to be passed on the appeals.

5. In spite of the above action, it was brought to the notice of the Deputy Commissioner of Zone Customs that the Unit is continuing to repeat the same violation in the year 2006-07. Proceedings were initiated by the Zone Customs for sales into DTA without payment of duty and ordered recovery of duty amounting to Rs.25.43 lakhs and a mandatory penalty of Rs.25.43 lakhs. The orders of the Zone Customs has been challenged and is pending before the Appellate Commissioner, Custom House, Chennai.

6. A Show Cause Notice issued by the Development Commissioner vide letter No.8/30/2003/SEZ dated 31.10.2007 pointed out the following violations: -

For the year 2005-06:

(i) Exported services for a value of Rs.31.32 lakhs (as per the APR filed by the Unit), whereas the Unit had filed documents with MEPZ-SEZ Customs for a value of Rs.11.35 lakhs only. There were no documents for the remaining value.

(ii) Transferring services to DTA for a value of Rs.94,99,697/- (as per Income Study Ledger account of the Unit) without obtaining appropriate permission from the competent authority as required under para 7.12 (d) of FTP 2004-09.

For the year 2006-07:

(i) Exported services for the value of Rs.45.84 lakhs (as per the APR filed by the Unit), whereas the Unit had filed documents with MEPZ-SEZ Customs for Rs.11.51 lakhs only and for remaining value, there were no documents.

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7. The Unit replied vide their letter No.NIL dated 01.12.2007 that for the year 2005-06, they had submitted copies of the Foreign Inward Remittance Certificate (hereinafter referred to as 'FIRC') for an amount of Rs.31.23 lakhs; whereas for the year 2006-07, they contended that the value of exports was only Rs.35.74 lakhs out of which studies have been completed for a value of Rs.25.35 lakhs only. They also produced FIRC for an amount of Rs.19.72 lakhs. They also pointed out that they were not expected to file any softex forms for amounts below US$25,000 as per RBI guidelines. It was observed from the reply to the Show Cause Notice that the Unit was contradicting the figures given in the APR regarding value of exports and they had no explanation to offer for the same. Regarding DTA sales, they had no explanation for sale into DTA without paying duty. FIRCs produced by them indicated the following amount of remittances: -

2005-06	-	Rs.14.74 lakhs
2006-07	-	Rs.15.80 lakhs

Even this amount does not cover the entire value of the exports of Rs.31.32 lakhs for the year 2005-06 and Rs.45.84 lakhs for 2006-07 given in the respective APRs.

8. Not satisfied by the explanations and finding repeated violations of the rules and procedures, the Development Commissioner thought it fit to bring it to the notice of the Unit Approval Committee. The UAC in its meeting held on 28.01.2008 decided to proceed against the Unit under Section 16(1) of SEZ Act 2005. It was further decided by the Approval Committee that a fresh Show Cause Notice may be issued to the Unit by the Development Commissioner on behalf of the Committee under the first proviso to the Section 16(1) of the SEZ Act 2005. During the meeting of the Committee, Shri S Vasudevan, General Manager of M/s.Quest Life Sciences Pvt. Ltd. was also present and he requested for some more time for the Managing Director of the company to appear in person.

9. Accordingly, a Show Cause Notice under Section 16(1) of the SEZ Act was issued to the Unit vide letter No.8/30/2003/SEZ dated 14.02.2008. The Show Cause Notice once again pointed out the following violations for the years 2005-06 and 2006-07: -

Violation in the year 2005-06:

(a) Exporting services for a value of Rs.19.97 lakhs without filing documents with the Zone Customs in violation of regulation No.13 of Notification No.53/2003 under Chapter XA of the Indian Customs Act.

(b) Transferring services to DTA for a value of Rs.94,99,697/- in violation of para 7.12 (d) of FTP 2004-09.

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Violation in the year 2006-07:

(a) Exporting services for the value of Rs.34.33 lakhs without filing statutory documents with the Zone Customs in violation of Rule 46 of SEZ Rules 2006.

(b) Carrying out job work for DTA companies in violation of Rule 43 of SEZ Rules 2006.

It was also brought to the notice of the Unit that the above are also violations of clauses 9 and 11 of the Bond-cum-LUT submitted by them.

10. The Unit replied to the Show Cause Notice on 17.3.2008, which was placed before the Unit Approval Committee for their consideration in its meeting held on 25.4.2008. An opportunity for personal hearing was also given to the Unit. Shri T.S.Jaishankar, Managing Director and Shri S Vasudevan, General Manager of M/s.Quest Life Sciences Pvt. Ltd. represented the Unit during the personal hearing. During the personal hearing, the representatives of the Unit reiterated the arguments given in their reply to the Show Cause Notice. They also admitted that all exports are in the form of printed format such as Chromatographs and books and they have not transferred their research findings electronically. They also stated that they receive advance from their foreign sponsors for clinical trials and sometimes they have to abandon studies because of clinical failures, in which case, there will not be any exports and the advances received are treated as exports earnings because of which there can be discrepancy between the export figures indicated in APR and shipping bills. Regarding DTA sales, they accepted that they had to file bills of entry and get duty assessment done by the Zone Customs. They also admitted that they have not done so for the years 2005-06 and 2006-07 and they requested the Committee to condone this lapse.

11. The Committee deliberated on the reply given to the Show Cause Notice as well as the statements made by the representatives of the Unit during the personal hearing. The preliminary objections raised by the Unit in page 2 of their written reply to the Show Cause Notice (hereinafter referred to as 'written reply') were found to be frivolous and without substance except objection Nos.1, 3 and 4. The Unit in their objection No.1 contended that the Development Commissioner has no authority to issue Show Cause Notice under Section 16(1) of the SEZ Act. The Committee noted that the Development Commissioner issued the Show Cause Notice on 05.02.2008 only on the basis of authorization given to him by the Committee as already pointed out in para 8 above. Objection Nos.3 and 4 deal with action taken by the Development Commissioner for violations committed by the Unit during the year 2004-05 whereas the present cause of action was for the violations committed

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by the Unit during the years 2005-06 and 2006-07, hence all the above objections were overruled by the Committee.

12. The Unit in page 3 of the written reply took the view that there will always be discrepancy regarding value of exports because of receipt of advance payments. The same was reiterated during their personal hearing also. On perusal of the various invoices as well as FIRCs obtained from their bankers, the Committee noted that only one advance payment was received during the year 2005-06 for a value of Rs.4.69 lakhs vide FIRC No.2916 dated 30.11.2005 and two advances were received during the year 2006-07 for a value of Rs.4.61 lakhs and Rs.3.37 lakhs respectively vide FIRC No.1046 dated 17.4.2006. Therefore, it was wrong to say that the entire discrepancy were on account of receipt of advance payments.

13. Even assuming that advances could not have been accounted for, the Unit was not able to account for a gap of Rs.16.58 ~~lakhs~~ for the year 2005-06 (after deducting Rs.14.74 lakhs as shown in FIRC from Rs.31.32 lakhs indicated in the APR for the year 2005-06) and a gap of Rs.30.04 lakhs for the year 2006-07 (after deducting Rs.15.80 lakhs as shown in FIRC from Rs.45.84 lakhs indicated in the APR for the year 2006-07). The Unit has not come forward with any explanation for this. Further, the Unit has also not produced any documentary proof to show the business agreements between the Unit and the sponsor for clinical trials, which interalia, would have indicated the conditions of payments and receipts. Therefore, the Committee came to the conclusions this explanation can only be an afterthought.

14. The Unit has taken protection under proviso to Rule 46(i)(a) of SEZ Rules, 2006 which exempts filing of softex forms for receipt of payments for exports value below US$25,000. The Committee noted that during the personal hearing, the Managing Director of the Unit explicitly stated that all exports are in the form of chromatographs or books containing the research findings and they have never transmitted any exports (research findings) using electronic media. Hence this reason for not filing shipping bills was also rejected by the Committee.

15. The Unit in pages 4 and 5 of their written reply argued that there can either be a DTA sale or transfer to DTA for exports. From these statements, it was abundantly clear to the Committee that they were confusing between the DTA sales and job work for the DTA companies, whereas the SEZ Act and Rules make a clear distinction between DTA sales and job work for the DTA companies. The Unit's contention is that both cannot happen simultaneously. The Committee noted that it was possible for a Unit in an SEZ to do both, as nature of transfer in both are

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entirely different. A Unit can do DTA sales of their products and services and can also undertake job work for a DTA company. The former is allowed under certain conditions and the latter is totally prohibited.

16. In the year 2005-06, ie. prior to the introduction of SEZ Act and Rules, the conditions governing the DTA sales by an SEZ Unit is stipulated under para 7.12(d) of Foreign Trade Policy and Chapter XA of the Indian Customs Act. According to these provisions a service Unit can sell their services into DTA only with the prior permission of the Development Commissioner and also on fulfillment of the NFE. Further a bill of entry will have to be filed as stipulated under Customs Act and shall pay applicable duties before selling into DTA. After the enforcement of the SEZ Act and Rules w.e.f. 10.02.2006 (in this case for the year 2006-07), the Unit does not require any permission, but has to file bill of entry with the Zone Customs and also pay applicable duties. The written reply is totally silent about compliance of these provisions, but on the contrary, they have argued that none of these conditions are applicable to them. However, during the personal hearing, the representatives of the Unit admitted that they ought to have filed bills of entry while effecting DTA sales and pay the applicable duty. They admitted this lapse. Further it was also noticed that the APR filed by the Unit for the year 2005-06, the DTA sales is shown as NIL; whereas they admitted to having effected DTA sales during the personal hearing. These are glaring contradiction in their arguments. Moreover, they also admitted that services transferred were through the medium of chromatographs and printed books, which can easily be classified as 'goods'. It is for the Customs to assess whether they are dutiable or not. It was noted that the Unit in their written reply argued that the services transferred is not dutiable irrespective of the classification as a service or goods. How can the Zone Customs know if the goods or services transferred/ sold to DTA attract duties without filing a bill of entry? The Unit was arguing that whatever they sold in DTA do not attract duty without even filing bill of entry. It was apparent from the above arguments, the Committee noted, that they had appointed themselves as Customs Appraisers of the Zone.

17. The Unit went on to argue that in view of the fact that their products or services is not dutiable according to them, they have not violated clauses 9 and 11 of LUT-cum-Bond which obliges them to pay duties while selling into DTA and not disposing of goods and services into DTA except as provided under SEZ Act.

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18. Regarding violation of job work, the Unit in their written reply argued that the services can be rendered to the companies abroad by way of direct exports or to pharmaceutical companies in India as sales to DTA which helps such DTA Units ultimately market their products abroad using these knowledge for fulfilling statutory requirements and registration abroad. Therefore it is not job work for exports. The Committee noted that an SEZ Unit is entitled to receive goods and services free of duty and use them for manufacture or generate goods and services for exports only. In case such an SEZ Unit transfers its services or supplies goods to a DTA company without payment of duties that recipient DTA company will get unintended benefit vis-à-vis other DTA companies who have to pay duties for procurement of all their goods and services. This would kill the Indian DTA industry. This goes against the fundamental principles and spirit of the concept of SEZ as envisaged in the SEZ Act and Rules.

19. Therefore, the Committee came to the conclusion that there has been

- (i) violation of para 7.12 (d) of FTP 2004-09 in respect of DTA sales made by the Unit in the year 2005-06,
- (ii) regulation No.13 of Notification No.53/2003 of Customs in the year 2005-06,
- (iii) violation of Rule 46(1)(a) of SEZ Rules 2006 in the year 2006-07,
- (iv) violation of Rule 43 of SEZ Rules 2006 in the year 2006-07,
- (v) violation of clauses 9 and 11 of Bond-cum-LUT for the years 2005-06 and 2006-07.

20. Hence, the Unit Approval Committee unanimously decided to cancel the Letter of Approval issued to the Unit in exercise of the powers conferred on the Committee under Section 16(1) of SEZ Act 2005 for persistent violations as discussed above.

21. However, the Unit may prefer an appeal to the Board of Approvals under Section 16(4) of the SEZ Act read with Rule 55 and 56 of SEZ Rules 2006.

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(B. VIJAYAN)
Development Commissioner, MEPZ-SEZ
and Chairman, Unit Approval Committee
for and on behalf of the UAC for MEPZ-SEZ

To
M/s.Quest Life Sciences (P) Ltd.,
SDF-III, MEPZ-SEZ,
Tambaram, Chennai – 600 045.

ANNEXURE-II

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Form-J

APPEAL AGAINST THE ORDER OF UNIT APPROVAL COMMITTEE

U/s. 16(4) of SEZ Act r/w Rule 55 & 56 of SEZ Rules

1) Name of the Applicant:	M/s. Quest Life Sciences (P) Ltd.
2) Address:	SDF-III, MEPZ, Chennai 600 045
3) Name and address of the authority, whose decision or order is brought up in appeal:	Unit Approval Committee MEPZ-SEZ (Chennai) NH-45, Tambaram, Chennai-600045
4) Brief of the decision against which appeal is made:	Cancellation of approval on grounds of violation of- i) **Para 7.12(d)** of FTP 2004-09 in respect of DTA Sales for 2005-06, ii) Of regulation **No. 13** of Notification **No. 53/2003** of Customs notification in respect of exports charged to have been made without filing requisite documents with the Customs for the year 2005-06 iii) of **Rule 46(1)(a) of SEZ Rules 2006** in respect of exports charged to have been made without filing export documents with the Customs for the year 2006-07 iv) of **Rule 43 of SEZ Rules 2006** by carrying out work for exports for the year 2006-07 v) Of **clauses 9 and 11 of Bond-cum-LUT** for the years 2005-06 and 2006-07.
Reason as to why the decision needs review	As per the details facts and grounds enclosed

REASONS AS TO WHY THE DECISION NEEDS REVIEW

FACTS OF THE CASE

The Unit Approval Committee, MPEZ-SEZ, Chennai (for short 'UAC') has cancelled the Letter of Permission dated 24.11.03 granted to M/s Quest Life Sciences (P) Ltd (hereinafter referred to as "the appellants") vide its Order No. 8/30/2003/SEZ dated 23.5.08 on various charges without appreciating the correct factual and legal position. Copy of the impugned Order is enclosed as ***Annexure-1***. The appellants are filing the present appeal before this Hon'ble Board against the said order of UAC.

