

PERFORMANCE OF SPECIAL ECONOMIC ZONES (SEZs)

[Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Ninetieth Report (16th Lok Sabha)]

MINISTRY OF COMMERCE

PUBLIC ACCOUNTS COMMITTEE
(2021-22)

FORTIETH REPORT

SEVENTEENTH LOK SABHA



LOK SABHA SECRETARIAT
NEW DELHI

PAC NO.2248

FORTIETH REPORT
PUBLIC ACCOUNTS COMMITTEE
(2021-22)

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Presented to Lok Sabha on:

Laid in Rajya Sabha on: ...11...8...21...

LOK SABHA SECRETARIAT
NEW DELHI

August, 2021/ Shravana, 1943 (Saka)

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COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2021-22)

Shri Adhir Ranjan Chowdhury - Chairperson

M E M B E R S

L O K S A B H A

2. Shri T. R. Baalu
3. Shri Subhash Chandra Baheria
4. Shri Vallabhaneni Balashowry
5. Shri Sudheer Gupta
6. Shri Bhartruhari Mahtab
7. Shri Jagdambika Pal
8. Shri Vishnu Dayal Ram
9. Shri Rahul Ramesh Shewale
10. Shri Rajiv Ranjan Singh alias Lalan Singh
11. Dr. Satya Pal Singh
12. Shri Jayant Sinha
13. Shri Ram Kripal Yadav
14. Shri Pratap Chandra Sarangi*
15. Shri Gowdar Mallikarjunappa Siddeshwara**

RAJYA SABHA

16. Shri Shaktisinh Gohli
17. Shri Bhubaneswar Kalita
18. Shri C. M. Ramesh
19. Shri Sukhendu Sekhar Ray
20. Dr. M Thambidurai
21. Vacancy #
22. Vacant ##

* Elected w.e.f 29.07.2021 vice Smt. Darshan. Jadhav who ceased to be a member of the Committee consequent to her appointment as Minister in the Union Cabinet on 07.07.2021

** Elected w.e.f 29.07.2021 vice Shri Ajay Teji Mishra who ceased to be a member of the Committee consequent to his appointment as Minister in the Union Cabinet on 07.07.2021

Shri Rajeev Chandrasekhar ceased to be Member of the Committee consequent to his appointment as Minister in the Union Cabinet on 07.07.2021

** Shri Bhupender Yadav ceased to be Member of the Committee consequent to his appointment as Minister in the Union Cabinet on 07.07.2021

SECRETARIAT

1. Shri T.G Chandrasekhar - Joint Secretary
2. Shri S.R Mishra - Director
3. Shri Paolienlal Haokip - Additional Director
4. Shri Pankaj K.Sharma - Committee Officer

INTRODUCTION

I, the Chairperson, Public Accounts Committee (2021-22), having been authorised by the Committee, do present this Fortieth Report (Seventeenth Lok Sabha) on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Ninetieth Report (Sixteenth Lok Sabha) on "**Performance of Special Economic Zones**" relating to the Ministry of Commerce.

2. The Ninetieth Report was presented to Lok Sabha/laid on the Table of Rajya Sabha on 28th March, 2018. The Committee considered the draft Action Taken Report on the subject and adopted the same at their Sitting held on 9th August, 2021. Minutes of the Sitting of the Committee form appendix to the Report.

3. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in **bold** in the body of the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the matter by the Committee Secretariat and the office of the Comptroller and Auditor General of India.

5. An analysis of the Action Taken by the Government on the Observations/Recommendations contained in the Ninetieth Report (Sixteenth Lok Sabha) is given at Appendix-II.

NEW DELHI;
ii, August, 2021
Shravana, 1943 (Saka)

Adhir Ranjan Chowdhury
Chairperson
Public Accounts Committee

Chapter – I

Report

This Report of the Public Accounts Committee deals with the action taken by the Government on the Observations/Recommendations of the Committee contained in their Ninetieth Report (16th Lok Sabha) on "**Performance of Special Economic Zones (SEZs)**" relating to the Ministry of Commerce & Industry.

