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CHAPTER 1

Preliminary

1. Short title and commencement. -

- (1) These rules may be called the Special Economic Zones Rules, 2006.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Definitions.-

(1) In these rules, unless the context otherwise requires, -

(a) "Act" means the Special Economic Zones Act, 2005 (28 of 2005);

¹[(b) "Advance Licence" means Advance Licence issued under the Duty Exemption and Remission Scheme of the Foreign Trade Policy and includes advance authorisation.]

(c) "Authorised Officer" means an Inspector or Preventive Officer or Appraiser or Superintendent of Customs posted in the Special Economic Zone and authorized by the Specified Officer to discharge any of his functions under these rules;

(d) "BioTechnology Park unit" means a unit approved under the Bio-Technology Park Scheme of the Foreign Trade Policy;

(e) "capital goods" means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, or for development of Special Economic Zone, including those required for construction, replacement, modernization, technological upgradation or expansion and also include material handling equipment, packaging machinery and equipments, refractories for initial lining, refrigeration equipment, power generating sets, machine tools, equipment and instruments for testing, research and development, quality and pollution control system, for use in manufacturing, construction, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture and viticulture, and in the services sector;

(f) "component" means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved and includes an accessory or attachment to the component;

¹ Substituted by the Special Economic Zones[Amendment] Rules, 2007.(Notification No SO 393(E)dated 16-3-2007]

(g) "consumable" means any item, (including fuels, high speed diesel oil, light diesel oil and other such petroleum products) which is required for a manufacturing process, which may or may not be substantially or totally consumed during a manufacturing process but does not necessarily form part of the end product;

(h) "custodian" means any person referred to in section 45 of the Customs Act, 1962;

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

(j) "drawback" means drawback referred to in the Customs Act,

²[xxxxxx]

³[xxxxxx]

(m) "Electronic Hardware Technology Park unit" means a unit approved in accordance with the Electronic Hardware Technology Park Scheme framed under the Foreign Trade Policy;

(n) "Export Oriented Unit" means a unit approved in accordance with the Export Oriented Unit scheme framed under the Foreign Trade Policy;

(o) "Foreign Trade Policy" means the Foreign Trade Policy notified from time to time by the Central Government under section 5 of the Foreign Trade (Development and Regulation) Act 1992 (22 of 1992);

(p) "Form" means the form appended to these rules;

(q) "Handbook" means the Handbook of Procedures framed under the Foreign Trade Policy;

(r) "Import Trade Control (Harmonized System) Classifications of Export and Import Items" means the items notified from time to time by the Central Government under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);

(s) "infrastructure" means facilities needed for development, operation and maintenance of a Special Economic Zone and includes industrial, business and social amenities like development of land, roads, buildings, sewerage and effluent treatment facilities, solid waste management facilities, port, including jetties, single point moorings, storage tanks and interconnecting pipelines for liquids and gases, Inland Container Depot or Container Freight Station, warehouses, airports, railways, transport system, generation and distribution of power, gas and other forms of energy, telecommunication, data transmission network, information technology network, hospitals, hotels, educational

² Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

³ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

institutions, leisure, recreational and entertainment facilities, residential and business complex, water supply, including desalination plant, sanitation facility;

(t) "Nominated Agency" means:-

a) the MMTC Ltd, being a company registered under the Companies Act, 1956 (1 of 1956);

b) the Handicraft and Handloom Export Corporation Limited, being the company registered under the Companies Act, 1956 (1 of 1956);

c) the State Trading Corporation of India Limited, being the company registered under the Companies Act, 1956 (1 of 1956);

d) the Projects and Equipment Corporation of India Limited being the company registered under the Companies Act, 1956 (1 of 1956); and e) any other agency authorized by the Reserve Bank of India;

(u) raw material" means: -

(a) basic materials which are needed for the manufacture of goods, but which are still in a raw, natural, unrefined or un-manufactured state; and

(b) any materials or goods which are required for the manufacturing process (including, catalysts for initial charge), packing material, whether they have actually been previously manufactured or are processed or are still in a raw or natural state;

(v) "Replenishment Licence" means the Replenishment Licence issued under the Foreign Trade Policy;

(w) "section" means the section of the Act;

(x) "Sector" means one or more products or one or more services falling under a category such as engineering, textiles and garments, pharmaceuticals and chemicals, handicrafts, gem and jewellery, electronics hardware and software, including information technology enabled services and bio-technology;

⁴[Provided that various categories comprising their respective products or services, similar or compatible with each other, including related ancillary services and Research and Development services of the sector and additional combination of products and services of a similar or compatible nature as approved by the Board of Approval shall constitute a single sector;]

¹⁰[3. **Proposal for setting up of Special Economic Zone.** - Every proposal [under sub-sections \(2\) to \(4\) of section 3](#) shall be made in Form 'A' and be submitted to the concerned Development Commissioner as specified in Annexure-III, who, within a period of fifteen days, shall forward it to the Board with his inspection report, State Government's recommendation ¹¹[, recommendation for National Security Clearance ¹²[,wherever necessary,] as per guidelines issued by the Ministry of Home Affairs] and other details specified [under rule 7.](#)]

¹³[3A]. **Proposal for approval as Co-developer.** - The proposal [under sub-section \(11\) of section 3](#) for providing infrastructural facilities in the Special Economic Zone shall be made in [Form A1](#) to the concerned Development Commissioner, as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendation;

4. Forwarding of proposal to Board-

(1) The State Government shall forward the proposals received under sub-sections (2) and (4) of section 3 to the Board of Approval (Deputy Secretary, Ministry of Commerce and Industry, Department of Commerce, Udyog Bhavan, New Delhi - 110011) ¹⁴[through the jurisdictional Development Commissioner concerned along] with its recommendations, within forty-five days of receipt of such proposal:

Provided that where the Board approves a proposal received under sub-section (3) of section 3, the person shall obtain concurrence of the State Government within six months from the date of such approval.

(2) While forwarding a proposal under sub-rule (1), the State Government shall ensure that the requirements under rule 5 have been complied with and shall attach copies of relevant notifications issued by it in this regard.

5. Requirements for establishment of a Special Economic Zone. -

(1) The Board may approve as such or modify and approve a proposal for establishment of a Special Economic Zone, in accordance with the provisions of sub-section (8) of section 3, subject to the requirements of minimum area of land and other terms and conditions indicated in sub-rule (2).

¹⁰ Substituted vide [Notification no. G.S.R.501\(E\), dated 14-6-2010](#)

¹¹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹² Inserted vide [Notification No. G.S.R. 200\(E\) DATED 07-03-2019](#)

¹³ Inserted vide [Notification no. G.S.R.501\(E\), dated 14-6-2010](#)

¹⁴ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "along "

¹⁵(2) The requirements of minimum area of land for a class or classes of Special Economic Zone in terms of sub-section (8) of section 3 shall be the following, namely: -

(a) A Special Economic Zone or Free Trade Warehousing Zone other than a Special Economic Zone for Information Technology or Information Technology enabled Services, Biotech or Health (other than hospital)] service, shall have a contiguous land area of fifty hectares or more:

Provided that in case a Special Economic Zone is proposed to be set up in the States of Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur, Tripura, Himachal Pradesh, Uttarakhand, Sikkim, Goa or in a Union territory, the area shall be twenty-five hectares or more.

(b) There shall be no minimum land area requirement for setting up a Special Economic Zone for Information Technology or Information Technology enabled Services, Biotech or Health (other than hospital) service, but a minimum built up processing area requirement shall be applicable, based on the category of cities, as specified in the following Table, namely: –

TABLE

Sl. No.	Categories of cities as per Annexure IV A	Minimum Built-up area requirement (proposed)
(1)	(2)	(3)
1.	Category 'A'	50,000 sq.mts.
2.	Category 'B'	25,000 sq. mts.
3.	Category 'C'	15,000 sq. mts.

(c) The minimum processing area in any Special Economic Zone cannot be less than fifty per cent. of the total area of the Special Economic Zone.

(d) All existing notified Special Economic Zone shall be deemed to be a multi-sector Special Economic Zone.

Explanation. – For the purpose of this clause, a “multi-sector Special Economic Zone” means a Special Economic Zone for more than one sector where Units may be setup for manufacture of goods falling in two or more sectors or rendering of services falling in two or more sectors or any combination thereof including trading and warehousing.”;

(3) The requirements of the minimum area of land for the Special Economic Zones, -

¹⁵ Substituted vide Notification G.S.R 940(E) dated 17-12-2019

(a) which had been, before the commencement of these rules, -

(i) recommended by the Board of Approval constituted by the notification of the Government of India, in the Ministry of Commerce and Industry (Department of Commerce) Number 14/1/2001-EPZ dated the 7th August, 2001; and

(ii) approved by the Central Government;

(b) which had acquired or taken possession of the land required for setting up of the Special Economic Zones before the commencement of these rules; and

(c) which are situated in any of the States mentioned under column (2) of the Annexure II to these rules, shall, for each sector under column (3) of the Annexure II, be such as mentioned in the corresponding entries under column (4) against each such sector situated in the State mentioned under column (2) of the said Annexure II.

(4) The Developer or Co-Developer shall have at least twenty-six percent of the equity in the entity proposing to create business, residential or recreational facilities in a Special Economic Zone in case such development is proposed to be carried out through a separate entity or a special purpose vehicle being a company formed and registered under the Companies Act, 1956 (1 of 1956).

(5) Before recommending any proposal for setting up of a Special Economic Zone, the State Government shall endeavor that the following are made available in the State to the proposed Special Economic Zone Units and Developer, namely: -

(a) exemption from the State and local taxes, ¹⁶[State Goods and Services Tax,] levies and duties, including stamp duty, and taxes levied by local bodies on goods required for authorized operations by a Unit or Developer, and the goods sold by a Unit in the Domestic Tariff Area except the goods procured from domestic tariff area and sold as it is;

(b) exemption from electricity duty or taxes on sale, of self-generated or purchased electric power for use in the processing area of a Special Economic Zone;

¹⁷[(c) allow generation, transmission and distribution of power within a Special Economic Zone];

(d) providing water, electricity and such other services, as may be required by the developer be provided or caused to be provided;

¹⁶ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁷ Substituted vide [Notification no. G.S.R.501\(E\), dated 14-6-2010](#)

(e) Delegation of power to the Development Commissioner under the Industrial Disputes Act, 1947 (No. 14 of 1947) and other related Acts in relation to the Unit;

(f) Delegation of power to the Development Commissioner under the Industrial Disputes Act, 1947 (No. 14 of 1947) in relation to the workmen employed by the developer.

(g) Declaration of the Special Economic Zone as a Public Utility Service under the Industrial Disputes Act, 1947 (No.14 of 1947);

(h) Providing single point clearance system to the Developer and unit under the State Acts and rules;

(6) The State Government shall, while recommending a proposal for setting up of Special Economic Zone to the Board indicate whether the proposed area falls under reserved or ecologically fragile area as may be specified by the concerned authority;

¹⁸[(7) The Developer or Co-developer shall have to construct the minimum built up area specified in this rule within a period of ten years from the date of notification of the Special Economic Zone in which at least fifty percent of such area to be constructed within a period of five years from the date of such notification:

¹⁹Provided that the Board of Approval may, upon request in writing by the Developer, and after being satisfied that it is necessary and expedient to do so, grant extension beyond the said period of ten years for a further period of not exceeding one year, at a time, subject to maximum upto ten such extension.

²⁰[(8) In case of a Special Economic Zone for Information Technology or Information Technology Enabled Services, letter of approval shall be issued by the Approval Committee for service, which can be broad-banded with Information Technology or Information Technology Enabled Services such as financial services, consultancy services, design services, architect services, commercial training or coaching services.]

²¹**[5A. Infrastructure requirements relating to information technology, Bio-technology, Research and Development facilities, Fabless Semi-conductor Industry and Electronic Manufacturing Services** - In case of a Special Economic Zone relating to information technology, Bio-technology, Research and Development facilities, Fabless Semi-conductor Industry and Electronic Manufacturing Services, the following facilities shall be ensured, namely: -

¹⁸Inserted vide [Notification no. G.S.R.501\(E\), dated 14-6-2010](#)

¹⁹ Inserted vide Notification G.S.R 940(E) dated 17-12-2019

²⁰ Inserted vide Notification G.S.R 940(E) dated 17-12-2019

²¹ Substituted vide [G.S.R. 2\(E\) - Dated 26-12-2016](#)

- (a) twenty-four hours uninterrupted power supply at stable frequency in the zone;
- (b) reliable connectivity for uninterrupted and secure data transmission;
- (c) provision for central air-conditioning system; and
- (d) a ready to use, furnished plug and pay facility for end users.]

6. Letter of Approval to the Developer. -

²²(1) The Central Government shall, within a period of thirty days of the communication received by it under clause (a) or clause (b) of sub-section (9) of section 3 of the Act grant following approvals: -

(a) formal approval in the cases where land is in possession of the developer in Form-B to the person or the State Government concerned or in Form-C, if the approval is for providing infrastructure facilities in the Special Economic Zone, incorporating additional conditions, if any, specified by the Board while approving the proposal;

(b) in-principle approval in other cases in Form-B 1 to the person or the State Government concerned, incorporating additional conditions, if any, specified by the Board while approving the proposal,

(2) ²³[(a) The letter of approval of a Developer granted under clause (a) of sub-rule (1) shall be valid for a period of three years within which time at least one unit has commenced production and the Special Economic Zone become operational from the date of commencement of such production:

Provided that the Board may, on an application by the developer or the co-developer, as the case may be, for reasons to be recorded in writing extend the validity period:

Provided further that the Developer or Co-developer as the case may be, shall submit the application in [Form C1](#) to the concerned Development Commissioner as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendations.]

²⁴[(aa) Where the Special Economic Zone becomes operational, the letter of approval granted under clause (a) shall be valid till the period of validity of notification of such Special Economic Zone;]

²² Substituted vide S.O.393 (E) dated 16-3-2007

²³ Substituted vide Notification no. G.S.R.501(E), dated 14-6-2010

²⁴ Inserted vide Notification no. G.S.R.501(E), dated 14-6-2010

(b) The letter of approval of a Developer granted under clause (b) of sub-rule (1) shall be valid for a period of one year within which time, the Developer shall submit suitable proposal for formal approval in Form "A" as prescribed under the provisions of rule 3,:

²⁵Provided that the Board may, on an application by the developer, for reasons to be recorded in writing, extend the validity period:

Provided further that the Developer shall submit the application in [Form C2](#) to the concerned Development Commissioner, as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendations.]

²⁶[6A. **Power of Central Government to review letter of approval** - The Central Government may review the letter of approval granted [under sub- rule \(1\) of rule 6](#) on the recommendation of the Board in the following circumstances, namely:

(i) the Developer submits application in [Form C3](#) for change of the sector to the concerned Development Commissioner, as specified in Annexure III, who, within a period of fifteen days shall forward it to the Board with his recommendations:

(ii) the Developer submits application in [Form C4](#) for increase in the area to the concerned Development Commissioner, as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendations;

(iii) the Developer submits application in [Form C5](#) for decrease in the area to the concerned Development Commissioner, as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendations.]

7. Details to be furnished for issue of notification for declaration of an area as Special Economic Zone.-

²⁷(1) The Developer shall furnish to the Central Government, particulars required under sub-section (1) of section 4 with regard to the area referred to in sub-section (2) or sub-section (4) of section 3, (hereinafter referred to as identified area), with a certificate from the concerned State Government or its authorized agency stating that the developer(s)

²⁵ Substituted vide Notification no. G.S.R.501(E), dated 14-6-2010

²⁶ Inserted vide Notification no. G.S.R.501(E), dated 14-6-2010

²⁷ Substituted vide S.O 393(E) dated 16.03.2007

have legal possession and irrevocable rights to develop the said area as SEZ and that the said area is free from all encumbrances,

Provided that where the Developer has leasehold rights over the identified area, the lease shall be for a period not less than twenty years.

(2) The identified area shall be contiguous and vacant and it shall have no public thoroughfare ²⁸[xxxx].

(In sub-rule (2), the words, brackets and figures "subject to third proviso to clause (a) of sub-rule (2) of rule 5" shall be deleted vide F. No. 2/633/2006-SEZ dated 16/3/2007)

²⁹Provided that the Board may relax any or all of the conditions, except the condition regarding identified area to be a vacant land, specified in this sub-rule on a case to case basis on merits for reasons to be recorded in writing and with such conditions as the Board may decide.

8. Notification of Special Economic Zone.- After the submission of details as required under rule 7 and other details, if any, required by the Central Government and on acceptance of the conditions specified in the Letter of Approval, the Central Government shall notify the identified area as a Special Economic Zone under sub section (1) of section 4, if the area proposed for notification is not less than the minimum area prescribed under rule 5.

³⁰[Provided that the Central Government may, on the recommendation of the Board on the application made by the Developer, if it is satisfied, modify, withdraw or rescind the notification of a Special Economic Zone issued under this rule:

Provided further that the Developer shall submit his application for withdrawal of notification in [Form C6](#) to the concerned Development Commissioner, as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his recommendations.]

9. Grant of Approval for Authorized Operations.- The Developer shall ³¹[submit in [Form C7](#) to the Development Commissioner who within a period of fifteen days, shall forward it to the Board with his recommendations,] the details of operations proposed to be undertaken in the Special Economic Zone for obtaining authorization under sub-section (2) of section 4 at the time of seeking approval for setting up of Special Economic Zone or thereafter:

²⁸ Omitted ibid

²⁹ Inserted ibid

³⁰ Inserted vide Notification no. G.S.R.501(E), dated 14-6-2010

³¹ Substituted ibid

Provided that exemptions, drawbacks and concessions shall be available for the authorized operations as per the procedure specified in rule 12 after the Special Economic Zone had been notified under rule 8:

Provided further that the Developer of an existing Special Economic Zone shall submit to the Board the details of operations proposed to be undertaken in the Special Economic Zone for the purpose of availing exemptions, drawbacks and concessions.

10. Permission for procurement of items. - The Approval Committee may permit goods and services to carry on the operations authorized under rule 9:

Provided that for the Special Economic Zones set up by the Central Government, the goods and services required for the authorized operations may be approved by the Board:

³²[Provided further that exemptions, drawbacks and concessions on the goods and services allowed to a Developer or Co-developer, as the case may be, shall also be available to the contractors including sub-contractors appointed by such Developer or Co-developer, and all the documents in such cases shall bear the name of the Developer or Co-developer along with the contractor or sub-contractor and these shall be filed jointly in the name of the Developer or Co-developer and the contractor or sub-contractor, as the case may be:

Provided also that the Developer or Co-developer, as the case may be, or the Special Economic Zone Unit shall be responsible and liable for proper utilization of such goods in all cases.]

11. Processing and non-processing area. -

³³[(1) The Development Commissioner shall demarcate the area and issue demarcation order under the provision of [section 6](#), specifying the survey numbers and boundaries of area of the Special Economic Zone as specified in the notification issued [under rule 8](#).]

³⁴[(2) The processing area and Free Trade and Warehousing Zone shall have specified entry and exit points and be fully secured by taking such measures as approved by the Board of Approval.]

