

Mukherjee, Arpita; Bhardwaj, Bhavook

Working Paper

Imposition of MAT on SEZs: Concerns and the way forward

Working Paper, No. 314

Provided in Cooperation with:

Indian Council for Research on International Economic Relations (ICRIER)

Suggested Citation: Mukherjee, Arpita; Bhardwaj, Bhavook (2016) : Imposition of MAT on SEZs: Concerns and the way forward, Working Paper, No. 314, Indian Council for Research on International Economic Relations (ICRIER), New Delhi

This Version is available at:

<https://hdl.handle.net/10419/176332>

Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

Terms of use:

Documents in EconStor may be saved and copied for your personal and scholarly purposes.

You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.

If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.

Working Paper 314

Imposition of MAT on SEZs: Concerns and the Way Forward

**Arpita Mukherjee
Bhavook Bhardwaj**

February 2016



Table of Contents

| | |
|---|------------|
| Acknowledgements | i |
| Abstract | ii |
| List of Abbreviations | iii |
| 1. Introduction | 1 |
| 2. A Brief Overview of MAT and its Imposition on SEZs | 3 |
| 3. Performance of SEZs before and after Imposition of MAT | 7 |
| 3.1 <i>Exports from SEZs – Before and After the Imposition of MAT</i> | 9 |
| 3.2 <i>Investment in SEZs before and after the Imposition of MAT</i> | 11 |
| 3.3 <i>Employment in SEZs</i> | 12 |
| 4. Impact of Imposition of MAT: The Primary Survey | 12 |
| 4.1 <i>Developer Survey Analysis</i> | 13 |
| 4.2 <i>The Survey of Units in SEZs</i> | 14 |
| 4.3 <i>MAT Filed by Units in SEZs</i> | 17 |
| 5. Corporate/Income Tax Exemptions to SEZs in Select Countries | 18 |
| 6. Conclusion and Way Forward | 23 |
| References | 27 |
| Appendix A | 29 |
| Appendix B | 30 |
| Annexure A | 31 |

List of Tables

| | |
|--|----|
| Table 1: Increase in the MAT rate from the Assessment Year 2009-10 to 2015-16 | 4 |
| Table 2: Exports from SEZs..... | 9 |
| Table 3: Investment in SEZs (in Rs. billion)..... | 11 |
| Table 4: Foreign Direct Investment in SEZs (in Rs. billion) | 12 |

List of Figures

| | |
|--|----|
| Figure 1: SEZ Units Registered Since April 1, 2012 | 8 |
| Figure 2: Year Wise De-notifications (2010-11 onwards) | 8 |
| Figure 3: Exports from SEZs vs. Rest of the Economy (2005-06 to 2013-14)* | 10 |
| Figure 4: Motivating Factors for Starting Operations in SEZs | 15 |
| Figure 5: Perception of Companies across Different Industries on Importance of Income Tax Holiday | 15 |
| Figure 6: Responses by Different Industries | 17 |

List of Box

| | |
|--|----|
| Box 1 Direct Tax Incentives in Select Countries | 20 |
|--|----|

Acknowledgements

We express our gratitude to Rajat Kathuria, Director and Chief Executive, ICRIER, for giving us the opportunity to work in this area and for his constant encouragement and support. We would like to thank officials of the Special Economic Zone (SEZ) Division, Department of Commerce, Ministry of Commerce and Industry, for their useful insights and providing access to SEZ related data and information. The Development Commissioners of SEZs helped us to collect the data while NSDL (National Securities Depository Limited) Database Management Limited (NDML) provided the compiled data. The Export Promotion Council for Export Oriented Units (EOUs) and SEZs (EPCES) provided valuable information. We are grateful to Anwarul Hoda (Professor, ICRIER), Rajiva Ranjan Singh (Senior Consultant, ICRIER), Harish Kumar (Principal Director of Income Tax), Vivek Gambhir (Chartered Accountant) and Ashwin Ravindranath (Partner, Direct Tax, Tax & Regulatory Services, Ernst and Young LLP) for their valuable inputs. We would also like to thank Tanu M. Goyal (Consultant, ICRIER), Avantika Kapoor (Research Assistant, ICRIER) and Suvi Agrawal (Research Intern, ICRIER) for their valuable suggestions. We are grateful to Tara Nair for copyediting the paper. The administrative team in ICRIER deserves a special mention. In particular, we would like to thank Anu Mohandas for administrative support.

Abstract

A Special Economic Zone (SEZ) is a type of managed industrial cluster which focuses on exports and encourages the inflow of foreign direct investment (FDI) and technology. These “special” zones are given a range of fiscal and non-fiscal incentives, which are not available to firms located in the rest of the country. Fiscal incentives largely include tax concessions. While there can be arguments for or against giving fiscal incentives to an industrial cluster, in practice, a number of developing countries, which promote SEZs, provide tax incentives. Some of these incentives are actionable or even prohibited under the World Trade Organization’s (WTO) Subsidies and Countervailing Measures Agreement. Given this background, this paper focuses on one such direct tax incentive, namely, the exemption from minimum alternate tax (MAT), and the implication of its withdrawal on Indian SEZ developers and units.

Based on secondary data, the paper tries to examine if the withdrawal of the MAT exemption from 1 April, 2012, has adversely affected the performance of Indian SEZs. Based on a primary survey, it tries to understand the importance of direct tax benefits, including MAT exemption, for SEZ developers and units. The paper also examines the direct tax incentives given to SEZs across countries such as Bangladesh, Philippines, Republic of Korea, United Arab Emirates (Dubai) and Vietnam, with whom India competes to get FDI and technology. The paper concludes that all countries provide direct tax incentives to SEZs, and hence, if India wants to continue with the SEZ policy, it has to provide the direct tax incentives. However, such incentives are not unconditional and have to be phased out over time. The paper identifies the gaps in the design of direct tax incentives, focusing on the income tax and MAT exemptions. It makes policy recommendations on how to make the SEZ policy successful and an instrument of the “Make in India” Campaign.

Keywords: SEZs, fiscal policy, India, income tax, minimum alternate tax (MAT), trade policy

JEL classification: F13, H20, H32, K34

Authors’ email: arpita@icrier.res.in; bbhardwaj@icrier.res.in

Disclaimer: *Opinions and recommendations in the report are exclusively of the author(s) and not of any other individual or institution including ICRIER. This report has been prepared in good faith on the basis of information available at the date of publication. All interactions and transactions with industry sponsors and their representatives have been transparent and conducted in an open, honest and independent manner as enshrined in ICRIER Memorandum of Association. ICRIER does not accept any corporate funding that comes with a mandated research area which is not in line with ICRIER’s research agenda. The corporate funding of an ICRIER activity does not, in any way, imply ICRIER’s endorsement of the views of the sponsoring organization or its products or policies. ICRIER does not conduct research that is focused on any specific product or service provided by the corporate sponsor.*

List of Abbreviations

| | |
|--------|---|
| DC | Development Commissioner |
| DDT | dividend distribution tax |
| DGCI&S | Directorate General of Commercial Intelligence and Statistics |
| DTA | Domestic Tariff Area |
| EOU | Export Oriented Unit |
| EPCES | Export Promotion Council for EOUs & SEZs |
| EPZ | Export Processing Zone |
| ETDZ | Economic and Technological Development Zone |
| FDI | foreign direct investment |
| FEZ | Free Economic Zone |
| FIAS | Frankfurt Institute for Advanced Studies |
| FTZ | Free Trade Zone |
| HIDZ | High-tech Industrial Development Zone |
| IT | information technology |
| ITeS | information technology enabled services |
| MAT | minimum alternate tax |
| NDML | NSDL Database Management Limited |
| NFE | net foreign exchange |
| NSDL | National Securities Depository Limited |
| SCM | Subsidies and Countervailing Measures |
| SEZ | Special Economic Zone |
| UAE | United Arab Emirates |
| US | United States |
| VAT | value added tax |
| WTO | World Trade Organization |

Imposition of MAT on SEZs: Concerns and the Way Forward

Arpita Mukherjee & Bhavook Bhardwaj¹

1. Introduction

Globally, the term Special Economic Zones (SEZs) covers a broad range of managed industrial clusters² including Free Trade Zones (FTZs), Export Processing Zones (EPZs), Economic and Technological Development Zones (ETDZs) and High-tech Industrial Development Zones (HIDZs), that can have different definitions. However, they share one common feature – these zones focus on exports and receive certain fiscal and non-fiscal incentives from the government, which may not be available to industrial clusters and firms located outside these zones. Fiscal incentives can be in the form of tax or duty reductions or exemptions and subsidies. These can include direct tax benefits such as income tax holidays for a certain period of time and indirect tax benefits such as service tax or value added tax (VAT) exemptions. Non-fiscal incentives are in the form of single-window clearances for setting up of units, government support in acquisition of contiguous land, training for employees and simplified procedures for custom clearances. The incentives can be given to both developers and units in these zones.

SEZs were initially developed to promote the growth of manufacturing and exports through a cluster-based approach, which leads to economies of scale. These are a ‘special’ form of industrial clusters that focus on attracting domestic and foreign investment and global best management practices and technology. SEZs have also been used as test-bed for reforms in countries such as China. To attract private and foreign investment, countries offer a range of fiscal and non-fiscal incentives to the SEZs. Given the fiscal constraints, it is often not possible for a developing country to offer world-class infrastructure throughout the country. Such countries can have state-of-the-art infrastructure in SEZs and can attract global companies to these zones (for details see Palit and Bhattacharjee, 2008) by giving fiscal and non-fiscal incentives.

Some of the incentives given to the SEZs can be prohibited or actionable under the World Trade Organization (WTO) Subsidies and Countervailing Measures (SCM) Agreement. Therefore, developed countries have moved away from the concept of providing fiscal incentives to “special zones”. However, developing countries continue to promote SEZs and provide them with various fiscal and non-fiscal incentives.

¹ Arpita Mukherjee is a Professor and Bhavook Bhardwaj is a Research Assistant at Indian Council for Research on International Economic Relations (ICRIER).

² When a cluster is developed by a developer or authority that provides common infrastructure such as power, water and internal road connectivity and common user facilities such as a water treatment plant and an effluent treatment plant, it is known as a managed cluster. Managed clusters can be for a single-product (with units producing the output of one sector) or multi-product (with units producing output related to various sectors). Managed clusters have certain norms for entry and exit. Although other forms of managed industrial clusters/parks can receive incentives, this paper focuses only on SEZs.

There are several arguments for and against the incentives given to SEZs in a developing country that has fiscal constraints and earns most of its revenue from direct and indirect taxes (see Pandya and Joshi, 2015). It is often argued that fiscal incentives represent revenue forgone, especially in cases where the developing country subsidises firms from developed countries in SEZs. Countering this view, FIAS (2008) and Farole and Akinci (2011) have found that SEZs contribute to the growth in exports, export diversifications, employment creation, inflow of technology and best management practices. They argued that if the developing country is able to attract FDI and technology, create employment and enhance exports, as has been the case with China, the benefits are far greater than the revenue forgone. Further, some of these benefits can spill-over to industries in the domestic tariff area (DTA)³ through backward linkages. The domestic economy benefits from the direct and indirect employment created by SEZs due to their enhanced business activities, technology transfer and skill up-gradation from improved external competitiveness, and through the development of better supply and value chains.

Tantri (2015) points out that the linkages between fiscal incentives and the performance of SEZs depend on several factors such as the extent of reforms in the country, the sectors or industries that receive the incentives (for example, if import intensive industries receive the incentives, it can lead to a loss of revenue), etc. Studies have also examined the role of fiscal incentives in a company's decision to locate in a country or zone. Woodward and Rolfe (1993) find that government incentives, especially the length of tax holidays, have an impact on export-oriented FDI as against market-oriented FDI. Ceislik and Ryan (2005) find that tax incentives do not have a significant influence on the location decisions for Japanese multinationals. In the case of India, Nidheesh (2014) finds a positive relationship between tax incentives and exports, investment and employment for the Cochin SEZ. A survey of 102 SEZ firms in Gujarat by Pandya and Joshi (2015) shows that almost 75 per cent of the respondents consider direct tax incentives to be more important than indirect incentives. Thus, the existing literature highlights the role of fiscal incentives in a company's location decision as well as in the performance of SEZs.

