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GOVERNMENT OF PAKISTAN
(REVENUE DIVISION)
FEDERAL BOARD OF REVENUE

Islamabad, the 3rd September, 2020.

NOTIFICATION
(Customs)

S.R.O. 89 (I)/2020.- The following draft of certain further amendments in the Customs Rules, 2001, which the Federal Board of Revenue proposes to make in exercise of the powers conferred by section 219 of the Customs Act, 1969 (IV of 1969), section 50 of the Sales Tax Act, 1990, section 40 of the Federal Excise Act, 2005 and section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), is hereby published for information of all persons likely to be affected thereby and, as required by sub-section (3A) of section 219 of the Customs Act, 1969 (IV of 1969), notice is hereby given that objections or suggestions thereon, if any, may for consideration of the Board be sent within fifteen days of publication of the draft amendments in the official Gazette. Any objections or suggestions which may be received from any person, before the expiry of the aforesaid period, shall be taken into consideration by the Federal Board of Revenue, namely:-

DRAFT AMENDMENTS

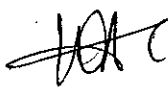
In the aforesaid Rules, after Chapter XXXII, the following new Chapter XXXIII shall be added, namely:-

“CHAPTER XXXIII

ELECTRONIC AUCTION (E-AUCTION)

SUB-CHAPTER (1)

OVERSTAYED GOODS

 **753. Definitions.-** (1) In this chapter, unless there is anything repugnant in the subject or the context.-

- (i) “auctionable goods” means goods imported or to be exported goods ripe for auction at sea port terminal, airport, Dryport, land customs station, an off-dock terminal, public or private bonded warehouse;
- (ii) “bidder” means any person registered as a bidder in Customs Computerized System and offers a bid electronically in respect of goods put to auction;
- (iii) “bid” means the price offered at e-auction portal for the goods put to auction separately or in lots or in a combination of lots by a bidder registered with customs computerized system;
- (iv) “system” means the Customs Computerized System to the extent applied and notified under section 155A of the Customs Act, 1969;

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- (v) "unique auction number" means a unique number allotted to the lot of goods or vehicles; and
 - (vi) "custodian" means sea port terminal operator, port authority, Ground Handling Agent or Shed operator at airport, and include authority or organization or entity operating Dry port, Land Customs Station or Off Dock Terminal and public or private warehouse keeper or any entity notified by Customs.

(2) All other expressions used and not defined in these rules shall have the same meaning as has been assigned to them for Customs Computerized System under Chapter-XXI of the Customs Rules, 2001.

754. e-Registration of the bidders.-Any person holding a valid CNIC or NICOP may get himself registered as a bidder by submitting the electronic form available at e-auction portal of the system against prescribed fee for processing of registration. The system shall acknowledge the registration of the person as a bidder by allocating him a Unique Identification/registration Number and transmitting the same at his valid e-mail address and mobile number. At the time of registration processing officer may verify the registration particulars and may reject the registration on valid grounds.

755. Role of Custodian of goods.- The system shall register the already registered Terminal Operators under Sub-Chapter XIV of Chapter XXI of the Customs Rules, 2001, or Ground Handling Agent at airports or Off dock terminal operator / public or private warehouse keeper being the Custodians of imported or to be exported goods, or any other authority / organization / company or entity and provide the following functionality in the system. The Custodian shall perform the following functions:

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- (i) identify the goods as:
 - (a) unclaimed manifested goods;
 - (b) uncleared Manifested goods;
 - (c) overstayed warehoused goods in public or private bonds;
 - (d) port sweeping;
 - (e) cases under recovery under section 202(1)(b) of the Customs Act, 1969;
 - (f) Any other goods approved by the Collector of Customs.
 - (ii) update the list of auctionable goods in the system for e-auction;
 - (iii) feed the details of goods as identified in clause (i) and forward the same to the Assistant / Deputy Collector (Auction) for initiation of auction proceedings as prescribed in Rule 743;
 - (iv) deliver the auctioned goods to the successful bidder after ensuring payment of duties and taxes in the head of account of Collector of Customs and other related charges and after fulfillment of the conditions or restrictions as provided in Import Policy Order and relevant laws; and
 - (v) keep record of successful bidders and their related documents.

