

Introduction & Levy of Customs duty

Do you want to remember Sections?



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

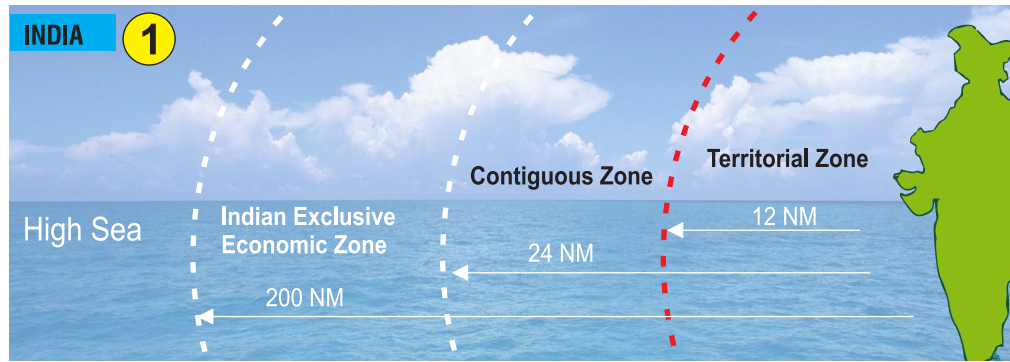
Important Cases

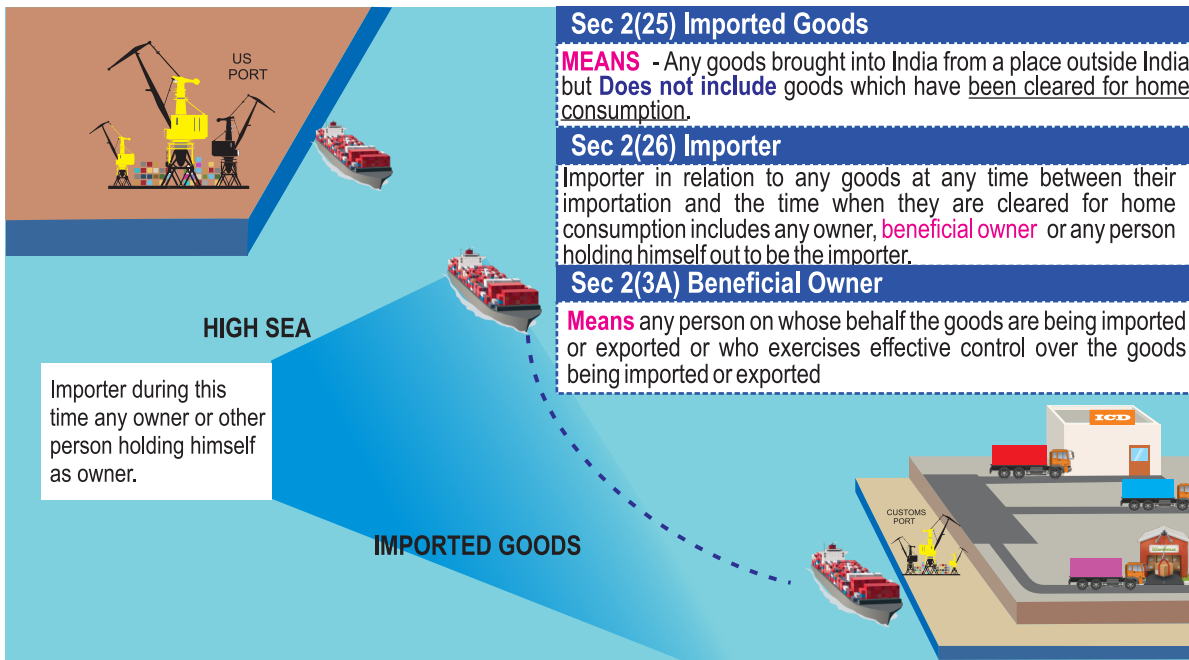
Citation	Decisions
<p>1. Apar Pvt. Ltd 2. Garden Silk Mills Ltd.</p>	<p>Importation Commence: When goods crosses territorial water of India. Continue & Completed: When it become part of mass of goods of country</p> <p>Taxable Event reach when goods reached to customs barriers and Bill of Entry for Home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

What we learn with pleasure we never forget.

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Sec 2(25) Imported Goods

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

Sec 2(26) Importer

Importer in relation to any goods at any time between their importation and the time when they are cleared for home consumption includes any owner, **beneficial owner** or any person holding himself out to be the importer.

Sec 2(3A) Beneficial Owner

Means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported

Sec. 2(27) India

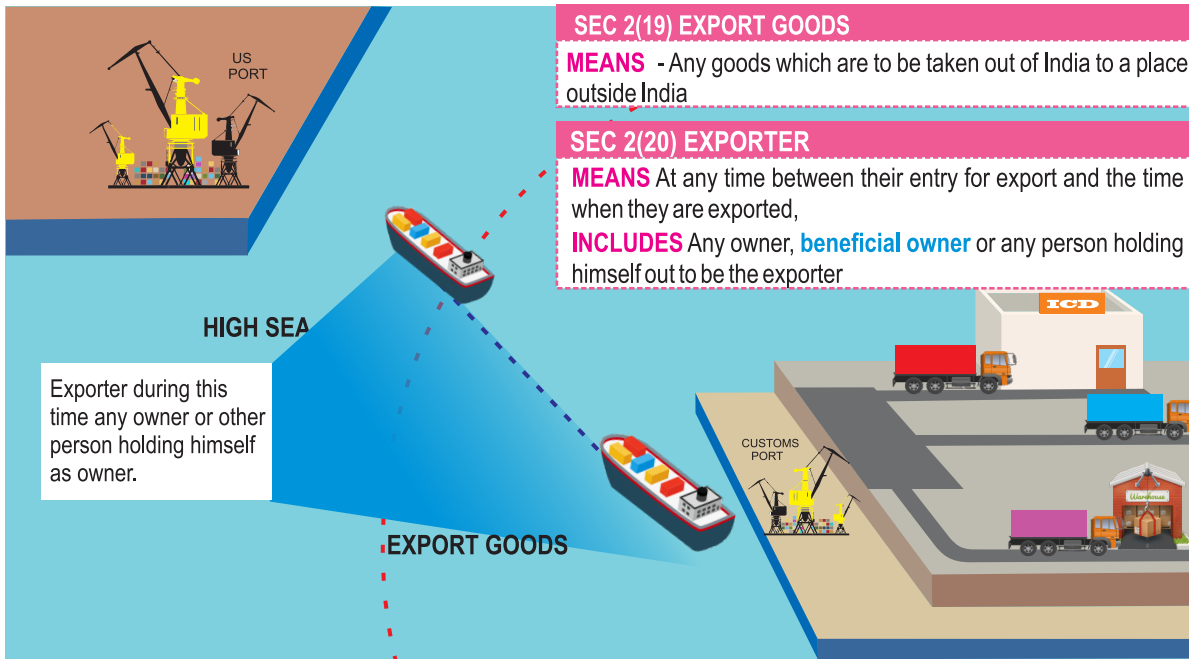
includes territorial waters of India

Sec 2(28) INDIA & INDIAN CUSTOM WATER

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

Includes

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



SEC 2(19) EXPORT GOODS

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

SEC 2(20) EXPORTER

MEANS At any time between their entry for export and the time when they are exported,
INCLUDES Any owner, **beneficial owner** or any person holding himself out to be the exporter

Sec. 2(9) "CONVEYANCE"

includes a vessel, an aircraft and a vehicle;

Sec 2(14) Dutiable goods

Means

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

Sec 2(42) VEHICLE

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

ASSESSMENT

Section 2(2) Assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force, with reference to—

- (a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act
- (b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act
- (c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force
- (d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods
- (e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods
- (f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods,

and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil

Importation & Exportation Procedure

Do you want to remember Sections?




Sections	Descriptions
2(10)	Customs Airport
2(11)	Customs Area
2(12)	Customs Port
2(13)	Customs Station
2(16)	Entry
2(29)	Land Custom Station
8	Power to approve landing places and specify limits of customs area
9	Power to declare places to be warehousing stations
10	Appointment of boarding stations

Sections	Descriptions
Import Procedure	
29	Arrival of Conveyance in India
30	Import Manifest / Report
30A	Passenger Manifest
31	Entry Inward
32	No unloading without mentioning in Manifest Report
33	Landing at approved places
34	Supervision of Customs Officer
35	Goods being water borne
45	Custody of goods after unloading
46	Bill of Entry
47	Order of Clearance for H.C.
48	Clearance within 30 days
49	Storage of Goods in warehouse pending clearance
50	Entry of goods for Exportation
51	Clearance of goods for Exportation

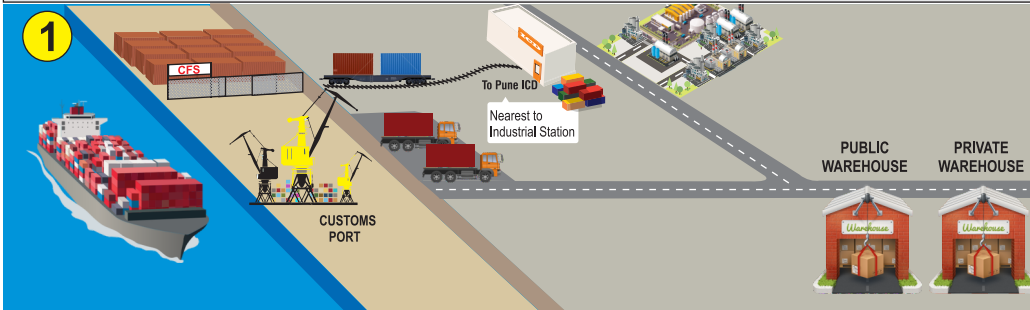
Sections	Descriptions
Export Procedure	
51A	Payment of duty, Interest, Penalty, etc.
51B	Ledger for duty credit
39	Entry Outward
40	Custom Clearance by proper Officer
41	Export Manifest or Export Report
41 A	Passenger Manifest
42	Departure Order
Common Provisions	
36	Restriction on loading unloading on holidays
37	Power to board to conveyance
38	Power to require production of documents and ask question
Transit and Transhipment	
53	Transit without Duty
54	Transhipment without Duty
55	Duty liability for Transit and Transhipment
56	Transport of goods to foreign territory

