

CHAPTER VIII

Miscellaneous

[Section 42 to 58 is enforceable w.e.f 10.2.2006 vide S.O 196(E) dated 10.2.2006]

Reference of dispute

42. (1) Notwithstanding anything contained in any other law for the time being in force, if –

(a) any dispute of civil nature arises among two or more entrepreneurs or two or more Developers or between an entrepreneur and a Developer in the Special Economic Zone; and

(b) the court or the courts to try suits in respect of such dispute had not been designated under sub-section (1) of section 23, such dispute shall be referred to arbitration:

Provided that no dispute shall be referred to the arbitration on or after the date of the designation of court or courts under sub-section (1) of section 23.

(2) Where a dispute has been referred to arbitration under subsection (1), the same shall be settled or decided by the arbitrator to be appointed by the Central Government.

(3) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to all arbitration under this Act as if the proceedings for arbitration were referred in settlement or decision under provisions of the Arbitration and Conciliation Act, 1996.

Limitation

43. (1) The period of limitation in the case of any dispute which is required to be referred to arbitration shall be regulated by the provisions of the Limitation Act, 1963, as if the dispute was a suit and the arbitrator is civil court.

(2) Notwithstanding anything contained in sub-section (1), the arbitrator may admit a dispute after the expiry of the period of limitation, if the applicant satisfies the arbitrator that he had sufficient causes for not referring the dispute within such period.

Applicability of provisions of this Act to existing Special Economic Zones

44. All the provisions of this Act (except sections 3 and 4) shall, as far as may be apply, to every existing Special Economic Zones.

Person to whom a communication may be sent under this Act

45. A communication by any competent authority or person under this Act may be sent to the person who has the ultimate control over the affairs of the Special Economic Zone or Unit or where the said affairs are entrusted to a manager, director, chairperson, or managing director, or to any other officer, by whatever name called, such communication may be sent to such manager, director, chairperson, or managing director, or any other officer.

Identity Card

46. Every person, whether employed or residing or required to be present in a Special Economic Zone, shall be provided an identity card by every Development Commissioner of such Special Economic Zone, in such form and containing such particulars as may be prescribed.

Authorities responsible for administration

47. Any authority which, has been conferred upon any power, or, is, required discharging any function under any Central or State Act, may, subject to the provisions of this Act, exercise such powers or discharge such function in any Special Economic Zone under that Act.

Protection of action taken in good faith

48. No suit, prosecution or other legal proceeding shall lie against the Central Government or any Chairperson, Member, officer or other employee of the Board Approval Committee or the Authority or Development Commissioner for anything done or intended to be done in good faith under this Act.

Power to modify provisions of this Act or other enactments in relation to Special Economic Zones

49. (1) The Central Government may, by notification, direct that any of the provisions of this Act (other than sections 54 and 56) or any other Central Act or any rules or regulations made thereunder or any notification or order issued or direction given thereunder (other than the provisions relating to making of the rules or regulations) specified in the notification—

- (a) shall not apply to a Special Economic Zone or a class of Special Economic Zones or all Special Economic Zones; or
- (b) shall apply to a Special Economic Zone or a class of Special Economic Zones or all Special Economic Zones only with such exceptions, modifications and adaptation, as may be specified in the notification.

Provided that nothing contained in this section shall apply to any modifications of any Central Act or any rules or regulations made thereunder or any notification or order issued or direction given or scheme made thereunder so far as such modification, rule, regulation, notification, order or direction or scheme relates to the matters relating to trade unions, industrial and labour disputes, welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits applicable in any Special Economic Zones.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Power of State Government to grant exemption

50. The State Government may, for the purposes of giving effect to the provisions of this Act, notify policies for Developers and Units and take suitable steps for enactment of any law:-

- (a) granting exemption from the State taxes, levies and duties to the Developer or the entrepreneur;
- (b) delegating the powers conferred upon any person or authority under any State Act to the Development Commissioner in relation to the Developer or the entrepreneur.

Act to have overriding effect

51.(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Certain provisions not to apply

52. The provision contained in the Chapter X-A of the Customs Act, 1962 and the Special Economic Zones Rules, 2003 and the Special Economic Zones (Customs Procedure) Regulations, 2003 made thereunder shall not with effect from such date as the Central Government by notification appoint, apply to the Special Economic Zones.

(2) Notwithstanding anything contained in sub-section (1), all offences committed, before the commencement of this Act, under any provisions of Customs Act, 1962 and the Special

Economic Zones Rules, 2003 and the Special Economic Zones (Customs Procedure) Regulations, 2003 made thereunder, shall continue to be governed by the said Act or rules, as the case may be.

(3) Anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any permission, authorisation or exemption granted or any document or instrument executed under the said provisions of the Act, rules and regulations referred to in sub-section (1) shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been done or taken or made or issued or granted under the corresponding provisions of the Act or rules referred to in that sub-section.

Special Economic Zones to be ports, airports, inland container depots, land stations, etc., in certain cases

53. (1) A Special Economic Zone shall, on and from the appointed day, be deemed to be a territory outside the customs territory of India for the purposes of undertaking the authorized operations.

(2) A Special Economic Zone shall, with effect from such date as Central Government may notify, be deemed to be a port, inland container depot, land station and land customs stations, as the case may be, under section 7 of the Customs Act, 1962:

Provided that for the purposes of this section, the Central Government may notify different dates for different Special Economic Zones.

Amendment to First Schedule

54. (1) The Central Government may, having regard to the objects of this Act, and if it considers necessary or expedient so to do, by notification add to, or as the case may be, omit from the First Schedule any enactment specified therein.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the House.

