

# Introduction & Levy of Customs duty



Sections	Descriptions
2(2)	Assessment
2(3)	Baggage
2(9)	Conveyance
2(14)	Dutiable Goods
2(18)	Export
2(19)	Export Goods
2(20)	Exporter
2(27)	India
2(28)	Indian Customs Water
2(38)	Stores
2(42)	Vehicle
12	Charging Section

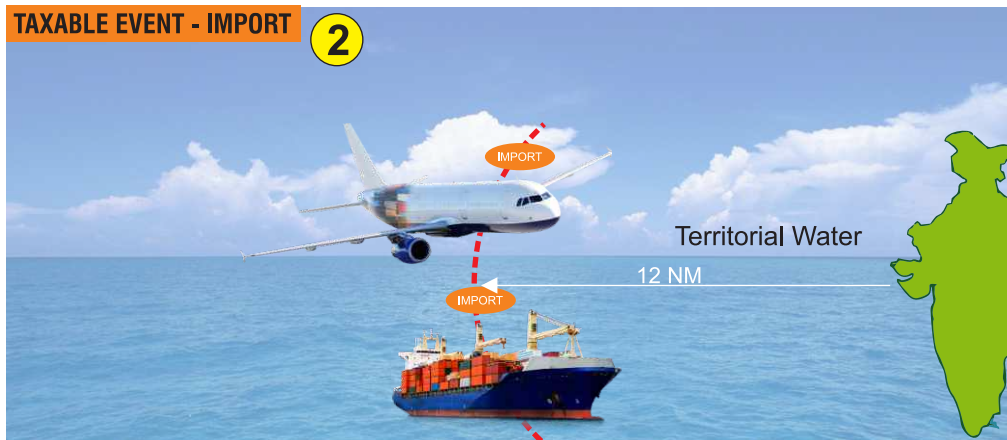
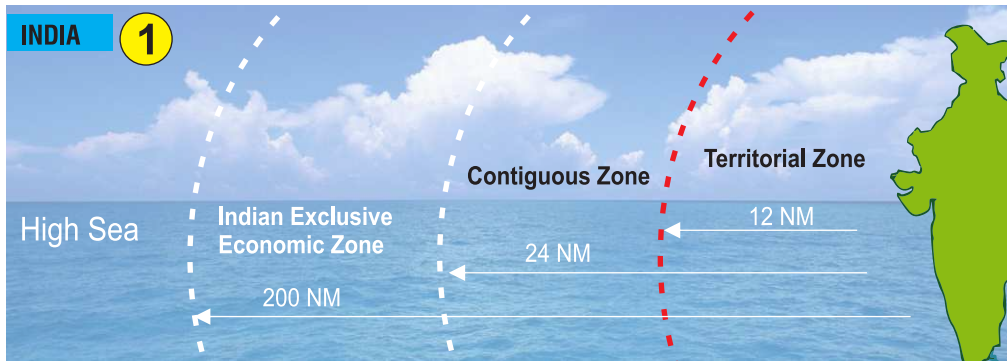
### Important Cases

Citation	Decisions
<p>1. <b>Apar Pvt. Ltd</b></p> <p>2. <b>Garden Silk Mills Ltd.</b></p>	<p><b>Importation</b> Commence: When goods crosses territorial water of India. Continue &amp; Completed: When it become part of mass of goods of country</p> <p><b>Taxable Event</b> reach when goods reached to customs barriers and Bill of Entry for Home Consumption is filed.</p>
<p>3. <b>Rajendra Dyeing &amp; Printing Mills Ltd.</b></p>	<p><b>'Export' occurs only when the goods crossed beyond the territorial water of India.</b></p>