³⁵[Provided that in case of a Special Economic Zone for information technology or information technology enabled services or electronic hardware or biotechnology, the

³² substituted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009](#)

³³ Substituted vide [Notification no. G.S.R.501\(E\), dated 14-6-2010](#)

³⁴ Substituted vide S.O 393(E) dated 16.03.2007

³⁵ Inserted vide [Notification no. G.S.R.501\(E\), dated 14-6-2010](#)

Development Commissioner shall approve such measures and inform the ³⁶[Approval Committee] accordingly:

Provided further that in case the developer proposes to create two hundred and forty-centimeter-high wall with top sixty centimeter being barbed wire fencing and single entry and exit point, no separate approval shall be required under this sub-rule.]

(3) The Development Commissioner shall ensure compliance of the requirements of sub-rule (2).

³⁷[(4) The persons authorised by the Development Commissioner shall only be allowed to enter the processing area of a Special Economic Zone;]

(5) The land or built up space in the processing area or Free Trade and Warehousing Zone shall be given on lease only to the entrepreneurs holding a valid Letter of Approval issued under rule 19 and the lease period shall not be less than five years but notwithstanding any other condition in the lease deed, ³⁸[the lease rights would cease to exist in case of the expiry or cancellation of the Letter of Approval].

Provided that the Developer may, with the prior approval of the Approval Committee, grant on lease land or built up space, for creating facilities such as canteen, public telephone booths, first aid centres, crèche and such other facilities as may be required for the exclusive use of the Unit.

(6) The developer holding land on lease basis shall assign lease hold right to the entrepreneur holding valid Letter of Approval.

(7) Any transfer by way of sub-lease or any other mode by the Developer shall be valid only if the same is made to a person holding a valid letter of approval issued by the Development Commissioner.

(8) The Developer may allot land in the processing area on lease basis to a person desiring to create infrastructure facilities for use by the prospective Units.

(9) The Developer shall not sell the land in a Special Economic Zone.

³⁹[(9A) The Developer shall ensure sufficient and adequate space, as per the applicable Central Public Works Department norms, for the Office of Development Commissioner and Customs Officers posted in the Special Economic Zone.]

⁴⁰[(10) No vacant land in the non-processing area shall be leased for business and social purposes such as educational institutions, hospitals, hotels, recreation and

³⁶ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "Board"

³⁷Substituted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009](#),

³⁸ Substituted vide S.O 393(E) dated 16.03.2007

³⁹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

entertainment facilities, residential and business complexes, to any person except a co-developer approved by the Board:

Provided that the developer or co-developer may lease the completed infrastructure along with the vacant land appurtenant thereto for such purposes:

⁴¹[***]

⁴²[Provided also that the Developer or Co-Developer shall strive to provide adequate housing facilities not only for the management and office staff but also for the workers of the Special Economic Zones Units.]

(11) The Special Economic Zone shall be deemed to be a port, airport, inland container depot, land customs station under section 7 of the Customs Act in accordance with the provisions of section 53 from the date notified in this behalf:

Provided that Specified Officer may designate any area or area(s) in the Special Economic Zone as an area for loading and unloading of import or export cargo:

Provided further that in case the said port, airport, inland container depot, land customs station area is to be used for loading and unloading of import or export cargo meant for Domestic Tariff Area importers and exporters also, storage for such cargo shall be in a separate enclosure and deliveries for such cargo shall be allowed by the Authorized Officer of the Special Economic Zone based on Bill of Entry, assessed by the Assistant or Deputy Commissioner of Customs having jurisdiction over the said Customs Station.

⁴³[Provided also that addition or inclusion of any land to an existing Special Economic Zone , where such land contains a port, manufacturing unit, or structures in which no commercial, industrial or economic activity is in progress, then such Special Economic Zone shall not be eligible for any duty benefits in respect of the pre-existing structures but any additions or up-gradations to such existing ports, manufacturing units, or structures after their addition or inclusion in a Special Economic Zone shall be eligible for the fiscal incentives as applicable for a new infrastructure in a Special Economic Zone and also the authorised operations being carried on in such infrastructure shall be eligible for benefits as provided for under the Special Economic Zone Act and rules.]

⁴⁴[(12) The Central Government may lay down guidelines for development, operation and maintenance of Special Economic Zones]

⁴⁵**[11A. Bifurcation of non-processing area:** The non-processing area can be bifurcated into two parts, namely:-

⁴⁰ substituted with effect from 10-8-2006 vide notification no. 470(E).

⁴¹ Omitted vide [GSR 5 \(E\) - Dated 2-1-2015](#).

⁴² Inserted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009](#)

⁴³ Inserted vide [Notification No. GSR540\(E\)](#) dated **12/08/2013**.

⁴⁴ Inserted vide [G.S.R. 562\(E\) - Dated 3-8-2009](#)

(1) Where the social or commercial infrastructure and other facilities are permitted to be used by both the Special Economic Zone and Domestic Tariff Area entities:

No exemptions, concessions or drawback shall be admissible for creation of such infrastructure. The Customs duty, Central Excise duty, ⁴⁶[Central Goods and Services Tax, Integrated Goods and Services Tax and State Goods and Services Tax] and such other Central levies and tax benefits already availed for creation of such infrastructure shall be refunded by the Developer in full, without interest. However, in cases of short payment of the amount refundable to the Government on account of dual use permission, interest will have to be paid at the rate of fifteen per cent per annum from the day the said amount becomes payable to the date of actual payment. Utilisation of SEZ land shall be subject to following conditions:

(a) the land is to be put to only such use which is as per the regulations of the concerned State Government or local bodies;

(b) if any exemption or refund has been taken from State or local taxes like stamp duty ⁴⁷[State Goods and Services Tax,], change of land uses, etc., the same shall be refunded back to State Government or local authorities and a certificate to this effect shall be produced from the concerned authorities;

(c) No Objection Certificate (NOC) from the concerned State Government shall be produced before the consideration of the request by Board of Approval (BoA). State Government may issue No Objection Certificate (NOC) taking into consideration (a) and (b) above.

(2) Where the social or commercial infrastructure and other facilities are permitted to be used only by Special Economic Zone entities:

This portion shall be bonded and physically segregated from the Domestic Tariff Area, non-processing area, specified at (1) above and the processing area of the Special Economic Zone. The infrastructure, as may be approved by the Board, for this part of non processing area shall be eligible for exemptions, concessions and drawback.

(3) The Department of Commerce has provided the following norms with respect to areas to be earmarked for residential, commercial and other social facilities:-

(a) The Developer or Co-developer shall submit an application in the format as specified by the Central Government to the Development Commissioner indicating therein the portion of the non-processing area where social or commercial infrastructure and other facilities are proposed to be used by both Special Economic Zone and Domestic Tariff Area

⁴⁵ Inserted vide [GSR 5 \(E\) - Dated 2-1-2015](#),

⁴⁶ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "Service Tax,"

⁴⁷ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

entities and the said application shall be accompanied with a copy of the Infrastructure Plan and No Objection Certificate from the concerned State Government and supporting documents.

(b) The Development Commissioner shall forward the said application to the Board of Approval (BoA) for approval.

(c) The area restrictions for duty paid dual use non processing area in the Special Economic Zones shall be as follows:

(i) Housing - not more than twenty-five per cent of non-processing area;

(ii) Commercial- not more than ten per cent of non-processing area;

(iii) Open area and circulation area-not less than forty-five per cent of non-processing area;

(iv) Social and institutional infrastructure including schools, colleges, socio-cultural centres, training institutes, banks, post office, etc., in the remaining area.

(d) Floor Area Ratio or Floor Space Index shall conform to the norms of the concerned local authorities.

(e) No sale shall be permitted of such duty paid dual use infrastructure in the non-processing area and only lease hold rights can devolve upon the users or transferees of the said dual use duty paid infrastructure in Non Processing Area of Special Economic Zones; and

(f) Any other conditions as may be specified by the Department of Commerce or Board of Approval]

“ 111 B, Non- Processing areas for Information Technology or Information Technology Enabled Services Special Economic Zones:-

- (1) Notwithstanding anything contained in rules, 5,11,11A of any other rule, the Board of Approval, on request of a Developer of an Information Technology or Information Technology Enable Services Special Economic Zone, may, Permit demarcation of a portion of the built-up area of an Information Technology or Information Technology Enable Services Special Economic Zone as a non-processing area of the Information Technology or Information Technology Enabled Services Special Economic Zone to be called a non-processing area.
- (2) A Non-processing area may be used for setting up and operation of business engaged in Information Technology or Information Technology Enable services, and at such terms conditions as may be specified by the Board of Approval under sub-rule(1),
- (3) A Non-processing area shall consist of complete floor and part of a floor shall not be demarcated as a non-processing are.
- (4) There shall be appropriate access control mechanisms for Special Economic Zone Unit and business engaged in Information Technology or Information Technology Enable Services in non-processing area of Information Technology or Information Technology Enable Services

Special Economic Zone, to ensure adequate screening of movement of persons as well as goods in and of their premises.

- (5) Board of Approval shall permit demarcation of a non-processing area for a business engaged in Information Technology or Information Technology Enable Services Special Economic Zone, only after repayment, without interest, by the Developer, -
 - (i) tax benefits attributable to the non-processing area, calculated as the benefits provided for the processing area of the special Economic Zone, in proportion of the built up area of the non-processing area to the total built up area of the processing area of the Information Technology or Information Technology Enable Services Special Economic Zone, as specified by the Central Government.
 - (ii) Tax benefits already availed for creation of social commercial infrastructure and other facilities if proposed to be used by both the information Technology or Information Technology Enable Services Special Economic Zone Unit and business engaged in Information Technology or Information Technology Enable Services in non-processing area.
- (6) The amount to be repaid by Developer under sub-rule (5) shall be based on a certificate issued by a Chartered Engineer.

- (7) Demarcation of a non-processing area shall not be allowed if it results in decreasing the processing area to less than fifty per cent of the total area or less than the area specified in column (3) of the table below:

TABLE

SI. No. (1)	Categories of cities as per Annexure IV - A (2)	Minimum built – up Processing Area (3)
1.	Category `A`	50,000 square meters
2.	Category `B`	25,000 square meters
3.	Category `C`	15,000 square meters

- (8) The business engaged in information Technology or Information Technology Enable Services Special Economic Zone in a non-processing area shall not avail any rights or facilities available to Special Economic Zone Units.
- (9) No tax benefits shall be available on operation and maintenance of common infrastructure and facilities of such an Information Technology or Information Technology Enable Services Special Economic Zone.
- (10) The businesses engaged in Information Technology of Information Technology Enabled Services Special Economic Zone, in a non-processing area shall be subject to provisions of all Central Acts and rules and orders made thereunder, as are applicable to any other entity operating in domestic tariff area.”

12. Import and procurement of goods by the Developer. -

(1) The Developer may import or ⁴⁸[procure goods and services] from the Domestic Tariff Area, without payment of duty, taxes and cess for the authorized operations, subject to the provisions contained in sub-rule (2) to (8).

(2) The Developer shall make an application, after obtaining approval for the authorized

operation under rule 9, to the Development Commissioner along with the list of goods and services, including machinery, equipments and construction materials required for the authorized operations, duly certified by a Chartered Engineer for approval by the Approval Committee.

⁴⁸ Substituted vide [Notification no. G.S.R.501\(E\), dated 14-6-2010](#)

(3) The Developer shall declare the place of storage of goods within the Special Economic Zone to the Specified Officer:

Provided that in case the storage is outside the processing area but within the Special Economic Zone, such storage shall comply with such safeguards as may be necessary for the purpose and approved by the Specified Officer.

(4) The goods imported or procured from the Domestic Tariff Area by the Developer for authorized operations shall be kept in a clearly demarcated area for inspection by the authorized officer before such goods are brought into use.

(5) The Developer shall execute a Bond-cum-Legal Undertaking in Form D, jointly with the Development Commissioner and Specified Officer, with regard to proper accountal and utilization of goods for the authorized operations within a period of one year or such period, as may be extended by the Specified Officer.

(6) The Developer shall maintain a proper account of the import or procurement, consumption and utilization of goods ⁴⁹[and services] and submit quarterly and half-yearly returns to the Development Commissioner in Form E for placing the same before the Approval Committee for consideration.

(7) The Developer shall submit a half-yearly certificate for the period ending 31st March and 30th September of every financial year regarding utilization of ⁵⁰[goods and services from an Independent Chartered Engineer or Independent Chartered Accountant or Cost Accountant as the case may be], other than the one who has given a certificate for the purpose of sub-rule (2), to Development Commissioner and Specified Officer and every certificate under this sub rule shall be filed within thirty days of the period specified, as the case may be.

(8) The Developer shall not remove goods from the Special Economic Zone to the Domestic Tariff Area except with the permission of the Specified Officer and on payment of duty applicable on such goods.

13. A Developer may export or transfer capital goods and spares including construction equipment that have become obsolete or surplus to another Developer, or Unit after obtaining the approval of the Specified Officer.

14. Procedure applicable on import or procurement of goods and services, their admission, and clearance of goods. - The procedures applicable to Units on import or procurement of goods and services, their admission, clearance of goods, shall apply, mutatis-mutandis, to the Developer, except that in case of a Developer, goods imported or procured from Domestic Tariff Area shall be allowed to be moved or utilized for the purposes of authorized operations in the non-processing area of Special Economic Zone as well.

⁴⁹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁵⁰ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

15. Monitoring.- The utilization of the goods imported or procured from the Domestic Tariff Area by the Developer shall be monitored by the Approval Committee.

16. Transfer of Letter of Approval of Developer. - The relevant provisions of section 3, and these rules, as far as may be, apply for transfer of Letter of Approval of a Developer under clause (a) of sub-section (9) of section 10.

CHAPTER III

PROCEDURE FOR ESTABLISHMENT OF A UNIT

17. Proposal for approval of Unit - (1) A consolidated application seeking permission for setting up of a Unit and other clearances, including those indicated below, shall be made to the Development Commissioner, in Form F,⁵¹[*****], with a copy to the Developer:-

(a) Setting up of unit in a Special Economic Zone;

⁵¹ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "in five copies"

- (b) Annual permission for sub-contracting;
- (c) Allotment of Importer-Exporter Code number;
- (d) Allotment of land/industrial sheds in the Special Economic Zone;
- (e) Water connection;
- (f) Registration-cum-Membership Certificate;
- (g) Small Scale Industries Registration;
- (h) Registration with Central Pollution Control Board;
- (i) Power connection;
- (j) Building approval plan;
- ⁵²[(k) Goods and Services Tax registration certificate;]
- (l) Approval from inspectorate of factories;
- (m) Pollution control clearance, wherever required;
- (n) Any other approval as may be required from the State Government.

(2) The Development Commissioner shall get the proposal scrutinised and get it placed before the Approval Committee for its consideration.

⁵³(2A) The Approval Committee shall meet once in every fortnight on a fixed predetermined day]

(3) The proposals received under clauses (c) and (e) of sub-section (2) of section 9 shall be placed before the Board by the Development Commissioner for its consideration.

18. Consideration of proposals for setting up of Unit in a Special Economic Zone.

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⁵² Substituted vide Notification No. G.S.R. 909(E) dated 19-09-2018 before it was read as Sales tax registration;"

⁵³ Inserted vide [G.S.R. 562\(E\) - Dated 3-8-2009](#)

(1) The Approval Committee may approve or approve with modification or reject a proposal placed before it under sub-rule (2) of rule 17, within fifteen days of its receipt:

Provided that where the approval is to be granted by the Board in terms of sub- rule (3) of rule 17, the Board shall approve or approve with modification or reject such proposal within forty-five days of its receipt:

Provided further that the Approval Committee or the Board, as the case may be, shall record the reasons, in writing, where it approves a proposal with modifications or where it rejects a proposal and Development Commissioner by order shall communicate such reasons to the person making the proposal.

(2) The Approval Committee shall approve the proposal if it fulfills the following requirements, namely: -

⁵⁴[(i) the proposal meets with the positive net foreign exchange earning requirement. In addition, prescribed value addition earning requirement, as the case may be, shall apply.]

(ii) availability of space and other infrastructure support applied for, is confirmed by the Developer in writing, by way of a provisional offer of space;

Provided that the Developer shall enter into a lease agreement and give possession of the space in the Special Economic Zone to the entrepreneur only after the issuance of Letter of Approval by the Development Commissioner:

⁵⁵[Provided further that a copy of the registered Lease Deed shall be furnished to the Development Commissioner concerned within six months from the issuance of the Letter of Approval and failure to do so, the Approval Committee may take action to withdraw the Letter of Approval after giving an opportunity of being heard;]

(iii) the applicant undertakes to fulfill the environmental and pollution control norms, as may be applicable;

(iv) the applicant submits proof of residence, namely, passport or ration card or driving licence or voter identity card or any other proof of the proprietor or the partners of partnership firms or Directors of the Company, as the case may be, to the satisfaction of Development Commissioner;

(v) the applicant submits the Income tax returns, along with annexures, of the Proprietor or Partners, or in the case of a company, audited balance sheet for the last three years.

⁵⁴ Substituted vide [NOTIFICATION No. G.S.R. 200\(E\) dated 07-03-2019](#)

⁵⁵ substituted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009](#)

(3) the proposal shall also fulfill the following sector specific requirements, namely:-

⁵⁶[(a) export of the goods from Special Economic Zones shall be subject to export policy in force, as provided in Schedule 2 to the Indian Trade Classification (Harmonised System) of Export and Import Items, 2017;]

⁵⁷[(b) for Gems and Jewellery, the minimum Value Addition earning requirement shall be as specified in the prevailing Foreign Trade Policy or Handbook of Procedures, as amended from time to time.]

Provided that this restriction shall not apply to the Units which intend to send the fabric, made by them out of polyester or texturised yarn, for subcontracting but the third party exports shall not be permitted;

(4) No proposal shall be considered for:-

(a) recycling of plastic scrap or waste:

Provided that extension of Letter of Approval for an existing Unit shall be decided by the Board;

(b) enhancement of the approved import quantum of plastic waste and scrap beyond the average annual import quantum of the unit since its commencement of operation to the existing Units;

(c) reprocessing of garments or used clothing or secondary textiles materials and other recyclable textile materials into clipping or rags or industrial wipers or shoddy wool or yarn or blankets or shawls:

Provided that extension of Letter of Approval for an existing Unit shall be decided by the Board;

(d) import of other used goods for recycling: Provided that extension of Letter of Approval for an existing Unit shall be decided by the Board;

Provided further that reconditioning, repair and reengineering may be permitted subject to the condition that exports shall have one to one correlation with imports and all the reconditioned or repaired or re-engineered products and scrap or remnants or waste shall be exported and none of these goods shall be allowed to be sold in the Domestic Tariff Area or destroyed;

(e) Export of Special Chemicals, Organisms, Materials, Equipment and Technologies unless it fulfils the conditions indicated in the Import Trade Control (Harmonized System) Classifications of export and import items;

⁵⁶ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁵⁷ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

(f) if there is any instance of violation of law or public policy by the promoters, having a bearing on the merits of the proposal.

