

# **CUSTOMS ACT 1962**

**BUDGET ANALYSIS 2016-17**

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Sec No. / R No.	Amendment Effective Date	Provision	Existing Provision	Amendment in Existing / New Provision	Analysis
2 (43)	From the date of Ascent of President of India	Definition of "Warehouse"	"warehouse" means a public warehouse appointed under section 57 or a private warehouse licensed under section 58;	"warehouse" means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 OR Special Warehouse license u/s 58A	Additional category of Special Warehouse has been introduced which will be under physical control for class of goods.
2(45)		Definition of "Warehousing Station"	"warehousing station" means a place declared as a warehousing station under section 9.	Omitted	This provision was absolutely redundant rather causing problems of ease of doing business and hence declaration of warehousing station/s 9 has been deleted and hence definition not necessary
Chapter III			Chapter -III Appointment of Customs Ports, Airports, Warehousing Stations etc.	APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, ETC	Appropriate renaming has been done, since provision of warehousing station has been deleted
9		<b>Section 9. Power to declare places to be warehousing stations.</b>	- The Board may, by notification in the Official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.	Omitted	Welcome measure This provision was absolutely cumbersome rather causing problems of ease of doing business and hence declaration of warehousing station/s 9 has been deleted and hence definition not necessary

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25(4) & (5)		<b>Power to grant exemption from duty</b>	<p>(4) Every notification issued under sub-section (1) or sub-section (2A) shall, -</p> <p>(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;</p> <p>(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi.</p> <p>(5) Notwithstanding anything contained in sub-section (4), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force.</p>	<p>(4) Every notification issued under sub-section (1) or sub-section (2A) shall, -</p> <p>(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;</p>	<p>Now there is no requirement of publishing and offering for sale any notification issued, by the Directorate of Publicity and Public Relations of CBEC.</p>
28		<b>Heading</b>	<b>Recovery of duties not levied or short-levied or erroneously refunded.</b>	<b>Recovery of duties not levied or not paid or short-levied or short-paid</b>	Duties not paid or short paid has been inserted for better clarity and to avoid litigation so as to include duties not paid /

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					short paid.
28(1)		<b>Recovery of duties not levied or short-levied or erroneously refunded.</b>	(1) Where any duty has not been levied or has been short-levied or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts,	(1) Where any <b>duty has not been levied or not paid or has been short-levied or short- paid</b> or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts,	Duties not paid or short paid has been inserted for better clarity and to avoid litigation so as to include duties not paid / short paid. Period of limitation has been increased from one year to two years for issuing SCN & Demand Notices, in case not involving fraud, suppression of facts, willful mis-statement, etc
28(1)(a)		<b>Recovery of duties not levied or short-levied or erroneously refunded.</b>	(a) the proper officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;	(a) the proper officer shall, within <b>Two years</b> from the relevant date, serve notice on the person chargeable with the duty or interest which has not been <b>so levied or Paid or</b> which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;	However, period of limitation has not been extended in the matter of refund.
28(3)		<b>Recovery of duties not levied or short-levied or erroneously refunded.</b>	(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause	(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in	

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			(a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (2).	respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of <b>Two years</b> shall be computed from the date of receipt of information under sub-section (2).	
28(4)		<b>Recovery of duties not levied or short-levied or erroneously refunded.</b>	(4) Where any duty has not been levied or has been short-levied Or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,- (a) collusion; or (b) any wilful mis-statement; or (c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay	(4) Where any duty has not been <b>levied or not paid or has been short-levied or short-paid</b> or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,- (a) collusion; or (b) any wilful mis-statement; or (c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been <b>so levied or not paid or</b> which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in	

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			the amount specified in the notice	the notice	
28(5)		<b>Recovery of duties not levied or short-levied or erroneously refunded.</b>	(5) Where any duty has not been levied or has been short-levied or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to twenty-five per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.	(5) Where any duty has not been <b>levied or not paid or has been short-levied or short-paid</b> or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to twenty-five per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.	
28(6)(ii)		<b>Recovery of duties not levied or short-levied or erroneously</b>	(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then the	(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then the proper officer	

