

Circular No. 38/2018-Customs

F. No: 484/03/2015-LC
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs

Room No. 49, North Block,
New Delhi, Dated the 18th October 2018

To,
All Principal Chief Commissioners/Chief Commissioners
All Principal Commissioners/Commissioner of Customs

Subject: Procedure to be followed in cases of manufacturing or other operations undertaken in bonded warehouses under section 65 of the Customs Act-reg.

Madam/Sir,

Section 65 of the Customs Act, 1962 (hereinafter referred to as, “the Customs Act”) provides for manufacturing as well as carrying out other operations in a bonded warehouse.

2. Under section 65, the Board has prescribed “Manufacture and Other Operations in Warehouse Regulations, 1966” (MOOWR, 1966). These regulations provide for an application seeking permission under section 65, conditions of the bond to be executed by the licensee, maintenance of accounts, conduct of special audit and cancellation / suspension of permission etc.

3. While Regulation (3) provides for the data elements to be obtained from the applicant seeking permission “to undertake any manufacturing process or other operations”, no form has been prescribed. For the sake of uniformity, ease of doing business and exercising due diligence in grant of permission under section 65, the form of application to be filed by an applicant before the jurisdictional Principal Commissioner / Commissioner of Customs is prescribed as in **Annexure A**.

3.1 It is to be noted that an applicant desirous of manufacturing or carrying out other operations in a bonded warehouse under section 65 read with MOOWR, 1966 must also have the premises licensed as a private bonded warehouse under section 58 of the Customs Act. As part of ease of doing business and in order to avoid duplication in the process of approvals, the form of application (Annexure A) has been so designed that the process for seeking grant of license as a private bonded warehouse as well as permission to carry out manufacturing or other operations stands integrated into a single form. The warehouse in which section 65 permission is granted

shall also be declared by the Licensee as the principal/additional place of business for the purposes of GST.

4. Post the Finance Act, 2016 effecting amendments to Chapter IX of the Customs Act, 1962, the Warehouse (Custody and Handling of Goods) Regulations, 2016 were notified on 14th May 2016 and Circular No. 25/2016-Cus dated 8th June 2016 was issued, which collectively enjoins that licensees shall maintain accounts of receipt and removal in prescribed formats in digital form and furnish the same to the bond officer on monthly basis digitally. Therefore, a licensee carrying out manufacturing or other operations in a bonded warehouse under section 65 becomes obligated to maintain accounts as per MOOWR, 1966 and at the same time also maintain records as private bonded warehouse. For the ease of doing business, it has been decided that a licensee operating under section 65, shall not be required to maintain two sets of records. Henceforth, the licensees manufacturing or carrying out other operations in a bonded warehouse shall be required to maintain records as per the form prescribed under this Circular (**Annexure B**), which combines data elements required under MOOWR, 1966 and Warehouse (Custody and Handling of Goods) Regulations, 2016. Sub-section (2) of Section 59 of the Customs Act requires the owner of the warehoused goods to execute a triple duty bond for the warehoused goods. Such bond shall be executed in the form prescribed under this Circular as per **Annexure C**.

5. To the extent that the resultant product manufactured or worked upon in a bonded warehouse is exported, the licensee shall have to file a shipping bill and follow the procedure prescribed under the Warehoused Goods (Removal) Regulations 2016 for transport of goods from the warehouse to the customs station of export. A GST invoice shall also be issued for such removal. In such a case, no duty is required to be paid in respect of the imported goods contained in the resultant product as per the provisions of section 69 of the Customs Act.

6. To the extent that the resultant product whether emerging out of manufacturing or other operations in the warehouse) is cleared for domestic consumption, such a transaction squarely falls within the ambit of “supply” under Section 7 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as the, “CGST Act”). It would therefore be taxable in terms of section 9 of the CGST Act, 2017 or section 5 of the Integrated Goods and Services Tax Act, 2017 depending upon the supply being intra-state or inter-state. The resultant product will thus be supplied from the warehouse under the cover of GST invoice on the payment of appropriate GST and compensation cess, if any. As regards import duties payable on the imported goods contained in so much of the resultant products are concerned, same 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 and such transactions shall be duly reflected in the accounts prescribed under Annexure B.

