

CHAPTER – VIII

Ministry of Earth Sciences

8.1 Avoidable payment of rent for bonded warehouse

Centre for Marine Living Resources & Ecology, Kochi, stored unused and condemned items in a bonded warehouse and incurred avoidable expenditure of ₹ 1.03 crore towards rent of the bonded warehouse.

Section 49 of the Customs Act, 1962 provides that imported goods, whether dutiable or not, entered for home consumption, may be stored in a public warehouse for a period not exceeding thirty days if the goods cannot be cleared within a reasonable time⁴⁷. In terms of Section 61 of the Customs Act, in the case of any goods other than those intended for use in any hundred *per cent* export oriented undertaking, the warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed till the expiry of one year which may be extended by the Chief Commissioner of Customs for such period as he may deem fit. Sections 59 and 60 of the Customs Act state that the importer of goods which have been entered for warehousing shall execute a bond whereupon the proper officer may permit deposit of the goods in the warehouse.

The Centre for Marine Living Resources & Ecology, Kochi (CMLRE) is an attached office of the Ministry of Earth Sciences (MoES) which organizes, coordinates and promotes ocean development activities in the country. CMLRE rented (1984-85) space in the Central Warehousing Corporation (CWC) Kochi bonded warehouse for storing goods for future use on board the vessel FORV Sagar Sampada⁴⁸. CMLRE stored its imported goods procured between 1985 to 2005 in the bonded warehouse. CMLRE occupied 69 sq.m. of open area and 235 sq.m. of closed area in the bonded warehouse.

Audit observed that most of the items were not consumed and were lying in the bonded warehouse. Further, the warehouse space was also used for storing condemned items which were to be disposed. As of April 2016, a total of 247 items valuing ₹ 1.11 crore were lying in the bonded warehouse out of which 52 items

⁴⁷ The Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a further period not exceeding thirty days at a time.

⁴⁸ FORV Sagar Sampada is a research vessel owned by the erstwhile Department of Ocean Development. CMLRE was first started as Sagar Sampada Cell in 1991 and later on was formed as a full-fledged Centre.

valuing ₹ 2.50 lakh were condemned. These condemned items occupied an area of 174 sq.m. of the total area of 304 sq.m. constituting nearly 57 per cent of the total area. The items were yet to be disposed of as of January 2017.

During the period from 2009-10 to 2016-17, CMLRE incurred expenditure of ₹ 1.03 crore towards rent of the bonded warehouse. Engagement of a bonded warehouse for storing idle and condemned items was injudicious and the expenditure incurred on payment of rent for the warehouse was avoidable.

CMLRE stated (July 2015) that sufficient numbers of various items were ordered along with the vessel to suffice the requirements during the entire life of vessel as these items were not available in India. CMLRE added (April 2016) that the items were being stored in the bonded warehouse under Sections 49 and 67⁴⁹ of the Customs Act, 1962, and that these items have to be either kept on board FORV Sagar Sampada or in bonded warehouse ashore. CMLRE added (January 2017) that they were functioning from premises without any storage facility and hence had no alternative to the CWC facility.

The reply is not tenable as Sections 49 and 67 of the Customs Act were applicable only for goods which are stored in the warehouse pending clearance for home consumption. All the items stored by CMLRE under Section 67 and most of the items stored under Section 49 of the Customs Act were only scrap. Further, there was no record to indicate that bond was executed and specific orders of the proper officer as prescribed in Sections 59 and 60 of the Customs Act had been either sought or obtained for storing the items in the bonded warehouse for such extended periods of time. The reply of CMLRE citing non-availability of its own facility is in contradiction to its earlier statement (April 2016) that these items have to be either kept on board FORV Sagar Sampada or in bonded warehouse ashore.

Thus, storage of unused and condemned stores in the bonded warehouse resulted in avoidable payment of rent of ₹ 1.03 crore for the bonded warehouse.

The matter was referred to the Ministry (September 2017); its reply was awaited as of December 2017.

8.2 Irregular protection of pay

National Institute of Ocean Technology, Chennai, irregularly granted protection of pay of contract employees on their appointment on regular basis. This resulted in excess payment of pay and allowances of ₹ 1.97 crore to 44 employees.

Government of India order below Rule 22-B of the Fundamental Rules clarifies that since a temporary Government servant does not have a lien on any post, the pay of a person confirmed in a service/post will not be re-fixed with reference to the pay that

⁴⁹ Section 67 states that the owner of any warehoused goods may, with the permission of the proper officer, remove the goods from one warehouse to another.

the employee was drawing in the previous post held in temporary capacity but will be fixed in the scale of pay of the service/post.

The National Institute of Ocean Technology, Chennai (NIOT), an autonomous organization under the administrative control of Ministry of Earth Sciences (MoES) formulated (September 2000) Staff Service Rules stipulating various categories of staff such as regular staff appointed against sanctioned posts, contract staff appointed against sanctioned posts and ad hoc staff appointed on short term as per powers delegated to the Governing Council.

During the period from June 2006 to October 2009, NIOT made appointment of 58 persons, who were initially on contract basis. These employees were granted regular scales of pay with annual increments since their initial appointment on contract basis.

Scrutiny of pay fixation of these employees revealed that out of 58 contract employees appointed on permanent basis, the pay in 44 cases was fixed by taking into account the service rendered by the officials on contract basis and by protecting the basic pay drawn by them instead of fixing the pay at the minimum of the scale of pay/pay band. As the contracted employees did not have a lien on their earlier posts, the protection of pay was irregular and resulted in excess expenditure of ₹ 1.97 crore on the pay and allowances of these employees as of March 2017.

NIOT stated (September 2016) that the pay of the contract employees was protected based on the analogy of guidelines stipulated in Department of Personnel and Training (DoPT) Office Memorandum (OM) issued in August 1989⁵⁰. NIOT added (November 2017) that these employees were in service for periods ranging from six years to nine years and they were drawing pay in the time scale identical to those holding similar positions on regular basis. However, based on audit observations, such protection of pay was not extended to staff who were regularized after October 2009.

The reply is not tenable as benefit of protection of pay cannot be extended to contract employees. The OM referred to by NIOT is related to protection of pay of regular employees working in Public Sector Undertakings, Universities, Semi-Government Institutions and Autonomous Bodies who were recruited into Government service and not contract employees.

The matter was referred to the Ministry (October 2017); its reply was awaited (December 2017).

⁵⁰ The DoPT OM stipulated guidelines for fixing the pay of candidates working in Public Sector Undertakings, Universities, Semi-Government Institutions and Autonomous Bodies who were recruited into Government service.

