

CA FINAL
CMA FINAL
CS PROFESSIONAL



VSMART ACADEMY



CUSTOM ACT, 1962

CHART BOOK



Think GST... Think Vishal Sir!

By CA VISHAL BHATTAD

Introduction & Levy of Customs duty

Do you want
to remember
Sections?



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

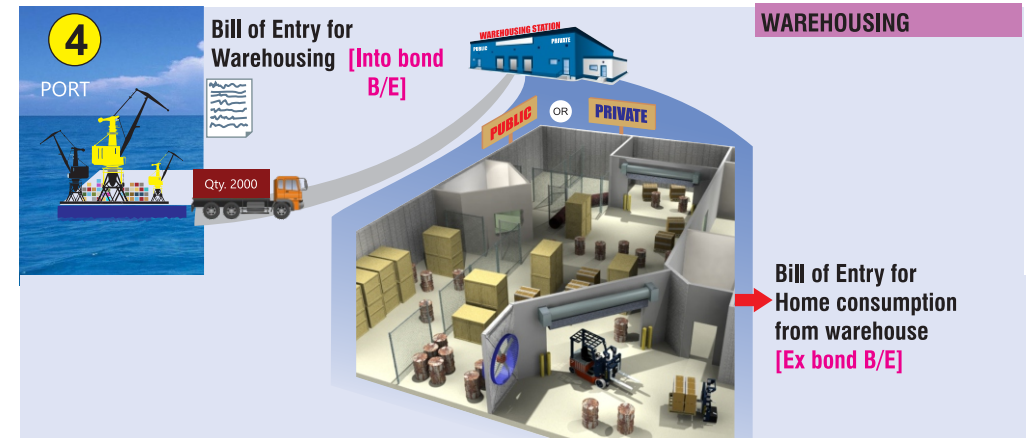
Important Cases

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.

*What we learn with pleasure
we never forget.*

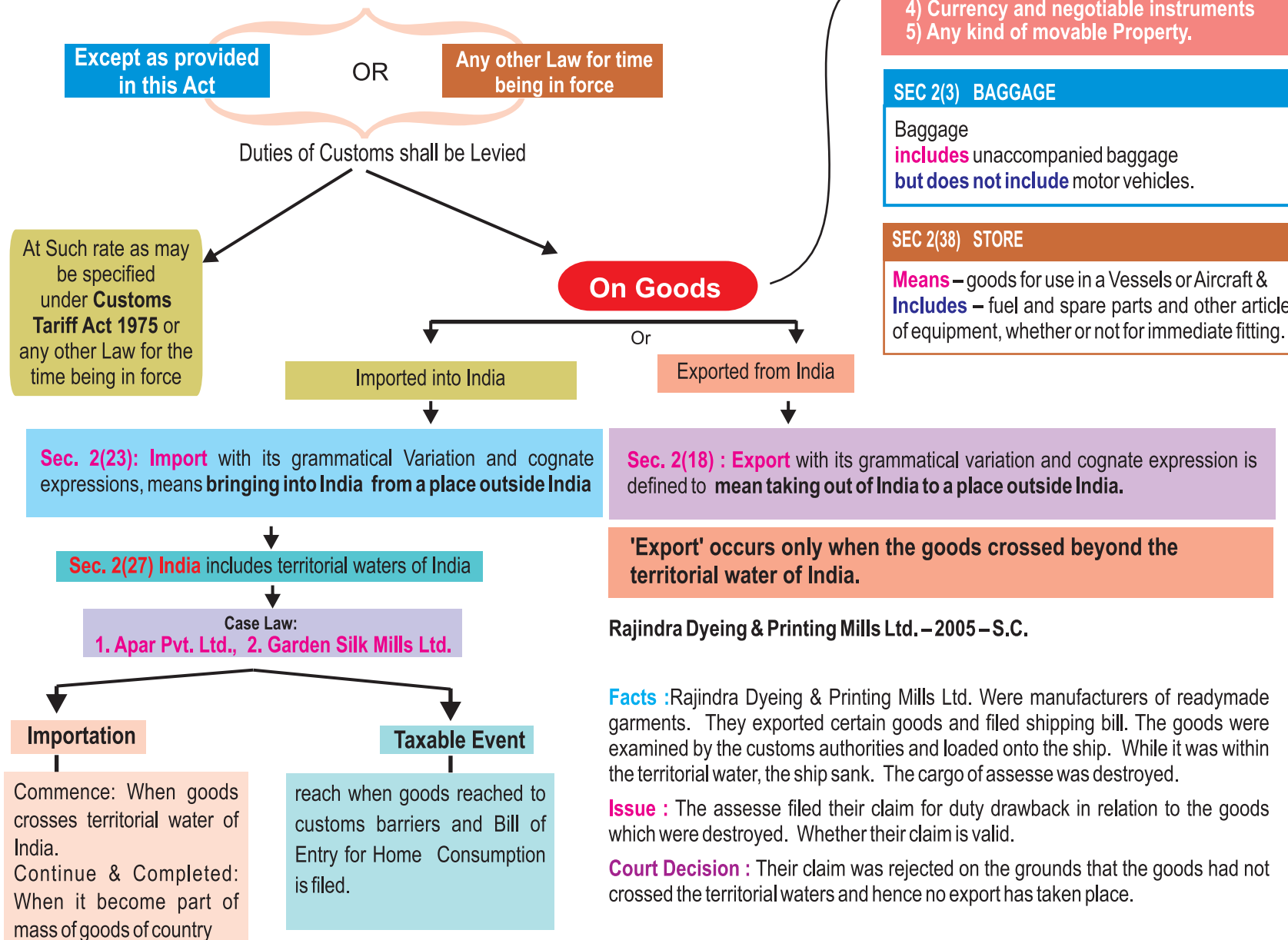
GST GuruTM
CA Vishal Bhattad



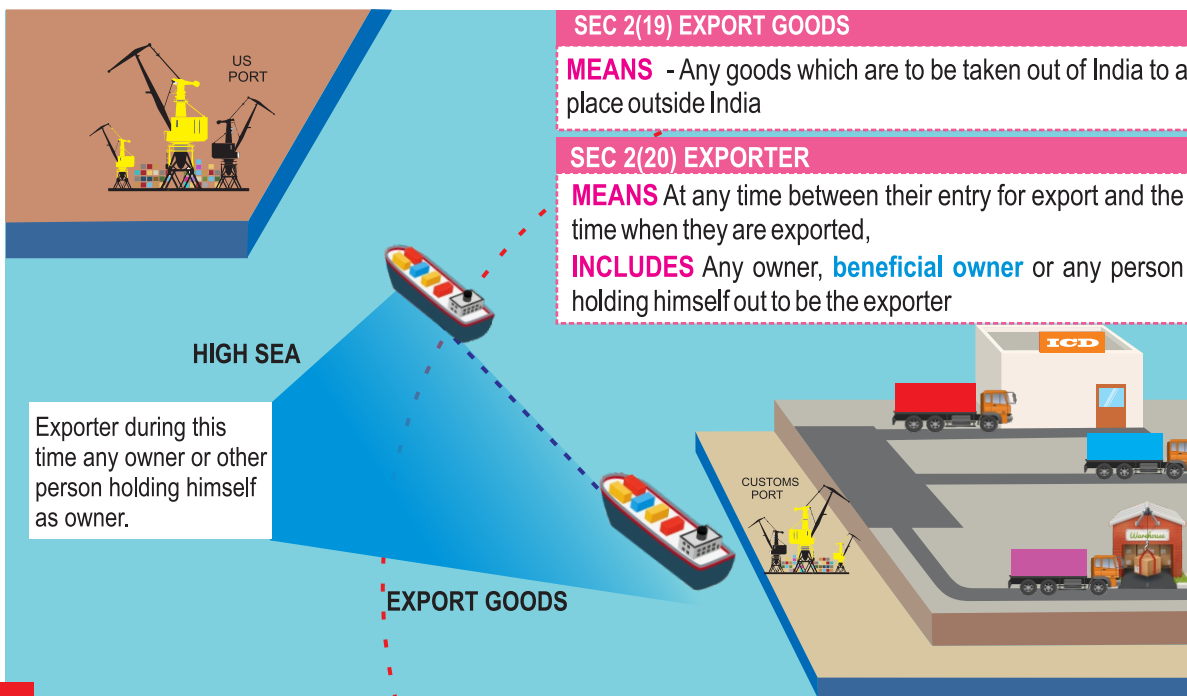
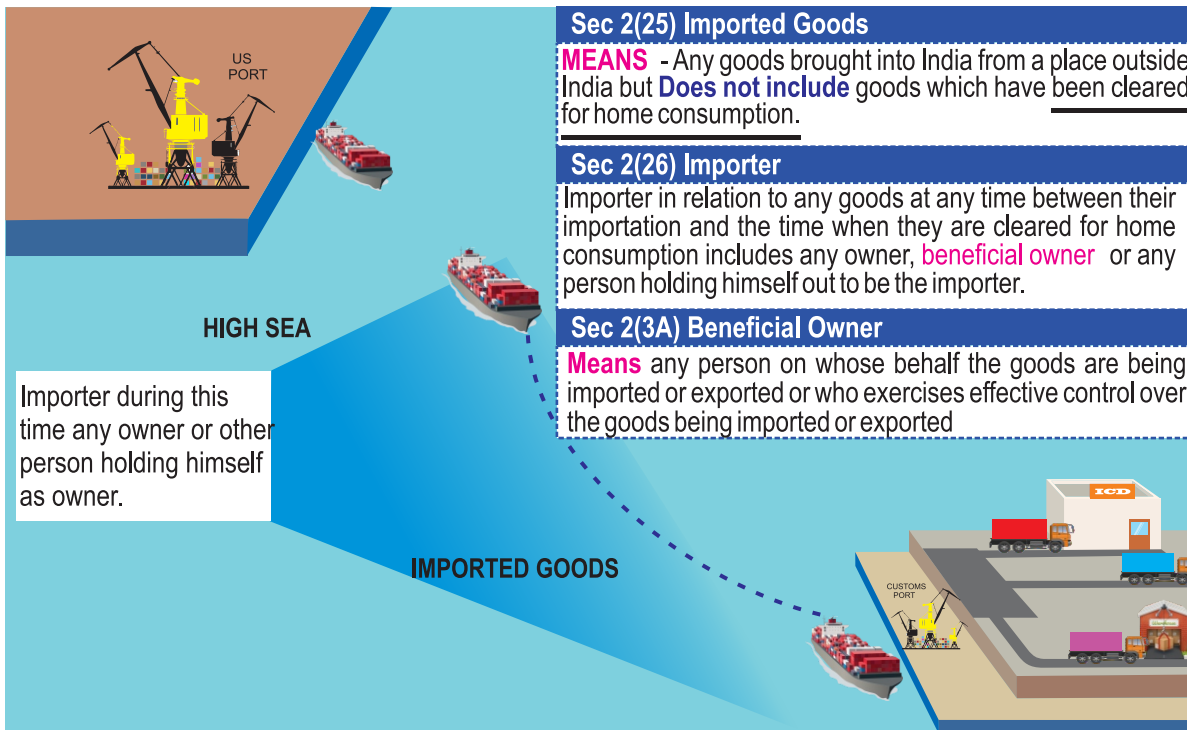


CUSTOM ACT - 1962

SECTION 12 - CHARGING SECTION (BCD)



Sticky Notes



Sec. 2(27) India

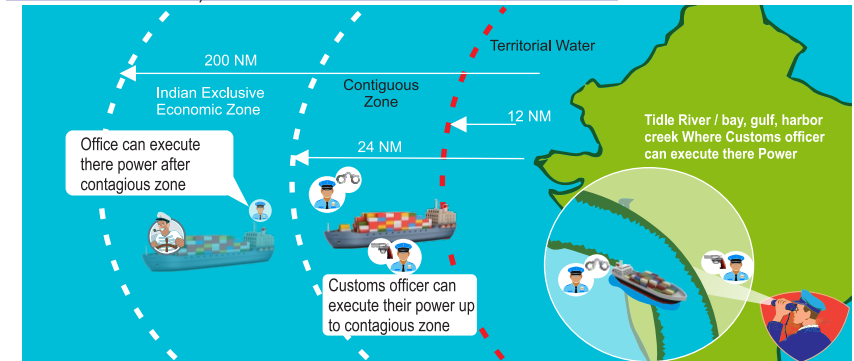
includes territorial waters of India

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 Territorial Waters, Continental Shelf, Exclusive Economic Zone and other 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

Importation & Exportation Procedure

Do you want to remember Sections?



Sections	Descriptions
2(10)	Customs Airport
2(11)	Customs Area
2(12)	Customs Port
2(13)	Customs Station
2(16)	Entry
2(29)	Land Custom Station
8	Power to approve landing places and specify limits of customs area
9	Power to declare places to be warehousing stations
10	Appointment of boarding stations

Sections	Descriptions
Import Procedure	
29	Arrival of Conveyance in India
30	Import Manifest / Report
30A	Passenger Manifest
31	Entry Inward
32	No unloading without mentioning in Manifest Report
33	Landing at approved places
34	Supervision of Customs Officer
35	Goods being water borne
45	Custody of goods after unloading
46	Bill of Entry
47	Order of Clearance for H.C.
48	Clearance within 30 days
49	Storage of Goods in warehouse pending clearance
50	Entry of goods for Exportation
51	Clearance of goods for Exportation

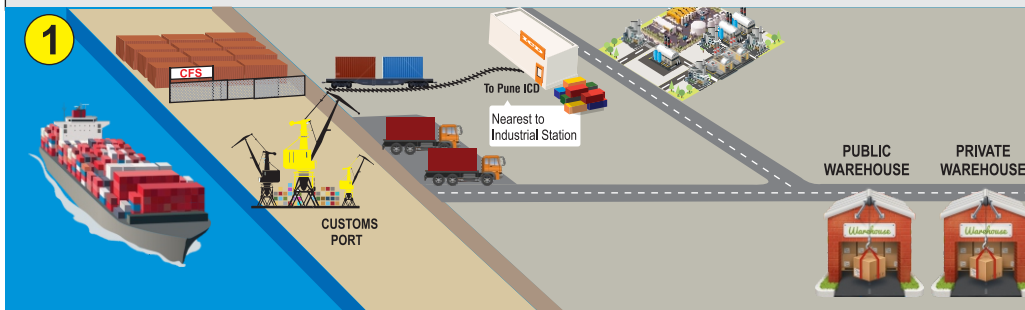
Sections	Descriptions
Export Procedure	
51A	Payment of duty, Interest, Penalty, etc.
51B	Ledger for duty credit
39	Entry Outward
40	Custom Clearance by proper Officer
41	Export Manifest or Export Report
41 A	Passenger Manifest
42	Departure Order
Common Provisions	
36	Restriction on loading unloading on holidays
37	Power to board to conveyance
38	Power to require production of documents and ask question
Transit and Transhipment	
53	Transit without Duty
54	Tranship without Duty
55	Duty liability for Transit and Tranship
56	Transport of goods to foreign territory



Education is not the learning of facts,
It's rather the training of the Mind to Think

GST Guru
CA Vishal Bhattad

Sec 2(12) "customs port": -Means any port appointed under clause (a) of section 7 (appointed by CBIC) to be a customs port and
Includes a place appointed under clause (aa) of that section to be an **inland container depot:**



Sec 2(10) "customs airport" Means any airport appointed under clause (a) of 7 (appointed by CBIC) to be a customs airport;
Includes a place appointed under Clause (aa) of that section to be an **air freight station**



Sec 2(29) land customs station Means any place appointed under clause (b) of section 7 (appointed by CBIC) to be a land customs station.



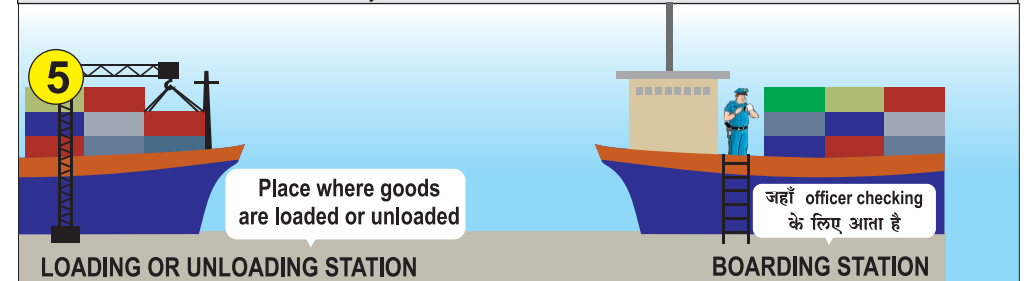
Sec 8 : Berthing Place

- (a) **approve** : Proper places in any customs port or customs airport or coastal port for the unloading and loading of goods or for any class of goods;
 (b) **specify** : The limits of any customs area.

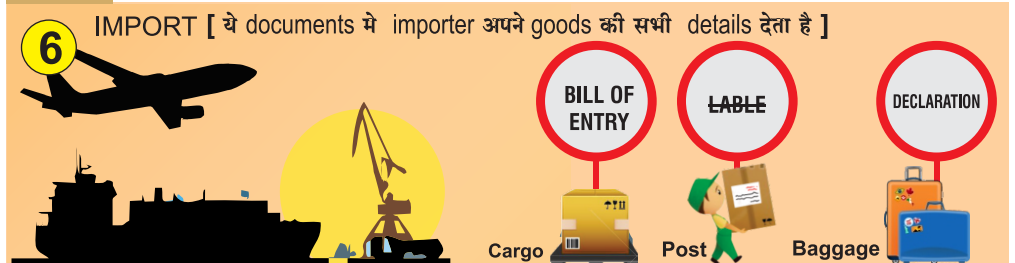






Sec 10 : Boarding Station

The Principal Commissioner or Commissioner of Customs may, by notification in the Official Gazette, appoint, in or near any customs port, a boarding station for the purpose of boarding of, or disembarkation from, vessels by officers



ENTRY [Application of Clearance]



SEC 2(31) : PERSON-IN-CHARGE (PIC)			
<p>(a) In relation to a vessel</p>  <p>Master of the Vessel</p>	<p>(b) In relation to an aircraft,</p>  <p>The Commander or pilot - in charge of the aircraft</p>	<p>(c) In relation to a Railway Train</p>  <p>The conductor, guard or other person having the chief direction or the train</p>	<p>(d) In relation to any other conveyance</p>  <p>The driver or other PIC of the conveyance</p>

Importation and Exportation Procedure

Sec 2(11) "customs area"	<p>Means the area of a customs station and</p> <p>Includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities.</p>
Sec 2(13) "customs station"	<p>Means any customs port, customs airport or land customs station.</p>
Sec 2(12) "customs port"	<p>Means any port appointed under clause (a) of section 7 (appointed by CBIC) to be a customs port and</p> <p>Includes a place appointed under clause (aa) of that section to be an <u>inland container depot</u>;</p>
Sec 2(10) "customs airport, international courier terminal, foreign post office".	<p>Means any airport appointed under clause (a) of 7 (appointed by CBIC) to be a customs airport;</p> <p>Includes a place appointed under Clause (aa) of that section to be an <u>air freight station</u></p>
Sec 2(29) land customs station	<p>Means any place appointed under clause (b) of section 7 (appointed by CBIC) to be a land customs station.</p>
Sec 2(20A) "Foreign Post Office"	<p>Means any post office appointed under clause (e) of sub-section (1) of sec. 7 to be a foreign post office</p>
Sec 2(28A) "international courier terminal"	<p>Means any place appointed under clause (f) of sub-section (1) of section 7 to be an international courier terminal</p>

SEC 2(33) PROHIBITED GOODS
<p>Means any goods the import or export of which is subject to any <i>prohibition under this Act or any other law for the time being in force</i></p> <p>But does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.</p> <p>Example: obscene materials, Maps and literature where Indian external boundaries have been shown incorrectly, Narcotic Drugs and Psychotropic Substances, Counterfeit goods and goods violating any of the legally enforceable intellectual property right, Chemicals mentioned in birds and animals, etc.</p>

Container Freight Station

- 1) It is an extension of the primary Port
- 2) They are set up with the main objective of decongesting the Ports, where only a part of the Customs process mainly with examination of goods is carried out by the Customs.
- 3) Processing of Import Manifest, Export Manifest, Bill of Entry etc. are not carried out at CFS (these functions are carried out at Main Port)

Inland Container Depot

1. It is an extended part of Customs port with independent existence appointed by CBIC. [Normally situated at a place where sea shore is not available.]
2. It is created for loading & unloading of Imported goods & Export goods.
3. All formalities of Customs like manifest, Bill of Entry are made available at ICD

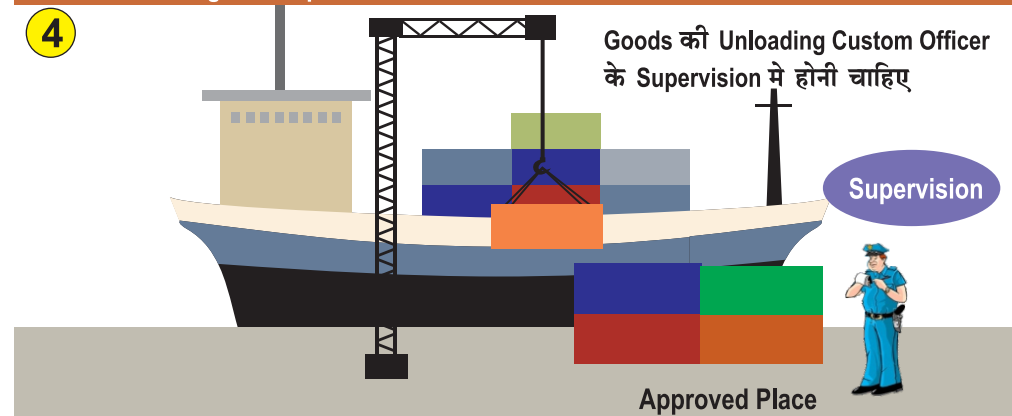
Air Freight Station (AFS)

- 1) AFS is an **off-airport common user facility** equipped with fixed installations of minimum requirements & offering services for **handling & temporary storage** of import & export cargo.
- 2) All export & import cargo clearance including customs related activities like assessment, examination, payment of duties, etc., **are provided** at AFS, like any other custom station.
- 3) AFS **avoid congestion** at main airport **besides** expediting clearance of imported goods & minimising handling operations at Airport.

ARRIVAL OF VESSELS AND AIRCRAFT IN INDIA



Unloading and Supervision of Officer



PRESENTATION OF IGM



RESTRICTIONS ON GOODS BEING WATER-BORNE



Entry Inward



RESPONSIBILITY OF CUSTODIAN (DOCK)



IMPORT PROCEDURE

Sec 29: arrival of vessels and aircraft in india

PIC = Person-In-Charge

Landing of vessel or aircraft The **PIC** of a vessel or aircraft arriving in India must ensure it first reaches a customs port or airport, unless allowed by the board to land elsewhere.

Exceptions:- Emergency landing.

- 1) The **PIC** must report to the nearest police station or customs officer after an emergency landing.
- 2) No goods can be unloaded, and passengers or crew cannot leave without consent, except for health, safety, or preservation of life/property.
- 3) The **PIC** must adhere to the officer's instructions, and no one can leave the vicinity without permission.

Sec 30: delivery of arrival manifest or import manifest or import report

- 1) The **PIC** must submit **Arrival Manifest** which shows the details of cargo to be unloaded, unaccompanied baggage, goods for transshipment, and retention cargo.

Nature of Conveyance	Name of Document	Time Limit	If it is not submitted within given time person in charge shall be liable to a penalty not more than Rs. 50000
Vessels or Aircraft	Arrival Manifest	Before arrival of Vessel or Aircraft	
Vehicle	Import Report	Within 12 hr. after arrival	

- 2) It contain details such as general declaration about the conveyance, stores on the conveyance, private property in possession of the Captain of the aircraft or Master of the ship and other members of crews and Passenger Manifest.
- 3) **Separate declaration has to be given in respect of goods like arms, explosives, narcotics, dangerous drugs, gold and silver.**
- 4) **The Import Manifest may be amended only with permission if there was no fraudulent intention.**

Sec 30A - Special Passenger and Crew Manifest

Meaning	It is a detailed list of passengers and crew traveling in a conveyance.	
Submitted by & time limit	The PIC of a conveyance entering India must provide the following to the PO:	
	1) Passenger Name Record (PNR) Info.	Includes details of arriving passengers in the prescribed format and within the required time.
	2) Passenger & Crew Manifest	For aircraft/vessel: To be submitted before arrival. For vehicle: To be submitted upon arrival.
	Comment:- "Passenger name record information" refers to records maintained by the operator or their authorized agent for each passenger's journey, including booking details.	
Penalty for delay	If it is not submitted within time without sufficient cause, person in charge or other person referred shall be liable to a penalty upto Rs. 50000.	

Sec 31 : imported goods not to be unloaded from vessels until Entry Inward (**EI**) granted

- 1) **The master of a vessel cannot allow unloading of imported goods until the PO grants "EI".**
- 2) The PO will not grant "**EI**" until the arrival/import manifest is submitted, or a valid reason for its absence is provided.
- 3) **EI** does not apply to unloading of:
 - Goods imported by aircraft or vehicle.
 - Baggage, mail bags, perishable goods, hazardous goods, and animals.

