

Overview of Customs Act

Lesson 20

KEY CONCEPTS

■ Basic Custom Duty (BCD) ■ Countervailing Duty (CVD) ■ Goods ■ Person-in-charge ■ Classification ■ Duty Drawback ■ Transit and Transshipment ■ Warehousing

Learning Objectives

To understand :

- An Overview of the Customs Act, 1962
- Types of Customs Duty
- Import and Export Procedures
- Duty Drawback

Lesson Outline

- Introduction- Overview of Customs Law
- Levy and Collection of Customs Duties
- Types of Custom Duties
- Classification and Valuation of Import and Export Goods
- Exemptions
- Baggage
- Officers of Customs
- Administration of Customs Law
- Import and Export Procedures under Customs Law
- Transportation
- Warehousing
- Duty Drawback
- Demand and Recovery
- Confiscation of Goods and Conveyances
- Lesson Round-Up
- Test Yourself
- List of Further Readings

REGULATORY FRAMEWORK**1. Customs Act, 1962**

<i>Chapter No. and Title</i>	<i>Sections</i>	<i>Content</i>
I. Preliminary	Section 1 to 2	Short title extent and commencement and Definitions
II. Officers of Customs	Section 3 to 6	Appointment and powers of officers of customs
III. Appointment of Customs Ports, Airports, Warehousing stations etc.	Section 7 to 10	Appointments of Customs Ports, Airports, Warehousing Stations etc.
IV. Prohibitions on importation and exportation of goods	Section 11	Powers to prohibit import and export of goods
IVA. Detection of illegally imported goods and prevention of the disposal thereof	Sections 11A to 11G	Provisions for illegal importation of notified goods and prevention of the disposal thereof
IVB. Prevention or Detection of Illegal Export of Goods	Sections 11H to 11M	Provisions for illegal export of specified goods
IVC. Power to exempt from the provisions of Chapters IVA and IVB	Section 11N	Power to exempt
V. Levy of, and Exemption from, Customs Duties	Sections 12 to 28BB	Chargeable section, valuation of goods, Recovery and refund of duty
VA. Indicating amount of duty in the price of goods, etc., for purpose of refund	Section 28C to 28D	Price of goods and incidence of duty passed on to the buyer
VB. Advance Rulings	Section 28E to 28M	Provisions for advance ruling such as authority, application, procedure and powers of authority
VI. Provisions relating to conveyances carrying imported or exported goods	Sections 29 to 43	Arrival or departure of goods, delivery of departure manifest or export report
VII. Clearance of imported goods and export goods	Sections 44 to 51	Clearance of import and export goods other than by way of baggage and postal articles.
VIIA. Payments through electronic cash ledger and electronic duty credit ledger	Section 51A to 51B	Payment of duty, interest, penalty, etc.
VIII. Goods in Transit	Sections 52 to 56	Transit and transshipment of goods
IX. Warehousing	Section 57 to 73A	Provision relating to public and private warehouse
X. Drawback	Sections 74 to 76	Duty drawback on re-export of duty paid goods or material used in the manufacture of goods
XI. Special provisions regarding baggage, goods imported or exported by post, and stores	Section 77 to 90	Special provisions regarding baggage, goods imported or exported by post, and stores

Chapter No. and Title	Sections	Content
XII. Provisions relating to coastal goods and vessels carrying coastal goods	Section 91 to 99	Provisions relating to coastal goods and vessels carrying coastal goods other than baggage and stores
XIII. Searches, seizure and arrest	Section 100 to 110A	Power to search, inspect, examine persons and seizure of goods, documents and things
XIV. Confiscation of goods and conveyances and imposition of penalties	Section 111 to 127	Adjudication proceedings and confiscation of goods
XIVA. Settlement of cases	Sections 127A to 127N	Provisions relating to Settlement Commission
XV. Appeals and Revision	Sections 131A to 131C	Procedure and time limits for appeals and revisions
XVI. Offences and Prosecutions	Section 132 to 140A	Offences and cognizance of offences
XVII. Miscellaneous	Section 141 to 161	Conveyances, duty deferment, licensing of Customs house agent, appearance by authorised representative, delegation of power etc.

2. Customs Tariff Act, 1975

INTRODUCTION - OVERVIEW OF CUSTOMS LAWS

Customs Duty is an Indirect Tax, imposed under the Customs Act formulated in 1962. The Customs Act, 1962 is the basic statute which governs entry or exit of different categories of vessels, aircrafts, goods, passengers etc., into or outside the country. The Act extends to 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 Customs Act, 1962, not only regulates the levy and collection of duties, but also, serves equally important purposes, like:

- i) Regulation of Imports & Exports
- ii) Protection of Domestic Industry
- iii) Prevention of Smuggling
- iv) Conservation and Augmentation of Foreign Exchange.

Rules & Regulations

The rule making power is delegated to the Central Government while the regulation making power delegated to the Central Board of Indirect Taxes and Customs (CBIC).

Difference between Rules and Regulations

Parameter	Rules	Regulations
Power to make	Section 156	Section 157

Authority	Central Government is authorized to make the rules	CBIC is authorized to make the regulations
Purpose	To support the Act	To support the Act and the Rules
Content	Transaction Value; Chargeability of Accessories & Repairs & Maintenance Spare Parts; Detention & Confiscation of Goods; Goods mentioned in the shipping bill / Bill of Export but either not exported or exported and subsequently re-landed	The form of Bill of Entry; Shipping Bill; Bill of Export; Import & Export Manifest; Form & Manner of Making Application for Refund of Duty; Conditions for Transshipment & Removal of Good Without payment of Duty; Manner of Conducting Audit of Duty Assessment of Imported / Exported Goods

Definitions [Section 2]

Section 2 of the Customs Act, 1962 contains the definitions of various terms used at various places in the Act.

Adjudicating Authority: Section 2(1):- Adjudicating Authority means any authority competent to pass any order or decision under this Act, but does not include the Board, Commissioner (Appeals) or Appellate Tribunal.

Assessment: Section 2(2):- 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, re-assessment and any assessment in which the duty assessed is nil

Baggage: Section 2(3):- Includes unaccompanied baggage but does not include motor vehicles.

Beneficial Owner: Section 2(3A) 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):- Bill of Entry means a bill of entry referred to in section 46, i.e., entry of goods for importation.

Bill of Export: Section 2 (5):- Bill of Export means a bill of export referred to in section 50, i.e., entry of goods for exportation.

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 (by sea), an aircraft (by air), and a vehicle (by land).

Customs Area: Section 2(11):- 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):- 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):- Any customs port, customs airport, international courier terminal, foreign post office or land customs station.

Dutiable Goods: Section 2(14):- Any goods which are chargeable to duty and on which duty has not been paid.

Duty: Section 2(15):- Duty means a duty of customs leviable under this Act.

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;

Export: Section 2(18):- Taking out of India to a place outside India.

Export Goods: Section 2(19):- Any goods which are to be taken out of India to a place outside India.

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 / Aircraft: Section 2(21):- Vessel or aircraft for the time being engaged in the carriage of goods / passengers between any port / airport in India and any port / airport outside India whether touching any intermediary location or not, and includes :

- (i) Any naval vessel of any foreign government taking part in any naval exercises;
- (ii) Any vessel engaged in fishing or any other operations outside the territorial waters of India;
- (iii) Any vessel or aircraft proceeding to a place outside India for any purpose whatsoever.

Goods: Section 2(22):- 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):- Bringing in to India from a place outside India.

Arrival Manifest or Import Manifest or Import Report: Section 2(24): - The manifest or report required to be delivered under section 30.

Imported Goods: Section 2(25):- Any goods brought into India from a place outside India but doesn't 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.

India: Section 2(27) :- Includes the territorial waters of India.

Note: Territorial waters extend upto 12 nautical miles from the baseline on the coast of India.

Indian Customs Waters: Section 2(28) :- The waters extending into the sea upto the limit of Exclusive Economic Zone under section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and includes any bay, gulf, harbor, creek or tidal river.

1 Nautical Miles =
1.1515 miles = 1.853 Kms

Note: Indian Customs Waters extend upto 24 nautical miles from the baseline on the coast of India. It means an area extended upto 12 nautical miles beyond territorial waters.

Person-in-charge: Section 2(31) :- Means

- (a) in relation to a vessel, the master of the vessel;
- (b) in relation to an aircraft, the commander or pilot-in-charge of the aircraft;
- (c) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;
- (d) in relation to any other conveyance, the driver or other person-in-charge of the conveyance.

Prohibited Goods : Section 2(33) :- Any goods, the import or export of which is prohibited by the Customs Act or any law for the time being in force, but doesn't include any goods, in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

Smuggling: Section 2(39) :- "Smuggling" in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or 113.

Warehouse: Section 2(43) :- A public warehouse licensed under Section 57 or a private warehouse licensed under Section 58 or a special warehouse licensed under Section 58A.

Warehoused Goods : Section 2(44) :- Goods deposited in a warehouse.

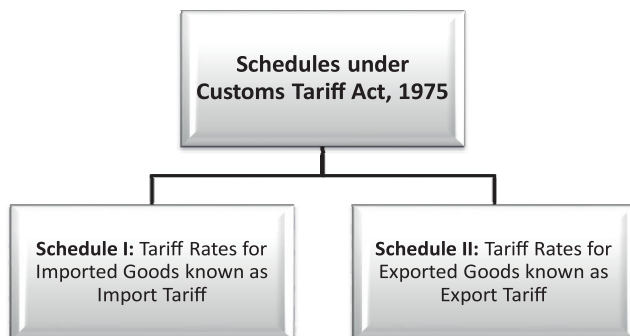
LEVY & COLLECTION OF CUSTOMS DUTIES

Levy of and Exemption from Customs Duty

Goods become liable for import OR export duty when Goods are Imported into India OR Exported out of India. Levy is the stage where the declaration of such liability is made and the persons / properties in respect of which the duty is to be levied is identified. If the Central Government is satisfied that it is necessary in the public interest to do so, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (pre- clearance) as may be specified in such notification, goods of the specified description, from the whole or any part of the customs duty leviable thereon. An exemption notification cannot be withdrawn and duty cannot be demanded with retrospective method.

Section 12 of the Customs Act, 1962 is the charging section, which is the basis for levy of tax. As per section 12, customs duty is imposed on goods imported into or exported out of India as per the rates provided in Customs Tariff Act, 1975 or any other law for the time being in force. This can be analyzed as below:

- Customs duty is levied on goods where such goods are imported into or exported out of India.
- Levy is subject to other provisions of this Act or any other law.
- The rates of Basic Custom Duty are specified under the Tariff Act, 1975 or any other Law.
- Even goods belonging to Government are subject to levy, though they may be exempted by notification(s).

