

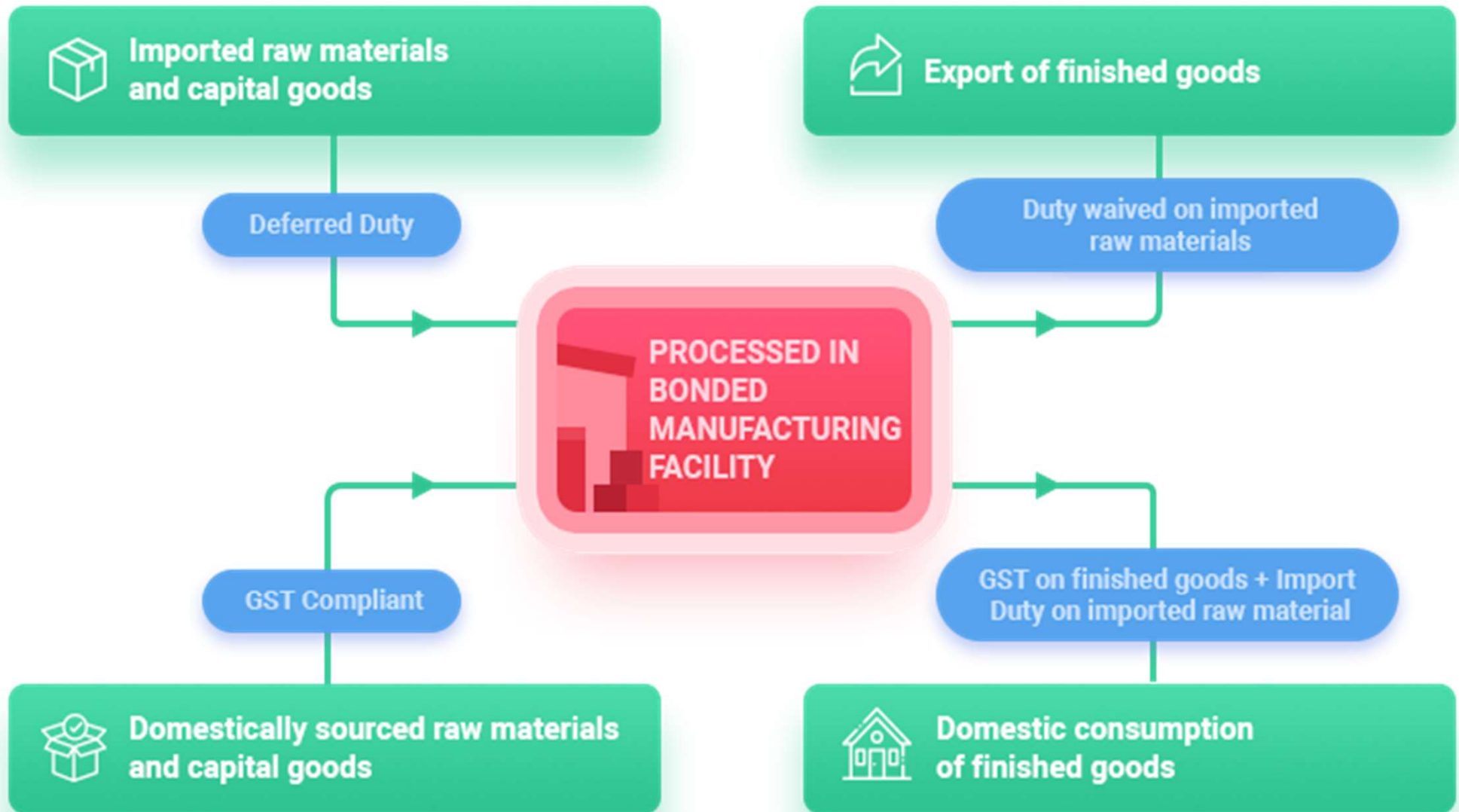


Manufacture and Other Operations in Warehouse (No. 2) Regulations, 2019

Overview:

- ❑ To promote India as the manufacturing hub globally and the commitment towards ease of doing business, another initiative by CBIC is taken by **allowing import of raw materials and capital goods without payment of duty** for manufacturing and other operations in a bonded manufacturing facility.
- ❑ The regulation made by CBIC is named as “**Manufacture and Other Operations in Warehouse (No.2) Regulations, 2019**” (MOOWR).
- ❑ Under these regulation, the import duty is deferred when the raw materials or capital goods are imported.
- ❑ These regulations shall apply to units that operate under Section 65 of Customs Act, 1962 or to units applying for permission to operate under Section 65 of the Act.