India was one of the first countries to have an export processing zone in Kandla in 1965. The export processing zones were given a range of fiscal incentives. Inspired by China's success in enhancing its global share of exports through SEZs, India drafted its SEZ Act in 2005, followed by the SEZ Rules in 2006. The SEZ Act, 2005, specifies a list of fiscal incentives that are given to developers and units located in an SEZ. These include both direct and indirect tax benefits such as exemptions from taxes, duties and cess on goods and services exported out of, or imported into an SEZ, or procured from the DTA, exemptions from income tax for a certain time period, exemptions from minimum alternate tax (MAT) and dividend distribution tax (DDT), exemptions from central sales tax, and exemptions from services tax.⁴

³ DTA means an area within a country (say, India) that is outside the Special Economic Zones.

⁴ For details, see <http://www.sezindia.nic.in/about-fi.asp> (accessed on 9 December, 2015)

The benefits offered to SEZs on direct taxes under the Income Tax Act, 1961 are given in the Second Schedule of the SEZ Act, 2005. MAT exemption was one of the important direct tax benefits that the SEZs enjoyed under the SEZ Act of 2005. However, in the Union Budget 2011-12, it was announced that the MAT and DDT exemptions will be withdrawn from 1 April, 2012 and that neither developers nor units will enjoy MAT exemption any longer. Subsequently, the Finance Act, 2011, notified the imposition of MAT and DDT on SEZs (see Appendix A for details).

A number of studies have shown that the withdrawal of MAT incentives has adversely affected the morale of exporters in SEZs. It is further argued that with the withdrawal of MAT exemptions, operation in DTA is more beneficial than operation in SEZs (for example, see Sharma et al., 2014). However, others have argued that the government gives significant incentives to SEZs without commensurate benefits (Dutta, 2009).⁵ Even before the imposition of MAT, a number of SEZs were notified (which implies that they had land and were enjoying tax benefits) but had not become operational (implying that they were not able to attract units in spite of the attractive fiscal regime). Some have even questioned the desirability of continuing with tax incentives for SEZs in view of their limited growth and not-too-significant contribution to exports (Bagchi et al., 2005). More recently, the government's own reports (Department of Revenue, 2014) highlight a huge revenue loss due to the fiscal benefits given to the SEZs.

Given this background, the objective of this paper is to understand the impact of the withdrawal of the MAT exemptions on SEZs. The layout of the paper is as follows. Section 1 provides a brief overview of MAT. Section 2 analyses the performance of SEZs before and after the imposition of MAT based on secondary data. A primary survey of SEZ developers and units is presented in Section 3. The survey tries to understand the perception of developers and units about the impact of the imposition of MAT. Section 4 discusses direct tax exemptions in select countries, which enables a comparison with India. Section 5 presents the key findings and policy recommendations.

2. A Brief Overview of MAT and its Imposition on SEZs

MAT, a form of income tax levied on companies, was first introduced in India through the Finance Act of 1983 *via* Section 80VVA. It was effectively imposed by the Finance Act of 1987 under Section 115JB of the Income Tax Act, 1961. MAT was modelled on the “alternate minimum tax” or “minimum tax” of countries such as the United States (US). A number of countries, namely Brazil, Russia, China, South Africa, Austria, Belgium, Republic of Korea and the US, levy MAT. However, countries differ in their approach as to who should be covered under MAT (for example, domestic companies, foreign companies, foreign institutional investors, etc.). Most countries do not levy MAT on foreign companies unless they are physically present in the country (for details see Ministry of Finance, 2015). Generally, countries levy MAT based on type of company (domestic companies, foreign

⁵ See also “Special Economic Zone – Brain or Drain” by Kavitha Rao, *Business Standard*, 8 September, 2007.

companies, foreign institutional investors, etc.) but not on the basis of where the company is located – SEZs or DTA. Further, a number of countries such as the US and the European Union member states have moved away from the SEZ model after the implementation of the WTO’s SCM agreement and hence, the issue of giving MAT exemptions to SEZs does not arise. Countries such as China and Republic of Korea, which levy MAT, do not specify the MAT exemption in their SEZ policy (see Section 4).

Globally, the rationale behind the imposition of MAT is to bring ‘zero tax’ companies into the tax net. A ‘zero tax’ company refers to a company that may have high profits in its books and distributes dividend to its stakeholders but does not pay any tax due to certain exemptions under the income tax law, which eliminates its tax liability. To curtail this, MAT imposes a compulsory tax liability on a company based on the book profits. In a nutshell, the purpose of MAT is to bring companies that have the ability to pay under the ambit of taxes.⁶ If a percentage of the book profit is greater than the standard tax liability, then companies have to pay MAT. In the case of India, the book profit of a company is determined as net profit as per the profit and loss account with upward and downward adjustments under Section 115JB⁷ of the Income Tax Act, 1961, for the purposes of computing MAT.

After the imposition of MAT, the rate of MAT has increased over the years (See Table 1). The rate of MAT has been 18.5 per cent with effect from 1 April, 2012. In reality, it is even higher as it includes surcharges and cess, which are applicable on book profit.

Table 1: Increase in the MAT rate from the Assessment Year 2009-10 to 2015-16

| Assessment Year | MAT rate (in percentage) |
|-----------------|--------------------------|
| 2009-10 | 10 |
| 2010-11 | 15 |
| 2011-12 | 18 |
| 2012 onwards | 18.5 |

Source: Extracted from Ministry of Finance (2015), Table 2.1, p10.

Companies in India claim a number of deductions under the provisions of Income Tax Act, 1961, such as those related to depreciation, which enables them to reduce their income tax liability in spite of earning profits and giving huge dividends to shareholders. One of the downward adjustments is the amount of profits eligible for deduction under Section 80HHC⁸ or Section 80HHE⁹ or Section 80HHF¹⁰ in relation to the company’s exports. The deductions

⁶ <http://finmin.nic.in/reports/ReportonApplicabilityofMinimumAlternateTax%20onFIIsFPIs.pdf> (accessed on 17 December, 2015)

⁷ http://www.incometaxindia.gov.in/_layouts/15/dit/pages/viewer.aspx?grp=act&cname=cmsid&cval=102120000000037244&opt=&isdlg=1 (accessed on 22 January, 2016)

⁸ Section HHC ‘Deduction in respect of profits retained for export business’ http://www.incometaxindia.gov.in/_layouts/15/dit/pages/viewer.aspx?grp=act&cname=cmsid&cval=102120000000037043&opt=&isdlg=1 (accessed on 22 January, 2016)

⁹ Section HHE ‘Deduction in respect of profits from export of computer software, etc.’ http://www.incometaxindia.gov.in/_layouts/15/dit/pages/viewer.aspx?grp=act&cname=cmsid&cval=102120000000037045&opt=&isdlg=1 (accessed on 22 January, 2016)

under these sections have been phased out under the Finance Act of 2011 and no deduction has now been allowed for the assessment year beginning on or after 1 April, 2005. The purpose of this policy change was to bring export profits under MAT.

MAT is an advance tax. Therefore, if a company pays liability as per MAT in a given year, it is entitled to claim the credit of MAT paid over and above the normal tax liability in subsequent years. This can be carried forward for a period of 10 years. Thus, the additional tax paid on account of MAT is an advance payment for future tax liability.¹¹

As discussed above, SEZ developers and units in the past enjoyed MAT exemptions under the SEZ Act, 2005. Under this Act, there was no sunset date for MAT exemption for SEZ developers and units, which implied that they may enjoy such exemption for an indefinite period. In the Union Budget 2011-12, it was announced that the MAT exemption will be withdrawn and subsequently the Finance Act of 2011 imposed MAT from 1 April, 2012 retrospectively on SEZ developers and units from 1 April, 2005.

The sudden imposition of MAT on SEZs and that too retrospectively, without any changes in the SEZ Act of 2005, has faced significant criticism from various stakeholders including developers, units and SEZ experts on several grounds. These are described below.

First, MAT exemption is a part of the SEZ Act 2005 and without making any changes in this Act, the exemption was withdrawn. An Act should provide an investor with a stable investment regime and the sudden withdrawal of MAT exemption has raised questions regarding the stability of the regulatory regime related to the SEZs in India.

Second, the imposition of MAT highlighted the lack of co-ordination between the Ministry of Finance and the Ministry of Commerce and Industry in designing a transparent and stable fiscal regime. Specifically, it reflected the sporadic nature of the Indian tax regime.

Third, the imposition of MAT has taken away the benefits of income tax exemptions enjoyed by SEZ developers and units. For example, if an SEZ unit is in the first five years of operation, where the unit enjoys complete income tax holiday, it still has to pay MAT. Further, the MAT was imposed without taking into consideration that MAT is a form of income tax and, hence, MAT exemptions should follow the pattern of income tax exemption.

Fourth, experts argued that while a country has the right to change its direct tax regime, there should be predictability in the tax policy so that it does not hurt business sentiments. MAT should not have been imposed retrospectively.

Fifth, MAT did not have a sunset date under the SEZ Act of 2005 and, therefore, SEZ developers and units assumed that it will continue indefinitely.

¹⁰ Section HHF 'Deduction in respect of profits and gains from export or transfer of film software, etc.' http://incometaxindia.gov.in/_layouts/15/dit/pages/viewer.aspx?grp=act&cname=cmsid&cval=10212000000037046&k=&isdlg=1 (accessed on 22 January, 2016)

¹¹ <http://www.incometaxindia.gov.in/Tutorials/10.mat-and-amt.pdf> (accessed on 17 December, 2015)

Sixth, it has been pointed out that MAT affects the working capital requirements of companies as it is a form of advance tax. Hence, it is likely to affect the performance of an SEZ.

Thus, there is an ongoing debate on whether MAT should be imposed on SEZs. The SEZ Division of the Department of Commerce has continuously made requests to the Ministry of Finance to continue with the MAT exemptions. Those in favour of MAT exemption have argued that imposition of MAT has adversely affected investors' sentiments while those against MAT exemptions have argued that huge revenue has been foregone due to MAT and other exemptions given to SEZs. They have also argued that, unlike in China, the Republic of Korea and Vietnam, SEZs have not been successful in developing manufacturing, especially high-value manufacturing in India in spite of several exemptions.

Before the withdrawal of the MAT exemption, a large number of SEZs were approved and notified but they failed to become operational.¹² The case of notified but non-operational SEZs requires a special mention as they have the land and get all the tax benefits – yet they are not able to attract units. This raises the question on whether there is a need for tax exemptions to such zones.

A more balanced approach has been taken by a third group, which points towards the duration of incentives that should be given to SEZs. If these are given for an indefinite period, then SEZs can be viewed as tax havens. Globally, SEZs are given some incentives in the initial stages of operations, which are gradually phased out. For example, foreign firms in China used to have a lower corporate tax than domestic firms and they were also exempted from local income tax (Wang, 2013; Zeng, 2011). In fact, China in the past had different incentive structures not only for firms located inside SEZs and outside SEZs but also for domestic and foreign firms within SEZs (Tantri, 2011). This has now been phased out.

