

Circular No. 36 /2020-Customs

F. No: 473/03/2020-LC
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs

North Block, New Delhi
Dated 17th August, 2020

To,

All Principal Chief Commissioners/Chief Commissioners of Customs
Principal Directors General/Directors General of Customs
Principal Commissioners/Commissioner of Customs

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

Madam/Sir,

Manufacture and Other Operations in Special Warehouse Regulations, 2020 (hereinafter referred to as the MOOSWR, 2020) have been issued vide Notification No. 75/2020-Customs (N.T.) dated 17th August, 2020. These regulations allow manufacturing and other operations in a special warehouse licensed under section 58A of the Customs Act, 1962, with regard to warehoused goods specified in clause (1) of Notification No. 66/2016-Customs (N.T) dated 14th May, 2020 (herein after referred to as, “specified goods”).

2 MOOSWR, 2020 and this Circular cover the procedures and documentation for a section 58A warehouse, operating under Section 65 of the Act, in a comprehensive manner including application for seeking permission under section 65, provision of execution of the bond and security by the licensee, receipt, storage and removal of goods, maintenance of accounts, conduct of audit etc.

3. Further, the Special Warehouse (Custody and Handling of goods) Regulations, 2016, which were hitherto governing the procedure for custody and handling of goods deposited in and removed from a Special Warehouse have been amended, vide Notification No.77/2020-Customs (N.T) dated 17th August, 2020, to exclude their application for such warehouses operating under section 65. The said regulations will continue to be applicable for special warehouses, not operating under Section 65.

4. An applicant desirous of manufacturing or carrying out other operations on specified goods in a bonded warehouse under section 65, must have the premises licensed as a special warehouse under section 58A of the Customs Act. The applicants can seek a license under section 58A and permission to operate under section 65 synchronously, or request for permission under section 65, if they already have a warehouse licensed under section 58A.

5. 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**. The form of application has been so designed that the process for seeking grant of license as a Special Warehouse as well as permission to carry out manufacturing or other operations stands integrated into a single form. The declaration to be made to satisfy regulation 5 of Special Warehouse Licensing Regulations, 2016, and the undertaking to be made by the applicant as per regulation 4 of MOOSWR, 2020, is included in the application format (Part II). 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.

6. It has also been decided that 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**). Regulation 4 of the MOOSWR, 2020, provides that the applicant under section 65 shall undertake to execute a bond in such format as specified. Further, Section 59 of the Customs Act requires the importer of the warehoused goods to furnish security and execute a triple duty bond for the warehoused goods. Thus, the bond prescribed under this Circular as per **Annexure C** serves the requirements of both MOOSWR, 2020 and Section 59 of the Customs Act. Additionally, the licensee will furnish security by way of a bank guarantee equivalent to the duty involved on the warehoused goods.

7. 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 pay any amounts due. 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 Act.

8. 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 to the domestic tariff area 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. As per MOOSWR, 2020, the applicant shall also inform the input-output norms for raw materials and final products and shall also inform the revised input-output norms in case of change therein.

8.1 The proper officer should ensure that the goods so cleared are result of manufacturing or other operations. In case the licensee is unable to carry out any manufacturing or other operations on warehoused goods, then the goods may be cleared as such, either for home consumption after the payment of applicable import duties along with the interest accrued upon such goods in terms of Section 61 (2) of the Customs Act, 1962 or may be exported. In such case the provisions of clause (b) of Section 61(1) shall not be applicable.

9. The waste generated during the course of manufacture or other operations of the resultant product may be cleared for home consumption as per clause (b) to sub-section (2) of section 65 of the Customs Act on payment of applicable duties of customs and GST.

