Chapter 5

SEZ Policy Revisited – Investors Suggestions
CHAPTER V

SEZ POLICY REVISITED-INVESTOR SUGGESTIONS

Policies are guidelines for managerial thinking and action. They may be rigid or flexible. Rigid policies may not take cognizance of changes in the environment but they ensure continuity and security. Since changes take place in socio-technical, economic and political environments, there is a need for flexible policies. Flexible policies provide for periodical assessment, identification of gaps and reorientation. Therefore the need for revisiting SEZ policy. This chapter synthesize major outcomes arising from the profiling of the investors (Chapter III) and investor expectations and perceptions (Chapter IV) to have an insight into the SEZ environs and the entire policy framework. The different components of the policy are so intricately intertwined that at several places the same data has been relied upon wherever required. Further this chapter draws heavily on the observations discussed in Chapter IV and hence the data is used again and again in support of inferences drawn.

5.1 INTERFERENCE OF THE GOVERNMENT AGENCIES:

In response to the reasons and hurdles in establishing and functioning of their units around 81 percent of the respondent considered interference of the State Government as a hurdle in the growth and promotion of SEZs. Only eight percent considered Development Commissioner’s (DC) office and three percent considered Customs Office as hurdles. DC’s Office and Customs Office are closely integrated into SEZ legal and administrative frame work. Therefore, they are easily accessible and are in a better position to appreciate practical problems and attend to them expeditiously. However, the State Government agencies and Departments like Commercial Taxes, Pollution Control Board, Drug Control Authority, Municipal Authorities, Revenue Authorities, and Inspector of Factories etc., do not interact with SEZ units on a day to day basis and they are also not conscious of the spirit of the single window scheme which constitutes the foundation of the SEZ frame work. Therefore, they, naturally, tend to consider SEZ units/Developers as yet another client and subject them to the same
treatment to which others in DTA are subjected to. The SEZ units / Developers, being conscious of preferential treatment they are getting at the hands of DC’s Office and Customs, tend to make a comparison between treatment meted out by the State Government authorities and Central Agencies like DC Office / Customs and consider the attitude of the State Government authorities as interference.

The State Government authorities need to be sensitized on the need of attending to the SEZ issues expeditiously keeping in view the special circumstances in which the SEZ units / Developers operate. Suitable provisions like time frames and simplified procedures need to be made in the State SEZ Acts, whenever enacted, in this regard. However, the ideal situation would be to delegate the powers of these authorities to the Development Commissioner to further strengthen the single window scheme. This delegation can be accomplished by way of passage of State SEZ Acts.

5.2 SINGLE WIDOW SCHEME:

The single window system in the context of SEZ framework operates at both policy level and operational level. At policy level, the clearance and approvals for setting up the SEZs is looked after by BOA and UAC under single window system. At the operational level, the SEZ Rules provide for single window clearance for extending the benefits, exemptions and concessions provided in the SEZ legal framework. For example, all the work pertaining to assessment, examination and clearance of goods imported, procured from DTA and exported is entrusted to the officers working in respective SEZs. All the permissions and approvals required to be taken under different enactments including Foreign Trade Policy are centralized in Board of Approvals.

The hypothesis in respect of single window scheme is “the investors of Visakhapatnam have not found the single window system to be effective”.

With regard to rating of the existing SEZ policy formulation fostering entrepreneurship, 94 percent of the respondents felt that single window system is very important for promoting entrepreneurship. Only Customs & Central Excise Rules (83 percent), fiscal incentives (81 percent) and exit policy (81 percent) came close to this
factor in terms of criticality in fostering entrepreneurship. Thus the respondents have placed the single window system above fiscal incentives which was considered to be the main component of the SEZ scheme.

On advising effective measures for strengthening single window system, 83 percent of the respondents suggested expanding the ambit of the single window system. To encourage new entrepreneurs 81 percent of the respondents opted for improvement to single window system as against 52 percent for improving the exit policy, 39 percent for streamlining procedures and 64 percent for infrastructure improvement.

The respondents reiterated the need for strengthening the single window mechanism as they have experienced the convenience of going through Unit Approval Committee or the Board of Approvals which were conceived as the single window mechanisms under the SEZ Act. The need to improve this facility has also been repeatedly brought out as seen from their perception about the State Government’s interference in terms of having multiple agencies for clearances. Around 81 percent of the respondents considered interference of the State Government as a hurdle in the growth and promotion of SEZs. Absence of an effective single window scheme at state level in relation to (a) extending exemption from state levies and taxes (b) exemption from local body jurisdiction (c) application of provisions of State enactment like pollution laws, Drug Control Laws etc and absence of SEZ Act at State level also appears to have led the respondents to the conclusion that the State Government’s interference is high (81%). Therefore, it is time for state level SEZ Acts to converge with SEZ Act, 2005 and delegate powers to the Development Commissioner who is a very senior Government of India functionary.