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		<b>refunded.</b>	proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (5).	shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of <b>Two years</b> shall be computed from the date of receipt of information under sub-section (5).	
28(7)		<b>Recovery of duties not levied or short-levied or erroneously refunded.</b>	(7) In computing the period of one year referred to in clause (a) of sub-section (1) or five years referred to in sub-section (4), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.	(7) In computing the period of <b>Two years</b> referred to in clause (a) of sub-section (1) or five years referred to in sub-section (4), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.	
28 - Explanation 1 (a)		<b>Recovery of duties not levied or short-levied or erroneously refunded.</b>	(a) in a case where duty is not levied, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;	(a) in a case where duty is not levied or not paid or short-levied or short-paid, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;	
47(1)		<b>Clearance of goods for home consumption</b>	(1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon	(1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges	It is the welcome step the honest importer having un-blemished track record can make deferred payment. However, class of

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			and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.	payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.  Provided that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.”;	importer and the deferment period / installment may be notified by separate rules.
47(2)		<b>Clearance of goods for home consumption</b>	(2) Where the importer fails to pay the import duty under sub-section (1) within five days excluding holidays from the date on which the bill of entry is returned to him for payment of duty, he shall pay interest at such rate, not below ten percent and not exceeding thirty six percent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such duty till the date of payment of the said duty :	(2) Where the importer fails to pay the import duty, either in full or in part, within two days (excluding holidays)— (a) from the date on which the bill of entry is returned to him for payment of duty; or (b) in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not below ten per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central	The provisions has been amended in line with amendment made for deferred payment for certain class of importers.

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				Government, by notification in the Official Gazette.	
51(1)		<b>Clearance of goods for exportation.</b>	Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation.	Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation.  <b>Provided that the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules</b>	It is the welcome step the honest Exporter for payment of export duty, having un-blemished track record can make deferred payment. However, class of importer and the deferment period / installment may be notified by separate rules.
51(2)		<b>Clearance of goods for exportation.</b>		“(2) Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at such rate, not below five per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central	The provisions has been amended in line with amendment made for deferred payment for certain class of Exporter for payment of export duty.

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				Government, by notification in the Official Gazette.”.	
53		<b>Transit of certain goods without payment of duty</b>	Subject to the provisions of section 11, any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or any customs station may be allowed to be so transited without payment of duty.	Subject to the provisions of section 11, where any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or to any customs station, the proper officer may allow the goods and the conveyance to transit without payment of duty, subject to such conditions, as may be prescribed.	<p>The proposed new section 53 seeks to empower the Board to make regulations to provide for conditions subject to which the proper officer may allow the goods &amp; the conveyance to transit without payment of duty.</p> <p>Proper Officer has been inserted, perhaps this may be for ease of doing business and it may be given to the stage of appraiser.</p>
57		<b>Appointing of public warehouses.</b>	At any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may appoint public warehouses wherein dutiable goods may be deposited.	The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a public warehouse wherein dutiable goods may be deposited.	It is upward delegation, rational of the same is unimaginable especially on the point of view of Ease of doing business, perhaps, it may be for reducing the corruption but it may add since file will be processed by the lower officer
58		<b>Licensing of private</b>	(1) At any warehousing station, the Assistant Commissioner of	58. The Principal Commissioner of Customs or Commissioner of	The provision has been amended so as to

