

Circular No. 34/2019-Customs

F. No: 473/03/2015-LC(pt.)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs

North Block, New Delhi
Dated 1st October 2019

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 bonded warehouses under section 65 of the Customs Act-reg.

Madam/Sir,

Please refer to the Manufacture and Other Operations in Warehouse Regulations 2019, issued vide Notification No. 44/2019-Customs (N.T) dated 19th June, 2019 and Circular 38/2018-Customs dated 18.10.2018 issued to streamline the procedure, documentation and compliances to be followed under Section 65 of the Customs Act, 1962 (hereinafter referred to as the “Act”).

2. Representations have been received from the trade including potential investors seeking clarifications on some issues. With a view to provide clarity and predictability and to facilitate investments, Board has decided to issue a revised circular along with the Manufacture and Other Operations in Warehouse Regulations 2019 (no. 2 regulations), issued vide Notification No.69/2019-Customs (N.T.) dated 01.10.2019, hereinafter referred to as, “MOOWR, 2019”. Circular 38/2018-Customs stands consolidated and integrated into this Circular.

2. MOOWR, 2019 and this circular covers the procedures and documentation for units operating under Section 65 in a comprehensive manner, including application for seeking permission under section 65, provision of execution of the bond by the licensee, receipt, storage and removal of goods, maintenance of accounts, conduct of audit etc.

3. Consequently, the Warehouse (Custody and Handling of Goods) Regulations, 2016, and the Warehoused Goods (Removal) Regulations, 2016, which were hitherto governing the procedure for custody and handling of goods in and removal of goods from public and private bonded warehouses, have been amended vide Notification 70/2019-Customs (N.T.) and 71/2019-Customs (N.T.) both dated 01.10.2019 to exclude their application for warehouses operating under section 65. The said regulations will continue to be applicable for warehouses, not operating under Section 65.

4. 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, 2019 must also have

the premises licensed as a private bonded warehouse under section 58 of the Customs Act. The applicants can seek a license under section 58 and permission to operate under section 65 synchronously, or request for permission under section 65, if they already have a warehouse licensed under section 58.

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 private bonded 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 Private Warehouse Licensing regulations 2016 and the undertaking to be made by the applicant as per regulation 4 of MOOWR 2019 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 MOOWR, 2019, 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 owner of the warehoused goods to 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 MOOWR, 2019 and Section 59 of the Customs Act.

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 MOOWR, 2019, the applicant shall also inform the input-output norms, wherever considered necessary, for raw materials and final products and shall also inform the revised input-output norms in case of change therein.

9. The waste generated during the course of manufacture 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. In cases 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. 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 Chapter 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).

12. Since the warehouse operating under section 65 also functions as a warehouse licensed under section 58, the licensees can also import goods and clear them as such, for home consumption under section 68 on payment of import duties, along with interest as per sub-section (2) of section 61 of the Act or clear them as such for export under section 69 of the Act. The licensees shall also be required to submit monthly returns in "Form B" as prescribed under Circular No. 25/2016-Cus dated 8th June 2016 in case the warehouse is used for such purposes i.e. non-section 65 purposes. This is being allowed to enable optimum utilization of available infrastructure.

13. As per Regulation 3 (2) (e) (i) of the Private Warehouse Licensing Regulations, 2016, the Principal Commissioner or Commissioner has to be satisfied that the site or building of the proposed private warehouse is suitable for secure storage of dutiable goods. Regulation 8 of MOOWR 2019 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. Thus, the regulations do not mandate that a structure fully closed from all sides is a pre-requisite for grant of license. What is important is that the site or building is suitable for secure storage of goods and discharge of compliances, such as proper boundary walls, gate(s) with access control and personnel to safeguard the premises. Moreover, depending on the nature of goods used, the operations conducted and the industry, some units may operate without fully closed structures. Therefore, 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.

14. The issue of procurement of imported goods that are exempt from duty or are chargeable to nil rate of duty into a warehouse operating under section 65 has also been raised. The objective of section 65 is to enable manufacture and other operations in customs bonded warehouses. For this purpose, the units should be able to procure required raw materials, consumables, capital goods etc., imported or procured from domestic market. The goods may include dutiable goods, exempt goods or those chargeable to nil rate of duty. Denial of the facility to exempt goods or those chargeable to nil rate of duty, which may be required for manufacturing, would defeat the objective of Section 65. It is therefore clarified that imported goods, that are exempt from duty or are chargeable to nil rate of duty, may be brought into the warehouse, upon filing a bill of entry for home consumption and clearance, at the customs station of import. Such goods shall not be considered as warehoused goods in terms of section 60 of the Act.

15. Sections 67, 68 and 69 of the Act provides for permission of the proper officer for removal of the goods from one warehouse to another, for home consumption and for export, respectively. Even in cases, the resultant goods are being removed, permission of the proper officer would be required for removal of the (imported) warehoused goods contained in the resultant goods.

15.1 Given the continuous nature of operations in warehouses under section 65, and the potential need to clear resultant goods expeditiously, the requirement to obtain prior permission of the proper officer for each clearance could pose a challenge to making clearances on time to meet delivery schedules. Therefore to facilitate such timely clearances and for convenience of the trade, recourse has been taken to the powers vested under Section 143 AA, and it is provided under regulation 13, 14 and 15 of MOOWR 2019 that while a licensee shall file the due documentation (such as the Form for transfer of goods from a warehouse, bill of entry and shipping bill, respectively) and pay the duties due, prior permission of the proper officer is not an essential condition for removal of the warehoused goods (as part of the resultant goods). The licensees who wish to avail self-sealing facility for exports can avail the facility made available under circular 26/2017 customs dated 01.07.2017 and its linked circulars.

16. Board has partnered with Invest India under the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India to launch a microsite for the promotion of the scheme and facilitation of investors. The same can be accessed at <https://www.investindia.gov.in/bonded-manufacturing>. The microsite also hosts a digitized application that an applicant can fill online, upload the supporting documents, submit online and also print the application form.

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

18. 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
(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 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 (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?
 - (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 (if applicable) 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. 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 many be specified and furnish the same to the bond officer on monthly basis digitally.
- (ii) execute a bond in such format as may be specified.
- (iii) inform the input-output norms, wherever considered necessary for raw materials and the final products and to inform the revised input-output norms in case of change therein.
- (iv) 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 / DGGI. Grant of license 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 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 Regulation 4 of Private Warehouse Licensing Regulations, 2016):
 - (i) Insurance Policy.
 - (ii) Undertaking under section 73A.
 - (iii) Indemnity undertaking.
 - (iv) Bond as per Annexure C to this Circular.
 - (v) 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 34/2019-Customs dated 01.10.2019.

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

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
54	55	56	57	58	59	60	61	62	63	64	65	66	67

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
68	69	70	71	72	73	74	75	76	77	78	79	80	81

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						

General Bond

(To be executed under Section 59 of the Customs Act, 1962 and MOOWR 2019 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 58 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.

