

EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

Ministry of Commerce & Industry, Government of India

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EPCES CIRCULAR NO. 200 DATED 09-01-2015

Sub : Ministry of Commerce Notification dated 2nd January, 2015 on Dual use of Land – reg

Ministry of Commerce & Industry has issued Notification (G.S.R.5) dated 2nd January, 2015, wherein SEZ Rule 11 has been amended as under:-

- i) Rule 11(10) has been deleted.
- ii) A new rule has been introduced as Rule 11A of SEZ Rules, which provides as under:-

“(1) Where the social or commercial infrastructure and other facilities are permitted to be used by both the Special Economic Zone and Domestic Tariff Area entities: No exemption, concessions or drawback shall be admissible for creation of such infrastructure. The Customs duty, central excise duty, service tax and such other central levies and tax benefits already availed for creation of such infrastructure shall be refunded by the developer in full, without interest. However, if the developer pays the refundable amount in short payments on account of dual use permission, interest @15% shall be paid from the day the said amount becomes payable to the date of actual payment. Utilization of SEZ land shall be subject to certain conditions viz.:-

- a) land is to be put to only such use which is as per the regulations of the concerned State Government or local bodies;
- b) if any exemption or refund has been taken from State or local taxes like stamp, change of land uses etc., the same shall be refunded back to State Government or local authorities and a certificate to this effect shall be produced from the concerned authorities.
- c) NOC from the concerned State Government shall be produced before the consideration of the request by BOA. State Government may issue NOC taking into consideration (a) and (b) above.

(2) Where the social or commercial infrastructure and other facilities are permitted to be used only by SEZ entities: This portion shall be bonded and physically segregated from the Domestic Tariff Area, non-processing area, specified at (1) above and the processing area of the SEZ. The infrastructure, as may be approved by the Board for this part of non-processing area shall be eligible for exemption, concessions and drawback.

(3) The Department of Commerce has provided the following norms with respect to areas to be earmarked for residential, commercial and other social facilities:-

(a) The Developer or Co-developer shall submit an application in the format as specified by the Central Government to the Development Commissioner indicating therein the portion of the non-processing area where social or commercial infrastructure and other facilities are proposed to be used by both SEZ and DTA entities and the said application shall be accompanied with a copy of the Infrastructure Plan and NOC from the concerned State Government and supporting documents.

(b) The Development Commissioner shall forward the said application to the Board of Approvals for approval.

(c) The area restrictions for duty paid dual use non processing area in the SEZs shall be as follows:-

- (i) Housing – not more than twenty five per cent of non-processing area;
- (ii) Commercial – not more than ten per cent of non-processing area;
- (iii) Open area and circulation area- not less than forty five per cent of non-processing area;
- (iv) Social and institutional infrastructure including school, colleges, socio-cultural centres, training institutes, banks, post office, etc., in the remaining area.

(d) Floor Area Ratio or Floor Space Index shall conform to the norms of the concerned local authorities.

(e) No sale shall be permitted of such duty paid dual use infrastructure in the non-processing area and only lease hold rights can be devolve upon the users or transferees of the said dual use duty paid infrastructure in Non-Processing Area of SEZ; and

(f) Any other condition as may be specified by the Department of Commerce or Board of Approval”

A copy of the Notification dated 2-1-2015 is attached along with for kind perusal and ready reference of the members.
