

Features:

- Relevant for **May/Nov 23**
- As per Latest ICAI SM
- All Amendments Upto **31 Oct 2022 covered**



CA FINAL

INDIRECT TAXES

Customs + FTP

(As Per latest ICAI SM)

Handwritten Book

Self Study Book By
Riddhi Baghmar



INDEX

1. Introduction to Customs Law	01
2. Levy and Exemptions	06
3. Types of Duty	15
4. Classification of Imported & Exported Goods	24
5. Valuation under the Customs Act, 1962	30
6. Importation & Exportation of Goods	38
7. Transit & Transshipment	50
8. Postal Articles/ Stores	51
9. Baggage	53
10. Warehousing	58
11. Duty Drawback	67
12. Refund	72
13. Foreign Trade Policy	75

All the Best!!

• Presenting this book

• with lots of love ♥

• - Riddhi Baghmar

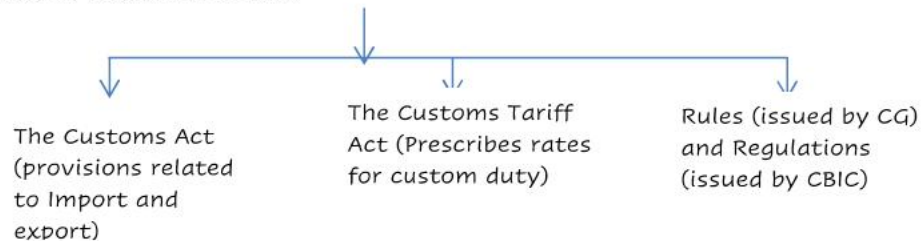


Chapter – 1

LEVY OF AND EXEMPTIONS FROM CUSTOMS DUTY

Introduction

- The Customs Act, 1962 extends to the **whole of India** and, save as otherwise provided in this Act, **it applies also to any offence or contravention thereunder committed outside India by any person**. The entire gamut of the Act is grouped into seventeen chapters.
- The power to levy customs duties on import/export, as well as the power to legislate the principles to determine whether a transaction qualifies as import/export, lies solely with the **Union, i.e. the Parliament of India** (List I to the Seventh Schedule to the Constitution of India)
- Overview of Customs Law:-



Some Important Definitions:-

- **Beneficial Owner** means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported [Section 2(3A)].
- **Board** means the Central Board of Indirect Taxes and Customs constituted under the Central Boards of Revenue Act, 1963 [Section 2(6)]



Central Board of Indirect Taxes & Customs
Department of Revenue, Ministry of Finance, Government of India

- **Customs area** means the area of a customs station or a warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities [Section 2(11)].
- **Customs Station** means any customs port, customs airport, international courier terminal, foreign post office, or land customs station [Section 2(13)]
- **Warehouse** means a public warehouse licensed under Section 57 or a private warehouse licensed under Section 58 or a special warehouse licensed under Section 58A [Section 2(43)].



- **Export** with its grammatical variations and cognate expressions, means taking out of India to a place outside India [Section 2(18)].
- **Adjudicating authority [Section 2(1)]**: means any authority competent to pass any order or decision under this Act, but does not include the Board, Commissioner (Appeals) or Appellate Tribunal. The adjudicating authority can adjudicate demand of customs duty, confiscation and penalties under Customs Act.
- **Assessment [Section 2(2)]**: 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 (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to –
 - (a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;
 - (b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;
 - (c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;
 - (d) 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;
 - (e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;
 - (f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods,
 and includes provisional assessment, self-assessment, reassessment and any assessment in which the duty assessed is nil.
- **Beneficial owner[Section 2(3A)]**: “Beneficial owner” means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported.
- **Bill of entry [Section 2(4)]**: means a bill of entry referred to in section 46, to be filed when goods are imported by sea or air. This is not to be confused with bill of lading, which is a receipt issued by the carrier to the consignor for the goods
- **Bill of export [Section 2(5)]**: means a bill of export referred to in section 50 to be filed when goods are exported via land route. Coastal goods [Section 2(7)]: means goods, other than imported goods, transported in a vessel from one port in India to another. Conveyance [Section 2(9)]: includes a vessel, an aircraft and a vehicle.
- **Customs airport [Section 2(10)]**: “customs airport” means any airport appointed under clause (a) of Section 7 to be a customs airport and includes a place appointed under clause (aa) of that section to be an air freight station.

- **Customs area [Section 2(11)]:** “customs area” means the area of a customs station or a warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities.
- **Customs port [Section 2(12)]:** means any port appointed under clause (a) of section 7 to be a customs port and includes a place appointed under clause (aa) of that section to be an inland container depot
- **Customs Station Section 2(13):** means any customs port, customs airport, international courier terminal, foreign post office or land customs station. **Dutiable goods: [Section 2(14)]** means any goods:-
 - (a) which are chargeable to duty and
 - (b) on which duty has not been paid.
 In order to be dutiable, any article must first satisfy both the following conditions:-
 - (i) The article should fall within the ambit of the word goods [defined under sec 2(22)].
 - (ii) The article should find a mention in the Customs Tariff.
- **Entry [Section 2(16)]:** 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. **Exporter [Section 2(20)]:** “Exporter”, in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner, beneficial owner or any person holding himself out to be the exporter
- **Foreign going vessel or aircraft: [Section 2(21)]** 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
 - includes-
 - any naval vessel of any foreign Government taking part in any naval exercise;
 - any vessel engaged in fishing or any other operations outside the territorial waters of India;
 - any vessel or aircraft proceeding to a place outside India for any purpose whatsoever.
 Hence, the definition consists of two limbs:-
 - (a) The first limb applies to the vessel/aircraft for the time being engaged in the carriage of passengers/goods between any port/airport in India and any port/airport outside India.
 - (b) The second limb covers other vessels which are which are proceeding to a place outside India or engaged in activities outside the territorial waters of India or which are foreign naval vessels taking part in a naval exercise.
- **Goods: [Section 2(22)]** “Goods” includes
 - (a) vessels, aircrafts and vehicles
 - (b) stores
 - (c) baggage
 - (d) currency and negotiable instruments and
 - (e) any other kind of movable property

- **Import: [Section 2(23)]** with its grammatical variations and cognate expressions, means bringing into India from a place outside India
 - The definition of imports is not restricted only to commercial imports. It only means bringing of goods from any place outside India into India.
 - The meaning of import has been one of the most contentious issues in Customs. There are two school of thoughts. One school of thought is that import gets completed when the vessel carrying goods crosses the territorial waters of India. The other school of thought is that the import is complete only when the goods mingle with the landmass of India. Now the settled law is in favour of second school of thought. It has been held in *Garden Silk Mills v. UOI* 1999 (113) ELT 358 (SC) that import of goods into India commences when the goods enter the territorial waters of India, but continue and complete only when the goods become part of mass of goods within the country. The taxable event occurs only when the goods reach the customs barrier and the bill of entry for home consumption is filed.
- **Arrival manifest or Import manifest or Import report [Section 2(24)]:** means the report required to be delivered under section 30. It may be noted that import report is required only when goods are imported via land route.
- **Imported Goods: [Section 2(25)]** means any goods brought into India from a place outside India but does not include goods, which have been cleared for home consumption.
- **Importer: [Section 2(26)]:-**“Importer”, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer.
 The definition of importer includes not only the owner but also any other person holding out to be an importer. Owner is a person who is holding the documents of title to the goods. This will include a high sea buyer. However, importer also includes any person holding himself to be the importer for purpose of clearance of goods. This is the person who files the import documents.
 However, between the two, the owner takes precedence over person holding himself out to be the importer [*Union of India v Sampath Raj Dugar*, 1991 (56) ELT 739 (Bom)]. The goods being abandoned by original importer, ownership thereof continues to vest in foreign supplier. The said goods if transferred by endorsement of Bill of Lading to another person, that another person holding document of title (Bill of Lading) to be regarded as importer’ under Section 2(26) of the Customs Act, 1962. [*Agrim Sampada Ltd v Union of India*, 2004 (168) ELT 15 (Del)]
- **International Courier Terminal [Section 2(28A)]:** means any place appointed under clause (f) of sub-section (1) of section 7 to be an international courier terminal

- **Person-in-charge: [Section 2(31)]**

S.No.	In relation to	Person-in-charge means
1.	vessel	the master of the vessel
2.	aircraft	the commander or the pilot-in-charge of the aircraft
3.	railway train	the conductor, guard or other person having the chief direction of the train
4.	any other conveyance	the driver or other person-in-charge of the conveyance

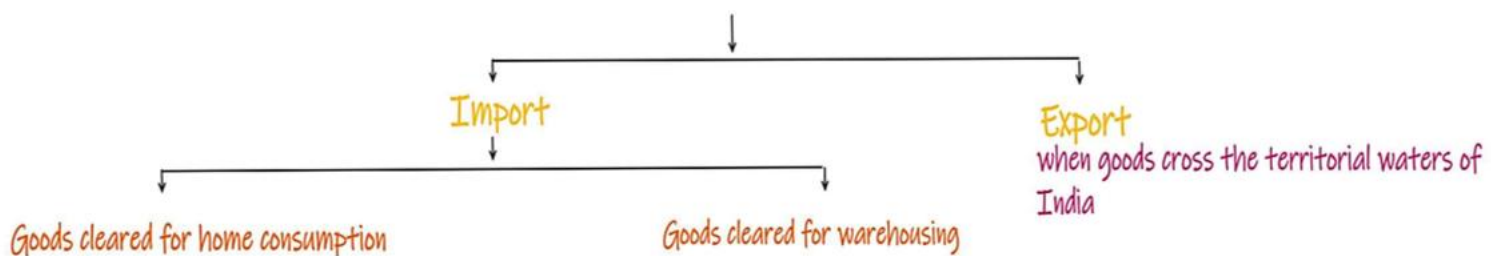
- **Prohibited goods [Section 2(33)]:** means any goods the import or export of which is subject to any prohibition under the Customs Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with
- **Export goods [Section 2(19)]** means any goods, which are to be taken out of India to a place outside India
- **Exporter [Section 2(20)]** in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner, beneficial owner or any person holding himself out to be the exporter.

Unit 2: Levy and Exemptions

Section 12: Charging Section

- Duties of customs
 - shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 (or any other law for the time being in force)
 - on goods imported into and exported from India
- The above provisions shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government
- The taxable event is IMPORT/EXPORT of GOODS
- The charge of customs duty is on the goods and not the person who is importing them/paying the duty

Taxable Event



>implies duty on import of such goods has been discharged and goods can be cleared for consumption/utilization

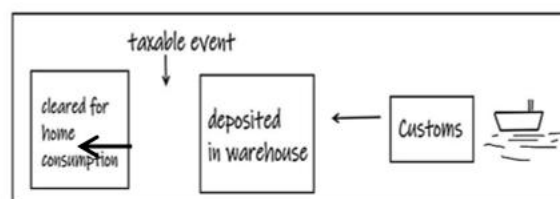
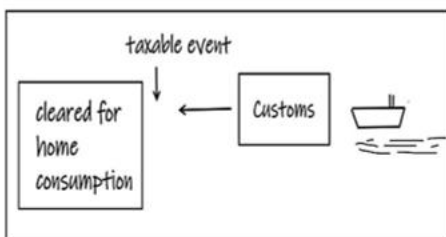
>implies that goods have been deposited in the warehouse and will be cleared at a later time. The duty on such goods is deferred till goods are cleared for home consumption

TAXABLE EVENT :

TAXABLE EVENT :

>when goods reach the customs barriers and bill of entry for home consumption is filed
(Garden Silk Mills v. UOI - SC 1999)

>when goods are sought to be taken out of the customs and brought to the mass of goods in the country
(Kiran Spinning Mills v. Collector of Customs - SC 1999)



- How will government ensure its revenue in case of goods cleared for warehousing?
 - Importer will have to execute a bond binding himself in a sum equal to thrice the amount of duty assessed on the goods at the time of import, and also pay interest, rent and charges for storage of goods

Section 20: Re - Importation of Goods

- General rule: If goods are re-imported after exporting, it shall be liable to duty

○ Concessional Duty in case of goods exported under duty drawback, exported for repairs etc.

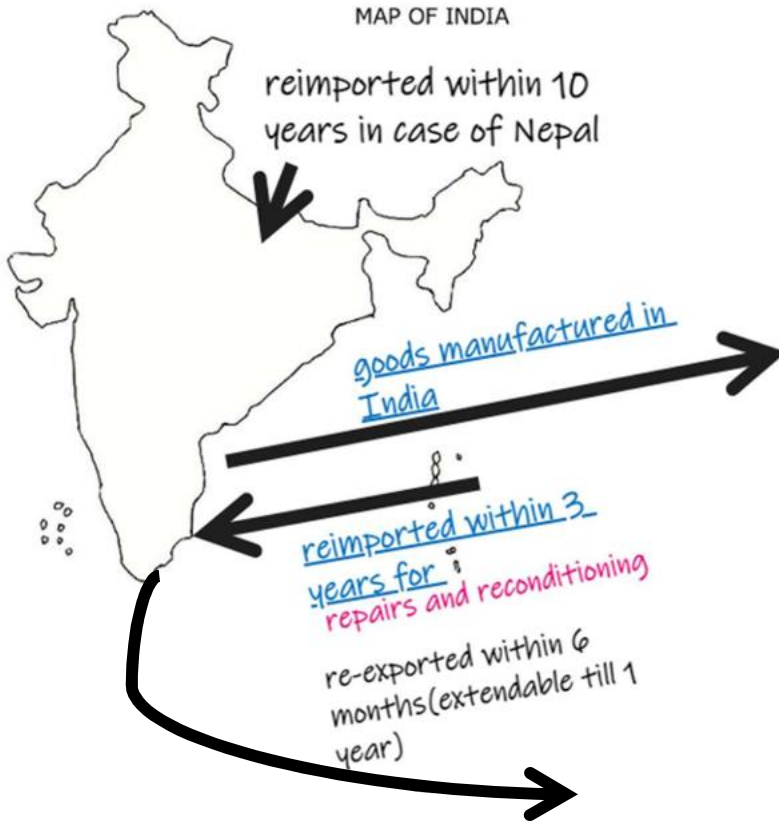
Duty Payable	On goods
Amount of Incentive availed at the time of export	Exported under claim of DBK/Refund of IGST paid on export/bond without payment of IGST
Amount of Incentive availed at the time of export, however, IGST + Compensation cess leviable at the time of re-importation	Exported under duty exemption schemes(DEEC/AA/DFIA) or EPCG
Customs Duty leviable on fair cost of repairs + cost of material used for repairs + insurance + freight(both ways)	Re-imported being sent for exports(other than falling under the above 2)
Nil	Other than falling under the above 3(residuary entry)

Pay during re import what you didn't pay during export

- Conditions for claiming the above concessions/exemptions:
 - Time limit :
 - Normal : 3 years + 2 years(extendable)
 - In case of DEEC/AA/DFIA/EPCG/DEPB/Any reward scheme: 1 year + 1 year(extendable)
 - Same goods to be reimported(re-manufacturing/reprocessing not allowed)
 - No change in ownership in case of goods re – imported after repairs
- **Non applicability of conditions:**
 - Re-imported goods had been exported by 100% EOU or a unit in a free trade zone
 - Re-imported goods had been exported from a public/private warehouse
 - re-imported goods which fall under Fourth schedule to the Central Excise Act, 1944 (tobacco products and petroleum products)
 - Goods sent for exhibition/consignment basis (clarification by CBIC)
 - Goods sent for exhibition purposes/consignment basis do not constitute supply as it does not involve consideration.
 - There is no requirement of filing any LUT or bond and hence, no IGST is payable at the time of export of such goods and accordingly, no IGST is payable on re – import(situation 1 in the above table)
 - Hence, this case **falls under the residuary entry** in the table above and accordingly, exemption is available.
 - Also, where exports have been made to related/distinct persons or principals/agents for participation in exhibition or consignment basis , but, **the same have been returned** exemption of the residuary entry will be available and no duty will be levied provided re – import happens **within 6 months of delivery challan**

- Exemption to re-import of goods and parts thereof for repairs, reconditioning, reprocessing, remaking or similar other process

1

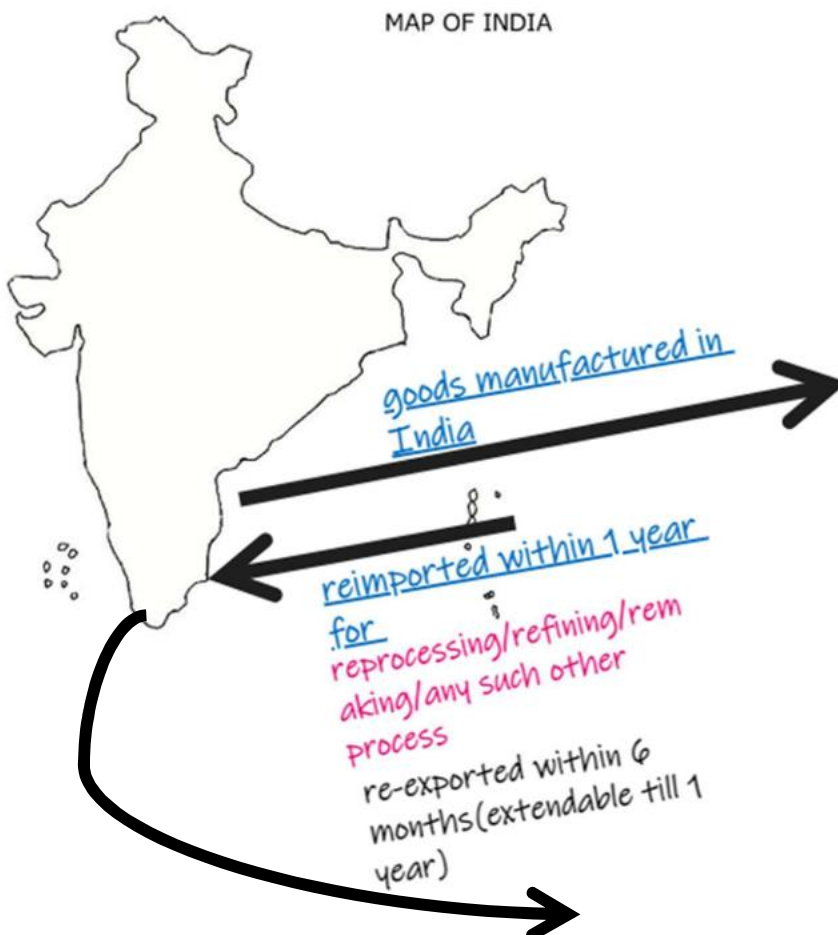


NO IMPORT DUTY PAYABLE

Other Conditions

- The AC/DC of customs is satisfied as regards identity of goods
- Importer at the time of importation executes a bond
- In case of reprocessing/refining/remaking
 - If there is any loss during operation
 - Such loss shall be exempted from whole of the duty
 - Subject to satisfaction of AC/DC
- The exemption is available even if quantity re-imported is short or low in quantity as long as nature and variety of goods is same.

2



- **Section 21: Goods derelict, wreck etc.**

- All goods
- Derelict - Any cargo, vessel, etc. abandoned in the sea with no hope of recovery.
- Jetsam - goods jettisoned (thrown) from the vessel to save her from sinking.
- flotsam - Jettisoned goods which continue floating in the sea
- wreck - cargo / vessel / any property which are cast ashore by tides after ship wreck
- brought or coming into India, shall be dealt with as if they were imported into India, **unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.**
- This implies that flotsam / jetsam / derelict and wreck brought into India are also treated on par with trade goods.

Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022

- Supersedes the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.
- Applicability:
 - a notification provides for the observance of these rules;
 - an importer intends to avail the benefit of any notification and such benefit is dependent upon the use of the goods imported for the manufacture of any commodity or provision of output service or being put to a specified end use.
- Important Definitions
 - "Act" = The Customs Act, 1962.
 - "Capital goods" = goods, the value of which is capitalized in the BoAs of the importer;
 - "Customs automated system" means the Indian Customs Electronic Data Interchange System;
 - "Date of import" means the date of the order made by the PO under section 47, permitting clearance of the goods;
 - "Form" means a form annexed to these rules;
 - "information" means the information provided by the importer who intends to avail the benefit of a notification;
 - "Job work" means any treatment, process or manufacture, consistent with the notification undertaken by a person on goods belonging to the importer except gold, jewellery and articles thereof, and other precious metals or stones and the term "job worker" shall be construed accordingly;
 - "Jurisdictional Custom Officer" means an officer of Customs of a rank equivalent to the rank of Superintendent or Appraiser exercising jurisdiction over –
 - the premises where either the goods imported shall be put to use for manufacture or for rendering output services;
 - the primary address specified in the Importer Exporter Code issued by Directorate General of Foreign Trade in other cases;
 - "manufacture" means the processing of raw materials or inputs by the importer in any manner that results in emergence of a new product having a distinct nature or character or use or name; and the term "manufacturer" shall be construed accordingly;
 - "notification" includes any notification issued under sub-section (1) of section 25 and section 11 of the Act;
 - "Output service" means supply of service excluding after-sales service, utilising imported goods.
 - "section" means a section of the Customs Act.
 - "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.

Rule 4: Importer to give one-time prior information

one-time information on common portal

- i. the name and address of the importer and his job worker
- ii. the goods produced or process undertaken at the manufacturing facility of the importer or his job worker, if any, or both;
- iii. the nature and description of goods imported used in the manufacture of goods at the premises of the importer or the job worker, if any;
- iv. particulars of the notification applicable on such import;
- v. nature of output service rendered utilising the goods imported;
- vi. particulars of premises intended to be used in case of unit transfer;
- vii. details of the end use recipient in cases where goods imported are supplied for specified end use; and
- viii. the intended ports of import



On acceptance of the information, an Import of Goods at Concessional Rate of Duty (IGCR) Identification Number (IIN) shall be generated against such information (may be updated from time to time in case of changes in details furnished above)

Importer shall submit a continuity bond with such surety/security as deemed fit to AC/DC with an undertaking to pay

- In case the notification provides for duty exemption: the amount equal to difference between the duty leviable on inputs but for the exemption and that already paid (if any) along with interest for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay
- In other cases: amount equal to the assessable value

Rule 5: Procedure to be followed

- 1) IIN (as per rule 4)
- 2) Continuity bond number and details

to be mentioned

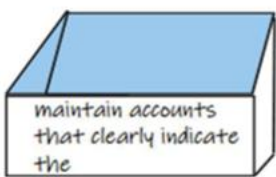
while filing BoE

when BoE is cleared for home consumption

Bond debited automatically in the customs automated system and the details shall be made available electronically to the JCO.

The AC/DC at custom station of importation shall allow the benefit of the notification to the importer

Rule 6: Importer to maintain records



Monthly statement

on the common portal

by 10th of the following month

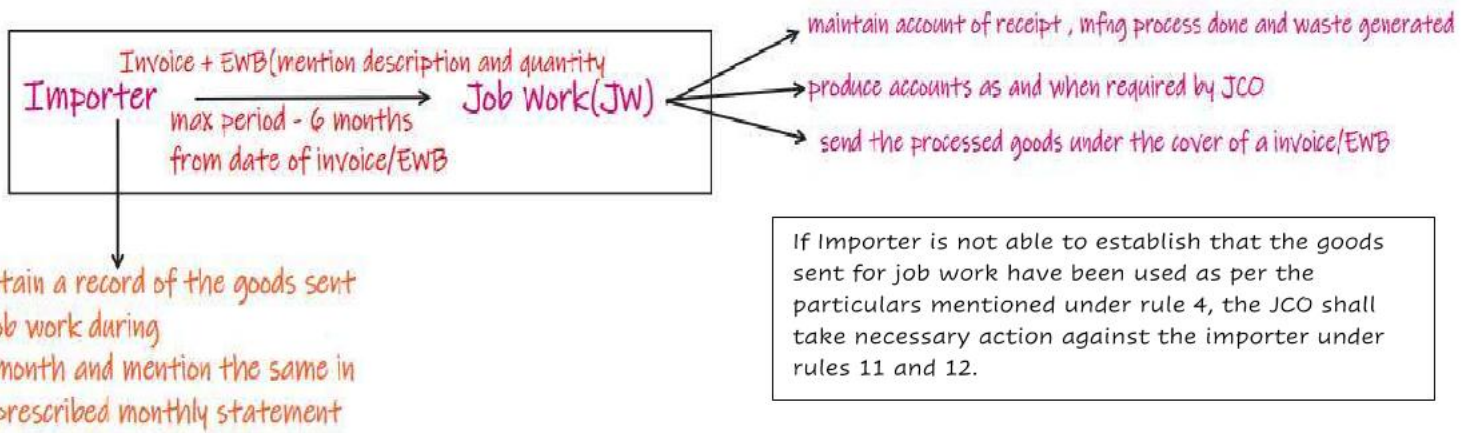
In case of non-receipt or short receipt of goods imported in the relevant premises, the importer shall intimate such non-receipt or short receipt immediately on the common portal in the prescribed form.

quantity

- > and value of goods imported and consumed;
- > and date of receipt of goods imported
- > quantity of such goods consumed including the quantity used domestically for manufacture, quantity exported, if any, to fulfil the intended purpose and quantity of goods sent to an end use recipient;
- > of goods sent for job work, nature of job work carried out;
- > of goods received after job work;
- > of goods re-exported, if any, under rule 7; and
- > remaining in stock, according to bills of entry

and shall produce such accounts to AC/DC having jurisdiction over his premises as and when required

Rule 7: Procedure for allowing imported goods for job work



Rule 8 : Procedure for allowing imported goods for unit transfer

- The importer shall maintain a record of the goods sent for unit transfer during the month and mention the same in the specified monthly statement.
- The importer shall send the goods under an invoice / e-way bill mentioning the description and quantity of the goods.
- The importer shall in relation to transfer of goods to another unit,-
 - maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process
 - produce the account details before the JCO as and when required by the said officer
 - after completion of the said process, send the processed goods back to the premises of the importer from where the goods were received or to a job worker for carrying out the remaining processes, if any, under the cover of an invoice or an e-way bill

Rule 9 : Procedure for supplying imported goods to the end use recipient

- The importer shall maintain a record of the goods supplied to the end use recipient during the month and mention the same in the monthly statement referred to in sub-rule (2) of rule 6.
- The importer shall send the goods under an invoice or wherever applicable, through an electronic way bill, as specified in the CGST, 2017, mentioning the description and quantity of the goods.
- In case of supply for replenishment or export against supply, the end use recipient shall,-
 - maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process;
 - produce the account details before the jurisdictional Customs Officer as and when required by the said officer;
 - produce the relevant details to the importer for fulfilment of the benefit under the notification.

Rule 10: Re-export or clearance of unutilised or defective goods

- The importer who has availed benefit of exemption shall use the goods as per the conditions mentioned in the concerned notification and within the period mentioned in the notification
- With respect to unutilized or defective goods the importer shall have an option to either re-export or clear the same for home consumption, within the said period, namely -
 - within the period specified in the notification;
 - within 6 months from the date of import, where the time period is not specified in the notification:
- However, the said period of 6 months can be further extended by the jurisdictional Commissioner for a period not exceeding 3 months, if sufficient reason is shown.
- Any re-export of the unutilised or defective goods shall be recorded by the importer in the monthly statement by providing the details of necessary export documents. The value of such goods for re-export shall not be less than the value of the said goods at the time of import.
- The importer who intends to clear the goods for home consumption shall have an option of voluntary payment of applicable duty along with interest on the common portal and the particulars shall be recorded by the importer in the monthly statement.

