

CHAPTER V

Single Window Clearance

Constitution of Approval Committee

13. (1) The Central Government shall, -
- (a) in the case of existing Special Economic Zones, within six months from the date of commencement of this Act;
 - (b) in case of other Special Economic Zones established after the commencement of this Act, within six months from the date of establishment of such Special Economic Zone, by notification, constitute a Committee for every Special Economic Zone, to be called the Approval Committee to exercise the powers and perform the functions specified in section 14.
- (2) Every Approval Committee shall consist of –
- (a) the Development Commissioner - Chairperson, exofficio;
 - (b) two officers of the Central Government to be nominated by the Central Government - Members, exofficio;
 - (c) two officers of the Central Government to represent the Ministry or Department dealing with revenue - Members, ex officio;
 - (d) one officer of the Central Government to be nominated by that Government to represent the Ministry or Department dealing with the economic affairs (financial services) - Members, ex officio;
 - (e) two officers of the State Government concerned to be nominated by that Stated Government - Member, ex officio;
 - (f) a representative of the Developer concerned - Special invitee.
- ^a[Provided that for a Unit requiring recognition, registration, license or authorisation by the International Financial Services Centres Authority, the Chairperson of the Approval Committee under clause (a) of subsection (2) of section 13 shall be the “Administrator (IFSCA).]
- (3) For the purpose of exercising its powers and performing its functions, the Approval Committee may invite to its meetings, such persons as the Committee deems fit, whose assistance or advice it may consider necessary.
- (4) Every Approval Committee shall meet at such times and places as it considers necessary and shall have the power to regulate its own procedure.
- (5) One half of the total Members of the Approval Committee shall form a quorum, and all the acts of the Approval Committee shall be decided by a general consensus of the Members present:
- Provided that in case the Approval Committee is unable to decide any matter by a general consensus, such matter shall stand referred to the Board of Approval.

^aInserted vide Ministry of Finance S.O 940(E) dated 28.2.2024

(6) No act of the Approval Committee shall be called in question on the ground merely of existence of any vacancy in, or any defect in the constitution of, the Approval Committee.

(7) All orders and decisions of the Approval Committee and all other communications issued by it shall be authenticated by the signature of the Chairperson or any other member as may be authorised by the Approval Committee in this behalf.

(8) The term of office of an ex officio Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.

Powers and functions of Approval Committee.

14. (1) Every Approval Committee may discharge the functions and exercise the powers in respect of the following matters, namely: -

- (a) approve the import or procurement of goods from the Domestic Tariff Area, in the Special Economic Zone for carrying on the authorised operations by a Developer;
- (b) approve the providing of services by a service provider, from outside India, or from the Domestic Tariff Area, for carrying on the authorised operations by the Developer, in the Special Economic Zone;
- (c) monitor the utilisation of goods or services or warehousing or trading in the Special Economic Zone;
- (d) approve, modify or reject proposals for setting up Units for manufacturing or rendering services or warehousing or trading in the Special Economic Zone [other than the grant of licence under clause (e) of sub-section (2) of section 9] in accordance with the provisions of sub-section (8) of section 15;

Provided that where the Approval Committee is unable to decide whether a particular process constitutes manufacture or not, it shall refer the same to the Board of Approval for a decision.

- (e) allow, on receipt of approval under clause (c) of subsection (2) of section 9, foreign collaborations and foreign direct investments (including investments by a person outside India) for setting up a Unit;
- (f) monitor and supervise compliance of conditions subject to which the letter of approval or permission, if any, has been granted to the Developer or entrepreneur; and
- (g) perform such other functions as may be entrusted to it by the Central Government or the State Government concerned, as the case may be.

(2) The Approval Committee shall not discharge such functions and exercise such powers in relation to a Developer, being the Central Government, as may be specified by notification by the Central Government.

Provided that till such time, the Approval Committee is constituted, the concerned Development Commissioner shall discharge all functions and exercise all powers of the Approval Committee.

