

CA/CMA/CS : FINAL

INDIRECT TAXATION

CUSTOM LAWS

Compact Book

By CA Rajkumar

website : www.carajkumar.com | 9810012161, 9810013861



1 Definition

- 1) **ASSESSMENT** - "Assessment" means, Determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force, with reference to-
 - ⊖ The classification of such goods
 - ⊖ The value of such goods
 - ⊖ Exemption or concession of duty, tax, cess or any other sum,
 - ⊖ The quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;
 - ⊖ The origin of such goods
 - ⊖ Any other specific factor which affects the duty, tax, cess or any other sum payable on such goods and

Includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil.
- 2) **INDIA** - "India" includes the territorial waters of India.
- 3) **INDIAN TERRITORIAL WATER** - Means: that position of sea which is adjacent to the shores of a country, territorial water extend **upto 12 nautical miles** from the base line on the coast of India and Include: any bay, gulf, harbour, creek or tidal river (1 Nautical mile = 1.1515 Miles or 1.853 kms)
- 4) **INDIAN CUSTOMS WATERS** - "Indian customs waters" 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 Zones Act, 1976
 - ⊖ And includes any bay, gulf, harbour, creek or tidal river.
- 5) **IMPORT** - "Import", (with its grammatical variations and cognate expression,) Means: bringing into India from a place outside India.
- 6) **STORES** - Means: Goods for use in a vessel or aircraft, and Includes: fuel and spare parts and other articles or equipment, whether or not for immediate fitting.
- 7) **GOODS** - "Goods" includes: -
 - (a) Vessels, aircrafts and vehicles;
 - (b) Stores;
 - (c) Baggage;
 - (d) Currency and negotiable instruments; and
 - (e) Any other kind of movable property.
- 8) **IMPORTED GOODS** - "Imported goods" means any goods brought into India from a place outside India but does not include goods, which have been cleared for home consumption.

- 9) **COASTAL GOODS** - "Coastal goods" means: goods, other than imported goods, transported in a vessel, from one port in India to another port in India.
- 10) **DUTIABLE GOODS** - "Dutiable goods" means: Any goods which are chargeable to duty and on which duty has not been paid.
- 11) **PROHIBITED GOODS** - "Prohibited goods" Means:- Any goods, the import or export of which is subject to any prohibition under this Act or any other law for the time being in force. Excluding Any such goods in respect of which, specified conditions have been complied with.
- 12) **IMPORTER** - "Importer", in relation to any goods, at any time, between their importation and the time when they are cleared for home consumption, and includes, any owner, beneficial owner or any person holding himself out to be the importer.
- 13) **EXPORT** - "Export", (with it's grammatical variations and cognate expressions), means: taking out to a place outside India.
- 14) **EXPORT GOODS** - "Export goods" means: Any goods, which are to be taken out of India to a place outside India.
- 15) **EXPORTER** - "Exporter", in relation to any goods, at any time between their entry for export and time when they are exported, Includes Any Owner, Beneficial Owner" or any person holding himself out to be the exporter.
- 16) **CONVEYANCE** - "Conveyance" includes a Vessel, an Aircraft and a Vehicle.
- 17) **VEHICLE** - "Vehicle" means: Conveyance of any kind used on land and includes a railway vehicle.
- 18) **FOREIGN GOING VESSEL / AIRCRAFT** - "Foreign-going vessel or aircraft" means - any vessel or aircraft for the time being engaged in the carriage of goods or passengers, between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, And includes
- (i) Any naval Vessel of a foreign Government, taking part in any naval exercises.
 - (ii) Any Vessel engaged in Fishing or Any Other Operations (eg. Oil rigs) OUTSIDE THE TWI ;
 - (iii) Any Vessel or Aircraft, proceeding to a place outside India FOR ANY PURPOSE.
- 19) **PERSON IN CHARGE** - "Person-In-Charge" means,
- ⊕ In relation to a vessel ---- the master of the vessel;
 - ⊕ In relation to an aircraft ---- the commander or pilot-in-charge of the aircraft;
 - ⊕ In relation to a railway train ---- the conductor, guard or other person having the chief direction of the train;
 - ⊕ In relation to any other conveyance ---- the driver or other person-in-charge of the conveyance.
- 20) **SMUGGLING** - "Smuggling", in relation to any goods, Means: Any **ACT OR OMISSION** which will render such goods liable to confiscation under section 111 or section 113.
Under section 111 provisions have been made for confiscation of goods in case of improper importation and Under section 113 provisions have been made for confiscation of goods in case of improper exportation.
- 21) **CUSTOMS AREA** - "Means: The area of a Customs Station; And includes: Any area in which

imported goods or export goods are ordinarily kept before clearance by Customs Authorities. A warehouse in which dutiable imported goods are kept u/s 59 of Customs Act is under the control of customs authorities. In this sense, it is an extension of customs area.

22) CUSTOMS STATION - "Customs station" means:

- ⊖ Any Customs Port,
- ⊖ Customs Airport,
- ⊖ International Courier Terminal,
- ⊖ Foreign post office or
- ⊖ Land Customs Station.

"International courier terminal" means any place appointed under section 7(1) to be an international courier terminal. "Foreign Post Office" means any post office appointed under section 7(1) to be a foreign post office.

23) Customs port - "Customs port" means: any port appointed (by CBIC) under sec 7(a), to be a customs port and includes a place appointed (by CBIC) under sec 7(aa), to be an inland container depot.

24) Customs Airport - Means: any airport appointed (by CBIC) under section 7(a), to be a customs airport, and Includes: a place appointed under section 7 (aa) to be an air freight station.

25) Land Customs Station - "Land customs station" means any place appointed under sec 7(b), to be a land customs station.

26) TARIFF VALUE - Tariff value in relation to any goods, means: the tariff value fixed in respect thereof under section 14 (2)

27) ENTRY - Entry: In relation to goods - Means- An entry made in a bill of entry, shipping bill or bill of export and Includes the entry made under the regulations made under section 84.

28) Arrival manifest or import manifest - Arrival manifest or import manifest" or "import report" means the manifest or report required to be delivered under section 30;

29) MARKET PRICE - In relation to any goods, means: the wholesale price of the goods in the ordinary course of trade in India.

2

Levy & Exemption/ Remission/Abatements

LEVY OF CUSTOM DUTY

CONSTITUTION OF INDIA: Union List; Entry No. 83 - Duties of Customs including Export Duties.

Section: 12 - BASIC CUSTOMS DUTY (In case of Import and Export) :-

- (1) The duties of customs [BCD] shall be levied at such rates as may be specified under the Customs Tariff Act, 1975, on goods imported into, or exported from, India. [NOTE: ALL OTHER DUTIES like CVD 3(1), 3(5) ARE IMPOSED UNDER CTA, 1975]
- (2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government in the same way as they applied on Non-government.

TAXABLE EVENT (In case of Import):-

THE TAXABLE EVENT: is the time at which:

- The goods REACH AT THE CUSTOMS BARRIER and
- The BILL OF ENTRY for HOME CONSUMPTION is filed u/s 46(W) OR 68(G).

TAXABLE EVENT (In case of Export):-

THE TAXABLE EVENT: is the time at which

- Shipping bill / Bill of Export filed
- Export of goods i.e. Crossed TWI

REMISSION

SECTION 13:- NO DUTY ON PILFERED GOODS BY IMPORTER

If any imported goods are pilfered,

- ⇒ AFTER THE UNLOADING thereof and BEFORE THE PROPER OFFICER HAS MADE AN ORDER FOR CLEARANCE for home consumption or deposit in a warehouse
- ⇒ the importer shall not be liable to pay the duty leviable on such goods.

What If :-

- ⇒ Goods are restored back - Liable to import duty
- ⇒ Assessee does not examine the goods before payment of import duty, later he found some pilferage - Import duty shall be refunded. (Sialkot Industrial Corporation (Del Hc))
- ⇒ Pilferage is raised after clearance order u/s 47 but before taking actual delivery - Not eligible for benefit under section 13. (Saw Pipes Ltd)

SECTION 23(1) : REMISSION OF DUTY ON GOODS LOST, DESTROYED OR ABANDONED

If any imported goods have been lost or destroyed, **AT ANY TIME BEFORE CLEARANCE FOR HOME CONSUMPTION** then AC/ DC shall remit the duty on such goods, Provided that the loss should not be in the nature of pilferage

Differences Between Section 13 And Section 23(1)

Section 13	Section 23(1)
Section 13 deals with pilferage ONLY	Section 23(1) deals with loss or destruction of goods except pilferage. (may be due to fire, accident etc.)
No duty is payable at all under section 13, but liability of duty revises if goods are restored. Since the normal practice is to inspect the goods before payment of duty.	Duty is payable under Section 23(1), but it is remitted by Assistant Commissioner of Customs. Thus, unless remitted, duty has to be paid under Section 23(1)
Pilferage should be before order for clearance is made.	Loss or destruction can be any-time before clearance.
Section 13 is not applicable for warehoused goods.	Section 23(1) is applicable for warehouse goods also

SECTION 70: ALLOWANCE IN RESPECT OF VOLATILE GOODS

When any Notified warehoused goods (e.g. aviation fuel, motor spirit, menthol) are at the time of delivery from a warehouse found to be deficient in quantity on account of natural loss, the AC/DC may remit the duty on such deficiency.

SECTION 21: GOODS DERELICT, WRECK, JETSAM ETC

All goods derelict, jetsam, flotsam and wreck, brought or coming into India, shall be dealt with as if, they were imported into India,

RELINQUISHMENT OF TITLE TO THE GOODS**1. RELINQUISHMENT AT PORT [Sec 23 (2)]:-**

The owner of any imported goods may at any time-

- **Before an order for clearance of goods for home consumption** or an order for permitting the **deposit of goods in a warehouse**, has been made
- relinquish his title to the goods

[Smuggled Goods: No relinquishment allowed]

2. RELINQUISHMENT AT WAREHOUSE [Proviso to section 68]:-

The owner of any imported goods may at any time-

- **before an order for clearance of goods for home consumption** has been made

- relinquish his title to the goods
[Smuggled Goods: No relinquishment allowed]

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

On the importation of any goods, any duty has been paid shall be refunded @ 100% subject to following conditions,

- ⇒ The goods are found to be **defective** or **not as per specification** agreed upon; and
- ⇒ The Export goods are **identified** to the satisfaction of the AC/DC as the goods which were imported; and
- ⇒ The importer does not claim **duty drawback**.

And the importer

- ⇒ **Exported the same goods**
- ⇒ **Relinquishes his title to the goods and abandons them**
- ⇒ Such goods are **destroyed** or rendered commercially valueless in the presence of the proper officer

Within **(30 days + Extension@ max. 3 Months)** from the date of C/O U/S : 47(1)

Note: Time limit for filing Refund Application : 6 Months from the date of- action

Note : In following cases benefit under section 26A shall not be allowed:

- ⇒ Where goods are cleared indirectly i.e. removed through warehouse.
- ⇒ In case of perishable / expired goods.
- ⇒ In case of used/repaired goods unless deserving cases.

ABATEMENT

SECTION 22: ABATEMENT OF DUTY ON DAMAGED OR DETERIORATED GOODS

The value shall be ascertained by the proper officer or the proper officer may be sell such goods by **Public auction** or by tender then the **Gross sale proceeds** shall be deemed to be the value of such goods.

Duty on damaged goods=-

Duty payable before damage x (Value of goods after damage/Value of goods before damage)

{i.e. Proportionately, JITNI VALUE UTNE PAR DUTY}

Condition to avail benefit: the damage should not have been caused by, any wilful act, negligence or default of the owner or his employee or his agent.

Time of damage:

- ⇒ Before or during the course of their unloading. **(DAMAGE + DETERIORATE)**
- ⇒ In case of warehoused goods - When the goods are **DAMAGED** before their actual clearance from such warehouse
- ⇒ Any imported goods other than warehoused goods - When the goods are **DAMAGED** after unloading but before examination U/S 17.

SECTION 24: DENATURING AND MUTILATION- POWER OF C. G. TO MAKE RULES (ABATED RATE)

The CG may make rules,

- for permitting, at the request of the owner,
- the denaturing or mutilation of imported goods,
- Which are ordinarily used for more than one purpose
- So as to render them unfit for some purposes;

& such goods shall be chargeable to duty at such rate, as if goods had been imported in the denatured or mutilated form.

(Remember the example of Alcohol which can be used for industrial purpose as well as human consumption attracts high ID whereas industrial alcohol attracts low ID)

EXEMPTION

SECTION 25: POWER TO GRANT EXEMPTION FROM DUTY

- ⇒ The CG may, exempt generally either absolutely or subject to such conditions, notified goods from the whole or any part of duty of customs leviable thereon.
- ⇒ The CG, by special order in each case, exempt from the payment of duty, any goods on which duty is leviable.
- ⇒ The CG may, for clarifying the scope or applicability of any notification or order issued, insert an explanation, at any time within 1 year of issue of original notification or order and such explanation shall have effect Retrospectively.
- ⇒ Every notification issued shall, come into force on the date of its issue by the CG for publication in the Official Gazette; or specific date as the case may be.
- ⇒ No duty shall be collected if the amount of duty leviable is Rs.100 or less.

SECTION 25A: INWARD PROCESSING OF GOODS

Where Goods are imported for the purposes of repair, further processing or manufacture, CG may exempt the duty on such, subject to conditions

- ⇒ The goods shall be re-exported after such repair etc **within a period of 1 year** from the date of clearance order.
- ⇒ The imported goods are identifiable in the export goods; and
- ⇒ Such other conditions as may be specified in that notification (Bond etc.)

SECTION 25B: OUTWARD PROCESSING OF GOODS

Where Goods are Re-imported for the purposes of repair, further processing or manufacture, CG may exempt the duty on such, subject to conditions

- ⇒ The goods shall be re-imported after such repair etc **within a period of 1 year** from the date of clearance order for export.
- ⇒ The exported goods are identifiable in the re-imported goods; and

- ⇒ Such other conditions as may be specified in that notification.

