

INDEX & STUDY SCHEDULE

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FROM THE AUTHOR (CA PRANAV CHANDAK):

- ✓ This Material contains each & every relevant word given in study material of CMA Inter.

After knowing the problems faced by CMA students for whom “Special reference book was not available” & thus they had to study from CA – FINAL book in which many irrelevant things are given since they are relevant for CA FINAL exams.

At the time of drafting this book, special care has been taken to include only such portion which is APPLICABLE FOR CMA – INTER EXAMS.

- ✓ Students should Revise the subject at least twice before the final Revision during exams.
- ✓ Free Videos will be made available on YouTube till the end of AUGUST 2019.

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1. BASIC CONCEPTS OF CUSTOMS

CONSTITUTIONAL BACKGROUND OF CUMSTOM ACT

- ❖ **Entry 83** of the **Union List** of **7th Schedule** to has given the power to CG to levy duties of Customs including export duties.
- ❖ The Customs Act, was enacted by the Parliament in 1962, as per the List I of the Union List.
- ❖ The Customs Act, 1962 extends to the **whole of India** & save as otherwise provided in this Act, it applies **also to any offence or contravention thereunder committed outside India by any person.**
- ❖ As per section 157 of Custom Act, 1962, Central Board of Indirect Tax & Customs (CBIC), has been empowered to make regulations, consistent with provisions of the Act.
- ❖ **The Commissioner of Customs has the power to issue the Public notices (called as trade notices).**
- ❖ Charge of customs duty is considered to be on the **goods.**

SOME RELEVANT DEFINITIONS

Goods [Sec 2(22)]	Goods includes <ul style="list-style-type: none"> ▪ Vessels, aircrafts & vehicles ▪ Stores & baggage ▪ currency & negotiable instruments & ▪ any other kind of movable property
Note: Drawings & designs imported in paper form through professional courier & post parcels are goods & liable to customs duty. [Associated Cement Companies Ltd. v. CC 2001 (128) ELT 21 (SC)]	
Imported Goods [Sec 2(25)]	Imported goods means any goods brought into India from a place outside India. Note: CG can prohibit the import/export of specified goods for protection of designs & geographical indications also apart from patents, trademarks & copyrights.
India [Sec 2(27)]	The term 'India' includes <ul style="list-style-type: none"> ▪ land mass of India ▪ territorial waters of India {TWI extend to 12 NMs into sea from appropriate base line} ▪ Exclusive Economic Zone (EEZ) {for limited purpose of extraction of oil from oil rigs} Note: India includes not only surface of sea in TWI, but also air space above & ground under sea.
Goods are deemed to be imported if vessel enters TWI (if vessel enters imaginary line on sea at 12th NM).	
Customs waters [Sec 2(28)]	<ul style="list-style-type: none"> ▪ Waters extending into sea upto 200 NMs & includes any bay, gulf, harbour, creek or tidal river. ▪ Indian customs waters extend to a total of 200 nm from base line. ▪ Indian customs waters cover both TWI & EEZ.
Continental Shelf	<ul style="list-style-type: none"> ▪ Part of the sea floor adjoining a land mass where depth gradually increases before it plunges into ocean. [Max. depth of sea water in continental shelf = 200 Metres]. ▪ Continental shelf of India extends beyond the limit of TWI throughout the natural prolongation of its land territory to outer edge of continental margin or to 200 NMs from baseline.
EEZ	Exclusive Economic Zone extends to 200 NMs from the nearest point of the baseline.
High Seas	Area beyond 200 NMs from base line. All countries have equal rights in this area.
Domestic Tariff Area	<ul style="list-style-type: none"> ▪ Means 'whole of India' (including TWI & continental shelf) ▪ but does not include SEZs & 100% Export Oriented Units (EOUs).

Note: Goods imported for consumption on oil rigs situated in Continental Shelf/EEZ → Import duty .

LEVY OF CUSTOM DUTY (TAXABLE EVENT) [SECTION 12]

CHARGING SECTION [SECTION 12]

1. Duties of customs shall be levied
 - ⇒ on goods imported into & exported from India;
 - ⇒ at such rates as may be specified under Customs Tariff Act, 1975;
 - ⇒ Except as provided in this Act, or any other law for the time being in force.
2. Above provisions shall apply in respect of all goods belonging to Government also; except imports by Indian Navy, specific equipment required by police, Ministry of Defence, Coastal Guard etc.

IMPORTATION OF GOODS [GARDEN SILK MILLS & APAR INDUSTRIES]

Commencement of Importation	Import of goods will commence when the goods cross TWI.
Completion of Importation	When goods become part of the mass of goods within the country.

TAXABLE EVENT, BCD RATE & FOREIGN EXCHANGE RATE FOR IMPORTED & EXPORTED GOODS

Particulars	Imported Goods	Exported Goods
Taxable Event	When the goods reach customs barriers & bill of entry for home consumption is filed.	When PO makes order permitting clearance (entry outwards is granted) & goods are loaded.
Rate of BCD	Rate of duty on ↓ [Later of (i) & (ii)] (i) Date of submission of Bill of Entry (ii) Date of entry inwards of V/A/V.	Rate of duty on the date on which entry outward granted for export.
Exchange Rate	Rate of Exchange of CBIC on the date of submission of Bill of Entry.	Rate of exchange of CBIC on the date of presentation of shipping bill/bill of export.

Warehoused Goods [Sec 15(1)(b) of the Customs Act, 1962]

❖ Determination of Rate of BCD → Rate of BCD on date of presentation of ex-bond bill of entry for HC.

Imports through a vehicle (where bill of entry is filed prior to the delivery of import report)

❖ If bill of entry has been presented before the date of arrival of the vehicle by which the goods are imported, bill of entry shall be deemed to have been presented on the date of such arrival.

SUMMARY TABLE FOR IMPORTED GOODS

Particulars	Relevant date
Goods entered for home consumption u/s 46 [whichever is later] →	(i) Date of presentation of bill of entry OR (ii) Date of entry inwards of vessel/aircraft/vehicle
Goods cleared from a warehouse u/s 68.	Date of presentation of bill of entry for home consumption.
Other goods	Date of payment of duty

ASSESSABLE VALUE FOR EXPORTED GOODS

- ❖ Transaction value = Price actually paid (payable) for goods for delivery at the time & place of exportation u/s 14 of Customs Act 1962, shall be the **FOB price of such goods at the time & place of exportation.**
- ❖ **Assessable value (for Exported Goods) = free on board (i.e. FOB)**
- ❖ **Free on Board:** All the expenditures upto point of loading goods into vessel/aircraft/vehicle is incurred by the exporter.
- ❖ **Cost Insurance & Freight (CIF):** Once the goods reaches importer’s country port/airport, importer has to pay Cost (i.e. FOB value) along with Insurance & Freight from exporter country to importer country.
- ❖ **Important point:** As per our Foreign Trade Policy (2015-2020) all imports into India are measured in terms of CIF value whereas exports from India are measured in terms of FOB value.

Q. An importer imported some goods for subsequent sale in India at \$ 10,000 on assessable value basis.

Particulars	Date	CBIC Exchange rate	Rate of BCD
Date of submission of bill of entry	25 th Feb 2018	Rs. 58/USD	10%
Date of entry inwards granted to the vessel	5 th Mar 2018	Rs. 58.75/USD	12%

Calculate Assessable value & Customs Duty in Indian rupees?

Answer: Relevant rate of duty (BCD) for imported goods is 12% & Exchange Rate is Rs. 58 per USD.

Assessable value	5,80,000 (i.e. USD 10,000 x Rs. 58)
Basic Customs Duty	69,600 (i.e. Rs. 5,80,000 x 12%)
10% Social Welfare Surcharge	6,960 (i.e. Rs. 69,600 x 10%)
IGST (Assume 18%)	1,18,181 (i.e., 18% on (580000 + 69600 + 6960))

Q. An importer imported some goods. Entry inwards granted to the vessel on 7th Feb & goods were cleared from Chennai port for warehousing on 8th Feb after assessment. Bill of Entry was presented on 1st Feb for warehousing. Assessable value was \$ 10,000. Assume that no additional duty is payable. The goods were warehoused at Chennai & were cleared from Chennai warehouse on 4th March. What is the duty payable while removing the goods from Chennai warehouse on 4th March?

Particulars	Date	CBIC Exchange rate	BCD
Date of submission of bill of entry for warehousing	1 st Feb	Rs. 55/USD	10%
Date of entry inwards granted to the vessel	7 th Feb	Rs. 59/USD	15%
Date of clearance of goods from warehouse	4 th Mar	Rs. 60/USD	12%

Answer: Relevant rate of duty for warehoused goods is 12% & Exchange Rate is Rs. 55 per USD.

Assessable value	5,50,000 (i.e. USD 10,000 x Rs. 55)
Basic Customs Duty	66,000 (i.e. Rs. 5,50,000 x 12%)
10% Social Welfare Surcharge	6,600 (i.e. Rs. 66,000 x 10%)
Total Customs Duty (excluding IGST)	72,600/-

Q. Compute export duty from the following data:

FOB price of goods: US \$ 1,00,000	Shipping bill presented electronically on 28-02-2018
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Proper officer passed order permitting clearance & loading of goods for export on 01-03-2018.

Duty	Rate of Exchange (CBIC)	Rate of Export
On 28-02-2018	1 US \$ = Rs. 65	10%
On 01-03-2018	1 US \$ = Rs. 66	8%

Answer:

Particulars	Value in Rs.
FOB	65,00,000 (1,00,000 x Rs. 65)
Customs Duty	5,20,000 (Rs. 65 lakhs x 8%)

Note: Export duty does not carry Social Welfare Surcharge.

CUSTOM DUTY IN CERTAIN SPECIFIED CIRCUMSTANCES

1. Goods are imported back into India after exportation from India

- Import duty = ‘Amount of incentive availed’ of at the time of export. (Export Incentives)

Ex: Mr. A imported an AC on 1st Jan 2018 for Rs. 5 Lacs from USA. Mr. A has paid import duty for Rs. 50,000. Due to some technical problems, the same was exported for repairs on 31st Jan 2018. After incurring some additional cost for repairs & replacement worth for Rs. 1 Lac, it was re-imported on 5th Feb 2018. Import duty will be restricted on the value of repairs & replacement of Rs. 1,00,000.

2. Goods Exported for Repairs (Imported goods have been exported to overseas supplier for repairs)

- No duty at the time of re-import will be levied if:
 - Re-imported within 3 years from the date of export (extended up to 5 years)
 - Exported & imported goods must be in ‘same form’
 - Ownership of the goods should also not have changed.
- If such repairs amount to manufacture → Import duty .
- This concept is not applicable in case of exports from EPZ/ EOUs.

Q. A machine was originally imported from Japan at Rs. 250 lacs in Aug 2017 on payment of all duties of customs. The said machine was exported to supplier for repairs in Jan 2018 & re-imported without any re-manufacturing or re-processing in Oct 2018 after repairs. Since the machine was under warranty period, repairs were carried out free of cost. However, fair cost of repairs carried out (including cost of material Rs. 6 lacs) would have been Rs. 9 lacs. Actual insurance & freight charges (to & fro) were Rs. 3 lacs. Rate of BCD is 10% & rate of IGST in India on like article is 12%. Compute the customs duty payable on re-import of the machine after repairs. ownership of machine has not been changed.

Answer:

Particulars	Rs.
Value of goods re-imported after exports [Rs. 9 lakh (including cost of materials) + Rs.3 lakh]	12,00,000
Basic customs duty @ 10%	1,20,000
Social Welfare Surcharge @ 10% on BCD	12,000
Balance (i.e. Transaction value)	13,32,000
Add: IGST @ 12% on 13,32,000	1,59,840
Landed Value	14,91,840
Total Customs Duty (including IGST)	2,91,840

3. Exported Goods are reimported for repairs, reconditioning, reprocessing, remaking etc.

- No duty at the time of re-import will be levied if:
 - **Re-imported:** within 3 years from the date of export. (Nepal = 10 years).
 - If Re-importation is for reprocessing, refining or re-making, re-importation should be done within 1 year from the date of exportation.
 - **Re-exported:** within 6 months from the date of import (may extended up to 12 months).
 - Importer at the time of importation executes a Bond.

4. Goods derelict, jetsam, flotsam & wreck brought or coming into India [Section 21]

- Such goods are treated as if they were imported into India (even though such goods had not been actually imported) & liable to import duty (unless such goods are entitled to be duty free under this Act).

