

No. D.12/45/2009-SEZ
Government of India
Ministry of Commerce & Industry
Department of Commerce
(SEZ Division)

Udyog Bhavan, New Delhi
Dated the 13th September, 2013

To

The Chief Secretaries of States /UTs

Subject: Implementation of the Special Economic Zones (Amendment) Rules, 2013 - clarifications regarding

Sir/Madam,

Please refer to the amendment to the provisions of the SEZ Rules, 2006 vide GSR 540(E) dated 12th August, 2013 issued by the Ministry of Commerce & Industry (Department of Commerce), Government of India, which may be viewed at <http://sezindia.nic.in/latest-updates.asp> [SEZ(Amendment) Rule 2013 Gazette copy]. I am directed to say that the intent and purpose behind the said amendments is to address the challenges being faced by SEZ Developers and Units on the one hand, while creating a more investor friendly environment on the other. The amendments are a part of the SEZ reforms which aim to better achieve the objectives of the SEZ Policy viz. growth of economic activity, attracting investment, boosting exports and generating additional employment. In order to facilitate better understanding of the amended Rules, the following clarifications are issued:

1. **Minimum land area requirements for setting up of SEZ:** In order to address the problem of aggregating large tracts of uncultivable land for setting up SEZs, while conforming to vacancy and contiguity norms, the minimum land area requirements for setting up of SEZ in various categories has been reduced by half. This is also aimed at permitting optimum utilization of land by the existing SEZs. The amendments permit the setting up of Multi-product SEZ with minimum land area requirements of 500 Ha. instead of 1000 Ha. Similarly, a sector specific SEZ can be set-up with a minimum land area requirements of 50 Ha. instead of 100 Ha.

The amendments for special category states etc have accordingly been reduced also.

2. In order to encourage agro-based industries in SEZs, a new sector - '**agro-based food processing**' sector has been introduced. A sector specific SEZ in this sector would require a minimum land area requirement of 10 Ha.

3. **IT/ITES Sector:** The minimum land requirement criteria of 10 Ha. for setting up of IT/ITES SEZs as envisaged in SEZ Rules, 2006 has been dispensed with. There will be no minimum land area requirement for IT/ITES SEZs but they will have to conform with a minimum built up area requirement. Furthermore the amendments provide that the minimum built up area requirement of one lakh square meters will now be insisted upon for the seven major cities viz: Mumbai, Delhi (NCR), Chennai, Hyderabad, Bangalore, Pune and Kolkata. For the other set of Category B cities 50,000 square meters norm will be applicable and for the remaining cities / locations 25,000 square meters of minimum built up area will be insisted upon.

4. In order to give effect to the changes made in IT/ITES Sector, classification of cities based on their IT density has been made and inserted as Annexure IVA to the amended Rules.

5. Consequent to above amendments, there may be certain requests/proposals for seeking de-notification of parcels of land from the existing SEZs. In order to prevent any possible misuse of such de-notified parcels of land by the Developers, Department of Commerce will consider only such applications which fulfill the following criteria:

(i) All such proposals must have an unambiguous 'No Objection Certificate' from State Government concerned.

(ii) State governments may also ensure that auch de-notified parcels would be utilised toward creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged

(iii) Such land parcels after denotification will conform to Land Use guidelines/master plans of the respective State Governments.

These conditions are in addition to conditions which the Board of Approval may impose including refund of duties/benefits which the Developer may have availed on the land to be de-notified, preservation of

contiguity of the remaining parcel of SEZ land, fulfilment of other conditions etc.

6. **Broad-banding:** Sectoral broad-banding provisions have been introduced for categories of sectors to encompass similar/related areas with each broad-banded sector treated as a single sector for the purposes of minimum land area criteria. The principle of broad-banding would be applied taking into account the fact that no additional environmental externalities be required for the additional units which would come up on account of such broad-banding. Some illustrative examples of such broad banded category comprising a sector would include:

- Textile, apparel, hosiery, fashion garments, wool and carpet
- Leather, leather handicrafts, leather garments and sports goods
- Auto components/parts, light engineering
- Biotechnology, Pharmaceuticals and chemicals
- IT, ITES, Electronic components and hardware manufacturing, non-conventional energy, BPO (including legal, medical and similar services), KPO and R&D

Related ancillary services of the sector and R&D services will be included and treated as an integral part of the sectoral broad-banding. Board of Approval (BoA) will have the discretion to allow additional categories to be broad-banded into a sector based on compatibility of area requirement etc.

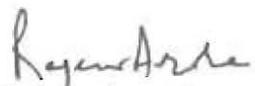
7. **Graded Scale for Minimum Land Criteria:** In order to allow greater flexibility and address the intermediate size land tracts falling between different categories, it has further been decided to introduce a Graded Scale for Minimum Land Criteria. Thus for each contiguous fifty hectare parcel of land in a existing SEZ or which is added to a notified SEZ, an additional sector would be allowed. This would permit flexibility to the Developer to allot land to the Units thereby encouraging optimal utilization of the SEZ land.

8. **Vacancy Norms clarified:** It has been provided that addition or inclusion of any land to an existing SEZ, where such land contains a port, manufacturing unit, or structures in which no commercial, industrial or economic activity is in progress, then such existing ports, manufacturing units, or structures will not be entitled to any duty benefits in respect of the pre-existing structures. However any additions or up-gradations to such existing ports, manufacturing units, or structures after their addition or inclusion in a SEZ would qualify for the fiscal incentives as applicable for a

new infrastructure in a SEZ. The authorised operations being carried on in such infrastructure would also be eligible for benefits as provided for under the SEZ Act and rules.

9. **Transfer of Assets by SEZ Units upon their exit:** Norms have been laid down in Rule 74A which allow a SEZ Unit to opt out of a SEZ by transferring its assets and liabilities to another entity by way of transfer of ownership including sale of subject to the conditions enumerated in the Rule. These include that the Unit has held a valid Letter of Approval as well as lease of land for at least a period of five years and has been in operation in at least two years. The transfer will be approved by the Unit Approval Committee keeping in mind the fulfillment of all eligibility conditions by the new entity to be a SEZ Unit. Furthermore the applicable duty liabilities, if any, as calculated under Rule 74, as well as export obligations of the transferee company, if any, shall stand transferred to the new entity who shall be under obligation to discharge the same on the same term and conditions as the transferee company.

Yours faithfully,


(Rajeev Arora)

Joint Secretary to the Government of India

Copy to:

1. All Development Commissioners of SEZs
2. DG (Export Promotion), Department of Revenue
3. DG, EPC for EOUs & SEZ Units
4. SEZ website

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