
Special Economic Zones (Customs Procedures) Regulations, 2003

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Special Economic Zones (Customs Procedures) Regulations, 2003

In exercise of the powers conferred by sub-section (1) of Section 157 read with sub-section (2) of Section 76-C of the Customs Act, 1962 (52 of 1962), the Board hereby makes the following regulations, namely:

1. Short title, extent and commencement :-

- (1) These regulations may be called the Special Economic Zones (Customs Procedures) Regulations, 2003.
- (2) It extends to the whole of India.
- (3) They shall come into force on the 1st day of March, 2004 .

2. Definitions :-

In these regulations, unless the context otherwise requires,

- (a) "Act" means the Customs Act, 1962 (52 of 1962);
- (b) "Board" means the Board defined under clause (6) of Section 2 of the Act;
- (c) "Board of Approvals" means the combined Board of Approvals for export oriented unit and special economic zone units, as notified in the Official Gazette, from time to time, by the Government of India in the Ministry of Commerce and Industry;
- (d) "custodian" means any person approved by the Commissioner of Customs under Section 45 of the Act for the custody of imported goods unloaded in the customs area;
- (e) "Development Commissioner" means the Development Commissioner of the concerned special economic zone;
- (f) "developer" means a person engaged in development, or operation, or maintenance of zone or in providing public utility services within the special economic zone, duly ¹"approved by the Board of Approvals" and includes any other person authorised by the developer for such purpose;

(g) "Export and Import Policy" means the Export and Import Policy, notified from time to time, in the Official Gazette by the Government of India in the Ministry of Commerce and Industry under Section 5 of the Foreign Trade (Development and Regulations) Act, 1992 (22 of 1992);

(h) "export oriented undertaking" means an undertaking which has been approved as a hundred per cent export oriented undertaking by the Board of Approvals;

(i) "Electronic Hardware Technology Park" means the "Electronic Hardware Technology Park Scheme notified by the Government of India in the Ministry of Commerce, and approved by the Inter-Ministerial Standing Committee appointed by notification of the Government of India in the Ministry of Industry (Department of Industrial Development);

(j) "Manufacturer Exporter" shall have the same meaning as defined in the Export and Import Policy;

(k) "Nominated Agencies" means the Metals and Minerals Trading Corporation Limited, the Handicraft and Handloom Export Corporation, the State Trading Corporation, the Projects and Equipment of India Limited and any other agency authorized by the Reserve Bank of India;

(l) "self certification" means the certification regarding sealing of container or package of goods under export given by the zone unit and includes the certificate regarding contents and sealing of the container or package, given by the owner, the working partner, the Managing Director or Company Secretary of the said unit or any person [holding a high position in such zone unit, authorised by such owner, working partner or the Board of Directors of such unit], as the case may be, on the copies of shipping bill, which indicates that such package or container in respect of goods under export have been sealed in his presence;

(m) "Software Technology Park Scheme" means Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce, and approved by the Inter-Ministerial Standing Committee appointed by notification of Government of India in the Ministry of Industry (Department of Industrial Development);

(n) "status holder" shall have the same meaning as defined in the Export and Import Policy;

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(nn) "Unit Approval Committee", in respect of a special economic zone means a committee set up for the special economic zone as notified in the Official Gazette by the Central Government in the Ministry of Commerce and Industry';

(o) "zone" means a special economic zone specified by the Central Government under Section 76-A of the Act;

(p) "zone unit" means a special economic zone unit of business establishment set up in the processing area of the zone for carrying out authorised operations only;

(q) Words and expressions used herein and not defined, but defined in the Act or Rules made thereunder, shall have the meanings respectively assigned to them in the Act or the rules.

1. in regulation 2, in clause (f) for the words "permitted by the commissioner of customs" the words "approved by the Board of Approvals" shall be substituted, by the SPECIAL ECONOMIC ZONES (CUSTOMS PROCEDURE) (4TH AMENDMENT) REGULATIONS, 2004.
v123. in regulation 2, after clause (n), the clause (nn) shall be inserted, by the SPECIAL ECONOMIC ZONES (CUSTOMS PROCEDURE) (4TH AMENDMENT) REGULATIONS, 2004.

3. Setting up of unit in the zone :-

(1) A zone unit may be set up for the purposes of carrying out authorised operations.

(2) The Letter of Permission for setting up of zone unit shall be issued by the Development Commissioner.

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"(3) Each zone unit shall have separate establishment distinct and identifiable or distinct and partitioned, from other zone unit";

1. in Regulation 3, for sub-regulation (3) shall be substituted, by the SPECIAL ECONOMIC ZONES (CUSTOMS PROCEDURE) (4TH AMENDMENT) REGULATIONS, 2004.

4. Import of goods by the zone unit :-

(1) The zone unit may import goods required for carrying its authorised operations or for the purposes of setting up the unit,

through

- (a) ports or airports;
- (b) land customs stations;
- (c) inland container depots;
- (d) foreign post offices;
- (e) authorised courier;

(2) The goods may also be procured from public bonded warehouse or private bonded warehouse or international exhibition held in India.

(3) In case of software, imports shall also be allowed through data communication link, internet, e-mail or any other electronic mode.

(4) For clearance of imported goods at all ports, airports, land customs stations, inland container depots, the zone unit or developer, as the case may be, shall be required to follow the procedures, namely:

(i) the zone unit or developer, as the case may be, shall file a bill of entry for home consumption in quintuplicate giving therein, complete description, model, make, specifications, purpose of import of goods such as trading, manufacturing, nature of goods such as capital goods, raw materials, spares, consumables, with specially stamped endorsement as "special economic zone cargo" along with bill of lading or airway bill, a invoice, packing list and purchase order or contract for noting of the bill of entry in the zone;

(ii) the bill of entry shall be assessed by the Customs Officers in the zone;

(iii) the assessed bill of entry shall be submitted to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be (hereinafter referred to as proper officer) at the place of import such as port, airport, land customs station, inland container depot, and the same shall be treated as permission for transfer of goods to the zone;

(iv) in case of sealed full container load (FCL) container, the goods shall be transferred to the zone on the basis of assessed bill of entry after verification of the seal, without customs escorts;

(v) in case of other cargo, the goods shall be allowed to be transferred to the zone on the basis of assessed bill of entry either under customs escort or under transshipment procedure, depending on the option made by the zone unit; and for such transshipment, no separate documents shall be required to be filed and the transshipment permission shall be stamped on the fifth copy of the bill of entry;

(vi) on arrival of the goods in the zone, the goods shall be subjected to verification of seal in case of full container load container or verification of marks and numbers of packages in other case and after such verification, if in order, such goods received shall be allowed admission in the zone;

(vii) the zone unit shall submit fifth copy of bill of entry bearing endorsement of the Customs Officers in the zone that the goods have been received in the zone, to the proper officer in charge of the airport, port, inland container depot, land customs station, post office, public or private bonded warehouse, as the case may be, within a period of forty-five days from the date of clearance of goods from such airport, port, inland container depot, land customs station, post office, public or private bonded warehouse, as the case may be, failing which the proper officer in charge of such airport, port, inland container depot, land customs station, post office, public or private bonded warehouse, as the case may be, shall write to the proper officer having jurisdiction over the zone for raising demand of duty from the zone unit;

(viii) the zone unit shall be required to obtain notional out of charge of goods from the proper officer of the zone on the same day if the goods are brought during the working hours or immediately on the next working day in case goods are brought beyond working hours;

(ix) where goods are imported by the zone unit or developer through courier, Customs Officers in the zone shall assess the goods as per the Courier Import and Export (Clearance) Regulations, 1998.

