

STUDY NOTE - 5

OVERVIEW OF CUSTOMS LAW

This Study Note includes

- Introduction
- Type of Custom Duties
- Valuation in Customs
- Procedures for Import
- Export Procedures
- Baggage, Courier and Import through Post
- Other Provisions in Customs

5.1 INTRODUCTION

- **Customs duty is on imports into India and export out of India. Section 12 of Customs Act, often called *charging section*, 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.**
- There are many common provisions in Central Excise and customs Law
- In case of imports, taxable event occurs when goods mix with landmass of India - *Kiran Spinning Mills v. CC* 1999(113) ELT 753 = AIR 2000 SC 3448 = 2000 AIR SCW 2090 (SC 3 member bench).
- In case of warehoused goods, the goods continue to be in customs bond. Hence, ‘import’ takes place only when goods are cleared from the warehouse - confirmed in *UOI v. Apar P Ltd.* 1999 AIR SCW 2676 = 112 ELT 3 = 1999(6) SCC 118 = AIR 1999 SC 2515 (SC 3 member bench).- followed in *Kiran Spinning Mills v. CC* 1999(113) ELT 753 = AIR 2000 SC 3448 = 2000 AIR SCW 2090 (SC 3 member bench).
- In case of exports, taxable event occurs when goods cross territorial waters of India - *UOI v. Rajindra Dyeing and Printing Mills* 2005 (180) ELT 433 (SC)
- Territorial waters of India extend upto 12 nautical miles inside sea from baseline on coast of India and include any bay, gulf, harbour, creek or tidal river. (1 nautical mile = 1.1515 miles = 1.853 Kms). Sovereignty of India extends to the territorial waters and to the seabed and subsoil underlying and the air space over the waters.
- Indian Customs waters extend upto 12 nautical miles beyond territorial waters. Powers of customs officers extend upto 12 nautical miles beyond territorial waters.
- ‘*Exclusive economic zone*’ extends to 200 nautical miles from the base-line.



5.1.1 Common aspects of Customs and Central Excise

There are many common links between Customs and Central Excise.

- Both are Central Acts and derive power of levy from list I - Union List - of the Seventh Schedule to Constitution.
- Both are under administrative control of one Board (Central Board of Excise and Customs) under Ministry of Finance.
- Organizational hierarchy is same from top upto Assistant Commissioner level. Transfers from customs to excise and *vice versa* are not uncommon.
- Chief Commissioner in charge of each Zone is same for excise and customs at many places.
- In the interior areas, Excise officers also work as customs officers.
- Classification Tariffs of both acts are based on HSN and principles of classification are identical.
- Principles of deciding 'Assessable Value' have some similarities i.e. both are principally based on 'transaction value'. Concept of 'related person' appears in Customs as well as Excise valuation.
- Provisions of refund, including principle of 'unjust enrichment' are similar. Provisions for interest for delayed payment are also identical.
- Provisions of raising demand for short levy, non-levy or erroneous refund are similar. Provisions in respect of recovery, mandatory penalty etc. are also similar.
- Provisions for granting exemptions from duty - partial or full - conditional or unconditional are identical.
- Powers of search, confiscation etc. are quite similar in many respects. In fact, some of provisions of Customs Act have been made applicable to Central Excise with suitable modifications.
- Provisions in respect of Settlement Commission and Authority for Advance Ruling are identical.
- Appeal provisions are identical.

- Appellate Tribunal (CESTAT) is same. Hence, procedures of appeal to Tribunal are identical.

5.2 TYPE OF CUSTOM DUTIES

- Basic customs duty levied u/s 12 of Customs Act.
- The rate of basic customs duty is specified in Customs Tariff Act, read with relevant exemption notification. Generally, basic customs duty is 10% of non-agricultural goods.
- CVD equal to excise duty is payable on imported goods u/s 3(1) of Customs Tariff Act. General excise duty rate is 16.48% (16% basic plus 2% education cess and SAH Education cess of 1%)
- Special CVD (SAD) is payable @ 4% on imported goods u/s 3(5) of Customs Tariff Act. This is in lieu of Vat/sales tax to provide level playing field to Indian goods.
- Education cess of customs @ 2% and SAH Education cess of 1% is payable.
- Total import duty considering all duties plus education cess on non-agricultural goods is generally 34.13%.
- NCCD has been imposed on a few articles. In addition, on certain goods, anti-dumping duty, safeguard duty, protective duty etc. can be imposed.

