

F. No. 8/B/85/HRD(EMC)/CRB/2015  
 Directorate General of Human Resource Development  
 Customs & Central Excise  
 (Expenditure Management Wing)  
 C-4 (West Wing), IRCON Building,  
 District Centre, Saket, New Delhi-110 017

Date: .06.2017

To  
 The Chief Commissioner of Central Excise (All),  
 The Chief Commissioner of Customs (All) and  
 The Chief Commissioner of Customs (Preventive) (All)

Madam/ Sir,

**Sub: - Continuation of waiver from the payment of cost recovery charges in respect of ICDs/ CFSs etc.- reg.**

Attention is invited to DGHRD's letter no. 8/B/28/HRD(EMC)/CRB/ 2014 pt. dated 03.11.2015 wherein it was conveyed that Board had decided to authorize the Chief Commissioners as a **onetime measure** to exempt the eligible facilities from the payment of cost recovery charges. In all such cases where waiver was granted by the Chief Commissioners, there is no requirement to seek continuation of waiver on annual basis as posts on cost recovery basis at these facilities have now been provided from the regular existing strength of the Department. Waiver from the payment of cost recovery charges is needed to be continued on yearly basis only till such time the posts get regularized.

2. Hence, waiver granted in respect of ICDs/ CFSs etc. by the jurisdictional Chief Commissioners in terms of aforesaid DGHRD's letter dated 03.11.2015, shall remain applicable w.e.f. date of grant of waiver as the diverted posts have been subsumed/ regularized in the existing regular strength of the department as per para- 8(a) of CBEC's O.M. dated 26.06.2015 in F. No. 296/03/2015- CX.9 (copy enclosed).

3. However, it may be ensured that the pre-conditions for waiver as prescribed in Board's letter F. No. 434/17/2004- Cus. IV dated 12.09.2005, are fulfilled. In case, any facility fails to maintain performance as per the prescribed benchmark in any given year, it shall be liable to pay 1.85 times of the cost of the operational post i.e. customs personnel deputed during that year. Thereafter continuance of posts/ personnel in facility shall be considered by CBEC only after the Custodian has deposited the amount for the defaulting year and also for the year for which the posts/ personnel are to be deployed and produce evidence thereof before the jurisdictional Commissioner. Subsequent request for granting fresh exemption shall be considered afresh in accordance with the prescribed procedure.

This issues with the approval of Director General, HRD.

Encl: As above

Yours faithfully,

sd/-

(Meenu Kumarr)

Additional Director (EMW/CRB)

Phone: - 011-29561870, 29561522

Email: - [meenuhrd12@gmail.com](mailto:meenuhrd12@gmail.com)

Copy to: - 1. The Chief Commissioner of Customs, Kolkata Zone w.r.t. his letter F. No. I(16)-03/CCC/KOL/2016/2432 dated 19.05.2017 for information and necessary action.

2. The Joint Secretary, CBEC, New Delhi.

3. The Webmaster, Directorate of Systems, CBEC, New Delhi for uploading on CBEC Website.

*Meenu Kumarr*  
 Additional Director (EMW/CRB)  
 21/6/17

URGENT



**DIRECTORATE GENERAL OF HUMAN RESOURCE DEVELOPMENT  
CUSTOMS & CENTRAL EXCISE  
EXPENDITURE MANAGEMENT WING  
C-4, IRCON BUILDING, DISTRICT CENTRE, SAKET, NEW DELHI-110 017**

F. No. 8/B/28/HRD(EMC)/CRB/2014 pt.

Date: 03.11.2015

To  
The Chief Commissioner of Central Excise (All)  
The Chief Commissioner of Customs (All), and  
The Chief Commissioner of Customs (Preventive) (All)

Sub: - Waiver from the payment of cost recovery charge in respect of ICDs/ CFSs, Seaports, Air Cargo Complexes, Courier Terminals, Diamond Plazas, etc.-reg.