(5) The goods imported by the zone unit or developer shall not be subject to detailed examination except in case of prior intelligence or information or to maintain an element of surprise.

(6) Where the goods have been imported by post, the zone unit or the developer, following the procedure specified in sub-regulation

(4), shall file the bill of entry with (sic)* Customs Officers in the zone marking clearly "Postal Imports" subject to following (sic)*, namely:-

(i) for the purpose of bill of entry, the post-office registration number as indicated in the intimation letter issued by the post office shall also be taken as the import general manifest and item number, of the bill of entry;

(ii) copy of intimation letter received from the post office shall also be pasted on the reverse of the original bill of entry;

(iii) where the zone is away from the foreign post office, the goods shall be moved to the zone under customs escort from such post office or under control of the postal authorities.

5. Import of goods through personal carriage by gems and jewellery unit :-

(1) Notwithstanding anything contained in Regulation 4, the zone unit engaged in manufacture and export of gems and jewellery, shall be allowed to import precious goods, namely gold, silver, platinum, gem and jewellery through personal baggage subject to the following procedure, namely:

(i) the passenger bringing the precious goods shall declare the goods with the customs authorities at the airport in the arrival hall in the declaration form as specified by Commissioner of Customs in charge of concerned airport along with a duly acknowledged copy of intimation submitted to the Customs Officers in the zone;

(ii) the passenger shall hand over the goods duly packed indicating name and address of the consignee zone unit and accompanied by invoice and packing list to the customs authorities for detention in the warehouse under the detention receipt;

(iii) the Customs Officers shall detain the goods and issue detention receipt indicating full details such as weight, purity and number of bars, name of unit, passport number of the passenger and name of the supplier, etc.;

(iv) the zone unit shall file the bill of entry in quintuplicate along with a copy of invoice, packing list, declaration with the Customs Officers in the zone and in Word(s) not printed in Gazette such cases, the detention receipt number issued by the Customs at Airport at the time of arrival of the passenger shall be treated as

Import General Manifest and item number;

(v) after assessments of bill of entry, original copy of the bill of entry shall be retained by the Customs Officers in the zone and the remaining copies shall be handed over to the representative of the zone unit for presenting at the airport detention counter where goods shall be allowed clearance after receiving the original detention receipt, authorization from the zone unit and making entries in the warehouse register, detention receipt register and obtaining signatures from the authorised representative of the zone unit;

(vi) after release of the goods, the goods shall be moved to the zone under customs escort and shall be allowed admission into the zone unit after verification of marks and numbers of packages and notional "out of charge" by the Customs Officers in the zone;

(vii) the goods so detained at the airport may also be allowed to be transported by an authority or agency approved by the Commissioner of Customs having jurisdiction over the zone.

6. Import through data communication or telecommunication link :-

Where the zone unit import computer software through data communication or telecommunication links, the zone unit shall file bill of entry within a period of twenty-four hours of such import along with invoice and other relevant documents and shall obtain notional 'out of charge' from the Customs Officers in the zone, subject to the following conditions, namely:

(i) the documents such as invoice, etc. in respect of such import of computer software shall be routed through banks;

(ii) the value of such software shall be verified by the Development Commissioner of the zone;

(iii) instruction issued by the Reserve Bank of India, from time to time, if any, in this behalf shall be followed.

7. Procurement from warehouse :-

(1) Where goods are procured from the warehouse appointed or licensed under Section 57 or Section 58 of the Act, the zone unit shall file bill of entry giving therein complete description of the goods such as model, make, serial number, specification, with the Customs Officers in the zone.

(2) The zone unit shall submit the duly assessed bill of entry assessed by the Customs Officers in the zone to the proper officer in charge of the warehouse from where the zone unit intends to procure the goods.

(3) The proper officer in charge of the warehouse shall allow clearance of the goods from the warehouse for supply to the zone unit without payment of duty on the cover of ex- bond shipping bill and on the basis of bill of entry duly assessed by the Customs Officers in the zone.

(4) Where the re-warehousing certificate by way of endorsement by the Customs Officers in the zone on the copy of ex-bond shipping bill is not received by the proper officer in charge of warehouse within the period of forty-five days from the date of clearance of the goods from the warehouse, the proper officer in charge of the warehouse shall proceed to demand of duty from the owner of such goods so supplied to the zone unit.

(5) The zone unit shall obtain notional "out of charge" of goods from the proper officer of the zone on the same day if the goods are brought during the working hours, or immediately on the next working day in case goods are brought beyond working hours.

8. Procurement of goods from international exhibition held in India :-

Subject to the procedure as specified in Regulation 7, the zone unit shall be allowed to procure goods from international exhibitions held in India.

9. Re-import or replacement or re-export of goods :-

(1) The zone unit shall be allowed to re-import the goods exported and found to be defective or damaged by the overseas buyer or in the case of failure of the buyer to take delivery of the goods, subject to the procedure as mentioned in Regulation 4 and subject to the Following conditions, namely:

(i) identity of goods is established at the time of re-import; and

(ii) goods are re-imported within a period of one year from the date of export.

(2) Where the goods imported by the zone unit are found to be defective or damaged or found to be otherwise unfit for use and suppliers agree to replace such defective or damaged or unfit for

use goods, then such goods received as free replacement shall be allowed admission in the zone by way of import or replacement through the authorized dealer of the overseas supplier in India, subject to the following conditions, namely:

(i) the goods so found to be defective or damaged or otherwise unfit for use may be re-exported later on; or

(ii) where the overseas supplier of such goods does not insist for re-export of such goods, the re-export of the same shall not be insisted provided such goods are either destroyed with the permission of proper officer, or shall be cleared into domestic tariff area on payment of duty as if cleared for home consumption.

