

4A

Warehousing

Question 1: Siya imported certain goods in May, 20XX. An 'into Bond' bill of entry was presented on 14th May, 20XX and goods were cleared from the port for warehousing. Assessable value on that date was US \$ 1,00,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21st May, 20XX. Siya deposited the goods in warehouse on the same day but did not clear the imported goods even after the warehousing period got over on 21st September, 20XX. A notice was issued under section 72 of the Customs Act, 1962, demanding duty and interest. Siya cleared the goods on 14th October, 20XX.

Compute the amount of customs duty and interest payable by Siya while removing the goods on the basis of the following information:

Particulars	14-05-20XX	21-09-20XX	14-10-20XX
Rate of exchange per US \$ (as notified by CBIC)	₹ 65.20	₹ 65.40	₹ 65.50
Basic customs duty	15%	10%	12%

Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is exempt.

Answer:

Computation of customs duty payable by Siya

Particulars	Amount (US \$)
Assessable value	1,00,000
	Amount (₹)
Value in Indian currency (US \$ 1,00,000 × ₹ 65.20) [Note 1]	65,20,000
Customs duty @ 10% [Note 2]	6,52,000
Add: SWS @ 10%	65,200
Total customs duty payable	<u>7,17,200</u>

Notes:

- As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.

2. Goods which are not removed within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act, 1962 on the day they should have been removed [*Kesoram Rayon (SC)*]. The applicable rate of duty in such a case is the rate of duty prevalent on the last date on which the goods should have been removed.

As per section 61(2) of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) remain in a warehouse beyond a period of 90 days from the date on which the order under section 60(1) of the Customs Act, 1962 is made, interest is payable at such rate as may be fixed by the Central Government under section 47 of the Customs Act, 1962 [i.e. 15% p.a.], on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.

Therefore, interest payable will be computed as under:

Period of ninety days commencing from the date of order made under 60(1) of the Customs Act, 1962 expires on	19.08.20XX
No. of days for which interest shall be payable [12 days of August + 30 days of September + 14 days of October]	56 days
Interest payable = ₹ $(6,71,560 \times 15/100) \times 56/365$ (Rounded off) 1	₹ 15,455

Question 2: Write a short note on "Bonded Warehouse".

(3 marks)

Answer: Bonded Warehouses: section 2 (43) of the Customs Act, 1962.

These warehouses are meant for storing dutiable goods without payment of duty, Importers who do not intend to clear the goods immediately,

- may store the goods in these warehouses and clear the same subsequently either wholly or in a part, in piecemeal or payment of customs duty.
- These warehouses are of three types:
 - (i) Public bonded warehouses appointed under section 57 and
 - (ii) Private bonded warehouses licensed under section 58
 - (iii) Special warehouse licensed under section 58A.

The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a warehouse wherein **dutiable goods** imported by or on behalf of the licensee may be deposited.

Question 3: State the provisions relating to licensing of private bonded warehouses under the Customs Act, 1962.

(6 marks)

Answer: The facility of private bonded warehousing under section 58 of the Customs Act, 1962 has been given mainly to export oriented industries.

According to section 58 of the Customs Act, 1962, licensing of private warehouses shall be in the manner provided for therein. It is stated that.

Section 58	Licensing of private warehouses.	The Principal Commissioner of Customs or Commissioner of 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.
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Section 58B	Cancellation of Licence	<p>(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 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:</p> <p>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 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:</p> <p>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>
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Question 4:

- (a) State briefly the circumstances under which goods deposited in a bonded warehouse could be removed under the Customs Act, 1962 (3 marks)
- (b) Explain briefly the penal provisions of section 72 of the Customs Act, 1962 in respect of goods improperly removed from a warehouse. (3 marks)

Answer (a): The warehoused goods once deposited can be removed in the following three circumstances, namely:

- (i) Transfer from one warehouse to another warehouse u/s 67
- (ii) Clearance for home consumption u/s 68
- (iii) Clearance for exportation u/s 69
- (iv) As otherwise provided by the act.

(b) When goods are improperly removed from a warehouse,

- 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.
- If any owner fails to pay any amount demanded under sub-section (1) the proper officer, may, detain **and sale, such sufficient portion** of his goods, as the said officer may, **DEEM FIT** after notice to the owner.

