NOTIFICATION

New Delhi, the 8th November, 2010

G.S.R. 891(E).— In exercise of the powers conferred by sub-section (1) read with clauses (k) and (l) of sub-section (2) of section 50 of the Warehousing (Development and Regulation) Act, 2007 (37 of 2007), the Central Government hereby makes the following rules, namely: —

1. **Short title and commencement.**— (1) These rules may be called the Warehousing (Development and Regulation) Appellate Authority Procedure Rules, 2010.

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

2. **Definitions.**— (1) In these rules, unless the context otherwise requires, —

(a) "Act" means the Warehousing (Development and Regulation) Act, 2007 (37 of 2007);
(b) "Appellate Authority" means the Appellate Authority appointed by Central Government under sub-section (1) of section 42 ;
(c) 'form' means a form appended to these rules;
(d) "legal practitioner" shall have the same meaning as is assigned to it in the Advocate Act, 1961 (25 of 1961); and
(e) "section" means a section of the Act.

(2) The words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. **Procedure for filing appeal.-** (1) An appeal to the Appellate Authority shall be presented by filing a memorandum of appeal in Form 1 in person or through his authorised agent or legal practitioner or by registered post or speed post addressed to the Appellate Authority.

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(2) Every appeal under sub-rule (1) shall be presented in four complete sets in a paper-book form along with one empty file size envelope bearing full address of the respondent, and where the number of respondents is more than one, additional number of paper-books equal to number of respondents in the excess of one together with empty file size envelopes bearing the full address of each respondent shall be furnished by the appellant.

(3) The appellant shall attach to and present his application for appeal along with a copy of receipt slip as in Form 2 which shall be signed by the Appellate Authority or the officer authorised to receive the appeal on behalf of the Appellate Authority in acknowledgement of the receipt of the appeal.

(4) Notwithstanding anything contained in sub-rules (1), (2) and (3), the Appellate Authority may permit —

(a) more than one person to join together and file a single appeal if it is satisfied, having regard to the cause of action and the nature of relief prayed for, that they have the same interest in the subject matter; or

(b) an association representing the persons desirous of joining in a single appeal provided the association is duly authorised by such persons and the appeal shall disclose names of all the persons and whose behalf it has been filed.

4. **Presentation and scrutiny of application for appeal.-** (1) The Appellate Authority or an officer authorised by it shall endorse on every memorandum of appeal the date on which it is presented and shall sign the endorsement.

(2) If, on scrutiny, the application for appeal is found to be in order, it shall be given a serial number.

(3) If memorandum of appeal, on scrutiny, is found to be defective, the appellant may be allowed to rectify the defect within such time as may be allowed.

(4) If the appellant fails to rectify the defect within the time allowed under sub-rule (3), the Appellate Authority or its authorised officer may, by order and for reasons to be recorded in writing, decline to register the appeal.

5. **Fee for appeal.-** (1) Every appeal shall be accompanied by fee of Rs.2000/- (Rupees two thousand only) in the form of Bank Draft or Banker's Cheque of any

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nationalized bank in favour of Drawing and Disbursing Officer, Department of Food and Public Distribution (Government of India) payable in New Delhi, where the number of appellants is up to five and the fee to be increased by Rs. 100/- (Rupees one hundred only) for every additional appellant in excess of five appellants.

6. **Annexure to Paper book to accompany the memorandum of appeal. –**

(1) Every appeal shall be presented in the form of a paper book containing —

(*i*) a photo copy of the order against which the appeal is preferred;
(*ii*) copies of the documents relied upon by the appellant and referred to in the appeal; and
(*iii*) an index of documents.

(2) The documents referred to in sub-rule (1) may be self-attested by the appellants.

(3) Where an appeal is filed by an agent, the document authorising him to act as such agent also be appended to the appeal:

Provided that where an appeal is filed by a legal practitioner , it shall be accompanied by a duly executed 'vakalatnama'.

7. **Service of notice of appeal on the respondents.** - (1) A copy of the appeal in the paper-book shall ordinarily be served on each of the respondents by the Appellate Authority or its authorised officer in any one of the following modes: —

(*i*) hand delivery (dasti) through the appellant or through a process server; or
(*ii*) through registered post with acknowledgement due/by speed post; or
(*iii*) through an electronic mode.

(2) Notwithstanding anything contained in sub-rule (1), the Appellate Authority may, taking into account the number of respondents and their places of residence or work and other circumstances, direct that notice of the appeal be served upon the respondents in any other manner including any manner of substituted service, as it may appear to the Appellate Authority just and convenient.

8. **Filing of reply and other documents by the respondent.-** (1) The respondent shall file four complete sets containing the reply to the appeal alongwith the documents in a

paper-book form to the Appellate Authority within fifteen days of the date of service of the notice of the appeal on him.

