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Government of India
Ministry of Commerce and Industry
(Department of Commerce)

New Delhi, dated the 16th March, 2007.

Notification

S.O. 393 (E). - In exercise of the powers conferred by section 55 of the Special Economic Zones Act, 2005(28 of 2005), the Central Government hereby makes the following rules to amend the Special Economic Zones Rules, 2006, namely:

1. (1) These rules may be called the Special Economic Zones (Second Amendment) Rules, 2007

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Special Economic Zones Rules, 2006 (hereinafter referred to as the principal rules), in sub-rule (1) rule 2, for clause (b), following shall be substituted:

"Advance Licence" means Advance Licence issued under the Duty Exemption and Remission Scheme of the Foreign Trade Policy and includes advance authorisation.

3. In the principal rules in rule 5, in sub-rule (2), -

(i) in clause (a),-

(A) the first proviso shall be deleted;
(B) the fourth proviso shall be deleted.

(ii) in clause (b), for the words "A Special Economic Zone for a specific sector or in a port or airport," the words "A Special Economic Zone for a specific sector or for one or more services or in a port or airport" shall be substituted;

(iii) after clause (c), the following clause shall be added, namely:-

"(d) If a Developer subsequent to approval or notification of a Special Economic Zone acquires more contiguous and vacant land which makes the total area available, including the area already notified as Special Economic Zone, more than the minimum area required for another class of SEZ, the Board may consider such cases on a case to case basis for allowing conversion to another class of Special Economic Zone by subsuming such already approved or notified Special Economic Zone.".

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4. In the principal rules, in rule 6,-

(i) for sub-rule (1), the following shall be substituted, namely :-

"(1) The Central Government shall, within a period of thirty days of the communication received by it under clause (a) or clause (b) of sub-section (9) of section 3 of the Act grant following approvals:-

(a) formal approval in the cases where land is in possession of the developer in Form-B to the person or the State Government concerned or in Form-C, if the approval is for providing infrastructural facilities in the Special Economic Zone, incorporating additional conditions, if any, specified by the Board while approving the proposal;

(b) in-principle approval in other cases in Form-B 1 to the person or the State Government concerned, incorporating additional conditions, if any, specified by the Board while approving the proposal.".

(ii) for sub-rule (2), the following shall be substituted, namely:-

"(2) (a) The letter of approval of a Developer granted under clause (a) of sub-rule (1) shall be valid for a period of three years within which time, effective steps shall be taken by the Developer to implement the approved proposal:

Provided that the Board may, on an application by the developer or co-developer, for reasons to be recorded in writing, extend the validity period for a further period not exceeding two years.

(b) The letter of approval of a Developer granted under clause (b) of sub-rule (1) shall be valid for a period of one year within which time, the Developer shall submit suitable proposal for formal approval in Form "A" as prescribed under the provisions of rule 3. :

Provided that the Board may, on an application by the developer or co-developer for reasons to be recorded in writing, extend the validity period for a further period, not exceeding two years, upon a request made in writing by the Developer or Co-developer.".

5. In the principal rules, in rule 7,-

(i) for sub-rule (1), the following shall be substituted, namely :-

" (1) The Developer shall furnish to the Central Government, particulars required under sub-section (1) of section 4 with regard to the area referred to in sub-section (2) or sub-section (4) of section 3, (hereinafter referred to as identified area), with a certificate from the concerned State Government or its authorized agency stating that the developer(s) have legal possession and

irrevocable rights to develop the said area as SEZ and that the said area is free from all encumbrances:

Provided that where the Developer has leasehold rights over the identified area, the lease shall be for a period not less than twenty years.".

(ii) in sub-rule (2), the words, brackets and figures "subject to third proviso to clause (a) of sub-rule (2) of rule 5" shall be deleted.

(iii) in sub-rule (2), the following proviso shall be inserted :-

" Provided that the Board may relax any or all of the conditions, except the condition regarding identified area to be a vacant land, specified in this sub-rule on a case to case basis on merits for reasons to be recorded in writing and with such conditions as the Board may decide.".

