

CHAPTER-7

SPECIAL ECONOMIC ZONES

Note: Special Economic Zones (SEZ) are growth engines that can boost manufacturing, augment exports and generate employment. The private sector has been actively associated with the development of SEZs. The SEZs require special fiscal and regulatory regime in order to impart a hassle free operational regime encompassing the state of the art infrastructure and support services. The proposed legislation on SEZs to be enacted in the near future would cover the concepts of the developer and co- developer, fiscal concessions under the Income Tax and Customs Act, provide for Offshore Banking Units (OBUs) etc . A brief on the facilities available under the SEZ scheme is given as under:

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| Eligibility | 7.1 | <ul style="list-style-type: none">(a) Special Economic Zone (SEZ) is a specifically delineated duty free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties and tariffs.(b) Goods and services going into the SEZ area from DTA shall be treated as exports and goods coming from the SEZ area into DTA shall be treated as if these are being imported.(c) SEZ units may be set up for manufacture of goods and rendering of services. |
| Export and Import of Goods. | 7.2 | <ul style="list-style-type: none">(a) SEZ units may export goods and services including agro-products, partly processed goods, sub-assemblies and components except prohibited items of exports in ITC (HS). The units may also export by-products, rejects, waste scrap arising out of the production process. Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfillment of the conditions indicated in the ITC (HS) Classification of Export and Import Items.

SEZ units, other than trading/service units, may also export to Russian Federation in Indian Rupees against repayment of State Credit/Escrow Rupee Account of the buyer, subject to RBI clearance, if any.(b) SEZ unit may import/procure from the DTA without |

payment of duty all types of goods and services, including capital goods, whether new or second hand, required by it for its activities or in connection therewith, provided they are not prohibited items of imports in the ITC(HS). However, any permission required for import under any other law shall be applicable. Goods shall include raw material for making capital goods for use within the unit. The units shall also be permitted to import goods required for the approved activity, including capital goods, free of cost or on loan from clients.

- (c) SEZ units may procure goods required by it without payment of duty, from bonded warehouses in the DTA set up under the Policy and/or under Section 65 of the Customs Act and from International Exhibitions held in India.
- (d) SEZ units, may import/procure from DTA, without payment of duty, all types of goods for creating a central facility for use by units in SEZ. The Central facility for software development can also be accessed by units in the DTA for export of software.
- (e) Gem & Jewellery units may also source gold/ silver/ platinum through the nominated agencies.
- (f) SEZ units may import/procure goods and services from DTA without payment of duty for setting up, operation and maintenance of units in the Zone.

Leasing of Capital Goods

7.3

SEZ unit may, on the basis of a firm contract between the parties, source the capital goods from a domestic/foreign leasing company. In such a case the SEZ unit and the domestic/ foreign leasing company shall jointly file the documents to enable import/ procurement of the capital goods without payment of duty.

Net Foreign Exchange Earning (NFE)

7.4

SEZ unit shall be a positive Net Foreign exchange Earner. Net Foreign Exchange Earning (NFE) shall be calculated cumulatively for a period of five years from the commencement of production according to the formula given in Chapter 7 of the Handbook (Vol-I).

Monitoring of performance

7.5

- (a) The performance of SEZ units shall be monitored by the Unit Approval Committee.
- (b) The performance of SEZ units shall be monitored as

per the guidelines given in Appendix 14-IG of the Handbook (Vol-I).

