STANDARD OPERATING PROCEDURES

(A Ready Reckoner)

2016

CUSTOMS PREVENTIVE COMMISSIONERATE
LUCKNOW
MESSAGE

Ever since taking over charge of Chief Commissioner of Customs (Preventive), Patna Zone with effect from 01.12.2015, I started searching for **Standard Operating Procedure (SOP)**, if any, in operation in the Zone. To my surprise, no written SOP was in operation in the Zone. I, therefore, discussed with Commissioner, Customs (Preventive), Patna and Commissioner, Customs (Preventive), Lucknow and impressed upon them the need of a detailed and exhaustive SOP. The team of officers from Customs (Preventive) Commissionerate, Lucknow under the guidance of Commissioner of Customs (Preventive), Lucknow has prepared a comprehensive, detailed & exhaustive SOP.

I hope that this SOP will fulfill the procedural need of the officers working at various locations in Customs (Preventive) Commissionerate of Lucknow and will go a long way in ensuring PATH (Professional, Accountable, Transparent & Honest) model of corruption free tax administration.

(SHEO NARAYAN SINGH)
Chief Commissioner
Customs (Preventive) Zone
Patna

1.9.2016
PREFACE

It is my pleasure to bring forth this Standard Operating Procedure (SOP) for Customs (Preventive). It was long overdue, as numerous instructions/circulars had been issued by the CBEC in the past and a consolidated reference not being available for easy access by departmental officers, an attempt has been made to compile the same in S.O.P.

I hope that this S.O.P would be helpful in guiding departmental officials in the correct application of Customs Law & Procedures.

I highly appreciate the contribution made by officers of Customs (Prev.) Commissionerate Lucknow especially Shri Rajendra Kumar, Deputy Commissioner and Shri Manoj Kumar Singh, Superintendent for the contributions made in bringing out this S.O.P.

All efforts have been made and due care has been taken to make this S.O.P comprehensive and useful to departmental officers. Any suggestion for further improvement would be appreciated.

(SHIV KUMAR SHARMA)
COMMISSIONER
CUSTOMS (PREVENTIVE) COMMISSIONERATE
LUCKNOW
## INDEX

<table>
<thead>
<tr>
<th>S.No.</th>
<th>TOPIC</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>ORGANISATIONAL SETUP OF CUSTOMS COMMISSIONERATE</td>
<td>5-8</td>
</tr>
<tr>
<td>2.</td>
<td>SETUP OF PREVENTIVE FORMATION</td>
<td>9-12</td>
</tr>
<tr>
<td>3.</td>
<td>ANTI SMUGGLING</td>
<td>13-27</td>
</tr>
<tr>
<td>4.</td>
<td>ADJUDICATION</td>
<td>28-33</td>
</tr>
<tr>
<td>5.</td>
<td>REVIEW &amp; APPEAL</td>
<td>34-44</td>
</tr>
<tr>
<td>6.</td>
<td>AUCTION AND DISPOSAL OF SEIZED GOODS</td>
<td>45-67</td>
</tr>
<tr>
<td>7.</td>
<td>RECOVERY OF ARREARS</td>
<td>68-70</td>
</tr>
<tr>
<td>8.</td>
<td>OVERVIEW OF CUSTOMS FUNCTIONS AT LAND CUSTOMS STATIONS</td>
<td>71-110</td>
</tr>
<tr>
<td>9.</td>
<td>AIRPORT PASSENGER CLEARANCE AND ANTISMUGGLING PROCEDURES</td>
<td>111-125</td>
</tr>
<tr>
<td>10.</td>
<td>ANNEXURE-I TO ANNEXURE-XXIII(C)</td>
<td>126-172</td>
</tr>
</tbody>
</table>
1. ORGANISATIONAL SETUP OF CUSTOMS (P) COMMISSIONERATE

The Commissionerate having jurisdiction over the states of Uttar Pradesh and Uttarakhand with its headquarters at Lucknow functions under the administrative control of Commissioner of Customs, assisted by Addl./Joint/Deputy/Assistant Commissioners.

The Commissionerate has been divided into 05 Customs (P) Divisions and headed by the Deputy / Assistant Commissioners having their hdqrs. at Lucknow, Bareilly, Gorakhpur, Nautanwa and Varanasi. These divisions are further divided into Customs Mobile Preventive Units (CMPUs) and Land Customs Stations (LCS). The Commissionerate has 02 International Airport viz. CCSI Airport Lucknow (Independent Identity) and LBS Airport Varanasi (Administrative control under Customs Division Varanasi).

LIST OF FORMATIONS UNDER THE JURISDICTION OF CUSTOMS (P) COMMR’TE, LUCKNOW

<table>
<thead>
<tr>
<th>SL. No.</th>
<th>DIVISIONS</th>
<th>CMPUs</th>
<th>LCSs</th>
<th>Sub-FPO</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
</tr>
<tr>
<td>1.</td>
<td>Lucknow</td>
<td>05</td>
<td>04</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Bareilly</td>
<td>03</td>
<td>04</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Gorakhpur</td>
<td>06</td>
<td>04</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Nautanwa</td>
<td>01</td>
<td>02</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Varanasi</td>
<td>02</td>
<td>0</td>
<td>01</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>CCSI Airport Lucknow</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>LBS Airport Varanasi</td>
<td>-</td>
<td>-</td>
<td></td>
<td>Administrative control under Customs Div Varanasi</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>17</td>
<td>14</td>
<td>01</td>
<td></td>
</tr>
</tbody>
</table>
NAME OF FORMATIONS UNDER COMMISSIONERATE, LUCKNOW

<table>
<thead>
<tr>
<th>S. No.</th>
<th>DIVISIONS</th>
<th>CPUs</th>
<th>LCSs</th>
<th>SUB- FPO</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>LUCKNOW</td>
<td>1. Lakhimpur</td>
<td>1. Nepalganj</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Mihipurwa</td>
<td>2. Gauriphanta</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Palia</td>
<td>3. Tikonia</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>5. Baharaich</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>BAREILLY</td>
<td>1. Khatima</td>
<td>1. Banbasra</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Pilibhit</td>
<td>2. Dharchula</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>4. Gunji</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>GORAKHPUR</td>
<td>1. Gonda</td>
<td>1. Barhni</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Kushinagar</td>
<td>2. Khunwa</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>5. Balrampur</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>6. Naugarh</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>NAUTANWA</td>
<td>1. Nichlaul</td>
<td>1. Sonauli</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2. Thoothibari</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>VARANASI</td>
<td>1. Azamgarh</td>
<td>0</td>
<td>Varanasi</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Faizabad</td>
<td>Cantt</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>CCSI</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Air Cargo</td>
</tr>
<tr>
<td></td>
<td>Airport,</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Amausi,</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lucknow</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>LBS Airport</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Air Cargo</td>
</tr>
<tr>
<td></td>
<td>Varanasi</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>
1.1 OVERVIEW OF THE ORGANISATION

Customs (Prev.) Commissionerate at Lucknow, came into existence with effect from 02.06.1994 following bifurcation of the erstwhile Customs (Preventive) Commissionerate, Indo-Nepal Border with HQ at Patna. The jurisdiction of this Commissionerate extends over the states of Uttar Pradesh and Uttarakhand and covers the international border of about 850 kms. with Nepal and China through intractable hill areas and dense forests.

The twin objectives of the Commissionerate are **Anti smuggling** work and the **facilitation of the trade and transit** with Nepal and China. Anti smuggling work mainly consists of the prevention of, among other things, illicit export of goods to Nepal; illegal import of goods of third country origin from Nepal; deflection of the goods being imported / exported by Nepal under the CTD facility through Indian territory into Indian market; drug trafficking and smuggling of Fake Indian currency Note (FICN) across the border into India etc.

Most of the trade with Nepal is carried out through the mutually agreed and approved routes, manned by Customs on both sides. Besides this, the local people residing on either side of the border have been undertaking movement of goods in small quantities through several traditional passages.

The Commissionerate also has two international Airports at Lucknow and Varanasi. From Lucknow Indian Airlines flights to Abu Dhabi, Muscat, Jeddah and Dubai (UAE) and from Varanasi Indian Airlines flights to Kathmandu (Nepal) are operating. Seasonal flights for HAJ pilgrimage are also operational from both the Airports. At present from Varanasi Airport import of only specified raw materials is allowed vide Notification No. 61/94-Cus. (NT) dated 21-11-94.

The **Air Cargo** facility at Chaudhary Charan Singh International Airport, Lucknow is in operation with effect from 27.04.2000. There is a separate Cargo office at the airport having separate section for Import and Export.

The regulation of the trade with Nepal is undertaken in accordance with;

(i) The Treaty of Trade;
(ii) The Treaty of Transit
(iii) The Agreement of Cooperation to Control the Unauthorized Trade.

In terms of the Treaty of Trade, the export and import of goods to and from Nepal can take place through the Twelve (12) mutually agreed routes on the Indo Nepal border which lie in the jurisdiction of this Commissionerate. These routes and their corresponding points across the border in Nepal have been specified vide the Notification No. 63/94-Cus. (NT), Dt. 21-11-94 (as amended). Except prohibited goods in terms of Section 11 of the Customs Act, 1962, the Foreign Trade Policy or the Treaty itself, the trade between India and Nepal is generally free from licensing.
restrictions / levy of Customs duties and only countervailing duty equivalent to Central Excise duty is charged (Basic Customs Duty being exempted in terms of Notification No.40/2002-Cus., dt.12.04.2002). Exports to Nepal from the Land Customs Stations situated at the mutually agreed and approved routes can also be effected under the export promotion schemes.

Under the Treaty of Trade, a number of benefits are available to Nepal such as, refund/rebate of the excise duty paid in India on the goods exported to Nepal. Moreover, Nepalese goods are eligible to exemption from the Basic Customs Duties under Notification No. 104/2010-Cus., dt. 01.10.2010, on the production of a Certificate of Origin evidencing that the goods are of Nepalese origin and only Additional Duty of Customs (CVD) is chargeable thereon under Sub Section(1) of Section(3) of the Customs Tariff Act, 1975. However, special CVD @ 4%, introduced in the Budget 2006-07, is chargeable on all the imports except those which are exempted, from payment of Spl. CVD by Notification No. 56/2006-Cus., dated. 07.06.2006.

Nepalese goods are also exempt from the Additional duty (CVD) of Customs vide Notification No. 85/98-Cus. dated 5-11-98 (as amended), on a parity with the goods manufactured by the Indian Small Scale Industries. Import of third country origin goods from Nepal is prohibited vide Notification No. 9/96-Cus. (NT) dated 22-1-1996 barring a few exceptions specified therein.

The bi-lateral Treaty of Transit with India governs transit facility for Nepalese Trade with other countries. Pursuant to this, Nepalese goods can be exported and imported through the Sea port of Kolkata and, after passing the Indian Territory, can be moved through the 7 mutually agreed routes (Land Customs Stations) on the border, viz. Sonauli, Barhni, Nepal Ganj Road, Gauriphanta, Tikonia, Jarwa and Banbasa notified under Notification No. 63/94-Cus. (NT), dt. 21-11-94. In both the cases, the goods have to be accompanied by a Customs Transit Declaration (CTD) and transported along the inland routes specified by the Government of India.

For the trade with China, Gunji in the District of Pithoragarh in Uttarakhand has been specified under the Notification No. 63/94-Cus. (NT), dt. 21-11-94.

The specified route at various Land Customs Stations is enclosed as ANNEXURE-I at the end of the Handbook.
2. SETUP OF PREVENTIVE FORMATION

The founding block of preventive department consists of SUPERINTENDENTS, INSPECTORS, GROUP-C STAFF, STAFF CAR DRIVERS and COMMUNICATION STAFF. Now a days the communication staff have been assigned other works related to preventive operations since wireless mode of communication is obsolete now a days due to advent of mobile communications.

The major supervision of preventive operations is carried out by superintendent cadre. They are gazetted officers (GROUP-B). Their recruitment is done entirely from the inspector cadre by their promotions. Similarly the recruitment to the inspector cadre is done by the Staff Selection Commission as well as the promotion from GROUP–C SERVICES by the means of departmental examination both written and physical.

2.1 DEPLOYMENT OF PREVENTIVE STAFF:-

The preventive staff forms the backbone of all the anti-smuggling operations executed by the Commissionerate. Besides this, its services are also utilized for general duties like performing of import/export procedures, guarding of land custom stations , escorting of import export goods from one place to other, patrolling custom areas, clearance of passengers and baggage, supervision of loading/unloading of import/export goods etc.

Thus the deployment of preventive staff can totally be divided into two categories-

(A) General duties-where the task performed are of supervisory nature and for implementation of customs law.

(B) Special duties-known as preventive or intelligence duties, task executed are operative in nature for detection and prevention of violation of customs law and foreign trade policies of India.

(A) General duties-the broader area of duties of general in nature are given below.

(1) Offices-in personnel and establishment sections , vigilance sections, maintenance section, preventive and group-D service sections , training sections , recovery sections, show cause and adjudication sections, legal and prosecution sections , assisting the superiors in maintaining general administration, protocol related works etc.

(2) Imports-some of the important job is assessment, examination, clearance, enabling duty payment from importers, monitoring of vehicles and goods therein.
(3) **Exports**—similarly in exports all the functions is carried out in the lines of import and also to process the various drawback documents and implementation of export incentive schemes.

(4) **Investigating units**—the preventive staff also forms the integral part of various local investigation units like central preventive units, mobile preventive units and special task force.

(B) **Special duties**—The assignment of intelligence duties to the preventive staff is primeval in nature. The principal objective is also known as anti smuggling activities. This entails the task of identification and surveillance over sensitive places, suspected persons and movement of conveyances. Equally vital is collection of intelligence about operators, vulnerable places, smuggled commodities, modus operandi adopted by smugglers and their associates, disposal outlets for smuggled goods etc. Besides this, surprise checks, patrolling of sensitive places, feedback from the trade are also of paramount importance.

To accomplish the task of anti smuggling operations, the following units are contrived under the aegis of the Preventive Commissionerate.

(1) **Administration units**—these units coordinate among the staff of various preventive units in maintaining general administration, availability of required manpower and equipment and its management.

(2) **Surveillance unit**—these units are created to keep surveillance on the movement of goods, persons and conveyance in and around places vulnerable to smuggling activities.

(3) **Search and Seizing units**—these units normally carry out search and seizure of contraband goods and also execute post seizure formalities as arrest.

(4) **Investigation units**—these units are engaged in pre seizure, post seizure, on the spot investigation of the case initiated.

(5) **Legal units**—these units are responsible for following up legal aspects of the case. They also maintain liaison with standing counsel in various courts.

(6) **Disposal units**—these units look after the detention, storage and disposal of the confiscated and other goods.

2.2 **FUNCTION AND DUTIES OF PREVENTIVE STAFF**

(A) **SUPERINTENDENT**

- Interacting with people, gathering intelligence and developing information thereafter and effect seizure to prevent smuggling
- Conduction of search and seizure operations
• Conducting Road patrolling, carrying out Nakas and checking to ensure effective check on smuggling activities
• Conduction of enquiries, follow-up, investigation by issuing summons, recording statement U/s 108,
• Supervision of seizure and post formalities
• Maintenance and upkeep of office, arms/ammunitions and vehicle to ensure effective and smooth working
• Execution of protocol
• Issuance of SCN in time
• Circulation of alert/order, any information received from higher office to CMPU/LCS
• Collection of information/data/report from lower formation and compilation of same and send to higher office
• Conduction of smooth trade (export-import)
• Check on type of goods to be imported/exported and checking their conditions of importation/exportation
• Maintain social harmony with traders and people along the borders
• Supervision of seizure and post formalities
• Provide information/data/report as desired from higher office
• Recovery of dues/adjudication pendency, statistics
• Maintenance of godown and goods therein, seeking permission of disposal of goods in time with respect to their nature (perishable etc.)
• Supervision of Headquarters (Division)/ maintenance of godown and goods therein, disposal of goods in time with respect to their nature (perishable etc.)
• Facilitate and guide lower staff in their day to day work
• Help staff in case of any need.

(B) INSPECTOR

• Interacting with people, gathering intelligence and developing information thereafter
• Conduction of search and seizure operations
• Seizure of goods (smuggled)
• Preparation of recovery memo and investigation of case
• Watch over of SCN to be issued
• Conduction of enquiries, follow-up
• Collection of information/data/report from lower formation and compilation of same
• Conduction of smooth trade (export-import)
• Check on type of goods to be imported/exported and checking their conditions of importation/exportation
• Maintain social harmony with traders and people along the borders
• Preparation of recovery memo and investigation of case
• Issuance of SCN in time
• Provide information/data/report as desired from higher office
• Recovery of dues/adjudication pendency, statistics
• Maintenance of godown, seeking permission of disposal of goods in time with respect to their nature (perishable etc.)
• Maintenance and upkeep of office, arms/ammunitions and vehicle to ensure effective and smooth working
• Execution of protocol
• Recovery of dues/adjudication pendency, statistics
• Supervision of Headquarters (Division), maintenance of godown, disposal of goods in time with respect to their nature (perishable etc.)
• Facilitate and guide lower staff in their day to day work
• Help staff in case of any need.

(C) DUTIES OF SEPOY AND HAWALDARS –

In customs formation sepoy and hawaldars play an important role in assisting the execution of preventive activities and protection of office establishment. Some of the illustrative examples are given for ready reference are-

(a) Guarding of entry/exit gates at customs stations: - Sepoys have to guard entry/exit gates at LCS, Airports, Checkpoints to check passengers/vehicles to ensure only authorized goods are allowed. Similarly they have to guard detained conveyance and persons suspected to have committed offences under the customs law.

(b) Arms duties: - to protect arms from outside intruders it is ensured that proper watch may be kept over upkeep of the arms

(c) Guarding: Sepoys have to carry out armed guard duties in godown and warehouses where detained/confiscated goods are stored.

(d) Patrolling: Sepoys carry out patrolling; keep watch over incoming /outgoing passengers, intelligence gathering in the vulnerable areas, customs area.

(e) Escort duties: Sepoys have to perform escort duties in respect of seized/confiscated goods or goods moving from one custom station to another pending clearance.

(f) Search: Sepoy accompany and assist the customs officers in search of suspected premises/persons and in rummaging duties.

(g) Indoor duties: to attend the custom officers, receipt and despatch work, carrying file from one department to another and generally to perform duties as are required to be performed in the office.

(h) Protection of officers: one of the most important work is protection of the officers from smugglers at the time of preventive operations and to ensure safety of officers during any type of movement of officers.
3. ANTI SMUGGLING

The most crucial function of the preventive Commissionerate is conduction of anti smuggling operations. As far as Lucknow Commissionerate is concerned mostly the anti smuggling operations are being performed at INDO-NEPAL border area. The region is almost porous in nature and hence the frequency and amount of smuggling can be rampant if the anti smuggling activities are not done properly. To check the smuggling activities various formations have been deployed at the border areas as mentioned earlier. In order to make our work more systemic and efficient broadly the following procedure is adopted in this Commissionerate preventive unit i.e. Head Quarters Preventive, Divisional preventive, CMPU and Airport Preventive unit.

3.1 Gathering of intelligence

INTELLIGENCE verbal meaning is – from oxford university dictionary,’ The collection of information of military or political value etc.

This is one of the most important aspect of working in preventive formations. If the intelligence network of an organisation is strong, it may lead into busting of big rackets of organised smugglers. It is the most crucial aspect of the department and various methods are adopted for this purpose. Department has come out with various reward schemes for those informers who can assist us in performing our work with success. The Circular No.20/2015 dated 31/07/2015 also known as the guidelines regarding ‘Grant of reward to informers and government servants’ is a comprehensive guideline which provides for grant of reward to informers and officers. Also to meet out day to day expenses in gathering of intelligence there is a separate fund allocated with the preventive Commissionerate known as Secret Service Fund. At the beginning of financial year the fund is allocated to all the divisions and preventive units so that the work is performed in a much better way.

3.1.1 Sources of intelligence

1. Informers
2. Rivals
3. Aggrieved people working in that organisation
4. Various modus operandi circulars
5. Other governmental agencies
6. Others
3.2 EXECUTION OF INTELLIGENCE (PRE SEIZURE FORMALITIES)

Following steps need to be taken for execution of intelligence:-

3.2.1. Examination of informer

As soon as the information is received, the necessary thing is to have a conversation regarding motive of supply of such information. All the relevant evidences may be collected from the informer regarding storage of goods, timing of the movement of vehicle of smuggled goods, known destination of the goods, number of people involved in such activities, any other relevant information. So that after the execution of seizure formalities proper reward can be given to the informer; an undertaking is taken by informer to make him completely aware of the reward policy shown as (ANNEXURE-II) and also making him aware about the legal action(s) that can be taken against him, if the information is found to be vexatious.

3.2.2. Processing of information

The information collected should be carefully and discreetly cross-checked to ensure its veracity by making independent enquiries and wherever considered desirable and safe. Process the information received on a priority basis, as delay will certainly cause damage to the case. All information need not be operationalised by search and seizure. Where the case is record based, investigations may be initiated under summon proceedings under section 108 of the customs act 1962. All such information should be recorded in the handwriting of the Recording Officer and the thumb impressions/signatures of the informer are obtained. If the informer hesitates in putting his signature, then only thumb impression of the informer should be obtained and be identified by the recording officer. The information can be recorded by any level of officer and the identity of the informer be kept secret. Based upon this information, a D.R.I.-1 report is prepared by the officer who has recorded the information (Annexure-III) and should be forwarded to his superior officer. The original recorded information should be kept in a sealed envelope and kept in a file which should be in the custody of AC/DC rank officer and a proper hand over and take over should be done during the transfer of those officers. The sealed envelope is opened at the time of disbursement of reward for getting the authencity/specifically of the information/informer.

3.2.3. Reconnaissance

This is an important aspect in case of search operations of premises. The identification of the premises with regard to locality, structure, entrance/exit of Godown if any, office area in the premises where goods and document can be secreted should be made out. The reconnaissance also involves surveillance and under-cover work in the shape of trailing, watching, shadowing, etc.

3.2.4. Planning of seizure and search operations

Following things needs to be done for effective seizure and search operations:-
(a) Preparation of brief for the authorized officers or team leaders;
(b) Arrangement of manpower and formation of search parties;
(c) Security arrangements;
(d) Arrangement of transport;
(e) Decision about the timing of search operation;
(f) Preparation of search materials and search packets including brass seals;
(g) Procurement of food packets, cash and electronic gadgets;
(h) Entry of movement in prescribed registers and taking proper authorisation for search operations;

3.2.5. Arrangement of witness

A search/seizure has to be conducted in the presence of two or more independent and respectable inhabitants citizens of the locality. Generally, such witnesses are requested after the search/seizure team intercepts the vehicle or reach the premises. However, where it is not practicable to get the witnesses of the same locality, the authorized officer may get two witnesses from another locality. Wherever any trouble is expected, arrangements for witnesses can be made in advance. These witnesses may travel with the search team to the premises to be searched. As far as possible, only Government servants should be taken as witnesses and this may be recorded stating the circumstances for doing so.

3.3 Conduct of Search and Seizure

3.3.1. Search of Godown, Office and Residential Premises.

In Customs Act the provision of search warrant is mentioned at section 105 in which the AC/DC incharge is authorised to give the warrant to any officer of Customs. In any area adjoining land frontier or coast any officer empowered by name in this behalf by Board can also issue warrant/authorisation. The AC/DC/empowered officer can also search in person or give an authorisation.

The proforma for search is given below as ANNEXURE-IV.

As soon as the team of officers and the witnesses have managed to gain entry to the premises to be searched, they should locate a responsible person to sign the search warrant and simultaneously the team leader should arrange to secure the area by posting the team members at various key spots with instructions to restrict/regulate the movement of persons, records, goods, vehicles etc. The search team should invariably take over those documents which are considered relevant to the instant intelligence. All the relevant records should be recovered and seized. During any search, it is an important that the search team focuses on the specific documents being searched for which would validate the Intelligence.

Immediately after the commencement of the search proceedings, the leader or any other authorised officer should examine in presence of the witnesses, the person/persons found in possession or control of book/documents or valuables, about the source thereof. Before entry into premises and also before leaving the premises,
after search is over, the entire team should offer their search to the in-charge /occupant of the premises. While searching the residential premises/or premises in occupation of women only, a female member must be taken with the team. No personal search of a woman should be taken except other than by a woman.

3.3.2 Search of Vehicles

Search of vehicles like light commercial vehicles, trucks, railway wagons, containers etc. are done to recover smuggled goods or goods which have been removed in violation of Customs Act, 1962 or rules made there under.

3.3.3 Preparation of Inventory

Detailed inventories should be prepared of all the books/documents and smuggled goods seized at the premises. It is necessary to record the exact place from where seizures have been made, as it helps to establish the ownership at a later stage. The details of all the marks of identification found on the goods under seizure should be mentioned while preparing the inventory and full signature of the person incharge of the premises being searched and that of the authorised officer with date and his office seal should be taken along with the signature of the witnesses. The pages of all the seized documents should be got numbered. The blank pages should be cancelled and numbered. The signatures of the witnesses on first and last pages of the numbered files/registers should also be obtained along with the signature of the person-in-charge/occupant of the premises.

3.3.4 Seizure of Goods/Documents etc.

The authorised officer has to apply his mind and broadly determine as to what records/documents in the context of the intelligence are required to be seized. The seizure should be made in the presence of two independent witnesses under a Panchnama. A Seizure Report is required to be prepared giving the details of the seizure made during search. The Seizure Memo should include the following facts:-

(i) The basis of reasons to believe which led to effecting the seizure.
(ii) Place and address of the seizure.
(iii) Names and addresses of the witnesses.
(iv) A detailed account of proceedings leading to seizure.
(v) Details of Supurdagi (the person in whose custody the seized goods have been kept for safe custody). Proforma for Supurdnama is given below as ANNEXURE-V.
(vi) Detailed inventory of the goods seized along with markings/brands etc.
(vii) Name of the person/firm from whom seizure is effected.
(viii) Quantity of seizure.
(ix) Value of seizure.
(x) Time and date of seizure.
3.3.5 Panchnama

Panchnama is the primary document for establishing an offence under the Customs Act, 1962 as it has a very strong evidence value. It is the record of events right from the commencement to conclusion of the search. The manner of drawing the panchnama should be such that it should be a mirror image of the proceedings on the spot. Any person reading the panchnama should feel as if he is seeing things through the eyes of the panchas or independent witnesses. Panchnama is a document where the record of proceedings of the search with regard to the recovery of goods, documents, cash, etc. are detailed. The general format of Panchnama is given at ANNEXURE VI. The Panchnama is required to be signed by the person in whose presence the search was conducted as also the independent witnesses besides the officer who executed the search warrant. A copy of the Panchnama is to be handed over to the persons whose signatures were obtained on the search warrant at the time of start of the search. This fact should be recorded in the Panchnama itself. Acknowledgement of the panchnama having been given to the person incharge of the premises must be obtained.

Points to be incorporated in a Panchnama

As mentioned above, Panchnama is the single most important document in the context of search and seizure operations. This document should, therefore, be prepared carefully incorporating, inter alia, the following points.

1. Name, parentage, age, address and occupation of Panchas.
2. Date, time and place of proceedings.
3. Reason/authority for search or purpose of visit.
4. The fact that the officers conducting the search disclosed their identity to the Panchas.
5. Name and designation of the officer leading the team.
6. The fact of presence of the occupants/representatives of the premises to be searched during the course of the search.

3.3.6 Recording of Statement

Once the panchnama has been drawn and search concluded, it would be expedient for one or two officers led by the senior most gazetted officer heading the search team to go through the records on the spot in the context of the intelligence and get it explained from the author of such documents and records by recording his statement under summons issued under section 108 of the Customs Act, 1962. This makes it difficult for the authors to come out with alibis during subsequent investigations or to come out with tutored versions under the influence of their masters. While recording the statement, the following precautions should be taken.

Every page of the statement should be signed at the bottom by the deponent and the gazetted officer recording the statement. In the last page, there should be an
endorsement that the deponent has recorded the statement without coercion or undue influence. All corrections/alterations should also be properly authenticated. Other formalities to be observed while recording the statement are:

(a) The replies of the person to questions should not be induced by threat, coercion, or fear. The replies should be voluntary.

(b) The questions should be precise and clear, preferably in the handwriting of the persons recording the statement.

(c) If the statement is not recorded in the language which the accused person understands, then the statement shall be interpreted and explained to him in the language which he understands and a certificate to this effect should also be recorded. He shall be at liberty to explain or add to his answers.

(d) No police officer/official should be allowed to remain in the room where the statement of the accused person is being recorded so that the accused may not take plea subsequently that the statement was recorded under coercion or pressure.

DRI-2 Mentioned as ANNEXURE-VII reports should be sent irrespective of the value of the goods in cases where wider ramifications are perceived. It is strictly followed that the Commissionerate Hqrs. may continue to insist on receiving DRI-2 in respect of all cases, made by the officers of the Commissionerate irrespective of the value. The copy of the same should be communicated in 72 hours after the seizure proceedings.

3.3.7 Procedure for seizure of goods and preparation of Panchmana.

The Central Vigilance Commission, in one of its annual report has observed that the procedures for seizure of goods, and preparation of “Panchnama” needed to be streamlined, as in a number of cases, several deficiencies were allowed to remain in these areas, due to which, the vigilance cases initiated against particular officers could not succeed at enquiry stage eventually. The officers stressed on certain omissions/deficiencies to counter department’s relied upon evidence and this could not be ignored by the Enquiry officer. It has also come to notice that as the laid down guidelines are not followed strictly, unnecessary complaints are received e.g. searches by unauthorized persons or seizures not recording all the goods recovered or copies of seizure memos / Panchnamas not being given. Deficiencies in Panchnama is often also exploited by the unscrupulous parties involved in smuggling / tax evasion and they escape penalty/ punishment otherwise due, by establishing that the Panchnama did not reflect the facts properly & therefore could not be relied upon.

Officers engaged in enforcement/preventive functions, scrupulously adhere to the laid down guidelines while undertaking any searches of any premises, place or person(s) or effecting seizure of any goods in such searches specially valuables like
currency, watches, precious and semi precious stones, gold silver (including jewellery), sensitive goods like narcotics, arms and ammunition or other contraband goods of considerable value etc. Though a large number of instructions already exist on the procedure to be followed (some of which are given in the Department’s Preventive Manual), some of the important points mentioned below are reiteration for guidance of field officers:

(a) The search of the premises/persons should be conducted, invariably, by persons with due authorised by authorities, in the presence of two independent and respectable Panch witnesses of the locality and the occupants of the place or their representatives(s). The leader of the party conducting search must show / read out the search authorisation to the Panch witnesses as well as the occupants of the premises on the search authorisation, in token of the same having been seen by them:

(b) All the members of the search party, before starting search, must offer themselves for being searched by the witnesses and / or the occupants of the premises and / or their representative(s) and this fact must be clearly incorporated in the Panchnama. Great care must be taken in recording in the Panchnama, all relevant & precise details of the incriminating goods including valuables, currency notes or documents recovered and seized during the search. The denominations of currency & total amount, details of valuables or other contraband goods (with identification marks, wherever possible), both in quantities and value term and the manner of packing/sealing of the goods seized should be clearly mentioned in the Panchnama, to avoid any controversy of the actual contents or value in different seized packages, at a later date.

(c) Detailed inventory of all contraband goods on Customs side etc. proposed to be seized under the reasonable belief that these are liable to confiscation under the provisions of Customs Act, 1962 should be prepared & got duly authenticated by the Panchas as well as representative(s) of the person(s) whose premises are searched:

(d) The description of places/packages etc., from where these goods/currency/valuables etc, were recovered & if concealed, the manner of concealment etc., in case of sensitive goods and even other goods seized-should be clearly mentioned, (unless it becomes impractical to undertake a detailed inventory of contents of each packages) and each package should be got sealed and labelled, presence of Panchas and the owner/person in charge, form whose premises these goods are recovered and labels got duly signed;

(e) The detailed inventory, as stated above, and copies of Panchnama, on each page, must be got signed by the Panchas and the owner/person in-charge of the premises who have witnessed the search/seizure & a copy of the Panchnama shall be handed over to him after signature of officers participating in search.
(f) It should be clearly mentioned in the Panchnama that except for the documents / goods seized under Panchnama, nothing else was seized and nor taken in possession;

(g) The time and date of starting the search as well as the time and date of concluding the search, should be clearly mentioned in the Panchnama and a facsimile of the seal used during the search should also be embossed on the Panchnama;

(h) Any untoward incidence occurred during search, this fact should be mentioned in the Panchnama;

(i) On completion of the search, all members of the search party, must again offer themselves for being searched by the witnesses and / or the occupants of the premises, and / or their representative(s) and this fact should also be incorporated in the Panchnama;

(j) On completion of the Panchnama, it must be read over to all concerned, in vernacular and signatures of Panch witnesses as well as occupants of the premises / their representatives(s) should be obtained on the Panchnama;

(k) A copy of the Panchnama should be handed over to the occupants of the premises or their representative (s), under proper acknowledgement.

3.4 INVESTIGATION PROCEDURE

After initial scrutiny of records, the nodal officer for the investigation, generally an Assistant Commissioner or Deputy Commissioner should prepare an INCIDENCE REPORT and record the same in the case file. The preliminary report should cover, inter alia, the intelligence which was acted upon, the recoveries made in the initial strike, the results of the initial scrutiny of records and the proposed course of investigation. It is very important that the senior officers (Joint/Additional Commissioner and Commissioner) peruse the INCIDENCE REPORT and indicate how and in what manner the investigation should proceed.

It is reminded at this stage that an offence/seizure report (DRI-2) has to be issued within 72 hours of booking of a case in the Format enclosed as below. Generally DRI-2 is issued in four copies, both in seizure as well as non-seizure cases. The first copy should be sent to the Headquarters of DRI, New Delhi, and the second copy to the Zonal office of DRI in whose jurisdiction the Commissionerate falls, the third copy to the Commissioner of Customs in whose jurisdiction the case has been made and the fourth copy is for the case file. Sometimes, it may be necessary to keep the Division concerned informed. In such situations, an extra copy of DRI-2 may be made and issued to the Division.
In any investigation time is the essence. From the moment the case is booked, the accused starts making counter-moves. They will try their best to see that the evidences disappear and the important witnesses do not join the investigation. They will also take advice from good lawyers and consultants and come up with alibis and explanations. They will even go to the extent of creating evidences to substantiate their arguments. However, they will need some time to be able to do so. It is, therefore, very important that the investigators move decisively and urgently to bring all the evidences on record in the shortest possible time. Within a few days of first strike, all the crucial persons should be interrogated and documents taken over in follow-up searches or summons. In this way, pressure is mounted on the accused and eventually he is pinned down.

The initial scrutiny of the documents recovered in the search often reveal that only a small part of the documents recovered are required for the investigation. The rest of the documents are of no value for the department. They are not stored properly and often the officers lose track of them. During the adjudication proceedings, it has become customary for the consultants and lawyers to ask for these non-relied upon documents which are in the custody of the department. At that stage, it becomes very difficult to dig out the documents and supply them to the noticees. It is, therefore, strongly advised that the documents/records which are of no use to the department should be returned to the parties. A dated acknowledgement of having supplied them in original to the parties may be kept in the file. On the other hand, important documents should be kept in safe custody during the investigations. One officer should be entrusted with the custody of documents. The investigation file should contain only the copies of crucial documents.

3.5 **FOLLOW-UP ACTION**

Once the case has been detected it becomes very important to take further action as it may lead to the seizure of large quantity of smuggled goods, its source of smuggling and its destination. Proper follow-up may lead to busting of organised smuggling rackets as well as in breaking the complete chain of smugglers. For effective investigation search of the source and destination premises may lead to goods as well as documents of vital nature.

The statement recorded under section 108 of the Customs Act, 1962 by Superintendent during the investigation may result into identification of the persons involved and their role. This proceeding is also known as summon under section 108 of Customs Act 1962. *(ANNEXURE-VIII)*

3.6 **ISSUANCE OF SHOW CAUSE NOTICE**

1. The Show Cause Notice should be issued only after proper inquiry/investigation i.e. when the facts used are ascertained and allegations are justified.
2. The Show Cause Notice should be in writing. The date of issue of Show Cause Notice should be clearly written.

3. The Show Cause Notice should not be an exercise in deliberate ambiguity. It should be specific and unambiguous. It should be clear on facts and legal provisions. Violation of the provisions of law should be clearly brought out in the Show Cause Notice.

4. The charges should be specific. They should not be vague/or contradictory.

5. The provisions for imposing penalty and reasons and conclusion for the same be clearly mentioned.

6. Copies of the relied upon documents should be listed in seriatim as per the references made in the Show Cause Notice and given as Annexure to the Notice.

7. When mis-statement or suppression of facts is alleged in the Show Cause Notice, these expressions must be preceded by the word ‘wilful’. Likewise, when the allegation is that of contravention of the provisions of the Act or the rules, the same must be followed by the expression ‘with intent to evade payment of duty’.

