

F.No: 473/10/2017-LC
Govt. of India
Ministry of Finance
Dept. of Revenue
Central Board of Excise & Customs

North Block, New Delhi
Dated 24th November 2017

To,

All Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /
Commissioners of Customs

**Subject: Applicability of IGST / GST on goods transferred / sold while being deposited
in a warehouse. -reg.**

References have been received from the trade regarding levy of IGST/GST on sales of goods deposited in a customs bonded warehouse.

2. Ch IX of the Customs Act provides for deposit of goods into a customs bonded warehouse licensed under section 57 or 58 or 58A without payment of duty and the procedures to be followed with respect to the warehoused goods. Sub-section (5) of section 59 provides that the importer is at liberty to transfer the ownership of such goods to another person while the goods remain deposited in the warehouse.

3. It is to be noted that the value of imported goods, for purposes of charging customs duty, is determined as per section 14 of the Customs Act, 1962 at the time of import i.e. at the time of filing of the into-bond Bill of Entry. Any costs incurred after the import of goods, such as, port charges / port demurrage charges or costs for customs clearing or transporting the goods from the port to the customs bonded warehouse or costs of storage at the customs bonded warehouse, cannot be added to the value of the goods, for the purpose of levy of duties of customs at the stage of ex-bonding. Further, clause (b) of sub-section (1) of Section 15 of the Customs Act provides that the rate of duty or tariff valuation for an ex-bond Bill of Entry shall be the date on which it is filed. There is no provision to vary the assessable value of the goods at the ex-bond stage unless they are such goods on which tariff valuation applies. Therefore, duties of customs (BCD + IGST) shall be paid on the imported goods at the stage of ex-bonding on the value determined under section 14 of the Customs Act.

4. However, the transaction of sale / transfer etc. of the warehoused goods between the importer and any other person may be at a price higher than the assessable value of such goods. Such a transaction squarely falls within the definition of "supply" as per section 7 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as, "CGST Act") and shall be taxable in terms of section 9 of the CGST Act read with section 20 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as, "IGST Act"). It may be noted that as per sub-section (2) of section 7 of the IGST Act, any supply of imported goods which takes place before they

cross the customs frontiers of India, shall be treated as an inter-State supply. Thus, such a transaction of sale/transfer will be subject to IGST under the IGST Act. The value of such supply shall be determined in terms of section 15 of the CGST Act read with section 20 of the IGST Act and the rules made thereunder, without prejudice to the fact that customs duty (which includes BCD and applicable IGST payable under the Customs Tariff Act) will be levied and collected at the ex-bond stage.

5. Thus, in respect of goods stored in a customs bonded warehouse, there is a possibility that certain cases may involve an additional taxable event, if a transfer of ownership of warehoused goods takes place between the importer and another person, before clearance of the goods, whether for home consumption or for export.

5.1 In other words, when goods remain deposited in a customs bonded warehouse and are transferred by the importer to another person, the transaction will be subject to payment of IGST at the value determined as per section 20 of the IGST Act read with section 15 of the CGST Act, 2017 and the rules made thereunder and the tax liability shall be reckoned as per section 9 of the CGST Act, 2017.

5.2 However, it may be noted that so long as such goods remain deposited in the warehouse the customs duty to be collected shall remain deferred. Further, it is only when such goods are ex-bonded under section 68, shall the deferred duty be collected, at the value as had been determined under section 14 of the Customs Act, 1962 in addition to IGST leviable, as indicated at Para 5.1 above. [Illustrative charts A, B and C are attached to the circular to facilitate better understanding]¹.

6. Difficulties in implementation, if any, may be brought to the notice of the Board¹

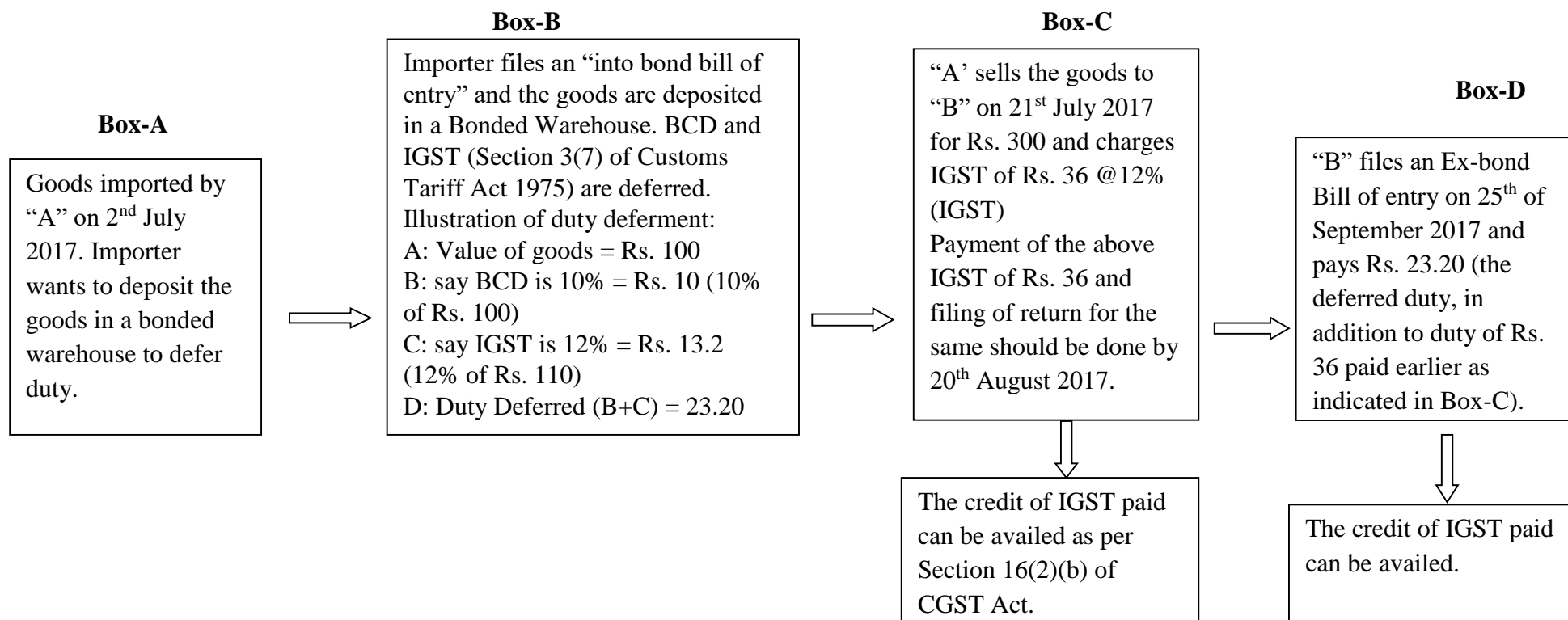
7. Hindi version follows.

