

ADMINISTRATIVE ASPECTS OF CUSTOMS ACT, 1962

6.1 APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, WAREHOUSING STATIONS, ETC.,

The entry/exit of carriers/passengers etc., is regulated in India by the Customs Act, 1962 which governs/regulates this entry/exit of different categories of vessels/crafts/goods/passengers etc., into or outside the country.

Under the Customs Act, Government is given the powers to appoint Customs ports and airports where alone the imported goods can be brought in for unloading or export goods loaded on ships or air crafts. Similar powers have been given to the Government to notify the places which alone shall be the Land Customs Stations for clearance of imported goods or goods to be exported by land or by inland water. Even the routes of passage by land and inland water into or out of the country can be regulated and these provisions have been made use of specially for regulating traffic for our neighboring countries like Nepal.

6.1.1 Customs port, airport, etc. : Section 2(10) defines a customs airport as any airport appointed under clause (a) of Section 7 to be a customs airport. Section 2(11) defines a customs area to mean the area of a customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities. In turn Section 2(13) defines a customs station to mean any customs port, customs airport or land customs station.

Section 7 of the Customs Act, 1962 empowers the Board to appoint by notification in the Official Gazette:

- (a) customs ports and customs airports,
- (b) inland container depots, for the unloading of imported goods and the loading of export goods or any class of such goods,
- (c) land customs stations for the clearance of goods imported or to be exported by land

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or inland water or any class of such goods,

- (d) the routes specified in the notification by which alone goods or any class of goods may pass by land or inland water into or out of India,
- (e) the coastal ports for the carrying on of trade in coastal goods or any class of such goods with all or any specified ports in India.

6.1.2 Notified Customs Ports:

SI No.	Notified Customs Ports
1	Port Blair
2	Vishakapatnam
3	Daman and Diu
4	Panaji Port
5	Kandla
6	Porbandar
7	New Mangalore
8	Cochin
9	Ratnagiri
10	Paradeep
11	Madras Sea Port
12	Pondicherry

6.1.3 Notified Customs Airports:

SI No.	Notified Customs Air Ports
1	Port Blair
2	Hyderabad
3	Borjhar (Guwahati)
4	Patna
5	Delhi
6	Ahmedabad
7	Srinagar
8	Bangalore
9	Cochin

10	Trivendrum
11	Indore
12	Sahar (Bombay)
13	Pune
14	Nagpur
15	Imphal
16	Jaipur
17	Madras
18	Lucknow
19	Calcutta
20	Agra

6.1.4 Inland Container Depots:

Sl No.	Notified Inland Container Depots
1	Hyderabad
2	Tuglakbad (Delhi)
3	Ahmedbad
4	Baroda
5	Faridabad
6	Bangalore
7	Balasore
8	Amritsar
9	Nagpur
10	Jaipur
11	Coimbatore
12	Kanpur

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6.1.5 Notified Land Custom Stations:

Sl No.	Notified Land Customs Stations
1	Amritsar Railway Station
2	Delhi Railway Station
3	Calcutta Jetties No 4 and 6
4	Howrah Railway Station
5	Phulbari
6	Foreign Post Office of Exchange, New Delhi
7	Sub-foreign Post Office in Special Economic Zone Complex, Cochin
8	Sub-foreign Post Office in Noida Export Processing Zone, Noida

6.2 POWER TO APPROVE LANDING PLACES AND SPECIFY LIMITS OF CUSTOMS AREA

Section 8 of the Customs Act, 1962 empowers the Commissioner of Customs to:

- (a) approve proper places in any customs port or customs airport or coastal port for the unloading and loading of goods or for any class of goods;
- (b) specify the limits of any customs area.

6.3 ADMINISTRATIVE SET UP

6.3.1 Classes of Officers: The administration of the Act has to be done by certain officers of customs. The Customs Act also specifies the class of officers who are responsible for the functioning of the law.