Amidst these arguments, the Department of Revenue's 2014 report prepared by the Comptroller and Auditor General had claimed that exemptions to SEZs have led to significant revenue losses.¹³ These exemptions include MAT exemption. However, the argument about revenue loss due to MAT seems to be based on perception rather than the data on actual amount of MAT foregone or collected from SEZs. Prior to the imposition of MAT, the SEZ developers and units did not have to compute and declare their MAT liability. Further, the amount of MAT exemption is not recorded in the annual performance report submitted to the Development Commissioner's office or in data collected by the Ministry of Finance. While the data is available on total revenue collected due to MAT, it is extremely difficult to isolate the revenue between that collected from SEZs and DTA, given the manner in which data on MAT is collected. After the imposition of MAT on SEZs, units and

¹² The process of approval for an SEZ is four-fold. The first stage involves an in-principle approval. In this stage, the land has been identified by the developer but it is not in its possession. The second stage is the formal approval stage, where land is in the possession of the developer. The third stage involves notification of the SEZ, when relevant documents have been submitted and verified. The last stage is when the SEZ becomes operational, i.e., when at least one unit starts to function.

¹³ <http://timesofindia.indiatimes.com/business/india-business/Rs-83000-crore-revenue-lost-on-SEZs-in-6-years/articleshow/45253460.cms> (accessed on 31 December, 2015)

developers have to file the Form number 29B (given in Appendix B). This form does not capture the location of units – whether they are located in an SEZ or DTA. Moreover, in the past, while the DTA unit of a company was subject to MAT, the SEZ unit enjoyed MAT exemptions. The companies no longer have this option. In fact, a company with offices in both DTA and SEZs is more likely to file a single MAT form at the company/corporate level. In such cases, how can one calculate the MAT collected from SEZ units?

Since the SEZ developers and units have pointed out that they have been adversely affected by the imposition of MAT, a primary survey was conducted with SEZ developers and units across India to assess their perceptions about MAT and how they were affected by the MAT imposition. Further, with the support of the Development Commissioners (DCs) of different zones, detailed questionnaires were sent to SEZ units to collect information on the amount of MAT that they filed or were likely to file in the financial year 2014-15.

Before discussing the findings in detail, we focus on the performance of SEZs before and after the imposition of MAT based on secondary data provided by the SEZ Division of the Department of Commerce, Ministry of Commerce and Industry, and the Export Promotion Council for EOUs and SEZ (EPCES) factsheets. The analysis tries to examine the impact of imposition of MAT on the performance of the SEZs.

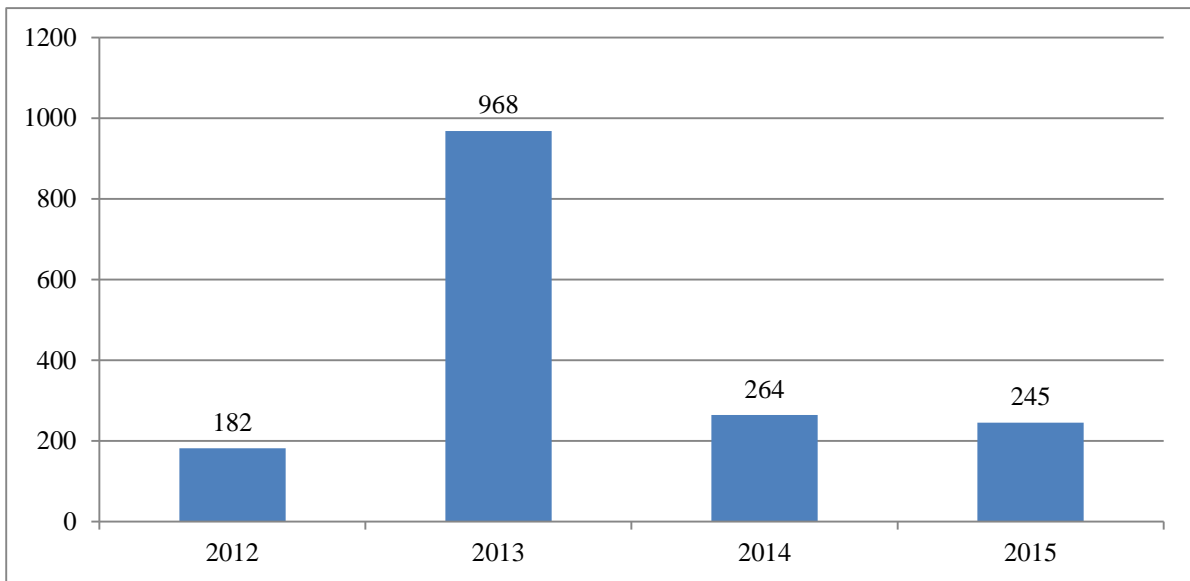
3. Performance of SEZs before and after Imposition of MAT

As of 6 May 2015, 437 SEZs were approved under the SEZ Act, 2005. During the same period, there were 348 notified and 202 operational SEZs. Statistics provided by EPCES show that as of 31 March, 2015, the SEZs have attracted investments worth Rs. 3,387.94 billion and have generated direct employment for more than 1.44 million people. In the year 2014-15, exports worth Rs.4637.7 billion were made from the SEZs.

After the imposition of MAT, from 2012 to 2015, the number of operational SEZs has increased from 153 to 202 and around 1650 units¹⁴ have registered in SEZs. Figure 1 shows the year-wise registrations of units in SEZs. The number of units registered saw a sudden increase in 2013 with around 960 units registering into SEZs. Thus, MAT does not seem to have adversely affected the registration of units in SEZs.

¹⁴ As of 31 March, 2015, a total of 4059 units have been registered in SEZs. Among these, around 3000 are active units (i.e., engaged in production or in rendering services) and 1650 new units registered in SEZs after 1 April, 2012.

Figure 1: SEZ Units Registered Since 1 April, 2012

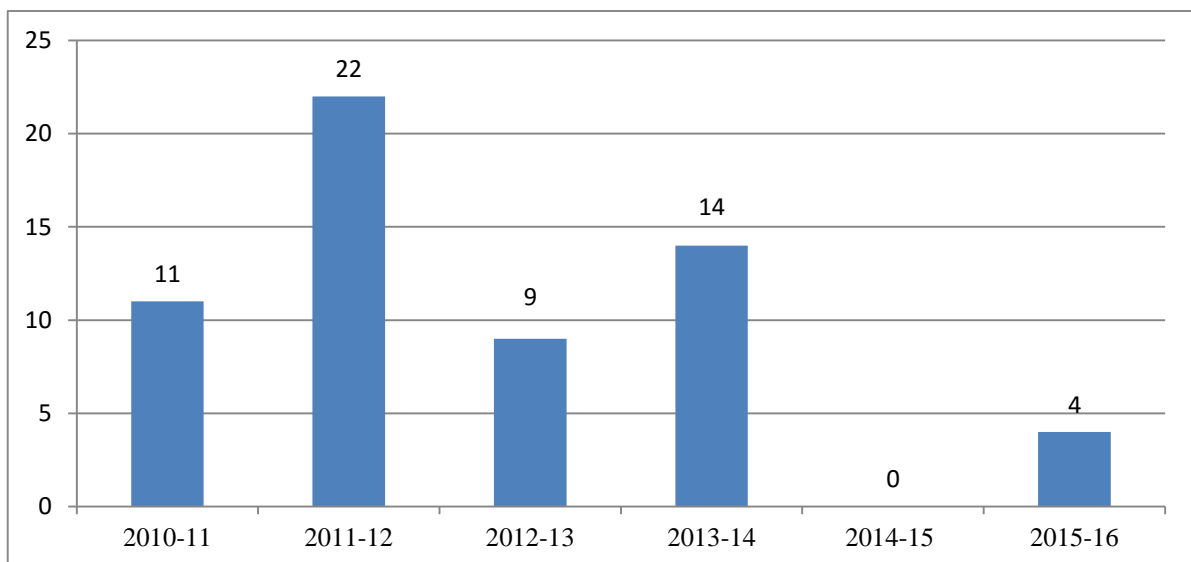


Source: Data Provided by SEZ Division, Department of Commerce, Ministry of Commerce and Industry

Note: For 2015, the information is as of 1 November, 2015

The imposition of MAT may impact the decision of developers and units to move out of the SEZs. The developers can do so by requesting for partial or full de-notification of the SEZ. Figure 2 shows the trend in approval of de-notifications since the year 2010-11 given by the Board of Approval.

Figure 2: Year Wise De-notifications (2010-11 onwards)



Source: Data Provided by SEZ division, Department of Commerce, Ministry of Commerce and Industry

Note: The data for 2015-16 is till 4 November, 2015

Figure 2 shows that in the year 2011-12, there was a peak in the approvals for de-notification with 22 SEZs being de-notified. The reasons for increased de-notification in this period included imposition of MAT. However, in the subsequent years, the number of de-notifications has seen a gradual decline with no de-notifications in the year 2014-15. Thus, while on the one hand, a number of SEZs have applied for de-notifications, on the other, a number of SEZs became operational after 1 April, 2012. There has also been an increase in the number of units locating in the SEZs.

The performance of SEZs depends on a variety of parameters such as exports from SEZs, employment and investment. Some of these are discussed below.

3.1 Exports from SEZs – Before and After the Imposition of MAT

Ideally, exports, imports and net foreign exchange earnings should be the indicators for the performance of an SEZ. However, in the absence of data on imports into SEZs, exports from SEZs have been taken as an indicator to examine the performance.

Exports from SEZs increased from Rs.228.40 billion in 2005–06 to Rs.4,637.70 billion in 2014-15, registering a CAGR of 39.73 per cent. In real terms, exports from SEZs witnessed a more than eleven-fold increase during this period. However, the export performance has not been uniform. Exports from SEZs rose steadily during the initial years, registering a growth rate of around 92 per cent in 2007–08 and 121 per cent in 2009–10, but in subsequent years, the growth rate slowed substantially to around 15 per cent in 2011–12; the growth rate was negative in 2014–15 (Table 2).

Table 2: Exports from SEZs

| Year | SEZ Exports (Rs. billion, current prices) | Export Growth (based on current prices) in percentage | SEZ Exports (Rs. billion, 2011–12 prices) | Export Growth (based on 2011–12 prices) in percentage |
|-------------|--|--|--|--|
| 2004–05 | 183.14 | | 287.14 | |
| 2005–06 | 228.40 | 24.7 | 343.55 | 19.64 |
| 2006–07 | 346.15 | 51.6 | 489.24 | 42.40 |
| 2007–08 | 666.38 | 92.5 | 890.59 | 82.03 |
| 2008–09 | 996.89 | 49.6 | 1,226.07 | 37.66 |
| 2009–10 | 2,207.11 | 121.4 | 2,559.31 | 108.74 |
| 2010–11 | 3,158.68 | 43.1 | 3,360.80 | 31.31 |
| 2011–12 | 3,644.78 | 15.4 | 3,644.78 | 8.44 |
| 2012–13 | 4,761.59 | 30.6 | 4,424.21 | 21.38 |
| 2013–14 | 4,940.77 | 3.8 | 4,320.64 | -2.34 |
| 2014-15 | 4,637.70 | -6.1 | 3,936.11 | -8.89 |

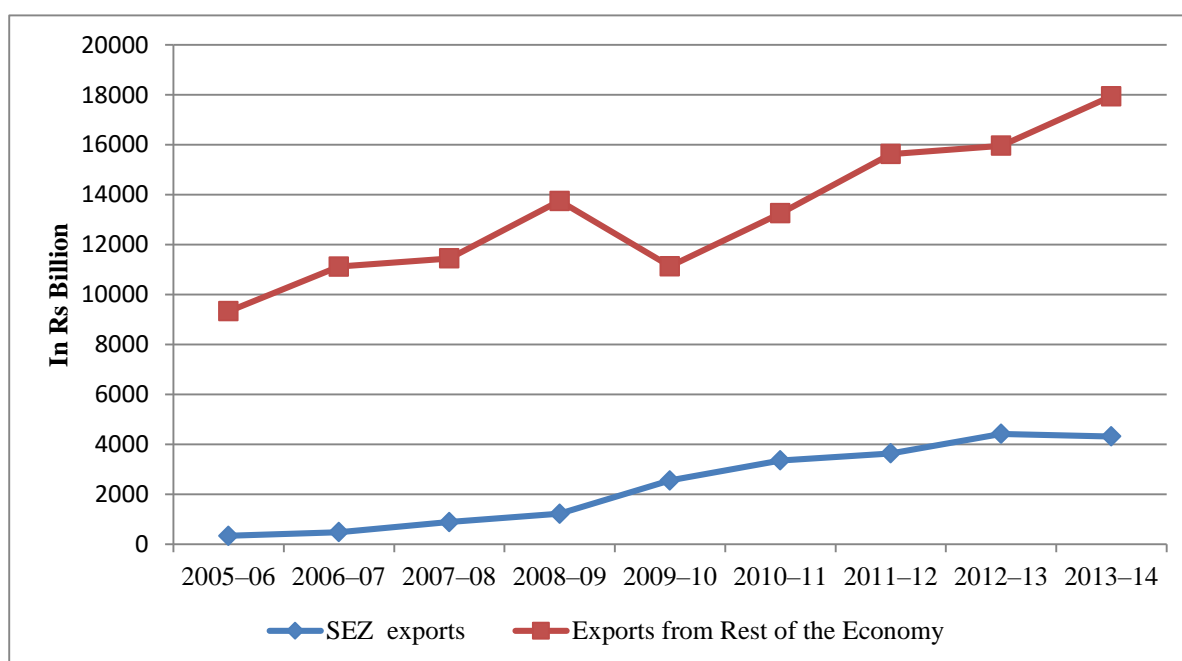
Source: Department of Commerce and EPCES fact sheets.

