Circular No. 11/98

dated 11/2/98

No. 450/ 145/ 97 - Cus. IV

Government of India

Ministry of Finance

department of Revenue

Central Board of Excise & Customs, New Delhi

Subject :- Procedure for disposal of unclaimed/ uncleared cargo u/ s 48 of the Customs Act, 1962 lying in Air Cargo Complexes - regarding.

I am directed to refer to board's letter F.No.446/44/92-Cus. IV dated the 20th Sept., 1997 on the above subject. The said procedure was applicable for goods landed upto 31st March, 1997 and lying unclaimed/ uncleared in the air cargo complexes.

2. The procedure for clearance of air consignments for the period after 1st April, 1997 has been discussed with the Ministry of Civil Aviation. The need for releasing space quickly is of paramount importance in Air Cargo Complexes in order to facilitate quicker clearance. Keeping this in mind, the following procedure is framed for adoption by all Customs Houses.

3. In terms of Section 48 of the Customs Act. 1962, goods imported into India which are not cleared for home consumption or warehoused or transhipped within 30 days of their landing or within such further time as Assistant Commissioner of Customs may allow or if the title to any imported goods is relinquished. such goods may, after notice to the importer and with the permission of the proper officer be sold by the person having custody thereof.

4. The imported goods lying uncleared may be classified into two categories viz., (a) goods confiscated under the Customs Act, 1962 and (b) goods not confiscated but lying uncleared/ unclaimed. For the goods of category (a), it is the responsibility of the Customs Department to get them disposed of through the disposal units of the Department. The custodian will fully fully undertake disposal of goods falling under category (b). Every month the custodian shall prepare a list of all imported goods - aircraft wise which are lying uncleared / unclaimed, for more than 45 days and will send it to customs on monthly basis. The list shall be delivered by hand and shall be acknowledged with date by the Customs. The list would contain complete particulars such as Airway Bill number, description of goods, weight, name of the consignee/ consignor etc. A notice shall simultaneously be issued by the custodian to the consignee at this known address or through their notice board that if the goods are not cleared within 15 days it will be sold by the custodian under Section 48 of the Customs Act, 1962.

5. Valuation of goods shall be done by a Committee consisting of a representative of the custodian, Government approved valuers and a representative of the Customs for working out the reserve prices of the consignment to be auctioned. Customs House will provide, on cost recovery basis, one Appraiser each to Air Cargo Complex at Delhi, Mumbai, Chennai and Calcutta. The Appraisers posted on cost recovery basis to such formations would represent the Customs Department in the Committee and would have full authority to determine whether the goods are prohibited for import or fall in the negative list of import or are required to be detained for any other reason. The valuation committee at the time of fixing value would inspect the goods and segregate the goods which are prohibited for import under EXIM policy or any other provisions of law.

6. On receipt of the sale list from the custodian, the Assistant Commissioner should scrutinize the list and withdraw the items of following category from the proposed sale :-

(i) Goods on Negative list of Import.

(ii) Consignments which are under investigation / adjudication /court proceedings.

(iii) Motor Vehicles of all types.

(iv) Other specific items intimated by Commissioner. In addition, restrictions imposed under Allied acts, if any, shall be observed, some examples are as under :-

(a) All drugs/ pharmaceuticals and chemical not accompanied by labels, manufacturer's name should be referred to the Assistant Drugs Controller / Laboratory for test report and advice before they are disposed of.

(b) Goods like food stuffs, insecticides, fertilisers, etc. which are subject matter of clearance from any other authority will be disposed of after obtaining necessary clearance from the respective authorities.

(c) Goods which are totally prohibited and are not allowed to be imported like Narcotic drug, arms and ammunition etc. shall be separated, adjudicated and confiscate.

The Assistant Commissioner shall ensure that intimation to withhold any consignment shall be sent to the custodian within 15 days of the receipt of the Sale list. The custodian shall be free to dispose off the goods if no intimation is received within 15 days of the receipt of the sale list by the Customs.

7. The custodian shall ensure that proper publicity of sale/ auction is made by way of advertisement in local/ national newspapers so that interested persons can participate in the auctions. The custodian should fix a date for holding the auction and communicate such date to the officer in charge of the customs station and the concerned Assistant Commissioner. The Assistant Commissioner would nominate, if necessary, an officer not below the rank of Supdt./ Appraiser to witness the auction. Customs shall not withdraw any consignments at the last moment from the auction being held except with the written approval of the Commissioner of Customs.

8. Government approved Auctioner shall be appointed by the Custodian for conducting the auction. The reserve price shall not be disclosed to the Auctioners and authority for acceptance of the final bids during the auction shall be that of the designated officer/ committee of officers. The bidding shall be on cumduty price and no separate duty shall be calculated or recovered. If the consignments are not disposed of in the first auction, the reserve price shall be reduced in the following scale :-

(i) Perishable goods

After 1st auction, 25% of original value fixed.

After second auction, 50% of original value fixed; failing this

shall be given to the highest bidder who bids in the sealed tender without any reference to reserve price. If there are no bidders, the goods shall be destroyed.

(ii) Non- Perishable goods

After first auction, 10% of original value.

After second auction, 20% of original value.

Thereafter it shall be given to the highest bidder who bids in sealed tender.

9. The gross sale proceeds shall be shared between the custodians and the customs on 50:50 basis. The custodians shall bear the expenses like valuer's expenses, auctioner's expenses, sale expenses, storage charges, warehouse charges, out of their share of sale proceeds and they will not claim any such amount from the customs.

Sd/-
(Vijay Kumar)
Under Secretary to the Govt. of India

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