Menon and Mitra69 observe that the State Governments need to delegate the powers of the Labour Commissioner to the Development Commissioner to oversee labour laws within SEZ would enable the Development Commissioner to exercise the powers of Labour Commissioner plus the Chief Inspector of Factories. The paper also

suggests that the State Governments create special courts to try all notified offences or suits of civil nature. The paper also observes “Whether or not a SEZ induces trickle-down, or knock-on effects, depends on the speed with which investor expectations get met, and also on how much more difficult it is to conduct business within the DTA. Derogations from the DTA’s regulations and levies are central to this scenario”. The only way to make the investor feel that it is easy to conduct business in SEZ vis-a-vis DTA is to further strengthen the single window mechanism. RBI Staff Studies SS(DEAP):4/2009\(^70\) observes that “Cross-country experiences suggest a structure that entails less interference from the Government and much greater headroom for the private sector.” Interference from the Government can be minimized, if not eliminated, by putting in place a viable Single Window Scheme.

SEZ Policy of India is uniform in all states. Thus the difference is the SEZ Policy of the respective State Governments. Many of the areas perceived to be problematic by the investors fall in the domain of the State Government. Therefore, State Governments need to be proactive with a healthy competition among States to attract investment in general and FDI in particular which along with it brings in technology and expertise. Rajiv Kumar (1989)\(^71\) observed that Indian Zones have been used predominantly by domestic entrepreneurs leading to the inference that foreign capital and technology have contributed only marginally to the growth of Indian Zones. Labour Resource and Research Institute, LaRRI (2000)\(^72\) portrays a negative picture of EPZs and it finds that there is a limited evidence of technology transfer and linkages as important by products of EPZs in host countries.

Menon and Mitra\(^73\) explain the significance of FDI “A stepped up investment profile both domestic and foreign was the central rationale for the formation of SEZs.

FDI flows into the economy along with embodied (contemporary) technology and, to the extent, complements the host economy’s R&D efforts and spending. Another effect of FDI is that it promotes greater specialisation via intra-industry trade, along with better access to the pool of international technological knowledge.”

Foreign investors are more apprehensive of delays in getting approvals and clearances. Once the single window scheme is further strengthened and foreign investors are made aware of the single window clearances and approvals, they may be inclined to come forward to invest in SEZs which would bring in much needed FDI and technology.

As seen from the above, the areas where improvements are needed, largely, fall in the domain of state governments. But the recent service tax notification no. 12/2013 dated 01.07.2013 makes a dent into the single window concept at Government of India level by requiring the SEZ units to get registered with the service tax authorities and file returns with them to avail exemption from service tax in respect of the services provided to SEZ units/developers for their authorized operations.

Thus one can see that almost all questions on the single window system have elicited responses that point to the centrality of this factor besides pointing to the inefficiencies in its working. Therefore the hypothesis “the investors of Visakhapatnam have not found the single window system to be effective” stands proved.

5.3 INTERVENTIONS OF SEZ FRAMEWORK:

The major interventions under the SEZ framework that have been examined are adequacy of policy support, experience with various agencies, provisioning of infrastructure, incentives, exit policy and corporate social responsibility.

The hypothesis on interventions of SEZ framework is “The Investors do not have a positive opinion about the different interventions of the SEZ Framework”.
5.3.1 ADEQUACY OF POLICY SUPPORT:

SEZ Act and Rules made there under, notifications and instructions constitute the policy framework of the SEZ operations. Policy support includes incentives, simplified procedures, single window clearance, easy entry and exit, easy customs and central excise rules, ease in availing exemptions and availability of officers at the door step of the units.

Regarding factors responsible for setting up of the Unit, 78 percent opined that SEZ policy is the motivating factor for setting up the unit. 75 percent of the respondents agreed that SEZ framework encouraged them to start another unit in SEZ or expand their capacities.

While majority of the respondents are satisfied with the SEZ legal framework, 28 percent of respondents indicated the need for amendments in the SEZ Act and 30 percent for changing the Rules. In response to the question on ease in availing exemption/refunds, the responses ranged between 70-89 percent for different taxes which is an affirmation of procedural simplification envisaged under the Policy.

On rating of existing SEZ policy formulation fostering entrepreneurship, the respondents were of the view that existing SEZ policy framework has been important in promoting entrepreneurship in terms of ease of entry (83 percent), clearances (92 percent), single window scheme (94 percent), easy central excise and customs rules (83 percent), fiscal incentives (81 percent), exit policy (81 percent) and private participation (77 percent).

As seen from the above responses, the investors appear to have been satisfied with the existing SEZ Framework and its interventions negating the hypothesis that “The Investors do not have a positive opinion about the different interventions of the SEZ Framework”.

