Private Warehouse Licensing Regulations, 2016.

Notification No. 71 /2016- Customs (N.T.) dated 14th May, 2016

In exercise of the powers conferred by section 157 read with section 58 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely:-

1. **Short title and commencement.**–(1) These regulations may be called as the Private Warehouse Licensing Regulations, 2016.

(2)They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions**. – (1) In these regulations, unless the context otherwise requires, -

(a) "Act" means the Customs Act,1962 (52 of 1962);

(b) "applicant" means a person who applies for a licence for a private warehouse under section 58;

(c) "private warehouse" means a site or building that is licensed as such by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, under section 58 wherein dutiable goods imported by or on behalf of the licensee may be deposited;

(d) "section" means section of the Act.

(2) The words and expressions used herein and not defined in these regulations but defined in the Act shall have the same meanings respectively as assigned to them in the said Act.

3. Licensing of private warehouse.- (1) Upon an application being made to license a private warehouse, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may issue a licence to the applicant who, –

(a) is a citizen of India or is an entity incorporated or registered under any law for the time being in force;

(b) submits an undertaking to comply with such terms and conditions as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be;

(c) furnishes a solvency certificate from a scheduled bank for an amount to be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be:

Provided that the condition of furnishing a solvency certificate shall not be applicable to an undertaking of the Central Government or State Government or Union territory.

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(2) The Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, shall not issue a licence to an applicant if, -

(a) he has been declared an insolvent or bankrupt by a Court or Tribunal;

(b) he has been convicted for an offence under any law for the time being in force;

(c) he has been penalised for an offence under the Act, the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act, 1994 (32 of 1994);

(d) he is of unsound mind and stands so declared by a competent Court; or

(e) the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, is satisfied that-

(i) the site or building of the proposed private warehouse is not suitable for secure storage of dutiable goods;

(ii) the site or building of the proposed private warehouse is not suitable for general supervision by officers of customs;

(iii) bankruptcy proceedings are pending against the applicant; or

(iv) criminal proceedings are pending against the applicant and the offences involved are of such nature that he is not a fit person for grant of licence.

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4. Conditions to be fulfilled by applicant. – Where, after inspection of the premises, evaluation of compliance to the conditions under regulation 3 and conducting such enquiries as may be necessary, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, is satisfied that licence may be granted, he shall require the applicant to,-

(a) provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skillful pilferage and commercial crime, in favour of the President of India, for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the private warehouse at any point of time;

(b) provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under sub-section (3) of section 73A or under the Warehouse (Custody and Handling of Goods) Regulations, 2016;

(c) provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, despatch or handling; and

(d) appoint a person who has sufficient experience in warehousing operations and

customs procedures as warehouse keeper.

5. Grant of licence.- Upon fulfillment of the conditions specified in the regulation 3 and regulation 4, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may grant a licence in respect of the private warehouse subject to such conditions as deemed necessary.

6. Validity of licence. – Any licence granted under regulation 5 shall remain valid until and unless it is cancelled in terms of the provisions under section 58B or sub-regulation (2) of regulation 8.

7. Non–transferability of licence. – A licence granted under regulation 5 shall not be transferable.

8. Surrender of licence. – (1) A licensee may surrender the licence granted to him by making a request in writing to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.

(2) On receipt of the request under sub-regulation (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may cancel the licence if, –

(a) the licensee has paid all monies due to the Central Government under the provisions of the Act, rules or regulations made thereunder;

(b) no warehoused goods remain deposited in the private warehouse or are deposited in the private warehouse from the date of request referred in sub-regulation (1);and

(c) no proceedings are pending against the licensee under the Act or the rules and regulations made thereunder.

9. Licence for existing private warehouses. – A private warehouse licensed under section 58 as it stood immediately before the commencement of the Finance Act 2016 (28 of 2016), shall be valid under these regulations provided such warehouse fulfill the requirements specified in clause (b) and clause (c) of sub-regulation (1) of regulation 3 and the conditions specified in regulation 4 within a period of three months from the date of commencement of these regulations.