Subject: Conversion of DSIIDC’s built up Industrial Sheds from Leasehold to Freehold

DSIIDC built up around 1300 Industrial Sheds under various schemes of Govt. of Delhi in different Industrial Areas of Delhi. The bulk land was allotted to DSIIDC through DDA under the project of “Allotment of Land in Delhi for construction of 862 sheds for Unemployed Engineers/ Educated Unemployed Persons, under the scheme of Large Scale Acquisition, Development and Disposal Of Land in Delhi laid down by the Ministry of Home Affairs. Later on the scheme was launched by the DSIIDC as “Half a Million Job Scheme”.

Under the ‘half-a-million jobs programme’ scheme, DSIIDC had constructed 840 sheds during the years 1974-77 in the following Industrial Complexes:

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Industrial Area</th>
<th>No. of built up sheds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Okhla Industrial Complex Phase I</td>
<td>232</td>
</tr>
<tr>
<td>2.</td>
<td>Okhla Industrial Complex Phase II/I</td>
<td>112</td>
</tr>
<tr>
<td>3.</td>
<td>Okhla Industrial Complex Phase II/II</td>
<td>34</td>
</tr>
<tr>
<td>4.</td>
<td>Okhla Industrial Complex Phase II/III</td>
<td>59</td>
</tr>
<tr>
<td>5.</td>
<td>Rohtak Road Industrial Complex</td>
<td>177</td>
</tr>
<tr>
<td>6.</td>
<td>Wazirpur Industrial Complex</td>
<td>103</td>
</tr>
<tr>
<td>7.</td>
<td>Lawrance Road Industrial Complex</td>
<td>90</td>
</tr>
<tr>
<td>8.</td>
<td>Jhilmil Industrial Complex</td>
<td>33</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>840</td>
</tr>
</tbody>
</table>

Industrial sheds constructed under self-financing schemes during the year 1984-85.

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Industrial Area</th>
<th>No. of built up sheds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>ROHTAK ROAD SFS COMPLEX</td>
<td>105</td>
</tr>
<tr>
<td>2.</td>
<td>KIRTI NAGAR PACKAGING COMPLEX</td>
<td>226</td>
</tr>
<tr>
<td>3.</td>
<td>MONGOL PURI ENGINEERING COMPLEX</td>
<td>94</td>
</tr>
<tr>
<td>4.</td>
<td>OKHLA COMPUTER COMPLEX</td>
<td>31</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>456</td>
</tr>
</tbody>
</table>
Initially DSIIDC allotted these built up sheds to prospective entrepreneurs on rental basis under different schemes of Govt. of Delhi. Later on, status of these sheds was converted from rental to Leasehold with the approval from the Govt. of Delhi after recovering the Hire-purchase cost of the sheds from the allottee. Since, the allotment of these sheds, DSIIDC is carrying out all the functions of the lease administration of these sheds including allotment, cancellation, change in constitution, transfer, executing Conveyance Deeds(Leasehold & Freehold), passing eviction orders under PP Act,1971 and even disposing off the sheds through public auction which are actually nothing but the powers and functions of a “Lessor”.

Ministry of Urban Development, Govt. of India notified the conversion scheme of all plots in Delhi allotted by various authorities in the year 1992. The scheme was further extended to all built up Industrial, commercial and mixed land use leases/ Properties vide order dated 24.6.2003 of Land and Development Officer, Ministry of Urban Development and Poverty Alleviation.

In the year 2005, the Conversion Scheme for the Industrial Properties/Plots/Sheds was launched by the Govt. of Delhi after approval of Hon’ble LG, Delhi on the same pattern as was originally launched by the Ministry of Urban Development, Govt. of India. The brochure of the conversion scheme was also issued after the approval of Hon’ble LG, Delhi. The Scheme was also applicable for the Industrial Sheds constructed by DSIIDC under different schemes. However, these sheds were initially not converted into freehold since it was being examined whether DSIIDC can allow the conversion of sheds from Leasehold to freehold on land allotted by DDA.

Meanwhile in the year 2010, the Delhi Industrial Development Operational & Maintenance Act, 2010 (DIDOMA) was passed by the Govt. of Delhi. As per the provisions of the Act, DSIIDC became the single nodal agency to operate, maintain and manage the Industrial Estates/Areas notified under the act either under the jurisdiction of DDA/MCD or any other Authority. The Key feature of the DIDOM Act,2010 is that all the notified Industrial Estates/Areas is to be transferred to the DSIIDC for all purposes including operation, maintenance and management including Lease administration of the properties/plots allotted in these Areas.
Few Industrial Estates/Areas notified in the Act were being monitored and managed under the control of Industries Department (Commissioner of Industries), Govt. of Delhi. These areas were Okhla Industrial Estate (Ph-III), Okhla Industrial Area (Ph-II, A & S Block), F.I.E. Patparganj, Badli Industrial Estate, Flatted Factories Complex at Okhla and Jhandewalan and Wazirpur Leather Goods Complex at Wazirpur Industrial Area.

