

[File no. No 27(42)/2013-IPHW]

**Government of India**

**Ministry of Communications and Information Technology**

**Department of Information Technology (DeitY)**

**Modified Special Incentive Package Scheme for Electronics System Design and Manufacturing Sector**

Dated: 04<sup>th</sup> June, 2014

**Guidelines for Disbursement of Incentives**

**1. Background**

- 1.1 The Modified Special Incentive Package Scheme (M-SIPS) hereinafter called 'Scheme' to encourage investments in the Electronics System Design and Manufacturing sector in India was notified vide Notification No. 175 dated 27.07.2012 in Part-I, Section 1 of the Gazette of India (Extraordinary) [F.No.24 (10) - IPHW]. As per paragraph 4.1 of the notification, "The incentive against the capital expenditure shall be released after the end of the financial year in which the total investment exceeds the threshold value. Thereafter, the incentive shall be provided on an annual basis on the value of the investments made during the year and be restricted to the first 10 years from the date of approval of the unit under the scheme".
- 1.2 In pursuance of paragraph 6.2 of the said notification and for the effective functioning of the M-SIPS Appraisal Committee (AC), M-SIPS guidelines dated 07<sup>th</sup> October 2012 were laid down.
- 1.3 As per paragraph 13.1 of the M-SIPS Guidelines, "Separate guidelines will be issued with regard to disbursement of incentives under the Scheme".
- 1.4 In pursuance of paragraph 13.1 of the M-SIPS Guidelines, these Guidelines are being issued to set out procedures for claim and disbursement of incentives under the 'Scheme', hereafter referred to as "disbursement guidelines".

**2. Definitions**

**2.1 Scheme**

Modified Special Incentive Package Scheme notified vide Notification No.175 dated 27.07.2012 in Part-I, Section 1 of the Gazette of India (Extraordinary) [F.No.24(10) -IPHW]

**2.2 Chartered Engineer**

Engineers having corporate membership of 'The Institution of Engineers' (IE) and having Chartered Engineer (India) certificate issued by IE, India.

**2.3 Architect**

An architect registered with the 'The Council of Architecture' (COA), constituted by the Government of India under the provisions of the Architects Act, 1972.

**2.4 Cost Accountant**

The members of the Institute of Cost Accountants of India and having a 'Certificate of Practice' issued by the said Institute.

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**2.5 Chartered Accountant**

The members of the Institute of Chartered Accountants of India and having a 'Certificate of Practice' issued by the said Institute.

**2.6 Verification & Disbursement Authority**

Refers to the Financial Institution(s) or any other authority(ies) appointed by DeitY to act on its behalf for verification of the disbursement claim with the expenditure incurred through bills, vouchers, site visits and/ or any other method/ document deemed appropriate and for managing the process of disbursements in accordance with the criteria stipulated in these disbursement guidelines.

**2.7 Consultant**

Consultants appointed by DeitY for appraisal of applications received under M-SIPS.

**2.8 Eligible Capex**

The capital expenditure which is considered eligible for incentives under the scheme as per the approval letter accorded to the applicant.

**2.9 Approved Project**

Approved Project means a project approved by the Department of Electronics and Information Technology, Government of India under the Scheme based on an Initial Application.

**2.10 Lease**

Lease for an asset would include "Right to use", "license to use", etc.

**2.11 Related Party(ies)**

The term related party would be as defined in Accounting Standard 18 issued by Institute of Chartered Accountants (ICAI), India.

**2.12 Terms for which definitions are not provided in these Disbursement Guidelines, definitions as per M-SIPS guidelines dated 7th October 2012 will be applicable.**

**3 Claim of incentives**

3.1 Any claim for the incentives can be filed only after the end of the financial year in which the project has made an investment in excess of applicable threshold and has complied with conditions precedent to disbursement as per the approval letter accorded to the project by DeitY.

3.2 In case of expansion, modernisation and diversification projects, disbursement claim can only be made after the applicant has made an investment in plant and machinery as per clause 2.6 of M-SIPS Guidelines.

3.3 At the time of filing claim for incentives, the applicant is required to provide details of expenditure incurred towards the project or the phase(s) of the project for which incentives are being claimed for. The items should be in accordance with the items mentioned in the approval letter accorded to the project by DeitY.