2. In the show cause notices dated 31.10.07, 14.2.08 issued by the Development Commissioner and subsequently in the impugned order of UAC, the image of the appellants has been projected as if they are big frauds indulging in all sorts of violation of law relating to SEZ Act, Rules, Customs, FEMA etc. It has, therefore, become of paramount importance to highlight our activities in brief, the various legal provisions contained in the relevant laws etc and thereafter to discuss the contravention, if any of the laws, so as to facilitate this Hon'ble Board to analyse the entire position in correct factual and legal perspective.

3. The appellants are a company registered under the Companies Act 1956. The appellants are a Clinical Research Organisation (CRO) operating from SEZ viz. MEPZ Tambaram, Chennai 45, in terms of LOP dt. 24.11.03 granted by the Development Commissioner. The appellants commenced their activities in 2004. The appellants are engaged in conducting clinical studies and generating Clinical Bio Analytical Statistics and Data Management for sponsors who are

pharmaceutical companies. For this purpose they have set up a state of art US FDA compliant facility with ultra modern equipments at a project cost of over Rs. 6 crores of which Rs. 2 crores were spent on infrastructure alone in MEPZ. Fifty percent of the equity capital of the company is held by a US collaborator, M/s UVB Consultants, Indiana Polis, USA.

4. The unit was set up in the SEZ to get the orders from overseas entities. To establish capability to international clients, the unit has done clinical research for domestic companies even at the low price while the company is of the international standards. Therefore, the appellants have also supplied the 'Research Data' in the form of bound books to the domestic companies though the ultimate target is to garner the overseas clients.

5. As per the mandatory requirements of the Clinical Research Data followed world over as per WHO norms, the appellants are storing one copy of the bound book in their archives, for a period of 15 years.

6. The appellants have generated expertise in testing, analyzing, interpreting and drawing conclusions on the samples referred to them for analytical study. The appellants have developed in-house technology to carryout the tests and have employed highly qualified **medical professionals and have 39 scientists** employed besides administrative and related staff for this purpose. The work of the appellants is well recognized and accepted by the drug administration in various countries. The appellants are always engaged in the continuous exercise of improving the output quality.

7. Almost all pharmaceutical companies developed all these bio analytical statistics in their own labs, so as to reach perfection in launching commercial manufacture of a drug. But when these companies are ready to commercially manufacture and market the drugs in a country, the Regulatory authority requires them to submit the bio analytical statistics from an independent CRO to confirm the veracity of bio-statistical claim made by these companies. The appellants have thus limited role of independently generating bio-analytical statistics, for comparison by the Regulatory authority with the bio analytical statistics claim of sponsoring pharmaceutical companies. Therefore, the bio analytical statistics are not technical know how transferred to the sponsoring pharmaceutical companies but are only bio statistics generated for comparison with the bio statistics claimed by the sponsoring companies.

8. This bio analytical statistics is not a tradable commodity but is required to meet the Regulatory requirement for marketing a drug in the country. Thus the bio analytical statistics facilitates trade but they themselves are not tradable and the data is specific for the respective client.

9. In view of the above activities being undertaken by the appellants they were correctly placed in the category of a 'service provider'. The unit has been set up in the SEZ, with a view that they will be able to get orders for such Bio analytical analysis from overseas entities and thus earn valuable foreign exchange and generate employment. But these types of peculiar activities take time to win the confidence of the renowned overseas entities engaged in the

manufacture of the drugs. The appellants expect that over a period of time their export would far exceed to the value of the service provided in DTA. But in the initial years due to more work from the domestic companies they have done the analysis work more for domestic companies as compared to overseas entities. But the fact remains that they have achieved positive NFE far in excess than contemplated under the provisions of SEZ Act.

10. The appellants receive a percentage of the total value of the services in advance from all customers whether overseas entities or the domestic customers. After the required analysis which may take around 6-8 months time, the data contained in book form showing the analysis is sent to the customers. Sometimes it may happen that the data as analysed by the appellants is not suitable (when the sample fails in the test) and therefore data is not required by the customers. In that situation, the data analysis is not supplied. But the money received from the customers is retained and appropriated towards the services rendered by the appellants. Therefore, this may result in a situation where the service consideration has been received but no export or supply of goods has been made to the customers in any tangible form. Accordingly, there would be no question of submitting of any shipping bill or bill of entry in these types of situations.

THE APPELLANTS ARE NOT A FRAUD COMPANY.

11. From a perusal of the order of the UAC and the preceding show cause notices, the image of the appellants has been projected as if they have indulged in the fraudulent activities leading to evasion of duties and taxes. The appellants wish to clarify that the apprehensions in this regard are totally misconceived and

have been developed without understanding the law and factual background in its correct perspective.

12. The appellants by setting up a unit in SEZ the appellants have got no Income tax benefit even against their exports for the reason that they have incurred losses continuously since the inception of the unit. The appellants have imported/received the capital goods/inputs without payment of duties having value of Rs. 75 lacs approximately, on which the duty benefit of about Rs. 25 lacs has been taken. Against the said imports the appellants have already exported their services to the tune of Rs. 130 lacs approximately, thus far exceeding the requirement of positive NFE. Had this activity been set up in DTA the same would have been exempt from service tax.

13. In other words, right from the date of setting up of the unit till date, the appellants have availed a meagre benefit of the duties to the tune of Rs. 25 lacs approximately, against which they have fulfilled the export obligation far in excess. An observation has been made vide paragraph 18 of the impugned order that SEZ unit is entitled to receive goods and services free of duty and in case such SEZ unit is allowed to transfer the goods or services the DTA company without payment of duty then such recipient company will get unintended benefit vis-à-vis other DTA companies who have to pay duties for procurement of their goods and services. It has been further observed that this would kill the Indian DTA Industry. It has been further observed that this is against the fundamental principles and concept of the SEZ as envisaged in the SEZ Act and the Rules.

14. The appellants would like to clarify that if a DTA company receives similar services from some other DTA service provider then it can receive the same without payment of any duties or service tax, because for all such services no duty or taxes is payable. Similarly, if a DTA unit gets this analysis from abroad then no customs duty is payable if the analysis is imported in the form of books and no service tax is payable by the recipient of service because the activity is exempt from service tax. Therefore, the contention that the appellants are availing unintended benefit is totally incorrect and misconceived. Thus, the observations made in paragraph 18 of the impugned order are incorrect and without any legal basis.

GOODS VS. SERVICES.

15. The unit of the appellants has been approved as a 'service provider'. As explained in detail in the foregoing paragraphs that the appellants are engaged in providing the services relating to the analysis of bio analytical data for comparison by the Regulatory Authority. The said data after analysis is compiled in a book. Therefore, the essential character of the activity being undertaken by the appellants is of providing the services relating to the analysis of bio analytical data and not manufacturing of the books.

16. In the case of services it may not be possible always to render them by way of presenting it in tangible form. The appellants submit that after undertaking the analysis if the same is not required by the customers either abroad or within the country then though the services has been rendered but there is no mechanism by which a shipping bill can be filed for export of such services or bill of entry

could be filed when such services has been rendered in DTA. Entire confusion has arisen due to the reason that UAC, Development Commissioner and the customs authorities are of the view that for each transaction of services the appellants are required either to file a shipping bill for the export goods and a bill of entry in the case of DTA supplies.

17. The appellants submit that filing of shipping bill in the case of export and of bill of entry in the case of imports as mandated under the SEZ Act as also under the Customs Act is possible when there is physical export and import of goods. It is not possible in the case of export and import of services. Unfortunately, Rule 48 of the SEZ Rules stipulates the filing of Bill of Entry for supply of goods and or services in DTA by the DTA buyer. Similarly, Rule 46 stipulates that the unit shall file shipping bill alongwith currency declaration form. But there is no clarification as to how the shipping bill or bill of entry can be filed in the case of services particularly when they are not in a physical form. It is clarified that these documents are filed under the provisions of Customs Act when there is physical export or import of goods. Provisions of Customs Act and the procedure prescribed thereunder is applicable to the export and import of goods and it is not applicable to export and import of services. But, under the provisions of SEZ Act and the Rules, both goods and services have been placed in the same category providing for payment of customs duty and submitting of shipping bill or bill of entry against export and imports. This has resulted in lot of confusion and ambiguity both in the minds of trade & Industry and also in the minds of Government officials dealing with the implementation of the scheme.

18. As clarified in the preceding paragraphs that the shipping bill or the bill of entry can be filed only in the case of export of goods and not in the case of services particularly when they are in not in physical form. From the above it is, thus, clear that misconception has been developed due to the reason that the UAC has considered that the same procedure for rendering of services has to be followed which is applicable for goods.

FEMA PROVISIONS:

19. The appellants would like to submit that if goods are exported out of India then the exporter is required to file a shipping bill along with the GR/SDF form. But if the 'software' is exported then a declaration in form Softex has to be filed. It has been further provided in Export of Goods and Service Regulations, 2000 as amended that if the value of the export goods is less than USD 25,000/- then no such declaration has to be submitted. Further, the provisions regarding submission of the declaration are applicable when the goods are exported. There is no provision for making any declaration if the services are exported.

20. In other words, if the goods are exported out of India then a person is required to file a declaration in form GR/SDF/Softex provided the value thereof is more than USD 25,000/-. No declaration is required to be filed if the value of the export goods is less than USD 25,000/- and no declaration is required to be filed if there is export of services. After the foreign exchange proceeds are received in the bank on account of export of goods or services or advance payments, the bank issues a certificate in the form FIRC.

21. From a perusal of the notices and the impugned order it would be seen that one of the allegation is that the appellants have not submitted any declaration in Softex form. The appellants clarify that the **Softex form applies only in the case of exports of software and that too when the value of export exceeds USD 25,000/-.** Therefore, the allegation in this regard is misconceived and baseless.

22. In view of the discussions detailed in the foregoing paragraphs the various charges on which the LOP of the appellants has been cancelled are explained below:-

VIOLATION OF PARAGRAPH 7.12(d) OF FTP 2004-09 IN RESPECT OF DTA SALES MADE BY THE UNIT IN THE YEAR 2005-06.

23. Paragraph 7.12(d) of the FTP, prevailing as on 1.4.2005 stipulated as under:-

7.12 (d) **Sub Contracting** *SEZ units other than gems and jewellery units may be allowed to undertake job-work for export, on behalf of DTA exporter, provided the finished goods are exported directly from SEZ units. For such exports, the DTA units will be entitled for refund of duty paid on the inputs by way of Brand Rate of duty drawback.*

24. This para of the Policy can be applied when a DTA unit has supplied the raw materials for manufacture of the goods on job work basis to the SEZ unit. In such a situation, the finished goods are to be exported directly from the SEZ unit. The expression 'jobbing' has been defined in paragraph 9.33 of the FTP as under:

"Jobbing" means processing or working upon of raw materials or semi-finished goods supplied to the job worker so as to complete a part of the

process resulting in the manufacture or finishing of an article or any operation which is essential for the aforesaid process.

25. In the present case, there is no supply of raw materials or semi finished goods. The appellants have not manufactured any finished goods. The appellants have rendered the services relating to analysis of the Bio Analytical Data. The **provision of paragraph 7.12(d) can be applied only to the goods and not to the services**. In the concept of services, it is implied that the relevant inputs are supplied by the recipient of services. The service provider on the basis of inputs received from the client provides the requisite services. Therefore the very basis to say that the appellants had violated the paragraph 7.12(d) of FTP is incorrect and misconceived.

VIOLATION OF REGULATION NO. 13 OF NOTIFICATION NO. 53/2003 OF CUSTOMS IN THE YEAR 2005-06

26. It has been observed that the appellants have exported the goods in the year 05-06 without filing the documents with the Zone Customs in violation of Regulation No. 13 of Notification No. 53/03. Regulation 13 of the Customs Regulations 2003 stipulates that the Zone unit will file shipping bill with the customs officer in the zone. The appellants submit that when so ever they have exported the services by way of incorporating the data in the book form they have filed the proper shipping bill with the customs authorities. But in circumstances where they have received advance payments and no exports made or in situations where the services have rendered by analysing the data, without any export of the goods in tangible form then the question of filing the shipping bill does not arise.

27. The appellants reiterate that the entire confusion has arisen because the activity of 'services' is being considered as synonymous as to the export of 'goods'. As clarified in the foregoing paragraphs that there may be supply of services without giving anything in tangible form.

28. Further, Section 52 (2) of the SEZ Act, 2005 specifically stipulates that where there is contravention of any provision of Customs Act or SEZ Rules, 2003 or SEZ Regulations, 2003 the same shall be continue to be governed by the provisions of said Act or the Rules. Chapter XA of the Customs Act read with Rules, and Regulations do not stipulate any provisions whereby the UAC can cancel the LOP of the Unit.

VIOLATION OF RULE 46(1)(a) OF SEZ RULES, 2006 IN THE YEAR 2006-07.

29. This allegation is similar to the allegation of violation of Rule Regulation 13. Rule 46 requires that a unit shall file shipping bill with the authorised officer of the customs together with the relevant documents namely invoice, packing list and GR form. The proviso of the said rule further provides that the filing of the declaration shall not be necessary if the value of the export goods is up to USD 25,000/-. In the present case, value of which individual consignment was less than USD 25,000/-. Therefore there was no question of filing any declaration in terms of Rule 46 read with the relevant FEMA Regulations. It has been clarified in the foregoing paragraphs that declaration in form GR/SDF has to be made when the goods are exported in tangible form out of India. The declaration in Form Softex has to be made in the case of export of 'software'. There is no requirement to file any declaration in the case of export of 'services'. Interestingly, for the same

activity of rendering the services in DTA during the relevant years, charge has been confirmed on the ground that the appellants cleared the services in DTA without obtaining prior permission of the Development Commissioner in the year 2005-06 but the same thing has been dealt as a 'job work' for the year 2006-07, since no permission for DTA sales was required after the SEZ Act came into force. This shows the inconsistency in approach of the Development Commissioner/UAC.

30. In any case, whensoever, there was export of services containing the data in the form of books, the appellants have filed the requisite shipping bill. It is reiterated that shipping bill was not filed or could not be filed where there was no export of goods in physical form but there was receipt of foreign exchange on account of rendering of services or advance amount was received. Thus, in situations where the goods are exported in physical form, the appellants have filed shipping bill but no currency declaration form was filed as it is not required under Rule 46 and the relevant provisions of the FEMA. But in case there is an export of services in non physical form then there is no way under which shipping bill can be filed. There is no such requirement under the provisions of the SEZ Rules or FEMA regulations or Customs law to file any such declaration. Thus, the entire findings are totally baseless and misconceived without appreciating the correct factual and legal position.

