



Central Board of Indirect Taxes & Customs

Department of Revenue, Ministry of Finance, Government of India

DISPOSAL MANUAL - 2019



प्रणब कु० दास
अध्यक्ष

Pranab K. Das
Chairman



सत्यमेव जयते



Message

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राजस्व विभाग
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I am immensely pleased that a new “Disposal Manual, 2019” for the disposal of goods that are seized, confiscated, unclaimed or uncleared and covered by time-expired bonds is being brought out by the Customs Investigation Wing of the Board.

I note that the previous version of the Disposal Manual was issued way back in 1990. Also, a Draft Disposal Manual was circulated in 2013 but was not finalized. Thus, the present Disposal Manual, 2019 fills the need to have up-to-date instructions on the subject in one place for ease of reference.

The Disposal Manual, 2019 consolidates all existing Instructions and Circulars on the subject and for ease of reference, it lists all previous Instructions & Circulars too. Further, it eliminates obsolete provisions and revises certain monetary limits, thereby, making the process of disposal more efficient and effective. It also resolves long pending issues of disposal of items, like Murate of Potash, foreign liquors, Unmanned Aircraft Systems (UAS)/Unmanned Aerial Vehicle Systems (UAVS)/Remotely Piloted Aircraft System (RAPS)/drones. Importantly, this manual covers all the major aspects of disposal, with clear demarcation of roles and responsibilities of the officers concerned.

I am confident this Manual will be of great help and guidance to the field officers and will enhance their efficiency and performance in the work of disposal.

I would like to acknowledge and commend the hard work and dedication of the members of the Working Group and of the Commissioner (Investigation-Customs), CBIC and his team for preparing this Manual.

18th December, 2019
New Delhi

(Pranab Kumar Das)
Chairman, CBIC

FOREWORD

This Disposal Manual is a Handbook meant for the guidance of departmental officers, posted in various Commissionerates, associated with the work relating to storage and disposal of goods that are seized/confiscated, unclaimed/uncleared and covered by time-expired bonds. The **Appendix-VI** at the end gives the list of all the Circulars/Instructions issued by the Board in this regard. It also gives cross references to the Paras where relevant matter is being dealt with. These Circulars/Instructions remain valid after the issue of this Manual. However, in the event of any inconsistency between this Manual and these Circulars/Instructions, this Manual shall prevail. **Appendix- VII** gives the list of Circulars/Instructions rescinded.

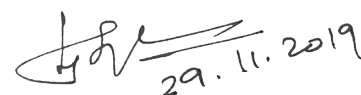
2. This Manual covers the various procedures to be followed by the department officers. This Manual has been prepared to serve as a handy guidance tool for the officers in the field. These procedures are based on the provisions of the Customs Act, 1962; the CGST Act, 2017; the IGST Act, 2017; the Central Excise Act, 1944; the Allied Acts and the Notifications/Circulars/Instructions issued there under. Circulars/Instructions issued upto 30th September, 2019 have been taken into account in drafting of the Manual

3. An earnest attempt has been made to comprehensively cover all the foreseeable situations that may arise in the field in relation to storage and disposal of seized and confiscated goods. There may be circumstances that are beyond what this Manual covers. In those special situations, field formations may approach the Board for suitable guidelines. But before approaching the Board, the field formations shall substantiate that such situation has not been addressed in this Manual.

4. This Manual is the culmination of hardwork done by many officers. I take this opportunity to acknowledge with gratitude all the officers who have directly and indirectly contributed in bringing out this Manual.

5. I take this opportunity to thank the Board for the support and guidance in bringing out this manual. I would like to express our sincere thanks to Shri Mayank Kumar, ADG VIg., Chennai for spearheading the working Group which finalised the draft in a time bound manner. We gratefully acknowledge the contributions of Shri K.V.V.G Diwakar, Commissioner, Shri. K. Engineer, ADG, DGGI, Visakhapatnam, Shri K. Ramakrishnan, ADD, DRI, Shri P. Anandakrishnan, ADC, as members of the Working Group. I would also like to place it on record the work done by following officers, namely, Shri P.K. Singh, erstwhile Commissioner and Shri Suresh Kishnani, erstwhile DC, DoL, Ms Kajal Singh, erstwhile Commissioner (RI &I), Ms. Priya V.K Singh, erstwhile DS, Shri Rishi Mohan Yadav, Shri Rohit Anand, and Shri A.C. Mallick, erstwhile Under Secretaries, Shri Tashi Tshering Wangdi, erstwhile

Superintendent and Shri Sunny Arya, Inspector of Anti-Smuggling Unit (ASU). I extend my gratitude to the officers of Customs Investigation Section Unitnamely, Shri Suraj Kumar Gupta, JC, Ms. Ranjana Chaudhary, AC, Shri H.C. Bhardwaj, Superintendent Shri Ranjeet Singh Rana, Superintendent, Shri Saarthak Dahiya, Shri Priyanshu Srivastava, Shri Manish Dalal, Shri Ravi, and Shri Rajpal, Inspector. I also thank the officers and staff of the Directorate General of Taxpayer Services for the untiring work in bringing out this manual in print form in short time.

Handwritten signature of Dr. M.G. ThamizhValavan, dated 29.11.2019.

(Dr. M.G. ThamizhValavan)

Commissioner (Investigation-Customs), CBIC

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CHAPTER - 1

Introduction

1.1. This Manual prescribes the procedures to be followed by all the field formations under the Central Board of Indirect Taxes & Customs (CBIC) for the disposal of:

- i. Goods seized under the Customs Act, 1962, the Central Goods and Services Tax, 2017 (CGST Act 2017), the Integrated Goods and Services Tax, 2017 (IGST Act 2017) and the Central Excise Act, 1944;
- ii. Goods confiscated under the Customs Act, 1962, the CGST Act 2017, the IGST Act 2017 and the Central Excise Act, 1944;
- iii. Goods uncleared/ unclaimed after importation into India and lying in the Customs Area;
- iv. Mishandled Baggage;
- v. Goods that involve Time-Expired Bonds; and
- vi. Goods detained under Section 142 of the Customs Act, 1962.

1.2. The procedures prescribed in this Manual are based on the provisions of the Customs Act, 1962, the Central Excise Act, 1944, the CGST Act 2017, the IGST Act 2017, the Rules and Regulations made thereunder, and other Allied Acts. In case of any inconsistency between these procedures and the statutory provisions, the later shall prevail.

1.3. Whereas this Manual indicates the general procedures to be followed, the concerned Principal Commissioners/ Commissioners may make requisite changes thereto, as may be necessitated by local conditions, keeping in view the spirit of instructions contained in this Manual. These changes may be informed to the Board.

1.4. In major Custom Houses, there shall be a separate unit, called the Disposal Unit which should be entrusted with the task of taking-over all goods ripe for disposal from the custodians and dispose of the same by auction or otherwise.

CHAPTER - 2

Categories of Goods

2.1. Categories of Goods

The entire stock of seized/confiscated goods, in the custody of the Department, has been grouped under the following seven categories:

Category-I: Goods to be disposed of immediately after seizure;

Category-II: Goods falling under Section 110(1A) of the Customs Act, 1962;

Category-III: Goods to be disposed of within six months from the date of seizure or where the date of expiry is indicated, well before that date;

Category-IV: Valuables;

Category-V: Goods notified under the NDPS Act;

Category-VI: Goods that have to be disposed of by way of destruction; and

Category-VII: All other goods.

2.2. For timely disposal of the goods falling under the different categories (mentioned in the Para above), the steps, as prescribed herein, should be taken by the Commissionerates:

2.3. Category-I: Goods to be Disposed of Immediately After Seizure

2.3.1. The goods under this category have a very short shelf-life as they are either prone to rapid decay or they become outdated/ obsolete very fast. Some of these goods are liable to deterioration due to drying or humidity. Some others may require special arrangements for their preservation and storage. Some of such goods may be perishable in nature, while some others may have certain expiry date prescribed thereon. Therefore, these goods may be disposed of immediately after seizure, after issue of a Notice to the owners/ claimant (party) and obtaining orders from the Competent Authority. The goods falling under this category include:

- i. Fresh flowers;
- ii. Fresh fruits and vegetables, meat, fish, poultry, eggs and other fresh uncanned/ unprocessed food materials;

- iii. Cereals, sugar and other grocery items;
- iv. Beer;
- v. Medicinal herbs;
- vi. Cigarettes, bidis, bidi-leaves and tobacco;
- vii. Livestock;
- viii. Raw (wet and salted) hides and skins;
- ix. Salt and hygroscopic substances (other than in sealed containers);
- x. Petroleum products;
- xi. Molasses;
- xii. Newspapers and Periodicals;
- xiii. Confectionery;
- xiv. Menthol, Camphor, Saffron;
- xv. Tea and Coffee;
- xvi. Cells, batteries and rechargeable batteries; and
- xvii. Lighters with gas (not having arrangement for refilling), Lighter fuel.

2.3.2. The above list is not exhaustive. The Principal Commissioner/ Commissioner in-charge may decide any seized item to be perishable, depending upon its nature and shelf-life, if he deems that prolonged storage may result in deterioration of the goods.

2.3.3. Apart from the goods which are likely to deteriorate or perish, the seized goods for which the recurring cost of upkeep or the cost likely to be incurred on the special arrangements required for storage, is disproportionately high (e.g. animals or dangerous goods) may be disposed of after observing the prescribed formalities and after due intimation to the owner or claimant about the date, time and manner of such disposal.

2.4. Category-II: Goods Falling Under Section 110(1A) of the Customs Act, 1962

2.4.1. This category covers the goods, which are notified under the provisions of Section 110(1A) of the Customs Act, 1962 from time-to-time. For expeditious disposal of these goods, the procedure laid down in sub-Section (1B) of Section 110 of the Customs Act, 1962 must be followed by the Seizing Unit immediately.

2.4.2. The following precautions shall be taken for the disposal of the goods notified under Section 110(1A) of the Customs Act, 1962:

- i. All such cases shall be processed for disposal within a period of two months from the date of their seizure.
- ii. Before action under Section 110(1A) is initiated, a written Notice to the party concerned shall be given.
- iii. The process of seeking sanction of the Magistrate, whenever needed, shall be completed within a month thereafter.
- iv. If the seized goods are highly perishable and may not have remaining shelf-life of even three months' time, the case may be processed and put up for seeking approval for disposal of the goods under Section 110(1A) immediately, after seizure is affected and preliminary investigation is over.
- v. The disposal of the goods should be clearly reflected in the Show Cause Notice, so that the Adjudication Authority as well as the Appellate Authority may pass appropriate orders. When action under Section 110(1A) is initiated after issue of Show Cause Notice, an addendum shall be issued immediately after the disposal of goods, to indicate the fact of disposal.
- vi. After the Disposal Order is passed in terms of Section 110(1A) and the goods disposed of, appropriate entries should be made in the Adjudication file as well, so that the Adjudicating Authority does not give an option of redemption of goods to the party (since no goods are available for exercising such an option).

2.4.3. In cases where the party claims legal ownership of the goods and requests for their release, and the issue relating to the title of the goods has not yet been adjudicated upon by the Adjudicating Authority, attempt should be made to expedite the investigation and adjudication proceedings. A decision regarding disposal of the goods should be taken in such cases immediately on completion of the adjudication proceedings.

2.5. Category-III: Goods to be Disposed of Within Six Months of Seizure or Before their Expiry.

2.5.1. 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 very high. Some such goods are also likely to rapidly depreciate in value on account of the fast change in technology or designs or introduction of new models, etc. These goods include:

- i. Electronic goods and gadgets, such as mobile phones, digital cameras;

- ii. Fashion jewellery;
- iii. Textiles, including Readymade Garments, made-ups, fabric and yarn;
- iv. Spectacles;
- v. Cosmetics, including creams, lotions, shampoos, perfumes, lipsticks and essential oils;
- vi. Tinned and preserved provisions, condensed milk and milk powder;
- vii. Goods such as spices, resin, Catechu;
- viii. Hides, skins, feathers and articles thereof;
- xi. Rubber goods and erasers;
- x. Paper and articles made of paper;
- xi. Raw jute;
- xii. Vegetable Non-Essential Oils;
- xiii. Hypodermic needles and syringes, surgical instruments/equipments;
- xiv. Medicines and drugs; and
- xv. Boats, Yachts and Launches (other than those meant for Departmental appropriation)

2.5.2. The Deputy/ Assistant Commissioner (DC/ AC) in-charge of the Seizing Unit should keep watch over such goods and expeditiously communicate the Disposal Order to the Disposal Unit.

2.6. Category-IV: Valuables

The following goods fall under this category:

- i. Diamonds, Precious and Semi-precious stones, Pearls;
- ii. Gold and articles thereof;
- iii. Jewellery made of precious metals, viz. Platinum, Palladium, Gold and Silver and/or studded with Precious or Semi precious stones;
- iii. Silver and articles thereof;
- iv. High value watches;
- v. Currency, including Foreign Currency;

- vi. Such other articles of “small size/ volume and high value” as may, by special or general order be, classified as “Valuables” by the Principal Commissioner/ Commissioner in-charge.

2.7. Category-V: Goods Notified Under the Narcotic Drugs and Psychotropic Substances (NDPS) Act

The detailed procedure for their disposal is outlined in Chapter 16 of this Manual.

2.8. Category-VI: Goods to be Disposed of by Destruction

The Principal Commissioner/ Commissioner in-charge has been delegated full powers for ordering destruction of certain goods, like:

- i. Goods that violate the Intellectual Property Rights (IPR) laws;
- ii. Hazardous wastes, e-wastes and other goods that may cause damage to the environment;
- iii. Spurious drugs and medicinal preparations;
- iv. Food products that do not fulfill the compliance requirements for their sale in domestic market under the provisions of any law applicable for the time being, e.g. the Food Safety and Standards Act, 2005 (FSSA Act);
- v. Fake Indian Currency;
- vi. E-Cigarettes/ or Electronic Nicotine Delivery Systems; and
- vii. Any other goods or class of goods, in respect of which the Principal Commissioner/ Commissioner in-charge may decide that their release into the domestic market would cause harmful effect on public health and safety.

2.9. Category-VII: All Other Goods

All other goods, not listed in any of the above categories, come under this category. The disposal of the goods falling under this category has to be done after completion of all due formalities and when finality is attained about their disposal.

2.10. Pre-trial Disposal

For early disposal of the goods (other than Category-I goods) that are a subject matter of Court proceedings or if prosecution is contemplated/ launched, pre-trial Disposal Orders may be obtained by the Seizing Unit under Section 451 of the Code of Criminal Procedure (Cr.PC). The Format for filing the Application for pre-trial disposal under Section 110 of the Customs Act, 1962, as given in Form-1, may be used for the purpose.

Form-1

(Refer Para 2.10)

Application for Disposal of Seized Goods that are Perishable or can Deteriorate

IN THE COURT OF _____ (Mention the Court)

APPLICATION No. _____ OF 20__

CASE No. _____

Shri _____

Preventive Officer/ Examiner/ Inspector of Customs/Central Excise/GST

_____ (Address)

Applicant

MAY IT PLEASE YOUR LORDSHIP:

I _____ S/o/ D/o/ W/o _____ beg to state the following on solemn affirmation:

That on _____ (mention date), _____ (names of the persons arrested) was/ were produced before your Lordship in connection with the seizure of _____ valued at Rs. _____ and your Lordship was pleased to grant him/ them bail of Rs. _____. The trial in this case is pending/ yet to commence/ case is kept on dormant file on _____ since the accused is absconding (strike out whatever not applicable).

That the above goods are of perishable/ deteriorating nature. Any further storage is likely to cause depreciation/ loss in its value. There is shortage of storage accommodation. Early disposal orders will ease the congestion in Warehouse. Also, the sale proceeds can be utilized for country's developmental requirements.

It is, therefore, prayed that your Lordship may be pleased to order for disposal of the said goods after keeping the representative samples. For this act of kindness, I shall ever pray.

Solemnly affirmed at _____ (Address), This _____ day of _____ 20__

(Signature)

(Name with stamp)

CHAPTER - 3

Receipt and Storage

3.1. Role of the Seizing Unit and Inventory

3.1.1. Whenever any goods are detained/ seized, a detailed inventory of these goods shall invariably be prepared by the Seizing Officer in the format given at **Form-2** in triplicate, except in the cases where the detained/ seized goods are physically handed-over to a third party under Sapurdginama and thus, are only notionally handed over to the custodian, there the inventory shall be prepared in quadruplicate. These copies of the inventory shall be used as follows:

- i. The First copy shall be given to the owner of the goods or his authorized representative, if available; otherwise it shall be retained in the seizure/ case file.
- ii. The Duplicate & Triplicate copies shall be used for the transfer of the seized goods, within 24 hours of the detention/ seizure of the goods, and their handing-over to the custodian of the Godown, i.e., the officer in-charge of the Warehouse, who is also called 'Warehouse Officer.' The custodian shall give receipt on both the Duplicate and the Triplicate copies of the inventory and return the Duplicate copy to the Seizing Officer, who shall retain the same in the seizure/ case file.
- iii. The Fourth copy shall be given to the Sapurdigar.

3.1.2. If the goods are kept at more than one location, due to their different nature/ category, a separate inventory shall be drawn for each category of goods, and they shall be forwarded to the custodian under a proper receipt, as prescribed in para 3.1.1 (ii) above.

3.1.3. If the seizure takes place on a holiday, the seized goods shall be retained in the safe custody of the Seizing Unit and delivered to the custodian on the immediate next working day.

3.1.4. The inventories are very important documents and shall be drawn carefully to contain all the relevant details, such as description, quantity, brand, serial number, country of origin, make, model, quality, year of manufacture, nature of the goods as to whether old/new, damage (if any), etc. Such information is necessary for identification of the items covered by the inventory as well as for taking further action for their disposal.

3.1.5. The packages containing the detained/ seized goods shall be sealed with the seal of the Detaining/ Seizing Officer and the seal, if any, of the lawful claimant or his authorized representative,

and shall be signed by them. Specimens of each seal and signature shall also be affixed on the inventory of the detained/ seized goods for comparison purpose at the time of receipt of the goods by the custodian and thereafter, return of the same to the lawful claimant, if required. The Valuables seized shall be packed in durable containers, like hard plastic or metal boxes, and wire/ metal seals may be used instead of rope/ wax seals.

3.1.6. When seized/ detained goods are transferred from one custodian to another, as in the case of transfer of charge, the Original Inventory and also the Re-inventory, (described later at Para 3.3.3) if any, shall invariably be handed-over along with the goods. While conducting stock challenges or during transfer of charge, etc., seals on the packages shall be compared with specimens of seals on the corresponding inventories. The specimen of seals on the inventories shall act as the final proof, where any tampering of seals is suspected or where discrepancy in the goods is found at the time of opening the packages.

3.1.7. In cases where the detained/ seized goods are physically handed-over to a third party under Sapurdginama and thus, **are only notionally handed over to the custodian**, the fourth copy shall be given to the Sapurdigar. Other copies of the Inventories will be dealt with, in the usual manner.

3.2. Storage Place

3.2.1. Storage of the seized goods shall preferably be in Government buildings at the ground floor or in basement, so that hire charges for Godowns are not paid, however, such places should be properly secured. When Godown space is hired, isolated building may be avoided unless adequate security is provided. The Godown shall be spacious enough to house the goods on the racks/ almirahs. The Godown should be well-ventilated, damp-proof and properly illuminated, preferably with natural light. Fire-fighting equipment and smoke detectors should be installed. If there are no efficient & working central fire-fighting system available, sufficient number of portable fire extinguishers should be installed. In case, high-valued confiscated goods are being left with the custodians, concurrent measures in consultation with the custodians, like wire-fencing can be explored. There should be focus on optimum utilization of available space by way of stacking in a scientific manner, reviewing of stocks at regular intervals and exploring possibility of disposal of goods in convenient lots and expeditious disposal of 'absolutely confiscated goods'. Valuables should be kept in Strong Room/ bank lockers.

3.2.2. Separate storage and custody may be provided for goods, which are likely to be released soon, like, on compliance with formalities or the goods detained from passengers which are to be returned to them while they are going back, and for the following categories of goods namely, Valuables, perishable goods, vehicles/ conveyances.

3.2.3. In respect of Valuables, double locking system shall be followed, the key to second lock being with a Gazetted officer, higher in rank to the officer in direct charge.

3.2.4. The responsibility for proper storage and custody of goods shall be on the individual officers; and for this purpose, it should be ensured that the charges of individual officers should be compact and manageable.

3.3. Receiving the Goods in Godown

3.3.1. Immediately on receipt of the goods, along with the Duplicate and the Triplicate copies of the inventory, the custodian should satisfy himself that the packages have been properly sealed, seals are intact and the inventory has been made out in a proper manner, giving all the details required, as regards the contents of packages. He should also verify whether the categorization of the goods, as indicated in **Chapter-2**, has been mentioned correctly or not. There is no need to examine the contents of the packages, provided the seals are intact and the inventory is in order. Aspects of sealing should be verified carefully. Further, in respect of Valuables, the package shall be weighed and the same shall be recorded in the Stock Register.

3.3.2. If the condition of packages, seals and the inventory are in order, the custodian should receive the goods in his Godown and make entries in the Stock Register along with location of their storage. He should, then, acknowledge receipt of the sealed packages by way of making cross entries on the Duplicate & Triplicate copies of inventory, retain the Triplicate copy with him and return the Duplicate copy to the Seizing/ Detaining officer for keeping it in the seizure/ case file. In case of any discrepancy, the same should be reconciled before acknowledging the receipt.

3.3.3. If the seals are not intact at the time of receipt of the goods by the custodian, it is the responsibility of the Seizing/ detaining officer to get the packages opened, tally the contents and re-seal the packages, with the approval of the Deputy/ Assistant Commissioner in-charge. Such re-inventory and re-sealing shall be done in the presence of the owner, or his representative and a team of Gazetted Officers, including one officer from the Seizing Unit. If neither the owner nor his representative is available, a specific note to that effect shall be made and re-inventory shall be done in the presence of two independent witnesses, in addition to the team of officers, as aforesaid. Re-inventory shall be properly documented.

3.3.4. When re-inventory of the detained/ seized goods is done, the original inventory should also be attached to the re-inventory. The fact of re-inventory should be endorsed on the original inventory and cross references on each document must also be made. The original inventory as well as the fresh re-inventory should always be kept tagged together and be available with the custodian and in case of shifting of goods, both should always travel with the goods.

3.3.5. Aforesaid procedure should invariably be followed during authorized opening of packages during adjudication proceedings or drawal of samples, and resealing thereof.

3.3.6. Duplicate inventory and also re-inventory, if any, shall be kept in the file. Separate files may be maintained for each Stock Register and both shall correctly reflect the stock position in the Godown at all points of time.

3.3.7. In case the goods stored are physically with Sapurdigar and only the notional charge is with the custodian, Triplicate copy of the inventory should be handed-over to the custodian. The custodian will not be required to verify the contents of the packages or the packages, since the responsibility for keeping the packages intact is with the Supardigar, owner of the Godown or the place of storage of the goods. However, the custodian should add the goods into the account of 'goods pending for disposal' and in the Stock Register, entries should be made clearly indicating the place of storage in the prescribed columns of the Register.

3.3.8. Each package should be securely tied, pinned and stuck with a Stock Card in the Proforma given at **Form-3**.

3.4. Stock Register

3.4.1. The custodian should enter the details given in the inventory in the 'Register of Seized/ Detained Goods.' This Register shall be as per format given at **Form-4** for the 'goods other-than- Valuables' and shall be as per format given at **Form-5** for 'Valuables'.

3.4.2. The officer in-charge of the warehouse shall maintain the Warehouse Register duly updated. All entries in the register shall be made immediately on receiving the relevant information. The warehouse in-charge shall keep liaison with the Seizing Unit and ascertain the position of pending cases on regular/ quarterly basis. All updates may be entered into the relevant column of the register.

3.4.3. As regards Narcotic Drugs & Psychotropic Substances (NDPS), the Register prescribed at **Form-30** (refer **Chapter 16**) should be maintained.

3.5. Posting/ Transfer of Custodian

3.5.1. Only experienced officers, whose integrity is absolutely beyond doubt, should be posted as in-charge of the Strong Room/ Valuables Godown. Similar check from vigilance and integrity-angle should also be ensured for his senior officer, who is given the overall supervision of the Strong Room and custody of the second key.

3.5.2 Whenever the custodian or his senior officer is transferred, a regular substitute should be provided, who shall take proper charge of the Strong Room/ Valuables Godown. The details of handing-over/ taking-over shall be entered in a register, for which the format is given in **Form-6**.

3.5.3 The officer handing-over the goods on transfer from the Warehouse unit, shall also hand-over all the files and the correspondences relating to the packages received by him or handed-over to him.

3.6. Responsibilities of the Custodian

3.6.1. It will be the fundamental responsibility of the 'Godown in-charge' or 'Godown Superintendent' to inspect the Godown regularly in order to ensure that the goods stored in his charge are being properly kept and none of the packages/ goods show any sign of deterioration. Special treatment should be accorded to special consignments. For instance, in the case of motor cars, he should see

that the tyres are properly inflated and that the engine is periodically run, so that it is properly lubricated. Similarly, any chemical, which is hygroscopic in nature, should not be allowed to melt and spoil other goods during storage. This may be done by changing containers or repairing them. The Deputy/ Assistant Commissioner in-charge should also inspect the Godown periodically. The responsibilities of a custodian are enumerated below, however, these are not exhaustive:

3.6.2. The custodian will be responsible for the physical custody of the packages with seals intact. He will not be responsible for the contents of the package, where the packages are properly sealed and the seals are intact. The custodian should, however, insist before accepting the sealed packages that the inventory covering the goods is complete in all respects.

3.6.3. On receipt, he should attach the Stock-Card, in the Proforma given at Form-3 of appropriate colour: (i) Red colour card for goods 'temporarily detained for re-export', (ii) Pink colour card for goods 'seized but not adjudicated', (iii) Yellow colour card for goods 'confiscated but not ripe for disposal' and (iv) Green colour card for goods 'ripe for disposal'.

3.6.4. He should ensure that the packages are carefully stored and protected against the ravages of weather, ants, rodents and insects.

3.6.5. He should monitor the condition of the goods and take adequate measures against theft and pilferage. In case, there is any theft or pilferage, he should immediately report it to the Principal Commissioner/ Commissioner concerned. Any incident of theft/ loss/ substitution of the goods, which comes to light, should not only be immediately examined personally by the concerned Principal Commissioner/ Commissioner, but should also be immediately reported to the Principal Accounts Officer and the Statutory Audit Officer, etc., as laid down under **Rule 33 of the General Financial Rules, 2017 (G.F.R., 2017)**. Action should also be initiated immediately in terms of provisions of **Rule 33 and 34 of G.F.R., 2017**. The Board should also be kept informed of all such cases on an immediate basis, with a report of action initiated.

3.6.6. All packages should compulsorily be inspected for deterioration of packages/ seals at regular intervals by the custodian. If the goods/ seals show signs of deterioration or damage, he should immediately bring it to the notice of the Deputy/ Assistant Commissioner in-charge of the Godown, for appropriate action. Separate record of such goods should be kept, which must be updated every month. In case deterioration is noticed in respect of goods awaiting adjudication, the matter should be brought to the notice of the Adjudicating officer for ensuring quick decision of the case. Where deterioration is noticed in respect of cases under appeal, the Appellate Authority should be informed immediately so that higher priority is given to the disposal of the relevant cases. Where the goods are involved in the Court proceedings, it will be necessary to bring the matter to the notice of the Court for getting permission for the disposal of goods pending finalization of the proceedings.

3.6.7. The custodian shall be responsible for maintaining the Stock Registers in a proper manner; proper custody of Registers for handing-over & taking-over charge and inventories; and for submitting the monthly return of 'goods ripe for disposal'.

3.6.8. He shall be responsible for optimal utilization of the space. The following steps may be taken for optimum utilization of space:

- a) The total stock of seized goods must be reviewed by the custodian every month, so that the possibility of disposal, in convenient lots, could be considered.
- b) Absolutely confiscated goods must be disposed of expeditiously.
- c) Shifting of the seized/ confiscated goods from the rented premises to own premises, wherever possible, to save on rentals;
- d) Neat stacking in a scientific manner to not only prevent damage/ deterioration of goods but also to help in saving space.

3.6.9. On account of having notional custody, the cutodian shall safeguard the interest of the Government in respect of confiscated goods left with the Port Trusts or other agencies. Special care must be taken for bulky items, like iron and steel materials, heavy machinery, etc., which are generally left in the custody of the Port authorities. However, where it is felt that the Port Trust arrangements are not adequate, he shall take concurrent measures, in consultation with the Port authorities, for ensuring safety of the goods. In this connection, the possibility of renting out suitable open space accommodation from the Port administration, with wire-fencing enclosure, for storing confiscated materials, which could not otherwise be removed to the Godowns, should also be explored.

3.6.10. The warehouse in-charge shall regularly pursue with the Seizing units for issuance of the Disposal Order. After receiving the Disposal order, valuation of the concerned goods may be obtained from the Government-Approved Valuers, for the purpose of approval by the Joint Pricing Committee (JPC).

3.6.11. After approval of the value of the goods by the JPC, the list of such goods furnishing the information, viz. lot no., description, quantity and applicable taxes, shall be forwarded to the Disposal Unit for listing the goods for e-auction.

3.6.12. The Warehouse in-charge may also, from time-to-time, request the Seizing Units to carry out procedure under Section 110(1B) of the Customs Act, 1962 for early disposal of goods notified under Section 110(1A) of the Customs Act, 1962.

3.6.13. Immediately after the close of the month but before the 5th of the following month, the custodian shall prepare an up-to-date list **in triplicate** in the format prescribed at **Form-7**, of all the cases which in his opinion have become 'ripe for disposal' and send it to the Supervisory Head in-charge (by name) of the Seizing/ Detaining department or the Section concerned, for obtaining a 'No Objection Certificate' (NOC). On receipt of such a list, the Supervisory Head in-charge of the department or the Section concerned shall, after necessary verification, certify that there is 'no objection' to the disposal of the goods. If there are any goods, which should not be disposed of, a

remark "DELETE" should be mentioned against that entry and the reason, as to why it should not be disposed of, should be given against each such entry. The list should then, be returned within one week of receipt to the custodian. The custodian shall keep the original with him and forward the duplicate copy to the Disposal Unit for further action. On receipt of the list from the custodian, the officer in-charge of the Disposal Unit shall examine, in the presence of the custodian, the packages with the list and with the detailed inventory relating to the goods. If there are any discrepancies, he shall immediately bring them to the notice of the Deputy/ Assistant Commissioner, Preventive. The officer in-charge of the Disposal Unit shall then, prepare a complete list of the goods for disposal and get the goods disposed of.

3.7. Goods Received from Different Sections of the Custom House/ Commissionerate

3.7.1. Regular cargo: A separate Godown should, wherever possible, be set apart for keeping regular confiscated cargo. On receipt of the advice in format prescribed at **Form-8** from the Superintendent in-charge of the Unit dealing with the relevant seizure/ case file, the custodian shall immediately have the goods located, transported and delivered into his charge and in any case, within 15 days of the receipt of such advice. For ensuring prompt dispatch of the advice in the format given at **Form-8**, the concerned Section should list out all the cases, for which the period allowed for exercise of the option to pay fine in lieu of confiscation or the period for filing an appeal, whichever is longer, expires, along with the date of such expiry in a 'Forward Watch' diary; and one week from that date, reference should be made to the 'Penalty Register' to verify if the fine has been paid or appeal filed, and if not, whether the goods can be taken-over as finally vesting in the Government. The Section should then list out such of those items, which are required to be taken-over by the custodian from the Port authorities for disposal action. When the goods are so delivered into the custody, the custodian shall, after due examination of the packages, make in triplicate, a detailed inventory of the contents in format prescribed at **Form-2** and deal with them in the same manner as other seized/ detained goods. In those Commissionerates, where a separate Godown for the purpose is not kept, it shall be the responsibility of the Unit-concerned to take necessary steps to arrange for the taking-over of goods that have become 'ripe for disposal', from the Port authorities directly by the Disposal Unit.

3.7.2. Air cargo: Air cargo stored in the Air Cargo Shed may be allowed to be kept in the same shed even after confiscation, pending disposal in the normal course. The officer in-charge of the Air Cargo Shed shall maintain a Stock Register in respect of confiscated cargo in the proper format (**Form-4**) and shall perform all the functions of the Custodian of the confiscated goods in respect of Air Cargo and shall deal directly with the Disposal Unit.

3.7.3. ICDs, CFSs and Ports: The provisions of the **para 3.7.2** shall mutatis mutandis apply in case of confiscated cargo at the ICDs, CFSs and Ports.

3.7.4. Post parcels: It shall be the duty of the 'Penalty Unit' of the 'Postal Appraising Department', to keep a close watch, over all the penalty cases registered by them. The parcels which are confiscated

but not redeemed by the addressees; and which are 'ripe for disposal', shall be sorted out and a detailed inventory in the format prescribed at **Form-2** shall be immediately prepared, of the contents of each parcel, in the presence of a responsible Postal Official and a Gazetted Officer in the 'Postal Appraising Unit'. The parcels, duly sealed with the seals of both the officers, shall then be delivered to the Custodian of the confiscated goods. These goods shall thereafter be dealt with, in the same manner, as other seized/ detained goods.

3.8. Place of Storage of Valuables (Strong Rooms) and Procedure thereof

3.8.1. Valuables should be kept in a 'Strong Room' or in a locker in a nationalized bank, obtained exclusively for the purpose. The packages shall be stored systematically, serial-wise and year-wise to facilitate easy check and location.

3.8.2. When Valuables are stored in a Strong Room, the following precautions must be strictly taken:

- i. The Strong Room storing Valuables should have a 'double lock system.'
- ii. The two keys for operating the Strong Room should be entrusted to two separate officers-- one to the custodian and the other to his senior/ supervisory officer of Gazetted rank.
- iii. It must be ensured that the Strong Room/ Valuables Godown can be opened only when both the keys are used simultaneously.
- iv. Both the custodian and the supervisory officer shall collect and deposit keys of the Strong Room/ Valuables Godown in an iron box bound by thick thread (sutli) and sealed with lac seal over a paper slip, bearing the names, designation and signatures of the custodian and supervisory officer. The name and designation should be clear and legible. Preferably, tamper proof paper seal/ sticker may be used.
- v. The locks of the Strong Room shall be sealed, when not in use. The lock shall be covered with fabric tape and sealed by lac over paper slip, bearing the names, designation and signatures of the custodian and supervisory officer. The name and designation should be clear and legible. Preferably, tamper proof paper seal/ sticker may be used.

3.8.3. No person, other than the custodian, shall enter the Strong Room/ Valuables Godown, unless otherwise authorized by the Principal Commissioner/ Commissioner in-charge. No officer, including the custodian-in-charge of the Strong Room/ Godown, shall be allowed to open the Strong Room/ Godown on any holiday (including Saturday/ Sunday), except with a prior written permission from the Additional/ Joint Commissioner concerned. The reason for opening on holiday shall be clearly recorded in writing by the Additional/ Joint Commissioner, while giving such permission.

3.8.4. When the Valuables are stored in locker/ safe in banks, the key of the safe or the locker shall be kept securely in the personal custody of the custodian. It should also be ensured that the access to the safe or the locker shall not be allowed by the Bank Manager, except on a written authorization in an

agreed form bearing the running number, signed by the Deputy/ Assistant Commissioner in-charge of the Disposal Section of the Commissionerate. Such authorization should be issued normally in the name of the custodian or in exceptional circumstances, when the custodian is not available, in the name of any other responsible officer. The serially numbered Authorization forms should be kept in the personal custody of the Deputy/ Assistant Commissioner in-charge of the Disposal Section.

3.8.5. The Strong-room/ Valuables-Godown shall have additional security features, like CCTV camera at the most vantage points to keep round-the-clock surveillance. The monitoring of such CCTV camera shall be done by the Deputy/ Assistant Commissioner in-charge of Strong-room/ Valuables-Godown. The daily recordings of the camera shall be taken as a backup and kept with the Computer Centre/ SystemsUnit.

3.8.6. In the cases of seized currency or bearer negotiable instruments, as the case may be, the genuineness may be checked immediately with the nearest bank available in the vicinity. In respect of seizure of Valuables, the same may be got appraised before seizure. Due care must be taken to ensure that the seized currency/ bearer negotiable instruments do not become out of circulation or time-barred before disposal.

3.9. Inventory

3.9.1. Whenever any Valuables have been seized or detained by a proper officer under the Customs Act, 1962, he shall prepare a detailed inventory of such goods at the time of detention/ seizure in the prescribed format given in **Form-2**, in triplicate. During making of such inventory, the packages of the Valuable goods shall be clearly numbered.

3.9.2. First copy of the inventory shall be given by the Seizing officer to the person from whom the goods are seized. The goods, together with the duplicate and triplicate copies of the inventory, shall be forwarded, within 24 hours of the seizure/ detention, to the custodian of the Strong Room/ Valuables Godown. The custodian shall acknowledge the receipt of the goods on both, the duplicate and triplicate copies of the inventory and return the duplicate copy, thereafter, to the Seizing officer for keeping the same in the seizure/ case file. The custodian shall put his signature with complete, clear and legible name and official stamp.

3.10. Packaging and Sealing

3.10.1. The Valuables that are seized/ detained shall be packed in non-deteriorating containers, like high density plastic or metal boxes. These containers shall be sealed with wire/ metal seals instead of rope/ wax seals. A paper seal/ sticker mentioning the relevant details, as given in format given at **Form-9**, shall be affixed on the containers (preferably, tamper-proof seal/ stickers shall be used). The packaging and sealing shall be done in the presence of the person from whom the Valuables are seized/ detained and two independent witnesses. The paper seal/ sticker shall have the signatures of the person from whom the Valuables are seized, the independent witnesses and the Seizing officer. The 'full names' should be written, clearly and legibly. If tamper proof seals/ stickers are not used, a lac seal shall be used with a paper slip, mentioning relevant details, as mentioned above.

3.10.2. The responsibility to keep the Valuables in safe custody lies with the Seizing officer till the Valuables are deposited with the Custodian in the Strong Room/ Valuables Godown.

3.11. Receipt of Valuables by the Custodian

3.11.1. Immediately on receipt of the seized goods, along with the duplicate and the triplicate copies of the Inventory, the custodian shall satisfy himself that the packages have been properly sealed, seals are intact and the inventory has been prepared in a proper manner indicating all the details required with regard to the contents of the packages. The custodian shall not accept the packages which are improperly sealed or whose seal is not intact or if the inventory does not contain the details, as relevant for the goods/ as mentioned in **para 3.1.4** above.

3.11.2. If the condition of the packages and the seals, and the details in the inventory are found to be in order, the custodian shall receive the goods and make entries thereof in the Stock Register (called 'Valuables Register'), as per the prescribed format given at **Form-5**. He shall, then, acknowledge the receipt of the sealed packages by way of making cross references of entries in the duplicate and the triplicate copies of inventories and thereafter, retain the triplicate copy with him and return the duplicate copy to the Seizing/ Detaining officer, for keeping the same in the seizure/ case file. Digital Photograph/ Videograph of the packages shall also be taken and preserved in the computer of the Custodian, so that, in the event of any tampering, it can be cross verified with the original packing. Backup copies of such Photograph/ Videograph shall be kept at the **Systems Unit**.

3.12. Safe Custody of Valuables

3.12.1. The responsibility of proper storage and physical custody of the packages with seal intact, shall be on the custodian. He shall, however, not be responsible for the contents of the packages, if the same was received properly sealed, and is still with the same seals intact thereon. The custodian shall also ensure that the packages are carefully stored and protected against the ravages of weather, ants, rodents, insects, etc.

3.12.2. The provisions of the para 3.6.5 above shall mutatis mutandis apply in case of safe custody of Valuables too.

3.12.3. If the package shows signs of tampering or damage, the custodian should immediately bring it to the notice of the Deputy/ Assistant Commissioner in-charge of the Disposal Section, for appropriate action. If the goods are involved in Court proceedings, it will be necessary to bring the matter to the notice of the court, for getting necessary order from the court for further course of action. All packages pending for more than five years should compulsorily be inspected for deterioration of packages/ seals and in case any such deterioration is found, the same may be brought to the knowledge of the Deputy/ Assistant Commissioner in-charge of the Disposal Section immediately for appropriate action.

3.12.4. The custodian shall be responsible for: maintaining the Stock Registers in proper manner; proper custody of the Registers for handing-over and taking-over charge, and inventories; and for submitting the Monthly Return of 'goods ripe for disposal'.

3.13. Movement of Valuables

3.13.1. In case of seized/ confiscated Valuables to be taken out for producing before the Court or for any other purpose as the situation may warrant, written order must be issued by the Deputy/ Assistant Commissioner in-charge of the Strong Room/ Valuables Godown. Such order shall specify, among other things, the following: the name of officer/ custodian who shall carry the Valuables out of the Strong Room/ Valuables Godown, the purpose for which the goods are taken out, the place where the goods are being taken to, the date and the time of opening of the Strong Room/ Valuables Godown. A separate file shall be maintained for issuance of such orders by the Deputy/ Assistant Commissioner in-charge of the Strong Room/ Valuables Godown. Whenever he is transferred, the file shall be handed-over to the successor, under a proper acknowledgement.

3.13.2. The officer/ custodian, who carries the goods, shall verify the description, condition of the seal, other relevant details to ensure that the correct package is taken out in relation to the seizure/ case file.

3.13.3. A Movement Register shall be maintained by the custodian for this purpose in the format given at **Form-10**. Due care should be taken to indicate the details of such movements in the Movement Register by the custodian on each such occasion; and he shall also make a corresponding entry in the Remarks column in the Valuables Register.

3.13.4. The officer, who carries the packages to the Court or any other place, shall be present at the time of their opening and subsequent sealing.

3.14. Inspection

3.14.1. Quarterly Inspection of such seized/ confiscated Valuables stored in the Strong Room/ Safe shall be carried out; and stock of all packages taken and condition of each package lying there should be verified by the Committee headed by the Deputy/ Assistant Commissioner in-charge of Valuables Godown and proceedings of such inspection shall be drawn and kept in the file maintained by the Deputy/ Assistant Commissioner in-charge of Strong Room/ Valuables Godown.

3.14.2. The Quarterly Inspections shall be video-graphed and a soft copy of such video recording shall be kept in a sealed envelope with the **Systems Unit**.

3.15. Record Keeping

3.15.1 All files/ registers/ records must be kept in the safe custody of the Superintendent of Customs/ Central Excise/ CGST in-charge of the Strong Room/ Valuables Godown.

3.15.2. The Disposal Section shall maintain a Master Instruction File containing all the instructions

on the storage and the disposal of seized/ confiscated goods issued from time-to-time, along with this Manual. This is important for institutional memory. This Master Instruction File should be handed-over to the successor by the custodian at the time of handing-over the charge.