- 3.4 For the purpose of calculating threshold, only expenditure allowable under approved Capex items (including any expenditure incurred on these items prior to approval, but after the date of application) for the approved project or phase (s) of the project will be considered. However, investments in land made up to 6 months before the date of approval of a project will be considered for calculation of eligible incentives under the Scheme.

#### **4 Capital expenditure eligible for incentives**

##### **4.1 General terms and conditions**

- 4.1.1 As per para 12.2 of the M-SIPS guidelines, Investments made before the date of approval of a project will not be considered for calculation of eligible incentives under the 'Scheme'. However, investments in land made up to 6 months before the date of approval of a project will be considered for calculation of eligible incentives under the Scheme.
- 4.1.2 The incentives will be available upto 10 years from the date of the approval of the project.
- 4.1.3 Reimbursement of Capex subsidy (20% for SEZs and 25% for non-SEZs) shall be within the amounts for each of the items under Capex as per the approval letter accorded by DeitY. Any variation in expenditure pertaining to an approved Capex item due to the following would be allowed even if it leads to variation of expenditure within individual Capex items, as long as the total actual Capex is within the overall approved Capex.
- Cost escalation due to exchange rate variation between date of approval and actual date of incurring the expenditure.
  - Revision in CPWD schedule of rates.
- 4.1.4 Further, in case the applicant claims incentives for expenditures incurred under items not included in the approved Capex, prior approval from DeitY would be required before disbursement against the same is claimed.
- 4.1.5 Any payment towards eligible Capex, including opening of Letter of Credit with a bank, prior to the approval of the project, shall not be considered for calculation of incentives under the Scheme. However, in case of land, payments made upto 6 months prior to the date of approval shall be considered for calculating the incentive under the Scheme in accordance with para 12.2 of M-SIPS guidelines.
- 4.1.6 If the disbursement is filed by a successor in interest, the same will be accepted only after necessary approval from DeitY has been obtained for change in the applicant. All expenditures incurred/ actions done by applicant(s) to whom approval was accorded by DeitY under M-SIPS, would be considered for calculation of incentives, as they would have been considered if there was no change in applicant.

##### **4.2 Land**

- 4.2.1 The cost of purchase of land will be considered as part of eligible Capex, if it is part of the approved Capex by DeitY.
- 4.2.2 The cost of land exceeding 2% of the Capex of the approved project cost shall not be eligible for claiming incentives.

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4.2.3 For the cost of land to be considered as eligible Capex, the following requirements should be met

- a. The land should either be purchased or taken on long lease (>30 years) by the applicant
- b. The payment for the purchase or lease of the land should not have been made prior to 6 months from the date of the approval of the project.
- c. The land should be in the name of the applicant.
- d. The land should not have been in the possession/ ownership of any Related Party within last 3 years from the date of purchase or date of lease by the applicant.
- e. The land is required for the approved project or phase(s) of the project for which incentives are being claimed. If part of the land is being used for the project or phase(s) of the project, cost pertaining to only that part of the land shall be considered for incentives.

#### **4.3 Building constructed**

4.3.1 The cost of construction of building will be considered as part of eligible Capex, if it is part of the approved Capex by DeitY.

4.3.2 Capital expenditure incurred for construction of building, including fixtures for water, electricity, air conditioning, etc., shall be counted towards calculation of incentives.

4.3.3 The following aspects would be considered while calculating the eligible Capex of the building.

- a. The building is required for the approved project or phase(s) of the project for which incentives are being claimed. If part of building is being used for the project or phase(s) of the project, cost pertaining to only that part of building shall be considered for incentives.
- b. The expenditure on the building is to be estimated based on CPWD schedule of rates as applicable at the time of construction of building. Special provisions for rates for specific states/ region as per CPWD would be considered, as applicable. Items of expenditure for which CPWD rates are not available, actual expenditure may be considered.

#### **4.4. Purchase/ Lease of built-up building**

4.4.1 The cost of purchase/ lease of built up building will be considered as part of eligible Capex, if it is part of the approved Capex by DeitY.

