

FOREIGN TRADE (REGULATION)(AMENDMENT) RULES, 2015

q«o-33004/99 REGD. NO. D. L-33004/99 Che Gazette of Swdia 243] No. 2431 EXTRAORDINARY PART 11—Section 3—Sub-section (i) PUBLISHED BY AUTHORITY 17, 27,193' NEW DELHI, FRIDAY, APRIL 11, 2015/CHAITRA 27, 1937 17 2015 QT.%T.R. 300 1992 (1992 FT 22) 19 1993 : 1. 2015 t 2. 1993 t) 2 — VT t 9ttfifi t 7 zrq r t (ii) (v) qTVTT, — '(D 9 (2) Xtr (iii) qx, — 1756 GI/2015 (i) 2 THE GAZETTE OF INDIA : EXTRAORDINARY [PART It—SEC. 3(i)] (iv) fi) g), g), (K) (Q (ii) (1) (2) qx, t, (iii) (3) (T) (q) t., (ii) (1), (2). (3) (4) "KIT' t, (i) q-rg•xrr, (ii) (1) (2) qx, (iji) (1) g) (V) yttrPrfi" Qr« ; "8) 3iTf« t) t QT mr-rsr FT t, 3 (iv) (2) "(3) q•rqü, 14 i (li) (1) 'F) 1974 (1974 5r 52) 2002 (2003 15) 1999 (1999 42) 9. 10 (ii) (T) (v) er« qzt t, 10. 1 1 "11. •T 1962 (1962 52) qr QTT *xrr fiqf7 t, \$r 4 THE GAZETTE OF INDIA : EXTRAORDINARY 11. 12 [PART 112-SEC. 3(i)] (ii) 3i7 it l" Orr 11 (2) 12. 13 (j) q•rgTT, (iD (1) q-r@r ; (iii) (2) rrq, Errwr, Rtft" 13. 14 (1) (2) (ii) AR, t, "•Tt qr q-r 14. 15 "15. vrrq, 5r 10 fr (1) t garuifi*r 2000 (2000 wr 21 t, zpxr æiNTTtFT' fr t, it 3iafirz t] 3Tfifizo:r ; zrr (Ø it QAT3it 31firfi•zrq t, t f*zrr t. t, zrr 2000 (2000 Tr 21), 3TfÜfiz.rq t, qzr QqT t, 3taffz t] rrq 3•rfÄfiqq Or ztT t zrT QNT*t 5 (T) (i) (ii) 51, qt*rfi-fr Trg q-r qTFT, tq•r t, (i) zr fi-ztf7 (ii) O-q•t qr zrr ; ærrq-\$r Qq-reit 3.TfÄvorr t q-r O, qT zz-FTT t, q-r qx, zrT *fitr 31fh•rt *r qrcrfi t, t] fir 3MfÄ, (T) Qtr RFtt zrq-r t, t], Off , æ@rrr ; afizrt trtTT, 3i77f7 1754 6 THE GAZETTE OF INDIA : EXTRAORDINARY [PART JIZSEC. 3(i)] t] t, zrr t. t) a•rxr (iii) a-rv•rr (iv) *tr æ•rcq t, t, Rzrr qr t, •zrr t, 3(i)] 15. 16 (1) (ii) (iii) x:rr«•' ; (Ø Qi*t 9Yrfi*r• I 16. 17 arr ; Qq•rait VT *FT, qr x:rr« Ofr ur arefi7 t. q•r, fig, uT qr q-reffr (ii) (2) 17. 18 (ii) (2) qr, arr qT 18. I FT.*. IXI eq•vr: l', 3, (i) 791(«). 30 1993 7 8 THE GAZETTE OF INDIA : EXTRAORDINARY MINISTRY OF COMMERCE AND INDUSTRY (DERECTORATE GENERAL OF FOREIGN TRADE) NOTIFICATION New Delhi, the 17th April, 2015 [PART IIZ—SEC. 3(i)] G.S.R. exercise of the powers conferred by section 19 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992). the Central Government hereby makes the following amendments in the Foreign Trade (Regulation) Rules, 1993, namely:— 1. Short title and commencement. — (I) These rules may be called the Foreign Tmde (Regulation) (Amendment) Rules, 2015. (2) They shall come into force on the date of their publication in the official Gazette