Education is not the learning of facts,
It's rather the training of the Mind to Think



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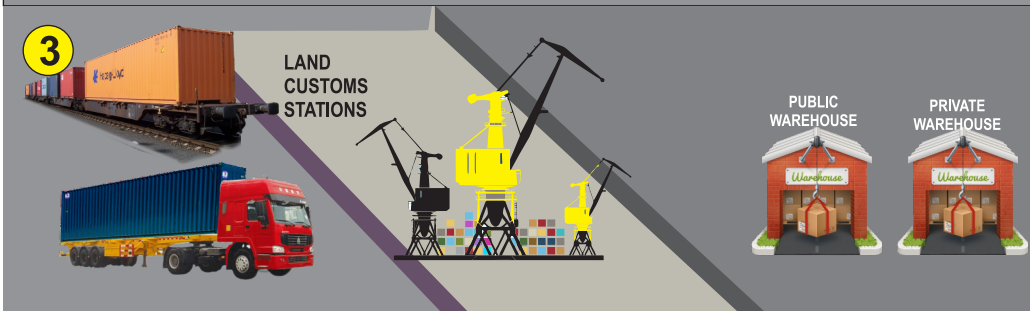
Sec 2(12) "customs port": -Means any port appointed under clause (a) of section 7 (appointed by CBIC) to be a customs port and
Includes a place appointed under clause (aa) of that section to be an **inland container depot**;



Sec 2(10) "customs airport" **Means** any airport appointed under clause (a) of 7 (appointed by CBIC) to be a customs airport;
Includes a place appointed under Clause (aa) of that section to be an **air freight station**

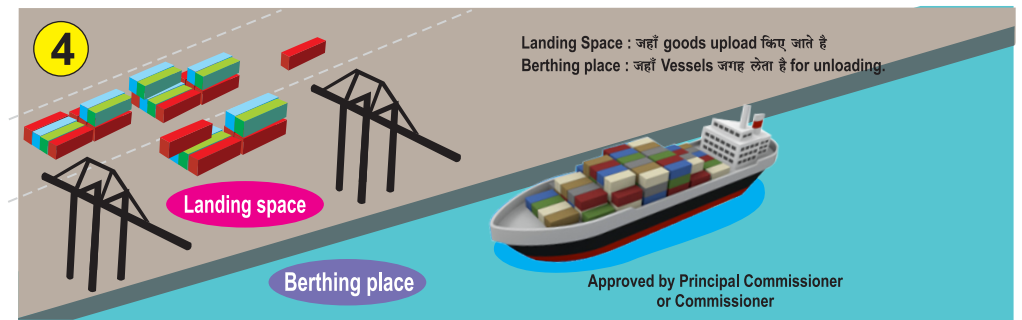


Sec 2(29) land customs station **Means** any place appointed under clause (b) of section 7 (appointed by CBIC) to be a land customs station.



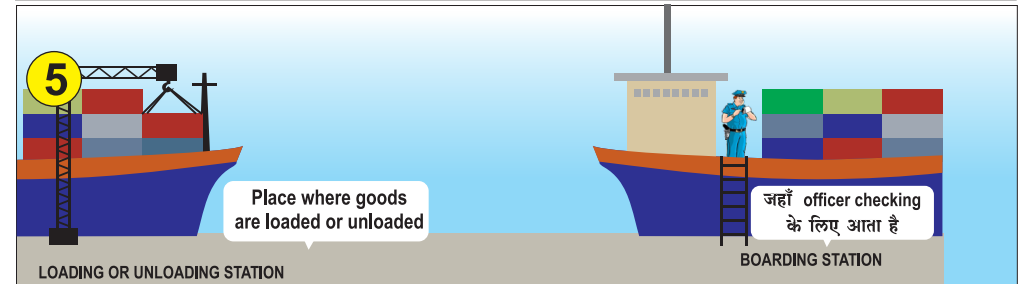
Sec 8 : Berthing Place

- (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.



Sec 10 : Boarding Station

The Principal Commissioner or Commissioner of Customs may, by notification in the Official Gazette, appoint, in or near any customs port, a boarding station for the purpose of boarding of, or disembarkation from, vessels by officers



ENTRY [Application of Clearance]



SEC 2(31) :

PERSON-IN-CHARGE

(a) In relation to a vessel



Master of the Vessel

(b) In relation to an aircraft,



The Commander or pilot -
in charge of the aircraft

(c) In relation to a Railway
Train



The conductor, guard or
other person having the
chief direction or the train

(d) In relation to any other
conveyance



The driver or other person
-in- charge of the
conveyance

Importation and Exportation Procedure

Sec 2(11) "customs area"	Means the area of a customs station and Includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities.
Sec 2(13) "customs station"	Means any customs port, customs airport or land customs station.
Sec 2(12) "customs port"	Means any port appointed under clause (a) of section 7 (appointed by CBIC) to be a customs port and Includes a place appointed under clause (aa) of that section to be an <i>inland container depot</i> ;
Sec 2(10) "customs airport, international courier terminal, foreign post office"	Means any airport appointed under clause (a) of section 7 (appointed by CBIC) to be a customs airport; Includes a place appointed under Clause (aa) of that section to be an <i>air freight station</i>
Sec 2(29) land customs station	Means any place appointed under clause (b) of section 7 (appointed by CBIC) to be a land customs station.
Sec 2(20A) "Foreign Post Office"	Means any post office appointed under clause (e) of sub-section (1) of sec. 7 to be a foreign post office
Sec 2(28A) "international courier terminal"	Means any place appointed under clause (f) of sub-section (1) of section 7 to be an international courier terminal exported

Inland Container Depot

1. It is Extended part of Customs port with independent existence appointed by CBIC. [Normally situated at a place where sea shore is not available.]
2. It is created for loading & unloading of Imported goods & Export goods.
3. All formalities of Customs like manifest, Bill of Entry are made available at ICD

Container Freight Station

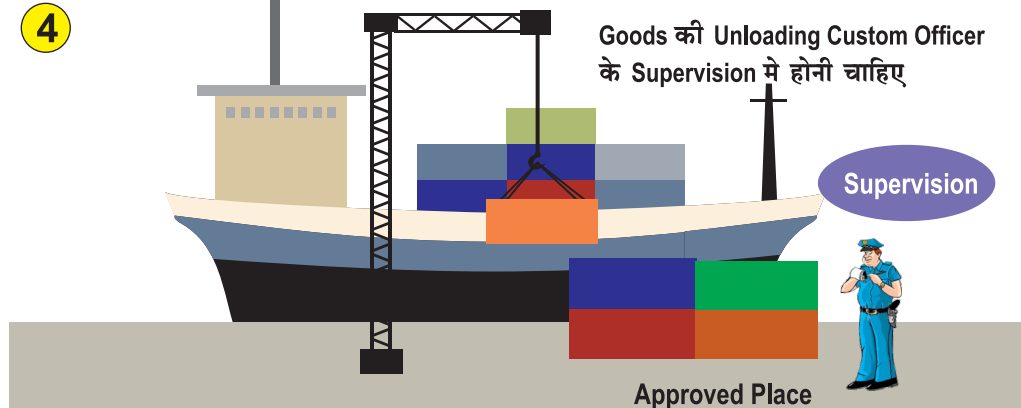
- 1) It is an extension of the primary Port
- 2) They are set up with the main objective of decongesting the Ports, where only a part of the Customs process mainly with examination of goods is carried out by the Customs.
- 3) Processing of Import Manifest, Export Manifest, Bill of Entry etc. are not carried out at CFS (these functions are carried at Main Port)

Sticky Notes

ARRIVAL OF VESSELS AND AIRCRAFT IN INDIA



Unloading and Supervision of Officer



PRESENTATION OF IGM



RESTRICTIONS ON GOODS BEING WATER-BORNE



Entry Inward



RESPONSIBILITY OF CUSTODIAN (DOCK)



IMPORT PROCEDURE

Section 29 :Arrival of vessels and aircraft in India

- 1) **Landing of vessel or aircraft by person-in-charge for first or subsequent time must be at approved customs stations.**
- 2) **Exceptions :** It may land at any other place only if compelled by accident, bad weather or due to some genuine unavoidable reason. In such a case,
 - a) He must **report to the nearest police station or custom officer of such arrival.**
 - b) He shall not without the consent of any such officer permit
 - ▶ any goods carried in the vessel or the aircraft to be unloaded from, or
 - ▶ any of the crew or passengers to **depart from the vicinity of, the vessel or aircraft.**
- 3) **However, the passengers, crew and goods can keep away from the conveyance for the reason of health, safety or preservation of life or property.**

SECTION 30: DELIVERY OF ARRIVAL MANIFEST OR IMPORT MANIFEST OR IMPORT REPORT

- 1) This will give details of cargo to be unloaded, unaccompanied baggage, goods to be transhipped, retention cargo. The person-in-charge of conveyance carrying imported goods shall submit

Nature of Conveyance	Name of Document	Time Limit	If it is not submitted within given time person in charge shall be liable to a penalty not more than Rs. 50000
Vessels or Aircraft	IGM	Before arrival of Vessel or Aircraft	
Vehicle	Import Report	Within 12 hr. after arrival	

- 2) It contain details such as general declaration about the conveyance, stores on the conveyance, private property in possession of the Captain of the aircraft or Master of the ship and other members of crews and Passenger Manifest.
- 3) Separate declaration has to be given in respect of goods like arms, explosives, narcotics, dangerous drugs, gold and silver.
- 4) The Import Manifest may be amended only with permission if there was no fraudulent intention.