Overview:



Eligibility:

- ❑ The following persons shall be eligible to apply for operating under these regulations, -
 - A person who has been granted a license for a warehouse under section 58 of the Act, in accordance with Private Warehouse Licensing Regulations, 2016, i.e., units that operate in customs bonded warehouse.
 - A person who applies for a license for a warehouse under section 58 of the Act, along with permission for undertaking manufacturing or other operations in the warehouse under section 65 of the Act, i.e., units applying for permission to operate under the customs bonded warehouses

Steps to Start Manufacturing:

Step 1

- Fill Online Application through “Annexure A”

Step 2

- Bond to be executed as per format in “Annexure C” and submit to Jurisdictional Commissioner of Customs.

Step 3

- After due verification permission is granted by Jurisdictional Commissioner of Customs.

Step 4

- Start Manufacturing or Other Operations.

Advantages:

Deferred Duty on Capital Goods and Raw Material

- The import duty used in manufacturing or other operations is deferred until the finished products are cleared from the bonded facility.

Seamless Warehouse to Warehouse Transfer

- Goods can be transferred from the bonded facility to another facility without payment of duty.

No Fixed Export Obligation

- A business entity can manufacture in a bonded facility and sell the entire 100% of the output in the domestic market.

Advantages:

Single Point of Approval

Common Application cum approval form

Unlimited period of Warehousing

No Geographical Restrictions

Easy Compliance

Disadvantages:

- No depreciation on duty under MOOWR but *deferment* of duty payment till removal and no duty impact if it is re-exported.
- Import of restricted/negative list goods not allowed under MOOWR.
- No drawback available under MOOWR.

Process Flow:

Outside India



Vendor

Export of Finished goods

- Filing of relevant export documents
- Affix One-time lock
- No Customs duty payment



Customer

Option 1 : With Duty payment

Import of goods into India

- File BoE for home-consumption
- Verify One-time lock
- Reconcile quantity
- Endorse transportation document

Option 2 : Without Duty payment

Import of goods into India

- File BoE for warehousing
- Verify One-time lock
- Reconcile quantity
- Endorse transportation document

India

Domestic Tariff Area ('DTA')

Domestic clearance of Finished Goods

- Bill of Entry for home consumption to be filed in respect of the warehoused goods contained in the finished goods
- Customs duty to be paid in respect of the same
- Applicable GST, if any to be paid on such domestic clearance



DTA Vendor

Procurement from DTA permissible, and the licensee shall take into record the goods so received

Procurement from other warehouse

- Verify One-time lock
- Reconcile quantity
- Endorse Form for transfer of goods
- Endorse transportation document



Private bonded warehouse, approved for manufacturing and other operations

Transfer of goods to other warehouse

- Bond officer to affix one-time lock
- Inform bond officer
- Bond officer to endorse number of one-time lock on Form/ transport document
- Endorse transportation document



Other Customs Warehouse



Other Customs Warehouse



Customer

** GST implications may arise in case of procurement by private bonded warehouse from DTA



Procurement of Goods:

Procurement of Goods

From Customs Station
to Warehouse

From Warehouse to
Another Warehouse

Domestically
Procured

Procurement of Goods:

❑ Customs Stations to Warehouse:

- Verify the One-Time-Lock
- Inform to Bond Officer immediately if the One-Time-Lock is not found intact & refuse to unload of goods.
- Allow unloading if lock is found intact
- Verify the quantity of goods received reconciling with Bill of Entry for warehousing and report to Bond Officer if any discrepancy found within twenty-four hours.
- Endorse such BOE with the quantity received and retain a copy;
- Acknowledge receipt by endorsing the transportation document presented by the carrier of the goods and retain a copy thereof and
- Take into record the goods received

Procurement of Goods:

❑ Warehouse to Another Warehouse:

- Verify the One-Time-Lock
- Inform to Bond Officer immediately if the One-Time-Lock is not found intact & refuse to unload of goods.
- Verify the quantity of goods by reconciling with specified form, depending on whether unit which is sending the goods is operating under section 65 or not;
- Report discrepancy, if any, to bond officer with 24 hours;
- Endorse the prescribed Form for transfer of goods from a warehouse with quantity received and retain a copy;
- Acknowledge receipt by endorsing the transportation document presented by the carrier of the goods and retain a copy;
- Take into record the goods received; and