2. In the ForeiY1 Trade (Regulation) Rules, 1993 (hereinafter referred to as the said rules), in rule 2:

—(i) for clause (c), the following clause shall be substituted, namely: '(c) "importer" or "exporter" means a person who imports or exports goods or services or technology and holds a valid Importer-exporter Code Number granted under section 7;' ; (ii) for clause (d), the following ciaeuse shall be substituted, namely: '(d) "licensing authority" means an authority authorised under sub-section (2) of section 9 to grant or renew a licence, certificate, scrip or any insu•ument bestowing financial or fiscal benefits under these rules; '; (iii) for clause (e), the following clause Shal! be substituted, namely: '(e) "Policy" means the foreign trade policy formulated and announced by the Central Government under section 5;' (iv) existing clause (f) shall be deleted and clauses (g), (h), (i) and (j) shall be re-lettered as clauses (f), (g), (h) and (i) respectively

3. For rule 4 of the said rules, the following rule shall be substituted, namely: "(4) Application for grant df licence, certificate, scrip or any instrument bestowing financial or fiscal benefits.—

A person may make an application for the grant of a licence, certificate, scrip or any instrument bestowing financial or fiscoi benefits to import or export goods or services or technology in accordance with the provisions of the policy or an order made under sections 5 and 3 ofthe Act respectively." 4. In rule 5 Of die said rules, (i) in' sub-rule (I), for the word "licence", the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be substituted; (ii) in sub-rules (1) and (2) for the word "Schedule" occurring at both the places, the word "Policy" shall be substituted; (iii) in sub-rule (3),in clauses (c) and (d), for the word "goods", wherever it occurs, the words "goods or services or technolog" shall be substituted

5. In rule 6 of the said rules, —(i) in the heading and in sub-rules (I), (2) and (3),for die word "licence", wherever it occurs, the words "licence, cenificate, scrip or any instrument bestowing financial or fiscal benefits" shall be substituted; (ii) in sub-rules (1), (2), (3) and (4), for the word "goods", wherever it occurs, the words "goods or services or technology" shall be substituted. 6. in rule 7 of the said rules, — (i) for the heading, the following shall be substituted, namely: — "Refusal to grant licence, certificate, scrip or any instrument bestowing financial or fiscal benefits and recovery of benefits"; (ii) in sub-rules (1) and

(2), for the word "licence", wherever it occurs, the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be substituted; (iii) in sub-rule (1), — [qm 11-wg : a-lqlerrm 9 (a) in clause (c), after the word "statement" occurring at the end, the following words 'So where any person makes or abets or attempts to make any export or import in contravention of any provision of the Act or any rules and orders made thereunder or the Policy' shall be added; (b) in clause (d), for the word "goods", the words "goods or services or technology" shall be substituted; (c) for clause (f), the following clause shall be substituted, namely: — "(f) the applicant is or was a partner in a partnership firm (including a limited liability partnership) or is or was a Director or a company or a proprietor of a proprietor ship firm having controlling interest against which any action is for the time being pending under the Act or rules and Orders made thereunder;"; (d) for clause (n), the following clause shall be substituted, namely: — "(n) the applicant has attempted to obtain or has obtained or has erroneously claimed Terminal Excise Duty, duty drawback, cash assistance benefits admissible to Importer-exporter Code holder or any other similar benefits from the Central Government or any agency authorised by the Central Government in relation to exports made by him on the basis of any false, fraudulent or misleading statement or any document which is false or fabricated or tampered with."• (iv) after sub rule (2), the following sub-rule shall be inserted, namely; "(3) In case of any erroneous payment of Terminal Excise Duty, duty drawback, cash assistance benefits admissible to importer-exporter Code holder or any other similar benefits from the Central Government or any agency authorised by the Centrat Government in iO made by him, the Director General or the licensing authority may, after giving to that person a notice in writing informing him of the details of erroneous payment for which recovery or adjustment of or claims is to be cnadc and after giving a reasonable opportunity of making a representation in writing within such time, as specified therein and, if that person so desires, of being heard, authorise: (a) recovery of benefits as arrears of land revenue; or (b) by adjustment against future claims after recording reasons in writing, provided the Adjudicating Authority is satisfied with the facts relating to erroneous payment."

