

$$\text{Import duty (BCD)} = \text{AV (INR.)} \times \text{ROD}^*$$

Basic Customs Duty is levied under the provisions of section 12 of the Customs Act and section 2 of the CTA, 75

Charging section 12 of CA, 62:- The duties of customs shall be levied

- **at such rates*** as may be specified under the **CTA, 75** or any other law for the time being in force
- on goods imported into or exported from India.

Sec. 2 of CTA, 75:- *The rates at which duties of customs shall be levied under the Customs Act 1962 are specified in the First and Second Schedules.

- ✓ 1st schedule has rates of ID & 2nd schedule has rates of Ex.D.
- ✓ There are two rates in 1st schedule: Std rate & preferential rate (on goods from most favoured nation [Bangladesh, Korea, Mauritius, Sri Lanka, Tonga, etc. - Submit proof as to "country of origin" of goods - CG may increase, dec prf. rate])
- ✓

Customs Tariff Act, 1975

Sec. 3: Additional duty of customs (CVD)

CVD [ED(FP)], Sec 3(1):-

- ✓ It is levied on any imported goods **capable of being prod/mfrd in India**.
- ✓ **Rate:-**
 - Alcoholic liquor for human consumption:- Determined by CG.
 - Other goods:- ED leviable on a **like article** produced or manufactured in India. • If a like article is not so produced or manufactured, ED leviable on **class/description** of articles to which the imported article belongs. • Where such duty is leviable at different rates, the **highest rate**.
- ✓ (For AV on which CVD 3(1) is charged refer computation chart note 1.)

Note-

- ✓ **Excise exemption** (conditional or unconditional) = Exemption from CVD. In case of conditional exemption, the importer must fulfill the required condition. However, exempt from BCD = Exemption from CVD
E.g.-: If an importer is importing toys & rate of ED on mfr of such toys in India is 10% [but wholly exempted from excise duty - without any condition], then, **CVD3 (1) = Nil**
If an importer imports fabric & rate of ED on mfrng fabrics is 10% [However 60% exemption if it is supplied to defense (conditional exemption)] now if importer will pay CVD 3(1) @ 4% on fabric supplied to defense & @ 10% on fabric used otherwise.
{ED=10%; Excise exmptn 60%; CVD exmptn 40% - CVD payable = **2.4%**}

- ✓ CVD 3(1) cannot be imposed on goods if the activity (*jisse wo bante hn*) is not considered as manufacture (*in India*) under excise laws.

CVD[ED(R/M)], Sec.3 (3):-

- ✓ It is levied on notified imported articles [at present leviable on: SS products for household purpose & transformer oil]
- ✓ Objective-To counter-balance ED leviable on R/M used in prod/mfr of like article in India.
- ✓ Rate:- As notified by CG.
- ✓ AV for 3(3) = AV as in case of CVD 3(1) (Refer computation chart note 1).

Special CVD :SAD[Sales Tax/LOCAL CHARGES, VAT], Sec.3 (5):-

- ✓ Levied on notified imported articles (petrol,diesel,baggage etc)
- ✓ Objective-To counter-balance ST/LC/VAT.
- ✓ Rate:- 4% .
- ✓ AV= Refer computation chart Note 1 below

Rule 3(1) of valuation rules:-AV=TV adjusted in accordance with rule 10
Computation of Transaction Value {Section 14(1) and Rule 10(1), 10(2)}

F.O.B. price {As per Sec.14 (1)}

xxx

Add-Freight [u/r 10(2)]

xxx

Insurance [u/r 10(2)]

xxx

Adjustments [u/r 10(1)(a),(b),(c),(d),(e)]

xxx

CIF Value

xxx

Convert such CIF value into Indian Rs.