756. Procedure for issuance of notices.-(1) If the goods imported into Pakistan are not cleared from any customs station or public or private bonded warehouse within the time limit as specified in section 82 or section 98 as the case may be of the Customs Act 1969, all such consignments shall be assigned by the system to the Assistant or Deputy Collector (Auction) for initiation of auction proceedings.

(2) The system shall generate a notice under section 82 or sub-section (2) of section 112 of the Customs Act, 1969 for issuance to relevant trader, customs agent, shipping agent or shipping line as the case may be as per the details available in the manifest or any other record. The system generated manual / electronic notice under section 82 will be dispatched/transmitted to the relevant person.

757. Procedure for examination and assessment for fixation of Reserved Price.-If no reply is received within stipulated time of the notice generated under sub-rule (2) of rule 741, the following action shall be taken, namely:-

- (a) the system shall allot a 'Unique Auction/Lot Number' against the BL or AWL in case of manifested goods or against an auction documents in case of confiscated goods or non-manifested goods;
- (b) the system shall assign the goods for examination. The examining officer while feeding examination report shall upload clear and complete images and suggest classification of goods and any other report (if required) of the goods under auction;
- (c) after completion of examination of goods, the system shall mark the goods for assessment on the basis of classification proposed by the examining officer; and
- (d) the Assessing Officer shall on the basis of examination report and available information in the system, finalize the assessment of the goods and determine the reserve price of the goods. The appraising officer may also call samples for assessment of value. The assessing officer shall mention the NOCs and other documents where required as per the conditions and restrictions imposed under the Import Policy Order or any other law applicable thereon, for compliance by the bidder as well as by the custodian. For assessment of vehicles, the Assessment officer will follow the instructions contained in Chapter-IV titled "Assessment of Vehicles" of CGO 12/2002 dated 15.06.2002.

758. Auction Proceedings.-The online auction proceedings shall be initiated by the Assistant or Deputy Collector (Auction) or by any other officer authorized by the Collector. The information regarding the goods under auction shall be provided or displayed at auction portal against each Unique Auction Number. It may include;

- (a) details/ descriptions of auctionable goods;
- (b) quantity / units as the case may be;
- (c) high definition images of the goods;
- (d) lab or other reports (if any);

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- (e) NOC or conditions or restrictions as per Import Policy Order or Export Policy order or any other laws applicable thereon;
- (f) auction starting and finishing date and time;
- (g) auctionable goods location;
- (h) mode of auction, whether 'As is where is basis' or 'on weight basis' or any other mode;
- (i) opening value of the goods for the bid.

759. Bidding Process and acceptance of bid.-(1)After completion of examination and assessment the goods shall be displayed at auction portal for inviting bids by the Assistant or Deputy Collector (Auction). Once displayed at auction portal the lot shall be available for online bidding and, will be available for 72 hours from the time of receipt of first bid and the time will be displayed against each lot at e-auction portal.

(2) The system will be displaying the highest bid each time on receipt of higher bid.

(3) After the completion of bidding time of 72 hours, the highest bids/offers received against the reserved price will be processed for approval or rejection by the concerned Assistant or Deputy Collector (Auction) or the Additional Collector (Auction) as per the following criteria:

| Bid Offer | Authority to approve Bid |
|--|--------------------------|
| Bids greater than 80% of the reserve price | AC/DC Auction |
| Bids less than 80% of the reserved price | ADC Auction |

(4) The bids received will be considered by the Assistant or Deputy Collector (Auction) within next 72 hours' time to accept or reject the same. All cases, where no decision is taken within the stipulated time, the same shall be assigned to the Additional Collector (Auction) for a decision. If no decision is taken by the Additional Collector within seventy two hours, then the bid shall be auto-rejected by the system.

