



# WAREHOUSING PROVISIONS

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# Need for Warehousing

- ▶ Goods might not be immediately required
  - ▶ Market price fluctuations
  - ▶ Salability issues
  - ▶ Not required in production
  - ▶ Paucity of funds
- ▶ Goods for supply to EOU/EHTP/STP/SEZ also allowed to be warehoused
- ▶ Goods for sale in Duty Free shops



# Legal Provisions

- ▶ Covered under chapter IX of the Customs Act 1962
  - ▶ Basic provisions covered between Section 57 to 73
- ▶ Manufacture and Other Operations in Warehouse Regulations, 1966
- ▶ Warehoused Goods (Removal) Regulations, 1963



# Basic Process of Warehousing



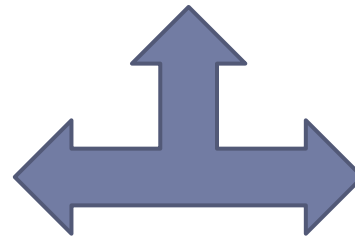
**Import**



**Warehousing**



**Re-Export**



**Home consumption**



# 9 - Warehousing Stations

- ▶ The board can declare places as Warehousing Stations, but via notification 34/94-Cus.(NT), dated 1/7/1994, powers have been passed to the Chief Commissioner (Commissioner for EOUs)
- ▶ Only a warehousing station can contain warehouses which can be Public or Private warehouses
- ▶ EOU/EHTP/STP etc. are also custom bonded warehouses

**Public**

**Private**

**Warehousing Station**



# 9 - Warehousing Stations contd...

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- ▶ **Guidelines for uniformity in declaration of Warehousing station**
  - ▶ Industrial development of proposed area and need
  - ▶ Availability of adequate facility for public bonded warehouse (relaxed for EOUs)
  - ▶ Availability of adequate staff
  - ▶ A strong case may be referred to the board even if the above criteria does not get fulfilled
  - ▶ Circular 473/232/88- Cus VIII dt. 28/11/1988

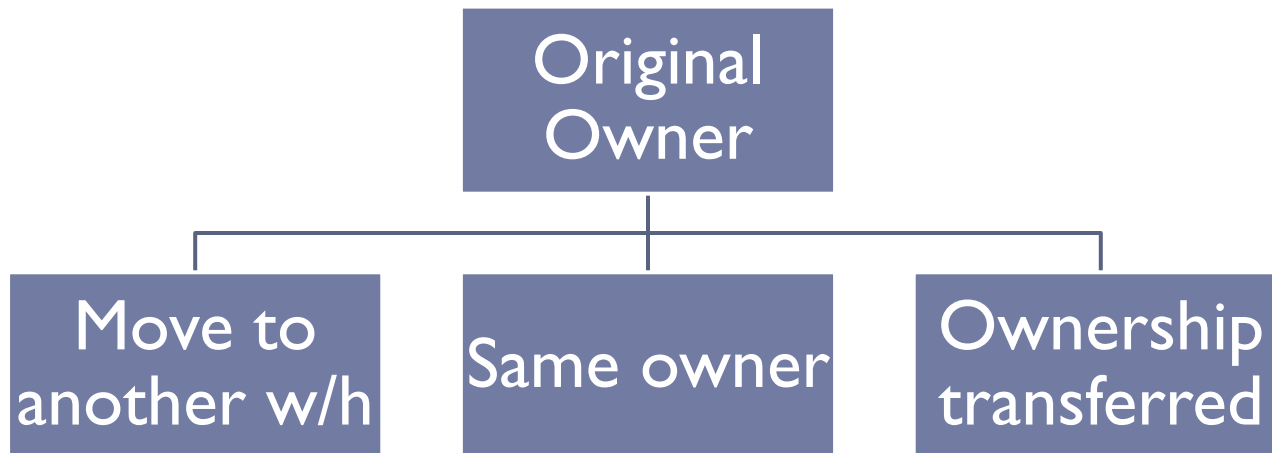


# 59 - Warehousing Bonds - Double Duty Bonds

- ▶ Into-bond B/E is assessed for Duty (u/s 17 & 18) and importer agrees to (2 x assessed duty) amount bond to
  - ▶ Observe provisions of this Act and goods related rules and regulations
  - ▶ Pay before specified due date
    - ▶ Duty and interest u/s 61(2)
    - ▶ Rent and charges, along with interest
  - ▶ Discharge all penalties incurred for violation of this Act and goods related rules and regulations
- ▶ AC/DC may allow a general bond (for purpose of warehousing) for goods imported within specified period



