

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

S.Kumar
Commissioner (Customs)

D.O.F.No. 484/03/2015-LC (Vol II)
New Delhi, the 14th May, 2016.

Dear Madam/ Sir,

Kindly refer to the d.o. letter of even no. dated 2nd March 2016 wherein a synopsis of the budgetary changes proposed in the Finance Bill relating to warehousing had been briefly summarized. Pursuant to the enactment of the Finance Bill 2016, Ch IX of the Customs Act, 1962 stands amended (amended Ch IX is attached), consequent to which, the following have been notified on 14th May 2016 :

- a. Public Warehouse Licensing Regulations, 2016
- b. Private Warehouse Licensing Regulations, 2016
- c. Special Warehouse Licensing Regulations, 2016
- d. Notification 67 / 16 – Cus (NT) dated 14th May 2016 under sub-section (2) of Section 58A
- e. Warehouse (Custody and Handling of Goods) Regulations, 2016
- f. Special Warehouse (Custody and Handling of Goods) Regulations, 2016
- g. Warehoused Goods (Removal) Regulations, 2016 [Supersedes Warehoused Goods (Removal) Regulations, 1963].

2. Furthermore, bonds required to be obtained from importer under section 59 have been prescribed under circular no 18/2016 dated 14th May 2016 to replace the bonds earlier prescribed under Board's Circular F.No: 473 / 82 / 78 – Cus VII dated 20th April 1978.

3. Also, with the supersession of the Warehoused Goods (Removal) Regulations, 1963 the system of physical escorting of goods within the same town has been dispensed for movement of goods from one warehouse to another. Escorting will also not be required for movement of goods from a warehouse to a customs station for export. These movements would be done by affixation of a one-time-lock. Instructions have been issued under Board's circular no.17 / 2016 dated 14th May 2016 regarding removal of goods from a customs station to a warehouse, which also require that the container or means of transport be affixed with a serially numbered one-time-lock (bottle seal).

4. It may be noted that the regulations on licensing of different types of warehouses contain transitional provisions to enable the warehouses to switch over to record based control in a smooth and orderly manner. The provisions require existing licensees to fulfil certain conditions within a period of three months upon which they can migrate to a system of record based controls and the customs lock can be removed.

5. Section 58A has been enacted to provide for a new category of warehouses (special warehouses). These warehouses shall be entitled to store specific classes of goods, which have been notified under sub-section (2) of section 58A (Notification No.66/16 – Cus (NT) dated 14th May 2016). These warehouses shall be under the lock of customs. An existing licensee or any new applicant shall be required to apply for a license under Special Warehouse Licensing Regulations, 2016, if they propose to store or continue to store goods notified under notification 66 /16-Cus (NT) dated 14th May 2016 namely, goods stored for duty free shops/airline/ship/diplomatic stores. Here again, a transitional period of three months has been provided so as to allow existing arrangements to continue and enable a smooth and orderly transition.

6. With respect to the amendment carried out to section 64 of the Customs Act, few field formations have raised the issue regarding drawal of samples by regulatory agencies. It is clarified that any regulatory agency can draw a sample while goods are warehoused. It may also be noted that the Warehouse (Custody & Handling of Goods) Regulations, 2016 and Special Warehouse (Custody & Handling of Goods) Regulations, 2016 specifically provide for the warehouse keeper to maintain records of samples drawn by any regulator under any law for the time being in force. However, should the owner of goods require samples for marketing etc., the same are to be cleared on payment of duty by filing an ex-bond bill of entry.

7. Under sub-section (2) of section 73A, the responsibilities of licensee have been provided in Warehouse (Custody & Handling of Goods) Regulations, 2016 and Special Warehouse (Custody & Handling of Goods) Regulations, 2016. The regulations also provide for computerization of records in respect of warehoused goods. This is a key component based upon which liberalization in respect of warehousing procedures has been carried out. During the course of trade consultations, it was gathered that licensees are at different stages of automation. While some warehouses are already using highly advanced IT systems, others have not computerized their records. Warehouse keepers may be encouraged to acquire I.T. capabilities for inventory management at the earliest.

8. Changes explained above are not intended to be exhaustive and are meant only to draw attention to major amendments and new regulations. The sections 57 to 73A and the regulations may kindly be read carefully. In order to familiarize officers and trade with the provisions of the new

regulations, it is requested that interactive sessions may be planned by the Commissioners/Principal Commissioners / Chief Commissioners.

