Practical Problems on Customs

Theory relevant to practical problems:

Valuation under Customs:

1. Tariff Value as prescribed under section 14(2) of the Customs Act : In this case, the value of the goods will be available in the Tariff Act. Hence, independent valuation is not required. Both value as well as tax/duty rate will be available in the Tariff Act. Duty to be calculated accordingly.

2. Value or assessable value or customs value as prescribedunder section 14(1) of the Customs Act:

This value is called as the value, assessable value or customs value. This is based on the transaction value i.e., the value at which the goods are sold and bought. There are certain conditions for acceptance of transaction value as the value. They are:

1.The price should be one at which such or like goods are ordinarily sold or offered for sale.

2. The price should be for delivery at the time and place of importation or exportation.

3. The price should be in the course of international trade.

4. The seller and buyer should have no interest in the business of each other.

5. The price should be the sold consideration for sale or offer for sale.

If all the above conditions are fulfilled, then the transaction value can be taken as Value. If not, the required additions / deletions will have to be made to the transaction value to arrive at the Customs Value or Assessable Value.

What are the inclusions and exclusions:

Inclusions: (If not already included)

1. Commission paid to Indian Agent, whether by the importer or exporter. But, the commission paid to agent abroad should not be included.
2. Packing cost, including packing labour.
3. Value of goods supplied by buyer. (Suppose the exporter exports a machinery at FOB $ 2000 and the Indian Importer has supplied drawings to the exporter worth $ 200, the exporter, while charging will not consider $ 200 because, the exporter has not met that expenditure. In that case, to arrive at the proper value of the goods $ 200 to be added to FOB, to arrive at CIF Price. Similarly, if the importer has lent some financial assistance, free of cost / interest, say Rs.12 Lakhs for 4 Months (between order date and delivery date), then, the interest amount will be Rs.40,000 at 10% for 4 months. The exporter would have charged less to that extent. To arrive at the proper value of goods, such amount is to be added to FOB to arrive at the correct CIF price. On the other hand, if the importer charges for the drawing and also charges interest on funds lent, then there is no need to add them back, because, the exporter will not reduce the FOB in such cases.
4. Royalty and Licence Fee incurred by the importer.
5. Value of subsequent resale, to be paid to exporter.

6. Other payments made to exporter, having nexus with goods imported.
7. Cost of transport upto Indian Port from Port abroad. This cost is restricted to 20% of FOB. If the transport cost is not given in the problem, 20% of FOB is to be taken as transportation. If, transportation charges is given, it should be considered at its actual or 20% of FOB, whichever is lower.
8. Landing charges like unloading and handling charges in Indian Port should be considered at 1% of CIF, irrespective of actual.
9. Insurance cost should be included at its actual. If insurance is not given, then only it should be calculated at 1.125% of FOB.

Exclusions: (if not already excluded)

1. Charges for construction, erection, assembly, maintenance or technical assistance under taken after importation of plant, machinery or equipment.

2. Cost of transportation after importation of goods from Indian Port to the place of business of the importer.

3. Duties and taxes in India

Rate of Duty: **The rate of duty as prevailing on the date of presentation of bill of entry alone should be considered**. The rates prevailing on any other date should not be considered.

Rate of Conversion: **The rate of conversion under section 14(3)(i) of Customs Act, which is also called as rate as per CBEC should be considered.** Other conversion rates like inter Bank Closing Rates, RBI Floor Rate or the rate at which importer actually released payment etc., should not be considered.

FOB and CIF:

FOB stands for Free on Board. It means, FOB price will be inclusive of value of goods, transport, insurance, loading and unloading charges in the exporter's country, i.e., from the place of business of the exporter to the port or air port in exporters Country. These are includable for valuation purposes. But, the price quoted by the importer will be inclusive of all these. So, FOB price is a price that is quoted by the exporter for the goods and for all expenses upto the point of loading these goods in exporters country, on board of a ship or an air craft.

CIF: Cost, Insurance and Freight.

The Cost is nothing but the aforesaid FOB.

