

WAREHOUSING

Warehouse is a place where goods is kept in safety. According to section 2(43) of the Customs Act, 1962, 'Warehousing' means a public warehouse licensed u/s 57 or a private warehouse licensed u/s 58 or a special warehouse licensed u/s 58A. Similarly, 'Warehoused goods' means goods deposited in a warehouse.' [Sec. 2(44)].

Thus, under the Customs Act, 1962, there are two types of warehousing namely Public Warehouse and Private Warehouse. Warehouse is a place where goods after landing are permitted to be removed without payment of duty. The duty is collected at the time of clearance of goods from warehouse. Provisions regarding warehousing are given hereunder :-

(I) Appointing of Public Warehouses [Sec. 57]

The Principal Commissioner or Commissioner of Customs may, under some prescribed conditions, license a public warehouse, wherein dutiable goods may be deposited.

(II) Licensing of Private Warehousing [Sec. 58]

The Principal Commissioner or Commissioner of Customs may, under some prescribed conditions, licence a private warehouse wherein dutiable goods imported by or on behalf of the licensee may be deposited.

(III) Licensing of Special Warehouse [Sec. 58A]

(1) The Principal Commissioner or Commissioner of Customs may, under some prescribed conditions, licence a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer. No person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.

(2) The Board may notify the class of goods which shall be deposited in a special warehouse licensed [u/s 58A(1)] as above.

(IV) Cancellation of Licence [Sec. 58B]

(1) The Principal Commissioner or Commissioner of customs may cancel the licence granted u/s 57 or Sec. 58 or Sec. 58A, if :-

- (a) licensee contravenes any of the provisions of this Act, or
- (b) the rules or regulations made thereunder, or
- (c) breaches any of the conditions of licence.

But, the licensee shall be given a reasonable opportunity of being heard before such cancellation.

(2) The Principal Commissioner or Commissioner of Customs, besides any other actions that may have been taken against the licensee, suspend operation of the warehouse during the pendency of an inquiry.

(3) If the operation of a warehouse is suspended, no goods shall be deposited in such warehouse during the period of suspension.

Not the goods already deposited in such warehouse shall continue to remain there and all the provisions shall apply to it.

- (4) If such licence, issued under section 57 or 58 or 58A, is cancelled, the goods warehoused shall, within (7) seven days from the date of cancellation or within such extended period, as may be allowed, be removed from any warehouse to another warehouse or be cleared for home consumption, as expert.

(V) Warehousing bonds [Sec. 59]

- (1) The importer of any goods in respect of which a bill of entry for warehousing has been presented, shall execute a bond in a sum equal to thrice the amount of the duty assessed on such goods.

This bond shall bind the importer :-

- (a) to comply with all the provisions of the Act and rules and regulations made thereunder in respect of such goods.
 - (b) to pay all duties and interest payable, on or before the date specified in the notice of demand, and
 - (c) to pay all penalties and fines incurred for the contravention of the provisions of this Act the rules and regulations in respect of such goods.
- (2) The importer shall, in addition to the execution of such bond, furnish such security as may be prescribed.
 - (3) Such bond, executed by the importer in respect of any goods, shall continue to be in force notwithstanding the transfer of goods to another warehouse.
 - (4) If the whole of the goods, or any part thereof, are transferred to another person, the transferee shall execute such bond and furnish such security as specified herebefore in this section.

(VD) Permission for removal of goods for deposit in warehouse [Sec. 60]

On the fulfilment of such conditions (as given in section 59), the proper officer may make an order for removal of the goods from a custom station for depositing in a warehouse.

Such order may be made electronically through customs automated system.

After such order the goods shall be deposited in a warehouse in manner as may be prescribed.

(VID) Period for which goods may remain warehoused [Sec. 61]

- (1) Any warehoused goods may remain in any warehouse in which they are deposited or in any warehouse to which they may be removed :-
 - (a) in the case of capital goods for use in any 100% export oriented undertaking (EOU) or Electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted u/s 65, till their clearance from the warehouse;
 - (b) in case of goods other than capital goods intended for use in any 100% electronic oriented undertaking (EOU) or electronic hardware technology park unit or software technology park unit or any warehouse where manufacture or other operations have been permitted u/s 65, till the

- (c) in the case of any other goods, till the expiry of one (1) year from the date or which the proper officer make an order to remove it.

But the Principal Commissioner or Commissioner of Customs may, for recorded reasons such as goods are likely to deteriorate, extend or reduce the period of one year.

- (2) If any warehoused goods remain in a warehouse beyond a period of 90 (ninety) days from the date on which the proper officer has made an order of removal u/s 60(1), interest shall be payable at such rate fixed by the Central Government, on the amount of duty payable at the time of clearance of the goods, for the period from expiry of 90 days till the date of payment of duty on the warehouse goods.

But the Board, if considers necessary, may:—

- (a) by order, under exceptional circumstances, waive the whole or any part of the interest payable in respect of any warehoused goods;
- (b) by notification, specify the class of goods in respect of which no interest shall be charged under this section;
- (c) by notification, specify the class of goods in respect of which the interest shall be chargeable from the date on which the proper officer has made an order of removal u/s 60(1).

