

OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT-II)
आयुक्त, सीमाशुल्क (आयात-II) कार्यालय
GROUP I/IA, 1ST FLOOR, NEW CUSTOM HOUSE,
समूह I/IA, प्रथमस्थल, नवीनसीमाशुल्कभवन,
BALLARD ESTATE, MUMBAI-400001.
बलार्डएस्टेट, मुंबई- ४००००१.

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Sub: Procedure in respect of discharge and clearance of Liquid Cargo in Bulk for Home Consumption/Warehousing in bonded warehouse.

Attention of Importers, Port authorities, Custom House Agents, Steamer Agents and all other concerned is drawn towards public notices No. 55/2004 dated 31/8/2004 and 29/2017 dated 9/3/2017 issued from NCH, Mumbai Zone-I detailing procedure for clearance of bulk liquid Cargo either for home Consumption or warehousing. After issuance of above-mentioned Public Notices, many changes have been made in assessment procedure. Many of the Bill of entries are picked by RMS where there is no assessment and Bill of entries are directly sent for examination of the goods. E-Sanchit has been introduced where all documents need to be uploaded on system by the importer. There is no need for generating print out of final copy of Bill of entry and E-Bill of Entry and E-Gate pass are automatically generated after out of Charge order. Faceless Assessment has been also initiated in case of liquid bulk cargo. Thus, entire procedure for clearance of liquid Bulk Cargo including assessment procedure need to be revised. Therefore, revised combined procedures are detailed below.

2. As per practice, Liquid Bulk cargo are being dealt differently as these need to be discharged either through pipeline to shore tank or directly to tankers. There is need to take ullage survey report both at ship and shore tank. There is need for drawal of test samples. Further, examination of the goods is conducted at the time of discharge of goods only.

Discharge permission:-

3. If the liquid bulk cargo is **intended to be warehoused**, the Importer shall file either personally or through C.H.A. an application on Importer's letter head for permission to discharge with Asst. Commissioner/ Deputy Commissioner of Customs (Bond) prior to arrival of the vessel. The concerned AC/DC(Bond) will give the permission for discharge of the cargo as per the rule through E-Office with a copy to division office through E-mail. The permission given as "Discharge Allowed" shall be collected by Importer or CHA and handed over to the Steamer Agent to enable the Steamer Agent to apply for the expeditious berthing of the vessel. If Bill of Entry is intended for Home consumption, the Importer shall file either personally or through C.H.A. an application on Importer's letter head for permission to discharge with Boarding officer prior to arrival of the vessel and Boarding officer shall give discharge permission. Bond section shall maintain list of cases in E-office where discharge permission have been granted detailing vessel name and no., Rotation no., quantity to be warehoused, description of goods, warehouse name. They should tally discharge permission granted with into

Bond warehouse Bill of entry to ensure proper accounting of discharge permission.

Ship Ullage Survey Report:-

4. Immediately on arrival of the vessel, the concerned Steamer Agent shall arrange for the ullage survey before discharge of liquid cargo and shall apply to the Preventive Superintendent of the Boarding Office where the vessel has taken the berth for supervising the survey. The cost of such survey will be borne by the Steamer Agents. In case of the failure on the part of the Steamer Agents to arrange for such ullage survey, the Steamer Agents will be liable under Section 116 of the Customs Act, 1962 for the loss of duty on account of short landed liquid Cargo. In case of liquid petroleum products, the Boarding Officer who is normally posted round the clock at the point of discharge shall attend the survey.

5. The vessel should be permitted to discharge liquid cargo only after completing the Boarding formalities and after completing the ullage survey which is to be carried out under the supervision of the Customs Officer. After conducting the ullage survey, the report should be prepared and signed by the surveyors, Master /Chief Officer of the Vessel and Representatives of the Consignees and the same should be countersigned by the Customs Boarding Officer. In addition to above, samples shall be drawn as per prescribed procedure of drawal of samples by Preventive Officers/superintendents (Preventive) supervising the discharge of liquid bulk cargo.

