

**12.1 STATUTORY PROVISIONS**

Rule 20 of the Central Excise Rules 2002, contains provisions relating to warehousing.

Under Rule 20(1), the Central Government is authorised to extend the warehousing provisions by issue of notifications. Warehousing allows removal of goods from factory to warehouse or from one warehouse to another warehouse without payment of duty.

Under Rule 20(2) the Board is authorised to prescribe the conditions, limitations and safeguards subject to which this procedure would operate.

Rule 20(3) fixes the responsibility of payment of duty on goods removed from factory to warehouse or one warehouse to another on the consignee. However, if the goods despatched are not received in the warehouse, the liability will be on the consignor.

The procedure for warehousing and export warehousing is given by the Board in its guidelines issued in the form of Central Excise Manual issued on 1<sup>st</sup> September, 2001, the salient features of which are set out below.

1. Facility of warehousing of excisable goods without payment of duty has been provided in respect of the specified commodities by Notification No.17/2004 CE(NT) dated 4<sup>th</sup> September, 2004. The Central Board of Excise and Customs has also specified detailed procedure including the conditions, limitations and safeguards for removal of excisable goods from warehouse.
2. Any goods warehoused may be left in the warehouse in which they are deposited, or in any warehouse to which such goods have been removed, till the expiry of three years from the date on which such goods were first warehoused.

**12.2 PLACE OF REGISTRATION OF WAREHOUSE**

The Commissioner of Central Excise will specify the places under his jurisdiction where

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warehouse can be registered, by issuing Trade Notice. Any person desiring to have warehouse will get himself registered under the provisions of Rule 9 of the said Rules.

### **12.3 PROCEDURE FOR WAREHOUSING OF EXCISABLE GOODS REMOVED FROM A FACTORY OR A WAREHOUSE**

1. The consignor (i.e. the manufacturer or the registered person of the warehouse) shall prepare an application for removal of goods from a factory or a warehouse to another warehouse in quadruplicate in the specified Form.
2. The consignor shall also prepare an invoice in the manner specified in Rule 11 of the said Rules in respect of the goods proposed to be removed from his factory or warehouse.
3. The consignor shall send the original, duplicate and triplicate application and duplicate invoice along with the goods to the warehouse of destination.
4. The consignor shall send quadruplicate copy of the application to the Superintendent-in-charge of his factory or warehouse within twenty-four hours of removal of the consignment.
5. On arrival of the goods at the warehouse of destination, the consignee (i.e. the registered person of the warehouse who receives the excisable goods from the factory or a warehouse) shall, within twenty-four hours of the arrival of goods, verify the same with all the three copies of the application. The consignee shall send the original application to the Superintendent-in-charge of his warehouse, duplicate to the consignor and retain the triplicate for his record.
6. The Superintendent-in-charge of the consignee shall countersign the application received by him and send it to the Superintendent-in-charge of the consignor.
7. The consignor shall retain the duplicate application duly endorsed by the consignee for his record.

### **12.4 FAILURE TO RECEIVE A WAREHOUSING CERTIFICATE**

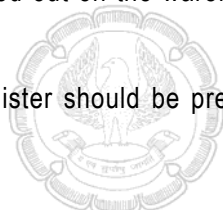
The consignor should receive the duplicate copy of the warehousing certificate, duly endorsed by the consignee, within ninety days after the removal of the goods. If the warehousing certificate is not received within ninety days of the removal or such extended period as the Commissioner may allow, the consignor shall pay appropriate duty leviable on such goods.

If the Superintendent-in-charge of the consignor of the excisable goods does not receive the original warehousing certificate, duly endorsed by the consignee and countersigned by the Superintendent-in-charge of the consignee, within ninety days of the removal of the goods, weekly reminders must be issued by him to the Superintendent-in-charge of the consignee. If despite such reminders the original warehousing certificate is not received within a further period of sixty days after the expiry of the ninety days period, the Superintendent-in-charge of the consignor shall inform his Assistant Commissioner/ Deputy Commissioner who shall either secure a satisfactory proof of the goods having been duly received by the consignee or ensure that the duty of excise due on the goods not received at destination is recovered from the consignor.

