

CG has been empowered by Entry No. 83 of Union List of Seventh Schedule of Constitution of India to levy Customs Duty.

Customs Act, 1962 (1/5)

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1) Basic Concepts & Taxable Event in Customs (S. 12 of Customs Act)

Customs duty is levied on goods imported into or exported from India (S. 12 of Customs Act, 1962)

Decoding Import of Goods: -

- Import means bringing into India from a place outside India.
- “Imported goods” means goods brought into India from a place outside India **but does not include goods which have been cleared for home consumption.** (Even though in general term we call it as imports)
- Goods includes Vessels, aircrafts and vehicles (not conveyance); Stores; Baggage; Currency and negotiable instruments; and Any other kind of movable property.
- India includes Territorial Waters. Territorial Waters extends to 12 NM from Base Line. **Import is said to be commenced when goods entered into territorial waters and shall be completed when goods become part of mass of goods within India. (Garden Silk Mills vs. UOI)**
- **Area upto 200 NM from Base-line is called as Indian Exclusive Economic Zone, customs authority can exercise search, arrest etc. powers till 200 NM)**
- Thus, all goods crossing territorial waters may not attract levy of customs as crossing of territorial waters is only commencement. Some illustrations where goods crossed territorial waters but customs duty will not be levied are pilferage, remission of duty, transit goods etc.
- Liability to pay the duty shall arise only at the time of filing the Bill of Entry for home consumption under section 46.

Decoding Export of Goods: -

- “Export goods means goods which are to be taken out of India to a place outside India”
- **Thus, export commences when exporter files shipping bill & is completed when goods crossed territorial waters of India i.e. 12 NM.**

2) Relevant Date for determination of Rate of Duty & Tariff Valuation (Customs Act, 1962)

Case	Rate of Duty on Date of
1) Goods Cleared for Home Consumption (S. 15)	Bill of Entry Date or Entry Inward date whichever is LATER
2) Goods Cleared for Warehousing (S. 15)	Presentation of Ex-Bond Bill of Entry
3) Export of goods (S. 16)	Let Export Order
4) Baggage	Baggage Declaration
5) Postal Goods	Import by Postal Mode: - Presentation of list of goods to proper officer or arrival of vessel whichever is later Export by Postal Mode: - Exporter delivers goods to postal authorities
6) Others	Date of Payment of Tax

3) Relevant Date for determination of Rate of Exchange (Customs Act)

Case	CBIC Rate of Exchg. (not RBI Rate) on Date of: -
1) Goods Cleared for Home Consumption (S. 14)	Presentation of Bill of Entry
2) Goods Cleared for Warehousing	Presentation of Into-Bond Bill of Entry
3) Export of Goods	Date of presentation of shipping bill

Notes: -

- 1) Bill of Entry is document required for clearance of goods for home consumption or depositing it into warehouse. Bill of entry shall be filed before end of next day following day (excluding holidays) on which aircraft or vessel or vehicle carrying goods arrives at customs station for clearance. However, a bill of entry may be presented at any time not exceeding 30 days prior to expected arrival of aircraft or vessel or vehicle.
- 2) 3 types of Bill of entries are there viz. Bill of entry for home consumption – For clearance on payment of duty (White colour), Bill of entry for warehousing – For keeping goods in warehouse without payment of duty (Yellow Colour), Ex bond bill of entry – For clearance from warehouse on payment of duty (Green colour)

4) Valuation of Imported Goods under Customs

The value of the imported and export goods is the “Transaction value”. The transaction value is defined as ‘price paid or payable for the goods’. Transaction value shall be considered when price is sole consideration & parties are unrelated (subject to few other conditions and additions as discussed below) irrespective of the value of the same goods available elsewhere. Proper officer may reject transaction value under certain circumstances.

There are certain valuation rules under Customs Valuation (Determination of Value of imported goods) Rules, 2007 (discussed later). In case of imports, Customs Valuation (Determination of value of imported goods) Rules, 2007, mandates a number of additions (if not already added) to the transaction value referred to in Section 14 of Customs Act.

Particulars	Amount
Free on-board Value (FOB value is value of goods excluding carriage, insurance and freight, i.e. domestic price in the country of origin.)	XX
+ Commission or Brokerage incurred by buyer (except buying commission - “Buying Commission means fees paid by the importer to his agent for the service of representing him abroad in the purchase of the goods being valued)	XX
+ Value of materials if supplied by the buyer to the seller at free of cost or at reduced cost.	XX
+ Royalty or license fee, payable by the buyer to the seller or third party as a condition of the sale.	XX
+ Any payment agreed as a ‘condition-of-sale’ or to satisfy an obligation of the seller	XX
+ Cost of non-returnable container	XX
+ Packaging Charges incurred by buyer	XX
+ Design / Development charges done abroad	XX
+ Warranty Charges [Extra Set of Accessories to cover transit not to be added]	XX
+ Inspection charges at request of buyer / under the contract (Expenditure incurred after arrival not to be added)	XX
Revised FOB for Customs (RFOB) or CUSTOMS FOB	XX
+ Freight [If mode of transport is VESSEL OR VEHICLE]	XX
Actual Cost is given – Actual cost	XX
Actual Cost not given – 20% of RFOB	XX
+ Freight [If mode of transport is AIR]	XX
Actual cost or 20% of RFOB whichever is less, (Actual Cost is not given – 20% of RFOB)	XX
+ Insurance (Actual) – If Actual is not given = 1.125% of RFOB	XX
TOTAL (RFOB + FREIGHT + INSURANCE)	XX
[ASSESSABLE VALUE OR Cost Insurance Freight (CIF) VALUE]	

