SEZ Horizon

SEZ Magazine

February 2012

Editorial Desk…

Hello Friend, Welcome to the world of SEZ Horizon. We know that India is the first country in Asia that recognized the prospects of SEZ and we are the first organization to launch a dedicated magazine on SEZ India. With the help of this magazine we want to create awareness on SEZ among Indians. SEZ Horizon also gives the readers opportunity to share their insight regarding this matter. Along with this, SEZ Horizon will keep them updated with the latest happening, hullabaloo, up to date news and many more things.

On our first issue we want to introduce SEZ to all the people. We know that Special Economic Zone or SEZ is a specific geographical region where the financial burdens of laws are more liberal. It is a lucrative opportunity not only for the foreign investors as well as local talents. There are 13 functional SEZs and about 61 SEZs, which have been approved and are under the process of establishment in India.

This month our Magazine will comprise of a coverstory by Jai Prakash Rao titled "SEZ: Special Policy for Larger Growth" which underlines the basic of Special Economic Zone. We also bring to you a blog by our expert Milan Dhanuka - "SEZ: A Penchant for Growth with Hurdles to Climb in India" discussing on the preset Indian scenario and Governmental frailties regarding SEZ.

We are now becoming a part of this innovative economic thought process. It is a challenge for us to make this initiative reach out to the people. Over 2 years www.sezindiainvest.com is working on SEZ. And with our huge experience on the field, we intend to lend a helping hand to the stakeholder in the form of this magazine. We promise to provide assistance in this wonderful facility delivery process by which you can stay updated and well informed about SEZ. I urge you to become an integral part of the '**SEZ Horizon'** by joining us and help us with this transition!

Thanks and regards,
Debarati Chakraborty
Editor, SEZ Horizon

"SEZ: Special Policy for Larger Growth"

Writer : J.Prakash Rao

Being the first country among Asia to have an Export Processing Zone ('EPZ'), Special Economic Zones' in India need no introduction. India's association with SEZ's has been long and sturdy which can be evidenced from the fact that the First SEZ "no marks for assuming" was set up in the year 1965. In this long journey of 45 years; SEZ's in India have witnessed many up's and down's. In our first edition, I have tried to shed some light and take all my lovely readers on a short tour of this rather amazing journey.

Before we embark upon the journey, let's understand what Special Economic Zone (SEZ) is. So here is a brief introduction:-

What do you think Special economic zone Is? For the Government, it is a source of promotion of exports of goods and services, promotion of investment from domestic and foreign sources; For the business fraternity it is a tool for boosting the development of infrastructure facility; and for the Young India it is a hub of employment opportunities; but to be precise it is a combination of all these factors which had made the implementation of SEZ in India such a huge success.

Poetries apart, SEZ as per the EXIM Policy is defined as follows:

"Special Economic Zone (SEZ) is a specifically delineated duty free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties and tariffs."

The definition though very simple to read is hard to understand. Let's make a word to word analysis and break open the definition:

- The word ***Special*** mainly means special economic systems and policies. The preferential policy framework within which an SEZ functions is designed to give an impetus to exports and provide the necessary supporting environment to make these export hubs an attractive investment destination point for global as well as domestic players with multi-lateral trade dimensions.
- The word ***delineated duty free*** means demarcated as separate land which enjoys several duty exemptions. Some of them are given:
- 100% income tax exemption for a block of five years and 50% for the subsequent five years.
- 100% exemption for subsequent 5 years if the profits are ploughed back for reinvestment into the SEZs.
- 100% income tax exemption in a block of 10 years out of 15 years for the SEZ developer and co-developer (as per choice of developer).

- Exemptions from customs and excise duties, VAT, sales tax, service tax, Octroi and local taxes on domestic procurement of construction material, capital equipment, raw material, spares, and consumables as well as imports. ***Please note that local taxes / duties which are under the purview of the State Government are governed by the respective State Governments****
- Exemption on stamp duty and land registration charges.
- The word ***foreign territory*** has been used since all trade inflows into the SEZ are treated as imports and where as all outflows from the SEZ are treated as exports.

Hope the above analysis has clarified the initial thoughts or doubts on the definitional aspect of Special Economic Zones.

When India started its journey on Special Economic Zones, it was in the form of Export Processing Zones which was set up as a tool to promote dwindling exports of India. In the year 2000, as a part of Export-Import ("EXIM") policy of India the SEZ policy was introduced, this christened the name of EPZ's to Special Economic Zones.

Speaking about statistics, there are 143 Notified and operational SEZ's in India and almost 381 SEZ's have been notified and are in different stages of coming into operations.

Now that we have a generic knowledge about Special Economic Zones, it would be interesting to read about the Evolution, growth and current scenario of SEZ's in India, which will be the content of this issue of SEZ Horizon. But before we embark upon or journey, I would like to discuss in brief the issues which SEZ's are currently facing, so that while you read through the magazine you may come up with any pertinent solution and the same can be discussed on our forum http://www.sez-forum.sezindiainvest.com/.

To be honest the initial euphoria about the SEZ's is dimming and the ground realities are popping up their heads. This has made the commerce ministry go into top gear to make this SEZ policy work. The ministry in its efforts has come out with a Discussion Paper to facilitate stakeholder consultation on potential reform of the Special Economic Zone policy and operating framework. The idea is to invite suggestions to make the schemes more attractive and carve out a road map for the future.

So what made the policy makers to go into a huddle?

The present state of the SEZ's will answer this question.

- Out of 583 formal approvals, only 17 multi-product SEZ's have come up.
- Information technology and petroleum sectors account for 2/3rd of the total exports from SEZ's.
- Only six states account for 92 percent of exports from SEZ's and most of them are in urban area.

- Much of the exports of SEZ have come from units which have migrated from Domestic Tariff Areas to SEZs.

To be brief the current policy of SEZ's has merely facilitated diversion of investments from DTA's to SEZ's. Also with many small SEZ's the expected infrastructure build up has not materialized.

The so called Discussion Paper has the following minute:

- Proposing to review all land-related aspects of the SEZ policy since land availability for SEZs has become a constraint accentuated by fairly onerous requirements of minimum size.
- Reduction of minimum area requirement form 1000 hectares to 250 hectares for multi-product SEZs.
- Allowing SEZs where commercial building exists.
- Allowing broader category of units to come up in sector-specific SEZs.
- Treating DTA sales from SEZs on par with imports under Free Trade Agreements.
- Giving duty credit to SEZ exports on par with exports made from DTA.

The revamping of the SEZ policy assumes significance in the wake of waning interest of developers in special economic zones due to uncertainty over tax incentives. The steps undertaken also substantiates the ministry's statement that "special economic zones (SEZs) could act as a potent instrument to increase the country's shipments and attract more foreign direct investment (FDI)."

SEZ: A Penchant for Growth with Hurdles to Climb in India

Writer : Milan Dhanuka

For the last few months SEZ has been a well searched word in the print and electronic media especially in the business sector and what made that buzz in the surrounding is still there to be known. As we know SEZ is just not a zone but a whole lot of opportunities that are available as incentives to be taken. SEZ had been successful all over the world, wherever it had been implemented but what about India? Is it successful in India? One has to think over it and a detailed analysis need to be done. Success of anything depends upon its willingness to succeed, and this is what lacks in our government. Over the years SEZ policy had been under controversies and criticisms, right from its implementation in India and it has been a continuous affair till date.

SEZ was introduced in India with a few objectives and those are:

- Generation of additional economic activity
- Promotion of exports of goods and services
- Promotion of investment from domestic and foreign sources
- Creation of employment opportunities
- Development of infrastructure facilities

Huge investments have been made in SEZs across the country and frequent changes in policies, especially relating to tax matters and land acquisition, are eroding the confidence among investors. Not only are this certain other factors also affecting the implementation of SEZ.

- Improper SEZ policy
- Irresponsible planning for locating SEZ
- Ineffective Land Acquisition Policies
- Improper Rehabilitation Policy

These are also responsible for not reaching great height, which was attained by other countries.

The case of improper SEZ policy can be seen in Union Budget for 2011-12

- The finance ministry imposed 18.5 per cent minimum alternate tax on SEZ developers and units besides 15 per cent dividend distribution tax on developers. “This move will make it unviable for most investors to invest in SEZ.

- Export oriented units located in SEZs are not eligible for other export promotion schemes and have to pay full customs duty on what they sell in domestic market, which were not proposed previously.

As we say “Actions speaks louder than words”, the unwillingness and delaying nature of the government to implement right policies, and SEZ being one of them is the downfall of many and by seeing many more to come many of the things has been set and done but the questions remains the same, Has SEZ Policy Delivered in India? Which is still to be answered?

SEZ Article ...