7. In rule 8 of the said rules, in the heading and the rule, for the word "licence", wherever it occurs, the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be substituted

8. In rule 9 of the said rules, —(i) in the heading and in sub-rules (1) and (2), for the word "licence", wherever it occurs, the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be substituted; (ii) in sub-rule (1), — (a) for clause (a) the following clause shall be substituted, namely: — "(a) any person, if an order of detention or conviction has been made against such person under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) or the Prevention of Money Laundering Act, 2002 (IS of 2003) or Foreign Exchange Management Act, 1999 (42 of 1999);" or (b) for clause (b), the following clause shall be substituted, namely: — "(b) a partnership firm (including a limited liability partnership) or a company or a firm or any other entity, if the person referred to in clause (a) is a partner or a whole time director or managing director or a proprietor, as the case may be, of such firm or company;"; (c) in the proviso, for the words "the partnership firm or company", the words and brackets "a partnership firm (including a limited liability partnership) or company or a firm or any other entity" shall be substituted. 9, In rule IO of the said rules, (i) in the heading and in clauses (a), (b) (c) and (d), for the word "licence", wherever it occurs, the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be substituted; (ii) in clauses (b), (c) and (d) for the word "licensee", wherever it occurs, the words "licensee or transferee" shall be substituted, 10. For rule I I of the said rules, the following rule shall be substituted, namely: — IO THE GAZETTE OF INDIA : EXTRAORDINARY 'PART IPSEC. 3(i)] "11. Declaration as to value, quantity and quality of imported goods or servlces Or technology — On the importntion or exportation out of, any customs ports Df any goods or goods connæd With services or technology, whether liable to duty or not, the owner of such goods shall in the Bill of Entry. or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), St8te (he vaiue. quantity, quality description of such goods oc goods connected with services or technology to the best of his knowledge and belief and in case of exportation of goods or services or technology, cerLifY that the quality and specification of the goods or goods connected with services or technology as snted ia those documents. are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods or goods connected with services or technology are being exported and shall subscribe

a declaration of the truth of such statement at the foot of such Bill of Lading or Shipping or any other documents." 11. In rule 12 of the said rules, — (i) after the words "any goods", the words "or goods connected with services or technology" shall be added; (ii) after the words "competent authority" occurring at the end, the following words shall be added, namely:- "Any person using someone else's Importer-exporter Code shall be held liable for violation of this rule and shall accordingly be liable for penalty under sub-section (2) of section 11." 12. In rule 13 of the said rules, — (i) for the heading, the following shall be substituted, namely; — "Utilisation of imported goods or services or technology", (ii) in sub-rule (1), for the word "goods", the words "goods or services or technology" shall be substituted; (iii) for sub-rule (2), the following sub-rule shall be substituted, namely :- "(2) No person shall dispose of any good or goods connected with services or technology imported by him against a licence, certificate, scrip or any instrument bestowing financial or fiscal benefits except in accordance with the terms and conditions of such licence, certificate, scrip or any instrument bestowing financial or fiscal benefits."

13. In rule 14 of the said rules, in sub-rules (1) and (2), —(i) for the word "licence", occurring at both the places, the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be substituted; (ii) for the words "any goods", occurring at both the places, the words "any goods or services or technology or goods connected with such services or technology" shall be substituted