Procurement of Goods:

Domestically Procured Goods:

- The records in respect of such domestically procured goods shall be indicated in the form Annexure B as prescribed under Circular 34/2019

Removal of Warehoused Goods:

Removal of Goods

For Home
Consumption

When warehoused goods are used for manufacturing or other operations & finished goods are domestically consumed

For Export

When warehoused goods are used for manufacturing or other operations & finished goods are exported

To Another
Warehouse

When warehoused goods are used as raw materials by another industry

Procedure for Removal:

For Another Warehouse

- Load the goods and Affix a **One-Time-Lock**
- Endorse the number of the One-Time-Lock as well as transport documents and retain the copy thereof
- Take into record the removal of goods
- Acknowledge the documents to the Bond Officer

For Home Consumption

- Licensee shall file Bill of Entry in respect of the warehoused goods and the import duty, interest, if any, in respect of such goods have been paid.
- The licensee shall retain the copy of the bill of entry filed and take into record for goods removed

Export

- File the Shipping bill or bill of export and affix a One-Time-Lock
- Take into record the goods removed.

Record Keeping:

- Detailed records of the receipt, handling, storing and removal of any goods into or from the warehouse to be maintained.
- Produce the records to the Bond Officer when required.
- Keep the copies of documents evidencing the receipt or removal of goods into or from the warehouse copies of bonds executed under sec 59
- The record and accounts required to be maintained shall be kept undated and preserved for a minimum period of Five Years.
- The digital copies of the records shall also be preserved at a place other than the warehouse to prevent loss of records.
- Proper officer may conduct **Audit of a unit operating** under Section 65 of Customs Act

Security Facilities for Warehouse:

- ❑ Facilities, equipment and personnel as are sufficient to control access to the warehouse and provide secure storage of the goods in it, including
 - Doors & other building components of sturdy constructed
 - Secure locks on doors and windows
- ❑ Fire Security Audit Certificate issued by a Qualified Independent Agency
- ❑ CCTV Facility
- ❑ Provision of Security Guards – 24 hrs

Provisions relating to Waste:

- ❑ If the whole or any part of the goods resulting from manufacturing operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste as has arisen from the operations carried on in relation to the goods exported, Provided that such waste is either destroyed or duty is paid on such waste as if it has been imported into India in that form.
- ❑ If the whole or any part of the goods resulting from manufacturing operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste as has arisen from the operations carried on in relation to the goods cleared for home consumption.

General Points:

- File the online application for this scheme under **Annexure A**
- Warehouse Premises should be declared as the as **Principle/additional place of business** for the purpose of GST.
- The premise should be authorised for **commercial use** by local Government authorities.
- Appoint a **warehouse keeper** to discharge custom related functions.
- Applicant need to get permission for **one time lock** for movement of goods.
- Licensee is required to obtain permission for **self-sealing** of containers
- Maintain accounts/records of receipt and removal of goods in **digital form** in Annexure B
- Where a resultant product is cleared for **domestic consumption**, then import duties payable on the imported goods contained in such product shall be **paid at the time of supply** of the resultant product from the warehouse for which the licensee shall have to file an ex-bond Bill of entry.

General Points:

- Where any product manufactured or worked upon in a bonded warehouse is **exported** then **no duty** is required to be paid in respect of the imported goods contained in the resultant product in view of the provisions of section 69 of the Act. A GST invoice shall also be issued for such removal apart from Shipping Bill for such exports.
- Depending on the nature of goods used, the operations conducted and the industry, some units may operate without fully closed structures.
- Even the imported goods that are exempt from duty or are chargeable to nil rate, may be brought into the warehouse upon filing a bill of entry for home consumption and clearance, at the customs station of import. Such goods shall not be considered as warehoused goods.
- To facilitate timely clearances and for convenience of the trade, prior permission of the proper officer is not an essential condition for removal of the warehoused goods (as part of the resultant goods), provided documentation such as the Form for transfer of goods from a warehouse, bill of entry and shipping bill, and payment of duties due has been made.

Compliances:

- ❑ A licensee shall file with the Bond Officer monthly return **within 10 days** after the close of the month to which such return relates.
- ❑ Licensee shall produce the **acknowledgement** issued by the licensee of the warehouse or proper officer at Customs, stating that the goods have arrived at that place to the Bond Officer in charge of the warehouse **within one month** from the date of removal of goods from the warehouse.
- ❑ If the Licensee fails to produce acknowledgement before Bond Officer in charge of the warehouse within time period then Licensee shall pay the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable under section 72 (1).