2. The Ninetieth Report (16th Lok Sabha) was presented to Lok Sabha/laid in Rajya Sabha on 28th March, 2018. The Report contained 8 Observations/Recommendations. Action Taken Notes in respect of all the Observations/Recommendations have been received from the Ministry of Commerce and Industry are categorized as under:

- (i) Observations/Recommendations of the Committee which have been accepted by the Government:

Paragraph Nos. 3, 4, 6, 7 & 8

**Total: 05
Chapter II**

- (ii) Observations/Recommendations which the Committee do not desire to pursue in view of the replies received from the Government:

-Nil-

**Total: Nil
Chapter III**

- (iii) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration:

Paragraph Nos.1 & 2

**Total: 02
Chapter IV**

- (iv) Observations/Recommendations in respect of which the Government have furnished interim replies:

Paragraph No. 5

**Total: 01
Chapter V**

3. During the detailed examination of the subject "**Performance of Special Economic Zones**" relating to the Ministry of Commerce and Industry, the Committee found that the objectives of Special Economic Zones as per the SEZ Act, 2005, were:

generating employment opportunities, encouragement of investment (both domestic and foreign) and increase in India's share in global exports. These objectives could not be realized and the overall performance have been found to be far below projections. Even these were to be achieved through incentivizing the SEZ activities in the form of Income Tax Holidays, various exemptions from several indirect taxes and other benefits. To realize the objectives, Department of Commerce, Department of Revenue, State Governments, Banks, Developers, were required to act in tandem.

4. The Committee noted that the magnitude of tax exemption was huge, to be specific, it was estimated to be to the tune of Rs.83104 crore from 2006-2007 to 2012-2013. The Committee had found that with the setting up of SEZs there were several protests resisting land acquisition, failure of authorities to measure socio-economic impact, magnitude of Govt. funding through various exemptions to SEZs, foregoing revenue, concentration of SEZs in developed States and near to urban centers thereby negating basic objectives of the policy, multi-product manufacturing SEZs lagging behind, Governments acquiring land for private parties who de-notify land to earn profit out of land acquired for public purpose after cost escalation.

5. The Committee found that only 38.78 percent of SEZs became operational and 52 percent of the land allotted was lying idle. The Committee also noted diversion of land acquired for Public Purpose after de-notification, mortgaging SEZs land and diverting funds illegally to other areas, ineffective single window system and absence of sound Monitoring system.

6. Keeping in view the scale of public funding the Committee inter-alia recommended performance parameters for measuring the socio-economic cost, expenditure on SEZs vis-à-vis financial benefits accrued.

7. The Action Taken Notes furnished by the Ministry of Commerce and Industry on the Observations/Recommendations of the Committee contained in the Ninetieth Report (16th Lok Sabha) have been reproduced in the relevant Chapters of the Report. In the succeeding paragraphs, the Committee have dealt with the action taken by the Government on their Observations/Recommendations made in the Original Report.

8. The Committee desire the Ministry of Commerce and Industry to furnish Action Taken Notes in respect of Observations/Recommendations contained in Chapter I within six months of the presentation of the Report to the Parliament.

**Performance of SEZs
(Observation/Recommendation Para No. 1)**

9. The Committee noted that there are elements of gestation period related delays during the initial years of SEZ regime. They also noted that there was steady rise in the performance from 2009-10, i.e. five years after notification of SEZs. However, the Committee found absence of defined performance indicators *vis-a-vis* investments and revenue forgone. The Committee, therefore, concurred with Audit's recommendation for the Ministry to prescribe measurable performance indicators. They also agreed with Audit's recommendations and desired that such performance parameters should be reflective of the revenue forgone as well as the investments that goes into the SEZs and must justify not only the economic, but the social and ecological costs of setting up SEZs.

10. The Ministry of Commerce and Industry while furnishing the Action Taken Notes have stated as under:

"Monitoring of development of SEZs at various stages is defined at SEZ Rules, 2006.

(i) In respect of developer/co-developer of SEZ, in Rule 12 (7) of SEZ Rules, 2006 it is mentioned that "the developer shall submit a half yearly certificate for the period ending 31' March and 30th September of every financial year regarding utilization of goods and services from an independent Chartered Engineer or independent Chartered Accountant or Cost Accountant, as the case may be, other than the one who has given a certificate for the purpose of sub rule (2), to Development Commissioner and Specified Officer and every certificate under this sub rule shall be filed within 30 days of the period specified, as the case may be."