14. For rule 15 of the said rules, the following rule shall be substituted, namely: —"15. Power to enter premises and inspect, search and seize goods, documents, things and conveyances— (1) Any person authorised by the Central Government under sub-section (1) of section 10 (hereinafter called the authorised person) may, at any reasonable time— (a) enter and search any premises where the goods which are liable to confiscation under the provisions of the Act are or have been kept or concealed, stored or produced, manufactured, traded or supplied or received for the purposes of import or export or where any books of accounts or documents or things [including 'computer resource' as defined under the Information Technology Act, 2000 (21 of 2000), hereinafter referred to as Act, containing information in the form of 'electronic record' which, in his opinion, shall be useful for, or relevant to any proceedings under the Act are suspected to have been kept or concealed; or (b) enter and search any premises from which the services or technology or goods connected with such services or technology which are liable to confiscation under the provisions of the Act, are suspected to have been provided, supplied, received, consumed or utilised for the purpose of import or export or where any books of accounts or documents or things [including 'computer resource' as defined under the IT Act, containing information in the form of 'electronic record' which, in his opinion, shall be useful for, or relevant to any proceedings under the Act are suspected to have been kept or concealed: Provided that provisions of clause (b) shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefit under the foreign trade policy or is dealing with specified services or specified technologies; (c) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clauses (i) and (ii) where the keys thereof are not available; 11 (d) search any person who has got out of, or is about to get into, or is in the premises, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account or documents [including documents maintained in the form of 'electronic record' as defined under the IT Act] or things which, in his opinion, shall be useful for, or relevant to any proceedings under the Act; and (e) may inspect such goods or goods connected with services or technology, materials, books of accounts, documents or things (including 'computer resource' as defined under the IT Act containing information in the form of 'electronic record' and may take such notes, copies or extracts therefrom as he may think fit or require any person who is found to be in possession or control of any books of account or other documents [including documents maintained in the form of 'electronic record'], to afford the authorised officer the necessary facility to inspect such books of account or other documents. - (2) If the authorised person has reasons to believe that — (i) any imported goods or materials or goods or material for export (including goods or materials connected with services or technology) are liable to confiscation under the Act; or (ii) any books of accounts or documents or things [including 'computer resource' as defined under the IT Act containing information in the form of 'electronic record'] which, in his opinion, will be useful for or relevant to, any proceedings under the Act, are secreted in any premises, he may enter into and search such premises for such goods, materials (including goods or materials connected with services or technology), books of accounts, documents or things or 'computer resource' as defined under the 11 ACE

containing information in the form of 'electronic record' connected with import or export of services or technology are liable to confiscation under the Act, he may seize such goods or materials together with the package, covering or receptacle, if any, in which such goods or materials are found to have been mixed with any other goods or materials : Provided that where it is not practicable to take physical possession of any such goods or materials and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control of such imported goods or materials or goods or materials for export or goods or materials connected with import or export of services or technology that he shall not remove, part with or otherwise deal with such goods or materials, except with the previous permission of the authorised officer and action of the authorised officer shall be deemed to be seizure of such valuable article or thing under this clause; (b) where any goods or materials or goods or materials (including 'computer resource' as defined under the IT Act containing information in the form of 'electronic record') connected with services or technology are seized under clause (a) and no notice in respect thereof is given within six months of the seizure of the goods or materials or goods or materials connected with services or technology, the goods or materials shall be returned to the person from whose possession they were seized: Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Director General for a further period not exceeding six months; (c) the authorised person may seize any books of accounts or documents or things [including 'computer resource' as defined under the IT Act containing information in the form of 'electronic record'] which in his opinion, will be useful for, or relevant to, any proceedings under the Act; (d) the person from whose custody any documents are seized under this sub-rule, shall be entitled to make copies thereof or take extracts therefrom in the presence of the authorised person including documents maintained in the form of 'electronic record' as defined under the IT Act; (e) if any person legally entitled to the books of account or other documents or things including 'computer resource' as defined under the IT Act] seized under this sub-rule objects, for any reason, to the retention by the authorised person of the books of account or the documents or things, he may move an application to the Central Government stating therein the reasons for such objection, request for the return of the books of account or documents or things; (f) on receipt of the application under clause (e), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it may think fit; (g) where any document or book of accounts or goods or materials [including 'computer resource' as defined under the IT Act containing information in the form of 'electronic record'] is produced or furnished by any person or have been seized from the custody or control of any person under the Act or have been received from any place outside India in the course of the investigation for any contravention referred to in section 11 by any person and f 796 12 THE GAZETTE OF INDIA : EXTRAORDINARY [PART I—SEC. 3(i)] such document is tendered in evidence against the person by whom it is produced or from whom it was seized or against such person or any other person who is jointly proceeded against, the Adjudicating Authority shall, notwithstanding anything to the contrary contained in any other law for the time being in force, presume, unless the contrary is proved — (i) that such books of account, other documents, goods and materials [including 'computer resource' as defined under the IT Act containing information in the form of 'electronic record'] belong to or belongs to such person(s); (ii) that the contents of such books of account and other documents [including 'electronic record' as defined under the IT Act] are true ; (iii) that the signature and every other part of such document which purports to be in the handwriting of any particular person of which the Adjudicating Authority may reasonably assume to have been signed by or to be in the handwriting Of any particular person, is under the person's handwriting, and in the case of a document executed or attested, it was executed or attested by the person by whom it purports to have been so executed or attested; and (iv) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence. The authorised if he has reason to suspect that any conveyance or animal is being or is about to be used for the transportation of any imported goods or material or goods or materials for export or goods or material connected with services or technology which are liable to confiscation under the Act, and that by such transportation any provision of the Act has been, is being or is about to be contravened at any time, stop such conveyance or animal or in the case of aircraft

