



Excise basic Concepts

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Taxes introduction

Taxes are the source of revenue
to the Government
to meet public expenditure and
administration



Public expenditure

include expenditure on

- Health, sanitation
- Education
- Infrastructure
- Administration of government
- Maintenance of peace harmony, security of people



Taxes introduction

- Taxes will be levied as per power given in the Indian Constitution
- Tax law passed in parliament/ state Legislature for levy collection and administration.

List I Union List relevant to taxation



ENTRY NO. 82



Income Tax
other than
agricultural income.

ENTRY NO. 83



Duties of customs

ENTRY NO. 84



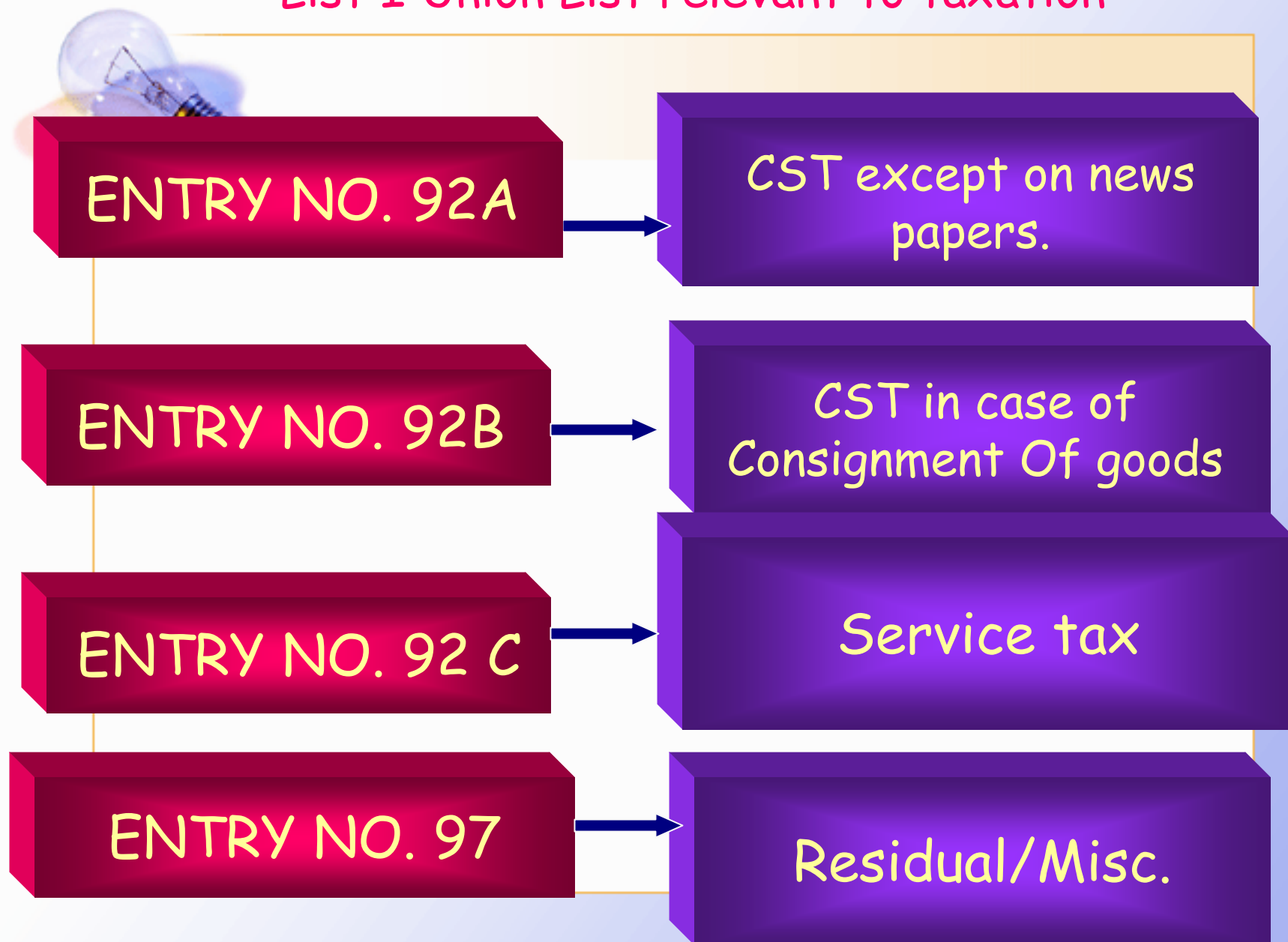
Duties of excise except
alcoholic liquors for human
consumption, opium,
narcotic drugs,

ENTRY NO. 85



Corporation Tax.

List I Union List relevant to taxation



List II State List relevant to taxation



ENTRY NO. 46

Taxes on agricultural income.

ENTRY NO. 51

Excise duty on alcoholic liquors, opium and narcotics

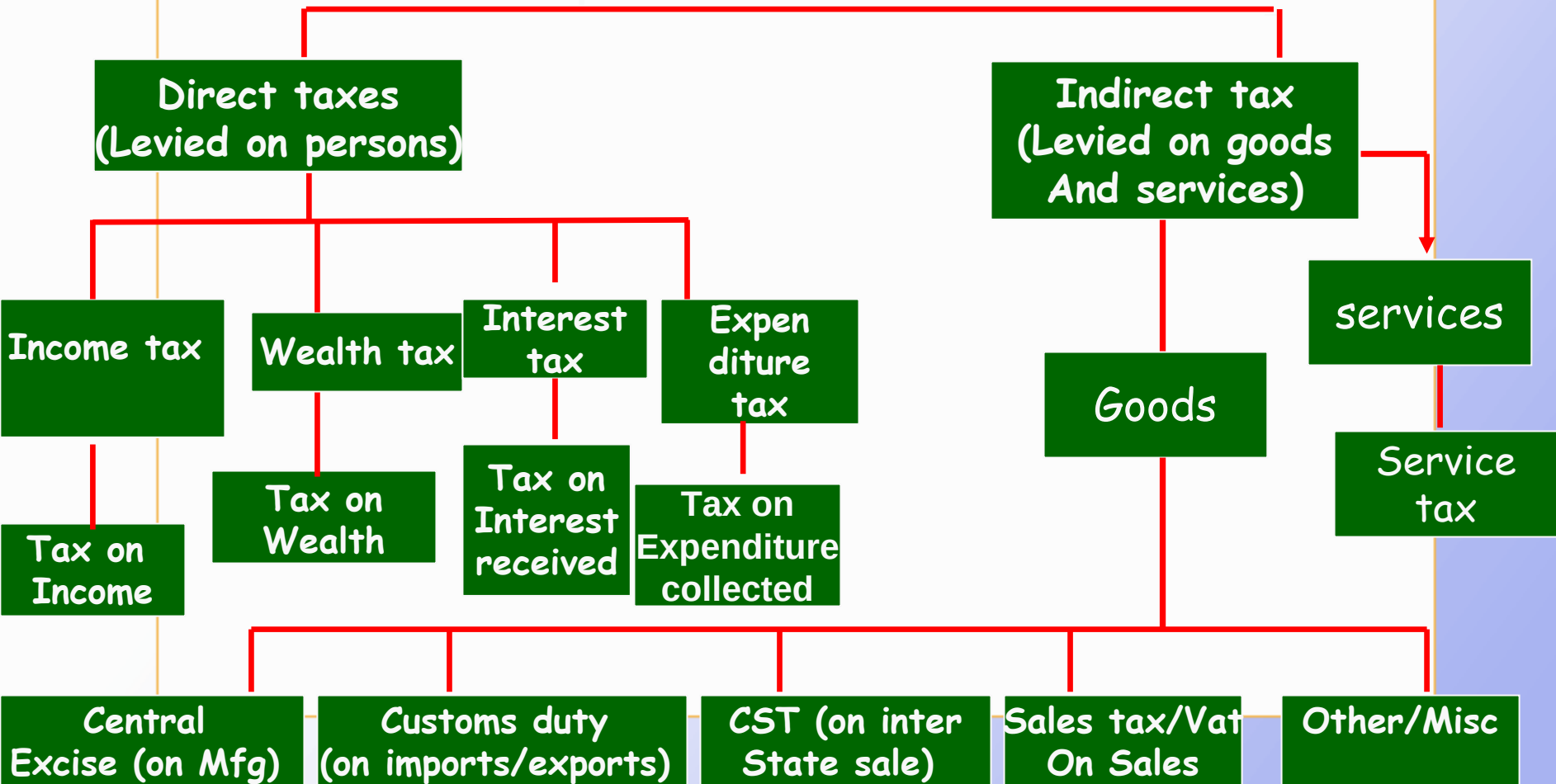
ENTRY NO. 52

Tax on entry of goods (octroi etc)

ENTRY NO. 54

Sales tax/Vat except
On news papers

Taxes



Difference between direct and indirect tax



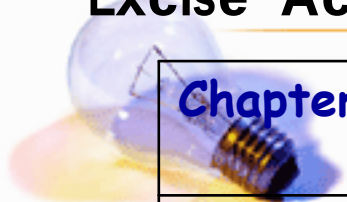
S No	Direct taxes	Indirect taxes
1	Levied on persons	Levied on goods and services
2	Person paying the tax has to bear the burden	Burden will pass on to consumer
3	No cascading effect	Cascading effect (increases the prices of goods and services)
4	Assessment and filing of returns yearly one	Assessment and filing of returns yearly normally Monthly/quarterly/half yearly
5	Will not be allowed as deduction (income tax wealth tax) in computing income	Allowed as deduction in computing income



Excise duty -Basic Concepts

- Excise is a duty an indirect tax levied as per Entry No. 84 of list I of Seventh Schedule to the Constitution
- Levied on excisable goods manufactured or produced in India, except on alcoholic liquor for human consumption.
- The tax is administered by Central Government.

Excise Act coverage chapter wise



Chapter I	Short title, extent and commencement of the Act including definitions
Chapter II	Levy and collection of duty
Chapter IIA	Indicating amount of duty in the price of goods, etc., for purpose of refund and crediting certain amounts to the Consumer Welfare Fund
Chapter III	Powers and Duties of Officers and Land Holders
Chapter IIIA	Advance Rulings
Chapter V	Settlement of Cases
Chapter VI	Adjudication of Confiscations and Penalties
Chapter VIA	Appeals
Chapter VIB	Presumptions as to Documents
Chapter VII	Supplemental Provisions



Excise Act 1944

Excise Tariff
act.

Excise Rules

Concessional
Duty removal
rules

Valuation
Rules



Excise law coverage

Cenvat credit
rules

SC ,CESTAT
Adv. ruling
Rules

Circulars
Notifications

Excise Manual
2001

Total Excise law topics overview





Excise Act -Short title, extent and commencement

- Section 1
- This Act may be called the Central Excise Act, 1944.
- It extends to the whole of India .
- It shall come into force 28-02-1944



Basic conditions of excise liability

Charging section 3 of CE Act

- Levy is manufacture/Production of excisable goods
- Manufacture/Production should be in India
- No levy on goods manufactured in SEZ
- Duty payable at the rates specified in Schedule I and II of CETA
- EOUs /EPZ pay duty for their clearance in in India (Domestic Tariff Area -DTA)



Charging section Sec 3

Levy- On MFg/
Production of goods

Collection- As per CE
Rules (removal time)

100 % E O U, EPZ
Clearance in India

Other Units
Except SEZ

Pay duty aggregate
of
BCD (50%)+CVD+EC

Pay duty on the goods mfg
/produced In India
at the rates
Specified in
First Schedule & Second
Schedule of CETA

Valuation as per
Customs



Basic conditions should be satisfied for levy

There is manufacturing activity

Mfg. Activity resulting goods

The goods should be movable marketable and excisable

Then only excise duty liability

**excise duty payable by manufacturer at the
Time of removal**



Since the duty on Manufacture

- We should know what is meant by manufacture, sec 2(f) defines manufacture as follows



Manufacture sec 2(f)

Process -Incidental/Ancillary
For completion of Product.

Deemed
Manufacture

Court decisions
/emergence of
New Product relevant

Name test & Use test

Ujagar Prints Vs. U.O.I(SC)
U.O.I. v. Parle Products(SC)

Process Amounting to
Manufacture
if Section/ Chapter Notes of
CETA Specifies
(Emergence of New Product
Not relevant)

Packing Repacking/
From bulk to smaller
containers
Labelling Re-labelling
Adoption of process
making marketable
Of Schedule III Goods
Of Excise Act
(Emergence of
New Product
Not relevant)



Manufacturing is defined as a process

Process means

- Series of action
- Certain stages
- Stages are required to complete the product



Process may be incidental or Ancillary
Both the cases process is manufacture

- Incidental means occasional or casual process it is not absolute necessity and it is optional.
- Ancillary means auxiliary, i.e. it is integral part of manufacturing and it is compulsory.
- Manufacture is complete only when all ancillary and incidental processes are complete.
- A product comes to market only when both main incidental and ancillary process is carried out.