(2) The respondent shall also serve a copy of the reply along with copies of documents as mentioned in sub-rule (1) to the appellant or his legal practitioner, as the case may be, and file proof of such service with the Appellate Authority, and the Appellate Authority may, on any cross appeal by the respondent, allow the appellant to reply within a period of fifteen days.

9. **Date and place of hearing to be notified.** - The Appellate Authority shall notify the date and the place of hearing of the appeal.

10. **Sittings of the Appellate Authority.** - The Appellate Authority shall ordinarily hold its sittings at New Delhi:

Provided that, if at any time, the Appellate Authority is satisfied that circumstances exist which render it necessary to have sittings of the Appellate Authority at any place other than New Delhi, it may hold such sittings at any appropriate place.

11. **Sitting hours of the Appellate Authority.**- The sitting hours of the Appellate Authority shall ordinarily be from 10.30 A.M. to 1.30 P.M. and 2 P.M. to 5 P.M. on all working days subject to any order made by the Chairperson.

12. **Order to be signed and dated.** - Every order of the Appellate Authority shall be in writing and shall be signed and dated by the Appellate Authority.

13. **Communication of orders to parties.** - Every order passed on an appeal shall be served on the appellant and to the respondent(s) either in person or by registered post.

14. **Language of the Appellate Authority.**— The proceedings of the Appellate Authority shall be conducted in English or Hindi unless otherwise decided by the Central Government.

15. **Seal and emblem.** - The official seal and emblem of the Appellate Authority shall be such as the Central Government may specify.

FORM 1

(See sub-rule (1) of rule 3)

Appeal under sub-section (2) of section 42 of the Warehousing (Development and Regulation) Act, 2007

For the use in Appellate Authority's Office

Date of Filing .....

Date of Receipt By registered post or in person or by E-mail.....

Registration No.....

Signature and seal of Appellate Authority

In The Warehousing Appellate Authority

Name of Place ....

Between

A B Appellant

And

C D Respondent

Details of Appeal

1. Particulars of the Appellant
(*i*) Name of the appellant
(*ii*) Name of Father/Husband
(*iii*)Designation and office in which employed
(*iv*) Office Address
(*v*) Address for service of all notices

2. Particulars of the respondent
(*i*) Name and/or designation of the respondent
(*ii*) Office address of the respondent
(*iii*)Address for service of all notices

3. Particulars of the Order against which appeal is made

The appeal is against the following order:

(*i*) Order No.
(*ii*) Date
(*iii*)Passed by
(*iv*) Subject in brief

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4. **Jurisdiction of Appellate Authority**.

The appellant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Appellate Authority.

5. **Limitation.** - The appellant further declares that the appeal is within the limitation prescribed in section 42 of the Warehousing (Development and Regulation) Act, 2007.

6. **Facts of the case.** - The facts of the case are given below: —
(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue, fact or otherwise).

7. **Relief (s) sought.** - In view of the facts mentioned in para 6 above, the appellant prays for the following relief(s): —

[Specify below the relief(s) sought for explaining the ground for the relief(s) and the legal provisions (if any) relied upon]

8. **Interim order, if prayed for.** - Pending final decision on the appeal, the appellant seeks issue of the following interim order :—

(Give here the nature of the interim order prayed for with reasons).

9. **Details of the remedies exhausted.** – The appellant declares that he has availed of all the remedies available to him under the relevant rules, etc.

10. **Matter not pending with any other court, etc.** - The appellant further declares that the subject matter of this appeal is not pending before any court of law or any other authority nor has been rejected by any court of law or other authority.

11. **Details of index.** - An index in duplicate containing the details of the documents to be relied upon is enclosed.

12. List of enclosures. –

Verification :

I.....(name of the appellant),S/o,D/o,W/o..... age .....working as ..... resident of..... hereby verify that

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the contents from 1 to 11 are true to the best of my personal knowledge and belief and that I have not suppressed any material facts.

Place:

Date :

Signature of appellant

To
WAREHOUSING APPELLATE AUTHORITY,
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION,
KRISHI BHAVAN, NEW DELHI.

Form 2

(See sub-rule (3) of rule 3)

Receipt Slip

Receipt of the appeal filed in the Warehousing Appellate Authority by Shri/Smt..... working as..... in the Office of.....residing..... is acknowledged. Receipt of Bank draft/ banker's cheque of .....(Nationalised bank/branch address) No..... dated.....for Rs..... is also acknowledged.

Signature and seal of Appellate Authority
or authorized representative

[F. No. TFC/19/2008]
NAVEEN PRAKASH, Jt. Secy.

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