- **Capital Goods:** The importer may clear the imported capital goods, after having used for specified purpose, on payment of duty equals to the difference between the duty leviable on such goods along with interest and duty paid(if any) on the depreciated value allowed on SLM basis as per rates specified below:

- (i) for every quarter in the first year @ 4%;
- (ii) for every quarter in the second year @ 3%;
- (iii) for every quarter in the third year @ 3%;
- (iv) for every quarter in the fourth and fifth year @ 2.5%;
- (v) and thereafter for every quarter @ 2%.

>Part of quarter = full quarter

Depreciation allowed from the date when the capital goods have come into use till date of clearance

Rule 11: Recovery of duty in certain case

- In the event of any failure on the part of the importer to comply with the conditions mentioned in rule 10 above or where the payment mentioned in rule 10 is not paid or short paid, AC/DC shall take action by invoking the Bond to initiate the recovery proceedings of an amount as under –
 - in case of a notification that provides a duty exemption: equal to the difference between the duty leviable along with interest and duty paid (if any) for the period starting from the date of import of the goods and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay;
 - in other cases: amount equal to the assessable value goods
- In relation to goods sent for job work, the importer shall be responsible for ensuring that the said goods are used in accordance with the purposes provided in the notification and in the event of failure to do so, AC/DC shall take action in accordance with these rules, without prejudice to any other action which may be taken under the Act or any other law for the time being in force.

Rule 12 : Penalty

- The importer or a job worker who contravenes any of the provisions of these rules shall be liable to a specified penalty without prejudice to any other action which may be taken under the Act or any other law.

Assessment – (Quantification of duty payable) →

determining

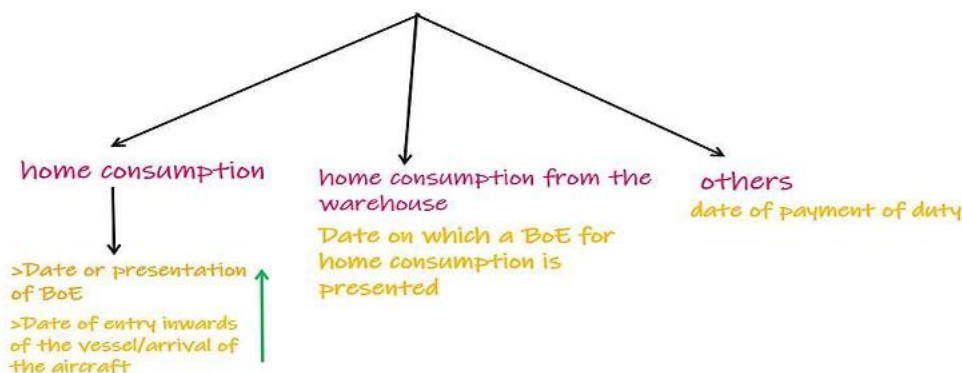
Quantity and Value of consignment

proper tariff classification

rate of duty after considering exemptions/abatements/remissions

clearance - home consumption/warehouse

Section 15: Date of Determining rate of duty & tariff valuation



Case Laws in this matter:

- **Bharat Surfacants Pvt. Ltd. v. UOI 1989(SC):** The rate of duty and tariff valuation would be done on the date of **final entry of the ship**.
- **Rajkumar Knitting Mills P. Ltd. vs CC 1998(SC):** Date of importation is relevant and not the date of contract

REMISSION, ABATEMENT AND EXEMPTIONS:

Section 13: No Duty on Pilfered Goods

- If goods are pilfered, after the goods were unloaded but before the PO makes an order of clearance, importer shall not be liable to pay any duty
- If goods are restored to importer after pilferage, the importer is liable to duty

- Pilferage = petty theft(does not include loss of entire package)
- **Circumstances in which pilferage can be claimed:**
 - there should be evidence of tampering with the packages
 - there should be blank space for the missing articles in the package
 - the missing articles should be unit articles [and not part articles]
- **Pilferage noticed at the time of removal of goods by the importer:**
 - In this case, the order for clearance / bonding would already have been passed.
 - The importer has to ask for survey by the steamer agents / the insurance surveyors and the report issued by them would form the basis for claiming remission. The duty already paid will be allowed in the form of a refund
- Pilferage occurred after order of clearance made but before actual clearance : Duty leviable
- Provision does not deal with loss/destruction of goods
- If it is shown that pilferage occurred prior to unloading, Sec 13 not applicable
- Claim of refund u/s 23(1) not available in case of pilferage
- Section 13 applies to the goods which are under the custody of the custodian

• **Section 23: Goods lost, destroyed or abandoned**

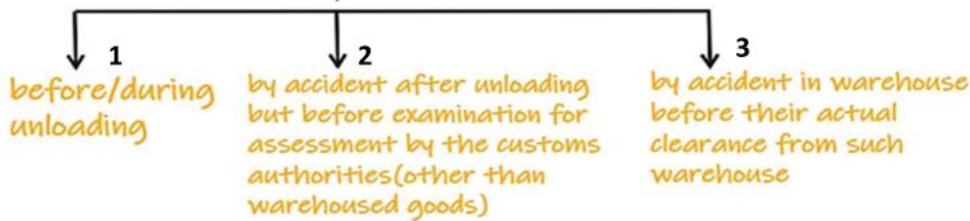
- **Remission of Duty**
 - Sec 23 comes into picture when, after the payment of customs duty and passing of order of clearance, but before the actual clearance, it is found that the goods have been lost/destroyed. In this case, the AC/DC of customs shall remit the duty paid to the importer
 - Remission of duty is permissible only when there is a complete loss of goods(never and beyond recovery). Loss generally referred under this section are due to natural calamities like fire/flood etc
 - Loss may be caused at warehouse also
 - The loss/destruction has to be proved to the AC/DC of customs
- **Right to relinquish the title of goods**
 - This right may be exercised by the importer any time before the order of clearance of goods is made.
 - In some cases, the importer may be unable/unwilling to take the delivery of goods
 - When goods are not according to his specifications
 - When goods are damaged/deteriorated during voyage and now not useful
 - When there is a breach of contract and importer is unwilling to take delivery
 - Importer has to relinquish his right unconditionally and abandon the goods by endorsing the document of title in favour of Principal Commissioner / Commissioner of Customs with invoice and he will not be liable to pay the duty
 - Owner will not be able to relinquish the right if it appears that any offence has been committed under any law

Section 13	Section 23
Duty is exempt	Duty shall be remitted
Duty leviable if goods subsequently restored	No restoration possible
Not applicable on warehoused goods	Applicable on warehoused goods as well
Importer has no requirement to prove the pilferage as it will be apparent	Importer has to prove the loss/destruction to AC/DC
Goods must be pilfered after unloading and before clearance	Goods may be lost/destroyed at any time before clearance

o **Section 22:** Abatement(reduction) of Duty in case of Damaged/Deteriorated Goods

Abatement

goods damaged/deteriorated



Damage: Physical damage to the goods and they are no longer fit for intended use

Deterioration: Reduction in quality of goods due to natural causes. (After unloading, no abatement in case of deterioration – point 2 and 3 in chart)

Provided such accident is not due to any wilful act, negligence or default of the importer, his employee or agent

$$\text{Amount of Abatement} = \frac{\text{Duty on goods before damage/deterioration} \times \text{Value of damaged/deteriorated goods}}{\text{Value of goods before damage/deterioration}}$$

o **Section 23:** Denaturing or Mutilation of Goods

- o Section 24 of the Customs Act, 1962 empowers CG to make rules for permitting to denature/mutilate the imported goods, which are ordinarily used for more than one purpose, so as to render them unfit for one or more of such purpose.
- o If any imported goods can be used for more than one purpose and duty is leviable on the basis of its purpose of utilisation, then denaturing or mutilation of such goods is useful. By denaturing, goods are made unfit for other purposes. After denaturing process, goods can be used only for one purpose and accordingly duty can be levied.
- o Denaturing of Spirit Rules, 1972 specify procedure for denaturing spirit.

o **Section 25:** Exemption from Customs Duty

Exemption(power with CG)

General

Special

If the CG is satisfied that it is necessary in the public interest so to do, it may, by notification exempt either absolutely or subject to such conditions goods of any specified description from the whole or any part of duty of customs.

If the CG is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt payment of duty on any goods under circumstances of exceptional nature as stated in the order. Further, no duty shall be collected if duty is <= INR 100

Period:

Date of grant of exemption → 31st March falling immediately after 2 years

RATIONALE FOR GRANT OF EXEMPTION

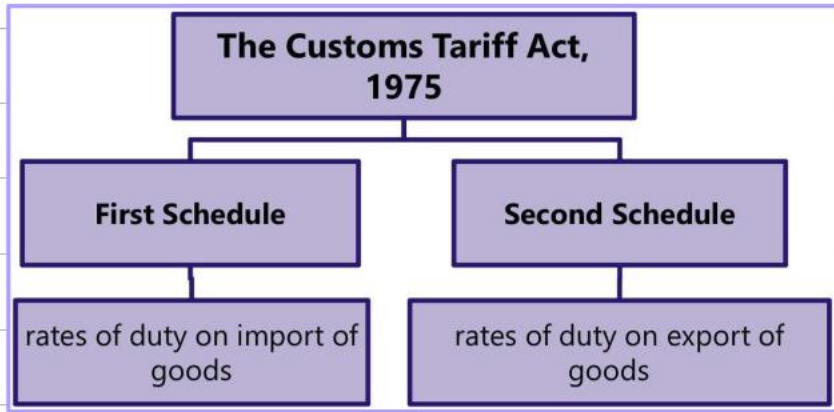
The power for grant of exemption vests with the Central Government subject to the overall control of the Parliament. The Government on a rational basis may discretely use this power and the exemptions may be based on any of the following factors:

- Moral grounds, where the duty should not be levied at all. Some of the instances, which may be given, are;
 - Where the goods do not reach the Indian soil at all.
 - Where the goods have reached the Indian soil but are not available for consumption.
 - Where the goods get damaged or deteriorated in transit.
- Discretionary provision, where the exemption is used for controlling the economy and industrial growth of the country.

Power to exempt includes power to modify/withdraw(Kasinka Trading v. U.O.I – 1994 SC)

- Notification has effect from the date of publication into official gazette (Pankaj Jain Agencies v. U.O.I. – 1994 SC)
- Non-availability of the Gazette on the date of issue of the notification will not affect the operativeness and enforceability of the notification (ITC Ltd. v. CCE 1996 – SC)
- An exemption notification cannot be withdrawn and duty cannot be demanded with retrospective effect (Honest Corporation v. State of Tamil Nadu 1999 – HC)
- Effective date of notification
 - Date of effect mentioned in the notification: Date as per the notification
 - Date not mentioned in the notification: Date of publication of notification in OG
 - Special Exemption: Above rules does not apply , special exemptions are directly communicated to beneficiary and effective date is the date of issue of the special exemption order
- **Section 25A: Exemption on Imported Goods used for Inward processing of goods:**
 - CG may exempt goods that are imported for the purposes of repairs/further process/manufacture from part or whole of the custom duty subject to the following conditions:
 - (a) The goods shall be re-exported after such activity, within a period of one year from the date on which the order for clearance of the goods
 - (b) The imported goods are identifiable in the export goods; and
 - (c) Such other conditions as may be specified in that notification
- **Section 25B : Exemption On Re-Imported Goods Used For Outward Processing**
 - CG may exempt goods that are re-imported after being exported for the purposes of repairs/further process/manufacture from part or whole of the custom duty subject to the following conditions:
 - (a) The goods shall be re-imported after such activity, within a period of one year from the date on which the order permitting for clearance for export
 - (b) The exported goods are identifiable in the re-imported goods; and
 - (c) Such other conditions as may be specified in that notification

Types of Duty



Generally: Standard Rate of Duty applicable

For notified Areas: Preferential Rate of Duty

* Conditions to be fulfilled for Preferential Rate of Duty:

- At time of importation, importer should make specific claim for the preferential rate.
- Claim that goods are produced/manufactured in such preferential area.
- Area should be notified u/s 4(3) of CTA to be a preferential area.
- The origin of goods shall be determined in accordance with rules made u/s 4(2) of CTA.

Sec 2: Basic Custom Duty (BCD)

levied on all goods imported/exported on Transaction value 14(1) / Tariff value 14(2).

Sec 3(1) Countervailing Duty CVD - Excise Duty

Additional duty to counter balance effect of excise duty on like articles in India. Eg: HMNAP, Alcoholic liquor for human consumption, Tobacco.

3(5) CVD - Sales tax & VAT

leviable at a rate notified by Cg - Max. 4%.

3(7) CVD - GST (IGST shall be levied)

Max Rate = 40%.

Value $\xrightarrow{3(8)}$ Value u/s 14(1)/(2) + All other duties excluding GST/cess

3(8A) : Bond to Bond Transfer

Value for levy of IGST when goods sold in warehouse before clearance for home consumption:

Value determined u/s 3(8)

Transaction value of such goods

↑
w.e. is
HIGHER

Proviso! If sold multiple times, take last TV.

For part goods sold, calculate as above proportionately and value u/s 3(8) for unsold goods.

3(9) CVD - GST cess : GST cess levied on imported goods

3(10) value for 3(9) = value u/s 14(1)/(2) + All other duties excluding GST/cess

3(10A) Bond to Bond transfer : same as 3(8A) for cess also.

Sec 6 & 7 : Protective Duties

Types of Duties \rightarrow Revenue Duties levied for the purpose of raising customs revenue

Protective Duties intended to give protection to indigenous industries.

should not be very stiff so as to discourage imports
should be sufficiently attractive to encourage imports to bridge demand supply gap.

- Levied by CG on recommendation of tariff commission to protect interest of domestic industries. (Effective upto date specified in I sch)

- Protective Duty deemed to be specified in First Schedule
- If notification issued, CG shall introduce bill in parliament during next session for continuance of protective duty. Notification shall cease to have effect on expiry of **6 months** from date of introduction in Parliament if it doesn't become law.
- CG may reduce/increase duty by notification.
- In case of increase - parliament approval.

sec 8 : Emergency power to impose/enhance Export Duties

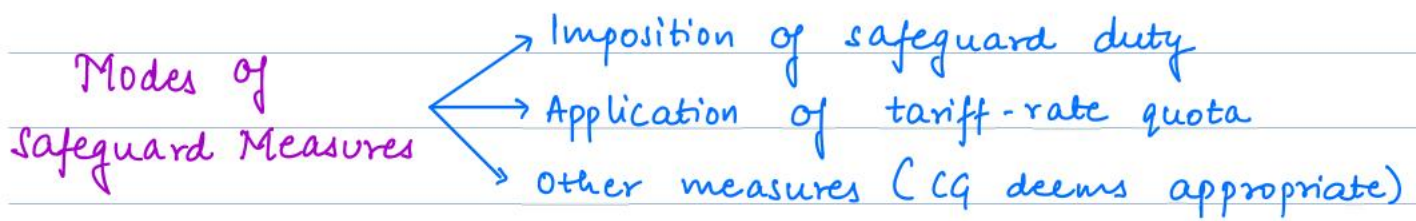
sec 8A : Emergency power to impose/enhance Import Duties

sec 8B: Power of Central Govt. to safeguard measures

CG, after conducting enquiry, is satisfied that:

- (a) Any article is imported in India in increased quantities &
- (b) such increased importation is causing/threatening to cause serious injury to domestic industry.

can impose safeguard measures by notification in Gazette.



- Minimum level of tariff rate quota: Avg. level of imports in last 3 years for which statistics available, unless different level is deemed necessary.
- Duration of safeguard measures: 4 years from date of imposition
- Extension of period by CG: Total period (incl. above) restricted to **10 YEARS**

• Exemptions from safeguard measures:

- (a) **Articles from developing country:** Articles originating from developing country, so long as the share of imports of that article from that country does not exceed 3% of the total imports of that article into India.
- (b) **Articles originating from more than one developing country:** Articles originating from more than one developing country, so long as the aggregate of imports from developing countries each with less than 3% import share taken together does not exceed 9% of the total imports of that article into India.
- (c) **Imports by 100% EOU or units in a Special Economic Zone:** Safeguard measures shall not apply to articles imported by a 100% EOU/SEZ unit unless -
- specifically made applicable; or
 - the article imported is either cleared as such into DTA or used in the manufacture of any goods that are cleared into DTA and in such cases safeguard measures shall be applied on that portion of the article so cleared or so used as was leviable when it was imported into India.

• Provisional Assessment :

Cg empowered to impose provisional safeguard measures.
Max period = 200 Days from date of imposition.

• Modification of notification issued u/s 8B:

Lay notification before each house of Parliament for a total period of 30 days.

Sec 9: Countervailing Duty on Subsidized Articles

Conditions to be satisfied:

- Any country or territory, directly or indirectly, pays or bestows subsidy upon the manufacture or production or exportation of any article. Such subsidy includes subsidy on transportation of such article.
- Such articles are imported into India.
- The importation may/may not directly be from the country of manufacture/production.
- The article, may be in the same condition as when exported from the country of manufacture or production or may be changed in condition by manufacture, production or otherwise.

CVD = Subsidy or Injury Margin \rightarrow w.e. is lower
(Max CVD shall not exceed subsidy)

• Ways that constitute circumvention of CVD:

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

it may extend the countervailing duty to such other article also from such date, not earlier than the date of initiation of the inquiry, as the CG may, by notification in the Official Gazette, specify.

• Absorption of CVD:

Absorption of countervailing duty is said to have taken place,—

- (a) if there is a decrease in the export price of an article without any commensurate change in the resale price in India of such article imported from the exporting country or territory; or
- (b) under such other circumstances as may be provided by rules.

Where the CG, on such inquiry as it considers necessary, is of the opinion that absorption of countervailing duty has taken place whereby the countervailing duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as may be specified by the CG by way of notification in the Official Gazette.

• N.A. to 100% EOU or SEZ unit, unless:

- Specifically made applicable in notification
- Cleared into DTA

• Provisional imposition: later refunded if collected excess.

• Retrospective imposition: allowed from a prior date but not beyond 90 DAYS from date of notification.

• Temporary Revocation: not exceed 1 year at a time

• **Duration:** 5 yrs from date of imposition (+ Extⁿ 5 years)
 If duty is under review on expiry, it shall continue to remain in force pending outcome for a further period not exceeding 1 year.

Sec 9A: Anti-Dumping Duty

When the exports dump their goods at less than normal value, ADD can be levied.



Anti-dumping duty:

- Margin of Dumping
 - Injury Margin
- we. is lower

* **Margin of Dumping** = Normal value \rightarrow Export Price

- Normal value = SP of Article in domestic market of exporting country / Export price of like article to 3rd country / Cost of prodⁿ + Gen exp + Reasonable Profit
- Export Price = Price of exported article. If N.A - price at which imported articles first resold to independent buyer.

* **Injury Margin** = Fair Selling Price \rightarrow Landed value of dumped imports

Fair Selling Price = selling price of product for domestic industry

Landed value = CIF + BCD + SWS [~~CVD + special duties~~]

- Circumvention of ADD / Absorption / 100% - EOU: same as sec 9.
- Date of commencement of ADD: Date of publication imposing ADD / provisional duty in Official Gazette
- Provisional imposition: later refunded if collected excess.
- Retrospective imposition: allowed from a prior date but not beyond 90 DAYS from date of notification.
- Temporary Revocation: not exceed 1 year at a time

• **Duration**: 5 yrs from date of imposition (+ Extⁿ 5 years)
If duty is under review on expiry, it shall continue to remain in force pending outcome for a further period not exceeding 1 year.

Sec 9AA: Refund of Anti Dumping Duty

If importer proves that excess duty paid, refund available subject to unjust enrichment.

Sec 9B: No Levy u/s 9 or 9A:

(a) No article shall be subjected to both countervailing and anti-dumping duties to compensate for the same situation of dumping or export subsidization.

(b) Countervailing and anti-dumping duties shall not be levied just because such articles are exempt from duties or taxes borne by like articles when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes.

(c) These duties shall not be levied on imports from member country of WTO or from a country with whom the GOI has a most favoured nation agreement unless a determination has been made that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India.

(d) The provisional countervailing and anti-dumping duties shall not be levied on any article imported from specified countries unless preliminary findings have been made of subsidy or dumping and consequent injury to domestic industry and a further determination has also been made that a duty is necessary to prevent injury being caused during the investigation

The points (b), (c) and (d) mentioned above shall not be applicable in a case where countervailing or anti-dumping duty has been imposed on any article to prevent injury or threat of an injury to the domestic industry of a third country exporting the like articles to India.

Sec 9C Appeal

- Appeal can be preferred to CESTAT (Customs, Excise and Service Tax Appellate Tribunal)

An appeal filed under this section shall be accompanied by a fee of ₹ 15,000. Every application made before the CESTAT,—

(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by a fee of ₹ 500.

Appeal to be filed within 90 DAYS (+ Extⁿ) from
Date of order

* Social Welfare Surcharge (SWS) on imported Goods:

levied @ 10% on BCD for all imported (exported) goods to fulfill commitment of Govt. to provide and finance education, health and social security.

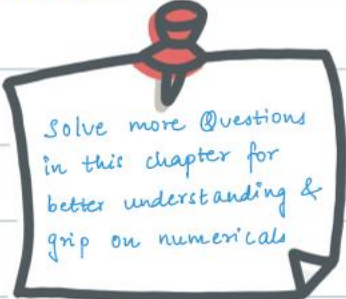
* Agriculture Infrastructure and Development Cess on Import of certain Items:

• Levied on specified goods @ notified rates (Apple, Kabuli Chana, Gold, silver, etc)

• AIDC is levied in addition to any other duty of customs

• When levied at any % of value, value calculated
u/s 14

• Cess is used to finance the improvement of agriculture infrastructure and other development expenditure



Solve more @ questions
in this chapter for
better understanding &
grip on numericals

* Format for solving Numerical Questions:

Assessable value	xx
(+) Basic custom duty	xx
(+) Protective Duty	<u>xx</u>
	(A) xxx
(+) CVD u/s 3(i) on 'A' (leviable on Alcoholic liquor, 5 petroleum products, etc.)	xx
	<u> </u>
	(B) xxx
(+) SWS @ 10% on 'BCD'	xx
	<u> </u>
	(C) xxx
(+) CVD u/s 3(r) on 'C' (to counter balance VAT/sales tax)	xx
	<u> </u>
	(D) xxx
(+) Safeguard Duty (levied on Assessable value)	xx
(+) Antidumping Duty	xx
(+) CVD on Subsidized Articles	<u>xx</u>
	(E) xxx
(+) IGST on 'E'	xx
(+) Cess on 'E'	xx
	<u> </u>
Total	<u>xxx</u>

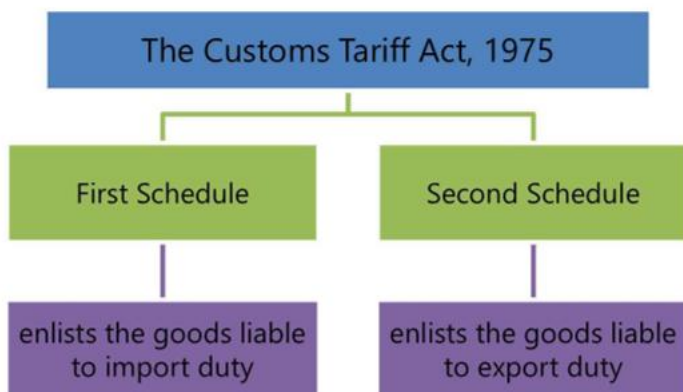
Classification of Goods

• Need for Classification?

Correct Classification is necessary to ascertain the 'Rate' of custom duty.

The Customs Tariff Act, 1975

Schedules to tariff



* The First Schedule of CTA:

- (i) Sections (21 sections)
- (ii) Chapters (98 Chapters)
- (iii) Chapter Notes
- (iv) Headings
- (v) Sub-headings

• Indian Customs Tariff is based upon Harmonized System of Nomenclature (HSN). - 8 Digit Code

• The Harmonized Commodity Description and Coding System (HS) of tariff nomenclature generally referred to as "HSN" is standardized system of names and numbers for classifying traded products developed and maintained by WCO [World Customs Organization]

CTA has $\begin{cases} \rightarrow \text{Rules of Interpretation : Six} \\ \rightarrow \text{General explanatory Notes : Three} \end{cases}$

* General Explanatory Notes:

(a) Relevance of one dash (" - ") , two dash (" -- ") and three dash (" --- ")

" - " Subclassification of articles covered by heading

"--" Subclassification of immediately preceding article/
group of article which has "--".

"---/----" Subclassification of immediately preceding article/
group of article which has "--/----".

(b) Duty shall be equal to such "%" of value of Goods
u/s 14 of Customs Act.

(c) Standard rate applicable if preferential rate unavailable

Example:

- Heading: 4 Digits
- Sub-heading: 6 Digits
- Tariff Item: 8 Digits

Chapter No. 08

Edible fruit and nuts; peel of citrus fruit or melons

Chapter Notes:

1. This Chapter does not cover inedible nuts or fruits.
2. Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.
3. Dried fruit or dried nuts of this Chapter may be partially rehydrated, or treated for the following purposes:
 - (a) for additional preservation or stabilisation (for example, by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbate);
 - (b) to improve or maintain their appearance (for example by the addition of vegetable oil or small quantities of glucose syrup), provided that they retain the character of dried fruit or dried nuts.

Tariff Item	Description of goods	Units	Rate of duty®	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
0801	Coconuts, brazil nuts and cashew nuts, fresh or dried, whether or not shelled or peeled			
	- Coconuts:			
0801 11 00	-- Desiccated	Kg.	70%	60%
0801 12	-- In the inner shell (endocarp):			
0801 12 10	--- Fresh	Kg.	70%	60%
0801 12 20	--- Dried	Kg.	70%	60%
0801 12 90	--- Other	Kg.	70%	60%

5 Columns: ←

1. Tariff Item
2. Description
3. Units
4. Std. Rate of Duty
5. Preferential Rate of Duty

• Standard unit :- A unit of measure, to facilitate collection, of Quantity comparison, analysis of Trade Statistics.

* Rules of Interpretation of First Schedule to CTA :

Rule 1: General Rule of Classification

- Classification to be determined according to terms of headings and Section/Chapter Notes
 - Chapter Notes given at the beginning of Chapter are part of Statute and have legal authority in determining the classification of goods.
 - "Title" of sections/chapters do not have any legal force. They are only for ease of reference.
 - Notes of one Section/Chapter cannot be used for interpreting entries in other section/chapter.
- * If unable to classify using Rule 1, then apply Rule 2-6.

Rule 2: Classification of

(a) Incomplete/ Unfinished Articles (or unassembled/ disassembled Goods)



Classify under the heading of finished/ Completed articles when it has essential character of complete article.

