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C. No : VIII/40/17/2018-Tech-I

Date:07/06/2018

### PUBLIC NOTICE No. 30/ 2018 - Customs

Subject: Customs - Procedure in respect of discharge and clearance of Liquid Cargo in Bulk for Home Consumption / Warehousing in bonded warehouse for the purpose of determining duty liability – regarding.

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Attention of all the Importers, Exporters, Customs House Brokers, Steamer Agents, Custodians / Customs Cargo Service Providers, Trade Associations / Chamber of Commerce, Member of the RAC/PGC and the Public is invited to the Board's Circular No.34/2016-Customs, dated 26/07/2016 regarding assessment of bulk liquid cargo consequent on Judgment of Hon'ble Supreme Court in the case of Mangalore Refinery and Petrochemicals Ltd Vs Commissioner of Customs, Mangalore dated 02.09.2015 [2015 (323) ELT 423 (SC)].

2. In view of the above, the following guidelines are prescribed for assessment and clearance of liquid bulk cargo.
3. In case of all liquid cargo imports, **whether for home consumption or for warehousing**, the **shore tank receipt quantity** i.e., dip measurement in shore tanks **available within the Customs notified area of the port**, into which such cargo is pumped from the tanker **through pipeline**, should be taken as the basis for levy of Customs duty irrespective of whether Customs Duty is leviable at a specific rate or ad-valorem basis [including cases where tariff value is fixed under section 14(2) of the Customs Act, 1962]. Ideally, the goods covered by Warehouse Bill of Entry should be stored in a shore situated Customs Bonded Tank whereas, the goods intended to be cleared under **Home Consumption Bill of Entry**, should be stored in a **shore situated tank the owner of which has been appointed as custodian under Section 45 of the Customs Act, 1962 in respect of the said tank**. However, if the

shore situated tank owners have not been appointed as custodian so far, the goods covered by Home Consumption Bill of Entry should be temporarily allowed to be stored in such Tanks which has got suitable insurance coverage for Customs Duty as applicable in case of Bonded Tanks. **The tank owners are hereby given a time frame up to 31/07/2018 to apply and comply with the provisions of Section 45 of the Customs Act, 1962** for being appointed as custodian.

4. In case, where bulk liquid cargo is cleared **directly on payment of duty without being pumped into any shore tank** as stated above i.e., loaded in tank lorries, barge tanks or through **pipeline** etc to **tanks situated outside the Customs notified area**, assessment may continue to be done as per **ship's ullage survey report** at the port of discharge.
5. In case, where bulk liquid cargo is discharged **through pipeline for warehousing** in any **Customs Private or Public Bonded Warehouse licensed tanks situated outside the Customs notified area**, the assessment shall be on the basis of **tank receipt quantity** i.e., dip measurement in tanks into which cargo is pumped from the ship tank.
6. If the bulk liquid cargo is discharged **other than through pipeline** i.e., loaded in tank lorries, barge tanks etc to shore tanks situated within the Customs notified area or to Customs Private or Public Bonded Warehouse licensed tanks situated **outside the Customs notified area**, the assessment shall be on the basis of **ship's ullage survey report** at the port of discharge.
7. As per Board's Circular F.No:473/19/2009-LC, dated 09/05/2011, unloading of liquid bulk cargo from ship to the bonded storage tanks through pipe lines can be allowed under section 33 of Customs Act, 1962 subject to the condition that the cargo is liquid bulk in nature; the premises under where the goods would be received through pipe lines should be a bonded warehouse under Section 58 or 59 of Customs Act, 1962; permission of the proper officer is obtained for such unloading prior to discharge of such cargo and other requirements under the Customs Act, 1962 are fulfilled. Hence, **the warehousing licensees under section 58 or 59, who seek to receive liquid bulk cargo directly from ship to their bonded storage tanks through pipeline shall obtain permission of the Commissioner of Customs before 30/06/2018, failing which the cargo will not be permitted to be unloaded directly at their premises.**

