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CUSTOM

chapter-1 Basic Concepts of Custom:

1. Custom duty is a combined name used for import duty and export duty.
2. Import duty is generally applicable on every import except for few items.
3. Export duty is generally exempted for every export except for few items.
4. Import duty is levied to make imported goods costlier.
5. It ~~result~~ results in protection of domestic industry.
6. Export duty is exempted because exports will earn ~~for~~ foreign exchange for us.
7. It increases competitiveness in exporters and make the export cheaper.
8. Import and export duties are levied since ages but it got organized during british period.
9. As per Kautilya's Arthashastra import & export duties were called shulk.
10. These duties applies only when goods and services cross international borders.

11. During Ancient era, it was a custom to offer some goods as gift to the king of that kingdom in which we are entering to do business.

12. Later on it became a customary practice where govt. of one country started charging custom duty on the goods arriving from another country.

Custom Duty In India :-

1. As per entry no. 83 of the union list of the 7th schedule of constitution of India, C.G. has power to impose custom duty.

2. Indian parliament enacted custom Act, 1962 to regulate import and export.

3. custom Act, 1962 is applies to whole of India.

4. C.G. has established central Board of Indirect (CBIC) Tax and customs to regulate custom duty.

Major Definitions :-

1. Adjudicating Authority :-

It means any authority competent to pass any order or decision under this act it does not include following people :-

(a) CBIC

(b) Commissioner of custom (Appeal)

(c) CESTAT (Central Excise and Service Tax

Appellate Tribunal
or National Tax Tribunal

2. Assessment :-

(i) It means following 2 Activities :-

(a) Dutiability Determination.

(b) Duty Determination.

(ii) Assessment is done on the basis of following factors :-

(a) Tariff classification

(b) Exemption and concession notified

(c) Value of the goods.

(d) Origin of the goods.

(e) Any other factor which affect assessment.

(iii) Assessment includes provisional assessment, self assessment, re-assessment and hit assessment.

3. Coastal Goods :-

It means good other than imported goods, transported in a vessel from one port in india to another.

4. Conveyance :-

It includes following 3 things :-

(a) Vessel

(b) Aircraft

(c) Vehicle.

5. Custom Area:-

Custom area means the area of custom station and it includes any area where goods are kept before clearance by custom authorities.

6. Custom Station:-

It means custom sea-port, custom airport and land custom station. It also includes any appointed area for the time being.

7. Foreign Going Vessel and Aircraft:-

It means a vessel or aircraft going from Indian port to a port outside India. It includes the following:-

- (a) foreign naval vessel doing exercise in Indian water.
- (b) vessel engaged in any activity outside territorial water.
- (c) vessel going to outside India for any purpose.

8. Goods:-

- (i) It means and includes following items:-
- (a) vessel, aircraft, vehicle
 - (b) stores
 - (c) Baggage
 - (d) Currency

- (c) Negotiable instrument
- (d) Any movable property

(ii) It is to be noted that drawings and design in paper form are goods.

9. India :-

India means and includes territorial water of India.

Territorial water of India extend to 12 nautical miles from the base line

[1 Nautical mile = 1.852 kilometres]

10. Transit of Goods :-

It means good which can be transited through Indian post without payment of duty

11. Transshipment of goods :-

It means goods which are shifted to another vessel. It can be done for any reason what so ever.

12. Person in charge :-

It means the following people :-

- (a) master in case of vessel
- (b) Commander or pilot in case of aircraft
- (c) Conductor or guard in case of train
- (d) Driver in case of vehicle
- (e) Person in charge for any other conveyance

13. High Seas:-

It is an area beyond 200 nautical miles from the base line. All countries have equal right in this area.

14. Exclusive Economic Zone:-

It is an area extending to 200 nautical miles from the base line. It includes territorial waters and further stretch as well.

15. Domestic Tariff Area (DTA):-

It means whole of India excluding following 2 things:-

(a) SEZ

(b) 100% Export oriented unit [EOU]

Taxable event for Imported goods:-

Taxable event means the incident upon happening of which tax liability arises. In case of import, date on which goods cross the custom barrier is a taxable event.

