

THE CUSTOMS ACT 1962

Introduction

Customs, as the name indicates, has been a practice, which continued to exist from very olden days. In the very earlier days, there was ruling of the Kings. During those days, it was customary that if a trader enters his kingdom, that trader used to offer some of his tradable goods to the king and then obtain permission of the king to do the business in his kingdom. This practice continued even after the rule of the king came to an end. But the way the trader was to offer the goods, differ a lot, particularly when the Government ruling came into force. Presently, the old style of offering has taken the pattern of revenue to the Government through legislation called The Customs Act. The Act was amended many times in India and was also enacted many a times. Presently, we have with us Customs Act, 1962.

Customs Act, is an Act, which is meant for the purpose of levying duty on the goods imported into India and goods exported out of India? However, the Government cannot view the duty, only from the angle of revenue to it. Apart from this, it has many other commitments to the nation and the society, particularly the merchant society in the country. As such, whenever a duty is imposed or reduced or enhanced, it has always considered many other parameters, which have nothing to do with the revenue of the Government. Further, Import and Exports are the trade between countries. As such, unless there is some understanding between the different countries, the trade between those countries cannot be carried on in a formal way.

Definitions: Section.2 -

In this Act, unless the context otherwise requires;

(1) '**Adjudicating Authority**' means any authority competent to pass any order or decision under this Act, but does not include the board [Commissioner (Appeals)] or appellate tribunal.

(1A) '**Air Craft**' has the same meaning as in the AirCRAFT Act, 1934.

(1B) '**Appellate Tribunal**' means the Customs, Excise and Gold (Control) appellate Tribunal constituted under section 129.

(2) '**Assessment**' includes provisional assessment, re-assessment and any order of assessment in which the duty assessed is nil.

(3) '**Baggage**' includes un-accompanied baggage, but does not include Motor Vehicles.

S(4) '**Bill of Entry**' means a bill of entry referred to in Section 46.

(5) '**Bill of Export**' a bill of export referred to in Section.50.

- (6) **'Board'** means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963.
- (7) **'Coastal Goods'** means goods other than imported goods, transported in a vessel from one port in India to another.
- (7A) **'Commissioner (Appeals)'** means a person appointed to be a Commissioner of Customs (Appeals) under sub-section (1) of Section.4.
- (8) **'Commissioner of Customs'** Except for the purpose of Chapter-XV, includes an Additional Commissioner of Customs.
- (9) **'Conveyance'** includes a vessel, an aircraft and vehicle.
- (10) **'Customs Air port'** means any airport appointed under clause (a) of section 7 to be a customs airport.
- (11) **'Customs Area'** means the area of customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities.
- (12) **'Customs port'** means any port appointed under clause (a) of section 7 to be a customs port [and includes a place appointed under clause (AA) of that section to be an Inland Container Depot.
- (13) **'Customs Station'** means any customs port customs airport or land customs station.
- (14) **'Dutiable goods'** means any goods, which are chargeable to duty and on which duty has not been paid.
- (15) **'Duty'** means a duty of customs leviable under this Act.
- (16) **'Entry'** in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes in the case of goods imported or to be exported by post, the entry referred to in section 82 or the entry made under the regulations made under section 84.
- (17) **'Examination'** in relation to any goods includes measurement and weighing thereof.
- (18) **'Export'** with its grammatical variations and cognate expressions means taking out of India, to a place outside India.
- (19) **'Export Goods'** means any goods, which are to be taken out of India to a place outside India.
- (20) **'Exporter'** in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter.

(21) **'Foreign Going Vessel or Air-craft'** means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not and includes;

- (I) Any naval vessel of a foreign Government taking part in any naval exercises.
- (ii) Any vessel engaged in fishing or any other operations outside the territorial waters of India.
- (iii) Any vessel or aircraft proceeding to a place outside India for any purpose whatsoever.

(21A) **'Fund'** means the Consumer Welfare Fund established under 12 C of the Central Excise Act, 1944.

(22) **'Goods'** includes;

- (a) Vessels, aircrafts and vehicles
- (b) Stores
- (c) Baggage
- (d) Currency and negotiable instruments and
- (e) Any other kind of movable property

(23) **'Import'** with its grammatical variations and cognate expressions means bringing into India from a place outside India.

(24) **'Import Manifest or Import Report'** means the manifest or report required to be delivered under section 30.

(25) **'Imported Goods'** means any goods brought into India from a place out-side India but, does not include which have been cleared for home consumption.

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

(27) **'India'** includes the territorial waters of India.

(28) **'Indian Customs Water'** means the waters extending into the sea upto the limit of Contiguous Zone of India under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 and includes any bay, gulf, harbor, creek or tidal river.

(29) **'Land Customs Station'** means any place appointed clause (b) of section 7 to be a land customs station.

- (30) **‘Market Price’** in relation to any goods means the wholesale price of the goods in the ordinary course of trade in India.
- (31) **‘Person in Charge’** means;
- (a) In relation to a vessel, the master of the vessel.
 - (b) In relation to aircraft, the commander or pilot in charge of the aircrafts.
 - (c) In relation to a railway train, the conductor, guard or other person having the chief direction of the train.
 - (d) In relation to any other conveyance, the driver or other person in charge of the conveyance.
- (32) **‘Prescribed’** means prescribed by regulations made under this Act.
- (33) **‘Prohibited Goods’** means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force, but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.
- (34) **‘Proper Officer’** in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the Commissioner of Customs.
- (35) **‘Regulations’** means the regulations made by the Board under any provisions of this Act.
- (36) **‘Rules’** means rules made by the Central Government under any provision of this Act.
- (37) **‘Shipping Bill’** means the shipping bill referred to in section 50.
- (38) **‘Stores’** means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting.
- (39) **‘Smuggling’** in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.
- (40) **‘Tariff Value’** in relation to any goods, means the tariff value fixed in respect thereof under sub-section (2) of section 14.
- (41) **‘Value’** in relation to any goods means the value thereof determined in accordance with the provisions of sub section (1) of section 14.
- (42) **‘Vehicle’** means, conveyance of any kind used on land and includes a railway vehicle.

(43) **'Warehouse'** means a public warehouse appointed under section 57 or private warehouse licensed under section 58.

(44) **'Warehoused goods'** means goods deposited in a warehouse.

(45) **'Warehousing station'** means a place declared as a warehousing station under section 9.

GATT (General Agreement on Tariff and Trade)

To overcome the difficulties, in respect of international trade, a trade pact or agreement came in to existence. This agreement, for which the parties are many countries, consisted 117 countries as its members. GATT was a trade pact and an organization formed in Geneva in 1947. It was a forum for international bargaining to increase world trade and reduce trade barriers. 117 countries were its members including India. The last round of discussion began in 1986 and ended in 1993. The important points that were considered in its last round of discussion were as follows:

(a) Customs Tariff should be reduced to one-third (of the then existing rates) within ten years.

(b) Textile export quotas will be abolished in next ten years

(c) agricultural subsidies to farmers should not be more than 10 per cent.

(d) (i) Product Patent should be introduced for drugs, food products and chemicals in place of process patents as at present.

(ii) Patent and copyright period should be 20 years. Agricultural hybrid seeds should be allowed to be patented- These are called TRIPs- Trade Related Intellectual Property Rights. However, Government can undertake compulsory licensing for non commercial public use and to prevent inadequate supply or exorbitant pricing.

e) **TRIMs:** This means Trade Related Investment Measures, which includes Banking, Insurance etc., should be open to international competition.

WTO (World Trade Organisation)

This has been formed on First January 1995 to replace GATT. After World Bank and IMF, this is the third biggest international Organisation in finance and trade matters. It is permanent body with global status, similar to IMF and World Bank. It provides permanent forum for trade Organisation. WTO is the legal and institutional foundation of multilateral trading system. Its basic principle is equal treatment to products and services of all other WTO Countries. Its scope is much wider than GATT and covers multilateral trading system and commercial activities like trade in services, intellectual property protection, etc. WTO has a very efficient dispute settlement body (DSB) and Trade Policy Review Body. 125 countries, which took part in Uruguay Round of trade negotiations, are its members. India is founder member of WTO. China, Taiwan and

Russia are not yet members of WTO. WTO has stipulated that, Quantitative Restrictions (QR) on imports. It means; the import license restrictions should be removed. Such restrictions are permitted only if the foreign exchange reserves of the country are in a very difficult position. As India is in a comfortable position as regards its foreign exchange reserves position, it is suppose to remove the import license restrictions by 2000 as stipulated. But, India has sought time upto 2007,for removal of the India has sought time upto 2007, for removal of the same. The matter is not yet settled.

Prohibition on importation and exportation of goods

Power to prohibit importation or exportation of goods.

Section 11(1): If the Central Government is satisfied that, it is necessary to prohibit the importation and exportation of certain goods in the public interest, it can do so. The different purposes for which such prohibition can be made are listed in Section.11 (2) below. Further, the restriction can be absolute restriction or importation /exportation can be allowed subject to fulfillment of certain condition either before or after clearance. The prohibition will apply for those goods or goods of specified description, as notified in the Official Gazette.

Section 11(2). The different purposes for which the Central Government has powers under section 11(1) to impose prohibition in importation and exportation of goods are as follows:

- a. The maintenance of the security of India.
- b. The maintenance of public order and standard of decency or morality.
- c. The prevention of smuggling.
- d. The prevention of shortage of goods of any description.
- e. The conservation of foreign exchange and the safeguarding of balance of payments.
- f. The prevention of injury to the economy of the country by the un-controlled import or export of gold or silver.
- g. The prevention of surplus of any agricultural product or the product of fisheries.
- h. The maintenance of standards for the classification, grading or marketing of goods in international trade.
- i. The establishment of any industry.
- j. The prevention of serious injury to domestic production of goods of any description.
- k. The protection of human, animal or plant life or health.
- L. The protection of natural treasures of artistic, historic or archaeological value.
- m. The conservation of exhaustible natural resources.
- n. The protection of patents trademarks and copy rights.