(VIII) Owner's right to deal with warehoused goods [Sec. 64]

The owner of any warehoused goods may, after warehousing the same :—

- (a) inspect the goods;
- (b) deal with their containers in any way to prevent loss or deterioration or damage to the goods;
- (c) sort the goods; or
- (d) show the goods for sale.

(IX) Manufacture and other operations in relation to goods in a warehouse [Sec. 65]

The owner of any warehoused goods may, with the permission of the Principal Commissioner or Commissioner of Customs and on payment of prescribed fees, carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(X) Power to exempt imported materials used in the manufacture of goods in warehouse [Sec. 66]

If any imported materials are used with the permission of Asstt. or Deputy Commissioner of Customs under the provisions of section 65 for the manufacture of any goods and the rate of duty leviable on the imported materials exceeds the rate of duty leviable on such goods, the Central Government, if satisfied that in the interest of the establishment or development of any domestic industry it is necessary to do so, may, by notification exempt the imported materials from the whole or part of the excess rate of duty.

(XI) Removal of goods from one warehouse to another [Sec. 67]

The owner of any warehoused goods may, with the permission of proper officer, remove the goods from one warehouse to another subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which removal is permitted.

(XII) Clearance of warehoused goods for home consumption [Sec. 68]

Any warehoused goods may be cleared for home consumption if :—

- (a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;
- (b) the import duty, interest, fine and penalties payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for home consumption has been made by the proper officer.

Such order may be made electronically through the customs automated system.

(XIII) Clearance of warehoused goods for export [Sec. 69]

Any warehoused goods may be exported to a place outside India without payment of import duty in the following cases :—

- (a) If a shipping bill or a bill of export of the form prescribed u/s 84 has been presented in respect of such goods in the prescribed form;
- (b) If the export duty, fine and penalties, payable in respect of such goods have been paid; and
- (c) If an order for clearance of such goods for export has been made by the proper officer.

But, if the Central Government is of the opinion that any warehoused goods are likely to be smuggled back into India, it may, by notification, direct that such goods shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.

(XIV) Allowance in case of volatile goods [Sec. 70]

When any warehouse goods are, at the time of delivery from a warehouse, found to be deficient in quantity on account of natural loss, the Asstt. or Deputy Commissioner of customs may remit the duty on such deficiency.

This provision is applicable to such warehoused goods as the Central Government, having regard to the volatility of the goods and manner of their storage, may notify.

Following volatile goods are, generally, imported and warehoused which have a tendency to evaporate during the period of storage and so these are found to be deficient :—

- (a) Petroleum products;
- (b) Liquor; and
- (c) Ethylene dichloride and liquid helium.

(XV) Goods to be taken out of warehouse only as per the provisions of this Act [Sec. 71]

Any warehoused goods shall not be taken out of a warehouse except on clearance for home consumption or re-exportation or for removal to another warehouse, or as otherwise provided by this Act.

(XVI) Goods improperly removed from warehouse etc. [Sec. 72]

(1) In any of the following cases, the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable in respect of such goods :—

- (a) When any warehoused goods are removed from a warehouse in contravention of section 71;

- (b) When any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted u/s 61 to remain in a warehouse;
- (c) When any goods in respect of which a bond has been executed u/s 59, and which have not been cleared for home consumption or export are not duly accounted for to the satisfaction of the proper officer.

(XVII) Cancellation and return of warehousing bond [Sec. 73]

When the whole of the goods covered by any bond executed u/s 59, have been cleared for home consumption or exported or transferred or otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.

(XVIII) Custody and removal of warehoused goods [Sec. 73A]

- (1) All warehoused goods shall remain in custody of the person who has been granted licence until they are cleared for home consumption or are transferred to another warehouse or are exported or removed under this Act.
- (2) The responsibilities of the person who has custody the warehoused goods, shall be such as may be prescribed.
- (3) If any warehoused goods are removed in contravention of section 71, the licensee shall be liable to pay duty, interest, fine and penalties. Besides, any other action may also be taken against him under this Act or under any other law for the time being in force.

QUESTIONS

1. State the provisions of the Customs Act, 1962 relating to licensing of private warehouses.
2. State the owner's rights to deal with warehoused goods.
3. What are public and private warehouses ? State the procedure of clearance of goods from public warehouses.
4. State the provisions of section 59 of the Customs Act, 1962 regarding warehousing bond.
5. For how much period may the goods remain in warehouse ? State the provisions relating to control over warehoused goods.
6. State the provisions relating to clearance of warehoused goods for home consumption as-well-as for exportation.
7. Write legal provisions regarding the followings :—
 - (a) Payment of rent and warehousing charges;
 - (b) Manufacture and other operations in relation to warehoused goods;
 - (c) Removal of goods from one warehouse to another;
 - (d) Allowance in case of volatile goods;
 - (e) Custody and removal of warehoused goods.

