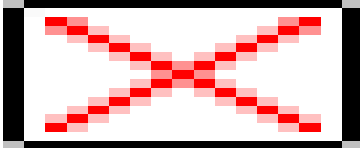


Moving ahead with MOOWR - Some fine tuning required

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A. THE theory: -

The Idea of bonded warehouse was first conceptualised during 19th Century in England. It was introduced to remove the difficulties faced by the importers towards ensuring immediate funds for payment of customs duties. It was named as 'King's Warehouses' which means a designated place assigned for storage of goods with duty saving benefits on imports. Since then, bonded warehouses have gained a wide recognition globally as a trade facilitation measure.

B. Bonded warehouse in India: -

The concept of '**bonded warehousing**

' was first tried out at White field (Bangalore). Bonded warehousing offers a two-fold advantage to the importer. It allows the deferred customs duty payment, and at the same time, allows for cargo to be stored under the relatively cheaper choice compared to other warehouse or other benefit schemes option.

In July 1966, the Central Board of Excise and Customs (CBEC) (at present called as Central Board of Indirect Taxes and Customs (CBIC)) notified the first set of regulations dealing with manufacturing and other operations in a warehouse (MOOWR 1966). These Regulations continued to prevail till June 2019. This concept had not gained much traction among the industry.

As part of government vision on ease of doing business and trade facilitation measure, CBIC came-up with a simplified and more industry-friendly approach to revamp all such regulations into single clearance to boost the manufacturing activity in the country. Hence, Manufacture and Other Operations in Warehouse Regulations, 2019 ¹ were brought into force along with trade facilitating FAQ to clarify many aspects including movement of goods from warehouse for job work purposes and many other, which helped the industry to look for the option of converting their existing facility or start a new facility under this option.

One of the most distinctive features of the new regulations is that there is no interest liability on Customs duty deferment on import of inputs and capital goods into the bonded warehouse. The duty deferment and its impact in tax working capital on the imports is summarised in the table below:

Particulars	Customs Duty	GST	Working Capital
Present Duty Structure in India	BCD + SWS + Cess (approx. 11-15%)	GST + Cess (approx. 18%)	Duty + Taxes

Import Procurement	Customs Duty Deferred	Deferred	No Import Duty Payment - Cash Outflow
Domestic Procurement	Nil	GST + Cess (approx. 18%)	GST Payment - No impact
Export Clearance	Exempted - No outflow of Customs duties	Deferred duty - Zero Rated	Interest cost Savings on duty deferment from import till export
Domestic Clearance	BCD + SWS + Cess (11-15%) on import value of goods used	GST + Cess (approx. 18%) to be Paid on import value of goods used - eligible to avail ITC.	Interest cost Savings on duty deferment from import till clearance - High impact

C. Comparative analysis & feasibility study:-

It is also important to understand options to operate the business under bonded warehouse vis-À-vis with other alternative scheme available under Foreign Trade Policy, SEZ and Customs covering import and export.

For any exporter to decide a beneficial scheme, broadly he must carry out a feasibility study covering the following scheme(s).

1. Advance authorisation & Export Promotion Capital Goods Scheme "**EPCG**"
2. Export oriented unit "**EOU**"
3. Special Economic Zone "**SEZ**"
4. Duty drawback route "**Reimbursement of customs duties used in the export product**"
5. Manufacturing and Other operations in Warehouse (no.2) Regulations, 2019 (MOOWR)

Each of the above schemes has its own advantages and disadvantages in terms of upfront duty saving, deferred duty payment, Pay and claim refund, compliances, designated location, voluminous documentation, value addition requirement, positive NFE etc. The company needs to evaluate the best option by way of a feasibility study comparing the options available. The followings data analysis will play a major role in decision making -

- i. Projected volume of imports for next 3 - 5 years with overall duty involved.
- ii. Complete Input and Output Norms as per bill of material (BOM) to quantify the duty liability for both import & domestic items.
- iii. Quantifying the customs duty deferment and associated opportunity interest savings based on lead time involved from import stage to finished goods clearance.
- iv. Transitional stock including existing benefits availed based on imports and exports.
- v. Evaluating the **AS-IS Vs To-BE**, changes in IT system and transitional cost involved due to change in the business model.

To enable the manufacturers, take an informed decision a SWOT analysis is suggested. This technique helps in decision making.

A SWOT study on MOOWR is given below

Strength	Weakness	Opportunity	Threat (challenges)
<ul style="list-style-type: none"> - Single point of approval, - Customs clearance at ease, - SION not mandatory, - No export obligation requirement, - No time limit for storage (Except Trading activity), - No renewal of license is required, - 100% domestic sale is allowed, - Duty payment on clearance to DTA - interest savings on duty deferred on sale to DTA, - Pave the way to apply for AEO T2 requirement. 	<ul style="list-style-type: none"> - Only Manufacturing or other related operations are allowed. (Service is not included)., - Appointment of warehouse keeper - No benefit of depreciation for capital goods except on exports - Complicated reporting process 	<ul style="list-style-type: none"> - No geographical restriction to setup, - Interest applicable only beyond 90 days for as such removal (trading of imported goods), - Refund of input taxes or IGST refunds on export, - Brand rate for import duty suffered goods including vendor portion of customs duties (to be explored), - Improved liquidity with deferment of import duty and no interest liability <p style="text-align: center;">Â</p>	<p>The challenges are categorized in 3 buckets as below</p> <ul style="list-style-type: none"> - Transitional challenges - Technical challenges - Procedural challenges <p>In subsequent paras, an effort has been made to provide practical suggestion/ options available to mitigate these challenges,</p>