⁵⁸[(g) **Omitted**]

⁵⁹[(4A) for existing plastic or used clothing Units in Special Economic Zones:-

(a) Broad banding and splitting of license for setting up of sub-Units shall not be allowed and all transactions of a Unit shall be regulated through a single bank account;

(b) no third-party exports shall be allowed by any such Unit;

(c) all such Units shall set up facilities to make products out of used clothing or plastic waste;

(d) 100 per cent. inspection of the consignment of used clothing sale to Domestic Tariff Area shall be under taken.

(4B) Procedure to be followed for verification of documents prior to clearing the consignment in Special Economic Zone :-

(a) Each consignment of used clothing imported by the Unit shall be accompanied with certificate from exporter or agency in which it was generated regarding dis-infection and fumigation of the containers from an agency licensed in the country of origin of worn clothing along with import documents;

(b) in case of mis-declaration by any importer in regard to any toxic or hazardous substances, action as per the relevant provisions of the [Foreign Trade \(Development and Regulation\) Act, 1992 \(22 of 1992\)](#) shall be taken against such importer;

(c) to ensure that used clothing re-processing Units in Special Economic Zones fulfil their export obligations in addition to meeting their Net Foreign Exchange obligation and all such Units shall be required to ensure that certain minimum percentage of the Units annual turnover is physically exported out of the country;

(d) before the clearance of used clothes to Domestic Tariff Area, all imported consignments of such used clothes shall be subject to 100 per cent. scrutiny at the premises of the Unit by Special Economic Zone authorities.]

(5) The Units in Free Trade and Warehousing Zones or units in Free Trade and Warehousing Zone set up in other Special Economic Zone, shall be allowed to hold the goods on account of the foreign supplier for dispatches as per the owner's instructions

⁵⁸ **omitted** vide [Notification No G.S.R. 1744\(E\), DATED 12-10-2007](#)

⁵⁹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

and shall be allowed for trading with or without labeling, packing or repacking without any processing:

Provided that refrigeration for the purpose of storage and assembly of Completely Knocked Down or Semi Knocked Down kits shall also be allowed by the Free Trade and Warehousing units undertaking the said activities:

Provided further that these Units may also re-sell or re-invoice or re-export the goods imported by them:

Provided also that all transactions by a Unit in Free Trade and Warehousing Zone shall only be in convertible foreign currency;

(6) Units may also be setup for providing services or manufacturing services to Overseas Entities subject to following conditions, namely:-

(a) Capital goods, raw materials including consumables sub-assemblies, components, semi-finished goods shall be supplied by the Overseas Entity free of cost;

(b) Capital goods for setting up such facilities may also be supplied on loan or lease basis, provided the notional value of such capital goods shall be taken into account for calculation of Net Foreign Exchange Earnings under rule 53.

(c) finished goods shall be exported out of the country or transferred to the Customs Bonded Warehouse to be maintained by the Overseas entity;

Provided that any supplies of finished goods shall be as per the instructions of the Overseas entity.

(d) the Unit shall receive the consideration for its manufacturing services in convertible foreign exchange directly from the said overseas entity;

(e) in case the said manufacturing facility is used by the Unit for carrying out production on its own account, separate accounts shall be maintained for the manufacturing and service activity.

Explanation: - "Overseas Entity" means a non-resident or a person of foreign origin and includes a company not incorporated in India.

19. Letter of Approval to a Unit.-

(1) On approval of a proposal under rule 18 and 19, Development Commissioner shall issue a Letter of Approval in Form G, for setting up of the Unit:

(2) The Letter of Approval shall specify the items of manufacture ⁶⁰[along with the corresponding Indian Trade Classification (Harmonised System) of Export and Import Items, 2017] or particulars of service activity, including trading or warehousing, projected annual export and Net Foreign Exchange Earning for the first five years of operations, limitations, if any on Domestic Tariff Area sale of finished goods, by- products and rejects and other terms and conditions, if any, stipulated by the Board or Approval Committee:

⁶¹[Provided that the Approval Committee may also approve proposals for broad- banding, diversification, enhancement of capacity of production, change in the items of manufacture or service activity, if it meets the requirements of rule 18:

Provided further that no such approval shall be granted by the Approval Committee in those cases which fall within the competence of the Board of Approval:

⁶²[Provided also that, subject to the provisions of rule 74A] the Approval Committee may also approve change of the entrepreneur of an approved unit, if the incoming entrepreneur undertakes to take over the assets and liabilities of the existing Unit]

⁶³[Provided also that the Approval Committee may also approve proposals for merger of Letters of Approval of two or more Units of the same company or firm subject to the condition that these Units fall within the same Special Economic Zone and after merger, block period for calculation of Net Foreign Exchange shall be from the date of commencement of production of the Unit which commenced operation first and the Income tax exemption period shall be considered from the date of start of operation of the first Unit.]

(3) An entrepreneur holding Letter of Approval issued under sub-rule (1) shall only be entitled to set up a Unit in processing area of the Special Economic Zone or Free Trade and Warehousing Zone, as the case may be:

Provided that a proposal for setting up of a Unit in a Special Economic Zone or Free Trade Warehousing Zone shall be entertained only after the processing area of the Special Economic Zone or Free Trade Warehousing Zone has been demarcated under rule 11.

(4) The Letter of Approval shall be valid for one year within which period the Unit shall commence production or service or trading or Free Trade and Warehousing activity and the Unit shall intimate date of commencement of production or activity to Development Commissioner:

⁶⁰ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁶¹ Substituted vide [notification no. S.O. 1293 \(E\) dated 20-5-2009](#)

⁶² Substituted vide Notification GSR 540(E) dated 12-8-2013

⁶³ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

Provided that upon a request by the entrepreneur, further extension may be granted by the Development Commissioner for valid reasons to be recorded in writing for a further period not exceeding two years:

Provided further that the Development Commissioner may grant further extension of one year subject to the condition that two-thirds of activities including construction, relating to the setting up of the Unit is complete and a chartered engineer's certificate to this effect is submitted by the entrepreneur.

⁶⁴**Provided** also that the Board of approval may, upon a request in writing by the entrepreneur, and after being satisfied that it is necessary and expedient so to do grant further extension for a further period not exceeding one year, at a time.]

(5) If the Unit has not commenced production or service activity within the validity period or the extended validity period under sub-rule (4), the Letter of Approval shall be deemed to have been lapsed with effect from the date on which its validity expired.

(6) The Letter of Approval shall be valid for five years from the date of commencement of production or service activity and it shall be construed as a licence for all purposes related to authorized operations, and, after the completion of five years from the date of commencement of production, the Development Commissioner may, at the request of the Unit, extend validity of the Letter of Approval for a further period of five years, at a time.

⁶⁵[(6A)(1) The Units which intend to renew the validity of Letter of Approval shall submit, before two months from the date of expiry of the Letter of Approval, the completed application in form F1 along with requisite document, to the Development Commissioner, duly signed by the proprietor or managing partner or if it is a company, by the Managing Director or the Director(s) or any person who has or have been duly authorised for this purpose by a resolution of the ⁶⁶[Board] of Directors of the Company:

⁶⁷[Provided that in case an application is submitted after the said period of two months, reasonableness of the delay shall be examined on the merits and circumstances of the case and the request for renewal of Letter of Approval shall be decided by the Development Commissioner.]

(2) in case of non-compliance of the procedures specified in clause (1), the Letter of Approval shall not be considered for renewal.

⁶⁴ Inserted vide [G.S.R. 903\(E\) - Dated 10-11-2010](#)

⁶⁵ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁶⁶ Substituted vide [NOTIFICATION No. G.S.R. 200\(E\) dated 07-03-2019](#) before it was read as "Board of Approval"

⁶⁷ Substituted vide [Notification No. G.S.R. 200\(E\) dated 07-03-2019](#)

(3) the Development Commissioner may renew the Letter of Approval for a period of five years or for a shorter period, in form F 2, based on the evaluation of the Unit as per sub-rule (6B):

⁶⁸(6B) The process of renewal of Letter of Approval shall take into account the efforts made and the results achieved or status of the following criteria, namely: -

- (i) Export performance of the Unit in the last block.
- (ii) Employment generated.
- (iii) Instance of violation of applicable statutes related to the functioning of the Unit.
- (iv) Cases of default, if any, of statutory payments.
- (v) Undertaking of any activity not sanctioned or approved by the Development Commissioner.

(vi) The decision of the Development Commissioner or Approval Committee in this regard shall be final and binding on the Unit except in cases where the Unit prefers an appeal before the Board of Approval, in accordance with rule 55.]]

(7) If an enterprise is operating both as a Domestic Tariff Area unit as well as a Special Economic Zone Unit, it shall have two distinct identities with separate books of accounts, but it shall not be necessary for the Special Economic Zone unit to be a separate legal entity:

⁶⁹[Provided that foreign companies can also set up manufacturing Units as their branch operations in the Special Economic Zones in accordance with the provisions of Foreign-Exchange Management (Establishment in India of branch or office or other place of business) Regulations, 2000 as amended from time to time.]

20. Administrative Control of Special Economic Zones.- Every Special Economic Zone shall be under the administrative control of a Development Commissioner appointed under sub-section (1) of section 11.

21. Offshore Banking Unit. -

(1) The application for setting up and operation of Offshore Banking Unit in Special Economic Zone shall be made to the Reserve Bank of India in the Form VI prescribed under Banking Regulation (Companies) Rules, 1949 under section 23 of the Banking Regulation Act, 1949.

⁶⁸ Substituted vide [Notification No. G.S.R. 200\(E\) dated 07-03-2019](#)

⁶⁹ substituted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009,](#)

(2) The terms and conditions subject to which an Offshore Banking Unit may be set up and operated in a Special Economic Zone shall be as specified in the Notification number FEMA 71/2002-RB dated 7th September, 2002 by the Reserve Bank of India, as amended from time to time.

CHAPTER IV

⁷⁰[TERMS AND CONDITIONS FOR GRANT OF PERMISSION TO OPERATE INCLUDING AVAILING EXEMPTIONS, DRAWBACKS AND CONCESSIONS]

22. Terms and conditions for availing exemptions, drawbacks and concessions to every Developer and entrepreneur for authorized operations.-

(1) Grant of ⁷¹[permission to operate including availing] exemption, drawbacks and concession to the entrepreneur or Developer shall be subject to the following conditions, namely:-

(i) the Unit shall execute a Bond-cum-Legal Undertaking in Form H, with regard to its obligations regarding proper utilization and accountal of goods, including capitalgoods, spares, raw materials, components and consumables including fuels, imported or procured duty free and regarding achievement of positive net foreign exchange earning;

(ii) the Developer and Co-Developer shall execute the Bond-cum-Legal Undertaking in Form D with regard to their obligations regarding proper utilization and accountal of goods, including goods procured or imported by a contractor ⁷²[including the sub-contractor] duly authorized by the Developer or Co-Developer as the case may be;

(iii) the Bond-cum-Legal Undertaking shall be jointly accepted by Development Commissioner and by the Specified Officer:

Provided that the Bond-cum-Legal Undertaking executed by the Unit or the Developer including Co-Developer shall cover one or more of the following activities, namely: -

(a) the movement of goods between port of import or export and the Special Economic Zone;

(b) the authorized operations, as applicable to Unit or Developer;

(c) temporary removal of goods or goods manufactured in Unit for the purposes of repairs or testing or calibration or display or processing or sub-contracting of production process or production or other temporary removals into Domestic Tariff Area without payment of duty;

(d) re-import of exported goods.

(iv) The procedure for execution of Bond-cum-Legal Undertaking shall be as under:-

(a) the Bond-cum-Legal Undertaking, where the entrepreneur or Developer is a company shall be executed by the Managing Director of the company or the

⁷⁰ Amended vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁷¹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁷² ⁷² Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

Director(s) or any person who has or have been duly authorized 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; where the entrepreneur is a partnership firm, Bondcum- Legal Undertaking shall be executed by all the partners or authorized partner(s); where the entrepreneur is a Hindu Undivided Family, the, Bond-cum-Legal Undertaking shall be executed by the Kartha; and where the entrepreneur is a proprietorship concern, the Bond-cum-Legal Undertaking shall be executed by the proprietor;

(b) the value of the Bond-cum-Legal Undertaking shall be equal to the amount of effective duties leviable on import or procurement ⁷³[of goods and services] from the Domestic Tariff Area of the projected requirement of capital goods, raw materials, spares, consumables, intermediates, components, parts, packing materials ⁷⁴[and services] for three months as applicable but which will not be levied on account of admission of such goods into the Unit or the amount of effective duties leviable on import or procurement ⁷⁵[of goods and services] from Domestic Tariff Area of the projected requirements of goods for the authorized operation by the developer but will not be levied on account of admission of such goods into the Special Economic Zone;

(c) where the value of Bond-cum-Legal Undertaking executed falls short on account of requirement of additional goods ⁷⁶[and services], the Unit or the Developer shall submit additional Bond-cum-Legal Undertaking;

(d) there shall be no debit and credit, the Bond-cum-Legal Undertaking amount shall be monitored quarterly or yearly on the basis of Quarterly Progress Report or Annual Progress Report submitted by the Developer or Unit, as the case may be, and in case of any shortfall in the Bond-cum-Legal Undertaking amount, a fresh or additional Bond-cum-Legal Undertaking shall be furnished;

(e) the original of Bond-cum-Legal Undertaking shall be maintained by the office of Development Commissioner and certified copies shall be given to the Specified Officer and Unit or Developer;

(f) the value of the Bond-cum-Legal Undertaking in respect of gems and jewellery units shall be calculated on rates as notified by the Central Government, from time to time;

(g) duly completed Bond-cum-legal undertaking executed by the Unit or Developer, in accordance with the rules above, as the case may be, shall be deemed to have

⁷³ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁷⁴ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁷⁵ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁷⁶ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

been accepted, if no communication is received within seven working days from the date of its submission.

⁷⁷(v) The Unit or the developer including co-developer shall obtain a Registration-cum-Membership Certificate for availing exemptions, drawbacks and concessions.

(2) Every Unit and Developer shall maintain proper accounts, financial yearwise, ⁷⁸[either in register form in hard copy or time stamped digital form,] which should clearly indicate in value terms the goods imported or procured from Domestic Tariff Area, consumption or utilization of goods, production of goods, including by-products, waste or scrap or remnants, disposal of goods manufactured or produced, by way of exports, sales or supplies in the domestic tariff area or transfer to Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Units or Biotechnology Park Unit, as the case may be, and balance in stock:

Provided that Unit and Developer shall maintain such records for a period of seven years from the end of relevant financial year:

Provided further that the Unit engaged in both trading and manufacturing activities shall maintain separate records for trading and manufacturing activities.

(3) The Unit shall submit Annual Performance Reports in the Form I, to the Development Commissioner and the Development Commissioner shall place the same before the Approval Committee for consideration.

(4) The Developer shall submit Quarterly Report on import and procurement of goods from the Domestic Tariff Area, utilization of the same and the stock in hand, in Form E to the Development Commissioner and the Specified Officer and the Development Commissioner shall place the same before the Approval Committee.

23. Supplies from the Domestic Tariff Area to a Unit or Developer for their authorized operations shall be eligible for export benefits as admissible under the Foreign Trade Policy.

⁷⁷ Inserted vide [G.S.R. 771\(E\) - Dated 5-8-2016](#)

⁷⁸ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "and such accounts"

24. (1) The procedure for grant of drawback claims ⁷⁹[*****] to a Developer or Unit shall be as under:

(a) Drawback Claims: The triplicate copy of the assessed Bill of Export ⁸⁰[or a similar equivalent document as in case of export specified under Goods and Services Tax laws] shall be treated as the drawback claim and processed in the Customs section of the Special Economic Zone and the Specified Officer shall be the disbursing authority for the said claims:

Provided that the Specified Officer shall follow the ⁸¹[[Customs and Central Excise Duties Drawback Rules, 2017](#), as amended from time to time] circulars and instructions made in this regard to sanction of duty drawback claims and the interest on delayed payments.

⁸²[*****]

⁸³[(2)Where a Bill of Export has been filed under a claim of drawback or any other similar scheme laid down under the [Customs and Central Excise Duties Drawback Rules, 2017](#), as amended from time to time, the Unit or Developer shall claim the same from the Specified Officer and in case the Unit or Developer does not intend to claim such benefit, a disclaimer to this effect shall be given to the Domestic Tariff Area supplier for claiming such benefits:

Provided that the aforesaid benefits may be claimed by Domestic Tariff Area supplier from their jurisdictional Goods and Services Tax or Central Excise Commissioner, as the case may be.

(3)Drawback or any other similar benefit under the [Customs and Central Excise Duties Drawback Rules, 2017](#), as amended from time to time, against supply of goods by Domestic Tariff Area supplier shall be admissible where payments for the supply are made from the Foreign Currency Account of the Unit:

Provided that the reimbursement of duty in lieu of drawback or any other similar benefit scheme against supply of goods by Domestic Tariff Area supplier to Special Economic Zone developers shall be admissible even if payment is made in Indian Rupees and reimbursement of duty in lieu of drawback or any other similar benefit against supply of goods to Special Economic Zone developer shall be made as per the procedure specified by the Central Government under the Customs and Central Excise Duties Drawback Rules, 2017, as amended from time to time.]

⁷⁹ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "and Duty Entitlement Pass Book credit"

⁸⁰ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁸¹ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "Customs and Central Excise Duties Drawback Rules 1995"

⁸² Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁸³ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

25. Where an entrepreneur or Developer does not utilize the goods or services on which exemptions, drawbacks, cess and concessions have been availed for the authorized operations or unable to duly account for the same, the entrepreneur or the Developer, as the case may be, shall refund an amount equal to the benefits of exemptions, drawback, cess and concessions availed without prejudice to any other action under the relevant provisions of the Customs Act, 1962, the Customs Tariff Act, 1975, the Central Excise Act, 1944, the Central Excise Tariff Act, 1985, ⁸⁴[the [Central Goods and Services Tax Act, 2017 \(12 of 2017\)](#), [Integrated Goods and Services Tax Act, 2017 \(13 of 2017\)](#), State Goods and Services Tax Acts, [Union Territory Goods and Services Tax Act, 2017 \(14 of 2017\)](#) and the [Foreign Trade \(Development and Regulation\) Act, 1992 \(22 of 1992\)](#)] and the enactments specified in the First Schedule to the Act, as the case may be:

Provided that if there is a failure to achieve positive net foreign exchange earning, by a Unit,⁸⁵[or stipulated Value addition, such entrepreneur shall also be liable] for penal action under the provisions of Foreign Trade (Development and Regulation) Act, 1992 and the rules made there under.

26. General Conditions of Import and Export.- A unit may export goods and services, including agro-products, partly processed goods, sub-assemblies, components, by-products, rejects, waste or scrap except prohibited items of exports indicated in the Import Trade Control (Harmonized System) Classifications of Export and Import items:

Provided that export of Special Chemicals, Organisms, Materials, Equipment and Technologies shall be subject to fulfillment of the conditions indicated in the Import Trade Control (Harmonized System) Classification of Export and Import items:

Provided further that if any permission is required for import under any other law, the same shall be allowed with the approval of the Board of Approval.

