

CUSTOMS ACT, 1962



ACDs Under CUSTOM TARIFF ACT, 1975

3(9) ACD 3(9) to Countervail levy of GST Compensation cess:

- ➔ It is charged to counter balance the GST Compensation cess leviable on the supply of same article in India.
- ➔ Any article which is imported into India shall, in addition, be liable to GST Compensation cess at such rate as is leviable u/s 8 of GST Act, on a like article on its supply in India.
- ➔ **CG has exempted all goods imported by a unit or developer in the SEZ for their authorised operations, from the whole of the GST Compensation cess leviable thereon u/s 3(9) of the CTA read with Sec 8(2) of the GST (Compensation to states) Act 2017. (Exempted retrospectively w.e.f 01.07.2017)**

3(12) The provisions of the Customs Act, 1962 and all rules and regulations made thereunder, including but not limited to

- ➔ those relating to the date for determination of rate of duty, assessment, non-levy, short-levy, refunds, exemptions, interest, recovery, appeals, offences and penalties
- ➔ shall, as far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section
- ➔ as they apply in relation to duties leviable under that Act or all rules or regulations made thereunder, as the case may be.

Substituted by F.A. 2024



CONCESSIONS UNDER CUSTOMS OR EXCEPTION TO SEC 12

SEC 20: RE-IMPORTATION OF GOODS

S.No.	Description of goods exported	Amount of import duty payable, if re-imported	Conditions for claiming concession/exemptions
1	Goods exported under claim for duty drawback, refund of IGST paid on export goods, bond without payment of IGST, etc.	Amount of incentive availed of at the time of export	(a) Time-limit for re-importation is 5 years. (extendable to 7 years).
2	Goods other than in (1) above-exported for repairs abroad	Custom duty leviable on value of re-imported goods after repairs were made up of the <ul style="list-style-type: none"> ➔ fair cost of repairs carried out ➔ including cost of materials used in repairs (whether actually incurred or not), ➔ insurance & freight charges, both ways. 	(b) Exported goods & re-imported goods must be same. (c) there should be no change in ownership in case of S.No. (2).



WAREHOUSING

SEC 65: MANUFACTURE AND OTHER OPERATIONS IN RELATION TO GOODS IN A WAREHOUSE:-

- 1) The owner of warehoused goods may carry any manufacturing process or other operations in the warehouse for such goods with the permission of Commissioner/ Principal commissioner.
- Proviso:-** The CG may, in the public interest, specify, the manufacturing processes and operations for certain goods that are not allowed in a warehouse.



CUSTOMS TARIFF ACT 1975

Types of Duties

SEC 6 & 7: PROTECTIVE DUTY:- OMITTED

Applicability of Customs Act 1962 for Sec 8B, Sec 9 & Sec 9A Substituted by F.A. 2024

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- those relating to the date for determination of rate of duty, assessment, non-levy, short-levy, refunds, exemptions, interest, recovery, appeals, offences and penalties
- shall, as far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section
- as they apply in relation to duties leviable under that Act or all rules or regulations made thereunder, as the case may be.



FOREIGN TRADE POLICY (FTP)

C. SCHEME FOR REMISSION OF DUTIES & TAXES ON EXPORTED PRODUCTS (RODTEP):-

Reward under the scheme

- Rebate will be granted to eligible exporters at a notified rate as a % of FOB value with a value cap per unit of eligible exported product, wherever required, on export of items.
- Fixed quantum of rebate amount per unit may be notified for certain export items.
- Duty credit script shall be issued against export of notified goods or against export of goods under Advance Authorisation (except Deemed exports) or against export of goods manufactured or exported by Export Oriented Units or SEZ Units.



1)	<p>Import policy of used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA notified: [Notification No. 56/2023 dated 01.01.2024]</p> <p>The import policy for second hand goods (as amended) is as follows: Second hand goods → Capital goods → Restricted → Used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA**</p> <p>** Import policy of used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA, subject to fulfilment of specified conditions, has been notified in the FTP. The said import is restricted and requires authorization.</p>
2)	<p>Merchant trading carried out within one specific foreign country permitted: [Notification No. 62/2023 dated 20.02.2024]:</p> <p>➔ Earlier, merchanting trade of shipment of goods from one foreign country to another foreign country without touching Indian ports, involving an Indian intermediary was allowed, subject to RBI guidelines, except for goods in the CITES15 and SCOMET lists.</p> <p>➔ Now, merchanting trade carried out within one specific foreign country is also permitted, subject to RBI guidelines, except for goods in the CITES and SCOMET lists.</p>

Import of items under Advance Authorisation/EOU/SEZ enabled without compliance to mandatory Quality Control Orders (QCO) [N/ No. 71/2023]

Quality Control Orders (QCOs) are regulatory mandates issued by the Indian government to ensure products meet specific quality standards. These are typically issued by the Bureau of Indian Standards (BIS) under the BIS Act, 2016. Both domestic manufacturers and importers must ensure compliance with QCOs.

