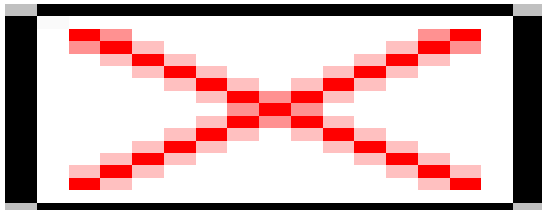


SEZ 2.0: Development of Enterprise and Service Hubs

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existing Special Economic Zone (SEZ) law in India is all set to be replaced with a new legislation, as announced by the Hon'ble Finance Minister Nirmala Sitharaman, in Union Budget 2022. Review of existing SEZ Act and Rules has been the agenda of the Government of India since last few years on account of various factors like changing aspirations of Indian economy, large unutilised parcels of land, declining attractiveness of SEZ and ongoing disagreement raised by WTO regarding alleged export linked incentives.

The new legislation anticipates enabling the states to become partners in 'Development of Enterprise and Service Hubs'. In this context, the Government is setting the tone to bring effective changes to SEZs, with a vision of transforming them into hubs attracting more investments, generating employment, enhancing competitiveness at par with SEZs globally, enabling ease of doing business and creating an environment conducive for both manufacturing as well as service sectors, while remaining compliant with the WTO norms.

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Hon'ble Finance Minister had also mentioned in her Budget speech to reform Customs administration of SEZs to make it fully IT driven and automate function on Customs National Portal with focus on higher facilitation. Actions in this direction have already been initiated by way of enabling a new feature through which SEZ units can check the status of integration of their Bill of Entry with GSTN, on ICEGATE.

Revamping of existing SEZ provisions is the need of the hour due to various challenges faced by SEZ units and developers creating bottlenecks and restricting optimum utilisation of resources, thus leading to inefficiencies. Some of the key challenges which have raised the need of this revamp are as under:

- Absence of **effective single window mechanism**, causing delay in setting up of a unit in SEZ, renewal of Letter of Approval (LOA), furnishing Bond cum Legal Undertaking (BLUT) etc.;
- Involvement of multiple authorities in **entry and exit related processes** and requirement of several approvals;
- Dependency on manual processing in day-to-day operations due to **lack of integration of SEZ online system with ICEGATE** and other authorities, excessive paperwork and duplication of processes i.e. online as well physical submissions;
- **Withdrawal of benefits under Direct Tax** ;
- Various bottlenecks such as **minimum land requirement, lack of flexibility relating to usage of non-processing areas and idle capacity (vacant land) for SEZ developers** ;

- **Requirement of earning in foreign exchange** for services provided to units operating in Domestic Tariff Area (DTA); and
- **Lack of standard operating procedures** at a centralized level.

The policy makers may also factor in the recommendations of the Baba Kalyani report, wherein post series of consultations and inputs from various stakeholders, the Committee recommended a strategic shift in the purpose and principles of the SEZs in India, with an objective to make SEZs catalysts of economic and employment growth enabled by quality infrastructure and ease of doing business. The proposed changes focus on making provisions and benefits WTO compliant as well as increasing competitiveness of Indian exporters globally while meeting expectations of the industry, as highlighted below:

- Shifting from incentives based on export performance to **measures linked to merits** such as investments, employment generation, technology innovation, development of backward areas, diversity in workforce, etc.
- Creating a **single window clearance mechanism** / one stop shop for central and state level approvals;
- Adopting **trust-based regime** rather than a control-based regime i.e. implementation of risk-based checks/selective audits to ensure balance between ease of business and necessity of compliance;
- Sharing **common user facilities** / flexibility of land utilization in non-processing areas as per industry requirements;
- Allowing **sub-contracting by or for SEZ** units to overcome idle capacity of the units and ensure optimum utilization of manufacturing capacities;
- Allowing flexibility in **long-term lease** for developers and tenants;
- Allowing supplies to DTA units on a **duty foregone basis** to provide a level playing field with units under EOU and MOOWR;
- Doing away with the physical **endorsement** for all procurements as it poses operational challenges due to the sheer volume of procurements;
- Including SEZ units under **Remission of Duties & taxes on Exported Products (RoDTEP)** scheme to save units from being deprived from export promotion benefits, which may, in turn, make them uncompetitive in the global market;
- Allowing SEZs to create **recreation facilities** for seamless and smooth operations, by making suitable amendments in instructions or existing provisions;
- Introducing **negative list of services** as a guidance for non-authorised operations which are not eligible for concessions, in place of existing uniform list of services, thus allowing all services which are used by a SEZ unit/ developer **"in furtherance of business"** as **"used for authorized operations"** except those covered in negative list to bring the definition in line with the GST law;
- Including receipt of **consideration in Indian rupees** under the definition of services under the SEZ Act;
- Permitting **work from home facility** perpetually for SEZ employees and allowing SEZ units to take out duty-free assets on a permanent basis to facilitate work from home facility is essential, subject to necessary conditions or safeguards;
- Doing away with requirement of **E-way bill** for movement of duty-free assets between SEZ units and location of employees in order to reduce administrative and compliance burden;

- Converting all processes of approvals, intimations, renewals, returns to **online mode**, instead of physical mode;
- Enabling **easy exit of units/developers** through single window process with well-defined SOP for completion in a time bound manner; and
- Implementing **uniform SOPs** in all hubs along with notified standard turnaround time.

While the existing SEZ Policy has contributed immensely in growing exports and boosting development of under-developed areas in the Country, the new SEZ legislation would need to go far beyond, with an aim to achieve ease of doing business, and lead to an 'Atmanirbhar Bharat'.

An overhaul of the existing SEZ Policy aligned to aforesaid viewpoints along with IT driven processes, would encourage inclusive governance by the Centre and the States thereby making conduct of businesses more advantageous and uniform. Such policy change would propel India's manufacturing sector into a growth trajectory, thus bolstering the Government's flagship 'Make in India' program. The industry is eagerly waiting for the draft/model legislation to be released by the Government, basis which the business owners would be able to assess the impact of amendments announced. Considering the authorities have picked up SEZ law for revamp after such a long time, it is anticipated that the new legislation would be a boon for the businesses in one or another way.

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