



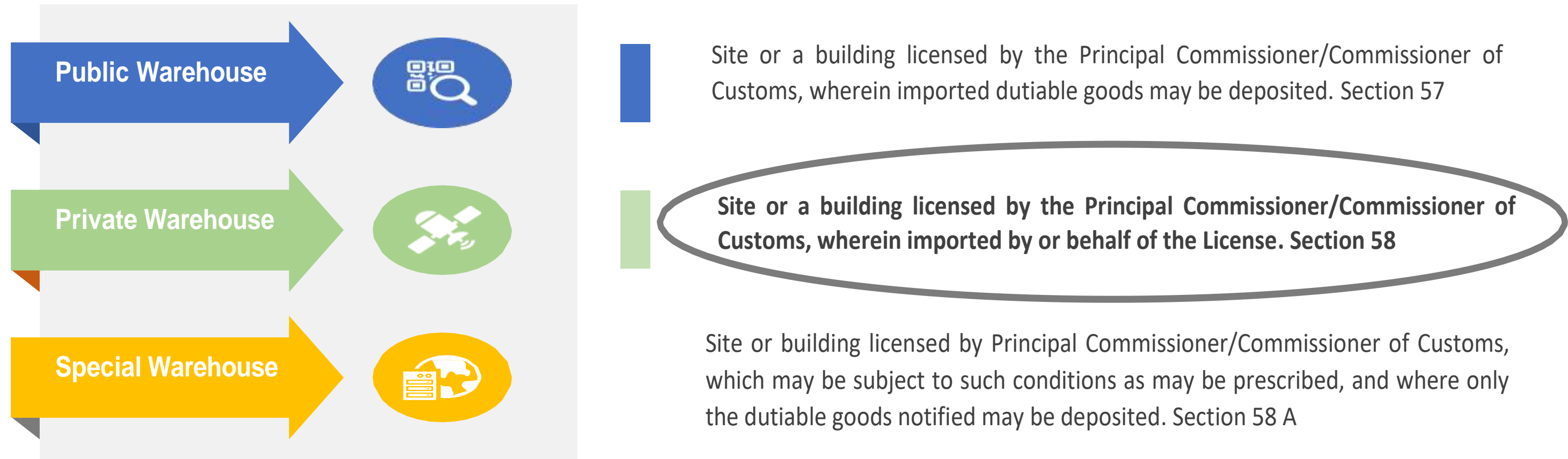
MANUFACTURING AND OTHER OPERATIONS IN CUSTOMS BONDED WAREHOUSE

An initiative to Encourage Local Manufacturing

INTRODUCTION

Bonded warehouse is a facility wherein imported goods are stored under customs control in a designated place/ warehouse. Customs duty is deferred at the time of import of goods and is payable at a later stage only upon clearance of goods for home consumption. The provisions related to warehousing have been formulated under Chapter IX of the Customs Act, 1962 ('Customs Act').

DIFFERENT FORMS OF WAREHOUSING



OBJECTIVES

OBJECTIVES OF THE SCHEME



India as Global Manufacturing Hub

The Scheme boosts the make in India initiative and promotes India as a global manufacturing hub



Foreign Direct Investment

Will provide a stimulus for the manufacturing sector which is heavily dependent upon imported inputs – thus encouraging FDI



Ease of Doing Business

The manufacturer can explore the demands in foreign and domestic market with no incremental investment. There is also no commitment involved.



Ideal for single manufacturing units

Single manufacturing units can explore opportunities in both foreign as well as domestic market through optimal capacity utilization

CUSTOMS BONDED WAREHOUSE

As per Section 2(43) of the Customs Act, 1962, “warehouse” means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 OR Special Warehouse license under Section 58A.

A bonded warehouse, or bond, is a building or other secured area in which dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of duty.

It may be managed by the state or by private enterprise.

In the latter case customs bond must be posted with the government. This system is widely used in developed countries throughout the world.

1. PUBLIC WAREHOUSES APPOINTED UNDER SECTION 57 OF CUSTOMS ACT 1962

Goods imported by any importer

2. PRIVATE WAREHOUSES APPOINTED UNDER SECTION 58 OF THE CUSTOMS ACT

Goods imported by the licensee or for licensee.

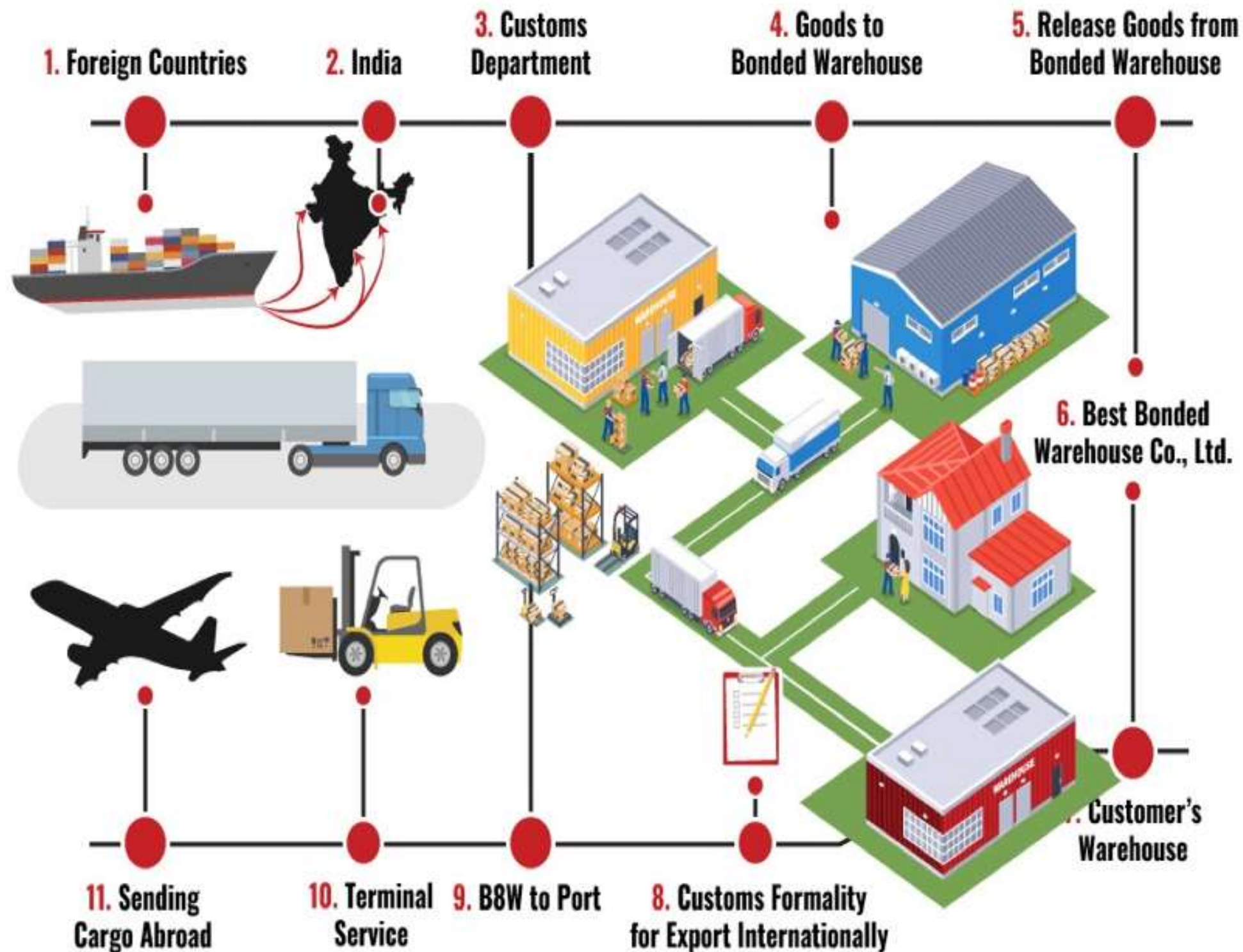
3. SPECIAL WAREHOUSE APPOINTED UNDER SECTION 58A FOR SENSITIVE GOODS.

