

VALUATION UNDER THE CUSTOMS ACT, 1962

Question 1

Compute the assessable value of the machine imported by M/s. Exports India Pvt. Ltd under the Customs Act, 1962.

FOB price of the machine	US\$ 10,000
Air freight paid	2,500
Insurance for transit of machine	Not Ascertainable
Cost of development work in India	₹ 40,000
Local agent's commission	₹ 10,000
Cost of local transport	₹ 5,000

Exchange rate applicable US \$ 1 = ₹ 45

Provide explanation for your answer.

(5 Marks) (May 2011)

Answer

Computation of assessable value of machine for customs duty:-

FOB price of the machine	US\$ 10,000.00
Add: Air freight (Maximum 20% of FOB) (Note-1)	US\$ 2,000.00
Insurance charges (1.125% of FOB) (Note-2)	US\$ <u>112.50</u>
Value (excluding local agent commission)	<u>12,112.50</u>
CIF value in Indian rupees = (₹ 12,112.5 × 45)	₹ 5,45,062.5
Add: Local agent commission (Note-4)	<u>10,000</u>
CIF Value	5,55,062.5
Add: Landing charges (1% of CIF) (Note-6)	<u>5,550.62</u>
Assessable value	<u>5,60,613.12</u>
Assessable value (rounded off)	<u>₹ 5,60,613</u>

Notes:

1. Air freight cannot exceed 20% of FOB value of the goods [Second proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007]
2. Cost of insurance is taken at 1.125% of FOB value of the goods [First proviso to rule 10(2)].
3. Cost of local transport is not includible in assessable value as it is a post importation activity.
4. Local agent commission is not a buying commission and hence, includible in assessable value [Rule 10(1)(a)].
5. Cost of development work in India is not includible in the assessable value [Rule 10(1)(b)].
6. Landing charges should be 1% of CIF value [First proviso to rule 10(2)].

Question 2

T Ltd. imported some goods from LMP Inc. of United States by air freight. You are required to compute the value for purposes of customs duty under the Customs Act, 1962 from the following particulars:

<i>CIF value</i>	<i>US \$ 6,000</i>
<i>Freight paid</i>	<i>US \$ 2,000</i>
<i>Insurance cost</i>	<i>US \$ 700</i>

The bank had received payment from the importer at the exchange rate of US \$ 1 = ₹ 46 while the CBEC notified exchange rate on the relevant date was US \$ 1 = ₹ 45.5

(Make suitable assumptions where required and provide brief explanations to your answer)

(5 Marks) (Nov 2010)

Answer**Computation of assessable value of the goods imported by T Ltd.:-**

CIF value	6,000 US \$
Less: Freight	2,000 US \$
Less: Insurance	<u>700 US \$</u>
Therefore, FOB value	<u>3,300 US \$</u>
FOB value	3,300 US \$
Add : Freight (20% of FOB value)	660 US \$

(See Note - 1)

Add: Insurance (actual)	<u>700 US \$</u>
CIF for customs purpose	4,660 US \$
Add: Landing charges (1% of CIF value)	
(See Note - 2)	<u>46.60 US\$</u>
Value for customs purpose	<u>4,706.60 US\$</u>

Exchange rate as per CBEC = ₹ 45.50 per US \$

(See Note - 3)

Assessable Value = ₹ 45.50 × 4,706.60 US \$ = ₹ 2,14,150.30

Notes :

- As the material has been imported by air, the freight has been restricted to 20% of FOB value i.e. 660 US \$.
[Second proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007]
- Landing charges at the rate of 1% of the CIF value of the imported goods shall be added, whether ascertainable or not. (First proviso of aforementioned rule)
- As per the explanation to section 14(1) of Customs Act, 1962, the exchange rate shall be the rate as notified by CBEC. Therefore, applicable exchange rate would be ₹ 45.50 per US \$ as notified by CBEC.

Question 3

Miss Priya imported certain goods weighing 1,000 kgs. with CIF value US\$ 40,000. Exchange rate was 1 US\$ = ₹ 45 on the date of presentation of bill of entry. Basic customs duty is chargeable @ 10% and education cess as applicable. There is no excise duty payable on these goods, if manufactured in India.