Derelict	vessel or cargo which is abandoned in sea without any hope of recovering it.
Jetsam	Goods jettisoned (to reduce weight) from vessel to save it from sinking & they sink.
Flotsam	means when goods continue to float after thrown in sea
Wreck	cargo or vessel or any property which are cast ashore by tides after ship-wreck

CIRCUMSTANCES UNDER WHICH NO DUTY WILL BE LEVIED**1. NO DUTY ON PILFERED GOODS [Sec 13]****Conditions to be satisfied for exemption:**

- Imported goods should have been pilfered.
- Pilferage should have occurred after the goods are clearance for home consumption or for deposit into warehouse.
- Pilfered goods should not have been restored back to the importer.

Pilfer means “to steal, especially in small quantities; petty theft”. Therefore, pilferage does not include loss of total package.

Points to Remember:

- ❖ Section 13 deals with only pilferage. It does not deal with loss/destruction of goods.
- ❖ If goods are pilfered after order of clearance is made but before goods are actually cleared, section 13 is not applicable & thus, duty would be leviable (Note: Refund can be claimed).
- ❖ Section 13 would not apply if it can be shown that pilferage took place prior to the unloading of goods.
- ❖ **Section 13 does not apply for the warehoused goods.**
- ❖ In case of pilferage, only section 13 applies & remission of duty u/s 23(1) is not permissible.
- ❖ No duty liability on a sample of goods consumed/destroyed during testing/examination.
- ❖ Importer does not have to prove pilferage.
- ❖ If duty is already paid before finding pilferage, refund can be claimed.

2. REMISSION OF DUTY ON GOODS LOST OR DESTRUCTION OF GOODS [Sec 23]**(a) Remission of duty**

- If any imported goods have been lost or destroyed (otherwise than as a result of pilferage),
- at any time before clearance for home consumption,
- Assistant/Deputy Commissioner of Customs shall remit the duty on such goods. [23(1)].

Points to Remember:

1. Burden of proof is on importer to prove loss or destruction u/s 23.
2. Sec. 23 is applicable in case of Loss or destruction (including leakage) due to fire, natural calamity.
3. Section 23 is applicable even for the goods warehoused.
4. Section 23 applies only when there is no pilferage u/s 13.
5. Since section 23(1) is subject to the provisions of section 13, in case the goods have been pilfered after they have been unloaded but before order for clearance for home consumption or deposit in a warehouse, section 13 would apply & the importer would not be liable to pay the duty.

(b) No duty in case of relinquishment of the title to the goods [Section 23(2)]

- Owner of imported goods may relinquish his title to the goods & he shall not be liable to pay duty;
- at any time before
 - (i) Order for clearance of goods for HC has been made **OR**
 - (ii) Order for permitting the deposit of goods in a warehouse has been made.

Note: Owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law in force.

Cases in which Importer may relinquish his title to the goods [Sec 23(2)]

- Goods may not be according to the specifications;
- Goods may have been damaged/deteriorated during voyage & are not useful to the importer;
- There might have been breach of contract & thus importer may be unwilling to take delivery of goods.

3. ABATEMENT OF DUTY ON DAMAGED/DETERIORATED GOODS [Sec. 22]

(a) Cases where the abatement is available

<p>If Imported goods are damaged or deteriorated:</p> <ul style="list-style-type: none"> ▪ before or during unloading ▪ by accident after unloading but before examination for assessment by the customs authorities ▪ by accident in warehouse but before their actual clearance from such warehouse 	<p>Provided such accident is not due to any wilful act, negligence or default of the importer, his employee or agent</p>
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(b) Amount of duty chargeable after abatement

$$= \text{Duty on goods before damage /deterioration} \times \frac{\text{Value of damaged or deteriorated goods} *}{\text{Value of goods before damage/deterioration}}$$

(c) *Value of damaged or deteriorated goods: The value shall be:

- (a) Value ascertained by the proper officer
- (b) PO may sell such goods by public auction/tender or if importer agrees, in any other manner & the **gross sale proceeds shall be deemed to be the value of such goods.**

Q. X Ltd imported goods from USA for Rs. 50,000. After damage these goods valued by customs officer is Rs. 10,000. Total Customs duty on the value of imported goods levied Rs. 6,180. Imported goods had been damaged after the unloading of goods in India but before their examination for assessment by customs authorities, & such damage is not due to any willful act of X Ltd. Find total duty payable by X Ltd.

Answer: Custom Duty = Rs. 6,180 – [(40,000/50,000) × 6,180] = Rs. 1,236; Abatement of duty is Rs. 4,944.

Q. What will be the impact on the customs duty if the goods are:

- (i) damaged inside the warehouse before clearance for home consumption
- (ii) deteriorated inside the warehouse before clearance for home consumption
- (iii) destroyed on the wharf, before clearance for home consumption

Answer:

- (i) When the goods are damaged inside the warehouse abatement in customs duty, on resultant loss in value, has been provided through section 22. Section 22 contemplates that for claiming abatement of duty, the damage (not deterioration) should occur at any time before clearance of the imported goods for home consumption from the warehouse. However, the damage should not be attributable to the importer. It should be proved to the satisfaction of Assistant Commissioner or Deputy Commissioner of Customs that the imported goods have actually suffered damages. The claim for abatement is not tenable unless the importer factually proves the damage.
- (ii) As discussed above, in case of warehoused goods, only damages are covered and not deterioration, hence abatement will not be available in this case and full duty will have to be paid. However, as per first proviso to section 68 of Customs Act, 1962, owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods. Upon such relinquishment, duty will not be payable on such goods but rent, interest, other charges and penalties would be payable.
- (iii) As all the conditions of section 23 are fulfilled, duty will be remitted in this case also.

2. CUSTOMS RULES, 2017

❖ Customs (import of goods at concessional rate of duty) rules, 2017 shall come into force on 1st July, 2017.

Rule 2 Application	<ol style="list-style-type: none"> 1. These rule shall apply to an importer, who intends to avail the benefit of an exemption notification issued u/s 25(1) & 2. Benefit of such exemption is dependent on “use of notified imported goods for manufacture of commodity or provision of output service”. 				
Rule 3 Definition	<p>In these rules, unless the context otherwise requires, -</p> <ul style="list-style-type: none"> ❖ ‘Exemption notification’ means a notification issued U/s 25(1); ❖ ‘Jurisdictional Custom Officer’: An officer of Customs of a rank equivalent to Superintendent or an Appraiser exercising jurisdiction over the premises where imported goods shall be put to use for manufacture or for rendering output services; ❖ ‘Manufacture’ means processing of raw material/inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term ❖ ‘Output service’ means supply of service with the use of the imported goods. 				
Rule 4 Information about intent to avail benefit of exemption notification	<p>An importer who intends to avail the benefit of exemption notification shall provide information to Deputy/Assistant Commissioner of Customs having jurisdiction over the premises where imported goods shall be put to use for manufacture of goods or for rendering output service.</p> <ul style="list-style-type: none"> ▪ Name & address of the manufacturer; ▪ Goods produced at his manufacturing facility; ▪ Nature & description of imported goods used in manufacture of goods or providing output service. 				
Rule 5 Procedure to be followed	<ol style="list-style-type: none"> 1. Importer who intends to avail benefit of exemption notification shall provide following information to the concerned DC/AC of customs in duplicate: <ul style="list-style-type: none"> ▪ Estimated quantity & value of goods to be imported, ▪ Particulars of the exemption notification applicable on such import & ▪ Port of import in respect of a particular consignment for a period not exceeding 1 year; <p>Note: One set shall be provided to DC/AC of Customs at the Custom Station of importation.</p> 2. Concerned DC/AC of customs shall forward 1 copy of information received from the importer to DC/AC of Customs at the Custom Station of importation. 3. On receipt of such copy of the information from concerned DC/AC, DC/AC at the Custom Station of importation shall allow the benefit of exemption notification to importer. 4. Submission of Bond: <ul style="list-style-type: none"> ▪ Importer shall submit a continuity bond with such surety/security ▪ with an undertaking to pay amount = Difference b/w duty leviable on inputs & that already paid (if any) at the time of importation, ▪ along with interest, at the rate fixed by notification issued u/s 28AA of the Act, ▪ for the period ↓ <table border="1" style="width: 100%; margin-left: 40px; border-collapse: collapse;"> <tr> <td style="width: 20%; padding: 2px;">Starting from</td> <td style="padding: 2px;">Date of importation of goods on which the exemption was availed</td> </tr> <tr> <td style="padding: 2px;">Ending on</td> <td style="padding: 2px;">date of actual payment of entire amount of difference of duty</td> </tr> </table> 	Starting from	Date of importation of goods on which the exemption was availed	Ending on	date of actual payment of entire amount of difference of duty
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<p>Rule 6 Maintainin g records & furnishing information regarding receipt of imported goods</p>	<ul style="list-style-type: none"> ❖ Such Importer shall provide the information of receipt of imported goods in his premises within 2 working days of such receipt to jurisdictional Customs Officer. ❖ Such Importer shall maintain an A/c in such manner so as to clearly indicate <ul style="list-style-type: none"> ▪ quantity & value of goods imported, ▪ quantity of imported goods consumed in accordance with provisions of exemption notification, ▪ quantity of goods re-exported (if any) u/r 7; ▪ quantity remaining in stock, bill of entry wise & <p>shall produce the said A/c when required by concerned DC/AC of Customs</p> <ul style="list-style-type: none"> ❖ shall submit a quarterly return to concerned DC/AC of Customs by 10th day of following quarter. 				
<p>Rule 7 Re-export or clearance of unutilised or defective goods</p>	<ul style="list-style-type: none"> ❖ Such importer may re-export unutilised/defective imported goods, within 6 months from the date of import, with the permission of jurisdictional DC/AC of Customs. However, value of such goods for re-export shall not be less than value of the said goods at the time of import. ❖ Such Importer may also clear unutilised/defective imported goods, with the permission of concerned DC/AC of Customs within 6 months from the date of import <ul style="list-style-type: none"> ▪ on payment of import duty = Difference b/w duty leviable on inputs & that already paid (if any) at the time of importation ▪ along with interest, at the rate fixed by notification issued u/s 28AA of the Act, ▪ for the period ↓ <table border="1" style="margin-left: 40px; margin-top: 5px;"> <tr> <td style="padding: 2px;">Starting from</td> <td style="padding: 2px;">Date of importation of goods on which the exemption was availed</td> </tr> <tr> <td style="padding: 2px;">Ending on</td> <td style="padding: 2px;">date of actual payment of entire amount of difference of duty</td> </tr> </table> 	Starting from	Date of importation of goods on which the exemption was availed	Ending on	date of actual payment of entire amount of difference of duty
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<p>Rule 8 Recovery of duty in certain case.</p>	<ul style="list-style-type: none"> ❖ If Importer does not use the imported goods in the prescribed manner, DC/AC of Customs shall take action by invoking the Bond to initiate the recovery proceedings of the amount = Difference b/w duty leviable on inputs & that already paid (if any) at time of importation <ul style="list-style-type: none"> ▪ along with interest, at the rate fixed by notification issued u/s 28AA of the Act, ▪ for the period ↓ <table border="1" style="margin-left: 40px; margin-top: 5px;"> <tr> <td style="padding: 2px;">Starting from</td> <td style="padding: 2px;">Date of importation of goods on which the exemption was availed</td> </tr> <tr> <td style="padding: 2px;">Ending on</td> <td style="padding: 2px;">date of actual payment of entire amount of difference of duty</td> </tr> </table> 	Starting from	Date of importation of goods on which the exemption was availed	Ending on	date of actual payment of entire amount of difference of duty
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3. TYPES OF DUTIES

Import Duties	Rates are given in 1 st Schedule of Customs Tariff Act, 1975		
Export Duties	Rates are given in 2 nd Schedule of Customs Tariff Act, 1975.		
	De-oiled rice brand oil cakes: 10%		Snake skins & raw fur lamb skins: 10%
	Luggage leather: 25%	Leather: 15%	Ferrous waste & scrap: 15%

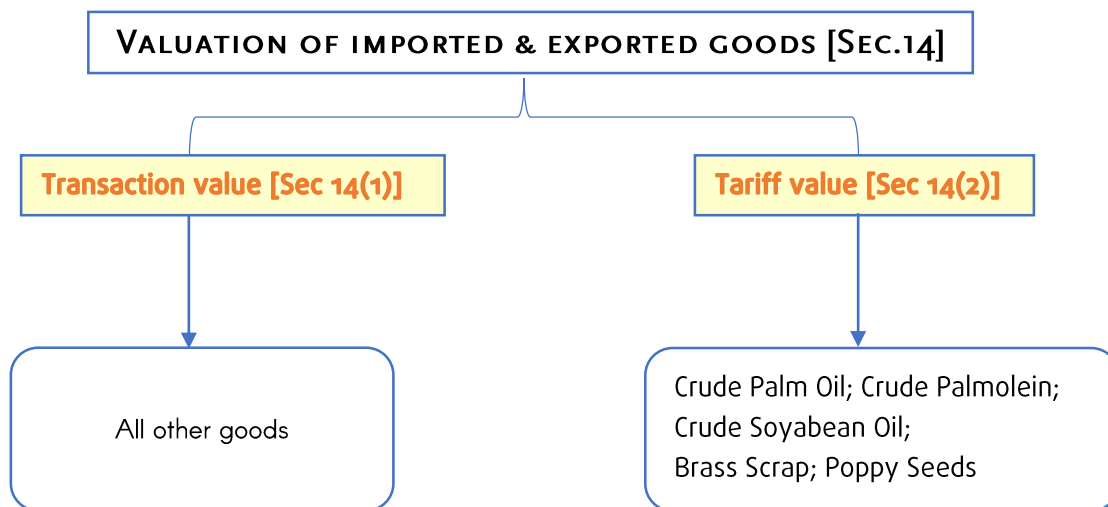
Note: No duty shall be collected if amount of duty leviable ≤ Rs. 100.

