

Info Capsule

TRADE MARKS RULES 2017¹

The Trade Marks Rules, 2017 have been notified and have come into effect from 06 March, 2017. These Rules, which replace the erstwhile Trade Marks Rules 2002, will streamline and simplify the processing of Trade Mark applications.

Some salient features of the revamped Rules are as follows :

- Number of Trade Marks (TM) Forms have been reduced from 74 to 8.
- To promote e-filing of TM applications, the fee for online filing has been kept at 10% lower than that for physical filing.
- Based on stakeholders feedback, the fees for Individuals, Start-ups and Small Enterprises have been reduced from that proposed in the draft Rules – i.e. only Rs 4,500 as against Rs 8,000 for e-filing of TM applications proposed at the draft stage.
- Modalities for determination of well-known trademarks have been laid out for the first time.
- The provisions relating to expedited processing of an application for registration of a trade mark have been extended right upto registration stage (hitherto, it was only upto examination stage).
- Over all fees have been rationalized by reducing the number of entries in Schedule I from 88 to just 23.
- Modalities for service of documents from applicants to the Registry and vice-versa through electronic means have been introduced to expedite the process; e-mail has been made an essential part of address for service to be provided by the applicant or any party to the proceedings so that the office communication may be sent through email.
- Hearing through video conferencing has been introduced.
- Number of adjournments in opposition proceedings has been restricted to a maximum of two by each party, which will help dispose off matters in time.
- Procedures relating to registration as Registered User of trademarks have also been simplified.

It may be recalled that the examination time for a TM application has already been brought down from 13 months to just 1 month in January 2017; this is despite a stupendous 35% jump in TM filings in 2015-16 *vis a vis* the previous year. The new Rules should give a boost to the Intellectual Property Regime in India.

¹ Available at: <http://pib.nic.in/newsite/PrintRelease.aspx>

CENTRAL BOARD OF EXCISE AND CUSTOMS

AMENDMENT TO NOTIFICATION NO.09/2012-CUS REG. ENABLING AUTHORISED OFFICES OR AGENCIES IN INDIA OF THE LABORATORIES MENTIONED UNDER PARA 4.74 OF HBP²

Central Government exempts cut and polished diamonds falling within chapter 71 of the First schedule to the Customs Tariff Act, 1975 (51 of 1975), when re-imported into India after certification/grading by the laboratories / agencies as notified in the Foreign Trade Policy in this regard, from the whole of the duty of customs leviable thereon which is specified in the said First Schedule, subject to fulfillment of the certain conditions.

One of the conditions is as follows:

- Cut and polished diamonds so re-imported shall match with corresponding diamonds mentioned in the invoice at the time of exportation in terms of value, height, circumference and weight

“Provided that a variance not exceeding ± 0.05 mm in diameter for round shape diamonds and ± 0.07 mm in length and breadth for diamonds of other shapes and variance not exceeding ± 1 cent in weight shall be allowed.”

The following paragraph shall be inserted:

“Notwithstanding anything contained herei n above, the exemption contained in this notification shall also be applicable, if the exportation and re-importation of cut and polished diamonds as stated above are undertaken by the authorised offices or agencies in India of the laboratories mentioned under paragraph 4.74 of Handbook of Procedures 2015-2020 on behalf of the exporters subject to the fulfillment of conditions (ii),(iii),(iv) and(v) specified herein above and in the Foreign Trade Policy and Handbook of Procedures.”

- The Explanation under the principal notification No. 9/2012-Customs, dated the 9th March, 2012 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.129 (E) dated the 9th March, 2012 read as follows:

Explanation. - For the purposes of this notification, "Foreign Trade Policy" means the Foreign Trade Policy, published by the Government of India in the Ministry of Commerce and industry, *vide* notification No.1/2009-2014, dated the 27th August, 2009, as amended from time to time.

The Explanation shall be substituted, namely with:

Explanation. - "Foreign Trade Policy" means the Foreign Trade Policy, 2015-2020, published by the Government of India in the Ministry of Commerce and Industry, *vide* notification No. 01/2015-2020, dated the 1st April, 2015, as amended from time to time.”

GST COUNCIL CLEARS CGST AND IGST LAW³

- GST Council cleared the final draft of CGST and IGST law with July 1 as the possible date to rollout the GST.
- State GST which is to be cleared by the state assemblies is next on the list and UTGST along with SGST will be on the lines of CGST law and the council will consider them at the March 16th meeting.
- Also, CGST, IGST and UT-GST law will be taken to the Parliament during the second half of the Budget session which is scheduled to begin from March 9,2017.
- Key features of the two Bills, as finalized by the GST Council:
 - The proposed Tax Collected at Source (TCS) on the e commerce companies has been capped at 1% which was earlier proposed as 1% without any upper cap.
 - **Threshold for traders has been set up at Rs. 20 lakhs turnover except North East states and hilly areas where it would be Rs. 10 lakhs.**
 - An agriculturist would not be required to obtain registration.
 - 90% of refund claims will be made within seven days of filing the application.
 - Composition scheme for business entities with turnover of upto Rs. 50 lakhs.
 - The Bills provide for an anti-profiteering measure
 - State wise single registration, single return state-wise for all supplies.
 - Provision for Advance Ruling Authority, exhaustive provisions for appellate mechanism.
 - Detailed transitional provisions provided.
 - Input Tax Credit entitlement arising out of taxes paid under Central law can be cross utilized for payment of taxes under state and UTs.

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³ Available at : <http://economictimes.indiatimes.com/news/economy/policy/agriculturists-small-traders-exempt-from-registering-under-gst/articleshow/57467649.cms>