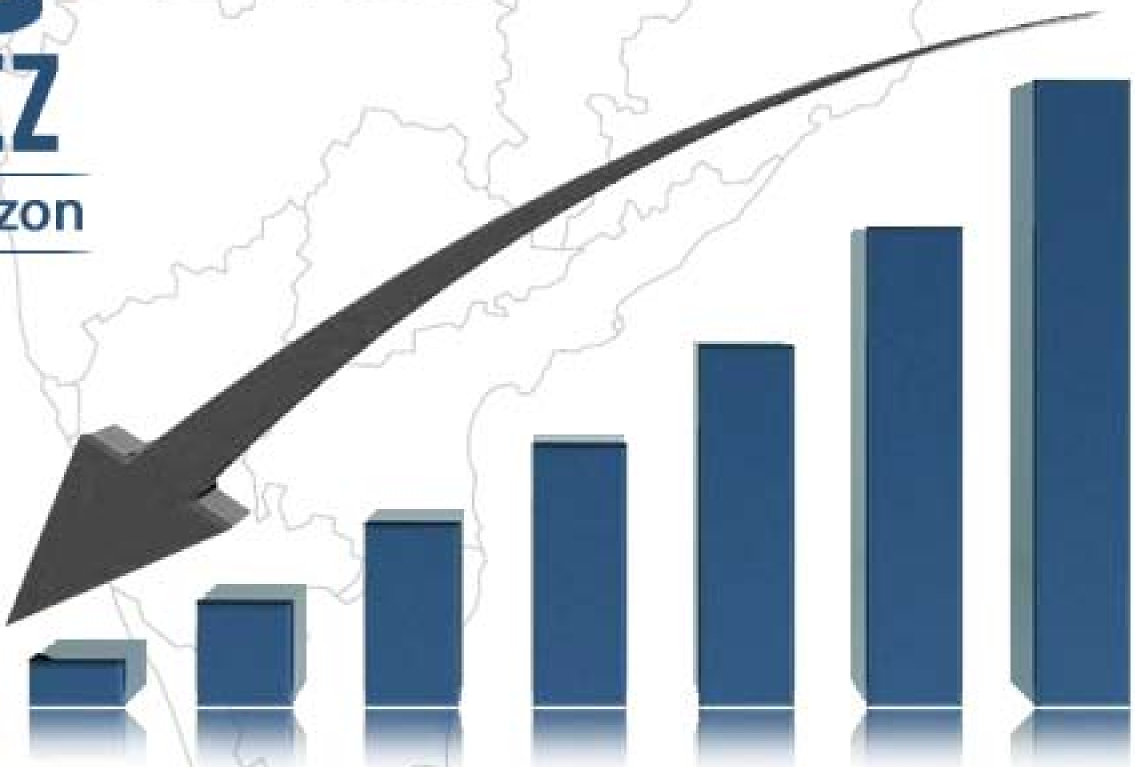
BUDGET 2012

SEZ:
A vision gone awry

Special Economic Zones in India –
The Ground Realities

SEZ polices:
Fine tuning needed for greater impact

SEZ Horizon



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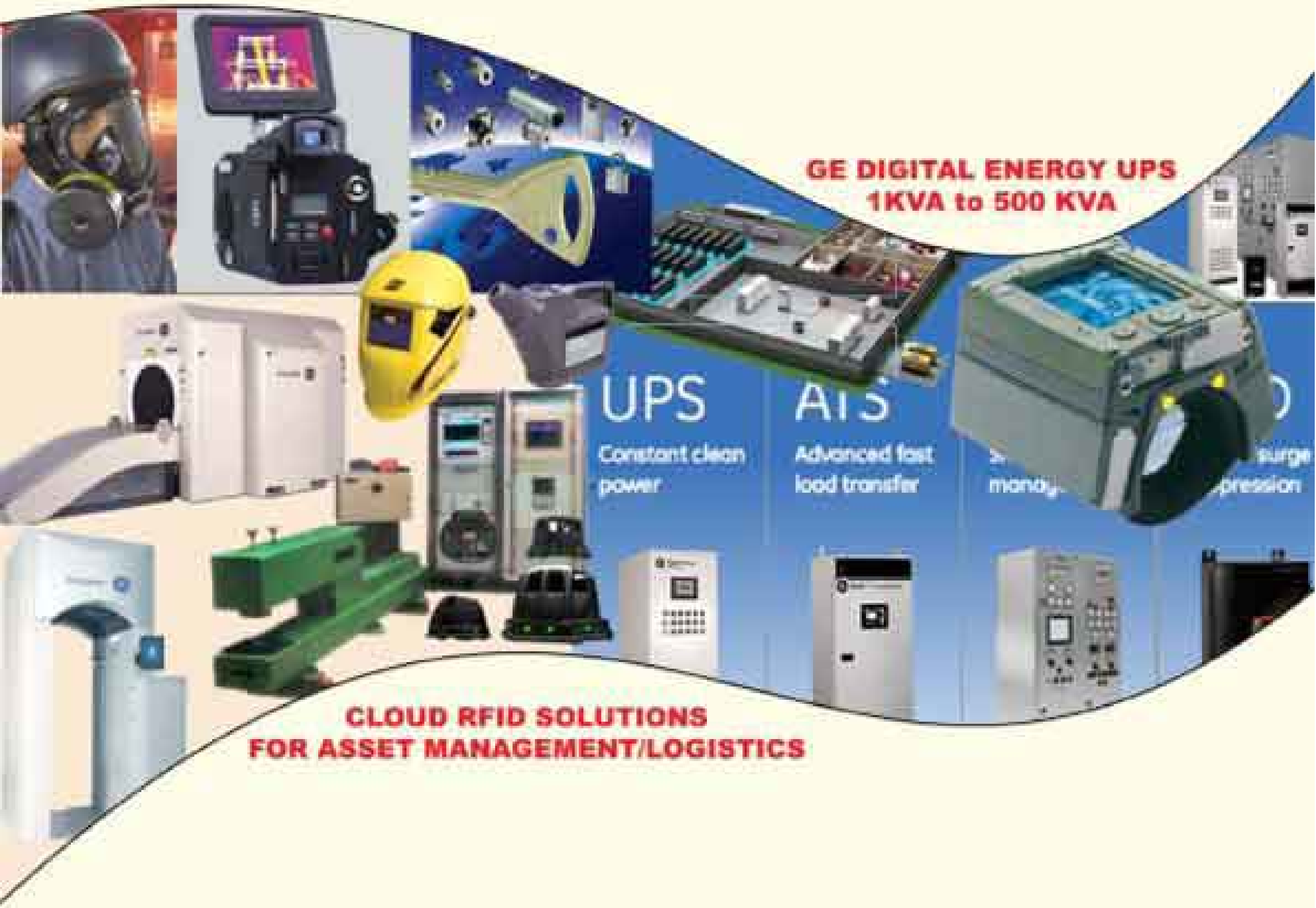

TOTEM

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NEW 2012

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Editorial Desk…

Hello !