Sec. 30A - Special Passenger and Crew Manifest

- (1) The person-in-charge , shall deliver to the proper officer :
 - (i) The passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and
 - (ii) The passenger name record information of arriving passengers, in such form, containing such particulars, in such manner and within such time, as may be prescribed.
- (2) If not delivered with in time then person incharge shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.

Section 31 : Imported goods not to be unloaded from vessels until entry inward granted

- 1) It is the permission granted by Customs for unloading cargo from vessels. It is granted when there is availability of berth place for unloading of goods.
- 2) Unloading of any imported goods is not allowed until an entry inward order given by the proper officer.
- 3) 'Entry inward' shall be given only if import manifest has been delivered or the proper officer is satisfied that there was sufficient cause for not delivering it.

Non-Applicability

- Comment:** 1) Provision of this section is applicable only in respect of vessels and not for aircraft or vehicle.
2) Also the provision not applicable to baggage, mail bag, perishable goods, hazardous goods and animals

Section 32 Imported goods not to be unloaded unless vessels mentioned in Import Manifest or Import Report

Only those goods which have been mentioned in the Import Manifest can be unloaded.

To mention in goods in IGM OR IR is a proof of the genuine nature of the imported goods and also it ensure accountability on the part of the person in-charge for the goods brought in his conveyance.

Section 33 Unloading and Loading of goods at approved places only

Loading & unloading of Imported goods or Export goods only at approved place by commissioner u/s 8 (Berth Place or Dock)

Section 34 : Goods not to be loaded or unloaded except under supervision of custom officer

Imported goods shall not be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of the proper officer.

Section 35 Restriction on goods being Water-Borne (Transported by Boat or Barge)

This section provide that

No imported goods shall be water-borne for being landed from any vessel, and **no export goods** which are not accompanied by a shipping bill, shall be water-borne for being shipped,

unless the goods are accompanied by a **boat-note** in the prescribed form.

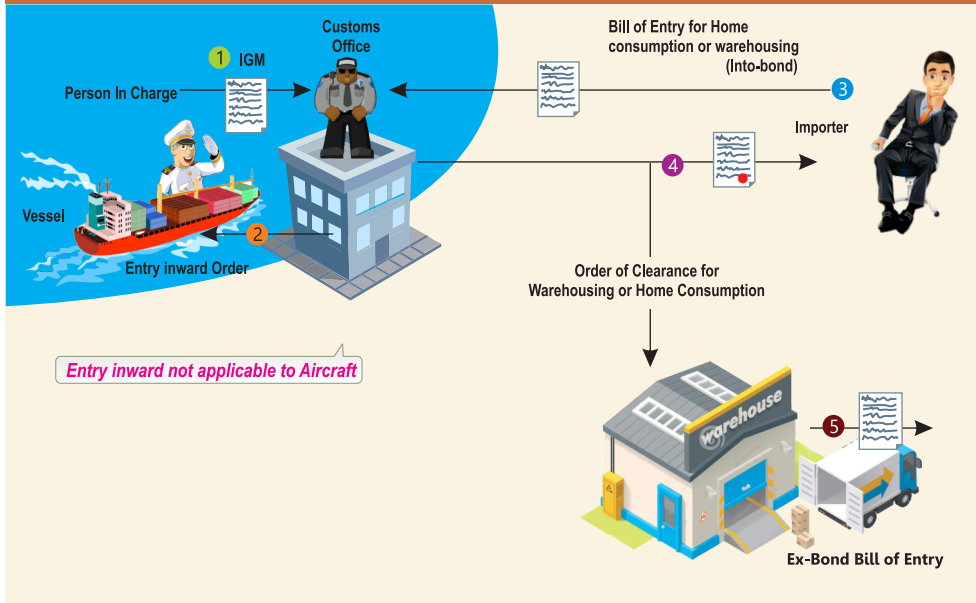
Section 45 Restriction on custody and removal of imported goods

All imported goods unloaded in a customs area shall remain in the custody of Port trust Authority / Airport authority as may be approved by the Commissioner of Customs until they are cleared for home consumption or are warehouse.

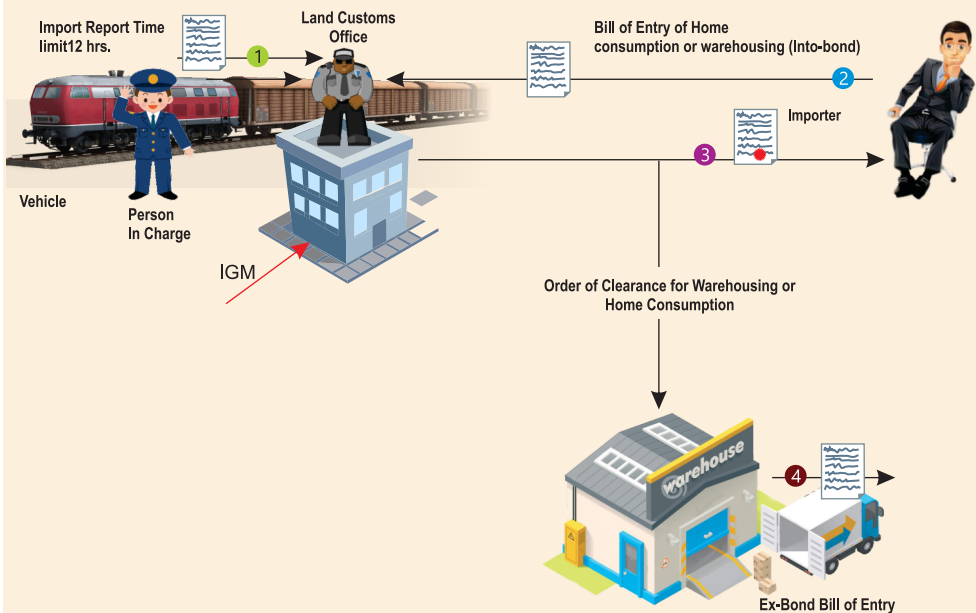
The person having custody of any imported goods in a customs area,

- ▶ Shall keep a record of such goods and send a copy thereof to the proper officer **or in such manner as may be prescribed;**
- ▶ Shall not permit such goods to be removed from the customs area without permission of officer.
- ▶ In case of pilferage PTA is liable for payment of duty at the Rate applicable on date of filling manifest.

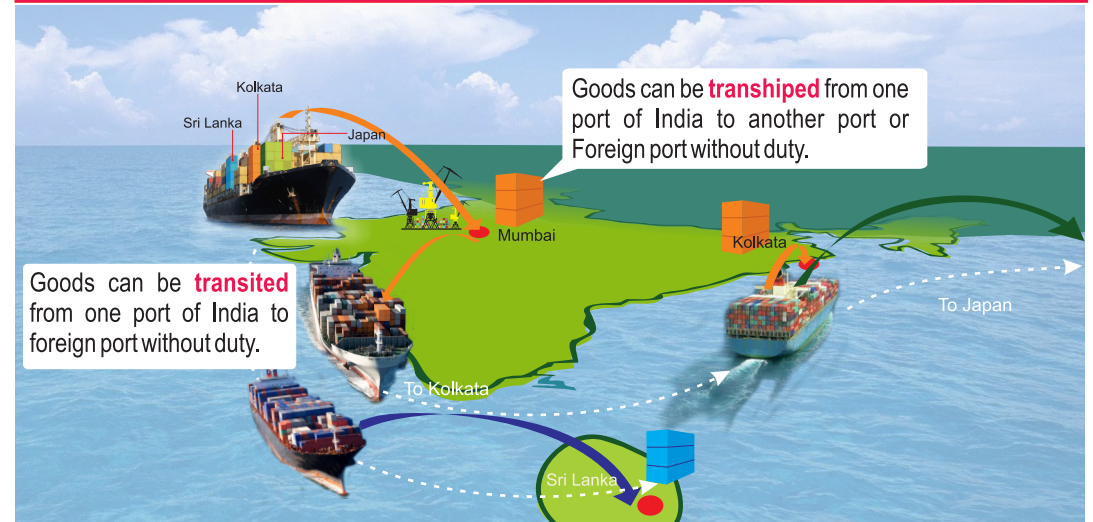
Importation by Vessel & Aircraft



Importation by Vehicle



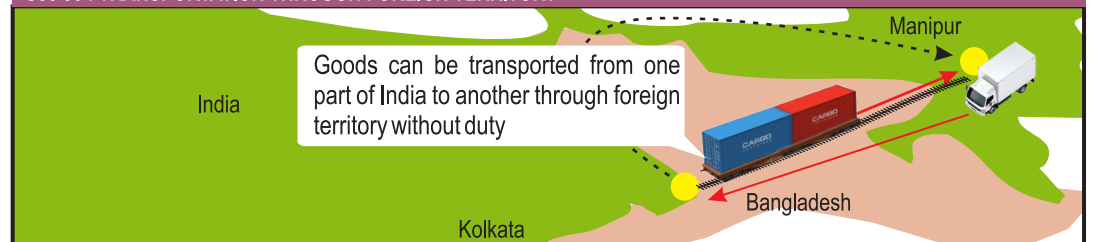
TRANSIT AND TRANSHIPMENT



DIFFERENCE BETWEEN TRANSIT AND TRANSHIPMENT OF GOODS

S.No.	Transit (Sec 53)	Transshipment (Sec 54)
1	In case of Transit of goods the conveyance remains same.	In case of transshipment, goods first landed in the particular Indian customs station and loaded to another conveyance for destination port i.e. conveyances changes.
2	The records already made in the ship's/ aircraft's will continue. The goods will have to be shown in the manifest as the same bottom cargo.	In case of transshipment goods are to be mentioned in manifest or report, as for transshipment for any customs station. Record will change as bill of transshipment shall be presented to the proper officer.
3	In case of transit there is continuity in the record and there is no chance of the control over such transit goods being lost.	In case of Transshipment care or caution have to be exercised to ensure that the goods are not illicitly landed and smuggled into India.
Sec 55	In case of Transit or Tranship in India Duty is payable at last destine port/Air port as if goods are imported first time at such port or Air port	

