

WAREHOUSE WEBINAR - FAQs

A webinar was conducted on 01.07.2021 at 4.00 pm, with all Warehouse Licencees under the jurisdiction of Bangalore City Customs Commissionerate, on issues pertaining to warehouse and IBMSO (In-Bond Manufacturing Sanction Order). The said Webinar was hosted by City Customs and included the following officers from department side:

Sri Baswaraj Nalegave, Commissioner

Sri Parry Vallal T, Joint Commissioner

Sri Naresh G, Joint Commissioner

Sri Padmaraj E, Deputy Commissioner

Smt Vanashree Hullanavar, Deputy Commissioner

Sri M Sreenivas, Assistant Commissioner

Sri Saravana Prabhu, Superintendent

Smt Umadevi K, Superintendent

As many as 85 participants attended the webinar.

The procedures to be followed after obtaining the Licence were highlighted and the practical port issues were discussed. Non compliances of warehouse regulations were explained and advised to comply with the same. The CRA points on warehouse audit were also brought to the notice of all for necessary compliance.

The Licencees put forth their issues seeking clarifications which were duly clarified by the Officers. The following are the questions raised by the licencees and answered by the Officers.

Q 1: When Capital Goods are imported and bonded in MOOWR warehouse, does extension of bonding period after one year is required?

Ans: A unit licensed under Sections 58 and 65 can import capital goods and warehouse them without payment of duty. Manufacture and other operations in a bonded warehouse is a duty deferment scheme. Thus both BCD and IGST on imports stand deferred. In the case of capital goods, the import duties (both BCD and IGST) stand deferred till they are cleared from the warehouse for home consumption or are exported. The capital goods can be cleared for home consumption as per Section 68 read with Section 61 of the Customs Act on payment of applicable duty without interest. The capital

goods can also be exported after use, without payment of duty as per Section 69 of the Customs Act. The duty deferment is without any time limitation.

Q.2: If the imported capital goods are cleared for home consumption after use, is depreciation available?

Ans: No. Depreciation is not available if imported capital goods (on which duty has been deferred) are cleared for home consumption after use in a Section 65 unit.

Q.3: If the imported capital goods are cleared for export after use, is depreciation available?

Ans: The imported capital goods (on which duty has been deferred) after use in a Section 65 unit can be exported without payment of duty as per Section 69 of the Customs Act. For the purposes of valuation of the export goods, the same will be as per the Section 14 of the Customs Act read with the Customs Valuation (Determination of Value of Export Goods) Rules 2007.

Q.4: Can all export benefits under FTP and Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR) be taken in Bonded warehouse simultaneously?

Ans: The eligibility to export benefits under FTP or IGCR would depend upon the respective scheme. If the scheme allows, unit operating under Section 65 has no impact on the eligibility. In other words, a unit operating under Section 65 can avail any other benefit, if the benefit scheme allows.

Q. 5: Is the triple duty bond to be executed for every port and ICD?

Ans: For all non-65 warehouses, Section 59 of the Customs Act requires the owner of the warehoused goods to execute a triple duty bond for the warehoused goods in the format prescribed in Circular No.18/2016. For all MOOWR (sec.65 units) the bond is prescribed under the Circular No.34/2019 as Annexure C which serves the requirements of both MOOWR, 2019 and Section 59 of the Customs Act. These bonds could be either consignment basis or as a running bond as stipulated in these circulars.

Q.6: If goods are cleared from PBW, is GST applicable?

Ans: To the extent that the resultant product (whether emerging out of manufacturing or other operations in the warehouse) is cleared for domestic consumption, such a transaction squarely falls within the ambit of “supply” under Section 7 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as the, “CGST Act”). It would therefore be taxable in terms of section 9 of the CGST Act, 2017 or section 5 of the Integrated Goods and Services Tax Act, 2017 depending upon the supply being intra-state or inter-state. The resultant product will thus be supplied from the warehouse to the domestic tariff area under the cover of GST invoice on the payment of appropriate GST and compensation cess, if any. As regards import duties payable on the imported goods contained in so much of the resultant products are concerned, same shall be paid at the time of supply of the resultant product from the warehouse for which the licensee shall have to file an ex-bond Bill of entry and such transactions shall be duly reflected in the accounts and should be reflected in monthly returns.