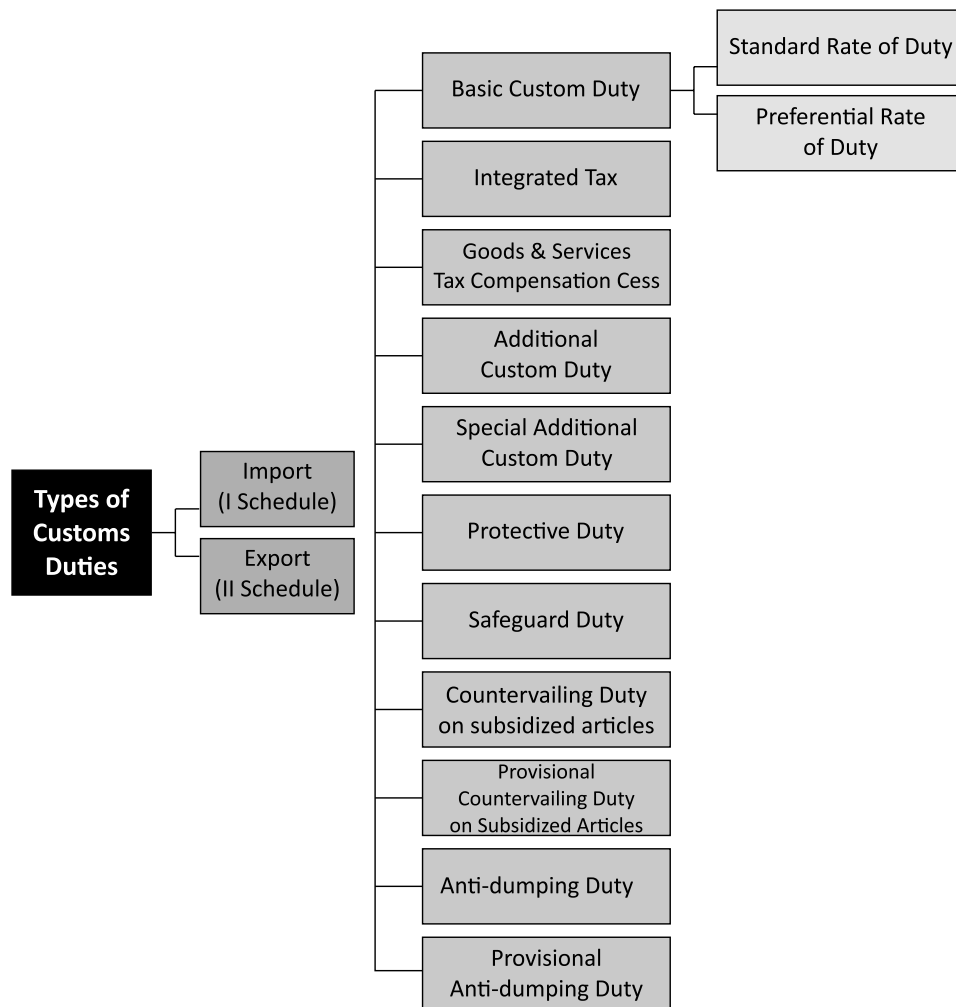


TYPES OF CUSTOMS DUTIES

Import Duty

a) Basic Customs Duty (BCD)

- i) Levied as a percentage of value as determined under Section 14(1).
- ii) Could be levied at “Standard” OR “Preferential Rates” (where imported from a preferential area as may be specified by the Government).
- iii) Onus is on the person (owner) to substantiate with the supporting evidence that the goods are chargeable with a preferential rate of duty.



b) Integrated Tax [Section 3 (7) of the Customs Tariff Act, 1975]

Any article which is imported into India shall be liable to integrated tax in addition to custom duties as chargeable. IGST shall be applicable at the same rate as is applicable on goods supplied in India.

c) GST Compensation Cess

Any article which is imported into India shall, in addition, be liable to the Goods and Services Tax

Compensation cess at such rate, as is leviable under Section 8 of the Goods and Services Tax (Compensation to States) Cess Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under Section 3(10) of The Customs Tariff Act, 1975 [Section 3(9) of the Customs Tariff Act, 1975].

d) Additional Customs Duty / Countervailing Duty (CVD)

- i) Till 01.07.2017, CVD equal to the amount of excise duty on like goods manufactured / produced in India was imposed on imported goods. In addition Special Additional Duty (SAD) of 4% was imposed in lieu of Sales Tax or VAT.
- ii) Under the GST regime, CVD & SAD duties are subsumed. Integrated Goods and Services Tax (IGST) is payable on value (assessable value plus basic customs duty) determined under Section 14 (1) of the Customs Act or Customs Tariff Act.
- iii) In case of alcoholic liquor for human consumption is imported into India, the same is still under state excise which has not been subsumed under GST. Therefore, IGST is not leviable under Import.
- iv) In case inward taxable supplies are in the nature of Imported Goods, which have been taxed and have been consumed in the manufacture of outward taxable supplies, Input Tax Credit is available to the extent of IGST paid.

e) Special Additional Duty (SAD)

- i) It used to be levied to offset the Sales Tax / VAT.
- ii) However, this has now been subsumed under GST and as such is leviable only on imported goods for which GST is not applicable (example : Petroleum Products).

Note: Due to introduction of GST, the applicability of additional duty of customs is very limited. GST is levied on all supplies of goods and /or services except supply of alcoholic liquor for human consumption. Further, GST on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the GST Council. Thus, additional duty of customs will be levied only on the few products not leviable to GST.

f) Protective Duty

In order to protect any industry established in India, a duty may be imposed on imported goods on the recommendation of Tariff Commission [Section 6 of the Customs Tariff Act, 1975].

g) Safeguard Duty

The Central Government may impose Safeguard Duty on specified imported goods, if it is of the opinion that the goods are being imported in large scale and they are causing injury to the industry in India [Section 8B(1) of the Customs Tariff Act, 1975].

This is levied on goods imported into India, when such goods are already manufactured in India, but the costs are higher as compared to import prices. It is levied to ensure that the Indian manufacturers don't suffer owing to import of cheaper goods from outside and therefore aims to create a level playing field for the Indian manufacturers and importers, thereby with the intent of safeguarding the National interest.

Provisional Safeguard Duty may also be imposed by the Central Government subject to Section 8B(1) of the Customs Tariff Act, 1975 on the basis of a preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry [Section 8B(2) of the Customs Tariff Act, 1975].

Safeguard measures imposed under section 8B, which were earlier limited to imposition of safeguard duty, are expanded by Finance Act, 2020 to include tariff-rate quota fixations or any other measures, as deemed fit. Under tariff- rate quota, a lower tariff rate is imposed on imports of a given product within a specified quantity and a higher tariff rate on imports exceeding that quantity to provide the desired degree of import protection.

h) Countervailing Duty on Subsidized Articles

Where any country or territory pays, bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any article including any subsidy on transportation of such article, then, the Central Government may, by notification in the Official Gazette, impose a countervailing duty [Section 9(1) of the Customs Tariff Act, 1975].

i) Provisional Countervailing Duty on Subsidized Articles

When the amount of subsidy is not determined central government may impose a provisional countervailing duty not exceeding the amount of such subsidy as provisionally estimated by it. if on determination government finds that it is less than the subsidy provisionally determined it may reduce such duty and also may refund the excess duty collected.

j) Anti-Dumping Duty on Dumped Articles

Where any article is exported by an exporter or producer from any country or territory to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an Anti - Dumping Duty [Section 9A(1) of the Customs Tariff Act, 1975].

In *Designated Authority vs Haldor Topsoe 2000 (120) ELT 11*, the Supreme Court held that anti-dumping duty could be fixed with reference to prices in a territory and that European Union could also be a territory.

k) Provisional Anti Dumping Duty

The Central Government may impose anti dumping duty on provisional basis if determination of normal value and margin of dumping of an article is pending in accordance with the provisions of this section and rules made there under and if such anti-dumping duty exceeds the margin as so determined,-

Central Government shall reduce the anti dumping duty and shall also refund the excess duty so collected.

l) Social Welfare Surcharge (SWS) on Imported Goods

It is a duty of customs levied for the purpose of the Union on the goods specified in the First Schedule to the Customs Tariff Act, 1975, being goods imported into India. It is levied @10% on the aggregate of duties, taxes and cesses which are levied and collected by the Central Government under Section 12 of the Customs Act, 1962. It is not applicable on Safeguard Duty, Countervailing Duty, Antidumping Duty, IGST and GST Compensation cess.

m) Road and Infrastructure Cess on Imported Goods

It is levied as duty of custom @ rupee 8 per litre on Motor Spirit (petrol) and High Speed Diesel (HSD) imported in to India for the purpose of Financing Infrastructure Projects.

n) Introduction of Health Cess

Finance Act, 2020 has imposed a Health Cess on import of medical equipment of classified in 4th schedule for augmenting and financing health infrastructure and related services.

CLASSIFICATION & VALUATION OF IMPORT AND EXPORT GOODS

Classification

Classification of goods is of utmost importance for the purpose of Customs Act, 1962. Classification enables to categorize the goods into groups / sub-groups, in order to apply a single rate of duty on each group / sub-group. This classification is based on the concept of Harmonised System of Nomenclature (HSN).

HSN is an internationally accepted coding system and the same was formulated and thereby enunciated under the General Agreement on Tariffs & Trade (GATT). At international level, the HSN classification of goods is a six digit coding system but India follows 8 digit coding system, wherein first two digit represent chapter number, next two digits represents heading number, next two digits represents sub heading number and last two digits product code.

For example: HSN is 07031010 then details of each digit is as under:

07	03	10	10
Chapter	Heading	Sub Heading	Product Code

07- Edible Vegetables

03- Onions, Shallots, garlic, Leeks

10- Fresh or Chilled Onions or Shallots

10- Fresh or Chilled Onions

Interpretation Rules under the Customs Tariff Act, 1975

General Rule for Classification [Rule 1]

The essence of this rule is that the reference to the rules may be made in case of ambiguity, that is, the reference to the six rules of interpretation is not required when classification of the goods is possible on the basis of description in the heading, sub-heading etc.

Interpretation :-

- (a) The titles of sections, chapters and sub-chapters do not have any legal force.
- (b) Terms of headings read with relative section and chapter notes are legally relevant for the purpose of classification.
- (c) The rules of interpretation need not be resorted to when classification is possible on the basis of description in heading, sub-heading, chapter notes and section notes.
- (d) Notes of one chapter or section cannot be applied for interpreting entries in other chapters or sections.

Unfinished Articles & Mixtures [Rule 2]

- a) Any reference in a heading to an article, shall be deemed to include a reference to that article in an unfinished stage too, as long as in the present stage, the incomplete article exhibits the essential character of that article in complete / finished form :

Example : Car without tyres or without seats would be still construed as Cars, but not Cars without engines.

- b) Any reference in a heading to a material or substance, shall be deemed to include a reference to the mixtures and combinations of that material / substance with other materials / substances.

Example : natural rubber would include its mixture with synthetic or other forms of rubber .

Interpretation :-

If any particular heading refers to a finished/complete article, the incomplete/unfinished form of that article shall also be classified under the same heading provided the incomplete/unfinished goods have the essential characteristics of the finished goods.

If any particular heading refers to a finished/complete article, the unassembled/dis-assembled form of that article shall also be classified under the same heading provided the unassembled/dis-assembled goods have the essential characteristics of the finished goods.

Classification of Goods classifiable under more than one head [Rule 3]

- a) “Specific Identification”, i.e., the goods shall be classified under the heading which is closest to the specific description.

Example : Mint Tea is not separately classified, but the classification should be tea as the product is closest to the one under the heading “tea”, mint is only a flavour.

- b) “Essential Character Principle”, i.e., if composite goods cannot be classified as per Rule 3(a), then, shall be classified on the basis of material / substance that defines the essential character.

Example : If one imports “Liquor Gift Sets” that have both, liquor and glasses, it should be classified under the heading, “Liquor”, as the essential character of the composite item is the liquor itself and the glasses are pure ancillaries.

- c) “Latter the Better Principle”, i.e., when goods can’t be classified under rules 3(a) or 3(b), the goods would be classified under the heading that appears last in the numerical order amongst those which equally merit consideration.

Example : A gift set, which has socks and ties, can be classified under any of the above rules, and therefore should be classified as ties (heading 6117) over socks (heading 6115).

Akin Principle [Rule 4]

This rule states that the goods which cannot be classified in accordance with Rules 1, 2 or 3, shall be classified under the heading which includes goods that are the most “akin or similar”.

An example would be anti-glare films used for car windows, venetian blinds, all of these are not separately classified, they would be classified under the heading for “builders’ ware of plastic”, as that’s the closest these fit into.

Cases / Containers for Packaging of Goods [Rule 5]

Goods which are in the nature of containers / packages such as necklace boxes, camera cases, musical instrument cases, will be classified with the specific article which are generally sold within these packages. However, this is applicable to containers, which are fitted for the article they will contain, are suitable for long term use, protect the article when not in use, and are of a kind normally sold with such articles. Cases for camera, musical instruments, drawing instruments, necklaces are few examples.

Sub-headings [Rule 6]

Only sub-headings at the same level are comparable.

CASE LAWS***CC vs. Maestro Motors Ltd. 2004 (174) E.L.T 289 (S.C.)***

In this case, the Court observed that if a tariff heading is specially mentioned in exemption notification, the general interpretative rules would be applicable to such exemption notification. But, if an item is specifically mentioned without any tariff heading, then exemption would be available even though for the purpose of classification, it may be otherwise.

CC vs. Hewlett Packard India Sales (P). Ltd. 2007 (215) E.L.T. 484 (S.C.)

