

SECTION 29-ARRIVAL AT CUSTOM PORT & AIRPORT ONLY

- ✚ Person in charge of V/A **entering India** shall call or land at custom port or airport only.
- ✚ Though not provided in sec. 29 but it can be reasonably presumed that while arriving by land route, the vehicle should come by approved routes thru "Land Customs Station" only. *(Any goods imported by land routes other than approved routes shall be liable to confiscation u/s 111 & on approved route, we find LCSs.)*
- ✚ Calling or landing allowed in case of V/A which is compelled by accident, stress of weather or other unavoidable cause. However, p-i-c has following duties-
 - **Report the arrival** of the vessel or the landing of the aircraft to the nearest customs officer or officer in charge of police station.
 - Produce the **logbook** if demanded.
 - Not allow any **unloading** of goods without permission.
 - Should not allow any **passengers or crews** to leave V/H.
 - However, the goods can be removed or the passengers and crews can be allowed to depart if the same is necessary for reason of health, safety or preservation of life or property.
 - He should comply with all the directions given by such officers with respect to any such goods.

Section 30: Delivery of IGM/IR

- ✚ The person-in-charge of V/H, or any other CG authorized person (*Agent or branch office in India*) shall deliver to PO

In case of V/A	IGM	Before arrival
In case of vehicle	IR	Within 12 hours of arrival

- ✚ If not delivered to the PO within specified time and if the PO is satisfied that there was no sufficient cause for delay, person who causes such delay, shall be liable to a penalty not exceeding Rs.50000.
- ✚ PO may permit IGM/IR to be amended if he is satisfied that it is incorrect or incomplete & no **fraudulent intention** exists.

Contents of IGM/IR

- ✚ **General declaration** (*vessel ka naam, aane jaane ka port, aane ka time, master ka naam etc*).
- ✚ **Cargo declaration-**
 - Separately mention arms, ammo, explosives, gold, silver etc
 - Landing cargo
 - Unaccompanied baggage
 - Cargo to be transhipped.
 - Retention cargo/Bottom cargo/Goods in transit
- ✚ **Vessel stores list.**
- ✚ **List of private property in possession of crew.**

Transit	Transshipment
Goods are continued to be carried in same conveyance	Goods are transferred to another conveyance
No ID collected on goods	No ID collected on goods
The record already made in the ship's/aircraft's manifest will continue. The goods have to be shown as bottom cargo. Thereafter when the conveyance calls at the next Indian customs port or airport the goods have to figure in the IGM/IR as landing cargo or as bottom cargo as the case may be.	Bill of transshipment or a declaration for transshipment shall be presented to PO.

The provisions of pertaining to transit & trans-shipment shall not apply to Baggage, Goods imported by post & Stores

Section 31-

- ✚ Master of vessel not to permit unloading of goods until entry inward granted.
- ✚ Not required for aircraft or vehicles.
- ✚ No entry inwards until IGM/IR delivered or valid reason for not delivering.
- ✚ Not applicable for unloading of baggage, mailbags, animals, perishable goods & hazardous goods.

Section 32- Only goods mentioned in IGM/IR to be unloaded.

Section 33- Except with permission of PO, goods to be unloaded at proper places in any custom port or airport approved by CoC u/s 8.

Note:- Liquid bulk cargo may be unloaded to **bonded storage tanks** outside the 'customs area' by transporting thru pipelines with PO's permission **prior to unloading**.

Section 34- Goods to be unloaded under supervision of Customs officer.

Note:- Practice of collecting merchant overtime fees (paid for supervision outside office hours or on holidays or at places other than custom station) has been discontinued by introducing 24x7 working.

Section 35-Boat Note

- ✚ Small boats are used to bring goods from ship to harbor in following cases:-
 - Ship /vessel unable to get berth at bay side.
 - Vessel has to unload a very small cargo.
- ✚ Such boats are also used for loading of export goods in ship.
- ✚ **Sec. 35:-** Such boats should be accompanied by a 'Boat note' prescribed under Boat Note Regulations, 1976 issued by PO [or exporter or his authorized agent, if CoC permits]
- ✚ In Duplicate, serially no., in prescribed form.
- ✚ No boat note required if export cargo is to be loaded in ship through small boat.
- ✚ Boat note also required for transshipment or re-shipment.

