

**Before the Additional Chief Secretary to Government of Haryana,
Industries & Commerce Department**

Udyog Vihar Industries Association (Registered),
Shed No. B-40, Phase-V, Udyog Vihar, Gurgaon

- Petitioners

Versus

1. Haryana State Industrial Development Corporation Ltd.
C-13-14, Sector-6, Panchkula
2. Haryana Urban Development Authority,
Sector-6, Panchkula.

- Respondents

Re.: CWP No. 18005 of 2007 - Order dated 17.11.2011 passed by the Hon'ble Punjab & Haryana High Court in the matter of Udyog Vihar Industries Association, Gurgaon v/s State of Haryana & others - Matter pertaining to recovery of EDC in U.V. Phase-I to V, Gurgaon.

Order

1. The present representation, being adjudicated through this order, has arisen out of Civil Writ Petition No. 18005 of 2007, filed before the Hon'ble Punjab & Haryana High Court, wherein the Udyog Vihar Industries Association, Gurgaon (hereinafter called Petitioner Association) had challenged the orders dated 15.06.2007 passed by the then Financial Commissioner & Principal Secretary to Government of Haryana, Industries Department, rejecting the representation filed by the Petitioner Association in the aforesaid matter. While disposing of the aforesaid writ petition vide order dated 17.11.2011, the Hon'ble Punjab & Haryana High Court had directed the undersigned to pass a fresh order in accordance with law after hearing the parties.

2. Pursuant to the aforesaid orders dated 17.11.2011 passed by the Hon'ble Punjab & Haryana High Court, I have re-examined the whole matter and afforded opportunity to all concerned to make their submissions, both orally as well as in writing. Before coming to the findings and determination of the issues at hand, it would be desirable to briefly recapitulate the facts of the case.

2.1 Land for various phases of Udhog Vihar was acquired by the Urban Estates

Department and, eventually, the Haryana Urban Development Authority (HUDA) allotted a total of 681.16 acres of land to HSIIDC between the years 1975 to 1985 for development of different phases of Udyog Vihar in Gurgaon, subject to the conditions that the HSIIDC shall pay (i) the proportionate cost of External Development Charges (EDC) to HUDA, and (ii) the enhanced compensation as may be awarded by the various courts from time to time.

- 2.2 In terms of the conditions of allotment of land to HSIIDC, HUDA raised a demand of Rs. 1,66,200/- per gross acre on the HSIIDC towards the External Development Charges (referred to as 'EDC' hereinafter) vide its communication dated 23.12.1986, with the break-up of the said demand as under:

Sr. No.	Head of Expenditure	Amount (Rs.)
(i)	Water supply	59,500/-
(ii)	Sewerage	19,500/-
(iii)	Storm Water Drainage	36,100/-
(iv)	Roads & Bridges	37,600/-
(v)	Horticulture	6,000/-
(vi)	Community Buildings	7,500/-
	Total	1,66,200/-

- 2.3 In the year 1987, HUDA determined the amount of EDC @ Rs. 3.72 lakh per gross acre with a provision for 10% increase thereon on year-to-year basis. In 1999, HUDA raised a fresh demand of EDC from HSIIDC @ Rs. 11.69 Lakh per gross acre, which was further revised to Rs. 14.15 Lakh per gross acre as applicable for the year 2001. HSIIDC kept taking up the matter with HUDA raising the issue of appropriate credit for some of the works undertaken by the HSIIDC as part of the Internal Development Works (IDC). Finally, HUDA agreed to give a credit of Rs. 3.71 Lakh per gross acre and the balance amount of EDC i.e. Rs. 10.44 Lakh per gross acre was to be paid by HSIIDC to HUDA. Accordingly, the HSIIDC worked out the rate of EDC recoverable from the allottees of I.E. and Phase-I to V, Udyog Vihar, Gurgaon @ Rs. 402/- per square meter and the demand was raised from the allottees in November, 2001. The allottees were required to remit the EDC in three interest-free instalments on 31.12.2001, 31.03.2002 and 31.05.2002. In case of default, interest @ 15% was to apply.

- 2.4 The Petitioner Association challenged the demand of EDC @ Rs. 402/- per sq. meter by filing CWP No. 5841 of 2002, which was disposed of by the

Hon'ble Punjab & Haryana High Court vide order dated 13.01.2004, in view of the statement given by the HSIIDC in the Court to review the rates of EDC. The matter was discussed by a committee comprising of senior officers of HUDA & HSIIDC in December 2003 and this time HUDA agreed to extend a credit of Rs. 5.12 Lakh per gross acre (as against Rs. 3.71 Lakh per gross acre agreed earlier) to the HSIIDC on account of the expenditure incurred by the HSIIDC on such works as part of its Internal Infrastructure Development, as per details given below:

(Rs. In Lakh)				
Sr. No.	External Services	EDC demanded by HUDA	Credit agreed to be given to HSIIDC	EDC payable to HUDA by HSIIDC
(i)	Roads	2.83	0.90	1.93
(ii)	Water Supply	3.88	0.54	3.34
(iii)	Sewer	1.69	0.39	1.30
(iv)	Storm Water Drainage	1.62	0.73	0.89
(v)	Street Light	0.57	0.25	0.32
(vi)	Horticulture	0.50	0.25	0.25
(vii)	Community Bldg.			
	- External	1.49	0.49	1.00
	- Internal	1.42	1.42	0.00
(viii)	Fire Services	0.15	0.15	0.00
	Total	14.15	5.12	9.03

- 2.5 Consequently, the EDC recoverable by HSIIDC from its allottees was re-calculated at Rs. 348/- per sq. meter and fresh demand notices were issued in June, 2004. The revised EDC was payable by the allottees in six half-yearly equated instalments w.e.f. 30.06.2004, without interest. However, in case of default, interest @ 18% p.a. was payable by the allottees.
- 2.6 The Petitioner Association, being not satisfied, again filed CWP No. 5777 of 2005, which was disposed of vide order dated 18.4.2006 with a liberty to the petitioners to make a detailed representation to the Secretary Industries, Haryana. The petitioner filed its representation and the then Financial Commissioner & Principal Secretary, Industries dismissed the same vide orders dated 15.06.2007.
- 2.7 The Association challenged the said order by filing another Writ Petition No. 18005 of 2007, which was also disposed of by the Hon'ble Punjab & Haryana High Court vide orders dated 17.11.2011, in view of the statement made by the Advocate General, Haryana that any demand which had been raised by the HSIIDC and the subsequent orders concerning the aforesaid demand

would stand withdrawn including the orders dated 15.06.2007 passed by the then Financial Commissioner & Principal Secretary, Industries. As a result, the Financial Commissioner and Principal Secretary to Government of Haryana, Industries Department was directed to pass a fresh order in accordance with law, after hearing the parties. It was further stipulated that in case the fresh order passed is adverse to the petitioner, the same shall not be implemented for a period of two weeks.