Taxable event for Exported Goods:-

In case of export, taxable event is the date on which entry outward is granted and loading takes place.

Goods Imported into India after export :-

If some sales were done to outside India as export, it may come back as sales returns to India as import. It will not attract import duty, only the export incentive given earlier will be forfeited.

Goods sent outside India for repair and coming back to India after repair:-

If some goods are exported outside India for repair and they are coming back to India, no import duty will be levied upon their arrival into India subject to following conditions:-

- (a) Items must be in the same form.
- (b) Ownership must not change
- (c) Re-import must be done within 3 years from the date of export, this 3 years can be extended to 5 years.

Goods exported, coming back for repair and re-export after repair:-

When the exported goods are coming to India for repairs, this will not attract import duty subject to following conditions:-

- (a) Re-import for processes other than repair such as re-processing, refining and re-making should be done within one (1) year from the date of import.

(b) Re-import for repairs should be done within 7 years from the date of export, it will be 6 years in case of Nepal.

(c) Re-export after repairs or re-processing should be done within 6 months, which can be further extended to 1 year.

Pilferage :-

1. It means theft.
2. If this happens before custom clearance no duty need to be paid.
3. It does not include sample consumption and destruction.
4. Goods which suffer Pilferage are exempted from duty.
5. Exemption does not apply on warehouse goods.

Derelict, Jet sam, Floatsam, wreck brought to Indian or coming to India :-

1. Derelict means ship considered to be useless and abandoned in sea without any hope.
2. Jet sam means goods thrown into sea to reduce the weight of ship and the goods sink into the sea.

(3) float sam means goods thrown into the sea to reduce the weight of the ship and the goods continue to float.

4. wreck means ship cast into seashore after getting damage heavily by tied.

5. In all these cases import duty will be levied.

Abatement of Duty :-

(1) Abatement generally happens on damages and deterioration

(2) Abatement shall be provided on proportionate basis

(3) Damage and Deterioration should not be due to any will full act.

Relinquishment :-

1. Importer or the owner can Relinquish his title on the imported goods

2. Relinquishment must be done subject to following conditions:-

(a) Custom clearance should be pending whether with warehouse or without warehouse

(b) Goods must not constitute an offense

(c) Reason of Relinquishment must be any of the following:-

- (i) Goods are not matching the specifications
- (ii) Goods are damaged
- (iii) Goods are deteriorated.



Chapter-2 Types of Duties

1. Basically custom duty is of 2 categories:-

- (a) Import duty
- (b) Export duty

2. Export duty has no further sub. categories and is levied on the following items:-

- (a) De oiled vice brand oil cakes = 10%
- (b) Luggage leather = 25%
- (c) Leather = 15%
- (d) snake skins and wool fur lamb skins = 10%
- (e) ferrous waste and scrap = 15%

3. Import duties has following sub categories

(a) Basic custom duties

- (i) Basic custom duty is the primary level of import duty
- (ii) It carries 2 types of rates which are std. and preferential
- (iii) Std. rate of Basic custom duty is common for every import.
- (iv) Preferential rate of basic custom duty applies only when all the following 3 conditions are fulfilled:-

(a) It must be claimed by importer, it is not automatic

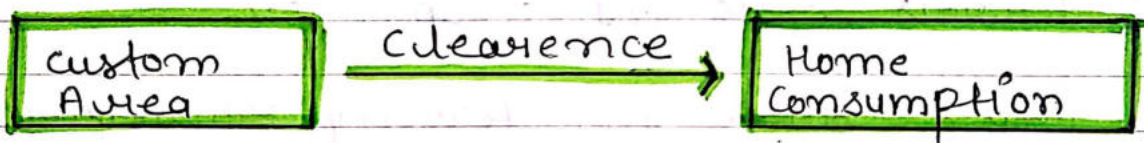
(b) Country of origin of imported goods must be in notified area.

(c) Such goods must be manufactured in notified area.

