

## Chapter VII - Clearance of imported goods and export goods

**SECTION 44. Chapter not to apply to baggage and postal articles.** - The provisions of this Chapter shall not apply to (a) baggage, and (b) goods imported or to be exported by post.

### Clearance of Imported goods

**SECTION 45. Restrictions on custody and removal of imported goods.** - (1) Save as otherwise provided in any law for the time being in force, all imported goods unloaded in a customs area shall remain in the custody of such person as may be approved by the <sup>1</sup>[Principal Commissioner of Customs or Commissioner of Customs] until they are cleared for home consumption or are warehoused or are transhipped in accordance with the provisions of Chapter VIII.

(2) The person having custody of any imported goods in a customs area, whether under the provisions of sub-section (1) or under any law for the time being in force, -

(a) shall keep a record of such goods and send a copy thereof to the proper officer;

(b) shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer.

<sup>2</sup>[(3) Notwithstanding anything contained in any law for the time being in force, if any imported goods are pilfered after unloading thereof in a customs area while in the custody of a person referred to in sub-section (1), that person shall be liable to pay duty on such goods at the rate prevailing on the date of delivery of an import manifest or, as the case may be, an import report to the proper officer under section 30 for the arrival of the conveyance in which the said goods were carried.]

**SECTION 46. Entry of goods on importation.** - (1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting <sup>3</sup>[electronically] to the proper officer a bill of entry for home consumption or warehousing in the prescribed form :

<sup>4</sup>[**Provided** that the <sup>1</sup>[Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner:

**Provided** further that] if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

<sup>5</sup>[(3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that a bill of entry may be presented within thirty days of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.]

(4) The importer while presenting a bill of entry shall <sup>6</sup>[\* \* \*] make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

**SECTION 47. Clearance of goods for home consumption.** <sup>7</sup>[(1)] Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption:

<sup>8</sup>[**Provided** that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.]

<sup>9</sup>[(2) <sup>10</sup>[The importer shall pay the import duty

- (a) on the date of presentation of the bill of entry in the case of self assessment; or
- (b) within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or
- (c) in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf,

and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent. but not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.]

<sup>11</sup>[**Provided** that the Central Government may, by notification in the Official Gazette, specify the class or classes of importers who shall pay such duty electronically:

**Provided** further that] where the bill of entry is returned for payment of duty before the commencement of the Customs (Amendment) Act, 1991 and the importer has not paid such duty before such commencement, the date of return of such bill of entry to him shall be deemed to be the date of such commencement for the purpose of this section :]

<sup>12</sup> [<sup>13</sup>[**Provided** also that] if the Board is satisfied that it is necessary in the public interest so to do, it may, by order for reasons to be recorded, waive the whole or part of any interest payable under this section.]

**SECTION 48. Procedure in case of goods not cleared, warehoused, or transhipped within <sup>14</sup>[thirty days] after unloading.** - If any goods brought into India from a place outside India are not cleared for home consumption or warehoused or transhipped <sup>15</sup>[within <sup>16</sup>[thirty days]] from the date of the unloading thereof at a customs station or within such further time as the proper officer may allow or if the title to any imported goods is relinquished, such goods may, after notice to the importer and with the permission of the proper officer be sold by the person having the custody thereof :

**Provided** that -

- (a) animals, perishable goods and hazardous goods, may, with the permission of the proper officer, be sold at any time;
- (b) arms and ammunition may be sold at such time and place and in such manner as the Central Government may direct.

**Explanation.** - In this section, "arms" and "ammunition" have the meanings respectively assigned to them in the Arms Act, 1959 (54 of 1959).

<sup>17</sup>[**SECTION 49. Storage of imported goods in warehouse pending clearance or removal.**

**Where,**

- (a) in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time;
- (b) in the case of any imported dutiable goods, entered for warehousing, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be removed for deposit in a warehouse within a reasonable time,

the goods may pending clearance or removal, as the case may be, be permitted to be stored in a public warehouse for a period not exceeding thirty days:

Provided that the provisions of Chapter IX shall not apply to goods permitted to be stored in a public warehouse under this section:

Provided further that the Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a further period not exceeding thirty days at a time.]

### **Clearance of export goods**

**SECTION 50. Entry of goods for exportation.** - (1) The exporter of any goods shall make entry thereof by presenting <sup>18</sup>[electronically] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in the prescribed form.

<sup>19</sup>[**Provided** that the <sup>1</sup>[Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner.]

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall <sup>20</sup>[\* \* \*] make and subscribe to a declaration as to the truth of its contents.

**SECTION 51. Clearance of goods for exportation.** - <sup>21</sup>[(1)]Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation:

<sup>22</sup>[**Provided** that the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules.]