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| Legal Undertaking | 7.6 | The unit shall execute a legal undertaking with the Development Commissioner concerned and in the event of failure to achieve positive foreign exchange earning it shall be liable to penalty in terms of the legal undertaking or under any other law for the time being in force. |
| Approvals and Applications | 7.7 | <p>(a) Applications for setting up a unit in SEZ other than proposals for setting up of unit in the services sector (except software and IT enabled services, trading or any other service activity as may be delegated by the BOA), shall be approved or rejected by the Units Approval Committee within 15 days as per procedure indicated in Appendix 14-IB of the Handbook (Vol-I) . In other cases approval may be granted by the Board of Approval.</p> <p>(b) Proposals for setting up units in SEZ requiring Industrial Licence may be granted approval by the Development Commissioner after clearance of the proposal by the SEZ Board of Approval and Department of Industrial Policy and Promotion within 45 days on merits.</p> |
| DTA Sales and Supplies | 7.8 | <p>(a) SEZ unit may sell goods, including by-products, and services in DTA in accordance with the import policy in force, on payment of applicable duty.</p> <p>(b) DTA sale by service/trading unit shall be subject to achievement of positive NFE cumulatively. Similarly for units undertaking manufacturing and services/ trading activities against a single LOP, DTA sale shall be subject to achievement of NFE cumulatively.</p> <p>(c) The following supplies effected in DTA by SEZ units will be counted for the purpose of fulfillment of positive NFE:</p> <ul style="list-style-type: none">(i) Supplies effected in DTA in terms of Chapter 8 of the Policy.(ii) Supplies made to bonded warehouses set up under the Policy and/or under Section 65 of the Customs Act.(iii) Supplies to other EOU/SEZ/ EHTP/ STP/BTP |

units provided that such goods or services are permissible to be procured/rendered by these units.

- (iv) Supplies against special entitlement of duty free import of goods.
- (v) Supplies of goods and services to such organizations which are entitled for duty free import of such items in terms of general exemption notification issued by the Ministry of Finance.
- (vi) Supply of services (by services units) relating to exports paid for in free foreign exchange or for such services rendered in Indian Rupees which are otherwise considered as having been paid for in free foreign exchange by RBI.
- (vii) Supplies of Information Technology Agreement (ITA-1) items and notified zero duty telecom/electronic items indicated in the Appendix 14-IC of the Handbook.

**Entitlement for
Supplies from the DTA**

7.9

Supplies from DTA to SEZ shall be entitled for the following:

- (a) DTA supplier shall be entitled for:
 - (i) Drawback /DEPB/DFRC/Advance Licence
 - (ii) Discharge of Export performance, if any, on the supplier.
- (b) SEZ units shall be entitled for:-
 - (i) Exemption from Central Sales Tax.
 - (ii) Exemption from payment of Central Excise Duty on all goods eligible for procurement by the unit.
 - (iii) Deleted.
 - (iv) Reimbursement of Duty paid on fuels or any other goods procured from DTA as per the rate of drawback notified by the Directorate General of Foreign Trade from the date of such notification.

		(c) Supplier of precious and semi-precious stones, synthetic stones and processed pearls from Domestic Tariff Area to the units situated in SEZ shall be eligible for grant of Replenishment Licenses at the rates and for the items mentioned in the Handbook (Vol. I).
		(d) The entitlements under paragraphs (a) and (b) (ii) above shall be available provided the goods supplied are manufactured in India.
Export Through Status Holder	7.10	SEZ unit may also export goods manufactured/software developed by it through a merchant exporter/ status holder recognized under this Policy or any other EOU/SEZ/ EHTP/STP unit.
Inter-unit Transfer	7.11	<p>(a) SEZ units may transfer manufactured goods, including partly processed/semi-finished goods and services from one SEZ unit to another SEZ/EOU/ EHTP/STP unit.</p> <p>(b) Goods imported/procured by a SEZ unit may be transferred or given on loan to another unit within the same SEZ which shall be duly accounted for, but not counted towards discharge of export performance.</p> <p>(c) Capital goods imported/procured may be transferred or given on loan to another SEZ/EOU/ EHTP/ STP unit with prior permission of the Development Commissioner and Customs authorities concerned.</p> <p>(d) Transfer of goods in terms of sub-paras (a) and (b) above within the same SEZ shall not require any permission but the units shall maintain proper accounts of the transaction.</p>
Other Entitlements		Other entitlements of SEZ units are indicated in the Chapter 7 of the Handbook (Vol-1).
Sub- Contracting	7.12	<p>(a) SEZ unit, may subcontract a part of their production or production process through units in the DTA or through other SEZ/EOU/ EHTP/ STP, with the annual permission of Customs authorities. Subcontracting of part of production process may also be permitted abroad with the approval of the Development Commissioner.</p> <p>(b) Sub-contracting by SEZ gems and jewellery units</p>