VIOLATION OF RULE 43 OF THE SEZ RULES 2006 IN THE YEAR 2006-07.

31 Rule 43 of the SEZ Rules, 2006 deals with the sub-contracting. This rule provides that a unit on the basis of annual permission from the specified officer

undertakes sub contracting for export subject to the condition that all raw materials including semi finished goods and consumables are supplied by the DTA exporter.

32. It is clear from the plain language of the rule itself that this can be applied in the case of the goods. It cannot be applied in the case of services. The appellants have not received any raw materials for the manufacture of the finished goods. The appellants have received samples for undertaking the study and doing the technical analysis of the data. Considering this situation as a sub contracting for DTA unit is totally incorrect and illogical. Therefore this charge is also wild without any legal basis.

VIOLATION OF CLAUSES 9 & 11 OF BOND CUM LUT FOR THE YEARS 2005-06, AND 2006-07.

33. Clause 9 of the Bond stipulates that the obligors shall pay the duty on the goods and services sold in DTA in terms of the SEZ Act and the rules made there under. Rule 48 of the SEZ Rules stipulates that the DTA buyer will file the Bill of Entry in respect of the goods received from the SEZ unit. Therefore, it is the onus on the DTA buyer to file the Bill of Entry and pay the duty. The additional facility has been provided under Proviso to Rule 48 stipulates that the unit can file a Bill of Entry on the basis of authorization from DTA buyer. Thus, the liability to pay the duty and file the B/E is on the buyer of the goods in DTA in terms of Section 30 of the SEZ Act read with the Rule 48 of the SEZ Rules.

34. In any case when so ever there was supply of services in the form of books, the appellants have tried to file the Bill of Entry. In some cases, B/E could not be filed due to the reason that the Customs themselves were not clear as to whether the B/E can filed for such services and they referred the matter to the Development Commissioner for clarification. Since there is no duty on import of books in Chapter 49 of the Customs Tariff Act, the question of paying duty thereon does not arise.

35. During the period under dispute, the appellants received three show cause notices from the Customs demanding differential amount of duty. All the orders were set aside by Commissioner of Customs (Appeals) and have been remanded back to the Adjudicating Authority in the light of decision of the Supreme Court in the case of ***CC Vs Gujarat Perstrop Electronics Ltd reported in 2005 (186) ELT-532 (SC)***. Therefore as on date, there is not even a single case confirming the demand of duty and penalty against the appellants. It is, therefore, incorrect to say that the appellants did not pay the duty on the goods and services sold in DTA.

36. Clause 11 of the Bond stipulates that the obligors shall not dispose of goods and services admitted in to the SEZ or goods manufactured or services to the DTA except provided in the SEZ Act and the Rules made there under. The appellants respectfully submit that they did not dispose of goods and services in DTA in contravention of the said clause 11 of the Bond. Rather, the services rendered by the appellants in DTA were duly supported by the documentary evidence. Rule 47 & 48 of SEZ Rules stipulate that the unit can render services in

DTA. Rule 48 stipulates that a Bill of Entry shall be filed while selling the goods and services in DTA. The appellants have filed the Bill of Entry as and when the same were supplied in the book form. Therefore all allegations in this regard are baseless.

37. In view of the foregoing submissions it is clear that the appellants have not contravened any provision of the SEZ Act, SEZ Rules, 2006, SEZ Regulations, 2003 or of bond and LUT. Section 16 of the SEZ Act stipulates the cancellation of the LOP when there is persistent contravention of terms and conditions of LOP. The appellants have substantially complied with all legal requirements. Omissions, if any, are due to the confusion, ambiguity over the interpretation of various provisions of law. There is no question of violating the law persistently so as to warrant the cancellation of LOP.

COMMENTS ON THE OBSERVATIONS IN THE IMPUGNED ORDER OF UAC

38. In paragraph 3 of the impugned order an observation has been made that a penalty of Rs. 5 lacs was imposed by the Development Commissioner which was upheld by the Appellate Committee which has been stayed by the High Court of Madras. Thus, the said issue is sub-judice before the Hon'ble Madras High Court and has not attained finality. It cannot be considered as contravention of law or of the bond when the matter has yet to be decided by the High Court.

39. In paragraphs 4 of the impugned order, it has been contended that the Customs had issued a demand notice of Rs. 24.48 lacs with regard to the DTA sales made in the year 2004-05 and 05-06 but the final orders are yet to be passed by on the appeals. Likewise, in para 5 it has been observed that another

order of the Customs demanding duty of Rs. 25.43 is pending before the Appellate Commissioner Chennai. In other words, it has been admitted in the impugned order itself that the proceedings with regard to short payment of duty are still pending and have not attained finality. The appellants wish to clarify that the Appellate Commissioner of Customs has already set aside the orders passed by the lower authorities and has remanded the matter for denovo adjudication in accordance with the correct law as advised by the appellate commissioner. The **Appellate Commissioner in his order has observed that the goods supplied by the appellants are in the nature of books and therefore are exempted from duty**. The appellants fail to understand as to how this can be said as a violation of law when it is a purely matter of interpretation and is yet to be decided by the higher appellate form.

40. In para 6, it has been observed that a Show cause notice dated 31.10.2007 was issued by the Development Commissioner alleging contravention of law during the year 2005-06 and 2006.07. The appellants had clarified their position vide their reply dated 1.12.2007. It has been observed in para 7 of the impugned order that there was discrepancy in their figures. The appellants once again are enclosing (***Annexure-2***) the details of exports and the foreign exchange (alongwith the copies of FIRCs) received during the relevant years to substantiate that there is no mismatch between the figures. The difference between the value of the FIRCs and the shipping bills is on account of export of services in non physical form or receipt of money in advance. Therefore, this observation of the UAC is also without any substance and legal basis.

41. Paragraph 9 of the impugned order stipulates that another SCN was issued on 14.2.2008 making the same allegations proposing to cancel the LOP of the appellants. The appellants again clarified the entire position vide their letter dated 17.3.08. Copies of the SCN dated 14.2.08 and of reply dated 17.3.08 are collectively enclosed as ***Annexure-3.***

42. In the succeeding paragraphs of the impugned order it been observed that the UAC was not satisfied with the explanation furnished by the appellants. The allegations made in the SCN were confirmed. The appellants have clarified in detail in the preceding paragraphs as under:

- that there is no contravention of any of the law in any manner;
- that no unintended benefits were availed by the appellants;
- that non filing of shipping bill against the advance payments or rendering of services in non physical form cannot be attributed as lapse on the part of the appellants;
- that whatsoever disputes are pending are on account of interpretation of law; that there is no alleged contravention of law which has attained finality;
- that the present episode is result of the confusion created by the ambiguous provisions and lack of knowledge of the Government officials dealing with the SEZ units.

43. Thus, all the observations and findings in impugned order are incorrect and have been made without appreciating correctly the factual and legal position.

PRAYER

It is, therefore, prayed that the Hon'ble Board may be pleased to:

(i) Quash the order No. 8/30/2003/SEZ dated 23.5.2008 passed by the Unit Approval Committee, MEPZ –SEZ, Chennai with consequential benefits.

ii) Stay the above order of the UAC till the disposal of this appeal.

iii) Pass any other order as this Hon'ble Board may deem fit and proper in the facts and circumstances of the case.

iv) Grant personal hearing in the matter.

For QUEST LIFE SCIENCES PVT. LTD.
T. S. JAISHANKAR
Managing Director
APPELLANTS

VERIFICATION

I, T-S-Jaishankar the applicant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today, the day of June, 2008.

For QUEST LIFE SCIENCES PVT. LTD.
T. S. JAISHANKAR
Managing Director

APPELLANTS

08/A/Quest-appal

Annexure-2

34

QUEST LIFE SCIENCES P LTD

2005-06 EXPORTS			
Exports earnings as per APR	Rs. in Lac		Rs. in Lac 31.32
Shipping Bills Filed: 02766/13.03.06 (FIRC 218841 & 218842) **Advance Pymt received** FIRC No. 202173 FIRC No. 201363 FIRC No. 202174	 5.55 8.69 5.68	11.40 19.92	 31.32

Quest Life Sciences Pvt. Ltd. MEPZ, Chennai-45.

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सेन्ट्रल बैंक ऑफ इंडिया
(भारत सरकार का उपक्रम)
केंद्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉइंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

A № 202173

OUR REF. NO. FIRP 0777

IBB. Branch

Date 20/3/05

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest Life Sciences pvt Ltd.
(name and address)
on

- [ ] By Cash
- [ ] By Pay-order
- [ ] By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam Office for beneficiary's account

* b) to ______ Bank, ______ on ______

for credit of beneficiary M/s. ______
(name and address)
______'s Account

Name and place of residence of the remitter : EMS S/A.

Name and address of remitting bank :

DD/TT/MT/No. ✓ Dated 30.3.05

Foreign currency amount USD. 12,678/31 Rupee equivalent Rs.

(Rupees Rs. 554549/-)

Favouring Quest Life Sciences Pltd

R. applied 43.67

purpose of remittance as stated by remitter*/beneficiary Advance for study

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

Authorised Signatory
(Foreign Business)

Countersigned
(Name and Designation)

(Address)

1532

36

सेन्ट्रल बैंक ऑफ इंडिया
(भारत सरकार का उपक्रम)
केन्द्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉइंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

A № 201363

CENTRAL BANK OF INDIA,
International Business Br.
48 49 MONIETH ROAD.
CHENNAI-600 008.
INDIA.

OUR REF. NO.

IBB Branch

Date 24/6/05

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest Life Sciences
(name and address)
on 24/6/05

☐ By Cash
☐ By Pay-order
☐ By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam Office for beneficiary's account

* b) to ______ Bank, ______ on ______
for credit of beneficiary M/s. ______
(name and address)
______'s Account

Name and place of residence of the remitter EMS S/A
Name and address of remitting bank : Banco Itau SA, Sao Paulo
______ DD/TT./MT./No. ______ Dated 23/6/05
Foreign currency amount USD 19973/- Rupee equivalent Rs. 869025/-
(Rupees eight lakhs ninety nine thousand twenty five only
Favouring Quest Life Sciences
Rate applied 43.51
purpose of remittance as stated by remitter*/beneficiary Proforma QLC/P-001/0

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

के.जी. कुमार
K.G. KUMAR
के.1722 / K-1722

Authorised Signatory
(Foreign Business)

Countersigned

(Name and Designation)
D.778

(Address)

37

सेन्ट्रल बैंक ऑफ़ इंडिया
(भारत सरकार का उपक्रम)
केन्द्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉइंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

A № 202174

OUR REF. NO. FIRP 2444

IBB. Branch

Date 4/10/05

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest life Sciences Ltd
(name and address)
on

☐ By Cash
☐ By Pay-order
☐ By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam Office for beneficiary's account

* b) to ______ Bank, ______ on ______

for credit of beneficiary M/s. ______
(name and address)
______'s Account

Name and place of residence of the remitter : from CBI overseas br
Name and address of remitting bank : Standard Chartered Bk plc
DD/TT/MT./No. ✓ Dated 4/10/05
Foreign currency amount USD. 12866/- Rupee equivalent Rs.
(Rupees Rs. 568163/-)
Favouring Quest life Sciences.
Rate applied 44/16.
purpose of remittance as stated by remitter*/beneficiary Advance for Study

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

Authorised Signatory
(Foreign Business)

Countersigned
(Name and Designation)

(Address)

38

सेन्ट्रल बैंक ऑफ इंडिया
(भारत सरकार का उपक्रम)
केन्द्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉईंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

A № 218841

OUR REF. NO. FIRP. 2916.

IBB. Branch

Date 30.11.05

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest Life Sciences Pvt Ltd
(name and address)

on

- ☐ By Cash
- ☐ By Pay-order
- ☐ By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam br. Office for beneficiary's account

* b) to ______ Bank, ______ on ______

for credit of beneficiary M/s. ______
(name and address)

______'s Account

Name and place of residence of the remitter : Dak Technologies Inc

Name and address of remitting bank : JP Morgan chase bank

______ DD/TT./MT./No. V Dated 28.11.05

Foreign currency amount USD. 10239. Rupee equivalent Rs. ______

(Rupees Rs. 469259/-)

Favouring Quest Life Sciences.