Section 32 Imported goods not to be unloaded unless vessels mentioned in Import Manifest or Import Report

- 1) **Imported goods can only be unloaded at a customs station if listed in the Arrival manifest/Report.**
- 2) Goods not listed in the Arrival Manifest/Report may be treated as smuggled or non-compliant.
- 3) **Sec 31 vs. Sec 32:** Sec 31 permits unloading after "**EI**," while Sec 32 limits unloading to goods specified in the manifest/report.

Sec 33 Unloading and Loading of goods at approved places only

Imported goods cannot be unloaded, and export goods cannot be loaded, except at an approved location or with PO's permission.

Sec 34 : Goods not to be loaded or unloaded except under supervision of custom officer

- 1) Imported goods can be unloaded, and export goods loaded, only under the supervision of the PO.
- 2) General permission may be granted by the board, and special permission by the PO, without requiring PO supervision

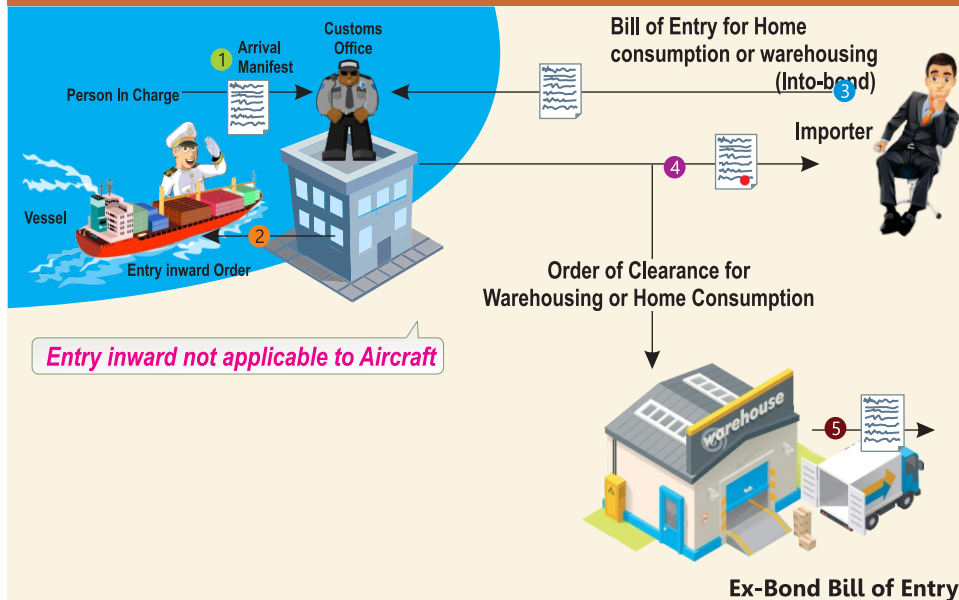
Sec 35 Restriction on goods being Water-Borne (Transported by Boat or Barge)

- 1) Imported goods cannot be water-borne for landing, and export goods without a shipping bill cannot be water-borne for shipping, unless accompanied by a prescribed boat-note.
- 2) The Board may grant general permission, and the PO may grant special permission, to waive the requirement for a boat-note.

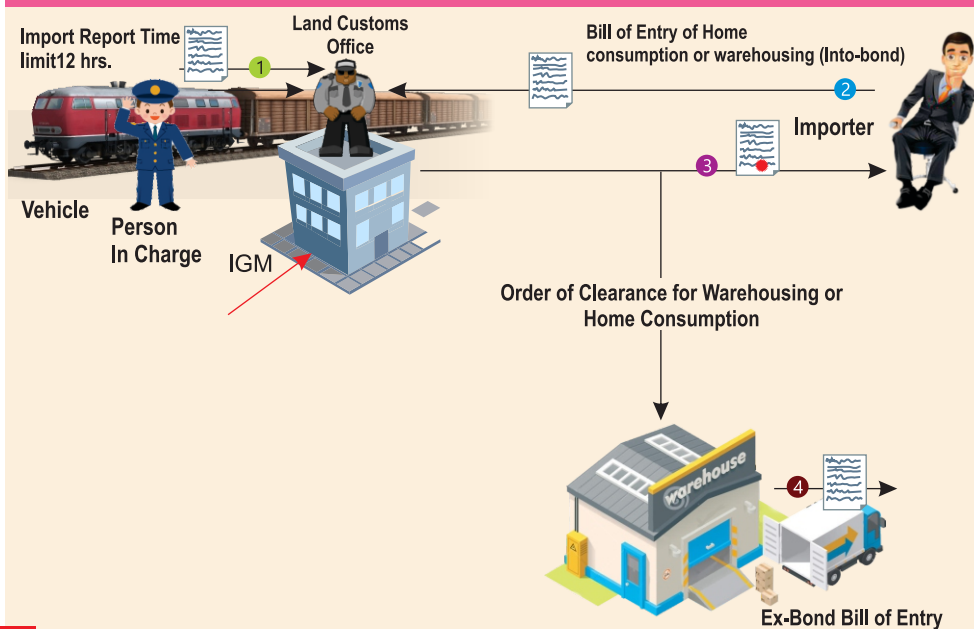
Section 45 Restriction on custody and removal of imported goods

- 1) **Imported goods in a customs area must remain in the custody of an approved custodian (e.g., Port or Airport Authority) until cleared for home consumption or warehousing.**
- 2) **The custodian must:**
 - a) **Maintain records** and send a copy to the Proper Officer (PO).
 - b) **Ensure goods are not removed** or dealt with without PO's written permission.
- 3) If goods are pilfered under custodian custody, the custodian is liable to pay duty at the rate applicable on the date the import manifest/report was delivered to the PO (Sec 30).

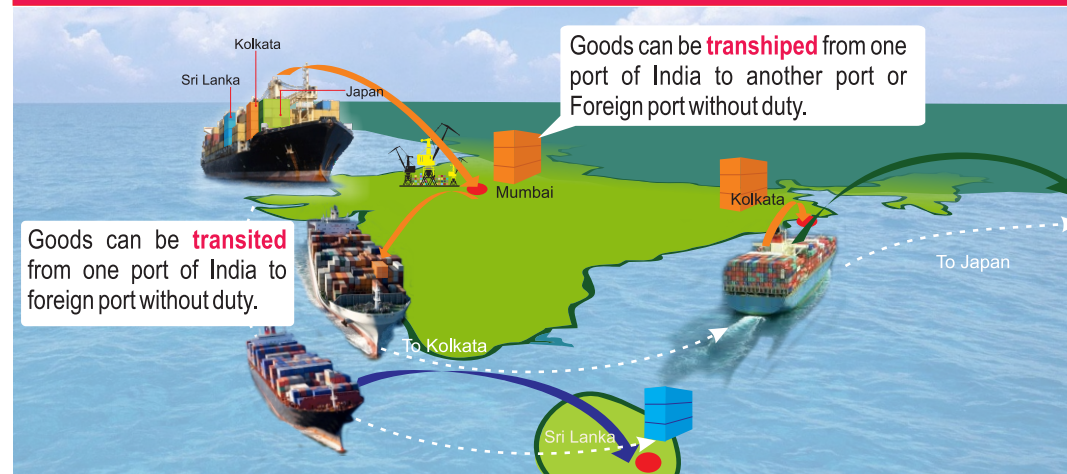
Importation by Vessel & Aircraft



Importation by Vehicle



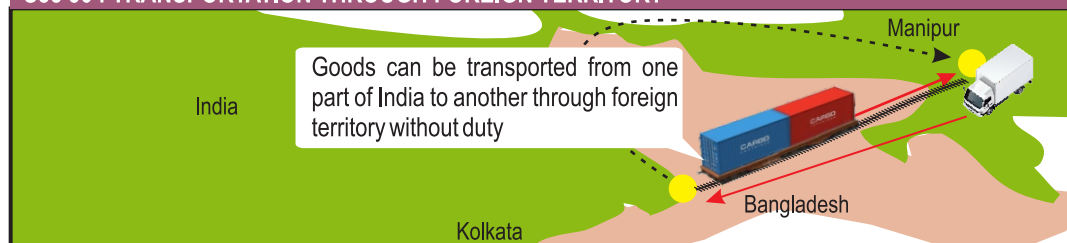
TRANSIT AND TRANSHIPMENT



DIFFERENCE BETWEEN TRANSIT AND TRANSHIPMENT OF GOODS

S.No.	Transit (Sec 53)	Transshipment (Sec 54)
1	In case of Transit of goods the conveyance remains same.	In case of transshipment, goods first landed in the particular Indian customs station and loaded to another conveyance for destination port i.e. conveyances changes.
2	The records already made in the ship's/ aircraft's will continue. The goods will have to be shown in the manifest as the same bottom cargo.	In case of transshipment goods are to be mentioned in manifest or report, as for transshipment for any customs station. Record will change as bill of transshipment shall be presented to the PO.
3	In case of transit there is continuity in the record and there is no chance of the control over such transit goods being lost.	In case of Transshipment care or caution have to be exercised to ensure that the goods are not illicitly landed and smuggled into India.
Sec 55	In case of Transit or Tranship in India Duty is payable at last destine port/Air port as if goods are imported first time at such port or Air port	

Sec 56 : TRANSPORTATION THROUGH FOREIGN TERRITORY



Section 46 : Bill of Entry (BOE) of goods on Importation	
[CAS=Custom Automated System , P.C = Principal Commissioner, C=Commissioner]	
Meaning	It's a application by the importer to clear goods from customs.
Presenting bill of entry	<p>➔ Importers must submit a BOE electronically on Custom automated system for Home consumption or Warehousing.</p> <p>➔ If electronic submission isn't possible, P.C or C may allow another method & BOE isn't required for transit/tranship goods.</p>
3 Types of Bill of Entry:	1. BOE for home consumption 2. BOE for warehousing (into bond) 3. BOE for home consumption from warehouse (ex-bond) submitted u/s 68
Bill of lading	BOE must include all goods in the bill of lading or carrier's receipt.
Content of BOE declared by importer	<p>➔ Details of packages</p> <p>➔ Description of goods for correct classification and duty value</p> <p>Note: The importer must declare and affirm the truth of the BOE contents.</p>
Incomplete BOE	<p>If importer is not able to furnish all particulars of goods required & if he confesses his predicament , PO permit him</p> <p>a) to examine goods in presence of an custom officer, or</p> <p>b) allow to be deposited in warehouse without carrying the provision of warehousing</p> <p style="text-align: right;">Warehousing without warehousing</p>
Time limit:	<p>Importer shall present BOE:-</p> <p>➤ Before the end of the day (including holidays) preceding the day” on which the aircraft/ vessel/vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for H.C or W.H.</p> <p>➤ Board may prescribe different time limits but not be later than the end of the day of such arrival.</p>
Prior Bill of Entry	BOE may be presented at any time not exceeding 30 days prior to the expected arrival.
Late fee	If BOE is not presented within time without sufficient cause the importer shall pay prescribed charges.
Compliance	<p>The Importer who present a BOE shall ensure the following:-</p> <p>a) accuracy and completeness of information.</p> <p>b) authenticity and validity of supporting document &</p> <p>c) compliance with the restriction or prohibition relating to goods.</p>
Conversion of BOE:	If PO is satisfied that it's interests of revenue not affected prejudicially & there's no fraudulent intention, he may permit substitution of BOE.
Section 47 : Clearance of goods for Home Consumption	
Order	<p>➤ PO may permit clearance of goods for H.C, if they are not prohibited goods & importer has paid import duty & other charges if any under customs.</p> <p>➤ It can be made electronically through CAS also.</p>

Deferred Payment:	CG notified the following class of importers for Deferred Payment:		
	(i)	Importers certified under Authorized Economic Operator programme as AEO (TierTwo) and AEO (Tier-Three).	
	(ii)	Authorised Public Undertaking.	
	S.No	Goods corresponding to Bill of Entry returned for payment from:	Due date of payment of duty, including period (excluding holidays) as per sec 47(2):
	1	1st day to 15th day of any month	16th day of that month
	2	16th day till the last day of any month other than March	1st day of following month
	3	16th day till 31st day of March	31st March
	(Note: An eligible importer intend to avail benefit of deferred payment shall intimate to the P.C/C . & He shall pay the duty electronically but A.C/D.C may for reasons to be recorded in writing, allow payment of duty by any other mode also.)		
Payment of duty & Interest:	a) In case of Self -Assessment:-On date of presentation of BOE or b) Assessment, Reassessment or Provisional Assessment:- Within 1 day (excluding holidays) from the date on which BOE is refunded to him. c) In case of Deferred Payment:-Within due date specified in rules (as above). If he fails to pay duty within time, he shall pay interest @15% p.a. on duty not paid or short-paid till the date of its payment.		
Deferred payment not to apply in certain cases:	➔ If there is default in payment of duty by due date more than once in 3 consecutive months, this facility will not be allowed unless the duty with interest has been paid in full. ➔ Above benefit will not be available for goods which have'nt assessed or not declared by the importer in the entry.		
Sec 48:- Procedures for goods not cleared, warehoused, or Transhipped within 30 days after unloading:			
Sale of goods by custodian:	The imported goods may be sold only after sending notice to importer & with permission of PO, if such imported goods are not cleared for H.C or W.H or transhipped A) within 30 days from the date of its unloading or B)within further time allowed by PO.		
Sale at any time	1) With PO permission, animals, perishable goods, and hazardous goods can be sold at any time (may be before 30 days). 2) Arms and ammunition may be sold at a time, place, and manner directed by the Central Government (CG).		
Procedure & liability compliance:	1)The custodian files a consolidated bill of entry (buyer-wise) with Customs for clearance of auctioned goods under Section 46. 2)The Proper Officer (PO) assesses the duty within 15 days of filing the bill of entry and informs the custodian of the payable duty. 3)The goods are handed over to the successful bidder after duty assessment, out-of-charge orders by the PO, and payment of dues.		

Sec 49 :- Warehousing without Warehousing:

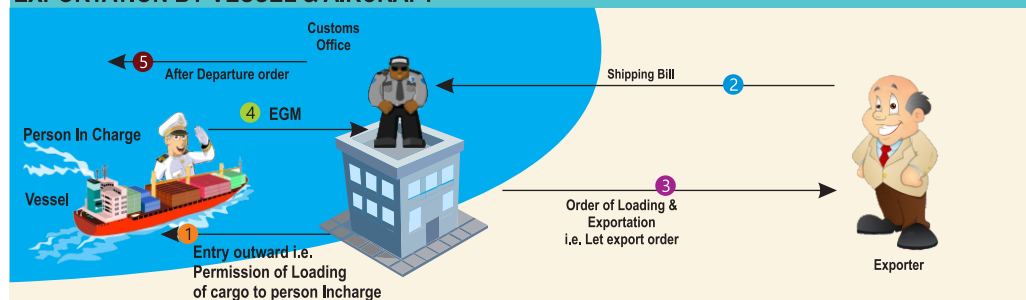
Warehousing without Warehousing	Though the clearance or removal is pending, goods may be permitted to be stored in a public warehouse for more than 30 days, if: a) For imported goods (whether dutiable or not) entered for H.C :- AC/DC is satisfied on importer's application that the goods cannot be cleared within a reasonable time. b) For imported dutiable goods entered for warehousing:- AC/ DC is satisfied on importer's application that the goods cannot be removed for deposit in a warehouse within a reasonable time.
Warehousing only in	Public warehouse.
Extension of Period	Further period not exceeding 30 days at a time.

Warehousing without Warehousing (Allowed in following 3 cases)

Section	46(1) Proviso	49	85
Types of Goods	Generally only Dutiable Imported Goods.	Any Imported Goods, whether Dutiable or not.	Imported Goods supplied as stores.
Application/ Declaration by Importer	That he is unable to furnish all particulars of goods u/s 46(1) (for B/E), for want of information	That the goods cannot be cleared within a reasonable time	That the goods are to be supplied as "Stores" to Vessels or Aircraft
Place of Deposit	Public Warehouse only	Public Warehouse only	Not Specified

EXPORT PROCEDURE

EXPORTATION BY VESSEL & AIRCRAFT



EXPORTATION BY VEHICLE



Sec 50:- Entry of goods (application) for exportation:

[CAS=Custom Automated System ,P.C = Principal Commissioner, C=Commissioner]

1) Exporter shall make following entry, electronically on CAS, for clearance of goods for exportation & also give declaration as to the truth of its Contents-

i)	If goods to be exported in vessel or aircraft:-	Shipping bill is to be filed
ii)	If goods to be exported by land:-	Bill of export is to be filed

2) If it is not feasible PC/C may allow entry to be presented in any other manner.

Time Limit Shipping Bill is filed after an entry outward but under special circumstances advance Shipping Bill to be filed.

Compliance The exporter who presents a shipping bill/ bill of export shall ensure the following:-
a) accuracy and completeness of information.
b) authenticity and validity of supporting document &
c) compliance with the restriction or prohibition relating to goods.

SEC 51: - Clearance of goods for exportation:

Order PO may make order permitting clearance & loading of goods for exportation, if
1) goods are not prohibited goods &
2) exporter has paid duty on it & other charges if any.
3) Order may also be made electronically through CAS based on risk evaluation.

Deferred Payment CG may notify a class of exporters permitting them for such benefit & other charges payable if any . Interest @15% p.a if exporter fails to pay deferred payment of duty within specified time on said duty not paid or short-paid till the date of its payment.

Section 39: Export goods not to be loaded on vessel until entry-outwards granted

Order Master of the vessel shall not begin loading of any export goods until an order has been given by PO granting entry-outwards to such vessel.

Non-applicability
1) Goods exported by baggage and mail bags.
2) Goods exported by aircraft and vehicles

Section 40:- Export goods not to be loaded unless duly passed by PO:

Goods can be taken on board in any conveyance, only if they are accompanied by following documents:-

In case of export goods other than baggage & mail bags	Goods shall be accompanied by:- ➤ Shipping Bill (at seaports/airports) ➤ Bill of Export (at Land Customs Station)
---	---

	➤ Bill of Transshipment (for transshipment goods) all duly passed by PO
In case of baggage mail bags	Export should be permitted by Customs for export.

Section 41:- Delivery of departure manifest or export manifest or Export report:

Export manifest/ Export report	It is a detailed information given by (PIC) of a conveyance about goods to be exported in conveyance.		
Time Limit to file EM/ER	The PIC shall deliver to PO:-		
	In case of	Export Document	Time limit to file
	Vessel / Aircraft Vehicle	Export Manifest / Departure Manifest Export Report	Mode of filing
		before departure of conveyance from a customs station	Electronic (Principal commissioner/ commissioner may allow in any other manner, if not feasible to deliver electronically)
Penalty for delay	upto 50,000(if not in time & without sufficient cause).		
Amendment	PO may permit if it's incorrect in any way with no fraudulent intension.		
Content of EM/ER	1) General declaration of particulars of vessel, its crew & passengers, its date & port of departure, 2) List of ship's stores & crew's personal effects and 3) Cargo declaration which is a complete list of goods shipped from port , transhipped & lying in vessel but not landed or transhipped ("same bottom cargo"), and dutiable goods, including arms and ammunition, forming part of equipment of vessel.		

Section 41A:- Passengers and crew manifest:

Meaning	It's detail list of passengers and crew traveling in a conveyance.
Submitted by & time limit	PIC of a conveyance that enters India from any place outside India or person specified by CG shall provide to as may be prescribed:- i) Passenger name record information of departing passengers & ii) passengers and crew departure manifest.
Penalty for delay	upto ₹50,000(if not in time & without sufficient cause).

Common provisions for import as well as export of goods:

Section 42:- No conveyance to leave without written order:

- ➡ PO shall not permit the conveyance to depart until a written order (departure order) is given by him to PIC of conveyance .
- ➡ No such order shall be given until:-
 - a) PIC has answered the questions asked to him.
 - b) Provisions of export manifest have been complied with.

- c) Shipping bills or bills of export, bills of transshipment and other documents required have been delivered to PO.
- d) All duties leviable on stores consumed in conveyance & charges & penalties due for conveyance or from PIC is paid or payment is secured by guarantee/deposit.
- e) No penalty is leviable on PIC u/s 116 or payment of penalty is secured by guaranteed/ deposit as PO may direct.
- f) Where any export goods have been loaded without payment of export duty or in contravention of any provision relating to export of goods, i) such goods have been unloaded, or ii) if it is not practicable to unload them, then person-in charge has given an undertaking, secured by guarantee/ deposit as PO may direct for bringing back the goods to India.

Comment:- Stores consumed during stay of conveyance at a customs station is import so custom duty is leviable on it. It is customary to have an inventory of ship stores at arrival and again at the time of departure of conveyance. Customs duty is leviable on the difference.

Electronic Payment of Import and Export Duty

Section 51A:- Payment of duty, interest, penalty, etc.

Deposit in E-cash ledger	Every deposit made towards duty, interest, penalty, fee or any other sum shall be credited to electronic cash ledger of such person.
Use of E-cash ledger	Amount available in e-cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum.
Refund	Balance, if any, may be refunded in prescribed manner.
Exemption	Board can exempt notified persons or for notified goods from maintaining e-cash ledger.

Section 51B :- Ledger for duty credit:

Duty Credit	CG may specify the manner to issue duty credit a) in lieu of remission of any duty/tax/levy chargeable on any material used in manufacture or processing of goods or for carrying out any operation on such goods in India that are exported or b) other financial benefit subject to specified conditions & restrictions.
Maintained in	It shall be maintained in CAS in the form of an electronic duty credit ledger of recipient of such duty credit.
Used by:	the person to whom it is issued or the person to whom it is transferred .
Used for	making payment of duties payable under this act or under Customs Tariff Act, 1975.

Date for Determination of

- Duty Rate & Tariff Value
- Exchange Rate

Assessment

Do you want
to remember
Sections?

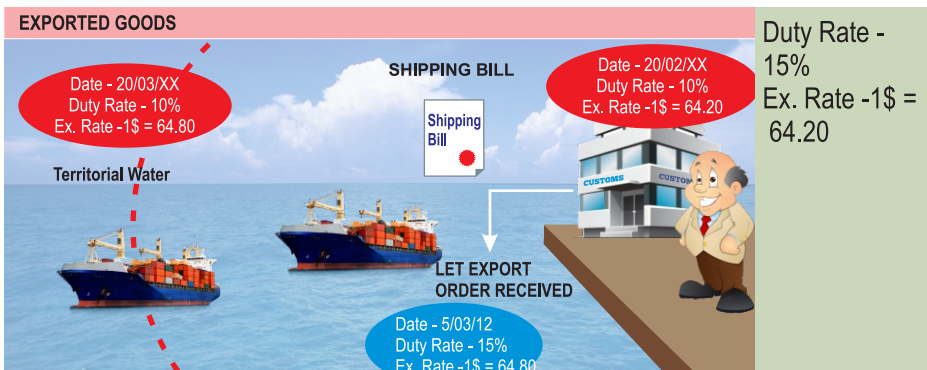
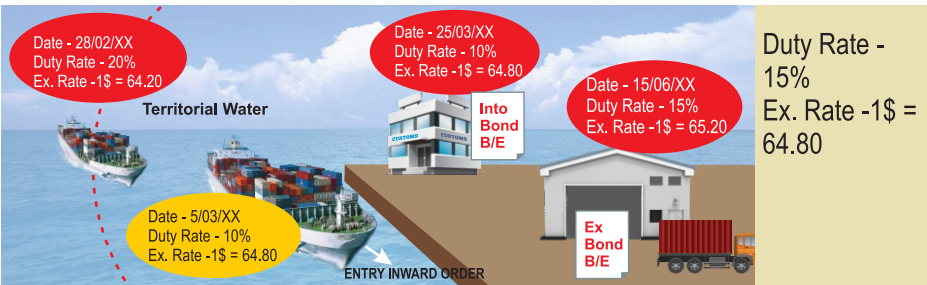


Sections	Descriptions
15	Date for Determination of Duty Rate & Tariff Value for Imported goods
16	Date for Determination of Duty Rate & Tariff value for Export goods.
17	Self Assessment
18	Provisional Assessment
19	Articles brought in Set
	Project import
14(3)	Exchange Rate notified by CBIC
Proviso to 14(1)	Date for exchange Rate for conversion of Value

The Capacity
to learn is
a **gift**; the ability to
learn is a **skill**;
the willingness to
learn is a
Choice

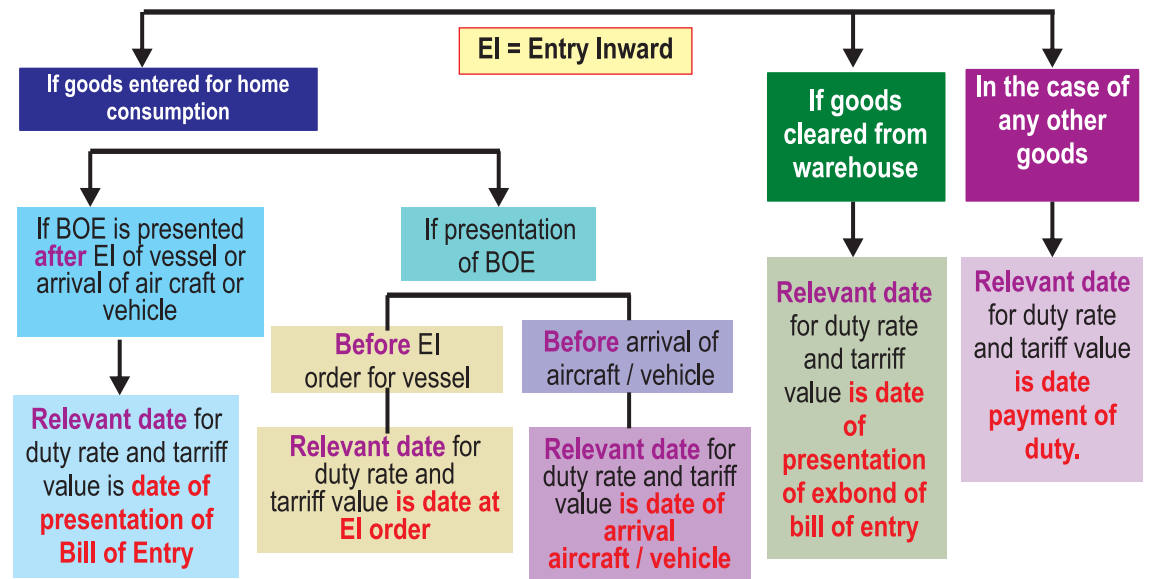
GST GuruTM
CA Vishal Bhattad





DATE FOR DETERMINATION OF RATE AND TARIFF VALUE.