4.4.2 The expenditure incurred for purchase/ lease of an already constructed building would be considered as eligible Capex subject to the following requirements:

- a. The building should be either purchased or leased by the applicant on long lease (>30 years).
- b. The building is purchased/ leased in the name of the Applicant
- c. The building is required for the approved project. If part of the building is being used for the project or phase(s) of the project, cost pertaining to only that part of land/building shall be considered for incentives.
- d. The said building should not have been in possession/ ownership of any Related Party within last 3 years from the date of purchase by the Applicant.
- e. Expenditure on furniture and fixtures on purchased/ leased building shall be eligible Capex, if required for the project or phase(s) of the project.

- f. The cost eligible for incentives in case of purchased/ leased building would be capped at CPWD rates of similar area as 4.3.3 above.

#### **4.5 Plant & Machinery**

- 4.5.1 The machinery should be purchased/ leased in the name of the Applicant. In cases where the machinery is being leased, the lease should be in the nature of financial lease within the meaning of Accounting Standard 19 issued by ICAI.
- 4.5.2 If the plant and machinery is refurbished, whether imported or procured domestically the applicant must produce a copy of the certificate for valuation of the machinery issued by an independent Chartered Engineer or any equivalent in the country of the supplier as submitted to Customs in India. Refurbished plant and machinery cannot be greater than 20% of the total value of the machinery or plant proposed to be purchased under the project for which M-SIPS subsidy is being claimed.
- 4.5.3 The value of plant and machinery should be verified by Verification Authority from independent sources, including industry benchmarks.
- 4.5.4 Plant and machinery should have been procured/ leased through legally valid documents after payment of applicable taxes and duties.
- 4.5.5 The plant & machinery approved should only be used in manufacturing of the products that are approved in the approval letter issued by DeitY. The applicant has to submit a declaration in this regard each year for the duration of the scheme (10 years).

#### **4.6 Tools, dies, moulds, jigs, fixtures and parts, accessories, components and Spares of plant & machinery or equipment**

- 4.6.1 Tools, dies, moulds, jigs, fixtures and parts, accessories, components and spares will be considered as part of eligible Capex, if it is part of the approved Capex by DeitY.
- 4.6.2 Consumables and raw material used by the applicant for the project shall not be considered as eligible Capex.

#### **4.7 Expenditures related to R&D**

- 4.7.1 Expenditures related to R&D will be considered as part of eligible Capex, if it is part of the approved Capex by DeitY.
- 4.7.2 The software associated with R&D should have been procured/ licensed through legally valid documents after payment of applicable taxes and duties.

#### **4.8 CVD/ Excise**

- 4.8.1 The claims for CVD/ Excise, reimbursement will be available only to the extent of CVD/ Excise, actually paid by the Applicant net off offset claimed, if any.

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4.8.2 This reimbursement is applicable only on capital equipments under eligible Capex as per the approval and at the rate prevalent at the time of CVD/ Excise, paid by the Applicant.

4.8.3 In case the amount of CVD/ Excise claimed for reimbursement is higher than the amount approved by DeitY for CVD/ Excise, a prior approval from DeitY will be required.

#### **4.9 Central taxes and duties**

4.9.1 For claims for Central taxes and duties, reimbursement will be available only to the extent of central taxes and duties actually paid by the applicant net off offset claimed, if any.

4.9.2 The reimbursement would be made at the rate prevalent at the time of Central taxes and duties paid by the Applicant.

4.9.3 In case the amount of Central taxes and duties claimed for reimbursement is higher than the amount approved by DeitY for Central taxes and duties, a prior approval from DeitY will be required.

#### **4.10 Related Party Transaction**

For building works, plant, machinery & equipment (including erection and commissioning of the same, tools, dies, moulds, jigs, fixtures and parts, accessories, components, spares of the plant and machinery or equipment) purchased/ leased from Group Companies / 'related' entities:

- i. Transfer Pricing certificate (for domestic and/ or international procurement) as required for income tax purposes must be provided by the Applicant. This should be submitted in accordance with the methodology as per Income Tax laws, even if not required by tax laws.
  - ii. The decision on approval/ rejection of the certificate and its amount shall be based on the final assessment by Income Tax Authority. In case the Income Tax Authority makes any changes to the acceptability of the Transfer Pricing certificate during the assessment process, then the onus lies on the Applicant to inform to DeitY immediately and reimburse DeitY for any subsidy amount claimed on the disallowed expenditure.
- 4.11 The investment in Capex items should be in line with the list and/ or details of Capex items provided by the applicant at the time of applying for M-SIPS incentives and considered by the AC for approval. Any deviations would have to be justified; DeitY would verify the same before accepting it. A prior approval is required for significant variations in Capex incurred from the list/ details submitted along with the application/ considered for approval.
- 4.12 The Capex items, for which incentives are being claimed for, should be capitalised in the books of accounts of the applicant.
- 4.13 The Capex items, for which incentives are being claimed for, should actually be required for the project or the phase(s) of the project which have been approved for implementation by DeitY.