In the last 10-15 years we have seen a dramatic development in our country India. And this pattern continued on the special economic Zone as well. But the Budget 2012 brought to us only disappointment which was previously indicated in the implication of MAT on the SEZ units in the budget of 2011. The drastic effect of MAT implication on the SEZ units has shown regressive trends in the economical pattern of investment and it was expected that honorable Finance minister, Mr. Pranab Mukherjee would evade MAT on the SEZ but nothing as such happened.

The state of threat that has been poised into the SEZ investment pattern by the proposed implications of the DTC bill continue to long, because there was no clarification as such in this budget regarding the state of the clauses that propose abolition of the reliefs or benefits granted to SEZ units in the upcoming Direct Tax Code (DTC). In this present grim scenario SEZ Horizon discuss with you on some relevant issues.

AJAY DABAS, Director of CERTES REALTY LTD expressed his view on the article “SEZ: A vision gone awry”. “Special Economic Zones in India – The Ground Realities” by Amitava Basu is a knowledgeable blog on the present economic scenario. Mr. Surendra A. Sharma shares his insight in the article titled “SEZ polices: Fine tuning needed for greater impact”.

We like your cooperation and feedback to make our initiative a success story. we love to share your views on SEZ. Please send your views in form of article and blog on SEZ to publish on our magazine. We can grow only with your help and cooperation. SEZ Horizon team will be waiting to hear from you!

<u>Thanks and regards,</u>
Debarati Chakraborty
Editor, SEZ Horizon

For any query please email at debarati@sezindiainvest.com

" SEZ polices: Fine tuning needed for greater impact"

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A veteran who has been covering cargo logistics and infrastructure projects since more than two decades. He is advising leading fund managers for investment assessment.

India is a diverse country with different terrains, from the great Himalayan ranges, the northern plains, peninsular plateau to the coastal plains. Each terrain offers different challenges and scope. Different regions in the country have specific issues and limitations while also enjoying a certain advantage in natural resources. Development is also not uniformly with certain states having excess power supply and better infrastructure while many struggling to cope up. Hence, while the SEZ policy may be common, there is a need to fine tune it as per the location's potential and limitation.

SEZ's are the internationally accepted approved format for export development which ensures global recognition and easy acceptance which many other export oriented schemes may not have, hence there is a need to promote and develop it while also integrating it with the local region. This can ensure SEZs act as a catalyst for the development of the region adding more value. This can be achieved with fine tuning of polices.

SEZs offer a ready format with supporting infrastructure which is very important for India to remain competitive and develop its export. SEZ's offer various benefits like Duty free import, Exemption from Central Sales Tax /Service Tax, 100 per cent Income Tax exemption on export income for first 5 years, 50 per cent for next 5 years thereafter and 50 per cent of the ploughed back export profit for next 5 years and many other benefits.

Fine tuning

Small Scale Industries (SSI) plays a very important role in the industrial development and contributes with over 40 per cent towards the country's exports. India has a traditional base of products and goods spread over different location be it textiles, pharmaceuticals, chemicals, leather, brass works, carpets or sports goods, etc. These are covered mainly by small scale units with limited capacity and resources which lack the global expertise, be it marketing, selling or delivery. These SSI clusters can with the help of SEZ export more products while the SEZ units can also act as an export house buying goods from them to build up volumes. This can give economies of scale benefits while also ensuring continued supply leading to export order. Many small units have a limitation with their global orders which requires round the year production and certain standards, especially in chemicals which the small units are unable to provide.

SEZ existing policy allows for purchase of goods from domestic companies for development, operation and maintenance of SEZ units. This provision can be fine tuned with some additional specific incentive linked to such activities (which may be product and region specific). The SEZ's are in a better position to face the challenges of the global market as they are export oriented and can help increase exports by using the SSI capacity also. For the SSI units export becomes very easy as it is next door delivery, while the SEZ can buy from many DTA units to ensure adequate supply.

Such region and product based polices linked with SEZ can be for a limited trail period after which their performance can be evaluated to check and asses their contribution in social-economical development and maintaining the capability of the SSI units.

This will ensure linkage of the SEZ with the SSI units putting a large Indian capacity (SSI) in the global market including reviving sick SSI units. This will also give cost advantage as goods will be produced by SSI while exports will be with the help of SEZ units supported by global scale offices and network. This will ensure a win-win situation for all stakeholders including the government.

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SEZ IN INDIA - The Ground Realities.

Writer : Amitava Basu

The writer is President, Intercontinental Consultants and Technocrats Private Limited, New Delhi.

Background

Recognizing that exports contribute significantly to economic growth and considering the potential of raw material resources and skilled labour at competitive cost, Government of India promulgated Special Economic Zone policy in 2000. The policy intended to correct the shortcomings of the Export Processing Zones.

After lapse of considerable time, Special Economic Zones Act, 2005 was enacted in June 2005 and notified on 10th February 2006. This led to a tremendous surge in interest for launch of SEZs. Establishment of SEZs helped to increase volume of international trade, inflow of foreign investment and foreign technology into export trade, infrastructure construction and commerce. Yet, the progress of SEZs and benefits expected from them has been relatively limited in India as compared to China and other countries.

Challenges

The biggest challenge presently faced by SEZs in India is in acquisition of land. There is a large outcry against poor compensation paid to farmers, diversion of arable land to industrial use that carries the risk of lowering agricultural production and leading to food insecurity.

Though the policy aims at creating world class infrastructure within SEZs, the need for connecting these islands of excellence with other ports, airports and other social infrastructure is not fully addressed. Planning location of SEZ is a critical element to facilitate supply chain management and balanced regional development.

Proper balance is needed between relaxation of applicability of labour laws to SEZs and hedging the workers from hostile company policies. SEZs in China were initially exempted from national labour laws despite being a communist country. This model sustained initially because the foreign investors were given the leverage to train the workers and developing confidence in Chinese domestic labour competence.

In sum, the challenge is whether India through SEZs can leverage its cost advantage and huge knowledge base and break the hold of China in manufacturing by making India the preferred destination for doing business.

