

## RULE 5 : JEWELLERY

A passenger residing abroad for more than one year, on return to India

(1)	Additional Jewellery allowances (2)
Gentleman Passenger	jewellery upto a weight, of 20 grams with a value cap of ₹ 50,000
Lady Passenger	jewellery upto a weight, of 40 grams with a value cap of ₹ 1,00,000

	Weight of Jewellery (in gms)	Value of Jewellery (₹)	Duty free allowance	Assessable Value	Duty liability @38.5%	Remarks
Mr. A	17	52,000	50,000	2,000	770	20 grams with caping ₹ 50,000
Mr. B	22	44,000	40,000	4,000	1,540	Max 20 grams with caping ₹ 50,000
Ms. C	38	1,10,500	1,00,000	10,500	4,042.50	40 grams with caping ₹ 1,00,000
Ms. D	45	90,000	80,000	10,000	3,850	40 grams with caping ₹ 1,00,000

## RULE 6 : TRANSFER OF RESIDENCE

(1) A person, who is engaged in a profession abroad, or is transferring his residence to India, shall, on return, be allowed clearance free of duty in addition to what he is allowed under rule 3 or, as the case may be, under rule 4, articles in his bona fide baggage to the extent mentioned in column (2) of the Appendix below, subject to the conditions, if any, mentioned in the corresponding entry in column (3) of the said Appendix.

(2) The conditions mentioned in column (3) of the said Appendix may be relaxed to the extent mentioned in column (4) of the said Appendix.

Duration of stay abroad	Articles allowed free of duty	Conditions	Relaxation
(1)	(2)	(3)	(4)
From three months upto six months	Personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III upto an aggregate value of <b>sixty thousand rupees</b> .	Indian passenger	-
From six months upto one year	Personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III, upto an aggregate value of <b>one lakh rupees</b> .	Indian passenger	-
Minimum stay of one year during the preceding two years.	Personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III upto an aggregate value of <b>two lakh rupees</b> .	The Indian passenger should not have availed this concession in the preceding three years. -	-
Minimum stay of two years or more.	Personal and household articles, other than those listed at Annexure I or Annexure II but including articles mentioned in Annexure III upto an aggregate value of <b>five lakh rupees</b> .	(i) Minimum stay of two years abroad, immediately preceding the date of his arrival on transfer of residence;	(a) For condition (i), shortfall of upto two months in stay abroad can be condoned by Deputy Commissioner of Customs or Assistant Commissioner of Customs if the early return is on account of :- (i) terminal leave or vacation being availed of by the passenger; or (ii) any other special circumstances for reasons to be recorded in writing.
<p style="text-align: center;"><b>Unaccompanied Baggage</b></p> <p>Unaccompanied Baggage refers to Baggage that is not accompanied with Passenger. Unaccompanied baggage may arrive within a period of 1 month after passengers arrival or before 2 months before arrival (condonation of earlier arrival by AC/DC).</p> <p>These rules shall apply to unaccompanied baggage except where they have been specifically excluded:</p>		(ii) Total stay in India on short visit during the two preceding years should not exceed six months; and	(b) For condition (ii), the Principal Commissioner of Customs or Commissioner of Customs may condone short visits in excess of six months in special circumstances for reasons to be recorded in writing.
		(iii) Passenger has not availed this concession in the preceding three years.	No relaxation.

## SECTION 99A: AUDIT

The proper officer may carry out the audit of assessment of imported goods or export goods or of an auditee under this Act either in his office or in the premises of the auditee in such manner as may be prescribed.

Explanation.— For the purposes of this section, “auditee” means a person who is subject to an audit under this section and includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods

## CUSTOM AUDIT REGULATIONS, 2018

## Definitions :-

“Audit” includes examination or verification of declaration record, entry, document, import or export licence, authorisation, scrip, certificate, permission etc. book of account, test or analysis, report, and any other document relating to imported goods or export goods or dutiable goods, and may include inspection of sample and goods, if such sample or goods are available and where necessary, draw of samples

“Auditee” means a person who is subject to an audit under section 99A of the Act and includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods

“Audit report” includes the audit finding in the report prepared after the audit containing details about objections raised by the proper officer and explanation given by the auditee, if any

“Books of account” includes ledgers, day -book, cashbooks, account books, other accounts related record whether kept in written or printed form or stored electronically.

“Electronic record” means data or record stored in any form and manner relevant for the purpose of Audit under section 99A of the Act.

“Premises” includes the registered office, branch office, warehouses, factory, or any other premises at which, imported goods or export goods or dutiable goods or books of account or records of transaction or other related documents, in relation to the said goods are ordinarily kept for any purpose by an auditee

## Auditee to preserve and make available relevant documents :-

- a) Auditee shall preserve and make available in a timely manner, for audit,  
 true and correct information,  
 records including electronic records,  
 documents or accounts  
 maintained in compliance of the provisions of Act,

maintained for a minimum period of **five years** in relation to imported goods or export goods or dutiable goods.

- b) The auditee shall render assistance and shall in no case refuse or obstruct the proper officer or his team of officer in discharge of their official duty

## Selection for Audit:-

The selection of auditee is based on risk evaluation though appropriate selectively criteria.

## Manner of conducting audit:-

- The Proper officer may conduct audit either in **his office** or in certain cases at the **premises** of an auditee
- the proper officer may, request the auditee to **furnish documents, information or record** including electronic record, as may be relevant to audit.
- The proper officer shall give **not less than fifteen days** advance notice to the auditee to conduct audit at the premises of the auditee.
- the proper officer may, where considered necessary, **inspect** the imported goods or export goods or dutiable goods at the premises of the auditee or **request the auditee to produce sample**, if available, with him.
- The proper officer shall inform the auditee of the objections, if any before preparing the audit report to **provide him an opportunity to offer clarifications with supporting documents**.
- where the auditee is an **agreement with the audit findings**, he may make **voluntary payments** shall record the same in the audit report.
- where the proper officer has asked the auditee to furnish information, documents record or sample for the purposes of audit, it shall be mandatory for the proper officer to inform outcome of such audit to the auditee.
- The proper officer shall **complete audit** in cases where it is conducted at the premises of the auditee **within thirty days** from the date of starting of the audit.

*Provided that the jurisdictional Commissioner of Customs may extend the period of completion of audit from **thirty days to sixty days**, by an order in writing.*

## Assistance of Professionals:-

If the proper officer, having regard to the nature and complexity of the audit,  
 is of the opinion that the audit has to be done  
 with the assistance of a professional or expert  
 may do so, with the previous approval of the Principal Commissioner/Commissioner of Customs.

## Penalty

Any auditee, who contravenes, shall be liable to a penalty which may **extend to fifty thousand Indian rupees**.

## Types of Audit-Transaction Based Audit (TBA) and Premise Based Audit (PBA)

Under the new scheme, Transaction based audit (TBA) and Premises based audit (PBA) have been prescribed.

- ➔ **TBA (audit of transactions):** Under TBA, transactions are audited. It may be noted that a TBA may subsequently be converted into a Premises based Audit (PBA).
- ➔ **PBA (audit at the premises):** The new provision on Customs Audit under section 99A of the Customs Act, 1962 has extended *the scope of Premises Based Audit by including other entities who are concerned with imports or exports.*

In PBA, customs would review the import and export over a given period and check all relevant commercial records, including financial statements and contracts to verify the particulars given in a goods declaration.

*PBA would enable the department to bridge the communication divide and usher in a new era of partnership with trade.*

*Further, Board may also select any criteria or Theme for the audit.*

## Executive Commissionerates to assist Audit Commissionerates

The executive Customs Commissionerates shall also assist Audit Commissionerates in the conduct of Theme based audit and Premises based audit.

The Chief Commissioners shall put in place a suitable monitoring arrangement to review the progress and performance of audit.

Apart from overall supervision, *Chief Commissioner shall examine on a selective basis, 5% of the Audit reports, selected randomly based on the quarterly reports submitted by Audit Commissionerates to ensure that audit has been conducted as per prescribed procedures.*

## SECTION 99B: Verification of identity and compliance thereof

- (1) The proper officer, authorised in this behalf by the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, may, for the purposes of ascertaining compliance of the provisions of this Act or any other law for the time being in force, require a person, whose verification he considers necessary for protecting the interest of revenue or for preventing smuggling, to do all or any of the following, namely:—
- (a) undergo authentication, or furnish proof of possession of Aadhaar number, in such manner and within such time as may be prescribed;
  - (b) submit such other document or information, in such manner and within such time as may be prescribed:
- Provided that where such person has not been assigned the Aadhaar number, or where so assigned, but authentication of such person has failed due to technical reasons or for reasons beyond his control, then, he shall be provided an opportunity to furnish such other alternative and viable means of identification in such form and manner and within such time as may be prescribed.
- (2) The provisions of sub-section (1) shall not apply to such person or class of persons as may be prescribed.

- (3) Notwithstanding anything contained in any other provisions of this Act, where the Principal Commissioner of Customs or the Commissioner of Customs comes to the conclusion, based on reasons to be recorded in writing, that the person referred to in sub-section (1) has—
- (i) *failed to comply with the requirements of the said sub-section or submitted incorrect documents or information under the said sub-section, he may, by order, suspend—*
    - (a) clearance of imported goods or export goods;
    - (b) sanction of refund;
    - (c) sanction of drawback;
    - (d) exemption from duty;
    - (e) licence or registration granted under this Act; or
    - (f) any benefit, monetary or otherwise, arising out of import or export, relating to such person, subject to such conditions as may be prescribed;
  - (ii) *failed authentication as required under the said sub-section, he may, by order, direct that such person shall not have the benefit of any of the items specified in sub-clauses (a) to (f) of clause (i).*
- (4) The order of suspension under sub-section (3) shall remain in force until the person concerned complies with the requirements of sub-section (1) or furnishes correct document or information thereunder.

**Explanation.—** *For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.’*

## Chapter 10

# Classification of Goods in Tariff

Extract from CETA / CTA

### SECTION IV

#### PREPARED FOODSTUFFS; BEVERAGES, SPIRIT AND VINEGAR; TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES

**Notes:** "Unit container" means a container, whether large or small (for example, tin, can, box, jar, bottle, bag or carton, drum, barrel or canister) designed to hold a predetermined quantity or number.

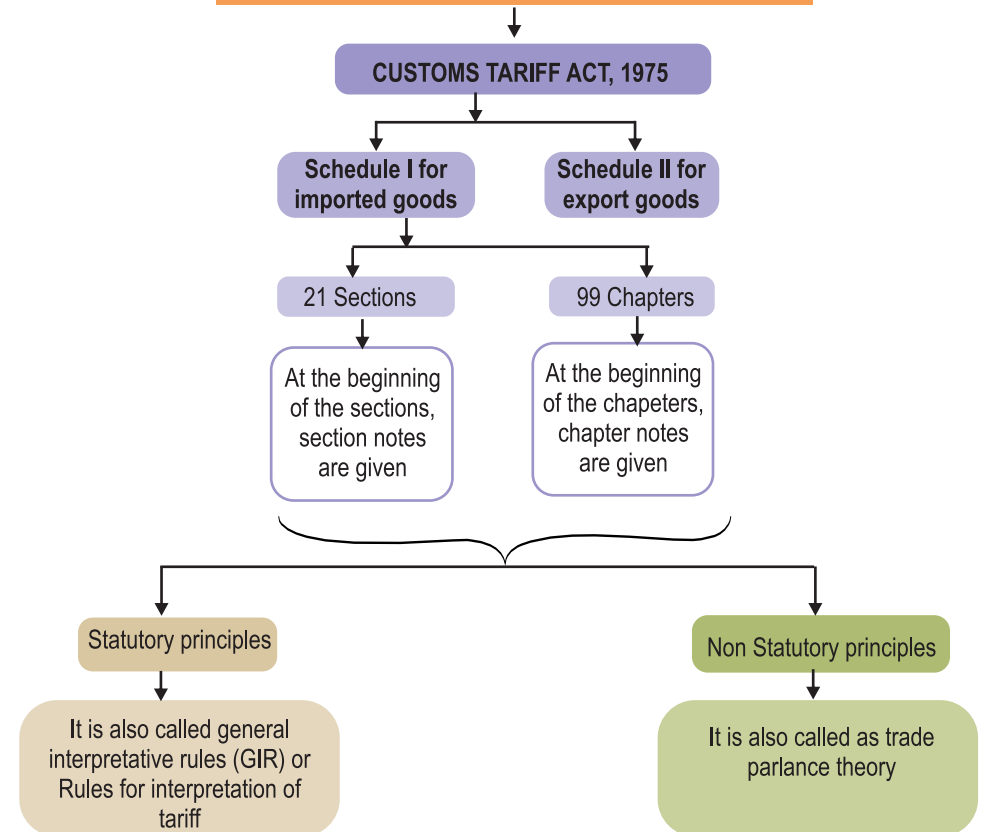
### CHAPTER 17 Sugars and sugar confectionery

**Notes:** 1. This Chapter does not cover:  
a) Sugar confectionery containing cocoa (heading 1806) etc.

surrounded by residues of molasses and other constituents of sugar cane.