Section 45-Custodian

- ✚ Until imported goods are cleared for **HC or transshipment or are warehoused**; they shall remain in the custody of person called custodian (*port trust/who keepsers/container corp. of India/national airport authority/station master*).
- ✚ Custodian shall maintain proper records of imported goods & shall not permit their removal or otherwise dealing with them **except** under specific permission of custom authorities (C/O).
- ✚ If any imported goods are **pilfered** after unloading while in the custody the custodian, he shall be liable to pay duty on such goods @ prevailing on the day of delivery of the IGM/IR.

Sec.13: No duty by importer on PILFERED goods:-

If any imported goods are pilfered **after the unloading** thereof & **before C/O** for HC (u/s 47(1)) or deposit in warehouse (u/s 60) is made by PO, then, NO duty shall be payable by importer on **such** goods. However, where such goods are **restored** to importer after pilferage, importer become liable to duty.

Note:-

- ✓ Direct exemption has been provided i.e. no need to pay ID.
- ✓ If any imported goods are **pilfered** after unloading while in the custody the custodian, he shall be liable to pay duty on such goods @ prevailing on the day of delivery of the IGM/IR {Sec.45}
- ✓ If duty is paid on pilfered qty it shall be refunded provided pilferage has taken place before C/O. {Del Highcourt}
- ✓ Passing of C/O & actual clearance of goods (physical removal) are two distinct events.{Saw pipes Ltd.}
- ✓ Importer doesnot have to prove pilferage.
- ✓ Sec. doesnot apply to w/hd goods.

Section 46-B/E for HC or W/Hing:-

- ✚ Importer of goods other than goods *intended for transit or transshipment* shall **electronically**(CoC may allow filing B/E in any other manner) file B/E for HC (**White**) or w/hing(**Yellow**).
- ✚ Time limit for filing B/E-**At any time after** delivery of IGM/IR .However,CoC may permit filing of B/E before delivery of IGM/IR if **V/A is expected to arrive within 30 days**.

Note:-No such restriction of 30 days for in case of import through vehicles

- ✚ **Proviso to S.46(1):**Warehousing without warehousing of Imported goods if Importer is unable to furnish all the particulars of imported goods (Incomplete B/E)

Types of B/E-

- ✚ Form I(**White**) – for home consumption.
- ✚ Form II (**Yellow**) – for warehousing (into bond).
- ✚ Form III (**Green**) – for ex-bond clearance for home consumption (ex-bond).

Concept of warehousing without warehousing/storage without warehousing

Generally goods are warehoused after assessment of ID & execution of double duty bond u/s 59 but under **warehousing without warehousing** goods are stored in w/h without being assessed to duty i.e. without execution of bond. Such goods shall not be deemed to be warehoused goods for the purpose of the act & accordingly w/hing provisions shall not apply to such goods. PO may permit **warehousing without warehousing** in following cases-

- ✓ In case of filing incomplete B/E {Proviso to S.46(1)}
- ✓ In case-B/E(complete) is filed but goods are not removed within reasonable time {Sec. 49}
- ✓ In case-Goods are to be exported as stores {Sec. 85}

Section 47-C/O for HC:-

- ✚ **47(1):-**C/O for HC is made by PO if he is satisfied that goods are not prohibited goods, ID & other charges (port dues, demurrage etc) has been paid.
- ✚ **47(2):-**If ID not paid within 5 days (excluding holidays) from date of when B/E is returned for payment of duty:-Pay interest @ **15%** on the duty till the date of payment of duty.

C/O for deposit of goods In a Warehouse [Section 60] : When the provisions of section 59 (execution of double duty bond) have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse.

