

IMPORT PROCEDURE

CMA **AMIT DEY**, M.COM, LLB

Provision Relating to Conveyance carrying imported goods

Sec 29 to 38

SEC 29: PLACE OF ARRIVAL

- ▶ (1) The person-in-charge of a vessel or an aircraft entering India from any place outside India shall not cause or permit the vessel or aircraft to call or land -
 - (a) for the first time after arrival in India; or
 - (b) at any time while it is carrying passengers or cargo brought in that vessel or aircraft;

at any place other than a customs port or a customs airport, as the case may be [unless permitted by the Board].
- ▶ (2) The provisions of sub-section (1) shall not apply in relation to any vessel or aircraft which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs port or customs airport but the person-in-charge of any such vessel or aircraft -
 - (a) shall immediately report the arrival of the vessel or the landing of the aircraft to the nearest customs officer or the officer-in-charge of a police station and shall on demand produce to him the log book belonging to the vessel or the aircraft;
 - (b) shall not without the consent of any such officer permit any goods carried in the vessel or the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the vessel or the aircraft; and
 - (c) shall comply with any directions given by any such officer with respect to any such goods,
- ▶ and no passenger or member of the crew shall, without the consent of any such officer, leave the immediate vicinity of the vessel or the aircraft :
- ▶ **Provided that** nothing in this section shall prohibit the departure of any crew or passengers from the vicinity of, or the removal of goods from, the vessel or aircraft where the departure or removal is necessary for reasons of health, safety or the preservation of life or property.

SEC 29: PLACE OF ARRIVAL

Section 29: Arrival Of Vessels And Aircrafts In India

Vessels or aircrafts entering India from outside India can only call or land at a customs port or a customs airport. If CBIC can permit calling / landing of conveyance at any other place other than customs station is permitted.

Exception: in relation to any vessel or aircraft, which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs port or customs airport.

SEC 30: FORMALITIES OF ARRIVAL - Delivery of Import Manifest or Import Report

- ▶ The person-in-charge of -
 - (i) a vessel; or
 - (ii) an aircraft; or
 - (iii) a vehicle,
- ▶ carrying **imported goods** or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer [**an import manifest by presenting electronically prior to the arrival**] of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an **import report within twelve hours** after its arrival in the customs station, in the prescribed form and if the import manifest or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees:]
- ▶ [Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to deliver import manifest by presenting **electronically**, allow the same to be delivered in any other manner.]
- ▶ (2) The person delivering the import manifest or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.
- ▶ (3) If the proper officer is satisfied that the import manifest or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be **amended or supplemented**.

Import Manifest in case of Vessel or Aircraft and import report in case of vehicle

Particulars	Import Document	Time limit for presentation of IM/R	Mode of Presentation
Where the imported goods are brought in a vessel	Arrival manifest or import manifest	Any time prior to the arrival of the vessel	Electronic filing*
Where the imported goods are brought in an aircraft	Arrival manifest or import manifest	Any time prior to the arrival of the aircraft	Electronic filing*
Where the imported goods are brought in a vehicle	Import Report	Within twelve hours after its arrival in the customs station	Manual filing

Penalty : *if Above section contravenes then the person-in- charge would be liable to a penalty up to Rs. 50,000.*

Belated filing of IGM: *Arrival manifest or import manifest/Report filed belatedly may also be accepted by the proper officer on valid justified grounds.*

Amendment to IGM: *If the proper officer is satisfied that the arrival manifest or import manifest or import report is in any way incorrect or incomplete and there is no fraudulent intention, he may permit it to be amended or supplemented*

SECTION 30A. Passenger and crew arrival manifest and passenger name record information

- ▶ (1) The person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer -
 - (i) the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and
 - (ii) the passenger name record information of arriving passengers,
 - ▶ in such form, containing such particulars, in such manner and within such time, as may be prescribed.
- ▶ (2) Where the passenger and crew arrival manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other person referred to in sub-section (1) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.]

SECTION 31. Imported goods not to be unloaded from vessel until entry inwards granted -

- ▶ (1) The master of a vessel shall not permit the unloading of any imported goods until an order has been given by the proper officer granting entry inwards to such vessel.
- (2) No order under sub-section (1) shall be given until an import manifest has been delivered or the proper officer is satisfied that there was sufficient cause for not delivering it.
- ▶ (3) Nothing in this section shall apply to the unloading of baggage accompanying a passenger or a member of the crew, mail bags, animals, perishable goods and hazardous goods.

UNLOADING OF GOODS FROM CONVEYANCE

Sec 32 to 38

SECTION 32. Imported goods not to be unloaded unless mentioned in import manifest or import report -

- ▶ No imported goods required to be mentioned under the regulations in an import manifest or import report shall, except with the permission of the proper officer, be unloaded at any customs station unless they are specified in such manifest or report for being unloaded at that customs station.

SECTION 33. Unloading and loading of goods at approved places only -

- ▶ Except with the permission of the proper officer, no imported goods shall be unloaded, and no export goods shall be loaded, at any place other than a place approved under clause (a) of section 8 for the unloading or loading of such goods.