Madam/Sir,

Issue of waiver from the payment of cost recovery charge in respect of ICDs/ CFSs, Seaports, Air Cargo Complexes, Courier Terminals, Diamond Plazas, etc. was under consideration of the Board for some time. The matter was examined by the Board and with the approval of the competent authority, it has been decided that as a **onetime measure**, the Chief Commissioner of Customs/ Central Excise concerned are authorized: -

- (i). to exempt cost recovery charges for eligible facilities for posts that were not sanctioned. The exemption shall be for staff deployed. Excess staff, if any, deployed over and above the staffing norms, shall be withdrawn but without causing dislocation in work;
- (ii). exemption from cost recovery charges for eligible facilities for which posts were sanctioned would be for the entire staff sanctioned (for which cost recovery charges were taken) even if it is in excess of the staffing norms fixed subsequently, in 2013; and
- (iii). at eligible facilities having both sanctioned and non-sanctioned posts, the exemption of cost recovery charges for non- sanctioned posts would be dealt with as per decision at (i) above and for sanctioned posts, it would be as per decision at (ii) above.

2. The performance benchmark and conditions for grant of waiver from the payment of cost recovery charges shall be same as provided in Board's letter F. No. 434/17/2004-Cus.IV dated 12.09.2005 (for ICDs/ CFSs) and Board's Circular No. 16/2013- Cus dated 10.04.2013 (for Seaports, Air Cargo Complexes, Courier Terminals, Diamond Plazas, etc.).

3. It is reiterated that the above categories at para-1 is only a one time measure. Regular requests for waiver of cost recovery charges would be processed by this Directorate as per extant provisions.

4. Information on grant of waiver of cost recovery charges in respect of above three categories (as stated in para-1) may also be sent in the following proforma, to this Directorate latest by **31.12.2015**. It is also requested to send a soft copy of aforesaid information (in MS Excel format) by email at [dghrderb@gmail.com](mailto:dghrderb@gmail.com).

S. No.	Facilities granted waiver of cost recovery charges in category (i).		Facilities granted waiver of cost recovery charges in category (ii).		Facilities granted waiver of cost recovery charges in category (iii).	
	Name of facility	Date of grant of waiver	Name of facility	Date of grant of waiver	Name of facility	Date of grant of waiver

5. This issues with the approval of DG, HRD.

Yours faithfully,

*Rakesh K. Mathur*  
 3.11.15  
 (Rakesh K. Mathur)  
 Assistant Director

Copy to: -

- (i). The Joint Secretary (Customs), CBEC for information with reference to Board's letter F. No. 450/41/2010 Cus. IV(Pt) dated 28.10.2015, and
- (ii). The Webmaster, Directorate of Systems, New Delhi for uploading on the CBEC website.

Assistant Director

FAX/ SPEECH

No. 434 / 2005-06  
 Government of India  
 Ministry of Finance  
 Department of Revenue  
 Central Board of Excise & Customs

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Room No. 227B, North Block  
 New Delhi, 12<sup>th</sup> September, 2005

To,

All Chief Commissioners of Customs,  
 All Chief Commissioners of Customs & Central Excise,  
 All Chief Commissioners of Central Excise,

Sd/-

Subject:- Cost recovery posts in respect of Customs staff posted in ICDs/ CFSs regarding-

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I am directed to bring your kind attention that it has been decided to consider regularization of those cost recovery posts at ICDs/CFSs which have been in operation for two consecutive years with following performance benchmark for past two years:-

- (i) No. of containers handled by ICD : 7200 TEUs per annum  
 (ii) No of containers handled by CFS : 1200 TEUs per annum  
 (iii) No. of BE or SB processed by ICDs/CFSs : 7200 per annum for ICDs and 1200 for CFSs

(iv) Bench mark at (1) to (3) shall be reduced by 50% for those ICDs/CFSs exclusively dealing with exports, as per staffing norms.

