

Circular No. 39/2016-Customs

**F.No. 711/01/2006-Cus(AS)/Pt.
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs**

New Delhi, the 26th August, 2016

To

**All Principal Chief Commissioners/Chief Commissioners of Customs
All Principal Chief Commissioners/Chief Commissioners of Customs & Central Excise
All Principal Director Generals/Director Generals/Chief Departmental Representatives
(CESTAT)
All Commissioners of Customs/Customs (Preventive)
All Commissioners of Customs and Central Excise.
webmaster.cbec@icegate.gov.in**

Sir/Madam,

Subject: Revised guidelines for disposal of confiscated goods - regarding.

I am directed to invite your attention to the Board's Circular No. 11/2012-Customs dated 12th April, 2012 and the earlier instructions issued to the field formations vide Board's letters F. No. 711(7)/53-Cus. (AS) dated 27.5.1993, F. No.30/33/67-LC.I dated 19.1.68 and F.No.30/3/64-LC.I dated 10.2.1964 in the matter of disposal of confiscated/seized goods.

2. Prior to February, 2015, preferential treatment was being given to NCCF/Kendriya Bhandar and other multi-State Cooperative Societies as per the instructions of Department of Personnel and Training (DoP&T) in purchase of stationery and other articles. Vide DoP&T's Office Memorandum No. 14/1/2009-Welfare dated 19.2.2015, the special dispensation available to these Cooperatives/organizations was discontinued w.e.f. 1.4.2015.

3. The Board had earlier received a number of requests from the trade for equitable and wider participation of cooperative societies which are duly registered with the State/Central Government authorities and not to make a particular body monopolistic, in sourcing the confiscated goods being disposed of by the department. Moreover, this Department also received several representations from NCCF/Kendriya Bhandar seeking clarification with regard to the eligibility of rebate/uniformity of rate of rebate on the disposal of confiscated goods.

4. In view of the changed scenario, the current practices being followed in the field formations, the representations of the stake holders and the latest instructions issued by DoP&T have been considered and deliberated in depth by the Board. Accordingly, the following instructions are issued with regard to disposal of confiscated goods through NCCF/Kendriya Bhandar and other Consumer cooperatives:-

4.1. **Sale through Army Canteen/CSD:** There shall be no change in the criteria adopted by the field formations in respect of disposal through Army Canteen/CSD and therefore, the existing instructions contained in Circular No. 11/2012-Cus dated 12.4.2012 shall continue to be followed in such cases.

4.2. **Sale through NCCF/KB/consumer Cooperatives:** Any lot of confiscated/seized consumer goods, which is ripe for disposal and whose value does **not exceed Rs. Five lakh**, shall be offered to NCCF/KB/Other Central Government Employees Consumer Cooperative Society/ Multi-State Consumer Cooperative Societies/State Consumer Cooperatives, at a uniform rebate/discount of 10%, 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) 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.

4.3. This Circular modifies the rate of rebate/discount to the extent by superceding the earlier Board's circulars/instructions issued vide; No. 21/23/55-Cus-IV dated 8.12.1956, 4/63/57-Cus.III dated 7.9.1961, No.30/3/64-L.C.I dated 10.2.1964, No. 30/33/67-L.C.I dated 19.1.1968, No. 549/86/79-L.C.I dated 27.2.1981, No. 711/20/83-LC(AS) dated 10.8.83 and No. 711/1/2006-Cus(AS) dated 20.2.2006, only insofar provisions of rebate/discount to NCCF/KB/other cooperatives contained in these Circulars are concerned. Rest of the instructions/guidelines, contained in these earlier Circulars, which are prevalent as on date and are not getting modified/affected by way of this Circular, shall continue to be followed.

5. **Sale through e-auction/auction cum tender:** Any lot of confiscated/seized goods of all types and confiscated/seized consumer goods whose value exceeds 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. In such e-auction or auction-cum-tender process, all stakeholders/persons including NCCF/KB/other Central Government employees consumer cooperatives/Multi-State/State cooperatives or National/State level Cooperative Federations can also participate, subject to the fulfilment of conditions as prescribed vide Board's Circular No.50/2005-Customs dated 1.12.2005 and reflected in Circulars No.12/2006-Customs dated 20.2.2006 and 11/2012-Customs dated 12.4.2012. **However, No discount/rebate shall be available to any organization/Cooperative for the goods disposed through E-Auction/Auction-cum-Tender.**

5.1. CVC has been emphasizing on e-commerce/e-procurement/e-sales for enhancing transparency, giving equal opportunities to all. Accordingly, CVC vide Office Order No.46/9/03 dated 11th September 2003 (No.98/ORD/1) has stated that the departments/organizations may themselves decide on e-procurement/reverse auction for purchases or sales and work out the detailed procedure in this regard. It has, however, to be ensured that the entire process is conducted in a transparent and fair manner.

5.2. Board had earlier appointed a Task Force to examine the various issues arising out of the audit review, and to suggest effective measures to put in place a permanent mechanism for expeditious disposal of cargo including confiscated/seized goods. Based on the recommendations of a Task Force, Board had streamlined the procedure for disposal of goods which inter-alia include its approval for setting up of a centralized e-auction portal by engaging the services of M/s. MSTC Ltd. Mumbai, a PSU under the Ministry of Steel. This e-auction procedure had been in force for quite some time and it had facilitated expeditious disposal of goods by the field formations. Detailed instructions and guidelines on this procedure are already available in MSTC website, which specifically hosts e-auctions for Customs and Central Excise department regularly. It is hereby reiterated that E-auction or auction-cum-tender prescribed vide Board's Circular No.50/2005-Customs dated 1.12.2005 and reiterated in Circulars No.12/2006-Customs dated 20.2.2006 and 11/2012-Customs dated 12.4.2012, may continue to be utilised in respect of confiscated/seized goods.

6. The above instructions may be followed by all the Customs field formations with immediate effect.

7. These instructions may be brought to the notice of all concerned immediately through appropriate Public Notice.

8. Receipt of this Circular may kindly be acknowledged.

F. No. 711/01/2006-Cus(AS)/Pt.



(A.C. Mallick)

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Copy for information to:

1. Joint Secretary, Department of Consumer Affairs, Krishi Bhawan, New Delhi – w.r.t. his d.o. No. F.O-12011/16/2014-CFS dated 3.5.2016.
2. Director, Welfare, DoP&T, Lok Nayak Bhawan, New Delhi – 110003.
3. Managing Director, NCCF, Deepali Building, 5th Floor, 92, Nehru Place, New Delhi – 110019.
4. Managing Director, Central Govt. Employees Consumer Co-operative Society Ltd. (Kendriya Bhandar), Pushpa Bhawan, 1st Floor, Madangiri Road, New Delhi – 110 062.
5. PPS to Chairman (CBEC)/PPS to Member (CBEC).

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