

Circular No. 30/2019- Customs

F. No. 394/43/2014-Commr.(Inv-Cus)

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs
(Investigation – Customs)

New Delhi, dated 11.09.2019

To,

All Principal Chief Commissioners/ Chief Commissioners of Customs/Customs (Preventive)/
Customs & Central Taxes,
The Principal Director Generals, DRI/DGGI,
The Principal Commissioner, Directorate of Logistics,
Webmaster, CBIC.

Madam/ Sir,

Subject: Disposal of seized/confiscated foreign origin liquor – reg.

I am directed to draw your kind attention to the practice of disposal of seized/confiscated liquor lying with Customs formations. Under the extant instructions/guidelines such seized/confiscated liquor was being disposed of by various means including sales to Canteen Stores Department (CSD), other Defence Establishments or sale to hotels/restaurants and clubs having the necessary liquor licenses or to Indian Tourism Development Corporation (ITDC).

2. Now, field formations brought the following difficulties in disposing of seized/confiscated foreign origin liquor to the notice of the Board namely:

- i. Lack of response from Canteen Store Department (CSD) or from other Defence Establishments;
- ii. Lack of response from other bidders on account of problems associated with getting clearances from:
 - a. State Excise Department;
 - b. Food Safety and Standards Authority of India (FSSAI);
- iii. Denial of permission to sell by State Excise Authorities;

3. The matter was examined in consultation with Food Safety and Standards Authority of India (FSSAI) & Canteen Stores Department (CSD).

3.1. At present CSD is buying liquor of foreign brands directly in bulk quantity. As the seized/confiscated liquor is in assorted brands and in different quantities, they are not in a position to buy the stock from Customs.

3.2. FSSAI has stated that:-

- i. As per Food Safety and Standards (Import) Regulations, 2017, the Authorised Officer shall follow the procedure of inspection, sampling, testing and clearance, laid down

under these regulations, for disposal of all cases of uncleared or unclaimed articles of food;

- ii. FSSAI has also categorically emphasized that without obtaining a No Objection Certificate (NOC) from FSSAI, the imported food products including seized/confiscated foreign-origin Liquor should not be released to the market for sale/consumption and if sampling is not feasible in case of seized lot/batch of one or two bottles, then such stock shall be destroyed by the Customs;
- iii. FSSAI has also informed that there is provision to minimize the cost of sampling of imported high priced alcoholic beverages. As per their Order F. No. 1-1619/FSSAI/Imports/2016 dated 06.03.2017, a miniature/representative sample of 100 ml (in two numbers) will be taken for laboratory analysis;
- iv. FSSAI has also clarified that there is no de-minimis clause/exemption from testing of small lots.

4. In view of the above, the following guidelines are issued:

4.1. The Principal Commissioner of Customs or Commissioner of Customs shall constitute Liquor Disposal Committee headed by a Chairman of the rank of Additional/Joint Commissioner of Customs and with the following members, namely, Deputy/Assistant Commissioner of Customs in charge of the warehouse/disposal, any other Deputy/Assistant Commissioner of Customs, Superintendent of Customs in-charge of warehouse/disposal and any other Superintendent of Customs.

4.2. The functions of the Liquor Disposal Committee shall be to:

- i. meet as frequently as possible and necessary;
- ii. conduct a detailed review of seized/confiscated liquor pending disposal;
- iii. order disposal of seized/confiscated liquor; and
- iv. advise the respective investigation section/agency on the steps to be initiated for expeditious disposal of seized/confiscated liquor.

4.3. The officer-in-charge of warehouse shall prepare a list of all the seized /confiscated liquor that have become ripe for disposal and submit it to the Chairman of the concerned Liquor Disposal Committee. The Liquor Disposal Committee shall satisfy itself that the consignments are ripe for disposal, shall endorse necessary documents and thereafter that Committee shall physically examine and verify the lot size, weight and other details of each of the seized/confiscated consignments and record its findings' in each case.

4.4. The nearest FSSAI office shall be approached for sampling, testing and obtaining NOC for disposal of stock of Liquor which is ripe for disposal.

4.5. Modes of disposal are as follows:

- i. The stock of liquor for which NOCs from the nearest FSSAI office are obtained shall be disposed of through e-auction inviting qualified bidders who shall in turn comply with applicable state Excise Laws;
- ii. If it is not possible to obtain NOC from FSSAI for the reasons such as difficulty in sampling due to small lot size, etc; such stock shall be destroyed.

4.6 If the stock is to be destroyed in terms of Para 4.5 (ii) above, the procedure similar to the one notified for destruction of Narcotics and Psychotropic Substances (NDPS) as per the

NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2016, or such rules notified by Department of Revenue from time to time, may be followed.

4.7. The Liquor Disposal Committee shall intimate the Principal Commissioner of Customs or Commissioner of Customs regarding the programme of destruction at least fifteen days in advance so that, in case he deems fit, he may either himself conduct surprise checks or depute an officer for conducting such surprise checks and after every destruction operation, the Liquor Disposal Committee shall submit to the Principal Commissioner of Customs or Commissioner of Customs a report giving details of destruction.

4.8 A Certificate of destruction shall be prepared in triplicate and signed by the Chairman and Members of the Liquor Disposal Committee. The format of the Certificate is given at **Annexure** (copy enclosed). The original copy of the Certificate of destruction shall be pasted in the Warehouse Register after making necessary entries to this effect, the duplicate to be retained in the seizure case file and the triplicate copy shall be kept by the Chairman of the Liquor Disposal Committee.

5. The Chief Commissioners/Director Generals are hereby directed to circulate the guidelines to all the formations under their charge. Difficulties, if any, in implementation of the aforesaid guidelines may be brought to the notice of the Board.

Yours Sincerely,



(**Suraj Kumar Gupta**)

Joint Commissioner (Inv. – Cus)
CBIC, New Delhi

Annexure
[to Board's Instructiondated.....]

CERTIFICATE OF DESTRUCTION

This is to certify that the following lot of liquor were destroyed in our presence.

S.No	Case Details (File Number)	Details of the goods	Seizing agency	Date of seizure	Place of Seizure	Warehouse entry number	Quantity (in bottles)	Quantity (in Liters)

2. Where and how destroyed.

Signature(s), name(s) and designation(s) of Chairman/Members of the Liquor Disposal Committee.