3. In compliance of the aforesaid directions of the Hon'ble Punjab & Haryana High Court, a hearing was afforded to the Petitioner Association as well as to HUDA & HSIIDC on 24.09.2012. The hearing was attended by Sh. A. P. Jain and Sh. K. B. Batla on behalf of Industrial Association, Udyog Vihar Gurgaon, and the CCF/HUDA, CTP/HSIIDC, DGM(E)/ HSIIDC on behalf of the respondents i.e. HUDA and HSIIDC. After hearing all the concerned parties, an interim order dated 24.09.2012 was passed with directions to the respondents to furnish certain information/ documents to the Petitioner Association. The HSIIDC informed that it had provided the relevant details/ information to the petitioner Association vide its letter dated 30.10.2012. The Petitioner Association had primarily raised the following issues vide its letter dated 8.11.2012:

- (i) As per Supreme Court Judgment dated 13.9.1988 in the case of *Bharat Singh & Others vs. State of Haryana*, it was admitted by both HSIIDC & HUDA that the EDC was included in the cost of land;
- (ii) The demand for EDC was issued in the year 2001 for the work of external development, which were carried out/ to be carried out in the area all over the city of Gurgaon and not for any work on the periphery of Udhayog Vihar as per the provisions of clause 2(g) of Haryana Development and Regulation of Urban Areas Act, 1975. Since the definition was amended in the year 2003, subsequent to the demand of EDC, therefore, the same could not be applied in this case.

4. Subsequently, another letter was received from the Petitioner Association on 22.11.2012, wherein the association had requested to decide the following issues:

- (i) Whether there could be any demand for EDC from the petitioners ?
- (ii) Whether the stand taken before the Hon'ble Supreme Court of India as per assertion of the petitioner was in accordance with the record or not ?

5. The Petitioner Association was again called for hearing on 08.01.2013. The representatives of the Association re-iterated the arguments advanced by them on earlier occasions and stated that the HUDA and HSIIDC were indulging in

'profiteering' at their cost by demanding the EDC from the allottees. The HSIIDC & HUDA were advised to submit certain other information/documents in support of their claims/contentions. After taking into consideration the submissions made by the Petitioner Association and the documents placed on record by HUDA & HSIIDC, I hereby proceed to examine and decide the following main issues:

1. Whether HUDA had included the cost of EDC while allotting/transferring land to the HSIIDC;
2. As to whether HUDA is/was entitled to demand EDC charges from HSIIDC;
3. As to whether the amount of EDC demanded by HUDA from HSIIDC was/is justified ?
4. Whether HSIIDC was/ is justified in passing on the demand for recovery of EDC from the allottees of Udhyog Vihar;
5. Whether demand for EDC raised by the HSIIDC from the allottees of Udhyog Vihar was/ is justified ?
6. As to whether the demand for EDC amounts to profiteering by HUDA and HSIIDC ?
7. As to whether the amount of EDC payable by the HSIIDC to HUDA and recoverable by the HSIIDC from the allottees should remain frozen as on 31.12.2001 or it should be payable with interest ?

Issue No. 1

Whether HUDA had included the cost of EDC while allotting/ transferring the land to the HSIIDC:

- 1.1 The Petitioner Association relied upon observations of the Hon'ble Supreme Court in the case of *Bharat Singh & Others vs. State of Haryana &Ors.* (Civil Appeal No. 1193 of 1984 and 572-73 of 1985 decided vide judgment dated 13.09.1988) in their representation as well as during their oral submissions wherein it had been recorded that the learned counsel appearing on behalf of HUDA & HSIIDC had told the Hon'ble Court that before transferring the land, HUDA had made external developments incurring considerable costs and the HSIIDC in turn had made various internal developments and in this way the land had been fully developed and made fit for industrialization. Accordingly, the Petitioner Association contended that in view of the above, HUDA was not entitled to charge EDC twice and as such the same was not payable by the petitioners.

1.2 The petitioners also contended that if HUDA had not factored the EDC in the price of plots, then how come that HUDA did not charge any EDC from its allottees in Sector-18, Gurgaon whereas HSIIDC had raised demand from the allottees. This, according to them, showed that HUDA had built the EDC in the price of land at the time of its transfer to the HSIIDC.

1.3 I have gone through the orders of the Hon'ble Supreme Court in the case *ibid*, which had been filed challenging the orders of the Hon'ble Punjab & Haryana High Court whereby the challenge to acquisition of the subject land was dismissed. The main ground of the SLP was that the acquiring agency had transferred the acquired land to the HSIIDC. The relevant part of the order on which reliance has been placed by the petitioner association is reproduced below:

“In the instant case, the land was acquired at the instance of HUDA and, thereafter, HUDA had transferred the same to HSIIDC. It is not that the land was transferred in the same condition as it was acquired. But, we are told by the learned Counsel appearing on behalf of HUDA and HSIIDC that before transferring, HUDA had made external developments incurring considerable cost and HSIIDC in its turn has made various internal developments and in this way the land has been fully developed and made fit for industrialization. Our attention has been drawn by the learned Counsel for HUDA and HSIIDC to the various external developments made by HUDA at a cost of Rs. 1,66,200 per acre before it was transferred to HSIIDC and the cost that was incurred for external developments was included in the price. Thus, there was no motive for HUDA to make any profit.”

1.4 Responding to the argument advanced by the petitioner association, following was submitted on behalf of HUDA:

(i) That the subject land was transferred to HSIIDC during the years 1975-76 to 1984-85 at the rate of Rs. 16,151/- per acre to Rs. 54,965/- per acre. The demand for EDC at the rate of Rs. 1, 66,200/- was raised in December 1986 on the basis of estimates of External Development Works prepared by the Engineering Wing of HUDA. Therefore, the cost of external development works of Rs. 1,66,200/- could not have been included in the price at the time of allotment of land to HSIIDC. However, since the EDC was a committed charge for HUDA, the same was recoverable from the HSIIDC as per the terms and conditions of transfer of land.