Evolution of Special Economic Zone

Writer : Milan Dhanuka

Background

The concept of special economic zone had evolved from Export processing zones. The ASEAN countries were some of the first to utilize EPZs to increase exports, relax foreign exchange constraints and thereon it was internationally accepted which is evident, as seen in Spain, Ireland and Malaysia. EPZs helped to boost the economy by using liberal trade policies, moderate tax rate and other policies which were favorable to new entrepreneur for setting up units.

The rate of increase in the numbers of export processing zones had been remarkable. There were 176 zones across 47 countries in 1986, but that number stood in excess of 3,000 across 116 countries by 2003, it had been seen that large number of these were located in developing countries. It provided them a suitable platform to earn foreign exchange and to increase the exports.

Export Processing Zones in India: Analysis of the Export Performance, “ICRIER Working Paper 148, November 2004;

ESTIMATES OF EPZs	1975	1986	1995	1997	2003
No. of EPZs	25	47	73	93	116
No. of countries with EPZs	79	176	500	845	>3000

On the other hand, India, the first Asian economy who had set up an EPZ– at Kandla in 1965, followed by the Santacruz Electronics Export Processing Zone (SEEPZ) in the year 1973 which actually took off in 1989, following a report by the Comptroller and Auditor General of India (CAG). Comptroller and Auditor General of India in its report had defined EPZ as foreign exchange earner, developing export-oriented industries, stimulating investment and generating employment. It also had been said in the report that it had been set up to create an internationally competitive environment for export production at low cost. Subsequent policy documents have reiterated the low-cost export production motive.

The Centre had Drafted SEZ Bill (2004) in which also “promotion of foreign trade in goods and services” was the most important of all SEZ objectives and defended the Bill after it took the step of replacing the old EPZ scheme by SEZs. Centre provided a concrete substance when it passed the SEZ Act (2005). The Ministry of Commerce had even gone on record, saying that – apart from exports – SEZs will attract investments to the tune of Rs 1, 00,000 crore (with Rs 25,000 crore more in FDI), plus create 5 lakh new jobs by December 2007. The centre had learned from the past experience it share from the functioning of Export processing zones that they need to avoid items depending on ‘scale economies’ and the collapse of engineering exports in EPZs in the mid-90s.

Ground Realities

The pre-1991 period was a tough period for entrepreneurs for investment purpose as countless approvals were needed in order to set up an industrial enterprise. An entrepreneur who were interested in setting up business units had to first get ‘in principle’ approval from the Ministry of Industry. If granted, the businessman would be able to approve Letter of Intent from the appropriate authorities and then take the next necessary steps to finalize project requirements on other fronts. Secondly the businessman had to take ‘essentiality’ and indigenous ‘non- availability’ clearances from the Directorate General of Technical Development (DGTD) and after issue of the same, he will be approaching Chief Controller of Imports and Exports (CCI&E) in the Ministry of Commerce, who were the authorized person to issue license which in turn help the businessman in imports of capital goods but the final approval would have to be obtained elsewhere – from a committee in the Ministry of Industry. The CCI&E was the prominent figure related to imports of raw materials and components and separate license had to be acquired annually making it a tedious job to comply with. They had to further clear foreign technology collaborations via specific approvals from a committee chaired by the Finance Secretary and serviced by the Ministry of Industry.

This was not enough to set up a unit. If an industrialist wanted to source funds for its project, they would have to take permission from Ministry of Finance. In that case the entrepreneur had to apply to the 15 Controller of Capital Issues (Ministry of Finance) for approval to approach the capital market. Only after everything had been tied up, and the unit was about to go into production, he could approach the Ministry of Industry again – this time for an ‘Industrial License’.

If above mentioned procedures was an easy procedure to set up a new unit, matters were even more complex in 1969 with the enactment of the MRTP Act (1969). Firms covered by the act had to obtain separate MRTP clearances from the Department of Company Affairs. The Government wanted to promote small-scale industries (SSIs) so it had reserved 836 items for the small-scale sector. This was in addition to the list of industries that stood reserved (since 1956) solely for the public sector.

In year 1977, India largest 30 cities witnessed a ban on locating industries .That ban was extended in 1988 to include the municipal areas of all towns, cities and to specified areas of influence around the largest twenty-one cities. Only after such incidence had taken place a serious reconsideration was look into earlier economic models that had been so firmly entrenched right since Independence.

Early Lackluster Performance

As of now we already know that EPZs was established to increase foreign exchange earnings and to boost the economy but it hasn’t been able to make any serious dent in India’s economic aggregates which can be observed from the data of year 2004-05. Export Processing Zones accounted for just:

...er cent of total exports,
...ent of factory employment and
...cent of manufacturing investment

Although the intention was not wrong in setting up EPZ but it was the collapse of the major Eastern Bloc markets that used to absorb 87 per cent of their exports, an investigation made in the year 1990 for EPZs strongly suggested the above note. This slowdown persisted until the mid-90s, and only since then has there been an upturn.

All said and done but China is the one, who has emerged as the best practitioner of the SEZ policy and justifying the hypothesis that, those which are well defined geographically, and restricted, are the ones which are best suited for export processing though electronics and gems & jeweler should turn out to be the most successful Indian EPZ exports seems to bear out this conclusion. However, there are many other aspects about Chinese SEZs: they are (i) Far (16 bigger than Indian EPZs or SEZs), (ii) far fewer in number, with units therein (iii) operating in line with the liberalization that is fast taking place in China’s DTA.

EXPORT PROCESSING ZONES – BEGINNINGS AND EXPANSION

Phase I: 1965—1985

The first change occurred at the end of the 1970s, when India suddenly found itself unable to match either the value, or volume, of its exports with the much higher value of imports that was resulted by the second oil price shock. Due to happenings of such events the government therefore decided to boost exports and set up four more EPZs in 1984 – in Noida (UP), Falta (W Bengal), Cochin (Kerala) and Chennai (Tamil Nadu). The Visakhapatnam EPZ (Andhra Pradesh) was also established in 1989, but became operational only in 1994, excluding Chennai, the EPZs in all other locations were situated in industrially backward regions. But what is remarkable is that the government never really specified the main aims for the creation of such EPZs. Nor were there any significant changes in the laws and procedures pertaining to them making entire gamut of policies and controls that applied to the rest of the economy at the mercy of the government. Such policies were inflexible, and were circumscribed by unattractive incentives and facilities. There was no single window facility within such zones, and entrepreneurs had to acquire individual clearances from various State government and Central departments. Day-to-day operations were subject to rigorous controls, examples being customs procedures for bonding, bank guarantees, and the movement of goods. FDI policy was very restrictive, even the Zone Authorities enjoyed very limited powers. That put India at the bottom of the international ranking on business environment indices, making government-appointing the committees to review the working of EPZs. The EPZ growth was being hampered by numerous handicaps, such as

- Absence of a clear policy,
- Lack of any implementing authority empowered to co-ordinate and control centrally,
- The presence of numerous procedural constraints, 20 infrastructure deficiencies,
- Limited concessions and limited powers on the part of EPZ authorities to take the-spot action.

committees' suggestions got adopted. The only change that (belatedly) government's 1980 introduction of the Export Oriented Units scheme ted the creation of EOUs outside the EPZs' boundaries.

tion 1991-2000

In 1991, a spell of liberalization was administered to the Indian economy. On the above backdrop, wide-range of measures was initiated by the government for revamping and restructuring EPZs. This phase was thus marked by **progressive liberalization of policy** provisions and relaxation in the severity of controls and simplification of procedures. The focus had been on

- Delegating powers to zone authorities,
- Providing additional fiscal incentives,
- Simplifying policy provisions and providing greater facilities.

The scope and coverage of the EPZ/EOU scheme was enlarged in 1992 by permitting units in the agriculture, horticulture and aqua culture sectors. In 1994, trading, re-engineering and re-conditioning units were also permitted to be set up.

