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Government of India
Ministry of Commerce & Industry
Department of Commerce
(SEZ Division)

Udyog Bhawan, New Delhi
Dated 16th February, 2016

Subject: Guidelines for power Generation, Transmission and Distribution in Special Economic Zones (SEZs) – Regarding

Power Guidelines for power Generation, Transmission and Distribution in Special Economic Zones (SEZs) were issued on 27th February, 2009 and subsequently replaced by the guidelines issued on 21st March, 2012. These guidelines were further reviewed and guidelines dated 21st March, 2012 were withdrawn vide letter dated 6th April, 2015. Representations have been received in the Department for restoring the O&M benefits to Developers operating power plants in SEZs. The matter has been examined and in supersession of all previous guidelines issued by this Ministry, the following guidelines are hereby prescribed for generation, transmission and distribution of power in Special Economic Zones:-

- (i) A power plant, including non-conventional energy power plant, to be set up by developer/co-developer in an SEZ as part of infrastructure facility will be in the Non-Processing Area of SEZ only, and will be entitled to fiscal benefits only for its initial setting up and no fiscal benefit would be admissible for its operation and maintenance. There will be no obligation to achieve positive Net Foreign Exchange (NFE) for such power plants. Such a power plant can supply power to DTA after meeting the power requirement of the SEZ subject to payment of customs duty as determined by DoR keeping in view the duty foregone on initial setting up of the power plant.
- (ii) Henceforth, no single stand-alone power plant will be permitted to be set up in an SEZ in which there would be no other units.
- (iii) Henceforth, setting up of captive power plant, including non-conventional energy power plant, can be permitted in Processing Area as a unit, and it will be subject to NFE obligations. Such a power plant will be entitled to all the fiscal benefits covered under section 26 of the SEZ Act including the benefits for initial setting up, maintenance and the duty free import of raw materials and consumables for the generation of the power. They can sell power to DTA on payment of customs duty as determined by DoR keeping in view the duty foregone on installation, as well as O&M, and including service tax exemption.

- (iv) With respect to the IT/ITES SEZs, which require continuous quality power, wherever generation of power has been approved by the BoA, as authorized operation, to the Developer/Co-developer within the processing area, and in respect of which there is a statutory requirement on developer/co-developer to supply 24 hours uninterrupted quality power supply at stable frequency in the Zone, in terms of Rule 5A of SEZ Rules, 2006; in such cases generation of power will be carried out as a unit within the processing area, and such a power plant including non-conventional energy power plant, will be entitled to all the fiscal benefits covered under section 26 of the SEZ Act including the benefits for initial setting up, maintenance and the duty free import of raw materials and consumables for the generation of the power. Such duty free imports of capital goods, raw material and consumables etc. would be counted towards the NFE obligations of the unit.

This facility will also be extended to R&D facilities, Fabless Semi-Conductor Industry, EMS Electronic Manufacturing Services and such other sectors as may be decided by the Central Government, from the date of incorporations of these sectors in Rule 5A of the SEZ Rules, 2006.

They can sell power to DTA on payment of customs duty as determined by DoR keeping in view the duty foregone on installation as well as O&M including service tax exemption.

- (v) SEZs which are connected to State/National Grid, will be allowed to create a back-up power facility. Such power back-up facility, if it is in the NPA, only duty benefits on capital expenditure for setting up will be available. If the facility is in processing area, then, duty benefits for setting up as well as O&M will be available, subject to the condition that the facility shall be NFE positive – either stand-alone or along with the unit with which it is attached. For DTA sale, customs duty would be charged in both the situations i.e. a power back up utility in NPA or PA at the rate prescribed for each situation/location.
- (vi) Those Power Plants in SEZs which were approved prior to 27.02.2009, and subject to issue of Power Guidelines and provisions of SEZ Act & Rules, either as an infrastructure facility by Developer/Co-developer or as a unit in the Processing Area, will be permitted to operate. It is relevant that during period of installation of such plants, duty benefits on capital investment of mega power plants were available under the then prevalent policy guidelines even in the DTA area.

Henceforth, such power plants will be allowed O&M benefits only with regard to the average monthly power supplied to entities within the same SEZ

during the preceding year. Henceforth, no O&M benefits including service tax exemption will be allowed for power supplied to DTA/other SEZs/EOUs from such power plants. The surplus power generated in such power plants may be transferred to DTA, without payment of duty, keeping inconsideration of the fact that no duty free benefits on raw materials, consumables, etc. have been availed for generation of such power. However, those power plants not having the capacity of the mega power plant, as given in DoR Notification No. 21/2002-Customs dated 1.03.2002, will be required to pay duty for sale in DTA, on account of duty free import of capital goods, as determined by DoR.

2. These guidelines would be effective with effect from 16th February, 2016.
3. This has the approval of Hon'ble Commerce & Industry Minister.

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To

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4. Department of Revenue (CBDT/CBEC), Govt. of India
5. DG, EPCES