

Issues of SEZ addressed by DGEP

A brief analysis of Circular No. K-43022/7/2020-SEZ (3145523) dated 29th April and 15th May

SEZ : An Intro

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A special economic zone is an area in which the business and trade laws are different from the rest of the country. SEZs are located within a country's national borders, and their aims include increased trade balance, employment, increased investment, job creation and effective administration

The **Special Economic Zones Act, 2005**, was passed by Parliament in May, 2005 which received Presidential assent on the 23rd of June, 2005.

The draft SEZ Rules were widely discussed and put on the website of the Department of Commerce offering suggestions/comments. Around 800 suggestions were received on the draft rules.

After extensive consultations, the SEZ Act, 2005, supported by SEZ Rules, came into effect on 10th February, 2006, providing for drastic simplification of procedures and for single window clearance on matters relating to central as well as state governments.



Directorate General of Export Promotion (DGEP)

- Manages Work relating to the following Export Promotion Schemes (both Customs and Central Excise).
- 100 % Export Oriented Units. (EOU)
- Special Economic Zones (including work relating to erstwhile free Trade Zones and Export Processing Zones).
- Special Jewellery Complexes and Gem and Jewellery Export Promotion Schemes.
- Software Technology Park and Electronic Hardware Technology Park Schemes. (STPI Units)

Regulatory Body for SEZ : Functions (2/2)

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It arranges meeting of the Foreign Investment Promotion Board (FIPB), Boards of Approval (BOA) for EOU/ SEZ, Inter-Ministerial Standing Committee (IMSC) in the Department of Information Technology etc., meetings with DGFT/Ministry of Commerce on matters relating to above Export Promotion Schemes and interaction with Trade including Export Promotion Councils.

It Act as a central consultative body with the trade and other stakeholders (Trade Associations and Chambers of Commerce such as FIEO, Federation of Freight Forwarders Associations of India, Air Cargo Agents Association of India, National Association of Container Freight Stations, Export Promotion Councils, Indian Ports Association, etc.) and suggest changes in Customs clearance procedures with a view to facilitate international trade, wherever necessary.

Review Customs trade facilitation measures from time to time with a view to evaluate their efficacy and suggest further improvements.

Important issues arising due to lockdown addressed by DGEP

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Due to ongoing lockdown DGEP has interacted with various stakeholders across the SEZs and EoUs and such issues were further escalated with the other concerned departments also. The inputs received so far from the DGFT, Ministry of Corporate Affairs and Reserve Bank of India are given in following slides.

Point wise response by DGEP to the issues raised by Stakeholders

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Issues:-

- In view of increase in the input costs and logistics for effecting exports becoming harder, revision in the MEIS and SETS compensation may be increased by at least 2% for 2020-21.
- 5% additional export incentives may be given for one year to those units, which do not claim MEIS.
- MEIS may be granted to exporters of diamond studded jewellery.

Response:-

- In view of the envisaged transition of MEIS to RoDTEP (*Remission of Duties and Taxes on Exported Products*) in the short term, any revision in MEIS rates is not feasible now. Further, Gems & Jewellery sector has never been covered under MEIS.

Response by DGEP to the issues raised by Stakeholders : DGFT Issues (1/6)

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Issues	Response
The MEIS scheme benefits may not be denied merely because of some <u>procedural issues</u> in respect of Shipping Bills at the time of export.	DGFT has desired that exact procedural difficulty may be explained to them.
MEIS script may be made usable for <u>non EDI Port/SEZ</u> and applicable in respect of <u>deemed manufacturers</u> as well as <u>FTWZ exports</u> .	<ul style="list-style-type: none">• Scripts issued from SEZ port cannot be used at any other non EDUSEZ port, because the integration of the ICEGATE and SEZ database is not complete for a two way data transmission.• FTWZ exports are not eligible for MEIS as per current policy provisions.
Services Export Incentive Scheme (SEIS) may be extended to cover more services under SAC including software and units operating in International Financial Services Centre (IFSC) SEZ.	Increasing the coverage to such services under SETS is not feasible because of budget constraints

Response by DGEP to the issues raised by Stakeholders : DGFT Issues (2/6)

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Issues

- Policy issues pertaining to FTWZ : Merchandise Exports from India Scheme (MEIS) Scheme applicability: The **Foreign Trade Policy 2015-20** has been extended till **31.03.2021**, however the benefits of MEIS to DTA manufacturers/exporters who supplies products through Indian FTWZ is still unavailable, in spite of the fact that MEIS has nowhere been denied for exports made through FTWZ.
- This misconception arises from the ineligible category under **Para 3.06 (ii) of FTP-2015- 20** which ONLY restricts the benefit of MEIS for the supplies made from DTA to SEZ Unit and NOT to FTWZ. Hence, a clarification/direction to grant MEIS is sought.

