

Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957

M.F. (D.R.) Notification No. 4-Cus., dated 8th January, 1957 as amended by C.B.R. No. 15-Cus., dated 19th January, 1957; Notifications No. 177-Cus., dated 29th November, 1962; No. 124-Cus., dated 11th May, 1963; No. 221-Cus., dated 30th September 1963; No. 91-Cus., dated 17th July, 1965; No. 151-Cus., dated 2nd October, 1965; M.F. (D.R. & I.) Notification No. 160-Cus., dated 27th August, 1966; C.B.E. & C. Notification No. 156-Cus., dated 26th October, 1966; Notifications No. 111-Cus., dated 26th July, 1969; No. 163-Cus., dated 18-8-1978; No. 32-Cus., dated 9th February, 1979; Notification No. 34/85-Cus., dated 20-2-1985; Notification No. 35/99-Cus. (N.T.), dated 8-6-1999; No. 43/99-Cus. (N.T.), dated 2-7-1999 and No. 33/2001-Cus. (N.T.) dated 27-6-2001; and No. 71/2002 - Cus (N.T.), dated 20/11/2002

In exercise of the powers conferred by clause (c) of section 9 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Excise and Customs hereby makes the following rules for the purpose of laying down the procedure for the recovery of customs duty on goods imported free of such duty in the first instance and sold or otherwise disposed of later on in India by the officers referred to in Serial Nos. 1, 2, 3, 3A, 4, 4A, 5 and 6 in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 3-Customs, dated the 8th January, 1957.

1. Short title, commencement and application.-

- (1) These rules may be called the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957.
- (2) They shall come into force on the 8th January, 1957.
- (3) They shall apply to the goods exempt from customs duty in accordance with the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 3-Customs, dated the 8th January, 1957.

2. Definitions.-

In these rules, unless the context otherwise requires,

(a) "goods" means all articles imported or purchased locally from bonded stocks free of duty in accordance with the notification referred to in sub-rule (3) of rule 1 and includes -

- (i) motor vehicles so imported or purchased; and
- (ii) all articles including motor vehicles purchased by any privileged persons from another privileged person, on which customs duty has not been paid;

(b) "privileged person" means a person entitled to import or purchase locally from bond goods free of duty for his personal use or for the use of any member of his family or for official use in his Mission, Consular Post or Office or in Deputy High Commission/Assistant High Commission;

(c) "Non-privileged person" means a person other than a privileged person.

3. Formalities to be observed at the time of clearance of the goods.-

(1) No goods shall be allowed to be cleared free of duty unless in addition to the formalities required to be observed ordinarily for clearing them, exemption from duty is claimed in writing at the time of the clearance of the goods through customs and such claim is accompanied by an exemption certificate in Triplicate in the Forms in Appendix IA, IB, IC, ID, IIA, IIB, IIIA, IIIB, IIIC as the case may be. [See Form Numbers 9, 10, 11, 12, 13, 14, 15, 16 and 17 in Part 5].

(2) Such certificate shall be signed by -

(a) the Head of the Diplomatic Mission concerned or, in the case of a Diplomatic Mission having more than fifteen Diplomatic Officers, a Diplomatic Officer, duly authorised by the Head of the Mission for this purpose, if the goods are meant for official use in the Diplomatic Mission; or

(b) the Consular Officer or Deputy High Commissioner/Assistant High Commissioner or Trade Commissioner in-charge of the Consular Post or Deputy High Commission/Assistant High Commission or Trade Representation, or in the case of a Consular Post or Deputy High Commission/Assistant High Commission or Trade Representation having more than ten privileged persons a Consular Officer or a Diplomatic Officer or an Officer of the Deputy High Commission/Assistant High Commission or Trade Representation, authorised for this purpose by the Head of the Consular Post or Deputy High Commission/Assistant High Commission or Trade Representation, as the case may be, if the goods are meant for the official use in the Consular Post or Deputy High Commission/Assistant High Commission or Trade Representation; or

(c) the privileged person concerned if the goods are meant for his personal use or for the use of any member of his family;

Provided that the certificate is countersigned by the Head of the Mission or the Consular Post or the Deputy High Commission/Assistant High Commission or Trade Representation, as the case may be, and if the privileged person is attached to a Diplomatic Mission or Consular Post or Deputy High Commission or Assistant High Commission or Trade Representation having more than ten privileged persons, by a Diplomatic Officer or Consular Officer or an officer of the Deputy High Commission/Assistant High Commission or of the Trade Representation, as the case may be, who is duly authorised.

(3) Two of the three copies of the exemption certificate referred to in sub-rule (1) shall be sent to the [Commissioner of Customs] of the port of importation of the goods and the other copy shall be sent to the Protocol Division, Ministry of External Affairs, Government of India.