10. Procurement of goods by zone unit or developer from domestic tariff area :-

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(1) The zone unit or developer, as the case may be, may procure any goods from domestic tariff area for carrying out authorised operation subject to the following conditions, namely:-

(i) the domestic tariff unit supplying the goods to the zone unit or developer, or the zone unit or developer on behalf of the domestic tariff area unit, as the case may be, shall file a bill of export giving therein complete description, model, make, specifications, nature of goods such as capital goods, raw materials, spares, consumables, with specially stamped endorsement as "special economic zone cargo" alongwith invoice, packing list and purchase order for noting and assessment of the bill of export in the zone;

(ii) the bill of export shall be assessed by the customs officer in the zone;

(iii) the assessed bill of export shall be submitted to the proper officer having jurisdiction over the domestic tariff area unit and the same shall be treated as permission for transfer of goods to the zone;

(iv) the domestic tariff area unit supplying goods to the zone unit or the developer, as the case may be, shall be allowed to remove the goods on the cover of ARE-1 and the assessed bill of export, giving therein complete description, model, make, serial number, specifications and other relevant particulars;

(v) the goods so brought to the zone may be allowed admission

into the zone on the basis of assessed bill of export and ARE-1 and a copy of bill of the export and ARE-1, with an endorsement that goods have been admitted in full into the zone, shall be forwarded to the Central Excise Superintendent having jurisdiction over the domestic tariff area unit within forty-five days, falling which the Superintendent shall raise demand of duty against the domestic tariff area unit;

(vi) where domestic tariff area unit or zone unit, on behalf of such domestic tariff area unit, has filed a bill of export under claim of duty drawback or duty entitlement passbook scheme and the domestic tariff area unit does not intend to claim duty drawback or duty entitlement passbook scheme credit, a disclaimer to this effect may be given to the zone unit, and on the basis of such disclaimer given by the domestic tariff area unit, duty drawback or duty entitlement passbook scheme credit may be claimed by the zone unit;

(vii) the proper officer in the zone shall assess the bill of export in the same manner as it is assessed in the case of export of goods under claim of duty drawback or duty entitlement passbook scheme credit or no claim, as the case may be, and instruction issued under respective export promotion scheme shall apply mutatus mutandis in respect of these goods; and valuation of such goods shall be done in terms of Section 14 of the Act;

(viii) before allowing admission of such goods into the zone, the goods shall be examined by the customs officer of the zone in respect of description, quantity, marks, model and other relevant particulars, given in the ARE-I and bill of export, invoice and packing list and also as per the examination norms laid down in respect of export goods and instruction issued by the Board in this behalf from time to time;

(ix) the duty drawback or duty entitlement passbook scheme credit against such supply of goods by domestic tariff area unit to the zone unit or to the developer shall be admissible only when the payment for such supply of goods to the zone unit is received in freely convertible foreign currency;

(x) a copy of the bill of export and ARE-I with endorsement of zone customs authorities on it to the effect that goods have been admitted in full in the zone shall be treated as proof of export;

(xi) where the goods are intended to be procured by the zone unit

or developer from a trader or merchant exporter, the procedure as stated hereinabove shall apply mutatis mutandis, including filing of bill of export except that the goods shall not be required to be brought to the zone under the cover of ARE-I and assessed copy of bill of export shall not be required to be submitted to the jurisdictional Central Excise authority for removal of goods, from the premises of the trader or merchant exporter.

(2) Notwithstanding any thing contained in sub-regulation (1), where the goods are procured by a zone unit or developer from a domestic tariff area unit and where either the zone unit or the developer or the domestic tariff area unit do not claim duty drawback or duty entitlement pass book scheme credit or where such supplies from domestic tariff area unit to the zone unit or developer, as the case may be, are not against fulfillment of export obligation under any export promotion scheme or where no export benefits against such supplies are claimed either by the domestic unit supplying the goods or the zone unit or developer, as the case may be, then, the zone unit or the developer may procure any such goods from domestic tariff area for carrying out authorised operation subject to the following conditions, namely:-

(i) zone unit or developer shall submit application to the proper officer of the zone for issuance of pre-authenticated Domestic Procurement Certificate and on the basis of such application, the proper officer of the zone or any other officer authorised by him in this regard shall issue to the zone unit or developer, as the case may be pre-authenticated Domestic Procurement Certificate in the Form specified in Annexure-I to these regulations;

(ii) the Superintendent of Central Excise having jurisdiction over the domestic tariff area unit shall, on the basis of Domestic Procurement Certificate issued under clause (i), allow the domestic tariff area unit to remove the goods under the cover of ARE-I;

(iii) the ARE-I shall contain complete description of goods such as model, make, serial number, technical specifications;

(iv) the goods allowed to be removed under clause (ii) may be allowed admission into the zone on the basis of ARE-I and a copy of ARE-I, with an endorsement that goods have been admitted in full into the zone, shall be forwarded to the Superintendent of Central Excise having jurisdiction over the domestic tariff area unit within a period of forty-five days from the date of removal of goods from

the factory or warehouse in the domestic tariff area, failing which the proper officer in charge of zone unit shall raise demand of duty against such domestic tariff area unit;

(v) before allowing admission of such goods in the zone, the goods shall be examined by any officer of customs authorised in this behalf by the proper officer of the zone in respect of description, quantity, marks, model and other relevant particulars given in the ARE-I and invoice and packing list and also in accordance with the examination norms laid down in respect of export goods and instruction issued by the Board in this behalf from time to time;

(3) Nothing contained in sub-regulation (1) and (2) shall apply in case where the duty paid goods are procured from domestic tariff area and no duty concession or export incentives are being claimed against such supplies by the domestic supplier or the zone unit or the developer, as the case may be, and such goods shall be allowed admission into the zone on the basis of invoice issued by the supplier of the goods and concerned transport documents, if any.

Explanation 1. - For the purpose of this regulation, "export incentives" includes drawback, duty entitlement passbook scheme, rebate, advance license or counting of proceeds as export earnings or counting of proceeds as fulfillment of export obligation under any scheme.

Explanation 2. For the purposes of this regulation, "ARE-I" means Form ARE-I referred to in notification No.40/2001-Central Excise (N.T..) dt. the 26th June, 2001.'

1. Regulation 10, shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

11. Procurement of goods from export oriented undertaking or software technology park unit or electronic hardware park unit :-

The zone unit or the developer may also procure capital goods or manufactured goods from export oriented undertaking or software technology park unit or electronic hardware technology park unit subject to following conditions, namely:

(i) subject to the procedure specified in Regulation 7, the export oriented undertaking or software technology park unit or electronic hardware technology park unit, as the case may be, may transfer capital goods imported or procured duty free to the zone unit or the

developer, as the case may be;

(ii) subject to the procedure as specified in Regulation 10, the export oriented undertaking or software technology park unit or electronic hardware technology park unit, as the case may be, may also transfer manufactured goods to the zone unit or to the developer duty free;

(iii) the goods procured by the zone unit or developer under clauses (i) and (ii) shall be used by it for the purposes of carrying out authorised operations in the zone only;

(iv) the capital goods or manufactured goods in export oriented undertaking or software technology park unit or electronic hardware technology park unit so transferred under clauses (i) and (ii) to the zone unit shall be considered as imported goods for zone unit for all purposes.