DUTY COMPUTATION FORMAT for ACD u/s 3(7) & 3(9) of CTA (i.e. IGST & GST Compensation Cess)		
Sr. No.	Particulars	Amount
I	Assessable Value (as Calculated Above)	XX
II	Basic Custom Duty (BCD u/s 12) (Rate would be given in Question) [% of I]	XX
III	Protective Duty	XX
IV	Social Welfare Surcharge [10% of (II+III)]	XX
V	Other Customs Duty	
	Safeguard Duty (S. 8B of CTA)	XX
	Anti-dumping Duty (S. 9A of CTA)	XX
	Countervailing Duty (S. 9 of CTA)	XX
VI	Total (I + II + III + IV + V)	XX
VII	IGST u/s 3(7) of CTA [% of VI] (Shall not be > 40%)	XX
VIII	GST compensation cess u/s 3(9) of CTA [% of VI]	XX
IX	Cost of Importation	XX

DUTY COMPUTATION FORMAT for ACD u/s 3(1) & 3(5) of CTA (i.e. CVD & SAD)		
Sr. No.	Particulars	Amount
I	Assessable Value (as Calculated Above)	XX
II	Basic Custom Duty (BCD u/s 12) (Rate would be given in Question) [% of I]	XX
III	Value for Levy of ACD u/s 3(1) of CTA (I+II)	XX
IV	Additional Duty of Customs (ACD) u/s 3(1) i.e. Duty in lieu of Excise Duty on an article manufactured in India (% of III)	XX
V	Protective Duty	XX
VI	Social Welfare Surcharge [10% of (II+IV+V)]	XX
VII	Value for Levy of ACD i.e. Special Additional Duty (SAD) u/s 3(5) of CTA (% of (III+IV+V+VI))	XX
VIII	SAD of Customs u/s 3(5) i.e. in lieu of Sales Tax on an article sold in India [% of VII]	XX
IX	Other Customs Duty	
	Safeguard Duty (S. 8B of CTA)	XX
	Anti-dumping Duty (S. 9A of CTA)	XX
	Countervailing Duty (S. 9 of CTA)	XX
X	Cost of Importation	XX

Note: - With Inception of GST, only few products which have levy of 3(1) & 3(5), thus ACD would be levied on those articles on which GST is not levied.

Other Important Points for Valuation: -

- 1) In case of Exports transaction value shall be FOB for exports
- 2) No Social Welfare Surcharge on Export Duty
- 3) Landing Charges shall not be added (**NN 91/2017 – CUS**)
- 4) Cost of Insurance, transport, loading, unloading, handling charges associated with **TRANSSHIPMENT** shall be excluded.
- 5) The cost of Transport as calculated while calculating Assessable Value already includes Ship Demurrage (i.e. the detention of a ship by the freighter beyond the time allowed for loading, unloading, or sailing), lighterage or barge charges (process of transferring cargo between vessels of different sizes) (Explanation to Rule 10(2))
- 6) Freight from Port to Inland Container depot not to be added.
- 7) Landed Value = Assessable Value + BCD + SWS.

Value for Levy of Duty u/s 3(7) & 3(9) in case of Sale of Goods in Warehouse Before Clearance for home Consumption or export [S. 3(8A), 3(10A) of CTA r/w Schedule III to CGST Act]

Let us understand this through an Example for better clarity of concept: -

Mr. X imports television from Japan @ Rs. 25,00,000/- (AV + BCD + Protective Duty + SWS + Other Duties) also called as value u/s 3(8) / 3(10) and deposits the same in warehouse.

When goods are in warehouse, Mr. X sold such televisions to Mr. Y for Rs. 30,00,000/- (also called as Transaction Value).

Thus, Mr. Y is responsible for clearing goods from warehouse by filing Ex-Bond Bill of Entry. This section tries to clarify duty calculation in this regard.

Value for Levy of BCD u/s 12

It will be calculated on Assessable Value

Value for Levy of IGST u/s 3(7) of CTA [S. 3(8A) of CTA]

It will be calculated on value u/s 3(8) i.e. 25,00,000/- or Transaction Value Rs. 30,00,000/- whichever is higher. **Thus, on Rs. 30,00,000/-**

Value for Levy of GST Compensation Cess u/s 3(9) of CTA [S. 3(10A) of CTA]

It will be calculated on value u/s 3(10) i.e. 25,00,000/- or Transaction Value Rs. 30,00,000/- whichever is higher. **Thus, on Rs. 30,00,000/-**

It is very important to note that No GST u/s 9 of CGST or u/s 5 of IGST shall be levied on goods sold by Mr. X to Mr. Y (Rs. 30,00,000) as the same is in Schedule III to CGST Act i.e. Entry 8(a) - Supply of warehoused goods to any person before clearance for home consumption.

- If goods are proportionately sold then, proportionate calculations shall be done.
- If goods are sold more than once before clearance or export, last transaction value shall be taken for calculating IGST & Cess.
- If Goods are remained unsold, value shall be determined u/s 3(8), fully or proportionately as the case may be.

5) Valuation as per Rules (R. 4 to R. 9 of Customs Valuation Rules) – Sequentially be applied

Rule 4: - Identical Goods: -

Value of Imported Goods be transaction value of identical goods* sold for export to India and imported at or about the same time as the goods being valued.