TYPE OF DUTIES

Basic Customs Duty [Sec 12]	<ul style="list-style-type: none"> ➤ Levied u/s 12 on goods imported into India. ➤ Rates of BCD are indicated in 1st Schedule (for Imports) of Customs Tariff Act, 1975. ➤ Generally, BCD is levied at standard rate of duty but if certain conditions are satisfied, importer can avail benefit of preferential rate of duty on imported goods. ➤ Conditions for availing the benefit of preferential rate of duty [Sec 4] <ul style="list-style-type: none"> ▪ Specific claim for preferential rate must be made by importer at the time of import. ▪ Import must be from preferential area as notified by CG u/s 4(3) of CTA. ▪ Goods should be produced/manufactured in such preferential area. ➤ CG has the power to declare certain areas as preferential areas & imports from such areas are chargeable to preferential rate of duty.
Social Welfare Surcharge on Imports	<ul style="list-style-type: none"> ➤ SWS has been imposed on imported goods @ 10% of total customs duties (excluding certain duties) ➤ No Social Welfare Surcharge (SWS) is levied on Export Goods. ➤ SWS has replaced EC & SHEC (w.e.f 02.02.2018) & thus no EC & SHEC on imports now.
Road & infrastructure Cess	<ul style="list-style-type: none"> ➤ Road & Infrastructure cess is levied as duty of Customs @ Rs. 8/litre on motor spirit (petrol) & high speed diesel imported into India (Sec 111 of FA, 2018 w.e.f 02.02.2018) ➤ It has been levied to finance infrastructure projects.
IGST [Sec 3(7) of CTA]	<ul style="list-style-type: none"> ▪ Any article which is imported into India shall be liable to IGST at such rate as leviable u/s 5 of IGST Act, 2017 on a like article on its supply in India. [Max. Rate = 40%] ▪ It has subsumed various customs duties including CVD & SAD of Customs. ▪ IGST would be levied if (i) Conveyance (Cargo) has arrived or (ii) Bill of Entry or (iii) Ex-bond Bill of Entry is filed on/after 1st July, 2017. ▪ Advance Bill of Entry: may be recalled & reassessed by PO for levy of IGST.
GST Compensation Cess [Sec 3(9) of CTA]	<ul style="list-style-type: none"> ▪ GST Compensation cess would be levied if (i) Conveyance (Cargo) has arrived or (ii) Bill of Entry or (iii) Ex-bond Bill of Entry is filed on/after 1st July, 2017. ▪ Value for levy of GST Compensation cess = AV + BCD & any other custom duty (These would include SWS; Anti-dumping & safeguard duties). ▪ ADD & SGD shall be included in 'value' for calculating IGST & GST Compensation Cess. ▪ However, IGST shall not be added to value for calculating GST Compensation Cess. ▪ ITC can be availed on GST Compensation Cess paid on inward supplies.
Protective Duties [Sec 6]	<ul style="list-style-type: none"> ▪ On recommendation of tariff commission, this duty can be imposed by CG to protect interests of any industry established in India. This duty is treated at par with BCD.

<p>Safeguard Duty</p> <p>[Sec 8B]</p>	<ul style="list-style-type: none"> ❖ Provisional Safeguard Duty: [Max. 200 days from imposition date] <ul style="list-style-type: none"> ▪ If CG is of the opinion that increased imports have caused/threatened to cause serious injury to a domestic industry; it may impose a provisional SGD during the pendency of determination u/s 8B(1); ▪ If on final determination, CG is of the opinion that increased imports have not caused or threatened to cause serious injury to domestic industry, it shall refund collected duty. ❖ Final Duty <ul style="list-style-type: none"> ▪ SGD shall be in force for 4 years from the date of its imposition & can be extended with total period of levy not exceeding 10 years. ❖ Cases when SGD shall not be imposed: <ul style="list-style-type: none"> (i) Articles imported from developing country: If share of imports of that article from that country $\leq 3\%$ of total imports of that article into India; (ii) Articles imported from more than 1 developing country: If aggregate of imports from developing countries (each with $< 3\%$ import share taken together) $\leq 9\%$ of total imports of that article into India; (iii) Articles imported by 100% EOU/FTZ/SEZ unless specifically made applicable on them. But if imported goods are cleared in DTA, SGD will be payable. ❖ Safeguard duties are rebatable as duty drawback [Section 75] <ul style="list-style-type: none"> ▪ Drawback of SGD can be claimed under an application for Brand Rate u/r 6 or 7. ▪ Drawback is admissible only where inputs were actually used in goods exported.
<p>CVD on Subsidized articles</p>	<ul style="list-style-type: none"> ▪ It has been subsumed under GST. ▪ Duty levied if articles are imported into India by getting the subsidies from other country. Amount of CVD shall not exceed the amount of subsidy paid. ▪ It shall be in force for 5 years from date of its imposition (can be extended for 5 years).
<p>Anti-dumping duty</p> <p>[Sec 9A & 9AA]</p>	<ul style="list-style-type: none"> ▪ It is imposed on imports of a particular country. ▪ Where any articles exported by an exporter to India at less than its normal value, then, CG may impose an anti-dumping duty. ▪ Value for calculation of IGST & Compensation Cess shall also include Anti-Dumping Duty amount & Safeguard duty amount.

4. VALUATION UNDER CUSTOMS



TRANSACTION VALUE (TV)

Sec 14(1): Value of imported goods & export goods shall be ‘transaction value’ of such goods.

TV in case of Imported/Export goods ↓	Inclusion in TV in addition to the price [Rule 10]
<ul style="list-style-type: none"> ➤ Price actually paid or payable for the goods when sold for export to/from India; ➤ for delivery at the time & place of importation; ➤ Buyer & seller of goods are not related; & ➤ Price is the sole consideration for the sale. <p>Note: Further conditions may be specified in the rules made in this behalf.</p>	Amount paid/payable for costs & services, including: <ul style="list-style-type: none"> ▪ commissions & brokerage, ▪ engineering or design work, ▪ royalties and licence fees, ▪ costs of transportation to the place of importation, ▪ insurance ▪ loading & unloading, handling charges to the extent and in manner specified in the rules made in this behalf.

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

RULE 3: DETERMINATION OF THE METHOD OF VALUATION

- ❖ **Transaction Value of Imported goods [r/w Rule 10]:** Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10.
- ❖ **This method is applicable only when importer satisfies the following conditions:**
 - ✓ Seller should not have any control on the imported goods.
 - ✓ Sale price must be sole consideration.
 - ✓ Sale proceeds should not be shared with exporter by the importer after sale.
 - ✓ Buyer & seller should not be related.

Statement Showing Computation of Assessable value for Imported Goods

Value of Material (at ex-factory price)	XXXX
Carriage/freight/insurance up to the port (sea/air) of shipment in exporter’s country	XXXX
Charges for loading on to the ship at the shipping port in exporter’s country	XXXX
Free on Board (FOB)	XXXX
Add: If not included in the above [Rule 10(1)]	XXXX
Commission and brokerage (except buying commissions)	XXXX
Packing cost (except cost of durable and returnable packing)	XXXX
Cost of engineering, development and plan or sketches (Undertaken outside India)	XXXX
Royalties and license fee	XXXX
Value of subsequent re-sale if payable to foreign supplier	XXXX
Value of material supplied by the buyer free of cost	XXXX
FOB value as per the Customs	XXXX
(a) Freight (Transportation): (If not specified → 20% of FOB as per Customs) [Rule 10(2)]	XXXX
(b) Insurance (If not specified → 1.125% of FOB value as per Customs) [Rule 10(2)]	XXXX
Assessable Value/CIF Value	XXXX

Points to Remember:

1. Cost of transport includes ship demurrage charges on chartered vessels, lighterage/barge charges.
2. Value of imported goods shall include (i) Transport cost; (ii) Loading & unloading charges; (iii) handling or landing charges; (iv) Cost of insurance to the place of importation.
3. **Assessable Value = FOB + Insurance + Freight** [Thus, FOB = CIF value – Transport Cost – Insurance Cost]
- 4.

Mode	Value to be included (taken) in CIF/AV	
Air	Charges are Given	Lower of (i) Actual charges or (ii) 20% of FOB.
	Not Given	20% of FOB
Sea	Charges are Given	Actual charges
	Not Given	20% of FOB

5. Service charges paid to canalizing agent: It is includible in the assessable value of imported goods.
6. Inspection/Certification Charges: If contract specify for certification by independent agency for imported goods then charges incurred on such inspection are includible in assessable value.

7. If FOB value; Cost of Insurance & Cost of Transportation are not ascertainable [Rule 10(2) Proviso 3]

Particulars	Treatment
Cost of transport (freight is not known separately)	20% x (FOB value + Cost of Insurance)
Insurance (is not known separately)	1.125% x (FOB value + Cost of transport)

CRUX:

- ⇒ If we are given FOB Value including transportation cost, insurance cost = 1.125% of combined FOB.
- ⇒ If we are given FOB Value including insurance, transportation cost = 20% of combined FOB.

Q. XYZ Industries Ltd., has imported certain equipment from Japan at FOB cost of 2 lac Yen. The other expenses incurred by M/s. XYZ Industries in this connection are as follows:

Freight from Japan to India Port 20,000 Yen

Insurance paid to Insurer in India Rs. 10,000

Designing charges paid to Consultancy firm in Japan 30,000 Yen

M/s. XYZ Industries had expended Rs. 1,00,000 in India for certain development activities with respect to the imported equipment.

XYZ Industries had incurred road transport cost from Mumbai port to their factory in Karnataka Rs. 30,000

Exchange rate: 1 Yen = Rs. 0.3948. Commission payable to agent in India was 5% of FOB cost of equipment in INR. Arrive at the assessable value for purposes of customs duty.

Answer: Statement showing computation of Assessable Value for the imported goods

Particulars	Amount (in Yen)
Free on Board (FOB)	2,00,000
Designing charges	30,000
Development charges (Not added into AV because these are post shipment expenses)	Nil
Road transport charges (Not added into AV because these are post shipment expenses)	
Commission (2 lac × 5%)	10,000
FOB value of the Customs	2,40,000
FOB Value (in Rs) (= 2,40,000 Yen × 0.3948)	Rs. 94,752
Insurance	Rs. 10,000
Freight (20,000 × 0.3948)	Rs. 7,896
Total CIF value/ Assessable Value	Rs. 1,12,648

Q. BSA & Company Ltd. have imported a machine from U.K. From the following particulars furnished by them, arrive at the assessable value for the purpose of customs duty payable:

FOB cost of the machine	10,000 U.K. Pounds
Freight (air)	3,000 U.K. Pounds
Engineering and design charges paid to a firm in U.K.	500 U.K. Pounds
License fee relating to imported goods payable by the buyer as a condition of sale	20% of FOB Cost
Materials and components supplied by the buyer free of cost valued	Rs. 20,000
Insurance paid to the insurer in India	Rs. 6,000
Buying commission paid by the buyer to his agent in U.K.	100 U.K. Pounds

Other Particulars:

(i) Inter-bank exchange rate as arrived by the authorized dealer: Rs. 72.50 per U.K. Pound.

