

INDIRECT TAXES

CUSTOMS DUTY



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CUSTOMS DUTY

1. BASIC CONCEPTS

a. INTRODUCTION TO CUSTOMS DUTY:

Meaning of the word "customs":

Customs is a form of indirect tax. Standard English dictionary defines the term 'customs' as duties imposed on imported or less commonly exported goods. This term is usually applied to those taxes which are payable upon goods or merchandise imported or exported.

Historical Background:

The term 'customs' derives its colour and essence from the term 'custom', which means a habitual practice or course of action that characteristically is repeated in like circumstances. Duties on import and export of goods have been levied from time immemorial by all the countries.

The Customs Act was passed and promulgated in India by the Parliament in the year 1962 which replaced the erstwhile Sea Customs Act, 1878. Further, the Customs Tariff Act was passed in the year 1975 to replace the Indian Tariff Act, 1934. The Customs Tariff Act was amended in the year 1985 to move in times with and to deal with the complexities resulting from the rapid development in science and technology and consequent industrial development and expansion of manufacturing and trading activities.

b. CONSTITUTIONAL POWERS:

All the enactments enacted by the Parliament should have its source in the Constitution of India. The power for enacting the laws is conferred on the Parliament and on the legislature of a State by Article 245 of the Constitution. The said Article states:

Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the legislature of a State may make laws for the whole or any part of the state. No law made by the Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

Article 246 governs the subject matter of the laws made by the Parliament and by the legislature of states. The matters are listed in the seventh schedule to the Constitution.

The seventh schedule is classified into three lists as follows:

- *List I [referred as Union List]*

This list enumerates the matters in respect of which the Parliament has an exclusive right to make laws. Entry 83 of Union List has given the power to Central Government to levy duties of Customs including export duties.

- *List II [referred as State List]*

This list enumerates the matters in respect of which the legislature of any state has an exclusive right to make laws.

- *List III [referred as the concurrent list]*

This list enumerates the matters in respect of which both the Parliament and, subject to List I, legislature of any state, have powers to make laws.

Parliament has a further power to make any law for any part of India not comprised in a state, notwithstanding that such matter is included in the state list.

c. IMPORTANT DEFINITIONS:

1. *India [Section 2(27)]*: "India" includes the territorial waters of India.

Meaning and significance of territorial waters of India

Territorial waters of India extend to 12 nautical miles into sea from the appropriate base line.

Goods are deemed to have been imported if the vessel enters the imaginary line on the sea at the 12th nautical mile i.e. if the vessel enters the territorial waters of India. Therefore, a vessel not bound to India should not enter these waters. India includes not only the surface of sea in the territorial waters, but also the air space above and the ground at the bottom of the sea.

2. *Indian customs waters [Section 2(28)]*: "Indian customs waters" means the waters extending into the sea up to the limit of contiguous zone of India (under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976) and includes any bay, gulf, harbour, creek or tidal river.

Indian customs waters cover both the Indian territorial waters and contiguous zone as well. Indian territorial waters extend up to 12 nautical miles (nm) from the base line whereas contiguous zone extend to a further 12 nm from the outer limit of territorial waters. Therefore, Indian customs waters extend to a total of 24 nm from baseline.

3. *Baseline*:

It is the lower water mark along the coast.

4. *Indian territorial waters*:

Indian territorial waters extend up to 12 nautical miles (22 km) from the baseline of India.

5. *Contiguous zone of India*:

It is an area 12 nautical miles beyond the Indian territorial waters. Therefore, it is at a distance of twenty-four nautical miles from the nearest point of the baseline.

6. *Exclusive economic zone of India*:

It is an area beyond the Indian territorial waters. The limit of exclusive economic zone is 200 nautical miles from the nearest point of the baseline.

7. *Continental Shelf of India*:

Continental shelf is the part of the sea floor adjoining a land mass where the depth gradually increases before it plunges into the ocean deeps. The maximum depth of sea water in the continental shelf is 200 meters. Continental shelf of India extends beyond the limit of its territorial waters throughout the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of 200 nautical miles from the baseline.

2. APPOINTMENT OF CUSTOMS PORT AND AIRPORT, PROHIBITION ON IMPORTATION AND EXPORTATION OF GOODS, PREVENTION OR DETECTION OF ILLEGAL IMPORT AND EXPORT OF GOODS

a. APPOINTMENT OF CUSTOMS PORTS, AIRPORTS etc.:

The entry/exit of carriers/passengers etc., is regulated in India by the Customs Act, 1962 which governs/regulates this entry/exit of different categories of vessels/crafts/goods/ passengers etc., into or outside the country.

Under the Customs Act, Government has given powers to appoint Customs ports and airports where alone the imported goods can be brought in for unloading or export goods loaded on ships or air crafts. Similar powers have been given to the Government to notify the places which alone shall be the Land Customs Stations for clearance of imported goods or goods to be exported by land or by inland water. Even the routes of passage by land and inland water into or out of the country can be regulated and these provisions have been made use of specially for regulating traffic for our neighboring countries like Nepal.

Section 7 of the Customs Act, 1962 empowers the Board to appoint by notification in the Official Gazette:

- (a) customs ports and customs airports,
- (aa) inland container depots or air freight stations, for the unloading of imported goods and the loading of export goods or any class of such goods,
- (b) land customs stations for the clearance of goods imported or to be exported by land or inland water or any class of such goods,
- (c) the routes by which alone goods or any class of goods specified in the notification may pass by land or inland water into or out of India, or to or from any land customs station from or to any land frontier,
- (d) the coastal ports for the carrying on of trade in coastal goods or any class of such goods with all or any specified ports in India.
- (e) the foreign post offices for the clearance of imported goods or export goods or any class of such goods;
- (f) the international courier terminals for the clearance of imported goods or export goods or any class of such goods.

Power to approve landing places and specify limits of customs area:

Section 8 of the Customs Act, 1962 empowers the Principal Commissioner/Commissioner of Customs to:

- a. approve proper places in any customs port or customs airport or coastal port for the unloading and loading of goods or for any class of goods;
- b. specify the limits of any customs area.

Illustration:

Who has the powers for the following under the Customs Act, 1962?

- appoint inland container depots;
- appoint land customs stations;
- specify limits of customs area.

Answer:

- Section 7 of the Customs Act, 1962 empowers the Central Board of Excise and Customs to appoint inland container depots.
- Section 7 of the Customs Act, 1962 empowers the Central Board of Excise and Customs to appoint land customs stations.
- Section 8 of the Customs Act, 1962 empowers the Principal Commissioner/ Commissioner of Customs to specify limits of customs area.

b. PROHIBITION ON IMPORTATION AND EXPORTATION OF GOODS:

Prohibited Goods:

The term “prohibited goods” has been defined under section 2(33) meaning “any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with”.

This definition can be split as follows:

- any goods imports/exports of which is subject to any prohibition
- under this Act or any other law for the time being in force
- but does not include any such goods which complies with the conditions imposed.

Hence, this definition is of a wider scope which covers goods not only subject to prohibition under this Act but also under any other law in force. One exception is those goods which complies or fulfills the condition imposed on it.

Purposes for which import/export can be prohibited:

- ✓ the maintenance of the security of India;
- ✓ the maintenance of public order and standards of decency or morality;
- ✓ the prevention of smuggling;

- ✓ the prevention of shortage of goods of any description;
- ✓ the conservation of foreign exchange and the safeguarding of balance of payments;
- ✓ the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver;
- ✓ the prevention of surplus of any agricultural product or the product of fisheries;
- ✓ the maintenance of standards for the classification, grading or marketing of goods in international trade;
- ✓ the prevention of serious injury to domestic production of goods of any description;
- ✓ the protection of human, animal or plant life or health;
- ✓ the protection of national treasures of artistic, historic or archaeological value;
- ✓ the conservation of exhaustible natural resources;
- ✓ the protection of patents, trademarks, copyrights designs and geographical indications;
- ✓ the prevention of deceptive practices;
- ✓ the carrying on of foreign trade in any goods by the State, or by a Corporation owned or controlled by the State to the exclusion, complete or partial, of citizens of India;
- ✓ the fulfilment of obligations under the Charter of the United Nations for the maintenance of international peace and security;
- ✓ the implementation of any treaty, agreement or convention with any country;
- ✓ the compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India;
- ✓ the prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign State or is derogatory to national prestige;
- ✓ the prevention of the contravention of any law for the time being in force; and
- ✓ any other purpose conducive to the interests of the general public.

c. PREVENTION OR DETECTION OF ILLEGAL IMPORT AND EXPORT OF GOODS:

Definitions:

1. "*Illegal import*" means the import of any goods in contravention of provisions of this Act or any other law for the time being in force.
2. "*Illegal export*" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Power of Central Government to notify goods [Section 11b] (Import):

If the Central Government is satisfied that it is expedient in the public interest to take special measures for the purpose of:

- checking the illegal import,
- checking circulation or disposal of such goods, or
- facilitating the detection of such goods,

it may, by notification in the Official Gazette, specify goods of such class or description. Such notification shall be issued having regard to the magnitude of the illegal import of goods of any class or description.

However, it may be noted that at present, no goods are specified as "notified goods".

Power of Central Government to specify goods [section 11i] (Export):

Central Government is empowered to specify goods by notification in the Official Gazette, having regard to the magnitude of the illegal export of goods of any class or description for the purpose of checking the illegal export or facilitating the detection of goods which are likely to be illegally exported.

At present, acetic anhydride, drug formulations containing codeine or its salts and ephedrine and pseudo-ephedrine have been so notified.

3. CLASSIFICATION OF GOODS, APPLICABILITY OF HARMONISED SYSTEM OF NOMENCLATURE

a. CLASSIFICATION OF IMPORTED AND EXPORTED GOODS:

GENERAL EXPLANATORY NOTES:

There are three general explanatory notes included in the First Schedule. They are-

(a) *Relevance of one dash ["-"] and two dash ["--"]:*

- "-" denotes that the said article or group of articles shall be taken to be sub-classification of the article or group of article covered by the said heading.
- "--" denotes that that the said article or group of articles shall be taken to be sub-classification of the immediately preceding article/group of articles which has "-".

(b) *Meaning of abbreviation "%" in relation to the rate of duty:*

The abbreviation "%" in any column of the Schedule in relation to the rate of duty means that the duty shall be computed at the percentage specified on the value of the goods as defined in section 14 of the Customs Act.

(c) *Standard rate of duty applicable if no preferential rate specified:*

In any entry, if no preferential rate of duty has been notified, the standard rate of duty shall be applicable.