Before adopting transaction value of identical goods, the value should be adjusted to reflect differences in commercial level and quantity.

If by application of this rule, more than one value is found, **LOWEST** (not nearest to quantity imported) of them should be adopted.

*Identical means **same in all respects & produced in same country** in which goods being valued are produced.

Rule 5: - Similar Goods: -

If value of identical goods is not available, value of similar goods# shall be taken.

Before adopting transaction value of similar goods, the value should be adjusted to reflect differences in commercial level and quantity.

If by application of this rule, more than one value is found, **LOWEST** (not nearest to quantity imported) of them should be adopted.

#Which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions & commercially interchangeable & **produced in same country** in which goods being valued are produced.

Rule 6: - Rule 7 & 8 shall be applied in Same order unless permitted by PO

Rule 7: - Deductive Value Method

Particulars	Amount (Rs.)
Sale price of imported goods when sold to unrelated buyers in India	XX
Less: - (a) Commission paid in India for sale	XX
(b) Profit on such sale & General Exp	XX
(c) Cost of transport and insurance within India	XX
(d) Customs duty and other taxes payable for importation	XX
e) Value addition made by processing	XX
Transaction Value for the purpose of Customs	XX

Rule 8: - Computed Value Method

Particulars	Amount (Rs.)
Cost of materials for production of imported goods.	XX
+ Cost of fabrication and other processing charges	XX
+ Amount of profit & General Expenses	XX
(+) Value of expenses under rule 10 (2) i.e. cost of transport, insurance, loading, unloading and handling charges	XX
Transaction Value for the purpose of Customs	XX

6) Types of Custom Duty [Customs Tariff Act, 1975]

Particulars	Protective Duty (S. 6)	Safeguard Duty (S. 8B)	CVD (S. 9)	ADD (S. 9A)
Purpose behind levy	To protect interest of any Indian Industry	To mitigate pressure on Indian industry due to increased imports (serious injury)	Levied if exporter's country provides subsidy to exporter for effecting exports	Check on unfair or discriminatory practices adopted by exporter on his own (exporter price charged less than normal value in exporter country)
Vary According to	Product specific	Product Specific	Product & Country Specific	Product & Exporter Specific
Provisional Levy	N.A.	200 days	6 months	6 months
Retrospective Provisional Levy	N.A.	-	90 days	90 days
Period of levy (+ Extension)	N.A.	4 years (+ 6 years)	5 years (+ 5 years)	5 years (+ 5 years)
Amount of Levy	N.A.	SGD would not be levied if imports from DEVELOPING countries (each having share upto 3%) is upto 9% of Total Imports of that article in India	CVD shall not be levied if subsidy relates to – > Export performance > Use of Domestic goods over imported goods > Subsidy given to limited persons engaged in mfg.	Maximum ADD = Normal Value of Goods (-) Export Price Normally ADD = Injury Margin [Fair Selling Price (-) Landed Value]

7) Remission & Abatements under Customs (Customs Act, 1962)

Case	When Remission or Abatements will be allowed
1) Pilferage (Petty thefts, tampering) – S. 13	<ul style="list-style-type: none"> Importer shall not be liable to pay duty if “imported goods” (refer definition on first page) are pilfered AFTER UNLOADING BUT BEFORE PO has made order for clearance of HOME CONSUMPTION OR WAREHOUSE. Liability of Duty on pilfered goods of importer is on Custodian of cargo. Custodian shall be liable to pay duty at RATE ON DATE OF DELIVERY OF IMPORT MANIFEST OR IMPORT REPORT (S. 45)
2) Abatement of duty on Damaged or Deteriorated goods (Not Destroyed) [S. 22]	<ul style="list-style-type: none"> Abatement will be allowed on: - Goods Cleared for HC: - If damaged or deteriorated any time BEFORE OR DURING UNLOADING, AFTER UNLOADING BUT BEFORE EXAMINATION BY PO Warehoused Goods: - If damaged (not deteriorated) any time BEFORE clearance from Home consumption. Duty Leviable = $\frac{\text{Duty Chargeable before Damage/Deterioration}}{\text{Value before damage/Deterioration}} \times \text{Value of Damage/deteriorated goods}$ Abatement = Duty Leviable before Damage/Deterioration (-) Duty leviable after damage / deterioration.
3) Remission of Duty on Goods lost, destroyed & abandoned (other than pilferage) [S. 23]	<ul style="list-style-type: none"> Remission on Lost or Destroyed: - Duty will be remitted if lost or destroyed before clearance for home consumption Remission on Abandonment or relinquishment of Title: - Duty shall not be payable if title is relinquished or abandoned BEFORE CLEARANCE FOR HC OR WAREHOUSING ORDER <i>(No relinquishment if it appears that offence has been committed)</i>

8) Procedure under Customs (Customs Act)

IMPORT PROCEDURE

Procedure at a Glance (Left to Right in Sequence)

Arrival of Ship – Ship to be landed at “customs port” and can enter into “customs area” only after grant of entry inwards.	Delivery of Import General Manifest (IGM) (in case of Vessel & Aircraft) / Import report (IR) (in case of Vehicle). Entry inwards will be granted only after IGM / IR is filed and then ship can arrive at “customs area” now.	Goods can be unloaded (in customs area) only after grant of Entry Inwards	Submission of Bill of Entry for HC or warehousing along with payment of duty (except opted for deferred payment system)	Customs issues ‘delivery order’ (DO) to warehouse where goods are kept.	Customs issues ‘out of customs charge’ order & Importer takes delivery of goods (i.e. clears goods)
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Customs Port – Any port appointed u/s 7(a) to be a customs port & includes inland container depot. [S. 2(12) of Customs Act]