# 59 - Warehousing Bonds - Double Duty Bonds



- ▶ When goods are wholly / partly transferred, proper officer (AC/DC) may accept a fresh bond from the transferee for double duty on such goods
- ▶ Transferor's bond liability reduces by that amount
- ▶ Original bond liability remains for same owner and transfer to another warehouse



# 57 - Appointment of Public Warehouses

- ▶ Located in a warehousing station
- ▶ Appointed by AC/DC
- ▶ Can be owned
  - ▶ Publicly : CWC, SWCs
  - ▶ Privately : Cash Deposit/BG of 25% of duty in respect of sensitive goods needs to be deposited
- ▶ Custodian appointment of Public Warehouses
  - ▶ Feasibility & financial viability
  - ▶ Past record & expertise
  - ▶ Operational requirements
- ▶ Cost incurred for services of Customs officers
  - ▶ Continuous : cost-recovery basis
  - ▶ Non-continuous : merchant overtime / supervision charges



# 58 - Licensing of Private Warehouses

- ▶ Located in a warehousing station
- ▶ Appointed by AC/DC
- ▶ The following types of goods can be deposited
  - ▶ Dutiable goods imported by licensee
  - ▶ Dutiable goods imported on behalf of the licensee
  - ▶ Goods imported by others requiring specialized storing/handling facilities otherwise not available in a public warehouse
    - ▶ Liquids in bulk
    - ▶ Hazardous goods
    - ▶ Explosive goods
    - ▶ Goods requiring controlled temperature



- ▶ **Conditions for granting licenses**
  - ▶ Financial soundness and credibility
  - ▶ Proprietor/partner/director must not be involved in any customs/excise cases of
    - ▶ Duty evasion
    - ▶ Smuggling offences
    - ▶ Not subject to penalty/other action
  - ▶ Premises suitable and adequately secured against theft, pilferage, other risks (fire fighting equipment available)
  - ▶ Premises must be freely accessible to custom officers
  - ▶ Warehouse not in residential area
  - ▶ Full insurance of goods to be done
- ▶ **Circular 28/96-Cus dt. 14/5/1996**

## 59 - Private Bonded Warehouse

Cancellation of licenses of private warehouses

•If contravention of

- Provisions of the act
- Rules or regulations
- Breach of license conditions

•By AC/Dc after reasonable hearing

•May be suspended pending enquiry



# License to Private bonded warehouse for storage of sensitive and non-sensitive goods

- ▶ Concerned Commissioners to decide on sensitivity of goods on Rates of duty, Licensing aspects, Nature of commodity

## Sensitive

- Solvency certificate > Rs 50 lakh
- Double duty bond (u/s 59) + 25% cash/BG
- Revolving bond may be taken subject to cash/BG of 25% duty

## Non-sensitive

- Solvency certificate exempted (but min Rs 10 lakh solvency)
- Cash/BG not mandatory with double duty bond
- Centre/State undertakings exempted from security/BG (not double duty bond)

# 60 - Permission for Deposit of Goods in Warehouse

- ▶ Proper officer may make order to permit deposit of goods in a warehouse after
  - ▶ After assessment of into-bond bill of entry
  - ▶ And execution of bond by importer
  - ▶ **AC/DC** is the proper officer
- ▶ Goods stored in warehouse only after due examination
  - ▶ Veracity of description and
  - ▶ Identification marks must be conformed





# 61 - Period for which goods may be stored in Warehouse

	EOU	Non-EOU
Period	<p>Capital goods – 5years</p> <p>Others – 3 years</p>	<p>All – 1 year (reducible by commissioner if goods can deteriorate)</p>
Extension	<p>By Commissioner for period deemed fit</p>	<p>By Commissioner till 6 months max, by Chief Commissioner for period deemed fit</p>