Sec 56 : TRANSPORTATION THROUGH FOREIGN TERRITORY



Section 46 : Entry of goods on Importation

1. **Meaning** : Importer must submit E-Bill of Entry for clearance of goods for home consumption or warehousing

2. **Types of Bill Of Entry**: There are three types of B/E prescribed by regulation

B/E U/s 46	1) Bill of Entry for Home Consumption 2) Bill of Entry for warehousing (into-Bond)
B/E U/s 68	Bill of Entry for Home Consumption to warehouse (Ex-bond)

3. **Documents** : A bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

4. **Incomplete Bill of Entry**: In case of incomplete B/E on request of importer officer may give permission for warehousing without warehousing.

5. **Time Limit**: *The importer shall present the bill of entry before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing*

6. **Prior B/E**: Prior B/E allowed before IGM but vessel or aircraft must arrived within 30 days.

7. **Conversion of Bill of Entry**: Conversion from home consumption to warehousing and vice-versa if no fraudulent intention and revenue of Central Govt. not prejudicially affected.

8. DECLARATION / VERIFICATION : *The importer while presenting a bill of entry shall- (a) make and subscribe to a declaration as to the truth of contents of such bill of entry and (b) shall, in support of such declaration, produce to proper officer [i.e., "Superintendent/ Appraiser" or higher authority] the invoice, if any, and such other documents relating to the imported goods as may be prescribed.*

9. THE IMPORTER WHO PRESENT A BILL OF ENTRY SHALL ENSURE THE FOLLOWING, NAMELY:

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

Section 47 : Clearance of goods for Home Consumption

Where the proper officer is satisfied that

- ▶ any goods entered for home consumption are not prohibited goods and
- ▶ the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.

Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria

"Provided that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.

The importer shall pay the import duty—

a) In case of self assessment or	On the date of presentation of duty
b) In case of assessment, re-assessment or provisional assessment or	within one day (excluding holiday) from the date on which bill of entry refunded to him by proper officer for payment of duty
c) In case deferred payment in notified cases	on such due dates as may be specified by rules.

and if he fails to pay the duty within the time so specified, he shall pay interest @ 15% on the duty not paid or short-paid till the date of its payment.

Deferred Payment of Import Duty Rules, 2016 read with Circular No. 52/2016- Cus dated 15.11.2016:

Information about intent to avail benefit of notification: An eligible importer intending to avail the benefit of deferred payment shall *intimate to the Principal Commissioner/Commissioner of Customs*, having jurisdiction over the port of clearance, his intention to avail the said benefit who on being satisfied with the eligibility of the importer allow him to pay the duty by due dates.

Due dates for deferred payment of import duty—

Sr. No.	Goods corresponding to Bill of Entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1.	1 st day to 15th day of any month	16th day of that month
2.	16th day till the last day of any month other than March	1st day of the following month
3.	16th day till the 31st day of March	31st March

Electronic payment of duty: The eligible importer shall pay the duty electronically. However, the Assistant/Deputy Commissioner of Customs may for reasons to be recorded in writing, allow payment of duty by any mode other than electronic payment.

Deferred payment not to apply in certain cases: If there is default in payment of duty by due date more than once in three consecutive months, this facility of deferred payment will not be allowed unless the duty with interest has been paid in full.

The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the entry.

SECTION 48 PROCEDURES IN CASE OF GOODS NOT CLEARED, WAREHOUSED, OR TRANSHIPPED WITHIN THIRTY DAYS AFTER UNLOADING

If any imported goods are not cleared for home consumption or warehoused or transhipped within thirty days from the date of the unloading thereof or within such further time as the proper officer may allow, such goods may, after notice to the importer and with the permission of the proper officer be sold by custodian thereof

After the successful bidder has been informed about the result of the auction, a consolidated bill of entry, buyer-wise

will be filed with the Customs in the prescribed format by the concerned

custodian for clearance of the goods as per section 46.

(a) The proper officer of Customs shall assess the goods to duty in accordance with the extant law within 15 days of filing of Bill of Entry and after assessment inform the amount of duty payable to the concerned custodian.

(b) The auctioned goods shall be handed over to the successful bidder after assessment and out-of-charge orders given by the proper officer, on payment of dues.

Provided that –

- a) Animals, perishable goods and hazardous goods, may, with the permission of the proper officer, be sold at any time;
- b) Arms and ammunition may be sold at such time and place and in such manner as the Central Government may direct.

Section 49 : Warehousing without Warehousing (If goods not clear within 30 days)

In following cases AC/DC may allow to deposit the goods warehouse without carrying the provision of warehousing

If goods entered for H.C.	Imported goods dutiable or not	If cannot cleared goods for home consumption within reasonable time
If goods entered for warehousing	Only dutiable goods	If cannot removed for deposit in a warehouse within reasonable time

Warehousing period is allowed for 30 days.

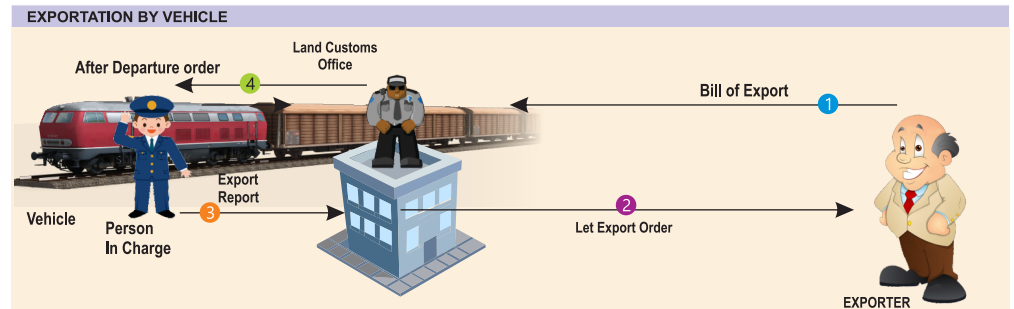
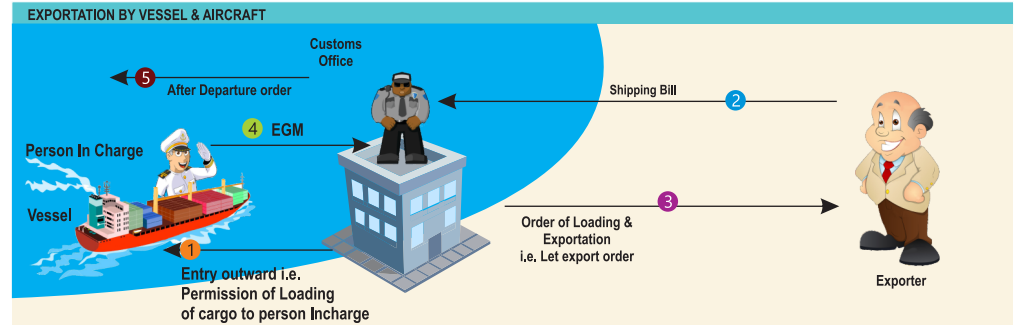
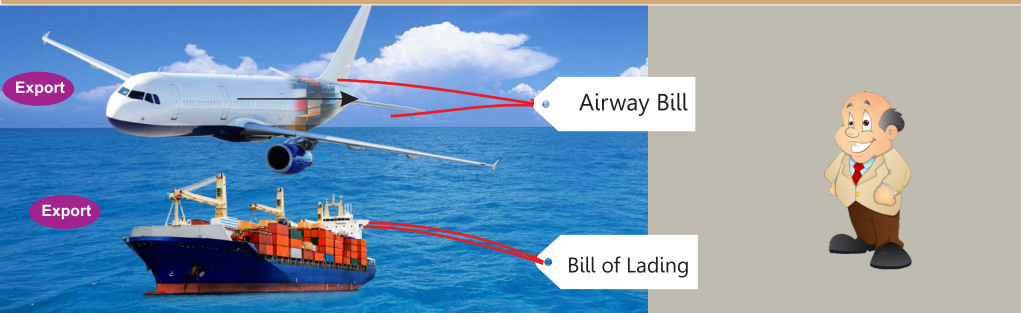
Note : Principal commissioner or Commissioner may extend the period for further 30 days.

