

CHAPTER VII

Special Economic Zone Authority

Constitution of Authority

31. (1) The Central Government shall, by notification in the Official Gazette, constitute, for every Special Economic Zone established by it before the commencement of this Act or which may be established by it after such commencement by the Central Government, an Authority to be called the (name of the Special Economic Zone) Authority to exercise the powers conferred on, and discharge the functions assigned to, it under this Act:

Provided that in respect of existing Special Economic Zone established by the Central Government, such Authority shall be constituted by the Central Government within six months from the date of commencement of this Act:

Provided further that until such Authority is constituted, the person or the authority including the Development Commissioner exercising control over such existing Special Economic Zones shall continue to exercise such control over the Special Economic Zones till the Authority is constituted.

(2) Every Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with a power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue and be sued.

(3) The head office of every Authority shall be at such place as the Central Government may specify in the notification referred to in sub-section (1).

(4) Any Authority may, with the previous approval of the Central Government, establish branch offices at other places in India.

(5) Every Authority shall consist of –

- (a) the Development Commissioner of the Special Economic Zone over which the Authority exercises its jurisdiction - Chairperson, ex officio;
- (b) two officers of the Central Government to be nominated by that Government having knowledge of, or experience in, dealing with matters relating to Special Economic Zones - Members, ex officio;
- (c) an officer of the Government of India in the Ministry or Department dealing with Commerce on matters relating to Special Economic Zone - Member, ex officio;
- (d) not more than two persons being entrepreneurs or their nominee, to be nominated by the Central Government - Members, ex officio;

(6) The term of office of the Members of an Authority (other than ex officio Members) and the manner of filling of vacancies shall be such as may be prescribed.

(7) An Authority may associate with itself in such manner, subject to such conditions and for such purposes as may be prescribed, any person whose assistance or advice it requires in discharging its functions effectively and that person shall be entitled to receive such allowances or fees as may be fixed by the Authority.

(8) One third of the total Members of the Authority shall form a quorum, and all the acts of the Authority shall be decided by a majority of the Members present.

(9) No act or proceeding of an Authority shall be invalidated merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

(10) Every Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be prescribed.

Officers of Authority and other staff

32. (1) Every Development Commissioner of the Special Economic Zone for which he is appointed as such shall be the chief executive of the Authority concerned and exercise such powers and perform such functions as may be prescribed.

(2) Every Authority may, in addition to the officers and employees transferred to it under section 33, appoint such other officers and employees, as it considers necessary for the efficient discharge of its functions under this Act.

(3) The method of appointment, the conditions of service and the scales of pay and allowances of such other officers and employees appointed under sub-section (2) shall be such as may be prescribed.

Special provision for transfer of officers or other employees to Authority.

33. (1) It shall be lawful for the Central Government to transfer to each Authority, by order, and with effect from such date or dates, as may be specified in the order, any officer or other employee holding office as such (except officers or other employees on deputation) in the existing Special Economic Zone concerned:

Provided that the scale of pay of the post to which such officer or other employee is transferred shall not be lower than the scale of pay of the post which he was holding immediately before such transfer and the other terms and conditions of service (including pension, leave, provident fund and medical benefits) of the post to which he is transferred shall not be less favourable than the terms and conditions of service in relation to the post held by him immediately before such transfer:

Provided further that if, immediately before the date of his transfer, any such officer or other employee is officiating in a higher post under the Central Government either in a leave vacancy or in any vacancy of a specified duration, his pay and other allowances, if any, on transfer, shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Central Government to which he would have reverted but for his transfer to the Authority.

(2) If any question arises as to whether the prescribed terms and conditions of service in respect of any matter, including remuneration, pension, leave, provident fund and medical benefits, are less favourable than those attached to the post held by an officer or other employee immediately before his transfer to the Authority, the decision of the Central Government in the matter shall be final.

Functions of Authority.

34. 1) Subject to the provisions of this Act, it shall be the duty of each Authority to undertake such measures as it thinks fit for the development, operation and management of the Special Economic Zone for which it is constituted.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for –

- (a) the development of infrastructure in the Special Economic Zone;
- (b) promoting exports from the Special Economic Zone;
- (c) reviewing the functioning and performance of the Special Economic Zone;
- (d) levy user or service charges or fees or rent for the use of properties belonging to the Authority;
- (e) performing such other functions as may be prescribed.

Grants and loans by Central Government.

35. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to every Authority by way of grants and loans such sums of money as that Government may think fit for being utilised for the purposes of this Act.

Constitution of Fund and its application.

36. (1) There shall be established by every Authority a Fund to be called the(the name of the Special Economic Zone concerned) Authority Fund and there shall be credited thereto –

- (a) all sums of money, which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide to the Authority;
 - (b) all grants or loans that may be made to the Authority under this Act;
 - (c) all sums received on account of user or service charges or fees or rent for the use of properties belonging to the Authority;
 - (d) all sums received by the Authority from such other sources as may be decided upon by the Central Government.
- (2) The Fund shall be applied for meeting –
- (a) the salaries, allowances and other remuneration of the members, officers and other employees of the Authority;
 - (b) the expenses of the Authority in the discharge of its functions under section 34;
 - (c) repayment of any loan;
 - (d) the expenses on objects and for purposes authorised by this Act;
 - (e) meeting any other administrative expenses of the Authority.

Accounts and audit.

37. (1) Every Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of every Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of every Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

Directions by Central Government.

38. Every Authority shall be bound to carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Returns and reports.

39. (1) Every Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to the promotion and development of exports and the operation and maintenance of the Special Economic Zone and Units as the Central Government may, from time to time, require

(2) Without prejudice to the provisions of sub-section (1), every Authority shall, as soon as possible, after the end of each financial year, submit to the Central Government a report in such form and before such date, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of every report received under sub-section (2) shall be laid, as soon as may be, after it is received, before each House of Parliament.

Power to supersede Authority.

40.(1) If at any time the Central Government is of the opinion that an Authority is unable to perform, or has persistently made default in the performance of, the duty imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully or without sufficient cause, failed to comply with any direction issued by the Central Government under section 38, the Central Government may, by notification, supersede that Authority for such period not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this subsection, the Central Government shall give reasonable time to that Authority to make representation against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority, -

(a) the Chairperson and other Members of the Authority shall, notwithstanding that their term of office has not expired as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct;

(c) all property vested in the Authority shall, during the period of supersession, vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may –

- (a) extend the period of supersession for such further period not exceeding six months; or
- (b) reconstitute the Authority in the manner provided in section 31.

Members, officers and other employees of Authority to be public servants.

41. All Members, officers and other employees of every Authority, shall, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.