Rs applied 45183.

purpose of remittance as stated by remitter*/beneficiary Adv-remittance

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

Authorised Signatory
(Foreign Business)

Countersigned ______
(Name and Designation)

______
(Address)

EXCHANGE CONTROL DECLARATION (GR) FORM NO. BB 074398 Duplicate 39

Exporter, whether Government of Private QUEST LIFE SCIENCES PVT.LTD., SDF III, MEPZ-SEZ, TAMBARAM, CHENNAI - 600 045, INDIA.	Invoice No. & Date QLS/19 020/022/05-06/15.02.06	SB No. & Date 02766
	AR4/AR4A No. & Date	
	C/Cert. No. & Date	Import - Export Code No. and BIN 3803000271
Consignee DAK TECHNOLOGIES INC., 21 BAKLEY TERRACE, WEST ORANGE, NJ 07052.		State of origin of goods
	Export Trade Control	If Export under : TNQ0 Deferred Credit [ ] Joint Ventures [ ] Rupee Credit [ ] Others [ ] RBI's Approval/Cir. No. & Date
Custom House Agent MANOHAR ENTERPRISES Clearing & Forwarding & Transporting 55, ARMENIAN ST., IInd FLOOR, CHENNAI - 600 001. LIC. No R-322		
Pre-Carriage by: BY ROAD Place of Receipt by Pre-Carrier: SEZ		Type of Shipment : ORS Outright Sales [x] Consignment Export [ ] Others [ ] (Specify)
Vessel/Flight No.: BY AIR Rotation No.		
Port of Loading: CHENNAI	Nature of Contract : CIF [ ] CFR [ ] FOB [ ] Others (Specify)	
Port of Discharge: NEW JERSEY Country of Destination: NEW JERSEY, USA	Exchange Rate U/S 14 of CA USD1=Rs.44.30/-	Currency of invoice USD

S.No.	Marks & Nos.	No. & Kind of Pkgs. Container Nos.	Statistical Code & Description of goods and EXIM Scheme Code where applicable	Quantity	Value FOB / PMV Where applicable
			RITC NO:49059900.00	BOX	INR
	AS PER INVOICE	1 BOX ONLY	BA/BE STUDY CLINICAL RESEARCH REPORTS FOR LEVOFLOXACINE-750MG	1	Rs.1134966/-

GR Form Detached

Net Weight: 750 MG

Gross Weight

Total FOB Value in words
(Rs.ELEVEN LAKH THIRTY FOUR THOUSAND NINE HUNDRED AND SIXTY SIX ONLY)

Analysis of Export Value	Currency	Amount
C&F	USD	25643.00/-
FOB Value	USD	25620.00/-
Freight	USD	23.00/-
Insurance	Rate	
Commission		
Discount		
Other Deductions		

Full export value OR where not ascertainable, the value which exporter expects to receive on the sale of goods
0206002671
Currency C&F USD
Amount 25643.00/-
ENTD
GRI.NO.:BB074398/13.03.06

DEPUTY COMMISSIONER OF CUSTOMS
MADRAS EXPORT
13 MAR 2006
PROCESSING ZONE
(SEZ)

074398

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EXCHANGE CONTROL DECLARATION (GR) FORM NO. BB

Is Export under L/C arrangements? Yes [ ] No [ ]
If yes, name of advising bank in India:

Bank through which payment is to be received:
CENTRAL BANK OF INDIA
[illegible]

Whether Payment is to be received through the ACU YES/NO

FOR CUSTOMS
Customs Assessable Value Rs. [illegible]
(in words) Rupees [illegible] ... AND SIXTY SIX ONLY
Customs Appraiser
Goods shipped in Vessel
Country
Date of Shipment
Customs Appraiser

B. MOHAN
CENTRAL ... ZONE
CHENNAI 600 ...

... NATARAJ
... OFFICER,
... HOUSE,
CHENNAI

13/3/06

8/3/06

Declaration under Foreign Exchange Management Act, 1999: I/We hereby declare that I/We am/are the *SELLER/CONSIGNOR of the goods in respect of which this declaration is made and that the particulars given above are true and that a) the value as contracted with the buyer is the same as the full export value declared by me/us (7 b) *the full export value of the goods is not ascertainable at the time of export and that the value declared is that which I/We, having regard to the prevailing market conditions, expect to receive on the sale of goods in the overseas market.

I/We undertake that I/We will deliver to the bank named herein the foreign exchange representing the full export value of the goods on or before

@ .... in the manner specified in the Regulations made under the Act.

I/We further declare that I/We am/are resident in India and I/We have a place of business in India.

I/We *am/are OR am/are not in Caution List of the Reserve Bank of India.

Date: 13.03.06

(Signature of Exporter)

@ State appropriate date of delivery which must be within six months from the date of shipment, but for exports to warehouses established outside India with the permission of the Reserve Bank, the date of delivery must be within fifteen months.

* Strike out whichever is not applicable.

FOR AUTHORISED DEALER'S USE

Uniform Code Number: ....

*Indicate ( ) in the box applicable: Date of *(i) negotiation (ii) receipt for collection .... Bill No. ....

Type of Bill* (i) DA [ ] / (ii) DP [ ] (iii) Others [ ] .... (Specify)

Type of Shipment* (i) Firm Sale Contract [ ] / (ii) Consignment Basis [ ] / (iii) Others [ ] .... (Specify)

The GR form was included in the Statement sent to the Reserve Bank with the R-Return for the fortnight ending ....

sent on ....

We certify and confirm that we have received the total amount of .... as under being the proceeds of export declared on this form.
(Currency) (Amount)

Date of receipt	Currency	Credit to Nostro Account in .... (Country)		Debit to NR Rupee Account of a Bank in .... (Country)		Period of R-Return with which the realisation has been reported to RBI
		In our name	In the name of*	Held with us	Held with*	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

* (Write the name of the concerned Indian Authorised Dealer Branch). Any other manner of receipt (Specify) ....

(Stamp & Signature of authorised dealer)

Date: ....

Address: ....

SPACE FOR USE BY RESERVE BANK OF INDIA

सेन्ट्रल बैंक ऑफ इंडिया
(भारत सरकार का उपक्रम)
केन्द्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉइंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

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A Nº 218842

OUR REF. NO. FIRP. 0193

IBB Branch

Date 23.1.06.

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest life sciences P Ltd
(name and address)

on

- [ ] By Cash
- [ ] By Pay-order
- [ ] By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam br Office for beneficiary's account

* b) to Bank, on

for credit of beneficiary M/s.
(name and address)

's Account

Name and place of residence of the remitter : Dak technologies inc

Name and address of remitting bank : Federal reserve bank

DD/TT/MT/No. V Dated 20.1.06

Foreign currency amount USD. 10239.00 Rupee equivalent Rs.

(Rupees Rs. 450926/-

Favouring Quest life sciences.)

Ra pplied 44/04

purpose of remittance as stated by remitter*/beneficiary Adv. remittance

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

Authorised Signatory
(Foreign Business)

Countersigned

(Name and Designation)

(Address)

EXCHANGE CONTROL DECLARATION (GR) FORM NO. BB 074398 42 Duplicate

Exporter, whether Government of Private
QUEST LIFE SCIENCES PVT.LTD.,
SDF III, MEPZ-SEZ, TAMBARAM,
CHENNAI - 600 045, INDIA.

Invoice No. & Date: QLS/19 020/022/05-06/15.02.06

SB No. & Date: 02766

AR4/AR4A No. & Date

Q/Cert. No. & Date

Import - Export Code No. and BIN: 3803000271

State of origin of goods

Consignee
DAK TECHNOLOGIES INC.,
21 BAKLEY TERRACE,
WEST ORANGE, NJ 07052.

Export Trade Control

Export under: CN00
Deferred Credit [ ]
Joint Ventures [ ]
Rupee Credit [ ] Others [ ]
RBI's Approval/Ck. No. & Date

Custom House Agent LIC. No R-322
MANOHAR ENTERPRISES
Clearing & Forwarding & Transporting
86, ARMENIAN ST., IInd FLOOR,
CHENNAI - 600 001.

Type of Shipment: ORS
Outright Sales [x]
Consignment Export [ ]
Others [ ]
(Specify)

Pre-Carriage by	Place of Receipt by Pre-Carrier
BY ROAD	SEZ
Vessel/Flight No.	Rotation No.
BY AIR	Port of Loading: CHENNAI
Port of Discharge: NEW JERSEY	Country of Destination: NEW JERSEY, USA

Nature of Contract: CIF [ ] CFR [ ] FOB [ ] Others (Specify)

Exchange Rate U/S 14 of CA: USD1=Rs.44.30/-

Currency of Invoice: USD

S.No.	Marks & Nos.	No. & Kind of Pkgs. Container Nos.	Statistical Code & Description of goods and EXIM Scheme Code where applicable	Quantity	Value FOB / FMV Where applicable
			RITC NO:49059900.00	BOX	INR
	AS PER INVOICE	1 BOX ONLY	BA/BE STUDY CLINICAL RESEARCH REPORTS FOR LEVOFLOXACINE-750MG	1	Rs.1134966/-

GR Form Detached

Net Weight: 750 MG

Gross Weight

Total FOB Value in words
(Rs.ELEVEN LAKH THIRTY FOUR THOUSAND NINE HUNDRED AND SIXTY SIX ONLY)

Analysis of Export Value	Currency	Amount
C&F	USD	25643.00/-
FOB Value	USD	25620.00/-
Freight	USD	23.00/-
Insurance		
Commission	Rate	
Discount		
Other Deductions		

Full export value OR where not ascertainable, the value which exporter expects to receive on the sale of goods
0206002671
Currency: C&F USD
Amount: 25643.00/-

GRI.NO.:BB074398/13.03.06

DEPUTY COMMISSIONER OF CUSTOMS
MADRAS EXPORT
13 MAR 2006
PROCESSING ZONE
(SEZ)

EXCHANGE CONTROL DECLARATION (GR) FORM NO. BB 074398

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Is Export under L/C arrangements? Yes [ ] No [ ]
If yes, name of advising bank in India

Bank through which payment is to be received:
CENTRAL BANK OF INDIA

Whether Payment is to be received through the ACU YES/NO

FOR CUSTOMS USE
Custom Assessable Value Rs.
Custom Appraiser
Date of Shipment
Customs Appraiser

B. MOHAN
CHENNAI 600

NATARAJ
OFFICER,
CUSTOM HOUSE
CHENNAI

13/3/06

Declaration under Foreign Exchange Management Act, 1999: I/We hereby declare that I/We am/are the *SELLER/CONSIGNOR of the goods in respect of which this declaration is made and that the particulars given above are true and that (a) the value as contracted with the buyer is the same as the full export value declared overleaf / b) *the full export value of the goods is not ascertainable at the time of export and that the value declared is that which I/We, having regard to the prevailing market conditions, expect to receive on the sale of goods in the overseas market.

I/We undertake that I/We will deliver to the bank named herein the foreign exchange representing the full export value of the goods on or before @ .... in the manner specified in the Regulations made under the Act.

I/We further declare that I/We am/are resident in India and I/We have a place of business in India.

I/We *am/are/is not in Caution List of the Reserve Bank of India.

Date 13.03.06

(Signature of Exporter)

@ State appropriate date of delivery which must be within six months from the date of shipment, but for exports to warehouses established outside India with the permission of the Reserve Bank, the date of delivery must be within fifteen months.

* Strike out whichever is not applicable.

FOR AUTHORISED DEALER'S USE

Uniform Code Number ....

*Indicate (✓) in the box applicable

Date of *(i) negotiation (ii) receipt for collection .... Bill No. ....

Type of Bill* (i) DA [ ] / (ii) DP [ ] / (iii) Others [ ] .... (Specify)

Type of Shipment* (i) Firm Sale Contract [ ] / (ii) Consignment Basis [ ] / (iii) Others [ ] .... (Specify)

The GR form was included in the Statement sent to the Reserve Bank with the R-Return for the fortnight ending .... sent on ....

We certify and confirm that we have received the total amount of .... (Currency) (Amount) as under being the proceeds of exports declared on this form:

Date of receipt	Currency	Credit to Nostro Account in ....(Country)		Debit to NR Rupee Account of a Bank in ....(Country)		Period of R-Return with which the realisation has been reported to RBI
		In our name	In the name of*	Held with us	Held with*	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

* (Write the name of the concerned Indian Authorised Dealer Branch). Any other manner of receipt (Specify) ....

(Stamp & Signature of authorised dealer)

Date ....

Address ....

SPACE FOR USE BY RESERVE BANK OF INDIA

Annexure-2

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QUEST LIFE SCIENCES P LTD

2006-07 EXPORTS			
	Rs. in Lac		Rs. in Lac
Export Invoices raised and reported in Revised APR dt.20.6.2007			**33.75**
Adv Remittances received			**26.93**
Physical Exports made under Shipping Bill no. 005421 dt.22.05.06			
Covering Exports relating to current year	9.13		
Covering 05-06 advance received	2.38	**11.51**	
Balance Advance Payment (26.93-9.13)			**17.80**
FIRC 2181938	6.86		
FIRC 220819 (Invoice No:050)	1.75		
FIRC 247534 (Invoice No:060)	1.75		
FIRC 248157 (Invoice No:054)	1.47		
FIRC 220601	2.54		
FIRC 247533	2.55		
FIRC 220162	0.88	**17.80**	

Note 1: For this outstanding advance payment, exports made vide S.B. No.004507/26.03.08

Quest Life Sciences Pvt. Ltd. MEPZ, Chennai-45.

सेन्ट्रल बैंक ऑफ इंडिया
(भारत सरकार का उपक्रम)
केंद्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉइंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

45

A № 218938

OUR REF. NO. FIRP [illegible]

IBB. Branch

Date 17.4.06

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest life sciences pltd
(name and address)

on

☐ By Cash
☐ By Pay-order
☐ By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam Office
for beneficiary's account

* b) to ______ Bank, ______ on ______

for credit of beneficiary M/s. ______
(name and address)

______'s Account

Name and place of residence of the remitter : Dak Technologies Inc.

Name and address of remitting bank : JP Morgan Chase

DD/TT/MT/No. V Dated 13.4.06

Foreign currency amount USD 35521.77 Rupee equivalent Rs.

(Rupees Rs. 1598833/-)

Favouring Quest life sciences

R applied 45/01

purpose of remittance as ~~stated~~ by remitter*/beneficiary Adv remittance.