- o. The prevention of deceptive practices.
- p. The carrying on of foreign trade in any goods by the State or by a Corporation owned or controlled by the State to the exclusion, complete or partial, of citizens of India.
- q. The fulfillment of obligations under the charter of the United Nations for the maintenance of international peace and security.
- r. The implementation of any treaty, agreement or convention with any country.
- s. The compliance of imported goods with any laws, which are applicable to similar goods, produced or manufactured in India.
- t. The prevention of dissemination of documents containing any matter, which is likely to prejudicially affect friendly relations with any foreign state or is derogatory to national prestige.
- u. The prevention of the contravention of any law for the time being in force and
- v. Any other purpose conducive to the interest of the general public.

Notified and specified goods

The word Notified is used in connection with Imported Goods and the word 'Specified' is used in connection with 'Goods to be exported'. We study the provisions of these, under two different heads, 'Notified Goods' and 'Specified Goods'.

Notified Goods

This Chapter contains the following headings and sections:

Section-11A: Definitions.

Section-11B: Power of Central Government to notify goods.

Section-11C: Persons possessing notified goods to intimate the place of storage etc.,

Section-11D: Precautions to be taken by person acquiring notified goods.

Section-11E: Person possessing notified goods to maintain accounts.

Section-11F: Sale etc., of notified goods to be evidenced by vouchers.

Section-11G: Non application of sections.11-C, 11-E and 11-F.

Specified Goods

Now, we will take up the provisions relating to Prevention or Detection of Illegal Export of goods. we study the whole provisions relating to this under the following headings and sections:

Section-11H: Definitions.

Section-11I: Power of Central Government to specify goods.

Section-11J: Persons possessing specified goods to intimate the place of storage etc.,

Section-11K: Transport of specified goods covered by vouchers.

Section-11L: Person possessing specified goods to maintain accounts.

Section-11M: Steps to be taken by a person selling or transferring any specified goods.

CUSTOMS ACT AND ITS ASSOCIATION WITH DIFFERENT ACTS, RULES AND REGULATIONS

Customs Act, 1962: This is the main Act, which provides for levy and collection of duty, import/export procedures, prohibitions on importation and exportation of goods, penalties, offenses etc.

Customs Tariff Act, 1975: The act contains two schedules - Schedule I gives classification and rate of duties for imports, while schedule II given classification and rate of duties for exports. In addition, the CTA (Customs Tariff Act) makes provisions for duties like additional duty (CVD), preferential duty, anti-dumping duty, protective duties etc., A detailed write up in Customs Tariff Act, 1975, is given at the end of this topic.

Rules under Customs Act: Under section 156 of the Act, the Central Government has been empowered to make rules, consistent with provisions of the act, to carry out the purposes of the Act.

Various rules have been framed under these powers. The important of them are as follows:

Customs Valuation Rules, 1988, for valuation of imported goods for calculating duty payable. Customs and Central Excise Duties Drawback Rules, 1995, for calculating rates of duty drawback on exports.

Baggage Rules, 1994, for bringing in baggage from abroad by Indians and tourists. Customs (Import of goods at concessional rate of duty for manufacture of excisable goods) Rules 1996 for providing procedures to be followed when goods are imported for export purposes.

Apart from the above, there are other rules like Rules for Specified Goods, Determination of Additional Duty for Dumping, Determination of Origin of Goods etc.,

Regulations under Customs Act: Under Section 157 of the Customs Act, the Board has been empowered to make regulations, consistent with the provisions of the Act, to carry out the purposes of the Act. Various regulations have been framed under these powers. Major among these are: Project Import Regulations, 1986, procedures for project Imports; Customs House Agents Licensing Regulations, 1984, Regulations of Customs House Agents; Other regulations regarding transshipment of goods, import and export report, import and export manifest, manufacture in warehouse, shipping bill and bill of export (form) etc., have been made.

Notifications under Customs Act: Various sections authorise Central Government to issue notifications. The main are section 25(1), to grant partial or full exemption from duty and section 11 to prohibit import or export of goods. The other notifications may be for appointment of customs officers, delegations of powers, appointment of customs port, customs airports, ICD, warehousing stations, specifying notified and specified goods etc.,

Customs tariff act, 1975

Like we have Schedules under the KST Act, 1957, which prescribes the rates at which tax is to be levied, the Customs Act does not have any schedules. For the purpose of knowing the rates at which duties are payable in respect of imports and exports, a reference has to be made to the Customs Tariff Act, 1975.

Section 12(1) of the Customs Act, 1962 provides for levy of duty on imports and exports, in accordance with the Customs Tariff Act, 1975, in cases where the rate and manner of levy is not mentioned either under the Customs Act or any other law for the time being in force. This means that, Customs Act as well as other laws for the time being in force also levies duty. However, if these laws are silent, then the rate of tax is determined with reference to the Customs Tariff Act, 1975.

The following is a brief introduction of the Customs Tariff Act, 1975.

Customs Tariff Act, 1975 has two Schedules. First Schedule contains the rate of duty etc., in respect of Imports and the Second Schedule contains the rate of duty etc., in respect of Exports. Whereas all imports are generally subjected to duty, the levy of duty on exports is very rare. Presently, out of 26 items covered under the Second Schedule, 24 items have been exempt over a period of time and the export duty is levied only in respect of 2 items. Hence, in the foregoing paragraphs, we confine our discussion only on the First Schedule, which levies duty on imports.

First schedule of customs tariff act, 1975:

The following is the contents of the Customs Tariff Act, 1975.

First Column	:	Heading Number
Second Column	:	Sub-heading Number
Third Column	:	Description of Article
Fourth Column	:	Standard Rate of Duty
Fifth Column	:	Preferential Area Rate of Duty

The Schedule under customs consists of 99 Chapters grouped under 21 sections. So, the classification of goods under the Customs Tariff Act is in the following hierarchy.

Sections.

Chapters.

Heading Number.

Sub-Heading Number.

(Further Sub-headings, if any)

The following are the different 21 Sections:

- I Live Animals, Animal Products.
- II Vegetable Products.
- III Animal or Vegetable Fats and Oil etc.,
- IV Prepared foodstuffs, Beverages, Spirit and Vinegar, Tobacco and Tobacco Products.
- V Mineral Products.
- VI Products of Chemicals and Allied Industries.
- VII Plastic and Articles thereof; Rubber and Articles thereof.
- VIII Raw Hides and Skins, Leather Goods, Travel Goods, Hand Bags etc.,
- IX Wood and Articles of Wood, Wood Charcoal, Cork, Straw Basket Ware and wickerwork.
- X Wood Pulp and Fibrous Cellulosic Materials, Paper, paperboard and Articles thereof.
- XI Textile and Textile Articles.
- XII Foot-ware, headgear, Umbrellas, Prepared Feathers, Artificial Flowers, Articles of Human Hair.
- XIII Articles of Stone, Plaster, Cement, Asbestos, Mica, Ceramic Products, Glass and Glassware.
- XIV Natural or Cultured Pearls, Precious or Semi-precious Stones etc., Imitation Jewellery.
- XV Base Metals and Articles thereof.
- XVI Machinery and Mechanical Appliances, Electrical Equipment's etc.,
- XVII Vehicle, Aircraft, Vessels and Associated Transport Equipment's.
- XVIII Optical, Photographic, Cinematographic, Measuring, Checking, Precision, Medical or Surgical Instruments and apparatus, Clocks and Watches, Musical Instruments and Parts etc.,
- XIX Arms and Ammunition and Parts and Accessories.
- XX Miscellaneous Manufactured Articles [Consists of Furniture, Upholstery, Lamps and Lighting, Fittings, Prefab Buildings, Toys, Games, Sports Requisites etc.,
- XXI Works of Art, Collectors Pieces and Antiques. This Section includes in addition to project imports, passenger baggage, personal importation by Air or Post; Ship Stores and some miscellaneous goods like Sera, Plasma, Artificial Kidneys, Animals and Birds imported by Zoo, Specimen, Models etc., Postage Stamps, Paper Money etc.,

Silent features, Broad Scheme and Structure of the Customs Tariff based on Harmonised System of Nomenclature (HSN):

On the line of HSN, the Customs Tariff has a set of Statutory General Rules of interpretation of the tariff schedule and General Explanatory Notes:

There are six rules of interpretation and two General Explanatory Notes. These are an integral part of the First Schedule to the Customs Tariff Act, 1975. The following are the different six rules of interpretation.

Rule.1: The title of sections, chapters and sub-chapters are provided for easy reference only; for legal purposes, classification shall be determined according to the terms of the Headings and any relative Section or Chapter notes and provided such headings or notes do no other require according to the following provisions.

Rule.2 (a): Any reference in Heading to an article shall be taken to include a reference to that article, complete or un-finished, provided that, as presented, the in-complete or un-finished article has the essential character of the complete or finished article.

It shall be taken to include a reference to that article, complete or finished (or falling to be classified as complete or finished by virtue of this rule) presented un-assembled or dis-assembled.

Rule.2 (b): Any reference in a Heading to a material or substance shall be taken to include a reference to mixtures or combinations to that material or substance.

Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting of only or partly of such materials or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule.3.

Rule.3: When by application of 2(b) or for any other reason, goods are prima-facie classifiable under two or more headings, classification shall be effected as follows:

(a) The heading, which provides the specific description, shall be preferred to headings providing a more general description.

However when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or part only items in a set put for retail sale, those headings are to be regarded as equally specific to the goods, even one of them gives a more complete or precise description of the goods.

(b) Mixtures composed goods consisting of different materials or made up of different components and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material of component which gives them their essential character in so far as this criterion is applicable.

Rule.4: (Akin Rule): Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

Rule.5 (a): Camera cases, Musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain to specific article or set of articles; suitable for long term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not apply to containers, which give the whole its essential character.

Rule.5 (b): Subject to the provisions of (a), packing material and packing containers presented with the goods there in shall be classified with the goods, if they are of a kind normally used for packing such goods, however, this provision does not apply when such packing materials or containers are clearly suitable for respective use.