SECTION 34. Goods not to be unloaded or loaded except under supervision of customs officer -

- ▶ Imported goods shall not be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of the proper officer:
- ▶ Provided that the Board may, by notification in the Official Gazette, give general permission and the proper officer may in any particular case give special permission, for any goods or class of goods to be unloaded or loaded without the supervision of the proper officer.

SECTION 35. Restrictions on goods being water-borne.-

- ▶ No imported goods shall be water-borne for being landed from any vessel, and no export goods which are not accompanied by a shipping bill, shall be water-borne for being shipped, unless the goods are accompanied by a **boat-note** in the prescribed form:
- ▶ **Provided** that the Board may, by notification in the Official Gazette, give general permission, and the proper officer may in any particular case give special permission, for any goods or any class of goods to be water-borne without being accompanied by a boat-note.

SECTION 36. Restrictions on unloading and loading of goods on holidays, etc. -

- ▶ No imported goods shall be unloaded from, and no export goods shall be loaded on, any conveyance on any **Sunday or on any holiday** observed by the Customs Department or on any other day **after the working hours**, except after giving the **prescribed notice** and on **payment of the prescribed fees**, if any:
- ▶ **Provided** that no fees shall be levied for the unloading and loading of **baggage** accompanying a passenger or a member of the crew, and **mail bags**.

SECTION 37. Power to board conveyances. -

- ▶ The proper officer may, at any time, board any conveyance carrying imported goods or export goods and may remain on such conveyance for such period as he considers necessary.

SECTION 38. Power to require production of documents and ask questions:

- For the purposes of carrying out the provisions of this Act, the proper officer may require the person-in-charge of any conveyance or animal carrying imported goods or export goods to **produce any document** and **to answer any questions** and thereupon such person shall produce such documents and answer such questions.

DEPARTURE OF CONVEYANCE - AFTER UNLOADING

Sec 42 to 45

SECTION 42. No conveyance to leave without written order - Departure permission

- ▶ (1) The person-in-charge of a conveyance which has brought any imported goods or has loaded any export goods at a customs station shall not cause or permit the conveyance to depart from that customs station until a written order to that effect has been given by the proper officer.
- ▶ (2) No such order shall be given until -
 - (a) the person-in-charge of the conveyance has answered the questions put to him **under section 38**;
 - (b) the provisions of **section 41** have been complied with;
 - (c) the shipping bills or bills of export, the bills of transshipment, if any, and such other documents as the proper officer may require have been delivered to him;
 - (d) all duties leviable on any stores consumed in such conveyance, and all charges and penalties due in respect of such conveyance or from the person-in-charge thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;
 - (e) the person-in-charge of the conveyance has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;
 - (f) in any case where any export goods have been loaded without payment of export duty or in contravention of any provision of this Act or any other law for the time being in force relating to export of goods, -
 - (i) such goods have been unloaded, or
 - (ii) where the [Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that it is not practicable to unload such goods, the person-in-charge of the conveyance has given an undertaking, secured by such guarantee or deposit of such amount as the proper officer may direct, for bringing back the goods to India.

SECTION 43. Exemption of certain classes of conveyances from certain provisions of this Chapter -

- ▶ (1) The provisions of sections 30, 41 and 42 shall not apply to a **vehicle which carries no goods other than the luggage of its occupants.**
- ▶ (2) The Central Government may, by notification in the Official Gazette, exempt the following classes of conveyances from all or any of the provisions of this Chapter -
 - (a) conveyances belonging to the Government or any foreign Government;
 - (b) vessels and aircraft which temporarily enter India by reason of any emergency.

CUSTODIAN ROLE & LIABILITY

Sec 44 to Sec 46

SECTION 44. Chapter not to apply to baggage and postal articles -

The provisions of this Chapter shall not apply to -

- ▶ (a) baggage, and
- ▶ (b) goods imported or to be exported by post.

SECTION 45. Restrictions on custody and removal of imported goods. -

- ▶ (1) Save as otherwise provided in any law for the time being in force, all imported goods unloaded in a customs area shall remain in the custody of such person as may be approved by the Principal Commissioner of Customs or Commissioner of Customs] until they are cleared for home consumption or are warehoused or are transshipped in accordance with the provisions of Chapter VIII.
- ▶ (2) **The person having custody** of any imported goods in a customs area, whether under the provisions of sub-section (1) or under any law for the time being in force, -
 - (a) **shall keep a record of such goods** and **send a copy thereof to the proper officer**;
 - (b) **shall not permit such goods to be removed from the customs area** or otherwise dealt with, except under and in accordance with the **permission in writing of the proper officer**.
- ▶ (3) Notwithstanding anything contained in any law for the time being in force, if any imported **goods are pilfered** after unloading thereof in a customs area while in the custody of a person referred to in sub-section (1), that person shall be liable to pay duty on such goods at the rate prevailing on the date of delivery of an import manifest or, as the case may be, an import report to the proper officer under section 30 for the arrival of the conveyance in which the said goods were carried.