PN. 66/2016 Dated 14.05.2016 Gold,
Silver, Semi- precious metal and article
thereof, ship stores, supply to duty-free



WAREHOUSING FLOWCHART

BONDED WAREHOUSE OVERVIEW



- Into Bond Bill of Entry on Import of goods. Section 46
- Assessment & Execution of triple duty Bond. Section 59
- In-Bonding permission . Section 60
- Allowed to be kept in Bond till expiry of Bond period. Section 61
- Transfer to other Customs Bonded Warehouse. Section 67
- Ex-Bonding for home consumption. Section 68
- Ex-bonding for Export. Section 69

APPLICATION CRITERIA

ELIGIBILITY CRITERIA

- Financial stability
- Clean Record for last 05 years;
- Suitable and secured Premise with fire-fighting equipment;
- Accessibility for inspection ;
- Location;
- All risk covering Insurance.



REJECTION

- If declared as insolvent or bankrupt by a Court or Tribunal;
- If convicted for an offence under any law for the time being in force;
- If penalized for an offence under the Act, the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act, 1994 (32 of 1994);
- If of unsound mind and stands so declared by a competent Court; or Where the Commissioner of Customs is satisfied that-
 - i. the premises is not suitable for secure storage;
 - ii. the premise not suitable for supervision by customs;
 - iii. bankruptcy proceedings are pending against the applicant ; or
 - iv. criminal proceedings are pending against the applicant.

CONDITIONS TO BE COMPLIED BY LICENSEE



Provide an all risk covering insurance policy,

Provide an undertaking binding himself to pay any duties, interest, fine and penalties.

Undertaking indemnifying the Commissioner of Customs, from any liability arising on account of loss suffered;

