Dear All,

Customs department has issued a notice under SVB and imposed loading of 5% on the value of imported goods. Client has imported goods from abroad and are still lying at the port. They want to clear them by furnishing bond and paying 5% loading.

What is the procedure of Bond/ PD Bond?

Regards
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P.D. bond format

P. D. BOND

KNOW ALL MEN BY THESE PRESENTS THAT I/ we ..........................

.............................................................. of No............................... hereinafter
called the “Importer” ( which expression shall include – its successors/ heirs, executors,
administrator and legal representatives) am/are held and firmly bound unto the President
of India hereinafter called the “President” (which expression shall included his successors
and assigns) in the sum of Rs.................. (Rupees ....................) to be paid to the President
for which payment well and truly to be made, I/we bind myself/ ourselves, my/our
successors, heirs, executors, administrators and legal representatives firmly by these
presents.

Sealed with my /our seal(s) this ......................... day of .................. 19..........

WHEREAS

The # [Assistant Commissioner of Customs] / Principal Appraiser at ...........

(hereinafter called the “Proper Officer”) has agreed to make provisional assessment of the
goods described in the Schedule below imported by the importer pending submission of
further documents and furnishing information and /or completion of further enquires
and/or chemical or other test and the Proper Officer has agreed to allow clearance of the
goods subject to the importer's * (productions within one month from the date hereof a
valid licence to cover the import of the goods mentioned in the Schedule or ) providing to
the satisfaction importer is valid for and covers the entire goods mentioned in the
Schedule below and upon the importer agreeing to furnish such bond and as is herein
contained and whereas the importer has deposited with the *[Commissioner of Customs ]
at .......a sum of Rs........... in cash for being applied in part or full towards the indemnity
hereby given or otherwise according to law.
The importer has deposited with the *[Commissioner of Customs ] at ........... the
securities mentioned in the Schedule hereunder written of the face value of Rs...........
(Rupees............) only endorsed in favour of ....................as on the part of the importer
and for being applied in part or full towards the indemnity hereby given or otherwise
according to law.
NOW THE CONDITION of the above written bond is such that:-
(1) If the importer shall within one month or within such extended period as the
Proper Officer may allow produce such documents and furnish such information as
may be called for by the Proper Officer, and
(2) If the importer pays to the President the difference between the duty finally
assessed and the duty provisionally assessed in respect of the goods mentioned in
the Schedule below, and
(3) If the importer delivers or causes to be delivered to the Proper Officer within one
month of a demand being made by the Proper Officer a valid import licence
covering the entire goods mentioned in the Schedule below, and
(4) If the importer pays to the President any penalty and fine that may be adjusted in
lieu of confiscation of the said goods for importation of the goods or part thereof
without a valid import licence.

Then the above written bond shall be void and of no effect otherwise the same shall remain in full force and virtue.

AND IT IS HEREBY AGREED AND DECLARED by the importer as follows:-

1. The bond is given under the orders of the Central Government for the performance of an act in which the public are interested.

2. The President through the * [Assistant Commissioner of Customs]

.......................... or other officers may recover the said sum of Rs.

.......................... in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962 without prejudice to any other mode of recovery and may inter alia adjust the aforesaid security deposit/ securities in the part or full towards payment of the said sum.

The Schedule of import goods.

01. Bill of Entry No. & Date :

02. Description of Goods :

02. Invoice No. & Date :

03. MAWB / HAWB No. & Date :

04. ACIF Value :

05. Bond Amount :

IN WITNESS whereof the importer has herein set and subscribed its hands and seals the day, month and year first above written.

SIGNED AND DELIVERED BY and Accepted

At................................. For and on behalf of the

In the presence of President of India
Hi,

It's good to see whole format of the Bond.

I have another query on the issue.

Since the 'PD Bond' stands for 'provisional duty bond' why the customs authorities insist for bond equal to assessable value?

Is there any specific provision for that? (What I observed from the above referred format is no where it specify the amount of duty, does it mean I shall execute bond covering assessable value instead of Duty)

Jeevesh
(Advocate - Tax/Corporate)
26 August 2009

Thanks Alot Mr N Naveena.