6. In the principal rules, in rule 11,

(i) for sub-rule (2), following shall be substituted, namely:-

" (2) The processing area and Free Trade and Warehousing Zone shall have specified entry and exit points and be fully secured by taking such measures as approved by the Board of Approval.",

(ii) in sub-rule (5), for the words, "the lease period shall be co-terminus with the validity of Letter of Approval", the following shall be substituted, namely:-

"the lease period shall not be less than five years but notwithstanding any other condition in the lease deed, the lease rights would cease to exist in case of the expiry or cancellation of the Letter of Approval."

(iii) in sub-rule (10), for the second proviso, following shall be substituted:-

" Provided further that infrastructure for business or social purposes in the Special Economic Zone, as may be approved by the Board, shall be eligible for exemptions, concessions, drawback and any such infrastructure created in addition or in excess thereof shall not be eligible for any exemptions, concessions and drawback."

7. In the principal rules, in rule 27, after sub-rule (1), the following provisos shall be inserted:

"Provided that exemptions from payment of duty, taxes or cess, drawbacks and concessions on all types of goods and services, required for setting up and maintenance of the factory building, allowed to a unit shall also be available to the contractors appointed by such unit and all the documents in such cases shall bear the name of the unit along with the contractor and these shall be filed jointly in the name of the unit and the contractor:

Provided further that the unit shall be responsible and liable for proper utilization of such goods and services in all cases.".

8. In the principal rules, in rule 41, after sub-rule (2), the following sub-rule shall be inserted:

" (3) A Developer or a co-developer or on their behalf their contractor, as the case may be, may also temporarily remove the goods, procured or imported duty free by them for their authorized operations, to a place in the Domestic Tariff Area or a unit in the same or another Special Economic Zone or Export Oriented Unit or a unit in Electronic Hardware Technology Park unit or Software Technology Park unit or Bio-technology Park unit, for subcontracting a process, with prior permission of and subject to such conditions as may be prescribed by the Approval Committee."

9. In the principal rules, in rule 42, after sub-rule (4), the following sub-rule shall be inserted:

" (5) The Developer or a co-developer or on their behalf their contractor, as the case may be, shall follow the same procedure for sub-contracting in Domestic Tariff Area or in a Unit in other Special Economic Zones or in a Export Oriented Unit or in an Electronic Hardware Technology Park Unit or a Software Technology Park Unit as prescribed for sub-contracting by SEZ Units in sub-rules (1) above:

Provided that the Bank Guarantee to cover the duty foregone on the materials being sent for sub-contracting shall apply only in case of temporary removal of goods by the contractor.".

10 . In the principal rules,-

(i) in Form- A, after point No. VI, the following shall be inserted :-

"VIA. Foreign Direct Investment (FDI)
(a) Extent of FDI (if any) in million U.S. Dollars
(b) Source of FDI (Country and Company details may be provided)";

(ii) in Form-A, at the end, the following shall be deleted, namely:-

"Note: Furnish 25 copies of the application with project report"

11. In the principal rules, in Form A, after the "Undertaking", the following shall be added, namely:-

"Check List

(1) Name of the Developer.
(2) Proposed area of the location of the SEZ.
(3) Status of recommendation of the proposal by the State Government (if available).

(4) Whether proposal is for formal or in-principle approval? (In case land is in possession of the promoter, it is considered for formal approval)
(5) Is it a multi-product SEZ?
(6) If it is a sector specific SEZ, the sector is.
(7) Whether it meets the area requirements.
(8) Area of the SEZ (in hectares)
(9) Whether Form- A has been filed?
(10) Whether undertaking and affidavit has been submitted?
(11)Whether project report has been submitted?
(12) Whether land is owned/leased and is in possession of the Developer?
(13)Does the proposal meet the area requirements of the Rules?
(14)Whether the land has existing structures or is vacant?
(15)Whether the land is contiguous?
(16)Projected investment in the project.
(17)Projected exports from the project.
(18)Projected employment from the project.
(19)Share capital and Reserves of the Developer Company.
(20)Source of funds for the project.
(21)Net worth of the Applicant (including Group companies) duly supported by Audited Accounts of the Developer for last 3 Years (for all the constituents in case the Developer is a SPV). If the company is a new company, audited accounts of Flagship Company/promoters may be provided.
(22)Extent of FDI (if any) in million U.S. Dollars
(23)Source of FDI (Country and Company details may be provided)
(24)Whether provisions contained in the Press Note No. 5 (2005 Series), issued by the Ministry of Commerce and Industry have been followed in respect of Telecom/IT SEZ development?"

