

Special Economic Zone Scheme

A new export promotion scheme entitled 'Special Economic Zone' (SEZ) was introduced in the Export and Import (EXIM) Policy which came into effect from 1.4.2000. The Scheme envisages a simple and transparent policy and procedure for promotion of exports with minimum paper work. The most important feature of the Scheme is that the SEZ area is considered essentially as a foreign territory for the purposes of trade operations, duties & tariffs. Therefore, goods supplied to SEZ from the Domestic Tariff Area (DTA) are treated as deemed exports and goods brought from SEZ to DTA are treated as imported goods.

2. As per the EXIM Policy, a SEZ can be set up for the manufacture of goods and rendering of services, production, processing, assembling, trading, repair, remaking, reconditioning, re-engineering including making of gold/silver/platinum jewellery and articles thereof.

3. Under the SEZ Scheme, the units are allowed to make or procure locally without payment of duty all types of goods including capital goods, whether new or second-hand, required by them for export production or in connection therewith. Even the goods appearing in the restricted list of the EXIM Policy (1997-2002) are permitted to be imported. However, the goods prohibited for import are not permitted. The Scheme also allows duty free import of goods including capital goods on loan basis.

4. As per the EXIM Policy, the SEZ unit has to be a positive net foreign exchange earner. Net Foreign Exchange Earning (NFE) is calculated cumulatively for a period of five years from the commencement of commercial production according to a prescribed formula.

5. The Special Economic Zones can be set up in the country in the public, private, joint sector or by the State Governments. The minimum size of the Special Economic Zone, however, shall not be less than 1000 hectares. This measure is intended to provide self-contained areas supported by world-class infrastructure oriented towards export production.

6. In pursuance of the policy, four existing Export Processing Zones (EPZ) have been converted into Special Economic Zones w.e.f. 1-11-2000. These Special Economic Zones are: (i) SEEPZ Special Economic Zone, Mumbai; (ii) Kandla

Special Economic Zone, Kandla ; (iii) Cochin Special Economic Zone, Cochin; and (iv) Surat Special Economic Zone, Surat.

7. The detailed policy and procedures governing the operations of SEZ units are contained in Chapter 9 A of Export and Import Policy and Handbook of Procedures, Vol. I issued by the Ministry of Commerce. To enable the units located in the Special Economic Zone to import or procure goods without payment of duty, the Department of Revenue has issued two exemption notifications, namely, Nos. 137/2000-Cus. and 52/2000-CE, both dated 19.10.2000.

8. The SEZ Scheme places full trust on the units and, therefore, import and export operations of the units in the Zone are on the basis of self-certification. These units are governed by simplified Customs and Central Excise procedures as discussed below.

Import and Export:

9. The SEZ units are allowed to import and export through port, airport, land customs station, ICD, CFS, courier mode (as per courier rules) and post parcel. The software development units can import and export through data communication and telecommunication links. In the case of exports through data communication and telecommunication links, the SEZ units follow the same procedure and practice as is followed in case of EPZ/STP units. As for imports of software through above modes, the units are required to file the Bill of Entry within 24 hours of such import alongwith bank attested invoice and other relevant documents for obtaining notional 'out of charge'. The documents such as invoice etc. in respect of such import are required to be routed through the banks. The value of such software is certified by the Director of the STP/Development Commissioner of SEZ. Further, in case of such software imports, instructions issued by RBI, if any, are also required to be followed.

10. In case of imports, the Bill of Entry with specially stamped endorsement as "SEZ Cargo" is filed with the Assistant Commissioner/Deputy Commissioner of Customs in the SEZ for assessment. For procurement of goods from domestic sources by SEZ units, CT-3 certificates are issued to the units and against such CT-3, the goods including capital goods are procured from DTA without payment of duty. In both cases, i.e. both in respect of imported and domestically procured cargo, the goods are assessed on the basis of documents

furnished by the units. Goods are not examined physically and 'out-of-charge' is given after verifying the marks and numbers on the packages only.