Compliances to be fulfilled on issue of license:

❑ After getting Licence under Section 58 and permission for manufacturing and other operations under Section 65 of Customs Act 1962, following compliances must be fulfilled:-

- Collection of Warehouse code number
- Execution of bond (As per Annexure-C of Circular No. 34/2019 dated . 01.10.2019 in prescribed format duly approved and signed by Dy /Joint Commissioner of Customs).
- All Risk Insurance Policy including Customs duty deferred amount.
- Solvency Certificate from a scheduled bank
- Installation of CCTV camera
- Deployment of Security Personnel
- Fire Security Audit and Fire Protection
- Installation of Burglar Alarm System

Compliances to be fulfilled on issue of license:

- ❑ Manufacturing and other operations in bonded warehouse shall be required to maintain records as per form prescribed in Annexure – B of CBIC Circular No. 34/2019 dated. 01.10.2019.
- ❑ Storing of goods in bonded warehouse should be as follows-
Separate Place for
 - Duty Deferred Imported goods
 - Duty paid DTA goods
 - Inflammable and hazardous goods
 - Scrap (Metallic)
 - Scrap (Non-metallic)
- ❑ A sign board will be required to be kept prominently at the entrance door leading to the manufacturing area and bonded warehouse indicating the name of licence, licence Number and date etc.
- ❑ Licence is valid till its cancelled or surrendered but validity of warehouse code number will be 5 years or as mentioned in Licence. This will be revalidated before expiry of validation date.

Compliances to be fulfilled on continuous basis:

- ❑ Warehouse Keeper:
 - Requirement to appoint a warehouse keeper having sufficient experience
 - Warehouse keeper to obtain digital signature for filing e-documents under the Customs Act, 1962
- ❑ Facilities, equipment and personnel
 - Requirement to affix sign stating that the premise is Customs bonded warehouse
 - Computerized system for accounting
 - Such other facilities, equipment and personnel as necessary
- ❑ Reconciliation of the goods received with the Bill of Entry or other specified forms.
- ❑ Requirement to furnish monthly returns, within 10 days of close of month, in specified format.
- ❑ Issue of acknowledgment to proper officer/ bond officer on receipt of goods at warehouse.

Compliances to be fulfilled on continuous basis:

- ❑ One-time lock
 - One time lock to be affixed by the licensee in case of movement of goods outside the warehouse.
 - One-time lock affixed to be verified on receipt of goods into the warehouse, and non-compliance to be reported .
 - Requirement to appoint a warehouse keeper having sufficient experience.
- ❑ Maintenance of records (5 years)
 - Detailed records of receipt, handling, storing and removal of goods
 - Record of activities, operations and action undertaken
 - Record of withdrawal of samples from warehouse
- ❑ The proper officer may conduct audit of a Unit operating under the said Scheme.

E - Sealing:

INTRODUCTION:-

- ❑ CBIC has done away with stuffing/sealing of containers with export goods at factory premises or warehouse (hitherto also known as factory stuffing) under the physical supervision of an officer of department with effect from 01.10.2017.
- ❑ Henceforth, eligible exporters are entitled to self-seal their export containers by using an electronic seal.

ELIGIBLE EXPORTERS:-

- ❑ Exporters who are having AEO status
- ❑ Exporters who were availing sealing at their factory premises under the system of supervised factory stuffing will be automatically entitled for self-sealing procedure.

E - Sealing:

- ❑ Exporter desirous of availing this procedure shall inform the jurisdictional Custom Officer for permission for self-sealing at the approved premises. Once the permission is granted, the exporter shall furnish only intimation to the jurisdictional Superintendent or Customs each time self-sealing is carried out at approved premises.

ESSENTIAL POINTS:-

- ❑ Electronic sealing of containers can be adopted only for fully loaded container that is sealed at an approved premise, by an authorized exporter.
- ❑ If a full container load is received at a port or ICD with e-sealing RFID [Radio Frequency Identification], then it would be deemed to be the equivalent of a container sealed under the supervision of an Official.
- ❑ IEC and Factory stuffing/Self Sealing permission is compulsory for purchasing of e-seal from the vendors.

Frequently Asked Questions:

Q1: Can a factory which is solely into manufacturing goods, which are to be sold in the domestic market, eligible for applying for Manufacturing and Other Operations [MOOW] in a bonded warehouse?

