

LESSON- 20

CUSTOMS LAW- BASIC

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STRUCTURE

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20.0 INTRODUCTION

The Constitution of India (Article 265) lays down that 'no tax shall be levied or collected except by authority of law'. The law for the levy and collection of Customs duties is the Customs Act, 1962. This legislation has been enacted by Parliament in exercise of the exclusive power vested in it under Article 246 read with Entry 83 of list-I of the Seventh Schedule of the Constitution. The Customs Duties are major tax revenue for the Union Govt. and constitute around 30% of its total tax revenues. Together with Central Excise duties, the contribution amount to nearly three-fourth of total tax revenue of the Union Govt.

20.1 OBJECTIVE

After going through this lesson you should be able to understand:

- Meaning and objects of customs duty

- Scope and coverage of custom law
- Types of custom duties
- Rate of custom duties applicable
- Definitions and concepts
- Classification and valuation of goods

20.2 An Overview of Customs Law

Customs duties are probably the oldest form of taxation in India. They are as old as international trade itself. Just as domestic production flows provide the base for excise taxation so also international trade flows are the basis for customs duties.

20.2.1 Meaning of customs duty

Customs duty is a duty or tax, which is levied by Central Govt. on import of goods into, and export of goods from, India. It is collected from the importer or exporter of goods, but its incidence is actually borne by the consumer of the goods and not by the importer or the exporter who pay it.

These duties are usually levied with ad valorem rates and their base is determined by the domestic value 'the imported goods calculated at the official exchange rate. Similarly, export duties are imposed on export values expressed in domestic currency

20.2.2 Development of customs law

There is historical evidence of imposition of import duty during the ancient and medieval era, the development of organised taxation on imports and exports to its present form, originated in 1786, when the Britishers formed the first Board of Revenue in Calcutta. In 1808, a New Board of Trade was established. The provincial import duties were replaced by uniform Tariff Act through Customs Duties Act, 1859 which was made applicable all territories in the country. The general rate of duty was 10%, which was subsequently revised to 7.5% in 1864. Several revisions in the Customs policy and tariff took place during subsequent years, though such revisions were mainly related to the textile products.

Sea Customs Act was passed by Government in 1878. The Indian Tariff Act was passed in 1894. Air Customs having been covered under the India Aircrafts Act of 1911, the Land Customs Act was passed in 1924. The Indian Customs Act, 1934, governed the Customs Tariff.

After Independence, the Sea Customs Act and other allied enactments were repealed by a consolidating and amending legislation entitled the Customs Act, 1962 (CA). Similarly the Act of 1934 was repealed by the Customs Tariff Act, 1975(CTA).

20.2.3 Scope and coverage of customs law

There are two Acts, which form part of Customs Law in India, namely, the Customs Act, 1962 and Customs Tariff Act, 1975:

1. The Customs Act, 1962

The Customs Act, 1962 is the basic Act for levy and collection of customs duty in India. It contains various provisions relating to imports and exports of goods and merchandise as well as baggage of persons arriving in India. The main purpose of Customs Act, 1962 is the prevention of illegal imports and exports of goods. The Act extends to the whole of India. It was extended to Sikkim w.e.f. 1st October 1979.

2. The Customs Tariff Act, 1975

The Customs Duty is levied on goods imported or exported from India at the rates specified under the Customs Tariff Act, 1975. The Act contains two schedules - Schedule 1 gives classification and rate of duties for imports, while schedule 2 gives classification and rates of duties for exports. In the present Act, the Tariff Schedule was replaced in 1986. The new Schedule is based on Harmonised System of Nomenclature (HSN), the Internationally accepted Harmonised Commodity Description and Coding System

20.2.4 Objects of customs duty

The customs duty is levied, primarily, for the following purpose:

1. To raise revenue.
2. To regulate imports of foreign goods into India.
3. To conserve foreign exchange, regulate supply of goods into domestic market.
4. To provide protection to the domestic industry from foreign competition by restricting import of selected goods and services, import licensing, import quotas, and outright import ban.

CHECK YOUR PROGRESS

Activity A

What are two acts, which are part of customs law?

Activity B

Arrange the following acts in order of their establishment year?