### **12.5 ACCOUNTAL OF GOODS IN A WAREHOUSE**

The registered person of the warehouse shall maintain a register showing all entries in to and removals of the goods from his warehouse and shall indicate the value, quantity of the goods removed, their marks and numbers as well as the rate of duty and amount of duty involved. The processes carried out on the warehoused goods, if any, shall also be recorded.

The first and last pages of the register should be pre-authenticated by the owner of the warehouse or his authorised agent.



### **12.6 RESPONSIBILITY OF THE REGISTERED PERSON**

The registered person of the warehouse shall be responsible for due reception of the goods in to the warehouse and delivery therefrom including their safety during the period they are lodged in the warehouse.

The registered person shall be responsible for the payment of penalty or interest leviable in respect of the goods which are warehoused as per the provisions of the Central Excise Act, 1944 and the rules made thereunder.

### **12.7 REVOKED OR SUSPENDED REGISTRATION OF A WAREHOUSE**

If the registration of a warehouse is revoked or suspended, the excisable goods lodged therein shall either be cleared for home consumption on payment of duty or shall be removed to another warehouse without payment of duty.

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### **12.8 WAREHOUSE TO STORE GOODS BELONGING TO THE REGISTERED PERSON**

A warehouse shall be used solely for storing excisable goods belonging to the registered person of the warehouse alone. He shall not admit or retain in the warehouse any excisable goods on which duty has been paid.

The Commissioner of Central Excise having jurisdiction over the warehouse may permit storage of excisable goods along with the excisable goods belonging to another manufacturer.

The Commissioner of Central Excise having jurisdiction over the warehouse may permit the registered person of the warehouse to store duty paid excisable goods or duty paid imported goods along with non-duty paid excisable goods in the warehouse.

### **12.9 REGISTERED PERSON'S RIGHT TO DEAL WITH THE WAREHOUSED GOODS**

The owner of the warehouse may sort, separate, pack or re-pack the goods and make such alterations therein as may be necessary for the preservation, sale or disposal thereof.

### **12.10 EXPORT WAREHOUSING**

In pursuance of sub-rule (1) of rule 20 of the Central Excise Rules, 2002 (hereinafter referred to as the 'said Rules') the Board has issued notification no. 46/2001-Central Excise (N.T.) dated 26<sup>th</sup> June, 2001 which has come into force on 1<sup>st</sup> July, 2001, whereby the warehousing provisions have been extended to all excisable goods specified in the First Schedule to the Central Excise Tariff Act, 1985 intended for storage in a warehouse registered at such places as may be specified by the Board and export therefrom.

In pursuance of the above-mentioned notification the Board has also specified by Circular No. 581/18/2001-CX dated 29<sup>th</sup> June, 2001 the places and class of persons to whom the provisions of the notification No.46/2001-Central Excise (N.T.) dated 26<sup>th</sup> June, 2001 shall apply. In the same Circular, the Board has specified the conditions (including interest), limitations, safeguards and procedures.

**12.10.1 Eligibility:** The facility of export warehousing is available to the following exporters and places, namely: -

**1. Exporters:** The exporters who have been accorded status of Super Star Trading House or Star Trading House, the foreign departmental stores of repute and the automobiles manufacturers who have signed Memorandum of Understanding with

Directorate General of Foreign Trade in the Ministry of Commerce and Industry.

**2. Places:** The warehouses may be established and registered in Ahmedabad, Bangalore, Kolkata, Chennai, Delhi, Hyderabad, Jaipur, Kanpur, Ludhiana, District of Pune and Mumbai.