As per Notification issued by the Government of India, anti-dumping duty has been imposed on these goods. The anti-dumping duty will be equal to difference between amount calculated @ US \$ 60 per kg and 'landed value' of goods. You are required to compute custom duty and anti - dumping duty payable by Miss Priya. (5 Marks) (May 2010)

Answer

Computation of customs duty payable:-

Particulars	₹
Total CIF value in INR = US \$ 40,000 × ₹ 45	18,00,000
Add: Landing charges @1%	<u>18,000</u>
Assessable value (AV)	<u>18,18,000</u>

Basic customs duty (BCD) @10%	1,81,800
Education cess (EC) @ 2% on BCD	3,636
Secondary and higher education cess (SAHEC) @ 1% on BCD	<u>1,818</u>
Landed value of imported goods	<u>20,05,254</u>
Total customs duty payable (BCD + EC+ SAHEC)	<u>1,87,254</u>

Computation of Anti dumping duty payable:-

Particulars	₹
Value of goods in INR as per Notification = 1,000 Kgs x US \$ 60 x ₹ 45	27,00,000
Less : Landed value of goods	<u>20,05,254</u>
Anti-dumping duty payable	<u>6,94,746</u>

Question 4

Compute the duty payable under the Customs Act, 1962 for an imported equipment based on the following information:

- Assessable value of the imported equipment US \$ 10,100
- Date of bill of entry is 25.4.2010. Basic customs duty on this date is 10% and exchange rate notified by the Central Board of Excise and Customs is US \$ 1 = ₹ 65.
- Date of entry inwards is 21.4.2010. Basic customs duty on this date is 16% and exchange rate notified by the Central Board of Excise and Customs is US \$ 1 = ₹ 50.
- Additional duty payable under section 3(1) and (2) of the Customs Tariff Act, 1975: 15%
- Additional duty under section 3(5) of the Customs Tariff Act, 1975: 4%.
- Educational cess @ 2% in terms of the Finance Act (No.2), 2004 and secondary and higher educational cess @ 1% in terms of the Finance Act, 2007.

Make suitable assumptions where required and show the relevant workings and round off your answer to the nearest rupee. (5 Marks) (Nov 2009)

Answer**Computation of custom duty payable**

Particulars	₹
Assessable value (10,100 x 65)	6,56,500
Add: Basic custom duty @ 10%	<u>65,650</u>
Total	7,22,150
Add : CVD @ 15.45%	<u>1,11,572.18</u>
Total	8,33,722.18

Add : Education Cess (65,650+1,11,572.18) x 3%	<u>5,316.67</u>
Total	<u>8,39,038.85</u>
Additional duty u/s 3(5) @ 4%	33,561.55
Total Custom Duty Payable (65,650+1,11,572.18+5,316.67+33,561.55)	2,16,100.4
Custom Duty (rounded off to nearest rupee)	2,16,100

1. Rate of exchange notified by CBEC as prevalent on the date of filing of bill of entry would be the applicable rate.[Section 14 of Customs Act,1962]
2. Rate of duty would be the rate as prevalent on the date of filing of bill of entry or entry inwards whichever is later i.e. ,10%.

Question 5

Write a brief note on the 'residual method' of determination of value of imported goods under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(2 Marks) (Nov 2009)

Answer

Residual Method under **Rule 9** of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

Subject to the provision of **Rule 3** of the aforesaid rules, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India subject to the conditions laid down in **Rule 9(2)** of the aforesaid rules.

Question 6

From the following particulars, determine the assessable value of the imported equipment giving explanation for each item:

		₹
1.	FOB cost of equipment (Japanese Yen)	2,00,000 Yen
2.	Sea Freight in Japanese Yen	20,000 Yen
3.	Charges for development connected to equipment undertaken in India	₹ 60,000
4.	Insurance charges paid in India for transportation from Japan	₹ 15,000
5.	Commission payable to agent in India	₹ 15,000
	Exchange rate as per RBI is 1 Yen = ₹ 0.45	

Exchange rate as per CBEC is 1 Yen = ₹ 0.50	
Landing charges: one percent of CIF cost	

(5 Marks) (June 2009)

Answer**Computation of assessable value:-**

FOB value	2,00,000 Yen
Add: Freight from Japan (Note – 1)	<u>20,000 Yen</u>
Total (in yen)	2,20,000 Yen
Exchange rate applicable is 1 Yen = ₹ 0.50 (Note – 4)	
Total (in rupees)	₹ 1,10,000
Add : Insurance charges	<u>₹ 15,000</u>
Total	₹ 1,25,000
Add : Commission (Note – 2)	<u>₹ 15,000</u>
CIF value	₹ 1,40,000
Add : Landing charges @ 1% of CIF value	<u>₹ 1,400</u>
Assessable value	<u>₹ 1,41,400</u>

Notes:

1. Actual Sea Freight from Japan is includible in the assessable value.
2. Agency commission paid in India is not a buying commission and hence will be added to CIF value.
3. Charges for development undertaken in India do not form part of assessable value. Rule 10(1)(b)(iv) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, provides that only the development undertaken at a place other than India is includible in the assessable value.
4. Currency conversion rate as notified by CBEC is to be taken into consideration