(4) Where exemption from duty is claimed in respect of a motor vehicle, an exemption certificate in triplicate in the Form in Appendix IV-A, or Appendix IV-B (See Form No. 18 or 19 in Part 5), as the case may be, shall be given. The provisions of sub-rules (2) and (3) shall apply in relation to the signature, countersignature and transmission of copies of exemption certificates.

4. Permission for the sale or disposal of the goods.-

(1) No privileged person shall, without obtaining the prior concurrence of the Central Board of Excise and Customs, sell, or otherwise dispose of, to any privileged person or to any, non-privileged person, any goods in respect of which exemption from customs duty was given at the time of their importation or clearance from bond, within three years from the date on which they are imported.

(1A) Where the privileged person -

- (a) relinquishes his post, or
- (b) is transferred out of India,

within the period of three years referred to in sub-rule (1), he shall with the prior concurrence of the Central Board of Excise and Customs effects the sale, or the disposal otherwise, of such goods before the expiry of three months from the date of the relinquishment of his office or, as the case may be, of his departure out of India or within such longer period as the Central Board of Excise and Customs may allow.

(1B) Nothing contained in sub-rule (1A) shall be deemed to affect the right of the privileged person to take away the goods with him on relinquishing his office or, as the case may be, on being transferred out of India.

(2) Every application for such concurrence shall be made by the privileged person in the Form in Appendix V (See Form No. 20 in Part 5) to the Central Board of Excise and Customs through the Protocol Division, Ministry of External Affairs, Government of India.

(3) A copy of the communication of the Central Board of Excise and Customs giving its concurrence to the sale or disposal of the goods shall be sent to the [Commissioner of Customs] nearest to the headquarters of the privileged person concerned in addition to each of the officers to whom copies of the exemption certificate, with undertaking if any, were sent under rule 3.

(4) Nothing in this rule shall apply to the sale or disposal otherwise of a motor vehicle in respect of which exemption from Customs duty was given at the time of its importation or clearance from Bond.

4A. Permission for the sale or disposal of motor vehicles.-

(1) No privileged person shall sell or otherwise dispose of any motor vehicle in respect of which exemption from customs duty was given at the time of its importation or clearance from bond except in accordance with sub-rule (2).

[(2) Any privileged person may -

(a) sell or otherwise dispose of any motor vehicle referred to in sub-rule (1) to another privileged person, with the permission of Central Board of Excise and Customs through the Ministry of External Affairs;

(b) re-export the motor vehicle, with the permission of the Ministry of External Affairs;

(c) sell or otherwise dispose of the motor vehicle to any non-privileged person, with the permission of Central Board of Excise and Customs through the Ministry of External Affairs, on payment of appropriate customs duty, on expiry of three years from the date on which such motor vehicle was imported :

Provided that a privileged person, on his transfer out of India, may sell or otherwise dispose of a motor vehicle, which was imported within one year of his posting in India, to a non-privileged person prior to expiry of above-said period of three years from the date on which such motor vehicle was imported;

(d) sell or otherwise dispose of an accidented / totally damaged motor vehicle, with the permission of Central Board of Excise and Customs, to the Insurance Company with whom the motor vehicle was insured without prejudice to his rights to sell or otherwise dispose of the motor vehicle in terms of clauses (a) and (b) :

Provided that in case the insurance company declines to accept the offer for sale of the motor vehicle, the motor vehicle, with the permission of Central Board of Excise and Customs, may be sold to the Metal Scrap Trading Corporation or any other suitable disposal agency for scrapping.]

[(3) Every application for sale or disposal otherwise of a motor vehicle to another privileged person or, as the case may be, to a non-privileged person under clauses (a) and (c) of sub-rule (2) respectively or sale or disposal of an accidented or totally damaged vehicle under clause (d) of sub-rule (2), shall be made to the Ministry of External Affairs, in the Form prescribed by the Ministry of External Affairs for the purpose, and that Ministry shall remit the application to the Central Board of Excise and Customs.]

[(4) Any special purpose vehicle such as communication vehicle or armoured vehicle may only be;

(a) sold to another privileged person; or

(b) re-exported; or

(c) surrendered to the nearest Custom House, for scrapping or authorising a suitable Indian agency for scrapping and the sale proceeds, of scrap so obtained, if any, shall be reimbursed to the privileged person after deducting the duty leviable for such vehicle.]

4B. Permission to retain the motor vehicle after retirement, etc.-

(1) Where a privileged person on retiring from service or relinquishing his post in India decides to stay in India and retains the motor vehicle, in respect of which exemption from customs duty was given at the time of its importation or purchase from bond, for his bona fide use, the Central Board of Excise and Customs may, on an application made to it in this behalf, allow the person concerned to do so without payment of customs duty subject to the condition that the said motor vehicle has been used in India for a period of three years or more on the date on which the said person ceases to be a privileged person or relinquishes his post in India (hereinafter referred to as the relevant date).