The Way Forward

India needs to create the enabling environment for SEZs with high quality infrastructure, a liberal and supportive business policy environment, providing necessary push which the manufacturing sector urgently requires. This would help small and mid-sized entities which cannot afford to set up captive infrastructure facilities like large Indian companies to house their units in SEZs with state of the art infrastructure facilities and at the same time share the costs in a large group. And, importantly, coordination among multiple agencies with the common goal for facilitating SEZ is urgent to prevent hijacking the legislative framework by will of regulatory bodies.

Lessons from China in regard to location of SEZs close to ports, determination of size of SEZ area, flexible labour laws, and provision for world class infrastructure can provide the required directions.

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SEZ: A vision gone

Writer- Mr. AJAY DABAS
Director - CERTES REALTY LTD

When the current SEZ policy was formulated it was done with the aim to provide a level playing field for domestic enterprises and manufacturers.

India already had Export Processing Zone (EPZ) model dating back to 1965 and while formulating the SEZ policy the objective was to learn from the shortcomings of the EPZ model and improve it.

As soon as the policy was unveiled, it seemed that the government had hit a jackpot. One after another, big industrialists threw their weight behind SEZ, announcing big plans. As of Sept 30, 2011, 582 formal approvals had been granted for setting up of SEZs out of which 382 have been notified, over Rs 2, 77,258 crores had been invested in the SEZs, which has resulted in direct employment of more than 7 lakh people.

While this might seems like a rosy scenario, the truth is far from it. It was a clear indication that something is amiss many mammoth SEZs have failed to even start up. Some big ticket projects which have been scrapped include Mukesh Ambani - led Reliance SEZs which were supposed to come up near Gurgaon and Jhajjar in Haryana. While the deal for setting up of the SEZ was signed more than six years ago no progress has been made on the actual site where the projects were supposed to come up. Some other projects which have been abandoned because of poor business outlook have been Videocon Realty and Infrastructure¹s proposed 10 hectare-IT/ITeS SEZ in Jalpaiguri, West Bengal and Larsen & Toubro¹s proposed 11-hectare IT/ITeS SEZ in Coimbatore, Tamil Nadu.

The reasons for delay and sometimes scrapping of the projects under the scheme can be attributed mainly to lack of foresight while formulating the policy and additional taxes imposed by the Finance Ministry.

Land acquisition per se has been a big bone of contention in India for a while. Nandigram is a prime example of how lack of proper policy can cause massive problems in the setting up on projects. Something similar is being repeated in Jaitapur, Maharashtra where most villagers have refused to give up their land for upcoming nuclear power plant. While the government on its part has struggled, it has been a thorny road for corporate also. The current policy states that a corporation requires minimum 1,000 hectares of land if they intend to set up an SEZ. Acquiring of such large swathes of land has proved to be a stumbling block. In most places, SEZ developers have had to deal with stiff opposition from farmers whose land was to be acquired. The farmers not only demanded compensation based on market rate, they also wanted a comprehensive rehabilitation policy and work opportunities in the SEZ.

The biggest blow to SEZ units however was dealt by the imposition of Minimum Alternate Tax (MAT) and Dividend Distribution Tax (DDT). When the SEZ policy was unveiled the government had promised tax concessions on profit for a period of 15 years to boost early adaption. In budget last year, however the Finance Ministry imposed 18.5 per cent MAT and 15 per cent DDT on SEZ units.

The rising cost of land acquisition coupled with the new taxation structure made a huge dent on the business viability and profitability of SEZ. Most operating SEZs saw a dwindling of their net margins by 8 to 10 per cent as a result of the new taxation policy.

In the last few months these factors have made a lot of corporations go in for delisting. In the last six months in Maharashtra alone, which was once the flag bearer of SEZ, at least 28 SEZ proposals have been withdrawn or projects denotified.

A less explicit but more worrying reason which prompted the government to come down heavily on SEZs was the anomaly in trade data. Due to worldwide recession and sluggish economy the export market has taken a major hit.

While the general export market fell in India, the SEZ units recorded a jump of 123 per cent. A lot of people insisted that the projection were being worked on as the people behind SEZs wanted to show profitability while actually they were using the policy to consolidate land at lowest prices.

Faced with growing indifference to SEZs it is about time the government takes a hard look at reformulating the policy and coming out a comprehensive land acquisition model which protects the interests of the farmers but also makes land acquisition a transparent process. Simplifying of the rules of setting up and running of SEZs is also the need of the hour. As more and more corporates bow out of the SEZ dream, it is up to the government to tackle these contentious issues.

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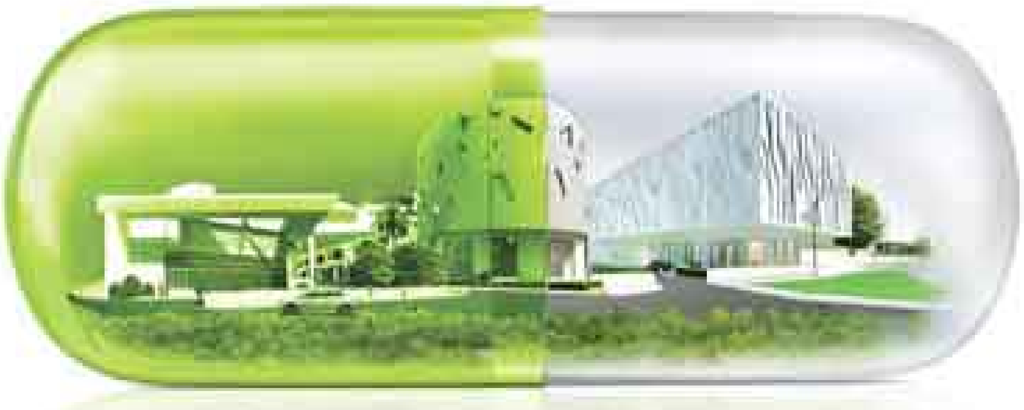

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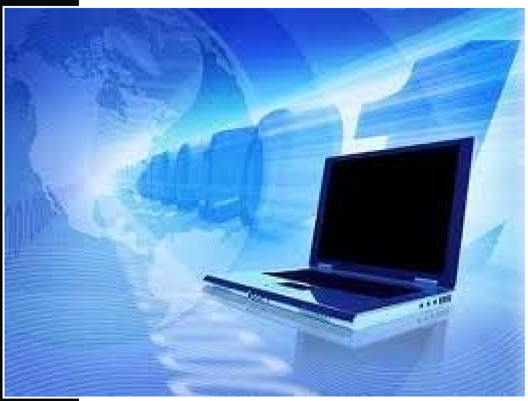
Budget 2012: Indian Technology expect Tax Exemption

The technology sector set their target to cross $100 billion mark this year with $69 billion from exports and $32 billion from the domestic market. This shows a healthy increase of around 16 percent over last year's growth though there were some events like the anti-outsourcing bill in the U.S. and the euro zone crisis which had an adverse impact on the sector.