### 3.7 ARREST PROCEDURES

While the Act does not specify any value limits for exercising the powers of arrest, it is clarified that arrest in respect of an offence, should be effected only in exceptional situations which may include:

a. Cases involving unauthorised importation in baggage/ cases under Transfer of Residence Rules, where the CIF value of the goods involved is Rs. 20,00,000/- (Rupees Twenty Lakh) or more;

b. Cases of outright smuggling of high value goods such as precious metal, restricted items or prohibited items or goods notified under section 123 of the Customs Act, 1962 or offence involving foreign currency where the value of offending goods is Rs. 20,00,000/- (Rupees Twenty Lakh) or more;

c. In a case related to importation of trade goods (i.e. appraising cases) involving wilful mis-declaration in description of goods/concealment of goods/goods covered under section 123 of Customs Act, 1962 with a view to import restricted or prohibited items and where the CIF value of the offending goods is Rs. 1,00,00,000/- (Rupees one crore) or more;

d. Fraudulent availment of drawback or attempt to avail of drawback or any exemption from duty provided under the Customs Act, 1962, if the amount of drawback or exemption from duty is Rs. 1,00,00,000/- (Rupees One Crore) or more. In cases related to exportation of trade goods (i.e. appraising cases) involving (i) wilful mis-declaration in value / description; (ii) concealment of restricted goods or goods notified under section 11 of the Customs Act, 1962, where FOB value of the offending goods is Rs. 1,00,00,000/- (Rupees One Crore) or more.
e. The above criteria of value mentioned in (a) to (d) would not apply in cases involving offences relating to items i.e. FICN, arms, ammunition, explosives, antiques, art treasures, wild life items and endangered species of flora and fauna. In such cases, arrest, if required, on the basis of facts and circumstances of the case, may be considered irrespective of value of offending goods involved."

(Circular No.28/2015-Customs dated 23rd October, 2015)

3.7.1 ARREST FORMALITIES AND PROCEDURES:

The guidelines for arrest are summed up as follows:

(i) Bailable; or
(ii) Non-bailable.

(a) Since arrest takes away the liberty of an individual, the power must be exercised with utmost care and caution in cases where a Commissioner of Customs or Additional Director General has reason to believe on basis of information or suspicion that such person has committed an offence under the Act punishable under the Sections 132 or 133 or 135 or 135A or 136 of the Customs Act, 1962.

(b) Arrest of persons in terms of Section 104(1) of Customs Act, 1962 should be resorted to only where the facts and situations of a particular case demand such action. Persons involved should not be arrested unless the exigencies of certain situations demand their immediate arrest. These situations may include circumstances like ensuring proper investigation, to prevent such person from absconding, cases involving organised smuggling of goods or evasion of Customs duty by way of concealment, masterminds or key operators effecting proxy/ benami imports/exports in the name of dummy or non-existent persons/IECs, etc. The decision to arrest should be taken in cases which fulfil the requirement of the provisions of Section 104(1) of Customs Act, 1962 and after considering the nature of offence, the role of the person involved and evidence available.

(c) There is no prescribed format for arrest memo but an arrest memo must be in compliance with the directions in “D.K Basu vs. State of W.B.” [1997(1) SCC 416].

A person arrested for a non-bailable offence should be produced before Magistrate without unnecessary delay, as per Section 104(2) of the Customs Act, 1962.

Under Section 104(3) of the Customs Act, 1962 an officer of Customs (arresting officer) has the same powers as an officer in charge of a Police Station under the Cr.PC. Thus, a Customs officer (arresting officer) is bound to release a person on bail for offences categorized as bailable under the Customs Act, 1962 and release on bail must be offered to a person arrested in respect of bailable offence and bail bond accepted. If the conditions of the bail are fulfilled, the arrestee shall be
released on bail forthwith. The arresting officer may, and shall if such a person is indigent and unable to furnish surety, instead of taking bail from such person, discharge him or her executing a bond without sureties for his appearance as provided under Section 436 of Cr.PC.in cases where the conditions for granting bail are not fulfilled, the arrestee shall be produced before the appropriate Magistrate without unnecessary delay and within 24 hours of arrest.

[Refer Instruction F.No.394/71/97-Cus(AS), dated 22-6-1999 and Circular No. 38/2013- Cus., dated 17-9-2013]

Before proposing arrest, complete details of the evidence giving rise to the reason to believe that the person proposed to be arrested has committed an offence punishable under the Customs Act, 1962 for which his immediate arrest is necessary, should be recorded on the file. The arrest should then be approved by the Commissioner.

Before effecting an arrest the following documents are advised to be kept handy:

i. DRI-I report where detection is based on a prior information/intelligence.

ii. Preliminary Investigation/Offence Report containing the name of the offender, names of the company/firms, approx. duty evasion detected or suspected, brief facts of the case, documents and statements relied upon, facts giving rise to the reason to believe that the person has committed an offence punishable under the CUSTOMS Act, 1962.

iii. Copies of the documents relied upon have to be prepared as these documents have to be produced before the Magistrate when the accused is produced before him. A copy of the documents may also have to be supplied to the accused on his or on his lawyer’s request, if the court so allows.

iv. Where any person is arrested, he must be informed of the grounds of arrest. This is done by furnishing him a copy of the Arrest Memo containing the grounds of arrest.

In making an arrest the officer shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action. In case of female unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is female, the police officer shall not touch the person of a female for making her arrest. The Arrest Memo should be made in triplicate and the original should be furnished to the accused. A sample copy of an Arrest Memo is enclosed as ANNEXURE-IX. Dated signatures of the person arrested along with the time should be obtained on the other two copies as a token of having received the Arrest Memo.

As far as possible, Arrest Memo should be in a language which the accused can understand. In case of an illiterate person or when the Arrest Memo is in a language not understood by the person arrested, the Arrest Memo should be read out and explained in vernacular also to the accused and the fact should be recorded on the Arrest Memo.

Immediately after the arrest, the Arresting Officer should conduct a “Jama Talashi’ of the accused and record a report on Jama Talashi on the body of all the three
copies of the Arrest Memo along with his dated signatures. Jama Talashi essentially means taking an inventory of the goods/valuables which the arrested person is carrying on his person. This includes clothes, ornaments, wallet, watches, shoes, socks, spectacles, pen etc. It is advisable that the valuables which the arrested person is carrying on his person are kept in a sealed cover in custody of the Arresting Officer. A precise inventory of such valuables should be made. These valuables should be released to the person on his release on bail.

If the person forcibly resists arrest, or attempts to evade arrest, the officer may use all means to effect the arrest. However, this does not give him the right to cause death of the person or inflict injuries on his body.

Attempt should be made to produce the arrested person before the Magistrate on the same day. Arrested person should generally not be retained in the office in night as it can often lead to allegations of physical injury. In the eventuality that it is not possible to produce the arrested person before the Magistrate on the same day and there are no facilities to keep him in the custody for the night, he can be handed over to the jurisdictional police station. The format of the challan for handing over persons arrested to a police station is contained in ANNEXURE-X. However, it may be mentioned here that in such circumstances the officer in-charge of the police station has the power to admit the person to bail with the condition that he will appear before the Magistrate on the next day. Generally, the arresting officer should take back the person arrested from custody of police and then the department should produce the arrestee before the Magistrate.

Alternatively, immediately after arrest, the Customs Officer can either admit the person to bail to appear before a Magistrate having jurisdiction in the case, or forward him in custody to the Magistrate. The format of the bail and the bond is given in ANNEXURE-XI. The amount of bond executed for the purpose of bail is entirely at the discretion of the officer granting bail with the only restriction that it should not be excessive. When there is a possibility of the accused jumping the bail, high bond amount may be fixed. The officer may also take surety bonds from the known and respectable persons of the area, as a guarantee against the availability of the accused for investigations and prosecution purposes.

The officer empowered under Customs act to produce the arrested person before a Magistrate can either request for Judicial Remand or Police Remand. Police Remand is normally not granted unless special reasons for the same are given like requirement of presence of the accused for recovery of documents etc. In case the Magistrate remands the accused to judicial custody and the preventive officers want to record a statement then they should apply to the Magistrate for the same. A statement in the judicial custody can only be recorded with the permission of the Magistrate.

The general practice in the Commissionerate is to arrest a person only when the ingredients of arrest are satisfied and to produce him before the Magistrate with the request that the arrested person be taken to judicial custody. The power to grant bail is generally not exercised.
3.7.2 Hon'ble Supreme Court Directives regarding Rights of an Arrestee

The Hon’ble Supreme Court of India in their judgment dated 18.12.1996, in the case of Shri D.K Basu v. State of West Bengal in W.P. (CRL) No. 539 of 1986 with W.P (CRL)592 of 1987 in the case of Ashok K. Johri v. State of U.P [JT 1997 (1) S.C.1] stipulated the following requirements to be observed by the officers of the Customs & Central Excise and DRI in all cases of arrest/detention. The procedure related to duties of the Police Officer while making arrest as given under Section 41B and 41D of the Code of Criminal Procedure, 1973 should also be observed.

(i) The personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations.

(ii) The officer carrying out the arrest should prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where arrest is made. The memo should also be countersigned by the arrestee and shall contain the date/time of arrest.

(iii) A person who has been arrested or detained, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, unless the attesting witness of the memo of arrest is himself a friend or a relative of the arrest.

(iv) The time, place of arrest and venue of custody of arrestee must be notified, where the next friend or relative of arrestee lives outside the district or town, through the Legal Aid Organization in the District and the Police Station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(v) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(vi) An entry must be made in the diary, at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the officials in whose custody the arrestee is.

(vii) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The “Inspection Memo”, must be signed both by the arrestee and the officer effecting the arrest and its copy provided to the arrestee.
(viii) The arrestee should be subjected to medical examination by a trained doctor every 48 hours of his detention in custody by a doctor on the panel of approved doctors appointed by the Director of Health Services of the concerned State or Union Territory.

(ix) Copies of all the documents including the memo of arrest, referred to above, should be sent to the 'illaqa' Magistrate for his record.

(x) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
4. ADJUDICATION

Adjudication is done by the departmental officers and in this capacity they act as quasi-judicial officers. The two objectives are

(a) That the principles of natural justice are fully observed in substance and in form and
(b) That an offender does not escape due to technical and/or procedural defects.

4.2. As per section 2 (1) of Customs Act, 1962 “adjudicating authority” means any authority competent to pass any order or decision under this Act, but does not include the Board, Commissioner (Appeals) or Appellate Tribunal.

4.3. As per section 2 (8) of Customs Act, 1962 “Commissioner of Customs”, except for the purposes of Chapter XV, includes an Additional Commissioner of Customs (except for the purpose of appeal and revision). An appeal against the Order-In-Original passed by an Additional Commissioner shall lie before Commissioner of Customs (Appeal) and not before the CESTAT.

4.4. Adjudication of confiscations and penalties - As per section 122 of Customs Act, 1962 anything which is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged,

(a) Without limit, by a Commissioner of Customs or a Joint Commissioner of Customs;
(b) Where the value of the goods liable to confiscation does not exceed five lakh rupees, by an Assistant Commissioner of Customs or Deputy Commissioner of Customs;
(c) Where the value of the goods liable to confiscation does not exceed, fifty thousand rupees, by a Gazetted Officer of Customs lower in rank than an Assistant Commissioner of Customs or Deputy Commissioner of Customs.

The Board, Vide Circular No. 23/2009-Customs, dated 01.09.2009 as amended vide Circular No. 24/2011-Customs, dated 31.05.2011 has prescribed monetary limits for adjudication of cases as under:-

A. Cases where SCNs are issued under section 28 of the Customs Act, 1962, these will be adjudicated as per following norms:

<table>
<thead>
<tr>
<th>Level of Adjudication officer</th>
<th>Nature of cases</th>
<th>Amount of duty involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner</td>
<td>All cases</td>
<td>Without limit</td>
</tr>
</tbody>
</table>
B. Adjudication of Drawback Cases- The proper officer for the issuance of Show Cause Notice and adjudication of cases under the provisions of Rule 16 of the Customs, Central Excise and Service Tax Drawback Rules, 1995 shall, henceforth, be as under:

(i) In case of simple demand of erroneously paid drawback, the present practice of issuing Show Cause Notice and adjudication of case without any limit by Assistant / Deputy Commissioner of Customs shall continue.

(ii) In cases involving collusion, wilful misstatement or suppression of facts etc., the adjudication powers will be as under:

<table>
<thead>
<tr>
<th>Level of Adjudication Officer</th>
<th>Amount of Drawback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional / Joint Commissioner of Customs</td>
<td>Without any limit</td>
</tr>
<tr>
<td>Deputy / Assistant Commissioner of Customs</td>
<td>Upto Rs.5 lakhs</td>
</tr>
</tbody>
</table>

C. In case of Export Promotion Schemes i.e. DEPB / Advance Authorization / DFIA / Reward Schemes etc. the adjudication powers shall be as under:-

<table>
<thead>
<tr>
<th>Level of Adjudication officer</th>
<th>Duty Incentive amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner of Customs</td>
<td>Without any limit</td>
</tr>
<tr>
<td>Additional / Joint Commissioner of Customs</td>
<td>Upto Rs.50 lakhs</td>
</tr>
<tr>
<td>Deputy / Assistant Commissioner of Customs</td>
<td>Upto Rs.5 lakhs</td>
</tr>
</tbody>
</table>

D. In the case of Baggage, the Additional Commissioner or Joint Commissioner shall continue to adjudicate the cases without limit, since such cases are covered by the offences under Chapter XIV and it is necessary to expeditiously dispose of the cases in respect of passengers at the airport.

4.5. **Issue of show cause notice before confiscation of goods, etc.** – As per Section 124 of the Customs Act, 1962 no order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;
(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and
(c) is given a reasonable opportunity of being heard in the matter:

The concerned person at his request may be given the notice to show cause in oral and he may also be permitted to give his representation in oral.

In so far as the issuance of Show Cause Notice for demand of duty under Section 28 is concerned, the same can be issued by the respective adjudicating officers depending upon the powers of adjudication.

The Show Cause Notice must be precise and unambiguous. It should appraise the party determinatively the case he has to meet. The order should not travel beyond the SCN.

4.6. Time limit for adjudication - In all cases where the personal hearing has been completed, orders will be passed by the Adjudicating Authority before whom the hearing has been held. Such orders should normally be issued within a month of the date of completion of the personal hearing

(Point No. 7 of Circular No. 24/2011- Customs, dated 31.05.2011).

The time limit for adjudication has been prescribed for seizure cases vide Circular No. 3/2007-Cus Dated 10/1/2007 as follows:

(a) For cases to be adjudicated within the competence of Commissioner of Customs or an Addl./ Joint Commissioner of Customs - one year from the date of service of the show cause notice;
(b) For cases to be adjudicated within the competence of Assistant Commissioner of Customs or Deputy Commissioner of Customs - six months from the date of service of the show cause notice;
(c) For cases to be adjudicated within the competence of a Gazetted Officer of Customs lower in rank than an Assistant Commissioner of Customs - three months from the date of serving of the show cause notice.

In case the above time period cannot be observed in a particular case, the adjudicating officer shall keep his supervisory officer informed regarding the circumstances which prevented the observance of the above time frame, and the supervisory officer would fix an appropriate time frame for disposal of such cases and monitor their disposal accordingly.

The time limit to be adhered for cases to be adjudicated under Section 28 of the Customs Act, 1962 for demand of duty is prescribed in Section 28 (9).
The adjudication order must be a speaking order giving clear findings of the adjudicating authority. An original order of adjudication should be self-contained and unambiguous. The order should quote the Rules or Sections violated, discuss in brief all the contentions put forward in defence, and indicate clearly all the grounds on which penal action has been taken and should be closely reasoned. In all such proceedings it is necessary that there should be a charge (offence against the relevant law), a finding and establishment of the charge of offence supported by proper evidence, as a foundation for imposing any punishment. It should:

(a) briefly state the essential facts of the case and the issues involve,
(b) discuss each issue separately
(c) specify the Rules or Sections of the Act which are held to have been contravened
(d) specify the Rules or Sections of the Act under which the penalty is imposed or the goods confiscated.

4.7. **Option to pay fine in lieu of confiscation – As per Section 125** of the Customs Act 1962 an option of redemption may be given to the goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force. In case of any other goods the option of redemption shall be given. The owner of the goods or the person from whose possession or custody such goods have been seized will pay a fine to redeem the goods in lieu of confiscation as the Adjudicating Authority thinks fit. The fine shall not exceed the market price of the goods confiscated.

Where any fine in lieu of confiscation of goods is imposed the owner of such goods or the person from whose possession or custody such goods have been seized, shall, in addition, be liable to any duty and charges payable in respect of such goods.


Confiscation is provided under Customs Act, 1962 in terms of sections: 111, 113, 115, 118, 119, 120 and 121.

4.9. **Provisional release of goods seized** - Provisions have been made under section 110A of Customs Act, 1962 which allows provisional release of goods, documents and things seized pending adjudication. Any goods, documents or things seized under section 110, may, pending the order of the adjudicating authority, be released to the owner on taking a bond from him in the proper form with such security and conditions as the adjudicating authority may require.
4.10. Monitoring and Adjudication of Call Book cases

The Board has issued **Circular No. 719/35/2003-CX., dated 28-5-2003** for monitoring and disposal of Call Book cases.

**Board’s Circular No. 53/90-CX. 3, dated 6-9-1990** specifies the circumstances under which a pending case can be transferred to call book. In this regard instructions are issued vide **Board’s D.O. Letter F.No. 101/2/92-CX. 3, dated 4-3-1992**. It has been further clarified vide **Circular No. 162/73/95-CX., dated 14-12-1995** that only following type of categories of cases can be transferred to Call Book:

(i) Cases in which the Department has gone in appeal to the appropriate authority,

(ii) Cases where injunction has been issued by Supreme Court/ High Court/CEGAT, etc.

(iii) Cases where audit objections are contested.

(iv) Cases where the Board has specifically ordered the same to be kept pending and to be entered into the call book.

CBEC Vide **Circular No. 1023/11/2016-CX Dated 08/04/2016** has issued fresh instructions for dealing with adjudication of Show cause Notices based on CERA/CRA objections if the objections are being contested by the department (point No. iii above). All past circulars and instructions on the subject are rescinded and following procedure is prescribed for dealing with audit objections raised by CERA / CRA.

It may be noted that the procedure of transferring the show cause notice arising out of CAG objection to call-book has been discontinued and in future no such show cause notice should be transferred to the call-book. **Circular No.s 162/73/95-CX dated 14.12.1995 and 385/18/98-CX dated 30.03.98** on transfer of cases to the call book arising out of CAG objections stands amended accordingly.

Show Cause Notices may be adjudicated in the manner as under:-

- Adjudication of SoFs/LARs not converted into DAP: SoFs/LARs are replied by the Commissionerate and therefore these cases may be adjudicated after ensuring that the reply given by the Commissionerate is available on record.

- Adjudication of admitted DAPs/APs: DAPs are replied by the Ministry (CBEC) and therefore adjudication of DAPs should be undertaken after ensuring that the reply given by the Ministry (CBEC) is available on record.

- Adjudicating authority is a quasi-judicial authority and is legally bound to adjudicate the case independently and judiciously taking into consideration the audit objection by CERA/CRA, reply of the department as referred
above, reply of the party, relevant legal provisions, case laws on the subject and relevant circulars of the Board, if any. It is expected that the factum of SCN being a consequence of CERA/CRA objection, would be incorporated in the brief facts of the case in the adjudication order.

- Where an issue was under audit objection and has been subsequently either judicially settled, by say judgment of Hon'ble Supreme Court or where a circular of the Board has been issued on the subject, further correspondence with the Board on the audit objections, even if they have become DAPs, is not necessary and such cases may be adjudicated on merits taking into consideration the latest judgments and circulars.
5. Appeal, Review and Settlement of Cases

The Customs Act contains detailed provisions for review, for resolution of disputes, by way of appeals and review. The various appellate authorities are Commissioner (Appeal), Revision Authority, Customs Excise and Service Tax Appellate Tribunal (CESTAT), High Court and the Supreme Court. Any appeal by the department, before any appellate authority, is filed only after following a procedure of review of orders as prescribed in the Customs Act. Beside the route of appeals, an alternative dispute resolution mechanism has also been provided by way of the settlement of cases by the Settlement Commission. These provisions are contained in Chapter XV and XIVA respectively of the Customs Act, 1962.

5.2. Appeal to Commissioner (Appeal):

5.2.1 The power of adjudication of cases is bestowed on all officers of the rank of Superintendent/ Appraiser and above as per specified monetary limits and other criterion. Thus, the first stage of appeal against any order passed by any officer below the rank of Commissioner of Customs lies with the Commissioner of Customs (Appeals) in terms of Section 128 (appeal by any person aggrieved by such order) or Section 129 (D) (4) [Departments appeal on review of order], as the case may be, of the Customs Act, 1962.

5.2.2 The procedure of filing of appeal by Department against the order/decision of officers below the rank of Commissioner is that every such adjudication order is reviewed, for legality and propriety of such order, by the Commissioner of Customs, under Section 129D(2) of the said Act. If on review, the adjudication order/decision is not found to be legal and proper, the Commissioner may direct any officer subordinate to him, by an order, to file an appeal to Commissioner (Appeal). The said order shall be made by the Commissioner within 3 months from the date of communication of adjudication order and in pursuance of such order, an appeal would be filed to Commissioner (Appeal) within a period of 1 month from the date of issue of said order by the Commissioner.

5.2.3 The limitation period for filing of appeal to Commissioner (Appeal) is 90 days for the department from the date of communication of decision or order being appealed against. [Sec 129 D (3) Customs Act 1962].

5.2.4 The procedure for filing of appeal before Commissioner (Appeal) is that the appeal is required to be filed in a Form No. CA-1 [under Section 128 of the said Act] and Form CA-2 [under Section 129D (4) of the said Act], as prescribed under rule 3 and rule 4, respectively, of the Customs (Appeals) Rules, 1982. The relevant provisions are contained in Sections 128 and 128A of the said Act and the Customs (Appeals) Rules, 1982.
5.3. Appeal to CESTAT:

5.3.1 The Customs Excise and Service Tax Appellate Tribunal (CESTAT) has been constituted by the Central Government under Section 129(1) of the said Act.

5.3.2 In terms of Sections 129A (1) [appeal by any person aggrieved by such decision or order] or Section 129D (4) [departments appeal on review of order of Commissioner of Customs, by the Committee of Chief Commissioner] of the said Act any person may file appeal to CESTAT, if aggrieved by: (a) any decision or order passed by a Commissioner of Customs as an adjudicating authority; or (b) an order passed by the Commissioner (Appeals).

5.3.3 Appeal cannot be filed before CESTAT if the matter relates to: (i) import or export of goods as baggage; (ii) import goods not landed or short landed; and (iii) Drawback.

5.3.4 The limitation period for filing of appeal to CESTAT is 3 months from the date of communication of order being appealed against. The Tribunal may admit appeal after the expiry of this period if it is satisfied that there was sufficient cause for not presenting it within the limitation period.

5.3.5 In accordance with Sections 129A, 129B and 129C of the Customs Act, 1962 read with the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules, 1982, the procedure for filing of appeal before CESTAT and disposal thereof is as follows:

(a) The appeal is required to be filed in a Form No. CA 3 [Section 129A (1) of the said Act] and Form CA-5 [Section 129A (2) and Section 129 D (4) of the said Act], prescribed under rule 6(1) and rule 7, respectively, of the Customs (Appeals) Rules, 1982.

(b) The CESTAT shall give opportunity to the appellant to be heard, and on being shown sufficient cause, can give adjournment from hearing. In terms of proviso to Section 129B (1A) of the said Act, no such adjournment shall be granted more than three times to a party during hearing of the appeal. After hearing the case, CESTAT, pass an order confirming, annulling or modifying the order appealed against or remand the case back to the authority, which passed the order appealed against.

(c) The CESTAT may, within six months from the date of its order, amend its order to rectify any mistake apparent from the record that is brought to its notice by the appellant or the respondent.

(d) A prescribed fee is required to be paid for filing of appeal or rectification of mistake (ROM) or for restoration of appeal. The fee prescribed at present is (i) Rs 1000, where amount of duty, interest and penalty is upto Rs 5 lakh; (ii) Rs 5000, where amount of duty, interest and penalty is between Rs 5 lakh to Rs 50 lakh; (iii)
Rs 10000, where amount of duty, interest and penalty is more than Rs 50 lakh; (iv) Rs 500 for any other purposes, including ROM or restoration of appeal. However, no fee is payable in case of appeal or ROM or restoration of appeal application by department.

(e) The CESTAT, shall decide the appeal, where order has been stayed, within a period of 180 days from the date of stay order, and would decide the appeal in other cases, wherever possible, within three years from the date of filing of appeal, by issue an order in writing, and shall communicate such order to the appellant to the Commissioner and the other party. In case where order of stay has been made by the CESTAT and appeal is not decided within 180 days, the stay order shall stand vacated.

5.4. Review of orders passed by Commissioner of Customs and Commissioner of Customs (Appeal) and filing of appeal by Department:

5.4.1 The process of review of the order of Commissioner of Customs and Commissioner of Customs (Appeals), by the Department is prescribed in Section 129 D (1) and Section 129A (2) of the Customs Act, respectively.

5.4.2 The order of Commissioner of Customs is examined, for legality and propriety of such order, by the Committee of Chief Commissioners that consists of two Chief Commissioners, one of them may be being Jurisdictional Chief Commissioners. The Committee may direct, by an order, the Commissioner to file an appeal to the Tribunal. Such order has to be passed within three months from date of communication of decision/order being examined. An appeal would be filed by the Commissioner of Custom, within a period of one month from the date of order passed by the Committee. In case the Committee disagrees in its opinion, it shall make a reference to the Board and the Board will examine such order, and if it is of the view that order is not legal and proper, will direct the concerned Commissioner to appeal to the Tribunal.

5.4.3 The Committee of Chief Commissioners is notified by the Board under Section 129A (1B) of the said Act vide office Order No. 03/2014-CUS dated 15.10.2014.

5.4.4 The order of Commissioner (Appeal) is examined by a Committee of Commissioners, consisting of two members, one of them being the Commissioner, to whose jurisdiction the order concerns. In case the Committee of Commissioners differs in its opinion, it would make a reference to the jurisdictional Chief Commissioner for taking a view as regards legality and propriety of order under examination.

5.4.5 The Committee of Commissioners is notified by the Board under Section 129A (2) of the said Act vide office Order No. 08/2014-CUS dated 22.10.2014.
5.5. Revision Application:

5.5.1 The appeals against the order of Commissioner or Commissioner (Appeals), in cases of baggage, Drawback and short-landing/ not landing of goods lies with the Revision Authority (instead of CESTAT) under Section 129DD of the Customs Act, 1962.

5.5.2 The limitation period for filing of an application to Revision Authority is three months from the date of communication of order being appealed against. The Revision Authority may allow a further period of three months if it is satisfied that there was sufficient cause for not presenting it within the limitation period.

5.5.3 In terms of Sections 129A and 129DD of the Customs Act, 1962 and the Customs (Appeals) Rules, 1982 the Revision Application is required to be filed in a Form No. CA 8, prescribed under Rules 8A and 8B of the said Rules. The fee prescribed at present is (i) Rs.200/-, where amount of duty, interest and penalty is upto Rs.1 lakh; (ii) Rs.1,000/-, where amount of duty, interest and penalty is more than Rs.1 lakh. However, no fee is to be paid in case Revision Application is filed by the Department.

5.6. Pre-deposit of duty demanded or penalty levied:

5.6.1 Section 129E of the Customs Act, 1962 requires that the Appeal of the party shall not be entertained by the Commissioner (Appeals) or the CESTAT unless the appellant has deposited the prescribed percentage of duty or penalty as the case may be, of the amount/duty/penalty confirmed by the authority, whose order is intended to be appealed against. The details of percentage as per stages of appeal are given at Section 129E of the Customs Act’ 1962.

5.6.2 Commissioner (Appeals) is required, wherever it is possible to do so, to decide a stay application within 30 days from the date of its filing.

5.6.3 Section 129 of the Customs Act’ 1962 prescribes that if the pre-deposit made by the party under Section 129E is required to be refunded consequent to the order of the Commissioner (Appeal) or CESTAT, and such amount is not refunded within three months from the date of communication of order, unless the order of appellate authority is stayed by the higher appellate authority, an interest at the rate specified in Section 27A shall be paid to the after expiry of three month from the date of order. Presently, the interest rate is 6% per annum.

5.7. Appeal to High Court:

5.7.1 Against any order passed in appeal by the CESTAT, on or after 1-7-2003, which is not relating to determination of rate of duty or value of goods for the purposes of assessment, appeal lies to the High Court. However, where the issue involved relates to determination of rate of duty or value for the purpose of assessment, appeal lies to Supreme Court.
5.7.2 The limitation period for filing of appeal to High Court one hundred and eighty days from the date when the order being appealed against was received by the Commissioner of Customs. The High Court may admit appeal after the expiry of this period if it is satisfied that there was sufficient cause for not presenting it within the limitation period.

5.7.3 If appeal is filed by party, a fee of Rs 200 is required to be paid.

5.7.4 Where High Court is satisfied that question of law is involved, it shall formulated the question of law. The High Court may hear any other substantial question of law not formulated by it, if it is satisfied that the case involves such question. High Court may determine any issue that has not been determined by the CESTAT or has been wrongly determined.

5.7.5 The Code of Civil procedure, 1908 applies to the Appeal so filed to the High Court except as otherwise provided in the said Act.

5.7.6 In respect of order passed by CESTAT prior to 1-7-2003, Section 130A of the Customs Act, 1962 provides that within 180 days of receipt of order of Tribunal passed under Section 129B of the said Act, a person could have filed an application if the order of the Tribunal does not relate to determination of any question having relation to the rate of duty of Customs or the valuation of goods for purposes of assessment. [Refer Circular No. 935/25/2010-CX, dated 21-9-2010]

5.8. Appeal to Supreme Court:

An appeal to the High Court can be filed only on ‘Substantial Questions of Law’. Whereas Civil Appeal can be filed to Supreme Court under this Act for determining any question related to rate of duty or value of goods. Special Leave Petition (SLP) arising out of any order of High Court may be filed where there are Substantial Question of Law or error of law on the face of record. The Commissioner shall have to convince himself that substantial question of law exists while deciding to file appeal before the High Court. The Substantial Questions of Law sought to be raised in the appeal must be clearly identified and spelt out while sending the proposal for drafting the appeal to the Standing Counsels for their consideration.

5.8.1 Under Section 130E of the Customs Act, 1962 appeal lies to the Supreme Court against: (a) Any judgment of a High Court delivered on an appeal under Section 130 or a reference made by CESTAT, in respect of order passed by it before 1-7-2003 of the said Act or a reference application filed by Commissioner under Section 130A, in respect of order of CESTAT received by him before 1.7.2003, provided the High Court certifies, on its own motion or on an oral application made by the party aggrieved, it to be a fit case for appeal to Supreme Court; and (b) Civil Appeal against any order passed by the CESTAT relating, among other things, to the determination of any question having a relation to the rate of duty of Customs
or to the value of goods for purposes of assessment can be made to the Supreme Court.

5.8.2 The time limit for filing civil appeal before the Supreme Court is 60 days from the date of receipt of order.

5.8.3 Normally no application is made by the aggrieved party before the High Court, to certify that case is fit for filing of appeal before the Supreme Court. Therefore in such cases, the aggrieved party can agitate the order / judgment of the High Court before the Supreme Court by way of filing a Special Leave Petition under Article 136 of the Constitution. The limitation for filing of SLP is 90 days from the date of the High Court’s order. The time taken by the Court from the date of filing of application for certified copy of the order till the copy is ready for delivery is excluded from the computation of the period of limitation. 8.4 The proposal for filing of SLP and Civil Appeal are examined and processed in the Board, on receipt of proposals from field formations duly approved by the Chief Commissioner.

[Refer Circular No. 935/25/2010-CX, dated 21-9-2010]

5.9. Procedure for filing Appeals/ SLP before the Supreme Court

5.9.1 Appeal Provisions
(a) Against the order of the High Court, appeal can be made to the Supreme Court by way of Civil Appeal u/s 35L(a) of the Central Excise Act, 1944 or u/s 130E(a) of the Customs Act, 1962 or Special Leave Petition under article 136 of the Constitution of India.

(b) Civil Appeal against any order passed by the Appellate Tribunal relating among other things, to the determination of any question having a relation to the rate of duty of Customs / Central Excise or Service Tax or to the value of goods/services for purpose of assessment, can be filed in the Supreme Court u/s 35L (b) of the Central Excise Act, 1944 or u/s 130E (b) of the Customs Act, 1962.

5.9.2 Limitation for filing Civil Appeal/ Special Leave Petition
(a) The limitation prescribed under the Supreme Court Rules, 1966 for filing Civil Appeal before the Supreme Court against the order of the Tribunal is 60 days from the date of receipt of the order.

(b) In a case where the High court on its own motion or on an oral application made by the aggrieved party, immediately after passing of the judgment, certifies the case to be fit for appeal to the Supreme Court, a Civil Appeal is filed against the High Court order under Sec. 35L of the Central Excise Act or Section 130E of the Customs Act’ 1962 for which limitation is 60 days from the date of the order (and not the date of receipt of order). However, in most of the cases no such application is made by the aggrieved party before the High Court and therefore, in such cases,
if aggrieved party intends to agitate the order / judgment of the High Court before the Supreme Court, then it can be done by way of filing a Special Leave Petition under Article 136 of the Constitution.

(c) The limitation for filing of SLP is 90 days from the date of the High Court’s order. The time taken by the Court from the date of filing of application for certified copy of the order till the copy is ready for delivery is excluded from the computation of the period of limitation.

(d) Office of the CC (AR) would directly communicate the orders in important matters to the Commissioners, after their pronouncement. For proper co-ordination, the Chief Commissioner/ Commissioner (AR) will hold regular interaction meetings with the Chief Commissioners. The Chief Commissioners would work out a mechanism for making available one officer (for a period of about three months by rotation) for collection of the orders passed by the Tribunal in respect of their Zones.

(e) The delay in applying for the certified copy of the order is attributed to the Department/party. Therefore, the procedure for obtaining the certified copy of the order of High Court should be initiated immediately on pronouncement of the order, preferably the date of pronouncement or a day after. It shall be impressed upon the Standing Counsels that it is their responsibility to apply for the certified copy of the order in time and to ensure that it is sent to the Department immediately.

5.9.3 Forwarding of proposal to file Civil Appeal / SLP by the Commissionerate to the Board

(a) All the proposals to file CAs/SLPs should be sent by the Commissioner only after obtaining the concurrence of the jurisdictional Chief Commissioner. While forwarding the proposal, the Commissioner shall also submit a certificate to the effect that legible copies of requisite documents are enclosed along with the proposal and that the proposal is sent within the time prescribed in the concerned circular.

(b) The proposal for filing of Appeal/SLP before the Supreme Court against the order of Tribunal/ High Court respectively, should be sent to the Board within:

i. 15 days of receipt of the order, in case of Civil Appeals.

ii. 20 days of the pronouncement of the order, in case of SLPs.

(c) The proposal against the High Court’s order shall be initiated on the strength of the copy of the order circulated by the Court on its own motion or copy downloaded from the website of the Court i.e. www.indiancourts.nic.in or
www.courtnic.nic.in without waiting for the certified copy of the order. The certified copy of the order may be sent separately thereafter. All the proposals should invariably be sent along with all the proforma as prescribed.

(d) The Chief Commissioners should ensure that the time limit prescribed is strictly adhered to.

(e) Serious view would be taken by the Board, if the proposal is received beyond 20 days of the receipt of the CESTAT’s order/ date of the order of the High Court.

(f) The Commissionerate should not take legal opinion from the Standing Counsels in respect of the High Court’s orders while forwarding proposal to file SLP, as the SLPs against the High Court’s orders are filed by the Board only after obtaining the legal opinion from the Ministry of Law & Justice and the Law officer of the Government of India.

(g) Similarly, the orders of the Tribunal should be examined within the prescribed time without waiting for the recommendations of the CC (AR) and proposal for filing appeal before the Supreme Court should be sent as stipulated supra. As and when the recommendation of the AR is received, the same may be sent to Board in continuation of the earlier communication.

(h) In cases, where the proposals are sent with delay beyond the prescribed period, the Commissioner should, along with the proposal, indicate the reasons for the delay.

(i) Where the proposal is sent belatedly (beyond 30 days) or where revenue involved is 1 Crore or more, the appeal proposal should be sent through a special messenger. Such messenger should preferably be an officer well conversant with the case.

(j) In matters relating to challenge to constitutional validity of certain provisions of the statute, compliance of the directions of the Tribunal / High court within certain time less than the period of limitation, filing of contempt petitions against the Department, grant of anticipatory bail, return of passports etc, and the proposal should be sent through a well conversant officer. He should be prepared to stay in Delhi for 3-7 days with the possibility of making another trip at the time of vetting.