- A) Indian customs act
- B) Sea customs act
- C) Land customs act
- D) Air customs act
- E) Customs Tariff act

20.3 Nature of Customs Duty

Entry 82 of List-I (Union List) to the Schedule-VII reads as under 82 ‘Duties of Customs including Export duties’.

Thus, the levy of duty on imports and exports is subject matter of Union and the parliament derives power to make laws related to the duties of customs. Accordingly, the Customs Act, 1962 was enacted by the Parliament.

Section 12 of the Customs Act provides that duties of customs shall be levied at such rates as may be specified Under the Customs Tariff Act, 1975 or any other law for the time being in force, on goods imported into or exported from’ India. Goods become liable to duty if there is import into and export from India.

20.3.1 Taxable Event

Goods become liable to import duty or export duty when there is ‘import into, or export from India

‘Import’, as defined in section 2(23), means ‘bringing into India from a place outside India’.

‘Export’, as defined in section 2(18), means taking out of India to a place outside India’.

‘India’ is defined in section 2(27) to include the territorial waters of India.

The definition of India is an inclusive definition. Article I of the Constitution of India defines “India” as Union of States. General Clauses Act defines India to mean all territories for the time being comprised in India.

20.3.2 Territorial water of India

Territorial waters mean that portion of sea, which is adjacent to the shores of a country. As per section 3 of the Territorial waters, Continental Shelf, Exclusive Economic Zones and Maritime Zones Act, 1978, territorial waters of India extend Upto 12 nautical miles from the baseline on the coast of India and include any gulf, harbour, creek or tidal river.

Earlier, the territorial waters of India extended upto the 6 nautical miles from the baseline, but it was extended upto 12 nautical miles (1 NM 1.83 kms) in 1967. This definition is well in accordance with the Article 3 of the UN Convention on the Law of Sea, which defines territorial sea.

The determination of territorial waters is important for determination of the Chargeability of the Customs duty, as the entry of goods into the territorial waters is a ‘taxable event’.

20.3.3 Indian customs water

Section 2(28) defines “Indian customs waters” to mean the waters extending into the sea up to the limit of contiguous zone of India under section 5 of the

Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 and includes any bay, gulf, harbour, creek or tidal river.

Contiguous zone of India comes immediately after the territorial waters of India (i.e. after 12 nautical miles from the baseline) and extends upto 24 nautical miles. Thus, Indian customs water extends upto 12 nautical miles beyond the territorial waters of India.

The determination of Indian customs waters is necessary in view of certain provisions of the Customs Act, which empower the Customs Officers:

- (a) To arrest a person in India or within the Indian customs water ;(section 1041)
- (b) To stop and search any vessel in India or within the Indian customs water; (section 1061)
- (c) To fire and/or confiscate the vessel, if it does not stop; (section 115) etc.

20.3.4 Type of customs duties

While Customs Duties include both import and export duties, but as export duties contributed only nominal revenue, due to emphasis on raising competitiveness of exports, import duties alone constituted major part of the revenue from Customs Duties. The import duties are imposed under The Customs Act, 1962 and Customs Tariff Act, 1975. The structure of Customs Duties includes the following:

Basic Customs Duty

All goods imported into India are chargeable to a duty under Customs Act, 1962 .The rates of this duty, popularly known as basic customs duty, are indicated in the First Schedule of the Customs Tariff Act, 1975as amended from time to time under Finance Acts. The duty may be fixed on ad -valorem basis or specific rate basis. The duty may be a percentage of the value of the goods or at a specific rate. The Central Government has the power to reduce or exempt any good from these duties.

Auxiliary Duty of Customs

This duty is levied under the Finance Act and is leviable all goods imported into the country at the rate of 50 per cent of their value. However this statutory rate has been reduced in the case of certain types of goods into different slab rates based on the basic duty chargeable on them.

Additional (Countervailing) Duty of Customs

This countervailing duty is leviable as additional duty on goods imported into the country and the rate structure of this duty is equal to the excise duty on like articles produced in India. The base of this additional duty is c.i.f. value of imports plus the duty levied earlier. If the rate of this duty is on ad-valorem basis, the value for this purpose will be the total of the value of the imported article and the customs duty on it (both basic and auxiliary).