The insurance is the transit insurance from exporters country to importers country. If insurance expenses are given in the problem, the same should be considered. If it is not given, then only it should be calculated at 1.125% of FOB. Here FOB means the FOB as given in the problem. If the transaction value is altered due to supply of materials by importer or supply of interest free funds, etc., such altered amount should not be considered to calculating 1.125%.

Freight: Freight for transportation of goods from exporter's country to Indian port or air port. If Freight is given in the problem, the actual freight or 20% of FOB as given in the problem, whichever is less is to be considered. If the transaction value is altered due to supply of materials by importer or supply of interest free funds, etc., such altered amount should not be considered to calculating 20%. If freight is not given in the problem, it should be considered at 20% of original FOB as given in the problem.

Landing Charges: The landing charges means the expenses of un-loading and handling charges in Indian Port for unloading the goods. This is always calculated at 1% of CIF. For the purpose of CIF, all additions made like goods supplied by the buyer, interest free finance etc., should be considered and 1% on such value will be the landing charges, irrespective of the actual expenses incurred. It means, the actual expenses incurred for un-loading goods in Indian Port or handling charges in Indian port is not the criteria for calculation of Landing Charges.

While solving the problem, make sure that you are adding amounts of same currency. If not convert the currency uniformly into rupees and then only do the additions or deductions.

Calculation of customs and other duty on Assessable Value:

Bassic Customs Duty : This duty is levied on almost all imports, at the rates specified in Customs Tariff Act. The duties are of 2 types. (1) Preferential Area Duty (2) Standard Rate. Preferential area rate means the concessional rate, when imports are from certain countries, with which India has Trade Agreements. Standard Rate, which may be equal to or more than preferential area rate, is applicable if imports are from other countries, where such trade agreement does not exist.

Additional duty or Countervailing Duty (CVD): This duty is levied on goods imported, which is according to the Central Excise Act, to compensate the loss of Revenue on account of Excise duty, because, the manufacture has not taken place in India. However, if the importer is a manufacturer, he can avail CENVAT credit, like input tax under KVAT Act. In the problem, it may be stated that, if similar machinery / equipment is manufactured in India, the Excise duty payable would have been xx%.

Special Additional Duty or Special CVD: This duty is levied to compensate the loss of Sales Tax. This is charged at 4% (CST Rate). If the importer is a trader and sells the imported goods, this tax is not to be calculated, because, he will be liable for payment of the same at the time of sale. If it is not meant for sale, then, SAD is to be calculated at 4%.

Method of Calculation: The following is the solution for calculation of customs duty, on goods having an assessable value of Rs.10,000, where Customs duty is at 16%, Additional Duty or CVD 12%, Special Additional Duty or Special CVD is 4% and cess at 2% and 1% being Primary education cess and secondary and higher education cess, respectively. Calculate the total duty payable.

Particulars	Ref.	Amt.(Rs.) The importer intends to resell the goods.	Amt.(Rs.) Imports does not re sell but uses it in production or manufacture or as fixed assets.
Assessable Value	A	10,000	10,000
Basic Customs Duty at 16% on (A)	B	1600	1600
Total (A + B)	C	11600	11600

Additional Duty or CVD at 12% on (C)	D	1392	1392
Total of Customs duty and CVD (B + D)	E	2992	2992
Primary Education Cess at 2% on Customs and Excise/CVD Duty – on E	F	59.84	59.84
Secondary and Higher Education Cess at 1% on Customs and Excise/CVD Duty – on E	G	29.92	29.92
Total of Assessable Value, duties and Cess. (A + E + F + G)	H	13081.76	13081.76
Special Additional Duty (SAD) or Special CVD at 4% on H	I	Not Applicable	523.27
Total Duty and Cess Payable (E+F+G+I)	J	3081.76	3605.03

1. An importer imported an equipment for FOB $ 1000. The bill of entry was presented on 10-04-2014. The unloading and handling charges in India amounted to Rs.430. You are required to calculate the Assessable Value. Conversion rates are as follows:

Particulars	On the date of placing the order	On the date of presentation of Bill of Entry	On the date of clearance of goods by Customs Authorities
Inter-Bank Closing rate	Rs.55 per $	Rs.60 per $	Rs.66 per $
RBI Floor Rate	Rs.57 per $	Rs.62 per $	Rs.69 per $
Rate as per Customs Act u/s.14(3)(i)	Rs.59 per $	Rs.64 per $	Rs.67 per $

