

CA Final
Answer Sheet-4

Answer 1:

S.no	Ans	Hints
1.	(b)	Refer Sec 25
2.	(a)	Refer Sec 8B & 9A
3.	(a)	Refer Section 12:- Charging Section under Customs
4.	(c)	Refer Rule 4/5
5.	(d)	Prior bill of entry can be presented maximum within 30 days prior to the expected arrival of conveyance
6.	(d)	Export Performance Threshold is 800 USD Million for status category of Five Star Export House

Answer 2:

Particulars	Japanese Yen (¥)
Cost upto port of exportation	6,00,000
Add: Loading charges at the port of exportation [Note 1]	25,000
Total in Japanese Yen	6,25,000
	Indian rupees (₹)
Total in Indian rupees @ 0.65 per Japanese Yen	4,06,250.00
Add: Commission paid to local agent of exporter [Note 3]	1,25,000.00
FOB value as per customs (Adjusted FOB)	5,31,250.00
Add: Freight charges from port of export to port of import in India [1,00,000 Japanese Yen × 0.65 = ₹ 65,000] [Note 1]	65,000.00
Add: Lighterage charges paid by the importer at port of importation [Note -1]	20,000.00
Add: Insurance charges @ 1.125% of FOB [5,31,250 × 1.125%] [Note-4]	5976.56
CIF Value	
Assessable Value (rounded off)	6,22,227
Add: Basic customs duty @ 10% of 6,22,227 (rounded off)	(A) 62,223
Add: Social welfare surcharge @ 10% of 62,223 (rounded off)	(B) 6,222
Total	690672
Add: Integrated tax @ 12% of 6,90,672 (rounded off)	(C) 82,881
Total custom duty and integrated tax payable [(A) +(B) + (C)] (rounded off)	1,51,326

Notes:

1)	<ul style="list-style-type: none"> ➤ The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)]. ➤ Further, Explanation to rule 10(2), inter alia, clarifies that cost of transport of the imported goods includes lighterage charges.
2)	Design and engineering work is includible in the assessable value only when the same is undertaken elsewhere than in India and necessary for the production of the imported goods [Rule 10(1) of the CVR].
3)	<ul style="list-style-type: none"> ➤ Buying commission is not included in the assessable value [Rule 10(1) of the CVR]. ➤ Commission paid to local agent of exporter is includible in the assessable value since it is not buying commission.

4)	If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Rule 10(2) of the CVR].
5)	Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Rule 10(2) of the CVR].

Answer 3:

- 1) **Legal Provision:**
- As per **rule 3** of Baggage Rules, 2016, tourist of foreign origin excluding infant is allowed duty free clearance of
 - Travel souvenirs &
 - Articles of ₹ 15,000 (**excluding** cigarettes exceeding 100 sticks, cartridges of fire arms exceeding 50 and alcoholic liquor or wines in excess of 2 litres), if carried on in person
 - Further if value **exceeds** the duty-free allowance **admissible** to such passenger or member under the Baggage Rules, 2016, is **chargeable** to customs duty @ 35% along with social welfare surcharge @ 10% on customs duty ie **38.5%**.

Discussion & Conclusion:

Computation of Customs Duty payable:

Particulars	Amount (₹)	Reason
Travel souvenir	Nil	-
Articles carried on in person	1,50,000	-
Cigarettes	8,000	Since the number of cigarettes does not exceed 100, the same is covered u/r 3 of Baggage Rules and thus eligible for general free allowance (GFA)
Fire arms	15,000	Since the number of fire arms cartridge does not exceed 50, the same is covered u/r 3 of Baggage Rules, and thus eligible for GFA
1 litre of wine	15,000	Since the quantity of wine does not exceed 2 litres, the same is covered u/r 3 of Baggage Rules, 2016 and thus, eligible for GFA
Baggage than can be accommodated in GFA	1,88,000	
Less: General free Allowance (GFA)	15,000	
Baggage on which duty is Payable	1,73,000	
Duty payable @ 38.50% (including 10% Social welfare surcharge)	66,605	

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| i | False. If any question or doubt arises in respect of interpretation of any provision of the FTP, said question or doubt ought to be referred to DGFT whose decision thereon would be final and binding. |
| ii | False. No person may claim an Authorization as a right and DGFT shall have power to refuse to grant or renew the same in accordance with provisions of FT (D&R) Act, rules made thereunder and FTP |
| iii | False. IEC is a unique 10-digit code allotted to a person for undertaking export/ import activities. |
| iv | True. Any waste or scrap or remnant including any form of metallic waste & scrap generated during manufacturing or processing activities of an SEZ Unit/ Developer/ Co-developer are |

allowed to be disposed in DTA freely, without any authorization, subject to payment of applicable customs duty.