Export Duties

Under Customs Act, 1962, goods exported from India are chargeable to export duty. The items on which export duty is chargeable and the rate at which the duty is levied are given in the Customs Tariff Act, 1975 as amended from time to time under Finance Acts. However, the Government has emergency powers to change the duty rates and levy fresh export duty depending on the circumstances.

Cesses

Cesses are leviable on some specified articles of exports like coffee, coir, lac, mica, tobacco (unmanufactured), marine products, cashew kernels, black pepper, cardamom, iron ore, oil cakes and meals, animal feed and turmeric. These cesses are collected as parts of Customs Duties and are then passed on to the agencies in charge of the administration of the concerned commodities.

Education cess on customs duty

An education cess has been imposed on imported goods w.e.f. 9-7-2004. The cess will be 2% of the aggregate duty of customs excluding safeguard duty, countervailing duty, Anti Dumping Duty.

Protective Duties

Tariff Commission' has been established under Tariff Commission Act, 1951. If the Tariff Commission recommends and Central Government is satisfied that immediate action is necessary to protect interests of Indian industry, protective customs duty at the rate recommended may be imposed under section 6 of Customs Tariff Act. The protective duty will be valid till the date prescribed in the notification.

Countervailing duty on subsidised goods

If a country pays any subsidy (directly or indirectly) to its exporters for exporting goods to India, Central Government can impose Countervailing duty up to the amount of such subsidy under section 9 of Customs Tariff Act.

Anti Dumping Duty on dumped articles

Often, large manufacturer from abroad may export goods at very low prices compared to prices in his domestic market. Such dumping may be with intention to cripple domestic industry or to dispose of their excess stock. This is called 'dumping'. In order to avoid such dumping, Central Government can impose, under section 9A of Customs Tariff Act, anti-dumping duty upto margin of dumping on such articles, if the goods are being sold at less than its normal value. Levy of such anti-dumping duty is permissible as per WTO (world trade organisation) agreement. Anti dumping action can be taken only when there is an Indian industry producing 'like articles'.

Safeguard duty

Central Government is empowered to impose 'safeguard duty' on specified imported goods if Central Government is satisfied that the goods are being imported in large quantities and under such conditions that they are causing or threatening to cause serious injury to domestic industry. Such duty is

permissible under WTO agreement. Safeguard duty is a step in providing a need-based protection to domestic industry for a limited period, with ultimate objective of restoring free and fair competition

National Calamity Contingent Duty

A National Calamity Contingent Duty (NCCD) of customs has been imposed vide section 129 of Finance Act, 2001. This duty is imposed on pan masala, chewing tobacco and cigarettes. It varies from 10% to 45%. - - NCCD of customs of 1% was imposed on PFY, motor cars, multi utility vehicles and two wheelers and NCCD of Rs 50 per ton was imposed on domestic crude oil, vide section 134 of Finance Act, 2003.

20.3.5 Rate of duty applicable

There are different rates of duty for different goods there are different rates of duty for goods imported from certain countries in terms of bilateral or other agreement with such countries which are called preferential rate of duties the duty may be percentage of the value of the goods or at specified rate. Provisions in respect of rate of duty are as follows:

Basic Customs duty - The rate of customs duty applicable will be as provided in Customs Act, subject to exemption notifications, if any, applicable. In case of imports from preferential area, the preferential rate is applicable, if mentioned in the Tariff. It is needless to mention that if partial or full exemption has been granted by a notification, the effective rate (as per notification) will apply and not the tariff rate (as mentioned in Customs Tariff).

Rate for additional duty - Rate for additional duty (CVD) will be as mentioned in Central Excise Tariff Act, subject to any general exemption notification. Any specific exemption notification (e.g. exemption to goods manufactured by SSI unit or goods manufactured without aid of power) is not considered while calculating CVD

CHECK YOUR PROGRESS

Activity C

Give the full form of the following words:

- a) WTO
- b) CVD
- c) HNS
- d) NCCD
- e) CTA

20.4 Definitions and Concepts

Definitions concepts under the Customs Act

Bill of Entry

This is a very vital and important document which every importer has to submit under section 46 Bill of Entry should be submitted in quadruplicate – original and duplicate for customs, triplicate for the importer and fourth copy is meant for bank for making remittances.