Sec- 68:-B/E & C/O for goods cleared from w/h for HC- [B/E → ID → C/O]

The importer of any warehoused goods may clear them for home consumption, if-

- (a) a bill of entry (Green-ex- bond B/E) for **HC** has been presented ;
- (b) ID and all penalties, rent, interest and other charges have been paid; and
- (c) C/O for HC has been made by PO.

Sec 48- Sale of imported goods-

- ✓ If goods are not cleared for HC or transshipment or W/Hing within 30 days (or within further time allowed by PO) or title to any imported goods is relinquished.
- ✓ Such goods may be sold by custodian with permission of PO & after notice to importer.
- ✓ However, Animals, perishable goods & hazardous goods may be sold at **any time** with permission of PO.
- ✓ Arms & ammo. May be sold such time & place directed by CG.

Sec. 150. Procedure for sale of goods & application of sale proceeds:-

Selling expenses → COT → DoC → Charges (port dues, dues under other provisions of custom law) → Balance to owner
Provided, if it's not possible to pay balance to owner within 6 m, paid to CG.

“**Warehouse**” means a public warehouse appointed u/s 57 or a private warehouse licensed u/s 58.
“**Warehoused goods**” means goods deposited in a warehouse.

Licensing of Private Warehouses [Section 58]

- ✚ At any warehousing station, **AC** may license private warehouses, wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of *which facilities for deposit in a public warehouse are not available*, may be deposited.
- ✚ AC may cancel a licence:-
 - On contravention of any provision of this Act or rules or regulation-Pending an inquiry, AC may **suspend** the license- Before cancellation, Reasonable opportunity of being heard to licensee-NO MIN PERIOD OF NOTICE.
 - OtherwiseNO opportunity of being heard-1 months notice in writing is given to licensee.
- ✚ **Note**-When license for any pvt.w/h is cancelled, owner of whd goods shall remove the goods (aps 71) within 7 days from date of cancellation.

Sec 71-Permissible removal ~~67;68;69~~ No warehoused goods shall be taken out of a warehouse except on clearance for HC (u/s 68), or re-exportation (u/s 69), or for removal to another warehouse (u/s 67), or otherwise (eg- Removal as sample after permission)

Note:-Where sample of goods are removed which will not be restored-**process**?-:B/E u/s 68(G) → Pay ID → C/O u/s 68.

Where sample of goods are removed which will be restored-Just permission of PO.

Warehousing Bond [Section 59]

- ✚ Importer of goods entered for warehousing and assessed to duty under section 17 or section 18, shall execute a bond binding himself in a sum equal to twice the amount of duty assessed on such goods, (a) to observe all the provisions, rules & regulations. (b) to pay all duties, interest (if any), rent & charges, any penalty incurred in violation of the provisions, rules & regulations.
- ✚ AC may permit an importer to enter into a **general bond** in respect of the warehousing of goods to be imported by him within a **specified period** (generally 1 year).
- ✚ A bond executed under this section by an importer in respect of any goods shall continue in force *notwithstanding* the transfer of the goods to any other person or the removal of the goods to any other warehouse;
- ✚ PO may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee.

Eg- Highseas sales buyer-Highseas sales m importer duty pay krne se pehle hi goods bechdetah.buyer clears goods & is liable to pay duty.

Circular No. 26/2012:-It is clarified that all Central and State Public Sector Undertakings shall be exempt from furnishing Bank guarantee or other form of security for storing sensitive goods in the duty free shops operated by them. Other procedures like execution of double duty bond etc. shall continue to apply.

Sec 62-Control over warehoused goods - (Ctrl;enter or remove;lock;access& examine)

(1) All warehoused goods shall be subject to the **control** of the PO;(2) No person shall **enter** a warehouse or **remove** any goods there from without the permission of the PO;(3) The PO may cause any warehouse to be **locked** with the lock of the customs department and no person shall remove or break such lock.(4) PO shall have **access** to every part of a warehouse and power to **examine** the goods therein.

