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CAG Survey on
'Performance Audit on Special Economic Zones'

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1. SEZ in India: An overview

Special Economic Zone (SEZ) is a specifically delineated duty free enclave and is a deemed foreign territory for the purpose of trade operations, duties and tariffs. According to World Bank, SEZ is a fenced-in industrial estate that offers firms, free trade conditions and a liberal regulatory environment and specializes in manufacturing for export. Goods and services from domestic tariff area (DTA) to SEZ are to be treated as exports and goods coming from SEZ into DTA are to be treated as imports. SEZs are also be considered as industrial zones with special incentives, in which imported materials or data, undergo some degree of processing before being (re)-exported again

The term 'SEZ' is synonymous with EPZs (Export Processing Zones) and FTZs (Free Trade Zones), which have been established by several countries worldwide to serve as a tool for accomplishing different economic purposes and objectives. SEZ also constitutes an important aspect of the industrialization strategy of the developing economies for increasing their competitiveness and international trade flows. In India also, SEZs were set up with the aim of developing export-oriented industries, stimulating investment and generating employment opportunities so as to become competitive in the international market. For this, the SEZs are provided with world class infrastructure, hassle free administrative procedures and several fiscal incentives viz. duty free imports, exemption from taxes and duties etc.

The first SEZ in India (as well as in Asia) was set up at Kandla in Gujarat in 1965. Thus India became a pioneer among Asian countries to have recognized the effectiveness of the EPZ model in the promotion of exports. This was followed by Santacruz Electronic EPZ (SEEPZ) near Bombay in 1973 followed by the Madras EPZ (now Chennai) in South (1984), Falta EPZ near Kolkata in the East (1984) and Noida EPZ near New Delhi in the North (1984) Cochin EPZ on the West Coast (1984) and Visakhapatnam EPZ on the East Coast (1989).

During 1990s, the liberalization, privatization and globalization (LPG) policies of GOI created the need for drastic changes in the erstwhile policies relating to EPZs. This led to the introduction of SEZ Policy in 2000 which resulted in conversion of erstwhile EPZs into SEZs and permission to the private sector to set up a SEZ either independently or jointly with the public sector. This development is further followed by enactment of SEZ Act in 2005 and SEZ rules in 2006.

The main thrust of SEZ Act are on: (a) generation of additional economic activity, (b) promotion of exports of goods and services, (c) promotion of investment from domestic and foreign services, (d) creation of employment opportunities, and (e) development of infrastructure facilities.



The SEZ Rules provide for: (i) simplified procedures for development, operation and maintenance of the SEZ and for setting up units and conducting business in SEZs, (ii) single window clearance for setting up of SEZ, (iii) single window clearance for setting up of an unit in a SEZ, (iv) single window clearance on matters relating to Central as well as State Governments, and (v) simplified compliance procedures and documentation with an emphasis on self certification.

The functioning of the SEZs is governed by a three tier administrative set up. The Board of Approval (BoA) is the apex body and is headed by the Secretary, Department of Commerce. The Approval Committee at the Zone level deals with approval of units in the SEZs and other related issues. Each Zone is headed by a Development Commissioner, who is ex-officio chairperson of the Approval Committee. Once an SEZ has been approved by the Board of Approval and Central Government has notified the area of the SEZ, units are allowed to be set up in the SEZ.

All the proposals for setting up of units in the SEZ are approved at the Zone level by the Approval Committee consisting of Development Commissioner, Customs Authorities and representatives of State Government. All post approval clearances including grant of importer-exporter code number, change in the name of the company or implementing agency, broad banding diversification, etc. are given at the Zone level by the Development Commissioner. The performances of the SEZ units are periodically monitored by the Approval Committee and units are liable for penal action under the provision of Foreign Trade (Development and Regulation) Act, in case of violation of the conditions of the approval.

1.1 Objectives of the present study

The major objectives of the present study are to review the performance of SEZs which would seek to assess whether:

- a. There exists adequate statutory provisions/rules, regulations, instructions/notifications with regard to approval, creation, functioning and monitoring SEZs;
- b. SEZ/Units were able to fulfill the intended socio-economic objectives spelt out in the SEZ Policy/SEZ Act/SEZ Rules/Letters seeking approvals;
- c. SEZ/Units have were able to fulfil the intended socio-economic objectives spelt out in the SEZ Policy/SEZ Act/SEZ Rules/Letters seeking approvals; and
- d. Adequate and effective internal controls exist to safeguard the best interests of the Government.