I. Customs Tariff:

Need for classification of goods: One of the important steps in assessing the amount of duty payable is classification of the goods within the ambit of the Schedule to the Customs Tariff Act. The correct classification of goods is necessary to ascertain the rate of custom duty which goods are subject to.

II. The Customs Tariff Act, 1975:

Schedules to tariff:

- First Schedule – enlists the goods liable to import duty.
- Second Schedule – enlists the goods liable to export duty.

b. APPLICABILITY OF HARMONISED SYSTEM OF NOMENCLATURE:

Rules of interpretation and explanatory notes:

The Indian Customs Tariff is based upon the **Harmonized System of Nomenclature**.

The Harmonized Commodity Description and Coding System (HS) of tariff nomenclature generally referred to as "Harmonized System of Nomenclature" is an internationally standardized system of names and numbers for classifying traded products developed and maintained by the World Customs Organization (WCO) (formerly the Customs Co-operation Council), an independent inter-governmental organization.

Along the lines of HSN, the customs tariff has a set of Rules of Interpretation of the First Schedule i.e. Import tariff schedule and General Explanatory notes.

1. Rules of interpretation: Six

2. General explanatory notes: Three

These rules of interpretation and general explanatory notes are an integral part of the Schedule. The purpose of inclusion of the rules of interpretation and the general explanatory notes as an integral part of the first schedule is to give clear direction as to how the nomenclature in the schedule is to be interpreted and to give statutory force to the interpretative rules and the general explanatory notes.

RULES OF INTERPRETATION OF THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT:**Rule 1 – General Rule of Classification:**

The above rule lays down the following propositions:-

- (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.

example: Product: Letter closing and sealing machine

Sub-heading 8422 30 00: Machinery for filling, closing, sealing or labeling bottles, cans, boxes, bags or other containers; machinery for capsuling bottles, jars, tubes and similar containers; machinery for aerating beverages. Sub-heading 8472 30 00 *inter alia* covers machines for closing or sealing mails.

Both the headings appear to be relevant for the product in question. However, chapter note 2 to chapter 84 *inter alia* provides that Heading No. 8422 does not cover office machinery of Heading No. 8472. Therefore, the product in question will be classified under 8472 30 00.

Rule 2(a) – Classification of Incomplete/Unfinished Articles:

The above rule lays down the following propositions:-

- (a) 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.
- (b) 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.

example: (a) Railway coaches removed without seats would still be railway coaches.

(b) A car without seats would still be classified as car.

Only goods requiring minor adjustments can be construed as having the essential character:

Only goods requiring minor adjustments would be construed as having the essential character. Those requiring major processes like turning, grinding, broaching, groove cutting, heat treatment, surface treatment etc., cannot be construed as having the essential character of complete and finished articles and cannot fall within the scope of rule 2(a) of the General Interpretative Rules.

Rule 2(b) – Classification of Mixtures/Combinations of a Material/Substance with Other Materials/Substances:

The following propositions are laid out by the above rule.

- (a) Any reference to a material or substance would refer to mixture or combination of that material or substance.
- (b) Any reference to goods containing a particular material or substance would include a reference to goods consisting wholly or partly of such specified material or substance.

example: (a) The term coffee will include coffee mixed with chicory.

(b) Natural rubber will cover a mixture of natural and synthetic rubber.

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

The application of this rule arises when the goods consists of more than one material or substance.

When by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

Rule 3(a) – Specific over general:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description.
- (b) However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

example: Electric shaving machine was classifiable under following two headings:-

Heading No. 85.10: Shavers and hair clippers with self-contained electric motors

Heading No. 85.09: Electro-mechanical domestic appliances with self- contained electric motor

The said product in the above instance would be classifiable under heading No. 85.10 as heading No. 85.10 is more specific as compared to heading No. 85.09.

Rule 3(b) – Essential character principle:

Sub-rule (b) would apply only if the goods cannot be classified under sub-rule (a). This sub-rule provides that composite goods should be classified on the basis of that material or substance that gives it its essential character.

In order to find out whether the incomplete article as imported has the essential character of the completed article, the tests to be applied would be whether the imported article has attained the approximate shape or outline of the finished article or part and whether it can only be used for completion into the particular finished article.

example: Product: Lead pencil with an eraser at the back.

Classification: Though the above product is composite goods, the essential character is that it is a pencil and the attachment of eraser at the stub is only for the purpose of adding convenience to the user. Therefore, it shall be classified as a pencil and not as an eraser.

Rule 3(c) – Latter the better:

When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. If both sub-rules (a) and (b) fails to classify the goods in question, then resort may be had to sub-rule (c), which provides that composite goods shall be classified on the basis of the heading that occurs last in numerical order.

example: Goods were equally classifiable under the following two headings:

Heading No. 87.03: Motor cars and other vehicles principally designed for the transport of persons.

Heading No. 87.04: Motor vehicles meant for transport of goods.

It was held that heading 87.04 occurs last and as both the headings equally merit classification, goods shall be classified under 87.04 applying the interpretative Rule 3(c).

Rule 4 – Akin Rule:

Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin. [*'Akin': of similar character*]

example: Product: Plastic films used to filter or remove the glare of the sun light, pasted on car glass windows, window panes etc.

Classification: These goods do not find a specific entry in the tariff schedule. However, heading 3925 30 00 covers Builder's wares of plastic not elsewhere specified – shutters, blinds (including Venetian blinds) and similar articles & parts thereof. Even though the product in question is not a builders ware, they are most akin to plastic blinds and hence it can be classified under 3925 30 00 heading.

Rule 5 – In addition to the foregoing provisions, the following rules shall apply in respect of goods referred to therein:

(a) Classification of cases/containers used for packaging of goods: Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers shall be classified with a specific article or a set of articles when of a kind normally sold therewith.

Conditions to be fulfilled:

- (i) These cases/containers are specially shaped or fitted to contain a specific article or a set of articles.
- (ii) These cases/containers are suitable for long term use and presented with the articles for which they are intended.

This rule does not, however, apply to containers which give the whole its essential character.

(b) Classification of packing materials and packing containers: Subject to the provisions of (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods, if they are of a kind normally used for packing such goods.

However this provision does not apply when such packing material or packing containers are clearly suitable for repetitive use.

This rule lays down that:-

- (i) Cases which are specially designed or fitted to contain a specific article and given with the articles for which they are intended shall follow the classification of the items which are packed.
- (ii) The packing materials and containers cleared along with the goods are classifiable with the goods.

example: Leather cases, which are normally supplied along with the goods, however costly they may be, need not be treated separately for the purpose of classification.

Exceptions to rule 5:

(a) Durable containers capable of repetitive use should be classified separately.

example: Gas cylinders are meant for repetitive use and therefore cannot be classifiable along with gas.

(b) When packing material itself gives the essential character as a whole.

Rule 6 – Only Sub-Headings at the Same Level are Comparable:

(a) For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub-headings and any related sub-heading notes and, *mutatis mutandis*, to the above rules, on the understanding that only sub-headings at the same level are comparable.

(b) For the purposes of this rule the relative section and chapter notes also apply, unless the context otherwise requires.

The main proposition laid down by this rule is that sub-heading at the same level is comparable. This implies that a sub-heading can be compared only with another sub-heading within the same heading.

4. VALUATION UNDER THE CUSTOMS ACT, 1962

a. INTRODUCTION:

The manner in which duties of customs are charged on goods imported into India (import duty) or goods exported from India (export duty) is basically either by way of –

- (a) A specific duty based on the quantity of the goods like ₹ 1000 per metric tone of steel or
- (b) Ad valorem, namely expressed as percentage of the value of the goods i.e 40% ad valorem. etc.

The disadvantage with a specific rated levy is that the revenue to the Government remains fixed, unless there is variation in the quantum of total imports and exports. The continuous upward trend in the price of goods has suggested that the Government is losing increase in its revenue by not following ad valorem basis of duties.

b. CONCEPT OF VALUE:

Section 2(41) of the Customs Act, 1962, defines value in relation to any goods as the value thereof determined in accordance with the provisions of sub-section (1) or sub-section (2) of section 14.

Some of the values commonly known to the public are:

- (i) Cost price to the manufacturer: It is the total cost incurred by the manufacturer of an article or product in producing or manufacturing the product.
- (ii) Sale price of the manufacture: It is the price at which the manufacturer is selling the goods to the buyer.
- (iii) There are two sale prices namely:
 - (a) a domestic sale price
 - (b) an export price in the course of international trade.
- (iv) In the course of sale, there are two situations namely, wholesale transactions and retail trade. Thus we have –
 - (a) Whole sale price and (b) retail price
- (v) The sale may be on down right cash basis, or payment on delivery of the goods or the title documents or deferred payment say either on installments or after 30 or 90 days.

These situations give rise to (a) cash price; (b) payment by sight draft; (60 or 90 days draft).
- (vi) There are situations where the manufacturer himself may not be exporting the goods in the course of international trade. This gives rise to the concept of suppliers. As a result we have supplier's price.
- (vii) In the course of international trade, where the buyer is in another country, the seller has often to resort to price list or catalogues. This in turn gives rise to list price.
- (viii) There is always a negotiation between the buyer and the seller. The contracted price is arrived at by giving discounts to the list price. Such discounts are given for various considerations. We have therefore terms like
 - (a) Trade discount
 - (b) Quantity discount
 - (c) Prompt payment cash discount
 - (d) L/C discount
 - (e) Special discount
- (ix) There are situations where the goods are defective, sub – standard or there is a glut of stock and the goods have to be sold at the best price available. This yields disposal price.
- (x) The price may vary from consignment from consignment even though there may not be any underhand dealing in the transaction. Such a price is called transaction value.
- (xi) There may be a clear understanding between the overseas seller and the Indian buyer of the goods. They may have a special relationship, such as, the Indian buyer may be the sole selling agent for the goods of the overseas seller. He may be the sole distributor. He may even be a branch or subsidiary of the seller and the sale may be a stock transfer. In such a situation, the price is known as dealer's price.
- (xii) Lastly, if we have no information of any of the matters relating to the transaction and we have only the commercial invoice used in the transaction, the price is invoice price.

b. TERMS USED IN COMMERCIAL PARLANCE:

(1) Invoice	This is the basic commercial document showing particulars regarding description of goods -quantity and unit price -discounts and net price -names of consignor and consignee -payment particulars. -Contract or acceptance of order on the basis of which the goods are supplied.
(2) Packing specification	Giving particulars of the contents of each of each of the package in the consignment.
(3) Certificate of Origin	A certificate issued by the competent authority in the country of manufacture giving the extent of the manufacture in that country.
(4) Bill of Lading	A negotiable document given by the carriers of the cargo giving particulars of: (a) Port of shipment (b) No. of packages covered by the consignment (c) Marks and numbers on the page (d) Name of the vessel in which the goods have been dispatched (e) Name of the consignee of the goods, (f) whether the freight has been pre- paid or is to be collected at the destination. It is a negotiable document which has to be surrendered to the carrier for getting delivery of the goods.
(5) Air Consignment Note	It is a document corresponding to Bill of Lading, in the case of cargo imported or exported by air.
(6) Indent	It is a document showing the particulars of the consignment for which the buyer has placed an order with the supplier. It normally gives particulars about (i) full description of the goods (ii) unit price (iii) mode of payment (iv) quantity required (v) delivery instructions.
(7) Quotation	It is a document, which indicates the price, the terms and other conditions on which the seller is willing to supply goods to the buyer.
(8) Acceptance	It refers to the formalisation of the contract of sale between the buyer and the seller. Once the seller of the goods sends his acceptance of the order of the buyer (the indent) the contract is complete. The acceptance will inter alia contain particulars of description of the goods to be supplied, unit price, including discounts and other charges, time and terms of delivery, penal clause for breach of contract, agreed terms of payment.
(9) Letter of Credit	This is an instrument delivered by the bank intimating the seller that the buyer has instructed the bank and the bank will according to these instructions pay the seller of the goods, the bill amount for the supply of the goods on presentation of certain documents evidencing shipment of the goods.
(10) Sight draft	A document evidencing the amount of money paid for the importation.
(11) Delivery Order	An authorisation given by the local agent of the carriers, on surrender of the original negotiable copy of the bill of lading or air consignment note, directing the custodian of the cargo to deliver the consignment to the importer or his agent.
(12) Mate's Receipt	A receipt given by the First mate or First officer or cargo supervisor of the conveyance certifying the total quantity of the consignment received on board the vessel or the aircraft. A bill of lading or air consignment note is issued by the agent of the Carrier Company on surrender of the mate's receipt.

(13) Retirement of Documents	The original negotiable copies of the shipment documents like invoice, packing specification, certificate of origin.
(14) Non-negotiable documents	Since retirement of the original document takes time, non-negotiable documents are given to the importer to facilitate clearance.
(15) Landing charges	The port authorities have to be paid: (i) Unloading the cargo from the conveyance; (ii) Light house charges (iii) Forklift, warehouse crane charges if they are used for landing.
(16) Boat/Lighterage Charge	Sometimes the vessel is unable to get a berth alongside the quay in the harbour. The goods are then transported from the ship to the shore by boats / lighters. The charges paid therefore are called Boat / Lighterage charges.
(17) Customs Broker	Since the importers / exporters may not be able to devote time and energy to clear imported goods or export goods, and since it involves running about to several organisations apart from customs, like Port, Trust, steamer agents, insurance companies, the assistance of agency organisation having adequate technical knowledge and expertise has been provided in the form of customs broker.
(18) Insurance cover	It is customary to insure all goods in the course of international trade. The general cover relates to risk on account of loss, pilferage, fire, storm etc. However loss of goods on account of seizure of goods due to war, is a separate cover. It is therefore customary to refer to the insurance as marine risk insurance and war risk insurance. The policy and cover of such insurance is a relevant document for valuation.

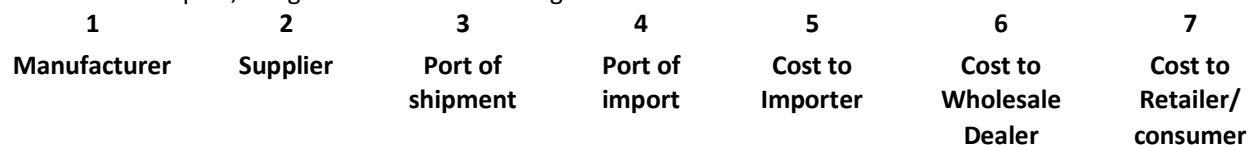
c. TECHNICAL TERMS RELATING TO VALUE IN THE COURSE OF IMPORT OR EXPORT:

(1) Ex-Factory Price	It is the price of the goods as comes out of the factory. It includes cost of production and manufacturer's margin of profit.
(2) F.A.S (Free Alongside)	It is the cost at which the export goods are delivered alongside the ship, ready for shipment. It includes ex-factory + local freight + local taxes.
(3) F.O.B. (Free on Board)	Technically there is not much of a difference between FAS and FOB cost. FOB means the stage at which the goods are placed on board the conveyance carrying the vessel. It can be said to include FAS + loading charges + export duty cess.
(4) C.I.F. (Cost Insurance Freight)	It is the cost at which the goods are delivered at the Indian port. It covers cost of goods. Sometimes there is referred as CFC also.

d. COMPUTATION OF ASSESSABLE VALUE:

TWO APPROACHES FOR COMPUTING THE ASSESSABLE VALUE:

In the course of import, the goods take the following route:



Theoretically the value of the goods at stages (1), (2), (3), (5), (6), (7) is tangible and ascertainable. Furthermore, these values are documented and capable of verification by comparison with corresponding values for such or similar goods.

The documents involved in such stages are:

- (i) Manufacturer's price list / quotation / sale invoices.
- (ii) Supplier's sale invoices/ market prices
- (iii) Customs approved attested documents showing value adopted for levy of export duty and allied controls.
- (iv) Importer's account books
- (v) Sale invoices issued by importer to the wholesale dealer or the next purchaser. Market trend of the prices of the goods.
- (vi) Sale invoices of wholesale dealers; and trend of prices in the market.

The invoice values normally give CIF or FOB values of the goods. The market value is the wholesale market price at which the importers are regularly selling imported goods. These two are the tangible and readily available data, at the hands of the customs officers to arrive at the "assessable value" a notional deducted value of the goods. This is an approach that may be used by the customs officers if the declared value is not acceptable in law.

Thus, two well accepted approaches have evolved for cases of rejection of declared value:

- (i) one starting from the actual whole sale market price of the goods in question and giving necessary abatements to adjust the post – importation costs;
- (ii) the second, to take as base, the value given in the invoice and make necessary adjustments for factors influencing the price in individual transactions.

However, the default mode of valuation is always the declared transaction value, plus the elements that are to be added under law (refer section 14).

e. VALUATION OF GOODS BASED ON SECTION 14:

Section 14 of the Customs Act, 1962 prescribes the mode of identifying the value of imported or export goods for the purpose of payment of customs duty. The provisions of section 14 are discussed below:

TRANSACTION VALUE:

- (i) Sub-section (1) lays down that for the purposes of the Customs Tariff Act, 1975, or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods.
- (ii) In case of export goods, the transaction value shall be
 - the price actually paid or payable for the goods
 - when sold for export from India
 - for delivery at the time and place of exportation
 - where the buyer and seller of the goods are not related and
 - price is the sole consideration for the sale.

However further conditions may be specified in the rules made in this behalf.

- (iii) In case of imported goods, the transaction value shall be:
 - the price actually paid or payable for the goods when sold for export to
 - India
 - for delivery at the time and place of importation
 - where the buyer and seller of the goods are not related and
 - price is the sole consideration for the sale.

However, in this case also further conditions may be specified in the rules made in this behalf.

Such transaction value shall also include in addition to the price as aforesaid, any amount paid or payable for costs and services, including:

- commissions and brokerage,
- engineering,

- design work,
 - royalties and licence fees,
 - costs of transportation to the place of importation,
 - insurance
 - loading
 - unloading and
 - handling charges
- to the extent and in manner specified in the rules made in this behalf.

(iv) Such rules may provide for:

- (a) the circumstances in which the buyer and the seller shall be deemed to be related;
- (b) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;
- (c) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section.

CONVERSION DATES:

- (v) For imported goods, the conversion in value shall be done with reference to the rate of exchange prevalent on the date of filing bill of entry under section 46.
- (vi) For export goods, the conversion in value shall be done with reference to the rate of exchange prevalent on the date of filing shipping bill (vessel or aircraft) or bill of export (vehicle) under section 50.

CURRENCY CONVERSION RATE:

- (vii) The rate of exchange is notified by three agencies- the Central Board of Excise and Customs (Board), the Reserve Bank of India and the Foreign Exchange Dealers' Association of India. For the purpose of customs valuation, "rate of exchange" means the rate of exchange-
 - (i) determined by the Board, or
 - (ii) ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency. Thus, for the purpose of valuation under customs laws, rate notified by CBEC (Board) shall be taken into account.

The CBEC notifies the rates periodically, generally every fortnight. There are separate rates for imported goods (selling rate) and export goods (buying rate).
- (viii) "Foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999.

TARIFF VALUE:

- (ix) Sub-section (2) provides that the Board may fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods by notification in the Official Gazette if it is satisfied that it is necessary to do so.
- (x) Where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value. Provisions of sub-section (2) have an overriding effect on the provisions of sub-section (1).

f. CUSTOMS VALUATION (DETERMINATION OF VALUE OF IMPORTED GOODS) RULES, 2007:

These rules have come into force from 10.10.2007. They apply to imported goods. The rules are given below:

RULE 2 – DEFINITIONS:

- (1) In these rules, unless the context otherwise requires, -

- (a) "computed value" means the value of imported goods determined in accordance with rule 8.
 - (b) "deductive value" means the value determined in accordance with rule 7.
 - (c) "goods of the same class or kind", means imported goods that are within a group or range of imported goods produced by a particular industry or industrial sector and includes identical goods or similar goods.
 - (d) "identical goods" means imported goods –
 - (i) which are same in all respects, including physical characteristics, quality and reputation as the goods being valued except for minor differences in appearance that do not affect the value of the goods;
 - (ii) produced in the country in which the goods being valued were produced; and
 - (iii) produced by the same person who produced the goods, or where no such goods are available, goods produced by a different person, but shall not include imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India were completed directly or indirectly by the buyer on these imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of these imported goods.
 - (e) "produced" includes grown, manufactured and mined.
 - (f) "similar goods" means imported goods –
 - (i) which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade mark;
 - (ii) produced in the country in which the goods being valued were produced; and
 - (iii) produced by the same person who produced the goods being valued, or where no such goods are available, goods produced by a different person, but shall not include imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India were completed directly or indirectly by the buyer on these imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of these imported goods.
 - (g) "transaction value" means the value referred to in sub-section (1) of section 14 of the Customs Act, 1962.
- (2) For the purpose of these rules, persons shall be deemed to be "related" only if –
- (i) they are officers or directors of one another's businesses;
 - (ii) they are legally recognised partners in business;
 - (iii) they are employer and employee;
 - (iv) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or (viii) they are members of the same family.

