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THE FOREIGN TRADE (REGULATION) RULES, 1993¹

In exercise of the powers conferred by section 19 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), the Central Government hereby makes the following rules, namely: --

1. Vide G.S.R .791 (E), dated 30th December 1993, published in the gazette of India, Extra, Pt. II, sec.2 (ii), dated 30th December, 1993

1. Short title and commencement. –

(1) These rules may be called the Foreign Trade (Regulation) Rules, 1993.

(2) They shall come into force on the date¹of their publication in the Official Gazette.

1. Came into force on 30-12-1993.

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

- (a) “Act” means the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);
- (b) “Charitable purpose” includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility;
- (c) “Importer” or “exporter” means a person who imports or exports goods and holds a valid importer-exporter Code Number granted under section 7;
- (d) “Licensing authority” means an authority authorised by the Director General under sub-section (2) of section 9 to grant or renew a license under these rules-,
- (e) “Policy” means export and import Policy formulated and announced by the Central Government under section 5;
- (f) “Schedule” means a Schedule appended to these rules;
- (g) “Section” means a section of the Act;
- (h) “Special license” means a license granted under sub-section (2) of section 8;
- (i) “Value” has the meaning assigned to it in clause (41) of section 2 of the Customs Act, 1962 (52 of 1962);
- (j) Words and expression used in these rules and not defined but defined in the act shall have the meanings respectively assigned to them in the Act.

3. Grant of special licence–

(1) Where the Importer-exporter Code Number granted to any person has been suspended or cancelled under sub-section (1) of section 8, the Director General may, having regard to the following- factors, grant to him a special license, namely: -

(1) That the denial of a special license is likely to affect the Foreign Trade of India adversely; or

(2) That the suspension or cancellation of the importer-exporter Code Number is likely to lead to non-fulfilment of any obligation by India under any international agreement;

(3) The special license granted to any person under sub-rule (1) shall be non transferable.

4. Application for grant of licenses: --A person may make an application for the grant of a license to import or export goods in accordance with the provisions of the Policy or an Order made under section 3.

5. Fee. –

(1) Every application for a license to import shall be accompanied by the fee specified in the Schedule.

(2) The mode of deposit of fee shall be as specified in the Schedule.

(3) No fee shall be payable in respect of any application made by-

(a) The Central Government, a State Government or any department or any office of the Government;

(b) Any local authority for the bonafide import of goods required by it for official use;

- (c) Any institution set up for educational, charitable or missionary purposes for the import of goods required for its use;
 - (d) An applicant for the import of any goods (other than a vehicle) if the import of the goods is for his personal use which is not connected with trade or manufacture.
- (4) The fee once received will not be refunded except in the following circumstances, namely: -
- (i) Where the fee has been deposited in excess of the specified scale of fee; or
 - (ii) Where the fee has been deposited but no application has been made; or
 - (iii) Where the fee has been deposited in error but the applicant is exempt from payment of fee.

6. Conditions of licence. –

- (1) It shall be deemed to be a condition of every license for export that-
- (i) No person shall transfer or acquire by transfer any license issued by the licensing authority except in accordance with the provisions of the Policy;
 - (ii) The goods for the export of which the license is granted shall be the property of the license at the time of the export.
- (2) The licensing authority may issue a license for import subject to one or more of the following conditions, namely: -
- (a) That the goods covered by the license shall not be disposed of except in accordance with the provisions of the Policy or in the manner specified by the licensing authority in the license;
 - (b) That the applicant for a license shall execute a bond for complying with the terms and conditions

of the license.

(3) It shall be deemed to be a condition of every license for import that-

(a) No person shall transfer or acquire by transfer any license issued by the licensing authority except in accordance with the provisions of the Policy;

(b) The goods for the import of which a license is granted shall be the property of the licensee at the time of import and up to the time of clearance through Customs;

(c) The goods for the import of which a license is granted shall be new goods, unless otherwise stated in the license;

(d) That the goods covered by the license for import shall not be exported without the written permission of the, Director General.