(ii) It was further explained that HUDA had undertaken EDC works for the Urban Estate Gurgaon as a whole @ Rs. 1,66,200/- per gross acre,

and that the EDC amount had been demanded from HSIIDC for the transferred area of Udhyog Vihar, which was also communicated to the HSIIDC in December 1986 (as detailed under para 2.2 above). Sh. S. C. Kansal, CCF/ HUDA stated that it was extremely difficult at this stage after a gap of about 25 years to explain as to how and in what context the said statement was made by the Counsel before the Hon'ble Apex Court. However, it was a fact that HUDA had raised the demand of EDC on HSIDC in the year 1986 and this fact was brought to the notice of the Counsel. He further stated that it appears that the Counsel for HUDA and HSIIDC made this statement on the basis of the said demand raised by HUDA on HSIIDC because the same had become a committed expenditure for HUDA.

(iii) That HUDA was constituted on 13.01.1977 and the plots in Sector 18 had been allotted before that by the Urban Estates Department at the rate of Rs. 12.50 per sq. yard with the condition that the Government would not be responsible for providing water, for which the allottees shall have to make their own arrangements. Since HUDA had been constituted in 1977 itself, the allotment rate remained unchanged for a year or two and that the rate of allotment was revised to Rs. 154.87 per sq. mtr. from 1985 onwards, which was inclusive of the EDC. It was specifically highlighted on HUDA's behalf that the allotment letters of 1985 onwards did not contain the conditions that HUDA would not make provision for the Water Supply facilities.

1.5 There is merit in the argument advanced on HUDA's behalf that the amount of EDC (Rs. 1,66,200/- per gross acre) was calculated for the first time in the year 1986 whereas the land had been transferred to the HSIIDC before that itself and, as such, the subject land could not have been inclusive of the EDC component. There is also some force in the contention that the amount of Rs. 1,66,200/- per gross acre had become a committed expenditure by HUDA qua the External Works, for which demand had been raised on the HSIIDC. The fact that the amount of Rs. 1,66,200/- per Gross acre is a figure common in the EDC demand raised by HUDA at that time and the same figure was mentioned by the Counsel for HUDA and HSIIDC before the Hon'ble Supreme Court strengthens their argument. The context before the Hon'ble Supreme Court was different and hence the said observations cannot be taken to mean that the original allotment price was inclusive of the EDC.

1.6 Since it is difficult at this stage to come to a definite conclusion as to whether the HUDA and HSIDC Counsel had made any such statement and

the context in which the said statement would have been made by him, it is considered expedient to examine this aspect with some additional incontrovertible evidence. The only conclusive way to settle this issue is to refer to the rates at which HUDA transferred the said land to the HSIIDC. The HSIIDC placed before me the allotment letters which contained the break-up of the amount payable by HSIDC to HUDA. The gist of the price indicated in each of these allotment letters (except the letter in case of transfer of 50 acres land for Phase-II, which is not available) is given in the following table:

Sr. No.	Subject/Item	I.E. Gurgaon	Phase I	Phase II	Phase III	Phase IV and V
(i)	Year of Transfer	1975	1976	1979	1982	1983 -1984
(ii)	Area allotted	55.52 acres	185 acres	50 acres	75 acres	315 acres
(iii)	Actual area of land transferred	55.52 acres	181.51 acres	50.40 acres	77.94 acres	315.79 acres
(iv)	Cost of Land Acquisition	6,46,458/-	4,26,5730/-	13,36,259/-	16,82,004/-	1,57,40,165/-
(v)	Interest	1,04,193/-	54,474/-	(This figure has been taken from an agenda item of HSIDC BoD Meeting - Break-up details not available)	4,97,756/-	0
(vi)	Admn. Charges	59,797/-	3,94,580/-		2,13,412/-	15,74,016/-
(vii)	Architectural Charges	4,750/-	44,770/-		0	0
(viii)	Indirect/ Unforeseen Charges	81,519/-	7,13,933/-		0	0
(ix)	Total	8,96,718/-	54,73,487/-	13,36,259/-	23,93,172/-	1,73,14,181/-
	Cost per acre	16,151/-	29,586/-	26,725/-	31,909/-	54,965/-

It is clear from a perusal of the price components (Sr. No. (iv) to (ix) in the above table), that HUDA had transferred the subject land to HSIIDC without including the EDC component therein at the time of transfer and it was for this reason that a condition of payment of EDC by the HSIDC on demand was stipulated in the transfer letters. The issue as to whether HUDA demanded the EDC from its old allottees (up to the year 1982) or not, it is an internal matter of HUDA, and has no relevance to the case in hand.

- 1.7 Accordingly, it is held that the EDC amount was not included in the price of land when the same was allotted/ transferred by HUDA to the HSIIDC. This issue is decided accordingly.

Issue No. 2

As to whether HUDA was/is entitled to demand EDC charges from HSIIDC:

- 2.1 It is important in the first instance to dwell a bit on the concept of Urban Development, of which the External Development and the Internal

Development constitute important ingredients. Urban development in the State of Haryana is carried out as per provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 (Act of 1975) and the Punjab Scheduled Roads and Controlled Areas (Restriction of Unregulated Development) Act, 1963 (Act of 1963). The objective of the 1963 Act is to prevent unplanned/ ill-planned and haphazard development around towns. As such, restrictions have been placed on unregulated development by controlling land uses in the controlled areas declared under Act *ibid* for this purpose. Further, for regulated development and urbanisation, development plans of towns are prepared under the provisions of said Act.

- 2.2 The Act of 1975 mainly provides for regulated urbanisation through private participation by way of grant of licenses for development of residential plotted colonies, group housing colonies, commercial colonies, IT parks/ cyber parks and cyber cities. Such licenses are granted in accordance with the provisions of Development Plan notified under the Act of 1963. Aforesaid enactments are administered by the Town & Country Planning Department, Haryana.
- 2.3 Further, the Government enacted the Haryana Urban Development Authority Act, 1977 for establishment of an urban development agency in the public sector, viz. the Haryana Urban Development Authority (HUDA), which was initially the main agency to plan and undertake urban development in the state and which is placed as a public entity to lead the urban development initiatives simultaneously with the private sector in the area of urban development.
- 2.4 A Development Plan of a town comprises of various Sectors with different land uses prescribed therein. A sector is generally bounded by 30 mtrs/45 mtr/60 mtr wide sector dividing roads. The Development Plan of any area provides for different land uses along with a circulation plan of roads for connectivity of the entire Plan area. The development plan seamlessly connects the entire urbanisable area through a number of connectivity arteries, known as the Development Plan roads and Sector Roads.
- 2.5 Following the principles of urban planning and development, one has to recognise two tiers of development process. The **first tier** caters to the provision for and integration of town level facilities and services. These would typically comprise of (i) Circulation Roads seamlessly connecting the entire Development Plan Area and other modes of public transport e.g. Metro network, and (ii) City Level Trunk Infrastructure comprising of Water

Supply feeder carrier system, Water Storage and Treatment Plant, Trunk Water Supply Network in the town, Trunk Sewage Network, Sewage Treatment and Disposal Plant, Trunk Storm Water Network, 220/400 KV Electric Sub-stations etc. as well as city level social infrastructure viz., Stadiums, Colleges, Hospitals, City Level Parks etc. The **second tier** of urban development relates to the individual agencies (comprising of public sector agencies e.g. HUDA/ HSIIDC, and private colonisers and developers) who undertake development of infrastructure facilities within their notified/ licensed areas. Both these tiers play a complementary role for completion of the urban development process. Any development effort by the Second tier alone in the absence of the First tier would only create stand alone and disjointed islands and defeat the very purpose of planned urban development.