(5) In case of acceptance of a bid, the system shall calculate the duties and taxes and other charges, PSID will be generated for payment and the same will be displayed to the successful bidder and the AC or DC auction.

(6) If the successful bidder does not deposit the payable amount within seventy two hours, then the system shall select the second highest bid and mark the same to the Assistant or Deputy Collector (Auction) or the Additional Collector for a decision within the time stipulated in rule 773(4). In case of rejection of second highest bid by the Assistant or Deputy Collector (Auction) or the Additional Collector (Auction) as the case may be, the system shall not mark the third highest bid to the authority. However, in case of non-payment for the second highest bid, the system shall forward the third highest bid to the authority for a decision.

(7) Bid acceptance message shall be communicated to the successful bidder through an e-mail and through registered mobile phone mentioning the amount required to be paid and the time limit for payment. The total payable

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amount, after the acceptance of bid, should reflect the component of advance Income Tax (10% in case of filer or 15% in case of non-filer, collected under section 236(A) of the Income Tax Ordinance, 2001.

(8) The successful bidder is required to pay 100% of the accepted bid amount to the given head of account of Collector of Customs or PSID within seven days through e-payment system.

(9) Before the payment, the system shall check if the goods have been released or gated-out during the process of auction, then in such case, the system shall not accept the payment and inform the bidder accordingly.

(10) After confirmation of payment of bid amount the Assistant or Deputy Collector (Auction) shall send the 'release message' of the auctioned goods to the Terminal Operator and Auctioneer.

760. Delivery of auctioned goods by Terminal Operator and Auctioneer.- (1) The Terminal Operator after receipt of the 'release message' shall ensure and verify all the relevant documents or NOC as per IPO or any other relevant laws have been received from the successful bidder.

(2) The Terminal Operator shall also verify the original CNIC of the successful bidder at the time of delivery.

(3) Terminal Operator shall generate and issue the 'Goods Delivery Challan' / Copy of Auction GD at the time of delivery of auctioned goods for the Gate in-charge.

761. Apportionment of Sales Proceeds.-(1) The sale proceeds will be apportioned as per the Section 201 (2) of the Customs Act 1969 at the rate of duty and taxes prescribed by the relevant laws and rules made thereunder.

(2) If the received bid amount is more or less, the system should automatically adjust the value of the goods as per the bid amount and accordingly the incidence of duty and taxes on such value. The value amount will be deposited / adjusted against Customs duty-head of account.

762. Depreciation and Revision of reserved price.-Depreciation and revision of reserved price shall be governed as per first proviso to rule 58 (2) and sub-rule 2A of rule 58 of Chapter V (Auction) of Customs Rules, 2001, respectively.

Explanation: The reserve price shall consist of the depreciated value, duties and taxes and other charges.

763. Auction of perishable or hazardous goods.- Auction of perishable or hazardous goods shall be governed as per rule 71 of Chapter V (Auction) of Customs Rules, 2001.

764. Power of the Collector of Customs. (1) Notwithstanding anything contained in this chapter, the Collector may –

- (i) cancel the whole proceeding of an auction without assigning any reason;
- (ii) recall the proceedings and recover the goods even after delivery of goods if it is proved that there has been a deliberate attempt to cause loss to the public exchequer;
- (iii) restrict or refuse the entry of persons to the premises where an auction is held or their taking part in the auction.

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- (iv) Can disallow or de register the User ID of the bidder at e-portal on reasonable grounds; and
 - (v) the Collector can put the auction of certain goods/ vehicles on hold in case of order from any court.

(2) Notwithstanding the procedures prescribed above, the Collector may issue such general or special orders, regulating the auction as he thinks fit in order to safeguard the public interest.

765. Miscellaneous.- (1) The goods not fit for human consumption shall be destroyed.

(2) The Assistant or Deputy Collector (Auction) shall have the authority to send the goods under auction for re-examination or / and revision of reserved price.