Setting up of Unit

15. (1) Any person, who intends to set up a Unit for carrying on the authorised operations in a Special Economic Zone, may submit a proposal to the Development Commissioner concerned in such form and manner containing such particulars as may be prescribed:

^a[Provided further that any person intending to set up a Unit, requiring recognition, registration, license or authorisation by the International Financial Services Centres Authority, shall submit a proposal to the “Administrator (IFSCA).]

Provided that an existing Unit shall be deemed to have been set up in accordance with the provisions of this Act and such Units shall not require approval under this Act.

(2) On receipt of the proposal under sub-section (1), the Development Commissioner shall submit the same to the Approval Committee for its approval.

^b[Provided that any such proposal received under second proviso to subsection (1), shall also be sent to the Approval Committee for its approval.]

(3) The Approval Committee may, either approve the proposal without modification, or approve the proposal with modifications subject to such terms and conditions as it may deem fit to impose, or reject the proposal in accordance with the provisions of sub-section (8):

Provided that in case of modification or rejection of a proposal, the Approval Committee shall afford a reasonable opportunity of being heard to the person concerned and after recording the reasons, either modify or reject the proposal.

(4) Any person aggrieved, by an order of the Approval Committee, made under sub-section (3), may prefer an appeal to the Board within such time as may be prescribed.

(5) No appeal shall be admitted if it is preferred after the expiry of the time prescribed therefor: Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Board that he had sufficient cause for not preferring the appeal within the prescribed time.

(6) Every appeal made under sub-section (4) shall be in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(7) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(8) The Central Government may prescribe,-

(a) the requirements (including the period for which a Unit may be set up) subject to which the Approval Committee shall approve, modify or reject any proposal referred to in subsection (3);

(b) the terms and conditions, subject to which the Unit shall undertake the authorised operations and its obligations and **entitlements**.

^aInserted vide Ministry of Finance S.O 940(E) dated 28.2.2024

^bInserted vide Ministry of Finance S.O 940(E) dated 28.2.2024

(9) The Development Commissioner may, after approval of the proposal referred to in sub-section (3), grant a letter of approval to the person concerned to set up a Unit and undertake such operations which the Development Commissioner may authorise and every such operation so authorised shall be mentioned in the letter of approval.

^b[Provided that the Administrator (IFSCA) may, after approval of the proposal referred to in sub-section (3), grant the letter of approval to the person concerned to set up any Unit and undertake such operations, requiring recognition, registration, license or authorisation by the International Financial Services Centres Authority: Provided further that relevant information regarding such Units shall be shared by the Administrator (IFSCA) with the Development Commissioner of the SEZ on a monthly basis or as may be required from time to time.]

Cancellation of letter of approval to entrepreneur

16. (1) The Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted to the entrepreneur, cancel the letter of approval:

Provided that no such letter of approval shall be cancelled unless the entrepreneur has been afforded a reasonable opportunity of being heard.

(2) Where the letter of approval has been cancelled under subsection (1), the Unit shall not from the date of such cancellation, be entitled to any exemption, concession, benefit or deduction available to it, being a Unit, under this Act.

(3) Without prejudice to the provisions of this Act, the entrepreneur whose letter of approval has been cancelled under sub-section (1), shall remit, the exemption, concession, drawback and any other benefit availed by him in respect of the capital goods, finished goods lying in stock and unutilised raw materials relatable to his Unit, in such manner as may be prescribed.

(4) Any person aggrieved by an order of the Approval Committee made under sub-section (1), may prefer an appeal to the Board within such time as may be prescribed.

(5) No appeal shall be admitted if it is preferred after the expiry of the time prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Board that he had sufficient cause for not preferring the appeal within the prescribed time.

(6) Every appeal made under sub-section (4) shall be in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(7) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

^bInserted vide Ministry of Finance S.O 940(E) dated 28.2.2024

Setting up and operation of Offshore Banking Unit.

17.(1) An application for setting up and operation of an Offshore Banking Unit in a Special Economic Zone may be made to the Reserve Bank in such form and manner as may be prescribed.

(2) On receipt of an application under sub-section (1), the Reserve Bank shall, if it is satisfied that the applicant fulfills all the conditions specified under sub-section (3), grant permission to such applicant for setting up and operation of an Off-shore Banking Unit.