Warehousing without Warehousing (Allowed in following 3 cases)

Section	46(1) Proviso	49	85
Types of Goods	Generally only Dutiable Imported Goods.	Any Imported Goods, whether Dutiable or not.	Imported Goods supplied as stores.
Application/ Declaration by Importer	That he is unable to furnish all particulars of goods u/s 46(1) (for B/E), for want of information	That the goods cannot be cleared within a reasonable time	That the goods are to be supplied as "Stores" to Vessels or Aircraft
Place of Deposit	Public Warehouse only	Public Warehouse only	Not Specified

EXPORT PROCEDURE

DOCUMENTS OF CARRIER



Section 50 : Entry of goods for Exportation (Shipping Bill or Bill of Export)

- 1) The exporter of any goods shall make entry thereof by presenting on custom automated system
- 2) In the case of goods to be exported in a vessel or aircraft - a shipping bill and
In the case of goods to be exported by land - a bill of export
- 3) A Shipping Bill is filed only after an entry outward.

The exporter who presents a shipping bill or bill of export under this section shall ensure the following namely-

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

Section 51 : Clearance of Goods for Exportation

Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same,

the proper officer may make an order permitting clearance and loading of the goods for exportation (also called Let Export Order).

Classes of Importer notified by C.G. can make deferred payment of Duty and other charges as prescribed in Rules.

Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at 15% p.a.

SECTION 51A: PAYMENT OF DUTY, INTEREST, PENALTY, ETC.

- (1) Every deposit made towards duty, interest, penalty, fee or any other sum payable by a person under the provisions of this Act be credited to the **electronic cash ledger** of such person, to be maintained in such manner, as may be prescribed.
- (2) The amount available in the electronic cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum payable under the provisions of this Act.
- (3) The balance in the electronic cash ledger, after payment of duty, interest, penalty, fee or any other amount payable may be refunded in such manner as may be prescribed.
- (4) Board can exempt the deposits made by such class of persons or with respect to such categories of goods, as may be specified in the notification, from all or any of the provision of this section

SECTION 51B :- LEDGER FOR DUTY CREDIT

- 1) The Central Government may, specify the manner in which 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 goods or for carrying out any operation on such goods in India that are exported or
 - b) other financial benefit subject to such conditions and restriction as may be specified therein.
- 2) the **duty credit issued 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.
- 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.

Section 39 : Export goods not to be loaded on vessel until Entry out-wards Granted

- 1) The master of a vessel shall not permit the loading of any export goods, other than baggage and mail bags, until an order has been given by the proper officer granting entry-outwards to such vessel.
- 2) Granting of Entry outward means general permission by customs authority to the master of the vessels for allowing him to load cargo.
- 3) Provision of this section is applicable only in respect of vessels and not for aircraft or vehicle.

Section 40 : Export goods not to be loaded unless duly passed by proper officer

- The person-in-charge of a conveyance shall not permit the loading at a customs station-
- ▶ of export goods other than baggage and mail bags, unless a shipping bill or bill of export or a bill of transshipment, as the case may be, duly passed by the proper officer, has been handed over to him by the exporter.
 - ▶ of baggage and mail bags, unless their export has been duly permitted by the proper officer.

section 41: Delivery of Departure Manifest or Export Manifest or Export Report.

The person-in-charge of a conveyance carrying export goods or imported goods or any other person as may be specified by the Central Government, by notification, shall, before departure of the conveyance from a customs station, deliver to the proper officer

➔ in the case of a vessel or aircraft	departure manifest or an export manifest in electronic form
➔ in the case of a vehicle	export report, (in prescribed form and manner)

such person-in-charge or other person fails to deliver the departure manifest or export manifest or the export report or any part thereof within such time, and the proper officer is satisfied that there is no sufficient cause for such delay, such person-in-charge or other person shall be liable to pay penalty not exceeding fifty thousand rupees

Provided that principle Commissioner of Custom or Commissioner of Custom may in cases where it is not feasible to deliver the departure manifest or export manifest or export report by presenting electronically allow the same to be delivered in any other manner.

Person delivering the departure manifest or export manifest or export report shall act the foot thereof make and subscribe to a declaration as to the truth of its contents.

Section 42 : No conveyance to leave without written order

Departure of conveyance from customs station is allowed only after a written order (departure order) to that effect has been given by the proper officer.

No such order shall be given until

- a) the person-in-charge of the conveyance has answered the questions put to him.
- b) the provisions of EGM have been complied with.
- c) the shipping bills or bills of export, the bills of transshipment, if any, and such other documents as the proper officer may require have been delivered to him;
- d) all duties leviable on any stores and all charges and penalties due have been paid or guaranteed.
- e) no penalty is leviable on him under section 116 or the payment of any penalty is guaranteed.
- f) in any case where any export goods have been loaded without payment of export duty or in contravention of any provision of this Act (i) such goods have been unloaded, or (ii) If it is not practicable to unload such goods, then secured by such guarantee or deposit, for bringing back the goods to India.

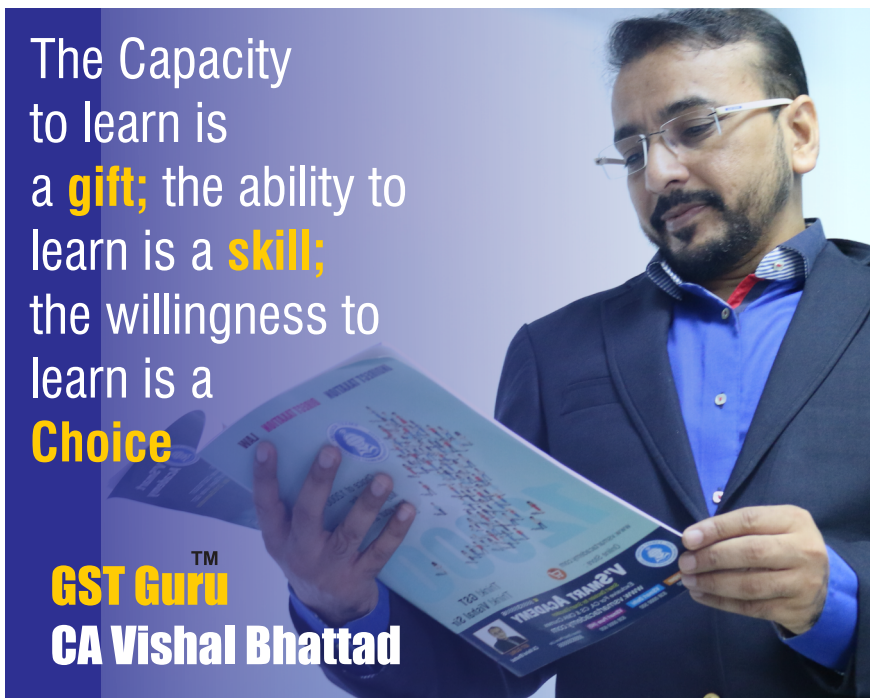
Date for Determination of

- **Duty Rate & Tariff Value**
- **Exchange Rate**

Assessment



Sections	Descriptions
15	Date for Determination of Duty Rate & Tariff Value for Imported goods
16	Date for Determination of Duty Rate & Tariff value for Export goods.
17	Self Assessment
18	Provisional Assessment
19	Articles brought in Set
	Project import
14(3)	Exchange Rate notified by CBIC
Proviso to 14(1)	Date for exchange Rate for conversion of Value