**12.10.2 Conditions of export warehousing:** The exporter shall furnish a general Bond (B-3) under Rule 19 of the said Rules read with notifications issued thereunder, backed by twenty five per cent security of the bond amount.

Where any goods are diverted to home consumption from the warehouse, interest shall be charged at the rate of twenty four per cent per annum on the duty payable, calculated from the date of clearance from the factory of production or any other premises approved by the Commissioner, till the date of payment of duty and clearances.

**12.10.3 Registration:** The exporter shall make a written request along with application for registration under Rule 9 to the Commissioner for being allowed to establish a export warehouse under this provision. The Commissioner may cause an enquiry to be made in respect of the security of the premise for warehouse indicated by the exporter in the application. If found in order, the Commissioner will accord his approval subject to such directions, terms and manners as he may specify and forward the application to the jurisdictional Superintendent of Central Excise through the jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise (having jurisdiction over the premise) within seven working days of the receipt of the application.

The registration certificate containing registration number will be issued by the jurisdictional Superintendent of Central Excise immediately on receipt. Procedure relating to registration will be same as notified in Notification No.35/2001-Central Excise (N.T.) dated 26.6.2001.

**12.10.4 Execution of bond :** Every exporter registered in the aforesaid manner, shall execute before the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the warehouse a general bond under Rule 19 of the said Rules for export of goods from the warehouse in the B-3 Bond (General Security) Format prescribed. The exporter availing this scheme shall be required to furnish security equal to 25% of the bond amount. In case any bank guarantees are furnished, it shall be the sole responsibility of the exporter to renew its validity from time to time.

A 'Running Bond Account' will be opened in the format specified. This register shall be maintained by the exporter in the warehouse and shall be made available to the officer-in-

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charge or officers of Internal Audit for scrutiny and checking.

**12.10.5 Removal of goods to warehouse:** For removal of excisable goods from a factory or any other premise approved by the Commissioner to a warehouse, procedure laid down in Circular No. 579/16/2001-CX dated 26.6.2001 issued under Rule 20 of the said Rules will be applicable. It is clarified that the Notification No. 46/2001-CE(NT) dated 26.6.2001 do not cover removal from one warehouse to another.

The Central Excise Officer in-charge of the warehouse will issue certificate of removal in duplicate in the Form CT-2 specified indicating details of the general bond executed by the exporter. The CT-2 shall bear pre-printed serial numbers running for the whole financial year beginning on the 1st April of each year. The said officer will issue twenty five CT-2 certificates at a time, signing each leaf with the official stamp. More certificates can be issued if it is so requested by the exporter on the grounds of large number of procurements. The exporter will fill up the relevant information in CT-2. After making provisional debit in the Running Bond Account, he will indicate the same in the CT-2. One copy of CT-2 will be forwarded to Officer-in charge of the warehouse. One copy will be sent to the consignor and one copy will remain with the exporter.

The consignor will prepare an application for removal in the Form specified in Annexure-IV (hereinafter referred to as ARE-3) and an invoice (under Rule 8 taking into account CT-2 certificate) and follow the procedure specified in Circular No. 579/16/2001-CX dated 26.6.2001 issued under Rule 20. The serial number of the corresponding CT-2 shall be mentioned on the top of the each copy of ARE-3. Any nominal variations between the provisional debit indicated in the CT-2 and the actual duty involved in the goods removed as indicated in ARE-3, can be ignored. Immediately on receipt of goods, the provisional debit shall be converted into actual debit on the basis of the details mentioned in ARE-3.

The officer-in-charge of the warehouse will countersign application and despatch to the Range Office having jurisdiction over the factory / other approved premise of removal within one working day of receipt of the application. He will make suitable entry in his own record accordingly.