(4) Any person import in-goods from the United States of America in accordance with the terms of the Indo-US Memorandum of Understanding on Technology Transfer shall also comply with all the conditions and assurances specified in the Import Certificate issued in terms of such Memorandum, and such, other assurances given by the person importing those goods to the Government of the United States of America through the Government of India.

7. Refusal of licence. –

(1) The Director General or the licensing authority may for reasons to be recorded in writing, refuse to grant or renew a license if-

(a) The applicant has contravened any law relating to customs or foreign exchange;

(b) The application for the license does not substantially conform to any provision of these rules;

(c) The application or any document used in support thereof contains any false or fraudulent or

misleading statement;

(d) It has been decided by the Central Government to analyse the export or import of goods and distribution thereof, as the case may be, through special or specialised agencies;

(e) Any action against the applicant is for the time being pending under the Act or rules and Orders made there under;

(f) The applicant is or was a managing partner in a partnership firm, or is or was a Director of a private limited company, having controlling interest, against which any action is for the time being pending under the Act or rules and Orders made thereunder;

(g) The applicant fails to pay any penalty imposed on him under the Act;

(h) The applicant has tampered with a license;

(i) The applicant or any agent or employee of the applicant with his consent has been a party to any corrupt or fraudulent practice for the purposes of obtaining any other license;

(j) The applicant is not eligible for a license in accordance with any provision of the Policy;

(k) The applicant fails to produce any documents called for by the Director General or the licensing authority;

(l) In the case of a license for import, no foreign exchange is available for the purpose;

(m) The application has been signed by a person other than a person duly authorised by the applicant under the provisions of the Policy;

(n) The applicant has attempted to obtain or has obtained cash compensatory support, duty drawback, cash assistance benefits allowed to Registered Exporters or any other similar benefits from the Central Government or any agency authorised by the Central Government in relation to exports made by him on

the basis of any false, fraudulent or misleading statement or any document which is false or fabricated or tampered with.

(2) The refusal of a license under sub-rule (1) shall be without prejudice to any other action that may be taken against an applicant by the licensing authority under the Act.

8. Amendment of license.-The licensing authority may of its own motion or on an application by the licensee, amend any license in such manner as may be necessary or to rectify any error or omission in the license.

9. Suspension of a license.

(1) The Director General or the licensing authority may by order in writing, suspend the operation of a license granted to-

(a) Any person, if an order of detention has been made against such person under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974); or

(b) A partnership firm or a private limited company, if the person referred to in clause (a) Is a partner or a whole time director or managing director, as the case may be, of such firm or company:

Provided that the order of suspension shall cease to have effect in respect of the aforesaid person or, as the case may be, the partnership firm or company, when the order of detention made against such person,-

(i) Being an order of detention to which the provisions of section 9 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) do not apply, has been revoked on the report of advisory Board under section 8 of that Act or before receipt of the report of the Advisory Board or before making a reference to the Advisory Board; or

(ii) Being an order of detention to which the provisions of section 9 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) apply, has been revoked on the report of the Advisory Board under section 8 read with sub-section (2) of section 9 of that Act or before receipt of such report;

(iii) Has been set aside by a court of competent jurisdiction.

(2) The Director General or the licensing authority may by an order in writing suspend the operation of any licence granted under these rules, where proceedings for cancellation of such licence have been initiated under rule 10.

10. Cancellation of the license.-The Director General or the licensing authority may, by an order in writing, cancel any license granted under these rules, if-

(a) The license has been obtained by fraud, suppression of facts or misrepresentation; or

(b) The licensee has committed a breach of an), of the conditions of the licensee; or

(c) The licensee has tampered with the license in any manner; or

(d) The licensee has contravened any law relating, to customs or foreign exchange or the rules and regulations relating thereto.

11. Declaration as to value and quality of imported goods. -On the importation into, or exportation out of, any customs port of any goods, whether liable to duty or not, the owner of such goods shall, in the bill of entry or the shipping bill or any other documents prescribed under the Customs Act, 1962 number allotted to him by the Competent Authority.

12. Declaration as to importer-exporter code number. _On the importation into or exportation out of, any customs port of any goods, the importer or exporter shall, in the bill of entry or shipping bill or, as the case may be, in any other documents prescribed by rules made under the act or the customs act, 1962 (52 of 1962), state the importer – exporter code number allotted to him by the competent Authority.