SECTION 26: REFUND OF EXPORT DUTY

If export duty has been paid on exportation, such duty shall be refunded to the person by whom it was paid, if:-

- ⇒ The goods are returned to same person and
- ⇒ The goods are re-imported within one year from the date of exportation and
- ⇒ An application for refund of such duty is made within 6 months from the date on which the proper officer makes an order for the clearance of the goods for home consumption.

3

Customs (IGCRD) Rules, 2022

Section 29/30/31/32 33/34



B

Note-1 : There is an Exemption issued by Govt., if any person use VITAMINS for manufacturing of animal feeds- RATE of IMPORT DUTY will be 4% instead of 16% **Subject to prescribed procedure** : Such Exemption is : Conditional i.e. condition of ENDUSE & issued u/s 25.

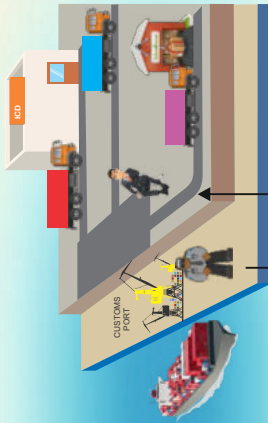
AV of Vitamins - 1,00,000
STANDARD ID - 16,000
Concessional ID - 4000 concession / exemption / benefit = 12,000

Note : 2 : If Vitamins are not used (any reason) in manufacturing of Animal feed or MISUSED Then Prop. ID:- to be paid with interest @ 15% P.A. from the date of import till the date of payment.

Note : 3 - Where importer (Mr. X) Returns Imported material (fully/partially) then the need not to Pay. diff. amount with interest rather he can claim refund of import duty paid earlier of [Rs. 4000] @ 100% under Section 26A or @ 98% under section: 74(1)

Provided that the value of such goods for re-export shall not be less than the value of the said goods at the time of import.

Mumbai Custom PORT



A

Common Portal
(www.icegate.gov.in)

- **One** time info. [IGCR-1] to Portal after acceptance IIN generated
- Name, address, Description, value etc. of Goods, E/N Particulars
- Bond Execution,
- Origin Port, Destination Port MCP (INDIA)
- End USE = Animal feed.
- Quantity 100 Unit,
- Goods to be used at his/JW Premises
- Details of End use Recipient [If any] [Above info may be amended at later also]

C

File Bill of entry + **IIN + BOND DETAILS** [Bond will be debited] Along with all other Documents I.D. = 100000*4% = 4000/-

Mr. X: Manufacturer/Service Provider

(Input) (Final Product)
Vitamins to Animal feed

EXEMPTED

D Clearance order U/S 47(1)[which is called date of import] and now take **Delivery of goods**

Now the Question is this: How to check for END USE?

*In case of non/short receipts of goods-intimate immediately on portal [IGCR-2]

*Records @ Bill of Entry wise: IMPORT-USE-DESTROY-MISUSE CLOSING STOCK, And Transfer to JOB work, local clearance, export etc.

* File monthly statement by 10th of next month on common portal with Above records details. [IGCR-3]

Imported goods can be transferred to job worker [except gems and jewellery sector] and subject to specified procedure which is as follows...

1. Importer send goods to job worker under an invoice, e way bill.
2. Importer shall maintain the records of goods sent to job worker during the month and show it in monthly statement.
3. Job worker shall maintain record as follows..
 - received, produced/ consumed / and waste quantity of goods.
 - on demand produce the records before jurisdictional officer.
4. Maximum period of job work will be 6 months from the date of invoice.
5. After the job work-job worker will transfer the goods to importer or another job worker as per the instruction given by importer under cover of invoice, e way bill.
6. In case of cheating provision of rule 11 and 12 shall apply on importer.

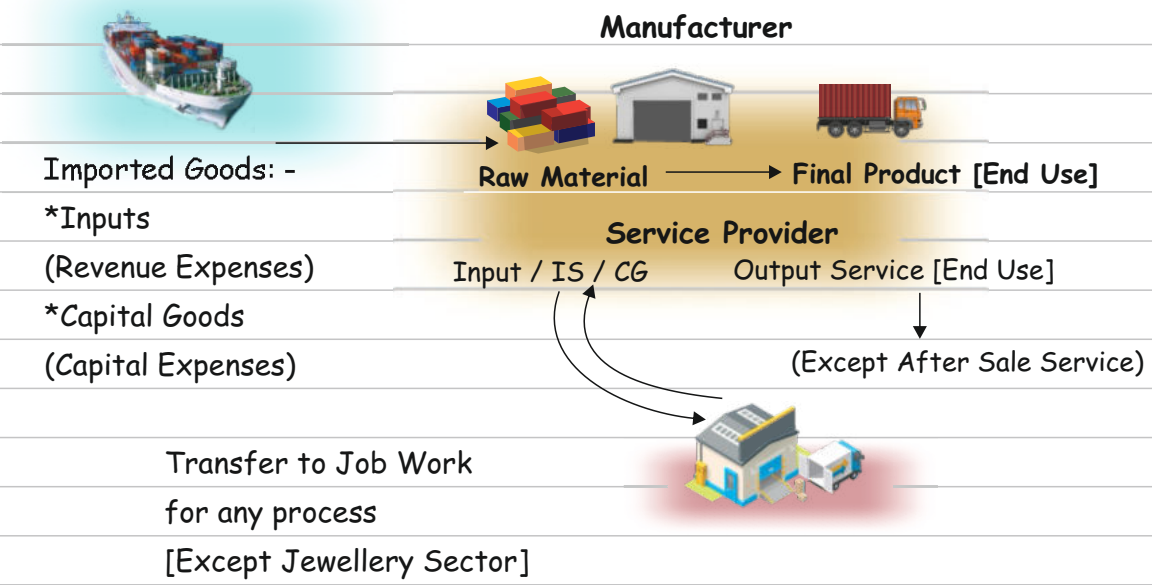
Note: above procedure shall apply mutatis mutandis-
 -in case unit transfer of imported goods.
 -in case recipient

An Analysis

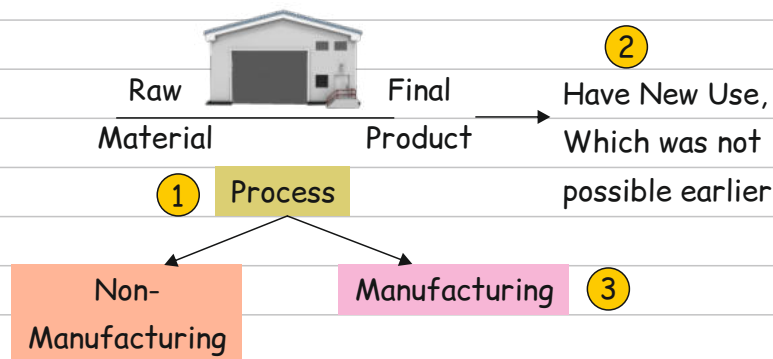
Definitions:

- * Act = Custom Act, 1962
- * Capital Goods = Capital Expenditure (for goods) i.e., which is capitalised in the books of account
- * Exemption Notification = "End Used" based E/N issued u/s 25
- * Information = An information Given by the importer to avail such exemption.
- * **Specified End Use**" means dealing with the goods imported in a manner specified in the notification and includes supply to the intended person and the term "end use recipient" shall be construed accordingly.

Importer

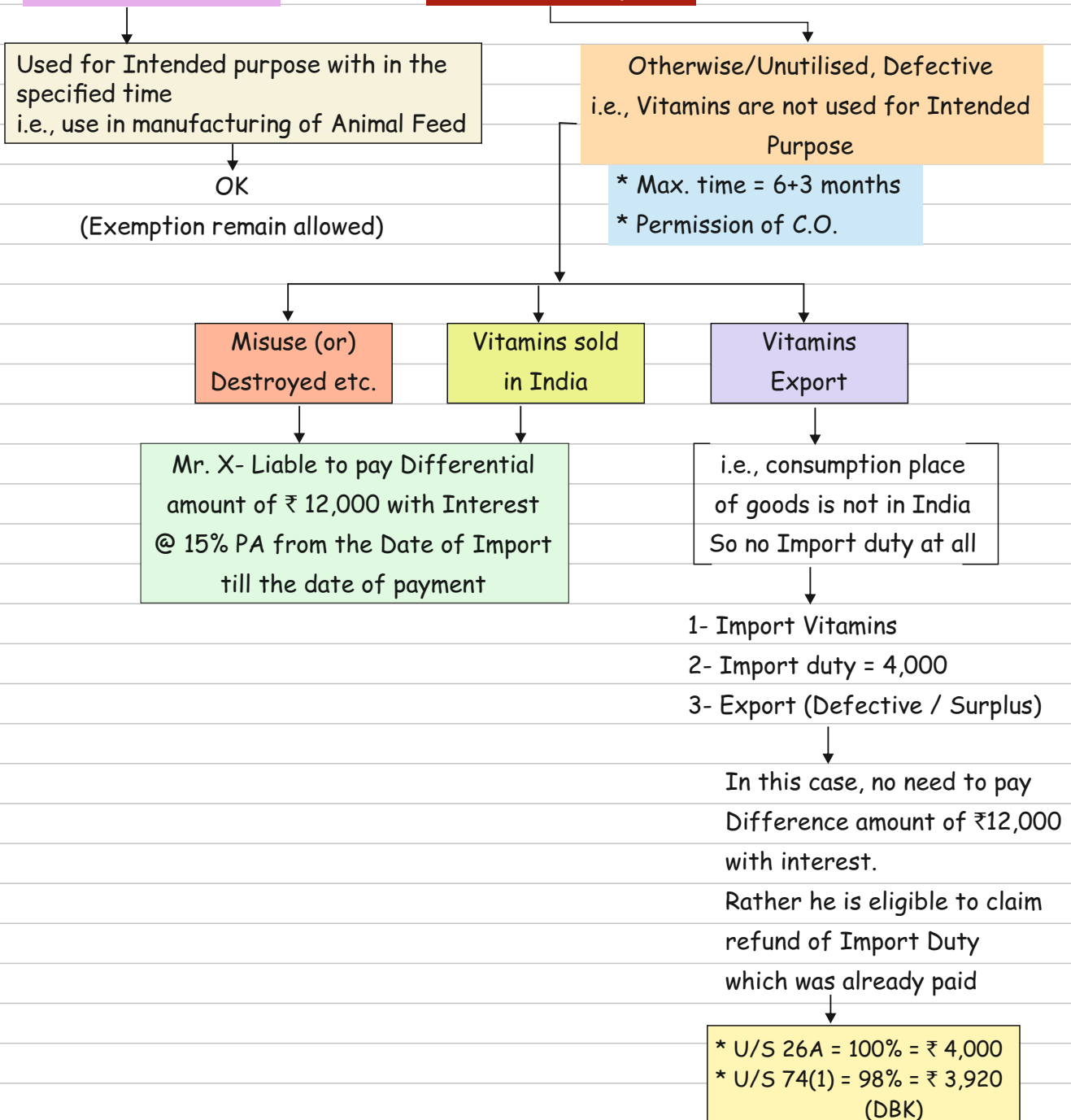


Manufacture:



Question / Answer :-

Vitamins Import



Question / Answer :-

Proportionate
Input in the
ratio of
Quantity

- 1) 1,000 kg Material Import: 1/1/20
- 2) Import Duty : 16% - After Exemption : 4%
- 3) Assessable Value = ₹1,00,000
- 4) Treatment of 1000 kg Raw Material-
 - 90% 900kg- Use for Intended Purpose
 - 5% 50kg- Re Export
 - 3% 30kg- Local Sale
 - 2% 20kg- Destroy
- 5) Payment Date :10/04/20

Ans: - 900kg - Use for Intended purpose
Exemptions remain allowed

-50kg (5%) Re - Export

Claim Refund

-U/S 26A = ₹4,000 × 5% = ₹ 200 (100%) (OR)

-U/S 74(1) = ₹ 4,000 × 5% = ₹ 200 (98%)= ₹ 196

5% - Balance 50kg (30kg + 20kg): Need to pay differential amount

$$= (12,000 \times 5\%) = ₹600$$

$$= ₹ 600 \times 15 \times \frac{1}{1/20} \text{ to } 10/4/20$$

$$\frac{100}{365}$$

$$= ₹ 600 \times 15 \times \frac{100}{365} = 24.66$$

$$\frac{100}{366}$$

$$= \text{i.e., } 600 + 25 = ₹ 625$$

Capital Goods

Question

Life = 10 years

For Capital Goods
Make it
proportionally
@ Life-wise

The date on which
capital goods come
into use [1/1/2022]
i.e. , Put to use

The date of
clearance of Capital
Goods
[20/12/2023]

In 8 Qtrs.

i.e. 2 year use for
specified purpose
later on sold
out (life 10 year)

Value = ₹ 1,00,000
Standard Rate = 16%
Concessional Rate = 4%

Exemption = 12000/-
4000 paid

Year No.	Depreciation for each quarter or part thereof	Annual Rate
Year 1	4%	16%
Year 2	3%	12%
Year 3	3%	12%
Year 4	2.5%	10%
Year 5	2.5%	10%
Year 6	2%	8%
Year 7	2%	8%
Year 8	2%	8%
Year 9	2%	8%
Year 10	2%	8%
		100%

4% - 3% - 2.5% - 2%

Quarter :

J+F+M

A+M+J

J + A + S

O+ N + D

31st March - 1 April = 2 quarter

Answer :

Value of Cap. Goods	= 100000
(-) Dep. for I year (4x3)	= 16%
(-) Dep for II year (4x3)	= 12%
Balance Value	= 72000
Proportion Input Duty	= 16000 × 72000 = 11520
(i.e. Agar full exemption Mili hoti to 11,520 Refund Karna Hota)	10000

- ID already paid

(4000) to be paid

7520

4 Import-Export Procedure

SECTION 29: ARRIVAL OF VESSELS AND AIRCRAFTS IN INDIA

(1) Vessel/Aircraft/Vehicle - Need to come at custom station.