Ans:

Particulars	Amt in $	Amt.in Rs.
FOB Value	1,000.00	
Add: Insurance 1.125%	11.25	
Add: Freight	200.00	
CIF	1,211.25	
Conversion Rate as per Sec.14(3)(i) on the date of presentation of bill of entry.	Rs.64 per $	1,211.25 x 64 =77,520
CIF in Rupees		77,520.00
Add: Landing Charges 1% Unloading and handling charges Rs.430, i.e., actual, never to be considered. It is always at 1% of CIF		775.20
Assessable Value		78295.20

2. The CIF value of a machinery imported from USA amounted to $ 1,20,000, which included $ 800 Insurance and $ 30,000 Freight. The rate of exchange amounted to Rs.65 per $. Calculate Assessable Value.

Ans. The Cost (FOB), Insurance and Freight together is $.1,20,000. From this amount, deduct Insurance and Freight to get FOB Value.

CIF $ 1,20,000

Less: Insurance $ 800

Less : Freight $ 30,000

C or Cost (FOB) $ 89,200

Now, starting from FOB, the problem can be solved as follows:

Particulars	Amt in $	Amt.in Rs.
FOB Value	1,20,000.00	
Add: Insurance at actuals	800.00	
Add: Freight Given $ 30,000 20% of FOB $ 24,000 Whichever is less	24,000.00	
CIF	1,44,800	
Conversion Rate as per Sec.14(3)(i) on the date of presentation of bill of entry.	Rs.65 per $	1,44,800 x 65 =94,12,000
CIF in Rupees		94,12,000.00
Add: Landing Charges 1%		94,120.00
Assessable Value		95,06,120.00

3. The Landing charges in respect of a consignment imported amounted to Rs.1,500. You are required to find out the Assessable Value.

Ans: The landing charges is calculated at 1% if CIF. The amount of landing charges Rs.1,500 is 1% of 1,50,000 which is the CIF. Adding CIF and landing Charges i.e., Rs.1,50,000 + 1,500, we get the assessable value as Rs.1,51,500.

4. 'A' imports by air from USA a Gear cutting machine complete with accessories and spares. Its HS classification is 84.6140 and Value US $ f.o.b. 20,000. –

- Other relevant date/information:

1) At the request of importer, US $ 1,000 have been incurred for improving the design, etc. of machine, but is not reflected in the invoice, but will be paid by the party.
(2) Freight - US $ 6,000.
(3) Goods are insured but premium is not shown/available in invoice.
(4) Commission to be paid to local agent in India Rs. 4,500.
(5) Freight and insurance from airport to factory is Rs. 4,500.

(6) Exchange rate is US $ 1 = Rs. 45.
(7) Duties of Customs : Basic – 20% CVD – 16%, Education cess on duty – 3%. Special CVD under section 3(5) of Customs Tariff Act is applicable. –
- Compute (i) Assessable value (ii) Customs duty. How much Cenvat can be availed by importer, if he is manufacturer?
Ans:

Particulars	Amt. $	Amt.Rs. @ exch rate of Rs.45
FOB Value	20000	900000
Add: Design Charges incurred by Importer	1000	45000
Freight Charges ($ 6,000 or 20% of 20,000) whichever is less	4000	180000
Insurance – not given –Hence, 1.125% of FOB	225	10125
Commission to Agent in India		4,500
Freight and Insurance from Port to Factory (Post Clearance. Hence, not considered)		0
CIf Value		1,139,625.00
Add: Landing Charges at 1%		11,396.25
Assessable Value		11,51,021.25
Basic Customs Duty at 20%		2,30,204.25
Value for levy of CVD		13,81,225.50
CVD at 16%		2,20,996.08
Total of Customs Duty and CVD		4,51,200.33
Cess at 3% (2% + 1%)		13,536.00
Total of A.V, Duties and Cess		16,15,757.58
SAD or Special CVD at 4%		64,630.30
Total Duty Payable		5,29,366.63

If the importer is a manufacturer, the CVD and Cess onCVD credit can be availed by him, i.e., CVD Rs.2,20,996.08 + 3% on 2,20.996.08 Rs.6,629.88, aggregating to Rs.2,27,625.96 can be availed as credit.

