

**No D.6/5/2017-SEZ (Vol. II)**

Government of India  
Commerce & Industry  
Department of Commerce  
SEZ Division

Udyog Bhavan, New Delhi  
Dated 31<sup>st</sup> July 2019

To

All Development Commissioners,  
Special Economic Zones

**Subject: Guidelines for clearance of unclaimed and  
abandoned goods kept in SEZs/ FTWZs-reg**

Sir/Madam,

I am directed to refer to this department's letter of even no. dated 21st February 2018 read with 6th March, 2018 (copies enclosed) on the above-mentioned subject and to say that that the units holding goods on behalf of clients in SEZ /FTWZ shall be deemed to have the custody of these goods under section 48 of the Customs Act for the purpose of sale in DTA, in case such goods are abandoned or unclaimed by their clients.

2. Further, the procedure to be adopted in such cases is annexed herewith to ensure fair and transparent disposal of such —uncleared /abandoned cargo by units in FTWZs/SEZs. The aforesaid procedure is based on the provisions of section 48 of the Customs Act, 1962 read with Circular No. 50/2005-cus dated 01.12.2005 and no. 49/2018-Cus dated 03.12.2018 issued by CBIC. The relevant provisions/procedures mentioned therein will apply, mutatis-mutandis, on warehousing units in FTWZs/SEZs.
3. The objections, if any, with regard to procedure prescribed for clearance of unclaimed/ abandoned goods from SEZs/ FTWZs may be furnished to Deputy Secretary (SEZ) within 15 days from the issue of this instruction.
4. This issues with the approval of the competent authority.

Encl: As above

Yours faithfully,

**(Aditya Narayan)**

Under Secretary to the Govt. of India  
Tel.2306 2496  
e-mail: adityan@nic.in



**File no D.6/5/2017-SEZ**  
Government of India Bharat Sarkar  
Ministry of Commerce and Industry / Vanijya Aur Udyog  
Matralaya Department of Commerce/ Vanijya Vibhag  
SEZ Division

Dated 21<sup>st</sup> February 2018

All Development Commissioners,  
Special Economic Zones.

**Subject: Guidelines for clearance of unclaimed  
abandoned goods kept in FTNVZs-reg.**

Sir/ Madam,

I am directed to refer to the representation received from Stakeholders regarding subject mentioned above and to inform that for DTA clearance of unclaimed abandoned goods kept in FTWZs Section 48 of the Customs Act. 1962 shall strictly be followed and the procedure given in the Customs Manual shall be adopted.

Yours faithfully

(Aditya Narayan) (SEZ)  
Tel: 011-23062496  
Email: Aditya.n@nic.in

Copy to:  
PG. EPCES, 8th Floor, Hansalaya Building, Tolstoy Marg, New Delhi.

**File No. D. 6/5/2017-SEZ**  
Government of India/ Bharat Sarkar  
Ministry of Commerce and Industry/ Vanjiya Aur Udyog Mantralaya  
Department of Commerce/ Vanijya Vibhag  
SEZ Division

Dated 6<sup>th</sup> March, 2018

To,  
All Development Commissioners,  
Special Economic Zones.

**Subject: Guidelines for clearance of unclaimed  
abandoned goods kept in FTWZs & SEZs-reg.**



Sir/ Madam,

I am directed to refer to this departments' letter of even no. dated 21.02.2018 on the subject cited above and to state that Section 48 of the Customs Act, 1962 read with Customs Manual shall also be applied to the units in SEZs.

Yours faithfully,

**(Aditya Narayan)**  
Under Secretary' (SEZ)  
Tel: :011-2306 2496  
E-mail: Aditya.n@nic.in

Copy to :

DG, EPCES, 8th Floor, Hansalaya Building, Tolstoy Marg, New Delhi.

**F. No. D.6/512017-SEZ (VOL-II)**

Annexure

**Sub:—Procedure for disposal of un-cleared cargo  
from Free Trade Warehousing Zone (FTWZ).**

As per the provision of rule 18(5) of SEZ Rules, 2006 read with Instruction 60 dated 6th July, 2010 of Department of Commerce, FTWZ units are allowed to hold the goods on behalf of the Foreign supplier and buyer and DTA supplier and buyer as well subject to fulfilment of provisions made in Rule 18 (5) of SEZ Rules, 2006. As per proviso 2 of Rule 18(5) of SEZ Rules, 2006 units may also re-sell or re-invoice or re-export the goods imported by them.

