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### NOTIFICATION

No. H. 12018/4/91-LJD/161, the 14th July, 1992. The following Ordinances promulgated by the President of India, namely,— “The Foreign Trade (Development and Regulation) Ordinance, 1992 (Ordinance No. 1 of 1992) and “The Special Court (Trial of Offences relation to Transaction in Securities) Ordinance, 1992. (Ordinance No. 10 of 1992)” are hereby published for general information.

R. LALTHAZUALA;  
Under Secretary to the  
Govt. of Mizoram, Law, Judicial &  
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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 19th June 1992/Jyaistha 29, 1914 (Saka)

THE FOREIGN TRADE (DEVELOPMENT AND REGULATION)  
ORDINANCE, 1992.  
NO. 11 OF 1992

Promulgated by the President in the Forty-third Year of the Republic of India.  
An Ordinance to provide for the development and regulation of foreign trade by facilitating imports into, and augmenting exports from, India and for matters connected therewith or incidental thereto.

WHEREAS the Foreign Trade (Development and Regulation) Bill, 1992 for giving effect to the aforesaid object has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill.

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

## CHAPTER I

### PRELIMINARY

1. (1) This Ordinance may be called the Foreign Trade (Development and Regulation) Ordinance, 1992, Short title and commencement.

(2) It shall come into force at once.

Definitions 2. In this Ordinance, unless the context otherwise requires,—

(a) "Adjudicating Authority" means the authority specified in, or under, section 13;

(b) "Appellate Authority" means the authority specified in, or under, sub-section (1) of section 15;

(c) "conveyance" means any vehicle, vessel, aircraft or any other means of transport including any animal;

(d) "Director General" means the Director General of Foreign Trade appointed under section 6;

(e) "import" and "export" means respectively bringing into, or taking out of, India any goods by land, sea or air;

(f) "Importer-Exporter Code Number" means the Code Number granted under section 7;

(g) "licence" means a licence to import or export and includes a customs clearance permit and any other permission issued or granted under this Ordinance;

(h) "Order" means any Order made by the Central Government under section 3; and

(i) "prescribed" means prescribed by rules made under this Ordinance.

## CHAPTER II

### POWER OF CENTRAL GOVERNMENT TO MAKE ORDERS AND ANNOUNCE EXPORT AND IMPORT POLICY

Powers to make pro- 3. (1) The Central Government may, by Order published in the Official Gazette, make provision for the

visions relating to imports and exports.

development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also by Order published in the Official Gazette make provision for prohibiting, restricting or otherwise regulating in all cases or in specified classes of cases and subject to such exceptions if any, as may be made by or under the Order, the import or export of goods.

(3) All goods to which any Order under subsection (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly.

52 of 1962.

Continuance of existing Orders

4. All Orders made under the Imports and Exports (Control) Act, 1947 and in force immediately before the promulgation of this Ordinance shall so far as they are not inconsistent with the provisions of this Ordinance continue to be in force and shall be deemed to have been made under this Ordinance.

18 of 1947.

5. The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the export and import policy and may also, in like manner, amend that policy.

Export and Import Policy.

6. (1) The Central Government may appoint any person to be the Director General of Foreign Trade for the purposes of this Ordinance.

Appointment of Director General and his functions.

(2) The Director General shall advise the Central Government in the formulation of the export and import policy and shall be responsible for carrying out that policy.

(3) The Central Government may, by Order published in the Official Gazette, direct that any power exercisable by it under this Ordinance (other than the powers under sections 3, 5, 15, 16 and 19) may also be exercised, in such cases and subject to such conditions, by the Director General or such other officer subordinate to the Director General, as may be specified in the Order.

## CHAPTER III

## IMPORTER-EXPORTER CODE NUMBER AND LICENCE

7. No person shall make any import or export except under an Importer-Exporter Code Number granted by the Director General or the officer authorised by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.

Importer-  
Exporter  
Code  
Number.

8. (1) Where—

(a) any person has contravened any law relating to Central Excise or Customs or foreign exchange or has committed any other economic offence under any other law for the time being in force as may be specified by the Central Government by notification in the Official Gazette, or

Suspension  
and cancel-  
lation of  
Importer-  
Exporter  
Code  
Number.

(b) the Director General has reason to believe that any person has made an export or import in a manner gravely prejudicial to the trade relations of India with any foreign country or to the interests of other persons engaged in imports or exports or has brought disrepute to the credit or the goods of the country,—

the Director General may call for the records or any other information from that person and may, after giving to that person a notice in writing informing him of the grounds on which it is proposed to suspend or cancel the Importer-Exporter Code Number and giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice and, if that person so desires, of being heard, suspend for a period, as may be specified in the order, or cancel the Importer-Exporter Code Number granted to that person.