Power to make rules

55. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -
- (a) the infrastructure facilities necessary for the development of the Special Economic Zones under clause (p) and services in the Special Economic Zones under clause (z) of section 2;
 - (b) the period within which the person concerned shall obtain the concurrence of the State Government under sub-section (3) of section 3;
 - (c) the form and the manner in which a proposal may be made and the particulars to be contained therein under sub-section (5) of section 3;
 - (d) the period within which the State Government may forward the proposal together with its recommendation under sub-section (6) of section 3;
 - (e) the requirements subject to which the Board may approve, modify or reject the proposal under sub-section (8) of section 3;
 - (f) the period within which the grant of letter of approval shall be communicated to the State Government or Developer or entrepreneur under sub-section (10) of section 3;
 - (g) the other requirements for notifying the specifically identified area in a State as a Special Economic Zone under sub-section (1) of section 4;
 - (h) the terms, conditions and limitations subject to which the goods or services exported out of, or imported into, or procured from the Domestic Tariff Area to, a Special Economic Zone, be exempt from payment of taxes, duties or cess under section 7;
 - (i) the procedure for transfer of letter of approval in case of suspension of letter of approval of a Developer under clause (a) of sub-section (9) of section 10;
 - (j) the form and the manner in which a proposal may be submitted and the particulars to be contained therein under sub-section (1) of section 15;
 - (k) the time within which a person aggrieved by the order of the Approval Committee may prefer an appeal under subsection (4) of section 15;
 - (l) the form in which the appeal shall be made and the fees for making such appeal under sub-section (6) of section 15;
 - (m) the procedure for disposing of an appeal under subsection (7) of section 15;
 - (n) the requirements (including the period for which a unit may be set up) subject to which the proposal may be approved, modified or rejected under clause (a) of sub-section (8) of section 15;
 - (o) the terms and conditions, for the Unit subject to which it shall undertake authorised operations under clause (b) of subsection (8) of section 15 and the obligations and entitlements of the Unit;

- (p) the time within which a person aggrieved by the order of the Approval Committee may prefer an appeal under subsection (4) of section 16;
- (q) the form in which the appeal shall be made and the fees for making such appeal under sub-section (6) of section 16;
- (r) the procedure for disposing of an appeal under sub-section (7) of section 16;
- (s) the form and the manner in which an application may be made for setting up of an Offshore Banking Unit in a Special Economic Zone under sub-section (1) of section 17; and
- (t) the requirements for setting up and operation of an International Financial Services Centre in a Special Economic Zone under sub-section (1) of section 18 ;
- (u) the requirements and terms and conditions subject to which a Unit in the International Financial Services Centre may be set up and operated in Special Economic Zone under sub-section (2) of section 18;
- (v) the form of single application for obtaining any licence, permission or registration or approval under clause (a) of section 19;
- (w) the form of single return or information to be furnished by an entrepreneur or Developer under clause (c) of section 19;
- (x) the manner in which and the terms and the conditions subject to which the exemptions concessions, draw back or other benefits shall be granted to every Developer and entrepreneur under sub-section (2) of section 26;
- (y) the period during which any goods brought into, or services provided in, any Special Economic Zone shall remain or continue to be provided in such Unit or Special Economic Zone under section 28;
- (z) the terms and conditions subject to which transfer in ownership of any goods brought into, or produced or manufactured in, any Unit or Special Economic Zone, or removal thereof from such Unit or the Zone, shall be allowed under section 29;
- (za) the conditions subject to which the Units shall be entitled to sell the goods manufactured in a Special Economic Zone to the Domestic Tariff Area under section 30;
- (zb) the term of office of the Members, other than ex officio Members, of every Authority and the manner of filling of vacancies under sub-section (6) of section 31;
- (zc) the manner in which and the conditions subject to which and the purposes for which any person may be associated under sub-section (7) of section 31;
- (zd) the times and the places of meetings and the procedure to be followed in the transaction of business meeting under subsection (10) of section 31;

- (ze) the powers and the functions of every Development Commissioner under sub-section (1) of section 32;
- (zf) the method of appointment of officers and other employees of every Authority, conditions of their service and the scale of pay and allowances under sub-section (3) of section 32;
- (zg) the other functions to be performed by the Authority under clause (e) of sub-section (2) of section 34;
- (zh) the form in which the accounts and other relevant records of every Authority shall be maintained and annual statement of accounts shall be prepared under sub-section (1) of section 37;
- (zi) the form and the manner in which and the time at which every Authority shall furnish returns and statements and other particulars to the Central Government under sub-section (1) of section 39;
- (zj) the form in which and the date before which every Authority shall furnish to the Central Government the report of its activities, policy and programmes under sub-section (2) of section 39;
- (zk) the form in which and the particulars to be contained in the identity cards under section 46;
- (zl) any other matter which is to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties

56. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiration of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment of certain enactments

57. With effect from such date as the Central Government may by notification appoint, the enactments specified in the Third Schedule shall be amended in the manner specified therein:

Provided that different dates may be appointed on which the amendments specified in the Third Schedule shall apply to a particular Special Economic Zone or a class of Special Economic Zones or all Special Economic Zones.

Savings

58. All rules made or purporting to have been made or all notifications issued or purporting to have been issued under any Central Act relating to the Special Economic Zone shall, in so far as they relate to matters for which provision is made in this Act or rules made or notification issued thereunder and are not inconsistent therewith, be deemed to have been made or issued under this Act as if this Act had been in force on the date on which such rules were made or notifications were issued and shall continue to be in force unless and until they are superseded by any rules made or notifications issued under this Act..