In this case the assessee was engaged in the manufacture of, and trading in, computers including Laptops (otherwise called 'Notebooks') falling under Heading 84.71 of the CTA Schedule. They imported Notebooks (Laptops) with Hard Disc Drivers (Hard Discs, for short) preloaded with Operating Software like Windows XP, XP Home etc. These computers were also accompanied by separate Compact Discs (CDs) containing the same software, which were intended to be used in the event of Hard Disc failure.

The assessee classified the software separately and claimed exemption. The court held that without operating system like windows, the laptop cannot work. Therefore, the laptop along with software has to be classified as laptop and valuation to be made as one unit.

Keihin Penalfa Ltd. vs. Commissioner of Customs 2012 (278) ELT 578 (SC)

Department contended that 'Electronic Automatic Regulators' were classifiable under Chapter sub-heading 8543.89 whereas the assessee was of the view that the aforesaid goods were classifiable under Chapter sub- heading 9032.89. An exemption notification dated 01-03- 2002 exempted the disputed goods by classifying them under chapter sub- heading 9032.89. The period of dispute, however, was prior to 01.03.2002.

The Apex Court observed that the Central Government had issued an exemption notification dated 01-03-2002 and in the said notification it had classified the Electronic Automatic Regulators under Chapter sub-heading 9032.89. Since the Revenue itself had classified the goods in dispute under Chapter sub-heading 9032.89 from 01-03-2002, the said classification needs to be accepted for the period prior to it.

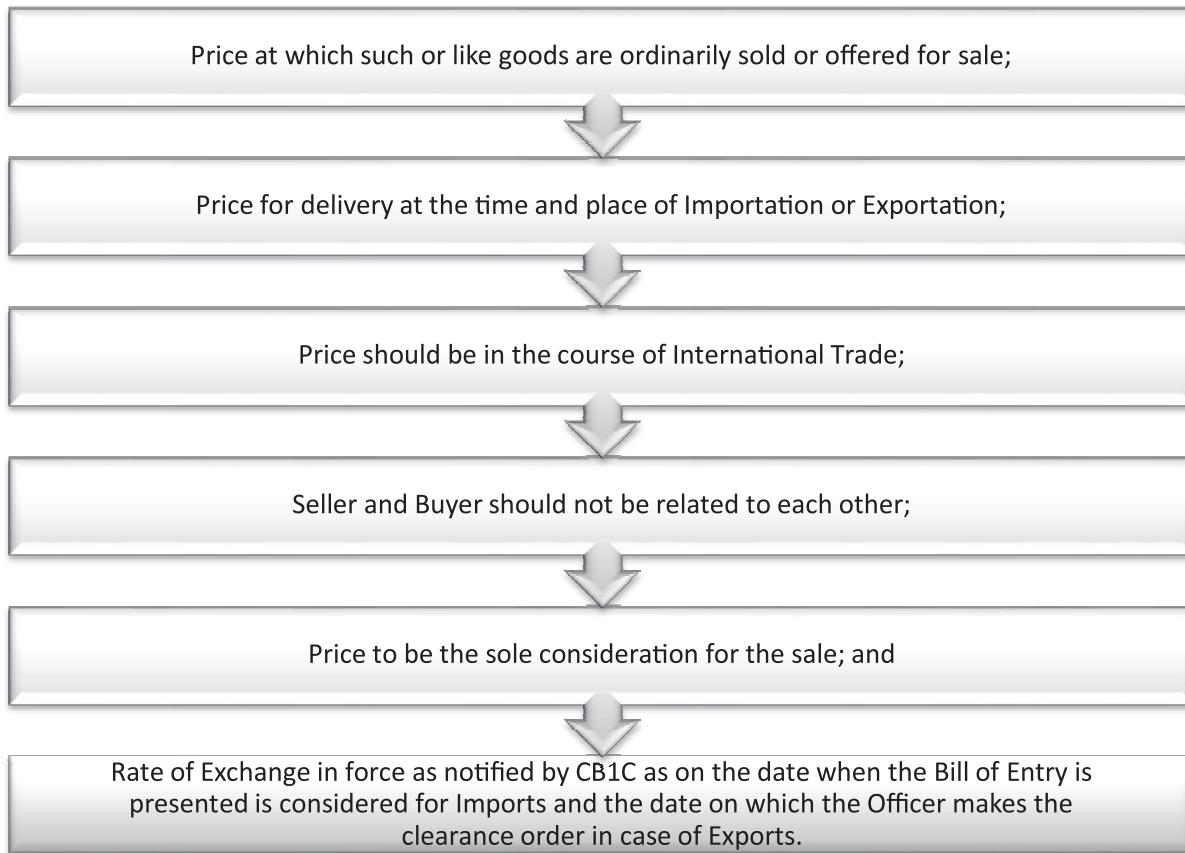
VALUATION FOR CUSTOMS DUTY

Valuation for Customs Duty begins with determination of "Transaction Value". Transaction Value includes the price paid / payable as consideration. In case of transaction between related parties, sale transaction would be examined to ascertain the influence of relationship on the declared value, and whether the same could then be accepted as transaction value (it needs to be at arm's length).

VALUATION RULES

The Customs Value fixed as per Section 14 is the value that would be used for calculating the Customs Duty Payable. This is also called Assessable Value.

Criteria for deciding Value –



CASE LAW

In case of *CC vs. East African Traders 2000 (115) E.L.T. 613 (S.C.)*, it was held that Customs authorities and Tribunal can pierce the veil of the respondent company to determine whether or not the buyer and the seller were 'related persons within the scope of rule 2(2) of the erstwhile Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 [now rule 2(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

Rule 3(1)

Value of Imported Goods shall be the Transaction Value adjusted in accordance with provisions of Rule 10;

For Imports

Price paid / payable for delivery at the time and place of Importation, which essentially implies that the price up to a port in India when goods are imported has to be considered (i.e., C.I.F. Value).

For Exports

Price paid / payable for delivery at the time and place of Exportation, which essentially implies that the price up to a port in India when goods are exported has to be considered (i.e., F.O.B. Value)

Important Points to remember

- C.I.F. = F.O.B. + Cost of Transport (Freight) and Insurance.
- Freight to be taken at actuals, if ascertainable. If not ascertainable, it shall be calculated at 20% of FOB Value. However, it shall be capped at maximum of 20% of FOB [even ascertainable], if goods are imported by air.
- Insurance to be taken at actuals, if ascertainable. If insurance cost is not ascertainable, it shall be calculated at 1.125% of FOB Value.
- The cost of transport of the imported goods includes the ship demurrage charges on chartered vessels, lighterage or barge charges.
- In the case of goods imported by sea or air and transhipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded.
- Transaction Value (T.V.) = C.I.F.
- Exchange rate as applicable on date of presentation of a shipping bill or bill of export, as determined by CBIC or ascertained in manner determined by CBIC should be considered of the valuation as above cannot be determined, then sequentially, the following rules will be applied.

Identical Goods / Comparison Method [Rule 4]

Transaction Value (TV) of identical goods will be used in determining the value of imported goods, only when such identical goods are sold at the same commercial level, and these goods are substantially the same quantity as the goods being valued. TV of goods exported would be based on the transaction value of the goods of like kind and quality exported at or about the same time to the same destination country, or in absence, another destination country.

In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

Similar Goods for Imports and Computed Value Method for Exports [Rule 5]

The TV for Imported Goods would be based on that of the similar goods (i.e., like characteristics & country of production). The TV of goods exported, would be taken at computed value, i.e., Cost of Production + Charges for design/brand + Reasonable profit.

Residual Method [Rule 6]

For exports, the TV would then be arrived at by reasonable and consistent means by Customs Officer. For Imports, Rule 7 and 8, as below would be invoked.

Deductive Value [Rule 7]

Unit price at which the imported goods (or) identical (or) similar imported goods are sold in the greatest aggregate quantity

Less: Commission, Selling Expenses, and Profit made, Transport & Insurance & Taxes within India.

The goods at or about same time can be considered, if not at the earliest date of importation but before the expiry of 90 days after such importation.

Computed Value [Rule 8]

This would be the cost of materials used in producing the imported goods, including fabrication costs, and usual profits commensurate with sale of goods of same class in India, including specific additions as per Rule 10 (i.e., Insurance, Freight and Landing Charges).

Illustration:

Answer with reference to the provisions of section 14 of the Customs Act, 1962 and the rules made thereunder:

- (i) What shall be the value, if there is a price rise of the imported goods in international market between the date of contract and the date of actual importation but the importer pays the contract price?
- (ii) Whether the payment for post-importation process is includible in the value if the same is related to imported goods and is a condition of the sale of the imported goods?

Solution:

- (i) The value of the imported goods or export goods is its transaction value, which means the price actually paid or payable for the goods. Where a contract has been entered into, the transaction value shall be the price stated in the contract, unless it is not legally acceptable.

Price rise between date of contract and date of actual import is irrelevant, as the price actually paid or payable shall be taken to be the value. Thus, price stated in the contract (unless unacceptable) shall be taken.
- (ii) As per explanation to Rule 10(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the payment for post-importation process is includible in the value of the imported goods if the same is related to such imported goods and is a condition of the sale thereof.

Valuation Terminologies

FOB : This is also known as “Free on Board” or “Freight on Board”. It signifies the cost of delivering the goods to the nearest port and thereafter the Buyer is responsible to ship from there to the buyer’s address.

CIF : This is known as “Cost, Insurance & Freight” Value. This would add on the Insurance and Freight to the FOB Values, as explained below.

Addition of cost of freight in case of imports:

<i>Mode of Transportation</i>	<i>By Air</i>	<i>Any other mode</i>
If Actual Freight Ascertainable	Actual Freight; or 20% of FOB value of the goods, Whichever is less	Actual Freight
If Actual Freight Not Ascertainable	20% of FOB value of the goods	20% of FOB value of the goods

Addition of cost of insurance in case of imports:

If Actual cost of Insurance available	Actual cost of insurance
If Actual cost of Insurance not available	1.125% of the FOB value of the goods

Relevant date for rate of duty on - Imported Goods (Section 15):

Section	Types of Goods	Relevant Date
15(1)(a)	Goods cleared for home consumption under Section 46	Rate prevailing on the : a. date of presentation of bill of entry; or b. date of entry inwards of the vessel/aircraft/vehicle whichever is later.
15(1)(b)	Goods cleared from a warehouse under Section 68	Rate prevailing on the date of presentation of Ex-Bond bill of Entry for home consumption.
15(1)(c)	In case of any other goods	Rate prevailing on the date of payment of duty.

Relevant date for rate of duty on Exported Goods (Section 16):

Section	Types of Goods	Relevant Date
16(1)(a)	Goods entered for export under Section 50	Rate prevailing on the date on which proper officer makes an order permitting clearance and loading of the goods for exportation under Section 51.

Note: Provisions of both section 15 and 16 are not applicable to baggage and goods imported / exported by post.

Specific Additions

These would include expenses incurred by the buyer and not included in the price. Any payments made to the seller as a condition of sale.

Template for Calculation of Import Duties

Particulars	INR	
Assessable Value (AV)	1000	
Basic Custom Duty (BCD)	100	Taken at 10% of AV
Safeguard Duty	300	Taken at 300% of AV
Social Welfare Surcharge (SWS)	10	Taken at 10% of BCD
Anti Dumping Duty	200	
Total	1610	
IGST	289.8	Taken 18% of Total
GST Compensation Cess (GCC)	241.50	Taken 15% of Total
Total Taxes and Duties	1141.30	

Illustration :

Use the information appended below to find out the Assessable Value:

Item No.	Description	USD
1	Cost of Machine at the factory of the US Exporter	17500
2	Transport Charges from the said factory until the sea port for onward shipment	2500
3	Handling Charges at the Port of Shipment	200
4	Buying Commission paid by Importer	50
5	Freight Charges until the Indian Port	2500
	Please use an exchange rate of \$1=63.84 INR	

Solution:

Description	USD	INR
Cost of Machine at the factory of the US Exporter	17,500	
Transport Charges from the said factory until the sea port for onward shipment	2,500	
Handling Charges at the Port of Shipment	200	
F.O.B. Value	20,200	
Insurance Charges @ 1.125%	227	
Freight Charges	2,500	
Buying Commission paid by Importer	-	
C.I.F. Value	22,927	
Assessable Value	22,927	14,63,660

Notes :

- 1) All costs up to the Port of Shipment will be included in the F.O.B. Value.
- 2) Insurance Charges shall be added on @ 1.125% of F.O.B. Value as the value of Insurance Charges as it is not ascertainable.
- 3) As the transportation is by way of Sea, actual freight shall be added for the purpose of calculating CIF Value as it is ascertainable.
- 4) Buying Commission is not to be included in the computation.

