

Public Notice No.12 /2007

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. 12/2007

The following Circular issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise & Customs is enclosed herewith for guidance of the Officers / Importers / Exporters / Clearing Agents and Trading Public.

Sl. No	Circular No./ Date/File No	Subject
1	CBEC Circular No.19/2007-Cus. dated 3.05.2007 issued from file F.No. DGEP/EOU/401/2006	Re-warehousing of goods imported and/or procured indigenously by EOU /EHTP /STP / BTP Units.
2	CBEC Circular No.24/2007-Cus. dated 2.7.2007 issued from file F.No. 401/229/2006-CUS.III	Delay in payment of customs duty refunds

(Issued from file C.No.VIII/48/05/07- Cus. Pol)

Dated: 03.09.2007 (A. PERUMAL)

Custom House, Tuticorin ASSISTANT COMMISSIONER (CUS POL)

Circular No. 19 /2007-Cus

F.No.DGEP/EOU/401/2006
Govt. of India,
Ministry of Finance,
Department of Revenue
Central Board of Excise & Customs
Directorate General of Export Promotion

New Delhi, the 3rd May, 2007

Sub: Re-warehousing of goods imported and/ or procured indigenously by EOU/EHTP/STP/BTP units -reg.

Attention is invited to Para 9 of the Board's circular No. 07/2006-Cus dated 13.01.2006 which lays down physical verification of receipt of imported/indigenously procured duty-free goods before issuing re-warehousing certificate. Trade has represented that compliance with this requirement is creating difficulties and causing delay in using the goods by EOU. The matter has been examined. Taking into consideration the need for trade facilitation, it is decided to waive the requirement for physical verification of imported/indigenously procured duty-free goods before issuing re-warehousing certificate by the proper officer in respect of units set up under EOU/EHTP/STP/BTP scheme having physical export turnover of Rs. 15 crores and above in the preceding financial year and having a clean track record as determined by the jurisdictional Commissioner of Customs or Central Excise (hereinafter referred to as 'the unit').

2. For self bonding/warehousing of imported/indigenous goods, the unit shall follow the procedure as mentioned herein below:

(a) The unit shall specify and intimate the Jurisdictional Asstt./Dy. Commissioner of Customs or Central Excise the particulars of person(s) who are nominated for examination and certification of re-warehousing.

(b) On arrival of the indigenous goods at the premises of the unit, the authorized person of the unit shall verify the number/quantity/weight/description/value/duty paid etc. with the particulars mentioned in the application (ARE-3) and invoice. If no discrepancy is found on verification, the authorized person shall warehouse the goods and make entry in the account/register containing information relating to details of ARE-3 and invoice, date of receipt and warehousing, description of goods including marks and number, quantity, value, rate and amount of duty and

shall affix his/her signature. The unit shall endorse certificate of warehousing on all copies of the application. The goods so warehoused can be used for the intended purpose. The unit shall, within one working day of arrival of goods, send original copy of ARE-3 to the Superintendent-in-charge of his unit, duplicate copy of ARE-3 to the consignor and retain triplicate copy of ARE-3 for his record. The Superintendent-in-charge shall countersign the original copy of ARE-3 received by him within one working day and send it to Superintendent-in-charge of the consignor. A photo copy of this application may be kept in the Range office for records.

(c) On arrival of the imported goods at the premises of the unit, the authorized person of the unit shall verify the number/quantity/weight/description/value/rate and amount of duty etc. with the content mentioned in the bill of entry. If no discrepancy is found on verification, the authorized person shall warehouse the goods after making entry in the account/register containing information relating to details of bill of entry for warehousing, date of receipt and warehousing, description of goods including marks and number, quantity, value, rate and amount of duty and affix his/her signature. The authorized person of the unit shall issue certificate of warehousing on all copies of the bill of entry as prescribed below. The goods so warehoused can be used for intended purpose.

Certificate of warehousing

I hereby certify that the consignment arrived at.....AM/PM on the day of.....20--. The goods have been examined by me and found to conform in all respect to the details given in the bill of entry/invoice, and these goods have been warehoused under entry No.....dated of the register maintained in the unit.

Place:

Date:

Signature & Stamp

(Name & Designation of the authorized person)

(d) In the case of manual bill of entry, the unit shall, within one working day of arrival of goods, send duplicate and triplicate copies of bill of entry duly endorsed with above certificate of warehousing to the Superintendent-in-charge of his unit and retain the quadruplicate copy for his record. The Superintendent-in-charge shall countersign with relevant entries on duplicate and triplicate copy of bill of entry received by him. The Superintendent-in-charge shall send duplicate copy of bill of entry to the port of import along with re-warehousing certificate, within one working day, and return triplicate copy to the unit for his records. Re-warehousing certificate and a photo copy of this bill of entry shall be kept in the Range office for records.