*What we learn with pleasure we never forget.*

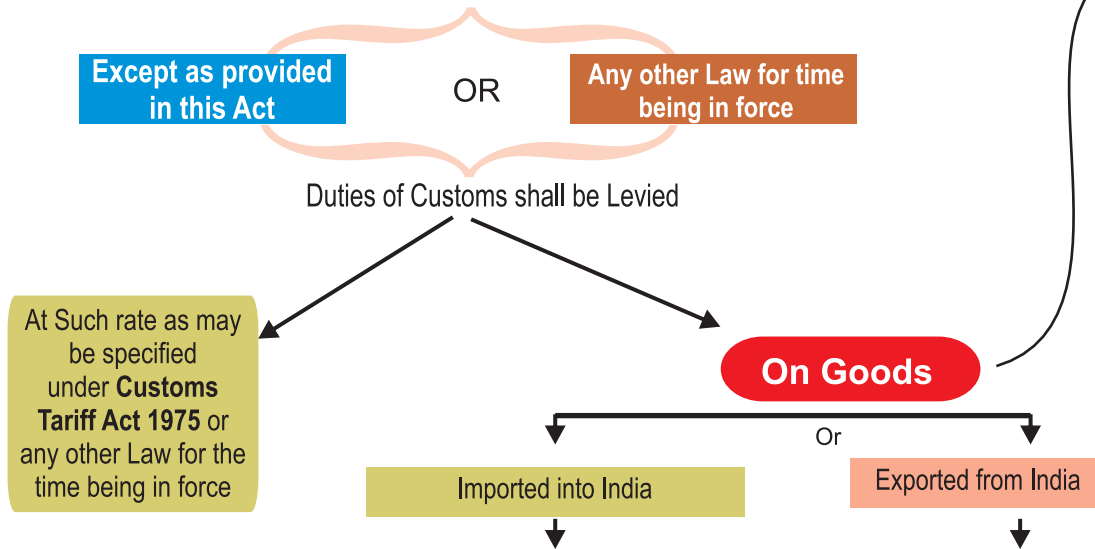
GST Guru<sup>TM</sup>

CA Vishal Bhattad



# CUSTOM ACT - 1962

## SECTION 12 - CHARGING SECTION (BCD)



**Sec. 2 (22) Goods**  
include  
1) Vessel, Vehicle & aircraft  
2) Stores  
3) Baggage  
4) Currency and negotiable instruments  
5) Any kind of movable Property.

**SEC 2(3) BAGGAGE**  
Baggage  
**includes** unaccompanied baggage  
**but does not include** motor vehicles.

**SEC 2(38) STORE**  
**Means** – goods for use in a Vessels or Aircraft &  
**Includes** – fuel and spare parts and other article of equipment, whether or not for immediate fitting.

**Sec. 2(23): Import** with its grammatical Variation and cognate expressions, means **bringing into India from a place outside India**

**Sec. 2(18) : Export** with its grammatical variation and cognate expression is defined to **mean taking out of India to a place outside India.**

