

# **CHAPTER I**

## **INTRODUCTION & CATEGORIZATION OF GOODS**

### **1.1 Introduction**

This Manual prescribes the procedure to be followed for disposal of seized goods/ confiscated goods / uncleared cargo / mishandled Baggage / cargo involved in Time Expired Bonds / Goods detained under section 142 of the Customs Act, 1962 in all the formations under Central Board of Excise & Customs (CBEC). The procedures prescribed in the Manual are subject to the provisions of Customs Act/Central Excise Act, rules and regulations. In case of inconsistency between the procedures prescribed in this Manual and the provisions of Customs Act/Central Excise Act and various rules and regulations, the latter shall prevail.

This Manual supercedes all the instructions issued on the subject till date. If there are no provisions as regards a particular aspect of disposal, the officers are required to make a reference to the CBEC.

As and when amendments are issued to this Manual or additional instructions are issued by the CBEC, officers must carry out the corrections in the Manual and keep the Manual up-to-date.

### **1.2 Categories of Goods:**

The entire stock of seized/confiscated goods in the custody of the Department has been grouped under the following four different categories. Steps for early disposal of the goods falling under the different categories may be taken by the Commissionerates as prescribed therein.

#### **1.2.1 Category – I**

The goods under this category are prone to rapid decay or they become outdated very fast. These may also require special arrangements for their preservation and storage. Therefore these goods may be disposed of immediately after seizure by

the Custodian of the goods after issue of notice to the owners and obtaining orders from the Competent Authority.

If at a later stage, goods are ordered to be released to the lawful claimant, he would get the sale proceeds realised by the department after deducting the duty liability and other liabilities. If the goods in this category have been seized and have to be destroyed because they have become unfit for disposal or for consumption on account of delay, the AC/DC in charge of seizing unit would be responsible for the lapse.

- (i) Fresh flowers, Fresh fruits and vegetables, meat, fish, poultry, eggs and other fresh uncanned/unprocessed food materials;
- (ii) Salt and hygroscopic substances (other than in sealed containers)
- (iii) Raw (wet and salted) hides and skins;
- (iv) Livestock
- (v) Medicinal herbs
- (vi) Molasses
- (vii) Newspapers and periodicals
- (viii) Confectionary;
- (ix) Cigarettes, biris, biri-leaves and tobacco, which are liable to deterioration due to dryage or humidity;
- (x) Menthol, Camphor, Saffron;
- (xi) Cereals, sugar and other grocery items;
- (xii) Tea and Coffee;
- (xiii) Re-fills for ball-point pens;
- (xiv) Lighter fuel, including lighters with gas, not having arrangement for re-filling
- (xv) Beer
- (xvi) Damaged goods which are likely to deteriorate fast.

### 1.2.2 Category – II :

This Category covers the following goods notified under the provisions of Section 110(1A) of the Customs Act, 1962:

1. Gold in all forms including bullion, ingot, coin, ornament, crude jewellery.
2. Silver in all forms including bullion, ingot, coin, ornament, crude jewellery.
3. Diamonds, precious and semi - precious stones
4. Currency, Indian and Foreign.
5. All electronic goods including television sets, Video Cassette Recorders, Tape recorders, calculators, computers; components and spares thereof including diodes, transistors, integrated circuits, etc;
6. Cellular Phones.
7. Wrist watches including electronic wrist watches; watch movements, parts or components thereof;
8. Primary cells and primary batteries including re-chargeable batteries;
9. Photographic films
10. Conveyance
11. Man -made yarn and fabric
12. Bulk drugs and chemicals falling under Section VI of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
13. Patent or proprietary medicine; i.e., any drug or medicinal preparations, in what ever form, for use in the internal or external treatment of, or for the prevention of ailments in, human beings or animals, which bears either on itself or on its container or both, a name which is not specified in a monogram, in a Pharmacopoeia or Formulary;
14. Dangerous drugs and psychotropic substances;
15. Liquors
16. Ball Bearings;
17. Zip fastners;

Any other goods notified under notification Section 110 of the Customs Act, 1962 in future will also be covered by this category

For expeditious disposal of these goods, immediate action as per the procedure as laid down in sub-section (1B) of Section 110 must be taken by the seizing unit. A format for filing application under sub-section (1B) of Section 110 of the Customs Act, 1962 is available at **Appendix A** to this Chapter.