7. For waste or refuse arising out of manufacture and other operations in relation to the resultant products cleared for home consumption, import duty on the quantity of the warehoused

goods contained in such waste or refuse shall be paid as per clause (b) to sub-section (2) of section 65.

8. For waste or refuse arising out of manufacture and other operations in relation to the resultant products cleared for export, where import duty on the waste or refuse is paid as per proviso to clause (a) to sub-section (2) of section 65, the same shall be deposited manually through a Challan. The records maintained as per Annexure-B would be sufficient for accountal of such goods.

9. It may be noted that units operating under section 65 read with section 58 of the Customs Act, are entitled to import capital goods, machinery, inputs etc. by following the provisions under Ch IX. In so far as domestic procurement is concerned, applicable rates of taxes shall be payable and exemptions, if any, can also be availed. By virtue of simply being a unit operating under section 65, they shall not be entitled to procure goods domestically, without payment of taxes. The records in respect of such domestically procured goods shall be indicated in the form for accounts (Annexure B).

9. Since the warehouse operating under section 65 also functions as a warehouse licensed under section 58, the licensees can import goods and clear them as such, under section 68 or section 69 of the Act, on payment of import duties, along with interest as per sub-section (2) of section 61 of the Act. The licensees shall also be required to maintain to submit monthly returns in "Form B" as prescribed under Circular No. 25/2016-Cus dated 8th June 2016 for such purposes.

10. Clarification required, if any, may be sought from the Board

11. Hindi version follows.

(Temsunaro Jamir)
Joint Commissioner (ICD)

Application for License for a private bonded warehouse under section 58 and permission for manufacturing and other operations under section 65 of the Customs Act 1962.

Part I

1. Name of the Applicant:
2. PAN No:
3. GSTIN:
4. IEC:
5. Constitution of business (Tick as applicable and attach copy)
 - (i) Proprietorship
 - (ii) Partnership
 - (iii) Limited Liability Partnership
 - (iv) Registered Public Limited Company
 - (v) Registered Private Limited Company
 - (vi) Registered Trust
 - (vii) Society/Cooperative society
 - (viii) Others (please specify)

Note:- Copy of certificate of incorporation along with Memorandum of Objects and Article of Association in case of companies and partnership deed in case of partnership firms should be attached.

6. Registered office:
Address:
Tel:
Fax:
E-mail:
7. Bank Account details:
Name of the Bank:
Branch name:
Account Number:
8. Name, Address & DIN (if applicable) :
[of Proprietor/Partners/Directors etc.
(Please attach copies of ID proof)].
9. Name & Designation of the Authorized Signatory:
(Please attach copy of Aadhaar Card as proof of ID).
10. Details of existing manufacturing facilities in India and/or Overseas of the applicant firm and of each of its directors/partners/proprietor, as the case may be (please attach separate sheet if required):

Part II

1. Address of the proposed site or building:
2. Boundaries of the warehouse:
 - (a) North
 - (b) South
 - (c) West
 - (d) East
3. Details of property holding rights of the applicant (please provide supporting document):
 - (i) Owner
 - (ii) Lease/rent
4. Contact details at the site/premises:

Tel:

Fax

email

Website, if any
5. Details of warehouse license issued earlier to the applicant, if any:
 - (i) Date of issue of licence.
 - (ii) Commissionerate file No.
 - (iii) Attach copy of warehouse license.
6. Whether the applicant is a Licensed Customs Broker? If yes, please provide details:
7. Whether the applicant is AEO? If yes, please provide details.
8. Description of Premises:

(Please enclose a ground plan of the site / premises indicating all points of exit/entry/ area of storage / area of manufacturing / earmarked area of office)