Phase III: Re-Emergence 2000-Onwards

This period has witnessed a major shift in direction, thrust and approach. The EXIM Policy (1997-2002) has introduced a new scheme **from 1 April, 2000** for the establishment of Special Economic Zones (SEZs) in different parts of the country. The SEZ is an almost self-contained area with high-class infrastructure for commercial as well as residential inhabitation. SEZs are permitted to be set up in the public, private, joint sectors or by the State governments with a minimum size of not less than 1000 hectares. The number of incentives both fiscal and non-fiscal has also been extended to the units operating in SEZs. Several measures have been adopted to improve the quality of governance of the zones. These include relaxation in the conditions for the approval process and simplifying customs rules. Development Commissioners were given the labour commissioner’s powers. SEZ policy is thus the most significant thrust towards ensuring the success of export processing zones. **From 1 November, 2000** the Export Processing Zones at Kandla, Santa Cruz (Mumbai), Cochin and Surat were converted into SEZs. **In 2003**, other existing EPZs namely, Noida, Falta, Chennai, Vizag were also converted into SEZs. Approvals were also given for the setting up of 26 SEZs in various parts of the country in the private/JT sectors or by the State. These are,

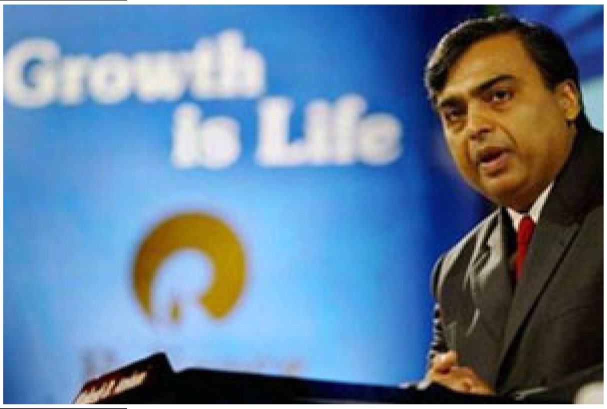
- SEZs at Nanguneri (Tamil Nadu),
- Positra (Gujarat),
- Kulpi (West Bengal),
- Paradeep (Orissa),
- Bhadohi and Kanpur (Uttar Pradesh),
- Kakinada (Andhra Pradesh),
- Dronagiri (Maharashtra) and
- Indore (Madhya Pradesh).
- Santacruz EPZ was also extended in terms of size by adding 11 acres.

Devolution of Powers Since 2005

The SEZ Act (2005) limited the responsibility of the Central government to just the appointing of a Development Commissioner (DC) – along with 23 a small complement of staff to supervise the functioning of SEZs. The latter must conform to the guidelines contained in the Act and Rules. The DC oversees the Approvals Committee at the level of the SEZs and reports to the Secretary in the Department of Commerce who is the Chairman of the Board of Approvals with the Government of India. As mentioned earlier an EGOM was constituted to discuss and decide contentious issues .At the same time, it became the responsibility of the private developer to install infrastructure – social or otherwise – attract new units to the processing area, and manage the zone. It is also the developers’ responsibility to fund and manage the project on a commercial basis and work closely with the State government concerned.

After RIL SEZ uproar, uncertainty prevails

FRIDAY, 20 JANUARY 2012



With the Haryana Government's decision to take back over 1,300 acres of land from Reliance India Limited (RIL), which was meant for a special economic zone (SEZ) near Gurgaon, the fate of other land in its vicinity, which was acquired directly from the farmers has now become uncertain.

The company had acquired the land for the SEZ but as the project itself has been shelved, no one in the State Government knows what project would be started on this land. Apart from these 1,383 acres which it was getting from the Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC), the RIL had also acquired more than 800 acres of land in Gurgaon.

AMADA plans expansion

Jan 20, 2012

AMADA, the $2 billion Japanese machine tools major, is mulling over the plan to set up a manufacturing facility in India to produce sheet metal processing and laser cutting machines among others in the next five years.

"We have been selling a wide range of machines in India over the last decade and growing at over 10 per cent annually. To begin with, we are setting up a technical centre at Aerospace SEZ near international airport in Bangalore at an investment of $13 million to train our employees and customers on our machines. In the second phase we would look at setting up a manufacturing unit here," Toshio Takagi, senior managing director, AMADA Co Ltd said.

The company manufactures a wide range of metalworking machinery such as sheet metal processing, laser cutting machines, bending machines, combination machines, punching machines, stamping press processing, metal cutting and machine tool processing among others. Presently, it is importing machines from Japan and marketing in India.

AMADA is exhibiting its products and services at IMTEX Forming exhibition. The manufacturing plant would require an investment of $30 million, he said.

"Typically, an independent manufacturing facility requires highly skilled workforce and there are some limitations on this front in India at this moment. So, at this stage, we are concentrating on setting up our technical centre, which will have trained engineers from Japan to impart skills to our Indian employees and customers. We would firm up plans to set up a production plant within the next five years," Takagi told Business Standard.

Takagi also said that the company is selling Rs 250 crore worth of products in India and aims to grow it rapidly in the years to come. It is also in the process of shifting its India headquarters from Mumbai to Bangalore, which is closer to majority of its customers. It is also planning to ramp up its headcount at its software development centre in Chennai from the current 140 engineers, he added.

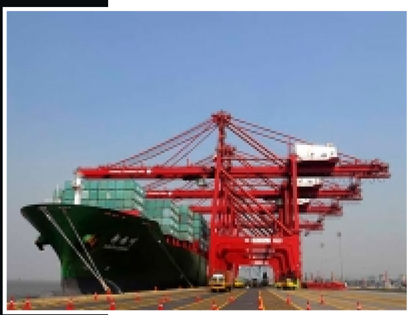
AMADA is currently serving a wide spectrum of Indian manufacturing sector that includes L&T, Ashok Leyland, BEL, BHEL, Caterpillar, Telcon, Otis elevators, Kone, Voltas and Blue Star among others. It has 800 customers in India and sells around 150 machines annually.

The proposed technical centre in Bangalore will support other aerospace companies coming up at the SEZ. It will have about 100 engineers at this centre, which will be operational by 2014.

The Karnataka government has allotted 8 acres land at Aerospace SEZ near international airport to upgrade the group's global solutions centre and set up technical and vocational training centre. It will also have a parts centre to cater to the growing requirements of its customers in India.

Delays to JNPT's fourth terminal could prove costly

19 Jan 2012



- Project delayed after PSA-ABG consortium refuses to pay stamp duty expenses
- Delays could cost JNPT up to Rs 500 crore in revenue losses

The build of the fourth container terminal at Jawaharlal Nehru Port Trust (JNPT) has been delayed amid confusion over stamp duty responsibilities.

A consortium of the Port of Singapore Authority (PSA) and India's ABG Ports, who were awarded the fourth terminal contract in August last year, has refused to pay a R50 crore stamp duty to the state government and has demanded that the JNPT cover the costs.

"We were not informed in advance and not communicated clearly that we have to bear the stamp duty expenses," a senior official at ABG Ports told the Financial Express.

"The moment this issue gets sorted out, we will go ahead with the project as it is a prestigious one for us."

Delays to the project will not only result in the Indian port losing as much as R500 crore a year in revenue losses, but could mean even greater losses as shippers seek alternatives to JNPT, according to the Financial Express.

JNPT has already lost 15 percent of its market share of containerized trade to rivals Mundra Port, Special Economic Zone (MPSEZ) and Gujarat Pipavav Port, as shippers attempt to do away with the congestion that has hampered JNPT in recent months.

These relatively new ports are looking to nearly double their current joint capacity of 8.4 million tonnes to 15 million tonnes by 2015. The proposed expansion of the three facilities is expected to put further pressure on business at JNPT.

“Demand will always find an alternative. JNPT has already started losing on trade and would have done better had it had more capacity,” Manish Saigal, partner at KPMG India, a global consultant, told the Financial Express.

Under the conditions of the contract awarded to the PSA-ABG consortium they will provide 51 percent of revenues to the government during the 30-year concession.

When completed the fourth container terminal at JNPT will add a further 4.8 million TEUs to the existing 4 million TEU capacities.

Container traffic volumes at all of India’s ports reached 9.7 million TEUs in 2011, and this figure is expected to reach 14 million TEUs by 2014.

India plans to more than double the capacity of its ports over the next three years to 22.7 million TEUs to cope with these traffic rises.

To achieve this India will not only upgrade existing facilities but will build a number of entirely new ports.

Of the planned 23 ports highlighted under the Indian government’s private-public partnership (PPP) model, as many as 70 percent could be granted approval over the coming year, according to the Financial Express.

L&T seeks nod to shelve SEZ project in Tamil Nadu

January 18,2012

Larsen and Toubro (L&T) and Videocon Realty and Infrastructure have approached the Ministry of Commerce, seeking to withdraw from developing the special economic zone projects in Tamil Nadu and West Bengal, respectively.

Commerce Ministry Officials said L&T had approached the Board of Approval (BoA) seeking to surrender its IT/ITeS SEZ, which was to come up at Coimbatore in Tamil Nadu, citing ‘economic unviability' of the project. The developer had requested for de-notification of the SEZ in the changed economic scenario, officials said. Videocon Realty and Infrastructure has approached the BoA that it would like to withdraw its IT/ITeS SEZ project proposal at Jalpaiguri due to the latest business outlook in the northern region of West Bengal. “The developer has requested withdrawal of formal approval, stating that the company is not able to implement the project owing to the latest business outlook of the region," officials said.