3.16. Storage of 'Goods Other-than-Valuables'

3.16.1. 'Goods other than Valuables' should, as far as possible, be kept on racks and almirahs kept on sleepers. The goods should never be stored on the floor. The almirahs and racks should be serially numbered and the partitions in the almirahs and racks should be labeled alphabetically. The almirahs and racks should be so arranged, and the packages so systematically stored, with location entries made in Stock Register that there should be no difficulty at any time to check and locate the packages. The keys of the Godown in which the goods are stored, should be kept in the personal custody of the custodian. Special care should be taken to prevent damage to the goods by rodents and insects.

3.16.2. Storage of conveyances and narcotics has been separately dealt with in **Chapter 13** and **Chapter 16** respectively.

3.17. Other Important Instructions

3.17.1. Gold in all forms, including bullion, ingots, coins, ornaments and crude jewellery; and Indian and Foreign Currency are covered under **Notification No. 31/86-Cus dated 05.02.1986**, as amended, issued under Section 110(1A) of the Customs Act, 1962. Proper record, including entry in the Valuables Register, must be kept on such occasions when the action under Section 110(1B) of the Customs Act, 1962 is initiated.

3.17.2. In case of seized currency or bearer negotiable instruments, as the case may be, action under Section 110(1B) of the Customs Act, 1962 shall be initiated immediately after seizure, and a proper record, including entry in the Valuables Register, must be kept. Thereafter, it shall immediately be deposited with the bank in the Government Account. In this regard, the Superintendent in-charge of Strong Room/ Valuables Godown shall obtain a Certificate from the bank regarding such deposit, specifying denominations of currency and the exchange rate prevailing on the date of deposit.

3.17.3. At the time of disposal, the Valuables shall be taken up for disposal by the Inventory Committee, so authorized, by the Additional/ Joint Commissioner. All the proceedings of the opening and the inventory shall be done under videography and the soft copy shall be kept in the safe custody of the Superintendent in-charge of the Strong Room/ Valuables Godown. In this regard, a register for disposal of Valuables shall also be maintained as given at **Form-11**.

3.17.4. The officers are advised to keep themselves abreast with the legal provisions, on the basis of which different procedures have evolved. In case of any requirement for further clarity, the relevant provisions of the Custom Act, 1962, and Notifications issued thereunder, may be referred. Further, wherever required, requisite permission from the competent authorities may also be obtained.

3.17.5. All the Principal Chief Commissioners/ Chief Commissioners should pay personal attention to ensure that the guidelines/ safeguards prescribed for custody, accounting, disposal of the seized/ confiscated goods, including Valuables, are enforced scrupulously in their jurisdiction, so as to avoid any instances of loss, pilferage, damage, theft, misappropriation or missing/ substitution of the goods.

3.17.6. Copies of all the orders of adjudication/ confiscation, appeal and review should be endorsed to the Custodian.

3.17.7. The seized goods are required to be properly stored with adequate security and for this purpose, if warranted, should be moved, at the earliest opportunity, to the headquarters of the Division/ Commissionerate where such arrangements exist.

3.17.8. Whenever the seized or the detained goods are ordered to be returned to the owner, the custodian should, after satisfying himself that all the payments due to the Government have been made by the owner, give delivery of the goods against the owner's endorsement, on the triplicate copy of the inventory that the packages have been received with the seals intact. In case the owner wishes to have open delivery, the custodian should comply with the request but the presence of the seizing or detaining officer should, as far as possible, be secured. If the seizing or detaining officer is not available, the presence of a Gazetted Officer shall be secured.

Form-2
(Refer Para 3.1.1)

Inventory of goods detained/ seized
(in quadruplicate in case of Sapurdgi and in triplicate otherwise)

1. Owner of the goods/ Passenger:
 - a. Name:.....
 - b. Father's / Spouse's Name:.....
 - c. Occupation:
 - d. Address:
 - i. House Number:
 - ii. Building/ Premise:
 - iii. Street:
 - iv Locality:
 - v. City/ District, State:
 - vi. Pin Code:
 - vii. Country:.....
2. Proof of Identity: Passport/ Other.....
3. Seizing/ Detaining Officer
 - i. Name:
 - ii. Designation:
4. Place of seizure/ detention:
 - i. House Number:

- ii. Building/ Premise:
- iii. Street:
- iv. Locality:
- v. City/ District, State:
- vi. Pin Code.....
- 5. Proof of Address: Passport/ Other.....
- 6. Date of seizure (DD/MM/YYYY):
- 7. Seizing Unit:
- 8. Case File No.:
- 9. Witness Name and Address:
 - (i) Witness – 1
 - i. House Number:
 - ii. Building/ Premise:
 - iii. Street:
 - iv. Locality:
 - v. City/ District, State:
 - vi. Pin Code.....
 - (ii) Witness – 2
 - i. House Number:
 - ii. Building/ Premise:
 - iii. Street:

- iv. Locality:
- v. City/ District, State:
- vi. Pin Code.....

10. Details of the seized goods, packages and its contents:

S.No.	Details of the Package Containing the Goods	Detailed Description of the Goods	Quantity (in clearly defined units with-out any scope for ambiguity)	Country of Origin, if any	Total Estimated Market Value	Remarks
1	2	3	4	5	6	7

11. Signature of the Owner/ Passenger:
12. Signature of the Seizing Officer:
13. Signature of the Witness – 1
14. Signature of the Witness – 2
15. A specimen of the seal affixed on the packages

Received with seals intact. Entered in the Valuables Register vide entry no.....
dated.....

Signature of the Custodian (Valuables)

Name:

Designation:

Guidelines for filling the Proforma

- The details of the items should be given package-wise and as far as possible, for each item, the value and other details should be furnished.
- Condition of the goods should also be indicated and wherever accessories are not available, that fact also should be given. The details about accessories be given in the remark column.
- In case of manufactured goods, their make, model and serial number should also be mentioned in the inventory.

4. As far as possible, goods of each category should be kept in a separate package, so that category-wise those packages can be disposed of first that have a prescribed time-limit for them and the remaining goods can be kept separately.
5. Preferably, the signature of the owner and the mahazar (Panch) witnesses should be taken on the package. If the owner is not available, at least mahazar witness's signature should be taken. The packages should be sealed with the seal of the Seizing/ Detaining officer and the seal of the owner or his authorized representative, if he is available, otherwise with that of a Gazetted Officer.
6. As far as possible, the specimen of the seal on the packages should also be incorporated in the inventory.
7. The inventory should be prepared in Quadruplicate if the goods are going to be handed-over to a Sapurdigar, i.e., person other than the Departmental Godown Officer for storage. Otherwise, the Inventory can be prepared in Triplicate. The Original will be handed over to the Owner. The Duplicate will be kept in the case file, the Triplicate will remain with the Custodian and the quadruplicate will be given to the Sapurdigar (where the Custodian and the Ware House Officer are different).

Form-3

(Refer Para 3.3.8 and 3.6.3)

Stock Card

1. S.No in the Seized/ Detained Goods Register:.....
2. Date of receipt:
3. Name of the owner of the goods, if known:.....
4. No. of packages:
5. Description of goods, quantity and value:.....
6. History of Consignment:

(Here, enter the date of check made by the officer, date of opening seal, date of auction, etc.)

Example for maintaining Stock Card: If there are four packages detained under a S.No./ Ref. No., the Stock Card for each package should indicate the package as 1/4, 2/4, 3/4 or 4/4, as applicable.

Form-4

(Refer Para 3.4.1)

Stock Register for the Goods 'other than Valuables'

1	2	3	4	5	6	7	8	9	10	11
S.No.	Date of Receipt	By whom Deposited	Nature of Sealing	Custom House/ Commiss ionerate Case File No.	Whether Inventory (in pre-scribed form) accompa-nied the goods?	Name of Owner, if known	No. of Packages	Description of goods	Quality	Estimated Value/ duty

Date of preparation of detailed inventory	Name of Officers Present at the time of Preparing Detailed Inventory, if Necessary	Nature of Sealing (after inventory and identifying marks given on packages)	Where Stored	Particulars of Re-opening				Release of the Goods to the Owner	
				Date and Time of Re-opening	Names of Officers Present at the Time of Re-opening	How Sealed	Where Re-stored	Date of Release (if so ordered)	Name, Address, Phone No. and Signature of the Recipient
12	13	14	15	16	17	18	19	20	21

Disposal by the Department

Date of Re-opening for Purposes of Valuation by Jewellery Expert	Auction Lot No. & Other Particulars of the Lot in which included	Price Fetched at Auction	Date of Delivery to the Bidder at the Auction	Signature of the Recipient	Amount Paid as Godown Rent (receipt no. and date to be mentioned)	Signature (with date) of the Custodian	Remarks
22	23	24	25	26	27	28	29

Form-5
(Refer Para 3.4.1)

Stock Register for Valuables

1	2	3	4	5	6	7	8	9	10	11	12
S. No.	Date of Receipt	Case File No.	Deposited by: Name and Designation of the Officer	Name and Address of the Owner	No. of Packages	Whether Accompanied by Inventory (in pre-scribed format)	Description of Goods	Quantity as per the Inventory	Condition of Sealing	Estimated Value: Duty:	Date of Preparation of Inventory

13	14	15	16	17	18	19	20	21	22
Name of Officers Present at the time of Preparing Detailed Inventory	Location of Storage in the Strong Room	Date of Re-opening/ Movement, if any	Order Reference for Re-opening/ Movement and Entry No. in the Movement Register	Details of Proceedings Drawn for Re-opening File No.	Mode of Disposal	Date of Release/ Disposal	Names of Officers Present at the time of Release of Goods	Signature of Recipient with Name and Address, Phone no.	Entry No. in the Disposal Register

Form-6
(Refer Para 3.5.2)

**Format of the Register showing succession of Custodian and Supervisory Officer of the
Strong Room/ Valuables Godown**

For the Custodian

S.No.	Name and Designation of the Officer	Date of Taking-Over	Date of Handing-Over	Order Reference	Counter-sign of the Immediate Senior Officer

For the Supervisory officer (Gazetted Rank)

S.No.	Name and Designation of the Officer	Date of Taking-Over	Date of Handing-Over	Order Reference	Counter-sign of the Immediate Senior Officer

Form-7
(Refer Para 3.6.13)

List of Cases 'Ripe for Disposal' (in Triplicate)

From

The Officer-in-charge (Disposal Unit)

To

_____ Department

The under-mentioned cases have become 'ripe for disposal'. Kindly indicate within a week hereof, whether you have any objection to the disposal. In case no response is received by_____, further necessary action for disposal of these goods would be proceeded with.

S.No.	Disposal Unit Registration No.	Original Case File No.	No. of Packages	Marks & Nos.	Description of Goods	Weight	Value	Remarks
1	2	3	4	5	6	7	8	9

Officer-in-charge (Disposal Unit)

Date: _____

No objection to the disposal of the above mentioned.

Date _____ DEPARTMENT

Form-8
(Refer Para 3.7.1)

List of Cases in Which Period of Redemption and Appeal has Expired

From

The _____

_____ Department

To

The Custodian

The goods mentioned hereunder have not been so-far redeemed within the prescribed period and the period for preferring appeal is also over. Necessary steps may, therefore, be taken to take possession of the same and thereafter, to dispose them of.

S. No.	C.H./ Commissionerate Case File No.	No. of Packages		Marks & Nos.	Weight (if available)	Description of Goods	Value	Category of Goods	Date of Expiry of Redemption Period/ Appeal Period		Remarks
1	2	3		4	5	6	7	8	9		10

(Deputy Commissioner/ Assistant Commissioner/ Superintendent

In-Charge _____ Department)

Form-9
(Refer Para 3.10.1)

Format of the Tamper proof paper label

(To be affixed on the container in which seized Valuables are kept and sealed)

Case File Number:

Date and Place of Seizure:

Panchnama Date:

Contents:

Name and Signature of the Owner of the goods, with date:

Name, Designation and Signature of the Seizing Officer, with date:

Name and Signature of the Witness – 1, with date:

Name and Signature of Witness – 2, with date:

Form-10
(Refer Para 3.13.3)

Format for Valuables Movement Register

S.No.	Name of DC/ AC Authorizing Movement	File No.	Purpose of Taking- Out of the Valuables and the Place to Which Taken	Name, Designation, Signature of the Officer Taking the Valuables out	Date and Time of Taking the Valuables out	Gross Weight
1	2	3	4	5	6	7

Date and Time of Depositing back of the Valuables	Gross Weight	Whether Opened and Re-sealed and if so, the Details Thereof	Name and Signature of the Custodian	Name and Signature of the Supervisory Officer	Remarks
8	9	10	11	12	13

Form-11
(Refer Para 3.17.3)

Format for Register for Disposal of Valuables by the Department

Date fixed for Inventory for Disposal	Details of Disposal Orders	Date of Re- opening for the purpose of valuationof Jewellery/ Gold/ Valuables, etc.	Date of Disposal and Place	Amount of Sale Proceeds	Remarks
1	2	3	4	5	6

CHAPTER - 4

Transfer of Charge, Stock-Taking and Inspections

4.1. Transfer of Charge

4.1.1. Proper transfer of charge of Godowns is essential for proper accounting of goods. A transfer of charge, even temporary, should be supervised by the Superintendent (or Deputy/ Assistant Commissioner (DC/ AC) in case of transfer of charge of Valuables) and closely monitored by the DC/ AC at Division/ Section and the Additional/ Joint Commissioner in-charge of the Godowns at the Headquarters/ Commissionerate level. Proper transfer of charge not only affords a good opportunity for stock-taking but also obviates any chance of substitution, mis-appropriation and embezzlement. In the past, investigations of many cases of such lapses have failed to pin-point responsibility, primarily, because of improper transfer of charge.

4.1.2. Only experienced officers, having integrity beyond doubt, shall be appointed as custodians. The custodians, so appointed, should not be frequently changed or transferred out.

4.1.3. Whenever any custodian or any other officer in-charge of the confiscated/ seized goods is transferred, the transfer should be so arranged that the successor is given sufficient time to take charge of the complete stock of the goods after a one-to-one correlation of goods with the relevant Registers.

4.1.4. Wherever the packages and seals are intact, it shall not be necessary to open the packages and count the individual articles. Whenever sealed packages are found in open condition, re-inventory shall be drawn by following the prescribed procedure.

4.1.5. A Charge Report shall be prepared only in a pre-authenticated register called 'Register of Handing-over and Taking-over of Charge' prepared in the format given at **Form-6** and not in loose sheets or in any other form. This register shall be permanent record and all Charge Reports shall be prepared only in this register. Separate registers shall be maintained for different 'Stock Registers'. Separate pages may be earmarked for transfer of charge of different Stock Registers in the 'Register of Handing-over and Taking-over of charge'.

4.1.6. The officer taking-over charge shall point out any discrepancies, etc., in the relevant column of the Charge Report by referring to the serial no. of the Stock Register. Actual details of such discrepancies shall, however, be entered in the Stock Register.

4.1.7. The officer taking-over the charge shall also take charge of all the Stock Registers and corresponding Inventories. Once he signs the Register of Handing-over and Taking-over of charge, he will be construed to have taken-over all the goods in the warehouse as well as the corresponding inventories and Stock Registers.

4.1.8. The officer transferred from Warehouse/ Valuables Section shall surrender the Departmental seals issued to him before handing-over the charge of the warehouse to the officer taking-over the charge, under proper receipt; and record of the same should be kept in the warehouse. Locks of the main entry shall be changed periodically to prevent misuse of duplicate keys, if any. CCTV cameras shall be installed at vulnerable points and should be operational round-the-clock. The recordings of the CCTV footage shall be stored in suitable medium till the next stock challenge.

4.1.9. After each transfer of charge, the Charge Report shall be scrutinized by the Deputy/ Assistant Commissioner in-charge of the Division/ Section and the Addl./ Joint Commissioner in-charge at headquarters/ Commissionerate level, who shall take corrective measures on the points raised and discrepancies noticed thereon, and put up an Action Taken Report to the Principal Commissioner/ Commissioner.

4.1.10. Whenever the custodian proceeds on long leave, a regular substitute shall be posted in his place, and a complete and proper transfer of custody of goods shall take place. Such transfer of charge shall also figure in the Register of Handing-Over and Taking-over Charge. However, when the custodian proceeds on short or casual leave, or in an emergency, the custodian should make arrangements to ensure that any articles, which may be required during his absence, are handed-over to another officer on proper receipt, with the approval of the Deputy/ Assistant Commissioner concerned. This officer shall also attend to any other urgent or important work relating to Godown and when stock of goods is to be accessed as part of such work, it shall be so done only in the presence of the Deputy/ Assistant Commissioner in-charge. Full responsibility for the remaining goods shall, however, remain with the custodian himself.

4.2. Periodic Stock Challenge, Stock-Taking, Inspections and Reports

4.2.1. Once every six months, a Deputy/ Assistant Commissioner nominated by the Principal Commissioner/ Commissioner in-charge for the purpose, shall conduct a complete stock-taking of all the packages containing 'articles other than Valuables'. In order to ensure that stock-taking is conducted regularly, this exercise may be conducted in the month of January and July. The report on the stock-taking should be submitted in the following month and the action on the report shall be taken immediately, and in any case, before the next stock-taking.

4.2.2. The officers verifying the stock shall physically verify the stock with reference to Inventories and Stock Registers, and also with reference to Registers of 'Handing-over and Taking-over charge'.

4.2.3. They should verify the seals and satisfy themselves that the seals are intact. If the seals are

intact, it is not necessary to open the packages and verify contents. However, if the seals are open/ broken, the reasons thereof may be ascertained and complete inventory of the goods must be taken.

4.2.4. Where substitution or pilferage is suspected, immediate action may be taken to verify the contents of the packages and in case any discrepancies are found, such further steps, as are warranted, must be taken without delay.

4.2.5. The officer deputed for stock challenge, shall compulsorily inspect all the packages for deterioration of packages/seals and in case any deterioration is noticed, he should bring it to the knowledge of the Deputy/ Assistant Commissioner in-charge of the Disposal Unit for appropriate action, to ensure that the packages remain under proper seal and any scope of pilferage is ruled-out. The officer shall also, particularly, scrutinize the record of deterioration of goods maintained by the custodian and check whether suitable action outlined in **para 3.6.5 of Chapter 3** has been taken by the custodian and/or the supervising officer. If not, the same must be urgently taken.

4.2.6. Such officer shall scrutinize the 'Register for Handing-over and Taking-over Charge' to check, if proper transfer of charge has taken place & suggest improvements, if any.

4.2.7. He shall examine, whether the charge of individual custodians is compact and manageable.

4.2.8. The officer shall critically examine and report whether the procedures prescribed in this Manual for storage and preservation of goods, especially Valuables, arms, narcotics drugs and psychotropic substances, conveyances, etc., are being followed. Compliance with the procedures such as the periodical oiling and greasing of arms shall be ensured.

4.2.9. Such officer shall examine, whether all the steps necessary for expeditious disposal of the goods have been taken. He shall prepare a list of cases, wherein the disposal has been excessively delayed and call for a Status Report from the parent departments. Such Status Report shall form part of his final report to the Principal Commissioner/ Commissioner.

4.2.10. The officer shall submit a report regarding the checks conducted and results achieved to the Principal Commissioner/ Commissioner within a week from the date of Stock Challenge, covering all the above points. Such report should be scrutinized by the Principal Commissioners/ Commissioners themselves and they shall ensure that appropriate remedial action is taken immediately.

CHAPTER - 5

Special Provisions for Un-Claimed/ Un-Cleared Cargo, Mis-Handled Baggage And Time Expired Bonded Goods

5.1. Un-claimed/ Un-cleared Cargo (UCC)

5.1.1. Section 48 of the Customs Act, 1962 deals with the Un-cleared Cargo (UCC). The custodian is required to prepare a list of cargo lying un-claimed/ un-cleared in the bonded area of the Customs Station, for more than 30 days from the date of arrival of such cargo in the Customs Station. Continuous interaction with the custodian is the key to ensure these lists are prepared on time. Thereafter, the procedure for disposal of such cargo would be as laid down in the **CBIC Circular No. 49/2018-Customs dated 03.12.2018**. Further, the Deputy/ Assistant Commissioner in-charge of UCC at the Customs Station should ensure that a Monthly Statement in the Proforma given at **Form-12**, is sent by all the custodians.

5.1.2. Section 48 gives power to dispose of animals, perishable goods and hazardous goods at any time with permission of the proper officer and even without Notice. For other goods, Notice is required to be given by the custodian to the importer, as prescribed in the **CBIC Circular No. 49/2018-Customs dated 03.12.2018**.

5.1.3. If the importer abandons the goods before passing of 30 days of their import or at any time after issue of Notice, the custodian should immediately take further steps for the disposal of such cargo.

5.1.4. If the goods remain unsold and pass into the category of 'landed-more-than-one-year-prior', then the custodian can sell the same following the independent procedure as detailed in **Para 3 of CBIC Circular No. 50/2005-Cus. dated 01.02.2005**, without any reference to Customs, and adjusting the number of auctions/ tenders to which the lot was already subjected to, against the prescribed number of four such auctions/ tenders. However, even for such goods, the requisite NOC from the Customs will be required to be obtained by the custodian as per the procedure laid down in the **Circular No. 49/2018-Customs dated 03.12.2018**.

5.1.5. The procedure laid down in the **Circular No. 49/2018-Customs dated 03.12.2018** shall be applicable to cargo which are unloaded at a Customs Station, after being brought from outside India, on or after 01.04.2018 and which fall in the category of "un-claimed/ un-cleared" in terms of **Section 48 of the Customs Act, 1962**. It would also be applicable to all Un-claimed/ Un-cleared goods brought from outside India before 01.04.2018 (un-claimed/ un-cleared for a period not-exceeding-one-year) in respect of which:

- i. Auction process has not started yet; or
- ii. List of cargo proposed for auction has been sent to Customs by the custodian but Customs has not yet provided the necessary information as referred in **Para 3(i) and 3(iv) of the Circular No. 49/2018-Customs dated 03.12.2018.**

5.1.6. Briefly, the procedure for disposal of un-claimed/ uncleared cargo lying with the custodians, as laid down in **Circular No. 49/2018-Customs dated 03.12.2018**, is as below:

- i. The custodian of the Customs Station shall prepare a list of cargo lying un-claimed/ un-cleared in the bonded-area of the Customs Station for more than 30 days from the date of arrival of such cargo in the Customs Station, and send the list to the jurisdictional Principal Commissioner/ Commissioner of Customs. The list shall contain complete particulars, such as Bill of Lading/ Airway Bill number & date, Container number, description of goods, weight, name of the consignee/ consignor, etc. The custodian shall, simultaneously, update the list with importer's name and address. In cases where the address of the importer is not mentioned in the IGM message from ICEGATE, the custodian shall send a Notice to the Shipping line to provide address of the importer/ consignee within one week. The Jurisdictional Principal Commissioner/ Commissioner of each Customs Station shall issue instructions to the officers and staff to ensure that details of all the goods/ shipments, which are put on hold for investigation or otherwise by DRI/ Preventive/ SIIB or any other agency, are furnished to the Disposal Branch of the Customs Station and the custodian immediately, under proper receipt and acknowledgement. This will ensure that the Disposal Branch and the custodian are, at all times, aware of the goods/ shipments/ containers for which 'No Objection Certificate' from the concerned agency would be required before initiating the disposal process.
- ii. From the said list, the Customs shall segregate shipments which are disputed/ stayed, shipments required to be retained for investigation/ Adjudication/ court procedure, etc. The Customs shall also segregate shipments containing motor vehicles or other goods, requiring License/ Permission/ Certification from Director General of Foreign Trade (DGFT) or any other Department. The Customs should furnish to the custodian, within 10 days of the receipt of the said list, the details of shipments not to be included in the auction process. The Customs shall also choose 10% shipments from the list of shipments segregated for inclusion for the auction process, for which detailed inventory shall be made in their presence for sample check. This should be conveyed to the custodian, along with the list of Shipments/ Containers which are required to be retained.
- iii. Based on the intimation received from the Customs, the custodian shall issue a Notice to the importer under **Section 48** of the Customs Act, 1962, advising him to clear the goods within 10 days from the date of issue of the Notice, failing which the goods would be placed in public auction. Notice shall be sent to the importer on the address as given in the IGM

message available with the custodian, or the address ascertained from the Shipping lines. Further, a copy of this Notice issued to the importer, shall also be affixed on the Notice Board of the Customs Station.

- iv. The custodian, in the next 20 days, shall prepare a detailed inventory of the shipments which are not required to be retained by the Customs for any purpose. In doing so, they shall associate the Customs in 10% of the consignments, for which the Customs has already intimated that inventory has to be drawn in their presence for sample check.
- v. Within 7 days of drawing up of inventory, the custodian shall approach the jurisdictional Customs authorities, along with the said inventory, seeking 'No Objection Certificate' (NOC) in respect of all consignments/ containers which are to be taken up for auction through the e-auction/ tender. The inventory should have a detailed description of the items, to enable Customs to easily identify the regulatory requirements in respect of the consignments mentioned therein and it shall clearly indicate variation in the description of goods with respect to the description of goods mentioned in the list already forwarded to the Customs.
- vi. The Customs shall examine the list, and within 15 days of receipt of such request, intimate to the custodian, details of the listed shipments which can straightaway be taken up for auction, as they do not require any regulatory clearances (NOC from FSSAI, Drug Controller, Bureau of India Standards (BIS), etc.), or do not need any chemical analysis to identify the contents and fitness for consumption/ usage. The consignments, for which such unconditional NOCs are issued by the Customs, shall be taken up for auction by e-auction through MSTC to ensure maximum outreach and participation. In order to ensure quick and regular turnover, the concerned custodian shall attempt to hold, at least one auction every month. In case the list is incomplete and does not have the complete details for the Customs to clearly pinpoint the regulatory requirements, the Customs shall indicate the deficiencies in the list, within this period of 15 days.
- vii. In case regulatory clearances from agencies other-than-Customs are required, such as NOC from FSSAI, Drug Controller, BIS, etc., or samples of the consignment are required to be chemically analyzed to identify the contents and fitness for consumption/ usage, the Customs shall identify such requirement and intimate to the concerned custodian within 15 days of the receipt of the complete list. The custodian will, then, approach the jurisdictional Customs officer for assistance in obtaining the said regulatory clearance. If, in this process, chemical analysis is required, the Customs shall draw the samples and forward the same to the respective agency for testing. The required testing fees or such other charges required to be paid to the concerned agency, shall be paid directly by the concerned custodian to the said agency. The concerned testing agency will be required to submit the Test Reports within 15 days of receipt of the samples.

- viii. NOC for such consignments shall be issued by the Customs only after receipt of the required clearance/ result of chemical analysis from the concerned agency, without which the concerned custodian shall not put the said consignment for auction.
- ix. In case the result of chemical analysis, or report from FSSAI, Drug Controller, Plant Quarantine, etc., indicate that the sample is not fit for consumption/ usage, the Customs shall inform the custodian about the need for destruction of the same and the custodian shall arrange to destroy the same at their expense, after obtaining the requisite environmental and other clearances as per law. The date of the proposed destruction shall be intimated to the Customs at least 15 days in advance, to enable the representative of the Customs to witness the same, should the need for the same be felt.
- x. The value of the shipment/ lot included in the Auction List shall be fixed in next 7 days by a panel of the Government-approved Valuers appointed by the custodian, which shall include an expert on the product line, without involvement of the local Customs authorities. The value assessed by the Approved-Valuer appointed by the custodian, shall form the "Reserve Price".
- xi. The custodian shall fix a date immediately after assessment of value of such shipment/ lot, for holding the auction/ tender and communicate that date to the jurisdictional Principal Commissioner/ Commissioner and the Deputy/ Assistant Commissioner, Disposal Branch of the Customs Station. The Deputy/ Assistant Commissioner shall nominate, if felt necessary, an officer not below the rank of Superintendent/ Appraiser to witness the auction/ tender. The Customs shall not withdraw any consignment at the last moment from the auction/ tender, except with the written approval of the jurisdictional Principal Commissioner/ Commissioner.
- xii. The shipment/ lot in respect of which NOC has been given by the Customs shall be taken up for auction. All bids of value equal to or more than the reserve price, or those up to 5% less than the reserve price, shall be treated as successful bids for sale of the goods. Remaining shipments/ lots of the list, shall again be taken up for the second auction against the same Reserve Price. The shipments or lots, for which bids are not received up to the Reserve Price, shall again be taken up for the third auction against the same Reserve Price. The shipments/ lots, in respect of which three unsuccessful auctions have already taken place, shall be considered for the fourth auction against the same Reserve Price as fixed before the first auction of such shipments/ lots. However, in the fourth auction, such shipments/ lots are to be necessarily sold for the highest bid, regardless of the Reserve Price fixed. In the event of the shipments/ lots not being disposed of in the first auction, subsequent auction/ tender should be conducted in a time-bound manner and such shipments/ lots should be taken up in the next auction. Custodian shall furnish shipment/ lot-wise bids received in respect of each auction to the jurisdictional Principal Commissioner/ Commissioner for approval.

- xiii. After the successful bidder has been informed about the result of the auction, a consolidated Bill of Entry, 'buyer-wise' will be filed with the Customs in the prescribed format by the custodian for clearance of the goods as per **Section 46 of the Customs Act, 1962, read with Un-cleared Goods (Bill of Entry) Regulations, 1972 (Regulation 2 & 3).**
- xiv. The proper officer of Customs shall assess the goods to duty in accordance with the extant law, within 15 days of filing of the Bill of Entry and after assessment, inform the amount of duty payable to the concerned custodian.
- xv. The auctioned goods shall be handed-over to the successful bidder after assessment and the out-of-charge orders given by the proper officer, on payment of dues.
- xvi. The sale proceeds of the auction shall be disbursed, as per Section 150 of the Customs Act, 1962.
- xvii. In case the entire process of auction is not concluded within 180 days of the commencement of auction, the custodian shall inform the bidder about further extended time, which may be required to conclude the auction process. Wherever, the bidder indicates his unwillingness to wait further, his successful bid will be cancelled and the earnest money, if any, deposited with the custodian by the bidder, will be returned to the bidder under intimation to the Customs. Otherwise, the auction process shall be concluded within the extended time conveyed to the bidder.
- xviii. Wherever, any amount of earnest money is deposited by the bidder with the custodian, the same shall be refunded to the bidder within one week of announcement of auction results, where the bid fails in the auction.

5.1.7. In the case of unclaimed/ uncleared hazardous waste, the procedure given in **Chapter 17 in para 17.3** shall be followed for disposal.

5.2. Mis-handled Baggage (MHB)

5.2.1. Once the MHB is found to be abandoned and to be taken up for disposal, an inventory should be drawn up by the officer in-charge of the MHB in the presence of a Gazetted officer. While preparing the inventory, the perishable items should be clearly identified, so that the same can be taken up for disposal without delay.

5.2.2. Specific approval for opening the packages and drawing inventory of each lot, should be obtained from the Additional/ Joint Commissioner in-charge who shall nominate one or two Gazetted officer(s) for the purpose, who shall also sign the inventory.

5.2.3. The first-and-foremost task of the Gazetted officer so-nominated and officer in-charge of MHB, is to certify the weight of the package. If there is any discrepancy between the actual weight and the

recorded weight, he shall immediately bring it to the notice of the Deputy/ Assistant Commissioner in-charge. Inventory shall be done in his presence.

5.2.4. After preparing the complete inventory, the baggage should be sealed with the seal(s) of the officer(s) present and their specimen seal affixed on the margin of the inventory. All the precautions for preparing Inventory of detained/ seized goods, as outlined at para**3.1 of Chapter 3** shall mutatis-mutandis, apply in respect of these goods also.

5.3. Time-Expired Bonds/ Goods

5.3.1. **Section 72 of the Customs Act, 1962** empowers the Proper Officer to sell the bonded goods, which have not been cleared by the owner on payment of duty within the time limit prescribed therein or within the extended time limit, as the case may be, to recover the duty leviable on the goods. Section 72 also requires the Proper Officer to issue a Notice demanding the full amount of duty, together with penalties, rent, interest and other charges payable after the expiry of the time-limit, before detaining and selling the goods. As in the case of the UCC, Monthly Statement has to be prepared in the Proforma given at **Form-13** by the Deputy/ Assistant Commissioner in-charge of the Bonded Warehouse(s) giving the details of the Time-Expired Bonded goods and forwarded to the DC/ AC (Disposal) for initiating action for disposal. In this case also, the DC/ AC (Bond) will ensure that the Categories of the goods are clearly marked, so that priority for the disposal can be accordingly given. The goods, after being taken-over, shall be handed-over to the Disposal unit for disposal.

5.3.2. The Disposal Unit shall maintain a separate register in the Proforma given at **Form-14**.

5.3.3. As soon as the goods are disposed of, the details of sale proceeds realized shall be communicated to the DC/ AC (Bond), who should take action for apportionment of the same in terms of **Section 150 of the Customs Act, 1962**.

5.4. Goods Detained Under Section 142

Goods detained under Section 142 of the Customs Act, 1962 shall also be inventoried in the proforma given at **Form-2**. These goods, after giving a Notice to the concerned person(s) from whose possession/ control the goods were detained, may be disposed of after 30 days of detention, preferably by methods given under **Chapters 7 and 8**. The sale proceeds shall be **apportioned as per Section 150**.

Form-12
(Refer Para 5.1.1)

**Monthly Report to be Given by the Custodians in respect of
Perishable/ Hazardous/ Others Goods**

1. Serial number
2. IGM No. & date
3. Line No. and Sub-line No.
4. Bill of Entry No., if any, and date
5. Name of the Importer
6. Name of the Steamer Agent
7. Name of the CHA (if Bill of Entry has been filed)
8. Description of the goods
9. Quantity
10. Date of issue of the first Notice
11. Date of issue of the second Notice
12. Date of intimation to the department for disposal
13. Remarks

/BY R.P.A.D./

Form-13
(Refer Para 5.3.1)

Monthly Report to be Submitted by the Bond Officer/ DC/ AC (Bond)

1. Serial number
2. Bond Register No.
3. Into-Bond Bill of Entry No. and date
4. Bill of Entry date
5. Name of the Importer/ Consignee/ Consignor/
6. Name of the CHA
7. Description of the goods
8. Quantity and Weight of the consignment/ shipment
9. Value declared as per Bill of Entry
10. Date of issue of the first Demand Notice
11. Date of issue of the second Notice/ final
12. Date of taking-over the goods
13. Remarks

Form-14
(Refer Para 5.3.2)

Time-Expired Bond Register

S. No.	TEB No./ Date of Receipt	Bond Reference No.	Importer's Name & Address	Description of the Goods/ No. of Pkgs.	Value of the Goods	Duty on the Goods	Date of the Receipt of the Disposal Order	Sale Proceeds
1	2	3	4	5	6	7	8	9

CHAPTER - 6

Valuation

6.1. One vital aspect of speedy disposal of the goods is the realistic fixation of Retail Price in case of Direct Sale and Reserve/ Fair Price in case of sale through Auction/ Tender. The success of disposal of goods would be greatly dependent upon fixation of fair value, keeping into consideration the condition of goods, prevailing market price, technology used in the goods, level of obsolescence, method of store-keeping, wider publicity for auction of the goods, the time-gap between the seizing date and disposal date, etc.

6.2. Normally, the seizure value is taken as the 'Book Value'. As this Book Value of the goods would serve as a reference for the purpose of valuation, its realistic fixation with reference to the prevailing wholesale market prices is very important. Therefore, tendency to inflate the value of the goods at the time of seizure should be discouraged. Further, huge difference in the Book Value and the actual sale proceeds can lead to audit objections. Moreover, when the seized goods are ultimately ordered to be restored to the owner of the goods after the same have been disposed of, vast difference between the Book-Value and the actual sale proceeds can lead to litigation. For ascertaining the Book-Value, the wholesale price can be ascertained through commodity prices published in the business dailies, internet and the prevailing prices in nearby markets. The actual sale price of similar seized/ confiscated goods sold through retail shops, etc., can also be kept in view.

6.3. Valuation Committee

6.3.1. The value fixed for direct sale shall be as fixed by the Joint Pricing Committee (JPC) formed by the jurisdictional Principal Commissioner/ Commissioner. The JPC shall have the following composition:

- i. Additional/ Joint Commissioner in-charge of Disposal
- ii. Deputy/ Assistant Commissioner (DC/ AC) in-charge of Disposal
- iii. Superintendent in-charge of Disposal
- iv. Any other Deputy/ Assistant Commissioner
- v. Any other Superintendent

6.3.2. To ensure that the items which have become 'ripe for disposal' are disposed of expeditiously, it shall be the responsibility of the Additional/ Joint Commissioner in-charge of Disposal to ensure that the **Joint Pricing Committee** meets as frequently as necessary.

6.3.3. The DC/ AC (Disposal) shall prepare a consideration list of items to be valued for disposal, for placing before the JPC in the Proforma given at **Form-15**. The column 4, i.e., 'the condition of the item' should be invariably filled-up and wherever applicable, following details should be specified:

- i. Brand name and country of origin/ manufacture.
- ii. Whether in original packing or not.
- iii. Whether the Manual(s) is (are) available.
- iv. Whether accessories are available and if not, details of accessories 'not available'.
- v. The year of release of the Model by the Manufacturer in the market.
- vi. Whether the Model is obsolete or still available in the Market.
- vii. Whether the item was found to be old and used.
- viii. Whether the items are in working condition. If there are a number of items in one batch, the number of items which are not in working condition shall be given. Where the goods are not in working condition, whether the item can be repaired or not, may be mentioned; if the DC/ AC is not sure of the working condition, specific mention can be made to this effect.

6.3.4. The JPC shall determine the 'Fair Price' of the goods to be disposed of through auction-cum-tender:

- i. 'Fair price' for the purpose of auction should be the best price at which the goods can be sold under normal conditions and should be somewhat lower than the price at which goods of the same kind and in the same condition could be sold by the purchaser in the wholesale market, the difference representing the profit which the buyer at the auction expects to make and/ or the margin to cover him against the risk of possible loss.
- ii. The 'Fair Price' should be fixed by ascertaining the probable price of such goods in the wholesale market, and subtracting from it a discount representing the profit of the buyer at the auction-cum-tender. This discount (varying according to the nature of the goods) may be 5% to 10% more than the estimated profit which the buyer at the auction-cum-tender can reasonably expect to make on re-sale, the increase being the incentive to the prospective buyer at the auction. Therefore, if an item can fetch Rs. 100 in the wholesale market, and the margin of profit is Rs.20, then the discount may be fixed at 25% to 30%, and the 'fair price' would be Rs. 75 or Rs. 70.
- iii. Apart from profit margins and discounts allowed, while fixation of 'Fair Price', further discounts based on the following factors may be allowed, depending upon the nature of circumstances:

- a. Size of consignment;
 - b. Condition of goods; Factors as mentioned at **para 6.3.3** can be taken into account; and
 - c. No warranty being attached to the goods.
- iv. The Book Value of the goods shall have no bearing on the 'Fair Price'. The CIF value and applicable rate of duty should find a place in the valuation file only to serve as a comparison with the 'Fair Price' arrived at, with reference solely to the wholesale market price. Further, such a comparison shall be valid only in respect of goods which have 'landed up to one year before the date on which they are valued for purposes of disposal'. In respect of goods which have landed before one year from the date on which they are being valued for purposes of disposal, the Book Value shall not be used even as a tool for comparison with the 'Fair Price' determined, with reference to the wholesale market.
- v. The 'Fair Price' arrived in the manner described above shall be the 'Reserve Price'.
- vi. To ensure secrecy, the JPC Price Sheet should be kept sealed with the DC/ AC in-charge of Disposal, who is in-charge of auction.

6.3.5 As departmental officers may not possess the expertise to assess the technical parameters and arrive at a Fair Price that is likely to be accepted by potential/ prospective buyers, technical experts, Income Tax Registered Valuers and Chartered Engineers, etc., should be actively associated in the fixation of price of the goods by the JPC. Accordingly, for valuation of machinery, the assistance of organizations listed in the Foreign Trade Policy can be taken and for valuation of motor vehicles, the assistance of Automobile Associations or the Motor Vehicle Department of the local State Government can be taken. In all cases, their opinions would only be, in the nature of recommendations and should be applied, taking into account the facts and circumstances of each consignment. The Joint Pricing Committee (JPC) would take their recommendations into account and fix the price. The Proforma for preparing the details of goods for the purpose of valuation is given at **Form-16**.

Form-15
(Refer Para 6.3.3)

Consideration List

S. No.	Entry No.	Date of Seizure/ Import	Condition of the Item	Unit of Quantity Code	JPC, etc. Price, if Available	Whether any Change in JPC Price is Warranted and if Yes, why?	Price Ascertained in the Market, including GST, if no JPC price is Available	Price per Unit Fixed by the Committee
1	2	3	4	5	6	7	8	9

Form - 16
(Refer Para 6.3.5)

Proforma for Examination and Valuation

1. Name of the CFS:
2. Lot No.:
3. Name of the Vessel:
4. IGM No.:
5. Line No.:
6. Importer's Name & Address:
7. CHA's Name & Address:
8. Pending since:
9. Date of issue of Final Notice u/s **48** of the Customs Act, 1962:
10. Marks & Nos.:
11. No. of packages (LCL Containers)/ (Container's particulars) in case of FCL, consignments as per Manifest:
12. Quantity declared:
13. Gross Weight:
14. Net Weight:
15. Quantity in each package:
16. Total quantity & weight available on the day of inspection:
 - (a) Detailed description of the goods:
 - (b) Brand/ Country of Origin:
 - (c) Specification of the goods:
 - (d) Residual Shelf-life available
 - (e) Condition of packing:
 - (f) If packing is not intact, whether the goods got damaged?
If so, the extent of damage:
 - (g) Actual condition of the goods:
17. Value as per B/E, Invoice, etc.:
18. Goods restricted for import or not (CTH):
19. Duty (Present rate applicable):
20. Total landing cost:
21. Details of Market Enquiry:
22. Reserve Price proposed

[Note: Shelf-life has to be mentioned wherever applicable. Test Report, if any, has to be attached.]

Signature:

Address:

CHAPTER - 7

Auction and Tender

7.1. Disposal Methods

7.1.1. There is a wide variety of goods, varying in type, brand, age, etc., lying with the Department. The goods and their stock, etc., vary from place-to-place and time-to-time. Therefore, no standardized method or approach of disposal can encompass all the peculiarities of the goods kept at different places throughout the country, at all times and under all the circumstances.

