

C. No. VIII/48/21/2021-Cus.Tech

Date: 02.02.2021



OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE)
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PUBLIC NOTICE No. 03/2021 - CUSTOMS

Subject : Posting of staff at Customs areas and collection of Cost Recovery Charges –Regarding.

Attention of all Importers, Exporters, Customs Brokers, Shipping Lines/Agents, Custodians/Customs Cargo Service Providers, Port Terminal Operators, General Trade / Trade Associations / Chamber of Commerce and all other stakeholders & the Public, coming under the jurisdiction of Commissionerate of Customs (Preventive), Vijayawada, is invited to Board Circular No. 02/2021 dated 19.01.2021 on the above captioned subject.

2. The undersigned is directed to draw your kind attention to various circulars and letters which deal with the matters relating to the posting of officers and staff at Customs areas and collection of the Cost Recovery Charges thereof, as tabulated below. These circulars/letters/instructions prescribe the norms for posting of officers and staff at various Customs facilities such as Ports, Airports, Air Cargo Complexes (ACCs), Courier Terminals, Diamond Plazas, Inland Container Depots (ICDs) and Container Freight Stations (CFSs), the rates of Cost Recovery Charges and exemption from payment of Cost Recovery Charges.

S.No.	Letters / Circulars/ Instructions	Date	Subjects/Issues covered
1.	F.No. A-1108/9/91-Ad.IV	01.04.1991	Payment of Cost Recovery Charges@ 1.85 times of the monthly average salary and allowances.
2.	Circular No. 52/97-Cus	17.10.1997	Staffing norms for ICDs and CFSs
3.	Circular No. 34/2002-Cus	26.06.2002	Standard set of guidelines for appointment of custodian of Seaports and Air Cargo Complexes.
4.	Circular No. 27/2004-Cus	06.04.2004	Appointment of custodian for Air Cargo Complex and Seaports
5.	F.No.434/ 17/2004-Cus IV	12.09.2005	Performance criteria for considering regularization of cost recovery posts in ICDs and CFSs
6.	F.No. 1108/11/2008-Ad.IV	25.07.2008	Payment of .Cost Recovery Charges for actual deployment of staff

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7.	Circular No. 13/2009-Cus	23.03.2009	Handling of Cargo in Customs Area Regulations
8.	Circular No. 16/2013-Cus	10.04.2013	Fixation of norms for waiver of Cost Recovery Charges and staffing norms for Seaports, Air-Cargo Complexes, Courier Terminals, Diamond Plazas and Airports
9.	F.No.450/41/2010 Cus. IV(Pt).	28.10.2015	One-time authorization of Chief Commissioners to grant exemption from Cost Recovery Charges
10.	DGHRD F.No. 8/B/28/HRD (EMC)/CRB/2014	03.11.2015	One-time authorization of Chief Commissioners to grant exemption from Cost Recovery Charges
11.	DGHRD F.No. 8/B/85/ HRD (EMC)/CRB/2015	06.2017	Clarification of one-time authorization to Chief Commissioners to grant exemption from Cost Recovery Charges
12.	DGHRD F.No. 8/B/85/RD (EMC)/CRB/2015	10.08.2018	Compendium of instructions for creation of posts on cost recovery basis

Over the period of time, a gamut of issues has been brought to the notice of the Board through various representations. These issues include the effective date of exemption from the Cost Recovery Charges, reverting back to Cost Recovery Charges upon failing to achieve benchmark post exemption, interest payable on delayed payments, advance payment in a quarter even though the facility stops its operation in the quarter, recovery for sanctioned strength and deployment of lesser number of staff, threshold criteria of performance for exemption, and effective date for stoppage of payment if a facility to be de-notified.

3. The Board has examined the matter. It is clear that there are many issues upon which the field formations require clarifications in the absence of which there is an inordinate delay in getting approvals from the competent authority for the grant of exemption from payment of Cost Recovery Charges in respect of eligible facilities. Further, there is no uniformity amongst field formations in these matters. Accordingly, it has been decided to issue comprehensive guidelines in respect of posting of officers and staff on cost recovery basis and grant of exemption from payment of Cost Recovery Charges. These guidelines subsume the relevant portions of the aforesaid circulars / letters / instructions.