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Tantri (2010)\textsuperscript{74} affirms this position and observes that within eight years of introducing the SEZs policy in the country, the value of exports generated from seven conventional SEZs of the country increased almost three-fold. In 1999-2000, the value of SEZs exports was around six crores in and at the end of 2007-08 it was 21,000 crores. Tyler and Negrete\textsuperscript{75} demonstrate a positive and significant relationship between the use of EPZs and economic growth, providing support for the contention that host countries (using EPZs) grow faster than those that have not employed such mechanisms.

Menon and Mitra\textsuperscript{76} further confirms the efficacy of the Policy with the observation that SEZ Act 2005 offers an attractive package of fiscal incentives and derogations for developers of SEZs and the units entering them and Nokia, Flextronics, Apache SEZs etc. stated that with the New SEZ Policy in place they had started investing in India.

The policy has recently been further strengthened in the form of revision of SEZ Rules to make it more investor friendly by relaxing land area requirements for setting up of SEZ, providing for sectoral broad banding, relaxing vacancy norms for addition or inclusion of land to existing SEZ and providing for transfer of assets by SEZ units up on their exit.

Some suggestions for additional policy support include introduction of reverse charge for service tax payment where service tax liability will be discharged by DTA service provider and receiver, provision for refund of customs duty paid on goods cleared to DTA, non-insistence on supply of capital goods by overseas entity with regard to Rule 18 (6) of SEZ Rules and for provision of service by SEZ unit to DTA customer, realization in foreign currency may not be insisted. Some other suggestions are SEZ unit may be permitted for sub-contracting to DTA customer for clearance to DTA under Rule 43 of the SEZ Rules, enactment of state level SEZ Acts to strengthen single window

\textsuperscript{74} Malini L Tantri (2010) - “Effectiveness of SEZs over EPZs Structure: The Performance at Aggregate Level” - The Institute for Social and Economic Change, Bangalore
\textsuperscript{75} William G.Tyler and Ana Carolina A. Negrete. Economic Growth and Export Processing Zones: An Empirical Analysis of Policies to Cope with Dutch Disease.
mechanism with regard to state incentives, exemptions and procedures, provision for appeal in matters of assessment and valuation, delegation of powers of BOA to Development Commissioner under Rule 26 to import restricted goods etc in view of the urgency involved in imports and facility of exit on sale/transfer for developer.

Mukhopadhyay and Pradhan observe that “on the counts of diversifying our economic base and employment growth away from services, creating new infrastructure and redressing regional imbalance, the SEZ policy appears to be failing.” It is a matter of record that Indian SEZs are predominantly urban centric thriving on preexisting infrastructure and are heavily loaded with IT/ITES component. That does not necessarily mean that the Policy failed to meet the expectations of the investors as seen from the responses of the investors in the present study and the secondary data available at local level and national level showing robust growth on all three important fronts-exports, employment and investment. Regional and sectoral imbalances can be eliminated with a little tinkering with Policy by providing additional incentives to manufacturing sector and units in rural and backward areas.

The RBI Staff Studies SS(DEAP):4/2009 concludes that in an open economy and a free market regime, Government cannot make it obligatory upon anyone to set up SEZs in backward States. However, developers could be encouraged to set up SEZs in such regions if necessary concessions are provided and basic infrastructure is put in place in these states to make it attractive for the investors. Overall, a well-balanced and conducive policy environment is required to make the SEZ programme a successful proposition.

5.3.2 EXPERIENCE WITH RELATED AGENCIES:

Development Commissioner’s office (DC’s office) is concerned with implementation of SEZ policy and legal frame work at macro level where as the fiscal incentives which are the heart of the SEZ frame work are administered by the Customs authorities and other revenue departments. In response to question whether investor’s experience with Office of Development Commissioner encouraged or discouraged him in his effort to promote the unit in SEZ, 72 percent of the respondents opined that experience with the office of the DC is encouraging. On a similar query regarding investor experience with SEZ Customs, only 56 percent, 50 percent and 40 percent stated that experience with SEZ Customs is positive in matters of exports, imports and DTA clearances respectively. The positiveness of the experience appears to be inversely proportional to the degree of intervention of the agency concerned. DC’s Office is not involved in the SEZ operations on a day to day basis, whereas SEZ Customs are involved. Further, gap in expectation and actuality in relation to availing of fiscal incentives may also tend to keep the SEZ Customs low in the estimation of the investors. In the Customs activities, inter se, there is difference in satisfaction levels. In the case of exports, where the Customs intervention is comparatively lesser as the exports are allowed on self-sealing and self-certification basis, the satisfaction level is comparatively higher (56 percent). On the other hand in relation to DTA clearance, where duty payment is involved, the Customs authorities naturally tend to exercise extra precaution in determining the value and rate of duty so as to avoid any future allegation of short levy of duty, the satisfaction levels are comparatively lesser (40 percent).

