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## **SPECIAL ECONOMIC ZONES RULES, 2003**

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## **SPECIAL ECONOMIC ZONES RULES, 2003**

In exercise of the powers conferred by sub-section (1) of Section 156 read with Chapter XA of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely:

### **1. Short title, extent and commencement :-**

(1) These rules may be called the Special Economic Zones Rules, 2003.

(2) They shall come into force on the <sup>1</sup> [1.4.2004 ].

1. SUBSTITUTED FOR THE WORDS "1.3.2004 " BY THE Special Economic Zones (Amendment) Rules, 2004 .

## **2. Definitions :-**

In these rules, unless the context otherwise requires,

(a) "Act" means the Customs Act, 1962 (52 of 1962);

(b) "authorised operation" means setting up, or maintenance of the special economic zone unit, development, maintenance or operation of the special economic zone or providing any public utility service in the special economic zone by developer of such zone, or any activity of manufacture, production, processing, assembling, trading, repair, re-making, reconditioning, re-engineering, packaging of goods in such zone or any activity in connection therewith or carrying out any activity for rendering of any service, or export of such goods, or service from such zone;

(c) "developer" means a person engaged in development or operation or maintenance of special economic zone or in providing public utility services within the special economic zone, duly <sup>1</sup> "approved by the Board of Approvals as defined in clause (c) of Regulation 2 of the Special Economic Zones (Customs Procedures) Regulations, 2003" and includes any other person authorised by any such developer for such purpose;

(d) "domestic tariff area" means an area within India but does not include special economic zones;

(e) "Export and Import Policy" means the Export and Import Policy notified from time to time by the Central Government, in the Ministry of Commerce and Industry under Section 5 of Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);

(f) "non-processing area" means an area of the special economic zone, but does not include processing area;

(g) "processing area" means an area, designated by the Commissioner of Customs, in the special economic zone where only the special economic zone units are set up to carry out one or more authorised operations only;

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

(i) "special economic zone unit" means an unit of business establishment set up in the processing area of special economic

zone for carrying out one or more authorised operations only;

(j) words and expressions used in these rules and not defined but defined in the Act shall have the respective meanings assigned to them in the Act.

1. in Rule 2, in clause (c), for the words "permitted by the Commissioner of Customs", the words, brackets, letter and figures "approved by the Board of Approvals as defined in clause (c) of Regulation 2 of the Special Economic Zones (Customs Procedures) Regulations, 2003" shall be substituted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

### **3. Establishment and control :-**

(1) A special economic zone shall have clearly demarcated processing area and such area shall be distinctly separated from the non- processing area.

(2) The processing area in the special economic zone shall be fully secured by a fencing with specified entry and exit points, subject to the satisfaction of the Commissioner of Customs.

(3) The authorized persons shall only be allowed to enter the processing area of a special economic zone.

### **4. Transaction between special economic zone and domestic tariff area :-**

Subject to provision of Sections 76-B and 76-F of the Act,

(a) any goods brought to domestic tariff area from a special economic zone by a special economic zone unit or developer shall be treated as imported goods; and

(b) any goods admitted into special economic zone from domestic tariff area shall be treated as exported goods.

### **5. Admission of goods :-**

(1) Subject to the provision of clause (a) of Section 76-F of the Act and the rules made in pursuance thereof, any goods required for carrying out any authorised operation shall be allowed to be admitted in the special economic zone without payment of duty.

(2) Notwithstanding anything in sub-rule (1), goods including motor vehicle for personal use of, or consumption by, officials, workers, staff or owners of the special economic zone unit or developer shall not be admitted into the special economic zone

without payment of duty.

(3) The Assistant Commissioner or Deputy Commissioner of Customs, as the case may be, may, for reasons to be recorded in writing like frequent entry and exit of goods from the zone, also permit goods, which are not required for carrying out authorised operations, to be admitted into the zone and exit out of the zone without payment of customs duty.

(4) Hazardous goods may be admitted into specially designated areas or installations, of special economic zone subject to such safeguards as may be specified by the <sup>1</sup> "Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be".

(5) All documents for admission of goods in a special economic zone by the special economic zone unit or developer shall be filed before the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, of the zone.

(6) The developer shall have a clear demarcated area in the special economic zone, where goods imported or procured from domestic tariff area by the developer for carrying out authorised operations shall be kept for inspection by Customs Officers, before such goods are brought into use.

1. Rule 5, in sub-rule (4), for the words "Commissioner of Customs", the words "Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be" shall be substituted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

#### **6. Movement of goods out of special economic zone :-**

All documentation for exit of the goods from the special economic zone may be filed by the domestic tariff area buyer or on behalf of domestic tariff area buyer by the special economic zone unit or developer, as the case may be, before the Assistant Commissioner of Customs or Deputy Commissioner of Customs of the zone, as the case may be.