Examples on incidental / Ancillary

- Painting or polishing may be essential process for manufacture of furniture. It is ancillary process for furniture.
- If painting was done at the choice of customer it is optional and it is incidental process.
- Quality checking is some cases incidental and some cases it is ancillary if it is legally mandatory



Delhi cloth mills Case SC on Manufacture

- Manufacturing is a process
- But every process cannot be termed as manufacture.
- Manufacture implies a change,
- but every change is not manufacture.
- By virtue of process, a new and different article must emerge having a *distinctive name, character or use*.
- The new product should be commercially different identifiable product,
- then only it is manufacture and excise duty liability will arise.



Examples on Manufacturing

- Cutting of fabrics to make bed sheets etc.
- Making of 'pan masala' by mixing various ingredients
- Making masala powder
- Turmeric to turmeric powder
- Paddy to rice
- Wheat to wheat flour
- Ice from water
- Processing of grey yarn to 'dyed yarn'
- Processing grey fabrics by bleaching, dyeing, printing of fabric



Examples on Manufacturing

- Making welding wire from MS wire
- Fruit pulp to fruit drink
- Processing non-woven fabrics
- Conversion of yarn to thread
- Stitching of cloth
- Making car matting from rolls
- Ordinary cotton into surgical cotton
- Making chicken kabab, chicken kofta, chicken pakodas from chicken meat



Examples on not Manufacturing

- Changing colour of an article
- Changing engine
- Charging of dry batteries
- Cleaning and repairs of old ornaments
- Cleaning, washing
- Coating
- Compressing and bottling gas
- Conversion of marble blocks into marble slabs/tiles



Examples on not Manufacturing

- Cream into butter
- Crushing/powdering
- Cutting of jumbo rolls into small sizes
- Cutting, sizing to requires size
- Cutting, stamping, folding etc. of processed fabrics
- Plain glazed tile to decorated tiles
- Powdering of lumps of minerals
- Printing of Aluminum foil
- Printing of logo and colour on glass bottle



Examples on not Manufacturing

- Purification and packing of water in bottles
- Roasting, salting, spicing of nuts
- Sawing of timber logs
- Separating mineral sand from ordinary sand
- Sieving of duty paid goods
- Sizing of yarn
- Slitting/cutting of jumbo rolls of tissue paper into small sizes



Part 2 (i) of manufacture Sec 2 f (ii)

Deemed Manufacture

- Any process mentioned in CETA 1985 is a manufacture, it is a manufacture
- Here the question of emergence of new product not necessary

Examples for deemed Mfg.



S. No	Name of goods	Process	CETA Ref.
1	Edible vegetable oils	Refining	Chap. 15 Notes. 6
2	Medicines	Conversion of powder in to tablets/capsules	Chap. 30 Notes. 6
3	Textile Products	Dyeing, Bleaching	Chap. 52 Notes. 2
4	Iron and Steel	Galvanizing	Chap.73 Notes. 4
5	Audio/video Cassettes and tape	Recording	Chap. 85 Notes. 8
6	Motor Vehicles	Body Building	Chap. 87 Notes. 5
7	Photographic films, rolls, plates	Cutting, slicing & Perforation	Chap. 37 Notes. 3



Part 2 (ii) - Deemed manufacturing (packing repacking Labeling etc Sec 2(f) (iii))

- 'Manufacture' includes any process,
- which, in relation to goods specified in Third Schedule to Central Excise Act,
- involves packing or repacking of such goods in a unit container
- or labeling or re-labeling of containers **including** the declaration or alteration of retail sale price on the container or
- adoption of any other treatment on the goods to render the product marketable to consumer will be 'manufacture'.



- The goods included in Third Schedule of Central Excise Act are same as those on which excise duty is payable based on MRP.
- Thus, in case of goods on which duty is payable on basis of MRP, if any of the process as specified (like labeling, re-labeling, repacking in unit container, alteration of MRP etc.), it will be 'manufacture' and duty will become payable.



- Packing/repacking will be 'deemed manufacture' only if it is in unit container. In such case, putting MRP may or may not be done.
- Labelling/relabelling should include declaration or alteration of retail sale price. Otherwise, mere labeling or relabelling will not be 'deemed manufacture'
- Any other treatment will be 'deemed manufacture' only if it renders the product marketable to consumer

Assembling



Assembling is a manufacture when -

- Assembling of various parts and components result in new product which is movable and marketable and excisable t is Narne Tulaman Manufacturers Pvt. Ltd. v. CCE (S.C.).

Examples

Assembly of imported kits of components into VTR/ monitor is manufacture. BPL India Ltd. Vs CCE (SC)

- Assembling of computers from duty paid bought out parts is 'manufacture'.
- Assembly of data processing unit from duty paid parts is also 'manufacture'.
- Assembly of components of air conditioner in car does not amount to manufacture - **CBE&C Circular No. 479/45/79-CX dated 17-8-1999.**



Assembly of SKD or CKD parts

- When goods are despatched in CKD SKD (completely/semi knocked down) condition for transport convenience.
- Goods are actually manufactured at the place of manufacturer.
- These are sent in parts only for transport convenience. In such cases assembly by dealer is not a manufacture.

Example

- Cycles
- Vehicles in case of Automobile industry
- Computers
- Imported components in SCD/CKD

Exception

- some components are imported in CKD packs and balance procured separately and final product assembled in India, assembly would amount to manufacture.



Packing and Repacking is a manufacture

- It is manufacture only if it done for schedule III products of CEA

Curing:

- includes wilting, drying, fermenting and any process for rendering an unmanufactured product fit for marketing or manufacture;
- This is a process, which amounts to manufacture.
- curers are liable to pay excise duty.
- Example Coffee curers liable to pay excise duty



Manufacturer Section 2(f)

Include

- Person who manufacture/produce the goods

Include :

- Persons who get the goods manufactured through hired labour
- Persons who engage in manufacture of goods on their own account.
- These may be termed as 'deemed manufacturers' (persons manufactures for their own consumption)



Who are Manufacturer

- A Person who assembles the parts in a factory would be the manufacturer and not the owner of factory-
- Job Worker is a Manufacturer
- A Contractor is a manufacturer.
- A person who engages hired labor is a manufacturer.
- Sub-contractor is manufacturer if relation to the main contractor



- Person who transforms commodity in to another commodity having distinct name and character is manufacturer-
- Persons who manufacture under franchise are a manufacturer-
- For example if Cola companies supply concentrates to bottlers and cool drinks manufactured by bottler, the Bottler is a manufacturer.



Who are not manufacturer

- Brand name Owner is not the Manufacturer even he supplies material
- Person who gives machine on hire basis
- Loan licensee under drug control
- Raw material Supplier



Raw material supplier is manufacturer in the following cases

- Relation between Manufacturer and raw material supplier is on agency basis-
- Person Employed by raw material supplier and goods return it to him -
- Labour doing work allotted to them under the supervision of Principal-
- Job worker function like a hire labour and there is no principal to principal basis-



Manufacture must be in India

- Last operative word of section 3 of Central Excise Act
- excisable goods must be manufactured or produced in India.
- Thus, excise levy cannot be imposed on imported goods or goods manufactured Outside India
- If goods are imported in SKD or CKD condition and they are only assembled in India, as no new product emerges - No duty
- However, Manufacture -If actually components or sub-assemblies are imported, and its assembly in India



India means

- India includes its territorial waters
- Territorial waters means water extending up to 12 nautical miles from Base line
- Sea bed and subsoil under lying territorial waters and Air space over it.



Collection of excise duty

The collection is as per administration conveniences ie

- Liability of excise attracted once goods are manufactured.
- But payment of duty only when goods are removed
- Department cannot demand for duty on goods stored in godown



Produce

Products get manufactured during Manufacture of final product

Example By products, waste, scrap such as molasses, pulp, oil cake etc

Curing:- It includes wilting, drying, fermenting and any process for rendering an unmanufactured product fit for marketing or manufacture

This is a process, which amounts to manufacture. curers are liable to pay excise duty.

Example Coffee curers liable to pay excise duty



Produce

- Wider connotation than the word 'manufacture'.
- Every 'manufacture' can be characterized as 'production',
- Every 'production' need not amount to manufacture
- Word *produced* is used to cover items like tobacco, tea, coal, dairy products, ground vegetables, ores etc, which are *produced*, but no manufacturing process may be carried out.
- Produced goods are dutiable even if they are not manufactured, as they are do get 'produced' during the process



Goods under Central Excise

- The word “goods” has been defined under the Central Excise Act. Wide explanation to sec 2(d) w e f 16.5.2008

Goods includes

- any article, material or
- substance which is capable of
- being bought and sold
- for a consideration and
- such goods shall be deemed to be marketable.’



The word "goods", for purpose of levy of Excise duty, must satisfy three requirements i.e.

Goods

They must be movable

They must be marketable

They must be excisable

Goods Movable

They must be **movable** from one place to another place For sale/Marketing

U o I Vs. Delhi Cloth Mills (SC) /
South Bihar Sugar Mills Vs. U oI(SC)

Movement can be on any mode
rail, road, air, water, pipe line etc

No duty on immovable goods

land, benefits to arise out of land,
and things attached to the earth, or
permanently fastened to anything
attached to the earth."

Marketable

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graph LR; Marketable[Marketable] --> A[Capable of being bought/sold  
(Actual sale is not necessary)]; Marketable --> B[Fit for Consumption]; Marketable --> C[Fetch some price]; Marketable --> D[At least one buyer is enough  
to buy the goods]; E[Occasional or distress  
sale is not treated  
as marketable];
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Capable of being bought/sold
(Actual sale is not necessary)

Union Carbide India Ltd. Vs. UoI (SC)
C.C.EX. Vs. Ambalal Sarabhai Enterprises
(SC)

Fit for Consumption

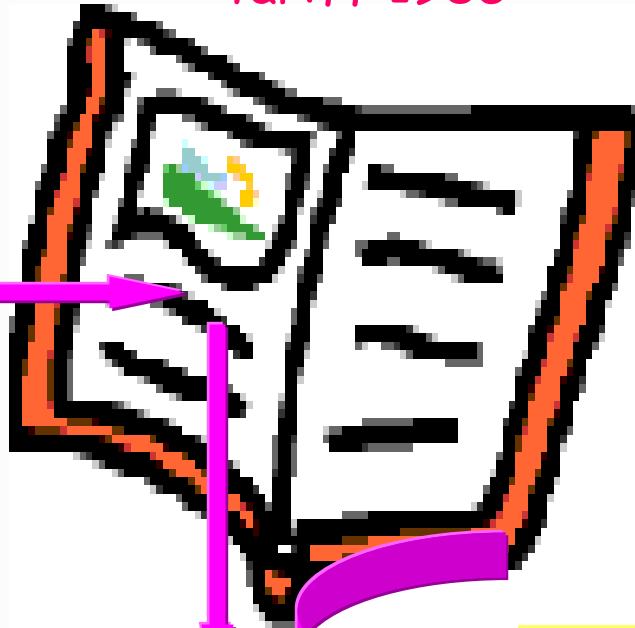
Fetch some price

At least one buyer is enough
to buy the goods

Occasional or
distress
sale is not treated
as marketable

Excisable goods

Central excise
tariff 1985



Goods description

Excisable goods

A Book containing - No,
description of goods
Unit and rate of duty



Types of Excisable Goods

Excisable goods means
(Goods mentioned in
Tariff includes salt)

Goods Charged
To Duty

Goods charged
To Nil Duty

Goods Charged
To Duty but
Exempted by
Notification

All are Excisable goods
Wallace Flour Mills Ltd. Vs. C.C.EX.(SC)



Examples goods charged to duty

5	3601 00 10	-- Blasting powder	Kg.	10%
6	3601 00 20	-- Gun powder	Kg.	10%

32	9005 10 00	- Binoculars	u	10%
----	------------	--------------	---	-----

36	9209 91 00	-- Parts and accessories of pianos	kg	10%
----	------------	------------------------------------	----	-----



Examples goods charged to Nil duty

6	6901 00 10	-- Bricks	mt	Nil
---	------------	-----------	----	-----

97.	4820	Notebooks and exercise books	Nil
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0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled			
14	0704 10 00	- Cauliflowers and headed broccoli	Kg.	0
15	0704 20 00	- Brussels sprouts	Kg.	0
16	0704 90 00	- Other	Kg.	0



Examples goods charged to duty exempted by notification

8605 00 00	Railway or tramway passenger coaches, not self propelled; luggage vans, post office coaches	u	10%	Nil
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20	0402 91 10	--- Condensed Milk	Kg.	10%	NIL	<u>Notification No. 3/2006- CE Dated 1</u>
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To call as goods and for levy of excise



Bhor Industries Ltd. Vs. C.C.EX(SC)
Ion Exchange India Ltd. vs. C.C.EX (SC)



Goods contd.,

- Goods not included in CETA are 'non-excisable goods'
- goods on which appropriate duty has been paid' means that on which excise duty has been paid at 'appropriate' or correct rate, but not nil duty goods *CCEx. vs. Dhiren Chemical Industries (S.C).*



Goods Examples

What are the goods.