⇒ Section 45: Restrictions On Custody And Removal Of Imported Goods

- Once the imported goods have entered the Customs area, there arises the question of who is responsible for the safe custody of goods.
- **Responsibility of Custodian of goods:**
 - (i) Maintain a **proper record of goods** received from the carriers and send a copy of the record to the proper officer.
 - (ii) Not to permit such goods to be removed from the customs area or allow them to be dealt with **otherwise except under the specific permission** in writing of the proper officer or in accordance with a general procedure that may be prescribed that avoid subjectivity of the officer as to the manner of removal of such goods.

SECTION 46. Entry of goods on importation. - Bill of Entry for H/C

- ▶ (1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically to the proper officer a bill of entry for home consumption or warehousing in the prescribed form :
- ▶ **Provided** that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner:
- ▶ **Provided** further that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.
- ▶ (2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.
- ▶ (3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:
- ▶ **Provided** that a bill of entry may be presented within thirty days of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:
- ▶ **Provided** further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.
- ▶ (4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.
- ▶ (5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

⇒ Section 46: Filing of Import bill of entry

Bill of Entry is a document of assessment and when assessed becomes an assessment order. With this extent of automation, Customs expects that filing of bill of entry and payment of duty is on the automated system of customs department or CAS.

The importer who presents a bill of entry shall ensure the following, namely:—

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

Bill of Lading: The Bill of Lading given by the carrier of the goods is the importer's document of title to the goods. The Bill of Lading covers all the goods imported with full description.

Time limit for filing: Before the end of following the day on which aircraft / vessel arrives **but in any case** bill of entry may be presented at any time not exceeding thirty days prior to the expected arrival of the aircraft/vessel.

SECTION 47. Clearance of goods for Home Consumption

- ▶ (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 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.
- ▶ (2) The importer shall pay the import duty
- ▶ (a) on the date of presentation of the bill of entry in the case of self assessment; or
- ▶ (b) within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or
- ▶ (c) 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,
- ▶ and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent. but not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.
- ▶ **Provided** that the Central Government may, by notification in the Official Gazette, specify the class or classes of importers who shall pay such duty electronically:
- ▶ **Provided** further that] where the bill of entry is returned for payment of duty before the commencement of the Customs (Amendment) Act, 1991 and the importer has not paid such duty before such commencement, the date of return of such bill of entry to him shall be deemed to be the date of such commencement for the purpose of this section
- ▶ **Provided** also that if the Board is satisfied that it is necessary in the public interest so to do, it may, by order for reasons to be recorded, waive the whole or part of any interest payable under this section.

⇒ Section 47: Clearance of Goods

Time limit for payment of import duty: The importer shall pay the import duty—

- (a) **on the date of presentation of the bill of entry** in the case of self- assessment; or
- (b) **within one day (excluding holidays) from the date on which the bill of entry** is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or
- (c) **in the case of deferred payment**, from such due date as may be specified by rules made in this behalf, and if he fails to pay the duty either in full or in part within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment.

The rate of interest shall be not below 10% and not exceeding 36% per annum and shall be fixed by the central government. However, the interest may be waived by the CBIC in public interest.

SECTION 48 - Disposal of Unclaimed/ Uncleared Cargo

Procedure in case of goods not cleared, warehoused, or transshipped within thirty days after unloading:

- ▶ If any goods brought into India from a place outside India are not cleared for home consumption or warehoused or transshipped within thirty days from the date of the unloading thereof at a customs station or within such further time as the proper officer may allow or if the title to any imported goods is relinquished, such goods may, after notice to the importer and with the permission of the proper officer be sold by the person having the custody thereof :

Provided that -

- ▶ (a) animals, perishable goods and hazardous goods, may, with the permission of the proper officer, be sold at any time;
- ▶ (b) arms and ammunition may be sold at such time and place and in such manner as the Central Government may direct.

Explanation. - In this section, "arms" and "ammunition" have the meanings respectively assigned to them in the Arms Act, 1959 (54 of 1959).

SECTION 49: Storage of Imported Goods in Warehouse - pending clearance or removal

Where,

(a) in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time;

(b) in the case of any imported dutiable goods, entered for warehousing, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be removed for deposit in a warehouse within a reasonable time,

- ▶ the goods may pending clearance or removal, as the case may be, be permitted to be stored in a public warehouse for a period not exceeding thirty days:
- ▶ Provided that the provisions of Chapter IX shall not apply to goods permitted to be stored in a public warehouse under this section:
- ▶ Provided further that the Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a further period not exceeding thirty days at a time.

⇒ Section 49: Storage Of Imported Goods In Warehouse Pending Clearance Or Removal

Where the **Assistant Commissioner/Deputy Commissioner of Customs** is satisfied on the application of the importer that--

(a) the goods cannot be cleared within a reasonable time in the case of imported goods, whether dutiable or not, entered for home consumption.

(b) the goods cannot be removed for deposit in a warehouse within a reasonable time in the case of any imported dutiable goods, entered for warehousing.

then in such cases, goods can be stored in a **public warehouse for a period not exceeding 30 days.**

Such goods deposited under public warehouse will not be covered under Chapter IX of the Act. **However, the Principal Commissioner / Commissioner of Customs may extend such period of storage for further 30 days at a time.**

Thank You

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