

OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

**NEW DELHI
20th DECEMBER, 2022**

CAG's Report on Working of Customs Bonded Warehouses (CBWs) and Free Trade Warehousing Zones (FTWZs), Union Government (Customs) presented in Parliament

CAG's Performance Audit Report No. 19 of 2022 on Working of Customs Bonded Warehouses (CBWs) and Free Trade Warehousing Zones (FTWZs), Union Government (Customs) was presented in Parliament here today.

Performance Audit was conducted to (a) assess the effectiveness of the changes made in the Warehousing Regulations, 2016 in improving facilitation and self-clearance mechanism without detriment to the interest of revenue, and also the adequacy of Rules, Regulations, Notifications, Circulars, etc. issued from time to time in relation to CBWs under the Customs Act 1962; and (b) assess whether the establishment and operationalization of FTWZs are duly aligned with the objectives of FTWZs' policy and whether the internal control system, monitoring and coordinating mechanism are adequate and designed to minimize the risk of revenue loss.

This report contains 49 audit observations, including sub-paragraphs, and nine recommendations. The Customs responded to 41 observations, accepted 26 fully and 15 were not accepted. No response was received in respect of eight audit observations. Similarly, five out of the nine recommendations were accepted and four under examination.

Significant findings included in this Report are as follows:

1. The supervision and control of the warehouse has been shifted from physical control to record based control, which requires accurate electronic records for ensuring control. Audit scrutiny in respect of the sampled CBWs revealed that filing of monthly returns using digital signatures of warehouse keeper has not been achieved so far; in the majority of sampled CBWs, the records were not maintained in the prescribed electronic formats. Thus, the details of goods removed from the warehouse and the purpose of removal i.e. home consumption/deposit in another warehouse/export/sold/destruction etc. cannot be assessed. If the detailed records are not maintained electronically by the licensee, the process of reconciliation and monitoring of monthly returns would be a very difficult task. Therefore, the Department is not in a position to ensure whether the correct duty and interest are paid or the correct bond and bank guarantee are available through record have a control.

(Para 3.2.1)

2. Audit scrutiny revealed that the Department was totally dependent upon the Monthly Technical Reports and monthly returns submitted by each bonded warehouse; the monthly reports are not automated. There was absence of a structured and seamless flow of data between the IT systems maintained by the warehouses and ICES, the main IT Systems of Customs. Further, warehouses were required to maintain data in Form A and B which were not integrated with ICES. While ex-bonding of goods for home consumption is accounted for in ICES, other transactions such as re-export of the warehoused goods, transfer to SEZs and transfer from one bonded warehouse to another bonded warehouse were not captured in ICES. The SEZ Online IT System (managed by NSDL) which covers the SEZs was not integrated with ICES.

(Para 3.2.2)

3. The form prescribed for monthly return of the receipt, storage, operations and removal of the goods in the warehouse (Form A) was deficient as the removal details do not capture the ex-bond details.

(Para 3.2.3)

4. Non-submission/delay in submission of monthly returns raises serious concerns over the monitoring of warehouses since the Department's control over the warehouses has shifted to record based control from physical control. The Department would not know the details of removal of goods including date of removal, purpose of removal (home consumption/deposit in another warehouse/export/sold/destruction etc.), quantity cleared, value, duty, interest, balance quantity etc. Details of goods stored in the warehouse including value, duty and quantity would also not be known. Further, the present system does not immediately generate an alert if the triple duty bond and the bank guarantee do not cover the duty for the goods imported in warehouse.

(Para 3.2.4)

5. Instances of non-short/ deduction of Customs duty in the general bond and excess holding of goods beyond the permissible limits prescribed in the licenses was noticed. Excess stock would not be covered by insurance coverage and the Department is liable to lose Customs duty in the event of disaster like fire, accident and others.

(Paras 3.4.1 and 3.4.2)

6. There was short/irregular payment of Merchant Overtime (MOT) charges in 14 warehouses, and in 10 warehouses, customs supervision charges were levied incorrectly on MOT basis, instead of cost recovery charge basis, leading to short recovery of customs supervision charges of ₹10.29 crore.