7.1.2. The manner of disposal of the goods may vary on the basis of the type of goods, lots, quantity, condition, quality, etc., and also from time-to-time. However, there are three major methods of disposal, namely, E-auction or auction through internet, public auction-cum-tender, and direct sale. While the specific and the general guidelines are no doubt important, yet officers responsible for disposal, especially, the Principal Commissioner/ Commissioner must exercise their best judgment, discretion and initiative to adopt any of these methods for disposal, with suitable modifications, as demanded in any given situation. For example, it may make more economic sense to dispose of promptly at even a lower price offered for an item which occupies huge space and for which the rent payable may neutralize any higher value realized at a later date.

7.2. Auction

7.2.1. Auction sales are the peculiar type of sale of the goods. The way and the method of auction sales are different from those of ordinary sales. As per **Section 64 of the Sale of Goods Act, 1930**, in an auction sale, the sale is complete when the auctioneer announces it by the fall of the hammer or any other customary manner. Until that is done, a bidder can retract his offer. A bidder is also at liberty to withdraw his bid at any time, before it is accepted finally by the auctioneer. The bid is merely an offer, and it becomes, irrevocable only, when, its acceptance is announced by the auctioneer. In short, the bidder can retract his bid till the hammer falls or until a similar announcement is made. When the goods are sold in lots, each lot is prima-facie deemed to be the subject of a separate Contract of Sale. A right to bid, may be reserved expressly by, or on behalf of, the seller, and if it is not so expressly reserved, it is unlawful for the seller to bid, either himself or through any person. The sale may be notified to be subject to the Reserved or upset Price.

7.2.2. When an auctioneer sells the goods, he impliedly undertakes the following four obligations:

- i. He warrants his authority to sell.
- ii. He warrants that he knows of no defect in his principal's title.
- iii. He undertakes to give possession against the price paid into buyer's hands, and

- iv. He undertakes that such possession will not be disturbed by his principal or himself.

7.2.3. Auctions must be held periodically by the Commissionerates for disposal of the 'ripe for disposal' goods. The periodicity of the auctions shall be decided by the jurisdictional Principal Commissioner/ Commissioner based on the quantum of goods available for auction. The following Guidelines/ procedures shall be followed for sale through auction.

7.2.4. For the purpose of an Auction, an Auction Committee consisting of the Deputy/ Assistant Commissioner (Disposal), one Deputy/ Assistant Commissioner nominated by the concerned Principal Commissioner/ Commissioner and the Superintendent (Disposal) should be constituted. Wherever it is not practicable to form an Auction Committee with one or more Deputy/ Assistant Commissioner, the Principal Commissioner/ Commissioner may in his discretion, form a Committee consisting of specified classes of officers, lower in rank to that of the Assistant Commissioner. The Principal Commissioner/ Commissioner, may, similarly, designate the officers for conducting various items of work connected to an auction. The Auction Committee, at the very outset, must decide about the following issues:

- i. Lots to be included in the Auction;
- ii. The time and date of Auction;
- iii. The nature of publicity to be given;
- iv. Recommending the appointment of auctioneer and the Terms & Conditions of his appointment; and
- v. Drafting the conditions of sale through Auction.

7.2.5. The Auction Committee may also recommend cases to the Principal Commissioner/ Commissioner for disposal of goods by tender-cum-auction, by tender or any other mode of disposal, where such goods have not fetched or are unlikely to fetch the 'fair price' at the auction. The Principal Commissioner/ Commissioner shall, accordingly, decide these matters. The Department will be at liberty to offer any goods for sale by auction-cum-tender, or tender or by private treaty or any other means, 'other than an auction', whenever deemed fit to do so.

7.2.6. For the purpose of sale of goods by way of auction, the Principal Commissioner/ Commissioner is required to appoint an Auctioneer. The Agreement of Appointment shall initially remain in force for a period of one year, which can be reviewed & renewed thereafter.

7.2.7. The duties of an Auctioneer are, inter-alia, as follows:

- i. To prepare draft Auction Notice in consultation with the Auction Committee for approval of the Principal Commissioner/ Commissioner.
- ii. To give wide publicity in respect of the goods to be auctioned at his cost, in at least two leading English newspapers or Hindi newspapers & two vernacular newspapers.

- iii. To put up the goods for sale in such lots, as approved by the Auction Committee.
- iv. To arrange for examination of the lot(s) by the prospective bidders before the date fixed for auction, on compliance of such Terms & Conditions, as may be specified.
- v. To conduct auction, in the manner and as per conditions laid down by the Auction Committee; and to announce and publish all such conditions at his own cost.
- vi. To collect and immediately deposit the amount of Earnest Money and also any other amounts realized or collected on the day of Auction, with the Department, failing which, he shall deposit the full amount within 24 hours of the auction with the Department. This would be, without prejudice to any other remedy the Department has, on account of such breach against him.
- vii. To cancel a bid forthwith, if the bidder fails to pay the earnest money and re-auction the lot/ lots.
- viii. To collect the balance amount of the bid from the bidder within the time prescribed from the date of auction or within such extended time, by Cash/ Draft, as may be specified by the Auction Committee and deposit the same with the Department.
- ix. To immediately communicate to the successful bidder, the decision of final acceptance of the provisionally accepted bids.
- x. To prepare in triplicate, the Sale Sheet in the format given at **Form-17** which shall be signed immediately after the sale, both by the Auctioneer and the Supervising officer.
- xi. To send one copy of the signed Sale Sheet to the Customs Warehouse Superintendent and the other copy to the Chief Accounts Officer.
- xii. To prepare, in triplicate, a Final Sale Account on completion of auction in the form given at **Form-18** within three working days, showing the proceeds realized and to submit a copy thereof to the officer supervising the auction sale and to the Chief Accounts Officer.
- xiii. To submit a separate bill, in duplicate, for his Commission. He shall not deduct his charges from the collections on account of Auction.
- xiv. The Auctioneer or their staff should not, directly or indirectly bid for or purchase any lot at the auction, except with the prior permission of the Department in writing.

7.2.8. The Notice issued by the Auctioneer must stipulate that the officer supervising the auction reserves to himself the right of fixing 'Reserve Price' for the goods, put up for sale through auction and of withdrawing part or whole of the goods from the auction, if considered necessary by him, without assigning any reason.

7.2.9. The Auctioneer shall conduct the auctions at the Godowns owned or hired by the Department.

The Auctioneer will not be entitled to get from the Government any conveyance charges, etc., incurred in connection with the transport of their staff, even if property or goods are stored at Godowns situated outside the Custom House or place of auction.

7.2.10. Only on the completion of a sale and the collection of entire sale proceeds, the Auctioneer shall be entitled to a Commission on the gross proceeds thereof, paid and credited to the Government account. A resale shall be treated as a fresh sale. Thus, in case of re-sale, the Auctioneer shall be entitled to Commission only in respect of proceeds of the resale and not on the proceeds of the previous sale.

7.2.11. Where regular auctions are conducted and a large number of consignments are available, it may be advisable to prepare a catalogue containing, inter-alia, the details of lots and photographs of the items. These may also be uploaded on the Commissionerate's website.

7.2.12. For ensuring maximum participation, widespread publicity must be given to the auction, as per the following guidelines:

- i. Advertisement of the goods in at least two leading English or Hindi newspapers and two vernacular newspapers, is the minimum requirements of publicity for auctions.
- ii. The decisions on the additional modes and level of publicity, like using internet, T.V., radio, yellow pages, trade directories and other publications available in the market, putting up posters in the local and wholesale markets of the commodities put for auction, may be taken beforehand by the Principal Commissioner/ Commissioner to encourage more and more people to participate in the auction.
- iii. The details of auction should also be put up on the website of the Commissionerate/ Custom House and of the CBIC.

7.3. Caution Money, Registration of Bidders, Examination of Lots, Earnest Money, etc.

7.3.1. The Caution Money may be fixed in advance. It shall be 5% of value of individual Lot with a maximum limit of Rs. 5,00,000/- in case of non-Valuables and more in case of Valuables. Bidders may be asked to deposit the caution money and get registered, after furnishing all the relevant information, including telephone number, PAN, etc. Only Registered Bidders must be allowed to inspect the lots and bid in the auction. The caution money should be adjusted against the earnest money or refunded, as the case may be, at the conclusion of the auction. There is no objection to the owner of the goods bidding in the auction. If the bid is fair and he happens to be the highest bidder, the goods may be sold to him.

7.3.2. The registered bidders would be allowed to examine the lots and could bring one additional person for consultation & expert examination. Examination shall be done only in the presence of the officer appointed for the purpose, which may be the DC/ AC (Disposal) and/or the Superintendent in-charge of the Warehouse.

7.3.3. The Earnest Money deposits by the bidders/ purchasers for the auction, may be fixed at the following rates for confirmed bids:

i.	For sales not exceeding Rs. 50,000/-	Full payment.
ii.	For sales exceeding Rs. 50,000/- but not exceeding Rs. 5,00,000/- (for each individual lot)	25% subject to minimum of Rs.50,000/-
iii.	For sales exceeding Rs. 5,00,000/- (for each individual lot)	25% of Sales Value

7.3.4. If the acceptance of the bid is provisional on account of the bid price being lower than the 'reserve price', the earnest money shall be 10 % of the bid amount. However, if having regard to the local conditions, it is considered necessary, to insist on a higher scale of earnest money, the same can be fixed provided the Principal Commissioner/ Commissioner is satisfied that such higher scale would not have any restraining effect on the prospective buyers. Further, the Notice issued to bidders, giving the general Terms and Conditions of sale by auction, should clearly stipulate that:

- i. The earnest money, as prescribed above, shall have to be deposited on fall of the hammer; and
- ii. The balance amount shall be paid within the time period prescribed or as may be announced during the auction, failing which the sale shall be treated as cancelled and the earnest money shall be forfeited to Government; and the goods shall be resold.

7.3.5. The other essential conditions of sale would be, as follows:

- i. Goods should be sold on 'AS-IS-WHERE-IS' basis.
- ii. An Auction Lot Register, in the proforma given at **Form-19**, shall be made before the start of the auction;
- ii. If the bidder fails to pay the required Earnest money, required to be paid immediately after the lot is knocked down in his favour, the bid shall stand cancelled forthwith. The caution money paid by the bidder shall stand forfeited on account of this act of indiscretion. The officer supervising the auction can also debar the said bidder from bidding in the current and future auctions.
- iv. If the bid is not accepted, the Earnest Money will be returned to the bidder.

7.3.6. Ordinarily, the goods should not be put up for auction more than four times. Only when there is a doubt, and/ or there is a written report of the Supervising officer that bidders had formed a cartel and the price offered was not genuine, a consignment should be put up for auction for any more no. of time(s).

7.4. Supervision of Auction and Role of Supervisory Officers

7.4.1. The auction for confiscated goods should normally be under the supervision of the Deputy/ Assistant Commissioner/ Superintendent, as may be decided by the Principal Commissioner/ Commissioner. However, if the book value of the goods of the individual lot/ lots is more than Rs. 1 crore, the auction should be supervised by the Additional/ Joint Commissioner. In case of auction conducted by the Port Trust, the Inland Container Depot (ICD) or the Container Freight Station (CFS) for uncleared cargo, the Principal Commissioner/ Commissioner should depute suitable level officer.

7.4.2. The supervisory officers shall undertake the following responsibilities with regard to the conduct of the auction:

- i. Enforce discipline by making clear to all the bidders that they must occupy the seats allotted to them only & display the badge with registration number to the Crier/ Auctioneer, while making a bid; and that they were expected to adhere to the business ethics and observe discipline; that Cross-talks and use of gestures were strictly prohibited, and could lead to forfeiture of Caution Money and bar on participation in the auction. If the officer supervising the auction so directs, the bidders will keep the mobile phones out of the auction hall and/ or deposit them with the security personnel.
- ii. Strive to get maximum bids and prevent formation of cartel by any measure, including exercising his discretion to give priority to some lot(s) over others; split or club the lots or withdraw lot(s) from sale, any time before or during the auction, without assigning any reason.
- iii. Maintain a record of all the bids at every auction of public property. But where the number of lots put up for public auction is very large and the bidding is fast, strict record of all bids cannot be maintained without hampering the tempo of bidding. In such cases, it would be sufficient to keep a record of the amounts of the bids, without the names of the bidders. Complete bid lists, including the particulars of bidders in respect of casual auctions (for perishables, etc.), where publicity is limited, should, however, be kept.
- iv. No bid shall be deemed to be accepted, without the concurrence of the officer supervising the auction.

Withdraw from sale, the lot or lots for which bids are lower than the reserve price or if there is ring among the bidders to keep the price from going up.

7.5. Acceptance of Bid and Payment of Balance Money

7.5.1. The highest bid in the auction-cum-tender shall be accepted by the Chairman of the JPC, if the bid is more than, or equal to or close (not less than the Fair Price by 10%). Otherwise, the goods

shall be put up for auction-cum-tender the second time. In the event of the goods not being sold in the first three auction-cum-tenders, the goods shall be sold at the highest bid obtained in the fourth auction-cum-tender with the approval of the Principal Commissioner/ Commissioner, unless the Principal Commissioner/ Commissioner has strong reason for going for further auction(s).

7.5.2. When the bids are accepted provisionally, subject to confirmation by the Department, the final decision shall be notified to the auctioneer within 7 working days from the date of auction; and the auctioneer shall immediately communicate to the bidder the decision of the Department.

7.5.3. The buyer shall pay the balance amount of the purchase price between 10.00 Hrs and 18.00 Hrs. on any working day, within the maximum time limit, as per the chart given below:

- i. If a bid amount is less than Rs.5 Lakh, within 5 days from the date of confirmation/ approval.
- ii. If a bid amount is Rs.5 Lakh to Rs. 10 Lakh, within 7 days from the date of confirmation/ approval.
- iii. If a bid amount is Above Rs. 10 Lakh upto Rs. 20 Lakh, within 8 days from the date of confirmation/ approval.
- iv. If a bid amount is Above Rs.20 Lakhs upto 1 Crore, within 12 days from the date of confirmation/ approval.
- v. If a bid amount is Above Rs. 1 Crore, within 15 days from the date of confirmation/ approval.

7.5.4. However, lesser time limits may be prescribed, if the same are in vogue, in the Commissionerate. The Principal Commissioner/ Commissioner, in exceptional circumstances and on sufficient cause being shown, may allow further time not exceeding 5 days. The amount of caution money as well as earnest money would be forfeited to the Government, if the successful bidder fails to pay the balance within the prescribed time limit.

7.6. Delivery of Auctioned Goods

7.6.1. The bidder can take delivery of goods of the confirmed lots, subject to receipt of full payment by the department, and on production of proof of payment of all taxes, levies and moneys/ monies, etc.

7.6.2. Delivery should be taken within 3 working days (called 'Free Period') beyond the last date for payment allowed herein above. The Principal Commissioner/ Commissioner, at his discretion, on the sufficient cause being shown, may allow further time for taking the delivery not exceeding 10 days and, on such terms & conditions as he may specify in writing.

7.7. Sales Through Auction-Cum-Sealed Tender

When the goods are not sold in the first auction, the second auction for such goods can also be held under auction-cum-sealed tender. The advantage of auction-cum-sealed tender is that it is not necessary for a person to come out in the open and bid in the auction. Also, auction-cum-sealed tender helps in breaking formation of cartels. The guidelines for auction-cum-sealed tender, are outlined below:

- i. Sealed tender option shall be provided after the goods have been subjected to at least one auction.
- ii. The Auction Notice shall specifically identify the lots which are available for auction as well as sealed tender, and also specify to whom the sealed tender shall be addressed.
- iii. Sealed tenders can be put in a box placed for the purpose in the office. The auction notice shall specify the place where the box is located.
- iv. The sealed tenders can be sent by post also. But if the tender is not received within the date and time specified for the receipt of the tender, such tenders shall be ignored. Persons sending tenders by post have to send the tenders at their own risk
- v. As soon as a sealed tender is received by post, the officer receiving the same shall affix his signature, name, designation on the envelope and put it in the box meant for putting the sealed tenders, if it has been received in time.
- vi. Before commencement of the auction, the box containing sealed tenders shall be opened in the auction hall in the presence of at least two witnesses who may be bidders and who shall certify to that effect, along with the Officer who is supervising the auction.
- vii. Without opening the sealed tenders, tenders shall be segregated lot-wise and kept with the officer supervising the auction.
- viii. All the sealed tenders shall be super-scribed with the details given below, and tenders that are not so super-scribed, are liable to rejection without opening.
 - a) Customs auction on (date).....
 - b) Sealed tender for lot no. ('item name' can also be given but not necessary.)
- ix. As soon as the bidding is over for a particular Lot, before confirming the acceptance or the decision about the bid, all the sealed tenders pertaining to that lot will be opened and if any tender is found higher than the highest bid in the auction, that tender will be considered for the purpose of making decision about the sale.

- x. The tender shall be in the form given at **Form-20**.

7.8. Sale Through Tender

Though this is a less common mode of sale but when there is cartel formation, it is very useful. Standard form of tender is given at **Form-21**. Form must not be sold free but at the price of Rs. 50/- or so, to discourage frivolous tendering. To maintain secrecy of fair/ estimated price, earnest money should be fixed at rates higher than 5% of the estimated value. Facility of depositing earnest money to any other Central Govt. Treasury or by Demand Draft (DD) may be allowed to accommodate outstation tenders.

Form-17
(Refer Para 7.2.7(x))

Sale Sheet
(in triplicate)

PRINCIPAL COMMISSIONER/ COMMISSIONER

1. Name of the Auctioneer.....
2. Officer Supervising sale.....
3. Place of Auction.....
4. Auction conducted by.....
5. Date and time of auction.....
6. Approximate No. of Bidders.....
7. Highest Bid.....

S. No.	S. No. as per Stock Register	Items	Name of the Highest Bidder in Auction
1	2	3	4

Total (in words) Rupees.....

Total Rs.....

Checked and found correct

The auction was held under my supervision.

Superintendent of Customs/

Dy./ Assistant/Jt./ Addl. Commissioner of Customs

.....

Auctioneer:

Date.....

Form-18
(Refer Para 7.2.7(xii))

Final Sale Account
(in triplicate)

Serial No.....

PRINCIPAL COMMISSIONER/ COMMISSIONER

Sale account held at.....On.....at.....

S. No.	S. No. as per Stock Register	Accepted bid	Remarks

Total Rs.....

Total of accepted bids delivered

Rs.....

Total earnest money abandoned

Rs.....

Total realized for sale

Rs.....

To

The Dy./ Assistant Commissioner /

Superintendent / Chief Accounts Officer.

Sir,

I beg to report the sale held aton.....by us, the sum of Rs..... was due to the Government. The same was deposited in the Reserve Bank of India, vide T.R No.....dated.....Copy enclosed.

Yours faithfully

Auctioneer

Form-19
(Refer Para 7.3.5 (ii))

Proforma of Auction Lot Register

1. S. No.:
2. Lot No.:
3. Ref. No.:.....
4. Description of goods:
5. Location:
6. CIF/ Book Value:
7. Duty involved (at time of import):.....
8. RF/ PP:
9. Sales Value:
10. Deposit – particulars:
11. Date of Auction:
12. Remittance Particulars:
13. Date of Delivery:
14. Remarks/ Ack. of Bidder:
15. Audit:

Form-20
(Refer Para 7.7 (x))

Tender Form

1. Name and address of the bidder
2. Date of auction
3. Lot No. for which sealed tender is meant
4. Description of the goods in the lot (Not compulsory)
5. Price offered in Rupees
6. EMD amount
7. D.D. No.
8. DD drawn on (Bank branch name and address).
9. Date of the DD.
10. Signature of the tenderer

Form-21
(Refer Para 7.8)

Standard Form of Tender

Tender No. -----

Due for return on-----

And will be opened on-----

At----- in public----- Office

To remain open till-----

TENDER FOR THE PURCHASE OF _____

To

The President of India

Through the Dy./ Asstt. Commissioner of Customs

(Outdoor)

Custom House/ Commissionerate

The undersigned hereby tender(s), for the purchase from you of the goods specified in column one of the Schedule hereto or for such portion thereof, as you may determine by your acceptance, at the price quoted in column 2 of the said Schedule and to take delivery thereof by the time stated in the column 3 of the said Schedule and subject to the conditions set out in the "Instructions to Tenders" and "General Conditions of Contract" set forth in the Schedule hereto, and also agree(s) to hold this offer open for your acceptance till the date specified above.

Receipt No..... issued by the Custom House/ Commissionerate Treasury for Rs.....is enclosed as Earnest Money.

The undersigned understand(s) that the tender documents have been sold to him/ them. He/ they is/ are being permitted to tender in consideration of the stipulation on his/ their part that after submitting his/ their tender, he/ they will not resile from his/ their offer or modify the terms and conditions thereof. Should the undersigned fail to observe and comply with the foregoing stipulation, the earnest money shall be forfeited to THE PRESIDENT OF INDIA.

Date:

(Witness)

(Address)

Signature of

TendererAddress

THE SCHEDULE

Signature of tenderer(s)

1 st Column	2 nd Column	3 rd Column
Goods for which tender is made and where situated	Price tendered (in figures as well as in words)	No.of days guaranteed/ granted for removal from Godown of goods purchased

(Witness) Signature of tenderer(s)

CHAPTER - 8

Internet Auction

8.1. Internet Auction

8.1.1. Information technology and Internet are extensively used in procurement and disposal of goods and services. Tendering and auction using Internet, has the added advantage of dissemination of information to far-flung areas, with ease of access and response. One can participate in e-tendering, e-procurement or e-auction from any part of the world. In view of the massive advantages offered by information technology, it is desirable that the Commissionerates should use e-auction as the primary mode of disposal of the goods.

8.1.2. Broadly, the guidelines for e-auction are the same, as that for the physical auctions, given in Chapter 7. However, several safeguards need to be followed, including the minimum level of the office for managing the software should be the DC/ AC. Further, the role of the Systems Administrator should be limited only to entering the 'Reserve Price' and all discretionary powers, including that of acceptance of the bids, will be exercised by the officers of the rank of the DC/ AC or above. The software for e-auction shall have in-built safeguards, so as to prevent its misuse.

8.2. E-auction Through M/s MSTC Ltd.

8.2.1. Field formations shall avail the services of M/s MSTC Ltd. for conducting e-auction.

8.2.2. The persons, who want to participate in *e-auction* of Customs only, can register with MSTC on payment of one-time registration fee (non-refundable) of Rs.5000 only + Applicable Taxes (non-refundable). It has been further clarified that registration fee will be Rs.10,000 only + Applicable Taxes (non-refundable), for persons who wish to avail of all the e-auctions conducted by M/s MSTC Ltd., including Customs e-auction.

8.2.3. Currently, 1.75% of the actual sale proceeds of the auction is payable to M/s MSTC Ltd. by Customs as 'service charge'. A formal Single Contract/ Agreement has been signed in this regard, on behalf of the CBIC through the Principal Commissioner/ Commissioner of Customs (General & Mulund CFS), Mumbai with M/s MSTC Ltd., which is applicable across all the formations (based on para 9.1 of the said Agreement).

8.2.4. The procedure for e-auction through M/s MSTC Ltd. is displayed on their Website: www.mstcauction.com. The e-auctions are being conducted by M/s MSTC Ltd. on their website www.mstcecommerce.com, under the heading 'Indian Customs e-auction/ e-tender'. The website can also be accessed from the Customs website www.icegate.gov.in.

8.3. Registration of Principal/ Seller

8.3.1. The **Organization/ Seller/ Principal** desirous of selling its materials through M/s MSTC Ltd.'s e-auction portal will have to first register online on their e-auction website, by clicking on "New User", selecting "Seller" and filling-up the Seller's Registration Form. It is mandatory to fill up the e-mail address & GSTIN (if registered with GST authorities) and to generate a unique Login ID & Password. The steps for online registration for Customs e-auction are given as under:

- i. Log on to the website at **www.mstcecommerce.com**.
- ii. Click on the link '**Indian Customs e-auction/ tender**' for a brief write-up of the Customs and Central Excise/ CGST e-auction process.
- iii. Click on Home to be directed to the official website of Customs - **www.icegate.gov.in**.
- iv. To register as new seller or to enter the bidding area, click on the link '**Proceed for e-auction/ e-Tender**' at the bottom of the page.
- v. Click on the link '**Register**' to get registered.
- vi. GENERAL TERMS & CONDITIONS of e-auction will appear on the screen. Scroll down to the bottom of the page, where two options will be there:
 - a. **Register as Buyer**, or
 - b. **Register as Seller**.
- vii. Select and click on '**Register as Seller**' option.
- viii. SELLER SPECIFIC TERMS & CONDITIONS will appear on the screen. Scroll down to the bottom of the page, where again two options will be available: '**Agree**' and '**Disagree**'.
- ix. Select and click on '**Agree**' button.
- x. Seller's Registration Form will appear on the screen. Fill up the desired information. You will have to select and click on '**Customs/ CGST Auction**' in the Buyer Type field.
- xi. All fields marked with * are mandatory and must be filled in.
- xii. Select your **User ID and Password** and keep a note of the same.
- xiii. Please ensure that the email address given is a valid one and is presently active.
- xiv. After filling up the form click on the '**Submit**' button.

8.3.2. After successful online registration by the Principal, M/s MSTC Ltd. will send an auto e-mail confirmation letter, confirming the seller registration details.

8.4. Registration of Customers/ Bidders

8.4.1. The customers are first required to directly register online on website *www.mstcauction.com* and then complete off-line registration formalities. The password of the customer is activated only after they complete the off-line registration formalities, including payment of prescribed registration fees and submission of copies of PAN, GST Registration Certificate, latest Income Tax Return, photograph and specimen signature. A photo-ID card is also issued by M/s MSTC Ltd., to the customers.

8.4.2. Only registered customers are allowed to participate in the e-auctions. During live e-auction biddings, the identity of one bidder cannot be known to other bidders, sellers or even to M/s MSTC Ltd. and therefore, there will be no possibility of any cartel formation. Unregistered customers can also see all details of the auction notice, list of materials and Terms and Conditions of sale on their website **www.mstcindia.com** and then register with them to bid.

8.5. Posting of Auction Notice and Reserve Price

8.5.1. After registration with M/s MSTC Ltd., the Principal/seller (like Customs/ CGST) should send the Disposal List/ Terms to them necessarily through e-mail (hard copies can be sent only as post confirmation copy, if felt necessary). M/s MSTC Ltd. shall publicize the sale on the website, along with details of Material List, e-auction Schedule (i.e., Opening & Closing Date & Time), Inspection Schedule, Terms & Conditions of Sale, etc. Actual display of Auction Notice on the website will commence under the heading "View Forthcoming Auctions", only after activation by MSTC. Normally, the e-auction starting date should be kept at a minimum gap of 15 days after the display of the Sale Notice on the website to allow the customers ample time to make necessary preparation for inspection and bidding.

8.5.2. It is mandatory for the Principal to post the Reserve Price (RP) of all the Lots on the website (through his own password) at least two working days before the Starting Date of Auction, otherwise the e-auction will not start for those lots. Subject to posting of RP by the Principal on the website, M/s MSTC Ltd. shall activate e-auction one working day before the Starting Date of e-auction.

8.5.3. The following steps shall be followed for feeding the RPs:

- i. Use the Primary user name and password to log on to the website **www.mstcecommerce.com**.
- ii. Click on **Reserve Price Entry**.
- iii. Select the auction from the drop-down list. It will display all the lots of the auction.
- iv. Fill up the column against each item.

[Note: While feeding the RP, care should be taken about the Unit of measurement indicated against each lot. For example, if the unit of measurement is kg, then RP should be in kg, if it is in lot, then RP should be in lot and so on.]

8.6. Sale Intimation Letters

On closing of auction, automatic Sale Intimation Letters will be issued to the highest (H-1) bidders by e-mail as under:

- i. **For 'Confirmed' Sale:** If the H-1 Bid is equal to or more than the RP, automatic Confirmed Sale Intimation Letter will be issued to the H-1 Bidder and he will be advised to deposit 25% Security Deposit (SD) within 3 days. On getting the Security Deposit, M/s MSTC Ltd. shall issue Sale Order/ Acceptance Letter to the Party, advising him to pay the balance Sale Value with applicable Duties/ Taxes, within 05 days.
- ii. **For 'PENDING' Sale:** For the lots where the H-1 bid is less than the RP, these H1 bids will be kept on hold as **"Pending"** decision. However, the Principal should communicate their final approval/ rejection of the H-1 bids within 7 working days of closing of auction, by posting it online on the website. Once approval is accorded online, the system will automatically fire Sale Intimation Letter to the H-1 bidders for depositing of Sale Deed (SD) within 3 days. On getting the SD, Sale Order/ Acceptance Letter will be issued by M/s MSTC Ltd. to the approved H-1 bidders, advising them to pay the balance Sale Value, with applicable duties/ taxes within 05 days.

8.7. E-auction Bidding Process

8.7.1. All Bids will be deemed to be for materials on 'As-is-where-is' basis and subject to prior inspection by the customers. There will be a pre-determined Starting-Time and Closing-Time for the Auction bidding. Normally, the bidding for each item/ lot will be kept open for a period of maximum 4 hrs., or as may be mutually agreed. Once the e-auction starts, the Registered Customer may log on to the same and choose a particular lot/ item for bidding.

8.7.2. Once the bidding starts, the highest bid (hereinafter, referred to as H-1 bid) at any given point of time will always be displayed on the screen, without showing the name of the H-1 bidder.

8.7.3. Any bidder, including the H-1 bidder, can go on revising his bid so as to improve upon the same. There will be no restriction on the number of such bids/ revisions, till the e-auction closes. No downward revision or cancellation of bid can be done by any bidder.

8.7.4. The bidder shall have the option to make each bid/ bid-improvement manually, or he can choose the "Auto-Bid" mode to give "Standing Instructions" to the System to go on increasing his bid by a specified incremental value and up to a specified limit.

8.7.5. The e-auction Closing-Time will be automatically extended by 8 minutes every time the last

H-1 bid is received within 8 minutes of the pre-determined or extended Closing-Time. This process will continue till the last H-1 bid remains unimproved for a minimum period of 8 (eight) minutes, so as to give ample opportunity to all bidders and to generate the best competition. (For example, if the Closing Time is 3.00 pm and the last H-1 bid is received at 2.59 pm, then the Closing Time will be automatically extended up to 3.07 pm, and so on).

8.7.6. Any time during the e-auction, the bidders as well as the Principal can see the Bid-History of the last 10 bids. The Principal can access the Bid-History of all lots after close of E-auction.

8.7.7. Immediately after closing of e-auction, the bidders can see the result online on the website by accessing the "Auction Lot Status" which will show them details of the Lots won by them on 'Confirmed' or 'STA' basis. Such display of "Auction Lot Status" will be available to the bidders for 3 (Three) days from the date of closing of Auction (excluding the date of closing). Although after closing of auction, automatic Sale Intimation Letters will also be issued by email to the successful H-1 bidders (with copy to the Principal) advising them to pay the prescribed EMD/ SD, the successful H-1 bidders will be required to pay the EMD/ SD within 3 days from the date of closing of e-auction (irrespective of the date of issue of Sale Intimation Letter). It will be the responsibility of the bidders to personally see the e-auction result immediately after closing of e-auction and pay the SD within the said prescribed time.

8.7.8. After closing of e-auction, the complete Bid-Sheet with names of the H-1 bidders, whether 'Sold' / 'STA' / 'Rejected', etc. can be seen and downloaded by the Principal from the website.

8.7.9. The following steps shall be taken for posting online approval of "Pending" lots:

- i. Use your primary username and password to log onto the website.
- ii. Click on 'Approval' link.
- iii. Select a closed auction from the drop-down list.
- iv. The page will display those lots for which approval has to be granted. It will indicate *inter-alia* the RP, the H-1 rate and the H-1 rate as a percent (%) of the RP.
- v. Check the appropriate box under 'Approved' / 'Not Approved' Headings from all the lots and click on the 'Submit' button at the end of the page.

8.7.10. On receipt of the EMD/ SD, a signed Sale Order/ Acceptance letter is issued by M/s MSTC Ltd. to the successful H-1 bidder, advising him to submit the balance Sale Value with applicable duties/ taxes within the stipulated time, viz., 5 days from the date of issue of Sale Order.

8.7.11. The successful buyer can make the payment of EMD and the balance final amount by way of Pay Order/ Demand Draft drawn in favour of the Principal Commissioner/ Commissioner and deposit the same with M/s MSTC Ltd. After getting the payment from the buyer, M/s MSTC Ltd.

will issue Delivery Order and forward the payments to the Principal. Delivery may be allowed to the buyer by the Principal against production of their Photo-ID Card issued by M/s MSTC Ltd. (containing customer's photograph & specimen signature). Alternatively, the Photo-ID Card-holder can authorize his representative, along with the Photo-ID Card or a Notarized copy of the same, to take delivery of the materials.

8.8. Post e-auction Activities

8.8.1. If the H-1 bidder fails to pay EMD/ SD, the following actions may be taken:

- i. An auto e-mail may be issued to the defaulting H-1 bidder, thereby, deactivating his password. The defaulting bidder may be debarred from participating in the e-auctions for 6 months. Reactivation of the password after 6 months may be allowed, only on examination of the nature of the default by a Special Committee at M/s MSTC Ltd.'s Headquarter.
- ii. The Lot is to be put up for immediate re-auction.

8.8.2. In case of Sale of Diamonds, Precious & Semi-Precious Stones, along with these general requirements, some additional requirements, as prescribed under **Chapter 10** shall be required to be complied with.

8.9. Terms and Conditions for Auction

M/s MSTC Ltd. has in place certain conditions for conducting of the e-auction, which are as follows:

- ii. The Principal Commissioner/ Commissioner concerned may withdraw any lot from auction or tender at any time or cancel the same at any stage, prior to the delivery of the goods.
- ii. In case of e-Tender, an interested buyer can submit the bid only once.
- iii. Permission/ 'No Objection Certificate' is required to be taken by the buyer from the concerned authorities, as specified for respective items.
- iv. Buyers may refer to 'Bidder's Manual' for instructions on bidding process.
- v. Payment of Post-Bid EMD/ SD has to be done within 3 (Three) days from the date of closing of e-auction by the highest (H-1) bidder whose bid is accepted on Confirmed Basis, non-payment will result in cancellation of bid & automatic deactivation of Bidder's password.
- vi. Payment of balance Sale Value with Duties & Taxes is to be done within 5 (Five) working days from the date of issue of Acceptance Letter/ Sale Order by M/s MSTC Ltd. (after receipt of Post-Bid EMD/ SD from the bidder).
- vii. In case of default in payment of the balance Sale Value within the prescribed time limits,

the time for balance due payment may be extended subject to Customs/ CGST approval. Delivery Period will be 7 (Seven) days counted from the date of issue of Delivery Order by M/s MSTC Ltd./ date of issue of Release Order by Customs/ CGST, as the case may be, (including the date of issue) in all cases.

- viii. E-auction Result/ Status: The status of the highest bids having been accepted on 'Pending Basis', must be personally seen by the bidders online through the link "Auction Lot Status" immediately after closing of e-auction, and payment of Post-Bid EMD/ SD must be made accordingly.
- ix. E-mail address of the bidders must always be kept valid, failing which the bidders will be held liable for non-compliance of payment or of any other instruction issued by M/s MSTC Ltd. to them by e-mail.

8.10. Precautions to be Taken

8.10.1. The bidder shall be solely responsible for all consequences arising out of the bid submitted by him (including any wrongful bidding) and no complaint/ representation will be entertained by M/s MSTC Ltd./ the Principal, in this regard. Hence, the bidders must be careful to check the Bid Amount/ No. of "0"/ No. of Digits/ Unit of Measurement, etc., and rectify their bid (if required) before submitting it on the live floor by clicking the 'Bid' button. In case of any bid being equal to or more than 5 (Five) times the current highest bid for a particular lot, it will be displayed by way of a 'WARNING' on the bidder's screen before he confirms/ submits the bid. There is no provision for putting bids in decimals.

8.10.2. The sale will be governed by the 'Material List' & 'Special Terms & Conditions' (STC) displayed on the "Live" Floor (and not under "Forthcoming Auctions") as well as the 'General Terms & Conditions' (GTC) and 'Buyer Specific Terms & Conditions' (BSTC), already accepted by the bidder at the time of Registration with M/s MSTC Ltd. The Material List & STC displayed under "View Forthcoming Auctions" on MSTC's e-auction website are tentative, and subject to change at M/s MSTC Ltd.'s sole discretion before the start of e-auction. The BSTC and GTC can be seen and downloaded by going to the Home Page of the e-Auction Website and clicking on "New User". Participation in the e-auction will be deemed to imply that the bidder has made himself thoroughly aware of, and accepted the STC, BSTC and GTC. In case of any conflict between the STC and BSTC, the STC shall prevail. The Principal shall have the right to issue addendum to the STC or BSTC to clarify, amend, modify, supplement or delete any of the conditions, clauses or items stated therein and the addendum, so issued, shall form a part of the original STC.

8.10.3. Each lot will have to be bid, sold and delivered on the basis of the Unit/ 'Unit of Measurement' (i.e., UOM) stipulated in the Material List displayed on the Auction Floor of 'View Live Auctions' against the respective lot. Any representation/ complaint from the bidders for the bid to be made/ having been made on the basis of any other UOM will not be entertained.

8.10.4. During Live-Auction, only brief 'Lot/ Item details' will be shown under 'Lot-Name' on the Auction Floor, where bidders are required to bid. The complete 'Item Details' can be seen by the bidders by clicking on the respective item hyperlinked under 'Lot Name', and it shall be their responsibility to do so before bidding, and no representation/ complaint in this regard, will be entertained by M/s MSTC Ltd./ the Principal from the bidders later.

8.10.5. M/s MSTC Ltd./ the Principal reserves the right to forfeit any amount/ money lying with them from the successful bidder who defaults in making the due payments against the e-Auction, even though such amount/ money may be lying with M/s MSTC Ltd./ the Principal on account of the said bidder against any other contract/ transaction.

8.10.6. All the materials put up for sale through e-auction will be sold strictly on 'As-is where-is' basis and 'No Complaint basis'. M/s MSTC Ltd./ the Principal reserves the right to accept/ reject any offer/ bid without specifying any reason thereof. All quantities are only estimated and without any guarantee. Inspection, limited to visual checking only, will be allowed with prior appointment from the Principal. Any clarification required may be sought by the bidders from the Principal at the time of inspection, and no dispute regarding the material or its physical condition/ location will be entertained thereafter.

8.10.7. All bids will be valid for acceptance by M/s MSTC Ltd. for a period of 60 (Sixty) days from the date of closing of e-auction, excluding the date of closing. In case the 60th day falls on a holiday or remains closed for M/s MSTC Ltd., such bids will be deemed to be automatically extended to be valid up to the next working day of M/s MSTC Ltd.

8.10.8. All sales will be subject to 'Reserve Price' (RP) fixed, subject to approval by the Principal. The Principal also has the option to fix a lower limit of the RP for an individual lot. Such lot will not be declared "sold" on final bidding but declared "pending" during e-auction, irrespective of reserve price comparison. The sale acceptance will be intimated by the Principal within 7 working days from the date of e-auction. Once bid is confirmed/ accepted, the buyer has to make EMD/ SD payment accordingly, within 3 (Three) days from the date of Confirmation/ Acceptance.

8.10.9. It will be the bidder's responsibility to personally see the result of e-auction by seeing and downloading the "Auction Lot Status" from the website immediately after closing of e-auction, which will be displayed up to 7 (Seven) days from the date of closing of e-Auction, excluding the date of closing. The "Auction Lot Status" will show whether any lot has been won by the bidder on 'Confirmed' or 'Pending' basis. The successful highest bidder for a 'Confirmed' bid shall have to pay the prescribed EMD/ Security Deposit within the prescribed time counted from the date of closing of e-auction (excluding the date of closing). Sale Intimation Letter will be issued through e-mail by M/s MSTC Ltd. immediately after closing of e-auction, only for the purpose of record, and the payment of Post-Bid EMD/ SD will have to be made within the stipulated time, irrespective of the date of issue of the said letter. The bidders must, therefore keep a watch on their incoming e-mails. Normally, no hard copy of the 'Sale Intimation Letter' will be issued.

8.11. Acceptance of Bid

8.11.1. The highest bid in the auction-cum-tender shall be accepted by the Chairman of the JPC if the bid is more than, or equal to or close (not less than the Fair Price by 10%) to the Fair Price. Otherwise, the goods shall be put up for auction-cum-tender the second time. In the event of the goods not being sold in the first three auction-cum-tenders, the goods shall be sold at the highest bid obtained in the fourth auction-cum-tender. If any lots still remain unsold after the third offer for sale, the Principal Commissioner/ Commissioner should ascertain whether the JPC has good reason for the goods remaining unsold.

8.11.2. The goods should not be withdrawn from auction-cum-tender on flimsy grounds, such as the possibility that the goods may fetch a slightly higher price in a subsequent auction.

8.11.3. All post-auction/tender offers, even if these are for amounts higher than the successful bid, shall be strictly disregarded and not taken cognizance of in any manner.

8.11.4. In respect of complaints regarding determination of 'Fair Price' and acceptance of bids in auction-cum-tender, the Principal Commissioner/ Commissioner shall immediately ascertain whether the prescribed procedure has been adhered to. The matter should not be referred for Vigilance scrutiny in a routine manner, if the prescribed procedure has been followed.

8.11.5. The e-auction procedure, as set out in paragraphs above, shall not be applicable to goods that are required, as per existing instructions, to be disposed of by sale to NCCF or through SBI or in any manner other than 'public auction-cum-tender'.

8.11.6. These instructions are applicable to seized, confiscated and time-expired warehoused goods that have become 'ripe for disposal', and in respect of which Notice has been given to the owner of the goods as required under Section 150 and Section 72(2) of the Customs Act, 1962.

8.12. Payment of EMD/ SD

8.12.1. The successful bidder shall have to deposit Post-Bid EMD/ SD within stipulated time, counted from the date of closing of e-auction (excluding the date of closing and irrespective of the date of issue of Sale Intimation Letter). The post-bid EMD/ SD will be @25% of the Sale Value for lots sold on 'Confirmed' basis. The payment will be by way of Pay Order/ Demand Draft (PO/ DD) of any Scheduled Bank in favour of the Principal, and it must be submitted to M/s MSTC Ltd., Mumbai or any office of M/s MSTC Ltd. (see details on M/s MSTC Ltd.'s website). The Post-Bid EMD/ SD is adjustable towards material value, only after receipt of the balance Material Value, along with applicable duties & taxes within the due date, failing which the Post-Bid EMD/ SD will be forfeited.