12. Transfer of goods from one zone unit to another zone unit in the same zone or different zone :-

A zone unit may procure ¹ "goods including capital goods or manufactured goods" or manufactured goods from another zone unit located in the same zone or in another zone, subject to following conditions, namely:

(i) the receiving zone unit shall file bill of entry for home consumption in quintuplicate giving therein, complete description, model, make, specifications, purpose of import of goods, nature of goods such as capital goods, raw materials, spares, consumables, along with a invoice, packing list with the customs authorities in the zone, having jurisdiction over such unit;

(ii) on the basis of such assessed bill of entry, the goods shall be allowed to be removed or transferred to the receiving zone unit under transshipment permit;

(iii) there shall be no requirement to file any additional documents for the purpose of transshipment of goods and the transshipment permission shall be stamped on the bill of entry itself;

(iv) the supplying zone unit shall submit the re-warehousing certificate to the proper officer having jurisdiction over the such supplying unit within a period of forty- five days, failing which the jurisdictional proper officer of the supplying zone unit shall write to the jurisdictional proper officer of the receiving zone unit for

demand of duty from the receiving zone unit;

(v) Notwithstanding anything contained in clause (1), in case where supplying and receiving zone units are located in the same zone, the movement of goods including raw materials shall be allowed subject to maintenance of accounts by both receiving and supplying zone unit and no bill of entry shall be required to be filed with the customs authorities in the zone.

1. Regulation 12, for the words "goods namely, capital goods or manufactured goods" the words "goods including capital goods or manufactured goods" shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

13. Export of goods by special economic zone unit :-

(1) Any goods manufactured, produced, reconditioned, re-engineered, imported or procured by the zone unit, as the case may be, as per the terms and condition of Letter of Permission, may be exported out of India through airport or port or inland container depot, or land customs station or by post or courier or personal carriage, as the case may be, subject to the following conditions, namely:

(i) the zone unit shall file shipping bill in quadruplicate with Customs Officers in the zone, giving therein complete description of goods such as model, make, serial number, specification, along with relevant documents, namely, invoice, packing list, GR Form (in duplicate) for noting;

(ii) the shipping bill shall be assessed by the Customs Officers in the zone in the manner and procedure as is followed in case of normal exports;

(iii) the goods shall not be examined in routine and Let Export Order may be given on the basis of self-certification by the zone unit;

(iv) notwithstanding anything contained in clause (iii), during the transit of goods from the zone to the gateway port or at the gateway port, airport, or land customs station itself, the goods may be examined by the Customs Officers as per the norms prescribed by the Board from time to time.

(2) The zone unit may export goods by post subject to the normal procedure applicable to export through Foreign Post Office.

14. Export by software unit through data communication link or by providing on site services :-

(1) The zone unit engaged in software sector may be permitted to export software or processed data or data analysed including call centre services via data link, internet, e-mail or through other electronic mode and Softex Form duly certified by the Development Commissioner of the zone as per Foreign Exchange Management (Export of Goods and Services) Regulation, 2000, is submitted to the customs authorities in the zone within a period of one month from the date of such exports.

(2) The zone unit engaged in export of services including software may be permitted to provide consultancy services "on site" abroad subject to submission of details regarding the contract or purchase order, foreign exchange remitted and the persons deputed abroad, to the Customs Officers in the zone.

(3) The consultancy fee received by the zone unit for providing on site consultancy services in convertible foreign exchange shall be deemed to be export for the purposes of Net Foreign Exchange Earning.

15. Export by gems and jewellery through Personal Carriage :-

(1) Where the zone unit is engaged in manufacture and export of gems and jewellery, the zone unit may be allowed to export goods to be carried by the foreign bound passenger in their personal baggage, subject to the following conditions, namely:

(i) the zone unit shall submit the shipping bill¹, invoice, GR-I with the Customs Officers in the zone;

(ii) the shipping bill shall be assessed by the Customs Officers in the zone in the same manner as is done in the case of normal exports;

(iii) the goods shall be transferred from the zone to the airport under the cover of assessed shipping bill by the authorized agency approved by the Commissioner of Customs having jurisdiction over the zone under customs escort of the zone;

(iv) at the airport, the consignment shall be deposited with the warehouse in the airport against a "Detention Receipt" issued by the Customs Officers at the airport;

(v) the consignment shall be handed over to the authorised passenger at the time of departure on submission of original Detention Receipt;

(vi) the zone unit shall submit the proof of export issued by the Customs Officers at the airport of export within a period of seven days from the date of removal of goods from the zone to the customs in the zone.

1. Regulation 15, in sub-regulation (1), in clause (i), the words "alongwith advance remittance certificate duly certified by the bank" shall be omitted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

16. Export of goods by gems and jewellery unit through display and sale at showrooms at international airports :-

The zone unit engaged in manufacture and export of gems and jewellery, shall be allowed to take gems and jewellery for display in the showrooms set up at Departure Lounge at International Airports in India for sale to passenger leaving India subject to such conditions and procedure as may be laid down by the Commissioner of Customs having jurisdiction over the zone.

17. Export for participation in exhibition abroad :-

The zone unit shall be allowed to export goods including gems and jewellery for display or participating in exhibitions abroad in terms of the Export and Import Policy subject to following conditions, namely:

(i) the zone unit shall obtain the permission of Development Commissioner of the zone allowing the zone unit to participate in the exhibition abroad;

(ii) shipping bill along with relevant documents shall be filed with the customs in the zone in the same manner and following the same procedure as applicable to normal exports;

(iii) exports shall be allowed by the Customs Officers in the zone on provisional basis after examination of the goods;

(iv) the goods unsold" in the exhibition shall be imported within such period as it is stipulated in the Export and Import Policy;

(v) the zone unit shall file bill of entry for unsold goods as required in case of normal imports and it shall be assessed in the same manner and subject to same procedure as applicable to normal imported goods;

(vi) the re-imported goods shall be allowed admission free of duty in the unit subject to establishment of identity of the goods with reference to the attested export documents and finalize the provisional assessment accordingly;

18. Export through courier :-

In cases where the zone unit exports goods through couriers, such exports shall be allowed only through authorised courier, registered with the Commissioner of Customs having jurisdiction over the gateway airport and the procedure specified in the Courier Export and Import (Clearance) Regulations, 1998 shall be followed for this purpose.

19. Export of goods by the zone unit through merchant exporter :-

The zone unit may export goods through third party in accordance with the Export and Import Policy subject to the following conditions, namely:

- (i) the goods shall be exported directly from the zone;
- (ii) export document shall contain the name of the merchant exporter and zone unit;
- (iii) merchant exporter at the time of assessment of shipping bill in the zone shall submit a disclaimer that no export benefit is being or shall be availed by him.

20. Exchange of plain jewellery with unit in domestic tariff area :-

The zone unit engaged in manufacture and export of gems and jewellery shall be permitted to receive plain gold or silver or platinum jewellery from domestic tariff area gems and jewellery unit in exchange of equivalent content of gold or silver or platinum contained in the said jewellery¹ ; and such exchange shall be allowed only after appraisalment of the jewellery as well as precious metals by jewellery appraiser in the zone.