- Gas, Steam etc –
- Electricity: Drawing, designs Etc:
- Machinery
- Branded Software: (lotus, oracle)
- *Waste and Scrap-*
- Aluminum paint having shelf life of 8 to 10 hours is marketable
- Columns: Columns fabricated at a place and removed to another place for erection



What are not “Goods”

- Some cases where the product was held as not 'goods' are illustrated here.
- *Goods having very short life are not 'goods',*
- Lift -
- Storage system Installed at a site:
- Zinc scaling and Zinc Flux
- Aluminum Cans and Torch Bodies:



Excisable goods and Non Excisable goods

S No	Excisable goods	Non Excisable goods
1	Excisable goods means Goods mentioned in Central excise tariff first and second schedule and including salt	Non Excisable goods means Goods not mentioned in Central excise tariff first and second schedule
2	Excisable goods may be dutiable or non dutiable,	Non excisable goods always non dutiable only



Dutiable goods and Exempted goods, and Goods charged to nil rate of duty.

- Dutiable goods mean duty payable as per excise tariff.
- Where Exempted goods are mentioned in tariff and duty payment was exempted by notification.
- Goods charged to nil rate of duty goods are excisable and where is duty column will be "nil"



Excisability of plant & machinery assembled at site

CBEC Circular dated 15.01.2002 -

- Duty cannot be levied on immovable property.
- Duty can be levied on parts and components leaving the factory according to condition they removed.
- If plant is so embedded to earth that it is not possible to move it without dismantle, no duty can be levied.
- If machinery is superficially attached to earth through foundation by way of nuts and bolts for operational efficiency, it is not an immovable property and can be easily removed without dismantling, duty is leviable



- When the parts and Components are fixed and installed in such a way where the final article is comes into existence only in shape of immovable property no duty leviable.
- Where the plates, Channels taken to site for fabrication, say for tank, is done at site and it is lifted and placed in a position permanently attached to earth, the tank come in existence as a goods. However if piece by piece attached to earth for the tank comes in existence, it would be immovable property.
- Turnkey projects are not dutiable, but individual component/machinery will be dutiable, if marketable.



Dutiability of waste and scrap

Khandelwal Metal & Engineering Works Vs. U.O.I (SC)

UOI vs Indian Aluminum Co.Ltd (SC)

Duty not only on Mfg but also on Production.

Waste should arise (get produced) during the course of Manufacture



Waste is movable, Marketable & Excisable



Excise duty payable



Sec 3A levy of excise duty based on Annual capacity Production

- New section 3A introduced by Finance Act 2008 Effective from 16.05.2008
- This new section 3 A is s over riding section of section 3 (Charging section)
- The Central Government may notify in official gazette, the excisable goods of any description where levy of excise is based on annual capacity of production.
- Notification is issued considering the safe guard of interest of revenue, extent of evasion of duty and other relevant factors.
- Excise rules provide the manner of determination of annual capacity by CEO not below rank of AC/DC
- Annual capacity is deemed to the annual production.
- Where the factory operated only part of the year , production altered, modified, the annual production is to be calculated proportionately.



- Where a factory did not produce the notified goods during any continuous period of fifteen days or more, the duty calculated on a proportionate basis shall be abated in respect of such period if the manufacturer of such goods fulfils such conditions as may be prescribed.
- The duty of excise on notified goods shall be levied, at such rate, on the unit of production or, as the case may be, on such factor relevant to the production
- The provisions of this section shall not apply to goods produced or manufactured, by a hundred per cent. Export-oriented undertaking and brought to any other place in India.
- the duty of excise leviable on the notified goods shall be deemed to be the duty of excise leviable on such goods under the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985, for the purpose of CVD under customs tariff Act.



Types of Excise Duties

Basic
Excise duty
(First Sch)

N C C D

Addl E D on
GSI

Addl duty
Other acts

Cess under
Other Acts

Special Excise
Duty
(second Sch.)

Excise duty
By E O U s



Types of excise duties

Basic excise duty

- Cenvat- at the rates specified in First Schedule to CETA, read with exemption notification, if any...
- Generally it is payable on all products
- Normal rate of duty 14% with effect from 01.04.2008- Because of Economic slow down now 10%)



Special duty of excise

Also known as auxiliary duty. Levied at rates specified in Second Schedule (8%)

- These duties will normally announce through finance bills.
- The purpose of Special duty is raise resources for some specified objects.
- Some goods where special duty levied is pan masala, cars, air-conditions, soft drinks etc.]. These items are covered in Schedule II to Central Excise Tariff.
- **(This duty was abolished by the Finance Act 2006 with effect from 01.03.2006, vide notification No.9/2006 dated 01.03.2006)**

Examples on Special duty of excise



2201 10 20 ---	Aerated waters	l	8%
2202 10 10 ---	Aerated waters	l	8%
2401	UNMANUFACTURED TOBACCO; TOBACCO REFUSE		
2401 10 -	<i>Tobacco, not stemmed or stripped.</i>		
2401 10 10 ---	Flue cured virginia tobacco	kg.	16%
2401 10 20 ---	Sun cured country (natu) tobacco	kg.	16%
2401 10 30 ---	Sun cured virginia tobacco	kg.	16%



ED in case of clearances of EOU

- **Excise duty in case of clearances by EOU -**
- If they clear their final product in DTA (domestic tariff area),
 - The rate of excise duty will be equal to customs duty on like article if imported in India.
- Even if rate of customs duty is considered for payment of duty, actually the duty paid by them is Central Excise Duty.
- The rate of customs duty is taken only as a measure



illustration -

The Calculation and payment of duty is as follows:

- Duty is payable @ 50% of aggregate of customs duties (earlier 25%) of the basic customs duty plus excise duty payable on like goods, vide **Notification No. 10/2008-CE dated 1-3-2008**.
- No additional customs duty u/s 3(5) is payable.
- However it sales tax/vat is exempt on the goods customs duty u/s 3(5) is payable



illustration -

The Calculation and payment of duty is as follows:

- Duty is payable @ 50% of aggregate of customs duties (earlier 25%) of the basic customs duty plus excise duty payable on like goods, vide **Notification No. 10/2008-CE dated 1-3-2008**.
- If, Assessable value =Rs. 100 Basic customs duty = 15%; excise duty = 16%, then duty component on clearance from EOU
- $50\% \text{ of } 15 = 7.50$ Value for levy of CV duty = 107.50. CV duty component = Rs 17.20 (16% of Rs 107. 50). Hence, duty payable = $17.20 + 7.50 = 24.40$

Types of duties



National Calamity contingent DUTY (NCCD) -.

This duty is in the nature of Surcharge. Introduced as per Section 136 of Finance Act 2001. General Rate 1% . Higher rates for tobacco products 10%, 23% and 45%

Mostly imposed on All Tobacco Products , Most of the all types of Polyester yarn(1%)

Most of the all types of vehicles except two wheeler(1%)

Can also levied on specific duty/tariff value basis

Example: Cigarettes rate varies from Rs. 20 to Rs. 235 per thousand on cigarettes.

Examples on NCCD



Tariff item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
2106 90 20 ---	Pan Masala	kg.	23%
2402 20 10 ---	Other than filter cigarettes, of length not exceeding 60 mm	Tu	Rs. 90 per thousand
2402 20 20 ---	Other than filter cigarettes, of length exceeding 60 mm but not exceeding 70 mm	Tu	Rs. 145 per thousand



Additional Duties of Excise (Goods of Special Importance) Act, 1957

Some goods of special importance is levied Additional Excise .

This goods are similar goods that of declared goods under CST Act.

This duty provides collection of all taxes at one stage by single authority will be convenient for payment and administration.

In case of some items where additional duty will be collected instead of sales tax and such additional duty will be distributed among various States..

This duty has been abolished with effect from 01.03.2006 vide notification no 11/2006 dated 01.03.2006.



Duties under Acts

- .The administrative machinery of central excise is used to collect those taxes.

The Coffee Act 1942

Medical and Toilet Preparations (Excise Duties) Act, 1955.

Mineral Products (Additional Duties of Excise and Customs) Act, 1958

Additional Duties of Excise (Textile and Textile articles) Act 1978.



Cess under Acts

The Rubber Act 1947

Industries Development Regulation Act 1951

The Tea Act 1953

Textile Committee Act 1963

Lime Stone & Mines Labour Welfare Act 1972

Iron, manganese, Chrome Ores Labour Welfare Act 1976

Iron, manganese, Chrome Ores Labour Welfare Act 1976

Sugar Cess Act 1975

Jute Manufactures Cess Act



Duty Liability

In case of	Person liable to pay
Manufactured goods	Manufacturer (Rule 4). Ownership of goods not relevant
Ware house goods	Warehouse keeper (Rule 20)
Khandasari Molasses	Purchaser/procurer
Excise duty is payable even it was not collected or not charged in bill.	



Rate of duty and tariff Valuation in case of excisable goods

As the rate of duty is keep on changing due to notifications of government. The rate of duty applicable for payment is relevant.

S No	Particulars	Rate of duty Applicable
1	Goods Cleared for Home Consumption	Rate On the date of removal from factory
2	Goods stored in ware house	Rate On the date of removal from ware house
3	Goods used for Captive Consumption	Rate On the date when goods are issued for captive consumption
4	Goods Cleared for export but not exported	Rate On the date of removal from factory
5	Goods Clandestinely removed	No provision. Calculation to be made to find out estimated production to find out rate
6	Khandasari Molasses	Rate on date of receipt of such molasses in the factory



Rate of duty in case of Pre budget stock

In case of Excisable goods (Whether goods charged to duty, exempted by notification or charged to nil duty)

Rate of duty applicable on the date of removal

Wallace Flour Mills Co. Ltd. v. CCE 1989(44) (SC),

In case of Non Excisable goods (Ie Goods bring in to Excise tariff for First time)

No Duty on Pre Budget stock.

Duty payable on the goods manufactured from the effective date of Notification.

Vazir Sultan Tobacco-1996 (SC)

Rate of duty in case of Pre budget stock



Excisable goods

	Product A	Product B	Product C	Product D
Rate of duty On 28.02.2009	8%	10%	Nil	Exempt
Rate of duty On 01.03.2009	12%	4%	14% (Brought to Duty)	11% (Exemption Withdrawn)
Duty Payable	12%	4%	14%	11%

Wallace flour Mills (SC)

Rate of duty in case of Pre budget stock

Excisable goods

	Product A	Product B	Product C	Product D
Rate of duty On 28.02.2009	8%	10%	Nil	Exempt
Rate of duty On 01.03.2009	12%	4%	14% (Brought to Duty)	11% (Exemption Withdrawn)
Date of removal	01.03.2009	15.03.2009	31.03.2009	21.04.2009
Rate of Duty on the date Of removal	12%	6%	12%	10%
Duty Payable	12%	6%	12%	10%

Wallace flour Mills (SC)

Rate of duty in case of Pre budget stock



Non Excisable goods

	Product A	
Rate of duty On 28.02.2009	Not Applicable	Because non excisable goods. Non mentioned in tariff.
Rate of duty On 01.03.2009	14%	First time bringing to excise tariff as Dutiable goods.
Opening stock of F G On 28.02.2009	500 units	No duty payable on 500 units when they are removed on or after 01.03.2009
Manufactured Goods from 01.03.2009	All units	duty payable on removal

Vazir Sulthan tobacco (SC)



Captive consumption

- Goods used by manufacturer with in the factory or branch or some other unit of manufacturer or for own purpose
- Excise duty is on manufacture and not on sale.
- Hence duty payable on captive consumption subject to certain conditions

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Duty liability on captive consumption

Captive Consumption

Final Product

Duty payable

When ever
Duty payable
Movability
Marketability
Excisability
Should satisfy

Manufactured parts
Components, spares etc

Removed for
Home consumption

Duty payable

If FP is Exempt
From Duty, Duty payable
on Parts, spares,
components

Further use
In the Mfg. Of
Final product

If FP is dutiable
No Duty, on
Parts, spares,
components

Note: If there is any exemption for Captive consumption No duty payable. For example capital goods manufactured and used with in factory no duty payable and duty is exempted.



Intermediate product

- Products emerged during the course of manufacture of final product
- They get produced in manufacture of final product

Examples

- Waste and Scrap
- Byproducts and joint products
- Molasses in case of manufacture of sugar
- Pulp/Cake in case of extraction of oil

Duty liability on Intermediate product

Intermediate product

Removed for
Home consumption

Duty payable

When ever
Duty payable
Movability
Marketability
Excisability
Should satisfy

Further use
In the Mfg. Of
Final product

If FP is Exempt
From Duty, Duty payable
on I P

If FP is dutiable
No Duty, on
I P

Note: In some cases no duty payable on IP



No duty on Intermediate product

In the following cases no duty on intermediate products if it is used for captive consumption for manufacture of final product, even no duty payable on final product

- Final product cleared for deemed export i.e., cleared to EOU, STP/EHTP
- Final products cleared to ILO, WHO, UNDP, UNIDO programme etc. are exempt under Notification
- Final product cleared to defence, railways, & Indian Navy,
- Final product cleared by SSI under availing turnover exemption. However, if final product is fully exempt under any other notification, duty will be payable on intermediate product, or its value will be considered for calculating limits
- Final product is cleared for export under bond
- Final product is cleared by payment of amount of 10% as per cenvat credit rules



Power to grant exemption from duty of excise Section 5 A

- If the Central Government is satisfied that it is necessary
- In the public interest so to do,
- It may, by notification in the Official Gazette,
- Exempt generally either absolutely or
- Subject to such conditions (to be fulfilled before or after removal) as may be specified in the notification,
- Excisable goods of any specified description from the whole
- Or any part of the duty of excise leviable thereon:
- Goods Manufactured in FTZ/SEZ/100% EOU/ the exemption notification, will apply only when it is specifically provided in such notification,
-



- When duty exempted absolutely in notification - availment of the benefit mandatory .
- The Central Government may, insert an explanation in such notification or order, at any time within one year of issue of the notification, and every such explanation is also form part of such notification or order
- Exemption of duty should not exceed more than statutory duty.
- All notifications of exemption should be published.
- When a Certain goods cover both general and specific exemption. The former may give more relief to manufacturer. In such a case he can choose the better one- **Hindustan Computer Ltd (2001)(SC) 130ELT405**



Emergency power of the Central Government to increase duty of excise -Section 3 of CETA 1985

- Where, in respect of any goods,
- The Central Government is satisfied that the duty leviable thereon
- Under Section 3 of the Central Excise Act, 1944 should be increased
- And those circumstances exist which render it necessary to take immediate action,
- The Central Government may, by notification in the Official Gazette,
- Direct an amendment to the First and second Schedule with new rate of duty
- The new rate should not exceed 15% in case of goods charged to is nil a rate of duty



- In any other case, a rate of duty as it thinks necessary.
- Before issuing the other notification in respect of same goods, earlier notification to be approved with or without modifications
- Every notification shall be laid before each House of Parliament, if it is sitting, and if it is not sitting, within seven days of its re-assembly,
- The Central Government shall seek the approval of Parliament within fifteen days
- Parliament has powers to makes any modification to the notification or directs that the notification should cease to have effect or rescinds
- The notification shall thereafter have effect only in such modified form or be of no effect

Remission of duty on goods

Remission because of Natural Loss - Section 5

'Remission' means waiver or cancellation of excise duty legally payable.