After the notification and enactment of the Act, the Lease Administration of the Industrial Estates/Areas under the authority of Industries Department, Govt. of Delhi was transferred to DSIIIDC for all purposes of operation, maintenance, management including Lease Administration as per the provisions of the Act. The maintenance of the Industrial Areas was transferred to DSIIIDC by MCD.

DDA’s Law Department earlier interpreted that the Act does not confer DSIIIDC the functions of Lease Administration. However, DSIIIDC held that after the notification of rules of DIDOM Act, 2010 in the year 2011, DSIIIDC has actually become the Lease Administrating Authority of all the Industrial Estates/Areas notified in the Act earlier under the jurisdiction of DDA or any other authority in terms of exercising the powers of a ‘Lessor’. The same fact was also endorsed through different legal opinions taken on the issue from Mr. Soli J Sorabjee, Senior Advocate, Supreme Court of India and Mr. Gopal Subramaniam, the then Solicitor General of India. Advice of Law Department, Govt. of Delhi has also confirmed the same position.

Thereafter, the Industrial Estates/Areas under the authority of Industries Department, Govt. of Delhi were transferred to the DSIIIDC for all purposes of Lease Administration which was as per the provisions of the Act. To resolve the issue with DDA, a meeting was held on 07.02.2011 under the Chairmanship of Secy., Ministry of Urban Development, Govt. of India where it was decided that as per the provisions of the Act, DSIIIDC has become the Lease Administrating Authority for the Industrial Estates/Areas notified in the Act and therefore, the DDA has to transfer the Areas to DSIIIDC.

After the above opinions and decision, DSIIIDC started carrying out the conversions of Industrial Sheds built up by DSIIIDC and other Industrial Properties/plots held by the Industries Department, Govt. of Delhi and about 360 Sheds (built up by DSIIIDC) were converted into freehold since 2011 till 2013. It is pertinent to mention here that DSIIIDC, since the transfer of Industrial Estates/Areas by the Industries Department, Govt. Of Delhi in the year 2011, is carrying out the conversions of Industrial Properties within these areas in to freehold.
With reference to the issues being raised in certain sections of media in respect of whether DSIIDC is the owner of the land and whether it has the competency to allow conversions of built-up industrial sheds within these land from lease hold to freehold. It is clarified as under:-

1. A letter in this regard dated the 28th April, 1976 of Ministry of Works and Housing (Nirman Aur Awas Mantralaya), Govt. of India, may please be referred (May see Annexure-I). The relevant portion of the letter is being reproduced as under:-

"In partial modification of the scheme of Large Scale Acquisition, Development and Disposal Of Land in Delhi laid down in the Ministry of Home Affairs letter no.37/16/60-Delhi (i) dated the 2nd May, 1961 as amended from time to time, the President has been pleased to decide that the scheme be modified to the extent indicated below:-

Allotment of Land in Delhi for construction of 862 sheds by the Delhi Small Industries Development Corporation

Land shall be allotted for construction of 862 sheds by the Delhi Small Industries Development Corporation for pre-determined rate plus annual ground rent of 24% of the premium under the scheme of Large Scale Acquisition, Development and Disposal Of Land in Delhi subject to the following conditions:-

i. The offer of the sheds to unemployed engineer/uneducated unemployed persons on rental basis should be operated on “No profit No Loss basis”.

ii. The ownership of the sheds will remain with the “Delhi Small Industries Development Corporation” and no allottee of the shed should be permitted to effect transfer of sale of the shed.

The aforesaid rate shall also apply to the land already allotted to the Corporation for the construction of the sheds. These Modifications shall come in force with immediate effect."

It establishes the fact that:

The ownership of the sheds was with the DSIIDC and the same was the key feature of the scheme as approved by the Govt. of India long before the actual allotment of the Sheds in question by DSIIDC.
2. The Scheme of Conversion was launched by the Govt. of Delhi with the approval of Hon’ble LG, Delhi on 30.03.2005. The scheme included the DSIIDC’s Industrial properties/sheds in following Industrial Area:-
   i. Lawrence Road Industrial Area
   ii. DSIIDC Complex Nangloi
   iii. Mangolpuri Industrial Area
   iv. Okhla Industrial Area Ph-I & II
   v. Kirti Nagar Indl. Area
   vi. Jhilmil Indl. Area
   vii. Wazirpur Indl. Area
   viii. Narela Indl. Area

   It establishes the fact that:
   The conversions carried out by the DSIIDC for its Industrial Properties including the built up sheds in its various Industrial Areas had the consent and approval of Hon’ble LG, Delhi.

3. The brochure containing conversion scheme for Industrial Plots/Built-up Sheds was launched thereafter by the Govt. of Delhi through Commissioner of Industries in November,2005. The scheme was applicable for the built-up Industrial Sheds where the lease has been granted on behalf of the President of India.

   It establishes the fact that:
   The Built up Industrial Sheds of DSIIDC were covered under the Conversion Scheme launched by the Govt. in the year 2005.