(ii) CBIC Exchange rate of Rs. 70.25 per U.K. Pound.

(iii) Importer paid Rs. 5,000 towards demurrage charges for delay in clearing the machine from the Airport.

Answer:

Particulars	Amount (UK Pounds)
FOB Value	10,000
Add: Engineering and Design charges (Paid in UK)	500
Add: License fee (20% on 10,000 UKP)	2,000
Total (in UK Pounds)	12,500 UK Pounds
Total (in Rs.) [12,500 UK Pounds × 70.25 Rs]	8,78,125
Add: Material supplied by the buyer freely	20,000
FOB Value as per customs	8,98,125

Add: Air freight (8,98,125 × 20%)	1,79,625
Add: Insurance	6,000
CIF Value/ Assessable value	10,83,750

Q. From the particulars given below, find out the assessable value of imported goods.

Particulars	US \$
Cost of the machine at the factory of the exporting country	10,000
Transport charges incurred by the exporter from his factory to the port for shipment.	500
Handling charges paid for loading the machine in the ship	50
Buying commission paid by the importer	50
Freight charges from exporting country to India	1,000
CBIC Exchange Rate	1\$ = Rs. 65

Answer:

Particulars	Value (US \$)
Cost of the machine at the factory of the exporting country	10,000
Transport charges incurred by the exporter from his factory to the port for shipment	500
Handling charges paid for loading the machine in the ship	50
FOB Value of Exporter	10,550
Buying commission paid by the importer	-
Cost of insurance (@1.125% on FOB value)	118.6875
Freight charges from exporting country to India	1,000
Assessable value (CIF)	11,668.6875
Assessable value (in INR) [Rs. 65 x USD 11,668.6875]	7,58,465

Q. Compute the customs duty payable for an imported equipment based on the following information:

Assessable value of the imported equipment US \$10,100.

Date of Bill of Entry 25.4.2018; BCD on this date: 12% & CBIC Exchange rate: 1 USD = Rs. 65.

Date of Entry inwards 21.4.2018; BCD on this date: 16% a& CBIC Exchange rate: 1 USD = Rs. 60.

IGST u/s 3(7) of the Customs Tariff Act, 1975: 12%.

Social Welfare Surcharge @ 10% in terms of the Finance Act, 2018.

Answer:

AV given (10,100 x 65)	Rs. 6,56,500
ADD: BCD 12% on 6,56,500	Rs. 78,780
ADD: 10% SWS (78,780 x 10%)	Rs. 7,878
Balance	Rs. 7,43,158
ADD: IGST 12% on 7,43,158.00	Rs. 89,179
Value of Imported Goods	Rs. 8,32,337
Customs Duty (i.e. 8,32,337.00 – 6,56,500.00)	Rs. 1,75,837

Q. Compute the assessable value and Customs duty payable from the following information:

FOB value of machine	8,000 UK Pounds
Freight paid (air)	2,500 UK Pounds
Design and development charges paid in UK	500 UK Pounds
Commission payable to local agents in Indian Rupees	2% of FOB

Date of bill of entry (BCD Rate: 12%; CBIC Exchange rate: Rs. 68 per UK Pound)	24.10.2017
Date of entry inward (BCD Rate: 18%; CBIC Exchange rate: Rs. 70 per UK Pound)	20.10.2017
IGST payable	18%
Insurance charges actually paid but details not available	

Answer:

Particulars	UK Pounds
FOB	8,000
Add: Design and Development (paid in UK)	500
Add: Commission to local agent (2% on 8,000 UKP)	160
FOB Value as per customs	8,660
Add: Air freight (8,660 × 20%)	1,732
Add: Insurance (8,660 × 1.125%)	97,425
CIF Value/ Assessable value (in UK Pounds)	10,489,425
Assessable value (in Rs.) (10,489.425 × 68)	Rs. 7,13,281
Add: BCD (7,13,281 × 12%)	Rs. 85,593.72
Add: Social Welfare Surcharge (85,593.72 × 10%)	Rs. 8,559.37
Balance	Rs. 8,07,434.09
Add: IGST (8,07,434.09 × 18%)	Rs. 1,45,338.14
Landed value	Rs. 9,52,772.23
Total Customs duties (9,52,772.23 – 7,13,281)	Rs. 2,39,491

Q. Liberty International Group has imported a machine by air from United States. Bill of entry is presented on 18.07.2017. However, entry inwards is granted on 7.08.2017. Relevant details of the transaction are as follows:

CIF value of the machine imported	Airfreight paid	Insurance charges paid
\$ 13,000	\$ 2,800	\$ 200

Rate of exchange are:

Announced by	As on 18.07.2017	As on 7.08.2017
CBIC	1 \$ = Rs. 66	1 \$ = Rs. 65.80
RBI	1 \$ = Rs. 66.10	1 \$ = Rs. 66.10

Calculate assessable value (in Rs.) for levy of customs duty & total customs duty. BCD = Nil; IGST = 18%.

Answer:

Particulars	Amount (in \$)
CIF value	13,000
Less: Air freight & Insurance	(3,000)
FOB value	10,000
Add: Air freight [Lower of Actual charges or 20% of FOB] [10,000 × 20% = 2,000]	2,000
Add: Insurance	200
CIF value/Assessable Value	12,200 \$
Assessable value (in Rs.) [\$ 12,200 × 66 = Rs. 8,05,200]	Rs. 8,05,200
Add: BCD & SWS @ 10% of BCD	Nil
Add: IGST @ 18% (8,05,200 × 18%)	Rs. 1,44,936
Landed value	Rs. 9,50,136

Q. Compute the assessable value & total customs duty payable for an imported machine:

Particulars	Amount (in \$)
(i) Cost of the machine at the factory of the exporter	20,000
(ii) Transport charges from the factory of exporter to the port for shipment	800
(iii) Handling charges paid for loading the machine in the ship	50
(iv) Buying commission paid by the importer	100
(v) Lighterage charges paid by the importer	200
(vi) Freight incurred from port of entry to Inland Container depot	1,000
(vii) Ship demurrage charges	400
(viii) Freight charges from exporting country to India	5,000
Date of bill of entry: 20.02.2018 (Rate BCD 20%; CBIC Exchange rate: Rs. 60 per US \$)	
Date of entry inward: 25.01.2018 (Rate of BCD 12%; CBIC Exchange rate: Rs. 65 per US \$)	
IGST payable u/s 3(7) of the Customs Tariff Act, 1975: 12%	

Also find the eligible input tax credit to the importer.

Answer: Statement showing Assessable and customs duty:

Particulars	Amount (in \$)
Cost of the machine	20,000
Add: transport charges from factory of exporter to the port for shipment	800
Add: handling charges	50
FOB	20,850
Buying commission (Not to be added)	Nil
FOB of the Customs	20,850
Add: Insurance (20,850 x 1.125%)	234.5625
Add: Freight	5,000
Add: Lighterage charges	200
Add: Ship demurrage	400
CIF Value/Assessable Value (in \$)	26,684.5625
Assessable Value (in Rs.) [26,684.5625 USD x Rs. 60]	16,01,074
Add: BCD 20% (16,01,074 x 20%)	3,20,215
Add: 10% SWS (3,20,215 x 10%)	32,022
Balance	19,53,311
Add: IGST (Rs. 19,53,311 x 12%)	2,34,397
Landed value of imported goods	21,87,708
Total customs duty	5,86,634

Note: Importer is eligible to avail input tax credit of IGST portion (i.e. Rs. 2,34,397) under GST Law provided he is using these goods for his business.

RULE 4: TRANSACTION VALUE OF IDENTICAL GOODS

- ❖ Value of imported goods shall be “transaction value of identical goods” sold for export to India & imported at or about the same time as the goods being valued.
- ❖ This method is applicable only when following conditions are satisfied:
 - ✓ Identical goods can be compared with other goods of same country from which import takes place.
 - ✓ These goods must be valued at a price which is produced by the same manufacturer.
 - ✓ If price is not available, then price of other manufacturers of same country is to be considered.
 - ✓ If more than one value of identical goods is available, lowest of such value should be taken.
- ❖ A condition for adjustment because of different commercial levels or different quantities is that such adjustment be made only on the basis of demonstrated evidence that clearly establishes its reasonableness & accuracy. Ex: Valid price lists containing prices referring to different levels/quantities.

Q. Gujarat Dry Fruits Limited imported dry fruits and declared the value as under:

Date of imports	Quantity (MT)	Declared value per MT	Country of import
November 2017	250	25,000	Egypt
November 2017	150	25,000	Egypt

It was found that imports were also made by some other dealers as indicated below:

Date of Imports & importer	Quantity (MT)	Declared Value per MT	Country of import
September 2017; Mumbai Intil	50	Rs. 35,000	Dubai
October 2017; Chennai Fruits Ltd	20	Rs. 40,000	Persia

The Customs Department has sought to assess the imports made by the Gujarat Fruits Ltd. as Contemporaneous imports under section 14 read with Rule 4 of the Customs Valuation Rules, 2007. Briefly examine whether the action proposed by the Department is correct.

Answer: The goods are said to be identical only if the goods to be valued have been produced in the same country. In the given question, the goods in question have been imported from Egypt, while other importers have imported goods from other countries. Therefore, the department action is not correct.

Q. A consignment of 800 metric tonnes of edible oil of Malaysian origin was imported by a charitable organization in India for free distribution to below poverty line citizens in a backward area under the scheme designed by the Food & Agricultural Organization. This being a special transaction, a nominal price of US\$ 10 per metric tonne was charged for the consignment to cover the freight & insurance charges. The Customs House found out that at or about the time of import of this gift consignment, there were following imports of edible oil of Malaysian origin:

Quantity imported in metric tonnes	20	100	500	900	400	780
Unit price in US \$ (CIF)	260	220	200	175	180	160

The rate of exchange on the relevant date was 1 US \$ = Rs. 63.00 & Rate of BCD was 15% ad valorem. There is no countervailing duty or special additional duty. Calculate the amount of duty leviable on the consignment.

Answer: Calculation of amount of duty payable: Exchange rate of \$ 1 = Rs. 63

CIF Value/Assessable value (800 metric tonnes x 160 USD x Rs. 63)	Rs. 80,64,000
15% Basic Customs duty on Rs. 80,64,000	Rs. 12,09,600
Add: Social Welfare Surcharge @ 10% on 12,09,600	Rs. 1,20,960
Total custom duty payable	Rs. 13,30,560

Note: more than one transaction value for identical goods are given, we are supposed to take the lowest price of the quantity which is nearest to the quantity of import.

RULE 5: TRANSACTION VALUE OF SIMILAR GOODS

- ❖ Value of imported goods shall be the transaction value of similar goods sold for export to India & imported at or about the same time as the goods being valued.
- ❖ Conditions:
 - ✓ Produced in the country in which the goods being valued were produced; &
 - ✓ Produced by same person who produced the goods which are being valued, or
 - ✓ where no such goods are available, goods produced by a different person, **but shall not include** imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India **were completed directly or indirectly by the buyer** on these imported goods free of charge or at a reduced cost for use in connection with the production & sale for export of these imported goods;

RULE 6: If value of imported goods cannot be determined using rules 3, 4 & 5, use rule 7 or rule 8.

RULE 7: DEDUCTIVE VALUE

- ❖ Based on the request of the importer if Customs Officer approves, either deductive method or computed value method (as the case may be) can be adopted.
- ❖ **In case of deductive method, the valuation is as follows:** Assessable is calculated by reducing the post-importation costs and expenses from this selling price.

Q. A Ltd., sell in India from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	Unit price in Rs. (Exclusive of duties & taxes)	Number of sales
1-10 units	100	10 sales of 5 units 5 sales of 3 units
11-25 units	95	5 sales of 11 units
Over 25 units	90	1 sale of 30 units 1 sale of 50 units

The selling price includes the following post shipment expenses:

Freight from port to factory in India for Rs. 24,000

Insurance to cover transit damage from port to factory in India for Rs. 6,000

Number of units imported from high seas 5,000 units. Find assessable value & customs duty. BCD = 12%.

Sale quantity	Unit price in Rs. (exclusive of duties & taxes)	Total quantity sold at each price
1-10 units	100	65
11-25 units	95	55
Over 25 units	90	80

Greatest number of units sold 80, therefore, the unit price in the greatest aggregate quantity is Rs. 90.