Customs Area – Area of customs station or warehouse & includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities. [S. 2(11) of Customs Act]

Procedure in Detail along with Legal Provision

Procedures to be followed by person in charge	Procedures to be followed by Importer
S. 30 – Delivery of Import general Manifest (IGM), /Import report (IR). Penalty for belated filing - upto 50,000, VESSEL – IGM – Before arrival (any time), AIRCRAFT – IGM – Before arrival (any time) VEHICLE – IR – After arrival (within 12 hours)	S. 46 – Bill of entry shall be filed before end of next day following day (excluding holidays) on which aircraft or vessel or vehicle carrying goods arrives at customs station for clearance. However, a bill of entry may be presented at any time not exceeding 30 days prior to expected arrival of aircraft or vessel or vehicle.
S. 29 – The vessel/aircraft should arrive in India only at customs port or airport (except for reasons of health, safety etc.). CBEC can permit landing of vessels and aircrafts at any place other than customs port or customs airport.	S. 47 – Clearance of goods on payment of duty. The import duty assessed on goods entered for home consumption should be paid on presentation of bill of entry or within 1 day (excl. holidays) from date on which BOE is returned to him by PO (other than deferred payment)
S. 31 – Imported goods should not be unloaded until the “grant of entry inwards”	S. 48 – Disposal of Goods, If Not Cleared Within 30 days after unloading
S. 32 – Only goods mentioned in IGM/IR should be unloaded.	S. 49 – Where in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Commissioner or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time, the goods may, pending clearance, be permitted to be stored in a public warehouse, or in a private warehouse for the period not exceeding 30 days (+30 days) (not applicable in cases of animals, perishable products & hazardous goods) (ALSO KNOWN AS WAREHOUSING WITHOUT WAREHOUSING) Such goods shall not be deemed to be warehoused goods for the purposes of this Act.
S. 35 – The import cargo taken from the ship to the shore and export cargo taken from the shore to the ship, in boats should accompany BOAT NOTE in duplicate. It is not required in case the export cargo accompanies a shipping bill.	

EXPORT PROCEDURE

Procedure at a Glance (Left to Right in Sequence)

Shipping Bill (in case of Vessel or Aircraft) or Bill of Export (in Case of Vehicle), Invoice, Packing List, Contracts and other related documents be submitted by exporter	Examination of Shipping bill, goods & other documents by PO. On Examination PO will issue LET EXPORT ORDER .	Exporter will submit copy of shipping bill & let export order to person in charge	Person in charge will take “Entry Outwards” on the basis of documents submitted to him by exporter.	On Entry Outwards loading of goods into ship can be done (in case of baggage it shall be loaded without permission)	Person in Charge will submit Export General Manifest (in case of vessel or aircraft) or Export report (in case of vehicle) before departure. Customs will give permission after all cargo verified and ship can be allowed to leave
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Procedures to be followed by Exporter	Procedures to be followed by person in charge
S. 50 – File shipping bill/bill of export and it should contain details like name of exporter, consignee, Invoice number, Details of packing, Description of goods, Quantity, FOB value etc.	S. 39 – Export Goods not to be loaded on Vessel unless “Entry Outward” granted.
S. 51 – Customs officer shall verify the contents and after being satisfied that goods are not prohibited for exports will permit clearance by giving LET EXPORT order.	S. 40 – Export goods not to be loaded unless duly passed by the Customs Officer
	S. 41 – Submission of Export General Manifest (EGM)/Export Report (ER) before departure

Other Procedural Aspects in Customs

1) Time – Limit to Pay duty (S. 47 of Customs Act)

The import duty assessed on goods entered for home consumption should be paid on presentation of bill of entry or within 1 day (excl. holidays) from date on which BOE is returned to him by PO (other than deferred payment) Late payment attracts interest @ 15% p.a.

Bill of entry (BOE) shall be filed before end of next day following day (excluding holidays) on which aircraft or vessel or vehicle carrying goods arrives at customs station for clearance. However, a bill of entry may be presented at any time not exceeding 30 days prior to expected arrival of aircraft or vessel or vehicle.

Late BOE Presentation Charges:-

Rs. 5,000/- per day for initial 3 days, Rs. 10,000/- per day thereafter. Total Charges shall not exceed duty payable on imported goods. In case of exempted goods, late presentation charges shall not exceed Rs. 50,000/-.

Deferred Payment of Import Duty Rules, 2016 (Clear First Pay Later)

BOE Returned for Payment	Due Date of Payment
1 st to 15 th of any month	16 th day of that month
16 th to Last date, of any month (except March)	1 st Day of following month
16 th March to 31 st March	31 st March

An eligible importer who fails to pay duty in full by due date more than once in a period of 3 consecutive months shall not be allowed to make deferred payment. Facility shall not be restored unless eligible importer pays duty in full along with interest.

