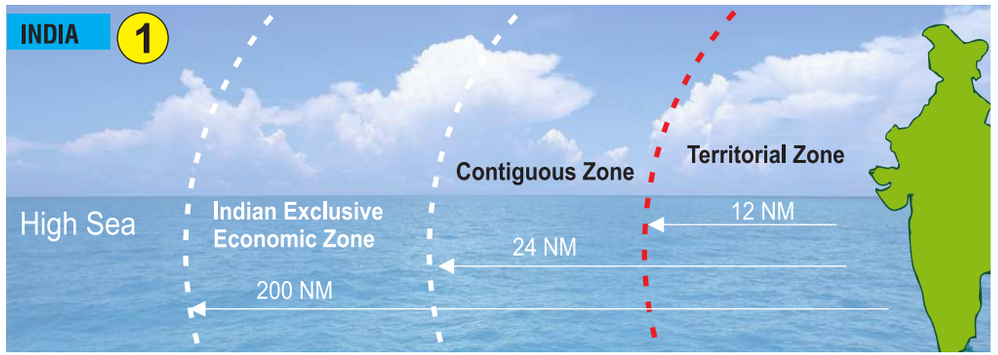
Chapter 1

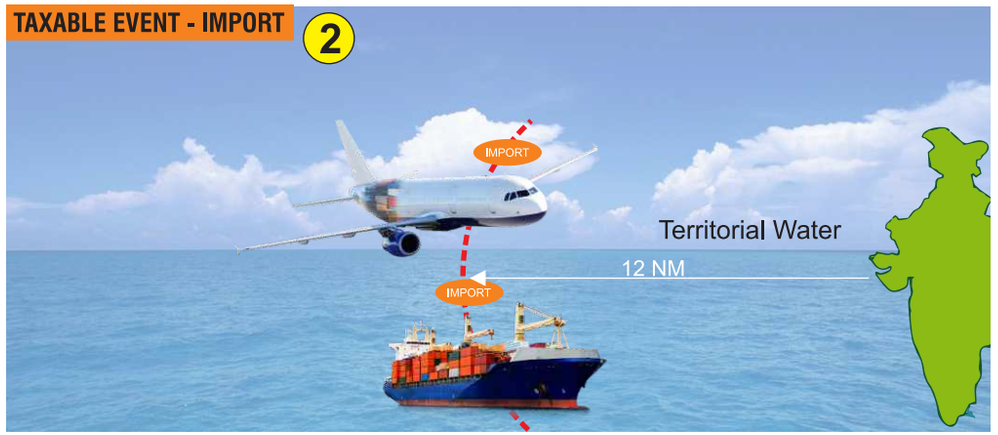
Introduction & Levy of Customs duty

Sections	Descriptions
2(2)	Assessment
2(3)	Baggage
2(9)	Conveyance
2(14)	Dutiable Goods
2(18)	Export
2(19)	Export Goods
2(20)	Exporter
2(27)	India
2(28)	Indian Customs Water
2(38)	Stores
2(42)	Vehicle
12	Charging Section