The Central Government may, provide for remission of duty of excise leviable on any excisable goods which due to any natural cause (evaporation/volatile, fire, accident, flood etc.,) are found to be deficient in quantity.

- Norms for the rules may be permitted, considering the
- Nature of the excisable goods or
- Processing or of curing thereof,
- The period of their storage or transit and
- Other relevant considerations,
- The department will fix the limit or limits of percentage beyond which no such remission shall be allowed:
- Different limit or limits of percentage may be fixed for different varieties of goods
- For different areas or for different seasons.
- The remission will be granted up to prescribed limits,
- on proof from the assessee,
- at the discretion of Central excise officer



Remission because of Natural Loss and Unfit for Consumption/marketing – Rule 21

- Where it is shown to the satisfaction of the Excise Officer
- that goods have been lost or destroyed by natural causes or by unavoidable accident
- or are claimed by the manufacturer as unfit for consumption or for marketing
- **at any time before removal,**
- he may remit the duty payable on such goods, subject to such conditions as may be imposed by him by order in writing:
- When the goods are claimed as bad they should be destroyed under the supervision of excise authorities.
- The destruction should be done in such a manner, the goods are irretrievable. **CBEC Manual C**



- Depending on the quantum of remission of duty, it is proved to the satisfaction of excise officer as below

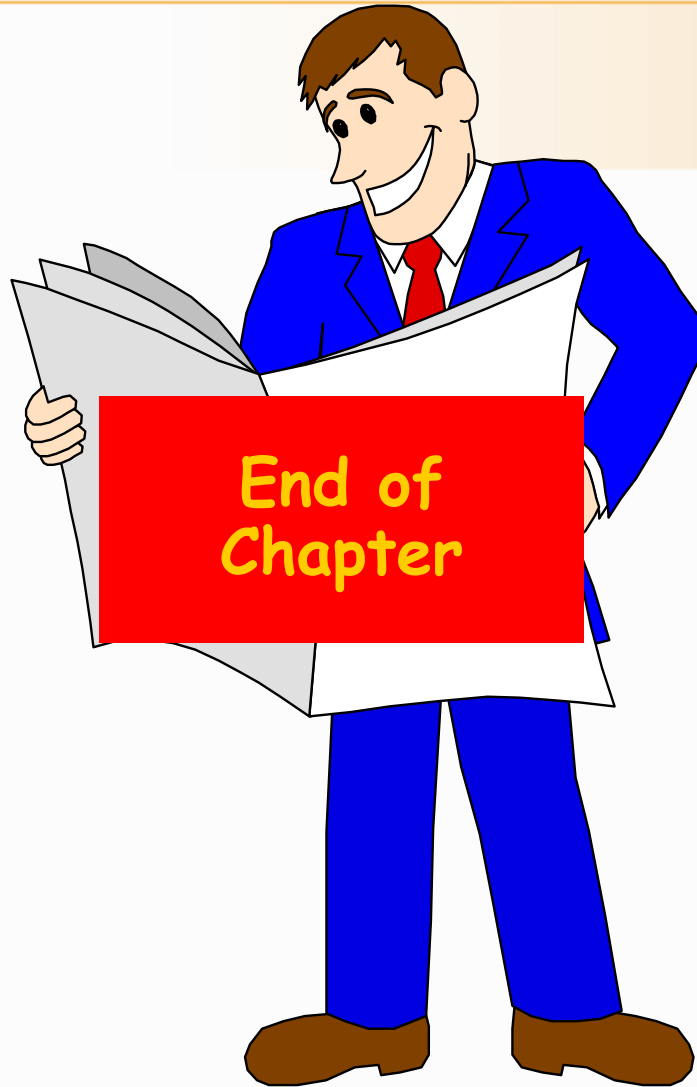
S No	Duty in Rupees	Excise officer to be approved
1	< 10000	Superintendent
2	=>10000 < 100000	Assistant/Deputy Commissioner
3	=>100000< 500000	Joint/Additional Commissioner
4	=>500000	Commissioner



Restriction on possession of excisable goods. Sec 8

- Central government will notify the date in official gazette and it may provide rules in respect of goods specified in second schedule of CETA
- The rules or notifications may provide the limits or maximum amount of such goods or variety or class of goods may be possessed by at any one time by person.

Example -Tobacco



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Excise classification

Classification means

- Grouping and sub grouping of goods for rate purpose
- It is necessary to identify the numerous products through groups and sub-groups and
- And then to decide a rate of duty on each group/sub-group

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Coverage of Classification

- Classification covered by Central Excise tariff Act

The Central Excise Tariff Act, 1985 (CETA)

Salient features

- Classifies all the goods under 20 sections & 95 chapters
- There are about 1,200 tariff headings and 2,500 sub-headings.
- Harmonized System of Nomenclature (HSN), Classification of goods
- Goods classified with 8 digit.

Schedules in CETA

Two Schedules

Schedule I

List of goods &
rates of basic excise
duties (Cenvat)

Schedule II

List of goods &
rates of Special excise
duties

In addition to schedules CETA contains annexure, like goods where the MRP Valuation is applicable .(Sch III) Goods Where NCCD payable etc

Classification of goods in CETA

20 Sections



95 Chapters



1200 Groups



2500 Sub Groups

Sections of CETA

20 sections. .

- A 'section' is a grouping of a number of Chapters, which codify a particular class of goods.
- Each of the sections is related to a broader class of goods

Examples

- Section I is 'Animal Products',
- Section VII is 'Plastics and Articles thereof',
- Section XI is 'Textile and Textile Articles',
- Section XVII is 'Vehicles, Aircrafts, Vessels and associated transport equipment, etc. .

Chapters in CETA

Section divided in Chapters -

Section XI relates to Textile and Textile Articles and within that Section

- Chapter 50 is Silk,
- Chapter 51 is Wool,
- Chapter 52 is Cotton,
- and Chapter 53 is other vegetable textile fabric,

Groups and Sub-groups within the Chapter

- For instance,

Chapter 50 relating to silk is further divided into 5 headings.

- 50.01 relate to Silkworm,
- 50.02 relates to raw silk,
- 50.03 relates to silk waste,
- 50.04 relates to silk yarn and
- 50.05 relates to woven fabric of silk.

Eight Digit Classification

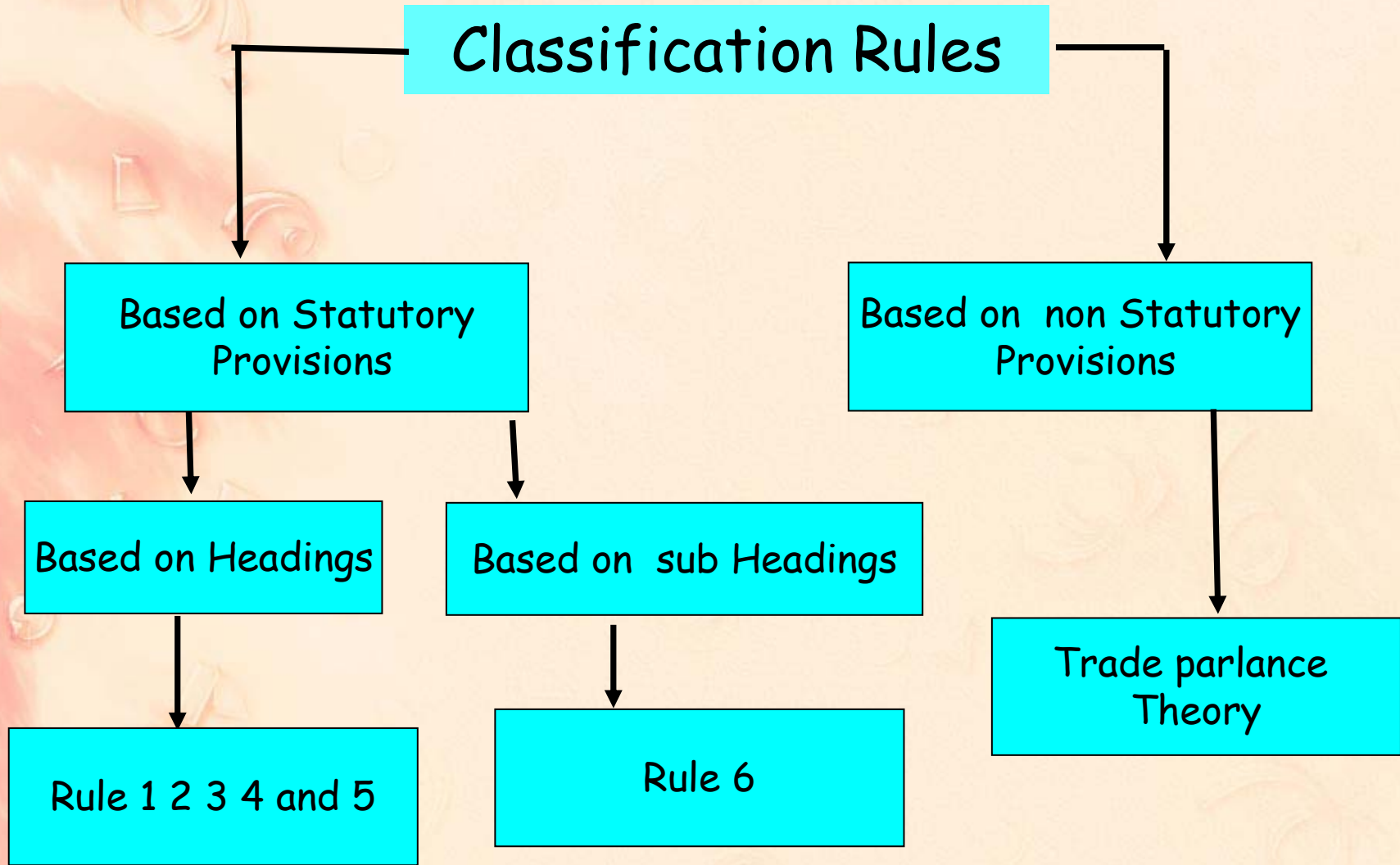
All goods are classified using 8 digits system.

- First two digits related to the Chapter Number,
- Next two digits relate to heading of the goods
- Next two 2 digits indicate sub-heading
- Last two digits indicate tariff heading.
- A 4 digit code is called as 'heading' and
- A 6 digit code is called as 'sub-heading'
- 8 digit code is called 'tariff entry'.

Coding of Single and Double dashes

- Single dash (-) indicates a group,
- two dashes (- -) a sub-group.
- Triple dash (- - -) and four dashed (- - - -) are used for further classification.

Classification Rules



```
graph TD; A[Classification Rules] --> B[Based on Statutory Provisions]; A --> C[Based on non Statutory Provisions]; B --> D[Based on Headings]; B --> E[Based on sub Headings]; D --> F[Rule 1 2 3 4 and 5]; E --> G[Rule 6]; C --> H[Trade parlance Theory];
```

The diagram is a hierarchical flowchart titled 'Classification Rules'. It starts with a central box at the top, 'Classification Rules', which branches into two main categories: 'Based on Statutory Provisions' on the left and 'Based on non Statutory Provisions' on the right. The 'Based on Statutory Provisions' category further branches into 'Based on Headings' and 'Based on sub Headings'. 'Based on Headings' leads to 'Rule 1 2 3 4 and 5', while 'Based on sub Headings' leads to 'Rule 6'. The 'Based on non Statutory Provisions' category leads directly to 'Trade parlance Theory'. All boxes are light blue with black text, and arrows indicate the flow from parent to child categories.

