

Semiconductor Integrated Circuits Layout-design Act, 2000

Chapter IX - Offences, penalties and Procedure

Any person who contravenes knowingly and wilfully any of the provisions of section 18 shall be punishable with imprisonment for a term which may extend to three years, or with fine which shall not be less than fifty-thousand rupees but which may extend to ten lakh rupees, or with both.

Section 57 - Penalty for falsely representing a layout-design as registered

(1) No person shall make any representation with respect to a layout-design not being a registered layout-design, to the effect that it is a registered layout-design.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both.

(3) For the purposes of this section, the use in India in relation to a layout-design of the word "registered", or of any other expression referring whether expressly or impliedly to registration, shall be deemed to import a reference to registration in the register, except--

(a) where that word or other expression is used in direct association with other words delineated in characters at least as large as those in which that word or other expression is delineated and indicating that the reference is to registration as a layout-design under the law of a country outside India being a country under the law of which the registration referred to is in fact in force; or

(b) where that other expression is of itself such as to indicate that the reference is to such registration as is mentioned in clause (a); or

(c) where that word is used in relation to a layout-design registered as a layout-design under the law of a country outside India and in relation solely to such layout-design.

Section 58 - Penalty for improperly describing a place of business as connected with the Semiconductor Integrated Circuits Layout-Design Registry

If any person uses on his place of business, or on any document issued by him, or otherwise, words which would reasonably lead to the belief that his place of business is, or is officially connected with, the Semiconductor Integrated Circuits Layout-Design Registry, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Section 59 - Penalty for falsification of entries in the register

If any person makes, or causes to be made, a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or produces or tenders, or causes to be produced or tendered, in evidence any such writing, knowing the entry or writing to be false, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Section 60 - Forfeiture of goods

(1) Where a person is convicted of an offence under section 56, the court convicting him may direct the forfeiture to Government of all goods and things by means of, or in relation to, which the offence has been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on a conviction, the court, before whom the person is convicted, may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

Section 61 - Exemption of certain persons employed in ordinary course of business

Where a person accused of an offence under section 56 proves--

(a) that in the case which is the subject of the charge he was so employed that it relates to the duty of his employment, and was not interested in the profit accruing from such commission of offence except the duty of his employment; and

(b) that, having taken all reasonable precautions against committing the offence charged, he had, at the time of commission of the alleged offence, no reason to suspect the genuineness of the registered layout-design or a semiconductor integrated circuit in which such layout-design is incorporated; and

(c) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the commission of such offence,

he shall be acquitted.

Section 62 - Procedure where invalidity of registration is pleaded by the accused

(1) Where the offence charged under section 56 is in relation to a registered layout-design and the accused pleads that the registration of the layout-design is invalid, the following procedure shall be followed:--

(a) if the court is satisfied that such defence is prima facie tenable, it shall not proceed with the charge but shall adjourn the proceeding for three months from the date on which the plea of accused is recorded to enable the accused to file an application before the Appellate Board under this Act, for the rectification of the register on the ground that the registration is invalid;

(b) if the accused proves to the court that he has made such application within the time so limited or within such further time as the time court may for sufficient cause may allow, the further proceedings in the prosecution shall stand stayed till the disposal of such application for rectification;

(c) if within a period of three months or within such extended time as may be allowed by the court the accused fails to apply to the Appellate Board for rectification of the register, the court shall proceed with the case as if the registration were valid.

(2) Where before the institution of a complaint of an offence referred to in sub-section (1), any application for the rectification of the register concerning the layout-design in question on the ground of invalidity of the registration thereof has already been properly made to and is pending before the Appellate Board or the Registrar, the Court shall stay the further proceedings in the prosecution pending the disposal of the application aforesaid and shall determine the charge against the accused in conformity with the result of the application for rectification in so far as the complainant relies upon the registration of his layout-design.

Section 63 - Offences by companies

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purposes of this section--

(a) "company" means any body corporate and includes a firm or other association or individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Section 64 - Cognizance of certain offences

No. court shall take cognizance--

(a) of an offence under section 56 or section 57 except on the complaint in writing made by the registered proprietor or the registered user of a layout-design in respect of which the offence has been committed;

(b) of an offence under section 58 or section 59 except on complaint in writing made by the Registrar or any officer authorised by him in writing.

Section 65 - Costs of defence or prosecution

In any prosecution under this Act, the court may order such costs to be paid by the accused to the complainant, or by the complainant to the accused, as the court deemed reasonable having regard to all the circumstances of the case and the conduct of the parties. Costs so awarded shall be recoverable as if they were a fine.

Section 66 - Information as to commission of offence

An officer of the Government whose duty it is to take part in the enforcement of the provisions of this Chapter, shall not be compelled in any court to say whence he got any information as to the commission of any offence against this Act.

Section 67 - Punishment of abetment in India of acts done out of India

If any person, being within India, abets the commission, without India, of any act which, if committed in India, would, under this Act, be an offence, he may be tried for such abetment in any place in India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.