It is estimated that if this global crisis persists it will give a bad impact on the Indian technology sector as a number of events are running simultaneously with other developing countries. Indian technology sector is going under a pressure of higher wage bills, high attrition, linear growth (direct link between sales growth and headcount addition), uncertainties surrounding SEZs, skyrocketing real estate prices, the write-off of large technology contracts due to cancellation of 2G licenses by the Supreme Court.

Last but not the least, the huge transfer pricing adjustments leading to potential high tax outflows and routine rejection of service tax refund claims made by transfer pricing officers are adding fuel to the fire.



The industry was expecting a lot from the budget 2012, but when the finance minister presents the budget a huge number of eyes got disappointed. So it can be concluded that industry can not expect more from Budget 2012. Even it seems that the finance minister, during his current five-year tenure, will not be able to take another opportunity after this.

Given the background, what would this sector look from the budget document? A slew of tax measures such as:

– **Extension of tax holiday**: To make a good position in the competitive international market and to boost the export industry, a number of inspiring stapes has been taken for the Indian Technology Sector. One of them is "Extension of tax holiday" for a period of 10 years which has expired on March 31 last year. To continue this motivation an extension of tax holiday for further five to ten years has been made.

– **MAT on SEZ income**: At the time of introducing the SEZ concept in India, government promised to give lots of advantages to attract domestic as well as foreign investors. Tax Holiday Benefit is one among them. But in last year's budget 20% Minimum Alternative Tax ('MAT') has violent the benefits scheme. According to the scenario, the promises which were initially made by Indian government for tax holiday concept is now not in function. Investors were already getting less revenue from SEZ only because of economic slowdown, land acquisition issues etc. As if all this was not enough a MAT of 20 pct levied on SEZ profits make investors loose their confidence. In this circumstance MAT should be omitted at least from those SEZs who are already notified. So as the economic feasibility of such SEZs will be protected.

– **Introduction of Advance Pricing Agreements ('APA') provisions**: Lots of transfer pricing audits and litigations are currently going in the Indian technology sector. The arm's length price fixed by income tax authorities in some cases has been exceptionally high. Basically it needs a review to set a fair and transparent pricing index for income tax certainty and transaction price. This circumstance brings APA provisions. According to APA, the taxpayer and tax authorities will sign a five years agreement on the calculation method for arm's length price for international transactions. This step could also guarantee smooth transition to Direct Taxes Code ('DTC') which contains APA provisions.

– **Service tax refund**: Service tax paid on input services which are utilized for export of services outside India is eligible for refund. Many times it noticed that such service tax refund claims are rejected without any strong reason which not only prolongs the refund process but also generates unavoidable litigation cost and brings lots of confusions in the mind of a taxpayer. Export companies should get an exemption in import duties, thus it will help the industry as well as the government too.

Other policy measures, such as clarification on the timelines by which Goods and Services Tax as well as DTC will become reality will also be helpful for long-term planning.

The countdown has already begun. Let's wait and watch what is waiting for the Indian technology sector.

Cairn India approaches DGFT to export Rajasthan crude

Cairn India has approached DGFT seeking permission to sell its Rajasthan crude oil to Reliance Industries' SEZ refinery at Jamnagar in Gujarat without going through state canalising agency, IOC.

As per present policy, any sale to a unit in a Special Economic Zone is considered export. With country being a net importer of crude oil, export of domestically produced crude oil is not permitted and only under special permits can it be done through state trading enterprise, Indian Oil Corp (IOC).

Sources said RIL's SEZ refinery, which is designed to process far heavier crudes, is unable to use Rajasthan crude as the same has been classified as a restricted item under the current Foreign Trade Policy (FTP) provisions.The current policy does not allow export of domestically produced crude oil.As output from Rajasthan is set to rise, it now wants to sell the oil to RIL's adjacent only-for-exports or SEZ refinery.Cairn currently produces 125,000 barrels per day from Mangala oilfield, the largest find in the Rajasthan block.Sources said Cairn currently sells 15,000-20,000 bpd to IOC and another 30,000-40,000 bpd to Essar Oil.Transportation of the Rajasthan crude therefore, requires special heating arrangements in the pipeline to keep the crude in a liquid form.Cairn currently sells 80,000 barrels per day or 4 million tons a year of crude from Rajasthan to RIL's domestic tariff area (DTA) refinery at Jamnagar.Others face logistical issues.Any sale to a SEZ or only-for-exports unit is considered outward shipment or exports out of India.RIL's refinery complex at Jamnagar, consisting of the old DTA refinery and an SEZ unit, are connected by a heated pipeline to the Mangala field in Rajasthan.Mangala can go up to 150,000 bpd or 5 million tons a year anytime now while Bhagyam has an approved peak of 40,000 bpd and can go up to 60,000 bpd with more investments.

Another 20,000 bpd is produced from Bhagyam fields.

Rajasthan crude is very heavy with API (American Petroleum Institute) gravity between 25- Also, waxiness of the crude turns it into solid at room temperature.Sources privy to the development said RIL's request for buying 30,000 bpd of Cairn crude at its 29 million tons SEZ refinery was considered by Board of Approvals, headed by Commerce Secretary Rahul Khullar on March But a decision was deferred during pendency of Cairn's separate application to Directorate General of Foreign Trade (DGFT) for effecting exports of Rajasthan crude without going through IOC.Most Indian domestic refineries lack the configuration to process Rajasthan crude due to its quality.

TCS gives design contract for Rajarhat SEZ

Kolkata: At a time when the Bengal government is grappling to put things in order, this may come as music to its ears.

Amid controversies over special economic zones (SEZ) in the state, Tata Consultancy Services (TCS) has awarded the Rs 970-crore contract for design and construction of special economic zone at Rajarhat to a consortium of L&T Construction and Shapoorji Pallonji. The SEZ, being developed by TCS, is spread over 40-acres in Rajarhat Action Area III. The SEZ notification, though, was made way back in May, 2008.

Built with the plan to employ 16,000 by TCS, the project is slated to be completed in two phases. The first phase is scheduled to be over by February 15, 2014, which will have the capacity to accommodate 7,000 workstations. The remaining 9,000 will be accommodated with the completion of the project at the end of 32 months from now.

"Immediate mobilization of the project has started and the site office is being constructed," a source said.

TOI has learnt that the concept design for the project has been provided by the TCS to L&T Construction and Shapoorji Pallonji, based on which the final design is being chalked out. "It is a design-built project, where it will be developed by the two firms and in completion, the project will be handed over to TCS," the source said.

