

THE SPECIAL ECONOMIC ZONES ACT, 2005

(Act 28 of 2005, dt. 23-6-2005)

[As amended vide SO 940(E), dt. 28-2-2024, w.e.f. 28-2-2024]

An Act to provide for the establishment, development and management of the Special Economic Zones for the promotion of exports and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

¹1. Short title, extent and commencement

(1) This Act may be called the Special Economic Zones Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

¹2. Definitions

In this Act, unless the context otherwise requires,—

(a) "appointed day" with reference to a Special Economic Zone means the date on which the Special Economic Zone is notified by the Central Government under sub-section (1) of section 4;

(b) "Approval Committee" means an Approval Committee constituted under sub-section (1) of section 13;

(c) "authorised operations" means operations which may be authorised under sub-section (2) of section 4 and sub-section (9) of section 15;

(d) "Authority" means a Special Economic Zone Authority constituted under sub-section (1) of section 31;

(e) "Board" means the Board of Approval constituted under sub-section (1) of section 8;

(f) "Co-developer" means a person who, or a State Government which, has been granted by the Central Government a letter of approval under sub-section (12) of section 3;

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

- (g) "Developer" means a person who, or a State Government which, has been granted by the Central Government a letter of approval under sub-section (10) of section 3 and includes an Authority and a Co-developer;
- (h) "Development Commissioner" means the Development Commissioner appointed for one or more Special Economic Zones under sub-section (1) of section 11;
- (i) "Domestic Tariff Area" means the whole of India (including the territorial waters and continental shelf) but does not include the areas of the Special Economic Zones;
- (j) "entrepreneur" means a person who has been granted a letter of approval by the Development Commissioner under sub-section (9) of section 15;
- (k) "existing Special Economic Zone" means every Special Economic Zone which is in existence on or before the commencement of this Act;
- (l) "existing Unit" means every Unit which has been set up on or before the commencement of this Act in an existing Special Economic Zone;
- (m) "export" means—
 - (i) taking goods, or providing services, out of India, from a Special Economic Zone, by land, sea or air or by any other mode, whether physical or otherwise; or
 - (ii) supplying goods, or providing services, from the Domestic Tariff Area to a Unit or Developer; or
 - (iii) supplying goods, or providing services, from one Unit to another Unit or Developer, in the same or different Special Economic Zone;
- (n) "Free Trade and Warehousing Zone" means a Special Economic Zone wherein mainly trading and warehousing and other activities related thereto are carried on;
- (o) "import" means—
 - (i) bringing goods or receiving services, in a Special Economic Zone, by a Unit or Developer from a place outside India by land, sea or air or by any other mode, whether physical or otherwise; or
 - (ii) receiving goods, or services by a Unit or Developer from another Unit or Developer of the same Special Economic Zone or a different Special Economic Zone;
- (p) "infrastructure facilities" means industrial, commercial or social infrastructure or other facilities necessary for the development of a Special Economic Zone or such other facilities which may be prescribed;
- (q) "International Financial Services Centre" means an International Financial Services Centre which has been approved by the Central Government under sub-section (1) of section 18;
- (r) "manufacture" means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having

a distinctive name, character or use and shall include processes such as refrigeration, cutting, polishing, blending, repair, remaking, re-engineering and includes agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining;

- (s) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;
- (t) "notified offences" means the offences specified as such under sub-section (1) of section 21;
- (u) "Offshore Banking Unit" means a branch of a bank located in a Special Economic Zone and which has obtained the permission under clause (a) of sub-section (1) of section 23 of the Banking Regulation Act, 1949 (10 of 1949);
- (v) "person" includes an individual, whether resident in India or outside India, a Hindu undivided family, co-operative society, a company, whether incorporated in India or outside India, a firm, proprietary concern, or an association of persons or body of individuals, whether incorporated or not, local authority¹, trust or any entity as may be notified by the Central Government] and any agency, office or branch owned or controlled by such individual, Hindu undivided family, co-operative, association, body,²[authority, company, trust or entity];
- (w) "prescribed" means prescribed by rules made by the Central Government under this Act;
- (x) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);
- (y) "Schedule" means Schedule to this Act;
- (z) "services" means such tradable services which,—
 - (i) are covered under the General Agreement on Trade in Services annexed as IB to the Agreement establishing the World Trade Organisation concluded at Marrakesh on the 15th day of April, 1994;
 - (ii) may be prescribed by the Central Government for the purposes of this Act; and
 - (iii) earn foreign exchange;
- (za) "Special Economic Zone" means each Special Economic Zone notified under the proviso to sub-section (4) of section 3 and sub-section (1) of section 4 (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone;
- (zb) "State Government" means a State Government of the State in which a Special Economic Zone is established or proposed to be established;
- (zc) "Unit" means a Unit set up by an entrepreneur in a Special Economic Zone and includes an existing Unit, an Offshore Banking Unit and a Unit

¹ Inserted by the Special Economic Zones (Amdt.) Act, 2019 (8 of 2019), dt. 6-7-2019, w.r.e.f. 2-3-2019.