1.2 Methodology

The present study is an attempt to determine the efficacy of SEZs in India from the perspectives of developers/units. For this, data is collected through primary sources whereby a survey is conducted through a structured questionnaire. The questionnaire is disseminated to about 200, SEZs inclusive of developers and units situated across India viz. Gujrat, Hyderabad, Indore, Noida etc. During this course, about 52 responses have been received which have provided the basis to determine the final results pertaining to the stated objectives of the study. Statistical averages are used to analyze the survey results.

2. Performance of SEZ in India

Our survey for reviewing the performances of SEZs in India has enabled to know the SEZs' developers/units view points relating to overall efficiency and issues of SEZs and their expectations with regard to formulating and modifications of policy measures.

The SEZ policy which was evolved in the year 2000 led to the establishment of several SEZs in the country and establishment of several units within the SEZs. As of now, about 579 SEZs have been granted formal approval of which 384 have been notified and the total number of units established in these SEZs is about 3300. In view of the objectives of SEZs, there is an appreciable rise in the exports, employment and investments in these zones. This is manifest in the contribution of exports from SEZs to the overall exports from India which is increased from 4.7% in 2003-04 to about 34% in 2012-13. In terms of employment, SEZs have generated employment for 9.50 lakh persons upto 2011-12, of which about 8 lakh jobs were created after February 2006 when the SEZ Act came into force. On account of investments also, there is a substantial rise in investments in SEZs in India. Investments in SEZs amounted to nearly Rs. 2200 crores which increased to Rs. 4000 crores in 2006 and to 2, 18, 795 crores till 30 September 2012 including 2, 14,760 crores in the newly notified zones.

- SEZs in India contributes 34% to India's overall exports
- SEZs in India provides employment to about 10 lakh people
- SEZs in India involves the investments of 2, 18, 795 crores including 2, 14,760 crores in the newly notified zones

The survey found that the approach of SEZ developers/Units towards SEZs has become pessimistic in the present times. They felt that operating in Domestic Tariff Area (DTA) has become more beneficial as compared to operating within SEZs especially after withdrawal of exemption for Minimum Alternate Tax (MAT) and Dividend Distribution Tax (DDT) for the SEZs. Signing of more Free Trade Agreements (FTAs) by India which enabled Indian exporters outside the SEZs to import duty free imports of inputs also acted as a disincentive for exporters operating within SEZ. In a nutshell, almost all the

SEZs' developers/units unanimously felt that, hardly there is any significant export benefits are left to operate within the SEZs in India over to operate within its DTA.

However, on the administrative processes and procedures almost all of the respondents' experiences with respect to different processes for getting approvals for setting up a SEZ are quite satisfactory. This pertains to all kinds of approval processes inclusive of getting approval from Board of Approval(BOA) and Unit Approval Committee(UAC); getting concurrence of State Government and getting formal approval, if 'in-principal' was given earlier. With respect to coordination between Central ministries, between Central and State Government also, almost all the respondents' experience has been satisfied i.e. developers/units are not facing any problems on account of lack of coordination between the concerned authorities.

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- With respect to coordination between Central ministries, between Central and State Government also, almost all the respondents' experience has been satisfied

The experience of almost all the respondents are also found satisfied with respect to the acquisition of land process for SEZ, notification process of the government and redressal of grievances by UAC/BOA. They also stated that the custom clearance of goods is easy with simplified procedures that smoothened their production and exports activities. However, around 40%respondents' experience with respect to getting permission from the custom authorities or DC (for procuring/exporting/temporary removal/sub-contracting of materials/services etc.) and to get sanctions of claims; process of de-notification & exit is not satisfactory.