- 4.14 The reimbursement of CVD/Excise, Central taxes and duties should be on Capex items actually required for the project or the phase(s) of the project for which disbursement is being claimed for.
- 4.15 Any deviation from the products, for which the application was made and approved under M-SIPS, should be after taking prior approval from DeitY.
- 4.16 Any change in the location of an approved project, should be with prior approval of DeitY.
- 4.17 In case the proposed products can be used for purposes other than that approved for, the applicant should submit an end user certificate for the same every year for the duration of the scheme (10 years).
- 4.18 If DeitY or the Disbursement Authority is satisfied that the incentives to a unit have been obtained by misrepresentation as to an essential fact, furnishing of false information or if the unit goes out of production within 5 years after commencement of commercial production, DeitY may ask the unit to refund the grant or incentives along with accrued interest and penalties as may be levied, after giving an opportunity to the unit of being heard. In this regard, DeitY shall have residual claim to the extent of incentives released on assets of the Applicant.

## **5. Assessment of reasonability of costs**

- 5.1 The Department will have a right to verify (through relevant documents and/ or site visits) the expenses incurred on all Capex incurred (usually on a sample basis) which forms the basis of the disbursement claim
- 5.2 The Chartered Engineer to validate the reasonableness of cost of items in Capex for which incentives are being claimed for and provide relevant certificate thereof.
- 5.3 The Department may choose to appoint an independent agency for assessing reasonability of costs.

## **6. Disbursement process**

- 6.1 For claiming incentives under M-SIPS, applicants should submit information to the Verification Authority(ies) appointed by DeitY for the purpose of disbursement of incentives under the M-SIPS scheme. The Applicant must ensure that the claim for incentives is complete in all respects and accompanied by all the documents required as per Annexure 1.
- 6.2 The review of the claim submitted by applicants would be done by the Verification Authority.
- 6.3 The Verification Authority may ask the Applicant to furnish additional information/ documents in connection with the application for incentives during the review process.



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- 6.4 DeitY and/ or the Verification Authority will have the right to verify any documents in relation to the claim for incentives including but not limited to actual bills/ invoices for the amounts claimed.
  - 6.5 The quantum of incentives payable for the project would be assessed by the Verification Authority based on eligible components as laid down in the M-SIPS Guidelines, Supplementary Guidelines of M-SIPS issued by DeitY (including R & D Guidelines) and approval accorded to the applicant. In case of doubt with respect to the eligibility of any expenditure for the purposes of incentives, the Verification Authority may refer to DeitY for clarification. The decision of DeitY will be final in this regard.
  - 6.6 All capital expenditures relating to the project that have been incurred and paid for directly by the applicant or the source of funding on behalf of the applicant, are to be claimed only after actual payment has been made (on cash basis) and not on accrual basis.
  - 6.7 The decision on approval/ disapproval of the Transfer Pricing Certificate (if submitted) and its amount shall be based on the final assessment by Income Tax Authority. In case the disbursement is made prior to the assessment and the decision is against the Applicant, then the onus lies on the Applicant to inform to DeitY immediately and reimburse DeitY for any incentives amount repayable along with interest, as may be decided by DeitY.
  - 6.8 The Verification Authority would process the incentive claim for the Applicant within 15 working days of receiving complete information/ documents required for processing of incentive claim.
  - 6.9 The Verification Authority will intimate the Applicant about the approval for disbursement of incentives and to complete all required disbursement formalities, within 15 working days from the date of sanction of claim.
  - 6.10 The Disbursement Agency to disburse the funds within 3 working days of completion of all pre disbursement formalities by the Applicant.
  - 6.11 The disbursement of incentives may be in the form of Direct bank transfer/ Cheque/ Demand Draft/ Duty Credit Scrips (to be used as may be allowed by the Ministry of Finance) in the name of the Applicant only.
  - 6.12 DeitY may decide to distribute the roles of verification of claims and the role of disbursement to one or more agencies or may retain either or both the roles for itself.
  - 6.13 The Verification Authority would furnish information to the department with details of claims received for subsidy, amount disbursed, reasons for rejection/ delay in disbursement of the incentives on a monthly basis.
  - 6.14 The Verification Authority furnish an incentive forecast on quarterly basis as per the following timelines:
    - 6.14.1 The subsidy forecast information for every quarter on or before 1<sup>st</sup> March for April-June quarter, on or before 1<sup>st</sup> June for July-September quarter, on or before 1<sup>st</sup>