Q. 7: Is SION declaration necessary for every product? Some products are unique.

Ans: As per MOOWR, 2019, the applicant shall also inform the input-output norms, wherever considered necessary, for raw materials and final products and shall also inform the revised input-output norms in case of change therein.

Q.8: In a MOOWR unit, can the imported goods be removed for DTA clearances without putting them to manufacture? (As such clearances)

Ans: Since the warehouse operating under section 65 also functions as a warehouse licensed under section 58, the licensees can also import goods and clear them as such, for home consumption under section 68 on payment of import duties, along with interest as per subsection (2) of section 61 of the Act or clear them as such for export under section 69 of the Act. The licensees shall also be required to submit monthly returns in “Form B” as prescribed under Circular No. 25/2016-Cus dated 8th June 2016 in case the warehouse is used for such purposes i.e. non-section 65 purposes.

Q.9: For a MOOWR unit, is interest payable while ex-bonding? Difficulty in Filing Bill of Entry after one year.

Ans: as per Section 61 of the Customs Act, 1962 no interest is leviable on Ex-Bond Bills of Entry filed for clearing the goods for home consumption from a Section 65 warehouse. An Advisory No. 33/2020 has been issued and the same has been intimated to the trade vide Public Notice No.46/2020, wherein the following procedure is stipulated:

- (a) For identifying the Warehouses which have been licensed for manufacturing activity under the MOOWR, an option has been given under the ACB i.e. AC (Bonds) role in IEC-Warehouse Mapping menu in order to enter the IEC and

Warehouse Code for the purpose of mapping in the System once the license has been granted by the Principal Commissioner or Commissioner of Customs. This mapping will be used to validate the Bills of Entry filed with Sec 65 declaration.

- (b) An updated BE message format has been uploaded on ICEGATE website [https://icegate.gov.in/msg_guideline.html). Changes have been made in the BE_ITEM_SW_CTRL table of the BE. Annexure 1 to this facility Circular gives the field level details of these changes. This additional information pertains to Ex-Bond BEs filed for home clearance after manufacturing in the Sec 65 Warehouse and is required to be furnished for every item in such Ex Bond BE. Accordingly, items covered under Ex-Bond BE cleared from the particular Sec 65 Warehouse will attract no interest.

Q.10: Is re-export of capital goods to related party allowed?

Ans: The imported capital goods (on which duty has been deferred) after use in a Section 65 unit can be exported without payment of duty as per Section 69 of the Customs Act. For the purposes of valuation of the export goods, the same will be as per the Section 14 of the Customs Act read with the Customs Valuation (Determination of Value of Export Goods) Rules 2007.

Q.11: The duty liability against imported Inputs used for activities permitted under IBMSO (and resultant products are sold in DTA), have to be discharged against warehousing B/E's and import invoices. When we file such ex bond menu on ICEGATE is requesting for GST invoices.

Ans: As per Para 8 of Circular 34/2019-Customs dated 01.10.2019. To the extent that the resultant product (whether emerging out of manufacturing or other operations in the warehouse) is cleared for domestic consumption, such a transaction squarely falls within the ambit of "supply" under Section 7 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as the, "CGST Act"). It would therefore be taxable in terms of section 9 of the CGST Act, 2017 or section 5 of the Integrated Goods and Services Tax Act, 2017 depending upon the supply being intra-state or inter-state. The resultant product will thus be supplied from the warehouse to the domestic tariff area **under the cover of GST invoice on the payment of appropriate GST and compensation cess, if any**. As regards import duties payable on the imported goods contained in so much of the resultant products are concerned, same shall be paid at the time of supply of the resultant product from the warehouse for which the **licensee shall have to file an ex-bond Bill of entry** and such transactions shall be duly reflected in the accounts prescribed under Annexure B.

Q.12: Validity period of Triple duty bonds may be defined, as different ports insisting bonds on quarterly basis.