Contravention of License condition will lead to cancellation of License

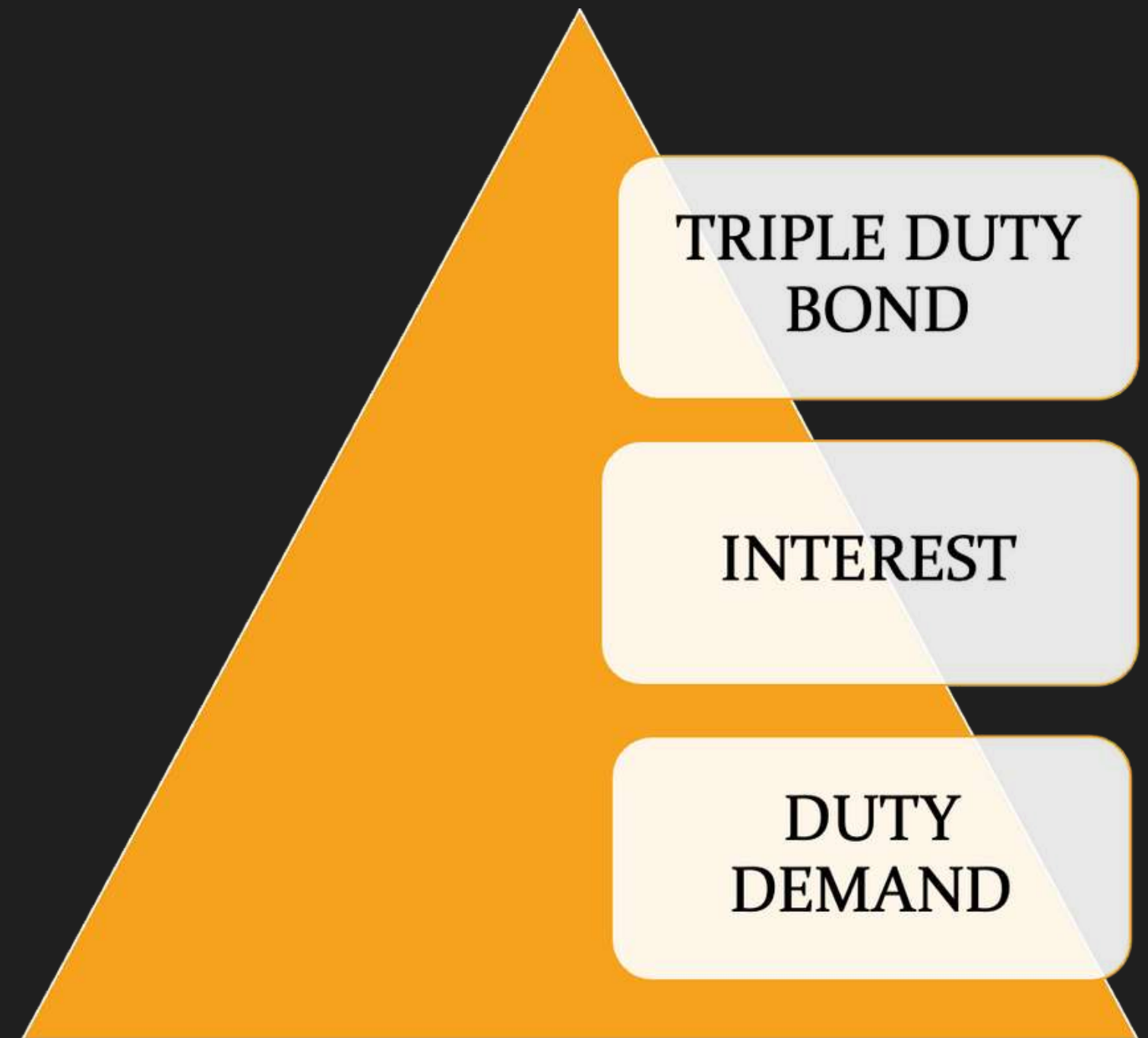


COMPLIANCE FOR IMPORTERS USING BOND FACILITY

The importer shall execute a bond in a sum equal to thrice the amount of the duty assessed on the imported goods.

Interest at the rate notified by the Government is payable for the goods deposited beyond the permissible period..

the proper officer may demand the full amount of duty chargeable on account of such goods, together with interest, fine and penalties payable in respect of such goods [Section 72(1)]



OWNER'S RIGHT TO DEAL WITH THE WAREHOUSED GOODS

WITH PERMISSION OF PROPER OFFICER

OWNER'S RIGHT UNDER SECTION 64

INSPECT THE
BONDED
GOODS

SORT THE
GOODS
OR
CHARGE THE
PACKAGING
FOR
PRESERVATION

TAKE
NECESSARY
ACTION TO
PREVENT LOSS
OR DAMAGE

SHOW THE
GOODS FOR
SALE
TRANSFER
THE
OWNERSHIP

WITHDRAW
SAMPLES
WITHOUT
PAYMENT OF
DUTY



LEGAL POSITION

- As per Section 15 of CA 1962, the rate of duty applicable is, the rate in force on the date on which the goods are actually removed from the warehouse.
- When the permitted warehousing period has expired, the duty payable is with respect to the date when the Warehousing/extended warehousing period expired and not the actual date of removal.
- As per Section 111(J) of CA 1962, any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission shall be liable to confiscation;
- When the permitted warehousing period has expired, the duty payable is with respect to the date when the Warehousing/extended warehousing period expired and not the actual date of removal.
- The owner of the bonded goods has the option to relinquish the title of the bonded goods any time before the order for home consumption is given. Then he will have no duty liability. Customs, Excise and Gold Tribunal – Mumbai- Cipla Ltd. vs Commissioner Of Customs (Import) on 31 July, 2007.
- The removal of Warehoused goods without the permission of the statutory authorities would amount to smuggling because in such a case the process of import is not complete. N.K. Bapna Vs Union of India (Supreme Court of India)
- If the goods which are not removed from warehouse within the permissible period, then subsequent removal called as improper removal. The rate of BCD which is applicable as on the last date on which the goods should have been removed but not removed is applicable, [Kesoram Rayon v Commissioner of Customs (1996)].

LEGAL POSITION

Section 61(2) in the Customs Act, 1962

(2) Where any warehoused goods—

(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 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;

(ii) specified in sub-clause (b) of sub-section (1), remain in warehouse beyond a period of 90 [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 90 [ninety days], till the date of payment of duty on the warehoused goods]

- The Supreme Court of India in Union of India Vs Banagalore Wire Rod Mill has held that the interest on warehoused goods is chargeable only after expiry of the period prescribed in notice of demand issued under Section 59(1) (b) of the Customs Act. Section 61(2) has no application to such matters. Customs duty is payable as per the rate of duty prevalent on the date of clearance but interest is payable only on the duty calculated by taking into account the rate of duty in for from time to time , during the period of expiry of notice issued under Section 59 (1)(b), and the date of clearance of the goods from the warehouse.
- The Supreme Court of India in the case of Prativa Processors Vs Union of India has held that interest is not payable when goods are exempted at the time of ex-bond clearance of warehoused goods. The legal position is that interest on warehousing goods is merely an accessory to the principal and if the principal is not payable, interest is not payable because interest under Section 61(2) of the Customs Act.

