

TYPES OF DUTY

Question 1

Explain briefly how additional customs duty has to be determined in respect of goods imported requiring MRP based assessment under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.
(3 Marks) (May 2011)

Answer

The First proviso to section 3(2)(ii) of the Customs Tariff Act, 1975 provides that the value of the imported goods for the purpose of charging countervailing duty (CVD) in respect of goods chargeable to excise duty on the basis of Maximum Retail Sales Price under Medicinal and Toilet Preparation (Excise Duties) Act, 1955 would be deemed to be the retail sale price declared on such imported goods less the amount of abatement, if any, from such retail price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article.

Moreover, where on any imported goods more than one retail price is declared, the maximum of such retail sale price would be deemed to be the retail sale price for the purpose of this section

Question 2

M/s Marwar Industries imported finishing agents, dye - carriers, printing paste etc. to be used for manufacture of textile articles. The importer claimed exemption for additional duty of customs (CVD) leviable under section 3 of the Customs Tariff Act, 1975, on the ground that there was an exemption for excise duty in respect of said goods used in the 'same factory' for manufacture of textile articles. The Department contended that CVD is payable on the ground that the goods which were to be used must also be manufactured in the 'same factory'. You are requested to comment upon the contention of Department, with reference to a decided case law, if any.
(5 Marks) (May 2010)

Answer

The contention of the Department is not valid in law. The Supreme Court in a similar case of *CCus. v. Malwa Industries Ltd.* (2009) 235 ELT 214 (SC) held that literal meaning should be

avoided if it leads to absurdity. When the goods are imported, obviously, the same would not be manufactured in the same factory and therefore, it would become impossible to apply the provision of section 3(1) of the Customs Tariff Act, 1975. It was observed that the object of countervailing duty (CVD) is that importer should not be placed at some more advantageous position vis-a-vis purchaser/manufacture of similar goods in India.

Considering the purpose of exemption, it was held that same factory means imported goods should be used in factory belonging to importer where manufacturing activity takes place. Hence, the exemption will be available to imported goods also and CVD would not be applicable.

Question 3

Explain, with a brief note, how the duty is arrived under the Customs Act, 1962 where the imported goods consist of articles liable to different rates of duty. (2 Marks) (Nov 2009)

Answer

As per section 19 of the Customs Act, 1962, where goods consist of a set of articles, duty is calculated in the following manner:

- (a) articles liable to duty with reference to quantity are chargeable to that duty;
- (b) articles liable to duty with reference to value are, if they are liable to duty at the same rate, charged to duty at that rate, and if they are liable to duty at different rates, charged to duty at the highest of such rates;
- (c) articles not liable to duty are chargeable to duty at the rate at which articles liable to duty with reference to value are liable under clause (b).

It is to be noted that the accessories, spare parts, repairing and maintenance implements for any article satisfying the specified conditions would be chargeable at the same rate of duty as that article. Further, if the importer produces evidence to the satisfaction of the proper officer regarding the value of any of the articles liable to different rates of duty, such article would be chargeable to duty separately at the rate applicable to it.