Tariff Item		Description of goods	Unit	Rate of duty
(1)		(2)	(3)	(4)
1701		CANE OR BEET SUGAR AND CHEMICALLY PURE SUCROSE, IN SOLID FORM		
	-	Raw sugar not containing added flavouring or colouring matter :		
1701 12 00	--	Beet sugar	kg.	12.5%
1701 13	--	Cane sugar specified in Sub-heading Note 2 to this Chapter:		
1701 13 10	--	Cane jaggery	kg.	12.5%
1701 13 20	--	Khandsari sugar	kg.	6%
1701 13 90	--	Other	kg.	12.5%
1701 99	-	Other:		
1701 99 10	--	Sugar cubes	kg.	12.5%
1701 99 90	--	Other	kg.	12.5%



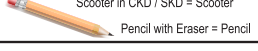















TARIFF  
BASED ON Harmonised System of Nomenclature [HSN]





Topic	Points to remember	
<b>Classification of Goods</b>	Determination of headings or sub-headings of the CTA 1975 under which the said goods are covered	
<b>Need of Classification</b>	(a) Determination of rate of Duty (b) Determination of eligibility of exemption (c) Determination of deemed manufacture	
<b>Features of Tariff</b>	<b>Columns in Custom Tariff Act, 1985 (CTA) = 4</b>	
	(1) Tariff	Eight Digit Description.
	(2) Description of Goods	Names and Classifications
	(3) Units	Kilograms, Metres, Units, Litres, etc.
(4) Rate of Duty	10%, 4%, Nil, etc	
<b>Dash System</b>		
-	Single dash	Indicates sub classification of article-covered in heading
--	Double dash	Indicates sub classification of article preceded by 'single dash'
— & —	Triple & quadruplicate	Indicates sub-sub classification of article preceded by 'single or double dash'
<b>Std. Unit of Quantity</b>		It is a unit of measure and used to facilitate the collection, comparison and analysis of trade statistics. Example : CC, Cm, Mt
<b>Section notes &amp; Chapter notes</b>		Elaborate explanation regarding to scope of respective section or chapter. It is part of the statute & legally used for Classifications.
<b>Abbreviation %</b>		It indicates that duty is on the basis of value of goods.

<b>Rule 5 : Classification of Cases and packing material</b>	a) Camera cases, Musical instrument cases, Gun cases, Drawing instrument cases, Necklace cases and similar containers;	<ul style="list-style-type: none"> <li>⇒ Specially shaped</li> <li>⇒ Suitable for long term use</li> <li>⇒ Presented with the articles</li> <li>⇒ Normally sold with article</li> </ul>	shall be classified with main article.	
	b) Packing Material or containers	<ul style="list-style-type: none"> <li>⇒ Presented with the articles</li> </ul>	shall be classified with main article.	
	Not applicable to (a) abnormal packing (b) Durable and returnable packing			
<b>Rule 6 : Classification in Sub-heading</b>	Classification of goods shall be determined in accordance with terms of the relevant sub-headings and any notes therein, mutatis mutandis, shall apply to above rules.			

General Rules of Interpretation																																	
<b>Purpose</b>	1. To help in appropriate classification of goods. 2. To give clear direction as to how the nomenclature in the Schedule is to be interpreted and 3. To give statutory force to the Interpretation Rules and the general explanatory notes.																																
<b>Rule 1</b>	Titles of sections or chapters do not decide Classification, Terms of heading, Section Notes and Chapter Notes are relevant.																																
<b>Rule 2</b>	(a) Incomplete Goods/ Disassembled / Unassembled Goods = Complete Goods (b) Main article - includes mixture or combination of that articles with others  Car without Wheels = Car  Scooter in CKD / SKD = Scooter  Pencil with Eraser = Pencil																																
<b>Rule 3</b>	If goods are prima facie classifiable under 2 or more headings due to Rule 2(b) or any other reason, apply Rule 3(a) to Rule 3(c)																																
	<table border="1"> <thead> <tr> <th>Specific Rule</th> <th>Product</th> <th>Available headings</th> <th>Classification</th> </tr> </thead> <tbody> <tr> <td>(a) Prefer Specific heading to General heading</td> <td> Name plate</td> <td>a) Accessories of motor vehicle b) Article of plastics</td> <td>Accessories of motor vehicle</td> </tr> <tr> <td></td> <td> VIP bag</td> <td>a) Plastic Article b) Suitcase</td> <td>Suitcase</td> </tr> <tr> <th>Characteristic Rule</th> <th>Product</th> <th>Available headings</th> <th>Classification</th> </tr> <tr> <td>(b) It mixture consists of different material classify in that material which gives them their essential character.</td> <td> Book with CD</td> <td>1) Book 2) CD</td> <td>Classification as Book</td> </tr> <tr> <td></td> <td> Pen Stand with Clock</td> <td>a) Pen Stand b) Clock</td> <td>Classification as Pen Stand</td> </tr> <tr> <th>Later the better</th> <th>Product</th> <th>Available headings</th> <th>Classification</th> </tr> <tr> <td>(c) If both are equally specific Prefer the latter tariff head to earlier tariff head</td> <td> Motor Vehicle use for transport of passenger &amp; goods both</td> <td>1) Motor Vehicle design for transport of passenger (87.03) 2) Motor Vehicle design for transport of goods. (87.04)</td> <td>It shall be classified as Motor Vehicle design for transport of goods [Mahindra&amp;Mahindra 1999]</td> </tr> </tbody> </table>	Specific Rule	Product	Available headings	Classification	(a) Prefer Specific heading to General heading	 Name plate	a) Accessories of motor vehicle b) Article of plastics	Accessories of motor vehicle		 VIP bag	a) Plastic Article b) Suitcase	Suitcase	Characteristic Rule	Product	Available headings	Classification	(b) It mixture consists of different material classify in that material which gives them their essential character.	 Book with CD	1) Book 2) CD	Classification as Book		 Pen Stand with Clock	a) Pen Stand b) Clock	Classification as Pen Stand	Later the better	Product	Available headings	Classification	(c) If both are equally specific Prefer the latter tariff head to earlier tariff head	 Motor Vehicle use for transport of passenger & goods both	1) Motor Vehicle design for transport of passenger (87.03) 2) Motor Vehicle design for transport of goods. (87.04)	It shall be classified as Motor Vehicle design for transport of goods [Mahindra&Mahindra 1999]
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<b>Rule 4</b>	<b>Akin Rule :</b> Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.																																

HSN & other Rules of Classification	
<b>HSN Harmonized System of Nomenclature</b>	<ol style="list-style-type: none"> <li><b>Meaning :</b> Internationally accepted Product Coding system for Categorisation and Classification of commodities and was conceived and devised by the world Customs Organisation (WCO).</li> <li><b>Features :</b> 8 digit code suitable for multi-purpose nomenclature.</li> <li><b>Reliance :</b> HSN can be relied for classification under the Tariff Schedule, if there is no conflict between Indian Tariff Schedule and HSN.</li> <li><b>Relevance of Notes :</b> Only the Section Notes and chapter notes have legal status. Explanatory Notes to HSN do not have any legal status.</li> </ol>
<b>Burden to prove Classification</b>	<ol style="list-style-type: none"> <li><b>Department :</b> To establish correct Tariff Heading under which the product falls. Onus is on the department to establish alternate classification.</li> <li><b>Assessee :</b> When certain goods are prima facie covered by the generic description, the burden to prove that they are not so covered would be on the person claiming so.</li> </ol>
<b>Alteration of Classification</b>	<ol style="list-style-type: none"> <li><b>Guidelines for altering classification</b> - (a) Fresh facts arise (b) Process changed (c) Tariff entry modified (d) HC/SC decision, (e) Change in statute (f) Regular Tariff Entry - Not disturbed, (g) Prior Notice.</li> <li><b>Judgment :</b> Where an assessee has not filed fresh classification list, at the most, penalty can be levied. Issuance of Demand Notice is not sustainable.</li> </ol>
<b>Trade Parlarce Theory</b>	<ol style="list-style-type: none"> <li>Goods are to be classified as they are known in trade and commerce, if it is neither defined in Schedule to CETA nor in CEA</li> <li><b>Conditions :</b> (a) a particular product description under trade parlance occurs by itself in a Tariff Entry, and (b) there is no conflict between Tariff entry and any other entry requiring reconciliation.</li> <li><b>Exception :</b> (a) Scientific and Technical Terms, and (b) Conflict with Statutory Context.</li> </ol>

## SEC 9C APPEAL

1. *An appeal against the order of determination or review thereof shall lie to the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (hereinafter referred to as the Appellate Tribunal), in respect of the existence, degree and effect of—*

*(i) any subsidy or dumping in relation to import of any article; or*

*(ii) import of any article into India in such increased quantities and under such condition so as to cause or threatening to cause serious injury to domestic industry requiring imposition of safeguard duty in relation to import of that article*

2. Appeal shall be accompanied by a fee of ₹ 15000
3. Every application made before the Appellate Tribunal for the grant of stay or for rectification of mistake or for restoration of an appeal with fee of ₹500
4. Every appeal shall be filed within 90 days of date of order under appeal, but Tribunal may entertain any appeal after expiry of said period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
5. The Appellate Tribunal may, after giving the parties an opportunity of being heard, pass such order thereon as it think fit, confirming, modifying or annulling the order appeal against.

In respect of particular article, the Central Government by notification in the official gazette imposed anti-dumping duty thereon under the Customs Tariff Act, 1975 and consequent to this order, such duty was paid by the importer. The importer of this article feels aggrieved by the order. What is the remedy under the Customs Tariff Act, 1975 [Nov. 97]

## REFUND OF DUTY UNDER CUSTOMS

### Procedure to Claim the Refund

PARTICULARS	CUSTOMS
<b>Presentation of claim by the applicant</b>	Any person claiming refund of any duty and interest paid on such duty a) Paid by him in pursuance of an order of assessment, or b) Borne by him <b>shall present a claim in proper (Form-R)</b> , along with ➤ All the relevant document supporting his claim and also ➤ The copies of documents/ records supporting his declaration that he has not passed on the duty incidence.
<b>Authority to whom refund claim to be filed</b>	AC/DC
<b>Time Limit for claiming the refund</b>	<b>1 year from relevant date (From the date of payment of such duty or interest)</b> <b>Note:</b> No time limit if duty paid under protest
<b>Order for refund</b>	The AC/DC may make the refund order, if he is satisfied that the whole or any part of duty (duty and interest in case of customs) paid by the applicant is refundable. The amount so determined shall be credited to Consumer Welfare Fund. But appellant is entitled to refund only if he had not passed on the incidence of duty.
<b>Minimum amount of refund</b>	Refund will be granted only when the duty amount involved is ₹100 or more.

### RELEVANT DATE FOR REFUND UNDER CUSTOMS

Normally, the relevant date is date of payment of customs duty & interest if any, but if

Duty is provisionally assessed u/s 18 of Customs Act.

If duty is paid by buyer

Relevant date is date of final assessment or incase of reassessment date of such reassessment

Relevant date is date of purchase of goods

### Circumstances under which refund will be paid to the assessee or in which Unjust Enrichment is not applicable.

	Customs [SEC 27(2)]
1.	The duty and interest, if any, paid on such duty paid by the importer, or the exporter, as the case may be if he had not passed on the incidence of such duty and interest to any other person.
2.	The duty and interest, if any, paid on such duty on imports made by an individual for his personal use.
3.	The duty and interest, if any, paid on such duty borne by the buyer, if he had not passed on the incidence of such duty and interest to any other person.
4.	The export duty as specified in Section 26 [see below]
5.	Drawback of duty payable under Sections 74 and 75
6.	The duty and interest, if any, paid on such duty borne by any other such class of applicants as the Central Government may, by notification in the Official Gazette, specify.
7.	if the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where— (i) duty is evident from self-assessed bill of entry; or (ii) the duty actually payable is reflected in the reassessed bill of entry.

### REFUND OF EXPORT DUTY [SEC 26 OF CUSTOMS]

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

- The goods are returned to such person otherwise than by way of re-sale;
- The goods are re-imported within one year from the date of exportation; and
- An application for refund of such duty is made before the expiry of six months from the date on which the proper officer makes an order for the clearance of the goods.

### BELATED DISBURSEMENT OF REFUND BY C.G. [CUSTOMS-SEC 27A]

- If any duty ordered to be refunded to an applicant is not refunded within three months from the date of receipt of application, there shall be paid to that applicant interest.
- Interest shall be paid even where refund is granted by an Appellate Authority.
- Interest is payable @ 6% p.a. by the C.G.
- Interest is payable from the date of expiry of 3 months from the date of receipt of application till the date of refund of duty.

# Warehousing

Do you want to remember Sections or Rules ?



## Important Case Study

### Kesoram Rayon vs S.C. 1996

**Decision** - Under clause (b) of section 72, goods which are not removed from the warehouse after the expiry of the period permitted for warehousing or extended, are deemed to be improperly removed. **The rate of duty applicable will be the rate in force on the date of deemed removal**, i.e. the date on which the permitted period or its permitted extension comes to an end.

### Circular No.15/2009

Provision of Sec 47(2) are not attracted in case of clearances under Sec 68. Thus no interest is payable if payment is not made within 2 working days from the date on which bill of entry presented under Sec 68 is return after assessment for payment.

Sections	Descriptions
Sec 57:	Appointing of public warehouses
Sec 58:	Licensing of private warehouses.
Sec 58A:	Licensing of Special Warehouse
Sec 58B:	Cancellation or suspension of Licence
Sec 59:	Warehousing bond
Sec 60:	Permission for deposit of goods in a warehouse
Sec 61:	Period for which goods may remain warehoused
Sec 62:	Control over warehoused goods
Sec 63:	Payment of rent and warehouse charges
Sec 64:	Owner's right to deal with warehoused goods
Sec 65:	Manufacture and other operations in relation to goods in a warehouse.