Eg: Car without seats classified as car

(b) Mixtures/ Combination of Material/ substances

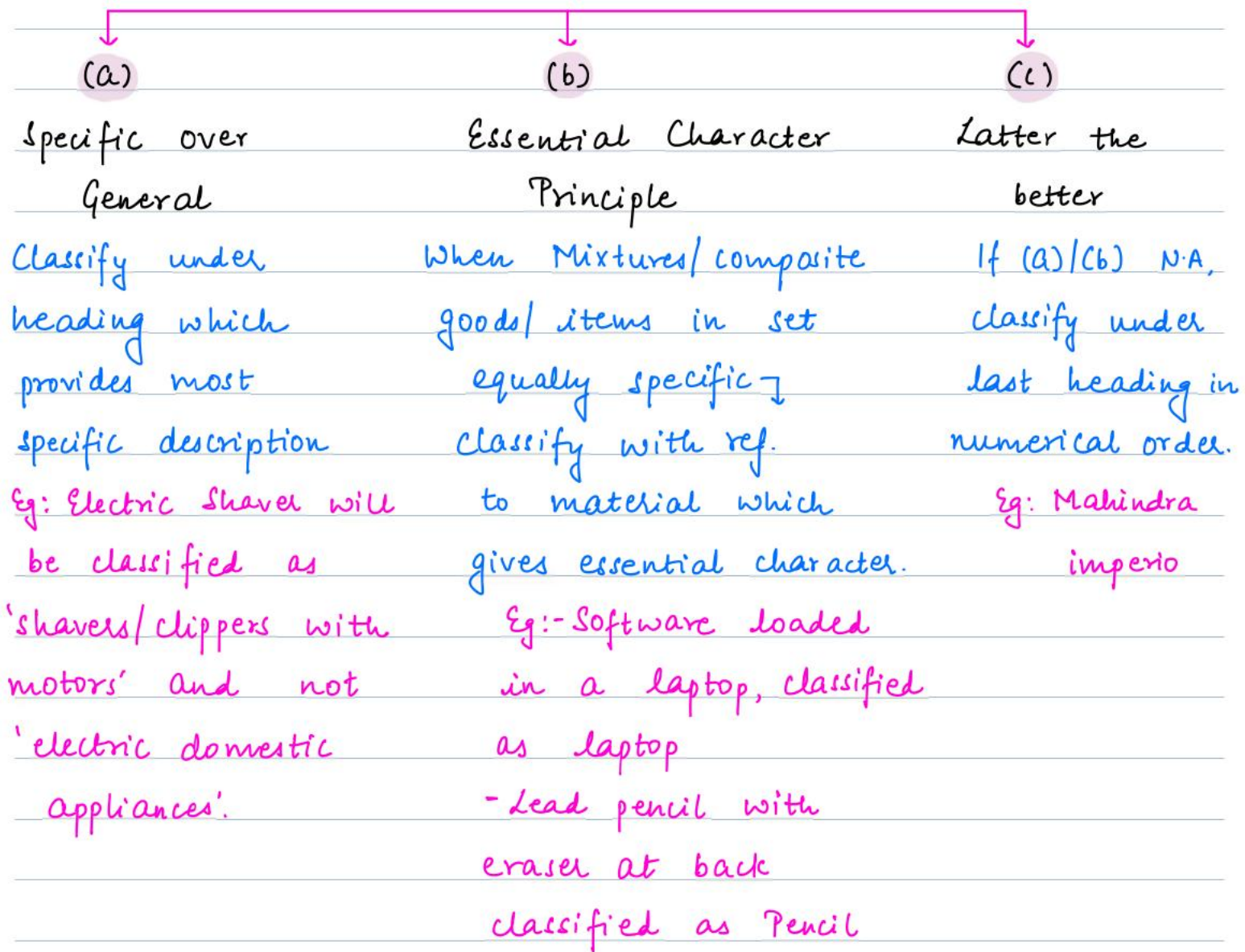


Classify under the main article heading as the material/ substance includes its mixture/ combination

Eg: Coffee includes coffee mixed with chicory,
Natural Rubber includes a mix of synthetic + Natural Rubber.

* (Rule 3 - if two/more headings)

Rule 3: Classification in case goods are classifiable under two/more headings:



Rule 4: Atkin Rule applied when above rules cannot be applied - Classify under similar goods heading.

Eg: Plastic films for cars classified under plastic shutter builderware.

Rule 5: Packing cases/containers:

(a) Camera/musical instrument/gun/drawing/necklace case specially shaped/fitted, suitable for long term use presented with articles for which they are intended - Classify with specific/set of article.

(b) Packing materials/containers (of a kind normally used) presented with the goods - Classify with the goods.

* Rule not applicable to:

(a) Containers which give the whole its essential character. Eg: Diamond studded jewellery box

(b) Durable containers suitable for repetitive use
Eg: Gas cylinders

Rule 6: Classification of sub-headings:

- Apply terms of sub-heading & sub-heading Notes
- Rule 1-5 shall apply mutatis mutandis.

* Market/Trade parlance theory:

If a product not defined in CTA, it should be classified according to its common understanding in trade by dealers or consumers.

Eg: Softy shall be classified as ice-cream and not Dairy product.

* Project Import - Heading 9801:

Project imports are imports of machinery, instruments, and apparatus, etc. required for initial setup of a unit or substantial expansion ($\geq 25\%$ of existing)

For some notified (by G) projects like Irrigation/Mining/Power projects, Industrial plants, Oil/Mineral exploration, etc. - ONE CONSOLIDATED RATE shall apply.

• All eligible items classified under heading 9801. These items include machinery, appliances, instruments, apparatus, components of raw material, etc.

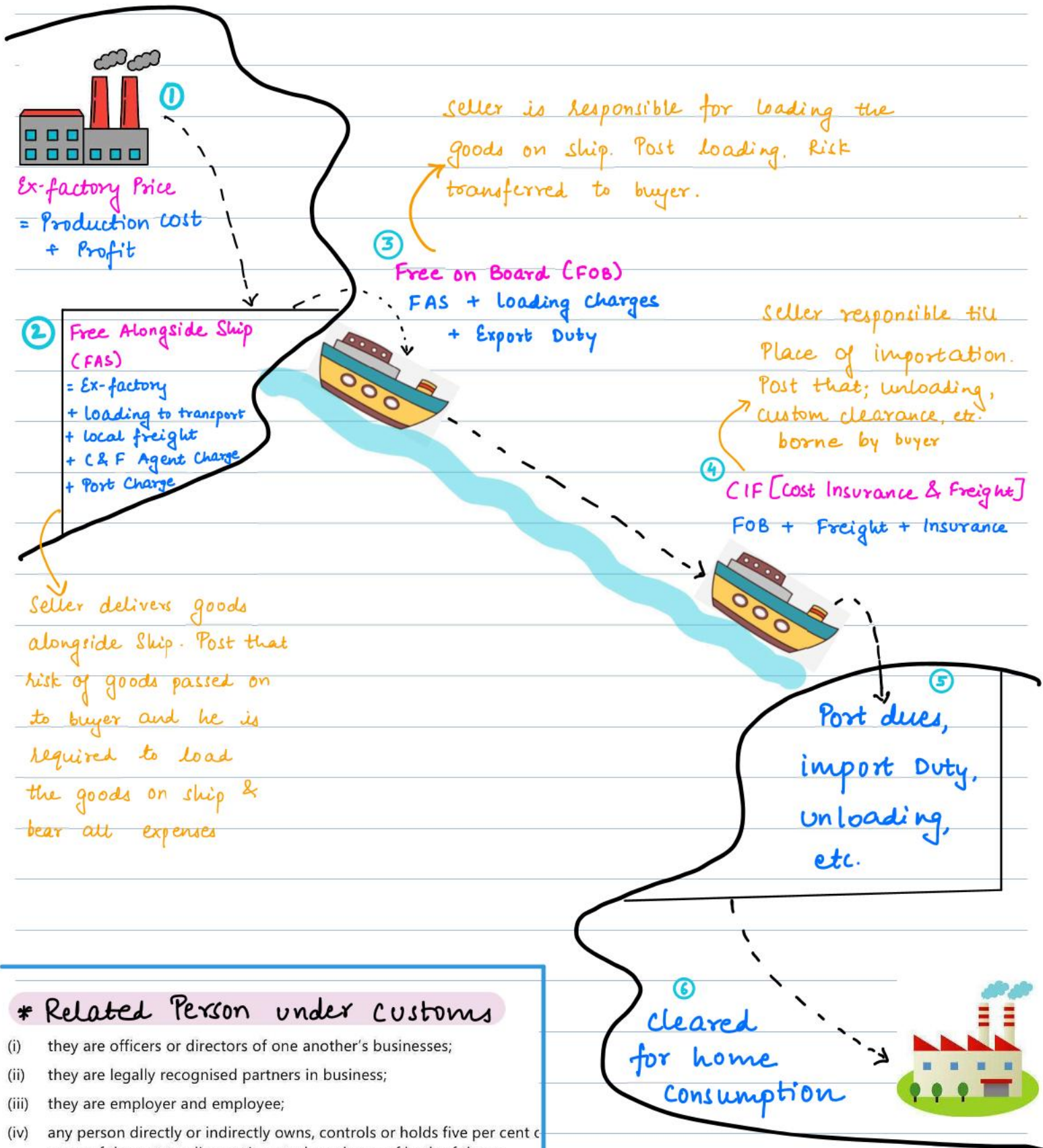
(Spare parts, raw material and consumable stores upto 10% of value of goods can be imported)

• Any individual exemption notification shall continue to apply.



Valuation under the Customs Act, 1962

* Understanding of General Terms:



* Related Person under customs

- (i) they are officers or directors of one another's businesses;
- (ii) they are legally recognised partners in business;
- (iii) they are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family.

Assessable Value - Imports

14(1)

Transaction value

- Price actually paid/payable when sold for export to India
- Delivery at the time and place of importation
- Buyer and seller not related
- Price is the sole consideration

14(2)

Tariff value

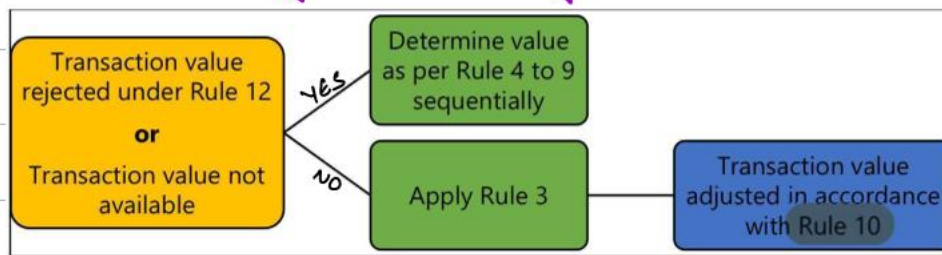
Fixed by CBIC for notified goods

(Gold, silver, etc.)

↓

Duty shall be chargeable w.r.t. such tariff value.

Rule 3: Determination of Method of valuation



3(2): Transaction value shall be accepted, provided that:

(a) No restrictions as to disposition/use of goods by buyer

Other than restrictions which:

- are imposed by law/public authority in India
- limit the geographical area in which goods may be resold.

- do not substantially affect the value of goods.

(b) Sale/Price is not subject to some condition/consideration for which value cannot be determined in respect of goods being valued.

(c) No subsequent sale proceeds accrue to seller for which adjustment cannot be made.

(d) Buyer and seller are unrelated.

3(3): Transaction value accepted even if buyer and seller related when: (a) Relationship did not influence price
 (b) Value closely approximates value u/r 4,5,7,8.

3(1) : AV = Transaction value (CIF) + Rule 10 Adj:

Free on Board (FOB) xx

(+) Adj u/r 10(1)

(a) Commission (~~Buying Commission~~, local/exporter's comm) xx

+ Packing + Container (~~Durable/Returnable container~~) xx

(b) Assistance by Importer to supplier (free/reduced cost)

+ Material/components/parts/items incorporated in imported goods xx

+ Tools/dies/moulds used in production of imported goods xx

+ Engineering, development, art work, plans/sketches undertaken elsewhere than India xx

(c) Royalties and license fees (related to imported goods but paid by buyer) xx

(d) Subsequent sale proceeds (~~Dividend~~) xx

(e) All other payments made as a condition of sale to seller/3rd party on seller's obligation xx

Adjusted FOB xxx

(+) Adj u/r 10(2)

(a) Cost of Transport, loading/unloading & handling charges associated with delivery of goods to the place of importation xx

- Actual available - Take actual

- Actual N.A. - 20% of Adjusted FOB

(In case of air: Actual/20% w.e. is lower)

Do not add: Port dues, landing charges, any expense paid at port of importation

Ship demurrage charges/Barge/Lighterage charges - add separately only if transportation included on actual basis (Not on 20% basis)

(b) Cost of Insurance upto the place of importation xx

- Actual available - Take actual

- Actual N.A - 1.125% of Adjusted FOB

Assessable value = CIF

xxx

3(4) If value not determined u/r 3(i) then apply Valuation Rules sequentially.

Rule 4: AV = Transaction value of Identical Goods



Imported goods same in all respect (except minor differences) produced in same country. Does not include those goods w.r.t. which engineering/design work undertaken in India by buyer and provided to seller at free/reduced cost.

→ value of identical goods imported in India, at/about same time as goods being valued

→ Same commercial level / Quantity (If not - subject to Adj.)

→ More than 1 TV of identical goods - Lowest to be used

→ If significant differences in freight/insurance: Make Adj. as per 10(2).

Rule 5: AV = Transaction value of Similar Goods



Imported goods produced in same country, not alike in all respect, but have like characteristics and like component/material enabling them to perform same function & commercially interchangeable. Does not include those goods w.r.t. which engineering/design work undertaken in India by buyer and provided to seller at free/reduced cost.

→ Transaction value of similar goods imported at/about same time

→ Remaining clauses - mutatis mutandis apply as Rule 4.

Rule 6: If value cannot be determined using rule 3,4,5 then apply 7 → 8.

At importer's request, PO may allow using rule 8 before applying 7 (i.e. 8 → 7).

Rule 7: AV = Deductive Value

Resale unit price (imported/identical/similar goods)

in greatest aggregate quantity to unrelated persons xx

(-) Profit, Commission, general expenses (xx)

(-) Cost of Transport/Insurance within India (xx)

(-) Custom duties & taxes payable in India (Related to Import) (xx)

Assessable Value

xxx

* If resale unit price at/about same time unavailable, unit price at the earliest date after Import but before expiry of 90 DAYS to be taken.

Rule 8: AV = Computed Value

Cost of Material/fabrication/other process xx

(+) Profit and General expenses xx

(+) Cost of Transport & Freight u/r 10(2) xx

xxx

Rule 9: Residual Method

If valuation not possible by any other method, determine using reasonable means consistent with the principles & general provisions and on basis of data available in India.

* No value shall be determined on basis of:

- Selling price in India of goods produced in India
- System which provides for acceptance for customs purpose of highest of two alternative values.
- Price of goods on domestic market of country of exportation
- Cost of production other than Rule 8
- Price of goods for export to country other than India
- Minimum customs values
- Arbitrary / fictitious values.

Rule 11: Declaration by the Importer / his agent disclosing full accurate value of imported goods.

Confiscation / penalty / prosecution possible for wrong information or declaration

Rule 12: Rejection of Declared Value

The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include-

- the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
- the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;
- the sale involves special discounts limited to exclusive agents;
- the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;
- the non declaration of parameters such as brand, grade, specifications that have relevance to value;
- the fraudulent or manipulated documents.

* Declared value shall be accepted if PO satisfied about accuracy after inquiry.

* Determination of Assessable value in case of sale of warehoused goods before being cleared for home consumption:

Whether the assessable value of the warehoused goods which are sold before being cleared for home consumption should be taken as the price at which the original importer has sold the goods, before a Bill of Entry for home consumption is filed?

Clarification: The price at which the imported goods are sold after warehousing them in India does not qualify to be the transaction value as per section 14. *(As transaction value is at time & place of importation)*

However, it may be noted that Section 3(8A) of the Customs Tariff Act 1975, specifically provide that where the goods deposited in a warehouse under the provisions of the Customs Act, 1962 are sold to any person before clearance for home consumption or export under the said Act, the value of such goods for the purpose of calculating the integrated tax shall be higher of last transaction value or the initial import value, whichever is higher.

* Export Valuation Rules:

Similar provisions to Import Rules:

Rule 3: Transaction value

Rule 4: Value on basis of like kind/quality

Rule 5: Computed value method

Rule 6: Residual Method

Rule 7: Declaration by exporter

Rule 8: Rejection of declared value

* Determination of Rate of Duty & Rate of Exchange:


	Rate of Duty	CBIC Rate of Exchange
1. Goods cleared for Home consumption	<p>vessel Later of: BOE/Entry Inwards ↓</p> <p>Aircraft/vehicle Later of BOE/Arrival Date ↓</p>	<p>Date of filing BOE</p>
2. Goods cleared from warehouse	<p>Date of filing ex-bond BOE</p>	<p>Date of filing into bond BOE</p>
3. Export	<p>let Export order Date</p>	<p>Date of filing Shipping Bill</p>
4. Any other case	<p>Date of Payment of Duty</p>	<p>Date of Payment of Duty</p>

Section 19: Special Provisions for Classification of sets of articles and accessories:

- (a) Articles liable to duty with ref to Quantity
 - Chargeable to that duty
- (b) Articles liable to duty with reference to value & liable at (i) SAME rate - Chargeable to that duty
(ii) DIFFERENT rate - Chargeable to highest duty
- (c) Articles not liable to duty - Chargeable at rate to which other articles liable under clause (b).

Articles, parts & Implements:

- * Compulsorily supplied along and no separate charge
 - Main article & API chargeable at same Rate
- * Optionally supplied along and no separate charge
 - Main article & API chargeable at highest Rate
- * Compulsory/Optionally supplied along and charged separately
 - Main article & API chargeable at their individual Rates

 No matter how many times you read the provisions, only thing that can give you confidence in this chapter is Question Practice. So try solving all questions 2-3 times so that you become pro in all adjustments.

Importation and Exportation of Goods

IMPORTATION

Section 29: Arrival of Vessels/Aircrafts in India

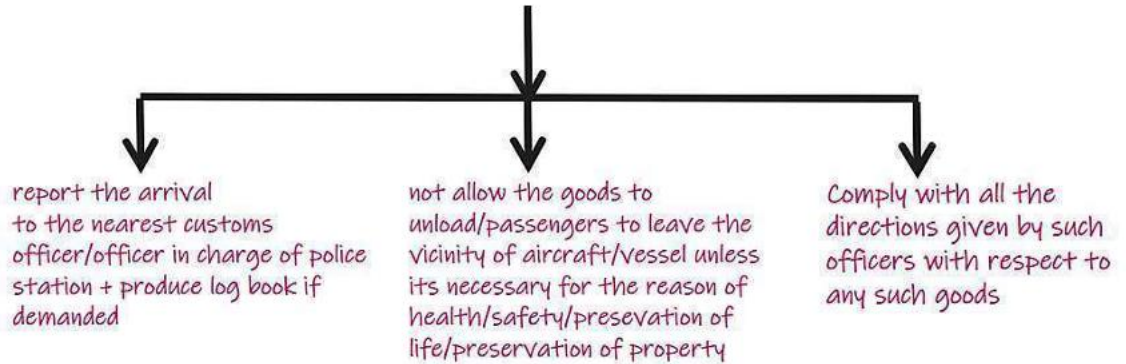


Only allowed to call or land at a customs airport/customs port

However, the Central Board of Indirect taxes and Customs can permit calling/landing of vessels and aircrafts at any place other than customs port or customs airport.

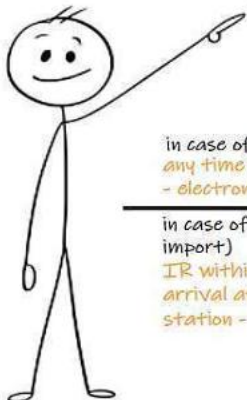
Contravention of this provision will operate a presumption that the person in charge has an intention to illegally import goods in India

- Exception: This provision is not applicable to any vessel/aircraft which is compelled to call/land at a place other than specified above by accident/stress of weather/other unavoidable causes. However, the person in charge shall have the following obligations



Section 30: Arrival Manifest(AM)/Import Manifest(IM)/Import Report(IR)

AM/IM/IR(detailed report about goods that have been brought to the port/airport for unloading which is made in a prescribed manner. IR is required only in case of import via land route



in case of vessel/aircraft any time prior to arrival - electronically
 in case of vehicle(land import) IR within 12 hours of arrival at customs station - manually

Customs Port or Customs Airport

- Belated filing:** Allowed on valid justified grounds
- Amendment to IGM:** Allowed if PO is satisfied that the information is incorrect/incomplete + there is no fraudulent information. Such amendment will not be considered as late filing provided such amendments are not to circumvent penal
- Penalty for delay:** upto INR 50,000
- Declaration as to the truth of info to be given by person delivering the same
- The principal commissioner/commissioner of customs may allow the info to be delivered in other manner if delivering AM/IM electronically is not feasible
- Only goods that are mentioned in the AM/IM/IR can be unloaded (Section 32)

Section 30A: Arrival Manifest (AM)/Import Manifest (IM)/Import Report (IR)

Passenger and crew arrival
manifest
+
passenger name record
information

Penalty for delay: upto INR 50,000

Passenger name record information: the records prepared by an operator of any aircraft or vessel or vehicle or his authorized agent for each journey booked by or on behalf of any passenger[2(30B)]



Section 31: Imported goods to be unloaded after entry inwards

- This provision is only applicable for vessels and not aircrafts/vehicles.
- The goods on a vessel shall not be unloaded until an order has been given by the PO granting ENTRY INWARDS.
- Application for entry inward to be submitted along with IM.
- Entry inwards shall be granted only after filing IM/AM.
- Grant of entry inwards = acknowledgement that customs is ready to supervise unloading of cargo and prepared for assessment of duty
- Entry inwards will not be given if there is no berth for the ship to dock / customs supervision is not possible for any reason
- If BoE is filed in advance (ie before arrival), the date of determination of duty = date of arrival (aircraft or vehicle) / date of entry inward (vessel)
- Section not applicable to: unloading of baggage accompanying a passenger or a member of the crew, mail bags, animals, perishable goods and hazardous goods

Section 33: Loading/Unloading only at places approved u/s 8(a) of the Act (which provides proper places at customs port/customs airport/coastal port for loading/unloading)

Section 34: Goods to be loaded/unloaded under the supervision of Customs Officer

- Loading/Unloading of goods must be done under the supervision of the PO.
- The board may, by notification in the OG, give general permission and the PO may in any particular case, give special permission for any goods to be loaded/unloaded without supervision

Section 35: Restriction on Goods being water - borne



- The Boat Notes Regulations 1976 prescribe the form and manner of issue of boat notes.
- The board may, by notification in the OG, give general permission and the PO may in any particular case, give special permission for any goods to be water borne without boat note

Other Controls

1. [Section 36] The goods cannot be loaded and unloaded on Sundays or other holidays observed by the Customs Department or on any other day after the working hours unless the prescribed notice and the prescribed fee are paid.
2. [Section 37] The proper officer may, at any time, board any conveyance carrying imported goods or export goods and may remain on such conveyance for such period, as he considers necessary.
3. [Section 38] The proper officer may require the person in charge of any conveyance to produce any document or answer any questions and such person shall be bound to comply with the same.

Procedure for Clearance of Imported Goods(Section 45 to 49)

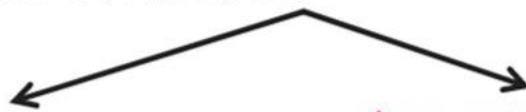
Section 45: Restrictions On Custody And Removal Of Imported Goods

- Until the imported goods are cleared for home consumption / are warehoused / are exported for transshipment, they shall remain in the custody of such person as may be approved by the Principal Commissioner/Commissioner of Customs known as **the custodian [45(1)]**
- The responsibility of the custodian commences in respect of imported goods the moment the ship is berthed in the harbour / the goods are ready for unloading from the aircraft.
- **Custodians:**
 - Major ports - The Port Trust
 - Inland Container Depots - Container Corporation of India, operating the Container Freight Station (CFS)
 - Air cargo - Airport Authority of India
 - Brought by rail - Station Master.
- **Responsibility of Custodians:**
 - Maintain a proper record of goods received from the carriers and send a copy to the PO
 - Not to permit removal of goods from the customs area or allow them to be dealt with otherwise except under the specific permission in writing of the PO / in accordance with a general procedure that may be prescribed that avoid subjectivity of the officer as to the manner of removal of such goods.
- The custodian is required to **tally** the particulars of the goods landed by a vessel, and send a report known as **out turn statement** to the customs authorities. The customs authorities will cross check this statement with the import manifest
- **Liability of Custodians**
 - Pilferage covered u/s 13: If any imported goods are pilfered after unloading in any customs area, while in the custody of the custodian, such custodian shall be liable to pay duty on such goods @ rate prevailing on the date of delivery of AM/IM/IR.
 - Department cannot demand duty from PORT TRUST[who do not require any approval under section 45(1)] on pilferage
 - Custodian responsible only in respect of the customs duty in respect of pilfered goods and not for goods lost.
 - The Port Trust, as bailee of the goods, is liable for value of the goods to the importer.

Section 46: Filing of Import BoE

- Importer of any goods shall make an application electronically on the customs automated system to the proper officer for clearance of the goods. The Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018 provides the detailed provisions in this regard.
- Bill of Entry is a document of assessment and when assessed becomes an assessment order
- Manual submission of Bill of Entry is allowable in cases where electronic submission is not feasible(to be allowed by Principal Commissioner/Commissioner of Customs)

- Types of BoE:
 - Form I (White) – for home consumption.
 - Form II (Yellow) – for warehousing (into bond).
 - Form III (Green) – for clearance of warehoused goods for home consumption (ex-bond).
- When BoE is filed electronically, it has 4 copies:
 - Original, - For customs authorities for assessment and collection of duty;
 - Duplicate- As an authority to the custodian of the cargo
 - Triplicate- For record for the importer; and
 - Quadruplicate - To be presented to the bank RBI for remittance
- Declaration to be made in the Bill of Entry = Particulars of packages + the descriptions of the goods (as per description given in the Customs Tariff) + correct value of the goods
- BoE to be supported with invoice and other prescribed documents
- Importer to ensure
 - (a) accuracy & completeness of the information
 - (b) authenticity & validity of documents
 - (c) compliance with the restriction / prohibition relating to the goods under any law
- Importer unable to furnish details:



He may request the customs officials to examine the goods in his presence to enable him to ascertain the necessary details for making a proper declaration

He can seek permission to deposit the goods in a public bonded warehouse pending receipt of the necessary information and the supporting documents (warehousing without warehousing). Such goods shall not be deemed to be warehoused & warehousing provisions shall not apply

Time limit for filing BoE:



BoE to be filed by end of 19th December

Day of arrival is for eg 20th December

BoE to be filed by end of 20th December in exceptional cases

- Before the end of the day (including holidays) preceding the day on which the aircraft/vessel/vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing.
- The Board may, in some cases, prescribe different time limits for presentation of the BoE, which shall not be later than the end of the day of such arrival
- BoE can be presented at any time before 30 days of expected arrival of the vessel/aircraft/vehicle
- Late fees applicable in case of belated filing

Section 17: Assessment of Goods

Importer/Exporter shall pay self-assessed duty

Verification by PO

- PO may verify BoE + self-assessment and for this purpose he may examine any imported goods/export goods/part thereof
- Selection of cases – primarily based on risk evaluation through selection criteria
- PO may require importer/exporter/any other person to produce any document/information for ascertainment of the duty
- Some major importers have been given the green channel clearance facility which means clearance is done without routine examination. They have to make a declaration at the time of filing of BoE. The appraisalment is done as per normal procedure except there will be

no physical verification and only marks and number are checked. However, if there are specific doubts regarding description / quantity of the goods, physical examination may be ordered by the senior officers/investigation wing like Special Intelligence and Investigation Branch (SIIB).