Based on Statutory Provisions

Based on non Statutory Provisions

Based on Headings

Based on sub Headings

Trade parlance Theory

Rule 1 2 3 4 and 5

Rule 6

Rules for Interpretation of CETA

- Classification rules to be applied Sequentially
- I.e. Rules to be applied in order
- First apply rule 1 and then rule 2 and so on

Rule 1

The titles of sections and chapters for of reference only,

Classifications as per description of the heading, read with relevant section or chapter notes.

For example Chapter 39 deals with plastic articles,

Just by reading the heading plastic articles all plastic articles cannot be classified under chapter 39

Chapter 39 notes specifically excludes

- clocks, watches drawing instruments made of plastic
- Parts of vehicle aircrafts made of plastic,
- Toys games articles made of plastic
- The above was covered under different chapter

Rule 2(a) Classification of un assembled and semi finished goods

Classify as finished and assembled article if contain essential character of finished goods

Examples:

- Passenger coach not fitted with seats will still be a passenger coach
- Motor vehicle not yet fitted with wheels, battery or tyres
- Bicycles without saddles and tyres
- Photographic camera without an optical element
- Electric supply meter without its totaling device.

Un-assembled finished goods -

- Classify finished goods removed un-assembled or disassembled i.e. in SKD or CKD packs as finished

Example

- Cycle removed in CKD condition is a 'cycle and not as parts of cycle

Classification of Mixture or Combinations [Rule 2(b)].

- Any reference will also include the reference to mixture or combination of that material or substance with other
- materials or substance

For example

- Article of Gold' will include an Article, which is made partly of Gold.
- Steel contains small quantity of carbon still it is referred as steel only.

Rule in case of Conflict between various headings [Rule 3]

- If there is conflict between two headings as per rule 2 b Specific Description preferable over general heading

For Example

- in case of foot ball, the bladder is made of rubber and outer case it is leather .
- Chapter 40 relates to rubber and 42 relates to leather
- But foot was specifically classified under chapter 95 Toys, games and sports requisites.
- Here Chapter 40 and 42 general headings to be ignore and football is classified under chapter 95

Classification as per Essential Character [Rule 3(b)] in case of multi utility articles

- If Rule 3 a cannot useful
- it should be classified as if they consisted of the material or component, which gives it their essential character

examples..

- A pen stand with clock- Classify as pen
- a radio with clock -Classify as radio .
- A floppy diskette/CD is attached to a book..
Classify as a book
- A manual is supplied along-with software.-
Classify as software

- Printer + Fax + Scanner + Photostat for Rs 7500 - Classify as Printer
- Keyboard + Telephone for use in call centre- Classify as Keyboard
- Mobile Telephone + Camera + MP-3 Player for Rs 5000 -Classify as Mobile Telephone

If two or more are specific headings Latter the better [Rule 3(c)].

For example

- **39.19 Self Adhesive tape**
- **85.46 Electrical insulators -**
- **Classify per later 85.46 electrical insulators.-**

Classification as per Akin Goods [Rule 4].

- If the classification is not possible by any of the aforesaid rules,
- then it should be classified under the heading appropriate to goods to which they are most akin.
- This is only a last resort and a desperate remedy to resolve the dispute as the matter of classification cannot be kept hanging indefinitely

Classification in case of Packing Material/ Containers Rule 5

Certain packing materials are

- Specifically Shaped/Designed to contain an article or a set of articles;
- Suitable for long-term use;
- Presented along with the article for which they are intended;
- Of a kind normally sold with the article for which they are intended (i.e., as a normal prevalent trade practice)

Classify such packing material as that article and not as packing material

Classification in case of Packing Material/Containers Rule 5

Example

Leather cases for Cameras--classify as camera

Box for drawing instruments-- Classify as drawing instruments

Boxes for Gold ornaments,-- Classify as Gold ornaments

Spectacles box --classify as spectacles

This provision will not applicable for durable and returnable packing.

Goods can be compared at the same level only [Rule 6].-

- Sub-Headings can be compared only at the same level
- This means that if one heading contains 5-6 sub-headings, these sub-headings can be compared with each other.
- However, sub-heading less than one heading cannot be compared with sub-heading under a different heading.
- Thus, first heading has to be decided and then one of the sub-headings within that heading has to be selected.

Classification of Parts

Classification of parts is subject to notes in Sections and Chapters.

A part, which is essential and integral part of machinery, Equipment, Vehicles, furniture should be classified as main product only.

For example Tyres and tubes of vehicles should be classified under vehicles as automobile parts and not as rubber articles

Parts of General Use

- Parts of general use are to be classified in their respective heading and not as part of the machine or equipment

Example

- tube and pipe fittings,
- stranded wire, ropes,
- cables, chains,
- nails, screws,
- bolts, Padlocks, locks;
- fittings. Etc.,

Trade parlance theory

➤ Applicable only when classification rules does not provide conclusive answer.

Based on popular sense

➤ Classification based on customer use and identity of a product

Customer's identity with function

The consumer buys an article because it performs a specific function for him. This mental association with a product is highly important for classification.

Atul Glass Industries (P.) Ltd. v. CCE - (1986) (SC),

Examples on trade parlance

- **Carbon paper** cannot be classified as a paper.
- **Mineral Water** cannot be classified as a beverage -
- **Mirror** Cannot be classified as glass article
- **Windscreen** Cannot be classified as glass article. It is automobile part only
- **Prickly heat powder** cannot be classified as toiletry preparations and should be classified as medicines
- **Lal Dhant Manjan (Red Tooth Powder)** cannot be classified as a Medicine.

Excise Valuation as amended by F A 2009 and notifications up to 31.12.2009

***Every attempt is made free from errors and omissions
Any error or omission found it is unintentional***

Excise valuation

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Central Excise Valuation of Goods

- After the product is correctly classified, and duty liability is established,
- The next question is 'determination of Excise Duty payable.
- Valuation deals with the value on which rate of duty to be applied.

Excise Valuation

Product manufactured & duty payable



Classification of product for rate purpose



Determination of Excise Value for payment of duty

Excise Valuation

Value is the amount on which excise duty is payable

Value also known as Assessable value (A.V)

Excise duty
payable =

Assessable
Value

X

Rate of
excise
duty

Types of Excise Valuation

Excise Value can be in any of following way

Tariff Value/ Specific duty

- ✓ Value based on weight, length, unit of product notified by C G
- ✓ Value pre determined
- ✓ No much valuation disputes

MRP Valuation

- ✓ Value based on R P
- ✓ R P less abatement is the value
- ✓ Applicable to SCh III and notified goods of S W M Act

Transaction value

- ✓ Value based on invoice bill
- ✓ With certain inclusions and exclusions in price
- ✓ Valuation disputes more

Value
Based on
Annual
Capacity
Production

Compound levy scheme

Fixed value based on Machine
Applicable for steel pattas
Aluminum circles

Types of Valuations

Specific Duty/Tariff value

- It is the duty payable on the basis of certain unit like weight, length, volume, thickness etc
- Selling price increase duty will not increase
- Selling price decrease duty will not decrease
- The Government will keep on revising the rates

Presently, specific rates have been specified for:

- cigarettes -on the basis of length
- matches- per 100 boxes or packs
- sugar -on the basis of quintal
- marble slabs and tiles- on the basis of square metre
- colour TV (only when MRP is not marked on the package or it is not the sale consideration) -on the basis of screen size in cm
- cement clinkers -on the basis of per tonne
- molasses -on the basis of per ton

example on rate of duty

- Cigarettes less than 60 mm -Rs. 168 per thousand
- Cigarettes greater than 60 mm less than 70mm -Rs. 546 per thousand
- Filter cigarette ranging from Rs. 1260 to 2163 Per thousand
- Molasses, Rs. 1000 per Ton

Types of Valuation Contd.

Tariff Value:

Government from time to time fixes tariff value.

This is a "*Notional Value*" for purpose of calculating the duty payable.

Once 'tariff value for a commodity is fixed, duty is payable as percentage of this 'tariff value'

This is fixed u/s 3(2) of Central Excise Act.

Government can fix different tariff values for different classes of goods.

- When tariff value is prescribed under the law, that value will form the basis for assessment (and not any other value)

Examples on tariff values fixed by Central Govt. u/s 3(2)

- “2. If retail sale price is printed on the retail pack (Pan masala) and,-
- | | |
|--|--|
| (i) the goods fall under tariff item 21069020 having betel nut content not exceeding 15% | 78% of the printed retail sale price |
| (ii) the goods fall under tariff item 21069020 other than those specified in (i) above | 56% of the printed retail sale price |
| (iii) goods fall under heading 2403 | 50% of the printed retail sale price.” |

Compound Levy Scheme Notification No 34/2001

Applicable only for steel pattas pattis,
Aluminum Circles process under cold rolling

- Scheme is only optional
- Duty payable based on the basis of per cold rolling machine (steel pattas Rs. 30000/
Aluminum Circles Rs. 12000 per machine per month
- No Cenvat Credit
- Assessee has to make an application for availing of the scheme

Compound Levy Scheme contd.,

- Assessee should avail the scheme for consecutive 12 months. Lesser period may be permitted by AC/DC by recording reasons
- Assessee can extend the period by making application before the expiry of period. If he does not make application for extension of period it is deemed he has opted out of the scheme.
- Any proposed change in the number of machines should be intimated to Superintendent before such change and assessee should get approval

Value based on Retail Sale Price/MRP Valuation

- MRP provisions are overriding provisions of transaction value valuation

Meaning of MRP

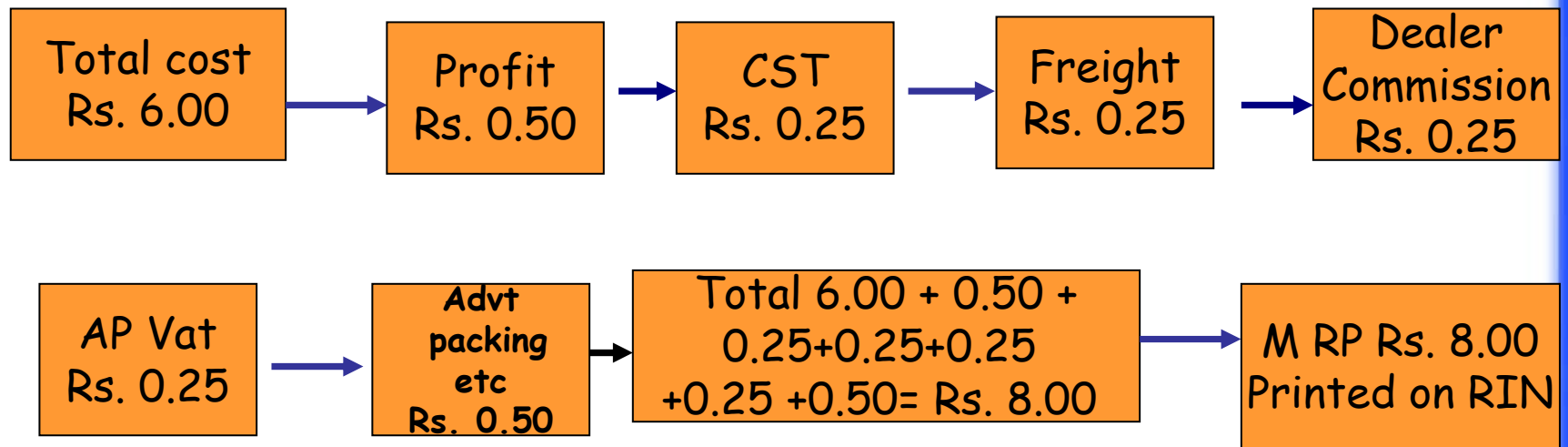
- maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and
- MRP includes all taxes +transport charges, dealer commission + advertisement, delivery, packing, forwarding

Retail price in case of Drugs -

- Retail price excluding local taxes

Meaning of MRP

A detergent bar 50 grams is manufactured in Pondicherry And supplied to Andhra Pradesh



MRP Valuation

MRP Printed on the packet	xxxx
Less Abatement %	xxxx
Value for Excise to pay duty	xxxx

% of abatement notified by C G for different products
% of abatement ranges from 20% to 50%

MRP Valuation Contd.,

Nature of goods	Chapter heading No	% of Abatement
Chocolates	17.04. 90	38
Biscuits	1905.31.00	35
Tiles	6907	43
Ice cream	21.05	45
Foot wear	64.01	40
Refrigerator/fan	8418.40	38
Aerated waters	2210.2	40.5
Pagers/Mobiles	85.25	33

MRP Valuation Contd.,

Nature of goods	Chapter heading No	% of Abatement
cookers	76151910	28
LP G Stoves	7321	33
Razors/blades	8212	38
Window/split AC	8415	28
Printer/cartridge	8433	23
Calculator/stapler	8470/8472	38
Telephone Inst.	8517	38
Set top box	85176960	22

MRP Provisions contd.,

- The goods should be covered under provisions Both Standards of Weights and Measures Act, and Central excise notification (Schedule III).
- One packet more than one 'retail sale price', the maximum retail price will be considered for valuation
- Different prices are printed on different packages, each such price will be 'retail price'.