through other SEZ units or EOUs or units in DTA shall be subject to following conditions

- i) Goods, finished or semi-finished, including studded jewellery, taken outside the zone for sub- contracting shall be brought back to the unit within **90 days**. No cut and polished diamonds, precious and semi-precious stones (except precious and semi precious stone having zero duty) shall be allowed to be taken outside the zone for sub-contracting.
 - ii) Receive plain gold/silver/platinum jewellery from DTA in exchange of equivalent quantity of gold/silver/ platinum, as the case may be, contained in the said jewellery.
 - iii) SEZ units shall be eligible for wastage as applicable for sub-contracting and against exchange
 - iv) The DTA unit undertaking job work or supplying jewellery against exchange of gold/silver/platinum shall not be entitled to export benefits.
- (c) All units, including gem and jewellery, may sub-contract part of the production or production process through other units in the same SEZ without permission of Customs authorities subject to records being maintained by both the supplying and receiving units.
- (d) SEZ units other than gems and jewellery units may be allowed to undertake job-work for export, on behalf of DTA exporter, provided the finished goods are exported directly from SEZ units. For such exports, the DTA units will be entitled for refund of duty paid on the inputs by way of Brand Rate of duty drawback.
- (e) Scrap/waste/remnants generated through job work may either be cleared from the job worker's premises on payment of applicable duty or returned to the unit.
- (f) SEZ units engaged in production/processing of agriculture/horticulture products, may on the basis of annual permission from the Customs authorities take out inputs and equipments to the DTA farm subject to

		the procedure indicated in Chapter 7 of the Handbook (Vol-I).
Exit from SEZ Scheme	7.13	<p>(a) SEZ unit may opt out of the scheme with the approval of the Development Commissioner. Such exit from the scheme shall be subject to payment of applicable Customs and Excise duties on the imported and indigenous capital goods, raw materials etc. and finished goods in stock. In case the unit has not achieved positive NFE, the exit shall be subject to penalty, that may be imposed by the adjudicating authority under Foreign Trade (Development and Regulation) Act, 1992.</p> <p>(b) SEZ unit may also be permitted by the Development Commissioner, as one time option, to exit from SEZ scheme on payment of duty on capital goods under the prevailing EPCG Scheme, subject to the unit satisfying the eligibility criteria of that Scheme and standard conditions for exit indicated in Appendix 14-IL of the Handbook (Vol-I).</p>
Export through Exhibitions/Export Promotion Tours/Export through show rooms abroad/Duty Free Shops	7.14	<p>SEZ, units may :</p> <p>(i) Export goods for holding/ participating in exhibitions abroad with the permission of Development Commissioner.</p> <p>(ii) Personal carriage of gold/ silver/ platinum jewellery, precious, semi-precious stones, beads and articles.</p> <p>(iii) Export of jewellery is also permitted for display/ sale in the permitted shops set up abroad.</p> <p>(iv) Display/sell in the permitted shops set up abroad or in the show rooms of their distributors/agents.</p> <p>(v) Set up show rooms/retail outlets at the International Airports.</p>
Personal Carriage of Export/ Import parcel.	7.15	Import/ export through personal carriage of gem and jewellery items may be under-taken as per the procedure