Sec 63- 10 din mein nilaami-Due hone ke 10 din k andar rent aur whing charges w/hkp rko pay kro warna w/hkpr PO ki permission le k sufficient portion of goods bech dega.

Sec 64-Owner **either** before or after whing of goods [Sanction of PO & prescribed fees]-:

(a) Separate damaged or deteriorated goods from the rest(b) Inspect the goods(c)Sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;(d)Take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples. (e) Deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods(f) Show the goods for sale.

Sec. 72-Improper Removal:-

- ✚ Removal of goods in contravention of S.71
- ✚ Goods are not removed on maturity.(Deemed to be removed)
- ✚ Sample removal w/o payment of duty & without permission of PO.

Section 67-Owner of any warehoused goods may, with the permission of the PO, remove them from one warehouse to another subject to such **conditions as may be prescribed for the due arrival of the warehoused goods** at the warehouse to which removal is permitted.

Note-Emphasis is on safe arrival of goods to destination for protecting revenue.**Warehoused Goods (Removal) Regulations, 1963**-custom officer (same town);bond=ID(other town);bond canceled on producing certificate by PO of safe arrival of goods on destination.

Sec. 69-C/O of W/hd goods for exportation-

(1) Any warehoused goods may be exported to a place outside India without payment of import duty, if-

(i) a shipping bill or bill of export has been presented (ii) the export duties, penalties, rent and other charges have been paid (iii) C/O for exportation has been made by the PO.

(2) Notwithstanding anything contained in S/S(1), if CG is of the opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may direct that such goods **shall not** be exported to any place outside without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified (*eg-continue whing bond*).

Note- On showing “proof of consumption abroad”, duty shall be refunded or bond shall be cancelled.

Sec. 70:- Allowance i.r.o volatile goods:-

- ✚ When any warehoused goods to which this section applies, are **at the time of delivery from a warehouse** found to be deficient in quantity on account of **natural loss**, AC may remit the duty on such deficiency.
- ✚ The remission applies only to such **specified** warehoused goods (eg-Aviation fuel, motor spirit).

Cancellation and return of the warehousing bond [Section 73] :

When the **WHOLE** of the goods covered by any bond executed under section 59 have been **cleared** for HC or exported or are **otherwise** duly accounted for (*w.o.r from production destroyed*), and when all amounts due on account of such goods have been paid, PO shall cancel the bond and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.

Manufacture and other operations in relation to goods in a warehouse [Section 65]

- ✚ Owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods [Sanction of PO & prescribed fees & subject to conditions].
- ✚ Where in the course of any operations permissible in relation to any warehoused goods, **there is any waste or refuse**, the following provisions shall apply:-

(a) If the **whole or part** of the goods resulting from such operations are **exported**-

- ✓ If **w.o.r** arising from the operations carried on is destroyed- ID shall be remitted on the quantity of **w.o.r**.
- ✓ If **w.o.r** is cleared for HC or exported: Duty is paid on such **w.o.r** as if it had been imported into India in that form. (However *aps. 69 no ID is payable on export of goods*)

(b) If the **whole or any part** of the goods resulting from such operations are cleared from the warehouse **for HC**:-

- ✓ Duty is paid on such waste or refuse as if it had been imported into India in that form. (whether **w.o.r** is cleared for HC or destroyed or exported) (However *aps. 69 no ID is payable on export of goods*)

Note:- Imported goods **agr as such** w/h se remove hote hn, tb to classification change nhi hoga, pr agr unse F/G bna liya to F/G k roop m classify honge.

Power to exempt imported material used in the manufacture of goods in warehouse [Section 66] :If any imported materials are used in accordance with the provisions of section 65 for & rate of duty leviable on the imported materials exceeds the rate of duty on F/G, then, CG may for protecting domestic industry, exempt the imported materials from the **whole or part of the excess rate of duty**.

Discuss the concept of "taxable event" under the custom law referring to decided case laws.

Section 12 provides that importation or exportation of goods into or out of India is the taxable event for payment of the duty of customs.