13. Utilisation of imported goods. –

(1) No person shall use any imported goods allotted to him by the State Trading Corporation of India

or any other agency recognised by the Central Government in a manner and for the purpose, otherwise than as declared by him in his application for such allotment or in any document submitted by him in support of such application.

(2) No person shall dispose of any goods imported by him against a license except in accordance with the terms and conditions of such license.

14. Prohibition regarding making, signing of any declaration, statement or documents. –

(1) No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining a license or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular.

(2) No person shall employ any corrupt or fraudulent practice for the purposes of obtaining any license of importing or exporting any goods;

15. Power to enter premises and inspect, search and seize goods, documents, things and Settlement conveyances.

(1) Any person authorised by the Central Government under subsection (I) of section 10 (here in after called” the authorised person”) may, as any reasonable time, enter any premises in which-

(i) Any imported goods or materials which are liable to confiscation under the provisions of the Act; or

(ii) Any books of account or documents or thing which, in his opinion, will be useful for or relevant to, any proceedings under the Act, are suspected to have been kept or concealed and may inspect such goods, materials, books of account, documents or things and may take such notes or extracts there from as he thinks

(2) If the authorised person has reasons to believe that--

(i) Any imported goods or materials liable to confiscation under the Act; or

(ii) Any books of account or documents or things which, in his opinion, will be useful for, or relevant to, any proceedings under the Act, are secreted in any premises he may enter into and search such premises for such goods, materials, books of account, documents or things.

(3) (a) If the authorised person has reason to believe that any imported goods or materials are liable to confiscation under the Act, he may seize such goods or materials together with the package, covering or respectable, if any, in which such goods or materials are found to have been mixed with any other goods or material:

Provided that where it is not practicable to seize any such goods or materials, the authorised person may serve on the owner of the goods or materials an order that he shall not remove, part with or otherwise deal with the goods or materials except with the previous permission of the authorised person.

(b) Where any goods or materials are seized under clause (a) and no notice in respect thereof is given within six months of the seizure of the goods or materials, the goods or materials shall be returned to the person from whose possession they were seized:

Provided that the afore said period of six months may, on sufficient cause being shown, be extended by the Director General for a further period not exceeding six months.

(c) The authorised person may seize any books of account or documents or things, which in his opinion will be useful for, or relevant to, any proceedings under the Act.

(d) The person from whose custody any documents are seized under this sub-rule shall be entitled to make copies thereof or take extracts therefrom in the presence of the authorised person.

(e) If any person legally entitled to the books of account or other documents or things seized under this sub-rule objects, for any reason, to the retention by the authorised person of the books of account or the documents or things, he may move an application to the Central Government stating therein the reasons for such objection, request for the return of the books of account or documents or things.

(f) On receipt of the application under clause (c), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it may think fit.

(g) Where any document is produced or furnished by any person or has been seized from the custody or control of any person under the act has been received from any place outside India in the Course of the investigation for any contravention referred to in section I by any person and such document is tendered in evidence against the person by whom it is produced or from whom it was seized or against such person or any other person who is jointly proceeded against, the adjudicating authority, shall, notwithstanding anything to the contrary contained in any other law for the time being in force,--

(i) Presume, unless the contrary is proved, that the signature and every other part of such documents which purports to be in the hand-writing of any particular person of which the adjudicating authority may reasonably assume to have been signed by or to be in the handwriting of any particular person, is under the person's handwriting, and in the case of a document executed or attested, it was executed or attested by the person by whom it purports to have been so executed or attested;

(ii) Admit the documents in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

(4) The authorised person, may, if he has reason to suspect that any conveyance or animal is being or is about to be used for the transportation of any imported goods or material which are liable to confiscation under the Act, and that by such transportation any provision of the Act has been, is being or is about to be contravened at any time, stop such conveyance or animal or in the case of aircraft, compel it to land, and-

(a) Rummage and search the conveyance or any part thereof,

(b) Examine and search any goods or material in the conveyance or on the animal;

(c) If it becomes necessary to stop any conveyance or animal, he may use all lawful means for stopping it and where such means fail, the conveyance or animal may be fired upon, and where he is satisfied that it is necessary so to do to prevent the contravention of any provision of the Act or of the rules and orders made thereunder or the policy or condition of any license, he may seize such conveyance or animal:

Explanation.-Any reference in this rule to a conveyance shall, unless the context otherwise requires, be construed as including a reference to an aircraft, vehicle or vessel.

