



OFFICE OF THE COMMISSIONER OF CUSTOMS  
CUSTOMS HOUSE, MARMAGOA, GOA.

PUBLIC NOTICE NO: 04 /2017

Subject:- Clarification regarding recovery of Merchant Over Time- reg

Attention of the Trade and Industry is invited to Chapter 12 of the Customs Manual regarding recovery of Merchant Over Time Fee. In this context following clarifications are given.

1. Considering the difficulties of the trade, the services of Customs, after normal working hours or on holidays within the Customs area or at any time at a place beyond Customs area, are provided on payment of overtime fee. The overtime fee is collected in terms of section 36 of the Customs Act, 1962 and the Customs (Fees for Rendering Services by Customs officers) Regulations, 1998 made thereunder. Section 36 of the Customs Act, 1962 allows unloading/loading of imported/export cargo from/on a vessel beyond working hours on a working day or on holidays only on payment of a prescribed fees. The Customs (Fees for Rendering Services by Customs Officers) Regulations, 1998, prescribes the rates and the manner for collection of such fee.
2. The overtime fee is levied for services rendered by the Customs officers to trade beyond normal working hours or on holidays. If the service is rendered by officials at a place which is not their normal place of work or at a place beyond the Customs area, overtime is levied even during the normal working hours. The term 'service' means any function performed by the Customs officer under the Customs Act, 1962 and it includes-
  - (a) examination of the goods and related functions,
  - (b) loading and unloading of goods whether generally or specifically,
  - (c) escorting goods from one Customs area to the other, and
  - (d) any other Customs work authorised by the Commissioner of Customs.
3. The term 'working hours' means the duty hours prescribed by the Commissioner of Customs in his jurisdiction for normal Customs work. Where different working hours have been prescribed by the Commissioner of Customs for different items of Customs work or for different places within his jurisdiction, such working hours are to be considered as 'working hours' for the purpose of levy of overtime fee.

4. The prescribed rates of overtime fee for rendering services by the Custom officers are as follows:

Category of officers	Fee per hour or part thereof on working days (in rupees)		Fee per hour or part thereof on holidays (in rupees)	
	6 AM to 8 PM	8 AM to 6 PM	6 AM to 8 PM	8 PM to 6 AM
(1)	(2)	(3)	(4)	(5)
1. Appraisers, Superintendent (Customs Preventive) and Superintendent (Central Excise)	85	125	140	180
2. Air Customs Officers, Examiners, Preventive Officers and Inspectors of Central Excise	75	100	105	145
3. Class IV staff	35	45	55	60

5. Overtime fee as mentioned above is levied for a minimum of 3 hours in each case, except in cases of overtime postings immediately preceding or immediately following the working hours of the concerned cadre of officers. The period between the midnight and 6 AM is to be treated as a block for calculation of overtime fee whether the services are required for the entire block or for a portion thereof. In regard to services provided by Customs officers during working hours at a place beyond Customs area, the overtime fee is charged for the entire block of working hours before lunch or after lunch, as the case may be, whether the request for the services of Customs officer is for the entire block or a portion thereof.
6. The party desirous of availing of the services of officers on overtime basis is required to make prior request to the Department for such posting. The Customs scrutinises the application made by the parties and ascertains the requirement of the job. The overtime fee is calculated on the basis of rates prescribed in the said regulations as mentioned above. A separate fee is to be charged if either of the three namely CHA (Now Customs Broker)/Vessel /Party(Importer/Exporter) changes. In case a CHA/Customs Broker has more than one Bill of Entry/Shipping Bill of an importer/exporter, he need not pay separate set of fee for each such document. Similarly, if an exporter or importer has more than one activity to be supervised by Customs during the same block, he need not pay overtime fee for each activity separately. Once the party pays the overtime fee, the officers are posted to perform Customs work.
7. With regards to benefits of an AEO Certificate holder is concerned it is clarified that AEO registered clients will be entitled for 24/7 clearances on request at all sea ports and air ports and No Merchant Overtime Fee (MOT) charges need to be paid (Circular No. 33/2016-Customs F.No.450/179/2009-Cus.IV(Pt) dated 22.07.2016).
8. Clarifications have also been sought regarding Regulation 3 (1) (e) and the phrase 'recovery of costs'. Recovery of costs, accommodates both fee recovered under the Customs (Fees for Rendering Services by Customs Officers) Regulations, 1998 (Merchant Over Time) or Cost Recovery basis. To determine whether a Special Warehouse will require services of a customs officer on MoT basis or cost recovery basis, the Principal Commissioner / Commissioner will have to determine from the licensee the extent of requirements for services of a customs officer. (Circular No.20/ 2016-CustomsF.No: 473/05/2015 -LC dated 20/05/2016)