Total duty payable generally comes to 31.70% - It is said that the intention is to bring it down to 'Asian' level of 8%. It is not clear what is meant by 'Asian' level of 8%, but factually, the total customs duty payable is much higher i.e. 31.70% as given below.

Assessable value = CIF Value of imported goods converted into Rupees at exchange rate specified in notification issued by CBE&C plus landing charges 1%.

Calculation of duty payable is as follows -				
		Duty %	Amount	Total Duty
(A)	Assessable Value Rs 10,000		10,000.00	
(B)	Basic Customs Duty	10	1,000.00	1,000.00
(C)	Sub-Total for calculating CVD '(A+B)'		11,000.00	
(D)	CVD 'C' x excise duty rate	14	1,540.00	1,540.00
(E)	Education cess of excise - 2% of 'D'	2	30.80	30.80
(F)	SAH Education cess of excise - 1% of 'D'	1	15.40	15.40
(G)	Sub-total for edu cess on customs 'B+D+E+F'		2,586.20	
(H)	Edu Cess of Customs - 2% of 'G'	2	51.72	51.72
(I)	SAH Education Cess of Customs - 1% of 'G'	1	25.86	25.86
(J)	Sub-total for Spl CVD 'C+D+E+F+H+I'		12,663.78	
(K)	Special CVD u/s 3(5) - 4% of 'J'	4	506.55	506.55
(L)	Total Duty			3,170.33
(M)	Total duty rounded to	Rs		3,170
Notes – Buyer who is manufacturer, is eligible to avail Cenvat Credit of D, E, F and K above.				
A buyer, who is service provider, is eligible to avail Cenvat Credit of D, E and F above.				
A trader who sells imported goods in India after charging Vat / sales tax can get refund of Special CVD of 4% i.e. 'K' above				

5.2.1 Additional Customs Duty u/s 3(1) (CVD)

- CVD (Countervailing Duty) is payable on imported goods u/s 3(1) of Customs Tariff Act to counterbalance impact of excise duty on indigenous manufactures, to ensure level paying field.
- CVD is payable equal to excise duty payable on like articles if produced in India. It is payable at effective rate of excise duty, which is generally 16.48%.
- CVD is payable on assessable value plus basic customs duty. In case of products covered under MRP provisions, CV duty is payable on MRP basis as per section 4A of Central Excise.
- CVD can be levied only if there is 'manufacture'.
- CVD is neither excise duty nor basic customs duty levied under Customs Act. However, all provisions of Customs Act apply to CVD.

5.2.2 Additional Duty under section 3(5) (Special CVD - SAD)

Section 3(5) of Customs Tariff Act empowers Central Government to impose additional duty. This is in addition to Additional Duty leviable u/ss 3(1) and 3(5) of Customs Tariff Act. Provision for this duty has been made w.e.f. 1-3-2005. Purpose of the Additional Duty is to counter-balance sales tax, VAT, local tax or other charges leviable on articles on its sale, purchase or transaction in India.

The obvious intention is to provide level playing field to manufacturers in India who are manufacturing similar goods. Hence, it is termed as 'Special CVD' or 'SAD' (Special Additional Duty).

Exemption from SAD - Some categories of imports have been exempted from this special CVD (SAD), vide customs notification No. 20/2006-Custom dated 1-3-2006. The main among these are: Articles of jewellery attracts a lower rate of special CVD at 1%.

Departmental clarifications - Department has clarified as follows, vide MF(DR) circular No. 18/2006-Cus dated 5-6-2006 –

- Special CVD of 4% is not leviable in case of imports under advance authorisation, EOU, EPCZ and SEZ schemes
- In case of export promotion schemes like DEPB, target plus, service from India, DFCE and Vishesh Krishi and Gram Udyog Yojana, 4% Special CVD is required to be debited to the duty scrip / entitlement certificate.
- In case of DFRC scheme, 4% special CVD is payable.
- Duty debited through DEPB, DFCE, target plus scheme etc. will be eligible for Cenvat credit or duty drawback.