MRP Provisions contd.,

- If RP of package is subsequently altered to increase the price after removal, such increased retail price is value
- Two MRP on the packet, and if higher MRP is scored out to show saving, scored out MRP is ignored even it is visible. (CBEC Circular No 673/64 dated 28.10.02)

MRP Valuation Contd.,

CVD duty rate on imported goods when product covered under MRP -

- If goods covered under MRP provisions are imported, CVD will be payable on basis of valuation u/s 4A i.e. on basis of MRP printed on carton.
- If imported goods are printed with MRP if they are not sold, but used for process CVD payable based on transaction value

If retail price not indicated or wrongly indicated at the time of removal

- the goods are liable to confiscation.
- In such case, the 'retail sale price' will be ascertained as per rules notified by the CBEC
- and duty will be payable as per the retail price
- CBEC is notified rules for determining the MRP price

MRP in case of Multiple and Combination Packages

(CBEC Circular No 673/64 dated 28.10.02)

- In case of multiple piece packages consisting of 2 or more items of same kind, valuation is to be done as below:

MRP printed on Multiple packet will be considered valuation when

- Individual items cannot be sold separately/marked should not sell separately
- If individual items supplied free and no MRP printed on individual items
- If individual items have MRP printed but scored out to show shaving

Aggregate of MRP of individual packets will be considered when

- Individual items capable of sold separately and no restriction on the sale of individual items

Assessment based on Value (Invoice Price)

- Where Central Excise is payable on the basis of value, it is known as "transaction value valuation". **Sec 4**
- Duty is payable based on Value (Invoice price) with certain additions and deductions

Transaction value valuation

1. The goods should be sold at the time and place of removal.

2. Buyer and assessee should not be related To each other

Conditions
To apply for
Transaction
Value valuation

3. Price should be the *sole consideration* for the sale

4. Each removal will be treated as a separate transaction and 'value' for each removal will be separately fixed

Transaction Value 1st condition

The Price of Goods sold at the time and place of removal is only relevant

.

Any increase or decrease after the removal of goods is not relevant

Section 4(1)(a)

Example delivered to another buyer after removal at different price

Place of removal Section 4(3)(c)

A factory/premises where goods are manufactured



A warehouse where goods deposited without payment of duty



A depot, premises of a consignment agent

Other places



Where excisable goods are removed



Where excisable goods stored with out payment of duty



where excisable goods are to be sold after their clearance from factory

Time of removal - Section 4(3)(cc),

In case of factory	Time at which goods removed from factory
In case of Ware house	Time at which goods removed from Warehouse
In case of depot Consignment agent place/other place goods sold after removal from factory	Time at which goods removed from factory

Transaction value condition 3

Buyer and Seller should not be related to each other
Persons shall be deemed to be "related" if,

- They are inter-connected undertakings as per MRTP Act (ICU will be treated relative only When they become ICU by virtue of Holding and Subsidiary Company)
- They are so associated that they have interest, directly or indirectly, in the business of each other.
- Amongst them the buyer is a relative and a distributor of the assessee, or a sub-distributor of such distributor; or
- They are relatives as per Clause 41 of Sec 2 of Companies Act

Relative contd.,

Relative as per Clause 41 of Section 2 of the Companies Act
A person shall be deemed to be a relative of another if, and only if, —

- They are members of a Hindu undivided family; or
- They are husband and wife; or
- The one is related to the other in the manner indicated in Schedule IA as below.
- Father, Mother,
- Brother, sister, son and daughter and their spouses
- Grand father and grand mother Both maternal and paternal
- Grand son grand daughter and their spouses
- Under this clause a natural living person can only treated as relative.
- A Company, a firm and HUF cannot treat as relatives.

Transaction Value Condition 3,

- Price should be sole consideration of sale.
- Price is the consideration given for purchase of a thing.

The price is to be adjusted for following to arrive value

- Cost of raw material supplied by buyer at free or reduced cost
- Cost of tools, design drawing , moulds supplied by buyer
- Interest free deposits received from buyer ,if the price is reduced

Example on price is sole consideration

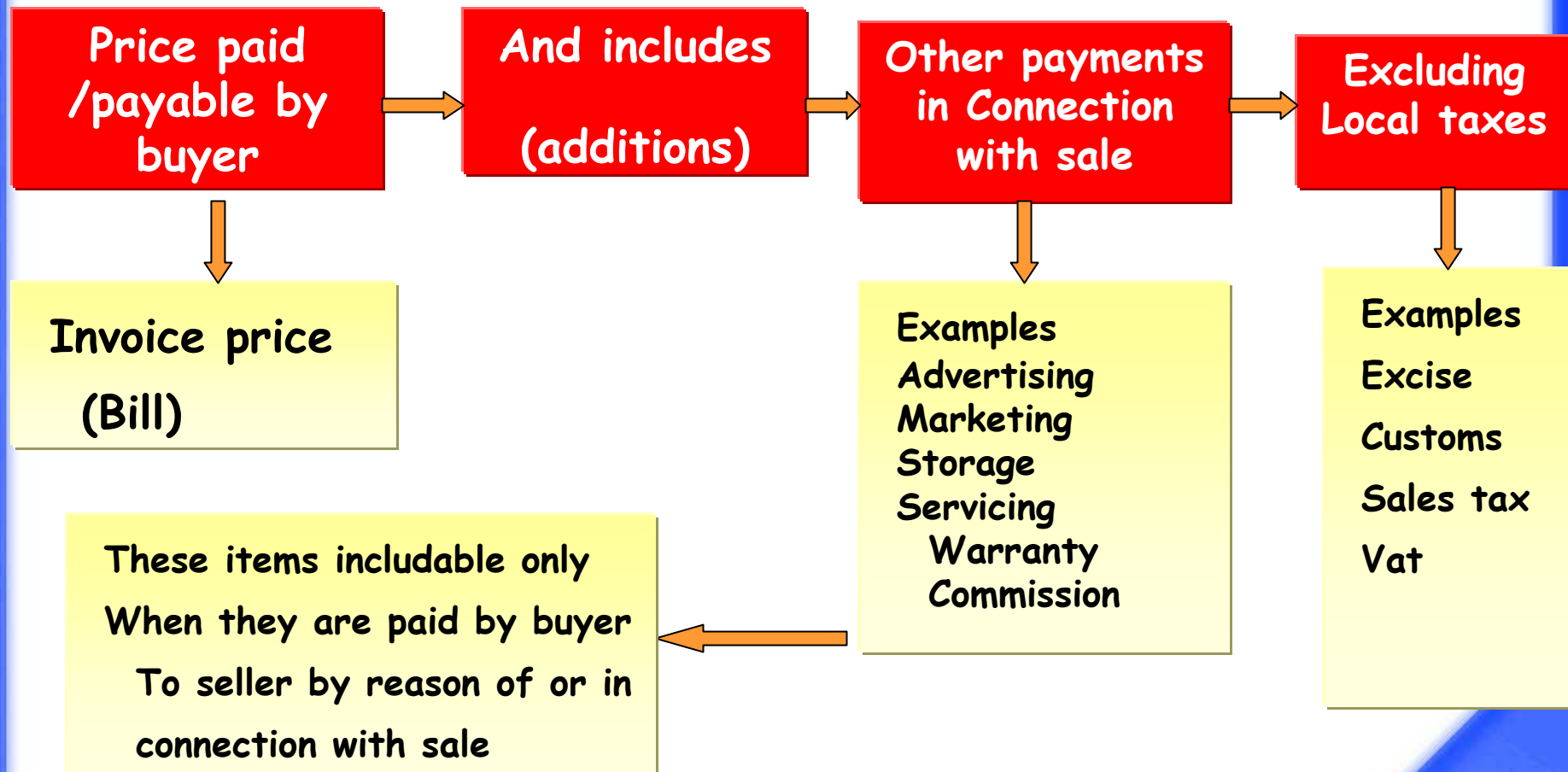
Example 1

- A seller sell a unit at price of Rs. 100
- Assume, Buyer supplies material worth Rs. 60 per unit
- Design and drawing worth Rs. 10 per unit
- Buyer will pay only balance Rs. 30 ($100 - 60 - 10$).
- Here the Rs. 30 paid by buyer is not sole consideration for sale.
- Value will be $30 + 10 + 60 = 100$ is the value

Example 2

- A seller normally sell a unit at price of Rs. 100
- Assume , the buyer paid price in advance and also some deposit
- The Seller reduces the price to Rs. 80 because of advance payment and deposit
- Here the price Rs. 80 is not sole consideration for sale
- Rs, 20 to be added to Rs. 80 to arrive the value

Meaning of transaction value



Inclusions in transaction value

Invoice price (Sale value)	XXXXXXX
Add: If they are not included above or not added	XXXXXXX
Packing (Primary/Secondary/Special)	XXXXXXX
Packing supplied by Buyer	XXXXXXX
Design and engineering charges	XXXXXXX
Loading and Handling with in factory	XXXXXXX
Warranty guarantee/After sales service	XXXXXXX
Commission to selling agents	XXXXXXX

Exclusions in transaction value

Less: If they are included above or not deducted	xxxxxxx
Durable and returnable packing	xxxxxxx
Cash/trade/Special/seasonal discounts	xxxxxxx
Local taxes	xxxxxxx
Installation/Commissioning charges	xxxxxxx
Interest on late payment on receivables	xxxxxxx
Processing cost after removal (if Processing is not a manufacture)	xxxxxxx
Notional interest on security deposits	xxxxxxx

Exclusions in transaction value

Less: If they are included above or not deducted	xxxxxxx
Bank charges for sale proceeds	xxxxxxx
Training charges to customer	xxxxxxx
Inspection charges for goods if inspection not mandatory	xxxxxxx
Advertisement sales promotion incurred by buyer on his own	xxxxxxx
Subsidy or rebate received by assessee	xxxxxxx
Transaction value / Assessable value	xxxxxxx

Inclusions in Transaction Value

Packing charges:

- All Packing Primary, Secondary. or special, will form part of the transaction value. CBE&C, vide its circular No. 643/34/2002-CX dated 1-7-2002,
- Packing supplied by buyer should also be includible,
- Durable and Returnable packing includible only if the audit report reveals that cost was not amortised -circular No. 643/34/2002-CX dated 1-7-2002.

Inclusions in Transaction Value

- Design and Engineering Charges
- Consultancy charges relating to manufacturing
- Compulsory after Sales Service / service in warranty period
- Loading and handling charges within the factory
- Commission to Selling Agents

Exclusions in Transaction Value

Local Taxes:

- sales tax; Excise duty and other taxes payable on finished product
- Equalized deduction of taxes not permissible -

Outward handling,

- freight and transit insurance charges -

Exclusions in Transaction Value

Processing cost after removal

- To be added to Assessable Value only, if such process amount to 'manufacture' - CBE&C circular No. 138/08/2000-CX.4 dated 3.1.2001.

Notional Interest on security deposit/advances -

- Includible only when the price is reduced because of deposit

Exclusions in Transaction Value

Interest on Receivables and on Delayed payment – CBE&C circular No. 643/34/2002-CX dated 1-7-2002.

shall not be regarded as part of the assessable value provided that:

- The interest charges are clearly distinguished from the price actually paid or payable for the goods;
- The financing arrangement is made in writing; and
- Where required, assessee demonstrates that such goods are actually sold at the price declared as the price actually paid or payable

Discounts

Trade
Discount

Bulk Purchases/
Supplying
Additional
Qty free

Cash
Discount

Cash purchase
Prompt/timely
payment

Special
Discount

Seasonal/
occasional

Year end
Discount

Targets/
Clearance
Sale

**All Discounts are deductible and not includible
in valuation**

Deduction of Discounts

- Discount need not be uniform.
- Different discounts to be given to different persons
- There is no condition or provision that such discount should be known at the time of removal of goods from factory. Differential discount is also permissible. Circular No. 354/81/2000-TRU dated 30-6-2000
- Cash discount will be deductible only if actually passed on to buyer,, CBE&C circular No. 643/34/2002-CX dated 1-7-2002
- Discounts can be given at any time -. For example year-end discount or turnover discount.

Exclusions in Transaction Value

Installation and Erection Expenses -

- **CLARIFICATION BY CBE&C**
- The Board has clarified with regard to erection and commissioning charges as follows
- If final product is not excisable, question of including erection and commissioning charges does not arise.
- If a machine is cleared from a factory on payment of appropriate duty and later taken to premises of the buyer for installation/erection and commissioning into an immovable property, no further duty will be payable
- If parts/components are brought to site and the machine is erected/installed and commissioned, if the product is excisable commodity, cost of erection, installation and commissioning would be included in assessable value. -**CBE&C circular No. 643/34/2002-CX dated 1-7-2002.**

■

Exclusions in Transaction Value

Training charges to customer -

- Training charges to customer will be includible if they are in connection with sale or by reason of sale.
- If the transaction of providing training to employees of customer is an independent transaction, it may be 'in relation to sale', but not 'in connection with sale'

Bank charges for collection of sale proceeds

- not includible in valuation

Exclusions in Transaction Value

Inspection charges / additional testing charges paid by buyer

- Assessee carries out his own inspection-includable
- Customer carries out additional inspection borne by the buyer. Not includible
- If such testing is a mandatory requirement, it should be includible whether borne by assessee or buyer.
- This is because there is no sale without such testing.

Exclusions in Transaction Value

Subsidy / Rebate obtained by assessee

- A general subsidy / rebate is obviously not be includible as it has no connection with individual clearances of goods.