8.12.2. If the successful highest bidder fails to pay the Post-Bid EMD/ SD (or balance Sale Value) in time, then his password will be deactivated and he shall normally be debarred for a minimum period of 6 (Six) months from participating in all e-auctions and disposal sales and, his Registration Fee

will be forfeited. While considering his request for reactivation, which will be at the sole discretion of M/s MSTC Ltd., all facts which are germane, will be taken into account. M/s MSTC Ltd., at its sole discretion, may take recourse to any of the following options for sale of the unsold lot:

- i. The Unsold lot may be put up for re e-auction, without Pre-Bid EMD OR with Pre-Bid EMD, as may be deemed fit.
- ii. The H-2 bidder may be asked to match the H-1 Bid along with submission of requisite EMD/ SD within a period, as may be prescribed.
- iii. Invite bids for the respective lot from all the other bidders of the concerned lot (other than the defaulting bidder) OR all registered customers in sealed covers, along with the prescribed EMD/ Security Deposit within the time stipulated for finalizing the sale.
- iv. Take any other action, as may be deemed fit by the Principal.

8.12.3. Delayed payment of Post-Bid EMD/ SD may be accepted, depending on the circumstances of the case or urgency of disposal, in consultation with the Principal, with such penalty as may be deemed fit by M/s MSTC Ltd. This shall, however, not confer any right on the bidder to make any late payment of Post-Bid EMD/ SD. In case the successful bidder pays the EMD/ SD, but fails to pay the balance Material Value, along with applicable Duties and Taxes, within the due date, then his EMD/ SD will be forfeited.

8.12.4. Payment of Balance Sale Value (along with all applicable Duties & Taxes): On receipt of Post-Bid EMD/ SD from the successful bidder, Sale Order/ Acceptance Letter will be issued by M/s MSTC Ltd., advising him to deposit the balance Material Value along with all applicable duties & taxes to any of their offices within 5 (Five) days from the date of issue of Sale Order/ Acceptance Letter (including the date of issue). The entire balance Sale Value will have to be paid by the buyer in one lump-sum, and no instalment payment will be allowed, unless otherwise stipulated in the 'Lot/ Item details'. In case of instalment payment being allowed as per stipulation in the 'Lot/ Item details', the first instalment will have to be paid within 5 (Five) days from the date of issue of Sale Order/ Acceptance Letter, and subsequent instalments at 15 (Fifteen) days interval, or as may be stipulated in the 'Lot/ Item details', and the Post-Bid EMD/ SD (Security Deposit) will be proportionally adjusted in each instalment. The mode of payment will be as stipulated in the Sale Order/ Acceptance Letter and the payment will have to be submitted by the buyer to M/s MSTC Ltd., Mumbai or any other office thereof for collecting the Delivery Order.

8.12.5. Default in Payment of Balance Sale Value (along with all applicable Duties & Taxes): In case of default in payment of the balance Sale Value (along with all applicable Duties & Taxes) within the prescribed time limits, the due payment may be made, only subject to the Customs approval, together with additional charges @ 1% per week or part thereof, calculated on the Full 100% Sale Value (along with all applicable Duties & Taxes) for a minimum period of one week or multiples

thereof. The Post-Bid EMD/ SD will be adjusted towards Material Value only on receipt of the balance Sale Value (along with all applicable Duties & Taxes) within the prescribed time. However, this shall not confer any right on the bidder to make any late payment of the balance Sale Value (along with all applicable Duties & Taxes), and M/s MSTC Ltd. reserves the right not to accept the payment of the balance Sale Value, with or without the additional charges, after the expiry of the prescribed payment time limit.

8.12.6. Excise Duty, GST, Cess or any other statutory Duty/ Tax/ Levy/ Charge, etc. will be applicable and payable by the buyer, as prevailing on the date of actual physical delivery of the materials. The rates of Duties and Taxes displayed on the e-auction website are only indicative and based on the rates prevailing before the commencement of the e-auction.

8.13. Delivery of Lots

8.13.1. On payment of balance Sale Value (along with applicable duties and taxes), the buyer shall obtain Delivery Order from M/s MSTC Ltd. on producing his e-auction Photo ID Card. In case the Photo ID Card holder deposes any representative for this purpose, he should attest and authorize the signature of his Representative on his letter-head, along with a self-certified Notarized Photocopy of his Photo ID Card, subject to the following conditions:

- i. Delivery period will be 7 (Seven) days counted from the date of issue of Delivery Order/ date of issue of Release Order by the Principal, as the case may be (including the date of issue), in all cases.
- ii. In those cases where the balance Sale Value is paid within time but the buyer delays the payment of applicable duties and taxes, the delivery period will be counted from the date of payment of the balance Sale Value.
- iii. The successful bidder/ buyer shall co-ordinate the date and time with the Principal in advance and take prior appointment before placement of transport to ensure speedy removal of materials.
- iv. The materials sold shall be removed by the buyers from any one side of the lot as per the sole discretion of the Principal and no segregation of items from the sold lots will be permitted.
- v. In case any **hot-work permission** is required for dismantling operations, the same will have to be obtained by the buyer from the Principal's authorized representative before lifting and it will be sole discretion of the Principal to allow or not to allow such hot-work permission at buyer's cost, only to the extent of facilitating the loading and transportation of the goods.
- vi. For the purpose of removing the materials, the successful bidder shall employ or engage

only his/ their own personnel, and shall keep the Principal fully indemnified against any claims whatsoever, including claim for wage, injuries, compensation, death, etc.

- vii. While removing materials, if any accident or damage to the property/ life, etc., arises by reason of any act of negligence/ omission/ default or non-compliance with any of the Terms & Conditions of statutory Regulations or Rules applicable within Principal's premises, on the part of the bidder/ his representative(s) or employees resulting in death or injury to any persons or damage to the property of the Principal or any third Party, then in such an event, the bidder will have to pay compensation to any such person, including the employees of the Principal for such injury and/ or for damage to any property of such persons. The bidder shall, in such an event, keep the Principal indemnified from any demand, claims or proceedings made.

8.13.2. In case of any default in lifting of materials by the buyer within the prescribed time limit, the outstanding material may be lifted within 14 (Fourteen) days from the due date subject to payment of Ground Rent by the buyer directly to the Principal for the period of delay. All matters relating to charging of Ground Rent will be decided by the Customs. In case of goods sold on lot basis, the Ground Rent will be calculated on the value of the entire lot, even if lifted in part, whereas in case of the goods sold on unit-weight or unit-number basis, the Ground Rent will be calculated on the value of un-lifted quantity. However, it will be the sole discretion of the Principal not to allow the buyer to lift the goods, with or without the Ground Rent, after the expiry of the stipulated time limit for delivery or even within the aforesaid additional period of 14 (Fourteen) days, and in such event, the sale of the material not lifted by the buyer(s) will be automatically cancelled, and all the money paid by the bidder/ buyer will be automatically forfeited.

8.14. Other Conditions

8.14.1. The period of Contract shall be upto the validity period of the Delivery Order/ Release Order issued by M/s MSTC Ltd./ the Principal or upto the extended period of validity of the Delivery Order/ Release Order, in case the Delivery period is extended by the Principal at his sole discretion, as the case may be.

8.14.2. The bidder shall be deemed to imply that the bidder undertakes not to export the goods outside the territory of India, failing which the sale will be liable for cancellation. The bidder(s) shall have no right to issue any addendum to these Special Terms and Conditions or Buyer Specific Terms and Conditions to clarify, amend, supplement or delete any of the conditions, clauses or items stated therein.

8.14.3. Arbitration/ Legal Jurisdiction will be applicable as per the relevant clauses stipulated in the Buyer Specific Terms and Conditions already accepted by the bidders at the time of Online Registration by him on the M/s MSTC Ltd. e-auction.



CHAPTER - 9

Direct Sales and Other Modes of Disposal

9.1. Introduction

9.1.1. Public auction has its own advantages and it is definitely preferable to sale by private negotiation. Therefore, an attempt should be made to dispose of the goods through public auctions as far as possible. However, there are certain commodities, which shall not ordinarily be sold in public auction. These shall include consumer goods, electronic goods, luxury articles, goods which are totally banned or are highly restricted for import. Articles which are prohibited for import have to be destroyed (e.g. obscene literature, etc.). However, consumer goods may be offered to agencies, like Canteen Stores Department (CSD), National Cooperative Consumers' Federation of India (NCCF), Kendriya Bhandar (KB), Central Government Employees' Consumer Cooperative Society, Multi-State Consumer Cooperative Societies, State Consumer Cooperatives, Government departments, Municipalities, Government-owned hotels, Hospitals, Charity Institutes, etc., subject to fulfilment of conditions enumerated in this Chapter.

9.1.2. Items which are useful for office, like photo-copiers, fax machines, computers and computer parts, educational Compact Discs (CDs), stationery items, Air-conditioners, etc., can be offered for sale to the Govt. Departments, including our own department. The Principal Commissioners/ Commissioners/ the Heads of the Office can place orders straightway, without calling for quotations and payments can be made by issuing cheques or by book adjustment.

9.2. Sales through Retail Counters

9.2.1. In arranging direct sales, the Principal Commissioners/ Commissioners should pay personal attention and take special precautions to avoid allegations of favouritism, etc. 'First-come-first-served' principle may be applied in all cases. The base price (without discount) of direct sale shall be same, irrespective of mode of disposal and shall be fixed by the Valuation Committee/ JPC.

9.2.2. Where the goods are in good condition, in original packing with relevant Manuals, books & accessories and are of interest to general public and consumers, such items should be selected for sale through retail shops. The following steps need be taken to improve the organization and working of the Retail shops:

- i. The location of the Retail shops should be such that it is easily accessible to the public;

- ii. Working hours of the Retail shops should be prominently displayed on the Notice Board outside the shop for the benefit of the public;
- iii. General stock position of the important goods available for disposal, along with their price, should be prominently displayed on a Notice Board and also on the website of the Commissionerate;
- iv. The Notice Board and also, the Cash Bills shall clearly stipulate that the goods once sold will not be exchanged or taken back, and the department doesn't guarantee or give warranty for the goods sold; and
- v. The working of the Retail shops should be subject to a close scrutiny by an officer not-below-the-rank of an Assistant Commissioner and senior officers should also pay periodical visits to the shop to ensure that its working is smooth and free from possible malpractices/ complaints.

9.2.3. Fixation of Price in Retail shop: The retail price of articles may be fixed by the JPC by conducting Market Enquiries, to ascertain the price at which articles of like kind, quality, shape, design, etc., are available in the retail market and deducting therefrom a 'discount' representing the compensation for the buyer in the Retail shop for (i) absence of guarantee regarding quality, workmanship and the like; (ii) lack of provision for after-sale-service facilities; and (iii) the fact that the goods may not always be in their original packing and condition. The quantum of such discount may be varied, depending upon whether they are fast selling popular brands or otherwise.

9.2.4. Cash Memo: Standard Form (**Form-22**) of Cash Memos for use in all the Customs, the CGST and the Central Excise Commissionerates for the sale of the goods through Retail shops has been prescribed. **Form-22** is for sale of articles and will be in duplicate. The original is the Customer's copy and should be perforated. The standardization and printing of these Forms in the Central Boards of Revenue (C.B.R.) Customs series will be done, after it has been in use for some time. Necessary arrangements for supply of the Forms may, therefore, be made by Custom House/ Commissionerate during the interim period. Any practical difficulties encountered in the use of the Forms, may be intimated to the Board.

9.3. Sale to NCCF

Any lot of confiscated/ seized consumer goods, which is 'ripe for disposal', and whose **value does not exceed Rs. Five lakh only**, shall be offered to NCCF/ KB/ Other Central Government Employees Consumer Cooperative Society/ Multi-State Consumer Cooperative Societies/ State Consumer Cooperatives, at a **uniform rebate/ discount of 10%** subject to the following conditions:

- i. They should be functional for at least 10 preceding years and should submit Income-Tax Returns (ITRs) and VAT/ ST/ GST Returns showing their activities in sale of goods to the consumers and that appropriate taxes have been duly paid and relevant laws/ Rules and Regulations, are complied with.

- ii. Only those Co-operative Societies or National/ State level Cooperative Federations, that are duly verified and certified as genuine, every year by an officer not-below-the-rank of the AC, and those that have been duly registered under Multi-State Cooperative Societies Act, 2002, or concerned State Cooperatives Act, should be permitted to purchase the confiscated/ seized goods. The genuineness of Co-operative Societies/ Federation may also be verified through concerned Commissionerates, or other field formations of this department, wherever required.
- iii. They should be obliged to sell such seized/ confiscated goods directly to bonafide consumers.
- iv. A list of goods 'ripe for disposal' may be sent to the concerned branches of NCCF by the Warehouse Section once a month, so that NCCF is aware of the goods available for disposal.
- v. No 'pick-and-choose' of items would be allowed. However, the representative of the NCCF may be afforded the facility of inspecting goods before lifting them, so as to allow rejection of damaged and hence, unsellable goods. Such goods may be sold by public auction.
- vi. Seized/ confiscated consumer goods shall be offered on 'first come first served' basis.
- vii. Complete accounts may be called for scrutiny by the department as-and-when necessary, to ensure that the seized/ confiscated goods, which are sensitive to smuggling are not misused; or to verify that their disposal has not been made to a single party/ individual; or to ensure that sale has not been made to any person, wherein purchase vouchers, etc., had been misused by unscrupulous elements in legitimizing smuggling.
- viii. Any lot of confiscated/ seized consumer goods of **value exceeding Rs. Five lakh** shall **not be** sold directly to the aforesaid Cooperative Societies/ Federation and shall be sold by E-auction or 'auction-cum-tender' basis. In such E-auction or 'auction-cum-tender' process, all stake-holders/ persons including NCCF/ KB/ other Central Government Employees' Consumer Cooperatives/ Multi-State/ State Cooperatives/ or National/ State-level Cooperative Federations can also participate. **However, no discount/ rebate shall be available to any organization/ Cooperative for the goods disposed through E-auction/ Auction-cum-tender.**

9.4. **Sale to Army Canteen/ CSD:** The Army authorities/ Military Canteens/ Canteen Stores Department (CSD) may be allowed purchase of confiscated/ seized goods, since they provide consumer goods of high quality to the troops wherever they are situated. As in the case of NCCF, a discount/ rebate of 10% shall be given.

9.5. **Sales to Research or Educational Institute, Hospitals, Universities, etc.:** Educational aids, Medical equipment, Scientific equipment, Projectors, sophisticated equipment, etc., may be offered to these Institutes, hospitals. Educational aids may be provided to Educational Institutes at a discount of 10%.

9.6. **Sale of Confiscated Consumer and Luxury Goods to Departmental Officers under CBIC**

9.6.1. Departmental officers would be permitted to purchase only consumer good for themselves and for their family's use at a discount of 25% on the price fixed by the Joint Pricing Committee.

9.6.2. Departmental officers would not be permitted to resell the items of confiscated goods purchased from the departmental retail shops for a period of five years. For this purpose, every departmental officer making the purchase (s) will be required to sign an Undertaking to this effect on every occasion.

9.6.3. This will not exempt the departmental officer from the declaration as required under the CCS (Conduct) Rules, 1964, relating to acquisition of movable property and financial transactions.

9.6.4. To ensure that the departmental officers do not appropriate to themselves the favoured items and leave only unattractive items for sale to the general public, the retail shops shall display daily on a Notice Board, a list of items which carry a premium such as electronic gadgets, like TVs, mobile phones, game consoles, cameras, tablet devices, laptops, etc., available for purchase by the general public, including departmental officers.

9.7. Destruction

9.7.1. The Principal Commissioners/ Commissioners have full power to order destruction of goods of the following description:

- i. Sub-standard drugs, time-expired medicines, chemicals and toilet preparations;
- ii. Plants, seeds or bulbs;
- iii. Foodstuff, spices and other goods which are unfit for human consumption;
- iv. Obscene literature/ audio or video material, prohibited or banned books and other such items;
- v. Worn-out textiles unfit for use; and
- vi. Goods which cannot be disposed of through any of the other modes of disposal.

9.7.2. In all these cases, a written report giving the details as to why the item should be destroyed, should be prepared and the order of the Principal Commissioner/ Commissioner for destruction should be taken.

9.7.3. The mode/ method of destruction decided by the Principal Commissioner/ Commissioner should be environment-friendly.

9.7.4. For NDPS Goods, procedures and power prescribed in **Chapter 16** may be followed. Apart from this, if law in force requires that destruction shall be done in presence of any other agency/ officer, such as Plant Quarantine, Drugs Control, Port Health Authority, Pollution Control Board, etc., the

destruction shall be supervised jointly with these authorities. Forevery destruction, a **Panchnama** shall be drawn, and the signatures of all persons witnessing the destruction may be taken on the **Panchnama**.

9.8. Powers to write-off deficiencies and depreciation in goods seized and confiscated due to natural and other causes: Powers to write-off deficiencies and depreciation in goods seized and confiscated under the provisions of the Customs Act, 1962 due to natural and other causes to the extent and subject to the conditions are indicated below:

Officers	Monetary limit upto which the loss may be <u>written-off in each case</u>
Deputy/ Assistant Commissioner	Rs. 10,000/-
Joint Commissioner	Rs. 50,000/-
Additional Commissioner	Rs.1,00,000/-
Principal Commissioner/ Commissioner	Without Limit

9.8.1. The amounts mentioned above relate to the value of the seized/ confiscated goods. The 'value' is the Market Value, which includes the duty leviable, so that once the value is written-off, the question of writing-off the duty separately will not arise.

9.8.2. The aforesaid powers may be exercised provided that:

- i. The loss does not disclose a defect in Rules or procedure, amendment of which requires orders of higher authority of the Finance Ministry; and
- ii. There has not been any serious negligence on the part of any Govt. servant which may call for disciplinary action by a higher authority.

Form-22
(Refer Para 9.2.4)

CASH MEMO

.....CUSTOM HOUSE/ CGST COMMISSIONERATE

S.No.:.....

ORIGINAL/ DUPLICATE

Date:.....

Name & address of the Customer _____

Name & description of the articles	Distinctive marks and Numbers	Quantity	Rate		Amount	
			Rs.	Ps.	Rs.	Ps.

Local tax _____

Total _____

E & OE

Customs/CGST Officer

Customer's Signature

Goods once sold will not be exchanged or taken back.

CHAPTER - 10

Diamonds, Precious & Semi Precious Stones

10.1. Cut and polished diamonds, rough and uncut diamonds, precious and semi-precious stones have been notified under **Notification No. 31/86-Customs dated 1986, issued under Section 110(1A) of the Customs Act, 1962**. Action stipulated under Section 110(1B) of the Customs Act, 1962 must be taken in all pending cases urgently. These should be sold through Public auction, for which the following additional conditions have been prescribed:

- i. The sale shall be centralized in Delhi, Chennai, Kolkata and Mumbai.
- ii. In order to get the best possible price, widespread publicity, both in India and abroad, should be given.
- iii. The venue and date of auction should be decided well in advance in order to ensure maximum participation.
- iv. The services of reputed Auctioneer firm may be taken to conduct the auction. The Auctioneer should be selected after ascertaining his past performance in conducting auctions, expertise in auctioning diamonds, precious stones, jewellery, etc. The contract between Auctioneer and the department should also include responsibility of the Auctioneer to advertise the goods for auction in at least four national newspapers, and in a vernacular language paper. The Department should, however, be free to use other forms of media, if it so desires, to give wide publicity, in India and abroad. The terms and conditions for the auctioneer would be decided by the Principal Commissioner/ Commissioner concerned.
- v. Entire stock of such items should be segregated into identifiable lots-- either on the basis of seizure cases or any other practical and discernible categorization. Each 'lot' must be properly photographed. The photographs would serve as a record, in addition to the same being used in the Catalogue, which should be prepared for the purpose of giving wide publicity and also for conducting the auctions.
- vi. Caution money of Rs. 50,000/- (Rupees Fifty Thousand only) by Demand Draft, Pay Order or Banker's Cheque (B.C.) shall be charged from each prospective bidder. Only on payment of the caution money, the bidders would be registered for bidding and will be eligible to participate in the auction.

- vii. The 'lots' should be allowed for examination by prospective bidders by following a strict procedure prescribed for the purpose to ensure, there is no substitution, like, examination by only one bidder at one time, who can bring one additional person for consultation and expert examination. The procedure shall, inter-alia, consist of prescribing Application form for inspection, giving details of the bidder (address, name, Telephone No., PAN, details of fee payments, etc.). Examination shall be in presence of the Deputy/ Asstt. Commissioner nominated for the purpose, the Jewellery Appraiser of the Department and the warehouse Superintendent.
- viii. The Reserve Price shall be fixed by a Pricing Committee consisting of Addl. Commissioner, Deputy/ Asstt. Commissioner, Jewellery Appraiser, an eminent person in Commerce/ Trade in such items and a Government-Approved Valuer in respect of these items. The selection of Members for the Pricing Committee shall be by the Principal Commissioner/ Commissioner concerned. In order to ensure secrecy, the 'Reserve Price list' should be kept in sealed-cover with the Chairman of the JPC to be handed-over to the Deputy/ Asstt. Commissioner supervising the auction, only on the day of the auction.
- ix. The 'Reserve Price' may be fixed taking into consideration the value of seizure, escalation in value of these goods over the years, present market value/ demand and existing restrictions on import of these goods.
- x. Since the disposal of diamonds, etc., may be spread over a period of time, prices fixed at one time may not hold good subsequently, and this may call for periodic revision. The 'Reserve/ Fair price' so fixed, shall be liable for revision once in three months or such time as is considered reasonable by the Principal Commissioner/ Commissioner concerned.
- xi. The auction should be attended by the Principal Commissioner/ Commissioner, the Addl./ Joint Commissioner concerned and other Senior Officers to ensure maximum fairness.
- xii. A record of all the highest bids for each lot at every auction should be maintained. The record of bid list should mention names of bidders and value/ Amount of bid for the lot in question.
- xiii. The highest bidder shall, on fall of the hammer, deposit 25% of the value of the bid as Earnest Money on the spot. The bidder will be informed about the acceptance or rejection of bid within 48 hours of completion of the auction proceedings, by way of listing of successful bids on the Notice Board of the Custom House at Mumbai.
- xiv. The successful bidder will be required to pay the balance amount and take delivery of the goods within 3 days of the receipt of the communication regarding acceptance of his bid. If a party fails to pay the balance amount and take delivery of the goods within the stipulated period as above, the Earnest Money shall be forfeited.
- xv. In case of rejection of bid, the rejection letter will be issued and caution money and earnest money collected from the bidder will be refunded to him within a week's time.

- xvi. All available stocks of cut and polished diamonds, rough and uncut diamonds, precious and semi-precious stones should be transferred to the Principal Commissioner/ Commissioner of Customs (Prev.), Mumbai.
 - xvii. In the case of Chennai, Kolkata, Delhi and Jaipur, smaller lots of these goods of value not exceeding Rs. 2 lakhs per lot and when total value of stock 'ripe for disposal' of these goods at a particular time is less-than-Rs. 20 lakhs, can be disposed of by Disposal Units attached to these Commissionerates. The procedure to be followed will be mutatis mutandis, as prescribed above except that lower amount of caution money may be prescribed.
- 10.2. The e-auction of diamonds, precious and semi-precious stones is being conducted through M/s MSTC Ltd. on their website www.mstcecommerce.com, the procedure for which is given in **Chapter 8 of this Manual. The Principal Commissioner/ Commissioner of Customs (Preventive), Mumbai has also issued a Public Notice No.3/2008 dated 29.10.2008 in this regard.**

CHAPTER - 11

Gold, Silver & Other Precious Metals

11.1. Both Gold and Silver in all forms, including bullion, ingots, coins, ornaments and crude jewellery, are covered under **Notification No.31/86-Cus dated 05.02.1986 issued under Section 110(1A) of the Customs Act, 1962**. Action stipulated under Section 110 (1B) of the Customs Act, 1962 must be taken in all pending cases urgently.

11.2. Disposal of Gold, in Standard/ Primary Form of Assured Purity

The procedure for disposal by sale of seized/ confiscated gold (other than gold ornaments/ jewellery) shall be as follows:

- i. The sale of seized/ confiscated gold found 'ripe for disposal' shall be routed through all Public Sector Banks (approved by RBI to import and sell gold), MMTC Ltd. and STC Ltd., which also have authorisation from their competent authorities/ head offices to dispose/ sell the seized/ confiscated gold handed-over to them.
- ii. Such gold shall, as far as possible, be in an easily marketable form such as TT bars, 1kg bars, 500/100 g bars, etc. Crude gold/ jewellery will be converted by the Customs to .999/.995 purity before delivery to the bank for sale.
- iii. The sale price of gold, irrespective of the form of gold (whether TT bars of 0.999 purity or 1kg. bars of 0.995 purity), will be based on the closing market price of the previous day, as reported in the local editions of the three national Economic daily newspapers. All applicable taxes will be extra and chargeable to the buyer.
- iv. The pricing of gold will be worked out by the bank, taking due note of the methodology as per **Form-23**. The Customs will accept the price worked out by the bank on this basis.
- v. No Commission will be levied by the bank on the Customs. However, all out-of-pocket expenses incurred by the bank would be deductible (@ 1% of the Market Price).
- vi. The bank will arrange for payment of taxes, as applicable, out of the sale proceeds of the gold and would submit copies thereof to the concerned Principal Commissioner/ Commissioner, along with the Advice/ Challan for remittance of sale proceeds. The sale proceeds will be deposited immediately after sale of gold into the designated account to be advised by the Principal Commissioner/ Commissioner concerned.
- vii. The concerned Principal Commissioner/ Commissioner will provide copies of the 'Assaying Certificate' along with the physical delivery of gold and assume responsibility

for the fineness of gold as certified in the Assaying Certificate. In the event of any gold being found counterfeit, the same will be returned to the Principal Commissioner/ Commissioner concerned. The Department will also ensure that the gold is suitably packaged as per the practice in the market. The bank would render necessary assistance to Department.

- viii. The bank will take physical delivery of the gold from the warehouse/ office against a suitable acknowledgment. The control system/ mechanism for this purpose will be worked out by the bank and advised to the Department.
- ix. The bank will decide, at which centre, the gold is to be sold based on various cost/ other factors and will also exercise its discretion/ judgment as to: (a) when to sell, and (b) at what price to sell. Although it has to be borne in mind that gold prices can fluctuate significantly even during the course of a single day, the Bank will use its discretion/ market knowledge to get the benefit of the “best” possible price. The concerned Principal Commissioner/ Commissioner will, post-sale, make an evaluation as to whether, in view of the range of prices prevailing at the time of sale, the “best” possible sale has been made. The above arrangement will be reviewed as-and-when necessary through mutual discussion.
- x. The bank will also explore the scope for marketability of coins. The price of such coins will be based on the actual gold content only.

11.3. Disposal of Silver in Primary Form

The sale of primary Silver may be made at the average price reported in the three economic dailies--- Economic Times, Business Standard and Financial Express on the previous day of sale. The entire Silver stocks, valued as above, may be first offered to M/s MMTC at a discount of 3% of the average price fixed. If they fail to lift the stock within three days, it can be sold in retail, through the retail shop, to the public on ‘first-come-first-served’ basis, at a discount of 3% of the average price fixed, subject to the procedure laid down below.

- i. Goods should be disposed of in ‘as-is-where-is’ condition.
- ii. The stock will be sold as per the weight of each item as confiscated, it will not be cut or otherwise varied in size and shape.
- iii. The sale price of silver sold should be fixed every day, based on the closing bullion exchange prices of the same purity mentioned in economic dailies, such as Economic Times, Business Standard and Financial Express of the previous day. If prices of the same purity are not available in the aforesaid papers, then the price shall be worked out on the basis of the average of prices of the nearest purity available in these papers.
- iv. All stocks of confiscated silver shall be disposed of by way of sale through Customs retail shops only to MMTC/ Public.

- v. Silver should be sold only to MMTC and/ or such individuals, firms, etc., who are registered with the Income Tax authorities as assesseees, and their PAN shall be quoted in the Sale Voucher.
- vi. The weight of each silver ingot/ brick should be entered in all records up to the third decimal in kg, e.g. 21.374 kg, 9.157 kg, etc.
- vii. The existing quantity restrictions of 210 kg. per person may be retained except in respect of sale to MMTC.

11.4. Disposal of Gold/ Silver Jewellery

11.4.1. Jewellery, including fine Jewellery of gold, silver or other precious metals and/ or having/ studded with diamonds, precious and semi-precious stones, shall be disposed of on '*as-is where is-basis*', and the procedure prescribed for disposal of diamonds, precious & semi-precious stones, shall be *mutatis mutandis* followed. However, while fixing fair price, the Valuation Committee/ JPC shall also take into account the metal content and workmanship.

11.4.2. Other fine Jewellery, Gold ornaments, unique coins, art pieces, etc., which in the opinion of the Principal Commissioner/ Commissioner concerned can fetch higher prices in public auctions/ e-auction even though the gold/ silver content is low, shall be sold in public auctions. The prescribed procedure for sale in auction for disposal of diamonds, precious stones & semi-precious stones, shall *mutatis mutandis* apply, except that lesser amount of caution money may be prescribed.

11.4.3. Gold or Silver in other forms, coins but not unique coins, broken jewellery shall be sent to the Govt. mint for conversion into primary Gold of standard purity. The converted Gold/ Silver may thereafter be sold as primary-form, through Commissionerate situated at the same place where mint is situated. If the Gold/ Silver in forms mentioned at Para above, cannot be disposed of by following the procedures prescribed therein, such gold/ silver may also be disposed of in the manner prescribed in this para.

11.5. Disposal of Other Precious Metals

The disposal of Platinum/ Palladium shall be affected by tender through MMTC Ltd., subject to the following conditions:

- i. MMTC will be paid service charges equivalent to two percent (2%) of the Sale Value.
- ii. The cost of advertisement may be charged separately by MMTC.
- iii. The goods shall lie with the Department till the sale is finalized by MMTC. Further, till the time the amount due to the Department is received, the delivery would not be given.

- iv. The Minimum Sale Price shall be fixed by a Joint Pricing Committee.
- v. Since a number of national laboratories, like National Physical Laboratory (NPL), New Delhi, National Metallurgical Laboratories, Jamshedpur and other actual users, in the Gems & Jewellery Industry may also be interested in buying these metals, so wide publicity may be given to these sales.

Form-23
(Refer Para 11.2(iv))

Gold Pricing

1. Quantity of gold sold _____ g
2. Average market price per 10 grams Rs. _____

(Based on the closing market price reported in the three National Economic Dailies)

3. Price of gold at the average market price Rs. _____
(i.e., (1) x (2)/10)
4. Taxes as applicable Rs. _____
5. Total price of gold Rs. _____
6. Out of pocket expenses Rs. _____
(@ 1% of (3) above)
7. Net price payable to Customs Rs. _____
(i.e. (3) – (6))

CHAPTER - 12

Currency & Other Monetary Instruments

12.1. Due to long time taken in adjudication of cases involving seizure of foreign currency, traveller's cheques and bank drafts, their validity expires and difficulties are experienced in obtaining the credit against such documents. Such delays also afford opportunity to the concerned persons to receive the amount against the seized documents, on the pretext of these having been lost or destroyed. Therefore, the precautions to be taken to prevent these situations and realize the proceeds of the confiscated foreign currency, traveller's cheques and bank drafts, are as follows:

- i. As soon as the traveller's cheques and/ or bank drafts and/ or other instruments of exchange are seized, an intimation in the Proforma given at **Form-24** should be sent to the bank/ office of issue, informing it of the seizure, so that the person from whom these are seized may not obtain duplicates and claim cash against them from the bank/ office of issue, on the pretext of the originals having been lost somewhere. A copy of the intimation should also be sent to the office of the Reserve Bank of India (RBI) through which the collection is eventually proposed to be made.
- ii. Adjudication of the seized bank drafts and/ or traveller's cheques and/ or other instruments of exchange should, as far as possible, be completed sufficiently ahead of the expiry of the period of validity of these documents, which normally extends from 3 to 6 months from the date-of-issue.
- iii. The confiscated foreign currency should be sent to any authorized nationalized banks/ RBI, as applicable, immediately after following the procedure of Section 110(1A)/ upon completion of adjudication for affording credit of the proceeds to the Government account. The necessary details for this would be provided as per the Proforma given at **Form-25**.
- iv. The confiscated traveller's cheques, bank drafts and other instruments of exchange should be sent to RBI immediately after the adjudication is completed for affording credit of the proceeds to the Government account. The necessary details for this would be provided as per the Proforma given at **Form-25**.

12.2. Normally, there is no difficulty in getting early credit so far as foreign currency is concerned. In regard to the traveller's cheques and foreign bank drafts also, the credit can be obtained immediately provided that: (i) the documents are fully discharged, i.e., duly signed by the person in whose favour these were issued; and (ii) these are presented within the period of their validity. Most of the confiscated bank-drafts and/ or traveller's-cheques do not, however, contain discharge of the payee's/ beneficiary's, and as such cannot be encashed or credited in the Government account in the

normal way. Under the procedure followed by the RBI, it takes about 2-3 months to collect proceeds in such cases. It should, therefore, be possible for the RBI to send an intimation of credit in respect of the confiscated traveller's cheques and bank drafts which are not fully discharged within a period of 4 months from the date of receipt of the documents by them. If the intimation is not received within this period, the Commissionerate should remind the RBI. Wherever possible, discharge of the payee/ beneficiary should be obtained on the confiscated bank drafts, etc.

12.3. When the Government (i.e., the Department) acquires title to cheques, hundis and such other negotiable instruments by operation of law (i.e., by endorsement and delivery as required by **Section 50 of the Negotiable Instruments Act**), the Government is not entitled to the rights of a holder in due course thereof, as defined in the said Act and therefore, the proceeds of such confiscated instruments could be realized from the foreign banks only if orders passed under Indian laws were binding on them. In the circumstances, before realizing the proceeds of these confiscated instruments from the foreign banks, the RBI has to furnish an indemnity to the bank concerned guaranteeing the refund of the amount on the propriety of the payment being subsequently challenged by the drawer for one reason or other. The RBI, in turn, obtains an undertaking from the Principal Commissioner/ Commissioner concerned as per Proforma given in **Form-25** to refund the amount to the Reserve Bank on demand.

12.4. Whenever the RBI approaches the departmental authorities for refund of the amount, there should be no question of challenging the propriety of the refund-claim and the amount should be refunded forthwith and not later than seven days. Time limit, as envisaged in **Section 27 of the Customs Act, 1962**, would not apply in such cases as this provision is applicable only to refund of duty, whereas in this case, it is a refund of proceeds of a confiscated instrument which has been realized, not strictly by the enforcement of any order passed by the Government but through mutual arrangement between the RBI and the paying bank.

12.5. The above instructions may also be adopted mutatis mutandis in the case of seized Postal Savings Certificates. An intimation of seizure of National Defence Certificates/ National Savings Certificates, etc., issued by Post Offices may be sent to the Post Offices in the Proforma given at **Form-26**, and acknowledgement obtained.

12.6. **RBI, vide their letter ECS 39/122 A-88/89 dated 20.7.1988**, have conveyed their approval to State Bank of India (SBI) receiving the foreign currency from the Customs/ CGST and crediting the sale proceeds to the Customs/ CGST account, subject to the following conditions:

- i. In case SBI finds that some of the confiscated currencies are not encashable and the Customs/ CGST authorities desire to have those currencies destroyed, necessary permission from the RBI, Exchange Control Deptt., should be obtained.
- ii. If an occasion arises for refunding in foreign exchange-- part or full value of confiscated foreign currency, already credited to the Government account, the Customs will arrange to obtain through SBI, prior-approval of RBI for the release of Foreign exchange. ○

Form-24
(Refer Para 12.1(i))

Intimation of the Seizure of Credit Instrument/ Currency

1. Description of the credit instrument/ currency.....
2. Full name and address of the person/ bank drawing instrument.....
3. Name and address of the drawee.....
4. Name and address of the payee.....
5. Authority under which seized.....
6. Action contemplated.....

NB: The bank of issue of the Credit Instrument may please take note of the above seizure. Any request for issue of duplicates and claims for cash against the above-noted instrument, should not be acceded to without prior reference to this Commissionerate. Undertaking of further commitments in respect of the above instrument with the drawer/ payee may please be deferred, until the confiscation proceedings contemplated are completed.

Customs/ CGST Officer

(Seal)

Address of the Issuing/ Drawing Bank

Copy to the Manager, Reserve Bank of India, Public Accounts Department

Form-25
(Refer Para 12.1(iii))

**Proforma for Sending Confiscated Credit Instruments/ Currencies to RBI for Affording
Credit to the Government Accounts**

From:

The Principal Commissioner/ Commissioner of Customs/ CGST

To

The Reserve Bank of India/ Authorized Nationalized Banks

**Subject: Confiscation of Credit Instruments/ Currencies under the Customs Act, 1962 and the
Foreign Exchange Management Act, 1999.**

Dear Sir,

- 1 We have caused to be handed-over to you for collection and credit to Government account Traveler's cheques/ Bank Drafts/ Currencies, as per details given in the attached statement.
2. These cheques/ drafts/ currencies are being, hereinafter, referred to as the cheques.
3. We, hereby, represent and warrant that we are duly entitled to arrange for the collection for and on behalf of the President of India of each of the cheques, by virtue of the cheques having been duly confiscated by us, in exercise of the powers conferred under the Customs Act and the Foreign Exchange Management Act (FEMA). We, hereby, request that the aggregate of the face amounts of the cheques be collected and credited to the Government account.
4. In order to induce you to comply with our above request, we hereby agree to indemnify and hold THE RESERVE BANK OF INDIA harmless and indemnified from any-and-all claims, demands and/ or actions, which may be asserted or instituted against it by any third party (ies) with respect to all or any of the cheques, and at any time upon its request, to appear and defend against each and every such claim, demand and/ or action. In any event, we will pay any judgement(s), which may be obtained against the said Bank and will reimburse it for any and all expenses, which may be incurred by it in connection therewith.

Yours faithfully,

For and on behalf of the President of India

Form-26
(Refer Para 12.5)

Proforma for Intimation of Seizure of National Defence Certificate (NDC)/ National National Savings Certificate (NSC), etc., Issued by Post Offices

1. Number of Certificate (including prefixed alphabets).....
2. Its denomination or face value
3. Type of Certificate (i.e., single holder type or joint holder 'A' type or joint holder 'B' type, as can be seen from the Certificate).....
4. Name(s) of holder(s)
5. Post office of issue.....
6. Date of issue
7. Registration No. given by Post Office on left hand bottom corner of Certificate.....
8. Authority under which seized.....
9. Action contemplated

NB: The Post Office of issue of the Certificate(s) may please take note of the above seizure. Any request for issue of duplicate(s) and claims for cash against the above noted Certificate(s) need not be acceded to without prior reference to this Commissionerate.

Seal
Customs/ CGST Officer

No. _____ Dated _____

Acknowledgement to be detached and returned by the Post Office

Received from the Customs/ CGST Commissionerate/ Office an intimation about the confiscation of the following Savings Certificate(s).

1.	No. of the Certificate
2.	Denomination
3.	Name(s) of the holder(s)
4.	Name of Post Office of issue
5.	Date of issue

A note of this seizure has been made in the records of this office.

(Name & date)

(Post Master)

Stamp of Office

To

The Customs/ CGST Officer..... His/ her No.....
dated.....refers.

CHAPTER - 13

Vehicles & Vessels

13.1. Disposal of Seized/ Confiscated Motor Vehicles & Vessels

13.1.1. Conveyances have been notified, vide **Notification No. 31/86 dated 5.2.1986, under Section 110(1A) of the Customs Act, 1962**. Despite this, seized conveyance are, in many cases, not being disposed of, pending completion of adjudication proceedings, Court cases, etc., for a long time, leading to deterioration without any benefit to anyone. Continued storage of such conveyances may also result in considerable expenditure on garaging facilities and maintenance charges. Accordingly, it must be ensured that:

- i. Prompt action is taken in terms of Sec. 110(1B) of the Customs Act 1962 to dispose of all seized vehicles.
- ii. Where the order of confiscation mentions fine in lieu of confiscation or of re-shipment, the period allowed for re-shipment/ redemption should be only up to 120 days. In case option of re-export of vehicle is given, as in case of Carnet, the period allowed for re-export normally shall be two months. If the party does not clear the conveyance by paying up the fine in lieu of confiscation, or does not arrange to re-export the vehicle within the permitted period, a final Notice of ten days should be given, after which the conveyance should be disposed of.
- iii. Where the conveyance has been confiscated absolutely, steps should be taken to dispose of the confiscated motor vehicle or vessel straight-away, without waiting for further outcome in appeal/ review.
- iv. For the conveyances seized under the **NDPS Act, 1985** or any other Act, action under **Section 451 of the Code of Criminal Procedure, 1973**, shall be invariably taken, for which an Application in the concerned Trial Court must be filed and pursued during the trial, so as to obtain the orders of Court before the final judgment in the case. If no such action has been taken till date, the same must be taken immediately and pursued with the Trial Court to get the orders of disposal from the Court before the final orders. In case of appeals pending with High Court, the High Court must be approached for getting early orders of disposal of the conveyances, pending decision in the appeals.
- v. Utmost care should be taken to ensure that conveyances are sold at the earliest and at the best available market price, after giving wide publicity, so as to avoid any loss to the owner in the event of the adjudication order being set aside on appeal or revision, and to avoid any possible dispute with the owner regarding the adequacy of the price at which the conveyance or vessel was sold.

- vi. The position in respect of the conveyances, pending disposal, should be reviewed periodically and action as necessary to dispose them of should be taken expeditiously. If there is any delay or negligence on the part of any of the officers concerned, appropriate action to fix the responsibility and initiate disciplinary action should be taken.

13.1.2. Conveyances may be sold by public auction/ e-auction-cum-tender or may be appropriated to the department.

13.2. Disposal of Conveyances with Secret Chambers

The conveyances with 'built-in secret chamber' used for smuggling, shall be disposed of after such chambers are completely removed. If such secret chambers cannot be removed, the orders of the Board should invariably be taken before disposing of such conveyances.

13.3. Maintenance of Seized/ Confiscated Conveyances

13.3.1. The seized/ confiscated conveyance should be properly looked after during storage. Whenever there is a delay in the disposal of vehicles, vehicles should be jacked and wherever garage facilities are not available, temporary sheds should be erected for their proper storage. Vehicles may be handed-over to the Automobile Association, if such organization exists at the place, and vessels entrusted to the Custodians of the Port on mutually agreed terms & conditions. Particular care should be taken, of the spare parts and tools.