1. Regulation 20, the words "subject to condition that no wastage or manufacturing loss against such exchange of jewellery shall be permissible;" shall be omitted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

21. Removal of goods from a zone unit to an export oriented undertaking or software technology part unit or

electronic hardware technology part unit :-

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(1) The proper officer may permit a zone unit to transfer goods to an export oriented undertaking or software technology part unit or electronic hardware technology park unit, as the case may be, without payment of duty for the purpose of manufacture and export, or for export or,for use within the unit subject to the following conditions, namely:-

(i) the zone unit shall make such transfer against the procurement certificate issued by the proper officer in charge of receiving export oriented undertaking or software technology part unit or electronic hardware technology part unit, as the case may be;

(ii) a warehousing bill of entry shall be filed by the export oriented unit or software technology park unit or electronic hardware technology part unit or by the supplying special economic zone unit on behalf of the receiving export oriented unit or software technology park unit or electronic hardware technology park unit, as the case may be with the officer of the customs authorised in this behalf by the proper officer of the zone;

(iii) export oriented undertaking or software technology park unit or electronic hardware technology park unit shall submit rewarehousing certificate duly signed by the proper officer, having jurisdiction over the receiving export oriented undertaking or software technology park or electronic hardware technology park unit within a period of forty five days from the date of clearance, to the officer of the customs authorised in this behalf by the proper officer of the zone;

(iv) where export oriented undertaking or software technology park unit or electronic hardware technology park unit fails to submit the re-warehousing certificate within a period of forty-five days from the day of clearance of goods, officer of the customs concerned in the zone shall take up the matter with the jurisdiction proper officer of the receiving unit, to initiate recovery proceeding against such export oriented undertaking, software technology park unit or electronic hardware technology park unit, as the case may be;

(v) where goods admitted into zone unit from domestic tariff area, on which benefit under duty exemption pass book scheme or duly draw back has been availed, are removed as such or after subjecting it to a process not amounting to manufacture, to an

export oriented undertaking or software technology park unit or electronic hardware technology park unit directly by the zone unit or through any unit in the same zone or another zone, the duty equal to benefit availed under duty exemption pass book scheme or duty drawback shall be liable to be paid."

1. Regulation 21, the following regulation shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

22. Sale of goods by a zone unit in domestic tariff area :-

(1) The zone unit shall be allowed to sell goods manufactured or produced in the zone unit including reject waste, scrap remnants and by-products arising out of such production, in the domestic tariff area on payment of customs duty in terms of clause (b) of Section 76-F of the Act.

(2) The zone unit engaged in trading activities shall be allowed to sell imported or indigenously procured goods in domestic tariff area on payment of duty under clause (b) of Section 76-F of the Act subject to the condition that the zone unit has achieved positive Net Foreign Exchange Earning cumulatively at the time of making sale in domestic tariff area and such sale of goods shall be allowed to the extent that Net Foreign Exchange Earning of the unit remain positive.

(3) Domestic tariff area unit intending to buy goods from the zone unit shall be required to file bill of entry for home-consumption giving therein complete description of the goods such as make, model number, serial number, specification, along with invoice and packing list with the Customs Officers in the zone.

(4) Notwithstanding anything contained in ¹"sub-regulation (3)", the bill of entry for home consumption may also be filed by the zone unit on the basis of authorization by buyer located in domestic tariff area.

(5) The valuation of the goods cleared into domestic tariff area shall be determined in accordance with Section 14 of the Act and rules made thereunder.

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'(6) Where the goods so procured from domestic tariff area by the zone unit are supplied back to the domestic tariff area as it is or

without substantial processing, such goods shall be treated as re-imported goods and shall be subject to such procedure and conditions as applicable in the case of normal re-import of goods from outside India:

Provided that in the case where such goods are supplied back to the domestic tariff area as it is and where the import duty on such goods is "Nil" and while procurement of such goods no export benefits were allowed against such goods, the zone unit may be allowed to supply back such goods to domestic tariff area on the basis of invoice only and filing of bill of entry in such cases shall not be required.

Explanation. - For the purpose of this regulation "export benefits" includes drawback, duty entitlement passbook scheme, rebate, advance license or counting of proceeds as export earnings or counting of proceeds so fulfillment of export obligation under any scheme.!

(7) Where the zone unit has surplus power generated in its captive power plant or diesel generating set, such surplus power may be allowed to be transferred to domestic tariff area on payment of duty on consumables and raw materials used for generation of power so sold on the basis of norms worked out for raw materials and consumables used, as may be approved by the Board of Approvals subject to the following conditions, namely:

(i) the proposal for sale of surplus power received in the office of the Development Commissioner shall be examined in consultation with the concerned State Government including State Electricity Boards of that State;

(ii) the norms for production of unit of power that may be finalized shall be submitted to the Board of Approval for consideration;

(iii) in case of sale of surplus plus to other unit in the same zone or other zone or to other export oriented undertaking or to electronic hardware technology park unit or to other software technology park unit, as the case may be, the same shall be allowed without payment of duty :

Provided that the quantity of consumables and raw materials used for generation of power so transferred to another special economic zone unit or export oriented undertaking, electronic hardware technology park unit or software technology park unit, as the case

may be, as quantified and approved by the Board of Approvals is accounted for by the supplying as well as receiving units for the calculation of Net Foreign Exchange Earning.

1. in Regulation 22, in sub-regulation (4), the word, bracket and figure "clause (4)" the word, bracket and figure "sub-regulation (3)" shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

v131. in Regulation 22, sub-regulation (6) shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

23. Removal of scrap or dust by gems and jewellery zone unit :-

(1) The zone unit engaged in the manufacture and export of gem and jewellery shall be allowed to send gold or silver or platinum scrap, dust or sweepings generated in such unit to the Government Mint or Private Mint for conversion into standard gold bars and return thereof to the zone following the procedure laid down by the Customs Officers in this regard.

(2) The gold or silver or platinum dust, scrap or sweepings may also be allowed to be cleared into domestic tariff area on payment of duty on the gold or silver or platinum content in the said scrap, dust or sweepings, in accordance with the provision of clause (b) of Section 76-F of the Act:

Provided that the samples of such gold or silver or platinum sweepings, scrap or dust shall be taken at the time of clearance and sent to Government Mint or Private Mint for assaying and assessment shall be finalised on the basis of reports received from the Government Mint or Private Mint, as the case may be.

24. Temporary removal of goods by a zone unit into the domestic tariff area for specified purposes without payment of duty :-

(1) Subject to the grant of permission and fulfilment of such condition as may be imposed by the proper officer, the zone unit shall be allowed to remove goods manufactured or produced including imported or procured capital goods to domestic tariff area temporarily without payment of duty for the purpose of test or repairs or calibration or re-engineering or re-conditioning in the domestic tariff area : Provided that the identification marks such as make, model, seal number, specification of the goods received back

after such test, repair, calibration or re-engineering or reconditioning matches with those mentioned in the repair challan prepared and countersigned by the customs officers in the zone at the time of taking capital goods into domestic tariff area:

Provided further that goods shall be brought back to the zone within a period of forty- five days from the date of taking the goods out of the zone;

Provided also that the proper officer of the zone may, if he thinks proper, extend the said period of forty-five days up to further period of two months.

(2) In case of failure of the zone unit to bring back the goods in the zone within the period specified in sub-regulation (1), the zone unit shall pay the duty applicable on such goods in terms of provision of clause (b) of Section 76-F of the Act.