Profit earned on post removal activity -

Profit earned on post removal activity is not to be added

If there is any deliberate attempt to divert a part of the genuine price and show it as other charges it is includible in valuation

Advertisement and sale promotion Expenses

incurred by buyer if done on his own, are not to be includable,

Valuation Rules

- Rules applicable when any of the four conditions of transaction value not fulfilled

Valuation in case if goods are not sold: (Rule 4)

- Examples Samples, free warranty claims
- value will be Value of identical similar goods sold by Assessee at Same time
- If does not sell the goods on the same time Value at the nearest date subject to adjustment for price variance dates of delivery

Example on sample valuation

Case- 50 pieces of Samples are removed on 1.7.2008

Alternative 1

- 50 pieces also sold on 1.7.2008 at Rs. 120 per Piece.
- Value for sample- Rs. 120 per piece

Alternative 2

- 50 pieces are not sold on the same day, but different quantities are sold at different price on 1.7.2008
- Value for sample can be taken on price at which Highest qty sold (Whole sale price) can be taken.

Alternative 3

- There is no sales on 1.7.2008
- Value will be taken at nearest date sale price, subject to adjustment for price variance if any between nearest date and samples removed date.

Value in case of new product issued as sample-

- Where the value is not determinable at the time of removal and
- value can be known at subsequent date-
- request can be made for Provisional Assessment

Value in case of old sample

- Old sample different qty, size,
- Different character
- Value can be made under rule 11 (BOJ)

Goods sold at different place /other than place of removal (Rule 5)

Ex FOR delivery contract

In case of F O R contracts sale will made at buyer place

Sale will complete only when buyer receives goods and acknowledges the goods

Value: actual cost of transportation from place of removal up to place of delivery will be allowable as deduction from price

Ie F.O.R Price minus freight & insurance is value.

Example on rule 5



No sale at Factory. Sale at buyer place in Bangalore

FO R price up to Bangalore Rs. 120 per unit,

freight from Chennai to Bangalore per unit Rs. 10

Value per unit will be Rs. 110 (120-10)

Example on rule 5



No sale at Factory. No Sale at Depot Sale at buyer place in Kolkotta

FO R price up to Kolkotta Rs. 200 per unit,

freight from Chennai to Bhuvaneswar per unit Rs. 20

freight from Bhuvaneswar to Kolkatta per unit Rs. 10

No deduction for freight as Chennai is not a place of place of removal

Value per unit will be Rs. 190 (200-10) and not 170 (**200-20-10**)

Rule 5 Contd.,

- Deduction for transportation can be either on actual basis or on equalized basis.
- Actual basis - when freight recovered on transaction basis
- Equalized basis- when freight recovered on average basis- to ensure uniform price all over India.

Rule 5 Contd.,

- The deduction of Freight will be allowable only if the invoice indicates; the transportation cost does not include freight for return/empty journey- Circular No.827/4/2006-CX dated 12.04.2006
- Ie return journey freight not deductible.

Value when price is not the sole consideration [Rule 6]

- Assessable Value' will be the price charged by assessee,
- plus
- money value of the additional consideration received.

Example on rule 6

Example

The buyer may supply any of the following directly or indirectly, free or at reduced cost.

- Materials, components, parts and similar items including packaging materials
- Tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used
- Engineering, development, artwork, design work and plans and sketches u
- In case of interest free advances received by seller, notional interest when the price was reduced because of interest free advance.

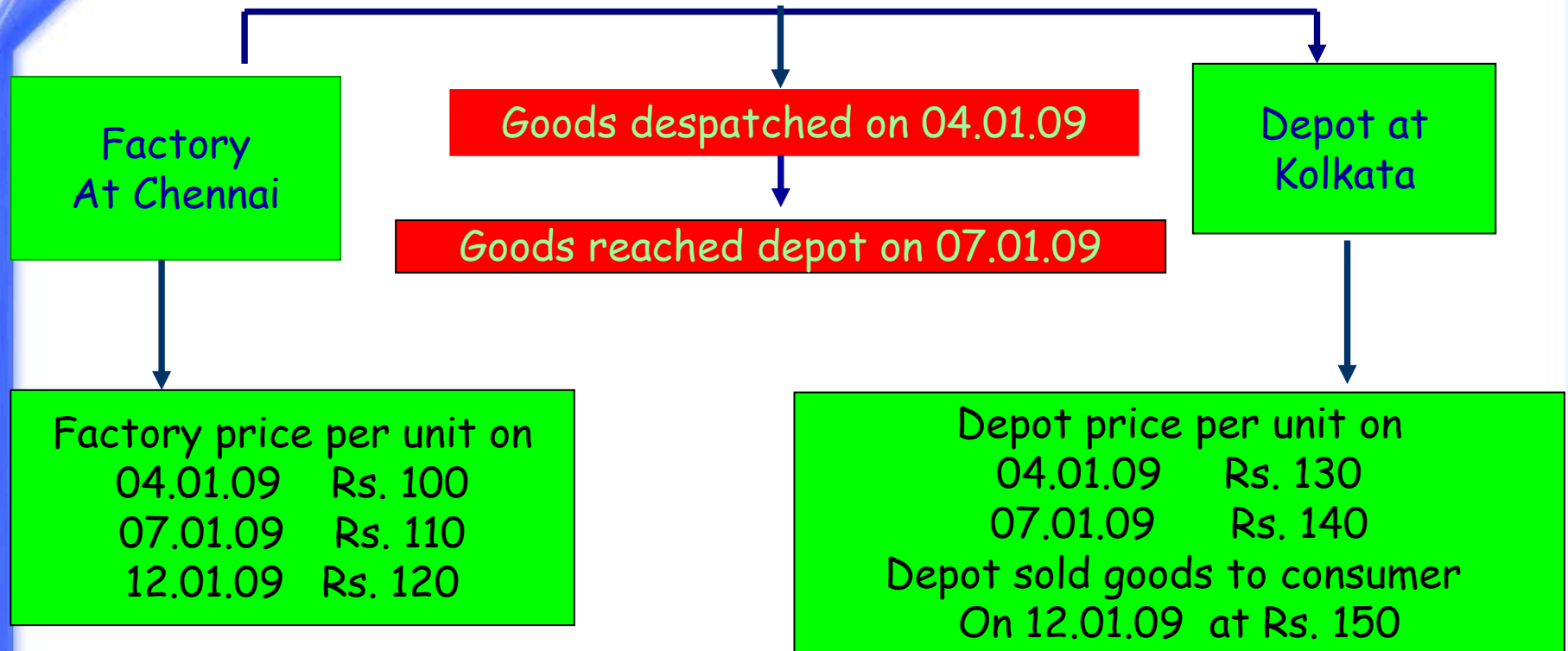
The value of above items should be added to arrive
Transaction value

Sale at depot / consignment agent

[Rule 7]

- Place of removal includes depot/ place of consignment agent,
- Time of removal in case of depot is time when such goods are removed from factory.
- Value is price prevailing at the depot as on date of removal from factory.
- Price at which such goods are subsequently sold to buyer from the depot is not relevant for purpose of excise valuation
- No deduction for freight from factory to depot
- One day different prices. Price at highest qty sold is the value (**normal transaction value**)
- If the price of depot on the date of removal is not available depot price at nearest date can be taken subject to adjustment for variance if any
- Freight and insurance from depot onwards is not includible in value.

Example on Depot valuation rule 7



**AV is Price of depot on the date of removal
From Factory ie on 4.1.09 Rs. 130**

Meaning of 'normal transaction value

Price at which the greatest aggregate quantity of goods are sold.

- For example if 65 units are sold @ Rs. 1000, 55 units are sold @ Rs. 950 and 80 units are sold @ Rs. 900;
- then greatest aggregate quantity is 80 which is sold @ Rs. 900 per unit, which will be the basis for valuation.
- the above ntv applicable only when different qty sold at different prices on a particular day

Valuation in case of captive consumption (Rule 8)/

- Captive consumption means goods are not sold but consumed within the factory.
- valuation shall be done on basis of cost of production plus 10%
- Cost of production is to be determined as per CAS 4

Cost of production as per CAS 4

Material consumed (Cost should be exclusive of local taxes and excise)	XXXXXXX
Direct labour/wages	XXXXXXX
Direct expenses	XXXXXXX
Works overheads	XXXXXXX
Quality control costs	XXXXXXX
Research and development costs	XXXXXXX
Administration overheads relating to production	XXXXXXX
Less: Sale of scrap	XXXXXXX
Cost of production	XXXXXXX
Add: 10%	XXXXXXX
Value for excise (Assessable value)	XXXXXXX

Selling and distribution costs to be ignored

Valuation in case of Captive Consumption contd.,

- CBEC has clarified that if same goods are partly sold by assessee and partly consumed captively,
- goods sold have to be assessed on basis of transaction value and
- goods captively consumed should be assessed on basis of rule 8.
- CBE&C, vide its circular No. 643/34/2002-CX dated 1-7-2002

Sale to/through Related person Rule 9 & Sale to/Through I C U Rule 10

Rule 9 and 10 applicable only

- when all goods are sold **only** to or through related persons. Or
- When there is a substantial sale to related persons and minor amount of sale to unrelated person.

Sale to/through/Interconnected undertaking (Rule 10)

- I C U treated as relative only when they are Holding and Subsidiary
- Common director, Common partner same management organisations are not relatives

Relative valuation rule not applicable

- When the goods are sold partly to related persons and partly to unrelated persons (Applicable rule is rule 11 BOJ)
- When the price of RP and URP is same. Ie sale to RP at market price

Value in case of sale to relative

- Price of related person (buyer) to unrelated person would be transaction value.
- In case goods are supplied to a 'related person' but consumed by the related person and not sold, valuation will be done on the basis of cost of production plus 10%.

Example on relative valuation

A Sells goods to
B at a price of Rs 100
Per Unit



B sells the same goods to
C at a price of Rs.110
Per Unit

➤ If A and B are relative persons, B and C are un relative persons, the price of B to C is the value for A. ie Rs. 110

➤ If B and c are relative persons, the price of C to unrelated person is the value

➤ If B or c does not sell and consume goods captively, the valuation is to be done as per rule 8 in case of captive consumption

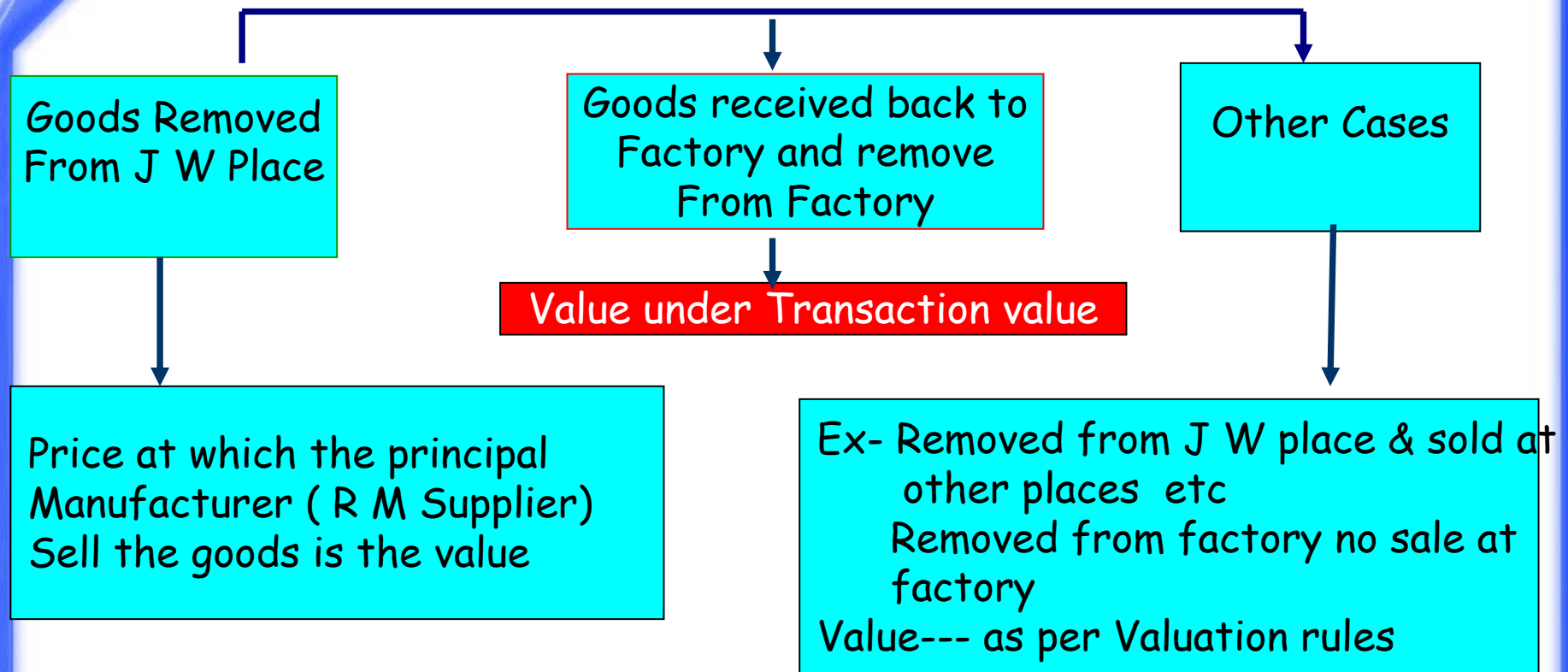
Best judgment Assessment Valuation

[Rule 11]

BOJ only when it not possible to value from Rule 4 to 10

- The value shall be determined using reasonable means consistent with the principles and general provisions of these rules and of section 4(1) of the Act.
- This rule is applicable when the goods are sold partly to related and partly to unrelated persons, as there is no specific provision made.