- 2.6 It is the Urban Estates Department that assumes the role and responsibility of the **First Tier** development agency through HUDA. The responsibility of acquisition of land for the infrastructure facilities and services (e.g. roads, water supply system, sewage system, Power sub-stations, RoW for Electricity Transmission & Distribution system, parks and open spaces and development of all the town level facilities including the social infrastructure has been assigned to the Urban Estates Department. However, the responsibility for construction of such roads and development of these facilities has been entrusted to HUDA. Both these components are funded through the levy and recovery of External Development Charges (EDC) payable by all the development agencies, including HUDA, HSIIDC and the private developers.
- 2.7 The HSIIDC, a state PSU, has been designated as the nodal agency of the State for development of Industrial infrastructure. It may be mentioned here that Industrial Colonies are also developed by the private sector after purchasing land and obtaining licenses for the same. Wherever HSIIDC decides to develop industrial infrastructure through development of IMTs/ Industrial Parks/ Industrial Estates, now it is the Industries Department acquires the land and makes the same available to the HSIIDC for undertaking infrastructure development works. While HSIIDC undertakes the internal development within its industrial sectors, the work of construction of road arteries connecting the HSIIDC area with the entire Development plan area, and other trunk infrastructure works are taken up by HUDA. It is also important to note that all the facilities created by a **Tier One** agency ultimately remain available for the general public use and do not constitute or become the sole preserve of any individual agency.

- 2.8 Having explained the principles in general, it would be relevant to come to the immediate context of Udhyog Vihar, Gurgaon. To illustrate in the context of Udhyog Vihar, it is an admitted position that the HSIIDC undertook Internal Development Works (IDC) within the 681 acres of area transferred by HUDA to the HSIIDC. These works included preparation of internal layout plans, construction of roads, water supply distribution system, sewage lines, storm water disposal network, electrical transmission and distribution system etc., only to name a few major items. However, it is HUDA which has constructed the trunk water supply line from the main water works at Basai to the off-take points of Udhyog Vihar, the Sewage Outflow system from the exit points of Udhyog Vihar to its ultimate disposal point. HUDA undertook a huge cost of construction of a 69 kms long water carrier channel from Bahadurgah to Basai with a capacity of 110 cusecs, its main water works for water supply to Gurgaon. Keeping in view the further demand of water, another channel has been constructed with a capacity of about 800 cusecs. The cost of these trunk services is apportioned over the total area serviced from these facilities and it is only the proportionate cost of the area of any agency that is charged in the form of External Development Charges from the development agency. There are a number of other town level facilities and services which are not mentioned here (which are not tangible as area-specific dedicated facilities) but that does not mean that the people working and operating from the Udhyog Vihar area are not the beneficiaries of the same. For instance, HUDA and HSIIDC have contributed a huge amount recently towards the construction of Metro connectivity in Gurgaon. The Udhyog Vihar allottees cannot claim that they are not the beneficiaries of Metro in Gurgaon even though they are not being charged for these facilities. As a matter of fact, there has been huge appreciation in their property values because of the EDC and IDC facilities created over a period of time. It is also important to note that it is not always feasible to complete all these EDC works upfront as it is an on-going process.
- 2.9 Coming to the legal backing for levy and recovery of External Development Charges, reference is made to Section 3 of the Haryana Development and Regulation of Urban Areas Act, 1975 which provides for recovery of proportionate 'external development charges' if the external development works (As defined in clause 2(g) of section 2 of Haryana Development and Regulation of Urban Area Act 1975) are to be carried out by the Government or any local authority. The rates of such development charges of external development works are referred to as the EDC. These EDC rates are revised

every year with an increase of about 10% in order to neutralize the cost escalations and the holding costs.

- 2.10 The provision with regard to levy of external development charges is contained in clause 2(g) of the Haryana Development and Regulation of Urban Area Act, 1975. The Petitioner Association, has stated that the demand for EDC in the year 2001 is not justified keeping in view that the definition of EDC was amended in the year 2003. I have gone through the relevant provision of the Act and observed that the definition of EDC as amended in the year 2003 reads as under:

“external development works’ include water supply, sewerage, drains, necessary provisions of treatment and disposal of sewage, sullage and storm water, roads, electrical works, solid waste management and disposal, slaughter houses, colleges, hospitals, stadium/sports complex, fire stations, grid sub-stations etc. and any other work which the Director may specify to be executed in the periphery of or outside colony/ area for the benefit of the colony/area”.

The petitioner Association appears to be unconscious of the fact that the State of Haryana had earlier enacted the “Haryana Restrictions on (Development & Regulation of) Colonies Act, 1971 (Act No. 39 of 1971)” which was repealed by the “Haryana Development & Regulation of Urban Areas Act, 1975”. The concept of EDC had been a part of the 1971 Act. As such, while carrying out the amendment in the year 2003, the same was made with retrospective effect i.e. with effect from 16.11.1971.

- 2.11 As per the information supplied by HUDA, the EDC amount chargeable from HSIIDC at the rate of Rs. 14.15 Lakh per gross acre for the year 2001, included the external works such as water supply, sewerage, storm water drainage, roads & bridges, street light, horticulture, internal & external community buildings & fire services. HUDA had already given full credit for internal community buildings & fire services and part credit for other services like water supply, sewerage, storm water drainage, roads & bridges, street lights & external community buildings, the benefit of which had been passed on to the allottees of Udyog Vihar Gurgaon. Since there is an unambiguous provision for charging proportionate development charges for the services as mention in clause 2(g) of the Act, the allottees are liable to pay the proportionate amount of EDC as per demand raised by the developing agency.