(k) The Commissionerate must send soft copy of all the proposals with statement of facts and the grounds of appeal by e-mail to sojc-cbec@nic.in in respect of CA proposals against CESTAT order, and to dirlegal_cbec@nic.in in respect of CA / SLP proposals against the High Court’s order as soon as hard copy of the proposal along with all documents is sent by post or through messenger. This should be followed by sending the soft copy of the impugned order, and orders of the lower appellate authorities such as Commissioner (A) and /or CESTAT as the case may
be, order in original and the show cause notice along with all the requisite documents as soft copies of these documents are required while preparing the paper book.

(I) It is noticed that many a time the proposals are sent by the Commissionerate to the sections of the Board not dealing with the same and redirection of such proposals adds to delay. Therefore, it is important for the field formations to note the sections of the Board to whom the proposals for filing Civil appeals and Special Leave Petitions are to be sent.

5.10. Disputes between Central Government Department and PSU / other Government Departments:

5.10.1 In cases where disputes arise between two Central Government Departments or a Government Department and Public Sector Undertaking, there is no requirement of obtaining approval of the Committee on Disputes for pursuing litigations. Field formations may pursue their appeals in the respective Tribunals / Courts. [Refer Instruction F.No.390/R/262/09-JC, dated 24-3-2011.

5.11. Monetary limits for filing appeals to CESTAT, High Courts and Supreme Court:

The Department has also been restricted from filing the appeals to the higher forums for the reason of amounts being lower than threshold limit (Supreme Court Rs 25 lakhs, High Court Rs 15 lakhs, CESTAT Rs 10 lakhs) involved in the matter.


5.11.1 In accordance with the National Litigation Policy that is aimed at reducing Government litigation and also expedite the dispute resolution process, so that Government becomes an “efficient” and “responsible” litigant, in revenue matters appeal shall not be filed if the amount involved is not significant. Hence, appeals in the Tribunal shall not be filed where the duty involved or the total revenue including fine and penalty is Rs.10 lakh and below. Similarly in the case of High Courts appeals should not be filed in cases where the duty involved or total revenue including fine or penalty is Rs.15 lakhs and below. As regards Supreme Court, appeals should not be filed in cases where the duty involved is Rs. 25 lakhs or less. However, adverse judgments relating to the following should be contested irrespective of the amount involved: (a) where the constitutional validity of the provisions of an Act or Rule is under challenge. (b) Where notification/instruction/order or Circular has been held illegal or ultra vires. (c) Where classification and refunds issues which are of legal and /or recurring nature.
5.11.2 In such cases wherever it is decided not to file appeal, such cases shall not have any precedent value. In such cases, it should specifically be record that “even though the decision is not acceptable, appeal is not being filed as the amount involved is less than the monetary limit prescribed by the Board.” Further, in such cases, there will be no presumption that the Department has acquiesced in the decision on the disputed issues in the case of same assessee or in case of any other assessee if the amount involved exceeds the monetary limits. [Refer Instruction F No. 390/170/92-JC, dated 13-1-1993 and F.No. 390/Misc./163/2010-JC, dated 20-10-2010] 231 Customs Manual 2014

5.12. Settlement Commission:

5.12.1 An alternative channel for resolution of dispute for assessees without prolonged litigation in adjudication/appeals/revisions etc. is the Customs & Central Excise Settlement Commission. Presently, four Benches of the Settlement Commission function at Delhi, Mumbai, Chennai and Kolkata. Provisions relating to Settlement Commission are contained in Sections 127A to 127N of the Customs Act, 1962 In terms of Section 127B of the Customs Act, 1962, any importer, exporter or any other person, may file an application before the Settlement Commission for settlement, before adjudication of case. However, the Settlement Commission cannot entertain the cases which are pending with the Appellate Tribunal or in a Court. Similarly, the matters relating to classification cannot be raised before the Commission. It is also specified that no application can be made unless the appellant has filed a Bill of Entry, or a Shipping Bill etc., or a Show Cause Notice issued by Proper Officer and the additional amount of duty accepted by the applicant in his application exceeds Rs.3 lakhs. Further, no application shall be made for the interpretation in relation to goods to which Section 123 of the said Act applies or to goods in relation to which any offence under the Narcotics and Psychotropic Substances Act, 1985 has been committed.

5.12.2 The procedure prescribed for the Settlement Commissions essentially requires examination of the application for its acceptability, payment of additional duty admitted by the applicant, calling and examination of records from jurisdictional Commissioner of Customs, getting further enquiries/investigations caused from Commissioner of Customs or Commissioner (Investigation) attached to Settlement Commission, giving opportunity for detailed submission to the applicant and passing order by the Commission. Where any duty or interest or fine or penalty is not paid within thirty days of receipt of the order of Settlement Commission, such amount is recoverable in accordance with the provision of Section 142 of the Customs Act, 1962.

5.12.3 Every order passed by the Settlement Commission under Section 127J of the Customs Act, 1962 is conclusive in respect of the matters stated therein. The Settlement Commission can consider immunity from prosecution proceedings if
the applicant cooperates with the Commission in the proceedings before it and makes full and true disclosure of his duty liability. Even grant of immunity, whole or part, from imposition of penalty, fine and interest may also be considered. Further Settlement Commission has power to reopen completed proceeding, if the Settlement Commission is of the opinion that it is necessary to re-open the case for proper disposal of case. [Refer Circulars No. 935/25/2010-CX, dated 21-9-2010, No. 27/27/94-CX, dated 2-3-1994, No.156/67/95-CX, dated 17-11-1995, No.515/11/2000-CX, dated 18-2-2000 and No.578/15/2001-CX, dated 20-6-2001 and Instructions F.No. 390/Misc./163/2010-JC, dated 20-10-2010 and F.No.390/170/92-JC, dated 13-1-1993]
6. AUCTION AND DISPOSAL OF SEIZED GOODS

(Refer Disposal manual for detail)

GOODS- Defined in customs act as –

"Goods" includes –
1. vessels, aircrafts and vehicles;
2. stores;
3. baggage;
4. currency and negotiable instruments; and
5. any other kind of movable property;

The third most important work of preventive formations is auction and disposal of confiscated goods, vehicles, narcotics which is a major source of Government revenue and limiting the supply of narcotics by means of their destruction. All confiscated items (DIVISION, LCS, CMPU) are stored in Customs Warehouses also known as ‘Godowns’ usually placed in DIVISIONS and Headquarter Godown.

6.1 Category of goods:-

The entire stock of seized/confiscated goods in the custody of the Department has been grouped under the following four different categories. The categorization has been done on the basis of the life and nature of the goods, goods notified under the Customs Act and other allied Acts. Steps for early disposal of the goods falling under the different categories is taken by the Commissionerate as prescribed therein.

6.1.1 Category-I: Goods to be disposed off immediately after seizure

The goods under this category have a very short shelf life and are prone to rapid decay or they become outdated very fast. Some of such goods may be perishable in nature while some others may have certain expiry time prescribed thereon. Some of these goods may also require special arrangements for their preservation and storage. Therefore these goods may be disposed of immediately after seizure by the Custodian of the goods after issue of notice to the owners and obtaining orders from the Competent Authority. If at a later stage, goods are ordered to be released to the lawful claimant, they would get the sale proceeds realized by the department after deducting the duty liability and other liabilities. Further, if the goods in this category have been seized and have to be destroyed because they have become unfit for disposal or for consumption on account of delay, the Superintendent in charge of seizing unit would be responsible for the lapse. The goods falling under this category are as under:
a. Fresh flowers, Fresh fruits and vegetables, meat, fish, poultry, eggs and other fresh uncanned/unprocessed food materials.

b. Salt and hygroscopic substances (other than in sealed containers)

c. Raw (wet and salted) hides and skins

d. Livestock

e. Medicinal herbs

f. Molasses

g. Newspapers and periodicals

h. Confectionary

i. Cigarettes, biris, biri-leaves and tobacco, which are liable to deterioration due to drying or humidity

j. Menthol, Camphor, Saffron, Cereals, sugar and other grocer’ items

k. Tea and Coffee

l. Re-fills for ball-point pens

m. Lighter fuel, including lighters with gas. not having arrangement for refilling

n. Beer

o. Cells, batteries and rechargeable batteries

p. Petroleum Products

q. All unclaimed/abandoned goods to be disposed off immediately which are liable to rapid depreciation in value on account of fast change in technology or new models etc.

6.1.2. Category-II: Goods falling under Section 110(1A) of the Customs Act, 1962- This Category covers the goods, which are notified under the provisions of Section 110(1A) of the Customs Act, 1962. Goods falling under this category are as under:

a. Gold in all forms including bullion, ingot, coin, ornament, crude jewellery

b. Silver in all forms including bullion, ingot, coin, ornament, crude jewellery

c. Diamonds, precious and semi-precious stones

d. Currency, Indian and Foreign.
e. All electronic goods including television sets, calculators, computers; components and spares thereof including diodes, transistors, integrated circuits, etc;

f. Cellular Phones

g. Wrist watches including electronic wrist watches; watch movements, parts or components thereof , Primary cells and primary batteries including rechargeable batteries

h. Photographic films

i. Conveyance

j. Man-made yarn and fabric

k. Bulk drugs and chemicals falling under Section VI of the First Schedule to the Customs Tariff Act. 1975 (51 of 1975).

l. Patent or proprietary medicine; i.e. any drug or medicinal preparations, in whatever form, for use in the internal or external treatment of, or for the prevention of ailments in, human beings or animals, which bears either on itself or on its container or both, a name which is not specified in a monogram, in a Pharmacopoeia or Formulary.

m. Dangerous drugs and psychotropic substances

n. Liquors

o. Ball Bearings;

p. Zip fastners;

q. Software

r. Petroleum products falling under Chapter 27 of Custom Tariff Act, 1975

s. Red Sander

t. Sandalwood Any other goods notified under notification Section 110 of the Customs Act, 1962 in future will also be covered by this category. For expeditious disposal of these goods, immediate action as per the procedure as laid down in sub-section (IB) of Section 110 (1A) must be taken by the seizing unit.
6.1.3 Category- III: Goods to be disposed off within six months from the date of seizure or where the date of expiry is indicated well before that date

The goods under this category have a short span of life and deterioration in quality starts after a few days of storage and the risk/expenses for storage/maintenance of these goods are expected to be heavy and the goods are also liable to rapid depreciation in value on account of the fast change in technology or designs or introduction of new models, etc. These goods may be disposed off within six months of their seizure or, where the date of expiry is indicated, well before that date after issuing notice.

a. Photographic goods such as photographic chemicals, papers and digital medium of photographs.

b. Cameras of all types.

c. Time-pieces and clocks.

d. Pre-recorded cassettes, CDs, DVDs, MDs and other mediums (Audio/Video).

e. Costume Jewellery.

f. Readymade Garments.

g. Spectacles.

h. Perfume, Toilet waters and essential oils.

i. Tinned and preserved provisions, condensed milk and milk powder.

j. Spices;

k. Resin:

l. Catechu

m. Hides, Skins, features and products thereof

n. Rubber goods and erasers

o. Paper and articles made of paper

p. Raw-jute

q. V. N. E. oils

r. Petroleum products

s. Hypodermin needles and syringes, surgical instruments/equipment

t. Medicines and drugs which remain officious only for a limited period.
6.1.4 CATEGORY - IV (All other goods):

All other goods not listed in the above 3 categories come under this category. The disposal of goods falling under this category has to be effected after completion of all due formalities and when finality is reached about the disposal of the goods.

[Based on Circular F. No. 711/31/83-LC (AS) dated 22.05.1984].

The disposal of different categories of goods as mentioned can be made through the procedure, which has been described in the subsequent paragraphs/chapters. The goods falling under categories I and III need to be disposed off at the earliest because of the very nature of the goods, which have been seized/confiscated. If they're allowed to remain for longer durations, pending adjudication and finality, it is very likely that the said goods would have lost its complete value and would have been non-usable.

As the storage of confiscated goods over long period till the completion of the normal processes of appeal etc. results in the deterioration of the goods, it has been decided that the following types of cases:

(i) where the chances of the order of confiscation being modified in appeal etc. are remote, the goods should be disposed off by the department immediately after the confiscation of the goods;

(ii) if the goods have been ordered to be absolutely confiscated and

(iii) on expiry of the period for redemption in cases where an option to redeem the goods on payment of fine is not exercised by the owner.

6.2 Requirement of issuing Notice to the owner of goods

(a). Section 150 of the Customs Act, 1962 provides for a mandatory requirement of issuing of notice to the owner of the goods, not being confiscated, which are proposed are to be sold under any provision of the Customs Act, by public auction or by tender or in any other manner.

(b). The requirement to issue notice to the owner of the goods shall also prevail in case of goods that have been confiscated but in respect of which all appeal/legal remedies have not been exhausted by the owner of the goods.


In order to avoid any disputes regarding the price which may have to be paid to the party from whom the goods were seized in the event of appeal etc. being admitted, an intimation regarding the price at which the goods are being sold should be sent to the party in case the goods are sold to agencies like NCCF/ Kendriya Bhandar etc. If the goods are of the types which are sold through auction conducted, an intimation regarding the date, time and place of auction should be sent to the party well in advance.
**Pre-trial Disposal:**

In respect of the goods other than Category II goods, which are locked in court proceedings or if prosecution is contemplated/launched, Pretrial disposal orders can also be obtained by the seizing unit under Section 451 of Cr. PC. Format for filing application for pretrial disposal under Section 110(1A) of the Customs Act, 1962 (ANNEXURE-XIII) may be used for the purpose.

**6.3 RECEIPT & STORAGE:**

**6.3.1 Inventory:** Whenever any goods are detained / seized, a detailed inventory of these goods should be invariably prepared by the seizing officer at the time of detention/seizure given at ANNEXURE-XV(C) to this chapter in triplicate or quadruplicate as explained below.

The first copy of the Inventory should be given by the seizing / detaining officer to the owner of the goods or his authorized representative, if available; otherwise it should be kept with the case file. The goods together with the Duplicate & Triplicate copies of the Inventory should be forwarded within 24 hrs. of the detention/seizure to the Custodian of the Godown. The Custodian shall give receipt on both the Duplicate and Triplicate copies of the Inventory & return the duplicate copy to the seizing officer for keeping in the seizure file.

The Inventories are very important documents and should be drawn carefully to contain all the relevant details like description, quantity, brand, serial number, Country of origin, etc., which are necessary for identification of the items covered by the Inventory and for taking further action relating to disposal.

The packages containing the detained/ seized goods should be sealed with the seal of the detaining / seizing officer and the seal, if any, of the lawful claimant or his authorized representative or of a gazetted officer as the case may be and also signed by them. Specimens of each seal and signatures also should be affixed on the Inventory of the detained / seized goods for comparison purposes at the time of receipt by the custodian and also in case of return to the lawful claimant.

When seized / detained goods are transferred from one Custodian to another, as in the case of transfer of charge, the Original Inventory and also the Re-inventory, if any, shall invariably be handed over along with the goods. While conducting stock challenges, or during transfer of charge etc., seals on the packages shall always be compared with these specimens of seals on the corresponding Inventories. The specimen of seal on the Inventories shall act as final proof where any tampering of seals is suspected or when discrepancy in the goods is found at the time of opening the packages.

In cases where the detained / seized goods are physically handed over to a third party under sapurdginama and thus are only notionally handed over to the
Custodian, Inventory shall be prepared in quadruplicate instead of triplicate and the fourth copy shall be given to the Supadigar. Other copies of the Inventories will be dealt with in the usual manner.

6.3.2 Storage Place:

Storage place should preferably be in the Govt. buildings at ground floor or in basement, which should be properly secured.

If it is rented, the godown should not be in an isolated building unless adequate security is provided. It should be spacious enough to house the goods on the racks/almirahs. Godown should be well ventilated, damp proof and properly illuminated preferably with natural light.

Firefighting equipment should be installed. If there is no efficient and working central fire fighting system available, sufficient number of portable fire extinguishers should be installed.

Valuables should preferably be kept in treasury/bank lockers. NDPS goods should be kept more securely.

6.3.3 Receiving goods in Godowns:

Separate storage and custody for following separate categories of goods may be considered:

(a) Valuables

(b) Narcotics Drugs and Psychotropic substances

(c) Perishable goods

(d) Vehicles/conveyances

(e) Goods detained from passengers or for observance of formalities which are likely to be released soon, and ;

(f) Other confiscated goods.

The responsibility for proper storage and custody of these goods should be fixed on individual officers and for this purpose it should be ensured that the charges of individual officers should be compact and manageable. In respect of valuables, double lock arrangement should be made, the second lock being that of gazetted officer, superior in rank to the officer in direct charge.

Immediately on receipt of the goods and the Duplicate and Triplicate copies of the Inventory, the Custodian should satisfy himself that the packages have been properly sealed, seals are intact and the Inventory has been made out in a proper manner and gives all the details required as regards the content of packages.
If the condition of packages, seals and the Inventory are in order, the custodian should receive the goods in his godown and make entries in the Stock Register. He should then acknowledge receipt of the sealed packages by way of making cross entries in the Duplicate & Triplicate copies of inventories, retain the Duplicate copy with him and return the Triplicate copy to the seizing / detaining officer for keeping it in the case file. In case of any discrepancy, the same should be reconciled before acknowledging the receipt.

6.3.4 Stock Register:

The Custodian should enter the details given in the Inventory in the ‘Register of Seized / Detained goods’ called Stock Register. Separate registers should be maintained in respect of:

(a) Valuables;

(b) Conveyances and their accessories

(c) Others

6.3.5 Responsibility of the Custodian:

It will be the fundamental responsibility of the Godown inspector or Godown Supdt. / AC/DC to inspect the Godown regularly in order to ensure that the goods stored in his charge are being properly kept and none of the packages / goods stored show any sign of deterioration. Special treatment should be accorded to special consignments. For instance, in the case of motor cars, he should see that the tyres are properly inflated and that the engine is periodically run so that it is properly lubricated. Similarly, any chemical which is hygroscopic in nature should not be allowed to melt and spoil other goods during storage. This may be done by changing containers or repairing them. The responsibilities of the custodian are enumerated below. These are not exhaustive.

After receipt he should attach Stock-Card in appropriate colour

(a) Red colour card for detained goods

(b) Pink colour card for goods seized but not adjudicated,

(c) Yellow colour card for goods confiscated but not ripe for disposal and

(d) Green colour card for goods ripe for disposal.

If the goods show signs of deterioration or damage, he should immediately bring it to the notice of the Assistant/Deputy Commissioner, Incharge of godown, for appropriate action. Separate record of such goods should be kept which must be updated every month. In case deterioration is noticed in respect of goods awaiting adjudication, the matter should be brought to the notice of the adjudicating officer.
for ensuring quick decision of the case. Where deterioration is noticed in respect of cases under appeal, the appellate authority should be informed immediately so that prior attention is given to the disposal of the relevant cases. Where the goods are involved in court proceedings, it will be necessary to bring the matter to the notice of the court and for getting permission for the disposal of goods pending finalization of the proceedings in the court.

6.3.6 Opening and re-sealing of the packages:

As far as possible, the necessity for opening of the sealed packages for further investigation should be avoided. Whenever such sealed packages are required to be opened, such opening should not be done without the specific authorisation of the Asstt./Deputy Commissioner (incharge). After opening and resealing the Stock Card and the Inventory / Re-inventory should also be suitably endorsed and the packages should be re-deposited in the original place of storage. If on such re-examination any discrepancy is noticed, such discrepancy should immediately be brought to the notice of the higher officers for appropriate action.

6.4 TRANSFER OF CHARGE, STOCK - TAKING AND INSPECTIONS

6.4.1 TRANSFER OF CHARGE: Proper transfer of charge of godowns is essential for correct accountability of goods. Whenever any Custodian or any other officer incharge of confiscated goods is transferred, the transfer should be so arranged that the successor is given sufficient time to take charge of complete stock of the goods.

Wherever the packages and seals are intact, it should not be necessary to open the packages and count the individual articles. Whenever sealed packages are taken as open delivery re-inventory shall be drawn by following the prescribed procedure.

A charge report shall be prepared only in a pre authenticated register called ‘Register of Handing over and Taking over of charge’ prepared in the format prescribed at Appendix ‘D’ below and not in loose sheets or in any other form. This register shall be permanent record and all charge reports shall be prepared only in this register.

The officer taking over the charge shall also take charge of all the Stock Registers and corresponding Inventories. Once he signs the Register of Handing over and Taking over of charge, he’ll be construed to have taken over all the goods in the warehouse as well as the corresponding inventories and Stock Register.

6.4.2 PERIODICAL STOCK CHALLENGE: Once every six months the Assistant/Deputy Commissioner or Joint Commissioner/ Addl. Commissioner, Preventive, nominated by the Commissioner, shall conduct a complete stock taking of all valuables in the custody of the Custom House/Divisions etc. Similarly, once every six months an Assistant/ Deputy Commissioner nominated by the Commissioner
for the purpose shall conduct a complete stock taking of all the packages containing articles other than valuables

6.4.3 Maintenance of Records by the Godown Incharge:

The officer in-charge of the warehouse should maintain the warehouse register duly updated. All the entries in the register should be made immediately after receiving the relevant information. The warehouse in-charge should keep liaison with the seizing unit and ascertain the position of the concerned case on regular/quarterly basis. All the updates may be entered into the relevant column of the register. The warehouse in-charge should regularly pursue the seizing units for issuance of disposal order. After receiving the disposal order, valuation of the concerned goods may be obtain from the approved govt. valuer for the purpose of approval of the same by JPC. After approval of price is accorded by the JPC, list of such goods furnishing the information viz. Lot No., Description of goods, Quantity and rate of applicable sales tax/VAT may be forwarded to Disposal Unit for putting the goods for e-auction.

The warehouse Incharge may also from time to time request the seizing units to carry out procedure under Section 110A of Customs Act, 1962 for early disposal of goods falling under the purview of the said Act.

Storage of Valuables:

The term ‘valuables’ will include:

1. Diamonds, Precious and semi-precious stones, Pearls
2. Gold and articles made of gold
3. Jewellery
4. Silver and articles made of silver
5. High Value Watches
6. Currency including Foreign Currency
7. Such other articles of small bulk and high value as may by special or general order be classified as valuables by the Commissioner.

Inventory:

Whenever any valuables have been seized or detained by a proper officer under the Customs Act, he shall prepare an inventory of such goods. Such detailed inventory of these goods shall be prepared by the seizing officer at the time of detention/seizure in prescribed format in triplicate. During making of such inventory, the packages of the valuable goods shall be clearly numbered.

First copy of the inventory shall be given by the seizing officer to the person from whom the goods are seized. The goods together with the duplicate and triplicate copies of the inventory shall be forwarded, within 24 hours of the
seizure/detention, to the officer posted as Custodian of the strong room/valuable. The Custodian shall acknowledge the receipt of the goods on both, the duplicate and triplicate, copies of the inventory and return the duplicate copy thereafter to the seizing officer for keeping the same in the seizure case file. The Custodian shall put signature with complete name and official stamp and the same shall be clear and legible.

**Packaging and sealing:**

The valuables that are seized /detained shall be packed in non-deteriorating containers like high density plastic or metal boxes. These containers shall be sealed with wire/metal seals instead of rope/wax seals. A paper seal/sticker mentioning the relevant details as given in **ANNEXURE-XVI** shall be affixed on the containers (preferably tamper proof seal/stickers shall be used). The packaging and sealing shall be done in the presence of the person from whom the valuables are seized/detained and two independent witnesses. The paper seal/sticker shall have the signatures of the person from whom the valuables are seized, the independent witnesses and the seizing officer. The names should be written completely, clearly and legibly. If tamper proof seal/stickers are not used a lac seal shall be used with a paper slip mentioning relevant details as mentioned above (**ANNEXURE-XVI**).

The responsibility to keep the valuables in safe custody lies with the seizing officer till the valuables are deposited with the Custodian in the strong room/valuables godown.

**Receipt of Valuables by the Custodian:**

Immediately on receipt of the seized goods and the duplicate and triplicate copies of the inventory, the Custodian shall satisfy himself that the packages have been properly sealed, seals are intact and the inventory has been prepared in a proper manner indicating all the details required with regards to the contents of the packages. The Custodian shall not accept the packages if the package is improperly sealed or the seal is not intact or if the package does not contain the details as mentioned above.

If the condition of the packages, seals and the Inventory are found to be in order, the Custodian shall receive the goods and make entries thereof in the Stock Register (Valuables Register) for which prescribed format has been given in **ANNEXURE-XVII**. He shall then acknowledge the receipt of the sealed packages by way of making cross references of entries in the duplicate and triplicate copies of inventories and thereafter retain the triplicate copy with him and return the duplicate copy to the seizing / detaining officer for keeping the same in the seizure case file. Digital photograph / videograph of the packages shall also be taken and preserved in the computer of the Custodian so that in the event of any tampering, it
can be cross verified with the original packing. Backup copies of such photograph, videograph shall be kept at the systems unit.

**Safe custody of valuables:**

The responsibility of proper storage and custody of these goods shall be on Custodian. The Custodian shall be responsible for the physical custody of the packages with seals intact. He shall, however, not be responsible for the contents of the package/s if the same was received properly sealed with the seals intact thereon. The Custodian shall also ensure that the packages are carefully stored and protected against the ravages of weather, ants, rodents, insects etc.

The Custodian should take adequate precautions against theft and pilferage and keep watch on the condition of the goods and immediately report each such case to the Commissioner. Any incident of the theft/loss/substitution of the goods, which comes to light should not only be immediately examined personally by the concerned Commissioner, but it should also be, with the exception for petty cases, immediately reported to the Principal Accounts Officer and the Statutory Audit Officer etc. as laid down under Rule 16 of General Financial Rules. Board should also be kept informed of all such cases, on immediate basis, with a report of action initiated.

If the package show signs of tampering or damage, the Custodian should immediately bring it to the notice of the Deputy/Assistant Commissioner, in charge of Disposal Section, for appropriate action. Where the goods are involved in court proceedings, it will be necessary to bring the matter to the notice of the court and for getting necessary order from the court for the further course of action. All packages pending for more than five years should compulsorily be inspected for deterioration of packages/seals and the same may be brought to the knowledge of the Deputy/Assistant Commissioner Disposal for appropriate action.

The Custodian shall be responsible for maintaining the Stock Registers in the proper manner; proper custody of Registers for handing over; and Taking over charge and Inventories and for submitting the monthly return of goods ripe for disposal.

**Movement of Valuables:**

In case of seized/confiscated valuables to be taken out for producing before court or for any other purposes as the situation may warrant, written order must be issued by Deputy / Assistant Commissioner in charge of strong room/valuables godown. Such order shall specify, among other things, the following: the name of officer/Custodian who shall carry the valuables out of the strong room/valuables godown, the purpose for which the goods are taken out, the place where the goods are being taken to, the date and time of opening of the strong room/valuables
godown. A separate file shall be maintained for issuance of such orders by the Deputy / Assistant Commissioner in-charge of strong room / valuables godown. Whenever he is transferred, the file shall be handed over to the successor under a proper acknowledgement.

The officer/custodian who carries the goods shall verify the description, condition of the seal, other relevant details to ensure that the correct package is taken out in relation to the case file.

A movement register shall be maintained by the Custodian for this purpose in the format given in ANNEXURE-XVIII(A). Due care should be taken to indicate details of such movements in the Movement Register by the Custodian on each such occasion and shall also make a corresponding entry in the remarks column in Valuable Register.

The officer who carries the goods to the court or any other place shall be present at the time of opening of package(s) and its/their subsequent sealing.

**Inspection:**

 Quarterly inspection of such seized/ confiscated valuables stored in the strong room/ safe shall be carried out and stock of all packages and condition of each package lying there should be done by the committee headed by Deputy /Assistant Commissioner in charge of valuable godown and proceedings of such inspection shall be drawn and kept in the file maintained by Deputy / Assistant Commissioner in-charge of strong room/ valuables godown.

The Quarterly inspections shall be video graphed and a soft copy of such video recording shall be kept in a sealed envelope with the Systems Unit.

**Record Keeping:**

 All files/registers/records must be kept in the safe custody of Superintendent of Customs/Superintendent of Central Excise in charge of strong room/valuable godowns.

The disposal section shall maintain a Master Instruction File containing all instructions on storage and disposal of seized/ confiscated goods issued from time to time. This is important for institutional memory. This Master Instruction File should be handed over to the successor by the Custodian at the time of handing over charge.

**Miscellaneous:**

The Gold in all forms including bullion, ingots, coins, ornaments and crude jewellery and Indian and foreign currency are covered under Notification No.31/86-Cus dated 05.02.86, as amended, issued under Section 110 (1A) of the
Customs Act, 1962. Proper record including entry in valuables register must be kept on such occasions when the action under Section 110 (1B) of customs Act 1962 is initiated.

In case of seized currency or bearer negotiable instruments as the case may be, Action under Section 110 (1B) of Customs Act 1962 shall be initiated immediately after seizure and a proper record including entry in valuables register must be kept. Thereafter, it shall be immediately deposited with the bank in the Government Account. In this regard the Superintendent in charge of strong room/valuables godown shall obtain a certificate from the bank regarding such deposit specifying denominations of currency and the exchange rate prevailing on the date of deposit.

At the time of disposal, valuables shall be taken up for disposal by the Inventorisation Committee so authorised by the Additional/Joint Commissioner. All The proceedings of opening and inventorisation shall be done under videography and the soft copy shall be kept in the safe custody of Superintendent in charge of strong room / valuables godown. In this regard, a register for Disposal of valuable by the Department shall also be maintained as given in ANNEXURE-XVIII

(B). VALUATION & VALUATION COMMITTEE

One vital aspect of speedy disposal of goods is the realistic fixation of retail price in case of Direct Sale and reserve/fair price in case of sale through Auction/Tender. The success of disposal of goods would be greatly dependent upon fixation of fair value keeping into consideration the condition of goods, prevailing market price, technology used in the goods, level of obsolescence, method of store keeping, wider publicity for auction of the goods, the time gap between the seizing date and disposal date, etc.

Fixing Book Value:

(i) For the sake of uniformity, throughout India, Book value of all goods seized whether in town or at the ports / airports for various violations should be prevailing wholesale market price.

(ii) The actual sale price of similar seized goods sold through retail shops etc. should also be kept in view while assigning the value for subsequent seizures. If no such price is available, then Joint Price Committee (JPC) prices fixed at the nearest metropolitan city shall be taken as a guide for fixing seizure value.

Valuation Committee:

The value fixed for direct sale shall be as fixed by Joint Pricing Committee formed by the Commissioners. The composition of the Committee is given below based on Board’s
Circular F. No. F.No.711/1/2006-Cus (AS), Circular No. 12/2006 dated 20.2.2006. To ensure secrecy, the JPC price sheet should be kept sealed with AC/DC, Disposal in charge of auction.

**Valuation for Auction:** The Valuation for Auction/tender etc. is done by fixing fair price and/or reserve price. There is a difference between fair price and reserve price. Fair price for the purpose of auction should be the best price at which the Custom House can sell the goods under normal conditions and should be somewhat lower than the price at which goods of the same kind and in the same condition could be sold by the purchaser in the wholesale market. Whereas, the reserve price should be the absolute minimum price below which for legal or other reasons, a consignment cannot be sold. Ordinarily goods should fetch appreciably more than the reserve price. But in exceptional circumstances as elaborated later, goods can be sold below the reserve price.

**Guidelines for the valuation and disposal by auction-cum-tender of seized, confiscated and time expired goods:**

The disposal by sale of seized, confiscated and time expired goods shall take place simultaneously through public auction and sealed tender right from the first time that the goods are offered for sale.

The auction-cum-tender shall be held every month.

A Joint Pricing Committee (JPC) shall be constituted in each Customs Commissionerate charged with the responsibility of disposal of seized and confiscated goods.

The Joint Pricing Committee shall have the following composition:

i. Additional/Joint Commissioner in charge of Disposal

ii. Deputy/Assistant Commissioner in-charge of Disposal

iii. Superintendent in charge of Disposal

iv. Deputy/ Assistant Commissioner holding any other charge

v. Superintendent holding any other charge

The JPC shall determine the Fair Price of the goods to be disposed of through auction-cum- tender.

The Fair Price should be fixed by ascertaining the probable price of such goods in the wholesale market, and subtracting from it a discount representing the profit of the buyer at the auction-cum-tender. This discount (varying according to the nature of the goods) may be 5% to 10% more than the estimated profit which the
buyer at the auction-cum-tender can reasonably expect to make on resale, the increase being the incentive to the prospective buyer at the auction. Therefore, if an item can fetch Rs 100 in the wholesale market, and the margin of profit is Rs 20, then the discount may be fixed at 25% to 30%, and the fair price would be Rs 75 or Rs 70. While fixing the quantum of discount representing the margin of profit for the buyer at the auction, due importance should be given to the condition of the goods, the type of packing, the fact that no warranty and after-sale service is attached to the goods, the size of the consignment, etc. There shall be no Reserve Price as distinct from Fair Price. The highest bid in the auction-cum-tender shall be accepted by the Chairman of the JPC if the bid is more than, or equal to or close (not less than the Fair Price by 5% to 10%) to the Fair Price. Otherwise, the goods shall be put up for auction-cum-tender the second time. In the event of the goods not being sold in the first two auction-cum-tenders, the goods shall be sold at the highest bid obtained in the third auction-cum-tender. After JPC is conducted the JPC price sheet is prepared depending upon the mutual agreement of all the officers mentioned as ANNEXURE-XV (A).

**DISPOSAL & SALE THROUGH AUCTION & TENDER**

After the goods become ripe for disposal and the valuation etc. is done, concerted efforts need to be made to dispose of the goods expeditiously with a view to get the best price for the goods at the earliest possible opportunity. Apart from the aforesaid twin objectives, the objectives of reducing the cost of storage especially in rented godowns and also disposing of bulky goods with little commercial / no commercial value and consequently liberating the space and thus saving huge amounts of money on account of the rent would also be achieved.

There is a wide variety of goods varying in quantum, type, brand, age, etc. lying with the Department. The goods and their stock etc. vary from place to place and time to time. Therefore, no standardized method or approach of disposal can encompass all the peculiarities of the goods kept at different places throughout the country at all times and under all the circumstances.

**Auction:**

Auction sales are peculiar type of sale of goods. The way and the method of auction sale are different from those of ordinary sales.

As per Section 64 of the Sale of Goods Act, 1930, in an auction sale, the sale is complete when the auctioneer announces it by the fall of the hammer or any other customary manner. Until that is done, a bidder can retract his offer. A bidder is at liberty to withdraw his bid at any time before it is accepted finally by the auctioneer. The bid is merely an offer, and it becomes, irrevocable only, when, its acceptance is announced by the auctioneer. In short, the bidder can retract his bid till the hammer falls or until a similar announcement is made. When goods are sold
in lots, each lot is prima facie deemed to be the subject of a separate contract of sale. A right to bid may be reserved expressly by, or on behalf of, the seller, and if it is not so expressly reserved, it is unlawful for the seller to bid, either himself or through any person. The sale may be notified to be subject to reserved or upset price. Auctions must be held periodically by the Commissionerate for disposal of the ripe for disposal good. The periodicity of the auctions will be decided by the Commissioners based on the quantum of goods available for auction

**Supervision of Auction**

The auction for confiscated goods should normally be under the supervision of Supdt./AC/DC as may be decided by Commissioner. However, if the book value of the goods of individual lot/lots is more than Rs. 1 crore, the auction should be supervised by JC/ADC.

**Role and Rights of Supervisory officers:**

(a) Enforce discipline: Auctioneer while making a bid and that they are expected to adhere to the business ethics and observe discipline. Cross talks and use of gestures is strictly prohibited and can lead to forfeiture of caution money and bar on participation in the auction. If the officer supervising the auction so directs, the Bidders will keep the mobile phones out of the auction hall and/or deposit with the security personnel.

(b) Strive to get maximum bids and prevent formation of cartel for which he may do anything including exercise his discretion to give priority to some lot(s) over others; split or club the lots or withdraw from sale lot(s) any time before or during the auction without assigning any reason.

(c) A record of all the bids at every auction of public property should be maintained. But where the number of lots put up for public auction is very large and the bidding is fast, strict record of all bids cannot be maintained without hampering the tempo of bidding. In such cases it would sufficient to keep a record of the amounts of the bids without the names of the bidders. Complete bid lists including the particulars of bidders in respect of casual auctions (for perishables etc.) where publicity is limited, should, however, be kept.

(d) No bid shall be deemed to be accepted without the concurrence of the officer supervising the auction.

(e) The officer supervising the auction shall be at liberty to withdraw from sale lot or lots for which bids are lower than the reserve price or if there is ring among the bidders to keep the price from going up.
Acceptance of Bid:

The highest bid in the auction-cum-tender shall be accepted by the JPC if the bid is more than, or equal to or close (not less than the Fair Price by 5% to 10%) to the Fair Price. Otherwise, the goods shall be put up for auction-cum-tender the second time. In the event of the goods not being sold in the first two auction-cum-tenders, the goods shall be sold at the highest bid obtained in the third auction-cum-tender. The detailed procedure given under Circular No. 12/2006-CUSTOMS dated 20.02.2006 may be followed and the Commissioner should generally oversee the entire procedure and its fairness from time to time and rule out any irregularity. The chairman of the JPC, if he is of opinion that any bid or process of acceptance needs to be informed to the Commissioner or his opinion is desired can refer such matters to the Commissioner which shall be decided by him keeping in view the overall facts, circumstances and fairness.

