Circular No.4 / 2011-Customs

F.No.450/55/2008-Cus.IV (Pt.II)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

159A, North Block,
New Delhi-110001

10th January, 2011.

To

All Chief Commissioners of Customs / Customs (Prev.).
All Chief Commissioners of Customs & Central Excise.
All Commissioners of Customs / Customs (Prev.).
All Commissioners of Customs & Central Excise.
All Director Generals under CBEC.

IndiaCode

Subject: Handling of Cargo in Customs Areas Regulations, 2009 - regarding.

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Sir / Madam,

Attention is invited to the Handling of Cargo in Customs Areas Regulations, 2009 which provide comprehensive guidelines for receipt, storage, delivery or otherwise handling of goods in the Customs area. These regulations also prescribe the responsibilities of persons engaged in the aforesaid activities. Further reference is also made to Board Circular No.13/2009-Customs dated 23.3.2009 issued on the subject matter bringing out the salient features of these regulations.

2. Regulation 5 of the Handling of Cargo in Customs Areas Regulations, 2009, as amended vide Notification No.96/2010-Customs (N.T.) dated 12.11.2010, provides the obligation of a Customs Cargo Service Provider (CCSP) approved as a Custodian of imported and export goods in respect of safety and security of the premises for loading, unloading, receipt and disposal of imported and export goods in the following manner:

"Customs Cargo Service provider for custody of imported goods or export goods and for handling of such goods, in a customs area, shall fulfill the following conditions, namely:-

.....

5(1)(i)(n): *security and access control to prohibit unauthorized access to the premises, and*

.....

5(1)(ii): *safe, secure and spacious premises for loading, unloading, handling and storing of the cargo for the projected capacity and for the examination and other operations as may be required in compliance with any law for the time being in force;"*

3. Similarly, Regulation 7 of the Handling of Cargo in Customs Areas Regulations, 2009 gives powers to Commissioner of Customs to exempt CCSP from any of the conditions of Regulation 5 for the reasons to be recorded in writing and subject to the satisfaction that in relation to custody and handling of imported or export goods in a Customs area, the CCSP, for the reasons beyond his control, is unable to comply with such conditions.

4. These regulations were examined by the Parliamentary Committee on Subordinate Legislation and it was recommended by the Committee that conditions under Regulation 5 which concerns overall safety and security of the premises may not be subjected to exemption by any authority. The Committee also suggested that CCSP should publish the Schedule of Charges of various services rendered in relation to imported / export goods and display at prominent places including website / web pages of the CCSP.

5. These suggestions of the Parliamentary Committee on Subordinate Legislation have been accepted. Accordingly, it has been decided that no relaxation or exemption from requirements on safety and security of premises shall be allowed by Commissioners of Customs to the Custodians or Cargo Service Providers in terms of provisions of Regulation 7 of the Handling of Cargo in Customs Areas Regulations, 2009. Also, keeping in view the paramount importance of overall safety and security of imported / export goods, detailed guidelines are being prescribed in order to ensure that all concerned persons ensure that suitable arrangements are put in place for safety and security of premises relating to imported or export goods. These guidelines are annexed as per annexure A to this Circular. Commissioners of Customs are required to ensure that provisions pertaining to safety and security of premises are complied with strictly at the time of appointment of CCSP and monitored thereafter. Commissioners of Customs should undertake review of such obligations of CCSP who have been appointed earlier in terms of proviso to sub regulation (2) to regulation 10.

6. The requirement of publishing a Schedule of Charges associated with various services in relation to imported or export goods in the Customs area and its display at prominent places including web page or website of the CCSP has also been made mandatory by making suitable amendments in Regulation 6(3) of the Handling of Cargo in Customs Areas Regulations, 2009 vide Notification No.96/2010-Customs dated 12.11.2010. Commissioners of Customs should, therefore, ensure that all CCSPs discharge this responsibility, as cast upon them vide the said Regulation 6(3).

7. Vide Notification No.96/2010-Customs dated 12.11.2010, Regulation 5 has been amended to the effect that in addition to other obligations, all CCSPs for custody of imported or export goods and for handling of such goods in the Customs area shall provide free of cost or rent, fully furnished office accommodation, EDI service center along with basic amenities and facilities. Further, amendments have also been made to make it mandatory to all such CCSP to provide residential accommodation and transport facilities to the Customs staff.

8. In this regard, it is clarified that no exemption is available to existing Custodians / CCSP in so far as provision of facilities and fulfillment of the prescribed conditions in Regulation 5 and 6, as applicable, within the specified limit are concerned. Further, custodians under the Major Port Trusts Act, 1963 and Airports Authority of India Act, 1994 shall not be required to make an application under Regulation 4 or 9 for approval or renewal under these regulations, but they would be required to necessarily discharge the responsibilities cast upon them in terms of Regulations 5 and 6 of the regulations without any exception.

9. The Board has also considered the issue of possible liabilities arising on account of *damages caused or loss suffered on imported or export goods, due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, storage, delivery, dispatch or otherwise handling.* In this regard, it has been provided by the Notification No.96/2010-Customs dated 12.11.2010 that the CCSP will undertake to indemnify the Commissioner of Customs from any such liability by furnishing an indemnity bond. Commissioners of Customs are, therefore, required to ensure fulfillment of this requirement by CCSP without fail. Commissioners may also undertake review of such obligations of existing CCSP in terms of proviso to sub regulation (2) to Regulation 10 of the Handling of Cargo in Customs Areas Regulations, 2009.