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

Authorised Signatory
(Foreign Business)

Countersigned

(Name and Designation)

(Address)

CENTRAL BANK OF INDIA,
International Business Br.
48, 49 MONIETH ROAD
CHENNAI 600 008

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Exporter, whether Government or Non: QUEST LIFE SCIENCES PVT.LTD., [illegible] III, MEPZ-SEZ, TAMBARAM, [illegible]NNAI - 600 045, INDIA.	Invoice No. & Date 015/011/0122 & 013/06-07/09.05.06 — SB No. & Date 005421
	AR4 / AR4A No. & Date
	Q/Cert No. & Date — Import-Export Code No. and BIN 3803000271
Consignee: M/s. DAK TECHNOLOGIES INC., 21 BAKLEY TERRACE, WEST ORANGE, NJ 07952.	State of origin of goods TN90
	Export Trade Control — If Export under: Deferred Credit [ ] Joint Venture [ ] Rupee Credit [ ] Others [ ] RBI's Approval / Cir. No. & Date
Custom House Agent: MANOHAR ENTERPRISES, Clearing & Forwarding & Transporting, 44, ARMENIAN STREET, IInd FLOOR, CHENNAI - 600 001. LIC. No R-322	Type of Shipment: Outright Sales [ ] Consignment Export [ ] Others [ ] (Specify)

Pre-Carriage by: BY ROAD	Place of Receipt by Pre-Carrier: SEZ		
Vessel / Flight No.: BY AIR	Rotation No.		
	Port of Loading: CHENNAI	Nature of Contract: CIF [ ] CFR [ ] FOB [X] Others (Specify) FOB	
Port of Discharge: NEW JERSEY	Country of Destination: NEW JERSEY	Exchange Rate US 14 of CA: USD1=Rs.44.90/-	Currency of Invoice: USD

Marks & Nos.	No. & Kind of Pkgs. Container Nos.	Statistical Code & Description of goods and EXIM Scheme Code where applicable	Quantity	Value FOB	PMV where applicable
		RITC NO.:490290000.00	BOX	INR	
AS CONSIGNEE ADDRESS	1 BOX ONLY	BA/BE STUDY CLINICAL RESEARCH REPORTS FOR LEVOFLOXACINE - 750 MG	1	Rs.1151371/-	

Net Weight: 0.25 KGS

Gross Weight

Total FOB Value in Words
(Rs.ELEVEN LAKH FIFTY ONE THOUSAND THREE HUNDRED AND SEVENTY ONE ONLY)

Analysis of Export Value	Currency	Rate	Amount
FOB Value	USD		25643.00/-
Freight			
Insurance			
Commission			
Discount			
Other Deductions			

Full export value OR where not ascertainable, the value which exporter expects to receive on the sale of goods

Currency FOB USD

1206005231

Amount 25643.00/-

GRI.NO.:AY0674563/22.05.06

DEPUTY COMMISSIONER OF CUSTOMS
MADRAS EXPORT
22 MAY 2006

DECLARATION

For MANOHAR ENTERPRISES

SHIPPING BILL FOR EXPORT OF DUTY FREE GOODS

EXCHANGE CONTROL DECLARATION (GR) FORM NO. BB 5783

Duplicate

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Exporter's Name & Address / Government or Private	Invoice No. & Date	SB No. & Date
...QUEST LIFE SCIENCES (P) LTD, ...F III, MADRAS EXPORT PROCESSING ZONE, TAMBARAM, C CHENNAI-600 045, INDIA.	QLS/III/06-016/017 & 29.05.07	004507
	AR4 / AR4A No. & Date	
	Q/Cart No. & Date	Import - Export Code No. and BIN: 3803000271
		State of origin of goods
Consignee: M/S. DAK TECHNOLOGIES INC, 21 BAKLEY TERRANCE, WEST ORANGE, NJ 07052.	Export Trade Control	If Export under: TN90
		Deferred Credit [ ]
		Joint Ventures [ ]
		Rupee Credit [ ] Others [ ]
Custom House Agent: MANOHAR ENTERPRISES, Clearing & Forwarding & Transporting, 86, ARMENIAN STREET, IInd FLOOR, CHENNAI-600 001. LIC. No R-322		RBI's Approval / Cir. No. & Date

Pre-Carriage by	Place of Receipt by Pre-Carrier		Type of Shipment: ORS
BY ROAD	MEPZ, SEZ		Outright Sales [X]
Vessel / Flight No.	Rotation No.		Consignment Export [ ]
BY AIR			Others [ ] (Specify)
	Port of Loading	Nature of Contract: CIF [ ] CFR [ ] FOB [ ] Others (Specify) FOB	
Port of Discharge	Country of Destination	Exchange Rate US 14 of CA	Currency of invoice
WEST ORANGE	U.S.A	USD1=Rs.39.70/-	USD

Marks & Nos.	No. & Kind of Pkgs. Container Nos.	Statistical Code & Description of goods and EXIM Scheme Code where applicable	Quantity	Value FOB	PMV Where applicable
		RITC.NO:4901101000	PCS.	INR.	
	(1) PACKAGE ONLY	PRINTED BOUND BOOKS OF STUDY REPORT	1	Rs.1644255/-	

GR Form Detached

Net Weight: 0.05 KGS

Gross Weight: 1 KGS

Total FOB Value In Words: (RS: SIXTEEN LAKHS FOURTY FOUR THOUSAND TWO HUNDRED AND FIFTY FIVE ONLY)

Analysis of Export Value	Currency	Rate	Amount
FOB Value	USD		41417.00/-
Freight			
Insurance			
Commission			
Discount			
Other Deductions			

Full export value OR where not ascertainable, the value which exporter expects to receive on the sale of goods

Currency: FOB USD

Amount: 41417.00/-

GRN BB 0881383

208004367

COMMISSIONER OF CUSTOMS, MEPZ, 26 MAR 2008

DECLARATION

I/We declare that all the particulars given herein are true and correct.

I/We also attach the declaration(s) under clause No. (s) ....

For MANOHAR ENTERPRISES

Authorised Signatory

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EXCHANGE CONTROL DECLARATION (GR) FORM NO. BB

Is Export under L/C arrangements ? Yes [ ] No [ ] If yes, name of advising bank in India	**FOR CUSTOMS** Customs Assessable Value Rs. 1664255/- (Rupees Sixteen Lakhs Sixty Four Thousand Two Hundred Fifty Five only) Export Value verified Customs Appraiser
Bank through which payment is to be received Central Bank of India Nungambakkam-34	Cargo Shipped on Export Quantity Value Customs Appraiser
Whether Payment is to be received through the ACU YES/NO	Date of Shipment

Declaration under Foreign Exchange Management Act, 1999 : I/We hereby declare that I/We am/are the SELLER/CONSIGNOR of the goods in respect of which this declaration is made and that the particulars given above are true and that a) the value as contracted with the buyer is the same as the full export value declared overleaf / b) *the full export value of the goods is not ascertainable at the time of export and that the value declared is that which I/We, having regard to the prevailing market conditions, expect to receive on the sale of goods in the overseas market.

I/We undertake that I/We will deliver to the bank named herein the foreign exchange representing the full export value of the goods on or before @ Dp. Sight in the manner specified in the Regulations made under the Act.

I/We further declare that I/We am/are resident in India and I/We have a place of business in India.

I/We* am/are OR am/are not in Caution List of the Reserve Bank of India.

For QUEST LIFE SCIENCES PVT. LTD.

Date 25/3/08

Authorised Signatory
(Signature of Exporter)

@ State appropriate date of delivery which must be within six months from the date of shipment, but for exports to warehouses established outside India with the permission of the Reserve Bank, the date of delivery must be within fifteen months.

* Strike out whichever is not applicable.

FOR AUTHORISED DEALER'S USE

Uniform Code Number ....

*Indicate ( ) in the box applicable

Date of *(i) negotiation (ii) receipt for collection .... Bill No. ....

Type of Bill* (i) DA [ ] / (ii) DP [ ] (iii) Others [ ] .... (Specify)

Type of Shipment* (i) Firm Sale Contract [ ] / (ii) Consignment Basis [ ] / (iii) Others [ ] .... (Specify)

The GR form was included in the Statement sent to the Reserve Bank with the R-Return for the fortnight ending ....

sent on ....

We certify and confirm that we have received the total amount of .... as under being the proceeds of exports declared on this form
(Currency) (Amount)

Date of receipt	Currency	Credit to Nostro Account in .... (Country)		Debit to NR Rupee Account of a Bank in .... (Country)		Period of R-Return with which the realisation has been reported to RBI
		In our name	In the name of*	Held with us	Held with*	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

(Write the name of the concerned Indian Authorised Dealer Branch). Any other manner of receipt (Specify) ....

....

(Stamp & Signature of authorised dealer)

Date ....

Address ....

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सेन्ट्रल बैंक ऑफ इंडिया
(भारत सरकार का उपक्रम)
केन्द्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉइंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

A No 220819

OUR REF. NO. FCR 881.

RBB. CHENNAI Branch

Date 20/04/2007.

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest Life Science (P) LTD
(name and address)

______ on ______

☐ By Cash
☐ By Pay-order
☐ By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam Office for beneficiary's account

* b) to ______ Bank, ______ on ______

for credit of beneficiary M/s. ______
(name and address)

______'s Account

Name and place of residence of the remitter : DAR Technologies Inc
Name and address of remitting bank : Federal Reserve Bank

______ DD/TT./MT./No. ______ Dated 19/4/2007
Foreign currency amount USD 4184/ Rupee equivalent Rs. 175,017/
(Rupees ______)
Favouring M/s Quest Life Science (P) LTD
F applied 41/83
purpose of remittance as stated by remitter*/beneficiary ______

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

J.S. Dawson
D.778

Authorised Signatory
(Foreign Business)

Countersigned ______
(Name and Designation)

______
(Address)

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सेन्ट्रल बैंक ऑफ इंडिया
(भारत सरकार का उपक्रम)
केंद्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉइंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

A № 247534

OUR REF. NO. FIRP 881

IBG. Chennai Branch

Date 28.4.09

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest Life Science (P) Ltd
(name and address)
on

☐ By Cash
☐ By Pay-order
☐ By Credit to Current/Saving/Cash Credit Account with us/with our NUNGAMBAKKAM Office for beneficiary's account

* b) to Bank, on

for credit of beneficiary M/s.
(name and address)
's Account

Name and place of residence of the remitter : DAK Technologies Inc

Name and address of remitting bank : J. P. Morgan Chase Bank NY

DD/TT./MT./No. Dated 19.4.09

Foreign currency amount USD 4184. Rupee equivalent Rs. 175017

(Rupees One lac Seventy five thousand Seventeen only)

Favouring Quest Life Science (P) Ltd

Rate applied 41.83

purpose of remittance as stated by remitter*/beneficiary ADV Pyt Exports

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

R. Anbarasan
R. ANBARASAN
A-1935

Authorised Signatory
(Foreign Business)

D. Dawson
D.778

Countersigned
(Name and Designation)

(Address)

L125

सेन्ट्रल बैंक ऑफ इंडिया
(भारत सरकार का उपक्रम)
केन्द्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉईंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

A No 248157

CENTRAL BANK OF INDIA
International Business Branch
48, 49, MONTIETH ROAD,
CHENNAI-600 008
INDIA

OUR REF. NO. FIRP_1786

IBB Branch

Date 18/12/07

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest Life Sciences P. Ltd.
(name and address)
on

☐ By Cash
☐ By Pay-order
☐ By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam Office for beneficiary's account

* b) to Bank, on
for credit of beneficiary M/s.
(name and address)
's Account

Name and place of residence of the remitter : MOLD Interchemical Ind Inc
Name and address of remitting bank : JPMC I NY
DD/TT/MT/No. Dated 8/8/07
Foreign currency amount USD 3657 Rupee equivalent Rs. 147304/-
(Rupees One lakh forty seven thousand 304 only)
Favouring Quest Life Sciences P. Ltd
Rate applied 40.28
purpose of remittance as stated by remitter*/beneficiary

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

J.S. Dawson
D.778
Authorised Signatory
(Foreign Business)
Countersigned
(Name and Designation)
(Address)
व्ही.व्ही. नटराजन
V.V. NATARAJAN
पूव-612

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सेन्ट्रल बैंक ऑफ इंडिया
(भारत सरकार का उपक्रम)
केन्द्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉइंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

A № 220601

OUR REF. NO. PFRP 573

IBB CHENNAI Branch

Date 17/3/2007.

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest Life Sciences
(name and address)

on

- [ ] By Cash
- [ ] By Pay-order
- [ ] By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam Office for beneficiary's account

* b) to Bank, on

for credit of beneficiary M/s.
(name and address)

's Account

Name and place of residence of the remitter : MDLD Intercheminal Industri.

Name and address of remitting bank United Coconut Planty Bk. Manila

DD/TT./MT./No. Dated 15/3/07

Foreign currency amount USD 5768/- Rupee equivalent Rs. 254,369/-

(Rupees)

Favouring Quest Life Sciences.

R applied 44/10

purpose of remittance as stated by remitter*/beneficiary Payment to suppliers ?

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

J.S. DAWSON
C.773

Authorised Signatory
(Foreign Business)

Countersigned

(Name and Designation)

(Address)

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सेन्ट्रल बैंक ऑफ इंडिया Central Bank of India

(भारत सरकार का उपक्रम) (A Government of India Undertaking)

केंद्रीय कार्यालय : चन्दरमुखी, नरीमन पॉइंट, मुंबई - 400 021. Central Office : Chander Mukhi, Nariman Point, Mumbai - 400 021.

A № 247533

OUR REF. NO. FRP 573

IBB . Chennai Branch

Date 28. 8 07

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest Life Science (P) Ltd
(name and address)

on

- [ ] By Cash
- [ ] By Pay-order
- [ ] By Credit to Current/Saving/Cash Credit Account with us/with our NUNGAMBAKKAM Office for beneficiary's account

* b) to Bank, on

for credit of beneficiary M/s.
(name and address)

's Account

Name and place of residence of the remitter : MDLD INTERCHEMICAL INDUSTRIES

Name and address of remitting bank : J.P. Morgan Chase Bank NY

DD/TT./MT./No. Dated 14.3.07

Foreign currency amount USD 5768. Rupee equivalent Rs. 254369/-

(Rupees Two Lac fifty four thousand three hundred and sixty nine only

F uring Quest Life Science (P) Ltd

Rate applied 44.10

purpose of remittance as stated by remitter*/beneficiary ADV PYT EXPORTS

We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

R. Anbarasan

R. ANBARASAN
A-1086

J.S. DAWSON
D.778

Authorised Signatory
(Foreign Business)

Countersigned

(Name and Designation)

(Address)

55

SHIPPING BILL FOR EXPORT OF DUTY FREE GOODS

Exporter, whether Government or Private
[redacted]

Invoice No. & Date [redacted]

SB No. & Date 004186

AR4 / AR4A No. & Date

Q/Cart No. & Date

Import-Export Code No. and BIN [redacted]

State of origin of goods

Consignee
[redacted]

Export Trade Control

If Export under: [redacted]
Deferred Credit [ ]
Joint Ventures [ ]
Rupee Credit [ ] Others [ ]
RBI's Approval / Cir. No. & Date

Custom House Agent LIC. No R-322
MANOHAR ENTERPRISES
Clearing & Forwarding & Transporting
86, ARMENIAN STREET, IInd FLOOR,
CHENNAI - 600 001.

