

E-Waste Disposal

Introduction

There's a new smart phone in the market and we buy it. A new laptop is introduced and we grab it. Ever wondered what happens to the old models which we sell, scrap or simply trash (in cases where they are no longer working)? How do these electronic items ultimately get disposed off? E-Waste or electronic waste is one of the largest sources of waste being generated in today's waste. With newer models and variants of all gadgets being launched every day, the useful life of a technological gadget has reduced drastically thereby significantly increasing the e-waste generated everyday. For instance, did you know that a study states that India is the 5th largest producer of e-waste internationally. According to the Ministry of Environment, Forest and Climate Change, Government of India, India generates over 17 lakh tonnes of e-waste every year with an annual growth rate of 5% every year. India has over a billion mobile phones and over 25% end up in e-waste every year. Recognising this, the Central Government has recently framed the **E-Waste (Management) Rules, 2016**.

Act

The mother statute for all things connected with the environment is the Environment (Protection) Act, 1986. It is a Central Act for the protection and the improvement of the environment. It defines environment pollution as the presence of any solid, liquid or gaseous substance in the environment in such concentration as may be injurious to the environment. Under s.3 of this Act, the Government has power to take all such measures as is necessary for protecting and improving the quality of the environment and for preventing environment pollution. This includes laying down Rules, procedures and safeguards for the handling of hazardous substances, i.e., any substance which by reason of its chemical properties is liable to cause harm to humans / living beings / environment, etc. Consequently, the Central Government has notified the amended **E-Waste (Management) Rules, 2016** ("the EWM Rules") which shall come into force from the 1st October, 2016. The EWM Rules define e-waste to mean electrical and electronic equipment, in whole or in part discarded as waste by the consumer or bulk consumer as well as rejects from manufacturing, refurbishment and repair processes.

Coverage

The EWM Rules apply to various types of entities involved in the manufacture, sale, transfer, purchase, collection, storage and processing of e-waste or specified electrical and electronic equipment, including their components, consumables, parts and spares which make the product operational. Some of these entities are as follows:

- (a) Manufacturer – a manufacturer of electrical and electronic equipment
- (b) Producer – any person who sells (in any manner) manufactured / assembled / imported electrical and electronic equipment
- (c) Bulk Consumer – Bulk users of electrical and electronic equipment, e.g., Governments departments, Public Sector Undertakings, banks, educational institutions, MNCs, partnership firms and companies that are registered under the Factories Act, 1948 and the Companies Act, 2013 and health care facilities which have a turnover of more than Rs. 1 crore or employ more than 20 employees. Although this definition is not very happily worded, it appears that in order to be covered, firms and companies must satisfy the turnover or employee threshold. Registration under both Factories Act and Companies Act is not possible because in that case all firms would be excluded. Further, all IT companies which are the biggest generator of e-waste would be excluded, which cannot be the intention. This is an important definition since it casts certain reporting requirements on all bulk consumers.
- (d) Dealer – buyer or seller of specified electrical and electronic equipment. The definition is wide enough to include offline and online dealers.

(e)Recycler – any person engaged in recycling and reprocessing of e-waste as per guidelines laid down by the Central Pollution Control Board.

(f)Consumer – one of the more important entities covered by the EWM Rules is a consumer which is defined to mean any person using any (and not just specified) electrical and electronic equipment but excludes bulk consumers. Hence, any individual or small office would also be covered if he/it is involved in manufacture, sale, transfer, processing or storage of specified electrical and electronic equipment. This is a very important step toward environment protection since it spreads the net very wide.

However, the Rules do not apply to a micro enterprise as defined in the Micro, Small and Medium Enterprises Development Act, 2006. This is interesting since while a micro enterprise is exempted, an individual end user is not!

The specified electrical and electronic equipment enlisted in the EWM Rules are computers, laptops, mobile phones, refrigerators, washing machines, air conditioners, televisions, printers, lamps containing fluorescent and other mercury. It even covers their components, consumables, parts and spares. Conspicuous by their absent from this list are several popular consumer electronic / electric equipment, such as, music systems, heating systems, irons, DVD players, cameras, etc. Whether this omission is intentional or an oversight is something which time will tell?