(a) If the bid value is below upto 20% of the Fair Price and the book value of the lot does not exceed Rs. 20 lakhs the bid shall be finally accepted by the Chairman of the JPC.

(b) If the bid value is below upto 20% of the Fair Price and the book value of the lot exceeds Rs. 20 lakhs the bid shall be finally accepted by the Commissioner.

If any lots still remain unsold after the third offer for sale, the Commissioner should ascertain whether the JPC has good reason for the goods remaining unsold.

When the bids are accepted provisionally subject to confirmation by the Department, the final decision shall be notified to the auctioneer in within 7 working days from the date of auction and the auctioneer shall immediately communicate to the bidder the decision of the Department.

Delivery:

The bidder can take delivery of goods of the confirmed lots subject to receipt of full payment by the department, and on production of proof of payment of all taxes, levies and moneys etc.

Delivery should be taken within 3 working days (FREE PERIOD) beyond the last date for payment allowed herein above. The Commissioner at his discretion on the sufficient cause being shown may allow further time for taking the delivery not exceeding 10 days and on such terms & condition as he may specify in writing.

INTERNET AUCTION

E-auction through M/s MSTC: The issue of setting up of a centralized portal for Customs e-auction of seized/confiscated/time-expired bonded goods, using the services of M/S MSTC (a Government of India undertaking) has been approved by the Board vide Letter F.No.450/2/2006-Cus-IV dated 26.10.2007. Accordingly,
field formations have been instructed to avail of the services of M/s MSTC Ltd. for conducting e-auction.

**E-auction Start-up:**

**Posting of Auction Notice on Website:**

After registration with M/s MSTC, Principal/seller (like Customs) should send the Disposal List / Terms to them necessarily through e-mail or Computer floppy only. M/s MSTC shall publicize the sale on the Website along with details of Material List, e-auction Schedule (i.e. Opening & Closing Date & Time), Inspection Schedule, Terms & Conditions of Sale, etc. Actual display of Auction Notice on the Website will commence under the heading “View Forthcoming Auctions” only after activation by M/s MSTC. Normally, the e-auction starting date should be kept at a minimum gap of 15 days after the display of the Sale Notice starts on the Website to allow the Customers ample time to make necessary preparation for inspection and bidding.

**Posting of Reserve Prices (RP)/ Fair price:** It is mandatory for the PRINCIPAL to post the Reserve Price (RP) of all the Lots on the Website (through his own Password) at least two working days before the Starting Date of Auction, otherwise the e-auction will not start for those lots for which RP has not been posted. Subject to posting of RP by the PRINCIPAL on the Website, M/s MSTC shall activate e-auction one working day before the Starting Date of e-Auction.

**Steps for feeding the RPs:**

a) Use the Primary user name and password to log on to the website: www.mstcecommerce.com.

b) Click on Reserve Price Entry.

c) Select the auction from the drop down list. It will display all the lots of the auction.

d) Fill up the column against each item. While feeding the RP care should be taken about the Unit of Measurement indicated against each lot. For example, if the unit of measurement is KG then RP should be in KG, if it is in lot then RP should be in lot and so on.

On closing of Auction, Automatic Sale Intimation Letters will be issued to the highest (H-1) Bidders by email as under:

a) **For Confirmed Sale:** If the H-1 Bid is equal to or more than the RP, automatic Confirmed Sale Intimation Letter will be issued to the H-1 Bidder by e-mail and he will be advised to deposit 25% security deposit (SD) within 3 days. On getting the SD, MSTC shall issue Sale Order /Acceptance Letter to the Party advising him to pay the balance Sale Value with applicable Duties/Taxes within 05 days.
b) For “PENDING” Sale: For the lots where the H-1 bid is less than the RP, these H-1Bids will be kept on hold as “Pending” decision. However, the Principal should communicate their final approval / rejection of the H-1Bids within 7 days of closing of Auction by posting it online on the Website. Once approval is accorded online, the systems will automatically fire Sale Intimation Letter to the H-1 parties for submission of SD within 3 days. On getting the SD, Sale Order / Acceptance Letter will be issued by M/s MSTC to the approved H-I Bidders advising them to pay the balance Sale Value with applicable Duties/Taxes within 05 days.

**INSPECTION OF MATERIALS:** All the materials put up for sale through e-Auction will be sold strictly on "As is where basis “and” No Complaint basis”. M/s MSTC / PRINCIPAL reserve the right to accept / reject any offer / bid without specifying any reason thereof. All quantities are only estimates and without any guarantee. Inspection, limited to visual checking only, will be allowed with prior appointment from the PRINCIPAL. Any clarification required may be sought by the Bidders from the PRINCIPAL at the time of inspection, and no dispute regarding the material or its physical conditions / location will be entertained thereafter.

**SALE RESULT/ INTIMATION**

All sales will be subject to Reserve Price (RP) fixed/subject to approval by the PRINCIPAL. The PRINCIPAL also has the option to fix a lower limit of the RP for an individual Lot. Such lot will not be declared “sold” on final bidding but declared "pending" during e-auction irrespective of reserve price comparison. The sale acceptance will be intimated by the Principal within 7 working days from the date of e-Auction. Once bid is confirmed/ accepted, buyer has to make payment accordingly within 3 (THREE) days from the date of Confirmation/ Acceptance

**DIRECT SALES AND OTHER MODES OF DISPOSAL**

**Sale to NCCF:**

All confiscated consumer goods sold in retail through departmental retail shops should also be offered for sale to the National Cooperative Consumers’ Federation, an apex organization of all consumer Cooperative Societies in the country at the prices fixed for retail sales less a discount of 14.5%. The sale to NCCF Ltd. will be subject to the following conditions:

i) NCCF would lift the consumer goods at quarterly intervals soon as intimation to this effect is sent to them.

ii) Goods will be sold to the Federation only on cash or Bank Draft, Banker’s cheques of local bank and there shall be no pick and choose except that the damaged and unsalable goods may be rejected by the Federation. Such rejected goods will be sold by public auction.
iii) Where statutory possession of prescribed licenses is a precondition for obtaining supplies as a dealer, NCCF or its constituents should hold such a license.

The representative of the NCCF may be afforded the facility of inspecting goods before lifting them. A broad indication of description of goods together with quantity that are available for disposal may be given to NCCF, as and when required. To avoid any complaint of preferential treatment to any other registered cooperative society, goods should be sold on ‘first-cum-first-served’ basis. A list of goods ripe for disposal may be sent to the concerned branches of NCCF by the jurisdictional Commissionerate once a month so that NCCF is aware of the goods available for disposal.

**Sale to Other Cooperative Societies:**

The goods may also be offered for sale to other co-operative societies/federations. Only Co-operative Societies verified and certified every year as genuine by an officer of the rank of AC and above, State Cooperative Federation and State Civil Corporations should be permitted to purchase the goods. The genuineness of co-operative societies may be verified through Registrar of Societies. They may be given discount of 10% from the market price of these goods. Apart from the conditions applicable for sale to NCCF, they may be subjected to the following additional conditions:

(a) The goods so purchased are in turn sold directly to bonafide consumers only on the basis of one piece / set per consumer

(b) They shall maintain accounts for purchase and sale. Departmental officer can scrutinize the accounts and stocks as and when necessary.

Goods may be sold to registered Govt. Employees Consumer Cooperative Society Ltd. including Cooperative Societies of Customs & Central Excise Employees at the same terms & conditions including 10% discount. *(Based on Circulars F.No.30/33/67-LCI dated 19.1.1968, F.No.30/71/68 dated 8.11.1968 and F.No. 711/01/2006-Cus.(AS)/Pt. dated 12.04.2012)*

Further any lot of confiscated/seized consumer goods of value not exceeding Rs. Five lakhs which are ripe for disposal shall be offered to NCCF/KB/Other Central Government Employees Consumer Cooperative Society / Multi-State Consumer Cooperative Societies/ State Consumer Cooperatives, subject to the following conditions.

(a) They should be functional for at least 10 preceding years and should submit Income- Tax returns and VAT/ST returns showing their activities in sale of goods to the consumers and that appropriate taxes have been duly paid and relevant laws/rules and regulations are complied with.
(b) Only those Co-operative Societies or National/State level Cooperative Federations that are duly verified and certified as genuine, every year by an officer not below the rank of AC/DC, and those that have been duly registered under Multi-State Cooperative Societies Act, 2002 or concerned State Cooperatives Act, should be permitted to purchase the confiscated/seized goods. The genuineness of co-operative societies/federation may also be verified through concerned Commissionerates or other field formations of this department, wherever required.

(c) They should be obliged to sell such seized/confiscated goods directly to bonafide consumers.

(d) No pick and choose of items would be allowed.

(e) Seized/confiscated consumer goods shall be offered on first come first served basis.

(f) Any lot of confiscated/seized consumer goods of value exceeding Rs. Five lakhs shall not be sold directly to the aforesaid cooperative societies/federation and shall be sold by E-auction or auction-cum-tender basis.

(g) Complete accounts may be called for scrutiny by the department as and when necessary, to ensure that the seized/confiscated goods, which are sensitive to smuggling are not misused; or to verify that their disposal has not been made to a single party/individual; or to ensure that sale has not been made to any persons where in purchase vouchers etc. had been misused by unscrupulous elements in legitimizing smuggling.

In respect of confiscated/seized goods of all types and confiscated/seized consumer goods exceeding value of Rs. Five lakhs in single lot, may be disposed through e-auction or auction-cum-tender, since it offers enhanced transparency and accountability for quick disposal of goods. In such e-auction or auction-cum-tender process, all persons including NCCF, KB, other CG employee’s consumer cooperatives, Multi-State/State cooperatives or National/State level Cooperative Federations can also participate. If the NCCF/KB/other Consumer Cooperative societies are found to be successful bidder, then the goods may be sold to them with the eligible rebate/discount as prescribed, subject to fulfillment of other conditions of e-auction/auction-cum-tender. (Circular no. 50/2005-Customs dated 1.12.2005 and No. 12/2006-Customs dated 20.02.2006.)

Sale to CSD & Other Canteens:

Confiscated consumer and luxury goods including liquor should also be offered for sale to TTDC, Canteen Stores Department (CSD) of the Navy, Army & Air Force, Para Military Forces Canteens, etc. on the basis of retail price with a discount of 10%. The requirements of Army authorities/Military Canteens/ Canteen Stores Department (CSD) for purchase of confiscated/seized goods may be allowed since
they provide consumer goods of high quality to the troops wherever they are situated.

**Destruction**

Destruction is another mode of disposal. The powers to order destruction of the goods shall be exercised as laid down in **Annexure-XIV** giving details of power of officers. The guidelines for order of destruction of goods are as follows.

- (a) Items like sub-standard drugs, time expired medicines chemicals and toilet preparations which are beyond the valid expiry period as per the manufacturers, plants, seeds or bulbs, foodstuff, spices and other goods unfit for human consumption should be destroyed. In all these cases, a written report giving the details as to why the item should be destroyed, should be put up to the competent authority and the order of the competent authority in writing for destruction should be taken.
- (b) Obscene literature, obscene films CDs & DVDs, etc should also be destroyed.
- (c) Similarly, pirated VCSs films, DVDs cassettes, etc. also should be destroyed.
- (d) The officers should refer to pollution control Act and rules of the state Govt. if any before supervising destruction.
- (e) In the case of confiscated goods ripe for destruction. The Departmental officers should take statutory clearance. If any.
- (f) In the case of plants and allied items. The destruction shall be supervised jointly with plant Quarantine authorities.
- (g) Supervision of destruction will be exercised by the officers as prescribed in **Annexure-XIV** giving the details of powers of officers.
- (h) The mode/method of destruction also shall be decided by the Commissioner of customs or Central Excise as the case may be taking all factors into consideration such as item to be destroyed statutory requirements of the state opinion of competent authority such as plant quarantine Drugs control, Port Health authority, pollution control Board etc
7. RECOVERY OF ARREARS

RECOVERY OF SUMS DUE TO GOVERNMENT (SECTION 142)

(1) Where any sum payable by any person under this Act is not paid, -

(a) the proper officer may deduct or may require any other officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other officer of customs: or

(b) the Assistant Commissioner of Customs may recover or may require any other officer of customs to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the Assistant Commissioner of Customs or such other officer of customs; or

(c) if the amount cannot be recovered from such person in the manner provided in clause (a) or clause (b) –

(i) the Assistant Commissioner of Customs may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any Property or resides or carries on his business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified there under as if it were an arrear of land revenue; or

(ii) the proper officer may, on an authorization by a Commissioner of Customs and in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus, if any, to such person.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made there under provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

7.1 Arrears in Customs may be categorised into three broader categories:

(1) Recoverable arrears:

Arrears falling in this type of are those arrears that can be realised by initiation of recovery action laid by the department by means of various notification and
circulars in this regard. The prescribed register to be mentioned by the various formations is shown as ANNEXURE-XIX (G).

(2) Non recoverable arrears:

These are those type of arrears in which arrears cannot be realised due to the fact that the person is either dead or is a citizen of other country whose whereabouts is not traceable. The prescribed register to be mentioned by the various formations is shown as ANNEXURE-XIX (H).

(3) Restrained arrears:

Those arrears which cannot be realised since the fact that the case concerned is under appeal period or certain stay order regarding non initiation of arrear recovery procedure has been ordered by appellate court such as the commissioner (Appeal), CESTAT, High court or Supreme Court. The prescribed register to be mentioned by the various formations is shown as ANNEXURE-XIX (F).

It has been noticed that there is no standard procedure to deal with the cases where the defaulter is not traceable or the unit is defunct or the defaulter is traceable but is not responding. The matter has been examined and Standard Operating Procedure has been issued by the Commissionerate. The various aspects of the SOP Instruction issued on 23/05/2016 are given below.

(i) For initiating action under Section 142, all the Divisional Officers are appointed as Authorized Officer as required in Board's Circular No. 365/81/91-CX dated 15.12.97. The authorized officer will prepare a certificate in ANNEXURE-XX (A) and send it to all other Divisions/D.C. (CUSTOMS) in Lucknow Central Excise Zone and Meerut Zone and other Chief Commissioners outside Uttar Pradesh.

(ii) It is necessary to identify the properties/assets of the defaulters. For this purpose, different authorities are to be approached. A standard checklist and proforma letters to different authorities are enclosed as ANNEXURE-XX (B) to ANNEXURE-XX (F). Divisional Officers will take actions as per the standard checklist and write letters to all the authorities simultaneously. He will pursue the matter periodically with the authorities for at least three to four months.

(iii) If the above efforts result in identification of assets/properties, further action in terms of the Circular dt. 15.12.1997 ibid is to be taken. Services of the Auctioneer can be utilized for auction/sale of the properties after following the prescribed procedure.

(iv) In cases, where no property/assets could be identified, a list of such cases will be prepared and sent to the TRC Section of the Headquarters so as to approach the DGRI with a copy to Nodal Officer in terms of clause xxiii under Para 3 of Board's O.M.dt. 12.8.2004 issued vide F.No.296/34/2004 CX-9 (PF). ARC Section
will put up the files to the Commissioner each month so that the matter can be periodically taken up with DGRI, DGCEI and the Nodal Officer. If the above actions do not yield desired results, write off proposals can be examined and proposal for WRITE OFF may be send to the commissionerate as per the ANNEXURE given below as ANNEXURE- XXI.

7.2 GUIDELINES / PROCEDURE FOR WRITE OFF/ ABANDONMENT OF IRRECOVERABLE AMOUNT OF ARREARS OF REVENUE

(OFICE OF THE CHIEF COMMISSIONER (TAR)

1. Deducting such amounts from any money owing to the defaulter;
2. Attachment and sale of DETAINED goods belonging to the defaulter
3. If the goods are under the control of Customs officers anywhere in the country (including Ports, ICSs, CFs, Bonded Warehouses) such officers would be required to recover the said amount by detaining and selling such goods belonging to the defaulter.
4. If the amount cannot be recovered by the aforesaid means, any movable or immovable property belonging to or under the control of the defaulter will be detained under Section 142(1)(c ) read with Customs(Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995.
5. If any dues are not paid within 30 days of the detention as above, the said property would be sold in the prescribed manner.
6. The jurisdictional Commissioners/Chief Commissioners shall also identify the cases where reportedly defaulters are not traceable or assets are not available. The Commissioners will complete enquiries at all known addresses of the defaulters (e.g. offices, works, depots, warehouses, residence etc.) to ascertain whether any moveable or immovable assets can be located. Discrete investigations will be made from the neighbouring persons, trade rivals, market and other concerned Government departments whether any other place of business of the defaulter anywhere in India exists. If yes, action will be extended to such places, discreet investigations should also be made about his Bank accounts or any possible clues with the banks.
7. If even after the above action the defaulters remain untraceable and assets not available, zonal Chief Commissioners will sent case-wise particulars to the DGR/DGCEI as the case may be, under intimation to the concerned Nodal officers. The help of such intelligence agencies will be taken for further pursuing such cases. The Nodal officer will review action for locating the defaulters or assets in accordance with the law and coordinate so that the investigations by the said intelligence agencies are quickly completed and results intimated to Chief Commissioners. The officers of these Directorates General will use their resources in locating such persons and their property anywhere in the country and for this purpose, they may, inter-alia, take the help of income tax authorities whose database may also be useful. The Nodal officer will do monthly monitoring of such references and results of the investigations. DGRI and DGCEI may have a special cell in their headquarters for attending to such references and ensuring immediate action and reporting of results by field units.
8. OVERVIEW OF CUSTOMS FUNCTIONS AT LAND CUSTOMS STATIONS

Customs functions at border Land Customs Station (hereinafter called as “LCS” for the sake of brevity) cover substantial areas of activities involving trade facilitation – import & export of goods and enforcement of various provisions of the Customs Act, 1962; enforcing prohibitions and restrictions imposed on imports and exports under various legal enactments; levy and collection of customs duties on imports and exports as per the Customs Act, 1962 and the Customs Tariff Act, 1975; prevention of smuggling of contraband goods including fake/counterfeit Indian currency, narcotic drugs & psychotropic substances and in attempted smuggling activities, effecting seizure of goods as well as conveyance, if any used in smuggling activities; receiving seizure goods along with conveyance, if any used for transportation of smuggled goods, from SSB, Police & others; Making arrests in deserving cases, doing investigation & follow-up, launching prosecution, pursuing court cases, submitting proposals for preventive detention, etc.; pursuing appeal cases before appellate authorities; initiating as well as concluding, in certain cases, adjudication proceedings; clearance of international passengers / tourist and supervision over general public movement; monitoring Nepalese vehicles entering into or exiting out of India; temporary importation of private road vehicles under Carnet; movement of CTD goods to and from Nepal; movement of goods, Nepalese vehicles & traveler’s baggage from one part of Nepal to another through Indian territory, transfer of residence facility (TR facility), storage, safe custody and disposal of seized/confiscated goods.

8.6.1 The basic functions performed at LCS are elaborated below in a sequential flow:

8.6.1.1 MOVEMENT OF CTD GOODS TO AND FROM NEPAL

In the trade arena, recent decades have seen reaching of many international transit treaties, conventions, agreements particularly in developed western countries, pursuit of which has greatly benefitted them in this technically sharp competitive age. Recognizing inter alia that Nepal as a landlocked country needs freedom of transit, including permanent access to and from the sea, to promote its international trade, the two neighboring & friendly countries – India and Nepal signed the Treaty of Transit on 6th December, 1991 which has been renewed time to time, with modifications mutually agreed upon.

According to Article I of the Indo-Nepal Treaty of Transit, the contracting parties shall accord to “traffic-in-transit” freedom across their respective territories through routes mutually agreed upon from Kolkata Port to Nepal and vice versa. In exercise of the powers conferred by clause (b) and (c) of section 7 of the Customs Act, 1962, the Central Government has appointed the
places of LCSs and specified the routes. The routes pertaining to LCSs falling under the jurisdiction of the Customs (P) Commissionerate, Lucknow are mentioned below.

A’. Traffic-in-transit will pass only through one of the mutually agreed routes.

For ensuring the “traffic-in-transit” freedom across two borders a mechanism has been devised in the form of Customs Transit Declaration (hereinafter called as “CTD”) in the aforesaid treaty and its detailed procedure has been laid down in the memorandum to the protocol to the Treaty of Transit. Except in cases of failure to comply with the procedure prescribed, such traffic-in-transit shall not be subject to avoidable delays or restrictions. Traffic-in-transit shall be exempt from customs duties and from all transit duties or other charges except reasonable charges for transportation and such other charges as are commensurate with the costs of services rendered in respect of such transit. These procedure applying to Imports and Exports are briefly and sequentially narrated as under:-

8.6.1.2 Import Procedure (Transit):

When goods are imported from third countries for Nepal in transit through India, the following procedure shall be observed:

1. At the Indian Port of entry (hereinafter called the “Custom House”), the importer or his agent (hereinafter referred to as the “importer”) shall present a CTD prepared in sextuplicate containing the following particulars:

   (a) Name of the ship, Rotation number and Line number;
   (b) Name and address of the importer
   (c) Number, description, marks and serial numbers of the packages;
   (d) Country of consignment and country of origin, if different;
   (e) Description of goods;
   (f) Quantity of goods;
   (g) Value of goods;
   (h) Nepalese import licence number and date;
   (i) Letter of credit number, date and name and address of the issuing bank;
   (j) Route of transit (one of the mutually agreed routes); and
(k) A declaration at the end in the following words:-

“I/We declare that the goods entered herein are for Nepal, in transit through India and shall not be diverted en-route to India, or retained in India.

I/We declare that all the entries made herein above are true and correct to the best of my/our knowledge and belief.”

Signature

2. All the copies of the CTD along with bill of lading, invoice, packing list, copy of Nepalese import licence wherever issued, letter of credit, wherever required, authenticated by the Nepalese consulate in Kolkata or the issuing bank shall be presented to the Custom House.

Nepalese imports shall be removed to Nepal sheds within free time, if not already put in wagon or trucks.

3A. In respect of containerized cargo, the following examination procedure shall be followed:

(i) If ‘one-time-lock’ of the container put on by the shipping agent or the carrier authorized by the shipping company is found intact, the officer posted at the Custom House shall allow transportation of the containerized cargo without examination of the cargo unless there are valid reasons to do otherwise.

(ii) If ‘one-time-lock’ of the container is found broken or defective, Indian customs authorities shall make due verification of the goods to check whether the same are in accordance with the CTD, put ‘one-time-lock’ and endorse its serial number in the CTD and allow the container to move the destination.

3B. In respect of non-containerized cargo, the officer posted at the Custom House shall make a selective percentage examination of the goods to check
whether the goods are in accordance with the CTD and conform to the Nepalese import licence, wherever issued, and L/C. On being satisfied, goods for Nepal shall be approved for onward transmission putting ‘one-time-lock’ and endorsing its serial number in the CTD. However, in making such examination, avoidable delays shall be curtailed to the utmost in order to expedite the traffic-in-transit.

4. Goods shall be transported from the Custom House to the border Land Customs Station of exit (hereinafter called the LCS of exit).

5. Where goods cannot be transported in closed wagons or pilfer-proof container trucks or sealed tarpaulin covered trucks and have to be transported in open wagons or flats or open trucks, detailed identifying particulars shall be recorded in CTD.

6A. The sensitive goods as specified by the Government of India from time to time with prior intimation to the Government of Nepal, shall be covered by an insurance policy or a bank guarantee and/or such legal binding undertaking to the satisfaction of the Commissioner of Customs, Kolkata to recover the customs duties, etc. in case the goods in transit do not reach to Nepal. The amount of insurance policy or bank guarantee and/or undertaking would depend on whether the goods are moving by rail or moving by road in trucks belonging to Nepal Transit and Warehousing Company Ltd. / Nepal Transport Corporation or moving by road in trucks other than the foregoing specified trucks.

6B. For goods other than those specified as sensitive, the importer shall furnish, to the satisfaction of the Commissioner of Customs, Kolkata, a legally binding undertaking that the amount equal to the difference between the market value of goods in India and their CIF value shall be paid, on demand, to him, in the event of the goods not reaching Nepal.

7. After the Custom House is satisfied as regards the checks, it shall endorse all the copies of the CTD. The original copy shall be handed over to the importer. The duplicate and triplicate will be sent by post to the LCS of exit and the remaining shall be retained by the Custom House. In order to avoid postal delay, duplicate and triplicate copies along with original railway receipt, shall be handed over to the importer or his authorized representative in a sealed cover, if he so desires.

8. In case of any suspicion of pilferage, traffic-in-transit shall be subject to checks by the Indian Customs during the period that they are in transit, as may be necessary.

9. On arrival of traffic-in-transit at the LCS of exit, the importer shall present the
original copy of the CTD duly endorsed by the Indian Custom House of entry, to the Indian Customs officer posted at the LCS of exit, who shall compare the original copy with the duplicate and triplicate received by him either through post or through importer in sealed cover and proceed to examine the goods in the following manner.

10A. On arrival of the containerised cargo at the LCS of exit, the following examination procedure will be followed:

(i) The Indian Customs authorities posted at the LCS of exit shall merely check the ‘one-time-lock’ of the container put on by the shipping agent or the carrier authorized by the shipping company or the customs authorities posted at the Custom House or during the transit and, if found intact, shall approve for onward transmission of the containerized cargo to Nepal, without examination of the cargo unless there are valid reasons to do otherwise.

(ii) In case where the ‘one-time-lock’ of the container is found broken or defective, the Indian Customs authorities posted at the LCS of exit shall make due verification of the goods to check whether the goods are in accordance with the CTD and conform to the Nepalese import licence, wherever such licence is issued, and L/C. If, on verification, the goods are found in accordance with the CTD and conform to the Nepalese import licence and the L/C, the Indian Customs officer posted at the LCS of exit shall put fresh ‘one-time-lock’ and approve for onward transmission of the containerized cargo to Nepal. The serial number of the fresh ‘one-time-lock’ shall be endorsed by the Indian Customs authorities posted at the LCS of exit on the CTD.

10B. On arrival of non-containerised cargo at the LCS of exit, the following examination procedure will be followed:

(i) The sealed marine containers or the sealed pilfer-proof containerized trucks or the sealed tarpaulin covered trucks, sealed packages, as the case may be, shall be presented to the Indian Customs authorities posted at the border LCS, who shall examine the seals and locks and, if satisfied, shall permit onward transmission without examination of the cargo unless there are valid reasons to do otherwise.

(ii) In case the seals or locks are found broken or defective, or there is suspicion otherwise, the Indian Customs authorities posted at the LCS of exit, shall examine the goods to check whether the goods are in accordance with the CTD, Nepalese import licence, wherever issued, and L/C. On being satisfied, goods for Nepal shall be approved for onward transmission through such escorts or supervision as may be necessary.
to ensure that the goods cross the border and reach Nepal.

10C. On arrival of traffic-in-transit in **open trucks, or flats** the Indian customs authorities at the LCS of exit will carry out such **selective percentage examination (percentage of packages & contents thereof and not percentage of contents of each package)** as is deemed necessary to ensure that goods are in accordance with the CTD and conform to Nepalese import licence, wherever such licence is issued and L/C.

11. After satisfying himself as regards the checks contemplated in above paragraph, the Customs authorities posted at the LCS of exit will endorse all the copies of the CTD. The goods in transit shall be allowed onward movement by road. The Indian Customs officer posted the LCS of exit shall, thereafter, through such **escorts or supervision** as may be necessary, ensure that the goods cross the border and reach Nepal. Such officer will certify on the copies of the CTD that goods have crossed into Nepal. The Indian Customs officer shall then handover the **original** copy of the CTD to the importer, send the **duplicate** to the Indian Custom House of entry, send the **triplicate** to the Nepalese Customs officer at the corresponding Nepalese post and after it is received back duly endorsed by the Nepalese customs officer, retain it for his records.

12. In cases where the duplicate and triplicate copies of the CTD are not received at the LCS of exit, the Indian Customs officer will, by telephonic or other quick means of communication (e.g. fax, e-mail etc.) with the Custom House of entry, seek confirmation to ensure against delay and then on the basis of aforesaid communication allow dispatch of goods.

13. The Nepalese Customs Officer shall:

   (i) endorse a certificate over his signature and authenticate it under customs stamp on the **original** copy of the Nepal import licence, if any, L/C and the **original & triplicate** copies of the CTD that the packages correspond in all respects with the particulars shown in the Declaration and in all material respects with the Nepalese import licence and the L/C, wherever required or opened as the case may be, and that the goods have been cleared from the Nepalese Customs custody for entry into Nepal.

   (ii) Return duly endorsed and authenticated the **original** copy of the CTD and the **original** copy of the Nepalese import licence, if any, to the importer or his agent.

   (iii) Send the duly endorsed **triplicate** copy of the CTD directly to the corresponding Indian LCS of exit after the goods have crossed the Nepalese border customs post.
The importer will present **duly endorsed and authenticated original copy of the CTD** to the corresponding Indian LCS of exit within **15 days** of the date on which transit was allowed at the Indian Port of importation or such extended time as the concerned Deputy/Assistant Commissioner of Customs may allow. For every week or part thereof delay in presenting the original CTD duly certified as above, the importer shall pay a sum of Rupee 1/- for every Rupees 1,000/- of the Indian market price of the goods to the Deputy/Assistant Commissioner of Customs of the concerned LCS.

The Indian LCS of exit will forward the **triplicate** of the duly endorsed copy of the CTD on a daily basis to the Commissioner of Customs, Kolkata by Speed-Post.

**8.6.1.3 Export Procedure:**

When goods from Nepal are cleared for export to third countries, in transit through India, the following procedure shall be observed:

1. The designated officer-in-charge of the Nepalese customs office at the border shall furnish the following certificate on the Customs Transit Declaration (CTD).

   “I have verified that the goods specified in this Declaration and of the quantity and value specified herein have been permitted to be exported under licence number .... dated ..... (wherever issued) and under letter of credit number ............... dated ...... (wherever required) issued by .......... (name and address of the issuing bank).”

   Signature and Seal

2. The exporter or his agent (hereinafter referred to as the exporter) shall present to the Indian Customs officer at the border Land Customs Station through which the goods are to enter India (hereinafter called as the “LCS of entry’), a CTD containing the following particulars:

   (a) Name and address of the exporter;

   (b) Number, description, marks and serial numbers of the packages;

   (c) Country to which consigned;

   (d) Description of goods;

   (e) Quantity of Goods;
(f) Value of goods;
(g) Nepalese export licence number and date;
(h) Country of origin of the goods;
(i) Letter of credit number, date and name and address of issuing bank;
(j) Route of transit (one of mutually agreed routes);
(k) Indian customs office of entry from Nepal; and
(l) A declaration at the end in the following words:

"I/We declare that all the entries made herein above are true and correct to the best of my/our knowledge and belief."

Signature

3. The CTD shall be made in quadruplicate. All copies, along with invoice, packing list and a copy of the L/C, authenticated by the concerned Nepalese bank, shall be presented to the Indian customs officer posted at the LCS of entry. No additional documents will be asked for by the Indian customs, except when considered necessary for the clearance of any specific goods.

4A. On arrival of the containerized cargo at the LCS of entry, the following examination procedure will be followed:

(i) The Indian customs officer posted at the LCS of entry shall merely check the ‘one-time-lock’ of the container put on by the shipping agent or the carrier authorized by the shipping company and if found intact, shall allow transportation of the containerized cargo, without examination, unless there are valid reasons to do otherwise.

(ii) In case where the ‘one-time-lock’ of the container is found broken or defective, the Indian Customs authorities posted at the LCS of entry shall make due verification of the goods to check whether the goods are in accordance with the CTD and conform to the Nepalese export licence, wherever such licence is issued, and L/C. If, on verification, the goods are found in accordance with the CTD and conform to the export licence and the L/C, the Indian Customs authorities posted at the LCS of entry shall put fresh ‘one-time-lock’ and allow the container to move to the
destination. The serial number of the fresh ‘one-time-lock’ shall be endorsed by the Indian Customs authorities posted at the LCS of exit on the CTD.

4B. On arrival of sensitive goods as specified by the Government of India from time to time with prior intimation to the Government of Nepal at the LCS of entry, the Indian customs officer at the point of entry shall make such selective percentage examination of packages and contents thereof as may be necessary to check whether the goods are in accordance with the CTD and of origin as declared in the CTD. Sensitive goods shall be transported from the LCS of entry to Kolkata Port in closed railway wagons or in pilfer-proof containers (to be provided by the exporter) which can be securely locked. The containers or wagons, as the case may be, shall be locked and duly sealed after examination by the customs officer posted at the LCS of entry.

4C. Where goods cannot be transported in closed wagons, and have to be transported in open wagons or flats or open trucks, detailed identifying particulars shall be recorded in the CTD.

5. After the Indian Customs authorities at the LCS of entry are satisfied as regards the checks contemplated in the preceding paragraphs, it shall endorse all the copies of the CTD. The original copy shall be handed over to the exporter. The duplicate and triplicate will be sent by post to the Commissioner of Customs, Kolkata and the quadruplicate copy shall be retained. In order to avoid delay in postal transmission, duplicate and triplicate copies of the CTD, along with copy of the original railway receipt, shall be handed over to the exporter or his authorized representative in a sealed cover, if he so desires.

6. The sensitive goods for export, as specified by the Government of India from time to time with prior intimation to the Government of Nepal, shall be covered by an insurance policy or a bank guarantee and/or such legally binding undertaking to the satisfaction of the concerned Commissioner of Customs to recover the customs duties, etc. in the event of the goods not reaching Kolkata Customs. The amount of insurance policy or bank guarantee and/or undertaking would depend on whether the goods are moving by rail up to the sea port or moving by road in trucks belonging to Nepal Transit and Warehousing Company Ltd. /Nepal Transport Corporation or moving by road in trucks other than the foregoing specified trucks.

7. For goods other than those specified as sensitive, the exporter shall furnish, to the satisfaction of concerned Commissioner of Customs, a legally-binding undertaking that the amount equal to the difference between the market value of the goods in India and their CIF value shall be paid, on demand, to the concerned Commissioner of Customs in the event of the goods not reaching
8. In case of any suspicion of pilferage, the sensitive goods shall, while in transit through India, be subject to such checks by the Indian customs, as may be necessary, particularly at the point of railway transshipment from meter-gauge to broad-gauge.

9. On arrival of goods at Kolkata Port, the exporter shall present the original copy of the CTD duly endorsed by the LCS of entry to the Custom House. This copy shall be compared by the Custom House with the duplicate and triplicate received by it from the LCS of entry. In case of goods which have moved under seals and locks, the Custom House shall check the seals and locks and where there is suspicion that they have been tampered with, will examine the goods to identify them with the corresponding Customs Transit Declaration. After the verification as contemplated in this paragraph is completed by the Custom House, it shall permit the export of the goods and will, in case of sensitive goods, ensure that these are duly shipped. After the goods have been shipped, the Customs House shall endorse all the copies of the CTD, hand over the original copy to the exporter and send the triplicate copy to the LCS of entry and retain the duplicate.

10. Where export cargo is shut out, it will be removed to the warehouse leased out to Nepal Transit and warehousing Company Ltd., on filing of such removal instruction by the exporter or his authorized agent.

11. The Nepalese export cargo not shipped due to valid reasons will be permitted to be returned to Nepal according to the procedure applicable for the Nepalese import cargo mentioned in Import section.

12. The concerned Commissioner of Customs shall provide to the concerned department of Government of Nepal, from time to time, details of cases where the goods, including those goods which have not been insured, do not appear to have reached Kolkata Customs. The Government of Nepal shall thereupon carry out enquiries and make all possible efforts to ensure that the concerned persons pay dues to the Government of India.
8.6.2.0 NEPALESE VEHICLES & TRAVELLER'S BAGGAGE FROM ONE PART OF NEPAL TO ANOTHER THROUGH INDIAN TERRITORIES

Treaty of Transit, facilities are to be provided for movements of goods and vehicle from one part of Nepal to another through Indian territories (called in common parlance as 'N to N movement'). The document on which such movement is based is called "Nepal to Nepal Invoice". Four copies of such invoice duly authenticated by Customs officer-in-charge of the adjoining Nepal Customs unit are to be presented by the party before the officer of LCS of entry.

In keeping with the provisions of the Treaty of Transit signed by two Governments on December 6, 1991, vide letter of exchange dated 16th February, 1993, it was agreed that for movement of goods and Nepalese vehicle from one part of Nepal to another through Indian territory, the **procedure prescribed for export of goods from Nepal to third countries shall apply mutatis mutandis** except that there will be no cash deposit or bond system upon the necessary undertaking given by the Nepalese Customs authorities. The Finance Ministry, Department of Revenue vide its letter F.No. 552/74/92-LC dated 28th June, 1993 has circulated the format of undertaking to be given by the Nepalese Customs authorities.