Response

- As per policy provisions, exports made by FTWZ units is not eligible for MEIS. Further, In view of the envisaged transition of MEIS to RoDTEP in the short term, any expansion in MEIS coverage is not feasible now.
- There is no misconception in the Policy provisions, Exports through FTWZ, but by a FTWZ unit is still ineligible.

Response by DGEP to the issues raised by Stakeholders : DGFT Issues (3/6)

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Issues	Response
Transport and Marketing Assistance (TMA) for Specified Agriculture Products of DoC which expired on <u>31.03.2020</u> may be extended for another year period,	DGFT has informed that validity of TMA scheme has been extended for one year i.e. <u>upto 31.03.2021 as per DoC's notification No. 17/3/2018-EP(Agri.W) dated 17.03.2020</u>
MEIS incentive to be granted based on shipping bill (Incentive to be paid within 15 days of physical export based on shipping bill filed) with a condition to pay back the amount with interest in case of non-realization of export proceeds rather than based on e-BRC.	<p>The MEIS scheme provides for a Duty Credit Scrip only after the payment is realized. The suggested mechanism to issue MEIS without e BRC is not feasible.</p> <p>Further, in light of the difficulty being faced by the industry in realization of export proceeds, the RBI has extended the period. under which export proceeds has to be received from 9 months to 15 months.</p>

Response by DGEP to the issues raised by Stakeholders : DGFT Issues (4/6)

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Issues	Response
<ul style="list-style-type: none">• MEIS for apparel industry mostly covered under <u>Chapter 61, 62 and 63</u> has 'been kept suspended. for a few months now with neither release of the same nor any other announcement of incentives, the Apparel industry has requested for relief in terms of the MEIS benefits.	<ul style="list-style-type: none">• Pursuant to the Ministry of Textiles notification dated 14.01.2020, <u>a special one-time additional ad-hoc incentive of upto 1% of Free On Board (FoB) value</u> is being provided for those exports of apparel and made-ups (items under chapter 61, 62 and 63) ;• Which may receive lesser benefits under Rebate of State and Central Taxes and Levies (RoSCTL) as against Rebate of State Levies (RoSL) plus <u>Merchandise Exports from India Scheme (MEIS) for exports in the period 07.03.2019 to 31.12.2019. As per the notification, MRCS also stands withdrawn from 07.03,2019 for apparel and made-ups.</u>

Response by DGEP to the issues raised by Stakeholders : DGFT Issues (5/6)

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Issues	Response
<p>Further MEIS claims rejected for units not declaring their intent in the Shipping Bills, should be released by DGFT.</p>	<ul style="list-style-type: none">• Under the procedural provisions, as in the HBP 2015-20 para 3.14 (a) (1) for EDI Shipping Bills, Marking' ticking of "Y" (for Yes) in "Reward" column of shipping bills against each item is mandatory and is sufficient to declare intent to claim rewards under the scheme In case the exporter does not intend to claim the benefit of reward under Chapter 3 of FTP exporter is required. to tick "N" (for No).• The "N" marked shipping bills do not pass the Risk Management System of Customs ports at the time of exports and the data for these shipping bills is not transmitted by ICEGATE Server to DGFT server. Further, the absence of declaration of intent has no relation to the COVID-19 issue. Therefore, such shipping bills without a declaration of intent cannot be considered for MEIS.

Response by DGEP to the issues raised by Stakeholders : DGFT Issues (6/6)

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Issues	Response
<ul style="list-style-type: none">• Government should consider support in terms of an additional MEIS at least 5% on all exports for one year i.e. during the period. 1st April, 2020 till 31st March, 2021.• This will not only ensure that the units retain. our export markets, but it will also help prevent factories getting closed in the country and help reduce the adverse impact of economic disruption caused by this epidemic.	<ul style="list-style-type: none">• Vide the trade Notice 03/202-21 dated :15.04.2020, it has been notified that MEIS will continue till 31.12.2020.• A proposal to extend it till, 31.03.2021 is under consideration in the DGFI'. However, in view of the transition of MEIS to RoDTEP, the request of providing an additional 5% to all exports is not feasible at this stage.
<ul style="list-style-type: none">• MEIS license against export. from SEZ is issued in physical. form unlike electronic form issuance for DTA unit.• Therefore, it creates lot of inconveniences and also it fetches lower premium in the market due to lesser demand. Therefore, electronic license may be issued even for SEZ exports also.	<ul style="list-style-type: none">• The data of the scrips which are being issued from SEZs is not exchanged and not integrated with the Customs Server.• The scrips issued by the SEZs can be made electronic, if the SEZ server is integrated with the Customs Server for transmission of data from SEZs to Customs Server.