Rule.6: For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub-headings and any related sub-headings, notes and mutatis and mutandis to the above rules on the understanding that, only sub-headings at the same level are comparable. The above said serve the following two purposes:

1. They give clear direction as to how the nomenclature in the schedule is to be interpreted in order to bring about uniformity in classification of goods.
2. Instead of relying on guidelines issued through administrative instructions etc., the process of classification to be adopted has been given the statutory stamp of authority. The provision of interpretative rules in the statutes itself has been helpful in reducing the disputes regarding classification.

General Explanatory Notes: There are two general explanatory notes. The first note explains the system of one dash two dash sub-headings. In this context, it is relevant to note that, HSN has adopted six-digit code for all the goods covered under the first schedule. The first two digits indicate the Chapter. The Next two digits indicate the Headings within the Chapter. The last two digits indicate the sub-headings within the Headings.

Now, let us take an illustration and try to understand the significance of the code number allotted to a particular product.

1. Heading 82.15 covers Spoons, forks, ladles, skimmers, cake-servers, Fish knives, etc.,

This indicates that, the items mentioned are covered under Chapter 82 and the Heading No. Are 15 and there are no sub-headings. This is not represented by any dash, as there are no sub-headings.

2. Let us take another example: Heading 15.15 covers other fixed vegetable fats and oils etc., This heading has a sub-heading - Linseed and its fractions. This is represented by a single dash.

Further, this sub-heading has sub-divisions like the following:

1515.11 Crude Oil

1515.19 The above two are represented by two dashes against the code.

With the help of the above, we can easily say that, Crude oil of linseed and its fractions are covered under Chapter 15, Heading 15 and Sub-heading or further sub-division No.19.

After understanding the significance of Heading No., Sub-heading Nos., let us proceed to the Description of Article. As the name indicates, this give the details of the articles covered under the schedule. To be more understandable, the explanatory notes are available in the schedule. The next column in the schedule is Standard Rate of Duty, Preferential Area Rate of Duty.

For the same commodity, there can be both the rates and there can be only standard rate. But, there cannot be rate of duty only under preferential area rate.

India has considered application of preferential rate of duty in respect of goods imported from countries like Bhutan, Nepal, Bangladesh, UAR etc., When the imports made from these countries, certain concessions in the matter of rate of duty is applicable.

Hence, such rate of duty will be mentioned under the column preferential area rate of duty. For the same product, there will be Standard rate of duty, which is applicable in respect of goods imported from countries other than those eligible for preferential area rates.

If a particular commodity has rate only under Standard rate of duty, this means that, whether the goods are imported from a preferential area or other countries, only standard rate is to be paid and no preferential rate is available.

Point of levy of duty under customs act

The duty is levied under the customs act, on the goods imported into India and on the goods exported out of India. It means, the customs duty is levied on both imports and exports. Presently the custom duty is levied on almost every import. But, custom duty is levied very rarely on exports.

FREE GOODS AND GOODS UNDER NEGATIVE LISTS

For the purpose of import and export, the goods are divided into two. One is a free goods and the other one is 'Goods under Negative list'.

Free Goods: Free good can simply be said to be one, which does not fall under the negative list. If a particular good is a free good, for export or import, then though there are duties on these imports and exports, there are no restrictions of any sort in importation and exportation of these goods.

The goods under negative list for the purpose of importation and exportation can be further classified as follows:

Prohibited Goods: These are the goods, the importation or exportation of such goods is totally banned. The Government does not issue any license for import or export of such goods. Dealing in prohibited goods, in the course of import and export is punishable under the customs act.

Goods Prohibited from Importation: Items prohibited from importing are Wild animals, their parts, ivory, tallow, fats or oils of animal origin and animal rennet.

Items prohibited from exportation: They are wild life including their parts, exotic birds, endangered plants, beef, human skeletons, tallow, fat, wood and wood products, chemicals for weapons, sandalwood and red sanders.

Restricted Goods or Licensed Goods: Many items have been included in restricted list. These goods can be imported or exported, only under a license issued by the Government for the purpose of importation or exportation as the case may be.

Goods Restricted from importation: Many Consumer Goods Precious, semi-precious and other stones like diamonds, pearls, granite, sand stone, marble etc., security and safety related items like security paper, arms, ammunitions, seeds, plants, certain animals and birds etc.,

Goods Restricted from Exportation: Cattle, Camel, Ready-made fabrics, fur, hides and skins, industrial leather, shoe upper leather, horses, some non-ferrous metals, minerals of chrome, uranium, manganese etc., milk, pulses, paddy, rice, seeds and planting materials, sea shells, silk worms, viscose staple fiber, chemicals for weapons etc.,

Canalised Goods: There are certain goods, the import and export of which is to be routed through certain agencies set up by the Government. These agencies are called as Canalised Agencies.

Canalised items of Imports: Petroleum Products through Indian Oil Corporation. Fertilisers through Minerals and Metals Trading Corporation of India Ltd., Coconut oil, palm oil, groundnut oil, sunflower oil, seeds of copra, groundnut, palm, safflower, palm oil etc., through State Trading Corporation of India Ltd. and Hindustan Vegetable Oils Corporation Ltd.,

Canalised items for Exports: Petroleum products through IOC Gum Karaya through TRIFED MICA Waste through MMTC Minerals, ores or rare earth's, iron ore, bauxite, manganese etc., through Indian Rare Earth's Ltd., or MMTC Ltd., Niger seeds through NAFED, TRIFED etc., Onion through NAFED.

Any good which is outside the list of Prohibited goods, canalised goods and licensed goods or Restricted goods shall be free goods. Such free goods can be imported and exported without much formalities.

Types of customs duties:

There are many types of duties levied on goods imported. Of course not all duties will be levied always on all imports. Depending on the situation, one or more of the duties are levied on the goods imported. They are discussed in detail here below:

Of the following different types of duties, the first four duties are very important, from the viewpoint of practical problems. They are Basic Custom Duty, Surcharge, Special Additional Duty and Additional Customs Duty [Countervailing Duty].

1. **Basic Customs Duty:** This is the duty levied under section 12 of the customs act. Normally, it is levied as a percentage of Value as determined under Section 14(1). The rate varies for different items, but general rate on non-agricultural goods at present is 10% w.e.f. 01-03-2007. General rate refers to the rate that is applicable for majority of commodities. Automobile and Agricultural sector of the country are given special attention and hence the commodities related to these sectors attract duty at a higher rate. Duty on liquor including wine is as high as 150%. Rate of duty on baggage will be different.

2. **“Education Cess” and “Secondary and Higher Education Cess”:** Primary Education Cess at the rate of 2% with effect from 09-07-2004 and Secondary and higher education cess at the rate of 1% with effect from 01-03-2007 is payable. This is calculated as a percentage of the Basic Custom Duty. It is also leviable on Countervailing Duty.

3. **Special Additional Duty of Customs:** This is levied under Section 3-A of the Customs Tariff Act. This is in force from June.- 98. It is a duty levied for the purpose of setting off the sales tax, that the Government would have earned, had these goods been sold locally. This is permitted by WTO also. The rate of duty is 4%. Special Additional duty is levied on the Assessable Value of the goods imported.

If goods are imported by a trader and then sold in India, he has to pay local sales tax. Hence, SAD is not payable if goods are imported by trader. Trader has to give declaration at the time of import that, the goods are for trading purposes only. If he disposes off the goods in any other manner, trader will have to pay the special additional duty of customs. This duty is payable on assessable value + Basic Customs Duty + Surcharge + Additional Customs Duty (Which is also called as Countervailing Duty).

4. **Additional Customs Duty:** [Section.3(1) of the Customs Tariff Act] Additional Duty on imported goods is levied, to compensate the loss to the Government, which it would have earned in the form of Excise Duty, had these goods manufactured in India. This duty is also called as 'Countervailing Duty' or CVD. If the goods imported is covered under more than one chapter under the Central Excise Tariff Act, the highest of such duty rate will be considered and levied. This duty is payable on Assessable Value + Basic Customs Duty + Surcharge.

5. **Additional Customs Duty on Raw-materials:** [Section.3 (3) of the Customs Tariff Act] In addition to the additional duty levied under sub-section.1 of section 3, a further additional duty can be levied by Central Government to counter-balance excise

duty leviable on raw materials, components etc., similar to those used in production of such article. Central Government has issued notifications under this section levying additional duty on stainless steel manufactures for household use, fabrics etc., Of, course, after extending CENVAT on almost every manufactured goods, the question of levying this additional duty does not arise.

6. **Protective Duties:** [Section 6 of the Customs Tariff Act] Protective duty is a duty levied for the purpose of protecting the interests of the indigenous manufacturers. For this purpose, a Tariff Commission has been set up. The Central Government levies protective duty, on the recommendations of the Tariff Commission. The rate of levy, any increase or decrease in duty will be announced through notification. This notification should be introduced in Parliament in next session by way of a bill. If the bill is not passed within 6 months of placing it before the parliament, it becomes in effective, and the action already taken continues to exist and valid.

7. **Countervailing duty on subsidised goods:** [Section 9 of the Customs Tariff Act] The Government may, by notification, levy-countervailing duty unsubsidized goods. This means to say, that, if a country pays any subsidy (either directly or indirectly) to its exporters for exporting goods to India, the Central Government can impose countervailing upto the amount of such subsidy under Section 9 of the customs Tariff Act. If the amount of subsidy cannot be ascertained, provisional duty can be collected and after final determination, difference may be refunded.

8. **Anti Dumping duty on dumped articles:** [Section 9-A of the Customs Tariff Act] The Government may impose Anti Dumping duty on dumped articles. The question of imposing this duty arises, when the large manufacturers abroad, dumps huge quantity of their products into the country, whether for the purpose of clearing their accumulated stock or for the purpose of crippling domestic industry. Here again, the intention of the Government will be to safe guard the indigenous industries, by way of regulating prices of imported goods. The duty is levied on so much amounts, as is the difference between the Normal Price of such goods and the Actual Purchase price of such goods. If the difference amount can not be determined, the duty will be determined provisionally, and later, after determining the difference and the resultant duty, the balance will be demanded or refunded, as the case may be. Such difference will be called as 'Margin on Dumping'. Such duty can be imposed 90 days prior to the date of notification also.

