

Public Notice No. 4/2006
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER OF CUSTOMS
CUSTOM HOUSE, NEW HARBOUR ESTATE, TUTICORIN – 628 004

PUBLIC NOTICE NO. 04/2006

The following Circulars received from the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs are enclosed herewith for the guidance of the Officers/ Importers/ Exporters/ Clearing Agents and Trading Public .

Sl.No
Circular No/File No
Subject

1
Circular No:10/2006-Cus.
Dated 14.02.2006
F.No:473/07/2005 LC
Warehousing -Waiver of interest on Customs duty on warehoused goods - consolidated instructions

2 Circular NO. 11/2005 - Cus
Dated 16.02.206
F.No. 442/12/204 -Cus-IV (Pt.II) Measures for expeditious disposal of goods - Procedure for disposal

(Issued from file C.No:VIII/9/1/2004-Cus. Pol)

Encl: As above.
Dated 21.02.2006

(M.PACKIAM)
JOINT COMMISSIONER OF CUSTOMS

Circular No. 10/2006-Customs
F.No.473/07/2005-LC
Government of India
Ministry of Finance|
Department of Revenue

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14 February, 2006

Sub : Warehousing – Waiver of interest on Customs duty on warehoused goods – consolidated instructions -- regarding –

Attention is invited to the guidelines/instructions contained in Board's letters/circulars F.No.475/82/92-LC, dated 27.12.1993, Circular No.57/2000-CUSTOMS, dated 07.07.2000 (F.No.475/6/99-LC), Circular No.62/2004-Cus., dated 29.10.2004 (F.No.473/07/2004-LC), Circular No.38/2005-CUSTOMS, dated 28.09.2005 (F.No.473/07/2005-LC) in the matter relating to waiver of interest on Customs duty on warehoused goods.

2. A need was felt in the Board to combine all these instructions into one consolidated circular on the aforesaid matter to ensure uniformity to consider the request for waiver of interest on Customs duty on any warehoused goods u/s 61 of the Customs Act, 1962. Accordingly, in supersession of these previous guidelines and circulars on the aforesaid matter, the instructions have been consolidated in this Circular.

3. Notification No.122/2004-CUSTOMS (NT), dated 25.10.2004 was issued, delegating powers of the Central Board of Excise and Customs relating to waiver of interest charged on Customs duty on warehoused goods, to the Chief Commissioners of Customs and Central Excise enhancing the monetary limit from Rs.15 lakhs to Rs.2 Crores under Section 61 of the Customs Act, 1962. However, all requests for waiver of interest on Customs duty on warehoused goods first be received at the Commissionerates who should examine the request. Such cases, where amount of interest is within the delegated powers of Chief Commissioner of Customs, need not be referred to the Board, and the same may be decided on merits and in accordance with the following guidelines and existent instructions. However, in case, the request falls beyond the delegated powers of the Chief Commissioner of Customs, the same may be forwarded to the Board with comments for consideration. It is desirable that the following guidelines are kept in mind while deciding or recommending the cases for waiver of interest, to ensure certain amount of uniformity in approach.

4. The guidelines where the interest would generally be waived have been framed keeping in mind the fact that for certain specified categories of imports such as ship stores and others, the import duty is finally not payable. In certain other cases, it was considered that in view of the production programme or nature of activity of the importers such as Ship Building Industry, Power Generating Project, the imported goods have to be generally retained for a longer period of time. Charging of interest would escalate the costs unnecessarily. In essence the guidelines cover the following cases. This would however be subject to the individual merits of a case :-

(i) Goods supplied as ship stores/aircraft stores

(ii) Goods supplied to diplomats

(iii) Goods used in the units operating under manufacture-in-bond scheme

(iv) Goods imported by 100% EOUs

(v) Goods warehoused and sold through duty free shops

(vi) Machinery, equipment and raw materials imported for building and fitment to ships

(vii) Petroleum products

(viii) Plant and Machinery imported for projects

(ix) Machinery, equipment and raw-materials imported for manufacture and installation of power generation units

(X) Goods imported under OGL and warehoused for subsequent clearance against valid advance licences/Import-Export Pass Book Scheme or any similar scheme

(xii) Goods imported in bulk by canalizing agencies/public sector trading or service agencies and warehoused for subsequent release for export production

(xii) Imports under EPCG Scheme

(iii) Import of Capital Goods by Public Sector Undertakings

5. In respect of cases at 4 (i) and (ii) above, the waiver of interest is normally to be considered only after ex-bond clearance of goods for the said purpose. For cases at 4 (iv), the waiver of interest shall be considered on completion of the export obligation period and for cases at 4 (vi), the waiver of interest shall be considered only after the imported goods have indeed been cleared from the warehouse for actual use for building and fitment to ships.