² Substituted for "authority or company" by the Special Economic Zones (Amdt.) Act, 2019 (8 of 2019), dt. 6-7-2019, w.r.e.f. 2-3-2019.

in an International Financial Services Centre, whether established before or established after the commencement of this Act;

- (zd) all other words and expressions used and not defined in this Act but defined in the Central Excise Act, 1944 (1 of 1944), the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Income-tax Act, 1961 (43 of 1961), the Customs Act, 1962 (52 of 1962) and the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

ESTABLISHMENT OF SPECIAL ECONOMIC ZONE

¹3. Procedure for making proposal to establish Special Economic Zone

(1) A Special Economic Zone may be established under this Act, either jointly or severally by the Central Government, State Government, or any person for manufacture of goods or rendering services or for both or as a Free Trade and Warehousing Zone.

(2) Any person, who intends to set up a Special Economic Zone, may, after identifying the area, make a proposal to the State Government concerned for the purpose of setting up the Special Economic Zone.

(3) Notwithstanding anything contained in sub-section (2), any person, who intends to set up a Special Economic Zone, may, after identifying the area, at his option, make a proposal directly to the Board for the purpose of setting up the Special Economic Zone:

PROVIDED that where such a proposal has been received directly from a person under this sub-section, the Board may grant approval and after receipt of such approval, the person concerned shall obtain the concurrence of the State Government within the period, as may be prescribed.

(4) In case a State Government intends to set up a Special Economic Zone, it may after identifying the area, forward the proposal directly to the Board for the purpose of setting up the Special Economic Zone:

PROVIDED that the Central Government may,—

- (a) after consulting the State Government concerned;
- (b) without referring the proposal for setting up the Special Economic Zone to the Board; and
- (c) after identifying the area,

suo motu set up and notify the Special Economic Zone.

(5) Every proposal under sub-sections (2) to (4) shall be made in such form, and manner, containing such particulars as may be prescribed.

(6) The State Government may, on receipt of the proposal made under sub-section (2), forward the same together with its recommendations to the Board within such period as may be prescribed.

(7) Without prejudice to the provisions contained in sub-section (8), the Board may, after receipt of the proposal under sub-sections (2) to (4), approve the proposal

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

subject to such terms and conditions as it may deem fit to impose, or modify or reject the proposal.

(8) The Central Government may prescribe the following requirements for establishment of a Special Economic Zone, namely:—

- (a) the minimum area of land and other terms and conditions subject to which the Board shall approve, modify or reject any proposal received by it under sub-sections (2) to (4); and
- (b) the terms and conditions, subject to which the Developer shall undertake the authorised operations and his obligations and entitlements:

PROVIDED that different minimum area of land and other terms and conditions referred to in clause (a) may be prescribed by the Central Government for a class or classes of Special Economic Zones.

(9) If the Board,—

- (a) approves without any modification the proposal received under sub-sections (2) to (4), it shall communicate the same to the Central Government;
- (b) approves with modifications the proposal received under sub-sections (2) to (4), it shall, communicate such modifications to the person or the State Government concerned and if such modifications have been accepted by such person or State Government, the Board shall communicate the approval to the Central Government;
- (c) rejects the proposal received under sub-sections (2) to (4), it shall record the reasons therefor and communicate the rejection to the Central Government which shall intimate to the State Government or the person concerned.

(10) The Central Government shall, on receipt of communication under clause (a) or clause (b) of sub-section (9), grant, within such time as may be prescribed, a letter of approval on such terms and conditions and obligations and entitlements as may be approved by the Board, to the Developer, being the person or the State Government concerned:

PROVIDED that the Central Government may, on the basis of approval of the Board, approve more than one Developer in a Special Economic Zone in cases where one Developer does not have in his possession the minimum area of contiguous land, as may be prescribed, for setting up a Special Economic Zone and in such cases, each Developer shall be considered as a Developer in respect of the land in his possession.

(11) Any person who, or a State Government which, intends to provide any infrastructure facilities in the identified area referred to in sub-sections (2) to (4), or undertake any authorised operation may, after entering into an agreement with the Developer referred to in sub-section (10), make a proposal for the same to the Board for its approval and the provisions of sub-section (5) and sub-sections (7) to (10)

shall, as far as may be, apply to the said proposal made by such person or the State Government.

(12) Every person or the State Government referred to in sub-section (11), whose proposal has been approved by the Board and who, or which, has been granted letter of approval by the Central Government, shall be considered as a Co-developer of the Special Economic Zone.

(13) Subject to the provisions of this section and the letter of approval granted to a Developer, the Developer may allocate space or built-up area or provide infrastructure services to the approved Units in accordance with the agreement entered into by him with the entrepreneurs of such Units.

¹4. Establishment of Special Economic Zone and approval and authorisation to operate it to, Developer

(1) The Developer shall, after the grant of letter of approval under sub-section (10) of section 3, submit the exact particulars of the identified area referred to in sub-sections (2) to (4) of that section, to the Central Government and thereupon that Government may, after satisfying that the requirements, under sub-section (8) of section 3 and other requirements, as may be prescribed, are fulfilled, notify the specifically identified area in the State as a Special Economic Zone:

PROVIDED that an existing Special Economic Zone shall be deemed to have been notified and established in accordance with the provisions of this Act and the provisions of this Act shall, as far as may be, apply to such Zone accordingly:

PROVIDED FURTHER that the Central Government may, after notifying the Special Economic Zone, if it considers appropriate, notify subsequently any additional area to be included as a part of that Special Economic Zone.