SECTION 15(1) FOR IMPORTED GOODS.



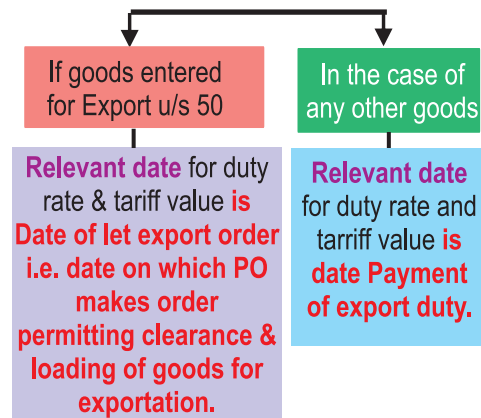
Note:- for Imported goods & Exported Goods:
Exception:- This Provision shall not apply to baggage & goods imported by post.
Comment:- Sec 77 & 83 applies in case of baggage & goods imported by post, respectively.

DATE FOR DETERMINATION OF FOREIGN EXCHANGE RATE [ANALYTICAL TABLE]

Sr. No.	Particulars	Relevant date for duty under sec 15 & 16	Relevant date for Foreign exchange rate under proviso to Sec 14(1)
1.	If goods entered for home consumption		
	a) BOE presented after EI	Date of presentation of BOE	Date of presentation of BOE
	b) BOE presented before EI	Date of granting inward order.	Date of presentation of BOE
2.	If goods cleared from a warehouse	Date of Exbond BOE	Into Bond BOE
3.	If goods entered for export under section 50	Date of let Export Order	Date of Shipping Bill

SEC 14(3) : "RATE OF EXCHANGE" means the RATE OF EXCHANGE AS DETERMINED BY THE CBEC.

SECTION 16(1) FOR EXPORT GOODS



ASSESSMENT

SEC 17 SELF ASSESSMENT & RE -ASSESSMENT

(a) Duty to be self-assessed by importer/exporter:-

- Importer in his BOE, or exporter in his shipping bill/Bill of Export, shall **self assess** the duty leviable on such goods.
- PO may **verify** entries made, **examine** or **test** any imported goods or export goods based on risk evaluation.

(b) Verification by proper officer

PO may require to produce any document/ information, where the duty is leviable on goods & Such persons shall produce document/ furnish information as required by PO.

(c) Reassessment of duty by PO, if self-assessment not done correctly:-

If it is found on verification, that self-assessment is not done correctly, PO may **re-assess the duty** leviable on such goods & other actions may also be taken .

(d) Speaking order for re-assessment to be passed unless the importer agrees with the reassessment

In case, any re-assessment done is **contrary to self-assessment** done by importer or exporter,

- 1) If Importer/Exporter accept reassessment in writing – **No speaking order by officer**
- 2) If Importer/Exporter not accept reassessment in writing - **Speaking order within 15 days**

SEC 18 PROVISIONAL ASSESSMENT

[P.A = Provisional Assessment, F.A = Final Assessment, R.A = Re-Assessment]

a) Circumstances of provisional assessment:-

PO may direct for P.A. **only in following cases:-**

- (a) If importer or exporter is unable to make self-assessment & request in writing.
- (b) If PO deems it necessary to any chemical or other test,
- (c) If required documents are produced & full information is furnished, but PO wants to make further enquiry, or
- (d) If required documents are not produced or information is not furnished & PO wants to make further enquiry.

b) Security to be furnished:-

P.A. may be done on furnishing of security required by PO to pay the deficiency, if any, between finally assessed/ re-assessed duty & provisionally assessed duty.

c) Furnishing of documents & information

[F.A.D= Finally Assessed Duty, R.A.D= Re-assessed Duty ,P.A.D = Provisionally Assessed Duty].

- The importer/ exporter has to furnish required information & Document to PO for F.A. within prescribed time.
- PO shall finalise the P.A. in prescribed time and manner.
- Final assessment or re-assessment:-

a)	In case of goods cleared for home consumption or exportation	If F.A.D or R.A.D exceeds Provisional Duty Paid.	Interest @15% p.a. on differential amount from 1st day of month in which duty is P.A. till the date of its payment there of.
		If F.A.D or R.A.D less than Provisional Duty Paid	Interest @6% p.a.
b)	In case of warehoused goods.	If F.A.D or R.A.D is exceeds P.A.D	Importer shall execute a bond for twice the amount of excess duty.

Faceless Assessment (F.A) (also called as Virtual Assessment or Anonymised Assessment):-

1)	Meaning	<ul style="list-style-type: none"> ➤ F.A. is a major Customs Reforms where a BOE, identified for scrutiny (non-facilitated BOE) is assigned to an A.O., physically located at a Customs station, which is not the Port of Import in the C.A.S. (Custom automated services) ➤ It is a component of "Turant Customs Programme". ➤ This initiative stands on the pillar of faceless, contactless & paperless customs, towards faster & cheaper customs clearance of imported goods. ➤ It separates the customs assessment process from the physical location of Port of Import, using a technology platform. ➤ No changes to the process of filing a B.O.E. Importer can file his documentation including B.O.E and supporting documents on the ICEGATE portal.
2)	Key objectives	<ol style="list-style-type: none"> a) Anonymity in assessment for reduced physical interface between trade and customs. b) Speedier customs clearances through efficient utilisation of manpower. c) Greater uniformity of assessment across locations. d) Promoting sector specific and functional specialisation in assessment.

PROJECT IMPORTS (Special Procedure):-

1)	Meaning	<ul style="list-style-type: none"> ➤ Project imports are the imports of machinery, apparatus & appliances, components or raw materials, etc., falling under different classification, required for – <ul style="list-style-type: none"> ➤ Initial set up of unit or ➤ For substantial expansion of an existing unit. ➤ Spare parts, raw materials, & consumables stores upto 10% of value of goods can be imported.
2)	Complication in Assessment lead to Project Imports Scheme	When different items with at different rates of custom duties are required, then one Consolidated rate of custom duty is applicable for all the items imported under a project, irrespective of nature of goods & custom classification.
3)	Applicability	<ul style="list-style-type: none"> ➤ Industrial Plants ➤ Mining Projects ➤ Other notified projects. ➤ Irrigation Projects ➤ Projects for Oil ➤ Power Projects ➤ Mineral exploration



Custom Tariff Act 1975 & Additional Duties of Customs

Do you want to remember Sections?

Sections	Descriptions
Sec 1	Short Title, Extent and Commencement
Sec 2	Duty Rate for Basic Customs Duty
Sec 3	Additional Customs Duty
Sec 4	Special Rate for preferential Countries
Sec 5	Low rate under international Trade agreement

SEC 3 : ADDITIONAL CUSTOM DUTY

Section - 2

BCD levied under section 1 are specified in the (I) and (II) schedules.

TARIFF

[BASED ON HARMONISED SYSTEM OF NOMENCLATURE]

CUSTOMS TARIFF ACT, 1975

Schedule I
Imported Goods

Schedule II
Export Goods

21 Sections

99 Chapters

Sec. 3 Additional Customs Duty

ACD 3(1)

1) *such additional duty as would counter-balance the excise duty for the time being leviable on a like article if produced or manufactured in India.*

2) This duty is called as additional duty.

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
Value for ACD 3(1)	xxx

1) *Duty rate = Excise duty as mentioned in Central Excise Tariff Act, 1985*
 2) *In case of alcohol Duty Rate = Rate notified by C.G.*
 3) *If excise duty is levied as % of value, duty = % of value of imported article.*

ACD 3(5)

1) *ACD 3(5) Duty to countervail effect of sales tax, VAT or local tax leviable on like article on its sale or purchase.*

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx

Value for ACD 3(5) xxx

1) *Duty rate = Rate notified by C.G. which should not exceeds 4%*

ACD 3(7) = IGST

2) It is leviable to counter balance the effect of GST payable on Supply of like goods in India.

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
(+) ACD 3(5)	xx
(+) Safeguard Duty	xx
(+) CVD on subsidies Article	xx
(+) Antidumping Duty	xx
Value for ACD 3(7)	xxx

1) *Duty rate = Rate notified for levy of IGST under GST Act on like goods*
 2) *This duty rate shall not exceed 40%.*

ACD 3(9) = GST Cess

It is payable to Counter balance GST compensation Cess leviable u/s 8 GST (Compensation to States cess Act, 2017 on a like article on its supply in India.)

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
(+) ACD 3(5)	xx
(+) Safeguard Duty	xx
(+) CVD on subsidies Article	xx
(+) Antidumping Duty	xx
Value for ACD 3(9)	xxx

1) *Duty rate = Rate notified by C.G. under GST Cess Act on like goods*

SEC 4 : PREFERENTIAL RATE

- 1) C.G. has power to notify preferential area
- 2) Duty is payable at preferential rate of imported goods being produce or manufacture in preferential area
- 3) C.G. notify the rules for determination of goods produce or manufacture in preferential area.
- 4) In the interest of trade C.G. may reduce or increased or discontinue preferential rate
- 5) If preferential rate increased then it should not exceeds normal Rate

SEC 5 : LOWER RATE OF DUTY UNDER TRADE AGREEMENT

- 1) C.G. may notify lower agreement between Govt. of India & Foreign Country
- 2) C.G. notify the rules for determination of goods produce or manufacture in foreign country.

Valuation

Do you want to remember Sections or Rules ?



Sections	Descriptions
Customs Valuation	
14(1)	Transaction Value of Imported Goods & Export Goods
Proviso 14(1)	Relevant Date for Exchange Rate
14(2)	Tariff Value
14(3)	Exchange Rate by CBIC

TECHNICAL TERMS RELATING TO VALUE IN THE COURSE OF IMPORT OR EXPORT:

- 1) Ex-Factory Price=price at factory gate.. It includes cost of production and manufacturer's margin of profit.
- 2) F.A.S (Free Alongside)=It includes ex- factory +local freight + local taxes.
- 3) F.O.B. (Free on Board)= FAS + loading charges + export duty cess.
- 4)C.I.F. (Cost Insurance Freight)=It is the cost at which the goods are delivered at the Indian port. It covers cost of goods. Some times there is referred as CFC also.

Rules	Descriptions
Customs Valuation (Determination of Price of Imported Goods)Rule, 2007	
2(1)(d)	Identical Goods
2(1)(f)	Similar Goods
2(2)	Related
3	Determination of the method of valuation - Transaction Value
4	Transaction value of identical goods
5	Transaction value of similar goods
6	Determination of value where value cannot be determined under rules 3,4 and 5
7	Deductive Value
8	Computed Value
9	Residual Method
10	Cost and services - Adjustment in Transaction Value
11	Declaration by the importer
12	Rejection of declared value

Rules	Descriptions
Customs Valuation (Determination of Price of Export Goods)Rule, 2007	
2(1)(a)	Goods of like kind and quality
2(2)	Related
3	Determination of method of valuation
4	Determination of export value by comparison
5	Computed value method
6	Residual Method
7	Declaration by the exporter
8	Rejection of declared value



Don't wait for the perfect moment, take the moment and make it perfect...



VALUATION

Sec. 14(1) Transaction Value

Imported Goods

The value of imported goods shall be transaction value of such goods that is to say:

- **Price actually paid or payable for goods when sold for export to India.**
- for delivery at the time and place of importation.
- Where buyer and seller of goods are not related
- Price is sole consideration for sale.
- Subject to such other conditions as specified in the rule made in this behalf.

Exported Goods

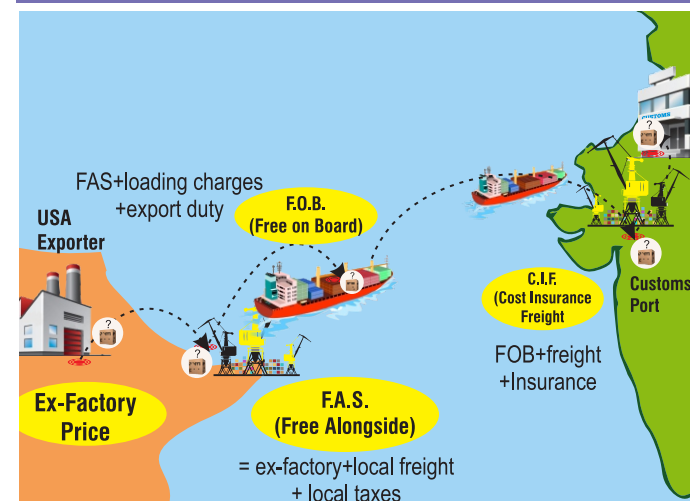
Value of export goods shall be the transaction value of such goods i.e. to say:

- **Price actually paid or payable for goods when sold for export from India.**
- For delivery at the time and place of exportation.
- Where buyer and seller of the goods are not related.
- Price is sole consideration for sale.
- Subject to such other conditions as specified in the rules.

Sec. 14(2) Tariff Value

- 1) The Board fixes tariff value for class of imported or export goods.
- 2) Tariff value is determined based on the trend of the international market value of similar goods.
- 3) Once fixed, the duty is chargeable based on the tariff value only.

PRICING SYSTEM IN INTERNATIONAL MARKET



CUSTOM VALUATION (DETERMINATION OF PRICE OF IMPORTED GOODS) RULE, 2007

Rule 3(1)

Subject to Rule 12 the value of imported goods shall be the transaction value adjusted in accordance with Prov. of Rule 10

Rule 10

Adjustment in T.V. (Refer next page)

RULE 2(2) Related

For the purpose of these rules, persons shall be deemed to be "related" only if -

- they are officers or directors of one another's businesses;
- they are legally recognized partners in business;
- they are employer and employee;
- any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;
- one of them directly or indirectly controls the other;
 - both of them are directly or indirectly controlled by a third person;
 - together they directly or indirectly control a third person;
 - they are members of the same family.

Explanation: sole agent / distributor shall be treated as related only if they are covered within any criteria of this sub-rule

Rule 3

Rule 3(2)

T.V of imported shall be accepted subject to following conditions.

- The Buyer is not subject to any restriction regarding use or disposal except as provided in Indian law.
- There is no condition regarding resale except the geographical area of resale.
- There is no restriction which substantially affects the value of goods.
- On resale, the seller is not entitled for any part of subsequent resale.
- The sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued.
- The buyer and seller are not RELATED.

Provided that where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of **SUB - RULE (3)** below.

Rule 3(3)

TRANSACTION VALUE ACCEPTABLE EVEN THOUGH BUYER AND SELLER ARE RELATED

The examination of circumstances of sale of imported goods indicated that the relationship does not influence the price

Where Importer demonstrate that his declared value is approx equal to:

- TV of Identical goods or similar goods.
- Deductive value of IG/SG.
- Computed value of IG/SG.

Determination of Assessable Value & Customs Duty Payable

Sr. No.	Particulars	₹	Remark															
1)	FOB	xxx																
2)	Adjustment under Rule 10 (1)																	
	a) (i) Commission & Brokerage	xx	All Commission & Brokerage includible in T.V. except buying Commission.															
	(ii) Cost of Container	xx	Cost of durable & Returnable container is not includible in T.V.															
	(iii) Cost of Packing	xx																
	b) Free assistance given by buyer <ul style="list-style-type: none">- Material, Components, Parts & Similar items- Tools, dies, moulds & similar items.- Material consumed- Engineering, development work, art work, plan & sketches undertaken elsewhere than India.	xx	Conditions for additions 1. Supplied directly or Indirectly by buyer 2. Use in production of imported goods. Not to be added in T.V. Engineering, development work, art work, plan & sketches undertaken in India.															
	c) Royalties & Licence Fees [If includes patent, copy rights, know how trade mark. etc.]	xx	Conditions for additions 1. Related to imported goods 2. Payable by buyer as conditions of sale. Note : T.V. includes royalty & license fees for the process on goods carried out after importation.															
	d) Proceeds of Subsequent Resale disposal or Use-occurring to seller.	xxx	Dividends from the buyer to the seller not called as proceeds of subsequent sale& not includible in T.V.															
	e) Other payments - paid by the buyer as a condition of sale	xxx	It does not includes Interest or Financial Charges.															
	Adjusted FOB (Adj.)	xxx																
3)	Adjustment Under Rule 10(2) (a) the cost of transport, loading, unloading and handling charges associated with the delivery (loading port in the country of export) of the imported goods to the place of importation <table><tr><th>Mode of Import</th><th>Vessel/Vehicle</th><th>Aircraft</th></tr><tr><td>If Transport cost is ascertainable</td><td>Actuals</td><td>Actuals or 20% of FOB Value, whichever is less</td></tr><tr><td>If Transport Cost is not ascertainable</td><td>20% of FOB(Adj.)</td><td>20% of FOB (Adj.)</td></tr></table>	Mode of Import	Vessel/Vehicle	Aircraft	If Transport cost is ascertainable	Actuals	Actuals or 20% of FOB Value, whichever is less	If Transport Cost is not ascertainable	20% of FOB(Adj.)	20% of FOB (Adj.)	xx	Ship demurrage charges of Chartered vessels & Lighterage / Barge Charges Separately added as cost of transportation Calculation of freight or insurance if FOB is cum insurance or freight <table><tr><th>Case</th><th>Treatment</th></tr><tr><td>(a) FOB(Adj.) + Insurance</td><td>Cost of transport/handling 20% of (FOB + Insurance)</td></tr><tr><td>(a) FOB(Adj.) + Transport & Handling Cost</td><td>Cost of insurance 1.125% of [FOB + Transport/Handling</td></tr></table> Note : Refer Amendment Notes for detailed discussion	Case	Treatment	(a) FOB(Adj.) + Insurance	Cost of transport/handling 20% of (FOB + Insurance)	(a) FOB(Adj.) + Transport & Handling Cost	Cost of insurance 1.125% of [FOB + Transport/Handling
Mode of Import	Vessel/Vehicle	Aircraft																
If Transport cost is ascertainable	Actuals	Actuals or 20% of FOB Value, whichever is less																
If Transport Cost is not ascertainable	20% of FOB(Adj.)	20% of FOB (Adj.)																
Case	Treatment																	
(a) FOB(Adj.) + Insurance	Cost of transport/handling 20% of (FOB + Insurance)																	
(a) FOB(Adj.) + Transport & Handling Cost	Cost of insurance 1.125% of [FOB + Transport/Handling																	
	(b) Cost of Insurance <ul style="list-style-type: none">- Ascertainable - Actual- Not Ascertainable - 1.125% of FOB	xx xx																
	CIF	XXXXX																
	Assessable Value	XXXXX																
	Calculation of Custom Duties																	
	a) BCD % (Assessable Value)																	
	b) Social Welfare Surcharge @ 10% (BCD)																	
	c) IGST (A.V. + BCD + SWS)																	

Exclusion From Transaction Value :

- Charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods, e.g. industrial plant, machinery or equipment.
- Cost of transport after importation
- Duties and Taxes in India.

Costs related to transshipment of goods (from ports to ICDs (inland Container Depot) : port to port, port to CFS (Container Freight Station), Airport to Airport, etc.) within India will be excluded, providing uniform treatment to different modes of transshipment.

Rule 3(4):

If the value cannot be determined under the provisions of rule 3(1) or 3(2), the value shall be determined by proceeding

SEQUENTIALLY THROUGH RULE 4 TO 9.



Identical Goods (IG) (Rule 4)		Rule 2(1)(d) The term “identical goods” is as follows:			Rule 4 / Rule 5
Identical Goods = Imported + Same physical features, quality, etc. + Same country of production + Same producer (if not available then others allowed)					If the assessable value of the imported goods is not ascertainable, then the value of identical goods/ similar goods is considered subject to following conditions. 1) IG / SG are imported at or about same time 2) IG / SG are imported substantial same quantity and commercial level. adjustment is allowed if there is any difference in quantity or commercial level 3) Adjustment is allowed for rule 10(2) expenses 4) If two or more T.V. of I.G./S.G. then take lowest T.V.
Similar Goods (SG) (Rule 5)		Rule 2(1)(f) The term “similar goods” is as follows:			
Similar Goods = Imported Goods + Like features and component material Commercially interchangeable with imported goods + Same country of production + Same producer (if not available then others allowed)					
Deductive Value (Rule 7)		Assessable Value = Unit price in India (-) Commission / profits (-) Transport & Insurance (-) Customs Duties & other Taxes payable in India by reason of importation or sale of the goods.			Additional Comments (Rule 7) : If goods are not sold at same time then unit price at earliest date not exceed 90 days shall be taken. (Unit price at which greatest aggregate quantity sold to persons who are not related to the sellers in India
Computed Value (Rule 8)		Assessable Value = Cost / Value of Materials used in producing the Imported Goods + Profits & General Expenses + Other additions under Rule 10(2)			
Residual Method (Rule 9) (Applicability:- If value cannot be determine by above rules then Rule 9 is Applicable		Method : Under Residual Method, Value of Imported Goods shall be determined - (a) using reasonable means, (b) consistent with the principles and general provisions of these Rules, (c) on the basis of data available in India.			Basis shall not be considered : a) AV should not be Selling Price in India b) Highest Price among multiple prices c) Price of the goods in the domestic market of the country of exportation d) Cost of Production / Price of the goods for the export to a country other than India e) Minimum Customs Values, or Arbitrary or Fictitious Values.
Sec. 14(1)		VALUATION OF EXPORT GOODS			
Value of export goods shall be the transaction value of such goods that to say: Price actually paid or payable for goods when sold for export from India. ► For delivery at the time and place of exportation. ► Where buyer and seller of the goods are not related. ► Price is sole consideration for sale. ► Subject to such other conditions as specified in the rules.		Normally FOB Value of Export Goods			
Goods of like kind and quality		Goods of like kind and quality = Export goods which are identical or similar	Like features and quality, reputation + perform same function Commercially interchangeable with export goods	Produced by the same person or a different person	
Comparison Method (Rule 4)		1) The value of the Export Goods shall be based on- the Transaction Value of goods of like kind and quality, exported at or about the same time, to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with Rule 4(2). 2) For determining the value of export goods under Rule 3(1) PO shall make few adjustments:-considering ► difference in the dates of exportation, ► difference in commercial levels and quantity levels, ► difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared & ► difference in domestic freight and insurance charges depending on the place of exportation			
Computed Value Method (Rule 5)		This method is adopted when the value of exports cannot be determined by Comparison Method.] Assessable Value = Cost of Production + Charges for brand + Profits			
Residual Method (Rule 6)		The value shall be determined by reasonable means consistent with the principles and general provisions of these Rules. However, local market price may not be the only basis.			
Rejection of declared value (Rule 8)		If the PO has- ► Reason to doubt on the truth or accuracy of the declared value. ► He may ask the importer to furnish further information, documents, evidence.& ► If, after receiving such further information, or the absence of a response of such exporter PO still doubts then It shall be deemed that T.V cannot be determined u/r 3(1). PO shall intimate in writing & give OOBH.			

CUSTOMS VALUATION - DIFFERENT APPROACHES FOR CALCULATION OF A.V.

Whenever Exfactory price is given or FAS/FOB is given & we can derived Exfactory by backward calculation

Take Exfactory Price

Rule 10(2) cost is Ascertainable

Vessel/Vehicle

(Add Actual COT & COI)

Ex factory price	xxx
+ Transport at load port	xx
FAS	xxx
+ LC/HC at load port	xx
FOB	xxx
+ Rule 10(1) cost	xx
Adjusted FOB	xxx
+ Rule 10(2) cost	
Actual Basis COT(foreign port to India)	xx
COI (foreign port to India)	xx
Assessable Value	xxx

Air Craft

(Add COT - Actual or 20% of Adj. FOB WIL. & COI- Actual)

Ex factory	xxx
+ Rule 10(1) cost	xx
+ Rule 10(2) cost	
(a) COT (WN)	xx
(b) COI (Actual)	xx
Assessable Value	xxx

WN - Rule 10(2)(a) Adjustment Steps
A) First find out the actual 10(2)(a) cost incurred
B) Max 20% Adj. FOB

Ex factory	xxx
+ Transport at load port	xx
+ LC/HC at load port	xx
FOB	xxx
+ Rule 10(1)	xx
Adj. FOB	xxx
20% of Adj. FOB	xxx

C) Airfreight A or B whichever is lower

Rule 10(2) cost is Not Ascertainable

Any mode Vessel/Vehicle/Aircraft

(Add COT - 20% of Adj. FOB COI- 1.125% of Adj. FOB)

Ex factory	xxx
+ Rule 10(1) cost	xx
+ Rule 10(2) cost	
(a) COT (WN)	xx
(b) COI (WN)	xx
Assessable Value	xxx

WN - Rule 10(2)(a) / (b) Adjustment Steps

Ex factory	xxx
+ Transport at load port	xx
+ LC/HC at load port	xx
FOB	xxx
+ Rule 10(1)	xx
Adj. FOB	xxx

COT	
20% of Adj. FOB	xxx
COI	
1.125% of Adj. FOB	xxx

FOB Price is given in the Question

Rule 10(2) cost Ascertainable

Vessel/Vehicle

FOB	xxx
+ Rule 10(1) cost	xx
Adjusted FOB	xxx
+ Rule 10(2) cost	
Actual Basis COT(foreign port to India)	xx
COI (foreign port to India)	xx
Assessable Value	xxx

Air Craft

FOB	xxx
+ Rule 10(1) cost	xx
Adjusted FOB	xxx
+ Rule 10(2) cost	
COT (20% of Adj. FOB or Actual WIL)	xx
COI (Actual)	xx
Assessable Value	xxx

Note :- If we add COT as 20% of Adj. FOB it leads to double addition of
a) Transport at load port
b) LC/HC at load port which is already covered in FOB Price.