Refund of Special CVD to traders – Traders selling imported goods in India after charging sales tax/Vat can claim refund of special CVD from customs department – Notification No. 102/2007-Cus dated 14-9-2007.

5.2.3 Anti-Dumping Duty

- Antidumping duty is leviable u/s 9A of Customs Tariff Act when foreign exporter exports his good at low prices compared to prices normally prevalent in the exporting country.
- Dumping is unfair trade practice and the anti-dumping duty is levied to protect Indian manufacturers from unfair competition.
- Margin of dumping is the difference between normal value (i.e. his sale price in his country) and export price(price at which he is exporting the goods).
- Price of similar products in India is not relevant to determine 'margin of dumping'.



- 'Injury margin' means difference between fair selling price of domestic industry and landed cost of imported products. Dumping duty will be lower of dumping margin or injury margin.
- Benefits accruing to local industry due to availability of cheap foreign inputs is not considered. This is a drawback.
- CVD is not payable on antidumping duty. Education cess and SAH education cess is not payable on anti-dumping duty
- In case of imports from WTO countries, antidumping duty can be imposed only if it cause material injury to domestic industry in India.
- Dumping duty is decided by Designated Authority after enquiry and imposed by Central Government by notification. Provisional antidumping duty can be imposed.
- Appeal against antidumping duty can be made to CESTAT.

5.3 VALUATION IN CUSTOMS

- 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 (section amended w.e.f. 10-10-2007)
- Transaction value at the time and place of importation or exportation, when price is sole consideration and buyer and sellers are unrelated is the basic criteria for 'value' u/s 14(1) of Customs Act. Thus, CIF value in case of imports and FOB value in case of exports is relevant.
- In case of high sea sale, price charged by importer to assessee would form the assessable value and not the invoice issued to the importer by foreign supplier. – *National Wire v. CC* 2000(122) ELT 810 (CEGAT) * *Godavari Fertilizers v. CC* (1996) 81 ELT 535 (CEGAT).
- Rate of exchange will be as determined by CBE&C or ascertained in manner determined by CBE&C.
- Valuation for customs is required to be done as per provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007
- CIF value of goods plus 1% landing charges is the basis for deciding 'Assessable Value'.
- Commission to local agents, packing cost, value of goods and toolings supplied by buyer, royalty relating to imported goods are addible.
- Interest on deferred payment, demurrage and value of computer software loaded is not to be added.
- Old machinery and old cars are often valued on basis of depreciated value, though such method has no sanction of law.

5.3.1 Additions to 'Customs Value'

Rule 10 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 [Rule 9 upto 10-10-2007] provide that following cost and services are to be added, *if these are not already included in the invoice price.* –

- Commission and brokerage, except buying Commission, if not already included in the invoice price [rule 10(1)(a)(i)].
- Cost of container which are treated as being one with the goods for customs purposes, if not already included in the invoice price [rule 10(1)(a)(ii)].
- Cost of packing whether labour or materials, if not already included in the invoice price [rule 10(1)(a)(iii)].
- Materials, components, tools, dies, moulds, and consumables used in production of imported goods, supplied by buyer directly or indirectly, free of charge or at reduced cost, to the extent not already included in price [rule 10(1)(b)(i), (ii) and (iii)]
- Engineering, development, art work, design work, plans and sketches undertaken elsewhere than in India and necessary for production of imported goods, to the extent not already included in price [rule 10(1)(b)(iv)].
- Royalties and license fees relating to imported goods that buyer is required to pay, directly or indirectly, as a condition of sale of goods being valued [rule 10(1)(c)]
- Value of proceeds of subsequent resale, disposal or use of goods that accrues directly or indirectly to seller (i.e. to foreign exporter) [rule 10(1)(d)]
- All other payments made as condition of sale of goods being valued made directly or to third party to satisfy obligation of seller, to the extent not included in the price [rule 10(1)(e)]
- Cost of transport upto place of importation [rule 10(2)(a)]
- Loading, unloading and handling charges associated with delivery of imported goods at place of importation [These are termed as landing charges and are to be taken as 1%] [rule 10(2)(b)]
- Cost of insurance [rule 10(2)(c)]

The additions should be on the basis of objective and quantifiable data [rule 10(3) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (earlier rule 9(3)).

