

F. No. DGEP/EOU/401/2006
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
New Delhi

Circular No. 851/9/2007-CX

Dated 3rd May, 2007

Sub : Procedure governing the movement of indigenous goods from a factory of manufacture or warehouse to a unit set up under EOU/EHTP/STP/BTP Scheme.

In exercise of powers conferred under sub-rule (2) of Rule 20 of the Central Excise Rules, 2002, the Central Board of Excise and Customs (hereinafter referred to as the "Board") specifies the following conditions, limitations, safeguards and procedures for removal of goods by the manufacturer directly from the factory of production or by the registered person of the warehouse (hereinafter referred to as the "Consignor") without payment of duty to a unit set up under EOU/EHTP/STP/BTP scheme (hereinafter referred to as the "user industry") eligible to procure the goods under Notification No. 22/2003-CE, dated 31st March, 2003 as amended from time to time (hereinafter referred to as the "notification").

1. Eligibility for warehousing

The facility of warehousing goods shall be extended to such user industry who have a valid Letter of Permission/Letter of Intent issued by the Development Commissioner to establish a 100% EOU, and who have been granted license under Section 58 of the Customs Act, 1962 and sanction under Section 65 of the Customs Act, 1962 for the purposes specified in clauses (a) to (e) to the Notification.

2. Application to obtain benefit of duty free exemption

- (a) A user industry who intends to procure goods for specified purpose without payment of duty under the Notification shall make an application to the proper officer as per existing instructions of the Board issued from time to time for issuing C.T.-3 by the jurisdictional Superintendent or Asstt./Dy. Commissioner of Customs and Central Excise, as the case may be. Such an application shall contain details like particulars of license issued under Section 58 and 65 of the Customs Act, 1962 to the user industry, full description of goods, Central Excise Tariff sub-heading, quantity required, value of the goods, estimated duty leviable, purpose for which these goods are required, manner of usage of these goods, name and address of the consignors, name and address of office of the Superintendent in-charge and jurisdictional Asstt./Dy. Commissioner of Customs or Central Excise of the factory or warehouse of consignors. The user industry shall submit a declaration that the particulars furnished in the application are true and correct to the best of their knowledge and belief and shall also give an undertaking that goods intended to be procured duty free will be used for the purpose mentioned in the application.
- (b) The proper officer shall ensure that there is sufficient balance in the bond executed by the user industry to cover the central excise duty on the goods. After due diligence, the proper officer shall issue a certificate in Form C.T.-3 annexed to the Notification as Annexure-VI in quadruplicate. One copy of C.T.-3 shall be forwarded to the jurisdictional Range Superintendent in-charge of the factory or warehouse of the consignors, two copies shall be handed over to the user industry and one copy shall be retained for office records.
- (c) The user industry will forward one copy to the factory or warehouse of the consignors from where they intend to procure goods without payment of duty and retain one copy for their record. On the basis of this certificate, the consignors shall avail benefit of the Notification.

3. Procedure in respect of goods removed from a factory or a warehouse

- (a) The consignor shall prepare an application for removal of goods from his factory or warehouse to user industry in quadruplicate in the form (ARE-3) annexed to this circular as Annexure-A.
- (b) The consignor shall also prepare an invoice in the manner specified in Rule 11 of the Central Excise Rules, 2002 in respect of the goods intended to be removed from his factory or warehouse.
- (c) The consignor shall send the original, duplicate and triplicate copies of application (ARE-3) and duplicate copy of invoice along with the goods to the user industry.
- (d) The consignor shall send quadruplicate copy of the application to the Superintendent-in-charge of his factory or warehouse within twenty-four hours of removal of the consignment.
- (e) On arrival of the goods at the premises of user industry, the user industry shall verify the number/quantity/weight/description/value/duty etc. with the contents mentioned in the application and invoice and make entry in the account/register maintained for this purpose containing information relating to details of ARE-3 and invoice, date of receipt, description of goods received including marks and number, quantity, value, rate and amount of duty etc. The user industry shall endorse a certificate of warehousing on the application ARE-3. Thereupon an intimation regarding arrival of the goods with all three copies of the application (ARE-3) duly endorsed by the user industry shall be sent to the Superintendent-in-charge of the user industry. All goods received into the premises of user industry shall be kept separate from other goods until such goods are warehoused.
- (f) The Superintendent-in-charge of the user industry shall depute a bond officer to examine the goods on the same day of receipt of information regarding goods arrival. The bond officer shall conduct physical verification of the goods within 24 hrs of receipt of intimation regarding arrival of goods. After verification, these goods shall be warehoused and entry in the account/register shall be countersigned by the bond officer. The bond officer shall submit a report to the Superintendent-in-charge who shall counter sign the certificate of warehousing on all copies of the application.
- (g) The Superintendent-in-charge of the user industry shall send original copy of ARE-3 to Superintendent-in-charge of the consignor, duplicate copy to the consignor and triplicate copy to the user industry for record. A photo copy of the original copy of ARE-3 will be kept in the office for records.