2. Units are also shown as importer along with the client in the inbound Bills of Entry. Further, as per sub-rule 10 of Rule 27 and Rule 75 of SEZ Rules, 2006 the goods are assessed and allowed inward/ outward movement respectively on the basis of self-declaration by SEZ/FTWZ units.
3. Accordingly, units at FTWZ may carry out disposal of un-cleared cargo at FTWZ in the following manners as prescribed in Section 48 of the Customs Act 1962.
  - (i) The concerned unit of FTWZ shall prepare a list of cargo lying un-cleared. This list shall be sent to the Specified Officer of FTWZ



to intimate as to whether listed goods/cargo can be taken up for disposal through public auction. The list will contain the following details:

- (a) Inbound/Outbound Bill of Entry number
  - (b) Bill of Lading No. and date
  - (c) Description of goods
  - (d) Weight
  - (e) Name of the consignor (exporter) and consignee (importer),  
These details will be furnished as per the information available from the IGM and Inbound Bill of Entry.
- (ii) The units shall simultaneously update the list with importer's name and address.
- (iii) Details of all goods/ shipments which are put on hold for investigation or otherwise by Directorate of Revenue Intelligence (DRI)/Preventive/Special Intelligence and Investigation Branch (SIIB) or any other agency will be maintained both by units and Senior Authorised Officer (SAO)/ Disposal of FTWZ. 'No Objection Certificate' from the concerned agency would be required before initiating disposal process of these goods.
- (iv) From the said list, SAO/ Disposal at FTWZ will segregate shipments which are disputed/ stayed shipments required to be retained for investigation/ adjudication/ court procedure etc SAO/ Disposal shall also segregate shipments containing motor vehicles or other goods requiring Licence/ Permission/ Certification from DGFT or any other Department. SAO/ Disposal will furnish to the custodian within 10 days of the receipt of the said list, the details of shipments not to be included in the auction process. SAO/ Disposal with approval of Specified Officer shall also choose 10% shipments from the List of shipments segregated for inclusion for the auction process for which detailed inventory shall be made in the presence of Authorised Officer (AO)/ SAO for sample check. This will be conveyed to the concerned unit along with the list of shipments/containers which are required to be retained.
- (v) (a) Based on the intimation received from SAO/ Disposal, the concerned unit will issue a notice to client importer citing proviso 2 of Rule 18(5) of SEZ Rules, 2006 advising him to clear the goods within 15 days from the date of issue of the notice failing which the goods will be placed in public auction. Notice will be sent to the importer on the address as given in IGM/Inbound Bill of Entry and available with the unit. Notices be also e-mailed to the importer.



- (b) A copy of the notice issued to the client importer shall also be affixed on the notice board of the Specified Officer's Office.
- (vi) The concerned unit, in the next 20 days shall prepare a detailed inventory of the shipments which are not required to be retained by SAO/ Disposal at FTWZ for any purpose. In doing so, they will associate the AO/Disposal in 10% of the consignments for which SAO/ Disposal has already intimated that inventory has to be drawn in their presence for sample check.
- (vii) Within 7 days of drawing up of inventory, the concerned unit shall approach the SAO/Group at FTWZ along with the said inventory seeking No Objection Certificate (NOC) in respect of all un-cleared consignments which are to be taken up for auction through the e-auction. The inventory should have a detailed description of the items, to enable SAO/Group at FTWZ to easily identify the regulatory requirements in respect of the consignments mentioned in the inventory and it shall clearly indicate variation in description of goods with respect to description of goods mentioned in the list already forwarded as per para 3 (i), above,
- (viii) SAO/Group at FTWZ shall examine the list and within 15 days of receipt of such request, intimate to the unit, details of the listed shipments which can straightway be taken up for auction as they do not require any regulatory clearances [NOC from Food Safety and Standards Authority of India (FSSAI), Drug Controller, Bureau of Indian Standards (BIS) etc.], or do not need any chemical analysis to identify the contents and fitness for consumption/usage. The consignments, for which such unconditional NOCs are issued by SAO/Group, shall be taken up for auction by e-auction preferably through Metal Scrap Trade Corporation Ltd. (MSTC) to ensure maximum outreach and participation. In case the list is incomplete and does not have the complete details for SAO/ Group to clearly pinpoint the regulatory requirements, SAO/ Group shall indicate the deficiencies in the list, within the period of 15 days.
- (ix) In case regulatory clearances from agencies other than Customs are required such as NOC from FSSAI, Drug Controller, BIS etc., or samples of the consignment are required to be chemically analysed to identify the contents and fitness for consumption/ usage, SAO/ Group shall identify such requirement and intimate to the concerned unit within 15 days of the receipt of complete list. The concerned unit will then approach the AO/SAO examination for assistance in obtaining the said regulatory clearance. If in this process, chemical analysis is required, AO shall draw the samples and forward the same to the respective agency for testing. The required testing fees or such other charges required to be paid to the concerned agency, shall be



paid directly by the concerned unit to the said agency. The concerned testing agency will be required to submit the test reports within 15 days of receipt of the samples.