#### **7. Authorized operations :-**

(1) There shall be allowed

(a) to carry out in a special economic zone unit located in the processing area of a special economic zone; and

(b) to a developer to carry out, only such authorised operations as are allowed under these rules for such purpose.

(2) There shall not be allowed to operate from the same premises two or more special economic zone units.

### **8. Utilisation of goods :-**

(1) Goods admitted duty free into a special economic zone shall be used in a special economic zone unit or by the developer for carrying out authorised operations only.

(2) In case of utilization of goods admitted duty free in the special economic zone, for purposes other than authorised operations, or in case of failure in respect of special economic zone unit or by the developer to duly account for the goods, such goods shall be chargeable to duty as if the goods have been removed for home consumption.

### **9. Abatement of duties of customs in special cases :-**

(1) In case of removal of capital goods, after using the same in the special economic zone, from a special economic zone to the domestic tariff area,

(a) the duty shall be levied on such goods on the depreciated value thereof <sup>1</sup>, at the rate in force on the date of filing of the bill of entry;

(b) the depreciation in value shall be allowed for the period from the date of commencement of commercial production of the special economic zone unit, or where such capital goods have been received in the special economic zone unit after such commencement of commercial production, from the date such goods have come into use for commercial production, to the date of presentation of bill of entry for home consumption;

<sup>2</sup> "(c) the depreciation shall be allowed in straight line method as specified below, namely:-

<b>(i) for computer</b>	
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<b>and computer peripherals:</b>	
for every quarter in the first year	@ 10%
for every quarter in the second year	@ 8%
for every quarter in the third year	@ 5%
for every quarter in the fourth and fifth year	@ 1%
<b>(ii) for capital goods other than computer and computer peripherals:</b>	

for every quarter in the first year	@ 4%
for every quarter in the second year	@ 3%
for every quarter in the third year	@ 3%
for every quarter in the fourth and fifth year	@ 2.5%
and thereafter for every quarter	@ 2%

Explanation. - For the purpose of computing rate of depreciation for any part of a quarter the full such quarter shall be taken into account; and";

(d) there shall be no upper limit for such depreciation and depreciation up to hundred per cent could be allowed.

(2) In case of removal of used packing materials, such as cardboard boxes, polyethylene bags of a kind unsuitable for repeated use, from a special economic zone unit to the domestic tariff area, the

same shall be allowed clearance out of the special economic zone without payment of duty.

(3) In case of goods removed from a special economic zone unit on payment of duty to the domestic tariff area and brought back to the same unit for purpose of repair within a period of six month from the date of clearance, or such extended period as the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, may allow, the same shall be allowed to be removed from special economic zone unit after such repair, on payment of duty on the value of repairs, subject to the condition that identity of the goods is established to the satisfaction of Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be.

1. in Rule 9, in sub-rule (1),- in clause (a), the words "or on the transaction value, whichever is higher" shall be omitted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

2. in Rule 9 in sub-rule (1) for clause (c) shall be substituted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

**10. Temporary removal of goods to the domestic tariff area without payment of duty :-**

The following goods may be allowed to be removed temporarily from a special economic zone to the domestic tariff area without payment of duty subject to the regulation made in this behalf, namely:

(i) capital goods and parts thereof for repairs and return thereof,

(ii) goods for display, export promotion, exhibition and return thereof,

(iii) goods for jobwork, test, repair, refining and calibration and return thereof, and

(iv) laptop or notebook computers or video projection systems for use by an authorized employee of a special economic zone unit or developer.

**11. Removal of goods from a special economic zone unit to an export oriented undertaking or software technology part unit or electronic hardware technology part unit or to other special economic unit in the same or other special economic zone. :-**

(1) With the prior permission of the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, goods may be allowed to be removed from a special economic zone unit to an export oriented undertaking or software technology part unit or electronic hardware technology part unit or to another special economic zone unit in the same special economic zone or in other special economic zone without payment of duty for the purpose of carrying out authorised operations within the receiving export oriented undertaking or software technology park unit or electronic hardware technology part unit or special economic zone unit, as the case may be;

Provided that in case the goods admitted into special economic zone unit from any domestic tariff area, on which benefit under duty exemption pass book scheme or duty draw back has been availed, are removed as such or after subjecting them to a process not amounting to manufacture, to an export oriented undertaking or software technology part unit or electronic hardware technology park unit directly by the special economic zone unit or through any unit in the same special economic zone or another special economic zone, the duty equal to benefit availed under duty exemption pass book scheme or duty draw back shall be liable to be paid.

