

Instruction No.70

F. No. D.12/41/2010-SEZ
Government of India
Department of Commerce
(SEZ Division)

Udyog Bhawan, New Delhi.
Dated: 9th November, 2010.

To

All Development Commissioners.

Subject: Clarification on various Policy and operational issues
relating to IT SEZs.

Sir/Madam,

Please find enclosed a copy of clarifications/decisions
taken in a meeting chaired by AS(DKM) about various policy and
operational issues concerning IT SEZs, for compliance.

Yours faithfully,

Sd/-

(R.K. Pandey)

Under Secretary to the Govt. of India

**Minutes of the meeting held on 2.11.2010 at 1230 Hrs
with STPI Directors regarding issues relating to IT SEZs**

A meeting was held under the Chairmanship of Shri D.K. Mittal, Additional Secretary with STPI Directors to discuss the various policy and operational issues relating to IT SEZs.

A brief record of the discussion held and decisions taken has been summed up below:-

1. Shifting of units to SEZ:-

- (i) The provisions of SEZ Act, 2005 and Rules framed thereunder do not prohibit transfer of used capital goods or businesses from existing DTA or STPI unit to SEZ. The only deterrent for transfer of such capital goods or businesses is not getting the exemption under Income Tax Act when the value of used capital goods exceeds the 20% of the total capital goods and in respect of businesses no exemption can be availed while the Development Commissioners will be intimated about the transfer of goods/businesses, the final decision regarding the IT exemption will lie with the Income Tax Department. The ratio 80:20 of new:used capital goods shall be reckoned on the date the unit starts to produce goods or services.
- (ii) There is no limitation on the transfer of manpower to the SEZ units.
- (iii) In respect of the IT companies which operate Master Contracts and which have units in STPIs and DTA etc. and which farm out the sub-contract to their various units, they must have an individual and distinct sub-contract in respect of each of its SEZ Units.
- (iv) The spirit of the SEZ Act & Rules is that the investment for infrastructure development in the SEZ has to be new. The transfer of used goods/business is only with respect to the SEZ Units.

2. DTA sale by IT SEZ Unit:-

In the SEZ scheme, there is neither an export obligation on a unit nor there is ban on DTA sale. However, they must achieve NFE positive earnings within five years of the commencement of the commercial operations failing which action may be taken as per the provisions of relevant rules and instructions.

3. Shifting of Unit from one SEZ to another:-

Instructions in this regard have already been issued vide letter No. C-4/2/2010-SEZ dated 18.6.2010 (Instruction No. 59) which provides that there is no objection in-principle to the shifting the unit from one SEZ to another. However, all such proposals are required to be placed before the Board of Approval for its consideration.

4. Broad banding of IT/ITES SEZs to include Hardware also:-

While the Letter of Approval being issued to IT/ITES SEZs has been broad banded to include electronic hardware also and further manufacturing/ assembling of, electronic equipments must also be allowed in such SEZs. Further Hardware units may require production of components and the same must be allowed.

5. Testing laboratory for tyres in IT SEZ set up by L&T:-

It was decided that setting up of a unit for testing of tyres in an IT SEZs may not be allowed as the process may involve setting up separate facility totally unrelated to IT and would require measures to check pollution also. Therefore, they may be asked to undertake the physical testing activity outside the SEZ while the test data can be processed in the SEZ unit.

6. SEZ online project:-

About the SEZ online software being developed by M/s. NSDL, it was stated that the agency has agreed to post their one executive each with all the seven Zonal DCs. Services of these executives can be utilised by all DCs including STPI Directors to address the day to day problems faced in operating the software developed by M/s. NSDL. The suggestion of STPI Directors to arrange hand holding for customs staff of the zone was also accepted.