Pre-Carriage by	Place of Receipt by Pre-Carrier
[redacted]	[redacted]
Vessel / Flight No. [redacted]	**Rotation No.**
	Port of Loading [redacted]
Port of Discharge [redacted]	**Country of Destination** [redacted]

Type of Shipment: [redacted]
Outright Sales [X]
Consignment Export [ ]
Others [ ]
(Specify)

Nature of Contract: CIF [ ] CFR [ ] FOB [ ] [redacted]
Others (Specify)

Exchange Rate U/S 14 of CA [redacted]

Currency of Invoice [redacted]

Marks & Nos.	No. & Kind of Pkgs. Container Nos.	Statistical Code & Description of goods and EXIM Scheme Code where applicable	Quantity	Value FOB	PMV Where applicable
	[redacted]	[redacted]	[redacted]	[redacted]	

Net Weight [redacted]

Gross Weight [redacted]

Total FOB Value in Words
[redacted]

Analysis of Export Value

	Currency	Rate	Amount
FOB Value	[redacted]		[redacted]
Freight			
Insurance			
Commission			
Discount			
Other Deductions			

Full export value OR where not ascertainable, the value which exporter expects to receive on the sale of goods

Currency [redacted]

Amount [redacted]

COMMISSIONER OF CUSTOMS
MEPZ
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DECLARATION

For MANOHAR ENTERPRISES

06.07

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सेन्ट्रल बैंक ऑफ़ इंडिया
(भारत सरकार का उपक्रम)
केन्द्रीय कार्यालय :
चन्दरमुखी, नरीमन पॉइंट,
मुंबई - 400 021.

Central Bank of India
(A Government of India Undertaking)
Central Office :
Chander Mukhi, Nariman Point,
Mumbai - 400 021.

A № 220162

OUR REF. NO. 3221

TBB CHENNAI Branch

Date 22/12/06

CERTIFICATE OF FOREIGN INWARD REMITTANCE

We certify that we have received the following remittance and proceeds thereof were paid

* a) to the beneficiary M/s. Quest Life Sciences (P) Ltd
(name and address)

_______________ on _______________

☐ By Cash
☐ By Pay-order
☐ By Credit to Current/Saving/Cash Credit Account with us/with our Nungambakkam Office for beneficiary's account

* b) to _______________ Bank, _______________ on _______________

for credit of beneficiary M/s. _______________
(name and address)

_______________'s Account

Name and place of residence of the remitter : Zenarda d Balajadbe,
Name and address of remitting bank : Equitable PCI Bank,
_______________ DD/TT./MT./No. _______________ Dated 21/12/06.
Foreign currency amount USD 1980/- Rupee equivalent Rs. 87901/
(Rupees _______________)
Favouring Quest Life Science (P) Ltd
R applied 44.44
purpose of remittance as stated by remitter*/beneficiary Adv. Paymt
Dak - Inv. 15
We also certify that the payment thereof* has / has not been received in non-convertible rupees or under any special trade or payments agreement.

We confirm that we have obtained reimbursement in an approved manner.

*Strike out whichever is inapplicable.

For CENTRAL BANK OF INDIA

J.S. Dawson
D.778

Authorised Signatory
(Foreign Business)

Countersigned _______________
(Name and Designation)

____
(Address)

Annexure-3

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भारत सरकार, वाणिज्य एवं औद्योगिक मंत्रालय
वाणिज्य विभाग, विकास आयुक्त का कार्यालय,
मेप्स विशेष आर्थिक क्षेत्र, तमिलनाडु, पांडिचेरी,
अंडमान और निकोबार द्वीप समूह के शत-प्रतिशत
निर्यात अभिमुख एकक, चेन्नै - 45

सत्यमेव जयते

Government of India, Ministry of Commerce and Industry,
Department of Commerce,
Office of the Development Commissioner,
MEPZ SPECIAL ECONOMIC ZONE &
HEOUs in Tamil Nadu, Pondicherry,
Andaman & Nicobar Island
Administrative Office Building,
National Highway-45, Tambaram, Chennai - 600 045.

No.8/30/2003/SEZ. Dt.14/02/2008.

15/2/08

To

M/s. Quest Life Sciences Pvt. Ltd.,
SDF-III, MEPZ-SEZ,
Chennai-600 045.

Sir,

Sub: Permission granted for setting up a service unit in MEPZ-SEZ in the field of BE/BA Clinical Bio-Analytical statistics/Data Management Report of unauthorized activity Show Cause Notice – Reg.

*****

M/s. Quest Life Sciences (P) Ltd., in MEPZ-SEZ, Tambaram, Chennai-45 hereinafter referred to as 'unit' was granted permission to set up a services unit in MEPZ-SEZ vide letter of permission No.8/30/2003/SEZ dated/24/11/2003 by the Development Commissioner, MEPZ-SEZ for generating clinical bio analytical statistics and data management. The Development Commissioner issued Show Cause Notice vide F.No.8/30/2003/SEZ dated 23/08/05 to the 'unit' for not carrying out sustained exporting activity from the SEZ and for transferring services/knowledge to the Domestic Tariff area for a value Rs.1.62 Crores, by which the 'units' illegal Domestic Tariff Area sales without proper intimation to Customs and without payment of required duties came to light.

2. The Development Commissioner adjudicated the case and imposed a penalty of Rs. Five Lakhs vide order in F.No.8/30/2003/SEZ dated.21/02/2006 under Foreign Trade (Development and Regulation) Act, 1992 and concluded that the unit is guilty of many offences during 04-05 viz exporting services without filing the shipping bills or the softex forms and transferring services into DTA without obtaining appropriate permission from the competent authority. Further, as a sequel to the Development Commissioner's order dt.21/02/06 MEPZ-SEZ. Customs issued a Show Cause Notice for duty on the goods illegally transferred from the SEZ into the DTA for the financial years 04-05 & 05-06 under the Customs Act 1962 and the case is pending with Commissioner (Appeals) Custom House Chennai. The duty amount involved is Rs.24.48 lakhs with a mandatory penalty of

Phone : 044-2262 8220/ 2262 8305 Fax : 91-044-2262 8218 Email : info@mepz.gov.in
Internet - http://www.mepz.gov.in

Rs.24.48 lakhs. The 'unit' appealed against the Development Commissioner's order dated 21.02.06 to the Appellate Authority, New Delhi who also upheld the Development Commissioner's order vide Appellate order in F.No..12013/14/2006-ADJ/AC dated 10th April 2007. The Appellate Committee vide order dt.10.4.07 has recorded that the firm is still violating the laws and rules in force despite the fact that DC has pointed out these lapses vide his order dt.21/02/06.

3. Inspite of the above action taken by DC, MEPZ-SEZ and the MEPZ-Customs, as enumerated in para 2 the unit repeatedly committed the same violations of exporting services without filing shipping bills or the softex forms for 05-06 & 06-07 and transferring services into DTA without obtaining appropriate permission from the competent authority (upto 9.2.2006). Further the unit did not adhere to the procedures laid down for clearing of goods into the DTA as laid down in Chapter XA Customs Act 1962 and under Rule 48 SEZ Rules 2006. MEPZ-SEZ customs issued orders demanding duty for the illegally transferred goods into DTA for the financial year 06-07 and the duty is Rs.25.43 lakhs and mandatory penalty is Rs.25.43 lakhs. This order is before the appellate authority under the Customs Act i.e. Commissioner (Appeals) Custom House, Chennai. In short the action under the Customs Act for non payment of duty for the three financial years 04-05, 05-06 & 06-07 is before the appellate authority under the Customs Act. In addition for all these three financial years the unit has been doing job work for the DTA companies and sending the goods back into the DTA which is in violation of para 7.12 (d) of FTP 02-07 prior to 10/2/06 ie., date of commencement of SEZ Act /Rules and contravening Rule 43 of SEZ Rules with effect from 10.2.2006. Hence vide this office Show Cause Notice dt.31/10/07 the unit was asked to show cause to the Development Commissioner, MEPZ-SEZ for the violation of the FTDR Act for not filing required export documents for the total export figures of 2005-06 and 2006-07 reported in the APRs filed by them and for transferring services to DTA during 2005-06 (upto 9.2.06) without obtaining appropriate permission from the competent authority. In the reply given by the unit vide letter dt.01/12/07 to this Show Cause Notice, there was no defence by the unit on both counts on not filing export documents to cover the uncovered figures of Rs. 19.97 lakhs for the period 2005-06 and for Rs.34.33 lakhs for the period 2006-07 as given by the APR for the respective period and for transferring services into DTA without permission for 05-06 (upto 9.2.2006.)

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4. In addition to the violations indicated in Paras 2 & 3 above, attention of the unit is drawn to the conditions given in the LUT executed prior to the SEZ Rules & Act and the conditions given in the Bond-cum-LUT executed under the SEZ Rules & Act. Under the LUT executed prior to the SEZ units vide clause 4 there has been a violation in the manner of DTA sales effected, and under the Bond-cum-LUT executed under the SEZ Rules there has been an violation of clauses 9 & 11. Further there is a clear violation of condition X read with (i) in L.O.P No. Lr. 8/30/2003/SEZ dated 24.11.2003.

5. The above violations clearly show that the unit has not fulfilled the conditions of the LOP/LUT and Bond-cum-LUT executed with Development Commissioner, MEPZ for the last three financial years despite Development Commissioner clearly indicating it so to the unit vide his order F. No. 8/30/2003-SEZ dated 21.2.06. Hence the Approval Committee for MEPZ-SEZ finds that you are persistently contravening the terms & conditions of the LOP/ LUT and Bond-cum-LUT executed under the Foreign Trade Policy/SEZ Act, 2005 & Rules,2006.

6. Under the above circumstances, you are therefore directed to show Cause as to why action should not be initiated under section 16(1) of the SEZ Act, 2005. Reply to this Show Cause Notice should reach the undersigned before 29/02/08, failing which it will be presumed that you are accepting the charges and the action as deemed fit will be taken by the Approval Committee.

Yours faithfully,

(C.R. KALAVATHY)
ASST. DEVELOPMENT COMMISSIONER.
For DEVELOPMENT COMMISSONER

12/2 14/2

Annexure-3

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Reply to Show Cause Notice No 8/30/2003/SEZ dt.14/02/2008 of The Development Commissioner, MEPZ, SEZ, Chennai.

The captioned notice has been issued to our Unit by the Development Commissioner, MEPZ-SEZ in view of the following :-

i) Unit Penalized by Development Commissioner vide order in F.No 8/30/2003/ SEZ dt 21/02/2006 for the offence of exporting services without filing shipping bills or softex forms during 2004-05 and transferring services into DTA without obtaining appropriate permission from the competent authority.

ii) Above order upheld in appeal vide Appellate order in F.No 12013/14/2006-ADJ/AC dt 10/04/2007 recording that unit is still continuing the violations pointed out by the Development Commissioner.

iii) In addition for all these three financial years ending with 31/03/2007 Unit has been doing job work for the DTA companies and sending the goods back into the DTA which is in violation of para 7.12(d) of FTP 02-07 prior to 10/02/2006 and contravening Rule 43 of SEZ Rules with effect from 10/02/2006

iv) Hence another Show Cause Notice dated 31/10/2007 was issued for violation of FTDR Act, for not filing required export documents for the total export figures of 2005-06 and 2006/07 reported in the APRs (i.e for uncovered portion Rs, 19.97 lac for 2005-06 and Rs 34.33 lac for 2006-07) and for transferring services to DTA during 2005-06 (upto9/2/2006) without obtaining appropriate permission from the competent authority to which the Unit in their reply 01/12/2007 offered no defense

v) The above also mean violation of
   a) clause 4 of LUT executed prior to SEZ Act & Rules regarding DTA sales
   b) clause 9 & 11 of Bond-cum-LUT executed under SEZ Rules
   c) Condition X r/w (i) in LOP NO 8/30/2003/SEZ dated 24/11/2003

vi) Customs levied duty of Rs 24.48 lac and penalty of Rs. 24.48 lac for financial years 2004-05 & 2005-06 and duty of Rs 25.43 lac and penalty of Rs. 25.43 lac for financial year 2006-07 on **goods illegally** transferred into DTA.[Both these orders are under challenge by the Unit before Commissioner (Appeals)]

vii) Above violations show that the unit *has not fulfilled the conditions of the LOP/LUT and Bond-cum-LUT for the last three financial years ending with 31/03/2007 despite Development Commissioner clearly indicating it so to the unit vide his order F.No 8/30/2003-SEZ dt 21/02/2006.*

viii) ***Hence the approval Committee for MEP-SEZ finds that the unit is persistently contravening the terms & conditions of the LOP/LUT and Bond-cum-LUT executed under the FTP/SEZ Act,2005 & Rules,2006***

*To sum up, the offences alleged against the unit are i) exports without filing export documents, ii) sale into DTA without payment of applicable duty and for period upto 09/02/2006 also without appropriate permission from competent authority and **iii)** Sent back goods into DTA for exports after carrying out job work on the goods supplied by DTA units.*

Quest Life Sciences Pvt. Ltd. * MEPZ, Chennai-45 *

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Referring to the above, <u>this Show Cause Notice issued by the Development Commissioner,</u> MEPZ-SEZ is asking the Unit to show cause <u>why action should not be initiated **u/s 16(1)** of the SEZ Act,2006</u> against the Unit for <u>*persistently contravening the terms and conditions of the LOP/LUT and Bond-cum-LUT executed under the FTPSEZ Act,2005& Rules 2006.*</u>

Before we proceed to give our response we place on record our preliminary objections as under:

1) The notice is issued by Development Commissioner under his authority and not on behalf of Approval Committee who are alone competent to initiate action **S16(1)** of the SEZ Act. Hence this <u>notice is without jurisdiction, authority and ultra vires and hence **void ab initio**</u>
2) <u>No</u> action under **S.16(1)** lies in respect of above said violations.
3) The order of Development Commissioner and <u>upheld by Appellate</u> authority on <u>unconnected grounds</u> is under challenge in W.P. 21268 of 2008 before the Hon'ble Madras High Court and the recovery of penalty of Rs 5 lac has already been stayed. Both these orders are challenged as being illegal, arbitrary and without authority. As such <u>the offences cited in the show cause notice are sub-judice</u> and <u>cannot become cause of action for initiating action **u/s 16(1)** of SEZ Act.</u>
4) There **cannot be Double jeopardy** for the same act of offence. **Cause of action** for this show cause notice is the Unit's acts during the three financial years ending with 31/03/2007. **Appellate order** in F.No 12013/14/2006-ADJ/AC dt **10/04/2007** <u>*also covered the same acts of the same period. That is, **the cause of action is the same for the Appellate order and this show cause notice.***</u>. Appellate order upheld the original order of the Development Commissioner <u>only because</u> of its finding that the Unit is still continuing the same offenees. As such a <u>cause of action for which penalty has been upheld *cannot again become a cause of action*</u> for initiating action <u>**u/s 16(1)** of SEZ Act.</u> It may however be noted that the findings and orders of both Development Commissioner and Appellate authority are under challenge by the Unit in the writ petition cited supra.
5) Otherwise too the Cause of action is too premature for initiating action **u/s 16(1)** of SEZ ACT.
6) There is no violation of any law or rule in FTP or SEZ Act & Rules or conditions in LOP/LUT/Bond-cum-LUT
7) Unit cannot be asked to explain <u>**charges that negate each other**</u> and contradict, more so when there is <u>**no identity of views** between the orders of Customs and Development Commissioner.</u>
8) **Unit fulfilled totally the NFE obligations** and has been **always acting bona fide** even though assistance and advice never came forth from the office of the Development Commissioner.
9) There has been <u>**NO misrepresentation or suppression of fact**</u>
10) There is <u>NO ***revenue loss to the State***</u>

<u>*As such the above Show Cause Notice is baseless, premature, without authority and not maintainable in law and on facts.*</u>

Quest Life Sciences Pvt. Ltd. MEPZ, Chennai-45.

