

F.No. 711/20/2013-Cus (AS)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
(Anti-smuggling Unit)

5th floor, Hudco Vishala Building,
Bhikaji Cama Place, R.K. Puram, New Delhi
Dated: 14.08.2014

ADDRESSED TO ALL STAKE HOLDERS

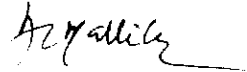
NOTE

Subject: Draft Circular pertaining to disposal of seized/confiscated cylinder filled with refrigerant gases –seeking comments thereon - reg.

Your attention is invited to Circular no. 20/2009 –Cus dated 19.06.2009 on disposal of refrigerant gases. Looking into the difficulties faced by the field formations in disposal of refrigerant gases, a fresh circular on the issue is proposed to be issued to address the issue. Copy of the draft circular is enclosed below.

2. Feedback and suggestions are solicited from the stake holders for improvement / amendment in the same, to make the circular effective for speedy disposal of hazardous refrigerant gases. The comments / suggestions may be sent at acmallick@nic.in.

Encl: As above



(A.C. Mallick)
Under Secretary (AS)
Email: acmallick@nic.in
Telefax:011-26177577

F. No. 711.20.2013 Cus (AS)

Sir/ Madam,

Subject: Disposal of seized / confiscated cylinders filled with refrigerant gases – **regarding.**

Attention is invited to the Board's Circular No 20/2009-Customs dated 19.06.2009 as amended vide corrigenda dated 18.10.2010 and 15.02.2011 on the above subject. It has been brought to the notice of the Board that the field formations are facing difficulties with regard to disposal of seized / confiscated cylinders filled with refrigerant gases. Accordingly, the matter was taken up with Chief Controller of Explosives, Petroleum & Safety Organization(**PESO**), Nagpur; Director, **Ozone Cell** -Ministry of Environment and Forest (MoEF), New Delhi and the Refrigerant Gas Manufacturers Association (**REGMA**) – (an association of HCFC/HFC refrigerant gas producers in India). Based on the feedback received from them and after examination of the matter, the following instructions in this regard are issued in supersession of all earlier Circular /Instructions on the above subject:-

1. To facilitate a regulatory framework for smoother and safe disposal of such seized / confiscated cylinders filled with refrigerant gases the following need to be observed:
 - i. **As per Rule 3 of the Gas Cylinder Rules, 2004** (in supersession of the Gas Cylinders Rules, 1981), framed under the **Explosives Act, 1884**, No person shall fill any cylinder with any compressed gas or import, possess or transport any cylinder so filled or intended to be filled with such gas unless –
 - (a) such cylinder and its valve have been constructed to a type and standard specified in **Schedule 1 as amended** from time-to-time by an order issued by the Chief Controller,
 - (b) the test and inspection certificates issued by the inspecting authority in respect of cylinder and its valve are made available to the Chief Controller and prior approval of the said authority is obtained.
 - ii. As per **Rule 29** of the said Rules, no person shall import any cylinder filled or intended to be filled with any compressed gas except under and in accordance with the conditions of a licence granted under these rules and the relevant provisions of **Foreign Trade (Development & Regulations) Act, 1992**.
 - iii. Also, as per **Rule 43** of the said Rules, no person shall fill any cylinder with compressed gas and no cylinder filled with compressed gas shall be possessed by anyone except under and in accordance with the conditions of a licence granted under these rules.
 - iv. In accordance with the provisions laid down under the Gas Cylinder Rules, 1981, Department of Explosives issues licence for filing/ re-filing / storing / transporting in gas cylinders. The disposal of gas cylinders which are not of a make and type approved by Chief Controller of Explosives, Nagpur under **Rule 3** of the Gas Cylinders Rules, 2004 by way of auction can thus be made only to those parties which

possess **valid licences from PESO** for filling of refrigerant gases into cylinders and facilities for storage of filled refrigerant cylinders and to deal with the same in the manner laid down under the Gas Cylinder Rules, 2004 (to store compressed gas in pressure vessels or vessels or cylinders and to produce / handle / store / fill refrigerant gases).