9) Provisional & Final Assessment (Very Important) (S. 18)

Final Duty is:-	Interest Period		Rate of Interest p.a.
	From	To	
Payable by Assessee	First day of month in which duty is provisionally assessed	Date on which tax was actually paid	15%
Refundable to Assessee	Expiry of 3 months from date of final assessment of duty	Date on which tax was actually refunded.	6%

Final Assessment shall be made by PO within 2 months. Provisional assessment can be ordered if importer / exporter is unable to make self-assessment or PO deems it necessary that goods shall be subject to chemical test or other tests.

On Final Assessment if goods are to be warehoused, importer has to execute bond of twice the amount of excess duty (i.e. difference between provisional & final duty) [BOE to be filed for Provisionally Assessed Goods also]

Example for understanding critical aspect of concept:-

Person Imported goods of Rs. 10,00,000/-, bill of entry was presented on 15th December, 2018, rate of customs duty was 20%. Proper officer made tests on goods and assessed provisionally at value of Rs. 10,00,000/-, assessee paid Rs. 2,00,000 on provisional basis on 15th December, 2018. Further it made voluntarily pay duty of Rs. 1,50,000/- on 20th January, 2019. Determine amount of Interest payable if final duty is assessed on 31st January, 2019 at Rs. 4,00,000/- and it was paid on same day. (May, 2019 – CA Final Old Syllabus)

Solution:- The interest has to be charged on differential duty liability i.e. Rs. 2,00,000/- [Rs. 4,00,000 (-) 2,00,000]. However, here interest will be bifurcated into two parts i.e. on differential payment before final assessment & differential duty payment after final assessment.

Differential payment before final assessment (Voluntary Payment):-

= 1,50,000 x 51/365 x 15% = Rs. 3144 (1st December, 2018 to 20th January, 2019)

Differential payment after final assessment:-

= 50,000 x 62/365 x 15% = Rs. 1274 (1st December, 2018 to 31st January, 2019)

Thus, total Rs. 4418 is interest payable as per Section 18 of Customs Act.

Customs Act, 1962 (3/5)

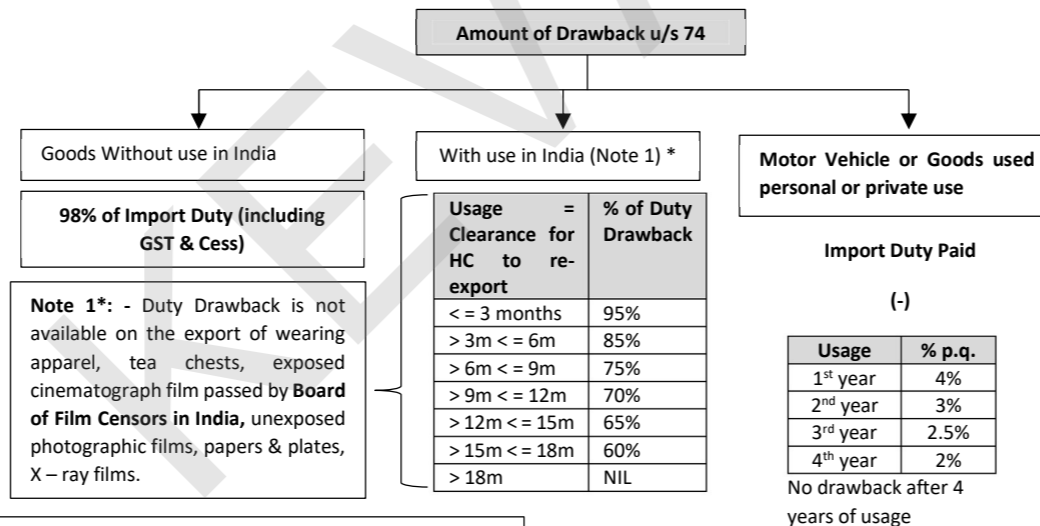
10) Self – Assessment (S. 17 of Customs Act)

- Duty will be self-assessed by importer / exporter.
- PO may call for documents for self-assessment.
- If he deems necessary, he can verify/ examine / test goods
- PO will re-assess duty if on verification/ examination he feels duty has not been correctly self-assessed.
- If importer or exporter does not confirm to re-assessment PO will pass a speaking order (an order having facts) within **15 DAYS OF RE-ASSESSMENT OF BILL OF ENTRY OR SHIPPING BILL.**

11) Duty Drawback (S. 74 & 75 of Customs Act)

Drawback is an export incentive scheme where duties paid on any imported material which are used in manufacturing goods which are to be exported will be refunded to importer. Drawback is also allowed in case where goods are imported and then exported with or without use in India subject to certain conditions.

S. 74 – Drawback on re-export of duty paid goods	S. 75 – Drawback on imported materials used in manufacture of export goods
Refund of customs duty including IGST & Customs will be available	Refund of customs duty (excl. IGST & Cess) will be available u/s 75. Refund of IGST & Cess will be available under S. 54 of CGST Act
Goods shall be identifiable	No such criteria
Drawback will be available- @ 98% of Import Duty (if exported without use) @ At rates specified with use	Drawback is allowed @ All Industry Rate (AIR). If no rate is notified then exporter has to apply for brand rate. If AIR < 80% of Actual Duty paid on Importation, exporter to apply for Special brand rate (SBR)
Goods to be re-exported within 2 years from date of payment of duty. (Can be exported as baggage also)	No time-limit to re-export goods. (Cannot be exported as baggage)
Duty Drawback claim shall be filed w/i 2 years from Let Export order date	