11. When the import consignments are required to be transhipped to a SEZ located at a station away from the place of import, the same is allowed under normal transit procedure. The unit files the Bill of Entry with the Assistant Commissioner/ Deputy Commissioner of Customs in-charge of the SEZ on the basis of the transit document.

12. In case of exports, the Shipping Bill alongwith relevant documents is filed with the Customs authorities in the Zone. As in the case of imports, the SEZ export cargo is not examined in routine and export is allowed on the basis of self-certification by the units. The units, after self-examination of the consignments, are required to submit the shipping bills to the Assistant Commissioner/Deputy Commissioner of Customs for "let export" order. After obtaining the "let export" endorsement on the shipping bill, the consignment is taken to the gateway port for export. At the gateway port also, the SEZ export consignment is not examined in routine. However, whether at the Zone or at gateway port or during transit of such cargo, the Customs authorities can examine the consignments when there is a specific information/intelligence. For this purpose, the orders of the Assistant Commissioner/Deputy Commissioner of Customs are required to be obtained.

Sub-contracting:

13. Clearance of goods to DTA without payment of duty for jobwork/further processing is permitted on the basis of a bond furnished by the unit. The bond is discharged as and when the goods are received back after job work/processing. The goods so processed are allowed to be cleared from the job worker's premises for export directly, provided the job worker is registered with Central Excise and the procedure as applicable to the EPZ is followed. In such cases, the bond is discharged after the proof of export is produced. Scrap/waste/remnants /rejects generated at the job worker's premises can either be cleared therefrom on payment of applicable customs duty or returned to the SEZ unit.

14. The SEZ units are allowed to sub-contract part of the production process abroad. Approval for sub-contracting abroad is accorded by the Board of Approval. The goods sent for job-work abroad are to be returned to the unit for final processing/manufacturing before exports. The unit is required to execute a suitable bond for sub-contracting goods abroad and is required to

account for the goods including waste/rejects in the manner as prescribed by the Commissioner of Customs/ Central Excise in this behalf.

15. The SEZ units are also allowed to undertake job-work for export on behalf of DTA units. This is subject to the condition that the finished goods are exported directly from SEZ units and export documents are made in the name of the DTA unit. On export of such goods manufactured by SEZ unit on behalf of the DTA unit, the DTA unit is entitled to refund of duty paid on the inputs by way of brand rate of duty drawback.

16. The SEZ units are allowed to remove the moulds, jigs, tool, fixtures, tackles, instruments, hangers, patterns and drawings without payment of duty to the premises of the sub-contractors subject to the condition that such goods are brought back to the unit on completion of the jobwork within the period specified in this behalf.

Temporary Removal of Goods into the DTA:

17. The SEZ units can take out the goods from the Zone into the DTA temporarily without payment of duty for the purpose of test, repairs, replacement, calibration, refining, processing, display or any other process necessary for manufacture of final product. For this purpose, the unit is required to execute a bond with the Assistant Commissioner/ Deputy Commissioner of Customs. On receipt of the goods back in the SEZ unit, the bond gets discharged. In case of failure of the unit to bring back the goods within the prescribed period, the unit is liable to pay applicable duty on such goods.

Removal of Goods into Another EOU/EPZ/EHTP/STP/SEZ Unit:

18. The SEZ units are allowed to clear the goods to another EOU/EPZ/EHTP/STP/SEZ unit without payment of duty for repairs, processing, testing or display on the basis of permission given by the Assistant or Deputy Commissioner of Customs. In these cases, the goods are required to be returned to the unit within the period specified in this behalf. Goods may also be sent to EOU/EHTP/STP/EPZ/SEZ units for the purposes of manufacture and export therefrom subject to maintenance of proper accounts by both the receiving and supplying units. For the above purposes, the unit is required to execute a bond with the Assistant Commissioner/Deputy Commissioner of Customs. The bond is discharged on receipt of the goods back in the SEZ or after they have been properly accounted for by way of exports. In case of failure of the unit to bring

back the goods within the prescribed period or failure to account for the goods, the unit becomes liable to pay applicable customs duty on such goods.

