

**OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-III
MUMBAI CUSTOMS ZONE-II
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
TAL:- URAN, DIST : RAIGAD. PIN – 400 707.**

F. No. S/22-Gen-402/2017-18/AM(I)/JNCH. Pt. I

Dated: 18.12.2017

PUBLIC NOTICE NO. 157/2017

Subject: Applicability of IGST / GST on goods transferred / sold while being deposited in a warehouse. -reg.

Attention of the Importers, Exporters, General Trade, Port Terminal Operator, Shipping Lines / Shipping Agents, CFSs coming under the jurisdiction of JNCH, Nhava Sheva and all other stakeholders is invited to Circular No. 46/2017-Customs, dated 24th November 2017 [F. No: 473/10/2017-LC] on the above subject issued consequent to various References received from the trade regarding levy of IGST/GST on sales of goods deposited in a customs bonded warehouse.

2. Chapter IX of the Customs Act provides for deposit of goods into a customs bonded warehouse licensed under section 57 or 58 or 58A without payment of duty and the procedures to be followed with respect to the warehoused goods. Sub-section (5) of section 59 provides that the importer is at liberty to transfer the ownership of such goods to another person while the goods remain deposited in the warehouse.

3. Value of imported goods, for purposes of charging customs duty, is determined as per section 14 of the Customs Act, 1962 at the time of import i.e. at the time of filing of the into-bond Bill of Entry. Any costs incurred after the import of goods, such as, port charges / port demurrage charges or costs for customs clearing or transporting the goods from the port to the customs bonded warehouse or costs of storage at the customs bonded warehouse, cannot be added to the value of the goods, for the purpose of levy of duties of customs at the stage of ex-bonding. Further, clause (b) of sub-section (1) of Section 15 of the Customs Act provides that the rate of duty or tariff valuation for an ex-bond Bill of Entry shall be the date on which it is filed. There is no provision to vary the assessable value of the goods at the ex-bond stage unless they are such goods on which tariff valuation applies. Therefore, duties of customs (BCD + IGST) shall be paid on the imported goods at the stage of ex-bonding on the value determined under section 14 of the Customs Act.

4. However, the transaction of sale / transfer etc. of the warehoused goods between the importer and any other person may be at a price higher than the

assessable value of such goods. Such a transaction squarely falls within the definition of "supply" as per section 7 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as, "CGST Act") and shall be taxable in terms of section 9 of the CGST Act read with section 20 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as, "IGST Act"). As per sub-section (2) of section 7 of the IGST Act, any supply of imported goods which takes place before they cross the customs frontiers of India, shall be treated as an inter-State supply. Thus, such a transaction of sale/transfer will be subject to IGST under the IGST Act. The value of such supply shall be determined in terms of section 15 of the CGST Act read with section 20 of the IGST Act and the rules made thereunder, without prejudice to the fact that customs duty (which includes BCD and applicable IGST payable under the Customs Tariff Act) will be levied and collected at the ex-bond stage.

5. Thus, in respect of goods stored in a customs bonded warehouse, there is a possibility that certain cases may involve an additional taxable event, if a transfer of ownership of warehoused goods takes place between the importer and another person, before clearance of the goods, whether for home consumption or for export.

5.1 In other words, when goods remain deposited in a customs bonded warehouse and are transferred by the importer to another person, the transaction will be subject to payment of IGST at the value determined as per section 20 of the IGST Act read with section 15 of the CGST Act, 2017 and the rules made thereunder and the tax liability shall be reckoned as per section 9 of the CGST Act, 2017.

5.2 However, it may be noted that so long as such goods remain deposited in the warehouse the customs duty to be collected shall remain deferred. Further, it is only when such goods are ex-bonded under section 68, shall the deferred duty be collected, at the value as had been determined under section 14 of the Customs Act, 1962 in addition to IGST leviable, as indicated at Para 5.1 above. **An illustrative chart on in bond sales and clearance thereof is attached as Annexure.**

6. In case of any difficulty, the specific issue may be brought to the notice of Deputy/Assistant Commissioner in charge of Bond Section / Appraising main (Import),NS-III (email address: appraisingmain.jnch@gov.in).

7. Action to be taken in terms of decisions taken in this Public Notice should be considered as standing order for the purpose of officers and staff.

Sd/-
(SUBHASH AGRAWAL)
Commissioner of Customs (NS-III).

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone-II, JNCH.
2. The Commissioner of Customs, NS-G/ NS-I/ NS-II / NS-IV / NS-V, JNCH.
3. All Additional / Joint Commissioners of Customs, JNCH.
4. All Deputy / Assistant Commissioner of Customs, JNCH.
5. All Sections / Groups of NS-G, NS-I, NS-II / NS-III/ NS-IV / NS-V, JNCH.
6. Representative of BCBA / FIEO for information and circulation among their members for information.
7. AC/DC, EDI for uploading on JNCH website immediately.

ANNEXURE

Sale of goods in a Bonded Warehouse and clearance thereof:

ILLUSTRATION

