



PHD House, 4th Floor, Ramakrishna Dalmia Wing
4/2, Siri Institutional Area, August Kranti Marg, New Delhi – 110016,
Tel# 9599665859 E-mail: ceo@mait.com • Website: <http://www.mait.com>

Ref.No.MAIT/PY/2451

March 17, 2022

Ms. Leena Nandan, IAS
Secretary
Ministry of Environment, Forests & Climate Change

Subject: Representation on the interpretation and application of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (“HW Rules”)

Respected Madam,

Greetings from MAIT!

This letter is in reference to the provisions and requirements stipulated under the HW Rules and the issues faced by Indian exporters with respect to ascertaining the applicability of the HW Rules.

Broadly, we understand that the HW Rules apply to the management of waste, particularly ‘hazardous’ and ‘other wastes.’ The term ‘waste’ has been defined under the HW Rules to mean ‘materials that are *not products* or by-products, for which the generator has *no further use for the purposes of production, transformation or consumption.*’ Further, we note that by way of explanation it has been clarified that the term ‘waste’ includes the materials that may be generated during, the extraction of raw materials, the processing of raw materials into intermediates and final products, the consumption of final products, and through other human activities and excludes residuals recycled or reused at the place of generation.

We have received enquiries from our members, dealing in export of electronic devices in relation to the applicability of the HW Rules seeking to export a refurbished electronic device outside India. It is pertinent to clarify here that we are referring to a case where the devices, either manufactured in India or imported as brand new devices as per the applicable laws and regulations, are subsequently refurbished within the country. It is these refurbished electronic devices which may be exported outside India for further sale.

For added clarity and in the context of such queries, refurbished electronic devices refer to devices:

- (a) whose boxes were opened (i.e., seal was broken) by the customers and returned back immediately after purchase to the seller;
- (b) which were used for 2 or 3 days, and then returned by the customers under the seller’s return policy;
- (c) which were returned as ‘warranty returns’ when customer noticed a defect within the warranty period; and
- (d) which were damaged, and hence, could not be sold as such to a customer.

The aforesaid devices are thereafter refurbished (i.e. to make the devices look new/ new-like again, by performing functions such as repair, cleaning, etc) by the manufacturers/ authorised sellers of these devices either on their own or through a third-party service provider and certified as refurbished.

Given this background, we have tried to analyse the HW Rules to understand its scope and extent. As discussed above, the definition of 'waste' explicitly excludes from its ambit products that are intended for further consumption or have a usable life. Given this understanding, we are of the view that such devices (which have a usable life, certifiable by a chartered engineer) should not qualify as 'waste' under the HW Rules and thereof not subject to the provisions of the HW Rules. Having said that, we request your good offices to confirm our fundamental understanding on the applicability of the HW Rules and we hope that you will oblige us by providing us the necessary clarity.

We appreciate your consideration of these issues and humbly request your good office to clarify the position with respect to the applicability of the HW Rules at the earliest.

With regards,

A handwritten signature in black ink, appearing to read "George Paul". The signature is written in a cursive style with a long, sweeping underline.

George Paul
Chief Executive Officer