Other points worth noting:-

- No Drawback shall be allowed if market price is less than amount of drawback. (S. 76)
- No drawback where drawback amt is less than Rs. 50 (S. 76)
- Rule 7 of Customs and Central Excise Duties Drawback Rules states that person who applies for AIR cannot apply for SBR. Rule 9 states that where drawback amount is determined as per Rule 3 i.e. AIR then **amount of drawback shall not exceed 1/3rd of market price of export.** Thus, in case of SBR, 1/3rd rule will not apply (however other conditions shall be fulfilled e.g. Minimum Value Addition)
- If export goods are destroyed before crossing territorial waters, it shall not be regarded as export. No drawback would be allowed (Sun Industries v. CC)

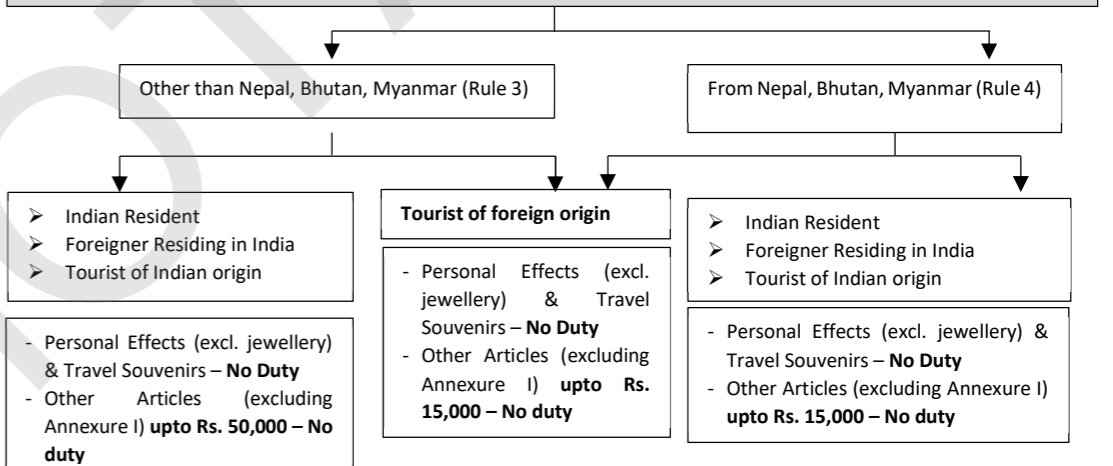
Drawback	Interest Period		Rate p.a.
	From	To	
Payable to Claimant (S. 75A r/w 27A)	Expiry of 1 month from date of filing claim	Date of payment	6%
Recoverable from Claimant (S. 75A r/w S. 28AA)	Date of granting of erroneous claim	Date of recovery	15%

If claimant does not pay within two months recovery proceedings will be initiated

12) Baggage

Baggage means belongings (luggage) of passenger whether accompanied or not but not includes motor vehicles. Let us discuss the baggage provisions in detail.

Rule 3 & Rule 4 – General Free Allowance (GFA) – PERSON (Other than Infant i.e. upto 2 years child) ARRIVING FROM:-



- One Laptop is exempt irrespective of value (for other than crew member)
- Jewellery other than ornaments is in Annexure I, thus, a person can bring ornaments upto GFA in Rule 3 or 4 in addition to additional allowance mentioned in Rule 5**

Rule 5: - Jewellery Allowance for passenger staying abroad > 1 year

For Gentlemen Passenger: - Jewellery upto 20 gm weight with a value cap of Rs. 50,000
For Lady Passenger: - Jewellery upto 40 gm weight with a value cap of Rs. 1,00,000

Rule 6: - Person engaged in profession abroad or Transferring residence, returning to India (in addition to R. 3 & R. 4)

Duration of Stay Abroad	Articles Allowed Duty Free i.e. Personal & Household articles including Annexure III excluding Annexure I & Annexure II articles upto Value of Rs. -	Conditions	Relaxation
>3 months <= 6 months	60,000/-	Indian Passenger	-
>6 months <= 1 year	1,00,000/-	Indian Passenger	-
Minimum stay >1 year during the preceding two years	2,00,000/-	Facility available only if: > passenger is Indian and > Not availed in last 3 yrs.	-
Minimum stay of 2 years or more.	5,00,000/-	Facility available only if: (i) Minimum 2 year stay aboard immediately preceding date of arrival	Shortfall in (i) upto 2 mths can be condoned by AC / DC early return is due to terminal leave or vacation being availed of by the passenger; or any other special circumstances.
		(ii) Total stay in India on short visit should not exceed 6 months; and	Period in excess of 6 months may be condoned by Principal Commissioner or Commissioner in special circumstances.
		(iii) Not availed in last 3 yrs.	

Annexure I items: – Fire arms, Cartridges of fire arms > 50, Cigarettes > 100 sticks or cigars > 25 or tobacco > 125 gms, Alcoholic liquor or wines >2 liters, Gold or silver in any form other than ornaments, Flat Panel (Liquid Crystal Display/Light-Emitting Diode/ Plasma) television