No other additions - No other addition shall be made to price paid or payable, except as provided for in rule 10.

Royalty payment un-connected with imported goods not to be added - UOI v. Mahindra and Mahindra Ltd. 76 ELT 481 = 1995 AIR SCW 1519 (SC) * *S D Technical Service v. CC* 2003 (155) ELT 274 = 56 RLT 970 (CEGAT 3 member bench).



Barging/lighterage charges includible – explanation to rule 10(2) (w.e.f. 10-10-2007)

Landing charges of 1% of CIF value to be added - Rule 10(2)(b).

Ship demurrage includible w.e.f. 10-10-2007 - explanation to rule 10(2)

5.3.2 Exclusions from Assessable Value

Interpretative Note to rule 3 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provide that following charges shall be excluded :

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

Other payments from buyer to seller *that do not relate* to imported goods are not part of the customs value.

Demurrage charges payable to port trust authorities for delay in clearing goods are not to be added . - *Deepak Fertilisers v. CC 1989(41) ELT 550 (CEGAT) * Hindustan Lever v. UOI 2002(142) ELT 33 (Cal HC).* [However, ship demurrage is includible w.e.f. 10-10-2007].

Ship demurrage includible w.e.f. 10-10-2007 - explanation to rule 10(2)

5.3.3 Methods of Valuation

The methods of valuation for customs methods are as follows -

- Transaction Value of Imported goods [Section 14(1) and Rule 3(1)]
- Transaction Value of Identical Goods [Rule 4]
- Transaction Value of Similar Goods [Rule 5]
- Deductive Value which is based on identical or similar **imported** goods sold in India [Rule 7]
- Computed value which is based on cost of manufacture of goods plus profits [Rule 8]
- Residual method based on reasonable means and data available [Rule 9]

Methods to be applied sequentially - These methods 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.

5.3.4 Rejection of 'Value' -

Importer has to declare 'value' of goods. If the assessing officer has reason to doubt about truth or accuracy of the value declared by the importer, he can ask the importer to submit further information and evidence. If the customs officer still has *reasonable doubt*, he can reject the 'value' as declared by the importer. [rule 12(1) w.e.f. 10-10-2007 – earlier rule 10A(1) of Customs Valuation Rules added w.e.f. 19-2-1998]. If the importer requests, the assessing officer has to give reasons for doubting the truth or accuracy of value declared by importer. [rule 12(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 – earlier rule 10A(2) of Customs Valuation Rules upto 10-10-2007].

Rule 12 is only mechanism to reject the declared value – As per *explanation* (1)(i) to rule 12, the Rule 12 does not provide any method for determination of value. It only provides mechanism to reject declared value, where there is reasonable doubt. If transaction value is rejected, valuation has to be done as per rule 4 to 9 [*Explanation* (1)(i) to rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

5.3.5 Export Goods - Valuation for Assessment

Customs value of export goods is to be determined under section 14 of Customs Act, read with Customs Valuation (Determination of Value of Export Goods), Rules, 2007. Transaction value at the time and place of exportation, when price is sole consideration and buyer and sellers are unrelated is the basic criteria. If there is no sale or buyer or seller are related or price is not the sole consideration, value of the goods will be determined as per Valuation Rules [Clause (ii) of second proviso to section 14(1)].

Valuation when buyer and seller are related – Definition of related person as per rule 2(2) of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 is same as per definition of rule 2(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

As per rule 3(2) of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, the transaction value, the transaction value will be accepted as 'value' even if buyer and seller are 'related', if the relationship has not influenced price.

Valuation if value cannot be determined on basis of transaction value – If valuation is not possible on basis of transaction value, valuation will be done by proceeding sequentially through rules 4 to 6 [Rule 3(3) of Customs Valuation (Determination of Value of Export Goods) Rules, 2007].