The lesser the intervention, the more the positiveness in experience, is further confirmed from the response of the respondents to the question regarding rating the relation of SEZ vis-à-vis a DTA unit with the agencies mentioned there in like district administration, and District Industries Centre. The respondents felt that the interaction was positive with the District Administration (85 percent) and District Industries Centre (75 percent). In the SEZ scenario, the role of District Administration and District Industries Centre is very limited. Therefore, interaction with these agencies was considered to be positive. As the SEZ Customs are drawn on deputation from Customs &
Central Excise Department, they naturally, tend to be more cautious in revenue matters with an apprehension of any possible future objections on the ground of short payment of duty. However, in the context of SEZ framework, the revenue officers need to realize that their role is different as regulator to facilitator. Once this difference is realized, they would realize that the end, that is, facilitation is more important than means (technicalities/procedures) and consequently the satisfaction levels will go up to the delight of the SEZ units/Developers. This can also help in reduction of transaction cost which is one of the reasons for introduction of self-certification in SEZ scheme.

5.3.3 INFRASTRUCTURE:

Infrastructure along with fiscal incentives plays a key role in attracting investment in SEZs. Infrastructure can broadly be classified into inside and outside the zone. While developer is responsible for creating infrastructure inside the zone, government agencies are responsible for creating outside infrastructure which can be broadly categorized into, transportation infrastructure, utilities like power and water, communication infrastructure like telecom, postal & courier, work force, social infrastructure like educational, medical, entertainment, canteen, residential & shopping facilities, business infrastructure like weighing, warehousing & waste disposal facilities, and financial infrastructure like banking.

The following is the rating of different infrastructure in SEZs at Visakhapatnam.

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Infrastructure</th>
<th>Range of Positive Satisfaction percent</th>
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<tbody>
<tr>
<td>1</td>
<td>Transportation Infrastructure</td>
<td>61 to 88</td>
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<tr>
<td>2</td>
<td>Utilities Like Water &amp; Power</td>
<td>45 to 62</td>
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<tr>
<td>3</td>
<td>Communication Infrastructure</td>
<td>72 to 74</td>
</tr>
<tr>
<td>4</td>
<td>Work Force</td>
<td>60 to 75</td>
</tr>
<tr>
<td>5</td>
<td>Social Infrastructure</td>
<td>41 to 66</td>
</tr>
<tr>
<td>6</td>
<td>Business Infrastructure</td>
<td>64 to 70</td>
</tr>
<tr>
<td>7</td>
<td>Financial Infrastructure</td>
<td>62</td>
</tr>
<tr>
<td>8</td>
<td>Internal Roads &amp; Transportation in SEZ’s</td>
<td>68 to 72</td>
</tr>
</tbody>
</table>
While top two positions are taken by transportation and communication infrastructure, bottom two positions are occupied by social infrastructure & utilities like water and power. The middle spectrum is occupied by financial infrastructure, workforce, business infrastructure, internal infrastructure. Transportation and communication infrastructure is mostly government infrastructure whereas business infrastructure, social infrastructure and internal infrastructure is the responsibility of the Developer.

While social infrastructure and utilities requires to be focused upon, internal business and financial infrastructure, work force infrastructure need to be improved upon too. The transportation and telecom infrastructure needs to be marketed aggressively to attract new investment in the SEZs of Visakhapatnam District. As seen from the responses, the rail connectivity needs improvement. This problem will be solved if a separate Railway Zone is created with Visakhapatnam as headquarters as demanded by the public. Railway line with CFS facility to VSEZ and APSEZ needs to be explored. There are no “Less than Container Load” (LCL) facilities in Visakhapatnam. Though container transport facilities have improved of late in Visakhapatnam, LCL facility is not available. Viability of LCL facility, in turn, depends on volumes in container cargo traffic. As Visakhapatnam is poised to become an International Container Hub on the east coast of India, this bottle neck would hopefully be removed soon. A direct pipeline from Port to VSEZ/ AP SEZ to transport liquid cargo needs to be considered.

The air cargo facilities are to be augmented at the airport as many industries are demanding direct import and export of the cargo. The pharma industry requires the air cargo facility for fast imports and exports in view of the nature and value of their product. At present, imports and export are being made from Hyderabad and Chennai. Fortunately there is daily connectivity from Visakhapatnam to these two cities. However, in view of the fact that international flights have started operating from Visakhapatnam to two world commercial hubs- Dubai and Singapore, facilities need to be created at the Visakhapatnam Airport for direct import and export of the cargo. There is a huge scope for high volume of business from Air Cargo complex, Visakhapatnam in view of the rapid industrialization of the area.
Power problem is the most acute bottleneck inhibiting the growth of SEZs. Power intensive units are in the process of closing down or down-sizing their operations due to non-availability and non-reliability of power. There is no guarantee of assured power supply. Power is the most vital input for making a decision on setting up an industrial unit and in the absence of assured power it is difficult to attract investment. The industry does not mind paying higher if continuous and guaranteed power supply is assured. The locational advantage of Visakhapatnam in particular and Andhra Pradesh in general in being proximate to KG Basin gas reserve and having a long coast line, needs to be made use of to establish gas based or coal based power projects. Dedicated power projects may be established under SEZ Scheme for exclusive use of SEZs through PPP mode involving Central and State Governments and Developers through Special Purpose Vehicle. Alternatively the Developers of Multi product SEZs can explore the feasibility of roping in an investor or invest on their own to establish a power unit making use of all the exemptions of the SEZ.

