

# The Research And Development Cess Rules, 1996

UNION OF INDIA

India

## The Research And Development Cess Rules, 1996

### Rule THE-RESEARCH-AND-DEVELOPMENT-CESS-RULES-1996 of 1996

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#### 21.

/954 In exercise of the powers conferred by section 10 of the Research and Development Cess Act, 1986 (32 of 1986), the Central Government hereby makes the following rules, namely:-

#### **1. Short title and commencement .-(1) These rules may be called the Research and Development Cess Rules, 1996.**

(2) They shall come into force on the date of their publication in the Official Gazette.

#### **2. Definitions .-In these rules, unless the context otherwise requires,-**

(a)"Act" means the Research and Development Cess Act, 1986 (32 of 1986);(b)"authorised dealer" means any person authorised by the Reserve Bank of India to deal in foreign exchange under section 6 of the Foreign Exchange Regulation Act, 1973 (46 of 1973);(c)"Board" means the Technology Development Board constituted under sub-section (1) of section 3 of the Technology Development Board Act, 1995 (44 of 1995);(d)"Form" means the form annexed to these rules;(e)all other words and expression used in these rules, but defined in the Act or the Technology Development Board Act, 1995 (44 of 1995), shall have the meaning respectively assigned to them in those Acts.

**3. Levy of cess .-For the purpose of levy of cess under section 3 of the Act, "payment" shall include-**

(a)payment made towards import of technology as approved by the Central Government in terms of any foreign collaboration agreement, or approved in accordance with the Industrial Policy of the Government of India, in force, from time to time.(b)payment made towards the cost of drawings and designs in terms of any foreign collaboration agreement as approved by the Central Government or approved in accordance with the Industrial Policy of the Government of India in force from time to time;(c)payment made to foreign collaborators or to any other person for or in connection with deputation of technical personnel to India in terms of any foreign collaboration agreement, in accordance with the approval granted by the Central Government or approved in accordance with the Industrial Policy of the Government of India, in force, from time to time;(d)any other payment made towards the import of technology approved by the Central Government.

**4. Manner of payment of cess .-(1) The cess payable under section 3 of the Act by an industrial concern shall be paid to any office of a specified agency referred to in clause (g) of section 2 of the Act, alongwith the form of challan prescribed under the Central Government Account (Receipts and Payments) Rules, 1983.**

(2)Every industrial concern shall on or before making any payment towards the import of technology, furnish to the authorised dealer through whom such payment was made the counter-foil of the form referred to in sub-rule (1) evidencing the payment of cess payable under the Act:Provided that where such payment is not accompanied by the said counter-foil the authorised dealer shall not refuse to accept such payment but report the fact within a period of thirty days to the Board.

**5. Furnishing of statistical and other information .-(1) Every industrial concern shall, within sixty days from the date of commencement of these rules, furnish the information referred to in section 8 of the Act to the Board in Form A containing the particulars of the technology imported or to be imported under any subsisting foreign collaboration agreement.**

(2)Where any industrial concern enters into a foreign collaboration agreement for the import of technology after the commencement of these rules, it shall furnish the information referred to in section 8 of the Act to the Board in Form A within thirty days from the date of entering into the agreement.(3)Any change or modification in the particulars furnished under sub-rules (1) and (2) above, shall be communicated by the industrial concern to the Board immediately but in no case later than thirty days from the date of effecting the modification or change.

**6. Manner of recovery of arrears of cess .-(1) If on a scrutiny of the statistical and other information furnished by an industrial concern under rule 5 or on the basis of a report furnished by any authorised dealer under rule 4 or otherwise, it appears to the Board that an industrial concern has not paid the cess or paid an amount lesser than what is payable under section 3 of the Act, it shall issue a notice to such industrial concern calling upon it to pay the cess or, as the case may be, the difference of cess due, to a specified agency within thirty days of the date of receipt of such notice or within such extended time as the Board may permit in writing.**

(2) Where on the expiry of the time-limit specified in the notice under sub-rule (1), any industrial concern fails to pay the amount specified in the notice and the Board is satisfied that the amount of cess is due to the Central Government, the officer authorised by the Board in this behalf shall proceed to recover the amount from such industrial concern as sums due to the Central Government as if it were an arrears of land revenue. (3) For the purpose of recovery of sums due to Central Government, an officer of the Board authorised in this behalf by the Board, may prepare a certificate signed by him specifying the amount due and send it to the Collector of the district in which the industrial concern has its registered office or principal place of business and the said Collector on receipt of such certificate, shall proceed to recover from the said industrial concern the amount specified thereunder as if it were an arrear of land revenue.