Rule 10(2) cost Not Ascertainable

Any mode Vessel/Vehicle/Aircraft

FOB	xxx
+ Rule 10(1)	xx
Adj FOB	xxx
+ Rule 10(2)	xx
(a) 20% of Adj. FOB	xx
(b) 1.125% of Adj. FOB	xx
Assessable Value	xxx

CIF Price is given in question

Vessel/Vehicle

CIF Price	xxx
+ Rule 10(1) adj.	xx
Assessable Value	xxx

Air Craft

Since CIF price is given thus all cost of 10(2)(a)/(b) are already included Determine FOB price by Backward calculation

CIF Price	xxx
(-) Air Freight(Actual)	(xx)
(-) Insurance (Actual)	(xx)
FOB price	xxx
+ Rule 10(1) Adj.	xx
Adj- FOB	xxx
+ Rule 10(2) Adj.	
(a) Air Freight	
Actual on 20% of Adj FOB	xx
whichever is lower	
(b) Insurance	xx
Assessable Value	xxx

SEC: 19 DETERMINATIONS OF DUTY WHERE GOODS CONSIST OF ARTICLES LIABLE TO DIFFERENT RATES OF DUTY

Where goods consist of set of articles, Duty shall be calculated as follows,

1) **Duty Based on Quantity** :- Each article is charged duty based on its respective rate per unit (e.g., per kg).

2) **Duty Based on Value**

a) **If all articles have the same duty rate:** The entire set is charged at that single rate

b) **If articles have different duty rates:**

⇒ The entire set is charged at the **highest rate**, even if some articles are exempt or have a lower rate or NIL rate.

Eg: Shaving kit consist of different products like Shaving Cream (Duty rate 10%), Shaving Brush (Duty rate 5%) & others (duty rate 5%) then **entire shaving kit is taxable @ 10%**.

⇒ **Exception:** But if the importer produces evidence to the satisfaction of the PO regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

Duty on Accessories with Main Equipment

⇒ Accessories, parts, or implements are charged at the same rate as the main equipment **if:**

⇒ They are **compulsorily** supplied with the main article &

⇒ They are **not separately charged**, meaning their cost is included in the price of the main equipment.

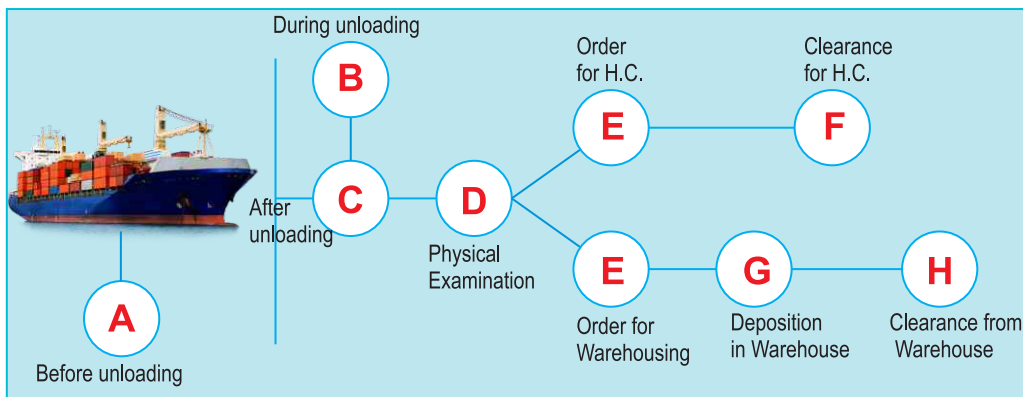
Social welfare surcharge:

1) **Objective:** Goods imported into India to provide and finance education, health social securities.

2) **Rate:** 10% on aggregate of duties, taxes and cess levied u/s 12 of the Custom Act, 1962, but not including SGD, CVD and ACD. (i.e. 10% only on BCD)

Chapter 5

Concession Under Custom



As we know Sec 12 provides that duties of Customs shall be levied on goods. However, it may be noted that this Levy is subject to other sections in this Act. For instance,

Sec 13	Duty on pilfered goods.
Sec 22	Abatement of duty on damaged or deteriorated goods.
Sec 23	Remission of duty on Lost, Destroyed or abandoned goods.
Sec 20	Re-importation of goods.
Sec 21	Goods derelict wreck etc.
Sec 24	Denaturing & Mutilation
Sec 25	Exemption from Custom Duty
Sec 25A	Exemption from Custom Duty on Imported goods used for Inward processing of goods
Sec 25B	Exemption from Custom Duty on Re-Imported goods used for outward processing of goods

“Education is NOT preparation for life; Education is LIFE IT SELF”

Sec. 13 : Duty on pilfered goods.

*AM = Arrival Manifest, IR = Import Report, AC/DC - Assistant Commissioner.

1) Legal provision of sec 13:-

- Pilferage means petty theft or petty loss.
- **Duty is not payable if goods pilfered after unloading and before clearance order. (i.e. C to E)**
- Goods should not be restored back.

2) Circumstances for pilferage:

- evidence of tampering.
- missing articles must be whole units, not parts
- blank space for the missing articles.

3) Import Duty Payable by Custodian:

- As per Sec 45(3), if pilferage occurs before clearance, duty is payable by the custodian (Port/Airport/Railway Authority).
- Relevant date = the date of filling of AM/IR**

Sec. 22 : Abatement of duty on damaged or deteriorated goods.



1.	If it is shown to satisfaction of AC/DC that
a.	Goods are damaged/deteriorated before or during unloading (i.e. A to B)
b.	➤ If for H.C. damage after unloading but before examination (i.e. C to D) ➤ warehoused goods damaged anytime before clearance. (i.e. C to H) - On account of any accident - not due to any without act negligence of importer or his employee

2.	$\text{Duty payable} = \frac{\text{Duty on goods before damage or deterioration} \times \text{Value of goods after damage or deterioration}}{\text{Value of goods before damage or deterioration}}$
3.	Value of damaged/deteriorated goods may be ascertained by following methods at option of owner:: 1) may be ascertained by PO. 2) Such goods may be sold by PO by public auction/tender, or with consent of owner & gross sale proceeds= deemed value of such goods.

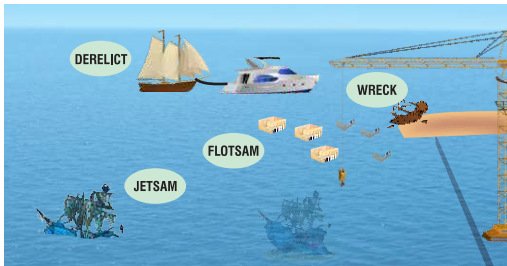
Sec. 23: Remission of duty on Lost, Destroyed or abandoned goods.

Duty Remission by AC/DC:

- Sec 23(1):** No duty if imported goods are lost or **destroyed before clearance (i.e. A to F)** for H.C., except in cases of pilferage.
- Sec 23(2):** No duty if the importer relinquishes ownership before clearance u/s 47 (H.C. or warehousing).

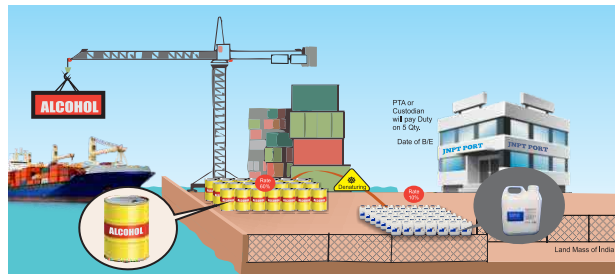
Note: Not allowed if an offense is committed.

Sec. 21: derelict, jetsam, flotsam and wreck.



- ➔ All goods, derelict, jetsam, flotsam and wreck brought or coming into India,
- ➔ **shall be dealt with as if they were imported into India, (i.e. Custom duty is payable)**
- ➔ unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.

Sec. 24 : Denaturing & Mutilation.



- Owner of goods will make request for denaturing & mutilation
- C.G. may make rules for such denaturing & mutilation
- Duty is payable as if goods are imported in denatured or mutilated from.**

SECTION 25: EXEMPTION FROM CUSTOMS DUTY

General Exemption	Special Exemption
Central Govt. in public interest	Central Govt. in public interest
By notification in the Official Gazette	By Special order in each case
Exempt generally either absolutely or conditional exemption	Exempt from payment of duty only under circumstances - exceptional nature
Conditional exemption - valid upto 31st day of March falling immediately after 2 years from the date of such grant/variation in order than specified cases	No Duty - if the amount of duty leviable is equal to or less than ₹ 100.

Validity of Exemption

- Exemptions with conditions u/s 25(1)** are valid **until March 31**, after **2 years** from the date of grant/variation, unless specified otherwise.
- For exemptions in force on Finance Bill, 2021** approval, the **2-year period** starts from February 1, 2021.
- No duty collected** if the amount is **₹100 or less**.

4A) Exemption not applicable to :-

- any multilateral or bilateral trade agreement;
- obligations under international agreements, treaties, conventions or such other obligations including with respect to United Nations agencies, diplomats and international organisations;
- privileges of constitutional authorities;
- schemes under the FTP;
- Schemes of C.G. having validity of more than 2 years;
- re-imports, temporary imports, goods imported as gifts or personal baggage;
- any duty of customs under any law for the time being in force, including IGST leviable under Sec 3(7) of the CTA, 1975, other than duty of customs leviable under section 12.

SECTION 25A:- Exemption from customs duty on imported goods in case of inward processing:-

- ➔ **CG may notify goods** that are imported for repair, further processing or manufacture **to be exempt** from whole or part of customs duty leviable, subject to following conditions:—
 - Goods **shall be re-exported** after such repair, further processing or manufacture within 1 year from the date on which the clearance order of the imported goods is made;
 - Imported goods are identifiable** in the export goods; &
 - Other notified Conditions.

SECTION 25B:- EXEMPTION FROM CUSTOMS DUTY ON RE-IMPORTED GOODS USED FOR OUTWARD PROCESSING

CG may **exempt customs** duty on re-imported goods (after export for repair, further processing, or manufacture) under the following conditions:

- Goods must be **re-imported within 1 year** from the export clearance order.
- Exported goods must be **identifiable** in the **re-imported goods**.
- Other **notified conditions** must be met.

SECTION 20: RE-IMPORTATION OF GOODS

Such goods shall be liable to duty and be subject to all the conditional and restrictions, if any, to which goods of the like kind and value are liable or subject, on the important thereof.

Concession on Re-importation

S.No.	Goods Exported	Import Duty payable on Re-Import
1.	Goods exported under duty drawback & etc., exported for repairs, etc. Goods exported - (i) under claim for duty drawback/ refund of IGST (ii) Under bond without payment of IT (iii) Under duty exemption scheme/AA/DFIA or EPCG	Amount of incentive available at the time of export (including IGST)
2.	Goods exported for repairs, etc. Goods (other than those falling under S.no. 1 exported) exported for repairs abroad Note:- The repairs and material cost may actually be incurred or not. take fair value!	Duty leviable on "Value Addition" : Fair Cost of repairs Add: Material Cost Add: Insurance and freight (both ways) Note: Duty is payable on value addition by repairs & on total value of goods
3.	Goods other than falling under S.No. 1 & 2 above. Eg. Goods exported earlier for exhibition/consignment	Nil

Conditions to be satisfied to claim above 2 Concessions

A) Time limit for re-importation : 5 years , can be extended further for a period upto 2 years (Amended).

Export of goods to Nepal & Bhutan : Time limit is 7 years, which can be extended further up to 3 years for machinery & equip. exported.

Goods exported under DEEC/AA/DFIA/any scheme of Chapter FTP : 1 year (extendable further up to 1 year)

B) The exported goods on the re-imported goods must be the same.

Note:- Not subjected to re-manufacturing or reprocessing through melting, recycling or recasting abroad.

C) No change in ownership (when goods exported for repairs) : Ownership of the goods should not have changed.

Non-Applicability of Concessions

- Re-imported goods were exported by 100% EOU or a unit in Free Trade Zone (FTZ)
- Re imported goods had been exported from a public/private warehouse
- Re-imported goods fall under Fourth schedule to the Central Excise Act, 1944 (tobacco products and petroleum products)

Goods Re-imported for repairs, remaking, reprocessing etc.

S.No.	Particulars	Time limit for re-import from date of Exportation	Other Conditions
1.	Goods manufactured in India (1st Re-exported) & Re-imported for repairs or for reconditioning other than the specified goods	3 years Export to Nepal & Bhutan :10 yrs	a) Goods must be re-exported within 6 months (extendable till 1 year) of the date of re-importation b) The AC/DC is satisfied w.r.t. identify of goods.
2.	Goods manufacturing India & re import for Reprocessing, refining, Re-making, Any other similar process Note:- Process loss = Exempted from Custom duty subject to satisfaction of AC/DC	2 years	c) The importer at the time of importation executes a bond

Chapter 6

Stores,

Sections	Descriptions
Sec 2 (38)	Stores
Sec 2 (21)	Foreign going vessels / Aircraft
Sec 2(7)	Stores may be allowed to be warehoused without assessment to duty.
Sec 85	Transit and Transhipment of Stores
Sec 86	Imported stores may be consumed on board a foreign-going Vessel or aircraft
sec 87	Application of Section 69 (Export after Warehousing) & Drawback to Stores
Sec 88	Stores to be free of Export Duty
Sec 89	Concessions in respect of Imported
Sec 90	Stores for the Navy

Baggage

Sections	Descriptions
Sec 77	Declaration by owner of baggage
Sec 78	Determination of rate of duty and tariff valuation in respect of Baggage
sec 79	Bona fide baggage exempted from duty
Sec 80	Temporary detention of Baggage.
Baggage Rules, 2016	
Rule 3:	Passengers returning from countries other than Nepal, Bhutan, Myanmar or China
Rule 4	Passengers returning from Nepal, Bhutan, Myanmar or China
Rule 5:	Jewellery
Rule 6:	Transfer of residence
Rule 7:	Currency
Rule 8:	Provisions regarding unaccompanied Baggage.
Rule 9 :	Application of these rules to members of the crew.

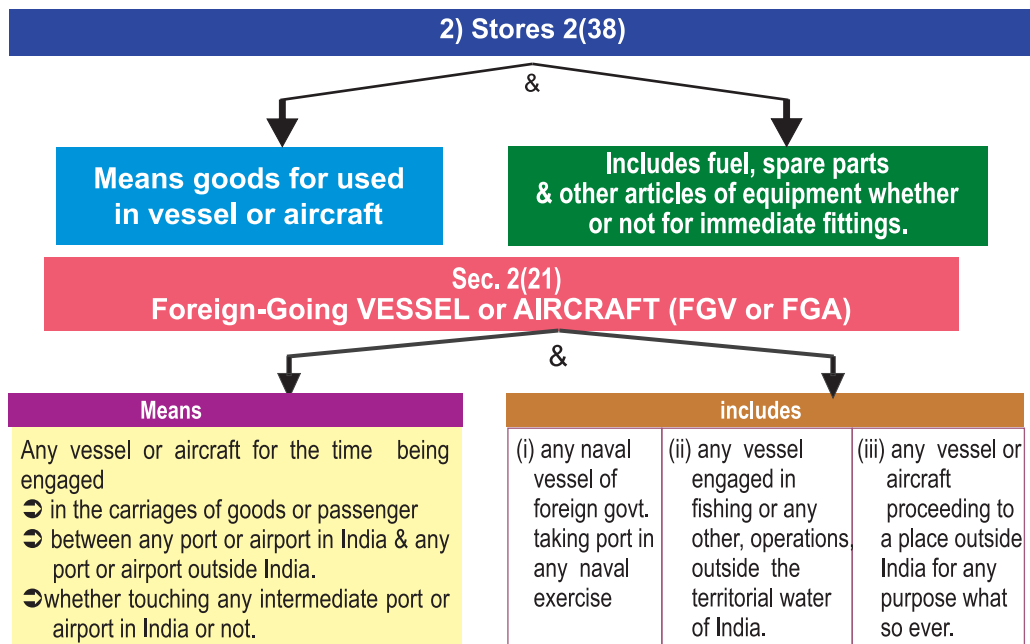
Post Article

Sections	Descriptions
Sec 82	Label or Declaration accompanying goods to be treated as entry OMITTED
Sec 83:	Rate of duty and tariff valuation in respect of goods imported or exported by post
Sec 84:	Regulations regarding goods Imported or to be Export by Post

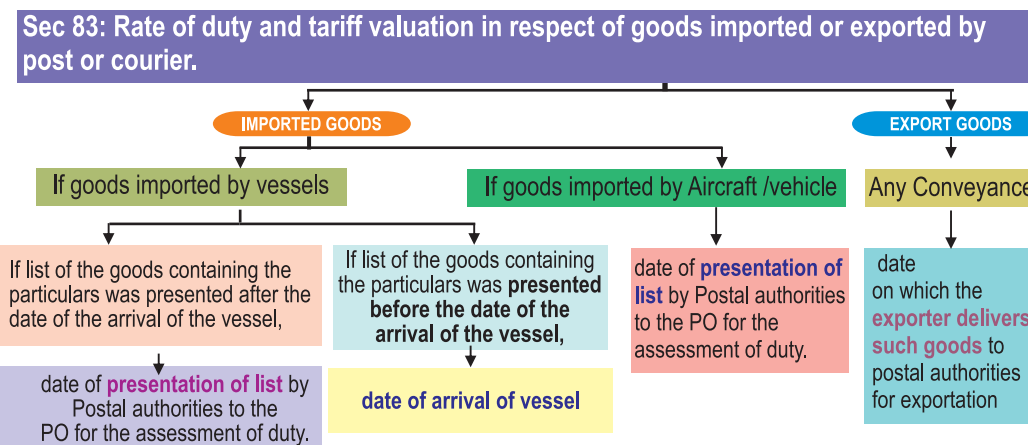
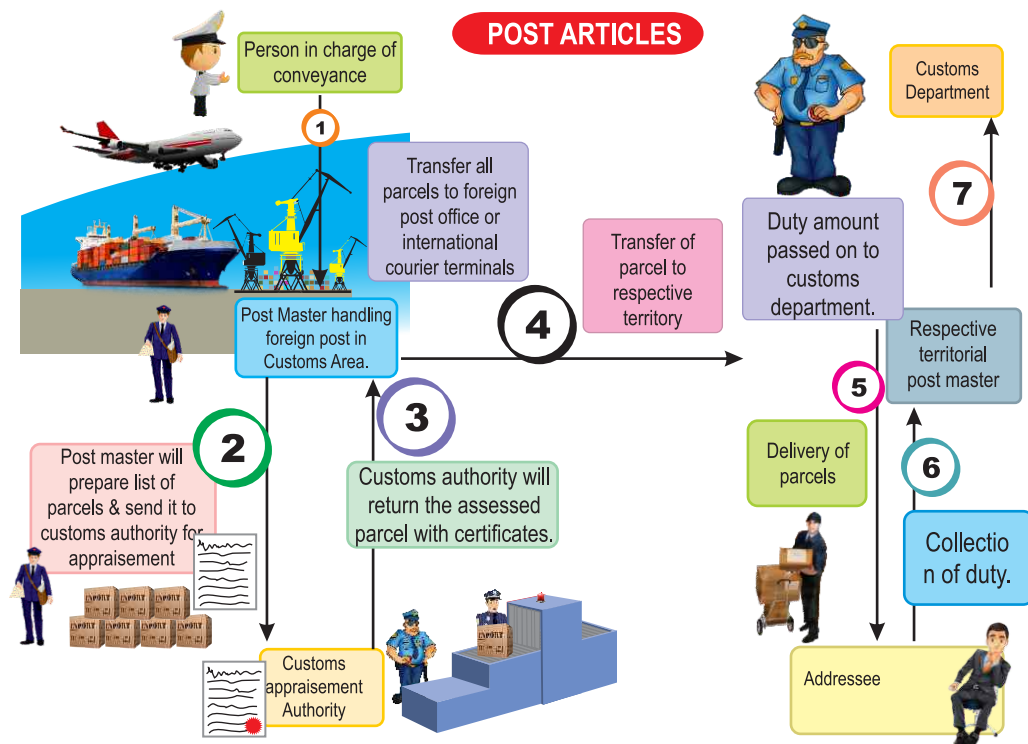
Teacher can open the door of success for you,
But you have to enter by yourselves

GST Guru™
CA Vishal Bhattad





Provisions of Stores										
Sec 85	Stores may be allowed to be warehoused without assessment to duty:- 1) Stores allowed to deposited in warehouse without warehousing provision of warehousing (called as warehousing without warehousing)if 2) Goods entered for warehousing & importer gives declaration that the goods to be supplied as stores to vessels/ aircrafts without payment of import duty.									
Sec 86	Transit & Transhipment of Stores:- Transit and Transhipment of Stores allowed without duty									
Sec 87	Imported stores may be consumed on board a foreign-going vessel or aircraft:- Imported stores may be consumed on board a FGV or FGA.									
Sec 88	Application of sec 69 (export after warehousing) & drawback to stores:- 1) Warehouse good can be supplied to FGV/ FGA without duty 2) Duty paid imported stores eligible for drawback (refund) as follows <table border="1"><tr><td rowspan="2">Aircraft</td><td>Fuel and lubricant oil</td><td>100% Drawback</td></tr><tr><td>Other stores(e.g. food, drink etc.)</td><td>98% Drawback</td></tr><tr><td>Vessel</td><td>Fuel, lubricant oil and other stores</td><td>98 % Drawback</td></tr></table>		Aircraft	Fuel and lubricant oil	100% Drawback	Other stores(e.g. food, drink etc.)	98% Drawback	Vessel	Fuel, lubricant oil and other stores	98 % Drawback
Aircraft	Fuel and lubricant oil	100% Drawback								
	Other stores(e.g. food, drink etc.)	98% Drawback								
Vessel	Fuel, lubricant oil and other stores	98 % Drawback								
Sec 89	Stores to be free of export duty Goods manufactured in India and required as a stores on FGV/FGA may be exported goods without export duty for which quantity may be determined by PO..									
Sec 90	Concessions for imported stores for navy:- Duty Free to Imported stores may be consumed on board a naval ship , supplied to ship of Indian navy, taken on board any ship of Indian navy are allowed to 100% duty drawback.									



SEC 84 - REGULATIONS REGARDING GOODS IMPORTED OR TO BE EXPORTED BY POST

Board may make regulations for the:-

- form & manner to make entry for goods imported/to be exported by post/courier.
- examination, assessment to duty, & clearance of goods imported/to be exported by post/courier.
- transit or transhipment of goods imported by post/courier from one customs station to another or to a place outside India.

Baggage

Free allowances (Household effects)

SEC. 2(3) BAGGAGE

Important Definitions	
"infant"	means a child not more than two years of age;
"resident"	means a person holding a valid passport and residing in India;
"tourist"	means a person not normally residing in India for more than six months in the course of any twelve months;
"personal effects"	means things required for satisfaction of personal requirements;

Free allowances (Household effect)

SEC. 2(3) BAGGAGE

Include - Unaccompanied baggage

but does not include motor vehicle

**In normal words baggage means luggage or personal belongings of a passenger.
or crew members**

Laptop (Notebook Computer): One laptop is exempt from customs duty if imported by a passenger (18+ years, non-crew)

Pets (Cats/Dogs - Max 2): Allowed as baggage only if relocating to India after 2 years abroad, with a valid health certificate .