- Almost all the respondents are found satisfied with respect to the acquisition of land process for SEZ, notification process of the government and redressal of grievances by UAC/BOA.
- Around 40%respondents' experience with respect to getting permission from the custom authorities or DC and to get sanctions of claims; process of de-notification & exit is not satisfactory

With respect to prescribe the fixed time period for different processes, almost all the respondents felt that a fixed time period needs to be prescribed for getting approval by BOA. However, in case of submission of documents by developers for getting notifications; for notifying the SEZs by Central Government, for submission of half-yearly & quarterly return by the developers; for granting of NOC from various authorities for exiting from SEZ scheme and for approval of exit when NOCs and DC certificate are submitted, around 25% of the respondents felt that there is no need to prescribe a fixed time period. The survey found that 88% of the respondents avail the stamp duty

exemption and with respect to discontinuation of MAT/DDT almost all the respondents felt that MAT/DDT should be discontinued so as to keep the developers/units encouraged. As the withdrawal of exemption of MAT/DDT has negatively impacted the morale of exporters within the SEZ in recent times.

- Almost all the respondents felt that a fixed time period needs to be prescribed for getting approval by BOA.
- Around 25% of the respondents felt that there is no need to prescribe a fixed time period in other stated cases.
- 88% of the respondents avail the stamp duty exemption and with respect to discontinuation of MAT/DDT almost all the respondents felt that MAT/DDT should be discontinued

The survey observed that there is a shortfall between the projections and actuals of exports/employment/investment and almost all the respondents considered global recession as the major reason of this shortfall. While, 55% of the respondents considered end of tax holiday, too many restrictions and frequent changes in policies viz. Minimum Alternate Tax (MAT) are the next major reasons for this shortfall. While, 66% of the respondents felt that cumbersome land acquisition process is not a major reason for the several instances of shortfall between the projection and actuals of exports/employment/investment.

- Almost all the respondents considered global recession as the major reason of this shortfall.
- 55% of the respondents considered end of tax holiday, too many restrictions and frequent changes in policies.
- 66% of the respondents felt that cumbersome land acquisition process is not a major reason for the several instances of shortfall between the projection and actuals of exports/employment/investment.

According to the survey, almost all the respondents felt short turnaround time as the major reason for constituting the major chunk of SEZs in the country by the IT/ITES SEZs. While, most of the respondents (80%) felt that availability of skilled manpower, availability of plug and play facilities and involvement of less investment and huge global market for the IT sector are the other significant reasons of its concentration in SEZs in India. While, end of tax holiday in Software Technology Park (STP) scheme is not reported as one of the reasons for high concentration of IT/ITES in SEZs in the country.

- Almost all the respondents felt short turnaround time as the major reason for constituting the major chunk of SEZs in the country by the IT/ITES SEZs.
- 80% felt that availability of skilled manpower, availability of plug and play facilities and involvement of less investment and huge global market for the IT sector are the other significant reasons of its concentration in SEZs in India.

Relating to Single Window Clearance Mechanism, about 60% of the respondents reported that single window clearance mechanism exists in their respective States and it integrates all the required clearances envisaged in the Act. However, nearly 45% of them reported that the clearances are not given timely.

Rest of the respondents (40%) reported that there is no single window clearance mechanism in their respective States and they are required to obtain the separate clearances from the different authorities as mentioned below:

Time spent for getting approvals

Sr. No.	Nature of Clearance	Name of the Authority	Time taken for getting approval
1	Electricity	DGVCL	4 to 5 Months
2	Water Supply	GIDC	4 to 5 Months
3	Effluent Disposal	GIDC/GPCB	4 to 5 Months
4	Environment Clearances	GPCB	4 to 5 Months
5	Land Related Matters	GIDC	4 to 5 Months
6	CTE,CTO	GPCB	4 to 5 Months
7	License	Directorate of Industrial safety and Health	2 to 3 Months
8	EC	Ministry of Env. & Forest	12 Months
9	EC	State Environment impact assessment committee	12 Months
10	License	Chief Controller of Explosives(PESO)	3 Months
11	NOC	Local Authority	4 to 5 Months
12	NOC	Police Station	4 to 5 Months
13	NOC	GIDC	3 Months
14	Poison License	Extra Chitins Dept – District Magistrate	8 to 12 Months
15	License related to prohibition and excise	Prohibition & Excise	1 to 3 Months