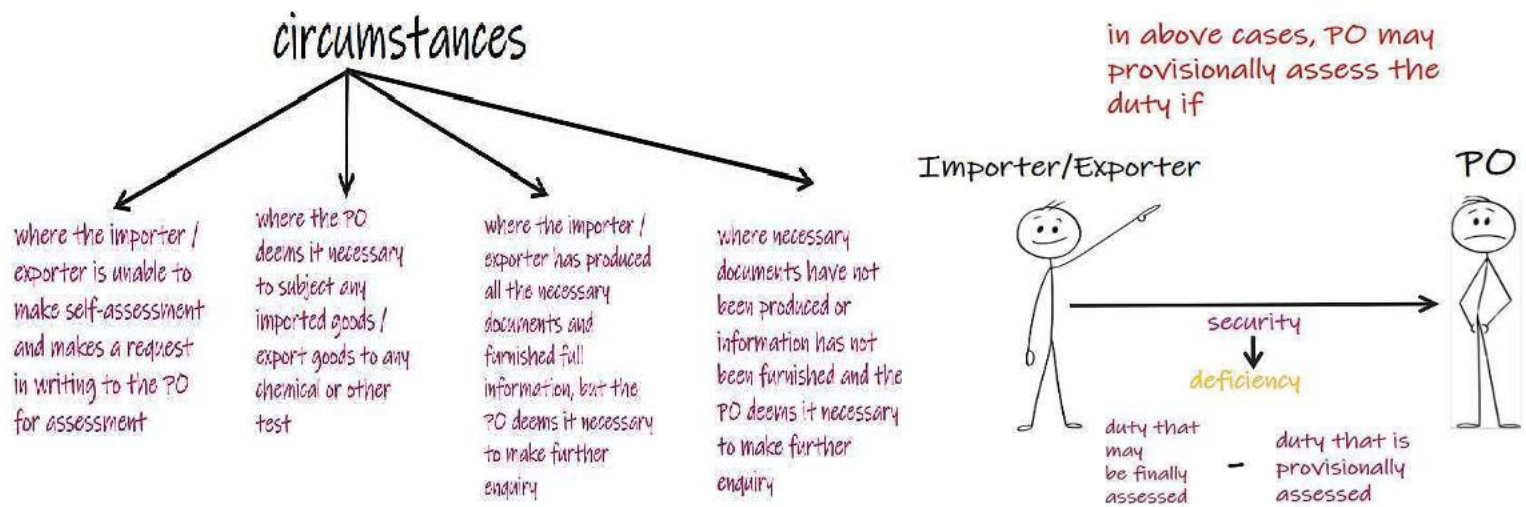
▪ **Reassessment of duty by the PO if self-assessment was incorrect:**

- Where it is found on verification / examination / testing of the goods or otherwise that the self-assessment is not done correctly, the PO may, re-assess the duty leviable on such goods.

▪ **Speaking order for re-assessment to be passed unless the importer agrees with the reassessment:**

- If the re-assessment is contrary to the self-assessment and the importer/exporter and he accepts the re-assessment in writing, the PO shall pass a speaking order on the re-assessment within 15 days from the date of re-assessment

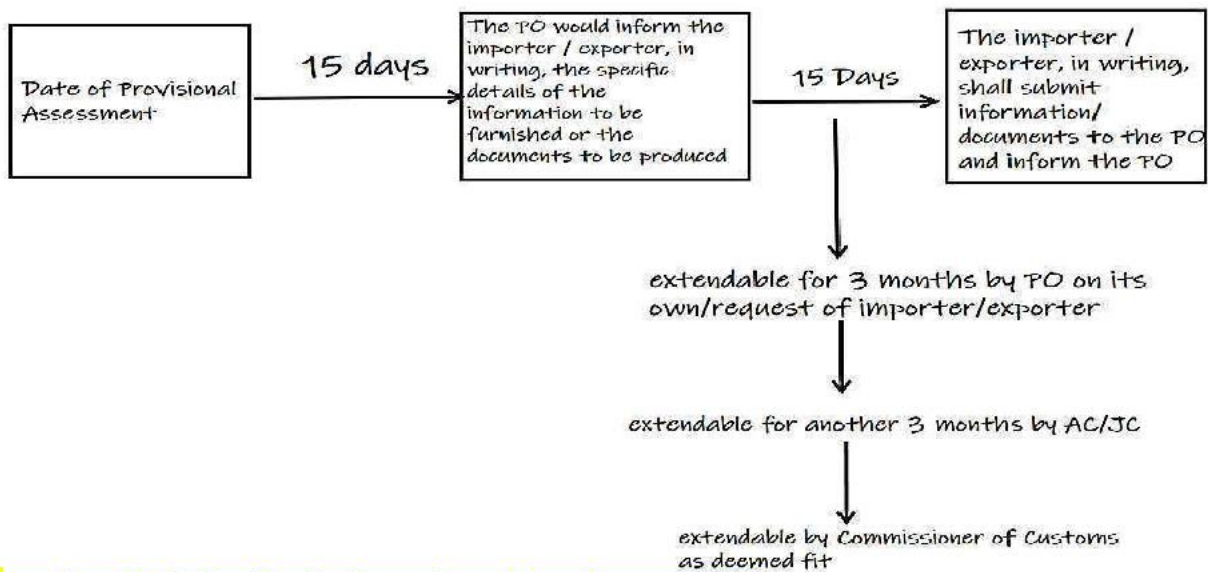
Section 18: Provisional Assessment of Duty



- The importer/exporter shall furnish documents/information to the PO as required by him for making the final assessment.
- Upon final assessment/re-assessment:
 - In case of goods cleared for home consumption/exportation : Duty paid shall be adjusted from the duty so assessed and excess/short shall be refunded/recovered
 - In case of goods warehoused: In case the duty so assessed is in excess of amount of duty provisionally assessed, PO may require the importer to execute a bond of an amount equal to twice the amount of the excess portion
- **Interest applicable** (on short duty) consequent to the final assessment/ re-assessment @ rate prescribed by CG (15%) from the first day of the month in which the duty was provisionally assessed till the date of payment thereof.
- **Interest applicable** (on excess duty) if any refundable amount is not repaid within 3 months from the date of final assessment / re-assessment @ rate prescribed by CG (6%) from the expiry of 3 months till the date of payment thereof
- The above refund is subject to provisions of unjust enrichment (refer chapter of refunds).
- In case of provisional assessment, the importer shall
 - Execute a bond for the purposes of undertaking to pay on demand the deficiency between the duty as may be finally assessed and the duty provisionally assessed
 - Furnish prescribed amount of security (BG/Cash deposit) for the payment of the duty deficiency.

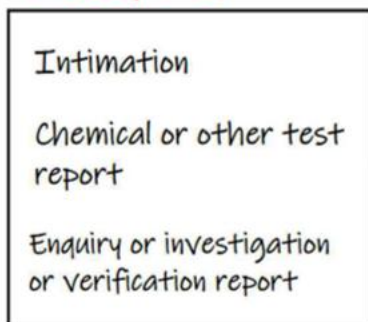
Customs (Finalisation Of Provisional Assessment) Regulations

Time-limit and manner for submission of documents or information for finalisation of provisional assessment



Time-limit for finalisation of provisional assessment

Receipt of



Where Board has issued directions to keep provisional assessment pending – these provisions shall not apply

Where the documents / information are made available intermittently, the time period of 2 months shall be reckoned from the date of last intimation.

Where the documents / information are not made available or made partly available and no further extension of time has been allowed, the PO shall proceed to finalise the provisional assessment within 2 months of the expiry of the time allowed for submission of the said documents or information

The Commissioner of Customs may allow, for reasons to be recorded in writing, a further time period of 3 months in case the PO is not able to finalise the provisional assessment within the period of 2 months.

Manner of finalisation of provisional assessment

- The finalization of provisional assessment will be as per Sec 18
- If amount paid at the time of provisional assessment + amount adjusted u/s 18 falls short of duty finally assessed, and the importer does not pay the deficiency, such shortfall will be recovered from the security. If after adjusting security, the amount falls short, the importer will have to pay the shortfall.
- If there are no pending dues, the bond executed at the time of provisional assessment will be cancelled and security will be released.
- Where final assessment is in contrast with provisional assessment, PO will pass speaking orders following the principles of natural justice
- Where final assessment is in conformance with the provisional assessment, PO will finalise the same after ascertaining the acceptance of such finalisation from the importer / exporter on record and inform them in writing.

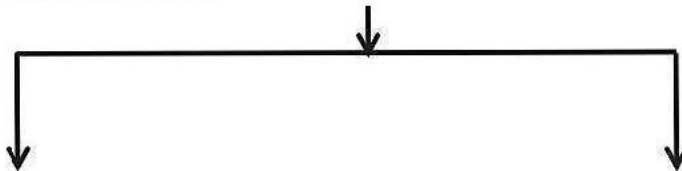
- Penalty:** upto INR 50,000

Section 99A: Customs Audit

- Who all are covered under the audit?
 - Auditee' 2(c) = a person who is subject to an audit under section 99A of the Act and includes an importer or exporter or custodian approved under section 45 or licensee

of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods

- Auditee is to preserve records for conduct of this audit for a period of five years
- Risk based assessment will identify persons to be audited
- Audit will be conducted at the premises of the auditee by the authorized officers who will intimate fifteen days in advance of their schedule visit
- Based on the findings, auditee may accept the liabilities and voluntarily discharge the duty, interest and penalty, as applicable
- Assistance of experts can be availed for conducting this audit such as CA, CWA or IT professionals with permission of Principal Commissioner/ Commissioner of Customs
- Contravention of these Regulations attracts penalty of INR 50,000
- **Types of Audit**



Transaction Based: Transactions are audited. It may be noted that a TBA may subsequently be converted into a Premises based Audit

Premises Based: Customs would review the import and export over a given period and check all relevant commercial records, including financial statements and contracts to verify the particulars given in a goods declaration. Further, Board may also select any criteria or theme for the audit

- Selection criteria for audit: Directorate General of Analysis and Risk Management has been entrusted the responsibility of identifying the potential focus areas and entities for various types of audit.
- Executive Commissionerates to assist Audit Commissionerates.
- The Chief Commissioners shall put in place a suitable monitoring arrangement to review the progress and performance of audit.
- Chief Commissioner shall examine on a selective basis, 5% of the Audit reports, selected randomly based on the quarterly reports submitted by Audit Commissionerates.

Section 47: Clearance of Goods

- Where
 - the goods entered for home consumption are not prohibited +
 - Import duty and charges has been paid
- The PO can make an order permitting clearance of the goods for home consumption
- CG may permit certain class of importers to make deferred payment of duty. Importers who have been permission by CG in this respect are
 - Importers certified under Authorized Economic Operator programme as AEO (tier 2 & 3)
 - Authorised Public Undertaking
- On making clearance order, the BoE is presented to the custodian who delivers goods to importer
- **Time limit to pay import duty:**
 - Self-assessment: Date of presentation of BoE
 - Provisional Assessment/Re-assessment/Assessment: Within one day (excluding holidays) from the date on which the BoE is returned to him by the PO for payment of duty
 - Deferred Payment: Due date as per **rules** specified in this behalf. Interest applicable (ranging from 10% to 36%) in case of delay
- **Deferred Payment of Duty Rules, 2016**
 - Information: An eligible importer intending to avail this benefit shall intimate to the Principal Commissioner/Commissioner of Customs, having jurisdiction over the port of

clearance, his intention to avail the benefit who on being satisfied with the eligibility of the importer allow him to pay the duty by due dates as given below.

S. No.	Goods corresponding to Bill of Entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1.	1 st day to 15 th day of any month	16 th day of that month
2.	16 th day till the last day of any month other than March	1 st day of the following month
3.	16 th day till the 31 st day of March,	31 st March

> The eligible importer shall pay the duty electronically: AC/DC of Customs may for reasons to be recorded in writing, allow payment of duty by any mode other than electronic payment.
 > If there is default in payment of duty by due date more than once in three consecutive months, this facility of deferred payment will not be allowed unless the duty with interest has been paid in full.

Mandatory Electronic Payment of Duty



Integrated Declaration under Indian Customs Single Window Project

- CBIC has implemented 'Indian Customs Single Window Project' to facilitate trade. Importers / exporters would electronically lodge their customs clearance documents.
- The required permissions from Partner Government Agencies (PGAs) such as Animal Quarantine, Plant Quarantine, Drug Controller, Food Safety and Standards Authority of India, Textile Committee etc. is obtained online without the importer/exporter having to separately approach these agencies
- This is possible through a common, seamlessly integrated IT systems utilized by all regulatory agencies, logistics service providers and the importers/exporters. The importers/exporters have single point interface for clearance of import and export goods thereby reducing dwell time and cost of doing business.
- CBIC has since developed the 'Integrated Declaration', under which all information required for import clearance by the concerned government agencies has been incorporated into the electronic format of the Bill of Entry.
- The Customs Broker or Importer has to submit the "Integrated Declaration" electronically to a single-entry point, i.e. the Customs Gateway (ICEGATE). Separate application forms required by different Participating Government Agencies (PGAs) have been dispensed with.
- The Integrated Declaration is applicable for consignments to be cleared under the Indian Customs EDI Systems. For the clearance of imported goods in the manual mode, separate documents prescribed by the respective agencies continue to apply.
- Apart from incorporating such forms, the Integrated Declaration also includes different types of undertakings, declarations, and letters of guarantee that are presently required to be submitted on company letter head.
- Upon filing of the Integrated Declaration, the bill of entry automatically be referred to concerned agency, if required, based on risk. The system has been modified to enable simultaneous processing of bill of entry by PGA and Customs

Faceless Assessment

- Faceless Assessment is a major Customs Reforms where a Bill of Entry that is identified for scrutiny (non-facilitated Bill of Entry) is assigned to an assessing officer who is physically located at a Customs station, which is not the Port of Import in the Customs Automated System. It separates the assessment process from the physical location of Port of Import, using a technology platform.
- Faceless Assessment uses a technology platform to separate the Customs assessment process from the physical location of a Customs officer at the port of arrival. From an

importer's perspective, there will be no changes to the process of filing a Bill of entry. He will continue to file his documentation including bill of entry and supporting documents on the ICEGATE portal.

- KEY OBJECTIVES OF FACELESS ASSESSMENT:
 - i. Anonymity in assessment for reduced physical interface between trade and Customs
 - ii. Speedier Customs clearances
 - iii. Greater uniformity of assessment across locations
 - iv. Promoting sector specific and functional specialization in assessment

Payment Through Electronic Cash Ledger And Electronic Duty Credit Ledger

Section 51A: Ledger for Payment Of Duty, Interest, Penalty, Etc.

Section 51A of the Customs Act, 1962, provides for payment of duty, interest, penalty, fee or any other sum payable by a person through deposit made in electronic cash ledger.

CBIC has specified certain deposits which are exempted from provisions of payment through electronic cash ledger: -

- (i) with respect to goods imported or exported in customs stations where customs automated system is not in place;
- (ii) with respect to accompanied baggage;
- (iii) other than those used for making payment of, -
 - (a) any duty of customs, including cesses and surcharges levied as duties of customs;
 - (b) IGST;
 - (c) GST Compensation Cess;
 - (d) interest, penalty, fees or any other amount payable under the said Act, or the Customs Tariff Act, 1975.

Section 51B: Ledger for Duty Credit

- The duty credit shall be maintained in the form of an electronic duty credit ledger of the person in the prescribed manner.
- Duty credit shall be issued in lieu of
 - Remission of any duty/tax/levy, chargeable on any material used in the manufacture/processing of goods or for carrying out any operation on such goods in India that are exported
 - Other financial benefits
- Credit available in the electronic duty credit ledger may be used by the person to whom it is issued or the person to whom it is transferred, towards making payment of duties payable under the Customs Act or under the Customs Tariff Act, 1975.

Section 48: Procedure for Disposal of Goods not cleared

- If
 - Goods which are imported are not cleared within 30 days or further time allowed by PO
 - If title of goods has been relinquished
- The custodian is permitted with approval of the department and after giving prior notice to importer to **sell the goods in auction**
- After the successful bidder has been informed about the result of the auction, a consolidated BoE, buyer-wise will be filed with the Customs by the custodian for clearance of the goods.
- PO shall assess the duty within 15 days of the above BoE and after assessment, inform the amount payable to the custodian.
- The auctioned goods will be handed over to the bidder after assessment, payment of duty and out of charge order has been given by PO.

- In the case of sensitive goods like animals, foodstuffs and hazardous goods etc. the custodian with the approval of the PO can sell the goods even before the expiry of the 30 days limit. Similarly, in the case of arms or ammunition, which cannot be sold in public auction, the disposal is regulated by the rules made in this regard.

Section 49: Storage Of Imported Goods In Warehouse Pending Clearance Or Removal

- Where AC/DC is satisfied on application made by importer that
 - The goods cannot be cleared within a reasonable time in the case of imported goods, whether dutiable or not, entered for home consumption.
 - The goods cannot be removed for deposit in a warehouse within a reasonable time in the case of any imported dutiable goods, entered for warehousing.
- then in such cases, goods can be stored in a public warehouse for a **period not exceeding 30 days**.
- Provisions of Warehousing will not be applicable to such goods. However, the Principal Commissioner/Commissioner of Customs may extend such period of storage for further 30 days at a time.

EXPORTATION

Section 39: Export Goods Not To Be Loaded On Vessel Until Entry-Outwards Granted

- Provision applicable to vessels and not aircraft/vehicles
- The master of the vessel shall not load any export goods, other than baggage and mail bags, until an order has been given by the PO granting entry-outwards to such vessel.

Section 40: Export Goods Not To Be Loaded Unless Duly Passed By Proper Officer

- The person in charge of the vessel shall not load
 - The export goods without a shipping bill(at seaports or airports) /bill of export(at land customs station) /bill of transshipment(for transshipment) passed by the PO
 - The export of baggage/mail bags without approval of the PO
- This section applies to all types of conveyances

Section 41: Delivery Of Departure Manifest/ Export Manifest/ Export Report

- The person in charge of the conveyance / other person notified by CG shall, before the departure of the conveyance , deliver to the PO a departure manifest/export manifest(in case of vessel/aircraft) or export report(in case of vehicle).
- Departure manifest/export manifest may be filed electronically (principal commissioner/commissioner of customs may allow any other manner if electronic filing is not feasible) and the export report will be in a prescribed form.
- In case the person in charge/other person fails to deliver the required documents, he shall be liable for penalty upto INR 50,000. PO may provide further time to file the documents if sufficient cause of delay is shown.
- Person delivering the documents shall make a declaration as to the truth of contents thereof.
- Amendment to the documents: If PO is satisfied that the departure manifest / export manifest / the export report is in incorrect and there was no fraudulent intention, he may permit such manifest or report to be amended or supplemented.
- Preparation of Export General Manifest:

(i) **Shipment by sea:** The ship's officer gives a receipt after he has received the consignment on board the ship (mate receipt). It is surrendered to the steamer agent or the agent who issues the bill of lading.

(ii) **Shipment by air:** After the cargo is delivered to the airways for loading, the airways issue an air consignment note.

(iii) **Train and lorry:** A railway receipt or a lorry receipt is issued as soon as the consignment is received by the carrier.

The export general manifest or report is the consolidated report of all such Bills of Lading/Air Consignment Notes/Railway Receipts/Lorry Receipts issued.

Section 41A: Passenger and Crew Departure Manifest and Passenger Name Record Information

- The person-in-charge of a conveyance / any other person specified by the CG, shall deliver to the proper officer—
 - (i) the passenger and crew departure manifest; and
 - (ii) the passenger name record information of departing passengers,
- In prescribed form and manner
- Penalty for delay: upto INR 50,000

Section 42: No Conveyance To Leave Without Written Order

- The person-in-charge of the conveyance shall not cause or permit the conveyance to depart from that customs station until a written order for the same has been given by the proper officer.
- No such order shall be given until:
 - The person-in-charge of a conveyance has answered the questions put to him under Section 38;
 - The provisions of section 41 have been complied with;
 - The shipping bills or bills of export / bills of transshipment / other documents as required by PO has been delivered
 - All duties leviable on any stores consumed in such conveyance and all charges and penalties have been paid / payment secured by such guarantee or deposit of such amount as the proper officer may direct
 - The person-in-charge of the conveyance has satisfied the PO that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount.
 - In any case where any export goods have been loaded without payment of export duty or in contravention of any law in relation to export of goods-
 - Such goods have been unloaded, or
 - Where the AC is satisfied that it is not practicable to unload such goods, the person-in-charge of the conveyance has given an undertaking, secured by such guarantee or deposit of such amount, for bringing back the goods to India.

Section 50: No Conveyance To Leave Without Written Order

- The exporter is required to present electronically to a proper officer of customs a shipping bill [in case of export by a vessel or by air] and a bill of export [in case of export by a vehicle].

Section 51: Clearance of Goods for exportation

- Where the proper officer is satisfied that:
 - goods entered for export are NOT prohibited goods and
 - exporter has paid duty, if any, on them,

he passes order permitting clearance and loading of goods for exportation called 'Let Export Order

- CG may allow deferred payment of duty in certain cases to certain class of exporters

- In case of deferred payment of duty, where the exporter fails to pay the export duty, he will have to pay interest till the date of its payment. The CG will notify the rate of interest within a range of 5% p.a. to 36% p.a

Notice of Short Export: if any goods mentioned in a shipping bill or bill of export and cleared for exportation are not exported, the exporter shall, within seven days, from the date of departure of the conveyance by which such goods were exported, furnish the prescribed information to the proper officer in respect of such goods

Transit and Transshipment of Goods

→ The provisions of this chapter does not apply to:

- Baggage
- Goods imported by post
- Stores



Transit	Transshipment
(i) Section 53 of the Customs Act, 1962 provides for transit of goods.	(i) Section 54 of the Customs Act, 1962 provides for transshipment of goods.
(ii) In case of transit of goods, goods are allowed to remain on the same conveyance.	(ii) In case of transshipment of goods, the conveyance changes i.e., the goods are unloaded from one conveyance and loaded in another conveyance.
(iii) In case of transit of goods, there is continuity of records.	(iii) In transshipment of goods, continuity in the records is not maintained as the goods are transferred to another conveyance.

* Goods may be transmitted or transhipped without payment of Duty

* Provisions only apply to goods imported at customs port/ airport. Donot cover transport by land. For land, certain specified conditions have to be fulfilled.

Postal Articles/Stores

Sec 83: Relevant Date for Rate of Duty and Tariff valⁿ in respect of goods imported/exported by Post:

Date on which postal authorities or authorized courier present to the PO a list containing the particulars of such goods for purpose of assessing the duty thereon.

For exports: Date on which exporter delivers such goods to postal authorities or authorized courier for exportation.

Control of customs Dept. only on goods

on which there is a duty

Goods subject to prohibition/Restriction

Sec 24 of Indian Post Office Act:

- (1) The post office authority has a right and duty to open and examine a postal article.
- (2) The right can be exercised only if he has a reasonable suspicion that the goods contained in the postal article are- (a) liable to duty of customs, or (b) subject to a prohibition under any law in force.
- (3) Before opening and examining the postal article he should issue a notice in writing to the addressee asking him to be present at an appointed time and place for the opening of the postal article.
- (4) The addressee can be present either in person or by an agent; and if the addressee or his agent does not turn up at the appointed time and place, the postal authorities are entitled to open and examine the postal article in his absence.



Authority may deliver postal articles to custom authority for necessary Action (Sec 24A of Indian Post Office Act)

* Special Provisions relating to Stores:

Stores means goods for use in a vessel/aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

Eg: Food, medicine, drinks, etc.

"Stores list" in prescribed format is required to be filed as part of import manifest as well as export manifest / import report or export report.

• PO may permit warehousing of stores without being assessed to duty.

• Imported stores may be consumed on board without payment of duty during the period such vessel/aircraft is a Foreign Going vessel/Aircraft.



If voyage terminates in India/ vessel or aircraft converts into coastal voyage or domestic flight:
Duty would be chargeable on unconsumed stores.

SPECIAL PROVISIONS REGARDING SHIPSTORES SUPPLIED TO INDIAN NAVAL VESSELS [SECTION 90]

(i) Imported Stores for the use in a ship of the Indian Navy may without payment of duty be consumed on board the ship of Indian Navy ;

(ii) Imported stores supplied free by the Government for the use of the crew of a ship of the Indian Navy, in accordance with their conditions of service, may be supplied without payment of duty to be consumed on board the ship of Indian Navy.

(iii) The provisions of section 69 (duty-free export from a warehouse) and Chapter X (drawback) shall apply as they apply to other goods. However, they will be entitled to drawback of the whole of the duty of customs if any paid therein, instead of 98% alone otherwise applicable.

Baggage

Baggage includes unaccompanied baggage but does not include motor vehicle.



Sec 77: Owner of baggage to make declaration of its content in "Baggage Declaration form".

Sec 78: Rate of Duty and Tariff value applicable to Baggage:

- BCD on baggage exceeding General Free Allowance: 35%
- Fire arms, Cartridges > 50, Cigarette > 100, Cigars > 25 sticks, Tobacco > 125 gms, Courier imports: 100%

Sec 79: Bonafide Baggage - Exempted from Duty

- Used articles by passengers/crew members
- Articles for use of passenger/family / gift / souvenir within prescribed limit as per Rules.

* Passenger Baggage Rules:

Rule 3: General Free Allowance for passenger arriving from Country other than Nepal, Bhutan, Myanmar

Indian Resident / Foreigner Residing in India / Tourist of Indian origin	Tourist of Foreign Origin	Infant (child upto 2 yrs of Age)
50000 (Excl. Annex I)	15000 (Excl. Annex I)	NIL

* Tourist: enters India (legitimate non-immigrant purpose) for stay upto 6 m in 12 m period.