- (x) NOC for such consignments shall be issued by SAO/ Disposal only after receipt of the required clearance/result of chemical analysis from the concerned agency, without which the concerned unit shall not put the said consignment for auction.
- (xi) In case the result of chemical analysis, or report from FSSAI, Drug Controller, Plant Quarantine etc indicate that the sample is not fit for consumption/ usage, SAO/ Disposal shall inform the concerned unit about the need for destruction of the same and the concerned unit shall arrange to destroy the same at their expense, after obtaining the requisite environmental and other clearances as per law. Date of the proposed destruction shall be intimated to SAO/ Disposal at least 15 days in advance, to enable the representative of the Customs at FTWZ to witness the same, should the need for the same be felt.
- (xii) The value of the shipment/ lot included in the auction list shall be fixed in next 7 days by a panel of Govt. approved valuers appointed by the concerned unit which shall include an expert on the product line without involvement of the local Customs authorities. The values assessed by the approved valuers appointed by the units or the value as declared in BE of goods landed less than one year whichever higher shall form the "reserve price". For the goods landed more than one year before the values assessed by the approved valuers appointed by the units will be accepted.
- (xiii) The concerned unit shall fix a date immediately after assessment of value of such shipment/ lot, for holding the auction by e-auction preferably through Metal Scrap Trade Corporation to ensure maximum outreach and participation and communicate such date to the Specified Officer of FTWZ. The Specified Officer of FTWZ shall nominate, if necessary, an officer not below the rank of SAO to witness the auction. SAO / Disposal shall not withdraw any consignment at the last moment from the auction/tender except with the written approval of the jurisdictional Commissioner of Customs,
- (xiv) The shipment/ lot in respect of which NOC has been given by SAO/ Disposal, shall be taken up for auction. All bids of value equal to or more than the reserve price, or those up to 5% less than the reserve price, shall be treated as successful bids for sale of goods. Remaining shipments/ lots of the list shall again be taken up for second auction against the same reserve price. In case, shipments or lots, where bids are not received up to the reserve price, shall again be taken up for third auction against the same reserve price. Unsuccessful shipments/ lots



of third auction, in respect of which three auctions have already taken place, shall be considered for fourth auction against the reserve price fixed before the first auction of such shipments/ lots, however, in the fourth auction such shipments/ lots are to be necessarily sold for the highest bid regardless of the reserve price fixed. In the event of the shipments/lots not being disposed of in the first auction, subsequent auction/ tender should be conducted in a time bound manner and such shipments/ lots should be taken up in the next auction. Units shall furnish shipment/ lot wise bids received in respect of each auction to the jurisdictional Commissioner of Customs.

- (xv) After the successful bidder has been informed about the result of the auction, a consolidated bill of entry, buyer-wise will be filed with the Customs in the prescribed format by the concerned custodian for clearance of the goods as per Section 46 of the Customs Act 1962 read with Un-Cleared Goods (Bill of Entry) Regulations, 1972 (Regulation 2 & 3).
  - (xvi) (a) The proper officer of Customs at FTWZ shall assess the goods to duty in accordance with the extant law within 15 days of filing of the Bill of Entry and after assessment inform the amount of duty payable to the concerned custodian.
  - (b) The auctioned goods shall be handed over to the successful bidder after assessment and out-of-charge orders given by the proper officer, on payment of dues.
- 4. The sale proceeds of the auction shall be disbursed as per Section 150 of the Customs Act 1962.
  - 5. In case the entire process of auction is not concluded within 180 days of the commencement of auction, the units shall inform the bidder about further extended time which may be required to conclude the auction process. Where ever, the bidder indicates his unwillingness to wait further, his successful bid will be cancelled and the earnest money, if any deposited with the custodian by the bidder will be returned to the bidder under intimation to Customs at FTWZ. Otherwise, the auction process shall be concluded within the extended time conveyed to the bidder.
  - 6. Wherever, any amount of earnest money is deposited by the bidder with the unit, the same shall be refunded to the bidder within one week of announcement of auction results where the bid fails to succeed in the auction.
  - 7. Guidelines issued by the Central Vigilance Commission as available at CVC website <http://www.cvc.nic.in> particularly letter No 98/ ORD/I dated 18th December, 2003 should also be kept in view.