4. Failure to receive a warehousing certificate

- (a) The consignor should receive the duplicate copy of application (ARE-3) with certificate of warehousing, duly endorsed by the user industry and counter signed by the Superintendent-in-charge of the user industry, within ninety days of the removal of the goods. If the warehousing certificate is not received within ninety days of the removal, the consignor shall intimate the Superintendent-in-charge of his factory or warehouse.
- (b) If the Superintendent-in-charge of the consignor of the goods does not receive the original copy application (ARE-3) with certificate of warehousing, duly endorsed by the user industry and countersigned by the Superintendent-in-charge of the user industry, within ninety days of the removal of the goods, weekly reminders must be issued by him to the Superintendent-in-charge of the user industry. If despite such reminders, the original warehousing certificate is not received within a further period of sixty days of the expiry of the ninety days period, the Superintendent-in-charge of the consignor shall inform his Assistant/Deputy Commissioner who shall either secure a satisfactory proof of the goods having been duly received by the user industry or ensure that the duty of excise due on the goods not received at destination is recovered from the consignor in terms of Rule 20 (4) of the Central Excise Rules, 2002.

5. Accountal of goods in the user industry

The user industry shall maintain account/register showing all entries of goods received into his unit and its consumption or removal, containing information relating to details of ARE-3, invoice, date of receipt and warehousing, description of goods received including marks and number, quantity, value, rate and amount of duty etc. and the quantity remaining in stock. The user industry shall submit a monthly return in the form E.R.-2 as prescribed by the Board under Rule 17 (3) of the Central Excise Rules, 2002 and Rule 9 (7) of the CENVAT Credit Rules, 2004 to the Superintendent-in-charge of his unit by 10th of the following month.

6. Responsibility of the user industry

- (a) The user industry shall be responsible for due receipt of the goods into its unit and delivery therefrom including their safety during the period they are lodged in the premises of the user industry.
- (b) The user industry shall be responsible for the payment of duty, penalty or interest leviable in respect of the goods which are warehoused but not used for intended purpose as provided under the Notification No. 22/2003-CE dated 31.03.2003 as amended, Central Excise Act and the rules made thereunder and instruction issued by the Board from time to time.

7. Goods not to be taken out except as provided

The goods received in the user industry's premises shall not be taken out except as provided under the Notification.

8. Period of warehousing

- (a) The goods received in the user industry's premises may remain in the premises of user industry, till the expiry of five years from the date on which such goods were warehoused in case of capital goods and three years in case of goods other than capital goods.
- (b) In case of such goods which are not likely to deteriorate, the period specified above may on sufficient cause shown, be extended by the jurisdictional Commissioner of Customs or Central Excise, for such period as deemed fit.
- (c) Where such warehoused goods remain in the premises of a user industry beyond the period and extension thereof as specified above, interest at such rate as specified in the Notification of the Government of India, Ministry of Finance, Department of Revenue under section 11 AB of Central Excise Act, 1944 shall be payable, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of Notification No. 22/2003-CE dated 31.03.2003 as amended, for the period from the expiry of the said warehousing period till the date of payment of duty on such goods.

9. These instructions shall come into force with immediate effect.

10. Trade and field formations may be informed accordingly.

Sd/-
(PAWAN KUMAR JAIN)
Addl. Director General (EP)

(F.No.DGEP/EOU/401/2006)



Annexure - A

Original/Duplicate/Triplicate/Quadruplicate

Range.....

Division.....

No.....

Application for removal of goods from a factory or a warehouse to another warehouse (A.R.E. 3)

I/We holder(s) of Central Excise Registration No.have undertaken to remove the under mentioned goods from the factory/warehouse at..... to the user industry at in Range..... Division of Mr./Messrs holders of Central Excise Registration No.

Table with 13 columns: Number and date of entry in warehouse register, Description of goods, No. and description of packages, Gross weight of packages, Marks and numbers on packages, Quantity of goods, Date of first warehousing, Value, Duty (Rate, Amount), No. & Date of invoice(s) for removal of goods, Manner of transport, Remarks.

I/We hereby declare the above particulars to be true.

Place

Date

Signature of consignor(s) or his/their authorized agent.

Certificate of warehousing by the consignee

I/We hereby certify that the consignment arrived at.....on.....that the goods conform in all respects to the description given overleaf except for the following discrepancies, and that they have been warehoused under Entry No.of the register maintained in the warehouse.

Particulars of discrepancies

Table with 4 columns: No. and description of packages not received, Quantity short received, Duty payable on the shortage, Remarks.

Place.....

Date

Signature of consignee(s) or his/their authorized agent.