(d) It is quite nature that std. rate is

(vi) ^{Important} Basic custom duty as applicable will be determined as per the following rules:-

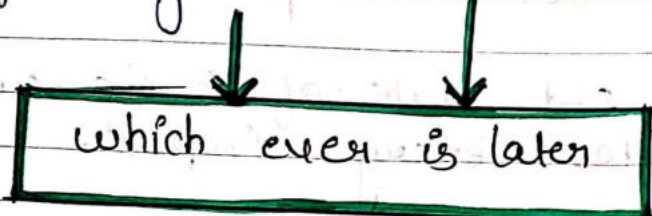
Rule no - 1



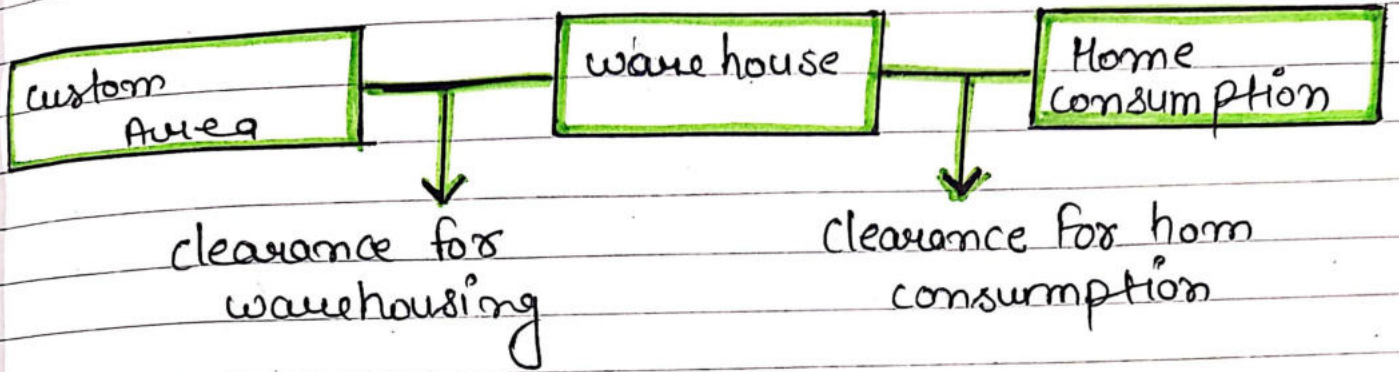
In case of goods cleared directly for home consumption, rate of Basic custom duty shall be as follows.