(2) After the appointed day, the Board may, authorise the Developer to undertake in a Special Economic Zone, such operations which the Central Government may authorise.

¹5. Guidelines for notifying Special Economic Zone

The Central Government, while notifying any area as a Special Economic Zone or an additional area to be included in the Special Economic Zone and discharging its functions under this Act, shall be guided by the following, namely:—

- (a) generation of additional economic activity;
- (b) promotion of exports of goods and services;
- (c) promotion of investment from domestic and foreign sources;
- (d) creation of employment opportunities;
- (e) development of infrastructure facilities; and
- (f) maintenance of sovereignty and integrity of India, the security of the State and friendly relations with foreign States.

¹6. Processing and non-processing areas

The areas falling within the Special Economic Zones may be demarcated by the Central Government or any authority specified by it as—

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

- (a) the processing area for setting up Units for activities, being the manufacture of goods, or rendering services; or
- (b) the area exclusively for trading or warehousing purposes; or
- (c) the non-processing areas for activities other than those specified under clause (a) or clause (b).

¹7. Exemption from taxes, duties or cess

Any goods or services exported out of, or imported into, or procured from the Domestic Tariff Area by,—

- (i) a Unit in a Special Economic Zone; or
- (ii) a Developer,

shall, subject to such terms, conditions and limitations, as may be prescribed, be exempt from the payment of taxes, duties or cess under all enactments specified in the First Schedule.

CHAPTER III

CONSTITUTION OF BOARD OF APPROVAL

¹8. Constitution of Board of Approval

(1) The Central Government shall, within fifteen days of the commencement of this Act, by notification, constitute, for the purposes of this Act, a Board to be called the Board of Approval.

(2) The Board shall consist of—

- (a) an officer not below the rank of an Additional Secretary to the Government of India in the Ministry or Department of the Central Government dealing with commerce—Chairperson, *ex officio*;
- (b) two officers, not below the rank of a Joint Secretary to the Government of India, to be nominated by the Central Government to represent the Ministry or Department of the Central Government dealing with revenue—Members, *ex officio*;
- (c) one officer not below the rank of a Joint Secretary to the Government of India to be nominated by the Central Government to represent the Ministry or Department of the Central Government dealing with economic affairs (financial services)—Member, *ex officio*;
- (d) such number of officers, not exceeding ten, not below the rank of the Joint Secretary to the Government of India, to be nominated by the Central Government to represent the Ministries or Departments of the Central Government dealing with commerce, industrial policy and promotion, science and technology, small scale industries and agro and rural industries, home affairs, defence, environment and forests, law, overseas Indian affairs and urban development—Members, *ex officio*;
- (e) a nominee of the State Government concerned—Member, *ex officio*;
- (f) the Director General of Foreign Trade or his nominee—Member, *ex officio*;
- (g) the Development Commissioner concerned—Member, *ex officio*;

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

- (h) a Professor in the Indian Institute of Management, being a society registered under the Societies Registration Act, 1860 (21 of 1860), or the Indian Institute of Foreign Trade, being a society registered under the Societies Registration Act, 1860 (21 of 1860), as may be nominated by the Central Government—Member, *ex officio*;
- (i) an officer not below the rank of Deputy Secretary to the Government of India dealing with the Special Economic Zones in the Ministry or Department of the Central Government, dealing with commerce to be nominated by the Central Government—Member-Secretary, *ex officio*:

PROVIDED that the member, being the Joint Secretary, nominated under clauses (b) to (d) of this sub-section may, if he is unable to attend the meeting of the Board, authorise any other officer to attend the meeting of the Board on his behalf.

(3) The term of office of an *ex officio* Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.

(4) For the purposes of performing its functions, the Board may co-opt as members, such number of persons as it deems fit, who have special knowledge of, and practical experience in, matters relating to, or relevant to activity connected with the Special Economic Zones and any such person shall have the right to take part in the discussions of the Board but shall not be counted for the quorum and shall not be a member for any other purpose and such person shall be entitled to receive such allowances or fees, as the case may be, fixed by the Board.

(5) The Board shall meet at such times and places as may be appointed by it and shall have the power to regulate its own procedure.

(6) One-third of the total Members of the Board shall form a quorum, and all the acts of the Board shall be decided by a general consensus of the Members present.

(7) No act or proceeding of the Board shall be called in question on the ground merely of existence of any vacancy in, or any defect in the constitution of, the Board.

(8) All orders and decisions of the Board and all other instruments issued by it shall be authenticated by the signature of the Member-Secretary, or any other Member as may be authorised by the Board in this behalf.

