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GAIL allowed to exit Kochi SEZ after repaying duty benefits it had availed

Developers given a year to find replacement to retain SEZ status

AMITI SEN
New Delhi, March 1

The Centre has allowed GAIL to exit as a unit from the Cochin Port Trust Special Economic Zone (CSEZ) in Puthuvypeen, Ernakulam, after repaying the duty benefits it has availed so far, as it failed to meet the requirement of being a net foreign exchange earner (NFE).

Cochin Port Trust, the developer of the SEZ, and the three co-developers — Petronet LNG, BPCL and IOCL — have been given a year's time to bring another unit into the zone that has a direct relationship with their activities, failing which the zone will lose its SEZ status, per a decision taken by the Board of Approval (BoA) for SEZs, in a recent meeting.

It is necessary for a new unit to come up after the exit of GAIL as it was the only operational unit in the SEZ. Without a functional unit, the zone will cease to exist.

"Till such time a new unit is brought in, the developer/co-developer shall not be allowed any duty-free procurement import," the BoA ruled.

The BoA, headed by the Commerce Secretary and comprising top officials from key ministries and departments, is the top decision making body for SEZs.

The Puthuvypeen SEZ was notified as an SEZ in 2006 over an area of 285.84 hectares. GAIL was issued a letter of approval in 2010 for the authorised operation of a 'regasified LG transmission and distribution' unit.

The unit's activities took off in 2013, making the SEZ operational. An investment of around ₹10,000 crore had already been made in the zone with duty concessions.

Fact file

- The Puthuvypeen SEZ, developed by Cochin Port Trust, was notified as an SEZ in 2006
- GAIL was issued a letter of approval in 2010 for the operation of an LNG regasification unit
- GAIL started its activities in 2013, making the SEZ operational
- ₹10,000 crore have so far been invested in the zone, with duty concessions

The GAIL unit purchases LNG from co-developer Petronet LNG and supplies it to its customers, mostly located in the domestic tariff area (DTA), which lies outside the SEZ, after re-gasification.

Per the report of the Development Commissioner (DC), CSEZ, submitted to the BoA earlier, GAIL has been operating for the last five years but during the processing of its renewal application it was found that it has not achieved a positive NFE, a necessary condition for SEZ units.

Denotification petition

GAIL had also insisted on its denotification as an SEZ unit and had filed a writ petition before the Kerala High Court, which directed the BoA to finalise the the company's application for exit and de-notification.

The BoA, in its meeting on February 26, directed the DC, CSEZ, to process the request of the developer, if any, for de-notification of the area occupied by GAIL in the light of the direction of the High Court.

Striking down the developers' argument that a boundary wall was not needed as the goods were removed by pipelines, the BoA asserted that the SEZ rules do not permit such concessions.

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Dividend tax on InvITs may not go

TIMES NEWS NETWORK

New Delhi: Amid intense lobbying, the government is holding firm on its proposal to levy dividend distribution tax on infrastructure investment trusts (InvITs) and real estate investment trusts (REITs). The government is of the view that it is not detrimental to the interests of retail and foreign investors and is in line with the principle of an exemption-free regime.

Several global investors and lobby groups such as the Asia Pacific Real Estate Association (APREA) have argued the move will reduce returns and make it unattractive for Indian companies, including the likes of NHAI, GAIL and PowerGrid, and result in a flight of capital outside the country. REITs and InvITs are seen as tools to raise capital, which can be used for new projects to reduce the asset load, apart from providing an exit option to some investors.

On its part, APREA has argued the government had gone back on its promise to keep dividends out of the tax equation and only levy tax on income. As a result, it has estimated that the tax outgo for a domestic investor with debt from REITs into a special purpose vehicle will see a steep rise. Overseas investors will also see a significant increase.

Days before the Finance Bill is put to vote, government sources told **TOI**, that the move does not increase the burden on retail investors, whose dividend income will be taxed in line with their income bracket. For overseas investors, there is a facility to get a tax credit available to them for taxes paid in India.

"The tax rate has come down significantly and we are moving to an exemption-free regime and this is a move in that direction," said an official. Tax officers also said high-net worth individuals (HNIs) and some companies planning InvITs or REITs have been crying foul but they have to be on the same page as other investors. "How is an HNI in these instruments different from someone buying TCS, Wipro or an infrastructure company's shares?" an officer said, adding that other structures could be looked at for InvITs or REITs.

REITs/InvITs IN THE PIPELINE

Business Trust	Proposed (₹ cr)	Sponsor
Digital Fibre Infra Trust	Over 40,000	Reliance
Tower Infra Trust	25,000	Reliance, Brookfield
NHAI InvIT	20,000	NHAI
Piramal CPPIB	6,000	Piramal, CPPIB
Cube Highways	5,000	Isquared Capital
Mindspace REIT	3,750	K Raheja