**7. Manner of holding inquiry .-(1) Before imposing any penalty under sub-section (2) of section 9 of the Act the Board shall authorise in writing one or more of its officers to make inquiry into the affairs of the industrial concern.**

(2) The officer authorised under sub-rule (1) shall issue to the industrial concern a notice addressed to the registered office or principal place of business directing it to show cause as to why the penalty specified in the notice should not be imposed. (3) The industrial concern may, within thirty days from the date of receipt of the said notice, send to the officer concerned a reply together with copies of documentary or other evidence relied on in such reply. (4) The officer authorised under sub-rule (1) may, if so requested by the industrial concern, give a personal hearing to enable the industrial concern to explain its stand in regard to the arrears of cess. (5) If at any stage of inquiry, the officer authorised under sub-rule (1) is satisfied that the default was on account of good or sufficient reason, he shall not proceed further with the inquiry and report the fact to the Board. (6) If the officer authorised under sub-rule (1) is satisfied after inquiry that there was no good or sufficient reason for the default committed by the industrial concern, he shall send his report to the Board. (7) On receipt of the report of the officer authorised under sub-rule (1), the Board shall impose on the industrial concern, such penalty as it deems fit not exceeding ten times the amount of arrears. (8) The penalty imposed under sub-rule (7) shall be recoverable in accordance with the procedure laid down in sub-rule (3) of rule 6.

**8. Manner of refund of cess .-(1) An industrial concern desiring refund of cess paid in excess on account of wrong calculation or revision of payable amounts for the purposes of cess shall apply to the Secretary of the Board in writing with all the supporting documents.**

(2)After scrutiny of the application in accordance with the procedure laid down by the Board the dues as found eligible shall be refunded.(3)The decision on the application for refund shall be communicated within six months of the receipt of the application and the refund, if any, shall be made within sixty days thereafter.(4)No interest, processing or any other charges shall be payable on such refund by the Board.

**9. Interpretation of the rules .-Where any doubt arises as to the interpretation of these rules, it shall be referred to the Central Government for its decision.**

**10. Repeal and saving .-The Research and Development Cess Rules, 1987 are hereby repealed:**

Provided that such repeal shall not effect-(a)the previous operation of the said rules or anything duly done or suffered thereunder; or(b)any right, privilege, obligation or liability acquired, accrued or incurred under the said rules; or(c)any penalty incurred in respect of non-payment of cess under the said rules; or(d)any investigation or remedy in respect of such right, privilege, obligation of such right, privilege, obligation, liability or penalty as aforesaid, and any such investigation or remedy may be instituted, continued or enforced and any such penalty may be imposed as if the said ruled has not been repealed.FORM A[See rule 5(1) and (2)]Declaration

**1. Name and address of the industrial concern importing technology.**

**2. Name and address of the party outside India providing technology (collaborator).**

**3. Number and date of Government of India's approval for the foreign collaboration.**

**4. Number and date of Reserve Bank of India's approval for the foreign collaboration.**

**5. Date of foreign collaboration agreement.**

**6. State the nature of the foreign collaboration agreement whether -**

(a)technical or financial, or technical and financial;(b)design/drawings.

**7. State the period for engagement of foreign technical personnel, if any**

**8. Number and date of Reserve Bank of India approval for engagement of foreign technical personnel.**

**9. Period during which technology is likely to be transferred 10. amount payable towards the import of technology under foreign collaboration agreement, for engagement of foreign technical personnel and any other payment approved by the Government (State the period, currency and amounts to be paid including local payments made in rupees in connection with import of technology).**

**11. Mode of payment in respect of amounts payable under item 10 above.**

**12. Amount already remitted (including dates) to collaborator (as on date of filling this form)**

**13. Period (if any) for which the amount has been remitted.**

**14. Name and address of the authorised dealer, if any, through whom the amount is remitted or is to be remitted.**

Authorised signatory(on behalf of the industrial concern)Date .....Place .....