Baggage

The term has not been defined as such. However, following may be noted: (a) Baggage means all dutiable articles, imported by passenger or a member of a crew in his baggage (b) Un-accompanied baggage, if despatched previously or subsequently within prescribed period is also covered (c) baggage does not include motor vehicles, alcoholic drinks and goods imported through courier (d) Baggage does not include articles imported under an import licence for his own use or on behalf of others.

Customs Station

Imported goods are permitted to be unloaded only at specified places. Similarly, goods can be exported only from specified area. In view of this, a definition of 'Customs Station' is important. Customs Station means (a) customs port (b) inland container depot (c) customs airport and (d) land customs station

Customs area

Customs area means all area of Customs Station and includes any area where imported goods or export goods are ordinarily kept pending clearance by Customs authorities. Thus, 'Customs Area' could include some area even outside the 'Customs Station'.

Drawback

Drawback means the rebate of duty chargeable on any imported materials or excisable materials used in manufacture or processing of goods which are manufactured in India and exported.

ENTRY

Entry' in relation to goods means an entry made in a Bill of Entry, Shipping Bill or Bill of Export. It includes (a) label or declaration accompanying the goods which contains description, quantity and value of the goods, in case of postal articles u/s 82 (b) Entry to be made in case of goods to be exported (c) Entry in respect of goods imported which are not accompanied by label or declaration made as per provisions of section 84. [Section 2(16)].

Exporter

Exporter in relation to any goods at any time between their entry of export and the time when they are exported includes any owner or any person holding himself out to be the exporter. [2(20)]

Goods

Customs duty is on 'goods' as per section 12 of Customs Act. The duty is payable on goods belonging to Government as well as goods not belonging to Government. Section 2(22), gives inclusive definition of 'goods' as - 'Goods' includes (a) vessels, aircrafts and vehicles (b) stores (c) baggage (d) currency and negotiable instruments and (e) any other kind of movable property.

Thus, ships or aircrafts brought for use in India or for carrying cargo for ports out of India would be dutiable. Definition of goods has been kept quite wide as Customs Act is used not only to collect duty on 'goods' but also to restrict/prohibit import or export of 'goods' of any description. Main two tests for 'goods' are (a) they must be movable and (b) they must be marketable. The very fact that goods are transported by sea/air/road means that they are 'movable'. Since most of imports are on payment basis, test of 'marketability' is obviously satisfied.

DUTIABLE GOODS - Section 2(14) define 'dutiable goods' as any goods which are chargeable to duty and on which duty has not been paid. Thus, goods continue to be 'dutiable' till they are not cleared from the port. However, once goods are assessed at 'Nil' rate of duty, they no more remain 'dutiable goods'.

IMPORTED GOODS - Section 2(25) define 'imported goods' as any goods brought in India from a place outside India, but does not include goods which have been cleared for home consumption. Thus, once goods are cleared by customs authorities from customs area, they are no longer 'imported goods'. (Though in common discussions, goods cleared from customs are also called 'imported goods').

EXPORT GOODS – As per section 2(19) of Customs Act, 'export goods' means any goods which are to be taken out of India to a place outside India. Goods brought near customs area for export purpose will be 'export goods'. Note that once goods leave Indian Territory, Indian laws have no control over them and hence the term 'exported goods' has not been used or defined.

Importer

Importer, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer. [2(26)]

Person-in-charge means—

- (a) in relation to a vessel, the master of the vessel,
- (b) in relation to an aircraft, the commander or pilot-in-charge of the aircraft;

- (c) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;
- (d) in relation to any other conveyance, the driver or other person-in-charge of the conveyance. [2(31)]

Prohibited Goods

Prohibited Goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. [2(33)]

Stores

Stores means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting. [2(38)].