Regarding communication facilities, reliable and fast internet connectivity is necessary. The optic fibre connectivity needs to be augmented for reliable connectivity and viable communication facilities.

On availability of quality work force, due to limited growth of Small Scale Industries development in and around Visakhapatnam, the quality of work force required by a large industry is not substantially available. Quality comes through experience and exposure. There are no common warehousing facilities created by any of the Developer. A transit warehouse is a necessity in every SEZ to help units, particularly, during construction stage and also to serve as an additional storage facility for units. The said warehouse can also serve as a designated area, under Rule 30 of SEZ Rules, to store goods arrived before assessment of Bill of Export. In view of number of water intensive pharma, chemical and petro chemical industries being expected in the proposed Petro Chemical Investment Region between Visakhapatnam and Kakinada, new entries in the Pharma City, industrialisation of the Visakhapatnam District and the growing population of the city, supply of water to cater to both industrial and domestic needs is
the need of the hour. The existing water sources are not sufficient to meet these requirements. The Polavaram Project, is expected to meet the above requirements.

All the Developers including APIIC Ltd. should take up housing on priority basis particularly, in areas which are away from urban centres, like APSEZ Achutapuram immediately. The APIIC may also consider providing service apartments in the non processing area. All multi-poduct SEZs including APSEZ should have atleast a 25 bedded hospital in non processing area. Other SEZs should have a round the clock in-house clinic with an ambulance facility. In most of the SEZs including the APSEZ weighbridge facility is not available and the units are going all the way outside. As it is a routine requirement and also an important requirement from the angle of clearance of goods by Customs Authorities, it involves cost and time of both the unit and Customs Authorities. Therefore this facility needs to be provided on priority basis.

The indirect employment provided by SEZs is one of the objectives of SEZ framework and it contributes to the growth of local economy. This is achieved through the growth of tiny, small and medium range ancillary industries developed in the surrounding areas to cater to the needs of SEZs. The APIIC Ltd as the nodal agency for the development of industrial parks should focuss on creation of a general industrial layout near the SEZ clusters for development of ancillary industries.

Regarding banking facilities, a dedicated and full fledged branch with all Foreign Exchange transactions and ECB and FC loan facilities need to be set up in APSEZ, where the requirement would be huge. These facilities can also be accessed by other SEZ units. If the volumes are not considered enough for setting up of such dedicated branch, on experimental basis, all the above facilities may be provided by a bank by opening open a branch in APSEZ or the existing branch may be asked to provide all the facilities required by the investors.

One of the declared objectives of SEZ Scheme is creation of infrastructure. This objective is fulfilled if some infrastructure is created where nothing existed earlier. This is possible in respect of SEZs setup in rural areas where usually no infrastructure exists. However, as seen from the secondary data, most of the SEZs are urban centric making
use of the existing infrastructure instead of creating new infrastructure. From the fact that most of the SEZs are located in developed states like AP, Karnataka, Tamil Nadu, Gujarat, Maharashtra and Delhi which are known for better infrastructural facilities, it could be seen that pre-existing infrastructure is the foremost consideration for setting up SEZs rather than to create infrastructure while setting up of SEZ. This position is supported by the following studies. Tantri\textsuperscript{79} observes that the developed States have received maximum approval and backward States are lagging even in attaining the attention of investors. This, thereby, indicates the problem of regional disparity, which may aggravate in future if adequate remedial measures are not initiated. Mukhopadhyay\textsuperscript{80} observes that within the developed States, the SEZS are located in a few districts, which are above the national average in number of development parameters. Sivaramakrishnan\textsuperscript{81} observes that SEZs prefer the external economies of existing urban areas rather than being the starting points of growth in new areas. Albert G. Schweinberger\textsuperscript{82} concludes that SEZs help improving existing infrastructure in developing countries. While making use of preexisting infrastructure, SEZs contribute to improvement of such infrastructure. However, the desired objective is creation of virgin infrastructure. Therefore, special incentives can be offered to the entrepreneurs willing to set up SEZs in rural and backward areas.

