



वित्त मंत्रालय / Ministry of Finance

राजस्व विभाग / Department of Revenue

श्रीमती शुल्क आयुक्त के कार्यालय / Office of the Commissioner of Customs

कस्टम हाउस, नई हार्बर एस्टेट / Custom House, New Harbour Estate

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## **PUBLIC NOTICE NO. 01/2014**

Attention of the Custodians of all Container Freight Stations and Inland Container Depot under this Commissionerate is invited to CBEC's Circular No. 45/2013 dated 31<sup>st</sup> December 2013, Handling of Cargo in Customs Areas Regulations (HCCAR) 2009 and CBEC's letter F. No. 450/105/2008-Cus.IV dated 25<sup>th</sup> July 2008 giving clarifications regarding Outsourcing / Sub-letting / Transfer of Operations by CFS / ICD.

2. Regulation 6(1)(k) of the HCCAR 2009 mandates that the Custodian shall be responsible for the secure transit of the goods from the said customs area to any other customs area at the same or any other customs station in accordance with the permission granted by the Deputy Commissioner or Assistant Commissioner of Customs.

3. Regulation 6(2) of the HCCAR 2009 also mandates that *the Customs Cargo Service provider approved for custody of imported or export goods and for handling of such goods shall not lease, gift, sell or sublet or in any other manner transfer any of the premises in a customs area; or sub contract or outsource functions permitted or required to be carried out by him in terms of these regulations to any other person, without the written permission of the Commissioner of Customs.*

4. CBEC's letter F. No. 450/105/2008-Cus.IV dated 25<sup>th</sup> July 2008 also states as follows:

3. *The approval of the Government for setting up an ICD / CFS is given to the person who had applied for the same and hence, trading in custodianship, in full or in part, is against the principle of custodianship vested on the person to whom approval for setting up of an ICD / CFS and Letter of Intent was given. Hence, transfer of custodianship by way of lease, gift, sale or transfer in part or in full is not permissible. However, activities such as aggregation of cargo at ICD / CFS by bulk buyers abroad or segregation or similar operation, provision of fork lifts and other material-handling equipments, cleaning and housekeeping etc. which do not take away the primary responsibility of a custodian and the chain of custody of goods shall be permissible to be outsourced subject to prior approval of the jurisdictional Commissioner of Customs.*

4. *In view of the above, it is clarified that the jurisdictional Commissioner of Customs is the competent authority to decide in a specific case whether subletting / outsourcing of any of the functions of CFS/ICD should be permitted and to give approval or reject the same after taking into account the concerns of the revenue for safeguarding the duty on imported goods and ensuring that the custodian duly appointed by the Commissioner on the approval of Inter-Ministerial Committee (IMC) continues to be held responsible for proper discharge of his functions including the ones that have been outsourced with prior permission.*

5. Instances have come to notice of the Board where Customs Cargo Service Providers (CCSPs) have sub-contracted operations relating to handling of import/export cargo without written permission of the jurisdictional Commissioner of Customs. This has led to situation where cargo integrity at times has been compromised by such operators to whom the services were sub contracted by CCSP without getting prior approval from jurisdictional Commissioner of Customs. In a particular case one such unapproved operator to whom the CCSP had sub-contracted the work of transportation of export goods was found to be complicit in substitution of the export goods with goods prohibited for export. In this Commissionerate itself, there have been cases in which contents of the imported containers as well as export containers have been substituted while they were in transit between the Container Terminal at the Port and the CFS.

6. The transit of goods between the Container Terminal of the Port and the CFS/ICD is a very sensitive job to be carried out by the Custodians of the CFS/ICD. Some CCSPs have been unauthorizedly outsourcing this job to anyone; even to the Exporter or Importer or their Customs Brokers themselves. Needless to say that the importer / exporter transporting the imported containers before receiving the Customs Out of Charge or transporting the export containers after receiving the Let Export Order of the Customs is fraught with risk.

7. It is reiterated that under no circumstances, CCSPs approved for custody of imported or export goods and handling of such goods shall lease, gift, sell or sublet or in any other manner transfer any of the premises in a customs area; or sub-contract or in any other manner transfer any of the premises in a customs area; or sub-contract or outsource functions permitted or required to be carried out by him, including transporting the imported goods from the port to the CFS / ICD and transporting export goods from CFS/ICD to the port in terms of the HCCAR Regulations without the written approval of the Commissioner of Customs. Any violation of Regulation 6(2) of the HCCAR 2009 will be sternly dealt with according to law and the violators punished.

8. Difficulties faced, if any, may be brought to the notice of the undersigned.

  
(पि.वि. सुब्बा राव P.V. SUBBA RAO)  
आयुक्त COMMISSIONER

(Issued from file C.No. VIII/48/07/2012- Cus. Pol Dated 13.01.2014)

To.

1. The Additional Commissioner of Customs, Custom House, Tuticorin
2. All Assistant Commissioners of Customs, Custom House, Tuticorin / ICD, Tuticorin.
3. All Superintendents of CFS.
4. All Custodians of CFS / ICD.
5. NACFS, Tuticorin Chapter
6. Notice Board, Custom House, Tuticorin / ICD, Tuticorin.
7. Master File / Spare Copy.

Copy submitted to the Chief Commissioner of Customs (Preventive), Trichy.