An inter-ministerial Board of Approval, chaired by Commerce Secretary Rahul Khullar, will consider these two requests on January 24.

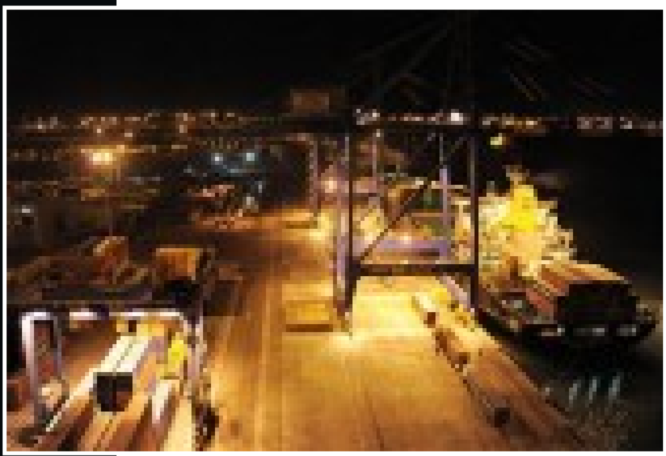
The project was to be implemented by Videocon Realty and Infrastructure, which had been granted a formal approval for setting up ten-hectare Special Economic Zone (SEZ). The preliminary approval was given in May 2009.

The development on West Began front comes close on the heels of the conclave held by Chief Minister Mamata Banerjee recently in Kolkata with industrialists to discuss the various problems faced by them and to seek more investment for her state.

Besides, 11 developers have sought extension of time for execution of their projects. However, India's largest software firm, TCS remains bullish on the sector and has sought approval for its new SEZ project at Indore in Madhya Pradesh.

India: export zones disappoint

January 18, 2012



India's special economic zones policy, launched with a fanfare in 2005 to boost exports in Asia's third-largest economy, is in danger of fizzling out.
With only 124 zones in operation, compared to the original target of 500, government officials are having doubts about the policy – and private sector investors building the zones are concerned about their financial viability.
Special economic zones (SEZs), benefiting from tax breaks for export-oriented activities, now account for 22 per cent of India's total exports (worth $250bn in 2010-11). That compares with the 7 per cent of $100bn attributed to the handful of SEZs existing in 2006-07.

The increase is the SEZs' share of exports is partly due to existing industrial complexes turning boosting exports and partly due to the creation of new export-oriented zones. The rules require that 70-80 per cent of production is exported compared to 25-30 per cent before 2005.
Infrastructure companies like Larsen & Toubro, the Tata group affiliate, is only one of a number of companies that are reported to be dropping out of the race to develop SEZs after their effectiveness came under fire from industry members and analysts. There are considerable doubts whether the policy can help achieve the government's target of doubling India's exports by to $500bn by 2014.

Sangeeta Prasad, CEO of Mahindra World City Developers, which has developed SEZs, told beyondbrics that investor sentiment was being dampened by a perception that the government was backtracking on promises of the valuable tax exemptions that are the main allure of an SEZ.

“The government promised us certain benefits and they’re being taken away from under our feet, why would we go in for it?” Prasad said. “…The direct tax code that’s been proposed will affect the sentiment of potential investors because they see their benefits being affected adversely.”

As part of its biggest tax reform in 50 years, India proposed last year to end the tax breaks ahead of schedule on profits that SEZ developers and participating companies enjoy, which cost the government $1bn in revenue in 2010 alone, the Economic Times reported.

Exemptions that were to last until 2016 began to be phased out from 2011. All new developers starting projects from March 2012 will face a 19.9 per cent tax on profits.

Red tape is also an issue. While in other countries, land and licence approvals for such projects take anywhere between three to six months, India’s legendary bureaucracy has slowed this process down to over a year in some cases, according to Punit Shah, partner at KPMG tax and regulatory services. At last count, three quarters of the planned SEZs remained in regulatory limbo.

“It’s the complex rules and regulations of the Indian bureaucracy that have played a major role in holding up [the development] of SEZs,” he said.

Unfortunately, that’s a familiar story for investors in India.

Reliance SEZ on way out, Haryana govt. wants its 1,384 acres back

Wed Jan 18 2012

The Reliance India Limited (RIL) Special Economic Zone (SEZ) in Gurgaon is on its way to being shelved.

Sources say RIL is expected to return the 1,383.68 acres it got from the government back to the Haryana State Industrial and Infrastructure Development Corporation Ltd (HSIIDC).

The decision comes after RIL chairman Mukesh Ambani met Haryana Chief Minister Bhupinder Singh Hooda in New Delhi this evening. “Since the setting up of the project has been delayed by about six years, we asked RIL to return us our land. They have laid down some conditions but I am hopeful we will be able to get our land back. We will develop this land on our own terms and in accordance with the state’s best interests,” Hooda told The Indian Express. “SEZs have failed across the world and it is no wonder that it has happened here as well.”

This SEZ was to be set up through a special purpose vehicle — Reliance Haryana SEZ Ltd — created after a collaboration between Reliance Ventures, a wholly owned subsidiary of RIL, and HSIIDC. RIL had 90 per cent stake in the project while HSIIDC holds 10 per cent sweat equity in the project.

RIL inked the pact with HSIIDC on June 19, 2006. Last year, RIL sought an extension of the in-principle approval by the commerce ministry till March 2015 but was given a year that ends March 31.

Showcased as a key achievement of the Congress government in the state, the RIL SEZ in Gurgaon, along with its sister project in Jhajjar, was to bring in an investment of around Rs 25000 crore through RIL and another Rs 15000 crore through companies which were to populate the SEZ. Hooda had, on the day of the signing, claimed that the project would create jobs for 5 lakh persons and that the state would earn Rs 10000 crore from the projects

Officials said the Model Economic Township (MET) at Jhajjar being set by the RIL in collaboration with Infrastructure Leasing and Financial Services Ltd would go on as planned.

The RIL is said to have paid Rs 400 crore for the land. If the land is returned, the HSIIDC will have to pay back RIL this amount along with the annuity that RIL paid to the farmers whose land was acquired by HSIIDC for the project.

In 2006, when the project was conceived, RIL planned to set up a 25000-acre SEZ stretching between Jhajjar and Gurgaon off the Delhi-Jaipur Highway. Later, the company decided to create two SEZs of 12500 acres each in Gurgaon and Jhajjar.

Later it was decided that instead of an SEZ in Jhajjar, RHSL would set up an MET on the lines of an industrial model township (IMT). The RIL is said to have bought over 7000 acres of land in Jhajjar for the project. For the Gurgaon SEZ, RIL is said to have bought 1200 acres of land other than the land given to it by HSIIDC. The company, it is stated, was trying to sort out the problem of contiguity of land for the project.

Videocon seeks to shed SEZ tag for IT Park

Jan. 17: The Videocon Group has requested the Centre to withdraw the SEZ approval for its planned IT Park in Jalpaiguri, but its officials in Calcutta clarified that the project itself was on.

“Earlier, the project was planned as a special economic zone (a tax-free enclave) but now we have decided to change it to a domestic project,” group vice-president Gautam Sengupta said.

Units in SEZs have to export whatever they produce but, Sengupta said, “after mulling over the recent economic slump in Europe and the US, and the strictures by their governments to control outsourcing, we could assess that it was not possible for us to sell the entire produce outside India”.

He added: “This prompted us to (seek a) change (in) the project’s status... meaning we would not avail the facilities of an SEZ and can sell the products in India.”

The inter-ministerial board of approval, chaired by commerce secretary Rahul Khullar, will consider the request on January 24, sources in Delhi said.

“The developer has requested withdrawal of the formal approval (for SEZ status) stating the company is not able to implement the project owing to the latest business outlook of the region,” says the agenda paper of a board of approval meeting.

A Union commerce ministry official, however, said that although the developer had cited the economic slowdown, the “main reasons for the move were the Direct Taxes Code and the imposition of the Minimum Alternate Tax (MAT)”.

SEZ developers — and the units set up there — got high tax exemptions but the new tax code and the imposition of MAT have cut down the benefits of setting up factories in these special zones as opposed to ordinary industrial parks.

According to the revised Direct Taxes Code draft, expected to come into force in April 2012, exemptions for special zones will be confined to those that already exist. As a prelude to the shift to the new tax code, the **2011-12 Union budget proposed an MAT of 18.5 per cent on the book profits of SEZ developers and units, who were earlier exempted from MAT**.

Commerce ministry officials said the uncertainty over tax exemptions for the new SEZs had led to declining interest in the tax-free enclaves and prompted several requests for withdrawal of SEZ approval.

