

Instruction No.109

File No: K-43013(13)/7/2021-SEZ
Government of India/Bharat Sarkar
Ministry of Commerce and Industry/ Vanijya Aur Udyog Mantralaya
Department of Commerce/ Vanijya Vibhag
(SEZ Section)

Udyog Bhawan, New Delhi

Dated the 18 October, 2021

To

1. All Chief Secretaries of State Governments.
2. All Development Commissioners

Subject: Guidelines regarding reorganization including change of name, change of shareholding pattern, business transfer arrangements, court approved mergers and demergers, change of constitution, change of Directors, etc. of SEZ Developers / Co-developers as well as SEZ Units.

Madam/Sir,

In supersession of Instruction No. 89 dated 17.05.2018 and Instruction no. 90 dated 03.08.2018 of this Department on the subject cited above and in exercise of provisions of Section 10(10) of the SEZ Act, 2005, it is hereby conveyed that the guidelines for approval in the cases of reorganization including change of name, change of shareholding pattern, business transfer arrangements, court approved mergers and demergers, change of constitution, change of Directors, etc. of SEZ Developers / Co-developers as well as SEZ Units shall be as follows.

(i) Reorganization including change of name, change of shareholding pattern, business transfer arrangements, court approved mergers and demergers, change of constitution, change of Directors, etc. may be undertaken by the Unit Approval Committee (UAC) concerned subject to the condition that the Developer / Co-developer / Unit shall not opt out or exit out of the Special Economic Zone and continues to operate as a going concern. All liabilities of the Developer / Co-developer / Unit shall remain unchanged on such reorganization.

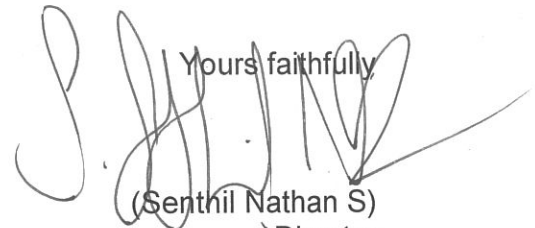
(ii) Such reorganization shall be subject to the following safeguards.

- a. Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered entity;
- b. Fulfilment of all eligibility criteria applicable, including security clearances etc., by the altered entity and its constituents;

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- c. Applicability of and compliance with all Revenue / Company Affairs / SEBI etc. Acts / Rules which regulate issues like capital gains, equity change, transfer, taxability etc.
- d. Full financial details relating to change in equity / merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member (IT&R), CBDT, Department of Revenue and to the jurisdictional Authority.
- e. The Assessing Officer shall have the right to assess the taxability of the gain / loss arising out of the transfer of equity or merger, demerger, amalgamation, transfer and ownerships etc. as may be applicable and eligibility for deduction under relevant sections of the Income Tax Act, 1961.
- f. The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.
- g. The applicant shall furnish details of PAN and jurisdictional assessing officer of the unit to CBDT.
- h. The applicant shall be recognised by the new name or such arrangement in all the records.

2. This issues with the approval of competent authority.


Yours faithfully

(Senthil Nathan S)
Director

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Copy to :-

1. CBDT
2. CBIC, Dept. of Revenue, New Delhi
3. DG, EPCES