4. Applicability

4.1. The requirement that the custodian shall bear the cost of Customs staff posted at Customs area shall apply to all Customs areas such as Seaports, Airports, Air Cargo Complexes, Courier Terminals, Diamond Plazas, ICDs, and CFSs, notified after 26.06.2002.

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4.2. The requirement that the custodian shall bear the cost of Customs staff posted at Customs area shall not apply in the following cases:

- the facility notified under Section 45 of the Customs Act, 1962, before 26.06.2002 with no change in custodianship or area after 26.06.2002;
- the facility notified before 26.06.2002 but part or whole of same premises transferred (on lease basis or otherwise) to a new custodian, on or after 26.06.2002 (e.g. Airport Authority of India is custodian for whole Mumbai Air Cargo Complex upto 26.06.2002, and after 26.06.2002 they have transferred the custodianship for the part of Air Cargo Complex to Air India); and
- the facility notified before 26.06.2002, but premises extended after 26.06.2002 under the same custodianship.

4.3 The conditions and obligations already being discharged by the earlier custodian for such facilities such as Air Cargo Complexes, Courier Terminals or Ports to be retained and applied to the new custodian. This shall also be applicable in case of transfer of ownerships.

5. Staffing Norms

5.1 The staffing norms for sanction of posts on cost recovery basis at various Customs facilities are as follows:

Customs Facility	Deputy/Asst. Commissioner	Appraiser/ Superintendent	Examiner/ Inspector	EA	Havaladar	Total
Sea Port	2	4	12	2	12	31
Air Cargo Complex	2	8	12	4	5	31
Courier Terminal	4	9	12	4	8	37
Diamond Plaza	1	4	8	2	4	19
ICD (approved for only handling export cargo)	1	1	1	1	2	7
ICD (approved for handling both export and import cargo)	1	2	2	2	2	13
CFS	0	1	1	1	1	4
Class A Airport ¹	4	38	78	0	24	144
Class B Airport ²	4	29	48	0	16	97
Class C Airport ³	0	8	16	0	4	28

1. Class A Airport is one which handles more than 12000 international flights /10 lakhs passengers per annum

2. Class B Airport is one which handles 6000 to 12000 international flights /5 to 10 lakhs passengers per annum

3. Class C Airport is one which handles less than 6000 international flights /5 lakhs passengers per annum

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5.2. In the initial stages of operation of a facility due to less volume of work, full strength of the officers may not be required. In such cases, if the facility requests, the Principal Commissioner or Commissioner of Customs may, after his consideration, post less than the sanctioned strength of officers. Gradually, when the business picks up, the full contingent of staff may be posted.

6. Creation of posts on the basis of Cost Recovery Charges:

6.1. Creation of cost recovery posts is essential before issuance of necessary notifications by the jurisdictional Commissioners of Customs to operationalize a facility as a customs area. The jurisdictional Principal Commissioner or Commissioner of Customs shall forward the proposals for the creation or continuation of posts on cost recovery basis to DGHRD (and not to the Board directly).

6.2. Initially, the validity of posts on cost recovery basis is one year. The jurisdictional Principal Commissioner or Commissioner of Customs shall send the proposals to DGHRD for continuation of the posts created on cost recovery basis at least two months before the expiry of the validity, so that the Department of Expenditure gets sufficient time for considering the proposals; as the Department of Expenditure takes adverse note of delay in seeking permission in cases where such proposals are sent after the expiry of the validity of the posts created.

6.3. The proposals for creation/continuation of posts shall be in terms of the Department of Expenditure's stipulations from time to time in this regard⁴. They shall contain all the relevant information as per **Annexure-I**. DGHRD shall process these proposals without delay and convey the decision thereon to the field formations concerned with a copy marked to the Board.