(3) Subject to the provisions in sub-regulations (1) and (2), the zone unit shall be allowed to take goods including capital goods to another unit in the same zone or in another zone, or export oriented undertaking unit or electronic hardware technology park unit or software technology park unit, as the case may be, for the purpose of test or repairs or calibration or re-engineering or re-conditioning

.

(4) The zone unit, engaged in development of software or otherwise, shall be allowed by the proper officer to take laptop computers and video projection system out of the zone temporarily for use by the authorised employees of such unit subject to the following procedure, namely:

(i) the zone unit shall account for the laptop computers or video projection system in their inventory after import or local procurement;

(ii) the zone unit shall issue a certificate authorising the employee by name and giving the full specification, such as serial number, model number, make etc., of the laptop computers and video projection system intended to be taken outside the bonded area temporarily and a copy of the certificate shall be endorsed to the proper officer and acknowledgement received by the unit;

(iii) the zone unit shall be required to maintain a record of such

certificate of authorization issued under clause (ii) for temporarily taking out or bringing in such unit the laptop computer or video projection system and the same shall be made available at the time of inspection by the Customs Officers having jurisdiction over the zone.

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"(5) Subject to such condition as the proper officer of the zone may specify and subject to such procedure, as may be laid down by the proper officer of the zone from time to time, the zone unit shall be allowed to take limited quantities of goods manufactured or produced into domestic tariff area without payment of duty for the purpose of display, market promotion, export promotion, exhibition and return thereof within the period of time as specified by such proper officer of the zone:

Provided that in case of failure of the zone unit to bring back the goods in the zone within the period as specified in this behalf by the proper officer, the zone unit shall pay the duty applicable on such goods under the provisions of clause (b) of Section 76-F of the Act.":

v132. in Regulation 24, for sub-regulation (5) shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

25. Sub-contracting of production or production process in domestic tariff area or abroad by the zone unit :-

(1) The zone unit shall be permitted to take goods including inputs, semi-finished or semi-processed goods to the job-worker's premises into domestic tariff area without payment of duty for further processing of the goods or to carry out a production, subject to the following conditions, namely:

(i) the zone unit shall file an application containing the name and address of the job-worker, Central Excise registration number of the job-worker, if registered with the Central Excise Department, processing capacity of the job-worker, details of the processes to be carried out by the job-worker, justification for processing of goods outside the bonded premises and any other relevant information before the proper officer for further processing of the goods or to carry out production;

(ii) the proper officer may, after examining the application and

after satisfying himself about the bona fide requirement of the zone unit, grant permission for jobwork and such permission shall normally be valid for a period of one year. However considering the sensitive nature of the commodities to be sent out for jobwork and past record of the zone unit, such permission may be less than said period of one year :

Provided that in case of zone unit engaged in manufacture and export of gems and jewellery, no cut and polished diamonds, precious stones and semiprecious stones shall be allowed to be taken out of the zone;

(iii) while considering the application of the zone unit, the entire processing activity in relation to the manufacture of the export products by the said units may be studied, and the proper officer may ensure that there is no attempt to parcel out the ²"entire" manufacturing operations outside the bonded premises;

(iv) in respect of activities permitted to be carried out on jobwork basis outside the premises of the zone unit, identity of finished products received after jobwork shall be established with the raw materials or components or partially processed goods sent out to ensure that the finished products are manufactured out of raw materials imported or procured duty free by the units or admitted under claim of duty drawback or duty entitlement passbook scheme credit into the zone unit and there is no substitution or diversion of such goods in the domestic tariff area :

Provided that in case of zone unit engaged in manufacture and export of gems and jewellery, there shall be no requirement of taking out the samples or retaining the same if such goods have been appraised by jewellery appraiser at the time of both taking out of such goods from the zone or receiving back of goods in the zone after completion of jobwork :

Provided further that where the precious metal in bullion form, having marking regarding fineness, purity, make, serial number, is being taking out of the zone for the purpose of jobwork, appraisement by jewellery appraiser shall not be mandatory;

(v) the zone unit sending out goods for jobwork in domestic tariff area shall be required to give an intimation to the proper officer and a sample of the goods being sent out for jobwork shall be drawn and retained in the office of the proper officer in the zone;

(vi) on receipt of the goods in the zone unit after jobwork, the Customs Officers of the zone shall establish the identity of the goods so returned with reference to the sample retained by him at the time of removal and a sample of the processed goods so returned to the zone shall be retained for the purpose of record for a period of six months and both the samples shall be returned to the zone unit after obtaining an acknowledgement from the zone unit;

(vii) the zone unit sending out imported or domestically procured raw materials, components, etc. as it is, i.e. without any processing in the unit for jobwork in the domestic tariff area, shall furnish bank guarantee to cover the duty forgone on such duty free materials being taken out to the proper officer : **3**

"Provided that no such bank guarantee shall be required in case of status holder zone unit having an unblemished track record or a unit which has not come to the adverse notice of Customs authorities at least for a period of last two years;"

(viii) the zone unit removing semi-processed goods for jobwork in domestic tariff area shall furnish bank guarantee equivalent to fifty per cent of the duty payable on the goods being taken out for jobwork :

Provided that no fresh or additional bank guarantee shall be insisted upon if the zone unit has furnished a bank guarantee as security along with bond in Form-1, and the same is sufficient to cover the duty payable on such goods being taken out:

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"Provided further that no such bank guarantee shall be furnished by the status holder zone unit having an unblemished track record or a unit which has not come to the adverse notice of Customs authorities at least for a period of last two years;"

(ix) in all cases of jobwork in domestic tariff area, the goods sent out for jobwork shall be required to be returned to the zone unit within a period of ninety days or such period as may be extended by the proper officer for reasons to be recorded in writing for granting such extension, from the date of removal and in case of failure to receipt of goods within the said period, action shall be taken by the proper officer to recover duty, such as, encashment of the bank guarantee given at the time of removal of goods into

domestic tariff area for jobwork;

(x) the proper officer shall carry out the checks expeditiously to verify the premises of the jobworker, processing capacity of the jobworker, existence of facility for carrying out the declared process in the jobworker's premises within a period of one month from the date of granting permission for jobwork by either visiting the premises of the jobworker by himself or the officer authorised by him in this behalf or by letters or fax or e-mail to the concerned Range Officer having jurisdiction over jobworker's premises and getting report in writing.

(2) The zone unit shall be allowed to sub-contract production in domestic tariff area subject to the following conditions, namely:

(i) the proper officer shall satisfy himself regarding the bona fide necessity of such sub-contracting of production in domestic tariff area and shall not allow such permission in routine manner to the zone unit;

(ii) while giving permission for sub-contracting of production in domestic tariff area or in other export oriented undertaking or software technology park unit or electronic hardware technology park unit or zone unit, the proper officer may verify the past antecedents of the zone unit as well as job working units, and in case of any misuse of serious nature noticed by him in the past or due to any other reasons, where it is satisfied that there is no justification for such permission or there are high chances of abuse of such facility, such permission may be denied with the approval of Commissioner of Customs having jurisdiction over the zone;

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(iii) the facility of sub-contracting of production shall be allowed subject to the condition that the product is also being manufactured by the zone unit in the zone;

(iv) in case of zone unit engaged in manufacture and export of gems and jewellery, no cut and polished diamonds, precious stones and semi-precious stones shall be allowed to be taken out of the zone;

(v) other conditions as stipulated in sub-regulation (1) except clause (viii), shall apply mutatis mutandis in case of sub-contracting of production in domestic tariff area.