An L&T Construction spokesperson told TOI: "We are very positive about the project and hope it would end within the scheduled time frame."

Earlier, L&T Construction and Shapoorji Pallonji had executed many TCS projects together. L&T Construction is known for its engineering skills, whereas Shapoorji for its designing acumen.

When contacted a TCS official said: "The company is doing its job." Though, he declined to elaborate further on the project details.

TCS, engaged in IT services, business solutions and outsourcing, already has four units operating in Salt Lake Sector V, the IT hub of the city. It has also taken a space in Unitech SEZ in Rajarhat. This project will be its sixth initiative in the state. It already employs around 12,000 in the city.

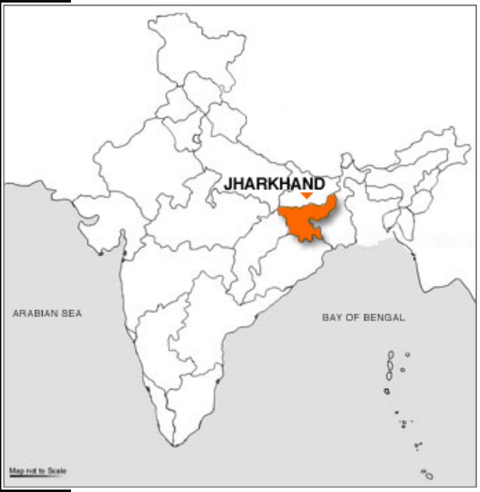
Earlier in January, TCS managing director and chief executive officer N Chandrasekaran met state IT minister Partha Chatterjee, where he promised to begin the construction work in the SEZ soon. The minister also gave his word that the state government would provide every kind of assistance to the company for the project.

L&T Construction and Shapoorji Pallonji had executed many TCS projects together. L&T Construction is known for its engineering skills, while Shapoorji for its designing acumen.

Clearance hurdle puts Jharkhand SEZ in limbo

A 90-acre SEZ has been proposed in Adityapur in Jharkhand belonging to Adityapur Industrial Area Development Authority.

The region has already been registered under the Ministry of Commerce, but parts of it have been marked for forest land. From last five years, this project is awaiting clearance from the ministry of forests, but the nod looks no where in sight, reports CNBC-TV18's Amrita Panja.



On the issue, Shiwendra Singh, secretary, AIADA said that around 54 acres of the land falls under forest area. "It is completely barren and we are worried about encroachment on that land." he says.

Arjun Munda, Jharkhand chief minister who aims to make Jharkhand a manufacturing hub said that the government machinery will work at it own pace.

"Places where work happens have their own issues, one need to see that there are no additional issues raised. Our federal country is going through some challenging times, the government intends to bring a manufacturing policy, so there are aspects on which there should be flexibility of thought," he said.

The problems with land acquisition are not new to Corporate India. Even a pro-industry government like Jharkhand finds the odds stacked against it.

Union Budget 2011: 18.5% MAT on SEZ developers, units

NEW DELHI: The government on Monday proposed to levy Minimum Alternate Tax (MAT) of 18.5 percent on the book profits of Special Economic Zone developers and units, which was termed as a 'setback' by the players.

Both the developers as well as units in the tax free enclaves were earlier exempted from MAT under Section 115 JB of the Income Tax Act.

"As a measure to ensure equal sharing of the corporate tax liability, I propose to levy MAT on developers of Special Economic Zones (SEZs) as well as units operating in SEZs," Mukherjee said.

Changes in the tax rate would be effective April, 2012. MAT was introduced in 1987 to bring under the tax net companies that paid no or very little tax after taking advantage of the exemptions provided by the Income Tax Act.

The government has also proposed to impose dividend distribution tax on SEZ developers, which would take effect from June this year.

Experts termed the step as "retrograde" and said that it would discourage investments in SEZs.

"It is a major setback for both developers and units in the SEZ," Raheja Developers Vice President Manoj Goyal said. Raheja Developers operates an IT/ITeS SEZ in Gurgaon.

"The imposition of MAT on SEZ developers and units is retrograde as it seeks to impose tax on income received from investments made with a commitment of tax exemption," KPMG Deputy CEO and Chairman Tax Dinesh Kanabar said.

Kanabar said that the move is advancing the negative impact of the Direct Taxes Code (DTC).

Jones Lang LaSalle India Chairman and Country Head Anuj Puri: "SEZs have been brought under the purview of MAT, which basically diminishes the benefits that SEZs offer for developers over other commercial real estate asset classes."

However, as a relief to the zones, a new scheme is also being introduced by which units in SEZs will be able to obtain tax-free receipt of services wholly consumed within the zone and get their refunds in a much easier manner.

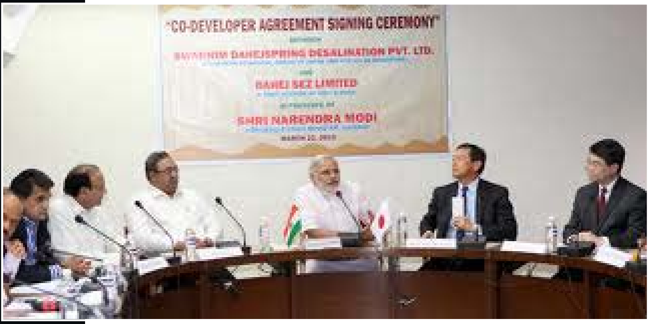
Exports from SEZs contribute about one-third of the country's total exports. Shipments from these zones during April-December 2011 grew by 47 percent to Rs 2,23,132 crore over the same period last year.

Finance Minister Pranab Mukherrje in his Budget has marginally raised the MAT from 18 percent to 18.5 percent on companies' book profits.

Hitachi to build Asia's biggest desalination plant in Dahej

A prestigious consortium led by Japanese multinational firm Hitachi (Hitachi, Ltd. and Hyflux Ltd., collectively known as the "Consortium") on Thursday signed a Co-Developer Agreement ("CDA") with Dahej SEZ Ltd. Under the Gujarat government to set up Asia's biggest seawater desalination plant in Dahej special economic zone (SEZ) in Southern part of Gujarat.

The CDA is signed in the presence of chief minister Narendra Modi, others who form part of the consortium are Japanese firm Itochu and Singapore's Hyflux.



The three companies together have formed Swarnim Dahej Spring Desalination Private Limited for setting up the desalination plant, an official note issued by the state industries department said, adding, "The project is supported by Japanese government through the ministry of economy, trade and industry."