5.Hari India Ltd. Has imported a machinery whose assessable value is 100000. Rate of basic customs duty is 10%, additional duty of customs under section 3(1) is 12%, additional duty of customs under section 3(5) IS 4% and education cess is 3% on duty. Compute the amount of total customs duty payable by Hari India Ltd.

Solution: Computation of Customs duty payable:

Sl. No	**Particulars**	**Amount**
1	Assessable Value	1,00,000
2	Basic Customs duty @ 10%	10,000
3	Sub-Total	1,10,000
4	Additional duty of customs (CVD) @12% of 1,10,000 i.e. (13,200)	13,200
5	Education cess 3% of 23,200 [(2) + (4)]	696
6	Total customs duty payable before	23,896

	special CVD [(2) + (4) + (5)]	
7	Special CVD @ 4% of [(1) + (6)]	4,956
8	Total customs duty payable [(6) + (7)]	28,852

6.T Ltd. Imported some goods form LMP Inc. of United States by air. The assessable value of such goods is 1,00,000 $. The bank had received payment form the importer at the exchange rate of US $ 1 = Rs.46, while the CBEC notified exchange rate on the relevant date was US $ 1 = Rs.45.50. Basic customs duty is 10%, additional duty of customs under section 3(1) is 12%, and education cess is 3% on duty. Additional duty of customs under section 3(5) is not applicable. Compute the amount of total customs duty payable.

Solution:

Exchange rate per CBEC = 45.50 per US $ (See Note Below)
Assessable value (in rupees) = 45.50 × 100000 US $ 4550000
Note: The applicable exchange rate shall be 45.50 Per US $ because explanation to section 14(1) provides that rate of exchange shall be the rate as notified by CBEC

Computation of customs duty payable:

Sl. No	Particulars	Amount
1	Assessable Value	45,50,000
2	Basic Customs Duty @ 10%	4,55,000
3	Value for levy of CVD	50,05,000
4	Additional duty of Customs (CVD) @ 12% on 50,05,000	6,00,600
5	Education Cess 3% of duties i.e., Rs.4,55,000 + 6,00,600 = 10,55,600 [(2) + (4)]	31,668
6	Total customs duty payable [(2) + (4) +(5)]	10,87,268

7. Jagat Corporation Limited imports a machinery from US. The details of the transaction are as follows

Authority	Rate of exchange
CBEC	1 US $ = 50
RBI	1 US $ = 49.10

Assessable value of the machinery is $ 1,51,500.

Rate of basic custom duty is 10%

Rate of education cess is 2%

If similar machinery is manufactured in India (Means Additional Duty or CVD), excise duty payable as per Tariff is 12%.

Special CVD is Nil.

Calculate assessable value and total duty payable thereon.

Solution: Computation of total custom duty payable:

Particulars	Amount
Assessable value (in) = $ 1,51,500 × 50 (Refer note below)	75,75,000
Add: Basic custom duty @ 10% (7575000 × 10%)	7,57,500
Value for the purpose of levy of CVD	83,32,500
Add: countervailing duty (8332500 × 12%) Education cess	9,99,900
Primary Education Cess [(757500+999900)×2%]	35,148
Secondary and Higher Education Cess [757500+999900) × 1%]	17,574
Total custom duty payable (757500 + 999900 + 35148 + 17574)	18,10,122

BAGGAGE RULES AT A GLANCE

Every passenger entering Indian has to pass through a Customs check. He / She must fill up the Disembarkation Card clearly mentioning the quantity and value of goods that he has brought. On his / her arrival the passenger is first cleared by Immigration Officer, who retains the Immigration portion of the Disembarkation Card. Thereafter the passenger takes the delivery of his/her baggage from the conveyer belts & passes through Customs. The passenger has the option of seeking clearance through the Green Channel or through the Red Channel subject to the nature of goods being carried.