### 1.2.3 Category – III:

The goods under this category have a short span of life and deterioration in quality starts after a few days of storage and the risk/expenses for storage/maintenance of these goods are expected to be heavy and the goods are also liable to rapid depreciation in value on account of the fast change in technology or designs or introduction of new models etc. These goods may be disposed off within six months of their seizure or, where the date of expiry is indicated, well before that date. All unclaimed/abandoned should be disposed off immediately after adjudication.

Efforts should also be made to dispose of the goods immediately after adjudication even in the claimed cases. Where the goods have been ordered to be released on payment of fine, the adjudicating authority should invariably specify the time limit within which the option to redeem the goods on payment of fine in lieu of confiscation should be exercised and action should be taken for disposal immediately after the expiry of the time limit. The AC/DC in charge of seizing unit should also keep watch over such goods and communicate disposal order to the Custodian expeditiously.

- (i) Photographic goods such as photographic chemicals, papers and digital medium of photographs;
- (ii) Cameras of all types
- (iii) Time-pieces and clocks
- (iv) Pre-recorded cassettes, CDs, DVDs, MDs and other mediums (Audio/Video);
- (v) Costume Jewellery
- (vi) Readymade Garments
- (vii) Spectacles
- (viii) Perfume, Toilet waters and essential oils;
- (ix) Tinned and preserved provisions, condensed milk and milk powder;
- (x) Spices;

- (xi) Resin;
- (xii) Catechu;
- (xiii) Hides, Skins, features and products thereof
- (xiv) Rubber goods and erasers;
- (xv) Paper and articles made of paper;
- (xvi) Raw-jute;
- (xvii) V.N.E.oils
- (xviii) Petroleum products
- (xix) Hypodermine needles and syringes, surgical instruments/equipments;

#### 1.2.4 CATEGORY – IV (All other goods):

All other goods not listed in the above 3 categories come under this category. The disposal of goods falling under this category has to be effected after completion of all due formalities and when a finality is reached about the disposal of the goods.

1.3 On re-examination of the Supreme Court judgement AIR 1967 Supreme Court 1885 (V 54 C 365) in the case of State of Gujarat vs Hazi Hussain of Junagadh the Board is of the view that custom authorities are not precluded from disposing of the confiscated goods immediately after confiscation in cases where there is hardly any chance of successful appeal by the owner provided further that the owner is paid the value of the goods, in case in appeal or revision the order of confiscation is set aside.

As the storage of confiscated goods over long period till the completion of the normal processes of appeal etc. results in the deterioration of the goods, it has been decided that the following types of cases where the chances of the order of confiscation being modified in appeal etc. are remote, the goods should be disposed off by the department immediately after the confiscation of the goods, if the goods have been ordered to be absolutely confiscated, and on expiry of the period for redemption in cases where an option to redeem the goods on payment of fine is not exercised by the owner.

1. Seizure made in the Customs Area and Indian Customs waters.
2. Seizures of gold bullion under Gold Control Act, goods banned or highly restricted for import, goods covered under Sec 123 of the Customs Act 1962.
3. Seizures of unclaimed goods.

In order to avoid any disputes regarding the price which may have to be paid to the party from whom the goods were seized in the event of appeal etc. being admitted, an intimation regarding the price at which the goods are being sold should be sent to the party in case the goods are sold to agencies like NCCF. If the goods are of the type which are sold through auction conducted either by the Customs House an intimation regarding the date, time and place of auction should be sent to the party well in advance.

#### **1.4 Pretrial Disposal:**

In respect of the goods other than Category II goods, which are locked in court proceedings or if prosecution is contemplated/launched, pretrial disposal orders can also be obtained by the seizing unit under Section 451 of Cr.PC (text available in the Annexure A to Chapter 15). Format for filing application for pretrial disposal under Section 110 of the Customs Act, 1962 (**Appendix A** to this Chapter) may be used for the purpose.

#### **1.5 Powers to give order for disposal:**

Powers to give order for disposal are given below:

Sl.No.	Rank of the officer	Value
1.	Superintendent.	In the case of category I goods where book value of the goods does not exceed Rs.10,000/-
2.	AC/DC	In each case where book value of the goods does not exceed Rs.10 lakhs.
3.	JC/ADC	In each case where book value of the goods exceeds Rs.10 lakhs but does not exceed Rs. 25 lakhs
4.	Commissioner	Unlimited