(ii) Further, to strengthen the monitoring of units under SEZ, vide amendment dated 19.09.2018 and subsequent amendment dated 07.03.2019, new provision has been inserted at Rule 19 (6B), which stipulates that "(6B) The process of renewal of Letter of Approval shall take into account the efforts made and the results achieved or status of the following criteria, namely:-

- (a) Export performance of the Unit in the last block.
- (b) Employment generated.
- (c) Instance of violation of applicable statutes related to the functioning of the Unit.
- (d) Cases of default, if any, of statutory payments.
- (e) Undertaking of any activity not sanctioned or approved by the Development Commissioner.
- (f) The decision of the Development Commissioner or Approval Committee in this regard shall be final and binding on the Unit except in cases where the Unit prefers an appeal before the Board of Approval, in accordance with rule 55".

(iii) In case of renewal of letter of approval for units, a specific form F1 has also been devised wherein units have to provide data regarding their performance/ projection. Copy of the Form F1 is placed at Annexure-I. Based on the Form F1, Development Commissioner has to issue the renewal letter of Approval in the prescribed form F2 which also indicates the projections made by the unit in Form F1. Copy of the Form F1 is placed at Annexure-II."

11. The Committee had noted that after a gestation period of almost five years, i.e. 2009-2010 onwards, the performance of Special Economic Zones (SEZs) began showing signs of improvement. The Committee, however, noted that there were no performance indicators on gains made as such vis-à-vis investments and revenue foregone. The Committee had recommended that the Ministry of Commerce and Industry prescribe/frame such measurable Performance indicators, which would justify the revenue foregone on account of special concessions and exemptions granted to the developers and units in SEZs, the investment that goes into the SEZs and the social and ecological costs of setting up of SEZs. The Committee, in this regard, are dismayed to note that the reply of the Ministry only mentions of monitoring of development of SEZs at various stages as mentioned in the SEZ Rules, 2006. These rules merely aim at monitoring the performance of SEZs whereas the thrust of the Committee's recommendation has been on measuring benefits accruing out of SEZs on which the Ministry has conveniently kept silent.

12. In the light of the foregoing, the Committee reiterate their earlier recommendation on formulating and prescribing measurable performance indicators which are reflective of the gains made vis-à-vis the revenue forgone as well as investments in SEZs and justify the socio-economic and ecological costs of setting up SEZs.

Non-uniform Performance
(Observation/Recommendation Para No. 2)

13. The Committee note that the achievements of SEZs in the country are due to good performance of few SEZs located in developed states and mostly established prior to the enactment of the SEZs Act. They opined that the Export Promotion Zones (EPZs) (prior to SEZs Act) had performed better than the SEZs which have become tax evading zones without proportionate benefits to the economy. The Ministry on the issue submitted that the location of an SEZ plays a vital role in its successful take-off depending on factors like availability of contiguous and vacant land, availability of managerial, skilled, semi-skilled, non-skilled workforce, distance from nearest sea-port, air-port, rail and road head in the vicinity of the proposed SEZ, etc. The Committee could

not comprehend as to why the Ministry, while being aware of such important factors for the success of SEZs, still went ahead with most of the SEZs which are under-performing for want of one or more of these factors and desire the Ministry to explain in detail the rationale for setting up such SEZs which are performing under par.

14. The Ministry of Commerce and Industry in their Action Taken Notes have stated as under:

"The SEZ scheme was introduced in the year 2000. The exports from SEZs during 2005- 2006 was Rs.22,840 crores and it has increased to the tune of Rs.7,01,179 crores in 2018- 19. SEZs have also provided employment to more than 20.6 lakhs persons till now. The investment in SEZs during 2005-2006 was Rs.4035.51 Crores and it has increased to the tune of Rs.507644 Crores in 2018-19.

Presently, the Central Govt. is not developing any SEZs in the Country. The Private Developers who were allowed to set-up SEZs in different parts of the country develop the infrastructure and also generate employment in those areas leading to increased economic activities. The local populace will also get benefited from these SEZs in the form of Direct/Indirect Employment and overall development of the area by way of investment for development of infrastructure even if in remote areas.

As part of the application to set up SEZs, the Developers are required to submit an Action Plan for attracting units and ensuring investment and employment opportunities in a time bound manner. Also Investor meet, Road shows and seminars are being conducted from time to time to promote investment, employment and exports. Meetings with State Governments are also being held to make the Single Window Clearance Mechanism more effective and single point interface for such clearance so as to ensure ease of doing business in these SEZs.