The methods are - Export value by comparison on the basis of transaction value of 'goods of like kind and quality' exported at or about the same time to other buyers in same destination country [Rule 4], Computed value on basis of cost of production plus profit [Rule 5] and Residual method using reasonable means consistent with principles and general provisions of rules [Rule 6].

Rejection of value as declared by exporter - As per rule 7 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, the exporter has to file declaration about full 'value' of goods. If the assessing officer has doubts about the truth and accuracy of 'value' as declared, he



can ask exporter to submit further information, details and documents. If the doubt persists, the assessing officer can reject the value declared by importer. [rule 8(1) of Customs Valuation (Determination of Value of Export Goods) Rules, 2007]. If the exporter requests, the assessing officer has to give reasons for doubting the value declared by exporter. [rule 8(2)].

Rule 8 is only mechanism to reject the declared value – As per *explanation* (1)(i) to rule 8, the Rule 8 does not provide any method for determination of value. It only provides mechanism to reject declared value, where there is reasonable doubt.

Declared value shall be accepted if assessing officer is satisfied about truth and accuracy of the declared value [Explanation (1)(ii) to rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007].

5.4 PROCEDURES FOR IMPORT

- Goods should arrive at customs port/ airport only.
- Person in charge of conveyance is required to submit Import Manifest or Export Manifest.
- Goods can be unloaded only after grant of 'Entry Inwards'.
- Importer has to submit Bill of Entry giving details of goods being imported, along with required documents. Electronic submission of documents is to be done in many ports.
- Goods are assessed to duty, examined and customs duty is paid. Bond is executed if required.
- Goods can be cleared from port after 'Out of Customs Charge' order is issued by customs officer.
- Self Assessment on basis of 'Risk Management System' (RNS) has been introduced in some ports in respect of specified goods and importers.
- Demurrage is payable if goods are not cleared within three days from port. Goods can be disposed of if not cleared within 30 days.

Overview of procedures for import - The broad procedures to be followed for assessment and clearance of imported goods are as follows –

- Importer to submit Bill of Entry giving details of goods to be cleared from customs
- Bill of Entry can be for home consumption (i.e. clearance after payment of duty) (white colour) or for warehousing (keeping in warehouse without payment of duty and later clearing on payment of duty when required) (yellow colour)
- Importer to submit other documents like Invoices, contracts, product literature, packing lists, import license etc. so that customs officer can assess the imported goods under clearance
- Noting of Bill of Entry by customs officer

- Examination of goods and assessment by customs officer (if first appraisal system) or assessment of goods on basis of documents (if second appraisal system)
- Pre-audit by customs department
- Customs Officer to approve assessment (valuation of goods) on the Bill of Entry and return to importer
- Importer to execute bond if clearance at concessional rate of duty subject to some conditions or clearance is under provisional assessment
- Importer to pay duty, if clearance is for home consumption or execute bond, if clearance is for warehousing
- Inspection of goods (if assessment was under second appraisal system)
- Out of customs charge order by customs officer
- Pay dues of port trust, pay demurrage (if applicable), pay other dues
- Transport the goods from customs

These procedures are for import by ship / air / road. There is separate procedure for goods imported as a baggage or by post.

Submission of Bill of Entry - Bill of Entry is a very vital and important document which every importer has to submit to customs officer in respect of imported goods other than goods intended for transit or transshipment. Bill of Entry should be in prescribed form. It can be either for home consumption or for warehousing [section 46(1)]. It should include all goods mentioned in Bill of Lading or other receipt given by carrier to consignor [section 46(2)]. Importer has to declare that contents of Bill of Entry are true [section 46(4)]

- White Bill of Entry is for home consumption. Imported goods are cleared on payment of customs duty.
- Yellow Bill of Entry is for warehousing. It is also termed as 'into bond Bill of Entry' as bond is executed. Duty is not paid and imported goods are transferred to warehouse where these are stored.
- Green Bill of Entry is for clearance from warehouse on payment of customs duty. It is for ex-bond clearance.