(Para 3.4.3 and 3.4.4)

7. FTWZs are a special category of SEZ introduced as Foreign Trade Policy (FTP) 2004-2009. Even after 14 years, only seven FTWZs have been notified as of March 2020. Out of the seven notified FTWZs only four are in operation. It was noticed that the SEZ Act 2005 and SEZ Rules 2006 contain no separate guidelines/policies or any specific rules

in respect of FTWZ. Further, the Department has not conducted any evaluation/review of the scheme, to determine why enough private players are not showing interest in the scheme, and accordingly appropriate policy changes, if required, to attract developers for setting up more FTWZs.

(Para 4.2 and 4.3)

8. Audit noticed instances of short levy of duty on domestic clearance due to adoption of incorrect tariff value; incorrect calculation of NFE due to non-consideration of other outflow (like royalty payment, business support fee, technical service fee and foreign travelling expenses); instances of irregular sanction of duty drawback where payments were not made from the Foreign Currency Account of the FTWZ unit.

(Paras 4.6, 4.8 and 4.9)

9. Comparison of projected targets of exports/investments/employment/NFE against the actual achievements showed shortfall in performance of developers and units. The Department needs to analyse the reasons for such shortfalls as part of monitoring the performance of FTWZs and take possible steps to improve the same.

(Para 4.10)

10. Rule 79 of SEZ Rules 2006 prescribes audit by the Customs Officers of all authorized operations and related transactions in SEZs and units in SEZs. No such audit was conducted by DC Offices located at Ahmedabad, Bengaluru, Hyderabad and Mumbai.

(Para-4.11)

11. Review of APRs revealed instances of failure to file APRs, delay in submission of APRs, acceptance of non-certified APRs and submission of revised APRs indicating different NFE, though there is no provision in the extant rule for filing revised APR.

(Para 4.12)

Recommendations

Accepted Recommendations:

Recommendation 1: With the move from physical control to record based IT control under the Warehousing Regulations, 2016 and the need to protect revenue, the Department needs to have a time bound action plan to:

- a) **Devise an IT strategy for integration/reconciliation and digitisation of warehouse data with ICES, as well as with SEZ Online**
- b) **Specify an appropriate electronic format in which monthly returns from warehouses shall mandatorily be submitted digitally (dispensing completely with manual reports) and integrated with ICES, and analyse such integrated data electronically for monitoring and control.**

- c) **Conduct analytical review of the electronic data submitted by warehouses to identify warehouses, using a risk based approach, for detailed verification and audit.**

(Para 3.2.2)

Recommendation 2: Monthly return (Form A) should be suitably modified to capture the details of ex-bond BsE/Shipping Bill as well as date to capture complete information regarding removal of goods.

(Para 3.2.1)

Recommendation 3: Bond module in ICES should be modified, in a time bound manner, to capture all types of warehouse transactions such as bond to bond clearance, clearance to SEZ units etc. Further, a suitable mechanism should be put in place for online filing of extension of bonds and bank guarantees and there should be an alert when the bond and bank guarantee are expiring. The system should also be able to do age-wise analysis of time expired goods.

(Para 3.2.4)

Recommendation 5: The Department must develop, in a time bound manner, an IT systems/module for tracking and monitoring submission and renewal of Solvency Certificate, Duty bond and Bank guarantee, and Risk insurance policy. The system should track and monitor 100 per cent duty coverage under insurance as prescribed in the rules.

(Para 3.5.3)

Recommendation 7: The Department needs to consider the possibility of integration of the SEZ Online IT systems with ICEGATE/ICES, the Customs portal maintained and managed by DG Systems.

(Para 4.7)

Recommendations under examination:

Recommendation 4: The Department needs to have a time bound action plan to develop IT systems by which the process of vetting of applications for warehouse licenses, antecedent verifications, surrender of licenses etc is done in an effective and timely manner and uniform and consistent procedures are followed to minimize unwarranted deficiencies and delays.

(Para 3.3)

Recommendation 6. Ministry must ensure that a mechanism for internal audit and inspection of CBWs, including guidelines/SOPs for such audit, is implemented immediately.

(Para 3.5.8)

Recommendation 8. Ministry should ensure that periodic audit of the SEZ units by Customs officers in accordance with Rule 79 of the SEZ Rules is conducted in all SEZs.

(Para 4.11)

Recommendation 9: The Department need to implement 100 per cent digital submission of Annual Performance Reports in the case of units and HPRs/QPRs in respect of developers and not allowing, any manual submission. This will promote transparency and evolve effective monitoring.

(Para 4.12)

BSC/TT/86-22