In order to assess whether the slowdown in export growth from SEZs is part of a general trend (for example, due to global economic factors that would affect the country's overall

export), or from factors specific to SEZs, it is important to analyse export performance of SEZs *vis-à-vis* the export performance of the rest of the economy. In calculating total exports, both merchandise exports data from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and miscellaneous services exports data from the RBI have been used. Since services exports constitute a significant part of SEZ exports, considering only merchandise exports would deflate the contribution of SEZ exports to total exports.

The share of SEZ exports in the country’s total exports increased from 3.6 per cent in 2005-06 to around 8 per cent in 2008-09 and jumped to over 22 per cent the very next year. However, since 2009-10, the share of SEZ exports has remained more or less stable, hovering between 24 per cent and 27 per cent. In comparison to the export performance of the rest of the economy, exports from SEZs rose steadily from 2005-06 to 2009-10, registering its sharpest gain in 2009–10, when exports from the rest of the economy declined substantially in the aftermath of the global financial crisis. However, after 2009–10, the growth rate of SEZ exports flattened compared to the rest of the economy and exports from SEZ declined in 2013–14 when exports from the rest of the economy witnessed a healthy growth of around 15 per cent over the previous year (for details see Mukherjee et. al., 2015)

Figure 3: Exports from SEZs vs. Rest of the Economy (2005-06 to 2013-14)*



Source: DGCI&S and RBI

Note: The exports are calculated at 2011–12 prices

It is important to note that exports from SEZs have been declining since 2012-13 whereas the trend has not been the same for rest of the economy (Figure 3). An analysis of the reasons behind the slowdown of SEZ exports would require detailed sector-wise and SEZ-wise time series data on export performance over these years. In the absence of such systematic data, it is difficult to draw any broad conclusions, except that while exports from rest of the economy

have picked up after the global slowdown, SEZ exports have not shown a similar trend. A part of this slowdown can be attributed to the MAT. However, during the same time, there were several notifications on units in SEZs such as the 80-20 rule for gold imports from the DTA on gems and jewellery¹⁵ units, which may have adversely affected exports.

3.2 Investment in SEZs before and after the Imposition of MAT

Prior to February 2006, the total cumulative investment in SEZs was Rs. 40.36 billion. Under the new SEZ regime, cumulative investment in SEZs increased almost 19 times to Rs. 772 billion by 2007-08 (Table 3) and almost 90 per cent of these came from investment in new SEZs notified under the SEZ Act, 2005.

By 2013–14, the total cumulative investment in SEZs increased to Rs. 2,966 billion. Yearly investment in SEZs in real terms shows an upward trend between 2008-09 and 2010-11 before registering a disinvestment to the tune of Rs. 9 billion in 2011-12. It recovered in the subsequent years and, by 2013–14, annual investment had gone past its 2009-10 level. Interestingly, disinvestment in SEZs coincided with the withdrawal of the MAT exemption in the Union Budget of 2011-12.

Thus, there may have been some negative relationship between the policy reversal and investments in SEZs. Table 3 also indicates that investments in SEZs remain an insignificant part of total investments in the country.

Table 3: Investment in SEZs (in Rs. billion)

| Year | Cumulative Investment in SEZs* | Incremental Investment in SEZs | Annual Investment in SEZs | Annual Investment in SEZs (2011–12 prices) | Total Investment in India | SEZ Investment as per cent of Total Investment |
|---------|--------------------------------|--------------------------------|---------------------------|--|---------------------------|--|
| 2007–08 | 772 | 732 | | | 14308 | |
| 2008–09 | 1089 | 1049 | 317 | 389.88 | 14809 | 2.1 |
| 2009–10 | 1485 | 1445 | 396 | 459.19 | 15809 | 2.5 |
| 2010–11 | 2028 | 1988 | 543 | 577.75 | 18176 | 3.0 |
| 2011–12 | 2019 | 1978 | –9 | –9 | 18973 | |
| 2012–13 | 2367 | 2327 | 348 | 323.34 | | |
| 2013–14 | 2966 | 2926 | 599 | 523.82 | | |
| 2014-15 | | 3387 | 461 | 391.26 | | |

Source: Department of Commerce, SEZ Division and Central Statistical Office.

Note: * Cumulative investment since February 2006

¹⁵ The 80–20 rule for gold imports from the DTA was imposed in August 2013. Under this rule, 20 per cent of gold imported by DTA units has to be exported, thereby forcing several DTA suppliers with units in SEZs to divert exports from the SEZ to the DTA to meet the requirements. For details see <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=8312&Mode=0> (accessed on 31 December, 2015)

The FDI received in SEZs in 2008-09 (Rs.36.47 billion) accounted for a meagre 11.5 per cent of total investment in SEZs, which increased to 15 per cent in 2009-10 before dropping to 11.1 per cent in 2010-11 (Table 4).

Table 4: Foreign Direct Investment in SEZs (in Rs. billion)

| Year | FDI Inflow in SEZs | Total FDI (equity inflows) | Annual investment in SEZs | SEZ FDI as per cent of Total FDI | SEZ FDI as per cent of Annual Investment in SEZ |
|---------|--------------------|----------------------------|---------------------------|----------------------------------|---|
| 2008–09 | 36.47 | 1428.29 | 316.94 | 2.6 | 11.5 |
| 2009–10 | 57.95 | 1231.20 | 385.86 | 4.7 | 15.0 |
| 2010–11 | 60.12 | 973.20 | 543.21 | 6.2 | 11.1 |
| 2011–12 | -113.24 | 1651.46 | -9.35 | | |

Source: SEZ Division, Department of Commerce and Department of Industrial Policy and Promotion, Ministry of Commerce and Industry

The share of FDI in SEZs in the country’s total FDI inflows, though relatively small, increased steadily from 2.6 per cent in 2008–09 to 6.2 per cent in 2010-11. However, during 2011-12 there was a flight of FDI from SEZs despite the fact that total FDI in the country grew by almost 70 per cent over the previous year. The Rs. 9.35 billion disinvestment in SEZs during that year was driven by the Rs. 113.24 billion outflow of FDI from SEZs. This can possibly be due to the imposition of MAT and other taxes on foreign investors such as the DDT.

3.3 Employment in SEZs

While exports from SEZs increased 22 times between 2005-06 and 2013-14, employment in SEZs increased only ten-fold during this period – from 135,000 in 2005-06 to 1,283,000 in 2013-14. It further increased to 1,504,597 in 2014-15.

Overall, the analysis of secondary data shows that there may have been an adverse impact of imposition of MAT. While there has been an increase in the number of operational SEZs and units in SEZs, the number of de-notifications has increased. The analysis also shows that MAT may have affected the performance of SEZs by affecting its export performance and ability to attract investments.

To better understand the impact of MAT on SEZs and to examine the perception of SEZ developers and units towards the imposition of MAT, a primary survey was conducted. The next section analyses the survey findings.

4. Impact of Imposition of MAT: The Primary Survey

The primary survey involved in-depth interviews with select SEZ developers, units, policy makers of central and state governments, DCs or SEZ zonal heads, industry associations, international experts and academics. Semi-structured questionnaires were sent to SEZ

developers (in different categories such as notified but not operational SEZs, operational SEZs, de-notified SEZs and approved but not notified SEZs), units in SEZs, followed by one-on-one interactions in some cases. The survey was conducted between March 2014 and July 2014.

4.1 Developer Survey Analysis

In total, filled in questionnaires were received from 46 operational developers, 19 notified but not operational developers, 8 formally approved but not notified developers, and 9 de-notified developers located in seven states, namely, Andhra Pradesh, Gujarat, Haryana, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal.

Thirty-seven out of the 46 developers of operational SEZs mentioned that the imposition of MAT has adversely affected their business. However, when asked what the affect was, the response was mixed. While some referred to lower profitability, others referred to lower working capital or reduced cash flow. When asked if they were contemplating withdrawal from the SEZ business as a result of the imposition of MAT, only four out of 46 operational developers said that direct tax issues (including MAT imposition) “made them consider” de-notification of SEZs.

Out of the 19 notified but not operational developers, four said that MAT is not applicable to them and all the others pointed out that they have been adversely affected by the imposition of MAT. One developer said that they will reach a breakeven point by the time their income tax exemptions are over and, therefore, withdrawal of MAT exemption will adversely affect them in the future. Another respondent pointed out that income tax benefits have become redundant as almost 20 per cent MAT (including other cess) is now imposed on the book profits. Developers also argued that MAT was imposed retrospectively at a time when there was a global slowdown and a slowdown in the Indian economy.

Overall, most developers referred to unclear fiscal policy, delays in getting clearances from state governments (especially environment clearances), lack of interest of units due to global slowdown and difficulties in catering to the DTA or domestic market from SEZs as some of the key problems in making SEZs operational. Thus, the imposition of MAT is one of the many problems that is hindering the ability of notified SEZs becoming operational.

All eight formally approved but not notified developers pointed out that MAT has adversely affected their business. However, when asked what has caused the delay in getting their SEZ notified, the imposition of MAT was not among the top three reasons. The top three reasons included delay in land acquisition (problems in getting contiguous land, land is not in company’s name, delay in transfer of land, etc.), delay in environment clearances and lack of single window clearances. Two of the formally approved but not notified SEZs pointed out that MAT should not have been imposed retrospectively and should have only been applicable to new developers and units.