- ▶ Goods not likely to deteriorate
- ▶ Extensions given by Chief Commissioner to be given only after due consideration
  - ▶ Considered for shortest period (up to 3 months)
  - ▶ Beyond 6 months only for reasons beyond control (strike, lockout, calamity )
- ▶ Previous interest accrued must have been paid
- ▶ Application must be made before 15 days of expiration date
- ▶ Post-expiry requests only in exceptional circumstances

## Valid grounds for extension



Lack of Finance is not a good option for seeking extension

## ▶ Liberal approach to granting extensions for goods

- ▶ Supplied as aircraft/ship stores
- ▶ Supplied to diplomats
- ▶ Sold through duty-free shops
- ▶ Imported by EOUs
- ▶ Used in manufacture-in-bond
- ▶ Used as machinery, equipment and raw material for building and ship fitments



## Valid grounds for extension



Re-Export u/s 69 may be allowed even if warehousing period expires and demand notice u/s 72 issued if

- Chief commissioner listens and decides so and

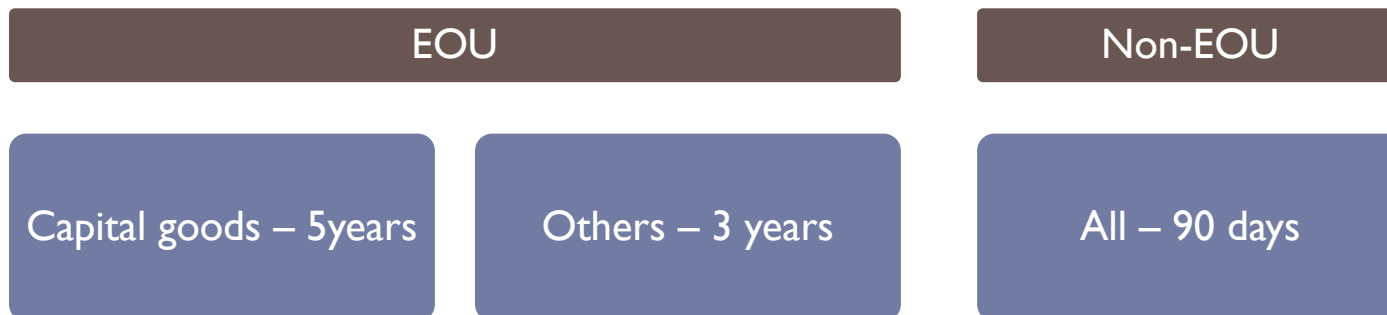
- After extending the warehousing period u/s 61





# Interest on storage beyond permissible period

- ▶ When goods in warehouse beyond initial warehousing period (commencing from date of deposit of goods in warehouse) on account of extension or otherwise
- ▶ Interest is payable on duty applicable at time of clearance
- ▶ Rate of interest : notification issued u/s 47 (2) [28/02(NT) - Cus dt. 13/5/2002] for non payment within 2 days & [18/03(NT) - Cus dt. 1/3/2003 : 15%] for keeping beyond warehousing period



# Waiver of interest

- ▶ As per sec- 61(2), Board may waive the whole or part of any interest. Board can also specify certain class of goods, for which no interest will be charged
  - ▶ EOUs/ EHTP/ STP are exempted (Notfn. 67/95-Cus. (NT), 1-11-95)
- ▶ The power of waiver of interest on BCD warehoused goods upto Rs. 2 crore have been delegated to Chief Commissioners of Customs and C. Excise by Board notification 122/2004-cus. (NT), dated 25-10-2004

Goods supplied for ship & aircraft stores

Goods supplied to Diplomats

Goods imported by EOUs and units under manufacture in-bond scheme

Duty free shops

Petroleum products

Project import

Imports under EPCG Scheme

Import of Capital Goods by PSUs

**Interest May Be Waived if  
warehoused beyond  
permissible period**





## 62 - Control over Warehoused Goods

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- ▶ All warehoused goods subject to control of Proper Officer (Superintendent / Appraiser)
- ▶ Without proper officer's permission, no one can enter a warehouse or remove any goods
- ▶ Proper officer can cause warehoused goods to be kept in Customs lock, which no one shall remove
- ▶ Proper officer has access to every part of a warehouse and power to examine goods kept



# 63 - Payment of Rent and Warehousing charges

- ▶ Rent and warehouse charges to be paid to warehouse-keeper by the Owner
- ▶ If not paid within ten days from due date, the warehouse-keeper may, after notice to owner and with the permission of the proper officer (AC/DC) cause to be sold such sufficient portion of the goods as the warehouse-keeper may select