Territorial Water
Date - 27/02/XX
Duty Rate - 20%
Ex. Rate -1\$ = 64.20

ENTRY INWARD ORDER
Date - 5/03/XX
Duty Rate - 20%
Ex. Rate -1\$ = 64.80

Bill of Entry
Date - 15/03/XX
Duty Rate - 10%
Ex. Rate -1\$ = 64.80

Duty Rate - 10%
Ex. Rate -1\$ = 64.80

Territorial Water
Date - 5/03/XX
Duty Rate - 20%
Ex. Rate -1\$ = 64.80

ENTRY INWARD ORDER
Date - 10/03/XX
Duty Rate - 20%
Ex. Rate -1\$ = 64.80

Bill of Entry
Date - 20/02/XX
Duty Rate - 10%
Ex. Rate -1\$ = 64.20

Duty Rate - 20%
Ex. Rate -1\$ = 64.20

Territorial Water
Date - 28/02/XX
Duty Rate - 20%
Ex. Rate -1\$ = 64.20

ENTRY INWARD ORDER
Date - 5/03/XX
Duty Rate - 10%
Ex. Rate -1\$ = 64.80

Into Bond B/E
Date - 25/03/XX
Duty Rate - 10%
Ex. Rate -1\$ = 64.80

Ex Bond B/E
Date - 15/06/XX
Duty Rate - 15%
Ex. Rate -1\$ = 65.20

Duty Rate - 15%
Ex. Rate -1\$ = 64.80

EXPORTED GOODS

Territorial Water
Date - 20/03/XX
Duty Rate - 10%
Ex. Rate -1\$ = 64.80

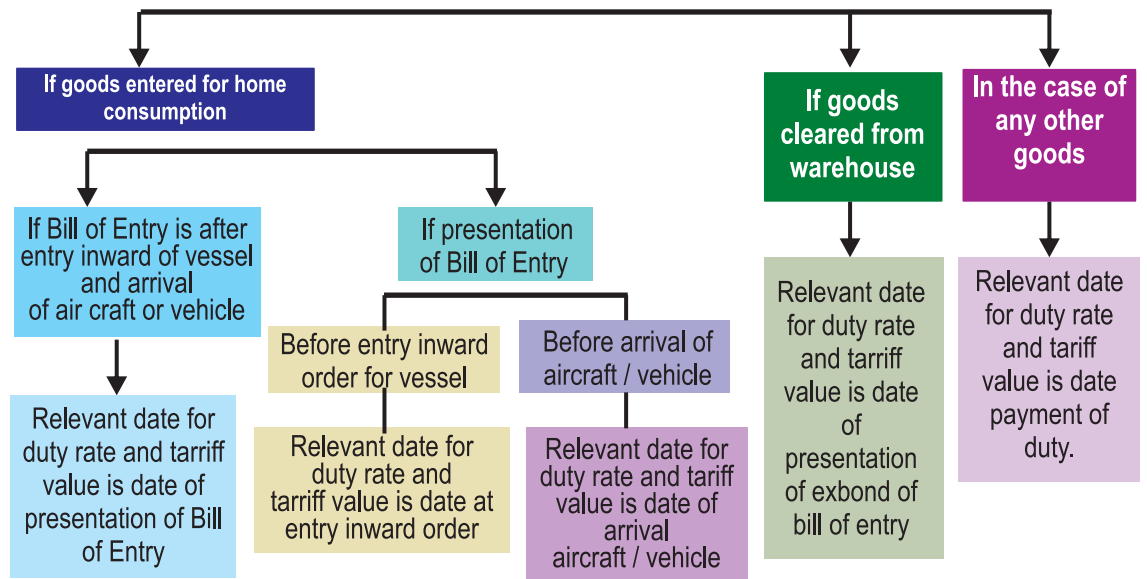
SHIPPING BILL
Date - 20/02/XX
Duty Rate - 10%
Ex. Rate -1\$ = 64.20

LET EXPORT ORDER RECEIVED
Date - 5/03/12
Duty Rate - 15%
Ex. Rate -1\$ = 64.80

Duty Rate - 15%
Ex. Rate -1\$ = 64.20

DATE FOR DETERMINATION OF RATE AND TARIFF VALUE.

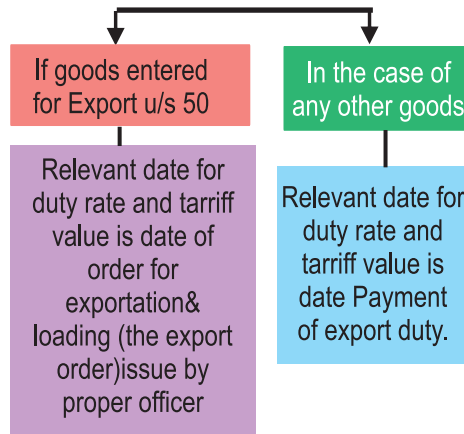
SECTION 15(1) FOR IMPORTED GOODS.



DATE FOR DETERMINATION OF FOREIGN EXCHANGE RATE [ANALYTICAL TABLE]

Sr. No.	Particulars	Relevant date for duty under sec 15 & 16	Relevant date for Foreign exchange rate under proviso to Sec 14(1)
1.	If goods entered for home consumption		
	a) B/E presented after entry inward	Date of presentation of B/E	Date of presentation of B/E
	b) B/E presented before entry inward	Date of granting inward order.	Date of presentation of B/E
2.	If goods cleared from a warehouse	Date of Exbond B/E	Into Bond B/E
3.	If goods entered for export under section 50	Date of Net Export Order	Date of Shipping Bill

SECTION 16(1) FOR EXPORT GOODS



SEC 14(3) : "RATE OF EXCHANGE" means the RATE OF EXCHANGE AS DETERMINED BY THE CBEC.

ASSESSMENT

SEC 17 SELF ASSESSMENT & RE -ASSESSMENT

(a) Duty to be self-assessed by the importer/exporter

An importer in his Bill of entry, or an exporter entering any export in his shipping bill or Bill of Export, self-assess the duty, if any, leviable on such goods.

(b) Verification by proper officer

The purpose of Verification, the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

(c) Reassessment of duty by the proper officer if self-assessment not done correctly

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

(d) Speaking order for re-assessment to be passed unless the importer agrees with the reassessment

Where any re-assessment done is contrary to the self-assessment done by the importer or exporter.

- 1) If Importer/Exporter accept reassessment in writing – **No speaking order by officer**
- 2) If Importer/Exporter not accept reassessment in writing - **Speaking order within 15 days**

SEC 18 PROVISIONAL ASSESSMENT

(1) Cases of Provisional Assessment

- (1) In following cases provisional assessment shall be done
 - (a) where the importer or exporter is **unable to make self-assessment** and makes a request in writing to the proper officer for assessment; or
 - (b) where the proper officer deems it necessary to subject any imported goods or export goods to any **chemical or other test**; or
 - (c) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary **to make further enquiry**; or
 - (d) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry, the proper officer may direct for provisional assessment on security given by Importer or exporter.

(1A) Where, pursuant to the provisional assessment under sub-section(1), if any document of information is required by the proper officer for final assessment, the importer or exporter, as the case may be, shall submit such document or information within such time, and the proper officer shall finalise the provisional assessment within such time and in such manner, as may be prescribed.

2) Final Assessment

FAD > PAD	Differential Amount Payable	Interest 15% p.a. on differential Amount from the first day of the month in which the duty is provisionally assessed till the date of payment there of.
FAD < PAD	Refund	Interest 6% p.a.

* FAD:- Final Assessed Duty, PAD:- Provisional Assessed Duty

Notification

CUSTOM FINALISATION OF PROVISIONAL ASSESSMENT (Regulation, 2018) (N/n 73/2018-Custom (N.T.))

Application : These regulation shall apply to the provisional assessments ordered on and after the enforcement of these regulations.

Time Limit and manner for submission of documents or information for the purpose of finalisation of provisional assessment : a) the necessary documents have not been produced or information has been furnished by the importer or the exporter; or
b) the proper officer requires the importer or the exporter to produce any additional documents or information,

then the necessary document required for final assessment to be submitted within 1 month of order of provisional assessment or date of such requisition by proper officer.

2) Proper officer shall within 15 days in writing specify the details of the information to be furnished.

3) *Extend :*

a) Proper officer -	further upto 3 months
b) Additional commissioner or Joint Commissioner -	extend another by 3 months
c) Commissioner of Custom -	extend the time period further as demanded

Note:- Bill of entry/shipping bill that has been assessed provisionally shall be treated separate case of provisional assessment

4) *Time Limit for finalisation of provisional assessment :* within 2 months after receipt of all information or carrying chemical or other test or investigation.

The Commissioner of Customs concerned may allow, for reasons to be recorded in writing, a further time period of three months.

5) *If duty payable in final assessment is more than provisional assessment than deficient amount adjusted against security given with bond.*

6) *Penalty :* If any importer or exporter or his authorised representative or Customs Broker contravenes any provision of these regulations or abets such contravention, or fails to comply with any provision of these regulations, he shall be liable to a penalty which may extend to fifty thousand rupees.

SEC: 19 DETERMINATIONS OF DUTY WHERE GOODS CONSIST OF ARTICLES LIABLE TO DIFFERENT RATES OF DUTY

Except as otherwise provided in any law for time being in force, where goods consist of set of articles, Duty shall be calculated as follows,

Duty with reference to quantity;	Article liable to duty with reference to quantity shall be chargeable to that duty.
----------------------------------	---

Duty with reference to value:

If they are liable to duty at the same rate,	All articles shall be chargeable to duty at that rate.
If they are liable to duty at different rate	All articles shall be chargeable to duty at the highest rate.[Even though some article are at NIL rate] But if the importer produces evidence to the satisfaction of the proper officer or the evidence is available regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.



Assessment of accessories supplied with main equipment:

If proper officer is satisfied that in the ordinary course of trade:-

- ▶ such accessories, parts are compulsorily supplied along with that article and
- ▶ no separate charge is made for such supply, their price being included in price of the article.
such accessories, parts, implements are chargeable to duty at the same rate as that of the main article.

PROJECT IMPORTS

- Where an Industrial or similar project is going to be installed or commissioned or an existing unit is planned to expand, for its initial setting up, a numbers of different machineries, raw material, components, auxiliary equipments, spares etc. are required all these items are classifiable under different heading,
- It involve different duty for different items and careful scrutiny of each and every item for assessment, this leads to delay in clearance and certain amount of hardship over importers.
- Thus to alleviate the same and streamline the process of assessment, new tariff heading with a flat rate was framed to cover all project imports under CTA1975 (heading no. 98.01)

Eligible Projects

- | | |
|--|--------------------------------------|
| ▶ Industrial plants | ▶ Power projects |
| ▶ Project for oil or mineral exploration | ▶ Irrigation projects |
| ▶ Mining projects | ▶ Other project as specified by C.G. |

Summary of Faceless Assessment [Newly Inserted by ICAI Material]