Menon and Mitra\textsuperscript{83} concludes “it is vital that infrastructure building should not be confined merely to the immediate operating environs of coastal SEZs. They must be laid out in a manner that enables SEZs to dot the entire economy, including the hinterland. The locations for the new SEZs should be selectively done so that they spread development and address existing regional imbalances. Only then will SEZs fulfill a

\textsuperscript{79} Malini L Tantri (2010) - “Effectiveness of SEZs over EPZs Structure: The Performance at Aggregate Level”- The Institute for Social and Economic Change, Bangalore.
\textsuperscript{80} Mukhopadhyay, P. ‘The Promised Land of SEZs’ in Special Economic Zones: Promise, Performance and Pending Issues, Centre for Policy Research (CPR), Delhi, March.
public function by sourcing inputs from all across the economy – lowering costs, raising value-addition and hiking living standards all around”.

Mukhopadhyay and Pradhan\textsuperscript{84} observes “since the tiny SEZs are not large enough to build their independent infrastructure, these concentrations of Tiny SEZs will then draw upon the physical infrastructure and social resources of the megacities.”

In view of the factual position that more than 60% of the SEZs are IT/ITES category where there is little scope for infrastructure development on large scale except construction of buildings, Multi product SEZs and port based SEZs, with large land areas, are the major growth points for infrastructure development. However, even these SEZs are mostly located in or in the vicinity of the developed urban centers with already developed infrastructure and accordingly the benefit of SEZ created infrastructure is not widespread.

\subsection*{5.3.4 EXIT POLICY:}

Exit strategy, in the broader sense, means of leaving one's current situation, consequent to achievement of a predetermined objective or as a strategy to avoid or mitigate failure. An organisation or individual needs an exit strategy to come out of inconvenient/ damaging/ hazardous situation. In the business sense the term 'exit' is the obverse of the term 'entry' into industry. It refers to the right or ability of an industrial unit to withdraw from or leave an industry or the obligation of the unit to close down the operations in compliance with a statutory requirement. This is a method by which a business owner intends to get out of an investment that he or she has made in the past. In other words, the exit strategy is a way of "cashing out". Exits are of two types- Statutory or compulsive exit and optional or voluntary exit. Noncompliance with concerned statutory provisions /requirements/ conditions leads to compulsive exit whereas, optional exit is resorted to as a business decision.

Exit policy is one of the areas where the respondents have shown much concern. On the issue of adequacy of existing facilities to encourage new entrepreneurs, only 52 percent of respondents felt that exit policy needs to be improved as against infrastructure (64 percent), Customs & Central Excise (55 percent), Government role (64 percent) and fiscal incentives (62 percent). Thus investors appear to be of the view that the existing exit policy is more effective vis-à-vis other areas like infrastructure, etc. in encouraging new entrepreneurs. On the question regarding importance of existing SEZ policy formulation for promoting entrepreneurship 92 percent felt that exit policy is important to promote entrepreneurship. As seen from the above, exit policy formulation is a very important area for the investors along with single window scheme, fiscal incentives, infrastructure and easy customs & central Excise rules. Any investor or entrepreneur, more so SEZ investor, being conscious of the fact that business is fraught with risk and uncertainty, tends to seek a safe and easy exit from the scene in case the business environment is not favourable. Hence if exit policy is not smooth and hassle-free, investors may not be inclined to enter the SEZ arena. In the case of ordinary DTA business, an investor can wriggle out of adverse situation as and when he intends to do so, whereas in SEZ scenario, exit is contingent upon compliance with a number of statutory requirements involving more than one statutory authority. Hence, the need is an effective exit policy. The policy needs to be examined separately in respect of units and developers.

Unit:

Prior to inclusion of rule 74A in SEZ Rules, with effect from 12/08/2013 , the statutory provisions governing exit of units from SEZ scheme are Rule 74 and 77 which are annexed as Appendix-III.

As seen from the Rule 74, it is an optional provision available to the unit subject to compliance of the conditions attached to it. One of the important conditions being, payment of applicable duties on both finished goods and procured and imported goods lying in stock and payment of penalty for non-achievement of NFE. On the other hand, exit in terms of Rule 77 is consequent to withdrawal or cancellation of exemptions,
concessions, drawbacks, or any other benefits to unit. Exit under rule 77 is as a sequel to the non-compliance with the provision of SEZ Act and rules made there under.

Liability under compulsory exit scheme in terms of rule 77 is heavy ostensibly, as a measure of penalty, as entire exemptions drawbacks, concessions and other benefits availed are required to be paid back in the form of customs duty, whereas the liability under optional exit scheme is comparatively lesser as only the duty on the goods lying the stock needs to be paid. For the purpose of the present discussion, the optional exit scheme under rule 74 is relevant. As the scheme involves payment of penalty for non-achievement of NFE and duty on goods lying in stock, the process of exit needs to be as smooth and hassle free as to the expectation of the investors. To smoothen the process of exit, the government amended SEZ rules with effect from 12/08/2013 and inserted new rule 74A to provide for exit through transfer of assets and liability including of payment of applicable duties and liabilities if any payable on exit and discharge of export obligation of the transferor unit to the transferee by way of transfer of ownership including sale of SEZ units. The new provision makes the exit hassle free and would address concerns of the investors and hopefully attracts more entrepreneurs into the fold of SEZ scheme.