Source: PHD Research Bureau, CAG survey on performance audit of SEZ

- About 60% of the respondents reported that single window clearance mechanism exists in their respective States and it integrates all the required clearances envisaged in the Act.
- 45% of them reported that the clearances are not given timely.
- Rest of the respondents (40%) reported that there is no single window clearance mechanism in their respective States

With respect to monitoring and control, almost all the respondents are satisfied the most with the sufficient time given for submitting APRs. Most of the respondents (88%) considered present format of APRs relevant and user-friendly; however 40% of the respondents reported redressal of grievances by UAC/BOA inefficient and unsatisfactory. Very few of the respondents (20%) have applied for exit from scheme and that is mainly because of poor global market situation in recent times. While, the respondents also felt that operating in DTA has become more beneficial as compared with operating within SEZ especially after withdrawal of exemption from MAT and DDT. SEZ. Most of the respondents (83%) reported that that they did not have to raise any loan against the land allotted for SEZ.

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- Most of the respondents (88%) considered present format of APRs relevant and user-friendly
- 40% of the respondents reported redressal of grievances by UAC/BOA inefficient and unsatisfactory.
- 20% have applied for exit from scheme and that is mainly because of poor global market situation in recent times.

On account of policy framework, the respondents' considered that recent policy changes whereby minimum land area requirements for setting up Multi-product SEZ has been reduced by half, would benefit the developers only. There are no benefits for SEZ units under this new policy and therefore, growth will be slow unless these units are incentivized. The respondents also felt that the changes in the new Direct Tax Code (DTC) whereby profit-linked tax benefits are replaced with investment-linked tax benefits, would be beneficial for manufacturers, who are capable to make huge investments and the sectors which involve substantial investment viz. infrastructure, heavy tools etc. Whereas, the small entrepreneurs i.e. MSMEs which make small investments and that too is in low investment prone sectors viz. handicrafts, leather etc. would have to sacrifice their significant tax benefits on profits for the negligible tax benefits on investments. MSME entrepreneurs believe that there is a 4% disadvantage of being operational in the SEZ as compared in the DTA.

Respondents reported that due to very strict rules, Non Processing Area (NPA) area is not developing and restricted to provide several facilities like housing, gym, etc. to SEZ units only. While, the contractual/temporary employees like contractors, technology suppliers who are engaged in installing and commissioning units are not entitled to avail these benefits. It would therefore be better if developers are allowed to construct housing, hotels, gym etc. in NPA and are permitted to let these facilities out to anybody, if they do not avail duty benefits.

Respondents also felt that while, SEZs have access to duty-free imports of manufacturing inputs but, as a result of signing free-trade agreements with different countries where duties on many products are eliminated or reduced substantially for exporters operating outside SEZs have outweighed the advantage of duty free imports accruing to SEZs .

The respondents also reported that SEZs are entitled to get various tax benefits but these are seen as breaching World Trade Organization (WTO) rules. Therefore, the importing countries impose countervailing duties on imports from India so as to negate the effect of direct tax subsidies provided by India to its exporters operating within SEZs. This reduces the cost competitiveness of exports from SEZs from India.

These issues have discouraged the potential investors to come to SEZ as they feel that the incremental incentives pertaining to SEZ over DTA are not substantial.

3. Conclusions

The survey reveals that SEZs' developers/units are satisfied with regard to approval, creation and acquisition of SEZ processes of the government. They also feel that concerned authorities are well coordinated to handle operational activities and their notification process is also satisfactory. However, with respect to getting permission from the custom authorities or DC (for procuring/exporting/temporary removal/sub-contracting of materials/services etc.) and to get sanctions of claims, their experience is not satisfactory.

The survey also observed that monitoring and control mechanism with regard to format of the APRs and submission time for APRs is satisfactory, while redressal mechanism for grievances is not efficient. The respondents opine that there should be a fixed time period to be prescribed for getting approval by BOA, submission of documents and setting up of single window clearance mechanism in each State is to be ensured.