Further, as regards the movement of baggage accompanying a person travelling from one part of Nepal to another part through Indian territory, the government of India shall prescribe a simple procedure in respect of such articles of baggage as the Government of India may specify as being likely to be retained in India having regard to the difference in prices in Nepal and India and other relevant factors. For other articles of baggage accompanying a passenger, movement shall be freely allowed.

Vide letter C. No. VIII (25)312-Tech./04/5438 dated 01/03-2004, informed that in compliance to Indo-Nepal Treaty of Transit, a procedure has been prescribed for movement of the goods from one part of Nepal to another part via India as contained in Land Customs Manual on page 229 and 230. The relevant gist of the LCM is incorporated hereunder. The procedure specified therein should be followed but for execution of Bank guarantee. In place of Bank Guarantee an undertaking from Nepalese Customs authorities in the proforma enclosed with the Ministry's letter F.No. 552/74/92-LC dated 28-6-93 may be taken.

On receipt of 'Nepal to Nepal Invoice' duly authenticated by Customs officer-in-charge of the adjoining Nepal Customs unit and **undertaking given by the Nepalese Customs authorities**, the Border Examiner should allow entry of goods into India after making an endorsement to this effect on all the 04 copies of the Invoices. The Truck/Wagon of the Train is to be sealed with "Customs Seal". The **original** copy of the Invoice is given to the party and will accompany the consignment. **Duplicate and triplicate** copies should be sent to the LCS of exit by
registered post. However, if the need be, the duplicate & triplicate copies may be handed over to the carrier in sealed cover. At the time of exit of those goods from India to Nepal, those should be physically checked and if found correct, exit should be allowed. Endorsement to this effect is to be made on duplicate & triplicate copies of Nepal to Nepal Invoice and duplicate copy should be immediately sent to LCS of entry by registered post. In case, there is any shortage, that should also be reported to the L.C.S. of entry. In such case L.C.S. of entry will realize the duty with the help of undertaking given by the Nepalese Customs authorities. An adjudication proceeding should also be initiated against the party.

Checks at the time of Entry:

1. All copies of Nepal to Nepal Invoices are endorsed by Nepal Customs.
2. Duties have been correctly assessed/ calculated.
3. Undertaking has been given by the Nepalese Customs authorities.
4. All the columns of invoice have been correctly and legibly filled.
5. The invoice has been signed by the party or his authorized agent.
6. At the time of departure, the Truck/Wagon is properly sealed by Indian Customs.
7. Duplicate & triplicate copies of Invoice are immediately sent to LCS of exit by registered post.
8. At the end of every month, the entries in register should be verified to confirm whether the endorsed duplicate copy of particular invoice has returned from LCS of exit. If it has not returned, the LCS of exit should be reminded with a copy to the concerned party and Nepalese Customs authorities.

Checks at the time of Exit:

The Customs seal of LCS of entry is in intact.
Goods should be physically examined.
Endorsed duplicate copy should be immediately sent to LCS of entry through registered post.

Checks to be exercised by the Superintendent in-charge of the LCS of entry / exit

(i) Once in a month, the Superintendent should verify the concerned Register to ensure that proof of exit is being received / dispatched in time.
(ii) He should make surprise checks of goods which have been allowed entry or about to exit. This should also be endorsed in the register.

TRANSFER OF RESIDENCE (TR)

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962, the Central Government, being satisfied that it is
necessary in the public interest so to do, hereby exempts the goods specified in column (2) of the each of Table-I and Table-II annexed hereto, falling under Heading No. 98.03 of the First Schedule to the Customs Tariff Act, 1975 to a person on a bona fide transfer of residence to India as part of his bona fide baggage- from the whole of the duty of Customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 in respect of goods specified in column (2) of Table-I annexed hereto and from so much of the duty of Customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the rate of 15% ad valorem in respect of goods specified in column (2) of TABLE-II annexed hereto. In this case,-

(i)such person has been residing abroad for a minimum period of two years immediately preceding the transfer of residence and has not availed this concession in the preceding three years;

(ii)such person affirms by a declaration that the goods have been in his possession abroad or, the goods are purchased by such person at the time of his arrival, but before clearance from customs, from the duty free shop located in the arrival hall of the international airports;

(iii)the goods (other than those purchased from the duty free shops at the time of arrival of such passenger) not accompanying such passenger were shipped or dispatched or arrived within the time limits specified in the (Baggage rules, 1998);

(iv)not more than one unit of each item of such goods shall be permissible per family and the person claiming the benefit of this notification affirms by a declaration that no other member of the family had availed of, or would avail of, the benefit of this notification in respect of that item; and

(v)The total aggregate value of such goods shall not exceed rupees five lakhs.

TABLE-I

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Goods</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>1.</td>
<td>Video Cassette Recorder or Video Cassette Player or Video Television Receiver or Video Cassette Disk Player.</td>
</tr>
<tr>
<td>2.</td>
<td>Washing Machine.</td>
</tr>
<tr>
<td>3.</td>
<td>Electrical or Liquefied Petroleum Gas Cooking Range</td>
</tr>
<tr>
<td>4.</td>
<td>Personal Computer (DeskTop Computer)</td>
</tr>
<tr>
<td>5.</td>
<td>Laptop Computer (Notebook Computer)</td>
</tr>
<tr>
<td>6.</td>
<td>Domestic refrigerators of capacity up to300 litres or equivalent</td>
</tr>
</tbody>
</table>
### TABLE-II

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Goods</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Colour Television or Monochrome Television.</td>
</tr>
<tr>
<td>2.</td>
<td>Digital Video Disc Player.</td>
</tr>
<tr>
<td>4.</td>
<td>Dish washer.</td>
</tr>
<tr>
<td>5.</td>
<td>Music System.</td>
</tr>
<tr>
<td>6.</td>
<td>Air-Conditioner.</td>
</tr>
<tr>
<td>7.</td>
<td>Domestic refrigerators of capacity above 300 litres or its equivalent.</td>
</tr>
<tr>
<td>9.</td>
<td>Microwave Oven.</td>
</tr>
<tr>
<td>10.</td>
<td>Video camera or the combination of any such video camera with one or more of the following goods, namely:- (a) Television Receiver; (b) Sound recording or reproducing apparatus; (c) Video reproducing apparatus.</td>
</tr>
<tr>
<td>12.</td>
<td>Fax Machine.</td>
</tr>
<tr>
<td>15.</td>
<td>Aircraft.</td>
</tr>
<tr>
<td>16.</td>
<td>Cinematographic films of 35 mm and above.</td>
</tr>
<tr>
<td>17.</td>
<td>Gold or Silver, in any form, other than ornaments.</td>
</tr>
</tbody>
</table>

**Explanation**

For the purpose of this notification,-

(i) short visits, if any, made by the person referred to above, during the aforesaid period of 2 years shall be ignored if the total duration of stay on such short visit does not exceed six months and shortfall up to a period of two months in a person's stay abroad may be condoned by the Deputy/Assistant Commissioner of Customs, if he is satisfied that the person's early return to India has been caused by his availing of the terminal leave or a vacation or by any other special circumstances, provided that on sufficient cause being shown by the person concerned, the commissioner of Customs may condone the period of stay in India in excess of six months.

(ii) “family” includes all persons who are residing in the same house and form part of the same domestic establishment.

8.6.2.2 MONITORING OF NEPALESE REGISTERED VEHICLES ENTERING INTO, MOVING IN AND EXITING OUT OF INDIA

India and Nepal do not have a formal Motor Vehicle Agreement to regulate the movement of vehicles. Such movement is allowed on the basis of understandings reached between the two Governments in 1960s, though, no formal agreements were signed. This practice derives authority from this long established tradition.

There are two mechanisms for allowing entry/movement/exit of Nepalese registered vehicles as follows –

(A) For one day stay in India and visit confined to nearest market place or railhead in India; and

(B) For more than one day stay in India but visit not confined to nearest market place or railhead in India. The details of these mechanisms are discussed in the following paragraphs:-

A. Nepalese Vehicle entering for one day and visit confined to nearest market place or railhead:

Nepalese and Indian vehicles are allowed to cross the Indo-Nepal border without any permit or levy of tax, if the visit is confined to the nearest market place or railhead and the vehicle returns on the same day. Nepal Customs has a good monitoring system in place. Therefore, Indian vehicles entering for one day have to essentially return on the same day. In case of overstay, they have to pay taxes as per day basis. On Indian side, the monitoring system of Customs is weak and overstay of Nepalese vehicle is not viewed seriously. Therefore, to correct this anomaly and to curb overstay of Nepalese vehicles, though the system of issuing “Temporary Pass” to Nepalese vehicle entering India for one day had been introduced by the field formations many years ago but it has come to the notice of the Customs Commissionerate, Lucknow that with the passage of time, the system of issuing “Temporary Pass” by the Land Customs Stations has slackened and not being properly implemented. Therefore, the system has been reiterated vide Public Notice No. 01/2016 and Instruction No. 01/2016 both dated 08-2-2016 issued by the Commissioner, Customs (Preventive) Commissionerate, Lucknow for information of all concerned. The aforesaid Public Notice & Instruction both dated 08-2-2016 set out the following procedure-

i. At the time of entry of Nepalese vehicle, concerned Land Customs Station will issue a ‘Temporary Pass’ indicating vehicle No., type & make, date and time of entry, expected date and time of exit. The driver / owner of the Nepalese vehicle is required to approach the concerned designated officer (an Inspector) of the Land Customs Station, at the time of entry of the vehicle, to obtain a “Temporary Pass”. Further, he is required to surrender the pass at the time of exit through the same LCS. Vehicle is required to carry this ’Temporary Pass’ with it, during its movement in India. Specimen copy of ’Temporary Pass’ is given later.

(ii) All the LCSs maintain a ‘Vehicle Register’ having entry and exit details of each Nepalese vehicle entering into India for one day, along with reference of “Temporary
Pass” No. issued in this regard. Specimen copy of ‘Vehicle Register’ is given later.

ii. Overstaying of the vehicle beyond one day on the basis of ‘Temporary Pass’ issued by Customs will be viewed seriously and appropriate action will be taken against the defaulter.

(i) Specimen Format of Vehicle Register

Name of Land Customs Station ...........................................

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Vehicle type &amp; make</th>
<th>Vehicle No.</th>
<th>Temporary Pass Sl. No.</th>
<th>Date &amp; Time of Entry</th>
<th>Date &amp; Time of Exit</th>
<th>Signature of owner/ driver</th>
<th>Signature of Officer issuing Temporary Pass</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(ii) Specimen Format of Temporary Pass

GOVERNMENT OF INDIA

Office of the Superintendent, LCS, ............
Temporary Pass
For Nepalese vehicles

[VALID FOR ONE DAY ONLY]

Sl. No. ..........  
Date:- ...........

1. Vehicle type & make:-
2. Vehicle No:-

3. Date and time of Entry:-

4. Expected date & time of Exit:-

<table>
<thead>
<tr>
<th>Signature of the owner/driver</th>
<th>Stamp &amp; Signature of the Customs Officer</th>
</tr>
</thead>
</table>

LCS ...............  

B. Nepalese Vehicle entering for more than one day and visit not confined to nearest market place or railhead:

In respect of Nepalese vehicle entering India for more than one day “Temporary Pass” will not be issued by Customs, rather they shall be required to get vehicle permit issued from the Embassy of India, Kathmandu, Nepal. Vehicle carrying such permit should be allowed to enter/exit India. Details of permit should be entered in the register and suitable remark on the permit about date and time of entry/exit in India shall be made. The Nepalese vehicle may enter from one LCS and exit from the other. However, Name of LCSs, Validity period of the Permit, Purpose of visit, nature of entry- either single entry or multiple entry, etc. are given in the permit which should be strictly followed.

8.6.3.0 TRIPTOTYPE / CARNET SCHEME :-

India is one of the important tourist destinations in South East Asia. Thousands of foreign tourists from far and wide places all over the world visit India every year. Unlike in our country, the foreign tourists, many a times intend to travel the length and breadth of India, specially the countryside, in their own vehicles. For this, they often carry along or travel on their motor vehicles and bring the same into and use within the country throughout their stay in India.

In order to facilitate the development of International tourism, the Government of India has accepted and ratified the Customs Convention on the “Temporary Importation of Private Road Vehicles” containing 44 Articles in terms of which motor vehicles imported into India for private use mostly by tourists and sometimes by non-tourists for temporary use are admitted free of duty of customs and Import Trade Control (I.T.C.) restrictions & Prohibitions. Persons claiming this concession should normally be resident outside India, who, during their temporary visit to India should not take up any paid employment or any other form of gainful occupation. For extending the benefit of exemption from the duties of customs, the Government of India, in exercise of powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 has issued Customs Notification No. 296-Cus., dated 2-8-1976 as amended vide Notification No. 53-Cus., dated 1-5-1977; No. 160/94-Cus., dated 8-8-1994 and No. 101/95-Cus., dated 26-5-1995 which elaborates legal
provisions in respect of triptyque /carnet de passage.

The Carnet de Passages En Douane (CPD) [often shortened to Carnet (pronounced “kar-ney”)] / Triptyque is a travel document for the purpose of temporary importation of private road vehicles into India by the tourist / non-tourist free of duty of customs, if issued by an approved Automobile Associations abroad, list of which is printed on the front page of the Triptyque/Carnet itself. The essential requirement for the exemption from duties of customs is that the importer of Vehicle should produce a Carnet/Triptyque issued by one of the approved Automobile Associations abroad. The Associations safe-guard themselves by taking a deposit or other secure payment of the duty payable in India from the members. Carnets/triptyques issued from only those associations that are guaranteed by the Federation of Indian Automobile Association, Mumbai (FIAA, Mumbai for short) should be accepted.

The Automobile Association abroad, in the form approved by Alliance Internationale De Tourisme (AIT), issues Carnet and each booklet bears a distinct serial number and each sheet of a carnet booklet has a distinct running serial number as well starting from 1. The back cover shows the particulars of the subject and bears the signatures of the importers and officials of the issuing Automobile Association abroad. This booklet consists of a number of sheets showing the name of the Carnet holder, the particulars of vehicles, engine number, chassis number, registration number, value of the vehicle and validity period of the Carnet. It is in French language. Each sheet of document is divided into three parts, namely Part I is called Importation Voucher (Volet d’ Entrée) which should be signed by the dealing Customs Officer on import and be retained at the Land Customs Station of entry (hereinafter called as “LCS of entry”). LCS of entry reference number should be shown in the lower portion of Part II called Exportation Voucher (Volet de Sortie). Import endorsement should also be made in the upper half of Part III called Counterfoil (souche) at this stage. At the time of departure, Part II called Exportation should be signed and retained by the Land Customs Station of exit (hereinafter referred to as the “LCS of exit”) from where the vehicle has been re-exported out of India and forwarded to the LCS of entry from where the vehicle entered into India, to be matched with the Importation Voucher and endorse exit particulars in the lower half of Part III called Counterfoil. This part of the sheet, i.e. counterfoil is bound in the Carnet and serves as the owner’s proof of entry and exit of the vehicle. A separate sheet should be used for each entry / exit.

8.6.3.1 IMPORT PROCEDURE (CARNET)

The following procedure shall be observed in dealing with the motor vehicles imported under the Carnet/triptyque system.

(a) On arrival in India after immigration clearance, the owner of the vehicle claiming the concession (from duties of customs and I.T.C. restrictions & prohibitions) is required to furnish to the Land Customs officer particulars and declarations in form ‘X’(format given at the end) along with the following documents which are required to check the correctness of the declared value. The form will be treated as a Kutcha form of Import application or Bill of Entry.
(i) Original receipts, if any, showing the actual cost of the vehicle, extra fittings, special alterations, etc.
(ii) Revaluation certificate of an Automobile Association.
(iii) Memo of freight and insurance charges.
(iv) Registration cards.

(b) The particulars declared by the tourist will be verified by the Land Customs officer before allowing admissibility of the claim for free entry.

(c) The Land Customs officer will make the appropriate entry in Importation Voucher and will detach it for being filed under collection number kept for such imports. He will make similar entry in import part of Counterfoil. LCS of entry reference number should be shown in the lower portion of Exportation Voucher which will be greatly helpful to the LCS of exit for identifying wherefrom the vehicle had entered into India. At this stage Exportation Voucher and Counterfoil will be returned to the party.

(d) The Land Customs officer will appraise the value of the vehicle and check other details and particulars thereof by actual physical examination with those given on the carnet pass book, passport, etc. In case where the Appraiser is unable to determine the assessable value on the basis of the declared particulars or the documents produced, he may examine the car himself. He will note the date of importation and the name of the LCS of entry on the Pass Book and grant clearance.

(e) Enter in a register in the form given below the vehicles cleared under the Carnet / triptyque system with a view to watch their re-export within the stipulated period in the special register maintained for the purpose.

**Form of Carnet Entry Register**

1. Serial number
2. Import application number and date
3. Particulars of vehicles
4. Value
5. Details of Carnet/triptyque
6. Date of re-export.
7. Destination
8. Date of receipt of exportation voucher
9. Signature of importer
10. Signature of Customs officer

(a) The register will be put up to the Deputy/Assistant Commissioner for review, whenever such officers visit the stations. If any vehicle remains unexported on the expiry of the stipulated term, the Land Customs Officer will bring it to the notice of the Superintendent of Land Customs for orders.

(b) After the vehicle has been allowed free entry under Carnet/triptyque system, the Land Customs Station or the Customs Port through which the vehicle is intended to be re-exported by the Importer, should be intimated accordingly in order to
facilitate watch and verification of re-export.

(h) All officers and staff will deal with cases of clearance of vehicles under the Carnet/triptyque system on a priority basis rendering every assistance to the owners whether they have engaged any clearing agents or not.

(e) The LCS of entry should have a constant close watch to see whether the Exportation Voucher is received from the LCS of exit, after expiry of stipulated period as envisaged under Notification No. 296-Cus., dated 2-8-1976 as amended. If not, all necessary measures should be taken to ensure whether the vehicle in question has been re-exported by the importer or left behind. If vehicle has not been re-exported within stipulated time, Govt. revenue should be protected. Here, a Demand-Cum-Show Cause Notice can be issued within one year from the expiry of the validity of Carnet/triptyque (Article 26 of International Convention on the "Temporary Importation of Private Road Vehicles.")

8.6.3.2 EXPORT PROCEDURE (CARNET)

When a motor vehicle covered by a Carnet/triptyque is presented for export of, the Land Customs Officer will check up the particulars of the vehicle in the carnet or pass sheets. He will make necessary entries in Exportation Voucher of the Carnet/triptyque and detach it. He will also make similar entry in the export part of Counterfoil which will be returned to the party. Exportation Voucher will be despatched to the Land Customs Station or Customs House from where the vehicle was originally imported, where it will be compared with Importation Voucher. If it agrees and relates to the identical vehicle the relevant entry in the register will be closed. A Carnet Exit Register is also maintained in the following form.

Form of Carnet Entry Register

1. Serial number
2. Particulars of vehicles
3. Value
4. Details of Carnet/triptyque
5. Date of exit.
6. Destination
7. Date of despatch of exportation voucher
8. Signature of importer
9. Signature of Customs officer

Importation of Vehicles under Carnet de Passage/Triptyque– Issue of Notification

Many Notifications preceding to Current Notification No. 296-Cus., dated 2-8-1976 (as amended) had been issued in an endeavour to prevent certain abuses to put the existing practices on a legal footing and to avoid unnecessary reference to the Government. As you may be aware, the customs duty concession was being misused by exporting the vehicle temporarily to some neighbouring country and then re-importing it for a fresh period of six months. Now, the first proviso to condition 2 against S. No. 1 of the current Notification No. 296-Cus., dated 2-8-1976 (as amended) provides that
in such cases the total period of retention arrived at by adding together the different periods of retention, shall not exceed six months.

The second proviso to condition 2 against S. No. 1 gives legal sanction to the existing practice under which tourist, in certain circumstances, are allowed to retain the vehicle for another six months with the prior approval of the Government of India / Commissioner of Customs.

Sl. No. 2 has been added to the Notification to cover cases of accident, death or illness, but a condition has been stipulated that vehicle should be garaged, excepted when it is actually being repaired, in premises approved by the Commissioner of Customs and kept under a double lock- one of the owner and the other of the Customs. Sometimes due to circumstances beyond the control of a tourist it becomes impossible or difficult for him to arrange the re-export of the car within the period of six months or such extended period as might have been permitted by the Commissioner. This is often attributable to non-availability of shipping space; sometimes some unforeseen circumstances necessitate the sudden departure of the importer from India, in which case it becomes impossible for him to arrange to re-export of the vehicle within the given time limit or at any rate before his departure from India. Sometimes the Commissioner may have already granted the request for maximum permissible extension of retention period up to 12 months and further extension beyond 12 months is not considered desirable, nevertheless, for genuine reasons it may not be possible for the tourist to leave India say due to sickness of his own or his family members and it might be genuine hardship or uncalled for expenditure in such circumstances to ask him to ship the car before his own departure. Having regard to the merits of each such case, the Government of India have been allowing in such circumstances a constructive re-export it were be permitting the tourist to surrender the custody of the car to Customs before expiry of the 6 months or extended period as the case may be as to ensure that the car during its retention in India beyond the period of 6 months or one year, as the case may be is not used by the tourist or in his absence by third parties etc. It has been decided that request of this type received from the tourist may also be dealt with by the Commissioner concerned. It should be noted that surrender in Customs custody does not necessarily mean that the Commissioner should provide any garage or parking space. If no space be available in the Customs House / Land Customs Station, it will be order to ask the importer to arrange for a garage or parking space as the Collector deems fit and ask him to surrender the keys of the door lock and ignition in Customs custody. As a further safeguard, a written declaration should also be obtained from the tourists in such cases that the car has been stored in the garage entirely at their own risk.

Sl. No. 3 has been added to cover cases other than those referred to in Sl. No. 1 & Sl. No. 2 above. In such cases, the Department may charge the difference between the duty due and the drawback admissible by taking into account the use of the vehicle from the date of its first entry to the date on which the vehicle is ex-ported.

The charging of this differential duty for the entire period of retention will automatically serve as a reasonable check and will at the same time avoid the necessity of the carnet holder having to pay the duty first and then getting drawback To check abuse, a condition has been provided that the holder of the vehicle continues to remain
in India during the period of retention of the vehicle.

Nothing contained in Notification No. 296-Cus., dated 2-8-1976 (as amended) shall apply to:-

(a) Legal persons referred to in Article 1(e) of the convention. In other words, the exemption will apply to natural persons;
(b) Persons normally resident outside India, who on the occasion of temporary visit to India take up paid employment or any other form of gainful occupation.

Definition of Legal Persons: Article 1 (c) of the Convention says that the term "Persons" shall mean both natural and legal persons unless the context otherwise requires. The expression "legal persons" is accordingly used in contrast to "Natural persons". It would, therefore, follow that firms, companies, corporation etc. on whom juristic personality has been conferred by the statutes would be "legal persons".

Exemption from I.T.C. Restrictions / Prohibitions

The Foreign Trade (Exemption from Application of Rules in Certain Cases) Order, 1993 provides that Foreign Trade (Regulation) Rules, 1993 will not apply to vehicles as defined in Article I of the Customs Convention on the Temporary Importation of Private Road Vehicles or the component parts thereof referred to in Article 4 of the said convention and which are exempted from payment of Customs duty under the Government of India, Ministry of Finance(Department of Revenue) Notification No. 296-Cus., dated 2.8.1976, provided that:-

(i) such vehicles or component parts are re-exported within the period specified in the said notification or within such further period as the Government of India/Commissioner of Customs may allow;

(ii) The provisions of the said notification and the “Carnet-de-passage or triptyque” permit are not contravened in relation to such vehicle or component parts.

Provided further that nothing contained in this item shall prejudice the application to the said vehicles or component parts or any other prohibition or regulation affecting the import of goods that may be in force at the time of import of such goods.

Acceptance of Surrender of Vehicles Imported under Carnet/Triptyque Concession

Attention is invited to Article 13 of the Customs Convention on the “Temporary Importation of Private Road Vehicles” which provided that the re-exportation of badly damaged vehicles, shall not be required in the case of fully authenticated accidents, provided that the vehicles are:-

(a) Subjected to the import duties and import taxes to which they are liable, or
(b) Abandoned free of all expenses to the exchequer of the country into which they are imported temporarily, or
(c) Destroyed, under official supervision at the expense of the parties concerned as the
Customs authorities may require.

The Government of India have decided that in other cases too, surrender of vehicles imported under Carnet/triptyque concession may be accepted, provided such surrenders are made to the Customs authorities free of all expenses to the exchequer and without any condition whatsoever. This is however subject to the condition that such surrender is made within six months from the date of original entry of the vehicle into India or such extended period as may be allowed by the competent authority.

(Authority: Ministry's letter No. 15/31/63 LC.II dated 9.5.1963)

Surrender of vehicles can be accepted in cases of bona fide tourists. This should not be a compromise procedure for vehicles imported under Carnet/triptyque procedure but in violation of the attendant conditions. If the owners of vehicles importing under Carnet commit some offence such as taking up gainful employment etc. the full rigour of the law must be applied and surrender of vehicle cannot be accepted.

(Authority: Ministry's letter No. 15/27/63 LC.II dated 26.9.1963)

It has now been decided that any Commissioner of Customs or Central Excise can accept the surrender of such vehicles so brought, provided that the date of entry of such vehicles is verified from the port/post of entry in order to ensure that the vehicle so surrendered are surrendered within the permitted period of retention.

(Authority- Ministry's letter F.No. 15/104/70- LC.II dated 1.4.1971)

Normally in surrender cases formal confiscation is not necessary. However, it has been pointed out by the Ministry of law that no person can give better title to any property to what he himself possesses. In every such case of surrender, therefore, the authority accepting the surrender, namely in the cases of all these cases, the Commissioner will have to ensure that the person effecting the surrender is the owner of the vehicle. Hired cars can also be brought out by hirers under the Carnet/triptyque system but such surrender, if effected by the hirer, will be bad in law. As a matter of safety, therefore, it has been decided as follows:

(i) Where the Commissioner on, scrutiny of such evidence as can be reasonably had, is satisfied about the rightful title of the persons effecting the surrender, a formal confiscation is not necessary but to avoid any dispute it would be advisable to obtain from the importer a letter stating the details of the accident and police report if any, or circumstances, in which he is effecting the surrender (the letter in our case governed by letter F.No.15/31/63-LC.II dated 9.5.1963), and a formal document effecting a valid transfer of the title should also be got signed from him;

(ii) Where there is any doubt about the title of the persons effecting such surrender, to be on the safer side, a formal confiscation order should be issued.

(Ministry's letter F.No.15/50/65 LC.II dated 16.11.1965 as cited on P-315 of LCM).

8.6.3.3 Vehicle Retention and Carnet Validity Periods

While the triptyque concession is not confined to tourists alone, nevertheless, in actual practice, it is mostly the tourists who avail themselves of this concession, in view of the fact that the triptyque concession is not extended to persons, who during their course of
visit to this country take up paid employment or any other form of gainful occupation. In view of the above facts, the Government of India have decided that the period of retention of cars imported under the triptyque should be limited to six months. It has been further decided that even in case where the unexpired portion of the validity period of the carnet is less than 6 months at the time of importation of the car, the car may be allowed to be retained for 6 months, provided the validity of the carnet is suitably extended and the liability for duty during such extended period assumed by the guaranteeing Association. In all such cases where retention of the car for 6 months under the triptyque concession will run beyond the original validity of the carnet, the Customs Houses must take necessary action to ensure that the validity of the carnet is extended.

The Government of India have also decided that request for retention of the car imported under the triptyque concession beyond the period of 6 months should be considered in the light of the provisions contained in Article 22 read with Annex. 4 of the Convention. Extensions up to 6 months may be allowed by the Commissioner.

8.6.3.4 Discrepancy in Engine or /and Chassis Number in Carnet

When the chassis and engine numbers of the vehicle as recorded in the Carnet or triptique pass or Carnet de passage are found to be different from those actually ascertained on examination, the Customs Officer will endorse on the Carnet de passage or triptique pass, the actual ascertained numbers next to the declared numbers and draw a small circle round the numbers in dispute. The endorsement should be initialed both by the Customs Officer and the tourist or his representatives, and the clearance of vehicle will be allowed. A separate report giving full details of discrepancies should be brought to the notice of concerned Automobile Association abroad through Guaranteeing Association, namely FIAA, Mumbai.

Carnet Holder may be owner or hirer

A person normally resident outside India can temporarily import vehicle which is not his own and which he has borrowed or hired. Article 8 prescribes that the importation paper should be made in the name of the person who owns the vehicle temporarily imported or who has the "possession or control" of the vehicle. If the vehicle has been hired the papers shall be made out in the name of hirer. The main restriction is that the vehicle should be used in accordance with Article 2(1) and Article 11. Even if the owner of the vehicle is not a natural person the person who imports it for private use as defined, if he is a natural person, is entitled to the concession.

Liability of duty on vehicles imported under the Carnet / triptique procedure but confiscated and allowed to be re-exported on payment of fine in lieu of confiscation

Whenever it is held that condition of the relevant notification have been infringed duty has to demanded even if the car is re-exported. In that case the drawback only can be allowed as admissible.
8.6.3.5 Some Important Points to note well in respect of Carnet / Triptyque

1. In accordance with the Article 26 of the Convention, the guaranteeing association can be asked to pay duty within a year of the date of expiry of the validity of the carnet. Cases have, however, come to the notice of the Govt. of India where the Customs authorities failed to make the necessary claim for payment of duty within one year of the expiry of the date of validity of the Carnet and the guaranteeing association refused to make good the payment of the same. The period of one year after the expiry of the carnet is quite long and there is no reason unless the concerned staffs are grossly negligent, why it should not be possible for the Customs authorities to take necessary action in time. The Govt. of India would like to stress the importance of dealing with the carnet cases speedily after the carnet period is over so that the Govt.’s rights in the matter do not go by default.

2. Commissioners may extend retention period of vehicle in their discretion and in deserving cases up to 12 months from the date of importation on an application received from the tourist in this behalf.

3. In all such cases where retention of the car for 6 months under Carnet / triptyque concession will run beyond the original validity of the carnet, the Customs Houses / LCSs must take necessary action to ensure that the validity of the carnet is extended. (Instruction No. 31/60 CUS.VI issued under Ministry’s letter F.No. 8/10/60-Cus. VI dt. 11.10.1960 as cited on PP-296 to 298 of LCM)

4. Just as we expected that any requests for extension of period, etc., should be received before the validity of the initial period that expired, it is also necessary that any such request made by the tourists should be decided one way or the other before the validity period read with the grace period, if any, is due to expire and the decision communicated to tourist sufficiently in time (Ministry's F.No. 15/87/64-LC II dt. 26.10.1964 and 24.2.1965 as cited on P-302 of the LCM)

5. Extension of retention period of vehicles brought under triptyque / carnet system should be granted only if the carnet itself is otherwise valid for the extended period (Ministry's F.No. 15/87/64-LC II dt. 24.2.1965 as cited on P-302 of LCM).

6. The importers of vehicle should always be given the opportunity of keeping their vehicle in India for the full period of six months even if the unexpired portion of the validity of the carnet is less than 6 months at the time of importation, provided the validity of the carnet is suitably extended and the liability for duty etc., during such extended period assumed by the Guaranteeing Association (Ministry's letter F.No. -LC II dt. 3.6.1965 as cited on P-303 of LCM).
7. If the vehicle is absolutely confiscated the party’s liability to pay duty will cease (Ministry's letter F. No. 575/16/71-LC II dtd. 6.6.1972 as cited on P-303 of LCM).

8. Persons normally a resident in India may be employed as paid drivers; however in no other circumstances the use of the vehicle by a person normally resident in India is permissible. (P-305 of LCM).

9. Mr. X imported a car under Carnet No. A/98 3480 into India on 18.4.64. The car was required to be re-exported out of India by 17.10.1964. As the Pax did not re-exported the car within 6 months, the same was seized and later on confiscated to Govt. of India.

In pursuance of instructions contained in Ministry letter F.No. 15/79/63-LC.II dated 3.6.1965, the Assistant Collector, Customs, Amritsar raised a demand against M/s W.I.A.A, Bombay in addition to the confiscation of the vehicle. However, on representation of M/s W.I.A.A., Bombay, it was made clear vide Ministry’s F.No. 575/16/71-LC.II dated 23.7.1973 that Ministry's letter of even number dated 6th June, 1972 bears retrospective effect.

10. Attention of all Land Customs Officers on the Indo-Nepal Border is invited to Notification Customs No. 86/72 dated 24.6.1972 issued by the Ministry of Finance (Department of Revenue and Ins.) New Delhi. It has been observed that the implications of the Notification have not been properly understood and followed by the Land Customs Officers.

It should be noted that Notification contains different conditions of exemption laid down in Col. 4 against serial nos. 2 and 3. These conditions should be carefully gone through and followed.

Under the first proviso of clause (2) in col. 4 against Sl. No. 1 governing the case where a temporarily imported vehicle is exported out of India and re-imported within a period of 6 (six) months from the date of its exports from India, then for determining the total period of retention of six months of the vehicle in India will have to be deducted. In other words, such a vehicle can remain in India for 6 months less the period it remained in India during its previous import. All Land Customs Officers should in the case of vehicles entering India from Nepal and claiming exemption as per Notification aforementioned find out whether the vehicles have been in Nepal for at least six months at a stretch prior to its present importation. If no, i.e. if the vehicle was in Nepal for less than six months, then the earlier period/periods of retention in India prior to its entry to Nepal will also have to be taken into account for computing the total period of six months of the reduced period by which the vehicle should be re-exported from India and tourist informed. If six months have already passed during its former retention/retentions in India and its stay in Nepal is less than six months, its import will not be permissible under the Notification even if valid carnets de-passage en / Douane or Triptyque is produced. In the case of a fresh Carnet De-passage En-Douane or Triptyque being produced for first entry of a vehicle into India from Nepal, the owner should be called upon to establish that the vehicle had either remained in Nepal for more than six months or it was imported direct into Nepal, failing which import of such vehicle should not be allowed.
The temporarily imported vehicles may also remain in India for a period exceeding six months but not exceeding one year from the date of its importation in India if the specified circumstances as laid down in col. 2 against SL. No. 2 of the Notification provided conditions in Col. 4 against SL. No. 2 are fulfilled.

Duty is to be levied on the basis of extent of exemption as laid down in col. 3 against SL. No. 3 of Notification where a temporarily imported vehicle remains in India for more than six month but not more than one year of the date of its importation, provided the condition laid down in col. 4 against SL. No. 3 of the Notification are satisfied.

It should be borne in mind by all concerned that no officer below the rank of Commissioner has so far been empowered to grant extension of retention of a vehicle in India exceeding six months but not exceeding one year from the date of its first importation. (Collector of Customs (Prev.) Patna’s Instruction No. 8 dated 17.12.1974 as cited on PP-3330-331 of LCM).

The aforesaid clarification and explanation is pivotal in interpretation of current Notification No. 296-Cus. Dated 2.8.1976 in its right perspective.

11. On entry, the carnet holder may be asked from which LCS / Port /Airport / Point he/she intends to exit. However, his /her answer is purely optional at the foreigner's will.

8.6.5 APPLICATION FOR THE IMPORT OF ROAD VEHICLE & COMPONENT PARTS FREE OF DUTY UNDER THE CARNET DE PASSAGES OR TRIPTYQUE

1. Name and Nationality of the Applicant.
2. Name of carrier, date and place of arrival.
3. Passport No. date and place of issue.
4. Purpose of visit and duration of stay.
5. Details of the component parts and accessories (other than normal equipment) imported along with the vehicle:-

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Value</th>
</tr>
</thead>
</table>

*(Where possible the description should include the part No.)*

**FORM OF DECLARATION UNDERTAKING**

1. I hereby declare that the particulars given above are true and correct.

2. I also declare that it has been explained to me that as per the difference filed by the Govt. of India to the Customs convention on temporary importation of private road vehicles, I am not entitled to any of the concessions admissible under the said convention if I take up a gainful employment during my stay in India. I also further declare that I am not already gainfully employed in India. I understand that for breach of this undertaking, the vehicle will be liable to confiscation.

3. I also declare that the provisions of item(n), clause 11 of Imports Control Order
of 1955 have been explained to me that according to the same the vehicle along with the parts if any, may be exported out of India within 6 months from the date of importation or on expiry of period of validity of the carnet, whichever is earlier and further that they shall not be sold in India. I further declare that if I fail to fulfill any of the above conditions I shall pay the Customs duty on the vehicle and spare parts and other articles, if any, not exported in time and also any fine and penalty which may be imposed, if I fail to obtain the necessary imports licence”.

4. I hereby undertake that in the event of any occasion arising for surrender of any motor vehicle to the Customs Department, I shall surrender the motor vehicle myself personally to the Deputy /Assistant Commissioner of Customs (Prev.) of the Custom House / Land Customs Station through which I leave the country or to the Commissioner of Central Excise and Customs in whose jurisdiction I wish to surrender.