Responsibilities of various entities

The Rules lay down responsibilities for different entities in relation to e-waste:

(a)Manufacturer – must collect e-waste generated during manufacturing of any electronic / electrical equipment and channelise it for recycling or disposal. It must also maintain and file prescribed information returns. The Return includes information on category and quantity of e-waste generated / stored/ recycled/transported /refurbished /dismantled /treated and disposed. The channelisation could be to authorised dismantlers or recyclers.

(b)Producers – must provide an Extended Producer Responsibility (EPR) for equipment produced by them covering the channelisation of e-waste generated by their products. This could also be through dealers, collection centres, buyback arrangements, etc. EPR means a responsibility of any producer of electrical or electronic equipment, for channelisation of e-waste to ensure environmentally sound management of such waste. EPR may comprise of implementing take back system or setting up of collection centres or both and having agreed arrangements with authorised dismantler or recycler either individually or collectively through a Producer Responsibility Organisation. The Central Pollution Control Board will grant an EPR Authorisation for managing EPR with implementation plans and targets outlined therein.

Every producer must make an application to the Central Pollution Control Board for EPR Authorisation within a period of 90 days from 1st October, 2016. Any producer who has been refused an EPR cannot sell any electronic or electric equipment. This is a very important requirement for producers.

The producer must also create mass awareness of recycling. The Deposit Refund Scheme is another way of doing so in which the producer charges an additional deposit at the time of sale and returns the money back with interest when the product is returned for recycling. Various returns are to be filed by a producer also.

(c)Dealers – they can act as collection centres for producers' products. They must ensure that e-waste generated is safely transported to recyclers or dismantlers.

(d) Refurbishers / Dismantlers / Recyclers – Their facilities must be in accordance with guidelines laid down by the Central Pollution Control Board. They must maintain records and also obtain an authorisation from the State Pollution Control Board.

(e) Bulk Consumers – bulk consumers of specified electrical and electronic equipment shall ensure that e-waste generated by them is channelised through collection centre or dealers of authorised producer or dismantler or recycler and they shall maintain specified records of e-waste generated by them. Further, they must ensure that such end-of-life electrical and electronic equipment are not admixed with e-waste containing radioactive material as are covered under the provisions of the Atomic Energy Act, 1962.

(f) Consumers – the responsibilities for consumers of specified electrical and electronic equipment are the same as those enlisted above for bulk consumers, except that they do not have to maintain any records.

(g) Storage Responsibility - Every manufacturer, producer, bulk consumer, collection centre, dealer, refurbisher, dismantler and recycler may store e-waste for a maximum of 182 days and shall maintain a record of collection, sale, transfer and storage of e-wastes and make these records available for inspection. The State Pollution Control Board can extend this period to 365 days if the waste needs to be stored for recycling or reuse. Transportation of e-waste must be carried out after maintaining the prescribed documentation.

Penalties

No specific penalties are provided under the Rules but they do provide that the manufacturer, producer, importer, transporter, refurbisher, dismantler and recycler shall be liable for all damages caused to the environment or third party due to improper handling and management of the e-waste. They further provide that the manufacturer, producer, importer, transporter, refurbisher, dismantler and recycler shall be liable to pay financial penalties as levied for any violation of the provisions under these rules by the State Pollution Control Board with the prior approval of the Central Pollution Control Board.

The Environment (Protection) Act, 1986 provides a general penalty for anyone who fails to comply with or contravenes any of the provisions of the Act, or its rules. The penalty is, in respect of each failure or contravention, an imprisonment of up to 5 years and / or a fine of up to Rs. 1 lakh. In case the failure or contravention continues, then there would be an additional fine which may extend to Rs. 5,000 / day during which such failure or contravention continues after the conviction for the first such failure or contravention. If the failure or contravention continues beyond a period of 1 year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to 7 years.

Responsibilities of Companies

Companies would be either bulk consumers or consumers. Depending upon their classification they need to comply with the provisions of the Rules.

Conclusion

This is one more Regulation which businesses need to comply with. However, this is a welcome legislation which would help reduce the environmental pollution. One only hopes that this does not turn out into another means of red tapism and corruption.