To
All Development Commissioners
Special Economic Zones

Subject: Guidelines for Power Generation in Special Economic Zones- regarding.

Sir/Madam

With reference to subject cited above, I am directed to inform that the above mentioned guidelines issued vide this Department’s letter of even number dated 21st March, 2012 have been withdrawn by the Government with immediate effect i.e. 1st April, 2015. Further, the Power Guidelines issued vide this Department’s letter of even number dated 27th February, 2009 have been resorted. A copy of the communication in this regard is enclosed.

2. In pursuance of the above cited decision, you are informed that henceforth setting up of power plants shall be allowed only in the Non-Processing Area of SEZs. Further, those power plants which are presently situated in Processing Areas of SEZs, shall be demarcated as Non-Processing Areas and no operation and maintenance (O&M) benefits will now be available for such power plants. An action taken report in the matter may be furnished to this Department.

Encl. As above

Yours faithfully,

(Kabiraj Sabar)
Under Secretary to the Govt. of India
Tel. 011- 2306 2496
e-mail: kabiraj.sabar@nic.in

Copy to: Department of Revenue (CBDT/CBEC). Govt. of India
Subject: Guidelines for Power Generation, Transmission and Distribution in Special Economic Zone (SEZs)

The undersigned is directed to say that various issues relating to setting up of power units and power distribution facilities in SEZ have been under examination of this Department in consultation with Ministry of Power/Department of Revenue and Ministry of Law. After due consideration of the comments/views received from these Ministries, following guidelines are hereby laid down:

**Generation, transmission and distribution of power in SEZs**

**i) Power plant set up by developer/Co-developer**

A power plant to be set up by developer/co-developer in an SEZ as part of infrastructure facility will be in the non-processing area of SEZ and will be entitled to fiscal benefits only for its initial setting up and no fiscal benefit would be admissible for its operation and maintenance in terms of Rule 27(3) of the SEZ Rules. There will be no obligation to achieve positive Net Foreign Exchange Earning (NFE) for such power plants.

Constituents to whom it can supply power

Such a power plant can supply power to other facilities located in the non-processing area of the same SEZ/facilities located in the non-processing area of other SEZs, SEZ units located in the processing area of the same SEZ/SEZ units located in the processing area in other SEZs, facilities located in the processing area of the same SEZ/facilities located in the processing area of other SEZs and also Domestic Tariff Area (DTA).

**ii) A unit set up within the SEZ**

A unit can be set up within the SEZ to generate power as a product or have a captive power plant and will be located in the processing area. Such a power plant will be entitled to all the fiscal benefits covered under section 26 of the SEZ Act including the benefits for initial setting up, maintenance and the duty free import of raw materials and consumables for the generation of the power in such plants.
With respect to SEZs in sectors such as IT/ITES, Gem and Jewelry, Biotech, etc. where a minimum built up area is stipulated under the SEZ Rules and in respect of which generation of power has been approved by the Board of Approval as authorized operation to the Developer/Co-developer within the processing area, in such cases generation of power will be carried out as a unit without any separate demarcation of the area for that purpose. However, such unit will maintain separate accounts as a power generating unit.

These units will enjoy duty free import of capital goods, raw materials and consumables for the generation of power and such duty free imports of capital goods, raw material and consumables etc. would be counted towards the NFE obligations of the unit.

Constituents to whom it can supply power

Such a unit can supply power to other SEZ Units located in the processing area of the same SEZ/SEZ units located in the processing area of other SEZs, facilities located in the non processing area of the same SEZ/ facilities located in the non processing area of other SEZs, facilities located in the processing area of the same SEZ/ facilities located in the processing area of other SEZs and DTA.

iii) A single power plant in an SEZ

A single stand alone power plant can be set up in an SEZ in which there would be no other units. Such a power plant will be treated as a unit in the processing area and will be entitled to all fiscal benefits covered under Section 26 of the SEZ Act including benefits for initial setting up, maintenance and the duty free imports of raw material and consumables for generation of power in such a plant.

The duty free import of capital goods, raw material and consumables etc. would be counted towards the NFE obligation of the unit as applicable to such units under Rule 53 of the SEZ Rules, 2006.

Constituents to whom it can supply power

Such a power plant can supply power to the facilities in the non processing area of the same SEZ/facilities in the non processing area of other SEZs, SEZ units located in other SEZs and DTA.

Requirement of License

While a generating company may establish, operate and maintain a generating station without obtaining a license under Electricity Act, 2003 subject to compliance of the technical standards as specified in the said Act
and conforming to the definition of generating company under the provisions of the said Act, distribution of power is a licensed activity as specified in section 14 of the Electricity Act 2003 except the situation specified in the 8th proviso to the said Section.

Determination of tariff

Tariff of the electricity for any sales within SEZs shall be determined in accordance with the provisions of the Electricity Act, 2003/ Rules made thereunder.

Creation of separate entities

Separate entities can be created for generation/transmission and distribution of power.

DTA clearance/clearance from processing area to non processing area and duties thereon

In respect of power supplied from processing area to constituents in non-processing area or from processing area to DTA, it should be at such a price as agreed by the regulator and the unit. For such clearance, the quantity of duty shall be leviable at such rate as may be notified as customs tariff by the Department of Revenue on the advise of the Ministry of Power and the Ministry of Commerce, read with Section 30 of SEZ Act, 2005. Such power plants would ensure maintenance of separate meter for supply of power from processing to constituents in non-processing area or from processing area to DTA and amount of power so supplied should be submitted to the Unit Approval Committee for every quarter.

Distribution Licence

In case a power generating plant covered under categories (i) to (iii) as stated above wishes to obtain distribution license, it may make such an application to the State Govt. concerned and upon the recommendation of the State Govt., Deptt. of Commerce will issue necessary Notification under Section 49 of the SEZ Act in consultation with the Ministry of power.

Provided that any State Government can recommend to the Department of Commerce that any power distribution facility coming up in any SEZ in that State can be granted distribution license by the Department of Commerce in consultation with the Ministry of Power. Department of Commerce will issue necessary notification under Section 49 of SEZ Act.
All the provisions of the Electricity Act, 2003 and Electricity Rules, 2005 as amended from time to time by the Ministry of Power along with various power resolutions issued by the Ministry of Power will be applicable wherever warranted to power generating units, whether stand alone or captive power generating units, transmission facilities and power distribution facilities in the SEZs.

Sd/-

(Dr. R.K. Mitra)
Director

To

1. Chief Secretaries of all States/UTs
2. All Development Commissioners of SEZs
3. Ministry of Power
4. DG, EPCES.