Gem and Jewellery units in SEZ:

19. Generally speaking, sub-contracting is not allowed to gem and jewellery units. However, the gem and jewellery units in SEZ are allowed to take out gold/silver/platinum for sub-contracting subject to the condition that goods, finished or semi-finished, including studded jewellery, containing quantity and purity equal to the gold/silver/platinum so taken out are brought back to the Zone within 30 days. It is to be noted that diamonds, precious or semi-precious stones are not allowed to be taken out for sub-contracting. The gem and jewellery units are also allowed to receive plain gold/silver/platinum jewellery from DTA in exchange of gold/silver/platinum of equal quantity and purity. These units are, however, not eligible for any wastage or manufacturing loss against the jewellery received from DTA after processing or against exchange of gold/silver/platinum. The DTA units undertaking job work or supplying jewellery against exchange of gold/silver/platinum are not entitled to deemed export benefits. The gem and jewellery units are also allowed to sub-contract part of the production or production process through other units in the same SEZ subject to records being maintained by both the supplying and the receiving units.

20. Further, the gem and jewellery units in SEZ are allowed certain other facilities as mentioned below:

- (i) Taking out the items of gem and jewellery into DTA temporarily without payment of duty for the purpose of display and return thereafter;
- (ii) Personal carriage of gold/silver/platinum jewellery or precious or semi-precious stones or beads and articles as samples upto US\$ 1,00,000 for export promotion tours and temporary display or sale abroad subject to the condition that the exporter would bring back the jewellery or the goods or its sale proceeds within 45 days from the date of departure through normal banking channel;
- (iii) Export of jewellery including branded jewellery for display and sale in the permitted shops setup abroad, or in the showroom of their

distributors or agents provided that items not sold abroad within 180 days, shall be re-imported within next 45 days;

- (iv) Removal of parts & tools of machine temporarily without payment of duty for the purpose of repair and return thereof.
- (v) Taking out gem and jewellery manufactured in the SEZ to the retail outlets or showrooms set up in the departure lounge at international airports for sale to a tourist, as defined in the Baggage Rules, 1998, leaving India.
- (vi) Sale of gem and jewellery manufactured in the SEZ to a foreign-bound passenger and transferring the same to the retail outlets or showrooms set up in the departure lounge or Customs warehouse at international airports for being handed over to the said passenger for the purpose of export.
- (vii) Removal of moulds, tools, patterns, and drawings into the DTA for jobwork without payment of duty and to be returned to the unit thereafter.

For availing of the above mentioned facilities, prior permission of Assistant Commissioner / Deputy Commissioner is required.

21. In case of gem & jewellery units, scrap, dust or sweepings generated in the unit is allowed to be forwarded to the Government Mint or Private Mint for conversion into standard gold bars and return thereof to the Zone subject to the observance of procedure laid down by the Commissioner of Customs. The said dust, scrap or sweepings are also allowed clearance into DTA on payment of applicable customs duty on the gold content in the said scrap, dust or sweepings. Samples of the sweepings/dust are taken at the time of clearance and sent to mint for assaying. The assessment is finalized when the reports are received from the mint.

Inter-Unit Transfer:

22. Inter unit transfer of goods amongst units in a SEZ does not require any prior permission, but the supplying and receiving units are required to maintain proper accounts of the transaction.

Duty Remission on Destruction of Goods:

23. A provision has been made in the notifications that duty would not be levied on capital goods, raw materials, components, waste or scrap etc. if these goods are destroyed in the presence of the Customs authorities. This provision, however, does not apply to gold, silver, platinum, diamond, precious stones and semi-precious stones. The officers supervising destruction are required to ensure that goods are destroyed fully rendering them unfit for further use and give certificate to that effect. After destruction of capital goods, raw materials, components, waste or scrap etc., if the remains have scrap value, the same can be cleared by the unit in DTA on payment of duty applicable to scrap.