4. The order No. F(01)/04/Indus./Advisor/CI/08/354-373 dated 09.07.2008 (May see Annexure-II) issued by Secretary & Commissioner (Industries) may kindly be perused which conveys order of Hon’ble LG, Delhi to delegate the powers of the Lessor to grant Conversion of Industrial Properties from Leasehold to Freehold Rights under the conversion scheme which included the Executive Director and Chief Managers, DSIIDC.
It was further mentioned in the order that the mentioned officers shall exercise the powers to the extent that has been delegated above to them respectively subject to the overall control and superintendence of the Commissioner of Industries and The Managing Director, DSIIIDC.

It establishes the fact that:

The powers of the Lessor were delegated to the Managing Director, DSIIIDC by the approval of Hon’ble LG, Delhi to grant conversions of Industrial Properties.

5. The notification issued vide No. F. Comm./CI/2007/31 (Vol.II)/4418-4429 dated 25.03.2011 by the Joint Secretary conveys the order of Hon’ble LG, Delhi for appointing 28th day of March, 2010 on which the Delhi Industrial Development, Operation and maintenance Act, 2010 shall come into force.

6. The notification issued vide No. F. Comm/CI/2007/31/Vol(III)/5042 dated 11.11.2011 by the Joint Secretary (Industries) conveys the order of Hon’ble LG, thereby empowering the DSIIIDC to secure and assist in the rapid and orderly establishment and organization of Industries and Industrial Estates/Areas within the National Capital Territory of Delhi in exercise of the powers conferred in the relevant sections of Delhi Industrial Development, Operation and maintenance Act, 2010 (Delhi Act 08 of 2010). It was further mentioned that the DSIIIDC Ltd. shall carry out such amendments to the Memorandum of Association of the Corporation as may be necessary.

7. The order issued vide No. DSIIIDC/RL/Dy.GM/Delgn. Of Power/2012/4071 dated 14/15.03.2012 (May see Annexure-III) by the Joint Commissioner of Industries conveys the order of Hon’ble LG, Delhi regarding conferment of Ex-officio Secretarial Status upon officers of the DSIIIDC and declaring officers working in the DSIIIDC as Ex-officio Dy. Secretary, Govt. of NCT of Delhi with immediate effect.

It establishes the fact that:

The officers of DSIIIDC were duly authorized by the Hon’ble LG, Delhi to execute Perpetual Lease Deeds/Conveyance Deeds which are the key functions/part of Lease Administration.
8. The **Industries Department** every year with the approval of **Hon’ble LG, Delhi** notifies the **rates of conversion charges and market rates for the disposal of Land** and for charging unearned increase of Industrial Land allotted/being allotted by Industries Department/DSIIDC at various Industrial Estates/Areas including the Areas where the DSIIDC had constructed Built up Sheds (May see Annexure-IV)

It establishes the fact that:

The Built up Industrial Sheds of DSIIDC within various Industrial Estates/Areas were always recognized by the Hon’ble LG, Delhi for the purpose of activities related to Lease Administration to be carried out by the DSIIDC.

9. The Delhi Industrial Development, Operation and Maintenance Rules, 2011 published vide Delhi Gazette (Extraordinary) registered no. DL-33002/99 No. 182 by the Govt. Of India on the November 11th 2010 may kindly be perused which clearly states that all **Industrial Areas/Estates and Flatted Factories Complexes** which are presently with MCD, DDA and the Industries Department shall stand transferred to the Corporation with effect from the date of publication of these rules in the official gazette.

It establishes the fact that:

With the notification of The Delhi Industrial Development, Operation and Maintenance Rules, 2011 the areas/estates notified in the Act shall automatically stand transferred to the DSIIDC for all purposes mentioned in the act and there is no such need of taking any specific approval from the concerned Authority for transferring the Industrial Areas/Estates.

10. The Legal Opinion taken from the Law Department. GNCT of Delhi clearly states that Lease Administration of all The Industrial Estates/Areas notified in the act shall be with the DSIIDC after the enactment of Act (May see Annexure-V).
It establishes the fact that:

The Act being a special Act had overriding influence over the Delhi Development Act, 1957 for all the functions to be carried out in the Industrial Estate/Areas as was earlier being performed by the DDA.

11. After the notification of rules of DIDOM Act, 2010 in the year 2011, DSIIDC has actually become the **Lease Administering Authority** of all the Industrial Estates notified in the Act under the jurisdiction of DDA or any other authority in terms of exercising the powers of a ‘Lessor’. The same fact was also endorsed through different legal opinions taken on the issue from **Mr. Soli. J. Sorabjee**, Senior Advocate, Supreme Court of India (May see Annexure-VI) and **Mr. Gopal Subramaniam**, the then Solicitor General of India (May see Annexure-VII).

