DESH BILL HANGS IN BALANCE

Slew of changes to SEZ Act likely in Winter Session

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THE GOVERNMENT IS planning to bring a few amendments to the Special Economic Zones (SEZ) Act, 2005 in the winter session of Parliament, with a view to giving more operational flexibility to units in these tax-free enclaves, especially when it comes to sales in the domestic tariff area.

These amendments are being taken up even as the Development of Enterprise and Service Hubs Bill (DESH), which is meant for an overhaul of the SEZ regime, is facing delays after the finance ministry cited huge revenue implications.

According to an official source, a key demand from SEZs is to treat sales by SEZ units in the domestic market akin to imports from countries with which India operates bilateral free trade agreements (FTAs). Imports from FTA countries are subject to concessional/nil import tariffs.

"The amendments proposed in the current SEZ Act will enable some of the changes in the legislative provisions governing these zones that were earlier proposed to be done through the DESH Bill," the official who did not wish to be identified, said.

Currently, sales from SEZs to DTAs are subject to the buyer paying the basic customs duty (import tariff) and Integrated Goods and Services Tax (IGST) applicable on the product concerned. Other levies on imports like anti-dumping, countervailing and safeguard duties (under the Customs Tariff Act, 1975) comes into play wherever applicable.

SEZs reckon that easier access to DTA will help boost their operational and economic viability. SEZs by design are tax-free enclaves meant for boosting exports, but over the years the performance of these zones have been at par with, or at best marginally, been better than sections of DTA units when it comes to boosting foreign exchange inflows.

The DESH Bill is meant to replace SEZ Act. However, the revenue department rejected the commerce ministry's proposal in the Bill to extend a benign corporate tax rate of 15% until 2032 for greenfield and certain brownfield units in these hubs. The revenue department had expressed reservation on the proposal to integrate the hubs with the domestic market, as such a concept goes against the current SEZ structure with clear export obligations based on which certain incentives (such as duty-free imports of goods) are extended to these units.

The FTA-like treatment for SEZs has also been contested by manufacturing units outside the SEZs. As SEZs get many tax and non-tax concessions, units outside SEZs say that greater flexibility for SEZs' DTA sales would end up hurting them. "In the amendments, we will strive to strike a balance," the official said.

Parliament's winter session starts on December 4 and goes on till December 22. It will the last full session of the House during the term of the 17th Lok Sabha.

The idea behind DESH Bill, which was first announced in the Budget of 2022-23, is to widen the ambit of the SEZs from the narrow focus on exports. Under the proposed new framework, state governments were to be included as key partners to strengthen the single window based clearances and also usher in a simplified regulatory regime with an emphasis on high quality infrastructure.

According to co-founder of Global Trade Research Initiative, Ajay Srivastava greater flexibility of domestic sales will end up distorting the export focus of SEZs. "If goods from SEZs are allowed into the DTA on the same terms as FTA imports, this might disincentivise exports and turn SEZs into backdoors for importing goods duty-free for the domestic market, defeating the purpose of having export-focused zones."

Other amendments in the SEZ Act propose to make de-notification norms for SEZs easier and streamline approval process for units. De-notification is basically an approval granted to developers to opt out of the SEZ scheme after being part of it. When SEZs are denotified the developers have to refund all duties and tax benefits. They also require 'no-objection" from state governments.

Reasons some developers move out of SEZ scheme is because of poor market response, lack of demand for SEZ space or when it does not make business sense.