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		<b>warehouses.</b>	<p>Customs or Deputy Commissioner of Customs may license private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited.</p> <p>(2) The Assistant Commissioner of Customs or Deputy Commissioner of Customs may cancel a licence granted under sub-section (1) -</p> <p>(a) by giving one month's notice in writing to the licensee; or</p> <p>(b) if the licensee has contravened any provision of this Act or the rules or regulations or committed breach of any of the conditions of the licence:</p> <p>Provided that before any licence is cancelled under clause (b), the licensee shall be given a reasonable opportunity of being heard.</p>	<p>Customs may, subject to such conditions as may be prescribed, license a private warehouse wherein dutiable goods imported by or on behalf of the licensee may be deposited.</p> <p>58A. (1) The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer and no person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.</p> <p>(2) The Board may, by notification in the Official Gazette, specify the class of goods which shall be deposited in the special warehouse licensed under sub-section (1).</p> <p>58B. (1) Where a licensee contravenes any of the provisions of this Act or the rules or regulations made thereunder or breaches any of the conditions of the licence, the Principal</p>	<p>differentiate to permit Private Warehouse for certain class of goods with physical control and certain class of goods with record based control. It is expected EOUs will not be covered u/s Sec 58A but it will be covered under only Sec 58 which will have record based control and procedure will be simplified. However, for sensitive goods like plastic, steel, textile, polyester, it may be prescribed the warehouse u/s 58A which will have physical control. But it can be really concluded only after notifying different class of goods.</p> <p>License of the units having contravention will be suspended, and their operations will be affected. After cancellation of license unit will have to be</p>

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			<p>(3) Pending an enquiry whether a licence granted under sub-section (1) should be cancelled under clause (b) of sub-section (2), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may suspend the licence.</p>	<p>Commissioner of Customs or Commissioner of Customs may cancel the licence granted under section 57 or section 58 or section 58A:</p> <p>Provided that before any licence is cancelled, the licensee shall be given a reasonable opportunity of being heard.</p> <p>(2) The Principal Commissioner of Customs or Commissioner of Customs may, without prejudice to any other action that may be taken against the licensee and the goods under this Act or any other law for the time being in force, suspend operation of the warehouse during the pendency of an enquiry under sub-section (1).</p> <p>(3) Where the operation of a warehouse is suspended under sub-section (2), no goods shall be deposited in such warehouse during the period of suspension: Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse.</p> <p>(4) Where the licence issued under section 57 or section 58 or section 58A is cancelled, the</p>	<p>discharged duty liabilities within 7 days or extended.</p> <p>However, warehouse will be setup with the license granted by principal commissioners / commissioner and not Deputy Commissioner / AC. It is been upward delegation.</p>

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				<p>goods warehoused shall, within seven days from the date on which order of such cancellation is served on the licensee or within such extended period as the proper officer may allow, be removed from such warehouse to another warehouse or be cleared for home consumption or export: Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse till they are removed to another warehouse or cleared for home consumption or for export, during such period.”.</p>	
59		<b>Warehousing bond</b>	<p>(1) The importer of any goods specified in sub-section (1) of <b>section 61</b>, which have been entered for warehousing and assessed to duty under section 17 or section 18 shall execute a bond binding himself in a sum equal to twice the amount of the duty assessed on such goods-</p> <p>(a) to observe all the provisions of this Act and the rules and regulations in respect of such goods;</p>	<p>59. (1) The importer of any goods in respect of which a bill of entry for warehousing has been presented under <b>section 46</b> and assessed to duty under section 17 or section 18 shall execute a bond in a sum equal to <b>thrice</b> the amount of the duty assessed on such goods, binding himself –</p> <p>(a) to comply with all the provisions of the Act and the rules and regulations made thereunder in respect of such goods;</p> <p>(b) to pay, on or before the date specified in the notice of demand,</p>	<p>1. Bond amount has been increased from twice of the duty amount to thrice of the duty amount and security also will have to be given.</p> <p>2. Importation of Goods for which Bill of entry is filed under Sec 46 for warehousing also is covered under the said provisions</p>