Response by DGEP to the issues raised by Stakeholders : Issues related to Ministry of Corporate Affairs

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Issues:-

Companies Act, 2013 may be relaxed so that companies requiring implementation of IND-AS may be deferred for a period of one year and permission be granted for extension of financial year end from 31st March 2020 to 30th June 2020 and last date of holding of Annual General Meetings may be shifted to 9 months from the end of the financial year.

Response:-

<p>MoCA has informed that all the eligible companies (except Banks and Insurance Companies) have already adopted Ind AS and submitting their accounts and taking the benefit of adaptability of their accounts at global stage.</p>	<ul style="list-style-type: none"> • Therefore, the request of deferment of Ind AS implementation does not arise. • Such deferment would impact the comparability of financial statements of companies in India with their global counter parts, hence not feasible. 	<ul style="list-style-type: none"> • Extension of Financial Year is primarily to be dealt with by the Ministry of Finance. • However, no such extension should be considered as it would likely to have various severe and far reaching consequences. 	<ul style="list-style-type: none"> • MoCA have already allowed companies to conduct extraordinary general meetings (EGM) on matters requiring urgent decision of the shareholders, through video conference (VC) or other audio visual means (OAVM). 	<ul style="list-style-type: none"> • The Companies Act, 2013 empowers the Registrar of Companies to extend the time of AGM for three months and therefore, there is no need to shift the last date of AGM to 09 months from the end of financial year.
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Response by DGEP to the issues raised by Stakeholders : RBI related Issues (1/3)

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Issues	Response
<p>Relaxation in EDPMS (Export Data Processing and Monitoring System) and IDPMS (Import Data Processing and Monitoring System) compliance during the lockdown period and six months thereafter.</p>	<ul style="list-style-type: none">• Authorized Dealers/Banks have delegated powers to consider the requests for extension of realization of exports proceeds as also permit delayed import payments.• Further, the timeline for enforcing automatic caution listing has already been deferred till September 30, 2020.

Response by DGEP to the issues raised by Stakeholders : RBI related Issues (2/3)

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Issues	Response
<p>Extend period of pre-shipment export credit to 360 days as there may be delay in execution of orders post lockdown</p>	<ul style="list-style-type: none">• It is advised that Scheduled Commercial Banks (SCBs) are allowed to extend pre-shipment export credit for a maximum period of 360 days, from date of advance.• The period for which a packing credit advance may be given by a bank will depend upon the circumstances of the individual case, such as the time required for procuring, manufacturing or processing (where necessary) and shipping the relative goods / rendering of services.• It is primarily for the banks to decide the period for which a packing credit advance may be given, having regard to the various relevant factors so that the period is sufficient to enable the exporter to ship the goods / render the services.• If pre-shipment advances are not adjusted by submission of export documents within 360 days from the date of advance, the advances will cease to qualify for prescribed rate of interest for export credit to the exporter ab initio.

Response by DGEP to the issues raised by Stakeholders : RBI Related Issues (3/3)

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Issues	Response
<ul style="list-style-type: none">• Foreign Currency and Forward Contracts: Due to Covid effect, the CCL unit may not be in a position to receive the export proceeds timely and also may not have sufficient foreign currency earnings as expected in normal course taken into consideration while booking the Forward Contracts.• Hence on FC maturity date, allow the exporters to wind up the Forward Contract(s) at booking rate instead of depreciated rate. Provide Moratorium to Exporters to cover the hedging liabilities of forward contracts that couldn't be executed due to the lockdown effect.	<p>As per current regulation:-</p> <ul style="list-style-type: none">• Forward contracts can be freely cancelled at the discretion of the customer. As cancellation means that the customer (i.e. the exporter in this case) is not able to deliver the foreign currency into the contract,• The Bank has to cover his position by buying the foreign currency from the market at the current market rate (which is likely to be different from the contract) and share any gain/loss due to the difference between the two rates with the customer. It would, therefore, not be possible to permit the exporters to wind up forward contracts at the booking rate.