CHECK YOUR PROGRESS

Activity D

Explain the following key words in your own words

- a) India
- b) Import
- c) Export
- d) Goods

20.5 Classification and valuation

20.5.1 Classification of goods

Classification of goods under a particular heading of the import Tariff governed by a set of General Interpretative Rules, which form an integral part of the CTA. As per these Rules, classification is to determine according to the terms of the Headings or Sub-headings or Chapter Notes These Rules also provide that completed unfinished article is to be classified as complete or finished art. it has an essential character of the latter article. Similarly a con finished article imported in an unassembled or disassembled condition to be classified an complete or finished article and not as parts. The Rules also

provide for the Classification of mixtures and composite goods consisting of different materials or made to of different articles Once the classification is determined under the Import Tariff, the determination classification under the Central Excise Tariff for the plirpos of levy of countervailing duty equal to the excise duty is a simple affair as both the Tariff are, more or less, aligned with the HSN.

20.5.2 Valuation of goods

Customs duty is payable as a percentage of 'Value' often called 'Assessable Value' or 'Customs Value'. The Value may be either (a) 'Value' as defined in section 14 (1) of Customs Act or (b) Tariff value prescribed under section 14 (2) of Customs Act.

Tariff Value - Tariff Value can be fixed by CBE&C (Board) for any class of imported goods or export goods. Government should consider trend of value of such or like goods while fixing tariff value. Once so fixed, duty is payable as percentage of this value. (The percentage applicable is as prescribed in Customs Tariff Act).

Customs value as per section 14 (1) - Customs Value fixed as per section 14 (1) is the 'Value' normally used for calculating customs duty payable (often called 'customs value' or 'Assessable Value'.)

Section 14 (1) provide following criteria for deciding 'Value' for purpose of Customs Duty:

- Price at which such or like goods are ordinarily sold or offered for sale
- Price for delivery at the time and place of importation or exportation
- Price should be in course of International Trade
- Seller and buyer have no interest in the business of each other or one of them has no interest in the other
- Price should be sole consideration for sale or offer for sale
- Rate of exchange as on date of presentation of Bill of Entry as fixed by CBE&C (Board) by Notification should be considered

This criterion is fully applicable for valuing export goods. However, in case of imported goods, valuation is required to be done according to valuation rules

Valuation has to be on the basis of condition at the time of import – (a) CVD should be levied on goods in the stage in which they are imported - stage subsequent to processing of goods is not relevant - (b) It is well settled that the imported goods have to be assessed to duty in the condition in which they are imported.

Valuation Rules for imported goods

Valuation in Customs Act has to be done as per valuation rules. These rules are based on 'WTO Valuation Agreement' (Earlier termed as GATT Valuation Code). These rules are only for valuation of imported goods and not applicable to export goods.

The value of imported goods for purposes of assessment of duty is determined in accordance with the provisions of Section 14 of 1962 and the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988, which were brought into force on 16th August, 1988

Rule 3(i) of the Valuation Rules provides that the value of imported goods shall be the. 'Transaction value' under Rule 4 'Transaction value' has been defined as the price actually paid or payable for the goods when sold for export to India, adjusted in accordance with the provisions of Rule 9. The adjustments under Rule 9 provide, inter alia, the addition in all cases, of freight and cost of insurance to the 'transaction value' if not already included and also for the addition of loading, unloading and handling charges for purposes of assessment. In other words, the assessable value is the safe. price of the imported goods plus the landing charges subject to any other adjustment which may be necessary under the provisions of Rule. If the value cannot be determined under Rule 3(i), the value is to be determined under Rules 5 to 8, which are required to be in that order.

The rate of exchange applicable for conversion of foreign currency in Indian currency is the rate in force on the date of presentation of the Bill Entry under Section 46. Such exchange rates are notified by the Govt. from time to time by notifications issued under clause a (i) of Section 14(3).

Customs Value – Inclusions

Some costs, services and expenses are to be added to the price paid or payable, if these are not already included in the invoice price. Rule 9 of Customs Valuation Rules provide that following cost and services are to be added –

- Commission and brokerage
- Cost of container, which are treated as being one with the goods for customs purposes
- Cost of packing whether labour or materials
- Materials, components, tools, dies etc. supplied by buyer
- Royalties and license fees
- Value of proceeds of subsequent sales
- Other payment as condition of sale of goods being valued
- Cost of transport up to place of importation
- Landing charges
- Cost of insurance.