Any goods imported by non-custom land station then the goods shall be liable to confiscation.

[Section - 111]

(2) In case of emergency: may allowed to go @ non customs station.

[like - compelled by accident, stress of weather or other unavoidable cause]

(3) Obligation of person in charge.

- Inform to C.O./Police Officer about arrival & Produce LOG BOOK.
- Not to allow unloading of goods & passenger & cannot go beyond nearby area. However, in case of preservation of life/property: - BHAAGO.
- And comply with directions of officer.

SECTION 30: DELIVERY OF ARRIVAL MANIFEST OR IMPORT MANIFEST OR IMPORT REPORT

(1) **WHO:** Import Manifest /I.R. given by person in charge or by agent on behalf of person in charge.

(2) **WHEN:** Import Manifest need to be submitted before arrival at port/Air- port & I.R. before arrival (within 12 hours).

(3) **HOW:** Import Manifest - Electronically or Otherwise
 Import Report - Electronic Not Mandatory

(4) **BELATED :** If no sufficient cause = person in charge liable to pay penalty upto Rs 50,000/-

(5) **REVISED :** Yes possible, If there is no fraudulent intention

Contents of Arrival Manifest or Import Manifest or Import Report:-

1. It has to be in four parts
 - i) A general declaration : [WHO, WHEN, WHERE]
 - ii) A cargo declaration : [WHAT] **[separately mention arms, ammunition, explosives, gold and silver etc.]**
 - iii) vessel store list
 - iv) A list of private property in the possession of the crew.
2. It should be delivered in Duplicate.
3. It should cover all goods carried by the conveyance.

SECTION 30A: PASSENGER AND CREW ARRIVAL MANIFEST AND PASSENGER NAME RECORD INFORMATION

(1) Person in charge/Agent need to submit a Summary Sheet /Detailed Sheet of passengers to customs.

- (2) In case of Vessel/Aircraft - **BEFORE** arrival at port /airport.
- (3) In case of vehicle - **UPON** arrival
- (4) Belated : & no sufficient cause : then penalty upto Rs 50,000/-

SECTION 31: IMPORTED GOODS NOT TO BE UNLOADED FROM VESSEL UNTIL ENTRY INWARDS GRANTED

- (1) First of all need to submit Import Manifest /I.R. After that entry inward granted
- (2) It is applicable only for vessel
- (3) And in vessel not applicable for M.B.A.H.P. [Mail, Baggage, Animals, hazardous goods, perishable goods]

SECTION 32: IMPORTED GOODS NOT TO BE UNLOADED UNLESS MENTIONED IN IMPORT MANIFEST OR IMPORT REPORT

The imported goods cannot be unloaded, unless they are mentioned in the arrival manifest or import manifest or import report.

SECTION 33: LOADING AND UNLOADING OF GOODS AT APPROVED PLACES

No IMPORTED GOODS shall be unloaded, and no EXPORT GOODS shall be loaded, at any place other than APPROVED PLACE.

SECTION 34: GOODS NOT TO BE LOADED OR UNLOADED EXCEPT UNDER THE SUPERVISION OF CUSTOMS OFFICER.

SECTION 35: BOAT NOTE

- (1) Where a vessel - not arrived at port due to various reasons [Eg. Small cargo, small port, mother vessel, any other reasons]
- (2) So to bring /send cargo to or from port, small boats are used.
- (3) And such boats are authorised by boat note to avoid smuggling.
- (4) It will be maintained in duplicate and should be serially numbered.
- (5) In case of export, if small export cargo is to be loaded in ship through small boat, no Boat Note is required.

SECTION 45: RESTRICTIONS ON CUSTODY AND REMOVAL OF IMPORTED GOODS

- (1) **DUTY:** After unloading & before clearance from custom station for H/C, W/H, GITs, goods remain under custody of custodian.
- (2) **RESPONSIBILITY:** Removal of goods, denaturing, mutilation etc. can be done only after permission of C.O.
- (3) **LIABILITY:** Custodian liable to pay I.D on pilfered goods @ rate of duty will be as prevailed on the date of Import Manifest /I.R.

SECTION 46: FILING OF "BILL OF ENTRY"

- (1) Filing of bill of entry - When intended to clear for home consumption (W) or transfer to warehouse (Y) with complete details.
- (2) No need to File Bill of Entry in case of Goods in Transit or Trans-shipment.
- (3) Time of filing bill of entry -
 - ⇒ ASAP: **-30 Days**
 - ⇒ ADAP: **-1 Day** or **Zero Day (By SEA from Bangladesh, Maldives, Myanmar, Pakistan, Sri Lanka or by AIR or LAND CUSTOM STATION)**
- (4) Need to declare about: TRUTH OF CONTENT, Authenticity of documents attached, accuracy and completeness of information

SECTION 47: CLEARANCE OF GOODS FOR HOME CONSUMPTION

- (1) Issuance of clearance order:- by the custom officer or by custom automated system after ensuring that goods are not prohibited and import duty, charges etc. are paid in full.
- (2) **Time of Payment of dues :-**
 - ⇒ **Normal Payment System: @ PREPAID MANNER :-**
 - Make payment of dues on the date of filing of bill of entry
 - If reassessment done then need to pay differential amount within **1 WORKING DAY.**
 - ⇒ **Deferred payment plan: [CLEAR FIRST PAY LATER FACILTY FOR SPECIFIED IMPORTER]**
 - Available to: - Authorised economic operator programme or Authorised public undertaking (approved by the directorate of international customs under the CBIC)
 - Benefit: - **Importer can make payment of 15 days dues at next succeeding day (i.e. 16th day) in a month. However, payment of 16th March to 31st March shall be deposited on 31st March itself.**
- (3) NOTE :-
 - If dues are not paid by due date, then interest @15% PA shall be levied.
 - If specified person not to make payment on time for 2 or more times in a consecutive period of 3 months, then deferred payment scheme not allowed [However will be available on payment of duty, interest and penalty.]
- (4) Mode of payment: -
 - E-Payment mandatory where
 - ✓ Amount of duty per bill of entry is **Rs 10,000 or more.**
 - ✓ Importer is registered under Authorised Economic Operator Programme.

SECTION 48: SALE OF IMPORTED GOODS, IF NOT CLEARED WITHIN 30 DAYS

1. If Goods are not cleared within **30 Days + Extension from port** - then custodians may sell the goods [after notice to importer & permission of co.]
2. In special cases: (30 days limit not applicable)

- ⇒ Animals / perishable/hazardous goods can be sold at any time (with permission of co and notice to importer)
- ⇒ Relinquished goods can be sold at any time (with permission of co but reasonably no notice to importer is required)
- ⇒ Arms & ammunition treatment - hand over to central government.

EXPORT PROCEDURE

1. Entry of goods for exportation (Sec. 50) :-

The exporter shall make entry of goods by presenting

- ⇒ Shipping Bill - in case of a vessel or aircraft
- ⇒ Bill of Export - in the case of land route

And also ensure about -

- a) **Accuracy and completeness of the information.**
- b) **Authenticity and validity of any document.**
- c) **Compliance with the restriction or prohibition.**

2. Clearance Order :-

C.O. after satisfying about payment of duty etc., make an order permitting clearance and loading of the goods for export. Such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

3. ELECTRONIC CASH LEDGER :-

The amount available in the electronic cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum payable in prescribed manner.

The balance in the electronic cash ledger, after payment of duty etc., may be refunded.

4. ELECTRONIC DUTY CREDIT LEDGER :-

Government may, specify the manner in which it shall issue duty credit,-

- (a) In lieu of remission of any duty or tax or levy, chargeable on any material used in the manufacture or processing of goods or for carrying out any operation on such goods in India that are exported; or
- (b) In lieu of such other financial benefit subject to such conditions and restrictions as may be specified therein.

The duty credit shall be maintained in the customs automated system in the form of an electronic duty credit ledger.

The duty credit available in the electronic duty credit ledger may be used towards making payment of duties payable under this Act or under the Customs Tariff Act, 1975.

OBLIGATION OF PERSON IN CHARGE (P.I.C.)

- 1) **Section 39: Entry Outward** - The master of the vessel shall not permit the loading of any export goods, **other than baggage and mail bags**, until an order has been given by the P.O. granting entry-outwards to such vessel. **This restriction is for vessels and not for aircraft and vehicles.**

- 2) **Section 40: Loading of Export Goods** -The P.I.C. of a conveyance shall not permit the loading at a customs station of export goods, other than baggage and mail bags, unless a shipping bill or bill of export or bill of trans-shipment, as the case may be, duly passed by the P.O., has been handed over to him by the exporter.

- 3) **Section 41: Delivery of departure manifest or export manifest or export report** - The P.I.C. of a conveyance shall before departure, deliver to the P.O.,
 - A Departure manifest or an Export manifest (Electronically) - in the case of a vessel or aircraft.
 - An Export Report - in the case of a vehicle
 If fails to deliver the same & no sufficient cause then penalty Rs. 50,000.

- 4) **Section: 41A: Passenger and crew Departure Manifest and Passenger Name Record Information** - The P.I.C. of a conveyance that departs from India to a place outside India shall deliver
 - The passenger and crew departure manifest; and
 - The passenger name record information of departing passengers
 If fails to deliver the same & no sufficient cause then penalty Rs. 50,000.

- 5) **Section 42: No conveyance to leave without written order** - The P.I.C. of the conveyance shall not allow the conveyance to depart from the custom station until a written order given by P.O.

FACELESS ASSESSMENT

Through faceless assessment, Custom Officer has no Jurisdictional or Geographical area, but reach at all India. For this Govt. established "National Assessment Centre" (NAC) at various locations to handle specific goods.

Ex- Gold cases = NAC= 01

Animals = NAC= 02

Chemical = NAC= 03

Coal= NAC= 04

Now, Importer/Exporter don't know the face of Custom Officer, as who is assessing the case of importer/exporter. Now, such Deficiency/Clarification/Bond submission by Video Conferencing/Upload documents @ E-Sanchit [icegate.gov.in]/Turant Suidha.

Impacts of Faceless Assessments :-

- i. The role of CHAs will get reduced.
- ii. The assessments will be anonymous and jurisdiction less.
- iii. Uniformity will improve w.r.t. classification, valuation, exemption, concessions etc.
- iv. Assessments will be team-based.
- v. Faster custom clearances.
- vi. Things like harassment and corruption will reduce.
- vii. For Importers the recording of transactions correctly and maintenance of records and documents will be extremely important. They will also need to reply to any queries/clarifications sought by NACs.

5

Transit and Transshipment

SUMMARY

- (1) The provisions of this Chapter shall not apply to **baggage, goods imported by post and stores.**
[Section 52]
- (2) **GITR:**
- Bill of Entry file = X
 - Import Duty Pay = X
 - No. of Journey = 1
 - Same vessel continues
 - No new Document Required
- (3) **GITs:**
- Bill of Entry file = X
 - Import Duty Payment = X
 - Import Manifest Separate show = YES
 - No. of Journey = 2 or more
 - Another vessel involves
 - New Document namely Transshipment bill of lading/Declaration bill of Lading /Declaration of transshipment required

SECTION 53 : TRANSIT

- (4) Where any goods imported in a conveyance and mentioned in the AM/IM/IR, as transit to any place outside India, the CO may allow the goods and the conveyance to transit without payment of duty.

SECTION 54 : TRANSHIPMENT

- (5) Where any goods imported are intended for transshipment, a **BILL OF TRANSHIPMENT** shall be presented to the CO.
- (6) However, where the goods are being transhipped under an international treaty, a **DECLARATION FOR TRANSHIPMENT** instead of a transshipment bill of lading shall be presented to the CO.
- (7) Where any goods imported in a conveyance and mentioned in the AM/IM/IR, as transshipment to any place outside India, the CO may allow the goods and the conveyance without payment of duty.

SECTION 55. LIABILITY OF DUTY ON GOODS TRANSITED OR TRANSHIPPED

- (8) If goods are transited or transhipped to any customs station in India, they shall be liable to duty and shall be entered in like manner as **goods are entered on the first importation** thereof.

SECTION 56. Transport of goods by land route.

- (9) Imported goods may be transported without payment of duty from one land customs station to another, and any goods may be transported from one part of India to another part through any foreign territory, subject to such conditions as may be prescribed for the due arrival of such goods at the place of destination.

6

Warehousing

Warehousing License Issuance and Cancellation

(1) Issue :-

- ⇒ Public ; Section : 57
- ⇒ Private : Section : 58
- ⇒ Special : Section : 58A

Issue of license to a warehouse in Which **DUTIABLE GOODS** can be deposited.

License issued by Commissioner /Principal Commissioner.

(2) Cancellation :-

On contravention of terms & condition on the basis of which license was issued.

PROCESS :-

⇒ SUSPEND LICENSE -

- Inquiry & opportunity of Being heard.
- Fresh Business/New Deposit of Goods - **Not Allowed**
- Already Deposited goods Continue normally / Owner of Goods want to remove the goods : can he do so - YES

⇒ CANCELLATION OF LICENSE -

- Fresh Deposit of Goods: **Not Allowed**
- Effect on already Deposited Goods, such goods shall be removed - **within 7 Days + Extn.**
- Warehousing provisions shall continue to apply to the goods already deposited in the warehouse till they are removed.

SECTION 59: WAREHOUSING BOND

TRANSACTION WISE: -

- (1) Bond: Execution at the time of Filing of bill of Entry under Section: 46(Yellow)
- (2) Bond Value: **ID X 3 times** to Cover ID/Interest/Penalty etc.

PERIOD WISE: -

- (3) A General Bond May Also be executed . (Generally 1 Year)
- (4) Bond Value: Determined by Officer

NOTE :-

- (5) Any bond executed shall continue to be in force on the transfer of the goods to another warehouse.