There are various Private SEZs which have been approved by the Government on privately owned land in Tier II and Tier III Cities as well as remote areas and have become successfully operational, contributing towards employment generation, investment creation and development of locality as a whole.

SEZ like Sri City in Andhra Pradesh & Dahej SEZ in Gujarat are successfully executed SEZs located away from the main cities.

Further, various SEZs have taken off successfully. For example SEZ of HCL IT City Lucknow Pvt. Ltd. In U.P and SEZs of Mahindra World City Jaipur are some of such SEZs.

Land is a state subject and the SEZs having large tracts of vacant land are mainly in private SEZs. If a developer wants to de-notify any SEZ or parcel of it, the proposal along with required documents, as prescribed in OM dated 14.07.2016 may submit to Department of Commerce for denotification. Since, it is private investment driven, it is their prerogative to de-notify the vacant land. Further, performance of SEZs are reviewed through the annual performance reports (APR) and quarterly performance reports (QPR). As per Rule 5(7) of the SEZ Rules, 2006, the Developer or Co-developer shall have to construct the minimum built up area specified in this rule within a period of ten years from the date of notification of

the Special Economic Zone in which at least fifty percent of such area to be constructed within a period of five years from the date of such notification. Apart from this, the government through Board of Approval (BoA) meetings reviews the performance of non-operationalized SEZs from time to time.”

15. The Committee had, in their original report, noted that SEZs operating in developed States that were set up prior to the SEZ Act 2006 (formerly EPZs) were performing well. Expressing agreement with the observation of the Committee, the Ministry had stated that the location of SEZs plays a vital role in successful take off, and is dependent on factors like availability of managerial, skilled, semi-skilled, non-skilled workforce, distance from nearest sea port, air-port, rail and road head in the vicinity of proposed SEZs etc. Given this background, the Committee found it surprising to note that the Ministry initiated steps towards setting up SEZs in in-conducive areas despite the apparent fact that these projects were not likely to take off beyond acquisition of land and handing over the same to private parties. The Committee are dismayed to note that without elaborating the reasons for promoting SEZs in these in-conducive and inappropriate areas, the Ministry have chosen to present a favourable picture of the SEZ scheme as a whole in general terms. The Committee express serious concern on the socio-economic costs of setting up SEZs in such areas and express doubts whether the SEZs have turned into a tax haven for some. Given these facts, the Committee once again impress upon the Ministry to analyse the cost benefit factors of non-performing SEZs and present the same to the Committee. The Committee also desire that for each SEZ, information containing details of land required, size of land notified as SEZ, and size of the land de-notified may be furnished to the Committee. The Committee also desire for an explanation on the utility and outcome of spending Government money on promotional activities such as organizing road shows and seminars/public awareness functions for facilitating entrepreneurs in setting up units in SEZ.

Sectoral Imbalance
(Observation/Recommendation Para No. 3)

16. The Committee noted the poor performance of multi-product manufacturing Sector SEZs, with 9.6% only catering to multi-product manufacturing, while IT/ITES Sector contributed 56.64%. The Committee also observe the disadvantages faced by multiproduct manufacturing SEZs, such as stiff competition from major world economies like China which provide manufactured products at a highly competitive price/rate, lack of

required scale and labour laws of the country. They desired the Ministry to explore effecting suitable amendments in labour laws that are seen to have negative impact/bearings on the labour supply in the country, especially for multi-product manufacturing sector SEZs.

17. The Ministry in their Action Taken Reply has stated as under:

"Some of the State Govts. have delegated the Powers of Labour Commissioner to the Development Commissioners. Further, this Department is in process of writing to all State Chief Secretaries having SEZs to initiate action for necessary amendment in labour laws in respective states keeping following points in consideration:

- i. The Development Commissioners of SEZ may be designated as Labour Commissioners and accordingly, the power of Labour Commissioner may be delegated to them for the units under their jurisdiction.
- ii. There may be single format for registration/returns for various labour laws. Flexibility in working hours and overtime may also be provided by necessary amendments in the Factories Act, 1948.
- iii. All SEZs may be declared as Public Utility Services area.
- iv. The condition of prohibition for engaging contract labour on perennial nature of work may be exempted in case of SEZs.