- 2.12 Two main conditions for transfer of subject land by HUDA to HSIIDC were that the HSIIDC was to pay (i) the proportionate EDC in respect of the

transferred area on demand to HUDA, and (ii) any enhancement awarded by the Courts qua Section 18 references in respect of the subject land would be payable by the HSIIDC. In view of the legal provisions, the explicit condition in the land transfer documents, and the fact that the EDC was not included in the price of land at the time of its transfer to HSIIDC, it is held that HUDA was/ is fully justified in demanding the EDC from HSIIDC. This issue is decided accordingly.

Issue No. 3

As to whether the amount of EDC demanded by HUDA from HSIIDC was/ is justified ?

- 3.1 HUDA raised a demand for an amount of Rs. 1,66,200/- per Gross acre towards the EDC from the HSIIDC in the first instance in the year 1986. In the year 1987, HUDA determined the amount of EDC @ of Rs. 3.72 lakh per gross acre with a provision for 10% increase thereon on year-to-year basis. In 1999, HUDA raised a fresh demand of EDC from HSIIDC @ Rs. 11.69 Lakh per gross acre, which was further revised to Rs. 14.15 Lakh per gross acre as applicable for the calendar year 2001.
- 3.2 HSIIDC took up the matter with HUDA with regard to the expenditure incurred by the HSIIDC on various services provided by it in the form of Internal Development Works (IDC) in the area and finally, after protracted correspondence and meetings between the two sides, it was decided to give a credit of Rs. 3.71 Lakh per gross acre to the HSIIDC, leaving the balance amount of EDC i.e. Rs. 10.44 Lakh per gross acre as the amount payable by the HSIIDC to HUDA. This issue was discussed in a meeting held on 17.01.2002 at the level of Chief Secretary Haryana, wherein it was brought out that the EDC estimates were initially worked out in the year 1981-82 and were conveyed to the HSIIDC in the year 1986. It has been further recorded in the minutes of the said meeting that the most comprehensive exercise on calculation of EDC was done in 1987 for the first time and the EDC for Urban Estate, Gurgaon was worked out @ Rs. 3.72 lakh per gross acre. This amount was updated on year to year basis and worked out @ Rs. 14.15 Lakh per gross acre after applying annual compounded interest @ 10%.
- 3.3 HUDA had initially agreed to provide a credit of Rs. 3.71 lakh/ gross acre on account of the works executed by the HSIIDC in this area as part of the Internal Infrastructure works as per the following break-up:

Sr. No.	External Services	EDC amount demanded by HUDA	Credit Given to HSIIDC	EDC payable to HUDA by HSIIDC after credit
(i)	Roads	2.83	0.75	2.08
(ii)	Water Supply	3.88	0.00	3.88
(iii)	Sewer	1.69	0.00	1.69
(iv)	Storm Water Drainage	1.62	0.73	0.89
(v)	Street Light	0.57	0.54	0.03
(vi)	Horticulture	0.50	0.13	0.37
(vii)	Community Buildings:			
	External	1.49	0.00	1.49
	Internal	1.42	1.42	0.00
(viii)	Fire Services	0.15	0.14	0.01
	Total	14.15	3.71	10.44

- 3.4 Based on the decision taken in the meeting held on 17.01.2002, and assuming the net EDC demand @ Rs. 10.44 lakh per gross acre, the HSIIDC raised a demand of Rs. 402/ per sq mtr from the allottees. Pursuant to a challenge to the said demand before the Hon'ble High Court, the matter was discussed between HUDA and the HSIIDC again, which was finally decided in a meeting held on 31.12.2003. HUDA agreed to allow further additional credit to the HSIIDC in the said meeting and the net EDC demand was agreed @ Rs. 9.03 lakh/ per gross acre. The various components of the EDC and the revised credit passed on to the HSIIDC are detailed as under:

Sr. No.	External Services	EDC amount demanded by HUDA	Credit Given to HSIIDC	EDC payable to HUDA by HSIIDC after credit
(i)	Roads	2.83	0.90	1.93
(ii)	Water Supply	3.88	0.54	3.34
(iii)	Sewer	1.69	0.39	1.30
(iv)	Storm Water Drainage	1.62	0.73	0.89
(v)	Street Light	0.57	0.25	0.32
(vi)	Horticulture	0.50	0.25	0.25
(vii)	Community Buildings:			
	External	1.49	0.49	1.00
	Internal	1.42	1.42	0.00
(viii)	Fire Services	0.15	0.15	0.00
	Total	14.15	5.12	9.03

Accordingly, the HSIIDC worked out the revised demand @ Rs. 348/- per sq. mtr. from the allottees.

- 3.5 The HSIIDC contended during the hearing that the demand for EDC for (i) Horticulture activities (ii) Street Light works, and (iii) the External Community Buildings did not appear to be justified as these facilities had not been provided by HUDA in respect of the said area of Udhog Vihar. It was explained on HUDA's behalf that the Horticulture and Street Light

works had been undertaken by HUDA in the peripheral areas of the Udhyog Vihar e.g. Old Gurgaon-Delhi Road, the new Highway and other Master Plan Roads, which could not be rebutted by the HSIIDC. As regards the External Community Buildings, HUDA argued that the said amount had been worked out on a prorated basis for town level common facilities such as the Stadium, Hospital, Colleges and school buildings, Bus-stand and the town parks. It is noted from the above details that:

- (i) HUDA had earlier agreed to provide a credit of Rs. 0.54 lakh per gross acre qua the 'Street Light component' which was again reduced to Rs. 0.25 lakh/ per gross acre in the meeting held on 31.12.2003. There was no explanation to this variation. As such, it is observed that the credit of Rs. 0.54 lakh/ per gross acre given on account of Street lighting should be maintained.
- (ii) As regards the external buildings, though it is correct that HUDA has developed town level facilities as mentioned on its behalf and these facilities are enjoyed/ used as much by the allottees of Udhyog Vihar or the industrial workers, it is also a fact that HUDA has not provided any External Community Buildings specifically for use of Industry or labour in the form of a common facility. It would, therefore, be justified to reduce the EDC on this component by 50% in the absence of line-item expenditure details.