OVERVIEW

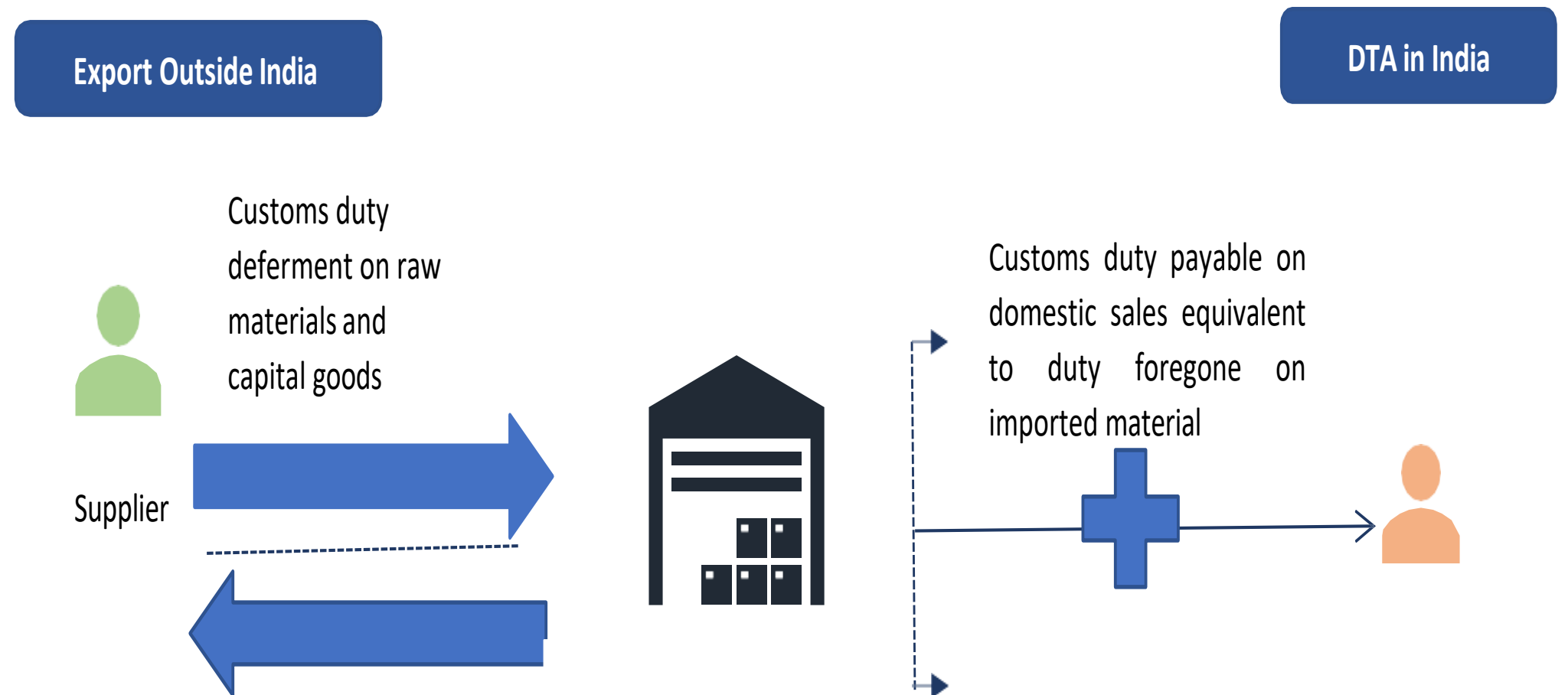
LEGAL PROVISIONS

1. Manufacture and Other Operations in Special Warehouse Regulations, 2020 have been issued vide Notification No. 75/2020-Customs (N.T.) dated 17th August, 2020.
2. Notification No. 66/2016-Customs (N.T) dated 14th May, 2020.
3. the Special Warehouse (Custody and Handling of goods) Regulations, 2016, which were hitherto governing the procedure for custody and handling of goods deposited in and removed from a Special Warehouse have been amended, vide Notification No.77/2020- Customs (N.T) dated 17th August, 2020, to exclude their application for such warehouses operating under section 65.

FRAMEWORK : Manufacture and Other Operations in Warehouse (No. 2) Regulations, 2019

The Scheme facilitates import of inputs and capital goods without payment of duty for manufacturing and other operations in a bonded manufacturing facility under provisions of Section 65 of the Customs Act. It allows deferral of import duty on the imported inputs and capital goods.

This Scheme has been introduced *vide* Notification No. 69/2019 Customs (NT) read with Circular No. 34/2019 Cus. dated October 1, 2019.



SPECIAL WAREHOUSE REGULATIONS



1. The MOOSWR, 2020) allow manufacturing and other operations in a special warehouse licensed under section 58A of the Customs Act, 1962.

2. An applicant desirous of manufacturing or carrying out other operations on specified goods in a bonded warehouse under section 65, must have the premises licensed as a special warehouse under section 58A of the Customs Act.

3. The applicants can seek a license under section 58A and permission to operate under section 65 synchronously, or request for permission under section 65, if they already have a warehouse licensed under section.

4. Eligibility to seek approval under the Scheme is not associated with the quantum of clearances for exports and domestic market.

5. No geographical limitation for setting up of the units.

6. No investment threshold and no export obligations required to be fulfilled. Hence, it is MSME friendly.

7. Sourcing of capital goods and inputs: The scheme gives flexibility in sourcing GST compliant capital goods as well as inputs. The capital goods and inputs can be sourced through imports, domestic market or even from SEZ/ FTWZ.

SALIENT FEATURES

- Import goods (inputs and capital goods) under customs duty deferment with no interest liability.
- No investment threshold or export obligation.
- Full remission of duties if the resultant products are exported.
- Import duty is payable only if the resulting goods or imported goods are ex-bonded. Customs duty payable on domestic sales equivalent to duty foregone on imported material
- Manufacturing and other operations such as packaging, labelling and repacking etc are allowed.
- A single application cum approval form for uniformity of practice.
- Single point of approval to set up the operations of such units.
- Allows procurement of GST compliant goods from the domestic market,
- Optimum capacity utilization, as there is no limit on quantum of clearances. Job work is allowed.

ACTIVITIES PERMITTED

- **Manufacturing:** Ambit of 'manufacturing process' must be clearly assessed and various activities undertaken must be studied to evaluate the same.
- **Other Operations:** Scope of activities to be covered in the ambit of 'Other operations' needs to be assessed. It is important to determine the nature of the operations undertaken and its nexus with the goods imported.
- For example, a mere provision of service which do not have any direct nexus with the goods imported or whether the activity performed is not in relation to the goods imported may not be covered in the scheme. Various sectors that can be covered under the ambit of 'Other operations' could be engineering, processing, job work, packaging etc.
- **Trading Activities:** A person not undertaking the manufacturing operations i.e. a trader or any other person who is removing the goods 'as such' can also avail the benefit under this scheme subject to payment of applicable interest for warehousing goods beyond a specified time limit.



APPLICATION PROCEDURE

WHO CAN APPLY

Following Unit is eligible to apply for this Scheme:

- The Unit that operates under Section 65 or
- The Unit applying for the permission to operate under Section 65 of the act,
- *in warehouse licensed under Section 58 of the Act. (amended by notification 76/2020 Customs) **

HOW TO APPLY

- **Application:** File An on line Application as per Annexure A of MOOWR 2019 along with necessary details and documents.
- **Compliance:** After due scrutiny of documents and inspection of the premises by Customs, execute a Triple Duty Bond as per Annexure C of the MOOWR 2019 and submit a physical copy to the jurisdictional Commissioner of Customs.
- **Issuance of License:** Commissioner of Customs grants the permission for manufacturing or other operations in the bonded facility.