A.P.S/ 2:

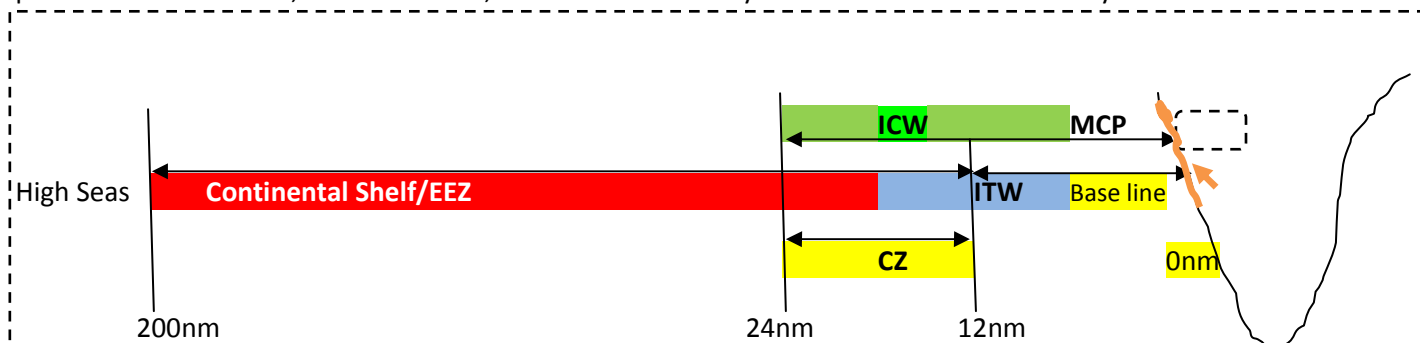
- ✓ Import means bringing **into** India from a place **outside** India.
- ✓ INDIA includes TWI

Extended meaning of import & export for purpose of determining "taxable event"-:

- ✓ **Garden Silk Mills .case-(SC):** Import of goods into India **commences** when the goods enter TWI, but continue and **complete** only when the goods **become part of mass of goods** within the country. The **taxable event** occurs only when the goods reach the customs barrier and the bill of entry for home consumption (u/s 46 or 68) is filed.
- ✓ **Sun Industries – 1988 – (SC):** For holding out completion of export, delivery at ultimate destination is not essential

[Goods once crossed TWI --- export shall be held to be complete --- DBK shall be admissible to the assessee]

"Assessment" means a process of determining the tax liability in accordance with provisions of the act. It includes provisional assessment, self-assessment, reassessment and any assessment in which the duty assessed is nil.



Significance of TWI:- To determine import/export. **Significance of ICW:-** Custom officers have power to arrest a person/search/seize a vessel in India & within ICW.

Note-India includes its physical boundary & not only the surface of sea in TWI, but also the air space above & the ground at the bottom of the sea. It also includes that part of continental shelf where oil rigs are situated.

FA 12-: SEZ Act does not contain any provision for levy and collection of export duty for goods supplied by a DTA unit to a Unit in a SEZ for its authorized operations. The Customs Act, 1962 makes it clear that customs duty can be levied only on goods imported into or exported beyond the TWI. Since both the SEZ unit and the DTA unit are located within the territorial waters of India, Customs Duty is not attracted neither under the Customs Act, 1962 or SEZ Act, 2005.

"Goods" includes (a) vessels, aircrafts and vehicles (*excluding conveyance*) (b) stores (c) baggage (d) currency and negotiable instruments (e) any other kind of *movable property*.

"Imported goods" means any goods brought into **India** (**Remember-INDIA includes TWI**) from a place outside India but **does not include** goods which have been cleared for HC.

Analysis-Above definition makes us clear that goods **remain** imported goods until they are cleared for HC. It suggests that import is not complete for FISCAL PURPOSE (levy) at the time when vessel enters TWI but remains **incomplete** until goods are cleared for HC.

"Coastal goods" means goods, *other than imported goods*, transported in a vessel from one port **in India** to another.