DTA Sale:

24. The facility of DTA sale is available to the SEZ units. Under the Scheme, finished goods including by-products and services and waste/scrap/remnants/rejects etc. can be sold in the DTA on payment of applicable duty and in accordance with the Export-Import Policy in force. However, where such finished goods (including rejects, waste and scrap materials) are not excisable, duty equal in amount to that leviable on the inputs imported/indigenously procured under the notifications and used for the purpose of manufacture of such finished goods, which would have been paid but for the exemption under the said notifications, is payable at the time of clearance of such finished goods. In case of service sector SEZ units, the rendering of services in DTA is allowed subject to the condition that the unit has achieved the positive NFE, cumulatively, as specified in the Policy. This would mean that service units will not be eligible for making DTA sale if the NFE is not positive cumulatively at any point of time. Further, if any of such services are taxable under provisions of Chapter V of Finance Act, 1994, then rendering of such services in DTA would require payment of service tax as per the provisions of Finance Act, 1994.

Levy of Central Excise Duty on Goods Produced or Manufactured by SEZ Units and Cleared into Domestic Tariff Area :

25. In terms of section 3 of the Central Excise Act, 1944, the excise duty leviable on goods manufactured in an SEZ unit and cleared into Domestic Tariff Area is an amount equal to the customs duty leviable under section 12 of the Customs Act, 1962 or under any other law for the time being in force on like

goods produced or manufactured outside India, if imported into India. Thus, the duty is worked out exactly in the same manner as applicable to imported goods.

Valuation of Goods Cleared into DTA:

26. Under the SEZ Scheme, the goods cleared from the Zone are treated as imported goods. Therefore, in case of DTA clearances, though the duty charged is central excise duty, this duty is taken as equal to the aggregate of all duties of customs. In other words, the SEZ units are required to pay full customs duty (applied duty) on their DTA clearances. In view of this, in case of sale/clearance of goods referred to in the preceding paragraphs, the valuation is made as per the provisions of the Customs Act, 1962 and the Customs Valuation Rules, 1988. Further, the DTA sales are subjected to the same assessment and examination procedure as applicable to imported goods in DTA. Licences, wherever applicable, will have to be produced before clearing the goods into DTA.

Disposal of Obsolete Goods:

27. The SEZ units are allowed to dispose of obsolete or unusable capital goods, spares and other goods in the DTA on payment of applicable customs duty. Such disposal is governed by the conditions of Import Policy in force. In case of capital goods, clearance is allowed on payment of applicable duty on the depreciated value thereof and at the rate in force on the date of payment of such duty. In case of other goods (including empty cones, bobbins, containers suitable for repeated use) clearance is allowed on payment of applicable duty on the value at the time of import and at rates in force on the date of payment of such duty. However, no duty is charged on clearance of used packing materials such as cardboard boxes, polyethylene bags of a kind unsuitable for repeated use. Similarly, no duty is charged if the goods are destroyed with the permission of Customs authorities.

Clearance of Samples :

28. The units in SEZ are allowed to supply or sell in DTA samples of goods produced by them for display or market promotion on payment of applicable duties. The units are also allowed to take out samples into DTA without payment of duty on returnable basis for the purpose of display/market promotion. In such cases, the procedure prescribed for sub-contracting is required to be followed.

29. The units in SEZ are allowed to send samples abroad through the courier. The packages containing such samples are sealed in the presence of the Customs officer and are handed over to the representative of the courier company authorised by the Commissioner of Customs for presentation to the Customs at the port of export. These sealed samples are not normally examined again before “let export” is given if the seals are found intact and not tampered. The representative of the courier company later hands over the proof of export to the jurisdictional Assistant / Deputy Commissioner.

De-Bonding :

30. A SEZ unit may debond into a normal DTA unit subject to the approval of the Development Commissioner. Such de-bonding is subject to penalty, if any, that may be imposed and payment of duties of customs and excise applicable at the time of de-bonding. The standard conditions of de-bonding, as indicated in the Handbook of Procedures provide, amongst other conditions, that the applicable customs and central excise duty would be paid on imported and indigenous capital goods, finished goods, raw materials, consumables, components etc. in stock. Further, the unit in question continues to be treated as a SEZ unit till the date of final de-bonding order.