3.6 Based on the above observations, the component-wise justified EDC amount works out as under:

Sr. No.	External Services	EDC amount demanded by HUDA	Credit that should be given to HSIIDC	Net EDC amount payable to HUDA by HSIIDC after credit
(i)	Roads	2.83	0.90	1.93
(ii)	Water Supply	3.88	0.54	3.34
(iii)	Sewer	1.69	0.39	1.30
(iv)	Storm Water Drainage	1.62	0.73	0.89
(v)	Street Light	0.57	0.54	0.03
(vi)	Horticulture	0.50	0.25	0.25
(vii)	Community Buildings:			
	External	1.49	0.75	0.74
	Internal	1.42	1.42	0.00
(viii)	Fire Services	0.15	0.15	0.00
	Total	14.15	5.67	8.48

3.7 As such, the net amount of EDC @ Rs. 8.48 Lakh per gross acre is held to be justified as on 31.12.2002/01.01.2003.

Issue No. 4

Whether HSIIDC was/ is justified in passing on the demand for recovery of EDC from the allottees of Udhyog Vihar ?

- 4.1 It has been held under Issue No. 1 that HUDA had not included the EDC in the price of land at the time of its transfer to HSIIDC. The letters containing the terms and conditions of transfer of land by HUDA to HSIIDC clearly stipulated that the HSIIDC would be liable to pay the enhancement in the price of land as awarded by the Courts and the External Development Charges as & when demanded by HUDA.
- 4.2 The HSIIDC, in turn, has stipulated in the allotment letters as well as the Agreements executed between the allottees and the HSIIDC that the allottees would be liable to pay the proportionate External Development Charges (EDC) on demand.
- 4.3 It is clear from the above that the component of EDC was a pass through to the allottees in the same manner as the component of enhancement. As such, it is held that the HSIIDC is entitled to recover the amount of EDC from its allottees. This issue is decided accordingly.

Issue No. 5

Whether demand for EDC raised by the HSIIDC from the Udhyog Vihar allottees was/is justified ?

- 5.1 Once it has been held under issue No. 4 that the HSIIDC is entitled to recover the amount of EDC from its allottees, it is equally important to examine as to what is the justified amount per sqm that is recoverable from the allottees. As per the net EDC amount of Rs. 10.44 lakh/ per gross acre, the HSIIDC had worked out and raised a demand of EDC @ Rs. 402/- per sqm from the allottees. Subsequently, based on the last settled rates of EDC @ Rs. 9.03 lakh per gross acre between HUDA and HSIIDC in the meeting held on 31.12.2003, HSIIDC had worked out the demand of EDC @ Rs. 348/- per sqm from its allottees. The justified amount of EDC payable has been determined @ Rs. 8.48 lakh per gross acre as on 31.12.2002/01.01.2003 under this order.
- 5.2 Going by the justified amount of Rs. 8.48 Lakh/ per gross acre for the EDC as on 31.12.2002, the total amount payable by HSIIDC to HUDA works out to about Rs. 57.76 crore as on the said date, of which the HSIIDC is reported to have already paid an amount of Rs. 23.22 crore between March 2002 till March 2006. Apart from the land measuring 681.16 acres transferred by

HUDA to HSIIDC, an additional area of 7.58 acres was acquired by the HSIIDC through the Industries Department subsequently, thus taking the gross area to 688.74 acres. The HSIIDC has calculated the net plotted area of 459.81 acres i.e. 18,60,851 sqm. The EDC thus works out to Rs. 310.41 per sqm, say Rs. 310/- per sqm, as detailed below:

Revised Calculation of EDC chargeable from the allottees by HSIIDC			
1	Total land allotted by HUDA to HSIIDC		681.16 Acres
2	EDC per acre as per para 3.7 (Rs. in Lakh /Gross Acre)		8.48
3	Total EDC payable by HSIIDC to HUDA for an area of 681.16 acres (Rs. in Lakhs) as on 31.12.2002	(1x2)	5776.24
4	Gross Area with HSIIDC (681.16+7.58 acres)		688.74
5	Net Plotted Area: (in Acres)		459.81
6	Net Plotted Area in Sq. mtrs. (i.e. 4047 sqm per acre)		18,60,851
7	EDC amount per sq. mtr. as on 01.01.2003	3/6	310.41 Say Rs. 310/-

5.3 Thus the amount of EDC chargeable by HSIIDC from the allottees of Udhog Vihar (including the I.E.) has been worked out @ Rs. 310/- per sqm as on 31.12.2002/ 01.01.2003. It goes without saying that the HSIIDC shall bear the incidence of the EDC amount in respect of (i) plots auctioned by them, or (ii) those allotted @ Rs. 5,000/- per sqm, or any un-allotted area (for whatsoever reasons) as per its own internal decision.

Issue No. 6

As to whether the demand for EDC amounts to profiteering by HUDA and HSIIDC ?

6.1 The representatives of the Association also raised the issues of allotment price and accused the HUDA and HSIIDC of profiteering at their cost by raising demand for EDC. As per the documents submitted by the petitioner Association, the developed plots were allotted by the HSIIDC at the following rates:

Sr. No.	Period of Allotment	Rates per sq. mtr. at which plots were allotted.
(i)	1973-74	Rs. 16.00 per sqm
(ii)	1975	Rs. 29.90 per sqm
(iii)	1976-82	Rs. 34.39 to Rs. 36.78 per sqm
(iv)	1982-88	Rs. 120 to Rs. 175 per sqm
(v)	1989 - 1994	Rs. 520 per sqm

6.2 It has been argued by the Petitioner Association that HSIDC allotment price of Plots was Rs. 520/- per sqm at a time when the DLF was allotting residential plots @ Rs. 472/- per sqm. Going into the pricing of plots at this stage would need re-opening a whole lot of factors. Suffice it to say at this stage, that the Udhog Vihar area, situated towards the north of the NH 8 as an extension of Gurgaon adjoining the Delhi border, was much more expensive even at that time.

6.3 I have examined the issue in detail. The HSIIDC could put together the tentative details regarding 417. 84 acres of land allotted under the industrial plots (excluding an area of about 6.0 acres under the sheds) out of the gross plotted area of 459.81 acres. The details provided by the HSIIDC are enough to show the rates at which developed plots were allotted by it were as under:

Rate of allotment	Area allotted in Acres						
	IE Ggn.	Ph-I	Ph-II	Ph-III	Ph-IV	Ph-V	Total
15.50/ Sq. yd.	31.24						31.24
18.53/ Sq.yd.	0.46						0.46
23.50/ Sq.yd.	0.46						0.46
	81.98%						
27.35		40.85					40.85
28.70		26.00					26.00
29.90		35.10		0.24			35.34
34.39		10.95	22.22	31.97	0.98		66.12
36.78		3.95	12.45	4.52	0.58		21.50
44.70		2.11					2.11
		92.58%	89.59%	72.91%	1.66%		
101.66				2.42			2.42
120.00	1.70	3.31	0.61	3.32	48.71		57.65
136.00		0.41	0.11				0.52
136.00				0.24			0.24
175.00	2.07	1.32	1.58	1.68	16.49		23.14
195.00	1.52		0.49	0.70	5.18		7.89
	13.48% (95.46%)	3.92% (96.50%)	7.21% (96.80%)	16.59% (89.50%)	75.02% (76.68%)		
211.00			0.25				0.25
280.00					0.86		0.86
341.00						17.54	17.54
595.00	0.48	2.64	0.36	2.26	9.37	28.83	43.94
780.00		0.62	0.11	0.56	2.24	11.41	14.94
966.00		0.99		0.12		1.87	2.98
	1.22%	3.31%	1.86%	5.84%	13.29%	88.74%	