(3) If no bid is received against a lot in five subsequent auctions (Unique Auction Lot Number), then the auctionable goods may either be marked for re-auction or revision of reserved price by the Authorized Officer.

(4) In case of non-payments by a successful bidder after the approval of the bid by the authority, the system shall disable the user-ID and the CNIC for a period of six months. The system shall automatically enable the user-ID and the CNIC after the expiry of six months. During that time period, the bidder will not be able to login to the auction portal of the WeBOC nor his case will be considered and allowed by the Collector of Customs.

(5) The following goods shall not be put to auction and be sold or disposed in the manner as prescribed by the Board, namely,-

- (a) arms and ammunition;
- (b) liquor /narcotics and like goods;
- (c) confiscated books, written material which is obscene, subversive, anti-state or anti-religious; and
- (d) diplomatic cargo.

766. Date of implementation.-The e-auction rule shall be applicable from the date as notified by the Board.”.

SUB-CHAPTER (2)

SEIZED OR CONFISCATED GOODS

767. Definitions.- (1) In this chapter, unless there is anything repugnant in the subject or the context,-

- (a) “auctionable goods” means seized or confiscated goods lying in a state warehouse or elsewhere;
- (b) "bidder" means any person registered as a bidder in Customs Computerized System and offers a bid electronically in respect of goods put to auction;
- (c) “bid” means the price offered at e-auction portal for the goods put to auction separately or in lots or in a combination of lots by a bidder registered with customs computerized system;

- (d) "system" means the Customs Computerized System to the extent applied and notified under section 155A of the Customs Act, 1969;
- (e) "unique auction No." means a unique number allotted to the lots of goods / vehicle under auction; and
- (f) "custodian" means custodian of seized or confiscated goods lying in state warehouse or at any place notified by Customs.

(2) All other expressions used and not defined in these rules shall have the same meaning as has been assigned to them for Customs Computerized System under Chapter-XXI of the Customs Rules, 2001.

768. e-Registration of the bidders.-Any person holding a valid CNIC or NICOP may get himself registered as a bidder by submitting the electronic form available at e-auction portal against prescribed fees for processing of registration. The system shall acknowledge the registration of the person as a bidder by allocating him a Unique Identification or Registration Number and transmitting the same at his valid e-mail address and mobile number. At the time of registration processing officer may verify the registration particulars and may reject the registration on valid grounds.

769. Role of Custodian of goods.- The system shall register the Custodian of goods who will feed information with reference to auctionable goods in the e-auction module and provide the following functionality in the system. The Custodian shall perform the following functions, anmely:-

- (i) identify the goods as:
 - (a) auctionable confiscated goods;
 - (b) legacy goods (goods where manual auctions proceedings were started);
 - (c) cases under recovery under section 202(1)(b) of the Customs Act, 1969; and
 - (d) any other goods approved by the Collector of Customs.
- (ii) update the list of auctionable goods in the system for e-auction;
- (iii) feed the details of goods as identified in clause (i) and forward the same to the Assistant or Deputy Collector (Auction) for initiation of auction proceedings as prescribed in Rule 741;
- (iv) deliver the auctioned goods to the successful bidder after ensuring payment of duties and taxes in the head of account of Collector of Customs and other related charges and after fulfillment of the conditions / restrictions as provided in Import Policy Order and relevant laws; and
- (v) keep record of successful bidders and their related documents.

770. Procedure for referring goods to e-auction.- (1) The goods which are ready for auction under the law shall be uploaded by the Custodian at e-auction module with required details.

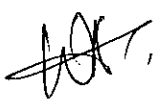
(2) The system shall assign the goods to folder of AC /DC Auction and generate the notice under Section 82 or under the Section 169 (1) or under the Section 201 of the Customs Act,1969 as the case may be. The auction notice will

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also be issued manually to owner of the goods or his agent before start of the proceedings of the auction.