Answer 4:

- 1) ➤ **Notification No. 45/2017** Customs stipulates that in case of reimportation of goods exported for repairs, duty is payable on
- fair cost of repairs carried out,
 - including cost of materials used in repairs (whether actually incurred or not),
 - insurance and freight charges - both ways,
- subject to fulfilment of **following conditions**:-
- a) The time limit for re-importation is 3 years
 - b) The exported goods and the re-imported goods must be the same.
 - c) The ownership of the goods should not have changed.
- Since all the conditions specified above are fulfilled in the given case, the customs duty payable on re-imported goods will be computed as under:

Particulars	(₹) in lakhs
Value of goods re-imported after exports [₹ 90 lakh(including cost of materials) + (insurance and freight charges, both ways ₹ 7.5 × 2) lakh]	105.000
Add: Basic customs duty @ 10%	(A) 10.500
Add: Social Welfare Surcharge @10% on BCD	(B) 1.050
Value for computing integrated tax	116.550
Integrated tax @ 18% (₹ 116.550 lakh × 18%)	(C) 20.979
Customs duty and integrated tax payable	[(A) +(B)+ (C)] 32.529

- 2) **Legal Provision:**
- As per **section 18(3) of the Customs Act 1962**, an importer is liable to pay interest @ 15% p.a. on any amount payable consequent to the reassessment order from the first day of the month in which the duty is provisionally assessed till the date of payment
 - As per **section 18(4) of the Customs Act 1962**, If any amount refundable is not refunded within 3 months from date of assessment of duty finally or reassessment of duty, interest shall be paid on unrefunded amount @ 6% p.a. till the date of refund.
- Discussion & Conclusion:**
- In the given case, Moris Lal is liable to pay following interest in respect of 1st consignment:
= ₹ 1,80,000 × 15% × 67/365 (1st Dec to 5th Feb)
= ₹ 4,956 (rounded off)
 - Since in the given case, refund has been made (28.04.20YY) within 3 months from the date of re-assessment of duty (02.02.20YY), interest is **not payable** to Moris Lal on duty refunded in respect of 2nd consignment.

Answer 5:

- 1) **Yes, Balu Ltd. will succeed.**
- Legal Provision:**
- The facts of given situation are similar to case of **CCus vs. Biecco Lawrie Ltd. 2008 (223) ELT 3 (SC)** wherein the Supreme Court has held that where duty on the warehoused goods is paid and out of charge order for home consumption is made by proper officer in compliance of section 68 of Customs Act, 1962.
 - the goods allowed to be retained for storage in warehouse as permitted under section 49 of Customs Act **are not treated as warehoused goods** and
 - importer would **not be required to pay anything more.**

	<p>Discussion:</p> <ul style="list-style-type: none"> ➤ As per section 49 of Customs Act, imported goods entered for home consumption if stored in public warehouse/private warehouse on application of importer & if same cannot be cleared within a reasonable time, shall not be deemed to be warehoused goods. <p>Conclusion:</p> <ul style="list-style-type: none"> ➤ Thus, warehousing provisions shall not apply to such goods & no further duty shall be payable.
<p>2)</p>	<p>As per section 27(2) of Customs Act 1962, amount of duty & interest found refundable is to be paid to the applicant only in following situations:-</p> <ol style="list-style-type: none"> a) if importer or exporter has not passed on the incidence of such duty & interest to any other person. b) if imports were made by an individual for his personal use. c) if amount found refundable relates to export duty paid on goods which has returned to exporter as specified in section 26. d) if amount relates to drawback of duty payable. e) if duty or interest was borne by a notified class of applicants. f) if excess duty paid by the importer before order permitting clearance of goods for home consumption is made where such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry. g) if excess duty paid by the importer before an order permitting clearance of goods for home consumption is made where the duty actually payable is reflected in the re-assessed bill of entry in the case of reassessment. h) if buyer has not passed on the incidence of such duty and interest to any other person.
<p>3)</p>	<p>Foreign going vessel or aircraft:</p> <p>As per Sec 2(21) of the Customs Act 1962, foreign going vessel or aircraft means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not & includes-</p> <ol style="list-style-type: none"> 1) any naval vessel of any foreign Government taking part in any naval exercises 2) any vessel engaged in fishing or any other operations outside the territorial waters of India 3) any vessel or aircraft proceeding to a place outside India for any purpose whatsoever.