Ans: The eligibility of a factory for MOOW in a bonded warehouse does not depend upon whether the final goods will be sold in the domestic market or exported. Any factory can avail a license under Section 58 of the Customs Act along with a permission under Section 65 if they intend to import goods without upfront payment of Customs duty at point of import and deposit them in the warehouse, either as capital goods or as inputs for further processing.

Q2: Is an existing factory which solely manufactured goods to be sold in the domestic market, eligible for application for MOOW in a bonded warehouse? How will the existing capital goods and inputs be accounted?

Ans: Yes. Any unit in DTA is eligible for making an application for MOOW in a bonded warehouse i.e. an old factory in DTA is eligible for applying.

The accounting form prescribed for the units undertaking MOOW in a bonded warehouse provides for accounting of DTA receipts. Thus, the existing capital goods and inputs must be accounted in the accounting form prescribed. The form also provides for a remarks column in case certain remarks are to be entered.

Frequently Asked Questions:

Q3: Will a unit licensed under Section 65 and Section 58 of the Customs Act, 1962, be under the physical control of Customs?

Ans: No, there is no physical control of a unit licensed u/s 65 and Section 58 of the Customs Act, 1962, on a day-to-day basis. The unit will be subject to risk-based audits.

Q4: Can the license u/s 65 and Section 58 of the Customs Act, 1962, be obtained on bare land with identified boundaries or a built structure is imperative for obtaining the said license?

Ans: The regulations do not mandate that a fully enclosed structure is a prerequisite for grant of license. The important is that the site or building is suitable for secure storage of goods and discharge of compliances, such as proper boundary walls, gate(s) with access control and personnel to safeguard the premises. Moreover, depending on the nature of goods used, the operations and the industry, some units may operate without fully closed structures. The Principal Commissioner/Commissioners of Customs will take into consideration the nature of premises, the facilities, equipment and personnel put in place for secure storage of goods, while considering grant of license.

Frequently Asked Questions:

Q5: Do we need to renew license u/s 58 or permission u/s 65 of the Act?

Ans: The license and permission granted is valid unless it is cancelled or surrendered, or the license issued u/s 58 is cancelled or surrendered. Thus, no renewal of the license or permission is required.

Q6: Can a unit undertaking MOOW in a bonded warehouse import capital goods without payment of duty? If yes, for how long is duty deferment available? Is interest payable after some time?

Ans: A unit licensed u/s 58 and 65 can import capital goods and warehouse them without payment of duty. MOOW in a bonded warehouse is a duty deferment scheme. Here, both BCD and IGST on imports stand deferred till they are cleared from the warehouse for home consumption or are exported.

The capital goods can be cleared for home consumption as per Section 68 of the Customs Act on payment of applicable duty without interest. The capital goods can also be exported after use, without payment of duty as per Section 69 of the Customs Act. The duty deferment is without any time limitation.

Frequently Asked Questions:

Q7: Would any customs duty be payable on the goods manufactured in the bonded premises using the imported capital goods (on which duty has been deferred) and sold into the domestic tariff area?

Ans: The payment of duty on the finished goods is clarified in Paras 8 and 9 of the Circular No. 34/2019. Duty on the capital goods would be payable if the capital goods itself are cleared into the domestic market. Thus, the duty on the capital goods does not get incorporated on the finished goods. Thus no extra duty on finished goods cleared into DTA is payable on account of imported capital goods (on which duty has been deferred).

Q8: Is import of inputs without BCD and IGST allowed? Will there be any interest obligation if IGST is paid when finished goods are sold in domestic markets?

Ans: Inputs can be imported and deposited in the licensed warehouse without payment of BCD and IGST. No interest liability arises when the duties are paid at the time of ex-bonding the resultant goods. The duties (without any interest) are to be paid only when the resultant goods are being cleared for home consumption.

Frequently Asked Questions:

Q9: Can a unit undertaking MOOW in a bonded warehouse import inputs without payment of duty? If yes, whether BCD and IGST on imports is covered? For how long is duty deferment available? Is interest payable after some time?

Ans: MOOW in a bonded warehouse is a duty deferment scheme. Thus, both BCD and IGST on imports of inputs stand deferred till they are cleared from the warehouse for home consumption, and no interest is payable on duty. In case the finished goods are exported, the duty on the imported inputs stands remitted i.e. they will not be payable. The duty deferment is without any time limitation.