(3) The Reserve Bank may, by notification, specify the terms and conditions subject to which an Offshore Banking Unit may be set up and operated in the Special Economic Zone.

International Financial Services Centre.

18.(1) The Central Government may approve the setting up of Setting up of an International Financial Services Centre in a Special Economic Zone and may prescribe the requirements for setting up and operation of such Center:

Provided that the Central Government shall approve only one International Financial Services Centre in a Special Economic Zone.

(2) The Central Government may, subject to such guidelines as may be framed by the Reserve Bank, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and such other concerned authorities, as it deems fit, prescribe the requirements for setting up and the terms and conditions of the operation of Units in an International Financial Services Centre.

Single application form, return, etc.

19. Notwithstanding anything contained in any other law for the time being in force, the Central Government may, if required, -

- (a) prescribe a single application form for obtaining any licence, permission or registration or approval by a Developer, or an entrepreneur under one or more Central Acts;
- (b) authorise the Board, the Development Commissioner or Approval Committee, to exercise the powers of the Central Government on matters relating to the development of a Special Economic Zone; or setting up and operation of units;
- (c) prescribe a single form for furnishing returns or information by a Developer or an entrepreneur under one or more Central Acts.

Agency to inspect

20. Notwithstanding anything contained in any other law for the time being in force, the Central Government may, by notification, specify any officer or agency to carry out surveys or inspections for securing of compliance with the provisions of any Central Act by a Developer or an entrepreneur, as the case may be, and such officer or agency shall submit verification and compliance reports, in such manner and within such time as may be specified in the said notification.

Single enforcement officer or agency for notified offence.

21.(1) The Central Government may, by notification, specify any act or omission made punishable under any Central Act, as notified offence for purposes of this Act.

(2) The Central Government may, by general or special order, authorise any officer or agency to be the enforcement officer or agency in respect of any notified offences or committed in a Special Economic Zone.

(3) Every officer or agency authorised under sub-section (2) shall have all the corresponding powers of investigation, inspection or search or seizure as is provided under the relevant Central Act in respect of the notified offences.

Investigation, inspection and search or seizure

22. The agency or officer, specified under section 20 or section 21, may, with prior intimation to the Development Commissioner concerned, carry out the investigation or search or seizure in the Special Economic Zone or in a Unit if such agency or officer has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:

Provided that no investigation, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those referred to in sub-section (2) or subsection of section 21 without prior approval of the Development Commissioner concerned.

Provided further that any officer of agency, if so authorised by the Central Government, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner.

Designated Courts to try suits and notified offences

23. (1) The State Government, in which the Special Economic Zone is situated, may, with the concurrence of the Chief Justice of the High Court of that State, designate one or more courts-

- (a) to try all suits of a civil nature arising in the Special Economic Zone; and
- (b) to try notified offences committed in the Special Economic Zone.

(2). No court, other than the court designated under subsection (1), shall try any suit or conduct the trial of any notified offence referred to in that sub-section:

Provided that the courts, in which any suit of a civil nature in a Special Economic Zone

had been filed before the commencement of this Act, shall continue to try such suit after such commencement:

Provided further that the courts in which any trial of any notified offence is being conducted before the commencement of this Act, shall continue to conduct the trial of such offence after the commencement of this Act:

Provided also that the courts competent to try any notified offence before the commencement of this Act, shall conduct the trial in respect of such offence after the commencement of this Act until the courts have been designated under sub-section (1) and all such cases relating to such trials shall thereafter be transferred to such Courts so designated which shall conduct the trial from the stage at which such cases were so transferred.

Appeal to High Court

24. Any person aggrieved, by any decision or order of the court designated under sub-section (1) of section 23, may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Courts so designated to him on any question of fact or law arising out of such orders:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Explanation. - In section 23 and this section “High Court” means the High Court of the State in which the Special Economic Zone is situated.

Offences by companies.

25. (1) Where an offence has been committed by a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided for the offence, if he has proved that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purposes of this section, -

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.