

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I)
JAWAHARLAL NEHRU CUSTOMS HOUSE,
NHAVA SHEVA, URAN, DIST: RAIGAD, MAHARASHTRA – 400 707

F.No. S/26-Misc-767/2016-17/Gr I/NS-I

Dated: 25.11.2016

PUBLIC NOTICE NO. 155/2016

Sub:- 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.

Consequent upon issue of CBEC Circular No. 34/2016 dated 26.07.2016, it has become imperative to review the existing procedure of discharge, transportation, storage and clearance of all types of imported Liquid Cargo in Bulk. The said Circular has been issued by the Board 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.)]

2. In the light of the said judgement, the Board has reviewed the Circular No. 96/2002-Customs dated 27.12.2002 & Circular No. 06/2006 dated 12.01.2006 and it has been decided to rescind both these Circulars.

3. In compliance of CBEC Circular No. 34/2016 dated 26.07.2016, this Commissionerate has issued Public Notice No. 109/2016 dated. 17.08.2016.

4. In 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 a specific rate or on ad-valorem basis [including cases where tariff value is fixed under Section 14(2) of the Customs Act, 1962].

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

6. 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. JNPT.

7. 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. 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.

8. After the 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 Consignees and Customs Officer.

9. 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.

10. Once the entire quantity has been received in the shore situated tanks, 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. 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 a 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 upto 31st March, 2017 to apply and comply with the provisions of Section 45 of the Customs Act, 1962 for being appointed as custodian.

11. Pursuant to the above guidelines, the following procedure is prescribed in respect of discharge and clearance of liquid cargo in bulk through pipelines/tank lorries for home consumption/warehousing in the bonded warehouse.

12. 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. On the B/E, the dealing Appraiser 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 the quantity mentioned therein. Thereafter allow discharge through the pipeline/tank lorries and 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.
- 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).

13. 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.

14. If any excess quantity is reported on the basis of shore tank out turn report, the importer for the time being will file a manual Bill of Entry for the excess quantity over and above the Bill of Lading/Manifested quantity. A request would be made to DG, Systems to prepare an extra field for the shore out turn quantity so that the present system of filing manual Bill of Entry for excess quantity can be done away with.

15. 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 tank out turn report, the short quantity over and above 0.5% of the manifested quantity may be subjected to investigation by department.

16. 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 piece meal 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, the situation may arise where importers will face difficulties while making remittance to their suppliers on account of mis-match 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.

17. In case of edible grade oil in bulk, it is a long pending demand of the trade that only one sample per 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, 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 Bills 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, the samples will be forwarded to only DYCC.

18. 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.

19. If test reports are not received as aforesaid, on application of the importer, 80% of the cargo will be released without waiting for DYCC test report and the balance cargo will be released only after production of the DYCC Test Report. However, the same will not apply in case of non-receipt of FSSAI NOC.

20. The procedure for provisional and final assessment of the liquid cargo in bulk remains the same except the discharging procedure as indicated above. In case of provisional assessment, as per CBEC Circular No. 38/2016 para 3.6(b), Bank Guarantee equal to 100% of differential duty is required. However, if the importer gives undertaking to the effect that 20% of the cargo will not be cleared pending the favourable test report, the Group DC/AC may allow provisional assessment without insisting for bank guarantee. In case, if the importer intends to clear the entire cargo on the basis of provisional assessment, the jurisdictional commissioner may reduce the quantum of BG on case to case basis.

21. The procedure mentioned hereinabove shall come into force with immediate effect.

22. Any difficulty faced in implementation of the above, should immediately be brought to the notice of the undersigned.

(DR. JOHN JOSEPH)
PR. COMMISSIONER OF CUSTOMS,
NHAVA SHEVA-I, JNCH

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone II, JNCH
2. The Pr. Commissioner of Customs, Nhava Sheva I, JNCH
3. The Commissioner of Customs, Nhava Sheva II, III, IV, V and General, JNCH
4. All the Additional/Joint Commissioners of Customs, JNCH
5. All the Deputy/Assistant Commissioner of Customs, JNCH
6. The Deputy Commissioner of Customs, EDI for uploading on the JNCH, Customs website
7. Bombay Custom House Agent Association
8. All India Liquid Bulk Importers and Exporters Association
9. Notice Board
10. Office copy.