Documents to be submitted by Importer - Documents required by customs authorities are required to be submitted to enable them to (a) check the goods (b) decide value and classification of goods and (c) to ensure that the import is legally permitted. *The documents that are essentially required are :* (i) Invoice (ii) Packing List (iii) Bill of Lading / Delivery Order (iv) GATT declaration form duly filled in (v) Importers / CHAs declaration duly signed (vi) Import License or attested photocopy when clearance is under license (vii) Letter of Credit / Bank Draft wherever necessary (vii-a) Insurance memo or insurance policy (viii) Industrial License if required (ix) Certificate of country of origin, if preferential rate is claimed. (x) Technical litera-



ture. (xi) Test report in case of chemicals (xii) Advance License / DEPB in original, where applicable (xiii) Split up of value of spares, components and machinery (xiv) No commission declaration. – A declaration in prescribed form about correctness of information should be submitted. – *Chapter 3 Paras 6 and 7 of CBE&C's Customs Manual, 2001.*

Electronic submission under EDI system – Customs work at many ports has been computerised. In that case, the Bill of Entry has to be filed electronically, i.e. through Customs EDI system through computerisation of work. Procedure for the same has been prescribed vide Bill of Entry (Electronic Declaration) Regulations, 1995.

5.5 EXPORT PROCEDURES

The broad procedures to be followed for exports are as follows –

- Submit Shipping Bill for export to customs authorities
- Submit invoice, packing lists, contracts, export license (if applicable) and other related documents
- Submit necessary declarations for export. Submit * GR/SDF/SOFTEX form as required under FEMA * Excise ARE-1 form
- Noting of Shipping Bill by customs officer
- Assessment i.e. valuation and classification of goods. Checking of Advance License, if applicable
- Custom check whether export is restricted / prohibited
- Examination of goods by customs officer
- Pay export duty, if applicable
- Stuffing of container, if not already done
- 'Let export' Order by customs officer
- Obtain ARE-1 form duly signed by customs officer. Obtain Bill of Lading from shipping company. Submit proof of export to excise authorities.
- Complete formalities relating to claim of duty drawback.

Initial steps by exporter - Every exporter should take following initial steps -

- Obtain BIN (Business Identification Number) from DGFT. It is a PAN based number
- Open current account with designated bank for credit of duty drawback claims
- Register licenses / advance license / DEPB etc. at the customs station, if exports are under Export Promotion Schemes



RCMC certificate from Export Promotion Council - Various Export Promotion Councils have been set up to promote and develop exports (e.g. Engineering Export Promotion Council, Apparel Export Promotion Council, etc.) Exporter has to become member of the concerned Export Promotion Council and obtain RCMC - Registration cum membership Certificate.

Exporter should apply for registration with EPC that relates to his main line of business. However, exporter can take membership of any other EPC in addition – DGFT circular No. 2 / 2004-09 dated 6-10-2004.

Third party exports - Third party exports means exports made by an Exporter or Manufacturer on behalf of another exporter/s. The Shipping Bill shall indicate the names of both the exporter/manufacturer and exporter. The BRC, GR declaration, export order and the Invoice shall be in name of the third party exporter [para 9.62 of FTP]

SEZ unit can export goods or software through a merchant exporter / status holder.

Merchant Exporter - Merchant Exporter means a person engaged in trading activity and exporting or intending to export goods [para 9.40 of FTP].

5.6 BAGGAGE, COURIER AND IMPORT THROUGH POST

- Baggage includes unaccompanied baggage but does not include motor vehicles [section 2(3)]
- Indians going out can take out any amount of foreign currency as long as it is obtained from authorised foreign exchange dealer. He can take out and bring in Indian currency only upto Rs 1,000.
- Baggage includes all dutiable articles imported by passenger or crew but does not include motor vehicles, alcoholic drinks (beyond limits) and goods imported through courier.
- Incoming passenger with no dutiable goods can pass through green channel.
- General rate of duty on import of baggage is 36.05% (35% basic customs duty plus 2% education cess plus 1% SAH education cess). One laptop computer is exempt.
- *Bona fide* luggage including used personal effects are exempt from customs duty. In addition to bona fide luggage and one laptop computer, Indian resident or foreigner residing in India over 12 years of age is allowed general free allowance (GFA) of Rs 25,000, after stay abroad for more than three days. GFA is lower when passenger comes from some countries like Nepal, Bhutan, Myanmar or China.
- Besides GFA, one laptop can be imported free of customs duty.
- GFA cannot be clubbed with other person.