CIF (INR) = [CIF Value in FC x Rate of Exchange as notified by CBEC]

xxx

Add-LC@1% of CIF [u/r=10(2)]

xxx

VALUE AT ENTRY PORT=TV=AV u/s 14

xxx

Add-BCD [If no rate given in ques.-10%]

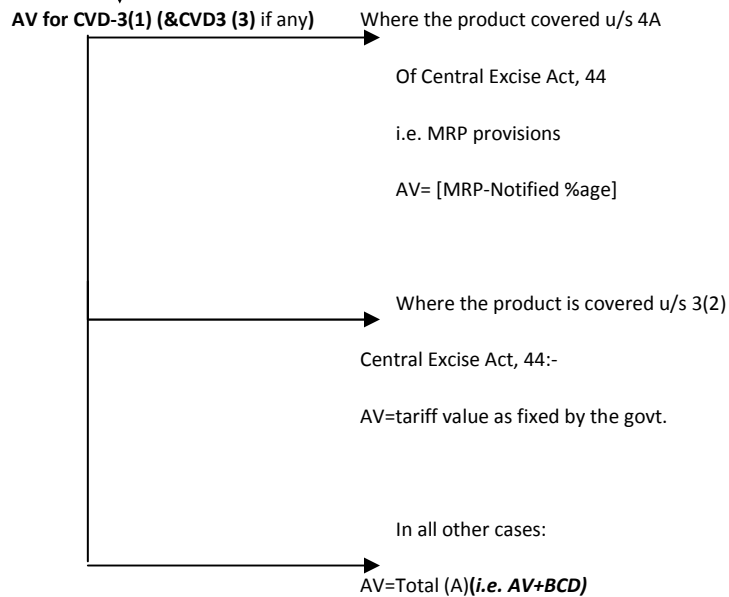
xxx

Total (A) xxx

Add-CVD-3(1) [ED Rate; if not given-12%]

xxx

Note 1:-



Total (B) xxx

Add-EC & SHE CESS @3% on BCD + CVD 3(1) [+ CVD 3(3), if any]

xxx

Add-CVD – 3(5) @4% on Total ©(Note 2)

Total@xxx

xxx

Value of goods (Including Import Duties)

- ✚ **Note:-**AV for CVD 3(1), 3(3), 3(5) will not include duty u/s 8B, 8C, and 9,9A. Duties u/s 8B, 8C, 9,9A shall be calculated separately.
- ✚ EC & SHEC is not levied on CVD 3(5), 8B, 8C, 9,9A
- ✚ For duties u/s 8B, 8C, 9,9A refer page 21 of book.
- ✚ **Amendments to Sec 8C of the Customs Tariff Act w.e.f 28.05.2012**-For **extension** of safeguard duty, the articles need not be imported in increased quantities. Whereas for the **original imposition** of SGD, the same words “in increased quantities” remains.

Concept of CVD 3(1) & 3(5)

- ✚ CVD 3(1) is levied to counter-balance ED on imported goods if they would have been mfrd in India as FP.
 - ✚ CVD 3(5) is levied to counter-balance sales & local taxes that would have been collected if sale of goods imported would have been taken in India.
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- ✚ Let us consider an example of Mr. X who manufactures RG from fabrics. He uses both indigenous fabric as well as imported. Now, if he imports fabric from USA & pays CVD 3(1) on it Rs.1000 (it suggests that ED on home grown fabric is 1000) & also CVD 3(5) Rs.440. Ccr of CVD 3(1) paid will be allowed under excise law for payment of ED on RG(fp) that of CVD 3(5) shall also be allowed for payment of **ED on RG** (coz ID is central level tax whereas sale taxes are state level).
- ✚ Manner to book credit: Input (r/m) as well as CG=100% (1year)
- ✚ What if MfrMr.X has opted out of CENVAT cr. scheme & do not pay ED can he claim refund of CVD 3(5) ?-NO, since condition regarding payment of state VAT on imported goods cannot be fulfilled where inputs are not sold **AS SUCH** but are consumed.(Notfn.)
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- ✚ Now, what if Mr. X is a trader i.e. he imports fabric & sales it outright:- Since he would not be paying ED (**khoon**), no ccr. Of CVD 3(1)rs. 1000 & CVD 3(5)Rs. 440 shall be **not** allowed to him but refund(100%) of **CVD 3(5)** is allowed provided he has paid appropriate VAT to SG on sale of imported goods so Rs. 1000 will become PART OF PURCHASE COST but not Rs.440.
- ✚ Manner of claiming refund-
 - ✓ Documents-Sale invoice, payment (VAT) challan, B/E (import), CVD payment challan.
 - ✓ Claim can be made within a period of 1 year from date of **payment of CVD** & claim shall be processed by deptt. within 3 months.