¹9. Duties, powers and functions of Board

(1) Subject to the provisions of this Act, the Board shall have the duty to promote and ensure orderly development of the Special Economic Zones.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the powers and functions of the Board shall include—

- (a) granting of approval or rejecting proposal or modifying such proposals for establishment of the Special Economic Zones;
- (b) granting approval of authorised operations to be carried out in the Special Economic Zones by the Developer;
- (c) granting of approval to the Developers or Units (other than the Developers or the Units which are exempt from obtaining approval under any law or by the Central Government) for foreign collaborations

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

and foreign direct investments (including investments by a person resident outside India), in the Special Economic Zone for its development, operation and maintenance;

- (d) granting of approval or rejecting of proposal for providing infrastructure facilities in a Special Economic Zone or modifying such proposals;
- (e) granting, notwithstanding anything contained in the Industries (Development and Regulation) Act, 1951 (65 of 1951), a licence to an industrial undertaking referred to in clause (d) of section 3 of that Act, if such undertaking is established, as a whole or part thereof, or proposed to be established, in a Special Economic Zone;
- (f) suspension of the letter of approval granted to a Developer and appointment of an Administrator under sub-section (1) of section 10;
- (g) disposing of appeals preferred under sub-section (4) of section 15;
- (h) disposing of appeals preferred under sub-section (4) of section 16;
- (i) performing such other functions as may be assigned to it by the Central Government.

(3) The Board may, if so required for the purposes of this Act or any other law for the time being in force relating to Special Economic Zones, by notification, decide as to whether a particular activity constitutes manufacture as defined in clause (r) of section 2 and such decision of the Board shall be binding on all Ministries and Departments of the Central Government.

(4) The Board may delegate such powers and functions as it may deem fit to one or more Development Commissioners for effective and proper discharge of the functions of the Board.

(5) Without prejudice to the foregoing provisions of this Act, the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

(6) The decision of the Central Government whether a question is one of policy or not shall be final.

¹10. Suspension of letter of approval and transfer of Special Economic Zone in certain cases

- (1) If, at any time, the Board is of the opinion that a Developer—
 - (a) is unable to discharge the functions or perform the duties imposed on him by or under the provisions of this Act or rules made thereunder; or
 - (b) has persistently defaulted in complying with any direction given by the Board under this Act; or
 - (c) has violated the terms and conditions of the letter of approval; or
 - (d) whose financial position is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by the letter of approval, and

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

the circumstances exist which render it necessary for it in public interest so to do, the Board may, on application, or with the consent of the Developer, or otherwise, for reasons to be recorded in writing, suspend the letter of approval, granted to the Developer for a whole or part of his area established as Special Economic Zone, for a period not exceeding one year and appoint an Administrator to discharge the functions of the Developer in accordance with the terms and conditions of the letter of approval and manage the Special Economic Zone accordingly.

(2) Consequent upon appointment of an Administrator, the management of the Special Economic Zone of the Developer referred to in sub-section (1) shall vest in the Administrator.

(3) No letter of approval shall be suspended under sub-section (1) unless the Board has given to the Developer not less than three months' notice, in writing, stating the grounds on which it proposes to suspend the letter of approval, and has considered any cause shown by the Developer within the period of that notice, against the proposed suspension.

(4) The Board may, instead of suspending the letter of approval under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon and be complied with by the Developer and shall be of like force and effect as if they were contained in the letter of approval.

(5) In case the Board suspends a letter of approval under this section, it shall serve a notice of suspension upon the Developer and fix a date on which the suspension shall take effect.

(6) Upon suspension of the letter of approval under sub-section (1), the Special Economic Zone of the Developer referred to in sub-section (5) shall vest in the Administrator under sub-section (2) for a period not exceeding one year or up to the date on which the letter of approval for such Special Economic Zone is transferred, whichever is earlier, in accordance with the provisions contained in sub-sections (7) and (9), as the case may be.

(7) Where the Board has given notice for suspension of letter of approval under sub-section (5), the Developer may, after prior approval of the Board, transfer his letter of approval to any person who is found eligible by the Board for grant of such approval.

(8) If at any time, it appears to the Board that the purpose of the order appointing the Administrator has been fulfilled or that for any reason it is undesirable that the order of appointment should remain in force, the Board may cancel the order and thereupon the Administrator shall be divested of the management of the Special Economic Zone which shall, unless otherwise directed by the Board, again vest in the person, being the Developer, in whom it was vested immediately prior to the date of appointment of the Administrator.

(9) Where the Board suspends the letter of approval, under this section, in respect of any Developer, the following provisions shall apply, namely:—

- (a) the Board shall invite applications for transferring the letter of approval of the Developer, whose approval has been suspended and select the person or persons, in accordance with the procedure as may be prescribed, to whom the letter of approval of the Developer in the Special Economic Zone may be transferred;
- (b) upon selection of person or persons under sub-clause (a), the Board may, by notice in writing, require the Developer to transfer his letter of approval in a Special Economic Zone to the person or persons so selected and thereupon the Developer shall transfer his interests, rights and liabilities in the Special Economic Zone to any of the persons (hereafter in this section referred to as the "transferee") who has been selected by the Board on such terms and conditions and consideration as may be agreed upon between the Developer and the transferee;
- (c) all the rights, duties, obligations and liabilities of the Developer, on and from the date of suspension of letter of approval or on and from the date, if earlier, on which his letter of approval in the Special Economic Zone of the Developer has been transferred to the transferee, shall cease absolutely except for any liabilities which have accrued prior to that date;
- (d) the Board may make such interim arrangements in regard to the operation of the Special Economic Zone as may be considered appropriate;
- (e) the Administrator shall exercise such powers and discharge such functions as the Board may direct.

(10) The Board may, in order to promote export or to protect the interest of Units or in the public interest, issue such directions or formulate such scheme as it may consider necessary for operation of the Special Economic Zone.