Exclusions from Assessable Value

Note to rule 4 provide that following charges shall be excluded:

- Charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation of plant, machinery or equipment
- Cost of transport after importation
- Duties and taxes in India

Methods of Valuation for Customs

The Valuation Rules, 1988, based on WTO Valuation Agreement (earlier GATT Valuation Code); consist of rules providing six methods of valuation. The methods are:

- (a) Transaction Value of Imported goods
- (b) Transaction Value of Identical Goods (c) Transaction Value of Similar Goods
- (d) Deductive Value, which is based on identical or similar imported goods, sold in India.
- (e) Computed value, which is based on cost of manufacture of goods plus profits
- (f) Residual method based on reasonable means and data available.

These are to be applied in sequential order, i.e. if method one cannot be applied, then method two comes into force and when method two also cannot be applied, method three should be used and so on. The only exception is that the 'computed value' method may be used before 'deductive value' method, if the importer requests and Assessing Officer permits.

Transaction value of same goods: This is the first and primary method as per rule 3 of Valuation Rules. As per rule 4(1), 'transaction value' of imported goods shall be the price actually paid or payable for the goods when sold for exported to India, adjusted in accordance with provisions of rule 9. [Rule 9 gives costs and services to be added to transaction value].

Transaction value of identical goods: Rule 5 of Customs Valuation Rules provide that if valuation on the basis of 'transaction value' is not possible, the 'Assessable value' will be decided on basis of transaction value of identical goods sold for export to India and imported at or about the same time, subject to making necessary adjustments. Identical goods' are defined under Rule 2(1)(c) as those goods which fulfil all following conditions i.e. (a) the goods should be same in all respects, including physical characteristics, quality and reputation; except for minor differences in appearance that do not affect value of goods. (b) The goods should have been produced in the same country in which the goods being valued were produced. (c) they should be produced by same manufacturer who has manufactured goods under valuation - if price of such goods are not available, price of goods produced by another manufacturer in the same country.

Transaction value of similar goods: If first method of transaction value of the goods or second method of transaction value of identical goods cannot be used, rule 6 provide for valuation on basis of 'Transaction value of similar goods imported at or about the same time'.

Rule 2 (1) (e) define 'similar goods' as (a) alike in all respects, have like characteristics and like components and perform same functions. These should be commercially inter-changeable with goods being valued as regards quality, reputation and trade mark. (b) the goods should have been produced in the same country in which the goods being valued were produced. (c) they should be produced by same manufacturer who has manufactured goods under valuation - if price of such goods are not available, price of goods produced by another manufacturer in the same country can be considered.

Deductive Value: Rule 7 of Customs Valuation Rules provide for the next i.e. fourth alternative method, which is called 'deductive method'. This method should be applied if transaction value of identical goods or similar goods is not available; but these products are sold in India. The assumption made in this method is that identical or similar imported goods are sold in India and its selling price in India is available. The sale should be in the same condition as they are imported. Assessable Value is calculated by reducing post-importation costs and expenses from this selling price. This is called 'deductive value' because assessable value has to be arrived at by method of deduction (deduction means arrive at by inference i.e. by making suitable additions/subtractions from a known price to arrive at required 'Customs Value').

Computed Value for Customs: If valuation is not possible by deductive method, the same can be done by computing the value under rule 7A, which is the fifth method. [This method has been added w.e.f. 24-4-95]. If the importer requests and the Customs Officer approves, this method can be used before the method of 'deductive value'. In this method, value is the sum of (a) Cost of value of materials and fabrication or other processing employed in producing the imported goods (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind, which are made in the country of exportation for export to India. (c) The cost or value of all other expenses under rule 9 (2) i.e. transport, insurance, loading, unloading and handling charges.

Residual Method: The sixth and the last method is called "residual method". It is also often termed as 'fallback method'. This is similar to 'best judgment method' of the Central Excise. This method is used in cases where 'Assessable Value' cannot be determined by any of the preceding methods. While deciding Assessable Value under this method, reasonable means consistent with general provisions of these rules should be the basis and valuation should be on basis of data available in India. This method can be considered if valuation is not possible by any other method

In other words, selling price for export to India can alone form the basis. (Thus, fixing 'tariff value' is really against this rule).

