

The Foreign Trade (Development and Regulation) Act, 1992

February 12, 2013

Chapter I – Preliminary

1. Short title and commencement. –

ACT NO. 22 OF 1992.

[7th August, 1992.]

An Act to provide for the development and regulation of foreign trade by facilitating imports into, a, A augmenting exports from, India and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows: –

(1) This Act may be called the Foreign Trade (Development and Regulation) Act 1992.

(2) Sections 11 to 14 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into fore on the 19th day of June, 1992.

2. Definitions – In this Act, unless the context otherwise requires, –

(a) "Adjudicating Authority" means the authority specified in, or under, state sub section (1) of section 15;

(b) "Appellate Authority" means the authority specified in, or under, state sub section (1) of section 15;

(c) "Conveyance" means any vehicle, vessel, aircraft of any other means of transport including any animal:

(d) "Director General" means the Director General of Foreign Trade appointed under section 6;

(e) "Import" and "export" means respectively bringing into, or taking out of, India any goods by land , sea or air;

(f) "Importer- exporter Code Number" means the Code Number granted under section 7;

(g) "Licence" means a licence to import or export and includes a customs clearance permit and any other permission issued or granted under this Act:

(h) "Order" means any Order made by the Central Government under section 3: and

- (i) "Prescribed" means prescribed by rules made under this Act.

Chapter II – Power of Central Government to make orders and announce export and import policy

3. Powers to make provisions relating to imports and exports.—

(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.

(3) All goods to which any Order under sub section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

Chapter III – Importer exporter code number and licence

4. Importer exporter Code Number. —

No person shall make any import or export except under an Importer exporter Code Number granted by the Director General or the officer authorised by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.

5. Suspension and cancellation of Importer Exporter Code Number.—

(1) Where –

(a) Any person has contravened any law relating to Central excise or customs or foreign exchange or has committed any other economic offence under any other law for the time being in force as may be specified by the Central Government by notification in the Official Gazette, or

(b) The Director General has reason to believe that any person has made an export or import in a manner gravely prejudicial to the trade relations of India with any foreign country or to the interests of other person engaged in imports or exports or has brought disrepute to the credit or the goods of the country, the Director General may call for the record or any other information from that person and may, after giving to that person a notice in writing informing him of the grounds on which it is proposed to suspend or cancel the Importer exporter Code Number and giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice and, if that person so desires, of being heard, suspend for a period, as may be specified in the order, or cancel the Importer exporter Code Number granted to that person.

(2) Where any Importer exporter Code Number granted to a person has been suspended or cancelled under sub section (1), that person shall not be entitled to import or export any good except under a special licence, granted, in such manner and subject to such conditions as may be prescribed, by the Director General to that person.

6. Issue, suspension and cancellation of licence.—

(1) The Central Government may levy fees, subject to such exceptions, in respect of such persons or class of persons making an application for licence of in respect of any licence granted or renewed in such manner as may be prescribed.

(2) The Director General or an officer authorised by him may, on an application and after making such inquiry as he may think fit, grant or renew or refuse to grant or renew a licence to import or export such class or classes of goods as may be prescribed, after recording in writing his reasons for such refusal.

(3) A licence granted or renewed under this section shall – (a) Be in such form as may be prescribed;

(b) Be valid for such period as may be specified therein; and

(c) Be subject to such terms , conditions and restrictions as may be prescribed or as specified in the licence with reference to the terms, conditions and restrictions so prescribed.

(4) The Director General or the officer authorised under sub section (2) may, subject to such conditions as may be prescribed, for good and sufficient reasons, to be recorded in writing, suspend or cancel any licence granted under this Act:

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

(5) AN appeal against an order refusing to grant, or renew or suspending or canceling, a licence shall lie in like manner as an appeal against an order would lie under section 15.

Chapter IV – Search, Seizure, Penalty and Confiscation

7. Power relating to search and seizure. –

(1) The Central Government may by notification in the Official Gazette, authorise any person for the purposes of exercising such powers with respect to entering such premises and searching , inspecting and seizing of such goods, documents, things and conveyances, subject to such requirements and conditions, as may be prescribed.

(2) The provisions of the Code of Criminal Procedure, 1973, (2 of 1974) relating to searches and seizures shall, so far as may be , apply to every search and seizure made under this

section.