- v. The said cylinder should be de-shaped after disposal of the refrigerant gas complying with the requirements of **Rule 36 of the Gas Cylinder Rules, 2004**. The cylinders after flattening or cutting may be sold as scrap. In this connection **IS: 9200** may please be referred for the procedure for the condemnation and scrapping of such cylinders. The report of the same need to be forwarded to the Chief Controller of Explosives, Nagpur for record.
- vi. Empty Seized/Confiscated cylinders (with no refrigerant gas inside) need not necessarily be auctioned by the Department to the firms listed under this Circular only and after getting it verified that the same are empty, may be disposed of by General auction / sold as scrap after obtaining undertaking to dispose of same as per requirements of **Rule 36** of the Gas Cylinder Rules, 2004 following **IS: 9200** procedure. The Controller of explosives has been requested to facilitate PESO permission to the purchaser firms of refrigerant gases from Customs for destruction/disposal of decanted cylinders in a week's time of putting in the application.

2 India, being a signatory to the Montreal Protocol- the multilateral environment treaty, needs to comply with the agreed schedule of production and consumption for phase-out of Ozone Depleting Substances (ODSs), including Hydro chlorofluorocarbons (HCFCs), and to comply with the regulatory regime in respect of consumption and production of these substances in India.

2.1 **Chlorofluorocarbons (CFC 11 and CFC12)** are already phased –out under the Montreal Protocol and are not allowed to be imported, produced, consumed in India and exported out of India under the ODS Rules. Hence, no one can participate in off-take of the seized cylinders containing CFCs. As it is a banned item and cannot be reprocessed/disposed off due to the above reasons, the importer should be asked to send the material back with punitive measures.

2.2 As a measure of accelerated phase-down of **HCFCs** under the Montreal Protocol, the Consumption of HCFCs in India is now frozen. Imports of HCFC 22 and their Blends are, therefore, not allowed in India without Licence as per the **revised ODS Rules and FTP** hence the importer should be asked to send the material back with punitive measures.

2.3 From time to time, as a measure to stop illegal import of refrigerants, Customs has been seizing/confiscating cylinders filled with refrigerant gases being brought into the country illegally. Such seized / confiscated refrigerants cylinders are required to be disposed of by the Customs through an auction process, to the eligible firms, who are required to re-export the same after

reprocessing, or dispose of the same as per procedure prescribed by the MoEF in accordance with ODS Rules and to submit details as per Rules to the MoEF.

2.4 It is also seen that HCFC-22 is often imported by unscrupulous elements by mislabelling and misdeclaring the same. To prevent such illegal imports, it is necessary to identify the actual refrigerant gas being imported by use of refrigerant identifiers, viz. Refrigerant Analysers available with DRI to identify the actual gas being imported before clearance.

2.5 As per the Montreal Protocol requirements, the MoEF monitors production, consumption, import and export of ODSs through the data submitted by various Producers, concerned Departments / Ministries and also through the audit. The MoEF has stated that in case of traders / wholesalers/ Stockiest or other consumers, there is no possible system of audit through which the movement of ODS including HCFCs can be traced within the country. Hence, no system can be put in place for tracking the flow of ODS if the confiscated/ seized cylinders are sold to such firms. The MoEF favors disposal of HCFCs to the firms which are Producers of HCFC-22 and who have the wherewithal, technical resources and competency to dispose of HCFC-22 through safe recycling and reprocessing in their production facilities.

3 AQfter consultation with the Ozone Cell, MoEF the prescribed following criteria / guide lines are prescribed for disposing of the seized/confiscated refrigerant CFC empty/full cylinders:-

- i. They should have specific permission to decant such cylinder in approved cylinders.
- ii. They should have facility to decant the gas, purify it and repack the gas for export.
- iii. The Custom authorities must take an undertaking from the producers of refrigerant gas (who are approved by CCOE to purchase and sale such material) that the gas purchased from the Customs is only for export with a valid licence and should not be delivered for domestic sales
- iv. In case the CFC producers are not able to export the entire stock, they should take measures to ensure that the stockpile is destroyed as per the guidelines/procedure of Montreal Protocol. The disposal of refrigerant gases(CFCs) by incineration would also require clearance from State Pollution Control Boards and / or Central Pollution Control Board on which the Director, Ozone Cell has agreed to facilitate the approval process subject to the proposal being received through the Customs field formations/CBEC.
- v. Name of the countries from where the cylinder containing such refrigerant gases were illegally imported should be intimated to the Ozone Cell, so that the National Ozone Units (NOUs) of those countries may be informed of the same to prevent further illegal import to India.