The project, which is expected to cost Rs 2,000 crore, will be set up on design, build, finance and operate (DBFO) basis. This consortium is to be set up in two phases. It is estimated that after completion consortium, it is likely to produce 70 million gallons per day (MGD) of sweet water for industrial use. "The project will be completed in three years," told a senior government official after the agreement.

The project work is likely to begin in October, after getting all necessary clearances, including environmental, from the Centre.

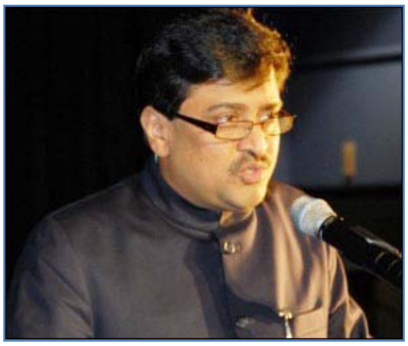
While the consortium proposes to buy up 30 hectares of land in Dahej SEZ, officials said, once ready, it will supply water to units in SEZ as well as enterprises being set up in Petroleum, Chemical and Petrochemical Investment Region (PCPIR), Dahej, which is the fastest developing special investment region in the Delhi-Mumbai Industrial Corridor (DMIC).

The official said the projected cost of the desalinized water from the plant is "likely to be Rs 40 per 1,000 litres, which is considerably lower than other desalination plants in India."
He added, "A desalination plant being set up in Chennai with the support of the Tamil Nadu government, for instance, supplies water for Rs 56 per 1,000 litres. Nowhere in India desalinised water is available for less than Rs 50 per 1,000 litres".

Though, the official admitted, the desalination plant will not be enough to take care of the water requirements of Dahej SEZ and PCPIR.

"The projected requirement of PCPIR, which includes Dahej SEZ, is 300 MGD. Other sources, especially a proposed pipeline from the Narmada canal off Narmada dam, will have to be tapped for enhancing water requirement of the industries."

Setback to Amravati industrialization



During election time, Dr Deshmukh had assured people to boost industry in the district but failed to fulfill his promises.MLA Rajendra Shekhawat said that Eldeco officials claimed that the entrepreneurs were not showing interest in Amravati and hence there was no point in just developing SEZ. Now the company has signed a document surrendering land to MIDC which would affect industrialization of the region. However, sources said that a decision to surrender land had already been taken. The state government should now search for other developer and immediately start working on SEZ, Paturkar said. I will take up this matter with chief minister Prithviraj Chavan. However, no development has taken place till date. We are accountable for developing SEZ but investors are reluctant and hence we plan to surrender land," he said. At this time, the government was focusing on Mihan project in Nagpur. He said that there was no mention of the reason with the regional office why the company took the decision as the issue was handled at the headquarters level. The then chief minister Ashok Chavan had inaugurated SEZ project on February 21, 2009 to give a boost to industrial development. A Chaudhary, regional officer of MIDC, has confirmed that Eldeco had withdrawn from the project.The then guardian minister and finance minister Dr Sunil Deshmukh had made concerted efforts to develop SEZ in five years. It would also affect employment opportunities SEZ would have generated. There were some norms and it was not binding on us to follow," he said. Industrial development of Amravati suffered a setback with the Eldeco Company entrusted with the responsibility of developing special economic zone (SEZ) in Nandgaon Peth surrendering land of MIDC three years after reaching an agreement with the state government.

President of MIDC Association Kiran Paturkar said that this was a major setback to Amravati. The possibility of creation of 1 lakh jobs now seems to have been affected, he said. He said that the argument of Eldeco officials was technically wrong and volatile of the memorandum of understanding signed with the government. Shekhawat said that "The official had told me that they had invested Rs 30 crore in Amravati. Possession and surrender of land was only done at the regional level, Chaudhary added. But we would look into Nandgaon Peth matter," he said. Instead, he said that "We are mulling over the proposal and discussions are on at our level". When asked whether the decision amounted to violation of the agreement the company had signed with the government, Dabhade said that Eldeco had not entered into a treaty. He said that the government had withdrawn some incentives promised earlier for Amravati SEZ due to which investors were finding no point in developing business ventures. But that did not happen, he said. We have given a proposal to MIDC to develop SEZ and the Eldeco would help the effort," he added.

It was the responsibility of the government and people's representatives to pursue the matter by holding regular meetings with Eldeco officials to sort out the problem. Chief advisor to Eldeco ST Dabhade however did not confirm the news. He (MLA) has been using high-profile contacts for personal gains and not for the development of the city. It was decided to give work to Eldeco Company and 1036 hectare land was given to it. He held the apathy of sitting Amravati MLA responsible for the situation. Dr Sunil Deshmukh said that Eldeco's decision would cause a major setback to the industrial growth of the district.

Infosys hopeful of resolving SEZ issue with Bengal govt.

Bangalore Mar 07, 2012

Infosys is hoping for a SEZ status for its proposed unit in Kolkata. Infosys said that they are expecting a positive solution of the burning issues with the state government.

"We are having discussions with West Bengal government. We will not take any hasty decision. I am hopeful the issue will be resolved," – words by Infosys Technologies Executive Co-Chairman Kris Gopalakrishnan.

Company representatives are saying that the company has not taken any decision over whether to stay in Kolkata or not. Earlier, to know the present status for their SEZ unit in Kolkata Infosys had written a letter to Housing Infrastructure Development Corporation (HIDCO). As a response, the company has been allocated 50 acres of land in Rajarhat area.

Partha Chatterjee, State Industry & IT Minister earlier stated that the government will not entertain SEZ regime in West Bengal. Ministry had already asked the IT major to bring an alternative solution rather than SEZ concept. Relevant to this, Gopalakrishnan said IT industry may have to go through a difficult time for coming two to three years. Though this condition is tough, a 13-15% growth is indicating a positive condition.

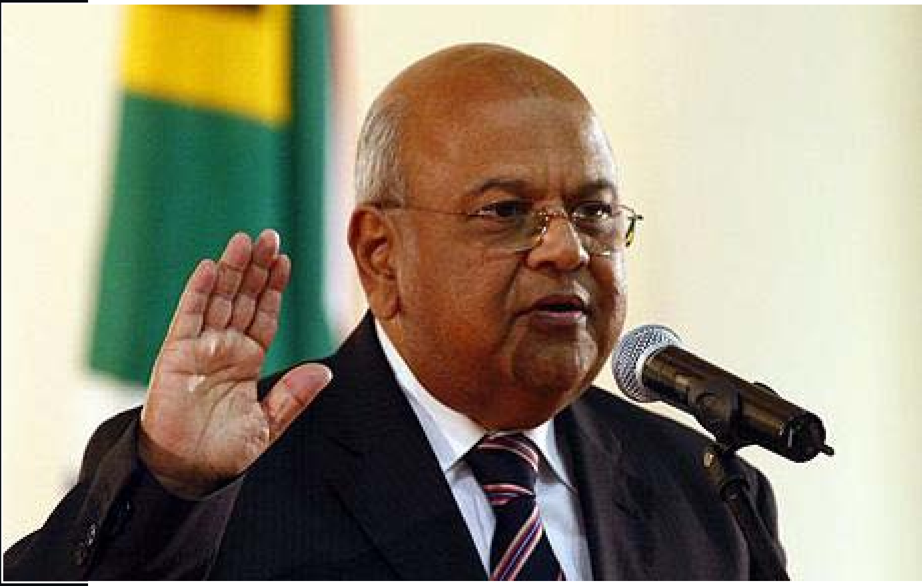
"Infact IT industry is growing faster than the national GDP or world economy," Gopalakrishnan added.