7. Payment of Cost Recovery Charges

7.1. The Cost Recovery Charges shall be payable by facilities at the uniform rate of 1.85 times of the monthly average cost⁶ of the post plus other allowances (such as Dearness Allowance, House Rent Allowance, etc.) For this purpose, the following factors may also be kept in view for working out the cost regarding all the cost recovery posts:

i. additional dearness allowance as and when sanctioned by the government should be considered, and arrears shall be recovered; and

4. O.M. No. 7(1)/E.Coord.I./2017 dated 12.04.2017

5. Board's F.No. A-11018/9/941/-Ad.IV dated 01.04.1991

6. The average cost shall be calculated based on the pay matrix for the particular post.

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ii. if the relevant staff is in possession of government accommodation and do not draw house rent allowance. Even then, the notional house rent allowance as admissible to them should be taken into account on cost recovery basis.

7.2. The Cost Recovery Charges would be payable in respect of officers actually deployed at the facility. Where the officers are posted in excess of norms, Cost Recovery Charges for such excess number of officers shall be payable. However, this situation shall not ordinarily arise. If a particular officer is given charge of more than one facility, the Cost Recovery Charges shall be apportioned amongst the facilities concerned.

7.3. Cost Recovery Charges shall be payable from the first day of the month in which the facility commences its operation and it shall be paid in advance for every quarter.

7.4. If the facility fails to deposit the Cost Recovery Charges in advance, for any particular quarter, and in case such charges remain unpaid either wholly or partly, the deployment of staff at the facility should not be abruptly put on hold. The Principal Commissioner or Commissioner of Customs concerned may consider the facility operator's financial contingencies and on case to case basis may allow a certain period of delay (not more than three months at a time and not on more than two occasions) in payment with interest. The interest in such cases shall be at the rate specified for delayed payment of duty under the Customs Act, 1962. A public display in this regard shall be made so that the trade can clear the containers that have already entered the facility. And for non-payment of advance, the entry of containers would be restricted till pending dues with interest are paid so that the facility does not have any uncleared containers once it is to be shut down.

8. Eligibility for Exemption from Cost Recovery Charges

8.1. The cost recovery posts should have the Department of Expenditure's specific permission for continuation before seeking/claiming exemption in respect of any given Customs facility.

8.2. The facilities are eligible to apply for exemption from payment of Cost Recovery Charges upon fulfilling the performance criteria as given in the table below. The facilities shall claim exemption if they meet both the criteria (Criterion-I and Criterion-II) in preceding two financial years or any one of the criteria (Criterion-I or Criterion-II) in preceding four financial years.

Facility	Criterion -I (Volume/Value of Cargo/flights handled in a year)	Criterion -II (Number of Documents/Passengers handled in a year)
Sea Port	6 lakh metric tons	3000 Documents
Air Cargo Complex	12,000 metric tons	35,000 Documents
Courier Terminal	1.5 lakh packages	20,000 Documents
Diamond Plaza	Rs. 15,000 Cr	12,000 Documents
ICD (both export & import)	7200 TEUs	7200 Documents
ICD (only export)	3600	3600 Documents
CFS	1200 TEUs	1200 Documents
Airport	3500 flights	3 lakhs Passengers

8.3. The exemption from the Cost Recovery Charges shall be available only to common use facilities and not to any facility used exclusively by a private entity, even if they meet any of these benchmarks.

8.4. As mentioned earlier, the cost recovery posts that were sanctioned or diverted from the regular cadre strength to the various Customs facilities before 18.12.2013 (date of issuance of Cadre Restructuring Notification) were subsumed in the regular cadre strength of CBIC at that time. Accordingly, the Chief Commissioners were authorized to grant exemption from payment of Cost Recovery Charges for the eligible facilities.