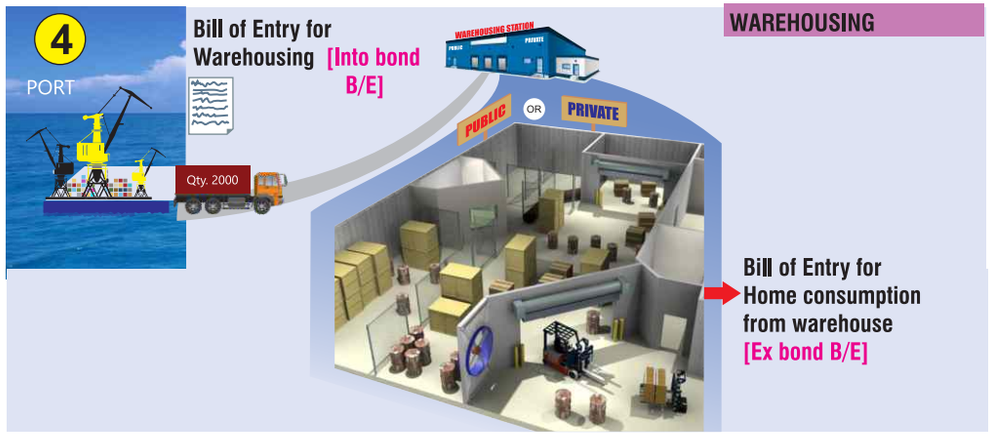
Important Cases

Citation	Decisions
1. Apar Pvt. Ltd 2. Garden Silk Mills Ltd.	**Importation** Commence: When goods crosses territorial water of India. Continue & Completed: When it become part of mass of goods of country **Taxable Event** reach when goods reached to customs barriers and Bill of Entry for Home Consumption is filed.
3. Rajendra Dyeing & Printing Mills Ltd.	**'Export' occurs only when the goods crossed beyond the territorial water of India.**


INDIA
1
High Sea
Indian Exclusive Economic Zone
Contiguous Zone
Territorial Zone
12 NM
24 NM
200 NM


TAXABLE EVENT - IMPORT
2
IMPORT
IMPORT
Territorial Water
12 NM

3
Territorial Water
Bill of Entry for Home Consumption


4
PORT
Bill of Entry for Warehousing [Into bond B/E]
Qty. 2000
WAREHOUSING STATION
PUBLIC
OR
PRIVATE
WAREHOUSING
Bill of Entry for Home consumption from warehouse [Ex bond B/E]

TAXABLE EVENT - EXPORT
5
Territorial Water
Export
Customs Office
Shipping Bill
Exporter
Payment of duty with shipping bill
Order of loading & exportation (Let export order)

6
Rajendra Dying & Printing Mills Ltd.
Territorial Water
Whether treated as export?
Ans. No
Vessels sink before crossing territorial water
Customs Office
Shipping Bill
Payment of duty with shipping bill

CUSTOM ACT - 1962

SECTION 12 - CHARGING SECTION (BCD)

Except as provided in this Act **OR** Any other Law for time being in force

Duties of Customs shall be Levied

- At Such rate as may be specified under **Customs Tariff Act 1975** or any other Law for the time being in force
- **On Goods**

On Goods Or

- Imported into India
- Exported from India

Sec. 2 (22) Goods include
1) Vessel, Vehicle & aircraft
2) Stores
3) Baggage
4) Currency and negotiable instruments
5) Any kind of movable Property.

SEC 2(3) BAGGAGE

Baggage **includes** unaccompanied baggage **but does not include** motor vehicles.

SEC 2(38) STORE

Means – goods for use in a Vessels or Aircraft & **Includes** – fuel and spare parts and other article of equipment, whether or not for immediate fitting.

Sec. 2(23): Import with its grammatical Variation and cognate expressions, means **bringing into India from a place outside India**

Sec. 2(27) India includes territorial waters of India

Case Law:
1. Apar Pvt. Ltd., 2. Garden Silk Mills Ltd.

- **Importation**
  - Commence: When goods crosses territorial water of India.
  - Continue & Completed: When it become part of mass of goods of country
- **Taxable Event**
  - reach when goods reached to customs barriers and Bill of Entry for Home Consumption is filed.

Sec. 2(18) : Export with its grammatical variation and cognate expression is defined to **mean taking out of India to a place outside India.**

'Export' occurs only when the goods crossed beyond the territorial water of India.