(2) Where any Importer-Exporter Code Number granted to a person has been suspended or cancelled under sub-section (1), that person shall not be entitled to import or export any goods except under a special licence granted, in such manner and subject to such conditions as may be prescribed, by the Director General to that person.

Issue, suspension and cancellation of licence.

9. (1) The Central Government may levy fees, subject to such exceptions, in respect of such person or class of persons making an application for a licence or in respect of any licence granted or renewed in such manner as may be prescribed.

(2) The Director General or an officer authorised by him may, on an application and after making such enquiry as he may think fit, grant or refuse to grant a licence to import or export such class or classes of goods as may be prescribed, after recording in writing his reasons for such refusal.

(3) A licence granted under this section shall—

(a) be in such form as may be prescribed;

(b) be valid for such period as may be specified therein; and

(c) be subject to such terms, conditions and restrictions as may be prescribed or as specified in the licence with reference to the terms, conditions and restrictions so prescribed.

(4) The Director General or the officer authorised under sub-section (2) may, subject to such conditions as may be prescribed, for good and sufficient reasons, to be recorded in writing, suspend or cancel any licence granted under this Ordinance:

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

(5) An appeal against an order refusing to grant, or suspending or cancelling, a licence shall lie in like manner as an appeal against an order would lie under section 15.

#### CHAPTER IV

#### SEARCH, SEIZURE, PENALTY AND CONFISCATION

Power relating to search and seizure.

10. (1) The Central Government may, by notification in the Official Gazette, authorise any person for the purposes of exercising such powers with respect to entering such premises and searching, inspecting and seizing of such goods, documents, things and conveyances, subject to such requirements and conditions, as may be prescribed.

(2) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall, so far as may be, apply to every search and seizure made under this section. 2 of 1974.

Contravention of provisions of this Ordinance, rules, orders and export and import policy.

11. (1) No export or import shall be made by any person except in accordance with the provisions of this Ordinance, the rules and the orders made thereunder and the export and import policy for the time being in force.

(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Ordinance or any rules or orders made thereunder or the export and import policy, he shall be liable to a penalty not exceeding one thousand rupees or five times the value of the goods in respect of which any contravention is made or attempted to be made, whichever is more.

(3) Where any person, on a notice to him by the Adjudicating Authority, admits any contravention, the Adjudicating Authority may, in such class or classes of cases and in such manner as may be prescribed, determine, by way of settlement, an amount to be paid by that person.

(4) A penalty imposed under this Ordinance may, if it is not paid, be recovered as an arrear of land revenue and the Importer-Exporter Code Number of the person concerned, may, on failure to pay the penalty by him, be suspended by the Adjudicating Authority till the penalty is paid.

(5) Where any contravention of any provision of this Ordinance or any rules or orders made thereunder or the export and import policy has been, is being, or is attempted to be, made, the goods together with any package, covering or receptacle and any conveyances shall, subject to such requirements and conditions as may be prescribed, be liable to confiscation by the Adjudicating Authority.

(6) The goods or the conveyance confiscated under sub-section (5) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be.

12. No penalty imposed or confiscation made under this Ordinance shall prevent the imposition of any other punishment to which the person affected thereby is liable under any other law for the time being in force.

Penalty or confiscation not to interfere with other punishments.

13. Any penalty may be imposed or any confiscation may be adjudged under this Ordinance by the Director General or, subject to such limits as may be specified, by such other officer as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

Adjudicating Authority.

14. No order imposing a penalty or of adjudication of confiscation shall be made unless the owner of the goods or conveyance, or other person concerned, has been given a notice in writing —

Giving of opportunity to the owner of the goods, etc.

(a) informing him of the grounds on which it is proposed to impose a penalty or to confiscate such goods or conveyance; and

(b) to make a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty or confiscation mentioned therein, and, if he so desires, of being heard in the matter.

Appeal.

## CHAPTER V

### APPEAL AND REVISION

15 (1) Any person aggrieved by any decision or order made by the Adjudicating Authority under this Ordinance may prefer an appeal,—

Appeal

(a) where the decision or order has been made by the Director General, to the Central Government;

(b) where the decision or order has been made by an officer subordinate to the Director General, to the Director General or to any officer superior to the Adjudicating Authority authorised by the Director General to hear the appeal.

within a period of forty-five days from the date on which the decision or order is served on such person:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period, allow such appeal to be preferred within a further period of thirty days:

Provided further that in the case of an appeal against a decision or order imposing a penalty or redemption charges, no such appeal shall be entertained unless the amount of the penalty or redemption charges has been deposited by the appellant:

Provided also that, where the Appellate Authority is of opinion that the deposit to be made will cause undue hardship to the appellant, it may, at its discretion, dispense with such deposit either unconditionally or subject to such conditions as it may impose.