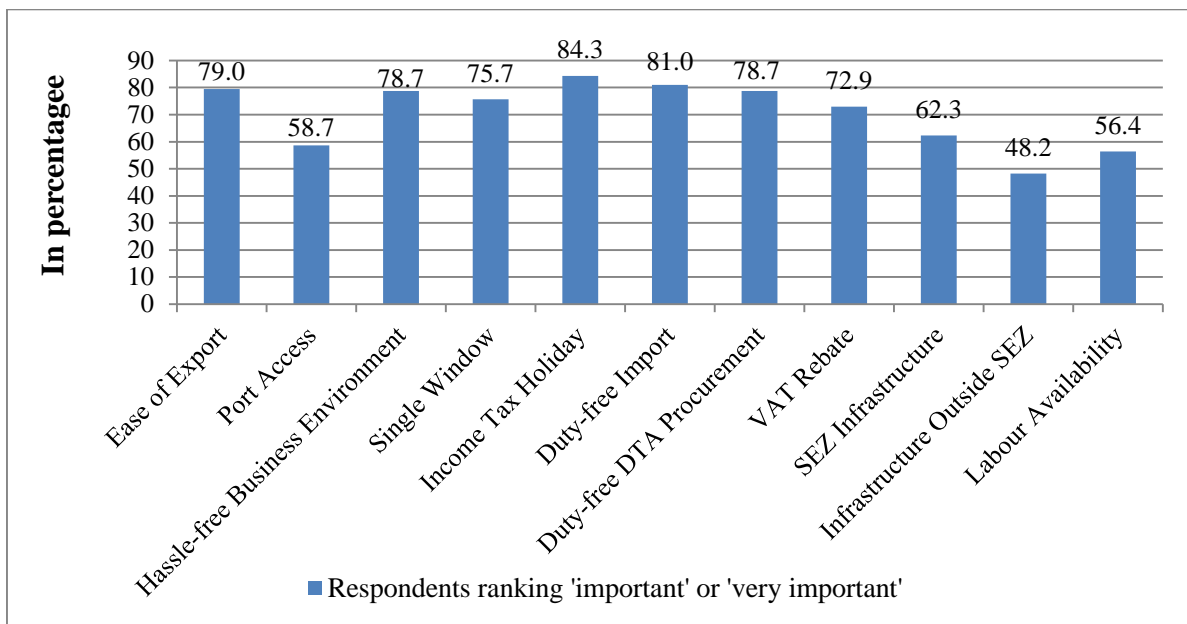
The reasons for de-notification given by the nine de-notified SEZs depend on the state that they are located in. For example, in Haryana, where four out of nine de-notified SEZs were located, the state government announced a lucrative land conversion policy. This together with delays in government clearances and the global recession made SEZs unattractive. The two de-notified SEZs in Kolkata referred to political interference, lack of state government support for SEZs, global recession and difficulties in land acquisition and environment clearances as the reasons for de-notification. The two de-notified SEZs in Andhra Pradesh referred to global recession and the difficulties that SEZ units face in selling to the DTA. One of the developers pointed out that his co-developer failed to perform. Only one de-notified SEZ developer from the state of Gujarat pointed out that it has changed its business plan after the imposition of MAT. Overall, the reasons for de-notification vary across states and MAT has not emerged as the major reason for de-notification in the survey.

4.2 The Survey of Units in SEZs

In total, responses were received from 145 operational units across 32 SEZs representing 23 per cent of all operational SEZs in these states. These 145 units were across nine industries, namely, electronics hardware, energy, engineering, food processing, gems and jewellery, IT/ITeS, leather/footwear, pharmaceuticals/chemicals/biotechnology and textiles/apparel/wool. The survey covered seven states, namely, Andhra Pradesh, Gujarat, Haryana, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal. The timing of the survey coincided with the developer survey.

The 145 units were asked to rate the importance of benefits such as income tax holidays, single window clearance and quality of infrastructure as motivating factors to start operation in an SEZ. They were required to rate factors on a six-point Likert scale (ranging from 1 to 6), with 1 indicating the “least important” and 6 indicating the “very important”. Figure 4 shows the percentage of respondents that rated the factors as “very important” (rated 6) or “important” (rated 5). Around 84 per cent of respondents considered income tax holiday as “very important” or “important” factor. This reflects the fact that direct tax benefits are one of the foremost factors that motivate units to start operations in SEZs.

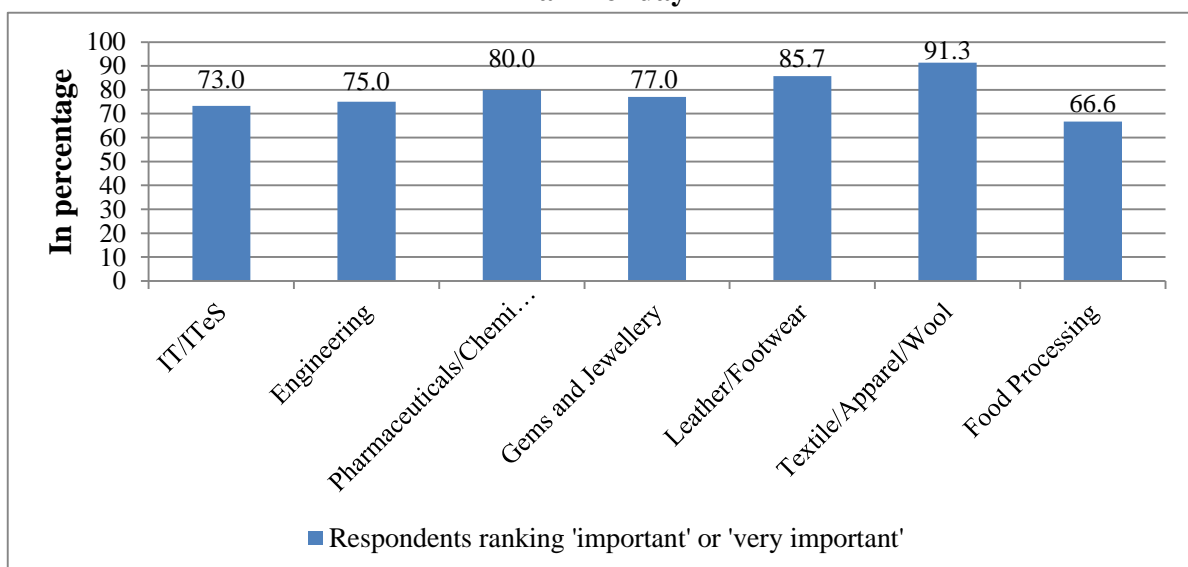
Figure 4: Motivating Factors for Starting Operations in SEZs



Source: Authors' Calculation

Figure 5 ranks the views of units across different industries on the importance of an income tax holiday in starting operation in an SEZ. Around 91 per cent of the units in textile/apparel and wool manufacturing sector consider an income tax holiday as 'very important' or 'important'. Interestingly, information technology/information technology enabled services (IT/ITeS) companies, who are mainly present in SEZs, gave income tax holiday a lower ranking vis-à-vis units in other industries.

Figure 5: Perception of Companies across Different Industries on Importance of Income Tax Holiday



Source: Authors' Calculation

SEZs offer both fiscal and non-fiscal incentives. The perception about the importance of non-fiscal incentives (such as quality of infrastructure inside and outside the SEZs) varies across industries. For example, the importance of infrastructure inside SEZs is higher for IT/ITeS units vis-à-vis units in the gems and jewellery sector – around 67 per cent of the units in IT/ITeS sector consider infrastructure inside SEZs as ‘very important’ or ‘important’ whereas 56 per cent of units in gems and jewellery sector consider the infrastructure inside SEZs as ‘very important’ or ‘important’.

The respondents were asked to rank the fiscal benefits of locating in an SEZ vis-à-vis DTA. Around 70 per cent of the respondents considered the fiscal benefits as ‘very important’ or ‘important’ and fiscal benefits have played a key role in their decision to locate in an SEZ.

The respondents were then asked how the withdrawal of MAT exemptions has affected or will affect their business. Around 83 per cent of the respondents reported that the imposition of MAT will reduce profits and/or working capital, while only 6.82 per cent reported that MAT will not affect their business. Among those surveyed, 9.85 per cent reported that MAT will not be applicable to their unit.

Some respondents pointed out that despite being completely or partially exempted from income tax according to the SEZ Act, 2005, they are required to pay MAT. This reduces the benefit of income tax exemptions that an SEZ unit enjoys in the initial years of its inception. One concern raised by the respondents is that MAT exemption in the SEZ policy prior to 2011-12 did not have a sunset date and they assumed that the exemption was for an indefinite period. Further, the imposition of MAT did not take into consideration the fact that units in SEZs were at different stages of income tax exemptions. In addition, the sudden retrospective imposition of MAT has reduced the working capital of the units.

Overall, the analysis of the primary survey shows that the imposition of MAT has adversely affected the sentiments of SEZs units and developers. Since units in SEZs are required to have a positive net foreign exchange earnings within five years from the commencement of production, export profits arising from operations in SEZ can be subject to MAT despite the unit enjoying income tax exemption as per the SEZ Act, 2005. While units in manufacturing and IT/ITeS sector have raised concerns about the imposition of MAT, units in the manufacturing sector seem to be more affected than units in IT/ITeS sector. Survey respondents pointed out that units in the manufacturing are more likely to have a MAT liability than units in IT/ITeS. This is because the taxable income computed under the Income Tax Act, 1961, can be subject to exemptions due to depreciation and other expenses in the case of manufacturing sector. In other words, it is possible that there are more ‘zero tax’ companies in the manufacturing sector vis-à-vis the IT/ITeS sector.

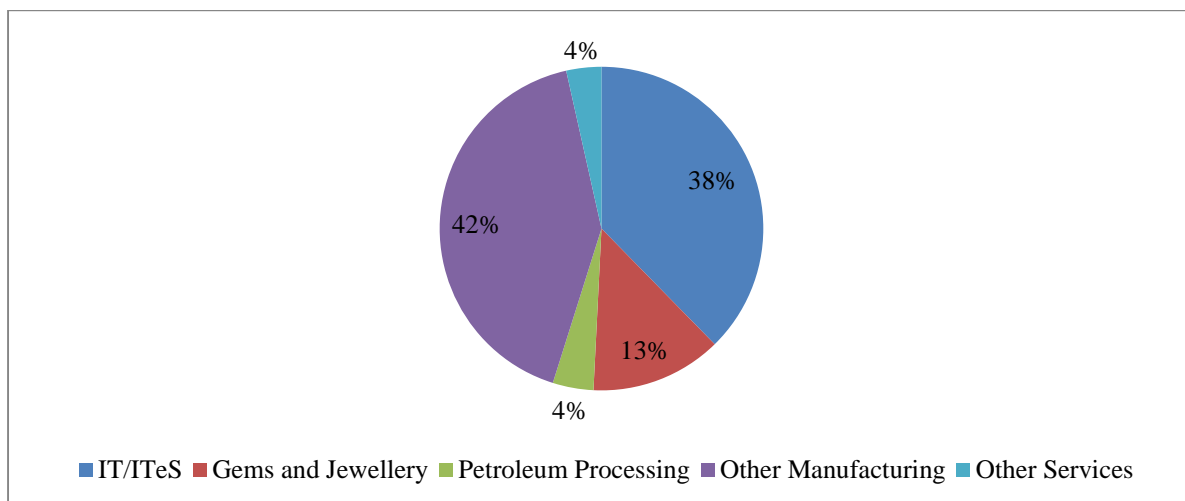
The survey also found that there is a negative perception among SEZ units about the transparency and consistency of the fiscal incentives after MAT exemptions were withdrawn retrospectively.

4.3 MAT Filed by Units in SEZs

Since the data on the amount of MAT paid by SEZ units and developers is not collected and collated by the government, in addition to the above survey through the DC's office, a small questionnaire was circulated to all SEZ units in seven zones between 1 September and 30 November, 2015. The questionnaire required units to provide information regarding (a) parent company (b) whether it had operations in the DTA (c) the year of establishment of the unit in the SEZ (d) revenue, exports and imports, investment and employment in the year 2014-15, (e) amount of income tax filed, MAT and other taxes and duties paid during the year 2014-15.

In total, 893 units in 5 zones (Santacruz Electronics Export Processing Zone, Madras Export Processing Zone, Falta SEZ, Kandla SEZ and Noida SEZ) across various sectors (see Figure 6) responded to the questionnaire. A number of companies did not respond to the questions on taxes stating that the audit process was ongoing or they did not have the information at the unit level.