Analysis-Goods in vessel from abroad entering into TWI are imported goods; goods unloaded at port but not cleared for HC are imported goods; goods in transit are imported goods; goods unloaded at a port & transhipped are imported goods **but** goods unloaded at a port & cleared for HC (by filing B/E & paying ID) & then taken to another port in a vessel **within India** are coastal goods; goods loaded at MCP to be cleared at Madras port are coastal goods.

Deep analysis-: Imported goods are IGs as long as ID is not paid on them, once ID is paid, they become part of mass of goods within India. Coastal goods do not attract custom duty since they are **not** IGs.

"Dutiable goods" mean any goods: -(a) which are chargeable to duty and (b) on which duty has not been paid.

Analysis-Goods remain dutiable as long as duty is not paid on them, once duty is paid, such goods cease to be dutiable goods. Further goods on which no duty is leviable & therefore no duty is payable, are also non dutiable 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.

Notification 20/2012-: Filter rod of a kind used in the manufacture of cigarettes or bidis, except when such goods are used for the manufacture of Filter cigarettes or bidis are prohibited for import.

Analysis-: Prohibition may be absolute (eg- uranium, sandal woods etc) or conditional (eg import of tobacco in excess of 250gm & of liquor in excess of 2 ltrs. requires import license & if **condition** of taking import license is fulfilled, such goods shall not be PGs).

Importer in relation to any goods at any time between their importation and the time when they are cleared for HC, includes any owner or any person holding himself out to be the importer.

Analysis:-Owner is a person who is holding the documents of title to the goods. On the other hand importer also includes any person holding himself to be the importer **for purpose of clearance of goods**. Hence, a person who actually has not caused import of goods but clears the goods (Eg-CHA, Highseas sales buyer, agent of actual importer) is an importer.

"FGV/A" means-

- any vessel or aircraft for the time being **engaged in the carriage of goods or passengers** between any port or airport in India and any port or airport outside India, *whether touching any intermediate* port or airport in India or not.
- And includes-
 - any naval vessel of any foreign Government taking part in any naval exercise;
 - any vessel engaged in fishing or any other operations OUTSIDE TWI (For oil rigs only: **"outside TWI"** is to be read as Outside EEZ);
 - any vessel or aircraft proceeding to a place outside India for any purpose.

Significance of Concept of FGV/A:- Supply of stores to FGV/A=Deemed export (under Excise & custom laws.)

Hence, Export benefits under excise & DBK under customs is available.

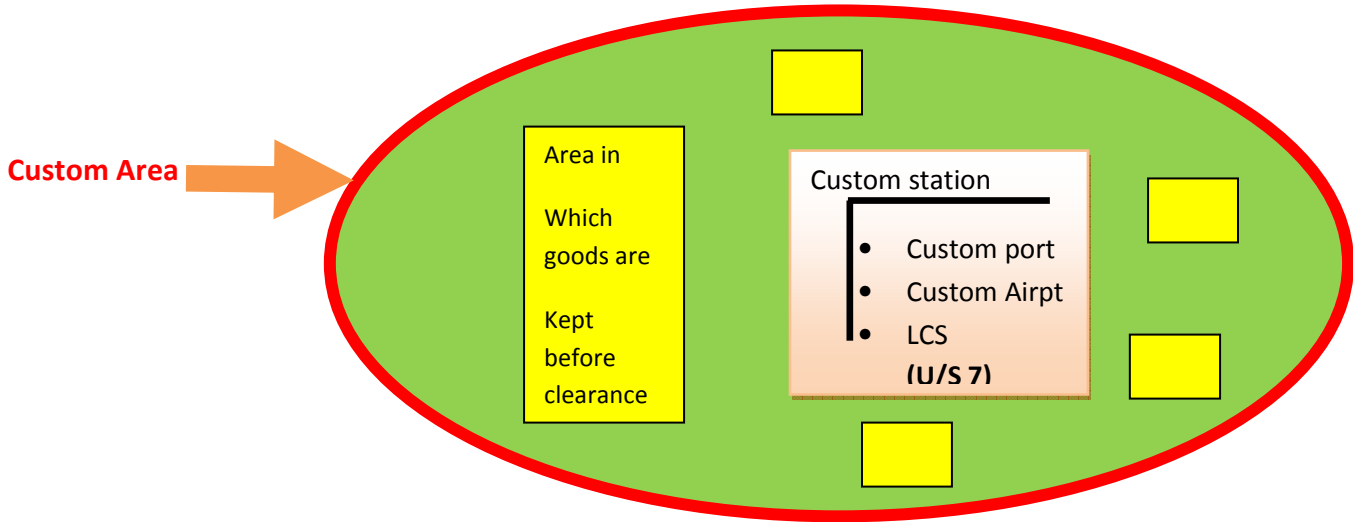
Aban Lyod chilies Offshore Ltd. (SC):- Whether oil rigs operating in EEZ/CS are FGV??