Discharge to Storage Tank/Lorries Tank:-

6. The liquid bulk cargo will be discharged via the underground pipeline to the offshore tanks/onshore tank licensed under section 57 or 58 of the Customs Act 1962, tanks where custodianship has been granted under section 45 of Customs Act 1962, or the barges/ tanks lorries as the case may be under the supervision of Preventive Officers/superintendents (Preventive). The goods covered by warehousing Bill of Entry should be stored in a Customs Bonded Tank. The goods intended to be cleared under Home Consumption Bill of Entry should be stored either in a shore situated tank, the owner of which has been appointed as a custodian under Section 45 of the Customs Act, 1962 in respect of the said tank or to lorries tank parked in Custom Area under the supervision of Preventive Officers/superintendents (Preventive). Goods can be cleared out of Custom Area only after out of charge given by superintendents (Preventive). If goods are being discharged through pipe line both for warehousing and Home Consumption, then Goods discharged for Home Consumption should be in storage tanks, the owner of which has been appointed as a custodian under Section 45 of the Customs Act, 1962 only.

Out Turn Report (OTR):-

7. Once the entire quantity has been received in the shore situated tank, an OTR for the received quantity should be prepared and signed by the surveyors of the tank owners, importers and the same should be countersigned by Customs Officer. If the liquid cargo is discharged to storage tank licensed under Section 57 or 58 of the Customs act 1962, Customs Officer shall be Bond officer in charge of warehouse. In rest of the cases, custom Officers shall be divisional Superintendent supervising discharge and giving out of charge.

Miscellaneous instruction:-

8. It is to noted that discharge of liquid bulk cargo is just unloading of the goods from Vessel in the offshore tanks/onshore tank licensed under section 57 or 58 of the Customs Act 1962/storage tanks where the owner has been appointed as a custodian under Section 45 of the Customs Act, 1962 or the barges/ tanks lorries. Out of Charge shall be required before clearance for home consumption or clearance for into bond warehousing.

9. It is to noted that inspection of goods, drawal of sample and preparation of ullage survey report at the Port of Loading is part of examination of the goods. Thus, Trade is advised that prior Bill of entry should be filed normally in case of liquid Bulk cargo so that entire examination instruction is available to Concerned Custom officer to complete the examination.

10. The quantity shown in the Bill of Lading reflected in the Import General Manifest should be, prima facie, accepted as the cargo on board the vessel brought for unloading at this port. The importers of the liquid bulk cargo would be free to file a Bill of Entry for Home Consumption or a bill of Entry for Warehousing as per their own convenience. In case, where the cargo is being discharged from the ship into a shore situated tank. The assessment would be for the quantity received in the concerned shore tank. In case of an advance / prior Bill of Entry covering the liquid cargo in bulk, the same shall be assessed to duty for the quantity as declared in the Manifest/Bill of Lading by the concerned Assessing Group in usual manner.

11. The Importers/CHA shall file the B/E for liquid bulk cargo in the EDI System as per provisions contained in Section 46 of the Customs Act, 1962. Once Bill of entry is filed, these may be either system assessed (RMS) or group assessed (Faceless Assessment Group/ Port Assessment Group) .

12. While forwarding Bill of entry to Docks for conduct of examination of goods:- the dealing Assessing Appraiser shall give the following examination order in addition to any other instruction:-

Please inspect and verify whether the person –in –charge of the vessel or his agent has produced the ullage survey report prepared at the Port of Loading and certified by an Independent Surveyor. If so, please state the quantity mentioned in the ullage survey report.

Please inspect cargo and certify the ullage survey report prepared at this port and state the quantity mentioned therein. Forward samples in duplicate to Dy. Chief Chemist's laboratory for test, if applicable. Please ensure that FSSAI sampling is done in case of edible oils.

- a. Please certify quantity discharged as per ullage report at onshore tank and record shortage/excess, if any.
- b. Allow samples for consignee's laboratory (wherever necessary).

13. In case of RMS Bill of entry, examination instruction is given by system. However, instruction mentioned at para 12 also need to be followed.