Sections	Descriptions
Sec 66:	Power to exempt imported materials used in the manufacture of goods in warehouse.
Sec 67:	Removal of goods from one warehouse to
Sec 68:	Clearance of warehoused goods for home consumption.
Sec 69:	Clearance of warehoused goods for exportation.
Sec 70:	Allowance in case of volatile goods.
Sec 71:	Goods not to be taken out of warehouse except as provided by this act.
Sec 72:	Goods improperly removed from warehouse, etc.
Sec 73:	Cancellation and return of warehousing bond
Sec 73A :	Liability of Warehouse Keeper (Licensee)


*Working hard for something we don't care about is called stress; Working hard for something we love is called passion*



**GST Guru**<sup>TM</sup>  
**CA Vishal Bhattad**



# WAREHOUSING PROCEDURE UNDER CUSTOM



**CUSTOMS PORT**

**Sec. 46 -**  
B/E for Warehousing

[Goods in custody of Custodian]  
30 Days  
**Sec. 48**

**Sec. 59 - Warehousing Bond**

- 1) Importer shall Execute Bond equal to 3 duty along with Security
- 2) Bond is for
  - to comply provision of the act
  - to pay duty & interest
  - to pay penalty if any
- 3) General Bond is allowed on permission of AC/DC
- 4) No need to change Bond in case of transfer of goods from one warehouse to another
- 5) If warehouse goods transferred to another then transferee shall execute new bond.

**Sec. 60 - Warehousing Order**

After execution of bond proper officer make an order to deposit the goods in warehouse.

**Sec. 67 - Transferred to another Warehouse**

**Transfer to another W/H** goods can be transfer from one W/H to another W/H **Without payment of ID [Bond Continued]**

**Sec. 68 Clearance for Home consumption**

- 1) Filing of ex bond bill of entry
- 2) Payment of custom duty and other charges
- 3) Order of clearance for H.C.
- 4) Relinquishment of rights without payment of payment of import duty

<b>Sec. 69</b>	<b>Direct Export from W/H</b> [Commercial Export] + Postal Exports allowed]	<b>Without payment of ID</b> [Bond Cancelled and released]
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\* Facility of direct export is not allowed in respect of notified goods where subsequent to export the goods are likely to be smuggled back into India.

**Sec. 70 : Remission of duty on volatile goods**

- 1) Goods of volatile nature notified by C.G. (Kerosine, wine, etc.)
- 2) Goods found to be deficient in quantity because of natural cause
- 3) Remission by AC/DC

**Sec. 71 : Proper Removal**

Warehoused goods are said to be properly removed in following cases

- 1) Sec 67 - Transfer to another warehouse
- 2) Sec 68 - Clearance for Home Consumption
- 3) Sec 69 - Clearance for Export
- 4) Any other purpose provided in this Act

**SC72: Goods Improperly Removed From Warehouse**

- 1) Clearance other than Sec.67/68/69
- 2) Completion of warehousing period
- 3) Removal of sample without permission
- 4) Non Accounting of Goods

**Consequences :** Owner forthwith pay duty interest penalty etc. otherwise officer will sell the goods in auction.

**Important Case : Kesoram Rayon**

If goods are not removal within warehousing period or extended period then goods are deemed to be removed on date of completion of warehousing period and rate prevailing on such date will be applicable.

**CUSTOMS WAREHOUSE**

**Public, Private & Special Warehouse**

Point	Public (Sec. 57)	Private (Sec. 58)	Special (Sec. 58A)
Nature of Warehouse	The P.Comm/comm may licence public Warehouses	P.Comm/comm may license any Private Warehouse	P.Comm/comm may license Sp. Warehouse
Type of Goods	Dutiable Goods only	Dutiable goods only	<b>Notified Dutiable goods only</b>
Licence	Public WH are run & managed by statutory bodies like Port Trust, CWC, etc	Private WH are run & managed by any person	Special WH are run & managed by any person
Control	No lock by proper officer	No lock by proper officer	<b>Locked by proper officer</b>

**Sec 65 - Even 'MANUFACTURING OPERATIONS' are allowed in warehouse**

**Duty on Warehoused Goods (Fabrics) contained in Waste/Refusal**

If Resultant Product (i.e. Shirt) wholly exported

↓


Import Duty on Warehoused goods contained in waste or refusal shall be remitted subject to condition that

- Such waste / refusal either destroyed
- Duty is paid as a Waste / refuse imported into India

If Resultant Product wholly cleared for home Consumption

↓

Import Duty is Payable on Qty. of Warehoused goods contained in waste/refuse i.e. Import Duty is payable as a fabrics on 200m




**Sec 61 - Warehousing Period**

	100% EOU	Other
W/Hing period	Till Clearance	1 Yrs.
Int-Free period	-	90 Days
Extension	Available	Available if goods not likely to deteriorate,

**Comment :** 1) If no duty at the time of removal then interest is not payable  
2) Interest is payable @15% p.a.

**Note:** If goods like to deteriorate period can be reduce

**Sec 64: Owner's Right To Deal With Warehoused Goods**

The owner of any warehoused goods may, after warehousing the same,

- (a) inspect the goods.
- (b) deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods
- (c) sort the goods or
- (d) show the goods for sale.

## Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

### Amendment in existing Provision

#### Sec. 60 - Warehousing Order

After execution of bond proper officer make an order to deposit the goods in warehouse

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

Students  
Comments 

#### Sec. 68 Clearance for Home consumption

- a) Filing of ex bond bill of entry
- b) Payment of custom duty and other charges
- c) Order of clearance for H.C.
- d) Relinquishment of rights without payment of payment of import duty

**Provided that the order referred to in clause (c) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria**

Students  
Comments 

<b>Sec. 69</b>	<b>Direct Export from W/H</b> [Commercial Export] + Postal Exports allowed]	<b>Without payment of ID</b> [Bond Cancelled and released]
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\* Facility of direct export is not allowed in respect of notified goods where subsequent to export the goods are likely to be smuggled back into India.

**Provided that the order referred to in clause (c) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.**

Students  
Comments 

# Amendments for May 22 Exam

## Chapter 2 Importation & Exportation Procedure

### 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 day (including holidays) preceding the day" 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*

← Amednded by F.A. 2021

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.*

## Chapter 4

## Types of Duties

### Special Discussion on Countervailing Duty

#### Sec 9(1B) :- Absorption of countervailing duty

Where the Central Government, on such inquiry as it considers necessary, is of the opinion that

→ absorption of countervailing duty has taken place

→ whereby the countervailing duty so imposed is rendered ineffective,

it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.

**Explanation.**—For the purposes of this sub-section,

"**absorption of countervailing duty**" is said to have taken place,—

(a) if there is a decrease in the export price of an article without any commensurate change in the resale price in India of such article imported from the exporting country or territory; or

(b) under such other circumstances as may be provided by rules

#### Sec 9(2A) :- Exemption for EOU and SEZ

Notwithstanding anything contained in sub-sections (1) and (2), any countervailing duty imposed shall not apply to article imported by a **100% export-oriented undertaking or a unit in a special economic zone**, unless,—

(i) it is specifically made applicable in such notification or to such undertaking or unit or

(ii) such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, countervailing duty shall be imposed on that portion of the article so cleared or used, as was applicable when it was imported into India.

**Explanation.**—For the purposes of this sub-section,—

(a) the expression "**100% export-oriented undertaking**" shall have the same meaning as assigned to it in clause (i) of Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944;

(b) the expression "**special economic zone**" shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005.

#### 2nd Proviso to Sec 9(6) :-Revocation of CVD before specified period

Provided also that if the said duty is revoked temporarily, the period of such revocation shall not exceed one year at a time

## Special Discussion on Anti-Dumping Duty

### Sec 9A(1B) :- Absorption of Anti-Dumping duty

Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that

- ➔ absorption of anti-dumping duty has taken place
- ➔ whereby the anti-dumping duty so imposed is rendered ineffective,

it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.

**Explanation.—**For the purposes of this sub-section,

“**absorption of anti-dumping duty**” is said to have taken place,—

- (a) if there is a decrease in the export price of an article without any commensurate change in the cost of production of such article or export price of such article to countries other than India or resale price in India of such article imported from the exporting country or territory; or
- (b) under such other circumstances as may be provided by rules.;

### Sec 9A(2A) :- Exemption for EOU and SEZ

Notwithstanding anything contained in sub-section (1) and sub-section (2), any anti-dumping duty imposed shall not apply to articles imported by a **100% export-oriented undertaking or a unit in a special economic zone**, unless,—

- (i) it is specifically made applicable in such notification or to such undertaking or unit; or
- (ii) such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, anti-dumping duty shall be imposed on that portion of the article so cleared or used, as was applicable when it was imported into India.

**Explanation.—**For the purposes of this section,—

- (a) the expression “**100% export-oriented undertaking**” shall have the same meaning as assigned to it in clause (i) of Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944;
- (b) the expression “**special economic zone**” shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005.

### 2nd Proviso to Sec 9A(6) :-Revocation of CVD before specified period

Provided also that if the said duty is revoked temporarily, the period of such revocation shall not exceed one year at a time



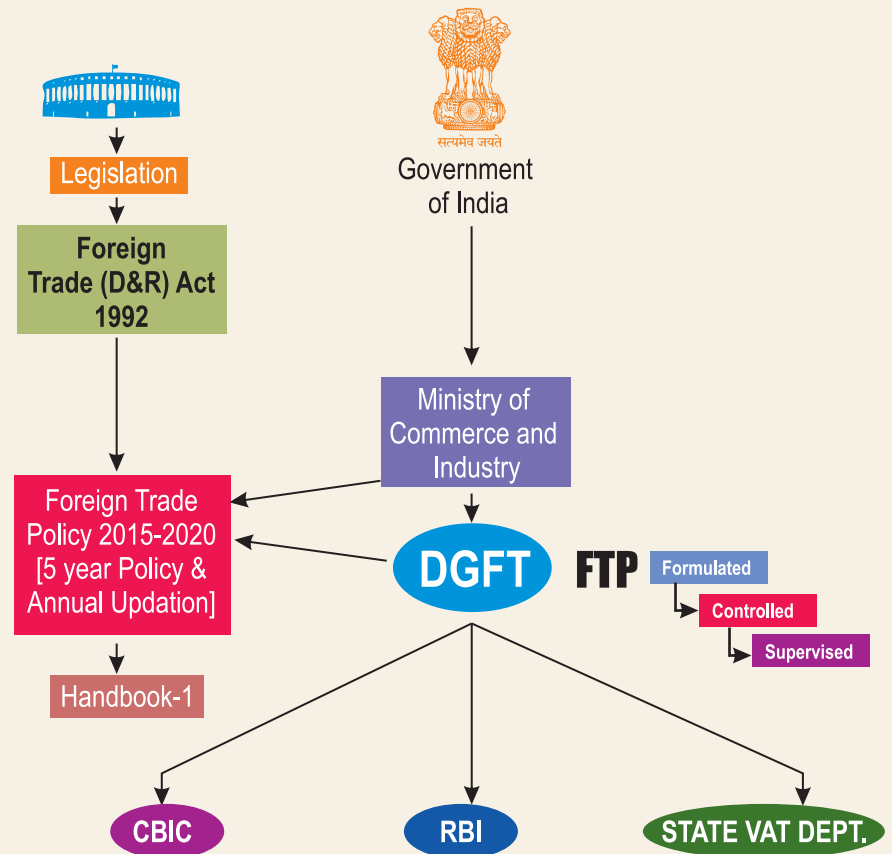
# FTP

## FOREIGN TRADE POLICY 2015-2020

By : CA Vishal Bhattad



### Legislation Governing Foreign Trade in India



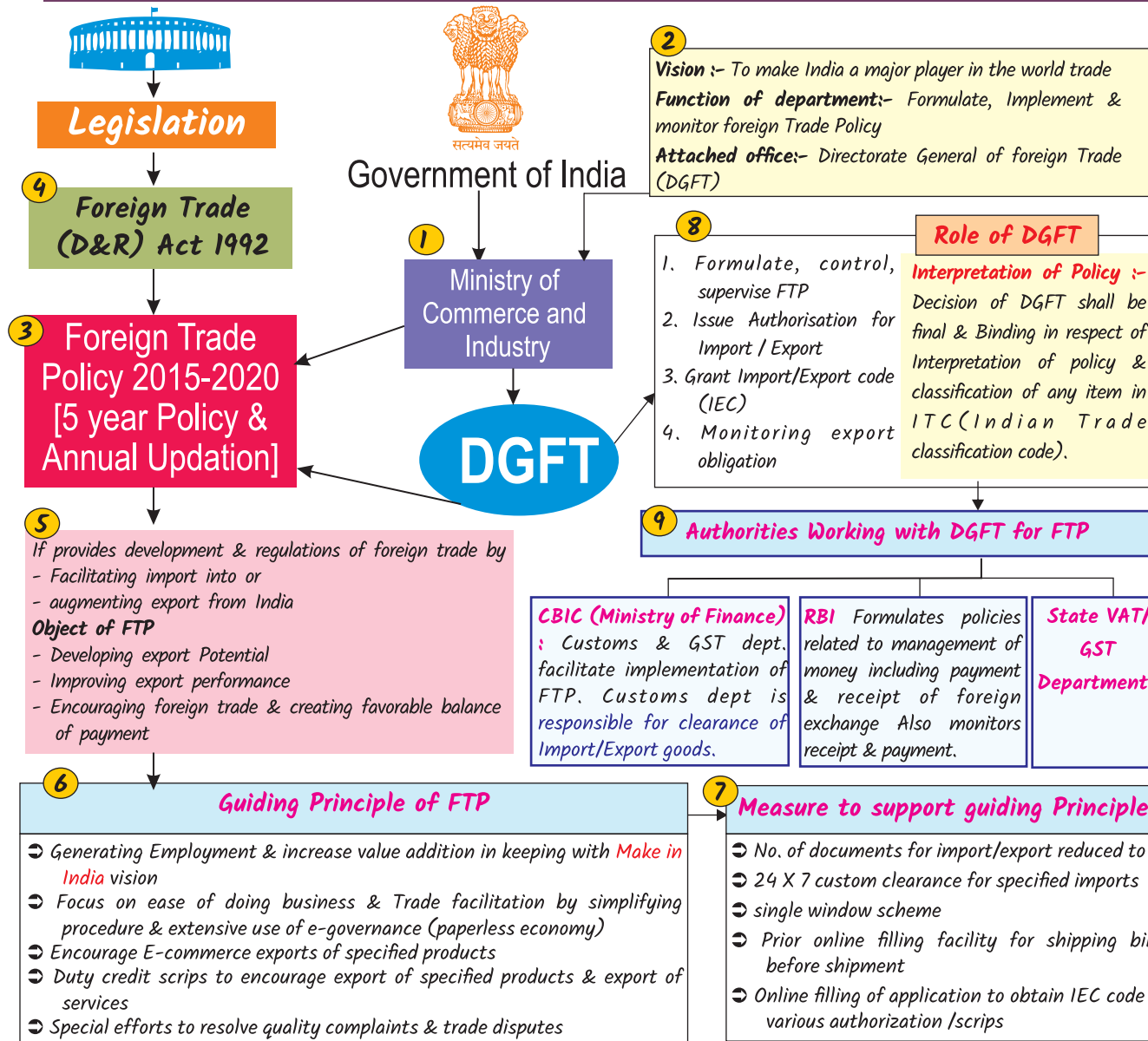
- 1. CBIC comes under Ministry of Finance
- 2. It has two Departments namely, Customs and Central and GST facilitate in implementing the provisions of the FTP.
- 3. Customs authorities follow the policy formed by the DGFT while clearing the goods.
- 4. *Central GST authorities need to be involved for all matters of exports, where goods have to be cleared without payment of GST.*

- 1. RBI is the nodal bank in the country which formulates the policies related to management of money, including payments and receipts of foreign exchange.
- 2. It also monitors the receipt and payments for exports and imports. RBI works under the Ministry of Finance.