(2) In case of clearance of goods by a special economic zone unit to another special economic zone unit within the same special economic zone, no prior permission of Assistant Commissioner of Customs or Deputy Commissioner of Customs shall be required, but both supplying and receiving special economic zone units shall be required to maintain records for such transaction.";

V149. Rule 11 shall be substituted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

**12. Destruction of goods imported or procured from domestic tariff area including capital goods or goods manufactured or produced by a special economic zone unit :-**

(1) After obtaining the permission of the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, a person entitled to discharge such function of a special economic zone unit, may destroy the goods (including capital goods) procured from domestic tariff area by such unit or imported from outside India or goods manufactured or produced by such unit

including rejects, waste, scrap or remnants, in the presence of proper officer without payment of duty within the special economic zone, and such destruction shall be carried out outside such zone only where it is not possible to destroy within such zone, subject to the condition that **v151**

(i) in case of destruction of goods procured from domestic tariff area, the special economic zone unit shall be required to pay back the export benefits taken by the domestic tariff area supplying unit or taken by the special economic zone unit on the basis of disclaimer from domestic tariff area unit:

Provided that where such goods have been procured by the special economic zone unit against payment of foreign exchange, the special economic zone unit shall not be liable to pay back the export benefits, taken by the domestic tariff unit from which such goods have been procured or, taken by the special economic zone unit on the basis of disclaimer from such domestic tariff area unit, in case of destruction of such goods; and";

(ii) in case of gems and jewellery item, no such destruction shall be allowed in respect of precious and semi-precious stones and precious metals to the special economic zone unit.

Explanation. For the purposes of this rule, export benefit includes drawback, duty entitlement passbook scheme, rebate, advance license, or counting of proceeds as export earnings or counting proceeds as fulfilment of export obligation under any scheme.

V151. in Rule 12 in sub-rule (1), for clause (i) shall be substituted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

### **13. Maintenance of accounts :-**

(1) There shall be maintained in every special economic zone unit accounts, financial yearwise, in the form convenient to them, at least under the following heads, namely:

(i) inflow of all foreign exchange by way of exports and other receipts;

(ii) outflow of all foreign exchange on account of imports and on account of dividend, royalty, fees, foreign visits and other payments;

(iii) value and quantity of all goods admitted free of duty or received under claim of duty drawback or duty entitlement

passbook scheme credit;

(iv) Not printed in Gazette

(v) value and quantity of goods produced, manufactured, processed, packaged, and cleared and services rendered, including waste, scrap and remnants arising out of such production, manufacture, processing or packaging, in the domestic tariff area;

(vi) value and quantity of goods utilised in production;

(vii) receipt of all duty paid goods;

(viii) receipt of goods from the domestic tariff area on payment of central excise duty by the domestic tariff area unit;

(ix) value and quantity of clearances to other export oriented undertakings, software technology park units, electronic hardware technology park units or special economic zone units and receipt from such units; and

(x) value and quantity of goods cleared for export and services rendered abroad.

(2) There shall be maintained in every special economic zone unit engaged in both trading and manufacturing activities, the records of accounts specified under sub-rule (1) separately for trading and manufacturing operations.

Explanation. For the purposes of calculation of inflow or outflow of foreign exchange, the payments received by the transferring special economic zone unit or export oriented undertaking or any other unit in software technology park or electronic hardware technology park, as the case may be, in respect of inter-unit transfer of goods, even though in rupees, shall be considered as inflow of foreign exchange and similarly, in the case of the recipient unit, such payments shall be considered as outflow of foreign exchange.

#### **14. Submission of returns :-**

**v152** Every special economic zone unit shall endorse, a copy of the quarterly and annual return which it furnishes to the Development Commissioner, to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, in a format as specified for such purpose in Appendix 14-IF of the Handbook of Procedure (Vo. I), notified by the Director General of Foreign Trade,

Government of India in the Ministry of Commerce and Industry under Public Notice No. 1 (RE-2003/2002-07, dt.31st December, 2003.

V152. Rule 14 shall be substituted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

**15. Recovery of duty on failure to achieve stipulated foreign exchange earning :-**

(1) In case of failure to achieve the net foreign exchange earning as stipulated in the Export and Import Policy for the time being in force, there shall be liable to, in respect of the special economic zone unit, pay duty along with interest at the rate as specified in the notification of the Government of India in the Ministry of Finance (Department of Revenue), issued under Section 28-AB of the said Act in this regard and for the time being in force, from the date of duty free import or procurement from domestic tariff area of the said goods till the date of payment of such duty.