⁸⁶[**Provided** also that the Foreign Trade Policy restrictions on State Trading Enterprises shall not apply to Special Economic Zone manufacturing Units:

Provided also that export of ⁸⁷[or supply from Domestic Tariff Area, of any ore] shall be subject to the conditions as imposed by the Central Government.]

⁸⁸[**Provided** also that Special Economic Zone Units shall be permitted to export prohibited items, if they import raw-material for the same, but each such case shall be placed before Board of Approval for approval:

⁸⁴ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁸⁵ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁸⁶ Inserted vide [G.S.R. 562\(E\) - Dated 3-8-2009](#)

⁸⁷ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁸⁸ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

Provided also that items which are prohibited for import, Special Economic Zone Units shall be permitted to import the same if they export goods made out of the same but each such case shall be placed before Board of Approval of Approval for approval.]

27. Import and Procurement. -

(1) A Unit or Developer may import or procure from the Domestic Tariff Area without payment of duty, taxes or cess or procure from Domestic Tariff Area after availing export entitlements or procure from other Units in the same or other Special Economic Zone or from Export Oriented Unit or Software Technology Park unit or Electronic Hardware Technology Park unit or Biotechnology Park unit,⁸⁹[or warehouse] all type of goods, including capital goods (new or second hand), raw materials, semi-finished goods, (including semi-finished Jewellery) component, consumables, spares goods and materials for making capital goods required for authorized operations except prohibited items under the Import Trade Control (Harmonized System) Classifications of Export and Import Items.

Provided that exemptions from payment of duty, taxes or cess drawbacks and concessions on all types of goods and services, required for setting up and maintenance of the factory building allowed to a unit shall also be available to the contractors⁹⁰[including sub-contractors] appointed by such unit and all the documents in such cases shall bear the name of the unit along with the contractor and these shall be filed jointly in the name of the unit and the contractor:

Provided further that the unit shall be responsible and liable for proper utilization of such goods and services in all cases.

⁹¹**Provided** also that items prohibited for import can be procured by a Special Economic Zone unit or Developer from a place outside India to the Special Economic Zone with the prior approval of Board of Approval]

⁹²**Provided** also that for supply of Restricted Items by a Domestic Tariff Area Unit to Special Economic Zone Developer or Unit, the Domestic Tariff Area Unit may supply such items to a Special Economic Zone Developer or Unit for setting up infrastructure facility or for setting up of a Unit and it may also supply raw material to Special Economic Zone Unit for undertaking a manufacturing operation except refrigeration, cutting, polishing and blending, subject to the prior approval of Board of Approval:

Provided also that supplies from Domestic Tariff Area to Special Economic Zones shall attract export duty, in case, export duty is leviable on items attracting export duty.]

⁸⁹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁹⁰ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁹¹ Inserted vide [G.S.R. 732\(E\). - Dated 7-9-2010](#)

⁹² Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

(2) In case of any doubt as to whether any goods or services are required by a Unit or Developer for authorized operations or not, it shall be decided by the Development Commissioner.

(3) The import of ⁹³[and domestic procurement] duty free material for setting up educational institutions, hospitals, hotels, residential and/or business complex, leisure and entertainment facilities or any other facilities in the non-processing area of the Special Economic Zone shall be as approved by the ⁹⁴[Approval Committee and import and procurement of goods from Domestic Tariff Area] of no duty free material shall be permitted for operation and maintenance of such facilities: Provided further that any goods for the personal use of, or consumption by officials, workmen, staff, owners or any other person in relation to a Unit or Developer, shall not be eligible for exemptions, drawbacks and concessions or any other benefit in accordance with the provisions of sections 7 or 26.

(4) A Unit or Developer may also source capital goods, without payment of duty, taxes or cess from a domestic or foreign leasing company, under a valid lease agreement and in such cases the Unit or Developer and the domestic or foreign leasing company shall jointly file documents for import or domestic procurement, as the case may be.

(5) A Unit may import or procure from Domestic Tariff Area, all types of goods and services, without payment of duty, taxes or cess for creating a central facility for use by Units in Special Economic Zone and where such facility is created for software development, the same may also be accessed by software exporters of Domestic Tariff Area.

(6) A gem and jewellery Unit may also source on outright purchase basis or loan basis, gold or silver or platinum through the Nominated Agencies and where such sourcing is on loan basis, the same shall be subjected to the conditions applicable to such transactions under the provisions of the Foreign Trade Policy in force:

Provided that the conditions applicable to loan transaction shall not apply where the Unit converts such loan into outright purchase by paying the outstanding loan amount and interest within the period for export prescribed under the Foreign Trade Policy applicable to the loan transaction.

(7) The goods already imported or shipped or arrived before the issue of Letter of Approval shall be eligible for duty free clearance provided customs duty has not been paid and goods have not been cleared from Customs or cleared and placed in the Bonded Warehouses.

⁹³ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

⁹⁴ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "Board and import"

(8) No import or export of rough diamonds shall be permitted unless the shipment parcel is accompanied by Kimberley Process Certificate issued by the Development Commissioner.

(9) Where goods or parts thereof, imported or procured from Domestic Tariff Area are found to be defective or otherwise unfit for use or which have been damaged or become defective after such import or procurement, may be sent outside the Special Economic Zone without payment of duty for repairs or replacement, to the supplier or his authorized dealer or be destroyed:

Provided that where overseas supplier or the Domestic Tariff Area supplier of goods does not insist for re-export or for supply back to the Domestic Tariff Area of goods, the same shall not be insisted upon and such goods shall be destroyed with the permission of the Specified Officer:

⁹⁵**Provided** further that the goods which are sent outside the Special Economic Zone for repairs are returned to the Special Economic Zone, within 180 days from the date of removal from the Special Economic Zone, under intimation to the specified officer. In case goods are sent out for replacement then on replaced goods, no Duty Entitlement Passbook Scheme, duty drawback or other export incentives shall be claimed for this purpose]

Provided further that destruction shall not be permitted in case of precious and semi-precious stones and precious metals:

Provided also that in case of return of goods procured from the Domestic Tariff Area, the same shall be allowed on refund of the export entitlement which have been received or availed or claimed by the Domestic Tariff Area supplier or the Unit or the Developer, as the case may be.

(10). The Assessment of imports and domestic procurement by a Developer or a Unit, shall be on the basis of self-declaration and shall not be subjected to routine examination except in case of procurement from the Domestic Tariff Area under the claim of export entitlements:

Provided that where based on a prior intelligence the examination becomes necessary the same shall be carried out by the Authorized Officer(s) after obtaining written permission from the Development Commissioner or the Specified Officer.

(11) If examination of any import or export of goods or goods procured from the Domestic Tariff Area is required, the same shall be carried out at the Special Economic Zone gate or if the same is not possible, in an area so notified by the Specified Officer for this purpose, and no examination shall be carried out in the premises of the Unit

⁹⁵ Inserted vide [G.S.R. 562\(E\) - Dated 3-8-2009](#)

unless requested by the unit and specifically permitted in writing by the Specified Officer.

28. (1) A Unit or Developer may import goods directly into the Special Economic Zone or through any other:

(a) ports or airports;

(b) land customs stations;

(c) inland container depots;

(d) foreign post offices;

(e) authorized couriers; or

(f) through personal baggage of passengers authorized by the Special Economic Zone Unit; or

(g) Via Satellite data communication such as internet or any other telecommunication link.

(2) Goods imported through ports or airports, land customs stations, or inland container depots shall be allowed to be transferred in full cargo load or less than container load cargo by direct transfer from such port or airport or Inland container Depot or land customs station to the Special Economic Zone.

(3) The import of Information Technology enabled services, including software, shall also be allowed through data communication link, internet, e-mail or any other electronic mode.

(4) The Unit or Developer may also procure goods required for the authorized operations, without payment of duty, from International Exhibitions held in India or from bonded warehouses set up under the Foreign Trade Policy and under the Customs Act in the Domestic Tariff Area;

(5) The goods imported by the Unit or Developer shall be allowed to be transferred from the port or airport to the Special Economic Zone without examination by the Customs Authorities at the port or airport, as the case may be:

Provided that the goods may be examined with the prior permission of the Assistant or Deputy Commissioner of Customs in writing in case there is specific adverse information or intelligence:

(6) The goods imported by a Developer or Unit shall be transshipped by the carrier or its agent directly to the Special Economic Zone.

(7) Where import cargo destination ⁹⁶[is the Special Economic Zone], delivery shall be allowed at the destination port or airport on the strength of Bill of Entry assessed by Special Economic Zone Customs without any Transshipment Bond:

Provided that in case of high value goods imported through the airport, the goods may be transferred to the Custodian who shall transfer the same to a designated Customs Area located inside the Processing Area designated by the Specified Officer for further delivery to the Unit or Developer:

Provided further that the high value cargo imported through the airport may also be transferred under the Customs escort at the option of the Unit or the Developer

29. (1) Direct delivery shall be permitted at the place of import for clearance of goods imported by Units and Developer from ports or airports or land customs stations or inland container depots as is being done in the case of import of perishable or lifesaving drugs.

(2) The Unit or Developer, hereinafter referred to as the Special Economic Zone Importer, shall follow the following procedure for imports, namely:-

(a) the Special Economic Zone Importer shall file Bill of Entry for home consumption in quintuplicate giving therein, description with specially stamped endorsement as "Special Economic Zone Cargo" along with Bill of Lading or Airway Bill and invoice and packing list with the Authorized Officer who shall register and assign a running annual serial number and assess the Bill of Entry, on the basis of transaction value, which shall not require any counter signature of the Specified Officer:

Provided that where the Bill of Entry is not assessed on the date of filing itself, the goods shall be allowed to be transferred to Special Economic Zone Importer on the basis of the registered Bill of Entry, if an endorsement to this effect has been made by the Authorized Officer:

Provided further that where the goods including Capital Goods are supplied free of cost or on loan or lease basis, the Bill of Entry shall be filed jointly in the name of the Special Economic Zone importer, and the supplier:

Provided also that where the goods including Capital Goods are supplied on loan or lease basis by a domestic supplier, the Bill of Entry shall be filed jointly in the name of the Special Economic Zone importer and domestic supplier;

(b) the registered or assessed Bill of Entry shall be submitted to the Customs Officer at the place of import and the same shall be treated as permission for transfer of goods to the Special Economic Zone Importer;

⁹⁶ In sub-rule (7) the words "is other than the Special Economic Zone" has been substituted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009](#),

(c) in case of sealed full container load, the goods shall be transferred to Special Economic Zone on the basis of registered or assessed Bill of Entry after verification of the seal, without customs escort;

(d) in case of other cargo, goods shall be allowed to be transferred to Special Economic Zone on the basis of registered or assessed Bill of Entry either under customs escort or under trans-shipment procedure, at the option of Special Economic Zone Importer:

Provided that no separate documents or trans-shipment bond shall be required to be filed and the trans-shipment permission shall be stamped on the fifth copy of the Bill of Entry;

(e) on arrival of goods as full container load cargo or sealed truck, seal on the container or the truck, as the case may be, shall be verified by the authorized officer, at the Special Economic Zone gate of entry;

(f) on arrival of goods in less than container load cargo, verification of marks and numbers shall be carried out at random by the authorized officer at the Special Economic Zone gate of entry:

Provided that where verification of marks and numbers of less than container load cargo cannot be undertaken at Special Economic Zone gate of entry, the goods shall be allowed to be taken directly to the premises of the Special Economic Zone Importer or to the premises of the custodian, as the case may be, and verification undertaken there;

(g) the Special Economic Zone importer shall submit fifth copy of Bill of Entry bearing endorsement of the authorized officer that the goods have been received in Special Economic Zone, to the Customs Officer in charge of the airport or port or inland container depot or land customs station or post office or public or private bonded warehouses, as the case may be, within forty-five days from the date of clearance of goods from such airport or port or inland container depot or land customs station or post office or public or private bonded warehouse, as the case may be, failing which the officer in charge of such airport or port or inland container depot or land customs station or post office or public or private bonded warehouse, as the case may be, shall write to the Specified Officer for raising demand of applicable duty from the Special Economic Zone importer;

(h) endorsement regarding verification of marks and numbers in case of less than container load cargo or inspection of seal in the case of full container load cargo or sealed truck by the authorized officer and the receipt of the goods by the Special Economic Zone importer shall be deemed to be the completion of the customs procedure for out of charge of the goods.

(i) where goods are imported through courier -

(a) the authorized officer shall assess the goods;

(b) the courier shall deliver the goods under customs escort or to the custodian for delivery of goods to Special Economic Zone Importer;

(c) in case the Special Economic Zone is located away from the station where the goods have been imported by the courier, the goods shall be trans-shipped to Special Economic Zone Importer under trans-shipment procedure:

Provided that no separate documents or trans-shipment bond shall be required to be filed and the trans-shipment permission shall be stamped on the fifth copy of the Bill of Entry:

Provided further that if the Special Economic Zone Importer is not able to get the courier parcels duty free, the duty paid by the said Importer on such eligible goods shall be refunded by the Specified Officer as if the imported goods have been exported to the Special Economic Zone and such refund shall be in accordance with the provisions of section 74 of the Customs Act, 1962.

(3) The procedure for delivery through the Port, Inland Container Depot, Custodian's designated customs area, in case of high value parcels imported by gem and jewellery Units, located in Special Economic Zone shall be as under: -

(i) where goods are consigned to an Inland Container Depot located in a Special Economic Zone, transfer of goods shall be by the carrier appointed for the purpose and the goods shall be delivered to the Inland Container Depot in the Special Economic Zone by the container line or custodian.

(ii) after receipt of goods in the Special Economic Zone Inland Container Depot, delivery of goods shall be made by the custodian of the Inland Container Depot after verification of marks and number of packages of less than container load cargo and verification of seal of full container load cargo, in the premises of the custodian on the basis of assessed Bill of Entry.

(iii) filing of advance Bill of Entry may not be required before arrival of the goods in the Special Economic Zone and the Special Economic Zone Importer may, at his option, file the Bill of Entry before or after arrival of goods:

Provided that where verification cannot be undertaken in the premises of the custodian or if the Special Economic Zone importer so requests, goods shall be allowed to be taken to the premises of the Special Economic Zone Importer, by the Specified Officer and thereafter the goods may be verified there.

(iv) there shall be no examination of the goods and the goods shall be deemed to be out of charge on the day of handing over of the goods to the Special Economic Zone Importer.

(4) Procedure for Import by Post.- where goods are imported by post, the Special Economic Zone Importer shall follow the procedure specified in sub-rule (2) and shall file the Bill of Entry with the authorized officer with clear marking as "Postal Imports" and subject to following conditions, namely:-

(i) the post-office registration number as indicated in the intimation letter issued by the post office shall be taken as the import general manifest and item number of the Bill of Entry;

(ii) the copy of intimation letter received from the post office shall be pasted on the reverse side of the original Bill of Entry;

(iii) where Special Economic Zone is situated away from the foreign post office, goods shall be moved to Special Economic Zone under customs escort or shall be handed over to the custodian of Special Economic Zone or delivered to the Unit or its authorized representative after sealing of the parcel.

(5) The units may import goods including precious goods namely gold or silver or platinum or gem and jewellery as personal baggage through an authorized passenger subject to the following procedure, namely:-

(i) the authorized 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 the airport along with a duly acknowledged copy of intimation submitted to the authorized officer;

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

(iii) the customs officer of the airport shall detain the goods and issue detention receipt;

(iv) the Unit shall file Bill of Entry in quintuplicate along with a copy of invoice, packing list and declaration with the authorized officer and the detention receipt number issued by the customs officer at the airport shall be treated as Import General Manifest and item number;

(v) after assessment of Bill of Entry, original Bill of Entry shall be retained by the authorized officer and the remaining copies shall be handed over to the authorized representative of the Unit for presenting at the airport detention counter where goods shall be allowed clearance after receiving the original detention receipt along with the authorization from the Unit, by making entries in the warehouse register and detention receipt register;

(vi) after release, the goods shall either be moved to the Unit under the Customs escort or shall be delivered to the Custodian or authorized representative of the Unit after sealing;

(vii) the goods shall be allowed to be taken to the Unit after verification of marks and number of packages by the Authorized Officer at the gate of entry of the Special Economic Zone.

(6) For the import of computer software or services through data communication or telecommunication links, the Unit shall file consolidated Bill of Entry for a month within three working days of the closure of the month along with the invoice and other relevant documents and shall obtain notional 'out of charge' from the Authorized Officer, subject to the following conditions, namely:-

(i) import documents shall be routed through banks or advance payments for imports could be routed through Foreign Currency Account; (ii) instructions, if any, issued by the Reserve Bank of India, from time to time, in this behalf shall be complied with.

⁹⁷[(7) A Unit may import the goods exported by it which are either found to be defective or damaged by the overseas buyer or have not been taken delivery of by the overseas buyer or when the payment is not forthcoming from the buyer as per agreed schedule after having taken delivery of goods or when buyers return goods due to change of fashion and other market factors by following the procedure under sub-rule (2) and subject to the following conditions, namely:-

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

(ii) the goods are re-imported within the warranty period or the validity of the maintenance contract or a period of one year from the date of export, whichever is later.]

(8) Replacement of goods imported but found defective shall be allowed admission in Special Economic Zone by way of import or replacement through authorized dealer of the overseas supplier in India.

30. Procedure for procurements from the Domestic Tariff Area.-

⁹⁸[(1) The Domestic Tariff Area supplier supplying goods or services to a Unit or Developer shall clear the goods or services, as in the case of zero-rated supply as per provisions of [section 16](#) of the [Integrated Goods and Services Tax Act, 2017 \(13 of 2017\)](#) either under bond or legal undertaking or under any other refund procedure

⁹⁷Substituted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009](#),

⁹⁸ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

permitted under Goods and Services Tax laws or Central Excise law, or as duty or tax paid goods under claim of rebate, on the cover of documents laid down under the relevant Central Excise law for the purpose of export by a manufacturer or supplier.]

(2) Goods ⁹⁹[or services] procured by a Unit or Developer, on which ¹⁰⁰[Goods and Services Tax or] exemption has been availed but without any availment of export entitlements, shall be allowed admission into the Special Economic Zone on the basis of ¹⁰¹[documents referred to in sub-rule (1) of Rule 30].

(3) The goods procured by a Unit or Developer under claim of export entitlements shall be allowed admission into the Special Economic Zone on the basis of ¹⁰²[documents referred to in sub-rule (1) of Rule 30] and a Bill of Export filed by the supplier or on his behalf by the Unit or Developer and which is assessed by the Authorised Officer before arrival of the goods:

Provided that if the goods arrive before a Bill of Export has been filed and assessed, the same shall be kept in an area designated for this purpose by the Specified Officer and shall be released to the Unit or Developer only after completion of the assessment of the Bill of Export;

¹⁰³[(4) A copy of the document referred to in sub-rule (1) or copy of Bill of Export, as the case may be, with an endorsement by the authorised officer that goods have been admitted in full into the Special Economic Zone shall be treated as proof of export and a copy with such endorsement shall also be forwarded by the Unit or Developer to the Goods and Services Tax or Central Excise Officer having jurisdiction over the Domestic Tariff Area supplier within forty-five days failing which the Goods and Services Tax or Central Excise Officer, as the case may be, shall raise demand of tax or duty against the Domestic Tariff Area supplier;]

¹⁰⁴[****]

(6) The Bill of Export shall be assessed in accordance with the instructions and procedures, including examination norms, laid down by the Department of Revenue as applicable to export goods:

Provided that at the time of assessment, it shall be specifically examined whether the goods are required for the authorized operations by the Unit or Developer, with reference to the Letter of Approval or the list of goods approved by the Approval Committee for the Developer.