PAY IN 10 DAYS

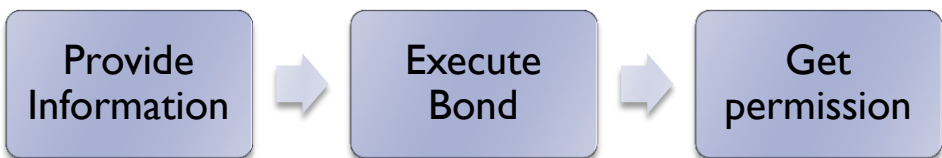
# 64 - Owner's right to deal with Warehoused Goods

With sanction of proper officer and payment of requisite fees





# 65 - Manufacture and other operations in relation to goods in a warehouse



- ▶ For manufacturing in bond (including EOU, EHTP, STP etc.) and Import for repairs, reconditioning etc. and re-exporting the same
- ▶ Manufacture and Other Operations in Warehouse Regulations, 1966

- ▶ Owner of warehoused goods to apply to AC/DC to provide information on manufacturing operations
  - ▶ Nature of operations
  - ▶ Particulars of imported and other goods required
  - ▶ Detailed plan & description of the warehouse
  - ▶ Data regarding volume of trade expected of the manufacturing process/ other operations



## 65 - Manufacture and other operations in relation to goods in a warehouse contd...

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- ▶ **WAREHOUSE owner to execute bond to**
  - ▶ Observe all regulations
  - ▶ Maintain and produce when demanded accounts of all imported goods
  - ▶ Submit detailed stock & usage statements
  - ▶ Provide access and office space to customs officers
  - ▶ Pay charges of customs officers
  - ▶ Comply with other conditions imposed by AC/DC
- ▶ **AC/DC to accord sanction, specifying**
  - ▶ Manufacturing process/other operations to be carried
  - ▶ Type/nature of imported goods permitted
  - ▶ Sanction validity period
  - ▶ Input-output norms where necessary
  - ▶ Number of customs officers to be attached to w/h
  - ▶ Fix sum payable for establishment and services
  - ▶ Other conditions for operations

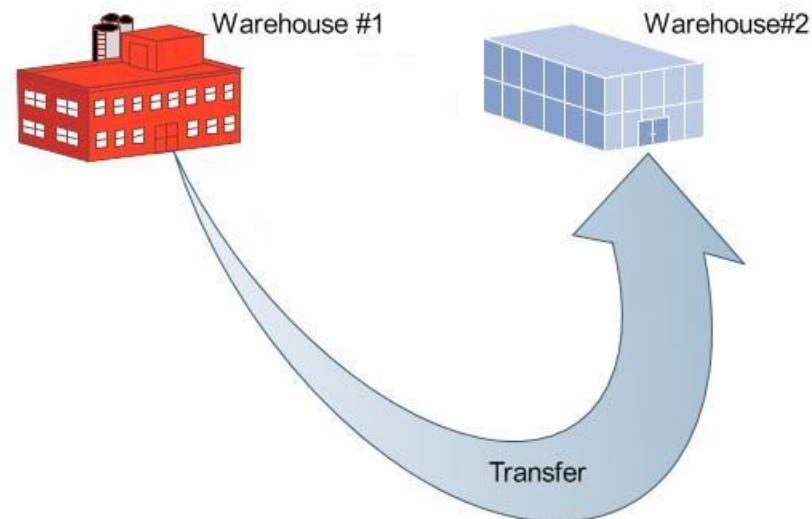
- ▶ Transfer from one warehouse to another after permission from proper officer (AC/DC)

- ▶ Warehoused Goods (Removal) Regulations 1963

- ▶ Same metro city: without bond
- ▶ Outside city: transit bond=duty
- ▶ Re-warehousing certificate in 3 months a must
- ▶ Transfer in same jurisdiction  
Bond may be waived
- ▶ Sensitive goods transfer : bond + cash/BG of 50% duty
- ▶ Non-sensitive goods transfer : bond + cash/BG of 25% duty

Ref: Circular 99/95 dt. 20/9/1995

67 - Transfer of goods from one warehouse to another



No BG required for EOU transfers if Procurement Certificate issued by jurisdictional AC/DC produced (as B-17 bond covers transit risk)