Explanation I. – The term "person" also includes legal persons.

Explanation II. – Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule.

RULE 3 – DETERMINATION OF THE METHOD OF VALUATION:

- (1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10.
- (2) Value of imported goods under sub-rule (1) shall be accepted: Provided that-
 - (a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which –
 - (i) are imposed or required by law or by the public authorities in India; or
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;
 - (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;

- (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and
 - (d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.
- (3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicates that the relationship did not influence the price.
- (b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.
- (i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;
 - (ii) the deductive value for identical goods or similar goods;
 - (iii) the computed value for identical goods or similar goods.
- Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related.
- (c) substitute values shall not be established under the provisions of clause (b) of this sub-rule.
- (4) If the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

RULE 4 – TRANSACTION VALUE OF IDENTICAL GOODS:

- (1) (a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.
- (b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.
- (c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.
- (2) Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.
- (3) 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.
- (4)

RULE 5 – TRANSACTION VALUE OF SIMILAR GOODS:

- (1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued. Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.
- (2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

RULE 6 – DETERMINATION OF VALUE WHERE VALUE CAN NOT BE DETERMINED UNDER RULES 3, 4 AND 5:

If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8. Provided that at the request of the importer, and with the approval of the proper officer, the order of application of rules 7 and 8 shall be reversed.

RULE 7 – DEDUCTIVE VALUE:

- (1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions:
 - (i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;
 - (ii) the usual costs of transport and insurance and associated costs incurred within India;
 - (iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.
- (2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.
- (3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.
 (b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub- rule (1).

RULE 8 – COMPUTED VALUE:

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;
- (c) the cost or value of all other expenses under sub-rule (2) of rule 10.

RULE 9 – RESIDUAL METHOD:

- (1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India.
 Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.
- (2) No value shall be determined under the provisions of this rule on the basis of—
 - (i) the selling price in India of the goods produced in India;
 - (ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;
 - (iii) the price of the goods on the domestic market of the country of exportation;
 - (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

- (v) the price of the goods for the export to a country other than India;
- (vi) minimum customs values; or
- (vii) arbitrary or fictitious values.

The residuary method can be considered if valuation is not possible by any other method.

RULE 10 – COST AND SERVICES:

- (1) In determining the transaction value, there shall be added to the price actually paid or payable for the imported goods:
- (a) the following to the extent they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods, namely:-
 - (i) commissions and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question;
 - (iii) the cost of packing whether for labour or materials.
 - (b) The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely:-
 - (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dies, moulds and similar items used in the production of the Imported goods;
 - (iii) materials consumed in the production of the imported goods;
 - (iv) engineering, development, art work, design work, and plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods.
 - (c) royalties and licence fees related to the imported goods that the buyer is required to pay, directly or indirectly, as a condition of the sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
 - (d) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller;
 - (e) all other payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller to the extent that such payments are not included in the price actually paid or payable.

Explanation.- Where the royalty, licence fee or any other payment for a process, whether patented or otherwise, is includible referred to in clauses (c) and (e), such charges shall be added to the price actually paid or payable for the imported goods, notwithstanding the fact that such goods may be subjected to the said process after importation of such goods.

- (2) For the purposes of sub-section (1) of section 14 of the Customs Act, 1962 and these rules, the value of the imported goods shall be the value of such goods, for delivery at the time and place of importation and shall include –
- (a) the cost of transport of the imported goods to the place of importation;
 - (b) loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation; and
 - (c) the cost of insurance:
- Provided that –
- (i) where the cost of transport referred to in clause (a) is not ascertainable, such cost shall be twenty per cent of the free on board value of the goods;
 - (ii) the charges referred to in clause (b) shall be one per cent of the free on board value of the goods plus the cost of transport referred to in clause (a) plus the cost of insurance referred to in clause (c);
 - (iii) where the cost referred to in clause (c) is not ascertainable, such cost shall be 1.125% of free on board value of the goods;

Provided further that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed twenty per cent of free on board value of the goods.

Provided also that where the free on board value of the goods is not ascertainable, the costs referred to in clause (a) shall be twenty per cent of the free on board value of the goods plus cost of insurance for clause (i) above and the cost referred to in clause (c) shall be 1.125% of the free on board value of the goods plus cost of transport for clause (iii).

Provided also that in case of goods imported by sea stuffed in a container for clearance at an Inland Container Depot or Container Freight Station, the cost of freight incurred in the movement of container from the port of entry to the Inland Container Depot or Container Freight Station shall not be included in the cost of transport referred to in clause (a).

Explanation: The cost of transport of the imported goods referred to in clause (a) includes the ship demurrage charges on chartered vessels, lighterage or barge charges.

- (3) Additions to the price actually paid or payable shall be made under this rule on the basis of objective and quantifiable data.
- (4) No addition shall be made to the price actually paid or payable in determining the value of the imported goods except as provided for in this rule.

RULE 11 – DECLARATION BY THE IMPORTER:

- (1) The importer or his agent shall furnish –
 - (a) a declaration disclosing full and accurate details relating to the value of imported goods; and
 - (b) any other statement, information or document including an invoice of the manufacturer or producer of the imported goods where the goods are imported from or through a person other than the manufacturer or producer, as considered necessary by the proper officer for determination of the value of imported goods under these rules.
- (2) Nothing contained in these rules shall be construed as restricting or calling into question the right of the proper officer of customs to satisfy himself as to the truth or accuracy of any statement, information, document or declaration presented for valuation purposes.
- (3) The provisions of the Customs Act, 1962 relating to confiscation, penalty and prosecution shall apply to cases where wrong declaration, information, statement or documents are furnished under these rules.

RULE 12 – REJECTION OF DECLARED VALUE:

- (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.
- (2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation.-(1) for the removal of doubts, it is hereby declared that:

- (i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.
- (ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.
- (iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include –
 - (a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
 - (b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;

- (c) the sale involves special discounts limited to exclusive agents;
- (d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;
- (e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value;
- (f) the fraudulent or manipulated documents.

g. CUSTOMS VALUATION (DETERMINATION OF VALUE OF EXPORT GOODS) RULES, 2007:

RULE 2 – DEFINITIONS:

- (1) In these rules, unless the context otherwise requires, -
 - (a) "goods of like kind and quality" means export goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued, produced by the same person or a different person; and
 - (b) "transaction value" means the value of export goods within the meaning of sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962).
- (2) For the purposes of these rules, persons shall be deemed to be "related" only if –
 - (i) they are officers or directors of one another's businesses;
 - (ii) they are legally recognised partners in business;
 - (iii) they are employer and employee;
 - (iv) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or
 - (viii) they are members of the same family.

Explanation I. - The term "person" also includes legal persons.

Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule.

RULE 3 - DETERMINATION OF THE METHOD OF VALUATION:

- (1) Subject to rule 8, the value of export goods shall be the transaction value.
- (2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.
- (3) If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6.

RULE 4 - DETERMINATION OF EXPORT VALUE BY COMPARISON:

- (1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).
- (2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-
 - (i) difference in the dates of exportation,
 - (ii) difference in commercial levels and quantity levels,
 - (iii) difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,

- (iv) difference in domestic freight and insurance charges depending on the place of exportation.

RULE 5 - COMPUTED VALUE METHOD:

If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following:-

- (a) cost of production, manufacture or processing of export goods;
- (b) charges, if any, for the design or brand;
- (c) an amount towards profit.

RULE 6 - RESIDUAL METHOD:

- (1) Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods.

RULE 7 - DECLARATION BY THE EXPORTER:

The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf.

RULE 8 - REJECTION OF DECLARED VALUE:

- (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.
- (2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation - (1) For the removal of doubts, it is hereby declared that-

- (i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 6.
- (ii) The declared value shall be accepted where the proper officer is satisfied about the truth or accuracy of the declared value after the said enquiry in consultation with the exporter.
- (iii) The proper officer shall have the powers to raise doubts on the declared value based on certain reasons which may include –
 - (a) the significant variation in value at which goods of like kind and quality exported at or about the same time in comparable quantities in a comparable commercial transaction were assessed.
 - (b) the significantly higher value compared to the market value of goods of like kind and quality at the time of export.
 - (c) the misdeclaration of goods in parameters such as description, quality, quantity, year of manufacture or production.

h. DATE FOR DETERMINATION OF RATE OF DUTY AND TARIFF VALUE:*FOR IMPORTED GOODS [SECTION 15]:*

Section 15 of the Customs Act, 1962 specifies that the relevant date for determining the rate of duty and tariff valuation of imported goods. They are different for different situations as given below:

- (a) Goods are entered for home consumption under section 46 – The relevant date for the three modes of transport as laid down by section 15(1)(a) read with proviso would be as follows:
- (i) For goods imported by vehicle at land customs station – the relevant date is the date of filing the B/E under section 46 or date of arrival of vehicle, whichever is later.
 - (ii) For goods imported by a vessel at a customs port – the relevant date is the date of filing the B/E under section 46 or date of entry inwards to vessel under section 31, whichever is later.
 - (iii) For goods imported by aircraft at a customs airport – the relevant date is the date of filing the B/E under section 46 or date of arrival of aircraft, whichever is later.
- (b) Goods cleared from a warehouse under section 68 – the relevant date is the date on which a bill of entry for home consumption in respect of such goods is presented.
- (c) In the case of any other goods – the relevant date is the date of payment of duty.
These provisions relating to determination of relevant date do not apply to baggage and imports by post, in which sections 78 and 83 apply respectively.

FOR EXPORT GOODS [SECTION 16]:

The relevant date for export goods is determined as per section 16. However, the provisions do not apply to baggage and imports by post.

The provisions are as follows:

- (a) In case of goods entered for export (irrespective of the mode of transport) – the relevant date is the date of the 'let export' order of the proper officer permitting export and loading of cargo on board under section 51.
- (b) In case of any other goods – the relevant date is the date of payment of duty.

5. LEVY OF AND EXEMPTIONS FROM CUSTOMS DUTY, DUTIABLE GOODS AND TYPES OF DUTY**a. BASIC CUSTOMS DUTY [SECTION 12 OF THE CUSTOMS ACT & SECTION 2 OF THE CUSTOMS TARIFF ACT]:**

Basic Customs Duty is levied under the provisions of section 12 of the Customs Act and section 2 of the Customs Tariff Act.