Illustration :

Ms. Nisha imported 2500 Tonnes of goods and materials valued at USD 50 per tonne (C.I.F.). Exchange Rate per notification (CBIC) was \$1= INR 63.84. The Basic Customs Duty was chargeable @ 10% and over and above, there was an Anti-Dumping Duty levied on the goods, which was the differential between the amount so calculated as the Landed Value . Basic Customs Duty and Cess is INR 100,00,000/-. Calculate the Anti-Dumping Duty.

Solution:

<i>Description</i>	<i>Tonnes</i>	<i>Rate</i>	<i>USD</i>	<i>INR</i>
C.I.F. Value	2,500	50	1,25,000	79,80,000
Assessable Value				79,80,000
Basic Custom Duty (BCD) @ 10%				7,98,000
Social Welfare Cess @ 10% of BCD				79,800
Landed Value				88,57,800
Landed value as per Notification				1,00,00,000
Anti Dumping Duty				11,42,200

Note : Anti-Dumping Duty is levied to promote the local industry and to curb imports, and to ensure that India is not used as a dumping ground, which could otherwise have serious repercussions on the economic growth of the Nation. This Anti-dumping duty is continued even under the GST regime.

Illustration :

XYZ imports Pan Masala into India and the C.I.F value is INR 500/-. The rates of tax for Pan Masala (HSN Code 21069020) are Basic Customs Duty 37.5%; IGST 28% and Compensation Cess 60%.

Compute Total Import Duty.

Solution:

<i>Description</i>	<i>INR</i>	
CIF Value	500	
Assessable Value(AV)	500	
Basic Custom duty @ 37.5%	188	A
Social Welfare Cess @ 10% of A	18.80	B
AV + BCD + Cess = 500 + 188 + 18.8 =706.8		
IGST @ 28%	197.90	C
Compensation Cess @ 60% (706.8 x 60%)	424.08	D
Total Import Duty payable(A+B+C+D)	828.78	
Total Value including Import Duty	1328.78	

Note : The CBIC notified rate of exchange in force as on the date on which the bill of entry is filed, is what will be applied for computation of assessable value. Note also, that the above cess, Compensation Cess is leviable under GST and hence applicable on the same base; i.e., AV + BCD, like IGST.

Illustration :

M/s XYZ Chemicals Ltd. imported a machine from ABC Inc. at USA (Boston). The price of the machine was contracted at USD 12500 and the machine was shipped on 1st February, 2022. Meanwhile XYZ Chemicals, renegotiated a price reduction owing to the past relationship, and this price reduction was agreed vide an e-mail and a fax on 15th February, 2022. The machine arrived in India (Mumbai Port) on 1st March, 2022.

The assessing authorities claimed that the duty would be payable basis the Original Contracted price, pre-shipment. Please advise your stand as a Tax Consultant to XYZ Chemicals Ltd.

Solution:

The stand taken by the Customs Authorities is factually incorrect and can be challenged under the Law. The basic reason is that the Transaction Value is considered at the time and place of importation. Hence, it was contended that the Import is complete only when the Goods become a part of the Country. Here, in the present case, the price was mutually revised while the Goods were still in transit. Hence, the revised price could be considered for arriving at the Assessable Value and the same was also enunciated under the case law : *Gujarat Heavy Chemicals vs. Commissioner of Customs, Ahmedabad 2004*.

Illustration :

Calculate the total Import Duty Payable if :

- F.O.B. Value is GBP 18000.
- Freight Charges incurred (actual) are GBP 7500.
- Design & Development Charges incurred at UK are GBP 2500.
- Selling Commission at India paid to a local agent @ 2% of F.O.B. Value.
- Date of Bill of Entry : 24th Oct 2025 (Rate of Basic Customs Duty is 20% and Exchange Rate as notified by CBIC is INR 68 to 1 GBP).
- Date of Entry Inward : 20th Oct 2025 (Rate of Basic Customs Duty is 18% and Exchange Rate as notified by CBIC is INR 70 to 1 GBP).
- IGST @ 18%.
- Insurance Charges could not be ascertained.

Solution:

ITEM	GBP	INR	
F.O.B.	18,000		
Design & Development	2,500		
Local commission @ 2%	360		

FOB as per Customs	20,860		
Freight @ 20% of F.O.B. (assumed by air)	4,172		
Insurance @ 1.125% of F.O.B.	234.675		
C.I.F. Value	25,266.675		
Assessable Value (AV)		17,18,134	
Basic Custom Duty		3,43,627	A
Social Welfare cess @ 10%		34,363	B
Total for IGST (AV + All Custom Duties)		20,96,124	
IGST @ 18%		3,77,302	C
Total Import Duty		7,55,292	A+B+C

Notes:

- Insurance is taken @ 1.125% of F.O.B. value, as the charges aren't ascertainable.
- Freight can be taken at actuals but capped to 20% of F.O.B.
- Selling Commission is paid in Indian Rupees to local agents appointed by exporters to usher their sales in India and hence included in C.I.F. Value.
- The Exchange Rate in force per CBIC notification, on the date when the Bill of Entry is presented is to be considered.
- IGST is levied on Assessable Value + All Customs Duties.
- Social welfare Cess is levied on BCD @ 10%.

Illustration :

Determine the Customs Duty payable including the safeguard duty of 20%, for Goods with Assessable Value of INR 50,00,000 considering BCD @ 10%, IGST @ 18%.

Solution:

<i>Item</i>	<i>INR</i>	
Assessable Value	50,00,000	
Basic Custom Duty @ 10%	5,00,000	A
Social Welfare Surcharge @ 10%	50,000	B
Safeguard Duty @ 20%	10,00,000	C
Total for IGST(AV + All Custom Duties)	65,50,000	
IGST @ 18%	11,79,000	D
Total Duty & Taxes payable(A+B+C+D)	27,29,000	

Customs Valuation (Determination of Value of Imported Goods) Rules, 2007

Custom duties are calculated on specific or *ad valorem* basis, i.e., on the value of goods. The value of goods is determined by Rule 3(i) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. This rule pegs the value of imported goods at the transaction value that has been adjusted according to the provisions under Rule 10.

In case there are no quantifiable or objective data regarding the valuation factors, valuation conditions aren't satisfied, or there are doubts regarding the accuracy or truth of declared value as per Rule 12 of Valuation Rules 2007, valuation of items has to be done through other means as per the following hierarchy,

- Comparative Value Method which compares the transaction value of similar items (Rule 4).
- Comparative Value Method which compares the transaction value of similar items (Rule 5).
- Deductive Value Method which uses the sale price of item in importing country (Rule 7).
- Computed Value Method which uses the costs related to fabrication, materials and profit in production country (Rule 8).
- Fallback Method which is based on the earlier methods with higher flexibility (Rule 9).

EXEMPTIONS UNDER CUSTOMS ACT

If the Central Government is satisfied that it is necessary in the public interest to do so, it may, by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, which would need to be fulfilled before / after clearance, goods of the specified description from the whole or any part of the duty of customs.

If an assessee wishes to avail the benefit of any exemption, the onus of proof lies on the assessee to prove under which notification the exemption has been claimed.

It may, by special order, exempt from duty, any goods, on which duty is leviable only under exceptional circumstances. Further, no duty is to be collected, if the amount of duty leviable is less than or equal to INR 100.

Both the general and specific exemptions mentioned above, may be granted by providing for the levy of duty at a rate expressed in a form which is different from the statutory rate.

An exemption notification cannot be withdrawn and the duty cannot be demanded with retrospective effect.

ADMINISTRATION OF CUSTOMS LAWS

Administration of Customs Law is under Ministry of Finance, Government of India. Central Board of Indirect Taxes & Customs (CBIC) has been constituted with headquarter at New Delhi to administer provisions of indirect taxes, which consist of Central Excises, Customs and GST.

As per Section 5(1) of Customs Act, an officer of Customs may exercise the powers and discharge the duties conferred on him or imposed on him, subject to conditions and limitations as may be imposed by CBIC.

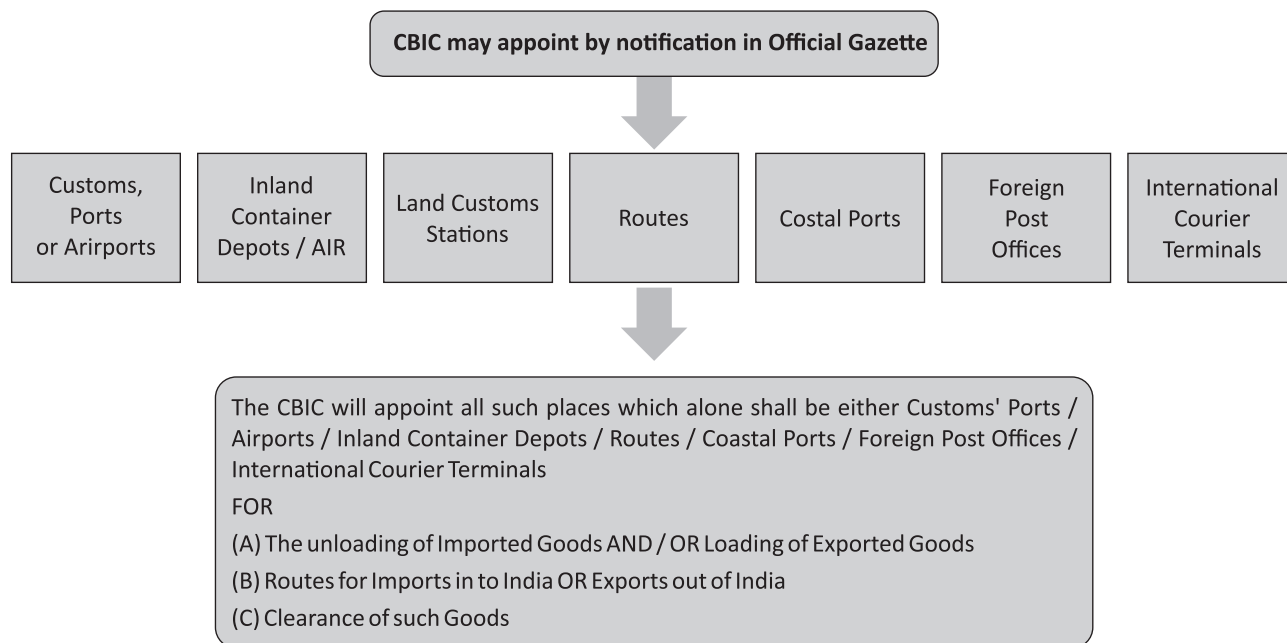
OFFICERS OF CUSTOMS LAW

Proper Officer in relation to any function to be performed under Customs Act, means the officer of Customs who is assigned those functions by CBIC or Principal Commissioner of Customs under Sections 5 of Customs Act.

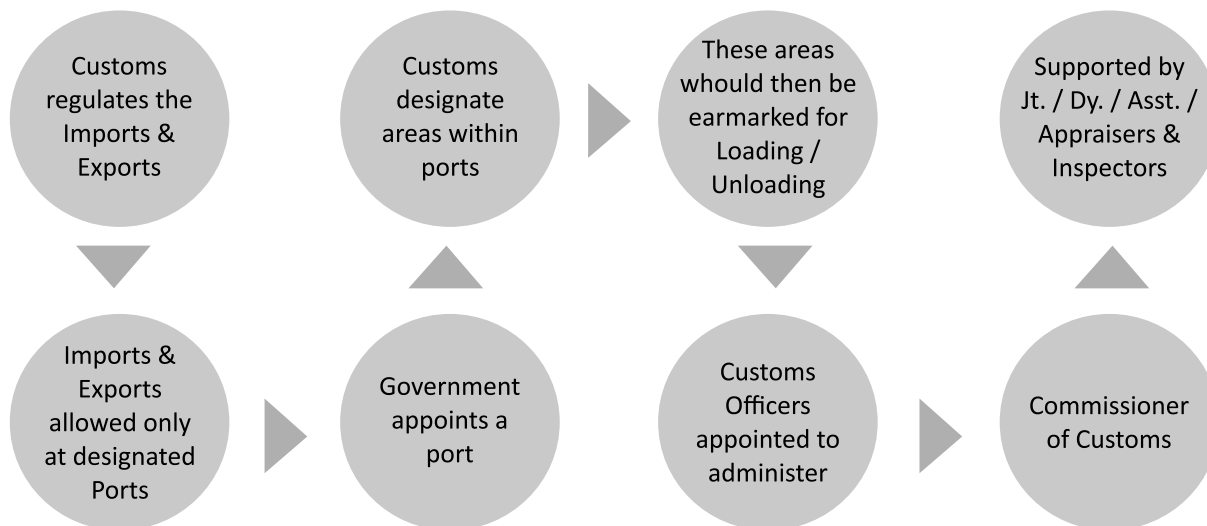
The Customs Officers are authorised to:

- a) Declare warehousing stations;
- b) Allow setting up of warehouses (Public / Private);
- c) Search any vessel / conveyance / person;
- d) Seize of Goods;
- e) Arrest.