Valuation for Assessment of Export Goods

Customs value of export goods is to be determined under section 14 (1) of Customs Act. Customs Valuation Rules are applicable only for imported goods. Thus, Assessable Value of export goods shall be “deemed to be the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of exportation in the course of international trade, where the seller and the buyer have no interest in the business of each other or one of them has no interest in the other, and the price is the sole consideration for the sale or offer for sale”.

Normally, ‘FOB Value’ of exports will be the basis. If the export sale contract is a CIF contract, post exportation elements i.e. insurance and outward freight will have to be deducted. However, now many instances have come to notice where exported goods have been over-valued to get export benefits.

Valuation for CVD when goods are under MRP provisions –

In respect of some consumer goods, excise duty is payable on basis of MRP (Maximum Retail Price) printed on the carton. If such goods are imported, CVD will be payable on basis of MRP printed on the packing. However, it has been clarified by DGFT vide policy circular No. 38(RE-2000) / 1997-2002 dated 22-1-2001 that labelling requirements for pre-packed commodities are applicable only when they are intended for retail sale. These are not applicable to raw materials, components, bulk imports etc. which will undergo further processing or assembly before they are sold to consume.

CHECK YOUR PROGRESS

Activity E

Discuss whether the following cost and services are to be added to the value as per rule 9 of Customs Valuation Rule

- a) Camera
- b) Necklace
- c) Tools used in production of imported goods
- d) Royalties
- e) Insurance cost
- f) Cost of design, plan and sketches
- g) Cost of durable and re- usable containers

20. 6 LET US SUM UP

Customs duties levied by central government import of goods into, and export of goods from, India. There are two basic acts under Customs Law namely

Customs Act 1962 and Customs Tariff Act 1975 various type of customs duties are classified in two groups –import duties and export duties section 12 of the CA, 1962 deals with the scope of these levies the section provides that other provided in this act or any other law for the time being enforced duties of custom should be levied at such rate as may be specified in the customs tariff act 1975 on all goods imported into exported from India. Custom duty is payable as a percentage of value often called assessable value or custom value. Evaluation in custom act has to be done as per evaluation rules, which are based on WTO evaluation agreement. These rules are applicable for imported good not applicable to exported goods.

20.7 GLOSSARY

The various key words, which arise in this chapter, are

Ad –valorem Duty as a percentage of the value of goods

Assessments include provisional assessment, reassessment and any order of assessment in which the duty assessed is nil.

Board means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963. [2(6)1]

Duty means a duty of customs leviable under this Act.

Export Price means the price at which goods are exported. If the export price is unreliable due to association or compensatory arrangement between exporter and importer or a third party, export price can be constructed (revised) on the basis of price at which the imported articles are first sold to independent buyer or according to rules made for determining margin of dumping.

Margin of dumping means the difference between normal value and export price (i.e. the price at which these goods are exported).

Normal Value means comparable price in ordinary course in trade, for consumption in the exporting country or territory. If such price is not available or not comparable, comparable representative price of like article exported from exporting country or territory to appropriate third country can be considered. 9A (1) (c)

WTO World Trade Organization was an International forum for discussion on custom and other related problems so that barriers to world trade are removed

20.8 SELF ASSESSMENT EXERCISE

- 1) Write a short note on nature and scope of Customs Duty?

- 2) Explain the difference between “Territorial water “and “Customs water” under Customs Act 1962?
- 3) Discuss in detail various type of duties levied on imports under Customs Act 1962?
- 4) Briefly examine the nature and significance of levy of Anti Dumping Duty under Customs Act 1975?
- 5) What do you understand by “ Transaction Value “ and enumerate the various cost and services that are to be added to the Transaction Value under rule 9 of Customs Valuation Rule 1988?
- 6) Explain the difference between identical goods and similar goods with reference to custom valuation Rule 1988?
- 7) Write short note on the following:
 - a) Countervailing duty on subsidized goods
 - b) Customs Tariff Act
 - c) Objects of customs duty
 - d) Classification of goods.

20.9 FURTHER READINGS AND SOURCES

Datey, V.S, 2005. *Indirect Taxes*, Taxmann Publisher, Delhi. Twentieth Edition.

Sanjeev Kumar. 2005. *Indirect Taxes*, Bharat Law House, Delhi. Fifth Edition.