8.5. In respect of all the cases for which exemption from cost recovery charges have not yet been granted though applications for the same are received, and all other cases for which applications would be received hereinafter, the exemption from the payment of Cost Recovery Charges shall be subject to the following conditions:

- the facility should have achieved the benchmark performance as prescribed in para 8.2
- the application for the exemption from Cost Recovery Charges is complete in all respects (in case any deficiency is noticed, the Commissionerate shall issue a deficiency memo for the applicant to complete the application);
- the exemption will be effective from the beginning of the fourth month from the date of issuance of this Circular or the date of receipt of the complete application, whichever is later;
- the facility shall not have any other dues to be paid under the Customs Act, 1962;

7. DGRDs Instruction F.No. 8/B/28/HRD (EMC)/CRB/2014 pt. dated 03.11.2018

6. Board's letter F.No. 450/41/2010Cus. IV(Pt.) dated 28.10.2015

- e. no investigation under the Customs Act, 1962, shall be pending against the facility;
- f. the payment of Cost Recovery Charges would be up-to-date;
- g. the exemption shall be prospective from the fourth month onwards; and
- h. conditions specified at para 9.1. below.

8.6. DGHRD shall complete the regularization process and obtain the approval of the competent authority within a period of three months in order to enable the exemption to be available from the beginning of the fourth month, as per para 8.5 above.

9. Withdrawal of exemption granted

9.1. Facilities shall continue to meet the Criterion-I or the Criterion-II or both, as the case may be, in the years subsequent to grant of exemption. If any facility fails to do so, a grace period of one year will be given within which it should meet the same. The exemption will be withdrawn if a facility does not meet the criteria even after the lapse of one-year grace period.

9.2. The jurisdictional Principal Commissioner or Commissioner of Customs shall therefore, monitor the performance of the facilities under their charge and take immediate measures, including recourse to para 7.1 to 7.4 above, in cases warranting withdrawal of exemption from Cost Recovery Charges.

10. Procedure for claiming/grant of exemption

10.1. The eligible facility may apply for exemption from Cost Recovery Charges to the jurisdictional Principal Commissioner or Commissioner of Customs.

10.2. The jurisdictional Principal Commissioner or Commissioner of Customs shall forward the proposal for regularization of posts to DGHRD through the respective Principal Chief Commissioner or Chief Commissioner of Customs within 15 days. The proposal shall be sent in the format prescribed under **Annexure-II**.

10.3. DGHRD will process such proposal in a time-bound manner so that the regularization of the post is in place within three months of application for exemption from payment of cost recovery charges.

11. De-notification and Cost Recovery Charges

11.1. If the facility is required to be de-notified for any reason, the Cost Recovery Charges should be payable until the date of such de-notification. DGHRD may take necessary steps during this period to surrender the sanctioned/regularized posts.

11.2. If a facility is de-notified in the middle of a quarter for which the Cost Recovery Charges are deposited in advance, the actual Cost Recovery Charges until the de-notification date shall be calculated on pro-rata basis, and excess deposit if any, shall be

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refunded to the entity. It may be noted that such refund shall not be treated as the refund of duty under Section 27 of the Customs Act, 1962. Instead, General Financial Rules (GFRs) shall be applied in such cases.

12. The circulars and instructions issued earlier on the subject which are not inconsistent with the provisions of this Circular would continue to be in force.

13. The above guidelines may be circulated widely to all Customs facilities and the field formations may be suitably sensitized. The jurisdictional Principal Commissioner or Commissioner of Customs shall undertake a review of the existing facilities and take necessary action in terms of these guidelines.

14. Any difficulty while implementing the guidelines may be brought to the notice of the undersigned.

15. Action to be taken by the officers in terms of the Public Notice should be considered as standing order for the purpose of Officers and Staff.