September for October-December quarter and on or before 1<sup>st</sup> December for January-March quarter, should be furnished.

- 6.15 The Disbursement Authority shall furnish details of release of incentives to the applicants in the current quarter. The requests of Disbursement Authority for replenishment of advance money for incentives, however, would be entertained only on receipt of complete details of incentives released to applicants.



(Dr. Ajay Kumar)

Joint Secretary to Government of India

Tel: 24630160

New Delhi, Dated 04<sup>th</sup> June, 2014

To

1. All concerned Ministries/ Department of Govt. of India
2. Cabinet Secretariat
3. Comptroller and Auditor General of India
4. PMO
5. Members of Appraisal Committee (M-SIPS)
6. Members of Various Technical Evaluation Committees (M-SIPS)
7. JS&FA DeitY
8. OSD to Secretary DeitY

Copy to:

1. All GCs, DeitY
2. All concerned Industry Associations
3. DeitY Website

**Annexure 1****Claim form for M-SIPS incentives**

Applicant Name.....

Ref. No. and Date of Approval letter. ....

Reference date for investment in the project.....

Financial year for which claim for incentives is being sought.....

Date of commencement of commercial production for the project.....

Applicable Threshold as per the Approval letter (Rs. crores).....

Details of eligible Capex as per the Approval letter (Rs. crores) –

Land –

Building –

Machinery –

Utilities –

Any other eligible item (s) -

**1. Details of claims submitted to DeitY prior to this claim –**

#		Date of claim submitted	Amount claimed	Date of disbursement/ reimbursement	Amount disbursed/ reimbursed
1	Land*				
2	Building				
3	Machinery				
4	Utility items				
5	Any other eligible item				
6.	CVD/ Excise				
7.	Central taxes and duties				
		<b>Total</b>		<b>Total</b>	

## 2. Details of Capital Expenditure incurred for this claim-

#		Date of purchase	Amount incurred in the current FY (Rs. Crores)	Applicable rate for incentives	Eligible incentives (Rs. Crores)
1	Land*			20% / 25%	
2	Building			20% / 25%	
3	Machinery			20% / 25%	
4	Utility items			20% / 25%	
5	Any other eligible item			20% / 25%	
<b>Total Claim amount (Rs. Crores)</b>					

*\*only 2% of the total project cost applicable for incentives*

## 2. Details of CVD/ Excise, Central Taxes and duties being claimed for reimbursement

Rs. Crores

#		Amount of CVD/ Excise, Central taxes and duties actually paid	Amount for which CENVAT credit claimed	Amount eligible for reimbursement
1	Utility items			
2	Machinery			
3	Any other eligible item			
<b>Total amount (Rs. Crores)</b>				

### The Applicant to provide the following certificates/ undertakings stating/ covering the following:

- No deviation in products being manufactured
- No deviation in the technology
- No deviation in the location
- No deviation in the promoter
- Duties/ Taxes that are being reimbursed by DeitY, no offset on them would be claimed in the future.
- In case a provisional duty for CVD/ Excise, central taxes and duties has been paid and a reimbursement on the same has been claimed from DeitY, an undertaking stating that any refund on the same would be refunded to DeitY.
- In case, the building is being constructed, cost of construction per square foot for the claim should be in line with prevailing CPWD rates. Undertaking regarding the same will have to be submitted stating that the rates taken are in line with the CPWD rates.