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Without prejudice to our rights and remedies in view of and in respect of the above preliminary objections we proceed to give our response to the specific offences alleged in the SCN.

1) **the main offence alleged is export without documents** and the reason for this conclusion is that there are no shipping bills/softex forms to cover the entire exchange earnings claimed by the unit on the strength of bank realization certificates. The Unit submits that this shortfall in the export documents is on account of two reasons, -

   a) In Clinical Trials, foreign sponsors make payments in advance and not on execution of exports. So Exchange earnings as per bank certificates represent inward remittances for export contracts (Clinical Study Contracts) received and not necessarily proceeds on execution of exports. A study to generate data and statistical results may take nearly two months (at times even 12 months in case of complicated molecules) for completion and only thereafter the export documents by way of shipping bills/softex forms can be filed. As such there is always a time mismatch between receipt of exchange earnings and actual exports. Further some studies may have to be abandoned for technical or medical reasons as per regulatory requirements n which case there shall be no exports (of data/statistical results) but earnings would have accrued to the Unit. This explains the reason for the difference in the earnings as per Unit's claim and the earnings as per export documents

   b) Second reason is that the proviso clause to **Rule 46 (1)(a) of SEZ Rules** **exempts** filing of export documents upto export value of US$ 25,000. This proviso clause is reproduced herebelow-

   *Provided that there shall be **exemption from declaration** in the forms, **GR** or SDF or PP or **SOFTEX** as referred in the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 notified vide Reserve Bank of India Notification No: FEMA 23/2000-RB dated 3rd May, 2000 as amended from time to time in respect of export value up to **US$ twenty five thousand** or for export value as may be notified by the Reserve Bank of India, from time to time;*

   The Unit initially filed shipping bills unaware of this provision and when it was advised to go by the above provision it did so. But the Unit's going by the law was arbitrarily alleged as suppression of fact by the Development Commissioner. The Unit having to work under the administrative control of the MEPZ-SEZ submitted Shipping bills **though not required** by law.

   c) The study reports in respect of the uncovered portion Rs, 19.97 lac for 2005-06 and Rs 34.33 lac for 2006-07 mentioned in the SCN did not fructify to warrant filing of shipping bill , as in other cases where the export took place. The working sheet annexed herein also shows that there is no discrepancy.

Quest Life Sciences Pvt. Ltd. MEPZ, Chennai-45.

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As such there is **no violation** of any law in respect of submission of export documents

2) Other allegation, also connected to Unit's exports is the discrepancy between the exchange earnings shown in APR and Unit's claim of Exchange Earnings based on Bank realization certificates. The Unit submits that the discrepancy between APRs and actual Foreign Exchange Earnings as per bank realization certificates is because APR shows the value of exports invoiced on entering into export contract for the financial year while bank certificates shows actual inward remittances whether exports have been executed or not, as explained herein above. The working sheet annexed herein also shows that there is no discrepancy.
3) Other offence cited is sales into DTA area without payment of duty and for period upto 09/02/2006 also without appropriate permission from competent authority. The Unit submits that the *SCN makes two diametrically opposite irreconcilable allegations* for the same acts which is not permissible in law. A charge has to be specific and NOT in the alternative. The unit is alleged of having made sales into DTA and is also alleged for the very same sales as having carried out job-work for Exports by DTA units. *A transfer to DTA is either sales into DTA for domestic market or transfer for export and it cannot be both.*
4) The SCN also cites the duty and penalty levied by Customs. Customs have levied the duty and penalty in terms of **Rule 48** of SEZ Rules and **Sec 30** of SEZ Act and reckoning duty under **Chapter 49, First Schedule** to Customs Tariff Act, all of which deal only with Sales into DTA area **as an import into DTA** from SEZ. The Unit submits that SCN cannot, therefore, rely on Customs order levying duty and penalty for import into DTA but make a diametrically opposite allegation of Job work for exports by DTA units in violation of rules.
5) The Unit submits that under the circumstances, the transfer is either sale into DTA or transfer for exports but **not both.** In the absence of specific allegation the Unit cannot be asked to show cause. However the unit proceeds to explain the allegation of sales into DTA without payment of duty as it is the common allegation in both the order of Customs and this SCN. There is no bar on sales into DTA under FTP prior to 10/2/2006 or under SEZ Act/SEZ Rules with effect from 10/2/2006. We submit that there is no mandatory requirement to get prior permission from the DC under FTP for transfer of Services to DTA.

On the alleged offence of Transfer of Service into DTA in violation of law/ rules/ conditions:

A) No violation under FTP

The Unit submits that there has been no violation under FTP as shown herein below:
Para 7.8 of FTP on Sale into DTA which governed the period prior to **10/02/2006** reads as under:-

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(1) **SEZ unit may sell goods**, including by-products, and services in DTA in accordance with the import policy in force, **on payment of applicable duty.**

(2) **DTA sale by service/trading unit shall be subject to achievement of positive NFE cumulatively.** Similarly for units undertaking manufacturing and services/ trading activities against a single LOP, DTA sale shall be subject to achievement of NFE cumulatively.

The SCN admits that the Unit is a Service unit. Further the SCN's insistence on positive NFE for transfer by the unit into DTA is applicable only to sale of 'service' and not for sale of goods. If what has been transferred by the Unit is 'service' and not 'goods' then the 'service' so transferred is not dutiable. Even if assuming but not admitting that what has been transferred is 'goods' the same is not dutiable in terms of the SEZ Act/Rules and Customs Act, Customs Tariff Act and Rules. As the applicable duty is NIL its payment does not arise.
While the SCN accepts the Unit's exchange earnings it only questions non-submission of export documents which has already been replied hereinabove. Hence achievement of positive NFE is not in dispute;
There is no requirement of appropriate permission from competent authority for sale into DTA.
. As such no precondition or post facto condition of FTP for sale into DTA has been violated by the unit. *There is no violation of FTP.*

B) No violation under SEZ Act/SEZ Rules

SEZ Act and Rules effective from **10/02/2006** read as under in respect of sales into DTA:-

SEZ Act S. 30 -Subject to the conditions specified in the rules made by the Central Government in this behalf:-

(a) **any goods** removed from a Special Economic Zone to the Domestic Tariff Area shall be **chargeable to duties** of customs including anti-dumping, countervailing and safeguard duties under the Customs Tariff Act, 1975, **where applicable**, as leviable on such **goods** when imported;

SEZ Rules 47. Sales in Domestic Tariff Area.- *(1)* A Unit may *sell* **goods and services** including rejects or wastes or scraps or remnants or broken diamonds or by-products arising during the manufacturing process or in connection therewith, in the Domestic Tariff Area **on payment of Customs duties** under section 30, subject to the following conditions, namely.-

(a) Domestic Tariff Area sale under sub-rule (1), of **goods** manufactured by a Unit shall be on submission of import licence, as applicable to the import of similar **goods** into India, under the provisions of the Foreign Trade Policy:

The Unit submits that the SCN never said what has been transferred required any import licence from DTA which itself shows that the SCN admits what has been transferred by the Unit into the DTA is only **'service'** and **not 'goods'.** So the

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'service' transferred is not dutiable. Be that so, the unit submits that as already explained herein above what has been transferred from the Unit is **not dutiable** whether classified as **'service'** or **'goods'**.

As such the unit submits that there is no violation of SEZ ACT/SEZ Rules for sales made into DTA.

C) No violation of conditions in LOP/LUT/Bond-cum-LUT

The Unit submits that **none** of the conditions in the above documents **can bar what is permissible and definitely cannot bar what is mandatory under law.** In fact, Special Economic Zones(Customs Procedures) Regulations,2003, in its **Regn 22 (1)** says that the zone unit **shall be allowed to sell** goods manufactured or produced in the zone unit including reject waste, scrap remnants and by-products arising out of such production, in the domestic tariff area on payment of customs duty, in terms of the Act. So Statutory regulations require that SEZ units **shall be allowed to sell in the domestic area. It is mandatory to allow SEZ Units to sell if duty payable is paid.** This statutory right cannot be alienated except without the sanction of law. SEZ Act also does not prohibit Sale into DTA.

Without prejudice to the above contention the Unit refutes the allegation on the following grounds too.

Clause 4 of LUT reads:- The Unit shall not dispose of the production in the domestic market except in terms of the provisions of EOU/SEZ Scheme and/or when specifically allowed by the competent authority.

Here the permission from the competent authority is not required inasmuch the provisions of SEZ scheme permitted the Unit disposal into domestic market.

So there is **no violation of clause 4 of LUT** for the period prior to SEZ Act and SEZ Rules

Bond-cum-LUT reads as under

Clause 9. We, the obligors **shall pay the duties** on the goods and services sold in Domestic Tariff Area in terms of Special Economic Zones Act, 2005 and the rules and orders made there-under.

Clause 11. We, the obligors **shall not dispose of goods and services admitted** into the Special Economic Zone or goods manufactured or services to the Domestic Tariff Area **except as provided under Special Economic Zones Act, 2005** and the rules and orders made there-under.

It has already been shown hereinabove that the disposal into DTA has been in conformity with the SEZ Act and SEZ Rules. So there is **no violation of Bond-cum-LUT** after the coming into force of the SEZ Act and SEZ Rules.

LOP in its clause (v) clause reads as under :

(v) You **may supply/sell goods or services in the Domestic Tariff Area** in terms of the provisions of the Special Economic Zones Act, 2005 and rules and orders made there-under.

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Hence the charge of offence of Sales into DTA without payment of duty.without permission from competent authority stands disproved.

On the offence of Job work for DTA units in violation of law/rules/conditions:

The Unit submits the following, in addition to the foregoing, to refute this allegation.

The Unit is engaged in rendering service in clinical trial studies Clinical Trials studies are mostly sponsored by Drug companies. The Unit generates for fees Data, Data management and Statistical results in clinical trial studies for use of the sponsors who require them for their research or statutory requirements. These data and results are transferred by the Unit to sponsors for which payment is received in advance by the Unit from the sponsors. Sponsors can be Indian or foreign companies. This service is rendered to companies abroad as exports or to pharmaceutical companies in India as sales to DTA. Indian companies may use the data and results for statutory requirements here or abroad. That is, service transferred to DTA is not for exports by the DTA units but only to meet statutory requirements without which they will not be able to get registration for their drugs and market those drugs. The service transferred to DTA does not by itself lead to further exports of the same but the service helps the DTA units to ultimately market their products abroad using these data and results for getting statutory approval and registration abroad. Indian sponsors can also use the data and results for getting domestic registration too. It is reiterated that 'service' transferred gets revenue only for the unit while for the sponsors the 'service' so transferred only helps in meeting statutory requirements for registration for marketing a drug. **So the 'service' transferred is not job work for exports by Indian sponsors as wrongly conceived in the Show Cause Notice.**

This Charge of offence of job-work for exports by DTA units stands totally disproved.

All the alleged offences of Export without documents, Transfer of Service/goods into DTA against law/rules/conditions and job-work for exports by DTA units stand totally disproved.

The above apart, we are advised that the issuance of Show Cause of Notice 05/09/2005 and imposition of penalty thereon by the Development Commissioner is without authority and jurisdiction and hence illegal, and that the Development Commissioner is not competent **Adjudicating Authority** to initiate such action and impose penalty in terms of S13 **of FTDR Act.**

In fact penal action under FTDR Act lies **only after a finding of guilt** in respect of **NFE or LOP/Bond-cum-LUT** by the **Approval Committee** in terms of **Rule 54(2)** of SEZ Rules which reads as under-

> *In case the Approval Committee come to the conclusion that a Unit has not achieved positive Net Foreign Exchange Earning or failed to abide by any of the terms and conditions of the Letter of Approval or*

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In fact penal action under FTDR Act lies **only after a finding of guilt** in respect of **NFE or LOP/Bond-cum-LUT by the Approval Committee** in terms of **Rule 54(2)** of SEZ Rules which reads as under-

> *In case the Approval Committee come to the conclusion that a Unit has not achieved positive Net Foreign Exchange Earning or failed to abide by any of the terms and conditions of the Letter of Approval or Bond-cum-Legal Undertaking, without prejudice to the action that may be taken under any other law for the time being in force, the said Unit shall be liable for penal action under the provisions of the Foreign Trade (Development and Regulation) Act, 1992.*

So the Penal action by the Development Commissioner without the Approval Committee's conclusion as above and even before the matter being heard by the Approval Committee is without authority, jurisdiction and ultra vires.

Annexure to Rule 54 of SEZ Rules reads as under on criteria for monitoring performance:-

> Show Cause Notice: If a Unit continues to be Net Foreign Exchange negative by the end of 3rd year, a Show Cause Notice shall be issued. **If the negative performance continues till the 5th year, Development Commissioner shall initiate penal action as provided under the rule-25.**

As such only if the negative performance continues till 5th year the Development Commissioner can initiate penal action under FTDR Act in terms of **Rule 25** of SEZ Rule. But the Unit is showing positive NFE and the Unit has not reached even its second year when penal action was initiated by the Development commissioner. Hence we submit that the action of the Development Commissioner was without authority, jurisdiction and ultravires

S.16. (*1*) of SEZ Act reads- The Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has **persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted** to the entrepreneur, cancel the letter of approval

So it is **not** violation of all and every undertaking executed by the Unit but only violation of LOP and that too not all and every term and condition or obligation in the LOP but only those conditions and obligations subject to which the LOP was granted would attract action under S.16(1) and that too only by the Approval Committee.