Indian CG has power to make laws wrt continental shelf & EEZ. However, by virtue of such power it does not become part of India. Even though the rigs operating in EEZ are outside TWI, it is within the limit where CG has (imited) power to enact laws & therefore the rigs cannot be considered as FGV.

Person-in-charge:

In relation to	P-i-c means
Vessel	master of the vessel
Aircraft	commander or the pilot-in-charge of the aircraft
railway train	conductor, guard or other person having the chief direction of the train
any other conveyance	driver or other p-i-c of the conveyance

Significance of above definition:- P-I-C is responsible for complying with provisions of Sec.29,30,31, ,33,40,41,42.He has to be penalized for giving false declaration & stats and shortages or non-accounting of goods in conveyance.



FA 12:-Customs airport includes a place appointed to be an air freight station.

Inland custom stations {ICD}:-

- ✓ ICD functions like a dry port.
- ✓ It has a separate station code.
- ✓ Movement from port,airpt or LCS to ICD is like movement from one custom station to another.
- ✓ It offers all services for custom clearance (filing B/E,S/B etc) like any other port
- ✓ All activities related to clearance of goods for HC,warehousing,temporaryadmissions,re-export,temporary storage for onward transit & outright export,transshipment takes place in ICDs.
- ✓ It is a place where **containers are aggregated** for onwands movement to or from the ports.

FA 12:-The Board may by notification appoint the places, which alone shall be ICDs or air freight stations for the unloading of imported goods and the loading of export goods or any class of such goods.

Custom freight stations{CFS}:-

- ✓ It is a place where **containers are stuffed,unstuffed&aggregation/segregationof cargotakes** place.
- ✓ It is normally located in a customs station or adjunct to a custom station.
- ✓ Generally,CFS is taken as extended arm of **port or ICD**.
- ✓ Movement rom custom stations directly to CFS of another custom station is not permitted except in exceptional cases (eg-strike) & only with approval of board.

Note:-Section 7 empowers CBEC to appoint port,airpt,ICD,LCS.

"Stores" means goods for use in a **V/A** and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

Note:- The definition does not cover goods for use in a **vehicle**.

Import-export code (IEC):- A reference no. for importer/exporter to import or export goods. It's like a regtn. no.

F.A.S (Free Alongside):- It is the cost at which the export goods are delivered alongside the ship, ready for shipment. It includes ex-factory (*price of the goods as comes out of the factory i.e. COP + Mfrs margin*) + local freight + local taxes.

Free On Board (FOB):-

- ✓ Under FOB contract, risk is trf to buyer as soon as they are loaded in conveyance at origin port.
- ✓ FOB value includes FAS + Loading chrgs + export. It doesn't include COT & COI from origin port to destination port.

Cost insurance & freight (CIF):-

- ✓ Under CIF contract, risk is trf to buyer at destination (Indian) port. Risk is trf to importer on reaching of goods at destination.
- ✓ CIF value includes expenses incurred up to reaching of goods at destination (*i.e. FOB value + COT + CIF*) but it doesn't include unloading charges incurred at destination port.