With kind regards,

Yours sincerely,

(S. Kumar)
Commissioner (Customs)

Encl: As above

To,

All Principal Chief Commissioners of Customs,
All Principal Chief Commissioner of Customs & Central Excise,
All Chief Commissioners of Customs,
All Chief Commissioners of Customs & Central Excise,
All Directors Generals, Chief Departmental Representative,
All Principal Commissioners of Customs,
All Principal Commissioners of Customs & Central Excise,
All Commissioners of Customs,
All Commissioners of Customs & Central & Excise

Chapter IX

WAREHOUSING

SECTION 57. Licensing of public warehouses. - The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a public warehouse wherein dutiable goods may be deposited.

SECTION 58. Licensing of private warehouses. - The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a private warehouse wherein dutiable goods imported by or on behalf of the licensee may be deposited.

SECTION 58A. Licensing of Special Warehouses – (1) The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer and no person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.

(2) The Board may, by notification in the Official Gazette, specify the class of goods which shall be deposited in the special warehouse licensed under sub-section (1).

Section 58B. Cancellation of Licence - (1) Where a licensee contravenes any of the provisions of this Act or the rules or regulations made thereunder or breaches any of the conditions of the licence, the Principal Commissioner of Customs or Commissioner of Customs may cancel the licence granted under section 57 or section 58 or section 58A:

Provided that before any licence is cancelled, the licensee shall be given a reasonable opportunity of being heard.

(2) The Principal Commissioner of Customs or Commissioner of Customs may, without prejudice to any other action that may be taken against the licensee and the goods under this Act or any other law for the time being in force, suspend operation of the warehouse during the pendency of an inquiry under sub-section (1).

(3) Where the operation of a warehouse is suspended under sub-section (2), no goods shall be deposited in such warehouse during the period of suspension:

Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse.

(4) Where the licence issued under section 57 or section 58 or section 58A is cancelled, the goods warehoused shall, within seven days from the date on which order of such cancellation is served on the licensee or within such extended period as the proper officer may allow, be removed from such warehouse to another warehouse or be cleared for home consumption or export:

Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse till they are removed to another warehouse or cleared for home consumption or for export, during such period.

SECTION 59. Warehousing bond. - (1) The importer of any goods in respect of which a bill of entry for warehousing has been presented under section 46 and assessed to duty under section 17 or section 18 shall execute a bond in a sum equal to thrice the amount of the duty assessed on such goods, binding himself -

(a) to comply with all the provisions of the Act, and the rules and regulations made thereunder in respect of such goods;

(b) to pay on or before the date specified in the notice of demand, all duties and interest payable under sub-section (2) of section 61; and

(c) to pay all penalties and fines incurred for contravention of the provisions of this Act or the rules or regulations in respect of such goods.

(2) For the purposes of sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to execute a general bond in such amount as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.

(3) The importer shall, in addition to the execution of a bond under sub-section (1) or subsection (2), furnish such security as may be prescribed.

(4) Any bond executed under this section by an importer in respect of any goods shall continue to be in force notwithstanding the transfer of the goods to another warehouse.

(5) Where the whole of the goods or any part thereof are transferred to another person, the transferee shall execute a bond in the manner specified in sub-section (1) or sub-section (2) and furnish security as specified under sub-section (3).

SECTION 60. Permission for removal of goods for deposit in a warehouse. – (1) When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting removal of the goods from a customs station for the purpose of deposit in a warehouse.

(2) Where an order is made under sub-section (1), the goods shall be deposited in a warehouse in such manner as may be prescribed.

SECTION 61. Period for which goods may remain warehoused. - (1) **Any warehoused goods** may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed, -

(a) in the case of capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their clearance from the warehouse;

(b) in the case of goods other than capital goods intended for use in any hundred per cent. export oriented undertaking, or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their consumption or clearance from the warehouse; and

(c) in the case of any other goods, till the expiry of one year from the date on which the proper officer has made an order under sub-section (1) of section 60:

Provided that in the case of any goods referred to in this clause, the Principal Commissioner of Customs or Commissioner of Customs may, on sufficient cause being shown, extend the period for which the goods may remain in a warehouse, by not more than one year at a time:

Provided further that where such goods are likely to deteriorate, the period referred to in the first proviso may be reduced by the Principal Commissioner of Customs or Commissioner of Customs to such shorter period as he may deem fit.