# 68 - Clearance of Warehoused Goods for Home Consumption

- ▶ Proper officer (superintendent/appraiser) to allow clearance after
  - ▶ Ex-bond B/E for home consumption filed **Green Color**
  - ▶ import duty and all penalties, rent, interest and other charges paid
- ▶ Both in-bond and ex-bond B/E particulars should be tallied

u/s 15 of CA'62, Rate of duty and tariff value will be rate on filing of ex-bond B/E

Value same as in into-bond B/E



## 68 - Clearance of Warehoused Goods for Home Consumption contd...

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- ▶ If the owner relinquishes the title of goods before clearance for home consumption, only duty payment is exempted (not rent, interest, other charges and penalties)
- ▶ Procedure as per Circular 473/291/88-Cus dt 3/10/1988
  - ▶ Countersign of AC/DC required in
    - ▶ B/E covering products noticed for the first time
    - ▶ Re-assessment done by superintendent
    - ▶ Value of goods exceed Rs. 1 lakh
  - ▶ All B/E to be sent for post audit after clearance



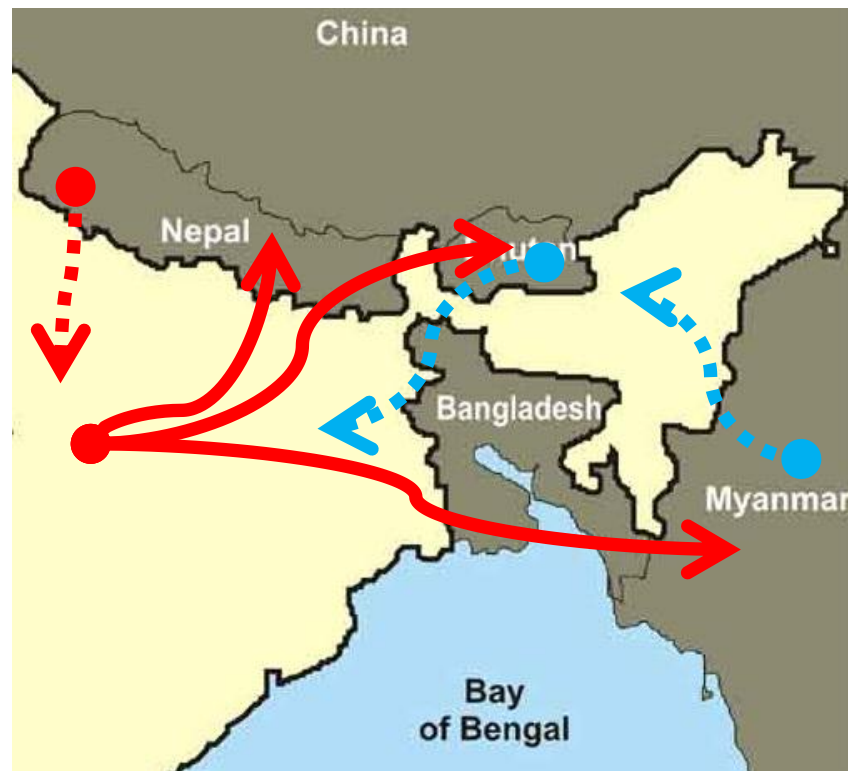
## 69 - Clearance of Warehoused Goods for Exportation

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- ▶ Goods may be allowed to be exported after paying export duty, rent, penalty, interest and other charges if
  - ▶ Import in the first instance was not in-authorized, or not in violation of FTP
  - ▶ Export realization in fully convertible foreign currency (if import in foreign currency)
  - ▶ No loss of foreign exchange
- ▶ If there is fear that specific warehoused goods after export is likely to be smuggled back into India, such exports are
  - ▶ Not allowed without payment of duty
  - ▶ Other restrictions / conditions may be notified

# 69 - Clearance of Warehoused Goods for Exportation contd...

- ▶ Notification 45-Cus dt. 13/2/1963
  - ▶ Warehoused goods not to be exported to Bhutan, Nepal, Burma, Sikang, Tibet
- ▶ Export to Nepal allowed under
  - ▶ Exported against irrevocable L/C in freely convertible currency
  - ▶ For projects financed by UN/IBRD/ADB & payments in freely convertible currency
  - ▶ If global tenders for capital goods are invited by HMG of Nepal, for which payment is received in Rupees and exported from Jogbani or Raxaul LCS