RULE 3: Passengers arriving from countries other than Nepal, Bhutan or Myanmar			RULE 4: Passengers arriving from Nepal, Bhutan or Myanmar		
	Situations	Free Allowances		Situations	Free Allowances
1	➡ Indian resident or ➡ a foreigner residing in India or ➡ a tourist of Indian origin		1	➡ Indian resident or ➡ a foreigner residing in India or ➡ a tourist of Indian origin	
	i) used personal effects and travel souvenirs	Free		i) used personal effects and travel souvenirs	Free
	ii) articles other than those mentioned in Annexure-I	₹ 50,000		ii) articles other than those mentioned in Annexure-I	
	a) passenger is arriving by Land Route			a) passenger is arriving by Land Route	No benefit
	b) Passenger is arriving by other Route			b) Passenger is arriving by other Route	₹ 15,000
2	➡ tourist of foreign origin		2	➡ tourist of foreign origin	
	i) used personal effects and travel souvenirs	Free		i) used personal effects and travel souvenirs	Free
	ii) articles other than those mentioned in Annexure-I	₹ 15,000		ii) articles other than those mentioned in Annexure-I	
	a) passenger is arriving by Land Route			a) passenger is arriving by Land Route	No benefit
	b) Passenger is arriving by other Route			b) Passenger is arriving by other Route	₹ 15,000
3	➡ Infant		3	➡ Infant	
	i) used personal effects and travel souvenirs	Free		i) used personal effects and travel souvenirs	Free
	ii) articles other than those mentioned in Annexure-I	No benefit		ii) articles other than those mentioned in Annexure-I	No benefit

Explanation to Rule 4: The free allowance of a passenger under rule 4 should'nt pool with any other passenger.

NOTE: For Rule 4 & 5, if value exceeds the specifies limit then, duty is payable @ 38.5% on such exceeded value also no IGST payable in case of baggage.

Annexure I

- | | |
|--|---|
| 1. Fire arms. | 2. Cartridges of fire arms exceeding 50. |
| 3. Cigarettes exceeding 100 or cigars exceeding 25 or tobacco exceeding 125 gms. | 4. Liquor or wines in excess of two litres. |
| 5. Gold or silver, in any form, other than ornaments. | 6. Flat Panel (LCD/LED /Plasma) Television |

Analysis:-

Value will be considered in free allowance & if exceeds then taxable @ 38.5%		Free allowances not applicable & Entire value is taxable	
1	Cartridges of fire arms upto 50	Duty is payable @ 110 %	
2	Cigarettes upto 100 or cigars upto 25 or tobacco upto 125 gms	1	Fire arms.
3	Alcoholic liquor or wines in upto 2 litres.	2	Cigarettes exceeding 100 or cigars exceeding 25 or tobacco exceeding 125 gms
		3	Cartridges of fire arms exceeding 50
		Duty is payable @ 38.5 %	
		a	Alcoholic liquor or wines in excess of 2 litres.
		b	Gold or silver, in any form, other than ornaments
		c	Flat Panel (LCD/LED/Plasma) Television

RULE 5 : JEWELLERY

A passenger residing abroad for more than one year, on return to India

Passenger	Additional Jewellery allowances (2)
Gentleman	Jewellery upto a weight, of 20 grams with a value cap of ₹ 50,000
Lady	Jewellery upto a weight, of 40 grams with a value cap of ₹ 1,00,000

	Weight of Jewellery (in gms)	Value of Jewellery (₹)	Duty free allowance	Assessable Value	Duty liability @38.5%	Remarks
Mr. A	17	52,000	50,000	2,000	770	20 grams with caping ₹ 50,000
Mr. B	22	44,000	40,000	4,000	1,540	Max 20 grams with caping ₹ 50,000
Ms. C	38	1,10,500	1,00,000	10,500	4,042.50	40 grams with caping ₹ 1,00,000
Ms. D	45	90,000	80,000	10,000	3,850	40 grams with caping ₹ 1,00,000

RULE 6 : TRANSFER OF RESIDENCE

PC = Principal Commissioner, C = Commissioner

A person, who is engaged in a profession abroad, or is transferring his residence to India, will be allowed **duty free clearance** of articles on his return in the manner given in the Appendix below.

This allowance would be in **addition** to the general duty-free baggage allowance **u/r 3 or 4**.

Duration of Stay abroad	Personal & Household articles other than mentioned in Annexure I & II but included in III	Conditions	Relaxations
From 3 months upto 6 months	upto an aggregate value of ₹60,000	Indian Passenger	-
From 6 months upto 1 year	upto an aggregate value of ₹1,00,000	Indian Passenger	-
Minimum Stay of 1 year during the preceding 2 yrs	upto an aggregate value of ₹2,00,000	The Indian passenger should not have availed this concession in the preceding 3 years.	-
Minimum Stay of 2 years or more	upto an aggregate value of ₹5,00,000	(i) Minimum stay of 2 years abroad, immediately preceding the date of his arrival on transfer of residence	The shortfall of upto 2 months in stay abroad can be condoned by DC/AC if the early return is on account of: (a) terminal leave or vacation being availed by the passenger or (b) Any other Special reasons in given writing.
		(ii) Total stay in India on short visit during the 2 preceding years should not exceed 6 months and	PC/C may condone short visits >6months for special reasons in writing.
		(iii) Passenger has not availed this concession in the preceding 3 yrs.	No relaxation

Rule 7 :Currency

The **import and export of currency** under these rules shall be governed as per Foreign Exchange Management (Export and Import of Currency) Regulations 2015, along with notifications issued thereunder.

Rule 8 :Provisions regarding unaccompanied baggage:

1) Import of unaccompanied baggage after arrival of passenger:

Must have been in the passenger's possession abroad.

Dispatched **within 1 month of arrival (extendable by AC/DC).**

2) Import of unaccompanied baggage before arrival of passenger:

1) Can arrive in India **up to 2 months** before the passenger.

2) If delayed due to valid reasons (illness, natural calamities, transport disruptions, etc.), AC/DC may extend the period **up to 1 year.**

Rule 9: Application of these rules to crew members: [Foreign Going Conveyance =FGC]

1) **Final Pay Off & Termination:** Rules apply to crew members of a **FGC** when importing baggage upon final pay off after their engagement ends.

2) Allowance for Other Crew Members [Except 9(1)]:

⇒ Can bring chocolates, cheese, cosmetics, and small gift items for personal or family use.

⇒ Total **value must not exceed ₹1,500.**

Warehousing

Do you want to remember Sections or Rules ?



Important Case Study

Kesoram Rayon vs S.C. 1996

Decision - Under clause (b) of section 72, goods which are not removed from the warehouse after the expiry of the period permitted for warehousing or extended, are deemed to be improperly removed. **The rate of duty applicable will be the rate in force on the date of deemed removal**, i.e. the date on which the permitted period or its permitted extension comes to an end.

Circular No.15/2009

Provision of Sec 47(2) are not attracted in case of clearances under Sec 68. Thus no interest is payable if payment is not made within 2 working days from the date on which bill of entry presented under Sec 68 is return after assessment for payment.

H.C - Home Consumption, T.V. - Transaction Value, W.H - Warehouse

Sections	Descriptions
Sec 57:	Appointing of public warehouses
Sec 58:	Licensing of private warehouses.
Sec 58A:	Licensing of Special Warehouse
Sec 58B:	Cancellation or suspension of Licence
Sec 59:	Warehousing bond
Sec 60:	Permission for deposit of goods in a warehouse
Sec 61:	Period for which goods may remain warehoused
Sec 62:	Control over warehoused goods
Sec 63:	Payment of rent and warehouse charges
Sec 64:	Owner's right to deal with warehoused goods
Sec 65:	Manufacture and other operations in relation to goods in a warehouse.

Circular No. 11/2010

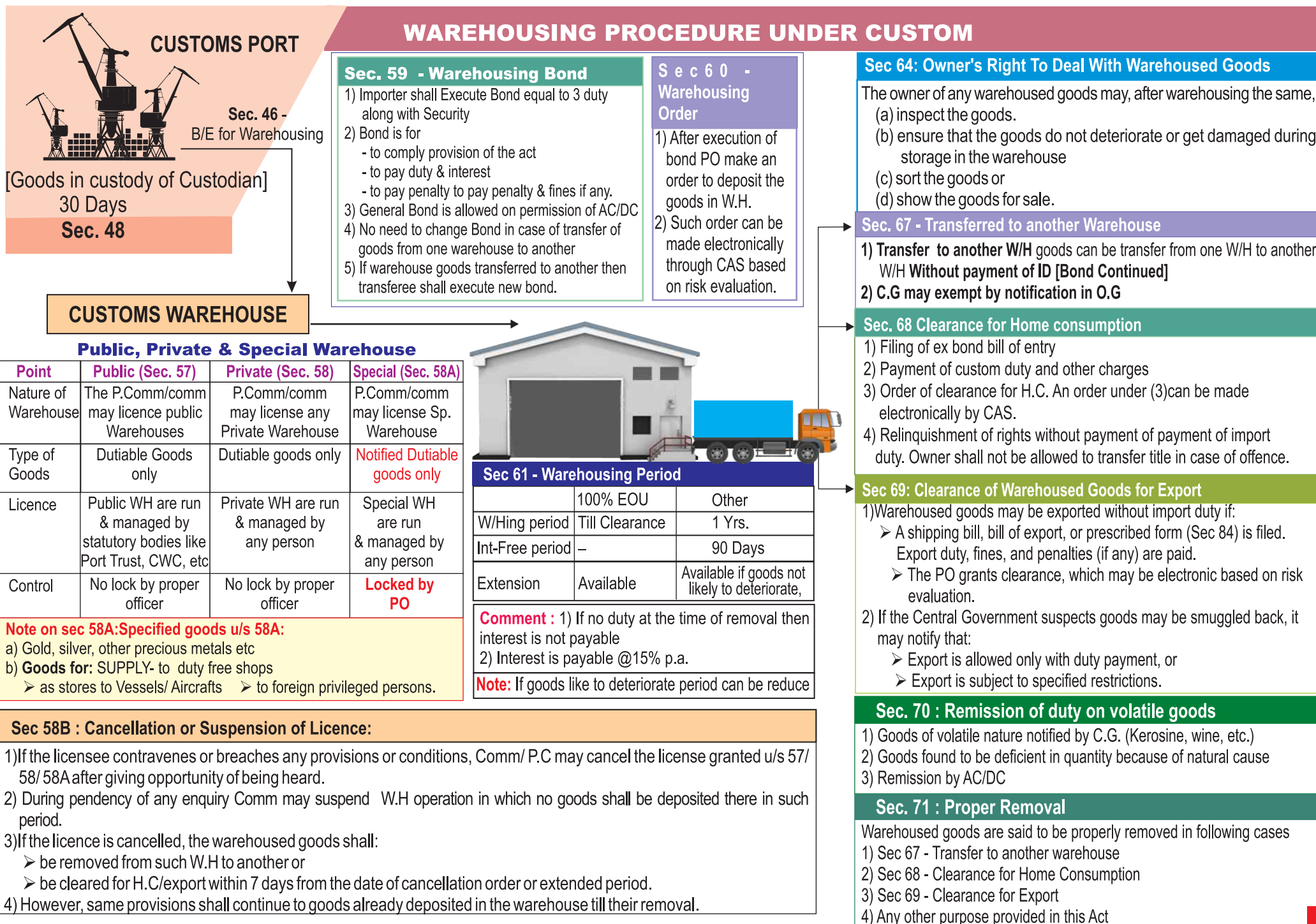
it is clarifies that when imported goods are warehoused under Sections 58/59 of the Customs Act, 1962 and sold before H.C, the sale price in the W.H does not determine the assessable value. Instead, the original import price remains the T.V. u/s 14(1). This differs from high-seas sales, where the last sale price is used as per Circular 32/2004.

Sections	Descriptions
Sec 66:	Power to exempt imported materials used in the manufacture of goods in warehouse.
Sec 67:	Removal of goods from one warehouse to
Sec 68:	Clearance of warehoused goods for home consumption.
Sec 69:	Clearance of warehoused goods for exportation.
Sec 70:	Allowance in case of volatile goods.
Sec 71:	Goods not to be taken out of warehouse except as provided by this act.
Sec 72:	Goods improperly removed from warehouse, etc.
Sec 73:	Cancellation and return of warehousing bond
Sec 73A :	Liability of Warehouse Keeper (Licensee)

*Working hard for something we don't care about is called stress;
Working hard for something we love is called passion*

GST GuruTM
CA Vishal Bhattad





Sec 72: Goods Improperly Removed From Warehouse

- 1) If warehoused goods are removed in violation of Sec 71.
- 2) If goods exceed the prescribed warehousing period (Sec 61).
- 3) If bonded goods (Sec 59) are not cleared or properly accounted for.
- 4) The PO may demand duty, interest, fines, and penalties from the owner.
- 5) If unpaid, the PO may detain and sell warehouse goods after notifying the owner.

Sec 73: CANCELLATION AND RETURN OF WAREHOUSING BOND.

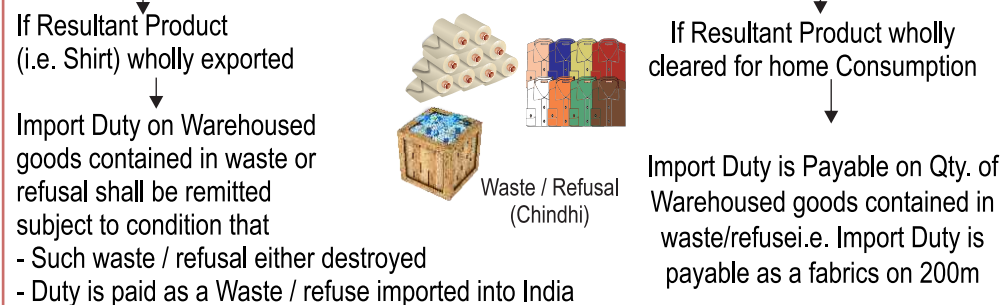
Once goods under a Section 59 bond are cleared and dues paid, the P.O cancels and delivers the bond upon request.

Sec 73A: : LIABILITY ON WAREHOUSE KEEPER (LICENSEE)

- 1) The licensee must appoint a warehouse keeper responsible for warehouse operations, maintaining a computerized accounting system.
- 2) The warehouse keeper must record all receipts, handling, storage, and removal of goods, keeping copies of relevant documents and executed bonds.
- 3) Records must be preserved for at least 5 years from the date of goods removal, with digital copies stored offsite.
- 4) As custodian, the warehouse keeper ensures compliance with custody and removal provisions.
- 5) Warehoused goods remain under the licensee's custody (u/s 57/58/58A) until cleared for home consumption, transfer, or export.
- 6) Unauthorized removal (contravening Sec 71) makes the licensee liable for duty, interest, fines, and penalties.

Sec 65 - Even 'MANUFACTURING OPERATIONS' are allowed in warehouse

Duty on Warehoused Goods (Fabrics) contained in Waste/Refusal



NOTE: 1) At present, manufacture/ other operations in a bonded warehouse are allowed only in a Private not in Public.
2) It is also allowed in Notified Special Bonded W.H.

Sec 65A: IGST & Compensation Cess payable on imported goods deposited in the warehouse:-

- 1) Applies to manufacturing or operations under Sec 65, requiring IGST & Compensation Cess payment on dutiable warehoused goods.
- 2) Goods can be removed from the W.H. if:
- 3) A bill of entry for home consumption is filed and assessed.
- 4) IGST & Compensation Cess are paid (Sec 47).
- 5) For transfer to another W.H. (Sec 67), IGST & cess are paid before removal.
 - Duty must be paid before W.H. removal.
 - Does not apply to goods deposited/removed before the notified date.
 - The Central Government may exempt IGST & cess via notification.

Chapter 8

AUDIT

SECTION 99A: AUDIT

The PO may carry out the audit of assessment of imported goods or export goods or of an auditee under this Act either in his office or in the premises of the auditee in such manner as may be prescribed.

Auditee to preserve and make available relevant documents :-

- ➡ Auditee is to preserve following records for conduct of an audit for a period of **5 years**
 - true and correct information
 - records including electronic records
 - documents or accounts
- ➡ The auditee shall **render assistance** and cannot refuse the PO or his team in discharging their duty

Selection for Audit:-

The selection of auditee is based on risk evaluation though appropriate selectively criteria.

Manner of conducting audit:-

1. **Audit Location:** The PO may conduct the audit in their office or at the auditee's premises.
2. **Document Request:** The auditee may be asked to provide documents, records, or information, including electronic formats.
3. **Advance Notice:** A minimum of 15 days' advance notice is given to the auditee before conducting the audit.
4. **Inspection:** The officer may inspect imported/exported goods or request samples from the auditee if necessary.
5. **Clarifications:** The officer must inform the auditee of objections and allow them to clarify with supporting documents.
6. **Voluntary Payments:** If the auditee agrees with the audit findings, they can make voluntary payments, which must be reflected in the report.
7. **Mandatory Compliance:** Auditees must comply with furnishing requested information/documents for audit completion.
8. **Completion Timeline:** Audits at the auditee's premises must be completed within 30 days. Extensions up to 60 days can be approved by the jurisdictional comm.

Assistance of Professionals:-

If the PO, having regard to the nature and complexity of the audit,

- is of the opinion that the audit has to be done
- with the assistance of a professional or expert
- may do so, with the previous approval of the PC/Comm.

Penalty

Penalty shall **extend to ₹ 50,000** if any provision contravenes by Auditee.

Types of Audit-Transaction Based Audit (TBA) and Premise Based Audit (PBA)

1. Transaction-Based Audit (TBA):

- Focuses on auditing specific transactions.
- Can later convert to Premises-Based Audit (PBA).

2. Premises-Based Audit (PBA):

- Conducted under Section 99A of the Customs Act, 1962.
- Reviews import/export over a period, financial statements, and contracts.
- Involves examining related entities concerned with import/export activities.
- It also enable the department to bridge the communication divide and usher in a new era of partnership with trade.
- Further, Board may also select any criteria or Theme for the audit

Executive Commissionerates to assist Audit Commissionerates

1. Support in Audits: Executive Commissioners assist Audit Commissionerates in conducting theme-based and premises-based audits.

2. Chief Commissioners' Role:

Oversee and monitor audit progress and performance.

Review 5% of audit reports selected randomly from quarterly submissions to ensure compliance with procedures.

SECTION 99B: Verification of identity and compliance thereof

1. Purpose: POs may verify a person's identity for revenue protection or anti-smuggling measures.

2. Verification Methods:

- ➡ Aadhaar authentication or submission of prescribed documents / information.
- ➡ Alternative means of identification allowed if Aadhaar authentication fails due to technical or other reasons.

3. Exemptions: Sub-section (1) doesn't apply to specific persons or classes as prescribed.

4. Authority to Suspend Benefits:

- ➡ The PC or Comm. can suspend various benefits if a person fails to:
 - Comply with requirements or submits incorrect documents/information.

5. Suspended Benefits:

- ➡ Benefits that can be suspended include:
 - Clearance of imported/exported goods
 - Sanction of refund, drawback, or exemption from duty
 - Licenses or registrations under the Act
 - Any import/export-related monetary benefits

6. Failure to Authenticate: If the person fails to authenticate their information as required, they may be denied all of the above benefits.

7. Duration of Suspension: Suspension remains until the person complies with the requirements or provides correct documents/information.

8. Aadhaar Number Definition: The term "Aadhaar number" refers to the unique ID number under the Aadhaar Act (2016).

Chapter 9

Classification of Goods in Tariff

Extract from CETA / CTA

SECTION IV

PREPARED FOODSTUFFS; BEVERAGES, SPIRIT AND VINEGAR; TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES

Notes: "Unit container" means a container, whether large or small (for example, tin, can, box, jar, bottle, bag or carton, drum, barrel or canister) designed to hold a predetermined quantity or number.

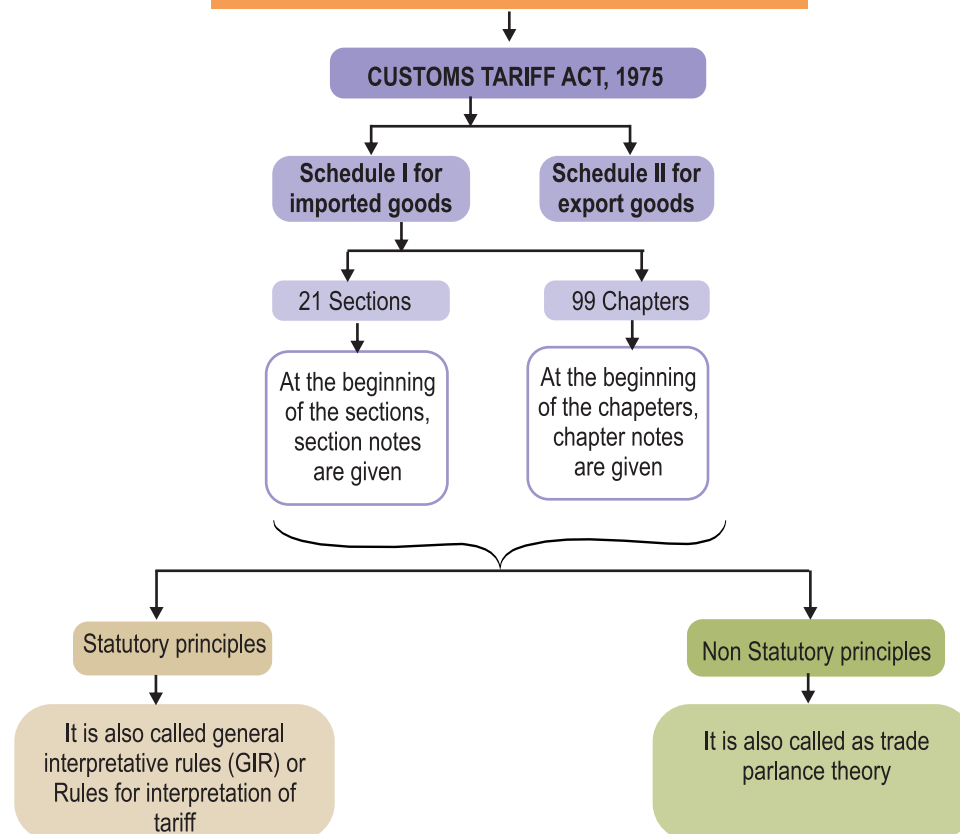
CHAPTER 17 Sugars and sugar confectionery

Notes: 1. This Chapter does not cover:
a) Sugar confectionery containing cocoa (heading 1806) etc.



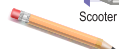















surrounded by residues of molasses and other constituents of sugar cane.




Tariff Item		Description of goods	Unit	Rate of duty
(1)		(2)	(3)	(4)
1701		CANE OR BEET SUGAR AND CHEMICALLY PURE SUCROSE, IN SOLID FORM		
	-	Raw sugar not containing added flavouring or colouring matter :		
1701 12 00	-	Beet sugar	kg.	12.5%
1701 13	-	Cane sugar specified in Sub-heading Note 2 to this Chapter:		
1701 13 10	---	Cane jaggery	kg.	12.5%
1701 13 20	---	Khandsari sugar	kg.	6%
1701 13 90	---	Other	kg.	12.5%
1701 99	-	Other:		
1701 99 10	---	Sugar cubes	kg.	12.5%
1701 99 90	---	Other	kg.	12.5%

TARIFF
BASED ON Harmonised System of Nomenclature [HSN]



Topic	Points to remember	
Classification of Goods	Determination of headings or sub-headings of the CTA 1975 under which the said goods are covered	
Need of Classification	(a) Determination of rate of Duty (b) Determination of eligibility of exemption (c) Determination of deemed manufacture	
Features of Tariff	Columns in Custom Tariff Act, 1985 (CTA) = 4	
	(1) Tariff	Eight Digit Description.
	(2) Description of Goods	Names and Classifications
	(3) Units	Kilograms, Metres, Units, Litres, etc.
	(4) Rate of Duty	10%, 4%, Nil, etc
	EIGHT DIGITS CODING SYSTEM [17011310]	
	First two digits indicate	17 Chapter no.
	Next two digits indicate	01 Heading no.
	Next two digits indicate	13 Subheading no
	Next two digits indicate	10 Specific product ID
Dash System		
-	Single dash	Indicates sub classification of article-covered in heading
--	Double dash	Indicates sub classification of article preceded by 'single dash'
— & —	Triple & quadruplicate	Indicates sub-sub classification of article preceded by 'single or double dash'
Std. Unit of Quantity		It is a unit of measure and used to facilitate the collection, comparison and analysis of trade statistics. Example : CC, Cm, Mt
Section notes & Chapter notes		Elaborate explanation regarding to scope of respective section or chapter. It is part of the statute & legally used for Classifications.
Abbreviation %		It indicates that duty is on the basis of value of goods.