8. Contravention of provisions of this Act, rules, orders and export and import policy. –

(1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made there under and the export and import policy for the time being in force.

(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the export and import policy, he shall be liable to a penalty not exceeding one thousand rupees or five times the value of the goods in respect of which any contravention is made or attempted to be made, whichever is more.

(3) Where any person, on a notice to him by the Adjudicating Authority, admits any contravention, the Adjudication Authority may, in such class or classes of cases and in such manner as may be prescribed, determine, by way of settlement, an amount to be paid by that person.

(4) A penalty imposed under this Act may, if it is not paid, be recovered as

an arrear of land revenue and the Importer – exporter Code Number of the person concerned, may, on failure to pay the penalty by him, be suspended by the Adjudicating Authority till the penalty is paid.

(5) Where any contravention of any provision of this Act or any rules or orders made there under or the export and import policy has been, is being, or is attempted to be, made, the goods together with any package, covering or receptacle and any conveyances shall, subject to such requirements and conditions as may be prescribed, be liable to confiscation by the Adjudicating Authority.

(6) The goods or the conveyance confiscated under sub-section (5) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be.

9. Penalty or confiscation not to interfere with other punishment. –

No penalty imposed or confiscation made under this Act shall prevent the imposition of any other punishment to which the person affected thereby is liable under any other law for the time being in force.

10. Adjudicating Authority. –

Any penalty may be imposed or any confiscation may be adjudged under this Act by the Director General or, subject to such limits as may be specified, by such other officer as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

11. Giving of opportunity to the owner of the goods etc. —

No order imposing a penalty or of adjudication of confiscation shall be made unless the owner of the goods or conveyance, or other person concerned, has been given a notice in writing —

(a) Informing him of the grounds on which it is proposed to impose a penalty or to confiscate such goods or conveyance; and

(b) To make a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty or confiscation mentioned therein, and, if he so desires, of being heard in the matter.

Chapter V – Appeal and Revision

12. Appeal —

(1) Any person aggrieved by any decision or order made by the Adjudication Authority under this Act may prefer an appeal,—

(a) Where the decision or order has been made by the Director General, to the Central Government ;

(b) Where the decision or order has been made by an officer subordinate to the Director General, to the Director General or to any officer superior to the Adjudicating Authority authorised by the Director General to hear the appeal, within a period of forty- five days from the date on which the decision or order is served on such person :

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period, allow such appeal to be preferred within a further period of thirty days:

Provided further that in the case of an appeal against a decision or order imposing a penalty or redemption charges, no such appeal shall be entertained unless the amount of the penalty or redemption charges has been deposited by the appellant:

Provided also that, where the Appellate Authority is of opinion that the deposit to be made will cause undue hardship to the appellant, it may, at its discretion, dispense with such deposit either unconditionally or subject to such conditions as it may impose.

(2) The Appellate Authority may, after giving to the appellant a reasonable opportunity of being heard, if he so desires, and after making such further inquiries, if any, as it may consider necessary, make such orders as it thinks fit, confirming, modifying or reversing the decision or order appealed against, or may send back the case with such directions, as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing or imposing a penalty or redemption charges or confiscating goods of a greater value shall not be made under this section unless the appellant has been given an opportunity of making a representation, and, if he so desires, of being heard in his defence.

(3) The order made in appeal by the Appellate Authority shall be final.

13. Revision. —

The Central Government, in the case of any decision or order, not being a decision or order made in an appeal, made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding in which a decision or an order imposing a penalty or redemption charges or adjudicating confiscation has been made and against which no appeal has been preferred, for the purpose of satisfying it self or himself, as the case may be, as to the correctness, legality or propriety of such decision or order and made such orders thereon as may be deemed fit:

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person —

(a) Has, within a period of two years form the date of such decision or order, received a notice to show cause why such decision or order shall not be varied, and

(b) Has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence.

14. Powers of Adjudicating and other Authorities. —

(1) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(a) Summoning and enforcing the attendance of witnesses;

(b) Requiring the discovery and production of any document:

(c) Requisitioning any public record or copy thereof from any court or office:

(d) Receiving evidence on affidavits; and

(e) Issuing commissions for the examination of witnesses or documents

(2) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) Every authority making any adjudication or hearing any appeal or

exercising any powers of revision under this Act shall have the power to make such orders of an interim nature as it may think fit and may also, for sufficient cause, order the stay of operation of any decision or order .