Q10: Is import of inputs without BCD and IGST allowed? Will there be any interest obligation if IGST is paid when finished goods are sold in domestic markets?

Ans: Inputs can be imported and deposited in the licensed warehouse without payment of BCD and IGST. No interest liability arises when the duties are paid at the time of ex-bonding the resultant goods. The duties (without any interest) are to be paid only when the resultant goods are being cleared for home consumption.

Frequently Asked Questions:

Q11: If the imported capital goods are cleared for home consumption after use, is depreciation available?

Ans: No. Depreciation is not available if imported capital goods (on which duty has been deferred) are cleared for home consumption after use in a Section 65 unit.

Q12: If the imported capital goods are cleared for export after use, is depreciation available?

Ans: The imported capital goods (on which duty has been deferred) after use in a Section 65 unit can be exported without payment of duty as per Section 69 of the Customs Act. For the purposes of valuation of the export goods, the same will be as per the Section 14 of the Customs Act.

Q13: What will be the method of inventory control method in Section 65 units? Whether First in First Out (FIFO) method can be followed?

Ans: The Generally Accepted Accounting Principles will be followed for inventory control in a Section 65 unit. Thus, FIFO method can be followed.

Frequently Asked Questions:

Q14: What is the procedure for surrender of license for a Section 65 unit?

Ans: Since the unit operating u/s 65 is also licensed as a Private Bonded warehouse u/s 58 of the Customs Act, the procedure for surrender of licensee will be as per the regulation 8 of the Private Warehouse Licensing Regulations, 2016. A licensee may, therefore, surrender the license granted to him by making a request in writing to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be. On receipt of such request, the license will be cancelled subject to payment of all dues and clearance of remaining goods in such warehouse.

Q15: What is the procedure and documentation requirements for re-entry of manufactured goods, returned by the customers for repair, in the premises?

Ans: Once the goods are cleared from the warehouse, they will no longer be treated as warehoused goods. Thus, if the goods cleared from the warehouse are returned by the customer for repair, they will be entered as DTA receipts. After repair, when the same is cleared from the warehouse, the same will be entered in the prescribed accounting form. If the goods were exported and subsequently rejected or sent back for repair by the customer, then the goods upon re-import have to be entered as Imports receipts in the accounting form.

Frequently Asked Questions:

The relevant customs notification for re-imports has to be followed while filing the Bill of Entry for re-import of the goods.

Q16: What are the data to be fed in the e-seal and how?

Ans: The data to be fed mandatorily in the e-seal through web-based module provided by the respective vendor to the exporters are IEC, Shipping Bill Number and Date, E-seal number, Date and Time of sealing, Destination Customs station for export, Container Number, Trailer-Truck Number.

Q17: What will happen when the container reaches the Port gate / ICD?

Ans: The Jurisdictional Customs Officer shall verify the e-seal with the help of handheld reader or fixed reader or through any other mode as prescribed. If e-seal has been read as 'NOT TAMPERED', the export consignment would be processed for the purpose of registration and grant of 'LET EXPORT ORDER' as per established procedures.

Q18: Can an exporter block the e-seal? Can an exporter edit the data in case of wrong entry or unwanted circumstances like vehicle breakdown?

Ans: Yes, exporter can block the e-seal allotted to him, if he does not want to use it. The data once confirmed with e-seal can't be deleted or edited.

Frequently Asked Questions:

Q19: How the information of Customs clearance/rejection will be communicated?

Ans: Information will be seamlessly transmitted to the registered email id of the exporter from the vendor's server.

Q20: How data/information will be retrieved from e-seal?

Ans: The reader would be provided at Ports and ICDs for reading the RFID tag in the e-seal and to ascertain whether it is TAMPERED or NOT TAMPERED. Arrangement have also been made to send alerts on registered mobile no. or e-mail id to keep informed about the scanning of the e-seal by customs officer.

Important Sections:

The Important Sections of The Customs Act, 1962 are quoted below-

- ❑ **Section 58-** Licensing of Private Warehousing
- ❑ **Section 59-** Warehousing Bond (Trice the amount of Duty)
- ❑ **Section 60-** Permission for removal of goods for deposit in warehouse
- ❑ **Section 65-** Manufacture & other operation in relation to goods in a warehouse
- ❑ **Section 67-** Removal of goods from one warehouse to another
- ❑ **Section 68-** Clearance of warehoused goods or home consumption
- ❑ **Section 69-** Clearance of warehoused goods or export

THANK YOU

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