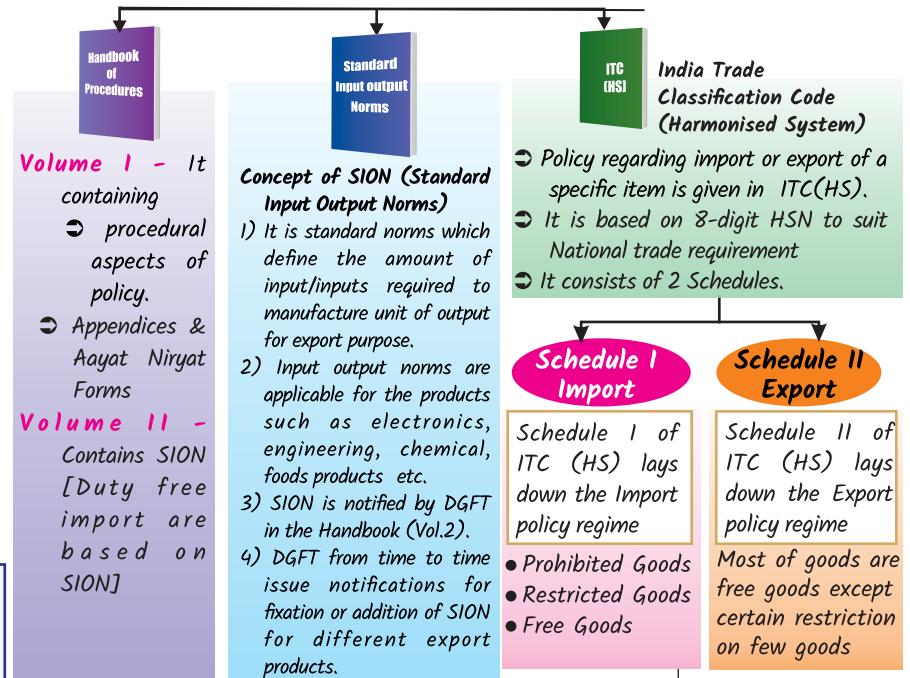
Since VAT is payable on domestic goods but not on export goods, formalities with State VAT departments assume importance in ensuring tax free exports.

# Foreign Trade Policy [2015 - 2020] [ Further Extended till 30.09.22]

## Legislation Governing Foreign Trade in India



## Foreign Trade Policy 2015-2020 Notified by Central Government



Categorization	Import (Export)	Policy for Exports/Imports
<b>Free Goods</b>	Items freely importable (exportable)	<b>under Scheme</b>
<b>Prohibited goods</b>	Items prohibited for import (export)	Import or Export of goods is strictly prohibited
<b>Restricted Goods</b>	Items restricted for import (export)	Items allowed to be imported (exported) subject to condition or licence
<b>Items reserved for STE (State Trading Enterprise) [Canalized Goods]</b>	Items reserved for import (export) by STE (State Trading Enterprise) e.g. petroleum Products, Agricultural Subject	Importer other than STE cannot import (export) such goods.

**General Provision regarding Import & Exports**

**Authorisation :- Meaning** - Permission to Import or export as per Provisions of FTP

**Terms and Conditions of an authorization:** Every Authorization shall be valid for prescribed period and shall contain such terms and conditions as may be specified by Regional Authority (RA), which may include:

- (a) Quantity, description and value of goods;
- (b) Actual User condition;
- (c) Export obligation;
- (d) Minimum Value Addition to be achieved;
- (e) Minimum export/ import price; and
- (f) Bank Guarantee/ Legal Undertaking/ Bond with Customs Authority/ RA.
- (g) Validity period of import/export as specified in Handbook of Procedures

**Authorization not a right:** No person may claim an Authorization as a right and DGFT or RA (Regional Authority) shall have power to refuse to grant or renew the same in accordance with provisions of FT(D&R) Act, rules made there under and FTP.

**Importer Exporter Code (IEC) : No Export Import without IEC**

- ➔ It is a unique 10 digit code issued by DGFT
- ➔ IEC is mandatory to export any goods out of India or to import any goods into India unless specifically exempt.
- ➔ Permanent Account Number (PAN) is pre-requisite for grant of an IEC.
- ➔ Only one IEC can be issued against a single PAN.
- ➔ PAN is IEC w.e.f. 01.07.19, If goods are liable to GST, then use GSTIN
- ➔ IEC allocated to an applicant is permanent unless cancelled by DGFT
- ➔ Application in ANF 2A with applicable fees & submitted with DSC

**State Trading Enterprises (STE)**

1. STEs are governmental and non-governmental enterprises, including marketing boards. Which deal with goods for export and/or import.
2. Any goods, import or export of which is governed through exclusive or special privileges (grant of subsidy) granted to State Trading Enterprises [STE(s)], may be imported or exported by STE(s) as per conditions specified in ITC(HS).
3. DGFT may, however, grant an authorization to any other person to import or export any of these goods.

**Examples of STE in India :**

- ➔ The Food Corporation of India (exclusively authorized for import of most cereals)
- ➔ The State Trading Corporation of India Ltd (Govt of India enterprise)

**STATUS HOLDER**

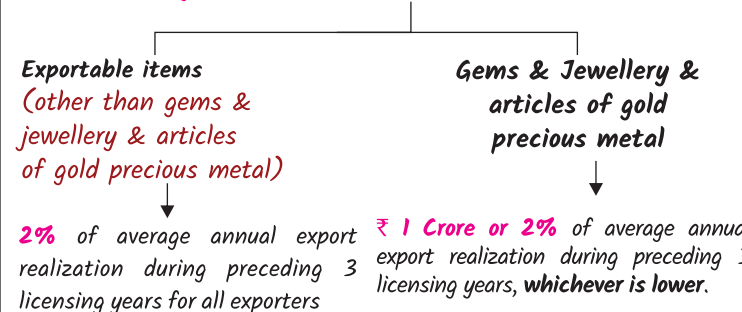
- 1) Status Holders are business leaders who have excelled in international trade and have successfully contributed to country foreign trade.
2. All exporters of goods, services and technology having an IEC number shall be eligible for recognition as a status holder.
3. Status recognition depends upon export performance which is in **during current and previous 3 F.Y.**, as indicated below: (In case of gems & jewellery **current and previous 2 F.Y**)

M= Million

Status Category (export house)	1 Star	2 Star	3 Star	4 Star	5 Star
Export performance (FOB/FOR) in \$	3M	25M	100M	500M	2000M

**Privileges of Status Holders:** Status holders are granted certain benefits like:

- (a) Authorisation and custom clearances on **self-declaration basis.**
- (b) **SION** on priority i.e. within 60 days.
- (c) Exemption from compulsory negotiation of documents through banks.
- (d) Exemption from furnishing of Bank Guarantee in Schemes under FTP.
- (e) **Two Star Export Houses** and above are permitted to establish export warehouses.
- (f) **Three Star and above Export Houses** shall be entitled to get benefit of **Accredited Clients Programme (ACP)** as per the guidelines of CBIC.
- (g) **Annual limit of free export (without a receipt of FCFE) of exportable items by status holders.**



**Value addition (VA):** will be calculated as follows (except for gem and jewellery sector)-

$$VA = [(A-B) \times 100] / B$$

A=FOB value of export realised/FOR value of supply received.  
 B=CIF value of inputs covered by authorisation plus any other imported materials used on which benefit of duty drawback (DBK) is claimed or intended to be claimed.

**Important points to be noted :**

- 1) If some items are supplied free of cost by foreign buyer, its notional value will be added in the CIF value of import and FOB value of export for purpose of calculating value addition.
- 2) Exports to SEZ Units/ supplies to Developers/ Co-developers, irrespective of currency of realization, would also be covered.

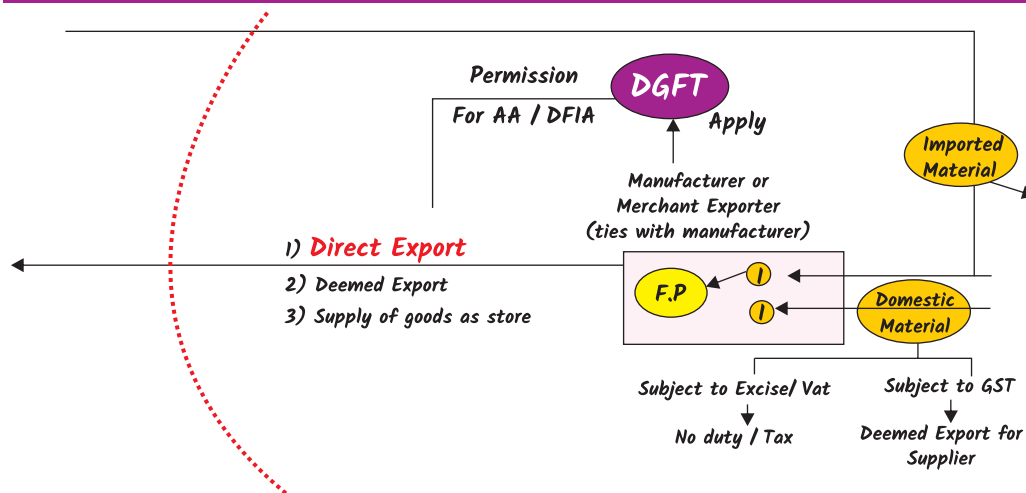
**Example : Calculate value addition from following information**

- 1) FOB Value of Export realised ₹ 40,00,000
- 2) For Value of Sale to SEZ ₹ 10,00,000
- 3) Value of Inputs
  - Under advance authorisation ₹ 25,00,000
  - Under DBK Scheme ₹ 15,00,000
- 4) Free material supplied by Foreign buyer (Notional Value) ₹ 5,00,000

**Answer:- Calculate value addition from following information**

1) FOB Value of Export realised	₹ 40,00,000	1) Value of Inputs	
2) For Value of Sale to SEZ	₹ 10,00,000	- Under AA	₹ 25,00,000
3) Free material supplied by Foreign buyer (Notional Value)	₹ 5,00,000	- Under DBK Scheme	₹ 15,00,000
		2) Free material supplied by Foreign buyer (Notional Value)	₹ 5,00,000
<b>Total (A) = 55,00,000</b>		<b>Total (B) = 25,00,000</b>	
$VA = \frac{55,00,000 - 45,00,000}{45,00,000} = 22.22\%$			

**Duty Exemption Scheme:- Scheme enables duty free import of inputs for export promotion**



	AA Scheme	DFIA Scheme
Export Obligation	E.O. to be completed within 18 months	E.O. to be completed within 12 months
Pre-export or post export conditions	AA only if person having EO at the time of application [Only Pre- Export condition]	It is for pre-export as well as post export
Export realization	Amount received in FCFE. Unless otherwise prescribed.	Amount received in FCFE. Unless otherwise prescribed.
Minimum value addition	V.A. = 15 % / tea = 50%	V.A. = 20 %

Annual advance Authorization : Exported with atleast past 2 Fysperformance. AAA = 300 % of FOB value of physical export in PFY & or for value X DE in PY or 1 crore (H)

**Advance Authorisation / Duty Free Import Authorisation Scheme**

	AA Scheme	DFIA Scheme
What is this scheme ?	INPUTS which are used in the export product can be imported without payment of customs duty with pre-export condition.	INPUTS which are used in the export product can be imported without payment of customs duty with Post-export & Pre-Export condition.
Duty is under exemption	<ul style="list-style-type: none"> <li>BCD, ACD 3(1)/(3)/(5), SWS, anti-dumping duty and safeguard duty. (No Benefit for protective duty &amp; CVD)</li> <li>IGST (ACD 3(7)) and GST Cess (ACD 3(9)) have been exempted upto 30.06.2022</li> </ul>	Only BCD
Eligible Inputs	<p>Inputs, which is physically incorporated in export products</p> <ul style="list-style-type: none"> <li>In additional fuel, oil, catalyst may also be allowed,</li> <li>Mandatory spares required to be exported with resultant product :10% of CIF of AA.</li> </ul>	<p>Inputs required for production of export goods</p> <ul style="list-style-type: none"> <li>In addition oil, catalyst may also be allowed</li> </ul>
In-Eligible Inputs	Prohibited items, Energy, Items reserved for imports by STE	Prohibited items, Fuel, Items reserved for imports by STE
SION	<p>Scheme is also applicable for goods for which SION norms is not fixed.</p> <p>Authorisation shall be issued.</p> <ul style="list-style-type: none"> <li>As per SION</li> <li>If SION is not fixed or addition Imported material required then RA fixed SION on declaration of exporter.</li> </ul>	Scheme is only applicable for goods for which SION norms is fixed.
Transferability (actual user condition)	<p>It is not transferable.</p> <p>Note:- Disposal of mfd goods.(out of free inputs) allowed after completion of EO.</p>	It is transferable after export obligation is fulfilled.
Availability	It is available to gem and jewellery sector	Not for DFIA