771. Procedure for examination and assessment for fixation of Reserved Price.- (1) In cases where reply of auction notice issued to owner of goods or his agent is not received within prescribed time or found unsatisfactory, the goods shall be proceeded for auction. The system shall allot a 'Unique Auction Lot Number' against an auction documents in case of confiscated goods forwarded by custodian of the goods.

(2) The system shall assign the goods for examination. The examining officer while feeding examination report shall upload clear and complete images and any other report (if required) of the goods under auction in system.

(3) After completion of examination of goods, the system shall mark the goods for assessment on the basis of HS Code proposed by the examining officer. The Assessment officer shall finalize the assessment and determine the reserve prices of goods on the basis of examination report and other information / data available regarding the value of goods.

 (4) The assessing officer shall mention the NOCs and other documents where required as per the conditions and restrictions imposed under the Import Policy Order or any other law applicable thereon, for compliance by the bidder as well as by the custodian. For assessment of vehicles, the Assessment officer will follow the instructions contained in Chapter-IV titled "Assessment of Vehicles" of CGO 12/2002 dated 15.06.2002.

772. Auction Proceedings.-The online auction proceedings shall be initiated by the Assistant or Deputy Collector (Auction) or by any other officer authorized by the Collector. The information regarding the goods under auction shall be provided / displayed at auction portal against each Unique Auction Number. It may include-

- (i) details/ descriptions of auctionable goods;
- (ii) quantity / units as the case may be;
- (iii) high definition images of the goods;
- (iv) lab or other reports (if any);
- (v) NOC/ conditions / restrictions as per Import Policy Order or Export Policy Order or any other laws applicable thereon;
- (vi) auction starting and finishing date and time;
- (vii) auctionable goods location;
- (viii) mode of auction, whether 'As is where is basis' or 'on weight basis' or any other mode; and
- (ix) opening value of the goods for the bid.

773. Bidding Process and acceptance of bid.-(1) After completion of examination and assessment, the goods shall be displayed at auction portal for inviting bids. Once displayed at auction portal the lot shall be available for online bidding and, will be available for 72 hours from the time of receipt of first bid and the time will be displayed against each lot at e-auction portal.

(2) The system will be displaying the highest bid each time on receipt of higher bid.

(3) After the completion of bidding time of 72 hours, the highest bids/offers received against the reserved price will be processed for approval or rejection by the concerned Assistant or Deputy Collector (Auction) or the Additional Collector (Auction) as per the following criteria, namely:-

| Bid Offer | Authority to approve Bid |
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| Bids greater than 80% of the reserve price | AC/DC Auction |
| Bids less than 80% of the reserved price | ADC Auction |

(4) The bids received will be considered by the Assistant / Deputy Collector (Auction) within next 72 hours' time to accept or reject the same. All cases, where no decision is taken within the stipulated time, the same shall be assigned to the Additional Collector (Auction) for a decision. If no decision is taken by the Additional Collector within seventy two hours, then the bid shall be auto-rejected by the system.

(5) In case of acceptance of a bid, the system shall calculate the duties and taxes and other charges, a PSID will be generated for payment and the same will be displayed to the successful bidder and the AC/DC auction.

(6) If the successful bidder does not deposit the payable amount within seventy two hours, then the system shall select the second highest bid and mark the same to the Assistant or Deputy Collector (Auction) or the Additional Collector for a decision within the time stipulated in rule 744(4). In case of rejection of second highest bid by the Assistant / Deputy Collector (Auction) or the Additional Collector (Auction) as the case may be, the system shall not mark the third highest bid to the authority. However, in case of non-payment for the second highest bid, the system shall forward the third highest bid to the authority for a decision.

Handwritten signature/initials

(7) Bid acceptance message shall be communicated to the successful bidder through an e-mail and through registered mobile phone mentioning the amount required to be paid and the time limit for payment. The total payable amount, after the acceptance of bid, should reflect the component of advance Income Tax (10% in case of filer or 15% in case of non-filer, collected under section 236(A) of the Income Tax Ordinance, 2001.