Particulars	(Amount in Rs.)
Sale value	4,50,000 (i.e. Rs. 90 x 5,000 units)
Less: Freight & insurance	30,000
Assessable value	4,20,000
Total customs duty	Rs. 55,440 (Rs. 4,20,000 x 13.2%)

Q. X Ltd., imported 500 units of minerals from High Seas for sale in India. Selling price exclusive of duties and taxes. Freight from port to depot in India is Rs. 10,150 and Insurance Rs. 1,250.

Sale quantity	400 units	300 units	150 units	500 units	250 units	350 units	50 units
Unit price Rs.	100	90	100	95	105	90	100

BCD: 12% & SWS as applicable. Calculate total customs duty as per Rule 7 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Assume there is no IGST applicable for the product.

Answer:

Unit Price	90	95	100	105
Total quantity Sold	650	500	600	250

Greatest no. of units sold at a price is 650 units; Therefore, unit price in greatest aggregate quantity is **Rs. 90.**

Selling Price (i.e. 500 units x Rs. 90)	Rs. 45,000
Less: Freight (post shipment)	Rs. (10,150)
Less: Insurance (post shipment)	Rs. (1,250)
Assessable Value	Rs. 33,600

RULE 8: COMPUTED VALUE

Cost of Materials & General expenses for producing imported goods	xx	Note: This method is normally possible when importer in India & foreign exporter are closely associated & foreign exporter is willing to give necessary costing.
Add: profit of the exporter	xx	
Add: all expenditure as per Rule 10	xx	
Assessable Value	x x	

RULE 9: RESIDUAL METHOD (BEST JUDGMENT METHOD)

- ❖ This method is applicable when all aforesaid methods are not applicable.
- ❖ The value determined under this method cannot exceed normal price at which such or like goods are ordinarily sold or offered for sale for delivery at the time & place of importation in course of International Trade, when seller or the buyer are non-relatives and the price is sole consideration for such sale.
- ❖ **While determining Assessable Value, we should not consider the following:**
 - Selling price in India of the goods produced in India;
 - Price of the goods on domestic market of the country of exportation;
 - Cost of production other than computed values which have been determined for identical/similar goods;
 - Price of the goods for the export to a country other than India;

VALUATION OF EXPORT GOODS

Following goods are subject to export duty		Refund of Export Duty: Permissible in following circumstances subject to satisfaction of certain conditions
Commodity	Rate of Duty	
Luggage leather	25%	✓ Goods are reimported within 1 year from the date of export ✓ These goods are not for resale; ✓ Refund claim is lodged within 6 months from the date of clearance by Customs Officer for re-importation.
Hides, Skins & leather	15%	
Snake skins & lamb skins	10%	
Steel product	15%	
Iron ores	Rs. 300 per metric tonne	
Chromium ores	Rs. 2,000 per metric tonne	

DETERMINATION OF VALUE OF EXPORT GOODS RULES, 2007

<p>RULE 3: DETERMINATION OF METHOD OF VALUATION</p> <ol style="list-style-type: none"> Value of export goods shall be “transaction value” (Subject to rule 8) TV shall be accepted even if buyer & seller are related (but relationship has not influenced price). If value cannot be determined using above provisions, value shall be determined by proceeding sequentially through rules 4 to 6.
<p>RULE 4: DETERMINATION OF EXPORT VALUE BY COMPARISON</p> <ol style="list-style-type: none"> Value of export goods shall be based on “transaction value of goods of like kind & quality” exported at/about the same time to other buyers in same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2). In determining value of export goods above, PO shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including: <ul style="list-style-type: none"> ▪ Difference in the dates of exportation, ▪ Difference in commercial levels and quantity levels, ▪ Difference in composition, quality & design b/w goods to be assessed & compared goods ▪ Difference in domestic freight and insurance charges depending on the place of exportation
<p>RULE 5: COMPUTED VALUE METHOD</p> <p>If value cannot be determined u/r 4, it shall be based on computed value, which shall include the following:</p> <ul style="list-style-type: none"> ▪ Cost of production, manufacture or processing of export goods; Charges for “design or brand”; ▪ Profit.
<p>RULE 6: RESIDUAL METHOD</p> <ul style="list-style-type: none"> ❖ Subject to the provisions of rule 3, where value cannot be determined using rule 4 & 5, value shall be determined using reasonable means consistent with principles & general provisions of these rules. ❖ provided that local market price of export goods shall not be only basis for determining value of export goods.

DIFFERENCE BETWEEN IDENTICAL & SIMILAR GOODS

Identical goods	Similar goods
Goods must be same in all respects, except for minor differences in appearance	Goods have like characteristics & components & perform same functions
Ex: Hero Honda two Wheeler Products namely Splendor & Passion	Ex: Hero Honda Splendor & Bajaj scooter.

5. IMPORT & EXPORT PROCEDURES

IMPORT PROCEDURE

1. Goods should arrive at **approved customs port/airport only** unless permitted by the Board.
2. Person-in-charge of the conveyance is required to **submit import general manifest or import report**.

Conveyance	Import Document	Time Limit	Mode
1. Vessel	Import Manifest	Any time prior to the arrival of vessel	Electronic*
2. Aircraft	Import Manifest	Any time prior to the arrival of Aircraft	Electronic*
3. Vehicle	Import Report	Within 12 hours after its arrival in customs station	Manual

* **Note:** If it is not feasible to deliver IM electronically, PC/C of customs may, allow other modes.

3. Master of a vessel shall **not permit unloading** of any goods **until ENTRY INWARDS** has been granted. **[Note:** This is specified only for vessels and not for aircrafts or vehicles].
4. Only such **goods** which are **mentioned in IM/IR** shall be **unloaded**.
Note: Goods cannot be loaded & unloaded on Sundays or other holidays or after working hours unless prescribed notice & fees are paid. [Section 36]

5. **Importer** has to submit **bill of entry electronically** on customs automated system to **PO for clearance** of the goods. (Bill of Entry is a document of assessment & when assessed becomes assessment order).

❖ **Types of Bill of Entry:**

Form I (White)	for home consumption
Form II (Yellow)	for warehousing (into bond)
Form III (Green)	for ex-bond clearance for home consumption (ex-bond)

❖ **When Bill of Entry is filed electronically, it is in four copies:**

Original	Customs authorities - for assessment & collection of duty
Duplicate	Custodian of the cargo - to release cargo to the importer from his custody
Triplicate	Importer - as a copy for record.
Quadruplicate	Bank/RBI - for the purposes of making remittance for the imported goods.

❖ **Time limit for filing Bill of Entry [Sec 46]** → before the end of the **next day following** the day (excluding holidays) on which the **conveyance** carrying the goods **arrives** at a customs station.

Note: may be presented at any time **not exceeding 30 days** prior to **expected arrival** of conveyance.

6. **Assessment of Duty:**

- ❖ Duty to be self-assessed by the importer/exporter
- ❖ Verification of self-assessment by PO. (Cases are selected for verification on the basis of risk evaluation)
- ❖ Reassessment of duty by PO if self-assessment is not done correctly.
- ❖ Speaking order for re-assessment to be passed within 15 days unless importer agrees with reassessment.

7. Goods can be cleared after payment of duty or for warehousing.

8. Out of customs charge order is issued by the custom officer after payment of duty.

CLEARANCE OF GOODS FOR HOME CONSUMPTION [SECTION 47]

1. If PO is satisfied that goods entered for home consumption are **not prohibited; import duty & any charges payable thereon has been paid**, he can make an order permitting clearance of the goods for HC.
2. CG may permit certain class of importers to make **deferred payment** of said duty or any charges in such manner as may be provided by rules.
3. **Time limit for payment of import duty:** The importer shall pay the import duty:

Case	Date of Payment of Import Duty
Self- assessment	Date of presentation of bill of entry
Assessment, reassessment or provisional assessment	Within 1 day (excluding holidays) from the date on which bill of entry is returned to him by PO for payment of duty
Deferred Payment	From such notified due date; If duty is not paid or short-paid within specified time, he shall pay interest on unpaid or short-paid duty till the date of its payment.
Note: Rate of interest shall be not below 10% p.a & not exceeding 36% p.a & shall be fixed by CG. However, interest may be waived by CBIC in public interest. [Sec 47(2)]. Currently, it is 15% p.a.	

Q. X Ltd. imported goods in April, 2018 & submitted Bill of Entry on 9th April 2018 for home clearances. After verification bill of entry has been returned by the department on 10th April 2018 for payment of customs duty of Rs. 1,03,000. However, duty has been paid on 30th April, 2018. There are five holidays from 11th April to 30th April 2018. Find the interest u/s 47(2) of the Customs Act, 1962.

Answer: No. of days from 10th April, 2018 to 30th April, 2018 = 21 days; Delay = 21 – 5 = 16 days;
Interest = 1,03,000 x 15% x 16/365 = Rs. 677.

Q. A bill of entry was presented on 4th Aug 2018. The vessel carrying goods arrived on 11th Aug, 2018. Entry inwards was granted on 13th Aug, 2018, & bill of entry was assessed on that date & was returned to the importer for payment of duty on that date. Duty amounting to Rs. 5 lacs was paid by the importer on 22nd Aug, 2018. Calculate interest payable u/s 47(2) given that there were 4 holidays during from 14th Aug to 22nd Aug, 2018.

Answer: No. of days from 13th Aug 2018 to 22nd Aug 2018 = 10 days; Delay = 10 – 4 = 6 days.
Interest = 5,00,000 x 15% x 6/365 = Rs. 1233.

4. **Sell the goods after 30 days:** If imported goods are not cleared either for HC or for warehouse within 30 days or if title to any imported goods is relinquished, custodian of goods is permitted, (with the approval of customs department & after giving notice to the importer) to sell the goods by auction [Sec 48].

Q. Mr. PC imported a consignment of goods which was unloaded on 31.10.2018. He filed the bill of entry on 15.12.2018. The Deputy Commissioner of Customs imposed a penalty of Rs. 15,000 on Mr. PC as there was a delay of 15 days in filing the bill of entry. DC contended that section 46 & 48 of the Customs Act, 1962 read together provide that bill of entry ought to be filed within 30 days from the date of unloading of the goods. Examine the issue in the light of relevant statutory provisions and decided case laws, if any. **Answer:**

Answer: It has been held by High Court in the case of Shreeji Overseas (India) Pvt. Ltd., time-limit prescribed u/s 48 for clearance of the goods within 30 days cannot be read into section 46 & it cannot be inferred that section 46 prescribes any time-limit prescribed for filing of bill of entry.

Therefore, penalty cannot be imposed on Mr. Suhaan as he has not committed any offence by filing bill of entry after 45 days of unloading the goods.

However, the custodian after giving notice to Mr. Suhaan and with the approval of the proper officer can sell the goods imported by Mr. Suhaan.

WAREHOUSING

Meaning of Warehouse	means a public warehouse licensed u/s 57 or a private warehouse licensed u/s 58 or a special warehouse licensed u/s 58A [Sec 2(43)]	
Features	<ul style="list-style-type: none"> ▪ Only dutiable goods can be deposited in the warehouse. ▪ Rate of BCD → Rate on the date of presentation of Ex-bond Bill of Entry for HC. ▪ Exchange rate → Rate at which Bill of Entry (into bond) is presented for warehousing. ▪ Reassessment → Not allowed after imported goods originally assessed & warehoused. ▪ Importer is allowed to do manufacturing in bonded warehouse & then re-export it. ▪ If goods which are not removed from warehouse within permissible period, then subsequent removal called as improper removal. Applicable Rate of BCD → Rate on last date on which goods should have been removed but not removed. 	
Licensing of warehouse	Public Warehouse	PC/C of Customs may licence a public warehouse wherein dutiable goods may be deposited subject to prescribed T&Cs.
	Private Warehouse	PC/C of Customs may licence a private warehouse wherein dutiable goods imported may be deposited subject to prescribed T&Cs.
	Special Warehouse	<ul style="list-style-type: none"> ❖ PC/C of Customs may licence a special warehouse wherein dutiable goods may be deposited & such warehouse shall be caused to be locked by PO & no person shall enter such warehouse or remove any goods without the permission of PO. ❖ CBIC may by notification in OG specify the class of goods which shall be deposited in the special warehouse. Following goods are notified: <ul style="list-style-type: none"> ➤ Gold, silver, precious & semi-precious metals & their articles; ➤ Goods warehoused for the purpose of: <ul style="list-style-type: none"> ▪ Supply to DFS (Duty Free Shops) in a customs area; ▪ Supply as stores to vessels/aircrafts; ▪ Supply to foreign privileged persons.
<p>Privileged person → Person entitled to import/purchase locally goods free of duty for his/family's personal use or for official use in his Mission, Consular Post/Office or in Deputy High Commission/Assistant High Commission.</p> <p>Note: DFS located in customs area (in the airport) should not be treated as a warehouse.</p>		
Cancellation of License [Sec 58B]	<ol style="list-style-type: none"> 1. Where a licensee contravenes any of the provisions of this Act or breaches any T&Cs of the licence, PC/C of Customs may cancel the licence granted u/s 57/58/58A. <i>Reasonable opportunity of being heard shall be given to licensee before cancellation.</i> 2. PC/C of Customs may suspend operation of warehouse during pendency of enquiry. 3. During suspension, no goods shall be deposited in such warehouse. 4. Where the licence issued u/s 57/58/58A is cancelled, goods warehoused shall be removed from such warehouse to another warehouse or be cleared for HC/export within 7 days from the date on which order of such cancellation is served on the licensee or within such extended period as the proper officer may allow, For (3) & (4): Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse till they are removed. 	