(2) Where any warehoused goods specified in clause (c) of sub-section (1), remain in a warehouse beyond a period of ninety days from the date on which the proper officer has made an order under

sub- section (1) of section 60, interest shall be payable at such rate as may be fixed by the Central Government under section 47, on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehoused goods:

Provided that if the Board considers it necessary so to do, in the public interest, it may, -

(a) by order and under the circumstances of an exceptional nature, to be specified in such order, waive the whole or any part of the interest payable under this section in respect of any warehoused goods;

(b) by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section;

(c) by notification in the Official Gazette, specify the class of goods in respect of which the interest shall be chargeable from the date on which the proper officer has made an order under sub-section (1) of section 60.

Explanation.- For the purposes of this section -

(i) " electronic hardware technology park unit" means a unit established under the Electronic Hardware Technology Park Scheme notified by the Government of India.;

(ii) "hundred per cent. export oriented undertaking" has the same meaning as in clause (ii) of Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944(1 of 1944); and

(iii) "software technology park unit" means a unit established under the software technology park scheme notified by the Government of India.

SECTION 62. Omitted

SECTION 63. Omitted

SECTION 64. Owner's right to deal with warehoused goods. - The owner of any warehoused goods may after warehousing the same, -

(a) inspect the goods;

- (b) deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
- (c) sort the goods; or
- (d) show the goods for sale.

SECTION 65. Manufacture and other operations in relation to goods in a warehouse. – (1) With the permission of the Principal Commissioner of Customs or Commissioner of Customs and subject to such conditions as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(2) Where in the course of any operations permissible in relation to any warehoused goods under sub-section (1), there is any waste or refuse, the following provisions shall apply : -

(a) if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported:

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form;

(b) if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.

SECTION 66. Power to exempt imported materials used in the manufacture of goods in warehouse. - If any imported materials are used in accordance with the provisions of section 65 for the manufacture of any goods and the rate of duty leviable on the imported materials exceeds the rate of duty leviable on such goods, the Central Government, if satisfied that in the interests of the establishment or development of any domestic industry it is necessary so to do, may, by notification in the Official Gazette, exempt the imported materials from the whole or part of the excess rate of duty.

SECTION 67. Removal of goods from one warehouse to another. - The owner of any warehoused goods may, with the permission of the proper officer, remove them from one

warehouse to another, subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which removal is permitted.

SECTION 68. Clearance of warehoused goods for home consumption. - Any warehoused goods may be cleared from the warehouse for home consumption, if -

(a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;

(b) the import duty, interest, fine and penalties payable in respect of such goods have been paid; and

(c) an order for clearance of such goods for home consumption has been made by the proper officer.

Provided that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon.

Provided further that the owner of any such warehoused goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.

SECTION 69. Clearance of warehoused goods for export. - (1) Any warehoused goods may be exported to a place outside India without payment of import duty if -

(a) a shipping bill or a bill of export in the prescribed form or a label or declaration accompanying the goods as referred to in section 82 has been presented in respect of such goods;

(b) the export duty, fine and penalties payable in respect of such goods have been paid; and

(c) an order for clearance of such goods for export has been made by the proper officer.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that such goods shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.

SECTION 70. Allowance in case of volatile goods. - (1) When any warehoused goods to which this section applies are at the time of delivery from a warehouse found to be deficient in quantity on account of natural loss, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may remit the duty on such deficiency.

(2) This section applies to such warehoused goods as the Central Government, having regard to the volatility of the goods and the manner of their storage, may, by notification in the Official Gazette, specify.

SECTION 71. Goods not to be taken out of warehouse except as provided by this Act. - No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or export or for removal to another warehouse, or as otherwise provided by this Act.

SECTION 72. Goods improperly removed from warehouse, etc. - (1) In any of the following cases, that is to say, -

- (a) where any warehoused goods are removed from a warehouse in contravention of section 71;
- (b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;
- (c) omitted;
- (d) where any warehoused goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or export or are not duly accounted for to the satisfaction of the proper officer,

the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable in respect of such goods.

(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may deem fit.

SECTION 73. Cancellation and return of warehousing bond. - When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or exported or transferred or are otherwise duly accounted for and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.

SECTION 73A. Custody and removal of warehoused goods. - (1) All warehoused goods shall remain in the custody of the person who has been granted a licence under section 57 or section 58 or section 58A until they are cleared for home consumption or are transferred to another warehouse or are exported or removed as otherwise provided under this Act.

(2) The responsibilities of the person referred to in sub-section (1) who has custody of the warehoused goods shall be such as may be prescribed.

(3) Where any warehoused goods are removed in contravention of section 71, the licensee shall be liable to pay duty, interest, fine and penalties without prejudice to any other action that may be taken against him under this Act or any other law for the time being in force.