		prescribed by Customs. Import/export through personal carriage for units, other than gem and jewellery unit , shall be allowed provided the goods are not in commercial quantity
Export /Import by post/ courier	7.16	Goods including free samples, may be exported/imported by airfreight or through Foreign Post Office or through courier, subject to the procedure prescribed by Customs.
Disposal of Rejects/Scrap/ Waste/ Remnants	7.17	Rejects/scrap/waste/remnants arising out of production process or in connection therewith may be sold in the DTA on payment of applicable duty. No duty shall be payable in case scrap/waste/ remnants/ rejects are destroyed within the Zone after intimation to the Custom authorities or destroyed outside the SEZ with the permission of Custom authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.
Replacement/ Repair of Goods	7.18	<p>(a) The general provisions of Policy relating to export of replacement/ repaired goods shall apply equally to SEZ units, save that, cases not covered by these provisions shall be considered on merits by the Development Commissioner.</p> <p>(b) The goods sold in the DTA and found to be defective may be brought back for repair/ replacement under intimation to Development Commissioner.</p> <p>(c) Goods or parts thereof, including gem stones and precious metal components for jewellery making, on being imported/ indigenously procured and found defective or otherwise unfit for use or which have been damaged or become defective after import/ procurement may be returned and replacement obtained or destroyed. In the event of replacement, the goods may be brought back from the foreign suppliers or their authorised agents in India or the indigenous suppliers. Destruction shall however not apply to gem stones and precious metals.</p> <p>(d) Goods may be transferred to DTA/abroad for repair/ replacement, testing or calibration, quality testing and R & D purpose under intimation to Customs authorities and subject to maintenance of records.</p>
Management of SEZ	7.19	(a) SEZ will be under the administrative control of the Development Commissioner.

		(b)	All activities of SEZ units within the Zone, unless otherwise specified, including export and re-import of goods shall be through self certification procedure.
Setting up of SEZ in Private/Joint/State Sector	7.20		A SEZ may be set up in the public, private, joint sector or by state Government as per details indicated in Appendix 14-II O of the Handbook(Vol-I).
Samples	7.21		SEZ units may, on the basis of records maintained by them, and on prior intimation to Customs authorities:
		(i)	Supply or sell samples in the DTA for display/ market promotion on payment of applicable duties.
		(ii)	Remove samples without payment of duty, on furnishing a suitable undertaking to Customs authorities for bringing the goods back within a stipulated period.
		(iii)	Export free samples, without any limit, including samples made in wax moulds, silver mould and rubber moulds through all permissible mode of export including through couriers agencies/post.
Sale of Un-utilised Material/Obsolete goods	7.22	(a)	In case an SEZ unit is unable, for valid reasons, to utilize the goods, including capital goods and spares, it may dispose them in the DTA in accordance with the import policy in force and on payment of applicable duties or export them.
		(b)	Capital goods and spares that have become obsolete/surplus may either be exported or disposed of in the DTA on payment of applicable duties. The benefit of depreciation, as applicable, will be available in case of disposal in DTA.
		(c)	No duty shall be payable in case capital goods, raw material, consumables, spares, goods manufactured, processed or packaged and scrap/waste/ remnants/rejects are destroyed within the Zone after intimation to the Custom authorities or destroyed outside the Zone with the permission of Custom authorities. However destruction shall not apply to precious and semi precious and precious metals
		(d)	SEZ unit may be allowed by Customs authorities concerned to donate imported/ indigenously procured computer and computer peripherals without payment

of duty, two years after their import/procurement and use by the units, to recognized non-commercial educational institutions, registered charitable hospitals etc as per the details given in Chapter 7 of the Handbook (Vol-I).

Entitlement for SEZ Developer

7.23

For development, operation and maintenance of infrastructure facilities in SEZs, the developer shall be eligible for the following entitlements

- (a) Income tax exemption as per 80 IA of the Income Tax Act.
- (b) Import/ procure goods without payment of Customs/Excise duty.
- (c) Exemption from Service tax.
- (d) Exemption from CST.