Circular No.18/2009-Customs

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Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

159A, North Block, New Delhi.
Dated the 8th June, 2009.

Subject: Designation of customs clearance facilities as ICDs or CFSs - Clarification - reg.

Sir / Madam,

It has been brought to the notice of the Board that in certain cases, the distinction between the functioning of Inland Container Depots (ICDs) and Container Freight Stations (CFSs) has not been properly appreciated by ICD/CFS operators, and this has been resulting in non-compliance of / or deficiency in adherence to the procedures prescribed for import/ export of goods, provisions of the Customs Act, 1962, and the rules and regulations made thereunder. Certain field formations have also sought clarification in a few such cases.

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2.1. While guidelines broadly specifying the distinction between ICDs and CFSs have been included in the Customs Manual issued by the Board in September, 2001, the legal provisions are indicated below to further clarify the matter.

2.2. Under Section 7 of the Customs Act, 1962 (hereinafter referred to as the said Act), Board may appoint the ports, airports or the Land Customs Stations (LCS) as 'customs ports or customs airports or land customs stations', respectively, for the purpose of unloading of imported goods and loading of export goods or any class of such goods.

2.3 Section 8 of the said Act provides that the Commissioner of Customs may approve the landing places for unloading and loading of goods [clause (a)] and specify the limits of the customs area [Clause (b)] within a notified customs port or customs airport or any other category of customs station. Container Freight Stations are specified as customs areas under Clause (b) of the said Section 8 wherein imported goods or export goods are ordinarily kept before clearance by customs. With the increase in volume of international trade and the bottlenecks / lack of sufficient infrastructure at the ports, a number of CFSs have been developed around the seaports over the years.

2.4. Section 4 of the said Act empowers the Board to appoint such persons as it thinks fit to be officers of Customs. The Board has, vide several notifications issued under the said Section, appointed Commissioners, Additional Commissioners, Joint Commissioners, Deputy Commissioners and Assistant Commissioners to be officers of customs within the area specified in the said notification. Accordingly, a Commissioner of Customs can notify a Container Freight Station as a customs area only within his prescribed jurisdiction.

3. Similarly with widespread industrialization and growth of industrial centres in the hinterland of the country, facility of customs clearance of imported / export goods has been made available at the doorsteps of importers / exporters by way of opening of a large number of ICDs across the country. Necessary changes have been made in section 2(12) and 7(aa) of the said Act, specifically incorporating the term 'Inland Container Depot' on par with other customs port / airport / Land Customs Station, etc. Accordingly, ICD is a place that acts as a 'self contained customs station' like a port or air cargo unit where filing of customs manifests, bills of entry, shipping bills and other declarations, assessment and all the activities related to clearance of goods for home use, warehousing, temporary admissions, re-export, temporary storage for onward transit and outright export, transhipment, etc., take place.

4. From the analysis of the aforesaid legal provisions it follows that a port, an airport, a Land Custom Station or an Inland Container Depot is a customs station and each facility has to be treated at par with the other. ICDs are thus self sufficient customs stations and for all practical purposes a Custom House in the same way as any port or airport. On the other hand, a Container Freight Station is only a custom area located in the jurisdiction of a Commissioner of Customs exercising control over a specified custom port, airport, LCS / ICD. Container Freight Station by itself cannot have an independent existence; it has to be linked to a customs station within the jurisdiction of the Commissioner of Customs. It is an extension of a customs station set up with the main objective of decongesting the ports. It is a place where only a part of the customs process mainly the examination of goods is normally carried out by Customs and goods are stuffed into containers and de-stuffed therefrom and aggregation / segregation also takes place at such places. Given the aforesaid status of CFSs being extension of port/ airport / ICD / LCS, Custom's function relating to processing of manifest, import / export declarations that are filed by the carrier / Importer or exporter and assessment of bill of entry / shipping bill are performed in the Custom House / Custom Office that exercises jurisdiction over the parent port / airport / ICD / LCS to which the said CFS is attached. In the case of Customs Stations where automated processing of documents has been introduced, terminals have been provided at such CFSs for recording the result of examination, etc. In some CFSs, extension of service centers have also been made available for filing documents, amendments etc. However, the assessment of the documents etc. is carried out centrally. An ICD on the other hand would have an automated system of its own with a separate station code [such as INTKD 6, INSNF6 etc.] being allotted by the Directorate General of Systems and with the inbuilt capacity not only to enter examination reports but also to enable assessment of documents, processing of manifest, amendments, etc.