It establishes the fact that:

The Act was so designed to have confer all the powers of “Lessor” to the DSIIDC within the Industrial Estates/Areas notified in it, after its enactment and the same fact was endorsed by some of the most prudent personality/Authority having proficient knowledge of Law.

**Conclusion which may be drawn:**

By all the prominent references made above it can easily be established that there was no question regarding the ownership of the built up sheds of DSIIDC as it was the key feature of the scheme as approved by the Govt. of India long before the actual allotment of these Sheds by DSIIDC.

DSIIDC was recognized and authorized by the Govt. through Hon’ble LG, Delhi to carry out functions of Lease Administration of the Industrial Properties within its jurisdiction vide various Orders/Circulars released from time to time. Even the powers of “Lessor” were delegated to the Officers of DSIIDC for allowing Conversions of Industrial properties from Leasehold to Freehold.

Moreover, after the enactment of The Delhi Industrial Development, Operation and Maintenance Act, 2010, the Industrial Estates/Areas notified in the Act, stood transferred to the DSIIDC for all the functions and powers
to be exercised under the definition of a “LESSOR” in addition to other functions as mentioned in the Act.
To The Lt. Governor Delhi

Subject: Land in Delhi Allotment of land for Construction of 862 sheds for unemployed engineers/educated employed persons, under the scheme of large scale acquisition, development and Disposal of Land in Delhi.

Sir,

In partial modification of the Scheme of Large Scale Acquisition Development and Disposal of Land in Delhi as laid down in the Ministry of Home Affairs, letter No. 37/16/60-Delhi(l) dated the 2nd May, 1961 as amended from time to time, the president has been pleased to decide that the scheme be modified to the extent indicated below:

Allotment of land for construction of 862 sheds by the Delhi Small Industries Development Corporation;

Land shall be allotted for construction of 862 sheds by the Delhi Small Industries Development Corporation for pre-determined rate plus annual ground rent of 24% of the premium under the Scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, subject to the following conditions:
i. The offer of the sheds to unemployed engineers, uneducated unemployed persons on rental basis should be operated on a 'No Profit No Loss Basis'.

ii. The ownership of the sheds will remain with the Delhi Small Industries Development Corporation and no allottee of the shed should be permitted to effect transfer (sale) of the shed.

The aforesaid rate shall also apply to the land already allotted to the Corporation for the construction of the sheds. These modification shall come in force with immediate effect.

Yours faithfully,

(K BISWAS)
DEPUTY SECRETARY TO THE GOVT. OF INDIA.
**OFFICE OF THE COMMISSIONER OF INDUSTRIES**

**GOVERNMENT OF N.C.T. OF DELHI**

**'LIVOG SADAN', 315, FIE, PATPARGANJ INDUSTRIAL AREA, DELHI**

No. F/014/64 Ind. Adv. 01/08 Dated 25th Jan. 2008

**ORDRE**

**Subject: Delegation of Power for Conversion of Industrial Properties from Leasehold to Freehold Rights**

Hon'ble Lt. Governor, Delhi has been pleased to delegate the power of the Lessor to grant Conversion of Industrial Properties from Leasehold to Freehold Rights, under the conversion scheme in the following manner:-

<table>
<thead>
<tr>
<th>SL No</th>
<th>Nature of Application</th>
<th>Officer Competent to decide conversion of Industrial property from leasehold to freehold rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>If the applicant is an original allottee</td>
<td>Deputy Commissioner of Industries</td>
</tr>
<tr>
<td>2</td>
<td>If the applicant is a GPA holder</td>
<td>Additional Commissioner of Industries or Joint Commissioner of Industries as the case may be</td>
</tr>
<tr>
<td>3</td>
<td>Reconstruction of files for the purpose of conversion</td>
<td>Additional Commissioner of Industries or Joint Commissioner of Industries as the case may be</td>
</tr>
<tr>
<td>4</td>
<td>Refund of excess conversion charges</td>
<td>Additional Commissioner of Industries or Joint Commissioner of Industries as the case may be</td>
</tr>
</tbody>
</table>

The above mentioned officers shall exercise the powers to the extent that has been delegated above to them respectively subject to the overall control and superintendence of the Commissioner of Industries and the Managing Director, DSIIDC as the case may be.

By Order and in the name of the Lt. Governor, National Capital Territory of Delhi

(DHARMENDRA)

SECRETARY & COMMISSIONER (INDUSTRIES)

Cops to:
1. Principal Secretary to Lt. Governor, Raj Niwas, Delhi
2. Secretary to Minister (Industries), GNCTD, Delhi Sctt., I.P. Estate, New Delhi
3. The Managing Director – DSIIDC, N-36, Bombay Life Bldg., C.Place, N. Delhi
4. Additional Commissioner of Industries, GNCTD, Udyog Sadan, FIE, Patparganj Ind.Area, Delhi
5. All the Joint Commissioners / Deputy Commissioners / Assistant Commissioners of Industries Department, GNCTD, Udyog Sadan, FIE, Patparganj Ind.Area, Delhi
ORDER