Introduction	In order to achieve the aim of catalysing economic development through transparency, harmonization, predictability, & automation in trade & also to reduces time and cost for the EXIM community, & to help them to become more competitive internationally, CBIC has taken some initiatives. One of them is " Turant Customs ", a mega reform for the ease of doing business. <i>This initiative stands on the pillar of Faceless, Contactless and Paperless Customs, towards faster and cheaper Customs clearance of imported goods, & reduce interface between the Trade and Customs officers.</i> A key enable in Turant Customs is Faceless Assessment, rolled out in phases and covered the entire country by 31st October 2020.
Journey towards Faceless Assessment	Decades ago, goods imported were assessed at the border by Customs officers on the basis of physical documents. After introduction of computers led to automation of assessment, followed by a robust digital risk management system (RMS) for Customs clearance with minimal checks. In 2012, the Customs Act 1962, was amended to introduce self-assessment by importers/ exporters themselves. Customs officials recognised a dire need to provide uniformity and certainty in assessment practices. Anonymity in assessment and load balancing of import documents ,for assesment, would bring about more efficiency and help improve the speed of Customs clearances across India. <i>This was the trigger for the conceptualization and development of Faceless Assessment.</i>
What is Faceless Assessment?	<ul style="list-style-type: none"> ➤ Faceless Assessment is a major Customs Reforms where a Bill of Entry, identified for scrutiny (non-facilitated Bill of Entry) is assigned to an assessing officer, physically located at a Customs station, which is not the Port of Import in the Customs Automated System. ➤ It is a component of the "Turant Customs programme" ➤ It is a path breaking initiative aimed at introducing anonymity and uniformity in Customs assessments pan India. ➤ It separates the Customs assessment process from the physical location of Port of Import, using a technology platform. ➤ Also called virtual assessment or anonymised assessment. ➤ This is to ensure an objective, free, fair and just assessment. ➤ No changes to the process of filing a B/E. Importer can file his documentation including bill of entry and supporting documents on the ICEGATE portal
Key objectives of Faceless Assessment	<ol style="list-style-type: none"> 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

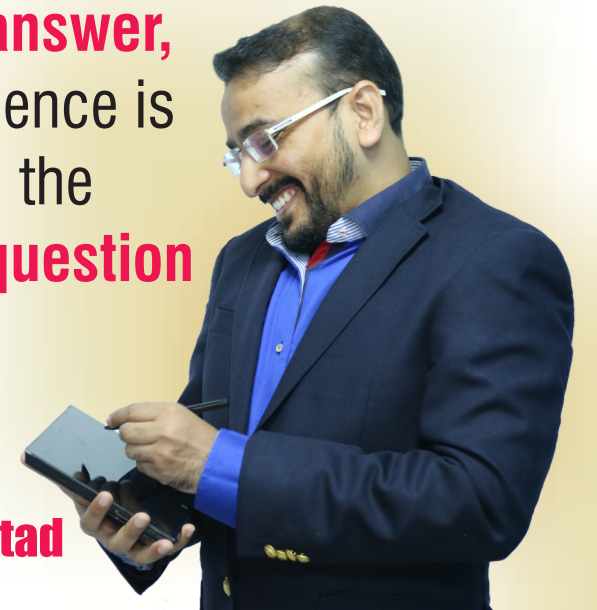
Types of Duties



Do you want to remember Sections?

Sections	Descriptions
Sec 1	Short Title, Extent and Commencement
Sec2	Duty Rate for Basic Customs Duty
Sec 3	Additional Customs Duty
Sec 4	Special Rate for preferential Countries
Sec 5	Low rate under international Trade agreement
sec 6/7	Protective Duties
Sec 8B	Safeguard Duty
Sec 8C	Specific Safeguard Duty for import from China
Rule 9:	CVD on Subsidies Article
Rule 9A	Anti-Dumping Duty
Rule 9B:	No Levy under Section 9 and 9A in certain cases
Rule 9C	Appeal

Knowledge is having the **right answer**, Intelligence is asking the **right question**



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CA Vishal Bhattad

SEC 3 : ADDITIONAL CUSTOM DUTY

Section - 2

BCD levied under section 1 are specified in the (I) and (II) schedules.

TARIFF

[BASED ON HARMONISED SYSTEM OF NOMENCLATURE]

CUSTOMS TARIFF ACT, 1975

Schedule I
Imported Goods

Schedule II
Export Goods

21 Sections

99 Chapters

ACD 3(1)

1) *such additional duty as would counter-balance the excise duty for the time being leviable on a like article if produced or manufactured in India.*

2) This duty is called as additional duty.

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
Value for ACD 3(1)	xxx

1) Duty rate = Excise duty as mentioned in Central Excise Tariff Act, 1985
2) In case of alcohol Duty Rate = Rate notified by C.G.

ACD 3(5)

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,

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
Value for ACD 3(5)	xxx

1) Duty rate = Rate notified by C.G. which should not exceeds 4%

ACD 3(7) = IGST

2) It is leviable to counter balance the effect of GST payable on Supply of like goods in India.

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
(+) ACD 3(5)	xx
(+) Safeguard Duty	xx
(+) CVD on subsidies Article	xx
(+) Antidumping Duty	xx
Value for ACD 3(7)	xxx

1) Duty rate = Rate notified for levy of IGST under GST Act on like goods

ACD 3(9) = GST Cess

It is payable to Counter balance GST compensation Cess leviable u/s 8 GST (Compensation to States cess Act, 2017 on a like article on its supply in India.)

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
(+) ACD 3(5)	xx
(+) Safeguard Duty	xx
(+) CVD on subsidies Article	xx
(+) Antidumping Duty	xx
Value for ACD 3(9)	xxx

1) Duty rate = Rate notified by C.G. under GST Cess Act on like goods

SEC 4 : PREFERENTIAL RATE

- 1) C.G. has power to notify preferential area
- 2) Duty is payable at preferential rate of imported goods being produce or manufacture in preferential area
- 3) C.G. notify the rules for determination of goods produce or manufacture in preferential area .
- 4) In the interest of trade C.G. may reduce or increased or discontinue preferential rate
- 5) If preferential rate increased then it should not exceeds normal Rate

SEC 5 : LOWER RATE OF DUTY UNDER TRADE AGREEMENT

- 1) C.G. may notify lower agreement between Govt. of India & Foreign Country
- 2) C.G. notify the rules for determination of goods produce or manufacture in foreign country.

DETERMINATION OF MARGIN OF DUMPING

It is difference between

Normal value

Export Price

If like goods are ordinarily Sold in the country of exportation

"Normal value", in relation to an article, means the comparable price, in the ordinary course of trade, for the like article when sold in the exporting country or territory

In case no or low sales in domestic market of exporting country

OR

Comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country.

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,

If available

Export price", in relation to an article, means the price of the article exported from the exporting country or territory

If not available

OR

If imported articles are resold to an independent buyer

If imported articles are not resold to an independent buyer

The export price may be constructed on such reasonable basis as may be determined in accordance with the rules made

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CUSTOM REVISION
19

Classification of Customs Duty - A Comparison

Duty	Protective Duty	Safeguard Duty (SGD) (any Country)	CVD on Subsidised Article	Anti Dumping Duty
Section	6	8B	9	9A
Authority to Levy	It is levied by C.G. on recommendation of tariff commission	It is levied by C.G.	It is levied by C.G.	It is levied by C.G.
Condition/ Purpose of Levy	Tariff Commission Recommendation to protect the interest of any industry established in India.	To avoid import of increased quantities and in conditions to cause or threatening to cause serious injury to domestic industry.	Import from any country / territory, which pays any subsidy on manufacture, production, exportation or transportation of article.	Where an article exported from any country or territory, to India at less than its Normal Value .
Rate of Duty	On the basis of recommendation by Tariff Commission	The safeguard measures shall include imposition of ↻ safeguard duty , ↻ application of tariff-rate quota or ↻ such other measure , as the Central Government may consider appropriate,	CVD = subsidy on imported goods	Anti Dumping Duty = Margin of Dumping (Refer earlier page)
Provisional Levy	Not Relevant	Valid for ≤ 200 days from date of imposition.	Provisional levy is possible. Time limit not specified.	Provisional levy is possible. Time limit not specified.
Maximum Duration of Levy	Not Relevant	4 years, extendable upto 10 years.	5 years, extendable another 5 years from date of such extension	5 years, extendable another 5 years from date of such extension
Retrospective Levy	Not Possible	Not Possible	Upto 90 days before the date of notification.	Upto 90 days before the date of notification.
Rules	----	Customs Tariff (Identification and Assessment of SGD) Rules, 1997.	Customs Tariff (Identification, Assessment and Collection of CVD on subsidized articles and for determination of injury) Rules, 1995.	
Exemption to be EOU / SEZ	No specified	No SGD u/s 8B f or 100 % EOU & unit in FTZ / SEZ	No specified	No ADD u/s 9A for 100% EOU & unit in FTZ / SEZ
Effect of Levy	Such duties shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.			
Customs Act	Not Specified	Customs Act, Rules & Regulations, for date for rate of duty, non-levy, short-levy, refunds, interest, appeals, offences & penalties shall, apply to such duties also.		

Note for Safeguard Duty

Note :- Where **tariff-rate quota** is used as a safeguard measure, the Central Government shall **not fix such quota lower than the average level of imports in the last three representative years for which statistics are available**, unless a different level is deemed necessary to prevent or remedy serious injury.

The Central Government may allocate such tariff-rate quota to supplying countries having a substantial interest in supplying the article concerned, in such manner as may be provided by rules.

Special Discussion on Anti-Dumping Duty/Countervailing duty

Anti-circumvention measure in respect of Anti-Dumping duty / Countervailing duty

Where the CG, on such inquiry as it may consider necessary, is of the opinion that circumvention of Anti-Dumping Duty/ countervailing duty has taken place,

- (i) by altering the description or name or composition of the article on which such duty has been imposed
- (ii) by import of such article in an unassembled or disassembled form
- (iii) by changing the country of its origin or export or
- (iv) in any other manner,

Whereby Anti-Dumping Duty/ countervailing duty so imposed is rendered ineffective, it may extend the Anti-Dumping Duty/ countervailing duty to

- ↻ such article or
- ↻ an article originating in or exported from such country, as the case may be.

ACD 3(7) to countervail levy of GST (Important)

- (7) 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 the 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). **or Sub Section (8A), as the case may be**

Valuation for ACD 3(7)

- (8) For the purposes of calculating the integrated tax under sub-section (7) 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 (BCD), 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 tax referred to in sub-section (7) or
⇒ the cess referred to in sub-section (9).

