Warehousing Provisions under Customs Act 1962

Warehousing Station – Section 9

A warehousing station means a place declared as a warehousing station under section 9 by the CBEC. The public warehouses are appointed (U/s 57) and private warehouses are licensed (U/s 58) at warehousing stations. The Board has delegated its power for declaring places to be warehousing stations to the Chief Commissioner of Customs.

Guidelines for declaration of warehousing stations

1. The industrial development of the proposed area and the need for warehousing of imported goods should be assessed.

2. Only those places should be notified where adequate facilities are available for appointing public bonded warehouses.

3. Adequate Customs/Central Excise staff should be available in the vicinity of the proposed warehousing stations and necessary arrangements for training etc of the staff should be made.

Public bonded warehouses – Section 57

Provisions contained in section 57. Appointed by the AC/DC. Dutiable goods imported by any importer may be deposited.

Private bonded warehouses – Section 58

Provisions contained in section 58. Licensed by the AC/DC. Goods imported by or on behalf of the licensee may be deposited generally. But in the absence of facilities for deposit in public warehouses, then such other imported goods may also be deposited.

Cancellation of Private warehousing License by AC/DC

By serving one month’s notice in writing to the licensee, or

If the licensee has contravened any of the provisions of Customs Act 1962 or the Rules/Regulations or committed breach of any of the conditions of the license.

However before such cancellation the licensee shall be given a reasonable opportunity of being heard.

Warehousing Bond – Section 59

1. The importer who intends to warehouse his goods, which are imported , is required to bind himself by a bond of an amount equal to double the amount of total duty determined with necessary surety or security.

2. However the importer may be permitted by the AC/DC to file a general bond to cover imported goods warehoused by him during a particular period.

3. Continuity of Bond

   In case goods are transferred to another person or they are moved to a different warehouse, the bond executed shall continue to remain.

   In case entire goods or any part of goods 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 transferred goods. In such a case the liability of the transferor will stand reduced by the amount equal to the amount of bond executed by the transferee.

Section 60 – only after execution of warehousing bond, the proper officer may make an order permitting deposit of such goods in warehouse.

Section 61 – Period for which goods may remain in the warehouse after order u/s 60

1. Capital Goods for use in any 100% EOU – till the expiry of 5 years

2. Other than cap.goods for use in any 100% EOU - till the expiry of 3 years

3. In case of any other goods - till the expiry of 1 year

In case of 1 & 2 above, the period can be extended to such extend as the Commissioner thinks fit. In case of 3 above, the above period can be extended by the commissioner for a period not exceeding 6 months and by the chief commissioner for such further period as he may deem fit. In case of deteriorated goods the aforesaid period of 1 year may be reduced by the commissioner to such shorter period as he deems fit.

In case license for a warehouse is cancelled, the owner of any goods, within 7 days from the date on which such cancellation is given, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation.

Interest @ 15% p.a. to be charged after the expiry of 5 and 3 years in case 1 and 2 and the expiry of 90 days in case 3 till the date of payment of duty.

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 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 -

- inspect the goods;
- separate damaged or deteriorated goods from the rest;
- sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;
- deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
- show the goods for sale; or
- 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

The owner of any warehoused goods may carry on any manufacturing process or other operations in relation to warehoused goods,

- With the sanction of AC/DC; and
- Subject to the prescribed conditions; and
- On payment of the prescribed fees.

Waste or refuse arising out of manufacturing or other operations

A. If the finished products are cleared for home consumption on payment of appropriate duty of customs, then appropriate duty of customs should be levied on the imported goods content in the waste or refuse.
B. If the finished products are exported, then the amount of import duty on the quantity of the warehoused goods contained in such waste or refuse shall be remitted, provided

    a. Such waste or refuse is destroyed, or
    b. Duty is paid on such waste/refuse as if it had been imported into India in that form.

Relevant date for determination of rate of duty on ,

Finished products – As per section 15 (1) of Customs Act.
Imported material content in the waste/refuse – on the date of payment of duty.

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.

Relinquishment of title on warehoused goods

The owner of any warehoused goods may relinquish his title to such warehoused goods only;

At any time before an order for clearance of goods for home consumption has been made, and

Upon payment of rent, interest and other charges and penalties ,if any, in respect of the goods and on such relinquishment he shall not be liable to pay duty thereon.

No relinquishment in case of offence

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

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.

Section 70 – Allowance in case of volatile goods

The AC/DC of customs is empowered to remit the import duty leviable on such shortage/deficiency if following conditions are satisfied.

A. The goods are found deficient in quantity at the time of removal from the bonded warehouse

B. This storage or deficiency is on account of natural loss , ie , evaporation etc.

C. Such goods are notified by the central Government. [Aviation fuel, motor spirit, mineral, turpentine, acetone, menthol, kerosene, high speed diesel oil, wine, spirit and beer kept in casks have been notified by the central Govt]

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.

Instances of improper removal

- a where any warehoused goods are removed from a warehouse in contravention of section 71;
- 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;
- where any warehoused goods have been taken under section 64 as samples without payment of duty;
- 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

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 to the person who has executed or is entitled to receive it.

****