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PART I : SECTION (I) — GENERAL

Government Notifications

THE FINANCE ACT, No. 12 OF 2012

REGULATIONS made by the Minister of Finance, Economic and Policy Development under PART IV of the Finance Act, No. 12 of 2012, as amended by Part III of the Finance Act, No. 12 of 2013.

MAHINDA RAJAPAKSA,
Minister of Finance, Economic and
Policy Development.

Ministry of Finance, Economic and Policy Development,
Colombo 01,
December 05, 2019.

REGULATIONS

1. These Regulations may be cited as the Finance Act - Commercial Hub Regulations, No. 1 of 2019.

2. The Board of Investment of Sri Lanka established by the Board of Investment of Sri Lanka Law No. 4 of 1978, as amended (hereinafter referred to as “the Board”) may, in addition to the contents of Regulations No. 01 of 1978 published in *Gazette Extraordinary* No. 8/2 of October 31, 1978, embodied or incorporated in any agreement entered into between the Board and a new Enterprises in terms of Section 17 of the said law, and give effect to the following Provisions provided for in Part IV of the Finance Act, No. 12 of 2012 (Principal Act) as amended by the Finance Act, No. 12 of 2013.

- (1) Any new enterprise, which is established or incorporated in Sri Lanka and engaged in any one or more of the following business activities, where at least Sixty Five Percentage (65%) of its total investment has been from foreign sources including transfers from any approved Foreign Exchange Account operated in a



Licensed Commercial Bank in Sri Lanka, and of which the total turnover is from export of goods and or services, shall be exempted from the application of provisions of the Customs Ordinance (Chapter 235), the Foreign Exchange Act, No. 12 of 2017, the Imports and Exports (Control) Act, No. 1 of 1969, and Acts referred to in Schedule referred to in the Principal Act as amended by the Finance Act, No. 12 of 2013.

- (a) entrepot trade involving ;
 - (i) an import, minor processing and re-export ;
 - (ii) any manufacturing activity for export as defined in the Principal Act and established in a Specified Bonded Area ;
- (b) off-shore business where goods can be procured from one country or manufactured in one country and shipped to another country without bringing the same into Sri Lanka ;
- (c) Providing front end services to clients abroad ;
- (d) operations of the headquarters of leading buyers for the management of the finance supply chain and billing operations ;
- (e) logistic services such as a bonded warehouse or in the case of operation of multi-country consolidation in Sri Lanka ;

Further, if any Enterprise engaged in business activities referred under 2(1)(a) (ii) of these regulations, and if more than 65% of the domestic demand for such goods/product is being met out of imports to the country, in such circumstances and having considered the importance of availability of such goods/product in the local market in the interest of national economy, such enterprise may be allowed to sale of such goods/product to the domestic market up to maximum of 40% (forty percent) of the annual re-export turnover (ex-factory value) of such Enterprise, subject to annual reconciliation basis, for a maximum period of eight (08) years from the date of approval of domestic market access, unless extended by the Cabinet of Ministers with the prior concurrence of the Minister in charge of subject of Finance.

However, the domestic market access under the above concession shall be limited to any auto fuels, liquid petroleum gas, propane, butane and fertilizer or any other goods, that will be approved by the Cabinet of Ministers on the recommendation of the Minister in charge of subject of Finance. Any Enterprise which is getting access to domestic market under the above concession shall be subject to payment of all taxes/duties on such goods/product to the extent released to the domestic market. Enterprise shall pay income tax and other applicable levies on the income as per the provisions of the Inland Revenue Act, No. 24 of 2017.

An Enterprise, which is failing to reconcile the value of sale to the domestic market during a year with its value of export turnover during that year on an annual basis, shall be allowed to carry forward such unreconciled value of domestic sale during the initial four (04) year period reckoned from the date of the first commercial sale of the enterprise and thereafter its domestic market access shall be reduced to the extent by the unreconciled value of the domestic sale, if any.

Provided however –

- (i) a new Enterprise, which is engaged in business activities referred under (a) and (e) above and engaged in the physical importation of goods, wares or merchandise for re-export, shall be required to operate such business activities in a Free Port or in a Bonded Area. However, where an Enterprise engaged in entrepot trade as defined in the Principal Act obtained the approval under these Regulations for manufacturing a product, such Enterprise is required to be operated either in a Free Port or in a specified bonded area ;

- (ii) a new Enterprise, which is engaged in business activities referred under (b), (c) and (d) above, may be established outside a Free Port or a Bonded Area ;
- (iii) the minimum investment of a new Enterprise, which is engaged in business activities referred under (a) above shall be United States Dollars Five Million (US\$ 5 Mn.) of which a minimum of 50% is required to be invested in fixed assets, and which investment shall be remitted within twelve (12) months from the date of the related agreement signed between the Enterprise and the Board. It shall also be required that such Enterprise shall achieve an annual re-export turnover or export turnover, as the case may be, of not less than US\$ 20 Mn. over a period of five years (5) from the date of commencement of operation of such business ;
- (iv) the minimum investment of a new Enterprise, which is engaged in business activities referred under (e) above, shall be United State Dollars Three Million (US\$ 3 Mn.) of which a minimum of 30% is required to be invested in fixed assets, and which investment shall be remitted within twelve (12) months from the date of the related agreement signed between the Enterprise and the Board. It shall also be required that such Enterprise shall achieve an annual re-export turnover or export turnover, as the case may be, of not less than US\$ 15 Mn over a period of five (05) years from the date of commencement of operations of such business ;
- (v) the minimum investment of a new Enterprise, which is engaged in business activities referred under (b) and (c) and/or (d) above, shall be United States Dollars One Million (US\$ 1 Mn.), of which a minimum of 40% is required to be invested in fixed assets, and which investment shall be remitted within twelve (12) months from the date of the related agreement signed between the Enterprises and the Board. It shall also be required that such Enterprise shall achieve an annual re-export turnover or export turnover, as the case may be of not less than US\$ 10 Mn over a period of five (05) years from the date of commencement of operations of such business.
- (vi) Any goods/ product, which has been brought for the purpose of re-export by an Enterprise, approved under these regulations, should not be warehoused or stored more than eighteen (18) months from the date of importation/ arrival of such goods/ product. If such Enterprise has warehoused/ stored any such goods/ product for more than eighteen months, the Board in consultation with the Department of Customs shall order such Enterprise to re-export within thirty (30) days from the date of completion of eighteen (18) months as per the provisions of the Customs Ordinance.