Regarding labour codes on social security, wages, industrial relation and welfare uniformly made applicable to all SEZs, the matter will be taken up with Ministry of Labour and Employment.

Department of Commerce has requested the Chief Secretaries of various states and union territories having SEZs to initiate action for necessary amendments in labour laws, as suggested by the committee of development commissioners.

Further, information was sought from Ministry of Labour & Employment on suggestion viz. "The Labour Codes on Social Security, wages, industrial relation and welfare may be uniformly made applicable to all SEZs.

The Labour reforms Cell, Ministry of Labour & Employment has informed that the Code on Wages, 2019; the Industrial Relations Code, 2020; the Occupational Safety, Health and Working Conditions Code, 2020 and the Code on Social Security, have been passed by both Houses of Parliament; assented to by the Hon'ble President of India and notified in the Gazette of India, after their enforcement, these Codes would be applicable to the whole of India, including all SEZs."

18. The Committee had taken note of the non-competitive nature and negative bearing of multi-product SEZs. Changes to be made in the labour laws was felt to be one of the remedies to address the issue. Accordingly, the Committee had recommended that suitable amendments be undertaken in the labour laws to boost supply of labour in multi-product manufacturing Sector SEZs. The

Committee are disappointed with the reply of the Ministry which is evasive and perfunctory. The Committee are disappointed to note that even after a delay of more than three years from the presentation of the report to Parliament no purposive action seems to have been taken towards improving and boosting the performance of multi-product SEZs.

19. The Committee have further taken note of the fact that the Code on Wages, 2019, the Industrial Relations Code, 2020; the Occupational Safety, Health and Working Conditions Code, 2020 and the Code on Social Security, 2020 would be applicable to whole of India and to all SEZs also. The main concern of the Committee has been on increasing availability of labour in the multi-product SEZs with a view to boosting competitiveness. The Committee desire that the Ministry take prompt action on the concerns expressed. The Committee would also like to be apprised of the progress in regard to framing and implementing the rules under the new labour codes, assessing the impact thereof on multi-product SEZs, details of the negotiations held with the stakeholders, and inform the Committee of the progress in this regard.

20. The Committee also note from the reply of the Ministry that a communication is to be addressed to all the States to *inter-alia* declare all SEZs as "Public Utility Services". The Committee, in this regard, express doubts regarding the utility of this suggestion as the Central Government is no longer dealing with SEZs. Also, in the absence of any performance parameters for measuring public benefit, funding for SEZs categorized as 'Public Utility Services' may not be appropriate. The Committee, therefore, desire that the benefits expected of this suggestion may be re-assessed and elaborated upon further.

SEZ land utilization review
(Observation/Recommendation Para No. 4)

21. The Committee noted that there were numerous instances of developers seeking vast tracts of land from the government in the name of SEZs and putting only a fraction of it for notification as SEZ, and earning a lot of money by mortgaging large percentage of the land acquired for "public purpose". The Committee desired that actual land requirements by developers should be ascertained to the extent possible and necessary amendments effected in the SEZ laws to effectively curb mortgaging and utilization for other purposes of land notified or acquired for SEZs. The Committee noted that DOC vide its letter dated 13th September, 2013 advised all State Governments, *inter-alia*, to ensure

that the Developer who propose to de-notify SEZ land is required to pay back all fiscal benefits taken from the Central and State Governments before de-notification is allowed. The Committee, therefore, desired to be apprised of the total fiscal benefit obtained by the Central Government till date on this account within three months of presentation of this report.

22. The Ministry, in their Action Taken Reply, have stated as under:

"The lands required for setting up SEZs are either acquired by the Developer or the State Govt. The value of land or use of land depends upon the market forces. Sometime land of SEZs may remain vacant due to non-setting up of SEZ Units. Setting up of units by entrepreneur depends upon a host of factors like global economic condition, industry-outlook and Policy framework, cost competitiveness, local factors etc. Efforts are being taken to extend facilitation to the entrepreneurs for setting up of Units, organizing roads shows and seminars/public awareness functions to minimize the vacant land.