Figure 6: Responses by Different Industries



Source: Authors' Calculation

Around 31 per cent (277 out of 893) of the units reported to have paid MAT for the year 2014-15. If only 31 per cent of the units in SEZ have paid MAT in that particular year, why is MAT such a major issue for units located in an SEZ?

To answer this question, it is important to see whether the parent company has a unit in the DTA as well. Out of the 893 units, 408 units were from companies that had operations in both DTA and SEZs. These companies, in most cases, calculate a consolidated MAT at the corporate level and were unable to provide the data on MAT for their SEZ units only. They have either written 'no MAT', or 'unit level data not available' or 'MAT filed at the corporate level' or 'MAT not applicable' as response to the questionnaire.

In the case of units with operation in both SEZs and DTA, around 27 per cent reported that they have filed income tax for the year 2014-15 and only 23 per cent said that they have filed MAT at the unit level. Some of the units mentioned that they were paying income tax as per the provisions of the Income Tax Act, 1961; so they were not required to file MAT. In the case of the units which have operations in SEZs only, around 24 per cent respondents reported that they have filed income tax for the year 2014-15 and around 37 per cent said that they have filed MAT.

Given that only a small number of companies in SEZs paid MAT in the year 2014-15 and even among these, companies with an operation in the DTA were not aware of, or did not want to reveal the data on MAT, it is extremely difficult to provide an estimate of revenue collected by the imposition of MAT on SEZs. Further, the data on the amount of MAT filed seems to be an overestimation. For example, when the amount of MAT filed by the 277 units was compiled by the NSDL (National Securities Depository Limited), it amounted to Rs 45,505 million which is roughly 11 per cent of the tax liability on account of MAT (less the MAT credit claimed) for the financial year 2014-15 for a sample of 564787 firms (Rs 360090 million).¹⁶ Therefore, this paper does not analyse the data pertaining to MAT filed by SEZ units and developers.

Overall, the primary survey shows that SEZ developers and units perceive tax benefits to be important and they reported that they had been adversely impacted by the imposition of MAT.

Globally, a number of countries give fiscal incentives in the form of direct tax incentives such as income tax exemptions to their SEZs. The next section discusses income tax exemptions given by select countries. An attempt has been made to understand what kind of income tax exemptions are given to SEZ developers and units, whether such exemptions are subject to certain conditions and have been phased out over time. An attempt has also been made to see if any of the exemptions have been withdrawn retrospectively.

5. Corporate/Income Tax Exemptions to SEZs in Select Countries

Globally, SEZs are treated as foreign territories within a country and countries provide a range of fiscal incentives to SEZs to attract investment (foreign and domestic), technology, enhance exports and generate employment. The incentives can be for both SEZ developers and units but it can be different across units and developers. These incentives can also vary across industries and some priority industries can be given higher incentives vis-à-vis other industries. Countries also differ in their approach to how long an SEZ developer or a unit should get a direct tax incentive. The incentives can be different for different types of SEZs, depending on whether they are single-product or multi-product SEZs, area covered under the SEZ, location of the SEZ, and the type of firms that are located in the SEZs. As countries, especially developing countries, compete among themselves to attract foreign investment and

¹⁶ <http://indiabudget.nic.in/ub2015-16/statrevfor/annex12.pdf> (accessed on 20 January, 2016)

technology, they have to carefully design their incentive packages so that it is attractive to global investors and corporates.

Before one discusses the income tax or corporate tax incentives given by different countries, it is important to note that the WTO has imposed certain rules and restrictions on subsidies and export incentives on its member countries. These rules are specified in the WTO's Agreement on Subsidies and Countervailing Measures. The SCM agreement is important in the context of SEZs since certain benefits offered to SEZ units and developers can lead to imposition of strict disciplines under this agreement. A subsidy is subject to discipline under the SCM agreement if it is a 'specific subsidy'. There are four types of 'specificity' within the meaning of the SCM Agreement: enterprise-specificity, industry-specificity, regional specificity and prohibited subsidies. Although SEZs have not been explicitly mentioned in the agreement, the fiscal incentives given to SEZs in the form of direct tax benefits such as income tax exemption can be seen as a form of region specific subsidy. Hence, the incentive structure for SEZs needs to be well-crafted for it to be non-actionable under the WTO SCM agreement (for details see Mukherjee et. al., 2015). While a number of developing countries such as Vietnam have designed the incentives under the SEZ policy to make it WTO non-actionable, developed countries are moving away from the SEZ policy.

In this context, it is important to note that direct tax incentives given to manufacturing units in SEZs in India can be prohibited under the WTO's SCM Agreement. This is mainly because the units in SEZs have to meet the requirement of becoming a net foreign exchange earner in five years, which implies that incentives given to these units are linked to export earnings. Further, it is important to note that some subsidies can be actionable while others are prohibited under the WTO's SCM Agreement. The WTO member countries are, therefore, trying to design WTO-smart subsidy so that the incentives that they offer to SEZ units are non-actionable under the WTO (for details see Mukherjee et. al. 2015). Since the WTO is yet to develop a discipline on subsidies in services, countries can continue to subsidise manufacturing by subsidising the services that are inputs into manufacturing. SEZ developers provide construction services. A number of units in the SEZs offer services. Therefore, countries have also designed different incentives for manufacturing and services and for developers and units.

Given this background, the corporate or income tax benefits given to SEZ developers and units in Bangladesh, Philippines, Republic of Korea, United Arab Emirates (UAE, Dubai) and Vietnam are examined in this section (see Box 1 for the details of incentives).¹⁷ To begin with, the corporate tax rate in India is one of the highest among these countries.¹⁸ Further,

¹⁷ The list of countries is illustrative. The details of tax exemptions have been provided on the government website of the selected countries. The countries have been selected to provide a comparative picture of exemptions offered in their SEZs vis-à-vis India. Other countries also provide tax exemptions to SEZs. For example, China offers direct tax exemptions to its SEZs but these are zone specific and details about these exemptions are difficult to obtain from official sources.

¹⁸ For details see <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-corporate-tax-rates-2015.pdf> (accessed on 22 January 2016)

these countries offer corporate or income tax benefits and India faces stiff competition from them while attracting investment in SEZs.

Box 1 shows that direct tax incentives are termed differently in different countries. For example, the Republic of Korea provides ‘corporate tax and income tax exemption’, while Bangladesh provides ‘tax exemption’ and Vietnam provides ‘preferential tax rates’ or ‘corporate income tax exemption’. Whatever the terminology used to describe direct tax incentives, all countries provide direct tax incentives and hence, if India has to compete with these countries to get investment and technology into SEZs, India has to continue to provide direct tax incentives. Moreover, since in the near future India is likely to graduate from the list of Annex VII countries under the SCM Agreement that are allowed to provide prohibited subsidies, there is a need to redesign the incentive structure to make it WTO non-actionable.

All the countries mentioned above recognise the need to provide tax exemption in the initial years of business operations for SEZs. But these exemptions are not given for an indefinite period of time and the exemptions are phased out over a time period. Box 1 shows that there are wide differences across countries with respect to the duration of the tax exemptions. While Dubai (UAE) provides a tax holiday for 50 years, the Philippines provides it for four to six years depending on the type of project. The tax exemptions offered to SEZs can change as seen in the case of Bangladesh. However, Bangladesh has tried to ensure that exemptions are not withdrawn retrospectively. As discussed in the case of the withdrawal of MAT exemption in India, retrospective withdrawal of exemptions can create an uncertain business environment and it signals a lack of policy consistency.

The selected countries have specified various conditions for availing income/corporate tax exemptions. In most countries, tax exemptions are subject to fulfilling certain conditions or requirements. These conditions are usually in the form of a minimum investment requirement. While SEZ units in India have to be positive net foreign exchange (NFE) earners, calculated cumulatively for a period of five years from the commencement of production, there are no minimum investment requirements in the case of India.

To the best of our knowledge, no country has specified exemption or imposition of MAT on the developers or units operating in SEZs. This may be because they either do not have MAT or MAT is taken as a form of income tax exemption. MAT exemption is also a WTO actionable subsidy and, therefore, countries are cautious about listing it.

Box 1 Direct Tax Incentives in Select Countries

Bangladesh

Bangladesh Export Processing Zones Authority is responsible for the creation, development, operation and control of Export Processing Zones (EPZ). EPZs enjoy fiscal and non-fiscal benefits. Industries established before 1 January, 2012, are given an income tax holiday of 10 years whereas the industries set up after 31 December, 2011 are given an income tax

exemption of 100 per cent for the first two years of setting up. Subsequently, the exemption is reduced to 50 per cent for the third and fourth year. In the fifth year, the exemption is further reduced to 25 per cent and is phased out thereafter. Apart from the income tax exemptions, Bangladesh also offers duty free import of construction materials, machinery, raw materials and finished goods. These benefits are offered to all EPZs.

Philippines

Philippines Economic Zones Authority is the government agency responsible for extending assistance, promoting investments, facilitating business operations of investors in export oriented manufacturing and service facilities inside SEZs. The fiscal incentives offered to SEZs in the Philippines are different for units and developers.

In the case of developers and operators of SEZs, these incentives are in the form of exemption from national and local taxes, except property tax on land owned by the economic zone developer. There is also a special 5 per cent tax on gross income.

In the case of units, the incentives differ across industries. For manufacturing and IT enterprises, income tax holidays are for a period of six years for pioneer projects¹⁹ and four years for non-pioneer projects. The income tax holiday can be extended further to a maximum of four years subject to certain conditions. These conditions include net foreign exchange earning requirements, capital equipment to labour ratio requirements and indigenous raw material requirements. Once the income tax holiday period is over, a five per cent special tax on gross income is levied and units are exempted from all national and local taxes.

Republic of Korea

The incentive structure of the Korean SEZs is complex. Tax exemptions are offered to foreign invested resident firms in Free Economic Zones (FEZs) and developers of FEZs. The exemptions are different for firms and developers and are also subject to certain investment requirements. These investment requirements vary across industries.

The developers of FEZs are provided corporate and income tax exemptions. However, the conditions for availing income and corporate tax exemptions differ from that of units. Developers get a 100 per cent exemption for the first three years and 50 per cent for the next two years. The investment condition requires the developers to get a foreign investment of over \$30 million or a foreign investment ratio of over 50 per cent, and a total development project cost of over \$500 million.

In the case of foreign invested domestic firms, 100 per cent corporate and income tax exemption is given for first three years and 50 per cent exemption is given for the next two

¹⁹ For details on pioneer projects, see http://training.itcilo.it/actrav_cdrom1/english/global/frame/epzppi.html (accessed on 11 January, 2016)

years. These exemptions are subject to a minimum investment requirement of \$10 million in the case of manufacturing, tourism or services industries, \$5 million or more for logistics industries and medical institutions and \$1 million or more for R&D industries. Corporate and income tax exemptions can also be increased to a total of seven years (100 per cent for first five years, 50 per cent for the next two years), if the investment is \$30 million or more in manufacturing industry, \$20 million or more in tourism industry, \$10 million or more in logistics industry and \$2 million or more in R&D industry.