Charging section: The duties of customs shall be levied:

- at such rates* as may be specified under the Customs Tariff Act, 1975 or any other law for the time being in force
- on goods imported into or exported from India [Section 12 of the Customs Act, 1962]

*Rates of basic custom duty: The rates at which duties of customs shall be levied under the Customs Act 1962 are specified in the First and Second Schedules [Section 2 of the Customs Tariff Act, 1975]

Standard rate of duty: Generally, the rate of duty specified in column (4) is applicable.

Preferential rate of duty: If the goods are imported from the areas notified by the Central Government to be preferential areas, then the rate of duty under column (5) will be applicable.

The Government may by notification under section 25 of the Customs Act prescribe preferential rate of duty in respect of imports from certain preferential areas.

Conditions to be fulfilled for preferential rate of duty: The importer will have to fulfill the following conditions to make the imported goods eligible for preferential rate of duty:-

- (a) At the time of importation, he should make a specific claim for the preferential rate.
- (b) He should also claim that the goods are produced or manufactured in such preferential area.
- (c) The area should be notified under section 4(3) of the Customs Tariff Act to be a preferential area.
- (d) The origin of the goods shall be determined in accordance with the rules made under section 4(2) of the Customs Tariff Act.

If the importer fails to discharge the above duties, the goods shall be liable to standard rate of duty.

INTEGRATED TAX [SECTION 3(7) OF THE CUSTOMS TARIFF ACT]

Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent as is leviable under section 5 of Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8).

GOODS AND SERVICES TAX COMPENSATION CESS [SECTION 3(9) OF CUSTOMS TARIFF ACT]

GST compensation cess is a compensation cess levied under section 8 of the Goods and Services Tax (Compensation to State) Act, 2017. GST compensation cess is levied on intra-state supply of goods or services and inter-state supply of goods or services to provide compensation to the States for loss of revenue due to implementation of GST in India.

It may be noted that GST compensation cess would be applicable only on those supply of goods or services that have been notified by the Central Government. As of now, GST compensation cess is levied on luxury and sin goods like pan masala, tobacco etc.

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 sub-section (10).

Manner of computing assessable value for levying Integrated tax [Section 3(8) of Customs Tariff Act]

For the purposes of calculating the integrated tax on any imported article where such tax is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of—

- (a) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and
- (b) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include the integrated tax referred to in section 3(7) of the Customs Tariff Act, 1975 or the goods and services tax compensation cess referred to in section 3(9) of the Customs Tariff Act, 1975.

The assessable value for levying GST compensation cess is to be computed in the same manner as discussed above. [Section 3(10) of Customs Tariff Act]

Tariff value: [Section 2(40)]

“Tariff value”, in relation to any goods, means the tariff value fixed in respect thereof under sub-section (2) of section 14.

Value: [Section 2(41)]

“Value”, in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) or sub-section (2) of section 14.

b. ADDITIONAL DUTY OF CUSTOMS UNDER SECTION 3 OF CUSTOMS TARIFF ACT:

- (1) *Additional duty under section 3(1)*: Any article which is imported into India is also liable to a duty equal to the excise duty for the time being leviable on a like article if produced or manufactured in India. This duty is called as additional duty. If the excise duty is leviable at a percentage of the value of the goods, the additional duty will also be calculated at that percentage of the value of the imported article.

Rate of additional duty in case of alcoholic liquor: In case of any alcoholic liquor for human consumption imported into India, the Central Government may notify the rate of additional duty having regard to the excise duty for the time being leviable on like alcoholic liquor produced or manufactured in different States. In case if the like alcoholic liquor is not produced or manufactured in any State, then, the excise duty which would be leviable for the time being in different States on the class or description of alcoholic liquor to which such imported alcoholic liquor belongs would be the applicable rate.

- (2) *Countervailing duty under section 3(3)*: Special additional duty under sub-section (3) is levied to counter balance the excise duty leviable on raw materials, components and ingredients of the same nature as, or similar to those, used in the production or manufacture of the imported article. The Central Government can levy such duty if it is satisfied that it is necessary in the public interest to do so even if such article is liable to additional duty leviable under sub-section (1).
- (3) *Levy of special additional duty under section 3(5)*: If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article [whether on such article duty is leviable under sub-section (1) or, as the case may be, sub-section (3) or not] such additional duty as would counter-balance the sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India, it may, by notification in the Official Gazette, direct that such imported article shall, in addition, be liable to an additional duty at a rate not exceeding 4% of the value of the imported article as specified in that notification.

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 Council. Thus, additional duty of customs will be levied only on the few products not leviable to GST.

c. PROTECTIVE DUTIES [SECTION 6 & 7 OF THE CUSTOMS TARIFF ACT]:

The two types of custom duties are revenue duties and protective duties:

- (a) Revenue duties: are those which are levied for the purpose of raising customs revenue.
- (b) Protective duties: are intended to give protection to indigenous industries. If resort to protective duties is not made there could be a glut of cheap imported articles in the market making the indigenous goods unattractive.

Factors to be considered while giving protection through protective duties: The protection through protective duties is given considering the following factors:

- (a) The protective duties should not be very stiff so as to discourage imports.
- (b) It should be sufficiently attractive to encourage imports to bridge the gap between demand and supply of those articles in the market.

Levied by Central Government: The protective duties are levied by the Central Government upon the recommendation made to it by the Tariff Commission and upon it being satisfied that circumstances exist which render it necessary to take immediate action to provide protection to any industry established in India [Section 6].

Duration of protective duties: The protective duty shall be effective only upto and inclusive of the date if any, specified in the First Schedule [Section 7(1)].

Power of Central Government to alter such duties: The Central Government may reduce or increase the duty by notification in the Official Gazette.

However, such duty shall be altered only if it is satisfied, after such inquiry as it thinks necessary, that such duty has become ineffective or excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in India [Section 7(2)].

In case of increase in duty, approval of Parliament required: If there is any increase in the duty as specified above, then the Central Government is required to place such notification in the Parliament for its approval.

Every notification insofar as it relates to increase of such duty, shall be laid before each House of Parliament if it is sitting as soon as may be after the issue of the notification, and if it is not sitting within seven days of its re-assembly, and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People. If the Parliament recommends any change in the notification, then the notification shall have effect subject to such changes. However, anything done pursuant to the notification before the recommendation by the Parliament shall be valid [Section 7(3)].

d. COUNTERVAILING DUTY ON SUBSIDIZED ARTICLES [SECTION 9 OF THE CUSTOMS TARIFF ACT]:

Conditions to be satisfied: The countervailing duty on subsidized articles is imposed if the following conditions are satisfied:

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

Subsidy shall be deemed to exist if-

- (a) There is financial contribution by the Government or any public body in the exporting or producing country or territory. Such contribution may include direct transfer of funds like grants, loans etc., waiver of revenue due to the Government etc.
- (b) There is any form of income or price support granted or maintained by the Government, which results in increased export of such article or reduced import of any article into that country.
- (c) A Government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified above which would normally be vested in the Government and the practice in, no real sense, differs from practices normally followed by Governments.

Amount of countervailing duty on subsidized articles: The amount of countervailing duty shall not exceed the amount of subsidy paid or bestowed as aforesaid.

Points which merit consideration:

- (a) This duty is in addition to any other duty chargeable under this Act or any other law for the time being in force.
- (b) Countervailing duty shall not be levied unless it is determined that -
 - (i) The subsidy relates to export performance;
 - (ii) The subsidy relates to the use of domestic goods over imported goods in the export article; or
 - (iii) The subsidy has been conferred on a limited number of persons engaged in the manufacture, production or export of articles.

Duration of countervailing duty on subsidized articles: Unless revoked earlier, the duty imposed under this section shall be in force for a period of 5 years from the date of its imposition.

Extension of period: Central Government may extend the period of such imposition from the date of such extension provided it, in a review, is of the opinion that such cessation is likely to lead to continuation or recurrence of such subsidization and injury.

However, the extension can be for a maximum period of 5 years.

If the review is not completed before the expiry of the period of imposition (5 years) then the duty may continue to remain in force pending the outcome of such review for a further period not exceeding 1 year.

Provisional countervailing duty on subsidized articles:

- (a) When the determination of the amount of subsidy is pending, the Central Government may impose a provisional countervailing duty not exceeding the amount of such subsidy as provisionally estimated by it.
- (b) If the final subsidy determined is less than the subsidy provisionally determined, then the Central Government shall reduce such duty and also refund the excess duty collected.

Retrospective imposition of countervailing duty:

Conditions to be satisfied: The following conditions should be satisfied for imposition of countervailing duty with retrospective effect –

- (a) The injury to domestic industry, which is difficult to repair, is caused by massive imports in a relatively short period, of the articles benefiting from subsidies.
- (b) In order to preclude recurrence of such injury, it is necessary to levy countervailing duty retrospectively.

Note: The retrospective date from which the duty is payable shall not be beyond 90 days from the date of notification.

d. ANTI-DUMPING DUTY [SECTION 9A OF THE CUSTOMS TARIFF ACT]:

When the export price of a product imported into India is less than the Normal Value of 'like articles' sold in the domestic market of the exporter, it is known as dumping. Although there is nothing inherently illegal or immoral in exporter charging a price less than the price prevailing in its domestic market, Designated Authority can initiate necessary action for investigations and subsequent imposition of anti-dumping duties, if such dumping causes or threatens to cause material injury to the domestic industry of India.

Anti-dumping action can be taken only when there is an Indian industry which produces "like articles" when compared to the allegedly dumped imported goods. Further, this duty is country specific i.e. it is imposed on imports from a particular country.

Dumping is: *Normal value in the exporting market > Export price*

Section 9A(1) of the Customs Tariff Act, 1975 provides that where any article is exported by an exporter or producer from any country or territory (hereinafter in this section referred to as the exporting 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 not exceeding the margin of dumping in relation to such article.

Computation of anti-dumping duty: Anti-dumping duty is:

(i) Margin of dumping

or

(ii) Injury margin

whichever is lower.

The anti-dumping duty chargeable under this section is in addition to any other duty imposed under this Act or any other law for the time being in force.

(a) Margin of dumping: In relation to an article, it means the difference between its export price and normal value. It is generally expressed as a percentage of the export price.

Margin of dumping = Normal Value – Export Price

- (b) Export price: in relation to an article, means of goods imported into India is the price of an article exported from the exporting country or territory.

Constructed export price: In cases where there is no export price or the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed at the price at which the imported articles are first resold to an independent buyer.