The actual land required for SEZs are worked out by developers themselves keeping in view the availability of land and other resources. Many a times lands are acquired by the State Governments and made available to the developers for setting up of the SEZ. At this stage, MoC&I has no role to play, as only after finalizing the details of land and location etc. the developer approaches MoC&I for in- principle, formal approval and notification. MoC&I while examining the proposal, examines the non-encumbrance on such proposed lands, the State Government recommendation for the proposed land by the developer / State Government and also whether the proposed land use includes their industrial use. Therefore, the role of MoC&I is limited. In this regard, however MoC&I in consultation with various stake-holders may fix certain parameters and pre-requisites to ensure the proper and judicious use of lands by the developer / State Government.

The minimum area requirement has already been defined in SEZ Rules e.g. for a multi-product SEZ minimum land area requirement is 500 ha or more but not exceeding 5000 ha. The majority of the SEZs are approved/ working on privately owned land. Necessary guidelines have already been issued by the DOC in 2013 to stop misuse of de-notified land parcels. Moreover, as per instruction No.29 dt.18.08.2009 issued by DOC, the BOA will not ordinarily approve any SEZ where the State Govt. have carried out or proposes to carry out compulsory acquisition of land for setting up of SEZs.

As per direction of PAC, the information has been sought from all Zonal DCs regarding details of total fiscal benefits obtained by Central Govt. on this account from various SEZs.

The information regarding the total fiscal benefit obtained by the zones is as below:

- i. VSEZ: Rs. 5,85,86,702/-
- ii. CSEZ: Rs. 5,65,02,000/-
- iii. FSEZ: Rs. 1,01,60,00,000/-
- iv. KASEZ: Rs. 53,32,34,000/-
- v. MEPZ: Rs. 24,44,90,688/-
- vi. NSEZ: Rs. 15,21,70,947/-
- vii. SEEPZ: Rs. 1,59,09,53,000/-"

23. The Committee had expressed concern on numerous instances of developers seeking vast tracts of land from the government in the name of SEZs, putting only a fraction of the land for notification as SEZ, and earning a lot of money by mortgaging a large percentage of land acquired for "public purpose". The Committee noted that the land is acquired by the State Government concerned or the Developer and actual requirement of land for SEZ is also decided by the Developer. Recently, guidelines have been issued limiting the size of land for multi-product units and others. The Guidelines have been issued by aiming at putting a restriction on de-notifying land. The Committee had also enquired about the amount received by the Central Government out of this process of de-notification. The figures given by the Ministry in this regard are obscure and need to be elaborated in clear terms, more specifically on how the Central Govt. has received about Rs.365,19,37337/- in its account as the land for SEZs is acquired by the State Government concerned and the Developer. The Committee desire to be apprised of the action taken against the errant developers/SEZs and clear explanation furnished in this regard within one month.

Mortgage of SEZ land
(Observation/Recommendation Para No.5)

24. The Committee noted 11 developers/units in AP, Karnataka, Maharastra and West Bengal had raised Rs 6309.53 crore as loans by mortgaging SEZ land. They also note that SEZ Act or Rules do not specify that SEZ land cannot be mortgaged and that the Ministry of Commerce had in 2010 permitted units to mortgage the lease hold rights to financial institutions/banks. They further noted that three developers/units had raised a loan amount of Rs.2211.48 crore and utilized the same for purposes other than development of SEZ .The Committee desired to be apprised by the Department of Financial Services the total amount of loans raised from financial institutions/banks by developers/units of SEZ through mortgage of SEZ land lease hold rights and the amount of such loans which have gone bad .The Committee recommend that the Department of Commerce and Financial Services review the SEZ ACT to specify that SEZ land lease hold rights cannot be mortgaged to curb the possibility of huge loans going bad which ultimately would affect the public exchequer.

25. The Ministry in their Action Taken Reply has stated as under:

"At present there is no restriction in SEZ Act or Rules for the mortgage of leasehold lands with banks or other financial institutions for raising loans .Raising loans from financial institutions by mortgaging leased SEZ lands are the subject matter of the financial institution and DoC has no explicit jurisdiction over them In case of any default, banks have the right to proceed under SARFAESI Act.The Govt. SEZs while issuing NOC for mortgage of superstructures specifically stipulates the conditions that lands are not the subject matter of mortgage.