2. The waiver of cost recovery Charges would be prospective with no claim for past period. Criteria would be applicable on actual performance of ICDs/CFSs.

3. Based on the performance of ICDs/CFSs in the Financial Year 2003-04 and 2004-05, you are requested to provide the information as per enclosure in respect ICDs/CFSs falling under your. It may also be ensured that in respect of ICD/CFSs in which regularization of posts are suggested, no cost recovery charges are under dispute or pending payment as on 31<sup>st</sup> August, 2005.

4. Member (Customs) has desired that information should be submitted by 19.09.2005 by return FAX and by email at [anupam.prakash@rediffmail.com](mailto:anupam.prakash@rediffmail.com) (.)

Enclosure : as above

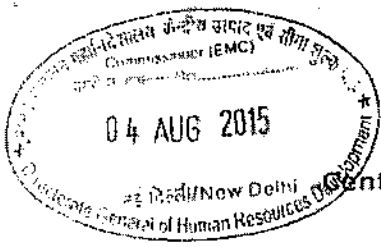
Yours sincerely

*Anupam Prakash*  
 12.09.05

(Anupam Prakash)

Under Secretary to the Government of India  
 Ph.-23094182, Fax-23092173

135  
11/8/15



F.NO.296/03/2015-CX.9  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs

New Delhi, dated the 26<sup>th</sup> of June, 2015

OFFICE MEMORANDUM

The minutes of the Board meeting held on June 18, 2015 in respect of BMB No.5/2015 are enclosed herewith for favour of information and necessary action.

2. The same are issued with the approval of Chairman, CBEC.

Encl: a/a

(Hemambika R. Priya)  
Commissioner (Coord) / Secretary (CBEC)

1. Chairman, CBEC
2. Member (Budget)
3. Member (Cus)
4. Member (ST)
5. Member (CX)
6. Member (P&V)
7. Member(L&J)
8. DG(HRD)/All CCs of Customs Zones
9. JS(Cus)
10. Guard file

*Pertains to CBEC cell*  
*4.8.15*

Copy for kind information to:

PS to FM / PS to MOS (R) / PPS to Revenue Secretary

*DDP(CRB)*  
*Sakshi officer*  
*11/8/2015*  
*Dr. Rohit*

**Minutes of the Board meeting held on June 18 2015 in respect of BMB No.05/2015**

The Board in its Meeting chaired by Shri Kaushal Srivastava, Chairman, CBEC deliberated on the issue detailed herein. The following officers were present.

Sh Najib Shah, Member (Budget)  
 Sh A.K. Kaushal, Member (Cus)  
 Ms Neerja Shah, Member (CX)  
 Ms. Vanaja Sarna, Member (P&V)  
 Sh. Ram Tirath, Member (L&J)  
 Sh Sandeep M. Bhatnagar, Joint Secretary (Cus)  
 Sh R.P. Singh, Director (Customs)  
 Sh. Manish Mohan Govil, OSD (CX9)

**BMB NO.05/2015**

**Issue in brief: Waiver of Payment/exemption of cost recovery charges - Sponsored by Joint Secretary (Customs)**

Joint Secretary (Customs) briefed the Board on the issues relating to the grant of exemption of payment of cost recovery charges for Customs staff posted at inland container depots (ICDs), container freight stations (CFSs), seaports, airports, courier terminals and diamond plazas, which have been pending finalization and have adversely impacted the functioning of the facilities concerned. He informed that these issues have been discussed with IFU and the D/o Expenditure and a solution is now being proposed.