K. Venkat Ram Reddy
(K. VENKAT RAM REDDY)
COMMISSIONER

To

1. Notice Board of the Concerned Customs Formations
2. Copy submitted to the Chief Commissioner of Customs & Central Tax, Visakhapatnam Zone, GST Bhavan, Port Area, Visakhapatnam – 530 035 for information

Copy to :

1. The Additional Commissioner of Customs, Krishnapatnam Custom House, KAPS Building, CVR Complex, Krishnapatnam Port Area, Gopalapuram, MUTHUKURU – 524 344, S. P. S.R. Nellore District for information with a direction to give wide publicity among the stakeholders under the jurisdiction KPCH.
2. The Additional Commissioner of Customs, Kakinada Custom House, Port Road, KAKINADA – 533 007, East Godavari District for information with a direction to give wide publicity among the stakeholders under the jurisdiction KKDCH.
3. The Deputy / Assistant Commissioner of Customs, ICD, MARRIPALEM – 522 233, Yedlapadu Mandalam, Marripalem Post, Guntur District for information with a direction to give wide publicity among the stakeholders under the jurisdiction of ICD, Marripalem.

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4. The Deputy / Assistant Commissioner of Customs, Customs Division, Visakhapatnam / Kakinada / Tirupati for information with a request to display this Public Notice on the Notice Boards of concerned Customs Division.
5. Copy to Superintendent (Computers), CPC, Hqrs. Office, Vijayawada for display on CPC, Vijayawada website www.apcustoms.gov.in.
6. Copy to M/s. Krishnapatnam Port Company Limited (KPCL), the Custodian / Custom Cargo Service Provider of Krishnapatnam Port, Muthukur, SPSR Nellore District for information with a request to upload this Public Notice on their website for the knowledge of the stakeholders and public.
7. Copy to M/s. Kakinada Sea Ports Limited, the Custodian / Custom Cargo Service Provider of Kakinada Port, Kakinada, East Godavari District for information with a request to upload this Public Notice on their website for the knowledge of the stakeholders and public.
8. Copy to M/s. Leap International Private Limited, the Custodian / Custom Cargo Service Provider of ICD, MARRIPALEM - 522 233, YEDLAPADU MANDALAM, MARRIPALEM POST, GUNTUR DISTRICT for information with a request to upload this Public Notice on their website for the knowledge of the stakeholders and public.
9. Copy to The Kakinada Custom Brokers Association, Kakinada (through the Joint Commissioner of Customs, Custom House, Kakinada) for information with a request to upload this Public Notice on their website for the knowledge of their members and public.
10. Notice Board.

Annexure-I⁹
(to the Board's Circular No. 02/2021-Customs)

Proposal for creation/continuation of posts on Cost Recovery basis
Part A: Basic details

1.	The proposal is for	<input type="checkbox"/> Creation of posts <input type="checkbox"/> Continuation of posts
2.	Name of the Commissionerate	
3.	Customs Zone	
4.	Name of the facility	
5.	Date of approval of the facility/letter of intent (copy to be attached)	
6.	Date from which the sanction/continuation of sanction of posts sought	
7.	If the proposal is being sent belatedly, the reasons thereof	
8.	Whether the Cost Recovery Charges have been deposited in advance and if not, whether the facility has furnished the requisite undertaking for depositing the Cost Recovery Charges?	
9.	Whether some staff has already been deputed with the facility in anticipation of getting the sanction?	

⁹ Please refer to D.O.F. No. A11018/14/2008/Ad. IV dated 02.07.2018 and Department of Expenditure O.M. No. 7(I)/E.Coord.I./2017 dated 12.04.2017

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Part B: Details of posts required to be created/continued:

Minimum No. of posts proposed for creation		Period for which the posts required	Brief justification for the creation and not being able to accommodate : within the sanctioned strength	Workload involved in terms of documents as could be estimated	Revenue Involved (in cases of continuation of posts)	How feasibility of sharing the existing post is ruled out.	Remarks
Designation	No.						
AC/DC							
Supdt./ Appraiser							
Inspector/ Examiner							
Executive Assistant							
Havaldar							

Part C: Only in the case of proposals for continuation of posts:**1. Details of staff strength sanctioned and deployed at the facility.**