GREEN AND RED CHANNELS

For the purpose of Customs clearance of arriving passengers, a two channel system has been adopted.

(i) Green Channel for passengers not having any dutiable goods.
(ii) Red Channel for passengers having dutiable goods.

However,
(i) All the passengers shall ensure to file correct declaration of their baggage.
(ii) Green channel passengers must deposit the Customs portion of the disembarkation card to the Customs official at the gate before leaving the terminal.
(iii) Declaration of foreign exchange/currency has to be made before the custom officers in the following cases :
(a) where the value of foreign currency notes exceed US $ 5000 or equivalent
(b) where the aggregate value of foreign exchange including currency exceeds US $ 10,000 or equivalent

- Passengers walking through the Green Channel with dutiable / prohibited goods are liable to prosecution/ penalty and confiscation of goods.
- Trafficking of Narcotics and Psychotropic substances is a serious offence and is punishable with imprisonment.

DUTY FREE ALLOWANCES AND ENTITLEMENTS FOR INDIAN RESIDENTS AND FOREIGNERS RESIDING IN INDIA

A Resident means a person holding a valid passport issued under the Passports Act,1967 and normally residing in India.

Duty Free Entitlements for Bonafide Baggage	For Passengers coming from Countries other than 1.Nepal, Bhutan, Mynmar or China 2.Pakistan by Land Route		For Passengers coming from 1.Nepal, Bhutan, Mynmar or China 2.Pakistan by Land Route	
	Age 10 yrs and above	Age below 10 years	Age 10 yrs and above	Age below 10 years
Used Personal effects (excluding jewellery) required for satisfying daily necessities of life.	FREE	FREE	FREE	FREE
Other articles carried in person or in accompanied baggage.				
a)If stay abroad for more than 3 days.	Valued upto Rs.35,000	Valued upto Rs.15,000	Valued upto Rs.6,000	Valued upto Rs.1,500
b)if stay abroad upto 3 days.	Valued upto Rs.15,000	Valued upto Rs.3,000	Valued upto Rs.6,000	Valued upto Rs.1,500

Notification No.37/2012 dated 23.04.2012

Note:

1. The free allowance shall not be pooled with the free allowance of any other passenger.

2. The free allowance is not applicable to the following goods
    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.

3. One laptop computer (notebook computer) over and above the said free allowances mentioned above is also allowed duty free if imported by any passenger of the age of 18 years and above.

4. The goods over and above the free allowances shall be chargeable to customs duty @ 35% + an education cess of 3% i.e. to say the effective rate is 36.05%.

5. Alcoholic drinks and tobacco products imported in excess of free allowance are chargeable to custom duty at the rates applicable to their commercial imports as per the Customs Tariff Act, 1962.

6. Passengers normally resident of India who are returning from a visit abroad Indian currency upto Rs. 7,500 is allowed.

7. In case the value of one item exceeds the duty free allowance, the duty shall be calculated only on the excess of free allowance.

Table Showing the exempt baggage, baggage chargeable at baggage rate and items not regarded as baggage and chargeable at commercial import rate.

Baggage Exempt	Baggage exempt subject to limit and chargeable at 35% + 3% Cess i.e., 36.05 %. Baggage in itself is a classification for any goods falling under baggage limits.	Items not considered as baggage, hence, instead of baggage rate of 36.05%, the relevant tariff entry to be applied and duty to be paid accordingly.
Personal Effects (Excl. Jewellary) required for satisfying daily necessities of life. One Lap-top (Note Book) for Passengers of 18 yrs and above.		1.Fire arms.
	2. Cartridges of fire arms not exceeding 50.	2. Cartridges of fire arms exceeding 50.
	3.Cigarettes not exceeding 200 or cigars not exceeding 50 or tobacco not exceeding 250 gms.	3.Cigarettes exceeding 200 or cigars exceeding 50 or tobacco exceeding 250 gms.
	4. Alcoholic liquor or wines in upto 2 litres.	4. Alcoholic liquor or wines in excess of 2 litres.
	5. Gold or silver in the	5. Gold or silver in any

	form of ornaments. 6. Any other items, considered as baggage.	form, other than ornaments.