(4) Clerical or arithmetical mistakes in any decision or order or errors arising therein from any accidental slip or omission may at any time be corrected by the authority by which the decision or order was made, either on its own motion or on the application of any of the parties:

Provided that where any correction proposed to be made under this sub section will have the effect of prejudicially affecting any person, no such correction shall be made except after giving

to that person a reasonable opportunity of making a representation in the matter and no such correction shall be made after the expiry of two years from the date on which such decision or order was made.

Chapter VI – Miscellaneous

15. Protection of action taken in good faith. –

No order made or deemed to have been made under this Act shall be called in question in any court, and no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made or deemed to have been made thereunder.

16. Power to make rules.—

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely:—

(a) The manner in which and the conditions subject to which a special licence may be issued under sub-section (2) of section 8;

(b) The exception subject to which and the person or class of persons in respect of whom fees may be levied and the manner in which a licence may be granted or renewed under sub-section (1) of section 9;

(c) The class or classes of goods for which a licence may be granted under sub-section (2) of section 9;

(d) The form in which and the terms, conditions and restrictions subject to which a licence may be granted under sub-section (3) of section 9;

(e) The conditions subject to which a licence may be suspended or cancelled under sub-section (4) of section 9;

(f) The premises, goods, documents, things and conveyances in respect of which and the requirements and conditions subject to which power of entry, search, inspection and seizure may be exercised under sub-section (1) of section 10;

(g) The class or classes of cases for which and the manner in which an amount, by way of settlement, may be determined under sub-section 3 of section 11;

(h) The requirements and conditions subject to which goods and conveyances shall be liable to confiscation under sub-section (5) of section 11;

(i) The manner in which and the conditions subject to which goods and conveyances may be released on payment of redemption charges under sub-section (6) of section 11; and

(j) Any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

(3) Every rule and every Order made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the Order or both Houses agree that the rule or the Order should not be made, the rule or the Order, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or the Order.

17. Repeal and savings —

(1) The Imports and Export (Control) Act, 1947 (18 of 1947) and the Foreign Trade (Development and Regulation) Ordinance, 1992 (Ord. 11 of 1992) are hereby repealed.

(2) the repeal of the Imports and Exports (Control) Act 1947 (18 of 1947), shall, however, not affect, —

(a) The previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) Any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) Any penalty, confiscation or punishment incurred in respect of any contravention under the Act so repealed; or

(d) Any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, confiscation or punishment as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty, confiscation or punishment may be imposed or made as if that Act had not been repealed.

(3) Notwithstanding the repeal of the Foreign Trade (Development and Regulation) Ordinance, 1992 (Ord. 11 of 1992), anything done or taken under the corresponding provisions of this Act

RULES

1. Short title and commencement. —

THE FOREIGN TRADE (REGULATION) RULES, 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 export and import Policy formulated and announced by the Central Government under section 5;

(f) "Schedule" means a Schedule appended to these rules;

(g) "Schedule" 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.

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 fulfillment of any obligation by India under any international agreement;

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

4. Application for grant of licences. —

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 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 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 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 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) That 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 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 any 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 documents 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 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 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 licensee; 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 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, 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 to 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 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 of 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 account 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 account, documents or things and may take such notes or extracts therefrom as he thinks 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 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 receptacle, 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 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 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 (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 documents 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 documents 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 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 document 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 a 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 adjudication 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 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 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 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

(See rule 5)

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

SCALE OF FEE

Particulars	Amount of fee
(1)	(2)
1. Where the value of goods specified in application does not exceed rupees fifty thousand.	Rupees two hundred
2. Where the value of the goods specified in the application 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 on 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 licence.	Rupees two hundred
5. In case where import licence and other correspondence are required by speed post.	Rupees two hundred
6. Application for issue of an identity card.	Rupees two hundred
	Rupees one hundred

7. Application for issue of duplicate identity card in the event of loss of original card.	Rupees two hundred
8. Extension of the period of shipment of an import licence.	Rupees on thousand per split up licence
9. Application for grant of split up licences.	

Get Latest Legal news from Vakilno1

[Click here to Subscribe to our Email Alerts FREE !!](#)