General Rules of Interpretation																																										
Purpose	1. To help in appropriate classification of goods. 2. To give clear direction as to how the nomenclature in the Schedule is to be interpreted and 3. To give statutory force to the Interpretation Rules and the general explanatory notes.																																									
Rule 1	Titles of sections or chapters do not decide Classification, Terms of heading, Section Notes and Chapter Notes are relevant.																																									
Rule 2	<div>(a) Incomplete Goods/ Disassembled / Unassembled Goods = Complete Goods</div> <div>(b) Main article - includes mixture or combination of that articles with others</div> <div> Car without Wheels = Car</div> <div> Scooter in CKD / SKD = Scooter</div> <div> Pencil with Eraser = Pencil</div>																																									
Rule 3	<p>If goods are prima facie classifiable under 2 or more headings due to Rule 2(b) or any other reason, apply Rule 3(a) to Rule 3(c)</p> <table><tr><th>Specific Rule</th><th></th><th>Product</th><th>Available headings</th><th>Classification</th></tr><tr><td rowspan="2">(a) Prefer Specific heading to General heading</td><td></td><td>Name plate</td><td>a) Accessories of motor vehicle b) Article of plastics</td><td>Accessories of motor vehicle</td></tr><tr><td></td><td>VIP bag</td><td>a) Plastic Article b) Suitcase</td><td>Suitcase</td></tr><tr><th>Characteristic Rule</th><th></th><th>Product</th><th>Available headings</th><th>Classification</th></tr><tr><td rowspan="2">(b) If mixture consists of different material classify in that material which gives them their essential character.</td><td></td><td>Book with CD</td><td>1) Book 2) CD</td><td>Classification as Book</td></tr><tr><td></td><td>Pen Stand with Clock</td><td>a) Pen Stand b) Clock</td><td>Classification as Pen Stand</td></tr><tr><th>Later the better</th><th></th><th>Product</th><th>Available headings</th><th>Classification</th></tr><tr><td>(c) If both are equally specific Prefer the latter tariff head to earlier tariff head</td><td></td><td>Motor Vehicle use for transport of passenger & goods both</td><td>1) Motor Vehicle design for transport of passenger (87.03) 2) Motor Vehicle design for transport of goods. (87.04)</td><td>It shall be classified as Motor Vehicle design for transport of goods [Mahindra&Mahindra 1999]</td></tr></table>				Specific Rule		Product	Available headings	Classification	(a) Prefer Specific heading to General heading		Name plate	a) Accessories of motor vehicle b) Article of plastics	Accessories of motor vehicle		VIP bag	a) Plastic Article b) Suitcase	Suitcase	Characteristic Rule		Product	Available headings	Classification	(b) If mixture consists of different material classify in that material which gives them their essential character.		Book with CD	1) Book 2) CD	Classification as Book		Pen Stand with Clock	a) Pen Stand b) Clock	Classification as Pen Stand	Later the better		Product	Available headings	Classification	(c) If both are equally specific Prefer the latter tariff head to earlier tariff head		Motor Vehicle use for transport of passenger & goods both	1) Motor Vehicle design for transport of passenger (87.03) 2) Motor Vehicle design for transport of goods. (87.04)	It shall be classified as Motor Vehicle design for transport of goods [Mahindra&Mahindra 1999]
Specific Rule		Product	Available headings	Classification																																						
(a) Prefer Specific heading to General heading		Name plate	a) Accessories of motor vehicle b) Article of plastics	Accessories of motor vehicle																																						
		VIP bag	a) Plastic Article b) Suitcase	Suitcase																																						
Characteristic Rule		Product	Available headings	Classification																																						
(b) If mixture consists of different material classify in that material which gives them their essential character.		Book with CD	1) Book 2) CD	Classification as Book																																						
		Pen Stand with Clock	a) Pen Stand b) Clock	Classification as Pen Stand																																						
Later the better		Product	Available headings	Classification																																						
(c) If both are equally specific Prefer the latter tariff head to earlier tariff head		Motor Vehicle use for transport of passenger & goods both	1) Motor Vehicle design for transport of passenger (87.03) 2) Motor Vehicle design for transport of goods. (87.04)	It shall be classified as Motor Vehicle design for transport of goods [Mahindra&Mahindra 1999]																																						
Rule 4	Akin Rule : Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.																																									

Rule 5 : Classification of Cases and packing material	a) Camera cases, Musical instrument cases, Gun cases, Drawing instrument cases, Necklace cases and similar containers;	➤ Specially shaped ➤ Suitable for long term use ➤ Presented with the articles ➤ Normally sold with article	shall be classified with main article.	
	b) Packing Material or containers	➤ Presented with the articles	shall be classified with main article.	
	Not applicable to (a) abnormal packing (b) Durable and returnable packing			
Rule 6 : Classification in Sub-heading	Classification of goods shall be determined in accordance with terms of the relevant sub-headings and any notes therein, mutatis mutandis, shall apply to above rules.			

HSN & other Rules of Classification	
HSN Harmonized System of Nomenclature	1. Meaning : Internationally accepted Product Coding system for Categorisation and Classification of commodities and was conceived and devised by the world Customs Organisation (WCO). 2. Features : 8 digit code suitable for multi-purpose nomenclature. 3. Reliance : HSN can be relied for classification under the Tariff Schedule, if there is no conflict between Indian Tariff Schedule and HSN. 4. Relevance of Notes : Only the Section Notes and chapter notes have legal status. Explanatory Notes to HSN do not have any legal status.
Burden to prove Classification	1. Department : To establish correct Tariff Heading under which the product falls. Onus is on the department to establish alternate classification. 2. Assessee : When certain goods are prima facie covered by the generic description, the burden to prove that they are not so covered would be on the person claiming so.
Alteration of Classification	1. Guidelines for altering classification - (a) Fresh facts arise (b) Process changed (c) Tariff entry modified (d) HC/SC decision, (e) Change in statue (f) Regular Tariff Entry - Not disturbed, (g) Prior Notice. 2. Judgment : Where an assessee has not filed fresh classification list, at the most, penalty can be levied. Issuance of Demand Notice is not sustainable.
Trade Parllance Theory	1. Goods are to be classified as they are known in trade and commerce, if it is neither defined in Schedule to CETA nor in CEA 2. Conditions : (a) a particular product description under trade parlance occurs by itself in a Tariff Entry, and (b) there is no conflict between Tariff entry and any other entry requiring reconciliation. 3. Exception : (a) Scientific and Technical Terms, and (b) Conflict with Statutory Context.

Chapter 10

Types of Duties

Classification of Customs Duty - A Comparison

Duty	Protective Duty	Safeguard Duty (SGD) (any Country)	CVD on Subsidised Article	Anti Dumping Duty
Section	6	8B	9	9A
Authority to Levy	It is levied by C.G. on recommendation of tariff commission	It is levied by C.G.	It is levied by C.G.	It is levied by C.G.
Condition/ Purpose of Levy	Tariff Commission Recommendation to protect the interest of any industry established in India.	To avoid import of increased quantities and in conditions to cause or threatening to cause serious injury to domestic industry.	If a country grants subsidies on production or transport of goods imported into India, CG may impose CVD by notification.	Where an article exported from any country or territory, to India at less than its Normal Value.
Rate of Duty	➤The duty cannot exceed the tariff commission's recommended amount . ➤CG can modify duty rates by notification and must get Parliament's approval.	⌚ Safeguard measures to curb increased imports- ➤Safeguard duty. ➤Apply Tariff rate quota. ➤Other Measures. ⌚If applying a tariff rate quota, CG must set it at least equal to the average imports of the last three representative years unless a lower level is needed to prevent serious injury.	CVD = subsidy on imported goods	Anti-dumping duty is Lower of Margin of dumping or Injury Margin *Margin of Dumping = Normal Value– Export Price . *Injury Margin = Fair Selling price due to Domestic Industry – Landed value of Imported goods.(refer note on sec 9A)
Maximum Duration of Levy	Not Relevant	4 years, extendable upto 10 years.	5 years, extendable another 5 years from date of such extension.	5 years, extendable another 5 years from date of such extension.
Provisional Levy	Not Relevant	Valid for ≤ 200 days from date of imposition.	Provisional levy is possible. Time limit not specified.	Provisional levy is possible. Time limit not specified.
Refund	-	If CG finds no serious injury from increased imports, the collected duty will be refunded	If provisional countervailing duty exceeds the final subsidy, CG will reduce the duty and refund the excess.	If provisional anti-dumping duty exceeds the final margin, CG will refund the excess duty.
Retrospective Levy	Not Possible	Not Possible	Upto 90 days before the date of notification.	Upto 90 days before the date of notification.
Rules	----	Customs Tariff (Identification and Assessment of SGD) Rules, 1997	Customs Tariff (Identification, Assessment and Collection of CVD on subsidized articles and for determination of injury) Rules, 1995.	
Normal Exemption	Not Possible	No SGD on imports from developing countries if: ➤Import of the article ≤ 3% of total imports into India. ➤If multiple developing countries (each <3%), their combined imports ≤ 9% of total imports.	CVD shall not be levied unless it is determined that: *Relates to export performance. *Favors domestic over imported goods. *Its given to a limited group of manufacturers/exporters.	Not Specified
Exemption to be EOU / SEZ	No specified	SGD,CVD & ADD don't apply to 100% EOU/SEZ imports unless: ⌚ Specifically made applicable. ⌚ The article is cleared into the DTA or used in goods cleared into the DTA—then safeguards apply to that portion.		
Effect of Levy	Such duties shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.			
Customs Act	Customs Act, 1962 provisions, including duty rates, assessment, refunds, exemptions, interest, recovery, appeals, and penalties, apply to duties, taxes, or cess under this section as they do to duties under the Act			Substituted by F.A. 2024

Note on Anti Dumping Duty

Sec 9A: Anti-dumping duty:-

Anti-Dumping Duty=lower of (Margin of Dumping, Injury Margin),

⇒ **Margin of Dumping = Normal Value – Export Price &**

⇒ **Injury Margin= Fair Selling Price (Domestic Industry) – Landed Value of Imported Goods.**

- 1) **Normal Value:** The price of a **like article in the exporting country's** domestic market under normal trade conditions. If such sales **are not suitable for comparison**, it is determined by either a **comparable representative price or the cost of production**.
- 2) **Export Price:** The FOB price of an article exported from the exporting country.
- 3) **Fair Selling Price(FSP):** Indian market price (under normal conditions).
- 4) **Landed value:** A.V+BCD+SWS.

Sec 3(8A)/3(10A) : ACD on Warehouse Sale before clearance.

If warehoused goods are sold before clearance for H.C or export, the value of such goods u/s 3(7)/(9) shall be:-

- a) **If whole of the goods are sold:-** Value determined u/s 3(8)/(10) or T.V of such goods, **whichever is higher.**
- b) **If any part of goods is sold:-** Proportionate value of goods determined u/s 3(8)/(10) or T.V of such goods, **whichever is higher.**

Proviso 1 Sold more than once before clearance for H.C then T.V of last such transaction shall be T.V for clause (a) or (b)

Proviso 2 Unsold warehoused goods:- the value or proportionate value of such goods shall be determined u/s 3(8)/(10).

(11) The Duty/ Tax/ Cess chargeable under this section shall be in addition to any other Duty/ Tax/ Cess imposed under this Act.

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

Provisions related to the determination of duty rate, assessment, exemptions, refunds, interest, recovery, appeals, offences, and penalties shall apply to the duty, tax, or cess under this section, just as they apply to duties under the Customs Act and its rules or regulations.

ADDITIONAL CUSTOM DUTY (ACD):

Basis of Difference	3(1): ACD= Excise Duty	3(3): Duty to Countervail Effect of Excise Duty on Raw Material	3(5): Duty to Countervail Levy of Sales Tax/VAT	3(7) :Duty to Countervail Levy of GST
Purpose	To equalize excise duty on imported goods with similar domestically produced goods	To balance excise duty on raw materials, components, or ingredients used in manufacturing imported goods	To counter balance Sales Tax, VAT, or other local taxes on similar domestic goods.	To counterbalance IGST levied under Section 5 of IGST Act, 2017, on a like article in India.
Applicability	Applies only if the imported goods are manufactured abroad.	Applies to notified raw materials, components, or ingredients.	Imposed in the public interest on specific imported articles.	Applies to all imported goods subject to IGST
Levy Basis	Equal to excise duty levied on a like product in India.	Levied at a notified rate, even if ACD under Sec 3(1)	Levied to neutralize local sales tax, VAT, or similar levies.	Levied based on the value determined under Sec 3(8) or 3(8A).
Special Cases	Alcoholic liquor duty rate is notified by the C.G	Applies even if the product is subject to ACD under Sec 3(1).	Duty rate shall not exceed 4% of the value of the imported article	Duty rate shall not exceed 40% (normally equal to the IGST rate under GST law).
Relevance of Other Duties	Duty applies only if excise duty is applicable	Levied separately from ACD under Sec 3(1)	Imposed regardless of duties under Sec 3(1) or Sec 3(3)	Applied irrespective of other customs duties

Special Discussion on Anti-Dumping Duty(ADD)/Countervailing duty(CVD)

Sec 9(1A): Anti-circumvention measure in respect of CVD & ADD:-

As per opinion of C.G Circumvention of ADD/CVD has taken place by either of the following ways :

- (i) ·by altering the description/name/ composition of the article on which duty has been imposed.
- (ii) ·by import of such article in an unassembled or disassembled form.
- (iii) ·by changing the country of its origin or export or
- (iv) in any other manner,

Note: If the ADD/CVD so imposed rendered ineffective, it may extend ADD/CVD to such other article also.

Sec 9(1B): Absorption of CVD

If ADD / CVD absorption renders it ineffective, CG may modify the duty to counter it from the inquiry initiation date or later.

Sec 9B: No Levy under Section 9 (Countervailing duty) and 9A (Anti-dumping duty) in certain cases:-

- a) Subsidy and anti-dumping duties coexist.
- b) Imports from WTO member countries or countries with MFN agreement, unless they cause injury to Indian industry.
- c) Provisional duties not levied without preliminary findings of subsidy or dumping and injury to domestic industry.
- d) No duties if articles are exempt from or refunded taxes in the country of origin.

Sec 9C: Appeal

- 1) Appeals against subsidy, dumping, or serious injury determination go to CESTAT.
- 2) Appeal Fee=15,000
- 3) Stay, rectification, restoration, or other applications: ₹500 fee.
- 4) Appeal must be filed within 90 days, but can be entertained later for valid reasons.
- 5) CESTAT can confirm, modify, or annul the order after hearing.

Chapter 11

REFUND

REFUND OF DUTY UNDER CUSTOM

SEC 26A: REFUND OF IMPORT DUTY IN CERTAIN CASES:-

(1) The Import duty paid on clearance of imported goods for H.C shall be refunded if the these conditions are met:

- Goods are defective or not as per specifications
- Identified as imported goods
- If importer does not claim drawback.
- Exported, Relinquished or Destroyed within 30days(extendable to 3 months by P.C /Comm).

(Exception: No refund for Goods related to Offenses.)

(2) Application should be made within 6 months from the relevant date .

Case	Relevant Date
Exported Goods	Let Export Order
Relinquished Goods	Date of Relinquishment
Destroyed Goods	Date of Destruction

(3) No Refund for perishable goods & Shelf life Expired Goods.

(4) Board may specify other conditions also.

OTHER RELATED CONCEPTS:

- The Customs Act has separate provisions for appeals and refund claims.
- Appeal:** Must be filed to the Commissioner within 60 days of receiving the order.
- Refund Claim:** Can be filed within 1 year of duty payment, goods clearance, or other specified events.
- Important:** A refund claim cannot replace an appeal for challenging an order.

SEC 27: PROCEDURE TO CLAIM THE REFUND:-

1) Application for Refund:

- Any person can claim a duty refund or interest if paid by them.
- Refund amount must be 100 or more.

Time limit for refund Application:

- Application must made within 1 year from the relevant date.
- Limit of 1 year not applicable where any duty or interest is paid under protest.

Relevant date for Computing limitation of 1 year means:

S.No.	Case	Relevant Date
1.	In case the goods are exported out of India	Date on which the PO makes an order permitting clearance and loading of goods for exportation u/s 51

2.	In case of relinquishment of title to the goods	Date of such relinquishment
3.	In case of goods being destroyed or rendered commercially valueless	Date of such destruction or rendering of goods commercially valueless

Documents to be submitted:

- Documentary Evidence including Invoices (As per Sec 28C)
- Proof that the amount was paid by applicant.
- Confirmation that Duty/interest was not passed on to another person.

2) **Processing of Refund Claim:** Following are the situations where Refund is paid to the Applicant instead of consumer Welfare Fund. (ie Exceptions to Doctrine of Unjust Enrichment)-

- If the importer/ exporter has paid the duty & interest & did not pass it on.
- If the duty & interest was paid for personal use.
- If buyer borne the duty & interest & did not pass it on.
- If the refund is for Export Duty U/S 26.
- If refund is related to duty drawback u/s 74 & 75 of the Custom Act
- If the duty or interest was borne by notified class of applicants.
- If excess Duty was paid before an order permitting clearance of goods is made where:
 - duty is evident from self-assessed bill of entry or
 - the duty actually payable is reflected in the reassessed bill of entry.

REFUND OF EXPORT DUTY [SEC 26 OF CUSTOMS]

Where on the exportation of any goods any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if -

- The goods are returned to such person otherwise than by way of re-sale;
- The goods are re-imported within one year from the date of exportation; and
- An application for refund to be made within 6 months from the date of order for the clearance of the goods.

BELATED DISBURSEMENT OF REFUND BY C.G. [CUSTOMS-SEC 27A]

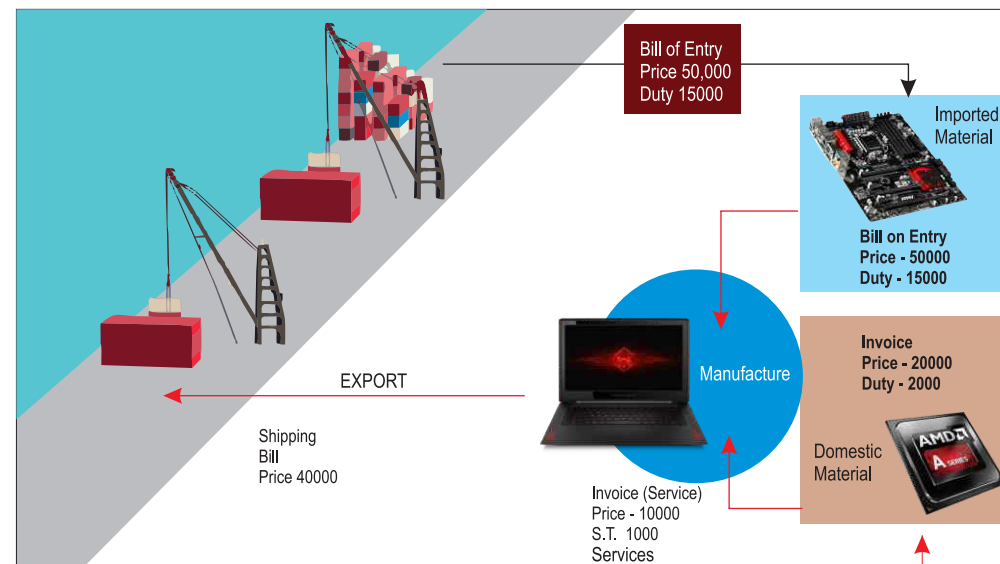
- If any duty ordered to be refunded to an applicant is **not refunded** within 3 months from the date of receipt of application.
- Interest shall be paid even where refund is granted by an Appellate Authority.
- Interest is payable @ 6% p.a. by the C.G.**
- Interest is payable from the date of expiry of 3 months from the date of receipt of application till the date of refund of duty.**
- Such interest is payable even in case where refund order is made by Comm or AT or any court**

**FOLLOWING SYLLABUS(TOPIC)
ARE NOT APPLICABLE FOR CA
FINAL EXAMINATION, BUT CS AND
CMA STUDENTS CAN REFER.**

Chapter 12

Drawback

Sec 75 : Drawback on imported inputs used in export goods



DUTY DRAWBACK ALLOWABLE ON RE-EXPORT OF DUTY PAID GOODS :

(1) The differences between the provisions of Section 74 and Section 75 are as follows -

Basic	Drawback allowable on re-export of duty paid goods - section 74	Drawback on materials used in the manufacture of exported goods - Section 75
Drawback Scheme	Refund of duty paid on importation of the goods which are exported outside India.	The rebate of duty or tax, as the case may be, paid on any imported material or excisable materials or input services which are used in the manufacture of the goods exported outside India.
Definition	Refund of duty paid on imported goods when re-exported.	Refund of duty/tax on imported or excisable materials used in manufacturing exported goods.
Eligibility	All goods eligible, subject to identification.	Available only for notified goods.
Nature of Goods Exported	Goods must have been imported and duty paid.	Goods may be manufactured using imported/ domestic inputs or input services.
Rate of Drawback	98% of duty refunded if goods are unused; reduced rate if used.	Allowed as per All Industry Rate (AIR) or Brand Rate (if AIR is less than 80% of duty paid).
Time Limit for Export	Within 2 years from duty payment (extendable by the Board).	No time limit for export.

Sections	Descriptions
Sec 74	Drawback on imported goods exported as such
Sec 75	Drawback on imported materials used in the manufacture of goods which are exported.
sec 75 A	Interest on drawback
Sec 76	Prohibition and regulation of drawback in certain cases
Sec 20	Re-importation of goods

Case study - MILLIPORE (INDIA) PRIVATE LTD. 1999 (113) E.L.T. 62 (Kar.)

Question: Merely demonstration in exhibition or testing before use amounts exportation after use?

Observation : There is a difference between display and demonstration. Once a machine is operated, may be for a shorter time for demonstration or exhibition to show its performance etc., the machinery is used. Once there is operation of a machinery by way of demonstration, it amounts to its use and the refund could be claimed only u/s 74(2) and not under Sec 74(1) as re exportation as such of Customs Act, 1962.

Sec 74 : Drawback allowable on re-export of duty paid goods



Min.Value Addition	Not required.	Export value must not be less than imported material value.
Realization of Export Proceeds	No requirement to realize export proceeds in foreign exchange.	Must be realized in convertible foreign exchange within FEMA time limits; else, drawback is recoverable.
Rules Framed	Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995.	Customs, Central Excise Duties & Service Tax Drawback Rules, 1995.
Export as Baggage	Allowed	Not Allowed

SEC 74: DRAWBACK ALLOWABLE ON RE-EXPORT OF DUTY-PAID GOODS:

Basic Conditions	<ul style="list-style-type: none"> ➔ Goods were originally imported into India. ➔ Duty was paid on importation. ➔ Goods should be easily identifiable at the time of re-export.
Entering for Export	<ul style="list-style-type: none"> ➔ Export must be done as SB (Shipping Bill) under: <ul style="list-style-type: none"> ➤ Cargo export (PO issues an export order). ➤ Post export (PO issues a permitting order). ➤ Airline/exporter handling (permitting order needed). ➔ No prohibition/restriction on export. ➔ Some specific rules apply for drawback on re-export.
Identification of Goods by Officer	Goods must be identified by AC/DC of Customs as the same imported goods.
Time Limit for Re-exportation	<ul style="list-style-type: none"> ➔ Re-export must happen within 2 years of import. ➔ This can be extended if justified.
Amount of Duty Drawback	<ul style="list-style-type: none"> ➔ If exported within 2 years, 98% of duty paid is refunded. ➔ Certain conditions apply for claiming the drawback.
Re-export of Goods after Use	If used after import, duty drawback is allowed after a reduction based on extent of use.

DRAWBACK RATE NOTIFIED BY CENTRAL GOVERNMENT IF THE GOODS EXPORTED AFTER USE

GOOD NOT FOR PERSONAL OR PRIVATE USE

Period between date of clearance for home consumption and date on which the goods are placed under customs control for export	% of import duty to be paid as drawback
i) Not more than 3 months	95%
ii) More than 3 but not more than 6	85%

iii) More than 6 but not more than 9	75%
iv) More than 9 but not more than 12	70%
v) More than 12 but not more than 15	65%
vi) More than 15 but not more than 18	60%
vi) More than 18	NIL

2) IN RESPECT OF MOTOR CAR AND GOODS IMPORTED FOR PERSONAL AND PRIVATE USE

Drawback is calculated by reducing the import duty paid in respect of such motor car or goods by a certain percentage based on the period of usage as stipulated below:

(a) Use per quarter for 1st year	4%	(c) Per quarter for 3rd year	2.5%
(b) Use per quarter for 2nd year	3%	(d) Per quarter for 4th year	2%

Note: 1) Where the period involved is more than 24 months, drawback should be allowed only if the period has been extended on sufficient cause being shown.

2) Anti-dumping duty, Safeguard duties and countervailing duties are rebatable as duty drawback. CBIC has clarified that safeguard duties, anti-dumping duties and countervailing duties are rebatable as drawback in terms of section 75 of the Customs Act.

3) DRAWBACK IS NOT AVAILABLE FOR THE FOLLOWING ITEMS: (RE-EXPORTED AFTER USED)

- Wearing apparel
- Tea chests
- Unexposed photographic films, paper and plates and x-ray films.
- Exposed cinematograph films duly passed by the Board of Film Censors in India.

(4) Interest on Drawback [Section 75A] :

SS.	Circumstance	Specified time period for payment of drawback & interest	Rate of interest	Amount on which interest payable	Interest from -
(1)	Any drawback payable to a claimant u/s 74 or 75 is not paid within specified time period	1 month from the date of filing of drawback claim	6% p.a.	Amount of drawback remaining unpaid to the claimant	The date after expiry of the said period of one month till the date of payment of such drawback shall be paid to the claimant

(2)	Drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or rules made thereunder	2 months from date of demand of the amount of drawback erroneously paid or otherwise recoverable	15% p.a	Amount of drawback erroneously paid to the claimant or otherwise recoverable from him	The date of payment of such drawback to the claimant till the date of recovery of such drawback shall be paid by the claimant
-----	--	--	---------	---	---

Illustration : With reference to drawback on re-export of duty paid imported goods under section 74 of the Customs Act, 1962, answer in brief the following questions:

- What is the time limit for re-exportation of goods as such?
- What is the rate of duty drawback if the goods are exported without use?
- Is duty drawback allowed on re-export of wearing apparel without use? (3 Marks, Nov 2013)

Hint: (i) 2 years (extension allowed by CBEC) (ii) 98% (iii) yes

MANNER AND TIME OF CLAIMING DRAWBACK ON GOODS EXPORTED U/S 74:

Rule 5 of Re-export of imported goods (Drawback of Customs Duties) Rules, 1995


- A drawback claim under Rule 5 must be filed in the prescribed form **within three months** from the date of the 'Let Export' order by the proper customs officer.