Signature of applicant
or authorized agent.

**Note:**

(i) The term “vehicle” means all road motor vehicles (including cycles with engine) and trailers (when imported with the vehicle or separately), together with its component parts, and normal accessories equipment, when imported with the vehicle.

(ii) The motor vehicle is being passed without payment of duty on the understanding that it will be used only by the applicant or any a person who is normally not a resident in India. Persons normally a resident in India may be employed as paid drivers by Carnet Holders. In no other circumstances the use of the vehicle by person normally resident in India is permissible.

**General Instructions**

The application form should be presented to the Customs Officer posted at the LCS of entry along with the following documents, which are required to check the correctness of the value furnished.

(a) Original receipts, if any, showing the actual cost of the vehicle, extra fittings, special alterations, etc.

(b) Revaluation certificate of an Automobile Association.

(c) Memo of freight and insurance charges.

(d) Registration cards.

In case the Preventive officer wishes to examine the vehicle for the purpose of determining the value, notwithstanding the documents produced, it is open to him to do so.

**8.6.6 IMPORT PROCEDURE AT LCS:**

Normally import of goods in India from a country other than Nepal (3rd country) is allowed on the basis of Foreign Trade Policy announced by Govt. Of India and subject to
any regulation, if exists under any other law for time being in force. However, before proceeding further, it should be borne in mind that import of 3rd country goods from Nepal to India is prohibited in terms of Section 11 of the Customs Act, 1962 (hereinafter referred to as the “Act”) read with Notification No. 9/96-Cus. (N.T.) date 22-1-1996. On those goods, import duty is to be charged as per the provisions of charging Section 12 of the Act. Import duty consists of Customs duty, Additional duty of Customs (also known as Countervailing duty (CVD)) and Special Additional duty of Customs (also known as Spl. CVD). For calculation of Customs duty, the goods are first classified under a particular heading of First Schedule to the Customs Tariff Act, 1975. Additional duty of Customs or Countervailing duty is equivalent to Central Excise duty for the time being leviable on a like article, if produced or manufactured in India.

The duty may be either specific or *ad valorem*. If the duty is specific, then it is calculated on the basis of quantity of the goods to be imported. If the duty is *ad valorem*, then it is calculated on the basis of *assessable value* as worked out in terms of Section 14 of the Act read with Customs Valuation (Determination of Value Imported Goods) Rules, 2007. Basic Customs duty (BCD) is charged on the assessable value whereas Additional duty of Customs is computed on the assessable value plus Basic Customs duty. Special Additional duty of Customs is also chargeable on such imported goods at the rate notified in the Official Gazette. At present, it is levied at the rate of 4% (Section 3(5) of the Customs Tariff Act, 1975.

**Precondition of IEC Number:** No import/export can be made without Importer-Exporter Code (IEC) Number since it forms a primary document for recognition by the Govt. of India as an importer/exporter. Before Import of any consignment/cargo, the importer must have an Importer-Exporter Code (IEC) Number. As per Section 7 of the Foreign Trade (Development and Regulation) Act, 1992, “No person shall make any import or export except under an Importer-Exporter Code Number granted by the Director General or the officer authorized by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.”

According to Paragraph 2.8 (a) of the Foreign Trade Policy- Handbook of Procedures, Vol- I, IEC is compulsory for imports and/or exports. However, certain categories of importers or exporters are exempted from obtaining IEC. Further, as per Paragraph 2.8 (b), exempted categories of importers or exporters will have to use their respective permanent IEC numbers. The Customs EDI System receives the IEC number online from the DGFT

**(A)Presentation of Bill of Entry (B/E):** In case of Land Customs Stations (LCSs), it is a general practice that after reaching of the consignment/cargo to Customs Area (as defined under sub-section 11 of Section 2 of the Act) a Bill of Entry is presented by the importer/customs broker in compliance of the provisions of Section 46 of the Act (Format of B/E enclosed separately.

The importer clearing the goods for domestic consumption through non-EDI ports/airports/stations has to file Bill of Entry in four copies; original and duplicate are meant for Customs, third copy for the importer and the fourth copy is meant for the bank for making remittances.
Paragraph 2.06 of the Foreign Trade Policy 2015-20 prescribed the following documents as mandatory documents for imports of goods into India.

(i) Bill of Lading/ Airway Bill / Lorry Receipt / Railway Receipt / Postal Receipt  
(ii) Commercial Invoice-cum-Packing List* and  
(iii) Bill of Entry

[Note: * (i) As per CBEC Circular No. 01/15-Customs dated 12/01/2015. (ii) Separate Commercial Invoice and Packing List would also be accepted.

However, following documents are also generally required at the time of presentation of Bill of Entry.

(a) Certificate of Origin (CO), if preferential rate of duty is claimed  
(b) Nepal Bhansar Pragyapan Patra  
(c) Delivery Order  
(d) Letter of Credit L/C, wherever required  
(e) Insurance Document, if any  
(f) Test Report, if any  
(g) Catalogue, Technical write up, Literature for machineries spares or chemicals, as applicable  
(h) Certificate of F.O.B Value issued by Federation of Handicraft Associations of Nepal (नेपाल हस्तकला महासंघ), in case of handicraft goods.  
(i) Curio Pass Certificate, in case of curio goods (modern handicrafts not exceeding hundred years of age) issued by the Curio Checking Section, Nepal Archaeological Department (क्युरियो जाँच पास शाखा, पुरातत्त्व विभाग) नेपाल  
(j) Licence, if so required. However, if the goods are produced or manufactured in Nepal and they contain raw material, labour, etc. either of Nepal or of India or of both, these are free from Import Trade Control restriction, meaning thereby that no Import Licence will be needed.

If the goods are cleared through the EDI system, no formal Bill of Entry is filed as it is generated in the computer system, but the importer is required to file a cargo declaration having prescribed particulars required for processing of the Bill of Entry for Customs clearance. Under the EDI system, the importer does not file the documents as such but submits declarations in electronic format containing all the relevant information to the Service Centre. A checklist is generated for verification of data by the importer/customs broker. After verification, the data is filed by the Service Centre Operator and EDI system generates a Bill of Entry Number, which is endorsed on the printed checklist and returned to the importer/customs broker. No original documents are taken at this stage. Original documents are taken at the time of examination. The importer/customs broker also needs to sign on the final document before Customs clearance.

While filing the Bill of Entry, the correctness of the information given therein has also to be certified by the importer in the form of a declaration at the foot of the Bill of Entry and any mis-declaration /incorrect declaration has legal consequences.
(B) Processing of B/E: The first stage for processing a Bill of Entry is termed as the noting/registration of the Bill of Entry. In the non-EDI system, the importer has to get the Bill of Entry noted by the concerned officer on duty at the LCS which checks the consignment sought to be cleared with reference to description of goods, value, quantity, exemption notification, Customs Tariff Heading etc., including import permissibility keeping in view the provisions of the allied laws also, and a Bill of Entry number is generated and indicated on all copies. In the EDI system, the noting aspect is checked by the system itself, which also generates Bill of Entry number. After noting/registration the Bill of Entry is forwarded either manually or electronically to the appraising officer on duty at the LCS for further scrutiny regarding assessment, etc. The Bill of Entry is subject to verification by the proper officer of Customs (under self assessment scheme) and may be reassessed, if declarations are found to be incorrect. Normally, import declarations made are scrutinized without prior examination of goods with reference to documents made available and other information about the value/classification etc. It is at the time of clearance of goods that these are examined by the Customs to confirm the nature of goods, valuation and other aspects of the declarations.

(C) Drawl of Samples and requirement Plant & Quarantine and P.F.A. Testing Report: If the imported goods are (i) primary agriculture goods or/and (ii) food items, the Plant & Quarantine (P.Q) Release Order in terms of sub-clause (17) of Clause 3 of the Plant Quarantine (Regulation of import into India) Order, 2003 issued under sub-section (1) of Section 3 of the Destructive Insects and Pests Act, 1914 or/and PFA Analysis Report as per the Food Safety and Standards (Food Products and Food Additives) Regulation, 2011, respectively is required and import will be allowed only after these tests reports are o.k. for clearance.

Duty Structure and Exemption Notifications and effective rate of duty in respect of Indo-Nepal import are briefly stated as under:-

(i) Basic Customs Duty: As per First Schedule to Customs Tariff Act, 1975. However, BCD is exempt when specified goods are imported from Nepal to India, as per Notification No. 104/2010-Cus. Dated 1-10-2010.

(i) Addl. Customs Duty or CVD: Additional duty of Customs or Countervailing duty is equivalent to Central Excise duty for the time being leviable on a like article, if produced or manufactured in India. In case of import of handicraft goods CVD is exempt vide Exempt vide Central Excise Notification No. 17/2011-CE, dated 1.3.11.

(iii) 4% Special Addl. Customs Duty or 4% Special CVD: With reference to import from Nepal to India, 4% Spl. CVD is exempted vide Notification No. 21/12-Cus., dated 17-3-2012.

(iv) 2% Customs Primary Education Cess: Imposed vide Section 91, 93& 94 of the Finance Act (No. 2), 2004 w.e.f 9-7-2004. Also, Notification No. 13/2012-Customs dated 17-3-2012 & Notification No. 9/2015-Customs dated 1-3-2015 may please be read.

(v) 1% Customs Secondary & Higher Education Cess: Imposed vide Section 136, 138 & 139 of the Finance Act, 2007 w.e.f. 1-32007. Also Notification No. 14/2012-Customs dated 17-3-2012 & Notification No. 9/2015-Customs dated 1-3-2015 may please be read.
National Calamity Contingent duty: Levied vide Section 134 of the Finance Act, 2003 on goods as specified in the seventh schedule to the Finance Act, 2001 (as amended).

Different Types of Cess levied & collected: Different types of Cess, e.g. Paper Cess, are levied and collected on import of goods from Nepal to India.

Assessment, Calculation of Duties and Deposit / Collection thereof: After Appraisal, the Superintendent on duty makes assessment and due duty liability is calculated. After that, the importer deposited duty either through e-banking or manually through TR-6 Challan in nominated banks in cash or by draft. Alternatively, the department collects duty by mode of TR-5 and deposited in Govt. account at the earliest.

Self-Assessment and Provisional Assessment:

Vide Finance Act, 2011, ‘Self-Assessment’ has been introduced under the Act. Section 17 of the said Act provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in the electronic form, as per Section 46. Thus, under self-assessment, it is the importer who will ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting Bill of Entry. The declaration filed by the importer may be verified by the proper officer when so interdicted by the Risk Management Systems (RMS). In rare cases, such interdiction may also be made with the approval of the Commissioner or an officer duly authorized by him, not below the rank of Additional Commissioner of Customs, and this will necessarily be done after making a record in the EDI system. On account of interdictions, Bills of Entry may either be taken up for action of review of assessment or for examination of the imported goods or both.

If the self-assessment is found incorrect, the duty may be reassessed. In cases where there is no interdiction, there will be no cause for the declaration filed by the importer to be taken up for verification, and such Bills of Entry will be straightaway facilitated for clearance without assessment and examination, on payment of duty, if any. The verification of a self-assessed Bill of Entry shall be with regard to correctness of classification, value, rate of duty, exemption notification or any other relevant particular having bearing on correct assessment of duty on imported goods. Such verification will be done selectively on the basis of the RMS, which not only provides assured facilitation to those importers having a good track record of compliance but ensures that on the basis of certain rules, intervention, etc. high risk consignments are interdicted for detailed verification before clearance. For the purpose of verification, the proper officer may order for examination or testing of the imported goods. The proper officer may also require the production of any relevant document or ask the importer to furnish any relevant information. Thereafter, if the self-assessment of duty is not found to have been done correctly, the proper officer may re-assess the duty. This is without prejudice to any other action that may be warranted under the Act.

On re-assessment of duty, the proper officer shall pass a speaking order, if so desired by the importer, within 15 days of re-assessment. This requirement is expected to arise
when the importer or exporter does not agree with re-assessment, which is different from the original self-assessment. There may be situations when the proper officer of Customs finds that verification of self-assessment in terms of Section 17 requires testing / further documents / information, and the goods cannot be re-assessed quickly but are required to be cleared by the importer or exporter on urgent basis. In such cases, **provisional assessment** may be done in terms of Section 18 of the Act, once the importer furnishes security as deemed fit by the proper officer of Customs for differential duty equal to duty provisionally assessed by him and the duty payable after re-assessment.

After assessment of Bill of Entry by the assessing officer, the same is countersigned by Assistant/Deputy Commissioner if the value is **more than Rs.1 lakh**.

As far as possible, steps should be taken to provide guidance to importers so that they are able to self-assess the duty. It should, however, be made clear that such guidance is not legally binding.

(A) **Examination of goods:** All imported goods are subjected to examined for verification of correctness of description given in the Bill of Entry. However, generally only a part of the consignment is selected on random selection basis and examined. In case of intelligence and sensitive goods, 100% examination can be carried out. In case of importation, the guidelines / directions as contained in CBEC, Circular No. 23/2006-Customs dated 25th August, 2006 and subsequent Circular No. 28/2012-Customs dated 16th November, 2012 should be followed strictly. The goods may be examined prior to assessment in case the importer does not have complete information with him at the time of import and requests for examination of goods before assessing the duty liability, or if the Customs Appraiser/Assistant/Deputy Commissioner feels that the goods are required to be examined before assessment. This is called the First Check Appraisement. The imported goods can also be examined subsequent to assessment and payment of duty. This is called Second Check Appraisement. Most of the consignments are cleared on Second Check Appraisement basis.

(B) **'Out of Customs Charge' Order and Clearance of Goods:** In case no discrepancies are observed at the time of examination of goods 'Out of Charge' order is issued by a Superintendent and thereafter the goods are cleared by an Inspector.

**IMPORTANT POINTS TO BE REMEMBERED**

(1) **'Certificate of F.O.B. Value'** for Handicrafts is issued by the Federation of Handicraft Associations of Nepal (नेपाल हस्तकला महासंघ) which remains valid for **05 days** only.

(2) **‘Curio Pass Certificate’** Government of Nepal, Department of Archaeology, Curio Checking Section (क्युरियो जााँच पास शाखा, पुरातत्व विभाग, नेपाल) issues Curio Certificate pursuant to Section 2(c) of the Ancient Monuments Preservation Act, 2013 B.S. (1956) A.D. (of Nepal). Curio goods should not be more than **100 years** of age. Curio means modern handicrafts not exceeding **hundred years of age**. Curio Pass
Certificate remains valid for **one year**. Objects of historical and archaeological importance and unique artefacts are not allowed.

3. In terms of **Paragraph 2.2 of the Foreign Trade Policy**, all imported goods shall also be subject to domestic laws, acts, rules, orders, regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods.

4. Import of Hazardous Waste shall also be subject to the provisions of Chapter IV of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008. Accordingly, hazardous waste (including substances containing or contaminated with such hazardous wastes) as specified in Schedule VI of Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 shall be ‘prohibited’ for imports, notwithstanding anything contained in ITC(HS).

5. Import of any form of metallic waste and scrap will be subject to the provisions of paragraph 2.32 of the Foreign Trade Policy Handbook of Procedure Vol. 1.

Import of all such edible/food products including tea, domestic sale and manufacture of which are governed by Food Safety & Standards Act, 2006 and rules there under, shall also be subject to the conditions laid down in the aforesaid Act and rules framed there under. Import of all these products will have to comply with the quality and packaging requirements as laid down in the Act. Compliance of these conditions is to be ensured before allowing customs clearance of the consignment.

---

**Import Clearance Procedure**

- **Documents**: Commercial Invoice; Packing List; Bill of Lading/AWB; Delivery Order; Cert. of Origin; Cargo Catalogue

- **Filing of 'Bill of Entry' (BE)** via EDI (Electronic Data Interface) or Manually with all documents

- **Appraisal**: Import Permissibility as per EXIM Policy; Correctness of docs and declarations; Correctness of value; Fraud Prevention.

- **Processing of 'Bill of Entry'** by Customs officials Appraisal & Assessment

- **EDI Filing**: Electronic Input Generation of Checklist; Generation of BE No. Noting electronically; Submitting documents under Checklist and BE No.

- **Assessment**: Calculation of duties as per cargo classification
8.6.7 **EXPORT PROCEDURE at LCS :-**

**Precondition of IEC Number:** No import/export can be made without Importer-Exporter Code (IEC) Number since it forms a primary document for recognition by the Govt. of India as an importer/exporter. Before export of any consignment/cargo, the exporter must have an Importer-Exporter Code (IEC) Number. As per **Section 7** of the **Foreign Trade (Development and Regulation) Act, 1992**, “No person shall make any import or export except under an Importer-Exporter Code Number granted by the Director General or the officer authorized by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.”

According to **Paragraph 2.8 (a)** of the **Foreign Trade Policy- Handbook of Procedures, Vol- I**, IEC is compulsory for imports and/or exports. However, certain categories of importers or exporters are exempted from obtaining IEC. Further, as per **Paragraph 2.8 (b)**, exempted categories of importers or exporters will have to use their respective **permanent** IEC numbers. The Customs **EDI System** receives the IEC number online from the DGFT.

8.6.8 **Nature of Goods manufactured in India and exported to Nepal:**
First of all, it should always be borne in mind that prohibited goods cannot be exported out of India and on any attempt being made to smuggle it out of India, it should immediately be seized along with conveyance, if any, used in any way for smuggling of prohibited goods. As such, hereunder we are talking about only export of free and restricted goods. The nature of goods manufactured in India and exported to Nepal can be broadly classified into the following categories:
(a) **Free Goods**: Export of goods which are neither restricted for export (quota goods) nor any Customs duty or cess is leviable on their export and which also do not involve any export promotion scheme such as, Drawback, EPCCG, Advance Licence, etc.

(b) **Quota Goods**: Export of goods which are either restricted (quota goods) or dutiable / cessable.

(c) **Export in Bond**: In this category goods are exported without payment of Central Excise duty.

(d) **Export under Export Promotion Schemes**: There are many export promotion scheme under which various types of benefits are extended to the exporter.

(a) **Free Goods**: Strictly speaking, for exports falling in category (a) above, the exporters are not legally bound to file any Bill of Export at the L.C.S. for the free goods since under Notification No. 67 dated 20.05.1972, the L.C.S. have been set up exclusively for giving clearance of goods which are either restricted or dutiable/cessable or both. However, in many cases, the exporters on their own account request for clearance of goods and for documents duly certified by the Indian Customs because in some cases these documents are demanded by the Customs Officers in Nepal. In the 7th Inter Governmental Committee Meeting (I.G.C.) held in Kathmandu in 1984, the Nepal Customs authorities had explained that many of the Indian goods which are otherwise classified as “free goods” are dutiable in Nepal and requested the Indian Delegation that the exporters should be directed for filing of export documents with the L.C.S. to help them in keeping track of the volume of exports and to submit correct returns to the Director General of Commercial Intelligence and Statistics.

“Free goods”, which are commonly exported to Nepal are vegetable including onion, potato, fruits, cotton fabrics, stationery, cosmetic goods & hair oil, soaps and detergent powder, fish, male goat, rice, confectionary, books, magazines & publications, motor cycle parts, bicycle, electrical and electronic goods, footwear, kitchen ware, tableware, machine & machinery parts, agricultural goods, etc.

(b) **Quota Goods**: In so far as the export policy is concerned, we are to be guided by the export policy applicable to other countries as issued by the Director General of Import and Exports which lists outs the goods which are prohibited/restricted for export. There are a number of essential commodities which are otherwise restricted for export and whose export is allowed to Nepal in some limited quantities. The quotas are announced every year by the Ministry of Commerce. For these restricted goods, commonly referred to as “quota goods”, the permits are required and conditions are to be fulfilled which may be in the nature of the export being handled only by the canalising agency, or an irrevocable letter of credit (L/C) being opened in favour of the exporter or the export being allowed with some quantitative ceiling, etc. There are instances where the canalising agency authorises some other persons to undertake the exports on their behalf and in such cases the persons concerned should deposit the letter of authority with the L.C.S. before they are allowed export of the goods.

(c) **Export in Bond**: As per Rule 19 of the Central Excise Rules, 2002 (a) any excisable goods may be exported without payment of duty from a factory of the
producer or the manufacturer or the warehouse or any other premises, as may be approved by the Commissioner. (2) Any material may be removed without payment of duty from a factory of the producer or the manufacturer or the warehouse or any other premises, for use in the manufacture or processing of goods which are exported, as may be approved by the Commissioner. These exports shall be subject to such conditions, safeguards and procedure as may be specified by notification by the board. Detailed procedure in respect of export in bond has been set out in Notification No. 42/2001-C.E. (N.T.) dated 26-6-2001 (as amended) & Notification No. 43/2001-C.E. (N.T.) dated 26-6-2001 (as amended). In case of Export in Bond, export is effected without payment of Central Excise duty on furnishing of either bond or letter of undertaking (LUT) by a manufacturer exporter or on furnishing of bond along with security by merchant exporter. A merchant exporter has not been given the option of LUT.

8.6.7.3 Export under Export Promotion Schemes: To achieve the objectives laid down under the Foreign Trade Policy the government is committed to providing a stimulus to exports through various export promotion schemes from time to time. Export under any scheme can be effected only through notified LCSs. Details of the existing Export Promotion Schemes are as follows:

1. Advance licensing scheme
2. Duty Free Replenishment Certificate (DFRC) scheme
3. Duty drawback scheme
4. Export Promotion Capital Goods (EPCG) scheme
5. Export Oriented Units (EOUs), Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) scheme
6. Served from India scheme
7. Target Plus scheme
8. Duty Entitlement Pass Book (DEPB) Scheme
9. Vishesh Krishi Upaj Yojana

The Government has formulated a number of export promotion schemes to support and promote exports. Except for Duty Drawback Scheme, the policy framework for various export promotion schemes is laid down in the Foreign Trade Policy, whereas the procedures governing the schemes are detailed in the Handbook of Procedures, Vol-I. The Department of Revenue has issued notifications to operationalise the scheme.

The objectives of most schemes are to neutralize the incidences of levies and duties on inputs used in export products, based on the fundamental principle that duties and levies should not be exported. Presently, the major schemes are either duty exemption or duty remission schemes. Duty exemption schemes enable duty-free import of inputs required for export production. An Advance Licence is issued as a duty exemption scheme. A Duty Remission Scheme enables post export replenishment/remission of duty on inputs used in the export product. Duty remission schemes consist of (a) DFRC; (b) DEPB Scheme and Drawback. DFRC permits duty-free replenishment of inputs used in the export product. DEPB allows drawback of import charges on inputs used in the export product. The Drawback scheme intends to neutralize the incidence of central taxes paid on inputs used in the manufacture of export goods. Besides, there are other schemes in operation which are basically in the nature of reward schemes to reward high performing exporters. Target Plus, Served from India and Vishesh Krishi Upaj Yojana are reward schemes. Rewards are given
on the basis of incremental exports / export turnover and such rewards have no linkage whatsoever with the duties and taxes borne on export goods.

**(A) Presentation of Shipping Bill/Bill of Export:**

In case of LCSs, it is a general practice that after reaching of the consignment/cargo to **Customs Area** [as defined under **sub-section 11 of Section 2** of the Customs Act, 1962 (hereinafter referred to as the “Act”)] a Bill of Export is presented by the exporter/customs broker in compliance of the provisions of **Section 50** of the Act. There are different types of Bill of Export for different purposes, e.g. Free Bill of Export (where no export promotion scheme is involved) with varying numbers of copies [Format of Duty Free Bill of Export is enclosed separately and others can be downloaded from departmental website- www.cbecc.gov.in]. Customs clearance formalities for goods meant for export have to be fulfilled by presenting a Bill of Export and other related documents.

**Paragraph 2.06** of the Foreign Trade Policy 2015-20 prescribes the following documents as **mandatory** documents for exports of goods from India.

(a) Bill of Lading/Airway Bill/Lorry Receipt/Railway Receipt
(b) **Commercial Invoice-cum-Packing List** and
(c) Shipping Bill / Bill of Export

*(Note: * (i) As per CBEC Circular No. 01/15-Customs dated 12/01/2015.
(ii) Separate Commercial Invoice and Packing List would also be accepted.)*

However, some more documents are also generally required at the time of presentation of Bill of Export, e.g. Excise Invoice issued under **Rule 11** of the Central Excise Rules, 2002, Copies of ARE-1, GR Form, Scrip, Certificates, License relating to export promotion schemes, etc.

The exporter is also required to register **authorized foreign exchange dealer code** (through which export proceeds are expected to be realised) and open a current account in the designated bank for credit of any Drawback incentive.

Generally the processing of Shipping Bills requires the production of a **GR form** that is used to monitor the foreign exchange remittance in respect of the export goods. However, there are few exceptions when the GR form is not required. These exceptions include export of goods valued not more than US $25,000/, export of gifts valued upto Rs. 5 lakhs. *(RBI Notifications No. FEMA.23/2000-RB, dated 3-5-2000, and No. FEMA.116/2004-RB, dated 25-3-2004)*

In case of export to Nepal the requirement of GR Form has almost been waived since the exports to Nepal generally do not involve any foreign exchange.

All the exporters intending to export under the **export promotion scheme** need to get their licences, etc. registered at the Customs Station. For such registration, original documents are required.
The aforesaid documents are verified for correctness of assessment and after examination of the goods, if warranted, ‘Let Export Order’ is given on the Bill of Export.

**Self Assessment:** Vide Finance Act, 2011, ‘Self-Assessment’ has been introduced under the Act. **Section 17** of the said Act provides for self-assessment of duty on export goods by the exporter himself by filing a Bill of Export in the **electronic form**, as per Section 50 of the Act making it obligatory for exporters to make entry of export goods by presenting a Bill of Export **electronically** to the proper officer except for the cases where it is not found feasible to make such entry electronically. In these cases, the Commissioner may allow **manual** filing of Bill of Export. This authority should be exercised cautiously and only in genuine cases.

Thus, under self-assessment, it is the exporter who will ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the export goods while presenting Bill of Export.

**(B) Risk Management Systems (RMS):** The declaration filed by exporter may be verified by the proper officer when so interdicted by the RMS. In rare cases, such interdiction may also be made with the approval of the Commissioner or an officer duly authorized by him, not below the rank of Additional Commissioner of Customs, and this will necessarily be done after making a record in the **EDI system**.

The verification of a self-assessed Bill of Export shall be with regard to correctness of classification, value, rate of duty, exemption notification or any other relevant particular having bearing on correct assessment of duty on export goods. Such verification will be done **selectively** on the basis of the RMS, which not only provides assured facilitation to those exporters having a good track record of compliance but ensures that on the basis of certain rules, intervention, etc. high risk consignments are interdicted for detailed verification before clearance.

**(C) Testing, Further Documentation and Provisional Assessment:** For the purpose of verification, the proper officer may order for examination or testing of the export goods. The proper officer may also require the production of any relevant document or ask the exporter to furnish any relevant information. Thereafter, if the self-assessment of duty is not found to have been done correctly, the proper officer may reassess the duty. This is without prejudice to any other action that may be warranted under the Act. This requirement is expected to arise when the exporter does not agree with reassessment, which is different from the original self-assessment.

There may be situations when the proper officer of Customs finds that verification of self-assessment in terms of Section 17 requires testing/further documents / information, and the goods cannot be reassessed quickly but are required to be cleared by the importer or exporter on urgent basis. In such cases, provisional assessment may be done in terms of **Section 18** of the Act, once the importer or exporter furnishes security as deemed fit by the proper officer of Customs for differential duty equal to duty provisionally assessed by him and the duty payable after reassessment.
(D) **Customs Examination of Export Goods**: After the receipt of the goods in the Customs Area, the exporter/customs broker may contact the Customs Officer designated for the purpose, and present the Bill of Export in Non-EDI system and check list with the endorsement of custodian and other declarations in EDI system along with all original documents such as, Invoice and Packing list, ARE-1, etc. The Customs Officer may verify the quantity of the goods actually received and enter into the system and thereafter mark the Bill of Export and also hand over all original documents to the examining officer (an Inspector) and indicate the officers’ name and the packages to be examined, if any, on the check list / Bill of Export and return it to the exporter/customs broker.

8.6.7.4 **Examination norms**: The Central Board of Excise & Customs, New Delhi has fixed norms for examination of export consignments keeping in view the quantum of incentive, value of export goods, country of destination etc. In this regard the Board has issued *Circular No. 6/2002-Cus., dated 23-1-2002*. After examination of the goods, if all things are O.K., *‘Let Export Order’* is given by the proper officer (Superintendent) on the Bill of Export and goods are cleared for entry into Nepal.

---

**FLOW CHART OF EXPORT PROCEDURE**
9. AIRPORT PASSENGER CLEARANCE SYSTEM AND ANTISMUGGLING PROCEDURE

Customs at airports have the following major responsibilities:

(1) Assessment and collection of Customs duties

(2) Compliance with restrictions and prohibitions regarding import and export of goods under the Customs Act and other allied acts.

Treatment meted out to international travelling community has important bearing on:

(i) Foreign Investments, and

(ii) Tourist arrivals.

Both these have important bearing on the overall economy of the nation. At the same time Customs have to guard against the dangers arising out of the import of goods of social, environmental and security concerns e.g. Narcotics, arms and ammunitions, wildlife and plant produce and protect the Indian industry from unfair economic practices e.g. import of counterfeit goods, foreign exchange manipulations, import / export of restricted goods. Customs have therefore to ensure that their controls are carried out in a manner as to facilitate large majority of genuine passengers while intelligently discriminating those who attempt to violate the laws. Targeting and profiling are keys to this approach. Thus optimal balance between facilitation and compliance is absolutely necessary.

From the point of view of customs procedure the airport can be broadly divided into the following categories:

1. Arrival Procedure

2. Departure Procedure

9.1.1 Arrival Procedure

On disembarkation from the flights and completion of immigration formalities, passengers enter the Arrival Hall and passengers carrying dutiable or restricted goods are identified and advised to report subsequently at Red Counters. Passengers with prohibited goods are taken up for investigations. The passengers collect their checked-in baggage from the belts. Sensitive cargo is released under preventive supervision.
The passenger can choose one of the two channels of clearance:

**i) Red Channel:** for passengers with dutiable or restricted goods; and

**ii) Green Channel:** for other goods.

Passengers required declaring currency or claiming TR facility report at the specified Red channel.

Following categories of passengers are attended by customs officers:

1. Mishandled Baggage
2. Currency and Gold Declaration
3. Crew Clearance
4. ATA Carnet
5. General Declaration

The passengers walking through green channel are by and large allowed to go uninterrupted. The passengers who are profiled to be suspicious or whose baggage appears dutiable or restricted are taken up for preliminary enquiry by the Superintendent (Preventive) or one or more officers of preventive. Baggage of the suspect passengers at this stage is also diverted for x-ray. Wherever the baggage is believed to be dutiable or restricted, the passenger is diverted for detailed examination (DE) at duty counters.

**9.1.2 Assessment and Clearance of Baggage**

Any passenger reporting at red counter for the purpose of assessment and clearance of his baggage is required to first fill up the Customs portion of the disembarkation card, in particular the value and sign in front. The Customs officer thereafter obtains oral declaration of the contents of his baggage on the reverse of this card, known as Oral Declaration (OD) card. The number of the counter where declaration is taken is also mentioned on top of the card. The passenger signs the card and the same is also signed and stamped by the officers concerned if the declaration is accepted. In case of doubt the baggage is opened and examined and the correct contents reflected. Minor deviations in excess of dutiable allowances are cleared on charging duty. However, significant deviations in excess of dutiable allowance are subjected to adjudication proceedings.

The officer also examines the passport of the passenger to ascertain his legal entitlement in terms of the baggage allowance and also to see possibility of frequent record of commercial travels. In appropriate cases, the passenger is
handed over to preventive for personal search and detailed X-Ray of the contents of the baggage.

The Process of assessment involves the following:

1. Valuation of the contents of the baggage.

2. Understanding of the travellers’ status, his free allowances and application of the correct rate of duty

3. Awareness of the prohibitions and restrictions.

**9.1.3 Issue of Detention Receipt (DR)** In the event of passenger’s inability to clear the goods at the time of arrival, or where the Customs need to complete their enquiry for the proper assessment or when the goods are required to be adjudicated by a person other than the officer available on the spot, the goods are detained. The detention receipt should be carefully made to reflect the complete facts of detention, in particular the following:

1. The reasons for detention;

2. Brief description of the offence, if any:

3. Free allowance availed on the spot;

4. The number of previous visits;

5. Description of goods and value declared by the passenger; and

6. Weight.

**9.1.4 Preparation of Various Documents** In the preparation of various documents like Oral Declaration card, Baggage Receipt, Detentions Receipt, Adjudication order, the detailed description of the goods, particularly, make, model, brand etc. should be clearly written. The practice of giving a general description is prone to misuse. All these documents should bear the stamp of the officer below the respective signature or at least the name in capital letters.

**9.1.5 Currency Declaration** Passengers bringing foreign currency in excess of the prescribed amounts are required to obtain the currency declaration form from the specified counter. Currency declaration form of passengers bringing foreign currency in excess of USD 10,000 or equivalent is signed by the Deputy Commissioner personally. High valued currency declarations are carefully noted for subsequent control.

**9.1.6 Mishandled Baggage** The passenger whose baggage is mishandled is issued Property Irregularity Report (PIR) by the concerned airline. The passenger is expected to approach the Customs counter for mishandled baggage and obtain the
endorsement as to the amount of free allowance availed by him in order to claim the unutilized portion when the remaining baggage arrives. The mishandled baggage of passenger is also cleared from this counter, either on the spot by the concerned airline under the simplified procedure or subsequently by the passenger or his authorized representative.

9.1.7 Clearance of Tourists  A large number of passengers coming are tourists, both Indians and foreigners. For the sake of uniformity, Board has issued instructions vide Circular No. 72/98-Cus. dated 24.1.98 that the following items are allowed to be cleared by tourist as personal effects.

a. Personal jewellery
b. One camera with film rolls not exceeding twenty
c. One video camera/camcorder with accessories and with video cassettes not exceeding twelve
d. One pair of binoculars
e. One portable colour television (not exceeding 15 cms in size)
f. One music system including compact disc player
g. One portable typewriter
h. One perambulator
i. One tent and other camping equipment
j. One computer (laptop/ note book)
k. One electronic diary
l. One portable wireless receiving set (transistor radio)
m. Professional equipments, instruments and apparatus of appliances including professional audio/video equipments
n. Sports equipments such as one fishing outfit, one sporting fire arm with fifty cartridges, one non-powdered bicycles, one canoe or ranges less than 51 meters long, one pair of skids, two tennis rackets, one golf set (14 pcs. with a dozen of golf balls)
o. One cell phone.

The Baggage Rules allow only used personal effects. However, it is not necessary to verify newness of each product as long as the goods do not prima-facie appear new or are in their original package to be dispensed of offhand. The practice of endorsing passport of high valued items has been dispensed with.

9.2.1 Departure Procedure

The list of select passengers is made based on prior profiling or purely for surprise checking and given to concerned airline before the start of check-in formalities. The boarding passes passengers are stamped in a manner as to facilitate their identification at the reporting before Customs and their baggage is tagged in a manner that it does the Customs area without prior clearance. When any of these passengers reports at the Customs departure counter the passport and ticket are
looked at and polite ring made to see whether they need to be subjected to detailed checking. Particulars of passengers whose baggage is subjected to examination or are searched recorded in the prescribed registers.

The following indicators help in the proper profiling of the suspect passengers:

a. Examine the passport of passenger thoroughly.
b. Examine the ticket and travel itinerary of the passenger.
c. Examine whether passenger is destined to sensitive location or is en route going to sensitive location known for drug and currency smuggling.
d. Find out as to what is the profession of the passenger.
e. Examine as to what is the reason for travel of the passenger.
f. Examine as to what is the source of financing the travel by the passenger.
g. Examine the ticket of passenger to determine whether he has booked the ticket at short notice and against cash payment.
h. Examine as to whether the passenger has paid additional luggage charges to the airline, and whether all the baggage tags put on the bags of the passenger tally with those put on the tickets.
i. Examine as to what is the amount of currency passenger is carrying.
j. Examine as to what is the past history of the passenger, whether he has been found carrying drugs or currency in past.
k. Examine the movements of passenger and his behavior during the examination, which would be the suitable guide for determining whether the passenger is carrying any goods concealed or not.

Some special areas of work are as follows:

(a) Checking passengers against whom alerts are issued.

(b) Immigration hands over from time to time certain passengers against whom alerts issued by the DRI or locally. These passengers are required to be acted upon, in the respective alert. Basically the alert can be either for arrest or for search/examination. In the later case the passenger should be subjected to quick search/examination ensuring that he is not made to miss his flight.