In second week of February, IT industry body Nasscom projected the industry to grow between 11 and 14% during fiscal 2012-12.

Gopalakrishnan added that though it's a slow recovery but the things have started to look better in US and Europe.

"There is some confidence that issues related to Greece will be resolved. We hope we will not face 2008 catastrophe," Gopalakrishnan said.

SA's SEZ: no real competitive incentives



There is reason to believe that SA's envisioned Special Economic Zones (SEZs) - highlighted by Minister of Finance Pravin Gordhan in his budget speech last month are not going to be one of history's great success stories, *The Citizen* reports.

Gordhan said that government intends making the country a more attractive and competitive destination for foreign direct investment (FDI). It would therefore likely offer companies that invested in the SEZs - especially of the labour-intensive manufacturing kind - special incentives such as a lower corporate tax rate and support for employment and training expenses.

Unfortunately, says the Citizen, a lot of SEZs, including previous South African experiments, have failed, having sucked-up a lot of money without bringing in much investment or creating many sustainable jobs. The latest iteration of South African SEZs seems to be in danger of not offering competitive incentives or a properly welcoming business environment. Most ominously, the Department of Trade and Industry (DTI) has made it clear there will be no relaxation of SA's relatively stringent labour laws in the Special Economic Zones.

Speaking at a public hearing on the SEZ Bill, DTI director-general Lionel October said "It is not in our best interest to deregulate labour laws to attract Foreign Direct Investment (FDI) and therefore exploit our workers." South Africa simply doesn't offer any particular advantage among the thousands of SEZs around the world that offer comprehensive packages of tax incentives, top-notch infrastructure and cheap labour, the Citizen says.

Maharashtra got Rs 84,958 crore FDI proposals during 1991-2010: Survey

Mar 22, 2012

Maharashtra received 4,221 number of Foreign Direct Investment (FDI) proposals amounting to Rs. 84,958 crore during the period August 1991-September 2010, the State Legislature was informed today.

The state economic survey, tabled in the legislature, said 42% of these proposals were completed and 7% are under execution, which constituted 52% and 9% of investment respectively.

The US and Mauritius are the two prominent countries investing in industrial sector of Maharashtra with 16 and 14% share respectively in total FDI, the survey said.

The survey said that the IT industry and financial services groups continued to receive sizeable FDI proposals in the state.

The survey report added the state has adopted the Special Economic Zone (SEZ) policy with effect from February 10, 2006. The state has received 233 SEZ proposals up to November 30, 2011, the survey said. Out of 233 proposals 116 SEZs were approved by the Central Government and 63 of them are notified.

Post-Budget pessimism on investor interest in SEZs

Of these 148, only 17 are multiproduct SEZs.The scheme was largely ignored despite the fact that it was launched as India's big grand plan for infrastructure development.SEZs are gradually becoming defunct. Though the SEZ scheme does enjoy infrastructure status, investors are losing interest. Total exports from SEZs in 2010-2011 increased 43 per cent to Rs 3,15,868 crore over 2009-20 In the present financial year, SEZ exports till December 31 were Rs 2,60,973 crore. Instead of announcing new policy measures to increase foreign capital inflows by building consensus, the government should focus on promoting the SEZ scheme only, which will ensure a steady flow of funds. Investors' confidence has been shaken with the government's unstable policy measures.

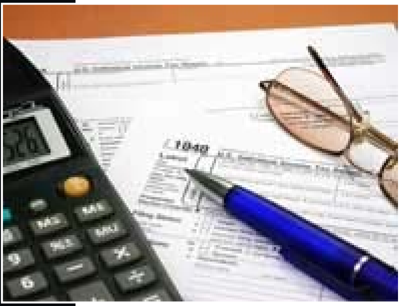
However, their hopes were belied. MAT and DDT were earlier not levied on SEZs. The remaining ones are SEZs dealing in engineering, electronics, IT/ITeS, hardware, textiles, bio-technology and gems & jewellery. Exports from SEZs should be given special incentives if the government really wants to promote exports," said Sanjay Budhia, chairman of the Confederation of Indian Industry's national committee on exports and imports and managing director, Patton Group. As on December 2011, investments worth Rs 2,77,259 crore have been made in SEZs and direct employment of 732,839 persons generated in these enclaves. These are nothing but ways to frustrate investors," said P C Nambiar, director of Serum Bio Pharma Park, the country's first biotech SEZ and vice-chairman of the Export Promotion Council for EOUs and SEZs. In the past two years, as many as 60 applications for SEZs have been withdrawn, while 35 developers have applied for de-notification, according to data by CB Richard Ellis (CBRE), the real estate consultants. Ajay Nijhawan, convener of the SEZ Developers Panel, has urged the government to keep these zones outside the purview of the Direct Taxes Code. Developers of SEZs were expecting some positive announcement in the Budget over removal of the Minimum Alternate Tax (MAT) and Dividend Distribution Tax (DDT).According to an expert on the sector, this is going to deal a big blow, especially to service sector SEZs — manufacturing SEZs might still survive, due to sheer scale of investment and capital intensiveness. So far, the government has approved 584 SEZs. The services sector SEZs would not be as attractive as they used to be," said Hitender Mehta, co-chairman of Assocham's Special Task Force on SEZs. They are also, for the present, exempt from paying MAT and DDT. In the wake of the Union Budget proposals, developers of Special Economic Zones (SEZs) say the scheme is heading for an end, with investors' interest certain to reduce drastically. Without a huge push from the government now, the demand for SEZs would come down substantially," averred Anshuman Magazine, chairman and managing director, CBRE South Asia Pvt Ltd. The government should have made some announcement towards removing MAT on SEZs. If the government does not promote SEZs and takes away the tax incentives, the scheme would lose its flavour. Despite all the constraints, the performance of SEZs has been well but this is now coming down and so is investment.