⁹⁹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁰⁰ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁰¹ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "ARE-1"

¹⁰² Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "ARE-1"

¹⁰³ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁰⁴ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

(7) On arrival of the goods procured from the Domestic Tariff Area at the Special Economic Zone gate, the Authorized Officer shall examine the goods in respect of description, quantity, marks and other relevant particulars given in the ¹⁰⁵[documents referred to in sub-rule (1) of Rule 30], invoice, Bill of Export and packing list and also as per the examination norms laid down in respect of export goods in cases where the goods are being procured under claim of an export entitlement.

¹⁰⁶[****]

¹⁰⁷[****]

(10) Where the goods are to be procured by a Unit or Developer from a Domestic Tariff Area supplier who is not registered with the Central Excise authorities, or is a trader or merchant exporter, the procedure under sub-rule (1) and (2) above shall apply, mutatis mutandis, except that the goods shall be brought to the Special Economic Zone under the cover of an Invoice and the ARE-1 shall not be required.

(11) The Unit or Developer may also procure goods from Domestic Tariff Area without availing exemptions, drawbacks and ¹⁰⁸[any other such benefits or] concessions on the basis of invoice or transport documents, issued by the supplier;

Provided that such invoices or transport documents shall be endorsed to the effect that no exemptions, drawbacks and ¹⁰⁹[any other such benefits or] concessions have been availed on the said supplies.

(12) Procedure for procurement from warehouse shall be as under: -

(a) where goods are to be procured from warehouse, a Unit or Developer shall file a Bill of Entry with the specified Officer;

(b) the Unit or Developer shall submit Bill of Entry assessed by the Authorized Officer to the Customs Officer in charge of the warehouse from where the Special Economic Zone Unit or Developer intends to procure the goods;

(c) the Customs Officer in charge of the warehouse shall allow clearance of the goods from the warehouse for supply to the Unit or Developer without payment of duty on the cover of ex-bond Shipping Bill and on the basis of Bill of Entry duly assessed by the Authorized Officer;

(d) where the re-warehousing certificate by way of endorsement by the Authorized Officer on the copy of ex-bond Shipping Bill is not received by the

¹⁰⁵ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁰⁶ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁰⁷ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁰⁸ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁰⁹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

Customs Officer in charge of warehouse within forty-five days from the date of clearance of the goods from the warehouse, the Customs Officer in charge of the warehouse shall proceed to demand applicable duty from the supplier:

Provided that for procurement of goods from Nominated Agency located in Special Economic Zone, the procedure as specified by Specified Officer shall be followed and there shall be no requirement of assessment of Bill of Entry or transfer of the goods under the cover of ex-bond Shipping Bill.

(13) A Special Economic Zone Unit or Developer may also procure goods from international exhibitions held in India following the procedures under sub-rule (12).

(14) A Unit or Developer may also procure goods or services, without payment of duty from an Export Oriented Unit or Software Technology Park Unit or Bio- Technology Park Unit, by following procedures under sub-rule (12).

(15) A Unit or Developer may procure goods and services from another Unit located in the same or any other Special Economic Zone, subject to following conditions, namely:-

(i) the receiving Unit or Developer shall file Bill of Entry for home consumption with the Authorized Officer, in quintuplicate, giving description of the goods along with an invoice and packing list for assessment;

(ii) on the basis of such assessed Bill of Entry, the goods shall be allowed to be transferred to the receiving Unit or Developer under transshipment permit;

(iii) there shall be no requirement to file any additional documents or bond(s) for the purpose of transshipment of goods and the transshipment permission shall be stamped on the Bill of Entry itself;

(iv) the supplying Unit shall submit the re-warehousing certificate to the Specified Officer having jurisdiction over the supplying unit within forty five days, failing which the Specified Officer of the supplying Unit shall write to the Specified Officer having jurisdiction over the receiving Unit or Developer for demand of duty from the receiving Unit or Developer;

(v) where the supplying and receiving Units or Developer are located in the same Special Economic Zone, the provisions of sub rules (i) to (iv) shall not apply and the movement of goods shall be allowed and such transactions shall be recorded in the regular books of accounts of the receiving Unit or Developer and the supplying Unit and no Bill of Entry shall be required to be filed.

(16) Procurement of cut and polished diamonds and precious and semi precious stones from Domestic Tariff Area.- A gem and jewellery Unit may procure cut and

polished diamonds and precious and semi precious stones from the Domestic Tariff Area, as per the following procedure, namely :-

(i) the parcel shall be brought into the Zone in a sealed condition by the authorized representative of the Domestic Tariff Area supplier or Customs House Agent, who shall present the invoice clearly marked original, duplicate and triplicate to the Authorized Officer at the gate;

(ii) the Authorized Officer shall register the invoice at the gate of the Special Economic Zone and endorsing the registration number on the original and duplicate copies of the Invoice and the parcel shall be allowed to be taken into the premises of the Unit and such goods shall be separately accounted for by the Unit;

(iii) the duplicate copy of the invoice with the endorsement of the Authorized officer shall be forwarded to the supplier in the Domestic Tariff Area for claiming Replenishment Licence from the Development Commissioner of the Special Economic Zone.

¹¹⁰ 31 [xxxxx]

¹¹¹32[xxxx]

33. Admission of goods.- Any goods imported or procured from Domestic Tariff Area, required for authorized operations, shall be admitted into the Special Economic Zone subject to the following conditions, namely:-

(i) the goods imported or procured from Domestic Tariff Area shall be brought into the premises of Unit;

(ii) the goods, which require frequent entry into and exit from the Zone and which are not required for carrying out authorized operations shall be allowed into or out of the Special Economic Zone on the basis of general permission of the Specified Officer, who shall record the reasons for such permission;

(iii) hazardous goods may be admitted into specially designated area or installation of Special Economic Zone subject to such safeguards as may be specified by Specified Officer;

34. Utilization of goods. -

¹¹⁰ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹¹¹ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

The goods admitted into a Special Economic Zone shall be used by the Unit or the Developer only for carrying out the authorized operations but if the goods admitted are utilized for purposes other than for the authorized operations or if the Unit or Developer fails to account for the goods as provided under these rules, duty shall be chargeable on such goods as if these goods have been cleared for home consumption:

¹¹²[Provided that in case a Unit is unable to utilise the goods or services imported or procured from Domestic Tariff Area, it may, -

- (i) export the goods; or
- (ii) sell the same to other Unit or to an Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park or Bio Technology Park, without payment of duty; or
- (iii) sell to an Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park or Bio Technology Park -
 - (a) on payment of Integrated Goods and Services Tax as applicable under [section 5](#) of the [Integrated Goods and Services Tax Act, 2017 \(13 of 2017\)](#); and
 - (b) without payment of duty of customs leviable thereon under the [First Schedule](#) to the [Customs Tariff Act, 1975 \(51 of 1975\)](#) and additional duty, if any, leviable thereon under [sub-sections \(1\), \(3\) and \(5\) of section 3](#) of the [said Act](#) and such sale shall also be made without payment of integrated tax and compensation cess leviable thereon under [sub-sections \(7\) and \(9\) of section 3](#) of the [said Act](#) as per notification issued by the Department of Revenue and such exemptions, as applicable;
- (iv) dispose of the same in the Domestic Tariff Area on payment of applicable duties or taxes on the basis of an import licence submitted by the Domestic Tariff Area buyer, wherever applicable.]

35. Co-relation of import consignment with corresponding export consignment.-

The Unit shall account for the entire quantity of goods imported or procured duty free, by way of export, sales or supplies in Domestic Tariff Area or transfer to other Special Economic Zone Unit or Export Oriented Unit or Electronic Hardware Technology Park unit or Software Technology Park Unit or Bio-technology Park Unit or bonded warehouses and the balance held in stock:

Provided that at no point of time the Unit shall be required to co-relate every import consignment with its export or transfer to other Special Economic Zone Unit or Export

¹¹² Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

Oriented Unit or Electronic Hardware Technology Park unit or Software Technology Park Unit or Bio-technology Park Unit or sales in Domestic Tariff Area or supply to bonded warehouses except in case of goods covered under proviso to clause (d) of sub-rule (4) of rule 18 and goods held as stock and the Unit may adopt 'First-in-First- Out' method and a consignment which has been received first, shall be deemed to have been utilized first.

36. Filing of documents for admission and removal.- All documents for admission of goods into and out of Special Economic Zone shall be filed before the Authorized Officer of Customs.

37. Duration of goods ¹¹³[***] in a Special Economic Zone.-**

(1) The goods admitted to a Special Economic Zone shall be utilized, exported or disposed off in accordance with the Act and rules within the validity period of the Letter of Approval issued to the Unit or in the case of a Developer within a period of one year or such extended period as may be allowed by the Specific Officer under subrule (5) of rule 12.

(2) On failure to utilize or dispose off goods as provided such goods shall be liable for payment of duty as if the goods have been removed to Domestic Tariff Area on the date of expiry of the said validity period under sub-rule (1).

38. Transfer of ownership and removal of goods.-

The goods or services admitted into Special Economic Zone without payment of duty or manufactured or produced or partly processed or semi-finished goods may be transferred or given on loan to a Unit or Developer within the same Special Economic Zone or in another Special Economic Zone or to an Export Oriented Unit or to a unit in Electronic Hardware Technology Park or to a Unit in Software Technology Park, Bio-Technology Park unit without payment of duty, subject to the following conditions, namely:-

(i) the transferee or loanee Unit or Developer is entitled for duty free procurement of the goods for its authorized operations;

(ii) the supplying and receiving Unit or Developer, as the case may be, shall maintain proper account of goods transferred or of goods given or taken on loan;

¹¹³ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

(iii) the goods transferred or given on loan basis shall not be counted for the purpose of Net Foreign Exchange Earning by the Unit;

(iv) the transferred goods (other than the raw material procured from Domestic Tariff Area) shall be accounted, as import by the receiving unit while the value of the same shall be deducted from the import of the transferring unit;

(v) transfer or loan of goods to Units or developers in other Special Economic Zones or to Export Oriented Unit or Electronic Hardware Technology Park unit or Software Technology Park unit or Bio-technology Park unit shall be allowed with the prior written permission of the Specified Officer and subject to such conditions as may be imposed.

39. Destruction of goods.-

(1) After advance intimation ¹¹⁴[of not less than seven days] to the Specified Officer, a Unit may destroy, without payment of duty, goods including capital goods, procured from Domestic Tariff Area or goods imported or goods manufactured or produced by the Unit including rejects or waste or scrap or remnants within the Special Economic Zone:

Provided that obtaining environmental clearance if any required for such destruction shall be the responsibility of the Unit.

(2) Where it is not possible to destroy goods within the Special Economic Zone, destruction of goods under sub-rule (1) shall be carried out, outside the Special Economic Zone with the permission of Specified Officer and in the presence of the Authorized Officer:

Provided that destruction of precious and semi-precious stones and precious metals shall not be allowed.

(3) The Unit shall be required to pay back the drawback and Duty Exemption Pass Book credit availed in of case destruction of goods procured from Domestic Tariff Area.

¹¹⁵[(4) Where any goods procured from Domestic Tariff Area under claim of drawback or Duty Entitlement Passbook Scheme credit under any export promotion scheme are destroyed due to natural calamities, the zone unit shall be required to pay drawback or Duty Entitlement Passbook Scheme credit or any other export incentive claimed on such goods:

Provided that in case where the Unit has procured the goods from Domestic Tariff Area against payment of foreign exchange, the Unit shall not be liable to pay back drawback

¹¹⁴inserted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009](#)

¹¹⁵ Substituted vide [G.S.R. 562\(E\) - Dated 3-8-2009](#)

or Duty Entitlement Passbook Scheme credit or any export incentive claimed on such goods]

40. Movement of goods to and from non-processing area

¹¹⁶[The movement of goods to and from non-processing area to a processing area and from one processing area of Special Economic Zone to a different processing area of the same Special Economic Zone shall be under serially numbered challans pre-authenticated by the owner or Managing Director or working partner or the company secretary or by any person duly authorised in this behalf by the unit or developer, as the case may be, and the challans shall contain complete description of goods]

41. Sub-Contracting.-

(1) A Unit, may subcontract a part of its production or any production process, to a unit(s) in the Domestic Tariff Area or in a Special Economic Zone or Export Oriented Unit or a unit in Electronic Hardware Technology Park unit or Software Technology Park unit or Bio-technology Park unit with prior permission of the Specified Officer to be given on an annual basis and subject to following conditions, namely: -

(a) the finished goods requiring further processing or semi-finished goods ¹¹⁷[***], taken outside the Special Economic Zone for sub-contracting shall be brought back into Unit within one hundred and twenty days or within such period as may be extended by the Specified Officer for reasons to be recorded in writing for grant of such extension;

¹¹⁸[Provided that in case of a gems and jewellery unit, the finished goods requiring further processing or semi-finished goods, including precious metals, taken outside the Special Economic Zone for sub-contracting by the unit shall be brought back into the unit within twenty-eight days.]

¹¹⁹[Provided further that in case of a gems and jewellery unit, studded gold jewellery, silver jewellery and imitation jewellery, the finished goods requiring further processing or semi-finished goods, taken outside the Special Economic Zone for sub-contracting by the unit shall be brought back into the unit within forty-five days.]

(b) cut and polished diamonds and precious and semi-precious stones (except rough diamonds, precious or semi-precious stones having zero duty) shall not be allowed to be taken outside the Special Economic Zone for sub-contracting;

¹¹⁶ Substituted vide [G.S.R. 562\(E\) - Dated 3-8-2009](#)

¹¹⁷ Omitted vide [G.S.R. 585\(E\) - Dated 12-6-2017](#), before it was read as, " including studded jewellery "

¹¹⁸ Inserted vide [G.S.R. 585\(E\) - Dated 12-6-2017](#),

¹¹⁹ Inserted vide [Notification No. G.S.R. 1139\(E\) dated 09-11-2018](#)

(c) a gem and jewellery Unit may receive plain gold or silver or platinum jewellery from the Domestic Tariff Area or from an Export Oriented Unit or from a Unit in the same or another Special Economic Zone in exchange of equivalent content of gold or silver or platinum contained in the said jewellery after adjusting permissible wastage or manufacturing loss allowed under the provisions of the Foreign Trade Policy read with the Handbook of Procedures;

(d) in sub-contracting or exchange, wastage shall be permitted as per the wastage norms admissible under the Foreign Trade Policy read with the Handbook of Procedures: Provided that the total wastage of the Unit, including the wastage of the subcontractor or the supplier of Jewellery on exchange basis, shall not in any case exceed the wastage permissible under the Foreign Trade Policy read with the Handbook of Procedures;

(e) the Domestic Tariff Area Unit undertaking sub-contracting or supplying jewellery against exchange of gold or silver or platinum shall not be entitled to export entitlements;

¹²⁰[(f) in any financial year, the consolidated value of the sub-contracted part of production of a unit and of the sub-contracted production process of a unit shall not exceed the total value of goods cleared by the unit either for exports or for sale in Domestic Tariff Area in the immediately preceding financial year:

Provided that a unit, sub-contracting part of the production or production process to other unit in the same Special Economic Zone shall not require the permission of the Specified Officer provided that both the supplying and receiving units shall maintain proper account of the goods involved in the sub-contracting:

Provided further that in case of gems and jewellery unit, in any financial year, the consolidated value of the sub-contracted part of production of a unit and of any sub-contracted production process of a unit, shall not exceed one- half the value of goods cleared by the unit in the immediately preceding financial year.

Explanation 1. - For removal of doubts it is clarified that the expression “sub-contracting” of a part of its production under this rule shall mean sub-contracting all the production processes for conversion of raw material into finished products.

Explanation 2. - In case of first year of production, the value of the goods sub-contracted shall not exceed, -

(a) in case of all other goods, the value of such goods;

(b) in case of gems and jewellery, one-half of the value of such goods, produced by the unit in its own premises during that year.]

¹²⁰ Substituted vide [G.S.R. 585\(E\) - Dated 12-6-2017](#)

(g) a Unit engaged in trading or warehousing shall not be allowed the facility of subcontracting of production or production process in the domestic tariff area;

(h) a Unit may remove, with the permission of Specified Officer, moulds or jigs or tools or fixtures or tackles or instruments or hangers and patterns and drawings to the premises of sub-contractor(s), subject to the condition that these shall be brought back to the premises of the Unit immediately on expiry of such subcontracting arrangement and submission of a quarterly verification report from the Central Excise Officer ¹²¹[or Central Tax Officer] having jurisdiction over the sub-contractor that such goods are lying in the sub-contractor's premises and are being used for production of goods on account of the Unit;

(i) raw materials, components and consumables excluding fuel may be sent along with these goods, or separately.

(2) The Development Commissioner may also permit subcontracting of part of the production process abroad and in such cases, the goods may be exported from the sub-contractor's premises abroad subject to following conditions, namely: -

(a) sub-contracting charges shall be declared in the export declaration forms and invoices and other related documents;

(b) the export proceeds shall be fully repatriated in favour of the Unit.

¹²²[(c) in case of sub-contracting abroad, the goods shall either be returned to the Unit or may be sold to buyers in that country or any third country.]

¹²³(3) A Developer or a co-developer or on their behalf their contractor, as the case may be, may also temporarily remove the goods, procured or imported duty free by them for their authorized operations, to a place in the Domestic Tariff Area or a unit in the same or another Special Economic Zone or Export Oriented Unit or a unit in Electronic Hardware Technology Park unit or Software Technology Park unit or Bio- technology Park unit, for subcontracting a process, with prior permission of and subject to such conditions as may be prescribed by the Approval Committee.