In case where the article is not resold to an independent buyer or not resold in the condition as imported, the export price shall be constructed on such reasonable basis as may be determined in accordance with the rules made.

- (c) Normal value: in relation to an article, means comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules.

When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-

- (i) Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made; or
- (ii) The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made;
- (iii) However, in case the article is imported from a country other than the country of origin or where the article has merely been transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

- (d) Injury margin: Injury margin is the margin adequate to remove the injury to the domestic industry. It is the difference between the Fair Selling Price [Non- Injurious Price (NIP)] due to the Domestic Industry and the Landed Value of the dumped imports.

Rules relating to anti-dumping duty: The Central Government will determine and ascertain the margin of dumping as referred to in sub-section (1) or sub- section (2) from time to time after carrying out necessary inquiry. Central Government, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner:

- (i) in which articles liable for anti-dumping duty may be identified,
- (ii) in which the export price, the normal value, the margin of dumping in relation to such articles may be determined and
- (iii) for the assessment and collection of such anti-dumping duty [sub-section (6)].

Refund of anti-dumping duty: Section 9AA provides that where upon determination by an officer authorised in this behalf by the Central Government under clause (ii) of sub-section (2), an importer proves to the satisfaction of the Central Government that he has paid anti-dumping duty imposed under sub- section (1) of section 9A on any article, in excess of the actual margin of dumping in relation to such article, the Central Government shall, as soon as may be, reduce such anti-dumping duty as is in excess of actual margin of dumping so determined, in relation to such article or such importer, and such importer shall be entitled to refund of such excess duty.

e. EDUCATION CESS AND SECONDARY AND HIGHER EDUCATION CESS:

With effect from 10.07.2004, an education cess has been levied on items imported into India. It is leviable @ 2% on the aggregate of duties of customs leviable on such goods. However, following duties shall be excluded for computing this cess:

- (a) Additional duty leviable under section 3(5) of the Customs Tariff Act, 1975;
- (b) Safeguard duty under section 8B of the Customs Tariff Act, 1975
- (c) Countervailing duty under section 9 of the Customs Tariff Act, 1975

- (d) Anti dumping duty under section 9A of the Customs Tariff Act, 1975
- (e) Secondary and higher education cess
- (f) Education cess itself on imported goods

Items attracting customs duty at bound rates under International Commitments are exempt from this cess. The education cess so collected is utilized for providing and financing universalised quality basic education.

Further, a secondary and higher education cess @ 1% has also been imposed on imported goods with effect from 01.03.2007. The proceeds from this cess will be utilized to finance secondary and higher education. It shall be chargeable on the aggregate duties of customs.

However, following duties shall be excluded for computing this cess:-

- (a) Additional duty leviable under section 3(5) of the Customs Tariff Act, 1975;
- (b) Safeguard duty referred to in sections 8B of the Customs Tariff Act, 1975;
- (c) Countervailing duty leviable under section 9 of the Customs Tariff Act, 1975;
- (d) Anti-dumping duty leviable under section 9A of the Customs Tariff Act, 1975; and
- (e) Education cess and
- (f) Secondary and higher education cess itself on imported goods.

The education cess and secondary and higher education cess on imported goods are in addition to any other duties of customs chargeable on such goods, under the Customs Act, 1962 or any other law for the time being in force.

The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall apply in relation to the levy and collection of education cess and secondary and higher education cess on imported goods as they apply in relation to the levy and collection of the duties of customs on such goods.

6. IMPORTATION, EXPORTATION AND TRANSPORTATION OF GOODS

a. PROCEDURE FOR THE CLEARANCE OF IMPORTED GOODS:

RESTRICTIONS ON CUSTODY AND REMOVAL OF IMPORTED GOODS [SECTION 45]:

Once the imported goods have entered the Customs area, there arises the question of who is responsible for the safe custody of goods.

This section requires that until the imported goods are cleared for home consumption or are warehoused or are exported for transshipment, they shall remain in the custody of such person as may be approved by the Principal Commissioner/Commissioner of Customs [Section 45(1)]. This person is called the custodian. The responsibility of the custodian commences in respect of imported goods the moment the ship is berthed in the harbour or the goods are ready for unloading from the aircraft. In major ports, the custodian is the Port Trust. In other places, the custodians are the ware house keepers. In Inland Container Depots, the Container Corporation of India is the custodian of the imported cargo. In case of air cargo, the custodian is the National Airport Authority. For goods brought by rail, the custodian is the Station Master.

Responsibility of Custodian of goods: During the time the goods are in the custody of the custodians, they have the following responsibilities [Section 45(2)].

- (a) Maintain a proper record of goods received from the carriers and send a copy of the record to the proper officer.
- (b) Not to permit such goods to be removed from the customs area or allow them to be dealt with otherwise except under the specific permission in writing of the proper officer.

In pursuance to this responsibility, the custodian is required to tally the particulars of the goods landed by a vessel, and send a report known as out turn statement to the customs authorities. This enables the customs authorities to check whether all goods manifested in the import general manifest for landing in a particular place have actually been landed. In case of the goods are not so landed, action is taken against the carriers.

Liability of the Custodians [Section 45(3)]

This provision provides that notwithstanding anything contained in any law for the time being in force, if any imported goods are pilfered after unloading in any customs area, while in the custody of the custodian, such custodian shall be liable to pay duty on such goods. Therefore, in respect of pilfered goods covered by section 13,

the loss of revenue is compensated by the custodian. The duty shall be paid at the rate prevailing on the day of delivery of the import manifest or as the case may be, an import report to the proper officer under section 30 for the arrival of the conveyance in which such goods were carried.

This provision is intended to make the custodian of the imported goods lying in customs area liable for duty even if they are pilfered when they were in their custody. Earlier, in the matter of pilfered goods, the government has been losing the revenue, while the importer's interest was protected.

Section 45 holds the custodian responsible only in respect of the Customs duty in respect of pilfered goods. It does not extend to the value of goods lost. If the custodian has no explanation at all to show how the loss occurred in respect of goods in its custody, the custodian is liable for loss of goods.

FILING OF IMPORT BILL OF ENTRY [SECTION 46]:

It is the duty of the importer of any goods to make an application electronically to the proper officer for clearance of the goods. The importer is required to make an electronic integrated declaration to the Customs Computer Systems through network facility. The Bill of Entry (Electronic Integrated Declaration) Regulations, 2011, provides the details. However, the Principal Commissioner/ 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. Hence, manual submission of Bill of Entry is allowable in cases where electronic submission is not feasible. The form of the bill of entry is governed by Bill of Entry (Forms Regulations, 1976).

The goods may be cleared for home consumption or for deposit in a warehouse or for transit or transshipment. Therefore, there are three types of Bills of Entries prescribed for these three different purposes.

Form I (White) – for home consumption.

Form II (Yellow) – for warehousing (into bond).

Form III (Green) – for ex-bond clearance for home consumption (ex-bond). When Bill of Entry is filed electronically, it is in four copies:

- (a) Original, meant for the customs authorities for assessment and collection of duty;
- (b) Duplicate, intended as an authority to the custodian of the cargo to release cargo to the importer from his custody;
- (c) Triplicate, as a copy for record for the importer; and
- (d) Quadruplicate, as a copy to be presented to the bank or Reserve Bank of India for the purposes of making remittance for the imported goods.

The importer is required to declare in the Bill of Entry amongst other things the particulars of packages, the descriptions of the goods, in terms of the description given in the Customs Tariff to enable proper classification of the goods and the correct value of the goods for the determining the amount of duty. Since the assessment is based on the declaration made by the importer, the onus is cast upon him to make a declaration and solemn affirmation about the truth of the contents in the Bill of Entry.

Importer unable to furnish details: If for any reason the importer is unable to furnish these details, he may request the customs officials to examine the goods in his presence to enable him to ascertain the necessary details for making a proper declaration in the bill of entry. Alternatively, he can seek permission to deposit the goods in a public bonded warehouse appointed under section 57 pending receipt of the necessary information and the supporting documents under section 49. This is also called warehousing without warehousing.

Such goods shall not be deemed to be warehoused goods for the purpose of the Act and accordingly warehousing provisions shall not apply to such goods.

Bill of Lading: The Bill of Lading given by the carrier of the goods is the importer's document of title to the goods. The Bill of Lading covers all the goods imported with full description.

Time limit for filing: According to section 46(3), the importer shall present the bill of entry before the end of the next day following the day (excluding holidays) on which the aircraft/vessel/vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

The proviso to section 46(3) provides that a bill of entry may be presented within 30 days of the expected arrival of the aircraft/vessel/vehicle by which the goods have been shipped for importation into India:

However, 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 prescribed charges for late presentation of the bill of entry.

CLEARANCE OF GOODS [SECTION 47]:

Once the customs check and payment of duty is completed, the customs officers allow clearance of the goods. Section 47 provides that where the proper officer is satisfied that the goods entered for home consumption are not prohibited and the appropriate import duty and any charges payable thereon has been paid, he can make an order permitting clearance of the goods for home consumption. However, Central Government may permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules. In this respect, Central Government has permitted importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) to make deferred payment of import duty (eligible importers). AEO means Authorized Economic Operator certified by the Directorate General of Performance Management under CBEC. On making this order, which is popularly known as “pass out of customs charge order” the bill of entry (duplicate) copy is produced to the custodian who delivers the goods to the importer.

Some major importers have been given the green channel clearance facility. It means clearance of goods is done without routine examination of the goods. They have to make a declaration in the declaration form at the time of filing of bill of entry. The appraisal is done as per normal procedure except that there would be no physical examination of the goods. Only marks and number are to be checked in such cases. However, in rare cases, if there are specific doubts regarding description or quantity of the goods, physical examination may be ordered by the senior officers/investigation wing like SIIB.

b. PROCEDURE FOR THE CLEARANCE OF EXPORT GOODS:

ENTRY OF GOODS FOR EXPORTATION [SECTION 50]:

The exporter is, under section 50 of the Customs Act, required to present electronically to a proper officer of customs a shipping bill in case of export by a vessel or by air and a bill of export, in case of export by a vehicle.

However, the Principal Commissioner/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. Hence, manual submission of shipping bill/bill of export is allowable in cases where electronic submission is not feasible.

Normally a shipping bill is permitted to be filed only after an entry outward has been granted for the particular vessel or aircraft by which the goods are to be exported. However, under special circumstances the Principal Commissioner/Commissioner of Customs may permit advance shipping bill to be filed. 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.

