Top 17 Case Laws: Customs (CA Final IDT)

1) Garden Silk Mills v UOI

- Import of goods will commence when they cross TWI; but it continues and is completed when they become a part of the mass of goods within the country.
- Taxable event = when the goods reach India and BOE for HC is filed.

2) Kiran Spinning Mills v Collector of Customs

Warehoused Goods: customs barriers would be crossed when they are sought to be taken out of customs and brought to the mass of goods in the country.

3) Bharat Surfacants Pvt. Ltd. v UOI

- Rate of duty and tariff valuation would be done on the date of final entry of ship.
- [ship entered Bombay-no space-went to karachi-came back-duty rates increased meanwhile]

4) Rajkumar Knitting Mills P. Ltd. v CC

Date of import is relevant; not the contract date

5) Samar Timber Corporation v ACC

Rate of Duty Payable: date of BOE; not date of re-presentation of BOE after correction

6) CC v M/s Denso Kirloskar Industries Pvt Ltd | CC, Ahmedabad v M/s Essar Steel Limited

- Kirloskar paid for technical know-how: technical information which was to be provided by the Japanese company to the respondent.
- It was for manufacture of contract products by the company, after setting up of plant.
- This cost is therefore incurred <u>after importation</u> of the goods and cannot be loaded on the Assessable Value of imported goods.

7) Gira Enterprises v CC

- Mere existence of alleged computer printout is not a proof of existence of comparable imports.
- Even if such printouts did exist and content was true, it should have been supplied to the appellant and should have been given a reasonable opportunity to establish that the import transactions were not comparable.
- Hence, valuation can’t be enhanced by the department as they didn’t give the evidence.

8) Commissioner of Customs v M/s Indo Rubber and Plastic Works

- Assessee incurred marketing, advertising, sponsorship and promotion expenses to promote a branded sports goods in India.
- Department alleged that such expenses were a condition for sale and hence should be included in the AV as per Rule 10(1)(e) of the CVR.

Held

- No fixed amount was to be incurred by the assessee.
- He was not obliged as per the agreement, and hence not a condition for sale.
- It was a post import activity incurred by the assessee on its own account and not to discharge any obligation for seller.
- Assessee was not obliged to give any account of expenditure incurred by it to the exporter, unless incurred at instance of exporter under stipulation of reimbursement.

9) CC, Vishakhapatnam v Aggarwal Industries Ltd.

- [agreement done- shipment delayed- international market prices rose- seller didn't raise the price- departments wants to assess at the market prices instead of contract prices]
- Price to be seen is the contract price; not the international market prices.
- Also, no allegation that the supplier and importer were in collusion.

10) Hyderabad Industries Ltd. v UOI

Commission to canalizing agent is includible in the AV and can't be termed as buying commission.

11) Bombay Dyeing & Mfg. v CC

Charges of vendor inspection carried out by foreign supplier on his own and not required to make goods ready for shipment are not included in the AV of imported goods.

12) Board of Trustees v UOI

- Section 45(3) [liability to pay duty of pilfered goods] applies to private custodians who are required to be approved by the Principal Commissioner/Commissioner of Customs.
- Major ports and airports covered under Major Port Trust Act who do not require any approval are not covered u/s 45(3).

13) Pratibha Processors v UOI

- Interest is compensatory in character and is imposed on an assessee who has withheld tax when it's due and payable.
- *If not duty, no interest.*

14) CC v Biecco Lawrie Ltd.

- [Duty on warehoused goods paid- order for HC obtained-goods allowed to be retained in the warehouse]: they are not treated as "warehoused goods" and importer is not required to pay anything more.
- So, importer won't pay anything more even if duty rate increased while actual clearance from warehouse.

15) Mafatlal industries Ltd. v UOI [Excise judgement- applicable to Indirect Tax Laws]

- Unjust enrichment theory is valid and constitutional.
- Section 27 (Customs Act) is a self contained code for refunds. Civil suits or writs can't be resorted to unless taxing provision is struck down as unconstitutional.
- Whatever duty collected: pay to the government.

16) SRF Ltd. v CC, Chennai

- Doctrine of unjust enrichment is applicable in case of capital goods as well.
- Price is same before and after import and installation of capital goods: this is not an inevitable conclusion that duty burden has not been passed upon. Such uniformity can be due to various reasons.
- Duty incidence can be passed upon directly or indirectly.
- In case of capital goods, the duty paid will go into the costing of the goods manufactured and sold.

17) Priya Blue Industries Limited

- [Amount paid on finalization of provisional assessment- not contested- appeal period lapsed-then refund application was filed challenging the said order]
- *Refund claim [1 year] can't be a substitute for appeal [60 days to the Commissioner (Appeals)].*