Rule 4: General Free Allowance for passenger arriving from Nepal, Bhutan, Myanmar (except by land route)

Any Passenger

15000

(Excl. Annex I)

Infant

NIL

* For 2/more passengers GFA not allowed to be pooled

Rule 5: Jewellery Allowance

Class of passenger	Articles allowed free of duty [Add ⁿ benefit with GFA of 15000/50000]
Passenger residing abroad for more than one year	Gentleman: Jewellery upto a weight of 20 gms with a value cap of ₹50,000 Lady passenger: Jewellery upto a weight of 40 gms with a value cap of ₹1,00,000

* If period of stay o/s India < 1 year, include in GFA, no additional benefit.

* For items other than ornaments (coins, bars, biscuits, etc) no exemption - Duty on full amount (Annex. I item)

Example: Mr. Jain & Mrs. Jain have returned to India after 2 years and has utilised their entire GFA of ₹50000.

Along with that they brought jewellery as under:

Mr. Jain - 18 gms (value 52000) = Duty to be paid on 2000

Mrs. Jain - 45 gms (value 45000) = Duty to be paid on 5000

* **Computation of Custom Duty:**

Step 1: Used personal effects, Travel souvenirs (bonafide purpose) and 1 laptop computer (for ≥ 18 yrs)



No value limit: Exempted from Import Duty



Step 2: Covered in General Free Allowance Limit :

Ornaments	xx
Cartridges ≤ 50	xx
Al/wine ≤ 2 litres	xx
Cigarette ≤ 100 , cigars ≤ 25 sticks, Tobacco ≤ 125 gms	xx
Other Articles	xx
	xxx

(-) GFA Allowed as per Rule 3/4

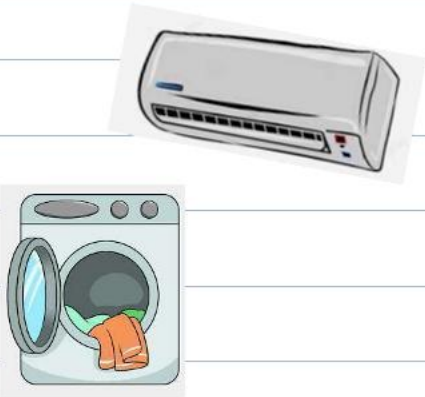
Custom Duty @ 35% + 10% SWS on : xxx

Step 3: (Annexure I items)

1. Firearms
 2. Cartridges of fire arms > 50.
 3. Cigarettes > 100 sticks, cigars > 25, tobacco > 125gms
 4. Alcoholic liquor or wines > 2 litres.
 5. Gold or silver in any form other than ornaments.
 6. Flat Panel (Liquid Crystal Display/Light-Emitting Diode/Plasma) television.
- } 100% BCD + 10% SWS
- } Applicable Rates

Rule 6: Transfer of Residence

Duration of Stay Abroad	Articles Allowed free of Duty	Conditions	Relaxation
≥ 3 months < 6 months	Personal/Household articles (other than Annex I/II) upto aggregate value 60,000	Indian Passenger	—
≥ 6 months < 1 year	Personal/Household articles (other than Annex I/II) upto aggregate value 1,00,000	Indian Passenger	—

Minimum stay of 1 yr during Preceding 2 Years	Personal/Household articles (other than Annex I/II) upto aggregate value 2,00,000	The Indian passenger should not have availed this concession in preceding 3 years	—
Minimum stay of 2 years or more	Personal/Household articles (other than Annex I/II) upto aggregate value 5,00,000 	Minimum stay of 2 yrs Abroad, immediately preceding date of arrival on transfer of residence AND Total stay in India on short visit during preceding 2 yrs should not exceed 6 months AND Passenger has not availed this concession in preceding 3 years	Shortfall upto 2 months can be condoned by AC/DC on account of terminal leave/vacation or special circumstance recorded in writing. Princ. Comm./Comm. may condone in special circumstances recorded in writing No Relaxation

* Annexure II :

1. Colour Television. 2. Video Home Theatre System. 3. Dish Washer.
4. Domestic Refrigerators of capacity above 300 litres or its equivalent. 5. Deep Freezer.
6. Video camera or the combination of any such Video camera with one/more of the following goods, namely:-
(a) Television receiver; (b) sound recording or reproducing apparatus; (c) video reproducing apparatus.
7. Cinematographic films of 35 mm and above. 8. Gold or Silver, in any form, other than ornaments.

Rule 7: Currency - Import/Export of currency governed in accordance with provisions of FEMA.



Rule 8: Unaccompanied Baggage: Baggage rules apply to UB.

← 2 months before Passenger Arrival
(or such period allowed by AC/DC not exceeding 1 year)



UB shall arrive within 1 month of Passenger Arrival
(+ Extra AC/DC)

Arrival
of Passenger

Rule 9: Application of Baggage Rules to crew members



On duty: Allowed to bring chocolate/cheers/
cosmetics/gift items for self/family upto ₹1500

Termination from job: Passenger baggage rules
apply

Section 80: Temporary Detention of Baggage

• Where baggage contains dutiable/prohibited goods



PO may, at request of passenger, detain such article and
return it to him on his leaving India



If passenger unable to collect: Returned as cargo or
through authorised passenger

Warehousing

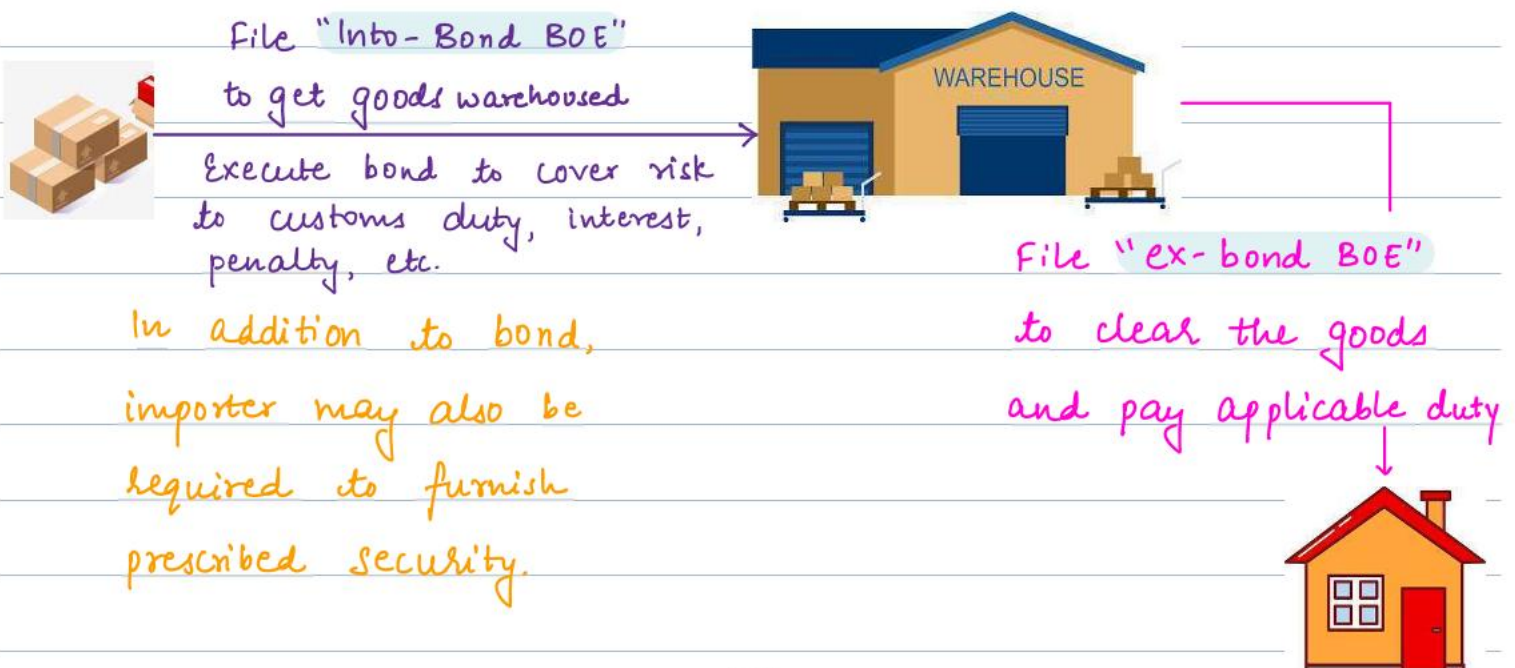
- Warehousing facility facilitates storing of imported goods without payment of customs duty. Duty is paid at the time of clearance from warehouse.
- This facility is also useful when imported consignment is to be shipped out of the country. There is no point in collecting import duty and granting drawback.

* The consideration the importer is required to pay for this facility is that:

(i) He should bind himself to pay to the Govt. a sum equal to thrice the amount of total duty determined with such surety or security as may be required

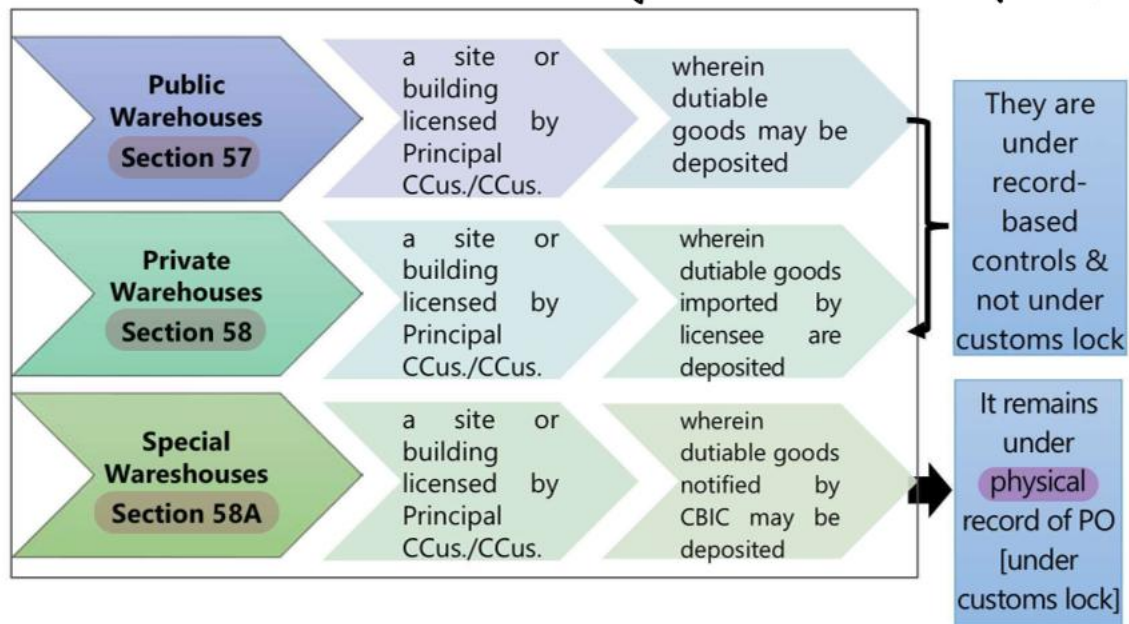
AND

(ii) He should agree to pay duty on the goods cleared from such warehouse at the Rate of Duty and valuation prevalent on the date on which Bill of Entry is presented.



* Types of Warehouses:

A Customs bonded warehouse can be established at any place in India, if approved by the licensing officer



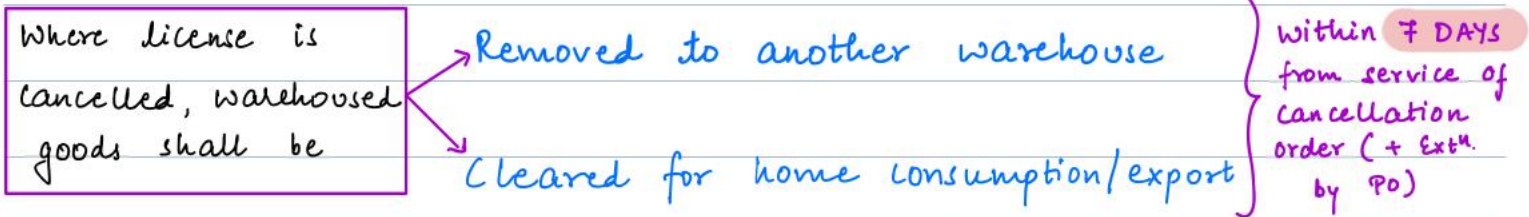
* License not required to be renewed annually. It is not transferable & valid till surrender/cancellation, by written request of the licensee.

- In a **public warehouse**, goods can be kept by any importer
- In a **private warehouse**, dutiable goods imported only by licensee are deposited.
- **Special warehouse** - locked by PO and no person will enter/remove goods without permission of PO. Only notified goods (like gold, silver, precious metals, supply to foreign privileged persons, etc) are deposited here.

Sec 58 B: Cancellation of License

- After given OBH, Princ. comm./Comm. may cancel the warehousing license if licensee contravenes any of the provisions.
- During pendency of enquiry - Operations of warehouse may be suspended.

- No goods shall be deposited in warehouse during suspension period. Already deposited goods shall continue to be governed by warehousing provisions.



Sec 59: Warehousing Bond

An importer executing bond binds himself:

- To comply with the provisions of Customs Law
- To pay, on or before the date specified in the demand notice, all duties and interest
- To pay all penalties and fines incurred for contravention of provisions of customs law.

Consignment Bond

Bond in respect of a particular consignment

Amnt = Thrice the duty amount involved

(Why thrice? - Liability can extend to duty + 100% Penalty + Fine + Interest)

General Bond

Running A/C is maintained.

Debit - imported goods warehoused

Credit - goods cleared ex-bond on payment of duty

Amount of General Bond determined

by AC/DC having regards to:

- Past imports & duty involved
- Anticipated imports & expected revenue involved.

* Above bonds valid even if goods transferred to another warehouse. If transferred to another person - transferee will execute bond/furnish security

Sec 60: Permission for Removal of Goods for Deposit in warehouse

Importer furnish Bond + Security → PO make order permitting deposit of goods in a warehouse

* Customs automated System may make electronic order on risk evaluation basis

Sec 61: Period for which goods may remain in a warehouse:

S. No.	Class of goods	Time for which the goods may remain warehoused
1.	Goods for use in any 100% EOU/ EHTP/ STP/ warehouse where manufacture or other operations are permitted under section 65	
	(i) Capital goods	Till the clearance of such goods from warehouse
	(ii) Other goods	Till the consumption or clearance of such goods from warehouse
2.	Goods other than 1 above	Till the expiry of 1 year from the date of order permitting deposit of goods in warehouse

* The Princ. Comm./ Commissioner may extend warehousing period by ≤ 1 yr at a time.

Extⁿ may be reduced based on shelf life of goods

* Interest on warehoused Goods:

* The Board may "waive" interest in individual cases.

* Board may also notify goods where interest shall be chargeable from date of order permitting deposit of goods in warehouse.

S. No.	Class of goods	Provisions relating to interest payable	
1.	Capital goods and other goods for use in any 100% EOU/ EHTP/ STP/ warehouse where manufacture or other operations are permitted under section 65	No interest is payable	
2.	Goods other than 1. above	Interest will be payable if goods remain in the warehouse beyond 90 days from the date on which the order permitting deposit of goods in a warehouse under section 60 is made.	
		Rate of interest	15% p.a.
		Amount on which interest is payable	Duty payable at the time of clearance of the goods
	Period for which interest is payable	From the expiry of the 90 days till the date of payment of duty on the warehoused goods.	

• Goods which are not removed from warehouse after expiry of permitted period are deemed to be improperly removed. Rate of Duty in such case will be rate in force on date of deemed removal.

• No Duty, no interest

Example: 'X', an importer, (other than 100% EOU, STP unit, EHTP unit) imported some goods and deposited them in the warehouse on 12th April. These goods were re-exported without payment of duty on 15th August. With reference to the Customs Act, 1962, discuss whether any interest under section 61 of the Customs Act, 1962 is payable by 'X'?

Since the goods have been re-exported without payment of duty, no interest is payable by "X".

Sec 64: Owner's Right to deal with warehoused Goods:

- (a) Inspect the goods
- (b) ensure that the goods do not deteriorate or get damaged during storage in warehouse
- (c) sort the goods
- (d) show the goods for sale

Sec 65 & 66: Manufacture and other Operations in Relation to Goods in a warehouse:

- Allowed in Private/Special bonded warehouse (~~Public~~)
- Permission: Principal Comm./ Comm.

After Manufacturing, Goods

- Exported: Duties fully remitted
- Cleared for H.C: Supply under GST

* Treatment of waste generated during such processes:

Whole/Part resulting goods Exported

Import duty remitted on quantity of goods contained in waste if such waste is destroyed or duty has to be paid as if such waste had been imported into India

Whole/Part goods cleared for H.C.

Import Duty charged on quantity of goods contained in waste



Let us take the case of cutlery manufactured out of imported high-speed cutting steel strips. Locally procured plastic is used for providing handles to the cutlery i.e. knife, fork, etc. In a batch process 200 kg imported steel strips and 100 kg plastic is issued for the manufacture of the cutlery items. 400 gross knives are manufactured and they are cleared for home consumption. The steel strip content in the above knives is 178 kg. The weight of the plastic handles is 85 kg. The waste is in the form of shaving etc. The total weight of the waste is $[(200+100)-(178+85)=37\text{kg}]$. The steel content of the waste is 22 kg. So import duty of customs at the rate applicable to steel strips should be collected on the waste.

The other alternative is where the finished goods are exported out of the country. Take the same example. In this case the manufacturer has two options. He can destroy the waste. Then he will not be required to pay duty on the steel strip content in the waste. If he does not choose to destroy the waste, then he has to pay duty on the steel strip content in the waste. Remission of duty on the imported material content in the waste or refuse is allowed only when the final product concerned is exported out of India and the waste is destroyed.



Let us now take an example where the final products are both exported and cleared for home consumption. The question of appropriating the waste will have to be decided first. The imported raw material is rubber. The end product is motor vehicle tyre. The additional materials used are (1) beading wire, (2) tyre cord warp sheet (3) chemicals and (4) mineral oil.

Total quantity of rubber issued	1500kg
Weight of beadwire used	10kg
Weight of tyre chord warp sheet used	180kg
Weight of chemical used	4kg
Weight of mineral oil used	16kg
Total weight of raw materials issued	1710kg
Total no. of tyres manufactured	100pcs
Weight per tyre	16.5kg
Thus total weight 100 tyres	1650kg
Wastage	60kg
Total no. of tyres cleared for home consumption	25pcs
Total no. of tyres exported	75pcs.
Wastage relatable to tyres exported 60kg	= 45 kg
Imported rubber content in the waste relatable to the exported tyres	
	$= 45 \times \frac{1500}{1710} = 39.5 \text{ kg (appx)}$
Import duty leviable on the import rubber content in the waste can be remitted if 45 kgs of the waste are destroyed.	
Weight of waste relatable to tyres cleared for home consumption	= 15 kg
Imported rubber content in the waste	= 13.2 kg
Import duty is compulsorily leviable on this quantity of import rubber.	

Sec 67, 68, 69: Removal of Goods from warehouse

* Transfer from one warehouse to another:

- Permission of P.O. required
- Proper dispatch of goods under one-time lock & proper receipt of goods at destination warehouse so that there is no risk to revenue.

* Clearance for Home Consumption:

- Present ex-bond BOE
 - Pay duty + Interest/Penalty (if any)
- } PO satisfied
- Permit removal

* Relinquishment of title of warehoused goods:

- Owner may relinquish title, he shall not be liable to pay duty. However, penalties has to be paid.
- No relinquishment where offence appears.

* Clearance of warehoused goods for export:

- No import duty
- Shipping Bill/ bill of export/ label should be presented
- Export duty, fine, penalties payable shall be assessed and paid (only import duty is waived)
- PO satisfy himself that all regulations complied

Govt. of India is of opinion that goods likely to be smuggled back into India, it may direct that

Such goods shall not be exported without payment of Duty

OR

Exported subject to such restrictions and conditions notified

* Allowance in respect of volatile Goods:

Neither the importer nor the warehouse keeper can be asked to bear the duty burden of this normal loss.

Examples of goods notified: fuel, motor spirit, acetone, wine, beer, kerosene, raw naptha, methanol, etc.

Sec 71 & 72: Improper Removal of Goods from warehouse:

- Section 71 prohibits removal except on clearance for H.C, export or transfer to another warehouse or as otherwise provided by Customs Act.

• Sec 72 enumerates cases where goods considered to be inappropriately removed & PO may demand Duty + Int + Fine + Penalty.

(a) warehoused goods removed in contravention of sec 71.

(b) Not removed at expiration of permitted period u/s 61.

(c) Goods, in respect of which bond executed u/s 59 and not cleared for H.C / exported, are not duly accounted to satisfaction of PO.

Sec 73: Cancellation and Return of warehousing Bond

When goods cleared / exported / transferred or otherwise duly accounted for and all due amounts paid

↓

PO shall cancel the Bond as discharged in full

Sec 73A: Custody and Removal of warehoused Goods

• Warehouse keeper (appointed by licensee) will be in-charge of warehouse and shall have a computerised AIC system.

• Records and Accounts are required to be preserved for a minimum period of 5 years from date of removal of goods from warehouse. Digital copies also need to be preserved at any other place than warehouse

• Warehouse keeper shall be the custodian of warehoused goods.

Duty Drawback

* Types of Duty drawback :

Sec 74

When goods are re-exported as it is and article is easily identifiable

Sec 75

When imported materials are used in manuf/processing and such goods are then exported

Sec 74: Drawback allowable on re-export of Duty

Paid Goods:

74(1): Goods exported as such without any use as normal export / Baggage / Post



98% of Duty Paid is available as drawback

* Conditions to be satisfied

Goods identified as the goods which were imported by Assis./Deputy Commissioner.

Goods are entered for export within 2 YEARS (+ Extⁿ by CBIC) from date of payment of import duty

* Date of importation ×

Date of payment of Duty ✓

74(2) Export after use

• No Duty Drawback in case of: * (If exported as such without use - 98% DBK available)
wearing Apparel, Tea Chests,

Exposed cinematograph films passed by Censor Board

Unexposed photographic films, paper & plates, X-ray films

• Reduced DBK rates having regard to duration of use:

S. No.	Length of period between the date of clearance for home consumption and the date when the goods are placed under Customs control for export	Percentage of import duty to be paid as drawback
1.	Not more than three months	95%
2.	More than three months but not more than six months	85%
3.	More than six months but not more than nine months	75%
4.	More than nine months but not more than twelve months	70%
5.	More than twelve months but not more than fifteen months	65%
6.	More than fifteen months but not more than eighteen months	60%
7.	More than eighteen months	Nil

* Even if imported goods are merely tested though not used, it will be treated as "used" after importation.

• Special Rate of Drawback in respect of Motor Vehicles AND Goods imported by the person for personal and private use:

- If re-exported immediately : 98% DBK available
- If re-exported after being used:

S.No.	Year	Drawback of duty shall be calculated by reducing the import duty by
1.	1 st	4% per quarter or part thereof
2.	2 nd	3% per quarter or part thereof
3.	3 rd	$2\frac{1}{2}$ % per quarter or part thereof
4.	4 th	2% per quarter or part thereof

* No DBK after 4 years

* For cars, DBK after 2 years allowed only if CBIC permits.

* Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995:

• Procedure for claiming DBK on goods exported by Post:

Outer packing shall carry words "Drawback Export" ⊕



Exporter shall deliver to the component Postal Authority a claim in prescribed form



Date on which aforesaid claim received by PO of Customs from postal authorities shall be the Date of filing DBK claim.

* If Deficiencies in Claim:

Deficiency memo issued within 15 DAYS and exporter shall make compliances within 30 DAYS. Then he shall be issued acknowledgement



Date of such acknowledgement shall be deemed to be date of filing claim.

• Manner & Time of claiming DBK on goods exported other than by Post:

Time limit for :- Within 3 MONTHS from date on which order permitting clearance and loading of goods for exportation u/s 51.

Extention of Aforesaid limit:	Authority	Period	Fees
	Assis/Deputy Commissioner	3 months	↓ 1% of FOB value of Export OR ₹ 1000 (w.e. is less)
	Princ. Comm./ Commissioner	Further 6 months	↓ 2% of FOB value of Export OR ₹ 2000 (w.e. is less)

Date of filing Claim: Date of affixing the Dated Receipt Stamp on the Claims

If Deficiencies: Deficiency memo (15 DAYS) → Make Compliance (30 DAYS) → same will be treated as claim filed.

Sec 75: Drawback on Imported Materials used in the Manufacture of Export Goods:

- When the imported goods are used in manufacturing, and the manufactured product is exported as normal export or post (~~Baggage~~), DBK is available as per rate per unit fixed by Govt.
- No time limit to export but value addition criteria stipulated.
- Forex must be realised within time permitted by FEMA.
(Not applicable to goods exported from DTA to SEZ)
- No DBK if export value of goods < value of imported material used in manufacturing goods OR export value does not exceed such % of value as notified by C.G. (Rule 8)
- No DBK if goods manufactured out of duty free imports.

Rule 3

All Industry Rate
Average amount fixed by Govt. taking industry data as a prescribed % of FOB for DBK

Rule 6

Brand Rate
If AIR not fixed for a product, Apply to Princ. Comm/Comm. within 3 months* of Let Export Order for fixation of DBK.

Rule 7

Special Brand Rate
If AIR < 80% of Actual duties, exporter apply to Princ. Comm/Comm. within 3 months for fixation of special Brand Rate

* If exporter filed for DBK under AIR, he cannot request for fixation of Special Brand Rate.

* Provisional DBK may also be provided. (Bond may have to be furnished)

Authority	Period	Fees
Assis/Deputy Commissioner	3 months	1% of FOB value of Export OR ₹ 1000 (w.e. is less)
Princ. Comm./ Commissioner	Further 6 months	2% of FOB value of Export OR ₹ 2000 (w.e. is less)

Rule 4: Govt. may revise AIR fixed under Rule 3.

Rule 9: Maximum DBK = $\frac{1}{3}$ rd of Market Price of export product

Sec 75A: Interest on Duty Drawback:

• If DBK u/s 74/75 not paid within 1 month of submission of claim - Int. @ 6% p.a. shall be paid from the date after expiry of 1 month till the date of payment.

• If DBK paid erroneously or becomes recoverable (it shall be demanded and if not paid within 2 months) Interest @ 15% from date of payment till date of recovery of DBK.

Sec 76: Prohibition and Regulation of Drawback:

(a) No DBK if $\left\{ \begin{array}{l} \text{Market price of goods} < \text{DBK} \\ \text{DBK} < \text{Rs. 50} \end{array} \right.$

(b) No DBK if Govt. is of the opinion that goods are likely to be smuggled back.