SEZ approval comes in three phases: preliminary approval, formal approval and notification. According to the latest statistics**, there are 583 approved SEZs in India, 381 of them notified, and 148 zones have gone operational with 3,308 units**. However**, between December 2008 and July 2011, as many as 33 developers surrendered their SEZ projects.**

Videocon Realty and Infrastructure Ltd had been given both preliminary and formal approval for its IT-and-ITES project on a 25-acre plot at Dabgram on Siliguri’s outskirts. The company said it had decided about a year ago not to pursue the SEZ status and so did not seek notification.

An official said the company plans to use 30 per cent of the total space for its own businesses, such as director-to-home television and mobile phones, and is looking for an anchor investor for the remaining portion.

It is also seeking some relaxations in the terms under which it is allowed to lease land to IT players according to its development agreement with the Siliguri Jalpaiguri Development Authority**.**

Videocon has physical possession of the land, given to it by the previous Left Front government. It plans to start construction from March and complete the three-phase project in four to five years.

In the first phase, one lakh square feet of space will be built on, which will go up to one million square feet when fully completed. The company, promoted by the Dhoot family, plans to invest Rs 500 crore in the project and expects to create 30,000-odd jobs.

“In the first phase, we will invest Rs 100 crore and generate employment for 10,000 people or so. We will visit Siliguri next week to work on the progress of the project,” Sengupta said.

"Along with IT and ITES, we have thought of using the infrastructure for educational purposes."

Infrastructure major Larsen and Toubro too has approached the commerce ministry to surrender it's planned IT and ITeS special zone at Coimbatore in Tamil Nadu, citing "economic unviability".

"The developer has requested de-notification of the SEZ... in the changed economic scenario," the agenda paper of the board of approval meeting says.

Several others too had moved the board with de-notification requests. They include DLF, Bata India, Unitech Infopark, Maytas Ventures, Essar (Hazira SEZ), and Satyam Computer Services.

Others such as Reliance, Parsvnath and Ranbaxy Laboratories have sought additional time for executing projects, citing the economic slowdown.

Commerce secretary Khullar has said that the withdrawal of the income-tax exemption will dent both the viability of the SEZ scheme as well as India's image as a safe place to invest.

To offset the slump in interest in the special zones, the commerce ministry is promoting "national investment and manufacturing zones" or NIMZs, which are said to be SEZs in a new avatar with a crucial difference: the NIMZs are meant to boost domestic manufacturing.

Global PE majors woo Prestige to buy out SEZ

Bangalore Jan 16, 2012

Global private equity majors are understood to be holding discussions with Prestige Constructions to buy out a special economic zone (SEZ) here for close to Rs 1,800 crore.

Called Cessna Business Park, the 4.5-million sq ft project houses marquee technology majors like Cisco as its clients. The rental-yielding fully-developed SEZ on the Sarjapur-Marathalli outer ring road, is one of Prestige's landmark commercial space developments.

A spokesperson for Prestige said there have been offers for this tech-park from global private equity players. "We have not yet decided to sell the property," he told Business Standard.

Prestige recently completed a year of tapping the public markets. It is among the few realty developers that have heavily tapped the private equity route for development. Chairman and managing director Irfan Razack had recently this newspaper that his company was working on a couple of deals to unlock value for investors.

Prestige, in addition to this development, has so far completed 157 projects, spanning a total development of 44 million square ft across residential, commercial, retail, leisure & hospitality sectors last year. It is embarking on another 62.29 million sq ft spread over 61 projects.

If Prestige decides to go ahead with the sale, it will be the second major such deal — after global private major Blackstone picked up a significant stake in another tech park developed by the Embassy Group for $200 million. Prior to this deal, Ascendas India Trust expanded in India to buy five tech park buildings in Phoenix Infocity for Rs 855 crore, while Kotak Realty Fund exited Peepul Tree Properties to Tata Realty for Rs 525 crore.

Prestige, a South India-focused realty developer, had debt of close to Rs 1300 crore at the end of the second quarter of FY12, with a gearing of just under 0.4 times. The company for last fiscal posted profit of Rs 200 crore on a topline of Rs 1,232 crore. It is on track for a total sale of Rs 1,500 crore during FY12. According to a spokesperson, the company's rental income is around Rs 150 crore. "We are working towards increasing this to Rs 500 crore in two to three years' time," he added

The grand SEZ dream on deathbed

New Delhi Dec 26, 2011

Calculations seem to have gone offtrack along the way; the initiators blame policy confusion and lack of comprehension in coordination.

The Special Economic Zone (SEZ) policy was launched with considerable hype in India in 2006, when the economy was booming and investors around the world were looking at the country as a credible investment destination. It was launched with the promise of lucrative tax incentives, to substantially boost export.

However, five years later, with the change in the global economic scenario, coupled with unstable policy, the SEZ story is dying a slow death.

In the past couple of years, a wide gap has emerged in the number of new proposals getting approvals and that of SEZs becoming operational. Today, the ministry that conceived the idea and implemented the scheme is busy shifting gear backwards and, instead, promoting the concept of national investment and manufacturing zones (NIMZs) under the recently introduced National Manufacturing Policy. According to experts, NIMZs are just another re-branding attempt in the backdrop of SEZ activities increasingly becoming tepid, though SEZs are meant exclusively for exports and NIMZs are aimed to boost domestic manufacturing.

"We are seeing a slowdown in getting clients for our SEZs," said Arun Nanda, chairman, Mahindra Lifespace Developers. "The government should realize that SEZs have become an issue of credibility. Companies were attracted to the scheme due to tax incentives. The government cannot go back on its promise. Rolling back the policy would become a huge issue. While the concept of NIMZs is laudable, unless there is a concerted effort between the central and state government to make it a success, the scheme would remain on paper."

Mahindra World City SEZs in Chennai and Jaipur are regarded as success stories that boast of a clientele of BMW, CapGemini, Infosys Technologies, Renault-Nissan, TVS Group and Wipro, among others.

The SEZ Act was enacted in June 2005 and made operational from February 2006. The scheme made phenomenal progress in terms of exports, employment and investment, based on the government's promise to investors of long-term continuity. It was launched primarily because all other efforts made by successive governments had failed. The idea was first mooted in 2000-2001 under the then commerce and industry minister, Murasoli Maran.

Hindsight

"In some sectors, we did achieve considerable success against China, like the Nokia SEZ and others," said former commerce secretary G K Pillai, who was instrumental in implementing the policy in 2006. "The government has to make the policy stable to bring in foreign and other investors. Investors today look at cash flows. If we do not offer them a stable policy, they would rather go to other countries. Amidst widespread public misconception about the policy, we forgot the various unintended benefits these SEZs brought. There is bound to be some problem while doing big things, but the government has to stick to the rules. Somewhere over the years, the commerce ministry abdicated responsibility."

Pillai also highlighted the aspect of job creation in SEZs. Jobs created within SEZs as on September are given as 7,32,839. "If a tax concession creates millions of jobs, then why not?" asked Pillai, arguing that the revenue forgone due to the concession would come back to the state coffers when a person working in the SEZ pays taxes.

The ministry of commerce and industry recently floated a discussion paper to ascertain 'shortcomings in the conception and implementation of the SEZ policy framework'. While 583 SEZs had been formally approved as on October 31, only 381 have been notified, of which 143 are exporting. Ministry data admits to a skewed export pattern, inadequate progress of manufacturing activity, uneven sectoral dispersion, limited number of operational SEZs and the fact that the hinterland has been untouched.

India was the first country in Asia to set up an Export Processing Zone (EPZ), in 1965 at Kandla in Gujarat's Kutch district, called the Kandla Free Trade Zone. After this, six more EPZs were set up, at Santa Cruz (Mumbai), Falta (West Bengal), Chennai (Tamil Nadu), Noida (Uttar Pradesh), Cochin (Kerala) and Visakhapatnam (Andhra Pradesh).

"Frankly, the government did not have the resources then to create infrastructure that would propel exports," says N L Lakhanpal, former director general of foreign trade (1997-2002) under Maran. "Schemes like Export-Oriented Units (EOUs) and Software Technology Parks of India (STPI) failed to live up to their objectives of creating world-class infrastructure and, moreover, these were under heavy regulations. So, we wanted to create earmarked zones, where all regulations would be suspended and, to attract developers, we had to incentivise by offering income tax relief. The NIMZs would meet the same fate as the SEZs."

Pillai agrees the NIMZs would be a non-starter, since each requires a minimum of 5,000 hectares, which is going to pose a challenge in a world where land acquisition has become a huge problem.

Today

The size of incentive package stipulated under the SEZ Act and Rules were reduced by the government with the withdrawal of exemption from Minimum Alternate Tax (MAT), levy of Dividend Distribution Tax (DDT) on SEZ Developers and grandfathering of the benefits to SEZ Developers (notified on or before March 31, 2012) and SEZ units (commencing on or before March 31, 2014). These withdrawals have all been challenged in court, so investors are unsure what to expect.