42. Procedure for sub-contracting in Domestic Tariff Area or in a Unit in other Special Economic Zones or in Export Oriented Unit or in Electronic Hardware Technology Park unit or in Software Technology Park Unit or Bio-technology Park Unit or sub-contracting abroad.-

¹²¹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹²² Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹²³ Inserted vide GSR 393(E) dated 16-3-2007

(1) A Unit may take goods, including finished goods requiring further processing or semi-finished or semi-processed goods, including studded jewellery or inputs to the sub-contractor's premises -

(i) for subcontracting any production process; or

(ii) part of the production, without payment of duty, subject to following conditions, namely:-

(a) the Unit shall wherever possible apply for the permission at the time of project approval itself and based on such initial approval, the Specified Officer shall permit sub-contracting of part of production process(es) or part of the production;

(b) where the permission has not been taken at the time of project approval or a new permission is sought, the unit shall file an application containing the name and address of the subcontractor(s), ¹²⁴[Goods and Services Tax] registration number in the case of the Domestic Tariff Area subcontractor, if registered, and details of the processes to be carried out or quantum of production sought to be carried out at the sub-contractor's premises and self certified input output ratio for the said processes;

(c) after examination of details under sub clause (b), the Specified Officer may grant annual permission for sub-contracting any production process or sub-contracting part of the production, as the case may be;

(d) the Unit, removing raw materials, consumables excluding fuel and components, imported or domestically procured without any processing, for sub-contracting into the Domestic Tariff Area, shall furnish bank guarantee to Specified Officer to cover the duty foregone on such materials being taken out for sub-contracting:

Provided that bank guarantee shall not be required by a unit whose turnover is rupees one crore or above or where the unit is in the Special Economic Zone for more than a period of two years with an unblemished track record;

(e) the Specified Officer or the Authorized Officer may make random checks either at the job worker's premises or after receipt of goods from the job worker at the Special Economic Zone gate for the purpose of verification of goods which were sent and received:

Provided that where the precious metal in bullion form, having marking of fineness or purity or make or serial number is taken out of the Special Economic Zone for sub-contracting, appraisalment of precious metals shall not be mandatory;

¹²⁴ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

(f) a Unit shall remove the goods under serial numbered challans pre-authenticated by the owner or Managing Director or working partner or the company secretary or by any person duly authorized in this behalf by the company or firm, as the case may be and complete description of goods shall be provided on the challan;

(g) the authorized officer at the Special Economic Zone gate shall note down the identification marks of the goods for verification of the goods when received back after subcontracting: Provided that where sensitive items are sent out for subcontracting, based on the risk profile or past performance of the unit, sample may be drawn and retained by the Specified Officer, if required:

Provided that for gem and jewellery Units, there shall be no requirement for drawal of samples;

(h) the goods sent out for sub-contracting shall be returned to the Unit within one hundred and twenty days from the date of removal or within such period as may be extended by the Specified Officer for reasons to be recorded in writing for granting such extension;

¹²⁵[Provided that in case of a gems and jewellery unit, the finished goods requiring further processing or semi-finished goods, including precious metals, taken outside the Special Economic Zone for subcontracting by the unit shall be brought back into the unit within twenty-eight days.]

¹²⁶[Provided further that in case of a gems and jewellery unit, studded gold jewellery, silver jewellery and imitation jewellery, the finished goods requiring further processing or semi-finished goods, taken outside the Special Economic Zone for subcontracting by the unit, shall be brought back into the unit within forty-five days.]

(i) in case of failure by the Unit to bring back the goods after subcontracting within the period under sub clause (h), action shall be taken by the Specified Officer to recover the duty on the goods taken out for subcontracting.

(2) The Specified Officer may permit the Unit to export the finished goods directly from the sub-contractor's premises subject to following conditions, namely:-

(i) the sub-contractor is an Export Oriented Unit or an Electronic Hardware Technology Park Unit or Bio-technology Park Unit or a Special Economic Zone

¹²⁵ Inserted vide [G.S.R. 585\(E\) - Dated 12-6-2017](#),

¹²⁶ Inserted vide [Notification No. G.S.R. 95\(E\). dated 31-01-2019](#)

Unit or a Domestic Tariff Area Unit which is registered ¹²⁷[under Goods and Services Tax];

(ii) export of finished goods from the sub-contractor's premises shall be allowed only by way of direct export and not through third party;

(iii) sample of goods exported from the sub-contractors premises shall be sent by the sub-contractor in sealed condition, to the Specified Officer for establishing identity of the goods exported with the sample drawn at the time of taking out of the goods to the sub-contractor;

(iv) 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 Unit and sub-contractor;

(v) goods for such export shall be removed from the sub-contractor's premises under bond:

¹²⁸[*****]

(3) Waste, scrap or remnants generated during processes at the sub-contractor's premises may either be returned to the Unit or may be cleared on payment of ¹²⁹[an amount equal to the duty applicable on imports as if the said waste or scrap or remnants have been cleared by the Unit or may be destroyed at the sub contractor's premises in the presence of jurisdictional Goods and Services Tax Officer if the sub- contractor is a Goods and Services Tax registrant]:

Provided that in case of clearance of waste or scrap at sub-contractor's premises on payment of duty or destruction thereof the same shall be in accordance with the Standard Input Output Norms notified for the Duty Exemption Entitlement Scheme under the Foreign Trade Policy or as fixed by Approval Committee:

Provided that where the subcontractor's premises are located abroad, the scrap, waste or remnants generated at the sub-contractors premises may either be returned to the Unit or may be disposed off abroad;

(4) A Unit may sub-contract a part of production or production process in another Unit within the same Special Economic Zone subject to the following conditions, namely:-

(i) the movement of goods shall be under serially numbered challans and record of such movement of goods shall be maintained by the Unit;

¹²⁷ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#) before it was read as "with the Central Excise Department"

¹²⁸ Proviso Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹²⁹ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

(ii) raw material imported or procured by the Unit for manufacture of capital goods may be transferred to another unit for the purpose of manufacture or fabrication of capital goods for use by the Unit which had imported or procured the raw materials.

¹³⁰(5) The Developer or a co-developer or on their behalf their contractor, as the case may be, shall follow the same procedure for sub-contracting in Domestic Tariff Area or in a Unit in other Special Economic Zones or in a Export Oriented Unit or in an Electronic Hardware Technology Park Unit or a Software Technology Park Unit as prescribed for sub-contracting by SEZ Units in sub-rules (1) above:

Provided that the Bank Guarantee to cover the duty foregone on the materials being sent for sub-contracting shall apply only in case of temporary removal of goods by the contractor.

43. Sub-contracting for Domestic Tariff Area unit for export.-

A Unit may, on the basis of annual permission from the Specified Officer, undertake sub-contracting for export on behalf of a Domestic Tariff Area exporter, subject to following conditions, namely:-

(a) all the raw material including semi-finished goods and consumables including fuel shall be supplied by Domestic Tariff Area exporter;

(b) finished goods shall be exported directly by the Unit on behalf of the Domestic Tariff Area exporter:

Provided that in case of subcontracting on behalf of an Export Oriented Unit or an Electronic Hardware Technology Park unit or an Software Technology Park unit or Bio Technology Park unit, the finished goods may be exported either from the Unit or from the Export Oriented Unit or Electronic Hardware Technology Park unit or Software Technology Park unit or Bio-Technology Park unit;

(c) export document shall be jointly in the name of Domestic Tariff Area exporter and the Unit;

(d) the Domestic Tariff Area exporter shall be eligible for refund of duty paid on the inputs by way of brand rate of duty drawback.

¹³¹[Provided that, -

(i) Employees of Information Technology and Information Technology enabled Services Special Economic Zone units and Information Technology and

¹³⁰ Inserted vide GSR 393(E) dated 16-3-2007

¹³¹ Substituted vide Notification [No. G.S.R. 200\(E\) dated 07-03-2019](#)

Information Technology enabled Services units registered as Other Service Provider with Department of Telecommunications, employees temporarily incapacitated, employees travelling and offsite employees of Special Economic Zones may be permitted to work from home or from a place outside the Special Economic Zone subject to the following conditions, namely:-

(a) A regular employee of the Special Economic Zone unit, who has been issued identity card as per sub-rule (2) of rule 70 shall be authorised by the Special Economic Zone unit to undertake the work pertaining to that unit.

(b) The work to be performed by the employee permitted to work from home shall be as per the services approved for the Special Economic Zone unit, and the work is related to a project of the Special Economic Zone unit.

(c) For the purpose of work from home, Special Economic Zone unit shall provide laptop or desktop and secured connectivity (for e.g Virtual Private network, Virtual Desktop Infrastructure) to establish a connection between the employee and work related to the project of the Special Economic Zone unit.

(d) Special Economic Zone unit shall ensure export revenue of the resultant products or services to be accounted for by the Special Economic Zone unit to which the employee is tagged and at no given point shall work from home involve the export of services from outside the Special Economic Zone unit.

(e) Once the employee ceases to be part of the project of Special Economic Zone unit, the employee shall be untagged from the respective Special Economic Zone unit and the unit shall surrender the I-Card to Specified Officer as per sub-rule (2) of rule 70.

(ii) Information Technology and Information Technology enabled Services Units in Domestic Tariff Area shall carry out their job-work in a Special Economic Zone Unit by following the procedure as laid down in (i) above.

(iii) For Special Economic Zone units registered as Other Service Providers with Department of Telecommunications and availing the benefit of Work from Home, the laid down Other Service Provider guidelines issued by Department of Telecommunications and amended from time to time, shall be followed by Special Economic Zone units.]

44. Contract Farming.-

A Unit engaged in production or processing of agriculture or horticulture products, may, on the basis of annual permission from the Specified Officer, remove to

a farm in the Domestic Tariff Area , inputs, namely, seeds, fertilizers and chemicals for pre and post harvest treatment, micro nutrients, plant and growth regulators and other organic and inorganic substances used for plant nutrition, insecticides, fungicides, weedicides, herbicides and the following equipments, namely:-

- (a) Filters;
- (b) Dripliers, Driplines and Drip-fittings;
- (c) Micro sprinklers and misters;
- (d) Agriculture sprinklers;
- (e) Fertilizer Tanks;
- (f) Valves;
- (g) Fertilizer pumps and chemical injections;
- (h) Crates, drums and preservation media (Such as acetic acid and vinegar);
- (i) Grading Tables;
- (j) Green House equipment, accessories, heated rooting tables, propagation trays, seeding machines;
- (k) Plants or parts there of, seeds, saplings, tubers, bulbs, rhizomes, root cuttings, all types of grafts, tissue culture material and other vegetatively propagated material utilized for sowing or planting;
- (l) Growing media such as Peat Moss (including peat litres whether or not agglomerated), Pearlite/ vermiculite, rockwool, cocopeat, hydrocorn, foam based medium and other cultivation medium:

Provided that the removal of such items shall be subject to following conditions, namely:

-

- (i) supply of inputs by Unit to the contract farm(s) shall be subject to the input output norms as may be approved by the Board;
- (ii) there shall be contract farming agreement between the Unit and the Domestic Tariff Area farmer(s);
- (iii) the Unit has been in existence for at least two years and is engaged in export of agriculture or horticulture products:

Provided that bank guarantee equivalent to the duty foregone on the capital goods or inputs proposed to be taken out shall be furnished to the Specified Officer if the Unit has not been in existence for two years;

45. Exports. -

(1) A Unit may export goods or services as per the terms and conditions of Letter of Approval including agro-products, partly processed goods, sub-assemblies and components except prohibited items under the Import Trade Control (Harmonized System) Classification of Export and Import Items and the Unit may also export by-products, rejects, waste scrap arising out of the manufacturing process.

¹³²[**Provided** that a unit may export prohibited items to a place outside India with prior approval of Board of Approval:

Provided further that such prohibited items cannot be procured from Domestic Tariff Area.]

(2) A Unit, other than a trading or Free Trade and Warehousing or service Unit, may export to Russian Federation in Indian Rupees against repayment of State Credit or Escrow Rupee Account of the buyer, subject to clearance from the Reserve Bank of India, required, if any.

(3) A Unit engaged in development of computer software may undertake export, including export of professional services, using data communication links or do physical exports, including through courier service.

(4) The Foreign Trade Policy restrictions on State Trading Enterprises shall not apply to Special Economic Zone Manufacturing Units: Provided that export of iron ore shall be subject to conditions as may be laid down by the Central Government from time to time.

(5) Minimum export price and requirements of export in consumer pack as provided for in the Foreign Trade Policy shall apply in case the raw materials are procured indigenously and exported without further processing or manufacturing activities.

(6) The export of textile items shall be governed by bilateral agreements, if any.

(7) A Unit may export free samples without any limit, including samples made in wax moulds or silver mould or non-precious metal alloy or rubber moulds through all permissible modes of export.

46. Procedure for Export. -

¹³² Inserted vide [G.S.R. 732\(E\). - Dated 7-9-2010](#)

(1) The procedure for export from Special Economic Zone through seaports or airports or Inland Container Depot or Container Freight Station or Land Customs Station or by Post or by Courier or by Personal Carriage, as the case may be, shall be as under:

(a) the Unit shall file Shipping Bill, in quadruplicate, with the Authorized Officer of Customs in the Special Economic Zone together with relevant documents, namely, invoice, packing list and Currency Declaration Form (GR) (in duplicate):

Provided that there shall be exemption from declaration in the forms, GR or SDF or PP or SOFTEX as referred in the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 notified vide Reserve Bank of India Notification No: FEMA 23/2000-RB dated 3rd May, 2000 as amended from time to time ¹³³[for export value as may be notified by the Reserve Bank of India, from time to time];

(b) the Shipping Bill shall be registered, assigned a running serial number and assessed by the Authorized Officer in the manner and procedure as is followed in case of exports under free shipping bill without any requirement of the counter signature;

(c) the goods shall not be subjected to routine examination and 'Let Export Order' shall be given on the basis of self certification by the Unit ¹³⁴, however, in case Merchandise Exports from India Scheme benefit is claimed then examination of export cargo shall be done as per examination norms set by Central Board of Indirect Taxes and Customs] ¹³⁵[for the scheme]:

Provided that goods may be sealed after examination, as per the norms prescribed for free shipping bills, at the option of the Unit, by the Authorized Officer

Provided further that if services are exported in non-physical form, the export value is to be furnished by the Unit on self certification basis as per the instructions of the Reserve Bank of India.

Explanation.- "Self certification" means the certification regarding sealing of container or package of goods under export given by the Unit and includes the certificate regarding contents and sealing of the container or package given by the owner or the working partner or the Managing Director or the Company Secretary of the said Unit or any person authorized in this behalf by the owner or company or working partner, as the case may be, on the copies of Shipping Bill stating that the package or container in respect of goods under export have been sealed in his presence;

¹³³ Substituted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹³⁴ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹³⁵ .Inserted vide [NOTIFICATION No. G.S.R. 200\(E\) dated 07-03-2019](#)

(d) the goods may be examined at the port, airport Inland Container Depot or Container Freight Station or Land Customs Station only in case of specific intelligence or information after obtaining the written permission of Deputy or Assistant Commissioner of Customs having jurisdiction over the said port, airport, Inland Container Depot or Container Freight Station or Land Customs Station, as the case may be, in writing;

(e) the Unit may export through Inland Container Depot located in the Special Economic Zone, or through any port or airport or Inland Container Depot:

Provided that in case of export of large quantities of cargo where it may not be possible to ship the cargo from the Special Economic Zone in one consignment, the Specified Officer may allow the export of such cargo on execution of a Bond for the duty involved subject to the condition that the Unit shall submit the proof of export within ninety days of removal of such cargo under Bond, failing which applicable duty on the goods not exported shall be payable in terms of the Bond;

(2) The procedure for export of gems and jewellery shall be as under:-

(i) the shipping bill and the invoice alongwith packing list presented to the authorized officer shall contain the following:

(a) description of the items;

(b) weight and purity of gold or silver or platinum and the type of gems stone, such as, diamond, ruby, sapphire, cubic zircon and the like which has been used for studding and its weight in carats; and

(c) free on board price rate of the jewellery item and quantity in pieces and the total value;

(ii) the Unit may export jewellery on the basis of a notional rate certificate issued by the Nominated Agency and this rate will be based on the prevailing Gold or US Dollar rate and the US Dollar or Indian Rupees rate given in the notional rate certificate:

Provided that the certificate issued by the Nominated Agency shall not precede the date of shipment by more than three working days or as may be notified by Central Government;

(iii) the Unit obtaining gold or silver or platinum from the Nominated Agency on loan basis shall export gold or silver or platinum jewellery within the period prescribed for the same under the Foreign Trade Policy:

Provided that the unit can convert such loan into outright purchase by paying the outstanding loan amount plus interest provided they exercise this option within the period prescribed under the Foreign Trade Policy.

(iv) in the case of export of jewellery on the basis of notional rate certificate issued by the Nominated Agency, the Unit may fix the price and repay the gold loan within the prescribed period for export as may be notified by the Central Government from time to time:

Provided that the price shall be communicated to the Nominated Agency for issue of a certificate showing the final confirmation of the rate to the bank negotiating the document.

(3) Procedure for export of software shall be as under:-

(i) a Unit may export software or processed data, including call center services via data link or internet or e-mail or through other electronic mode and the Software Export Declaration Form for such exports duly certified by Development Commissioner under the Foreign Exchange Management (Export of Goods and Services) Regulation, 2000, shall be submitted, to the authorized dealer within the period specified under the Foreign Exchange Management Act 1999. (42 of 1999);

(ii) a Unit may provide consultancy services "on site" abroad subject to submission of details of the contract or purchase order and foreign exchange remitted and the persons deputed abroad to the Authorised Officer;

(iii) the consideration received by the Unit for providing on site consultancy services in convertible foreign exchange shall be counted for the purpose of calculating positive Net Foreign Exchange Earning under rule 53.

(4) The Unit may export goods by post subject to the procedure applicable to export through Foreign Post Office.

(5) Export through couriers shall be allowed only if the courier is an authorized courier, being 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:

Provided that Goods shall be allowed to be handed over to the courier by the custodian as per the procedure specified by the Specified Officer.

(6). A Unit may export goods to be carried by foreign bound passengers authorized by the Unit in this behalf as personal baggage, subject to the following conditions, namely:-

(i) the Unit shall submit the shipping bill, invoice and Currency Declaration Form (GR) with the authorised officer;

(ii) the Shipping Bill shall be assessed by the Authorised Officer in the same manner as is done in the case of exports under free shipping bill;

(iii) the goods shall be transferred from the Special Economic Zone to the airport under the cover of assessed shipping bill by the authorized agency approved by the Specified Officer or under escort of Authorized Officer;

(iv) the goods shall be deposited with the warehouse at the airport against a "detention receipt" issued by the Customs authorities at the airport;

(v) the consignment shall be handed over to the authorized passenger at the time of departure on submission of original detention receipt;

(vi) the Unit shall submit to the Specified Officer, the proof of export issued by the Customs authority at the airport within a period of fifteen days from the date of removal of the goods from the Special Economic Zone;

(vii) where the facility of custodian is available in the Special Economic Zone and the Airport, goods shall be transferred and delivered to the authorized passenger at the airport by the custodian.

(viii) personal carriage of spare parts by foreign bound passenger shall be allowed in case the spare parts are required for repairs of exported goods at customer site and following documents shall be submitted as proof of export, namely:-

(a) permission letter from the authorised officer for exports; and

(b) invoice with value.

(ix) personal Carriage of any goods for exports by authorized passenger on Document Against Acceptance or Cash On Delivery basis may be allowed provided the Unit submits following documents, namely:-

(a) copy of Shipping Bill; and

(b) the bank Certificate for realization of proceeds shall be submitted within thirty days of delivery of the goods.