However, if such dumping is from WTO countries, no anti dumping duty on dumped article will be levied, unless such dumping causes material injury to industry established in India or materially retards establishment of industry in India.

9. **Safe-Guard Duty:** [Section 8-B of the Customs Tariff Act] Central Government is empowered to impose 'Safeguard Duty' on specified imported goods if it is satisfied that the goods are being imported in large quantities and under such conditions that they are causing or threatening to cause serious injury to domestic industry. Such duty is permissible under WTO agreement. The only condition under WTO is that, it should not discriminate between imports from different countries having Most Favoured Nation Status. It means, the levy should be uniform.

Export Duty: At present, 15% export duty is levied only on hides, skins and leather and duty of 10% is levied on snake skins and fur lamb skins. (No export duty is levied on hides, skins and leather of goat, sheep and bovine animals and their young ones). There is no export duty on any other product.

Emergency Power to Increase Duty: The Central Government has been granted emergency powers to Levy or increase export duty - Section 8 of Customs Tariff Act.

Levy or Increase Import Duty - Section 8A of Customs tariff Act.

Valuation of Customs duties:

Customs duty is payable as a percentage of 'Value' or 'Assessable Value'. The values are of two types:

1. Tariff Value as prescribed under section 14(2) of Customs Act.
2. Value as defined in Section 14(1) of Customs Act, which is normally applied in majority of the cases.

Tariff value: Tariff Value means, a predetermined value for certain goods, as determined by the Government and mentioned in the Tariff Act. This is not widely applied, because, it is against the valuation rules and the GATT does not permit the Tariff Value to be determined by the Government. However, very rarely, such value is resorted to for levy of duty. In respect of those goods, for which the Tariff Value is available readily, the duty is to be paid as a percentage on such value.

Customs value as per section 14(1): The value of any goods, as computed, in accordance with the provisions of the Valuation rules, is called the 'Value', 'Assessable Value' or 'Customs Value'. For the purpose of calculation of Value of goods, Section 14(1) lays down certain criteria, on the basis of which, the value is to be determined. The criteria are as follows:

1. Price at which such or like goods are ordinarily sold or offered for sale.
2. Price for delivery at the time and place of importation or exportation.
3. Price should be in the course of International trade.
4. Seller and Buyer should have no interest in the business of each other.
5. Price should be the sole consideration for sale or offer for sale.

The proviso to section 14(1) provides that such sale price shall be calculated with reference to the rate of exchange as in force on the date of presentation of Bill of Entry under section 46 or Shipping Bill/Bill of Export as the case may be under section 50.

From the above, it is clear that, the value of goods imported will be arrived at, in accordance with the above criteria only, notwithstanding anything contained in the Invoice of the exporter.

Each of the above criteria are explained here under:

1. Price at which such or like goods are ordinarily sold or offered for sale: The first criteria is that, price of 'such' or 'like' goods and not the actual price of purchase price, is relevant. If the buyer has incurred some expenditure in connection with the goods under sale, selling price of the goods may be lower. Hence, Rule 9 provides that, such expenses, met by the buyer, which has resulted in lesser invoice price, should be added back. Such expenses may be on account of raw-materials, components, parts, tools, dies etc., or has spent on engineering, development or art work etc., cost of such expenditure will be added back to arrive at the Assessable Value.

Like Goods: If the price of the goods is not available, price of identical goods or similar goods can be considered. However, for such comparison, the condition is that, the price should be for sale for export, price should be for sale to India, sale should be at substantially same quantity of goods, price should be at same commercial level, these should be imported from same country, prices should be of goods sold at or about the same time, goods should be produced by same manufacturer. If it not manufactured by the same manufacturer, other manufacturer can be considered.

Ordinarily Sold: The goods should be ordinarily sold at that price. If the buyer is able to get goods at exceptionally at low price, which was not available to other importers at that time, such price can not be considered as price at which the goods are ordinarily sold. This is so, even if such low price is bonafied, on account of genuine discounts etc.,

2. Price for delivery at the time and place of importation or exportation: This does not mean that, expense only upto the point of Indian Customs water should be included. It includes all expenses upto the destination port, including freight, transit insurance, unloading and handling charges.

Further, price should be for delivery at the time of importation.

3. Price should be in the course of International trade: Price should be in International trade. Price in domestic trade either in exporting country or within India cannot be considered.

4. Seller and Buyer should have no interest in the business of each other: Seller and buyer should not have interest in business of each other. Mere Sale/Purchase or mere collaboration agreement does not create mutual interest. Only buyer having interest in seller or seller having interest in buyer is not enough. Both should have interest in each other's business. Then only it can be said that, there is mutual interest. Even if such interest is there, that, interest should not influence the price of the goods.

5. Price should be the sole consideration for sale or offer for sale: The price should alone be the consideration for sale. If there is any other consideration, and on account of such consideration, there is any reduction in the price of goods, such reduction should be added back to the assessable value of the goods. For example, the buyer, giving some cash loan to the seller free of interest and on account of such consideration, the seller selling the goods to the buyer, at a lower rate, compared to the price at which he is selling the goods to others, such reduced quantum is to be added back to the assessable value.

6. Rate of exchange as on the date of presentation of Bill of Entry as fixed by Central Government should be considered: The rate of exchange as existed on the date of presentation of bill of entry is the criteria, for conversion of foreign currency into Indian currency. The rate of exchange means, the rate applicable for valuation prescribed periodically by Central Government by way of a notification under section 14(3)(a) of the Customs Act.

There are other rates of exchanges, as follows, which should not be considered for conversion purposes: They are 'Inter bank Closing rates' fixed by Foreign Exchange Dealers Association or RBI. Rate at which the Bank has realised the payment from importer is also not relevant.

Valuation Rules for Imported goods:

Valuation under customs has to be done in accordance with the valuation Rules. These rules are based on GATT Valuation code. These rules are only for valuation of imported goods and not applicable to export goods.

GATT Valuation Code: General Agreement on Tariff and Trade (GATT) is an International forum for discussion on customs and other related problems, so that, barriers to world trade are removed. It was realised that there should be a common code for valuation to provide for greater certainty and utility. GATT valuation code was formed with this idea in view. The new code came into effect on 1st January 1981. Some members like USA and EEC introduced the GATT valuation system immediately. India implemented the code from 18th August 1988 by amending Customs Valuation rules. Under GATT code, 'Transaction Value, price at which the goods are actually sold is principal yardstick. However, it is not the only criteria for determining 'value' for Customs purposes. So, the method of Valuation as mentioned under section 14(1A) supersedes the GATT valuation.

Valuation to be determined as per valuation rules only:

Section 14 (1A) provides that, price for purposes of section 14(1) will be determined in accordance with rules made by Central Government. Accordingly, customs valuation (Determination of Price for Imported Goods) rules, 1988 have been framed. This rule is in force from 18th Aug. 1988 and is based on GATT valuation Code. These Rules are Subject to section 14(1), i.e. the customs valuation u/s.14 (1A) will supersede the GATT

valuation code. Further, these rules are to be applied for determining the value of goods to be imported and do not apply for export goods. This rule is to be statutorily followed.

Items to be included and excluded for customs valuation purposes:

The total value of the imported goods will be made up of so many components of expenses. Whereas certain expenses are to be included in the assessable, if they are not included in the value declared. At the same time, there are certain expenses, which are not to be included in the assessable value. As such, such expenses are to be deleted or excluded from assessable value, if they are already included in the Assessable Value. The following is the details about the items to be included in and excluded from the assessable value.

Items of expenditure to be Included:

1. Commission and Brokerage Includable [Rule 9(1)(a)(I) of Customs Valuation Rules, 1988]: The commission paid by the buyer or importer to the commission agent abroad is not to be included.

But, the commission paid to a commission agent in India, whether the importer makes such payment or exporter, such commission is to be included. Service charges paid to canalising agency are includable.

2. Packing cost is includable [Rule 9(1)(a)(ii & iii) of Customs Valuation Rules, 1988]: Cost of packing materials, i.e. the material cost as well as the labour cost of packing materials are to be included in the assessable value, provided the containers are treated as part of the goods.

However, if the containers are returnable to the exporter, then the value of such containers are not to be considered for the assessable, and if the value of such containers are already included in the price of the goods, it is to be deducted.

3. Value of goods supplied by buyer to be added [Rule 9(1)(b) of Customs Valuation Rules, 1988]: If the buyer has supplied goods free of cost or at reduced cost in connection with production or export of goods, these should be included. The goods may be materials, components, parts and similar items incorporated in imported goods. It may be tools, dies, moulds and similar items used in production of imported goods. It may be consumables used in production of imported goods. The inclusion of these is necessary, because, the exporter would have under invoiced the buyer on account of the above supplies made by the importer. Otherwise, his invoice would have been for a higher amount. In the case of tools, which is supplied by buyer to the exporter, the value of tools may be added in its entirety in the first import consignment only. Alternatively, such tools value may be split and added in more than one import consignment, depending on the life of the tools and the quantum of supplies made by the exporter. Similarly to the value of goods, if the importer/buyer has extended any service in connection with the production of goods abroad, the value of such services like, development work, art work, design work and plans and sketches are to be added to the assessable value.

4. Royalty and License Fee [Rule 9(1)(c) of Customs Valuation Rules, 1988]: If the importer has incurred any expenditure in connection with the goods imported, in the form

of royalty and license fee, the same is to be added in the assessable value, if it is not already added.

5. Value of subsequent re-sale if payable to foreign supplier [Rule 9(1)(d) of Customs Valuation Rules, 1988]: If the goods imported is agreed to be sold in India and the proceeds or any part of the proceeds are to be sent to the exporter, then, such portion of the amount intended to be sent to the exporter, is to be added in the assessable Value. However, charges for reproduction of softwares are not to be added to assessable value.