9.3 Duties of Customs Officers:

9.3.1 Duties of Baggage Officer

i. Passengers diverted or reporting at the red counters should be greeted in a professional and courteous manner and asked to make the baggage declaration in the prescribed manner, filling up the required particulars, including counter number, value, and signing the same.

ii. After completion of baggage declaration by the passenger baggage officer should inform the passenger about his duty liability. In case passenger is required to pay
any duty and the baggage officer is satisfied with his declaration he should politely ask the passenger to go after completing his Oral Declaration Card and after both ACS & ACO have signed the same and stamped.

iii. In case the baggage officer is not satisfied with the declaration of the pass he should politely tell the passenger so and go in for the open examination of the baggage of the passenger.

iv. After completion of examination the officer should inform the passenger about his duty liability and prepare documents for payment of duty (BR). In case passenger is not in position to deposit the duty then on the request of passenger the goods are to be detained and detention receipt (DR) to be made in prescribed Performa.

v. In case the baggage officer is not capable of being assessed on the spot then he should detain the goods after informing the passenger about the need of appraisement and clearance as per the law.

vi. In case the baggage of passenger comprise goods which are in commercial quantity or which cannot be called the bona fide baggage of the passenger the matter should be brought to the knowledge of the Deputy, Commissioner Shift who would examine and adjudicate the case, if it is within his monetary power of adjudication or get the baggage detained for adjudication by the Additional Commissioner.

vii. In all cases of examination, the baggage officer should assist the passenger in the repackaging of goods.

9.3.2 Station Duty Officer (Arrival)

a. He will maintain the inwards entry register in the prescribed form.
b. He has to ensure that airlines file all the relevant papers with regards to the arrival of flight within the prescribed time and in prescribed number.
c. He will co-ordinate with the bank and maintain register with regards to the payment of duty in the bank
d. He will maintain register about the baggage deposited by the airlines in the interline warehouse, get the baggage deposited in the interline warehouse in his presence & allow clearance from the interline warehouse in his presence only.
e. Maintain the register with regards to the keys of various rooms in the Office, valuable goods godown etc & keep these keys in his control.
f. Maintain the charge register and the goods. He should deposit all the goods with valuable or other relevant godown at the earliest opportunity.
9.3.3 Gate Officer

a. keep general watch over the movement of the passengers in the baggage hall
b. keep watch over the movement of the airline and other staff in and out of the baggage hall.
c. Maintain Gate Register and allow entry only to the authorized visitors and staff members in the baggage hall after entering the details in the Gate Register.
d. Collect the Oral Declaration Cards from the outgoing passengers.
e. Collect the manifest from the Airlines prior to the clearance of any passenger from the baggage hall. Make entry in the IGM Register.
f. Tally the oral declaration cards with the manifest and see that Oral declaration Cards from all the passengers shown in the manifest is collected.
g. At the end of the shift he should deposit the Oral declaration Cards and manifest with the SDO (A) for onward submission to ACS (Records).
h. Ensure that no baggage from the mishandled baggage counter or warehouse leaves the baggage hall without proper gate pass.

9.3.4 Air Customs Officer (Departure)

a. Make entry in the EGM register
b. To man the Custom Counter in the departure hall and guide the passengers with regard to custom formalities etc.
c. To submit the list of flights departed to DC/AC of Customs.
d. Verify the boarding cards of the passenger and check whether the passenger have been marked for RR check. In case passenger is not ‘marked for RR check he should allow the passenger to go to the security, area for further boarding the aircraft.
e. In case of the RR marked passenger examine the passport of the passenger and question the passenger with regards to his baggage etc and make a general profile about him. In case he finds that the passenger is not normal passenger allow him to proceed for security check. In case of doubt the officer should for the check in baggage of the passenger and examine the same.
f. Maintain record about the RR marked and checked passengers and hand the same over to the SDO (Departure) for completion of his records.
g. Stamp the boarding cards of all the RR marked passengers as a token of having checked them before they are allowed to proceed to the security area maintain record about checking the same on the manifest available at the counter and submit the same to SDO (Departure) before he signs the departure GD of the flight. This has to be done in coordination with SDO (Dep).
9.3.5 Station Duty Officer (Departure)

a. To maintain the outgoing flight information register indicating the schedule outgoing flights, the expected time of departure of the flights etc.
b. To maintain the out-going check register complete in all respect indicating details of the passenger marked for RR checks and outcome of such checks.
c. Maintain the currency declaration file containing the details of the high currency declared by the passenger at the time of arrival.
d. Sign the departure GD after ensuring that all the custom formalities to a the flight to take off have been completed including the clearance of all the marked passengers.
e. Maintain general discipline in the departure hall and report about absenteeism etc to the ACS (Dep).
f. Maintain records etc in the departure hall and see that flights are not un delayed because of Custom formalities

g. Co-ordinate and ensure that airlines submit the departure manifest we advance

h. Maintain the miscellaneous reports file

i. Maintain and co-ordinate with other officers posted in departure hall

j. Supervise the clearance of goods detained for Re export.

k. Assist in issuance of the export certificates.

9.3.6 Duties of the Escort Officer

Domestic Airlines have a privilege of carrying domestic passengers along the international passengers if they are touching two domestic airports before taking off for a foreign destination or on a terminal flight. This is made possible by posting an Escort Officer from Customs who secretly escorts the domestic passenger.

a. He is present at the time of clearance of the domestic passengers at the Customs Counter, when a flight carries both domestic and international passenger being cleared.
b. He takes the baggage declaration of domestic passengers and checks baggage
c. Collect Declaration form and signs them.
d. He ensures that the baggage of the domestic passengers is loaded in separate hold in cargo and do not gets mixed up with the baggage of the international passenger.
e. He ensures that the domestic passengers are seated in aircraft totally separate from the international passenger and there is no intermixing of the two. Even the toilets used by two categories of passengers are separate and domestic passengers should not use the toilets meant for international passengers.
f. Keep watch over the international and domestic passengers and see that no transaction takes place between two onboard.
g. Carries the baggage declaration forms with him in the flight and hands it over to the destination domestic station for the clearance of these domestic passengers.
h. On reaching the destination escort the domestic passengers with their hand baggage from the aircraft to the baggage hall.
i. In case of any untoward incident happens onboard the escort officer should inform the senior most officer on duty at the destination port.
j. Carry important letters and documents and such other packages which are handed over to him and ensure prompt delivery of the same:

9.3.7 Duties of Air Customs Superintendent

1. Air Customs Superintendent have the duty to ensure high level of discipline in respect of staff posted under him and ensure that no passengers are unduly harassed by the officers under him.

2. He has to ensure that the systems and procedure working in the area of work allocated to them are in place not only on the day of the duty but also previously. Any discrepancies on this account should be brought to the notice of his supervisor.

3. They have to make liaison with other agencies for the efficient discharge of Customs functions and also to help other agencies discharge their functions without unnecessary delay.

9.4 AIRPORT PREVENTIVE

9.4.1 Organizational Setup:-

Working under the Assistant/Deputy Commissioner (Prev.). The preventive set up at Lucknow and Varanasi Airport comprises the following:

Shift (Prev.) for each of the two shifts further sub-divided into:

I. Arrival – one superintendent and two inspectors.

II. Departure - one superintendent and two inspectors

III. Air Intelligence Unit -01 superintendent and 2 Inspectors

IV. Office Preventive & Rewards : To handle non current preventive work, COFEPOMS

The officers of shift preventive are responsible for carrying out of various preventive checks in their respective areas of duties. They have the facility of
technical aids such as: X-ray screening machines installed on the floor for arrival as well as departure baggage, Rummaging tool and equipments, Drug Testing Kits.

DC/AC incharge shall implement the shift posing as brought out above and shall be responsible solely for smooth functioning of shift. A good preventive officer has to be aware of the airport environment and risks of various kinds of the frauds at the airport. This requires an understanding of the various personnel working at the airport, airport precincts, facilitating fraud, passengers profile and sensitivity profile of the various flights. These aspects are discussed briefly as follows:

Various personnel working at the airport customs area and potentially important from the point of view of preventive are:

- Flight /Cabin Crew
- Airline Ground Staff
- Cleaning Service
- Handlers and Airline companies’ staff
- On board catering
- Duty Free Shop
- Concessionary companies
- Restaurant and bar
- Airport Authority
- CISF And immigration staff
- Visitors permitted entry to received or see off passengers
- Shopping area in Departure
- Combined area of arrival of International & Domestic side
- Airport Precinct
- Officer must be aware of following aspects:-
  - Parameter Fencing
  - The Exist/Entry point to the airport, particular for vehicular movement
  - Access Roads
  - Car Parking VIP, Staff Parking /Taxi Ways
  - Office Buildings, particularly accessible from Tarmac areas, Pantry areas of airlines handling staff
  - Vehicles which can Facilitate Frauds
  - Fuel and Supply Lorries
  - Airline Vehicles
  - Clearing and Maintenance Vehicles
  - Baggage Tractors
  - Other Misc. Vehicles

9.4.2 Passenger profile

With the ever increasing traffic and the speed with which customs are required to clear the passengers and their respective baggage, it is no more possible to carry out routine checking of passengers. Customs have to necessarily rely on selectively
by intelligent profiling. Some of the factors that lead to identification of suspect passengers are:

(a) Age between early 20’s and late 30’s and from countries nationals of which have past record of smuggling activities

(b) No advance flight reservation;

(c) No or little checked-in baggage;

(d) Passport indicating frequent travels abroad without matching his financial status.

(e) Unusual travel routing and travel itinerary.

(f) Abnormal/heavy sized baggage securely packed/tied.

(g) Multiple tickets as against a single ticket for travel. (conjunction Tickets)

(h) Short stays in India or immediate departure and thereafter again arrival after a brief stay abroad.

(i) Purchased ticket in cash.

(j) Occupation for socio-economic background conflicts with expense or short duration of travel.

9.4.3 Rummaging of Aircraft

Section 37 of the Customs Act 1962 empowers the proper officer to board any conveyance carrying imported goods or export goods. He may remain on board as long as he decides to remain. The proper officer may question the person in charge of the vessel or aircraft. He may demand production of documents and also ask questions, to be answered by such person. The person in charge of the conveyance is bound to comply with these requirements as laid down under Section 38 of the Customs Act, 1962.

Rummaging of the aircraft is necessary to detect concealments etc in the aircraft itself. Commercial Aircrafts after they have landed are accessed by ground staff, cleaners, technicians, caterers etc who do have access to all the areas of the easily removed from the craft by these persons when they board the aircraft, Hence the rummaging of aircraft become becomes a important functions and measure to check smuggling. Rummaging of the aircraft is a highly technical and sophisticated function. Before undertaking to rummage aircraft intelligently plan and get information on:

Type of the aircraft to be rummaged:
I. Check country of origin, routing, and flight plan.

II. Consider flights from non-source countries where good transit facilities apply.

III. Consider nature of cargo.

After having decided to rummage, plan the operation keeping in mind the safety of aircraft and the safety of officers in mind. Rummage and inspect the sensitive area of the aircraft. Inform the crew if any contrabands and goods found concealed in flight. Tell the waiting personnel like ground staff, technicians and cleaners to enter the aircraft. Make entries as required before boarding the aircraft and also after completing the rummaging.

9.4.4 Technical Aids

A number of technical aids have been provided at Airport

I. X-ray machines-two each on two hand-bag x-ray, one gate x-ray, one courier and two in departure.

II. Drug testing kit

III. Door frame metal detectors

IV. Hand held metal detectors

V. Rummaging equipment

VI. Walky-talky sets

9.5 Valuation for duty calculation

The rates of customs duties leviable on imported goods (& export items in certain cases) are either specific or on ad valorem basis or at times specific cum ad valorem. When customs duties are levied at ad valorem rates, i.e., depending upon its value becomes essential to lay down in the law itself the broad guidelines for such valuation to avoid arbitrariness. Value for Customs purposes is defined in Section 2(41) of the Customs Act, 1962 which reads as follows:

“Value” in relation to any goods to mean the value thereof determined in accordance with the provisions of sub-section (1) of Section 14 thereof.

Sub-section (1) of Section 14 in turn states that when a duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed be:

“the price at which such or like goods are ordinarily sold, or offered for sale delivery at the time and place of importation or exportation, as the case maybe, in the course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for the sale for sale or offer for sale”. 

122
As far as export goods are concerned, provisions of sub-section (1) of Sec 14 provide a complete code of valuation by itself. On the other hand, for imported as per sub-section (1A) of Section 14, the value is required to be determined in accordance with rules made in this behalf.

Accordingly, the Customs Valuation (Determining Price of Imported Goods) Rules, 2007 have been framed and notified under Notification No.94/2007 (N.T) dated 13.9.2007. The Customs Valuation Rules closely follow the WTO Customs Valuation Agreement to implement Article VII of GATT.

The transaction price declared can also be rejected when the proper customs officer has reasons to doubt the truth or accuracy of the value declared & if even after furnishing of further information/documents or other evidence produced, proper officer is not satisfied & has reasonable doubts about the value declared.

9.5.1 VALUATION OF BAGGAGE

Baggage is a separate class of goods in itself for assessment. The baggage differs from other cases in a number of ways and hence cannot be subjected to principles of valuation as laid down in the Rules 3 to 7A of Customs Valuation Rules. The major points of difference being:

— There is no sale of goods in course, of international trade.

— The sale of goods would not be at the time of importation:

— The sale / purchase of goods in case of baggage is in retail and not in bulk. Hence, the principles of comparative / similar goods would not be applicable.

— The exporter and importer is the same person.

In view of the above the Valuation of baggage is to be done in accordance with the Rule 9 of Customs Valuation Rules read with the provisions of Section 14 of the Customs Act 1962. Value determined for the purpose of assessment by the Customs is an:

— Indicative price.

— Charged in the course of international trade.

— At the time of importation into India.

— When buyer and seller have no interest in each other.

— Adjusted for various factors like insurance freight etc.
The transaction price at the time of importation is not available in case of baggage; hence the value has to be determined on the basis of best judgment. Provisions of Rule 9 of Customs Valuation Rules have to be kept in view in arriving at the value.

9.5.2 Residual method. — (1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India:

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) No value shall be determined under the provisions of this rule on the basis of:

(i) The selling price in India of the goods produced in India;

(ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;

(iii) the price of the goods on the domestic market of the country of exportation;

(iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

(v) the price of the goods for the export to a country other than India;

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.

Looking at the large traffic, need for quick clearance, absence of invoices with the traveling public and common practice of manipulation of such, invoices the airports follow standard prices as guides in determination of best prices. The pricelists used to determine the value of baggage for purpose of levy of Custom Duties under section 14, are the prices at which the goods are normally available in the international market just about the time of arrival of the passenger. These prices are based on the prices of the goods contained in the baggage of the passenger as are available on the internet or are determined on the basis of market enquiry. To facilitate and maintain uniformity in the valuation the department circulates a price list of various items that are being normally bought by the people in passenger baggage.
The prices mentioned in the price list need to be adjusted by a number of factors e.g. technological advancements, obsolescence, exchange rate fluctuations for which necessary directions are issued from time to time.

9.5.3 Valuation of old and used articles

To take into account the period of use the value of the item is depreciated at following rates:

i. Every quarter during 1st year 4%
ii. Every quarter during 2nd year 3%
iii. Every quarter during 3rd year 2.5%
iv. Every quarter during 4th year 2%

Subject to maximum depreciation of 70%

Depreciation up to a maximum of 20% can be allowed by the ACS on counter. In case passenger claims that item attracts higher depreciation the matter is referred to the Assistant / Deputy Commissioner who after considering the merits of case can allow further depreciation.

Valuation rules have been framed in accordance with WTO Valuation Agreement and provide for systematic step wise approach to the determination of the value. Valuation rules have been discussed in detail in the earlier part of this section.

9.5.4 Determination of Value for different duties

The calculation of the assessable value for the levy of various types of customs duties is as follows:

The above aspect would be clear by the example below:

Let the assessable value for the purpose of Basic Custom Duty (BCD) be Rs 100/-, BCD be at the rate of 35% Adv., Additional Duty @ 20%, and SAD @4% then

<table>
<thead>
<tr>
<th></th>
<th>Assessable Value</th>
<th>Of A</th>
<th>100</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Basic Customs Duty</td>
<td>35% of A</td>
<td>35</td>
</tr>
<tr>
<td>B</td>
<td>Additional Duty</td>
<td>20% of (A + B)</td>
<td>27</td>
</tr>
<tr>
<td>C</td>
<td>Special Additional Duty</td>
<td>4% of (A+B+C)</td>
<td>6.48</td>
</tr>
<tr>
<td>D</td>
<td>Total Duty</td>
<td>B+C +D</td>
<td>68.48</td>
</tr>
</tbody>
</table>
## ANNEXURE- I

<table>
<thead>
<tr>
<th>S.No</th>
<th>LCS</th>
<th>Routes specified</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Banbasa</td>
<td>Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Jaunpur, Sultanpur, Lucknow, Shahjahanpur, Bareilly, Pilibhit, and Banbasa in India and Mahendranagar in Nepal.</td>
</tr>
<tr>
<td>2.</td>
<td>Barhni</td>
<td>Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Ghazipur, Gorakhpur, Basti, and Barhni in India and Krishna Nagar in Nepal.</td>
</tr>
<tr>
<td>3.</td>
<td>Dharchula</td>
<td>Road connecting Darchula in district Pithoragarh in India and Dharchula in Nepal.</td>
</tr>
<tr>
<td>4.</td>
<td>Gauriphanta</td>
<td>(a) Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Jaunpur, Sultanpur, Lucknow, Baharaich, and Gauriphanta in India, and Dhangadhi in Nepal; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Ghazipur, Gorakhpur, Basti, Baharaich and Gauriphanta in India, and Dhangadhi in Nepal.</td>
</tr>
<tr>
<td>5.</td>
<td>Gunji</td>
<td>Land route between Gunji in Pithoragarh district of Uttarakhand in India and Pulan in the Tibet Autonomous Region of China.</td>
</tr>
<tr>
<td>6.</td>
<td>Jarwa</td>
<td>Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Ghazipur, Gorakhpur, Basti, and Balrampur and Jarwa in India and Koilabas Nepal.</td>
</tr>
<tr>
<td>7.</td>
<td>Jhulaghat (Pithoragarh)</td>
<td>Road connecting Jhulaghat (Pithoragarh) in India and Mahakali in Nepal.</td>
</tr>
<tr>
<td>8.</td>
<td>*Kakraha**wa</td>
<td>Road connecting Kakrawah in Siddharthnagar District, Uttar Pradesh and Karidah in Nepal”.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>10.</td>
<td>Khunwa</td>
<td>Road connecting Shoratgarh in India and Taulihawa in Nepal.</td>
</tr>
<tr>
<td>11.</td>
<td>Nautanwa (Sonauli)</td>
<td>Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Ghazipur, Gorakhpur, Nautanwa, and Sonauli in India, and Bhairwa in Nepal.</td>
</tr>
</tbody>
</table>
|12. | Nepalgunj Road | (a) Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Jaunpur, Sultanpur, Lucknow, Baharaich, and Nepalgunj Road in India, and Nepalgunj in Nepal; or

(b) Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Ghazipur, Gorakhpur, Basti, Baharaich and Nepalgunj Road in India, and Nepalgunj in Nepal. |
|13. | Tikonia | (a) Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Jaunpur, Sultanpur, Lucknow, Baharaich, and Tikonia in India, and Sati (Kailali) or Prithvipur in Nepal; or

(b) Road connecting Kolkata, Vivekanand Bridge, Dankuni, Mogra, Bardwan, Panagarh, Asansol, Dhanbad, Barhi, Aurangabad, Sasaram, Varanasi, Ghazipur, Gorakhpur, Basti, Baharaich and and Tikonia in India, and Sati (Kailali) or Prithvipur in Nepal. |
|14. | Thoothibari, District Maharajganj, Uttar Pradesh | Road connecting Thoothibari, District Maharajganj, Uttar Pradesh in India and Maheshpur in Nepal. |

* vide NOTIFICATION No. 42/2016-CUSTOMS (NT) dated 29th March, 2016
ANNEXURE-II

UNDERTAKING BY THE INFORMER

I am aware that the extent of reward depends on the precision of the information furnished by me; that the provision of section 182 of the Indian Penal Code have been read by and/or explained to me; that I am aware that if the information furnished by me is found to be false, I would be liable to prosecution; that I accept that the Government is under no obligation to enter into any correspondence regarding details of seizure made etc., if any, and that the payment of reward is ex-gratia in the absolute discretion of the authority competent to grant reward. It is clear to me that the Government is under no obligation to grant/sanction the maximum admissible reward upto 20% of the net sale proceeds of the seized/confiscated goods, (if any) and/or the amount of additional duty/penalty/redemption fine recovered and that the amount of reward to be sanctioned to me will purely depend on the specificity and accuracy of the information and other dependant factors as per the reward instructions dated 20th June, 2001 as amended by the new circular No 20/2015 dated 31/07/2015.

Left thumb impression or signature of the informer
ANNEXURE –III

DRI-1 INFORMATION REPORT

DRI-I Number…… . Date:……………………

1. Source & Date of Information :

2. Subject Report:
   (a) Name of the person/smuggler/firm :
   (b) Name of the jurisdictional Division & Commissionerate :
   (c) Modus Operandi :
   (d) Estimated amount of duty evasion :
   (e) Value of the offending goods :

3. Information

4. Proposed action with details of premises to be covered :

5. For working out, the information is forwarded to :

6. Grading (must be completed by reporting officer) :

<table>
<thead>
<tr>
<th>Source Reporting officer</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completely reliable</td>
<td>1. Confirmed</td>
</tr>
<tr>
<td>Usually reliable</td>
<td>2. Probably true</td>
</tr>
<tr>
<td>Fairly reliable</td>
<td>3. Possibly true</td>
</tr>
<tr>
<td>Not usually reliable</td>
<td>4. Doubtfully true</td>
</tr>
<tr>
<td>Unreliable</td>
<td>5. Improbable report</td>
</tr>
<tr>
<td>Reliably unknown</td>
<td>6. Truth can’t be judged</td>
</tr>
</tbody>
</table>

Time and Place : Signature of Reporting officer with date
ANNEXURE- IV

WARRANT OF AUTHORISATION FOR SEARCH

To

Shri........................................
........................................

Whereas an information has been laid before me which is considered to be reliable and due enquiry having been made thereupon, I have reason to believe that goods liable to confiscation and documents relevant to the proceedings under the Customs Act, 1962 are secreted in the business / residential premises detailed herein below:

........................................................................................................................................................................
........................................................................................................................................................................

Now, therefore, in exercise of the powers conferred upon me under Section 105 of the Customs Act, 1962, I authorize and require you to search the above premises with such assistance as may be necessary for the said goods or documents and/or any other things relevant to the proceedings, under the said Act, and, if found, to seize and produce the same forthwith before me for further disposal under the Customs Act, 1962 and rules made thereunder.

Given under my hand & seal this.................day of............(month)

200......(year). Valid for .......day(s).

Signature, Name and designation of the issuing authority

Seal of issuing Authority

(i) Pancha no.1 :................................. (name, address and signature)
(ii) Pancha no.2: ............................... (-do-)
(iii) Person in-charge present in the premises........... (-do-)
ANNEXURE – V

FORM OF SUPURDNAMA

To

The President of India

I/We………………………..S/O……….of M/s……………………………………………………………..
…………………………………..R/O……………………………… P.O.
………………………………..Distt……………... do hereby state that I/We have on this ............
day........... of ............200...... received from ................. of Customs ................ the
following number of packages containing..... (State the description of the
goods)valued at Rs.........................in consideration of the sum of Rs.........................paid by the Customs department.

I/We hereby undertake to keep the said packages with me/us for safe custody.
I/We further undertake to produce the said packages containing the said goods intact and in the same condition as they are, whenever called upon to do so by the competent authority of Customs Department and not to deliver the same to any person or otherwise dispose of or deal or tamper with the same without an order from the proper officer of Customs Department. I shall neither claim any ownership of the goods nor charge any rent for keeping the goods in safe custody.

Witnesses (Name, address and signature)  Signature of Bailor

1.

2.

PARTICULARS OF THE SEIZED GOODS

1. Name of owner of the seized goods...........................................

2. Description & Qty. of goods (with identification marks, if any).........

3. Value ..................................................................................

4. Amount of duty involved.......................................................

5. Condition of goods...............................................................

Signature of the bailer

Signature & Designation of the officer before

Whom the goods are given in the custody of

Shri...........................................
ANNEXURE-VI

GENERAL FORMAT OF PANCHNAMA DRAWN FOR SEARCH

Panch No.1 Complete details viz. Name, age, percentage

Panch No.2 Residential address & occupation

We the above named Panchas having been called upon by Shri ………… (named & designation of the s/w holder) presented ourselves today………..at …………..at (address of the premises to be searched) to witness the search operation intended to be conducted by a team of officers of Customs led by Shri………..

On reaching the said premises, the officers in presence of we, the Panchas knocked at the door of the premises. The person who introduced himself as Shri……………… (person-in-charge of premises may be mentioned) came forward. The officers identified themselves by showing their identity cards and explained the purpose of the visit. The officers exhibited the warrant of authorisation for search issued by………………………… (details of the authority who had issued the search warrant) under section 105 of the Customs Act, 1962. Shri……………… (person incharge of the premises) and we, the Panchas have put our dated signatures on the search warrant in token of having seen the same. The officers of Customs offered themselves for personal search which was politely declined by Shri ………….. (person incharge)/which was accepted by Shri ………….., who took a personal search of all the officers, in presence of the we, the Panchas and satisfied himself that nothing objectionable was found on the person of any officer. The team of officers also included Smt. …………… as a lady officer. The search was, thereafter, commenced.

The search operation started at …………… hours and concluded at ……….. hours. The officers after conclusion of search offered themselves for personal search which was politely declined by Shri………………...(person incharge)/which was accepted by Shri ………….., who took a personal search of all the officers, in presence of the we, the panchas and satisfied himself that nothing objectionable was found on the person of any officer. The officers have taken into possession nothing except for the goods/records/documents seized as detailed in Annexure to this Panchnama. The proceedings were conducted peacefully and no damage was done either to property or to persons. The aforesaid proceedings were conducted in our presence. The panchnama was read over and explained to us in Vernacular also. We are satisfied with the manner of search and the contents of Panchnama.

Signature of the officer Signature of the party Panch No.1

authorised to search Panch No.2
C.No.......                        Date:

D.R.I. II (OFFENCE REPORT/SEIZURE REPORT)

1. Name & address of party :  
2. Date & time of detection :  
3. Commodity & Chapter :  
4. Value and the duty :  
   involved in seized goods  
5. Estimated duty involved :  
   in offending goods – other  
   than seized goods, if any.  
6. Modus operandi :  
7. Rules contravened :  
8. Name of the officers :  
   and role played.  
9. Brief facts of the case :  

Name & Designation

Copy to:

1. The Director General, DRI, New Delhi.  
2. The Additional Director General, DRI, Jurisdictional Zonal Units.  
3. The Commissioner Customs (Preventive)  
4. The Deputy Commissioner (Division), if necessary.
ANNEXURE – VIII

SUMMONS

To

..........................

Sub:- Case of..................................................

Whereas a case against/about.................................................................

under Section(s) ............of the the Customs Act, 1962 is being enquired by
me/under my orders.

And whereas I have reason to believe that you are in possession of facts or/and
documents and records which are material to the above enquiry.

You are therefore summoned under 108 of the Customs Act, 1962 to appear before
me in person/by an authorized agent on..............the ......day of..............at......hrs. in
the office of.......................................................to give evidence truthfully on such matters
concerning the enquiry as you may be asked and produce the documents and
records mentioned in the Schedule for my examination.

If you fail to comply with this summons without lawful excuse, you will be
liable to be punished under the law

-Schedule

Given under my hand and seal of office to-day the.................................

Signature.............................................

Designation...........................................

Seal of Office.

Note- Under sub section 3 of Section 14 of the Central Excise Act, 1944, the above
enquiry is deemed to be a judicial proceeding within the meaning of section 193
and 228 of the Indian Penal Code, 1860.
ANNEXURE –IX

ARREST MEMO

Dated .................

To

_________________________
__________________________

Consequent upon recovery of incriminating documents and the statements of other witnesses it has emerged that .........................(Name of the person to be arrested and his designation and address) having a premises of.................(name of the commodity) situated at......................(name and address of the premises) had actively participated in the..............................(nature of the offence) in violation of the provisions of Customs Act, 1962

I, ..............................Inspector (Preventive), Office of the Commissioner, Customs...............having office at.............................., therefore, having reason to believe that you are liable to punishment under the provisions of section.........................................................of the Customs Act, 1962 and being duly authorized, hereby arrest you today the..............................(date & time) at...............(Place) under the powers vested in me under Section .... of the said Act.

Name & designation of the arresting officer

Before arresting, the JAMA TALASHI of Shri...........................(name of the person arrested) was taken and he is possessing......................(description of the valuables and cash) which are kept with the arresting officer under sealed envelope with the inventory written over the envelope. He was also allowed to contact his family members and/or his advocate, Shri ....................

Name & designation of the arresting officer

Witnesses to the arrest:-  (Signature, name & address)

1. 
2. 

135
ANNEXURE – X

CHALLAN FOR HANDING OVER PERSONS ARRESTED

To

The Officer in Charge,

................................................Police Station,

The person(s) mentioned below is/are forwarded to you under Section ...(of the Customs Act, 1962) for safe custody. He/they were arrested by me at..........................................................on...........................................under section...........................................(of the Customs Act, 1962), for violation of Section...........................................(of the said Act). Copy of Arrest Memo is enclosed. He/they should be produced before the Court of..................................................at 10AM on the.............. OR the undersigned shall take back the custody of the arrested person on ............... (date & time) for producing him before the court of ......................

Particulars of the arrested person(s)

________________________________________________________________________________________

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name</th>
<th>Father's name</th>
<th>Full Address</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

________________________________________________________________________________________

Signature, name & designation of the

Customs Officer

Date........................................

Signature of the Officer-in-Charge to

whom the arrested person(s) is/are forwarded ..............
ANNEXURE – XI

BAIL BOND AND SECURITY BOND

I………………………………………….Son of…………………………………
of (address)…………………………………………………………………..being charged with the
offence of……………………………………………………………………..
do hereby bind myself to appear at………………………………………………..
in the court of……………………………………………………………………at……………………
hours on………………………….the day of…………………………and thereafter from day today
until otherwise directed by such Magistrage, to answer further to the said charge,
and in the case of my making default therein, I bind myself to forfeit to the
President of India the sum of Rs,……………………………………………………..

Dated, the………………………………day of…………………………19………

Signature of the arrested
person.........

Surety/Sureties

I/We ……………………………………….Son of………………………….

Jointly and severally hereby declare myself/ourselves surety/sureties for the
aforesaid…………………………………………son of…………………………that he shall appear
before………………………….At…………………………hours on the…………………………day of and
thereafter from day to day until otherwise directed to answer to the charge
pending against him, and in case of his failure to do so, I/We jointly and severally
bind myself/ourselves to forfeit to the President of India the sum of
Rupees……………………

Signature…………………………………

Profession…………………………………

Address…………………………………

Date……………………………………
ANNEXURE- XII

INVESTIGATION REPORT FOR THE PURPOSE OF LAUNCHING OF PROSECUTION

(CIRCULAR NO-1009/16/2015-CX DATED 23/10/2015)

Commissionerate …………… Division…………..

1. Name & address of the company :

2. Nature of offence including commodity :

3. Charges :

4. Period of offence :

5. Amount of evasion involved :

6. Particulars of persons proposed to be prosecuted:

<table>
<thead>
<tr>
<th>(1)(a)</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b)</td>
<td>Father's Name</td>
</tr>
<tr>
<td>(c)</td>
<td>Age of Sex</td>
</tr>
<tr>
<td>(d)</td>
<td>Address</td>
</tr>
<tr>
<td>(e)</td>
<td>Occupation</td>
</tr>
<tr>
<td>(f)</td>
<td>Position held in the company</td>
</tr>
<tr>
<td>(g)</td>
<td>Role played in the offence</td>
</tr>
<tr>
<td>(h)</td>
<td>Material evidence available against the accused (Please indicate separately documentary and oral evidence).</td>
</tr>
<tr>
<td>(i)</td>
<td>Action ordered against the accused in adjudication.</td>
</tr>
</tbody>
</table>

7. Brief note why prosecution is recommended:
(Name......)

DATE-
DEPUTY/ASSISTANTCOMMISSIONER

8. I have carefully examined the investigation report and find it in order for filing criminal complaint under the provisions of Customs Act, 1962.

Commissioner Customs (P) Lucknow
Place:
Date:

NOTE:

A. The proposal should be made in the above form in conformity with the guidelines issued by the Ministry. With regard to column 3 above, all the charging sections in the Customs Act and other allied Acts should be mentioned. If the provision for conspiracy as under Section 120B of IPC is sought to be invoked, this fact should be clearly mentioned. With regard to column 6, information should be filed separately for each person sought to be prosecuted.

B. A copy of the Show Cause Notice as well as the order of adjudication should be enclosed with this Report. If any appeal has been filed, this fact should be specifically stated.

C. If any appeal has been filed then this fact should be specifically mentioned.
ANNEXURE: XIII

IN THE COURT OF THE MAGISTRATE (CITY) APPLICATION NO. OF 2016

CASE NO.

Shri

Preventive Officer Inspector of Customs/Central Excise of Customs

.............................. (Address)

Applicant

APPLICATION FOR DISPOSAL OF PERISHABLE DETERIORATABLE GOODS UNDER SEIZURE.

MAY IT PLEASE YOUR WORSHIP:

I _______________the applicant above named beg to state the following on solemn affirmation: That on ________________________ (name) ________________________ Was/were produced before your worship in connection with the seizure of ______ valued at Rs. ______________ (M.V) and your worship was pleased to grant him/them bail of Rs. ______________ The case is kept on dormant file on ______________ since the accused is absconing.

a) The above goods are of perishable/deteriorating nature. Any further storage is likely to cause depreciation in its value.

b) There is shortage of storage accommodation. Early disposal orders will ease the congestion in Warehouse.

c) And the said proceeds can be utilized for country’s developmental requirements. It is, therefore, prayed that your Worship may be pleased to order for the disposal of the said goods after keeping the representative samples.

For this act of kindness I shall ever pray. Solemnly affirmed at ....................................... (Address), This ____________ day of ____________ 20_____

140
ANNEXURE-XIV

Powers of officers for supervision of auction, acceptance of value below RESERVE PRICE, RESERVE PRICE fixation, to order destruction of goods, supervision of destruction and write off

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Item</th>
<th>Officer to exercise the power</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td><strong>Supervision of auction</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) If the overall book value of the goods offered in any single lot does not exceed Rs. 1 lakh</td>
<td>Superintendent</td>
</tr>
<tr>
<td></td>
<td>(b) If the overall book value of the goods offered in any single lot exceeds Rs. 1 lakh but upto Rs. 1 crore</td>
<td>AC/DC</td>
</tr>
<tr>
<td></td>
<td>(c) If the overall book value of the goods offered in any single lot exceeds Rs. 1 crore</td>
<td>JC/ADC</td>
</tr>
<tr>
<td>2.</td>
<td><strong>Acceptance of bid value below the RP</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(A) If the bid value is below the RP by upto 10% (of RP) And book value of the lot is equal to or less than Rs. 5 lakh.</td>
<td>AC/DC</td>
</tr>
<tr>
<td></td>
<td>(B) If the bid value is below the RP by upto 20% (of RP) And book value of the lot is equal to or less than Rs. 20 lakh</td>
<td>JC/ADC</td>
</tr>
<tr>
<td></td>
<td>(C) If the bid value is below the RP by upto 20% (of RP)</td>
<td>JOINT PRICING COMMITTEE</td>
</tr>
<tr>
<td>3.</td>
<td><strong>Reserve price fixation</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(A) Lots being put up in the auction where the book value of the lot is less than Rs.5000/-</td>
<td>Superintendent</td>
</tr>
<tr>
<td></td>
<td>(B) Lots being put up in the auction where the book value of the lot is more than Rs.5000/- but less than Rs. 1 Lakh</td>
<td>AC/DC</td>
</tr>
<tr>
<td></td>
<td>(C) Lots being put up in the auction where the book value of the lot is upto Rs.20 Lakh</td>
<td>JC/ADC</td>
</tr>
<tr>
<td></td>
<td>(D) Lots being put up in the auction where the book value of the lot is above Rs.20 Lakh</td>
<td>Valuation committee(JC an 2 AC/DC)</td>
</tr>
<tr>
<td>4.</td>
<td><strong>Power to order destruction of uncleared cargo/seized/confiscated/abandoned</strong></td>
<td></td>
</tr>
<tr>
<td><strong>imported goods</strong></td>
<td><strong>Supervision of destruction</strong></td>
<td></td>
</tr>
<tr>
<td>-------------------</td>
<td>-----------------------------</td>
<td></td>
</tr>
<tr>
<td>(A)Where the book value of the goods to be destroyed does not exceed Rs. 5000/-</td>
<td>(A)Where the book value of the goods to be destroyed does not exceed Rs. 5000/-</td>
<td></td>
</tr>
<tr>
<td>(B)Where the book value of the goods to be destroyed is more than Rs. 5000/- but less than Rs. 1 Lakh</td>
<td>(B)Where the book value of the goods to be destroyed is more than Rs. 5000/- but less than Rs. 1 Lakh</td>
<td></td>
</tr>
<tr>
<td>(C)Where the book value of the goods to be destroyed is more than Rs. 1 Lakh but less than Rs. 20 Lakh</td>
<td>(C)Where the book value of the goods to be destroyed is more than Rs. 1 Lakh</td>
<td></td>
</tr>
<tr>
<td>(D)Where the book value of the goods to be destroyed is more than Rs. 20 Lakh</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Superintendent</td>
<td>Inspector</td>
<td></td>
</tr>
<tr>
<td>AC/DC</td>
<td>Superintendent</td>
<td></td>
</tr>
<tr>
<td>JC/ADC</td>
<td>AC/DC</td>
<td></td>
</tr>
<tr>
<td>Commissioner</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Powers to write off goods lying in the warehouses after recording the reasons in writing

In exercise of the powers conferred under Rule 10(3) of the Delegation of Financial Rules, 1958 as amended from time to time, THE PRESIDENT OF INDIA has delegated the powers in the table given below.