Refunds

○ **Section 27: Application for Duty/Refund**

- **Who can claim refund?** : person who has paid duty/interest in excess or person who bore the incidence of duty/interest(in case duty has been passed on)
- **Application** : In such a form & manner as may be **prescribed**
- **Timing**: **1 year from relevant date**

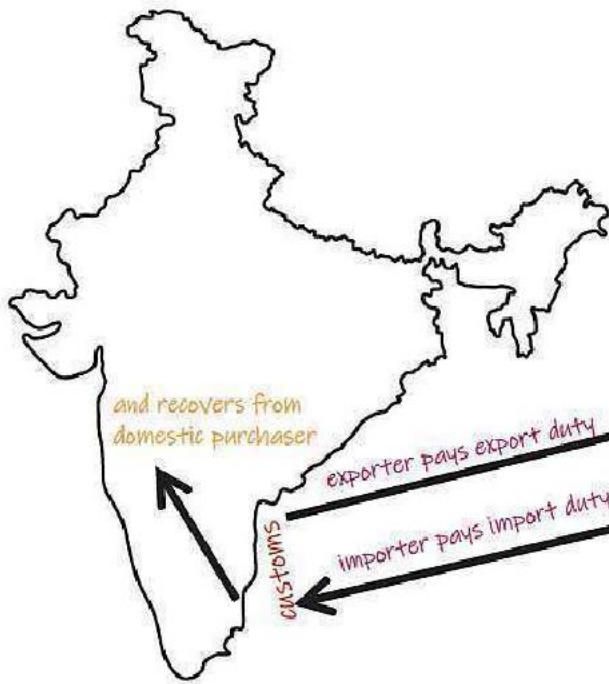
Case	Relevant Date
Normal Import/Export	Date of Payment
Claim by Other person	Date of Purchase of goods
Special Order[25(2)]	Date of special order
Consequence of Order/Judgment/Decree/Direction	Date of such order/judgment/decree/direction
Provisional Payment	Date of adjustment of duty after final assessment or in case of re-assessment, date of re-assessment

- **Duty paid under protest**: Refund claim may be filed without any time-limit
- If amount **less than INR 100** , it will not refunded
- **Documents to be furnished to prove that incidence of the duty/interest is not passed on to any other person**: Refund application must be accompanied by documentary or other evidence (including the documents, like invoice, referred to in section 28C) to establish that the amount of duty or interest was paid by him, and that the incidence of such duty or interest has not been passed on by him to any other person.

○ **Section 27(2): Application for Duty/Refund**

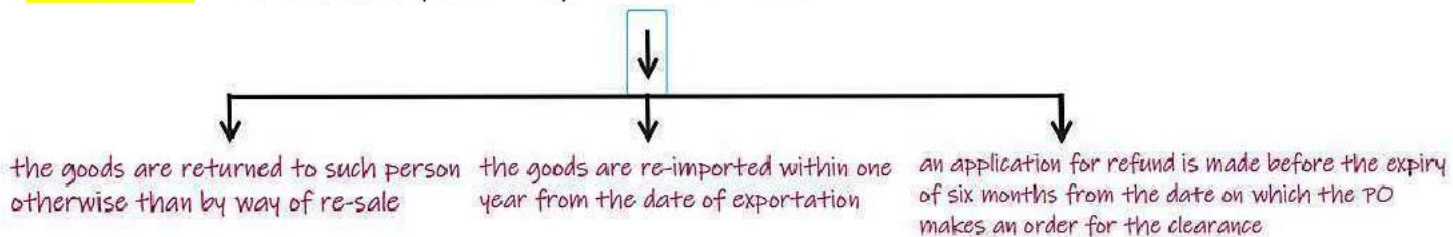
- If the application of refund is found to be complete and duty/interest/both are assessed to be refundable, refund order is passed
- The amount of refund is credited to the Consumer Welfare Fund in view of the doctrine of unjust enrichment
- However, in the following cases, the amount of refund is paid to the applicant instead of CWF(**exceptions to the doctrine of Unjust enrichment**)
 - Applicant has not passed the incidence of duty to other person
 - Import was for personal use
 - If the amount relates to export duty paid on goods which has returned to exporter as specified in section 26
 - If amount relates to drawback of duty payable
 - If the duty / interest was borne by a class of applicants which has been notified for such purpose in the OG by the CG
 - If the duty paid by importer is excess (before an order permitting clearance of goods for home consumption) and
 - (i) Such excess payment of duty is evident from the BoE in the case of self-assessed BoE; or
 - (ii) The duty actually payable is reflected in the reassessed BoE in the case of reassessment.

○ **Doctrine of Unjust Enrichment**



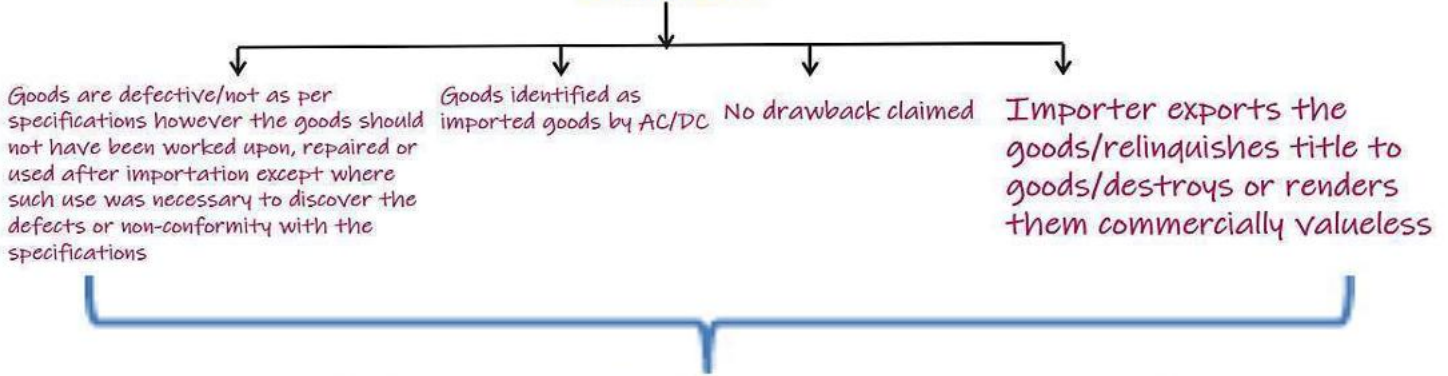
If the person subsequently applies for refund and gets it, he would be called to have enriched himself as he collected duty from his customer and also got refund from government, which is termed as “unjust enrichment”

- Whenever there is excess collection of duty, the refund should be given only to the person who has borne the burden of duty/interest. If the applicant is not the person who has borne the duty/interest, the refund is credited to CWF(customs authorities are not entitled to retain the excess payments just because the refund cannot be given to the person who has paid it.
- The applicant has to prove that he has not passed on the burden of the duty in order to claim the refund of duty
- **Exceptions to the doctrine of Unjust enrichment(refer above)**
- **Section 27(A): Interest on Delayed Refund**
 - In case refund is not paid within 3 months of receipt of application, interest has to be paid @ 6% for the period after expiry of 3 months to the date of payment.
 - Date of receipt of application = date on which a complete application, as acknowledged by the proper officer of Customs, has been made.
 - In cases where no refund claim has been made, if a refund results from an order passed by the appellate authorities (Commissioner (Appeals)/Appellate Tribunal/National Tax Tribunal) or by a court of law, refund is to be paid within 3 months of the order, and interest will be payable after that.
 - No interest is payable in respect of deposits(deposits for project imports/security for provisional release of goods)
- **Section 26:** Refund of Export Duty in some cases



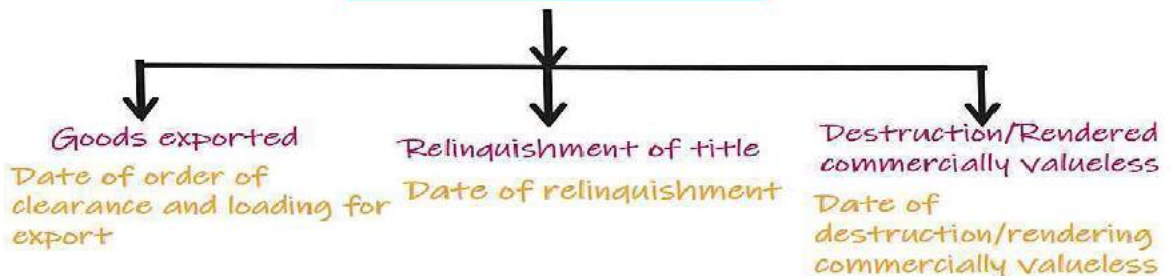
o **Section 26A:** Refund of Import Duty in some cases

Conditions



in prescribed manner within 30 days from the order of clearance for import (after showing sufficient cause extendable upto 3 months)

- o No refund in case any offence appears to have been committed under any law
- o No refund in case of perishable goods which have exceeded their shelf life
- o Application to be made within **6 months of relevant date**



- o Refund claim is not a substitute to appeal:
 - o **Priya Blue Industries Limited, 2004(SC):** A refund claim is not an Appeal proceeding. Once an Order of Assessment is passed the duty would be payable as per that order. Unless that order of assessment has been reviewed under Section 28 and/or modified in an Appeal that Order stands.
 - o There are separate provisions for appeal and refunds and separate timelines for the same.
 - o Hence, if assessment has been made, duty has to be paid as per the order. If a person is aggrieved, he has to go for an appeal and not directly for a refund application.
- o Other Case Laws:

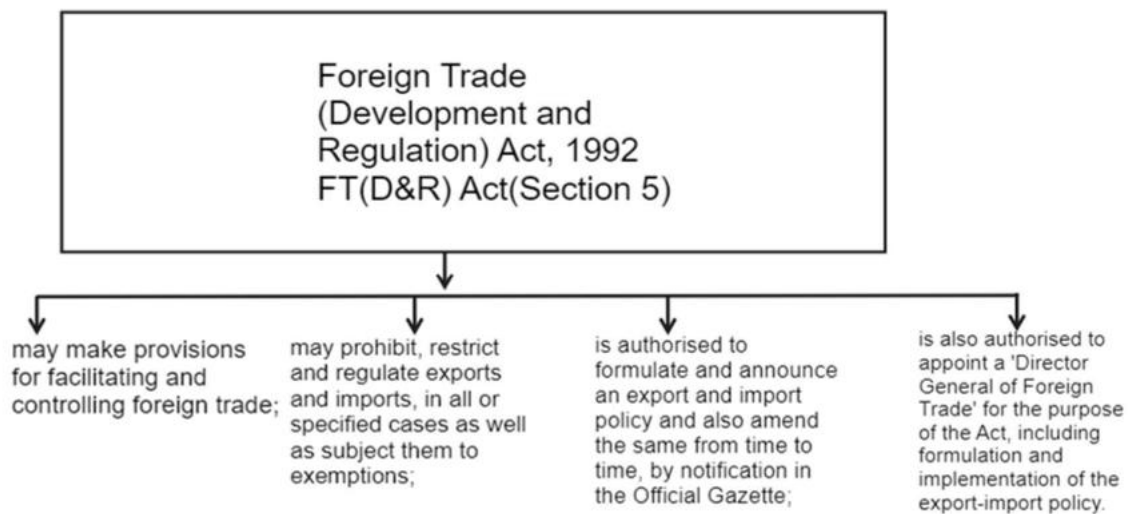
If excess tax is paid, except cases involving the principles of unjust enrichment, the excess tax must be refunded	<i>Corporation Bank v. Saraswati Abharansala</i> 2009 (233) ELT 3 (SC)	Burden of proof that incidence of duty has not been passed on to consumers is on assessee.	<i>Banmore Foam v. CCE</i> 2006 (193) ELT 112 (Tribunal-Delhi)
Refund claim cannot be a substitute for appeal	<i>Priya Blue Industries Limited v CCus</i> , 2004 (172) ELT 145(SC)	Interest on delayed refund is payable at the rates as applicable time to time and not at the rate applicable on day when refund was due.	<i>CCus. v Consolidated Solvents and Chemical Corporation</i> (2009) 243 ELT 625 (Tri.)
Refund claim cannot be filed by the CH agent in his own name, without power of attorney	<i>Jaswant b. Shah v. CC</i> 1996 (81) E.L.T. 669 (Tribunal)		

Foreign Trade Policy

Unit – 1: Introduction to FTP

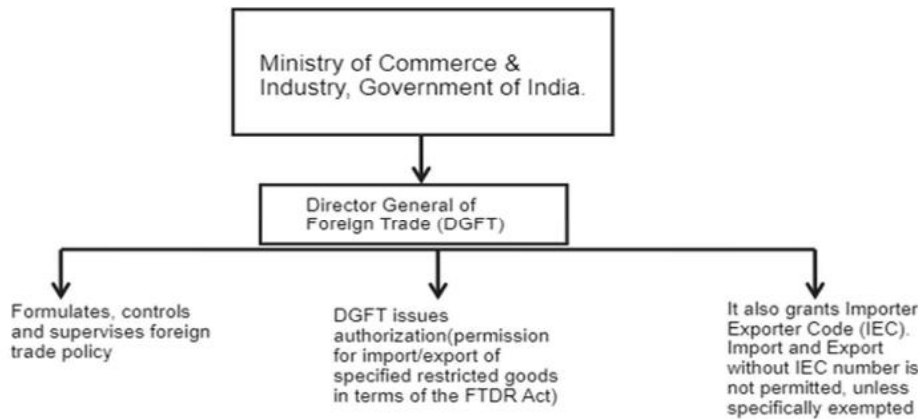
1) BASICS

- Foreign Trade Policy is a **set of guidelines or instructions issued by the Central Government** in matters related to import and export of goods in India viz., foreign trade
- LEGISLATION GOVERNING FTP**
Concerned Ministry: Ministry of Commerce and Industry

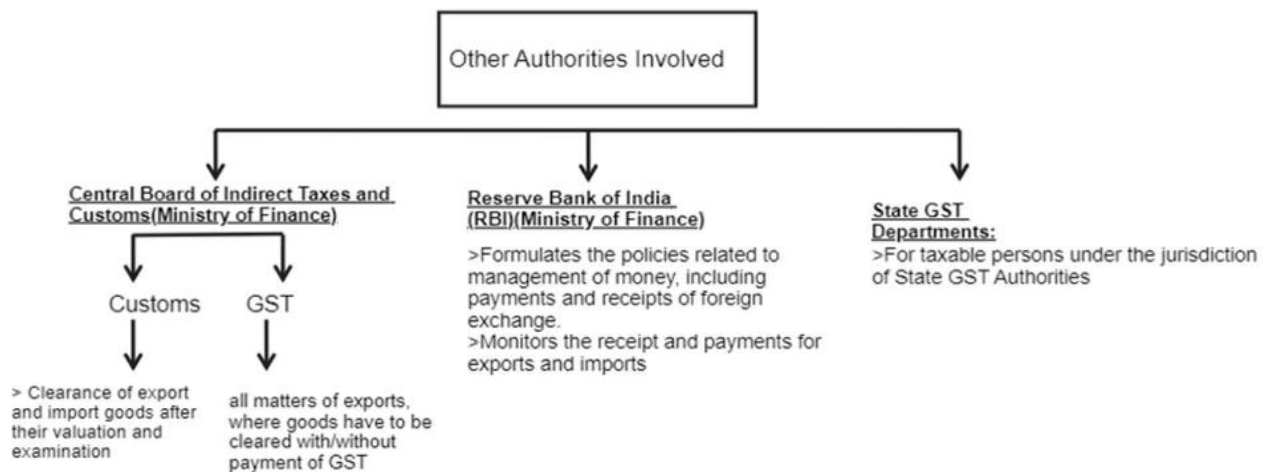


- Government of India generally announces the integrated Foreign Trade Policy (FTP) every **five years** with certain underlined objectives.
- Foreign Trade Policy 2015-2020 -The present Foreign Trade Policy, which was announced on 01.04.2015, is an integrated policy for the period between 01.04.2015 and **31.03.2023**.
- Various measures adopted in the direction of ease of doing business, trade facilitation, Make in India, Atmanirbhar Bharat, includes
 - Reducing number of mandatory documents required for Import and Export to 3 each
 - 24 x 7 customs clearance on specified imports(19 sea port and 17 air cargo complexes)
 - Introduction of SWIFT (Single Window Interface for Facilitating trade) to enable importer and exporter to lodge their clearance documents at a single point to meet regulatory requirements of all agencies involved in EXIM trade
 - Prior online filing facility for shipping bills - 7 days for air shipments & ICDs and 14 days for shipments by sea.
 - Online filing of applications to obtain Importer Exporter Code and various authorizations / scrips.

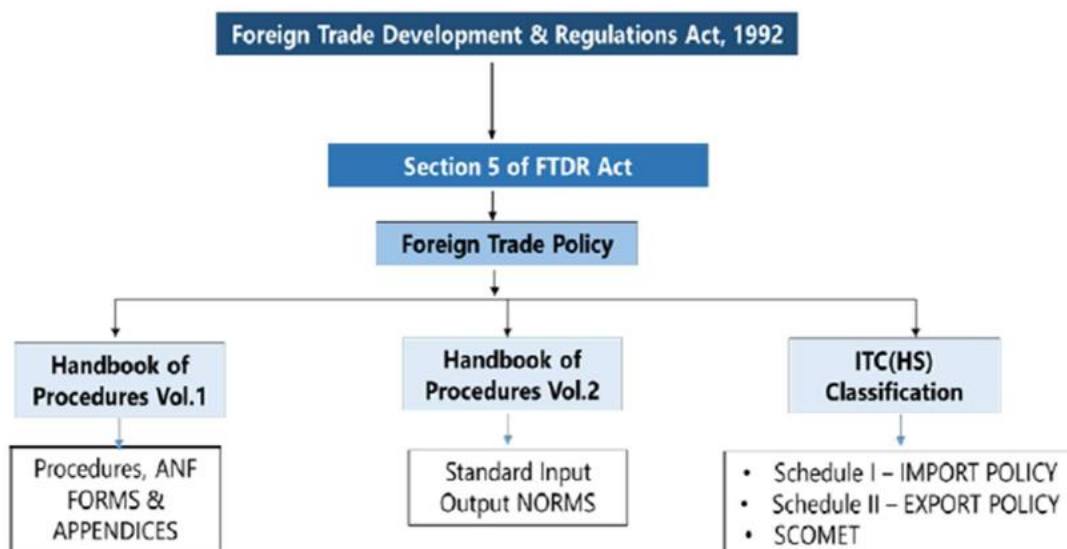
• **ADMINISTRATION OF THE FTP**



- Decision of DGFT is final and binding in respect of interpretation of any provision of foreign trade policy, classification of any item in ITC (HS), content scope or issue of any authorization issued under the FTP.
- Apart from DGFT, there are some other authorities involved in administration of FTP



Contents of FTP



- The FTP is closely knit with the Customs, GST and Excise/state laws. However, the policy provisions do not override tax laws. The exemptions extended by FTP are given effect to by **issuing notifications under the respective tax laws** (e.g., Customs Tariff Act). Thus, actual benefit of the exemption depends on the language of exemption notifications issued by the CBIC. In most of the cases the exemption notifications refer to policy provisions for detailed conditions.

2) PROVISIONS REGARDING IMPORTS AND EXPORT



GENERAL PROVISIONS APPLICABLE TO IMPORT AND EXPORT OF GOODS

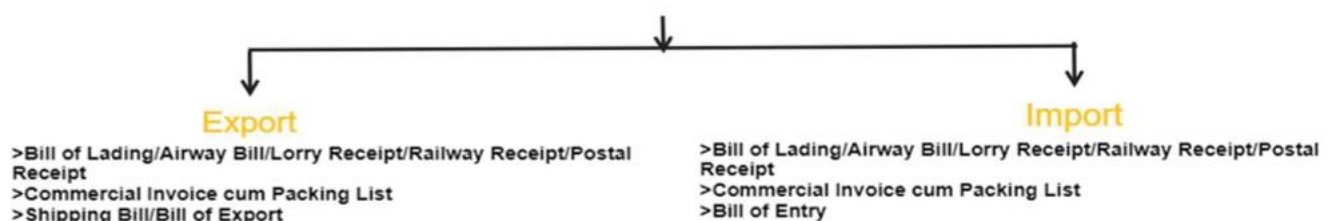
- **Exports and imports are free unless regulated** by FTP or any other law in force. The item wise export and import policy shall be specified in ITC (HS). These are classified as – (a) Free (b) Restricted (c) Prohibited (d) Exclusive trading through State Trading Enterprise (STEs).
- **Compliance with laws which include** provisions of the FT (D&R) Act, the rules and orders made there-under, the FTP and terms and conditions of any authorization granted to him. All **imported goods** shall also be subject to **domestic laws and regulations** applicable to domestically produced goods unless specifically exempted. However, goods to be utilized/ consumed in manufacture of export products, as notified by DGFT, may be exempted from domestic standards/ quality specifications.
- **Interpretation of policy** – **question or doubt** arises in respect of interpretation **shall be referred to DGFT** whose decision thereon shall be **final and binding**.
- **Procedures** to be followed by an **exporter or importer or by any licensing/ any other competent authority** for the purpose of implementing provisions of Foreign Trade Act, the rules and the orders made there-under and FTP **shall be published** in Hand Book of Procedures by means of a Public Notice, and may, in like manner, be amended from time to time.
- **Exemption from Policy/Procedure** may be granted by DGFT, in public interest to any person or class or category of persons from any provision of FTP or any procedure and while granting such exemption, **conditions may be imposed**. DGFT may pass orders or grant relaxation or relief, as he may deem fit and proper, on **grounds of genuine hardship and adverse impact on trade**.
- **Principles of Restriction** – DGFT may, through a notification, impose ‘prohibition’ or ‘restriction’:-
 - a. on export of foodstuffs or other essential products for preventing or relieving critical shortages;
 - b. on imports and exports necessary for the application of standards or regulations for the classification, grading or marketing of commodities in international trade;

- c. on imports of fisheries product, imported in any form, for enforcement of governmental measures to restrict production of the domestic product or for certain other purposes;
- d. on import to safeguard country's external financial position and to ensure a level of reserves.
- e. on imports to promote establishment of a particular industry;
- f. for preventing sudden increases in imports from causing serious injury to domestic producers or to relieve producers who have suffered such injury;
- g. for protection of public morals or to maintain public order;
- h. for protection of human, animal or plant life or health
- i. relating to the importations or exportations of gold or silver;
- j. necessary to secure compliance with laws and regulations including those relating to the protection of patents, trademarks and copyrights, and the prevention of deceptive practices
- k. relating to the products of prison labour
- l. for the protection of national treasures of artistic, historic or archaeological value
- m. for the conservation of exhaustible natural resources
- n. for ensuring essential quantities for the domestic processing industry
- o. essential to the acquisition or distribution of products in general or local short supply;
- p. for the protection of country's essential security interests:
 - i. relating to fissionable materials or the materials from which they are derived;
 - ii. relating to the traffic in arms, ammunition and implements of war;
 - iii. taken in time of war or other emergency in international relations;
- q. in pursuance of country's obligations under the United Nations Charter for the maintenance of international peace and security

- **Export/import of restricted goods/services** restricted under ITC(HS) may be exported or imported only in accordance with an **Authorization/Permission** or in terms of a public notice/notification issued in this regard.
- **Terms and Conditions of an authorization which is valid for prescribed period of validity** shall include the following:-
 - a) Quantity, description and value of goods;
 - (b) Actual User condition;
 - (c) Export obligation;
 - (d) Minimum Value Addition to be achieved;
 - (e) Minimum export/ import price; and
 - (f) Bank Guarantee/ Legal Undertaking/ Bond with Customs Authority/ RA.
 - (g) such other conditions as may be prescribed
- **Authorization is not a right** and DGFT or RA shall have power to **refuse to grant or renew** the same in accordance with provisions of FT(D&R) Act, rules made there under and FTP.
- **Penalty and placing of an entity in Denied Entity List (DEL)** and on issuance of such an order a firm may be refused grant or renewal of a license, certificate, scrip or any instrument bestowing financial or fiscal benefits. If a firm is placed under DEL all new licenses, scrips, certificates, instruments etc., will be

blocked from printing/ issue/renewal. DEL orders may be held in abeyance for a period of **not more than 60 days**. A firm's name **may be removed** from DEL if the firm completes Export Obligation/ pays penalty/ fulfills requirement of Demand Notice. If a holder of authorization violates any condition or fails to fulfill the export obligation, he shall be liable for action under the FT(D&R) Act, FTP or any other law

- **State Trading Enterprises (STEs)** are govt and non-govt enterprises which deal with goods for export and/or import. Any goods, import or export of which is governed through exclusive or special privileges granted to STE, may be imported or exported by STE(s) as per conditions specified in ITC(HS). Items should be imported or exported only through STEs.
- **Importer-Exporter Code (IEC)** is a mandatory for export/import unless specifically exempt.
 - PAN is mandatory for IEC. 1 PAN = 1 IEC
 - It is a unique 10 digit code
 - GSTIN would be used for purposes of
 - (i) credit flow of IGST on import and
 - (ii) refund or rebate of IGST related to export
 - Importer/Exporter would need to declare only GSTIN (wherever registered with GSTN) at the time of import and export of goods.
 - For residuary categories, UIN issued by GSTN and authenticated by DGFT.
 - For others, common number will be notified by DGFT
 - An application for IEC /modification in IEC to be made only electronically through digital signature / through authentication using Aadhar number.
 - In case of STPI/ EHTP/ BTP units, the Regional Offices of the DGFT having jurisdiction over the district in which the Registered/ Head Office of the STPI unit is located shall issue or amend the IECs.
- **Trade with neighboring countries** DGFT may issue instructions or frame schemes to promote trade and strengthen economic ties with neighboring countries.
- **Transit facility** goods through India from/ or to countries **adjacent to India** shall be regulated in accordance with bilateral treaties and will be subject to such restrictions in accordance with international conventions.
- Mandatory documents for export/import of goods from/into India:



PROVISIONS RELATING TO IMPORT OF GOODS

- **Actual user condition:** Goods freely importable may be imported by any person. However, if imports require an Authorization, **only the actual user may import such goods** unless such actual user condition is specifically dispensed with by DGFT.
- **Second hand goods**

- Capital Goods including refurbished/ re-conditioned spares –**Allowed freely**.
- Personal computers/ laptops, photocopier machines, air conditioners, diesel generating sets – **Against authorization**
- Goods, [except second hand capital goods], – **Against authorization**
- **Removal of scrap/ waste from SEZ** including any form of metallic waste & scrap generated during manufacturing or processing activities of an SEZ Unit/ Developer/ Co-developer shall be allowed **to be disposed in DTA (Domestic Tariff Area) freely, subject to payment of applicable customs duty**.
- **Import of gifts and samples:** Import of goods, including those purchased from e-commerce portals, through post or courier, where customs clearance is sought as gifts, **is prohibited** except for life saving drugs/medicines and rakhi (but not gifts related to rakhi). Further, import of samples shall be governed by the prescribed procedures
- **Bonafide Passenger Baggage** may be imported either along with passenger as per the prescribed provisions under the Baggage Rules.
 - **Samples of items** that are freely importable under FTP may also be imported as part of **passenger baggage**
 - Exporters coming from abroad are allowed to import drawings, patterns, labels, price tags, buttons, belts, trimming and embellishments required for export, as part of their passenger baggage without an Authorization
- **Re-import of goods repaired abroad:** Capital goods, equipments, components, parts and accessories, except those restricted under ITC(HS) may be sent abroad for repairs, testing, quality improvement or upgradation or standardization of technology and **re-imported without an Authorization**.
- **Import of goods used in projects abroad:** Project contractors may re import, without an Authorization, goods including capital goods used in the project abroad provided they have been used for at least one year.
- **Sale on high seas** for import into India – Subject to FTP or any other law in force.
- **Import under lease financing is freely permitted.** Permission of RA is not required for import of capital goods under lease financing. However, RBI approval is required in some cases.
- **Clearance of goods from customs:** **Goods imported in advance** may also be cleared against an **Authorization issued subsequently**. Such goods already imported in advance are first warehoused against Bill of Entry for Warehousing and then cleared for home consumption against an Authorisation issued subsequently. This facility will not be available to restricted items or items traded through STEs.
- **Execution of BG/ LUT:** Importer shall execute prescribed LUT (Letter of Undertaking)/ BG (Bank Guarantee)/ Bond with Customs Authority before clearance of goods when goods are imported duty free or otherwise specifically stated. In case of indigenous sourcing, Authorization holder shall furnish LUT/ BG/ Bond to RA concerned before sourcing material from indigenous supplier/ nominated agency as per the prescribed procedures
- **Private/ public bonded warehouses for imports**
 - may be set up in DTA. Any person may import goods
 - **except**