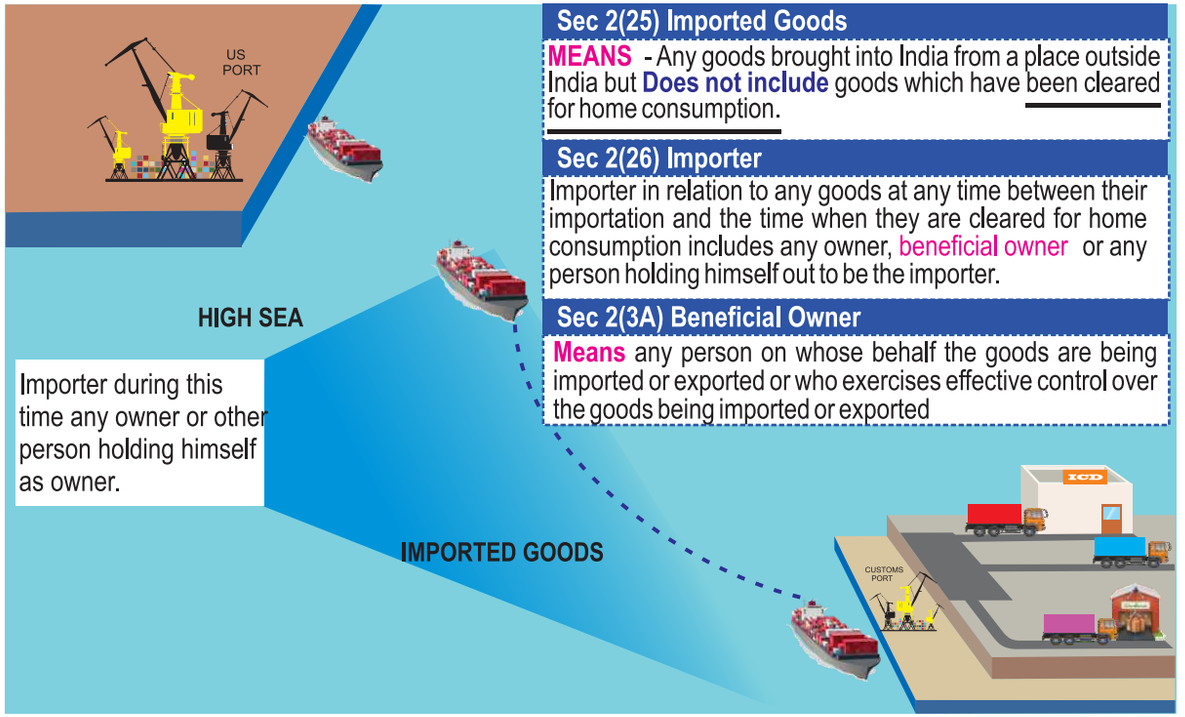
Rajindra Dyeing & Printing Mills Ltd. – 2005 – S.C.

Facts : Rajindra Dyeing & Printing Mills Ltd. Were manufacturers of readymade garments. They exported certain goods and filed shipping bill. The goods were examined by the customs authorities and loaded onto the ship. While it was within the territorial water, the ship sank. The cargo of assesse was destroyed.

Issue : The assesse filed their claim for duty drawback in relation to the goods which were destroyed. Whether their claim is valid.

Court Decision : Their claim was rejected on the grounds that the goods had not crossed the territorial waters and hence no export has taken place.

Sticky Notes



Sec 2(25) Imported Goods

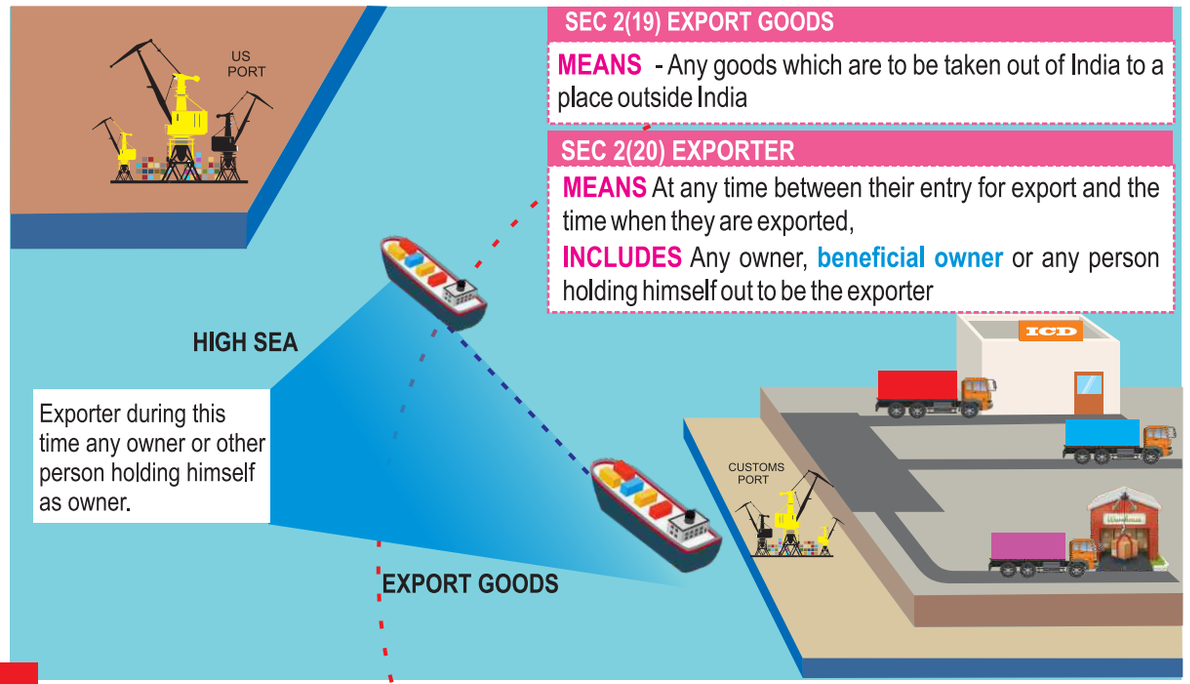
MEANS - Any goods brought into India from a place outside India but **Does not include** goods which have been cleared for home consumption.