6. Other payments made to seller to be added [Rule 9(1)(e) of Customs Valuation Rules, 1988]: If the buyer has made any other payment, in connection with the goods imported, whether such payments are made directly or indirectly, such payment is to be added for obvious reason that 'ordinary' selling price has been reduced due to such payment.

7. Cost of Transport upto Port should be added [Rule 9(2)(a) of Customs Valuation Rules, 1988]: Cost of transportation from exporting country to India is to be added in Assessable Value. Because, as we know, the CIF price is the criteria for valuation. As such, the amount of transportation upto the completion of importation is to be included in the assessable value. If the actual value of transportation is available, it is to be considered. However, if the value of transportation is not available, or such charges are more than 20% of the FOB Value of the imported goods, the transportation charges should be considered as equivalent to 20% of FOB Value only.

The courts have held that, the air freight charges are very high. As such, even if the goods are brought by air, if there is sea freight charges available, then such sea freight charges should alone be considered. In any case, the cost of transportation shall not exceed 20% of FOB Value of goods imported.

8. Landing Charges to be included [Rule 9(2)(b) of Customs Valuation Rules, 1988]: Landing charges, like unloading charges and handling charges of the goods, shall be taken to be 1% of CIF.

9. Insurance cost should be added [Rule 9(2)(c) of Customs Valuation Rules, 1988]: It is common in transportation to have the insurance for a higher amount, to be on safer side. If the insurance charges are available, such charges should be considered. If it is not available, or the insurance charges are high, it shall be limited to 1.125% FOB.

10. Any additions made to the assessable value should be based on objective and quantifiable data. [Rule 9(3) of Customs Valuation Rules, 1988]: Additions to price should not be on basis of whims and fancies and cannot be arbitrary. If objective and quantifiable data is not available, valuation cannot be made on the basis of transaction value under Rule 4.

11. No other additions to transaction value can be made except those specified above: [Rule 9(3) of Customs Valuation Rules, 1988] Example, if buyer has made expenses for advertising or promoting sales in India or relating to warranties or guarantees, such expenses cannot be added.

Items of expenditure to be excluded: [Notes to Rule 4]: The following items of expenditure do not form part of assessable value. Hence not to be considered. If already included in the assessable value, these should be deducted. They are:

1. Charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation of plant, machinery or equipment.
2. Cost of Transportation after importation of goods.
3. Duties and taxes in India.
4. The price actually paid or payable referees to the price for the imported goods. So the flow of dividends or other payments from the buyer to the seller that has no nexus to the imported goods do not form part of customs value.

The method of valuation under customs, under section 14 (1A), takes into consideration the facts of normal price and many additions and deletions to be made to the purchase price, to arrive at the assessable value.

However, for making the above said additions and deletions, we require a price. That price should be for the same goods. At times, the transaction value of the same goods may not be available. i.e., the value of the same goods, in the course of import or export may not be available at all times or the available transaction value may not be acceptable. In such cases, other parameters are brought in to consideration, for the purpose of ascertaining the value of imported goods.

Methods of valuation for Customs:

The following are the different methods of valuation, in the order of application, under the customs Act.

1. Transaction value of imported (Same) goods.
2. Transaction value of Identical Goods.
3. Transaction value of similar goods.
4. Deductive value, which is based on identical or similar imported goods, sold in India.
5. Computed Value, which is based on cost of manufacture of goods plus profits.
6. Residual method based on reasonable means and data available.

The above methods of valuation are described in detail in the following paragraphs:

1. **Transaction value of imported (Same) goods: [Rule 4]** this is the first and the primary method of valuation. Transaction value is defined as the price actually paid or payable for the goods when sold on export to India. This cost is to be adjusted in accordance with the provisions of the valuation rules, like adding buying agents commission paid in India, Value of materials supplied, cost of freight etc. as explained earlier.

Transaction value means the amount paid/to be paid by the Indian Importer to the foreign supplier. Ex., if the foreign manufacturer has sold the goods to the foreign agent, and

such agent sold the goods to Indian Importer, then the relevant price is the price charged by the foreign agent to Indian Importer, and not the price at which the foreign manufacturer sold the goods to foreign agent.

There are certain conditions for accepting Transaction value as the assessable value. They are:

Goods should be ordinarily sold at that price.

Buyer and seller should have no interest in business of each other.

Price should be sole consideration for sale or offer for sale.

Price should be in the course of international trade.

The above points have already been discussed in detail. The other conditions are as follows:

No restriction on buyer on use of goods.

Sales should be un-conditional

No further consideration to seller.

Buyer and seller should not be related.

Even in the presence of above four elements, the transaction value will be accepted to be the assessable value, provided that these will not have any effect on the assessable value. It means to say, because of the above features present, if any reduction is there in the transaction value, it should be added back and then such added value will be accepted to be the assessable value.

2. **Transaction value of Identical Goods: [Rule 5]** If the valuation is not possible on the basis of "transaction value of Imported/Same Goods", then the next step is to adopt the transaction value of Identical goods. Under this method, the transaction value of the goods imported will not be considered, but, the transaction value of the goods imported will be ascertained, with reference to the transaction value of identical goods. To be identical, the good must satisfy the following conditions: They are,

The goods should be same in all respects, including physical characteristics, quality and reputation; except for minor difference in appearance that do not affect value of goods.

The goods should have been produced in the same country in which the goods being valued were produced.

Same manufacturer who has manufactured goods under valuation should produce them - if such goods are not available, price of goods produced by another manufacturer in the same country.

The goods should be imported at or about the same time. Adjustments for distances and transport costs are to be made.

On the consideration of all the above, if more than one value of identical goods is available, lowest of such value should be taken.

3. **Transaction value of similar goods: [Rule 6]** If the first method and the second method of valuation is not possible, then the 'Transaction value of similar goods' method is applied for arriving the value of goods. A good is said to be similar if the following conditions are satisfied:

The two goods are alike in all respects, have like characteristics and like components and perform same functions. These should be commercially inter-changeable with goods being valued as regards quality, reputation and trademark.

The goods should have been produced in the same country in which the goods being valued were produced. They should be produced by same manufacturer who has manufactured goods under valuation - if such goods are not available, price of goods produced by another manufacturer in the same country can be considered.

Other conditions like, adjustments for commercial level/quantity can be made. If valuation of identical goods is made after adding costs and services as per Rule 9, differences arising due to differences in distances and means of transport should be considered.

If more than one value is available, the lowest of such value should be taken.

4. **Deductive value, which is based on Identical or similar imported goods, sold in India: [Rule 7]** If all the first three methods cannot be applied then the deductive value method, which is based on identical value method or similar value method.

Further this method can be applied, only if the goods of the type that is imported is sold in India. The assumption made in this method is that identical or similar imported goods are sold in India and its selling price in India is available. The sale should be in the same condition as they are imported. Assessable value is calculated by reducing post-importation costs and expenses from this selling price. This is called 'deductive value' because assessable value has to be arrived at by method of deduction (Deduction means arrive at by inference i.e. by making suitable additions/subtractions from a known price to arrive at required 'Customs Value')

The other considerations under this method are, unit price sold in greatest numbers should be considered, price at or about the time of valuation to be considered; if the price available is one which is post processing, then such price is to be reduced by so much amount, as is required to bring the goods to be in line with the imported goods.

5. **Computed Value, which is based on cost of manufacture of goods plus profits: [Rule 7-A]** If valuation is not possible on the basis of all the above four methods, then the computed value method will be employed. However, if the importer requests and the customs officer approve, this method can be employed before deductible value method. Under this method, the value of the goods shall be the total of cost or value of materials and fabrication or other processing employed in producing the imported goods.

An amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by the producer in the country of exportation for export to India.

The cost or value of all other expenses like, transport, insurance, loading, unloading and handling charges.

However, this method to be effective, the manufacturer should co-operate in giving all the required details to the satisfaction of the customs authorities. Further, the quantification of general profit of the manufacturer and the other general expenditure will be really difficult.

6. Residual method based on reasonable means and data available: [Rule 8]

The residual method, as the name implies, if all the above mentioned five methods fail, then this is employed as a last resort. Under this method, the valuation will be made to the best of the judgment of the customs authorities. While deciding assessable value under this method, reasonable means consistent with general provisions of these rules should be the basis and valuation should be on the basis of data available in India.

While arriving at 'best judgment price' some assumptions, extrapolations and estimations are un-avoidable. However, there are certain prohibitions, which the assessing authority shall not employ, while determining the assessable value as mentioned in sub-rule (2) of this rule. They are:

Use of selling price in India of goods produced in India System of accepting highest of the alternative values Price of goods prevalent in the country of exportation (Example, if goods are imported from UK, price of the goods within UK cannot be considered, as it is not a price in the course of import or export) Price of goods for export to a country other than India.

Minimum customs values Arbitrary or fictitious value. In other words, selling price for export to India can alone form the basis. Thus, tariff value is really against this.

Procedure for Import and export:

There are different modes of importation and exportation of goods. They are by way of post parcels, Baggage with passengers and other modes. The imports can be through Air, Sea or land. This chapter covers the procedures for importation and exportation by seas, air or land of goods, other than post parcels and baggage with passengers.

Before proceeding to study the importation and exportation procedure, a revision of the following definitions, which is already discussed is necessary.

Definitions:

1. **Customs Port - Section 2(12)** defines customs port as (a) port appointed under section 7(a) by Central Government and (b) Inland Container Depot appointed by Central Government under section 7(aa) of Customs Act. As per section 29(1), customs Act, vessel-entering India from a place out of India must land only at Customs port.

2. **Customs Airport - Section 2(10)** defines Customs Airport as airport appointed by Central Government by notification under section 7(a). As per section 29(1), aircraft entering India from a place outside India must land only at customs airport.