13.3.2. For the proper upkeep and maintenance of seized/ confiscated vehicles/ vessels, **the Head of the Department has been delegated powers for incurring expenditure upto Rs. 2,000/- per two-wheeler, Rs. 5,000/- per four-wheeler, Rs. 10,000/- per six-wheeler and Rs. 50,000/- per vessel** per annum. The expenditure should be incurred, having regard to the following considerations:

- i. The seized vehicles should not be put to Departmental use (except in case of exigency, please refer **Para 13.4**).
- ii. Dismantling of conveyances to the extent minimum possible, so as to find out hidden articles, if any.
- iii. The seized conveyance should be properly looked after during storage by running the engines and auxiliary machinery/ equipment periodically, inflating the tyres (in case of vehicles), checking the engines, etc., and for keeping them in a proper state of road/ sea-worthiness and to keep them, as far as possible, in proper running order.
- iv. The vessels may be bottom-cleaned and if necessary, be cradled
- v. The services of a mechanic may be requisitioned to keep the conveyance in good order. But this may be resorted to, only in cases of absolute necessity and with the permission of the officer not-below-the-rank of Assistant Commissioner in case of vehicles & Principal Commissioner/ Commissioner in case of vessels.

13.4. Departmental Use of Seized/ Confiscated Conveyances

The conveyances which have been finally confiscated and have become Government property, can be used for Government purposes in any exigency. However, the use of the seized conveyances should, be kept to the minimum and these should only be run from time-to-time to keep them in proper working condition and prevent their deterioration. The Heads of the Department should personally ensure that seized conveyances, etc., are not run unnecessarily.

13.5. Appropriation of Confiscated Conveyances for Departmental Use

Before selling confiscated conveyances, the possibility of utilizing the same for the departmental use should be fully explored. These conveyances should, however, be utilized only after taking prior-approval of the Board. At the time of making such proposals, the following particulars of the conveyances should be furnished:

- i. Date of seizure;
- ii. Date of the order under which it was confiscated, duty, redemption fine, and penalty imposed and realized;
- iii. Name of the owner of the conveyances;
- iv. Make of the conveyances, its model, engine horse power and seating capacity;
- v. General condition of the conveyances and its mechanical condition, and approximate market value, and the probable period for which it can render satisfactory service, with or without repairs;
- vi. Total mileage run by the conveyances;
- vii. In case of vehicle, the clearance over road;
- viii. The area where the conveyances is proposed to be utilized in the Commissionerate and the specific purpose thereof;
- ix. Financial implication of the proposal, e.g., approximate amount of expenditure likely to be incurred to make the conveyances road/ sea-worthy, running cost and other recurring and non-recurring expenditure; and
- x. Cost of appropriation.

CHAPTER - 14

Medicines/ Bulk Drugs/ Drug Formulations

14.1. Disposal of Seized/ Confiscated Drug Formulations

14.1.1. Drug formulations, ordinarily fall in two categories.

- i. The first category consists of such drug formulations, which are labelled in accordance with the provisions of the Drugs and Cosmetics Act, and the Rules framed thereunder. If the samples drawn from the seized/ confiscated consignments of such formulations are found to be of standard quality, these may be released for use in hospitals only.
- ii. The second category consists of formulations which are not labelled in accordance with the provisions of the Drugs and Cosmetics Act and the Rules made thereunder. The Drugs Controller (India) has opined that such formulations would be deemed to be “*misbranded*” drugs under this Act. Further, it would ordinarily not be possible to re-label such products as the information to be given on the label would have to be provided by the manufacturer. He has, therefore, advised that such seized/ confiscated drug formulations, falling in the category of ‘*misbranded*’ drugs, should be destroyed.

14.1.2. The State Drug Controllers/ Zonal and Port Officers of the Drug Controller (India) should invariably be consulted in the case of seized/ confiscated drug formulations and action to release them to hospitals or to destroy as the case may be, should be taken only on the advice given by these authorities. It is emphasized that the consultation from Drug Controllers should be done, without fail, at different stages, from the time of seizure till disposal, particularly in regard to identification of the medicine/ drug, its physical condition and quality and valuation. Further, a Certificate should be obtained from the Competent Authority for ascertaining whether the medicine/ drug in question was damaged or deteriorated and also, whether it was fit for human consumption. **Vide Circular F.No.545/1/78-LCI dated 21.12.1978 [refer Appendix -1]**

14.1.3. This Manual categorizes Medicines and drugs that remain efficacious only for a limited period, under **Category-III** of perishable items and these should be disposed of within 6 months of their seizure or, where the date of expiry is indicated, well before that date. However, the procedure, as detailed in the current chapter, must be strictly followed.

14.2. Disposal of Bulk Drugs

Following directions have been given by the Drug Controller of India, New Delhi to all Zonal officers and Drugs Controllers, vide **letter No. X-11038/50/80-D dated 09.12.1980 [refer Appendix-II]**, regarding procedure to be followed in this respect:

- i. Whenever a request is received from the Customs or Central Indirect Tax authorities for advice on the disposal of confiscated drugs, a Drug Inspector may be deputed to inspect the consignment to see whether the containers of the drug are damaged, so as to affect the quality of the drug, and whether the containers are labelled with the essential particulars, such as the name of the drug, name of the manufacturer, date of the manufacture and date of expiry, in case of drugs having a limited life period.
- ii. If on inspection, the Drug Inspector reports that the containers are damaged, so as to affect the quality of the product or the containers do not bear the essential particulars on the label, then the consignment of drug concerned should not be recommended to be disposed of by public auction.
- iii. If the containers of the drug are found to be intact and not damaged, and they are also labelled with necessary particulars, then representative samples may be drawn and got tested.
- iv. If these samples are reported to be 'not of standard quality', then the drugs in question should not be recommended to be disposed of by public auction.
- v. If the samples are reported to be of 'standard quality', then the drugs in question may be recommended to be sold by public auction. The authorities requisitioning the drugs should be licensed and the drugs permitted to be sold only to manufacturers holding valid manufacturing licenses under the Drugs and Cosmetics Act.
- vi. The procedure outlines above would be applicable only to "*bulk drugs*" seized by the Customs/ Central Indirect Tax Authorities. Confiscated formulations should not be allowed to be sold by auction.

CHAPTER - 15

FIRE ARMS

15.1. To ensure maximum safety of seized/ confiscated prohibited/ non-prohibited bore and service pattern weapons, their storage should be done centrally (e.g., in the respective Commissionerate Headquarters) under proper security, safety and supervision. For this purpose, a History Sheet with each weapon, to indicate make, type of weapon, register number, brief circumstances of seizure/ confiscation, etc., shall be prepared and shall be kept as records, along with the Seizure memo.

15.2. Policy Guidelines for Disposal of Confiscated Fire Arms

15.2.1. **Prohibited bore weapons** will be confiscated and appropriated only for the departmental use/ or given to persons specifically allotted by the Ministry, except the following:

- i. **Disposal of war-like stores and their components, etc.:** Details of all confiscated war-like stores, i.e., Missiles, Weapons of Mass Destruction, grenades, rocket launchers, mines, night vision devices, HHGs & MMGs, etc., and their components and such other stores of similar nature, shall be intimated to the Ministry of Defence for obtaining disposal instructions, through DGRI, by the concerned Principal Commissioner/ Commissioner.
- ii. **Disposal of Prohibited fire arms and Prohibited bore fire arms:** Details of certain selected types of confiscated automatic fire arms, e.g., 7.62 mm SLRs, AK-47 rifles, 7.62 mm LMGs, 9mm carbine, etc., and their ammunitions after taking care of the Departmental requirements, be intimated to the Ministry of Home Affairs, for reallocation to units of Army/ Central Para-Military Forces (CPMF)/ State Police Forces involved in CI Operation, as per orders of MHA (Provisioning Branch).
- iii. **Service pattern and other Prohibited bore fire arms:** Details of all confiscated service pattern and other Prohibited bore fire arms and their ammunition, which are **classifiable under categories I(b), I(c) of Schedule I of the Arms Rules, 2016**, which shall, inter-alia, include all semi-automatic and other fire arms of the type in use of the Armed Forces or Central Para-Military Forces/ Police Forces or the State Police Forces shall, after taking care of the Departmental requirement, be intimated to the Ministry of Home Affairs (Provisioning Branch), Government of India, for disposal instructions, in revised Proforma given at **Form-27**.

15.2.2. **Confiscated Non-Prohibited bore weapons cannot** be sold to Departmental officers and instead a scheme for loaning of weapons has been introduced. Such weapons would be given to the Departmental officers on lease terms, on a selective basis, subject to the condition that on

retirement/ superannuation, these weapons would be returned to the Department. The lease of fire arms to Departmental officers will be governed by the instructions contained in **Para 15.2.4 of this Chapter**.

15.2.3. Sale of confiscated Non-Prohibited Bore (NPB) weapons to the Members of Parliament:

- i. If after meeting the above requirements, Non-Prohibited Bore confiscated weapons are available, these can be sold to the sitting Members of Parliament (MP) on '*first-come-first-served*' basis, after receiving their confirmation in writing that they do not own/ possess any weapon at present. The orders of the Minister of State for Finance (Revenue) will be obtained in each specific case.
- ii. Only one weapon will be allotted to an MP from the confiscated stock and no replacement will be permissible, even in cases, the first weapon allotted has either been lost or stolen or become defective or non-serviceable due to excessive use or obsolescence.
- iii. The resale/ transfer of NPB weapon, after it is sold to the Member of Parliament is subject to the condition that such a person will not dispose it off for a period of ten years, from the date of purchase. Thereafter, he shall be free to dispose it of or keep it. However, on his demise, the disposal of such weapon will be dealt by his legal heirs in accordance with the general laws.
- iv. The sale price of NPB weapon to be sold to the MP will be governed by the instructions contained in **para 15.2.4.5 of this Chapter**.
- v. The sale of NPB weapon to the MPs has been centralized in Delhi and this will be done only by the Principal Commissioner/ Commissioner of Customs (Preventive), New Custom House, IGI Airport, New Delhi.
- vi. All Commissionerates shall transfer the NPB weapons which have become 'ripe for disposal' to the Principal Commissioner/ Commissioner of Customs (Preventive), New Delhi immediately. They will also transfer all the NPB weapons surrendered by the officers at the time of their retirement/ superannuation.
- vii. The Principal Commissioner/ Commissioner of Customs (Prev.), Delhi will inform the Ministry about the balance of fire arms available with them in the prescribed format on a monthly basis to enable the Ministry to take decision on the requests received from the Members of Parliament.
- viii. Any relaxation in the existing guidelines would require the specific approval of the Hon'ble Finance Minister in each case.

15.2.4. Loaning of Firearms to the Departmental Officers

15.2.4.1. Confiscated weapons of Non-Prohibited Bore may, in suitable cases, be loaned to executive officers of the CBIC, who require them for self-protection in the course of performance of their duties, on the condition that the weapons are returned by the officers to the Department, when no longer required and in any case, on their retirement/ superannuation or their leaving the Department for any reasons, whatsoever. The guidelines, in this regard, are as follows:

- i. The weapons will be loaned only to officers who possess a valid Arms license.
- ii. Not more than one weapon will be given to an individual officer.
- iii. The request of the officer should be forwarded by the concerned Principal Commissioner/ Commissioner, who after satisfying himself of the above requirement, shall recommend the request of the officer to the Directorate of Logistics, for further action in the matter.

15.2.4.2. The following procedure shall be followed for loaning of Firearms to the Departmental officers:

- i. A remark in red ink should be affixed in the Service Book of the officer concerned to the effect that _____ bore Revolver/ Pistol of make _____ bearing number _____ has been loaned to the officer.
- ii. This remark should be attested by the Head of the Department.
- iii. The Officer should give an Undertaking in the Proforma given at **Form-28**. This Undertaking should be kept in the custody of the controlling Head of the Department of the officer concerned.
- iv. A copy of the Undertaking should be forwarded to the Directorate of Logistics.
- v. The Directorate of Logistics should maintain a Register, which should clearly indicate the names of the officer to whom the weapon has been loaned, the date of superannuation of the officer and the make, model and the number of the weapon. A yearly review of the Register should be done by the Directorate of Logistics to ensure that in all cases where the officers have retired or left the department, during the period of the review, the weapons have been resumed and taken back into stock.
- vi. As-and-when weapons are returned, the second copy of the Undertaking kept in the Service Record should be cancelled by the Head of the Department concerned, under intimation to the Directorate of Logistics. Suitable entries should be made in the Service Book of the officer concerned, regarding the resumption of weapons and cancellation of the Undertaking given by the officer. The Directorate of Logistics should, on receipt of

this intimation, enter the fact of resumption in the Register maintained by it and cancel the original Undertaking.

- vii. During their tours, the officers of the Directorate of Logistics should inspect the Commissionerate record of the weapons loaned out and satisfy themselves that in all cases, where the loanee officers have retired/ left the department, the weapons loaned to them have been resumed.
- viii. Where loanee officer has been transferred out of the Commissionerate, the Undertaking given by him should be transferred to his new Commissionerate, along with Service Records.

15.2.4.3.Sale of Ammunition to the Executive officers of CBIC, to whom the weapons have been allotted on loan-basis shall be governed by the following guidelines:

- i. The ammunition will be sold at a price equivalent to C.I.F value. In addition, all applicable taxes, if any, will also have to be paid.
- ii. The officers will be allowed to purchase 25 rounds of ammunition at a time, subject to the number of rounds permitted in the Arms license.
- iii. The departmental officers already possessing fire-arms, on request, will also be allowed to purchase the ammunition, subject to the number of rounds of ammunition referred to in (ii) above.
- iv. The ammunition may be sold to officers after the production of valid Arms license and the fire-arm they possess.

15.2.4.4.Recovery of cost of weapons in the case of loss by departmental officers:

The following course of action may be taken in each case of reported loss of weapon, which is allotted to the Departmental officers:

- i. If a confiscated weapon leased to a departmental officer is lost for any reason, its replacement cost will be recovered from him immediately, i.e., regardless of any departmental action, at the rate fixed by the Customs department for sale of such weapon to the MPs/ VIPs, etc.
- ii. A departmental inquiry may be conducted against the officer, preferably after obtaining a report from the police regarding their inquiry under the Arms Act. In case the police inquiry points towards negligence or serious lapse or fraud on the part of the officer, a fine equivalent to the replacement cost of the lost weapon may be imposed on the officer, in addition to imposition of any other fine/ penalty/ punishment as may be contemplated under CCS(CCA) Conduct Rules, 1965.

- iii. The Directorate of Logistics should periodically conduct review of the leased weapons, in consultation with Commissionerates. In case where it is found that continuance of lease of weapon is not warranted, due to changed circumstances, the leased weapon should be surrendered by the allottee officer to the pool for re-allotment or sale to MPs/ VIPs.

15.2.4.5. Pricing of Weapons for the Sale to MPs/ VIPs:

- i. The pricing of Non-Prohibited Bore (NPB) weapons allotted to MPs/ VIPs will be made on the basis of the prevailing CIF prices of the similar weapons for import into India plus the Customs Duty leviable, prices, as illustrated below (Taxes as applicable will be chargeable on this price in addition).

Illustration: Suppose the C.I.F. price of a particular model of an NPB weapons is Rs. 8,000/-.
The Sale price of the said weapon shall be fixed/ determined as under:

a) C.I.F. price	Rs. 8,000/-
b) Customs Duty Ad-valorem as applicable	Rs.12,000/-
c) C.I.F. cum duty price (a) + (b)	Rs.20,000/-
d) 10% of C.I.F. cum duty price(c)	Rs. 2,000/-
e) Sale Price (c) + (d) (Taxes will be charged extra, as applicable)	Rs.22,000/-

- ii. Though normally no regular imports of weapons are permitted, but occasional release of the weapons to returning Indian diplomats, etc., on Transfer of Residence (TR) is permitted and the prices for duty purposes are being determined. These prices could be made use of for determining the likely CIF prices of identical/ similar models of weapons of the same manufacturer.
- iii. Wherever prices of particular models of weapons for sale by the Department to MPs/ VIPs are not easily forthcoming, the latest available price lists, as available on Internet could be taken into account. As these prices in the country of sale are generally inclusive of all taxes & incidentals, etc., an average deduction of 33% could be given over these prices for notionally arriving at the CIF prices for the particular models (or somewhat nearest comparable/ similar models) for import into India.

15.3. Disposal of Obsolete/ Obsolescent, Confiscated, Seized/ Recovered Fire Arms and Ammunition of Prohibited/ Non-prohibited Bores and Country-Made Weapons

As disposal of seized fire arms, which are obsolete/ obsolescent, is required to be done by the concerned offices in an effective manner and to avoid unnecessary piling up of weapons in Government Armories, the disposal of aforesaid categories of arms and ammunition shall be regulated in the manner indicated in the following paragraphs:

- i. First & foremost, the obsolete fire arms are required to be condemned. For this purpose, the procedure prescribed by the Army towards condemnation/ declaring unserviceability of the fire arms, being presently followed by some of the Central Para-Military Forces, may be adopted. A gist of such procedure, prescribed by **Ministry of Home Affairs, vide no.V-11020/14/96-ARMS (PB) and V-11020/7/97-Arms (PB) both dated 16.10.2001**, presently being followed in CRPF is given below:

“According to guidelines issued in the Electrical & Mechanical Engineering Regulations No.SA/ A-16.8 of Indian Army and Standing Order 11/ 76 of CRPF, an Electrical & Mechanical Assistant Engineer (Small Arms) [EMAE(SA)] is authorized to declare a fire arm unserviceable. In CRPF, the officers who have undergone EMAE(SA) course at the Army Training Centre, are called as Arms Inspector (SA) and made available to the Arms workshops. By virtue of the technical knowledge attained by them during the course, they are authorized to carry out technical examination of fire arms and sentence them unserviceable. The qualified Arms Inspecting Authority is acceptable as competent authority for conditioning the arms as unserviceable/ Beyond Economical Repair (BER).

A Fire arm can be declared unserviceable in the following circumstances:

- 1. In case of damage occurred due to accident/ failure caused during the firing. If a fire arm is damaged during the firing or accident, a board of officers is constituted to conduct a COI for investigating the circumstances under which the arm was damaged. Before finalizing the COI, a technical opinion is obtained from Ammunition Technician Officer/ Arms Inspection Authority (AIA) regarding the probable cause of damage. The AIA is required to furnish this report regarding the damage/ condition of the weapon in the proforma prescribed for this purpose.*
- 2. As per existing rules and regulations, technical inspection of arms is made once in a year by our AIA. During the inspection, if a weapon is found damaged, the AIA sentence the weapon as repairable or unserviceable, considering its condition. If an arm is sentenced unserviceable ‘not due to fair wear and tear’, the AIA suggest the concerned head of office to conduct a COI for investigating the circumstances under which the fire arms got damaged. During the technical inspection, the AIA follows the gauging limits/ standards as prescribed for declaring the weapon unserviceable. Further, in case of arm damaged ‘due to unfair wear and tear’, the AIA is supposed to give his recommendation considering the extent of damage and the cause of the weapon, as per existing rules.”*

The jurisdictional Commissioner may take the assistance of Engineers attached

to Army/ Central Para Military Forces in their jurisdiction in order to get the obsolete fire arms declared as unserviceable/ BER.

Precautions to prevent misuse of seized/ confiscated arms/ ammunitions

In order to prevent misuse of various categories of arms and ammunition confiscated forfeited, seized/ recovered by the Central Para Military Force/ the State Police Forces, there is a need to develop and ensure proper accountability regarding storage and registration of such weapons. For this purpose, all such weapons captured/ confiscated/ surrendered shall be taken on charge of memo of seizures, to be signed by the persons involved in the confiscation/ seizure/ capture. An FIR shall be lodged by the seizing authority with the nearest police station on the basis of memo of seizure explaining the complete circumstances of the case, for further necessary action, under the relevant provisions of law. The weapons shall be handed-over to the concerned authorities as per the Seizure memo. Keeping in view the safety of these weapons/ Arms/ Ammunition, their storage should normally not be allowed in the Police Stations. To ensure maximum safety of confiscated/ seized/ captured prohibited, prohibited bore and service pattern weapons, their storage should be done, centrally (e.g., in the respective State/ Force, Headquarters, under proper security, safety and supervision). For this purpose, a History Sheet with each weapon to indicate make, type of weapon, register number, brief circumstances of confiscation, capture, seizure, etc., shall be prepared and shall be kept as records, alongwith the memo of seizure. A specific time of three months for moving the lot of weapons from intermediate storage place to final place should be observed. The details of seizure, FIR lodged and confiscation orders obtained from competent courts shall be maintained by the State Police/ CPMF Headquarters and reported to the Ministry of Home Affairs.

Disposal of ammunition: *The instructions contained herein above shall mutatis-mutandis apply to the disposal of the corresponding categories of ammunition."*

- ii. The destruction/ defacing/ mutilation of weapons will be supervised by a Committee consisting of the Additional/ Joint Commissioner concerned, two officers of the rank of the Deputy/ Assistant Commissioner. The wooden butts can be broken and the metal part of the weapons can be destroyed by putting in furnaces after ensuring that there is no explosive material inside.
- iii. A record of weapons destroyed/ defaced/ mutilated should be maintained in the following Proforma:
 - i. Full nomenclature of weapon specifies caliber and type of weapons, i.e., revolver, pistol, shot Gun, rifle, stem carbine, etc.
 - ii. Registered number and manufacturer's particulars (i.e., firm name, country of origin, country made, etc.)

- iii. Reasons for confiscation/ surrender, giving full details of Owner, if any
- iv. Reasons/ authority for destruction, giving reference of competent authorities giving orders for destruction
- v. Details
- vi. Any other remarks, if any

Certified that the weapon, as stated above, has been physically destroyed/ defaced/ mutilated in-full, in our presence, to the extent that even the parts cannot be reused.

Signature & Designation of three officers:

- 1.
- 2.
- 3.

Date: _____

Place: _____

- iv The instructions contained herein above shall *mutatis-mutandis* apply to the disposal of corresponding categories of ammunition.

Form-27
(Refer Para 15.2.1(iii))

Statement of Stocks of Confiscated/ Forfeited Service Pattern and Prohibited Bore Arms

S. No.	Description of the weapon	Caliber	Whether the weapon is free from encumbrances or orders of competent Court for its use has been obtained	Indicate, if the weapon is serviceable or otherwise	Opening Stock	Stock added during the Month	Total	Stock transferred to CPO/ State Police during the Month, if any	Balance as on last day of the Month	Remarks. Indicate if this weapon is required by State Police for its use and state the number required
1	2	3	4	5	6	7	8	9	10	11

Form-28
(Refer Para 15.2.4.2(iii))

Undertaking for Loaning of Non-Prohibited Bore Arms to Departmental Officers

I, _____, son/ daughter of _____, resident of _____, hereby undertake to abide by the following stipulations made by the Government of India which may be changed or amended from time to time.

1. The loaned arm/ weapon/ Ammunitions will be returned when no longer required or in any case on my attaining superannuation or voluntary retirement or resignation or dismissal from service or any other natural calamity, whichever occurs earlier.
2. The Government of India is, and shall continue to be, the owner of the arm/ weapon/ Ammunitions and that this is given purely on loan-basis by the Government to me and that there cannot and shall not be a legal heir or successor or claimant for the loaned gun/ weapon/ Ammunitions to me.
3. In case of loss or damage or theft or accident or any other natural calamity or act of nature, I undertake to pay full price/ cost of the loaned arm/ gun/weapon/ ammunitions to the Government of India as determined by the Government of India.
4. I acknowledge that for the purpose of recovery of the cost, the same shall be calculated on the basis of the price plus the rate of the Customs duty as fixed by the Government from time-to-time and at any particular given situation.

My date of superannuation is _____

The Schedule

Description of weapon

Maker's Name

Description

S. Number

IN WITNESS WHEREOF the Mortgaging or/ Borrower has hereunto set his hand and Shri/ Ms. _____ for and on behalf of the President of India has hereunto set his hand.

* Signed by the said

(Name and designation of the borrower)

in the presence of

1. _____

2. _____

(Signature of Witnesses)

(Signature & Designation of the Borrower)

Signed by (Name and Designation)

for and on behalf of the President of

India in the presence of

1. _____

2. _____

(Signature of Witnesses)

(Signature & Designation of the Officer)

CHAPTER - 16

NARCOTICS

(Also Refer Drug Law Enforcement Field of Officers' Handbook on www.narcoticsindia.nic.in)

16.1. With a view to bring uniformity in approach in drawing samples from seized Narcotic drugs and Psychotropic substances, particularly with regard to the number of samples drawn, quantity of sample, method of sealing, mode of packing, dispatch of samples, etc., to the laboratory concerned for testing purposes as well as in the handling of drug samples at different stages and places and disposal of seized drugs, **a standard procedure is outlined in the Standing Order No. 1/89 dated 13.6.1989 issued by the Ministry under Section 52A(1) of the NDPS Act, 1985 read with NCB Standing Order No. 1/88 and 2/88 latter dated 11.04.1988. (These instructions are given in Appendix-III A, Appendix-III B and Appendix-III C)**

16.2. **Notification in F.No. V/2/2004-N.C.II dated 16.01.2015 (GSR 38(E)), prescribes in para-2(Appendix- III D) that all narcotic drugs, psychotropic substances, controlled substances and conveyances shall be disposed of under Section 52A of the said Act. Most of the narcotic drugs and psychotropic substances cannot be conclusively proved to be such drugs or substances merely by visual examination in the Trial Court and they require to be proved by Chemical analysis to be conducted by Chemists authorized under Section 293 of Cr. P.C. 1973. Notification No. 74 F.No.50/53/76-Ad.II dated 17th July 1976, as amended vide Notification dated 2nd February 1977, have declared Chemists of different grades working in Central Revenues Control Laboratories (CRCL) as Chemists to the Government for the purpose of Section 293 of Cr.P.C.**

16.3.As regards to materials, apparatus, utensils, any other articles (other than narcotic drugs, psychotropic substances, controlled substances and conveyances), seized along with Narcotic Drugs or Psychotropic Substances, or in respect of which any offence is punishable under Chapter IV of the Narcotic Drugs and Psychotropic Substances Act, 1985, they shall be dealt as per the provisions of the **Section 451 of the Criminal Procedure Code (Cr.P.C.)**, which is reproduced below:

“451. Order for custody and disposal of property pending trial in certain cases:

When any property is produced before any criminal court during any enquiry or trial, the court may make such order as it thinks fit for the proper custody of such property, pending the conclusion of the enquiry or trial, and, if the property is subject to speedy natural decay, or if it is otherwise expedient so to do, the court may after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation: For the purpose of this Section “property” includes-

- a. Property of any kind or document which is produced before the court or which is in its custody,*

- b. Any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offense.”*

16.4. Disposal/ destruction of seized drugs and compliance of Supreme Court Orders

16.4.1. The **Hon’ble Supreme Court, in its Order dated 11.04.12, in the case of UOI vs Mohanlal and Anr.** held that the hazardous nature of the substance seized in large quantities all over the country, must not be let loose on the society because of human failure or failure of the system, that is purported to have been put in place. Since the NDPS Act provides for pre-trial disposal of drugs (**Sec 52A of NDPS Act**), the post-trial disposal can also be done following the Court order. Accordingly, **Ministry, vide F.No.591/06/2012-Cus (AS) dated 07.08.2013**, the following action plan is stipulated:

- i. Principal Chief Commissioner/ Chief Commissioner to look into the matter personally and to ensure all-out efforts are made for disposal of narcotic drugs lying in Customs Malkhanas/ Godowns and pre-trial disposal applications are filed for issuance of order for disposal, either by way of destruction or disposal through designated authorities, from the courts.
- ii. Wherever the cases attained finality and the contraband seized are not destroyed, the same shall be disposed of as per guidelines expeditiously.
- iii. The officers dealing with NDPS cases may be asked to draw attention of the concerned Magistrates of the courts to the above Supreme Court’s orders while seeking orders for pre-trial disposal.
- iv. All jurisdictional Commissioners should chalk out time table for ensuring disposal of narcotic drugs and psychotropic substances lying in stock and ensure that the same is disposed of/ destroyed in a time-bound manner at the earliest possible, following the prescribed procedure.
- v. Principal Commissioner/ Commissioner, Directorate of Logistics shall monitor the progress of disposal/ destruction of narcotic drugs by the field formations and keep track of the records periodically by seeking reports from the field formations.
- vi. A consolidated quarterly report on details of disposal of contrabands seized under the NDPS Act 1985 shall be submitted to the Board by 15th day of the month succeeding the quarter.

16.4.2. **Notification G.S.R. 38(E) in F. No. V/2/2004-NC.II** indicates the procedure for disposal of all narcotic drugs, psychotropic substances, controlled substances and conveyances under **Section 52A of the NDPS Act**, as given in **Appendix-IIID**. Subsequently, vide its further **Order dated 28.01.2016 in Union of India vs. Mohanlal and Anr.**, the **Hon’ble Supreme Court had observed (in para 19) that there are certain differences between this Notification and the Standing Order No. 1/89, but held that the Notification G.S.R.38(E) in F. No. V/2/2004-NC.II would prevail to the extent of the differences therein. Accordingly, the following procedures are prescribed:**

16.5. General Procedure for Sampling, Storage, Etc.

16.5.1. **Sampling, classification, etc., of drugs:** All the drugs shall be properly classified carefully, weighed and sampled on the spot of seizure.

16.5.2. **Drawal of samples:** After seizure of the goods and deposit in the designated Godowns, the Investigating Officer shall apply to the Magistrate under **Section 52A of the NDPS Act 1985** in the manner prescribed. After such application to Magistrate under **Sub-Section (2) of Section 52A of the Act**, the Investigating Officer shall ensure that samples of the material seized are drawn in the presence of the Magistrate and certified by the Magistrate.

16.5.3. **Quantity to be drawn for the sampling:** The quantity to be drawn in each sample for chemical test shall not be less than 5 grams in respect of all narcotic drugs and psychotropic substances, save in cases of opium, ganja and charas (hasish), where a quantity of 24 grams in each case is required for chemical test. The same quantities shall be taken for the duplicate sample also. The seized drugs in the packages/ containers shall be well mixed to make it homogeneous and representative before the sample (**in duplicate**) is drawn.

16.5.4. Method of drawal:

16.5.4.1. **Single container/ package:** In the case of Seizure of a single package/ container, one sample (in duplicate) shall be drawn. Normally, it is advisable to draw one sample (in duplicate) from each package/ container in case of seizure of more than one package/ container.

16.5.4.2. **Bunch of Packages/ Containers:** However, when the packages/ containers seized together are of identical size and weight, bearing identical markings and the content of each package given identical results on color test by the drug identification kit, conclusively indicating that the packages are identical in all respects, the packages/ containers may be carefully bunched in lots of 10 packages/ containers, except in the case of ganja and hashish (charas), where it may be bunched in lots of 40 such packages/ containers. For each such lot of packages/ containers, one sample (in duplicate) may be drawn.

Bunching for:-

- i. **Hasish and Ganja:** Where after making such lots, in the case of Hashish and Ganja, less than 20 packages/ containers remain, and in the case of other drugs, less than 5 packages/ containers remain, no bunching will be necessary.
- ii. **Other drugs:** If such remainders are 5 or more than 5 in the case of other drugs and substances, and 20 or more in the case of Ganja and Hashish, one more sample (in duplicate) may be drawn for such reminder package/ container.

16.5.4.3. **Drawal of representative samples:** While drawing one sample (in duplicate) from a particular lot, it must be ensured that representative sample in equal quantity is taken from a

package/ container of that lot and mixed together to make a composite whole from which the samples are drawn for that lot.

16.5.5. Storage of samples- Procedure: The sample in duplicate should be kept in heat-sealed plastic bags, as it is convenient and safe. The plastic bag container should be kept in a paper envelope which may be sealed properly. Such sealed envelope may be marked as original and duplicate. Both the envelope should bear the S. No. of the package(s)/ container(s) from which the sample has been drawn. The duplicate envelope containing the sample will also have a reference of the Test Memo. The seals should be legible. This envelope which should also be sealed and marked 'Secret-Drug sample/ Test Memo' is to be sent to the chemical laboratory concerned.

16.5.6. Dispatch of samples for testing: The Seizing officers of the Central Government Departments, viz., Customs, Central Excise, CGST, Central Bureau of Narcotics, Narcotics Control Bureau, Directorate of Revenue Intelligence, etc., should dispatch samples of the seized drugs, with endorsement from the Magistrate, to one of the Laboratories of the Central Revenues Control Laboratory (CRCL) nearest to their office depending upon the availability of the test facilities.

16.5.7. Preparation of inventory: After sampling, detailed inventory of such packages/ containers shall be prepared for being enclosed with the Panchnama. Original wrappers shall also be preserved for evidentiary purposes.

16.6. Procedure for Receipt and of taking Custody of Drugs and their Storage

16.6.1. All drugs should invariably be stored in safes and vaults provided with double-locking system. Agencies of the Central and State Governments may specifically designate their Godowns for storage purposes. The Godowns should be selected keeping in view their security angle, proximity to courts, etc.

16.6.2. Maintenance of Godowns and procedure for depositing drugs: Such Godowns, as a matter of rule, shall be placed under the over-all supervision and charge of a Gazetted officer of the respective enforcement agency, who shall exercise utmost care, circumspection and personal supervision as far as possible. Each Seizing officer shall deposit the drugs fully-packed and sealed in the Godown within 48 hours of such seizure, with a forwarding memo indicating NDPS Crime No. as per Crime and Prosecution (C & P Register) under the new law, name of the accused, reference of Test Memo, description of the drugs, total no. of packages/ containers, etc.

16.6.3. Acknowledgement to be obtained: The Seizing officer, after obtaining an acknowledgement for such deposit in the format **(Form-29)** shall hand-over such acknowledgement to the Investigating officer of the case, along with the case dossiers for further proceedings.

16.6.4. Action to be taken by Godown in-charge before acceptance of drugs for deposit: The Officer-in-charge of the Godown, before accepting the deposit of drugs, shall ensure that the same are properly packed and sealed. He shall also arrange the package/ containers (case-wise and lot-wise) for quick retrieval, etc.

16.6.5. Maintenance of Godown Register: The Godown-in-charge is required to maintain Register wherein entries of receipt should be made as per format at **Form-30**.

16.6.6. Inspection by Inspecting Officers: It shall be incumbent upon the Inspecting Officers to make frequent visits to the Godown for ensuring adequate security and safety and for taking measures for timely disposal of drugs. The Inspecting Officers should record their remarks/ observations against Col. 15 of the Format at **Form-30**.

16.6.7. Prescription of periodical Reports and Returns: The Heads of the respective enforcement agencies (both Central and State Governments) may prescribe such periodical Reports and Returns, as they may deem fit, to monitor the safe receipt, deposit, storage, accounting and disposal of seized drugs.

16.6.8. Pre-trial disposal of drugs: Since the early disposal of drugs assumes utmost consideration and importance, the enforcement agencies may obtain orders for pre-trial disposal of drugs and other articles (including conveyance, if any) by having recourse to the provisions of sub-Section (2) of Section 52A of the NDPS Act.

16.7. Action by Police and Other Empowered Officers for Pre-Trial Disposal

16.7.1. Filing of Charge Sheet/ Complaint: Complaints by the respective enforcement agencies must be filed after completion of investigation, within the period stipulated by the NDPS Act, on a priority basis. This requires to meticulously adhered to.

16.7.2. Documents to accompany Application: While moving the Application under sub-Section (2) of Section 52 A of the NDPS Act, production of all seized articles/ drugs, etc., along with the Panchnama (in original) and detailed Inventory thereof, is essential. The inventory shall be complete in all respects and contain such particulars, as may be relevant to establish nexus/ identity of articles. The Chemical Analysis Report should also be simultaneously filed.

16.8. Procedure for Disposal

16.8.1. Relevant extracts (para 4 to 13) of the Notification dated 16.1.2015, are reproduced for compliance:

“4. Manner of disposal.

- (1) Where any narcotic drug, psychotropic substance, controlled substance or conveyance has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under Section 53 of the said Act or if it is seized by such an officer himself, he shall prepare an inventory of such narcotic drugs, psychotropic substances, controlled substances or conveyances as per Annexure 1 to this Notification and apply to any Magistrate under sub-Section (2) of Section 52A of the said Act as per Annexure 2 to this Notification within thirty days from the date of receipt of Chemical Analysis Report of seized narcotic drugs, psychotropic substances or controlled substances.

- (2) After the Magistrate allows the Application under sub-Section (3) of Section 52A of the said Act, the officer mentioned in sub-paragraph (1) shall preserve the Certified Inventory, photographs and samples drawn in the presence of the Magistrate as primary evidence for the case and submit details of the seized items to the Chairman of the Drug Disposal Committee for a decision by the Committee on the disposal, and the aforesaid officer shall send a copy of the details along with the items seized to the officer-in-charge of the Godown.

5. Drug Disposal Committee.

The Head of the Department of each Central and State drug law enforcement agency shall constitute one or more Drug Disposal Committees, comprising three Members each, which shall be headed by an officer not-below-the-rank of Superintendent of Police, Joint Commissioner of Customs and Central Excise, Joint Director of Directorate of Revenue Intelligence or officers of equivalent rank and every such Committee shall be directly responsible to the Head of the Department.

6. Functions.

The functions of the Drug Disposal Committee shall be to:-

- (a) meet as frequently as possible and necessary;
- (b) conduct a detailed review of seized items pending disposal;
- (c) order disposal of seized items; and
- (d) advise the respective Investigation Officers or Supervisory Officers on the steps to be initiated for expeditious disposal.

7. Procedure to be followed by the Drug Disposal Committee with regard to disposal of seized items.

- (1) The officer-in-charge of Godown shall prepare a list of all the seized items that have been certified under Section 52A of the said Act and submit it to the Chairman of the concerned Drug Disposal Committee.
- (2) After examining the list referred to in sub-paragraph (1) and satisfying that the requirements of Section 52A of the said Act have been fully complied with, the members of the concerned Drug Disposal Committee shall endorse necessary Certificates to this effect and thereafter that Committee shall physically examine and verify the weight and other details of each of the seized items with reference to the Seizure Report, Report of Chemical Analysis and any other documents, and record its findings in each case.

8. Power of Drug Disposal Committee for disposal of seized items.

The Drug Disposal Committee can order disposal of seized items up to the quantity or value indicated in the Table below, namely:

Sl. No.	Name of item	Quantity per consignment
1.	Heroin	5 Kg
2.	Hashish(Charas)	100 Kg
3.	Hashish Oil	20 Kg
4.	Ganja	1000 Kg
5.	Cocaine	2 Kg
6.	Mandrax	3000 Kg
7.	Poppy straw	Upto 10 MT
8.	Other narcotic drugs, psychotropic substances, controlled substances or conveyances	Up to the value of Rs. 20 lakh:

Provided that if the consignments are larger in quantity or of higher value than those indicated in the Table, the Drug Disposal Committee shall send its recommendations to the Head of the Department, who shall order their disposal by a High-level Drug Disposal Committee, specially constituted for this purpose.

9. Mode of disposal of drugs.

- (1) Opium, morphine, codeine and thebaine shall be disposed of by transferring to the Government Opium and Alkaloid Works under the Chief Controller of Factories.
- (2) In case of narcotic drugs and psychotropic substances other than those mentioned in sub-paragraph (1), the Chief Controller of Factories shall be intimated by the fastest means of communication available, the details of the seized items that are ready for disposal.
- (3) The Chief Controller of Factories shall indicate within fifteen days of the date of receipt of the communication referred to in sub-paragraph (2), the quantities of narcotic drugs and psychotropic substances, if any, that are required by him to supply as samples under Rule 67B of the Narcotic Drugs and Psychotropic Substances Rules, 1985.
- (4) Such quantities of narcotic drugs and psychotropic substances, if any, as required by the Chief Controller of Factories under sub-paragraph (3) shall be transferred to him and the remaining quantities of narcotic drugs and psychotropic substances shall be disposed of in accordance with the provisions of sub-paragraphs (5), (6) and (7).
- (5) Narcotic drugs, psychotropic substances and controlled substances having legitimate medical or industrial use, and conveyances shall be disposed of in the following manner:-

- (a) Narcotic drugs, psychotropic substances and controlled substances which are in the form of formulations and labelled in accordance with the provisions of the Drugs and Cosmetics Act, 1940 (23 of 1940) and Rules made thereunder, may be sold, by way of tender or auction or in any other manner as may be determined by the Drug Disposal Committee, after confirming the composition and formulation from the licensed manufacturer mentioned in the label, to a person fulfilling the requirements of the Drugs and Cosmetics Act, 1940 (23 of 1940) and the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) and the Rules and Orders made thereunder, provided that a minimum of 60% of the shelf-life of the seized formulation remains at the time of such sale;
- (b) Narcotic drugs, psychotropic substance and controlled substances seized in the form of formulations and without proper labelling shall be destroyed;
- (c) Narcotic drugs, psychotropic substances and controlled substances seized in bulk form maybe sold by way of tender or auction or in any other manner, as may be determined by the Drug Disposal Committee, to a person fulfilling the requirements of the Drugs and Cosmetics Act, 1940 (23 of 1940) and the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), and the Rules and Orders made thereunder, after confirming the standards and fitness of the seized substances for medical purposes from the appropriate authority under the Drugs and Cosmetics Act, 1940 (23 of 1940) and the Rules made thereunder;
- (d) Controlled substances having legitimate Industrial use may be sold, by way of tender or auction or in any other manner as may be determined by the Drug Disposal Committee, to a person fulfilling the requirements of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) and the Rules and Orders made thereunder;
- (e) Seized conveyances shall be sold-off by way of tender or auction as determined by the Drug Disposal Committee.
- (6) Narcotic drugs, psychotropic substances and controlled substances which have no legitimate Medical or Industrial use or such quantity of seized items, which is not found fit for such use or could not be sold, shall be destroyed.
- (7) Destruction referred to in sub-paragraph (b) of para (5) and in para (6) shall be by incineration, in incinerators fitted with appropriate air pollution control devices, which comply with emission standards and such incineration may only be done in places approved by the State Pollution Control Board or where adequate facilities and security arrangements exist and in the latter case, in order to ensure that such incineration may not be a health hazard or polluting, consent of the State Pollution Control Board or Pollution Control Committee, as the case may be, shall be obtained, and the destruction shall be carried out in the presence of the Members of the Drug Disposal Committee.

10. Intimation to the Head of the Department on destruction: The Drug Disposal Committee shall intimate the Head of the Department regarding the programme of destruction at least fifteen days in advance, so that, in case he deems fit, he may either himself conduct surprise checks or depute an officer for conducting such surprise checks and after every destruction operation, the Drug Disposal Committee shall submit to the Head of the Department a report giving details of destruction.
11. Certificate of destruction: A Certificate of destruction (in triplicate) containing all the relevant data, like Godown entry number, gross and net weight of the items seized, etc., shall be prepared and signed by the Chairman and the Members of the Drug Disposal Committee as per format at **Form-31** and the original copy shall be pasted in the Godown Register after making necessary entries to this effect, the duplicate to be retained in the Seizure Case File and the triplicate copy shall be kept by the Drug Disposal Committee.
12. Details of sale to be entered in Godown Register: As-and-when the seized narcotic drug, psychotropic substance, controlled substance or conveyance is sold by way of tender or auction or in any other manner determined by the Drug Disposal Committee, appropriate entry indicating details of such sale shall be made in the Godown Register.
13. Communication to Narcotics Control Bureau: Details of disposal of narcotic drugs, psychotropic substances, controlled substances and conveyances shall be reported to the Narcotics Control Bureau in the Monthly Master Reports.”