2. Giving the background to the scheme of posting of Customs officers on cost recovery charges borne by the custodians, it was explained that the process begins with the sanction of posts as per prescribed staffing norms; staffing norms were fixed vide Circular No.52/97-Cus., dated 17-10-1997 for ICDs and CFSs and vide Circular No.16/2013-Cus., dated 10-4-2013 for Seaports, Air Cargo Complexes, Airports, Courier Terminals and Diamond Plazas. The next step is the grant of exemption from payment of cost recovery charges when the facility meets the specified performance norms for two consecutive financial years (Ref: F.No.434/17/2004-Cus.IV, dated 12-9-2005 and Circular No.16/2013-Cus., dated 10-4-2013). The exemption is always prospective. Simultaneously, the sanctioned posts are regularized. For the Department, the implication of the sanction of the posts on cost recovery basis is the promotion on ad-hoc basis of the officers from within the sanctioned strength to replace the officers who are deployed on cost recovery basis. The implication of the grant of exemption and regularization of the posts is that the custodian no longer pays the cost recovery charges and the regularized posts get en-cadred in the permanent strength of the Department. It was informed that when considering cases for grant of exemption from cost recovery charges, IFU / D/o Expenditure observed that in some cases the posts were not sanctioned in the first place. This gave rise to the following issues for decision:

- i. Whether the sanction of posts could be done ex post facto?



- ii. Whether the exemption from payment of cost recovery charges could be granted to eligible facilities even if the posts were not initially sanctioned?
  - iii. Whether the grant of exemption from payment of cost recovery charges is to be restricted to the number of Customs officers indicated in the staffing norms or could it be granted for the total number of Customs officers actually deployed? This issue is in respect of few facilities that were functioning prior to fixing of norms for staffing and grant of exemption in April, 2013 and wherein the number of Customs officers already working on cost recovery basis was found to be in excess of the norms.
3. In regard to the outstanding issues mentioned at Para 2 above, the D/o Expenditure has responded as follows:
- i. No comments are offered on the issue of waiver of CR charges and this may be done by DoR as per norms.
  - ii. DoE cannot sanction posts ex post facto. Such posts may be subsumed in the posts created during the cadre restructuring of CBEC.
  - iii. Proposals for prospective sanction of posts may be referred to DoE for approval.
4. DG(HRD), CBEC has examined the comments of D/o Expenditure and have furnished following comments:
- i. Based upon DoE's stipulation that posts cannot be sanctioned ex post facto, the diverted posts may be treated as absorbed in the existing cadre strength. As per HRD, CBEC, there are a total of 1,630 posts which would be subsumed within the existing cadre strength. HRD, CBEC has justified this on the ground that the Commissionerates concerned have handled their work load with the existing staff strength for past many years thereby confirming that additional manpower was not required. Moreover, 16,047 posts in the respective cadres were created in the recent cadre restructuring exercise, a significant portion of which have not been filled up till date.
  - ii. Though the posts were not initially sanctioned, exemption from the payment of cost recovery charges may be granted to the facilities that fulfill the specified performance norms. HRD, CBEC has informed that the annual financial implication of such exemption is Rs.149 cr. This cannot be viewed as financial loss as such since it is Government policy to exempt the cost recovery charges when the facility fulfills the performance norms.
  - iii. The exemption from the payment of cost recovery charges is presently done by the D/o Expenditure, which also sanctions the posts. In the instant case, the posts were not sanctioned so the grant of exemption as per norms may be entrusted to Chief Commissioners concerned for which DG(HRD) would issue suitable directions, including for subsuming of the related posts in the cadre



strength. This would be a one-time measure since in future no facilities can begin operations without the posts being sanctioned on cost recovery basis.

- iv. Exemption of cost recovery charges in case the sanctioned posts (for which CR charges were recovered) exceed the staffing norms must be for the total number of such sanctioned posts. This situation has arisen only in a few past cases because the posts were sanctioned prior to the fixing of the staffing norms. It is unlikely to arise again as now facilities can operate only after sanction of posts as per the staffing norms.

