

Manufacturing and other operations undertaken in bonded warehouses under Section 65 of the Customs Act, 1962

Circular No. 48/2020-Customs

F. No: 473/03/2015-LC

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes & Customs

Room no. 49, North Block,

New Delhi, dated the 27th October 2020.

To,

All Principal Chief Commissioners/ Chief Commissioners of Customs/ Customs (Preventive),

All Principal Chief Commissioners/ Chief Commissioners of Customs & Central tax,

All Principal Commissioners/ Commissioners of Customs/ Customs (Preventive), All Principal Commissioners/ Commissioners of Customs & Central tax,

All Principal Director Generals/ Director Generals under CBIC.

Subject: Manufacturing and other operations undertaken in bonded warehouses under Section 65 of the Customs Act, 1962-reg.

Madam/Sir,

Section 65 of the Customs Act, 1962 provides that the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods, with the permission of the Principal Commissioner of Customs or Commissioner of Customs and subject to such conditions as may be prescribed. Manufacture and Other Operations in Warehouse (no.2) Regulations 2019, were issued vide Notification No.69/2019-Customs (N.T.) dated 01.10.2019, hereinafter referred to as, "MOOWR, 2019" prescribing the procedure, documentation and compliances to be followed under Section 65 of the Customs Act, 1962.

2. Board has from time to time received suggestions and requests from members of the trade and industry on the scheme of Manufacturing and other Operations in a Warehouse under Section 65 of the Customs Act, 1962. The requests revolve around making the scheme more investor friendly and seeking more clarity with regard to certain aspects. A Committee was therefore constituted by the Board to study the provisions of Section 65 of the Customs Act, 1962 and the regulations issued there under and make recommendations for consideration of the Board. The committee has since submitted its report.

3. The issues raised by the trade and the recommendations of the Committee have been examined. To bring in greater regulatory clarity and certainty for investors, Board has decided to clarify the following

issues:

(i) Job work for a Section 65 unit: Trade has sought clarity on the goods eligible to be sent for job work and the procedure to be followed for removal of goods for job work by a Section 65 unit.

Clarification: Circular No. 34/2019-Customs dated 1st October 2019 had provided, in Annex B (Form to be maintained by a unit operating under section 65 of the Customs Act, 1962 for the receipt, processing and removal of goods) for removal of goods from a Section 65 unit for job work and receipt after job work, as part of the manufacture or other operations. Thus, only inputs are allowed to be sent out from a Section 65 unit for job work. The capital goods can be sent outside the Section 65 unit for repair, with the permission of the bond officer.

The job work shall be subject to the following conditions:

- (i) The goods upon import should be first deposited in the Section 65 premises and duly accounted for before the same is sent for job work.
- (ii) It should be possible to establish the identity/ correlate the goods after job work with those sent for job work.
- (iii) On completion of the job work, the goods can be brought back to the Section 65 unit or exported/ cleared to DTA from the job worker's premises. In case the goods are exported/ cleared to DTA from the job worker's premises, the procedure as per Regulations 14 and 15 of MOOWR 2019, as applicable shall be followed and the date of removal from job workers premise shall be deemed to be the date of removal from the warehouse.
- (iv) Scrap, waste or remnants generated during the job work shall be either returned to the Section 65 unit or cleared from job-worker's premises on payment of applicable duties.
- (v) The procedure and timeline for the return of goods sent for job work under Section 65 unit will be in line with GST provisions, as the Section 65 Unit is also a GST registrant.
- (vi) The account to be maintained under Circular No. 34/2019-Customs dated 1st October 2019 will be kept updated as regards job work at all times.

Trade has also requested that moulds, jigs, tools, fixtures, tackles, instruments, hangers, patterns and drawings be allowed to be sent to the job workers premises for use in the job work. Considering the nature of goods sought to be removed from a Section 65 unit for the purposes of job work, Board has decided to allow the said goods viz moulds, jigs, tools, fixtures, tackles, instruments, hangers, patterns and drawings to be sent to the premises of a job worker, subject to due accounting of the goods by the Section 65 unit in the account specified. Such goods will be used by the job worker exclusively for the concerned Section 65 unit. The procedure and timeline will be in line with the GST provisions.

It may also be noted that the bond to be executed by a Section 65 unit, prescribed through the aforementioned circular, stays in full force notwithstanding the removal of goods for job work from a Section 65 unit.

In case of violation of any of the above provisions, the goods shall be deemed to be cleared for home consumption on the date of clearance of the goods for job work. The applicable duties, interest and penalties shall be reckoned accordingly.

(ii) Job work for others by a Section 65 unit: Trade has sought clarity on whether the Section 65 unit can itself carry out job work for other units and the procedure to be followed for the same.

Clarification: The issue has been examined with a view to enhance capacity utilization and acknowledging the realities of manufacturing environment where various units support each other in

producing the final product. It is clarified that a Section 65 unit being a GST registered unit, can perform job work operations and shall maintain due accounting of such job work as per the provisions of GST law.

In case any imported inputs which are warehoused are consumed during the job work process, duty shall be paid on such goods (i.e. the warehoused goods) by filing Ex-Bond Bill of Entry, when such job worked goods are returned to the principal/owner. In case the goods after job work are exported from the premises of the Section 65 unit, the import duty on the warehoused goods used for the job work need not be paid as per section 69 of the Customs Act, 1962.

(iii) Whether a Section 65 unit can procure goods from FTWZ: Circular 34/2019-Customs dated 1st October 2020, does not explicitly mention sourcing of goods from FTWZ. Hence there is apprehension on whether such sourcing is allowed.

Clarification: Vide para 14 of Circular No. 34/2019-Customs dated 1st October 2020, Board has clarified that the objective of Section 65 is to enable manufacture and other operations in customs bonded warehouses. For this purpose, the units should be able to procure required raw materials, consumables, capital goods etc., imported or procured from domestic market.

There are no restrictions imposed on sourcing of goods by units operating under Section 65. Moreover, the units are GST registrants, which are also allowed to procure goods from SEZ/FTWZs. In view of the foregoing, it is clarified that a Section 65 unit may source capital goods or inputs from a SEZ/FTWZ, following the applicable procedures.

4. The above provisions may be given wide publicity through issue of Public Notices.
5. Any difficulties faced in the implementation of this Circular may please be brought to the notice of Board.
6. Hindi version follows.

Yours faithfully,

(Temsunaro Jamir)

Additional Commissioner (ICD)