Form-29
(Refer Para 16.6.3)

Godown Receipt

RECEIVED (No.) _____ packages/ containers said to contain _____ (Description of Drugs)
sealed with the seal No. _____ of _____ (Name &
Designation) Seizing Officer and entered into Godown Register vide entry No. _____

Facsimile of the seal _____

Place:

Signature of the Officer

In-charge of Godown with

Full name & official seal

Date:

Time:

Form-30
(Refer Para 16.6.5)

Format of Register to be Maintained by the Godown-in-Charge

1. Godown entry S.No.....
2. N.D.P.S. Crime No.....
3. Description of drugs in the sealed packages/ containers and other goods, if any
4. No. of packages/ containers (drug-wise)
5. Quantity of drug (packages/ containers)
6. Particulars of the Test Memos.....
7. Name(s) and address(es) of accused.....
8. Name with official designation and address of Seizing/ Depositing officer.....
9. Facsimile of the seal put on the packages/ containers by the Seizing officer
10. Date and time of deposit
11. Particulars of exit and re-entry for exhibiting to court
12. Date and time of removal for disposal.....
13. Disposal particulars including destruction or dispatch to Central Government Opium factory...
14. Certificate of disposal including price payment particulars, from Government Opium factory, where applicable.....
15. Remarks of the Inspecting Officer(s)

Inspecting Officers: In the case of Central Enforcement Agency: (1) D.G.NCS, (2) Dy. D.G.NCB, (3) Narcotics Commissioner of India, (4) Dy. Narcotics Commissioners, (5) D.G. BSF, (6) Dy D.G. BSF, (7) Sr. Officers of CBI, (8) Principal Commissioner, Customs & Central Excise, (9) Commissioner, Customs & Central Excise, (10) Assistant Commissioner of Customs & Central Excise.

In the case of State Enforcement Agencies: (1) D.G. of Police, (2) I.G. of Police, (3) Dy. I.G.P., (4) Superintendent of Police, (5) State Excise Commissioners, (6) Dy. Excise Commissioners, (7) Superintendent of Excise and equivalent officer of State Government in the authorized department.

Form-31
(Refer Para 16.8(ii))

Annexure 3

CERTIFICATE OF DESTRUCTION

[See Paragraph 11 of Notification No. GSR 38 (E) dated the 16-01,2015 in F.No. V/2/2004-NC II]

This is to certify that the following narcotic drugs, psychotropic substances and controlled substances, were destroyed in our presence.

1. Case No.
2. Narcotic Drug / Psychotropic Substance / Controlled Substance:
3. Seizing agency:
4. Seizing officer:
5. Date of seizure:
6. Place of Seizure:
7. Godown entry number:
8. Gross weight of the drug seized:
9. Net weight of the narcotic drugs, psychotropic substances, controlled substances destroyed (after taking samples, etc.):
10. Where and how destroyed.

Signature(s), name(s) and designation(s) of Chairman/Members of the Drug Disposal Committee.

(Note: Other annexures are also prescribed in the draft seizure, sampling, storage and Disposal Rules circulated in 2018.)

CHAPTER - 17

Disposal of Miscellaneous Goods

17.1. Consumer Goods: The following guidelines are to be followed by department for disposal of confiscated/ seized goods:

- i. **Sale through Army canteen/ CSD:** It is reiterated that the Army authorities/ Military Canteens/ Canteen Stores Department (CSD) may be allowed purchase of confiscated/ seized goods, since they provide consumer goods of high quality to the troops, wherever they are situated. The earlier Instructions dated 10.2.64 issued in this regard, provide that confiscated goods, as much as can conveniently be made available, after meeting the earlier demands of Army authorities/ Military Canteens/ CSD and/ or the Consumers' Cooperative Stores, are to be offered to the Central Government Employees' Consumer Cooperative Society Ltd.
- ii. **Sale through NCCF/ KB/ Consumer Cooperatives:** Any lot of confiscated/ seized consumer goods of value **not exceeding Rupees Five lakhs** which are 'ripe for disposal' shall be offered to NCCF/ KB/ Other Central Government Employees' Consumer Cooperative Society/ Multi-State Consumer Cooperative Societies/ State Consumers' Cooperatives, subject to prescribed conditions. Most of these conditions had been prescribed in various instructions of the Board issued earlier and have been reiterated here:
 - (a) They should be functional for at least 10 preceding years and should submit Income-Tax Returns and VAT/ ST/ GST returns showing their activities in sale of goods to the consumers and that appropriate taxes have been duly paid and relevant laws/ Rules and Regulations are complied with.
 - (b) Only those Co-operative Societies or National/ State level Cooperative Federations, that are duly verified and certified as genuine, every year by an officer not-below-the-rank of AC, and those that have been duly registered under Multi-State Cooperative Societies Act, 2002 or concerned State Cooperatives Act, should be permitted to purchase the confiscated/ seized goods. The genuineness of Co-operative Societies/ Federations may also be verified through concerned Commissionerates or other field formations of this department, wherever required.
 - (c) They should be obliged to sell such seized/ confiscated goods directly to bonafide consumers.
 - (d) No 'pick and choose' of items would be allowed.

- (e) Seized/ confiscated consumer goods shall be offered on 'first-come-first-served' basis.
 - (f) Any lot of confiscated/ seized consumer goods of value exceeding Rs. Five lakhs shall not be sold directly to the aforesaid Cooperative Societies/ Federations and shall be sold by E-auction or auction-cum-tender basis.
 - (g) Complete accounts may be called for scrutiny by the department as-and-when necessary, to ensure that the seized/ confiscated goods, which are sensitive to smuggling are not misused; or to verify that their disposal has not been made to a single party/ individual; or to ensure that sale has not been made to any persons, wherein purchase vouchers, etc., had been misused by unscrupulous elements in legitimizing smuggling.
- iii. **Sale through e-auction/ Auction-cum-tender:** Confiscated/ seized goods of all other types and confiscated/ seized consumer goods **exceeding value of Rupees Five lakhs** in single lot, may be disposed through e-auction or auction-cum-tender, since it offers enhanced transparency and accountability for quick disposal of goods. In such e-auction or auction-cum-tender process, all persons including NCCF, KB, other CG Employees' Consumer Cooperatives, Multi-State/ State Cooperatives or National/ State level Cooperative Federations can also participate.

17.2. Foodstuffs seized for contravention of Food Safety and Standards Act, 2005 (FSSA): The following procedure may be followed for disposal of goods seized under the FSSA, 2005:

- i. In respect of small consignments comprising of goods unfit for consumption, their goods should be destroyed after confiscation.
- ii. In case of other consignments, the detention/ seizure may be reported to the local Food Safety and Standards Authority of India (FSSAI) officer for his opinion whether the consignment is unfit for human consumption. If the Director is of the opinion that the consignment is unfit for human consumption, the same should be confiscated and destroyed. If the consignment is reported to be misbranded, the party may be permitted to pay the fine in lieu of confiscation of the goods and clear them after confiscation after suitably re-branding the goods.
- iii. In no case should articles, the import of which is prohibited under FSSA Act, be auctioned.

17.3. Hazardous Waste: There are two categories of hazardous wastes: (a) banned and (b) regulated. The disposal of these two categories of hazardous waste shall be carried out under the supervision of the **Monitoring Committee constituted vide order No.23-16/96-HSMD-Vol.III dated 20.11.2003 of Ministry of Environment and Forests**, (HSM Division) on Hazardous Waste Management. Names and constitution of the Monitoring Committee is given in the said letter. Ministry of Environment and Forests may be contacted on the latest constitution of Monitoring Committee.

The Committee has been empowered to oversee the implementation of the **Hon'ble Supreme Court's orders on hazardous waste management in the WP No. 657 of 1995**. Accordingly,

- i. In respect of 'banned' category, they should be either re-exported, if permissible, or destroyed at the risk, cost and the consequence of the importer; and
- ii. Regarding those that are 'regulated' and are permitted for recycling and reprocessing within the permissible parameters by specified authorized persons, having the requisite facilities, vide the Rules as amended, may be released/ disposed of or auctioned as per Rules to the registered recyclers/ re-processors. Also, before allowing clearance for recycling and domestic use, clearance should be obtained from the Monitoring Committee on Hazardous Waste Management.

Hazardous Waste Rules 2016 and relevant Schedules can be accessed at <http://enfor.nic.in/> , under the sub-heading '*Divisions*', under which the Hazardous Waste Substances Management (HSM) Division is listed.

17.4. Trade Goods other than Hazardous chemicals/ wastes: Trade goods, like chemicals, industrial raw materials, machinery parts, motor vehicle parts, etc., other than hazardous chemicals, may be disposed of by *public auction/ e-auction-cum-tender*. Restrictions regarding requirements of license, if any, must be complied. Clearance from FSSAI should be obtained in respect of food articles. Chemicals, drugs, foods and food articles, which are time-expired should be destroyed under Customs supervision, after getting the destruction orders from the concerned officer.

17.5. Plants and Seeds: Abandoned/ confiscated/ unclaimed seeds and plants may be handed-over to the National Bureau of Plants Genetic Resources, New Delhi.

17.6. Live Stock: The live-stock is mentioned in Category-I goods and thus, should be disposed of, accordingly. Pending disposal, the same should be maintained departmentally. Where no such facility is available with the department, the livestock may be handed-over to the village head-man for proper maintenance before disposal.

17.7. Cattle: The **Hon'ble Supreme Court, vide its Order dated 04.08.2017, directed that the sale of cattle would be made in consonance with Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 (PCA Act)**. Under the PCA Act, the State Police Officers and not Customs officers, are empowered to make seizure and hence, the compliance of provisions of PCA Rules for sale of cattle can only be done by the State Police Officers. Accordingly, the Board has decided to discontinue auction of seized cattle, so as to comply with the Order dated 04.08.2017 of the Hon'ble Supreme Court. Therefore, Customs/ CGST officers should not take-over seized cattle from BSF and request BSF to hand them over to State Police. Further, in cases of seizure of cattle by Customs/ CGST Officers, the State Police Authorities should invariably be involved and the seized cattle may be handed-over to them who can sell/ dispose of the same in consonance with PCA Rules, 2017.

17.8. Wild-Life:

- i. All wild life trophies, animal parts, products etc., where no case is pending in a Court of law, may be offered to the Regional Wildlife authorities situated at Delhi, Mumbai, Chennai and Kolkata or the Chief Wildlife Wardens of the State for the purpose of using the same as specimens for Govt. organizations, public museums for education and awareness purpose or for exchange purpose with other countries, who are signatories to CITES (Convention of International Trade in Endangered Species) on Wild Fauna and Flora after obtaining permission from the jurisdictional Principal Chief Commissioner/ Chief Commissioner.
- ii. A few specimen/ samples of confiscated wild life trophies can be kept to impart training to officers in the Commissionerate. The Commissionerate/ Directorate may also enquire from NACIN/ Regional Training Institutes (RTI) and from the National Customs Museum at Goa, if they would be interested in keeping a few samples. Any such specimen retained has to be informed to the concerned Chief Wildlife Warden and if necessary, proper approval taken.
- iii. For wild life trophies, animal parts, products including skins, etc., which are on the verge of rotting should be destroyed by burning after due intimation and permission of the Wild Life Authorities and in their presence and subject to compliance of other provisions, relating to disposal of confiscated goods.

17.9. Antiquities:

- i. All confiscated antiquities, when they become 'ripe for disposal' should be handed-over to the Archaeological Survey of India (ASI) free-of-charge. It will be the responsibility of the Archaeological Survey of India to dispose of such antiquities by way of gifts to different Museums or Institutions, or if necessary, by other means.
- ii. For the purpose of handing-over such confiscated antiquities to the Archaeological Survey of India, the Principal Commissioner/ Commissioner will contact the local/ regional Superintending Archaeologists, Archaeological Survey of India, or Deputy Superintending Archaeologists, and provide them with a list of confiscated antiquities 'ripe for disposal'. The Superintending Archaeologists will make their own arrangements for taking over such antiquities. They will also give a proper receipt to the Custom House/ Commissionerate, indicating the details of antiquities received.
- iii. With a view to ensuring specialized care of seized antiquities in exceptional circumstances, specially where a seized antiquity is of national importance and the Archaeological Survey of India or their local/ regional Superintending Archaeologist makes a request in writing for delivery of such seized antiquity, the Principal Commissioner/ Commissioner may

also hand-over such seized antiquity to the local/ regional Superintending Archaeologist of the Archaeological Survey of India. In case of such seized antiquities handed-over to the Archaeological Survey of India, it will be clearly understood that they will not be available for open display either by the Archaeological Survey of India or such of the Museums or Institutions to whom they entrust the custody of such seized antiquities, until they have become due for formal transfer after becoming 'ripe for disposal' after confiscation. During the period the seized antiquity is in the custody of the Archaeological Survey of India before final transfer, it will be the Archaeological Survey of India's responsibility to look after them with due care to prevent any deterioration or damage or loss. The Archaeological Survey of India will also be responsible for releasing such seized antiquities in their custody to the Customs/ CGST authorities for inspection or production before the Adjudicating Authorities or the Courts, as may be required, until the final and formal transfer of the antiquities after confiscation, etc., is affected. It will be the responsibility of the Archaeological Survey of India to keep, as far as possible, such antiquities at Museums/ Institutions situated in the same town in which the office of the Adjudicating officer/ Court is located, so that those are easily available for adjudication/ Court case, etc.

- iv. If, after adjudication in any particular case, it is decided by the adjudicating authority or reversed in appeal/ revision or as a result of a Court order that the seized antiquity is not liable to confiscation, on the request of the Customs/ CGST authorities, the Archaeological Survey of India will return the antiquity to them.

17.10.Cigarettes of Foreign Origin: Seized/ confiscated Cigarettes should be disposed of by sale to NCCF/ Kendriya Bhandar and other Consumer Cooperatives or by e-auction. The following guidelines shall refer while disposing of Seized/ confiscated cigarettes of foreign origin:

- i. The cigarette packets shall have, inter alia, specified health warning to cover 85% of the principal display area of the package; 60% shall cover pictorial warning and 25% shall cover textual health warning; the placement of the warning; the language to be used on the package; every package of cigarette should have name of the product; name and address of the manufacturer or importer or packer; origin of the product (for imported goods); quantity of the product and date of manufacture. [Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA 2003) and the Rules framed thereunder, may be referred].
- ii. Cigarette packets shall have the name and address of the manufacturer or packer or importer and the month and year in which the commodity is manufactured or pre-packed or imported [The **Legal Metrology Act, 2009** and the **Legal Metrology (Packaged Commodity) Rules, 2011** refer.]

- iii. Every seizure must be investigated, with regard to counterfeiting and where found to be illicitly manufactured, they must be destroyed in terms of Rule 11 of the Intellectual Property Rights Rules 2007 (IPR Rules).
- iv. Precaution may also be taken to comply with the statutory provisions of the **Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA 2003)** and the Rules framed thereunder. The **Ministry of Health and Family Welfare, vide Notification GSR 727 (E) dated 15.10.2014 notified the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment (COTP) Rules, 2018, which came into effect from 01.04.2018 [GSR. 283 (E) dated 26.03.2018]**. The COTP Rules are strict in nature and their compliance requires that the printing of pictorial and textual warning on Cigarette packets is in specified format, colours, resolution, font and language.
- v. Further, the **MoH&FW vide Cigarettes and other Tobacco Products (Packaging and Labelling) Second amendment Rules, 2018 notified by G.S.R. 331 (E) dated 03.04.2018** has specified a new set of health warnings which came into force on the 1st day of September, 2018.
- vi. In addition to the existing statutory requirements, compliance of the amendment in health warning specifications prescribed by **COTP Amendment Rules, 2018** may also be ensured, before clearance of import consignments or disposal of seized/ confiscated tobacco products, including cigarettes.
- vii. The cigarette packets which do not comply with the provisions of laws should not be released for home consumption in the domestic market and should be destroyed. Such destruction shall be carried out in compliance of Pollution Control laws in force, in consultation with the respective State Pollution Control Boards.

17.11. Fertilizers: Seized/ Confiscated fertilizers may be sold to any public undertaking, authorized to import the same by the Ministry of Fertilizers & Chemicals, at the price fixed by the said Ministry currently, subject to such discount also fixed by the Ministry. Provisions of the Fertilizer Control Order, 1985, need to be adhered to as well.

17.12. Petroleum products: Seized/ Confiscated petroleum products such as HSD, Motor spirit, etc., being canalized products may be sold to Public Sector Undertaking (PSUs) having a refinery, such as BPCL, HPCL, IOC, etc., in accordance to the Ministry of Petroleum & Natural Gas Instruction No.P-21027/29/2001 dated 21.12.2001 at S.No. (4), which stipulates that in the absence of any specific commercial understanding, the price of the off-spec product inclusive of all duties and taxes payable by the refinery, would be the Refinery Gate Price (RGP) of furnace oil (180 centi-stokes) applicable at the time of receipt of product at the refinery.

17.13. Cylinders filled with refrigerant gases: In accordance to the Corrigendum dated 15.02.2011 to the Circular No. 9/20009 dated 19.06.2009, seized or confiscated cylinders filled with refrigerant gases, viz., CFC-11, CFC-12, HCFC-22 and other Ozone Depleting Substances (ODS) as given in Schedule 1 of the Ozone Depleting Substances (Control & Regulations) Rules, 2000, may be disposed of to one of the authorized/ approved refrigerant filling plants, provided they are specifically permitted in writing to decant such gases in approved cylinders by the Chief Controller of Explosives. The intimation to this effect may be given to the Director (Ozone), Ministry of Environment & Forest, who will ensure that the corresponding quantity is, accordingly, debited from the prescribed quota of the concerned manufacturer. The following firms are duly authorised to handle disposal of seized/ confiscated cylinders filled with refrigerant gases:

- i. M/s SRF Ltd., A-16, Aruna Asaf Ali Marg, Qutab Institutional Area, New Delhi.
- ii. M/s Chemplast Sanmar Limited, 8, Cathedral Road, Chennai-600 086.
- iii. M/s Gujarat Flurochemicals Limited, A-6, Connaught Place, New Delhi.
- iv. M/s Navin Fluorine Industries Ltd., 7th Floor, Mafatlal Centre, Nariman Point, Mumbai-86.

17.14. Muriate of Potash (MoP) seized/ Following Guidelines Shall be applicable for disposal of MoP:

- i. The field formations may get the stock of seized/ confiscated MoP inspected by the Fertilizer Inspector of Central Fertilizer Quality Control and Training Institute (CPQCTI), Faridabad and its 3 Regional Fertilizer Testing Laboratories at Chennai, Kalyani Distt. Nadia (West Bengal) and Navi Mumbai, to ascertain whether it is Standard Grade Fertilizer or Non-Standard Grade Fertilizer. Their contact details are as follows:
 - a. The Director, Central Fertilizer Quality Control and Training Institute, N.H. IV, Faridabad, Haryana (Phone no. 0129-2414712, e-mail: cfgcti@nic.in)
 - b. The Deputy Director, Regional Fertilizer Control Laboratory, P.B. Madhavaram Milk Colony, Chennai 600051, Tamil Nadu (Phone no. 044-25552744, e-mail: fqcttn01@nic.in)
 - c. The Deputy Director, Regional Fertilizer Control Laboratory, Plot No. 28-29, Sector 24, Turbhe, Navi Mumbai-400703 (Phone no. 022-27838425, e-mail: rfclnavimumbai@gmail.com)
 - d. The Deputy Director, Regional Fertilizer Control Laboratory, B.C.K.V. Campus, PO. Kalyani-741235, Distt, Nadia (West Bengal) (Phone no. 033-25829291, email: rfclkalyani@gmail.com)
- ii. Alternatively, the field formations may get the stock inspected by the Competent Authorities of the State Government concerned as well. The Commissioner/ Director of Agriculture, Government of State concerned, may be contacted in this regard.

- iii. Standard fertilizer grade MoP may be disposed through e-auction via MSTC or any other agency approved by the Board; such e-auction shall be restricted to Fertilizer Manufacturers, Mixture Manufacturers and Research Institutions concerned with agriculture/ horticulture.
- iv. Non-Standard grade MoP shall be sold only to Fertilizer Mixture Manufacturers, in terms of clause 13 of the **Fertilizer Control Order (FCO) 1985**, who can use it as raw material for manufacturing the NPK Mixtures of Fertilizers. Disposal of Non-standard fertilizer to industrial units is not permissible under FCO 1985.
- v. The formations may take efforts to reach out to the Fertilizer Manufacturers, Research Institutes and Mixture Manufacturers informing about the MoP availability and requesting them to participate in the auction. In the event of not getting adequate response in e-auction, physical tender method can be resorted to.
- vi. A copy of e-Auction Notice and final Disposal Order should be endorsed to the DoF and the DAC on the following addresses:
 - a. The Director/ Under Secretary, Department of Fertilizer (DOF), Ministry of Chemical & Fertilizers, Shastri Bhawan, New Delhi 110001;
 - b. The Director/ Under Secretary, Department of Agriculture Cooperation & Farmers Welfare (DAC), Ministry of Agriculture & Farmer's Welfare, INM Division, Krishi Bhawan, New Delhi 110001.
- vii. Field formations should also ensure that no parallel investigation from any agency is pending (including investigation with respect to subsidy), before disposal of the stock of MoP, which is 'ripe for disposal.'

17.15 Seized/ confiscated foreign origin liquor

17.15.1. The field formations brought to the notice of the Board, the following difficulties in disposing of seized/ confiscated foreign origin liquor namely:

- i. Lack of response from Canteen Store Department (CSD) or from other Defence Establishments;
- ii. Lack of response from other bidders on account of problems associated with getting clearances from:
 - (a) State Excise Department;
 - (b) Food Safety and Standards Authority of India (FSSAI);

- iii. Denial of permission to sell by State Excise Authorities;

17.15.2. The matter was examined in consultation with Food Safety and Standards Authority of India (FSSAI) & Canteen Stores Department (CSD).

17.15.2.1. At present, CSD is buying liquor of foreign brands directly in bulk quantity. As the seized/ confiscated liquor is in assorted brands and in different quantities, they are not in a position to buy the stock from Customs.

17.15.2.2. FSSAI has stated that:-

- i. As per **Food Safety and Standards (Import) Regulations, 2017**, the Authorised Officer shall follow the procedure of inspection, sampling, testing and clearance, laid down under these Regulations, for disposal of all cases of uncleared or unclaimed articles of food;
- ii. FSSAI has also categorically emphasized that without obtaining a “No Objection Certificate” (NOC) from FSSAI, the imported food products including seized/ confiscated foreign-origin Liquor should not be released to the market for sale/ consumption and if sampling is not feasible in cases of seized lots/ batches of one or two bottles, then such stock shall be destroyed by the Customs;
- iii. FSSAI has also informed that there is provision to minimize the cost of sampling of imported high priced alcoholic beverages. As per their **Order F. No. 1-1619/ FSSAI/ Imports/ 2016 dated 06.03.2017 (Appendix-IV)**, a miniature/ representative sample of 100 ml (in two numbers) will be taken for laboratory analysis;
- iv. FSSAI has also clarified that there is no de-minimus clause/ exemption from testing of small lots.

17.15.3. In view of the above, the following guidelines were issued:

17.15.3.1. The Principal Commissioner/ Commissioner shall constitute Liquor Disposal Committee headed by a Chairman of the rank of Additional/ Joint Commissioner and with the following members, namely, Deputy/ Assistant Commissioner in-charge of the Warehouse/ Disposal, any other Deputy/ Assistant Commissioner, Superintendent in-charge of Warehouse/ Disposal and any other Superintendent of Customs.

17.15.3.2. The functions of the Liquor Disposal Committee shall be to:

- i. meet as frequently as possible and necessary;
- ii. conduct a detailed review of seized/ confiscated liquor pending disposal;

- iii. order disposal of seized/ confiscated liquor; and
- iv. advise the respective investigation Section/ Agency on the steps to be initiated for expeditious disposal of seized/ confiscated liquor.

17.15.3.3. The officer-in-charge of Warehouse shall prepare a list of all the seized/ confiscated liquor that have become 'ripe for disposal' and submit it to the Chairman of the concerned Liquor Disposal Committee. The Liquor Disposal Committee shall satisfy itself that the consignments are 'ripe for disposal', shall endorse necessary documents and thereafter, that Committee shall physically examine and verify the lot size, weight and other details of each of the seized/ confiscated consignments and record its findings in each case.

17.15.3.4. The nearest FSSAI office shall be approached for sampling, testing and obtaining NOC for disposal of stock of Liquor which is 'ripe for disposal'.

17.15.3.5. Modes of disposal are as follows:

- i. The stock of liquor for which NOCs from the nearest FSSAI office are obtained, shall be disposed of through e-auction inviting qualified bidders, who shall in turn comply with the applicable State Excise Laws;
- ii. If it is not possible to obtain NOC from FSSAI for the reasons such as difficulty in sampling due to small lot size, etc., such stock shall be destroyed.

17.15.3.6. If the stock is to be destroyed in terms of the para above, the procedure similar to the one notified for destruction of Narcotics and Psychotropic Substances (NDPS) as per the **NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2016**, or such Rules notified by Department of Revenue from time to time, may be followed.

17.15.3.7. The Liquor Disposal Committee shall intimate the Principal Commissioner or Commissioner concerned regarding the programme of destruction at least fifteen days in advance so that, in case he deems fit, he may either himself conduct surprise checks or depute an officer for conducting such surprise checks; and after every destruction operation, the Liquor Disposal Committee shall submit to the Principal Commissioner or Commissioner, a report giving details of destruction.

17.15.3.8. A Certificate of Destruction shall be prepared in triplicate and signed by the Chairman and Members of the Liquor Disposal Committee. The format of the Certificate is given at **Form 32**. The original copy of the Certificate of destruction shall be pasted in the Warehouse Register after making necessary entries to this effect, the duplicate to be retained in the seizure case file and the triplicate copy shall be kept by the Chairman of the Liquor Disposal Committee.

17.16 . Unmanned Aircraft Systems (UAS)/ Unmanned Aerial Vehicle Systems (UAVS)/ Remotely Piloted Aircraft Systems (RPAS)/ Drones (CBIC Circular-32/ 2019-Customs, dated 20.09.2019)

17.16.1. Unmanned Aircraft Systems (UAS)/ Unmanned Aerial Vehicle Systems (UAVS)/ Remotely Piloted Aircraft Systems (RPAS)/ Drones, (herein-after referred to as 'Drones') of various frequencies brought by the passengers at different Airports or at FPOs, etc., in contravention of the statutory requirements, are being absolutely confiscated as per legal process. Accordingly, the Customs field formations sought Board's guidelines for the disposal of such confiscated Drones.

17.16.2. The matter was examined in consultation with the regulatory agencies, such as the Director General of Civil Aviation (DGCA), the Wireless Planning and Coordination (WPC) Wing of Ministry of Communications and Information Technology and the Ministry of Home Affairs (MHA). During such consultation, the following points emanated, namely:

- i. DGCA's Drone guidelines on '**Requirements for Operation of Civil Remotely Piloted Aircraft System (RPAS)**', which are available at <http://dgca.nic.in/cars/D3X-XI.pdf> prescribe the regulatory requirements and procedure relating to license and operation of Drones.
- ii. The Drones owned/ operated by National Technical Research Organisation (NTRO), Aviation Research Centre (ARC) and Central Intelligence Agencies are exempted from obtaining UIN.
- iii. The Drones are required to get Equipment Type Approval (ETA) from WPC Wing. There is no exemption to any agency/ organisation in this regard.
- iv. The MHA has categorically directed that the Drones should not be auctioned/ sold as such or even in dismantled condition in the open market and that due to security reasons, these should be handed-over to the Defence/ Security Forces only.

17.16.3. On its part, the Integrated Financial Unit (IFU) of the Ministry of Finance has concurred with the proposal for transfer of such Drones to the eligible agencies within the Government, free of charge on *gratis-basis*.

17.16.4. In the circumstance, the following guidelines have been prescribed for disposal of confiscated Drones which are 'ripe for disposal':

17.16.4.1. All the formations shall prepare an inventory of Drones, available as on date, according to their type, make, model, etc. The drones will be classified in accordance with the DGCA guidelines. Para 3.1 of these guidelines provides the categorization of the Drones, as follows:

"3.1 Civil RPA is categorized in accordance with Maximum All-Up-Weight (including payload) as indicated below:

- i. Nano: Less than or equal to 250 grams.
- ii. Micro: Greater than 250 grams and less than or equal to 2 kg.
- iii. Small: Greater than 2 kg and less than or equal to 25 kg.
- iv. Medium: Greater than 25 kg and less than or equal to 150 kg.
- v. Large: Greater than 150 kg.”

17.16.4.2. All the Drones of all the categories shall be transferred to the Warehouses of the following Customs formations, namely, Chennai (Airport), Delhi (IGIA), Kolkata (Airport) and Mumbai (Airport), which shall be the focal Commissionerates for stocking, segregation, joint inspection by all agencies and distribution. For this purpose, all the Customs Zones have been mapped to these focal Commissionerates as indicated below:

S. No.	Customs / CGST Zone	Focal Customs Commissionerates
1.	Chennai, Tiruchirappalli (P), Thiruvananthapuram (Kochi), Bengaluru, Visakhapatnam, Hyderabad	Chennai (Airport)
2.	Kolkata, Bhubaneshwar, Guwahati, Patna (P)	Kolkata (Airport)
3.	Mumbai-I, Mumbai-II, Mumbai-III, Pune, Ahmedabad, Nagpur	Mumbai (Airport)
4.	Delhi, Delhi (P), Bhopal	Delhi (IGIA)

17.16.4.3. The Customs formations shall only transfer the stock of Drones that is ‘ripe for disposal’. Adequate precaution shall be taken so that no pilferage/ loss takes place during such transfer. The Superintendent in-charge of Warehouse shall prepare the list of Drones and get the approval of the Principal Commissioner/ Commissioner concerned before such transfer. The list of Drones shall contain category, type, make, quantity and any other information which may be available on the package; due acknowledgement of receipt of the Drones at the destination Focal Customs Commissionerates and a corresponding receipt entry shall be made in the Warehouse/ Disposal Register. The Proformas for maintaining a record of the transfer and acknowledgement are given at **Form-33**. Copies shall be kept by the Warehouse Sections of the transferring Customs Zones and Focal Customs Commissionerates.

17.16.4.4. At the Focal Customs Commissionerates, the general principle of identification, segregation and distribution of the stock of the seized/ confiscated Drones shall be as follows:

- i. In regard to the stock of the Drones that is presently available, the following action will be taken:

- a. The requirements of DRI and the Customs field formations shall be met first from the available stock of Drones. For this purpose, any Customs field formation requiring the Drones for their operational purpose shall make a request to DGRI, which shall make a recommendation for approval to the Board. After such approval, the DRI may include the requirement of the field formation(s) to its own requirement for determining their total requirement; and convey the same to all the Focal Customs Commissionerates.
 - b. The Focal Customs Commissionerates shall intimate DRI and the approved Customs field formation about the availability/ receipt of the Drones, and the DRI/ Customs field formation will then identify and take possession of the Drones as per their requirement.
 - c. The remaining stock of Drones will be distributed equally between MOD & MHA (and their constituent organizations/ Agencies) after a joint inspection that will be conducted by the nodal officers of MOD and MHA (or their representatives).
- ii. As regards the future stock of the Drones that are received by the Focal Customs Commissionerates from time to time, requirements of DRI and Customs field formations shall be met first. Thereafter, the MOD & MHA (and their constituent organizations/ Agencies) shall be invited for a joint inspection to be conducted by the nodal officers of MOD and MHA (or their representatives) bi-annually in the second/ third week of January and July. In case either Ministry does not turn up for such joint inspection or forgoes its quota, the same would be made available to the other.
 - iii. In the event, the DRI (or Customs field formation) does not require any Drones, the same shall be intimated by the DRI to the Focal Customs Commissionerate and the available stock will then be distributed equally between the MoD & the MHA (and their constituent organizations/ Agencies.). In case either Ministry forgoes its quota, the same would be made available to the other.
 - iv. For the joint inspection and segregation of the Drones by different agencies:
 - a. The Additional/ Joint Commissioner of Customs in-charge of Warehouse and disposal of the Focal Commissionerate shall be the contact point for coordination with DRI, MOD and MHA;
 - b. The Additional Director/ Joint Director (Policy), DRI-Headquarter or the Additional/ Joint Director of Zonal Unit nominated by DG-DRI shall be the nodal officer for the DRI; and
 - c. The Nodal officers of MOD and MHA are given at **Appendix-V**.
 - a. MOD and MHA will communicate the change of the Nodal Officers (or authorized

representatives) as-and-when such change happens, to the Commissioner (Investigation – Customs), CBIC. The Nodal officers shall preferably be at the level of Director/ Deputy Secretary.

- b. The Additional/ Joint Commissioner of Customs in-charge of the Warehouse and Disposal of the Focal Customs Commissionerate will intimate the date and time of such inspection well in advance to the agencies concerned and such date shall be mutually convenient for all the agencies;
- c. The transfer of the Drones within the CBIC as well as to MOD and MHA is subject to the following conditions:
 - i. The Drones shall be supplied on gratis basis (free of cost), on 'as-is-where-is' condition;
 - ii. It will be the responsibility of the recipient to comply with all the regulatory requirements as mentioned above and DGCA conditions/ restrictions regarding possession and utilization of the Drones. The recipient shall produce all the necessary documents to this effect to the Additional/ Joint Commissioner of Customs concerned at the Focal Customs Commissionerate at the time of taking over of the Drones;
 - iii. No Drone would be resold after the end of their life or when they become obsolete or irreparable. Such Drones shall be destroyed by all the recipient;
 - iv. Proper acknowledgement shall be obtained and kept by the respective Focal Customs Commissionerate upon transfer of Drones to the recipients mentioned above. Such acknowledgment shall contain the details of the Drones including the category, type, make, quantity and any other information which may be available on the package. A Proforma in this regard is given at **Form-34**.
 - v. Upon transfer of the Drones, a suitable entry to this effect shall be made in the Warehouse Register at the Focal Customs Commissionerate.

Form- 32

(Refer Para 17.15.3.8.)

CERTIFICATE OF DESTRUCTION OF FOREIGN ORIGIN LIQUOR

(in triplicate)

This is to certify that the following lot of liquor were destroyed in our presence.

S.No	Case Details (File Number)	Details of the goods	Seizing agency	Date of seizure	Place of Seizure	Warehouse entry number	Quantity (in bottles)	Quantity (in Liters)

2. Where and how destroyed.

Signature(s), name(s) and designation(s) of Chairman/ Members of the Liquor Disposal Committee.

Form-33

(Refer Para 17.16.4.3.)

Document for Transit Acknowledgment for Confiscated Drones

S. No.	Category	Make/ Type	Any other R e l e v a n t I n f o r m a t i o n Available on the Package	Quantity (in number)
(1)	(2)	(3)	(4)	(5)

Signature:

Date:

Name:

Designation: Superintendent of Customs,

Warehouse Section,Commissionerate

Acknowledgement

Received total..... Drones, as listed above, after checking and tallying with the entries mentioned in the above table.

Signature:

Date:

Name:

Designation: Superintendent of Customs,

Warehouse Section,

.....Commissionerate

Form-34

(Refer Para -17.16.4.4.(iv)(c)(c)(iv))

Transfer of Confiscated Drones to Recipient

S. No.	Category	Make/Type	Any other Relevant Information Available on the Package	Quantity (in number)
(1)	(2)	(3)	(4)	(5)

Acknowledgement

Handed over and received stock of drones after checking and tallying with the entries mentioned in the above Table.

Officer Handing over

Signature:

Date:

Name:

Designation: Additional/Joint
Commissioner of Customs, Warehouse
Section,Commissionerate

Officer Receiving

Signature:

Date:

Name:

Designation: (*Not less than the rank of Director/
Deputy Secretary*)

Agency:

Ministry:

APPENDIX – I

(Refer to Para 14.1.2)

M/F Deptt. of Rev. F. No. 545/1/78-L.C.I dated the 21st December, 1978.

Subject: P.A.C. Recommendations contained in para graphs 3.70, 3.71, 3.72. 3.74 and 3.75 of the 76th Report of the PAC (6th Lok Sabha) – issue of instructions – Reg.

I am directed to enclose a copy of the paragraph 3.70, 3.71, 3.72, 3.74 and 3.75 of the 76th Report of the Public Accounts Committee (6th Lok Sabha) regarding para 17 of the Audit Report for 1975-76 relating, inter-alia, to the loss of revenue to Government due to under-valuation of seized drug 'Frusemide' which was disposed of in auction sale.

2. In para 3.70, 3.71 and 3.72, the Public Accounts Committee have desired issue of (i) suitable instructions to ensure that Appraisers are not allowed to assume excessive powers and (ii) necessary guidelines regarding functioning of the Valuation Committee to safeguard against the lapses resulting in loss of revenue to Government due to under-valuation, as was noticed in the disposal of the seized drug 'Frusemide'.

In para 3.74, the Committee has recommended issue of suitable instructions by the Board so that representatives of the canalising agencies invariably participate in the deliberations of the Valuation Committee, as and when canalised items are to be valued by them.

In para 3.75, the Committee has desired that responsibility should be fixed for the lapses in not consulting the Drugs Controller on the question whether the Drug 'Frusemide' was damaged or not, and necessary instructions issued to ensure that a Certificate of the competent authority is obtained invariably in such cases in future.

3. The Directorate of Inspection (Customs and Central Excise) were asked, inter-alia, to look into the above procedural lapses and suggest suitable recommendations on the general procedure for disposal of seized/ confiscated goods. In the report submitted by them, the Directorate of Inspection (Customs & Central Excise) have observed that the instructions issued from time to time which are presently in regarding fixation of "fair price", are clear and unambiguous and it was because these instructions were not properly followed while disposing of the confiscated drug referred to above that it became the subject matter of an Audit Para. They have particularly referred to the instructions contained in Board's letter no.

* i) F. No. 4/63/57-Cus.III/Cus. IV dated 7.9.1961 (Sl. No. 24)

- * ii) F. NO. 30/51/66-LCI dated 7.1.1967 (Sl. No. 66)
- * iii) F. No. 30/69/67-LCI dated 23.9.1967. (Sl. No. 72)

they have also stated that instructions contained in para 34** on pages 1493 – 1495 of the Central Manual of the Appraising Department. Volume IV, and in Para 758* of the Manual of the Preventive Department of the Bombay Customs House (Extracts enclosed) relating to exercise of powers by various officers for fixation of fair prices and for acceptance of bids at auction should be reiterated for compliance. Accordingly, you are requested to issue suitable instructions to the formations under you for strict compliance of these instructions.

4. As regards seized medicines/drugs, it is necessary to impress upon the staff that the Assistant Drugs Controller should be consulted, without fail, at different stages from the time of seizure till disposal, particularly in regard to identification of the medicine/drug, its physical condition and quality, and valuation. As observed by the Public Accounts Committee in para 3.75 referred to above, before such items are disposed of, it is imperative that a Certificate from the competent authority is obtained for ascertaining whether the medicine/ drug in question was damaged or deteriorated and also whether it was fit for human consumption.

As modification and drugs which are seized, are often found to have a limited period of potency or are likely to deteriorate on storage, their expeditious disposal may be considered in consultation with the Assistant Drug Controller.

5. As observed by the PAC in para 3.74, it is also necessary to ensure that while making market enquiries in respect of canalised items, representatives of the concerned canalising agencies are also invariably consulted in regard to fixation of fair prices.
6. Receipt of this letter may please be acknowledged.

(*Pl. See Appendix – I)

(**Pl. See Appendix – II)

RECOMMENDATIONS OF THIS COMMITTEE.

3.70 The Committee find that the fair price of Rs. 40,000/- was fixed for the frusemide by the Appraiser of the Bombay Custom House and the same was accepted by the Valuation Committee consisting of two Assistant Collector and a Warehousing inspector besides the Appraiser himself. The Valuation Committee accepted the price as fixed by the Appraiser as a matter of course without any effort to make independent enquiries about price which could be most advantageous to the Government. According to the Finance Secretary “had any elementary market enquiry been made, they could never fix the price of Rs. 40,000/-.” This has resulted in defrauding the national Exchequer to the tune of about Rs. 2.31 lakhs in a single case.

3.71 The Committee desire that suitable instructions may be issued forthwith to ensure that Appraisers are not allowed to assume excessive powers in order to obviate the recurrence of similar cases in future.

3.72 The Committee also feel that there is need to issue necessary guidelines regarding functioning of the Valuation Committee to safeguard against such lapse.

3.74 The Committee finds that no guidelines have been prescribed for the valuation of canalised items. Also the representative of the State Trading Corporation does not participate in the deliberations of the Valuation Committee in respect of canalised items. The imports of canalised items are regulated only through canalising agencies, like State Trading Corporation, etc. who are the appropriate authorities which keep abreast of the latest price, etc. of the canalised items. The Committee feels that in these circumstances, it is very essential that a representative of the canalising agency should participate invariably in the deliberations of the Committee as and when the canalised items are to be valued by them. They accordingly recommend that suitable instructions for the purpose may be issued by the Board for compliance by the concerned authorities.

3.75 The Committee has informed that at the time of the disposal of the drug, the Appraiser had recorded in the regular "container damaged". However, no Certificate was obtained by the Department from the competent authority, i.e. Drug Controller, in regard to the damage of the drug. The evidence that was given before the Committee was quite vague and perfunctory and there can be doubt as to whether there was any serious damage at all. Explaining the reasons thereof, the department of Revenue have intimated that 'it appears that it was an administrative failure'. The Committee cannot view with equanimity the unconcern of the Customs in disposing of the drug which in this case was purchased by a manufacturer of drug and could cause health hazard, if it was really damaged. The Committee desires that responsibility for this lapse should be fixed and necessary instructions issued to ensure that Certificate of the competent authority is obtained invariably in such cases in future.

Appendix – II

(Refer to Para 14.2)

Copy of Drugs Controller Letter No. X-11038/50/80-D dated 9.12.1980.