11. In the principal rules, in Form-B, in the first line, for the word "EPZ", the word "SEZ" shall be substituted;

12. In the principal rules, after Form-B, the following form shall be inserted, namely:-

"Form- B 1

No. F. _____ -SEZ
Government of India
Ministry of Commerce & Industry
Department of Commerce
(SEZ Section)

...

Dated, the ----------

To

_____
_____
_____

Subject: Setting up of a _____ Special Economic Zone at _____ b y M/s._____ – Reg.

Reference: Your application dated _____.

Sir(s),

With reference to your above mentioned application, Government of India is pleased to grant "in-principle" approval to your proposal for development, operation and maintenance of a Special Economic Zone (SEZ), as per details given below:-

I PROPOSAL and PROJECT DETAILS:- To set up a _____ Special Economic Zone over an area of _____ hectares _____ by M/s._____.

II General Conditions:

(i) This "in-principle" approval is valid for a period of one year within which time the applicant shall submit suitable proposal for formal approval in Form "A" as prescribed under the provisions of Rule 3 of the SEZ Rules 2006, alongwith proof of land possession/lease hold rights, updated Project Report and Check List . Fifteen copies of the application and other enclosures prescribed shall be submitted to the Director (SEZ), Department of Commerce, Udyog Bhavan, New Delhi-110 011 directly or through the State Government concerned. The applicant should be in possession of the identified area either by way of ownership or by way of lease hold rights valid for twenty years or more on the date of application.

(ii) The Developer shall obtain the required approval from various statutory authorities under relevant statutes and regulations of the Government of India and the State Government and local bodies.

(iii) The Developer shall make adequate provision for rehabilitation of the displaced persons as per the RR policy of the State Government.

(iv) The project shall be implemented and operated in terms of the Special Economic Zones Act, 2005 and the rules and orders made there-under.

(v) The Developer shall conform to the environmental requirements.

(vi) The Developer shall abide by the local laws, rules, regulations or bye-laws in regard to area planning, sewerage disposal, pollution control, labour laws and the like as may be locally applicable.

(vii) The Developer shall raise the required funds for the project. External commercial borrowing, if any, will be as per the guidelines of the Ministry of Finance, Department of Economic Affairs, Government of India, New Delhi.

(viii) The Developer shall obtain the approval of Board for specific activities proposed to be undertaken for development, operation and maintenance of Special Economic Zone.

(ix) Any request for extension, for a period not exceeding two years, may be submitted with valid reasons and details of steps taken for

implementation, which may be considered by the Board, on merits. Such request shall be submitted to the Government two months before expiry of the approval period.

2. This approval shall be also subject to other conditions as prescribed by the Board.

3. The Developer may convey acceptance of all the terms and conditions indicated above within thirty days from the date of issue of this letter. All future correspondence may be addressed to the Director (SEZ), Department of Commerce, Udyog Bhavan, New Delhi-11.

Yours faithfully,

Sd/-
Director/Deputy Secretary
Department of Commerce"

(F.2/633/2006-SEZ)

Anil Mukim,
Joint Secretary to the Government of India.

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Note : The principal rules were published in the Gazette of India, Extraordinary part II section 3(i), vide number GSR 54(E), dated the 10th February, 2006, and subsequently amended vide notification number 470(E) dated, the 10th August, 2006.