- prohibited items
- arms and ammunition
- hazardous waste
- chemicals
 - and warehouse them in such bonded warehouses.
- Such goods may be cleared against authorization after paying custom duty.
- If such goods are not cleared within a **period of one year** or such extended period as the custom authorities may permit, importer of such goods shall re-export the goods

PROVISIONS RELATING TO EXPORT OF GOODS

- **Free exports:** Export of goods is free except to the extent that such export is regulated by ITC(HS) / FTP /any other law. DGFT may however, specify through a public notice terms and conditions according to which any goods, not included in ITC(HS), may be exported without an Authorization.
- **Export of samples** and free of charge goods shall be governed by prescribed procedures. Export of bona fide trade and technical samples of freely exportable item shall be allowed without any limit. Such samples can be exported as part of passenger baggage without an Authorization. In case of restricted items, application should be made to DGFT
- **Export of passenger baggage:** Bonafide personal baggage may be **exported either along with passenger** or, if unaccompanied, within one year before or after passenger's departure from India the Baggage Rules.
- **Export of gifts:**
 - **Value up to INR 5,00,000** in a licensing year, may be exported as a gift.
 - Items mentioned as restricted for exports in ITC(HS) shall not be exported as a gift, without an Authorization.
- **Export of spares:** Warranty spares of plant, equipment, machinery, automobiles or any other goods, [except those restricted under ITC(HS)] may be exported along with main equipment or subsequently, but within contracted warranty period of such goods subject to approval of RBI.
- **Third party exports** (exports made by an exporter or manufacturer on behalf of another exporter). Export documents such as shipping bills shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s). BRC, GR declaration, export order and invoice should be in the name of third party exporter. Such third party exports shall be allowed under FTP.
- **Export of imported goods:** Allowed without an Authorization, provided that an item to be imported or exported is not restricted for import or export in ITC(HS).
 - **Import of Goods** – Payment made in freely convertible currency. When these goods are subsequently exported, payment to be realized in freely convertible currency
 - However, export of such goods to notified countries will be permitted in Indian rupees subject to at least 15% value addition. Only such specified exports shall not be eligible for any export incentives

- **Export of replacement goods**
 - Goods exported and found defective may be replaced by exporter **free of cost and customs authorities shall allow** the same, provided that replacement goods are not mentioned as restricted items for exports in ITC(HS).
- **Export of repaired goods:**
 - Goods exported and found defective, damaged or unfit for use may be imported for repair and subsequent re-exported. Such goods **shall be allowed** clearance without an Authorization and in accordance with customs notification. If the item is 'restricted' for import, the exporter shall require an import license.
 - However, re-export of such defective parts/spares by the Companies/firms and Original Equipment Manufacturers shall not be mandatory if they are imported exclusively for undertaking root cause analysis, testing and evaluation purpose.
- **Private Bonded Warehouses for exports** which are set up exclusively for exports **shall be entitled to procure goods from domestic manufacturers without payment of duty**. Supplies made by a domestic supplier to such notified warehouses shall be treated as physical exports provided payments are made in free foreign exchange
- **Denomination of export contracts:**
 - Denominated either in freely convertible currency / INR
 - Export proceeds shall be realised in freely convertible currency.
 - However, export proceeds against specific exports may also be realized in INR, if it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.
 - Additionally, INR payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account. Such foreign exchange remitted by buyer would be taken as export realization under export promotion schemes of FTP.
 - Contracts for which payments are received through ACU shall be denominated in ACU Dollar.
- **Non-realisation of export proceeds** **within time specified by RBI**, he shall be liable to action in accordance with provisions of FT(D&R) Act, rules and orders made thereunder and provisions of FTP. In case an Exporter is unable to realize the export proceeds for reasons beyond his control (force-majeure), he may approach RBI for writing off the unrealised amount as per prescribed procedure. The payment realized through insurance cover, would be eligible for benefits under FTP, subject to conditions.
- **Free movement of export goods:** Consignments of items meant for exports **shall not be withheld/ delayed for any reason by any agency of CG/SG**. In case of any doubt, authorities may ask for an **undertaking from exporter** and release such consignment.
- **No seizure of export related stock** shall be made by any agency so as to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on basis of prima facie evidence of serious **irregularity upto 7 days** unless irregularities are substantiated.

PERSONAL HEARING BY DGFT FOR GRIEVANCE REDRESSAL

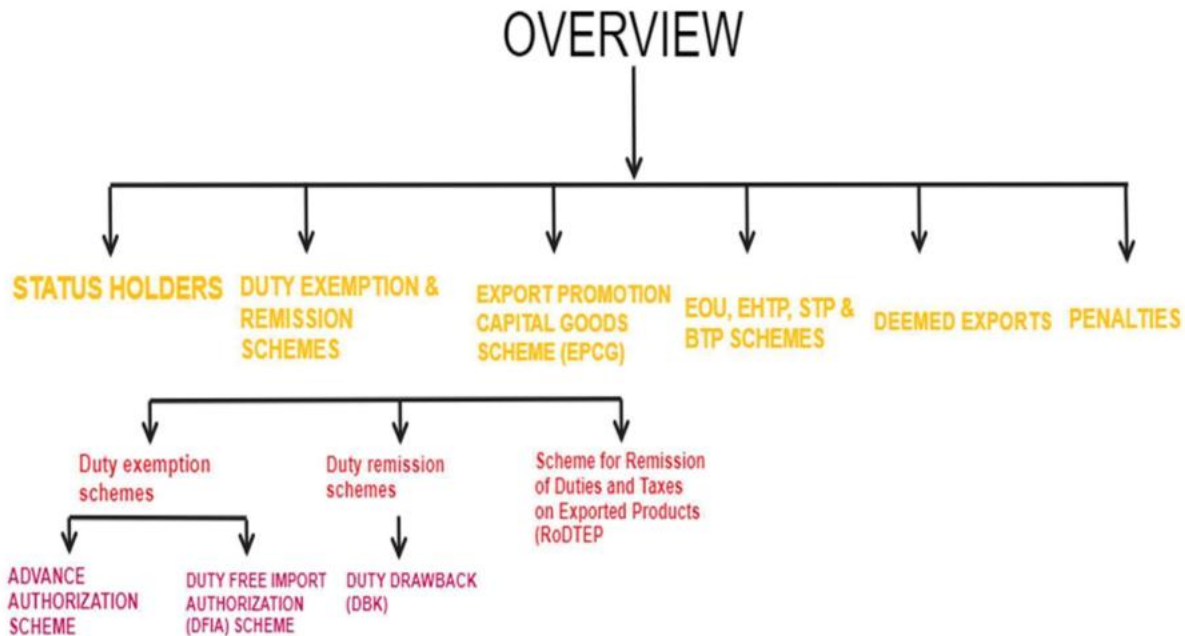
DGFT may provide an opportunity for Personal hearing before Policy Relaxation Committee (PRC) subject to fulfillment of certain conditions

AUTHORIZED ECONOMIC OPERATOR (AEO):

- An AEO certified company becomes a **Custom's trusted trade partner**.
- AEO programme has been developed by Indian Customs to enable business involved in the international trade to reap the following **benefits**:
 - (i) Secure supply chain from point of export to import;
 - (ii) Ability to demonstrate compliance with security standards when contracting to supply overseas importers /exporters;
 - (iii) Enhanced border clearance privileges in Mutual Recognition Agreement (MRA) partner countries;
 - (iv) Minimal disruption to flow of cargo after a security related disruption;
 - (v) Reduction in dwell time and related costs; and
 - (vi) Customs advice / assistance if trade faces unexpected issues with Customs of countries with which India have MRA.

Unit – 2: BASIC CONCEPTS RELATING TO EXPORT PROMOTION SCHEMES UNDER FTP

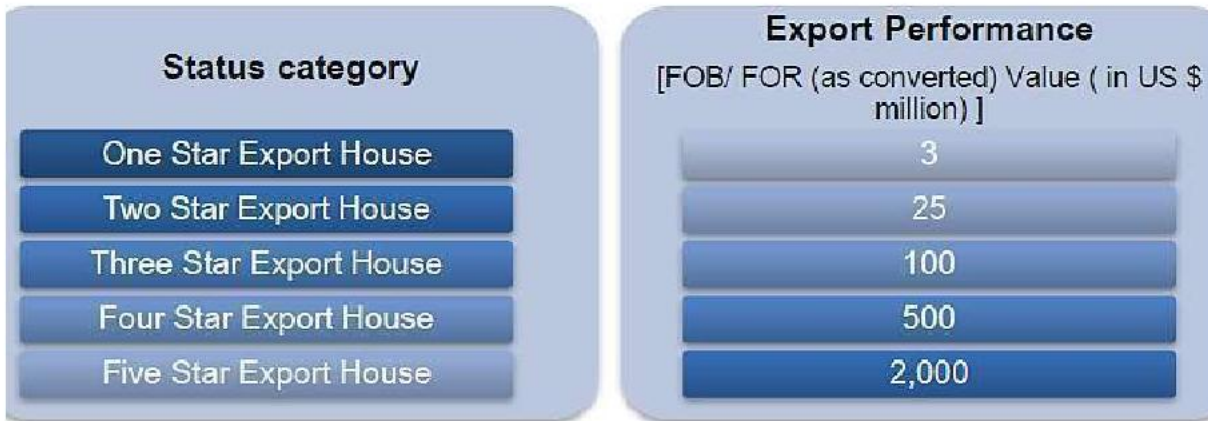
- Export Promotion Schemes are endeavours to encourage exports by the Govt. of India. There are various promotional measures under FTP and other schemes operated under Ministry of Commerce through various Export Promotion Councils



STATUS HOLDERS

- Business leaders who have excelled in international trade and have successfully contributed to country's foreign trade.
- All exporters having IEC are eligible for recognition
- Depends upon the **export performance**
 - Export Performance**
 - For Gems & Jewellery Sector: Performance of current + previous 2 financial years
 - Others : Performance of current + previous 3 financial years
 - Counted on the basis of FOB value of export earnings in FC
 - For deemed exports : Export in INR to be converted into US\$ @ rate notified by CBIC applicable on 1st April every year
 - Export performance is necessary in at least 2 out of 4 years.
 - Export performance of one IEC holder shall not be permitted to be transferred to another IEC holder.
 - Exports made on re-export - not counted
 - Export of items under authorization, including SCOMET items – included
 - Grant of **double weightage** to certain exporters for calculation of export performance for grant of **1 star status** :
 - MSMEs
 - Manufacturing units having ISO/BIS
 - Units located in North Eastern States including Sikkim and Jammu & Kashmir
 - Units located in Agri Export Zones

o **Export House status:**



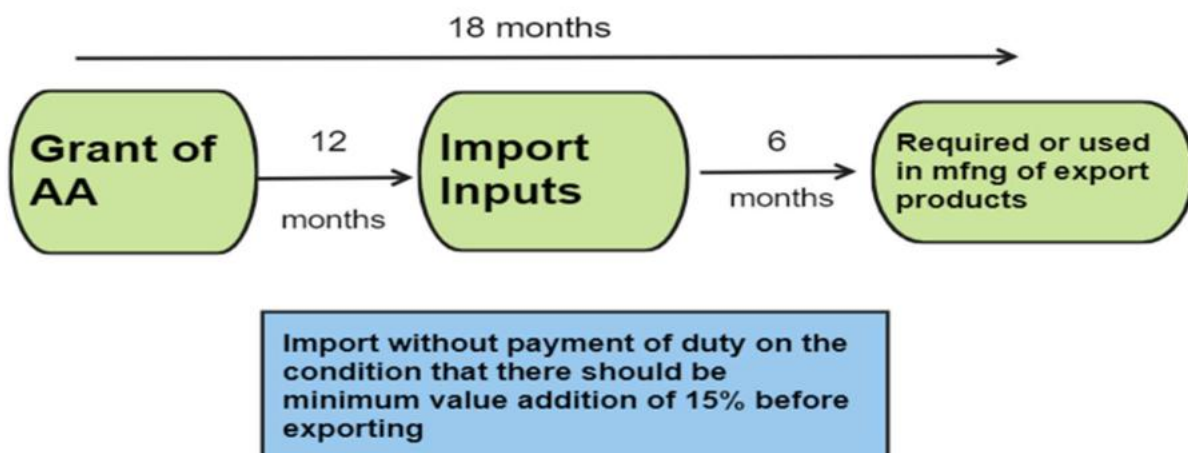
o **Privileges of Status Holders**

- Authorisation and custom clearances on **self-declaration basis**
- Fixation of Input Output Norms (SION) on priority i.e. **within 60 days** by Norms Committee.
- **Exemption** from compulsory negotiation of documents through banks. Remittance/receipts to be done through banking channels
- **Exemption from furnishing of Bank Guarantee** in Schemes under FTP.
- Two Star Export Houses and above are **permitted to establish export warehouses**.
- Manufacturers (Three Star/Four Star/Five Star status holders) are allowed **to self-certify their manufactured goods (as per their IEM/IL/LOI) as originating from India** with a view to qualify for preferential treatment under different preferential trading agreements (PTA), Free Trade Agreements (FTAs), Comprehensive Economic Cooperation Agreements (CECA) and Comprehensive Economic Partnership Agreements (CEPA).
- Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to annual limit.

DUTY EXEMPTION & REMISSION SCHEMES

▪ **DUTY EXEMPTION SCHEMES**

o **Advance Authorisation Scheme:**



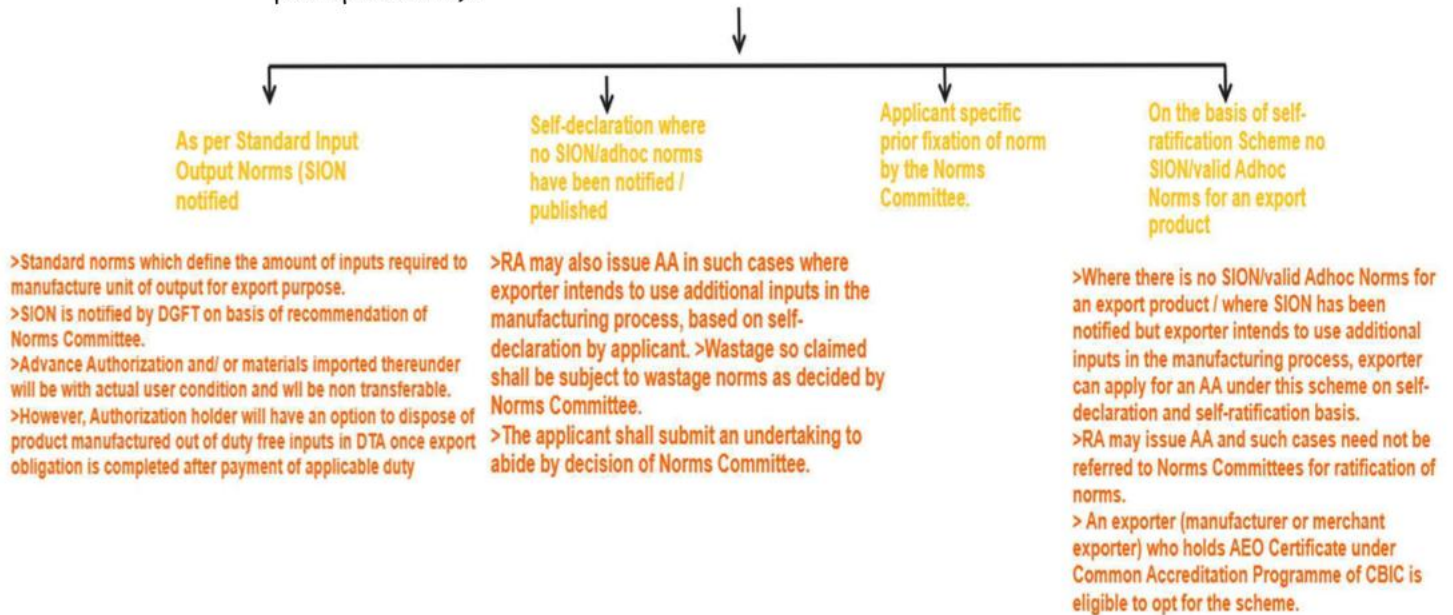
- Inputs which are physically used/ incorporated in the export – Imported without payment of customs duty. IGST and GST Compensation Cess have been exempted upto **30.09.2021** on imports under Advance Authorisation for physical exports (including exports to SEZ units) or deemed exports like supply of goods against Advance Authorisation, capital goods against EPCG, supply of goods to EOU/STP/EHTP etc.
- Exemption from: basic customs duty, additional customs duty, education cess, anti-dumping duty, countervailing duty, safeguard duty, transition product specific safeguard duty
- Specified deemed exports are not exempted from payment of applicable anti-dumping duty and safeguard duty.
- Validity: 12 months from the date of grant of AA
- Validity for deemed exports: shall be co-terminus with contracted duration of project execution or 12 months from date of AA, whichever is later
- Period within which export to be done: 18 months from the date of AA
- Realization of export proceeds: freely convertible currency except otherwise specified
- Export to SEZ Units : Payment to be realized from Foreign Currency Account of the SEZ unit.
- Export to SEZ Developers / Co-developers: can be taken into account as export even if payment is realized in Indian Rupees.
- **Items which can be imported duty free against advance authorization:-**
 - Inputs which are physically incorporated in export product (after considering normal wastage)
 - Fuel, oil, catalysts which are consumed/utilised to obtain export product
 - Mandatory spares which are required to be exported/supplied with resultant product – upto 10% of CIF value of Authorization.
 - Specified spices only when used for activities like crushing/ grinding /sterilization/ manufacture of oils or oleoresins and not for simply cleaning, grading, re-packing etc.
- **Eligibility:** Manufacturer exporter or merchant exporter tied to supporting manufacturer(s) Such Authorization can also be issued for:
 - (1) Physical exports (including export to SEZ) by Authorisation holder
 - (2) Intermediate supply
 - (3) Supplies made to specified categories of deemed exports
 - (4) Supply of 'stores' on board of foreign going vessel/aircraft provided there is specific SION in respect of items supplied

○ **Value addition: $\frac{(A-B)}{B} \times 100$**

Minimum value addition(MVA) required to be -15%, except for physical exports for which payments are not received in freely convertible currency and some other specified export products. For tea MVA-50%.

- A = FOB value of export /FOR value of supply
- B = CIF value of inputs covered by authorisation plus any other imported materials used on which benefit of duty drawback (DBK) is claimed or intended to be claimed.
- Items supplied free of cost: Add notional value(in A and B)
- Exports to SEZ Developers/ Co-developers, irrespective of currency of realization, would also be covered

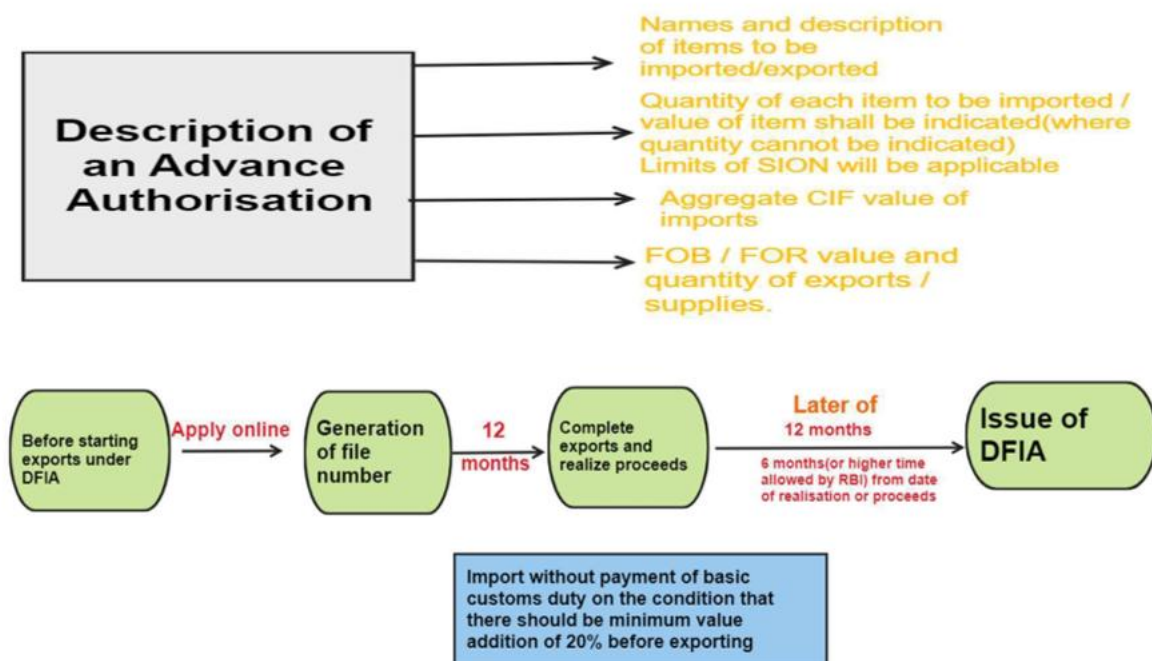
- **Basis of issuance of Advance Authorisation** (From quantity & value perspective):-



- **Domestic sourcing of inputs** Holder of advance authorization has may procure the materials/ inputs from indigenous manufacturer/STE in lieu of direct import against Advance Release Order (ARO)/Invalidation letter/ Back to Back Inland Letter of Credit. However, Advance Authorisation holder may obtain supplies from EOU/EHTP/BTP/STP/SEZ units, without obtaining ARO or Invalidation letter.
- **Maintenance of Proper Accounts for Authorisations**
 - Every AA holder shall maintain a true and proper account of consumption and utilization of duty free imported / domestically procured inputs against each authorisation as per the prescribed formats.
 - Preserved for a period of at least 3 years from the date of redemption. While doing export/supply applicant shall indicate authorisation number on the export documents.
- **Redemption/closure of authorisation:**
 - Application to be made by holder for redemption of authorization on completion of exports/imports and other conditions mentioned in the AA.
 - If Export Obligation has been fulfilled, the RA after verification of satisfaction of conditions applicable at the time of issuance of authorisation, may issue EODC / Redemption Certificate to Authorisation holder and forward a copy to the Customs authority at the port of registration of Authorisation indicating the same details of proof of fulfilment of EO.
 - At the time issue of EODC or at the time of redemption, name/description of the input in the Authorisation must match exactly with the name/description endorsed in the Shipping Bill.
 - Quantity of input to be allowed shall be in proportion to the quantity of input actually used/consumed in production.
 - If goods are imported against advance authorization but export obligation is not fulfilled, **duty and interest is payable**.
 - Aforesaid provisions will also be applicable for supplies to SEZs and supplies made under deemed exports.
- **Annual Advance authorization:** Advance Authorization can be issued for annual requirement also.

- Allowed to exporters having past export performance (in at least preceding two financial years)
 - Amount of entitlement –
 - CIF value of imports allowed = **300%** of the FOB value of physical export and/ or FOR value of deemed export in **preceding financial year** or
 - **INR 1 crore, whichever is higher.**
- Authorisation for Annual Requirement shall be issued only where SIONs or valid Ad hoc norms exists on the date of issue of Authorisation. It is not available on self-declaration basis.
- **Admissibility of drawback:** As per rate determined and fixed by Customs authority for duty paid imported or indigenous inputs used in the export product

○ Duty Free Import Authorisation Scheme(DFIA)



- DFIA shall be issued on **post export basis**
- DFIA shall be issued only for products for which SION have been notified. Separate DFIA shall be issued for each SION and each port.
- Exemption only from **Basic Customs Duty** (BCD). IGST will be payable on imports.
- DFIA is allowed for
 - Duty free import of inputs
 - Import of oil and catalyst which is consumed / utilised in the process of production of export product
- Applicant shall file an online application to RA before starting exports under DFIA.
- A file number will be generated on application. Export shall be completed within 12 months from the date of online filing of application and generation of file number.
- While doing export/supply, applicant shall indicate file number on the export documents.
- After completion of exports and realization of proceeds

- Request for issuance of DFIA within **Later of**
 - 12 months from the date of export
 - Or
 - 6 months (or additional time allowed by RBI for realization) from the date of realization of export proceeds
- RA shall issue transferable DFIA with a validity of 12 months from the date of issue.
- Exports proceeds shall be realized in freely convertible currency except otherwise specified.
- No DFIA for export products where SION prescribes 'Actual User' condition for inputs
- Domestic sourcing of inputs: Same as AA discussed above
- Conditions for redeeming authorisation:
 - Establish(prove) that inputs **actually used** in manufacture of the export product **should only be imported** under the authorization and inputs **actually imported must be used in the export product**, for redeeming the DFIA.
 - The name/description of the input in the DFIA must match exactly with the name/description endorsed in the shipping bill.
 - Further, quantity of input to be allowed under DFIA shall be in proportion to the quantity of input actually used/ consumed in production.
 - If goods are imported against advance authorization but export obligation is not fulfilled, duty and interest is payable.
 - Also applicable for supplies to SEZ and deemed exports
- **Value addition:** Same as AA except MVA = 20%
- **Admissibility of Drawback:** Same as AA

DUTY REMISSION SCHEMES

- **Duty Drawback:**
 - Drawback in relation to any goods mfg in India and exported means the rebate of duty excluding IGST and Compensation Cess, chargeable on any imported materials or excisable materials used in the manufacture of such goods [Rule 2(a) of Customs and Central Excise Duties Drawback Rules, 2017]
 - Customs duty paid on inputs is given back to the exporter of finished product by way of 'duty drawback'(Section 75 of Customs Act, 1962)
 - Drawback under Section 75: Imported materials are used in the manufacture of goods which are then exported.
 - Drawback under Section 74 : Imported goods are re-exported as it is, and article is easily identifiable
 - Drawback is available only for duty portion and not GST portion

Scheme for Remission of Duties and Taxes on Exported Products (RoDTEP)

- With effect from 01.01.2021, Government has introduced a new scheme for Remission of Duties and Taxes on Exported Products (RoDTEP) for eligible **export of goods**
- MEIS scheme has been withdrawn

- The scheme provides for remission of the amount in the form of duty credit scrip credited in an exporter's ledger account with customs

Home > E Scrip

E Scrip

Account Number : 0595009450

Scheme Name	SCHEME ACCOUNT BALANCE(INR)	ACCOUNT STATUS	CREDIT ACCOUNT OPENING DATE	LAST CREDIT ACCOUNT OPERATING DATE
RODTEP	0	ACTIVE	27-Feb-22	27-Feb-22
ROSCTL	0	ACTIVE	27-Feb-22	27-Feb-22

[SB Details](#)
[Scrip Details](#)
[Transaction Details](#)
[Scrip Transfer](#)
[Approve Scrip Transfer](#)
[Add Scheme](#)

[Update Contact Details](#)

RODTEP E SCRIP

- **Objective of the Scheme:**

- The objective of the scheme is to refund, currently unrefunded:
 - Duties/ taxes/ levies, 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/levies in respect of distribution of exported products.