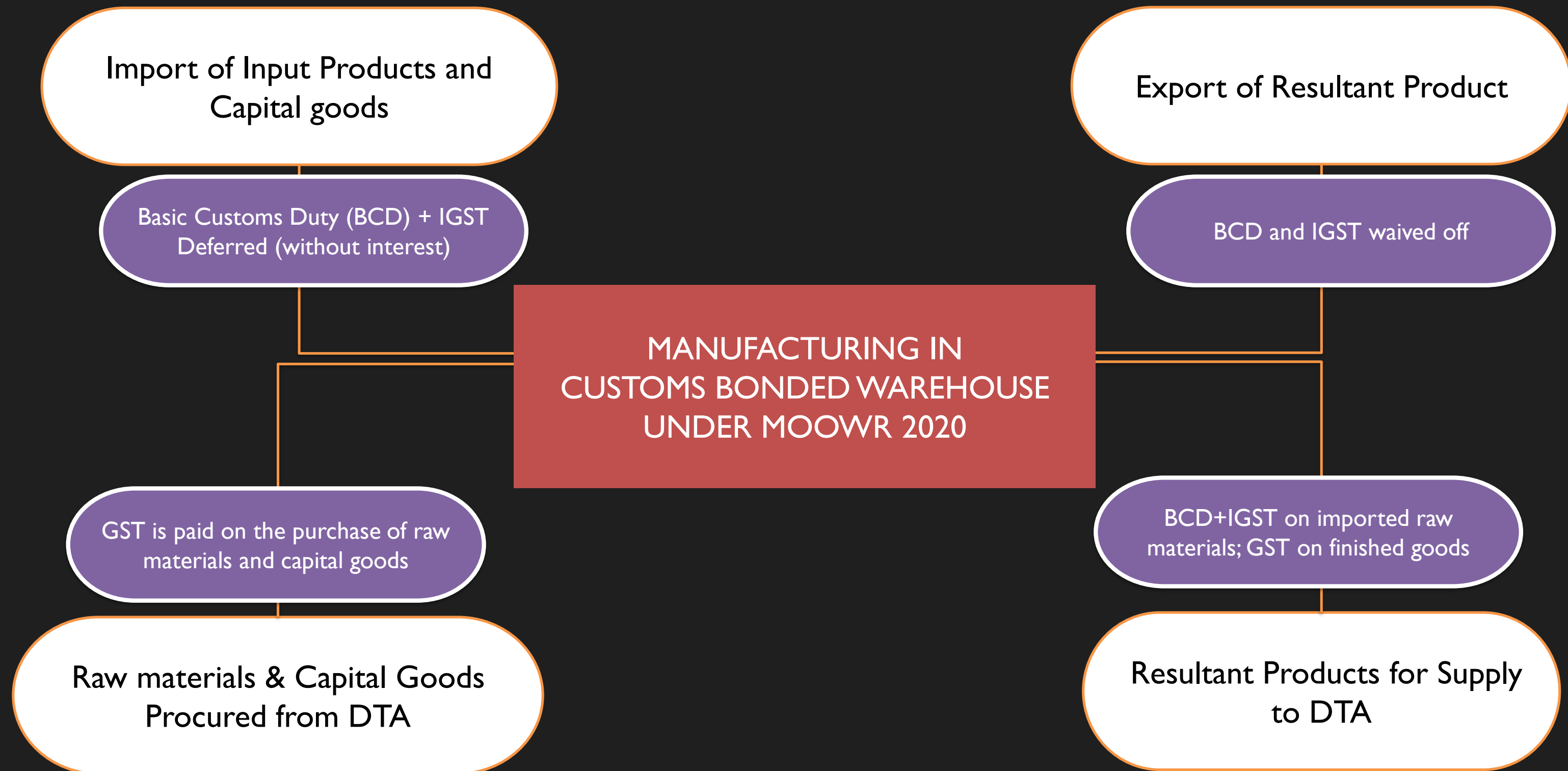
DOCUMENTS REQUIRED



APPLICANT/DIRECTORS	FINANCIAL STATEMENTS	PREMISES DOCUMENTS	COMPLIANCE DOCUMENTS
Application form	Bank Account details: Name of the Bank: Branch name: Account Number:	Contact details at the site/premises:	Indemnity Bond
Certificate of Incorporation		(i) Tel: Fax	Undertakings
List of Directors		(ii) email	General Continuity Bond
PAN card	Bank Solvency Certificate	Owner's NOC	Insurance
Aadhar Card	Income Tax Returns	Site Plan	Firefighting Installation Certificate
GSTIN		Lease deed	Details of existing manufacturing facilities in India and/or Overseas of the applicant firm.
Board Resolution		Description of Premises	Appointment Letter of the Warehouse Keeper
Memorandum of Articles			Work Experience Certificate of the Warehouse Keeper
IEC code			
Identity Proof of the Directors			



SCHEME AT A GLANCE



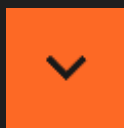
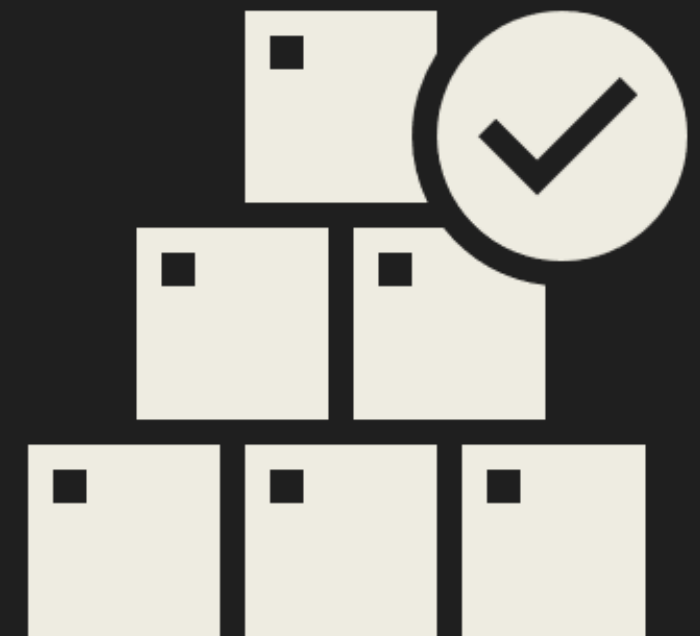
RECENT CHANGES IN MANUFACTURING IN BOND

- MOOWR encourages exports, creates possibility for hubs for electronics assembly, repair & refurbishment operations, inward and outward processing, facilitate global e-commerce hubs;
- No export commitments or export obligation to be fulfilled;
- No interest implication;
- the imported inputs/ capital goods can remain in the warehouse without any time limit;
- License once obtained is valid for perpetuity unless cancelled;
- No physical supervision by the Customs officials;
- Works on the principle of self-assessment;
- Job work is permitted.