However, the respondents showed their disagreement to the withdrawal of exemption from MAT/DDT and considered it as a big blow to the promotion of SEZs in the country. The survey also observed the shortfall between the projections and actuals of exports/employment/investment in the SEZs and found global slowdown, recession in the shipping industry, too many restrictions, frequent changes in policies, end of tax holiday as the major reasons for this shortfall.

The respondents also revealed that different criterion for land area requirement led to the sectoral concentration for SEZs in India and being operational in DTA is becoming more beneficial as compared with operating within SEZ.



In the light of these existing issues, the government should undertake sound policy measures viz. a clear cut exit mechanism is to be framed; redressal of grievances is to be made more effective, withdrawal of exemption of MAT/DDT should be discontinued and once the policy towards benefits is made then it should not be changed till “time frame” is over.

4. PHD Chamber viewpoint

Despite of resulting positive outcomes in the country in terms of employment, exports and investments, the concept of SEZ in India is critically argued. The foremost issue which overshadows the positive results of SEZs in India is acquisition of farmland for establishing SEZs. The other issue is related to the concentration of SEZs in the districts that are relatively more industrialized or situated in sea connected States, creates regional imbalances and income inequality.

Moreover, because of different land requirements criterion for setting up a SEZ in different sectors also creates concentration of SEZ in specific sectors. This is evident with the fact that 60% of the SEZs in India are comprised of IT based products and services sector and it is considered that SEZs in India has become an attractive area for information technology firms to avail tax incentives by shifting to the zones from domestic tariff areas.

With regard to overall functioning of the SEZs, getting permission from the custom authorities for procuring/exporting materials/services and getting sanction of claims viz. rebate, CST etc. are considered to be the major difficulties. Also, non existence of window clearance system widely and lack of clarity in certain procedures viz. exit from the SEZ results in operational inefficiency for a SEZ.

The major change which is observed is change in SEZs' developers/units pessimistic attitude towards SEZ concept in India. This is on account of enhancing several export incentives for the exporters operating within DTA which finally acted as a disincentive for the exporters operating within SEZ. PHD Chamber believes that operating in DTA area has become more beneficial as compared to operating within SEZs.

With this regard we would like to present a case study showing relative export benefit for DTA over the SEZs' export units pertaining to the duty structure for engineering industry in India for your kind consideration.

Comparison of duty structure and taxes in SEZ and DTA in engineering industry

Comparison of duty structure and taxes in SEZ and DTA	
Engineering industry SEZ	Engineering industry DTA
1 Nil custom duty on capital goods	customs duty 7.5 % on capital goods(zero if unit exports 6 times duty foregone)
2 Nil CVD on capital goods	CVD 12 % on capital goods+ 3% cess+3 % edu cess + 4% addl duty (zero if unit exports 6 times duty foregone) note- CVD+ cess + edu cess+ SAD are eligible for cenvat credit
3 CST - NIL	CST - 2%
4 VAT -NIL	VAT 14.5 % (excavators) - this can be adjusted against VAT on inputs
5 Excise duty -Nil	Excise duty payable at 12 % (now 10 % till June 2014)
6 Service tax - Nil for services rendered or received	service tax 10.5 % payable for services rendered or received
5 No income tax for first 5 yrs (mat 18.5% payable)	income tax payable from first year
6 50 % income tax for 2nd 5 years ie 16.5 % but mat applicable at 18.5 %	Income tax payable in all years
7 50 % income tax in 3rd 5 yrs ie 16.5 % but mat applicable at 18.5 %	Income tax payable in all years
8 No duty on raw material imports (duty+CVD+SAD)	duty payable but advance license for imports can be taken with 20 % value addition
9 sales to DTA with duty+CVD+SAD subject to +NFE	Exports to SEZ get duty drawback
10 No chapter 3 benefits	Chapter 3 benefits applicable
11 Duty drawback on exports - Nil	drawback allowed as per product category
Eg- if a company in Sez exports for Rs 100 - net realisation is 100. If profit is 10% then tax savings is $33-18.5=14.5\% =1.45$ Rs. Total 101.45	
If a company in DTA exports for Rs 100 with 50 % import content for which custom duty is $7.5\% = 3.75$ Rs. He also gets drawback $4\% = 4$ and chap 3 $3\% = 3$ Rs. He pays additional tax compared to Sez unit $=14.5\% =Rs 1.45$. Net realisation is $100-3.75+4+3-1.45= 102.80$. DTA is better.	
Only if imports are more than 50 % SEZ starts becoming attractive.	