In supersession of all previous orders regarding conferment of Ex-officio Secretarial Status upon officers of the DSIIDC, the Lt. Governor, Delhi is pleased to declare the following officers working in DSIIDC as ex-officio Dy. Secretary Govt. of NCT of Delhi with immediate effect:

1. General Manager(s) (DANICS officer) - All by designation irrespective of
2. Dy. General Manager - their posting in any division of
3. All Chief Managers - DSIIDC
4. Divisional Managers - .

for the purposes of

a) Signing of the Conversion Deed/Conveyance Deed - After prior approval of ED/

b) Signing of the Lease Deed - Managing Director, DSIIDC

c) Signing of the Mortgage Permission - in principle

d) Signing of NOC for construction - 

e) Signing of the Tripartite Agreement (TPA) with DFC or with any other financial institution - 

The ex-officio status, so granted to above officers, shall not entitle them for any extra privilege or emoluments.

Jt. Commissioner of Industries

Copy to:

1. Secretary to the Hon’ble Lt. Governor, Raj Niwas, Delhi.
2. Secretary to Hon’ble Minister (Industries), GNCTD, Delhi Sachivalaya, I. P. Estate, New Delhi-110002.
3. OSD to Chief Secretary, GNCTD, Delhi Sachivalaya, I. P. Estate, New Delhi.
4. Commissioner (Industries), GNCTD, Udyog Sadan, 419 FIE, Patparganj Industrial Area Delhi-110092.
5. Chairman-cum-Managing Director, DSIIDC, N-36, Bombay Life Bldg., C. Place, New Delhi.
6. Executive Director, DSIIDC, N-36, Bombay Life Bldg., C. Place, New Delhi.
7. Director (Finance), DSIIDC, N-36, Bombay Life Bldg., C. Place, New Delhi.
8. Officers Concerned, N-36, Bombay Life Bldg., C. Place, New Delhi.
OFFICE OF THE COMMISSIONER OF INDUSTRIES
GOVERNMENT OF NCT OF DELHI
UDYOG SADAN, 4TH FLOOR, PATPARGANJ INDUSTRIAL AREA, DELHI

CIRCULAR

No. DC/UBIE/2009/C/1 Dated January 2013

In continuation of this Office letter No. DC/UBIE/2011/C/15122/38 dated 22nd December, 2011, the rates of conversion charges (except Relocation Scheme) and market rates for disposal of land and for charging un-earned increase of Industrial land allotted / being allotted by Industries Department / DSIIDC at Narela, Patparganj, OIF & OIA, Badli, Jhilmil and Bawana Industrial Estates under the Relocation Scheme are circulated as per details given below:

CONVERSION CHARGES:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of Industrial Area</th>
<th>Provisional Conversion Rates (In Rs. per sq. mtr.)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2011-12</td>
</tr>
<tr>
<td>1</td>
<td>Okhla Industrial Area</td>
<td>41,744</td>
</tr>
<tr>
<td>2</td>
<td>Patparganj Industrial Area</td>
<td>28,990</td>
</tr>
<tr>
<td>3</td>
<td>FIF Okhla Phase II</td>
<td>41,744</td>
</tr>
<tr>
<td>4</td>
<td>Badli Industrial Area</td>
<td>28,990</td>
</tr>
<tr>
<td>5</td>
<td>Lawrence Road Industrial Area</td>
<td>28,990</td>
</tr>
<tr>
<td>6</td>
<td>DSIIDC Sheds Nangloi</td>
<td>28,990</td>
</tr>
<tr>
<td>7</td>
<td>Mangolpuri Industrial Area</td>
<td>28,990</td>
</tr>
<tr>
<td>8</td>
<td>Okhla Industrial Area, Phase I and Phase II</td>
<td>41,744</td>
</tr>
<tr>
<td>9</td>
<td>Kirti Nagar Industrial Area</td>
<td>28,990</td>
</tr>
<tr>
<td>10</td>
<td>Jhilmil Industrial Area</td>
<td>28,990</td>
</tr>
<tr>
<td>11</td>
<td>Wazirpur Industrial Area</td>
<td>28,990</td>
</tr>
<tr>
<td>12</td>
<td>Narela Industrial Area*</td>
<td></td>
</tr>
</tbody>
</table>

* Conversion charges for industrial plots from Lease hold to Freehold, in respect of Narela Industrial Area (upto 2012-13 period) will continue to remain at par with above charge of Badli Industrial Area

