Circular No.34/2002-Cus.
26th June, 2002

F.No.434/12/92-Cus.IV
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs

Subject: Standard set of guidelines for appointment of custodian of Sea Ports and Air Cargo Complexes.

In the recent past, a number of new ports and Aircargo Complexes have been developed by public sector as well as private sector agencies and many more such facilities are in pipeline. In this connection, a point that has been made that the Board vide Circular No.128/95-Cus., dated 14.12.1995, had prescribed a set of guidelines for appointment of custodians of EPZs/ICDs/CFSs, but no guidelines have been prescribed for appointment of custodians of ports and Aircargo Complexes. Absence of guidelines for appointment of custodians of ports and Aircargo Complexes results in disparity in practice at field level.

2. To ensure smooth working of ports and Aircargo Complexes, a need was felt to draw up a standard set of undertakings to be given by the custodians before they are so appointed under section 45 of the Customs Act, 1962. In this connection, it may be noted that ports or Aircargo Complexes are functionally similar to ICDs/CFSs and therefore, the guidelines prescribed vide the said Circular for appointment of custodians of EPZs/ICDs/CFSs with minor modification can be made applicable for appointment of custodians of ports or Aircargo Complexes.

3. In view of above, a set of guidelines for appointment of custodians of ports/Aircargo Complexes is enclosed as Annexure to this Circular, which needs to be applied while appointing a custodian of port or Aircargo Complexes.

4. These instructions may be brought to the notice of all concerned by issuing suitable Public Notice or Standing Order.

5. Difficulties, if any, in implementation of the Circular, may be brought to the notice of the Board. Kindly acknowledge receipt of the Circular.

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ANNEXURE

Guidelines on undertaking to be given by the custodians before appointed as custodians of Sea Ports and Air Cargo Complexes

(1) The custodian should provide safe, secure and spacious premises for loading/ unloading / storing of the cargo. The infrastructure for loading / unloading and storage operations should be designed to handle the projected traffic of the port or Aircargo Complex. The premises should be so designed that there should be provision for expansion of storage space, office accommodation, handling space, etc. for a period of 10 years;

(2) The custodian shall provide sufficient modern handling equipment in operational condition for handling the containers and cargo in the area;

(3) No alteration of the plan in the accommodation, boundary wall and building, etc. shall be made without the concurrence of the jurisdictional Commissioner of Customs;

(4) Insurance of all goods stored in the Sea Port and Air Cargo Complexes shall be made by the custodian;

(5) The custodian shall abide by all the rules and regulations under the Customs Act;

(6) For the proper discharge of duties the custodian shall execute a bond equal to the value of the goods likely to be stored in the premises for a period of 30 days, supported by a bank guarantee or a Government bond or cash deposit equivalent to 10% of the value of goods. However, all Central Government and State Government Undertakings shall be exempt from the requirement of furnishing bank guarantee or cash deposit;

(7) The custodian shall bear the duty on the goods lost or pilfered from the Sea Ports and Air Cargo Complexes;

(8) The custodian shall give separate bond with bank guarantee as prescribed by the Board from time to time towards the duty incentive involved in the export goods transported from the customs area to the gateway port / any other customs area for export / transhipment. The custodian would also be held responsible for the duty and for other penalties leviable for the goods lost during the transhipment from the said customs area to the gateway port / other customs area;

(9) Security of the premises shall be the responsibility of the custodian subject tot he prior approval of the Commissioner of Customs of the arrangements. The cost for the security has to be borne by the custodian;

(10) The custodian shall bear the cost of the Customs staff posted at the Sea Ports and Air Cargo Complexes. The Commissioner of Customs shall decide the number of staff, which is required top be posted in the facility considering the workload in the station;

(11) The custodian shall provide free furnished office space for the Customs Department;

(12) Residential accommodation for the Customs staff posted in the area shall also be provided for by the custodian, wherever requisitioned by the Commissioner of Customs;

(13) Free suitable transport from the nearest railway head or suitable point shall be provided for the customs staff by the custodian;

(14) In the Sea Ports and Air Cargo Complexes, the custodian shall make adequate arrangements for sanitary facilities, water supply and other allied facilities, including canteen facility, for the officers working in the area;

(15) The custodian shall not charge any rent / demurrage on the goods detained by Customs Department under the Customs Act or any other Act for the time being in force;

(16) In case the custodian wants to sublet any of the functions inside the customs area or connected with the customs area, the same should be done with the prior approval of the Commissioner of Customs and the custodian shall remain responsible for the omissions and commissions of the said agency;

(17) Duration of the appointment shall initially remain for 5 years and subject to the satisfaction of the Commissioner of Customs. The Commissioner of Customs shall have the right to terminate the appointment at any time after assigning specific reasons and giving an opportunity for the custodian to explain his case. The appointment shall be reviewed after every 5 years thereafter.

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