(6) New Owner shall Execute a New Bond

SECTION 60- CLEARANCE ORDER FOR DEPOSIT OF GOODS IN WAREHOUSE

- (1) **Issuance of Clearance order:** - By P.O. after complying provision of sec 59 (i.e. after execution of bond)
- (2) **Automated Order:** - through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

SECTION 61: PERIOD FOR WHICH GOODS MAY REMAIN WAREHOUSED & WAREHOUSING INTEREST

SECTION	BASIS	GOODS INTENDED TO BE USED BY 100% EOU/EHTP/STP etc. (\$)	OTHERWISE (Rs.)
SECTION 61(1) PERIOD of Warehousing	Period of Stay in Warehouse (Total)	N.A.	1 Year from the date of C/O Under Section 60
	Given Period Me Extension Available	N.A.	YES, Need Based [But ek baar Extension ke liye Apply Karne par Maximum Extension : 1Year]
	Extension Mai Reduction	N.A.	Yes (Need Based)
SECTION: 61(2) INTEREST on Warehoused goods	Interest Period	N.A.	91th Day from clearance order till payment date @15% p.a.
	Extension in Interest Period	N.A.	In Case of specified Goods Interest Calculate from Day: 1 i.e. From clearance Order
	Reduction in Interest Period	N.A.	May be Waived off

- Where no Import Duty is payable = Interest will also not be payable.
- Only dutiable goods can be deposited in warehouse, means duty liability is required only at the time of deposit.

SECTION 64: OWNER'S RIGHT TO DEAL WITH WAREHOUSED GOODS

- ⇒ Inspect the goods
- ⇒ Deal with their containers
- ⇒ Sort the goods
- ⇒ Show the goods for sale.

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

- (1) An importer is required to obtain permission of custom officer to do manufacturing activity or otherwise process in warehouse.
- (2) If final product cleared for home consumption: Then related fabric, which contained in waste shall be liable to duty as per its own **rate of fabric** (dependent treatment).
- (3) If final product cleared for Export: Then related fabric, which contained in waste shall not be liable to duty. However, if such waste cleared for home consumption, then import duty on waste & scrap shall be payable as per the **rate of waste** (independent treatment).

SECTION 66: POWER TO EXEMPT IMPORT MATERIALS USED IN THE MANUFACTURE OF GOODS IN WAREHOUSE

Rate of Import Duty on Raw Material (>) Rates of Import Duty on Import of Readymade Garments (F.G.) C.G. may Exempt such Excess Duty either fully or partially.

SECTION 71: PERMISSIBLE REMOVAL OF GOODS FROM THE WAREHOUSE

The warehoused goods can be removed for:

- ⇒ Transfer from one warehouse to another (u/s 67)
- ⇒ Clearance for home consumption (u/s 68)
- ⇒ Clearance for exportation (u/s 69)
- ⇒ As otherwise provided by the act.

SECTION 67: REMOVAL OF GOODS FROM ONE WAREHOUSE TO ANOTHER

The owner of any warehoused goods may, with the permission of the P.O., remove them from one warehouse to another.

SECTION 68: CLEARANCE OF WAREHOUSED GOODS FOR HOME CONSUMPTION

Any warehoused goods may be cleared for home consumption, if-

- ⇒ A bill of entry for home consumption has been presented.
- ⇒ The import duty, interest etc. have been paid.
- ⇒ An order for clearance of such goods for home consumption has been made by the P.O.
- ⇒ Proviso to section 68 : Relinquishment [**already covered under levy and exemption chapter**].

SECTION 69: CLEARANCE OF WAREHOUSED GOODS FOR EXPORT

Any warehoused goods may be exported if: -

- ⇒ A shipping bill or a bill of export has been presented
- ⇒ The export duties etc have been paid
- ⇒ An order of clearance of such goods made by P.O.

Note: - If the CG is of the opinion that warehoused goods are likely to be smuggled back into India, It may, direct that such goods shall not be exported without payment of duty or with such restrictions and conditions as may be specified.

SECTION 70: ALLOWANCE IN RESPECT OF VOLATILE GOODS

[Already covered under levy and exemption chapter].

SECTION 72: GOODS IMPROPERLY REMOVED FROM WAREHOUSE

(1) Removal, which is not a proper removal u/s 71, will be called as Improper Removal.

Note: First liability is of owner and second liability is of Warehouse keeper U/S 73A.

(2) Goods not removed till maturity date then such goods shall be deemed to be removed improperly.

(Relevant date for rate of duty will be such maturity date)

[Note: Liability is of owner only]

(3) Consequences: In case of Improper removal, officer may demand: -

Duty, Interest, Penalty Payable in respect of such goods & to be paid forthwith. Otherwise, Officer may sold out such sufficient portion of goods as he may deemed fit, after notice to importer.

SECTION 73: CANCELLATION AND RETURN OF THE WAREHOUSING BOND

When the whole of the goods covered by any bond, have been cleared for home consumption or exported or transferred etc and when all amounts due on account of such goods have been paid, the P.O. shall cancel the bond.

SECTION 73A: CUSTODY AND REMOVAL OF WAREHOUSED GOODS

(1) All warehoused goods shall remain in the custody of the person who has been granted a licence under section 57 or section 58 or section 58A [i.e. warehouse keeper] until they are

- ⇒ Cleared for home consumption or
- ⇒ transferred to another warehouse or
- ⇒ exported or
- ⇒ removed as otherwise provided under this Act.

(2) Where any warehoused goods are removed in contravention of section 71 [i.e. improper removal]

The licensee shall be liable to pay duty, interest, fine and penalties.

WAREHOUSING WITHOUT WAREHOUSING

In such cases, goods are transferred to a custom warehouse as per the direction of proper officer without execution of bond by importer. However, such goods cannot be called as Warehouse Goods.

Reasons of Warehousing without Warehousing:

- ⇒ Proviso to Section 46(1): Incomplete Bill of entry.
- ⇒ Section 49: Complete Bill of Entry- but unable to clear the goods. [30 days + 30 days extn.]
- ⇒ Section 85: Goods imported by store supplier want to deposit in a warehouse without bond. He may request to Custom Officer & Custom officer may allow subject to declaration by Importer that the store will be supplied only to FGV/A.

7 Assessment

SECTION 17: ASSESSMENT OF DUTY

- (1) An importer is required to do self - assessment of duty & file bill of entry (+) other document (for example ID is Rs. 1 lakh) [with payment of self- assessed duty: 47].
- (2) Then officer verify the self - assessment with the help of document & physical verification of goods (additional document may be required).
- (3) If officer is satisfied with it then he will pass C/O & assessee take delivery of goods but if he is "not satisfied" then make re-assessment. [say at Rs. 150,000]
- (4) And now officer seek written consent of assessee over it & assessee allow the same (the assessee need to pay Rs 50,000 within **"one working day"** u/s 47)
- (5) If assessee don't agree with the re-assessment then officer will pass a **"Formal Order"** within **15 days** of re-assessment (and after that C/O issued a formal order after that importer will take delivery of goods -- & may file on appeal if needed).

SECTION 18: PROVISIONAL ASSESSMENT OF DUTY

SUMMARY @ DIRECT CLEARANCE

- (1) Reason of provisional assessment: -
 - self-assessment not done by assessee.
 - self-assessment done but P.O. wants more documents /testing goods. etc.
- (2) File bill of entry: under section 46 & request for provisional assessment, P.O. allow provisional assessment at higher side or lower side (with bond only in case of lower side)
- (3) Now pay provisional duty & goods shall be removed.
- (4) After finalization i.e. getting additional document or testing report etc. - demand shall be made (with interest @15% pa) or refund (with interest @ 6% pa) shall be made.
 - **Demand = with interest @15% p.a.** on outstanding amount from "the first date of the month" in which provisional assessment was made till the date of payment
 - **Refund = with interest @ 6% p.a.** "after 3 months of finalization" till the date of payment.

SUMMARY @ INDIRECT CLEARANCE

- (1) Reason for provisional assessment as stated above.
- (2) File bill of entry under section 46(yellow) + bond [provisional duty X 3] = [say Rs.5 lakh * 3 = Rs.15 lakh](provisional assessment at lower side).
- (3) Goods transfer to warehouse under section 59.
- (4) When goods were in warehouse testing report which show duty of Rs. 7.5lakh
- (5) Now department need revised bond i.e. Additional bond submit: **Rs.2.5 lakh X 2** = Rs.5 lakh i.e. 2 times

- (6) On maturity file bill of entry under section 68(green) & pay final amount of duty & get delivery of goods.
- (7) Note: no money demand /refund and no question of interest just because of provisional to final at higher or at lower side.
- (8) What if provisional assessment done at higher side: Initially bond : Rs 7.5 lakh X 3 = Rs.22.5 lakh (under section 59). When goods in warehouse then as per testing report import duty = Rs. 5 lakh (so bond value should be Rs. 5lakh X 3 = Rs.15 lakh). here law is silent regarding revision of bond value so it is importer's decision to revised bond or not.

SECTION 19: DETERMINATION OF DUTY WHERE GOODS CONSIST OF ARTICLES LIABLE TO DIFFERENT RATES OF DUTY

SR	BASIS	RATE OF DUTY
1.	Quantity based	That duty
2.	Individual value	Individual rate
3.	Combined value	Highest rate
4.	Accessories, spare parts etc. Shall be classified with main article if - E.g. Visualizer and cable(free of cost)@ mandatorily supplied (shall be classified with main article)	Compulsorily supplied along with main article. No separate charge for such supply.

SECTION 20: RE-IMPORTATION OF GOODS

GENERAL PROVISION: Where any goods exported from India to outside India & later on re-imported: then generally such import shall be treated as fresh import & liable to duty @ full value.

SPECIAL PROVISION: Subject to section 25B

- RE-IMPORT FOR REPAIR: (NANO): Goods export from India, re-imported for repair etc. within 3 year, & re-export within 6 month & execute a bond: then no import duty on such re-import.
- RE-IMPORT AFTER REPAIR: (MATIZ) : Goods exported from India to outside India for repair after that re-import then such re-import liable to duty as per - **Fair Cost Of Repair + Both Side Expenses**. (but repair should be repair not manufacture.)
- REIMPORT AFTER REJECTION (CUMIN SEEDS): Goods exported from India, re-import on rejection within 3 year to the same person: then such re-import will not be liable to duty. however, he need to pay all export benefits claimed earlier with interest.

PROJECT IMPORT

- (1) Whenever an industrial/similar project is going to be installed or an existing unit is to be expanded, a number of different machineries, raw-materials, components etc. (to set up a plant) are required. All these machineries, raw materials etc. are called project import.
- (2) Since all these items are covered under different tariff sub-headings hence definitely classifiable at different rates of duty.
- (3) So, for assessing the goods to duty and to facilitate easy clearance of such goods, a new tariff

heading with a **flat rate @ 5%** was framed to cover all imports required for a project/industrial plant in the schedule to Custom Tariff Act, 1975.

(4) Eligible projects for charging with flat rate

- Industrial projects
- Power projects
- Project for oil or mineral exploration
- Irrigation projects
- Mining project
- Other specified projects

8 Valuation

RATE OF EXCHANGE: IMPORTED GOODS: [Proviso to section 14] & RATE OF DUTY: IMPORTED GOODS [Section 15]

S.N.	Situation	Rate of Duty	Rate of Exchange (determined by Board)
1.	In case of direct clearance of goods	When bill entry under section 46 (W) is filed in Actual or Entry inward or arrival date (whichever is later) TAAZAA RATE	When bill of entry under section 46 (white) is filed (in actual)
2.	In case of indirect clearance of goods (generally) Indirect clearance @ deemed removal	when bill of entry under section 68 (G) is filed. i.e. TAAZAA RATE Deemed removal date	When bill of entry under section 46 (yellow) is filed (in actual) When bill of entry under section 46 (yellow) is filed (in actual)
3.	Pilferage (where custodian liable to pay import duty) [no bill of entry is filed for that quantity]	Import manifest date	Law silent Import manifest date
4.	Any other case eg. smuggled goods [no. bill of entry]	Import duty payment date	Law silent Import duty payment date

VALUE OF GOODS

RULE-11: DECLARATION BY THE IMPORTER

1. A valuation declaration is required to be submitted by importer (part of bill of entry) to department along with all other document.
2. If any wrong information or document is given then the importer liable to penalty, confiscation and prosecution etc.

RULE-12, REJECTION OF DECLARED VALUE

1. The value declared under section 11 may be rejected by the officer if he has reason to "Doubt the truth" or "Accuracy of the value" declared.
2. Process of Rejection:
 - (i) Officer has reasonable doubt about value of goods due to various elements, e.g. Abnormal discount etc.
 - (ii) Then officer asks the importer to provide some additional information to remove the doubt.
 - (iii) Considerations to be kept in mind by officers :
 - ⇒ The **Significantly higher value**
 - ⇒ **Abnormal discount or abnormal reduction**
 - ⇒ **Special discount limited to exclusive agents;**
 - ⇒ The **Mis-declaration** of goods like description, quality, quantity etc.
 - ⇒ The **Non declaration** of parameters like brand, grade etc.
 - ⇒ The **fraudulent** or manipulated documents.
 - (iv) If assessee unable to do so then the declared value shall be rejected.
3. After rejection re-assessment shall be made by officer as per rule 4 to 9.

SECTION 14 + RULE 10(1) and 10(2)

Section: 14(1) : AV= T.V. of original transaction (outside India to India)

(i.e. Price actually paid or payable to overseas supplier)

{No matter - value of goods fluctuated over the period of import or sold by original importer to any other person before clearance at any other price. where T.V. is not available or reliable then go for valuation rules.}

Section: 14(2) : Board may fix Tariff Value for any class of imported or export goods.