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			<p>(b) to pay on or before a date specified in a notice of demand, -</p> <p>(i) all duties, and interest, if any, payable under sub-section (2) of section 61;</p> <p>(ii) <b>rent and charges claimable on account of such goods under this Act, together with interest</b> on the same from the date so specified at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette; and</p> <p>(c) to discharge all penalties incurred for violation of the provisions of this Act and the rules and regulations in respect of such goods.</p> <p>(2) For the purposes of sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to enter into a general bond in such amount as the Assistant Commissioner of</p>	<p>all duties and interest payable under sub-section (2) of section 61; and</p> <p>(c) to pay all penalties and <b>fin</b>es incurred for the contravention of the provisions of this Act or the rules or regulations, in respect of such goods.</p> <p>(2) For the purposes of sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to execute a general bond in such amount as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.</p> <p>(3) The importer shall, in addition to the execution of a bond under sub-section (1) or sub-section (2), furnish such security as may be prescribed.</p> <p>(4) Any bond executed under this section by an importer in respect of any goods shall continue to be in force notwithstanding the transfer of the goods to another warehouse.</p> <p>(5) Where the whole of the goods</p>	<p>3. Now, rent charges claimable will not be pre-requisite for non-compliances of any of the provisions, since it is the issue of custodian i.e. owner of the warehouse.</p>

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			<p>Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.</p> <p>(3) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse: Provided that where the whole of the goods or any part thereof are transferred to another person, the proper officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee.</p>	<p>or any part thereof are transferred to another person, the transferee shall execute a bond in the manner specified in sub-section (1) or sub-section (2) and furnish security as specified under sub-section (3).</p>	
<b>60</b>		<b>Permission for deposit of goods</b>	When the provisions of section 59 have been complied with in	(1) When the provisions of section 59 have been complied with in	The provision has been made for transfer from

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		in a warehouse. -	respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse.	respect of any goods, the proper officer may make an order permitting removal of the goods from a customs station for the purpose of deposit in a warehouse.  (2) Where an order is made under sub-section (1), the goods shall be deposited in a warehouse in such manner as may be prescribed.	warehouse to another custom station and rules will be prescribed subsequently.
61		Period for which goods may remain warehoused	(1) Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed, -  (a) in the case of capital goods intended for use in any hundred per cent export oriented undertaking, till the expiry of five years; (aa) in the case of goods other than capital goods intended for use in any hundred per cent. export-oriented undertaking, till the expiry of three years; and (b) in the case of any other goods, till the expiry of one year,  After the date on which the proper officer has made an	(1) Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed:  (a) in the case of capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their clearance from the warehouse; (b) in the case of goods other than capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or	1. The provision applicable to the EOU for warehousing period has been made applicable to STP, EHTP also.  2. Warehousing period for EOU and STP and EHTP has been made in accordance with provisions of Foreign Trade Policy  Permissions of extension of warehousing station can be given by Principal Commissioner / Commissioner.

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			<p>order under section 60 permitting the deposit of the goods in a warehouse : Provided that -</p> <p>(i) in the case of any goods which are not likely to deteriorate, the period specified in clause (a) or clause (aa) or clause (b) may, on sufficient cause being shown, be extended -</p> <p>(A) in the case of such goods intended for use in any hundred per cent. export-oriented undertaking, by the Commissioner of Customs, for such period as he may deem fit; and</p> <p>(B) in any other case, by the Commissioner of Customs, for a period not exceeding six months and by the Chief Commissioner of Customs for such further period as he may deem fit;</p> <p>(ii) in the case of any goods referred to in clause (b), if they are likely to deteriorate, the aforesaid period of one year may be reduced by the Commissioner of Customs to</p>	<p>software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their consumption or clearance from the warehouse; and (c) in the case of any other goods, till the expiry of one year from the date on which the proper officer has made an order under sub-section (1) of section 60: Provided that in the case of any goods referred to in this clause, the Principal Commissioner of Customs or Commissioner of Customs may, on sufficient cause being shown, extend the period for which the goods may remain in the warehouse, by not more than one year at a time:</p> <p>Provided further that where such goods are likely to deteriorate, the period referred to in the first proviso may be reduced by the Principal Commissioner of Customs or Commissioner of Customs to such shorter period as he may deem fit.</p> <p>(2) Where any warehoused goods specified in clause (c) of sub-</p>	<p>This is a welcome measure for ease of doing business.</p>