9. Recovery of costs : Clause (e) of Regulation 3 of the Special Warehouse Regulations 2016 and circular no. 20 / 2016 - Customs dated 20th May 2016 provide that the Licensee of a special warehouse shall undertake to bear costs of customs supervision on Merchant Over Time basis or on Cost Recovery. Now, the Board has approved the following guidelines:
- a. The Licensee shall have to indicate the frequency with which the warehouse has to be operated per day / per week and the expected business hours of such operation.
  - b. The Principal Commissioner / Commissioner shall evaluate the projected requirement and the distance of the warehouse from the customs office to determine which of the modes of recovery of costs needs to be applied.
  - c. Illustratively, if the requirement of the licensee warrants the operation of the warehouse on a frequency which is, say, once in a week, the cost of supervision shall be charged on Merchant Over Time basis. Or, in cases, where the services of the Customs officer are required once a day, cost of supervision could also be based upon Merchant Over Time. However, if the warehouse is at such distance from the nearest customs office or the nature and duration of work is such that, the visit of the bond officer on every day basis, means his absence from his office for an entire day or better part thereof, the licensee shall have to undertake the services on cost recovery basis. Further, in cases where the licensee requires services of a customs officer for more than once in a day, he shall have to undertake supervision on cost recovery basis. Similarly, in case where round the clock services are requested, the licensee will have to bear charges on cost recovery basis for a suitable number of officers. Basically, this issue has to be examined on the above lines for deciding the recovery of costs from the licensee.
10. Administrative arrangements: For the purposes of uniformity of jurisdiction and supervision, the Board has also approved the following:
- a. The duty free shops shall be under the general supervision of the Principal Commissioner/ Commissioner of the Airport (Passenger Terminal).
  - b. A warehouse licensed in the precincts of the Airport complex shall also be in the jurisdiction of the Principal Commissioner / Commissioner of the Airport (Passenger Terminal). Accordingly, he shall be the licensing authority.
  - c. A warehouse licensed under section 58A, which is located outside the precincts of the airport shall be under the Principal Commissioner / Commissioner having jurisdiction over that site. Accordingly, he shall be the licensing authority and also allot the Bond Officer(s) required.
  - d. Principal Commissioners/ Commissioners shall ensure a smooth transition to the above system.
11. As regards 24x7 Customs clearance operations are concerned attention is invited to CBEC Circular No. 22/2012- Customs dated 7<sup>th</sup> August, 2012 ( F.No.450/25/2009-Cus.IV ) wherein it is inter alia clarified as under:  
Board has decided that with effect from 31.12.2014 the facility of 24X7 Customs clearance for specified imports viz. goods covered by 'facilitated' Bills of Entry and specified exports viz. factory stuffed containers and goods exported under free Shipping Bills will be made available, at the following 18 sea ports:

S.No. Sea Port	S.No. Seaport	S.No. Seaport
1. Chennai	2. Cochin	3. Ennore
4. Gopalpur	5. JNPT	6. Kakinada
7. Kandla	8. Kolkata	9. Mumbai
10. New Mangalore	11. Marmagoa	12. Mundra
13. Okha	14. Tuticorin	15. Pipavav
16. Sikka	17. Tuticorin	18. Visakhapatnam

Board has also decided that with effect from 31.12.2014 the facility of 24X7 Customs clearance for specified imports viz. goods covered by facilitated Bills of Entry and all exports viz. goods covered by all free Shipping Bills will be made available, at the following 17 air cargo complexes:

S.No. Sea Port	S.No. Seaport	S.No. Seaport
1. Ahmedabad	2. Amritsar	3. Banglore
4. Chennai	5. Coimbatore	6. Cochin
7. Calicut	8. Delhi	9. Goa
10. Hyderabad	11. Indore	12. Jaipur
13. Kolkata	14. Mumbai	15. Nasik
16. Thiruvananthapuram		17. Visakhapatnam

In view of the above, it is clarified that 24X7 Customs Clearance facility is available only for specified imports viz. goods covered by facilitated Bills of Entry and all exports viz. goods covered by all free Shipping Bills.

Difficulties , if any , should be brought to the notice of the undersigned.

F.No. S/14-119/2017 (I&E)

Dated: /02/2017

  
(K ANPAZHAKAN)  
COMMISSIONER

Copy to:

1. The Chief Commissioner of Customs, Central Excise & Service Tax, Pune Zone.
2. The Additional Commissioner of Customs, Goa
3. All Assistant Commissioners Customs Goa.
4. Goa Customs Brokers Associations.
5. Notice Board