Question 5: Write short note on "Warehousing Period".*(3 marks)***Answer: Warehousing Period:**

Section 61: Period for which goods may remain warehoused	
Warehousing Period	<p>(1) Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed,--</p> <p>(a) In the case of capital goods intended for use in any 100% 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;</p> <p>(b) In the case of goods other than capital goods intended for use in any 100% 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 consumption or clearance from the warehouse; and</p> <p>(c) In the case of any other goods, till the expiry of 1 year from the date on which the proper officer has made an order under sub-section (1) of section 60:</p> <p>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>

Question 6: Briefly state the rights of the owner of warehoused goods under the Customs Act, 1962*(4 Marks)*

Answer: Sec 64 of the Customs Act, 1962 grants certain rights to the owner of the warehoused goods. These rights are as follows:

- (a) Inspect the goods;
- (b) Deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;

- (c) Sort the goods; or
 (d) Show the goods for sale.”

Question 7: Can warehoused goods be transferred from one warehouse to another under the Customs Act, 1962? (2 Marks)

Answer: Yes, section 67 of the Customs Act, 1962 permits removal of warehoused goods to other warehouse under bond, with the permission of the proper officer, subject to such conditions as may be prescribed.

Question 8: Explain briefly the procedure for clearance of warehoused goods for home consumption under section 68 of the Customs Act, 1962 (3 marks)

Answer: Procedure for clearance of warehoused goods for home consumption Section 68.

Any warehoused goods may be cleared from the warehouse 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, interest, fine and penalties payable in respect of such goods have been paid; and
- (c) An order for clearance of such goods for home consumption has been made by the proper officer.

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.*
- *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.*

Question 9: Explain the provision of section 67 and section 69 of the Customs Act 1962 with respect to the following:

- (i) **Transfer from one warehouse to another.**
- (ii) **Clearance for exportation.**

(3 × 2 = 6 marks)

Answer

(i) Transfer from one warehouse to another.

According to section 67 of the Customs Act, 1962, the owner may remove the goods from one warehouse to another with the permission of the proper officer. But it should be ensured that the warehoused goods properly reach the destination.

The following safeguards are in-built in the rules for this purpose:

- (1) *If goods are to be sent **within the same town**, the transport should be under the supervision of the Customs Department. Cost of supervision is to be paid by the owner of the goods.*
- (2) *If the goods are to be **sent to another town**, the owner has to be executed a bond as security to cover the import duty leviable on such goods.*

(ii) Clearance for exportation.

According to Section 69, warehoused goods can be exported without payment of duty. For this purpose:

Any warehoused goods may be exported to a place outside India without payment of import duty, if:-

- (i) **A shipping bill or a bill of export in the prescribed form or a label or declaration accompanying the goods as referred to in section 82 has been presented in respect of such goods.**
- (ii) **The export duties, FINE and penalties, payable in respect of such goods have been paid; and**
- (iii) **An order of clearance of such goods for export has been made by the proper officer.**
Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.
- (iv) In case of Government of India is of opinion that goods of any specified description are **likely to be smuggled back to India**, it may demand import duty payable or it may provide for execution of Bond.

Question 10: Clearly mention the relevant date in the following cases of goods warehoused under bond:

- (i) **Rate of exchange, when goods are removed for home consumption.**
- (ii) **Rate of duty, when goods are removed for home consumption.**
- (iii) **Rate of duty if the goods are not removed from warehouse within the permissible period.**

(4 marks)

Answer:

- (i)
 - The relevant date for rate of exchange is the date on which the bill of entry is presented for warehousing under section 46 of the Customs Act, 1962
 - and not when the bill of entry is presented under section 68 for clearance from warehouse.
- (ii)
 - As per section 15(1)(b) of the Customs Act, 1962 rate of duty as prevalent on date of presentation of bill of entry for home consumption for clearance from warehouse is presented under section 68 for clearance from warehouse is applicable
 - and not the rate prevalent when goods were removed from customs port.
- (iii)
 - Goods which are not removed within the permissible period are deemed to be improperly removed on the day it should have been removed.
 - Thus, duty applicable on such date i.e. last date on which goods should have been removed is relevant and not the date on which the goods were actually removed.

Question 11. Write a short note on: Goods improperly removed from the warehouse as per section 72 of the customs act. (4 marks)

Answer: As per section 72: –

(1) In the following cases:

- (a) Where any warehoused goods are removed from a warehouse in contravention of section 71;
- (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 the warehouse;*
- (c) 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 or are not duly accounted for to the satisfaction of proper officer,

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.

(2) If any owner fails to pay any amount demanded under sub-section (1) the proper officer, may, detain **and sale, such sufficient portion** of his goods, as the said officer may **DEEM FIT** after notice to the owner.

Question 12. An owner of imported goods, which have been warehoused, wants to do some manufacturing operations on such goods inside the warehouse. Explain the provision under the Customs Act, 1962 dealing with such operations. (8 marks)

Answer: Section 65 of Customs Act, 1962 deals with this matter. It stipulates that:

(1) With the sanction of the Assistant 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 in the warehouse in relation to such goods.