10. Circular No.13/2009-Customs dated 23.03.2009 issued on the subject matter stands modified to the above extent.

11. Suitable Public Notices or standing orders may be issued to guide the trade / Industry and officers.

12. Any difficulties in implementation of these regulations may be brought to the notice of the Board immediately.

Yours faithfully,

Encl: Annexure A.

(R. P. Singh)
Director (Customs)

Internal circulation: As usual.

ANNEXURE - A

Guidelines on safety and security of premises where imported or export goods are loaded, unloaded, handled or stored.

(1) The imported goods or export goods which are hazardous in nature, shall be stored at the approved premises of the CCSP in isolated place duly separated from other general cargo, depending upon classification of its hazardous nature such as Explosives (as defined under Rule 3 of Explosives Rules, 1983), Gases (Inflammable / Flammable Gases, Toxic/ non Toxic gases etc.), Flammable Liquids, Flammable Solids (Raw and wet Cotton, spontaneous combustible substances, substance emitting flammable gases in contact with water etc.), Oxidizing Substance & Organic Peroxide (Sodium peroxide, Barium Bromate, Peroxy acetic acid etc.), Poisonous & Infectious Substances (Tear Gas, Biological substances, Formic Acid, Arsenic Acid etc.), Radio Active Materials, Corrosives (Acetic Acid, Sulphuric Acid, Caustic soda etc.) or any hazardous chemicals defined under Chemical Accidents (Emergency Planning, Preparedness, and Response) Rules, 1996.

(2) Safety plans, procedures, instructions for Safe handling and storage of hazardous goods including the procedure for reporting accidents to proper officer of Customs and appropriate State Authorities shall be available.

(3) Safety sign boards, signals should be displayed conspicuously; safety instructions and procedures shall be made available at the premises and the staff handling the goods should be familiar with all the pictorial indications or stickers used in international trade such as International Maritime Dangerous Goods code, other domestic legislations to identify hazardous goods.

(4) The premises should be equipped with adequate fire fighting apparatus, such as Fire extinguishers, Fire Hydrants, Fire Pumps, Fire hoses, Fireman outfits, Co2 fix systems. Further, in order to protect the premises against fire hazard, it would be necessary that fire preventive equipments such as automatic Fire detection and alarm system, Fire control plan, Nozzles, Smoke detectors, Temperature detectors, automatic sprinkler systems, sand boxes, emergency lighting system, water supply outlet, fire exit etc are also provided. General facilities such as ventilation, electricity system, emergency exit etc. shall also be provided. In addition to these, the premises and surrounding area shall be well illuminated, duly protected with spark arresters. 'No smoking' signals should be properly displayed in the premises and the provisions banning smoking in public places as per Section 4 of Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, shall be enforced.

(5) The space allocated for storage of hazardous cargo within the premises should be of proper construction including appropriate heat or fire resistant wall, RCC roofing, flooring. Such area shall be situated at a minimum distance of 200 meters away from main office, administrative, customs office building so that the storage of hazardous cargo is in such a manner that it does not endanger the people working in the premises. Further, the open space, provided for movement, total covered area for storage of containers shall be in such manner that they do not hinder movement of persons, evacuation of goods in case of emergency. The premises used by CCSP for storage of hazardous cargo shall also fulfill the standards or norms prescribed, in National Building Code of India (Part 4 - Fire and Life safety specify the requirements for fire prevention, life safety in relation to

fire and fire protection of buildings necessary to minimize danger to life and property from fire) or by the concerned State/ Central Governments for fire safety.

(6) The material handling equipments including cranes, lifts, hoists, reach stackers, tractors, trucks and other vehicles for movement or transport of goods and other machines used in the premises for handling of cargo shall be in conformity with the safety standards prescribed for such equipments.

(7) The Custodian shall provide appropriate Contingency plan to handle emergency situation when there is an immediate danger to personnel, cargo or other infrastructure in the premises; Further the custodian shall provide acquaintance or training of their staff for proper implementation and to comply with these contingency plans, maintenance & readiness of all the equipments.

(8) The Custodian shall provide Medical First Aid Kits within the premises; he shall provide appropriate emergency medical services in case any person comes into contact with hazardous/ dangerous goods.

(9) The security and safety of the premises shall be assigned to specified persons working therein so that necessary services in case of emergency such as fire fighting, fire brigade, fire tenders shall be obtained in time to prevent, control and extinguish fire.

(10) Handling of hazardous cargo within the premises, transportation of hazardous cargo between the premises and port terminals or other authorized places is secured through authorized vehicles with proper safety indications.

(11) The provisions of the Hazardous Waste (Management, Handling, Transboundary) Rules, 2009 and the Manufacture, Storage and import of Hazardous Chemical Rules, 1989 and other relevant rules and regulations prescribed by the Government shall be adhered to in respect of storage and handling of such goods.

(12) The Custodian shall provide appropriate procedure for receipt, handling, delivery of hazardous cargo in such a manner that the same does not hinder the movement of general cargo or endanger the safety and security of the premises.

(13) The aforesaid guidelines have been provided in order to ensure that the CCSP receiving, storing, dispatching or otherwise handling of imported goods and export goods of hazardous nature at the approved premises is handled in safe and secure manner. The CCSP who intend to store hazardous cargo or hazardous cargo along with other general cargo at their premises, may apply to the jurisdictional Commissioner of Customs with the requisite particulars so that the same may be verified for compliance in terms of Regulation 10 (2).

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