Special Warehouse Licensing Regulations, 2016.

Notification No. 72 /2016 - Customs (N.T.) dated 14th May, 2016

In exercise of the powers conferred by section 157 read with section 58A 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 shall be called as the Special 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 special warehouse under section 58A;

   (c) "section" means section of the Act;

   (d) "special 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 58A, wherein dutiable goods may be deposited.

(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 special warehouse**. – (1) Upon an application being made to license a special warehouse, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may issue a licence to an 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) furnishes a solvency certificate from a scheduled bank for an amount as may 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.

   (c) proposes to store goods notified by the Board under sub-section (2) of section 58A;

   (d) 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; and

(e) undertakes to pay for the services of supervision of the warehouse by officers of customs on recovery of costs.

(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 special warehouse is not suitable for secured storage of dutiable goods;

(ii) the site or building of the proposed special 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.

4. **Conditions to be fulfilled by applicant** – Where, after inspection of the premises, evaluation of compliance to the conditions of 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 special 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 Special 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 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 special 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 the Commissioner of Customs, as the case may be.

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(2) On receipt of the request under sub-regulation (1), the Principal Commissioner of Customs or the 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 special warehouse or are deposited in the special 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 or regulations made thereunder.

9. **Licence for existing warehouses**. – (1) A public warehouse appointed under section 57 or a private warehouse licensed under section 58 as it stood immediately before the commencement of the Finance Act, 2016 (28 of 2016), may continue to carry out operations in respect of goods notified under sub-section (2) of section 58A for a period of three months from the date of coming into force of these regulations:

Provided that such a warehouse shall remain under the lock of customs.

(2) A warehouse referred to in sub-regulation (1) that intends to store goods notified under sub-section (2) of section 58A beyond the period of three months, shall apply for a license under these regulations within a period of one month from the date of commencement of these regulations.