(8) The successful bidder is required to pay 100% of the accepted bid amount to the given head of account of Collector of Customs / PSID within seven days through e-payment system.

(9) Before the payment, the custodian of goods shall check if the goods have been released / gated- out during the process of auction, then in such case, the system shall not accept the payment and inform the bidder accordingly.

(10) After confirmation of payment of bid amount the Assistant / Deputy Collector (Auction) shall send the 'release message' of the auctioned goods to the custodian of goods.

774. Delivery of auctioned goods by custodian.-(1)The custodian of goods after receipt of the 'release message' shall ensure and verify all the relevant

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documents or NOC as per IPO or any other relevant laws have been received from the successful bidder.

(2) The custodian of goods shall generate and issue the 'Goods Delivery Challan / Copy of auction GD' at the time of delivery of auctioned goods to the Gate Incharge.

775. Apportionment of Sales Proceeds.-(1) The sale proceeds will be apportioned as per the Section 201 (2) of the Customs Act 1969 at the rate of duty and taxes prescribed by the relevant laws and rules made thereunder.

(2) If the received bid amount is more or less, the system should automatically adjust the value of the goods as per the bid amount and accordingly the incidence of duty/taxes on such value. The value amount will be deposited / adjusted against Customs duty-head of account.

776. Depreciation and Revision of reserved price.-Depreciation and revision of reserved price shall be governed as per first proviso to rule 58 (2) and sub-rule 2A of rule 58 of Chapter V (Auction) of Customs Rules, 2001, respectively.

Explanation: The reserve price shall consist of the depreciated value, duties and taxes and other charges.

777. Auction of perishable / hazardous goods.-Auction of perishable / hazardous goods shall be governed as per rule 71 of Chapter V (Auction) of Customs Rules, 2001.

778. Power of the Collector of Customs. (1) Notwithstanding anything contained in this chapter, the Collector may –

- (i) cancel the whole proceeding of an auction without assigning any reason;
- (ii) recall the proceedings and recover the goods even after delivery of goods if it is proved that there has been a deliberate attempt to cause loss to the public exchequer;
- (iii) restrict or refuse the entry of persons to the premises where an auction is held or their taking part in the auction;
- (iv) can disallow or deregister the User ID of the bidder through e-portal on reasonable grounds; and
- (v) The Collector can put the auction of certain goods/ vehicles on hold in case of order from any court.

(2) Notwithstanding the procedures prescribed above, the Collector may issue such general or special orders, regulating the auction as he thinks fit in order to safeguard the public interest.

779. Miscellaneous.-(1) The goods not fit for human consumption shall be destroyed.

(2) The Assistant and Deputy Collector (Auction) shall have the authority to send the goods under auction for re-examination or / and revision of reserved price.

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(3) If no bid is received against a lot in five subsequent auctions (Unique Auction Lot Number), then the auctionable goods may either be marked for re-auction or revision of reserved price by the Authorized Officer.

(4) In case of non-payments by a successful bidder after the approval of the bid by the authority, the system shall disable the user-ID and the CNIC for a period of two years. During that time period, the bidder will not be able to login to the auction portal of the WeBOC nor his case will be considered and allowed by the Collector of Customs. After the expiry of two years, the black listed person will request the Collector for reconsideration of his case for de-blocking.

(5) The following goods shall not be put to auction and be sold or disposed in the manner as prescribed by the Board, namely:-

- (i) arms and ammunition;
- (ii) liquor /narcotics and like goods;
- (iii) confiscated books, written material which is obscene, subversive, anti-state or anti-religious; and
- (iv) diplomatic cargo.

780. Date of implementation.-The e-auction rule shall be applicable from the date as notified by the Board.”

[C. No.2(1)/L&P/2019]

Wajid Ali
(Wajid Ali)
Secretary (Law & Procedure)