Rule 11(9) of SEZ Rules already prescribe that the developer shall not sell the land in any SEZ, hence developer can give the land only on lease basis. Developer/co-developer also require funds for development of SEZ and it may not be proper to prescribe the condition that for carrying out work of SEZ developer/co-developer cannot mortgage the land and mobilize the resources for development of the SEZ. However, when developer/co-developer raises the loan from the Financial Institution, they must utilize the same only for the developmental activities to be carried out within the SEZ needs to be ensured by the Financial Institution/banks that while sanctioning the loan they may impose such conditions as it considers appropriate and take steps as it considers necessary for ensuring the same. It is also suggested that Financial Institution should also monitor the same periodically in effective manner.

Accordingly, the matter was taken up with D/o Financial Services for issuing guidelines vide letters dated 24.04.2017, 11.07.2017, 07.06.2019, 14.06.2019, 17.09.2019 and 13.11.2019. A reply has been received in this regard from DFS vide letter dated 4th December, 2019 informing that the matter has been referred to Reserve Bank of India (RBI) whose reply is awaited.

26. The Committee are aghast to note that the Ministry appears to be liberal on the aspect of mortgaging of land acquired for public purpose and the developer earning profits on the land acquired by diverting funds for other purposes. The Committee had strongly recommended for a review of the SEZ Act to limit the loan amount turning bad but no action has been taken in the matter. The Committee also note that when a Developer/co-developer raises loans from a Financial Institution, the same is to be used only for developmental activities within the SEZ. The Committee had noted that Rs.2211.48 crore loan raised was diverted to other works and no action has been taken or suggested for being taken by the Ministry. The Committee deprecate the inactiveness of the Ministry on taking remedial measures when the funds are not being utilized as per rules. The Committee also noted that over the years, correspondence has been going on in this regard between the Ministry, Department of Financial Services and RBI but no concrete action has been taken so far. The Committee desire that the matter may be pursued with the Reserve Bank of India on priority and details of the outcome furnished at the earliest.

Tax Administration of SEZs
(Observation/Recommendation Para No.6)

27. The Committee noted lacunae in the Income tax and Wealth tax Acts pointed out by Audit. While endorsing the recommendations by Audit, they desire the Department of Revenue, in consultation with the Department of Commerce, to make incessant efforts as to remove the existing lacunae in the Income and Wealth tax Acts so that short

realization of dues from developer entities are effectively checked and recoveries made at the earliest .The Committee opined that the introduction Minimum Alternate Tax (MAT) and Dividend Deduction Tax (DDT) with retrospective effect had made the tax policy regressive .The Committee further desire the Ministry of Finance to seriously reconsider the removal of Minimum Alternate Tax (MAT) and Dividend Distribution tax (DDT) which have to make SEZs more alternative for entrepreneurs and developers.

28. The Ministry in their Action Taken Reply has stated as under:

"Department of Commerce is in agreement that the original provisions of the SEZ Act should be restored and Ministry of Finance should reconsider the removal of MAT and DDT. To restore MAT and DDT communication from various level viz. Letter from CS to RS dated 29.09.15, Letter from CIM to FM dated 05.01.18, Letter from CS to RS dated 22.11.18, Letter to EA dated 17.05.2019 (Budget proposal) and Letter from AS to RS dated 14.08.2019 have been written.

Factual position has already been intimated to the audit. The response from Ministry of Finance is yet to be received."

29. The Committee reiterate their earlier recommendation and desire the Ministry to pursue the matter with Ministry of Finance and apprise the Committee of the status within three months of the presentation of this Report to Parliament.

NEW DELHI;
11, August, 2021
Shravana, 1943 (Saka)

Adhir Ranjan Chowdhury
Chairperson
Public Accounts Committee

APPENDIX-II
(Vide Paragraph 5 of Introduction)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE CONTAINED IN THEIR NINETIETH REPORT (SIXTEENTH LOK SABHA)

(i)	Total number of Observations/Recommendations	-	08
(ii)	Observations/Recommendations of the Committee which have been accepted by the Government:	-	Total : 05 Percentage: 62.5%
	Para Nos. 3, 4, 6, 7 & 8		
(iii)	Observations/Recommendations which the Committee do not desire to pursue in view of the reply of the Government:	-	Total : 00 Percentage: 0
	Nil		
(iv)	Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration:	-	Total : 02 Percentage: 25 %
	Para Nos. 1 & 2		
(v)	Observations/Recommendations in respect of which the Government have furnished interim replies/no replies:	-	Total : 01 Percentage: 12.5%
	Para No. 5		