**Developers:**

There is single exit scheme for developers on the lines of rule 74, 77 and 74A in the form of section 10 of the SEZ Act which is annexed as Appendix III.

However, the above exit scheme is contingent on failure or inaction of the developer to comply with the obligation and requirements under the SEZ Act, rules and LOA. The scheme needs to be revised to include cases where exit is resorted to as a part of business strategy or for other commercial considerations, to attract private investment and FDI.
5.3.5 INCENTIVES:

As per Menon and Mitra\(^85\) - Finance Ministry estimated revenue loss from tax concessions to SEZs at Rs 1,02,621 crore for the period 2006-07 to 2009-10. The loss on account of direct taxes – deriving, for instance, from IT Exemptions in SEZs – is put at Rs 53,740 crore. On the revenue loss issue the paper observes that it must be remembered that should there be no new investments, there will then be no addition in tax revenues. Perhaps, losing tax revenue for a limited number of years while infrastructure is being created, manufacturing encouraged and stimulating demand is a better option for growth. India’s fiscal giveaways would be costly, but that they should be seen in the nature of an investment in the future. Indeed, the benefits from SEZ far outweigh the feared losses. That is also what has been said by the Parliamentary Standing committee (PSC) on SEZs. It reiterated that SEZs will be severally beneficial for the economy. The PSC noted that SEZs, apart from generating Rs 1.5 lakh crore for India as indirect revenue, will also go on to create jobs for as many as 5 lakh people (directly) and 15 lakh (indirectly). Fiscal giveaways would be costly, but that they should be seen in the nature of an investment in the future. In addition there is need to maintain stability in the fashioning of fiscal concessions; that would be essential to ensure that the government does not lose credibility.

On the other hand Mukhopadhyay\(^86\) observes that the fiscal benefits for SEZs are ill-designed. The current structure of incentives for SEZs envisages a tax holiday for five years, then a low tax rate for the next five, and an investment tax credit for the final five. Tax holidays tend to reward the founding of a company, rather than investment in existing companies and benefit short-term investments, characterised by companies that can quickly relocate from one jurisdiction to another. This undermines the effort to attract long-term stable investments. So, if tax incentives are indeed necessary, and this in itself is debatable, an investment tax credit or a lower tax rate may be better than a blanket tax holiday. Thus, the SEZ policy may be much more costly than necessary.


\(^{86}\) Mukhopadhyay, P. ‘The Promised Land of SEZs’ in Special Economic Zones: Promise, Performance and Pending Issues, Centre for Policy Research (CPR), Delhi, March.
Mukhopadhyay and Pradhan\textsuperscript{87} also portrays a negative picture by observing “while the costs of SEZs are quite real, the benefits of SEZs are not substantial. The SEZ policy is likely to generate costs (in lost fiscal revenue) without corresponding benefits (additional employment). Since the SEZs are being located close to existing industrialised areas, new activity in existing firms, which would have happened in the normal course of events, may now be located in the SEZs, since the distance-induced costs are minimal. In some cases, this may encourage firms to move an existing activity from its current location to a SEZ. This, while not generating additional economic activity over that which would have already occurred, will result in fiscal losses.”

RBI Staff Studies SS(DEAP):4/2009\textsuperscript{88} is optimistic and it observes “The revenue losses due to excessive fiscal concessions to the SEZs could be sizeable but at the same time the SEZs would generate more production and exports and thereby more revenue accruals, which would compensate the revenue losses incurred during the course of SEZ development. In addition, pick up in organised sector employment arising from the new SEZs should lead to improved tax administration which could partly offset losses due to tax concessions.

Irrespective of the conclusions of scholarly presentations on the efficacy of fiscal incentives, the investors in the present study expressed satisfaction with the existing level of incentives and opined that incentives, as a component of existing SEZ policy formulation, are important for promoting entrepreneurship.

Incentives are available at development, operational and profit ability stages. At development stage, the incentives are availed for construction of facility in terms of customs, excise, service tax, VAT, CST and stamp duty exemption. In operational stage, the above exemptions are available on capital goods, raw materials, inputs and other goods procured/imported for conducting authorized operations. The incentives are available in terms of income tax exemption at profit stage. As the SEZs are operating on


Indian Territory, the profits and gains derived by SEZs are liable to be taxed under Income Tax Act. However, Section 10 AA of the Income Tax Act exempts 100 percent of the profits and gains derived from export of articles or things or computer software from any Special Economic Zone for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the SEZ undertaking begins to manufacture or produce such articles or things or computer software as the case may be and thereafter 50 percent of such profits and gains for further 2 consecutive assessment years and thereafter for the next three consecutive assessment years so much of the amount not exceeding 50 percent of the profit as is debited to the profit and loss account of the previous year in respect of which the exemption is to be allowed and credited to a reserve account to be created and utilized for the purpose of the business of the undertaking as laid down.