<p>Warehousing Bond</p>	<p>1. Importer shall execute a bond equal to thrice the assessed duty binding himself: (a) to comply with all the provisions of the Act; rules & regulations made thereunder; (b) to pay all duties & interest payable u/s 61(2) on/before specified date in notice & (c) to pay all penalties & fines incurred for the contravention of the Act or rules.</p> <p>2. Bond can be executed in respect of a particular consignment [Consignment Bond] or a General Bond to cover the duty on goods to be imported during specified period.</p> <p>3. In addition, importer will also be required to furnish security as may be prescribed.</p> <p>4. Bond will continue to be in force even if goods are transferred to another warehouse.</p> <p>5. If warehoused goods are transferred to another person (either wholly or partially), transferee will have to execute the fresh bond & furnish prescribed security.</p>								
<p>Time Limit of warehousing</p>	<p>Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed till:</p> <table border="1" data-bbox="375 705 1428 1164"> <thead> <tr> <th data-bbox="375 705 949 761">Type of Goods</th> <th data-bbox="949 705 1428 761">Time Limit</th> </tr> </thead> <tbody> <tr> <td data-bbox="375 761 949 1019"> 1. Goods for use in 100%EOU/EHTP/STP/for manufacturing in any warehouse u/s 65 (a) Capital goods (b) Goods other than capital goods (Input, spares & consumable stores etc.) </td> <td data-bbox="949 761 1428 1019"> till their clearance from warehouse till their consumption/clearance from warehouse. </td> </tr> <tr> <td data-bbox="375 1019 949 1120"> 2. Any other goods </td> <td data-bbox="949 1019 1428 1120"> Till the expiry of 1 year from the date of order for deposit u/s 60(1). </td> </tr> <tr> <td colspan="2" data-bbox="375 1120 1428 1164"> Extension: Max. 1 year by PC/C of customs on sufficient cause being shown. </td> </tr> </tbody> </table>	Type of Goods	Time Limit	1. Goods for use in 100%EOU/EHTP/STP/for manufacturing in any warehouse u/s 65 (a) Capital goods (b) Goods other than capital goods (Input, spares & consumable stores etc.)	till their clearance from warehouse till their consumption/clearance from warehouse.	2. Any other goods	Till the expiry of 1 year from the date of order for deposit u/s 60(1).	Extension: Max. 1 year by PC/C of customs on sufficient cause being shown.	
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Extension: Max. 1 year by PC/C of customs on sufficient cause being shown.									
<p>Interest on warehousing (15% p.a) after 90 days</p>	<p>Interest will be payable if goods specified in (2) above remain in warehouse beyond 90 days from the date on which the order u/s 60(1) is made.</p> <table border="1" data-bbox="375 1265 1428 1444"> <tr> <td data-bbox="375 1265 718 1321">Rate of interest</td> <td data-bbox="718 1265 1428 1321">Rate fixed u/s 47 (15% p.a)</td> </tr> <tr> <td data-bbox="375 1321 718 1377">Interest is payable on</td> <td data-bbox="718 1321 1428 1377">Duty payable at the time of clearance of goods</td> </tr> <tr> <td data-bbox="375 1377 718 1444">Interest is payable from</td> <td data-bbox="718 1377 1428 1444">From the expiry of the 90 days till the date of payment of duty on the warehoused goods.</td> </tr> </table>	Rate of interest	Rate fixed u/s 47 (15% p.a)	Interest is payable on	Duty payable at the time of clearance of goods	Interest is payable from	From the expiry of the 90 days till the date of payment of duty on the warehoused goods.		
Rate of interest	Rate fixed u/s 47 (15% p.a)								
Interest is payable on	Duty payable at the time of clearance of goods								
Interest is payable from	From the expiry of the 90 days till the date of payment of duty on the warehoused goods.								
<p>Owner's right</p>	<p>Owner of any warehoused goods may, after warehousing them may: (a) Inspect, sort the goods; show the goods for sale (b) deal with their containers to prevent loss or deterioration or damage to the goods</p>								
<p>Manufacturing in warehouse</p>	<p>Owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods with the permission of PC/C of Customs & subject to prescribed T&Cs & on payment of prescribed fees.</p>								
<p>Custody & removal of warehoused goods</p>	<p>1. Warehoused goods shall remain in the custody of person licensed u/s 57/58/58A until they are cleared for HC or are transferred to another warehouse or are exported or removed.</p> <p>2. In case of improper removal, licensee shall be liable to pay duty, interest, fine & penalties (even after other action taken against him).</p>								

WAREHOUSING WITHOUT WAREHOUSING [SEC 49]

- ❖ If assessment is delayed, then those goods can be stored in public warehouse without executing the bond.
- ❖ **Time Limit** → 30 days from the date of storing goods. [Max. 30 days extension]

REMOVAL OF GOODS FROM THE WAREHOUSE

- ❖ **Removal of Goods:** Warehoused goods can be removed for:
 - clearance for home consumption
 - transfer from one warehouse to another
 - clearance for export
- ❖ **Conditions for transport of goods:** Where the goods are removed:
 - from one warehouse to another warehouse or
 - from the warehouse to a customs station for export
 - from the customs station of import to a warehouse

the transport of the goods shall be under one-time lock (OTL), affixed by PO or licensee or bond officer. However, PC/C of Customs may dispense with the condition of one-time lock & allow transport of the goods without affixing the one-time-lock, having regard to the nature of goods or manner of transport.

- ❖ **Acknowledgement of receipt of goods:**
 Owner of the goods shall produce to PO at customs station of import or bond officer, within **1 month** [or extended period allowed], an acknowledgement issued by licensee or bond officer of the warehouse to which the goods have been removed or PO at the customs station of export stating that the goods have arrived at that place. If owner fails to provide the acknowledgment, he shall pay the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable u/s 72(1).

- ❖ **One Time Lock (OTL)**
 - When goods are removed from customs station of import for warehousing, PO affixes a one-time lock on the container or means of transport (closed trucks).
 - Serial no. of OTL along with date & time of its affixation needs to be endorsed upon Bill of Entry for warehousing & transport document.
 - All customs stations are required to maintain records incorporating no. of OTL, bill of entry, truck no., container no., date & time of affixing OTL; name, designation & phone no. of officer affixing OTL.
 - However, PC/C of Customs may permit movement of goods without affixation of such OTLs.

❖ **Transfer of Goods to Another Warehouse**

Private or Public Warehouse	Special Warehouse
Licensee shall transfer warehoused goods to another warehouse only when owner of goods produce transfer form of goods bearing orders of bond officer permitting such transfer.	Licensee shall transfer warehoused goods to another warehouse only with the permission of the Bond Officer on the form for transfer of goods.
After the goods are removed & loaded, licensee would: (a) affix OTL to the means of transport, (b) endorse OTL no. on prescribed form for transfer of goods & on transportation documents, (c) cause 1 copy of each document to be delivered to bond officer & record the removal of goods.	Once bond officer permits removal of goods from warehouse, licensee shall, in presence of Bond Officer: (a) cause the goods to be loaded onto the means of transport, & (b) affix OTL to the means of transport.

- Q. Explain the validity of the following statements:
- (a) Proper officer is not authorized to lock any warehouse with the lock of the Customs Department.
 - (b) Commissioner of Customs (Appeals) may appoint public warehouses.
 - (c) PC/C of Customs is not required to give a notice to the licensee while cancelling the license of a private warehouse if he has contravened any provision of the said Act.

Answer:

- (a) **Invalid:** Special warehouse licensed u/s 58A shall be caused to be locked by PO & no person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.
- (b) **Invalid:** Principal Commissioner/ Commissioner of Customs can appoint public warehouse u/s 57.
- (c) **Valid:** Notice is not required to be given to the licensee. However, OOBH should be given.

Q. An importer imported some goods on 1st Jan 2019 & goods were cleared from Mumbai port for warehousing on 8th Jan 2019 by submitting Bill of Entry. Exchange rate was Rs. 50/USD. FOB value was US \$ 10,000. The rate of duty on 8th Jan 2019 was 20%. The goods were warehoused at Pune and were cleared from Pune warehouse on 31st May, 2019, when rate of BCD was 12% & exchange rate was Rs. 68.75/USD. IGST @12% is applicable.

You are required to find: (a) Total Customs duty payable; (b) Interest payable.

Answer: From 8th Jan 2019 to 31st May 2019 = 144 – 90 = 54 days.

Assessable Value (i.e. 12,112.50 x Rs. 50)	6,05,625
Add: BCD 12% (6,05,625 x 12%)	72,675
Add: 10% Social Welfare Surcharge (72,675 x 10%)	7,268
Transaction value subject to GST	6,85,568
Add: IGST (6,85,568 x 12%)	82,268
Value of import	7,67,836
Value of Customs duties	1,62,211
Interest (1,62,211 x 15% x 54/365)	3,600

Particulars	USD
FOB	10,000
Add: 20% Freight on FOB	2,000
Add: 1.125% Insurance on FOB	112.5
CIF/ Assessable Value	12,112.50

IMPORTS BY 100% EOU

- ❖ 100% EOUs/EHTPs/STPs will be allowed to import goods without payment of custom duties including BCD.
- ❖ GST would be levied on import of input G/S used in manufacture by EOUs for which ITC can be claimed. This ITC can be utilized for payment of GST payable on the goods cleared in DTA or refund can be claimed.
- ❖ However, if goods are cleared in DTA by 100% EOUs → GST will be levied on outward supply. Moreover, an amount equal to BCD (for which exemption was availed) on inputs used in such finished goods shall be payable by 100% EOUs.

Note: DTA clearances of goods, which are not under GST would attract Central Excise duties as before.

Q. M/s X Ltd. (a unit of 100% EOU located in Chennai) sold goods to M/s A Ltd. (Located in Mumbai) for Rs. 20 lacs. M/s X Ltd. (being EOU) imported these goods exempted from BCD @10%. IGST 12% is applicable. Find the total GST is liable to pay by X Ltd. How much input tax credit M/s A Ltd. can avail?

Answer:

Particulars	Amount
Assessable value	20,00,000
Add: Basic Customs Duty 10% (20,00,000 X 10%)	2,00,000
Add: Social Welfare Surcharge 10% on BCD (2,00,000 X 10%)	20,000
Add: IGST @ 12% (22,20,000 X 12%)	2,66,400
Total	24,86,400
Total Duty Payable	4,86,400

Note: ITC will be allowed to M/s A Ltd. on IGST but not on BCD.

PROJECT IMPORT

- ❖ For levying IGST, all the imports under Project import scheme will be classified under heading 9801.
- ❖ Duty shall be levied @ 18%.

IMPORTS / PROCUREMENT BY SEZ

- ❖ Authorized operations in connection with SEZs shall be exempted from payment of IGST.
- ❖ Supplies made to SEZ unit/SEZ developer is zero rated. Supplies made to SEZ unit/SEZ developer can be made in the same manner as supplies made for export: ↓
 - (a) Either on payment of IGST under claim of refund OR
 - (b) under bond or LUT without payment of any IGST.

DEEMED EXPORT

- ❖ Deemed Export → Export without actual export.
- ❖ As per FTP, following few transactions can be considered as deemed exports.

- ✓ Sale of goods to units situated in 100% EOU, STP, EHTP etc.
- ✓ Sale of capital goods to fertilizer plants.
- ✓ Sale of goods to United Nations Agencies.
- ✓ Sale of goods to projects financed by bilateral Agencies, etc.