3. **Land Customs Station** - This is a place appointed under section 7(b). Goods imported by land route will be first received here. Once goods enter India by land route, they should follow prescribed route only to come to land customs station. Commissioner is authorized to specify the limits of 'Customs Area' and approve places for loading and unloading of goods. Thus, Central Government appoints Customs Stations, i.e. town/city etc. While actual place within that city/town is approved by Commissioner.

4. **Inland container depot/container freight stations** - Present trend in transport is to stuff the goods in large containers and carry these containers. Such containers are easy to load and unload with help of cranes. Once the containers are unloaded at the port, these containers are carried to Inland Container Depots (ICD) and stored there. These are then cleared from such depots.

Container Freight Stations (CFS) can be taken as extended arm of the port/ICD. It can function like full-fledged customs station or it works like a 'dock' where examination and sealing of export cargo can be done.

Import Procedures: Importation of goods means, bringing in of goods into India, from out-sides India. In the importation of goods, the role of many different persons is important and they have to follow certain procedures. The important role is that of Importer, Person-in-charge, CHA etc.,

The importer, is actually the buyer, who is importing the goods from out-side India. The Person-in-charge means the person who actually undertakes the transportation work of goods to be imported. So, the person in charge can be a Master, if the goods are transported through ship, Pilot or Commander, if the goods are transported through Air, conductor or Guard, if the goods are transported through Railways, Driver or other person, if the goods are transported through other vehicles.

Now, you know who an importer is and who a person-in-charge is. Now, we will discuss in detail, the procedures to be followed and the different documents involved in importation of goods.

Procedure to be followed by the carrier (person-in-charge) and the different documents involved

1) Arrival at customs port/airport only: Section.29 provides that, when a carrier (Whether a Ship, Aircraft) enters India shall land or arrive only at the specified Port or AirPort. Further, if the import is through land, it should also follow the specified route to arrive at the specified Land Customs Station.

If accidents, stress of weather or other un-avoidable reasons compel the situation, landing will be permitted at other places. If the landing is at other places, except the Specified

Port, Airport or the Land customs station, the person-in-charge should immediately report to the nearest police station, of the fact of his such landing.

2) Submission of Import Manifest: Import Manifest is a document, which, among other things, has the detailed contents on the following:

- a) Cargo to be Un-loaded.
- b) Un-accompanied Baggage.
- c) Goods to be transshipped.
- d) Retention Cargo.
- e) General declaration about the Vessel/Air-craft
- f) Stores on Vessel/Air-craft
- g) Private property of Captain/Master/Driver/other members of crew.
- h) Passengers manifest.

The term 'import manifest' or 'IGM' (Import general Manifest) is used, if the goods are brought through Vessel or Aircraft. On the other hand, if the goods are brought through vehicle (other than Vessel or Aircraft) it is called as 'Import report'. In the foregoing paragraphs, the term 'Import Manifest' is used, generally.

The import manifest is to be submitted in duplicate. The person in charge has to submit the Import Manifest to the customs authorities, within 24 hours after arrival at the customs station.

If, after submission of Import Manifest, any changes are required to be made by the person in charge, such changes are permitted, provided that, such changes are not with any fraudulent intentions. For Example., if the person in charge wants to change the name of the importer, such changes will not be permitted.

Advance submission of Import Manifest: Customs Act also provides for submission of import manifest, even before arrival of vessel or aircraft. Normally, the steamer agent will submit the import manifest even before arrival of the vessel / aircraft/ vehicle. The purpose of submission of import manifest in advance is to see that, the maximum possible formalities are completed even before arrival and this will also enable the importers to file the bill of entry in advance.

3) Grant of entry inwards by Customs Officers: The person in charge has to obtain 'entry inwards' from the customs authorities for the purpose of unloading the goods mentioned in the import manifest. The customs authority will grant the entry inwards, only if there is berthing accommodation for the vessel. Otherwise, entry inward will not be granted until the berthing accommodation is granted to the vessel.

4) When the entry inward is granted to the vessel, the unloading of goods can be started. It is the duty of the person in charge to see that, he starts unloading the goods on obtaining entry inwards and further he should see that, the unloading of only goods reported in the import manifest takes place. The unloading is to be done only at the approved place and it is done under the supervision of customs officer. Unloading can be done on Sundays and holidays also, on payment of prescribed fees. Customs officer is

empowered to ask for any document or queries to be answered for the purpose of carrying out the provisions of the Act.

5) Once the goods are unloaded from the vessel or aircraft or vehicle, it remains in the custody of authorities approved by the commissioner of customs, until they are cleared. Port Trust Authorities are the proper authorities in respect of goods unloaded in major ports and International Airport Authorities of India (IAAI) are the proper authorities in respect of goods unloaded in airports. Even though the PTA and IAAI are the authorities to have the possession of the goods, they will be holding it in trust and the customs authorities will continue to exercise control over the goods. At the time of handing over the goods, the port authorities will prepare a 'Tally Sheet', which is a statutory record. If the goods are found short, the importer has to initiate remedial measures like insurance survey, etc., as early as possible.

The person in-charge is responsible for any shortage of goods in transit and he is liable to pay penalty upto 2 times the duty payable on such short landed goods. The shortage of goods is determined, with reference to the tally sheets prepared by the port authorities.

6) After the goods are unloaded, or in the case of a vessel / aircraft / vehicle carrying export goods, the person in-charge can leave the customs station only after obtaining a written order from the customs officer. The customs officer will issue such order only after satisfying himself that, (a) export manifest is submitted (b) shipping bills or bills of export, bills of transshipment etc. are submitted (c) duties on stores consumed are paid or payment of the same is secured (d) no penalty is leviable (e) export duty, if applicable, is paid.

PROCEDURE TO BE FOLLOWED BY THE IMPORTER AND THE DIFFERENT DOCUMENTS INVOLVED

While the person-in-charge submits the Import Manifest or Import Report, the importer is required to submit the "Bill of Entry".

Bill of Entry: - This is a very vital and important document, which every importer has to submit under section 46. The Bill of Entry should be in prescribed form.

The form requires various details like

- (a) Importer's name and address
- (b) Importer's code
- (c) Customs House Agent Name, Address and License No.
- (d) Code of Custom House Agent
- (e) Vessel's Name
- (f) Rotation No and date
- (g) Line number
- (h) Port of shipment

- (I) Country of origin
- (j) Country of consignment (if different)
- (k) Bill of lading no and date
- (l) No and description of packages and marks and number of packages
- (m) Quantity of goods with unit code, weight/volume/number etc. As applicable
- (n) Description of goods
- (o) Customs tariff heading, exemption notification number, nature of duty etc.
- (p) Assessable Value under section 14 of Customs Act
- (q) Customs duty rate and amount
- (r) Central Excise Tariff and exemption notification number and date
- (s) Value for purposes of section 3 of Customs Act
- (t) Rate and amount of additional duty
- (u) Total duty payable.

Further, details of Assessable Value like

- (1) Invoice Value-FOB/ C & F/ CIF as the case may be
- (2) Freight
- (3) Insurance
- (4) Currency Code
- (5) Exchange Rate
- (6) Loading/Local Agency Commission
- (7) Miscellaneous charges
- (8) Total value
- (9) Landing Charges
- (10) Assessable Value in Rupees is to be given.

Details of Import licence like licence Number and value debited to licence is also to be given. A declaration that the details are true and there is no other document showing different price, value or quantity is also incorporated in the form.

All these columns are highly relevant for deciding classification of goods, calculating the customs duty payable and to ensure that import is with proper authority. Importer himself or his Customs House Agent (CHA) can sign this Bill of Entry.

Types of bill of entry:

Bill of entry is of three types, depending on when the importer desires to clear the goods.

(I) If the importer wants to get the goods cleared, without depositing it in the warehouse, such clearing is called clearance for home consumption. "Bill of Entry for Home Consumption shall be in Form No.22".

Under this method of clearance, the goods are cleared immediately after the importation's is made and the full duty of customs is paid. This bill of entry will in White Colour. Hence it is also called as 'White Bill of Entry'.

(ii) If the importer wants to deposit the goods into the warehouse after they are imported, such clearance is called Clearance for Warehouse. "Bill of Entry for Warehouse shall be in Form No.23".

If the imported goods are not required immediately, importer may like to store the goods in the warehouse without payment of duty under a bond and then clear from warehouse when required, on payment of duty. This will enable him to defer payment of customs duty till goods are actually required by him. This Bill of Entry is printed on yellow paper and often called 'Yellow Bill of Entry'. It is also called as 'Into bond Bill of Entry', as bond is executed for transfer of goods into warehouse without payment of duty.

(iii) The third type, is actually a clearance from the warehouse, of the goods, which was deposited into the warehouse. This clearance of goods from warehouse is called "Bill of Entry for Ex-bond Clearance for Home Consumption" and it shall be in Form No.24.

As has been stated above, when the importer requires the goods deposited in to the warehouse, he can get the goods cleared from the warehouse. This is called Ex-bond clearance. The duty is paid on clearance of goods from warehouse and the bond already executed at the time of depositing the goods into the warehouse is released. The question of classification and calculation of assessable value does not arise here, because, classification and assessment of duty will be done at the time of depositing the goods into the warehouse.

There are no major differences in these three types of bill of entry. But, there will be different declarations, depending on whether the goods are meant for home consumption, clearance for warehousing or ex-bond clearance.

In the case of clearance for home consumption, the rate of duty existed on the date of presentation of bill of entry is relevant.

In the case of clearance for warehousing, the classification and assessable value will be done. But, the payment of duty will be deferred until the goods are cleared from warehouse. Thus, if there any change in the rate of duty between the date of warehousing and the date of ex-bond clearance, the rate existed on the date of ex-bond clearance is applicable.

However, for the purpose of conversion of foreign currency in to equivalent Indian Rupee, the exchange rate prevailing on the date of presentation of bill of entry shall be considered in all the three cases.

Further, whether the importer is going to file Form 22, 23 or 24, the import manifest to be submitted by the person-in-charge will not vary. It remains the same.

Amendment of Bill of Entry: If after submission of Bill of Entry, the importer feels that it requires any amendment to be made, he is permitted to do so, on the basis of documentary evidence in existence at the time of clearance.