Sub: Disposal of confiscated drugs

You must have been receiving requests from Customs and Excise authorities for advice on disposal of drugs seized by the land customs and excise authorities. This question also came up for discussion in the meeting of Public Accounts Committee of Parliament. It is desirable that an uniform policy regarding the State Drugs Control Authorities. The following procedure is suggested:-

1. Whenever a request is received from the Land Customs or Excise authorities for advice on the disposal of confiscated drugs, a Drug Inspector may be deputed to inspect the consignment to see whether the containers of the drug are damaged so as to effect the quality of the drug and whether the containers are labelled with the essential particulars such as the name of the drug, name of the manufacturer; date of the manufacture and date of expiry in the case of drugs having a limited life period.
2. If, on inspection, the Drug Inspector reports that the containers are damaged so as to affect the quality of the product or the containers do not bear the essential particulars on the label, then the consignment of drug concerned should not be recommended to be disposed of by public auction.
3. If the containers of the drug are found to be intact and not damaged, and they are also labelled with the necessary particulars, then representative samples may be drawn and got tested.
4. If these samples are reported to be not of standard quality, then the drug in question should not be recommended to be disposed of by public auction.
5. If the samples are reported to be of standard quality, then the drugs in question may be recommended to be sold by public auction. The authorities questioning the drugs should be licensed and the drugs permitted to be sold only to manufacturers holding valid manufacturing licences under the Drugs and Cosmetics Act.
6. The procedure outlined above would be applicable only to “bulk drugs” seized by the Customs/ Excise Authorities. Confiscated formulations should not be allowed to be sold by auction.

APPENDIX III-A

(Refer to Para No. 16.1)

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)**

STANDING ORDER NO.1/89 DT.13.06.89

“WHEREAS the Central Government considers it necessary and expedient to determine the manner in which the narcotic drugs and psychotropic substances, as specified in Notification No.4/89 dated the 29th May, 1989 (F.No.664/23/89-Opium, published as S.O. 381(E)), which shall, as soon as may be, after their seizure, be disposed off, having regard to their hazardous nature, vulnerability to theft, substitution and constraints of proper storage space;

Now, therefore, in exercise of the powers conferred by sub-Section (1) of Section 52a of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), (hereinafter referred to as ‘the Act’), the Central Government hereby determines that the drugs specified in the aforesaid Notification shall be disposed off in the following manner, namely:-

SECTION I - DRUGS MEANT FOR DISPOSAL

1. Narcotics Drugs :

- 1) Opium
- 2) Morphine
- 3) Heroin
- 4) Ganja
- 5) Hashish(Charas)
- 6) Codeine
- 7) Thebaine
- 8) Cocaine
- 9) Poppy straw

- 10) Any other manufactured drug, as defined under clause (xi) of Section 2 of the Act

Psychotropic Substances:

- 1) Methaqualone
- 2) T.H.C.
- 3) Amphetamine
- 4) Any other psychotropic substance, as defined under clause (xxiii) of Section 2 of the said Act

SECTION II- GENERAL PROCEDURE FOR SAMPLING, STORAGE ETC.

2.1 All drugs shall be properly classified, carefully, weighed and sampled on the spot of seizure.

2.2 All the packages/containers shall be serially numbered and kept in lots for sampling. Samples from the narcotic drugs and psychotropic substances seized, shall be drawn on the spot of recovery, in duplicate, in the presence of search witness (Panchas) and the person from whose possession the drug is recovered, and a mention to this effect should invariably be made in the panchanama drawn on the spot.

2.3 The quantity to be drawn in each sample for chemical test shall not be less than 5 grams in respect of all narcotic drugs and psychotropic substances save in cases of opium, ganja and charas (hasish) where a quantity of 24 grams in each case is required for chemical test. The same quantities shall be taken for the duplicate sample also. The seized drugs in the packages /containers shall be well mixed to make it homogeneous and representative before the sample (in duplicate) is drawn.

2.4 In the case of Seizure of a single package/container, one sample (in duplicate) shall be drawn. Normally, it is advisable to draw one sample (in duplicate) from each package/container in case of seizure of more than one package/container.

2.5 However, when the packages/containers seized together are of identical size and weight, bearing identical markings and the content of each package given identical results on color test by the drug identification kit, conclusively indicating that the packages are identical in all respects, the packages/containers may be carefully bunched in lots of 10 packages/containers/except in the case of ganja and hashish (charas), where it may be bunched in lots of 40 such packages/containers. For each such lot of packages/containers, one sample (in duplicate) may be drawn.

2.6 Where after making such lots, in the case of hashish and ganja, less than 20 packages/containers remain, and in the case of other drugs, less than 5 packages/containers remain, no bunching will be necessary and no samples need be drawn.

2.7 If such remainders are more in the case of other drugs and substances and 20 or more in the case of ganja and hashish, one more sample (in duplicate) may be drawn for such a reminder package /container.

2.8 While drawing one sample (in duplicate) from a particular lot, it must be ensured that representative sample are in equal quantity is taken from a package/container of that lot and mixed together to make a composite whole from which the samples are drawn for that lot.

2.9 The sample in duplicate should be kept in heat sealed plastic bags as it is convenient and safe. The plastic bag container should be kept in a paper envelope which may be sealed properly. Such sealed envelope may be marked as original and duplicate. Both the envelopes should bear the S.No. of the package(s)/ containers from which the sample has been drawn. The duplicate envelope containing the sample will also have a reference of the test memo. The seals should be legible. This envelope which should also be sealed and marked 'secret-drug sample/ Test memo' is to be sent to the chemical laboratory concerned.

3.0 The Seizing officers of the Central Government Departments, viz., Customs. Central Excise, Central Bureau of Narcotics, Narcotics Control Bureau, Directorate of Revenue Intelligence etc. should dispatch samples of the seized drugs to one of the Laboratories of the Central Revenues Control Laboratory nearest to their office depending upon the availability of test facilities. The other Central Agencies like BSF, CBI and other Central Police Organizations may send such sample to the Director, Central Forensic Laboratory, New Delhi. All State Enforcement Agencies may send samples of seized drugs to the Director/ Deputy Director/ Assistant Director of their respective State Forensic Science Laboratory.

3.1 After sampling, detailed inventory of such packages /containers shall be prepared for being enclosed to the panchanama Original wrappers shall also be preserved for evidentiary purposes.

SECTION III - RECEIPT OF DRUGS IN GODOWNS AND PROCEDURE.

3.2 All drugs invariably be stored in safes and vaults provided with double-locking system. Agencies of the Central and State Governments may specifically designate their Godowns for storage purposes. The Godowns should be selected keeping in view their security angle, juxtaposition to courts etc.

3.3 Such Godowns, as a matter of rule, shall be placed under the over-all supervision and charge of a Gazetted officer of the respective enforcement agency who shall exercise utmost care, circumspection and personal supervision as far as possible. Each seizing officer shall deposit the drugs fully packed and sealed in the Godown within 48 hours of such seizure, with a forwarding memo indicating NDPS Crime No. as per Crime and Prosecution (C & P Register) under the new law, name of the accused, reference of test memo, description of the drugs, total no. of packages/ containers, etc.

3.4 The seizing officer, after obtaining an acknowledgement for such deposit in the format **(Annexure- 1)** shall hand over such acknowledgement to the Investigating officer of the case along with the case dossiers for further proceedings.

3.5 The Officer-in-charge of the Godown, before accepting the deposit of drugs shall ensure that the same are properly packed and sealed. He shall also arrange the package/containers (case-wise and lot-wise) for quick retrieval, etc.

3.6 The Godown-in-charge is required to maintain register wherein entries of receipt should be made as per format at **Annexure-II**

3.7 It shall be incumbent upon the Inspecting officers of the various Departments mentioned at Annexure II to make frequent visits to the Godown for ensuring adequate security and safety and for taking measures for timely disposal of drugs. The Inspecting Officers should record their remarks/ observations against Col. 15 of the Format at **Annexure II**.

3.8 The Heads of the respective enforcement agencies(both Central and State Governments) may prescribe such periodical reports and returns, as they may deem fit, to monitor the safe receipt, deposit, storage, accounting and disposal of seized drugs.

3.9 Since the early disposal of drugs assumes utmost consideration and importance, the enforcement agencies may obtain orders for pre-trial disposal of drugs and other articles (including conveyance, if any) by having recourse to the provisions of subSection (2) of Section 52A of the Act.

Section IV-ACTION TO BE TAKEN BY POLICE AND OTHER EMPOWERED OFFICERS FOR PRE-TRIAL DISPOSAL

4.0 Where any narcotic drug or psychotropic substance has been seized and forwarded the officer- in- charge of the nearest police station or to the officer empowered under Section 53, the officer, referred to in paragraph No.3.3 of the order shall prepare an inventory of such narcotic drugs or psychotropic substances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs or psychotropic substances or the packing in which they are packed, Country of origin and such other particulars as may be considered relevant to the identity of the aforesaid drugs in any proceedings under the Act and make an application to any Magistrate for the purpose of -

- a. Certifying the correctness & of the inventory so prepared: or
- b. Taking, in the presence of such Magistrate, photographs of such drugs or substances and certifying such photographs.
- c. Allowing to draw representative samples of such drugs or substances, in the presence of

such Magistrate and certifying the correctness of any list of samples so drawn.

4.1 Where an application is made under sub-Section (2) of Section 52A of the Act, the Magistrate shall, as soon as may be, allow the application.

4.2 Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, the photographs, or narcotic drugs or psychotropic substances and any list of samples drawn under sub-Section (2) ibid and certified by the Magistrate, as primary evidence in respect of such offence.

While preferring an application under Section 52 A to any magistrate, emphasis may be laid on 'expediency of disposal'. The grounds that may be highlighted may pertain to-

- i. risk of pilferage, theft and substitution:
- ii. constraints of storage and hazardous nature:
- iii. high potential and vulnerability of abuse:
- iv. high temptations to traffickers
- v. Diminution in the value of other articles (including conveyances), due to long storage, etc.

4.4 Since the filing of Charge-Sheet/ Compliant is a condition precedent to expeditious issue of orders for pre-trial disposal , complaints by the respective enforcement agencies must be filed after completion of investigation with-in stipulated period of 90 days of seizure/ Arrest, on a priority basis. This requires to be meticulously adhered to.

4.5 While moving the application under sub-Section (2) of Section 52 A of the Act as above, production of all seized articles/ drugs, etc. along with the Panchnama (in original) and detailed inventory thereof is essential. The inventory shall be complete in all respects and contain such particulars, as may be relevant to establish nexus/ identity of articles. The chemical analysis report should also be simultaneously filed.

4.6 After the court orders are passed for Pre-trial disposal of drugs, those drug which have no legitimate value (excepting opium, morphine, codeine and the baine, which are required to be transferred to the Government Opium and Alkaloid Works Undertaking at Ghazipur or Neemuch, as the case may be) are required to be destroyed, consistent with the with the guidelines issued under this order and not repugnant to the court's order.

4.7 As bulk of seizures of drugs relate to illicit import or export, and are made at the points of

entry or exit or in transit traffic, such drugs are liable to seizure under Section 110 of the Customs Act, 1962 and confiscation under Sections 111 or 113 *ibid*. In such cases, it would be appropriate to initiate proceeding under the Customs Act also.

Section V - CONSTITUTION & FUNCTIONS OF DRUG DISPOSAL COMMITTEE

5.0 A three Member Committee of the respective enforcement agencies (both Central and State), known as the “Narcotics Drugs and Psychotropic Substances Disposal Committee” should be constituted to discharge its functions from the Headquarters of the respective Heads of the Department. The Committee will be headed by an officer not below the rank of

- (i) Deputy Collector of Customs and Central Excise with two Members of the rank of Assistant Collector of Customs and Central Excise in case of a Customs and Central Excise Collectorate.
- (ii) Deputy Narcotics Commissioner with two members of the rank of Assistant Narcotics Commissioner in the case of Narcotics Commissioner’s organization
- (iii) Deputy Director of Revenue Intelligence with two members of the rank of Assistant Director.
- (iv) Deputy Director and two other officers, as may be authorized by the Director - General, Narcotics Control Bureau in the case of that organization:
- (v) Deputy Inspector-General of Police with two members of the rank of Superintendent of Police in respect of State Police in respect of State Police Organizations; and
- (vi) Deputy Commissioner of Excise with two officers of the rank of Assistant Commissioners, in respect of State Excise Organizations.

5.1 The Committee will be directly responsible to the Head of Department concerned.

5.2 The functioning of the Committee will be to

- a. Undertake detailed analysis of drugs pending disposal, and
- b. Advise the respective investigating officers/supervisory officers on the steps to be initiated for expeditious disposal.

5.3 The Committee shall meet, as frequently as possible, as may be considered necessary for quick disposal of drugs and at least once in two months. While the Central Agencies shall endorse a copy of the Minutes of such Meetings directly to the Narcotics Control Bureau, the State Enforcement

Agencies concerned shall report the same to their respective State Police Headquarters (CID), who, in turn, may keep the Narcotics Control Bureau informed of the progress made from time to time.

5.4. The Officers-in-charge of Godowns shall prepare a list of all such drugs that have become ripe for Disposal to the Chairman of the respective Drug Disposal Committee. After examining that they are fit for disposal and satisfying that they are no longer required for legal proceedings and the approval of the Court has been obtained for the purpose, the Members of the respective Drug Disposal Committee shall endorse necessary Certificates to this effect. The Committee shall thereafter, physically examine and verify the drug consignments with reference to the Seizure Report and other documents, like Chemical Analysis, etc., including its weighment and record its findings in each case.

5.5 The composite sample shall be drawn for getting the same tested by the Central Revenue Control Laboratory or the State Forensic Science Laboratory/State Drugs Control Laboratory concerned. If no variation, either in purity or quantity is found, the same shall be ordered for destruction by the Department. Where any minor variations are noticed, a detailed report may be submitted to the Head of Department of the enforcement agency concerned. In the case of wider variations, the matter shall be immediately reported to the Narcotics Control Bureau indicating the follow-up action taken in this regard. The destruction of drugs in such cases can be done only after obtaining the orders of the Head of the Department concerned.

5.6 The Committee shall be empowered to order destruction of the seized drugs in the following cases:

Name of the drug	Quantity (Kgs.)
1. Heroin	2
2. Hashish (Charas)	50
3. Hashish Oil	10
4. Ganja	500
5. Cocaine	1
6. Mandrax	150
7. Other drugs	Upto value of Rs.5 lacs

5.7 The Disposal Committee shall intimate the Head of the Department concerned about the

program of destruction (giving complete details) in advance (at least 15 days before the date of destruction) so that, in case he deems fit, he may either himself conduct surprise checks, or depute an officers for conducting such surprise checks. The Disposal Committee shall inform the respective Heads of Department in respect of every destruction made by it indicating the date of destruction, quantities destroyed, etc.

5.8 In those cases where the quantities exceed the above limits, destruction shall be ordered and take place only under the supervision by the Head of the Department himself alongwith the Chairman and Members of the Drug Disposal Committee.

5.9 All drugs, excepting opium, morphine, codeine and the baine, shall be destroyed by incineration in such places where adequate facilities and security arrangements exist for the same after ensuring that this may not be a health hazard from the point of view of pollution. Open destruction of such drugs may also be resorted to, wherever considered feasible and necessary, after due publicity to gain the confidence of public. Wide publicity, in such cases would be consequential.

Section VI- MISCELLANEOUS

6.0 A Certificate of Destruction (in triplicate) **Annexure III** containing all the relevant data like Godown entry no., file No., gross and net weight of the drugs seized, etc. shall be prepared and duly endorsed by the signature of the Chairman as well as Members of the Committee. This could also serve the purpose of Panchanama. The original copy shall be posted in the Godown Register after making necessary entries to this effect, the duplicate to be retained in the seizure case file and the triplicate copy will be kept by the Disposal Committee.

6.1 The procedure outlined above should be followed by all Central and State enforcement agencies concerned. Other goods (including conveyance), ripe for disposal may be disposed off by public auction or in such manner as is deemed convenient in the best interests of the Government.

ANNEXURE 1

(Para 3.4 OF APPENDIX III-A)

GODOWN RECEIPT

RECEIVED (No.) _____ packages/ containers said to contain _____ (Description of Drugs)
sealed with the seal No. _____ of (Name & Designation) seizing officer and entered into
Godown register vide entry No. _____

Facsimile of the seal _____

Place:

Signature of the Officer

Incharge of Godown with

Full name & official seal

Date:

Time:

ANNEXURE-II

(Para 3.6 OF APPENDIX III-A)

FORMAT OF REGISTER REQUIRED TO BE

MAINTAINED BY THE GODOWN IN CHARGE

1. Godown entry S.No.
2. N.D.P.S. Crime No.
3. Description of drugs in the sealed packages/ containers and other goods, if any
4. No. of packages/ containers (drug wise)
5. Quantity of drug (packages/ containers)
6. Particulars of the test memos.
7. Name(s) and address(es) of accused
8. Name with official designation and address of Seizing/ Depositing Officer

9. Facsimile of the seal put on the packages/ containers by the Seizing Officer
10. Date and time of deposit
11. Particulars of exit and re-entry for exhibiting to court
12. Date and time of removal for disposal
13. Disposal particulars including destruction or dispatch to Central Government Opium factory
14. Certificate of Disposal including price payment particulars, from Government Opium factory, where applicable
15. Remarks of the Inspecting Officer(s)

Inspecting Officers: In the case of Central Enforcement Agency: (1) D.G.NCS, (2) Dy. D.G.NCB, (3) Narcotics Commissioner of India, (4) Dy. Narcotics Commissioners, (5) D.G.BSF, (6) Dy D.G. BSF, (7) Sr. Officers of CBI, (8) Principal Commissioner, Customs & Central Excise, (9) Commissioner, Customs & Central Excise, (10) Assistant Commissioner of Customs & Central Excise.

In the case of State Enforcement agencies : (1) D.G. of Police, (2) I.G.of Police, (3) Dy.I.G.P., (4) Superintendent of Police, (5) State Excise Commissioners, (6) Dy.Excise Commissioners, (7) Superintendent of Excise and equivalent officer of State Government in the authorized department.

ANNEXURE III
(PARA 6.0 OF APPENDIX III-A)

IN TRIPLICATE

**CERTIFICATE OF DESTRUCTION OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES
(PARA 9, 10 OF THE STANDING ORDER NO. /88) - DETAILS OF DRUGS AND SUBSTANCES
DESTROYED**

<div>Particulars of the drugs</div> <hr/> <div>(1)</div>	<div>Seizure case file ref. No.</div> <hr/> <div>(2)</div>	<div>Godown Register entry No.</div> <hr/> <div>(3)</div>
<div>As recorded in the Godown register</div> <hr/> <div>(4)</div>	<div>Weight ascertained on Physical verification</div> <hr/> <div>(5)</div>	
<div>Gross Net Weight Weight (a) (b)</div>	<div>Gross Net Weight Weight (a) (b)</div>	
<div>Names and addresses of the witnesses</div> <hr/> <div>(6)</div>	<div>Date/Place/Mode of destruction</div> <hr/> <div>(7)</div>	

It is certified that a Committee consisting of S/Shri _____ supervised the destruction of narcotic drugs and psychotropic substances particularised above, in the presence _____ of following witnesses. Delete whatever is not applicable.

SIGNATURE

WITH DATE

(CHAIRMAN)

SIGNATURE

WITH DATE

(MEMBER)

SIGNATURE

WITH DATE

(MEMBER)

APPENDIX III B

(Refer to Para No. 16.1)

STANDING ORDER No 1/88

DRAWAL, STORAGE, TESTING AND DISPOSAL OF SAMPLES FROM SEIZED NARCOTICS DRUGS AND PSYCHOTROPIC SUBSTANCES- PROCEDURE

1.1 It has been brought to the notice of this Bureau by the Chief Chemist, Central Revenues Control Laboratory that different investigating officers of various enforcement agencies adopt different Procedures in drawing samples from seized narcotic drugs and psychotropic substances, particularly with regard to the number of samples drawn, quantity of the sample, sealing, mode of packing, despatch of samples etc to the concerned laboratory, for test. It has been also been found that handling of samples at different stages and places any also become an issue of dispute during the trial, and hence a clear and uniform procedure is necessary to avoid any doubt or confusion at any level. With a view to bring uniformity of approach in such matters, and also to provide for a secure system of handling of drug samples it is decided to standardize the procedures with regard to drawing, forwarding and testing of samples.

1.2 It may be noted that all drugs and psychotropic substances, materials, apparatus utensils, or any other articles in respect of which or by means of which any offence punishable under chapter IV of the Narcotic Drugs and Psychotropic Substances Act have to be proved only in relation to such drugs or psychotropic substances which are liable to confiscation.

1.3 An illicit narcotic drugs or psychotropic substances recovered from a person, place, conveyance, etc., are material evidence as they are liable to confiscation. Further, they constitute primary evidence for any act, omission or commission on the part of a person rendering him liable for punishment under Chapter IV of the NDPS Act, 1985. Most of the narcotic drugs and psychotropic substances cannot be conclusively proved to be such drugs or substances merely by visual examination in the trial court and they require to be proved by chemical analysis to be conducted by chemists authorized under Section 293 of Cr. P.C. 1973. The provisions of subSection 4 of Section 293 of Cr.P.C. are reproduced hereunder for ready reference:-

Section 293(4) of Cr. P.C. 1973. This Section applies to the following government scientific experts, namely:-

- (a) any Chemical Examiner or Assistant Chemical Examiner to Government.
- (b) The Chief Inspector of Explosives;
- (c) The Director of Finger-print Bureau;

- (d) The Director Hoffikin Institute of Bombay;
- (e) The Director (Deputy Director or Assistant Director) of a Central Forensic Science Laboratory or a state Forensic Science Laboratory;
- (f) The Serologist to the Government;

Note:-Sub-Section (4) of Section 293 has been amended to include Deputy Directors and Assistant Directors of Central and State Forensic Science Laboratories in the list of Government Scientific experts.

Government of India vide notification No. 74F.No. 50/53/76-Ad-II dated 17 July 1976, as amended vide notification dated 2nd February 1977, have declared chemists of different grades working in Central Revenues Control Laboratories as Chemists to Government for the purposes of Section 293 of Cr.P.C.

1.4 If the drugs seized are found in packages / containers, the same should be serially numbered for purposes of identification. In case the drugs are found in loose form the same should be arranged to be packed in unit containers of uniform size and serial numbers should be assigned to each package/container. Besides the serial number, the gross and net weight, particular of the drug and the date of seizure should invariable be indicated on the packages. In case sufficient space is not available for recording the above information on the package, a Card Board label, should be affixed with a seal of the seizing officer and on this Card Board label, above details should be recorded. whose possession the drug is recovered, and mention to this effect should invariably be made in the panchnama drawn on the spot.

1.6 Quantity of different drugs required in the sample.

The quantity to be drawn in each sample for chemical test should be 5 grams in respect of all narcotic drugs and psychotropic substances except in the cases of Opium, Ganja and Charas / Hashish where a quantity of 24 grams in each case is required for chemical test. The same quantities should be taken for the duplicate sample also. The seized drugs in the packages/ containers should be well mixed to make it homogeneous and representative before the same in duplicate is drawn.

1.7 Number of samples to be drawn in each seizure case

- a. In the case of seizure of single package/container one sample in duplicate is to be drawn. Normally, it is advisable to draw one sample in duplicate from each package/container in case of seizure of more than one package/container.
- b. However, when the package/container seized together are of identical size and weight, bearing identical markings and the contents of each package give identical results on colour test by U.N. kit, conclusively indicating that the packages are identical in all respects/ the packages/container may be carefully bunched in lots of 10 packages/ containers may be

bunched in lots of 40 such packages/ container. For each such lot of packages/ containers, one sample in duplicate may be drawn.

- c. Where after making such lots, in the case of Hashish and Ganja, less than 20 packages/ containers remain, and in case of other drugs less than 5 packages/ containers remain, no bunching would be necessary and no samples need be drawn.
- d. If it is 5 or more in case of other drugs and substances; and 20 or more in case of Ganja and Hashish, one more sample in duplicate may be drawn for such remainder package/ containers.
- e. While drawing one sample in duplicate from a particular lot, it must be ensured that representative drug in equal quantity is taken from each package/ container of that lot and mixed together to make a composite whole, from which the samples are drawn for that lot. Subject to the detailed procedure of identification of packages/ container as indicated in Para 1.4 each package/ container should be securely sealed and an identification slip pasted/ Attached on each one of them at such place and in such manner as will avoid easy obliteration of marks and numbers on the slip. Where more than one sample is drawn, each sample should also be serially numbered and marked as S-1, S-2, S-3 and so on, both original and duplicate sample. It should carry the serial number of the packages and marked as P-1, 2, 3, 4 and so on.

1.9 It need no emphasis that all samples must be drawn and sealed in the presence of the accused, Panchnama witnesses and seizing officer and all of them shall be required to put their signatures on each sample. The official seal of the Seizing Officer and all of them shall be required to put their signatures on each sample. The official seal of the Seizing Officer should be affixed. If the person, from whose custody the drugs have been recovered, wants to put his own seal on the sample, the same may be allowed on both the original and the duplicate of each of the samples.

1.10 Packing and sealing of samples:

The Samples are to be drawn in duplicate. The original envelope shall have the original Sample. It will have a test memo which in turn shall have all the details of Sample drawn the duplicate envelope containing the sample will also have a reference of the test memo. The seals should be legible. This envelope along with test memos should be kept in another envelope which should be sealed and marked "secret-Drug sample/Test memo" to be sent to the concerned chemical laboratory.

1.11 Laboratories to which samples may be sent.

The Seizing Officers of the Central Government Departments, viz. Customs, Central Excise, Central Bureau of Narcotic, Narcotics Control Bureau, D.R.I., etc should dispatch samples of the seized drugs to one of the Laboratories of the Central Revenues Control Laboratory nearest to their offices depending upon the availability of test facilities. The addresses of the Dy. Chief Chemists of the

Central Revenues Control Laboratories are given below:

1. General Manager, Govt. Opium and Alkaloid Works, Ghazipur(U.P.).
2. General Manager, Govt. Open an Alkaloid Works, Neemuch (M.P.).
3. Chief Chemist, Central Revenue Control Laboratory, Pusan Road (IARI), new Delhi
4. Dy. Chief Chemist, office of the collector of Customs house, Chennai 600 001
5. Dy. Chief Chemist, Chemical Laboratory, Customs house, Calcutta 1
6. Dy. Chief Chemist, New Customs House, Ballard Estate, Mumbai 400 038
7. Dy. Chief Chemist, Central Excise Laboratory, Estrellia Batteries compound, Dharavi Road, Mumbai 400 019
8. Chemical Examiner, Office of the Commissioner of Customs, Customs House, Cochin 9.
9. Chemical Examiner, Central Excise Laboratory, Yashkamal, Building, 8th floor, Baroda 5 (Gujarat)
10. Chemical Examiner, Central Excise laboratory, Central Excise Laboratory, CORIL Refinery, Vishakhapatnam (AP)
11. Chemical Examiner, Customs House, Kandla, Gujarat
12. Chemical Examiner, Customs House Laboratory, Sada, MARMUGOA GOA 403803.
13. Chemical Examiner, Customs House Laboratory, Assam Oil Refinery, Dibboi (Assam)
14. Chemical Examiner, Central Excise Laboratory, Assam Oil Refinery, Distt. Begusarai (Bihar)
15. Chemical Examiner, HPCL, Refinery, corridor Road, Trombay, Mumbai 400 074

The other Central Agencies, like BSF, CBI and other Central Police organizations may send such samples to the Director, Central Forensic Laboratory, New Delhi. All State Enforcement Agencies may sent samples of seized drugs and psychotropic substances to the Director/Deputy Director/ Assistant Director of their respective State Forensic Science Laboratory.

The Addresses of State Forensic Science Laboratories are given below

1. Director, Forensic science laboratories, govt. of Bihar Patna- 800 023
2. Director, Police Forensic Science laboratory, Rajasthan, Nehru Nagar, Jaipur-6
3. Director, Forensic Science Laboratory, mini Punjab secretarial plot no. 2, sector 9-A Chandigarh

4. Director, State Forensic Science laboratory, Rasulgarh Bhubaneswar-10 (Orissa)
5. Director forensic science laboratory, Haryana madhubn (karnl)
6. Director, Forensic Science Laboratory, Andhra Pradesh Red Hills Hyderabad-
7. Director, Forensic Science Laboratory, Trivandrum-10
8. Director, State Forensic Science Laboratory Govt of west Bengal, Balgachi Road
9. Director, Forensic Science Laboratory, Gujarat State, New Mental Corner, Ahmedabad- 380016.
10. Director, Forensic Science Laboratory, Maharashtra State, Vidyanagari, Kalina, Santacruz (East), Mumbai- 400 098.
11. Director, Forensic Science Laboratory, Civil Lines, Sagar (M.P.)- 470 001.
12. Director, Forensic Science Laboratory, Mahanagar, Lucknow (U.P.).
13. Director, Forensic Science Laboratory, Sector 18, Chandigarh.
14. Director, Forensic Science Laboratory, Bureau of Police Research and Development (MHA), Govt. of India, O.V. Campus, Ramnathpur, Hyderabad- 500 013.
15. Director, Forensic Science Laboratory, C.B.I., Block- 4, C.G.O. Complex, Lodhi Road, New Delhi.
16. Director, Forensic Science Laboratory, Junagarh (Gujarat).
17. Chemical Examiner to the U.P. Govt., Agra (U.P.).
18. Govt. Examiner of questioned documents, Railway Board Building, Shimla (H.P.).
19. Director, Forensic Science Laboratory Opposite C.D. Hospital, Sri Nagar (J.K.)

1.12 Test Memo

The Samples of seized drugs or substances should be dispatched to the respective laboratories under the cover of a Test Memo which shall be prepared in triplicate in **Proforma NCB-I**. This Test Memo will be serially numbered for each unit effecting the seizure. The seizing officer will carefully fill- up column 1 to 8 of the Test Memo and put his signature with official seal. The original and duplicate of the Test Memo should be sent to the Laboratory concerned alongwith the samples. The triplicate shall be retained in the case file of the seizing officer.

1.13 Mode and time limit for dispatch of sample to Laboratory.

The samples should be sent either by insured post or through special messenger duly authorised for the purpose. Despatch of samples by registered post or ordinary mail should not be resorted

to. Samples must be despatched to the Laboratory within 72 hours of seizure to avoid any legal objection.

1.14 Each Unit of every Enforcement Agency will maintain a Register of samples to monitor the progress of testing, which will have the following:-

Crime No.	Date of Seizure	Name & Address of Offender	Description of seized drugs and yet qty.
1	2	3	4
Name of the officer drawing and dispatching the samples	S.No. of samples and S.No. of Packages/containers from Which samples were drawn		Test Memo Reference
5	6		7
Name & Designation of Custodian of sample	The authority to whom dispatched		Date of receipt of analysis Result and Its reference
8	9		10
Result in brief	Date of receipt of remnant Sample		Date of Destruction/ disposal of remnant samples
11	12		13
	Remarks		
	14		

The register should be received once a month by the Head of unit and once in three months by the supervising officer.

1.15 Receipt in the Laboratory

The sealed envelope containing the samples received in the Laboratory concerned should be carefully opened so as to preserve the seals on the envelope to be sent back along with the report on the test for evidence purposes. In the laboratory every sample received for test must be given a distinct Laboratory number. A separate register for Narcotic Drugs and Psychotropic Substances shall be maintained. The Laboratory may further sub-divide the register Agency-wise. The Laboratory number should form a continuous series, beginning on the 1st January every year and ending on the 31st December. The sample clerk must enter the laboratory number and the date of registration on the Test Memo, each sample must be given a separate number and all the numbers must be entered

on the memo.

The samples and memos having been marked with Laboratory numbers should be entered in a Register. The headings of the columns in the register will be as indicated below:-

S. No. (Lab. No.)	Date of receipt	Name of the officer drawing & despatching the sample	Test Memo Ref. & Date
1	2	3	4
Descrtption of the drug as per the Test Memo	To whom allotted	Date of receipt by the concerned chemist with his signature	
5	6	7	
Details of Test results	Date of despatch of remnant samples	Remarks	
8	9	10	

Note: Columns & 6 should be filled up respectively at the time of actual forwarding of the sample to the concerned chemist.

Allotment of Samples

Samples of narcotic drugs and psychotropic substances should be taken to the chemical examiner or such officer in the Laboratory for this purpose. He will mark the sample to a chemist. While so doing the chemical examiner or such officer will keep in view the provisions of Section 293 of Cr. P.C. The sample clerk will hand over the sample and test memos to the chemist named as above and obtain his initial for receipt in his register. All drug samples must reach such chemist the same day and the chemist will keep the samples in his safe custody under lock and key in his steel almirah, provided for the purpose.

Examination of sample with reference to Test Memo

On receipt of the samples such chemist will examine the same and record its weight in the Test Memo. He will compare the markings on the Test Memos with the markings on the packages/ containers. It will be his responsibility to ensure that he tests the relevant sample.

Expeditious test

Expeditious analysis of narcotic drugs and psychotropic substances is of essence to all of receipt of the sample. However, where quantitative analysis requires longer time, the results of the qualitative test should be dispatched to the officer from whom the samples were received within the aforesaid time limit on the original copy of the Test Memo, so that court proceedings can start immediately.

In the next 15 days the results of quantitative test (purity of the drug) should be indicated on the duplicate Test Memo and sent to the officer from whom the samples were received.

1.18 Test Register

All results of both the qualitative and quantitative tests should be entered into the Register of samples (para 1.15). This Register is intended to serve as a reference and as such should be quite durable. It should carry the results and the date of despatch with reference to the Test Memo. There should be clear and adequate reporting of the results in the Test Memo. As soon as the analysis is over the test result should be despatched by registered post in the name of the officer who forwarded the sample for test.

1.19 Remnants of samples

Remnants of all narcotic drugs and psychotropic substances samples should be returned with reference to the Test Memo to the analysis of the drug.

1.20 Custody of duplicate sample

Duplicate sample of all seized Narcotic drugs and Psychotropic substances must be preserved and kept safely in the custody of the Investigating officer along with the case property. Normally duplicate sample may not be used but in case of loss original sample in transit or otherwise or on account of trial court passing an order for a second test, the duplicate sample will be utilised.

1.21 Disposal of Test Memo

As soon as the test result in original or duplicate or both Test Memos are received, the same will be filed in the Court, trying the case along with Charge-Sheet / Complaint by the Investigating officer. He will keep an attested copy of the same in his case file.

1.22 Disposal of Remnant sample/ duplicate sample and the drug

At present, the remnant sample/ duplicate sample and seized narcotic drugs and psychotropic substances can be disposed of after the proceedings of prosecution is over or by obtaining an order from such court under Section 110 of the Customs Act, 1962 and/ or 451 of Cr. PC. While obtaining the order of the court under the aforesaid Section, it is necessary that specific order in respect of the remnant sample/ duplicate sample is also obtained.

After such order has been obtained, the drug or substance along with the samples including remnants shall be disposed of in the manner prescribed. Please acknowledge the receipt of the standing order.

APPENDIX –III C

(Refer to Para No. 16.1)

NARCOTICS CONTROL BUREAU

NEW DELHI

STANDING ORDER NO. 2/88

Dated: 11.4.88

Subject: Receipt, custody, storage and disposal of seized/confiscated narcotics drugs and psychotropic substances.

Consequent upon the enforcement of the Narcotic Drugs and Psychotropic Substances Act, 1985 with effect from 14.11.1985, the enforcement activities against drug traffickers in the country have been stepped up resulting in seizures of huge quantities of narcotics drugs and psychotropic substance (hereinafter referred to as the 'drugs'). For successful prosecution of the drug offenders, it has been felt necessary to formulate a uniform procedure for drawal of samples of the seized drugs, which form the primary evidence in the course of prosecution proceedings before the courts of law keeping this in view, the 'Narcotics Control Bureau, the Central Authority created under Section 4(3) of 'The Narcotic Drugs and Psychotropic Act, 1985 (hereinafter referred to as the 'new law') which functions as the apex coordinating and enforcement agency in the country has formulated and circulated, a standing Order No. 1/88 dated 15.3.1988 (copy enclosed).

2. Recognizing the importance of despatch, transit, receipt, safe custody, storage, proper accounting and disposal/ destruction of the seized/ confiscated drugs, and the need for evolving a uniform procedure for regulating the above mentioned operations, both by the Central and State drug law enforcement agencies in the country, the Narcotics Control Bureau has formulated the following procedure to be complied with in this behalf.

3.1 All drugs should be properly classified, carefully weighed and sampled on the spot of seizure.

3.2 All the packages/ containers should be serially numbered and kept in lots for sampling. The procedure set out in Standing Order No. 1/ 88 referred to above should be scrupulously followed.

3.3 After sampling, detailed inventory of such packages/ containers should be prepared for being enclosed to the Panchanama. Original wrappers must also be preserved for evidentiary purposes.

3.4 After completion of Panchanama, the drugs should be packed in heat sealed plastic bags. For bulk quantities of ganja, instead of plastic bags, gunny bags may also be utilized wherever those are not readily available.

3.5 Agencies of the Central and State Government, who have been vested with the powers of investigation under the new law, must specifically designate their Godowns for storage purposes. The Godowns should be selected keeping in view their security, angle, juxtaposition to courts, etc.

3.6 All drugs must invariably be stored in safes and vaults provided with double-locking system.

3.7 Such Godowns, as a matter of rule, be placed under the over-all supervision and charge of a Gazetted Officer of the respective enforcement agency, who should exercise utmost care, circumspection and personal supervision, as far as possible. Such officers should not be below the rank of Superintendent in the Departments of Customs, Central Excise, Directorate of Revenue Intelligence, Central Bureau of Narcotics, Narcotics Control Bureau, C.B.I., B.S.F., etc., central agencies and Station House Officer/officer incharge of a Police station, Superintendent of State Excise, Naib Tehsildar of Revenue, Drug Inspector of Drug Control Department, etc. in the States and U.T. enforcement agencies. They will personally be held accountable for safety and security of the drugs.

3.8 Each seizing officer should deposit the drugs fully packed and sealed with his seal in the Godown within 48 hours of seizure of such drugs, with a forwarding memo indicating.

- i. NDPS Crime No. as per Crime and, Prosecution Register under the new law (i.e. NDPS Act)
- ii. Name(s) of accused
- iii. Reference of Test Memo
- iv. Description of drugs in the sealed packages/containers and other goods, if any
- v. Drug-wise quantity in each package/container
- vi. Drug-wise number of packages/containers
- vii. Total number of all packages/containers

3.9 The seizing officer, after obtaining an acknowledgement for such deposit in the format **(Annexure-I)**, will hand over the same to the Investigating Officer of the case, along with the case dossier for further proceedings.

4.0 The officer-in-charge of the Godown, before accepting deposit of drugs, will ensure that the drugs are properly packed and sealed. He will also arrange the packages/containers (case-wise and lot-wise) for quick retrieval, etc.

4.1 The Godown in-charge is required to maintain a register wherein entries of receipt should be made (as per format at **Annexure-II**)

4.2 It will be incumbent upon the Inspecting Officers of the various departments mentioned

at Annexure-II to make visit to the Godowns for ensuring adequate security and safety and for taking measures for timely disposal of drugs. The Inspecting Officers should record their remarks/ observations against col. 15 of the Format at Annexure-III.

4.3 The Heads of respective enforcement agencies (both Central and State Governments) may prescribe such periodical reports and returns, as they may deem fit, to monitor the safe receipt, deposit, storage, accounting and disposal of seized drugs (Refer Annexure III).

Annexure – III

4.4 While quarterly returns of disposal of drugs by the Central Government agencies concerned shall be furnished to the Director-General, Narcotics Control Bureau by the 15th of the month following the quarter (in the format at **Annexure-III**), the state enforcement agencies are required to submit their reports to the State Police Headquarters (CID) in such form as may be prescribed by them for the purpose. The State Police Headquarters (CID), in turn, will keep Director General, Narcotics Control Bureau informed of the same as per **Annexure-III**.

4.5 Since the early disposal of drugs assumes utmost consideration and importance, the enforcement agencies should obtain orders for pre-trial disposal of drugs and other articles (including conveyance, if any) by having recourse to the provisions of Section 451 of the Criminal Procedure Code, 1973 (extracts enclosed at **Annexure-IV**) and those of the provisions of Section 110 (IA), (IB) and (IC) of the Customs Act, 1962 read with Government of India's notification No. 31/86-Cus. (AS) dated the 5th February, 1986 issued in this behalf which specifies "Dangerous drugs and psychotropic substances".

4.6 While preferring the application under Section 451 before the Court of Session immediately, emphasis may be laid on "expediency of disposal".

The grounds that may be highlighted may pertain to.

- i. Risk of pilferage, theft and substitution
- ii. High potential and vulnerability of abuse
- iii. High temptations to traffickers
- iv. Diminution in the value of other articles (including conveyances) due to long storage, etc.

4.7 Since the filing of charge-sheet/plaint is a condition precedent for expeditious issue of orders for pre-trial disposal, complaints by the respective enforcement agencies must be filed after completion of investigation within the stipulated period of 90 days of seizure/ arrest, on a priority basis. This should meticulously be adhered to.

4.8 While moving the application under Section 451 of the Criminal Procedure Code as above,

production of all seized/ Articles/drugs, etc., along with the Panchanama (in original) and detailed inventory thereof, is essential. The inventory should be complete in all respects and contain such particulars as may be relevant to establish nexus/identity of articles. The chemical analysis report should also be simultaneously filed.

4.9 After the court orders are passed for pre-trial disposal of drugs, those drugs which have no legitimate commercial value (excepting opium, morphine, codeine and the baine, which are required to be transferred to the Government Opium and Alkaloid Works Undertaking at Ghazipur or Neemuch, as the case may be) are required to be destroyed consistent with the guidelines issued under this order and not repugnant to the court's order.

5.0 As bulk of seizures of drugs relate to illicit import or export and are made at the points of entry or exit or in transit traffic, such drugs are liable to seizure under Section 110 of the Customs Act, 1962 and confiscation under Section 111 or 113 *ibid*. In such cases, it would be appropriate to initiate proceedings under the Customs Act also.

5.1 The relevant provisions of Section 110 (IA), (IB), (IC) are reproduced at **Annexure-V**.

5.2 A three member Committee of the respective enforcement agencies (both Central and States), known as the Narcotics Drugs and Psychotropic Substances Disposal Committee should be constituted to discharge its functions from the Head Quarters of the respective Heads of Departments. The Committee will be headed by an officer not below the rank of –

- i. Deputy Collector of Customs and Central Excise with two members of the rank of Assistant Collector of Customs and Central Excise in the case of a Customs and Central Excise Collectorate.
- ii. Deputy Narcotics Commissioner with two members of the rank of Assistant Narcotics Commissioner in the case of Narcotics Commissioner's Organisation;
- iii. Deputy Director of Revenue Intelligence with two members of the rank of Assistant Director in the case of the Directorate of Revenue Intelligence;
- iv. Deputy Director and two other officers as may be authorised by the Director General, Narcotics Control Bureau in the case of that organisation;
- v. Deputy Inspector General of Police with two members of the rank of Superintendent of Police in respect of State Police Organisations; and
- vi. Deputy Commissioner of Excise with two officers of the rank of Assistant Commissioners, in respect of State Excise Organisation.