### 4 Certificates required from Company Secretary stating that:

- Land is in the name of the Applicant.
- The land purchased by the Applicant has not been in the possession of any Related Party within last 3 years from the date of purchase.
- All clearances required by law like statutory clearances, environmental clearances, etc. have been obtained

### 5 Certificate(s) required from a Chartered Accountant stating/covering the following:

- Investment in the project - Item-wise & date-wise details of Capex incurred (on cash basis) in the project along with details of payment from the bank account(s) of the company.
- That capitalisation of expenditure in the books of accounts of the applicant is in line with the relevant Accounting Standards issued by ICAI.
- For the CVD/ excise, central taxes and duties reimbursement claimed by the Applicant - no offset has not been claimed against this amount.
- That the Capex has been incurred for the purposes of the project in accordance with the M-SIPS

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guidelines, supplementary guidelines to M-SIPS issued by DeitY (including R&D guidelines) and the approval accorded by DeitY.

**6 Documents/ certificates required from Chartered Engineer:**

- i. Date of start of commercial production.
- ii. Certificate stating that the plant & machinery has been installed, the price is as per the market value and the same are being used exclusively for the manufacturing of products as applied and approved under M-SIPS.
- iii. Certificate on the percentage of land and building (which is being claimed for incentives reimbursement) being used for the approved project.

**7 Documents/ certificates required from Concerned Govt. Dept.:**

- i. Non-encumbrance certificate
- ii. Certificate showing ownership of land in last 3 years
- iii. Certificate that the land is meant for industrial use

**8 Other Documents:**

- i. In case of building being / having been purchased, the sale deed in the name of the Applicant needs to be submitted.
- ii. For any transaction with Related Party(ies):  
For building works, plant, machinery & equipment (including erection and commissioning of the same, tools, dies, moulds, jigs, fixtures and parts, accessories, components, spares of the plant and machinery or equipment) purchased/ leased from Group Companies/ 'related' entities:
  - Transfer Pricing certificate (for domestic and/ or international procurement) as required for income tax purposes must be provided by the Applicant. This should be submitted in accordance with the methodology as per Income Tax laws, even if not required by tax laws.
  - The decision on approval/ rejection of the certificate and its amount shall be based on the final assessment by Income Tax Authority. In case the Income Tax Authority makes any changes to the acceptability of the Transfer Pricing certificate during the assessment process, then the onus lies on the Applicant to inform to DeitY immediately and reimburse DeitY for any subsidy amount claimed on the disallowed expenditure.

**List of documents to be submitted post approval of Incentives Claim**

1. An undertaking from the applicant as per format given in Annexure -2
  2. An agreement / indemnity bond on prescribed formats from the approved unit that if at a later stage its claim is found to be false or excessive it would be liable to return the amount disbursed.
  3. Board resolution to the effect that the company agrees to abide by the terms and the conditions as laid down in M-SIPS scheme, Guidelines and Supplementary Guidelines to M-SIPS (including R&D guidelines) while securing the incentive amount.
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**Annexure -2**

Undertaking from the Applicant (on the letterhead of the applicant)

1. We, ....., hereby acknowledge that the incentives that would/may be provided to us under the Modified Special Incentive Package Scheme (M-SIPS), notified by Department of Electronics and Information Technology vide Notification No. 24(10)/2010 - IPHW dated 27<sup>th</sup> July, 2012, will be provided to us based on, and after relying upon, the information provided by us to avail the said incentives.
2. We hereby confirm that the information provided by us for availing the said incentives is true, correct and complete in all respects and that no material fact/information that may have an adverse impact on the information provided by us for availing the said incentives has been concealed. We acknowledge and confirm that the foregoing averment is on an on-going basis and further undertake to immediately apprise the Department of Electronics and Information Technology about any change in the status of the information provided by us to avail the said incentives.
3. We further undertake that in the event of (i) any of the information provided by us to avail the said incentives being found false, incorrect or incomplete, or (ii) in the event of the undertakings and confirmations stated at para 2 above being found false, incorrect, incomplete or breached; we will (a) refund the entire amount of incentives availed by us along with an interest at the rate of \_\_\_\_\_% calculated according to the standard banking process and (b) pay such penalties as may be levied by the Department of Electronics and Information Technology.
4. We acknowledge that the remedies provided in para 3 (a) and 3 (b) above are not the exclusive remedies available with the Department of Electronics and Information Technology and are without prejudice to any legal remedies available with Department of Electronics and Information Technology for events mentioned in para 3 (i) and (ii) above.

**Date :**

**Place:**

**Signature :**

**Full Name :**

**Designation :**

**Stamp :**