CLEARANCE OF GOODS FOR EXPORTATION [SECTION 51]:

After the shipping bill is filed, they are presented for the customs appraisal. Here also there are two parts namely, scrutinising assessment and physical check of assessment. Since the export regulations are not strict and rigid, these procedures are very simple. After the customs officer is satisfied that the goods are not prohibited and the exporter has paid the duty and other charges payable in respect of same, he makes the order for shipment on the duplicate copy of the shipping bill. This is known as “Let Export” orders. However, Central Government may permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules.

Further, in case of deferred payment of duty, where the exporter fails to pay the export duty, either in full or in part, by such due date as may be specified by rules, he will have to pay interest on said duty not paid or short-paid till the date of its payment. The Central Government will notify the rate of interest within a range of 5% p.a. to 36% p.a.

NOTICE OF SHORT-EXPORT OF GOODS:

According to the Notice of Short Export Rules, 1963, if any goods mentioned in a shipping bill or bill of export and cleared for exportation are not exported, the exporter shall, within seven days, from the date of departure of the conveyance by which such goods were exported, furnish the prescribed information to the proper officer in respect of such goods.

FLOW PATTERN FOR EXPORT:

Let us now consider the various steps and controls exercised by the Customs department on the export goods.

- (a) The exporter files an application for export of goods known as Shipping Bill.
- (b) After the appraising department, assesses the export duty on the shipping bill, export cess etc. are collected.
- (c) Thereafter the Shipping Bill along with the export cargo is presented to the Customs officers in charge of supervision of the loading of the Cargo. (These officers are generally called Preventive Officers in the major Custom Houses.) The Preventive Officer after satisfying himself that all the customs checks including Export Trade Control license and export duty payment have been completed, will endorse the shipping bill with a "Let Ship" order.
- (d) On receipt of the cargo on board the ship, the master/mate/agent of the ship issues a receipt of the quantity and particulars of the cargo loaded on the ship.
- (e) If the ship is not berthed alongside the quay and the goods have to be taken to the ship by boats/lighters the boat note procedure would be followed.
- (f) When the Shipping Bill is presented to the master/agent/mate of the vessel, the export cargo will be permitted to be loaded.
- (g) The Customs Officer endorses on the Shipping Bill the quantity of the goods- loaded into the ship under the Shipping Bill.

c. PROCEDURE FOR POSTAL ARTICLES:

IMPORT AND EXPORT OF GOODS BY POST:

In the case of goods imported by post the agency for the carriage of goods is the Government of India be it through sea, air or land. The control of the Customs Department is only on goods, whether imported or exported

- (a) on which there is a duty; and
- (b) which are subject to prohibition or restriction under the Customs Act or any other law for the time being in force.

The customs have no concern over other goods or other mail.

Relevant date for Rate of duty and tariff valuation in respect of goods imported or exported by post [Section 83]:

- (a) The rate of duty and tariff value, if any, applicable to any goods imported by post shall be the rate and valuation in force on the date on which postal authorities present to the proper officer a list containing the particulars of such goods for the purposes of assessing the duty thereon.
However, where the postal goods arrive on a vessel, and the list containing the particulars is available and is filed by the Post Master, before the arrival of the vessel, the list shall be deemed to have been filed on the date of arrival of the vessel.
The effect of this proviso is that the relevant date for imports by post is the date of submission of the list by the Post Master or the date of arrival of the vessel, whichever is later.
- (b) The rate of duty and tariff value applicable to any goods exported by post shall be the rate and valuation in force on the date on which the exporter delivers such goods to the postal authorities for exportation.

Regulations regarding goods imported or to be exported by post [Section 84]:

This section empowers the Board to make regulations providing:

- (a) the form and manner in which an entry may be made in respect of goods imported or to be exported by post
- (b) the examination, assessment to duty, and clearance of goods imported or to be exported by post
- (c) the transshipment or transit of goods imported by post from one Customs station to another or to a place outside India.

7. WAREHOUSING

a. INTRODUCTION:

➤ The concept of warehousing is a trade practice involving tradeoff between (a) the economics of importation and (b) the quantitative requirement of the importer at any given point of time. Warehousing is resorted to in case where the importer does not want to clear the goods immediately:

- due to lack of storage facilities or
- in case of arrival of shipment much earlier than planned or
- in case of working capital issues.

➤ When goods are warehoused, no customs duty is payable on such goods at such point of time. Sections 57 to 73 deal with warehousing provisions. This facility is available to traders as well as to direct importers.

example: Mr. A needs 50 tonnes of rice at any given point of time. He has to import the same from Mr. B. However, in case the supplier – Mr. B does not agree to sell that much quantity or the freight is not economical, Mr. A - the importer, in these circumstances, is forced to place an order for 200 tonnes. As soon as the goods are imported, duty has to be assessed on them. Therefore, instead of clearing the whole consignment, Mr. A is allowed to clear the consignment in convenient lots after paying appropriate duty on that particular portion that is cleared. During the intervening period, the goods are held in custody in a place called warehouse.

➤ The consideration the importer is required to pay for this facility was that:-

- he should bind himself to pay to the government a sum equal to thrice the amount of total duty determined, with such surety or security as may be required and
- he should agree to pay duty on the goods cleared from such warehouse at the rate of duty and valuation prevalent on the date on which a bill of entry in respect of such goods is presented.

➤ This facility is also necessary in another situation. Ship stores like liquors, cigarettes, preserved food were imported into India and supplied to vessels according to their requirements. The entire consignment imported is intended to be so shipped out of the country. The same was the case of fuel for the ship like furnace oil, diesel oil etc. Obviously there was no point in collecting import duty on the whole of the consignment and granting drawback piecemeal as and when such goods were exported. It was not also safe for the revenue point of view to allow such goods to lie in the port uncleared until they are exported/shipped as shipstores.

An importer who intends to get his goods warehoused files an Into-bond Bill of Entry [Bill of entry for Warehousing], which is assessed to customs duty at the port of import. The importer is required to execute a bond to cover the risk to customs duty, interest, penalty etc. Once the bond is executed by the importer, the assessing officer at the port of import permits the goods to be deposited without payment of duty in a warehouse.

b. PROVISIONS FOR HOME CONSUMPTION:

In these circumstances, in addition to the concept of “clearance for home consumption” the concepts of “clearance for deposits in a warehouse” and “clearance for home consumption from the warehouse” came into being. As a result of the above, parallel provisions had also been made corresponding to clearance for home consumption. The instances of the same are: -

Section 46(1) stipulates that the importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting to the proper officer a bill of entry for home consumption or a bill of entry for warehousing in the prescribed form.

Section 15(1) stipulates that the rate of duty and tariff valuation, if any, applicable to the imported goods shall be the rate and valuation in force-

- (a) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section.
- (b) in the case of goods cleared from a warehouse under section 68, on the date on which a bill of entry in respect of such goods is presented for their removal from the warehouse.

c. REMOVAL OF GOODS FROM WAREHOUSE:

- The warehoused goods can be removed for:
 - (a) transfer from one warehouse to another; or
 - (b) clearance for home consumption; or
 - (c) clearance for export.
- Each of the three is a different situation and separate procedures have to be followed. The interests to be safeguarded are different. As such separate provisions have been made for the above three situations under section 67, 68 and 69 respectively.
- Section 67 provides that the owner of any warehoused goods may, with the permission of the proper officer, remove them from one warehouse to another subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which removal is permitted.
- The entire emphasis here is on ensuring the proper receipt of the warehoused goods at the destination warehouse, so that there is no risk to revenue.
- The essential ingredients of section 68 are:
 - (a) An ex-bond bill of entry should be presented to the proper officer.
 - (b) After assessment of the ex-bond bill of entry the duty determined should be paid.
 - (c) Along with the import duty, the penalty, if any, imposed or levied on the warehoused goods should also be paid.
 - (d) Once the proper officer is satisfied that all the amounts payable by the owner of the goods including duty, interest, any penalty or fine payable on the warehoused goods, have been paid, he may permit removal of the goods from the warehouse and pass a suitable order for clearance.
- The third method of disposal of the warehoused goods is by export [Section 69]. This is normally adopted in the case of ship stores, which are meant to be exported only; goods meant for re-export and goods supplied to duty free shops and the like.

d. MANUFACTURE IN BONDED WAREHOUSE:

- As mentioned earlier, warehousing was considered in the initial stage as a device for:
 - temporary storage of imported goods which were intended to be ultimately exported out of India;
 - piecemeal clearance of imported goods, for home consumption to suit importer's requirements.
- As an improvement of the above facilities, certain operations were permitted to be carried out in the bonded warehouse itself before export of the goods. Gradually, this concept was extended to deliberate importation of raw materials, manufacture of goods in the bonded warehouse and final export of the finished goods out of India. In this scheme of things there was no:
 - effective import of goods and clearance of goods for home consumption, involving payment of import duty of customs; and
 - effective export from the town, involving drawback of import duty etc. There was no problem or difficulty in ensuring the identity of the goods. There was also full security over the import duty otherwise payable on the imported goods through the medium of the warehousing double entry bond.

- The substantial ingredients of section 65(1) are:
 - The owner of any warehoused goods may carry on any manufacturing process or other operations in relation to warehoused goods;
 - This may be done with the specific sanction of the Principal Commissioner/ Commissioner of Customs;
- Rules prescribing the conditions aforesaid: A comprehensive regulations called the Manufacture and Other Operations in Warehouse Regulations, 1966, was promulgated by the Board. These regulations superseded several rules made earlier covering individual situations.
- The owner has to make an application giving full details regarding the process to be carried out, imported and other goods used, plan and description of warehouse and volume of manufacture anticipated. On getting permission the necessary bond has to be executed undertaking to observe the regulations and maintain accounts. Manufacture will not be under supervision of the customs officer. However the officers of customs department can visit the warehouse and control and supervise manufacturing process or imported and other goods. Detailed accounts are to be maintained of raw materials, stock, wip and production. Input-output norms maybe prescribed wherever considered necessary.
- Subsection (2) of section 65 deals with any waste of refuse arising during the manufacturing operations or other processes done in the warehouse. The question that is considered in this provision is whether any import duty should be levied on the waste or refuse. The answer is dependent upon whether finished product manufactured out of the manufacturing process or other operations is exported out of India or cleared for home consumption.
- The policy of the Government in permitting manufacture in bond had been to encourage growth of Indian industry. Thus instead of attaching the difference in duty, that is lost in the process of manufacture in bond, the Government is prepared to forego it totally or partially. Section 66 of the Customs Act deals with this power.
- The main conditions of section 66 are:
 - imported materials are used in the manufacture of any goods in accordance with the provisions of section 65
 - the import duty leviable on the imported materials exceeds the rate of duty leviable on the finished products
 - the Central Government is satisfied that in the interest of establishment or development of a domestic industry, it is necessary to give protection to the finished products. Then, the Central Government may by an official notification in the Gazette, exempt the imported material, from the whole or part of excess duty.