Rule- 10: Cost and Services :-

⇒ **10(1)(a) : Value of following costs & services:**

- Commission & Brokerage
 - to Exporter's Agent / Local Agent - Include
 - to its own Agent/Buying Commission - Exclude
- **Cost of containers**
 - Returnable - Exclude
 - Non-Returnable - Include (Whether durable or non-durable)

- Cost of packing - Include

⇒ **10(1)(b) : Apportioned value of following goods and services shall includible:**

- Materials, Tools, Moulds, Dies etc
- Engineering, development, art work, design work, and plans and sketches undertaken **elsewhere than in India** and necessary for the production of the imported goods

⇒ **10(1)(c) : Royalties and license Fees:**

- Supplier is End User - Include
- Further distribution (sale) - Exclude

⇒ **10(1)(d) : Subsequent outflow**

- if ascertainable - Include
- if not ascertainable - Not Includible

⇒ **10(1)(e) : All other payment AS A CONDITION OF A SALE - Include**

⇒ **Rule 10(2) :-**

Particulars	Actual cost ascertainable	Actual cost not ascertainable
a) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation #see note below	Actual charges but in the case of goods imported by Air , such cost shall not exceed 20% of FOB value of the goods	Where the cost is not ascertainable, such cost shall be 20% of the FOB value of the goods, But if FOB is given as sum of FOB & COI then use such value.
b) The cost of insurance to the place of importation	Actual charges	Where the cost is not ascertainable, such cost shall be 1.125% of FOB value of the goods But if FOB is given as sum of FOB & COT then use such value.

COT & loading/unloading of both legs i.e.

- ✓ Foreign factory to Port;
- ✓ Foreign Port to Indian Port

Either it will be on Actual Basis or on fixed basis.

Rule 3 (2): 4 CONDITIONS: Check Availability & Reliability of T.V.

Condition	AV ≠ Transaction value	AV = Transaction value
1.Restriction with Goods	If there is a restriction on the goods	However in the following situation TV will not be affected materially <ul style="list-style-type: none"> • A = Restriction Imposed by public Authority in India • G = Restriction Related to Geographical Area • M = other restriction that does not Materially affect the goods
2.Price of imported goods can- not be determined completely/ correctly	In such cases a complete transaction value will not be available	
3.Subsequent outflow	If there is a subsequent outflow which is not ascertainable at the time of import When there is a related party	If there is a subsequent outflow which is ascertainable at the time of import
4.Related PARTY Transaction [Rule 3(3)]	Transaction value does not represent true value.	When there is a related party transaction but TV is at Arm's length price .

RULE 4: TV OF IDENTICAL GOODS

1. When any goods imported from outside India & value of such goods has been rejected under rule 12 or the goods not to fulfil all the "4" conditions.
2. Now we need to take "Adjusted T.V. Of identical goods" process are as follows :

Step /filter:1: find out identical goods keeping in mind as to that should be same in all respect except minor differences, should be from same country, should be from same manufacturer [another manufacturer also possible] (possibly : 100 entry find out on screen by applying this filter.)

Step /filter: 2: now apply selection criteria so as to same or substantially the same quantity level. If it is not available then go for different quantity level with appropriate adjustment for the same.

Step /filter: 3: now apply another filter so as to same commercial level - but - it is not available then go for different commercial level with appropriate adjustment for the same.

Now finally after applying all the filter/selection criteria it is possible to have multiple value of identical goods then select **LOWEST VALUE** as AV. (and do some adjustments if any)

RULE 5: TV OF SIMILAR GOODS

Provision of Rule 4 shall apply Mutatis Mutandis

RULE 6: APPLICATION OF RULE 8 BEFORE RULE 7, AT REQUEST

RULE 7: DEDUCTIVE VALUE

Take Value Of Identical/Similar Goods From Indian Market	XXX
--	-----

@ GAQ [Greatest Aggregate Quantity] sold

@ Unrelated party transaction

@ In nearest past or nearest future

{but before the expiry of 90 days}

(-) All type of values additions from Indian market to port	XXX
---	-----

A.V.	XXX
------	-----

RULE 8: COMPUTED VALUE

Value Of R/M + Processing Charges + Other Expenses + Profit	XXX
---	-----

COT up to Origin Port + Port Dues at Origin Port + COT From	XXX
---	-----

Origin Port to Destination Port

Cost of Insurance @ 1.125%	XXX
----------------------------	-----

C.I.F./A.V.	XXX
-------------	-----

RULE 9: RESIDUAL METHOD

Where the value of imported goods cannot be determined under the provisions of any of the preceding rules the value shall be determined using reasonable means consistent with the principles and general

provisions of these rules and Sec 14(1) of the customs Act, 1962.

Provided that value shall not be determined on following basis -

- ⇒ **Arbitrary or fictitious values.**
- ⇒ The **selling price in India** of the goods produced in India
- ⇒ The **price of the goods on the domestic market** of the country of exportation
- ⇒ The **price of the goods for the export** to a country other than India
- ⇒ The **cost of production** Except as per the provision of Rule 8
- ⇒ A system which provides for the acceptance for customs purposes of the highest of the two alternative values
- ⇒ **Minimum customs values**

CUSTOMS VALUATION (DETERMINATION OF PRICE OF EXPORT GOODS) RULES

Export Valuation Rules	Import Valuation Rules
Rule = 1	Rule -1 =Name
Rule = 2	Rule -2 =Definitions
Rule = 3	Rule -3 =TV = AV
Rule = 4	Rule = 4 + 5 (Identical / Similar)
Rule = 5	Rule -8= (Computed)
Rule = 6	Rule -9 (Best Judgement)
Rule = 7	Rule -11= (Value Declared)
Rule = 8	Rule -12= (Reject)

9

Types of Custom Duties

BASIC CUSTOM DUTY: section 12 of CA

1. **OBJECT:** To Protect Domestic Industries / to Collect Revenue / to support the nation.
2. **LEVIED:** Under Section 12 of C.A. 1962
3. **RATE:** Standard Rate: **10%** OR Preferential Rate (MFN): on the basis Certificate of Origin
4. **AV:** It will be calculated on value given under Section : 14 (1) / (2) @ Original A.V.

CVD - 3(1): CTA

1. **OBJECT:** To protect domestic industries / to maintain parity/ to countervail central excise duty (State excise duty) effect on finished goods.
2. **LEVIED:** Under C.T.A.1975: Section :3(1)
3. **RATE:** Pick from Excise Law (Central Excise Tariff Act. 1985) (If multiple Rates then take highest rate and in case of liquor take notified rate)
4. **AV:** Pick from Excise Law (Central Excise Tariff Act. 1985)

Origin A.V.: Under Section 14(1) / (2)	xxx
+ B.C.D.	xxx
Total (A)	xxx
+ CVD 3(1) on #	xxx

Where # =

- I. Abated MRP [MRP minus notified abatement]; OR
[Where imported goods falls under MRP Provisions as per central excise Act]
[If Multiple MRPs available then take Highest]
- II. Tariff Value fixed under section 3(2) of Excise Law; OR
[Where imported goods falls under Tariff value Provisions as per C.E. A]
- III. Total (A)

CVD 3(3): CTA (AS OF NOW NOT RELEVANT)

1. **OBJECT:** To compensate "Excise Duty on Raw material" effect on Final Product
2. **LEVIED:** Under section 3(3) C.T.A 1975
3. **RATE:** Notified by Government.
4. **AV:** Same value as for CVD - 3(1).

CVD 3(5)

1. **OBJECT:** To Compensate VAT/ CST/ OCTROI / etc. (Only for 5 petro products, liquor)
2. **LEVIED:** Under section 3(3) C.T.A 1975

3. RATE: @ Notified by Central Government (at present: 4%)
4. AV: It will be calculated on [AV+BCD+CVD3(1)+SWS].

CVD 3(7)

1. OBJECT: To compensate effect of GST on domestic Goods.
2. LEVIED: Although IGST Levied Under Section 5 of IGST Act. But proviso to Section 5 to IGST Act handover "IGST on import of goods to C.T.A, 1975 to treat just like import duty & to be calculated on a value including all taxes except GST & compensation CESS.
3. RATE: 5% / 12% / 18% / 28% [Schedule to GST Law.]
4. AV: It will be calculated on [AV+BCD+CVD3(1)+SWS+OTHER DUTIES] i.e. **last transaction value.**
Or on transaction value, In case of HSS [Higher].
***HSS = High Seas Sale.**

CVD 3(9)

1. OBJECT: To compensate "Compensation CESS" effect on domestic goods in INDIA
(e.g. on Tobacco, Motor Vehicle, Cold Drink etc.)
2. LEVIED: Under Section 3(9) of C.T.A. 1975.
3. RATE: From schedule to compensation CESS in INDIA
4. AV: It will be calculated on [AV+BCD+CVD3(1)+SWS+OTHER DUTIES] i.e. **last transaction value.**
Or on transaction value, In case of HSS [Higher].
***HSS = High Seas Sale.**

SECTION 6: PROTECTIVE DUTY

1. OBJECT: To provide for the protection of the interest of any industry established in India
2. LEVIED: Under Section 6 of C.T.A. 1975.
3. RATE: @ Notified by Central Government (at present: 8%)
4. Period: C.G. may specify the period up to which protective duty shall in force.

SECTION 8B: POWER TO APPLY SAFEGUARD MEASURE

Earlier govt. has following tool to safeguard domestic industry from the injury caused by "import of goods in increased quantity" by imposing safeguard duty on imported goods, so imported goods will be more costly, so demand will be reduced (+) foreign trade act, 1992 [Quantity restriction]

Now govt. added foreign trade act provision in custom law to safeguard domestic industry from the injury caused by "import of goods in increased quantity" by

- Imposing safeguard duty
- Limit the quantity of imported goods
- Mix version of above both i.e., impose safeguard duty as well as limit the quantity.

QUOTA (Fixation for Quantity Restriction)

- ⇒ Global Quota: The CG shall fix such quota **UPTO THE AVERAGE LEVEL OF IMPORTS IN THE LAST 3 REPRESENTATIVE YEARS**

⇒ **Country Wise Quota:** The CG may allocate such quota to supplying countries in such manner as may be provided by rules.

However, no such measure shall be applied:

- **One developing country:** Where the article originating from a developing country AND the share of imports of that article from that country **does not exceed 3%** [Individual Injury]; or
- **Multiple developing countries:** Where the article is originating from more than one developing country, then, the aggregate of the imports from each of such developing countries with less than 3% import share taken together, **does not exceed 9%** of the total imports of that article into India. [Cartel Injury]
- **Residuary Exemption:** Moreover, the CG may exempt such quantity of any article from payment of the safeguard duty leviable thereon when imported from any country or territory into India.

Provisional Imposition: The CG may apply provisional safeguard measures on the basis of a preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry.

Refund: Where, on final determination, the CG is of the opinion that increased imports have not caused or threatened to cause serious injury to a domestic industry, it shall refund the safeguard duty so collected.

Life of Provisional duty: Any provisional safeguard measure shall not remain in force for **more than two hundred days** from the date on which it was applied.

No safeguard duty on 100% EOU, SEZ: No safeguard duty shall apply to articles imported by a 100% EOU or a unit in a SEZ, unless-

- It is specifically made applicable in such notification or to such undertaking/ unit or;
- Such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, to the extent.

Life of safeguard duty: The safeguard duty ceases to have effect on the expiry of **4 years** (including the provisional period) from the date of such application however extension may also be granted for total period may go upto **10 years**.

SECTION 9: COUNTERVAILING DUTY ON SUBSIDIZED ARTICLES

1) Where any country grant, directly or indirectly, any subsidy on exportation of any article then, upon the importation into India of such article, the CG may, impose a countervailing duty **not exceeding the amount of such subsidy**.

2) However, duty may be provisionally imposed if subsidy is not determined till that time.

3) However, if it is provisional duty was imposed in excess of subsidy then it shall be refunded.

4) it can be imposed for a maximum period of **5 years** (including the period of provisional imposition) and Extension of said period is possible up to 5 years.

5) **No duty shall apply to articles imported by a 100% EOU or a unit in a SEZ, unless-**

- It is specifically made applicable in such notification or to such undertaking/ unit or;

- Such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, to the extent.

6) **Anti circumvention Measure:** If upon inquiry, CG is satisfied that circumvention of the duty has taken place by

- Altering the description or name or composition of the article
- Changing the country of its origin or export
- In any other manner

Whereby the duty is rendered ineffective, it may extend the duty to such other article also from such date, as the CG may specify, BUT not earlier than the date of initiation of the inquiry.

7) **Absorption of Duty:** Where the CG, on such inquiry, is of the opinion that

- Absorption of the duty has taken place whereby the duty so imposed is rendered ineffective,
- it may modify such duty to counter the effect of such absorption,
- from such date, as the CG may specify, But not earlier than the date of initiation of the inquiry, Absorption of countervailing duty is said to have taken place,-

Where there is a decrease in the export price of an article, will be called Absorption of duty. BUT if there is a corresponding decrease in the following then it shall not be treated as Absorption of duty

- Cost of production
- Export price to III countries
- Resale price in India

8) **Mid Term Review:** The said duty is revoked temporarily, the period of such revocation shall not exceed 1 year at a time.

SEC 9A: ANTI-DUMPING DUTY ON DUMPED ARTICLES

- 1) Where any article is exported by an exporter to India at less than its NORMAL VALUE, then, upon the importation of such article into India, the CG may, impose an Anti-Dumping duty, not exceeding, the **MARGIN OF DUMPING** in relation to such article.
- 2) Margin of Dumping = Normal Value of goods (-) Export Price of goods.
- 3) Duty may be imposed provisionally for **6 months**. And even retrospective imposition on provisional basis is possible for a maximum period of 90 days.
- 4) However, if it is provisional duty was imposed in excess of actual margin of dumping then it shall be refunded.
- 5) it can be imposed for a maximum period of **5 years** (including the period of provisional imposition) and Extension of said period is possible upto 5 years.
- 6) No safeguard duty on 100% EOU, SEZ: SAME AS ABOVE
- 7) Anti circumvention Measure: SAME AS ABOVE
- 8) Absorption of Duty: SAME AS ABOVE

9) Mid Term Review: SAME AS ABOVE

SECTION 110: SOCIAL WELFARE SURCHARGE ON IMPORTED GOODS.

