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Analysing developments impacting business

FROM VIDESH TO DESH | MOVING AWAY FROM EXPORT TO HOLISTIC DEVELOPMENT

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Facts and Background

The Government of India, recognizing the need to promote exports to propel GDP growth, had implemented the Special Economic Zone Policy in 2000 as part of the Foreign Trade Policy. Subsequently, the policy was implemented under the Special Economic Zones Act, 2005 (SEZ Act). Presently, there are 268 active Special Economic Zones (SEZs) with 5576 units. Over the past seventeen years, investments worth~ USD 82 billion were made and 2.6 million jobs were created with annual exports of USD 133 billion (*Financial Year 2021 – 2022*).

There is no doubt that the SEZ Act has propelled exports and created jobs. However, an export focused approach resulted in inefficiencies and underutilization of capacity and therefore, the complete advantages envisaged earlier could not be achieved. In order to further create opportunities and maintain the desired efficiency of SEZs, the Ministry of Commerce and Industry, Government of India set up the Baba Kalyani Committee (Committee) to review the workings under the SEZ Act. The Committee recommended a shift from the existing laser-focused exports approach to a more integrated hub for employment and economic activities supported by quality infrastructure and ease of doing business.

In the Budget speech for FY 2022-23, the Hon'ble Finance Minister announced that the SEZ Act would be replaced with a new legislation that will enable states to become partners *vide* a 'Development of Enterprise and Service Hubs' (DESH) legislation. It is expected that the proposed legislation will implement the Committee recommendations as well as mitigate any adverse impact arising, if any, from rulings of the Dispute Settlement Body, World Trade Organization on alleged subsidies under the Anti-Subsidy and Countervailing Measures Agreement.

Although the new legislation is still under works and yet to be released for public discussion, a working draft suggests that the proposed legislation may, *inter alia*, have the following key attributes.

- Shift from the earlier object of export promotion to infrastructure development.
- All existing SEZs would be adopted as development hubs under the proposed legislation.
- Introduction of single window clearance mechanism of the state for ease of doing business.
- Units would continue to enjoy existing fiscal incentives including duty free imports of goods and services.
- Requirement of maintaining positive net foreign exchange (NFE) may be abolished.

- Domestic clearance from the hub may be subjected to customs duty payable on the inputs used/contained in such supplies. Presently such supplies are subject to customs duty leviable on import of such supplies.

- Introduction of mediation as a manner of dispute resolution, which would be in consonance with the efforts of the Government and Courts to promote alternate dispute resolution in the country.

The proposed removal of the NFE requirement and levy of import duty on the inputs contained in finished goods cleared to domestic market could be a significant game changer. Existing requirements of positive NFE compel SEZ units to focus on overseas markets. Such an export centric focus has rendered manufacturing capacity to be significantly idle. Removal of the NFE requirement will unleash the full potential of the manufacturing capacity of SEZs. Further, levy of import duty on the inputs contained in finished goods would provide a level playing field. Presently, finished goods manufactured under the Manufacture and Other Operations in Warehouse Regulations, 2019 (MOOWR) scheme and cleared for domestic markets are subject to import duty on the inputs contained in finished goods.

It is hoped that the proposed legislation would be finalised shortly and placed in the public domain for discussion with stakeholders. While the broad contours are available in the working draft, the nuances in terms of the subsidiary rules would also have to be examined thoroughly in the near future.

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