The Committee will be directly responsible to the Head of the Department concerned.

5.3 The function of the Committee will be to

- a. Undertake detailed analysis of drugs pending disposal
- b. Advise the respective investigation officers/ supervisory officers on the steps to be initiated for expeditions disposal.

The Committee will meet, as frequently as possible as may be considered necessary for quick disposal of drugs and at least once in two months. While the Central agencies will endorse a copy of the Minutes of such Meetings directly to Narcotics Control Bureau, the State enforcement agencies concerned will report the same to their respective State Police Head Quarters (CID), who, in turn, will keep the Narcotics Control Bureau informed of the progress made from time to time.

5.4 The officers-in-charge of Godowns will prepare a list of all such drugs that have become ripe for disposal to the Chairman of the respective drug disposal committee. After examining that they are fit for disposal and satisfying that they are no longer required for legal proceedings and the approval of the court has been obtained for the purpose, the Members of the respective drug disposal committee will endorse necessary certificates to this effect. The committee will thereafter, physically examine and verify the drug consignments with reference to the seizure report and other documents like chemical analysis, etc., including its weighment and record its finding in each case.

5.5 In the case of tampering with seal, etc., the composite sample will be drawn for getting the same tested by the Central Revenue Control Laboratory or the State Forensic Science Laboratory/ State Drug Control Laboratory concerned. If no variation, either in purity or quantity is found, the same will be ordered for destruction by the Department. Where any minor variations are noticed, a Department of the enforcement agency concerned. In the case of wider variations, the matter should be indicating the follow-up action taken in this regard. The destruction of drugs in such cases can be done only after obtaining the orders of the Head of the Department concerned.

5.6 The Committee will be empowered to order destruction of the seized drugs in the following cases:-

Name of Drug	Quantity (kgs)
Heroin	2
Hashish (Charas)	50
Hashish Oil	10
Ganja	500
Cocaine	1
Mandrax	150
Other Drugs	upto value of Rs. 5 lakhs

The Disposal Committee should intimate the Head of the Department concerned about the programme of destruction (giving complete details) in advance (at least 15 days before the date of destruction), so that, in case he deems fit, he may either himself conduct surprise checks, or depute an officer for conducting such surprise checks. The Disposal Committee should inform the respective Heads of Departments in respect of every destruction made by it, indicating the date of destruction, quantities destroyed, etc.

In those cases where the quantities exceed the above limits, destruction could be ordered and take place only under the supervision by the Head of the Department himself, along with the Chairman and Members of the Drugs Disposal Committee.

5.7 All drugs excepting opium, morphine, codeine and the baine shall be destroyed by incineration in such places where adequate facilities and security arrangements exist for the same after ensuring that this will not be a health hazard from the point of view of pollution.

5.8 A Certificate of Destructing (in triplicate) **(Annexure-VI)** containing all the relevant data, Time, godown entry no., file no., gross and net weight of the drugs seized, etc., shall be prepared and duly endorsed by the signature of the Chairman as purpose of Panchanama. The original copy will be pasted in Godown Register after making necessary entries to this effect, the duplicate to be retained in the seizure case file and the triplicate copy will be kept by the Disposal Committee.

6. The procedure, as outlined in Section II of the Opium Manual (Vol.III), will continue to apply for drugs like opium, morphine, codeine and the baine. Disposal of poppy straw shall continue to be regulated by the procedure as stipulated by the respective State Excise Department in this behalf.

7. Other goods (including conveyance) ripe for disposal may be disposed of by public auction or in such manner as is deemed convenient in the best interests of the Government.

ANNEXURE I
(AS APPENDIX III-C)
GODOWN RECEIPTS (NO. II)

RECEIVED (No.)

packaging/ containers said to contain

(Description of Drugs) sealed with the seal No. of
(Name and Designation) seizing Officer and entered into Godown register vide entry No.
.....

Fascimile of the seal

Place:

Date:

Time:

Signature of the Officer-in-charge of Godown

with full name and official seal

ANNEXURE II
(AS APPENDIX III-C)
FORMAT OF REGISTER REQUIRED TO BE
MAINTAINED BY THE GODOWN IN CHARGE

N.C.B.in

1. Godown entry S.No.
2. N.D.P.S. Crime No.
3. Description of drugs in the sealed packages/ containers and other goods, if any
4. No. of packages/containers (drug-wise)

5. Quantity of drug (package/container-wise)
6. Particulars of the test memos.
7. Name(s) and address(es) of accused
8. Name with official designation and address of seizing/depositing officer
9. Facsimile of the seal put on the packages/ containers by the seizing officer
10. Date and time of deposit
11. Particulars of exit and re-entry for exhibiting to court.
12. Date and time of removal for disposal
13. Disposal particulars including destruction or Despatch to Central Govt. Opium Factory.
14. Certificate of disposal including price payment particulars, from Govt. Opium Factory, where applicable.
15. Remarks of the Inspecting Officer(s)

ANNEXURE-III

(Refer Para 4.4 of APPENDIX III-C)

FORMAT OF QUARTERLY RETURN TO BE FURNISHED BY THE CENTRAL ENFORCEMENT AGENCIES TO N.C.B.

Name of the drug:

Opening Balance as on 1st day of the quarter:

Receipts during the Qtrs.:

Qty. Dispatched to Opium factories:

Qty. disposal by destruction:

Stock in hand at the end of Qtr:

Remarks:

APPENDIX III D

(Refer to Para No. 16.1)

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 16th January, 2015

G.S.R. 38(E).—In exercise of the powers conferred by Section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985, (61 of 1985), hereinafter referred to as the said Act, and in supersession of notification number G.S.R. 339(E), dated 10th May, 2007, except as respects things done or omitted to be done before such supersession, the Central Government, having regard to the hazardous nature, vulnerability to theft, substitution, and constraints of proper storage space, in respect of any narcotic drugs, psychotropic substances, controlled substances or conveyances, hereby specifies the narcotic drugs, psychotropic substances, controlled substances and conveyances which shall, as soon as may be after their seizure, be disposed of, the officers who shall dispose them of and the manner of their disposal.

2. **Items to be disposed of.**—All narcotic drugs, psychotropic substances, controlled substances and conveyances shall be disposed of under Section 52A of the said Act.
3. **Officers who shall initiate action for disposal.**—Any officer in-charge of a police station or any officer empowered under Section 53 of the said Act shall initiate action for disposal of narcotic drugs, psychotropic substances, controlled substances or conveyances under Section 52A of that Act.
4. **Manner of disposal.**— (1) Where any narcotic drug, psychotropic substance, controlled substance or conveyance has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under Section 53 of the said Act or if it is seized by such an officer himself, he shall prepare an inventory of such narcotic drugs, psychotropic substances, controlled substances or conveyances as per **Annexure 1** to this notification and apply to any Magistrate under sub-Section (2) of Section 52A of the said Act as per **Annexure 2** to this notification within thirty days from the date of receipt of chemical analysis report of seized narcotic drugs, psychotropic substances or controlled substances.

(2) After the Magistrate allows the application under sub-Section (3) of Section 52A of the said Act, the officer mentioned in sub-paragraph (1) shall preserve the certified inventory, photographs and samples drawn in the presence of the Magistrate as primary evidence for the case and submit details of the seized items to the Chairman of the Drug Disposal Committee for a decision by the Committee on the disposal and the aforesaid officer shall send a copy of the details along with the items seized, to the officer-in-charge of the Godown.

5. **Drug Disposal Committee.**-The Head of the Department of each Central and State Drug Law Enforcement Agency shall constitute one or more Drug Disposal Committees comprising three Members each, which shall be headed by an officer not below the rank of Superintendent of Police, Joint Commissioner of Customs and Central Excise, Joint Director of Directorate of Revenue Intelligence or officers of equivalent rank; and every such Committee shall be directly responsible to the Head of the Department.

6. **Functions.**-The functions of the Drug Disposal Committee shall be to-

- (a) meet as frequently as possible and necessary;
- (b) conduct a detailed review of seized items pending disposal;
- (c) order disposal of seized items; and
- (d) advise the respective investigation officers or supervisory officers on the steps to be initiated for expeditious disposal.

7. **Procedure to be followed by the Drug Disposal Committee with regard to disposal of seized items.**-

- (1) The officer-in-charge of Godown shall prepare a list of all the seized items that have been certified under Section 52A of the said Act and submit it to the Chairman of the concerned Drug Disposal Committee.
- (2) After examining the list referred to in sub-paragraph (1) and satisfying that the requirements of Section 52A of the said Act have been fully complied with, the members of the concerned Drug Disposal Committee shall endorse necessary Certificates to this effect and thereafter that Committee shall physically examine and verify the weight and other details of each of the seized items with reference to the seizure report, report of chemical analysis and any other documents, and record its findings in each case.

8. **Power of Drug Disposal Committee for disposal of seized items.**-The Drug Disposal Committee can order disposal of seized items up to the quantity or value indicated in the Table below, namely:-

TABLE

(1)	(2)	(3)
Sl. No.	Name of item	Quantity per consignment
1.	Heroin	5 Kg
2.	Hashish (Charas)	100 Kg
3.	Hashish Oil	20Kg
4.	Ganja	1000 Kg
5.	Cocaine	2 Kg
6.	Mandrax	3000 Kg
7.	Poppy straw	Up to 10 MT
8.	Other narcotic drugs, psychotropic substances, controlled substances or conveyances	Up to the value of Rs. 20 lakhs:

Provided that if the consignments are larger in quantity or of higher value than those indicated in the Table, the Drug Disposal Committee shall send its recommendations to the Head of the Department who shall order their disposal by a high level Drug Disposal Committee specially constituted for this purpose.

9. **Mode of disposal of drugs.**-(1) Opium, morphine, codeine and thebaine shall be disposed of by transferring to the Government Opium and Alkaloid Works under the Chief Controller of Factories.
- (2) In case of narcotic drugs and psychotropic substances other than those mentioned in sub-paragraph (1), the Chief Controller of Factories shall be intimated by the fastest means of communication available, the details of the seized items that are ready for disposal.
- (3) The Chief Controller of Factories shall indicate within fifteen days of the date of receipt of the communication referred to in sub-paragraph (2), the quantities of narcotic drugs and psychotropic substances, if any, that are required by him to supply as samples under rule 67B of the Narcotic Drugs and Psychotropic Substances Rules, 1985.
- (4) Such quantities of narcotic drugs and psychotropic substances, if any, as required by the Chief Controller of Factories under sub-paragraph (3) shall be transferred to him and the remaining quantities of narcotic drugs and psychotropic substances shall be disposed of in accordance with the provisions of sub-paragraphs (5), (6) and (7).
- (5) Narcotic drugs, psychotropic substances and controlled substances having legitimate medical or industrial use, and conveyances shall be disposed of in the following manner:-
 - (a) narcotic drugs, psychotropic substances and controlled substances, which are in the form of formulations and labeled in accordance with the provisions of the Drugs and Cosmetics

Act, 1940 (23 of 1940) and rules made thereunder, may be sold, by way of tender or auction or in any other manner, as may be determined by the Drug Disposal Committee, after confirming the composition and formulation from the licensed manufacturer mentioned in the label, to a person fulfilling the requirements of the Drugs and Cosmetics Act, 1940 (23 of 1940) and the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) and the rules and orders made thereunder, provided that a minimum of 60% of the shelf life of the seized formulation remains at the time of such sale;

- (b) narcotic drugs, psychotropic substance and controlled substances seized in the form of formulations and without proper labeling, shall be destroyed;
 - (c) narcotic drugs, psychotropic substances and controlled substances seized in bulk form maybe sold by way of tender or auction or in any other manner as may be determined by the Drug, Disposal Committee, to a person fulfilling the requirements of the Drugs and Cosmetics Act, 1940 (23 of 1940) and the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), and the rules and orders made thereunder, after confirming the standards and fitness of the seized substances for medical purposes from the appropriate authority under the Drugs and Cosmetics Act, 1940 (23 of 1940) and the rules made thereunder;
 - (d) controlled substances having legitimate industrial use may be sold, by way of tender or auction or in any other manner as may be determined by the Drug Disposal Committee, to a person fulfilling the requirements of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) and the rules and orders made thereunder;
 - (e) seized conveyances shall be sold off by way of tender or auction as determined by the Drug Disposal Committee.
- (6) Narcotic drugs, psychotropic substances and controlled substances, which have no legitimate medical or industrial use or such quantity of seized items which is not found fit for such use or could not be sold, shall be destroyed.
 - (7) Destruction referred to in sub-paragraph (b) shall be by incineration, in incinerators fitted with appropriate air pollution control devices, which comply with emission standards and such incineration may only be done in places approved by the State Pollution Control Board or where adequate facilities and security arrangements exist and in the latter case, in order to ensure that such incineration may not be a health hazard or polluting, consent of the State Pollution Control Board or Pollution Control Committee, as the case may be, shall be obtained, and the destruction shall be carried out in the presence of the Members of the Drug Disposal Committee.
10. **Intimation to Head of Department on destruction.**-The Drug Disposal Committee shall intimate the Head of the Department regarding the programme of destruction at least fifteen

days in advance so that, in case he deems fit, he may either himself conduct surprise checks or depute an officer for conducting such surprise checks and after every destruction operation, the Drug Disposal Committee shall submit to the Head of the Department a report giving details of destruction.

11. **Certificate of destruction.**-A Certificate of Destruction (in triplicate) containing all the relevant data like Godown entry number, gross and net weight of the items seized, etc., shall be prepared and signed by the Chairman and Members of the Drug Disposal Committee as per format at **Annexure 3** and the original copy shall be pasted in the Godown register after making necessary entries to this effect, the duplicate to be retained in the seizure case file and the triplicate copy shall be kept by the Drug Disposal Committee.
12. **Details of sale to be entered in Godown register.**-As and when the seized narcotic drug, psychotropic substance, controlled substance or conveyance is sold by way of tender or auction or in any other manner determined by the Drug Disposal Committee, appropriate entry indicating details of such sale shall be made in the Godown register.
13. **Communication to Narcotics Control Bureau.**-Details of disposal of narcotic drugs, psychotropic substances, controlled substances and conveyances shall be reported to the Narcotics Control Bureau in the Monthly Master Reports.

ANNEXURE 1 (OF APPENDIX III-D)

INVENTORY OF SEIZED NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES, CONTROLLED SUBSTANCES AND CONVEYANCES

[under Section 52A (2) of the Narcotic Drugs and Psychotropic Substances Act, 1985]

Case No.-----

Seizing agency:-----

Seizing officer:-----

Date of seizure:-----

Place of seizure:-----

Name and designation of the officer preparing this inventory:-----

TABLE

Sl. No.	Narcotics Drug/Psy- -chotropic Substanc- -es/Con- -trolled Substanc- -es/Con- -veyance	Quality	Quantity	Mode of packing	Mark and numbers	Other identifying Particulars of seized items of packing	Country of origin	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Signature, name and designation of the officer

Certification by the Magistrate under sub-Section (3) of Section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985

Whereas the above officer applied to me under sub-Section (2) Section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 to certify the above inventory, and sub-Section (3) of that Section requires any Magistrate to whom an application is made to allow the application as soon as may be, I, having been satisfied that the above inventory is as per the seizure documents and the consignments of seized goods related to the case presented before me, certify the correctness of the above inventory.

Signature, name and designation of the Magistrate

Annexure 2

(OF APPENDIX III-D)

APPLICATION FOR DISPOSAL OF SEIZED NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES, CONTROLLED SUBSTANCES AND CONVEYANCES UNDER Section 52A (2) OF THE NDPS ACT, 1985

[Application to be made by the officer in-charge of a police station or an officer empowered under Section 53 of the Narcotic Drugs and Psychotropic Substances Act, 1985 who has custody of the seized narcotic drugs, psychotropic substances, controlled substances and conveyances]

To,

Learned Magistrate,

Sir,

Sub: Application for certification of correctness of inventory, photographs and samples of seized narcotic drugs, psychotropic substances, controlled substances and conveyances.

1. All narcotic drugs, psychotropic substances, controlled substances and conveyances have been identified by the Central Government under Section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 as vulnerable to theft and substitution vide Notification No.....dated.....
2. As required under sub-Section (2) of Section 52 A of the Narcotic Drugs and Psychotropic Substances Act, 1985, I submit the enclosed inventory of seized narcotic drugs, psychotropic substances, controlled substances, and/or conveyances and request you to-
 - (a) certify the correctness of the inventory;
 - (b) permit taking, in your presence, photographs of the seized items in the inventory and certify such photographs as true; and
 - (c) allow drawing of representative samples in your presence and certify the correctness of the list of samples so drawn.
3. I request you to allow this application under sub-Section (3) of Section 52 A of the Narcotic Drugs and Psychotropic Substances Act, 1985 so that the seized narcotic drugs, psychotropic substances, controlled substances, and/or conveyances can thereafter be disposed of as per sub-Section (1) of Section 52A of the said Act retaining the certificate, photographs and samples as primary evidence as per sub-Section (4) of Section 52A (4).

Yours faithfully,

Signature, name and designation of the officer

Date:

CERTIFICATE BY THE MAGISTRATE UNDER SUB-Section (3) OF Section 52A OF THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

I allow the above application under sub-Section (3) of Section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 and hereby, certify the correctness of the enclosed inventory, the enclosed photographs taken and the list of samples drawn in my presence.

Signature, name and designation of the Magistrate

Date :

ANNEXURE 3 OF APPENDIX III-D

CERTIFICATE OF DESTRUCTION

[See Paragraph 11 of Notification No. dated the.....]

This is to certify that the following narcotic drugs, psychotropic substances and controlled substances, were destroyed in our presence.

1. Case No.
2. Narcotic Drug / Psychotropic Substance / Controlled Substance:
3. Seizing agency:
4. Seizing officer:
5. Date of seizure:
6. Place of Seizure:
7. Godown entry number:
8. Gross weight of the drug seized:
9. Net weight of the narcotic drugs, psychotropic substances, controlled substances destroyed (after taking samples, etc.):
10. Where and how destroyed.

Signature(s), name(s) and designation(s) of Chairman/Members of the Drug Disposal Committee.

[F. No. V/2/2004-NC.II]

SATYA NARAYANA DASH, Under Secy.

APPENDIX-IV

(REFER PARA 17.15.2.2 (iii))

File No. 1-1619/FSSAI/Imports/2016

Food Safety and Standards Authority of India

(A Statutory Authority established under Foods Safety and Standards Act, 2006)

(Imports Division)

FDA Bhawan, Kotla Road, New Delhi-110002

Dated, 6th March, 2017

ORDER

A number of representations have been made to FSSAI requesting to define the sample size of high priced imported alcoholic beverages After thoughtful consideration, it is decided that in the case of import of high priced liquor, miniature/representative sample of 100ml (in two numbers) can be taken for laboratory analysis subject to condition that imported consignment shall be accompanied with test certificate of the regulatory body of exporting country that the representative/ miniature sample and imported consignment pertains to the same batch.

(Rakesh Chandra Sharma)

Director (Imports)

To:

1. All the Authorised Officers, FSSAI
2. Director Customs
3. Advisor Lab, FSSAI with request to communicate to all laboratories
4. PPS to Chairperson, FSSAI
5. PS to CEO, FSSAI,
6. CITO, FSSAI (for uploading on website)

APPENDIX - V

(Refer Para 17.16.4.4.(iv)(c))

List of Nodal Officers

S. No	Organization	Nodal Officer	Contact No./Mobile No.
1.	SPG	Sh.Sunil Kumar, SSO/Tech	011-23015964/ 9968534765
2.	CRPF	Sh. VaibhavKumarSrivastava, Assistant Commandant	9899359226
3.	NSG	Major SurenderSingh	9001733778/ 7976966601
		AC-II Thorat BM	9340730105
4.	NTRO	MajDSSidhu (Retd), Senior Aviator	8019500111
5.	CISF	Sh. ShrikantKishore, DIG	011-25673068/011- 49654286
6.	BSF	Sh.D.S.Bisht, Commandant (Ops)	9856182908
		DC (Mod), ProvDte, BSF	
		DC (R&D), Comn& IT Dte, FHQ. BSF	
7.	ITBP	Sh. R.P.S.Raghuvanshi, Commandant (Nodal Officer)	011-24360486
		Sh. Hem ChandraKapil, Dy. Commandant	9410738312
		NikhilYadav, Sub-Inspector	8882298991
8.	DGI, GS Branch	Col PrashantPande, YSM	011-23018398

Note: The above list subject to change from time to time. The formations are requested to ascertain the changes.

APPENDIX-VI

LIST OF CIRCULARS/INSTRUCTIONS USED IN DISPOSAL MANUAL

Sr. No.	Sr. No of Old Disposal Manual 1990	Page No. of Old Disposal Manual 1990	CIRCULAR NO & DATE	SUBJECT	Where new Instruction / Circular figuring in Disposal Manual 2019
1	1	1	D.5570/BI/151 dt. 18.6.51	Gold received by Mint from Customs	Para 11.1 of Chapter 11
2	2	1	5 (31)Cus. 1/51 dt.10.8.51	Gold, confiscated -disposal	Para 11.1 of Chapter 11
3	3	1	2/6/53-LC dt.3.12.54	Perishable goods - Procedure	Para 2.3.1 of Chapter 2
4	4	2	21/23/55-CUS-IV dt.10.9.56	Procedure for disposal of confiscated goods	Chapter 2
5	6	9	7/3/56-LCII dt. 3.12.56 ***	Disposal of confiscated Foreign Currency	Chapter 12
6	5	10	2/16/56-LCI dt. 16.11.56	Perishable goods- Delegation of Powers	Para 2.3.1 & 2.8 of Chapter 2
7	8	11	21/23/55-Cus.IV dt. 8.12.56	Procedure for disposal of confiscated goods	Chapter 2 (This Instruction is actually the text / structure of Chapter 2)
8	9	26	16(1)/57/-Cus.IV. dt. 6.2.57	Disposal of Arms and Ammunitions	New Procedure detailed at para 15.2 of New Draft Manual
9	10	26	30/1/57-LCI dt. 3.5.57	Medicine-perishable goods	Para 14.1.3 of Chapter 14
10	14	30	11/3/59-Cus. IV dt. 28.7.59	Confiscated silver Ornaments and Coins	Para 11.3 and Para 11.2, respectively, of Chapter 11
11	18	32	11/21/60-Cus. IV dt. 23.9.60	Silver Ornaments & Coins	Para 11.3 and Para 11.2, respectively, of Chapter 11
12	21	44	11/12/60-Cus. IV dt. 26.6.61	Confiscated/ Abandoned Plants & Seeds	Para 17.5 of Chapter 17

13	22	44	11/2/61-Cus. IV dt. 17.7.61	Regarding issue of Vouchers for retail sale of confiscated & seized goods	Para 9.2 of Chapter 9
14	24	45	F.No. 4/63/57-Cus.III/Cus. IVdt 07.09.61	Disposal of confiscated detained and uncleared goods by Custom House or Port Trust/ Port Commissioners -Fixation of reserve / fair prices	Chapter 6
15	33	53	30/13/62-LCI Dt. 28.12.62	Disposal of confiscated Silver	Para 11.3 of Chapter 11
16	34	54	30/27/62-LCI Dt. 3.1.63	Disposal of gold & gold jewellery	Para 11.4 of Chapter 11
17	38	58	1(117)-B/63 Dt. 29.1.64	Copy of letter to the Mint Master for watch of silver sale	Chapter-11
18	46	65	F.No.30/56/64-LCI dt 10.11.64	Disposal -Procedure for receipt, storage and disposal of seized goods-storage of Valuables - Instructions reg	Chapter 3
19	48	67	30/62/64-LCI Dt. 13.1.65	Gold Jewellery and Gold Ornaments	Para 11.4 of Chapter 11
20	49	67	30/6/65-LCI Dt. 24.2.65	Retail sale	Para 9.2 of Chapter 9
21	73	83	30/72/67-LC.I dt 10.10.67	Disposal of confiscated goods-fixation of prices in consultation with other collectors of Customs and Central Excise	Chapter 6
22	78	87/88	30/90/66-LCI Dt. 23.1.68	Trade goods through the DGS&D	Chapter 9
23	79	89	30/90/66-LCI Dt. 2.2.68	Trade goods	Chapter 9
24	82	93	30/80/66-LCI Dt. 17.4.68	Confiscated Diamonds, precious stones	Para 10.1 of Chapter 10
25	86	95/96	30/21/63-LCI Dt. 3.7.68	Disposal of rough & uncut diamonds	Para 10.1 of Chapter 10
26	94	98/99	30/52/68-LCI Dt. 4.11.68	Disposal of rough & uncut diamonds	Para 10.1 of Chapter 10

27	96	99	30/38/68-LCI Dt. 22.11.69	Disposal of Arms & Ammunitions	New Procedure detailed at Chapter 15 of New Disposal Manual 2019
28	97	99/100	MHA No 15/44/47/Police Dt. 13.11.47	Firearms	
29	98	100/101	MHA 9/25/55/Police IV Dt. 19.8.55	Confiscated Arms & Ammunitions	
30	99	101	MHA No.9/9/58-Police (I) Dt. 2.4.58	Disposal of obsolete Police Weapons	
31	100	102	MHA No. 23/2/60 P.IV Dt. 8.12.60	Arms Act – Disposal	
32	116	109	6577/m(Cus)70 Dt. 16.10.70	Disposal of Perishable goods	Para 2.4 of Chapter 2
33	121	111	30/76/70-LCI Dt. 27.2.71	Arms & Ammunitions	Chapter 15 of Disposal Manual, 2019
34	127	112	3/1/71-Ad. V Dt. 21.11.72	Arms & Ammunitions	Chapter 15 of Disposal Manual, 2019
35	130	114	549/6/72-LCI Dt. 12.3.73	Arms & Ammunitions	Chapter 15 of Disposal Manual, 2019
36	139	118	549/86/73-LCI Dt. 2.11.74	Arms & Ammunition	Chapter 15 of Disposal Manual, 2019
37	143	119/121	549/16/76-LCI Dt. 11.8.76	PAC recommendations on damaged goods	Annexure – I of Chapter-14
38	146	123	545/ 24M/77-LCI(I)25.8.77	Cut & Polish Diamond	Chapter 10
39	148	124	545/ 3-M/78 Dt. 10.2.78	Stock verification of Valuables	Para 4.2 of Chapter 4
40	151	125	549/ 59-M/77 Dt. 4.5.78	Resuming of sale of Diamond	Chapter 10
41	152	125	549/ 59-M/77 Dt. 12.5.78	Disposal – sensitive to smuggling	Chapter 11
42	159	129/131	545/1-M/78-LCI Dt. 21.12.78	PAC recommendations	Annexure -I of Chapter-14
43	164	133	549/ 59-M/77-LCI Dt. 2.6.79	Sensitive to Smuggling	Covered under relevant Sections of Chapter 9
44	168	137	549/ 59-M/77-LCI Dt. 26.6.79	Discount of 10% to Military / Para Military organisations	Covered under relevant Sections of Chapter 9
45	169	137	549/ 59-M/77-LCI Dt. 26.6.79	Discount of 12 ½ % to NCCF etc.	Covered under relevant Sections of Chapter 9
46	176	140	545/ 38/79/-LCI Dt. 27.12.79	Disposal of drugs Chemicals regarding	Chapter 14

47	177	140	549/ 123/79-LCI Dt. 30.1.80	Disposal of confiscated watches	Covered under relevant Sections of Chapter 9
48	179	141	549/61/79-LCI Dt. 24.6.80	Discontinuation of sale of confiscated goods to department officers from retail sale	Chapter 9
49	185	144	549/90/79-LCI Dt 23.1.81	Snake skin	Para 17.8 (iii) of Chapter 17
50	186	144	549/101/79-LCI Dt 31.1.81	Bore Arms & Ammunitions	Para 15.2 of Chapter 15
51	188	145	549/86/79-LCI Dt 5.3.81	Disposal Misc. items	Chapter 17
51	194	153	549/ 90/79-LCI Dt. 28.7.81	Snake skin	Para 17.8 (iii) of Chapter 17
53	195	154	549/ 90/79-LCI(AS) Dt. 5.9.81	Snake skin	Para 17.8 (iii) of Chapter 17
54	198	157	549/ 8/80-LCI Dt. 1.10.81	Perishable goods	Para 2.4 of Chapter 2
55	214	166	711/ 35/82-LC(AS) Dt.17.6.83	Fire Arms – sales to Dept. Officers	Para 15.2.4 of Chapter 15
56	219	172	715/1/83-LC(AS) Dt. 19.1.84	Precious & Semi Precious Stones	Chapter 10
57	231	183/184	F.711/ 18/84-LC(AS) Dt. 26.3.85	Sale of fire Arms to Dept. Officers	Para 15.2.4 of Chapter 15
58	234	185	F.711/ 18/84 -LC(AS) Dt. 8.11.85	Sale of Arms to Dept. Officers	Para 15.2.4 of Chapter 15
59	238	188/189	F.711/ 8/84-CUS(AS) Dt. 7.4.86	Seized/confiscated drugs	Chapter 16
60	242	191	F.711/ 31/85-CUS(AS) Dt.3.9.86	Disposal of snake skin	Para 17.8 (iii) of Chapter 17
61	253	209/210	F.No. 711/ 61/88-CUS(AS) Dt. –	Minutes of meeting – Animal skin	Para 17.8 (iii) of Chapter 17
62	-	233	F.No. 711/61/88-CUS(AS) dt 7.8.92	Destruction of snake skin	Para 17.8 of Chapter 17
63	-	244	F.No. 711/130/93-CUS(AS) Dt. 12.12.94	Silver	Para 11.3 of Chapter 11
64	-	246	F.No. 711/164/93-CUS(AS) Dt. 12.3.96	Gold through Customs Retail shop	Para 11.3(Iv) of Chapter 11
65	-	-	Circular No. 50/97 dt 17.10.1997	Disposal of Unclaimed / Uncleared	Para 5.1 of Chapter 5
66	-	268	F.No. 711/164/93-CUS(AS) Dt. 5.3.98	Gold & Silver – Deposition nearest to cities	Chapter 11

67	-	-	F.No. 711/39/2004-Cus(AS) dt. 17.09.2004	Guidelines for the valuation and disposal by auction-cum-tender of seized, confiscated and time - expired goods	Para 6.2 of the chapter 6
68	-	-	Circular no 57 of 2016 dt 01.12.2016	Guidelines for the sale of seized/ confiscated gold - Reg.	Para 11.2 of Chapter 11
69	-	-	Circular No. 7 /2004 dated 28.01.2004	Disposal of Unclaimed/ Uncleared cargo-regarding	Para 5.1 of Chapter 5
70	-	-	Circular No. 20/2019 dated 19.07.2019	Guidelines for Disposal of Muriate of Potash Seized/ confiscated by Customs	Para 17.14 of Chapter 17
71	-	-	Circular No. 30/2019 dated 11.09.2019	Disposal of Seized/ confiscated Foreign Origin Liquor	Para 17.15 of Chapter 17
72	-	-	Circular No. 32/2019 dated 20.09.2019	Disposal of Unmanned Aircraft System(UAS)/ Unmanned Aerial Vehicle (UAVs)/ Remotely Piloted Aircrafts (RPAS)/ Drones	Para 17.16 of Chapter 17

APPENDIX VII

LIST OF EARLIER CIRCULARS/INSTRUCTIONS RESCINDED

Sr. No.	Sr. No of Old Disposal Manual 1990	Page No. of Old Disposal Manual 1990	CIRCULAR NO & DATE	SUBJECT
1	11	26-29	21 (52) 56-Cus. dt. 1.7.57	Disposal of confiscated and abandoned goods
2	12	29	100/11/58-LCI dt. 12.3.58	Disposal of cheques and Postal Orders of foreign origin (Pakistan)
3	16	31	21/91/57-Cus. IV dt. 12.10.59	Procedure for disposal of goods in Calcutta Custom House
4	19	32	30/7/60-LCI dt. 3.2.61	Book adjustment stationery
5	35A	55-56	30/29/62 LCI Dt. 18.5.63	Consumer Goods
6	37	57	11(81)-ST/63 Dt. 30.12.63	Sales Tax
7	40	59	30/6/64-LCI Dt. 12.2.64	Sales Tax levy
8	41	59	30/11/64-LCI Dt. 26.2.64	Int. Dept adjustment gold & silver
9	44	65	30/11/61-LCI Dt. 19.6.64	Inter Dept. adjustment Gold & silver
10	50	67	30/36/65-LCI Dt. 19.5.65	Camphor & Menthol
11	52	68	30/32/65-LCI Dt. 25.6.65	Supply of list of confiscated goods for CSDC(I) Deptt.
12	56	69/70	30/80/65-LCI Dt. 10.12.65	Step for expeditious disposal
13	58	71	30/36/65-LCI Dt. 11.2.66	Sale of Confiscated camphor, cassia, etc
14	60	73	30/36/65-LCI Dt. 19.3.66	Disposal – sale of Confiscated menthol

15	62	74	30/103/65-LCI Dt. 15.9.66	Power of Chief Inspector & principal Dock Appraiser to supervise auction
16	63	75	30/21/63-LCI Dt. 23.9.66	Disposal of rough & uncut Diamond
17	67	78	30/91/66-LCI (Pt. VII) Dt. 17.1.67	Disposal – review by the PAC
18	69	80	30/13/66-LCI Dt. 1.2.67	Disposal of Camphor
19	70	80/81	30/10/67-LCI Dt. 15.3.67	Delay in disposal – step for expeditious disposal
20	71	81	30/45/67-LCI Dt. 14.6.67	Disposal of confiscated goods
21	74	83	30/43/67-LCI Dt. 23.10.67	Sales Tax
22	80	89/91	30/43/67-LCI Dt. 8.2.68	Sales Tax
23	88	96	Dept of Expenditure Uo No. 2426 dt 28.6.68 received under Ministry's letter F.No. 16/3/68 -Adm IVA dt 18.7.68	Delegation of Powers - Maintainence of seized Road Vehicles- Incurrng of expenditure
24	91	97/99	14/4/68-LCI Dt. 23.9.68	Delay in disposal
25	92	98	30/33/67-LCI Dt. 25.9.68	Disposal of consumer and luxury goods
26	93	98	1/35/68-LCIAd. VIII Dt. 1.11.68	Proper Storage – hiring of garage
27	85	94/95	30/33/67-LCI Dt. 7.6.68	Traded goods
28	102	102/103	30/12/69-LCI Dt. 7.2.69	Sale of cloves through STC
29	103	103	30/9/69-LCI Dt. 12.2.69	Disposal of notified goods
30	106	104/105	30/85/68-LCI Dt. 26.2.69	Trade goods through DGS & D
31	107	105	30/62/69-LCI Dt. 26.6.69	Sale of confiscated goods of Chinese origin
32	108	105/106	30/23/69-LCI Dt. 6.9.69	Payment of sales Tax

33	109	106	30/68/69-LCI Dt. 18.9.69	Cloves to STC – debiting of licence
34	111	107	30/68/69-LCI Dt. 13.3.70	Sale of cloves
35	112	107	30/12/70-LCI Dt. 31.3.70	Sale of confiscated Radiant yarn
36	113	107	30/107/69-LCI Dt. 10.4.70	Complain w.r.t. cigarettes / Notified item
37	114	108	TC Bombay's letter Dt. 17.6.70	Actual users of Metallic Yarn
38	117	109	30/21/70-LCI Dt. 24.11.70	Disposal of consumer goods
39	118	109/110	30/58/70-LCI Dt. 24.11.70	Liquor – sales to licensed dealer
40	119	110	30/23/70-LCI Dt. 06.01.71	Disposal of confiscated clove
41	120	110	30/23/70-LCI Dt. 6.1.71	Sale of clove to import quota holder
42	123	111	549/93/71-LCI Dt. 31.7.71	Disposal of Cloves
43	124	111/112	30/62/69-LCI Dt. 14.9.71	Disposal of goods – Chinese origin
44	125	112	549/112/71-LCI Dt. 25.5.72	Disposal of Tape recorder and Cameras – office use
45	126	112	549/42/72-LCI Dt. 15.7.72	Binoculars, Telescopes- office use
46	128	113	549/94/72-LCI Dt. 14.12.72	Recommendation of the committee on Disposal
47	129	114	549/118/71-LCI Dt. 22.12.72	Cut & Polished Diamond
48	131	115	549/53/73-LCI Dt. 16.8.73	Disposal of confiscated Menthol/Thymol
49	132	115	549/93/73-LCI Dt. 30.11.73	Clove & other spices

50	133	115	549/84/73-LCI Dt. 3.1.74	Scotch whiskey & liquor requiring licence
51	135	116	549/102/71-LCI Dt. 21.5.74	Synthetic Yarn
52	136	116/117	549/58/71-LCI Dt. 23.5.74	Trade goods / Yarn procedure
53	137	117	549/60/74-LCI Dt. 26.6.74	Liquor & Cigarettes – Import license
54	138	117	549/90/74-LCI Dt. 31.8.74	Medicine/Drugs – reference from Collector Ahmedabad
55	140	118	549/110/74-LCI Dt. 6.11.74	Sale scheme of tape Recorders, Calculators & other educational aid to Educational institutions
56	142	118/119	549/139/75-LCI Dt. 28.8.75	Disposal of consumer and luxury goods – Instructions reg.
57	144	121	R&B F.No. 545/16/76 – LCI Dt. 15.9.76	Quick disposal of damaged goods
58	147	123/124	549/ 59/M/77LCI (Vol. II)Dt. 7.11.77	Resuming of sale of - Instruction
59	149	124	549/59-M/77-LCI Dt. 01.05.1978	Tape Recorders, Calculators for Dept. use
60	150	125	549/59M/77 Dt. 4.5.78	Resuming of sale – stoppage of sale to NCCF
61	154	127	549/ 59-M/77-LCI Dt. 15.6.78	Radiant & Metallic Yarn
62	157	128	549/ /59-M/77-LCI Dt. 1.12.78	Sale of Synthetic Yarn
63	158	128	549/59-M/77-LCI Dt. 1.12.78	Disposal of Small & Heterogeneous items
64	162	132	549/ 19/79-LCI Dt. 9.3.79	Nylon Yarn
65	163	132/133	544/ 21/79-LCI Dt. 8.5.79	PAC report Stock verification

66	165	134/136	549/ 81-M/77-LCI Dt. 16.6.79	PAC report
67	170	138	549/ 59-M/77-LCI Dt.3.7.79	Telex message – disposal - Watches- HMT
68	171	138	549/ 59-M/77-LCI Dt 25.7.79	Confiscated Watches HMT
69	173	139	545/ 21/79 Dt 30.10.79	Reminder regarding Stock verification to be carried out regularly
70	174	139	549/ 82/79-LCI Dt. 30.11.79	Confiscated Watch movements
71	175	139	549/ 123/79-LCI Dt. 22.12.79	Confiscated Watches – all measures
72	178	141	549/132/79-LCI Dt.29.2.80	Disposal-sale through NCCF increase of sale points
73	181	142	549/54/79-LCI Dt 5.9.80	List of para military organization, list of para military organization
74	183	142/143	549/40/79-LCI Dt 24.11.80	Liquor – expeditious Disposal of
75	184	143	549/8/79-LCI Dt 8.1.81	Disposal of medicines, ref. from C.Excise Chandigarh reg.
76	189	145	Copy of MOF(DR) F.NO.549/7/1979-LCI (AS) dated 27.04.1981	Disposal - seized / Confiscated Canalised Drugs and Medicine- Procedure regarding disposal of
77	192	152	549/ 47/80-LCI(AS) Dt. 4.6.81	Watches HMT
78	193	152/153	711/31/81—LCI(AS) Dt. 25.6.81	Video Tape Recorders to Educational Institutions
79	196	155	715/14/81-LC(AS) Dt. 1.10.81	Valuation of disparities - PAC
80	197	155/157	715/14/81- LC(AS) Dt. 1.10.81	PAC recommendations on perishable goods

81	202	160	711/7/82-LC(AS) Dt. 22.3.82	Disposal of electrically operated calculators - office use
82	205	161	711/ 18/82-LC(AS) Dt. 28.7.82	List of Wild Life items ripe for disposal
83	206	161/162	549/ 35/80-LCI Dt. 9.8.82	Watch movement
84	208	162A	711/31/81-LC(AS) Dt. 20.8.82	Video Cassette Recorder – to Educational Institutions
85	209	163	711/ 10/82-LC(AS) Dt. 15.9.82	Seized/confiscated liquor – import quota
86	220	173/174	711/ 15/84-LC(AS) Dt. 22.3.84	Sales Tax on the sale
87	223	178	711/ 39/84-LC(AS) Dt. 28.5.84	D.P.O statement
88	225	179	F.349/4/84-LC(AS) Dt. 23.7.84	Notifications - copies-
89	228	182	F.711/ 9/84-LC(AS) Dt. 25.9.84	Readymade Garments
90	229	183	F.393/137/84-Cus(AS) Dt. 30.10.84	Notification – copies -
91	230	183	F.711/ 72/84-LC(AS) Dt. 26.12.84	Perishable goods – sensitive to smuggling -watches
92	232	184	F.No.394/36/85-Cus- (AS) dated 30.08.85	Disposal of Arms and Ammunition to National Security Guard
93	235	186	F.715/12/85-CUS(AS) Dt. 9.12.85	Type writers & binoculars for Dept. use
94	241	190	F.393/1/86-CUS(AS) Dt. 22.8.86	Disposal HMT watches
95	244	192	F.711/ 30/86-CUS(AS) Dt. 30.1.86	Review of existing arrangement of storage
96	251	202/203	394/1/DPO(AS)89 Dt. 14.10.88	D.P.O. Proforma clarifications

97	252	209	F.No. 398/40/DPO(AS) 89 Dt. 3.8.89	D.P.O. Proforma
98	257	223/224	F.No. 664/126/89-OPIUM Dt. 711/.11.89	Destruction of Drug within fixed time
99	258	224	F.No.A- CUS(AS) 27020/65/89 AD.IV Dt. 9.1.90	Deposit of Gold with Mint -
100	-	234	F.No. 711/100/93-CUS(AS) dt 3.8.93	Disposal of Silver
101		235	F.No. 711/100/93-CUS(AS) Dt. 10.8.93	Disposal of Silver
102		237	F.No. 711/164/93-CUS(AS) Dt. 26.11.93	Deposition of Gold with Mint
103		238	F.No. 711/130/93-CUS(AS) Dt. 16.9.94	Silver through Customs Retail shop
104	-	239	Disp/Misc/9 dt. 14.10.94	Discount for silver
105	-	240	F.No. 711/164/93-CUS(AS) Dt. 17.11.94	Gold through Customs Retail shop
106	-	269	F.No. 711/70/93-CUS(AS) dated 19.05.96	Disposal of disperse Dyes to M/s NCCF

Notes

This image shows a full page of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. At the top center, there is a bold black heading that reads "Notes".

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