4. The disposal of seized refrigerant cylinders can be made through auction in accordance with the provisions laid down under the Gas Cylinder Rules, 2004 to the firms listed here under 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 Chief Controller of Explosives, Petroleum and Explosives Safety Organisation, C.G.O Complex, 5th Floor, Seminary Hills, NAGPUR -440006 and to the Director, Ozone Cell, Ministry of Environment & Forests, Core 4B, 2nd Floor, India Habitat Centre, Lodhi Road, New Delhi-

110003 Fax No : +91-11-24642175 ,Email : ozone-mef@nic.in along with details of cylinders who will ensure that the corresponding quantity is accordingly debited from the prescribed quota of the concerned manufacturer. The firms are already advised by the Chief Controller of Explosives to extend necessary cooperation and guidance for disposal of refrigerant cylinders to the Customs authorities in the interest of public safety whenever any reference in this regard is received by them.

- 1) **M/s Navin Fluorine International Limited**, 2nd Floor, Sunteck Centre, 37/40, Subash Road, Vile Parle (East) Mumbai 400057. Factory : Navin Fluorine International Ltd ,Udhana,Navsari Road,Surat,Gujarat, PIN -395023, **Tel.:** 91 261 2890325 **Fax:** 91 261 2890288 and New Industrial Area ,Agra – Mumbai Road ,Dewas – Madhya Pradesh, PIN–455002, **Tel.:** 91 727 2403015,**Fax:** 91 727 2259362,**Email:** sunil.randon@nfil.in
- 2) **M/s Gujarat Fluorochemicals Limited** INOX Towers, Plot No. 17, Sector 16-A, Noida - 201301 U.P. E-mail : sunilarora@gfl.co.in (Plant at VADODARA)
- 3) **M/s SRF LIMITED**, Block-C,Sector-45, Gurgaon-122003 Haryana E-mail : sunmathur@srf.com (Plant at Bhiwadi, Rajasthan)
- 4) **M/s Chemplast Sanmar Limited**, 9,Cathedral Road, Chennai-600086 E-mail : rvr1@sanmargroup.com (Plant at Mettur, in Tamil Nadu and Karakal in the Union Territory of Puducherry.)
- 5) **M/s Hindustan Fluorocarbons Limited**, (a subsidiary of M/s Hindustan Organic Chemical Ltd-a Government of India Enterprise) 303, 3rd floor, Babukhan Estate, Bashir Bagh, Hyderabad 500 001, Email: hiflonpurchase@gmail.com

5.1 Since only above mentioned firms are eligible so far to participate in auction ,the field formations taking up disposal of such refrigerant gas cylinders should communicate about the auction to all of them and to the Secretary, Refrigerant Gas Manufacturers Association (REGMA), C/o SRF Limited, Block-C, Sector-45, Gurgaon-122003 to have better price and improved chances of disposal.

5.2 When the refrigerant cylinders to be auctioned are in large quantity, the auctioning authority may consider the option of having auction of smaller lots of cylinders (of 1,000 -2,000 each) as a single enterprise may not be in a position to process such large quantity of cylinders.

5.3 All the field formations should send details regarding quantity and type of ripe for disposal refrigerant gas cylinders to the Commissioner, Directorate of Logistics,New Delhi (along with copy to the Under Secretary (Anti Smuggling Unit CBEC) by 31.08.2014 who will monitor the timely disposal of same by field formatins.

6. Any difficulty in the implementation of the aforesaid measures may be brought to the notice of the Board. All the previous circulars / references issued on the subject may be deemed to have been superseded.

7. Suitable Public Notice may be issued for guidance of the trade.