Question 7

A consignment of 800 metric tonnes of edible oil of Malaysian origin was imported by a charitable organization in India for free distribution to below poverty line citizens in a backward area under the scheme designed by the Food and Agricultural Organization. This being a special transaction, a nominal price of US\$ 10 per metric tonne was charged for the consignment to cover the freight and insurance charges. The Customs House found out that at or about the time of importation of this gift consignment there were following imports of edible oil of Malaysian origin:

S. No.	Quantity imported in metric tonnes	Unit price in US \$ (CIF)
1.	20	260
2.	100	220
3.	500	200
4.	900	175
5.	400	180
6.	780	160

The rate of exchange on the relevant date was 1 US \$ = ₹ 43.00 and the rate of basic customs duty was 10% ad valorem. There is no countervailing duty or special additional duty. Calculate the amount of duty leviable on the consignment under the Customs Act, 1962 with appropriate assumptions and explanations, where required. (5 Marks) (Nov 2008)

Answer

Determination of transaction value of the subject goods:-

In the instant case, while determining the transaction value of the goods, following factors need consideration:-

1. In the given case, US \$10 per metric tonne has been paid only towards freight and insurance charges and no amount has been paid or payable towards the cost of goods. Thus, there is no transaction value for the subject goods. Consequently, we have to look for transaction value of identical goods under rule 4 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 [Customs Valuation (DVIG) Rules, 2007].
2. Rule 4(1)(a) of the aforementioned rules provides that subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. In the six imports given during the relevant time, the goods are identical in description and of the same country of origin.
3. Further, clause (b) of rule 4(1) of the said rules requires that the comparable import should be at the same commercial level and in substantially same quantity as the goods being valued. Since, nothing is known about the level of the transactions of the comparable consignments, it is assumed to be at the same commercial level.
4. As far as the quantities are concerned, the consignments of 20 and 100 metric tonnes cannot be considered to be of substantially the same quantity. Hence, remaining 4 consignments are left for our consideration.
5. However, the unit prices in these 4 consignments are different. Rule 4(3) of Customs Valuation (DVIG) Rules, 2007 stipulates that in applying rule 4 of the said rules, if more than one transaction value of identical goods is found, the lowest of such value shall be used to determine the value of imported goods. Accordingly, the unit price of the

consignment under valuation would be US \$ 160 per metric tonne.

Computation of amount of duty payable:-

CIF value of 800 metric tonnes:

= $800 \times 160 = \text{US } \$ 1,28,000$

At the exchange rate of \$ 1 = ₹ 43

CIF Value (in Rupees)	= ₹ 55,04,000
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Add: Landing Charges at 1%	= ₹ 55,000
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	= ₹ 55,59,040
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10% of Ad Valorem duty on ₹ 55,59,040	= ₹ 5,55,904
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Add: Education cess @ 2% (rounded off)	= ₹ 11,118
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Add: Secondary and higher education cess @ 1% (rounded off)	= ₹ 5,559
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Total custom duty payable	= ₹ 5,72,581
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Question 8

M/s IES Ltd. (assessee) imported certain goods at US \$ 20 per unit from an exporter who was holding 30% equity in the share capital of the importer company. Subsequently, the assessee entered into an agreement with the same exporter to import the said goods in bulk at US \$ 14 per unit. When imports at the reduced price were effected pursuant to this agreement, the Department rejected the transaction value stating that the price was influenced by the relationship and completed the assessment on the basis of transaction value of the earlier imports i.e., at US \$20 per unit under rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules 2007, viz transaction value of identical goods. State briefly, whether the Department's action is sustainable in law, with reference to decided cases, if any. (5 Marks) (Nov 2008)

Answer

No, the Department's action is not sustainable in law. Rule 2(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 *inter alia* provides that persons shall be deemed to be "related" if one of them directly or indirectly controls the other. The word "control" has not been defined under the said rules. As per common parlance, control is established when one enterprise holds at least 51% of the equity shareholding of the other company. However, in the instant case, the exporter company held only 30% of shareholding of the assessee. Thus, Exporter Company did not exercise control over the assessee. So, the two parties cannot be said to be related.

The fact that assessee had made **bulk imports** could be a reason for reduction of import price. The burden to prove under valuation lies on the Revenue and in absence of any evidence from the Department to prove under-valuation, the price declared by the assessee is acceptable.

In the light of foregoing discussion, it could be **inferred** that Department's action is not sustainable in law.