(e) In case of electronic bill of entry (EDI), the unit shall, within one working day of arrival of goods, send duplicate copy of bill of entry duly endorsed with above certificate of warehousing to the Superintendent-in-charge of his unit and retain triplicate copy for his record. The Superintendent-in-charge shall countersign the duplicate copy of bill of entry and issue re-warehousing certificate. The Superintendent-in-charge shall send re-warehousing certificate, within one working day, to port of import and return duplicate copy to the unit for his records. Re-warehousing certificate and a photo copy of this bill of entry shall be kept in the Range office for records.

(f) In the event of any discrepancy in the goods found during examination, the unit is required to immediately inform the Superintendent-in-charge. In such cases, self warehousing/bonding procedure shall not be followed.

(g) 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 ARE-3 and manual or electronic bill of entry, as the case may be. A report of verification and warehousing details shall be furnished by the officer in respect of consignments selected for verification in all copies of ARE-3 or bill of entry.

3. Wide publicity may please be given to these instructions by way of issuance of Public/Trade

Notice. Difficulties, if any, in implementation of these instructions, may be brought to the notice of the Directorate General of Export Promotion.

4. This issues with the approval of CBEC.

5. Receipt of this circular may kindly be acknowledged.

(Pawan Kumar Jain)
Addl. Director General (EP)

Circular No.24/2007-Cus

F. No. 401/229/2006-Cus.III
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

North Block, New Delhi.
02 July , 2007.

To

All Chief Commissioners of Customs.

All Chief Commissioners of Central Excise.

Principal Chief Controller of Accounts, CBEC.

Chief Departmental Representative, CESTAT.

All Commissioners of Central Excise.

All Commissioners of Customs.

Webmaster@icegate.gov.in.

Sir,

Subject: Delay in payment of customs duty refunds – reg.

I am directed to state that various representations from importers, exporters, trade and industry associations have been received in the Board regarding delay in payment of Customs duty refunds and the hardships faced in obtaining refunds from Customs field formations. Further, in a number of cases it has also come to the notice that the Courts and higher judicial authorities have taken adverse note of the delay caused in refund of duty.

2. Refund of customs duty involves acknowledgement and processing of refund application for sanction or rejection of refund in terms of section 27 of the Customs Act, 1962 and the Customs Refund Application (Form) Regulations, 1985. Further, Board have also issued instructions from time to time clarifying the doubts raised by field formations in dealing with the refund claims. (Board's circular No. 59/95-Cus dated 5.6.1995). Needless to say that if these procedures are followed properly, normally refund applications should be disposed off within the interest free time limit of three months.

3. However, it is noticed that the aspect of timely refund of Customs duty has not been given due importance by the field formations. Therefore, Board desires that in order to ensure expeditious disposal of Customs duty refund applications and to enhance transparency in refund disbursement as well as bring alertness among the officers, the following procedure should be followed:

4.1. System for receipt and acknowledgement of all Customs duty refund applications: All refund applications made by any person under section 27 of the Customs Act, whether by post or courier or personal delivery, shall be received by the department and a simple receipt, for having received the application that is said to have been filed as 'refund application' shall be issued immediately. At this stage the receipt should make it clear that the application has not been scrutinized for its completeness. These applications are required to be scrutinized for their completeness within ten working days of their receipt, for giving acknowledgement by the proper officer as per the Customs Refund Application (Form) Regulations, 1995. Hence, if any deficiency is found in the application or any document is required by the department, the same shall be informed at this stage of initial scrutiny itself within ten working days of the initial receipt. This will avoid any chance for raising repeated queries to the applicant, in a piece-meal manner and bring certainty in dealing with refund applications.

4.2. Processing of refund applications and their disposal: Application of refund found to be complete in all respects by Customs, after scrutiny as above, shall be processed on 'first-come-first served' basis so as to decide whether the whole or any part of the duty and interest paid by the applicant is refundable. If refund is due in such case, an order for refund is required to be passed in terms of sub-section (2) to section 27 or where the claim for refund is found liable to be rejected, as the case may be, a speaking order shall be passed giving complete reasons for the order. Further, in respect of the provisions of unjust enrichment, the order should indicate that this aspect has been examined based on the guidelines, if any, applicable; the order should also contain the findings of adjudicating authority on the documents produced in support of the claim and the basis for determining the amount as either refundable to the claimant or payable to the Consumer Welfare Fund or the claim not being admissible.

