

Circular No. 52/2002-Customs

F.NO. 314/24 /2001-FTT (Pt.)

Government of India Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

14th August, 2002

Sub: Guidelines for duty free import/procurement of materials for development, operation and maintenance of Special Economic Zones.

I am directed to invite your attention to notification Nos. 39/2002-Central Excise and 82/2002-Customs, both dated 13th August, 2002 granting exemption to goods which are required for development, operation and maintenance of SEZs. Under these notifications goods may be imported/procured from DTA or the Public Warehouse or Private Warehouse duty free. However, import/procurement of such goods are subject to approval by the Committee headed by the jurisdictional Chief Commissioner of Customs/Excise. It has been decided that the Committee for approval of importation/procurement of goods will consist of the following:

1. Jurisdictional Chief Commissioner of Customs/Central Excise
2. Jurisdictional Commissioner of Customs/Central Excise
3. Development Commissioner of the Zone
4. Joint Director General of Foreign Trade
5. The Chief Engineer, CPWD
6. Jurisdictional Deputy/Assistant Commissioner of Customs

2. For the purpose of availing of the benefit of above notifications, the developers of the SEZ will make an application to the concerned Development Commissioner for approval of the list of goods proposed to be imported/procured duty free. The Development Commissioner, in turn, would process the same and place the list before the aforesaid Committee for consideration. While granting the approval, the Committee shall consider, inter alia, the following:-

1. The approved construction plan and drawing: The developer of the SEZ should produce proof of ownership of the land free from all encumbrances or he should hold lease in his favour for a period of not less than 20 years;
2. Financial solvency of the developer from a leading bank; and
3. Estimated requirement of goods: The developer shall submit a list of machinery equipment, apparatus and other construction materials required for development, operation and maintenance of SEZ duly certified by an approved Chartered Engineer. The list should indicate the type and nature of construction and activity. Separate lists may be submitted for import and indigenous procurement.

3. The approval will be given only in respect of such goods which are required for construction, development and maintenance of the Zone. The goods meant for personal consumption or for consumption by the workers and employees of the developers should not be allowed to be imported/procured duty free. Care should be taken by the Committee to ensure that duty free import/procurement is not allowed in respect of those goods which are not connected with the development, operation and maintenance of the Zone. In case of doubt, reference may be made to the Board for the issue of suitable clarification.
4. As stipulated in the above said notifications, the developer shall submit a quarterly statement to the jurisdictional Commissioner of Customs/Central Excise in the form prescribed for the purpose. Whenever an application is made for additional imports/procurement of material, the Committee will take the said quarterly statements into account for determining such additional requirements.
5. The Committee will also meet at quarterly intervals to monitor the use of goods imported/procured by the developer through quarterly statement. The Committee in particular will ensure that the duty free goods are actually utilized in the development, operation and maintenance of the Zone.
6. The Committee shall fix up a time schedule for commencement and completion of construction of the SEZ. In case of any delay in completion of the project, the developer would explain the cause of such delay to the Committee, which may condone the delay on merits.
7. The jurisdictional Commissioner of Customs/Central Excise will ensure that there is no diversion of goods imported/procured duty free from the bonded premises. He may visit the project site and inspect or call for the accounts and connected records for scrutiny and undertake physical verification of consumption and utilization of duty free goods imported or procured from DTA.
8. The Commissioner of Customs/Central Excise may direct the concerned developer to get his accounts audited by a Cost Accountant nominated by him in this behalf. The expenses of and incidental to such audit shall be borne by the concerned developer.
9. Difficulties faced, if any, in the implementation of above instructions may be brought to the notice of the Board. Kindly acknowledge the receipt of this Circular.