Out of Charge :-

14. Examination report shall be given by Divisional Preventive office and out of charge shall be given by Superintendent (Prevetive) incharge of Division who has supervised examination of goods including inspection, ullage survey report and drawal of sample. Examination report and out of charge must be given in the system only. Out of charge shall be given only after discharge of the

goods, completion of ullage report in onshore tank and completion of examination report. Manual out of charge is not permitted. Divisional Superintendent/ Preventive officer shall be given ICES Roles for the purpose of Examination report and out of charge of liquid Bulk Cargo only. Before giving Out of Charge, they must check Compliance Verification instruction and Examination instruction and they shall ensure that same has been fulfilled. The AC/DC/Docks shall continue to deal with re-allocation of the bills of entry which, after registration, have been marked by the system to the officers other than the designated officers for the purpose of giving Out of Charge. It is to be noted that once Out of charge is given, pdf copy of Bill of Entry and Gate Pass shall be automatically delivered to importer as detailed in Public Notice No. 26/2020 dated 16/4/2020. Sample drawn should be forwarded to DYCC/ FASSAI, whichever applicable along with Test memo drawn by Assessment groups. If test memo is not drawn by group, same should be drawn in ICES by division superintendent and same should be forwarded to DYCC/ FASSAI. They should make ensure that Ullage Report of port of Export is loaded on E-Sanchit. Further, One copy of Ship Ullage survey report of all cases should be collected manually. These should be scanned and forwarded to AC/DC (Assessment Group) on E-office on daily basis.

15. It has been seen that although Bill of entry of Home Consumption may be filed for total quantity, but there are multiple tankers for removal of the goods out of Custom Area. In such scenario, manual out of charge shall be given on physical copy of assessed Bill of Entry. Surveyor appointed by consignee should prepare gate pass on the basis of such manual out of charge. Gate Custom officer should collect Gate Pass and make entry of vehicle no., quantity loaded in tanker in physical copy of Bill of entry submitted to them. However, Manual Out of charge shall not be given for the last 10% of the goods until out of charge for entire quantity has been entered in the ICES system by Divisional Superintendent. It shall be entire responsibility of Divisional Superintendent to ensure that Out of charge in the system is given before clearance of last 10 % of consignment. In any exceptional case, if out of charge is given manually for 100% consignment due to unforeseen reasons, divisional Superintendent to ensure that Out of charge in the system is given in next working day without fail.

Assessment Quantity:-

16. The Board has issued Circular No. 34/2016 dated 26. 07. 2016 for determining duty liability to give effect to the Judgement of the Hon'ble Supreme Court in the case of Mangalore Refinery and Petrochemicals Limited vs. Commissioner of Customs, Mangalore dated 02.09.2015 [2015(323) E.L.T. 423 (S/C.)

17. In the case of all liquid cargo imports discharged through pipelines, whether for home consumption or for warehousing, the shore tank receipt quantity i.e. the quantity ascertained by dip measurement in tanks on shore into which such cargo is pumped from the tanker, should be taken as the basis for levy of Customs Duty irrespective of whether Customs Duty is leviable at specific rate or on ad-valorem basis [including cases where tariff value is fixed under Section 14(2) of the Customs Act, 1962).

18. Further where bulk liquid cargo is cleared directly on payment of duty without being pumped in a shore tank i.e. loaded in barges or tank lorries, assessment may continue to be done as per ship's ullage survey report at the port of discharge.

19. The quantity shown in the Bill of Lading reflected in the Import General Manifest should prima facie be accepted as the cargo on board the vessel brought for unloading at the Port of discharge i.e. Mumbai Port.

20. In case of short receipt due to difference between the Manifested quantity and the discharge port ullage survey report quantity, such difference shall be considered as short landed quantity for which the Person in charge of the conveyance should be held responsible under provisions of Section 116 of the Customs Act, 1962. Such action shall be taken by Division Superintendent. They should maintain a register regarding short receipt quantity and action taken for such short receipt quantity. Monthly report in this regard should be sent to Principal Commissioner (General) with a copy to Commissioner (Import-II).