Substitution of Bill of entry: The bill of entry submitted for 'Home Consumption' can be substituted by 'Bill of Entry for warehousing' or vice versa, with permission of assistant commissioner of customs. Such permission can be granted even when importer has submitted advance bill of entry for noting. Such permission will be given if the interest of revenue is not adversely affected.

Filing of Bill of Entry: Normally, Bill of entry is filed by 'Customs House Agent' (CHA), on behalf of the Importer. The bill of entry can be filed on electronic media like floppy also, where the customs work has been computerized. Delhi.

Advance Submission of Bill of Entry: The formalities associated with importation of goods are very time consuming. Hence, the importer should plan the transaction in such a way that, he completes as many formalities as possible even before the arrival of ship or aircraft. He is permitted to submit the "Advance copy of Bill of entry" upto 30 days prior to the expected date of arrival of vessel/aircraft (Particularly Vessel). He can submit this, even before submission of Import Manifest by the person in charge. He has to submit additional copies of advance copy of bill of entry. The customs authorities as 'Advance Noting' will note this bill of entry and they will issue 'Thoka Number'. On the basis of this copy, the assessment will also be made. But, the importer or CHA should file the 'Bill of Entry' for the second time, after the person-in-charge file the Import Manifest. If the final bill of entry is not submitted within 30 days from the date of filing advance copy, a fresh bill of entry is to be submitted and the earlier advance copy will be treated as canceled for all purposes. The advance copy of bill of entry can be for Home Consumption or warehousing or it may be under 100% EOU Scheme or DEE Scheme. At times, it may be necessary to amend the Bill of Entry. For Example, if the mother vessel is not given the berthing accommodation, the goods will be shifted from the mother vessel to the feeder vessel. In that event, the importer will know the name of the feeder vessel only at the last moment. Hence, he should mention the name of the mother vessel and the feeder vessel in the Bill of Entry. These types of amendments are permitted, as there are no fraudulent intentions or there is no question of any loss of revenue. The rate of duty prevailing on the date of granting of 'entry inward' is the relevant date of levy of duty.

Other Documents to be submitted by the importer:

Apart from filing of 'Bill of Entry', the importer is required to submit other documents also to enable the customs authorities to check the goods, decide value and classification of goods and to ensure that the import is legally permitted.

The following are the documents that are essentially required to be filed by the importer.

- a. Invoice

- b. Packing List
- c. Bill of Lading/Delivery Order
- d. GATT declaration duly filled in
- e. Importers/CHAs declaration duly signed
- f. License or attested photocopy when clearance is under license.
- g. Insurance Memo or Insurance Policy.
- h. Certificate of Country of Origin, if preferential rate is claimed.
- i. Contract Agreement
- j. Proforma Invoice
- k. Letter of Credit
- L. Bank Draft
- m. Insurance Policy
- n. Certificate of Origin
- o. Test Certificate
- p. Industrial License (if required)
- q. Concessional duty certificate
- r. Catalogue/drawings
- s. Split value for spares/components etc.,

The submission of all the above documents to the customs authorities will lead to speedy process of the import consignment, assessment of duty and speedy clearance of goods.

Apart from the above documents, the importer is required to file a declaration. Such declaration is to be filed only by the Importer and not by the CHA. The contents of such declaration shall be to the effect that:

- a) The contents of invoice and other documents relating to the goods are true and correct.
- b) There is no other documents' having different price, value, quantity or description.
- c) Importer has to state whether goods are imported on outright purchase or on consignment as agent.
- d) Declaration whether he is or is not connected with supplier as agent/distributor/branch/collaborator etc.,
- e) Declaration that method of invoicing has not changed since the date on which books of account/agreement with suppliers were previously examined by customs house.

The purpose of this declaration is to ensure that valuation for customs purposes is correct.

For more details, a reference may be made to the Bill of Entry under skill development.

Some of the terms appearing in the Bill of Entry and their explanation in short

Rotation number and date- As soon as Import Manifest is submitted to customs authorities by person-in-charge of conveyance, it is checked and recorded. A serial number is given which is a running serial number, called 'rotation number'. Bill of Entry in respect of all cargo included in that manifest must mention that number for correlation.

Line number - Import Manifest contains list of all goods being imported. These are serially numbered. Line Number is the serial number in the Import Manifest, where the goods contained in the Bill of Entry are mentioned.

Receipt of carrier - Where the consignor (seller) hands over the goods to a carrier for transport, the carrier of goods hands over a receipt of the same. This is called 'Parcel Way Bill' for road transport; R/R - 'Railway Receipt' for booking by rail; 'Bill of Lading' for sea consignment and 'Air Way Bill' for goods sent by air. These are 'documents of title' and the consignor directly sends the documents of title to goods to the consignee. The goods are handed over to the consignee (who is a buyer or his agent) at other destination after the document of title to goods is handed over by buyer to the transporter.

Documents through bank - Normally, 'Carrier Receipt' seller sends (airway bill or bill of lading) to his (i.e.seller's) banker. (This is called sending documents through Bank). These documents are then forwarded by seller's bank to buyer's bank. The buyer gets the 'Carrier Receipt' from his Bank only on payment of price of goods. He can then clear the goods from sea port/airport by submitting the carrier Receipt (Bill of lading/air waybill). The Buyer's Banker sends the remittance to seller's bankers after the buyer has made payment and buyer collects 'carrier receipt'. Advantages to seller are that Bank hands over transport document to buyer only after receipt of price of goods from buyer. Thus, his receipt of money is secured. Advantage to buyer is that he has to pay only when goods are actually dispatched by seller.

Letter of credit (L/C) - The L/C is given by buyer's bank. L/C is in effect a promise by buyer's bank to seller that once he (i.e.seller) dispatches the goods and sends the transport document to Buyer's Banker, the payment will be made by Buyer's Bank. Thus, seller is assured of getting payment of goods even if buyer fails to make payment for any reason.

CIF/CFR/FOB - These are various methods of quoting prices. In case of domestic sale, the seller may specify the price as 'ex-factory', i.e. for delivery from his factory or 'ex-godown' i.e., for delivery from his godown. In case of ex-factory or ex-godown price, all further expenses are to be born by buyer. This is not convenient for export sales, as the foreign buyer cannot arrange to take delivery from the seller's factory/godown, which is in foreign country. In such cases, the seller may quote 'FOB Price'. FOB means 'Free on Board'. I.e., price includes all costs and expenses upto loading the consignment on Board of ship/aircraft. At times, buyer may wish that seller may pay transporter's charges the freight i.e.. In such cases, seller may quote 'CFR Price'. 'CFR' means 'Cost and Freight' i.e., freight charges upto destination are included in the price (earlier this was called 'C and F'. Now, the abbreviation is changed to 'CFR' as per international convention). If

seller also pays insurance charges the price is 'CIF' i.e., Cost, Insurance and Freight' included price.

EXPORT PROCEDURES:

Procedures have to be followed by (a) 'Person-in-charge of conveyance' and (b) the exporter. The procedures are similar to procedures for import, of course, in reverse direction.

Procedures by person in charges of carrier - The 'person in charge of carrier' has to follow prescribed procedures.

Entry outward- The vessel should be granted 'Entry Outward' Loading can start only after entry outward is granted. (section 39 of Customs Act). Steamer Agents can file 'application for entry outwards' 14 days in advance so that intending exporters can start submitting 'Shipping Bills'. This ensures that formalities are completed as quickly as possible and loading in ship starts quickly.

Loading with permission - Export goods can be loaded only after Shipping Bill or Bill of Export, duly passed by Customs Officer is handed over by Exporter to the person-in-charge of conveyance. In case of baggage and mail bags, shipping bill is not necessary, but permission of Customs Officer is required (Section 40).

Export Manifest -As per section 41, an Export Manifest/Export Report in prescribed form should be submitted before departure. The details required are similar to import manifest. Such manifest/report can be amended or supplemented with permission, if there was no fraudulent intention. Such Report should be declared as true by the person-in-charge signing the export manifest. This report is not required if the conveyance is carrying only luggage of occupants.

Conveyance to leave on written order - Conveyance can leave only after written order is issued by customs officer. Such permission is not required if the conveyance is carrying only luggage of occupants.

Procedures to be followed by Exporter - Exporter has to submit 'shipping bill' for export by sea or air and 'bill of export' for export by road. Relevant documents i.e.copies of packing list, invoices, export contract, letter of credit etc. are also to be submitted. Goods have to be assessed for duty, even if no duty is payable for most of exports, as 'NIL DUTY' assessment is also an assessment.

Shipping Bill to be submitted by Exporter - Shipping Bill and Bill of Export Regulations prescribe form of shipping bills. There are five forms:

- (a) Shipping Bill for export of goods under claim for duty drawback - these should be in Green colour
- (b) Shipping Bill for export of dutiable goods - this should be yellow colour
- (c) shipping bill for export of duty free goods - it should be white colour

(d) shipping bill for export of duty free goods ex-bond - i.e. from bonded store room - it should be pink colour

(e) Shipping Bill for export under DEPB scheme - Blue colour

The shipping bill form requires details like name of exporter, consignee, Invoice Number, details of packing, description of goods, quantity, FOB value etc. Appropriate form of shipping bill should be used.

Serial number on shipping bill - Customs authorities give serial number (called 'Thoka Number') to shipping bill, when it is presented.

Declaration of exporter - Exporter has to make appropriate declaration in prescribed form. The declaration/s may be

(a) declaration in case of export of goods under claim for drawback

(b) declaration in case of export of goods under DEEC scheme

(c) declaration in case of export of goods in anticipation of issue of advance license/DEEC

(d) declaration for consignments covered by AR-4 pending Weighment at docks

(e) declaration by exporters who filed shipping bill without certificate from inspection agency.

(f) declaration in case of export under DEPB scheme.