Dear Mahesh,

Answer to your query lies in Section 18 of the Customs Act along with the Customs (Provisional Duty Assessment) Regulations, 1963.

Hope it will clear your doubts.

Regards
Section 18 of customs Act says

provisional assessment can be done in following cases (a) when Customs Officer is satisfied that importer or exporter is unable to produce document or furnish information required for assessment

(b) it is deemed necessary to carry out chemical or other tests of goods

(c) when importer/exporter has produced all documents, but Customs Officer still deems it necessary to make further enquiry. In such cases, assessment is done on provisional basis.

The importer/exporter has to furnish guarantee/security as required by Customs Officer for payment of difference if any. Goods can be cleared after payment of duty provisionally assessed and after providing the security. After final assessment, difference is paid by importer or refunded to him as the case may be. If the imported goods were warehoused after provisional assessment, the Customs Officer may require importer to execute a bond for twice the difference in duty, if duty finally assessed is higher [section 18(2)(a)]. The bond is called as ‘P D Bond’ (Provisional Duty Bond). The bond is with security or surety. Bank guarantee can also be given as a security.

Thanks Jeevesh and Naveena,

Yea, I am aware of the provisions.

But sometimes law and practice contradict to each other.

The tax authorities can ask for bond which could be max twice the duty payable......

However, in practice, at certain ports are asking for bond which is equal to assessable value. Thats why I rasied a query whether anybody of you are aware of this kind of provision.

From one of the old draft report of CAG, it has been pointed out (annexed as below), however what is the current status of compliance I am not aware.
r-2, Part-VI of the manual ibid stipulated that amount of bond not be inflated unnecessarily.

Scrutiny of records in 20 commissionerates revealed that PD bonds were taken largely for full assessable value instead of for possible differential duty, while in some other cases bonds executed were for full duty amount payable for imported goods. In Ahmedabad, Jamnagar and Kandla in 11,410 cases of bond value of Rs.27,525 crore, bonds were obtained for an amount equivalent to duty assessed or for assessable value.

In air cargo complex (ACC) Bangalore, 29 bonds had been registered as “dummy bonds” for amounts ranging from Rs.1 to Rs.3.7 lakh and in Delhi I and G, inland container depot and Tughlakabad (ICD and TKD) commissionerates, bonds for token amount of Rs.1/Rs.10 in four cases had no link with differential duty. Reasons for executing such type of bond, which were not provided in the rules, were not on record.

Ministry stated (November 2005) that dummy bonds were executed to satisfy the requirement of EDI system which had since been cancelled and PD bonds were taken for full assessable value to adequately safeguard revenue in absence of any other quantifiable and viable method prescribed under law and further stated that instructions of Board were being reiterated. Reply however did not contain options of new quantifiable and viable methods to be adopted during provisional assessments. Reply is not tenable as practice followed is violative of provisions of Appraising Manual and Customs (Provisional Duty Assessment) Regulation 1963.

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In the present case i discussed, the Custom Authorities are demanding to furnish the bond with amount of atleast 50 lacs whereas the actual value of the goods are not more than 3 lacs.

Therefore I think there is no fix criteria to assess the bond amount. The department fixes the amount just to safeguard their interest.

But this is just a paper work needs to be done and is used at the time of final assessment. 50 lac or 10 lacs wont make any difference as the party will be liable to pay only on differential amount which cant be more above 10 lacs inspite of 3 lacs in my case ...

What u say?

So what should my client do in this situation?
Jeevesh, please tell the date and no. of the draft report of CAG u have mentioned.

Its old one.


See, we are doing it for the sake of revenue interest.

Kindly note that, though there is no implication as such by binding ourselves by executing bond, ideally that amount should be supported by your networth.

Ganesh Vaideeswaran, Director Grey Matter Academics Pvt. Ltd

Is there a validity for the PD Bond that is being issued to Customs? Understand that the validity is only for One year but there is no expiry date mentioned in the bond. So is it right to presume that the Bond Validity is for only one year?
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