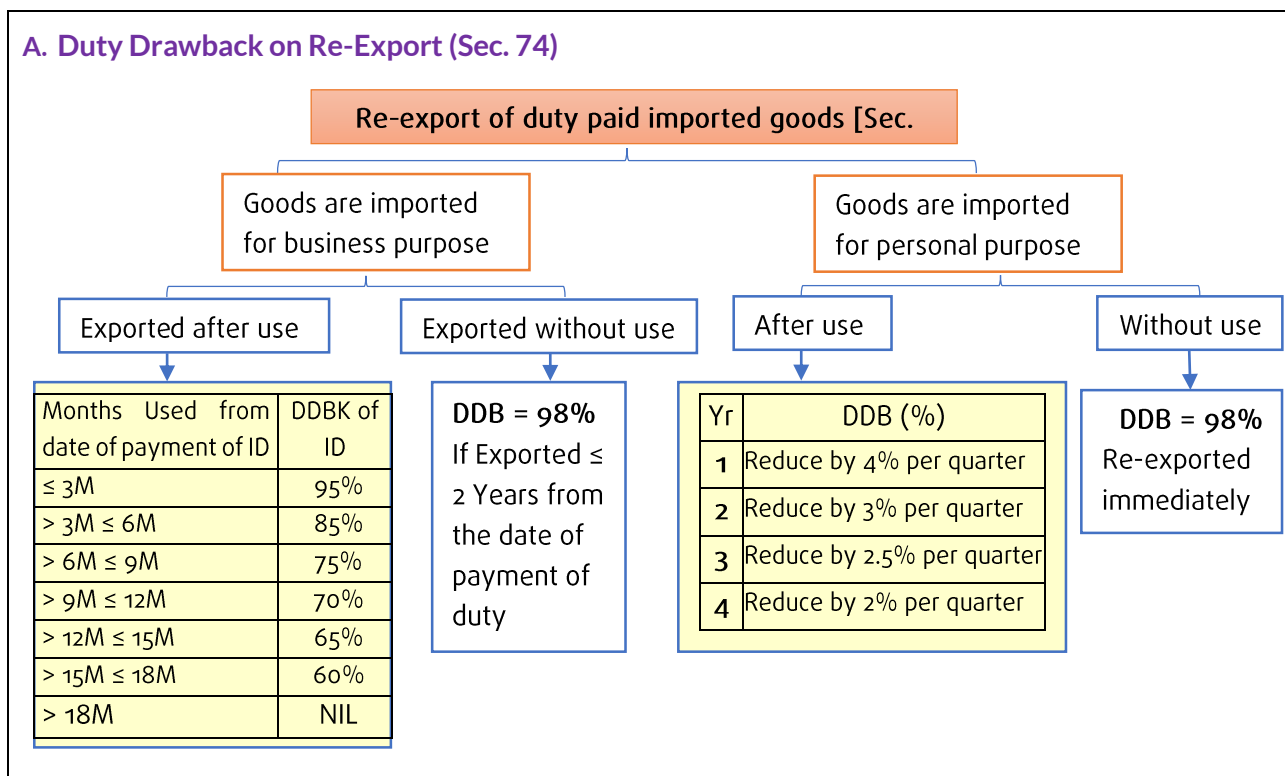
DUTY DRAWBACK

- ❖ Duty Drawback is an export incentive scheme in which **duties paid on** any exported materials or excisable materials used in manufacture/processing/carrying out any operations of exported goods is allowed as refund to the exporter.
- ❖ Duty drawback is allowed for the following:

- ✓ Import duty paid on imported goods
- ✓ Excise duty & Service Tax.

No drawback is allowed on VAT, CST

CATEGORIES OF DUTY DRAWBACK



NO DUTY DRAWBACK: Drawback of import duty paid is not allowed if these goods are exported:

- ✓ Wearing apparel, Tea chests,
- ✓ Exposed cinematograph film passed by the Board of Film Censors in India,
- ✓ Unexposed photographic films, paper and plates and X-Ray films.

Q. Calculate the amount of duty drawback allowable u/s 74 of the Customs Act, 1962 in following cases:

- (a) Salman imported a motor car for his personal use and paid Rs. 5,00,000 as import duty. The car is re-exported after 6 months and 20 days.
- (b) Jaggi Mehta imported a car from U.K. for his personal use and paid Rs. 4,50,000 as import duty. However, the car is re-exported immediately without bringing it into use.
- (c) Nisha imported wearing apparel and paid Rs. 50,000 as import duty. As she did not like the apparel, these are re-exported after 20 days.
- (d) Meenakshi imported a music player from Dubai & paid Rs. 12,000 as import duty. She used it for four months but re-exports the same after four months.
- (e) X Ltd. imported 10 computer systems paying customs duty of Rs. 50 lacs. Due to some technical problems, computer systems were returned to foreign supplier after 2 months without using them at all.

Answer:

- (a) Duty drawback is Rs. 4,40,000 (i.e. Rs. 5,00,000 @ 88%), since these goods are used in India.
- (b) Jaggi Mehta can claim duty drawback of Rs. 4,41,000 (98% of Rs. 4,50,000).
- (c) Duty drawback is Nil, assumed that wearing apparels are re-exported after being used.
- (d) Meenakshi can claim duty drawback of Rs. 10,200 (i.e. 85% of Rs. 12,000).
- (e) Duty drawback is Rs. 49 lacs (50 lacs x 98%), since these goods are re-exported without use.

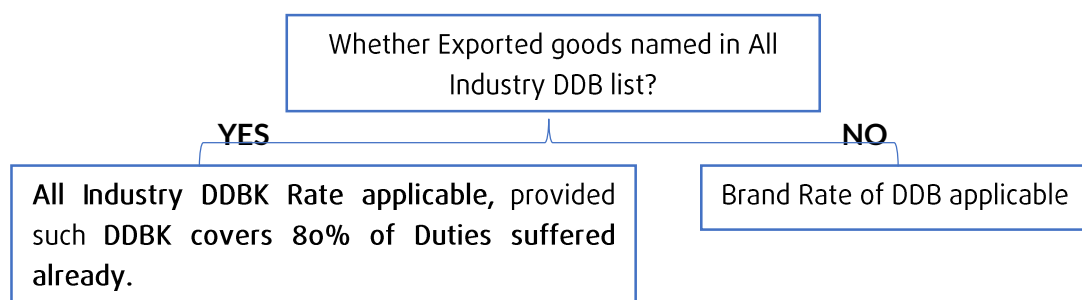
Q. Answer in brief the following questions:

- (a) What is the time limit for re-exportation of goods as such?
- (b) What is the rate of duty drawback if the goods are exported without use?
- (c) Is duty drawback allowed on re-export of wearing apparel without use?

Answer:

- (a) As per section 74 of the Customs Act, 1962, the duty paid imported goods are required to be entered for export within 2 years from the date of payment of duty on the importation.
- (b) If duty paid imported goods are exported without use, then 98% of such duty is re-paid as drawback.
- (c) Yes, duty drawback is allowed when wearing apparels are re-exported without being used.

B. Duty Drawback on Export (Sec. 75)



Q. An exporter exported 2,000 pairs of leather shoes @ Rs. 750 per pair. All industry rate of drawback in fixed on average basis i.e. @ 11% of FOB subject to maximum of Rs. 80 per pair. The exporter found that the actual duty paid on inputs was Rs. 1,95,000. He has approached you, as a consultant, to apply u/r 7 of the drawback rules for fixation of 'special brand rate'. Advise him suitably.

Answer: Drawback = Rs. 1,65,000 (2,000 x 750 x 11%) or Rs. 1,60,000 (80 x 2,000) whichever is less.

Therefore, duty drawback allowed is Rs. 1,60,000.

All Industry duty drawback rate = @ 82.05% [(1,60,000/1,95,000) x 100%].

Therefore, exporter is eligible for claiming All Industry Duty Drawback.

Negative List of duty drawback [Sec 76]

1. DDBK amount < Rs. 50.
2. Negative sales.
3. If CENVAT CREDIT availed (except BCD).
4. DDBK amount > 1/3rd of Market value of exports.
5. Export to Nepal & Bhutan; & export proceeds are not received in hard currency (USD, GBP or Pounds).
6. DDBK as % on FOB < 1% (unless amount of DDB ≥ Rs. 500).
7. If exporter has already availed DEPB or other export incentives.
8. If sale proceeds not received within time period allowed by RBI.
9. DDBK > market value of exported goods.

Note: DDBK is allowed on Wheat, Rice & Milk Product.

Q. Computation of duty drawback: 'A' exported a consignment under drawback claim consisting of following items

Particulars	Chapter Heading	FOB	DDBK rate
200 pieces of pressure stores mainly made of beans @ Rs. 80/piece	74.04	16,000	4% of FOB
200 Kgs. Brass utensils @ Rs. 200/Kg.	74.13	40,000	Rs. 24/Kg.
200 Kg. Brass Artware @ Rs. 300/Kg	74.22	60,000	17.5% of FOB [Max. Rs. 38/Kg]

On examination in docks, weight of brass Artware was found to be 190 Kgs. and was recorded on shipping bill. Compute the drawback on each item and total drawback admissible to the party.

Answer: The drawback on each item and total drawback admissible to the party shall be:

Particulars	FOB	Rate of DDBK	DDBK
200 pcs, pressure stoves made of brass	16,000	4% of FOB	640
200 Kg. Brass utensils	40,000	Rs. 24 per Kg.	4,800
200 kg. brass artware (Actual weight – 190 Kgs)	60,000	(60,000 x 190/200) x 17.5% = Rs. 9975 Max = 190 kgs x Rs. 38 = Rs. 7,220	7,220

Q. X Ltd. has exported following goods to USA. Discuss whether any duty drawback is admissible u/s 75.

Product	FOB Value of Exported goods	Market Price of goods	Duty drawback rate
A	2,50,000	1,80,000	30% of FOB
B	1,00,000	50,000	0.75% of FOB
C	8,00,000	8,50,000	3.50% of FOB
D	2,000	2,100	1.50% of FOB

Note: Imported value of product C is Rs. 9,50,000.

Answer: Duty draw back amount for all the products are as follows:

A	DDBK amount = 2,50,000 x 30% = Rs. 75,000 or Rs. 1,80,000 x 1/3 = Rs. 60,000; Allowable DDBK does not exceed 1/3 of market value. Hence, DDBK allowed is Rs. 60,000
B	Product B: DDBK allowed is Rs. 750 (1 lac x 0.75%). Since, amount > Rs. 500 even though rate < 1%.
C	No DDBK is allowed, since the value of export < value of import (i.e. negative sale)
D	No DDBK is allowed, since the duty drawback amount is Rs. 30 (which is less than Rs. 50).

Q. Alpha Ltd. manufactures heavy machinery. 50% of its production is exported to European countries. The machinery is manufactured with the help of imported components as well as indigenous raw materials. Alpha Ltd. regularly pays import duty & central excise duty on imported components & indigenous raw materials respectively & claims duty drawback on exports made by it.

On 28.11.2018, it loaded a machinery manufactured by it on a vessel 'Victoria' for being exported to Germany. 'Victoria' set sail from Mumbai on 1.12.2018, but was caught up in rough weather & sank in TWI on 2.12.2018. The Customs Department has refused to grant DDBK claimed by Alpha Limited in respect of the machinery loaded on 28.11.2018 for the reason that machinery has not reached Germany. Examine the situation.

Answer: Vessel sunk within TWI & therefore there is no export. Accordingly, no duty drawback shall be available. [Union of India v Rajindra Dyeing & Printing Mills Ltd. 2005 (180) ELT 433 (SC)].

EXPORT PROCEDURE UNDER CUSTOMS

- ⇒ Valuation & Classification of goods
- ⇒ Export Invoice, Packing List, Shipping Bill, Guarantee Receipt or Statutory Declaration Form, Certification from relevant authority
- ⇒ Self-removal or Physical Removal after sealing goods (i.e., One Time Bottle Seal)
- ⇒ Examination of goods before granting Let export order by Customs Officer
- ⇒ Bill of Lading/Airway Bill will be received from in-charge of conveyance after submitting shipping bill
- ⇒ 'Let export' can be granted by Customs Officer to the conveyance after submission of Export General Manifest (EGM) by the in-charge of conveyance (electronic filing of EGM mandatory w.e.f. 10-05-2013)

EXPORT PROCEDURE UNDER GST

1. Exporters can furnish bond or letter of undertaking (LUT) instead of paying IGST at the time of export. However, if IGST has been paid, exporters can seek refund of the tax paid.
2. Export & import of G/S are deemed to be inter-state supply.
3. Supplies of G/S for exports have been categorised as 'Zero Rated Supply' implying that goods could be exported under bond or LUT without payment of IGST followed by claim of refund.
4. Further, exports would be considered as "Zero rated supply" u/s 16 of IGST Act.
5. Any person making zero rated supply (i.e. any exporter) shall be eligible to claim refund under either of the following options, namely
 - (a) he may supply G/S on payment of IGST & claim refund of such tax paid on G/S.
 - (b) he may supply G/S under bond or LUT without payment of IGST & claim refund of unutilized ITC.