10. Where the resultant product is exported, and 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.

11. As per Regulation 3 (2) (e) (i) of the Special Warehouse Licensing Regulations, 2016, the Principal Commissioner or Commissioner has to be satisfied that the site or building of the proposed special warehouse is suitable for secure storage of dutiable goods. Regulation 8 of MOOSWR 2020, requires the licensee to provide such facilities, equipment and personnel as are sufficient to control access to the warehouse, provide secure storage of the goods and ensure compliance to the regulations. Considering the nature of goods to be warehoused in a special warehouse, the Principal Commissioner or Commissioner has to ensure that the structure is fully closed from all sides, gate(s) with access control and personnel to safeguard the premises. It is also to be ensured that there is/are CCTV cameras at the gate(s) and there is a provision of accessing the same by customs officers. The Principal Commissioner/Commissioners should take into consideration the facilities, equipment and personnel put in place for secure storage of goods, while considering grant of license. Further, office space for bond officer and sufficient space for customs officer for carrying out examination at the time of arrival or removal of goods have to be provided.

12. As per Regulation 4(2)(i) of MOOSWR 2020, a licensee is required to maintain accounts of receipt and removal of goods in digital form in such format as may be specified and furnish the same to the bond officer on monthly basis digitally. This information shall be communicated from the registered email address of a licensee to the designation based official email id accessed by the bond officer. Appointment of any new warehouse keeper should also be intimated along with the monthly returns. Jurisdictional Commissionerate should ensure that such emails are functional and details of same are communicated at the time of issuance of license and also published through public notice.

13. As per Regulation 18(3), the records should be maintained electronically using software which has inter alia features of audit trail and with each event being recorded with time stamp. The licensee is also required to provide details of such software while applying in terms of MOOSWR 2020. At the time of inspection, the proper officer should, through a demonstration, check and ensure that the software meets the requirements of Regulation 18(3). In case licensee wishes to use any other software after issuance of license, bond officer should be informed in advance along with similar demonstration. Proper officer should record the observations and confirm that the new software meets the requirements of Regulation 18(3).

14. Section 58A provides that the proper officer shall cause a warehouse licensed under section 58A to be locked and no person shall enter the warehouse except in his presence. It is clarified that this requirement shall be applicable for the strong-room where specified goods are warehoused, in terms of regulation 9 of MOOSWR, 2020. This will not apply to the remaining licensed premises.

15. The services of customs officer for supervising various activities prescribed in the

MOOSWR, 2020, shall be chargeable on cost recovery or overtime basis, in terms of regulation 4(2)(vi). The licensee shall have to indicate the frequency with which the warehouse has to be operated per day / per week and the expected business hours of such operation, requiring supervision/presence of the bond officer in terms of MOOSWR, 2020.

15.1 The Principal Commissioner / Commissioner shall evaluate the projected requirement and also consider the distance of the warehouse from the customs office to determine which of the modes of recovery of costs needs to be applied and the amount to be paid by the licensee.

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

17. Hindi version follows.

(Dr. Swati Bhanwala)
OSD (Land Custom)

Annexure- A

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

**Part I
(to be filled by the applicant)**

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
(to be filled by the applicant)

1. Address of the proposed site or building:
2. Boundaries of the warehouse:
 - (i) North
 - (ii) South
 - (iii) West
 - (iv) 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:
 - (i) Tel:
 - (ii) Fax:
 - (iii) Email:
 - (iv) Website, if any:
5. Details of warehouse license issued earlier to the applicant, if any:
 - (i) Date of issue of license:
 - (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 (fill details as applicable to the 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 of
 - (a) specified goods, and
 - (b) other goods
 - (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 remodelled? 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).

Details of goods:	Description of goods	Classification as per Customs Tariff	Briefly detail, input- out norms Please attach any supporting publication /document, if available.
proposed to be imported			
proposed to be domestically procured			
intermediate product			
final product			
details of waste & scrap			

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. Software which will be used in terms of Regulation 18(3):

11. DECLARATION:

I/ We declare that:

1. I/We are a registered or incorporated entity in India.
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. I/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 license granted to me/us shall be liable to be cancelled and I/we shall be liable for action under Customs Act, 1962.