“We had the potential to compete with China but we did not achieve the objectives,” says Ravindra Sannareddy, managing director, SriCity SEZ, southern India’s largest private sector one. “Investors are still interested in the SEZ story of India but they are not very comfortable. They are confused, they don’t know how to read the policy. Moreover, the 2008 meltdown also dampened the SEZ story.”

Dipak Chatterjee, former commerce secretary, who oversaw preparation of the draft SEZ Act during his 2002-04 tenure, believes the SEZ concept got clobbered due to clearances given to a large number of projects and not to a selected few. “Unfortunately from the very beginning, the revenue department was determined to make it difficult on the ground of revenue lost. It was very difficult to convince them that duties and taxes are never exported, so instead of a regime of duty refunds post export, it is much simpler to have tax and duty-free export. The idea was to start with a handful of SEZs and if these proved a success, to replicate on a large scale. However, this was not done,” he said.

Recently, the Board of Approval of the ministry of commerce and industry, under commerce secretary Rahul Khullar, provided much-needed relief to cash-starved developers by allowing them to dilute their stake partly or fully to other promoters, including foreign companies, since more and more were finding it difficult to carry on with their SEZ projects.

According to CUTS Inter-national, an advocacy group, a National Coordination Committee on SEZs should be formed under the Prime Minister’s Office, with direct involvement of all states.

SEZ units are given 100 per cent tax exemption for the first five years, 50 per cent for the next five years and 50 per cent of the ploughed-back export profit for the next five years under section 10 AA of the Income Tax Act. Under section 115JB of the IT Act they are also exempted from Minimum Alternate Tax (though, as mentioned, this is under litigation). Besides these, the units are also exempted from central sales tax, service tax, state taxes and levies.

The draft Direct Taxes Code bill has suggested continuation of the 15-year tax holiday for units operational by March 31, 2014. In other words, the units have to start exporting before this date to avail of the I-T concessions available for SEZ units, even if they have got all the necessary approvals

Nagaland's SEZ fails to take off

The entrance of the Export Promotion Industrial Park located at Ganeshnagar under Dhansiripar sub-division in Dimapur which was converted into a Special Economic Zone. (Morung Photo)

Morung Express News

Nearly three years have passed since the Special Economic Zone (SEZ) was proposed to be set up at Ganeshnagar under Dhansiripar sub-division in Dimapur. The Government of Nagaland had big plans to rope in not only domestic, but foreign investors in the agro and food processing sector. Notably, this was one of the biggest projects in Nagaland launched with much hype.

Spread over 125 acres of land, the government proposed to convert the existing Export Promotion Industrial Park (EPPI) into a SEZ to be promoted by the Nagaland Industrial Development Corporation (NIDC). The first in the north east, the SEZ was set up exclusively for the agro and food processing sector. The arrangement was to absorb surplus agricultural products which were presently unused. Pineapples, passion fruits, bamboo shoot, medicinal plants and aromatic herbs, including lemon grass and Aloe Vera, were some of the products being considered for the proposal.

South Korea-based company Cona International Limited was the first to show interest. The Government of Nagaland signed two MoUs with the company- one with the Department of Industries and Commerce and the other with the NIDC.

Officials from Cona International had disclosed that the joint venture was likely to start functioning with the construction of modern storage facilities to assist ginger farmers of Nagaland with scientific technology, low cost storage technology and contract strategies to procure the produce after harvest. It raised hopes for thousands of ginger farmers in the State. The arrangement with the Korean firm, however, did not work out.

Parliamentary Secretary for Industries and Commerce, Dr. Nihoshe Sema said that his department hasn't heard from the Korean firm after it signed the MoU. This was further confirmed by several department officers who said no progress has been made with the Korean company.

According to NIDC Deputy General Manager Bendang Longkumer, the SEZ has not taken off as desired. Longkumer said that the SEZ was one of the best offerings for Nagaland. And with the Government of India's focus on the Look East Policy, the Nagaland government was optimistic about it.

The major problem confronting the SEZ is lack of proper power supply, Longkumer said. "For any big industry to run, there needs to be uninterrupted power supply," he said; adding that unless the power sector improves in Nagaland, industries cannot come up.

Another underlying issue pointed out by several government officials is the "law and order" problem prevailing in the State. Sources said that the State government has been underplaying the issue but concerns have been raised about security by investors. Moreover, the proximity of the Ganeshnagar to designated camp Hebron is a major impediment, sources added. Government representatives have been attending business summits in India and abroad inviting investors but nothing appears to be working out.

Since the SEZ is agro-based, it is also understood that unless Nagaland's agro production increases to commercial level, it would be difficult for any company to invest. “Ideally, any company would utilize locally available resources.

The question is whether we have can meet their demands if they were to invest here,” Longkumer said. The global economic slowdown could also be another factor preventing investors from coming to Nagaland, he added.

The government has already invested crores of rupees in developing Ganeshnagar. The State government just recently has asked for renewal of the proposal which has already lapsed. How long it will be before anyone shows interest is hard to tell. Longkumer said that several South Asian countries are showing interest and things might take off in the next few months. “The government is not just waiting for investors… It is also trying to facilitate at every level,” he said.

Government to take up repair work of SEZ rules soon

24 JAN, 2012

NEW DELHI: The commerce ministry will announce rules to simplify and rationalize procedures to revive special economic zones, hoping to draw investors to these enclaves once touted as centres of export excellence.

The changes, which will be notified in a week, could include a reduction the minimum-area requirement, easier vacancy and contiguity norms and allowing multi-product SEZs in sector-specific zones.

"There will be reforms and changes in policies pertaining to SEZs mainly to simplify procedures and make things easier. These will be notified by the end of the month," commerce secretary Rahul Khullar told ET.

Experts have welcomed the rethink on SEZs, which had caught investor fancy when they were announced five years ago but subsequent policy changes and other hurdles made them a non-starter.

"With the government going back on its promise of not imposing any taxes on SEZs for the first few years, the least that it can do now is to make implementation projects easier," a Delhi-based SEZ consultant told ET.

Finance minister Pranab Mukherjee had slapped a 18.5% minimum alternate tax, or MAT, on SEZ units and a 15% dividend distribution tax in this year's budget, leading to a sharp drop in new proposals and an increase in the number of withdrawals.

While approvals fell to 14 in during April to November last year from 25 in 2010 and 36 in 2009 periods, withdrawal of SEZ applications increased to 28 in the eight-month period from 27 and 19 in the previous two fiscal years.

"This (MAT and dividend tax) has affected cash flows and has resulted in a fall in net margins to 4-4.5%, from 7-8%, says R Sonthalia, a Kolkata-based SEZ owner.

The ministry has the power to make changes in SEZ rules as long as they do not have anything to do with taxes. "The SEZ Act empowers the commerce department to bring about any changes in rules and procedures as it deems fit by coming up with an appropriate notification," an official explained.

Since land acquisition is one issue that corporate India is struggling with, the proposed changes are likely to relax rules related to purchase of land. According to a discussion paper put out on the official website, the minimum land requirement for multi-product SEZs is proposed to be reduced from 1,000 hectares to 250 hectares and for multi-services and sector-specific ones from 100 hectares to 40 hectares.

A lower size threshold will allow SEZs to begin operations with smaller land parcels and expand as and when more land is available.

The definition of vacant land, the type of land on which SEZs have to be built, is likely to be relaxed. Flexibility in contiguity norms in areas where production activity is not taking place is also in the offing.

Other issues being considered by the commerce department include giving incentives to developers to build SEZs in areas away from cities and allowing some tax-breaks to SEZ units for selling in the domestic market.

Vodafone ruling gives glimmer of hope to developers of SEZs

Jan 24 2012

The Supreme Court's emphasis on clarity and consistency in tax laws in the Vodafone case has brought a glimmer of hope to developers of special economic zones (SEZ) who are fighting an unexpected change in the taxation system for the industrial enclaves conceived as a way of boosting India's exports.

Starting this financial year, the finance ministry has imposed a minimum alternative tax (MAT) of 18.5% on SEZ developers and units and a dividend distribution tax (DDT) of 15% on developers.

The developers say this is against the promise the government made while enacting the SEZ Act in 2005, and that the government is changing the law midway after investments were made factoring in the promised tax concessions.

In a landmark judgement on Friday, the Supreme Court said certainty is integral to the rule of law as it ruled in favour of a Netherlands-based subsidiary of Vodafone Group Plc. that was fighting a Rs.11,218 crore tax claim in India.

“Certainty and stability form the basic foundation of any fiscal system. Tax policy certainty is crucial for taxpayers (including foreign investors) to make rational economic choices in the most efficient manner,” the court said.