<sup>23</sup>[(2)]Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at such rate, not below five per cent and not exceeding thirty-six per cent per annum, as may be fixed by the Central Government, by notification in the Official Gazette.]

1. Substituted (w.e.f. 6-8-2014) by section 78 of Act 25 of 2014, for Commissioner of Customs . Earlier words Commissioner of Customs were substituted (w.e.f. 26-5-1995) by section 50 of Act 22 of 1995, for the words Collector of Customs .
2. Inserted by section 58 (w.e.f. 26-5-1995) of Act 22 of 1995.
  1. Inserted (w.e.f. 8-4-2011) by section 44(a)(i) of Act 8 of 2011.
3. Substituted for Provided that (w.e.f. 8-4-2011) by section 44(a)(ii) of Act 8 of 2011.
4. Substituted by section 100 of the Finance Act, 2017, for sub-section (3). Earlier sub-section (3) was amended by , section 82(i) of Act 25 of 2014 (w.e.f. 6-8-2014); by section 63 of Act 33 of 1996 (w.e.f. 28-9-1996); by section 50 of Act 22 of 1995, (w.e.f. 26-5-1995) and by section 8(a) of Act 25 of 1978, (w.e.f. 1-7-1978). Sub-section (3), before substitution by Finance Act, 2017, stood as under:

(3) A bill of entry under sub-section (1) may be presented at any time after the delivery of the import manifest or import report, as the case may be:

Provided that a bill of entry may be presented even before the delivery of such manifest or report, if the vessel or the aircraft or the vehicle by which the goods have been shipped for importation into India is expected to arrive within thirty days from the date of such presentation .

1. The words at the foot thereof omitted (w.e.f. 8-4-2011) by section 44(b) of the Act 8 of 2011.
2. Section 47 re-numbered as sub-section (1) of that section by section 3 of Act 55 of 1991, (w.e.f. 23-12-1991).
3. Inserted (w.e.f. 14-5-2016) by section 121(a) of the Finance Act, 2016 (28 of 2016).
4. Inserted (w.e.f. 23-12-1991) by section 3 of Act 55 of 1991.

10. Substituted by section 101 of the Finance Act, 2017. Earlier these words were substituted (w.e.f. 14-5-2016) by section 121(b) of the Finance Act, 2016 (28 of 2016). Before substitution by the Finance Act, 2017, these words stood as under:

Where the importer fails to pay the ;import duty, either in full or in part, within two days (excluding holidays)

- (a) from the date on which the bill of entry is returned to him for payment of duty; or
- (b) in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf,

he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not below ten per cent and not exceeding thirty-six per cent per annum, as maybe fixed by the Central Government, by notification in the Official Gazette.

11. Substituted (w.e.f. 28-5-2012) for Provided that by section 124(a) of the Act 23 of 2012.
12. Inserted (w.e.f. 26-5-1995) by section 59(b) of Act 22 of 1995.
13. Substituted (w.e.f. 28-5-2012) for Provided further that by section 124(b) of Act 23 of 2012.
14. Substituted for two months (w.e.f. 23-12-1991) by section 4(i) of Act 55 of 1991.
15. Substituted for within two months (w.e.f. 27-12-1985) by section 4 of Act 80 of 1985.
16. Substituted for forty-five days (w.e.f. 23-12-1991) by section 4 of Act 55 of 1991.
17. Substituted for section 49 by section 102 of the Finance Act, 2017. Earlier section 49 was amended by section 78 of Act 25 of 2014 (w.e.f. 6-8-2014); by section 73(b) of Act 17 of 2013 (w.e.f. 10-5-2013); by section 100 of Act 27 of 1999 (w.e.f. 11-5-1999). Section 49, before substitution by Finance Act, 2017, stood as under:

49. Storage of imported goods in warehouse pending clearance. Where in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time, the goods may, pending clearance, be permitted to be stored for a period not exceeding thirty days in a public warehouse, or in a private warehouse, if facilities for deposit in a public warehouse are not available; but such goods shall not be deemed to be warehouse goods for the purposes of this Act, and accordingly the provisions of Chapter IX shall not apply to such goods:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a further period not exceeding thirty days at a time.

18. Inserted (w.e.f. 8-4-2011) by section 45(a)(i) of Act 8 of 2011.

19. Inserted (w.e.f. 8-4-2011) by section 45(a)(ii) of Act 8 of 2011.

20. The words at the foot thereof omitted (w.e.f. 8-4-2011) by section 45(b) of Act 8 of 2011.

21. Section 51 renumbered as sub-section (1) thereof (w.e.f. 14-5-2016) by section 122 of the Finance Act, 2016.

22. Inserted (w.e.f. 14-5-2016) by section 122(a) of the Finance Act, 2016 (28 of 2016).

23. Inserted (w.e.f. 14-5-2016) by section 122(b) of the Finance Act, 2016 (28 of 2016).