5. It may also be observed that movement of goods in containers from port /airport / LCS to hinterland ICD was initially carried through railways. Hence, earlier only such of the interior places which were connected through railways and were having railhead facility for unloading or loading of imported / export goods were approved as ICDs. With the development of multi modal transport and connectivity through road being established in more number of ICDs over the years, now, any inland facility having either road or rail connectivity and adequate infrastructure for handling and clearance of imported / export goods is also being approved as an ICD. An ICD may also have a number of CFSs attached to it within the jurisdiction of the Commissioner of Customs exercising control over the ICD for examination and clearance of imported / export goods as in the case of a port and its CFSs. For example, there are twenty four CFSs linked to Nhava Sheva port, as on date.

6.1. Movement of goods from a port, airport or LCS to an ICD shall be in the nature of movement from one custom station to another custom station and will be covered by Goods Imported (Condition of Transhipment) Regulations, 1995. Movement of goods from a port, an airport, LCS or an ICD to a CFS would be akin to local movement from a custom area of the customs station to another custom area of the same station and such movement is covered by local procedure evolved by the Commissioner of Customs and covered by bonds, bank guarantee, etc. Further, the person undertaking the transhipment would be required to follow the procedure prescribed in the Board's circulars No.46/2005-Customs dated 24.11.2005 and No.79/2001-Customs dated 7.12.2001.

6.2. Goods intended for transhipment from the customs station of first arrival shall be allowed to be unloaded / loaded in a customs area, approved by the jurisdictional Commissioner of Customs, within the same customs station. Movement of goods directly from a customs station to a CFS of another customs station shall not be permitted, since manifest is required to be filed only at a customs station. In exceptional cases, such as strike or disruption in the activity resulting in congestion at some ports, the direct movement of goods to a CFS of another customs station can be permitted only with approval of the Board, after due waiver of Sub-Manifest Trans-shipment Procedure (SMTP).

7. A standalone customs clearance facility in an inland Commissionerate cannot be approved by the Commissioner as a CFS, if there is no ICD or seaport within its jurisdiction to which the said CFS can be attached. Such a facility can, however, be notified as an ICD i.e., as an independent customs station with provision for filing and assessment of documents and examination of goods. A customs clearance facility could be established as a CFS at a port city for examination of imported / export goods, since the CFS would fall under the jurisdiction of Commissioner of Customs, having jurisdiction over the customs port with which the CFS would be attached. Further, in a seaport city such as Chennai or Mumbai, it may be possible to develop an ICD also within the territorial jurisdiction of the concerned Customs Commissionerate in addition to existing CFSs. In case of such an ICD, it should be capable of providing full-fledged customs services, independent EDI system, and all procedures meant for transhipment of cargo have to be followed for movement of goods from the port of import to the ICD. Further, such an ICD would function as an independent Customs Station in all respects and would not be attached to any other port or airport.

8. It is accordingly advised that at the time of initial examination of the proposals received for setting up of ICD / CFS from prospective operators, the jurisdictional Commissioners may take due care to see that whether the proposed facility is required to be approved as an ICD or CFS and whether such facility fulfills the laid down guidelines, infrastructure requirements specified in the Handling of Cargo in Customs Areas Regulations, 2009 while forwarding the comments to the Board for consideration during Inter-Ministerial Committee (IMC) meeting.

9. In view of the above, the concerned jurisdictional Commissioners of Customs who are competent authority for regulation of ICDs / CFSs are requested to verify the existing position in various ICDs / CFSs under their jurisdiction and inform the Board about the deviations, difficulties, if any, so that the matter may be taken up for appropriate action by the Board.

Yours faithfully,

(M.M. Parthiban)
Director (Customs)

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