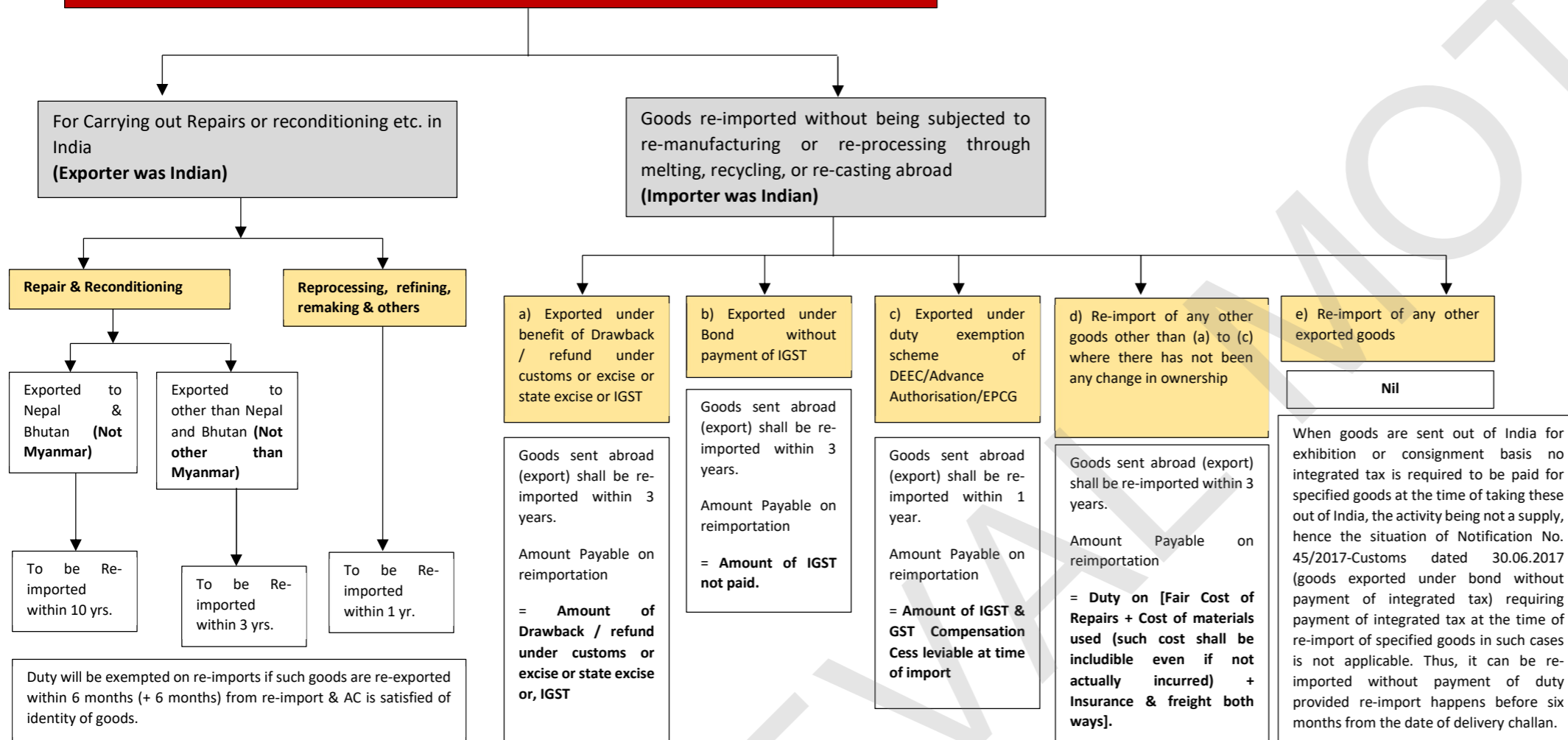
Annexure II items: - Color Television, Video Home Theatre System, Dish Washer, Domestic Refrigerators of capacity above 300 liters or its equivalent, Deep Freezer, Video camera or the combination of any such Video camera with one or more of the following goods, namely:- (a) television receiver; (b) sound recording or reproducing apparatus; (c) video reproducing apparatus, Cinematographic films of 35mm and above, Gold or Silver, in any form, other than ornaments.

Annexure III items: - Video Cassette Recorder or Video Cassette Player or Video Television Receiver or Video Cassette Disk Player, Digital Video Disc player, Music System, Air-Conditioner, Microwave Oven, Word Processing Machine, Fax Machine, Portable Photocopying Machine, Washing Machine, Electrical or Liquefied Petroleum Gas Cooking Range, PC & Laptop, Domestic Refrigerators of capacity up to 300 litres or its equivalent.

Rate of Tax on Baggage:-

Customs duty is leviable at the rate of 38.50% (Basic Customs duty at 35% + Social welfare surcharge at 10% of BCD; IGST is exempt vide notification 43/2017-Cus. dated 1 July, 2017.

13) RE-IMPORTATION (Section 20 of Customs Act) r/w Notification No. 45/2017-Cus)



15) Other Short Notes

TRANSIT & TRANSSHIPMENT (Customs Act)

Transit (S. 53)	Transshipment (S. 54)
Goods are allowed to remain on same conveyance	Conveyance changes i.e. goods are unloaded from one conveyance and loaded in another
Record already made in Manifest continues	Record already made does not continue as it is transferred to another conveyance
No supervision is required	Done under Supervision of PO
Generally allowed at all ports	Allowed in specified ports only.

PROJECT IMPORTS (Customs Tariff Act, 1975)

Setting up of project in India may require number of machines and equipments to be imported. Importation may spread over a period of time and thus, assigning values and paying heavy customs duty on imported machineries making initial project costly. Thus, project imports have been introduced under heading 9801 of CTA. In GST Regime, IGST under project import scheme would be classified under heading 9801 and IGST @ 18% will be levied.