Procedure regarding LUT & refund of IGST [Rule 96A of CGST Rules, 2017]

1. Any registered person availing the option to supply G/S for export without payment of IGST shall furnish, (prior to export) a bond or LUT in **FORM GST RFD-11** to jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified u/s 50(1) within a period of ↓

Case	Time Limit
If goods are not exported	15 days after expiry of 3 months from date of issue of invoice
If payment is not received in convertible foreign exchange.	15 days after expiry of 1 year from date of issue of invoice for export (such further period as may be allowed by Commissioner)

This provision shall also apply in respect of zero-rated supply of G/S to SEZ developer or unit without payment of IGST.

2. **If goods are not exported** & registered person fails to pay the amount mentioned (1) above, export as allowed under bond or LUT shall be withdrawn & said amount shall be recovered from registered person.
3. If amount mentioned is paid subsequently, the facility of export under LUT shall be restored.

ALL ABOUT "EXPORT UNDER LETTER OF UNDERTAKING (LUT)"

Eligibility to export under LUT	<ul style="list-style-type: none"> ▪ Facility of export under LUT is available to all registered persons who intend to supply G/S for export without payment of IGST. ▪ However, any RP who have been prosecuted for any offence under GST Act, Services Tax Act or any of the existing laws & amount of tax evaded > Rs 250 lacs are ineligible.
Validity	<ul style="list-style-type: none"> ▪ LUT shall be valid for the whole FY in which it is tendered.
Form	<ul style="list-style-type: none"> ▪ Till the time FORM GST RFD - 11 is available on the common portal, the registered person (exporters) may download the FORM GST RFD - 11 from the website of CBEC (www.cbec.gov.in).

	<p>gov.in) & furnish the duly filled form to jurisdictional DC/AC having jurisdiction over their principal place of business.</p> <ul style="list-style-type: none"> ▪ LUT shall be furnished on the letter head of RP, in duplicate, & it shall be executed by working partner, MD/CS or proprietor or their agents ▪ Bond shall be furnished on non-judicial stamp paper of the value as applicable in state.
Documents	<ul style="list-style-type: none"> ▪ Self-declaration to the effect that conditions of LUT have been fulfilled shall be accepted unless there is specific information otherwise. ▪ Verification, if any, may be done on post - facto basis.
Time for acceptance	<ul style="list-style-type: none"> ▪ LUT/ bond should be accepted within 3 working days of its receipt. ▪ If LUT/bond is not accepted within 3 from date of submission → deemed to be accepted.
Bank guarantee	<ul style="list-style-type: none"> ▪ Bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount > Rs. 250 lacs. ▪ A bond, in all cases, shall be accompanied by a bank guarantee of 15% of bond amount.
Running Bond	<ul style="list-style-type: none"> ▪ Exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. ▪ Exporter shall ensure that outstanding IGST on exports is within the bond amount. ▪ If bond amount is insufficient to cover the said liability in yet to be completed exports, exporter shall furnish a fresh bond to cover such liability. ▪ Onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. ▪ Record of such entries shall be furnished to the Central tax officer as and when required.
Sealing by officers	<ul style="list-style-type: none"> ▪ Till mandatory self-sealing is operationalized, sealing of containers shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done. ▪ A copy of the sealing report would be forwarded to jurisdictional DC/AC.
Purchases from manufacturer & Form CT - 1	<ul style="list-style-type: none"> ▪ In GST Regime, there is no provision for issuance of CT - 1 form which enables merchant exporters to purchase goods from a manufacturer without payment of tax. ▪ Transaction b/w a manufacturer & a merchant exporter is in the nature of supply & the same would be subject to GST.
Transactions with EOUs	<ul style="list-style-type: none"> ▪ Zero rating is not applicable to supplies to EOUs & there is no special dispensation. ▪ Therefore, Supplies to EOUs are taxable like any other taxable supplies. ▪ EOUs, to the extent of exports, are eligible for zero rating like any other exporter.
Realization of export proceeds in Indian Rupee	<ul style="list-style-type: none"> ▪ Acceptance of LUT for supplies of goods to Nepal/Bhutan OR supply of both G/S SEZ developer/unit will be permissible even if payments are made in Indian currency. ▪ However, supply of services to Nepal or Bhutan will be deemed to be export of services only if payment for such services is received by supplier in convertible foreign exchange.
<p>Q. How soon will refund in respect of export of goods or services be granted during the GST regime? Answer:</p> <p>(a) In case of refund of tax on inputs used in exports:</p> <ul style="list-style-type: none"> ✓ Refund of 90% will be granted provisionally within 7 days of acknowledgement of refund application. ✓ Remaining 10% will be paid within 60 days from date of receipt of complete application. ✓ Interest @ 6% is payable if full refund is not granted within 60 days. <p>(b) In the case of refund of IGST paid on exports:</p> <p>Upon receipt of information regarding furnishing of valid return in Form GSTR-3 by exporter, claim for refund shall be processed & IGST paid in respect of each shipping bill shall be credited to bank A/c of exporter.</p>	

Q. M/s X Ltd. manufactures exempted excisable goods for export. Company availed input stage rebate (ITC on inputs) used in manufacture of exported goods. Whether company is eligible for refund of ITC on inputs?

Answer: Under IGST law, a person engaged in export of goods which is an exempt supply is eligible to avail input stage credit for zero rated supplies. Once goods are exported, refund of unutilized credit can be availed u/s 16(3)(a) of IGST Act, 2017 & Section 54 of CGST Act, 2017 and the rules made there under.

Q. Under what circumstances it may be beneficial to pay IGST on export of goods and claim rebate (i.e. Refund) u/r 96 of the CGST Rules, 2017.

Answer: If assessee has balance of tax in Capital Goods Input Tax Credit Account, it is advisable to pay duty (i.e. IGST) on export and claim refund, as balance in Capital Goods Input Tax Credit Account is never refundable.

Q. How to execute Bond required for exporting without payment of IGST?

Answer: Instructions on how to execute Bond required for exporting without payment of IGST.

1	Bond has to be executed when your turnover in the previous year < Rs. 1 crore.
2	Bond of amount equivalent to tax liability (usually annual liability) has to be executed on non-judicial stamp paper in the favour of President of India, through the concerned Assistant Commissioner.
3	Exporter has to mention Bank Guarantee amount (15% of bond value or lesser if allowed by AC).
4	Stamp Paper for Bond can be of value Rs. 500/- or more (or as prescribed by concerned AC). Stamp paper should be purchased from your own State (same jurisdiction) i.e. where the concerned Range Office is located. It should be purchased in the name of exporter (with address). Bond-Language does not fit well on single page, so you have to use second page. Second page can be any blank page to print the extra content.
5	Exporter has to self-sign the bond on first page as well as on second page. Second page has to be signed by two witnesses. Then, Bond has to be attested by a Notary.
6	Exporter has to submit self-signed copy of own ID-Proof (Like Aadhar Card). You also have to submit the copies of ID-Proofs (Like Aadhar Card) of witnesses, which has to be self-signed by him.

SOME IMPORTANT DEFINITIONS

Stores [Sec 2(38)]	Stores means goods for use in a vessel or aircraft & includes fuel & spare parts & other articles of equipment, whether or not for immediate fitting.				
<p>Facts: A Big Ship carrying merchandize & stores enters the territorial waters of India but it cannot enter the port. In order to unload the merchandize lighter ships are employed. Stores are consumed on board the ship as well as by the small ships. Examine whether such consumption of stores attracts customs duty. Quote relevant section & case law if any. Stores are supplied to the above ships. Will such supplies be treated as exports & be entitled to draw back? (CMA Final Dec 2013)</p> <p>Decision: Bringing of 'stores' is treated as import. However, there is special provision for stores u/s 87. Imported stores consumed on board an ocean going vessel (i.e. foreign going vessel) are exempt from import duty u/s 87. Since the ship is ocean going, stores consumed on board will not attract customs duty. Smaller ships which are employed to unload cargo from mother ship are termed as 'Transhippers'. These are also treated as ocean going vessels. Hence stores consumed by small vessels would also be exempt. Stores supplied to vessel will be treated as export as per Sec 89 & hence will be eligible for duty drawback.</p>					
Person-in-charge [Sec 2(31)]	Person-in-charge means				
	Conveyance	Vessel	Aircraft	Train	Vehicle
	Person-in-charge	Master	Commander/Pilot	Conductor/Guard	Driver
Adjudicating Authority [Sec 2(1)]	<p>➤ Any authority competent to pass any order/decision under this Act;</p> <p>➤ but does not include:</p> <ul style="list-style-type: none"> ▪ Central Board of Indirect Taxes & Customs (CBIC) & CESTAT ▪ Commissioner of Customs (Appeals) or 				

Assessment [Sec 2(2)]	<p>➤ Process of determining tax liability in accordance with the provisions of the Act, &</p> <p>➤ includes</p> <ul style="list-style-type: none"> ▪ provisional assessment, ▪ self-assessment, ▪ reassessment & ▪ any assessment in which the duty assessed is nil.
Bill of Export [Sec 2(5)]	<p>➤ Exporter of any goods shall make entry thereof by presenting to PO in prescribed form a bill of export (in case of goods to be exported by land).</p> <p>➤ Note: Export of Goods by Vessel/Aircraft → ‘Shipping bill’.</p>
Coastal Goods [2(7)]	Coastal goods means goods, other than imported goods, transported in a vessel from one port in India to another.
Conveyance	Conveyance includes a Vessel (by Sea), Aircraft (by Air) & a Vehicle (by Land).
Customs Area [Sec 2(11)]	Customs area means the area of a customs station & includes any area in which imported or exported goods are ordinarily kept before clearance by Customs Authorities.
Customs port [Sec 2(12)]	Customs port means any port appointed u/s 7(a) of Customs Act, to be a customs port & includes a place appointed u/s 7(aa) of Customs Act, to be an inland container depot (ICD).
Customs Airport	Customs Airport u/s 7(a) means any airport & includes a place appointed u/s 7(aa) to be an air freight station (AFS).
Customs Station	Customs station means any customs port, customs airport or land customs station.
Dutiable Goods	Any goods which are chargeable to duty & on which duty has not been paid. It means that ‘name of the product or goods should find a mention in Customs Tariff Act’.
Foreign Going Vessel/Aircraft [Sec 2(21)]	<p>Foreign going vessel/aircraft from any port/airport in India to any port/airport o/s India.</p> <p>Following are also included in the definition:</p> <ul style="list-style-type: none"> ▪ Foreign naval vessel doing naval exercises in Indian waters ▪ Vessel engaged in fishing or any other operation (like oil drilling by domestic vessel or foreign vessel) outside TWI. ▪ Vessel going to a place outside India for any purpose whatsoever.
Import Report [Sec 2(24)]	<p>Person-in-charge of a vehicle carrying imported goods shall deliver to PO ‘import report’ within 12 hours after its arrival in customs station, in the prescribed form.</p> <p>Note: In case of Vessel/Aircraft, person-in-charge shall deliver ‘import general manifest’.</p>
Transit of Goods	These goods should be mentioned as Transit Goods in IGM. They are allowed by customs to be transited through Indian port without payment of duty.
Transshipment of Goods (Sec 54)	<p>A Vessel Titanic, sailing from USA to Australia via India carries various types of products namely A, B, C & D. ‘A’ & ‘B’ are destined to Mumbai Port. ‘C’ & ‘D’ will go to Australia in same vessel.</p> <p>On account of submission of bill of transshipment, ‘A’ is transhipped to Chennai port as ultimate destination in India & ‘B’ is transhipped to Srilanka.</p> <p>Find the imported goods, Transshipment goods & transit goods?</p> <p>Answer: ‘A’ & ‘B’ are called as Transshipment goods, since these goods are transhipped to another vessel.</p> <p>‘A’ is imported goods because its ultimate destination is India. It will attract import duty; ‘B’ is destined to Srilanka without payment of duty.</p> <p>‘C’ & ‘D’ → Transit goods since these goods remains in same vessel chartered to Australia.</p>