However, import of inputs under Advance Authorisation/EOU/SEZ without compliance to the mandatory QCOs, shall be subjected to the following conditions:

Conditions for Exemption	Imports under Advance Authorisation /EOU/SEZ without QCO compliance must adhere to the following conditions:	
	For Advance Authorisation	
	1)	<p>Pre-Import Condition:</p> <p>➔ Inputs must be pre-imported and used in manufacturing the export product & exported under same authorisation.</p> <p>➔ Unutilized imports cannot be transferred to DTA and must be destroyed or re-exported.</p> <p>➔ In addition such, Unutilized imports are subject to duty, interest, and a composition fee.</p>
		Endorsement: Exemption must be specifically endorsed in the advance authorization upon request.
		Physical Exports Only: Exemption applies only to physical exports, not deemed exports.
		DFIA Scheme: Import of inputs without compliance to mandatory QCOs is not allowed under the DFIA scheme.

	2)	Exemption from QCOs for EOUs
		Exemption Provision: EOUs are exempt from mandatory QCOs for imported inputs required for export production.
		Restrictions: No DTA clearance is allowed for such inputs or goods manufactured from these inputs.
		Undertaking: ➤ EOUs must submit an undertaking to Customs at the time of importation. ➤ A copy of the undertaking must be submitted to the Development Commissioner.
		Physical Exports Only: Exemption is applicable only for physical exports, not deemed exports.
	3)	Exemption from QCOs for SEZs
		Exemption Provision: SEZs are exempt from mandatory QCOs for imported inputs required for export production.
		Restrictions: No DTA clearance is allowed for such inputs or goods manufactured from these inputs.
		Undertaking: SEZ Units must submit an undertaking to the concerned Development Commissioner at the time of importation.
		Physical Exports Only: Exemption is applicable only for physical exports.

Amendment in ineligible supplies/ items/ categories under RoDTEP [N. No. 70/2023]

- Export of imported goods in same or substantially same form.
- Exports through trans-shipment, meaning thereby exports that are originating in third country but transhipped through India.
- Export products which are subject to minimum export price or export duty.
- Products which are restricted/prohibited for export under FTP
- Deemed Exports.
- Supplies of products manufactured by DTA units to SEZ/FTWZ units.
- ~~Products manufactured in EHTP and BTP.~~ **OMITTED**
- Products manufactured partly or wholly in a warehouse u/s 65 of Customs Act.
- Products manufactured or exported availing the benefit of N/No. 32/1997 Cus. dt. 01.04.1997 (job work & re-export of goods supplied by foreign supplier)
- Exports for which the electronic documentation in ICEGATE EDI has not been generated / exports from non-EDI ports.
- Goods which have been taken into use after manufacture.
- ~~Products manufactured or exported in discharge of EO against an AA/ DFIA / Special AA issued under a duty exemption scheme of relevant FTP.~~ **OMITTED**
- ~~Products manufactured/exported by a unit licensed as 100% EOU in terms of provisions of FTP or by any of the units situated in Free Trade Zones (FTZ)/Export processing Zones (EPZ)/ Special Economic Zones (SEZ).~~ **OMITTED**
- ~~Inclusion of exports made under these categories in RoDTEP scheme will be decided later.~~ **OMITTED**

ITC CASE LAW

Case of Chief Commissioner of CGST v. Safari Retreats Pvt. Ltd (2024) 23 Centax 62 (SC)

- ➡ In the case of Chief Commissioner of CGST v. Safari Retreats Pvt. Limited (2024), the Supreme Court clarified the difference between "plant AND machinery" (used in clause (c)) and "plant OR machinery" (used in clause (d)) in the CGST Act.
 - "Plant AND machinery" is defined in the explanation to section 17.
 - "Plant OR machinery" isn't defined in the Act.
- ➡ The Court noted that the legislature deliberately used "AND" in clause (c) and "OR" in clause (d), so these terms cannot be treated the same.
- ➡ In clause (c), if a construction involves "plant AND machinery" as defined, ITC is allowed. In clause (d), if it involves "plant OR machinery," ITC is also available.
- ➡ The Court further explained that "plant or machinery" could refer to either plant or machinery. When it comes to the construction of buildings, the Court said that if a building is essential for a business (like renting or leasing), it could be considered "plant" and thus eligible for ITC.
- ➡ Finally, the Court upheld the constitutional validity of clauses (c) and (d) of section 17(5) and section 16(4).