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November 30, 2019

Shri Anand Kumar

Additional Director & Divisional Head, WM-III Division
Central Pollution Control Board
Ministry of Environment, Forest & Climate Change
Parivesh Bhawan, East Arjun Nagar,
Delhi – 110032

Subject: Request to further streamline the “Clarifications under E-WASTE (Management) Rules, 2016” dated 18.10.2019 to aid interpretation and implementation of the stated clarifications.

Respected Sir,

1. At the outset, we Manufacturers Association of Information Technology (“MAIT”) and its members, would like to thank the Hon’ble Central Pollution Control Board (“CPCB”) to issue the “Clarifications under E-WASTE (Management) Rules, 2016” dated 18.10.2019 (“CPCB Clarifications”). The said CPCB Clarifications specifies/identifies the entities/centers that are required to obtain a “Refurbisher Authorisation” under the E-Waste (Management) Rules, 2016 (“EWM Rules 2016”) for carrying out “refurbishment” activities. While discussions between MAIT and CPCB pertaining to the requirement of service centers to obtain a “Refurbisher Authorisation” under the EWM Rules 2016 have been taking place prior to the issuance of the CPCB Clarifications, we would like to further discuss the CPCB Clarifications by way of this letter.
2. MAIT deeply appreciates the CPCB action of issuing the said CPCB Clarification. The intent of this clarification, basis our past discussions with the CPCB is to clear out any ambiguity among relevant/interested stakeholders in the industry on the specific criteria that determine whether an entity/service center is required to obtain a “Refurbisher Authorisation” from the concerned State Pollution Control Board under the EWM Rules 2016. This clarification we hope will also remove any potential interpretational issues of the EWM Rules 2016, by the concerned State Pollution Control Board(s) (“SPCB”), as far as compliance measures are concerned. As you may know already, SPCBs, specifically the Madhya Pradesh State Pollution Control Board (“MPPCB”), have been issuing show cause notices to ‘Producers’ claiming that their authorised service centres are deemed to be ‘refurbishers’ according to the CPCB Clarifications and the EWM Rules 2016. Consequently, the MPPCB has directed the Producers in these show cause notices to ensure that their service centers seek refurbisher authorisation from the MPPCB imputing liability on Producers for the authorisation of Refurbishers (which is a separate entity under the EWM Rules 2016).

3. As a result of the above stated show cause notices issued by SPCBs and due to interpretational issues pertaining to the wordings of the CPCB Clarifications, the members of MAIT, are facing significant difficulties which we would like to address in this letter.
4. Criteria (ii) of the CPCB clarification, indicates that any company or undertaking engaged in "refurbishment" (which in the case of a service center will be limited to repair activities), irrespective of the scale of repair activities in the center or the number of workers employed in the center, are required to obtain a "Refurbisher Authorisation", if it's registered under the Companies Act, 1956 or a district industries center. This criterion, in our view and as discussed previously with the CPCB, will be very broad and all-encompassing.
5. Basis the discussions that MAIT and its members have had with CPCB in the past, the intent of the CPCB, with this clarification, was to ensure that large scale "refurbishment" centers obtain the necessary authorisation as per the EWM Rules 2016. The CPCB, for this reason, weaved in the requirement under the Factories Act, 1948 of 10 or more workers ('with the aid of power')/20 or more workers ('without the aid of power') into the CPCB Clarification. MAIT and its members, however, expresses its reservation pertaining to the inclusion of this requirement under the Factories Act, 1948 since this may potentially lead to further interpretational issues. Notwithstanding the same, and without prejudice to MAIT and its members rights and contentions, MAIT and its members, would like to propose for your due consideration certain amendments to the CPCB Clarifications which will aid in rectifying the interpretational ambiguity pertaining to the CPCB Clarifications across all stakeholders. These suggested changes to the CPCB Clarifications are detailed below.
6. The clarification at criteria (1) of the CPCB Clarifications ensures that entities with a large number of workers (10 or more with the aid of power/20 or more without the aid of power) specifically carrying out repair activities, and which are required to obtain registration under the Factories Act, 1948, need to seek refurbisher authorisation. In order to streamline the CPCB Clarifications, we respectfully suggest incorporating this aspect of the number of workers (10 or more with the aid of power/20 or more without the aid of power) into criterion (ii) of the CPCB Clarifications as well. This in our humble view will address the CPCB concern that large scale "refurbishment" centers ensure that they obtain "Refurbisher Authorisation" under the EWM Rules 2016, and, will also address the industry concern of not including a broad criterion as existing in criterion (ii) of the CPCB Clarifications. ***The suggested amendment to the CPCB Clarifications is provided as Annexure 1 to this letter.***
7. Further, we wish to highlight that, a service center, as far as workers/employees are concerned, will have a unique nature of incorporating two hybrid components:
 - (i) 'customer service component', which would include employees/workers engaged in a non-technical and customer facing role such as cashiers, customer service executives, security guards, accountants etc. who are not in any manner engaged in the repair activities of the service center 'repair component', which would include workers specifically engaged in the technical repair activities of the service center.
 - (ii) We had discussed previously with the CPCB that certain entities/centers that are carrying out repair activities, generally speaking, have a small number of workers carrying out the 'repair component' i.e. technical repair/refurbishment activities, while the other 'service component' workers are engaged in non-technical, customer facing and support activities, that does not involve technical refurbishment activities. Consequently, MAIT and its members would appreciate clarity, by further streamlining the CPCB Clarifications to include the above stated distinction between the workers engaged in the 'repair component' carrying out only refurbishment activities and the workers engaged in the