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Officer</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Of the rank of AC/DC</td>
<td>Rs. 5000/- in each case</td>
</tr>
<tr>
<td>2.</td>
<td>Of the rank of JC/ADC</td>
<td>Rs.50,000/- in each case</td>
</tr>
<tr>
<td>3.</td>
<td>Commissioner of Customs</td>
<td>Without limit</td>
</tr>
</tbody>
</table>

The aforesaid powers may be exercised provided that:

(a) The loss does not disclose a defect in rules or procedure, amendment of which requires orders of higher authority of Finance Ministry;

(b) There has not been any serious negligence on the part of any Govt. servant which may call for disciplinary action by a higher authority.
ANNEXURE-XV (A)

JPC price sheet

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Godown Entry No. and Date</th>
<th>Description of goods</th>
<th>Unit</th>
<th>quantity</th>
<th>Seizure/Book value</th>
<th>Value per unit</th>
<th>Highest Market Opinion</th>
<th>Fair Price per unit fixed by the JPC</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Annexure — XV (B)

Format of the register showing succession of Custodian and Supervisory of Strong room/ valuables godown

1. For the Custodian

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Name and designation of the Officer</th>
<th>Date of taking over</th>
<th>Date of Handing over</th>
<th>Order reference</th>
<th>Counter sign of the immediate superior officer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. For the Supervisory officer (Gazetted Rank)

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Name and designation of the Officer</th>
<th>Date of taking over</th>
<th>Date of Handing over</th>
<th>Order reference</th>
<th>Counter sign of the immediate superior officer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ANNEXURE-XV(C)

Valuables, Category I/II/III/IV/NDPS goods/others

Inventory of goods detained/seized:

1. Name and address of the Owner
2. Name and Designation of the Seizing/Detaining Officer
3. Place and date of seizure or detention
4. Case file No. and Seizing Unit, if any
5. Total number of packages (indicate the type of package also)

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Details of the Package containing the goods</th>
<th>Detailed Description of the goods</th>
<th>Quantity</th>
<th>Condition of the goods</th>
<th>Country of Origin</th>
<th>Total estimated market value</th>
<th>Estimated Ex-duty value</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Signature of the Owner Signature of the Seizing Officer

Signature of the Witnesses

A specimen of the seal affixed on the packages

Received with seals intact

Signature of the Custodian/owner
## ANNEXURE-XV (D)

(“Register for Handing Over and Taking Over of charge”)

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Full name and designation of the officer handing over the charge with his full signatures</th>
<th>Period during which he held the charge of the goods in the relevant stock register</th>
<th>Full name and designation of the officer taking over the charge with his full signatures</th>
<th>Name of stock Register and serial number of entries thereof whose charge was taken over</th>
<th>Discrepancy if any found</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ANNEXURE- XVI

Format of the Tamper proof paper label

(To be affixed on the container in which seized valuables are kept and sealed)

1. Case File Number:

2. Date and Place of Seizure:

3. Panchnama date:

4. Contents:

5. Name and Signature of the Owner of the goods with date:

6. Name, Designation and Signature of the Seizing Officer with date:

7. Name and Signature of the Witness -1 with date

8. Name and Signature of Witness-2 with date
Annexure – XVII

Format of Valuables Register

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Date of Receipt</th>
<th>Case file no.</th>
<th>Deposited by Name and Designation of Officer</th>
<th>Name and address of Owner</th>
<th>No. of packages</th>
<th>Whether accompanied by inventory</th>
<th>Description of the goods</th>
<th>Quantity</th>
<th>Condition of goods</th>
<th>Value</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Date of invention</th>
<th>Name of officers present at the time of preparing detailed invention</th>
<th>Location of Storage in the strong room</th>
<th>Date of reopening/ Movement if any</th>
<th>Order reference</th>
<th>Details of proceedings drawn for re-opening File No.</th>
<th>Mode of Disposal</th>
<th>Date of release/ disposal</th>
<th>Names of officers present at the time of release of good</th>
<th>Signature of recipient with Name &amp; Address</th>
<th>Entry No. in the disposal register</th>
</tr>
</thead>
</table>

148
ANNEXURE -XVIII (A)

Format for Valuables Movement Register

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sr. No.</td>
<td>Name of AC/DC authorizing movement</td>
<td>File No.</td>
<td>Purpose of taking out and place where taken</td>
<td>Name Designation, Signature of the officer taking the valuables</td>
<td>Date and Time of taking valuables</td>
<td>Gross weight</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date and Time of Depositing of valuables</td>
<td>Gross weight</td>
<td>Whether opened and resealed and if so the details there of</td>
<td>Name and Signature of Custodian</td>
<td>Name and signature of Supervisory officer</td>
<td>Remarks If any</td>
</tr>
</tbody>
</table>

Annexure -XVIII (B)

Format for Register for Disposal of Valuables by the Department

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date fixed for Inventorisation for disposal</td>
<td>Details of disposal orders</td>
<td>Date of Reopening for the purpose of valuable of Jewellery/Gold/valuable etc.</td>
<td>Date of disposal and place</td>
<td>Amount of sale proceeds</td>
<td>Remarks, if any</td>
</tr>
</tbody>
</table>
## ANNEXURE-XIX (A)

### Unconfirmed Demand Register

<table>
<thead>
<tr>
<th>Sr No.</th>
<th>Name of the party</th>
<th>File No.</th>
<th>SCN No. and Date and by whom issued</th>
<th>Amount of duty demanded</th>
<th>Value of Goods liable to confiscation</th>
<th>Reason for issue of demand</th>
<th>Date of confirmation of demand with F.No. and amount confirmed (Duty, R.F. &amp; P.P. separately)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Monthly Abstract for the month of ..............

<table>
<thead>
<tr>
<th>Description</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Opening balance</td>
<td></td>
</tr>
<tr>
<td>Receipt</td>
<td></td>
</tr>
<tr>
<td>Disposal</td>
<td></td>
</tr>
<tr>
<td>Closing Balance</td>
<td></td>
</tr>
</tbody>
</table>

### Age wise Breakup

Superintendent  | Inspector  | AC/DC

*Entered at Sr.No.......of the recoverable arrear Register*
## ANNEXURE-XIX (B)

**Record of Inspection**

<table>
<thead>
<tr>
<th>Date of visit &amp; by whom visit</th>
<th>Date of receipt and No. of discrepancy memorandum</th>
<th>Summary of Defects</th>
<th>Action Taken To rectify Defects</th>
<th>Date of Reply to Memorandum</th>
<th>Observation of next inspecting Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
</tr>
</tbody>
</table>

## ANNEXURE-XIX(C)

**Call book Register**

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>File No.</th>
<th>Date of commencement of file</th>
<th>Subject</th>
<th>Reason why no further action can be taken for over 6 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

**Monthly Abstract for the month of .............**

<table>
<thead>
<tr>
<th>Opening balance</th>
<th>Receipt</th>
<th>Disposal</th>
<th>Closing Balance</th>
</tr>
</thead>
</table>

**Agewise Breakup**

<table>
<thead>
<tr>
<th>Supdt</th>
<th>Inspector</th>
<th>AC/DC</th>
</tr>
</thead>
</table>
### ANNEXURE-XIX (D)

**Special Watch Register**

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Reference No. and Date</th>
<th>Date of receipt</th>
<th>Target Date fixed</th>
<th>Date of Dispatch</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### ANNEXURE-XIX (E)

**Register Of old Records**

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Name of file/Records</th>
<th>Period to which it pertains</th>
<th>Life period</th>
<th>Date/Year of destruction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### ANNEXURE-XIX (F)

**Restrained arrear register**

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Name and address of the party</th>
<th>O.I. O. No. and Date</th>
<th>Amount involved(Duty,Fine,Penalty)</th>
<th>Reason For Restrained Arrear</th>
<th>Whether Stay Granted is Conditional or Not</th>
<th>If condition al whether fulfilled</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**ANNEXURE-XIX (G)**

Recoverable Arrear Register

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Name and address of the party</th>
<th>O.I.O. No. and Date</th>
<th>Amount involved (Duty, Fine, Penalty)</th>
<th>Amount Recovered (Duty, Fine, Penalty)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**ANNEXURE-XIX (H)**

Non Recoverable Arrear Register

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Name and address of the Party</th>
<th>O.I.O. No. and Date</th>
<th>Amount involved (Duty,Fine,Penalty)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**ANNEXURE-XIX (I)**

Confirmed Demand Register

<table>
<thead>
<tr>
<th>Sr. No. of Unconfirmed Section Along with page no.</th>
<th>Name of the party</th>
<th>File No.</th>
<th>Confirmed amount (duty, R.F., P.P)</th>
<th>Amount Recovered (Duty, R.F., P.P)</th>
<th>Decision in review</th>
<th>Decision in appeal</th>
<th>Decision in appeal after review</th>
<th>CEST AT Order accepted or not</th>
<th>If Not accepted Further course of action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

153
## ANNEXURE-XIX (J)

### Dropped SCN Register

<table>
<thead>
<tr>
<th>Sr.No. of Unconfirmed Section Along with page no.</th>
<th>Name of the party</th>
<th>File No.</th>
<th>Amount of Duty Demand</th>
<th>Value of Goods liable for confiscation</th>
<th>Decision in review</th>
<th>Decision in appeal</th>
<th>Decision in appeal after review</th>
<th>CEST AT Order accepted or not</th>
<th>If Not accepted Further course of action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## ANNEXURE-XIX (K)

### Register of audit Objection

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Date of Receipt</th>
<th>References of AG’s/office under which received</th>
<th>Period of Audit</th>
<th>Relevant File No of Division AR/LAR is dealt in</th>
<th>Parawise audit query in brief and amount involved</th>
<th>Action taken and date thereof</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Details of follow up taken and date thereof

<table>
<thead>
<tr>
<th>Date of final settlement of objection indicating AG’s reference under which settled</th>
<th>Letter No. and date under which Hqrs. office informed about the settlement of the objection</th>
<th>Amount realized with date of realization</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>9</td>
<td>10</td>
<td>11</td>
</tr>
<tr>
<td>10</td>
<td>11</td>
<td>12</td>
</tr>
</tbody>
</table>

### Monthly Abstract for the month of ...............:

<table>
<thead>
<tr>
<th>Opening balance</th>
<th>Receipt</th>
<th>Disposal</th>
<th>Closing Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Age wise Breakup

<table>
<thead>
<tr>
<th>Supdt</th>
<th>Inspector</th>
<th>AC/DC</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ANNEXURE-XX (A)

FORM OF CERTIFICATE UNDER SECTION 142(1) (c) (ii) OF THE CUSTOMS ACT 1962

Certificate No.---------------------
Date__________________
From
The Assistant Commissioner of Customs,
To
The Commissioner of Customs/ Commissioner of Customs

Subject: Realisation of Government Dues recoverable from ..................... under the provision of Sec. 142 (1) (c) (ii) of the Customs Act,

Pursuant to Sec. 142 (i) (c) (ii) of the Customs Act, 1962 (Act LII of 1962)
I.................... Assistant Commissioner of Customs do hereby certify that a sum of Rs............ has been demanded from and is payable by ....................... by way of duty/penalty/drawback/interest under the said Act and has not been paid and cannot be recovered from the said ............

The said .................. owns property/resides/carries on business, in your jurisdiction particulars of which are given hereunder:
I am, therefore, to request you to kindly take early steps to realise the amount in accordance with the provision of Sec. 142(1) (c) (ii) of the Customs Act, 1962 and the Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules 1995.

On realisation, the aforesaid sum together with the interest and cost of distress may please by credited to the following Head of Account:

Yours faithfully

Assistant Commissioner of Customs

Dated
ANNEXURE-XX (B)

C.NO.  

To  

The Joint Commissioner  

Income Tax  

Lucknow  

Sir,  

Sub-Customs Arrears of Revenue pending in respect of Mr…………………………… S/O Mr……………………………….  

Address………………………..Request for certain details regarding.  

An amount of Rs…..along with interest at applicable rates and a penalty amount of Rs…..is pending recovery from Mr…………………………… S/O Mr……………………………….  

Address……………………….. in relation to a confirmed order-In –Original/ Appeal No.______dated______ issued by the department. The said amounts could not be recovered as no person is available at the last known address. The whereabouts of the related persons also could not be traced out by the department.  

In this regard, you are requested to inform as to whether the unit or the individual mentioned above have filed any communication regarding change of postal address or any other information about the whereabouts. If so, the same may please be provided at the earliest for further course of action against the defaulter.  

Early reply will be appreciated  

Yours Faithfully  

(Name...........................................(Name...........................................)  

DEPUTY/ASSISTANT COMMISSIONER  

TELNO:  

FAX:
C.NO.

DATE

To

The Sub-registrar,

Office of the Sub-registrar,

Sir,

Sub-Customs Arrears of Revenue pending in respect of Mr…………………………. S/O Mr………………………………..

Address………………………..

Request for certain details Regarding.

An amount of Rs…..along with interest at applicable rates and a penalty amount of Rs......is pending recovery from Mr…………………………. S/O Mr………………………………..

Address………………………..

In relation to a confirmed order-In –Original/ Appeal No.______dated______ issued by the department. The said amounts could not be recovered as no person is available at the last known address. The whereabouts of the related persons also could not be traced out by the department.

In this regard, you are requested to inform as to whether the unit or the individual mentioned above have filed any communication regarding change of postal address or any other information about the whereabouts. If so, the same may please be provided at the earliest for further course of action against the defaulter.

Early reply will be appreciated

Yours Faithfully

(Name.............................................)

DEPUTY/ASSISTANT COMMISSIONER

TELNO:

FAX:
ANNEXURE-XX (D)

C.NO. .............................................

DATE

To

The RTA______________

Sir,

Sub-Customs Arrears of Revenue pending in respect of Mr……………………………. S/O Mr………………………………..

Address………………………..

Request for certain details regarding.

An amount of Rs…..along with interest at applicable rates and a penalty amount of Rs......is pending recovery from Mr…………………………… S/O Mr………………………………….. Address…………………………….. in relation to a confirmed order-In –Original/ Appeal No._____dated____ issued by the department. The said amounts could not be recovered as no person is available at the last known address . The whereabouts of the related persons also could not be traced out by the department.

In this regard, you are requested to inform as to whether the unit or the individual mentioned above have filed any communication regarding change of postal address or any other information about the whereabouts. If so, the same may please be provided at the earliest for further course of action against the defaulter.

Early reply will be appreciated

Yours Faithfully

(Name…………………………………………………)

DEPUTY/ASSISTANT COMMISSIONER

TELNO:

FAX:
<table>
<thead>
<tr>
<th>C.NO.</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

To

The Branch Manager

Bank________

Sir,

Sub-Customs Arrears of Revenue pending in respect of Mr……………. S/O Mr………………..

Address………………………..Request for certain details regarding.

An amount of Rs…..along with interest at applicable rates and a penalty amount of Rs…..is pending recovery from Mr……………. S/O Mr………………..

Address……………………….. in relation to a confirmed order- In –Original/ Appeal No.______dated_____ issued by the department. The said amounts could not be recovered as no person is available at the last known address. The whereabouts of the related persons also could not be traced out by the department.

In this regard, you are requested to inform as to whether the unit or the individual mentioned above have filed any communication regarding change of postal address or any other information about the whereabouts. If so, the same may please be provided at the earliest for further course of action against the defaulter.

Early reply will be appreciated

Yours Faithfully

(Name…………………………………………)

DEPUTY/ASSISTANT COMMISSIONER
TELNO:
FAX:
<table>
<thead>
<tr>
<th>C.NO.</th>
<th>DATE</th>
</tr>
</thead>
</table>

To

The Station House Officer

[Station Name], Police Station

Lucknow

Sir,

Sub-Customs Arrears of Revenue pending in respect of Mr……………………………. S/O Mr………………………………..

Address………………………..

Request for certain details regarding.

An amount of Rs…..along with interest at applicable rates and a penalty amount of Rs…..is pending recovery from Mr……………………………. S/O Mr………………………………..

Address……………………….

In relation to a confirmed order-In –Original/ Appeal No._____dated____ issued by the department. The said amounts could not be recovered as no person is available at the last known address. The whereabouts of the related persons also could not be traced out by the department.

In this regard, you are requested to inform as to whether the unit or the individual mentioned above have filed any communication regarding change of postal address or any other information about the whereabouts. If so, the same may please be provided at the earliest for further course of action against the defaulter.

Early reply will be appreciated

Yours Faithfully

(Name………………………………………)

DEPUTY/ASSISTANT COMMISSIONER

TELNO:

FAX:
To

The Post Master

Sir,

Sub-Customs Arrears of Revenue pending in respect of Mr…………………………. S/O Mr………………………………..

Address…………………………Request for certain details Regarding.

An amount of Rs…..along with interest at applicable rates and a penalty amount of Rs……is pending recovery from Mr…………………………. S/O Mr………………………………..

Address………………………in relation to a confirmed order-In –Original/ Appeal No.______dated______ issued by the department. The said amounts could not be recovered as no person is available at the last known address. The whereabouts of the related persons also could not be traced out by the department.

In this regard, you are requested to inform as to whether the unit or the individual mentioned above have filed any communication regarding change of postal address or any other information about the whereabouts. If so, the same may please be provided at the earliest for further course of action against the defaulter.

Early reply will be appreciated

Yours Faithfully

(Name………………………………………………)

DEPUTY/ASSISTANT COMMISSIONER

TELNO:

FAX
PROFORMA FOR SENDING PROPOSALS FOR WRITE-OFF OF IRRECOVERABLE ARREARS OF REVENUE

Circular No. 946/07/2011

DIVISION:
COMMISSIONERATE:

<table>
<thead>
<tr>
<th>1. Name of the Defaulter:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. Brief facts of the case (if necessary, separate sheet may be attached):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Date of issue of Show Cause Notice and of Adjudication of the case with copy of Adjudication Order:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Details of efforts made:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) for realizing amounts from any money owed to the defaulter</td>
</tr>
<tr>
<td>(B) for attachment and sale of goods belonging to the defaulter, under the control of Customs</td>
</tr>
<tr>
<td>(C) to detain the goods under the provision of Section 142 (1) (C)</td>
</tr>
<tr>
<td>(D) to sell the detained goods</td>
</tr>
<tr>
<td>(G) to ascertain the location of any movable/immovable assets belonging to the defaulter through</td>
</tr>
<tr>
<td>(i) enquiry with other Government Depts.</td>
</tr>
<tr>
<td>(ii) enquiry with Bankers of the defaulter</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Amount to be written off:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total amount due: Rs.</td>
</tr>
<tr>
<td>(A) Duty Rs.</td>
</tr>
<tr>
<td>(B) Penalty Rs.</td>
</tr>
<tr>
<td>(C) FineRs.</td>
</tr>
<tr>
<td>(D) Amount realized from the defaulter Rs.</td>
</tr>
<tr>
<td>(E) Amount recovered out of Sale of goods Rs.</td>
</tr>
<tr>
<td>(F) Sale of movable property Rs.</td>
</tr>
<tr>
<td>(G) Sale of immovable property Rs.</td>
</tr>
<tr>
<td>(H) Appropriation of Bank Guarantee, if any Rs.</td>
</tr>
<tr>
<td>(I) Adjustment of Refunds Rs.</td>
</tr>
<tr>
<td>(J) Other (specify) Rs.</td>
</tr>
<tr>
<td>Net amount to be written off Rs.</td>
</tr>
</tbody>
</table>

7. Details of financial position of the defaulter

8. (a) Whether defaulter has been prosecuted?  
if not, reasons thereof.  
(b) Results of prosecution launched

9. Whether non-recoverability of amount was on account of any defects in Rules and/or procedures, the amendment of which requires the order of higher authorities?

10. Whether there has been any serious negligence on the part of the Government Servants which may call for disciplinary action taken against them.

11. Name and designation of the Government Servants, if any, responsible for causing loss of revenue and action taken against them

12. Any other relevant facts/remarks

(Name and Signature with date)

Deputy Commissioner/Assistant Commissioner

DIVISION: DATE -
ANNEXURE-XXII

BAGGAGE RULES

Customs (N.T.) dated 30/06/2006

1. Short title and commencement.-

(1) These rules may be called the Baggage (Amendment) Rules, 2006.

(2) They shall come into force on the 30th day of June, 2006.

2. Definitions. - In these rules, unless the context otherwise requires, “appendix” means an Appendix to these rules; “resident” means a person holding a valid passport issued under the Passports Act, 1967 (15 of 1967) and normally residing in India;

(iii) “tourist” means a person not normally resident in India, who enters India for a stay of not more than six months in the course of any twelve months period for legitimate nonimmigrant purposes, such as touring, recreation, sports, health, family reasons, study, religious pilgrimage or business;

(iv) “family” includes all persons who are residing in the same house and form part of the same domestic establishment;

(v) “professional equipment” means such portable equipments, instruments, apparatus and appliances as are required in his profession, by a carpenter, a plumber, a welder, a mason, and the like and shall not include items of common use such as cameras, cassette recorders, dictaphones, personal computers, typewriters, and other similar articles.

3. Passengers returning from countries other than Nepal, Bhutan, Myanmar or China.- An Indian resident or a foreigner residing in India, returning from any country other than Nepal, Bhutan, Myanmar or China, shall be allowed clearance free of duty articles in his bona fide baggage to the extent mentioned in column (2) of Appendix A. Provided that such Indian resident or such foreigner coming by land route as specified in Annexure IV, shall be allowed clearance free of duty articles in his bonafide baggage to the extent mentioned in column (2) of Appendix ‘B’.

4. Passengers returning from Nepal, Bhutan, Myanmar or China. - An Indian resident or a foreigner residing in India, returning from Nepal, Bhutan, Myanmar or China, other than by land route, shall be allowed clearance free of duty articles in his bona fide baggage to the extent mentioned in column (2) of Appendix B.

5. Professionals returning to India. - An Indian passenger who was engaged in his profession abroad shall on his return to India be allowed clearance free of duty, in addition to what he is allowed under rule 3 or, as the case may be, under rule 4,
articles in his bona fide baggage to the extent mentioned in column (2) of Appendix C.

6. Jewellery. - A passenger returning to India shall be allowed clearance free of duty jewellery in his bona fide baggage to the extent mentioned in column (2) of Appendix D.

7. Tourists. - A tourist arriving in India shall be allowed clearance free of duty articles in his bonafide baggage to the extent mentioned in column (2) of Appendix E.

8. Transfer of residence. - (1) A person who is transferring his residence to India shall be allowed clearance free of duty, in addition to what he is allowed under rule 3 or, as the case may be, under rule 4, articles in his bona fide baggage to the extent mentioned in column (1) of Appendix F, subject to the conditions, if any, mentioned in the corresponding entry in column (2) of the said Appendix.

(2) The conditions may be relaxed to the extent mentioned in column (3) of the said Appendix.

9. Provisions regarding unaccompanied baggage. - (1) Provisions of these Rules are also extended to unaccompanied baggage except where they have been specifically excluded.

(2) The unaccompanied baggage had been in the possession abroad of the passenger and is dispatched within one month of his arrival in India or within such further period as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may allow.

(3) The unaccompanied baggage may land in India up to 2 months before the arrival of the passenger or within such period, not exceeding one year, as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may allow, for reasons to be recorded, if he is satisfied that the passenger was prevented from arriving in India within the period of two months due to circumstances beyond his control such as sudden illness of the passenger or a member of his family, or natural calamities or disturbed conditions or disruption of the transport or travel arrangements in the country or countries concerned or any other reasons, which necessitated a change in the travel schedule of the passenger.

10. (1) Application of these Rules to members of the crew. - The provisions of these Rules shall apply in respect of members of the crew engaged in a foreign going vessel for importation of their baggage at the time of final pay off on termination of their engagement.

Provided that except as specified in this sub-rule, a crew member of a vessel shall be allowed to bring items like chocolates, cheese, cosmetics and other petty gift
items for their personal or family use which shall not exceed the value of rupees six hundred.

(2) Notwithstanding anything contained in these rules a crew member of an aircraft shall be allowed to bring items gifts like chocolates, cheese, cosmetics and other petty gift items at the time of the returning of the aircraft from foreign journey for their personal or family use which shall not exceed the value of rupees six hundred.

Appendix ‘A’
(See rule 3)

<table>
<thead>
<tr>
<th>1.</th>
<th>Articles allowed free of duty (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>All passengers of and above 10 years of age and returning after stay abroad of more than three days.</td>
</tr>
<tr>
<td></td>
<td>(i) Used personal effects, excluding jewellery,</td>
</tr>
<tr>
<td></td>
<td>(ii) Articles other than those mentioned Annex. I up to a value of Rs. 25,000 if these are carried on the person or in the accompanied baggage of the passenger.</td>
</tr>
<tr>
<td>(b)</td>
<td>All passengers of and above 10 years of age and returning after stay abroad of three days or less.</td>
</tr>
<tr>
<td></td>
<td>(i) Used personal effects, excluding jewellery,</td>
</tr>
<tr>
<td></td>
<td>(ii) Articles other than those mentioned Annex. I up to a value of Rs. 12,000 if these are carried on the person or in the accompanied baggage of the passenger.</td>
</tr>
<tr>
<td>(c)</td>
<td>All passengers up to 10 years of age and returning after stay abroad of more than three days.</td>
</tr>
<tr>
<td></td>
<td>(i) Used personal effects, excluding jewellery,</td>
</tr>
<tr>
<td></td>
<td>(ii) Articles other than those mentioned Annex. I up to a value of Rs. 6,000 if these are carried on the person or in the accompanied baggage of the passenger.</td>
</tr>
<tr>
<td>(d)</td>
<td>All passengers up to 10 years of age and returning after stay abroad of three days or less.</td>
</tr>
<tr>
<td></td>
<td>(i) Used personal effects, excluding jewellery,</td>
</tr>
<tr>
<td></td>
<td>(ii) Articles other than those mentioned Annex. I up to a value of Rs. 3,000 if these are carried on the person or in the accompanied baggage of the passenger.</td>
</tr>
</tbody>
</table>

Explanation. - The free allowance under this rule shall not be allowed to be pooled with the free allowance of any other passenger.
### APPENDIX B
(See rule 4)

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
</tr>
</thead>
</table>
| (a) Passengers of and above 10 years of age and returning after stay abroad of more than three days. | (i) Used personal effects, excluding jewellery, required for satisfying daily necessity of life.  
(ii) Articles other than those mentioned in Annex. I up to a value of Rs. 6,000 if these are carried on the person or in the accompanied baggage of the passenger. |
| (b) Passengers upto 10 years of age and returning after stay abroad of more than three days. | (i) Used personal effects, excluding jewellery, required for satisfying daily necessities of more than three days.  
(ii) Articles other than those mentioned in Annex. I up to a value of Rs. 1500 if these are carried on the person or in the accompanied baggage of the passenger. |

**Explanation** - The free allowance under this rule shall not be allowed to be pooled with the free allowance of any other passenger.

### APPENDIX D
(See rule 6)

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
</tr>
</thead>
</table>
| Indian passenger who has been residing abroad for over one year. | (i) Jewellery up to an aggregate value of Rs. 10,000 by a gentleman passenger, or  
(ii) Up to aggregate value of Rs. 20,000 by a lady passenger. |

### APPENDIX E
(See rule 7)

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2) Articles allowed free of duty</th>
</tr>
</thead>
</table>
| (a) Tourists of Indian origin coming to India other than tourists of Indian origin coming by land routes as specified in Annexure IV; | (i) used personal effects and travel souvenirs, if -  
(a) these goods are for personal use of the tourist, and  
(b) these goods, other than those consumed during the stay in India, are re-exported when the tourist leaves India for a foreign destination.  
(ii) articles as allowed to be cleared under rule 3 or rule 4. |
<p>| (c) Tourists of foreign origin other than those of Nepalese origin if - | (i) used personal effects and travel souvenirs, if - |</p>
<table>
<thead>
<tr>
<th>Articles allowed free of Duty</th>
<th>conditions</th>
<th>Relaxation that may be considered</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Used personal and household articles other than those listed at annex1 and annex2 but including the articles listed at annex3 and jewellery up to Rs 10000 by gentleman and Rs 12000 by lady passenger.</td>
<td>(1) Minimum stay of two year abroad, immediately preceding the date of his arrival on TR. (2) Total stay in INDIA on short visit during the last 2 years does not exceed more than 6 months. (3) Passenger has not availed this concession in Last 3 years.</td>
<td>(a) For condition Shortfall of up to 2 months in stay abroad can be condoned by commissioner of customs if the early return is on account of (i) Terminal leave or vacation leave availed by the passenger (ii) Any other special circumstances. (b) For condition (2) Commissioner of Customs may condone short visits in excess of 6 months in deserving cases. (c) For condition (3) No relaxation</td>
</tr>
<tr>
<td>(b) Jewellery taken out by the passenger or by a member of his family from India</td>
<td>Satisfaction of the Asstt. Commissioner of Customs regarding the jewellery having been taken out earlier from India.</td>
<td></td>
</tr>
</tbody>
</table>

APPENDIX F
(See rule 8)

(c) Tourists of Nepalese origin coming from Nepal or of Bhutanese origin coming from Bhutan.
No free allowance.

(d) Tourists – (i) of Pakistani origin coming from Pakistan other than by land routes; (ii) of Pakistani origin or foreign tourist, tourists coming by land routes as specified in Annexure IV; (iii) of Indian origin coming by land routes as specified in Annexure IV.
(i) used personal effects and travel souvenirs, if - (a) these goods are for personal use of the tourist, and (b) these goods, other than those consumed during the stay in India, are re-exported when the tourist leaves India for a foreign destination. (ii) articles upto value of Rs.6000/-
Annex I
1. Firearms.
2. Cartridges of firearms exceeding 50.
3. Cigarettes exceeding 200 or cigars exceeding 50 or tobacco exceeding 250 grams.
4. Alcoholic liquor or wines in excess of two litres.
5. Gold or silver, in any form, other than ornaments.

Annexure II
1. Colour Television or Monochrome Television.
2. Digital Video Disc Player.
4. Dish Washer.
5. Music System.
6. Air-Conditioner.
7. Domestic refrigerators of capacity above 300 litres or its equivalent.
9. Microwave Oven.
10. Video camera or the combination of any such video camera with one or more of the following goods namely:-
   (a) Television Receiver;
   (b) Sound recording or reproducing apparatus;
   (c) Video reproducing apparatus.
12. Fax Machine.
15. Aircraft.
16. Cinematographic films of 35 mm and above.
17. Gold or Silver, in any form, other than ornaments.

Annexure III

Video Cassette Recorder or Video Cassette Player or Video Television Receiver or Video Cassette Disk Player.
Washing Machine.
Electrical or Liquefied Petroleum Gas Cooking Range
Personal Computer( Desktop Computer)
Laptop Computer( Notebook Computer)
6. Domestic Refrigerators of capacity up to 300 litres or its equivalent.
ANNEXURE XXIII (A)

INVENTORY OF SEIZED NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES, CONTROLLED SUBSTANCES AND CONVEYANCES

[Under Section 52A (2) of the Narcotic Drugs and Psychotropic Substances Act, 1985]

Case No. --------------------------
Seizing agency: ---------------------
Seizing officer: ----------------------
Date of seizure: ---------------------
Place of seizure: ---------------------
Name and designation of the officer preparing this inventory: ------------------------

TABLE

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Narcotic Drug/ Psychotropic Controlled Substance/ Conveyance</th>
<th>Quality</th>
<th>Quantity</th>
<th>Mode of packing</th>
<th>Mark and numbers</th>
<th>Other identifying particulars of seized items or packing</th>
<th>Country of origin</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
<td>(8)</td>
<td>(9)</td>
</tr>
</tbody>
</table>

Signature, name and designation of the officer

Certification by the Magistrate under sub-section (3) of Section 52A of the Narcotic Drugs and Psychotropic Substance Act, 1985

Whereas the above officer applied to me under sub-section (2) section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 to certify the above inventory, and sub-section (3) of that section requires any Magistrate to whom an application is made to allow the application as soon as may be, I, having been satisfied that the above inventory is as per the seizure documents and the consignments of seized goods related to the case presented before me, certify the correctness of the above inventory.

Signature, name and designation of the Magistrate
ANNEXURE XXIII (B)

APPLICATION FOR DISPOSAL OF SEIZED NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES, CONTROLLED SUBSTANCES AND CONVEYANCES UNDER SECTION 52A (2) OF THE NDPS ACT, 1985

(Application to be made by the officer in-charge of a police station or an officer empowered under section 53 of the Narcotic Drugs and Psychotropic Substances Act, 1985 who has custody of the seized narcotic drugs, psychotropic substances, controlled substances and conveyances)

To,

Learned Magistrate,

Sir,

Sub: Application for certification of correctness of inventory, photographs and samples of seized narcotic drugs, psychotropic substances, controlled substances and conveyances

1. All narcotic drugs, psychotropic substances, controlled substances and conveyances have been identified by the Central Government under section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 as vulnerable to theft and substitution vide Notification No...... dated............

2. As required under sub-section (2) of section 52 A of the Narcotic Drugs and Psychotropic Substances Act, 1985, I submit the enclosed inventory of seized narcotic drugs, psychotropic substances, controlled substances, and/or conveyances and request you to-
   (a) certify the correctness of the inventory;
   (b) permit taking, in your presence, photographs of the seized items in the inventory and certify such photographs as true; and
   (c) allow drawing of representative samples in your presence and certify the correctness of the list of samples so drawn.

3. I request you to allow this application under sub-section (3) of Section 52 A of the Narcotic Drugs and Psychotropic Substances Act, 1985 so that the seized narcotic drugs, psychotropic substances, controlled substances, and/or conveyances can thereafter be disposed of as per sub-section (1) of section 52A of the said Act retaining the certificate, photographs and samples as primary evidence as per sub-section (4) of section 52A (4).

Yours faithfully,

Signature, name and designation of the officer

CERTIFICATE BY THE MAGISTRATE UNDER SUB-SECTION (3) OF SECTION 52A OF THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

I allow the above application under sub-section (3) of section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 and hereby, certify the correctness of the enclosed inventory, the enclosed photographs taken and the list of samples drawn in my presence.

Signature, name and designation of the Magistrate

Date :
ANNEXURE XXIII(C)

CERTIFICATE OF DESTRUCTION

This is to certify that the following narcotic drugs, psychotropic substances and controlled substances, were destroyed in our presence.

1. Case No.
2. Narcotic Drug/Psychotropic Substance/Controlled Substance:
3. Seizing agency:
4. Seizing officer:
5. Date of seizure:
6. Place of Seizure:
7. Godown entry number:
8. Gross weight of the drug seized:
9. Net weight of the narcotic drugs, psychotropic substances, controlled substances destroyed (after taking samples, etc.):
10. Where and how destroyed.

Signature(s), name(s) and designation(s) of Chairman/Members of the Drug Disposal Committee.

G.S.R.38 (E) F.No.V/2/2004-NC.IIIssued by: Ministry of Finance (Department of Revenue)
New Delhi
DISCLAIMER

Information is being made available in this “Standard Operating Procedure” booklet purely as a measure of streamlining various processes carried out by the departmental officers and bringing about a uniformity of practice under the jurisdiction of Lucknow Customs (P) Commissionerate, Lucknow. This booklet has tried to compile and explain the various important processes and procedures under the Customs Act, 1962, Rules/Regulations/Instructions made/issued there under or the Circulars/Instructions issued by the Central Board of Excise and Customs (CBEC) as in force on the date of compilation of this Booklet and the officers/stakeholders are advised to keep themselves updated on various issues. The provisions of the Customs Act, 1962, Rules/Regulations/Instructions made/issued there under or the Circulars/Instructions issued by the CBEC or any prevalent judicial guidelines shall prevail over the processes explained/given in this booklet in case of any contradiction. While every effort has been made to ensure that the information contained in this booklet is up to date, the Commissionerate of Customs (P), Lucknow does not hold itself liable for any consequences, legal or otherwise, arising out of use of any such information.

For complete information on various issues, the provisions of the Customs Act, 1962 and the Rules/Regulations/Instructions made/issued there under or various Circulars/Instructions/Public Trade Notices issued by the CBEC or this Commissionerate may be referred.