# EPCG - Export Promotion Capital Goods Scheme

Export Obligation		EPCG Scheme																																									
<b>Pre-Export</b>	<p><b>Special Obligation :-</b> 6 times of duty, taxes &amp; cess saved on CG to be fulfilled in 6 years reckoned from the date of issue of authorization. (For Domestic CG its 4.5 times of taxes saved)</p> <p><b>2 Eo's are imposed EPCG Scheme:-</b></p> <p>a) <b>Average EO :-</b> It has to be achieved within the overall EO period average level of exports made by the applicant in the preceding 3 licensing years for the same and similar products.</p> <p>b) <b>Specific EO :-</b> Given Above</p> <p><b>Example:-</b> Assume duty said on imported CG = 8Cr. &amp; Domestic CG = 3Cr.</p> <table border="1"> <tr> <th colspan="3">Previous Year</th> <th colspan="6">EO period 6 Year</th> </tr> <tr> <td>1 Yr</td> <td>2 Yr</td> <td>3 Yr</td> <td>1 Yr</td> <td>2 Yr</td> <td>3 Yr</td> <td>4 Yr</td> <td>5 Yr</td> <td>6 Yr</td> </tr> <tr> <td>10 CR</td> <td>15 CR</td> <td>20 CR</td> <td>15 CR</td> <td>15 CR</td> <td>15 CR</td> <td>15 CR</td> <td>15 CR</td> <td>15 CR</td> </tr> <tr> <td colspan="3">Avg. EO 15 CR</td> <td colspan="6">Avg. EO 15 CR</td> </tr> </table> <p><b>Export :-</b> 10 CR, 15 CR, 20 CR, 15 CR, 15 CR, 15 CR, 15 CR, 15 CR</p> <p><b>Avg. EO :-</b> 15 CR</p> <p><b>Specific EO :-</b></p> <table border="1"> <tr> <td>Specific EO Imported CG</td> <td>6(8Cr) = 48 Cr</td> </tr> <tr> <td>Domestic CG</td> <td>4.5(3Cr) = 13.5 Cr</td> </tr> </table>	Previous Year			EO period 6 Year						1 Yr	2 Yr	3 Yr	1 Yr	2 Yr	3 Yr	4 Yr	5 Yr	6 Yr	10 CR	15 CR	20 CR	15 CR	15 CR	15 CR	15 CR	15 CR	15 CR	Avg. EO 15 CR			Avg. EO 15 CR						Specific EO Imported CG	6(8Cr) = 48 Cr	Domestic CG	4.5(3Cr) = 13.5 Cr	<p>Permission For EPCG (DGFT Apply)</p> <p>1) Manufacturer (which Supporting Manufacturer) 2) Merchant Exporter (ties with manufacturer) or 3) Service Providers (Including common service provider)</p> <p>1) Direct Export 2) Deemed Export</p> <p>F.P. (Foreign Port)</p> <p>Imported CG</p> <p>Domestic CG</p> <p>Subject to GST</p> <p>Deemed Export for Supplier</p>	<p><b>What is this scheme ?</b> It permit exporter to import CG/to procure indigenous CG for pre-production, production, post-production without duty &amp; taxes.</p>
	Previous Year			EO period 6 Year																																							
1 Yr	2 Yr	3 Yr	1 Yr	2 Yr	3 Yr	4 Yr	5 Yr	6 Yr																																			
10 CR	15 CR	20 CR	15 CR	15 CR	15 CR	15 CR	15 CR	15 CR																																			
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Specific EO Imported CG	6(8Cr) = 48 Cr																																										
Domestic CG	4.5(3Cr) = 13.5 Cr																																										
<b>POST Export</b>	<p>⇒ <b>Specific EO shall be 85%</b> of the applicable specific EO stipulated under EPCG scheme. Average EO remains unchanged.</p> <p>⇒ <b>Duty remission (duty credit Scrip)</b> shall be in proportion to the EO fulfilled.</p> <p>⇒ These Duty Credit Scrip(s) can be utilized in the similar manner as the scrips issued under reward schemes can be utilised.</p>	<p><b>Duty is under exemption</b></p> <p>Imported CG</p> <p>⇒ BCD, ACD 3(1)/(3)/(5), SWS, anti-dumping duty and safeguard duty. (No Benefit for protective duty &amp; CVD)</p> <p>⇒ IGST (ACD 3(7)) and GST Cess (ACD 3(9)) have been exempted upto 30.06.2022</p> <p>Indigeneous CG :- Excise/VAT &amp; GST</p>	<p><b>Eligible CG</b></p> <p>⇒ CG including capital goods in CKD/SKD condition</p> <p>⇒ Computer systems and software which are a part of the CG being imported</p> <p>⇒ Spares, moulds, dies, jigs, fixtures, tools &amp; refractories</p> <p>⇒ Catalysts</p> <p>⇒ CG for Project Imports notified by CBIC</p>																																								
		<p><b>Validity of Authorization</b></p> <p>Authorisation shall be valid for 24 months from the date of issue of Authorisation.</p>	<p><b>Actual User Condition</b></p> <p>Import of capital goods shall be subject to Actual User condition till export obligation is completed.</p>																																								
		<p><b>Transferability</b></p> <p>After export obligation is completed, capital goods can be sold or transferred.</p>																																									
		<p><b>Important Points for Calculation of EO</b></p> <p>1) Combine EO to be considered for manufacturer &amp; supporting manufacturer or service provider.</p> <p>2) Physical as well as deemed export to be considered for total EO</p>																																									

## Reward Scheme

Service Export from India Scheme (SEIS)							
<b>Objective</b>	To encourage exporters of notified services from India						
<b>Eligibility</b>	<p>only services provided in the manner / mode specified are eligible.</p> <p>⇒ <b>Mode 1-Cross border trade:-</b> Supply of a 'service' from India to any other country</p> <p>⇒ <b>Mode 2- Consumption abroad:-</b> Supply of a 'Service' from India to service consumers of any other country</p> <table border="1" style="width: 100%; margin-top: 5px;"> <tr> <td style="background-color: #ADD8E6;"><b>Net free foreign exchange earning in year (ref note 1)</b></td> <td style="background-color: #ADD8E6;">Individual and sole proprietorship</td> <td style="background-color: #ADD8E6;">US \$10,000</td> </tr> <tr> <td></td> <td style="background-color: #ADD8E6;">Other</td> <td style="background-color: #ADD8E6;">US \$15,000</td> </tr> </table>	<b>Net free foreign exchange earning in year (ref note 1)</b>	Individual and sole proprietorship	US \$10,000		Other	US \$15,000
<b>Net free foreign exchange earning in year (ref note 1)</b>	Individual and sole proprietorship	US \$10,000					
	Other	US \$15,000					
<b>Basis of reward calculation</b>	Net free foreign exchange earned (ref note 1)						
<b>Application for scrips</b>	Annual Basis						
<b>Not Applicable</b>	Courier /Post exports using E-Commerce						
<b>Ineligible categories</b>	Forex other than those earned for rendering of notified services other sources of forex earning such as equity/debt participation donation, receipt of replacement of loan, etc. unrelated to rendering of services, would be ineligible.						

Note 1: Computation of net foreign exchange earning	
<b>Gross Earning</b> of Foreign Exchange relating to service sector in the Financial year [Note A&B]	xxxx
<b>Less :</b> Total expenses / payment / remittances of Foreign Exchange by the IEC holder, relating to service sector in the Financial year [Note B]	(xxx)
<b>Net Foreign Exchange</b>	xxxx
<b>Note:</b>	
<p><b>A) Receipt of forex unrelated to provisioning of service shall not be considered :</b> Other sources of foreign exchange earnings such as</p> <ul style="list-style-type: none"> <li>☞ equity or debt participation,</li> <li>☞ donations,</li> <li>☞ receipts of repayment of loans etc. and</li> <li>☞ any other inflow of foreign exchange, unrelated to rendering of service, would be ineligible.</li> </ul> <p><b>B) For-Ex earning and expenses in capacity of SP shall only be considered :</b> If the IEC holder is a manufacturer of goods as well as service provider, then the foreign exchange earnings and Total expenses / payment / remittances shall be taken into account for service sector only.</p>	

Remission of Duties and Taxes on Exported Products (RoDTEP)	
[Notification No. 30/2015-2020 dt 01.09.2020 and Press Release dated 31.12.2020]	
<b>Objects</b>	The Remission of Duties and Taxes on Exported Products (RoDTEP) scheme was announced by Government of India (GOI) on 14 September 2019 to boost exports by allowing reimbursement of taxes and duties, which are not exempted or refunded under any other scheme in accordance with World Trade Organization (WTO) norms.
<b>Availment of Scheme</b>	An exporter desirous of availing the benefit of the RoDTEP scheme is required to declare his intention for each export item in the shipping bill or bill of export
<b>Remission of taxes / duties / levies</b>	<ol style="list-style-type: none"> <li>1) RoDTEP is a combination of the current Merchandise Export from India Scheme (MEIS) and Rebate of State and Central Taxes and Levies (RoSCTL)</li> <li>2) RoDTEP covers reimbursement of duties and taxes (such as mandi tax, VAT and central excise on fuel, etc.), which are levied at central, state and local level and are not refunded under any other mechanism. Further, items, which were currently under MEIS and RoSCTL schemes, will be shifted towards the RoDTEP scheme.</li> <li>3) The refund would be credited in an exporter's ledger account with customs and used to pay basic customs duty on imported goods.</li> </ol>
<b>Key Benefits</b>	<ol style="list-style-type: none"> <li>1) RoDTEP scheme can provide a seamless flow of economic benefit from the government.</li> <li>2) In the existing schemes, certain taxes, such as state taxes on power, oil, water and education cess, are not included. Under RoDTEP, such taxes are also proposed to be included in the indicative list making the scheme exhaustive.</li> <li>3) It will add more competitiveness in the foreign markets, with assured duty benefits by GOI.</li> <li>4) it will help exporters meet international standards and boost business growth.</li> </ol>
<b>Scheme for all sectors</b>	RoDTEP covers all sectors including textile. Further, a dedicated committee shall decide the sequence of introduction of the scheme across sectors, prioritisation of the sectors and degree of benefit to be given to various items.

Sale of unutilised material (including Cgs & Spares) and services	Exit from EOU Scheme	Inter unit transfer of manufactured goods & CGS
<ul style="list-style-type: none"> <li>⇒ Transfer to another EOU / EHTP /STP/BTP (treated as import for receiver) or</li> <li>⇒ Dispose off in DTA with intimation to Custom authorities on payment of GST &amp; BCD</li> <li>⇒ Exported</li> </ul>	<ul style="list-style-type: none"> <li>⇒ With approval of Devt. Com. &amp;</li> <li>⇒ Payment of applicable GST &amp; cess</li> <li>⇒ Obligation not achieved : Penalty</li> </ul>	from one EOU / EHTP/STP / BTP to another allowed, on payment of GST & compensation cess with prior intimation to concerned development commissioner & Custom Authority.

## EOUs/EHTPs/STPs/BTPs : Import CGS/ inputs w/o payment of duty

<ol style="list-style-type: none"> <li>1) Units Undertaking to export entire production may be setup under the EOU/EHTP/STP/BTP scheme for manufacture of goods including repairs, remarks, reconditioning, re-engineering, rendering of services, Development of software.</li> <li>2) Trading units are not covered under these scheme.</li> <li>3) EOUs/EHTPs/STPs/BTPs shall start production within 2 years of grant of LOP/LOI only projects having minimum investment of 1 Cr in P &amp; M shall be considered for establishment as EOUs.</li> </ol> <p style="text-align: center;">This shall not apply to units in EHTP/STP/BTP, EOUs in handicraft / agri / forti / Aquaculture / Animal Husbandry /</p>	<ol style="list-style-type: none"> <li>Information technology services, brass handmade &amp; handmade Jewellery sectors.</li> <li>4) They must have a positive Net foreign exchange earner, which shall be calculated cumulatively in block of 5 years starting from production.</li> <li>5) Entitlements for supply from DTA to EOU/EHTP/STP/BTP units : Regards as Deemed exports &amp; DTA unit shall be entitled for DE benefits. Refund of GST paid on such supply In addition, EOU/EHTP/STP/BTP units shall not pay BCD,IGST&amp; Cess on imported goods ITC available on inputs &amp; CGs.</li> </ol>
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## Deemed Exports : Transaction in which goods don't leave India & payment is received INR / Forex

<ul style="list-style-type: none"> <li>⇒ Supplies under AA/DFIA</li> <li>⇒ Supplies to EOU/STP/EHTP/BTP</li> <li>⇒ Supplies against EPCG Authorisation</li> <li>⇒ Supply of maritime freight container by 100 % EOU</li> <li>⇒ Supplies to Mega Power projects, nuclear projects , UN or International Organisation for official use</li> </ul>
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## Provisions relating to Import & Export of goods

### Provision relation to Import of Goods:

**Actual user condition:** Goods which are importable freely may be imported by any person. however, if such import require an authorisation, actual user alone may import such goods unless actual user condition is specifically dispensed with by DGFT.