Source: PHD Research Bureau, CAG survey on performance audit of SEZs

5. Recommendations

On the basis of observations and analysis, PHD Chamber would like to recommend the following suggestions for the fruitful outcomes of SEZs in India going forward.

1. Relative advantages enjoyed by SEZs in terms of fiscal and other incentives vis-à-vis domestic tariff areas appear to have declined because of schemes such as Duty Drawback Scheme, Focus Product Scheme, Focus Market Scheme, etc. This has stumbled the confidence of SEZs' developers/units in the concept of SEZ. Therefore, it is to be ensured that SEZs should be substantially benefited in terms of financial return. For this export benefits accrue to DTA units should also be extended to SEZ units, re-imposition of MAT/DDT should be reconsidered and some additional benefits such as period for 100% tax exemption should be increased to 10 to 15 years from 5 years presently. This would enable to retain the motivation amongst SEZs' developers/units for a long term.
2. Relating to exit rules, a unit can exit by transferring its assets and liabilities to another, subject to the fulfillment of stipulated conditions. Despite fulfilling these conditions, some SEZ units find difficulties while exiting mainly on account of obtaining a No Objection Certificate (NOC) from the developer of the zone. The other procedures are also considered to be complex and time consuming. Therefore, speedy, clear and transparent exit mechanism should be devised so as to tackle the exit cases effectively.
3. Since, most of the SEZs are situated in the States which are industrialized and connected with sea ports. The other States did not get much attention pertaining to setting up a SEZ and thus resulted in regional imbalances in the economy in terms of employment, income and investments. Thus, to achieve a balanced development across the economy, the central government should assess the scope and potential for setting up SEZs in different States also and should support the States to create trade related infrastructure viz. transport, communication etc. so as to develop a strong connectivity with the sea ports.
4. Frequent changes in SEZ policy is one of the major reasons of slackening the confidence of investors to continue and make fresh investments in SEZs. Therefore to build a strong confidence amongst the potential/existing investors, it is imperative to frame a stable, favorable and highly transparent SEZ policy with long term perspectives.
5. SEZ exporters are facing the difficulties in getting sanctions from Customs Authorities/DC for the procurement of materials and services which results in unnecessary hassles and delays. Therefore, it is important to make the overall clearance mechanism speedy, robust and effective. The time frame should also be prescribed for



granting approvals, notifications, submission of documents etc. so that operational efficiency can be enhanced further.

6. Since, as survey observed, single window clearance mechanism does not exist in most of the States in the country, therefore, SEZs developers/units are required to take clearances from the different authorities. This, finally results in unnecessary delays and operational inefficiencies. Therefore, single window clearance mechanism should be devised in all States so as to reduce the unnecessary botheration and time involved in taking approvals from different authorities.

7. MSMEs which make significant contribution to India's exports may get affected adversely on account of changes in DTC which is supposed to provide investment-linked tax benefit instead of profit-linked tax benefit. Therefore, it is vital to reconsider this change so as to keep the MSME exporters motivated and encouraged going forward.

8. The rules pertaining to Non Processing Area(NPA) should be relaxed in a way to permit the development of more social/other infrastructure for dual SEZ/DTA use which are required for the success of economic activities in both SEZ and DTA.



Important note/limitations of the study

We would like to place on record the opportunity given to us by the CAG office to conduct this important survey. However, due to paucity of time and resource constraints, we were able to collect/interact with 52 SEZs' developers/units. Since there are around 500 SEZs' developers/units in India, there is a tremendous scope to increase the sample size.

So, going ahead CAG office may consider to widen the sample size to gather more inputs from SEZs' developers/units by providing financial support and sufficient time period to the PHD Chamber.



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12. India- Africa Promise Diverse Opportunities (November 2013)
13. India- Africa Promise Diverse Opportunities: Suggestions Report (November 2013)
14. Annual survey of Indian Direct Selling Industry-2012-13 (December 2013)
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