The exporter [warehouse owner] shall maintain private record (Warehousing Register) containing information relating to details of ARE-3 and invoice, date of warehousing certificate, description of goods received including marks and numbers, quantity, value, amount of duty, details of operation in the warehouse and new packages and their marks and number, clearance from the warehouse for export (ARE-1 No., Invoice No., quantity, value, duty) and clearance for home consumption. They shall produce this Register to the

Central Excise Officers in-charge of the warehouse whenever required.

**12.10.6 Receipt and storage of goods in warehouse:** Receipt of goods will be governed by the procedure specified Circular No. 579/16/2001-CX dated 26.6.2001 issued under rule 20.

Ten percent of the consignments, subject to minimum of two, received in a month will be randomly selected, spread over the entire month, for verification by officer-in-charge after the receipt of the written intimation.

Goods brought under the cover of each ARE-3 shall be stored separately or proper accountal shall be maintained, till these are exported or diverted for home-consumption.

**12.10.7 Packing, re-packing, labelling or re-labelling within the warehouse:** The operations of packing, re-packing, labelling or re-labelling in relation to excisable goods received and stored in the warehouse are be governed by the procedure specified under Rule 20. Suitable entries must be made in the Export-Warehouse register. In case of non-reconciliation of quantity, after adjusting any wastage or refuse, the differential quantity shall be treated as unaccounted and action for recovery of duty will be initiated.

The exporter may procure packing or labelling material and bring the same into the warehouse under the warehousing procedure itself. No duty paid goods will be permitted to be brought into the warehouse.

Where the process of packing, repacking, labelling or relabelling amounts to manufacture in terms of the provisions of the Central Excise Tariff Act, 1985, the goods permitted for clearance for home consumption shall be assessed accordingly.

**12.10.8 Goods supplied by a SSI unit exempted from registration:** An SSI Unit exempted from registration under Rule 9 of the said rules will also prepare ARE-3 against CT-2 except that he will use his own invoice. Registration under Rule 9 shall not be insisted. The Warehousing Certificate forwarded to the Range Office having jurisdiction over such SSI Unit shall be retained in the office and will be tallied with the details submitted by the SSI Unit in the quarterly statement. The procedure to be followed is based on Board's Circular No. 212/46/96-CX dated 20th May, 1996, which continues to be applicable under the said Rules. The clearances on those ARE-3 in respect of which Warehousing Certificate is not received within ninety days of removal or such extended period as the Commissioner may allow, will be treated as clearances for home-consumption. If the Warehousing Certificate is subsequently produced, the clearances, which were treated as "clearance for home consumption" as aforesaid, shall be expunged.

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**12.10.9 Clearance of goods for export outside India:** For the export of goods from the warehouse, the procedure relating to preparation of application for export (ARE.1), examination and sealing, acceptance of proof of export etc. shall be governed by Notification No. 42/2001-Central Excise (N.T.) dated 26.6.2001 and instructions applicable for this notification.

The requisite copies of application will be filed with the Deputy Commissioner or Assistant Commissioner having jurisdiction over the warehouse and with whom the Bond was executed, for acceptance of proof of export and issue of a certificate to this effect.

The credit in Running Bond Account shall be made by the exporter on the basis of the application (ARE.1) duly endorsed by Customs at the place of export evidencing that the goods have actually been exported. The exporter will submit list of ARE.1 along with the date of export for the goods exported in each month, within six months of the removal from the warehouse and the original copies of the respective ARE.1 duly certified by Customs authorities that the goods have actually been exported (containing Pass for Shipment Order). The exporter shall be liable to pay duty with interest where such proof of export is not available with him within six months from the date of removal from the warehouse.

The Superintendent in-charge of the warehouse is empowered to issue certified attested copies of ARE.1 (more than one copies may be required by exporter as one application (ARE.1) may consist of goods of several ARE-3s) and hand over to the exporter for forwarding to the factory whose goods were exported so that such factories can avail other export benefits, such as refund of Cenvat credit accumulated on account of export in terms of the Cenvat Credit Rules, 2004. This refund will be given only after goods covered on an ARE-3 is entirely exported. In case of any diversion to home-consumption, refund will be reduced on pro-rata basis. For the sake of clarification, it is stated that the removal from the factory of production to export warehouse on ARE-3 is 'removal under bond for export'. Thus, the manufacturer shall not be asked to reverse Cenvat Credit @ 10% of price of the said goods.