Option 1. Rate on date of Bill of Entry

Option 2. Rate on date of Entry Inward



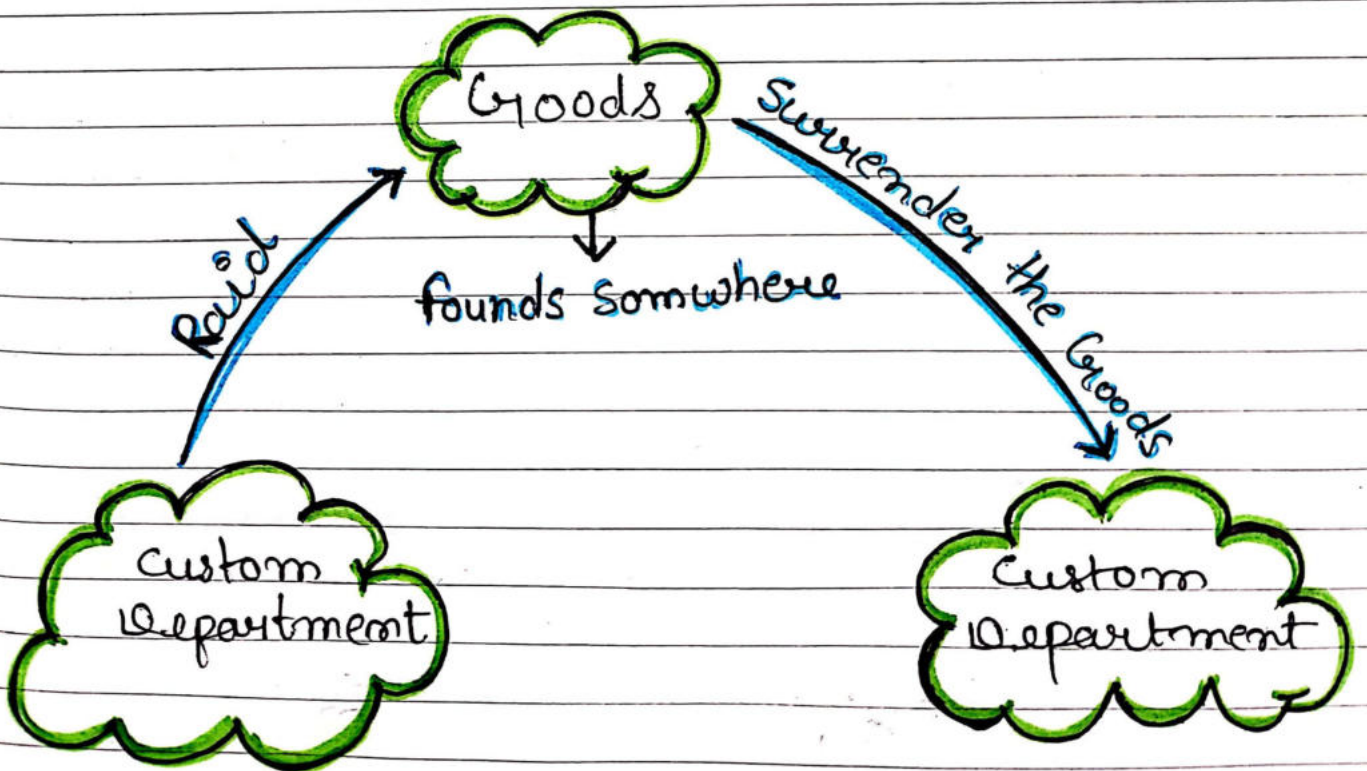
Rule no - 2



In case of goods cleared first for warehousing and then for home consumption, basic custom duty shall be as follows: -

⇒ Rate on date of clearance for Home consumption ⇒ Date of Bill of Entry

Rule no - 3



whenever goods are found whether because of void by department or because of surrender by assessee, rate on the date of payment of duty will be applicable.

(b) Agriculture Infrastructure Development Cess (AIDC)

(i) It is a new cess introduced in finance act 2021

(ii) It is applicable only on specific items such as apple, chick peas, lentils, urea, silver and gold.

(iii) It is important to note that value on which AIDC is calculated is the same on which basic custom duty is calculated.

(c) Social welfare surcharge

(i) It is the additional tax levied on all items

(ii) It is calculated @ 10% as a std. rate. However it will be 3% for gold, silver and platinum

(iii) It is calculated on the value of basic custom duty and AIDC together

(d) I G S T

- (i) If I G S T is to be calculated on any thing it is calculated on value of supply after adding all other taxes and duties.
- (ii) It means I G S T will be calculated on the aggregate of taxable value and all other kind of taxes and duties like basic custom Duty, A I D C and social welfare surcharge.

(e) Protective duty :-

- (i) It is not a regular duty.
- (ii) It is levied temporarily by Govt. in order to protect domestic industry.
- (iii) It does not have specific rate or applicability.

(g) Safeguard Duty

- (i) It is an additional duty to safeguard domestic industry.
- (ii) It can be provisional safeguard duty or permanent safeguard duty.

(iii) Safeguarded duty of provisional nature can be levied for maximum 200 days.

(iv) permanent safeguard duty can be applied from day 1 as it can be on extension of provisional safeguard duty.

(v) Safeguard duty will not be applicable on the following category of **Important** import

(a) Articles originating from a developing country, so long as the share of imports of that article from that country does not exceed 3% of the total imports of that article into India.

(b) Articles originating from more than one developing country, so long as the aggregate of imports from developing countries each with less than 3% import share taken together does not exceed 9% of the total imports of that article into India.

(c) Articles imported by a 100% EOU or units in a Free Trade zone or special economic zone unless the duty is specifically made applicable on them.

(h) Anti Dumping Duty (ADD)

(i) Dumping means exporting goods at less than the normal value from a country to India.

(ii) In order to protect domestic industry, CG imposes additional duty on goods which have been sent to India at lower value.

(iii) This additional duty will be equal to the amount of decrease done at the time of dumping.