21. In case, short quantity is received at shore tank and a warehouse Bill of Entry has been filed for the manifested quantity, the last Ex-bond Bill of Entry will be filed adjusting the less quantity reported by the shore tank out turn report. In case, short quantity is reported as per shore-out turn report, the short quantity over and above 0.5% of the manifested quantity may be subjected to investigation by department.

22. If any excess quantity is reported on the basis of shore tank out turn report and goods are to be removed for Home consumption, then the importer will file a manual Bill of Entry for the excess quantity over and above the Bill of lading/Manifested quantity. Division Superintendent shall be responsible for monitoring clearance of excess quantity and monthly report in this regard should be sent to Principal Commissioner (General) with a copy to Commissioner (Import-II).

23. If any excess quantity is reported on the basis of shore tank out turn report and goods are to be removed for warehousing, then the importer will file a manual Bill of Entry for the excess quantity over and above the Bill of lading/Manifested quantity. Bond Superintendent shall be responsible for monitoring clearance of excess quantity and monthly report in this regard should be sent to Principal Commissioner (General) with a copy to Commissioner (Import-II)

24. In case of goods intended to be cleared for Home Consumption, there can be two situations. If the importer has filed a prior Bill of Entry for the entire manifested quantity and if there is shortage of cargo as per the out turn report of shore tank, such Bills of Entry will be referred back to the Assessing Group for the purpose of re-assessment to give effect to the short quantity. If it becomes a *case* of refund, the same will be dealt with in terms of the relevant statutory provisions of the Customs Act, 1962. However, there may be circumstances where importer has opted for filing the Home consumption Bill of Entry in a piecemeal manner, in such situation the importer would be at liberty to adjust the quantity in respect of the last Bill of Entry as per findings of the shore tank out turn report. In case of shortage of cargo reported by Out Turn Report (OTR), the situation may arise where importers will face difficulties while making remittance to their suppliers on account of mismatch of the suppliers invoice value and the invoice value mentioned in the Bill of Entry. The Bankers are advised to take note of the CBEC Circular No. 34/2016 dated 26.07.2016 which has been issued, to give effect to the judgement of Supreme Court as cited above

Samples :-

25. In case of edible grade oil in bulk, it is a long pending demand of the trade that only one sample per tank of vessel, per grade, per shipper, should be drawn and forwarded to FSSAI and DYCC for testing purpose. The matter has been examined and as a trade facilitation measure it has been decided that the goods of same description brought by a particular vessel from the same overseas supplier, from the same source port, per tank of vessel may be extended the facility of single sampling each for DYCC and FSSAI. A practical difficulty may arise that if multiple Bills of Entry have been filed by the importers covered by the same IGM, the single window may mandate more than one Bill of Entry for FSSAI NOC. In such cases, the officer giving out of charge will verify from the hard copy of the FSSAI NOC report and will give out of charge for the remaining Bills of Entry of the same grade and same IGM. However, in case of non edible liquid cargo, samples will be forwarded to only DYCC.

26. The trade has been reporting undue delay in receipt of DYCC test reports which at one hand enhances the transaction cost of the importer and on the other hand it increases the dwell time. Therefore, the DYCC is directed to give test reports within a time frame of 3 to 4 working days. Any difficulty in this regard faced by DYCC should be brought to the knowledge of the undersigned.

Provisional Assessment :-

27. The Procedure for provisional and final assessment of the liquid cargo in bulk and others cargo remains the same except the discharging procedure as indicated above. In case of provisional assessment, as per CBEC circular No. 38/2016 Pare 3.6(b), Bank Guarantee equal to 100% of differential duty is required. In case, if the importer intends to clear the entire cargo on the basis of provisional assessments, the jurisdictional commissioner may reduce the quantum of BG on case to case basis.

Warehousing:-

28. Pursuant to the guidelines issued under New Warehousing Licensing Regulations, 2016 the following procedure is prescribed in respect of discharge & clearance of liquid Cargo in bulk through pipelines/tank Lorries for warehousing in the bonded Warehouse.