Ans: For all non-65 warehouses, Section 59 of the Customs Act requires the owner of the warehoused goods to execute a triple duty bond for the warehoused goods in the format prescribed in Circular No.18/2016, as per which The bond will remain valid till the warehoused goods are duly cleared for home consumption or for export from the warehouse and will also cover the movement of goods from the customs station of import to the warehouse or from one warehouse to another as well as for the due accounting of goods while stored in a warehouse.

For all MOOWR (sec.65 units) the bond is prescribed under the Circular No.34/2019 as Annexure C which serves the requirements of both MOOWR, 2019 and Section 59 of the Customs Act. Though there is no validity mentioned, the bond is executed in respect of warehousing of goods to be imported by the licensee during the period from _____ to _____ (both days inclusive).

These bonds could be either consignment basis or as a running bond as stipulated in these circulars.

Q.13: Impact on EDD, if imported from related party, under MOOWR.

Ans: The imports from related party are governed by the Customs Valuation (Determination of Price of Imported Goods) Rules 2007. Further, as per Board Circular 5/2016, the Board has decided that while reference to SVB be under provisional assessment, no security in the form of EDD shall be obtained from the importers. However if the importer fails to provide documents and information required for SVB inquiries, within 60 days of such request, security deposit at a rate of 5% of the declared assessable value shall be imposed for a period not exceeding the next three months. Simultaneously, the importer shall be granted further 60 days to comply.

Q.14: Ex-bond BE filing and duty payment for imported raw materials used for domestic sales, whether duty to be paid case to case or else monthly once?

Ans: Manufacture and other operations in a bonded warehouse is a duty deferment scheme. Thus both BCD and IGST on imports stand deferred. In the case of goods other than capital goods, the import duties (both BCD and IGST) stand deferred till they are cleared from the warehouse for home consumption, and no interest is payable on duty. The duties (without any interest) are to be paid only when the resultant goods are being cleared for home consumption. Thus the duty payment is to be made at the time of clearance to home consumption. However, the intimation/details of such duty payments may be furnished to the WMC cell once a month along with the monthly returns.

Q.15: Job Work- We are accepting a Job work order from foreign land (from Our own company's other unit or Completely other company unit) . In such case what all procedures we need to follow to inward those materials/part at our site in India (we

need to know how to file BOE for those shipment under MOOWR and what declaration to be filed after Job work is completed and exported back).

Ans: Circular No. 48/2020 cus dt 27.10.2020 and City Customs Public Notice No. 16/2021 dt 05.04.2021 may please be referred for detailed procedures and clarifications.

Q.16: We have raw material supplies from SEZ Suppliers and they are unable to execute one time lock activity while shipping the goods from SEZ to our Bonded ware house, how to address this? (Usually, we get Loose goods from them.)

Ans: Circular No. 48/2020 cus dt 27.10.2020 and City Customs Public Notice No. 16/2021 dt 05.04.2021 may please be referred for detailed procedures and clarifications. For containerized cargo, self sealing permission may be obtained from the Commissioner of Customs. There is no self-sealing permission for non-containerised cargo.

Q.17: We import cutting tools for our production process , once we import those tools under MOOWR , how to capture the consumption of those tool to file monthly returns in MOOWR.

Ans: It is presumed that these tools are imported as capital goods. The payment of duty on the finished goods is clarified in Paras 8 and 9 of the Circular No. 34/2019. Duty on the capital goods would be payable if the capital goods itself are cleared into the domestic market (home consumption). Thus the duty on the capital goods does not get incorporated on the finished goods. Thus no extra duty on finished goods cleared into DTA is payable on account of imported capital goods (on which duty has been deferred).

Q.18: Whether a Sec.65 unit can send goods outside for jobwork, if so procedure to follow may be stated.

Q.19: Whether a sec.65 unit can receive goods into MOOWR, for jobwork, if so what is the procedure to be followed.

Q. 20: What is the procedure to procure goods from SEZ units into MOOWR.

Ans: For all the three above, detailed procedure has already been prescribed in the Public Notice No.16/2021 dt 05.04.2021 issued by this office.