# 69 - Clearance of Warehoused Goods for Exportation contd...

## Notification 46-Cus dt. 1-2-1963

- ▶ Export of export in vessel less than 1000 ton gross capacity is permitted subject to
  - ▶ Bond by exporter for amount equal to duty leviable backed by surety or security
  - ▶ Certificate of landing from destination port custom authorities within 3 months

## Notification 47-Cus dt. 1-2-1963

- ▶ Bans export as stores to vessel less than 200 ton gross capacity of
  - ▶ Liquor
  - ▶ Cigarettes
  - ▶ Cigars
  - ▶ Pipe tobacco



# 70 - Allowance in case of Volatile Warehoused Goods

- ▶ When warehoused goods on delivery found
  - ▶ Deficient in quantity due to natural loss
  - ▶ AC/DC may remit duty on deficiency
- ▶ Notification 122-Cus dt. 11/5/1963
  - ▶ Specifies the volatile goods
    - ▶ Aviation fuel, Motor spirit
    - ▶ Mineral turpentine
    - ▶ Acetone , Methanol, Naptha
    - ▶ Vaporizing Oil, Kerosene, HSD
    - ▶ Batching Oil, diesel oil, furnace oil
    - ▶ Ethylene dichloride in tanks
    - ▶ Liquid helium gas in containers
    - ▶ Wine, spirit and beer in casks



**Natural Loss**

# Audit of Bonded Warehouse

- ▶ Audited once in six months
- ▶ Description, nature, number and other particulars should match in into-bond and ex-bond bill of entry
- ▶ Consignments lying in warehouse after expiry of warehousing period should be taken for scrutiny (to check deterioration, substitution and unlawful removal)





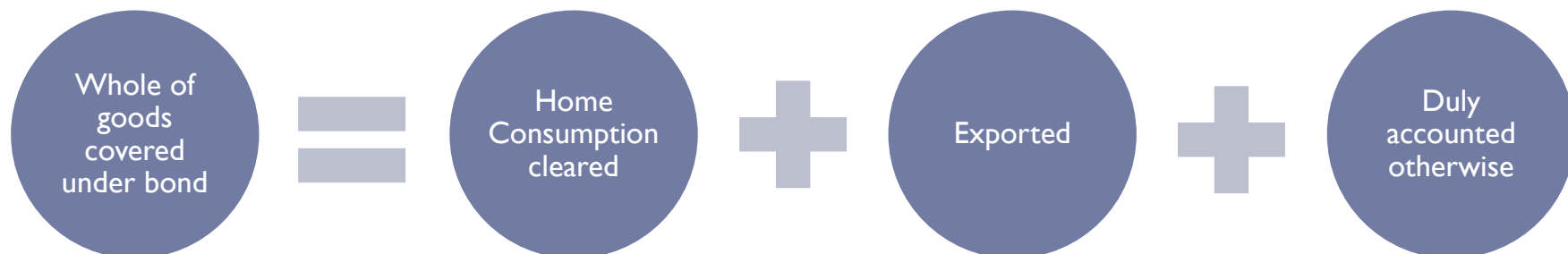
# 72 - Recovery of Duty from Bonded Warehouse

- ▶ Proper officer (AC/DC) shall demand full duty, penalty, rent, interest and other charges
- ▶ If owner fails to pay, proper officer (AC/DC) may detain and sell, after notice, requisite portion of goods
- ▶ Applicable in cases where goods
  - ▶ removed from warehouse without duty payment or transferred without re-warehousing certificate within 3 months
  - ▶ have not been removed from a warehouse at the expiration of the warehousing period
  - ▶ have been taken as samples without payment of duty
  - ▶ Have not been cleared for home consumption or exportation and not been accounted to proper officer's satisfaction



# 73 - Cancellation and Return of Warehousing Bond

- ▶ Proper officer can cancel the bond if
  - ▶ All amounts due on such goods have been paid  
and



- ▶ Proper officer in this case shall be : Deputy Commissioner or Assistant Commissioner of Customs and Central Excise

*Thank You!*