 - (i) What is floor area?
 - (ii) Number of stories?
 - (iii) Total area (or cubic capacity) available for storage?
 - (iv) Identify and mark area(s), occupied by third parties in the ground plan:
 - (v) What is the type of construction of walls and roof?
 - (vi) Which year has the building been built? Has it been recently remodeled? If so, when?
 - (vii) Identify by location and size all accesses to the site / building to pedestrian and vehicles:
 - (viii) Identify by location and size all other accesses to the building including doors & windows:
 - (ix) Please indicate whether the premises have been authorized for commercial use by local Government authorities?

9. Goods proposed to be manufactured or other operations proposed to be carried out (if necessary, additional sheets may be attached)

FINAL PRODUCT		
Description of resultant goods out of manufacture or other operations		Classification as Customs Tariff
INTERMEDIATE PRODUCT		
Description of goods		Classification as Customs Tariff
GOODS PROPOSED TO BE IMPORTED		
Description of goods		Classification as Customs Tariff
GOODS PROPOSED TO BE DOMESTICALLY PROCURED		
Description of goods		HSN Classification
DETAILS OF WASTE & SCRAP		
Description	Classification as Customs Tariff	Briefly detail, input- out ratio and attach any supporting publication /document, if available.

In case of any change in the nature of operations subsequent to the grant of permission, the same shall be informed to the jurisdictional Commissioner of Customs within 15 days.

10. SECURITY FACILITIES AT THE PREMISES, EXISTING OR PROPOSED:

- (i) Burglar Alarm System:
- (ii) CCTV Facility:
 - a. Is there a CCTV monitoring system installed to cover the surrounding area of the site and storage area?
 - b. Please indicate the no. of cameras installed:
 - c. No. of hours/days of recording accessible at any point of time:
- (iii) Security Personnel:
 - a. Details of arrangements for round the clock security provided for the warehouse:
 - b. Name & details of firm contracted for security services:
 - c. No. of personnel to be deployed on each shift for round the clock security:
- (iv) Fire Security:

(Please enclose a fire safety audit certificate issued by a qualified independent agency)

11. DECLARATION:

We are a registered or incorporated entity in India.

1. I/We undertake to comply with such terms & conditions as may be specified by the Principal Commissioner of Customs or the Commissioner of Customs.
2. I / We have not been declared insolvent or bankrupt by a court or tribunal.
3. I/We have not been convicted for an offence under any law.
4. I/We have neither been penalized or convicted nor are being prosecuted for an offence under the Customs Act, 1962 or Central Excise Act, 1944 or Finance Act, 1994 or Central Goods and Services Tax Act,2017 or Integrated Goods and Services Tax Act,2017 or Goods and Services Tax (Compensation to States) Act,2017.
5. There is no bankruptcy or criminal proceedings pending against me / us.
6. We hereby declare that the information given in this application form is true, correct and complete in every respect and that I am authorized to sign on behalf of the Licensee. I further undertake that if any particulars declared by me/us are proved to be false, the licence granted to me/us shall be liable to be cancelled and I/we shall be liable for action under Customs Act, 1962.

(Signature of the applicant/authorized signatory)

Stamp

Date:

Place:

Part III

(For Use by Customs Only)

1. Verification of the applicant:
[Result of reference made for verification of Declaration at serial no. 11 of Part -II of the application) (verification to be conducted from DRI / DGGI; grant of licence may not be held up pending verification)]
2. Date of visit to the premises by the bond officer:
3. Findings of the bond officer with respect to security, fire protection, IT enabled inventory management system, type of construction, area available for examination of goods, if required etc.
4. Is the Premises recommended for issue of license as a warehouse / permission to manufacture or other operation under Bond?