### Imported of Second hand goods:

Second hand capital goods including refurbished/reconditioned spares : freely allowed. Second hand PC/laptop, photocopier, AC, DG sets : allowed only against authorisation. Second hand goods (except CGs) shall be restricted only against authorisation

### Removal of Scrap / Waste from SEZ :

Any wastescrap/remnant including any form of metallic Waste & Scrap generated during manufacturing /processing activity of an SEZ shall be allowed to be disposed in DTA freely, subject to custom duty payment

### Import of gifts:

Import of Gifts shall be permitted if freely importable under ITC (HS) else permit is required. IOG those purchased from e-com portals through post/courier, where custom clearance & sought as gift is prohibited except for life saving drugs/ medicines & rakhi.

### Import of sample

- ⇒ No authorisation is required for import of benefits technical & trade sample, importable freely.
- ⇒ Samples upto ₹ 3 lacs can be imported by all exporters without duty
- ⇒ Authorisation for import of sample required in case of vegetable seeds, bees & new drugs.
- ⇒ Tea sample upto ₹ 2000 (CIF) per consignment allowed w/o authorisation.

### passanger baggage :

Bonafide household goods & personal effect may be imported as per Baggage rules 1998 / 2016. Sample of freely imported items: may be imported as baggage without authorization. Exporter coming from aboard: allowed drawing, patterns lables, price tags, buttons, bells, trimming & Embellishments required for export without authorisation.

### Reimport of goods repaired aboard

CG, equipment component part & accessories sent aboard for repair, reimport without authorisation

### Import of goods (including CG) used in project aboard

Reimported after completion of project without authorisation provided used atleast 1 year

### Import under lease financing

Freely permitted , no permission required. however same cross RBI approval is required

### Free Exports

All goods may be exported without any restriction except to the extent that such expert is regulated by ITC (HS)/ any other provision of FTP /any other law . DGFT may however specified through a public notice such T&C according to which any goods not including in ITC (HS) may be exported without authorization

### Export of gifts

Goods including edible items , of value ₹ 5 lakhs in a license year may be exported as Gift. However restricted items shall not be exported without authorisation

### Third party Exports

Means exports made by an exporter / manufacturer on behalf of another exporter (s). Export documents(Shipping Bill) shall indicate name of both manufacturing exporter / manufacturer \* 3rd party exporter. Bank realisation certificate , export order & invoice should be in the name of 3rd party exporter.

## Other Things to be remember

### Export promotion councils (EPCs)

They are organisations set up with the objective to promote & develop Indian export. Each council is responsible for promotion of a particular group of products / projects/ services. If exporter intends to obtain export incentivised, then it has to mandatorily register himself under EPC. Procedure : a) Application in form ANF - 2C b) IFC issued certificate [RCMC] registering firm c) RCMC valid till 1st April of year in which issued & remains valid for a period of 5 years

### Registration Cum Membership certificate (RCMC) :

It is a certificate evidencing registration of an exporter as a member of any EPCs (eg. Apparel EPC, Engineering EPC, etc) Any person applying foran authorisation to import / export or any other benefit / concession under FTP shall be required to furnish on DGFTs website in importer exporter profile, RCMC granted by component authority. Example : Certificate of registration as exporter of service (CRES) issued by spices board shall be treated as RCMC.

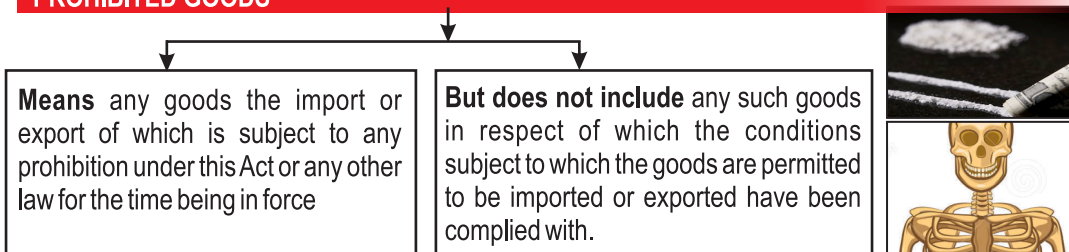
### Export credit agencies (ECAs)

are policy instruments for govt. to exports. ECAs support exports by insurance guarantee & also direct lending. Export credit guarantee corporation of India provides credit insurance support & Export Credit lending

# FOLLOWING SYLLABUS(TOPIC) ARE NOT APPLICABLE FOR CA FINAL EXAMINATION, BUT CS AND CMA STUDENTS CAN REFER .

Appointment of Custom area by various authority	
Authority	Custom Area
CBIC	<ul style="list-style-type: none"> <li>▶ Port, Airport &amp; Land custom station [Sec 7]</li> <li>▶ Costal Port [Sec 7]</li> <li>▶ ICD, CFS, AFS [ Sec 7]</li> <li>▶ Foreign Post Office</li> <li>▶ International Courier terminal</li> </ul>
Principle Commissioner or Commissioner	<ul style="list-style-type: none"> <li>▶ Berth Place [ Loading or unloading of goods at Custom port/ Air port / Costal Port]</li> <li>▶ Boarding Station</li> <li>▶ Public Warehouse</li> <li>▶ Private Warehouse</li> <li>▶ Special Warehouse</li> </ul>

## PROHIBITED GOODS





**Goods liable to Confiscation & Penalty**

**Sec 111:** Confiscation of improperly imported goods  
(Refer regular notes)

**Sec 113** Confiscation of goods attempted to be improperly exported  
(Refer regular notes)

**Penalty**

The person who has done the act where goods liable to confiscation or any other person who in any way concerned with such goods liable to confiscation shall subject to following penalty

Situations	Penalty u/s 112 on imported goods	Penalty u/s 113 on export goods
1) Prohibited goods	Value of goods or ₹ 5000 whichever is higher	3 times of Value declared or Value as per act whichever is higher
1) Dutiable goods other than prohibited goods	10% of duty evaded or ₹ 5000 whichever is higher If duty & interest is paid within 30 days of order then penalty = 25% of penalty as above	10% of duty evaded or ₹ 5000 whichever is higher If duty & interest is paid within 30 days of order then penalty = 25% of penalty as above

**Confiscation**

**Step 1 Sec 110: Seizure of Goods**

- 1) If goods liable to confiscation – officer may seize the goods
- 2) Punishable or hazardous goods can be seized instead of seizure
- 3) Inventory of seizure goods shall be prepared with description, quality, quantity etc & apply to magistrate for certifying its correctness

**Step 2 Confiscation Proceedings in following step**

- 1 Sec 122 : Authority to Confiscation**  
without limit – comm or joint comm  
value upto 2 L – AC/DC  
Value upto ₹ 10,000 – officer below AC/DC
- 2 Sec. 124 : Notice of Confiscation**  
1) SCN by proper officer in writing showing grounds of Confiscation  
2) Opportunity of representation & hearing
- 3 Sec. 123 :Hearing**  
1) Burden to prove that goods are smuggled goods  
2) Generally, that burden is on Dept.  
3) But in respect of notified goods, burden shifted to assessee to prove bonafides
- 4 Sec.126 : Confiscation Order**  
Ownership in goods stands transferred to CG
- 5 Sec. 125 : Option to pay Fine in lieu of confiscation**  
Prohibited goods - Giving option is discretion of Proper Officer  
Other goods - Giving option is mandatory for Proper Officer

**Quantum of Redemption Fine - Maximum Fine is terms of Sec 125 (1)**

<b>Imported Goods</b>	= [Market Price - Import Duties] If assessee seeks to release the goods on payment of Fine then in addition to that fine, he shall also be liable to pay Import Duties.
<b>Export Goods</b>	= Market Price

## SECTION 3: CLASSES OF OFFICERS OF CUSTOMS

There shall be the following classes of officers of customs, namely:-

- a) Principal Chief Commissioners of Customs;
- b) Chief Commissioners of Customs;
- c) Principal Commissioners of Customs;
- d) Commissioners of Customs;
- e) Commissioners of Customs (Appeals);
- f) Joint Commissioners of Customs/ Additional Commissioners of Customs;
- g) Deputy Commissioners of Customs;
- h) Assistant Commissioners of Customs
- i) Such other class of officers of customs as may be appointed for the purposes of this Act.

## POWER CONTROL & PROCEDURES

1. **Sec 101** : Search of persons in customs area by proper officer, if he has reason to believe that person has secreted goods / things liable to confiscation
2. **Sec 101** : Search of persons anywhere by empowered officer, if he has reason to believe that person has secreted gold / diamond / notified goods liable to confiscation
3. Power to search includes power to x-ray.
4. **Sec 105** : AC/DC may search premises to get confiscable goods/useful documents
5. **Sec 110 & 110A** : Goods liable to confiscation may be seized - Goods may be provisionally released under bond - If show- cause notice not issued within 6 months from seizure, goods are to be returned back - Documents may also be seized - Assessee may take extracts / copies of seized documents
6. **Sec 141** : Port/Airport Trust or Authority - In case of pilferage, they are liable to reimburse the loss to the importer and also pay customs duty to the department
7. **Sec 143** : If condition of import cannot be fulfilled at time of import, import may be allowed on bond and later bond is discharge on fulfilment of condition later on
8. **Sec 144** : Proper officer has power to take samples for testing, etc.
9. **Sec 147** : Agent of importer / exporter is liable for - (I) purposes for which he is appointed as agent ; and (ii) liability to pay duty / other sums in respect of goods: recovery from agent only if recovery arises due to wilful / negligent act of agent
10. **Sec 148** : Agent of Person-in-Charge of conveyance is also liable for all deeds including also for penalty and confiscations
11. **Sec 150** : Goods other than confiscated goods may be sold in auction / tender and proceeds would be applied for : (I) expenses, (ii) duty, (iii) custodian / warehousing charges, (iv) other sums payable under Customs Act; and balance returned
12. **Sec 154** : Clerical error may be corrected by Board / Central Govt. / Officer or his successor

## COASTAL GOODS

**SEC 2 (7) “Coastal Goods”** means goods, other than imported goods, transported in a vessel from one port in India to another

## PROCEDURE IN CASE OF COASTAL GOODS



1. The Consignor of any goods shall present “**A Bill of Coastal goods**”
2. “Bill of coastal goods” contains detail information about port of loading and destined port at which the goods are to be discharged.
3. The bill has been passed by Customs Officers.
4. After passing bill, the goods will be loaded and the bill handed over to the master of vessels.
5. The Master of vessels shall not permit the loading of the goods until such bill is delivered to him by consignor.
6. The master of vessels will also carry an **Advice book** in which the customs officers will make suitable entries, relating to the goods loaded on the vessels at that port.
7. The Master of every such vessel shall carry the advice book on Board the vessels and shall on arrival at each port of call deliver it to the proper officer at that port for his inspection.

## Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

### Amendment in existing Provision

#### Sec 122 : Authority to Confiscation

LIMIT	ADJUDICATING OFFICER
a) without any monetary limit	Principal Commissioner of Customs or Commissioner of Customs or a Joint Commissioner of Customs.
b) Upto Such limit Such officer, as the board may, by notification, specify.	
i) above ₹ 1 lakh but not exceeding ₹ 10 lakh	i) AC/DC of Customs
ii) Not exceeding ₹ 1 lakh	ii) A Gazetted officer of Customs lower in rank than an AC/DC of Customs



#### Sec. 124 : Notice of Confiscation

- 1) SCN by proper officer in writing showing grounds of Confiscation
- 2) Opportunity of representation & hearing

**Provided** further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed



#### Sec. 125 : Option to pay Fine in lie of confiscation

Prohibited goods - Giving option is discretion of Proper Officer  
Other goods - Giving option is mandatory for Proper Officer

**Provided** that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply

3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

*Explanation.*—For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date\*\* on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.



### Newly inserted section

#### SECTION 143AA: POWER TO SIMPLIFY OR PROVIDE DIFFERENT PROCEDURE, ETC., TO FACILITATE TRADE

Notwithstanding anything contained in any other provision of this Act, the Board may, for the purposes of facilitation of trade, take such measures or prescribe separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods, in order to,—

- (a) maintain transparency in the import and export documentation; or
- (b) expedite clearance or release of goods entered for import or export; or
- (c) reduce the transaction cost of clearance of importing or exporting goods; or
- (d) maintain balance between customs control and facilitation of legitimate trade.



### SECTION 151B: RECIPROCAL ARRANGEMENT FOR EXCHANGE OF INFORMATION FACILITATING TRADE

- (1) The Central Government may enter into an agreement or any other arrangement with the Government of any country outside India or with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of this Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention, combating and investigation of offences under the provisions of this Act or under the corresponding laws in force in that country.
- (2) The Central Government may, by notification, direct that the provisions of this section shall apply to the contracting State with which reciprocal agreement or arrangements have been made, subject to such conditions, exceptions or qualifications as may be specified in that notification.
- (3) Subject to the provisions of sub-section (2), the information received under sub-section (1) may also be used as evidence in investigations and proceedings under this Act.
- (4) Where the Central Government has entered into a multilateral agreement for exchange of information or documents for the purpose of verification of compliance in identified cases, the Board shall specify the procedure for such exchange, the conditions subject to which such exchange shall be made and designation of the person through whom such information shall be exchanged.
- (5) Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3), anything done or any action taken or purported to have been done or taken, in pursuance to any agreement entered into or any other arrangement made by the Central Government prior to the date\* on which the Finance Bill, 2018 receives the assent of the President, shall be deemed to have been done or taken under the provisions of this section.  
Explanation.—For the purposes of this section, the expressions,—
  - (i) “contracting State” means any country outside India in respect of which agreement or arrangements have been made by the Central Government with the Government or authority of such country through an agreement or otherwise
  - (ii) “corresponding law” means any law in force in the contracting State corresponding to any of the provisions of this Act or dealing with offences in that country corresponding to any of the offences under this Act.