4.3. Issue of Cheque: Where the refund application has been admitted, whether in part or in full, and claimant is eligible for refund, the Deputy / Assistant Commissioner of Customs may ensure that payment is made to the party within 3 days of the order passed after due audit, if any. In all such cases refund of amount shall be paid to the applicant by a cheque on the authorised bank with which the sanctioning authority maintains account. After the cheque has been signed, it shall either be delivered to the claimant or his authorised representative personally when he next calls for it or sent to him by Registered Post 'Acknowledgement Due' at Government cost, on the basis of pre-receipt already obtained from the claimant.

4.4. Audit system: Existing instructions on audit scrutiny of refunds shall continue. Accordingly, all applications involving a refund of duty and/or interest of Rs. 5 lakhs or more shall be subjected to pre-audit as per the existing practice. The applications of refund of amount below Rs.50,000/- may be post-audited on the basis of the random selection by Deputy/Assistant Commissioner (Audit). The selection can be made in such a way that 25 per cent of the refund applications are post-audited. The applications of refund for amount between Rs.50,000/- and Rs. 5 lakhs should be compulsorily post audited. This audit system has been prescribed with a view to check improper sanction and payment of refunds. However, this does not dispense with the verification of the refund vouchers and the re-conciliation of refunds, which shall continue to be done by the Chief Account Officers. However, it may be ensured that where pre-audit is involved the action is completed at the earliest so that the disposal of refund applications is not unduly delayed.

5. **CVC's instructions:** Your attention is also invited to the instructions issued by the Central Vigilance Commission (CVC) under section 8(1)(h) of the CVC Act, 2003 to bring about greater transparency and accountability in the discharge of regulatory, enforcement and other public dealings of the Government organisations vide their Circular No.40/11/06 dated 22.11.2006. (Refer CVC website <http://www.cvc.nic.in/> under 'Improving Vigilance administration by leveraging technology'). These instructions, inter alia, require that status of individual applications / matters should be made available on the organisation's website and should be updated from time to time so that the applicants remain duly informed about the status of their applications. It is further stated that the manual records maintained presently for various purposes may continue.

6.1. System of maintaining online database on Customs duty refunds: In pursuance of the instructions of CVC, all Commissioners of Customs shall establish a mechanism for maintenance of a comprehensive database in their respective website, indicating the receipt, acknowledgement, action taken for disposal (either payment or rejection) of refund applications and those pending at the end of the month. This shall be implemented within a period of three months time and a report of the same may be sent to the Board and DG (Inspection).

The details of refund application such as name of the claimant, file number, date of application, amount of refund claimed, date of its acknowledgement shall be indicated in chronological order by the date of its receipt. The applications may be serially numbered for each year and shall be shown in a single list indicating their respective status distinctly. The illustrative status that could be mentioned for easy understanding of any applicant may include the following: (i) refund application received but pending for scrutiny and acknowledgement (ii)(a) refund application acknowledged for its completeness (ii)(b) refund application found incomplete and returned for rectification of deficiency (iii)(a) refund application rejected by passing a speaking order (iii)(b) refund application sanctioned, pending verification by audit (iv) cheques issued for refunds

sanctioned and paid to applicant/ credited to consumer welfare fund. This is not exhaustive and if any other stage of processing of refund application is involved the same may be indicated. An abstract at the end of the month about the total number of refund applications received, acknowledged, disposed and pending may also be indicated.

This online data base would enable any person who had applied for refund with Customs, to check the status of his refund application by reference to the date of his refund application having been received by Customs. This data will be accessible to the trade and public as well as by all Customs officers to enhance transparency. Further, the status of individual applications for refund of customs duty shall be updated from time to time, at least daily, so that the applicants remain duly informed about the status of their applications. The data may be allowed for display in the website for three months period from the date of its final disposal and there after it can be moved to the history data base.

7.1. Monitoring Mechanism: Chief Commissioners/ Directorate General of Inspection (DGI) is requested to review the position of refunds in their respective zones/select zones, to check on the timely sanction of refund applications. If any refund application is pending for long period, the reasons for the same may be identified by the concerned Chief Commissioner and action initiated for their disposal by reference to the concerned Commissionerate. DGI may also access the data base of such refund applications and maintain the data in respect of those refund applications pending for long period and action taken thereon, for reporting to the Board.

8. The above instructions are being issued so that an administrative arrangement is made on a permanent basis to deal with refund of customs duty, an important aspect of tax administration which needs to be given due importance in view of the prompt disposal as per legal provisions and their revenue implications. Accordingly, the Commissioners of Customs and Chief Commissioners of Customs concerned may ensure for proper implementation of these instructions of the Board.

9. A suitable Public Notice and Standing Order may be issued for the guidance of the trade and staff. Difficulties faced, if any, in implementation of the Circular may be brought to the notice of the Board at an early date.

Yours faithfully,

(Aseem Kumar)
Under Secretary (Customs)