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"(3) Subject the permission of the proper officer, the zone unit shall be allowed to remove moulds, jigs, tools, fixtures, tackles, instruments, hangers, patterns and drawings to the job-worker's premises in the domestic tariff area without payment of duty and shall be allowed to keep such moulds, jigs, tools, fixtures, tackles, instruments, hangers, patterns and drawings in the job-worker's premises till the sub contracting arrangement with job worker is in existence, subject to the following conditions, namely:-

(i) the zone unit shall produce to the proper officer a verification report quarterly obtained from the jurisdictional Superintendent of Central Excise having jurisdiction over the job-worker's unit to the effect that such moulds, jigs, tools, fixtures, tackles, instruments, hangers, patterns and drawings are lying the job-worker's premises and are being used for production of goods for export on account of zone unit;

(ii) the zone unit shall bring back such goods to the unit immediately on expiry of such jobwork contract; and

(iii) such moulds, jigs, tools, fixtures, tackles, instruments, hangers, patterns and drawings shall be returned to the zone unit within a period of one year from the date of such removal where the job-worker's unit is not registered with Central Excise Department.";

(4) The zone unit shall be allowed to sub-contract part of the production process abroad, that is outside India following the provisions of Export and Import Policy in this regard, and after such processing abroad, the goods shall either be returned to the zone unit for carrying out further processing or may be sold to buyers in that country or any third country :

Provided that the scrap or waste or remnants generated at the sub-contractors premises abroad may either be returned to the zone unit; or may be disposed of abroad itself: Provided further that in case of sale of goods processed abroad or scrap, waste or remnants arising during the processing of goods abroad, directly from the job-workers premises abroad, the unit shall take permission from the Reserve Bank of India.

(5) The proper officer may permit the zone unit to export the finished goods directly from the job-worker's premises subject to

the following conditions, namely:

(i) the job-worker, who is registered with the Central Excise Department;

(ii) export of finished goods from the job-worker's premises shall not be allowed through third party;

(iii) sample of goods exported from the job-workers premises shall be sent to the proper officer in the zone for establishing the identity of the goods exported with the sample drawn at the time of taking out of the goods to the job-worker;

(iv) in case of such exports, the shipping bill for duty free goods shall be processed at the port of export as in the case of normal export and shipping bill shall be filed in the name of the zone unit;

(v) the goods for such export shall be removed from the job-worker's premises under bond.

v138 "(6) The waste or scrap or remnants generated during such processes at the job-worker's premises shall either be returned to the zone unit or shall be cleared on payment of duty as if the said waste or scrap or remnants have been cleared by the zone unit or may, where the job worker is a Central Excise Registrant, be destroyed at the job worker's premises and such destruction shall be carried out under supervision of a central excise officer having jurisdiction over the job worker's unit and proof of such destruction duly certified by such Central Excise officer shall be submitted to the officer of the customs who is in charge of the zone."

(7) The zone unit engaged in trading shall not be allowed the facility of sub-contracting of production or production process in domestic tariff area.

2. in Regulation 25, in sub-regulation (1) in clause (vii), for the proviso, the proviso shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004 Regulations, 2004

3. in Regulation 25, in sub-regulation (1) in clause (viii), for the proviso, the proviso shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004/FN>

v135. in Regulation 25, in sub-regulation (1) in clause (viii), for the proviso, the proviso shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

4. in Regulation 25, in sub-regulation (2) in clause (iii), for the proviso, the proviso shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

5. in Regulation 25, sub-regulation (3) shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

6. in Regulation 25, sub-regulation (6) shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

26. Sub-contracting of production process for domestic tariff area unit in the zone unit for export :-

The zone unit shall be allowed to undertake job work for export on behalf of domestic tariff area unit, subject to the following conditions, namely:

(i) the semi-finished goods or raw materials shall be supplied by domestic tariff area unit to the zone unit;

(ii) no export benefit shall be claimed by the domestic tariff area unit on such semifinished goods or raw materials supplied to the zone unit for job-working;

(iii) the finished goods shall be exported directly from the zone unit on behalf of domestic tariff area unit;

(iv) the export document shall be in the name of domestic tariff area unit;

(v) the value of such goods shall not be counted towards achievement of Net Foreign Exchange Earning of the zone unit; and

(vi) the unit in domestic tariff area shall not be eligible for all industry rate of drawback or duty entitlement passbook scheme credit.

27. Removals of samples from the zone unit :-

(1) Subject to the provisions of Export and Import Policy, the zone unit shall be allowed to take out the samples of the goods manufactured or produced by it into domestic tariff area for the purposes of display or market promotion on payment of duty as per the provision clause (b) of Section 76-F of the Act or for the purposes of export without payment of duty.

(2) Where samples of the goods manufactured or produced are to be taken into domestic tariff area on payment of duty, the

procedure as laid down in Regulation 21, shall apply except that the bill of entry shall be filed by the zone unit.

28. Destruction of goods imported including capital goods or goods manufactured or produced by the zone unit :-

(1) Subject to the procedure specified in Regulation 22, where any scrap, waste or remnants arises out of destruction of goods in terms of Rule 12 of the Special Economic Zone Rules, 2003, the zone unit shall be permitted to take the same into domestic tariff area on payment of duty applicable to such scrap and remnants as per the provision of clause (b) of Section 76-F of the Act.

1 "(2) Where any goods procured from domestic tariff area under claim of duty drawback or duty entitlement passbook scheme credit or under any export promotion scheme are destroyed due to natural calamities, the zone unit shall be required to pay duty drawback or, duty entitlement passbook scheme credit claimed on such goods:

Provided that in case where the zone unit has procured the goods from domestic tariff area against payment of foreign exchange, the zone unit shall not be liable to pay back duty drawback or duty entitlement passbook scheme credit or any export incentive claimed on such goods.";

1. in Regulation 28, sub-regulation (2) shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

29. Security :-

(1) On the basis of the Letter of Permission issued by the Development Commissioner of the zone, the zone unit shall execute a bond with the proper officer, in Form I as annexed to the Special Economic Zone Rules, 2003 and such surety or security shall be given as per procedure specified hereinafter in this regulation.

(2) The bond, in respect of a limited company, shall be executed by the Managing Director of the company or the Director(s) who have been duly authorised for this purpose by a resolution of the Board of Directors of the Company and shall be affixed with the common seal of the company.

(3) Where the unit is a partnership firm, the Bond shall be executed by the all the partners of the unit.