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			<p>such shorter period as he may deem fit :</p> <p>Provided further that when the licence for any private warehouse is cancelled, the owner of any goods warehoused therein shall, within seven days from the date on which notice of such cancellation is given or within such extended period as the proper officer may allow, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation.</p> <p>(2) Where any warehoused goods -</p> <p>(i) specified in sub-clause (a) or sub-clause (aa) of sub-section (1), remain in a warehouse beyond the period specified in that sub-section by reason of extension of the aforesaid period or otherwise, interest at such rate as is specified in section 47 shall be payable, on the amount of duty payable at the time of clearance of the</p>	<p>section (1) remain in a warehouse beyond a period of ninety days from the date on which the proper officer has made an order under sub-section (1) of section 60, interest shall be payable at such rate as may be fixed by the Central Government under section 47, on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehoused goods:</p> <p>Provided that if the Board considers it necessary so to do, in the public interest, it may,—</p> <p>(a) by order, and under the circumstances of an exceptional nature, to be specified in such order, waive the whole or any part of the interest payable under this section in respect of any warehoused goods;</p> <p>(b) by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section;</p> <p>(c) by notification in the Official Gazette, specify the class of goods in respect of which the interest shall be chargeable from the date</p>	

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			<p>goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said warehousing period till the date of payment of duty on the warehoused goods;</p> <p>(ii)specified in sub-clause (b) of sub-section (1), remain in a warehouse beyond a period of ninety days, interest shall be payable at such rate or rates not exceeding the rate specified in section 47, as may be fixed by the Board, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehoused goods:</p> <p>Provided that the Board may, if it considers it necessary so to do in the public interest, by order and under circumstances of an exceptional nature, to be specified in such order, waive</p>	<p>on which the proper officer has made an order under sub-section (1) of section 60.</p> <p>Explanation.— For the purposes of this section,—</p> <p>(i) “electronic hardware technology park unit” means a unit established under the Electronic Hardware Technology Park Scheme notified by the Government of India;</p> <p>(ii) “hundred per cent. export oriented undertaking” has the same meaning as in clause (ii) of Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944; and</p> <p>(iii) “software technology park unit” means a unit established under the Software Technology Park Scheme notified by the Government of India.’.</p>	

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			<p>the whole or part of any interest payable under this section in respect of any warehoused goods:</p> <p>Provided further that the Board may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section.</p> <p>Explanation. - For the purposes of this section, "hundred per cent export oriented undertaking" has the same meaning as in Explanation 2 to sub-section (1) of section 3 of the Central Excises and Salt Act, 1944 (1 of 1944).</p>		
62		<b>Control over warehoused goods.</b>	<p>(1) All warehoused goods shall be subject to the control of the proper officer.</p> <p>(2) No person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer.</p> <p>(3) The proper officer may</p>	Omitted	This is a welcome step for ease of doing business. Now there will be a record based control on such warehouses except for warehouses setup under section 58A and hence there is no need of payment of MOT

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			<p>cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock.</p> <p>(4) The proper officer shall have access to every part of a warehouse and power to examine the goods therein</p>		<p>charges by EOU except for class of goods which is notified under section 58A.</p>
63		<b>Payment of rent and warehouse charges.</b>	<p>The owner of any warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Commissioner of Customs.</p> <p>(2) If any rent or warehouse charges are not paid within ten days from the date when they became due, the warehouse-keeper may, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the goods</p>	Omitted	<p>This is a welcome step for ease of doing business. Otherwise also this was the issue of the custodian i.e. owner of warehouse and not the custom officers.</p>