(2) Where in the course of such operations **there is any waste or refuse**, the following provisions shall apply:

- If the whole or any part of the goods resulting from such operations is **exported**, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported.

Provided: waste and scrap is destroyed or duty is paid on waste and scrap as per its own rate.

- If the whole or any part of the goods resulting from such operations are cleared from the warehouse for **home consumption**, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.

Question 13. An importer having received 100 casks of whisky from Scotland by a Vessel, warehouses them in a bonded place. Each cask is reported to contain 1,000 litres. At the time of removal of goods. It is found that 50 of the cases contained only 980 litres each. The importer claims that there has been a loss in storage and hence no duty can be levied on the shortage. Explain the relevant provisions of the Customs Act, 1962 regarding shortage of volatile goods and state, with reasons, how you would decide the case. (3 marks)

Answer: Section 70 of the Acts deals with allowance in cases of volatile goods. The essential conditions to be satisfied under this section are:

- (a) The goods should be **warehoused goods**;
- (b) The goods should be **found deficient in quantity** at the time of removal;
- (c) The deficiency should be **on account of natural loss**;
- (d) The import duty **can be waived on the deficiency** by the assistant commissioner.
 - Wine, spirits are beer kept in casks have been notified for purposes of section 70 by the Central Government.
 - In the present case, all the conditions laid down are satisfied; the notified goods had been warehoused and at the time of removal, because of the volatile nature, a shortage working only to 2% in half the consignment is noticed.
 - Loss is on account of natural cause and hence the importer will be eligible to claim the remission in duty.

Question 14. Write short note on "Warehousing without warehousing" Under the customs Act, 1962. (4 marks)

Answer: Warehousing without warehousing under Customs Act, 1962:

It may happen that assessment of duty may take time for want of some clarification/report etc. In such cases, goods lying in docks may incur heavy demurrage. Further chances of pilferages or loss are also high if goods lie at docks. Hence if assessment is likely to be delayed, PO may allow goods to be stored in a public warehouse or in a private warehouse if space is not available in a public warehouse (**in certain situations**)

However such goods are not to be treated as warehoused goods for purposes of customs Act as the goods are not assessed (No *execution of bond*). Hence, it is called **warehousing without warehousing**.

Certain Situations

In case of -INCOMPLETE BILL OF ENTRY

Where, importer makes a declaration that he is unable to furnish all the particulars of the goods, the proper officer may, pending the production of such information, permit the deposit of goods in a public warehouse. Proviso to Sec 46(1)

In case - BILL OF ENTRY IS FILED BUT GOODS ARE NOT CLEARED WITHIN REASONABLE TIME-

Where,--

- (a) Any imported goods, whether dutiable or not, entered for home consumption, the AC/DC of Customs is satisfied on the application of the importer that the **goods cannot be cleared within a reasonable time**;
- (b) Any imported dutiable goods, entered for warehousing, the AC/DC 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 30 days**:

Provided further that the Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a further period **not exceeding 30 days AT A TIME.** [Sec 49]

In case –GOODS ARE TO BE EXPORTED AS STORE-

Where bill of entry for warehousing is filed for any imported goods AND the importer makes and subscribes to declaration that the goods are to be supplied as stores to vessels or aircraft without payment of import duty under provisions of Customs Act. Sec 85

Question 15: Radheysham is engaged in manufacture of goods in Rajasthan. It imported certain goods for using in the manufacture of the finished goods in the month of May. However, it did not clear the goods from the port for home consumption. Instead, it presented an 'into bond' bill of entry on 14th May. Assessable value on that date was US \$ 2,35,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21st May. Radheysham deposited the goods in warehouse on the same day, but did not clear the imported goods even after the warehousing period got over on 21st September.

A notice was issued under section 72 of the Custom Act, 1962, demanding duty and interest. Radheysham cleared the goods on 14th October. Customs duty paid on removal of the goods is ₹ 8,28,000.

You are required to compute interest payable on such removal, explaining the provisions of the Customs Act, 1962 assuming that the imported goods are not meant for being used in an 100% EOU, STP unit, EHTP unit. (RTP May 2022)

Answer: As per section 61(2) of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) remain in a warehouse beyond a period of 90 days from the date on which the order permitting deposit in a warehouse is made, interest is payable @ 15% p.a., on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.

Therefore, in the given case, interest payable will be computed as under:

- (i) Period of 90 days commencing from the date of order permitting deposit in a warehouse expires on – 19th August.
- (ii) No. of days for which interest shall be payable = 56 days [12 days of August + 30 days of September + 14 days of October]

$$(iii) \text{ Interest payable} = ₹ 8,28,000 \times \frac{15}{100} \times \frac{56}{365} = ₹ 19,055 \text{ (rounded off)}$$