

F. No. 473/01/2007 – LC
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

Dated the 12 May, 2009

Subject: Levy of Interest under Section 47(2) of the Customs Act, 1962 for delayed payment of duty in respect of clearance of goods from a bonded warehouse – Reg.

A reference is invited to Section 47 (2) of the Customs Act 1962, which provides that where the importer fails to pay the import duty within 5 working days from the date on which the Bill of Entry for home consumption is returned to him for payment of duty, he shall pay interest on the amount of duty till the date of payment of the duty, at the rate fixed by the Central Government. A doubt has been raised whether such interest under Section 47 (2) is payable on goods deposited in a warehouse and for which a Bill of entry for home consumption is filed under Section 68 of the said Act, if the importer fails to pay the duty within 5 working days from the date on which such Bill of Entry filed under Section 68 is returned to him for payment of duty.

2. The matter has been examined by the Board. As per Section 46 of the Customs Act, 1962, *the importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting to the proper officer a bill of entry for home consumption or warehousing in the prescribed form.* The provision regarding payment of interest for delayed payment of duty after the return of Bill of Entry is contained in Section 47 which reads as under:

“(1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.

(2) Where the importer fails to pay the import duty under sub-section (1) within five days excluding holidays from the date on which the bill of entry is returned to him for payment of duty, he shall pay interest at such rate, not below ten per cent and not exceeding thirty six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such duty till the date of payment of the said duty”.

3. A harmonious reading of the above provisions indicates that the provisions of Section 47 (1) are applicable to the goods entered for home consumption by filing a bill of entry accordingly, and the interest liability for delayed payment of duty after the return of Bill of Entry is attracted on import duty as assessed under Section 47 (1) on such goods.

4. In case of goods deposited in a warehouse and being cleared for home consumption, the entry for clearance (i.e. ex-bond Bill of Entry) is made under Section 68. As per Section 68 of the Act, *the importer of any warehoused goods may clear them for home consumption, if*

(a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;

(b) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid; and

(c) an order for clearance of such goods for home consumption has been made by the proper officer.

5. Section 68 is a self-contained provision dealing with the clearance of goods from a warehouse for home consumption and this provision does not contain a reference to payment of interest on delayed payment of duty after return of Bill of Entry.

6. Further, as per the provisions of Section 61 (2), interest on warehoused goods is payable when they remain in the warehouse beyond the permitted warehousing period specified in Section 61 (1). Such interest is payable on the amount of duty payable at the time of clearance of the goods from the expiry of the said warehousing period (including such extended period), till the date of payment of duty on the warehoused goods. Thus, when a provision has been made for warehousing of imported goods, without payment of interest for a specified period, it is not the intention to charge interest within the said interest-free period, even if duty is paid after 5 days after return of the ex-bond Bill of Entry. Interest in any case is chargeable if the warehoused goods remain in the warehouse beyond the permitted period for the period from the expiry of the said period till the date of payment of duty on the warehoused goods.

7. In view of the foregoing, it is clarified that the provisions of Section 47 (2) are not attracted in case of clearances made under Section 68. Consequently, no interest is liable to be paid on goods deposited in a warehouse and being cleared for home consumption by filing the Bill of Entry prescribed under Section 68 of the Act, *ibid*, for delayed payment of duty i.e. if the importer fails to pay the duty within 5 working days from the date on which such Bill of Entry is returned to him for payment of duty. However, interest on warehoused goods is payable when they remain in a warehouse beyond the period specified in sub-section (1) of Section 61 as per provisions of sub-section (2) of Section 61.

8. Wide publicity to this Circular may be given by way of issuance of public notice and standing order.

9. Difficulties, if any, faced in the implementation of this circular, may be immediately brought to the notice of the Board.

10. Please acknowledge receipt.

11. Hindi version follows.

Yours faithfully,
(P. S. Pruthi)
Commissioner (Customs &EP)