- If a person comes after 6 months of stay, he can bring gold upto 10 Kg on payment of customs duty @ Rs 250 per 10 gms (plus education cess) and silver upto 100 Kg on payment of customs duty @ Rs 500 per Kg (plus education cess)
- Commercial samples can be brought in or taken out within prescribed limits.
- Additional concession is available if a person transfers his residence after stay abroad for two years. He is eligible for concessional rate of 15% duty (plus 2% education cess) of goods upto Rs 5 lakhs. In case of some goods, duty is Nil. He is also entitled to GFA.
- In case of mini TR (i.e. person returning after 365 days), used personal effects and household articles upto Rs 75,000 can be brought duty free, in addition to GFA. However, items specified in Annex I, II and III as specified in Baggage Rules are not allowed duty free.
- Foreign tourists can bring personal effects and travel souvenirs free of duty. Articles upto Rs 8,000 can be brought as gifts duty free.
- If value of foreign currency notes exceeds US \$ 5,000 or aggregate value of foreign exchange (in the form of currency note, bank notes, traveller cheques etc.) exceeds US \$ 10,000, the passenger has to make declaration in Currency Declaration Form (CDF).
- Unaccompanied baggage can be brought. GFA is not allowed on unaccompanied baggage.

Import and export through Courier - Imports and export through couriers are treated as imports or exports as any other mode. It is not treated as 'baggage'. There is no restriction on value of goods that can be brought through courier. The duty payable is normal duty as applicable to all other goods normally imported by ship or air transport. Duty concessions, if any, are also permissible. Courier Imports and exports (Clearance) Regulations, 1998 specify the procedures, which are summarised in Chapter 17 of CBE&C's Customs Manual, 2001.

Import through post

- Label/ declaration on postal article is treated as 'Entry'. Separate Bill of Entry is not required.
- Postal articles are sent to Foreign parcel Department of Post Office. The list is handed over to Principal Appraiser of Customs.
- He will inspect mail. Packets suspected of dutiable articles will be opened and examined by him . He will assess the goods and then seal the parcel.
- Goods will be handed by postmaster to addressee only on receipt of customs duty payable on the goods.
- Gifts upto Rs 10,000 are free. Post parcel is exempt if customs duty is upto Rs 100.

5.7 OTHER PROVISIONS IN CUSTOMS

5.7.1 Exemptions and remission

- Exemption can be granted by Government by issuing a notification.
- Capital goods and spares can be imported under project imports at concessional rate of customs duty.
- Remission can be obtained on goods lost / pilfered in port
- Title of imported goods can be relinquished and then no customs duty will be payable.
- Goods exported can be re-imported. Concessional customs duty is payable in most of such re-imports.

5.7.2 Warehousing in customs

- Imported goods can be kept in customs warehouse without payment of customs duty.
- Goods can be kept in warehouse awaiting receipt of import authorisation.
- Goods can be kept in warehouse upto one year, but interest is payable beyond 90 days, @ 15%.
- Goods can be manufactured in warehouse and exported without payment of customs duty. This facility is useful to EOU.
- Warehoused goods can be (a) Cleared on payment of duty (b) Cleared for export without payment of duty or (c) transferred to another warehouse without payment of duty.

5.7.3 Penalties under Customs Act

- Smuggling in relation to goods is an act or omission which will make the goods liable to confiscation.
- Penalty can be imposed for improper imports or improper exports.
- Monetary penalty upto value of goods or Rs 5,000 whichever is higher can be imposed.
- Goods can be confiscated. Permission can be granted for re-export of offending goods..
- In case of goods covered under section 123 of Customs Act, burden of proof that the goods are not smuggled goods is on the accused.