

No-K-43013(16)/1/2021-SEZ
Government of India
Ministry of Commerce & Industry
Department of Commerce
SEZ Division

Udyog Bhavan, New Delhi
Dated 5th February, 2021

To,
All Development Commissioners
Special Economic Zones

Subject: Clarification on the issues flagged by NASSCOM relating to IT/ITES SEZ units reg.

Sir,

I am directed to refer to the subject mentioned above and to state that representation has been received in this Department from NASSCOM on the subject mentioned above and the same was examined and with the approval of competent authority following has been clarified:

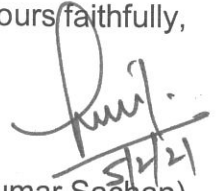
Sl No.	Issue	Clarification
1.	<p>Enable cross utilization of employees as well as assets of SEZ units on a temporary basis.</p> <p>Currently, SEZ assets and employees can only be tagged to a particular SEZ units and cannot be linked to any other SEZ units. As companies are looking to surrender SEZ units, we suggest that the current restriction for cross - utilisation of assets and employees should be relaxed. This will enable companies to optimally utilise their resources for faster transition out of SEZ.</p> <p>Simplify existing procedures and compliances.</p>	<p>Regarding the issue of cross utilization of employees, it is clarified that rule 70 of the SEZ Rules deals in delegation of power to Development Commissioner to issue Identity cards to the entrants of SEZ. In view of provisions of rule 70, DCs can issue temporary Identity card to the casual visitors and contractors. Accordingly, if a unit wishes to cross utilize employees it can be done only through extant provision under Rule 70 through issue of temporary identity cards.</p> <p>Further, regarding cross utilization of assets, it is clarified that it is already covered under provisions of Section 29 of the SEZ Act, 2005 read with Rule 34 and Rule 38 of the SEZ Rules, 2006.</p>
2.	<p>Rule 49 (1) of SEZ Rules, 2006 provide that a SEZ unit may remove used capital goods to DTA on payment of applicable duties on depreciated value as defined in such rule (depending upon the nature of goods).</p>	<p>It is clarified that clearance of goods from SEZ to DTA is treated as import. As per Customs law, the valuation of imported goods is based on the transaction value. The provisions of Rule 49 only provide a mechanism to calculate the depreciated value of used capital</p>

	<p>It is recommended to issue instructions to the field formation to strictly adhere to the provisions of</p>	<p>goods to be cleared to DTA. Further, it is also clarified that the value of such goods cleared from</p>
	<p>Rule 49 (1) and allow SEZ units to clear used capital goods on depreciated value even though where such value is less than the transaction value of the goods.</p> <p>The SEZ units have been facing challenges in scenarios where the transaction value of the goods is higher than the depreciated value. Such scenarios have been questioned by the specified officers on the valuation methodology adopted.</p>	<p>SEZ to DTA for Customs valuation purpose would always be based on transaction value and other relevant provisions of Customs law.</p>
<p>3.</p>	<p>It is industry practice that during the warranty period, the movement of spare parts for replacement under warranty / AMC service obligation to SEZ customers are done under the cover of delivery challans. However, few zonal officers insist for issuance of</p> <ul style="list-style-type: none"> - Zero Value Invoice or - Delivery challan on supplier's letterhead in format directed by officer <p>The above documents are not prescribed document under either of the law. It put the supplier into difficulty to make changes according to the requirement of the each SEZ officer.</p> <p>Service providers are facing challenges in serving to customers due to such unwarranted ask.</p> <p>It is recommended to board to issue suitable instruction, direction to all SEZ officer to follow one set of documents for inward of spares parts for fulfilling warranty obligation by the supplier. This will provide huge relief to both supplier as well as SEZ unit and help better business relationships and avoid conflicts.</p>	<p>It is clarified that Rule 51 prescribes the procedure for temporary removals in DTA for removal of goods for the activities covered under sub-rule 1 to 3 of rule 50. Thus, there is no ambiguity and the extant provisions should be followed by all the SEZs.</p>

2. DCs are requested to keep above mentioned points before considering above proposal of IT/ITES unit under their jurisdiction.

3. This issues with the approval of competent authority.

Yours faithfully,



(Sumit Kumar Sachan)

Under Secretary to the Govt. of India

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