Signature:

Name:

Designation:

Date:

Part IV
(For use by Customs Only)

1. Details of Warehouse keeper appointed by the Licensee:

- (i) Name:
- (ii) Address (residential)
- (iii) Tele: (office)
- (iv) Tele: (mobile)
- (v) E-mail id:

2. Whether digital signature has been obtained by the warehouse keeper (as per guidance available on ICEGATE website)?

3. Has the IT based record keeping requirement been fulfilled by the Licensee?

4. Details as per regulation 4 of Private Warehouse Licensing Regulations, 2016:

- (i) Insurance Policy
- (ii) Undertaking under section 73A
- (iii) Indemnity undertaking

5. Whether specimen seal, signature, and contact details of the authorized signatories have been submitted?

6. Licence No.:

7. Warehouse Registration Code on ICEGATE:

8. Date of operationalization of the warehouse:

Signature:
Name:
Designation:
Date:

Part V
(For use by Customs only)

1. Date of verification visit to certify commencement of manufacture or other operations in the Warehouse:

2. Name of the officials who visited the premises:

3. VERIFICATION REPORT:

(i) I have verified that the unit has commenced manufacture or other operations.

(ii) I have verified that records are being maintained by the licensee as prescribed under Annexure B of Circular 38 /2018-Customs dated 18.10.2018

Signature:

Name:

Designation:

Date:

Form to be maintained by a unit operating under section 65 of the Customs Act for the receipt, processing and removal of goods.

Name and address of the Unit:

IEC:

GSTIN:

Commissionerate:

RECEIPTS (IMPORTS)													
Bill of Entry No. and date	Customs Station of import	Details of Bond	Details of insurance	Description of goods	Invoice No. and date	Quantity with UQC	Assessable Value	Duty assessed			Registration No. of means of transport	One-time –Lock no.	Date and time of receipt at the warehouse
								BCD	IGST	Comp. cess			
1	2	3	4	5	6	7	8	9	10	11	12	13	14

RECEIPTS (DTA)							
GST Invoice No. and date	Description of goods	Quantity with UQC	Value	Tax paid		E-way bill number (if applicable)	Date and time of receipt at the warehouse
				GST	Comp. cess		
15	16	17	18	19	20	21	22

PROCESSING															
Goods issued for manufacturing or other operations				Removal for job-work						Returns to unit after job - work					
Date of issue	Description of goods	Quantity with UQC	Value	Date and time of removal	Description of goods	Quantity with UQC	Value	Delivery Challan No.	Details of Job worker		Date and time of return	Description of goods	Quantity with UQC	value	Delivery Challan No.
									Name & address	GSTIN (if applicable)					
23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38

RESULTANT PRODUCTS (CLEARANCE FOR EXPORT)														
Resultant products exported									Quantity of warehoused goods contained in so much of the resultant products exported					
Date and time of removal	Shipping Bill No. and date	GST Invoice No. and date	Description of goods	Quantity with UQC	Assessable Value	Export duty	Tax paid (if applicable)		Description of goods	Quantity with UQC	Assessable Value	Duty involved		
							IGST	Comp. cess				BCD	IGST	Comp. cess
39	40	41	42	43	44	45	46	47	48	49	50	51	52	53

TREATMENT OF WASTE OR REFUSE ARISING OUT OF MANUFACTURE OR OTHER OPERATIONS WHERE THE RESULTANT PRODUCT IS EXPORTED																		
Quantity of waste or refuse destroyed						Duty paid on waste or refuse							Duty to be remitted on the quantity of warehoused goods contained in so much of the waste or refuse (destroyed or cleared as such)					
Description of goods	Quantity with UQC	Assessable value	Duty involved			Description of goods	Quantity with UQC	value	Details of Duty paid				Description of goods	Quantity with UQC	Assessable value	Duty involved		
			BCD	IGST	Comp. cess				Challan no.	BCD	IGST	Comp. cess				BCD	IGST	Comp. cess
82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100