28.1. **Warehousing:-** Bonding procedure for all kind of liquid bulk cargo shall be carried out in the Bond section. However, Bond for warehousing Bill of entry shall be accepted in Turant Seva Kendra of NCH and accepted by AC/DC, TSK.

28.2. **Removal of warehoused goods for Home Consumption:-** Notification 68/2016 dated 14/05/2020 point No. 8:- States that a licensee shall not allow goods to be removed from the warehouse for home consumption unless the bond officer permits the removal of goods. Attention is also invited to the CBEC Circular No. 22/2016 dated 31.05.2016 regarding procedure for filing Ex-Bond Bill of Entry.

28.3. For Ex-bond Bill of Entry the existing procedure of out of charge being given by Preventive Superintendent Bond as per Public Notice No. 05/2003 dated 16/01/2003 shall be followed.

28.4. Bond to Bond Transfer:- Notification No. 68/2016 dated 14/05/2016 point No. 6. Transfer of goods to another warehouse, which states that, (1) "A licensee shall not allow transfer of warehoused goods to another warehouse without the permission of the bond officer under Section 67 on the form for transfer of a warehouse. (2) Where an owner of

warehoused goods produces the Form for transfer of goods from a warehouse bearing the orders of the Bond officer - the licensee shall:-

- a) allow removal of goods and their loading to the means of transport.
- b) In case the transfer in tank to tank i.e. from one tank of a warehouse to another tank of another warehouse, where there is a facility of Pipeline connectivity, then the transfer takes place through pipelines but all movement of liquid bulk cargo is precisely recorded and mentioned in the records submitted to the department.
- c) In case the transfer is from a tank [in a warehouse] to another in other warehouse, through tank lorries then the tank lorries can be sealed with customs punch seal.
- d) take into record removal of goods, and
- e) cause to be delivered, copies of the retained documents to the bond officer.

28.5. *Security* for bonded goods during transit:- As per CBEC Circular No 21/2016, "the importer shall submit a comprehensive Transit Risk Insurance Policy to cover the transit goods equal to the sum of the duty involved in favour of the President of India"

A. Customs station of import to warehouse ... or

B. One warehouse to another warehouse....or

C. A warehouse to the Customs station of export

D. In certain cases, such as liquid bulk cargo being transported through pipelines, the requirement of transit insurance may be waived.

It is also clarified that the importer do not need to submit a separate insurance policy.

If the goods are to be stored in a warehouse which has taken the comprehensive risk covers transit of goods.

28.6 **Denaturing**:- Denaturing of ethyl alcohol in a warehouse would be permitted on the basis of proper permission given by AC / DC Group under Customs supervision only if the licensee of the warehouse holds a licence for manufacturing or other operations under section 64 or 65 of the Customs Act, 1962 in addition to the warehouse licence. The Notification 68/2016 dated 14/05/2020, Point No. 10 states "A licensee shall ensure that the warehoused goods are not manipulated, altered, processed or otherwise dealt, except for or during the course of operations permitted under Section 64 or Section 65 of the Customs Act, 1962."

Finalisation of Bills of Entry:-

29. Under the existing procedure of assessing the Bill of Entry, these are being assessed provisionally for quantity survey and test report. It has been already ensured that test report are to be entered in system by DYCC and FASSAI . These reports are received within 7 days of sending of test sample in ICES only. Thus, Group AC must finalise the Bill of entry once test report is received. In any case, Pendency of provisional assessment for more than one month should not exit. In any case, if goods are warehoused and provisionally assessed due to test sample, Ex bond Bill of Entry should be assessed finally after finalisation of into Bond Bill of

Entry. Generally, Bill of entry should not be provisionally assessed for quantity, unless quantity itself declared is provisional due to non-availability of Bill of Lading. Such Bill of entry can be finalised based on shore tank ullage report or ship's ullage report as discussed above.

30. This Public Notice shall come into force with effect from 14.12.2020. Difficulties, if any faced in implementation of this Public Notice, may immediately be brought to the notice of the undersigned.


(Manoj Kumar Kedia)

27/11/2020
Commissioner of Customs, Import-II
New Customs House, Mumbai