(2) The Appellate Authority may, after giving to the appellant a reasonable opportunity of being heard, if he so desires, and after making such further enquiries, if any, as it may consider necessary, make such orders as it thinks fit, confirming, modifying or reversing the decision or order appealed against, or may set back the case with such directions, as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing or imposing a penalty or redemption charges or confiscating goods of a greater value shall not be made under this section unless the appellant has been given an opportunity of making a representation, and, if he so desires, of being heard in his defence.

(3) The order made in appeal by the Appellate Authority shall be final.

#### Revision.

16. The Central Government, in the case of any decision or order, not being a decision or order made in an appeal, made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding in which a decision or an order imposing a penalty or redemption charges or a judicial confiscation has been made and against which no appeal has been preferred, for the purpose of satisfying itself or himself, as the case may be, as to the correctness, legality or propriety of such decision or order and make such orders thereon as may be deemed fit;



Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person—

(a) has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied, and

(b) has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence.

17. (1) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Ordinance shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely :—

Powers of  
Adjudica-  
ting and  
other Au-  
thorities.

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(2) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Ordinance shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

(3) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Ordinance shall have the power to make such orders of an interim nature as it may think fit and may also, for sufficient cause, order the stay of operation of any decision or order.

(4) Clerical or arithmetical mistakes in any decision or order or errors arising therein from any accidental slip or omission may at any time be corrected

5 of 1908.

2 of 1974

by the authority by which the decision or order was made, either on its own motion or on the application of any of the parties :

Provided that where any correction proposed to be made under this sub-section will have the effect of prejudicially affecting any person, no such correction shall be made except after giving to that person a reasonable opportunity of making a representation in the matter and no such correction shall be made after the expiry of two years from the date on which such decision or order was made.

## CHAPTER VI

### MISCELLANEOUS

18. No order made or deemed to have been made under this Ordinance shall be called in question in any court, and no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Ordinance or any order made or deemed to have been made thereunder.

Protection  
of action  
taken in  
good faith.

19. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

Power to  
make  
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which and the conditions subject to which a special licence may be issued under sub-section (2) of section 8;

(b) the exceptions subject to which and the person or class of persons in respect of whom fees may be levied and the manner in which a licence may be granted or renewed under sub-section (1) of section 9;

(c) the class or classes of goods for which a licence may be granted under sub-section (2) of section 9;

(d) the form in which and the terms, conditions and restrictions subject to which licence may be granted under sub-section (3) of section 9;

(e) the conditions subject to which a licence may be suspended or cancelled under sub-section (4) of section 9;

(f) the premises, goods, documents, things and conveyances in respect of which and the requirements and conditions subject to which power of entry, search, inspection and seizure may be exercised under sub-section (1) of section 10;

(g) the class or classes of cases for which and the manner in which an amount, by way of settlement, may be determined under sub-section (3) of section 11,

(h) the requirements and conditions subject to which goods and conveyances shall be liable to confiscation under sub-section (5) of section 11;

(i) the manner in which and the conditions subject to which goods and conveyances may be released on payment of redemption charges under sub-section (6) of section 11; and

(j) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

(3) Every rule and every order made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the order or both the Houses agree that the rule or the order should not be made, the rule or the order, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or the order.

18 of 1947.

20. (1) The Imports and Exports (Control) Act, 1947 is hereby repealed. Repeal and savings.

(2) The repeal shall, however, not affect,—

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty, confiscation or punishment incurred in respect of any contravention under the Act so repealed; or

(d) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, confiscation or punishment as aforesaid,

and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty, confiscation or punishment may be imposed or made as if that Act had not been repealed.

R. VENKATARAMAN,  
President.

K.L. MOHANPURIA,  
Secy. to the Govt. of India.

**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

(Legislative Department)

New Delhi, the 6th June, 1992/Jyaistha 16, 1914 (Saka)

**THE SPECIAL COURT (TRIAL OF OFFENCES RELATING  
TO TRANSACTIONS IN SECURITIES) ORDINANCE, 1992  
No. 10 OF 1992**

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for the establishment of a Special Court for the trial of offences relating to transactions in securities and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to Promulgate the following Ordinance :—

1. (1) This Ordinance may be called the 'Special Short title Court (Trial of Offences Relating to Transactions in and Securities) Ordinance, 1992. commencement.