Rate of allotment	Area allotted in Acres							
	Rs./ sqm	IE Ggn.	Ph-I	Ph-II	Ph-III	Ph-IV	Ph-V	Total
		(96.68%)	(99.81%)	(98.66%)	(95.34%)	(89.97%)		
1400.00			0.25			0.09	1.01	1.35
5000.00	1.30				2.35	7.01	0.81	11.47
6500.00				0.52		0.70	0.78	2.00
7500.00						1.40		1.40
12500.00						0.20	0.99	1.19
Auction							3.98	3.98
		3.31%	0.19%	1.34%	4.66%	10.02%	11.26%	
Total		39.23	128.50	38.70	50.38	93.81	67.22	417.84

6.4 It would be interesting to look at the figures indicated in 'Bold' in the above table. A careful examination of the above table shows that:

- (i) That about 82% of the plotted area in I.E. Gurgaon was allotted @ Rs. 15.50 to Rs. 23.50 per sq yard, and another 13.48% was allotted at rates varying between Rs. 101 to 195/- per sq. mtr.
- (ii) That about 96.68% of the plotted area in IE; 99.81% in Phase-I; 98.66% in Phase-II; 95.34% in Phase-III; 89.97% in Phase-IV and 88.74% of the plotted area in Phase-V had been allotted at rates below Rs. 1000/- per sq. mtr.
- (iii) Keeping in view the extremely limited number of residual plots in Udhyog Vihar, the HSIIDC's current allotment price (which is only notional and applicable only in isolated cases of resumption/ allotment etc.) is Rs. 33,000/- per sq. mtr, the Collector Rate is Rs. 36,000/ sq. yd. (43,113/- per sqm), and the market price is reported to be certainly upwards of Rs. 50,000/- per sqm.
- (iv) Assuming that the present market rate is Rs. 50,000/- per sqm, it is clear from the above that the value of an industrial plot allotted at the rate of Rs. 15.50 per sq yard in 1975 has appreciated by more than 2500 times as on date, whereas the value of a plot allotted @ Rs. 1000/- per sqm in 1995 has appreciated by 50 times of the allotment price. One has to concede, willingly or unwillingly, that a substantial credit for this level of capital appreciation/formation is primarily on account of EDC works undertaken in Gurgaon at various points in time during the last about 30 years (1985-2014) and its emergence as a Millennium City. It is also clear from the above that the real gainer/ profiteer in this process, if one were to say so, is neither HUDA nor the HSIIDC but an allottee who chooses to capitalise this

appreciated asset.

- (v) Calculations have been carried out on another basis also. In case it is assumed that an investor would like to earn a very handsome and consistent return of 15% on his investment on the industrial plot alone (i.e. an annually compounded Internal Rate of Return @ 15% on his investment on a plot of 1000 sqm i.e. on Rs. 19,000/- [rate of allotment in the year 1975 was Rs. 18.50 per sqm) in the year 1975 till 2014], the gross compounded IRR amount works out to Rs. 44.25 Lakh, which is equal to a price of Rs. 4425/- per sqm i.e. the present capitalised value of his investment. In the case of a 1000 sqm plot allotted in 1995 @ Rs. 1000/- per sqm with 15% annually compounded IRR, the present value works out to Rs. 1.42 crore i.e. @ Rs. 14,200/- per sqm. It calls for no further comments against the current assumed market price of Rs. 50,000/- per sqm.

- 6.4 It was also brought out by the HSIIDC that close to 95% of the plotted area had been allotted in Udhyog Vihar by the year 1995. The Government decided in 1996 to allot the residual plots by open auctions for which a reserve price of Rs. 5,000/- per sqm was fixed. The first lot of auction of about 15 plots fetched an average price of about Rs. 12,000/- per sqm. The Government again decided in August 1999 to allot the residual plots, if any, @ Rs. 5,000/- per sqm.
- 6.5 The HSIIDC's decision to the effect that the incidence of EDC in respect of plots allotted through open auctions with a reserve price of Rs. 5000/- per sqm or those allotted at a rate of Rs. 5000/- per sqm and above, will be borne by the HSIIDC and not passed on to the allottees, has to be respected for obvious reasons. Further, the incidence of EDC in respect of any residual area which is under litigation and/ or which has been retained by the HSIIDC for commercial/ institutional use etc. would also be borne by the HSIIDC.
- 6.6 The HSIIDC raised another issue qua the demand of EDC from the allottees which has scope for further litigation. It has been observed that a large number of industrial plots allotted in this area have been sold/ transferred/ changed hands, in certain cases multiple times. There are also cases where an unauthorised transferee is in possession of the property in whose favour the HSIIDC has not issued a letter of Re-allotment. There is a likelihood that the present occupant may raise an issue that the EDC should be demanded from the original allottee or his predecessor-in-interest. Similarly, one who has sold the plot may come forward to claim the refund, if that be the case.

The litigation on this account can assume unending proportions. It is, therefore, held that whether it be the demand for payment to the HSIIDC or the refund of any excess amount by the HSIIDC, the same shall be payable by or to the successor-in-interest i.e. the present allottee as per its current records.

Issue No. 7

As to whether the amount of EDC payable by the HSIIDC to HUDA and recoverable by the HSIIDC from the allottees should remain frozen as on 31.12.2001 or it should be payable with interest ?

7.1 This issue was neither raised by HUDA or the HSIIDC or the Petitioner Association. However, it is considered important to deal with the subject and pass an order in this behalf as well. Following are the important observations in this behalf:

- (i) The EDC charges applicable for the year 2014 in respect of Industrial land in Gurgaon are determined @ Rs. 157.73 lakh per gross acre with a permissible F.A.R. of 1.25. This is the amount of EDC charged from the applicants who obtain CLUs for industrial land in the year 2014.
- (ii) There is an opportunity cost of money and by no standards HUDA's demand of the EDC can be frozen at the rate determined as on 17.02.2002, (though applicable for the year 2001) especially when it has passed through a chequered history of demands, revised demands, legal challenges all these years and when it is, hopefully finally, being crystallised in the year 2014. The economic value of money worked out in January 2002, calculated at constant prices in 2014 would be negligible.
- (iii) Moreover, freezing the demand of EDC at the rates determined in January 2002 would also act as a disincentive for those who made the payments in time on demand. If this is not corrected, at least partially, a compliant citizen would find himself cheated in the process.