UAE (Dubai)

UAE has seen a proliferation of industry specific zones. For example, Dubai has come up with Dubai Media City, Dubai Biotech Research Park and Dubai Healthcare City, to name a few. The incentives offered across free zones in UAE include 100 per cent foreign ownership, zero per cent corporate tax for 50 years and no capital tax among others. The tax holiday of 50 years offered in these free zones is the longest amongst the countries examined. UAE also has the world's largest free zone, the Jebel Ali Free Zone. This zone has over 7000 units located in it and offers incentives such as 100 per cent foreign ownership and zero per cent corporate tax for 50 years, which can be further renewed. However, there is a minimum capital requirement to avail these incentives. This minimum capital requirement ranges from 500,000-1,000,000 AED (\$136,132 - \$272,264).²⁰

Vietnam

Incentives in the form of reduced corporate tax rate, tax-free periods or tax reductions during the start up phase and import duty exemptions are provided based on the investment location. Selected industrial zones, economic zones and high tech zones are eligible for availing these incentives. In addition to the location, certain specified sectors such as scientific research and technology can avail these incentives. Every industrial park and economic zone provides the incentive preferential policy for investors. The direct tax incentives include corporate tax exemption for a period ranging from two to four years, 50 per cent corporate tax reduction for next four or nine years and 10 per cent preferential tax rate for 15 years. Some special zones (such as the Dung Quat Economic Zone) are also offered reduction in individual income tax for both Vietnamese and foreigners with high income working in SEZs

Source: <http://www.boi.gov.bd/site/page/0d315c51-288c-4ed3-8346-57f70567f8d5/Export-Processing-Zones> (accessed on 11 January, 2016), <http://www.peza.gov.ph/index.php/about-peza> (accessed on 11 January, 2016), <http://fez.go.kr/global/en/why/incentive.do> (accessed on 11 January, 2016), <http://jafza.ae/explore/why-jafza/> (accessed on 13 January, 2016), <http://www.dubaifaqs.com/jebel-ali-free-zone-authority.php> (accessed on 11 January, 2016), http://ipinvietnam.vn/investment-incentives/news_preferential-policies-and-support-investors-in-long-an-vietnam.html (accessed on 14 January, 2016)

Note: \$ refers to US Dollar

²⁰ Converted using Oanda currency converter. (\$1=3.672AED as on 18 January, 2016). <http://www.oanda.com/currency/converter/>

To summarise, a number of countries offer direct income tax or corporate tax exemption to SEZs, some of which can be more than that offered by India. Further, India has one of the highest corporate taxes. The competing countries also offer a set of other incentives such as cash grants for FDI (Republic of Korea), special non-immigrant visa with multiple entry privileges for certain workers in free zones (Philippines) and 100 per cent foreign ownership (Dubai). Thus, in terms of attracting investments into SEZs, India faces stiff competition both in the sphere of fiscal and non-fiscal incentives.

Although the business environment in India has improved, the country ranked 130th in 2015 in the World Bank's Ease of Doing Business Rankings, which is much lower vis-à-vis the ranks of Korea (4th), UAE (31th), Vietnam (90th) and the Philippines (103th).²¹ Thus, India is at a disadvantageous position vis-à-vis its competitors in ease of doing business.

In a nutshell, if the SEZs in India have lower fiscal incentives and lower ease of doing business ranking compared to other countries, how can they attract investments and best technology and contribute to the government's 'Make in India' campaign?

6. Conclusion and Way Forward

Globally, SEZs are given a range of direct tax exemptions (including income tax exemptions, corporate tax exemptions etc.) to attract investment, technology and global best management practices. In India, too, the SEZ developers and units receive a set of direct tax incentives which are listed in the SEZ Act of 2005. One of these incentives, the MAT exemption, was withdrawn under the Finance Act of 2011 retrospectively from 1 April, 2005. This paper tries to examine the impact of the withdrawal of MAT exemptions on Indian SEZs. It also tries to examine whether fiscal incentives should be given to the SEZs and, if so, in what format.

The paper found that a number of countries (for example, Bangladesh, Philippines, Republic of Korea, UAE (Dubai) and Vietnam) give income tax or corporate tax benefits to SEZ developers and units and some of these are much better than the incentives that India offers. Hence, if India has to continue with the policy of having 'special' zones, it has to continue to give direct tax benefits. Like India, in most countries these direct tax benefits are phased out over time. Countries may offer different types of direct tax benefits to SEZ developers and units and the benefits can also vary across industries. In most countries, benefits are subject to certain conditions such as minimum capital or minimum investment requirements, unlike India. This helps the countries attract serious investors. It is recommended that the Indian government should examine the direct tax benefits given to SEZ developers and units in other countries and draw up an incentive package for SEZs in India which is not only attractive to investors but will also ensure that SEZs become operational and units locate in SEZs.

None of the countries, which are discussed in this paper, specifically refer to MAT exemptions for SEZs although they may have imposed MAT in the country. This is because MAT is a form of income tax and, in most cases companies file a consolidated MAT for units in SEZs and DTA. As long as there is an income tax exemption, it is assumed that there is

²¹ <http://www.doingbusiness.org/rankings> (accessed on 14 January, 2016)

MAT exemption. In other words, MAT exemption is expected to be phased out if income tax exemption is phased out. Further, none of the countries have an income tax exemption for an indefinite period. However, in the Indian SEZ Act of 2005, there was no sunset date for MAT exemption. Therefore, SEZ developers and units assumed that MAT exemption will continue indefinitely. Since the SEZ Act, 2005, provides for a phased exemption of income tax, the issues related to MAT exemption stem from the lack of clarity in the SEZ Act 2005, on whether MAT should be phased out in the same way as income tax exemption or continue indefinitely. Ideally, MAT should be phased out exactly like the income tax exemption.

The experiences of countries such as Bangladesh show that they can change their income tax regime or reduce the time frame of exemptions. However, care is taken to ensure that such a policy is not imposed retrospectively and SEZ developers and units have a stable operational environment. This paper found that the sudden and retrospective imposition of MAT has hurt business sentiments and their working capital and investment plans. Future fiscal policies in India should take this into account. It should also be noted that MAT was suddenly imposed uniformly on SEZ developers and units, although they were at different stages of income tax exemptions. Hence, the impact of the imposition of MAT on them varied depending on their stage of income tax exemption. Since MAT is a form of income tax, MAT exemption should follow the same pattern of income tax exemption and should be phased out over time, as is done in the case of the income tax exemption.

There is an ongoing argument in India that MAT exemptions to SEZs have led to revenue losses. However, MAT is often filed at the corporate level and not by the SEZ units. Further, SEZ units are not required to declare their MAT contribution in their annual performance report. Therefore, neither the Ministry of Finance nor the SEZ Division of the Department of Commerce have records of the amount of revenue losses due to MAT exemptions to SEZs or the revenue earned after the imposition of MAT on 1 April 2012. In the absence of data, it is not possible to examine the impact of MAT on government revenue.

Secondary data shows that the withdrawal of MAT exemption has had a mixed impact on the performance of SEZs. While exports from SEZs have declined, there has been an increase in the number of operational SEZs and around 1650 units have been registered in SEZs since 1 April, 2012, when MAT was imposed. Employment in SEZs has also increased. This increase can be due to the focus of the government on manufacturing and linking India with the global value chains.

SEZs are key instruments for developing production networks and, therefore, they are a key component of the present government's "Make in India" campaign. Hence, the focus of the government should be on making SEZs successful through the right policy. Specifically, with respect to direct taxes, MAT exemptions should be linked to income tax exemptions for all units and developers in SEZs. In addition, the recently announced fiscal incentives for start-ups should be applicable to start-ups in SEZs. The government may also consider better incentives for high-technology or high value-added manufacturing units. However, these incentives have to be carefully designed so that they are non-actionable under the WTO's SCM Agreement.

The primary survey of SEZ developers and units shows that they give substantial importance to direct tax incentives including MAT exemptions. The survey found that income tax holidays are one of the most important motivating factors to locate and start operations in SEZs. However, the importance of income tax holidays varies across industries. MAT exemption has been perceived to be a greater incentive for units in manufacturing, which have deductions under income tax for reasons such as depreciations, than units in the IT/ITeS sector, although units across all industries felt that they have been adversely affected by the imposition of MAT. In the case of developers of SEZs, the sudden imposition of MAT has been seen as one of the factors to opt for de-notification. The survey also showed that despite being completely or partially exempt from income tax according to the SEZ Act of 2005, some of the SEZ units were required to pay MAT. This reduced the benefits of income tax exemption.

To compensate for the lack of data, SEZ units were asked to provide data on the amount of MAT filed. This paper showed that only 31 per cent of the units have filed MAT. However, the retrospective imposition of MAT has adversely impacted certain units that were enjoying income tax exemption.

To conclude, the paper highlights that there are certain drawbacks in the incentive structure for SEZs in India. To address these drawbacks, there is a need to restructure the SEZ policy in terms of the incentives provided to SEZs and the following steps may be considered in this direction.

First, corporate income tax should be lower in India (around 25 per cent). If India wants to pursue the SEZ policy, it has to continue to give direct tax exemptions until the corporate tax is close to 25 per cent and the country improves its ranking in ease of doing business. However, direct tax exemptions should be such that they are not actionable under the WTO's SCM Agreement. Specially, direct tax exemptions should not be linked to export earnings for manufacturing units. It can be linked to other performance indicators such as investment or high-technology. Since, the WTO is yet to develop a discipline on subsidies in services, India may continue to subsidise construction services (or developers of SEZs) or units in the services sector in SEZs. Thus, it is time now for India to design WTO-smart subsidies.

Second, no tax exemptions can be for an indefinite period. Exemptions such as MAT exemption should have a sunset date. In the absence of a sunset date and the sudden removal of MAT exemptions, perceptions and business sentiments regarding SEZs tend to get adversely affected. Since MAT exemption is a WTO actionable subsidy, it should not have been given under the SEZ Act of 2005. But once it was given, it should not have been withdrawn retrospectively. Such policy uncertainties have contributed to undermining the prospects of SEZs as the drivers of India's exports and growth. Any changes in the tax regime have to be planned and should be designed in a way that it affects only future investments.

Third, tax incentives have to be carefully designed so that they do not create an unequal level playing field between SEZs and DTA. For instance, it is often pointed out that IT/ITeS

companies shifted from software technology parks to SEZs as the income tax holiday in the software technology parks was being phased out. Direct tax benefits or the withdrawal of it can lead to such shifts of units between SEZs and DTA.

Fourth, direct tax incentives to manufacturing units in SEZs do not enhance the price competitiveness of the products that are exported, but indirect tax benefits can. Therefore, the policy emphasis should be that Indian SEZs get indirect tax benefits from the central and state governments.

Last but not least, the paper shows that apart from fiscal incentives, India faces stiff competition from other countries in terms of non-fiscal incentives offered to SEZs. Given the difficulties of doing business in India vis-à-vis other countries as reflected by the World Bank's 2015 Ease of Doing Business Rankings, the government should also consider restructuring non-fiscal incentives to effectively compete with other countries in terms of attracting investment and technology into SEZs.

References

- Bagchi, A., Rao, R. Kavitha & Sen, Bulbul (2005).** Raising the tax ratio by reining in the “tax-breaks”: An agenda for action. Tax Research Unit Working Paper No.2, National Institute of Public Finance and Policy, New Delhi. Available at http://www.nipfp.org.in/media/medialibrary/2013/04/wp05_nipfp_tr_038.pdf (accessed on 3 January, 2016)
- Cieřlik, A. and Ryan, M. (2005).** Location determinants of Japanese multinationals in Poland: do special economic zones really matter for investment decisions? *Journal of Economic Integration*, Vol. 20, No. 3 September 2005 pp.475-496.
- Department of Revenue (2014).** Report of the Comptroller and Auditor General of India for the Year 2012-13 on Performance of Special Economic Zones (SEZs). Union Government, Department of Revenue (Indirect Taxes – Customs), Ministry of Finance, Government of India, No. 21 of 2014. Available at http://www.saiindia.gov.in/english/home/Our_Products/Audit_Report/Government_Wise/union_audit/recent_reports/union_performance/2014/INDT/Report_21/21of2014.pdf (accessed on 3 January, 2016)
- Dutta, M. (2009).** Nokia SEZ: Public Price of Success. *Economic and Political Weekly*, Vol. 44, Issue No. 40, 03 Oct, 2009 pp.23-25.
- Farole, T. & Akinci, G. (2011).** Special Economic Zones: Progress, emerging challenges and future directions. World Bank, Washington D.C. available at <https://openknowledge.worldbank.org/bitstream/handle/10986/2341/638440PUB0Ext000Box0361527B0PUBLIC0.pdf> (accessed on 3 January, 2016)
- Frankfurt Institute for Advanced Studies (FIAS) (2008).** Special Economic Zones: Performance, lessons learned, and implications for zone development. World Bank, Washington, D.C.
- Ministry of Finance (2015).** Report on Applicability of Minimum Alternate Tax (MAT) on FIIs/FPIs for the period prior to 01.04.2015. Committee on Direct Tax Matters, Ministry of Finance, Government of India
- Mukherjee A., P Pal, S Deb, S Ray, D Mukherjee, D Ghosh, D Mathur and P Singh (2015).** SEZs in India: Perceptions *versus* Reality. Report Submitted to Department of Commerce, Ministry of Commerce and Industry, 2015.
- Nidheesh, K. B. (2014).** Relationship between Tax Incentives Offered to Cochin SEZ and Economic Contributions of Cochin SEZ. *Journal of Economic & Social Development* 10.2 (2014).
- Palit, A. & Bhattacharjee, S. (2008).** Special economic zones in India: Myths and realities. New Delhi: Anthem Press.