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### SECTION 153: MODES FOR SERVICE OF NOTICE, ORDER, ETC

The date of service of an order or a communication containing a decision is of vital importance, in case the aggrieved party desires to file an appeal. The time limit allowed for appeal normally runs from the date of receipt of the communication containing the impugned decision by the aggrieved person. There are circumstances where it is not effectively possible to ensure that such communications are received by the concerned party. There are other circumstances where disputes arise about the actual date of the receipt of communication. These two problems have necessitated a uniform procedure for dispatch and service of orders, decisions, summons and other communications issued under the Customs Act. Section 153 provides the specific mode of service in this regard which is reproduced below.

*An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely :—*

- (a) *by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;*
- (b) *by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;*
- (c) *by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;*
- (d) *by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or*
- (e) *by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.*

*Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the prescribed manner.*

*Further, when such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.*



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## ADVANCE RULING - COMPARATIVE ANALYSIS

<b>Advance Ruling</b>	
	Means a written decision on any of the questions referred to in section 28H raised by the applicant in his application in respect of any goods prior to its importation or exportation (Sec 28 E(b))
<b>Appellate Authority</b>	
	<i>means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961</i>
<b>Activity</b>	
	<del>Activity means import or export and includes any new business of import or export proposed to be undertaken by the existing importer or exporter as the cas may be. [Sec 28-E(a)]</del> <span style="background-color: #FFC000; padding: 2px; font-size: small;">Omitted by F.A. 2018</span>
<b>Applicants</b>	
	<i>means any person,—</i> <i>(i) holding a valid Importer-exporter Code Number granted under section 7 of the Foreign Trade (Development and Regulation) Act, 1992; or</i> <i>(ii) exporting any goods to India; or</i> <i>(iii) with a justifiable cause to the satisfaction of the Authority,</i>  <i>who makes an application for advance ruling under section 28H;</i>
<b>Authority</b>	
	<i>means — The custom Authority for advance rulings appointed under section 28EA*</i>
<b>Chairperson</b>	
	<i>means,— The chairperson of the <b>appellate</b> authority</i>
<b>Members</b>	
	<i>means — A member of the <b>appellate</b> authority &amp; includes the chair person</i>
<b>“Non-resident” “Indian company” and “foreign company”</b>	
	<i>Have the same meaning respectively assigned to them in clause (30), (26) &amp; (23A) of the sec 2 of income tax act 1961</i>

<b>CUSTOMS AUTHORITY FOR ADVANCE RULINGS [SECTION 28EA]</b>	
	The Board is empowered to appoint an officer of the rank of Principal Commissioner of Customs or Commissioner of Customs to function as a Customs Authority for Advance Rulings.  However, till the date of appointment of the Customs Authority for Advance Rulings, the existing Authority for <b>Advance Rulings constituted under section 245-O</b> of the Income-tax Act, 1961 shall continue to be the Authority for giving advance rulings for the purposes of this Act.  The offices of the Authority may be established in New Delhi and at such other places, as the Board may deem fit. The Authority shall exercise the powers and authority conferred on it by or under this Act.
<b>AUTHORITY FOR ADVANCE RULING (CENTRAL EXCISE, CUSTOMS AND SERVICE TAX) [SECTION 28F]</b>	
	The Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall be the <b>Appellate Authority for deciding appeal under this Chapter</b> . The said Appellate Authority shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.  Further, the Member from the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Appellate Authority for the purposes of this Act.
<b>The Matter in which the Advance Ruling can be obtained [Sec 28H(2)]</b>	
	Classification of any goods under the CTA, 1975
	Applicability of a Exemption notification issued under Section 25(1) having a bearing on the rate of duty
	<b>The principles to be adopted for the purposes of determination of value of the goods</b>
	<i>applicability of notifications issued in respect of tax or duties under this Act or the Customs Tariff Act, 1975 or any tax or duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act or the Customs Tariff Act</i>
	<b>Determination of origin of the goods in terms of the rules notified under the Customs Tariff Act, 1975</b>
	<i>any other matter as the Central Government may, by notification, specify.</i>

**Question:**

**Can an application for advance ruling withdrawn? If yes, state the time limit for withdrawal of such application?**

**Answer:-**

Yes, application for advance ruling can be withdrawn within 30 days from the date of application [Section 28H(4) of the custom Act, 1962].

**Applicability of Advance Ruling (Sec 28J)**

- 1) Advance ruling shall be binding only -
  - a) on the application who had sought it
  - b) in respect of any matter referred to in sub-section (2) of section 28H
  - c) on the Principal Commissioner/Commissioner of Customs, and the customs authorities subordinate to him, in respect of the applicant.
- 2) Advance ruling shall be binding unless there is change in law or facts on the bases of which the advance ruling has been pronounced

**ADVANCE RULING TO BE VOID IN CERTAIN CIRCUMSTANCES [SECTION 28K]**

**Where the Authority finds, on a representation made to it by the Principal Commissioner/Commissioner of Customs or otherwise, that an advance ruling has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Act shall apply to the applicant as if such advance ruling had never been made.**

*Further, in computing the period of two years or five years thereof, for service of notice for recovery of any duty not levied, short-levied, not paid or short-paid on account of the advance ruling, the period beginning with the date of such advance ruling and ending with the date of the order shall be excluded.*

**A copy of the order made shall be sent to the applicant and the Principal Commissioner/Commissioner of Customs.**

**APPEAL [SECTION 28KA]**

*Any officer authorised by the Board, by notification, or the applicant may file an appeal to the Appellate Authority against any ruling or order passed by the Customs Authority for Advance Rulings, within 60 days (Appellate Authority further period of 30 days appeal). from the date of the communication of such ruling or order, in the prescribed form and manner.*

**PROCEDURE FOR AUTHORITY AND APPELLATE AUTHORITY [SECTION 28M]**

**The procedure for Customs Authority for Advance Rulings may be provided by regulations by the Board. The Appellate Authority shall regulate its own procedure for the purpose of conducting its proceedings.**

## DEMAND, PROCEEDING UNDER CUSTOM

Cases	Period of Serving of SCN	Voluntary payment before SCN	If voluntary payment is short	Demand order (if SCN is issued)	Interest	Penalty
<p>1) <b>Cases other than collusion, willful-misstatement etc.</b> Where any duty payable:</p> <ul style="list-style-type: none"> <li>➤ has not been levied</li> <li>➤ has not been paid</li> <li>➤ has been short-levied</li> <li>➤ has been short-paid</li> <li>➤ has been erroneously refunded</li> </ul> <p>for any reason other than the reasons of:</p> <ul style="list-style-type: none"> <li>➤ collusion</li> <li>➤ any willful misstatement</li> <li>➤ suppression of facts</li> </ul>	<p>The proper officer shall, within <b>TWO YEARS from the relevant date, serve notice</b> on the person chargeable with the duty or interest requiring him to <b>show cause</b> why he should not pay the amount specified in the notice <i>Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed.</i></p>	<p>The person chargeable with the duty or interest, may pay before service of SCN on the basis of,-</p> <ol style="list-style-type: none"> <li>i) his own ascertainment of such duty; or</li> <li>ii) the duty ascertained by the proper officer,</li> </ol> <p>The amount of duty along with the interest. Such payment inform in writing to proper officer and he <b>shall not serve any SCN for such payment and penalty.</b> <b>Note:- Proper office shall not serve SCN where amount is less than ₹100</b></p>	<p>Where the proper officer is of the opinion that the amount voluntarily paid falls short of the amount actually payable, <b>then, he shall proceed to issue the notice</b> in respect of such amount which falls short of the amount actually payable and the <b>period of TWO YEARS</b> shall be computed from the date of receipt of information of payment.</p>	<p>Proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation and <b>shall determine the amount of duty within a period of six months from the date of notice.</b></p> <p><i>Provided that officer senior in rank to the proper officer may extent further period of six month</i></p>	<p>Mandatory interest 15% p.a.</p> <p>It shall be calculated from the date on which such duty becomes due up to the date of actually payment.</p> <p>No interest is payable if it is payable consequent to board circular and paid within 45 days without reserving right up appeal.</p>	No Penalty
<p>2) <b>Cases of collusion, willful-misstatement etc.</b> Where any duty payable:</p> <ul style="list-style-type: none"> <li>➤ has not been levied</li> <li>➤ has not been paid</li> <li>➤ has been short-levied</li> <li>➤ has been short-paid</li> <li>➤ has been erroneously refunded</li> </ul> <p>by reason of:</p> <ul style="list-style-type: none"> <li>➤ collusion</li> <li>➤ any willful misstatement</li> <li>➤ suppression of facts</li> </ul>	<p>The proper officer shall, <b>within five years from the relevant date, serve notice</b> on the person chargeable with duty or interest requiring him to show cause why he should not pay the amount specified in the notice .</p>	<p><b>Voluntary payment before SCN is not available but after SCN person can make the payment voluntarily.</b></p> <p>the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer,</p> <p>such person may pay</p> <ul style="list-style-type: none"> <li>➤ the duty in full or in part, as may be accepted by him, and</li> <li>➤ the interest @ 15% p.a.</li> <li>➤ the penalty equal to 15% of the duty specified in the notice or the duty so accepted by that person, within <b>30 days</b> of the receipt of the notice and inform the proper officer of such payment in writing.</li> </ul>	<p>that the duty with interest and penalty that has been paid voluntarily after SCN falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice in respect of such amount which falls short of the amount actually payable and the period of <b>TWO YEAR</b> shall be computed from the date of receipt of information of payment.</p>	<p>Proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation and <b>shall determine the amount of duty within a period of one year from the date of notice.</b></p> <p><i>Provided that officer senior in rank to the proper officer may extent further period of one year</i></p> <p><i>where the proper officer is unable to determine the amount of duty or interest for the reason that—</i></p> <p><i>(a) an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or</i></p> <p><i>(b) an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or</i></p> <p><i>(c) the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or</i></p> <p><i>(d) the Settlement Commission has admitted an application made by the person concerned, the proper officer shall inform the person concerned the reason for non determination of the amount of duty or interest shall apply not from the date of notice, but from the date when such reason ceases to exist.</i></p>	<p><b>Mandatory interest 15% p.a.</b></p> <p>It shall be calculated from the date on which such duty becomes due up to the date of actually payment.</p> <p>No interest is payable if it is payable consequent to board circular and paid within 45 days without reserving right up appeal.</p>	<p><b>Person shall be liable to pay penalty equivalent to duty or interest so determined</b></p> <p>But if duty interest and penalty is paid within 30 days of D.O. then penalty payable shall reduce to 25% of duty or interest</p> <p>Provided also that in case where duty or interest determine to be payable is increase by Commissioner (Appeals), Appellate tribunal or the court, than, the benefit of reduce penalty available if the amount of duty or interest so increased, along with interest payable thereon, &amp; 25% of the consequential increase in penalty have also been paid within 30 days of communication of order.</p>

## 2. Relevant date under Customs

Situations	Relevant Date
1. Where the duty is not levied or not paid or short levied or short paid or interest is not charged.	Date on which the proper officer makes an order for the clearance of goods.
2. Duty of customs is provisionally assessed.	The date of adjustment of duty after the final assessment thereof;
3. Duty of customs has been erroneously refunded	The date of such refund
4. In any other case	Date of payment of duty or interest

**Note 1:-** For computing period of 2 year/5years period of stay by order of court or tribunal shall be excluded

**Note 2 :-** *Save as otherwise provided the proper officer may issue supplementary notice under such circumstances and in such manner as may be prescribed.*

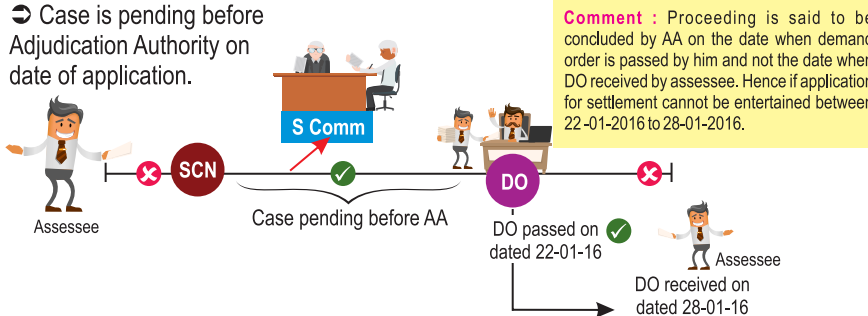
**Note 3 :-** the person liable to pay the said duty along with the interest due on such amount whether or not the amount of interest is specified separately

*where an order for refund is modified in any appeal and the amount of refund so determined is less than the amount refunded, the excess amount so refunded shall be recovered along with interest thereon at the rate fixed by the Central Government from the date of refund up to the date of recovery, as a sum due to the Government.*

*Notice demanding duty is held not sustainable in any proceeding under this Act, including at any stage of appeal, for the reason that the charges of collusion or any wilful mis-statement or suppression of facts to evade duty has not been established against the person to whom such notice was issued and the amount of duty and the interest thereon shall be computed accordingly.*