(2) Where the motor vehicle has not been used in India for a period of three years or more on the relevant date or if the said person chooses to sell or otherwise dispose of the motor vehicle at a later date, customs duty shall become payable.

(3) Where the said person proposes to sell or otherwise dispose of the motor vehicle, he shall offer the same to the State Trading Corporation for the said purpose with the permission of the Central Board of Excise and Customs.

(4) The provisions of rule 5 shall apply *mutatis mutandis* to the customs duty payable under this rule.]

5. Recovery of goods sold or disposed of to non-privileged persons.-

(1) Where goods, other than motor vehicle, are cleared free of customs duty by a privileged person and they are sold or otherwise disposed of by him (other than re-exported) to a non-privileged person within three years from the date of their importation, customs duty shall be recovered from such privileged person by the [Commissioner of Customs] nearest to the headquarters of the privileged person concerned. [The duty to be recovered shall be assessed in consultation with the Commissioner of Customs nearest to the headquarter of the privileged person in India]

[(1A) * * * * *]

[(1B) The custom duty on any vehicle sold or otherwise disposed of under clause (c) of sub-rule (2) of rule 4A shall be paid to the Commissioner of Customs nearest to the headquarters in India of the privileged person concerned, the duty to be recovered for such motor vehicle, except in case of accidented or totally damaged vehicle, shall be assessed on the depreciated value arrived after providing for depreciation at the scales specified by the Central Board of Excise and Customs in case of import of second hand motor vehicles, and the rate of duty on such vehicle and the exchange rate for conversion of foreign currency into Indian currency shall be taken as applicable on the date of approval of such sale or otherwise disposal by the said Board under clause (c) of sub-rule (2) of rule 4A :

Provided that the facility of duty-free sale of vehicles, after four years of import, shall be allowed on reciprocal basis to privileged persons of those countries, which are allowing similar facility of duty-free sale of vehicles to Indian privileged persons posted in those countries, and for this purpose applications made to the Ministry of External Affairs before the applicants leave India shall be entertained.]

Provided further that the facility of duty free sale of vehicles, after four years of import, shall be allowed to all privileged persons belonging to the United Nations or any other International Organisation irrespective of the fact as to whether the United Nations or such other International Organization is allowing similar facility of duty free sale of vehicles to Indian privileged persons posted in the United Nations or such other International Organization, as the case may be.

[(1C) In the case of any accidented or totally damaged vehicle referred to in clause (d) in sub-rule (2) of rule 4A, the Customs duty shall be calculated taking the sale price as cum-duty price and rate of duty shall be taken as that applicable to such motor vehicle, if it had not been so accidented or damaged at the time of such sale.]

[(1D) in case a vehicle has been stolen, customs duty shall be calculated taking the amount of insurance claim as cum duty price and rate of duty shall be taken as that applicable to such motor vehicle.]

(2) The privileged person concerned shall furnish such relevant information and documents relating to the goods as the officer who is to recover duty under sub-rule (1) may require and shall also arrange to produce the goods desired to be sold or sold before that officer or any customs officer for inspection so as to enable that officer to make a correct appraisal of the value of the goods for the purpose of assessing them to duty.

(3) As soon as the amount of duty leviable has been paid, all the other authorities who received copies of the certificate together with the undertaking if any, in respect of the goods, shall be informed of this fact by the Collector who makes the recovery.

[(4) * * * * *]

6. Sale or disposal of goods to privileged person.-

(1) Where goods which were cleared free of customs duty by a privileged person are sold or otherwise disposed of by him in favour of any other privileged person within a period of three years from the date of their importation, it shall be the duty of the privileged person selling or disposing of such goods to obtain from the privileged person buying or taking them, an exemption certificate in duplicate, as required by sub-rules (1) and (2) of rule 3, and in the case of a motor vehicle, also an undertaking in duplicate as required by sub-rule (4) of that rule and to forward copies thereof to the persons referred to in sub-rule (3) of that rule and in every such case, a report shall be sent to the Central Board of Excise and Customs by the privileged person selling or disposing of the goods as well as by the privileged person buying or taking them.

(2) The provisions of this rule shall apply to the goods sold or disposed of under sub-rule (1) as often as they are sold or otherwise disposed of by a privileged person to another privileged person :

Provided that this rule shall cease to apply to such goods other than motor vehicles after the expiry of three years from the date of their importation.

7. Powers of [Commissioners].-

A [Commissioner of Customs] may adopt such procedure as he thinks necessary for the purpose of giving effect to these rules.