

**No. K-43022/7/2020-SEZ-Part(I)**  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(SEZ Section)

Vanijya Bhawan, New Delhi  
Dated the 29<sup>th</sup> August, 2022

To

All Development Commissioners Special Economic Zones.

**Subject: Permission for domestic procurement of restricted items (sand and soil) by developers / co-developers / units for infrastructural development / construction activities inside the Special Economic Zones (SEZs)— reg.**

Sir,

I am directed to refer to the subject cited above and to state that as per Section 2(m) of the SEZ Act, 2005, supplying goods, or providing services, from the Domestic Tariff Area (DTA) to a Unit or Developer amounts to "export". The export policy of Directorate General of Foreign Trade (DGFT) as regards sand and soil which are primarily required for construction activities and infrastructure development is 'restricted'. [n terms of fourth proviso of sub-rule (l) of Rule 27 of the SEZ Rules, 2006, for supply of Restricted items by a DTA unit to SEZ developer or unit, the DTA unit may supply such items to a SEZ developer or unit for setting up infrastructure facility or for setting up of a unit and it may also supply raw materials to SEZ unit for undertaking a manufacturing operation except refrigeration, cutting, polishing and blending, subject to the prior approval of Board of Approval (BoA).

2. Department of Commerce (DOC) has been receiving proposals for supply of raw materials (primarily sand / soil) required for infrastructure development / construction in the zone and the same were being placed before the BOA for necessary permission as per the rule position stipulated above. The BOA has allowed such procurements from time to time subject to the condition that the allowed items are actually used by the developer / unit, as the case may be and applicable environmental / other statutory obligations are duly complied with.



3. During the interactive sessions held on the operational issues faced by the SEZs in the during the lock-down imposed for the Covid-19 pandemic, the developers / co-developers / units in SEZs had put forth the request to allow them procurement of sand / soil for internal consumption without obtaining approval from BOA so that they can carry out the construction activities without delay, as the meeting of the BOA is held at a frequency of once in every two months. Accordingly, in order to facilitate the industry, a Circular was issued to all DCs with the approval of the Hon'ble CIM on 18.05.2020 delegating the powers to the Development Commissioner (DC) to allow procurement of sand and soil from DTA for construction activities subject to the following conditions :

- (i) Items allowed are actually used by the unit.
- (ii) Fulfilment of safeguards and Standard Operating Procedures imposed by MHA (in view of lockdown situation and restrictions prevalent at that time).
- (iii) Environmental obligations prescribed by the MoEF&CC / State Pollution Control Board are met; and
- (iv) Post facto ratification by BOA, whenever the next meeting is convened.

In light of the said Circular, the DCs are considering such requests raised by the units / developers from time-to-time and granting approval as per the delegation. The cases are then received for post-facto ratification by the BOA as per condition no. (iv) laid down in the said Circular.

4. Since, construction activity is of a routine nature of infrastructure development and the same can be carried out under the close observation of the DC, it was proposed that the same may permanently be delegated to the Unit Approval Committee (UAC) to simplify the procedure and formalities subject to the condition that the items are actually used in the SEZ.
5. After detailed consultations with the Department of Revenue (DoR), DGFT and the Legislative Department, the matter was placed before the BOA in its III<sup>rd</sup> meeting held on 28.07.2022. The Board, after deliberations, decided to delegate its power under Section 9(4) of the SEZ Act, 2005 to the DC to allow supply of sand and soil (which is restricted item, as per export policy) by DTA unit to Special Economic Zone developer or unit for the purpose of construction or setting up of an infrastructural facility subject to the condition that the items are actually used for the stated purpose and applicable environmental / other statutory obligations are duly complied with.



6. This issues with the approval of the Competent Authority for necessary compliance by the Development Commissioners.

Yours faithfully

**(Sumit Kumar Sachan)**

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Copy to:

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2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (23095479).
3. Secretary, Ministry of Environment & Forests, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi.
4. Director General, Directorate General of Foreign Trade, Udyog Bhawan.