IMMEDIATE BENEFITS

- Easy Conversion of existing units;
- Less Administrative burden;
- Pre-approval of import & export items is not required
- No export obligation or NFE obligation;
- Solves problem of credit accumulation;
- Job work allowed following GST compliances;
- More Liquidity- Working capital savings;
- No limit on DTA sale with GST compliance;
- No Restriction on availment of benefits under FTP.



EASE OF DOING BUSINESS

Single Point of Approval	Commissioner of Customs acts as the single point of contact for all approvals
Common Form	Common application and approval form for a license for private bonded facility and permission for manufacturing and other operations.
Reduced cost of compliance	No application fee nor any incremental compliance cost other than setting up and maintenance of bonded warehouse.
Standard Input Output Norm	Standard Input Output Norms will be given by the Licensee and will be ratified by the Jurisdictional Commissioner not by the Norms Committee.
Digital Record Keeping and Reporting	Records should be maintained electronically using software which has inter alia features of audit trail and with each event being recorded with time stamp.
No Prior Permission for Removal of Bonded Goods	No prior permission of the proper officer is not an essential condition for removal of the warehoused goods
No Approval required from multiple Authorities	Jurisdictional commissioner is the Competent Authority for all approvals.

COMPLIANCES

The manufacturer shall maintain accounts relating to stocks, raw materials, goods in process, finished goods, waste and refuse in proper form. The proper officer may, at any time, inspect or call for the accounts and connected records for scrutiny.

Special Audit in certain cases : The Chief Commissioner of Customs may, for reasons to be recorded in writing, direct a manufacturer to get the accounts of his warehouse, office, stores, godowns, factory, depot, or other establishment audited by a Cost Accountant, nominated by him in this behalf.

Issue and return of imported goods to/from the manufacturing process or other operations.-

The Assistant Commissioner of Customs or Deputy Commissioner of Customs shall, having regard to the manufacturing process or other operations to be carried on in the warehouse, direct the manner in which the imported goods shall be issued from and the unused items received back into stock.

Manufacturer to give notice before suspending or discontinuing the manufacturing process or other operations.-

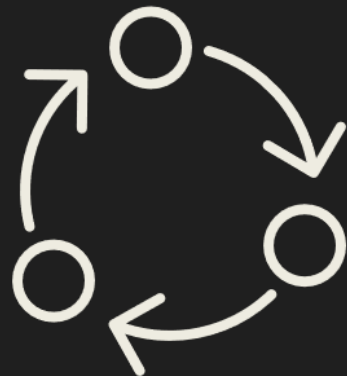
No manufacturer shall suspend or discontinue the manufacturing process or other operations authorised to be carried on in the warehouse without giving in writing to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, one month's notice of his intention so to do:

Cancellation and suspension of sanctions.-

If the manufacturer or any person in his employ commits a breach of the provisions of the Act or the terms and conditions imposed by or under these regulations or if the particulars furnished in the application for sanction are false or incorrect/ or if any undertaking given in the bond is not fulfilled the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, without prejudice to any other action that he may take under the provisions of the Act or these regulations cancel the sanction for carrying on the manufacturing process or other operations



OPERATION PROCEDURE



UNDERTAKINGS IN APPLICATION

- undertaking to **maintain accounts** of receipt and removal of goods,
- **execute bond** and
- **inform input-output norms** wherever considered necessary.

APPOINTMENT OF WAREHOUSE KEEPER

- The licensee shall appoint a **warehouse keeper**
- Such person shall also **obtain a digital signature**

SIGNAGE, FACILITIES, EQUIPMENT & COMPUTERISED RECORD KEEPING

- Provide **signage** at the warehouse
- Install a **computerized system for accounting** of receipt, storage, operations and removal of goods
- Have facilities, equipment and personnel as are sufficient to control access to the warehouse and provide **secure storage of the goods**,

MAINTAINANCE OF RECORDS

Maintain detailed records of receipt, handling, storing and removal of goods into/ from the facility as per Annexure B.

Keep record of each activity, operation or action taken in relation to the warehoused goods
Keep record of drawl of samples from the warehoused goods
Keep copies of the following documents

- Bills of Entry
- Transport documents
- Forms for transfer of goods from warehouse
- Shipping Bills
- Bills of Export
- Any other documents indicating receipt/ removal of goods from the warehouse

Preservation of physical and digital records

Update records and accounts accurately and preserve for a minimum 5 years from the date of removal of goods from the facility
Preserve updated digital copies of records at a place other than the facility to prevent loss of records due to natural calamities.

Filing Monthly returns

File monthly returns within 10 days of closing of the month. Return will contain following details:

- Receipt,
- Storage,
- Operation,
- Removal of the goods in the Warehouse.

Benefit of Other Schemes as well as GST benefit of ITC refund available.

- With bonded manufacturing warehouse facility, various benefit / other schemes like EPCG, Advance authorization etc., can also be claimed.

Easy Compliance

All records of manufacturing and other operations to be maintained digitally in a single format as specified in Annexure B of MOOWR, 2019

ADVANTAGES OF MANUFACTURING IN CUSTOMS BONDED WAREHOUSE

No Fixed Export Obligation

- No limit on quantum of clearances that can be exported or cleared to the domestic market.