6. The issue as to whether interest in case of export of warehoused goods under Section 69 of the Customs Act, 1962 is payable in terms of the guidelines contained in Board's letter F.No.475/82/92-LC, dated 27.12.1993 OR whether the same is not required as per Hon'ble Supreme Court's judgement in the case of M/s Pratibha Processors Vs U.O.I., as reported in 1996 (88) E.L.T. 12 (SC), has also been examined in the Board. It has now been decided by the Board to adopt the ratio of Hon'ble Supreme Court's judgement in the case of M/s Pratibha Processors Vs. U.O.I (1996 (88) E.L.T. 12 (SC), wherein the Apex Court has held that the interest on warehoused goods is merely an accessory of the principal and, if the principal is not recovered/payable, so is the interest on it. The interest under Section 61 (2) of the Customs Act, 1962 has, thus, no independent or separate existence.

7. In all cases, which have been discussed in the para 4 above, the demand for interest are to be raised when due. The same are, however, not to be enforced, and on fulfillment of the purpose of import, the waiver of interest is to be decided within six months. In other words, the activity of the importers is to be allowed to continue, which includes clearance of the goods from the warehouse for the purpose of use, and only at the last stage after the goods have been cleared or at the time of de-bonding in cases of 100% EOUs, the waiver of interest issue is to be decided. This approach is necessary since, by and large, the interest demanded may finally merit waiver and the importer should be spared the hardship of first paying the interest and then, on waiver, seeking refund.

8. Cases which are not covered by the guidelines mentioned in para 4 above should be referred to the Board for decision. Similarly, cases relating to interest accrued on scrap generated during the manufacturing activity of 100% EOU should not be decided by the Chief Commissioners. These should be referred to the Board for decision.

9. The contents of this Circular may be brought to the notice of all the field formations and the Trade under your jurisdiction.

Circular No. 11/2006-Cus

F.No.442/12/2004-Cus.IV (Pt.II)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

February 16th, 2006

Subject:- Measures for expeditious disposal of goods –Procedure for disposal- Regarding

I am directed to invite your attention to the report of the Task Force by the Central Board of Excise and Customs as a sequel to the observations of the C & AG, vide order F.No. 442/12/2004-Cus.IV (Pt) dated 27.6.2005 to examine the various issues arising out of the audit review, and to suggest effective measures to be put in place as a permanent mechanism for expeditious disposal of the backlog of accumulated unclaimed, uncleared and confiscated cargo, and also to ensure that no delays in disposal take place in future. The Chief Commissioner of Customs, Delhi Zone was the Chairman of the Task Force.

2. The Board considered the recommendations of the Task Force. The Board has already issued Circular 50/2005-Cus dated 01.12.2005 and Circular 52/2005-Cus dated 10.12.2005 prescribing simplified procedure for disposal of goods. It has been decided that

(i) One time interim administrative measure, for disposal of all lots of unclaimed/uncleared goods pending for disposal for more than one year which have undergone auctions/tenders at least 3 times by the custodians and which are still lying unsold, are to be offered for final tender once more and the highest bid received to be accepted by the department. This process should be completed by 31st March, 2006.

(ii) Disposal of goods shall be done through e-auction/tender conducted regularly every month as prescribed under Board's instructions F.No. 442/12/2004Cus.IV Pt.II dated 06.10.2005.

(iii) All consignments of hazardous waste are to be disposed of in terms of Minsitry's Circular No. 31/04 dated 26.4.2004 laying down the guidelines given by Supreme Court.

3. Each Custom House will constitute Special Task Forces to conduct a comprehensive review of all the consignments indicated as being "detained" by the respective custodians, and reconcile the figures with their records. All pending action such as investigation,

adjudication, court proceedings should be referred to the concerned sections in the Custom House for being completed without delay. Details of consignments not found to be detained by Customs/DRI, should be intimated to the custodians for further action by them. Further, there might be considerable volume of old consignments which cannot be connected with any records. Details of such detained goods should also be intimated to the custodians who should put all such consignments for auction/tender in terms of the new procedure.

This action of identifying and reconciling the figures and intimating the custodians should be completed within 120 days of the date of issue of this Circular.

4. The Board has further decided that there would be a formal mechanism for interaction between the custodians and Customs to review the pendency of uncleared cargo and to reconcile the figures. It has been decided that there should be a quarterly meeting between the Customs and Custodians at each Custom station to review the pendency of uncleared/unclaimed cargo and to update the status of the pending consignments. Further in such review meetings, the pendency with the custodian should be matched with the figures of uncleared consignments as per Customs records.

5. The above instructions may be brought to the notice of all concerned immediately through an appropriate Public Notice.