



सीमा शुल्क आयुक्त का कार्यालय
नव सीमा शुल्क गृह, पणंबूर, मंगलूर - 10
OFFICE OF THE COMMISSIONER OF CUSTOMS
NEW CUSTOM HOUSE: PANAMBUR: MANGALORE-10

F.No.S-26/03/2008. Tech.

Dated : 23.07.2008

PUBLIC NOTICE NO. 07/2008

Sub: Execution of Bonds/ Guarantees/Undertakings - reg.

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Attention of all the Importers, Exporters, Warehouse Licencees, Custom House Agents and all concerned is invited to the above mentioned subject. It is observed that a large number of bonds/guarantees/undertakings are being executed on account of provisional assessment under Section 18 of the Customs Act, 1962; for bonded warehouse facility; for transshipment of duty free goods, temporary conversion of ships from foreign run to coastal run, etc. It is also observed that bonds now being submitted are incomplete, not signed by the authorized person, bearing no details of the witnesses etc. Instances of bonds being executed in bond paper purchased by person other than the executants, etc., have also come to light. Such discrepancies/lapses are likely to have serious future legal implications in case of the need for enforcement of the bond.

2. The CBEC vide F.No.438/32/90/Cus-VII dated 02.07.1991 and Circular No.09/2007 dated 09.02.2007 has emphasized that utmost care is required to be taken while accepting bonds so as to avoid any adverse legal implications. It is imperative that the bonds submitted for acceptance are correct and complete in all respects and are signed by the duly authorized executants and witnesses in the presence of proper officer.

3.1. Therefore all concerned are directed to ensure that bonds/guarantees/undertakings etc. are complete in all respects, with the following details:

i) The Bond paper must be purchased in the name of the executant/firm within the State of Karnataka.

ii) Signatures on bond/ guarantee must be...

2. Signing of bonds and guarantees by various categories of business organizations- Bonds and Guarantees should be signed by the proper person as detailed below:

- i) where the party is an individual, he should himself sign the bond / guarantee.
- ii) where the party is a proprietary firm, the bond/ guarantee should be signed by the proprietor or by a person authorized to sign bonds or guarantee. The party or parties concerned should produce such evidence as may be necessary to establish that the person signing the bond is duly authorised to do so.
- iii) where the party is a partnership firm, the signature of any one partner having Power of Attorney for signing on behalf of the firm may be accepted. The question whether the firm is registered as provided under the Partnership Act or not, is not relevant. What is relevant is that the act of a partner is one which is done to carry on, in the usual way, the business of the kind carried on by the firm, and that the person signing the instrument is actually a partner having the authority to bind the firm by his acts. In case of doubt, the authority accepting the instrument can satisfy itself on both these points by a reference to the original partnership deed.

3.3. On behalf of a company incorporated under the Indian Companies Act, the signature should be that of a person duly authorized in accordance with the provision contained in his behalf in the Article of Association of the Company. Under Section 90 of the Companies Act, a Company may, by writing under its common seal, give any person a general or particular power of attorney to act on its behalf and to execute deed on its behalf in any place in or outside India and every deed signed by such attorney on behalf of the company shall be binding on the company and its successors and shall have the same effect as if it were under its common seal.

3.4. If the importer is a Company or a Statutory Corporation, its common seal is required to be affixed strictly in accordance with the provisions contained in its Articles of Association or Rules and Regulations as the case may be. It has been advised by the Ministry of Law that a company may execute a contract by affixing its seal in accordance with its Article of Association or by authorizing a person to sign on its behalf by the hand of a constituted attorney duly appointed in writing under its common seal. When a duly constituted attorney under a power of Attorney is executing a document on behalf of a Company, the Company's seal is not affixed to the document. The power of Attorney should however be submitted for records.

4. General Requirements:

(ii) All bonds and guarantees presented for acceptance in the apprising Department must be signed by the party/ parties concerned in the presence of the Appraiser/Superintendents provided the parties signing bonds and guarantees will not be required to appear personally before the Customs Officers when their signatures are attested by:-

- a. Notary Public, or
- b. Justice of the peace, or
- c. A Magistrate, or
- d. In a Civil Court,

and the attestation is confirmed by his official seal. The signature on bonds and guarantees should invariably be verified from the department concerned to ascertain that the signatures are of authorized person duly empowered to sign on bonds and guarantees.

(iii) The parties signing bonds and guarantees will not be required to appear before the Customs Officers when their signatures on the bonds and guarantees are duly attested by a licensed Custom House Agent of the Custom House, of status and standing, who are reliable and well known to the Custom officers. For this purpose a Custom House Agent must have a satisfactory record of service as a Custom House Agent for a period of 10 years or more in the Custom House. In cases of doubt, the orders of the Assistant Commissioner in-charge should be obtained as to whether attestation by a particular Custom House Agent would be acceptable.
As per the Board's instructions issued vide F.No.483/32/90-Cus-VII dated 02.07.1991, the Custom House Agents are also responsible for not complying with the conditions of the bond.

(iv) Only such office bearers of the firms of Custom House Agents will be permitted to witness signature on bonds and guarantees as have been duly authorized by the firm concerned to sign bonds and guarantees and whose authorization has been duly registered in the Custom House on being supported by a power of Attorney.

(v) Signatories to the bond/Guarantee/Undertaking will notify in block letters their full name, their PAN No., IEC No., complete address with telephone number and e-mail address. Signature on the guarantee should be attested by witnesses (two) with their full name in block letters, occupation, complete address, with teleph:one number, e-mail address etc.