MARKET RATES FOR UEI CHARGES

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of Industrial Area</th>
<th>Provisional UEI Rates (In Rs. per sq. mtr.)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2011-12</td>
</tr>
<tr>
<td>1</td>
<td>Patparganj Industrial area</td>
<td>50,562</td>
</tr>
<tr>
<td>2</td>
<td>Jhilmil Industrial area</td>
<td>50,562</td>
</tr>
<tr>
<td>3</td>
<td>Badli Industrial area</td>
<td>50,562</td>
</tr>
<tr>
<td>4</td>
<td>Narela Industrial area</td>
<td>50,562</td>
</tr>
<tr>
<td>5</td>
<td>Bawana Industrial area</td>
<td>50,562</td>
</tr>
<tr>
<td>6</td>
<td>Okhla Industrial Estate</td>
<td>73,267</td>
</tr>
<tr>
<td>7</td>
<td>Okhla industrial area</td>
<td>73,267</td>
</tr>
</tbody>
</table>
The above rates should be charged on provisional basis. The conversion amount would be charged along with the Undertaking and Indemnity Bond by the applicant to pay the difference, if the conversion rate is fixed on higher side than the above rates by the Government. The above rates will also be applicable to all the applicants who have applied for freehold conversion in the respective years of their applications and the difference in amount will be charged from them.

(J.S. SINDHU)
ADDL. SECRETARY (INDUSTRIES)

No. DCI/BIE/2044/CI/03-20

Dated: 14 January, 2013

1. OSD to Hon’ble LG, Delhi, Raj Niwas, Delhi
2. OSD to Hon’ble Chief Minister, Govt. of NCT of Delhi, Delhi Sachivalaya, Delhi
3. Secretary to Minister (Food & Supplies and Industries), Govt. of NCT of Delhi Delhi Sachivalaya, Delhi
4. OSD to Chief Secretary, Govt. of NCT of Delhi, Delhi Sachivalaya, Delhi
5. PS to Pr. Secy. (Industries) Govt. of NCT of Delhi for kind information of Pr. Secy.
   (Industries)
6. PS to Secretary (Industries) Govt. of NCT of Delhi for kind information of Secretary
   (Industries)
7. PS to MD (DSIIDC) for kind information of MD (DSIIDC)
8. All JCIs/DCIs of Industries Department, Govt. of NCT of Delhi
9. Chief Manager (RL), DSIIDC Ltd. Delhi
10. Chief Manager (Narela), DSIIDC LTD, Delhi
11. Vice President, Apex Chamber of Commerce & Industry of NCT Delhi, A-8, Naraina
    Industrial Area, Phase II, New Delhi -28
12. President, Narela Industrial Welfare Complex Association (Regd.), F-1999, DSIIDC
    Industrial Complex, Delhi
13. President Bawana Industrial Complex, Delhi
14. President, Badli Industrial Estate, Delhi
15. President, Patparganj Industrial Estate, FIE, Delhi
16. President, Okhla Industrial Estate, Delhi
17. Finance Officer of Industries Department, Govt. of NCT of Delhi
18. AO (Land) Industries Department, Govt. of NCT of Delhi

(J.S. SINDHU)
ADDL. SECRETARY (INDUSTRIES)
From the perusal of the notes of the Industries Department at pages 1 to ante, it appears that some difficulty is being faced by them from the Delhi Development Authority (DDA) in the proper implementation of the newly enacted legislation, titled “the Delhi Industrial Development Operation and Maintenance Act, 2010” (Delhi Act No. 08 of 2010) (hereinafter referred to as “the said Act”) (copy at Flag ‘A’). The Industries Department have referred to the relevant provisions of sections 4 and 8 of the said Act relating to the functions and the operation of a fund, known as “the Industrial Development Operation and Maintenance Fund” constituted under the said Act. According to these provisions, the discharge of the functions and the operation of the Fund under the said Act shall be the responsibility of DSIIDC. It is inter-alia provided therein that the ground rent so far being collected from the industrial plots and sheds by DDA, would, after the commencement of the said Act, form part of the said fund. DDA has, however, expressed that there is no specific provision in the Act to take away the power of lease administration from them and DDA continues with the work of lease administration.

The file has, therefore, been sent to this Department for seeking opinion in the matter.

There is no dispute that the work related to maintenance of industrial areas, industrial estates and flatted factory complexes was discharged by MCD whereas the work relating to collection of ground rent and monies from conversion from lease hold to freehold in respect of the said industrial plots and sheds was with separate agencies, namely, DDA, DSIIDC and the Industries Department. After the commencement of the said Act, all these functions and powers are to be transferred, maintained and operated by DSIIDC alone. It is also correct that DDA has been established and functioning under the Delhi Development Act, 1957 which being a former law, may be said to be a general law whereas the Delhi Industrial Development Operation and Maintenance Act, 2010, a latter law, may be said to be a special law. Both these Acts have been assented to by the President of India. Thus, in the opinion of this Department, the specific provisions of the special law would prevail over the provisions of a general law. As per sub-clause (a) of clause (ii) of section 4 of the said Act, DSIIDC has been empowered to establish, operate, maintain and manage industrial estates including the existing industrial areas and industrial estates, etc., in Delhi. Section 8 further provides for collection of ground rent and conversion charges of industrial plots and sheds by DSIIDC. These provisions make it clear that the lease administration in respect of all industrial areas and industrial estates including the existing industrial areas and industrial estates shall be with DSIIDC after the commencement of the said Act.