1"(4) The bond amount shall be equal to the twenty five percent of the duty leviable on the imported and indigenous capital goods plus duty forgone on raw materials to be held in stock for three months by the zone unit";

(5) The zone unit shall furnish surety for the bond amount or furnish five per cent of the bond amount as bank guarantee or any other security as approved by the Central Government and in case of surety, the solvency of sureties shall be certified by any Chartered Accountant or the Banker of the Surety, as the case may be.

(6) The Directors or Members of the limited company may stand as surety in their personal capacity for the company and other corporate bodies included limited companies may also stand as surety for the unit.

2"(7) Notwithstanding anything contained in sub-regulation (5), where the zone unit have a turnover of rupees one crore or above, or where the zone unit is in existence for more than a period of three years with an unblemished track record, such unit shall not be required to furnish surety or security.";

(8) Where the value of the bond executed with the Customs Officers is initially worked out on the projected value of goods imported and the value of such bond falls short of duty forgone on goods admitted duty free in the unit, then the unit shall be required to submit a revised bond and furnish additional security or surety, as the case may be, and in case of sub- contracting of production process or production in domestic tariff area, if the security given with the bond is not sufficient to cover duty leviable on goods being taken into domestic tariff area, the unit shall be required to give additional security.

3 "(9) The bond shall be running bond and shall be debited for an amount equal to duty forgone on the goods imported or procure by the zone unit, and credited for an amount equal to duty forgone on the raw materials used in the manufacture of finished products where such manufactured goods are either exported or cleared into domestic tariff area on payment of duty or for such imported or procured goods when exported as such or cleared into domestic tariff area on payment of duty as per the provisions of the Act or rules and regulations, made there under and such debiting and

crediting of bond shall be done once at the end of every three months.";

(10) in respect of the capital goods or infrastructure materials, surety or security shall not stand discharged on arrival of the capital goods or infrastructure materials within the unit and the surety or security shall not be discharged as long as the capital goods are in the zone unit or the capital goods of the unit are not debonded.

(11) The duty for debiting the bond amount in respect of capital goods or infrastructure materials or raw materials shall be as per the duty forgone amount given in the bill of entry or shipping bill, as the case may be.

(12) After execution of the bond, the proper officer shall retain the original copy of the bond and provide a certified copy to the unit for its record.

(13) Notwithstanding anything to the contrary, in case the zone unit is engaged in manufacture and export of gems and jewellery, the effective rate of duty as specified in Notification No. 80/97-Customs of the Government of India in the Ministry of Finance (Department of Revenue), dated 21st October, 1997, shall be taken instead of tariff rate of duty, for the purpose of calculation of bond amount in case of import of gold or silver.

1. in Regulation 29, sub-regulation (4) shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

2. in Regulation 29, sub-regulation (7) shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

3. in Regulation 29, sub-regulation (9) shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

30. Monitoring of performance :-

1 Performance of the zone unit shall be monitored by the Unit Approval Committee in which the Commissioner of Customs having jurisdiction over the zone or his nominee shall be a member."

1. Regulation 30 shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004

31. Disposal of obsolete or surplus goods :-

(1) The zone unit shall be allowed to dispose of obsolete or unusable capital goods, spares and other goods in the domestic tariff area on payment of customs duty as per provisions of clause (b) of Section 76-F of Act following the conditions mentioned in the Export and Import Policy and the provisions of ITC(HS) Classification of Export and Import. Items Bookas applicable in case of goods imported into India.

(2) In case of used capital goods, depreciation shall be allowed in terms of sub-rule (1) of Rule 9 of the Special Economic Zone Rules, 2003.

32. Co-relation of import consignment with corresponding export consignment :-

The zone unit using homogenous material may be allowed to adopt 'Fresh-in-First-Out' arrangement and a consignment which has been received first, may be deemed to have been utilised first for this purpose, and in such cases, co-relation of every import consignment with the corresponding export consignment may not be required.

33. Import and procurement of goods by developer :-
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(1) The developer shall be allowed to import or procure the goods from domestic tariff area without payment of duty for the purpose of development, operation and maintenance of the zone, subject to following conditions, namely:-

(i) the activity of the developer shall be approved by the Board of Approvals;

(ii) the developer shall submit a list of machinery, equipments and the construction material required for development, operation and maintenance of the zone, duly certified by a chartered engineer;

(iii) the developer shall make an application to the concerned Development Commissioner for approval of the list of goods alongwith the certificate of the chartered engineer referred to clause (ii), proposed to be imported or procured duty free for the purposes of the activity as approved by the Board of Approvals;

(iv) the developer shall submit to the Development Commissioner the proof of the ownership of concerned land, encumbrances certificate relating thereto, or in case the land is acquired on lease at least for a period of twenty years in his favour, the proof of such

lease;

(v) on the basis of approval of the Development Commissioner the proper office having jurisdiction over the zone may allow the developer to import or procure goods without payment of duty;

(vi) the goods shall be stored in the premises appointed or licensed as public warehouse or private warehouse under Section 57 or Section 58 of the Act;

(vii) the developer shall maintain proper account of import or procurement, consumption and utilization of the goods and submit quarterly return to the proper officer having jurisdiction over the zone in such form, as may be specified by such proper officer;

(viii) the developer shall execute a bond in Form II as annexed in the Special Economic Zone Rules, 2003 with the proper officer having jurisdiction over the zone, binding himself to utilize the goods within a period of six months or such period, as may be extended by such proper officer, and if the developer fails to do so, then the developer shall pay on demand an amount equal to the duty as leviable on the said goods alongwith interest at the rate of fifteen per cent, per annum on the said duty from the date of import or procurement of said goods;

(ix) the developer shall not remove the goods from the zone except with the permission of the proper officer having jurisdiction over the said zone and on payment of duty applicable on such goods;

(x) no goods, other than which are required for the purposes of construction, development, operation, maintenance of the zone or for providing utilities in the zone, shall be allowed admission in the zone without payment of duty;

(xi) the developer shall produce, a certificate of utilization of the goods from an independent chartered engineer other than who has given a certificate for the purpose of clause (ii), to the proper officer having jurisdiction over the zone of every six months of import or procurement of the goods;

(xii) the procedure for import or procurement of goods as applicable to the zone unit shall apply mutatis mutandis in case of developer of the zone except that in case of developer, the goods imported or procured from domestic tariff area shall be allowed to be moved or utilized for the purposes of authorised operations in the non-

processing area of the zone.

Explanation. - For the purposes of this regulation, it is clarified that all approvals or permissions or extensions for utilization to be given by or other functions to be discharged by the proper officer under this regulation shall be exercised by the Deputy Commissioner of Customs or Deputy Commissioner of Central Excise or Assistant Commissioner of Customs or Assistant Commissioner of Central Excise, as the case may be, posted under the Commissioner of Customs or Commissioner of Central Excise, as the case may be, having jurisdiction over the zone during only I such time when a regular Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, is not posted in the zone.";

v144. Regulation 33 shall be substituted, by the Special Economic Zones (Customs Procedures) (Fourth Amendment) Regulations, 2004