**Sec. 2(27) India** includes territorial waters of India

**'Export' occurs only when the goods crossed beyond the territorial water of India.**

Case Law:  
**1. Apar Pvt. Ltd., 2. Garden Silk Mills Ltd.**

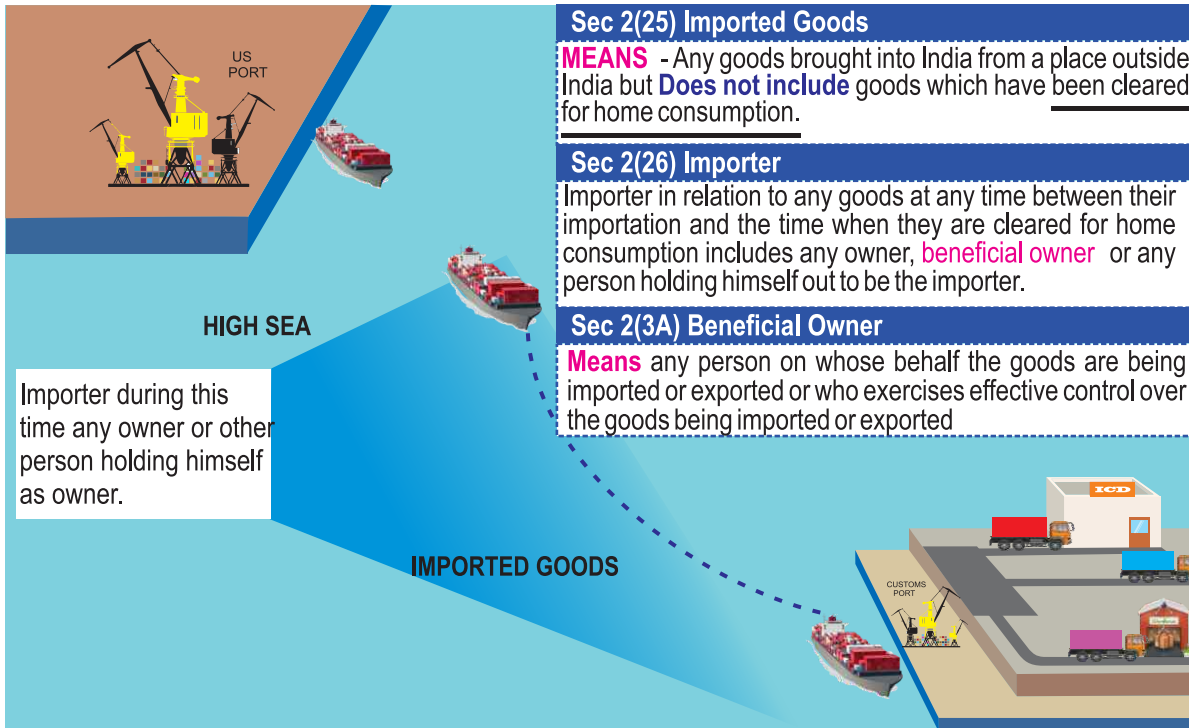
**Rajindra Dyeing & Printing Mills Ltd. – 2005 – S.C.**

**Importation**  
Commence: When goods crosses territorial water of India.  
Continue & Completed: When it become part of mass of goods of country

**Taxable Event**  
reach when goods reached to customs barriers and Bill of Entry for Home Consumption is filed.

**Facts :** Rajindra Dyeing & Printing Mills Ltd. Were manufacturers of readymade garments. They exported certain goods and filed shipping bill. The goods were examined by the customs authorities and loaded onto the ship. While it was within the territorial water, the ship sank. The cargo of assessee was destroyed.  
**Issue :** The assessee filed their claim for duty drawback in relation to the goods which were destroyed. Whether their claim is valid.  
**Court Decision :** Their claim was rejected on the grounds that the goods had not crossed the territorial waters and hence no export has taken place.

