

**OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-I & III
JAWAHAR LAL NEHRU CUSTOM HOUSE, NHAVA SHEVA.
RAIGAD, MAHARASHTRA**

F. No.S/22-Gen-150/2015-16 AM (I)

Dated:03.06.2016

FACILITY NOTICE No.78/2016

Subject:-Security under section 59 (3) of the Customs Act - reg.

Attention of all the Importers, Customs Brokers and the members of the Trade is invited to the Board's Circular No. 21/2016 Customs, dated 31.05.2016 on the above mentioned subject.

2. Section 59 of the Customs Act, 1962 (as amended by Finance Act 2016) requires an importer of goods filing a bill of entry for warehousing to submit a Bond in a sum equal to thrice the amount of duty assessed on the goods to be warehoused. The bond can be:

(a) for a single consignment; or

(b) a general bond to cover multiple imports by an importer within a specified period.

The format of the bonds has been prescribed under Circular no. 18/2016 - Cus dated 14.05.2016.

3. Sub-section (3) of section 59 prescribes that the importer, shall, in addition to the execution of a bond, furnish a security. The Board has reviewed the extant circulars regarding furnishing of security for transit as well as for storage of goods in the warehouse. In supersession of earlier instructions, the Board has approved the following:

4. Having regard to certain categories of importers / industries with long gestation / goods of strategic importance, the Board has decided that the requirement for security under section 59 (3) shall be dispensed in the following cases:

(i) Imports by the Central Government, State Government or a Union Territory administration or their undertakings;

(ii) Machinery, equipment and raw-materials imported for manufacture and installation of power generation units;

(iii) Project imports;

(iv) Petroleum products;

(v) Machinery, equipment and raw materials imported for building and fitment to ships;

(vi) Goods used in the units operating under manufacture-in-bond scheme (section 65);

(vii) Goods warehoused for supply to diplomats;

(viii) Goods warehoused and sold through duty free shops;

(ix) Goods warehoused for supply as ship stores / airlines stores;

4.1 Importers under Accredited Clients Program or approved as Authorised Economic Operators shall be required to provide security as per circulars issued in their regard.

5. In all other cases, security shall be obtained as follows:

Security for transit

The importer shall obtain comprehensive transit risk insurance policy to cover the transit of goods, equal in sum to the duty involved on the goods, in favour of the President of India. Transit will refer to movements from:

- (i) the customs station of import to the warehouse; or
- (ii) a warehouse to another warehouse; or
- (iii) a warehouse to a customs station for export.

However, in certain cases, such as, liquid bulk cargo being transported through pipelines, the requirement of transit insurance may be waived.

For storage

(a) Goods, other than sensitive goods mentioned in para (b) below, permitted to be warehoused, will be subject to the following requirement of security under section 59 (3):

(i) for the initial period of one year, there shall be no requirement of furnishing any security;

(ii) any extension in warehousing period beyond one year will be subject to the importer or owner furnishing a security by way of a bank guarantee for an amount equivalent to 25% of the sum of duty plus interest accrued thereon during the preceding period;

(iii) any extension in warehousing period exceeding two years will be subject to the importer or owner furnishing a security by way of a bank guarantee for an amount equivalent to 50% of the sum of duty plus interest accrued thereon during the preceding period;

(iv) any extension in warehousing period exceeding three years will be subject to the importer or owner furnishing a security by way of a bank guarantee for an amount equivalent to the duty involved and interest accrued thereon during the preceding period;

(b) For the purposes of obtaining security to be furnished under section 59, the following goods shall be regarded as sensitive:

(i) wines, spirits, liquors, whiskeys, brandy, beer, other alcoholic beverages etc.; and

(ii) cigars, cigarettes & manufactured products of tobacco;

(c) Sensitive goods to be warehoused in a public bonded warehouse will be subject to the following requirement of security under section 59(3):

(i) for the initial period of one year, there shall be no requirement of furnishing any security;

(ii) any extension in warehousing period beyond one year will be subject to the importer or owner furnishing a security by way of a bank guarantee for an amount equivalent to 50% of the sum of duty plus interest accrued thereon during the preceding period; and

(iii) any extension in warehousing period beyond two years will be subject to the importer or owner furnishing a security by way of a bank guarantee for an amount equivalent to the duty involved and interest accrued thereon during the preceding period;

(d) However, if the sensitive goods are proposed to be stored in the importer's private bonded warehouse:

(i) the importer shall furnish a security by way of a bank guarantee equivalent to the duty involved at the customs station of import before removal of the goods from the customs station of import. The importer shall therefore not require to furnish a transit insurance policy since the transit will be covered under the bank guarantee valid for transit and storage of the goods;

(ii) if any sensitive goods are proposed to be removed from a public warehouse to an importer's private bonded warehouse, the importer shall furnish a security by way of a bank guarantee, as applicable, at the customs station of import;

(iii) If any extension in the period of warehousing is sought, the importer shall furnish a security by way of a bank guarantee equivalent to the duty involved and interest accrued thereon during the preceding period.

6. Nothing contained in this circular shall apply to imports by 100% Export Oriented Units, EHTP Units & STPI Units. Extant circulars / conditions mentioned in the Foreign Trade Policy shall govern the same.

7. The Board has further decided that henceforth the period of warehousing shall be extended by the Principal Commissioner / Commissioner of Customs at the port of import. Accordingly, the security to be furnished by the importer or owner of the goods shall be furnished at the port of import where the bill of entry for warehousing was filed.

7.1 In terms of the first proviso to clause (c) of subsection (1) of Section 61, the Principal Commissioner or Commissioner of Customs, as the case may be, has been empowered to extend the period of warehousing, beyond the initial period of one year, for up to a year at a time. The second proviso provides that while extending the period of warehousing he may consider curtailing such period depending upon the likelihood of deterioration of the warehoused goods. In this connection, it may be noted that in cases referred in para 5, a security has to be obtained while granting extension. Alongside the security, a declaration that the goods shall not deteriorate during the period of extension being sought should also be obtained from the importer or owner.

7.2 However, where the Principal Commissioner or Commissioner of Customs is of the opinion that the goods are likely to deteriorate during the period for which extension is being sought, he can seek a report from the bond officer or ask the importer to produce from an expert in the particular field of relevance to the goods, a report regarding the condition of goods. Before seeking such a report, the Principal Commissioner or Commissioner of Customs may evaluate the following:

(i) the nature of goods;

(ii) their usual shelf life;

(iii) their manner of storage; and

(iv) the period for which the goods have already been warehoused.

7.3 In view of the importer providing security and a declaration, such verification should be resorted to only in exceptional cases.

8. Any difficulty noticed in the implementation may be brought to the notice of the undersigned.

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(D.K. SRINIVAS)

COMMISSIONER OF CUSTOMS, NS-I & III

Copy to:

1. The Pr. Chief Commissioner of Customs, Mumbai Zone- II.
2. The Pr. Commissioner / All the Commissioner of Customs, Mumbai Zone- II.
3. All Addl./Joint Commissioners of Customs, Mumbai Zone- II.
4. All Deputy/Asstt. Commissioners of Customs, Mumbai Zone- II.
5. The DC/EDI for uploading on the JNCH website.