7.2 As such, there is every justification to notionally update the said amount by applying a simple interest @ 10% per annum on the amount worked out as on 31.12.2001. I am inclined to reckon the same amount for the whole calendar year 2002, even though it was for the year 2001. The simple interest @ 10% for a period of 12 years works out to Rs. 10,17,600/- per

gross acre. Thus the total amount of EDC works out to Rs. 18,65,600/- per gross acre as on 31.12.2014 as against the prevalent EDC rate of Rs. 1.57 crore per gross acre in the year 2014. Assuming that an allottee did not pay a single penny towards the EDC till date, the amount payable by him till 31.12.2014 would work out to Rs. 682/- per sqm inclusive of the interest. **There cannot be a more liberal construction than the one determined herein.** These details are given in the following table:

Calculation-Sheet with 10% Simple Interest			
Sr. No.	As on	Amount of EDC Per Gross Acre	EDC Per Sqm
1	01.01.2003	848000	310
2	01.01.2004	932800	341
3	01.01.2005	1017600	372
4	01.01.2006	1102400	403
5	01.01.2007	1187200	434
6	01.01.2008	1272000	465
7	01.01.2009	1356800	496
8	01.01.2010	1441600	527
9	01.01.2011	1526400	558
10	01.01.2012	1611200	589
11	01.01.2013	1696000	620
12	01.01.2014	1780800	651
13	31.12.2014	1865600	682

- 7.3 It goes without saying that the simple interest shall be applicable only qua the unpaid amount i.e. following the principle of **'reducing balance basis'**. The principle of application of simple interest @ 10% on reducing balance basis has to apply on all the parties i.e. for payments due from HSIIDC to HUDA and the payments due from Allottees to the HSIIDC. Wherever an allottee has already paid the EDC amount to the HSIIDC, partly or fully, against its demand and such amount works out in excess of the due amount calculated as per the above principle, the HSIIDC would refund such excess amount to the allottee also with interest as per the above principle, or recover the balance amount with interest, as the case may be. This formulation is given in the interest of justice and fair play to all.
- 7.4 As such, it is held that, notwithstanding any decisions taken in the past regarding a moratorium or payment in instalments without any interest, HUDA is held entitled to the EDC amount calculated in accordance with the above formulation and the HSIIDC is liable to pay and settle the said amount with HUDA in accordance with the above principle. The same principle would be applicable in the case of the allottees.
- 7.5 The HSIIDC has informed that a total of 9.07 acres land is still under

litigation and HSIIDC does not have its encumbrance free possession even as on date. The HSIIDC is expected to pay the due amount to HUDA, excluding the amount in respect of land under litigation, as crystallised on 01.01.2014, latest by 31.12.2014. In case it fails to pay the entire due amount to HUDA by 31.12.2014, the gross amount outstanding as on 31.12.2014 shall be treated as the principal amount outstanding as on 01.01.2015 and payable by HSIIDC to HUDA with interest @ 12% at half yearly rests on the reducing balance basis. The payment of EDC qua the land under litigation shall be payable by the HSIIDC to HUDA at the time of settlement of such litigation with simple interest @ 10% till such date as per the above calculation sheet.

- 7.6 As for the allottees, the HSIIDC shall issue revised demand letters to the individual allottees latest by 30.09.2014. There shall be a window of three months for payment by the allottees i.e. up to 31.12.2014. As for any balance unpaid amount as on 31.12.2014, the amount calculated up to 31.12.2014 shall become the principal outstanding amount as on 01.01.2015 and shall be payable by the allottee to the HSIIDC along with interest @ 12% applied at half yearly rests. In case the allottees request for payment in instalments beyond 31.12.2014, the HSIIDC may allow them such instalments as it may deem appropriate which shall carry an interest @ 12% applied at half yearly rests on the outstanding amount on reducing balance basis.

This issue is decided accordingly.

8. Conclusion:

- 8.1 In view of the foregoing, I sum-up my findings and conclusions as under:
- (i) HUDA had not included the incidence of EDC in the price of land allotted/ transferred to the HSIIDC at the time of its transfer to HSIIDC.
 - (ii) External Infrastructure Works constitute an absolutely essential component of the Urban Development, which is also backed by the statute. HUDA had made the condition of payment of EDC as an explicit condition at the time of transfer of land to HSIIDC. As such, HUDA is fully justified in demanding the EDC amount from the HSIIDC;
 - (iii) The amount of EDC, after providing credit to HSIIDC for the amount spent by the HSIIDC on some of the EDC works and considering all

the factors, is determined @ Rs. 8.48 Lakh per Gross acre as on 01.01.2003, even though this amount was worked out for the year 2001;

- (iv) HSIIDC had also specified in its allotment letters that EDC amount would be payable on demand and, as such, the HSIIDC is held entitled to demand EDC amount from the allottees of the area;
- (v) The EDC amount has been worked out @ Rs. 310/- per sq meter from the allottees of Udhyog Vihar as on 01.01.2003;
- (vi) The allegations of profiteering by HUDA or HSIIDC are not found substantiated. As a matter of fact, the main beneficiary of the capital appreciation is the allottee;
- (vii) That the amount of EDC cannot be frozen as on 01.01.2003. Therefore, the principle of a bare minimum simple interest @10% has been applied on the said amount with effect from 01.01.2003 on reducing balance basis. This would apply to all the three parties i.e. HUDA, HSIIDC and the allottees;

9. The demand of the Petitioner Association not to charge the EDC from the allottees has not been found justified, and to that extent the order is adverse to the petitioner. As directed by the Hon'ble High Court vide its order dated 17.11.2011 in CWP No. 18005 of 2007, this order shall not be implemented for a period of two weeks. However, keeping in view that there are some holidays around 15th August, 2014, it is directed that this order shall be implemented with effect from 20.08.2014 so as to give the petitioner Association a period of about three weeks to agitate the same, if they so decide.

Copies of this order be communicated to all concerned parties.

Y. S. Malik
Addl. Chief Secretary to Govt. of Haryana
Industries & Commerce Department

Place: Chandigarh
Dated: 31.07.2014