8. On arrival, 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. 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 shall be borne by the Steamer Agents. In case of the failure on the part of the Steamer Agents to arrange for 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. 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 Consignee and the same should be countersigned by the Customs Boarding Officer.
9. After discharge of the liquid cargo from the vessel, a fresh survey should be carried out in the presence of the Customs Officer and this discharge completion survey report should be signed by the surveyors, Master / Chief Officer of the Vessel, Representatives of the Consignee and Customs Officer.
10. In case of 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.
11. Once the entire quantity is received in the shore situated tanks i.e., **tanks within the customs notified area of the port** or in **Customs Bonded warehouse tanks situated outside the Customs notified area** into which the liquid bulk cargo is transferred directly from the ship tanks **through pipeline**, an out turn report for the received quantity should be prepared and signed by the surveyors of the tank owners, importers and the same should be countersigned by the Bond Officer of Customs posted at the said Bond.
12. 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. 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.

13. In case, where the cargo is being discharged from the ship into a shore situated tank as enumerated at para 3 above or in warehouse tank as enumerated at para 5 above, the assessment would be for the quantity received in the concerned tank. In case of an advanced / 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 officer in usual manner. On the B/E, the dealing Appraiser / Superintendent will give the following examination order:-

- a. Before allowing discharge, 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.
- b. Please inspect the cargo. Before allowing discharge, please inspect and certify the ullage survey report prepared at this port and state quantity mentioned therein. Thereafter allow discharge through the pipeline/ tank lorries / **barge tanks** and forward samples in duplicate to Chemical laboratory for test, if applicable. Please ensure the FSSAI sampling is done in case of edible oils.
- c. After discharge, certify the fresh survey to ascertain the quantity discharged and record shortage/excess, if any.
- d. Allow samples for consignee's laboratory (wherever necessary)

14. In case of warehouse Bill of Entry / Home Consumption Bill of Entry filed for the manifested quantity for which assessment is to be done on the basis of tank out turn report quantity, if any excess quantity is reported on the basis of tank out turn report, the importer has to pay the duty on the excess quantity received. The short quantity over and above the **ship's ullage quantity** may be subjected to investigation by the Department.

15. If the importer has filed a prior Bill of Entry for the entire manifested quantity, the same may be amended to give effect to actual quantity received in discharge port i.e., ship's ullage quantity or tank out turn report quantity, as the case may be.

16. In case of warehouse Bill of Entry for which tank out turn quantity is to be taken as criteria for assessment, the quantity of warehouse Bill of Entry shall be amended to

the extent of actual quantity received in warehouse tanks before allowing filing of ex-bond Bill of Entry.

17. The procedure for provisional and final assessment of the liquid cargo in bulk remains the same as envisaged in CBEC Circular No.38/2016-Customs, dated 22/08/2016 except the discharging procedure as indicated above.
18. All the members of the Regional Advisory Committee, Trade and Industry Associations are requested to circulate the Public Notice among their constituent members for information and guidance.
19. Action to be taken in terms of decisions taken in this Public Notice should be considered as Standing Order for the purpose of officers and staff.
20. The procedure mentioned herein above shall come into force with immediate effect.
21. Difficulties, if any, in implementation of this Public Notice may be brought to the notice of the Commissioner of Customs (Preventive), Vijayawada.

  
(SUDHA KOKA)  
COMMISSIONER

TO  
Importers, Exporters and Customs Brokers of Commissioner of Customs (Preventive),  
Vijayawada (Through the Joint Commissioner of Customs, Custom House,  
Krishnapatnam / Kakinada and Deputy Commissioner of Customs, ICD, Marripalem,  
Guntur)

Copy submitted to:

The Chief Commissioner of Customs & Central Tax, Visakhapatnam Zone, GST Bhavan,  
Port area, Visakhapatnam for information.

Copy to:

1. The Joint Commissioner of Customs, Kakinada Custom House / Krishnapatnam Custom House
2. The Deputy Commissioner of Customs, ICD, Marripalem
3. The Assistant / Deputy Commissioner of Customs, Customs Divisions, Tirupathi / Kakinada / Visakhapatnam
4. The Superintendent, Computer Section, CC(P), Vijayawada to upload into website
5. Notice Board.