On request from exporter, copies of proof of export may be sent directly, by post to the Range Office having jurisdiction over the factory or handed over to the exporter in sealed cover for delivery to such Range Office.

Photocopies of the Shipping Bill/ Export Application and Bill of Lading duly attested by the Superintendent in-charge of the Warehouse along with certificate of proof of export should be accepted as valid documents for the purposes of refund of accumulated credit under

the Cenvat Credit Rules, 2004 on account of exports without payment of duty. The proof of export received directly or in official sealed cover from the Superintendent in-charge of the warehouse may be used to verify the authenticity.

Where neither the duplicate copy of ARE.1 nor the original copy of ARE-1 duly attested at the port of export, are made available within the time stipulated period of six months, it shall be presumed that export of goods cleared from warehouse has not taken place. The demand shall be raised by the Deputy/Assistant Commissioner having jurisdiction over the warehouse for non-fulfilment of the conditions of bond executed by the exporter.

**12.10.10 Diversion of goods for home consumption:** Goods can be diverted for home-consumption from the warehouse with the permission of the jurisdictional Deputy/Assistant Commissioner of Central Excise. The clearance shall be effected on invoice prepared under Rule 8 on payment of duty, interest and any other charges on TR-6 Challans and after making necessary entries in the export warehouse register maintained by the exporter in the warehouse. Credit will be permitted in the Running Bond Account equivalent to the duty involved in the goods so diverted, which shall not exceed amount of duty debited on the basis of ARE-3 on which such goods were received in the warehouse. If entire quantity is not diverted, calculation shall be done on pro-rata basis.

Goods can be diverted for home-consumption even after the clearance from the warehouse on ARE.1. For cancellation of documents, provisions of Notification No. 46/2001-CE(NT) dated 26.6.2001 shall be followed. The intimation shall be given to Deputy/Assistant Commissioner having jurisdiction over the warehouse. Credit in Running Bond Account will be permitted in the same manner as mentioned above.

Where the goods are diverted for home-consumption in full or in part the exporter shall be liable to pay interest @ 24% per annum on the amount of duty payable on such goods from the date of clearance from the factory of production or any other premises approved, till the date of payment of duty and clearance.

**12.10.11 Waiver of physical warehousing in case of exigency:** The officer- in-charge of the warehouse may permit waiver from physical warehousing (i.e. permitting export without physically storing the goods in the warehouse) where exporter so requests in writing provided all the formalities relating to record-keeping shall be completed in usual manner with suitable record in the Warehousing Register: 'warehousing waived'. This permission will be given in exceptional cases where delay occurred due to delayed supply from the factory or longer transit-period or requirement of immediate export or any other genuine reasons, provided the entire consignment is entered for export in the original

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packing. Such cases of permission granted will be reported to Superintendent-in-charge of the warehouse at the earliest.

**12.10.12 Providing of accommodation for the officer:** The exporter shall provide adequate office accommodation and furniture for the Officer deployed for examination and supervision, in the warehouse. Where the exporter is willing to bear the cost of the posting of Officers on “cost recovery basis”, the Commissioner, depending upon the administrative feasibility, may consider the deployment.

### **Self-examination questions**

1. Discuss the statutory provisions in respect of warehousing.
2. Describe the procedure for warehousing of excisable goods removed from a factory or a warehouse.
3. Discuss the provisions governing packing, re-packing, labelling or re-labelling within the warehouse in respect of export warehousing.
4. What will happen if the consignor fails to receive the warehousing certificate within 90 days?
5. Discuss the provisions in respect of waiver of physical warehousing in case of exigency.