1. An Indian resident, who is of the age of 26 years, returning to India, furnishes the following details of his baggage.
a. Personal effects like cloths etc., Rs.36,000
b. 10 Gms Gold Valued Rs.30,000 and 500 Gms Silver Valued Rs.25,000. (In the form of Ornaments)
c. 1 Lap Top Rs.35,000
d. 3 Litres of Liquor Valued Rs.6,000.

What is the duty payable if he is returning after stay of 15 days from.
(a) Countries other than (1).Nepal, Bhutan, Mynmar or China or (2) Pakistan by Land Route
(b) (1)Nepal, Bhutan, Mynmar or China or (2) Pakistan by Land Route

(a) The Limit of General Free Allowance in this case is Rs.35,000.

Calculation of Dutiable Baggage and duty payable:

Particulars	Exempt Baggage	Baggage Subject to Limit	Not A Baggage Hence, Commercial Rate Applicble.
Personal Effects like cloths etc.,	36,000		
10 Gms of Gold and 500 Gms Silver as ornaments.		55,000	
1 Lap Top	35,000		
3 Litres of Liquor.		4,000	2,000
Total	71,000	59,000	2,000
Exemption Limit	NA	35,000	NA
Dutiable Baggage / Goods	NIL	24,000	2,000
Rate of Duty		35% + Cess	Commercial Rate
Customs Duty on Baggage		8,400	No need to calculate duty.
Education Cess 3%		252	
		8,652	

2. Anil, resident in Mumbai, went to France for a holiday for seven days. On his way back, he brought in three one Liter bottles of alcohol. each priced at Rs.1200. Does he need to pay any duty?

Ans: Mr.Anil falls under exemption category limit of Rs.35,000.

Particulars	Exempt Baggage	Baggage Subject to Limit	Not A Baggage Hence, Commercial

			Rate Applicble.
3 Litres of Liquor.		2,400	1,200
Total		2,400	1,200
Exemption Limit	NA	35,000	NA
Dutiable Baggage / Goods	NIL	NIL	1,200
Rate of Duty		35% + Cess	Commercial Rate
Customs Duty on Baggage		NIL	No need to calculate duty.
Education Cess 3%		NIL	
		NIL	

3. Deep, resident in Delhi, visited his relatives in London for 15 days. On his way back, he brought in the following items: One laptop for Rs. 50,000, two one litre bottle of alcohol for Rs.2800 and a new mobile phone for 40,000. Are the imports by Deep dutiable ?

Deep falls in the category (a) in the annexure above. Hence, the General Free Allowance is upto Rs.35,000.

Particulars	Exempt Baggage	Baggage Subject to Limit	Not A Baggage Hence, Commercial Rate Applicble.
1 Lap Top	50,000		
2 x 1 Litre of Liquor.		2,800	
New Mobile Phone		40,000	
Total	50,000	42,800	NIL
Exemption Limit	NA	35,000	
Dutiable Baggage / Goods	NIL	7,800	NIL
Rate of Duty		35% + Cess	Commercial Rate
Customs Duty on Baggage		2,730	No need to calculate duty.
Education Cess 3%		82	
		2,812	

4. A husband and his wife, resident in Delhi, visited Germany for seven days and brought the following things: anew camera for Rs.25000, a watch for Rs. 18000 and a mobile phone for Rs. 22000, The explanation to the annexutre mentions that the free allowances of the passengers cannot be pooled together.

The goods brought in are Camera, Watch and Mobile totalling to Rs.65,000. The baggage notification does not provide for pooling of baggage i.e., Husband limit Rs.35,000 and Wife Limit 35,000, totally the combined limit will be Rs.70,000. Hence, they should restrict to their individual limit only.

1. Camera having the highest value, may be claimed by Husband. His limit is Rs.35,000, whereas the value of goods is Rs.25,000. Camera will not be taxed.

2. Watch and Mobile, put together is valued at Rs.40,000. Limit of Wife is 35,000. The baggage duty is to be paid on 5,000.
3. Customs duty at 35% will be Rs.1,750 + Cess at 3% Rs.53. Total duty payable will be Rs.1,803.

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