(Temsunaro Jamir)
Officer On Special Duty (ICD)

¹ Substituted on 06.12.2017 vide F.No. 473/10/2017-LC

ILLUSTRATIVE CHART- A

Goods imported, bonded and sold while in the Bonded Warehouse and clearance thereof:



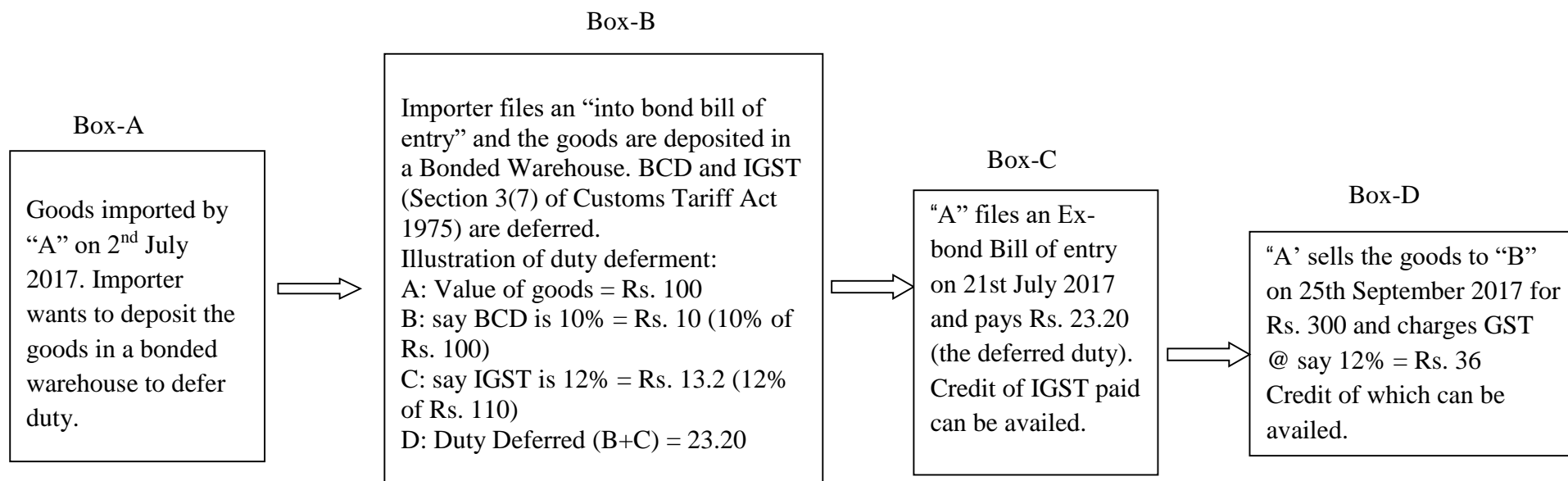
Total duty paid: 23.20+36= Rs.59.2

[Note: In this case, when ‘A’ sells the goods to ‘B’, ‘A’ becomes the supplier of the goods as per IGST Act and is therefore liable to pay IGST under section 5 of IGST Act, as explained in Box-C. ‘B’ in turn becomes the importer and is therefore liable to pay the duties deferred as in Box-B, on ex-bonding, as explained in Box-D above.]

ILLUSTRATIVE CHART- B

Goods imported, bonded and cleared for home consumption and subsequent sale thereof:

ILLUSTRATION



Total duty paid: 23.20+36= Rs.59.2

Goods imported and cleared for home consumption and subsequent sale thereof:

Box-A

Goods imported by "A" on 2nd July 2017. Importer clears the goods for home consumption.

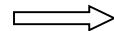
Illustration of duty payment:

A: Value of goods = Rs. 100

B: say BCD is 10% = Rs. 10 (10% of Rs. 100)

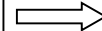
C: say IGST is 12% = Rs. 13.2 (12% of Rs. 110)

D: Duty paid (B+C) = 23.20



Box-B

'A' can take credit of IGST paid at the time of clearance for home consumption.



Box-C

'A' sells the goods to 'B' for Rs. 300 on 25th September 2017 and charges GST.

Value of goods= Rs. 300 GST (say 12 %) = Rs. 36

Credit of which can be availed.

Total duty paid: 23.20+36= Rs.59.2