5. The Board was informed that further, this matter had been discussed with Member (P&V) and DG(HRD) in the meeting chaired by Chairman (CBEC) on 06.05.2015. The consensus arrived was as under:

- i. 1,630 diverted posts that were not sanctioned may be subsumed in existing cadre strength.
- ii. Denial of exemption from cost recovery charges to eligible facilities would be against Government policy. Moreover, non-sanction of posts is a matter internal to Government and facilities cannot be penalized. Thus, eligible facilities may be exempted from cost recovery charges. As opined by D/o Expenditure, this may be done by D/o Revenue (CBEC).
- iii. Exemption from cost recovery charges must be for the total number of sanctioned posts for which cost recovery charges were taken. To restrict the exemption to the number of staff indicated in the subsequently prescribed staffing norms when the deployment of staff and recovery of cost recovery charges was for more staff (as per sanction) would be against Government policy.

6. On the basis of above, following proposals were placed before Board for consideration:

- i. Allow, as a one-time measure, Chief Commissioner of Customs to exempt as per norms, cost recovery charges for eligible facilities for which posts were not sanctioned. DG(HRD), CBEC would monitor the action; and
- ii. Exempt cost recovery charges for the entire staff sanctioned for which cost recovery charges were taken for eligible facilities even if it is in excess of the 2013 norms. D/o Expenditure would deal with these cases.

7. The Board deliberated the issues and observed that the Commissionerates concerned had facilitated the functioning of these facilities by diverting staff to them on the cost recovery basis without obtaining sanction, though there is no implication for revenue as cost recovery charges were recovered. Also, the practice of provision of staff has not been uniformly followed. Some of the Commissioners posted staff in excess of the prescribed staffing norms and in a few other cases the sanctioned strength exceeded the staffing norms. It was also observed that many facilities were





paying cost recovery charges on the basis of the sanctioned strength and not actual deployment which was not as per the guidelines issued in this regard.

8. During the detailed discussion that ensued, the Board observed that on the one hand the D/o Expenditure has not approved the regularization of these posts, whereas the facility operators and trade are facing problems and additional burden on account of payment of cost recovery charges, which ought to have been waived off in due course as per Government policy. It was also noted that due to recent cadre review, a number of posts have been created and many posts at all levels are yet to be filled up. This has thrown up an opportunity to find a viable solution to address the problem of waiver of cost recovery charges. Thus, the Board decided that:

- a) 1,630 diverted posts that were not sanctioned but were diverted to various facilities on cost recovery basis would be subsumed in the Department's existing cadre strength.
- b) As a one-time measure, Chief Commissioner of Customs concerned may be authorized to exempt as per prescribed norms, cost recovery charges for eligible facilities for which posts were not sanctioned. DG(HRD), CBEC would monitor the action and report to the Board.
- c) Grant of exemption of cost recovery charges for eligible facilities at which the posts were sanctioned by D/o Expenditure would be dealt by that Department as per established practice. The exemption for eligible facilities shall be for the entire staff sanctioned (for which cost recovery charges were taken) even if it is in excess of the staffing norms fixed subsequently, in 2013.
- d) Decisions at (b) & (c) above are subject to obtaining approval from the Hon'ble Finance Minister.
- e) At eligible facilities having both sanctioned and non-sanctioned posts, the exemption of cost recovery charges for the non-sanctioned posts would be dealt as per decision at (b) above and for sanctioned posts, the exemption would be dealt with as per decision at (c) above.
- f) The exemption of cost recovery charges for eligible facilities would be for the entire staff deployed provided this number does not exceed the number as per the staffing norms. Staff deployed on cost recovery basis in excess of the staffing norms without sanction would be withdrawn. There should, however, be no dislocation of day-to-day working in the facilities due to such withdrawal for which suitable arrangement should be made.
- g) For purposes of uniformity DG(HRD) would reiterate to the Chief Commissioners of Customs / Central Excise the instruction that cost recovery charges should be recovered for the staff actually deployed, which should not exceed the staffing norms, and that requisite sanction must invariably be obtained before operationalizing a facility.

[Action : DG(HRD)/JS(Customs)/  
Chief Commissioners of Customs concerned]

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