In these circumstances, we are in agreement with the views of the administrative Department that DDA should have no objection to making compliance with the request of the Industries Department to transfer the lease management of the industrial estates and transfer the ground rent and conversion charges to the DSIIDC in accordance with the provisions of the special law, namely, the Delhi Industrial Development Operation and Maintenance Act, 2010.

If still there remains any sort of doubt or dispute, the administrative Department may consider placing the matter before the inter-departmental disputes resolution committee headed by Worthy Chief Secretary, for securing an amicable solution of the matter.

We may advise accordingly.
ANNEXURE - VI

OPINION

DELHI STATE INDUSTRIAL & DEVELOPMENT CORPN. LTD. ... QUERIST

I have gone through the case for opinion and the accompanying documents. I have had the benefit of a conference with the briefing advocate and representative of the Querist.

The facts relevant to the opinion in brief are as follows:

The DelhI Industrial Development Operation and Maintenance Act, 2010 (DelhI Act 08 of 2010) [hereinafter the Act] was passed by the Legislative Assembly of the National Capital Territory of Delhi on 30th March 2010.

By Notification dated 25th March 2011, 28th March 2011 was appointed the date on which the said Act was brought into force. By order dated 11th September 2011, it was provided that a partial modification of the Office Order No. Admn/CL 2010/25-34 dated 07th December 2010, the words "with effect from the date of Notification of the said Act i.e. 08th June 2010" may be read as "with effect from 28th day of March 2011 i.e. the date on which the Delhi Industrial Development, Operation and Maintenance Act 2010 has come into force"

The Preamble to the Act reads as follows:

"An Act to make special provision for securing the orderly establishment of industrial areas, industrial estates and flatted factories complexes in the National Capital Territory of Delhi, and to assist generally in the organisation, including operation and
maintenance thereof, and for the purpose to reconstitute and
empower Delhi State Industrial and Infrastructure Development
Corporation Ltd., a company incorporated under the Companies
Act, 1956 (1 of 1956), and for purposes connected therewith or
incidental thereto.”

Under Section 2(e) of the Act the Querist is defined as the Corporation.
Section 5 of the Act provides for empowerment of the Corporation, i.e., the
Corporation. Under Section 4(1) of the Act the functions of the Querist are
initially to promote and assist in the rapid and orderly establishment, growth
and development of industries in Delhi. Section 4(1) inter alia provides that “all
industrial estates/areas of Delhi will stand transferred to the Corporation for
the purpose within prescribed time frame”. Section 8 provides for creation of
Industrial Development, Operation and Maintenance Fund to which are to be
credited inter alia ground rent collected with effect from the date on which the
Act comes into effect from industrial plots and sheds by the Delhi
Development Authority constituted under the Delhi Development Act 1957,
the Corporations and the Industries Department of the Government.

Certain queries are posed for my opinion, which I shall now answer.

Q.1 Under the facts and circumstances as narrated above, whether
DSIDC has sufficient rights to be treated as owner of all 29
industrial estates as discussed in the Delhi State Industrial
Operation & Maintenance Act 2010?

Ans. In view of the facts stated in the case for opinion and set out
above it is clear that the Querist is the transferee of all industrial
whether the receipts arising out of the industrial estates are income of the Corporation and have to be considered for computation of income of the Corporation?

Ans.: Once the Querist is the owner as stated in answer to Query 1, the receipts arising out of the industrial estates are income of the Querist and have to be considered for computation of income of the Querist.

Q.3 Whether activities and operations of the Corporation are covered in Section 80IA being in the nature of infrastructure activities as defined in sub section-3 to Section 80IA.

Ans.: Yes, having regard to the provisions of Section 80IA (3) and (4)(i) and (iii).

Q.4 Whether section 80IA is restricted to only new projects or term develop, operate or maintain covers such activities in respect of existing projects.

Ans.: It would not be correct to place a restricted interpretation and limit it to only new projects. Activities in respect of existing projects would be covered under Section 80IA.

During the conference, I was informed that the Government of National Capital Territory of Delhi had not
availed of any benefit under Section 80IA. In that case the Querist will be entitled to benefit of deduction under 80IA as provided in sub-section (1) for 10 consecutive assessment years.

Generally, I have nothing further to add.

New Delhi
3 December 2011

Soli J. Sorabjee
Senior Advocate
16th December, 2011

Dear Shri Singhvi

Re: Delhi State Industrial & Infrastructure Development Corporation Limited...Querist / Ex parte

Please find herewith enclosed my Written Opinion in the abovesaid matter.

I am returning the papers along with my Memo of Fees.

Yours sincerely,

Gopal Subramanium

(GOPAL SUBRAMANIAM)

Encl: as above

Shri R.S. Singhvi,
Chartered Accountant,
S-5, Greater Kailash-I,
New Delhi -10048
In Re: Delhi State Industrial & Infrastructure Development Corporation Limited ... Querist / Ex parte

1. The Querist is a State Government enterprise. It was incorporated on 15th February 1971.

2. The entire share capital of the Querist is held by the Government of National Capital Territory of Delhi. There are 29 industrial areas/estates. In addition, there are four flatted factory complexes.