There are 381 notified SEZs, of which 148 are operational. Exports from SEZs are 34 per cent of the country's total exports.SEZ units are given full income tax exemption on export income under Section 10AA of the Income Tax Act for the first five years, 50 per cent exemption for the next five years and 50 per cent of the ploughed-back export profit for the next five years. Last year, the government decided to change this and began making changes in the law; the matter has gone to court.

Pandora's box opens with domestic transfer pricing

Tax liability, costs of mid-sized firms to go up SEZ, realty firms to be hit

Mumbai Mar 19, 2012



Companies with cross-border operations were adversely affected in the financial year due to high transfer pricing, a new international field of taxation. In the budget 2012-13 the finance minister incorporated domestic transactions in the transfer pricing for the first time to improve the scenario for the next financial year.

“The tax base (for transfer pricing) will simply double. Earlier, it was only cross-border transactions of multinationals. Now, it will cover all related party transactions. For multinationals, compliance doubles as they have to report even transactions between their domestic arms,” said Ajit Tolani, associate partner, Economic Laws Practice.

DOMESTIC WORRIES
* Arm's length pricing of domestic related party transactions
* Five transfer pricing methods for determining arm's length price
* Entities claiming tax holiday with super-normal profits to comply with TP laws
* Taxpayers to maintain mandatory documentation for related party transactions
* Taxpayers will have to file Form 3CEB along with their tax return
* Domestic transactions to be assessed by transfer pricing officer instead of assessing officer

The companies with operational units in SEZ and having policies to take the maximum advantage of applicable tax holiday by investing their bulk profit in these will be affected. Real estate firms, which route transactions through hundreds of subsidiaries and associate companies, will also need to comply with transfer pricing documentation and reporting norms.

An amendment in the finance bill redefined the international transactions by including “specified domestic transactions” of Rs. 5 crore and more in it. Transfer pricing officers will do a scrutiny for transfer of goods and services between related parties, extraordinary profits and profits earned by SEZs.

“Transfer pricing will not be limited to just the large groups any more. Many mid-sized groups, partnership firms, Hindu Undivided Families (HUFs) and even individuals in smaller cities will now have to adhere to the TP rules,” said Samir Gandhi, partner-transfer pricing, Deloitte Haskins and Sells. “This will lead to an increase in the administrative and compliance burden for the taxpayer in respect of such transactions and a focused examination by the tax authorities.”

The latest amendments have extended the concept of arm's length pricing to these transactions. The move was in line with a Supreme Court recommendation in the case of CIT versus Glaxo SmithKline Asia, the Finance Bill said.

“The above amendment has opened a Pandora's box for taxpayers, with specified domestic related party transactions,” said a post-Budget note by Economic Laws Practice (ELP).

The penalty for non-compliance has also been made severe. Earlier, it was a flat fee of Rs 1 lakh for not reporting a transaction irrespective of its size. At present, the penalty is two per cent of the transaction. Thus, even if one forgets to disclose a transaction of Rs 5 crore, which is the minimum threshold for reporting, the penalty is Rs 10 lakh.

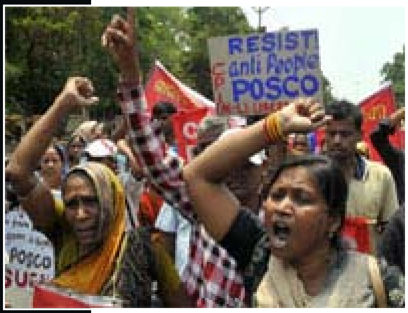
Some lawyers point out that the Advance Pricing Agreement (APA) introduced to reduce disputes will not cover the domestic related party transactions, making the plight of local firms even more severe. “While the APA regime has been introduced with respect to international transactions, the same benefit has not been extended in cases of domestic transactions,” Nishith Desai said in the note.

In addition with this, the finance minister has also incorporated transactions such as valuation of intangibles, capital financing and provision of services under the definition of “international transactions”.

Consultants say that the capital financing could appear as a key area in domestic transfer pricing. Presently a number of domestic companies make inter-corporate advances and give guarantees to group firms. At market rates, these transactions attract charges of three-four per cent. These charges will be supplementary to the taxable income.

“TP officers will put to use all lessons learnt from foreign firms over the past 10 years. They know exactly where to attack. Questions will be raised on routing of transactions through multiple entities, and adjustment entries,” said Tolani of ELP. “The whole system will be cleaner.”

Posco, Vedanta get more time for SEZ projects in Orissa



13 SEZ developers including Vedanta Aluminium and Posco India, have given more time by the government to perform their projects. The Board of Approval (BoA) which is headed by Commerce Secretary Rahul Khullar at the meeting of 13th March gave the opportunity to the SEZ developers to surrender their respective projects. The BoA is a 19-member inter-ministerial body that deals with special economic zones (SEZs) and related issues.Maharashtra Industrial Development Corporation wanted to surrender its pharmaceutical SEZ at Ratnagiri district.

The developer had requested for de-notification of the SEZ stating that the land on which the SEZ was proposed falls a part of 3,000 acre proposed to be allotted to HPCL for setting up of refinery project.Posco's subsidiary Posco India Pvt Ltd had received in-principle approval from the BoA for setting up the Special Economic Zone (SEZ) at Jagatsinghpur.However, the developers surrendering their projects have to obtain a certificate from the respective Development Commissioners that "they have refunded all the tax/duty benefits availed under SEZ Act/Rules," a senior Commerce Ministry official said.In the wake of uncertainties over tax incentives, scores of SEZ developers were given more time to execute their project and some of them have surrendered.To Vedanta Aluminium, the Board has given time till May 22, 20 "The Board, after deliberations, extended the validity of the in-principle approval (of Posco India) up to October 25, 2012," the official said.The developer was granted extension till May 20 The other SEZ developers which gets more time for implementation of their tax free enclaves include Navi Mumbai SEZ ltd, Cochin Port Trust and Ansal IT City and Parks Ltd.Besides, five developers including that of Infosys Ltd and SEZ Bio-Tech Services got approval for setting up of new zones.Both Vedanta Aluminium and Posco India have sought more time from the Centre as they were unable to proceed with their projects due to different reasons.While South Korean steel major Posco's project is getting delayed because of land issue, Vedanta Aluminium has some issues with their captive power plant.Vedanta Aluminium's SEZ was notified in 2007 for setting up of a zone for manufacture and export of aluminum in Orissa.The in-principle clearance was valid till October 20 The SEZ would come up at an area of 1,620 hectares, but the state government has leased only 245 hectares.