Letter of Credit (LC):- It is an instrument whereby a bank intimates the seller that the bank shall pay to him the **bill amt.** for supply of goods, if *certain docs evidencing shipment of goods* are presented. It is an irrevocable instrument.

Bill of lading (Bilty)/Delivery order/Airway bill (For aircraft):-

- ✓ Bill of lading is a negotiable instrument; it is evidence of title of goods & trf of title can take place by its endorsement & delivery (*it makes High seas sales possible*)
- ✓ It is issued by master of vessel (p-i-c).
- ✓ It is forwarded to importer & he has to present it before p-i-c for taking delivery of goods.

Sec. 22- Abatement of duty is available if goods damaged/deteriorated:-

["Jaisa mila"]

1. before or during unloading 2. by accident after unloading but before examination for assessment by customs authorities 3. by accident in warehouse before their **actual clearance** from such warehouse

Provided such accident is not due to any willful act, negligence or default of the importer, his employee or agent

'Damage' denotes physical damage to the goods. **Deterioration** is reduction in quality of goods due to natural causes.

(b) Amount of duty chargeable after abatement=

$$\text{Duty on goods before damage/deterioration} \times \frac{\text{Value of damaged/deteriorated goods}^*}{\text{Value of goods before damage/deterioration}}$$

***Value of the damaged/deteriorated goods:-**The value shall be:-(a) Value ascertained by the proper officer

OR(b) PO may sell such goods by public auction/tender or if the importer agrees, in any other manner and the gross sale proceeds shall be deemed to be the value of such goods.

Denaturing or mutilation of goods [Section 24]-:

["Jo mila"]

- ✓ An importer can request Central Government to make rules for permitting to denature (*Render product permanently unfit for human consumption*)/mutilate (*Rendering product imperfect by cutting or destroying it*) the imported goods, which are ordinarily used for more than one purpose, so as to render them unfit for one or more of such purpose;
- ✓ And where any goods are so denatured or mutilated they shall be chargeable to duty at such rate as would be applicable as if goods had been imported in denatured or mutilated form.
- ✓ Example- Alcohol type X is for industrial use as well as for human consumption (ROD 150%) whereas alcohol type Y is only for industrial use (ROD 25%). Now, if a mfr. imports type X, he will have to pay duty @150% but if he denatures alcohol type X to make it unfit for human consumption, he is liable to duty only @25%.

Sec. 20-Goods mfrd or prd in india, which are exported & thereafter re-imported are treated as 'fresh import'

However, in case of re-import, following exemption is available under various E/N:-

Case	ID??	Conditons
Re-import FOR repair	No ID on such re-import	• Re-import within 3 years • Re-export within 6 months from date of import
Re-import AFTER repair	Concessional ID shall be charged on such re-import i.e. ID only on:- Fair cost of repair xxx Add: Insurance & Freight (Both sides) xxx	Not applicable if Repair amounts to manufacture

Re-import on REJECTION	No ID on such re-import	• Re-import within 3 years • By same person • Assesse shall have to pay ED(exempted at the time of export) & DBK(allowed at the time of export)
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Note- If prescribed conditions are not fulfilled:- General Provision Applicable i.e liable to pay ID normally.

Sec 21: "Jitnamila":-All goods **derelict**(Abandoned in sea,no hope of recovery),**jetsam**(goods threw away to save vessel from sinking.got sunk),**flotsam** goods threw away to save vessel from sinking.they did not sink.they are floating) & **wreck**(Cargo or vessel wandering after ship destroy) *brought or coming into india* shall be dealt as if they were imported into india. -----

Sec. 26:Refund of Ex.D-Ex.D paid on exporation of goods shall be **refunded** to the person *by who it was paid* ,if

- ✓ Goods returned to same person.
- ✓ Re-import within 1 yr from date of export.
- ✓ Application for refund is made within 6 months from date of c/o of imported goods for HC.

Note-: Return of exported goods should be otherwise than by way of **sale**.