

Chapter IX - Warehousing

SECTION 57. Appointing of public warehouses. - At any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may appoint public warehouses wherein dutiable goods may be deposited.

SECTION 58. Licensing of private warehouses. - (1) At any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may license private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited.

(2) The Assistant Commissioner of Customs or Deputy Commissioner of Customs may cancel a licence granted under sub-section (1) -

(a) by giving one month's notice in writing to the licensee; or

(b) if the licensee has contravened any provision of this Act or the rules or regulations or committed breach of any of the conditions of the licence :

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

(3) Pending an enquiry whether a licence granted under sub-section (1) should be cancelled under clause (b) of sub-section (2), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may suspend the licence.

SECTION 59. Warehousing bond. - (1) The importer of any goods specified in sub-section (1) of section 61, which have been entered for warehousing and assessed to duty under section 17 or section 18 shall execute a bond binding himself in a sum equal to twice the amount of the duty assessed on such goods-

(a) to observe all the provisions of this Act and the rules and regulations in respect of such goods;

(b) to pay on or before a date specified in a notice of demand, -

(i) all duties, and interest, if any, payable under sub-section (2) of section 61;

(ii) rent and charges claimable on account of such goods under this Act, together with interest on the same from the date so specified at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette; and

(c) to discharge all penalties incurred for violation of the provisions of this Act and the rules and 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 enter into 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) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse:

Provided that where the whole of the goods or any part thereof are transferred to another person, the proper officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee.

SECTION 59A Omitted

SECTION 60. Permission for deposit of goods in a warehouse. - When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse.

SECTION 61. Period for which goods may remain warehoused. - (1) Any warehoused goods may be left 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, till the expiry of five years;

(aa) in the case of goods other than capital goods intended for use in any hundred per cent. export-oriented undertaking, till the expiry of three years; and

(b) in the case of any other goods, till the expiry of one year,

After the date on which the proper officer has made an order under section 60 permitting the deposit of the goods in a warehouse :

Provided that -

(i) in the case of any goods which are not likely to deteriorate, the period specified in clause (a) or clause (aa) or clause (b) may, on sufficient cause being shown, be extended -

(A) in the case of such goods intended for use in any hundred per cent. export-oriented undertaking, by the Commissioner of Customs, for such period as he may deem fit; and

(B) in any other case, by the Commissioner of Customs, for a period not exceeding six months and by the Chief Commissioner of Customs for such further period as he may deem fit;

(ii) in the case of any goods referred to in clause (b), if they are likely to deteriorate, the aforesaid period of one year may be reduced by the Commissioner of Customs to such shorter period as he may deem fit :

Provided further that when the licence for any private warehouse is cancelled, the owner of any goods warehoused therein shall, within seven days from the date on which notice of such cancellation is given or within such extended period as the proper officer may allow, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation.

(2) Where any warehoused goods -

(i) specified in sub-clause (a) or sub-clause (aa) of sub-section (1), remain in a warehouse beyond the period specified in that sub-section by reason of extension of the aforesaid period or otherwise, interest at such rate as is specified in section 47 shall be payable, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said warehousing period till the date of payment of duty on the warehoused goods;

(ii) specified in sub-clause (b) of sub-section (1), remain in a warehouse beyond a period of ninety days, interest shall be payable at such rate or rates not exceeding the rate specified in section 47, as may be fixed by the Board, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused 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 the Board may, if it considers it necessary so to do in the public interest, by order and under circumstances of an exceptional nature, to be specified in such order, waive the whole or part of any interest payable under this section in respect of any warehoused goods:

Provided further that the Board may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section.

Explanation. - For the purposes of this section, "hundred per cent export oriented undertaking" has the same meaning as in Explanation 2 to sub-section (1) of section 3 of the Central Excises and Salt Act, 1944 (1 of 1944).

SECTION 62. Control over warehoused goods. - (1) All warehoused goods shall be subject to the control of the proper officer.

(2) No person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer.

(3) The proper officer may cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock.

(4) The proper officer shall have access to every part of a warehouse and power to examine the goods therein.

SECTION 63. Payment of rent and warehouse charges. - (1) The owner of any warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Commissioner of Customs.

(2) If any rent or warehouse charges are not paid within ten days from the date when they became due, the warehouse-keeper may, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the goods as the warehouse-keeper may select.

SECTION 64. Owner's right to deal with warehoused goods. - With the sanction of the proper officer and on payment of the prescribed fees, the owner of any goods may either before or after warehousing the same -

(a) inspect the goods;

(b) separate damaged or deteriorated goods from the rest;

(c) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;

(d) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;

(e) show the goods for sale; or

(f) take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples.

SECTION 65. Manufacture and other operations in relation to goods in a warehouse. - (1) With the sanction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs and subject to such conditions and on payment of such fees 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. - The importer of any warehoused goods may clear them 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 leviable on such goods and all penalties, rent, interest and other charges 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 rent, interest, other charges and 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 exportation. - (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 has been presented in respect of such goods in the prescribed form;
- (b) the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for exportation 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 re-exportation, 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) where any warehoused goods have been taken under section 64 as samples without payment of duty;
 - (d) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or exportation 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 all penalties, rent, interest and other charges 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 select.

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 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.