CHAPTER IV

DEVELOPMENT COMMISSIONER

¹11. Development Commissioner

(1) The Central Government may appoint any of its officers not below the rank of Deputy Secretary to the Government of India as the Development Commissioner of one or more Special Economic Zones.

(2) The Central Government may appoint such officers and other employees as it considers necessary to assist the Development Commissioner in the performance of his functions in the Special Economic Zones established by a Developer (other than the Central Government) under this Act on such terms and conditions as it deems fit.

(3) Every Development Commissioner, officer and other employee shall be entitled to such salary and allowances and subject to such terms and conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be specified by the Central Government.

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

¹12. Functions of Development Commissioner

(1) Every Development Commissioner shall take all steps in order to discharge his functions under this Act to ensure speedy development of the Special Economic Zone and promotion of exports therefrom.

(2) Without prejudice to the generality of the foregoing provisions, the Development Commissioner shall—

- (a) guide the entrepreneurs for setting up of Units in the Special Economic Zone;
- (b) ensure and take suitable steps for effective promotion of exports from the Special Economic Zone;
- (c) ensure proper co-ordination with the Central Government or State Government Departments concerned or agencies with respect to, or for the purposes, of clauses (a) and (b);
- (d) monitor the performance of the Developer and the Units in a Special Economic Zone;
- (e) discharge such other functions as may be assigned to him by the Central Government under this Act or any other law for the time being in force; and
- (f) discharge such other functions as may be delegated to him by the Board.

(3) Every Development Commissioner shall be overall in-charge of the Special Economic Zone and shall exercise administrative control and supervision over the officers and employees appointed under sub-section (2) of section 11 (including the officials deputed to such Special Economic Zone) to discharge any of the functions under this Act.

(4) Without prejudice to the provisions of sub-sections (1) to (3), every Development Commissioner shall discharge such functions and exercise such powers as may be delegated to him by a general or special order by the Central Government or the State Government concerned, as the case may be.

(5) Every Development Commissioner may call for such information from a Developer or Unit from time to time as may be necessary to monitor the performance of the Developer or the Unit, as the case may be.

(6) The Development Commissioner may delegate any or all of his powers or functions to any of the officers employed under him.

²[(7) Notwithstanding anything contained in this section, in case any Units requiring recognition, registration, license or authorisation by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019 (50 of 2019), the powers and functions of the Development Commissioner under this section, except the powers conferred under sub-section (3), shall be discharged by an officer

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

² Inserted vide Notification SO 940(E), dt. 28-2-2024, w.e.f. 28-2-2024.

The provisions of this section shall apply to SEZ Units, if any units requiring recognition, registration, etc. by the IFSCA established under IFSCA Act, 2019, the powers and functions of the Development Commissioner shall be discharged by Administrator (IFSCA).

nominated by the International Financial Services Centres Authority to be designated as “Administrator (IFSCA)”.]

CHAPTER V

SINGLE WINDOW CLEARANCE

¹13. Constitution of Approval Committee

(1) The Central Government shall,—

- (a) in the case of existing Special Economic Zones, within six months from the date of commencement of this Act;
- (b) in case of other Special Economic Zones established after the commencement of this Act, within six months from the date of establishment of such Special Economic Zone,

by notification, constitute a Committee for every Special Economic Zone, to be called the Approval Committee to exercise the powers and perform the functions specified in section 14.

(2) Every Approval Committee shall consist of—

- (a) the Development Commissioner—Chairperson, *ex officio*;
- (b) two officers of the Central Government to be nominated by that Government—Members, *ex officio*;
- (c) two officers of the Central Government to be nominated by that Government to represent the Ministry or Department dealing with revenue—Members, *ex officio*;
- (d) one officer of the Central Government to be nominated by that Government to represent the Ministry or Department dealing with economic affairs (financial services)—Member, *ex officio*;
- (e) two officers of the State Government concerned to be nominated by that State Government—Members, *ex officio*;
- (f) a representative of the Developer concerned—Special invitee:
²[PROVIDED for a Unit requiring recognition, registration, license or authorisation by the International Financial Services Centres Authority, the Chairperson of the Approval Committee under clause (a) of sub-section (2) of section 13 shall be the “Administrator (IFSCA)”.]

(3) For the purpose of exercising its powers and performing its functions, the Approval Committee may invite to its meetings, such persons as the Committee deems fit, whose assistance or advice it may consider necessary.

(4) Every Approval Committee shall meet at such times and places as it considers necessary and shall have the power to regulate its own procedure.

(5) One-half of the total Members of the Approval Committee shall form a quorum, and all the acts of the Approval Committee shall be decided by a general consensus of the Members present:

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

² Inserted vide Notification SO 940(E), dt. 28-2-2024, w.e.f. 28-2-2024.

The provisions of this section shall apply that a unit requiring registration by the IFSCA, the Chairperson of the Approval Committee shall be Administrator (IFSCA).

PROVIDED that in case the Approval Committee is unable to decide any matter by a general consensus, such matter shall stand referred to the Board of Approval for its decision.

(6) No act of the Approval Committee shall be called in question on the ground merely of existence of any vacancy in, or any defect in the constitution of, the Approval Committee.

(7) All orders and decisions of the Approval Committee and all other communications issued by it shall be authenticated by the signature of the Chairperson or any other member as may be authorised by the Approval Committee in this behalf.

(8) The term of office of an *ex officio* Member shall come to an end as soon as he ceases to hold office by virtue of which he was so nominated.

¹14. Powers and functions of Approval Committee

(1) Every Approval Committee may discharge the functions and exercise the powers in respect of the following matters, namely:—

- (a) approve the import or procurement of goods from the Domestic Tariff Area, in the Special Economic Zone for carrying on the authorised operations by a Developer;
- (b) approve the providing of services by a service provider, from outside India, or from the Domestic Tariff Area, for carrying on the authorised operations by the Developer, in the Special Economic Zone;
- (c) monitor the utilisation of goods or services or warehousing or trading in the Special Economic Zone;
- (d) approve, modify or reject proposals for setting up Units for manufacturing or rendering services or warehousing or trading in the Special Economic Zone [other than the grant of licence under clause (e) of sub-section (2) of section 9] in accordance with the provisions of sub-section (8) of section 15:

PROVIDED that where the Approval Committee is unable to decide whether a particular process constitutes manufacture or not it shall refer the same to the Board of Approval for decision;

- (e) allow, on receipt of approval under clause (c) of sub-section (2) of section 9, foreign collaborations and foreign direct investments (including investments by a person outside India) for setting up a Unit;
- (f) monitor and supervise compliance of conditions subject to which the letter of approval or permission, if any, has been granted to the Developer or entrepreneur; and
- (g) perform such other functions as may be entrusted to it by the Central Government or the State Government concerned, as the case may be.

(2) The Approval Committee shall not discharge such functions and exercise such powers referred to in sub-section (1) in relation to a Developer, being the Central Government, as may be specified, by notification, by the Central Government:

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

PROVIDED that till such time, the Approval Committee is constituted, the concerned Development Commissioner shall discharge all functions and exercise all powers of the Approval Committee.

¹**15. Setting up of Unit**

(1) Any person, who intends to set up a Unit for carrying on the authorised operations in a Special Economic Zone, may submit a proposal to the Development Commissioner concerned in such form and manner containing such particulars as may be prescribed:

PROVIDED that an existing Unit shall be deemed to have been set up in accordance with the provisions of this Act and such Units shall not require approval under this Act:

²[PROVIDED FURTHER that any person intending to set up a Unit, requiring recognition, registration, license or authorisation by the International Financial Services Centres Authority, shall submit a proposal to the “Administrator (IFSCA)”.]

(2) On receipt of the proposal under sub-section (1), the Development Commissioner shall submit the same to the Approval Committee for its approval:

³[PROVIDED that any such proposal received under second proviso to sub-section (1), shall also be sent to the Approval Committee for its approval.]

(3) The Approval Committee may, either approve the proposal without modification, or approve the proposal with modifications subject to such terms and conditions as it may deem fit to impose, or reject the proposal in accordance with the provisions of sub-section (8):

PROVIDED that in case of modification or rejection of a proposal, the Approval Committee shall afford a reasonable opportunity of being heard to the person concerned and after recording the reasons, either modify or reject the proposal.

(4) Any person aggrieved by an order of the Approval Committee, made under sub-section (3), may prefer an appeal to the Board within such time as may be prescribed.

(5) No appeal shall be admitted if it is preferred after the expiry of the time prescribed therefor:

PROVIDED that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Board that he had sufficient cause for not preferring the appeal within the prescribed time.

(6) Every appeal made under sub-section (4) shall be in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

² Inserted vide Notification SO 940(E), dt. 28-2-2024, w.e.f. 28-2-2024.

The provisions of this section shall apply that a person who intends to set up a unit, for requiring recognition, registration, etc. by the IFSCA, shall submit a proposal to the Administrator (IFSCA).

³ Inserted vide Notification SO 940(E), dt. 28-2-2024, w.e.f. 28-2-2024.

The provisions of this section shall apply to SEZ Units if a person intends to set up a Unit require a recognition, registration, etc. by IFSCA shall submit a proposal to IFSCA and also to Approval Committee for approval.

The provisions of this section shall apply to SEZ units if a person intends to set up a unit requiring a recognition, registration, etc. by IFSCA shall submit a proposal at IFSCA and also to Approval Committee for approval.

(7) The procedure for disposing of an appeal shall be such as may be prescribed:

PROVIDED that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(8) The Central Government may prescribe,—

(a) the requirements (including the period for which a Unit may be set up) subject to which the Approval Committee shall approve, modify or reject any proposal referred to in sub-section (3);

(b) the terms and conditions, subject to which the Unit shall undertake the authorised operations and its obligations and entitlements.

(9) The Development Commissioner may, after approval of the proposal referred to in sub-section (3), grant a letter of approval to the person concerned to set up a Unit and undertake such operations which the Development Commissioner may authorise and every such operation so authorised shall be mentioned in the letter of approval:

¹[PROVIDED that the Administrator (IFSCA) may, after approval of the proposal referred to in sub-section (3), grant the letter of approval to the person concerned to set up any Unit and undertake such operations, requiring recognition, registration, license or authorisation by the International Financial Services Centres Authority:

PROVIDED FURTHER that relevant information regarding such Units shall be shared by the Administrator (IFSCA) with the Development Commissioner of the SEZ on a monthly basis or as may be required from time to time.]

²16. Cancellation of letter of approval to entrepreneur

(1) The Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted to the entrepreneur, cancel the letter of approval:

PROVIDED that no such letter of approval shall be cancelled unless the entrepreneur has been afforded a reasonable opportunity of being heard.

(2) Where the letter of approval has been cancelled under sub-section (1), the Unit shall not, from the date of such cancellation, be entitled to any exemption, concession, benefit or deduction available to it, being a Unit, under this Act.

¹ Inserted vide Notification SO 940(E), dt. 28-2-2024, w.e.f. 28-2-2024.

The provisions of section shall apply that a Unit requiring recognition, registration, etc. by the IFSCA, shall submit proposal for approval to IFSCA and Approval Committee. IFSCA shall grant the letter of approval to the person concerned to set up any unit and undertake such operations, requiring registration, etc. by the IFSCA. The relevant information regarding such unit shall be shared by the IFSCA with the Development Commissioner of the SEZ on monthly basis.

² Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

(3) Without prejudice to the provisions of this Act, the entrepreneur whose letter of approval has been cancelled under sub-section (1), shall remit, the exemption, concession, drawback and any other benefit availed by him in respect of the capital goods, finished goods lying in stock and unutilised raw materials relating to his Unit, in such manner as may be prescribed.

(4) Any person aggrieved by an order of the Approval Committee made under sub-section (1), may prefer an appeal to the Board within such time as may be prescribed.

(5) No appeal shall be admitted if it is preferred after the expiry of the time prescribed therefor:

PROVIDED that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Board that he had sufficient cause for not preferring the appeal within the prescribed time.

(6) Every appeal made under sub-section (4) shall be in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(7) The procedure for disposing of an appeal shall be such as may be prescribed:

PROVIDED that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹17. Setting up and operation of Offshore Banking Unit

(1) An application for setting up and operation of an Offshore Banking Unit in a Special Economic Zone may be made to the Reserve Bank in such form and manner as may be prescribed.

(2) On receipt of an application under sub-section (1), the Reserve Bank shall, if it is satisfied that the applicant fulfills all the conditions specified under sub-section (3), grant permission to such applicant for setting up and operation of an Offshore Banking Unit.

(3) The Reserve Bank may, by notification, specify the terms and conditions subject to which an Offshore Banking Unit may be set up and operated in the Special Economic Zone.

¹18. Setting up of International Financial Services Centre

(1) The Central Government may approve the setting up of an International Financial Services Centre in a Special Economic Zone and prescribe the requirements for setting up and operation of such Centre:

PROVIDED that the Central Government shall approve only one International Financial Services Centre in a Special Economic Zone.

(2) The Central Government may, subject to such guidelines as may be framed by the Reserve Bank, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and such other concerned authorities, as it deems fit, prescribe the requirements for setting up and the terms and conditions of the operation of Units in an International Financial Services Centre.

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

¹19. Single application form, return, etc.

Notwithstanding anything contained in any other law for the time being in force, the Central Government may, if required,—

- (a) prescribe a single application form for obtaining any licence, permission or registration or approval by a Developer, or an entrepreneur under one or more Central Acts;
- (b) authorise the Board, the Development Commissioner or Approval Committee, to exercise the powers of the Central Government, on matters relating to the development of a Special Economic Zone or setting up and operation of Units;
- (c) prescribe a single form for furnishing returns or information by a Developer or an entrepreneur under one or more Central Acts.

²20. Agency to inspect

Notwithstanding anything contained in any other law for the time being in force, the Central Government may, by notification, specify any officer or agency to carry out surveys or inspections for securing of compliance with the provisions of any Central Act by a Developer or an entrepreneur, as the case may be, and such officer or agency shall submit verification and compliance reports, in such manner and within such time as may be specified in the said notification.

221. Single enforcement officer or agency for notified offences

(1) The Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for the purposes of this Act.

(2) The Central Government may, by general or special order, authorise any officer or agency to be the enforcement officer or agency in respect of any notified offence or offences committed in a Special Economic Zone.

(3) Every officer or agency authorised under sub-section (2) shall have all the corresponding powers of investigation, inspection, search or seizure as is provided under the relevant Central Act in respect of the notified offences.

222. Investigation, inspection, search or seizure

The agency or officer, specified under section 20 or section 21, may, with prior intimation to the Development Commissioner concerned, carry out the investigation, inspection, search or seizure in the Special Economic Zone or in a Unit if such agency or officer has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:

PROVIDED that no investigation, inspection, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those referred to in sub-section (2) or sub-section (3) of section 21 without prior approval of the Development Commissioner concerned:

PROVIDED FURTHER that any officer or agency, if so authorised by the Central Government, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner.

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

² Enforced w.e.f. 13-1-2010 vide SO 75(E), dt. 13-1-2010.

23. Designated Courts to try suits and notified offences

(1) The State Government, in which the Special Economic Zone is situated, may, with the concurrence of the Chief Justice of the High Court of that State, designate one or more courts—

- (a) to try all suits of a civil nature arising in the Special Economic Zone; and
- (b) to try notified offences committed in the Special Economic Zone.