SEZ developers are hoping this aspect of the judgement will help them in their own fight.

P.C. Nambiar, president of the Association of Export Oriented Units and SEZs, said the industry lobby will cite the Vodafone judgement while arguing a case which is to come up for hearing on 23 February. The association has filed a case against the Union government in the Bombay high court challenging the imposition of MAT and DDT.

“The judgement in Vodafone case has two aspects. One, the accrual of income which was outside the country, hence not taxable. Second, the certainty and stability of tax regulations. While the first aspect is not applicable to SEZs since income is accrued in India, the second aspect is critical to us and will add weight to our argument,” Nambiar said. He added that after additional taxes were imposed, no major investment in SEZs had been made. “Investors have lost confidence in government policy,” he said.

The economic downturn and the uncertainty in tax policy for SEZs have forced many developers to exit plans for setting up the industrial enclaves.

In its latest meeting on 28 November, the board of approval for SEZs under the commerce ministry, the nodal body for approving the zones, denotified four SEZs. On 24 January, the board will take up for discussion a request by Larsen and Toubro Ltd for denotification of sector-specific SEZs for information technology (IT)/IT-Enabled Services in Coimbatore, Tamil Nadu.

Sunil Rallan, president of the Tamil Nadu SEZ Infrastructure Developers, which has filed a similar case opposing the new taxes in the Chennai high court, too, said the Vodafone judgement “might help as the basic concept that the spirit of sovereign commitment has to be honoured is similar in both cases.”

Rallan said the case is likely to come up for hearing on Tuesday though the government is yet to file its reply.

A commerce ministry official, speaking on condition of anonymity, said the high courts may strike down the contentious taxes on SEZs after the Supreme Court’s verdict.

The commerce ministry has been at loggerheads with the finance ministry on the issue and has been opposing any change in the taxation system for SEZs. The finance ministry feels there is large-scale tax evasion by SEZs and the expectation that such zones will drive India’s merchandise exports has been belied.

The finance ministry has also proposed replacing profit-linked incentives with investment-linked incentives once the direct taxes code comes into effect. The ministry has argued that profit-linked incentives promote a tendency to inflate profits as well as to transfer profits from a taxable entity to a non-taxable one.

According to budget documents, the revenue foregone due to export promotion concessions for SEZs stood at Rs.3,987 crore in 2009-10 and is projected at Rs.8,614 crore for this financial year.

Tax experts are divided on the matter.

Hitender Mehta, partner at Vaish Associates Advocates, says the Supreme Court's decision in the Vodafone case endorses the well-established doctrine of promissory estoppel (act of promise) as well as the doctrine of legitimate expectation insofar as it relates to the issue of stability of tax policy. "After the Vodafone judgement, the SEZ stakeholders now are seeing a ray of hope of reinstatement of the promised fiscal regime," he said. "I hope the government does not introduce any retrospective amendment to settle the scores."

Vikram Bapat, executive director (tax and regulatory services), PricewaterhouseCoopers India, however, is of the view that the Supreme Court did not specifically comment on a position of law. "Supreme court's comment on certainty and stability in tax policy should not be seen as a position of law, but merely a statement made. The government has the power to change laws as it likes," he said. "While the Vodafone case was about interpretation of law, the matter regarding SEZs is that of change in law."

Sudhir Kapadia, national tax leader at Ernst and Young, too, said the Vodafone and SEZ issues are materially different. "You can argue that it is bad policy and morally not right to do retrospective amendment to law, but in a democratic system Parliament is supreme. Courts cannot second guess or nullify that unless it is so unconscionable. I don't think such challenges will be successful," he added.

According to commerce ministry data, so far, 582 formal approvals have been granted for setting up SEZs, of which 382 have been notified. As on 30 September, over Rs.2.8 trillion was invested in SEZs and about 730,000 jobs generated. During 2010-11, exports by SEZs reached Rs.3.15 trillion, registering growth of about 43.11% over 2009-10.

TCS gets green signal for Indore SEZ

New Delhi Jan 24, 2012

The government today permitted IT software major Tata Consultancy Services (TCS) to set up a Special Economic Zone at Indore, Madhya Pradesh, even as it allowed Videocon group to pull out from its SEZ project at Jalpaiguri in West Bengal.

"SEZ proposal by TCS has been cleared," a Commerce Ministry official said after meeting of the Board of Approval (BoA).

He green signals to TCS and a few other promoters have been given at a time when SEZs have lost sheen as a vehicle of investment in the wake of imposition of Minimum

Alternate Tax (MAT) on the SEZ developers and units in the zones. Slowdown in the realty market has also added to the uncertainty among the developers.

The Commerce Ministry, the nodal authority for the SEZs, seems concerned over the entrepreneurs losing interest in these zones, which were initially meant to be tax-free areas.

"SEZs will be strengthened if we allow people to come and go as and when they want," a Commerce Ministry official said.

The BoA allowed L&T and Videocon Realty & Infrastructure to withdraw SEZ projects. The L&T project was to come up at Coimbatore in Tamil Nadu.

"Yes, whosoever has asked to exit, we are not standing in their way," he said.

The Videocon firm had approached the Centre to withdraw its project at Jalpaiguri due to "latest business outlook" in the northern region of West Bengal. It had been granted a formal approval in May 2009.

Eleven developers, including that of Parsvnath SEZ Ltd had requested for extension of time for execution of their projects.

Out of 381 notified zones in the country, only 148 have become operational. The maximum number of them are in sectors such as IT/ITES, engineering, electronics, hardware and textiles.

Commerce Ministry has floated a discussion paper to revamp its SEZ policy.

SEZ scheme: Commerce Ministry calls for meeting with India Inc.

Business Line, NEW DELHI, JAN .24:

The Commerce Ministry — the nodal body for Special Economic Zones — has called for a meeting with India Inc on January 27 to seek its suggestions for making the SEZ scheme attractive to investors.

The Ministry also wants to bring out norms soon to ‘offset the burden' on SEZs due to the imposition of Minimum Alternate Tax (MAT) and Dividend Distribution Tax (DDT).

The meeting is expected to be attended by top executives from realty majors such as DLF, leading information technology companies such as Infosys, as well as representatives from industry bodies such as CII, FICCI and Assocham and software industry body Nasscom, official sources told *Business Line*.

After the meeting, the Commerce Ministry is likely to take a call on revamping the scheme by reducing the minimum required land area to set up an SEZ; bringing out simplified norms to increase their operational efficiency; easing contiguity norms to remove the difficulties in procuring land; permitting a broader category of types of units that can come up in a sector-specific SEZ; providing incentives to attract investments towards manufacturing-oriented SEZs and to ensure that more SEZs are set up in backward areas.

SOPS SIMILAR TO EXPORTERS IN DTA

The Ministry is also seeking suggestions to make sure that SEZs get more or less similar incentives as being given to exporters in the Domestic Tariff Area (area outside the SEZs) so that the units do not suffer any disadvantage. Unlike their counterparts in the DTA, SEZ units do not get the benefits of duty drawback, focused product and focused market schemes.

"We will try and convince the business community to look beyond tax benefits and invest in SEZs to boost their exports," an official said, adding that the Government wants SEZs to be the drivers in helping the country achieve the export target of $500 billion by 2013-14.

The imposition of MAT, along with DDT, on SEZ developers and only MAT on SEZ units as well as the Direct Taxes Code proposal to withdraw profit-linked deductions for SEZs has led to a fall in investments into SEZs. Also, there has also been a significant decline in the proposals for establishing new SEZs and an increase in applications from companies to withdraw their SEZ plans.

TCS gets govt's nod for Indore SEZ

PTI Jan 24, 2012

NEW DELHI: Government permitted IT software major Tata Consultancy Services (TCS) to set up a Special Economic Zone at Indore in Madhya Pradesh, even as it allowed Videocon group to pull out from its SEZ project at Jalpaiguri in West Bengal.
"SEZ proposal by TCS has been cleared," a Commerce Ministry official said after meeting of the Board of Approval (BoA).

The green signals to TCS and a few other promoters have been given at a time when SEZs have lost sheen as a vehicle of investment in the wake of imposition of Minimum Alternate Tax (MAT) on the SEZ developers and units in the zones. Slowdown in the realty market has also added to the uncertainty among the developers.

The Commerce Ministry, the nodal authority for the SEZs, seems concerned over the entrepreneurs losing interest in these zones, which were initially meant to be tax-free areas.

"SEZs will be strengthened if we allow people to come and go as and when they want," a Commerce Ministry official said.

The BoA allowed L&T and Videocon Realty & Infrastructure to withdraw SEZ projects. The L&T project was to come up at Coimbatore in Tamil Nadu.

"Yes, whosoever has asked to exit, we are not standing in their way," he said.