## Sticky Notes



**Sec 2(25) Imported Goods**

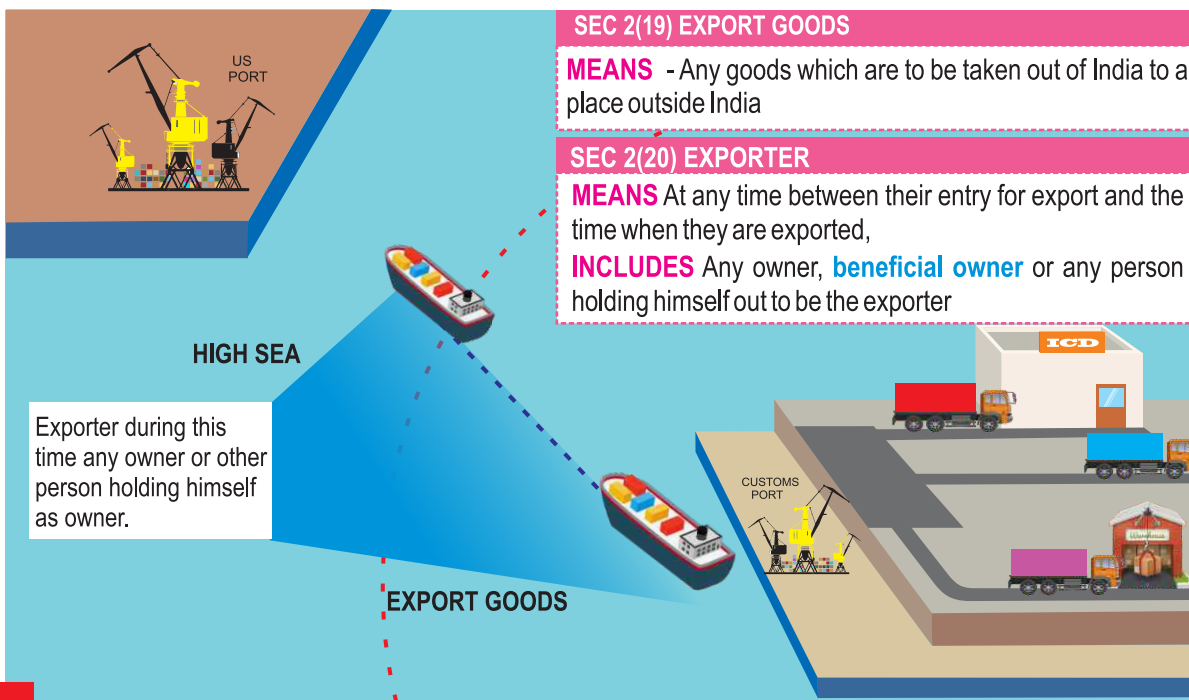
**MEANS** - Any goods brought into India from a place outside India but **Does not include** goods which have been cleared for home consumption.

**Sec 2(26) Importer**

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.

**Sec 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



**SEC 2(19) EXPORT GOODS**

**MEANS** - Any goods which are to be taken out of India to a place outside India

**SEC 2(20) EXPORTER**

**MEANS** 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

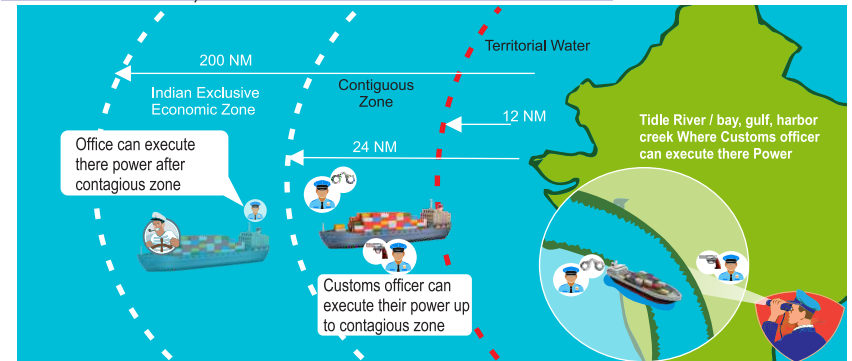
**Sec. 2(27) India**

includes territorial waters of India

**Sec 2(28) INDIA & INDIAN CUSTOM WATER**

**Means** The waters extending into the sea up to the limit of **exclusive economic zone under section 7** of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zone Act, 1976

**Includes** Any bay, gulf, harbour, creek or tidal river;



**Sec. 2(9) "CONVEYANCE"**

includes a vessel, an aircraft and a vehicle;

**Sec 2(14) Dutiable goods**

**Means**

- ⇒ any goods which are chargeable to duty and
- ⇒ on which duty has not been paid.

**Sec 2(42) VEHICLE**

Means conveyance of any kind used on land and includes a railway vehicle.

**DIFFERENCE BETWEEN CLEARANCE FOR HOME CONSUMPTION AND CLEARANCE FOR WAREHOUSING**

- ⇒ **Clearance for home consumption:-** It means that customs duty on import of goods is discharged & goods are therefore cleared for utilization or consumption.
- ⇒ **Clearance for warehousing:-**
  - Collection of Customs Duty will be deferred till goods are cleared for Home Consumption.
  - Importer executes bond binding himself = **Thrice** the duty assessed on goods at time of import & he is **also liable to pay interest** for storage of goods in warehouse