(x) personal carriage of gems and jewellery items of the value not exceeding US\$ two million or other goods not exceeding rupees five lakhs in value, for holding or participating in overseas exhibitions shall be permitted with the approval of the Development Commissioner and subject to the following conditions, namely.-

(i) the Unit shall declare personal carriage of such goods to the Customs authorities at the airport while leaving the country and obtain necessary endorsement ; and

(ii) Unit shall bring back goods or repatriate the sale proceeds within forty five days from the date of closure of exhibition through normal banking channels or within such days as may be notified by the Central Government;

(iii) for personal carriage of goods by foreign bound passenger, the following documents shall be submitted by a Unit as proof of exports, namely.-

(a) copy of shipping bill filed by the Unit;

(b) copy of the Currency Declaration Form filed by the Foreign buyer with the Customs at the time of his arrival;

(c) foreign exchange realisation or encashment certificate from the Bank;

(7) A Unit may display the goods in the showrooms set up at departure lounge in international Airports in India for sale to passengers leaving India subject to the conditions and procedures laid down by the Commissioner of Customs having jurisdiction of the Airport:

Provided that the items remaining unsold within a period of forty-five days shall be exported or returned to the Unit.

(8) A Unit may export goods, including gems and jewellery, for display or sale in the permitted shops set up abroad or in the show rooms of their distributors or agents:

²[Provided that the items not sold abroad may be re-imported within a period of three hundred and sixty five days from the date of their export.]

(9) A Unit may export goods, including gems and jewellery for display or participation in exhibitions abroad subject to following conditions, namely: -

(i) the Unit shall give advance intimation to the Development Commissioner to participate in the exhibition abroad or for taking goods abroad for display and sale;

(ii) shipping bill along with relevant documents shall be filed with the authorized officer in the same manner and following the same procedure as applicable to free shipping bill;

(iii) photographs of the items being taken out for exhibition, attested by the Unit, shall be furnished in case of gems and jewellery;

(iv) goods unsold in the exhibition or display tour shall be imported within forty-five days from the completion of the exhibition or within such days as may be notified by the Central Government;

(v) the Unit shall file Bill of Entry for import of unsold goods as required in case of imports and it shall be assessed in the same manner and subject to same procedure as applicable to imported goods;

(vi) the goods so imported shall be allowed admission into the Unit free of duty, subject to establishment of identity of the goods with reference to export documents:

Provided that the examination of goods in such cases shall be restricted to ten per cent. of the consignments at random;

(vii) the Unit shall submit proof of inward remittance in respect of goods sold in the exhibition.

(10) A Unit may export goods and services, through a another Unit or merchant exporter or status holder or Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit subject to following conditions, namely.-

(i) goods or services shall be manufactured or developed in the Unit concerned;

(ii) requirements of positive Net Foreign Exchange Earning or any other conditions relating to authorized operations shall continue to be discharged by the Unit;

(iii) export orders so procured shall be executed within the provisions of these rules and the goods shall be directly transferred from the Unit to the airport or port of shipment;

(iv) fulfillment of positive Net Foreign Exchange Earning by the Unit shall be reckoned on the basis of the price at which the goods or services were supplied by the Unit to the status holder or merchant exporter or other Unit or Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit:

Provided that such export shall be counted towards fulfillment of obligations of the Unit only.

(11) The procedure for export through a merchant exporter or status holder shall be the following,-

(i) goods shall be exported directly from the Special Economic Zone or through any other port where the merchant exporter files his shipping bill, in which case the goods shall move directly from the Special economic Zone to the said port of export on the basis of ¹³⁶[*****] shipping bill as if these were movement of goods from one Warehouse to another;

¹³⁶ Omitted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

(ii) export document shall contain the name of the merchant exporter or the status holder and the Unit;

(iii) merchant exporter or status holder, as the case may be, shall export goods under a free Shipping Bill and submit a disclaimer that no Drawback, Duty Exemption Pass Book credit or fulfillment of export obligation under any export promotion scheme under the Foreign Trade Policy shall be availed by him on the goods so exported.

(12) A Unit may transfer goods, including goods imported or procured from Domestic Tariff Area, to another Unit or Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Biotechnology Park Unit, subject to the following procedures, namely.-

[(i) the receiving Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Biotechnology Park Unit shall file Bill of Entry for home consumption, in quintuplicate along with invoice, copy of information as provided to jurisdictional customs officer under [rule 5](#) of the [Customs \(Import of Goods at Concessional Rate of Duty\) Rules, 2017](#) and packing list with the Authorised Officer along with copy of the Letter of Approval and bonding licence;]¹³⁷

Provided that in case the receiving Unit is a Special Economic Zone unit, Bill of Entry for home consumption shall be filed in place of Bill of Entry for warehousing

(ii) on the basis of such Bill of Entry assessed by the Authorised Officer, goods shall be allowed to be cleared to receiving Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit or to a Unit in another Special Economic Zone ;

(iii) the receiving Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit or Special Economic Zone Unit shall ¹³⁸[follow the procedure laid down by the Central Board of Indirect Taxes and Customs in terms of Customs Notification no. 44/ 2016-Customs dated 29th July, 2016 published in the Official Gazettee vide Notification S.O. 2566 (E) dated 29th July, 2016 and submit the documents specified therein] to the Authorised Officer having jurisdiction over the supplying Unit within forty-five days, failing which the Authorised Officer shall communicate this fact to the Officer of Customs or Excise having jurisdiction over the Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Biotechnology Park Unit or to the Specified Officer for demand of applicable duty from the receiving Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Biotechnology Park Unit or Unit in another Special Economic Zone , as the case may be;

¹³⁷ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹³⁸ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

(iv) where supplying and receiving Units are located in the same Special Economic Zone, movement of goods including raw materials shall be allowed subject to maintenance of accounts by both receiving and supplying Units and no Bill of Entry shall be required to be filed.

(13) The Authorized Officer may permit a Unit to transfer goods to an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit or to a bonded warehouse, without payment of duty subject to following conditions, namely.-

(i) the Unit shall transfer the goods against Procurement Certificate issued by the ¹³⁹[State Tax Officer or Central Tax Officer] or Customs Officer in charge of receiving Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit;

(ii) a ¹⁴⁰[Bill of Entry for Home Consumption] shall be filed by the Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-technology Park Unit or by the supplying Special Economic Zone Unit on behalf of the receiving Export Oriented Unit or Software Technology Park Unit or Biotechnology Park Unit, as the case may be, with the Authorised officer;

(iii) export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit shall submit ¹⁴¹[as per procedures laid down under clause (iii) of sub-rule (12) of rule 46] duly signed by the ¹⁴²[State Tax Officer or Central Tax Officer] or Customs officer having jurisdiction over the receiving Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit within a period of forty five days from the date of clearance of the goods to the Authorised Officer;

(iv) where the Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit fails to submit the re-warehousing certificate within the period of forty-five days of clearance of goods, the Authorised officer shall take up the matter with the ¹⁴³[State Tax Officer or Central Tax Officer] or Customs Officer of the receiving Unit to initiate recovery proceeding against such Export Oriented Unit or Software Technology Park Unit or Bio-Technology Park Unit, as the case may be;

(v) where goods admitted into a Unit from Domestic Tariff Area on which entitlement under Duty Exemption Pass Book Scheme had been availed are removed as such or

¹³⁹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁴⁰ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁴¹ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁴² Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁴³ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

after subjecting it to a process not amounting to manufacture to an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit directly or through a Unit in the same Special Economic Zone or another Special Economic Zone, the Customs duty equal to entitlement availed under the Duty Exemption Pass Book Scheme shall be paid.

CHAPTER- V

CONDITIONS SUBJECT TO WHICH GOODS MAY BE REMOVED FROM A SPECIAL ECONOMIC ZONE TO THE DOMESTIC TARIFF AREA

47. Sales in Domestic Tariff Area.-

(1) A Unit may sell goods and services including rejects or wastes or scraps or remnants or broken diamonds or by products arising during the manufacturing process or in connection therewith, in the Domestic Tariff Area on payment of Customs duties under section 30, subject to the following conditions, namely. -

(a) Domestic Tariff Area sale under sub-rule (1), of goods manufactured by a Unit shall be on submission of import licence, as applicable to the import of similar goods into India, under the provisions of the Foreign Trade Policy:

Provided that goods imported or procured from the Domestic Tariff Area and sold as such without being subjected to any manufacturing process shall be subject to

the provisions of the Foreign Trade Policy as applicable to import of similar goods into India.

(b) Domestic Tariff Area sale under sub-rule (1) of rejects or scrap or waste or remnants arising during the manufacturing process or in connection there-with by the Unit shall not be subject to the provisions of the Import Trade Control (Harmonized System) of Classification of Export and Import Items:

Provided that the Central Government may notify restrictions, as it deems fit on all or any class of such goods mentioned under this clause.

(2) Scrap or dust or sweeping of gold or silver or platinum may be sent to Government of India Mint or Private Mint from a Unit and returned in standard bars in accordance with the procedure specified by Customs authorities or may be sold in the Domestic Tariff Area on payment of duty on the gold or silver or platinum content in the said scrap:

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

(3) Surplus power generated in a Special Economic Zone's Developer's PowerPlant in the SEZ or Unit's captive power plant or diesel generating set may be transferred to Domestic Tariff Area on payment of duty on consumables and rawmaterials used for generation of power subject to the following conditions, namely:-

(a) proposal for sale of surplus power received by the Development Commissioner shall be examined in consultation with the State Electricity Board, wherever considered necessary:

Provided that consultation with State Electricity Board shall not be required for sale of power within the same Special Economic Zone;

(b) norms for production of a unit of power shall be approved by the Approval Committee;

(c) sale of surplus power to other Unit or Developer in the same or other Special Economic Zone or to Export Oriented Unit or to Electronic Hardware Technology Park Unit or to Software Technology Park Unit or Bio-technology Park Unit, shall be without payment of duty;

(d) for sale of surplus power in Domestic Tariff Area, the Unit shall obtain permission from the Specified Officer and the State Government authority concerned;

(e) duty on sale of surplus power to the Domestic Tariff Area shall be as provided for in this rule.

(4) Valuation and assessment of the goods cleared into Domestic Tariff Area shall be made in accordance with Customs Act and rules made there under.

¹⁴⁴[(5) Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorised operations under [Special Economic Zones Act, 2005](#), transactions, and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the [Customs Act, 1962](#), the [Central Excise Act, 1944](#), and the [Finance Act, 1994](#) and the rules made there under or the notifications issued there under.]

48. Procedure for Sale in Domestic Tariff Area.-

(1) Domestic Tariff Area buyer shall file Bill of Entry for home consumption giving therein complete description of the goods and/or services namely, make and model number and serial number and specification along with invoice and packing list with the Authorised Officers:

Provided that the Bill of Entry for home consumption may also be filed by a Unit on the basis of authorization from a Domestic Tariff Area buyer.

(2) Valuation of the goods and/or services cleared into Domestic Tariff Area shall be determined in accordance with provisions of Customs Act and rules made thereunder as applicable to goods when imported into India:

¹⁴⁵[*****]

(3) Where goods procured from Domestic Tariff Area by a 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 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.

49. Domestic Tariff Area removals - abatement of duties in certain cases.-

¹⁴⁴ Inserted vide [G.S.R. 772\(E\) - Dated 5-8-2016](#)

¹⁴⁵ Omitted vide [Notification no. G.S.R.72 \(E\).- dated 3-2-2009](#),

(1) A Unit may remove capital goods to Domestic Tariff Area after use in Special Economic Zone on payment of duty ¹⁴⁶[or Integrated Goods and Services Tax] asunder:-

(a) duty shall be levied on such goods on the depreciated value thereof and at the rate in force on the date of removal of the goods;

(b) depreciation in value shall be allowed for the period from the date of commencement of production or where such capital goods have been received in the Unit after such commencement of production from the date such goods have been put to use for production till the date of presentation of Bill of Entry for home consumption;

(c) depreciation shall be allowed in straight line method as specified below, namely-

(i) for computer and computer peripherals for every quarter in the first year at the rate of ten per cent. for every quarter in the second year at the rate of eight per cent. for every quarter in the third year at the rate of five per cent. for every quarter in the fourth and fifth year at the rate of one per cent.;

(ii) for capital goods other than computer and computer peripherals for every quarter in the first year at the rate of four per cent. for every quarter in the second year at the rate of three per cent. for every quarter in the third year at the rate of three per cent. for every quarter in the fourth and fifth year at the rate of two and half per cent. and thereafter for every quarter at the rate of two per cent.

Explanation.- For the purpose of computing depreciation for any part of a quarter, the rate applicable to such quarter in full shall be considered;

(2) Goods supplied by a Unit to Domestic Tariff Area on payment of duty may be brought back to the Unit for the purpose of repair within a period of six months from the date of clearance, or within such period as may be extended by the Specified Officer or within the warranty period whichever is later, on payment of duty on the value of repairs subject to the condition that the identity of goods is established to the satisfaction of the Specified Officer;

(3) Goods on which any export entitlements were availed at the time of procurement of goods may be supplied back to the Domestic Tariff Area on payment of duty equivalent to the export entitlements availed subject to the condition that the identity of goods

¹⁴⁶ Inserted vide Notification No GSR 909 (E) dated 19-9-2018

being supplied back to the Domestic Tariff Area is established to the satisfaction of the Specified Officer:

Provided that where no export entitlements are availed, such goods may be supplied back to the Domestic Tariff Area without payment of duty.

(4) A Unit may remove following goods from the Special Economic Zone to Domestic Tariff Area without payment of duty: -

(a) goods imported and admitted into the Special Economic Zone after payment of applicable duty and such goods are cleared into Domestic Tariff Area, without any processing, subject to the condition that the identity of goods is established to the satisfaction of the Specified Officer;

(b) used packing materials except metal containers;

(c) Computer and computer peripherals, including printer, plotter, scanner, monitor, key board and storage units (whether imported or procured from Domestic Tariff Area) donated with the approval of the Specified Officer to the recognized non-commercial educational institutions or registered charitable hospitals or public libraries or public funded research and development establishments or organizations of Government of India or Government of a State or Union Territory, after two years of admission of goods and use by a Unit,

50. Temporary Removals to Domestic Tariff Area.-

(1) The Unit may temporarily remove following goods to Domestic Tariff Area without payment of duty ¹⁴⁷[and Integrated Goods and Service Tax], namely: -

(a) capital goods and parts thereof for repairs and return thereof;

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

(c) goods for ¹⁴⁸[***], test, repair, refining and calibration and return thereof;

(d) laptop or notebook computers or video projection systems for use by authorized employees of a Unit or developer;

(e) any other goods with the prior approval of the Authorized Officer.

¹⁴⁷ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁴⁸ Omitted vide [G.S.R. 585\(E\) - Dated 12-6-2017](#), before it was read as, 'job work'

(2) A Unit may transfer goods to Domestic Tariff Area or abroad for repair or replacement or testing or calibration, quality testing and research and development purposes under intimation to the Specified Officer and on maintenance of records for movement of such goods.

(3) A Unit may transfer goods for quality testing or research and development purposes, to any recognized laboratory or institution, without payment of duty, on giving an undertaking to the authorized officer for the return of such goods:

Provided that if such goods have been consumed or destroyed in the process of testing or at the time of research and development, a certificate from the laboratory or institution to that effect shall be furnished to the Specified Officer by the Unit.

51. Procedure for temporary removals in Domestic Tariff Area.-

(1) Removal of goods for the activities covered under sub-rule (1) to (3) of rule 50 shall be undertaken by the Unit on the cover of serially-numbered pre-authenticated challans, authenticated by the Managing Director or owner or working partner or the Company Secretary or by any person duly authorized in this behalf by the Company or owner or working partner;

(2) Before making use of pre-authenticated serial numbered challans, the serial numbers of the same shall be intimated to authorized officer.

(3) Identification marks, namely, make and model and serial number and specification of the goods received back after such test or repair or calibration or reengineering or re-conditioning should match with those mentioned in the pre-authenticated challan issued by the authorized representative of the Unit and signed by the Authorized Officer at the time of taking out such goods into Domestic Tariff Area;

(4) The goods shall be brought back to the Special Economic Zone within one hundred and twenty days from the date of taking the goods out of the Special Economic Zone or within such extended period as may be permitted by the Specified Officer;

(5) If a Unit fails to bring back the goods into Special Economic Zone within the period specified in sub-rule (4), the duty applicable on such goods shall be paid by the Unit:

(6) Subject to the provisions in sub-rule (1), the Unit may remove goods, including capital goods, to another unit in the same or in another Special Economic Zone, or to Export Oriented Unit or to Electronic Hardware Technology Park Unit or to Software Technology Park Unit or Bio-technology Park Unit or to a domestic tariff area unit for test or repairs or calibration or re-engineering or reconditioning and return:

Provided that transfer of goods within the same Special Economic Zone shall be undertaken on maintenance of records by the supplying and receiving units.

(7) A Unit may take out lap top computers and video projection system(s) out of the Special Economic Zone temporarily for use by the authorized employees of such unit subject to following procedure, namely: -

(a) Unit shall account for the laptop computers or video projection system(s);

(b) Unit shall issue a certificate authorizing the employee by name and giving the full specification, namely, serial number and model number and make of the laptop computers and video projection system intended to be taken outside the processing area temporarily and a copy of the certificate shall be endorsed to Specified Officer and acknowledgement received by the Unit;

(c) Unit shall maintain a record of such certificate of authorization issued under clause (b) for temporary removal of laptop computer or video projection system.

52. Other Entitlements.-

(1) Supplier of precious and semi-precious stones and synthetic stones and processed pearls from Domestic Tariff Area to Units shall be eligible for grant of Replenishment Licence as provided under the Foreign Trade Policy and Handbook:

Provided that the application for the Replenishment Licence shall be made to the Development Commissioner.

(2) Free on Board value of export of the Unit can be clubbed with Free on Board value of export of entrepreneur in the Domestic Tariff Area or vice versa for the purpose of according status holder certificate.

(3) A Unit may retain hundred per cent. of their export proceeds in their Foreign Currency account.

(4) Software units may be allowed to use the computer system for training purpose (including commercial training) subject to the condition that no computer terminal shall be installed outside the Special Economic Zone premises for this purpose.

(5) A Unit may install one fax machine imported or procured duty free at a place of its choice, outside the Special Economic Zone, subject to intimation of its location to the Specified Officer.

(6) The Unit may install personal computers not exceeding two in number imported or procured duty free in the registered or administrative office and the Unit may also install equipment like modem etc. required for the purpose of electronic connectivity.

(7) For information technology and information technology enabled services, persons authorized by the software units may access the facility installed in the Unit through communication links.