TREATMENT OF WASTE OR REFUSE ARISING OUT OF MANUFACTURE OR OTHER OPERATIONS WHEN THE RESULTANT PRODUCT IS CLEARED FOR HOME CONSUMPTION							REMARKS (if any)
Duty paid on warehoused goods contained in so much of the waste or refuse							
Bill of Entry No. and date	Description of goods	Quantity with UQC	Assessable Value	Duty paid			
				BCD	IGST	Comp. cess	
101	102	103	104	105	106	107	108

Annexure-C

General Bond

(To be executed under sub-section (2) of Section 59 of the Customs Act, 1962 by a unit operating under section 65 of the Customs Act 1962)

KNOW ALL MEN BY THESE PRESENTS THAT we M/s _____ having our office located at _____ and holding Import –Export Code No. _____, hereinafter referred to as the “importer”, (which expression shall include our successors, heirs, executors, administrators and legal representatives) hereby jointly and severally bind ourselves to the President of India hereinafter referred to as the “President” (which expression shall include his successors and assigns) in the sum of Rs. _____ (please fill amount in words) to be paid to the President, for which payment well and truly to be made, we bind ourselves, our successors, heirs, executors, administrators and legal representatives firmly by these presents.

Sealed with our seal(s) this _____ day of _____ 20_____.

WHEREAS the Principal Commissioner or Commissioner of Customs, has granted license to operate a warehouse under Section 58 of the Customs Act;

AND WHEREAS the Principal Commissioner or Commissioner of Customs, has granted permission for carrying out manufacture and other operations in the warehouse under Section 65 of the Customs Act vide letter dated _____;

AND WHEREAS the Assistant/ Deputy Commissioner of Customs has given permission to enter into a General Bond for the purpose of sub-section (2) of Section 59 of the Customs Act, in respect of warehousing of goods to be imported by us during the period from _____ to _____ (both days inclusive).

NOW THE CONDITIONS of the above written bond is such that, if we:

- (1) comply with all the provisions of the Customs Act, 1962, Central Goods and Services Tax Act, 2017 or Integrated Goods and Services Tax Act, 2017 or Goods and Services Tax (Compensation to States) Act, 2017 and the rules and regulations made thereunder in respect of such goods;
- (2) pay in the event of our failure to discharge our obligation, the full amount of duty chargeable on account of such goods together with their interest, fine and penalties payable under section 72 of the Customs Act, 1962 in respect of such goods;
- (3) pay all penalties and fines incurred for contravention of the provisions of the Customs Act, 1962, Central Goods and Services Tax Act, 2017 or Integrated Goods and Services Tax Act, 2017 or Goods and Services Tax (Compensation to States) Act, 2017 and the rules or regulations made thereunder, in respect of such goods;

Then the above written bond shall be void and of no effect; otherwise the same shall remain in full force and virtue.

IT IS HEREBY AGREED AND DECLARED that:

- (1) the Bond shall continue in full force notwithstanding the transfer of goods to any other premises for job work;
- (2) the President through the Deputy/Assistant Commissioner of Customs or any other officer may recover any amount due under this Bond in the manner laid down under sub-section (1) of section 142 of Customs Act, 1962, without prejudice to any other mode of recovery.

IN THE WITNESS WHEREOF, the importer has herein, set and subscribed his hands and seals the day, month and year first above written.

SIGNED AND DELIVERED by or on behalf of the importer at _____(place) in the presence of:

(Signature(s) of the importer/authorised signatory)

Witness:

Name and Signature

Address

Occupation

1.

2.

Accepted by me this ____ day of _____ 20_____, for and on behalf of the President of India.

(Assistant/Deputy Commissioner)

Signature and date

Name:

Schedule to the General Bond to be executed by the importer under sub-section (2) of Section 59 of the Customs Act, 1962 for the purpose of warehousing of goods to be imported by them.

Bill (Warehousing/ Home consumption/ /Export) No. and date	Duty assessed on the goods	Bond value to be debited or credited (Thrice the amount of duty)	Debit	Credit	Balance of bond value	Remarks	Signature of the officer along with full name and designation
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)