•• Note 1 :- List of Taxes and Duties :-

Under Custom

Under GST

1. BCD (Always)
2. ATDS (If specified)
3. SWS (Always)
4. ADD (If specified)
5. Safeguard Duty (If specified)
6. Protective Duty (If specified)

1. IGST (Always)
2. GST Compensation cess (If specified)

•• Note 2 :- Total custom duty refers to custom duty including CGST.



Chapter - 3 Valuation Under Customs

Calculation of Assessable Value:-

1. Assessable value is that value on which custom duty will be calculated
2. Generally transaction value is the assessable value, which will be declared by assessee and accepted by custom authority.
3. Department will accept the declared transaction value only if the following conditions are fulfilled:-
 - (a) seller price must be sole consideration
 - (b) seller should not have any control on imported goods
 - (c) sale proceeds should not be shared with exporter by the importer after sale
 - (d) Buyer and seller should not be related.
4. It means generally transaction value and assessable are same but the same must be accepted by department.
5. If the department does not accept transaction value as assessable value, rules are adopted to perform the value valuation.

(6) Various valuation rules are as follows:-

(a) **Open market valuation:** - If the importer and exporter are related to each other, open market value shall be adopted and not the transaction value.

(b) **Valuation as per Identical goods:** - If open market valuation of that product goods shall be taken identical goods means same goods, coming from same country, coming from same manufacturer, open market value of identical good shall be taken as follows:-

1. If single value is given, take that value.

2. If multiple prices are given, take the lowest one.

3. If different price levels are given, take that price at which highest quantity is sold.

(c) **Valuation as per similar goods:** - If identical goods are unavailable, valuation shall be done as per similar goods, which will have same characteristics and same functions.

(d) Computation method of Valuation:— It is a method of either calculated by ~~adding~~ post import expense or by adding post import expense.

(e) All Inclusive Valuation:— This method is adopted when separate amt. of Insurance and freight are not given. This method is applied as follows:—

$$\left[\begin{array}{l} \text{Insurance} = \text{CIF} \times \frac{1.125}{101.125} \\ \text{Freight} = \text{CIF} \times \frac{20}{120} \\ \text{CIF} - \text{Insurance} - \text{Freight} = \text{FOB} \end{array} \right]$$

(f) Best Judgment method of Valuation or residual method of valuation:— When no other method can apply, valuation is done as per the best judgment done by custom officer, which should not be beyond normal value.

⇒ General Rules of Valuation:—

1. Valuation can be done either in Indian currency or foreign currency.
2. Exchange rate given by RBI shall always be ignored.

(3) Exchange rate given by CBIC shall be adopted

(4) If CBIC has given just one rate, it will be adopted.

(5) If multiple rates are given by CBIC, rate applicable on submission of entry shall be adopted.

(6) For the purpose of Import CIF value is assessable value and for the purpose of Export, FOB value is assessable value.

C I F = Cost Insurance and freight

FOB = Free on Board

7. FOB is calculated as follows:-

Ex factory Price in Exporter's country $\times \times \leftarrow$

+ Add:- Carriage / freight / Insurance upto $\times \times$ point of Exporter country

+ Add:- Loading charges on ship / aircraft $\times \times$ in Exporter country.