Establishment under Customs



Administration



Types of Ports

- a) Sea Ports;
- b) Airports;
- c) Land Customs Stations (LCS);
- d) Inland Container Depots (ICD);
- e) Container Freight Stations (CFS) attached to ports.

Mode of Clearance

- a) Regular Cargo;
- b) Courier;
- c) Foreign Post Office;
- d) Baggage.

IMPORT & EXPORT PROCEDURES UNDER CUSTOMS LAW

Procedures have to be followed by 'Person in Charge of conveyance' as well as the importer.

Person in Charge : Master (in case of a Vessel), Commander or Pilot (in case of an aircraft), Conductor, guard or any other person having the chief direction of the train (in case of a train), Driver or other person in charge of the conveyance (any other conveyance).

Responsibilities of a Person in Charge (PIC)

The Import Manifest means the report which is required to be delivered under Section 30, which states that the PIC, in the case of a vessel / an aircraft, shall deliver to the proper officer an import manifest PRIOR to the arrival of vessel / aircraft and in case of a vehicle, within 12 hours post the arrival at the customs station, in the prescribed format.

Also, it's imperative to note that the import is complete only when the goods so imported are cleared for home consumption.

Entry of Goods on Importation (Section 46)

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed.

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically on the customs automated system, allow an entry to be presented in any other manner.

Provided further that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof:

- (a) to examine the goods in the presence of an officer of customs, or
- (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

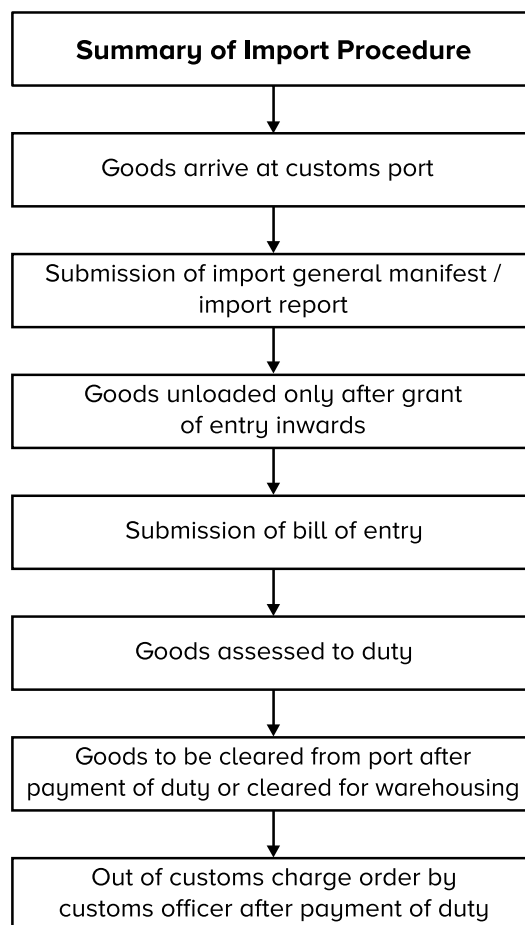
(3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing.

Provided that a bill of entry may be presented at any time not exceeding thirty days prior to the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India.

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed. (4A) The importer who presents a bill of entry shall ensure the following, namely: -

- a) the accuracy and completeness of the information given therein;
- b) the authenticity and validity of any document supporting it; and
- c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.



(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

Entry of Goods for Exportation (Section 50)

Provided further that the Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a further period not exceeding thirty days (30 days) at a time.

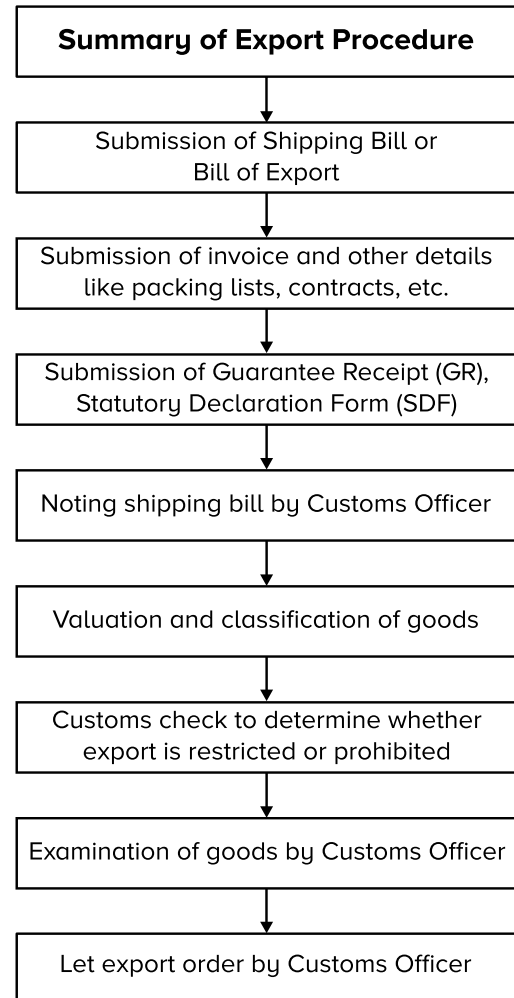
The exporter of any goods shall make entry thereof by presenting electronically to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in the prescribed form.

However, the Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner.

The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

The exporter who presents a shipping bill or bill of export shall also ensure the following, namely:-

- (a) the accuracy and completeness of the information given therein;
- (b) the authenticity and validity of any document supporting it; and
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.



TRANSPORTATION

Goods can come through post parcel or as baggage with passengers. Different procedures are there for import and export of goods by different mode of transportation.

Imported goods are allowed to be warehoused but under due compliance of customs. There are public and private warehouses for this purpose. Improper imports / exports are subject to seizure and confiscation and they are also subject to penalties and arrest in certain cases.

Import duties are refunded in the form of duty drawback to eligible exporters. Baggage is permitted from passengers arriving in India subject to baggage provisions

Transit and Transshipment

A conveyance/vessel may reach a port but may not unload the goods at that port. It may halt at the port for any other purpose such as repairs, replenishment of supplies, refueling etc. Once the purpose is over, it may start sailing to the destination port. In this case two ports are involved:-

1. the halting port (known as transit port) and
2. the destination port (called as port of clearance).

Such a phenomenon of temporary stay at a port other than a destination port is called transit. In transit; the goods remain in the same vessel and consequently reach the port of clearance.

In transshipment, however, the vessel after reaching an intermediate port, transfers the goods to another vessel and the second vessel into which the goods are transferred (loaded) from the first vessel, carries the goods to the destination port.

Transit of Goods without payment of duty [Section 53]

Any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, for transit in the conveyance to any place outside India or any Customs station may be allowed to be so transited without payment of duty, subject to such conditions, as may be prescribed.

Transshipment of Goods without payment of duty [Section 54]

In case any goods imported into a Customs station are intended for transshipment, a bill of transshipment shall be presented to the proper officer in the prescribed form.

However, where the goods are being transhipped under an international treaty or bilateral agreement between the Government of India and Government of a foreign country, a declaration for transshipment instead of a bill of transshipment shall be presented to the proper officer in the prescribed form.

Where any goods imported into a Customs station are mentioned in the Import Manifest or import report as the case may be, as for transshipment to any place outside India, such goods may be allowed to be so transhipped without payment of duty.

Differences between Transit & Transshipment

<i>Transit</i>	<i>Transshipment</i>
Goods remain in the same vessel at the intermediate port	Goods are transferred to a different vessel at the intermediate port
Only import manifest has to be submitted for entry	Bill of Transshipment / declaration is also required to be submitted
No supervision is required at the Intermediate Port	Transshipment process is conducted under the supervision of the Customs Officer
The same vessel reaches the destination port	A different vessel reaches the destination port

WAREHOUSING

Imported goods need not be cleared for home consumption immediately on arrival. If importer wish or he may not require the goods immediately or sometime to avoid demurrage charges or intends to re-export of such imported goods or for any other reasons, he may store such goods in Warehouse without payment of goods. Warehouses allow goods to be stored and thus deferment of duty. The Goods are to be released from the Warehouse, subject to "clearance"; i.e., post assessment and payment of Duty. Warehouse may be public warehouse licensed under section 57 or private warehouse licensed under section 58 or special warehouse licensed under section 58A.

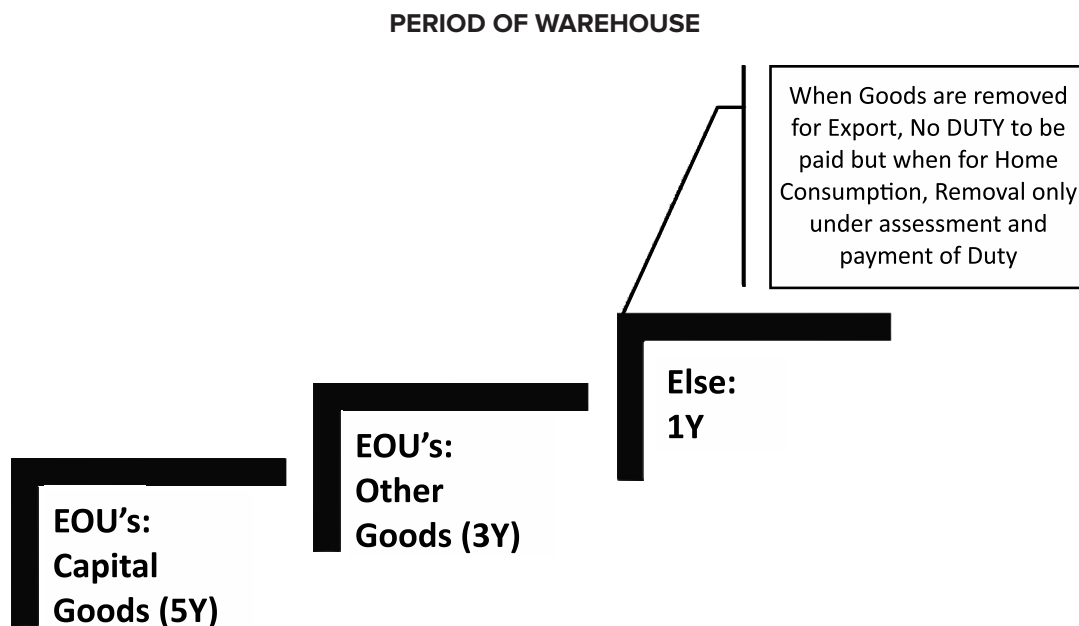
Public Bonded Warehouse

- 1) These are owned and managed by Government / Governmental Bodies / Agencies;
- 2) Only dutiable goods can be warehoused therein;
- 3) Availability of space certificate from the warehouse keeper would be required;
- 4) A double duty bond would also be required to be furnished for deposit of goods;
- 5) Also, the person seeking warehousing would need to pay rental / warehousing charges to the warehouse keeper.

Private Bonded Warehouse

- 1) These are owned and managed by private entities;
- 2) These aren't generally allowed where the public bonded warehouses are available;
- 3) Only dutiable goods can be warehoused therein;
- 4) Availability of space certificate from the warehouse keeper would not be required in this case;
- 5) Double bond duty would still be required but, customs officers would need to be posted at the expense of the warehouse keeper.