Section 3 of the Customs Act, specifies the classes of officers of customs namely:

- (a) Chief Commissioners of Customs;
- (b) Commissioners of Customs;
- (c) Commissioners of Customs (Appeals);
- (d) Joint Commissioners of Customs;
- (e) Deputy Commissioners of Customs;
- (f) Assistant Commissioners of Customs or Deputy Commissioners of Customs; and

- (g) Such other class of officers of customs as may be appointed for the purposes of this Act.

Among the other classes of officers of customs, the more important ones are:

- (a) Appraisers of customs, who do the assessment work of import and export goods, including classification, valuation and examination of the goods; and
- (b) Preventive Officers of Customs, who do the executive duties like
 - (i) Boarding and checking ships and aircrafts;
 - (ii) Clearing passengers and crew and their baggage;
 - (iii) Supervision and control over loading and unloading of cargo;
 - (iv) Preventing smuggling by checking suspects, patrolling the customs area, searching suspected premises, persons and vehicles.
 - (v) Interrogating suspects/witnesses and investigation.
- (c) Ministerial officers who maintain records, keep accounts, etc.
- (d) Chemical examiner, who tests samples of imported/export cargo for determination of true character of the goods for proper classification and value, necessary for determination of customs duty.

The above is the normal setup in the organization at the major ports of Bombay, Calcutta, Madras, Cochin, Visakapatnam, Kandla, Goa, known as major custom houses. In other customs ports/customs airports/land customs station, the job is carried out by the Central Excise Officers, who are having territorial jurisdiction, with similar designations.

6.3.2 Officers of CE Department : The other class of officers of the Central Excise Department are known as Superintendents and Inspectors of Central Excise. Since these officers are not officers of customs, it becomes necessary to empower them to be officers of customs for the purposes of doing customs work. Section 4(1) enables the Central Board of Excise and Customs (CBEC) to appoint such persons as it thinks fit to be the officers of Customs. This power was earlier vested with the Central Government. All Central Excise officers managing customs formations have been duly appointed by the Central Government in this behalf. All Superintendents of Central Excise Class I have been duly appointed to discharge the duties of Assistant Commissioner or Deputy Commissioner of Customs in their respective jurisdiction. [Refer M.F.(D.R. & I.) Notification No.144-Cus., dt 1-11-1969]

6.3.3 Officers of other departments: Apart from the regular customs and central excise formation, it becomes necessary to administer customs laws and regulations in all border areas where there are no customs formations. These places are manned or controlled by

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other Government officials like:

- (1) Border Security Police
- (2) Indo Tibetan Border Police
- (3) Coast Guard etc.

Similarly there are areas, where there is not much customs or central excise activity like Andaman and Nicobar Island, Lakshadweep, Mizoram, Manipur, Nagaland, Tripura and other North Eastern States. It has been found convenient to empower local revenue authorities and central and state police officials in this regard. The power to empower these officers with the powers and responsibilities of customs officers, is given to the Central Government under section 6 of the Act.

6.3.4 Powers of officers of customs (Section 5): The Board (CBEC) may appoint such persons as it thinks fit to be officers of customs. As per section 5 of the Customs Act, 1962, the powers of officers of customs are as under:

- (1) Subject to such conditions and limitations as the Board may impose, an officer of customs may exercise the powers and discharge the duties conferred or imposed on him under this Act.
- (2) An officer of customs may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of customs who is subordinate to him.
- (3) However, the Commissioner (Appeals) shall not exercise the powers and discharge the duties conferred or imposed on an officer of customs other than those specified in Chapter XV (Appeals and Revision) and section 108 (Power to summon persons for giving evidence).

6.3.5 Entrustment of functions of customs officers on certain other officers (Section 6):

The Central Government may, by notification in the Official Gazette, entrust either conditionally or unconditionally to any officer of the Central or the State Government or local authority any functions of the Board or any officer of customs under this Act..