Designation	Sanctioned Strength	Actual deployment	Date of actual deployment	Remarks
AC/DC				
Supdt. /Appraiser				
Inspector/ Examiner				
Executive Assistant				
Havaldar				

2. Details of Cost Recovery Charges collected

Year	Amount (in Rs. Crores)

3. Whether any amount is pending to be recovered? Yes No**4. Revenue generated from the facility**

Year	Amount (in Rs. Crores)

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5. Other details, if any**Part D: Certificate:**

Certified that:

1. there is a shortage of the posts proposed to be created;
2. the above posts are required to be created/ to be continued on cost recovery basis as needed by the facility concerned; and
3. I am personally satisfied with the need to create /continue with the above posts and appropriate amount will be collected from the facility concerned.

Place:

Signature of the Commissioner:

Date:

Name:

Notes

1. The proposal shall be supported with facts and figures. DGHRD on its part shall take into account the total picture emerging out of all the cadres taken together while processing the proposal.
2. If the proposal was earlier seen by IFU, Deptt. of Expenditure, if so, the replies to the queries raised by them. (In case the similar types of queries were earlier raised on a number of cases, the replies thereto have to be given on individual cases instead of clubbing all the cases together).
3. Copies of the letter of Intent/Approval of the facility etc. shall be enclosed, the undertaking to bear Cost Recovery Charges as provided under paras 5(2) and 6(1)(o) of HCCAR, 2009 shall be enclosed, and the Notification issued under Section 7 of the Customs Act, 1962 by the CBIC declaring the place for unloading of import goods and the loading of export goods or any class of such goods.
4. **The proposal for continuation of posts shall be sent in advance i.e. two months before the expiry of validity of the posts created.**

Annexure-II
(to the Board's Circular No. 02/2021-Customs)

Proposal for grant of exemption from Cost recovery charges.

1.	Name of the Commissionerate				
2.	Customs Zone				
3.	Name of the facility				
4.	Date of approval of the facility/letter of intent (copy to be attached)				
5.	Date of Commencement of the facility				
6.	Whether the facility is functioning consecutively for the past two years / four years	Yes/ No			
7.	Workload of the facility year wise	Year	Volume (TEUs / MTs) / Value of Cargo (In Rs. Crores)/ Number of flights	No. of documents handled / no. of passengers	
8.	Staff Position	Designation	Sanctioned Strength	Actual deployment	Date of actual deployment
		DC/AC			
		Superintendent /Appraiser			
		Inspector/ Examiner			
		STA/TA/EA			
		Havaldar / Sepoy			
9	Cost Recovery Charges collected	Year	Amount (in Rs. Crores)		
10.	Whether any amount is pending to be recovered ?	Yes / No			
11	Revenue generated from the facility	Year	Amount (in Rs. Crores)		
12.	Other details, if any				

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Note: The details for the past two/four years shall be submitted depending on the eligibility

Certified that:

- i. the facility has fulfilled the workload as per the prescribed benchmark in respect of TEUs and documents and passengers, as the case may be;
- ii. the Customs staff have been continuously posted in the facility, on Cost Recovery basis;
- iii. all the arrears of Cost Recovery Charges till the date of waiver should be paid by the facility;
- iv. there is no other amount to be recovered from the facility operator under Customs Act, 1962;
- v. no case relating to payment of Cost Recovery Charges or any other matter under Customs Act, 1962 is pending in any Court/Tribunal;
- vi. the facility operator to whom the waiver of cost recovery is being examined has given an undertaking to the effect they shall continue to abide by Handling of Cargo in Customs Area Regulations, 2009, the guidelines, circulars and instructions, if any, issued by the Board/Principal Commissioner or Commissioner of Customs in relation to the functioning of the facility for smooth customs operations;
- vii. no investigation under Customs Act, 1962 against the facility is pending; and
- viii. annual inspection of the facility has been completed and the facility has taken all the remedial action wherever pointed out in the inspection report.

Place:
Date:

Signature of the Principal
Commissioner/Commissioner of Customs:
Name:
Office Stamp:
