

OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT),
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TAL : URAN; DIST: RAIGAD – PIN 400 707.

F.No. S/12-Gen.-02/ 2006-07 AM(X) Pt. File

Date: 20.02.2007

PUBLIC NOTICE NO. 06 / 2007

**Sub: Implementation of Special Economic Zone Act, 2005 and
Special Economic Zone Rules, 2006 - Reg.**

Attention of all the Importers / Exporters / CHAs and Members of the Trade is invited to the [Board's Circular No. 29 / 2006-Cus.](#) dated 27.12.2006 on the aforesaid subject.

Attention is also invited to the notification No S.O. 196(E), dated 10.02.06 issued vide F./1/7/2005 EPZ dated 10.2.2006, by the Department of Commerce, Ministry of Commerce & Industry, Government of India on the above subject. The said notification appoints 10th February 2006 as the date on which Special Economic Zone Act, 2005 (excluding sections 20 to 24 and section 31 to 41) has come into force. Further, in exercise of the powers conferred under section 55 of the Special Economic Zones Act 2005, (hereinafter referred to as the Act) the Special Economic Zones Rules, 2006 (hereinafter referred to as the Rules) have been notified vide notification F/1/7/2005 EPZ dated 10.2.2006 w.e.f. 10.02.2006.

2. Following the enactment of Act and the Rules, certain representations have been received from the trade regarding implementation of Rule 30 relating to procurement of goods by Special Economic Zones (SEZs) from the Domestic Tariff Area (DTA). It has been felt necessary to issue instructions, as detailed under, for proper implementation of the said Rule. Department of Commerce has also issued Instruction No. 6 dated 3rd August, 2006 on the said issue.

3. The important provisions of the Act & the Rules having a bearing on procurement of goods from DTA by SEZ units and SEZ developers for their authorized operations are listed below: -

- (a) Under section 2 (m) of the Act, supplying goods or providing services, from DTA to a SEZ unit or a SEZ developer, has been defined to constitute "export".
- (b) Section 51 of the Act provides that the said Act shall have effect in case of any inconsistency with the provisions contained in any other law for the time being in force, etc.;
- (c) Sub section (1) of section 52 of the Act provides that w.e.f 14.03.2006, the provisions contained in chapter X A of the Customs Act, 1962, the SEZ Rules, 2003 and the SEZ (Customs Procedure) Regulations, 2003 made there under, shall not apply to Special Economic Zones; and
- (d) Section 53 of the Act provides that w.e.f 10.02.2006, a Special Economic Zone shall be deemed to be territory outside the customs territory of India for the purposes of undertaking the authorized operations.

4. In the light of the aforesaid provisions, with effect from 14.03.2006, Chapter X A of the Customs Act, 1962, the SEZ Rules, 2003, the SEZ (Customs Procedure) Regulations, 2003, and the exemption notification no. 58/2003-CE dated 22.7.2003 regarding the supply of goods to SEZ units & SEZ developers have become redundant. Consequently the supplies from DTA to a SEZ unit, or to SEZ developers for their authorized operations inside a SEZ notified under sub-section (1) of section 4 of the Act, may be treated as in the nature of exports.

5. The existing SEZs, i.e., the ones notified under section 76A of Chapter X A of the Customs Act, 1962 shall be deemed to have been notified under Section 4 of the Act. Supplies from DTA to SEZ shall be exempt from payment of any Central Excise duty under Rule 19 of Central Excise Rules, 2002. Similarly, such supplies shall be eligible for claim of rebate under Rule 18 of Central Excise Rules, 2002 subject to the fulfillment of conditions laid there under. The provisions relating to exports under Central Excise Act, 1944 and rules made there under may be applied, *mutatis-mutandis*, in case of procurement by SEZ units & SEZ developer from DTA for their authorized operations.

6. The provisions of Regulation 10 of the Special Economic Zone (Custom Procedure) Regulation, 2003 for requirement of issuance of Domestic Procurement Certificate (DPC) have been dispensed with in the SEZ Rules, 2006. Now the procedure for procurements of goods from Domestic Tariff Area to a SEZ Developer or a unit would be governed by the provisions of Rule 30 of the SEZ Rules, 2006, and the movement of goods from the place of manufacture to the SEZ shall be (i) on the basis of ARE1 (in cases where export entitlements are not availed); (ii) on the basis of ARE 1 and Bill of Export (in cases where

export entitlements are availed) and against a general Bond or Letter of Undertaking, specified in Annexure-I and Annexure-II, under

[notification no. 42/2001-C.E.\(N.T.\)](#) dated 26.06.2001 as amended, and furnished by the DTA supplier to the jurisdictional Assistant Commissioner or Deputy Commissioner of Central Excise. In the event of non-receipt of proof of export in form of endorsement, regarding admittance of goods in full into the Special Economic Zone, by the Authorized Officer of Customs posted in the SEZ, on ARE-1 and /or Bill of Export, as the case may be, within a period of 45 days, the duty should be demanded from the DTA supplier by the jurisdictional Central Excise Officer as is done in the case of non-availability of proof of export for normal export of goods, without payment of Central Excise duty, under Rule 19 of Central Excise Rules, 2002.

7. Clearance of goods at the place of dispatch, i. e., at the factory or warehouse may be, at the option of the exporter (DTA Supplier), either 'under examination and sealing of goods by the Central Excise officer', or, 'under self- sealing and self examination', as is applicable in the case of export of goods under Rule 18 or 19 of Central Excise Rules, 2002. The manner of disposal of copies of ARE1, monitoring of proof of exports, demand of duty in case of non - submission of proof of exports, etc. shall be the same as is applicable in case of exports made under Rule 18 or Rule 19 of the Central Excise Rules, 2002. The DTA supplier shall ensure the bonafides of the SEZ unit or SEZ developer to whom duty free goods are being supplied. In the event of non receipt of proof of export due to loss of goods in transit due to theft, illegal diversion or any other reason, or in the event of proof of export being found to be fraudulent, the liability of payment of duty, fine, penalty and interest relating thereto, would lie with the supplier in DTA, in addition to any other liability under any law in force.

8. Any difficulty faced by the trade regarding the above instruction, may please be brought to the notice of the Department.

(SANJEEV BEHARI)

Commissioner of Customs (Export)

JNCH, Nhava-Sheva.