1. Transitional challenges:

1.1 Consequence of existing schemes such as Drawback/ AA / EPCG :-

- The present MOOWR regulations is silent on open licenses (Advance Authorization, EPCG etc)., which are yet to be redeemed or export obligation to be fulfilled. The same must be carefully transferred from AAL/ EPCG to Bonded warehouse subject to the approval of the Jurisdictional Customs officer. Also, separate stock of such items should be communicated to department.

1.2 Transitional Stock:-

- It is suggested that the company declares upfront the value of stock i.e. WIP, finished goods, & Capital goods available at the time of applying for Bonded warehousing. Alternatively, the company can demark the storage of existing stock and new imports to track and pay the appropriate duty and claim eligible export incentives (if eligible).

1.3 Duty Drawback on exports:-

- In terms of the All industry Rate (AIR) Notification, AIR rate of Duty drawback is not available against the export of goods manufactured in a facility operating under bonded warehouse. This is since there is no upfront duty payment on imported goods. If exporter can substantiate with the duty suffered documents, brand rate of drawback under Rule 6 of Drawback Rules can be explored. For the transitional stock, the appellants can follow the process of declaring stock. This might be a cumbersome process.

2. Technical challenges: -

2.1 Duty on Capital goods

- Capital goods can be imported without payment of duty. However, in the event of sale/ scraping of imported capital goods after being put to use for manufacturing activity, the applicable customs duties have to be paid on the original import value as clarified by para 15 of FAQ.

- This has to be revisited and the manufacturers be allowed to pay the customs duty on capital at the depreciated value.

- This will motivate more businesses to opt for MOOWR scheme.

2.2 Merger / acquisition / joint venture of present facility:-

- Wherever there is a change in constitution of company due to Merger/ acquisition/ joint venture, the PAN/ IEC shall undergo change.

- The position of existing warehouse license and ownership of the license has not been clearly spelt out in the Regulations. It may be inferred that in case if the PAN / IEC is not changed, then the license shall be continued.

- However, in case of a demerger situation, the demerged entity has to apply for a new PBW approval. A clarity in this regard would help the industry better.

2.3. RODTEP eligible: -

- Recent notification No 19 /2015-20 dated 17th August 2021 issued under foreign trade policy specifically excludes RODTEP benefit to entities operating under warehousing scheme.

- RODTEP is designed to reward the embedded tax on the export product, which otherwise is not eligible for claiming as refund, such embedded taxes are electricity tax, road tax, ineligible GST credit, excise duty/ VAT on petrol, diesel, mandi tax etc.

- A facility operating under bonded warehousing will also be incurring similar embedded taxes in their final product. Therefore, if this restriction is imposed, it will be a show-stopper for the units to opt for the scheme. Existing Licensees will find it difficult to compete with other manufacturers due to increase in cost of final product.

- The Government should revisit this and extend this benefit to warehousing entities as well to make this scheme more attractive.

3. Procedural challenges: -

3.1 Bill to Ship to movement in bonded premises: -

- As per the Regulation, the imported goods have to be first brought in to the registered premises.
- Many businesses who send the goods for job work opt for bill-to ship-to scheme to reduce timelines and cost of freight.
- If this is not allowed, it may increase the operating cost of the licensed manufacturer & also increase the lead time of production.
- It is recommended that Government may consider allowing the concept of Bill-to Ship-to facility for warehouse licensees also.

3.2 Monthly compliance

- The regulation mandates maintenance of data of receipt, issues to manufacturing, finished product, removal for export, removal for job work, removal for home consumption etc. as per the prescribed format.
- The license holder is required to file this information in monthly return every 10 th of following month. Presently, this process is manual. The facility of online filing may be extended to the warehouses as well.

D. Conclusion: -

The MOOWR scheme not only extends the benefits in the form of cost reduction of customs duty/ IGST but also provides the benefit of working capital savings to the extent of duty deferment. The scheme looks more attractive to companies having 25% plus export turnover or has more dependency on imported raw materials. Therefore, it is suggested that the companies begin to evaluate their current exports promotion schemes adopted and to check whether same can be replaced with MOOWR after a feasibility study as discussed above.

This initiative by the government should be a facilitator for India's manufacturing sector and should give the much-needed impetus for promoting the country as a global manufacturing hub. It would also strengthen the 'Make in India' initiative by encouraging exports to facilitate India as preferred market. The scheme needs to be finetuned further by extending the RODTEP scheme, Bill-to Ship-to facility etc.. This would encourage more manufacturers to opt for this scheme.

[The views expressed are strictly personal.]

1(Notification No [69/2019-Cus. \(NT\)](#), dated October 01, 2019)

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