Authority	Period of extension	Application Fee	Grant/refuse of extension
AC/DC	3 Months	(i) 1% of the FOB value of exports or (ii) ₹ 1000/- whichever is less	The authority may grant or refuse an extension after inquiry, recording reasons in writing for any refusal.
PC/C	further 6 months	(i) 2% of the FOB value of exports or (ii) ₹ 2000/- whichever is less	

2) The claim must include:

- Triplicate Shipping Bill with examination report
- Bill of Entry or import clearance document
- Import invoice
- Proof of duty payment on import
- RBI permission for re-export (if required)
- Export invoice & packing list
- Bill of Lading/Airway Bill
- Any other documents as per deficiency memo.

SECTION 75: DRAWBACK ON IMPORTED MATERIALS USED IN THE MANUFACTURE OF GOODS WHICH ARE EXPORTED.

Export goods are notified by C.G.	The C.G may notify any goods manufactured, processed, or modified in India.
Entered for Export	Notified goods can be exported as cargo with a Let export order or by post with clearance from the P.O.
Eligibility of Drawback	<p>The C.G may notify a drawback on customs duties for imported materials used in manufacturing, processing, or operations on goods.</p> <div>  Tutorial Notes Under Section 75, drawback applies to inputs used in exported goods, with key points: <ol style="list-style-type: none"> Exported goods differ from inputs. Inputs may be imported (customs duty paid) or indigenous (excise duty paid). Verification of duty-paid inputs in the final product is difficult at export. Inputs may change in shape, property, etc. Input quantity per final product may vary and be unverifiable at export. </div>
Non Eligibility of Drawback	<ol style="list-style-type: none"> No drawback is allowed if the export value of finished goods is less than the value of imported materials used. No drawback is allowed if the export value is below the notified percentage of the imported material's value.
Recovery of Drawback:	If export proceeds are not received within the FEMA-prescribed period, the drawback is deemed invalid. The C.G may set rules for recovery and specify cases where drawback remains allowed despite delayed remittance
Restriction on raw material use:	<ol style="list-style-type: none"> If the quantity of a particular material imported into India exceeds the amount used in manufacturing, processing, or operations on goods. And the goods are exported outside India, The C.G may, via notification in the O.G, declare that the material in the exported goods is deemed imported material for drawback purposes..

Customs And Central Excise Duties Drawback Rules, 2017

RULE 2. Definitions

Discussion on some important Rules

(a) "Drawback"	in relation to any goods manufactured in India and exported, means the rebate of duty excluding integrated tax leviable under sub-section (7) and compensation cess leviable under sub section (9) respectively of section 3 of the Customs Tariff Act, 1975. , chargeable on <ul style="list-style-type: none"> any imported materials or excisable materials used or Used in the manufacture of such goods
(b) Excisable material	means any material produced or manufactured in India subject to a duty of excise under the Central Excises Act, 1944
(c) Export	With its grammatical variations and cognate expressions, means <ul style="list-style-type: none"> taking out of India to a place outside India or taking out from a place in Domestic Tariff Area (DTA) to a special economic zone and includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port.
(d) Imported material	means any material imported into India and on which duty is chargeable under the Customs Act, 1962
(e) "Manufacture"	Includes processing of or any other operation carried out on goods, and the term manufacturer shall be construed accordingly
(f) "Tax Invoice"	means the tax invoice referred to in section 31 of the Central Goods and Services Tax Act, 2017.



Examination Question

Can drawback be provisionally paid to the Exporter? [Rule 6(2), 7(3)]

1. Application : Application for provisional drawback, should be made in writing to the Principal Commissioner or Commissioner, along with application for Brand Rate/ Special Brand Rate.

2. Request : The application shall be for grant of provisional amount towards drawback on the export of goods, where the determination of amount or rate of drawback is pending.

3. Furnishing of Bond : To ensure that any erroneous or ineligible drawback is repaid by the Manufacturer / Exporter (Assessee) at a later time, the commissioner may direct the assessee to furnish / executed a General Bond for an amount

(a) Brand Rate : Not exceeding the amount of drawback claimed.

(b) Special Brand Rate : Equivalent to the difference between the All Industry Drawback Rate and Drawback amount determined by the Principal Commissioner or Commissioner

Principal Commissioner or Commissioner may also impose such other condition, he deems fit.

4. Order for Provisional Payment : Principal Commissioner or Commissioner may allow and pass an order for provisional payment of drawback. Maximum amount of provisional payment is the amount of

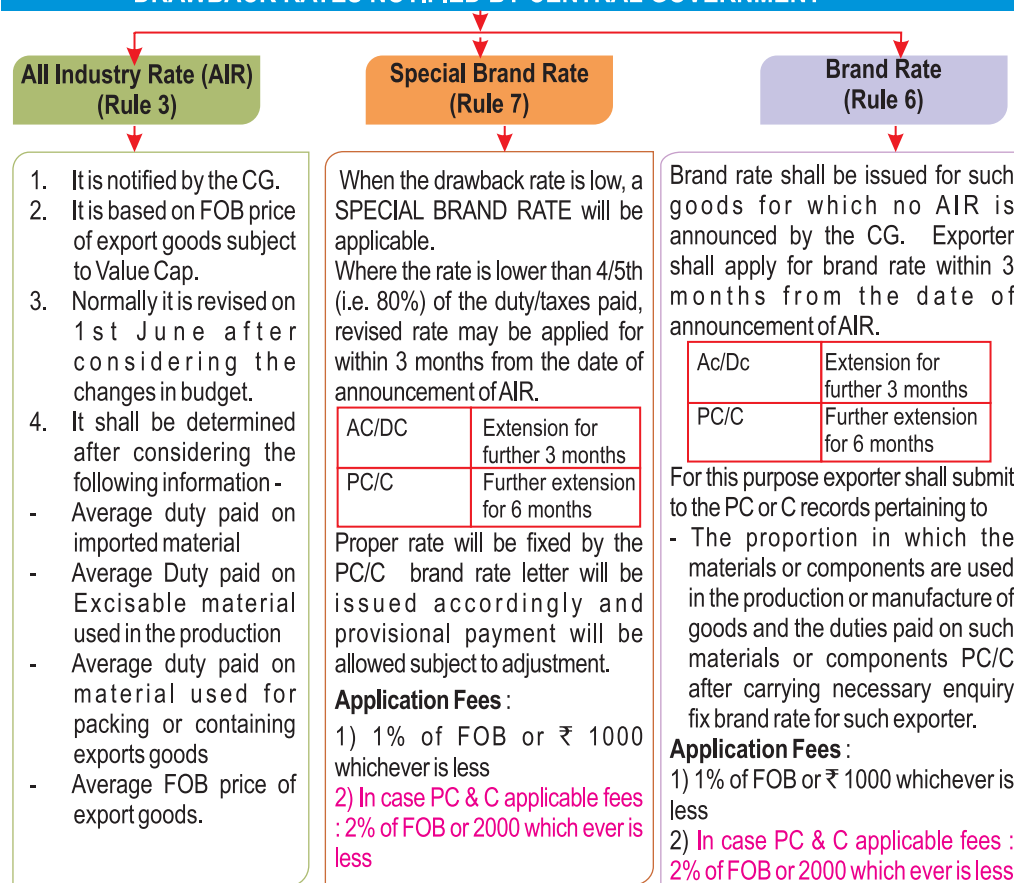
Drawback claimed by the Assessee.

5. Adjustment : When the amount of drawback payable on the goods is finally determined, the amount provisionally paid to the applicant shall be adjusted against the drawback finally payable.

(a) If Provisional amount > Final Drawback : Excess paid shall be repaid by the Applicant.

(b) If Provisional amount < Final Drawback : Applicant is entitled to the balance amount.

DRAWBACK RATES NOTIFIED BY CENTRAL GOVERNMENT



RULE 4. Revision of rates. - The Central Government may revise amount or rates determined under rule 3.

RULE 5. Relevant Date for Determination of AIR :- The retrospective drawback rate applies from the date specified by the C.G in the O.G, which cannot be earlier than the change in duty rates on inputs used in export goods.

Provided that,

In case of Goods exported by filing Shipping Bill / Bill of Export

Date of Let Export Order

In case of Goods Exported by Post

Date of Delivery of Export Goods to the Postal Authority

Rule 9 : Upper Limit of Drawback amount or rate - The drawback amount or rate determined under rule 3 shall **not exceed one third of the market price of the export product.**

Drawback or General Rate of Drawback (Rule 3, 4, 5 of CCE Drawback Rules, 2017).

- | | | | | | | | | | |
|-----|--|-----|--|-----|--|-----|---|-----|---|
| (1) | Drawback Eligibility: Drawback is allowed at rates or amounts determined by the C.G, subject to Customs and Central Excise laws/rules | | | | | | | | |
| (2) | Rate of drawback on FOB or on quantity : Rate of drawback has been expressed as a percentage of free on board [FOB] value or rate per unit quantity of export goods. Such rates are, unless specifically stated otherwise, are inclusive of rate applicable to packing materials. | | | | | | | | |
| (3) | Parameters for Determining Drawback: In determining amount/ rate of drawback under this rule, Central Government shall have regard to :
The C.G considers: <ul style="list-style-type: none"> ➤ Average quantity/value of materials used in the production of goods in India. ➤ Average quantity/value of imported/excisable materials used in production. ➤ Duties paid on imported/excisable materials for manufacturing semis, components, and intermediates. | | | | | | | | |
| (4) | Exclusions from Drawback Rates: Drawback rates do not apply to exports of goods that: <table border="1"> <tr> <td>(a)</td> <td>Are manufactured in a warehouse under Section 65 of the Customs Act.</td> </tr> <tr> <td>(b)</td> <td>Are exported to fulfill obligations under A.A/Duty Free Import Authorisation</td> </tr> <tr> <td>(c)</td> <td>Come from units FTZ, Export Processing Zones, or SEZ.</td> </tr> <tr> <td>(c)</td> <td>Are exported with the benefit of Notification 32/1997 (exemption for goods imported for export orders).</td> </tr> </table> | (a) | Are manufactured in a warehouse under Section 65 of the Customs Act. | (b) | Are exported to fulfill obligations under A.A/Duty Free Import Authorisation | (c) | Come from units FTZ, Export Processing Zones, or SEZ. | (c) | Are exported with the benefit of Notification 32/1997 (exemption for goods imported for export orders). |
| (a) | Are manufactured in a warehouse under Section 65 of the Customs Act. | | | | | | | | |
| (b) | Are exported to fulfill obligations under A.A/Duty Free Import Authorisation | | | | | | | | |
| (c) | Come from units FTZ, Export Processing Zones, or SEZ. | | | | | | | | |
| (c) | Are exported with the benefit of Notification 32/1997 (exemption for goods imported for export orders). | | | | | | | | |

Illustration - Rule 7 : An exporter exported 2,000 pairs of leather shoes @ ₹ 750 per pair. All industry rate of drawback is fixed on average basis i.e. @11% of FOB subject to maximum of ₹ 80 per pair. The exporter found that the actual duty paid on inputs was ₹ 1,95,000. He has approached you, as a consultant, to apply under Rule 7 of the drawback rules for fixation of special brand rate. Advise him suitable.

Solution : The relevant determination under Rule 7 of the CCE Drawback Rules, 2017 is

- 1. All Industry Rates :**
- (a) 11% of FOB = 11% of 2,000 pairs x 750 per pair = 1,65,000
 - (b) Maximum Limit = 2,000 pairs x 80 per pair = 1,60,000
 - (c) Drawback = Lower of (a) or (b) = 1,60,000

2. Actual Duty paid on inputs = 1,95,000.

- 3. Rule 7 not applies :** Since AIR (1,60,000) is not less than (80% of actual 1,95,000) hence, benefit of rule 7 cannot be applied. The exporter will have to claim AIR drawback.
- 4. If actual duty is 2,05,000 :** If actual duty paid on inputs is 2,05,000 then since AIR is less than 80% of actual taxes, hence, Rule 7 applies. The exporter shall not claim AIR and shall directly apply for Special Brand Rate under rule 7, In case of Rule 7, he will be provisionally paid full drawback immediately.

Rule 8: No Drawback Determination

No drawback shall be determined under **Rule 6 or 7** if the export value of goods:

1. Is **less than** the value of imported materials used, or
2. Does **not meet the percentage** specified by the C.G in the Official Gazette (O.G).

Procedure for claiming Drawback & Payment thereof [Rules 12 to 15,17 and 18 of the CCE Drawback Rules, 2017]

Declaration for Exports (Other than by Post)

- | | |
|------|---|
| [A] | At the time of export, the exporter must: |
| (a) | State on the shipping bill/export bill the details required to determine drawback eligibility and rates. |
| (b) | Declare that: |
| (i) | A drawback claim is being made. |
| (ii) | No separate rebate claim for duties on containers, packing materials, or manufacturing materials will be made under Central Excise Rules, 2002, or any other law. |
| [B] | Additional Requirements for Drawback Claims. |
| | The exporter must: |
| (a) | Provide Customs with a shipment invoice or document detailing the goods. |
| | 1. For Rule 6 or 7 claims, declare that: <ul style="list-style-type: none"> ➤ The manufacturing formula and material usage remain unchanged. ➤ Imported materials/components stated in the application are still imported, not sourced locally. |

[i] Manner and time for claiming drawback on goods exported other than by post

1. An E-shipping bill (EDI) or Triplicate copy of the shipping bill serves as a drawback claim.
2. The claim is considered filed on the date the Customs officer permits clearance and loading u/s 51.
3. The PO retains the claim document.

[ii] Documents for Drawback Claim

A drawback claim must include:

1. Export contract or letter of credit.
2. ARE-1 copy (if applicable).
3. Insurance certificate (if required).
4. Communication on drawback rate (for Brand rate/special cases).

If **incomplete**, it will be **returned with a deficiency memo within 10 days** and deemed not filed under Section 75A.

[iii] Incomplete Drawback Claim

1. An incomplete claim or missing documents will be returned with a deficiency memo **within 10 days** and deemed **not filed** under Section 75A.
2. If resubmitted with corrections, it will be treated as **filed** under Section 75A.

[iv] Testing of Export Goods & Drawback Payment

Up to 1 month taken for testing export goods is excluded from the one-month period for drawback payment u/s 75A.

Examination Que: Can drawback be provisionally paid to the Exporter? [Rule 6(2), 7(3)]

Solution:-

1. **Application:** Submit a written request along with a Brand Rate/Special Brand Rate application.
2. **Request:** Provisional payment is allowed if the drawback amount/rate is pending.
3. **Bond Requirement:**
 - Brand Rate: Bond up to the drawback claimed.
 - Special Brand Rate: Bond for the difference between All Industry Rate and the determined amount.
 - Additional conditions may be imposed.
4. **Approval:** The P.C/C may approve provisional payment up to the claimed amount.
5. **Adjustment of Provisional Drawback:** Once the final drawback is determined, the provisional payment will be adjusted against the final amount payable.
 - (a) If **Provisional amount > Final Drawback**: Excess paid shall be repaid by the Applicant.
 - (b) If **Provisional amount < Final Drawback**: Applicant is entitled to the balance amount.

SECTION 76: PROHIBITION AND REGULATION OF DRAWBACK IN CERTAIN CASES

- 1) Notwithstanding anything hereinbefore contained, no drawback shall be allowed -
 1. The market price of the goods is **less than** the drawback amount.
 2. The drawback amount is **less than 50 rupees**.

2) Restriction on Drawback for Certain Goods

If the C.G believes goods are **likely to be smuggled back into India**, it may:

1. Deny the drawback for such goods, or
2. Allow it with specific restrictions and conditions, as notified in the Official Gazette.

SECTION 26A: REFUND OF DUTY FOR DEFECTIVE GOODS:

1) Goods Defective/Non-Conforming

- Goods were originally imported into India.
- Duty was paid on importation.
- Goods should be easily identifiable at the time of re-export.

2) Goods identified as imported goods: The goods are identified as imported to the satisfaction of the AC/DC of Customs.

3) No Drawback Claimed: The importer has not claimed a drawback on the goods.

4) Exporter Actions: The goods are either:

- Exported,
- Relinquished and abandoned to Customs, or
- Destroyed or rendered commercially valueless in the presence of the officer **within 30 days** (extendable up to 3 months for valid reasons).

5) Offence Exclusion: The provision does not apply to goods involved in any offence under this Act or other laws.

6) Application for Refund: The application for refund must be filed within 6 months from the relevant date.

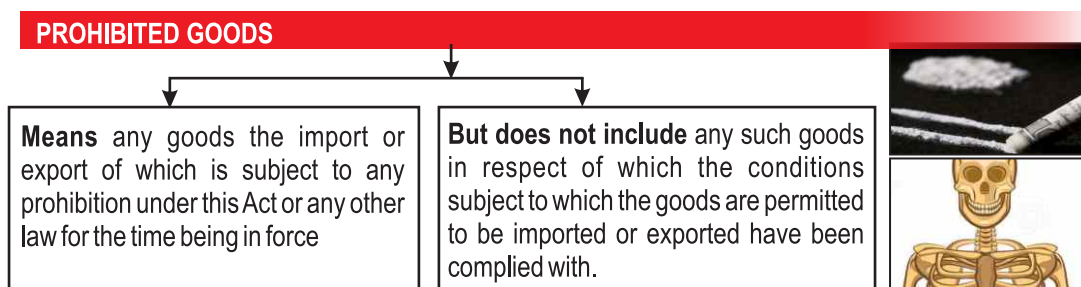
7) Meaning of relevant date: Relevant Dates for Refund (Section 26A)

S.No.	Case	Relevant Date
1.	Goods exported out of India	Date the officer permits clearance and loading for export u/s 51
2.	Relinquishment of title to goods	Date of such relinquishment
3.	Goods destroyed or rendered valueless	Date of destruction or when goods are rendered commercially valueless

8) No refund in case of perishable goods.:

- Refund is **not allowed** for perishable goods or goods exceeding their shelf life/storage period.
- The Board may specify additional conditions for refunds via notification in the O.G

Appointment of Custom area by various authority	
Authority	Custom Area
CBIC	<ul style="list-style-type: none"> ▶ Port, Airport & Land custom station [Sec 7] ▶ Costal Port [Sec 7] ▶ ICD, CFS, AFS [Sec 7] ▶ Foreign Post Office ▶ International Courier terminal
Principle Commissioner or Commissioner	<ul style="list-style-type: none"> ▶ Berth Place [Loading or unloading of goods at Custom port/ Air port / Costal Port] ▶ Boarding Station ▶ Public Warehouse ▶ Private Warehouse ▶ Special Warehouse



Chapter 13

Confiscation & Penalty

Goods liable to Confiscation & Penalty

Sec 111: Confiscation of improperly imported goods
(Refer regular notes)

Sec 113 Confiscation of goods attempted to be improperly exported
(Refer regular notes)

Penalty

The person who has done the act where goods liable to confiscation or any other person who in any way concerned with such goods liable to confiscation shall subject to following penalty

Situations	Penalty u/s 112 on imported goods	Penalty u/s 113 on export goods
1) Prohibited goods	Value of goods or ₹ 5000 whichever is higher	3 times of Value declared or Value as per act whichever is higher
1) Dutiable goods other than prohibited goods	10% of duty evaded or ₹ 5000 whichever is higher If duty & interest is paid within 30 days of order then penalty = 25% of penalty as above	10% of duty evaded or ₹ 5000 whichever is higher If duty & interest is paid within 30 days of order then penalty = 25% of penalty as above

Confiscation

Step 1 Sec 110: Seizure of Goods

- 1) If goods liable to confiscation – officer may seize the goods
- 2) Punishable or hazardous goods can be sold instead of seizure
- 3) Inventory of seizure goods shall be prepared with description, quality, quantity etc & apply to magistrate for certifying its correctness

Step 2 Confiscation Proceedings in following step

- 1 Sec 122 : Authority to Confiscation**
without limit – comm or joint comm
value upto 2 L – AC/DC
Value upto ₹ 10,000 – officer below AC/DC
- 2 Sec. 124 : Notice of Confiscation**
1) SCN by proper officer in writing showing grounds of Confiscation
2) Opportunity of representation & hearing
- 3 Sec. 123 :Hearing**
1) Burden to prove that goods are smuggled goods
2) Generally, that burden is on Dept.
3) But in respect of notified goods, burden shifted to assessee to prove bonafides
- 4 Sec.126 : Confiscation Order**
Ownership in goods stands transferred to CG
- 5 Sec. 125 : Option to pay Fine in lie of confiscation**
Prohibited goods - Giving option is discretion of Proper Officer
Other goods - Giving option is mandatory for Proper Officer

Quantum of Redemption Fine - Maximum Fine is terms of Sec 125 (1)

Imported Goods	= [Market Price - Import Duties] If assessee seeks to release the goods on payment of Fine then in addition to that fine, he shall also be liable to pay Import Duties.
Export Goods	= Market Price

SECTION 3: CLASSES OF OFFICERS OF CUSTOMS

There shall be the following classes of officers of customs, namely:-

- Principal Chief Commissioners of Customs;
- Chief Commissioners of Customs;
- Principal Commissioners of Customs;
- Commissioners of Customs;
- Commissioners of Customs (Appeals);
- Joint Commissioners of Customs/Additional Commissioners of Customs;
- Deputy Commissioners of Customs;
- Assistant Commissioners of Customs
- Such other class of officers of customs as may be appointed for the purposes of this Act.

POWER CONTROL & PROCEDURES

- Sec 101** : Search of persons in customs area by proper officer, if he has reason to believe that person has secreted goods / things liable to confiscation
- Sec 101** : Search of persons anywhere by empowered officer, if he has reason to believe that person has secreted gold / diamond / notified goods liable to confiscation
- Power to search includes power to x-ray.
- Sec 105** : AC/DC may search premises to get confiscable goods/useful documents
- Sec 110 & 110A** : Goods liable to confiscation may be seized - Goods may be provisionally released under bond - If show- cause notice not issued within 6 months from seizure, goods are to be returned back - Documents may also be seized - Assessee may take extracts / copies of seized documents
- Sec 141** : Port/Airport Trust or Authority - In case of pilferage, they are liable to reimburse the loss to the importer and also pay customs duty to the department
- Sec 143** : If condition of import cannot be fulfilled at time of import, import may be allowed on bond and later bond is discharge on fulfilment of condition later on
- Sec 144** : Proper officer has power to take samples for testing, etc.
- Sec 147** : Agent of importer / exporter is liable for - (i) purposes for which he is appointed as agent ; and (ii) liability to pay duty / other sums in respect of goods: recovery from agent only if recovery arises due to wilful / negligent act of agent
- Sec 148** : Agent of Person-in-Charge of conveyance is also liable for all deeds including also for penalty and confiscations
- Sec 150** : Goods other than confiscated goods may be sold in auction / tender and proceeds would be applied for : (i) expenses, (ii) duty, (iii) custodian / warehousing charges, (iv) other sums payable under Customs Act; and balance returned
- Sec 154** : Clerical error may be corrected by Board / Central Govt. / Officer or his successor

COASTAL GOODS

SEC 2 (7) “Coastal Goods” means goods, other than imported goods, transported in a vessel from one port in India to another

PROCEDURE IN CASE OF COASTAL GOODS



- The Consignor of any goods shall present “**A Bill of Coastal goods**”
- “Bill of coastal goods” contains detail information about port of loading and destined port at which the goods are to be discharged.
- The bill has been passed by Customs Officers.
- After passing bill, the goods will be loaded and the bill handed over to the master of vessels.
- The Master of vessels shall not permit the loading of the goods until such bill is delivered to him by consignor.
- The master of vessels will also carry an **Advice book** in which the customs officers will make suitable entries, relating to the goods loaded on the vessels at that port.
- The Master of every such vessel shall carry the advice book on Board the vessels and shall on arrival at each port of call deliver it to the proper officer at that port for his inspection.

Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

Amendment in existing Provision

Sec 122 : Authority to Confiscation

LIMIT	ADJUDICATING OFFICER
a) without any monetary limit	Principal Commissioner of Customs or Commissioner of Customs or a Joint Commissioner of Customs.
b) Upto Such limit Such officer, as the board may, by notification, specify.	
i) above ₹ 1 lakh but not exceeding ₹ 10 lakh	i) AC/DC of Customs
ii) Not exceeding ₹ 1 lakh	ii) A Gazetted officer of Customs lower in rank than an AC/DC of Customs



Sec. 124 : Notice of Confiscation

- 1) SCN by proper officer in writing showing grounds of Confiscation
- 2) Opportunity of representation & hearing

Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed



Sec. 125 : Option to pay Fine in lieu of confiscation

Prohibited goods - Giving option is discretion of Proper Officer
Other goods - Giving option is mandatory for Proper Officer

Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply

3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

Explanation.—For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date** on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.



Newly inserted section

SECTION 143AA: POWER TO SIMPLIFY OR PROVIDE DIFFERENT PROCEDURE, ETC., TO FACILITATE TRADE

Notwithstanding anything contained in any other provision of this Act, the Board may, for the purposes of facilitation of trade, take such measures or prescribe separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods, in order to,—

- (a) maintain transparency in the import and export documentation; or
- (b) expedite clearance or release of goods entered for import or export; or
- (c) reduce the transaction cost of clearance of importing or exporting goods; or
- (d) maintain balance between customs control and facilitation of legitimate trade.