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			as the warehouse-keeper may select.		
64		<b>Owner's right to deal with warehoused goods.</b>	<p>With the sanction of the proper officer and on payment of the prescribed fees, the owner of any goods may either before or after warehousing the same -</p> <p>(a) inspect the goods;</p> <p>(b) separate damaged or deteriorated goods from the rest;</p> <p>(c) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;</p> <p>(d) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;</p> <p>(e) show the goods for sale; or</p> <p>(f) take samples of goods without entry for home</p>	<p>The owner of any warehoused goods may, after warehousing the same:</p> <p>(a) inspect the goods;</p> <p>(b) deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;</p> <p>(c) sort the goods; or</p> <p>(d) show the goods for sale.”.</p>	<p>Since physical control has been abolished, there is no need of obtaining sanction on payment of MOT charges. Further, owner of the warehouse cannot separate damaged or deteriorated goods from the rest or change their containers for the purpose of preservation, sale, export or disposal of the goods or take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples.</p>

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			consumption, and if the proper officer so permits, without payment of duty on such samples.		
65(1)		<b>Manufacture and other operations in relation to goods in a warehouse.</b>	(1) With the sanction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs and subject to such conditions and on payment of such fees as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.	(1) <b>With the permission of the Principal Commissioner of Customs or Commissioner of Customs</b> and subject to such conditions and on payment of such fees as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.	It is upward delegation. Now EOU, EHTP Units will have to be obtained license u/s 58/65 from Principal Commissioner / Commissioner
68		<b>Clearance of warehoused goods for home consumption</b>	<b>The importer of any warehoused goods may clear them</b> for home consumption, if - (a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form; (b) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods	<b>Any warehoused goods may be cleared from the warehouse</b> for home consumption, if - (a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form; <b>(b) the import duty, interest, fine and penalties payable in respect of such goods have been paid; and;</b>	It is a welcome step, since it is the issue of power of the warehouse i.e. custodian and not the custom officer  Rent and other charges have been removed

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			<p>have been paid; and (c) an order for clearance of such goods for home consumption has been made by the proper officer.</p> <p>Provided that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of rent, interest, other charges and penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon.</p> <p>Provided further that the owner of any such warehoused goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.</p>	<p>(c) an order for clearance of such goods for home consumption has been made by the proper officer.</p> <p>Provided that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon.</p> <p>Provided further that the owner of any such warehoused goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.</p>	
69		Clearance of warehoused	Clearance of warehoused goods for exportation.	Clearance of warehoused goods for export	Grammatical corrections, since

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		<b>goods for exportation.</b>			exportation connote intend and export connote physical export
69(b)		<b>Clearance of warehoused goods for exportation.</b>	<b>(b) the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and</b>	(b) the export duty, fine and penalties payable in respect of such goods have been paid; and”;	It is a welcome step, since it is the issue of owner of the warehouse i.e. custodian and not the custom officer  Rent and other charges have been removed
69(c)		<b>Clearance of warehoused goods for exportation.</b>	(c) an order for clearance of such goods for exportation has been made by the proper officer.	(c) an order for clearance of such goods for export has been made by the proper officer.	Grammatical corrections, since exportation connote intend and export connote physical export
71		<b>Goods not to be taken out of warehouse except as provided by this Act.</b>	No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or re-exportation, or for removal to another warehouse, or as otherwise provided by this Act	No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or export, or for removal to another warehouse, or as otherwise provided by this Act	Welcome step for ease of doing business. Re-exportation has limited meaning whereas “export” word have wider meaning.  It will avoid litigation, since re-exportation may be considered as same party from which goods are exported
72		<b>Goods improperly removed from warehouse, etc.</b>	(1) In any of the following cases, that is to say, -	(1) In any of the following cases, that is to say, -	Since, samples cannot be taken in the warehouse as amended in Sec 64,

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			<p>(a) where any warehoused goods are removed from a warehouse in contravention of section 71;</p> <p>(b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;</p> <p>(c) where any warehoused goods have been taken under section 64 as samples without payment of duty;</p> <p>(d) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or exportation are not duly accounted for to the satisfaction of the proper officer,</p> <p>the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together</p>	<p>(a) where any warehoused goods are removed from a warehouse in contravention of section 71;</p> <p>(b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;</p> <p>(d) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or export are not duly accounted for to the satisfaction of the proper officer,</p> <p>the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable in respect of such goods</p> <p>(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be</p>	<p>corresponding provision has been deleted.</p> <p>Similarly, fine &amp; penalties has been added for payment before clearance and requisite of payment of rent prior to clearance is dispensed with, since it is the duty of custodian and not the custom officer.</p>

