RECALIBRATING SEZs IN DESH BILL

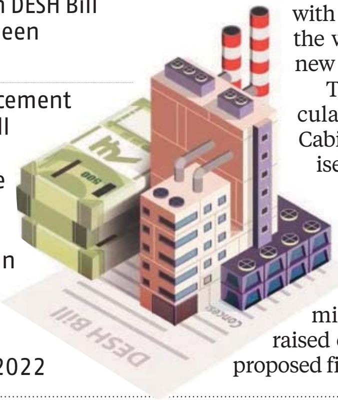
Net foreign exchange criterion may return

REMOVING STUMBLING BLOCKS

- Finance ministry has no objection to the clause of allowing units to sell in the domestic market by paying import duties on inputs consumed and not on finished goods

- Revised proposal for Cabinet on DESH Bill has now been circulated

- Announcement of DESH Bill was made by Finance Minister Nirmala Sitharaman in the Union Budget in February 2022



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The commerce department is set to make changes in some of the earlier proposals under the Development of Enterprises and Services Hubs (DESH) Bill, which have been major stumbling blocks in the passage of the new legislation overhauling the existing special economic zones (SEZs).

The new legislation might reintroduce the 'positive net foreign exchange (NFE)' criterion, a primary requirement for SEZ units, and remove the proposal of a 'freezing concessional corporation tax rate until 2032', people aware of the matter told *Business Standard*.

This move assumes significance as it will put an end to the long-drawn-out differences with the revenue department, paving the way for revamping SEZs through new legislation.

The commerce department has circulated a revised proposal for the Cabinet on the DESH Bill. Once finalised, it will go to Cabinet for consideration, they said.

During inter-ministerial consultations of the draft Bill prepared by the commerce department last year, the finance ministry's revenue department raised objections regarding some of the proposed fiscal incentives.

Turn to Page 6

the rise in the dollar index, dealers said. The rupee had settled at the same level on September 18. Equity markets have been troubled due to macroeconomic uncertainties in Europe and China, hawkish central banks, and selling by FPIs in emerging markets. The 10-year US bond yield was trading at 4.8 per cent on Monday. Among Nifty50 firms, Adani Ports fell the most at 5.1 per cent.

Net foreign exchange...

Besides, it believed that the Bill was being overly flexible in integrating development hubs with the domestic market, without any major export obligation for them. "Upon the revenue department's insistence, the commerce department is ready to remove some of the earlier proposed clauses, such as the exclusion of the concessional corporate tax provision, and the continuation of the NFE criterion (among others)," one of the persons cited above said.

For instance, the commerce department wanted to do away with the controversial NFE earnings as a criterion for the evaluation of such units since the government wanted to make the new law for SEZs compliant with the World Trade Organization (WTO) norms.

The finance ministry, on the other hand, believed that in the absence of the NFE criterion, there would be no push for these units to focus on exports. Moreover, one of the key ideas behind setting up SEZs was to enhance exports. Under the existing SEZ Act, 2005, units in SEZs had to achieve positive NFE earnings, which means that the value of exports has to be more than the value of imports. Such units received certain subsidies and tax exemptions from the government for having a positive NFE, which resulted in a dispute at the WTO with the US four years ago. Now that the dispute has been resolved, there is no risk of continuing with the criterion.

The Bill had proposed freezing the concessional corporate tax rate of 15 per cent until 2032 for all greenfield and brownfield units, subject to certain conditions, in these hubs. However, the finance ministry was not in favour of offering any tax concessions fearing it could kick-start a debate of extending the incentive for companies outside SEZs. The finance ministry was also against the clause of allowing units to sell in the domestic market with duties to be paid only on imported raw materials and inputs instead of final products. "One of the key demands of the industry was that they should be allowed to sell to domestic tariff areas/domestic markets on payment of import duties on inputs consumed and not on finished goods. The revenue department was against this idea. They are on board now on this," the person said.

Global deal...

"The negotiation is ongoing. It has been a long-standing request from developing countries, especially India, to consider markets as a predominant factor for taxation purposes," said an official familiar with the matter. The proposed Pillar 2 solution consists of two components. Pillar 1 aims to re-allocate a portion of non-routine profits of multinational companies to the market jurisdictions where they operate. Pillar 2 aims to introduce a global minimum corporate income tax of 15 per cent. The proposals are estimated to generate $150bn in additional global tax revenues annually, according to the Organization for Economic Co-operation and Development (OECD). The second pillar of Pillar 2 solution calls for the adoption of a new subject to tax rule (STTR) and a worldwide minimum tax. STTR is a treaty-based regulation that may protect developing nations' ability to tax some intragroup pay-