(8A) ACD on Warehouse Sale before clearance

Where the goods deposited in a warehouse are sold to any person before clearance for home consumption or export the value of such goods under subsection (7) shall be,—

- (a) **where the whole of the goods are sold-**
the value determined under sub-section (8) or
the transaction value of such goods, whichever is higher;

OR

- (b) **where any part of the goods is sold,**
the proportionate value of such goods as determined under sub-section (8) or
the transaction value of such goods, whichever is higher:

Provided that where the whole of the warehoused goods or any part thereof are sold more than once before such clearance for home consumption or export, the transaction value of the last such transaction shall be the transaction value for the purposes of clause (a) or clause (b):

Provided further that in respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of sub-section (8).

Explanation.— For the purposes of this sub-section, the expression “transaction value”, in relation to warehoused goods, means the amount paid or payable as consideration for the sale of such goods.

Valuation

Do you want to remember Sections or Rules ?



Sections	Descriptions
Customs Valuation	
14(1)	Transaction Value of Imported Goods & Export Goods
Proviso 14(1)	Relevant Date for Exchange Rate
14(2)	Tariff Value
14(3)	Exchange Rate by CBIC

Rules	Descriptions
Customs Valuation (Determination of Price of Imported Goods)Rule, 2007	
2(1)(d)	Identical Goods
2(1)(f)	Similar Goods
2(2)	Related
3	Determination of the method of valuation - Transaction Value
4	Transaction value of identical goods
5	Transaction value of similar goods
6	Determination of value where value cannot be determined under rules 3,4 and 5
7	Deductive Value
8	Computed Value
9	Residual Method
10	Cost and services - Adjustment in Transaction Value
11	Declaration by the importer
12	Rejection of declared value

Rules	Descriptions
Customs Valuation (Determination of Price of Export Goods)Rule, 2007	
2(1)(a)	Goods of like kind and quality
2(2)	Related
3	Determination of method of valuation
4	Determination of export value by comparison
5	Computed value method
6	Residual Method
7	Declaration by the exporter
8	Rejection of declared value

Don't wait for the perfect moment, take the moment and make it perfect...



VALUATION

Sec. 14(1) Transaction Value

Imported Goods

The value of imported goods shall be transaction value of such goods that is to say:

- Price actually paid or payable for goods when sold for export to India.
- for delivery at the time and place of importation.
- Where buyer and seller of goods are not related
- Price is sole consideration for sale.
- Subject to such other conditions as specified in the rule made in this behalf.

Exported Goods

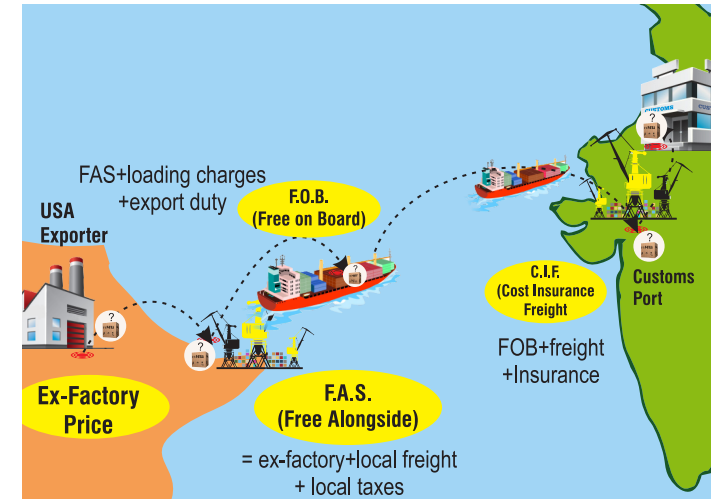
Value of export goods shall be the transaction value of such goods i.e. to say:

- Price actually paid or payable for goods when sold for export from India.
- For delivery at the time and place of exportation.
- Where buyer and seller of the goods are not related.
- Price is sole consideration for sale.
- Subject to such other conditions as specified in the rules.

Sec. 14(2) Tariff Value

Board fix tariff value for any class of imported goods or export goods, having regard to trend of value of such or like goods in international market.
Where any such tariff value is fixed by the Board then duty shall be chargeable only with respect to tariff value.

PRICING SYSTEM IN INTERNATIONAL MARKET



CUSTOM VALUATION (DETERMINATION OF PRICE OF IMPORTED GOODS) RULE, 2007

Rule 3

Rule 3(1)

Subject to Rule 12 the value of imported goods shall be the transaction value adjusted in accordance with Prov. of Rule 10

Rule 10

Adjustment in T.V. (Refer next page)

RULE 2(2) Related

For the purpose of these rules, persons shall be deemed to be "related" only if-

- they are officers or directors of one another's businesses;
- they are legally recognized partners in business;
- they are employer and employee;
- any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;
- one of them directly or indirectly controls the other;
- both of them are directly or indirectly controlled by a third person;
- together they directly or indirectly control a third person;
- they are members of the same family.

Explanation: sole agent / distributor shall be treated as related only if they are covered within any criteria of this sub-rule

Rule 3(2)

T.V of imported shall be accepted subject to following conditions.

- There are no restrictions as to the disposition or use of the goods by the buyer other than restrictions with
 - Are imposed or required by law or by the public authorities in India or,
 - Limit the geographical area in which the goods may be resold or,
 - Do not substantially affect the value of the goods
- 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.
- No part of the proceeds of any subsequent resale, disposal or use of the goods directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Rule 10
- The buyer and seller are not **related**

Rule 3(3)

The buyer and seller are related that transaction value is acceptable for customs purposes) if,

The examination of circumstances of sale of imported goods indicated that the relationship does not influence the price

Where Importer demonstrate that his declared value is approx equal to:-

- TV of Identical goods or similar goods.
- Deductive value of IG/SG.
- Computed value of IG/SG.



Determination of Assessable Value & Customs Duty Payable

Sr. No.	Particulars	₹	Remark						
1)	FOB	xxx							
2)	Adjustment under Rule 10 (1)								
a)	(i) Commission & Brokerage	xx	All Commission & Brokerage includible in T.V. except buying Commission.						
	(ii) Cost of Container	xx	Cost of durable & Returnable container is not includible in T.V.						
	(iii) Cost of Packing	xx							
b)	Free assistance given by buyer <ul style="list-style-type: none"> - Material, Components, Parts & Similar items - Tools, dies, moulds & similar items. - Material consumed - Engineering, development work, art work, plan & sketches undertaken elsewhere than India. 	xx	Conditions for additions <ol style="list-style-type: none"> Supplied directly or Indirectly by buyer Use in production of imported goods. Not to be added in T.V. Engineering, development work, art work, plan & sketches undertaken in India.						
c)	Royalties & Licence Fees [If includes patent, copy rights, know how trade mark. etc.]	xx	Conditions for additions <ol style="list-style-type: none"> Related to imported goods Payable by buyer as conditions of sale. Note : T.V. includes royalty & license fees for the process on goods carried out after importation.						
d)	Proceeds of Subsequent Resale disposal or Use-occurring to seller.	xxx	Dividends from the buyer to the seller not called as proceeds of subsequent sale& not includible in T.V.						
e)	Other payments - paid by the buyer as a condition of sale	xxx	It does not includes Interest or Financial Charges.						
	Adjusted FOB (Adj.)	xxx							
3)	Adjustment Under Rule 10(2) (a) the cost of transport, loading, unloading and handling charges associated with the delivery (loading port in the country of export) of the imported goods to the place of importation	xx	Ship demurrage charges of Chartered vessels & Lighterage / Barge Charges Separately added as cost of transportation Calculation of freight or insurance if FOB is cum insurance or freight <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th style="width: 50%;">Case</th> <th style="width: 50%;">Treatment</th> </tr> </thead> <tbody> <tr> <td>(a) FOB(Adj.) + Insurance</td> <td>Cost of transport/handling 20% of (FOB + Insurance)</td> </tr> <tr> <td>(a) FOB(Adj.) + Transport & Handling Cost</td> <td>Cost of insurance 1.125% of [FOB + Transport/Handling</td> </tr> </tbody> </table> Note : Refer Amendment Notes for detailed discussion	Case	Treatment	(a) FOB(Adj.) + Insurance	Cost of transport/handling 20% of (FOB + Insurance)	(a) FOB(Adj.) + Transport & Handling Cost	Cost of insurance 1.125% of [FOB + Transport/Handling
Case	Treatment								
(a) FOB(Adj.) + Insurance	Cost of transport/handling 20% of (FOB + Insurance)								
(a) FOB(Adj.) + Transport & Handling Cost	Cost of insurance 1.125% of [FOB + Transport/Handling								
	(b) Cost of Insurance <ul style="list-style-type: none"> - Ascertainable - Actual - Not Ascertainable - 1.125% of FOB 	xx xx							
	CIF	xxxxx							
	Assessable Value	xxxxx							
	Calculation of Custom Duties								
a)	BCD % (Assessable Value)								
b)	Social Welfare Surcharge @ 10% (BCD)								
c)	IGST (A.V. + BCD + SWS)								

Exclusion From Transaction Value :

- Charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods, e.g. industrial plant, machinery or equipment.
- Cost of transport after importation
- Duties and Taxes in India.

Costs related to transshipment of goods (from ports to ICDS (inland Container Depot) : port to port, port to CFS (Container Freight Station), Airport to Airport, etc.) within India will be excluded, providing uniform treatment to different modes of transshipment.