FOREIGN TRADE (REGULATION) RULES, 1993
Ministry of Commerce

Notification No. GSR 791 (E), dated 30-12-1993

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. Short title and commencement.-

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

(e) "Policy" means the 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 licence" means a licence 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.

IndiaCode

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 licence, namely:-
(1) that the denial of a special licence 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.

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

4. Application for grant of licence.-

A person may make an application for the grant of a licence 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 licence 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 *bona fide* 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 licence for export that:-

(i) no person shall transfer or acquire by transfer any licence issued by the licensing authority except in accordance with the provisions of the Policy;

(ii) the goods for the export of which the licence is granted shall be the property of the licensee at the time of the export.

(2) The licensing authority may issue a licence for import subject to one or more of the following conditions, namely: -

(a) that the goods covered by the licence 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 licence;

(b) that the applicant for a licence shall execute a bond for complying with the terms and conditions of the licence.

(3) It shall be deemed to be a condition of every licence for import that:

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

(b) the goods for the import of which a licence is granted shall be the property of the licensee at the time of import and upto the time of clearance through customs;

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

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

(4) Any person importing 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 licence if -

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

(b) the application for the licence 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 canalise 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 thereunder;

(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 licence;

(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 licence;

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

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

(l) in the case of a licence 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 licence 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 licence. -

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

9. Suspension of a licence.-

(1) The Director General or the licensing authority may, by order in writing, suspend the operation of a licence granted to -
(a) any person, if any 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 Ac-tivities 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 the 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 has been initiated under rule 10.

10. Cancellation of a licence.-

The Director General or the licensing authority may by an order in writing cancel any licence granted under these rules if -

(a) the licence has been obtained by fraud, suppression of facts or misrepresentation; or

(b) the licensee has committed a breach of any of the conditions of the licence; or

(c) the licensee has tampered with the licence 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 ports 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 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.

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 licence except in accordance with the terms and conditions of such licence.

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 licence 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 licence or importing or exporting any goods.

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

(1) Any person authorised by the Central Government under sub-section (1) of section 10 (hereinafter called the authorised person) may, at 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 accounts or documents or things 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 accounts, documents or things and may take such notes or extracts therefrom as he may think fit.

(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 accounts 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 accounts, 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 receptacle, if any, in which such goods or materials are found to have been mixed with any other goods or materials :

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 aforesaid 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 accounts 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 (e), 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 or has been received from any place outside India in the course of the investigation for any contravention referred to in section 11 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 document which purports to be in the handwriting 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 document 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 licence, 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 the 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 wilful 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 licence, 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 or 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.