

SOME CRITICAL ISSUES IN CUSTOMS LAW



Calculation of duty payable is as follows -				
		Duty %	Amount	Total Duty
(A)	Assessable Value Rs 10,000		545,400.00	
(B)	Basic Customs Duty	10	54,540.00	54,540.00
(C)	Sub-Total for calculating CVD '(A+B)'		599,940.00	
(D)	CVD 'C' x excise duty rate	16	95,990.40	95,990.40
(E)	Education cess of excise - 2% of 'D'	2	1,919.81	1,919.81
(F)	SAH Education cess of excise - 1% of 'D'	1	959.90	959.90
(G)	Sub-total for edu cess on customs 'B+D+E+F'		153,410.11	
(H)	Edu Cess of Customs - 2% of 'G'	2	3,068.20	3,068.20
(I)	SAH Education Cess of Customs - 1% of 'G'	1	1,534.10	1,534.10
(J)	Sub-total for Spl CVD 'C+D+E+F+H+I'		703,412.41	
(K)	Special CVD u/s 3(5) - 4% of 'J'	4	28,136.50	28,136.50
(L)	Total Duty			186,148.91
(M)	Total duty rounded to			186,149

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.

Question - An actual user imports following goods from England per S. S. Vishal: (1) Second hand numerically controlled horizontal lathe machine - Tariff heading – 84.5811, Value FOB - 1,000/- Pound Sterling (2). A. C. motors - Tariff heading – 85.0110, Value FOB - 500/- Pound Sterling. - - Other relevant data are: - Exchange rate 1 UK Pound = Rs. 65, Freight – 150 UK Pounds, Insurance – 25 UK Pounds. - - Rate of duty : Basic customs duty - 10%, CVD - 16%, Education Cess and Spl CVD at applicable rates. - - It is found that the lathe machine is undervalued. It is proposed to load the FOB value of the lathe machine by 25%. Party does not want show cause notice and personal hearing. Compute – (i) Assessable value; (ii) Total duty payable. What are the duty refunds/benefits available if the importer is (a) manufacturer (b) service provider (c) Trader?

Answer - Since FOB value of lathe machine is being loaded by 25% for under-valuation, the FOB Value of lathe machine for purpose of assessment is 1250 UK Pounds. Value of AC Motors is 500 UK Pounds. Thus, total FOB value for purposes of customs valuation is 1,750 UK Pounds. - - Total insurance and freight is 175 UK Pounds [freight is 150 UK Pounds and insurance is 25 UK Pounds]. This will be allocated on lathe machine and AC motors in proportion to value (as no other basis is available). Thus, allocation of freight and insurance charges will be in ratio of 1250/1750 and 500/1750, i.e. 125 UK Pounds to lathe machine and 50 UK Pounds to AC motors.

Hence, CIF value of lathe machine for purpose of customs valuation is 1,375 UK Pounds (1,250 + 125) i.e. Rs 89,375 (@ Rs 65 per UK Pound) and CIF value of AC motors is 550 UK Pounds (500 + 50), i.e. Rs 35,750 (@ Rs 65 per UK Pound). Assessable Value will be CIF plus landing charges