

Amendment of the SEZ Rules – guidelines with respect to work from home for SEZ units

The Ministry of Commerce and Industry has issued Special Economic Zones (Third Amendment) Rules, 2022¹ on July 14, 2022, inserting a new provision by way of Rule 43A to the Special Economic Zones Rules, 2006. The said rule provides that special economic zones (“SEZ”) units may permit their employees, including contractual employees, to work from home or from any place outside the SEZ, provided a permission is obtained from the Development Commissioner (“DC”). The categories of employees covered under Rule 43A are: (i) employees of information technology/information technology enabled services (IT/ITeS) units, (ii) temporarily in-capacitated employees; (iii) employees who are travelling; and (iv) employees working offsite.

Key aspects of the amendment

1. SEZ unit is required to submit its proposal for work from home to the DC with the terms and conditions of work from home. The proposal will include the date from which the permission for work from home is utilised, details of the employees to be covered by such permission, etc. A SEZ unit, whose employees are working from home or from any place outside the SEZ on the date the amendment becomes effective, is required to submit its proposal for permission to the DC within 90 (ninety) days from such date.
2. The permission granted will be valid for a period of 1 (one) year from the date of such permission, which can be extended for a further period of 1 (one) year subject to compliance with provisions of Rule 43A (application of extension to be submitted at least 15 (fifteen) days in advance).
3. The proposal for work from home can cover a maximum 50% (or such higher number of employees as approved by DC for *bona fide* reasons) of the total employees, including contractual employees of a SEZ unit.
4. The employees working from home, or any place outside the SEZ, can only work for the services approved for the concerned SEZ unit by the authorities. The SEZ unit is required to ensure that the export revenue of the resultant products or services are accounted for by the SEZ unit to which the employee is tagged.
5. Where an employee ceases to be part of the project of the SEZ unit, the employee should be untagged from the SEZ unit and the identity card of such employee should be surrendered.
6. Temporary removal of goods, including laptop, computer, video projection system, etc. (for virtual private network, virtual desktop infrastructure) to Domestic Tariff Area can be undertaken without payment of duty or integrated goods and services tax, with the prior permission of the Specified Officer, subject to compliance with certain conditions prescribed under Rule 43A.

¹ Notification no. G.S.R. 576(E) dated July 14, 2022

This amendment is useful for SEZ units (especially for IT/ITeS companies operating in SEZs), given the work from home policy presently adopted by these companies. However, companies will need to have a definitive policy for obtaining requisite approvals from DC, and a mechanism to maintain/record physical attendance of the employees.

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