8. DUTY DRAWBACK

a. RE-EXPORT OF DUTY PAID IMPORTED GOODS:

When goods capable of being easily identified, which have been imported into India and upon which any duty has been paid on importation-

- (a) are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or
- (b) are to be exported as baggage and the owner of the baggage for the purposes of clearing it, makes a declaration of its contents to the proper officer under section 77 (which declaration shall be deemed to be an entry for export for the purposes of this section) and such officer makes an order permitting clearance of the goods for exportation, or
- (c) are entered for export by post under section 82 and the proper officer makes an order permitting clearance of the goods for exportation,

98% of such duty, shall except as otherwise provided hereafter, be paid back.

Conditions to be satisfied in this regard:

- (a) the goods are identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported and
- (b) the goods are entered for export within two years from the date of payment of duty on the importation thereof.

However, in any particular case, the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period, as it may deem fit.

Conditions under section 74: The substance of this provision is that:

- (a) The goods should have been imported into India
- (b) The duty of customs should be paid thereon
- (c) The goods should be capable of being easily identified as the goods, which were originally imported.
- (d) The goods should have been entered for export either on a shipping bill through sea or air; or on a bill of export through land; or as baggage; or through post and the proper officer after proper examination of the goods and after ensuring that there is no prohibition or restriction on their export should have permitted clearance of the goods for export.
- (e) the goods are identified to the satisfaction of the Assistant or Deputy Commissioner of Customs as the goods, which were imported, and
- (f) the goods are entered for export within two years from the date of payment of duty on the importation thereof.

Once these conditions are satisfied, then the export goods are entitled to payment of drawback of an amount equal to 98%. The conditions could be amended or modified depending upon other factors.

Time limit for section 74 drawback: Under sub-clause (b) of section 74(1), it has been provided that such imported goods should be entered for export within two years from the date of payment of duty on the importation. It may be noted that the time period is related to the date of payment of duty and not date of importation.

b. DRAWBACK ON IMPORTED GOODS USED IN THE MANUFACTURE OF EXPORT GOODS:

The following important aspects should be remembered in this regard:

- (a) The goods exported are entirely different from the inputs.
- (b) The input could be either imported goods on which duty of customs has been paid or indigenous goods on which central excise duty has been paid.
- (c) The existence of the imported/indigenous excise duty paid goods in the final product is not capable of easy verification at the point of export.
- (d) The goods, namely the inputs might have undergone changes in physical shape, property etc.
- (e) The quantity of inputs per piece of final product may not be uniform and may not also be capable of verification at the time of exportation.

The underlying principle of the drawback under section 75 is that, the Government fixes a rate per unit of final article to be exported out of the country as the amount of drawback payable on such goods. This amount is dependent upon prior verification of the mode of manufacture, the quantum of raw material required, the average content of duty paid articles in the final product and lastly, the standardization of the final product conforming to these norms.

Statutory Provisions: Sub-section (1) of section 75 provides that where it appears to the Central Government that in respect of good of any class or description manufactured, processed or on which any operation has been carried out in India, being

- (a) the goods have been entered for export and an order permitting the clearance and holding thereof for exportation has been made under section 51 by the proper officer, or
- (b) the goods have been entered for export by post under section 82 and an order permitting clearance for exportation has been made by the proper officer,

a drawback should be allowed of the duties of customs chargeable under this Act or any imported materials class or description used in the manufacture or processing of such goods or carrying out any operation on such goods, the Central Government may by notification in the Official Gazette, direct that drawback shall be allowed.

Drawback not to be allowed in certain cases [proviso to section 75(1)]:

It will be noticed that in the case of drawback under section 74 the amount of drawback was related to the actual duty paid on the goods. It did not have any correlation to either the valuation of the goods at the time of exportation or the prevailing rates of duty on the goods at the time of export. However, in the case of section 75 drawback, since the identity of the inputs which have suffered customs or excise duty as the case may be, is extinguished in the final product, there has been a necessity to correlate the grant of drawback with the value of the goods exported. It has

therefore been prescribed under proviso to section 75(1) of the Customs Act that no drawback of duty shall be allowed under this section if:

- (a) the export value of the finished goods or the class of goods is less than the value of the imported material used in the manufacture or processing of such goods or carrying out any operation on such goods or class of goods; or
- (b) the export value is not more than such percentage of the value of the imported materials used in the manufacture or processing of such goods or carrying out any operation on such goods or class of goods as may be notified by the Central Government; or
- (c) any drawback has been allowed on any goods and the sale proceeds in respect of such goods are not received by or on behalf of the exporter in India within the time allowed under the Foreign Exchange Management Act (FEMA). In such a case, the drawback shall be deemed never to have been allowed and the Central Government, may, by rules made under sub-section (2) specify the procedure for the recovery or adjustment of the amount of such drawback. In this regard, Central Government is empowered to prescribe the circumstances under which duty drawback would not be disallowed even though the export remittances are not received within the period allowed under FEMA.

9. NUMERICAL SUMS ON VALUATION OF GOODS AND CALCULATION OF DUTY

1. A material was imported by air at CIF price of 5,000 US\$. Freight paid was 1,500 US\$ and insurance cost was 500 US\$. The banker realized the payment from importer at the exchange rate of ₹ 61 per dollar. Central Board of Excise and Customs notified the exchange rate as ₹ 60 per US\$. Find the value of the material for the purpose of levying duty.
2. From the particulars given below, find out the assessable value of the imported goods under the Customs Act, 1962:

Particulars	US\$
(i) Cost of the machine at the factory of the exporter	10,000
(ii) Transport charges from the factory of exporter to the port for shipment	500
(iii) Handling charges paid for loading the machine in the ship	50
(iv) Buying commission paid by the importer	50
(v) Freight charges from exporting country to India	1,000
(vi) Exchange rate to be considered: 1\$ = ₹ 60	
(vii) Actual insurance charges paid are not ascertainable	

3. Compute export duty from the following data:
 - (i) FOB price of goods: US \$ 1,00,000.
 - (ii) Shipping bill presented electronically on 26.04.20XX.
 - (iii) Proper officer passed order permitting clearance and loading of goods for export (Let Export Order) on 04.05.20XX.
 - (iv) Rate of exchange and rate of export duty are as under:

Date	Rate of Exchange	Rate of Export Duty
On 26.04.20XX	1 US \$ = ₹ 55	10%
On 04.05.20XX	1 US \$ = ₹ 56	8%

- (v) Rate of exchange is notified for export by Central Board of Excise and Customs.
(Make suitable assumptions wherever required and show the workings.)

4. Foreign Trade International Ltd. has imported one machine from England. It has given the following particulars:

(i)	Price of machine	8,000 UK Pounds
(ii)	Freight paid (air)	2,500 UK Pounds
(iii)	Design and development charges paid in UK	500 UK Pounds
(iv)	Commission payable to local agent of exporter @ 2% of price of machine, in Indian Rupees	

(v)	Date of bill of entry	24.10.20XX (Rate BCD 10%; Exchange rate as notified by CBEC ₹ 100 per UK Pound)
(vi)	Date of arrival of aircraft	20.10.20XX (Rate of BCD 20%; Exchange rate as notified by CBEC ₹ 98 per UK Pound)
(vii)	Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is 12%	
(viii)	Insurance charges have been actually paid but details are not available.	

5. Compute the total duty and integrated tax payable under the Customs Law on an imported equipment based on the following information:
- (i) Assessable value of the imported equipment US \$ 10,100
 - (ii) Date of bill of entry is 25.4.20XX. Basic customs duty on this date is 10% and exchange rate notified by the Central Board of Excise and Customs is US \$ 1 = ₹ 65.
 - (iii) Date of entry inwards is 21.4.20XX. Basic customs duty on this date is 20% and exchange rate notified by the Central Board of Excise and Customs is US \$ 1 = ₹ 60.
 - (iv) Integrated tax payable under section 3(7) of the Customs Tariff Act, 1975: 12%
 - (v) Educational cess @ 2% and secondary and higher educational cess @ 1%.
- Make suitable assumptions where required and show the relevant workings and round off your answer to the nearest rupee. Ignore GST Compensation Cess.
6. Assessable value of an item imported is ₹ 1,00,000. Basic customs duty is 10%, integrated tax leviable under section 3(7) of the Customs Tariff Act is 12%, and education cesses are 3% on duty. Compute the amount of total customs duty and integrated tax payable. Ignore GST Compensation Cess.
7. From the following particulars, calculate total customs duty and integrated tax payable:
- (i) Date of presentation of bill of entry: 20.6.20XX [Rate of BCD 20%; Inter-bank exchange rate: ₹ 61.60 and rate notified by CBEC ₹ 62].
 - (ii) Date of arrival of aircraft in India: 30.6.20XX [Rate of BCD 10%; Inter-bank exchange rate: ₹ 61.80 and rate notified by CBEC ₹ 63.00].
 - (iii) Rate of Integrated tax leviable under section 3(7) of the Customs Tariff Act: 12%. Ignore GST Comp. Cess.
 - (iv) CIF value 2,000 US Dollars; Air freight 500 US Dollars, Insurance cost 100 US Dollars [Landing charges not ascertainable].
 - (v) Education Cess 2% & Secondary & Higher Education Cess 1%
8. F. Ltd. imported a machine from UK in May, 20XX. The details in this regard are as under:
- (i) FOB value of the machine: 10,000 UK Pound
 - (ii) Freight (Air): 3000 UK Pound
 - (iii) Licence fee, the buyer was required to pay in UK: 400 UK Pound
 - (iv) Buying commission paid in India ₹ 20,000
 - (v) Date of bill of entry was 20.05.20XX and the rate of exchange notified by CBEC on this date was ₹ 99.00 per one pound. Rate of BCD was 7.5%.
 - (vi) Date of arrival of aircraft was 25.05.20XX and the rate of exchange notified by CBEC on this date was ₹ 98.50 per pound and rate of BCD was 10%.
 - (vii) Integrated tax under section 3(7) of Customs Tariff Act was 12% and ignore GST Compensation Cess.
 - (viii) Insurance premium details were not available.
- You are required to compute the total customs duty and integrated tax payable on the importation of machine. You may make suitable assumptions wherever required.