non-technical 'service-component' (who are not themselves engaged in repair/refurbishment activities).

8. To incorporate the distinction between 'repair component' workers and other 'customer service component' workers, certain amendments to the CPCB Clarifications are suggested at Annexure 1 to this letter.
9. The purpose of the above stated amendments to the CPCB Clarifications is to further elucidate the precise criteria that has to be met by an entity/center for obtaining a "Refurbisher Authorisation" so there is no ambiguity in this regard among the industry members, the SPCBs and the CPCB.
10. MAIT and its members hope that the Hon'ble CPCB considers the above stated suggested amendment to the CPCB Clarifications. MAIT will be happy to further discuss and engage with the Hon'ble CPCB in this regard.

With regards,

A handwritten signature in black ink, appearing to read "George Paul". The signature is stylized with a large initial 'G' and a long horizontal stroke extending to the right.

George Paul
Chief Executive Officer



Annexure 1

Amendments requested to the CPCB Clarification

Revised Clarifications:

- (i) any company or undertaking registered under Factories Act, 1948 or Companies Act, 1956 or district industries center, engaged in refurbishment engaged in refurbishment (which includes repairing) for the purpose of extending the working life of an electrical and electronic equipment for its originally intended use, and having ten or more workers directly engaged on site in the activity of refurbishment with the aid of power, or having twenty workers directly engaged on site in the activity of refurbishment without the aid of power, has to obtain refurbisher authorisation under the E-Waste (M) Rules, 2016 from the concerned State Pollution Control Board/Committee;
- (ii) it is clarified that 'workers', as specified in criteria (i) above refers only to workers engaged directly in the activity of 'refurbishment' on site of the facility. Other personnel/employees/workers not engaged directly in the refurbishment activity but engaged in roles which may be 'non-technical', 'administrative' or 'customer service' in nature are excluded from criteria (i) above.
- (iii) producer engaged in refurbishment and meeting the criteria at (i) **and** (ii) above is required to obtain refurbisher authorisation from the concerned State Pollution Control Board/Committee;
- (iv) third party or dealer/ franchise of the producer engaged in refurbishment and meeting criteria at (i) **and** (ii) above is required to independently from the producer obtain refurbisher authorisation from the concerned State Pollution Control Board/Committee;
- (v) independent company or undertaking not linked to any producer, engaged in refurbishment and meeting criteria at (i) and (ii) above is required to obtain refurbisher authorisation from the concerned State Pollution Control Board/Committee;