Seamless Warehouse to Warehouse Transfer

- Goods can be transferred from the bonded facility to another facility without payment of duty
Seamless warehouse to warehouse transfer

REMOVAL OF BONDED CARGO FROM WAREHOUSE

FOR HOME CONSUMPTION UNDER SECTION 66:

- Importer/Licensee to file Bill of Entry and pay import duty.
- Licensee Shall retain BOE copy and take in records the goods removed.
- GST will be applicable

FOR EXPORT UNDER SECTION 69

- Exporter/Licensee Files the Shipping bill ; and
- The movement of the goods will be by affixing a One Time Lock to the export container or under Customs escort.

FOR TRANSFER TO ANOTHER WAREHOUSE UNDER SECTION

- Load the Goods and affix the one time Lock.
- Endorse the number of the One-Time- Lock as well as transport documents and retain the copy thereof.
- Acknowledge the documents to the Bond Officer.

WHY MANUFACTURING IN BONDED WAREHOUSE?

EDGE OVER OTHER EXISTING SCHEMES

Fate of export-incentive schemes such as Export Promotion Capital Goods (EPCG), Special Economic Zone (SEZ) and Export Oriented Unit (EOU) uncertain due to the World Trade Organization (WTO) directive to remove these incentives.

When compared to other schemes, this scheme can give Competitive Edge in many areas.

Merchant Export for India Scheme, no more attractive now.

Has potential to attract Foreign Direct Investors who will be interested in manufacturing in India to cater to Indian market as well as export market

COMPARISON

- Export Oriented Units (EOUs), Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) And Bio-Technology Parks (BTPs);
- Export Promotion Capital Goods (EPCG) scheme;
- Advance Authorization scheme;
- Deemed Exports;
- Duty Free Import Authorization Scheme;
- Duty Drawback;
- Merchandise/ Service Exports from India Schemes (MEIS/ SEIS);
- Preferential trade agreements;
- Project imports;
- Other existing exemptions & concessions.



PARTICULARS	EOU	EPCG	Advance Authorisation	MOOWR
Benefit of Customs Duty on Imports on Capital Goods for export supplies	Yes	No	Yes	Yes
Benefit of Customs Duty on Imports on Capital Goods for export supplies	Yes	Yes	No	Yes
Benefit of Customs Duty on Imports of consumables for export supplies	Yes	Yes	Yes	Yes
Benefit of IGST on the above	Yes	Yes	Yes	Yes
Duty deferment on Domestic supplies	Export obligation	Export obligation	Export obligation	No Export obligation
Time limit for removals/ usage	3 years	N/A	18 months	No time limit
Validity period	5 Years (Extendable to 10 more years)	6 Years	12 months	Unlimited validity
Requirement of minimum value addition	No (Positive NFE to be fulfilled)	No	Yes	Not required
Benefit of export with payment of tax under GST	No	Yes	Yes	Yes
Benefit of depreciation on Capital Goods	No	Yes	No	Yes
Benefit of depreciation on Capital Goods	Yes	Yes	N/A	No

BENEFITS FOR THE DOMESTIC SUPPLIERS

- This Scheme beneficial for 100% Domestic suppliers.
- Only in case of Removal as such interest is payable of duty and tax after 90 days, in other case NO INTEREST to be paid.
- 100% Domestic supplier can save upon interest cost on working capital blockage in duties and taxes.
- In case Domestic supplier want to import capital goods, the supplier can evaluate this scheme.
- There is NO application fees for the Scheme



ADDED ADVANTAGES

Bonded Warehouse is great boost to the manufacturing sector.

New Manufacturing facility can be set up or Existing Business premises can be converted.

This facility in long run will promote Manufacturing in India.

Optimum Capacity utilization.

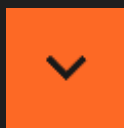
No duty on waste generated if destroyed.

No Geographical limitation.



POINTS TO PONDER

- MOOWR encourages exports, creates possibility for hubs for electronics assembly, repair & refurbishment operations, inward and outward processing, facilitate global e-commerce hubs.
- Only manufacturing or other related operations are allowed. No service operations are allowed.
- The audit of units operating under section 65 would also be based risk criteria. There is no prescribed frequency for such audit and hence its always necessary to maintain proper and up-to-date records.
- Tracking of imported content in goods that are processed and maintaining complete digital records.
- Supply to Private Bonded Warehouse is not treated as deemed export.
- Non availability of Draw-back on Exported Goods.
- No income tax benefit available for bonded manufacturing warehouse.
- Non-availability of Depreciation on Imported Capital Goods at time of clearance from bonded warehouse at later stage.
- No clarity on wastage norm viz., self-certification or Customs approved based risk criteria. There is no prescribed frequency for such audit and hence its always necessary to maintain proper and up-to-date records.



ESTIMATING THE BENEFITS IN REAL TERMS

There is no doubt that the Government has made every possible effort to make the scheme lucrative to the trade, however it becomes imperative for the businesses to understand the real benefits that would accrue to their industry considering the quantum of foreign trade, nature of supplies, business model and various other intricacies.

As can be understood from the above, the MOOWR scheme not only extends the benefits in the form of cost reduction of customs duty/ IGST but also provides the working capital boost by deferring the duty liability.

Apart from manufacturers, the scheme also extends the benefit to other operations viz., processing on the imported goods, like repacking, e-commerce etc. A feasibility study can be a good way to head start the impact of the scheme so that a correct and timely decision be taken.

Hence, analysing the benefit under the scheme in real terms can lead to an informed decision making. One must first compute the amount of benefit in absolute terms under the existing schemes as above and compare the same with the benefit in absolute terms under the new scheme. Various aspects to be considered for computing the benefit are as under:

- Quantum of projected imports in the next 1/3 years and the value of customs duty components on the same.
- Reduction in the above cost on account of waiver of the customs duty under this scheme of MOOWR/ Bonded manufacturing.
- Plotting the normal lead time between import of goods and its removal from the factory after manufacturing and assessing the working capital saving on account of deferral in payment of customs duty i.e. savings on account of opportunity cost.
- Computing the input-output norms and assessing the percentage of imported material as per BOM in the final output goods at each distribution level i.e. at every stage at which the duty liability is going to be levied.
- An assessment of the duty benefit must be made as to the applicability of the benefit on various types of duties levied viz., Social welfare surcharge, Anti-dumping duty, safeguard duties etc.