SECTION 151B: RECIPROCAL ARRANGEMENT FOR EXCHANGE OF INFORMATION FACILITATING TRADE

- (1) The Central Government may enter into an agreement or any other arrangement with the Government of any country outside India or with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of this Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention, combating and investigation of offences under the provisions of this Act or under the corresponding laws in force in that country.
- (2) The Central Government may, by notification, direct that the provisions of this section shall apply to the contracting State with which reciprocal agreement or arrangements have been made, subject to such conditions, exceptions or qualifications as may be specified in that notification.
- (3) Subject to the provisions of sub-section (2), the information received under sub-section (1) may also be used as evidence in investigations and proceedings under this Act.
- (4) Where the Central Government has entered into a multilateral agreement for exchange of information or documents for the purpose of verification of compliance in identified cases, the Board shall specify the procedure for such exchange, the conditions subject to which such exchange shall be made and designation of the person through whom such information shall be exchanged.
- (5) Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3), anything done or any action taken or purported to have been done or taken, in pursuance to any agreement entered into or any other arrangement made by the Central Government prior to the date* on which the Finance Bill, 2018 receives the assent of the President, shall be deemed to have been done or taken under the provisions of this section.
Explanation.—For the purposes of this section, the expressions,—
 - (i) “contracting State” means any country outside India in respect of which agreement or arrangements have been made by the Central Government with the Government or authority of such country through an agreement or otherwise
 - (ii) “corresponding law” means any law in force in the contracting State corresponding to any of the provisions of this Act or dealing with offences in that country corresponding to any of the offences under this Act.

Students
Comments



SECTION 153: MODES FOR SERVICE OF NOTICE, ORDER, ETC

The date of service of an order or a communication containing a decision is of vital importance, in case the aggrieved party desires to file an appeal. The time limit allowed for appeal normally runs from the date of receipt of the communication containing the impugned decision by the aggrieved person. There are circumstances where it is not effectively possible to ensure that such communications are received by the concerned party. There are other circumstances where disputes arise about the actual date of the receipt of communication. These two problems have necessitated a uniform procedure for dispatch and service of orders, decisions, summons and other communications issued under the Customs Act. Section 153 provides the specific mode of service in this regard which is reproduced below.

An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely :—

- (a) *by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;*
- (b) *by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;*
- (c) *by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;*
- (d) *by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or*
- (e) *by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.*

Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the prescribed manner.

Further, when such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Students
Comments



ADVANCE RULING - COMPARATIVE ANALYSIS

Advance Ruling

Means a written decision on any of the questions referred to in section 28H raised by the applicant in his application in respect of any goods prior to its importation or exportation (Sec 28 E(b))

Appellate Authority

means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961

Activity

~~Activity means import or export and includes any new business of import or export proposed to be undertaken by the existing importer or exporter as the case may be. [Sec 28-E(a)]~~

Omitted by F.A. 2018

Applicants

means any person,—
(i) holding a valid Importer-exporter Code Number granted under section 7 of the Foreign Trade (Development and Regulation) Act, 1992; or
(ii) exporting any goods to India; or
(iii) with a justifiable cause to the satisfaction of the Authority,
who makes an application for advance ruling under section 28H;

Authority

means — The custom Authority for advance rulings appointed under section 28EA*

Chairperson

means,— The chairperson of the **appellate** authority

Members

means — A member of the **appellate** authority & includes the chair person

“Non-resident” “Indian company” and “foreign company”

Have the same meaning respectively assigned to them in clause (30), (26) & (23A) of the sec 2 of income tax act 1961

CUSTOMS AUTHORITY FOR ADVANCE RULINGS [SECTION 28EA]

The Board is empowered to appoint an officer of the rank of Principal Commissioner of Customs or Commissioner of Customs to function as a Customs Authority for Advance Rulings.

However, till the date of appointment of the Customs Authority for Advance Rulings, the existing Authority for **Advance Rulings constituted under section 245-O** of the Income-tax Act, 1961 shall continue to be the Authority for giving advance rulings for the purposes of this Act.

The offices of the Authority may be established in New Delhi and at such other places, as the Board may deem fit. The Authority shall exercise the powers and authority conferred on it by or under this Act.

AUTHORITY FOR ADVANCE RULING (CENTRAL EXCISE, CUSTOMS AND SERVICE TAX) [SECTION 28F]

The Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall be the **Appellate Authority for deciding appeal under this Chapter**. The said Appellate Authority shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.

Further, the Member from the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Appellate Authority for the purposes of this Act.

The Matter in which the Advance Ruling can be obtained [Sec 28H(2)]

Classification of any goods under the CTA, 1975

Applicability of a Exemption notification issued under Section 25(1) having a bearing on the rate of duty

The principles to be adopted for the purposes of determination of value of the goods

applicability of notifications issued in respect of tax or duties under this Act or the Customs Tariff Act, 1975 or any tax or duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act or the Customs Tariff Act

Determination of origin of the goods in terms of the rules notified under the Customs Tariff Act, 1975

any other matter as the Central Government may, by notification, specify.

Question:

Can an application for advance ruling withdrawn? If yes, state the time limit for withdrawal of such application?

Answer:-

Yes, application for advance ruling can be withdrawn within 30 days from the date of application [Section 28H(4) of the Customs Act, 1962].

Applicability of Advance Ruling (Sec 28J)

- 1) Advance ruling shall be binding only -
 - a) on the application who had sought it
 - b) in respect of any matter referred to in sub-section (2) of section 28H
 - c) on the Principal Commissioner/Commissioner of Customs, and the customs authorities subordinate to him, in respect of the applicant.
- 2) Advance ruling shall be binding unless there is change in law or facts on the basis of which the advance ruling has been pronounced

ADVANCE RULING TO BE VOID IN CERTAIN CIRCUMSTANCES [SECTION 28K]

Where the Authority finds, on a representation made to it by the Principal Commissioner/Commissioner of Customs or otherwise, that an advance ruling has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Act shall apply to the applicant as if such advance ruling had never been made.

Further, in computing the period of two years or five years thereof, for service of notice for recovery of any duty not levied, short-levied, not paid or short-paid on account of the advance ruling, the period beginning with the date of such advance ruling and ending with the date of the order shall be excluded.

A copy of the order made shall be sent to the applicant and the Principal Commissioner/Commissioner of Customs.

APPEAL [SECTION 28KA]

Any officer authorised by the Board, by notification, or the applicant may file an appeal to the Appellate Authority against any ruling or order passed by the Customs Authority for Advance Rulings, within 60 days (Appellate Authority further period of 30 days appeal). from the date of the communication of such ruling or order, in the prescribed form and manner.

PROCEDURE FOR AUTHORITY AND APPELLATE AUTHORITY [SECTION 28M]

The procedure for Customs Authority for Advance Rulings may be provided by regulations by the Board. The Appellate Authority shall regulate its own procedure for the purpose of conducting its proceedings.

DEMAND, PROCEEDING UNDER CUSTOM

Cases	Period of Serving of SCN	Voluntary payment before SCN	If voluntary payment is short	Demand order (if SCN is issued)	Interest	Penalty
<p>1) Cases other than collusion, willful-misstatement etc. Where any duty payable:</p> <ul style="list-style-type: none"> ➤ has not been levied ➤ has not been paid ➤ has been short-levied ➤ has been short-paid ➤ has been erroneously refunded <p>for any reason other than the reasons of:</p> <ul style="list-style-type: none"> ➤ collusion ➤ any willful misstatement ➤ suppression of facts 	<p>The proper officer shall, within TWO YEARS from the relevant date, serve notice on the person chargeable with the duty or interest requiring him to show cause why he should not pay the amount specified in the notice <i>Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed.</i></p>	<p>The person chargeable with the duty or interest, may pay before service of SCN on the basis of,-</p> <ol style="list-style-type: none"> i) his own ascertainment of such duty; or ii) the duty ascertained by the proper officer, <p>The amount of duty along with the interest. Such payment inform in writing to proper officer and he shall not serve any SCN for such payment and penalty. Note:- Proper office shall not serve SCN where amount is less than ₹100</p>	<p>Where the proper officer is of the opinion that the amount voluntarily paid falls short of the amount actually payable, then, he shall proceed to issue the notice in respect of such amount which falls short of the amount actually payable and the period of TWO YEARS shall be computed from the date of receipt of information of payment.</p>	<p>Proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation and shall determine the amount of duty within a period of six months from the date of notice. <i>Provided that officer senior in rank to the proper officer may extent further period of six month</i></p>	<p>Mandatarly interest 15% p.a. It shall be calculated from the date on which such duty becomes due up to the date of actually payment. No interest is payable if it is payable consequent to board circular and paid within 45 days without reserving right up appeal.</p>	<h3>No Penalty</h3>
<p>2) Cases of collusion, willful-misstatement etc. Where any duty payable:</p> <ul style="list-style-type: none"> ➤ has not been levied ➤ has not been paid ➤ has been short-levied ➤ has been short-paid ➤ has been erroneously refunded <p>by reason of:</p> <ul style="list-style-type: none"> ➤ collusion ➤ any willful misstatement ➤ suppression of facts 	<p>The proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest requiring him to show cause why he should not pay the amount specified in the notice.</p>	<p>Voluntary payment before SCN is not available but after SCN person can make the payment voluntarily. the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay</p> <ul style="list-style-type: none"> ➤ the duty in full or in part, as may be accepted by him, and ➤ the interest @ 15% p.a. ➤ the penalty equal to 15% of the duty specified in the notice or the duty so accepted by that person, within 30 days of the receipt of the notice and inform the proper officer of such payment in writing. 	<p>that the duty with interest and penalty that has been paid voluntarily after SCN falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice in respect of such amount which falls short of the amount actually payable and the period of TWO YEAR shall be computed from the date of receipt of information of payment.</p>	<p>Proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation and shall determine the amount of duty within a period of one year from the date of notice. <i>Provided that officer senior in rank to the proper officer may extent further period of one year</i> <i>where the proper officer is unable to determine the amount of duty or interest for the reason that—</i> <i>(a) an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or</i> <i>(b) an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or</i> <i>(c) the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or</i> <i>(d) the Settlement Commission has admitted an application made by the person concerned, the proper officer shall inform the person concerned the reason for non determination of the amount of duty or interest shall apply not from the date of notice, but from the date when such reason ceases to exist.</i></p>	<p>Mandatarly interest 15% p.a. It shall be calculated from the date on which such duty becomes due up to the date of actually payment. No interest is payable if it is payable consequent to board circular and paid within 45 days without reserving right up appeal.</p>	<p>Person shall be liable to pay penalty equivalent to duty or interest so determined But if duty interest and penalty is paid within 30 days of D.O. then penalty payable shall reduce to 25% of duty or interest Provided also that in case where duty or interest determine to be payable is increase by Commissioner (Appeals), Appellate tribunal or the court, than, the benefit of reduce penalty available if the amount of duty or interest so increased, along with interest payable thereon, & 25% of the consequential increase in penalty have also been paid within 30 days of communication of order.</p>

2. Relevant date under Customs

Situations	Relevant Date
1. Where the duty is not levied or not paid or short levied or short paid or interest is not charged.	Date on which the proper officer makes an order for the clearance of goods.
2. Duty of customs is provisionally assessed.	The date of adjustment of duty after the final assessment thereof;
3. Duty of customs has been erroneously refunded	The date of such refund
4. In any other case	Date of payment of duty or interest

Note 1:- For computing period of 2 year/5 years period of stay by order of court or tribunal shall be excluded

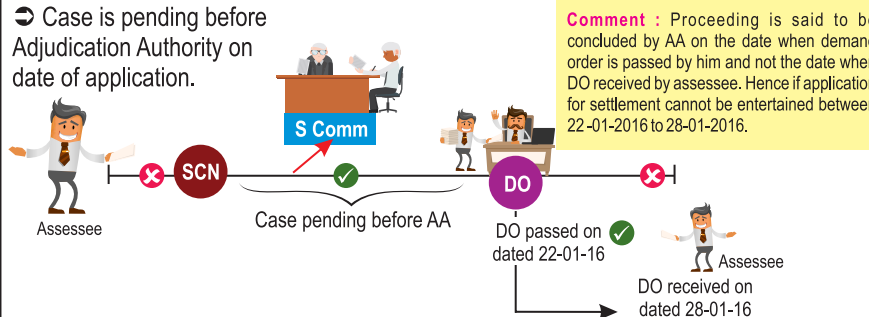
Note 2 :- *Save as otherwise provided the proper officer may issue supplementary notice under such circumstances and in such manner as may be prescribed.*

Note 3 :- the person liable to pay the said duty along with the interest due on such amount whether or not the amount of interest is specified separately

where an order for refund is modified in any appeal and the amount of refund so determined is less than the amount refunded, the excess amount so refunded shall be recovered along with interest thereon at the rate fixed by the Central Government from the date of refund up to the date of recovery, as a sum due to the Government.

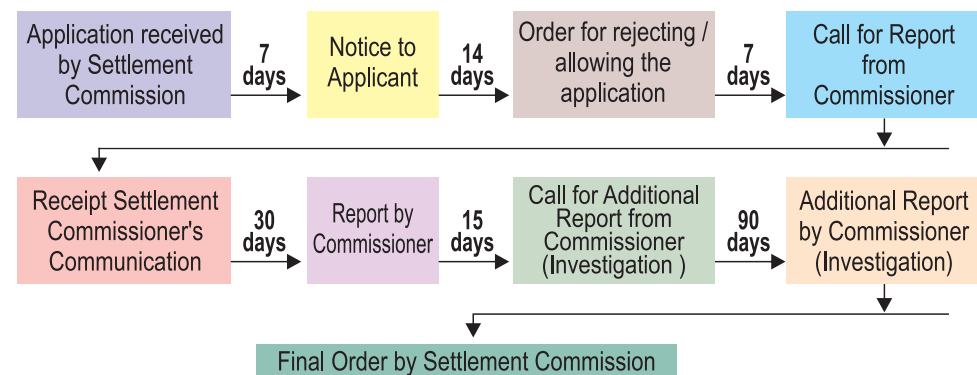
Notice demanding duty is held not sustainable in any proceeding under this Act, including at any stage of appeal, for the reason that the charges of collusion or any wilful mis-statement or suppression of facts to evade duty has not been established against the person to whom such notice was issued and the amount of duty and the interest thereon shall be computed accordingly.

SETTLEMENT COMMISSION

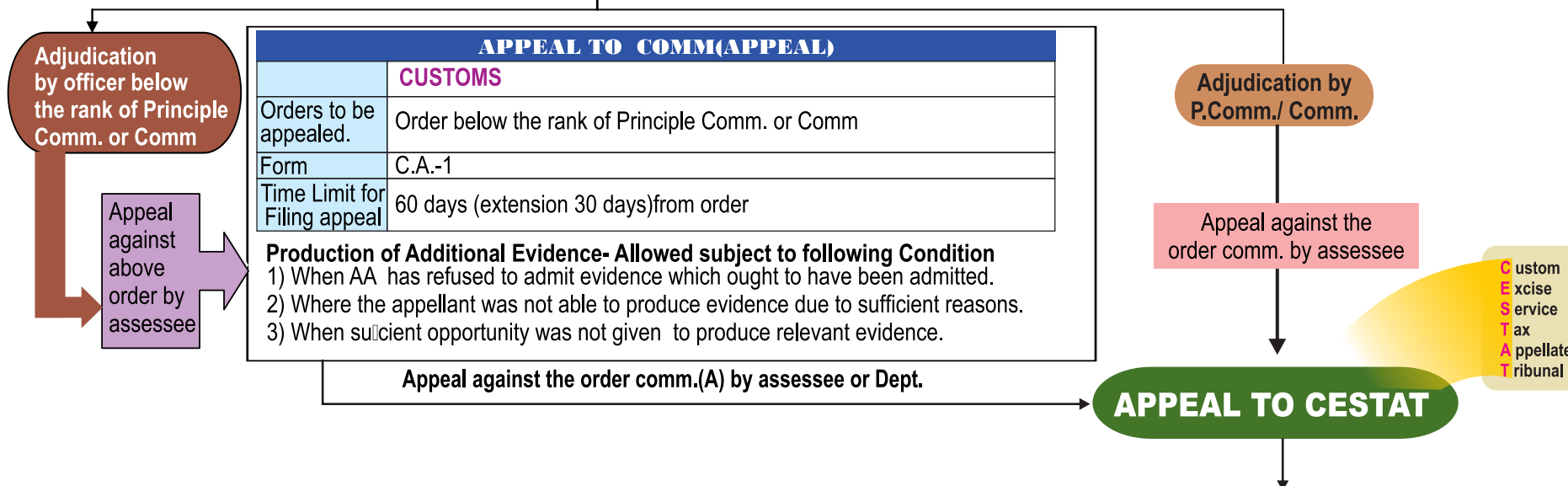
Topic	Points to Remember
Case - Meaning	<div>1) Any proceeding under the act or any other act for the levy, assessment and collection of Customs Duty Pending before a Adjudication authority. Note : CESTAT, CBIC, Commissioner (Appeals) are not Adjudication Authorities.)</div> <div>2) If case is referred back In any appeal, revision or otherwise by court, AT or other authority then it shall be not treated on pending case before Adjudication Authorities.)</div>
When application	<div>⇒ Case is pending before Adjudication Authority on date of application.</div> <div></div> <div>Comment : Proceeding is said to be concluded by AA on the date when demand order is passed by him and not the date when DO received by assessee. Hence if application for settlement cannot be entertained between 22-01-2016 to 28-01-2016.</div>
Application cannot be made	<div>⇒ Cases pending before Appellate Tribunal or Court.</div> <div>⇒ Cases of interpretation of classification of goods.</div> <div>⇒ Specified Goods under Customs Act. (Goods u/s 123 e.g. gold watches etc. and any goods for which offence is done under narcotics drugs act.</div>
Specified Conditions	<div>Customs</div> <div>The applicant has filed a</div> <div>⇒ Bill of entry, or A shipping bill or bill of export or</div> <div>⇒ Made a baggage declaration, or</div> <div>⇒ A label or declaration in case of Post.</div> <div>Other Conditions :</div> <div>⇒ SCN to be issued to the applicant (Customs)</div> <div>⇒ Additional Amount of duty payable > ₹ 3 lakhs</div> <div>⇒ Additional duty should be paid with interest u/s 11AB (Excise/S.T.) 28AB (Customs)</div>
Final Order	Amount of Settlement should not be > duty liability admitted by applicant.
Time for order	<div>⇒ Within 9 months from the last date of the month on which application is made.</div> <div>⇒ The Time period can be extended for further 3 Months by the Settlement Commission.</div>
Consequences of order	<div>⇒ Amount payable should be paid within 30 days from date of receipt of order.</div> <div>⇒ Recovery of such sums along with interest as per CEA S.11, CUA S.142</div> <div>⇒ Order is conclusive and shall not be reopened under any law.</div> <div>⇒ Order is binding only to the person to whom it is issued and it is not a judicial precedent.</div> <div>⇒ Order can be challenge in Writ before High Court.</div>

When is Order of settlement to be conclusive Sec 127J	<p>Every order of settlement passed u/s 127C-</p> <ul style="list-style-type: none"> ⇒ Shall be conclusive as to the matters stated therein and ⇒ No matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force. 										
When is order void	<ul style="list-style-type: none"> ⇒ When it is found out that, order has been obtained by fraud / misrepresentation. ⇒ Effect of void order : (i) Proceedings revived from application allowed stage, and (iii) Time limit for completion of proceedings 2 years from date of receipt of communication of voidness of order. 										
Powers	<ul style="list-style-type: none"> ⇒ Provisional Attachment, ⇒ All the powers of CEO/Customs officers, ⇒ Powers to regulate its own procedure, Furnish copies of any report, ⇒ Grant immunity from prosecution and penalty and ⇒ Refer back case to the adjudication authority for non co operation 										
Power to grant immunity by settlement commission	<table border="1"> <tbody> <tr> <td>1) Penalty and Fine</td><td>YES</td></tr> <tr> <td>2) Prosecution</td><td></td></tr> <tr> <td> Under Central Excise Act</td><td>YES</td></tr> <tr> <td> Under Indian Penal Code</td><td>NO</td></tr> <tr> <td>2) Interest</td><td>NO</td></tr> </tbody> </table>	1) Penalty and Fine	YES	2) Prosecution		Under Central Excise Act	YES	Under Indian Penal Code	NO	2) Interest	NO
1) Penalty and Fine	YES										
2) Prosecution											
Under Central Excise Act	YES										
Under Indian Penal Code	NO										
2) Interest	NO										
Restriction on next time application for settlement	<ol style="list-style-type: none"> Order pass before F.A.2007 for penalty on the applicant on the ground of concealment of duty Person convicted any offence in relation to case settle by settlement commission . Case is sent back to Custom officer for non co operation 										

Course of events before Settlement Commission



APPEAL



CASES NOT APPELABLE TO CESTAT

CUSTOMS

- Goods imported or exported as baggage.
- Short landing or not landing goods in customs area.
- Payment of drawback

Note: in the above said cases where revision application has to be made to the central government

REVISION BY C.G.

FORM	E.A.-8 in duplicate accompanied by order of Comm(A)
Ground	Grounds of revision
Fees	Rs. 1000
Time limit for appl. for Order	3 months from order of Comm(A)(extension 3 months) the C.G. shall pass the order on its own motion, annul or modify the order of commissioner (appeals).
Time	No time limit
Appeal against order	No , only writ petition in HC or SC

CESTAT HAVE DISCRETIONARY POWER TO ADMIT THE CASE

CUSTOM

- 1) Confiscation of goods without option of redemption fine u/s 125
- 2) Duty on account other than Tariff rate or valuation is 2,00,000 or less
- 3) Fine or Penalty 200000 or less

Explanation : The determination of any question having a relation to the rate of duty shall include the determination of taxability or excisability of goods for the purpose of assessment.

CESTAT COMPULSORILY ADMIT THE CASE

- 1) Duty on account of Tariff rate or valuation (even value of Rs. 1)
- 2) Duty on account other is more than 200000
- 3) Fine or Penalty more than 200000

PROCEDURE FOR APPEAL TO CESTAT

CUSTOMS

Orders to be appealed.	<ul style="list-style-type: none"> order of Prin. comm. or Comm order of comm(A)
Form	C.A.-3
Time Limit for Filing appeal	3 months (extension no time time)from order
Memo. Of cross objection	C.A.-4

Fees

amount of duty, interest and penalty levied

less than or equal to ₹ 5 lakhs	₹ 1000
between ₹ 5 lakhs to ₹ 50 lakhs	₹ 5000
exceeds ₹ 50 lakhs	₹ 10000

IMPORTANT POINTS

- Production of additional evidence allowed (Under same circumstances as explain above for Comm. (A))
- Time limit of decision —3 years (if possible)
- Order may be remanded to AA or comm(A)
- Communication of order to appellant & comm.

REVIEW OR AMENDMENT OF ITS ORDER

- CESTAT cannot review its own order
- CESTAT can amend its order with a view to rectify the mistake apparent from record.
 - Sue moto-within 6 months
 - on the application of Comm. Or Assessee- no time period specified

Monetary limits for filing appeals by the Department before CESTAT and High Courts revised

The CBEC has fixed the following monetary limits below which appeals shall not be filed in the Tribunal, High Court and the Supreme Court.

S.No.	Appellate Forum	New Monetary Limit
1.	CESTAT	₹ 10,00,000/-
2.	High Courts	₹ 15,00,000
3.	Supreme Courts	₹ 25,00,000

Appeal against the order of CESTAT by assessee or Dept.

If order of CESTAT related to Tariff rate or valuation

Direct appeal to S.C.

APPEAL TO S.C.

If order of CESTAT on account of other matter

Appeal against the order of H.C. if certify fit for S.C.

APPEAL TO H.C.
if question of law is involved

APPEAL TO SUPREME COURT

Orders to be appealed.	order of CESTAT related to tariff rate & value order of H.C.
Time Limit for Filing appeal	60 days

filing of application for appeal

- Appeal should be filed along with its 7 copies.
- Appeal should state all relevant facts, objections and ground of appeal.
- An authenticated copy of order appealed against should be attached with the appeal

APPEAL TO HIGH COURT

Orders to be appealed.	Order of CESTAT, if question of law involved
Form	C.A.-6
Time Limit for Filing appeal	180 days from order
Memo. Of cross objection	C.A.-7
Fees	₹. 200

Procedure after application is filed

- If the high court is satisfied that substantial question of law is involved, it will formulate the question.
- It is not necessary to hear the other party when appeal is admitted on a question of law.
- The high court will deliver the judgment on the substantial question of law either formulated by it or even if not formulated by it, if it is satisfied that the case involves such substantial question of law

Mandatory Fixed pre-deposit for filing appeal before Comm(A) and CESTAT

Stage of appeal	Appellate Authority	Quantum of pre-deposit
First Appeal	Commissioner (Appeals) or CESTAT	7.5% of the duty where only duty or both duty and penalty are in dispute OR 7.5% of the penalty where only penalty is in dispute
Second Appeal	CESTAT	10% of the duty where only duty or both duty and penalty are in dispute OR 10% of the penalty where only penalty is in dispute

Comments :

- Pre-deposit of 7.5%/10% would exclude interest, if any, payable on the duty demanded.
- 10% of the duty or penalty is to be paid at the time of filing second appeal before CESTAT.



Lined area for student comments, consisting of 20 horizontal lines.