compel it to land, and — (a) rummage and search the conveyance or any part thereof; (b) examine and search any goods or material or goods or materials connected with services or technology in the conveyance or on the animal; (c) if it becomes necessary to stop any conveyance or animal, he may use all lawful means for stopping it and where such means fail, the conveyance or animal may be fired upon, and where he is satisfied that it is necessary so to do to prevent the contravention of any provision of the Act or of the rules and orders made thereunder or the Policy or condition of any licence, certificate, scrip or any instrument bestowing financial or fiscal benefits, he may seize such conveyance or animal. Explanation — Any reference in this rule to a conveyance shall, unless the context otherwise requires, be construed as including a reference to an aircraft, vehicle or vessel. (5) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-rules (1) to (4) and it shall be the duty of every such officer to comply with such requisition. IS. In rule 16 of the said rules, -in sub-rule (1), in clauses (ii) and (iii), (a) for the word "goods", occurring at both the places, the words "goods or services or technology or goods connected with such services and technology" shall be substituted; (b) for the words "imported goods", occurring at the end of both the places, the words "imported goods or services or technology" shall be substituted. 16, In rule 17 of the said rules, — (i) in sub-rule (a) for the words "Any imported goods or materials", the words "Any imported goods or materials or goods or materials for export or goods or materials connected with import or export of services or technology" shall be substituted; (b) in clause (a), for the word "licence", the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be substituted; (c) for clause (c), the following clause shall be substituted, namely:- "(c) any condition imposed under the Policy with regard to the sale, disposal, import or export of such goods or materials or goods or materials connected with services or technology; 13 has been, is being, or is attempted to be contravened, shall together with any package, covering or receptacle in which such goods or goods connected with services or technology are found, be liable to be confiscated by the Adjudicating Authority, and where such goods or materials or goods or materials connected with services or technology are so mixed with any other goods or materials that they cannot be readily separated, such other goods or materials shall also be liable to be so confiscated: Provided that where it is established to the satisfaction of the Adjudicating Authority that any goods or materials or goods or materials connected with services or technology which are liable to confiscation under this rule, had been imported for personal use, and not for any trade or industry, such goods or materials or goods or materials connected with services or technology shall not be ordered to be confiscated."; (ii) in sub-rule (2), for the words "goods or materials", occurring at both the places, the words "goods or materials or -goods connected with services or technology" shall be substituted, (7. In rule 18 of the said rules; - (i) in sub-rule (1), (a) for the words "goods or materials", the words "goods or materials or goods or materials connected with services or technology" shall be substituted; (b) for the word "imported", the words "imported or meant for export" shall be substituted; (ii) in sub rule (2), for the words " transport of goods"; the words "transport of goods OT goods connected with services or tecnnoiogy"; shaii be substituted. in the said rules, the schedule appended at the end shall be deleted. [F. No. IPC/4/5/640/Vol.1X] PRAVIR KUMAR, Director General of Foreign Trade Note: The principal rules were published in the Gazette of fndia, Part 11, Section 3, Sub-Section (i) vide number G.S.R.791 (E), dated the 30th December, 1993. Printed by the Manager, Government of India Press, Ring Road, Mayapuri, New Delhi-i 10064 and Published by the Controller of Publications, Delhi-1 10054.