The Videocon firm had approached the Centre to withdraw its project at Jalpaiguri due to "latest business outlook" in the northern region of West Bengal. It had been granted a formal approval in May 2009.

Eleven developers, including that of Parsvnath SEZ Ltd had requested for extension of time for execution of their projects.

Out of 381 notified zones in the country, only 148 have become operational. The maximum number of them is in sectors such as IT/ITES, engineering, electronics, hardware and textiles.

Commerce Ministry has floated a discussion paper to revamp its SEZ policy.

Ministry Proposes To Revamp SEZ Scheme; To Meet India Inc.

27-Jan-2012

The commerce ministry has called for a meeting with India Inc. on 27 Jan, to try and rationalize procedures for setting up special economic zones in India. The attempt is to draw investors to these enclaves who had caught investor fancy when they were announced five years ago but subsequent policy changes and other hurdles made them a non-starter.

When launched, the SEZ s were to be free of tax impositions but the Finance Minister had slapped a 18.5% MAT (minimum alternate tax), on SEZ units and a 15% dividend distribution tax in last year's budget, leading to a sharp drop in new proposals and an increase in the number of withdrawals.

The issues likely to be addressed are land acquisition, bringing out simplified norms to increase their operational efficiency; easing contiguity norms to remove the difficulties in procuring land; permitting a broader category of types of units that can come up in a sector-specific SEZ; providing incentives to attract investments towards manufacturing-oriented SEZs and to ensure that more SEZs are set up in backward areas.

Land acquisition has been one issue that corporate India is struggling with. It is likely that rules related to purchase and size of land could be relaxed. Right now the minimum land requirement for multi-product SEZs is 1,000 hectares for multi-services and 100 hectares for sector-specific ones. It is proposed that these be reduced to 250 hectares and 40 hectares respectively. A lower size threshold will allow SEZs to begin operations with smaller land parcels and expand as and when more land is available. The definition of vacant land, the type of land on which SEZs have to be built, is also likely to be relaxed. Flexibility in contiguity norms in areas where production activity is not taking place is also in the offing.

The Ministry is also seeking suggestions to make sure that SEZs get more or less similar incentives as being given to exporters in the Domestic Tariff Area (area outside the SEZs) so that the units do not suffer any disadvantage. Unlike their counterparts in the DTA, SEZ units do not get the benefits of duty drawback, focused product and focused market schemes.

Vallarpadam terminal may get cabotage waiver

TNN | Jan 31, 2012,

KOCHI: February promises to be a month of turnaround for the International Container Transshipment Terminal (ICTT) at Vallarpadam, as two major issues choking the growth of this Rs 3, 200 crore joint venture between Cochin Port Trust and Dubai Port will be resolved later this month.

Union shipping secretary K Mohandas has confirmed that initiatives have been launched at the level of the Prime Minister's Office to resolvethe row over customs inspection of the cargo being handled at the port, by February 15.

Opening of Customs Freight Station (CFS) near ICTT in February will be another factor that will mitigate the customs inspection hurdles at the terminal.

The long-pending demand for giving cabotage waiver to ICTT is also likely to be approved by this month, Mohandas told TOI here.

Prime minister's principal secretary Pulohit Chatterjee had convened a meeting of the secretaries of the ministries of shipping, commerce and finance in New Delhi last week to resolve the bitter turf battle between officials of the customs department and Cochin SEZ over cargo inspection at ICTT.

The government had declared ICTT as an SEZ and the development commissioner officials were arguing that entry to ICTT by anyone including the customs officials should be restricted as per their security norms.

Customs on the other side insisted on a free entry at the ICTT which handles import and export of cargo.

The dispute had led to curious situations where CISF personnel deployed by SEZ blocked the customs officials from off-loading and re-inspecting some of the cargo already loaded on to the vessels.

The whole episode was threatening to deter many mainline vessels from coming to ICTT, and preferring Colombo instead.

The PMO-convened meeting has directed the officials of the ministries of commerce, finance and shipping to come up with suggestions to resolve the dispute by February 15.

The best practices adopted at transshipment terminals in Dubai, Singapore and Colombo will be put in place at Vallarpadam, even the customs inspection systems, said Mohandas. Cabotage rules stipulate that only Indian feeder vessels can move cargo from one Indian port to another.

other vessels were finding these rules as disincentive to come to Vallarpadam and to opt for ports like Colombo as they can re-ship the cargo from there in foreign flagged vessels even to Indian ports.

Cochin Port was targeting to achieve 100% in the first year after its entire cargo operations were shifted to ICTT in February 2011. But the growth has been around just around five per cent mark in the first year.

"We have been hoping to handle 300,000 TEU of international transshipment cargo in the first year at ICTT, but we did practically nothing," a port official said.

This is despite that vessel handling charges at ICTT was much lower compared to other Indian ports and almost equal to that of Colombo.

A medium-sized vessel with a cargo of 4000 TEU may have to pay about $10,000 at ICTT Vallarpadam and Colombo while the charges could be as high as $40,000 in other India ports like Chennai or Tuticorin.

The turnaround time for vessels at ICTT was also much lower than all other Indian ports and Colombo as well. Mainline shipping operators have already shown keenness to shift their operations from Colombo to Vallarpadam if cabotage rules are relaxed.

The PMO has directed the officials of the ministries of commerce, finance and shipping to come up with suggestions to resolve the row over customs inspection of the cargo being handled at the port by February 15.

Rs 80cr taxiway for Boeing's 500cr unit

Shishir Arya, TNN | Jan 31, 2012, 02

NAGPUR: Maharashtra Airport Development Company (MADC) plans to spend Rs 80 crore to get Boeing's $100 million (500 crore) maintenance repair and overhaul (MRO) depot in Mihan-SEZ going. MADC has decided to build a taxiway to the MRO. Tenders for it may be floated in a fortnight. The American aircraft maker is setting up this MRO on behalf of Air India, as a part of the conditions in the 30,000 crore aircraft purchase deal with the national carrier.

Boeing has begun construction on MRO and needs a facility to bring the aircraft to MRO from main runway. This has to be provided by MADC, the SEZ developer. The access was to be through second runway that MADC planned. However, it has got delayed mainly because of land acquisition problem necessitating a 2.5 km taxiway from existing runway.

Boeing's investment in rupee terms is about Rs 500 crore and the taxiway would cost MADC almost 15% of the amount. MADC is facing tough times due to lack of fresh investment in SEZ. The state government will also have to refund the company 300 crore cost of acquiring remaining land needed for the project.

MADC's vice-chairman-cum-managing director UPS Madan confirmed the plans for taxiway. MADC officials had mooted a plan to utilize an old unused runway that crosses the existing airstrip for the taxiway. A part of this runway will be extended upto the MRO site. There is a road on the path currently being used by local residents. A bridge has been planned for commuters' with the taxiway going below it. An option of having a level crossing will also be considered, said a senior MADC official.

Madan added that the second runway would be taken up later. MADC would be roping in a third partner who would build the second runway on built operate transfer (BoT) basis. A draft feasibility report has been prepared by the consultants and various business models for developing the runway were being considered, he said.

Inox India Looks For $20Mn Acquisition In Europe

Charmi Gutka | 31 January 2012

Gujarat-based INOX India Limited is planning to acquire a European company this year for $20Mn (R100Cr) for expansion.

In 2009, Inox India acquired 51% stake in US-based Cryogenic Vessel Alternatives (CVA) for about $25MN (R120Cr).

Currently INOXCVA has manufacturing facilities in five countries (Canada, the USA, Brazil, India and China), with a client-base spread over 100 countries. The possible European acquisition would mark its presence in all the major continents where it has business interests.

Established in 1992, INOX India Ltd. is part of the INOX Group which has interest in diverse businesses including Industrial Gases, Refrigerant Gases, Fluoro Chemicals, PTFE, Renewable Energy, Cryogenic Equipment and Entertainment. Gujarat Fluorochemicals and Inox Leisure are also a part of Inox Group.

Inox India manufactures cryogenic liquid storage and transport tanks. It has three ultra modern facilities at Kalol, near Vadodara, Kandla, Ghandhidham which is a port side SEZ and Silvassa.

Inox is also investing R50Cr in the India facilities. It is also focusing on providing a link between the two existing LNG terminals in Gujarat (Dahej and Hazira) and industries requiring this gas as fuel even in the absence of gas pipelines for gas transportation.

With the emergence of new LNG terminals at Mundra (Gujarat), Kochi (Kerala), Ennore (TN) and Kakinada (Andhra Pradesh) in the near future, the company is planning a wider domestic presence to provide a virtual pipeline to the industries in the States having no gas pipelines so far. It will do so by providing cryogenic storage tanks and transportation facilities.