3. The Querist has been involved in the development of industrial areas/estates. It has acted as an instrumentality of the State Government.

4. In some instances, the Querist has purchased pieces of land and in certain other cases land has been transferred by DDA/Government of National Capital Territory of Delhi in favour of the Querist. This has been done to enable development of flatted industrial areas.

5. It may be noted that the maintenance of these estates has been vested in the Municipal Corporation of Delhi. However, in respect of the Narela Industrial Area and Bhawana where there is a scheme of relocation, the responsibility for maintenance has been vested in the Querist. In respect of Narela Industrial Area, the Querist charged a fee/conversion charges aggregating to Rs.61.22 crores (for the period...
According to the Querist, it has been functioning as an agent or as an instrumentality of the State Government of Delhi.

A new Act has been enacted by the State Legislature which is called "Delhi State Industrial Operation and Maintenance Act, 2010" (hereinafter referred to as "the Act").

By an order dated 28th March 2011, the Commissioner of Industries transferred all the industrial estates under the State Government to the Querist. Similar orders of transfer are likely to be passed in respect of such industrial areas/estates which are with the DDA and are being maintained by the Municipal Corporation of Delhi.

The Act was enacted for the purpose of "...special provision for securing orderly establishment of the industrial areas..." including "...operation and maintenance...".

It is important to note that the Act deals with provision of amenities, construction of buildings, approvals by the competent authority, development, engineering operations, flatted factories complexes and development of any industrial estate.
11. Section 3 of the Act provides that for the purpose of securing and assisting in the rapid and orderly establishment and organisation of industries in industrial areas, industrial estates and flatted factories complexes, the Querist shall be empowered by a suitable notification. The functions of the Querist would be to operate, maintain and manage industrial estates. Section 4(ii)(a) provides that “.....all industrial estates/areas of Delhi will stand transferred to the Corporation for the purpose of within the prescribed time frame.....”. Thus, it would be clear that in order to effectively maintain these industrial areas, a transfer in favour of the Querist has been stipulated by a statute. Thus, it is a statutory transfer. Consequent to the transfer, the Querist does become the owner. Considering the fact that it has acted as an instrumentality of the State, there is no further requirement of passage of consideration. It must also be stated that under Section 8 of the Act, ground rent can be collected and similarly conversion charges can also be collected in respect of plots which are of leasehold status. Thus, the plain words of sub-section (2) of Section 8 clearly indicates that the properties vest in the Querist and the Querist is the lessor and the allottee is only the lessee.

Query - 1

Under the facts and circumstances as narrated above, whether DSIIDC has sufficient rights to be treated as owner of all 29 industrial estates as discussed in the Delhi State Industrial Operation and Maintenance Act, 2010?
Reply to Query 1

12. In that view of the matter, the Querist can be treated as an owner of all 29 industrial estates subject to suitable orders of transfer and vesting passed in favour of the Querist. Once such consequential orders are passed recognising the effect of Section 4(ii)(a) of the Act, the ownership in favour of the Querist would be complete.

Query 2

Under the facts and circumstances of the case, whether the receipts arising out of the industrial estates are income of the Corporation and have to be considered for computation of the income of the Corporation?

Reply to Query 2

13. In view of the above, the receipts arising out of the industrial estates would be the income of the Querist. It would be business income of the Querist i.e. income from business and profession because the ownership of the property is really incidental to organisation and maintenance which are the primary objects of the Act. Thus, receipts must be viewed as income from business and profession. It must also be borne in mind that the establishment of industrial estates and flatted factories complexes clearly involves large scale provision of infrastructure.
Query 3

Whether activities and operations of the Corporation are covered u/s 80-IA being in the nature of infrastructure activity as defined in sub-section 3 to section 80-IA?

Reply to Query 3

14. In view of the above, the activities and operations of the Corporation can be said to be covered under Section 80-IA since they appear to be in the nature of infrastructure activities. In view of the fact that the Querist can be said to be involved in an enterprise carrying on the business of developing or operating and maintaining an infrastructure facility, the income may be considered for deduction under Section 80-IA subject to fulfilment of necessary pre-requisite conditions.

Query 4

Whether Section 80-IA is restricted to only new projects or term develop, operate or maintain covers such activity in respect of existing projects?

Reply to Query 4

15. It also follows therefore that Section 80-IA is available to both existing and new projects in relation to the nature and business carried on by the Querist.
Query 5

What accounting treatment should be given to the period surplus being received on account of multiplier from the above scheme of relocation at Bhorgarh?

Reply to Query 5

16. In so far as accounting treatment is concerned, a true and fair picture of income and expenditure in accordance with the provisions of the Income Tax Act must be provided consistent with accounting norms and standards.

I have nothing further to add at this stage.

New Delhi
16.12.2011

[GOPAL SUBRAMANIAM]