(2) No court, other than the court designated under sub-section (1), shall try any suit or conduct the trial of any notified offence referred to in that sub-section:

PROVIDED that the courts, in which any suit of a civil nature in a Special Economic Zone had been filed before the commencement of this Act, shall continue to try such suit after such commencement:

PROVIDED FURTHER that the courts, in which any trial of any notified offence is being conducted before the commencement of this Act, shall continue to conduct the trial of such offence after the commencement of this Act:

PROVIDED ALSO that the courts competent to try any notified offence, before the commencement of this Act, shall conduct the trial in respect of such offence after the commencement of this Act until the courts have been designated under sub-section (1) and all such cases relating to such trials shall thereafter be transferred to such courts so designated which shall conduct the trial from the stage at which such cases were so transferred.

24. Appeal to High Court

Any person aggrieved, by any decision or order of the court designated under sub-section (1) of section 23, may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the courts so designated to him on any question of fact or law arising out of such orders:

PROVIDED that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Explanation : In section 23 and in this section "High Court" means the High Court of the State in which the Special Economic Zone is situated.

¹25. Offences by companies

(1) Where an offence has been committed by a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

PROVIDED that nothing contained in this sub-section shall render any such person liable to any punishment provided for the offence, if he has proved that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence has been committed by a company and it is proved that the offence has been

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

CHAPTER VI

SPECIAL FISCAL PROVISIONS FOR SPECIAL ECONOMIC ZONES

¹26. Exemptions, drawbacks and concessions to every Developer and entrepreneur

(1) Subject to the provisions of sub-section (2), every Developer and the entrepreneur shall be entitled to the following exemptions, drawbacks and concessions, namely:—

- (a) exemption from any duty of customs, under the Customs Act, 1962 (52 of 1962) or the Customs Tariff Act, 1975 (51 of 1975) or any other law for the time being in force, on goods imported into, or services provided in, a Special Economic Zone or a Unit, to carry on the authorised operations by the Developer or entrepreneur;
- (b) exemption from any duty of customs, under the Customs Act, 1962 (52 of 1962) or the Customs Tariff Act, 1975 (51 of 1975) or any other law for the time being in force, on goods exported from, or services provided, from a Special Economic Zone or from a Unit, to any place outside India;
- (c) exemption from any duty of excise, under the Central Excise Act, 1944 (1 of 1944) or the Central Excise Tariff Act, 1985 (5 of 1986) or any other law for the time being in force, on goods brought from Domestic Tariff Area to a Special Economic Zone or Unit, to carry on the authorised operations by the Developer or entrepreneur;
- (d) drawback or such other benefits as may be admissible from time to time on goods brought or services provided from the Domestic Tariff Area into a Special Economic Zone or Unit or services provided in a Special Economic Zone or Unit by the service providers located outside India to carry on the authorised operations by the Developer or entrepreneur;
- (e) exemption from service tax under Chapter V of the Finance Act, 1994 (32 of 1994) on taxable services provided to a Developer or Unit to carry on the authorised operations in Special Economic Zone;
- (f) exemption from the securities transaction tax leviable under section 98 of the Finance (No. 2) Act, 2004 (23 of 2004) in case the taxable securities transactions are entered into by a non-resident through the International Financial Services Centre;

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.

- (g) exemption from the levy of taxes on the sale or purchase of goods other than newspapers under the Central Sales Tax Act, 1956 (74 of 1956), if such goods are meant to carry on the authorised operations by the Developer or entrepreneur.

(2) The Central Government may prescribe, the manner in which, and, the terms and conditions subject to which, the exemptions, concessions, drawback or other benefits shall be granted to the Developer or entrepreneur under sub-section (1).

¹27. Provisions of Income-tax Act, 1961 to apply with certain modification in relation to Developers and entrepreneurs

The provisions of the Income-tax Act, 1961 (43 of 1961), as in force for the time being, shall apply to, or in relation to, the Developer or entrepreneur for carrying on the authorised operations in a Special Economic Zone or Unit subject to the modifications specified in the Second Schedule.

128. Duration of goods or services in Special Economic Zones

The Central Government may prescribe the period during which any goods brought into, or services provided in, any Unit or Special Economic Zone without payment of taxes, duties or cess shall remain or continue to be provided in such Unit or Special Economic Zone.

129. Transfer of ownership and removal of goods

The transfer of ownership in any goods brought into, or produced or manufactured in, any Unit or Special Economic Zone or removal thereof from such Unit or Zone shall be allowed, subject to such terms and conditions as the Central Government may prescribe.

130. Domestic clearance by Units

Subject to the conditions specified in the rules made by the Central Government in this behalf,—

- (a) any goods removed from a Special Economic Zone to the Domestic Tariff Area shall be chargeable to duties of customs including anti-dumping, countervailing and safeguard duties under the Customs Tariff Act, 1975 (51 of 1975), where applicable, as leviable on such goods when imported; and
- (b) the rate of duty and tariff valuation, if any, applicable to goods removed from a Special Economic Zone shall be at the rate and tariff valuation in force as on the date of such removal, and where such date is not ascertainable, on the date of payment of duty.

CHAPTER VII

SPECIAL ECONOMIC ZONE AUTHORITY

31. Constitution of Authority

(1) The Central Government shall, by notification in the Official Gazette, constitute, for every Special Economic Zone established by it before the commencement of this Act or which may be established after such commencement

¹ Enforced w.e.f. 10-2-2006 vide SO 196(E), dt. 10-2-2006.