(2) The duty payable, as referred to in sub-rule (1), shall be equal in amount to the duty leviable on such goods but for the exemption contained in Section 76-E of the Act and the duty so payable shall bear the same proportion as the unachieved portion of the stipulated net foreign exchange earning bears to the stipulated net foreign exchange earning to be achieved.

**16. Duration of stay :-**

Goods admitted to a special economic zone shall be utilized in accordance with Rule 7 or exported or disposed of in term of the provisions of these rules, within a period of five years from the date of admission of such goods, or such extended period as may be allowed by the Commissioner of Customs, for reasons to be recorded in writing, as the case may be, failing such disposal, it shall be liable in respect of special economic zone unit or on developer to pay duty along with interest at the rate as specified in the notification of the Government of India in the Ministry of Finance (Department of Revenue), issued under Section 28-AB of the Act on such duty, from the date of duty free import or procurement from domestic tariff area of the said goods till the date of payment of such duty as if such goods have been removed in domestic tariff area by special economic zone unit on the date of expiry of the said five year period.

**17. Transfer of ownership :-**

(1) Goods admitted into or manufactured or produced in a special economic zone unit may be transferred without payment of duty to any other special economic zone unit in the same special economic zone for the purpose of carrying out authorised operations by the recipient special economic zone unit subject to the condition that both the supplying and receiving special economic zone units maintain proper account of such goods.

(2) Capital goods admitted into, or goods manufactured or produced, in a special economic zone unit may be transferred without payment of duty to special economic zone units in other special economic zone for the purpose of carrying out authorised operations by the recipient special economic zone unit subject to the condition that both the supplying and receiving special economic zone units maintain proper account of such goods.

### **18. Security :-**

A person competent under the law for the time being in force to do so in respect of a special economic zone unit or a developer shall execute a bond along with surety or security to the satisfaction of the <sup>v153</sup> "Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be" in the form annexed with these rules for the purpose of safeguarding the duty and such bond shall be in respect of the one or more of the following activities relating to the special economic zone, namely:

(i) movement of goods between port of import or export and the special economic zone;

(ii) admission, manufacturing and other permitted activities in the special economic zone unit;

(iii) temporary removal of admitted goods or goods produced or manufactured in the special economic zone unit for the purposes of repairs or testing or calibration or display or processing or any other similar temporary removals into domestic tariff area without payment of duty;

(iv) re-import of exported goods.

V153. in Rule 18 for the words "Commissioner of Customs" the words "Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be", shall be substituted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

### **19. Monitoring :-**

**v154** The performance of a special economic zone unit and a developer of the concerned special economic zone shall be monitored by the Unit Approval Committee in which the Commissioner of Customs having jurisdiction over concerned special economic zone or his nominee shall be a member";

V154. Rule 19 shall be substituted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

**20. Closure of special economic zone :-**

In the event of closure of a special economic zone,

(a) goods admitted into a special economic zone unit duty free within such special economic zone and lying unutilised as well as goods produced or manufactured in such special economic zone unit, shall be **v155**"either exported or shall be transferred to another special economic zone unit in other special economic zone or to export oriented undertaking or unit in electronic hardware technology park or software technology part without payment of duty or" duty shall be paid as if the goods have been removed for home consumption under clause (b) of Section 76-F of the Act, within a period of three months from such closure :

Provided that in case of used capital goods, abatement of duties of customs shall be available in accordance with the provisions of sub-rule (1) of Rule 9;

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"Provided further that in case the goods admitted into special economic zone unit from domestic tariff area, on which benefit under duty exemption pass book scheme or duty drawback has been availed, are removed as such or after subjecting them to a process not amounting to manufacture, to an export oriented undertaking or software technology part unit or electronic hardware technology park unit directly by the special economic zone unit or through any unit in the same special economic zone or another special economic zone, the duty equal to benefit availed under duty exemption pass book scheme or duty drawback shall be liable to be paid."

(b) any goods imported or procured from domestic tariff area by the developer of the special economic zone for development of zone and all such goods allowed admission to the special economic zone for maintenance, operation of the special economic zone and for

providing public utility services in the special economic zone, shall be either exported or removed for home consumption on payment of applicable duties within a period of six months from such closure :

Provided that in case of used machinery, abatement of duties of customs shall be available in accordance with the provisions of sub-rule (1) of Rule 9.

V155. in Rule 20, in clause (a), for the words "either exported or" the words "either exported or shall be transferred to another special economic zone unit in other special economic zone or to export oriented undertaking or unit in electronic hardware technology park or software technology part without payment of duty or" shall be substituted, BY THE Special Economic Zones (Fourth Amendment) Rules, 2004.

V156. in Rule 20, in clause (a), after the proviso, the proviso shall be inserted, BY THE Special Economic Zones(Fourth Amendment) Rules, 2004.