6.4 WAREHOUSING STATIONS

It might so happen that the importer is not in a position to clear the imported goods into the country immediately owing to the financial requirement reasons. A facility had therefore been given under the law enabling such importers to store imported goods. The goods can be cleared for home consumption at a later date after payment of duty. The importer is charged with warehousing charges for this facility. This warehousing facility is a special feature of the Customs Act.

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The Central Board of Excise and Customs (the Board) may, by notification in the Official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.

Warehouse is defined as a public warehouse appointed under section 57 or a private warehouse licensed under sec. 58 [Sec.2(43)].

6.4.1 Warehousing Stations notified under Section 9 : Some of the major notified warehousing stations in different states are listed below:

Sl No.	State	Notified Warehousing stations
01	Gujarat	Ahmadabad City, Baroda, Gandhinagar, Indore, Mandvi (Kutch), Nadiad
02	Uttar Pradesh	Agra, Gorakhpur, Kanpur, Lucknow, Varanasi
03	Maharashtra	Ahmednagar, Bombay, Nagpur City, Pune City, Thane
04	Rajasthan	Alwar, Jaipur, Jodhpur city
05	Karnataka	Bangalore, Mangalore
06	Orissa	Bhubaneswar
07	West Bengal	Calcutta, Falta Export Processing Zone(FTZ)
08	Kerala	Cochin, Trivandrum, Kozhikode, Port Blair in Andamans
09	Tamil Nadu	Coimbatore, Cuddalore, Madras, Manali
10	Delhi	Delhi, Noida Export Processing Zone (FTZ)
11	Sikkim	Gangtok City
12	Bihar	Garhara, Patna
13	Assam	Gauhati
14	Madhya Pradesh	Gwalior City
15	Andhra Pradesh	Hyderabad, Kakinada, Vishakapatnam
16	Pondicherry	Pondicherry

6.4.2 Appointment of Public Warehouses: At any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may appoint public warehouses wherein dutiable goods may be deposited. [Section 57]

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It is incorrect to hold that reference to “public bonded warehouses” in this section is limited to only public bodies running a warehouse. There is nothing in this section which requires that only public bodies be appointed to run public warehouse. It only empowers the Assistant/Deputy Commissioner of Customs to appoint the public warehouse. This only means the warehouses where public may deposit goods without payment of duty. These public warehouses are situated within the city declared as warehousing station and is under the control of mainly Central Warehousing Corporation or the Municipal authorities of that City. The Act does not require that only warehouse owned by the Government or Government undertaking will be treated as public warehouses.

6.4.3 Licensing of private warehouses: At any warehousing station, the Assistant/Deputy Commissioner of Customs may licence private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited. [Section 58(1)]

Under this section, grant of licence for private bonded warehouse is given where public bonded warehouses are not available. Therefore, in Ludhiana, upon availability of public warehouse facility, the Assistant Collector refused to renew licence for private bonded warehouse [*Vardman Spinning & General Amills Ltd vs. UOI, 1981 ELT 911 (P&H)*]

The High Court of Rajasthan has held that licence for private bonded warehouse cannot be cancelled merely on coming into existence of a public warehouse. [*Baroda Rayons Corporation vs. Supdt of Customs, Spl Appeal No.714/81*]

The power to renew warehousing licence is a discretionary act. Merely because an application for renewal is made before expiry of existing licence, the authority is not bound to grant extension, particularly when the original licence is granted for a limited duration.

Self-examination questions

1. Discuss the provisions in respect of appointment of customs ports, airports etc.
2. What is a warehousing station? Discuss.
3. With reference to section 6 of the Customs Act, 1962, examine briefly whether the Government could entrust any functions of the Central Board of Excise and Customs or any officer of customs to any officer of any other department.
4. Briefly explain the powers of officers of Customs under section 5 of the Customs Act, 1962.
5. Write a brief note on licensing of private warehouses.