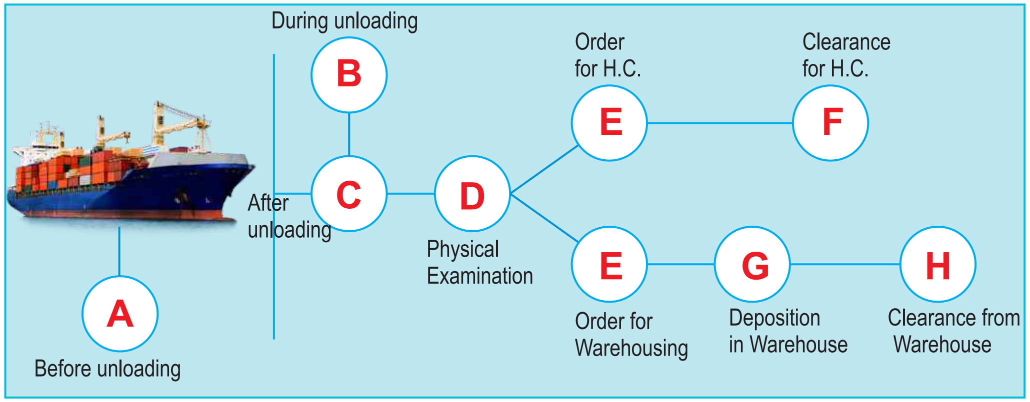
Chapter 5 Concession Under Custom



As we know Sec 12 provides that duties of Customs shall be levied on goods. However, it may be noted that this Levy is subject to other sections in this Act. For instance,

Sec 13	Duty on pilfered goods.
Sec 22	Abatement of duty on damaged or deteriorated goods.
Sec 23	Remission of duty on Lost, Destroyed or abandoned goods.
Sec 20	Re-importation of goods.
Sec 21	Goods derelict wreck etc.
Sec 24	Denaturing & Mutilation
Sec 25	Exemption from Custom Duty
Sec 25A	Exemption from Custom Duty on Imported goods used for Inward processing of goods
Sec 25B	Exemption from Custom Duty on Re-Imported goods used for outward processing of goods

“Education is NOT preparation for life;Education is LIFE IT SELF”

Sec. 13 : Duty on pilfered goods.

***AM = Arrival Manifest, IR = Import Report, AC/DC - Assistant Commissioner.**

1) Legal provision of sec 13:-

- Pilferage means petty theft or petty loss.
- **Duty is not payable if goods pilfered after unloading and before clearance order. (i.e. C to E)**
- Goods should not restored back.

2]circumstances for pilferage:

- evidence of tampering.
- blank space for the missing articles.
- missing articles must be whole units, not parts

3] Import Duty Payable by Custodian:

a) As per Sec 45(3), if pilferage occurs before clearance, duty is payable by the custodian (Port/Airport/Railway Authority).

b) Relevant date = the date of filling of AM/IR

Sec. 22 : Abatement of duty on damaged or deteriorated goods.

1.	**If it shown to satisfaction of AC/DC that**	
	a.	**Goods are damaged/deteriorated before or during unloading** (i.e. A to B)
	b.	➲ **If for H.C. damage after unloading but before examination** (i.e. C to D) ➲ **warehoused goods damaged anytime before clearance.** (i.e. C to H) - On account of any accident - not due to any without act negligence of importer or his employee

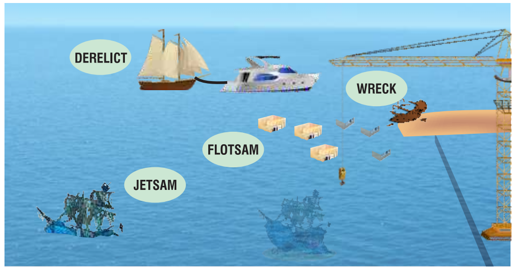
2. **Duty payable =** Duty on goods before damage or deterioration x $\dfrac{\text{Value of goods after damage or deterioration}}{\text{Value of goods before damage or deterioration}}$

3. Value of damaged/deteriorated goods may be ascertained by following methods at option of owner::
   1) may be ascertained by PO.
   2)Such goods may be sold by PO by public auction/tender, or with consent of owner & gross sale proceeds= deemed value of such goods.

Sec. 23: Remission of duty on Lost, Destroyed or abandoned goods.

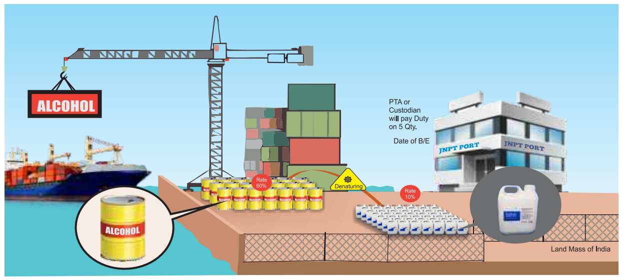
Duty Remission by AC/DC:	
a)	**Sec 23(1):** No duty if imported goods are lost or **destroyed before clearance** (i.e. A to F) for H.C., except in cases of pilferage.
b)	**Sec 23(2):** No duty if the importer relinquishes ownership before clearance u/s 47 (H.C. or warehousing).
Note: Not allowed if an offense is committed.	

Sec. 21: derelict, jetsam, flotsam and wreck.