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			<p>with <b>all penalties, rent, interest and other charges</b> payable in respect of such goods</p> <p>(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may select.</p>	<p>detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may <b>deem fit</b></p>	
73		<b>Cancellation and return of warehousing bond</b>	<p>When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or exported or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.</p>	<p>When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or <b>transferred or</b> are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.</p>	<p>This is the correction and welcome step.</p> <p>When goods are transferred to other customs station or warehouse then bond given to earlier custom warehouse is allowed to be transferred.</p>

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73A		Custody and removal of warehoused goods.	Newly inserted	<p>73A. (1) All warehoused goods shall remain in the custody of the person who has been granted a licence under section 57 or section 58 or section 58A until they are cleared for home consumption or are transferred to another warehouse or are exported or removed as otherwise provided under this Act.</p> <p>(2) The responsibilities of the person referred to in sub-section (1) who has custody of the warehoused goods shall be such as may be prescribed.</p> <p>(3) Where any warehoused goods are removed in contravention of section 71, the licensee shall be liable to pay duty, interest, fine and penalties without prejudice to any other action that may be taken against him under this Act or any other law for the time being in force.</p>	<p>The provision has been inserted so as to recover the duty either from custodian or importer as may be prescribed to protect the revenue.</p> <p>Liability of duty interest fine will be on importer and or custodian, as the case may be.</p> <p>This will case more responsibility on custodian</p>
156		<b>General power to make rules</b>	<p>(1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act.</p> <p>(2) In particular and without</p>	<p>(1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the</p>	<p>This provision was omitted by Sec 80 of the Finance Act 1988 and now further reinstated :</p> <p>(c) the due date and the manner of making</p>

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			<p>prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) the manner of determining the transaction value of the imported goods and export goods under sub-section (1) of section 14;</p> <p>(b) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article;</p> <p>(c) Omitted</p> <p>(d) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;</p> <p>(e) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any</p>	<p>foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) the manner of determining the transaction value of the imported goods and export goods under sub-section (1) of section 14;</p> <p>(b) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article;</p> <p>(c) the due date and the manner of making deferred payment of duties, taxes, cesses or any other charges under sections 47 and 51.</p> <p>(d) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;</p> <p>(e) the reimbursement by an</p>	<p>deferred payment of duties, taxes, cesses or any other charges under sections 47 and 51.</p> <p>This amendment is necessary , since deferred payment of custom duty will be allowed for the certain class of the importer as explained in Sec 47 above</p>

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			detention of any goods made on his information and of any proceedings consequent on such detention; (f) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed; (g) the publication, subject to such conditions as may be specified therein, of names and other particulars of persons who have been found guilty of contravention of any of the provisions of this Act or the rules. (h) the amount to be paid for compounding and the manner of compounding under sub-	informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention; (f) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed; (g) the publication, subject to such conditions as may be specified therein, of names and other particulars of persons who have been found guilty of contravention of any of the provisions of this Act or the rules. (h) the amount to be paid for compounding and the manner of compounding under sub-	
		<b>Retrospective Amendments</b>		Various notifications pertaining to Advance Licence and Duty Free Import Authorization Schemes are being amended retrospectively, to correct the reference to "section 8" in such notifications to "section 8B" so as to clearly provide that exemption from safeguard duty under section 8B of the Customs	Now, Safeguard duty also been exempted retrospectively for all advance authorisation and duty free import authorisation.  This is the welcome step.

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				Tariff Act, 1975 was/is available under these notifications on imports under Advance Licence and Duty Free Import Authorization Schemes.	

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