3. A new Enterprise, which is engaged in business activities referred under 2. (1) (a), (b), (c), (d) and (e) above shall maintain clear detailed records of all its transactions in the prescribed forms provided by the Board, which shall include details relating to all inward and outward remittance of Foreign Exchange, and such records shall be submitted to the Board and the Director, Foreign Exchange of the Central Bank of Sri Lanka, annually. Further, such records shall be maintained at the operational premises of the Enterprise pertaining to the past six consecutive years at any given point in time, to facilitate easy submission of the same whenever the Board or the Director, Foreign Exchange of the Central Bank of Sri Lanka as may require.

4. A new Enterprise, which is engaged in business activities referred to under 2 (1) (a), (b), (c), (d) and (e) above, shall be subject to a synchronized operational procedure/s that shall be introduced by the Department of Customs, the Board of Investment of Sri Lanka and Sri Lanka Ports Authority in respect of Free Port or the Bonded Area or Specified Bonded Area, as may be relevant.

5. Movement of goods to an from a Free Port or a Bonded Area in to or from the Sri Lankan territory, shall be subject to the provisions of the said Customs Ordinance and the Imports and Exports (Control) Act as may be applicable, as if such goods have been imported into Sri Lanka or exported from Sri Lanka, as the case may be.

6. For the purpose of Value Added Tax (VAT) or Nation Building Tax (NBT), supply of any goods to an Enterprise which is engaged in business activities referred to under 2 (1) (a), (b), (c), (d) and (e) above under these Regulations shall be treated as export.

7. No approval shall be granted under these Regulations to any Enterprise to engage in entrepot and/or provision of logistic services to any re-export business/activities or transshipment related to ;

(a) Spices and allied products namely pepper, areca-nuts, nutmeg/ mace, tamarind, cinnamon, clove, ginger, turmeric and cardamom.

(b) Waste and / or processing of waste or resource recycling business.

8. Notwithstanding the exemptions granted in terms hereof, it is hereby required that Enterprises referred to in these Regulations are subject to the restrictions and prohibitions imposed in Schedule (B) to the Customs Ordinance. As such, the Director General of Customs or any officer authorized by him in writing shall have the power to enter into any business premises to which these Regulation apply and take necessary action, if any such Enterprise is said have acted contrary to the prohibitions or restrictions set out in the Schedule (B) to the Customs Ordinance.

9. However, the 'Limitations' set out in Section A4 of the Schedule (1) of the *Gazette* No. 2045/56 of November 17, 2017 issued under Section 29 read together with Section 7 of the Foreign Exchange Act, No. 12 of 2017 shall not apply to such an Enterprise, and as such, foreign ownership shall be permissible in such Enterprise.

10. The 'Country of Origin Certificate' issued by the Department of Commerce will be made available to any enterprise referred to in these Regulations, only in respect of domestic exports entering into the Bonded Area or the Free Port Area, under these Regulations.

11. The Colombo and Hambantota Ports as declared in terms of Section 2(iii) of the Sri Lanka Ports Authority Act, No. 51 of 1979 as amended, are hereby declared as Free Ports, for the purpose of these Regulations.

12. Katunayake Export Processing Zone and Koggala Export Processing Zone, declared in terms of the Board of Investment Law No. 4 of 1978 as amended, are hereby declared as Bonded Areas for the purposes of these Regulations.

13. Mattala Rajapaksa International Airport located at Mattala, declared under The Air Navigation Regulation of 1955 - Notice under Regulation 126 issued in terms of *Gazette Extraordinary* No. 1795/52, dated February 01, 2013, and boundaries set out in Schedule A of *Gazette Extraordinary* No. 1800/25 dated March 07, 2013 issued under Section 111 of the Customs Ordinance (Chapter 235) and Mirijawila Export Processing Zone declared in terms of the Board of Investment Law No. 4 of 1978, are hereby declared as Specified Bonded Areas for the purposes of value added manufacturing activities as defined in the Principal Act as entrepot activity.

14. Bandaranaike International Airport located at Katunayake is hereby declared as Bonded Area for the purpose of these Regulations.

15. Commercial Hub Regulation No. 1 of 2013 together with any letter (s) or directions issued by the Secretary to the Treasury, if any, under these regulations is hereby rescinded effective from the date of publication of the Commercial Hub Regulations No. 1 of 2019 without prejudice to anything done under the said Commercial Hub Regulation No. 1 of 2013.