- 1) **OBJECTIVE:** amount collection for education, health, social security & utilize for the same.
- 2) **CALCULATION:** it will be calculated as $BCD + CVD - 3(1)/3(3)$
- 3) **AN ADDITIONAL DUTY:** SWS is an additional duty like other duties.
- 4) **LEGAL PROVISIONS:** Provision of customs act, 1962 shall be applied mutatis mutandis.
- 5) **NO SWS:** Where the amount of duty on which it is calculated is nil then calculated SWS will also be nil.

**AGRICULTURE INFRASTRUCTURE AND DEVELOPMENT CESS on imported goods [AIDC]
Section 124 of Finance Act 2021**

- 1. **OBJECT:** To financing the agriculture infrastructure and other development expenditure.
- 2. **RATE:** Not exceeding the rate of BCD.
- 3. **AV:** Assessable value will be the same as for calculation of BCD.
- 4. **AN ADDITIONAL DUTY:** The AIDC on imported goods shall be in addition to BCD and all other Duties.

10 Baggage

- (1) Baggage rate: 35% plus SWS @10% : **Effective rate = 38.5%**
- (2) An importer of baggage required to file Declaration (instead of bill of entry) at "Red channel" if he has dutiable goods. [SECTION: 77]
- (3) In declaration while calculating duty on baggage @ 35%, the relevant date for rate will be the date of filing of declaration. [SECTION: 78]
- (4) Bona fide baggage i.e. duty-free baggage: [SECTION: 79]
 - ⇒ If a person has bona fide baggage then the person should walk through "Green channel".
 - ⇒ Bona fide baggage are as follow :-
 - All **USED PERSONAL EFFECTS**
 - **1 LAPTOP for the person age : 18 year plus.**
 - New personal effects up to specified limit (**50k/15k**) as per baggage rules.

"BAGGAGE RULES, 2016"

RULE 1: SHORT TITLE AND COMMENCEMENT

These rules may be called the Baggage Rules, 2016. They shall come into force on the 1st day of April, 2016.

RULE 2: DEFINITIONS

In these rules, unless the context otherwise requires, -

- (i) "Family" includes all persons who are residing in the same house and form part of the same domestic establishment.
- (ii) "Infant" means a child not more than **two years** of age.
- (iii) "Resident" means a person holding a valid passport issued under the Passports Act, 1967 and normally residing in India.
- (iv) "Tourist" means a person not normally resident in India, who enters India for a stay of not more than 6 months in the course of any 12 months period for legitimate non-immigrant purposes.
- (v) "Personal Effects" means things required for satisfying daily necessities but does not include jewellery.

RULE 3: PASSENGERS ARRIVING FROM COUNTRIES OTHER THAN NEPAL, BHUTAN OR MYANMAR

[DOOR SE APNE AA RAHE HAI]

- ⇒ Exemption limit (in general) Including Tourist of Indian Origin - **Rs. 50,000 per head (+) used personal effects, travel souvenirs.**
- ⇒ Exemption to Foreign origin tourist - **Rs. 15,000 per head (+) used personal effects, travel souvenirs.**

- ⇒ Exemption to infant - **Only used personal effects**
- ⇒ Route - By Air, By Vessel or By Land route
- ⇒ Pooling : one article cleared by 2 or more persons jointly - Not allowed

RULE 4: PASSENGERS ARRIVING FROM NEPAL, BHUTAN OR MYANMAR

[PAAS SE APNE AA RAHE HAI]

- ⇒ Exemption limit (in general) Including Tourist of Indian Origin - **Rs. 15,000 per head (+) used personal effects, travel souvenirs.**
 - ⇒ Exemption to Foreign origin tourist - **Rs. 15,000 per head (+) used personal effects, travel souvenirs.**
 - ⇒ Exemption to infant - **Only used personal effects**
 - ⇒ Route - By Air, By Vessel or ~~By Land route~~
- Pooling : one article cleared by 2 or more persons jointly - Not allowed

RULE: 5 JEWELLERY

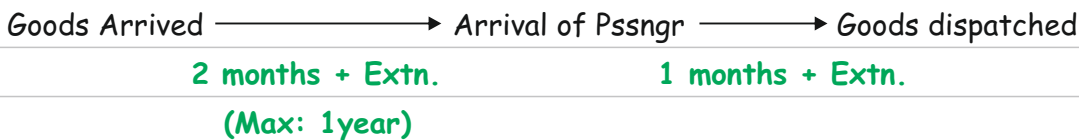
Gender	Male	Female
Quantity	20 gram	40 gram
Value	Rs.50,000	Rs. 1,00,000
Stay period abroad	More than 1 year	More than 1 year

RULE : 6 TRANSFER OF RESIDENCE FROM ABROAD TO INDIA (Not relevant)

RULE : 7 CURRENCY :

(Currency = Goods : NO Import Duty : FEMA REGULATIONS :2015).

RULE : 8 UNACCOMPANIED BAGGAGE :



RULE : 9 EXEMPTION FOR MEMBER OF CREW

Rs. 1500/- Per head for crew "ON DUTY"

COMPUTATION OF IMPORT DUTY

Particular	Exempted / Bonafide Baggage	Coverable under GFA	Not coverable under GFA
Used Article	✓	x	x
Travel souvenir	✓	x	x
1 Laptop (Age 18+)	✓	x	x
Fire Arm	x	x	✓
Cartridge in excess of 50	x	x	✓
Cigar in excess of 25	x	x	✓
Cigarette in excess of 100	x	x	✓
Tabbaco in excess of 125 gms	x	x	✓
Liquor in excess of 2 Ltr	x	x	✓
Jewellery	x	✓	x
Gold etc other than jewellery	x	x	✓
TOTAL	xxx	xxx	xxx
Less : Exemption	-	(50k/15k)	-
NET AMOUNT	xxx	xxx	xxx
IMPORT DUTY	xxx	xxx	xxx
SWS	xxx	xxx	xxx
TOTAL	xxx	xxx	xxx

11

Import Export by Post

SECTION 83: RATE OF DUTY AND TARIFF VALUATION IN RESPECT OF GOODS IMPORTED OR EXPORTED BY POST OR COURIER

1) In case of Import -

The rate of duty and tariff value shall be taken as on the date on which the postal authorities or the authorised courier present **A List of Goods** for assessment of duty to the Proper Officer.

Provided that-If such goods are imported by a vessel and the list of the goods containing the particulars was presented before the date of the arrival of the vessel, the list shall be deemed to have been presented on the date of such arrival.

2) In case of Export -

The rate of duty and tariff valuation shall be of the date on which exporter deliver such goods to postal authorities or the authorised courier for exportation.

REGULATIONS FRAMED BY THE BOARD FOR POSTAL IMPORTS AND EXPORTS

- ⇒ The bags containing parcels must be labelled as **"Post parcels"**
- ⇒ On receipt of parcel mail, the post master will hand over to the principal appraiser
 - **A memo showing total number of parcels received and parcel bill**
 - Any **other requisite information** which the post office is able to furnish.
- ⇒ Upon receipt of documents, the appraiser will examine the same and mark off all parcels required to be detained for examination either for want of necessary particulars, or defective description, or suspected mis-declaration or under valuation of contents.
- ⇒ The post master will get the mail bags opened and scrutinized in the presence of customs appraiser for detaining parcels suspected to contain dutiable goods.
- ⇒ Other parcels will be assessed by PO by showing the rate of duty on the declarations or on the parcel bills. When further information is required, the addressee may be called upon to produce the information, invoice or document.
- ⇒ The post master will detain the parcels marked for detention and allow other parcels to be delivered against payment of duty marked on the parcels.
- ⇒ When the detained parcels are ready for examination, it will be delivered to customs authorities, who will examine the parcels and note value, rate of duty and amount of duty against each parcel.
- ⇒ The duties collected by postal department will be paid to the Customs Department (Periodically) as per procedure settled from time to time.

12 Refund

SECTION 27 Claim for refund of duty

- 1) Any person claiming refund of any duty or interest, -
 (a) paid by him; or
 (b) borne by him,
 may make an application for such refund to the AC/DC, **before the expiry of 1 year**, Relevant Date.

1 Year limit Not Applicable: The limitation of one year shall not apply where any duty or interest has been **paid under PROTEST**.

Small amount not Refunded: Where the amount of refund claimed is **less than Rs.100**, the same shall not be refunded.

- 2) The application shall with such documentary evidence to prove as the incidence of such duty or interest, has not been passed on by him to any other person.

- 3) **Relevant Date:** - **[Imp]**

- ⇒ For Importer - Date of payment of duty
- ⇒ For Buyer - Date of purchase of goods. (Invoice date)
- ⇒ In case of retrospective E/N or special order - Date of E/N or Special order
- ⇒ In case of provisional assessment - Date of Final assessment
- ⇒ In case of any other judgement/order - Date of such judgement/order

- 4) Now Govt will presume that Burden of tax will pass on to end user so, govt transfer refund amount to "Consumer Welfare Fund" by following "Doctrine of unjust enrichment".

- 5) **[Imp]** Fund paid to the applicant, instead of transfer to CWF, if -

- ⇒ Where it is proved that incidence of tax borne by applicant.
- ⇒ Refund under Baggage i.e. personal use
- ⇒ Refund of Duty-drawback
- ⇒ Refund of export duty.
- ⇒ Excess duty paid and evident as per bill of entry.

SECTION 27A: INTEREST ON DELAYED REFUNDS

Application processing time: - **3 Months** i.e. refund order shall be made within 3 months of application. Otherwise, interest **@ 6% p.a.** shall be payable immediately after 3 months.

1?

Classification of Goods

1. Introduction

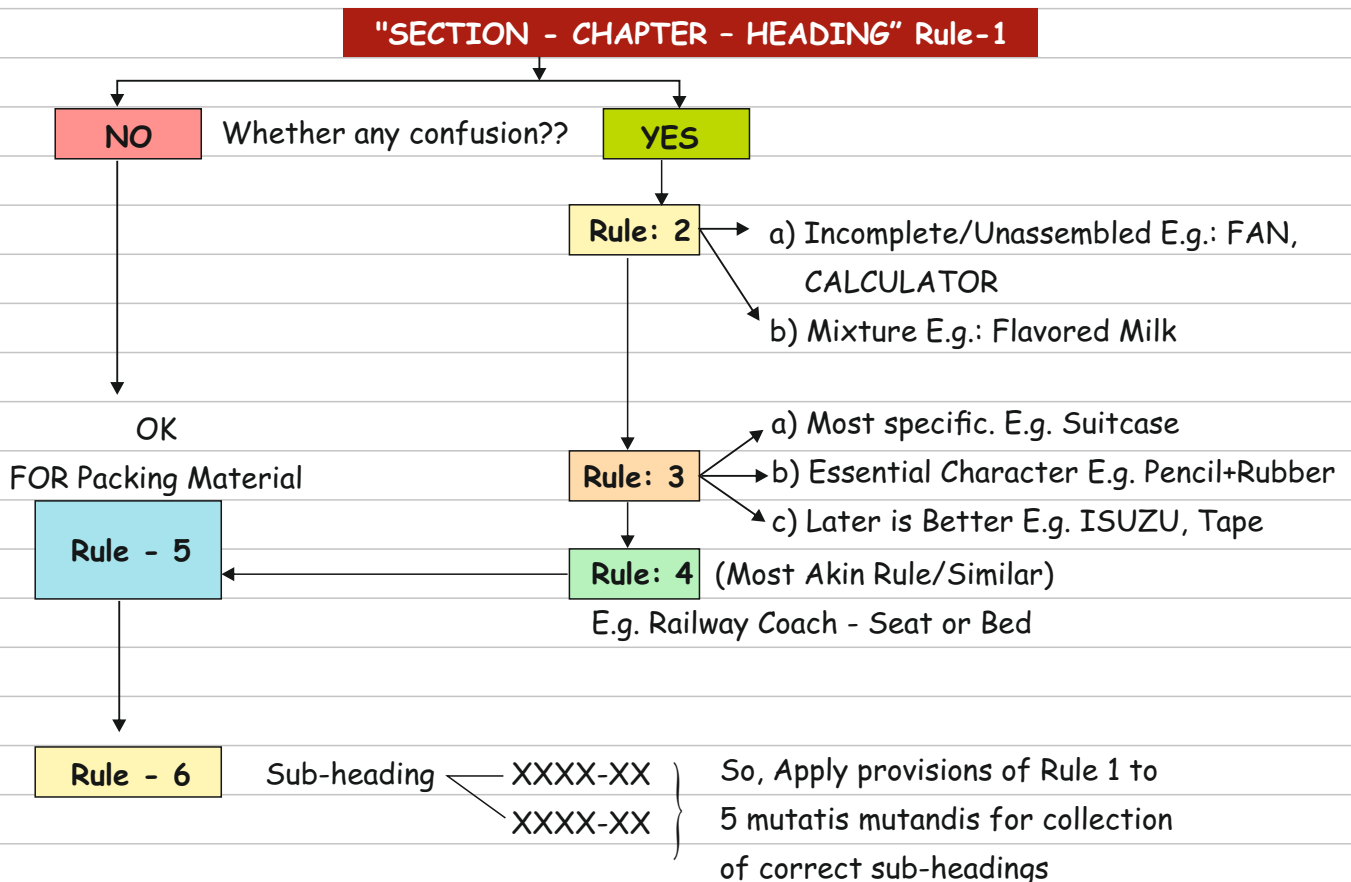
- ⇒ Customs tariff classification involves determining the heading or sub-heading under which a product is categorized.
- ⇒ It is essential due to the vast variety of goods imported and exported from India.
- ⇒ The Indian Customs Tariff is based on the Harmonized System of Nomenclature (HSN) developed by the World Customs Organization (WCO).
- ⇒ Uses an 8-digit coding system for accurate classification.

