# AMEDNMENT TO RULES, 2006

Rü0-33004/99 REGD. NO. D. L.-33004/99 Che Gazette of -3Jndia 175] No. 175] EXTRAORDINARY 9-1m (i) PART 11—Section 3—Sub-section (i) PUBLISHED BY AUTHORITY 7 , 201 16 , 1940 NEW DELHI, THURSDAY, MARCH 7, 2019/ PHALGUNA 16, 1940 7 2019 R. 2005 (2005 28) 55 2006 2019 2. 2006 t) 3 3. 18 (2) (i) •a-a-fr I " 6 (45), (l) 1472 GI/2019 (1) 2 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—SEC. 3(i)] (ii) : _ fi-q-r fi-q EITIFIT: — (i) 3.i-R-q I (ii) I (v) epa-q-r -01 55 5. 43 (i) R-fi-fi R-fi-fi 9EIfi-fi RVFT V_TFT -fi q-a-q-fi -a q-r 70 (2) q-fr-tr•q-a-r 3(i)] 3 (q) -i---,å-q-rå t, 70 (2) (ii) ( i ) 3.1-q-q-r -q-ä - I (iii) RQTlfiäQT, I " I 6. 46 (l ) (q) 7. 53 Gn-g•rr:- epafr,- "53 - fiz 3.1fi-q Ffifi 3.TtfH q-a-q-fr 4 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—SEC. 3(i)] GINT O, (q) Q-a-r Q-q F) 3.T2.TAT VI-g R-g qr-fi-q f?-äQfr -q-a- 9•Et-fi-fi fi- -æ-rä 3(i)] Gz " RB-üt" q,--N-qrT 10 10% -fi -a-a-r x 100 = q-i•tr R-g q-iÄ 3.1Äfi, - — N--ri-ä 22 ü) q-a-r 5 1. 2. 6 3. T) THE GAZETTE OF INDIA : EXTRAORDINARY 53 -fi 31&fi7T ( + q-H -a-i -fi q-a-f@- [PART 11—SEC. 3(i)] (q) q--æ-*t, q-Ä-q qz*t, / (q) qz*t, Q-a-r*t ( i i) &TFT (iii) (ii) 3(i)] (vi) 2006 -q-wa-reii : 53 10. ( (7 53 ) 11 7 (a) (g) 2. 3TIT@rg / / 8 3. 4. (ii) (iii) 5. a-q-o•r : THE GAZETTE OF INDIA : EXTRAORDINARY qQfi-;a-tr -Utu-ft [PART 11—SEC. 3(i)] -4-q-fi [wr. €. / 2/2018 11, 3, (i) 10 2006 q-rxr.R 54(q) 31 2019 q-rxrfi. 95(q), MINISTRY OF COMMERCE AND INDUSTRY 3(i)] 9 (Department of Commerce) NOTIFICATION New Delhi, the, 7th March, 2019 G.S.R. exercise of the powers conferred by section 55 of the Special Economic Zones Act, 2005 (28 of 2005), the Central Government hereby makes the following rules further to amend the Special Economic Zones Rules, 2006, namely:- Short title and commencement.—(l) These rules may be called the Special 1. Economic Zones (2nd Amendment) Rules, 2019. (2) They shall come into force on the date of their publication in the Official Gazette

2. In the Special Economic Zones Rules, 2006 (hereinafter referred as the said rules), in rule 3, after the words 'National Security Clearance', the words ', wherever necessary,' shall be inserted

**3. In the said rules, in rule 18, in sub-rule (2), for clause (i) the following clause shall be substituted, namely: '(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.' 4. In the said rules, in rule 19- (A) in sub-rule (6A), in clause (l), - (i) for the words "Board of Approval" the word "Board" shall be substituted. (ii) for the proviso the following proviso shall be substituted, namely: '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. ' (B) for sub rule (6B), the following sub-rule shall be substituted, namely:- "(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) (ii) (iii) (iv) (v) (vi) Export performance of the Unit in the last block. Employment generated. Instance of violation of applicable statutes related to the functioning of the Unit. Cases of default, if any, of statutory payments. Undertaking of any activity not sanctioned or approved by the Development Commissioner. 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

**5. In the said rules, in rule 43, for the proviso occurring after clause (d), the following proviso shall be substituted, namely: "Provided that, - (i) Employees of Information Technology and Information Technology enabled Services Special Economic Zone units and Information Technology and Information Technology enabled Services units registered as Other Service Provider with Department of 10 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—**SEC. 3(i)] Telecommunications, employees temporarily in-capacitated, 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

**6. In the said rules, in rule 46, in sub-rule (l), in clause (c), after the words 'Central Board of Indirect Taxes and Customs', the words 'for the scheme' shall be inserted.**In the said rules, for rule 53, the following rule shall be substituted, namely: - 7. "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: a. b. c. 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; supply of capital goods to holders of licence under the Export Promotion Capital Goods Scheme under the Foreign Trade Policy; 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 3(i)] 11 d. e. f. g. h. 1. j. k. 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; 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; 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; supply of goods to nuclear power projects provided they are as per the conditions stipulated in Foreign Trade Policy; supply against special entitlements of duty free import of goods under the Foreign Trade Policy; 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; 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; 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; 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; 12 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—SEC. 3(i)] (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 x 100 B 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.' . 8

Form I, the following Form shall be substituted, namely:- "Form-I ANNUAL PERFORMANCE REPORT FOR UNITS Period---------- (See rule 22) PERIOD OF REPORTING: ANNUAL (APRIL-MARCH) ID of online APR filed: 1. 2. a) Name and factory address of the Unit b) LOA No. and Date c) Date of commencement of Production d) Permanent email ID Item of manufacture/ service activity Services approved other than default services