Response by DGEP to the issues raised by Stakeholders: Issues requiring immediate action (1/2)

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Issues

Immediate refund of the GST on DTA Suppliers of SEZ Units, some of which are pending for more than 6 months

Response

- No specific instances of such non sanctioning of ITC refunds have been provided against supplies made to SEZ Developer and units. DGEP has requested the List (Containing DTA Suppliers names, GST no., Invoice details, etc.) of such ITC refunds which are not sanctioned beyond 6 months for necessary actions.
- Also attention is drawn to the CBIC's country wide special drive to expedite Customs and GST Refunds pending as on 7th April, 2020.

Response by DGEP to the issues raised by Stakeholders : Issues requiring immediate action (1/2)

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Issues	Response
<p>Extension of time line fixed for E-Way Bills In view of extra time taken for the obtaining permissions and due to lockdown.</p>	<p>CBIC has issued a notification no. 35/2020 dt. 3rd April, 2020 where by if the validity of the E Way Bill generated is expiring between 20th March, 2020 to 15th April, 2020 ; the validity period of such e-way bill has been extended to 30th April, 2020.</p>
<p>Release of Import & Export shipments held due too lockdown</p>	<p>CBIC has taken various steps like:-</p> <ul style="list-style-type: none">• 24*7 Customs Functioning• Single Window Help Desk on the website• Customs Zone/Formation wise Appointment of Nodal Officers (Specific instances such issues with Import and export may be informed to them for redressed)• Waiver of Late Fee for delays in filling Bills of Entry• Temporarily dispensing with submission of bonds wherever required

Response by DGEP to the issues raised by Stakeholders : General Policy Issues (1/3)

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Issues	Response
<p>To Reduce / Eliminate the GST imposed on Foreign Currency Conversion charges. EOUs be granted with Ab-Initio exemption from payment of GST.</p>	<p>Issue has been flagged to Joint Secretary (TRU-I) for examination</p>
<p>EOUs be granted with Ab-Initio exemption from payment of GST</p>	<p>It was pointed out that there was no need of granting such exemption on domestic procurement by EOUs. It was reasoned by the following benefits already given to the EOUs to simplify the process. Imports of EOUs have been exempted from payment of IGST till 31st March, 2021. For domestic Supplies procurement, such supplies has been declared as deemed export supplies, either supplier or receiver can claim the refund of GST paid. The Claim of refund for accumulated ITC has been made completely online and enabled to be sanctioned and disbursed by the single authority (for all tax heads)</p>

Response by DGEP to the issues raised by Stakeholders : General Policy Issues (2/3)

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Issues	Response
As an alternate to the pending refunds GST & Income Tax, the commercial Banks may be directed to advance loans with interest being paid by Government in lieu of the pending refunds of GST & IT.	No Basis or format has been provided for the proposal. A concept paper can be provided to CBIC for the examination.
Elimination of physical submission of documents for customs clearance	No physical submission required and Customs formation has issued notices in the regards of integration of Customs EDI (ICES)With SEZ Online.
Eliminating the requirement of transshipment permission for movement of import cargo from SEZ ports like Mundra.	<ul style="list-style-type: none">• No requirement of such elimination requirement for the uniformity across all SEZs. It was reasoned by the fact that the transshipment permission procedure is laid down in the SEZ Rules and are much simplified already.• As per this , the fifth copy of the registered/assessed Bill of entry submitted to the customs officer at the port, stamped by is itself considered to be the Transshipment permission and no other document is required

Response by DGEP to the issues raised by Stakeholders : General Policy Issues (3/3)

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Issues	Response
<p>Permission to file a consolidated E-Way Bill in case of E commerce from FTWZ</p>	<p>The proposal for consolidated E-Way Bill is under examination along with the further inputs received from the Stakeholders.</p>
<ul style="list-style-type: none"> Request for exemption of GST on Services rendered and consumed within FTWZ. In India GST @ 18% is levied on service rendered and consumed inside FTWZ. This Brings competition to India as against the Global Free Zones such as Singapore, Dubai, China etc. 	<p>According to provisions of the IGST Act, the Receiver is not located in India, but the service is rendered and the place of service is in India. Thus the services are not considered as Export of service and rightly charged at 18%. However, considering the global competition and the same being tax free in other global zones, the further inputs on this are called for in this regards to be examined by CBIC</p>
<p>Due to loss of business, Diamonds purchased from DTA from January, 2020 may be permitted to returned back without duty as there is no loss of revenue in such transaction.</p>	<p>The request was denied under the extant of Section 30 of SEZ Act. Said section provides for charging of Customs on supply of any goods from SEZ to DTA.</p>

Thank You

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for any query/suggestion.

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