The Goods so warehoused, can vary, depending on whether these are for 100% Export Oriented Units (EOU's) or otherwise, as explained by the diagram below (up to a period of 5 years / 3 years / 1 year) :

**BAGGAGE RULES**

Goods imported by a passenger or a member of crew in his baggage are classified under one tariff heading and levied to a single rate of duty. Section 77 provides that the owner of any baggage shall for the purpose of clearing it make a declaration of its contents to the proper officer.

The term Baggage has not been defined as such. However following may be noted : (a) Baggage means all dutiable articles, imported by passenger or a member of a crew in his baggage (b) Un-accompanied baggage,

if dispatched previously or subsequently within prescribed period is also covered (c) baggage does not include motor car, alcoholic drink (beyond certain limit) and goods imported through courier (d) baggage does not include articles imported under an import licence for his own or on behalf of others.

Baggage Rules, 2016 provide for duty free clearance, up to a certain limit, of articles such as used personal effects, travel souvenirs and other articles when carried on the person or in the accompanying baggage of the passenger arriving in India.

Personal effect means things required for satisfying daily necessities but does not include jewellery. Generally, duty free allowance is allowed to the Indian resident or foreigner residing in India.

Duty Free Baggage Allowances of Dutiable and Non-Prohibited Articles (Baggage Rules, 2016)

Rule	Passenger	Passenger arriving from countries	Amount of Duty Free Baggage Allowance
Rule 3	An Indian resident or a foreigner residing in India or tourist of Indian origin	Other than Nepal, Bhutan or Myanmar	Rs. 50,000
Proviso to Rule 3	Tourist of foreign origin	Other than Nepal, Bhutan or Myanmar	Rs. 15,000
Rule 5	Any passenger residing abroad for more than one year	Any country	Gold Jewellery: a. Gentlemen – 20 grams with a value cap of Rs. 50,000 b. Lady – 40 grams with a value cap of Rs. 1 lac

Illustration: Mr. Ram, an Indian entrepreneur, went to London to explore new business opportunities on 01.04.2025. His wife also joined him in London on 01.12.2025. The following details are submitted by them with the Customs authorities on their return to India on 30.04.2026:

- (a) used personal effects worth Rs. 95,000
- (b) a music system worth Rs. 34,000
- (c) the jewellery brought by Mr. Ram for Rs. 44,000 and the jewellery brought by his wife worth Rs.25,000

Determine their eligibility with regard to duty free allowance.

Solution: As per the Baggage Rules, in case of passengers other than tourists there is no customs duty on used personal effects and general free allowance is Rs.50,000 per passenger. Thus, their duty liability is nil for the personal effects and a music system.

However, the additional duty-free allowance, that is jewellery allowance is applicable to non-tourist passenger of Indian origin who had stayed abroad for period exceeding one year. The additional jewellery allowance is as follows:-

Gentleman Passenger - Rs.50,000/-

Lady Passenger - Rs.1,00,000/- Thus, there is no duty liability on the jewellery brought by Mr. Ram as he had stayed abroad for period exceeding one year.

However, his wife is not eligible for this additional jewellery allowance as she had stayed abroad for a period less than a year. Thus, she has to pay customs duty on the amount of jewellery brought by her. However, she is eligible to avail GFA of Rs.50,000. To the extent of satisfaction of the Assistant commissioner of customs, Jewellery brought back which was taken out earlier by the passenger or by a member of his family from India shall be allowed clearance free of duty.

DUTY DRAWBACK

Duty drawback provisions enable the exporter to obtain a refund of the Import Duties (Customs Duty) paid on :

- imported goods which are meant for re-exportation; or
- inputs, which are processed for / used in manufacture of final products to be exported.

The Central Government is empowered to grant duty drawback (Section 74 & Section 75).

This benefit is available not only on the re-export of the duty paid goods (Section 74), but also, on imported materials used in the manufacture of Goods which are exported (Section 75). These goods should be entered for export within 18 months.

The procedure is as under

- ✓ At the time of export, the Exporter shall endorse the shipping bill to the Proper Customs Officer;
- ✓ Necessary forms like ARE1 are submitted;
- ✓ Customs Officer makes an order permitting clearance for exportation (Section 51);
- ✓ If an amount of drawback, and interest paid to the exporter turns out to be higher than what he is eligible to, this amount would have to be repaid back to the Customs authorities;
- ✓ If there is a drawback which is made to an exporter, who eventually cannot realise the Invoice (export proceeds) within the period(s) specified by FEMA, such drawback could be recovered from the exporter.

An exporter could opt for drawback as per the All Industry Rate (AIR) or the Brand Rate. The AIR's are fixed annually by the Directorate of Drawback, but the brand rates are for special products.

Where the goods are not put into use after import, 98% of Duty Drawback is admissible under Section 74 of the Customs Act, 1962. In cases where the goods have been put into use after import, Duty Drawback is granted on a sliding scale basis depending upon the extent of use of the goods. No Duty Drawback is available if the goods are exported 18 months after import. Application for Duty Drawback is required to be made within 3 months from the date of export of goods, which can be extended up to 12 months subject to conditions and payment of requisite fee as provided in the Drawback Rules, 1995.

There is distinction between section 74 and 75 of the Customs Act- section 74 of the Customs Act comes into operation when articles are imported and thereupon exported, such articles being easily identifiable; and section 75 comes into operation when imported materials are used in the manufacture of goods which are exported.

If the goods were in possession of the importer, they might be treated as used by the importer. As per the rules framed by Central Government, percentage of drawback is enumerated in given below table:

Sl. No	Period of Use	Percentage of Drawback
1	Upto 3 months	95%
2	More than 3 months to 6 months	85%
3	More than 6 months to 9 months	75%
4	More than 9 months to 12 months	70%
5	More than 12 months to 15 months	65%
6	More than 15 months to 18 months	60%
7	More than 18 months	Nil
	For Motor Vehicles use per quarter during	Percentage of Reduction
1.	1st Year	4%
2.	2nd Year	3%
3.	3rd Year	2.5%
4.	4th Year	2%

Drawback is allowed if the use is over 24 months only with permission of Commissioner of Customs if sufficient cause is shown.

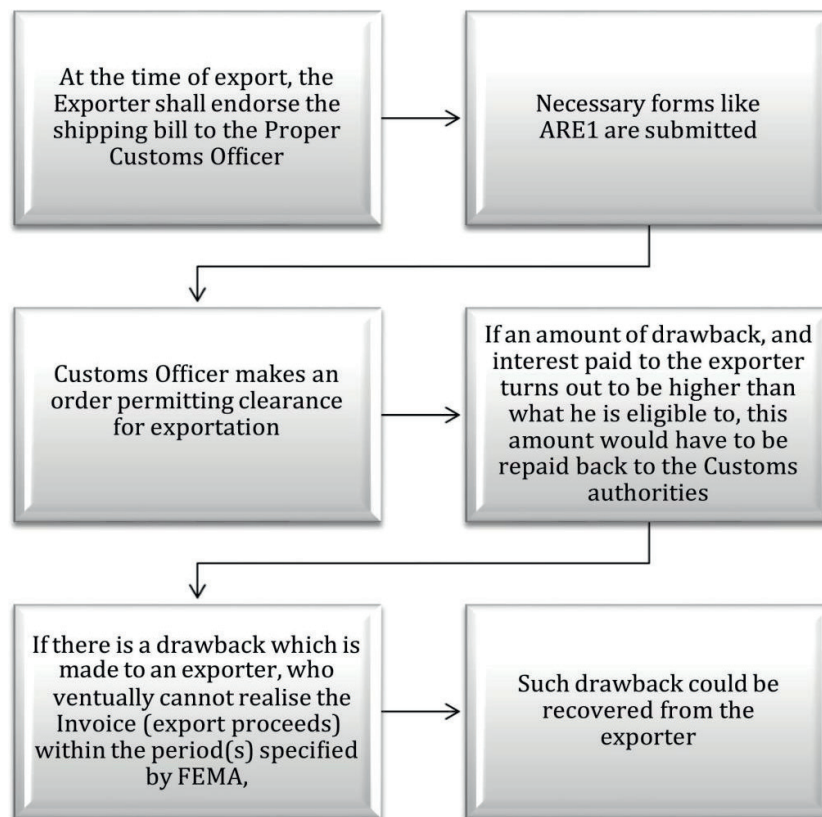
The Customs Act, 1962 lays down certain limitations and conditions for grant of Duty Drawback. No Duty Drawback shall be admissible where:

- i. The Duty Drawback amount is less than Rs.50/-.
- ii. The Duty Drawback amount exceeds one third of the market price of the export product.
- iii. The Duty Drawback amount is less than 1% of FOB value of export (except where the amount of Duty Drawback per shipment exceeds Rs.500/-).
- iv. Where value of export goods is less than the value of imported material used in their manufacture. If necessary, certain minimum value addition over the value of imported materials can also be prescribed by the Government.

The duty drawback needs to be paid, within 1 month, and if not paid, interest is payable to the claimant, at a specified rate.

Also, where drawback has been paid to the claimant in excess of what he is eligible to, the claimant has a time period of 2 months, to repay the excess, else, interest would be charged on the exporter from the date of payment of drawback until the date of recovery.

Duty Drawback is a scheme that encourages exports and thereby accelerates aggregate demand. It is intended to propel the economic growth of the nation and thereby accelerates the GDP.



DEMAND & RECOVERY

Demand of Duty

The notice of demand, must be served in writing, clearly mentioning the reasons, and providing the party an opportunity of being heard.

Generally, the Show Cause Notice, should be served within 1 year from the relevant date; that is; 1 year from the date of assessment / payment of duty.

However, in specific cases, where the duty or interest is not paid, or short paid, by reason of collusion, willful suppression of facts, or misstatement, then the notice could be served within a period of 5 years.

The demand of duty provisions also calls for attachment of property for upto 6 months, for protection of interest of revenue and that could be extended for another period of 6 months, but the attachment period cannot exceed 2 years.

Post which the duty must be collected, in the name of customs duty and paid to the credit of the Government.

CONFISCATION OF GOODS & CONVEYANCES

Confiscation of Goods

Confiscation would generally tend to connote the forceful seizure / repossession of goods by the Government, without any compensation to the owner, as the possession of the goods was contrary to the law.

- ✓ Section 111 states that the following improperly imported goods, shall be liable to confiscation
 - those which are imported by sea / air and offloaded / attempted to be offloaded in a port other than the appointed customs' port.
 - those which are imported by land / inland water, through a route other than a specified route.
 - any dutiable / prohibited goods brought in to any bay / creek / gulf etc. for the purpose of being landed at a place other than customs' port.
 - any dutiable / prohibited goods, found concealed in a conveyance.
 - any dutiable / prohibited goods which should have been disclosed in the Import General Manifest but were not.
 - any dutiable / prohibited goods removed / attempted to be removed from a warehouse / customs station, without permission.
 - goods which do not match the description in the documents, *vis-à-vis* value / any other particulars.
 - any goods, which were exempted from duty subject to a condition, which was eventually not met.
 - any goods imported on a claim of preferential rate of duty which contravenes any provision of Chapter VAA or any rule made thereunder.
- ✓ Section 113 states that the following improperly exported goods, shall be liable to confiscation
 - those which are exported by sea / air and loaded / attempted to be loaded in a port other than the appointed customs' port.
 - those which are exported by land / inland water, through a route other than a specified route.
 - any dutiable / prohibited goods brought near any bay / creek / gulf etc. for the purpose of being exported from a place other than customs' port.
 - any dutiable / prohibited goods, found concealed in a conveyance.
 - any goods loaded in a wrongful manner without necessary permissions.
 - goods which do not match the description in the documents, *vis-à-vis* value / any other particulars.
 - any goods, on which import duty wasn't paid and entered for export under a claim for drawback.
- ✓ Section 115 deals with Conveyances which are liable to confiscation
 - Any vessel which has been within the Indian customs waters, any aircraft in India, or any vehicle, which has been adapted or fitted or structured in a manner that it purports or enables the concealment of goods.
 - Any conveyance from which the goods are destroyed to prevent seizure.
 - Any conveyance which had to stop / land but didn't do so except for sufficient cause.
 - Any vessel from which goods which have been cleared for exportation, under a claim for drawback, were unloaded without necessary permissions.
 - Any conveyance which carried goods into India, but which were later missing without any account for the loss.
 - Any conveyance / animal used for smuggling.
- ✓ Section 118 deals with confiscation of packages

- Where the goods imported / exported are liable to confiscation, the packages within which they are cased and carried, are also liable for confiscation.
- ✓ Section 119 states that any goods used to conceal the smuggled goods are also liable to confiscation
- ✓ Section 120 & 121 state that where the smuggled goods undergo a change in their physical form, post smuggling, even then they would be liable for confiscation (example : gold bars, later converted to ornaments). Also, where the smuggled goods are mixed in a manner with other goods such that they are inseparable, entire goods would be liable to confiscation, and if the smuggled goods are sold off, the sale proceeds thereof are liable to confiscation.
- ✓ Section 122 states that the adjudicating authorities shall be given an opportunity of being heard to the party concerned.
- ✓ Section 123 clearly states that if goods are seized, the onus is on the owner to prove that they were not smuggled.
- ✓ Section 124 clearly states that before confiscation, it is necessary that a Show Cause Notice (SCN) is issued to the owner, citing grounds and he should be given an opportunity to make a representation / of being heard. The SCN can be issued by a person not below the rank of Assistant Commissioner of Customs.
- ✓ Section 125 states that the authorised officer may allow the owner an option to pay fine in lieu of confiscation.
- ✓ Section 126 mentions that confiscated goods vest with the Central Government.
- ✓ Section 127 clarifies that any award of confiscation / penalty shall not interfere with or prevent the owner from being punished under any other provisions of this or any other law for the time being in force.