Excise formalities at the time of Export - If the goods are cleared by manufacturer for export, the goods are accompanied by AR-4. This form should be submitted to customs authorities. The Customs Officer certifies that the goods under this form have indeed been exported. This form has then to be submitted to Maritime Joint Commissioner for obtaining 'proof of export'. The bond executed by Manufacturer-exporter with excise authorities is released only when 'proof of export' is accepted by Maritime Commissioner.

Duty drawback formalities- If the exporter intends to claim duty drawback on his exports, he has to follow prescribed procedures and submit necessary papers.

GR form under FERA - Reserve Bank of India has prescribed GR form under FERA. "GR" stands for 'Guaranteed Receipt' form. The Import / Export code number allotted by Director General of Foreign Trade (DGFT) should be indicated on the GR form. The GR form are printed and supplied by Reserve Bank of India to Banks. Purpose of GR form is to enable RBI to ensure that export proceeds from the export are received in India through proper banking channels only.

Other documents required for export - Exporter also has to prepare other documents like

(a) Commercial Invoice

(b) Packing List

(c) Certificate of Origin

(d) Insurance policy. (After the goods are shipped, the carrier will issue 'Document of Title' (Air way bill or Bill of Lading). This is a 'document of title', and will have to be negotiated through bank by preparing Bill of Exchange (Hundi).)

RCMC certificate from Export Promotion Council - Various Export Promotion Councils have been set up to promote and develop exports. (e.g. Engineering Export Promotion Council, Apparel Export Promotion Council, etc.) Exporter has to become member to become member of the concerned Export Promotion Council and obtain RCMC - Registration cum membership Certificate. IEC Code Number from DGFT - The exporter has to register himself with Director General of Foreign Trade (DGFT) and obtain Import Export Code Number (IEC). This code number will be used by RBI also and separate code number from JRBI is not necessary. Export License, if required - Some goods are prohibited for exports. Some goods can be exported only against license. If a license is required, the same has to be produced before customs authorities. Quality control report in certain cases: Impression about quality of 'Made in India' is abroad. In order to ensure quality it is provided that, some specified goods can be exported only after export inspection is carried out. In such cases, required pre-shipment inspection report should also be submitted. However, this was leading to bottlenecks in exports. Indian manufacturers are also now becoming quality conscious. Now such inspection is not required in following cases:

- a. Exports through Star Trading Houses, Trading Houses and Export Houses
- b. Industrial units set up in FTZ and 100% EOU.
- c. If overseas buyers are not interested in such pre-shipment inspection and give firm letter to that effect

Check over prohibited exports: Some exports are totally prohibited under various acts, i.e., items restricted or prohibited under foreign trade (regulation Act, Antiques; art treasures; Arms; Narcotics etc., Some items like tea, coffee and coir products can be exported only against authorization / license under respective acts.

Examination of goods before export: Goods will have to be examined by customs authorities. This inspection is necessary for the purpose of ensuring that; Prohibited goods are not exported. Goods tally with description and Invoice Duty draw-back, where applicable is correctly claimed

"Let Export Order" by customs authorities: Customs officer will verify the contents and after he is satisfied that goods are not prohibited for exports and export duty if applicable is paid, will permit clearance, by giving 'Let Ship' or 'Let Export' order.

Other customs procedure:

Beside the aforesaid procedures, various other procedures have been prescribed. These are mainly to be followed by the person in charge of carrier.

Boat Noats: If the vessel has to un-load only a small charge, it may have to spend time in having berth accommodation in the port. If the small cargo is to be sent to shore, it may be loaded in small boats and sent to shore. As per sec.35, such small boat must be accompanied by a boat note. Boat note regulations provided that such boat noats will be issued by customs officers. It will be maintained in duplicate and should be serially numbered. Boat Noat should be in prescribed form.

In case of export, if small export cargo is to be loaded into ship through small boat, no boat note is required, if the cargo is accompanied by the shipping bill. Otherwise, Boat Note is required. Boat Note is also required for transshipment of cargo. i.e., for transfer from one ship to another or for re-shipment.

Transit Goods: Transit goods are those goods, which are on the ship, air-craft or vehicle, but which are not meant for un-loading. They will be moving to some other ports/countries. But, the person in charge has to make a mention of all those goods which are on board for transit and not for un-loading. However, he cannot carry any goods as transit goods, which are prohibited.

Goods in transit can be carried by the person in charge, with out payment of duty, until they are un-loaded.

Transshipment of Goods: Transshipment of goods means shifting of goods from only ship/aircraft/vehicle to another ship/ aircraft/ vehicle. Transshipment is allowed at all ports/airports/land customs station. Such transshipment goods may be meant for carrying to any other port/airport etc., But, the transshipment should be bonafied. Goods to be transshipped must be mentioned in Import Manifest or Import Report and a 'Bill of Transshipment' should be submitted to customs officer. Such goods should not be prohibited goods u/s.11 of customs act. The goods should be sealed during transshipment by customs officer. A bond has to be executed for the purpose. After execution of bond, a certificate from the customs officer has to be submitted within one month, that, goods have been properly transferred. Transshipment permitted goods can leave the port, airport etc., only on 'Let Transshipment' order issued by the customs officer, permitting the transshipment. After the goods actually reach the other port, air port or land customs station etc., and the duty is actually paid, a certificate to the effect that, the goods have actually reached the other end and duty is paid is to be obtained from the customs officer and should be produced before the customs officer, who permitted the transshipment. on production of such certificate, the bond executed initially will be released.

If during transit of goods from one Indian port to another Indian Port, if the vessel,aircraft or vehicle passes through the territory of any foreign country, special permission is to be obtained and bond is to be executed as may be necessary.

Coastal Goods: Coastal goods means goods transported from one port in India to another port in India, but does not include imported goods. Thus, Coastal goods means goods taken by ship from one Indian port to another. No export or import is involved, but control is necessary to ensure that coastal goods are not diverted illegally for export.

Coastal ports - Section 7(d) provides that trade in coastal goods can be carried out only at approved 'Coastal Ports'.

Loading of coastal goods - The Consignor should submit bill of coastal goods to Customs Officer (sec.93). Form of the bill has been prescribed. These will be loaded by master of vessel only after 'bill of coastal goods' is passed (sec.93). Master of Vessel will carry a 'Advice Book' where entries will be made by Customs Officer. This 'Advice Book' has to be presented for inspection of Customs Officer, if called for. After loading, the vessel can leave only after obtaining written order from Customs Officer. exemption has been granted for delivery of 'Advice Book' at each port of call. However, the 'advice Book' will have to be submitted for inspection on board of vessel, when called for.

Unloading of coastal goods - Unloading of coastal goods should be done only at Customs Port or coastal port appointed by Central Government under section 7 of Customs Act. On arrival, all bills relating to goods which are to be unloaded will be delivered to Customs Officer. Unloading can be done only after obtaining permission from Customs Officer. Customs Officer can inspect goods and ask for questions and documents relating to goods. Goods will be unloaded at approved place under supervision of Customs Officer.

Central govt. Can relax the provisions - Central Government can relax the provisions regarding restrictions on movement of coastal goods, by issuing notification - section 98A of Customs Act.

BAGGAGE

Baggage [Sec. 2(3)]: "Baggage" includes unaccompanied baggage but does not include motor vehicles.

Declaration by owner of baggage [Section 77]: The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

Relevant date for determination of rate of duty and tariff valuation [Sec. 78]: The date on which the owner of the baggage makes a declaration.

Relevant date in case of unaccompanied baggage : The rate of duty as in force on the date of arrival of the unaccompanied baggage would be leviable and not as in force on the date of advance information on the arrival of the passenger.

Section 79: This sec authorize the CG is to framed different Baggage Rules and specified different terms and conditions, value, limits etc.

Temporary detention of baggage.

Section 80 provides that where the baggage of a passenger contains any article (a) Which is dutiable or the import of which is prohibited, and

(b) In respect of which a true declaration has been made under section 77, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India.

Section 81: this sec authorize Board to make regulation for baggage

Rate of customs duty on baggage

Baggage is classified in Customs Tariff in Chapter 9803, irrespective of actual classification as per Customs Tariff. Rate of duty on baggage shall be 35% plus Cess as applicable. Thus, total customs duty on baggage is 36.05%.. Baggage is exempt from CVD.

Exemption to laptop computer - Laptop computer brought as baggage by person over 18 years of age is fully exempt from customs duty

General free allowance

Age of the passenger	Duration of stay abroad	Value upto which articles allowed dutyfree
(a)10 years or above	(i) More than 3 days	Rs.25,000
	(ii) 3 days or less	Rs.12,000
(b)Upto 10 years	(i) More than 3 days	Rs.6,000
	(ii) 3 days or less	Rs.3,000

Annexure I: (1) Fire Arms (2) Cartridges of fire arms exceeding 50. (3) Cigarettes exceeding 200 or cigars exceeding 50 or tobacco exceeding 250 gms. (4) Alcoholic liquor or wines in excess of 2 litres. (5) Gold or silver, in any form, other than ornaments.

POSTAL ARTICLES

Section 82: label or declaration accompanying the goods, which contains the escription, quantity and value thereof, shall be deemed to be an entry for import or export under this Act.

Entry = label/declration

Rate of duty and tariff valuation [Section 83]: The rate of duty and tariff valuation shall be –

(1) **In case of goods imported by post:** The date on which the postal authorities present a list containing the particulars of such goods to the proper officer of customs.

However, if such goods are imported by a vessel and the list of the goods was presented before the date of the arrival of the vessel, it shall be deemed to have been presented on the date of such arrival.

(2) **In case of goods exported by post:** It shall be the rate and valuation in force on the date on which the exporter delivers such goods to the postal authorities for exportation.

Regulations regarding goods imported or to be exported by post [Section 84] : The Board may make regulations

Gifts by post - Gifts from abroad upto Rs. 10,000 of goods which are not prohibited goods for import are duty free if sent by post or through courier. The postal charges or air freight will not be taken into account for determining value limit of Rs. 10,000. However, if the value exceeds Rs. 10,000, customs duty is payable on whole value even if gift was received unsolicited.

FLOW CHART FOR POSTAL PARCEL