- What if **trader** falls within exemption limit but regd. under state VAT. Can he claim refund of CVD 3(5) whereas he won't be paying VAT? - **NO**, in such a case the Mr. X will include CVD 3(5) in value of goods & shall give a note in sales invoice that value of goods includes Rs.440 as CVD 3(5). If buyer (Mr.Y) sells the goods & pays VAT, Mr. Y can claim refund.
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- All the three duties are eligible for DBK.
- CVD is accustoms duty even if rate of ED is considered for calculation purposes. Thus, all provisions of Customs Act apply to CVD.

Sec. 23(1)-Remission of duty on goods lost, destroyed or abandoned (i.e. other than pilferage)

Where it is shown to satisfaction of AC that any **imported goods** (*enter TWI*) have been lost (**otherwise than as a result of pilferage**) or destroyed, at any time *before clearance for HC (actual clearance)*, AC shall **remit** duty on such goods.

Note:-

- ✓ An indirect exemption has been provided i.e. pay duty & take refund.
- ✓ Sec applies to w/hd goods also.
- ✓ BOP is on assessee.

Sec. 23(2)-Relinquishment of title to imported goods at port-

If owner of imported goods may **before c/o for HC u/s 47 or for deposit in w/h u/s 60** relinquish his title to goods, he shall not be liable to pay ID.

Relinquishment is not allowed iro goods regarding which an offence appears to have been committed.

Note:- port charges & demurrage shall be payable by importer.

Proviso to S.68-Relinquishment of title to warehoused imported goods-

If owner of any w/hd goods may **before c/o for HC (u/s 68)** relinquish his title to goods **upon payment of rent, interest** (*practically, not payable; since "NO ID, NO INTT"-Pratibha processors*), **other charges** (*port charges, demurrage*) & **penalties**, he shall not be liable to pay ID.

Relinquishment is not allowed iro goods regarding which an offence appears to have been committed.

Sec. 26A-Relinquishment of title to imported goods after clearance-

- Importer of any goods shall be refunded ID (100%) paid on clearance for HC of such goods if following conditions are satisfied:-

- ✓ Goods imported are found defective or not as per specification of importer.
- ✓ Goods are identified to satisfaction of AC as the goods which were imported.
- ✓ Importer does not claim DBK.
- ✓ *Goods are exported or *Title relinquished or *Destroyed or rendered commercially valueless on presence of PO within (30 days + extension) from date of c/o u/s 47(1)
- ✓ Time limit for filing refund application: 6 months from date of c/o for export u/s 51 or date of relinquishment or date of destroying or rendering commercially valueless, as the case may be.

- No refund iro perishable goods which have exceeded their shelf life (*useful life*).
- This section does not apply to goods regarding which an offence appears to have been committed.

Note-: port charges etc shall not be refunded.

Section not applicable in case of indirect clearance u/s 68.

Note-: Sec.23(2) or 26A or proviso to s. 68 → Sec. 48 (sale of goods) → Sec.150(use of sale proceeds)

Notification 20/2012-: The following classes of importers who shall pay customs duty electronically –

1. Importers registered under Accredited Clients Programme.
2. Importers paying customs duty of one lakh rupees or more per bill of entry.