REFUND

Refund of Export Duty

Where on the export of goods; any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if -

- (a) the goods are returned to such person otherwise than by way of re-sale;
- (b) the goods are re-imported within one year from the date of exportation; and

An application for refund of such duty is made within 6 months from the date on which the proper officer makes an order for the clearance of the goods when they are imported back.

Refund of Import Duty

Where on the import of any goods, duty has been paid upon clearance for home consumption, such duty can be refunded to the person by whom or on whose behalf it was paid, if -

- (a) The goods are found to be defective or not in conformity with the specifications.
- (b) The importer does not claim any duty draw back with respect to these goods.
- (c) If the goods are exported back / importer relinquishes his title to the goods / they are destroyed in the presence of the proper officer.

An application for refund of duty is to be made within 6 months from the relevant date, i.e.,

- (a) The date when the proper officer makes an order for clearance of goods when they are exported back.

- (b) Date of relinquishment if the importer relinquishes his title to the goods.
- (c) Date of destruction, where the goods are destroyed.

Moreover, for all general refunds of duty, apart from the ones covered above, have a limitation period of 1 year, that is, the refund application must be filed within 1 year from the date of payment of such duty.

MISCELLANEOUS

Assessment of Duty [Section 17]

Section 17 of the Customs Act, 1962 prescribes the method for self-assessment of duty. The importer and exporter must self-assess the duty if any leviable on such goods. These self-assessed goods may be verified, examined or tested by the proper officer.

For verification, the proper officer may require the importer, exporter or any other person to produce any document or information, on the basis of which the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall be bound to produce such document or furnish such information.

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

Where any re-assessment so done is contrary to the self-assessment done by the importer or exporter with respect to valuation of goods, classification, or concessions of duty availed and where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment.

Where the importer or exporter is unable to make self-assessment and makes a request in writing to the proper officer for assessment; or where the proper officer deems it necessary for any reason whatsoever, the officer may direct that the duty leviable on such goods be subject to provisional assessment if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty as may be finally assessed and the duty provisionally assessed.

When the duty leviable on such goods is assessed finally or reassessed by the proper officer in accordance with the provisions of this Act, then (a) in the case of goods cleared for home consumption or exportation, the amount paid shall be adjusted against the duty finally assessed and if the amount so paid falls short of, or is in excess of the duty finally assessed, the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be; and (b) in the case of warehoused goods, the proper officer may, where the duty finally assessed or re-assessed, as the case may be, is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.

The importer or exporter shall be liable to pay interest, on any amount payable to the Central Government, consequent to the final assessment order or re-assessment order, at the rate fixed by the Central Government from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.

If any refundable amount is not refunded within 3 months from the date of assessment of duty finally or reassessment of duty, as the case may be, there shall be paid an interest on such un-refunded amount at such rate fixed by the Central Government until the date of refund of such amount.

Tag, Tracking Device or Data Logger

As per this notification of the Central Government, a device such as tag, tracking device or data logger already affixed on the container at the time of import shall also be eligible for exemption from the duty of customs and the integrated tax. **(Notification No. 14/2023-Customs, New Delhi, the February 28, 2023)**

Prohibitions

Central Government may prohibit, either absolutely or subject to such conditions specified in the notification, the import / export of goods of the specified description, for:

- (a) Maintenance of national security
- (b) Maintenance of public order / decency
- (c) Prevention of smuggling
- (d) Conservation of exchange
- (e) Safeguarding the balance of payments
- (f) Protection of human lives / animals
- (g) Protection of national treasures
- (h) Protection of Patents & Trade Marks
- (i) Prevention of contravention of any laws or in the interest of the public.

Offences

The following would constitute offences under the Act:

- (a) Any mis-declaration in respect of the goods vis-à-vis its value or description or weight or origin.
- (b) Violation of allied acts, example, Violation of wild life, Drug & Cosmetics Act, Food laws etc.
- (c) Landing of Goods at unauthorised ports.

Such offences could result in civil or criminal liabilities or both and both could run simultaneously. Criminal prosecution could result in imprisonment + fines, and civil prosecution could result in alienation of wealth and penalties.

Criminal Liabilities

- ✓ Punishment up to 7 years.
- ✓ Offences involving duty evasion of more than INR 50 Lakhs, or prohibited goods, are non-bailable.
- ✓ Fraudulent duty drawback claims, exceeding INR 50 Lakhs is also non bailable.

Civil Liabilities

- ✓ Recovery of duties short paid.
- ✓ Interest charge.
- ✓ Penalties.
- ✓ Confiscation of import / export goods.
- ✓ Confiscation of conveyances used for smuggling.
- ✓ Up to 200% duty for unaccounted goods.
- ✓ Up to 5 times the value of goods for forged documents.

The normal limit for the above prosecution is one year, whereas for intended fraud, the time limit is 5 years.

Advance Ruling

This refers to the determination, by the authority, of a question of law / fact specified in the application, regarding the liability to pay duty in relation to an activity proposed to be undertaken by an applicant.

In the context of Customs Act, the activity above in the definition would imply import / export.

The application is made in quadruplicate with the fees specified, and can be withdrawn within 30 days of the application. It is imperative to note that, for matters already pending before the Tribunal / Court, would not be admissible under Advance Ruling separately.

The ruling must be made within 90 days of the application.

Settlement Commission

Settlement Commission has been constituted under the Customs Act to provide speedy resolution of disputes pending before an adjudicating authority. The cases can be referred by applicants with the Commission.

Once the case is submitted before it, it enjoys exclusive jurisdiction over it and then can consequently perform the functions of a customs officer, and thereafter the customs officer cannot investigate, adjudicate or issue notice / corrigendum.

The application will be disposed effectively and suitable orders would be issued by the Commission.

The orders of the Commission are non – appealable, however, amenable to writ jurisdiction of High Court. The appellants can also take the route of Tribunal / High Court and Supreme Court under the litigation mode.

LESSON ROUND-UP

- The CBIC is the authority to appoint and designate establishments under the Act.
- The types of Customs Duties are Basic Customs Duty (BCD). Countervailing duty (CVD) and Special Additional Duty (CVD) are now subsumed under GST, GST Compensation Cess, Protective Duty, Safeguard Duty, CVD on subsidized articles, Anti-Dumping Duty.
- Goods become liable for duty when they are imported into / exported out of India.
- The rates of customs duty are specified under the Customs Tariff Act.
- BCD is calculated on Assessable Value (AV). IGST is calculated on the entire amount (AV plus all Customs Duties). GST Compensation Cess, like IGST is calculated on (AV plus all Duties).
- Warehouses allow goods to be stored and deferment of duty. The goods are to be released from the warehouse, subject to “clearance”; i.e., post assessment and payment of Duty.
- The Duty Drawback is a facility that enables the Exporter to obtain a refund of the Import Duties (Customs Duty) paid on inputs, which are processed for manufacture of goods to be exported.
- In transit, the goods remain in the same vessel and consequently reach the port of clearance. In transshipment, however, the vessel after reaching an intermediate port, transfers the goods to another vessel and the second vessel into which the goods are transferred (loaded) from the first vessel, carries the goods to the destination port.
- The Act and the Rules provide well defined procedures for import / export and the roles and responsibilities of the parties involved, including the Importer, the Exporter, the Custodian, the Customs and the Carrier.

- Varied types of assessments could take place pre-post clearances and there could be circumstances that could allow the refund of the import / the export duty, subject to timelines and conditions being fulfilled.
- The Act provides and enunciates circumstances wherein the goods can be confiscated or fines and penalties can be levied in lieu of the confiscation.
- Offences under the Act could attract civil or criminal liabilities or both.
- Advance Ruling refers to the determination, by the authority, of a question of law / fact specified in the application, regarding the liability to pay duty in relation to an activity proposed to be undertaken by an applicant.
- The Central Government may if it deems necessary to do so in the general interest of the public, exempt goods generally or specifically.

TEST YOURSELF

(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation)

Multiple Choice Questions (MCQs)

- charges are levied by the port authorities if goods are not cleared within 3 days of unloading.
 - Demurrage
 - Warehousing
 - Storage
 - None of the Above
- Section 111 to Section 127 of Customs Act, 1962 deals with
 - Warehousing of goods
 - Confiscation of goods
 - Drawback
 - Goods in Transit
- Warehouses allow goods to be stored and deferment of duty. The Goods are to be released from the Ware- house, subject to
 - Assessment
 - Payment
 - Clearance
 - All of the Above
- In, the vessel after reaching an intermediate port, transfers the goods to another vessel and the second vessel into which the goods are transferred (loaded) from the first vessel, carries the goods to the destination port.
 - Transit
 - Transshipment
 - Both of the Above
 - None of the above

5. IGM stands for

- a) Internal General Memo
- b) International General Memo
- c) Import General Manifest
- d) None of the above

Answers: 1 (a), 2 (b), 3 (d), 4 (b), 5 (c)

Descriptive Questions

1. Explain the following in the context of Custom Act, 1962.
 - a. Person-In-Charge
 - b. Advance Ruling
 - c. Countervailing Duty (CVD)
2. What do you understand by;
 - a. Demurrage
 - b. Territorial waters
 - c. Anti-Dumping Duty (ADD)
3. What is the difference between Transit and Transshipment?
4. Smart Limited imports goods into India by Air having FOB Rs. 10 lakh, cost of freight is Rs. 50,000 and cost of insurance is not ascertainable. Basic custom Duty is 37.5% and IGST is 28%. Compute Assessable Value and total Import Duty.
5. Explain the concept of duty Drawback and what will be the rate of Drawback in case where goods were in possession of the importer for;
 1. Upto 3 months
 2. more than 18 months
 3. more than 9 months to 12 months

LIST OF FURTHER READINGS

- Customs Law Manual – R.K. Jain
- Indirect Taxes – Law & Practice – V.S. Datey

WARNING***Regulation 27 of the Company Secretaries Regulations, 1982***

In the event of any misconduct by a registered student or a candidate enrolled for any examination conducted by the Institute, the Council or any Committee formed by the Council in this regard, may suo-moto or on receipt of a complaint, if it is satisfied that, the misconduct is proved after such investigation as it may deem necessary and after giving such student or candidate an opportunity of being heard, suspend or debar him from appearing in any one or more examinations, cancel his examination result, or registration as a student, or debar him from re-registration as a student, or take such action as may be deemed fit.

It may be noted that according to regulation 2(ia) of the Company Secretaries Regulations, 1982, 'misconduct' in relation to a registered student or a candidate enrolled for any examination conducted by the Institute means behaviour in disorderly manner in relation to the Institute or in or around an examination centre or premises, or breach of any provision of the Act, rule, regulation, notification, condition, guideline, direction, advisory, circular of the Institute, or adoption of malpractices with regard to postal or oral tuition or resorting to or attempting to resort to unfair means in connection with writing of any examination conducted by the Institute, or tampering with the Institute's record or database, writing or sharing information about the Institute on public forums, social networking or any print or electronic media which is defamatory or any other act which may harm, damage, hamper or challenge the secrecy, decorum or sanctity of examination or training or any policy of the Institute.