- Pandya, F.H. and Joshi, Y.C. (2015).** Impact of Fiscal Incentives on SEZs' Performance in Gujarat. *Foreign Trade Review*, 50(3), August 2015; vol. 50, 3: pp. 190-218 .
- Sharma SP, Rashmi Taneja, Apurva Munjal (2014).** Current State and Performance Review of SEZs in India: A Survey. PHD Chamber of Commerce and Industry, New Delhi.
- Tantri, Malini L. (2011).** Trajectories of China's integration with the world economy through SEZs: A study on Shenzhen SEZ. Working Paper 261, The Institute for Social and Economic Change, Bangalore. Available at http://www.isec.ac.in/WP%20261%20-%20Malini%20L%20T_4.pdf (accessed on 17 December, 2015)
- Tantri, Malini L. (2015).** Fiscal Implications of Special Economic Zones (SEZs) Expansion in India: A Resource Cost Approach. *Journal of International Commerce, Economics and Policy* Vol.6 (01) (2015)
- Wang, J. (2013).** The economic impact of special economic zones: Evidence from Chinese municipalities. *Journal of Development Economics*, Volume 101, pp 133–147. Available at http://ac.els-cdn.com/S0304387812000934/1-s2.0-S0304387812000934-main.pdf?_tid=4d312c76-3b3f-11e5-9075-00000aab0f6c&acdnat=1438758056_229bab95546fb83abb3511d73171e199 (accessed on 17 December, 2015)
- Woodward, Douglas P., and Robert J. Rolfe (1993).** The location of export-oriented foreign direct investment in the Caribbean Basin. *Journal of international business studies* 24, (1 March 1993) pp 121–144
- Zeng, D.Z. (2011).** How do special economic zones and industrial clusters drive China's rapid development? Washington D.C.: World Bank.

Appendix A

Extracted from Finance Act, 2011 - Explanatory Notes to the Provisions of the Finance Act, 2011

CIRCULAR NO. 02/2012 [F. NO.142/01/2012-SO (TPL)], DATED 22-5-2012,

Explanatory notes to the provisions of the Finance Act, 2011

Provisions relating to Minimum Alternate Tax (MAT) in case of Special Economic Zones

The Background: Under the existing provisions of section 10AA, a deduction of hundred per cent was allowed in respect of profits and gains derived by a unit located in a Special Economic Zone (SEZ) from the export of articles or things or from services for the first five consecutive assessment years; of fifty per cent for further five assessment years; and thereafter, of fifty per cent of the ploughed back export profit for the next five years. Further, under section 80-IAB, a deduction of hundred per cent was allowed in respect of profits and gains derived by an undertaking from the business of development of an SEZ notified on or after 1st April, 2005, from the total income for any ten consecutive assessment years out of fifteen years beginning from the year in which the SEZ has been notified by the Central Government.

Under the provisions of sub-section (6) of section 115JB, an exemption was allowed from payment of minimum alternate tax (MAT) on book profit in respect of the income accrued or arising on or after 1st April, 2005 from any business carried on, or services rendered, by an entrepreneur or a Developer, in a Unit or Special Economic Zone (SEZ), as the case may be.

The above provisions were inserted in the Income-tax Act by the Special Economic Zones Act, 2005 (SEZ Act) with effect from 10th February, 2006. There was no sunset date provided for exemption from MAT in the case of a developer or unit.

The Current Situation: *The availability of exemption from MAT in the case of SEZ Developers and units in SEZs has now been sunset in the Income Tax Act as well as the SEZ Act and the provisions of section 115JB(6) will cease to have effect from 1-4-2012. These amendments take affect from 1st April, 2012 and will accordingly apply in relation to the assessment year 2012-13 and subsequent years.*

Appendix B

FORM NO. 29B

[See rule 40B]

Report under section 115JB of the Income-tax Act, 1961 for computing the book profits of
the company

1. We have examined the accounts and records of M/S _____ PRIVATE LIMITED.
ADDRESS _____, PAN _____ engaged in business of
_____ SECTOR in order to arrive at the book profit during the year ended
on the 31st March _____
2. (a) * We certify that the book profit has been computed in accordance with the
provisions of this section. The tax payable under section 115JB of the Income-tax Act
in respect of the assessment year _____ is Rs. _____, which has been
determined on the basis of the details in Annexure A to this form.
3. In our * opinion and to the best of our * knowledge and according to the explanations
given to us
* the particulars given in the Annexure A are true and correct.

Where any of the matter stated in this report is answered in the negative or with a
qualification, the report shall state the reasons therefore.

Date:

Place:

Chartered Accountants

Membership No:

Registration No:

Notes:

1. *Delete whichever is not applicable
2. †This report is to
be given by—
 - (i) a Chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or
 - (ii) any person, who in relation to any State, is by virtue of the provisions in sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of companies registered in that State.
3. Where any of the matter stated in this report is answered in the negative or with a
qualification, the report shall state the reasons therefore.

Annexure A

| [See paragraph 2] Details relating to computation of Book Profits for the purposes of section 115JB of the Income-tax Act, 1961 | | | |
|---|--|---|--------------------------|
| 1. | Name of the assessee | : | |
| 2. | Particulars of address: | : | |
| 3. | Permanent Account Number | : | |
| 4. | Assessment Year | : | |
| 5. | Total income of the company under the Income-tax Act | : | |
| 6. | Income-tax payable on total income | : | |
| 7. | Whether Profit and Loss Account is prepared in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 (1 of 1956) | : | |
| 8. | Whether the Profit and Loss Account referred to in column 7 above has followed the same accounting policies, accounting standards for preparing the profit and loss account and the same method of rates for calculating depreciation as have been adopted for preparing accounts laid before the company at its annual general body meeting? If not, the extent and nature of variation be specified. | : | |
| 9. | Net profit according to Profit and Loss Account referred to in (7) above. | : | |
| 10. | Amount of net profit as shown in Profit and Loss Account as increased by the amounts referred to in clauses (a) to (j) of Explanations of sub-section (2) of this section (file working separately, where required). | : | Clause |
| | | | Amount |
| | | | |
| | | | a-Income Tax |
| | | | h-Deferred Tax |
| | | | Total |
| 11. | The amount as referred to in item 10 as reduced by the amounts referred to in clauses (i) to (vii) of Explanation of sub-section (2) of this section. (File working separately, where required) | : | Clause |
| | | | Amount |
| | | | |
| | | | viii-Deferred Tax |
| | | | Total |
| 12. | Book profit as computed according to Explanation given in sub-section (2) | : | |
| 13. | 18.5% of book profit as computed in 12 above | : | |
| 14. | In case income-tax payable by the company referred to at Sl. no. 6 is less than eighteen and one-half per cent of its book profits shown in column 12, the amount of income-tax payable by the company would be 18.5% of column 12, i.e. as per (13). | : | |

LATEST ICRIER'S WORKING PAPERS

| NO. | TITLE | AUTHOR | YEAR |
|------------|--|--|----------------|
| 313 | TECHNOLOGY, JOBS AND INEQUALITY EVIDENCE FROM INDIA'S MANUFACTURING SECTOR | RADHICKA KAPOOR | FEBRUARY 2016 |
| 312 | DIVERSIFYING INDIA'S SERVICES EXPORTS THROUGH SEZs: STATUS, ISSUES AND THE WAY FORWARD | ARPITA MUKHERJEE SAUBHIK DEB SHREYA DEORA TANU M. GOYAL BHAVOOK BHARDWAJ | DECEMBER 2015 |
| 311 | TRENDS AND ECONOMIC DYNAMICS OF GUAR IN INDIA | DURGESH K. RAI | OCTOBER 2015 |
| 310 | DRUG QUALITY AND SAFETY ISSUES IN INDIA | MAULIK CHOKSHI RAHUL MONGIA VASUDHA WATTAL | SEPTEMBER 2015 |
| 309 | ADMINISTRATIVE STRUCTURE AND FUNCTIONS OF DRUG REGULATORY AUTHORITIES IN INDIA | NUPUR CHOWDHURY PALLAVI JOSHI ARPITA PATNAIK BEENA SARASWATHY | SEPTEMBER 2015 |
| 308 | HUMAN CAPITAL POTENTIAL OF INDIA'S FUTURE WORKFORCE | ALI MEHDI DIVYA CHAUDHRY | SEPTEMBER 2015 |
| 307 | RATIONALISING FERTILISER SUBSIDY IN INDIA: KEY ISSUES AND POLICY OPTIONS | ASHOK GULATI PRITHA BANERJEE | AUGUST 2015 |
| 306 | REIMAGINING INDIA'S URBAN FUTURE A FRAMEWORK FOR SECURING HIGH-GROWTH, LOW-CARBON, CLIMATE-RESILIENT URBAN DEVELOPMENT IN INDIA | MEENU TEWARI ZEB AAZIZ MITCHELL COOK AMRITA GOLDAR INDRO RAY SAON RAY SAHANA ROYCHOWDHURY VIDHYA UNNIKRISHNAN | AUGUST 2015 |
| 305 | LOW CARBON PATHWAYS | HIMANSHU GUPTA | JUNE 2015 |
| 304 | IS THE RUPEE OVER-VALUED? | JAIMINI BHAGWATI ABHEEK BARUA M. SHUHEB KHAN | JUNE 2015 |
| 303 | CREATING MANUFACTURING JOBS IN INDIA: HAS OPENNESS TO TRADE REALLY HELPED? | PANKAJ VASHISHT | JUNE 2015 |

About ICRIER

Established in August 1981, ICRIER is an autonomous, policy-oriented, not-for-profit, economic policy think tank. ICRIER's main focus is to enhance the knowledge content of policy making by undertaking analytical research that is targeted at informing India's policy makers and also at improving the interface with the global economy. ICRIER's office is located in the institutional complex of India Habitat Centre, New Delhi.

ICRIER's Board of Governors includes leading academicians, policymakers, and representatives from the private sector. Dr. Isher Ahluwalia is ICRIER's chairperson. Dr. Rajat Kathuria is Director and Chief Executive.

ICRIER conducts thematic research in the following eight thrust areas:

- Macro Management Financial Liberalisation and Regulation
- Global Competitiveness of Agriculture, Manufacturing and Services
- Multilateral Trade Negotiations and FTAs
- Urban Transition and Challenges
- Climate Change and Sustainable Development
- Physical Infrastructure including Telecom, Transport and Energy
- Asian Economic Integration with Focus on South Asia
- Entrepreneurship and Skill Development

To effectively disseminate research findings, ICRIER organises workshops, seminars and conferences to bring together academicians, policymakers, representatives from industry and media to create a more informed understanding on issues of major policy interest. ICRIER routinely invites distinguished scholars and policymakers from around the world to deliver public lectures and give seminars on economic themes of interest to contemporary India.