2. Structure of Customs Tariff

- ⇒ First Schedule: Comprises 98 chapters grouped into 21 sections.
 - Sections: Groups of chapters representing a specific class of goods.
 - Chapters: Subdivisions of sections containing goods of one class.
 - Headings and Sub-Headings: Further classification within

3. General Interpretative Rules (GIR)

- ⇒ Known as Statutory Principles, these rules help interpret tariff classification.



RULE 1: TITLE OF SECTIONS AND CHAPTERS

- ⇒ Titles are for reference only; legal classification is determined by heading and sub-heading terms.
- ⇒ If no ambiguity, classification is final.

RULE 2: CLASSIFICATION OF INCOMPLETE OR MIXED GOODS

- a) Incomplete or unfinished goods are classified as complete if they possess essential characteristics.
- b) Mixtures or combinations are classified as the predominant material or substance.

Examples:

- ⇒ A motor vehicle without a battery is still classified as a vehicle.
- ⇒ Milk with added vitamins is still classified as milk.

RULE 3: SPECIFIC OVER GENERAL

- a) If goods are classifiable under multiple headings, the most specific description prevails.
- b) Mixtures or combinations are classified according to essential character.
- c) If still unclear, then the last heading in numerical order.

Examples:

- ⇒ VIP bag classified as a suitcase rather than a plastic article.
- ⇒ Lead pencil with eraser classified as a pencil.
- ⇒ ISUZU car shall be classified as last numerical heading.

RULE 4: AKIN RULE

- ⇒ Goods not classifiable under earlier rules are classified as the most akin product.

Examples:

- ⇒ Railways coaches are classified as akin to beds rather than seats.

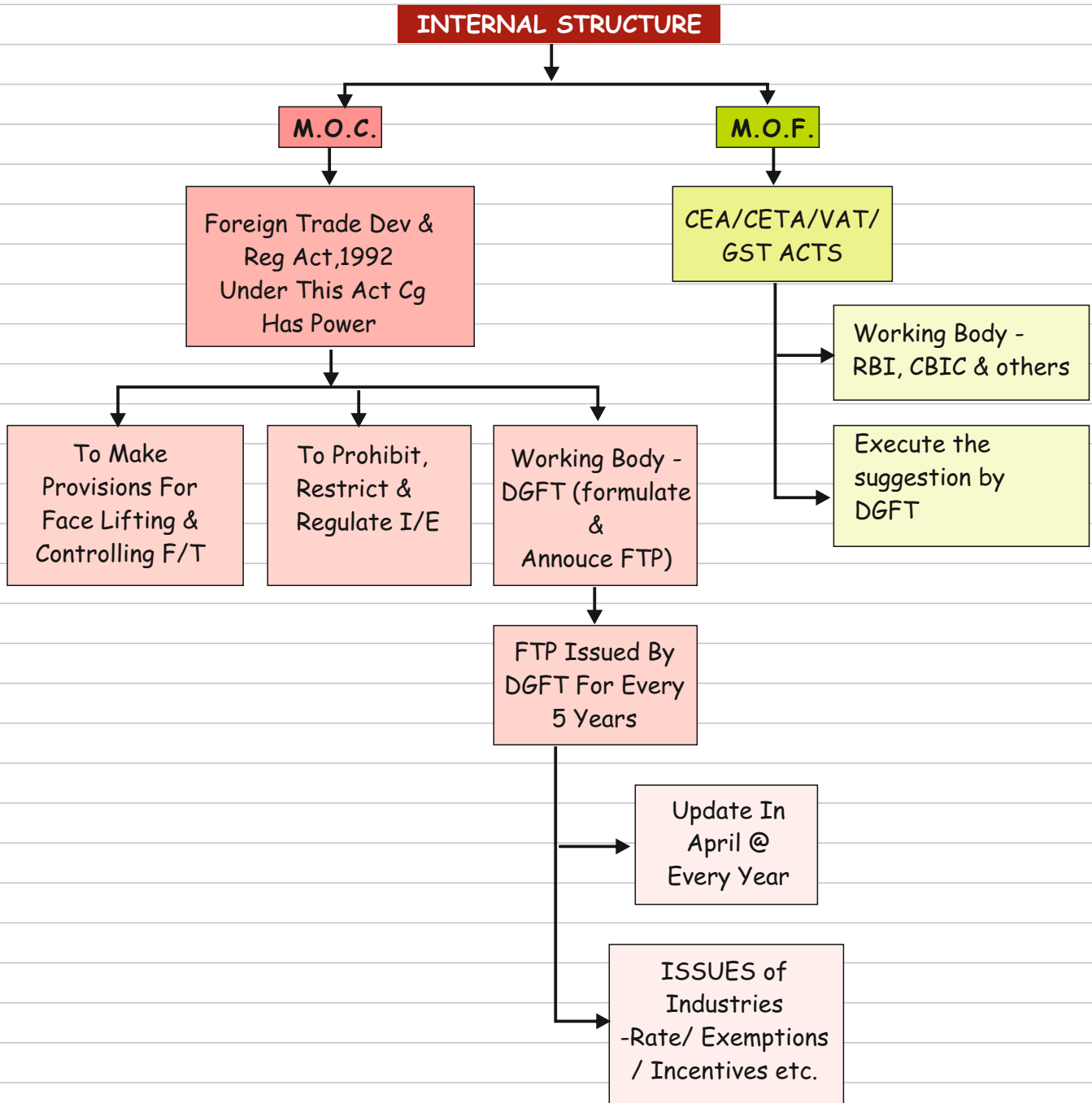
RULE 5: PACKING CONTAINERS

- ⇒ Containers specifically shaped or fitted for long-term use are classified with the goods they contain unless suited for repetitive use (e.g., gas cylinders).

RULE 6: SUB-HEADING CLASSIFICATION

- ⇒ Classification within sub-headings follows terms of sub-headings and related notes, compared only at the same level.

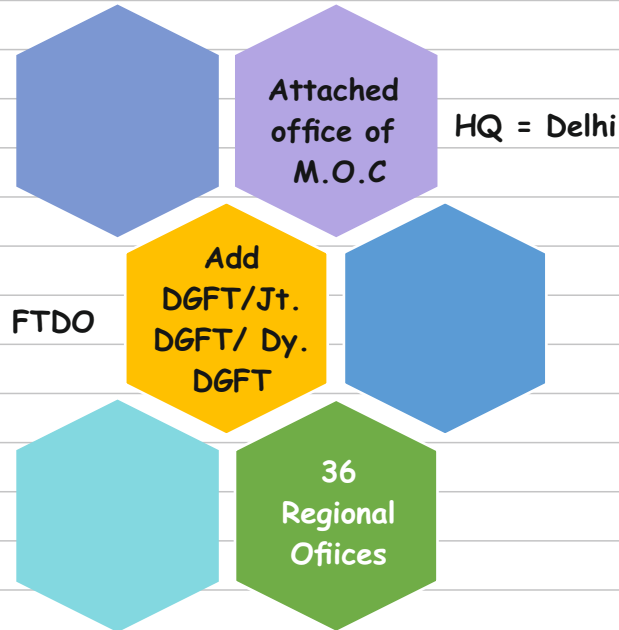
14 Foreign Trade Policy, 2023



The exemption extended by FTP-are given effect to, by issuing notification under the respective laws e.g., custom Tariff Act, 1975. Thus, actual benefit of exemption depends upon the language of exemption notification issued by Ministry of Finance

1) Role of FTP/What is FTP: Foreign Trade Policy is a set of Guidelines for International Trade.

2) Director General Foreign Trade (DGFT):



3) Role of DGFT:

- Formulate, Implement, Superwise & Control FTP
- Provide IEC, Various Authorization, Various Scheme
- Superwise & Control EPC (Export Promotion Council)
- Board of Trade (BOT)

4) **Settlement Commission:** The settlement commission set up by Department of Revenue has been empowered to settle matters of Default in Export obligations also.

OBJECTIVE OF FOREIGN TRADE POLICY

Object: #1	Boost Export
Object: #2	Decrease Import
Object: #3	Regulate Import-Export
Object: #4	Other objects/Provision

OBJECT 1: BOOST EXPORT

(i) Ease of doing Business: [ie clear the way to export] :-

E-Governance	Online filing of Docs, Application etc.
Minimum : 3 Documents	-Bill of Entry/Shipping Bill/Bill of Export/Postal Bill of Export -Bill of lading/Airway Bill/Lorry Receipts, Railway Receipts, Postal Receipts -Commercial Invoice and packing list
Single Window Facility	As in case of DBK u/s 75(1)
Quick Clearance	Even Export Goods can not be taken on hold (Seizure) until serious irregularities.
Round 'O' Clock	Round 'O' Clock Working 24 x 365 @ [18 Sea Ports] A dedicated 24 X 7 Help-desk facility
Niryat Bandhu	Niryat Bandhu Scheme for mentoring new and potential exporter on the intricacies of foreign trade through counseling, training and outreach programme including the 'Districts as Export Hubs"
Trade Facilitation	A large number of Trade Facilitation measures have been taken by Customs Department
DGFT online customer portal	https://dgft.gov.in

(ii) Pre-Export Incentives:

Duty Exemption Scheme AAS / DFIA / EPCG

Duty Exemption Scheme Finding new markets, Finding new products to export, R&D For Quality Improvement

(iii) Post Export Incentives:

Issuance of Scrips Scrips are Like food coupon Say 5% to 3% or 10% Of FOB Value which is used for payment of duties and Taxes. E.g RODTEP

Status Holder Status Recognition to Big Exporters by giving Rank (Star Ranking) and Various Facilities are Provided to such Persons e.g. Self-Certification, Can establish Bonded warehouses etc.

Duty Remission Scheme Remission from Duty shall be allowed e.g. Duty Drawback.

(iv) Others Schemes :

- ⇒ Authorized Economic Operator Programme
- ⇒ Town of Export Excellence

ADVANCE AUTHORISATION SCHEME

- 1) Make an Application for Authorisation (Online) @ www.DGFT.Gov.in - Obtain authorization for duty free import.
[Valid up to 12 months from date of issue of Authorisation]
- 2) Do Import @ Duty Free **[All Duties - BCD, CVD 3(1)/3(5)/3(3)/Sec: 8B/IGST/ Cess etc]**
 - ⇒ Raw Material
 - ⇒ Consumables
 - ⇒ Spare material (Max: 10% of CIF Value of Authorisation)
- 3) Do Physical Export or Specified Deemed Export [i.e. Supply to 100% EOU, FGV/A etc.]
- 4) Export obligation - **Value addition @ 15%**
- 5) Time Limit for Export Obligation - **90 days** from Import Clearance and No Extension and No Transfer of Material shall be allowed.
- 6) Quantity: Based on STANDARD INPUT OUTPUT NORMS (SION) / Self Declaration, but if SION is not Available then self-ratification basis.
- 7) Quantity for Annual requirement -
 - ∅ If SION is available - CIF value of import Quantity will be **300% of FOB /FOR** value of preceding F.Y. or **Rs. One Crore** [Whichever is higher]
 - ∅ If SION is not available - Facility not available
- 8) Actual user condition: The scheme is under "Actual user condition" even After Completion of Export Obligation. However, waste can be sold even before Fulfilment of Export Obligation.
- 9) Export Experience **Minimum 2 Preceding Financial Years.**

DUTY FREE IMPORT AUTHORISATION

- 1) File online Letter of Intent @ www.DGFT.Gov.in for Authorisation
- 2) Do Physical Export or Specified Deemed Export [i.e. Supply to 100% EOU, FGV/A etc.]
- 3) Request for issuance of Transferable DFIA.
[DFIA valid for 12 Months from the date of Issue]
- 4) Do Import @ Duty Free **[Only BCD Exempt]**
 - ⇒ Raw Material
 - ⇒ Consumables
 - ⇒ Note: Domestic inputs - can also be procured-Duty free
- 5) Export obligation - **Value addition @ 20%**
- 6) Quantity: Based on STANDARD INPUT OUTPUT NORMS (SION) only.
The scheme is Not Available, where SION of any product is not available.