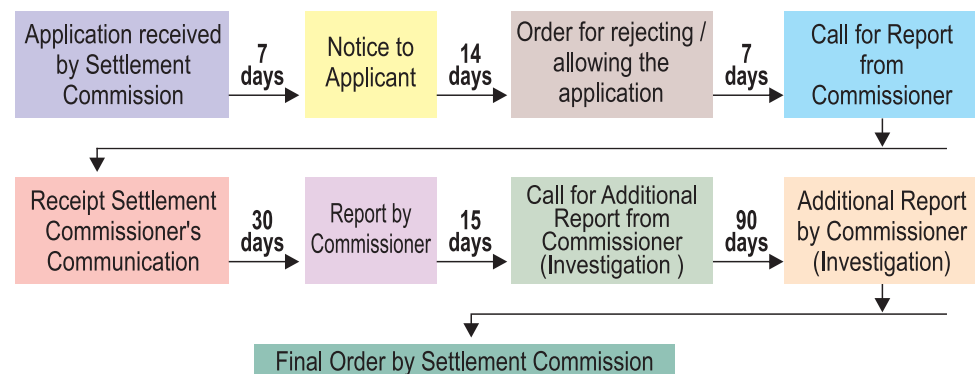


# SETTLEMENT COMMISSION

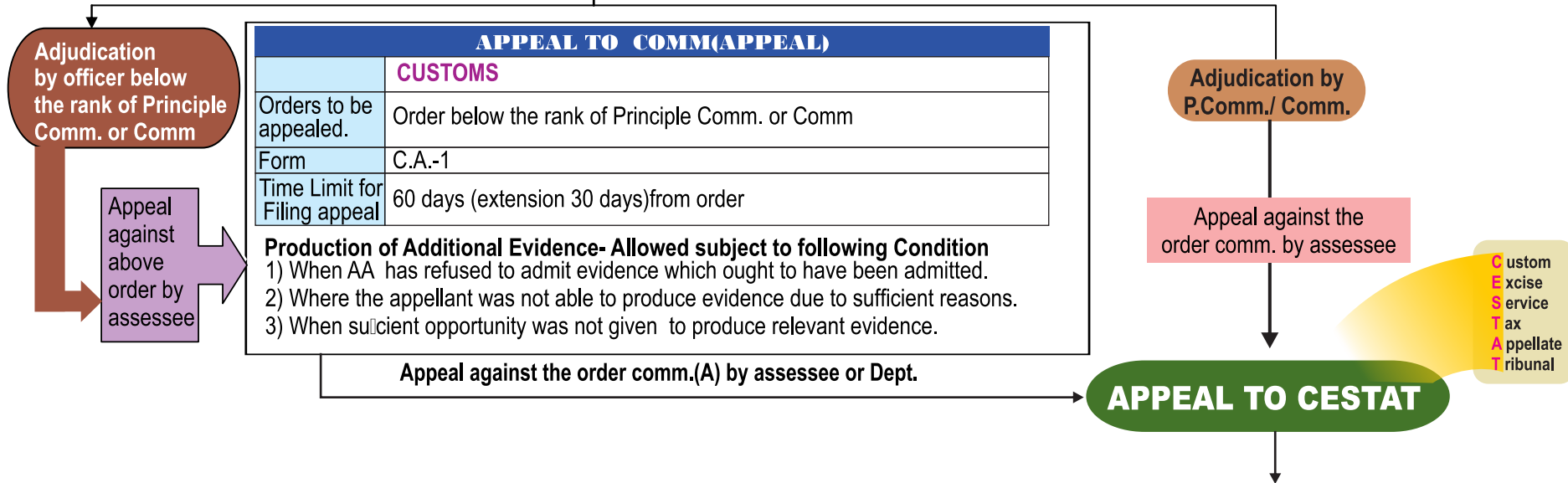
Topic	Points to Remember			
<b>Case - Meaning</b>	1) Any proceeding under the act or any other act for the <b>levy, assessment and collection</b> of Customs Duty <b>Pending before a Adjudication authority.</b> <i>Note : CESTAT, CBIC, Commissioner (Appeals) are not Adjudication Authorities.</i> 2) If case is referred back In any appeal, revision or otherwise by court, AT or other authority then it shall be not treated on pending case before Adjudication Authorities.)			
<b>When application</b>	⇒ Case is pending before Adjudication Authority on date of application. <div style="display: flex; align-items: center; margin-top: 10px;">  </div>			
<b>Application cannot be made</b>	⇒ Cases pending before Appellate Tribunal or Court. ⇒ Cases of interpretation of classification of goods. ⇒ Specified Goods under Customs Act. (Goods u/s 123 e.g. gold watches etc. and any goods for which offence is done under narcotics drugs act.			
<b>Specified Conditions</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #009688; color: white;"> <th style="text-align: center;">Customs</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">                             The applicant has filed a                              ⇒ Bill of entry, or A shipping bill or bill of export or                              ⇒ Made a baggage declaration, or                              ⇒ A label or declaration in case of Post.                         </td> </tr> <tr> <td style="padding: 5px;"> <b>Other Conditions :</b>                              ⇒ SCN to be issued to the applicant (Customs)                              ⇒ Additional Amount of duty payable &gt; ₹ 3 lakhs                              ⇒ Additional duty should be paid with interest u/s 11AB (Excise/S.T.) 28AB (Customs)                         </td> </tr> </tbody> </table>	Customs	The applicant has filed a ⇒ Bill of entry, or A shipping bill or bill of export or ⇒ Made a baggage declaration, or ⇒ A label or declaration in case of Post.	<b>Other Conditions :</b> ⇒ SCN to be issued to the applicant (Customs) ⇒ Additional Amount of duty payable > ₹ 3 lakhs ⇒ Additional duty should be paid with interest u/s 11AB (Excise/S.T.) 28AB (Customs)
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<b>Final Order</b>	Amount of Settlement should not be > <b>duty liability admitted</b> by applicant.			
<b>Time for order</b>	⇒ Within 9 months from the last date of the month on which application is made. ⇒ The Time period can be extended for further 3 Months by the Settlement Commission.			
<b>Consequences of order</b>	⇒ Amount payable should be paid within 30 days from date of receipt of order. ⇒ Recovery of such sums along with interest as per CEA S.11, CUA S.142 ⇒ Order is conclusive and shall not be reopened under any law. ⇒ Order is binding only to the person to whom it is issued and it is not a judicial precedent. ⇒ Order can be challenge in Writ before High Court.			

<b>When is Order of settlement to be conclusive Sec 127J</b>	Every order of settlement passed u/s 127C- ⇒ Shall be conclusive as to the matters stated therein and ⇒ No matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.										
<b>When is order void</b>	⇒ When it is found out that, order has been obtained by fraud / misrepresentation. ⇒ <b>Effect of void order :</b> (i) Proceedings revived from application allowed stage, and (iii) Time limit for completion of proceedings 2 years from date of receipt of communication of voidness of order.										
<b>Powers</b>	⇒ Provisional Attachment, ⇒ All the powers of CEO/Customs officers, ⇒ Powers to regulate its own procedure, Furnish copies of any report, ⇒ Grant immunity from prosecution and penalty and ⇒ Refer back case to the adjudication authority for non co operation										
<b>Power to grant immunity by settlement commission</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 60%;">1) Penalty and Fine</td> <td style="text-align: center;">YES</td> </tr> <tr> <td>2) Prosecution</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Under Central Excise Act</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="padding-left: 20px;">Under Indian Penal Code</td> <td style="text-align: center;">NO</td> </tr> <tr> <td>2) Interest</td> <td style="text-align: center;">NO</td> </tr> </tbody> </table>	1) Penalty and Fine	YES	2) Prosecution		Under Central Excise Act	YES	Under Indian Penal Code	NO	2) Interest	NO
1) Penalty and Fine	YES										
2) Prosecution											
Under Central Excise Act	YES										
Under Indian Penal Code	NO										
2) Interest	NO										
<b>Restriction on next time application for settlement</b>	1) Order pass before F.A.2007 for penalty on the applicant on the ground of concealment of duty 2) Person convicted any offence in relation to case settle by settlement commission . 3) Case is sent back to Custom officer for non co operation										

### Course of events before Settlement Commission



# APPEAL



CASES NOT APPELABLE TO CESTAT	
<b>CUSTOMS</b>	
<ul style="list-style-type: none"> <li>➤ Goods imported or exported as baggage.</li> <li>➤ Short landing or not landing goods in customs area.</li> <li>➤ Payment of drawback</li> </ul>	
<b>Note:</b> in the above said cases where revision application has to be made to the central government	
REVISION BY C.G.	
FORM	E.A.-8 in duplicate accompanied by order of Comm(A)
Ground	Grounds of revision
Fees	Rs. 1000
Time limit for appl. for Order	3 months from order of Comm(A)(extension 3 months) the C.G. shall pass the order on its own motion, annul or modify the order of commissioner (appeals).
Time	No time limit
Appeal against order	No , only writ petition in HC or SC

CESTAT HAVE DISCRETIONARY POWER TO ADMIT THE CASE
CUSTOM
1) Confiscation of goods without option of redemption fine u/s 125 2) Duty on account other than Tariff rate or valuation is 2,00,000 or less 3) Fine or Penalty 200000 or less
<b>Explanation :</b> The determination of any question having a relation to the rate of duty shall include the determination of taxability or excisability of goods for the purpose of assessment.
CESTAT COMPULSORILY ADMIT THE CASE
1) Duty on account of Tariff rate or valuation (even value of Rs. 1) 2) Duty on account other is more than 200000 3) Fine or Penalty more than 200000

## PROCEDURE FOR APPEAL TO CESTAT

	CUSTOMS
Orders to be appealed.	<ul style="list-style-type: none"> <li>➤ order of Prin. comm. or Comm</li> <li>➤ order of comm(A)</li> </ul>
Form	C.A.-3
Time Limit for Filing appeal	3 months (extension no time time)from order
Memo. Of cross objection	C.A.-4

### IMPORTANT POINTS

- Production of additional evidence allowed (Under same circumstances as explain above for Comm. (A) )
- Time limit of decision —3 years (if possible)
- Order may be remanded to AA or comm(A)
- Communication of order to appellant & comm.

### REVIEW OR AMENDMENT OF ITS ORDER

- CESTAT cannot **review** its own order
- CESTAT can **amend** its order with a view to rectify the mistake apparent from record.
  - Sue moto-within 6 months
  - on the application of Comm. Or Assessee- no time period specified

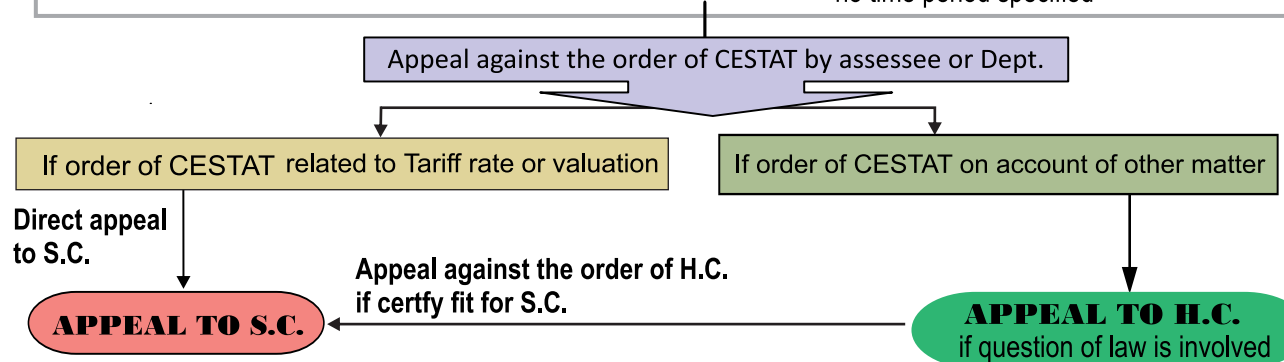
### Fees

<b>amount of duty, interest and penalty levied</b>	
less than or equal to ₹ 5 lakhs	₹ 1000
between ₹ 5 lakhs to ₹ 50 lakhs	₹ 5000
exceeds ₹ 50 lakhs	₹ 10000

### Monetary limits for filing appeals by the Department before CESTAT and High Courts revised

The CBEC has fixed the following monetary limits below which appeals shall not be filed in the Tribunal, High Court and the Supreme Court.

S.No.	Appellate Forum	New Monetary Limit
1.	CESTAT	₹ 10,00,000/-
2.	High Courts	₹ 15,00,000
3.	Supreme Courts	₹ 25,00,000



### Mandatory Fixed pre-deposit for filing appeal before Comm(A) and CESTAT

Stage of appeal	Appellate Authority	Quantum of pre-deposit
First Appeal	Commissioner (Appeals) or CESTAT	7.5% of the duty where only duty or both duty and penalty are in dispute OR 7.5% of the penalty where only penalty is in dispute
Second Appeal	CESTAT	10% of the duty where only duty or both duty and penalty are in dispute OR 10% of the penalty where only penalty is in dispute

#### Comments :

- 1) Pre-deposit of 7.5%/10% would exclude interest, if any, payable on the duty demanded.
2. 10% of the duty or penalty is to be paid at the time of filing second appeal before CESTAT.

### APPEAL TO SUPREME COURT

Orders to be appealed.	order of CESTAT related to tariff rate & value order of H.C.
Time Limit for Filing appeal	60 days

**filing of application for appeal**

- Appeal should be filed along with its 7 copies.
- Appeal should state all relevant facts, objections and ground of appeal.
- An authenticated copy of order appealed against should be attached with the appeal

### APPEAL TO HIGH COURT

Orders to be appealed.	Order of CESTAT, if question of law involved
Form	C.A.-6
Time Limit for Filing appeal	180 days from order
Memo. Of cross objection	C.A.-7
Fees	₹. 200

**Procedure after application is filed**

- If the high court is satisfied that substantial question of law is involved, it will formulate the question.
- It is not necessary to hear the other party when appeal is admitted on a question of law.
- The high court will deliver the judgment on the substantial question of law either formulated by it or even if not formulated by it, if it is satisfied that the case involves such substantial question of law

Students  
Comments



Lined writing area for student comments.