CHAPTER - VI

FOREIGN EXCHANGE EARNING - REQUIREMENTS AND MONITORING

¹⁴⁹**[53. Net Foreign Exchange Earnings.** - The Unit shall achieve Positive Net Foreign Exchange to be calculated cumulatively for a period of five years from the commencement of production according to the following formula, namely:-

Positive Net Foreign Exchange = $A - B > 0$

Where, -

A : is Free on Board value of exports, including exports to Nepal and Bhutan against freely convertible currency, by the Unit and the value of following supplies of their products, namely:-

¹⁴⁹ Substituted vide [Notification No. G.S.R. 200\(E\) dated 07-03-2019](#)

- a. supply of goods against Advance Authorisation or Advance Authorisation for annual requirement or Duty Free Import Authorisation under the Duty Exemption or Remission scheme under the Foreign Trade Policy;
- b. supply of capital goods to holders of licence under the Export Promotion Capital Goods Scheme under the Foreign Trade Policy;
- c. supply of goods to projects financed by multilateral or bilateral agencies or funds as notified by the Department of Economic Affairs, Ministry of Finance, from time to time, under International Competitive Bidding in accordance with the procedures of those agencies or funds, where the legal agreements provide for tender evaluation without including the customs duty;
- d. supply of goods to any project or for any purpose in respect of which the Ministry of Finance notifies from time to time, permitting import of such goods at zero customs duty;
- e. supply of goods to United Nations or International Organisations for their official use or supplied to the projects financed by the said United Nations or an International Organisation approved by Government of India and the list of such organisations and conditions applicable to such supplies is notified by Ministry of Finance from time to time;
- f. supply of goods to nuclear power projects provided they are as per the conditions stipulated in Foreign Trade Policy;
- g. supply against special entitlements of duty free import of goods under the Foreign Trade Policy;
- h. export of services by services units including services rendered within Special Economic Zone or services rendered in the Domestic Tariff Area and paid for in free foreign exchange or such services rendered in Indian Rupees which are otherwise considered as having been paid for in free foreign exchange by the Reserve Bank of India;
- i. supply of Information Technology Agreement items and notified zero duty telecom or electronic items, namely, Colour Display Tubes for monitors and Deflection components for colour monitors or any other items as may be notified by the Central Government;
- j. supply to other Units and Developers in the same or other Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Unit or Bio-technology Park Unit provided that such goods and services are permissible for import or procurement by such Units and Developers;

k. supply of goods against free foreign exchange by a Free Trade and Warehousing Zone Unit.

Explanation. - For removal of doubts, it is hereby clarified that the supplies under clause (j) shall be against procurement certificate, as applicable and the supplies under clauses (d) to (g) shall be as per the terms and conditions of the respective duty exemption as notified by the Central Government, in the Ministry of Finance.

B : consists of sum of the following-

(a) sum total of the Cost Insurance and Freight value of all imported inputs used for authorised operations during the relevant period and the Cost Insurance and Freight value of all imported capital goods including goods purchased on high seas basis even though paid for in Indian Rupees and the value of all payments made in foreign exchange by way of export commission, royalty, fees, dividends, interest on external commercial borrowings during the first five year period or any other charges;

(b) value of goods obtained from other Unit or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Unit or Bio-technology Park Unit or from bonded warehouses or procured from international exhibitions held in India or precious metals procured from nominated agencies;

(c) the Cost Insurance Freight value of the goods and services, including pro- rata Cost Insurance Freight of capital goods, imported duty free or leased from a leasing company or received free of cost or on loan basis or on transfer for the period they remain with the Unit; Explanation. - For the purposes of clause (a), the expression "inputs" mean raw materials, intermediates, components, consumables, parts and packing materials;

(d) for annual calculation of Net Foreign Exchange, value of imported capital goods and lump sum payment of foreign technical know-how fee shall be amortised at the rate of ten per cent. every year from the first year to the tenth year;

C: Gems and Jewellery units shall achieve minimum Value Addition as laid down in prevailing Foreign Trade Policy or Hand Book of Procedures:

Provided that the Nominated agencies working as a service unit for precious metals supply within Special Economic Zone shall be subjected to the requirement of positive Net Foreign Exchange only; and

D: For Gems and Jewellery, the minimum Value Addition shall be in terms of prevailing Foreign Trade Policy or Hand Book of Procedures and it shall be calculated as under:-

$$VA = A-B/B \times 100$$

Where, -

A = Free on Board value of the export realised or Freight on Road and Rails value of supply received;

B = Value of inputs such as gold or silver or platinum content in export product plus admissible wastage along with value of other items, such as gemstone etc. wherever gold has been obtained on loan basis, value shall also include interest paid in free foreign exchange to foreign supplies:

Provided that where a Unit is unable to achieve Net Foreign Exchange due to adverse market conditions or any ground of genuine hardship having adverse impact on functioning of the Unit, the five years block period for calculation of Net Foreign Exchange earnings may be extended by the Board of Approval for a further period of upto one year, on a case to case basis.]

54. Monitoring of performance.-

(1) Performance of the Unit shall be monitored by the Approval Committee as per the guidelines given in Annexure appended to these rules.

(2) In case the Approval Committee come to the conclusion that a Unit has not achieved positive Net Foreign Exchange Earning ¹⁵⁰[or stipulated Value Addition as specified in [rule 53](#)] or failed to abide by any of the terms and conditions of the Letter of Approval or Bond-cum-Legal Undertaking, without prejudice to the action that may be taken under any other law for the time being in force, the said Unit shall be liable for penal action under the provisions of the Foreign Trade (Development and Regulation) Act, 1992

¹⁵⁰ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

CHAPTER- VII

APPEAL

¹⁵¹[55. **Form of Appeal.-**

Any person aggrieved by an order passed by the Approval Committee under Section 15 or against cancellation of Letter of Approval under section 16, may prefer an appeal to the Board in Form J.]

56. Time within which appeal is to be preferred.-

¹⁵²[(I) An appeal shall be preferred by the aggrieved person within a period of thirty days from the date of receipt of the order of the Approval Committee under rule 18;]

¹⁵¹ Substituted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009](#),

¹⁵² Substituted vide [notification no. G.S.R.72 \(E\).- dated 3-2-2009](#),

(2) When the appeal is preferred after the expiry of the period of thirty days specified in sub-rule (1), it shall be accompanied by an application supported by an affidavit setting forth the facts on which the appellant relies to satisfy the Board that he has sufficient cause for not preferring the appeal within the said period of thirty days:

Provided that if the Board is satisfied that the appellant had sufficient cause for not preferring the appeal within the aforesaid period, it may for reasons to be recorded in writing, admit the appeal after the expiry of the aforesaid period but before the expiry of forty-five days from the date of communication to him of the order of the Approval Committee.

57. Payment of fees .-

(1) Every appeal shall be accompanied by a fee of rupees two thousand and five hundred;

(2) The amount of fees shall be deposited by way of a Demand Draft, drawn in favour of Pay and Accounts Officer, Department of Commerce, New Delhi.

58. Contents of appeal. -

Every appeal filed under rule 55 shall be written in English or Hindi and shall set forth concisely under distinct heads the grounds of appeal and such grounds shall be numbered consecutively.

59. What to accompany form.-

Every appeal shall be filed in the Form J in duplicate and shall be accompanied by two copies (at least one of which shall be certified copy) of the order of the Approval Committee appealed against and other documents to support the grounds of objection mentioned in the appeal:

Explanation:- For the purpose of this rule "certified copy" includes the copy which was originally supplied to the appellant as well as a photostat copy thereof duly authenticated by the appellant or his authorised representative as a true copy.

60. Filing of affidavits. -

Where a fact which cannot be borne out by, or is contrary to, the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

61. Rights of Appellant to appear before the Board.-

Every appellant may appear before the Board in person or authorize one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of his or its officers to present his or its case before the Board.

Explanation: for the purpose of this rule, -

(a) "chartered accountant" means a chartered accountant as defined in clause

(b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) "cost accountant" means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

62. Authorisation to be filed.-

An authorised representative appearing for the appellant at the hearing of an appeal shall file an authorization from the appellant to the Board before the commencement of the hearing.

63. Procedure for filing appeal. -

(1) An appeal shall be preferred by the appellant or his authorised representative and be sent to the Board of Approval (Deputy Secretary, Ministry of Commerce and Industry, Department of Commerce, Udyog Bhavan, New Delhi - 110011);

(2) An appeal sent by post under sub-rule (1) shall be deemed to have been preferred to the Board on the day on which it is received in the office of the Member Secretary to the Board at Delhi.

64. Furnishing of information and documents. -

(1) The Board may, before considering the appeal, require the appellant or the Approval Committee or both to furnish such further information and documents, as it considers necessary.

(2) Parties concerned shall furnish such information and documents within thirty days of such order.

65. Date and place of hearing of appeal to be communicated. -

The Board shall communicate, before considering the appeal, to the appellant the date and place of the hearing of the appeal.

66. Hearing of appeal. -

(1) On the day fixed or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Board shall, then, if necessary, hear the Approval Committee or its authorized representative against the appeal and in such case the appellant shall be entitled to reply.

(2) In case the appellant does not appear in person or through an authorized representative when the appeal is called for hearing, the Board may dispose of the appeal on merits:

Provided that where an appeal has been disposed of as provided above and the appellant appears afterwards and satisfies the Board that there was sufficient cause for his non-appearance, when the appeal was called for hearing, the Board shall make an order setting aside the ex parte order and restore the appeal.

67. Orders by the Board. -

The Board shall, -

- (a) after considering the appeal preferred to it under rule 55;
- (b) after considering further documentary evidence referred to in rule 64, and
- (c) after giving hearing under rule 66; pass such orders or give such directions as may be necessary or expedient to give effect to, or in relation to, its orders.

68. Order to be signed and dated. -

The Order of the Board shall be in writing and shall be signed and dated.

69. Order to be communicated to the party. -

The Board shall, after the order is signed, cause it to be communicated to the appellant and to the Approval Committee.

CHAPTER VIII
MISCELLANEOUS

70. Identity Cards. -

(1) The entry of persons to the processing area of the Special Economic Zone shall be regulated by the Development Commissioner through issue of identity cards.

(2) The identity card shall be valid upto a period of five years and shall be issued, in the format given in Form K, to the entrepreneurs and regular employees of the Units:

¹⁵³[Provided that when any employee who has been issued an identity card ceases to be in employment of the Unit or Developer, the said identity card shall be surrendered forthwith and shall be deemed to be invalid from such date:]

¹⁵⁴[Provided that when the Unit ceases to hold a valid Letter of Approval, all identity cards issued to the Entrepreneurs and employees of such Unit shall be deemed to be invalid and shall be surrendered forthwith;]

(3) Temporary identity card may be issued by the Development Commissioner to the casual visitors and contractors and a proper record of such entries shall be maintained at the Special Economic Zone Gate;

71. Foreign Exchange Remittances. -

Export value of goods, software and services may be realized and repatriated as per instructions of the Reserve Bank of India issued from time to time.

72. Revival of sick units. -

(1) A unit which has been declared sick by the appropriate authority shall submit a revival package through Development Commissioner to Board for consideration and the Board shall consider the extension in the period for fulfilment of Positive Net Foreign Exchange for a further period up to a maximum of five years at the prevalent norms.

(2) On extension of the period, unutilized raw material and imported or domestically procured capital goods shall be allowed to be carried forward at their original value and the Bond-cum-Legal Undertaking executed by the unit shall be revised accordingly.

(3) In case a new entity is willing to take over all the assets and liabilities of a sick Unit, transfer of such assets and liabilities as provided under sub-rule (1) shall be considered by the Board.

(4) Where a Unit is granted extension of period for fulfilment of Positive Net Foreign Exchange Earning under sub-rule (1), the space would continue to be in its possession.

(5) Where a Unit is taken over by another unit, the liability shall pass on to the new unit which is taking over the sick unit.

73. For the period when the Specified Officer is not posted in a Special Economic Zone, an officer of customs, not below the rank of a Gazetted Officer of Customs, authorized by Development Commissioner shall discharge duties and functions of the Specified Officer.

¹⁵³ Inserted vide [G.S.R. 562\(E\) - Dated 3-8-2009](#)

¹⁵⁴Substituted vide [Notification no. G.S.R.72 \(E\).- dated 3-2-2009](#)

74. Exit of Units. -

(1) The Unit may opt out of Special Economic Zone with the approval of the Development Commissioner and such exit shall be subject to payment of applicable duties on the imported or indigenous capital goods, raw materials, components, consumables, spares and finished goods in stock:

Provided that if the unit has not achieved positive Net Foreign Exchange, the exit shall be subject to penalty that may be imposed under the Foreign Trade (Development and Regulation), Act, 1992.

(2) The following conditions shall apply on the exit of the Unit, namely. -

(i) Penalty imposed by the competent authority would be paid and in case an appeal against an order-imposing penalty is pending, exit shall be considered if the unit has obtained a stay order from competent authority and has furnished a Bank Guarantee for the penalty adjudicated by the appropriate authority unless the appellate authority makes a specific order exempting the Unit from this requirement;

(ii) In case the Unit has failed to fulfill the terms and conditions of the Letter of Approval and penal proceedings are to be taken up or are in process, a legal undertaking for payment of penalties, that may be imposed, shall be executed with the Development Commissioner;;

(iii) The Unit shall continue to be treated a unit till the date of final exit.

(3) In the event of a gems and jewellery unit ceasing its operation, gold and other precious metals, alloys, gem and other materials available for manufacture of jewellery shall be handed over to an agency nominated by the Central Government at a price to be determined by that agency.

(4) Development Commissioner may permit a Unit, as one-time option, to exit from Special Economic Zone on payment of duty on capital goods under the prevailing Export Promotion Capital Goods Scheme under the Foreign Trade Policy subject to the Unit satisfying the eligibility criteria under that Scheme.

(5) Depreciation norms for capital goods shall be as given in sub-rule (1) of rule 49.

¹⁵⁵[(6) The Unit opting out from Special Economic Zone shall execute a legal undertaking in Form L.]

¹⁵⁶[**74A. Transfer of Assets by Special Economic Zone Units upon their exit.** - The Unit may opt out of Special Economic Zone by transferring its assets and liabilities to

¹⁵⁵ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

another person by way of transfer of ownership including sale of Special Economic Zone units subject to the following conditions: -

- (i) the Unit has held a valid Letter of Approval as well as lease of land ¹⁵⁷[or Standard Design Factory] for not less than a period of five years on the date of transfer;
- (ii) the unit has been operational for a minimum period of two years after the commencement of production as on the date of transfer;
- (iii) such sale or transfer transactions shall be subject to the approval of the Approval Committee;
- (iv) the transferee fulfils all eligibility criteria applicable to a Unit; and
- (v) the applicable duties and liabilities, if any, as calculated under [rule 74](#), as well as export obligations of the transferor Unit, if any, shall stand transferred to the transferee Unit which shall be under obligation to discharge the same on the same terms and conditions as the transferor Unit.]

75. Self-Declaration. -

Unless otherwise specified in these rules all inward or outward movement of goods into or from the Zone by the Unit or Developer shall be based on self-declaration made and no routine examination of these goods shall be made unless specific orders of the Development Commissioner or the Specified Officer are obtained.

¹⁵⁸[Provided that all the consignments of Special Economic Zone shall be subject to a risk management system.]

76. The "services" for the purposes of clause (z) of section 2 shall be the following, namely: -

Trading, warehousing, research and development services, computer software services, including information enabled services such as back-office operations, call centers, content development or animation, data processing, engineering and design, graphic information system services, human resources services, insurance claim processing, legal data bases, medical transcription, payroll, remote maintenance, revenue

¹⁵⁶ Inserted vide Notification GSR 540(E) dated 12-8-2013

¹⁵⁷ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁵⁸ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

accounting, support centers and web-site services, off-shore banking services,¹⁵⁹[professional services, rental/leasing services without operators], other business services, courier services, audio-visual services, construction and related services, distribution services (excluding retail services), educational services, environmental services, financial services, hospital services, other human health services, tourism and travel related services, recreational, cultural and sporting services, entertainment services, transport services, services auxiliary to all modes of transport, pipelines transport.

¹⁶⁰**Explanation.** - The expression "Trading", for the purposes of the Second Schedule of the Act, shall mean import for the purposes of re-export

77. Procedure for withdrawal or cancellation of exemptions, concessions, drawbacks or any other benefits to a Unit.-

(1) Where the Letter of Approval has been cancelled under section 16, the Unit shall furnish to the Development Commissioner, within thirty days of the cancellation of the Letter of Approval, the details of the exemptions, drawbacks , concessions and any other benefit in respect of the Capital Goods, finished goods, raw materials and consumables lying in stock, relating to the Unit and the Development Commissioner shall direct the Specified Officer to determine the amount to be remitted to the Government by the Unit in the form of Customs Duty.

(2) The Specified Officer shall, based on the details provided by the Unit shall assess and communicate the quantum of amount to be remitted by the unit for clearing the said goods in the Domestic Tariff Area, which shall be remitted within a period of three months from the date of communication:

Provided, however, that this period of three months may be extended for a further period not exceeding three months, by the Development Commissioner for valid reasons to be recorded in writing:

Provided further that the amount to be remitted shall not exceed the exemptions drawbacks and concessions availed of by the Unit on such goods and/or the Customs Duty payable on such finished goods when imported into India.

(3) Notwithstanding the provisions of sub-rule (1) and (2) the Unit shall export or transfer the said goods, against duty-free licence, without remitting the exemptions, drawbacks, concessions or any other benefits availed in respect of such goods:

¹⁵⁹ Substituted vide [G.S.R. 12\(E\) - Dated 3-1-2017](#)

¹⁶⁰ Inserted vide GSR 470(E) Dated 10-8-2006

Provided that in respect of Capital Goods, transferred against Export Promotion Capital Goods Scheme licence, the Unit shall remit the duties as may be applicable under the provisions of the Export Promotion Capital Goods Scheme.

(4) Where in the case of an entrepreneur whose Letter of Approval has been cancelled and who fails to comply with the conditions of removal of all goods within the prescribed period as provided in sub-rule (2), the Development Commissioner shall take over possession of such goods excluding hypothecated goods and dispose off the same through public auction subject to the condition that the sale proceeds of such auction shall be deposited in a designated account and apportionment of such proceeds shall take place in the manner as approved by the Central Government.

(5) An entrepreneur whose Letter of Approval has been cancelled and has failed to meet positive net foreign exchange earning as required under rule 52, it shall be liable for payment of penalty as may be imposed by the adjudicating authority in accordance with the provisions of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992).

Provided that raw materials, components, consumables and spares procured from Domestic Tariff Area held in stock at the time of cancellation of Letter of Approval, on which any export entitlements were availed, shall be removed to the Domestic Tariff Area on payment of additional duty equivalent to the export entitlements availed:

Provided further that goods on which no export entitlements or duty exemption were availed on their procurement from Domestic Tariff Area, shall be removed to Domestic Tariff Area, without payment of duty.

¹⁶¹[78. **E-filing** - Every developer and unit shall file applications and returns electronically on the Special Economic Zone online system, within a period of one month of the system being commissioned.]

¹⁶²[79. **Audit in Special Economic Zones for indirect taxes**- All the authorised operations under [Special Economic Zones Act, 2005](#) and transactions relating thereto in Special Economic Zones and Units in the Special Economic Zones shall be audited by the Customs officers from a panel drawn by the Jurisdictional Development Commissioner in consultation with the Jurisdictional Chief Commissioner of Customs and Central Excise.]

¹⁶¹ Inserted vide [Notification no. G.S.R.501\(E\), dated 14-6-2010](#)

¹⁶² Inserted vide [G.S.R. 772\(E\) - Dated 5-8-2016](#)

¹⁶³[**80** If an Special Economic Zone Unit, in case of bona fide default, fails to achieve the minimum specified Net Foreign Exchange or specified value addition, then such shortfall may be regularised after the Unit deposits an amount equal to one per cent. of shortfall in Free on Board ¹⁶⁴[*****] Value.]

¹⁶³ Inserted vide [Notification No. G.S.R. 909\(E\) dated 19-09-2018](#)

¹⁶⁴ Omitted vide [Notification No. G.S.R. 200\(E\) dated 07-03-2019](#)