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise Definitions. requires:—

2 of 1974.

(a) "Code" means the Code of Criminal Procedure; 1973;

(b) "Custodian" means the custodian appointed under sub-section (1) of section 3;

(c) "Securities" includes—

(i) shares, scrips, stocks, bonds, debentures, debenture stock, units of the Unit Trust of India or any other Mutual Fund or other marketable securities of a like nature in or of any incorporated company or other body corporate ;

(ii) Government Securities; and

(iii) rights or interests in securities;

(d) "Special Court" means the Special Court established under sub-section (1) of section 5.

Appoint-  
ment and  
functions of  
custodian.

3. (1) The Central Government may appoint one or more Custodians as it may deem fit for the purposes of this Ordinance.

(2) The Custodian may, on being satisfied on information received that any person has been involved in any offence relating to transactions in securities after the 1st day of April, 1991 and on and before the promulgation of this Ordinance, notify the name of such person in the Official Gazette.

(3) Notwithstanding anything contained in the Code, on and from the date of notification under sub-section (2), any property, movable or immovable, or both, belonging to any person notified under that sub-section shall stand attached simultaneously with the issue of the notification.

(4) The property attached under sub-section (3) shall be dealt with by the Custodian in such manner as the Special Court may direct.

(5) The Custodian may take assistance of any person for discharging his duties under this section.

Contracts entered into fraudulently may be cancelled

4. If the Custodian is satisfied, after such inquiry as he may think fit, that any contract or agreement entered into at any time after the 1st day of April, 1991 and on and before the proclamation of this Ordinance in relation to any property of the person notified under sub-section (2) of section 3 has been entered into fraudulently or to defeat the provisions of this Ordinance, he may cancel such contract or agreement and on such cancellation such property shall stand attached under this Ordinance:

Provided that no contract or agreement shall be cancelled except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

Establishment of Special Court.

5. (1) The Central Government shall, by notification in the Official Gazette, establish a court to be called Special Court.

(2) The Special Court shall consist of a sitting judge of the High Court nominated by the Chief Justice of the High Court within the local limits of whose jurisdiction the Special Court is situated, with the concurrence of the Chief Justice of India.

Cognizance of cases by Special Court,

6. The Special Court shall take cognizance of or try such cases as are instituted before it or transferred to it as hereinafter provided.

Jurisdiction of Special Court.

7. Notwithstanding anything contained in any other law, any prosecution in respect of any offence referred to in sub-section (2) of section 3 shall be instituted only in the Special Court and any prosecution in respect of such offence pending in any court shall stand transferred to the Special Court.

Jurisdiction of Special Court as to joint trials.

8. The Special Court shall have jurisdiction to try any person concerned in the offence referred to in sub-section (2) of section 3 either as a principal, conspirator or abettor and all other offences and accused persons as can be jointly tried therewith at one trial in accordance with the Code.

9. (1) The Special Court shall in the trial of such cases, follow the procedure prescribed by the Code for the trial of warrant cases before a magistrate.

Procedure and powers of Special Court.

(2) Save as expressly provided in this Ordinance, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Ordinance, apply to the proceedings before the Special Court and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session and shall have all the powers of a Court of Session, and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

(3) The Special Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted.

10. (1) Notwithstanding anything in the Code, an appeal shall lie from any judgment, sentence or order, not being interlocutory order, of the Special Court to the Supreme Court both on facts and on law.

Appeal.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order of the Special Court.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of any judgment, sentence or order of the Special Court:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

11. (1) Notwithstanding anything contained in the Code and any other law for the time being in force, the Special Court may make such order as it may deem fit directing the Custodian for the disposal of the property under attachment.

Discharge of liabilities.

(2) The following liabilities shall be paid or discharged in full, as far as may be, in the order as under:—

(a) all revenues, taxes, cesses and rates due from the persons notified by the Custodian un-

der sub-section (2) of section 3 to the Central Government or any State Government or any local authority;

(b) all amounts due from the person so notified by the Custodian to any bank or financial institution;

(c) any other liability as may be specified by the Special Court from time to time.

Protection  
of action  
taken in  
good faith.

12. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

Ordinance  
to have  
overriding  
effect.

13. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Ordinance, or in any decree or order of any court, tribunal or other authority.

Power to  
make rules.

14. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

R. VENKATARAMAN,  
President.

K.L. MOHANPURIA,  
Secy. to the Govt. of India.