SALIENT FEATURES

- Eligibility to seek approval under the Scheme is not associated with the quantum of clearances for exports and domestic market
- No geographical limitation for setting up of the units.
- Types of businesses covered: Any business desiring to conduct manufacture or any other operations can apply under the scheme. Existing businesses can also apply.
- Duty benefits: MOOWR is a duty deferment scheme and not a duty exemption scheme. The duty on both imported capital goods and inputs stands deferred till their clearance from warehouse. In case of clearance of capital goods to DTA, deferred duties will become payable. In case of clearance of finished goods into DTA, GST on finished goods along with import duties on imported inputs are payable. The GST as well as the IGST paid as part of import duties will be available as credit. In case of export of capital goods or finished goods, the duty on imported inputs stands remitted. Also, zero rating of tax on domestic inputs is allowed. Deferment of import duty and no interest liability would considerably improve the liquidity position
- No investment threshold and no export obligations required to be fulfilled. Hence, it is MSME friendly.
- Single application cum approval form with single point of approval: The jurisdictional Commissioner of Customs is the single point of approval under the scheme. A single application-cum-approval form has been prescribed for use by both the applicants and Customs.
- Sourcing of capital goods and inputs: The scheme gives flexibility in sourcing GST compliant capital goods as well as inputs. The capital goods and inputs can be sourced through imports, domestic market or even from SEZ/ FTWZ.
- Full flexibility in clearance of finished goods: The goods produced under the scheme can be exported or cleared to domestic market as per demand.

SOME QUESTIONS

- Is SION declaration necessary for every product? Some products are unique.
- Ans: As per MOOWR, 2019, the applicant shall also inform the input-output norms, wherever considered necessary, for raw materials and final products and shall also inform the revised input-output norms in case of change therein.
- Can all export benefits under FTP and Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR) be taken in Bonded warehouse simultaneously?
- Ans: The eligibility to export benefits under FTP or IGCR would depend upon the respective scheme. If the scheme allows, unit operating under Section 65 has no impact on the eligibility. In other words, a unit operating under Section 65 can avail any other benefit, if the benefit scheme allows.
- Can Customs conduct audit of unit operating under Section 65 of the Customs Act?
- Yes, the licensed unit will be subject to risk-based audits as no physical control on day to day basis is exercised on unit licensed under Section 58 and 65 of the Customs Act.
- Goods cleared for home consumption on payment of duty and returned back for repair purpose will be treated as DTA goods. Similarly, goods exported and subsequently returned back on account of rejection, repair etc. will be treated as import and relevant Notifications for re-import will be applicable

MORE QUESTIONS

- In a MOOWR unit, can the imported goods be removed for DTA clearances without putting them to manufacture? (As such clearances)
- Ans: Since the warehouse operating under section 65 also functions as a warehouse licensed under section 58, the licensees can also import goods and clear them as such, for home consumption under section 68 on payment of import duties, along with interest as per subsection (2) of section 61 of the Act or clear them as such for export under section 69 of the Act. The licensees shall also be required to submit monthly returns in “Form B” as prescribed under Circular No. 25/2016-Cus dated 8th June 2016 in case the warehouse is used for such purposes i.e. non-section 65 purposes.
- Impact on EDD, if imported from related party, under MOOWR.
- Ans: The imports from related party are governed by the Customs Valuation (Determination of Price of Imported Goods) Rules 2007. Further, as per Board Circular 5/2016, the Board has decided that while reference to SVB be under provisional assessment, no security in the form of EDD shall be obtained from the importers. However if the importer fails to provide documents and information required for SVB inquiries, within 60 days of such request, security deposit at a rate of 5% of the declared assessable value shall be imposed for a period not exceeding the next three months. Simultaneously, the importer shall be granted further 60 days to comply.

JOB WORK

- **Job work for units operating under provisions of Section 65 of the Customs Act 1962.**
- Board Circular No.34/2019 dated 1st October 2019 has provided In Annexure B (the form to be maintained by a unit operating under provisions of Section 65 Customs Act for receipt, processing and removal of goods) for removal of goods from a Section 65 Unit for job work and for receipt after job work, as a part of manufacturing and other operations.
- With permissions of the bond officer, the inputs can be sent out for job work. The capital goods can be sent out only for repair.
- Vide Circular no. 48/2020, Board has allowed goods such as moulds, jigs, tools, fixtures, tackles, instruments, hangers, patterns etc to be sent to the premises of the job worker. However, all such goods have to be used by the job worker for the concerned Section 65 Unit.
- **Job work for others by a Unit operating under Section 65**
- The Board has clarified in the Circular No. 48/2020 that an unit operating under provisions of Section 65 is being a GST compliant unit can perform job work for others. However, it shall keep accounting of such job work as per provisions of GST laws.
- In case any imported goods are consumed in this job work duty as applicable has to be paid for those consumed imported material by filing an ex-bond bill of entry.

CLARIFICATIONS

- Can the Units operating under provisions of Section 65 procure goods from FTWZ?
- Ans: Vide Circular No. 34/2019, Board has clarified that there is no restriction on units operating under provisions of Section 65 for sourcing of goods. Since these units are GST registrants they are allowed to procure both capital goods and input material from SEZ/FTWZ following the applicable procedures.
- If the imported capital goods are cleared for home consumption after use, is depreciation available? Ans: No. Depreciation is not available if imported capital goods (on which duty has been deferred) are cleared for home consumption after use in a Section 65 unit.
- Can all export benefits under FTP and Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR) be taken in Bonded warehouse simultaneously?
- Ans: The eligibility to export benefits under FTP or IGCR would depend upon the respective scheme. If the scheme allows, unit operating under Section 65 has no impact on the eligibility. In other words, a unit operating under Section 65 can avail any other benefit, if the benefit scheme allows.
- If goods are cleared from PBW, is GST applicable?
- Ans: To the extent that the resultant product (whether emerging out of manufacturing or other operations in the warehouse) is cleared for domestic consumption, such a transaction squarely falls within the ambit of “supply” under Section 7 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as the, “CGST Act”). It would therefore be taxable in terms of section 9 of the CGST Act, 2017 or section 5 of the Integrated Goods and Services Tax Act, 2017 depending upon the supply being intra- state or inter-state.

THANKS

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