EXECUTIVE PROGRAMME

TAX LAWS & PRACTICE – TEST PAPER

GROUP 2 • PAPER 7

(This test paper is for practice and self study only and not to be sent to the Institute)

Time allowed: 3 hours

Maximum Mark: 100

Note:

1. Answer ALL Questions.
2. ALL the references to sections in Part-I of the Question Paper relate to the Income-tax Act, 1961 based on Finance Act, 2025 and relevant Assessment Year 2026-27 unless stated otherwise.
3. Wherever necessary, suitable assumptions can be made and the same be stated clearly in the answer.
4. Working notes should form part of the answer.

PART I : DIRECT TAX (60 MARKS)

Question No. 1

State with reasoning whether the following are capital or revenue receipts/expenses:

- i. XYZ & Co. received Rs. 10,00,000 as compensation from ABC & Co. for premature termination of contract of agency.
- ii. ABC Company Ltd. instead of receiving royalty year by year, received it in advance in lump sum.
- iii. An amount of Rs. 2,50,000 was spent by a company for sending its production manager abroad to study new methods of production.
- iv. Payment of Rs. 1,50,000 as compensation for cancellation of a contract for the purchase of machinery with a view to avoid an unnecessary expenditure.
- v. Compensation received for loss of Capital Assets

(3 Mark each * 5 = Total 15 Marks)

Question No. 2

- (a) Mr. Sunil has two minor children, viz., Master A and Master B. Master A is a child artist and Master B is suffering from diseases specified under section 80U of Income Tax Act, 1961. Income of A and B are as follows:

Income of A from stage shows: Rs. 1,00,000

Income of A from bank interest: Rs. 6,000

Income of B from bank interest: Rs. 1,20,000.

Will the income of minor children be clubbed with the income of their parent (Mrs. Sunil is not having any income)?

- (b) Mr. Salim (age 68 years and resident in India) is a retired person earning total pension of Rs. 2,00,000. He purchased gold in December, 2010 and sold the same in April, 2025. Taxable Long-Term Capital Gain amounted to Rs. 2,80,000. What will be his tax liability for the A.Y. 2026-27?
- (c) ABC Ltd. a closely-held company has bonus share capital of Rs. 10 lakhs, General Reserves of Rs. 6 lakhs and current profits of Rs. 2 lakhs. The company has given a loan of Rs. 9 lakhs to one of the shareholders, who is beneficial owner of equity shares holding 10% of the voting power.

Compute amount of dividend in the hands of shareholder.

(5 Mark each * 3 = Total 15 Marks)

Question No. 3

- (a) Mr. Shiv converts his capital assets acquired for an amount of Rs. 2,50,000 in 2005-06 into stock in trade in FY 2016-17 on which the FMV of the capital assets is Rs. 10,00,000. He thereafter sells this assets for Rs. 12,50,000 in FY 2025-26. Please advice on the taxability.
- (b) Explain the provisions of Intra-head set-off and Inter-head set-off of losses in the Income tax Act, 1961.
- (c) How to determine the residential status of Company as per the provision of Income tax Act, 1961?

(5 Mark each * 3 = Total 15 Marks)

Question No. 4

- (a) X Ltd. an Indian Company received dividend of Rs. 15 lakhs from a foreign company in which it holds 28% in nominal value of the equity share capital of the company. X Ltd. incurred expenditure of Rs. 0.25 lakhs on earning this income. Examine the taxability of the dividend under the provisions of the Income-tax Act, 1961.
- (b) Calculate the Advance Tax Payable by Mr. Shivam from the following estimated incomes for the previous year 2025-26:
- Business Income : Rs. 5,75,000;
 - Rent from house property : Rs. 12,000 per month;
 - Municipal taxes : Rs. 12,000;
 - Winning from games : Rs. 70,000 (net of TDS);
 - Life insurance premium paid for himself (sum assured : Rs. 5,00,000) : Rs. 30,000.
- (c) Ms. Anita has 1,000 9% Debentures of AB Ltd. acquired on 15.04.2009 for Rs 85 each. As on 01.02.2026, she sold such asset for Rs 1,25,500. Brokerage @ ½ % of sale value was paid by her. Compute capital gain for AY 2026-27.

(5 Mark each * 3 = Total 15 Marks)

Alternate to Q. No. 4

Question No. 4A

- (i) A domestic company ABC Ltd furnishes the following particulars for AY 2026-27 and solicits your advice on the application of section 115JB Income Tax Act, 1961. You are also required to compute the total income and tax payable.

Particulars		Amount (Rs.)
	Profits as per P&L Account as per Companies Act, 2013	1,95,00,000
	This includes:	
a)	Excess realized on sale of land held as investment	30,00,000
b)	Depreciation on SLM basis	1,00,00,000
c)	Provision for losses of subsidiaries	60,00,000
	Depreciation allowable per Income Tax Rules, 1962	1,50,00,000
	STCG on sale of land mentioned above	40,00,000
	B/f losses	50,00,000
	Unabsorbed Depreciation	60,00,000

The Company has also informal to you that the excess realized on sale of land cannot form part of the book profits u/s 115 JB. You will have to deal with the issue assuming that the Co. is not required to comply with Ind. AS. The annual turnover of ABC Ltd. was INR 40 Crores situated where?

(8 Marks)

- (ii) ABC Ltd. is in the business of manufacture and sale of formal apparels and in order to expand its footprints globally, it has launched a massive online campaign. For the purpose of the online advertisements, it utilized the services of DEF Ltd., based out of Singapore. During the previous year, ABC Ltd. paid a consideration of INR 50,00,000 to DEF Ltd. for such services.

Examine the implications if:

- (a) DEF Ltd. has no permanent establishment in India.
 (b) DEF Ltd. has a permanent establishment in India.

(7 Marks)

PART II: INDIRECT TAX (GST & CUSTOMS) (40 MARKS)

Question No. 5

M/s Vansh and Vyom trading company registered in Delhi company having annual turnover of Rs. 146 lakhs, supplied goods for Rs.1,00,000 through agent (Mr. Raj residing in Goa) to M/s Satya Enterprises in Bikaner (Rajasthan) registered in Agra (Uttar-Pradesh) on October 15, 2025 and issued invoice on October 25, 2025. Payment for the same was received on October 20, 2025.

The sale price includes Special packing charges of Rs.5,000 and duty levied by local authority of Rs.4,000. IGST charged Rs.18,000 but not included in sale price. Subsidy received from an NGO of Rs.5,000 (it is to be noted that sale price of goods have been computed without considering the mentioned subsidy). M/s Vansh and Vyom trading company offers 3% discount on sale price.

- (i) With reference to transaction with M/s Satya Enterprises, determine the Time of Supply of Goods supplied by M/s Vansh and Vyom for the purpose of payment of tax. In case, the transaction would have been executed without any agent, then the answer will be different.

- (ii) You are required to calculate the total value of taxable supply made by M/s Vansh and Vyom and assessing the rate of GST is 18%. If the sale price of goods is derived before considering the subsidy given by the NGO, then will there be any difference in answer.
- (iii) Whether Mr. Raj, the agent of M/s Vansh and Vyom is eligible to pay tax on goods received from M/s Vansh and Vyom? State with reasons.
- (iv) Whether M/s Vansh and Vyom trading company is eligible for "Composition Scheme" State with reasons. In case, M/s Vansh and Vyom is reluctant to apply for "Composition Scheme", then the answer will be different or not?

(5 Marks each*4 =Total 20 Marks)

Attempt all parts of either Q No. 6 or Q No. 6A

Question No. 6

- (a) Mr. Rohan involved in manufacturing business (GST registered) of chemical products. He had a factory in Delhi which he transferred to Mumbai, and closed all operations in Delhi. Whether it will constitute a slump sale. Is he liable to pay tax under GST?

(5 Marks)

- (b) Mr. R is a GST officer and had issued a notice under section 74(1) to Mr. X (an assessee) against which Mr. X filed an appeal. Appellate Authority concluded that notice issued under section 74(1) is not sustainable for the reason that charges of Fraud has not been established. The revenue officer wishes to determine the tax liability by treating the respective notice as if it was issued under section 73(1). Is the action of Revenue Officer is valid?

(5 Marks)

- (c) Determine the place of supply of services as well as their taxability in each of the following independent cases in the context of provisions contained in the CGST Act, 2017:

- (i) Vijay the owner of an immovable property located in Noida gives on rent the said property to Basant of Haryana for commercial purposes.
- (ii) Rahul, a Delhi based Interior Decorator provides his professional services to Rama Enterprises of Agra in respect of property which is intended to be located in Punjab.
- (iii) A USA based company possessing specialization in mineral exploration has been awarded a contract by Singhal Sons Mines of Jaipur (Rajasthan) for mineral exploration in respect of specific sites located in Canada.
- (iv) Rohit, a consulting Engineer provides his professional consultancy services to a UK based company in respect of its three properties located in UK, USA and Dubai.
- (v) A Delhi based builder provides construction services to Punjab based company in respect of construction of its new building in Bangladesh.

(5 Marks)

- (d) Mr. Ravi is an Electronic Commerce Operator. He developed an electronic network where people can register themselves and use the platform for electronic commerce. He approached his Company Secretary to know about the tax implication on e-commerce operators.

- (i) Who can become an e-commerce Operator under GST?
- (ii) Is it mandatory for ecommerce operator to obtain registration?

- (iii) Whether value of net taxable supplies to be calculated at gross level or at GSTIN level?

(3 Marks)

- (iv) Whether TCS is required to be collected by ecommerce operators on supply of services by unregistered suppliers through their portal?

(2 Marks)

Alternate question to Q. No. 6

Question No. 6A

- (a) M/s Shyam Ltd., is a manufacturer of bakery and confectionery products like chocolates (GST Rate 12%), cakes (GST Rate 18%) and sweets (GST Rate 28%) etc. During October, 2025, M/s Shyam Ltd. launched a Diwali Gift pack consisting chocolates, cakes and sweets. The price of Gift pack was fixed at Rs.2,250. In October and November, 2024, the company supplied 50,000 gift packs in the market.

(i) What is the applicable GST rate on Gift Pack under GST?

(ii) If M/s Shyam Ltd. supply their food products separately to different vendors then what will be the rate of GST?

(5 Marks)

- (b) M/s ABC, is a Garments manufacturer registered under GST. It received a Government order for making garments for different armed forces (exempted from GST under a special notification by the Government of India) for which it procured fabric separately.

To execute the work M/s ABC also procured buttons, threads, collars and lining materials which are also used for the production of other goods in the factory. Input Tax Credit available in respect of thread, buttons and collars for the month of December, 2025 was Rs. 50,000, Rs. 90,000 and Rs.1,00,000 respectively and the taxable and exempted supplies during the month were Rs. 20 lacs and Rs. 2 lacs respectively.

Calculate the eligible Input Tax Credit that can be availed by M/s ABC, for the month of December, 2025 in respect of thread, buttons and collars.

(5 Marks)

- (c) Mention the due date/maximum time allowed for the following:

(i) Issue of orders under section 74(10) of the Central Goods & Services Tax Act, 2017.

(ii) Withdrawal period of application for advance ruling under Customs Act, 1962.

(iii) Ascertain the Time of supply of goods for the following scenarios:

(a) Arun supplied goods to Shubham on 15th December, 2025 for 11,800 taxable @ 18% GST.

(b) GST rate reduced to 12% on 20th December, 2025.

(c) Shubham made payment to Arun on 25th December, 2025.

(5 marks)

- (d) (i) Mrs. Seema, a Practicing Company Secretary is located in Gurugram (Haryana). She has returned to India from USA. She has furnished the following information:

Particulars	Amount in (Rs.)
Value of supply of services goods in Delhi	15,00,000
Value of exempt supply of goods in Gurugram, Haryana	15,00,000
Value of exempt supply of goods in Ghaziabad, Uttar Pradesh	8,00,000

- (3 Marks)**

- (2 Marks)**

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