- All goods, derelict, jetsam, flotsam and wreck brought or coming into India,
- ***shall be dealt with as if they were imported into India,*** (i.e. Custom duty is payable)
- unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.

Sec. 24 : Denaturing & Mutilation.



1. Owner of goods will make request for denaturing & mutilation
2. C.G. may make rules for such denaturing & mutilation
3. **Duty is payable as if goods are imported in denatured or mutilated from.**

SECTION 25: EXEMPTION FROM CUSTOMS DUTY

General Exemption	Special Exemption
Central Govt. in public interest	Central Govt. in public interest
By notification in the Official Gazette	By Special order in each case
Exempt generally either absolutely or conditional exemption	Exempt from payment of duty only under circumstances - exceptional nature
Conditional exemption - valid upto 31st day of March falling immediately after 2 years from the date of such grant/variation in order than specified cases	No Duty - if the amount of duty leviable is equal to or less than ₹ 100.

Validity of Exemption

1) **Exemptions with conditions u/s 25(1)** are valid **until March 31**, after **2 years** from the date of grant/variation, unless specified otherwise.
2) **For exemptions in force on Finance Bill, 2021** approval, the **2-year period** starts from February 1, 2021.
3) **No duty collected** if the amount is **₹100 or less.**

4A) **Exemption not applicable to :-**

- any multilateral or bilateral trade agreement;
- obligations under international agreements, treaties, conventions or such other obligations including with respect to United Nations agencies, diplomats and international organisations;
- privileges of constitutional authorities;
- schemes under the FTP;
- Schemes of C.G having validity of more than 2 years;
- re-imports, temporary imports, goods imported as gifts or personal baggage;
- any duty of customs under any law for the time being in force, including IGST leviable under Sec 3(7) of the CTA , 1975, other than duty of customs leviable under section 12.

SECTION 25A:- Exemption from customs duty on imported goods in case of inward processing:-

- **CG may notify goods** that are imported for repair, further processing or manufacture **to be exempt** from whole or part of customs duty leviable, subject to following conditions:—
  a. Goods **shall be re-exported** after such repair, further processing or manufacture within 1 year from the date on which the clearance order of the imported goods is made;
  b. **Imported goods are identifiable** in the export goods; &
  c. Other notified Conditions.

SECTION 25B:- EXEMPTION FROM CUSTOMS DUTY ON RE-IMPORTED GOODS USED FOR OUTWARD PROCESSING

CG may **exempt customs** duty on re-imported goods (after export for repair, further processing, or manufacture) under the following conditions:

1)Goods must be **re-imported within 1 year** from the export clearance order.
2)Exported goods must be **identifiable** in the **re-imported goods.**
3) Other **notified conditions** must be met.

SECTION 20: RE-IMPORTATION OF GOODS

Such goods shall be liable to duty and be subject to all the conditional and restrictions, if any, to which goods of the like kind and value are liable or subject, on the important thereof.

Concession on Re-importation

S.No.	Goods Exported	Import Duty payable on Re-Import
1.	**Goods exported under duty drawback & etc., exported for repairs, etc.** Goods exported - (i) under claim for duty drawback/ refund of IGST (ii) Under bond without payment of IT (iii) Under duty exemption scheme/AA/DFIA or EPCG	Amount of incentive available at the time of export (including IGST)
2.	**Goods exported fo repairs, etc.** Goods (other than those falling under S.no. 1 exported) exported for repairs abroad **Note:-** The repairs and material cost may actually be incurred or not. take fair value!	Duty leviable on "Value Addition" : Fair Cost of repairs Add: Material Cost Add: Insurance and freight (both ways) **Note:** Duty is payable on value addition by repairs & on total value of goods
3.	Goods other than falling under S.No. 1 & 2 above. Eg. Goods exported earlier for exhibition/consignment	**Nil**

Conditions to be satisfied to claim above 2 Concessions

A) Time limit for re-importation : 5 years , can be extended further for a period upto 2 years (Amended).

Export of goods to Nepal & Bhutan : Time limit is 7 years, which can be extended further up to 3 years for machinery & equip. exported.

Goods exported under DEEC/AA/DFIA/any scheme of Chapter FTP : 1 year (extendable further up to 1 year)

B) **The exported goods an the re-imported goods must be the same.**

Note:- Not subjected to re-manufacturing or reprocessing through melting, recycling or recasting abroad.

C) **No change in ownership (when goods exported for repairs) :** Ownership of the goods should not have changed.

Non-Applicabliliity of Concessions

- Re-imported goods were exported by 100% EOU or a unit in Free Trade Zone (FTZ)
- Re imported goods had been exported from a public/private warehouse
- Re-imported goods fall under Fourth schedule to the Central Excise Act, 1944 (tobacco products and petroleum products)

Goods Re-imported for repairs, remaking, reprocessing etc.

S.No.	Particulars	Time limit for re-import from date of Exportation	Other Conditions
1.	Goods manufactured in India (1st Re-exported) & Re-imported for repairs or for reconditioning other than the specified goods	3 years **Export to Nepal & Bhutan :**10 yrs	a) Goods must be re-exported within 6 months (extendable till 1 year) of the date of re-importation b) The AC/DC is satisfied w.r.t. identify of goods. c) The importer at the time of importation executes a bond
2.	Goods manufacturing India & re import for Reprocessing, refining, Re-making, Any other similar process **Note:-** Process loss = Exempted from Custom duty subject to satisfaction of AC/DC	2 years	