



भारत सरकार,
वाणिज्य एवं उद्योग मंत्रालय, वाणिज्य विभाग
विकास आयुक्त का कार्यालय
नौएडा विशेष आर्थिक क्षेत्र
नौएडा दादरी रोड, फेस. 2, नौएडा .201305, जिला गौतम बुद्ध नगर
Government of India, Min. of Commerce & Industry, Deptt. of Commerce,
Office of the Development Commissioner
NOIDA SPECIAL ECONOMIC ZONE
Noida Dadri Road, Phase-II, NOIDA-201305, Distt. Gautam Budh Nagar (UP)

F.No. D-28016/04/2021-Admn.

Date: 01.03.2021

Subject: Guidelines for attending to various Central/State Investigating/Enforcement agencies visiting NSEZ/other SEZs under DC, NSEZ – Reg.

This is with reference to visit of various Investigating/Enforcement agencies to SEZs/Offices under the jurisdiction of DC, NSEZ Noida for investigation, inspection, search or seizure in the SEZs or seeking documents/information pertaining to any case from any office under DC, NSEZ.

2. In this context, attention is invited to Sections 20, 21 and 22 of the SEZ Act wherein the provisions reg. investigation, inspection, search or seizure by agencies have been indicated. Provisions of these sections came into force w.e.f. 13th Jan, 2010.

3. The Department of Commerce has notified the following:

a) Vide Notification S.O. 77(E), the Central Government, in exercise of the powers conferred by sub-section (1) of Section 21 of the Special Economic Zones Act, 2005, (28 of 2005), has specified the acts or omissions punishable under the Foreign Trade (Development and Regulation) Act, 1992 (28 of 2005) as notified offences for the purposes of the Special Economic Zones Act, 2005 (28 of 2005); In exercise of the powers conferred under sub-section (2) of section 21 of the Special Economic Zones Act, 2005, (28 of 2005), the Central Government has authorized the Development Commissioner of the jurisdictional Special Economic Zone to be the enforcement officer in respect of the notified offences committed in a Special Economic Zone.

b) Vide Notification S.O. 2665(E) dated 5th August, 2016 offences covered under specific sections of the Customs Act, 1962, the Central Excise Act, 1944 and the Finance Act, 1994 have been notified as offences under the SEZ Act, 2005 in terms of sub-section (1) of section 21 of the SEZ Act, 2005.

i) Vide Notification S.O. 2666(E), in terms of sub-section (2) of section 21 and second proviso to section 22 of the SEZ Act, 2005 (hereinafter referred as the Act), the Central Government has authorised the Additional Director General, Directorate of Revenue Intelligence for offences under the Customs Act, 1962 and the Additional Director General, Directorate General of Central Excise Intelligence for offences under the Central Excise Act, 1944 and the Finance Act, 1994 to be the enforcement officer(s) in respect of any notified offence or offences committed or likely to be committed in a Special Economic Zone. The enforcement officer(s), for the reasons to be recorded in writing, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit and shall intimate the details of any action initiated under sub-section (3) of section 21 of the Act to the



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Joint Secretary in charge of Special Economic Zones Division in the Department of Commerce immediately and in any case not later than seven days of initiation of any action.

- ii) Vide Notification S.O. 2667(E), in terms of section 22 of the Special Economic Zones Act, 2005 (hereinafter referred as the Act), the Central Government has authorised the jurisdictional Customs Commissioner, in respect of offences under the Customs Act, 1962 and Commissioner of Central Excise in respect of offences under the Central Excise Act, 1944 and the Finance Act, 1994 and notified under the Act, for the reasons to be recorded in writing, to carry out the investigation, inspection, search or seizure in a Special Economic Zone or Unit with prior intimation to the Development Commissioner, concerned.
- c) As per first proviso to section 22 of the SEZ Act. 2005 **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.**
- d) The above notified provisions should be strictly followed by all concerned.
4. For attending to other Central/State agencies visiting any office/SEZ under the jurisdiction of DC, NSEZ for seeking information/documents pertaining to any registered case the following procedure may be followed:
- (i) **Information/documents sought by Investigating agencies like CBI/ED/DRI etc.:** Provisions of Section 20, 21, and 22 of SEZ Act, 2005 as discussed in para 3 above shall be adhered to with regard to visit of such investigating agencies. Wherever any written request for providing any document/copies of documents is received from the agency, procedure as mentioned in ECA Circular No. 36/2015-20 dated 7th December, 2020 (copy enclosed) issued by DGFT shall be followed and the request from investigating agency for documents shall be brought to the notice of DC, NSEZ and documents sought shall be provided with the approval DC who shall take a decision keeping in view the facts and circumstances of the case. Once approved by DC, the requisite records/documents shall be provided to the investigating agency against a request in writing, under proper receipt, recording name and designation of the receiver. A copy of official ID of the receiving officer should also be kept in record. A complete set of copies of the record being handed over shall be kept in concerned SEZ office file. In such cases, preferably copy of notice under Section 91 of the Code of Criminal Procedure, 1973 duly issued by competent authority of investigating agency along with a copy/number/hyperlink of the FIR filed in



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the case shall also be requested from the visiting investigating official and if provided, the same shall be also be taken on records and kept in relevant file. Such handing over of documents shall be under proper handing over / taking over acknowledgements at the level of DDC.

- (ii) **Visit of State Investigating agencies:** Guidelines as in para 3 and 4 above shall be followed. It should be ensured that while permitting entry to such agencies into an SEZ, the visiting agency officials should produce a letter (duly signed by an officer of the visiting department, not below the rank of a Regional Head/Gazetted Officer) seeking prior approval of DC in terms of first proviso to section 22 of the SEZ Act, 2005,

This issues with the approval of Development Commissioner, NSEZ.

Encl: as above

(Nitin Gupta)

Dy. Development Commissioner

To

1. All officers under DC, NSEZ
2. NSEZ website

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi- 110011.

Dated: - 7th December, 2020.

ECA Circular No. 36 / 2015-20

To

All Regional Authorities

Subject: Providing documents sought by investigating agencies like CBI, ED, DRI, etc.

Attention is drawn to ECA Circular No. 3/1999-2000 dated 10th January, 2000 and OM No.11/2004 dated 26th July, 2004 whereby it has been stated that the RAs would hand over the cases to the investigating agencies **with the prior approval of Headquarters**. This arrangement was prescribed to ensure that only deserving cases are sent for investigation. No permission was required to handover the documents as asked for by the investigating agencies where our offices are not making any reference for investigation.

2. This Directorate has been regularly receiving references from the Regional Authorities seeking permission to hand over documents/copies of documents to the external investigating agencies. Making such references to Headquarters delay the handing over of documents and consequentially result in delays in the investigations. Therefore, it has been decided that whenever a request for documents is received from an investigating agency, Head of the Regional Authority may decide the same keeping in view facts and circumstances of the case.
3. RAs should provide the requisite records to the investigating agency against a request in writing, under proper receipt, recording name and designation of the receiver. A copy of official ID of the receiving officer should also be kept in record. RA Should also keep copies of the record being handed over.
4. If, for any reason, Head of Office is of the view that the requisite documents should not be handed over, he shall make a reference to the ECA Division of Hqrs. clearly bringing out the reasons for such refusal.



Abhijit Bakshi
Jt. Director General of Foreign Trade
Tel. No. 23062220
E-mail: abhjit.bakshi@nic.in

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