31. The duty payable in terms of the relevant notifications is as under:

- (a) Semi-finished and finished goods lying in stock at the time of de-bonding can be cleared on payment of the excise duty equal to aggregate duties of Customs payable on similar imported goods.
- (b) Capital goods, material handling equipment, office equipment and captive power plants can be cleared on payment of an amount equal to the customs duty leviable on such goods on the depreciated value thereof and at the rates in force on the date of payment of such duty.
- (c) Goods including containers suitable for repeated use other than those at (b) above can be allowed clearance on payment of customs duty on their value at the time of import and at the rate of duty in force on the date of payment of such duty.
- (d) Used packing materials such as cardboard boxes, polyethylene bags of a kind unsuitable for repeated use can be cleared without payment of duty.

32. At the time of debonding, the unit is entitled for depreciation on imported/indigenous capital goods. The rate of depreciation on capital goods have been specified and in case of the computers and computer peripherals, accelerated rate of depreciation have been provided for.

Maintenance of Accounts:

33. A SEZ unit is required to maintain proper account in the format convenient to it and financial year-wise, of all foreign exchange inflow by way of exports and other receipts, all foreign exchange out flow on account of imports, payment of dividend, royalty, fees etc., consumption and utilisation of the materials and sale in the DTA. The units are required to submit regularly quarterly statement to the Development Commissioner and the Customs in this regard in the format prescribed at Appendix 16H of the Hand Book of Procedures.

Monitoring of activities of SEZ units:

34. All activities of the SEZ unit, unless otherwise specified, are through self-certification procedure and are monitored by a Committee comprising Development Commissioner and Customs. The Development Commissioner in charge of the Zone heads the Committee. The Committee is also required to see that wastage / manufacturing loss on gold/ silver/platinum jewellery and articles are within the overall percentage prescribed in Appendix-41 of the Handbook (Vol-1). In case of higher wastage/manufacturing loss, the Committee is required to satisfy itself of the reasonableness of the same.

Penal action in case of default:

35. The Customs officials posted in SEZs are not supposed to visit the units for verification of records or even otherwise in routine. However, in case of specific information/intelligence which, prima facie, show that there is fraud, collusion, mis-declaration, suppression of information etc having a bearing on the export performance of the unit or where there is specific information regarding clandestine/unauthorized removal of goods into DTA etc, the Customs officials can visit the units for verification of records, goods etc. so as to initiate proceedings under Customs Act, 1962. The Assistant Commissioner/Deputy Commissioner may keep a watch on the export performance of the units and in the event of non-achievement of positive NFE within the stipulated period,

action can be taken against the units for recovery of the duty and interest. So far as utilization of imported/indigenously procured goods is concerned, the same may be utilized within the period of five years. In case of failure to utilize the imported / indigenously procured goods within the period of five years, the unit is liable to pay duty on the said unutilized goods along with the interest at the rate of 24% per annum from the date of importation or procurement of the said unutilized goods till the date of payment of such duty.

Transitional arrangements:

36. In case of conversion of existing Export Processing Zone into Special Economic Zone, an existing EPZ unit can opt for SEZ scheme. On conversion, its previous obligations as an EPZ unit are subsumed by its obligations under the SEZ scheme. The raw materials, components, consumables and finished goods lying in stock with the unit at the time of conversion are taken as its opening balance under the SEZ scheme. All un-utilised DTA sale entitlements of the unit under EPZ scheme also ceases to exist from the date of conversion as notified by the Ministry of Commerce and Industry. In case an existing EPZ unit decides not to work under the SEZ Scheme, it may either debond itself on payment of applicable duties on unutilized raw materials, depreciated value of capital goods and other goods imported / procured locally duty free by such unit or convert itself into an EOU. In both cases, the unit is required to physically move out of SEZ.

Bond:

37. The SEZ units are allowed to operate under a single all-purpose bond. The bond amount is equal to 25% of the duty foregone on the sanctioned requirement of capital goods plus the duty foregone on raw materials required for three months. Surety or security equivalent to 5% of the bond amount in the form of bank guarantee is required to be given. The SEZ units having a turnover of Rs. 1 crore or more in the preceding financial year are exempted from the requirement of furnishing security/surety. This facility is not available to the units against whom offence cases have been proved in a court of law. In case of new units, they are required to give surety or security till they achieve the turnover of Rs.1 crore.