It is not established that the Unit violated conditions or obligations subject to which LOP was granted. The only obligation after commencement is to achieve positive NFE which the unit has been always achieving. So no action lies under S 16(1) and in any case the Development Commissioner has no authority to initiate action under S. 16(1).

Quest Life Sciences Pvt. Ltd.

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Further **Rule 54(1)** on Monitoring of performance reads as - (1) Performance of the Unit **shall be monitored by the Approval Committee** as per the **guidelines** given in Annexure appended to these rules.
The Annexure is reproduced herebelow

ANNEXURE -I
(See Rule 54)
GUIDELINES FOR ANNUAL MONITORING OF PERFORMANCE OF UNITS IN SPECIAL ECONOMIC ZONES

(1) The **annual review of performance of unit and compliance with the conditions of approval** shall be undertaken by Approval Committee on the basis of Annual Performance Report (in Form I) duly certified by an independent Chartered Accountant before the end of the first quarter of the following financial year.

(2) **Units, which have not completed one year of operation from the date of commencement of production, will not be monitored.** In case a Unit has completed less than five years from the date of commencement of production, it will be monitored for the number of completed years. Annual monitoring in the cases of old units which have completed more than five years will be undertaken for only such number of years which fall in the subsequent block/s of five years.

CRITERIA FOR ANNUAL MONITORING:

i) **Units with negative Net Foreign Exchange in the 1st and 2nd year shall be placed under the Watch List to watch their performance.**
ii) Show Cause Notice: If a Unit continues to be Net Foreign Exchange negative by the end of 3rd year, a Show Cause Notice shall be issued. **If the negative performance continues till the 5th year, Development Commissioner shall initiate penal action as provided under the rule-25.**

In view of the above no cause lies for initiating penal action against the Unit u/s 16(1) of the SEZ Act or under FTDR Act or under any other law.

It is therefore established **that the SCN is arbitrary, baseless and lacks merits**. That apart, we are advised that even the earlier penal action taken by the Development Commissioner and upheld by the Appellate authority and by Customs is arbitrary, illegal and ultra vires.

While requesting you therefore to drop further proceedings under the SCN We take this opportunity to request you to redress our grievances and render justice. SEZ units are golden egg laying hens which should not be killed by penal action as a source of revenue.

Clinical Trial is a very sensitive activity where human lives are involved while it offers immense scope for research and revenue. It requires meeting the requirement of various regulatory authorities here and abroad. It is always under the watchful eyes of several

Quest Life Sciences Pvt. Ltd. MEPZ

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human rights groups. It is a new technology activity. Added to it SEZ itself is a new concept. In fact **CUS CIR NO.29/2003 DATE 03/04/2003 on EOU/EHTP/STP/ SEZ Schemes-Amendments in Exim Policy and Handbook of Procedures Vol-1, 2002-2007 says as under –**

> " I am directed to refer to Chapter 6 of the revised Exim Policy 2002-2007 and Handbook of Procedures, Vol-1.
>
> 2. The changes made therein have necessitated amendments in the notifications governing duty free import/procurements of goods by EOU/EHTP/STP/SEZ units. Over the last few years, the number of notifications governing EOU/EHTP/STP Schemes has become very large and there were about 40 notifications
>
> 3. ***Implementation and understanding of such a large number of notifications was proving to be difficult for the trade and industry as well as Departmental officers. ...***

When such is the open admission by the government itself about the difficulty in understanding the notifications by their own officers Units like us have genuine difficulties in grasping various laws. The least we expect from MEPZ-SEZ is education and not eviction. We expected the Development Commissioner to educate us to get us into business and not to be hyper-technical to drive us out into oblivion. Instead of acting as a facilitator to help our Unit develop the authority loses no opportunity to hurt and hamper us. This latest SCN has become the proverbial straw to break our spirit.

At this juncture we are, therefore, constrained to highlight that when Customs want clarification from the respected Development Commissioner on whether sales into DTA is an authorized activity and are refusing to accept bill of entry for Sales into DTA for want of clarification from DC which till date is not forthcoming. It appears that Customs and all officials are under instructions not to extend any service, assistance or advice to our Unit, though we have been making total disclosure, positive NFE and have not caused any revenue loss to the exchequer.

Be that so, it has been established that the Unit committed **no offence whatsoever,** more specifically the unit has not committed the offences of Export without documents, Transfer of Service/goods into DTA against law/rules/conditions and job-work for exports by DTA units. **All alleged offences stand totally disproved**

Inasmuch the SCN's allegation has been proved baseless and vindictive the unit humbly requests the Approval Committee to pass orders to drop further proceedings and pass such or further orders to render justice.

For QUEST LIFE SCIENCES PVT. LTD.

T. S. JAISHANKAR
Managing Director

Quest Life Sciences Pvt. Ltd.

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QUEST LIFE SCIENCES PVT LTD; MEPZ SEZ CHENNAI

ANNEXURE :

The unit applied for setting up a Clinical Research Organisation to undertake clinical trials on new drugs as well as to conduct bio equivalence and bio analytical studies, vide letter dated 14.10.2003. After due process, the letter of permission dated 24.11.2003 was issued by the Joint Development Commissioner.

A clinical trial (clinical research) is a research study in human volunteers to answer specific health questions. Carefully conducted clinical trials are the fastest and safest way to find treatments that work in people and ways to improve health. Interventional trials determine whether experimental treatments or new ways of using known therapies are safe and effective under controlled environments. Observational trials address health issues in large groups of people or populations in natural settings.

Clinical trials that are well-designed and well-executed are the best approach to gain access to new research treatments before they are widely available.

All clinical trials have guidelines about who can participate. Using inclusion/ exclusion criteria is an important principle of medical research that helps to produce reliable results. These criteria are based on such factors as age, gender, the type and stage of a disease, previous treatment history, and other medical conditions. The criteria help ensure that researchers will be able to answer the questions they plan to study. .

The clinical trial process depends on the kind of trial being conducted. The clinical trial team includes doctors and nurses as well as social workers and other health care professionals. They check the health of the participant at the beginning of the trial, give specific instructions for participating in the trial, monitor the participant carefully during the trial, and stay in touch after the trial is completed.

The ethical and legal codes that govern medical practice also apply to clinical trials. In addition, most clinical research is federally regulated with built in safeguards to protect the participants. The trial follows a carefully controlled protocol, a study plan which details what researchers will do in the study.

Quest Life Sciences Pvt. Ltd. MEPZ, Chennai-45.

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If a clinical research study involves testing or studying a drug or medical device to see if it is a safe and effective treatment for people, it is called a "trial." For example, a clinical trial may test the effectiveness of a new drug for treating Parkinson's disease.

Many new medicines and drugs are found to work in the researcher's lab, and to be safe and effective in animal tests. But drugs and devices must be proven to be safe and effective for people before the Drug Administration can approve them and doctors can prescribe them. The Government has strict rules that govern how clinical trials are conducted.

The amount of foreign exchange received by the unit in stages, from advance payment till study completion, are accounted as income. These are submitted to MEPZ along with the FIRCs issued by the Bank representing the Forex remittances received during the period.

The study of the molecule/formulation/drug is an activity involving various steps, viz. literature search, protocol design, method validation, volunteer/study subject screening and recruitment, IEC Approval, etc.

Thus the foreign remittance received as advances and reported to MEPZ is export income; the corresponding export services is completed subsequently, at times in the next financial year. This timing difference between the realization of export income and the actual export services has, unfortunately, not been clarified correctly or appreciated, resulting in these proceedings.

2004-05 : There are three invoices aggregating to Rs. 18.36 lacs, for which the forex remittance received was Rs. 18.27 lacs, the difference of Rs. 9000 being exchange difference and bank charges. The relative FIRC's from banks were submitted to MEPZ and acknowledged by them. Shipping bills were filed for Rs. 6.87 lacs. The remaining amount for USD 26000 equivalent to Rs. 11.59 lacs, received from Vista Pharmaceuticals Inc. USA vide FIRCs dated 5.8.2004 and 24.6.2005, as advance payment for the studies to be undertaken for their group of companies. Hence no shipping bill was filed; however foreign inward remittance, duly reported to MEPZ.

Similarly, during **2005-06**, Rs. 31.32 lacs represents the invoices raised for orders contracted.

Quest Life Sciences Pvt. Ltd. MEPZ

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Shipping Bill no 2766 dated 13.03.2006 for Rs. 11.35 lacs is filed after completion of the respective study. Rs. 588190/- is covered by shipping Bill no 6346 dated 24.8.2004.

The remaining amount of of Forex remittance of Rs. 14.22 lacs relates to inv no 001 and 004 on account of EMS, Brazil. The study did not fructify due the failure of the Statutory Audit by ANVISSA, Brazil, and no report was made or shipped. Hence, no export documents were filed with the customs since there was no physical exports made.

During **2006-07**, Rs. 31.23 lacs represents the value of Export invoices raised for orders contracted. Shipping bill no. 5421 dated 22.5.2006 for USD 25643 for Rs. 11.51 lacs is filed covering inv no. 11,12, 13 for completed studies. Other study reports completed have since been filed.

While the remittances received, including advances are invoiced and duly reported to MEPZ, the completion of the study and sending of reports and filing of related documents, takes palce after a length of time, depending on various factors. The erroneous finding and consequent levy of penalty by the Development commissioner on this non existent offence had crept in due to the communication gap and uncommunicated asuumptions and presumptions.

- Revised APR for 2006-07 has been duly submitted (after our internal audit) to MEPZ on 20th June 2007.
- The appellate committee, Ministry of Commerce, New Delhi vide their orders dated 1.11.2006, while condoning these procedural lapses, ordered the unit to to rectify the same observed by the Development commissioner, viz. filing of applications for permission for DTA Sales within a month's time and report to them. The same was complied with by the unit and all pending applications were filed online and hard copies submitted to the Development Commissioner as well as the appellate committee.

Lambda Therapeutic Research / ...st Life Sciences Pvt. Ltd. MEPZ, Chennai-45

Annex-III

(1/3)

B. Vijayan, I.A.S.
Development Commissioner

सत्यमेव जयते

भारत सरकार, वाणिज्य मंत्रालय
मेप्स विशेष आर्थिक क्षेत्र, ताम्बरम, चेन्नै-45.
Government of India, Ministry of Commerce
MEPZ SPECIAL ECONOMIC ZONE
Tambaram, Chennai - 600 045.

Dy. No. CR 3616 /AS (RG)
Date 17/11/2008

CR-36116
17/11

By Fax/By Speed Post

Lr.No.8/30/2003/SEZ-II

Dated 15.11.2008

The Secretary to Govt. of India,
Ministry of Commerce & Industry,
Department of Commerce,
Udyog Bhavan,
New Delhi-110 011.

Sir,

Sub: Orders passed by the High Court of Madras – Forwarding.
Ref: W.P.No.17878 filed by M/s Quest Life Sciences Private Limited Vs. DC, MEPZ-SEZ.

In continuation of this office letter dt.5.11.2008, please find enclosed a copy of the order passed by the High Court of Madras dt.13.11.2008 (received by this office on 14.11.2008) in respect of the W.P. filed by M/s. Quest Life Sciences Private Limited against the cancellation of LOA by this office. The Court has dismissed the Writ Petition filed by them and ordered that the appellate authority shall dispose the appeal on merits within a period of four weeks from the date of receipt of a copy of this order and **till such time, the impugned order shall be kept in abeyance**. In view of the orders passed by the Court, Ministry may convene the Board of Approvals meeting to dispose of the appeal filed by M/s. Quest Life Sciences Private Limited at the earliest.

Yours faithfully,

(B. VIJAYAN)
DEVELOPMENT COMMISSIONER

Copy to: Shri R. Gopalan, I.A.S., Addl Secretary (SEZ), Ministry of Commerce & Industry, Udyog Bhavan, New Delhi-110 011.

A. fixed on
9/11 at 5pm

17/11 AS(RG)

JS(M)

18/11

Dir(M)

Phone: 044-2262 8120/ 2262 8230 Fax: 91-044-2262 8218 Email: dc@mepz.gov.in
Internet- http://www.mepz.gov.in

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2008

CORAM

THE HON'BLE MR. JUSTICE N.PAUL VASANTHAKUMAR

W.P.No.17878 of 2008
and
M.P.No.1 of 2008

Quest Life Sciences (P) Ltd., rep.
by its Managing Director T.S.Jaishankar .. Petitioner

Vs.

1.The Development Commissioner,
Madras Export Processing Zone,
Special Economic Zone,
Ministry of Commerce and Industry,
Government of India, Tambaram,
Chennai - 45.

2.Chairman,
Unit Approval Committee,
Madras Export Processing Zone,
Special Economic Zone,
Ministry of Commerce and Industry,
Government of India, Tambaram,
Chennai - 45. .. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari calling for the records of the respondents and quash the impugned order No.8/30/2003/SEZ dated 23.05.2008.

For petitioner .. Mr.P.H.Arvind Pandian

For Respondents .. Mr.K.K.Senthilnathan,
Sr. Central Govt. Standing
Counsel

ORDER

The prayer in the writ petition is to quash the order dated 23.05.2008.

2.Learned counsel appearing for the respondents submitted that as against the very same order, the petitioner has filed an appeal before the appellate authority on 20.06.2008 and the said appeal is still pending.

AW 0054024

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3.In view of the filing of the appeal against the very same impugned order before the appellate authority, this writ petition, challenging the same order is not maintainable, since the petitioner has already availed the alternative remedy of appeal.

4.In view of the above, the writ petition is dismissed. No costs. Consequently, connected M.P. is dismissed. However, the appellate authority is directed to dispose of the appeal on merits, within a period of four weeks from the date of receipt of a copy of this order. Till such time, the impugned order shall be kept in abeyance.

Mmi

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Development Commissioner,
Madras Export Processing Zone,
Special Economic Zone,
Ministry of Commerce and Industry,
Government of India, Tambaram,
Chennai - 45.

2.The Chairman,
Unit Approval Committee,
Madras Export Processing Zone,
Special Economic Zone,
Ministry of Commerce and Industry,
Government of India, Tambaram,
Chennai - 45.

+ 1 cc to Mr. P. H. Arvindh Pandian, Advocate SR No. 60950

+ 1 cc to Mr. K. K. Senthilvelan, Sr CGSC SR No. 60977

DM(CO)
SR/10.11.2008

W.P.No.17878 of 2008

00540