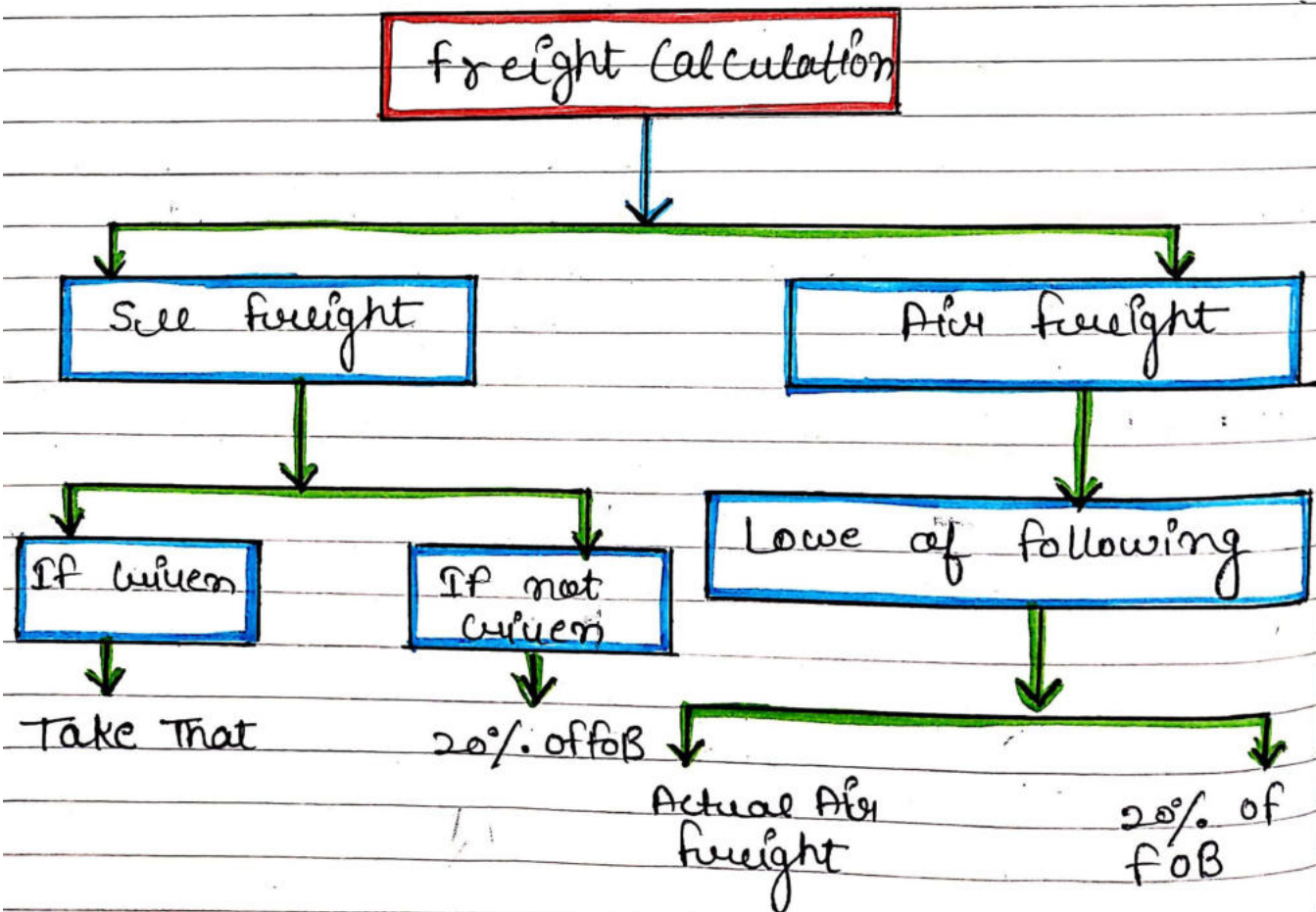
8. CIF is calculated as follows:-

FOB Value	XX
Add:- Import Expenses	XX
<hr/>	
FOB for custom	

Add:- Insurance	XX
Freight	XX
<hr/>	
<u>CIF</u>	

9. Insurance and freight are compulsory expenses without which CIF cannot be arrived at.

10. Freight calculation is done as follows:-



11. Insurance computation is done as follows:-

- (a) If actual insurance amt. is given, take that.
- (b) If actual insurance amt. is not give take 1.125 % of FOB

12. Following is the basic formulae of computation of assessable value:-

FOB value $\alpha \alpha$

Add:- 1. Commission but not buying commission.

2. Packing cost excluding durable and returnable packing.

3. Engineering, design and development done outside India.

4. Royalty and license fee.

5. Value of subsequent resale.

6. Value of material supplied free of cost

FOB as Per custom

Add:- \Rightarrow freight
 \rightarrow Insurance
 \rightarrow Demurrage/
Lighterage/
Barge

CIF

Export Valuation

1. In case of Export, assessable value shall be F.O.B.
2. Export duty rate applicable on the date of Entry outward shall be taken
3. Exchange rate prescribed by CBIC as on the date of bill of Export or shipping bill shall be taken.
4. Social welfare surcharge does not apply on Export duty.



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