The incentives available can be broadly categorized into easy customs and central excise requirements like single window assessment, examination and clearance, single window clearance of licenses and permissions, fiscal incentives like exemptions from customs, excise, service tax, VAT, CST, stamp duty and income tax, approvals in terms of single window scheme, Access to DTA, operational incentives like facility to undertake sub-contracting for DTA operators and DTA operators undertaking sub-contracting for SEZ, entitlement to export benefits on the goods received from DTA which are ordinarily available to DTA exporter, easy entry into SEZ scheme, private participation in development of SEZs.

On the importance of existing SEZ policy formulation for promoting entrepreneurship, 83 percent of the respondents stated that SEZ policy promotes entrepreneurship in terms of easy central excise and customs rules, single window scheme (94 percent) and easy entry (83 percent) and easy exit policy (81 percent). With regard to ease in availing exemption/refunds, respondents stated that they were satisfied with the ease in availing the exemptions and refunds. Regarding satisfaction with SEZ Legal Frame Work, the respondents stated that they are satisfied with the coverage of SEZ Act and rules which provide all the aforesaid incentives. Responding to the query whether SEZ Policy is conducive for entrepreneurship promotion, the investors stated
that it is easy to establish SEZ units (50 percent). Regarding the query on the issue of adequacy of facilities to encourage new entrepreneurs, respondents stated that improvement is needed to encourage new entrepreneurs, in the areas of infrastructure 64 percent, fiscal incentives 62 percent, government role 64 percent, customs and central excise 65 percent, single window scheme 81 percent, procedures 39 percent and exit policy 52 percent.

As seen from the above, the investors appear to be happy with the incentives available in SEZ Legal Frame Work.

5.4 CORPORATE SOCIAL RESPONSIBILITY (CSR):

International Business Report (IBR) 2008\(^9\) captioned “Corporate Social Responsibility is a necessity not a choice” observes that “business adopting Corporate Social Responsibility (CSR) principles believe that by operating ethically and responsibly, they have a greater chance of success.

If a company is perceived to be observing CSR, its stock would go up in the estimates of its employees as well as the people it deals with leading to enhanced productivity, performance as trust creates a congenial atmosphere to perform and to think in terms of not harming the interests of the company. Further business with companies abroad requires the companies to comply with CSR. For example U S Food and Drug Administration (FDA) imposes a strict CSR regime particularly green measures, environment and cleanliness, workforce standards, health and wellbeing and improved waste management etc, to procure goods and services.

On CSR efforts, the respondents stated that they have focused on helping people around SEZ (89 percent) in the form of holding medical camps, supporting schools etc, rehabilitation of land losers (52 percent), gender empowerment (63 percent), skill development (92 percent), establishment of ancillaries (62 percent), upgrading of

\(^9\)International Business Report (IBR) 2008 “Corporate Social Responsibility is a necessity not a choice”.Grant Thornton International.
technology of connected units (26 percent), adoption of green measures (92 percent), and enhancement of pollution control measures (92 percent).

With reference to the sectoral initiatives under CSR, the respondents stated that they are promoting health 73 percent, education 83 percent, gender empowerment 81 percent, environment improvement 86 percent, skill upgradation 83 percent, and housing 11 percent.

Additional CSR efforts like adoption of surrounding villages, participation in community programmes around SEZ, financial aid to local bodies and social activists to improve environment around SEZ, Medical camps, infrastructure in schools like computers etc, apprentice programme for local youths for skill development, IT skills for local youths, Scholarships, awards, competitions in the local educational institutions, sports infrastructure, Libraries and ambulance services may be thought of.

CSR can be of immense help in wooing the neighbourhood and therefore needs to be pursued continuously for the people and environment.

Summary: This chapter analyses the response of the investors and examines the efficacy of the existing SEZ Policy Framework in the light of the views expressed and suggestions made by the investors. Investors have shown much concern about the need for further strengthening the existing Single Window Scheme enshrined in the SEZ Policy. Many of the investors are of the view that much needs to be done at the level of State Governments to reinforce single window scheme. The investors have expressed their happiness with the existing SEZ Policy by and large. While expressing satisfaction with the infrastructural facilities, in general, the investors have expressed concern with regard to availability and quantity of power besides water and social infrastructure. The investors, while being happy with the ease in entry, are desirous of a more flexible exit policy. They are also conscious of their corporate social responsibility and are involved in promoting CSR by initiating a number of measures like promotion of health, education, green measures, gender empowerment, skill upgradation, etc.