Value in Case of Job Work- Rule 10 A (Applicable from 01.04.2007)



With the introduction of new rule , the profit Margin of principal manufacturer, brought in to tax net

Example for Job work value

- Cost of the leather supplied by principal manufacturer for making a pair of leather shoes Rs. 500
- Job worker charges Rs. 150 per pair towards labour charges and his profit
- Cost of transport from raw material supplier to jobworker place Rs. 10
- Jobworker finish the work and principal manufacturer wants to sell the shoes from the job worker place at Rs. 999-95.
- The A V will Rs. 999-95

Valuation in case Computer software

- Value of preloaded operational software not includible of valuation in case of computer
- Not includible even computer cannot function without software.
- Software is not a part of Computer
- Computer is complete without software. CCE Vs Acer India Ltd (2004) (SC) 172ELT289

Valuation in case of Bought out goods / spare parts / Consumables/ Accessories

Parts/Components- means

- essential items which require for the product. With out these items product cannot function/work

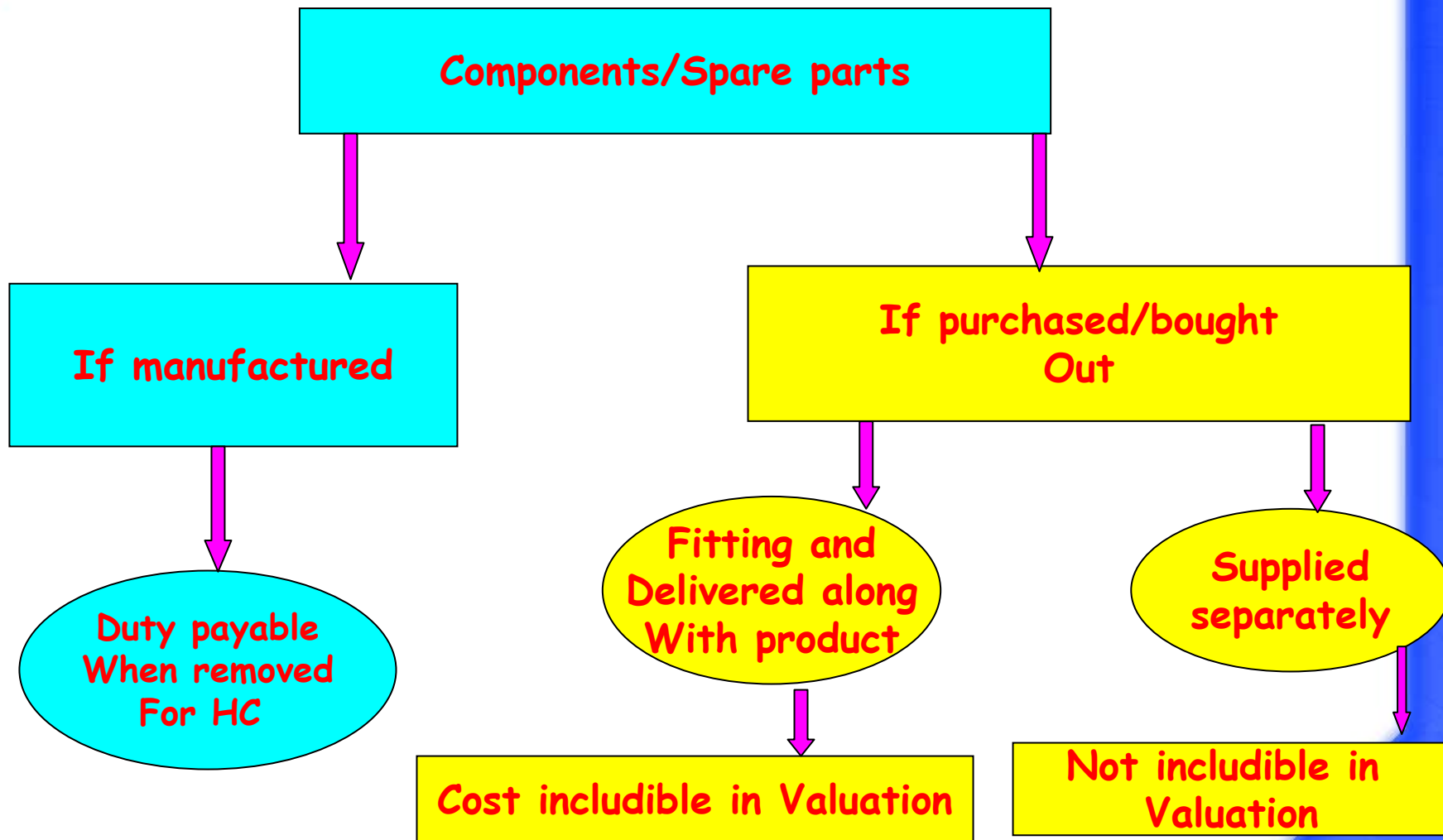
Accessories means

- Which are not essential for the product, Items which may help for beautification of the product and for better usage of the product

Consumables means

- Items which are required for using the product

Valuation in case of spare parts components



Profit earned on Bought out Parts, Components is not includible in the valuation

Valuation in case of bought out accessories

Cost of Accessories, which are optional whether fitted, or not to the main product will not be includible in the Valuation.

Valuation in case of Consumables

- Cost of Consumable is not includible in the valuation; even the main product cannot function without such consumable.

Example

- ribbon in case of typewriter
- cassette in case of tape recorder
- needle in case of gram phone
- Cartridge in case of printer

Cum Duty price

- When the price is not sole consideration and if any Additional Consideration is added to arrive Assessable Value it should be treated, as cum duty price - CBEC D O Letter 334/1/2003 dated 28.02.2003
- If Assessee removes goods without payment of duty by mistake (treating dutiable goods as exempted goods), the price should be treated as cum duty price CCE Vs Maruthi Udyog Ltd (2002) (SC). If the goods are covered under MRP, abatement deduction will not available
- If the information is specific (in exam question) it should be cum duty price

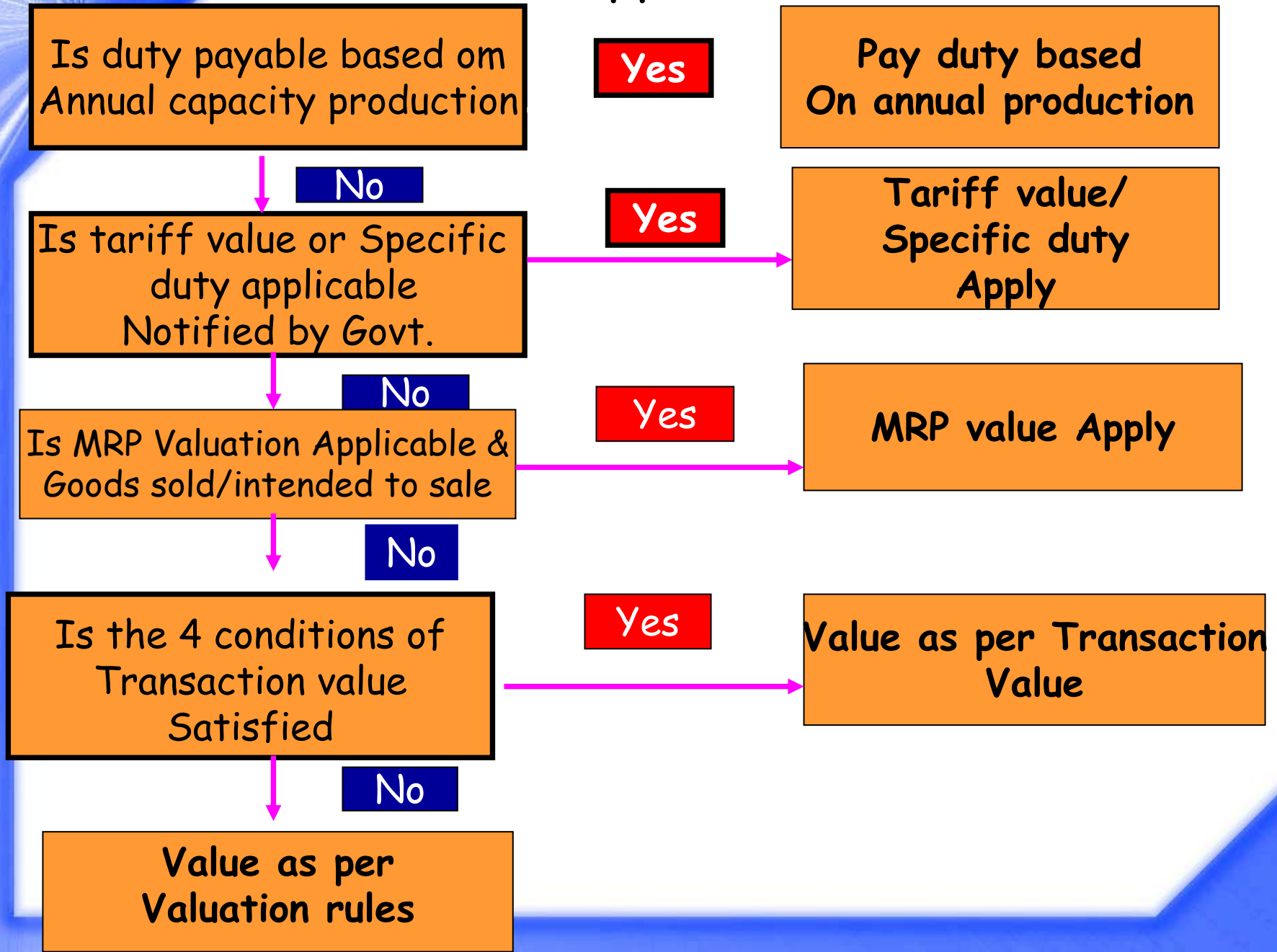
Calculation of AV /Excise duty payable in case of Cumduty price

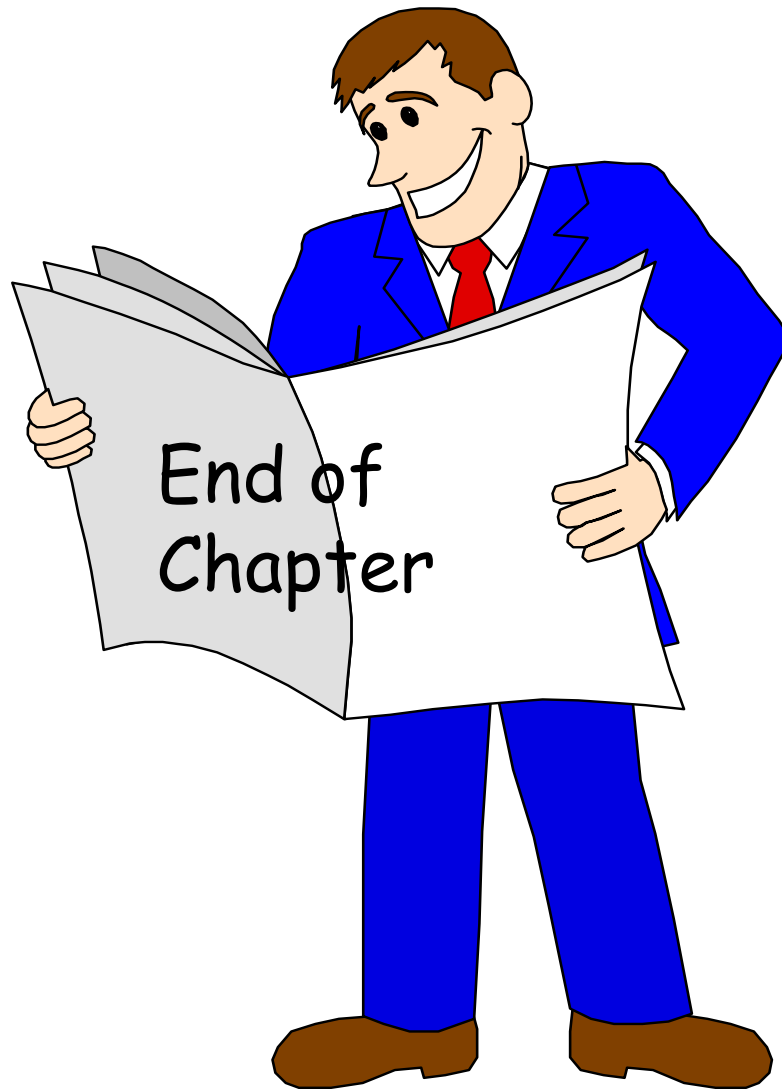
$$\text{Assessable value} = \frac{\text{Cumduty price Minus Permissible deductions} \times 100}{100 + \text{Excise rate}}$$

$$\text{Excise duty payable} = \frac{\text{Cumduty price Minus Permissible deductions} \times \text{Excise rate}}{100 + \text{Excise rate}}$$

In Excise rate appropriate EC to be included (3%)

Valuation application Chart





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