Machineries, instruments, apparatus, and appliances for R&D, components of raw material for manufacture of aforesaid items etc utilised for initial setting up of project or substantial expansion of existing project are covered under this heading.

Spares etc. essential for maintenance of plant and equipment are eligible only upto 10% of value of goods and can be imported under project import.

Following are eligible project imports – Industrial Plant, Irrigation project, power project, mining project, oil & other mineral exploration project.

BOAT NOTE (for restrictions on goods being water-borne)

As per Section 35 of Customs Act
 In case the vessel arriving at the port does not get the berth then the import cargo is taken from the ship to the shore and export cargo is taken from the shore to the ship in boats.
 No imported goods shall be water-borne for being landed from any vessel and no export goods which are not accompanied by shipping bill shall be water-borne for being shipped unless the goods are accompanied by a boat note in prescribed form.

14) REFUND OF IMPORT DUTY (S. 26A of Customs Act)

Refund of Import Duty
 Where on the importation of any goods capable of being easily identified as such imported goods, any duty has been paid on clearance of such goods for home consumption, such **duty shall be refunded** to the person by whom or on whose behalf it was paid, if-

- the **goods** are found to be **defective or otherwise not in conformity with the specifications agreed** upon between the importer and the supplier of goods.
Provided that the goods have not been worked, repaired or used after importation except where such use was indispensable to discover the defects or non-conformity with the specifications;
- the goods are identified to the **satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner** of Customs as the goods which were imported;
- the **importer does not claim drawback** under any other provisions of this Act; and
- i) the goods are **exported**; or
 ii) the importer **relinquishes his title** to the goods and abandons them to customs; or
 iii) such goods are **destroyed or rendered commercially valueless** in the presence of the proper officer,
 within 30 days from the date on which the proper officer makes an order for the clearance of imported goods for home consumption under section 47

Application for Refund of Import duty shall be made before the expiry of six months from the relevant date.

Inward Processing of Goods (S. 25A)	Outward Processing of Goods (S. 25B)
CG may notify certain goods and exempt such of the goods which are imported for the purposes of repair, further processing or manufacture on fulfilment of below conditions: - a) The goods shall be re-exported after such repair, further processing or manufacture within 1 year from the date on which the order for clearance of the imported goods is made; b) The imported goods are identifiable in the export goods	Notwithstanding anything contained in section 20, where the CG may by notification, exempt goods which are re-imported after being exported for the purposes of repair, further processing or manufacture, as may be specified therein, from the whole or any part of duty of customs leviable thereon, subject to the following conditions, namely: - a) the goods shall be re-imported into India after such repair, further processing or manufacture within 1 year from the date on which the order permitting clearance for export is made; b) The exported goods are identifiable in the re-imported goods; and
<i>Note: - Section 25A & 25B will be applicable only on notified goods.</i>	

Section 51B of Customs Act

Section 51B of Customs Act provides for creation of an Electronic Duty Credit Ledger in the customs system. This will enable duty credit in lieu of duty remission to be given in respect of exports or other such benefit in electronic form for its usage, transfer, etc.

The provision for recovery of duties provided under Section 28AAA of the Customs Act, are also being expanded to include such electronic credit of duties.

As per section 51B: -

(1) The Central Government may, by notification in the Official Gazette, specify the manner in which it shall issue duty credit,—

(a) in lieu of remission of any duty or tax or levy, chargeable on any material used in the manufacture or processing of goods or for carrying out any operation on such goods in India that are exported; or

(b) in lieu of such other financial benefit subject to such conditions and restrictions as may be specified therein.

(2) The duty credit issued under sub-section (1) shall be maintained in the customs automated system in the form of an electronic duty credit ledger of the person who is the recipient of such duty credit, in such manner as may be prescribed.

(3) The duty credit available in the electronic duty credit ledger may be used by the person to whom it is issued or the person to whom it is transferred, towards making payment of duties payable under this Act or under the Customs Tariff Act, 1975 in such manner and subject to such conditions and restrictions and within such time as may be prescribed.

Customs Act, 1962 (5/5)

Faceless Assessments

Customs officials recognised a dire need to provide uniformity and certainty in assessment practices. It was also clear that anonymity in assessment and load balancing of import documents that are required to be assessed would bring about more efficiency and help improve the speed of Customs clearances across India. This was the trigger for the conceptualization and development of Faceless Assessment.

Faceless Assessment (also referred to as virtual assessment or anonymised assessment) uses a technology platform to separate the Customs assessment process from the physical location of a Customs officer at the port of arrival. This measure will bolster efforts to ensure an objective, free, fair and just assessment.

From an importer's perspective, there will be no changes to the process of filing a Bill of entry. He will continue to file his documentation including bill of entry and supporting documents on the ICEGATE portal.

Key Objective of Faceless Assessments

- i) Anonymity in assessment for reduced physical interface between trade and Customs*
- ii) Speedier Customs clearances through efficient utilisation of manpower*
- iii) Greater uniformity of assessment across locations*
- iv) Promoting sector specific and functional specialisation in assessment*

In this respect, Central Government has permitted the following class of importers to make deferred payment of import duty:-

- (i) Importers certified under Authorized Economic Operator programme as AEO (Tier Two) and AEO (Tier-Three)*
- (ii) Authorised Public Undertaking*

AEO means Authorised Economic Operator approved by the Directorate of International Customs under the CBIC. Authorised Public Undertaking Means Authorised Public Undertaking approved by the Directorate of International Customs under the CBIC.