- Duty credit is issued

- in lieu of **remission** of any duty/tax/levy chargeable on any material used in the manufacture/processing of goods or for carrying out any operation on such goods in India that are exported, where such duty/tax/levy is not exempted/remitted/credited under any other Scheme
- against export of notified goods under FTP against export of notified goods under FTP

- Duty credits would be credited in the electronic credit ledger of the customs automated account

- Only basic customs duty can be paid using such credit

- Duty scrips are freely transferable(can be sold to another importer)

- For duties already exempted/remitted/credited – no credit available in this scheme

- **All exporters of eligible** RODTEP export items are eligible for the scheme

- Rebate amount:

$$= \boxed{\text{Notified \%}} \times \boxed{\text{Lower of FOB Value or 1.5 times of market price of said goods}}$$

- The above rebate subject to a value cap per unit

- For certain items, a fixed quantum of rebate may also be notified

- Rebate is not dependent on realization of export proceeds

- However, rebate will be deemed never to have been allowed in case of non-receipt of proceeds within FEMA time limits

- **Ineligible supplies/items/categories:-**

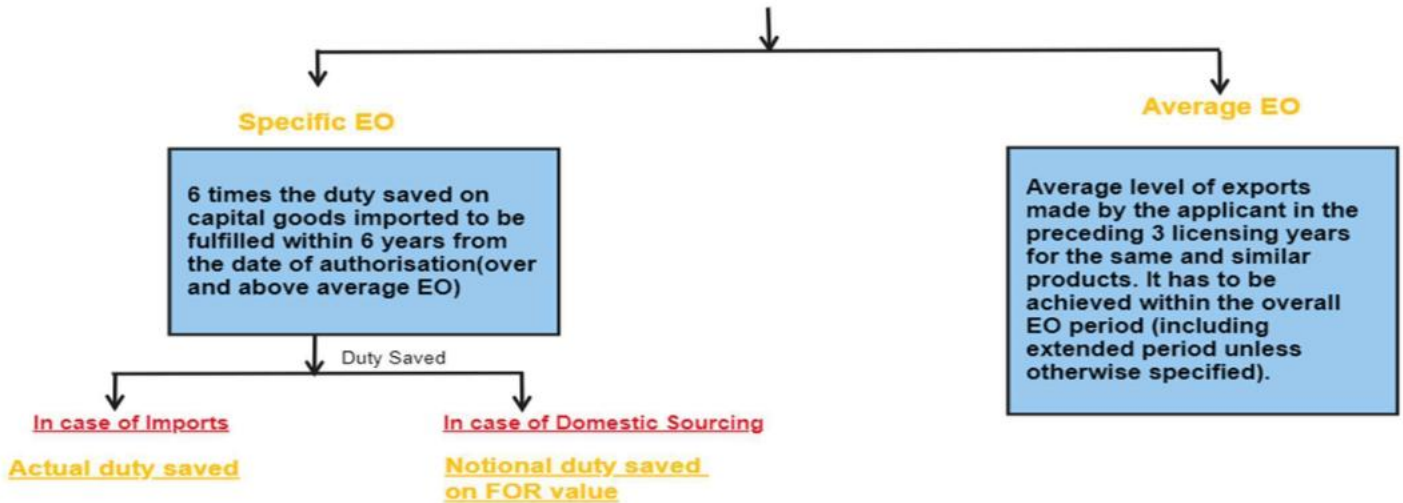
- Export of imported goods as it is
- Exports through trans-shipments.

- Export products which are subject to minimum export price or export duty
- Products which are restricted/prohibited under FTP
- Supplies of products manufactured by DTA units to SEZ/FTWZ units.
- Products manufactured in EHTP and BTP
- Goods which have been taken into use after manufacture
- Exports for which the electronic documentation in ICEGATE EDI has not been generated/ exports from non-EDI ports
- Deemed Exports
- Products manufactured partly or wholly in a warehouse under section 65 of the Customs Act
- Goods for which claim of duty credit is not filed in a shipping bill or bill of export in the customs automated system
- Products manufactured or exported in discharge of EO against an AA/DFIA/Special AA issued under a duty exemption scheme of relevant FTP
- Products manufactured/exported by a unit licensed as 100% EOU in terms of the provisions of FTP or by any of the units situated in FTZ/EPZ/SEZ.

EXPORT PROMOTION CAPITAL GOODS SCHEME (EPCG)

- EPCG permits exporters to **import capital goods** for pre-production, production and post-production at
 - zero customs duty or procure them indigenously without paying duty in the prescribed manner.
 - In return, **exporter** is under an obligation to fulfill the **export obligation(EO)**
- Capital goods imported under EPCG Authorisation for physical exports are also exempt from IGST and Compensation Cess upto **30.09.2021**.
- Authorisation will be valid till 18 months from date of authorization(for procurement of capital goods)
- Actual user condition: applicable
- Capital goods can be sold/transferred after completion of EO
- If IGST/GST compensation cess is paid in cash for imports, such IGST/GST compensation cess would not be taken in computation of net duty saved provided that ITC is not availed.
- Realisation of export proceeds: In Freely convertible currency except in case of deemed exports.
- Export to SEZ units: Taken into account as discharge of EO provided that payment is realised from FC account of SEZ unit
- Export to SEZ developers / co developers: Taken into account even if payment is realised in rupees.
- **Eligible exporters:**
 - Manufacturer exporters with or without supporting manufacturer(s),
 - Merchant exporters tied to supporting manufacturer(s), and
 - Service providers including service providers designated as Common Service Provider (CSP) subject to prescribed conditions.
- **Eligible Capital Goods:**
 - Capital Goods including capital goods in CKD/SKD condition
 - Computer systems and software which are a part of the Capital Goods being imported
 - Spares, moulds, dies, jigs, fixtures, tools & refractories

- Catalysts for initial charge plus one subsequent charge
- Capital goods for Project Imports notified by CBIC
- **Export Obligation(prescribed in terms of Qty/Value/Both)**

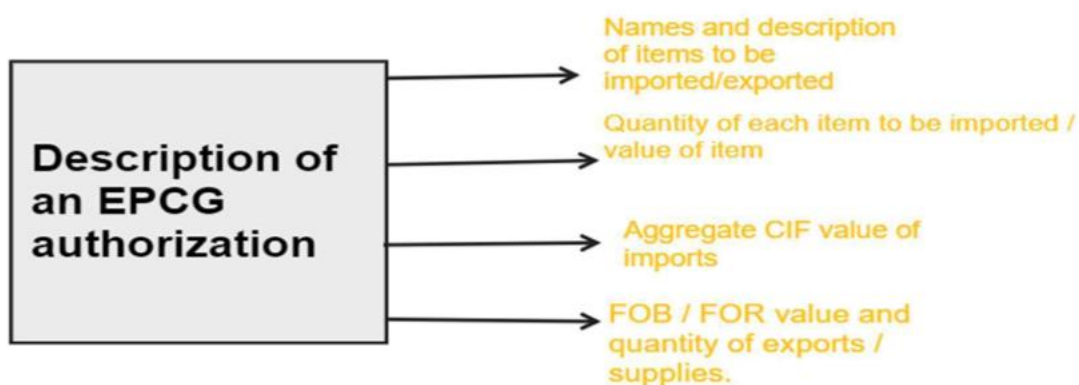


- **Block wise fulfillment of EO:**
 - While maintaining average EO, specific EO to be fulfilled as under:

Period from the date of issue of Authorisation	Minimum Export Obligation to be fulfilled
Block of 1 st to 4 th year	50%
Block of 5 th & 6 th year	Balance EO

- **Conditions applicable for fulfillment of EO:**
 - EO shall be fulfilled by the authorisation holder through export of goods which are manufactured by him or his supporting manufacturer / services rendered by him.
 - EO in case of indigenous sourcing: 4.75 times instead of 6 times of duty saved
 - Shipments under AA, DFIA, DBK, or reward schemes; would also be counted for fulfilment of EO under EPCG Scheme.
 - EO can also be fulfilled by the supply of Information Technology Agreement (ITA-1) items to DTA, provided realization is in free foreign exchange.
 - Deemed exports as well as physical exports to be considered for fulfillment of EO
- **Incentives for early fulfillment of EO:**
 - If 75% or more of Specific EO and 100% of Average EO till date is fulfilled within half or less than half of the original EO period remaining EO shall be condoned and authorization will be redeemed
- **Monitoring EO and maintenance of records:**
 - Holder of EPCG authorization shall submit to RA
 - By 30th April every year
 - Report on fulfillment of EO
 - Holder shall maintain a true and proper account of supplies made/services rendered towards fulfillment of EO for a period of 2 years from the date of redemption

- Indicate authorization number while doing export/supply on the export documents
- **Redemption/Closure of Authorization :-**
 - The authorization holder shall submit an application redemption of the authorisation under the prescribed format on completion of exports and imports and other conditions as specified under the authorization
 - On satisfaction, RA concerned shall issue a EODC / Redemption Certificate to the EPCG authorisation holder and forward a copy to Customs Authorities.
 - These provisions will also be applicable for supplies to SEZs and supplies made under deemed exports
- **Post Export EPCG Duty Credit Scrip(s)**
 - Capital goods are imported on full payment of customs duty in cash.
 - Later, basic customs duty is remitted in form of freely transferable duty credit scrips.
 - Features:
 - Specific EO = 85% of Specific EO of EPCG Scheme
 - Average EO = Same as Average EO of EPCG scheme
 - Duty remission – in proportion of EO fulfilled
 - Duty credit scrips can be utilized in the same manner as under the reward scheme
 - Computation will be based on basic customs duty paid
 - Provisions of existing EPCG scheme applies insofar as they are not inconsistent with this scheme
- **Indigenous Sourcing of Capital Goods and benefits to Domestic Supplier**
 - A person holding an EPCG authorisation may source capital goods from a domestic manufacturer. Such domestic manufacturer shall be eligible for deemed export benefits under FTP and as may be provided under GST Rules under the category of deemed exports. Such domestic sourcing shall also be permitted from EOUs and these supplies shall be counted for purpose of fulfilment of positive NFE by said EOU.



EOU, EHTP, STP & BTP SCHEMES (Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme)

export their **entire production of goods and services** (except permissible sales in DTA)

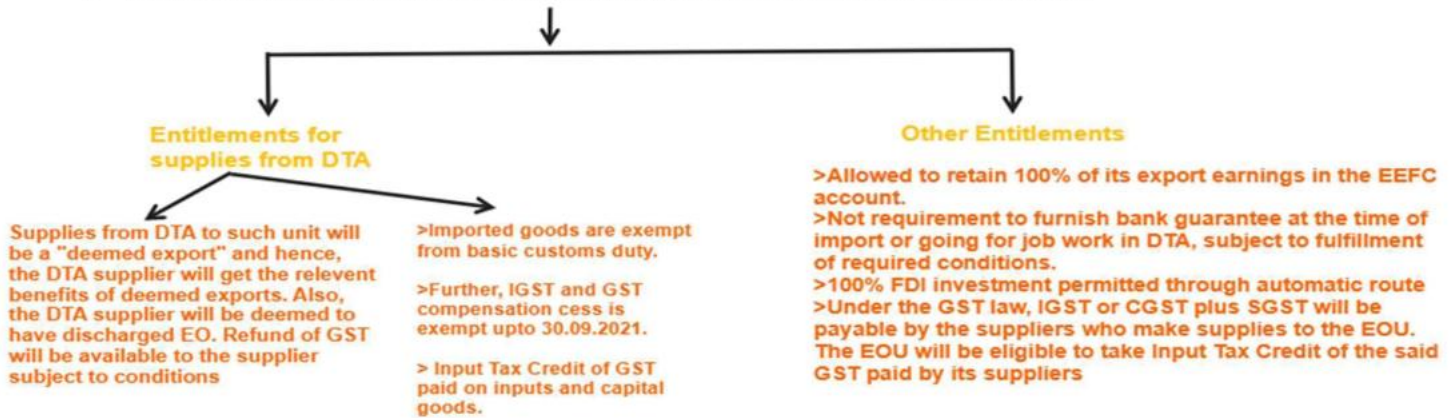
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can import inputs and capital goods without payment of **customs duty**.

STP/EHTP/BTP schemes are similar to EOU schemes and provisions are more/ less identical. **EOU** scheme is administered by Ministry of Commerce and Industry, while STP/EHTP/BTP schemes are administered by their respective administrative ministries. **Software Technology Park (STP)** is set up for development of software exports. **Electronic Hardware Technology Park (EHTP)** are for export of electronics hardware and software. STP/EHTP Scheme is administered by Ministry of Information Technology. **Bio Technology Park (BTP)** is established on the recommendation of Department of Biotechnology.

- **Eligibility:**
 - May be set up for manufacture of goods, including repair, re-making, reconditioning, re-engineering, rendering of services, development of software, agriculture.
 - Trading units – Not covered.
 - Minimum investment of INR 1 crore in P&M(not applicable to units in Handicrafts/ Agriculture/ Floriculture/ Aquaculture/ Animal Husbandry/ Information Technology Services, Brass Hardware and Handmade jewelry sectors)
 - Board of Approvals (BoA) may also allow establishment of EOUs with a lower investment criteria.
- **Net Foreign Exchange Earnings:-**
 - A unit must have a positive NFE(higher may be specified for some sectors)
 - Computation of NFE:-
 - Calculated cumulatively for a block of 5 years starting from commencement of production
 - In case NFE is not achieved due to
 - prohibition/ restriction imposed on export of any product, 5 years block period may be extended suitably by BoA
 - adverse market condition or any grounds of genuine hardship having adverse impact on functioning of the unit, 5 year block is **extendable upto 1 year**
 - NFE will be monitored by the Units Approval Committee as per prescribed guidelines
- **Supplies to be counted for a positive NFE:**
 - Supplies in DTA to holders of AA/ DFIA / EPCG Authorisation
 - Supplies affected in DTA against foreign exchange remittance received from overseas.
 - Supplies of permissible goods under FTP to other EOU/ EHTP/ STP/ BTP/ SEZ units
 - Supplies made to bonded warehouses and free trade and warehousing zones, where payment is received in foreign exchange.
 - Supplies of goods and services to such organizations which are entitled for duty free import of such items.
 - Supplies of Information Technology Agreement (ITA-1) items and notified zero duty telecom/ electronics items.
 - Supplies of items like tags, labels, printed bags, stickers, belts, buttons or hangers to DTA unit for export.
 - Supply of LPG produced in an EOU refinery to Public Sector domestic oil companies for being supplied to household domestic consumers at subsidized prices under the Public Distribution System (PDS) Kerosene and Domestic LPG Subsidy Scheme, 2002, subject to specified conditions.

○ Entitlements To Units Under EOU, EHTP, STP And BTP chemes



○ Export and Import of Goods

▪ Export:

- all kinds of goods and services except items that are prohibited in ITC(HS),
- Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) subject to fulfillment of the conditions indicated in ITC (HS).

▪ Import:

- Export promotion material upto a maximum value limit of 1.5% of FOB of PY exports
- All types of goods, including capital goods, required for its activities, which are permitted in the ITC(HS) from (i) DTA, (ii) bonded warehouses in DTA/ International exhibition held in India, subject to 'Actual User' condition subject to following conditions
 1. The imports and/ or procurement from bonded warehouse in DTA/International exhibition held in India shall be without payment of basic customs duty. Such imports and/ or procurements shall be made without payment of integrated tax and GST compensation cess upto **30.09.2021**
 2. The procurement of goods covered under GST from DTA would be on payment of applicable GST and compensation cess. The refund of GST paid on such supply from DTA to EOU would be available to the supplier subject to such conditions and documentations as specified under GST law.
 - Goods including capital goods (on a self-certification basis) required for approved activity: free/on loan/lease basis subject to actual user condition
 - Certain specified goods from DTA for creating a central facility, with/without payment of duty/ taxes as provided condition 1 and 2 above.
 - Second hand capital goods, without any age limit, with/without payment of duty/ taxes as provided in condition 1 above.

○ Leasing of Capital Goods

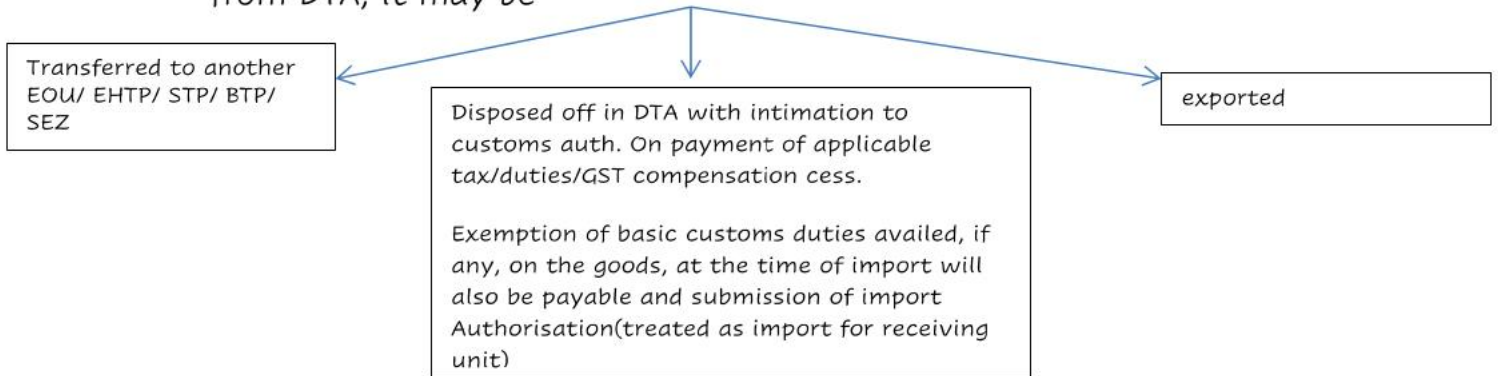
- EOU/EHTP /STP / BTP unit and domestic/ foreign leasing company shall jointly file documents to enable import/ procurement of capital goods under a firm contract of lease
- EOU/ EHTP/ STP/ BTP may sell the capital goods and lease them back from a NBFC subject to specified conditions

○ **Inter Unit Transfer:**

- Allowed on payment of applicable GST and compensation cess with prior intimation to concerned Development Commissioners as well as concerned Customs authorities, following the prescribed procedure
- Capital goods:-may be transferred or given on loan to other EOU/ EHTP/ STP/ BTP/ SEZ units, with prior intimation to concerned DC and Customs authorities on payment of applicable GST and compensation cess.

○ **Sale of Unutilized materials:**

- In case a unit is unable to utilize goods and services, imported or procured from DTA, it may be



- In case of capital goods, benefit of depreciation, as applicable, will be available in case of disposal in DTA only when the unit has achieved positive NFE taking into consideration the depreciation allowed.
- No duty is payable in case any goods/capital goods are destroyed within unit outside unit.
- Disposal of used packing material will be allowed on payment of duty on transaction value.

○ **DTA Sale Of Finished Products/ Rejects/ Waste/ Scrap/ Remnants And By-Products**

- **Sale of Goods in DTA:** Units (other than gem and jewellery units) are permitted to sell finished goods manufactured by them which are freely importable under FTP in DTA, subject to
 - Fulfillment of positive NFE,
 - On payment of applicable GST + compensation cess + reversal of basic customs duty availed as exemption on inputs utilized for mfg of such finished goods
- No DTA Sale allowed : In respect of pepper & pepper products, marble and such other notified items as also to units engaged in only packaging. Labelling, refrigeration, pulverilason etc
- Such DTA sale shall also be subject to refund of deemed export benefits availed by the EOU/supplier as per FTP, on the goods used for manufacture of the goods cleared into the DTA.
- An amount equal to Anti-Dumping duty under section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.
- **Services provided in DTA:** For services(including software units), sale in DTA is permissible
 - upto 50% of FOB value of exports and/ or

- 50% of foreign exchange earned, where payment of such services is received in foreign exchange
- **Sale of rejects in DTA:** Allowed on payment of applicable GST + compensation cess + reversal of basic customs duty availed as exemption on inputs Sale of rejects upto 5% of FOB value of exports shall not be subject to achievement of NFE
- **Scrap/ waste/ remnants, arising out of production,** may be sold in DTA, as per NOTIFICATION notified under Duty Exemption Scheme, on payment of applicable duties and/ or taxes + compensation cess. Such sales shall not be subject to achievement of positive NFE. Scrap/waste/remnants may also be exported. In case scrap/ waste/ remnants are destroyed with permission of Customs authorities, no duties/ taxes(except GST + compensation cess_ payable on same.
- **Sale of by-products in DTA:** Allowed subject to achievement of positive NFE, on payment of applicable GST and compensation cess along with reversal of basic customs duty availed as exemption on inputs.
- Procurement of spares / components, up to 2% of the value of manufactured articles, cleared into DTA, during the preceding year, may be allowed for supply to the same consignee / buyer for the purpose of after-sale-service. The same can be cleared in DTA on payment of applicable GST + compensation cess along with reversal of basic customs duty availed as exemption on inputs
- **Export through Other Exporters/Other EOU/ EHTP/ STP/ SEZ:** Allowed subject to specified conditions
- **Exit from EOU scheme:**
 - Approval of DC required
 - Subject to payment of applicable IGST/ CGST/ SGST/ UTGST and compensation cess
 - Penalty in case obligations were not achieved
- **Conversion:**
 - DTA units may apply for conversion into EOU/ EHTP/ STP/ BTP
 - Applications for conversion into an EOU / EHTP / STP / BTP unit from existing DTA units having investment \geq INR 50 Crores or exporting \geq INR 50 Crores are placed before BOA for approval

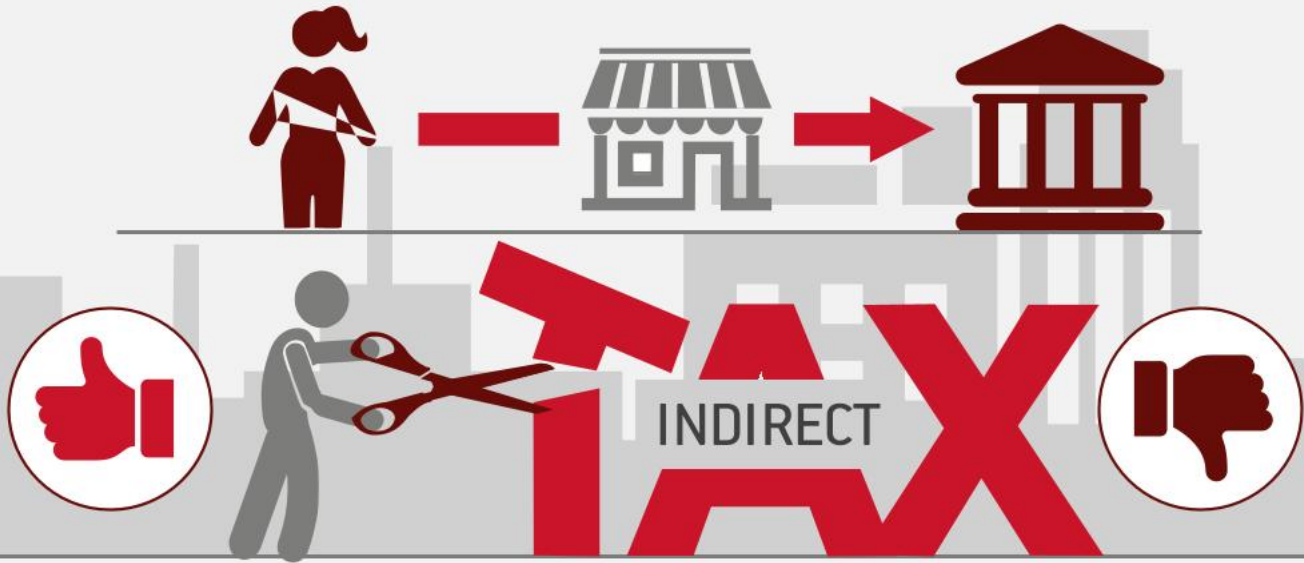
DEEMED EXPORTS

- Transactions in which goods supplied do not leave country, and payment for such supplies is received either in Indian rupees or in free foreign exchange. Supply of goods as specified in FTP shall be regarded as “Deemed Exports” provided goods are manufactured in India.
- **Categories of Supplies considered as Deemed Export :**
 - Supply by manufacturer:
 - Supply of goods against Advance Authorisation/ DFIA
 - Supply of goods to units located in EOU/ STP/BTP/EHTP
 - Supply of capital goods against EPCG authorization
 - Supply by main/sub-contractors(s)

- Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies/Funds notified by Department of Economic Affairs (DEA), under International Competitive Bidding.
- Supply of goods to any project where import is permitted at zero customs duty provided supply is made against International Competitive Bidding
- Supply of goods to mega power projects against International Competitive Bidding (even if customs duty on imports made by such project is not zero). The ICB procedures should be followed. Supplier is eligible for benefits as specified.
- Supply to goods to UN or international organisations for their official use or supplied to projects financed by them.
- Supply of goods to nuclear projects through competitive bidding (need not be international competitive bidding).
- **Benefits of Deemed Exports:**
 - Advance Authorisation/ Advance Authorisation for Annual requirement/ DFIA
 - Deemed Export Drawback
 - Refund of terminal excise duty for excisable goods mentioned in Schedule 4 of Central Excise Act 1944 provided the supply is eligible under that category of deemed exports and there is no exemption
- **Common Conditions**
 - Supplies to be made directly to the entities notified i.e third party supply not eligible
 - In all cases, supplies shall be made directly to the designated Projects/Agencies/Units/ AA/ EPCG Authorisation holder.
 - Sub-contractors may, however, make supplies to main contractor instead of supplying directly to designated Projects/ Agencies. Payments in such cases shall be made to sub-contractor by main-contractor and not by project Authority
 - Supply of domestically manufactured goods by an Indian Sub-contractor to any Indian or foreign main contractor, directly at the designated project's/ Agency's site, shall also be eligible for deemed export benefit provided name of sub-contractor is indicated either originally or subsequently before the date of supply of such goods) in the main contract. In such cases payment shall be made directly to sub-contractor by the Project Authority.

PENALTIES

- In case of violation of FTP/any matter provided in any law
 - IEC number may be cancelled by DGFT
 - Premises can be searched and suspicious material can be sealed



Highlights of Book

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