16. Settlement. -

(1) The adjudicating authority may determine the amount of settlement to be paid by the person to whom a notice has been issued and who has opted for settlement, and has admitted lie contravention specified in the notice, in the following cases, namely:-

- (i) Where it is of the opinion that the contravention of any provision of the Act or these rules or the policy has been made without *mens rea* or without willful mistake or without suppression of facts, or without any collusion or without fraud and forgery, or without an intent to cause loss of foreign exchange; or
- (ii) Where the person importing the goods has not met the requirements of the actual user conditions as specified in the policy and has not misutilised the said imported goods; or
- (iii) Where the person importing the goods has not fulfilled the export obligation and has not misutilised the said imported goods.

(2) Where a person has opted for settlement under sub-rule (1), the settlement made by the adjudicating authority shall be final.

17. Confiscation and redemption. -

(1) Any imported goods or materials in respect of which-

- (a) Any condition of the license, or letter of authority under which they were imported, relating to their utilisation or distribution; or
- (b) Any condition, relating to their utilisation -or distribution, subject to which they were received from or through an agency recognised by the Central Government; or
- (c) Any condition imposed under the policy with regard to the sale disposal of such goods or materials, has been, is being, or is attempted to be, contravened, shall together with any package, covering or receptacle in which such goods are found, be liable to be confiscated by the adjudicating,

authority, and where such Goods or materials are so mixed with any other goods or materials that they cannot be readily separated, such other goods or materials shall also be liable to be so confiscated:

Provided that where it is established to the satisfaction of the adjudicating authority that any goods or materials which are liable to confiscation under this rule, had been imported for personal use, and not for any trade or industry, such Goods, or materials shall not be ordered to be confiscated.

(2) The adjudicating authority may permit the redemption of the confiscated goods or materials upon payment of redemption charges equivalent to the market value of such goods or materials.

18. Confiscation of conveyance.

(1) Any conveyance or animal which has been, is being, or is attempted to be used, for the transport of any goods or materials that are imported and which are liable to confiscation under rule 17, shall be liable to be confiscated by the adjudicating authority unless the owner of the conveyance or animal proves that it was, is being, or is about to be so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all reasonable precautions against such use.

(2) The adjudicating authority shall permit redemption of the confiscated conveyance or animal used for the transport of goods or passengers for hire upon payment of redemption charges equivalent to the market value of such conveyance or animal

SCHEDULE

(See rule 5)

The following fee shall be leviable in respect of the application for an import license, etc.:-

SCALE OF FEE

Sl.No	Particulars	Amount of Fee
(1)	(2)	(3)

1.	Where the value of goods specified in applications does not exceed rupees fifty thousand	Rupees two hundred
2.	Where the value of goods specified in the applications exceeds rupees fifty thousand, but does not exceed rupees one crore.	Rupees two per thousand or part thereof subject to a minimum of rupees two hundred
3.	Where the value of the goods specified in the application exceeds rupees one crore.	Rupees two per thousand or part thereof subject to a maximum of rupees one lakh and fifty thousand
4.	Application for grant of duplicate license .	Rupees two hundred.
5.	In case where import license and other correspondence are required by speed post.	Rupees two hundred.
6.	Application for issue of an identity card .	Rupees two hundred
7.	Application for issue of duplicate identity card in the event of loss of original card.	Rupees one hundred
8.	Extension of the period of shipment of an import license.	Rupees two hundred .
9.	Application for grant of slip-up licenses.	Rupees one thousand per split-up licence.

Note: - The amount of fee payable shall be rupees two hundred in respect of an application for import license by a small scale actual user or a registered exporter, for the import of raw materials, components and spares where the value of the goods specified in the application does not exceed rupees two lakhs.