Sec 2(26) Importer

Importer in relation to any goods at any time between their importation and the time when they are cleared for home consumption includes any owner, beneficial owner or any person holding himself out to be the importer.

Sec 2(3A) Beneficial Owner

Means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported



SEC 2(19) EXPORT GOODS

MEANS - Any goods which are to be taken out of India to a place outside India

SEC 2(20) EXPORTER

MEANS At any time between their entry for export and the time when they are exported,

INCLUDES Any owner, **beneficial owner** or any person holding himself out to be the exporter

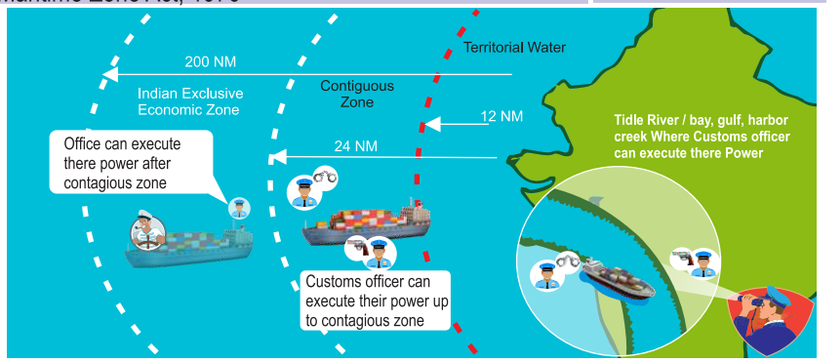
Sec. 2(27) India

includes territorial waters of India

Sec 2(28)INDIA & INDIAN CUSTOM WATER

Means The waters extending into the sea up to the limit of ***exclusive economic zone under section 7*** of the Territoria Waters, Continental Shelf, Exclusive Economic Zone and otl Maritime Zone Act, 1976

Includes Any bay, gulf, harbour, creek or tidal river;



Sec. 2(9) "CONVEYANCE"

includes a vessel, an aircraft and a vehicle;

Sec 2(14) Dutiable goods

Means

- any goods which are chargeable to duty and
- on which duty has not been paid.

Sec 2(42) VEHICLE

Means conveyance of any kind used on land and includes a railway vehicle.

DIFFERENCE BETWEEN CLEARANCE FOR HOME CONSUMPTION AND CLEARANCE FOR WAREHOUSING

- **Clearance for home consumption:-** It means that customs duty on import of goods is discharged & goods are therefore cleared for utilization or consumption.
- **Clearance for warehousing:-**
  - Collection of Customs Duty will be deferred till goods are cleared for Home Consumption.
  - Importer executes bond binding himself = **Thrice** the duty assessed on goods at time of import & he is **also liable to pay interest** for storage of goods in warehouse