

SEZ Hotline

September 27, 2006

MINISTER SEZs: TO USE OR NOT TO USE PRIME AGRICULTURAL LAND

The Special Economic Zone (“**SEZ**”) Act, 2005 (the “**Act**”) and the SEZ Rules, 2006 (the “**Rules**”), again came under fire when an issue was raised about the nature of land to be allocated for SEZ purposes¹.

The SEZ is a Government of India-notified special geographical area, ear-marked for specific commercial activities and sectors, which are export-oriented. The developer and a unit in an SEZ are entitled to certain income tax benefits over a prescribed period of time, in addition to other taxation benefits. The Rules mandate the minimum area requirements for sector specific / multi-purpose SEZs which are located in different states. The procedure for obtaining an approval for an SEZ is very detailed and is specified in the Act and Rules. The developer of the SEZ has to identify the land and mention it as a vital part of the application to the requisite authorities, which comprise of a Board of Approval instituted under the Act and the State Government.

The Minister for Commerce and Industry, Government of India, Mr. Kamal Nath, in a news report², has urged the State Governments to ensure that the land that is proposed to be utilized for SEZ is not prime agricultural land. Lands, which are less fertile, or are wastelands, may be used instead. It was also mentioned in the news report that it was vital to formulate a compensation, resettlement and rehabilitation policy for protecting the interests of the persons displaced due to industrial projects

These views come in at a time when the SEZ regime is under a controversy. While the Commerce Ministry is bullish on it due to its impact on boosting industrial development and growth, the Finance Ministry is concerned about the revenue losses that will result due to the various tax concessions under the regime. The revenue loss is estimated to be INR. 1,700,000 million.

Impact: In view of this, the Government of India may modify the Act or the Rules with regard to the land to be identified for the SEZ purposes and the compensation or rehabilitation of the displaced farmers. Mean while, we have to wait and watch the developments.

- **Diptee Deshpande & Vyapak Desai**

Source:

1. *The Economic Times*, September 24, 2006
2. *The Financial Express*, September 26, 2006

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