12. UNDERTAKING.

I/We undertake to:

- (i) maintain accounts of receipt and removal of goods in digital form in such format as may be specified and furnish the same to the bond officer on monthly basis digitally;
- (ii) provide facilities, equipment and personnel as required in the Manufacture and Other Operations in Special Warehouse Regulations, 2020;
- (iii) execute a bond in such format as may be specified.
- (iv) Furnish a security in form of bank guarantee as may be specified;
- (v) inform the input-output norms, for raw materials and the final products and to inform the revised input-output norms in case of change therein;
- (vi) pay for the services of supervision of the warehouse by officers of customs on cost recovery basis or overtime basis, as may be determined by the Principal Commissioner of Customs or the Commissioner of Customs; and
- (vii) comply with such terms & conditions as may be specified by the Principal Commissioner of Customs or the Commissioner of Customs.

(Signature of the applicant/authorized signatory)

Stamp
Date:
Place:

Part III
(For Use by Customs Only)

1. Verification of the applicant:
[verification to be done of the Declaration made by applicant as per serial no.11 of Part - II of the application. Verification to be done by DRI / DGGL.]
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, security and storage space of the strong-room, area available for examination of goods, software etc.
4. Is the Premises recommended for issue of license as a warehouse along with permission for manufacture or other operations?

Signature:

Name:

Designation:

Date:

Part IV
(For use by Customs Only)

1. Upon the satisfaction of the Commissioner that the licence may be granted, the following shall be obtained from the applicant (Please refer Regulations 3 and 4 of Special Warehouse Licensing Regulations, 2016):

- (i) Solvency certificate, where applicable.
- (ii) Insurance Policy.
- (iii) Undertaking under section 73A.
- (iv) Indemnity undertaking.
- (v) Bond as per Annexure C to this Circular.
- (vi) Details of Warehouse keeper appointed by the Licensee:
 - (a) Name
 - (b) Address (residential)
 - (c) Tele: (office)
 - (d) Tele: (mobile)
 - (e) E-mail id:
- (vi) Confirmation that digital signature has been obtained by the warehouse keeper (as per guidance available on ICEGATE website).

2. Licence No. and date of issue:

3. Warehouse Registration Code on ICEGATE (refer Circular 19/2016 dated 20th May 2016):

Signature:
Name:
Designation:
Date:

Part V

(For use by Customs only)

(Details of commencement of manufacture or other operations in the Warehouse)

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 36/2020-Customs dated 17th August, 2020.

Signature:
Name:
Designation:
Date:

RESULTANT PRODUCTS (CLEARANCE FOR HOME CONSUMPTION)													
Resultant products cleared for home consumption							Warehoused goods contained in so much of the resultant products cleared for home consumption						
Date and time of removal	GST Invoice No. and date	Description of goods	Quantity with UQC	Value	Tax paid		Bill of Entry No. and date	Description of goods	Quantity with UQC	Assessable Value	Duty paid		
					GST	Comp. cess					BCD	IGST	Comp. cess
43	44	45	46	47	48	49	50	51	52	53	54	55	56

IMPORTED GOODS CLEARED AS SUCH													
Imported goods cleared as such for home consumption							Imported goods exported as such						
Bill of entry No. and date	Description of goods	Quantity with UQC	Assessable value	Duty paid			Shipping Bill No. and date	Description of goods	Quantity with UQC	Assessable Value	Duty involved		
				BCD	IGST	Comp. cess					BCD	IGST	Comp. cess
57	58	59	60	61	62	63	64	65	66	67	68	69	70

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
71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89

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			97						
				BCD	IGST	Comp. cess							
90	91	92	93	94	95	96							

General Bond

(To be executed under Section 59 of the Customs Act, 1962 and MOOSWR 2020 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 decided to grant license to operate a warehouse under Section 58A of the Customs Act;

AND WHEREAS the Principal Commissioner or Commissioner of Customs, has decided to permit carrying out manufacture and other operations in the warehouse under Section 65 of the Customs Act;

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.

