



आयुक्त, सीमा शुल्क का कार्यालय, कांडला
OFFICE OF THE COMMISSIONER OF CUSTOMS,
न्यू कस्टम हाउस, कांडला
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F. No. S/20-07/AG/GST/17-18

Dated: 30/11/2017

PUBLIC NOTICE No. 60 /2017

Subject: Applicability of IGST / GST on goods transferred / sold while being deposited in a warehouse. -reg.

Attention of all Exporters, Customs Brokers, Members of the Trade and Industry and other stakeholder is invited towards CBE & C's Circular No. 46/2017-Cus dated 24.11.2017 issued through F. No. 473/10/2017-LC on the above mentioned subject matter

2. Ch IX of the Customs Act, 1962 provides for deposit of goods into a Customs bonded Warehouse licensed under Section 57 or 58 or 58A without payment of duty and the procedures to be followed with respect to the warehoused goods. Sub-section (5) of Section 59 provides that the importer is at liberty to transfer the ownership of such goods to another person while the goods remain deposited in the warehouse.

3. It is to be noted that the value of imported goods, for purposes of charging Customs duty, is determined as per Section 14 of the Customs Act, 1962 at the time of import i.e. at the time of filing of the into-bond Bill of Entry. Any costs incurred after the import of goods, such as, port charges / port demurrage charges or costs for Customs clearing or transporting the goods from the port to the Customs bonded warehouse or costs of storage at the customs bonded warehouse, cannot be added to the value of the goods, for the purpose of levy of duties of customs at the stage of ex-bonding. Further, clause (b) of sub-section (1) of Section 15 of the Customs Act provides that the rate of duty or tariff valuation for an ex-bond Bill of Entry shall be the date on

which it is filed. There is no provision to vary the assessable value of the goods at the ex-bond stage unless they are such goods on which tariff valuation applies. Therefore, duties of customs (BCD + IGST) shall be paid on the imported goods at the stage of exbonding on the value determined under Section 14 of the Customs Act.

4. However, the transaction of sale / transfer etc. of the warehoused goods between the importer and any other person may be at a price higher than the assessable value of such goods. Such a transaction squarely falls within the definition of "Supply" as per Section 7 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as, "CGST Act" for short) and shall be taxable in terms of Section 9 of the CGST Act read with section 20 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as, "IGST Act" for short). It may be noted that as per sub-section (2) of Section 7 of the IGST Act, any supply of imported goods which takes place before they cross the Customs frontiers of India, shall be treated as an inter-State supply. Thus, such a transaction of sale/transfer will be subject to IGST under the IGST Act. The value of such supply shall be determined in terms of Section 15 of the CGST Act read with Section 20 of the IGST Act and the rules made thereunder, without prejudice to the fact that Customs duty (which includes BCD and applicable IGST payable under the Customs Tariff Act) will be levied and collected at the ex-bond stage.

5. Thus, in respect of goods stored in a Customs bonded Warehouse, there is a possibility that certain cases may involve an additional taxable event, if a transfer of ownership of warehoused goods takes place between the importer and another person, before clearance of the goods, whether for home consumption or for export.

5.1 In other words, when goods remain deposited in a Customs bonded Warehouse and are transferred by the importer to another person, the transaction will be subject to payment of IGST at the value determined as per Section 20 of the IGST Act read with Section 15 of the CGST Act, 2017 and the rules made thereunder and the tax liability shall be reckoned as per Section 9 of the CGST Act, 2017.

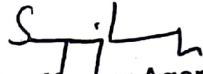
5.2 However, it may be noted that so long as such goods remain deposited in the warehouse the Customs duty to be collected shall remain deferred. Further, it is only when such goods are ex-bonded under Section 68, shall the deferred duty be collected, at the value as had been determined under Section 14 of the Customs Act, 1962 in addition to IGST leviable, as indicated at Para 5.1 above. An illustrative chart on in-bond sales and clearance thereof is below:

**Sale of goods in a Bonded Warehouse and clearance thereof:
ILLUSTRATION**

Goods imported by "A" on 2nd July 2017. Importer wants to deposit the goods in a bonded Warehouse to defer duty.	⇒	Importer files an "into bond bill of entry" and the goods are deposited in a Bonded Warehouse. BCD and IGST (Section 3(7) of Customs Tariff Act 1975) are deferred. Illustration of duty deferment: A: Value of goods = Rs. 100 B: say BCD is 10% = Rs. 10 (10% of Rs. 100) C: say IGST is 12% = Rs. 13.2 (12% of Rs. 110) D: Duty Deferred (B+C) = 23.20	⇒	A' sells the goods to "B" on 21st July 2017 for Rs. 300 and charges IGST of Rs. 36 @12% (IGST). Payment of the above IGST of Rs. 36 and filing of return for the same should be done by 20th August 2017.	⇒	"B" files an Ex-bond Bill of entry on 25th of September 2017 and pays Rs. 23.20 (the deferred duty). (In addition to duty of Rs. 36 paid earlier as indicated in Box-C).
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6. Any difficulties faced / experienced, if any, in this regard may be brought to the notice of the undersigned.

7. All the Trade Associations, Chamber of Commerce and Industry and Customs House Agents Association are requested to publicize the contents of this Public Notice among their members / constituents for information.


 (Sanjay Kumar Agarwal),
 Commissioner,
 Custom House, Kandla.

Copy to:-

01. The Chief Commissioner of Customs, Gujarat Zone, Ahmedabad.
02. All Additional Commissioners of Customs, CH Kandla.
03. All Deputy/ Assistant Commissioner of Customs, CH Kandla.
04. The President, Kandla Custom House Agents' Association, Gandhidham Chamber Of Commerce & Industry Building, Plot No.71, Sector No.8, 2Nd Floor, Room No.7, Gandhidham.
05. The President, Kandla Port Steamship Agents Association, No. 5, Chambers Bhawan, 2nd Floor, Sector 8, Plot No.71, Gandhidham.

06. The Gandhidham Chamber of Commerce & Industries, Plot No.71, Sector No.8, 2Nd Floor, Gandhidham.
07. The Chairman, DPT, Business Development Cell, P.O. Box 50, Administrative Building, Gandhidham.
08. The President, Kandla Timber association, "Timber Bhavan" Plot No. – 47, Sector-8, Gandhidham
09. The President, Kandla Liquid Tank Terminal Association, Maitri Bhavan, Opp. Post Office, Plot No. 18, Sector- I, Gandhidham.
- ✓ 10. The EDI Section, for uploading on Commissionerate's Website.
11. Notice Board.