

## CHAPTER VIII

### Miscellaneous

#### <sup>174</sup>[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:

<sup>175</sup>[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:]

<sup>176</sup>[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

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<sup>174</sup> Instruction No 106 dated 22-07-2021 issued for online submission of form K request from the website.

<sup>175</sup> Inserted vide G.S.R. 562(E) - Dated 3-8-2009

<sup>176</sup> Substituted vide Notification no. G.S.R.72 (E).- dated 3-2-2009



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.

<sup>177</sup>**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

<sup>177</sup> Instruction no 105 dated 5th February 2021 issued for inspection of duty-free goods by Customs and Instruction no 108 dated 11th October 2021 for an alternate method of Transfer of space by an Existing unit.



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.
- <sup>178</sup>[(6) The Unit opting out from Special Economic Zone shall execute a legal undertaking in Form L.]

<sup>179</sup>[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 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 <sup>180</sup>[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;

<sup>178</sup> Inserted vide Notification No. G.S.R. 909(E) dated 19-09-2018

<sup>179</sup> Inserted vide Notification GSR 540(E) dated 12-8-2013

<sup>180</sup> Inserted vide Notification No. G.S.R. 909(E) dated 19-09-2018



- (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.

<sup>181</sup>[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 accounting, support centers and web-site services, off-shore banking services, <sup>182</sup>[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.

<sup>183</sup>**Explanation.** - The expression “Trading”, for the purposes of the Second Schedule of the Act, shall mean import for the purposes of re-export

<sup>181</sup> Inserted vide Notification No. G.S.R. 909(E) dated 19-09-2018

<sup>182</sup> Substituted vide G.S.R. 12(E) - Dated 3-1-2017

<sup>183</sup> Inserted vide GSR 470(E) Dated 10-8-2006



**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:

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.

<sup>184</sup>**[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.]

<sup>185</sup>**[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.]

<sup>186</sup>**[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 <sup>187</sup>[\*\*\*\*\*] Value.]

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<sup>184</sup> Inserted vide Notification no. G.S.R.501(E), dated 14-6-2010

<sup>185</sup> Inserted vide G.S.R. 772(E) - Dated 5-8-2016

<sup>186</sup> Inserted vide Notification No. G.S.R. 909(E) dated 19-09-2018

<sup>187</sup> Omitted vide Notification No. G.S.R. 200(E) dated 07-03-2019