COMPARISON OF AAS & DFIA

BASIS	AAS	DFIA
Nature of Scheme	Pre-Export Benefit	Post Export Benefit
Value Addition	15%	20%
Duty Exemption	All duties	BCD
Availability	SION / NON-SION	SION
Transferable	NO	YES

EPCG: EXPORT PROMOTION CAPITAL GOODS SCHEME

- 1) Make an Application for Authorisation (Online) @ www.DGFT.Gov.in
[Authorisation remain valid for 24 months from the date of issue of Authorisation]
- 2) Import the capital goods @ Duty Free. **[All Duties - BCD, CVD 3(1)/3(5)/3(3)/Sec: 8B/IGST/Cess etc]**
 Types of Capital Goods :-
 - ⇒ Computer
 - ⇒ Spare, Moulds, Dies
 - ⇒ Jigs Fixtures
 - ⇒ Refractories Material (Fuel)**But not including: -**
 - ⇒ Second hand capital goods;
 - ⇒ Genset etc.
- 3) For/Form/From:
 - ⇒ For - Any Stage i.e. PRE/DURING/POST production.
 - ⇒ Form - Assembled or Dismantled form i.e. CKD/SKD
 - ⇒ From - India/Abroad
- 4) Do Physical Export or Specified Deemed Export.
- 5) Export obligation (E.O.): -
 - ⇒ GENERAL - **Average** of Export of **3 P.F.Y.**
 - ⇒ SPECIFIC - **(Duty Saved x 6 times)** within 6 years from the date of Authorisation
 - ⇒ For Domestic Capital Goods
 E.O. = (Notional ID, Taxes, Cess saved X **4.5 times**) within 6 years
- 6) While calculating E.O. only Export of The Goods or services (under EPCG) shall be taken.
- 7) Shipment under AAS/DFIA shall also be included in calculation of E.O. under EPCG.
- 8) **Fast moving enterprises: -**
Average E.O. i.e. General E.O. (+) 75% of specific E.O. within 3 year

RODTEP SCHEME

- 1) RODTEP scheme is based on the globally accepted principle that taxes and duties should not be exported. The rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.
- 2) **Objective of the Scheme:** The objective of the scheme is to refund, currently unrefunded:
 - ⇒ Duties/ taxes, at the Central, State & local level, borne on the exported product, including prior stage cumulative indirect taxes on goods & services used in production of the exported product, and
 - ⇒ Such indirect duties/taxes in respect of distribution of exported products.
 - ⇒ For Examples Local Taxes, Mandi Tax, Electricity Duty, Coal Cess, Tax on Fuel used In transportation.
- 3) **Salient features of the scheme:**
 - ⇒ Rebate amount is issued in the form of a **TRANSFERABLE** duty credit /e-scrip,
 - ⇒ Such duty credit shall be used only to pay **BASIC CUSTOMS DUTY** on imported goods.
 - ⇒ The duty credit scrips are **FREELY TRANSFERABLE**
- 4) **Reward under the scheme:**
 Generally, A **% of FOB value with a value cap per unit** however a **fixed quantum of rebate amount per unit** also notified for some exporters.
- 5) Rebate become invalid in case of non-receipt of sale proceeds within time allowed under the FEMA Act, 1999.
- 6) Ineligible supplies/ items/ categories under RODTEP:
 - ⇒ Export of imported goods in same or substantially the same form
 - ⇒ Exports through trans-shipment
 - ⇒ Export products which are subject to export duty
 - ⇒ Products which are restricted/prohibited for export under FTP
 - ⇒ Deemed Exports
 - ⇒ Supplies of products manufactured by DTA units to SEZ/FTWZ units

STATUS HOLDER

- 1) Status holders are Business Leaders who have Excelled in International Trade & successfully contributed to countries Foreign Trade.
- 2) It is provided on the basis of Export performance in - **CFY + Preceding 3 FY**

Status category	Export Performance (USD Million)
One Star Export House	3
Two Star Export House	15
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800

3) Export performance necessary in all the 3 years.

4) Export performance is Non-transferable

5) **Benefits:** -

Authorisation on self-declaration basis.	Fixation of SION on priority basis. (Max 60 days) Exemption from Bank Guarantee under FTP.
---	---

Self-certify their manufactured goods. (3*/4*/5* manufacturer)	Entitled to preferential treatment and priority in handling of their consignments
---	---

Export, freely exportable items, on free of cost basis within specified annual limit. [2% of Average annual export realisation in 3 year.]	Permission to establish private Bonded Warehouse. (2* and above)
--	--

1) While computing Export performance following points should be considered -

a) For Granting **"ONE Star Status"**: Double weightage shall be taken for following-

- ⇒ MSME
- ⇒ Enterprises Located in North East Region including Sikkim, Jammu Kashmir, Ladakh
- ⇒ Units Located in AEZ (Agriculture Export Zone)
- ⇒ Export of Fruits and Vegetables
- ⇒ Enterprises having ISO / BIS status

b) Made on Re export Basis shall not be counted.

c) Export of Items under Authorisation, SCOMET Items would not be included for calculation of export performance.

d) For deemed export, FOR value of exports in Indian Rupees shall be converted in US\$ at the exchange rate notified by CBIC, as applicable on 1st April of each Financial Year.

Note: Export performance shall be counted on the basis of FoB of Export earnings in foreign currency or in INR as the case may be

AUTHORIZED ECONOMIC OPERATOR (AEO)

A business entity engaged in international trade is granted AEO status if it is approved by Customs as compliant with supply chain security standards. Such entities are considered as **TRUSTED TRADE PARTNER** of Indian customs.

AEO status holders get extensive benefits including: -

- ⇒ Preferential customs treatment in terms of reduced examination and faster clearance of cargo
- ⇒ Deferred payment of duty

- ⇒ Direct port delivery/entry
- ⇒ Enhanced border clearance in Mutual Recognition Agreement (MRA) partner countries,
- ⇒ Greater facilitation and self-certification.

AEO programme is based on WCO's safe Framework of Standards (FoS).

TOWNS OF EXPORT EXCELLENCE (TEE)

- ⇒ Selected towns which are contributing handsomely to India's exports by producing goods of specified amount may be granted recognition as TEE.
- ⇒ They will be provided **targeted support** and infrastructure development to maximize their export competitiveness and enable them to move up the value chain and also to tap new markets by granting specified privileges to them.

OBJECTIVE 2: DECREASE IMPORT:

- ⇒ Make in India - of those goods - which are currently imported into India.
- ⇒ R&D - For Quality Improvement
- ⇒ Cost cutting techniques
- ⇒ Technology improvement in India

OBJECTIVE 3: REGULATE - IMPORT/EXPORT (INTERNATIONAL TRADE)

1) Import-Export Code: -

- ⇒ Given by DGFT on the basis of E- Application with DSC and required to upload Digital photograph of Applicant, PAN Card, Cancelled Cheque.
- ⇒ Mandatory for import-export EXCEPT Baggage etc.
- ⇒ Form No. : ANF 2A (Aayat Niryat Form) : for application & fee. ₹ 500/-
- ⇒ IEC : PAN Based 10 Digit

2) ITC(HS) [Indian Trade Classification (Harmonised System)]: -

- ⇒ The information regarding status of the goods being free/restricted/prohibited/traded through STE, for import / export is available in the ITC(HS) i.e. just like tariff code.

3) State Trading Enterprises: -

- ⇒ State Trading Enterprises (STEs) are governmental/non- governmental enterprises, including marketing boards, which deal with goods for export and /or import. However, DGFT has the discretion to issue authorisation to other entities to import or export goods that are notified for exclusive trading through STEs.
- ⇒ Some of the STEs are Food Corporation of India, Oil and Natural Gas Corporation Ltd, National Fertilizers Limited, Indian Rare Earth Ltd., National Dairy Development Board, National Agricultural Cooperative Marketing Federation of India (NAFED), State Cooperative Marketing Federation, etc.

A. PROVISIONS RELATING TO IMPORT OF GOODS

1) General Import Rules:

- ⇒ Freely importable goods can be imported by any person. If authorization is needed, only the Actual User can import unless exempted by DGFT.

2) Specific Import Categories:

- ⇒ **Samples:** Import of even restricted samples is allowed without authorization, except for defence/security items, seeds, bees, and new drugs. Exporters can import duty-free samples up to ₹3,00,000 with conditions.
- ⇒ **Gifts:** Import of gifts through courier/post is prohibited, except for "Rakhi" and life-saving medicines. Customs duties apply to other gifts. If duty leviable on Rakhi is up to Rs. 100, no duty will be collected on the same.
- ⇒ **Passenger Baggage:** Household goods, personal effects, freely importable samples, and certain export-related items are allowed without authorization under Baggage Rules, 2016.
- ⇒ **Repaired Goods:** Goods sent abroad for repair or quality improvement can be re-imported without authorization.
- ⇒ **Project Goods:** Capital goods used in completed overseas projects can be imported without authorization if used for at least one year.
- ⇒ **Prototypes:** Industrial users can import prototypes without authorization for product development or research after self-declaration to Customs.
- ⇒ **Metallic Waste & Scrap:** Import is allowed if it is free from hazardous or radioactive materials.

3) Miscellaneous Import Provisions:

- ⇒ Goods can be sold on the high seas, subject to relevant laws.
- ⇒ Merchanting trade (shipment between foreign countries via Indian intermediaries) is allowed except for restricted items.
- ⇒ Import of capital goods through lease financing does not need DGFT permission.
- ⇒ Bank guarantees or bonds may be required for duty-free imports or clearance.

B. PROVISIONS RELATING TO EXPORT OF GOODS

1) Export Regulations:

- ⇒ All goods are freely exportable unless restricted by ITC(HS), FTP, or any other law.

2) Supporting Manufacturer Benefits:

- ⇒ A supporting manufacturer who produces goods/components for a merchant or manufacturer exporter can claim benefits if both names are on the export documents (e.g., invoice, shipping bill).

3) Third-Party Exports:

- ⇒ Permitted under FTP, where one exporter exports on behalf of another.
- ⇒ Export documents must contain the names of both the manufacturer and third-party exporter.
- ⇒ Bank Realisation Certificate (BRC), Self-Declaration Form (SDF), export order, and invoice

should be in the name of the third-party exporter.

- ⇒ If shipping bills do not include the manufacturer's name, they will not be treated as the exporter.

4) Samples and Gifts:

- ⇒ Freely exportable items can be sent as samples without limits.
- ⇒ Gifts (including edible items) up to ₹5,00,000 per licensing year are allowed unless restricted by ITC(HS).

5) Passenger Baggage:

- ⇒ Bona fide personal baggage can be exported without restrictions, but restricted items require authorization.

6) Export Promotion Councils (EPCs): Promote and develop Indian exports for specific product groups and issue Registration-cum-Membership Certificates (RCMC). RCMC is required to be furnished while applying for an Authorisation to import/ export or any other benefit under the FTP.

7) Self-Certification of Origin:

- ⇒ Approved exporters (status holders) can self-certify the origin of exported goods.

PENAL ACTION AND PLACING OF AN ENTITY IN DENIED ENTITY LIST (DEL)

1) Penal action: -

In following situations, a person shall be liable to penal action under FT (D&R) Act, FTP etc -

- a) Authorisation holder
 - ⇒ Violates any condition of such Authorisation
 - ⇒ Fails to fulfil export obligation
 - ⇒ Fails to deposit the requisite amount within the period specified in demand notice
- b) Any information/particulars furnished by applicant subsequently found untrue/incorrect.

2) Denied Entity List (DEL): -

A firm may be placed under DEL, by the concerned Regional Authority (RA) of the DGFT. In such a case:

- a) Firm may be refused grant or renewal of a licence/authorization/certificate/scrip; and
- b) All new licences, authorisations, scrips, certificates, instruments etc. will be blocked from printing/ issue/renewal.

A firm's name can be removed from DEL, by the concerned RA for reasons if the firm completes Export Obligation/pays penalty/fulfils requirement of demand notice(s) issued by the RA/submits documents required by the RA.

OBJECTIVE 4: OTHER PROVISIONS

1) DEEMED EXPORT: -

- ⇒ Sale to 100% EOU, AAS Holder, DFIA Holder, EPCG Holder, Projects that involves international Competitive Biddings, Infrastructure Projects of National Importance.
- ⇒ Although Movement within India but shall be treated as Deemed Export.

- ⇒ Hence the deemed Exporter [**Main Contactor + Sub Contractor**] is eligible for Export Benefits e.g. Rebate/Refund/AAS/DFIA/EPCG etc.

2) **100% Export Oriented Unit: -**

- ⇒ Units undertaking to export their entire production of goods and services (except permissible sales in DTA), may be set up under these schemes.
- ⇒ Trading units are not covered under these schemes rest all other units are eligible for this scheme.

⇒ **Objective:**

- To promote Export
- Enhance Foreign Exchange
- Attract investment for foreign Export production
- Employment - Generation

⇒ **Procedure:**

- Person having investment in "Plant & M/c" of **Rs. 1 Crore or more** can apply to Unit Approval committee or Board of Approval
- Decision of UAC within 15 days (Accept/Reject)
- Get permission (Letter of Permission) from Board of Approval (BOA)
- Start Business or Production Within 2+2 years

⇒ **Benefits:**

- Inward Supplies - Imported Goods (Incl. second hand goods) either Purchase/Lease: No Import Duty/IGST/Cess
 - Inward Supplies - Domestic Goods (Incl. second hand goods) either Purchase/Lease: No Excise duty, No GST, Cess
 - Outward supplies - Export - NO tax
 - Outward supplies - DTA - Deemed Import, liable to ID
- ⇒ Goods supplied by one unit of EOU/EHTP/STP/BTP to another unit shall be liable to GST/CESS.
 - ⇒ Forex to be calculated in a **Block of 5 year** starting from commencement of Business. If Genuine hardship then the period of 5 year may be Extend upto 6 years.

3) **DEVELOPING DISTRICTS AS EXPORT HUBS: -**

- ⇒ Aim: Boost district-level exports to support Atma Nirbhar Bharat, Vocal for Local, and Make in India.
- ⇒ Approach: Identify high-potential products/services (e.g., GI products, agricultural clusters).
- ⇒ Implementation: Form District Export Promotion Committees (DEPCs) to support export growth and resolve issues.

- ⇒ Create a District Export Action Plan (DEAP) prioritizing 2-3 key products/services.
- ⇒ DGFT Regional Authorities will coordinate with state and central agencies for effective execution.

4) SCOMET: SPECIAL CHEMICALS, ORGANISMS, MATERIALS, EQUIPMENT AND TECHNOLOGIES: -

India is committed to international disarmament and non-proliferation agreements and is a member of key multilateral export control regimes. As a result, the export of dual-use items (which have both civilian and military applications), including software and technology, is regulated under the Foreign Trade Policy (FTP). Such exports are either prohibited or require authorization unless specifically exempted. The SCOMET list serves as India's National Export Control List for dual-use, munitions, and nuclear-related items and aligns with international control lists and conventions.

5) QUALITY COMPLAINTS AND TRADE DISPUTES: -

The owner involved in import/export must accurately state the value, quality, and description of goods/services/technology in relevant documents. For exports, certification of quality and specifications as per the export contract is required. Violations are addressed under the FT(D&R) Act and Foreign Trade (Regulation) Rules, 1993. A mechanism exists to resolve disputes between foreign buyers/suppliers and Indian traders regarding quality issues or unethical practices. The Committee on Quality Complaints and Trade Disputes (CQCTD) handles inquiries and resolves complaints related to quality and trade issues within its jurisdiction.