



T.Y.B.COM
(ACCOUNTING AND FINANCE)
SEMESTER - VI (CBCS)

TAXATION - PAPER V
INDIRECT TAXES III

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SYLLABUS

***Revised Syllabus of Courses of B.Com. (Accounting and Finance)
Programme at Semester VI
with effect from the Academic Year 2018-2019***

1. Elective Courses (EC)

3. Taxation - Paper V (Indirect Taxes – III)

Modules at a Glance

Sr. No.	Modules	No. of Lectures
01	Payment of Tax and Refunds	08
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03	Accounts, Audit, Assessment and Records	08
04	Custom Act - I	12
05	Custom Act - II	12
06	Foreign Trade Policy	12
Total		60

Sr. No.	Modules / Units
1	Payment of Tax and Refunds
	Payment of Tax, Interest and other Amounts, Interest on delayed Payment, TDS, TCS Refund of tax, Refund in certain cases, Interest on delayed refunds
2	Returns
	Types of Returns and Provisions relating to filing of Returns
3	Accounts, Audit, Assessment and Records
	Accounts and other records, Period of retention of accounts, Electronic Way Bill Self-Assessment, Provisional Assessment, Scrutiny of Returns, Assessment of non-filers of Returns, Assessment of Unregistered person, summary assessment in certain special cases, Audit by tax authorities, Special Audit.
4	Custom Act - I
	Introduction to customs law including Constitutional aspects Levy of and exemptions from customs duties – All provisions including application of customs law, taxable event, charge of customs duty, exceptions to levy of customs duty, exemption from custom duty Types of customs duties Classification and valuation of imported and export goods
5	Custom Act - II
	Import and Export Procedures – All import and export procedures including special procedures relating to baggage, goods imported or exported by post, stores Provisions relating to coastal goods and vessels carrying coastal goods Warehousing and Drawback
6	Foreign Trade Policy
	Introduction to FTP – legislation governing FTP, salient features of an FTP, Foreign Trade Policy 2015- 20, administration of FTP, contents of FTP, scope of FTP. Provision related to import and export of goods Basic concepts relating to export promotion schemes provided under FTP – Duty Exemption & remission Schemes, Duty Free Import Authorization Scheme, Reward scheme, Export Promotion Capital Goods Scheme, EOU, STP, BTP AND EHTP scheme.

PAYMENT OF TAX AND REFUNDS

Unit Structure:

- 1.1. Introduction:
- 1.2. Definitions:
- 1.3. Key Features of Payment Process
- 1.4. Electronic Ledgers
- 1.5. Electronic Cash Ledger
- 1.6. Electronic Credit Ledger
- 1.7. Electronic Liability Register
- 1.8. Interest on Delayed Payment of Tax [S. 50]
- 1.9. Tax Deduction at Source (S. 51 of Cgst Act]
- 1.10. Collection of Taxat Source (S. 52 of Cgst Act]
- 1.11. Unique Identification Number for each Transaction (Rule 88]
- 1.12. Refund Of Tax [S. 54)

1.1. INTRODUCTION

This Lesson deals with payment provisions under GST given in section 49 of the CGST Act, 2017 and the Payment of Tax Rules. Main thrust of the provision is on payment of tax, interest, penalty and other amounts payable under the Act through electronic mode “Over the counter payments” have been permitted by cash / cheque/ DD etc. subject to a limit of Rs. 10,000 per challan per tax period. Further, the provisions also provide for maintenance through Electronic Cash Ledger, through Electronic Credit Ledger in the Electronic Liability Register and payment of adjustment of Input Credit of payment though these electronically maintained registers.

1.2. DEFINITIONS

- Section 2(14) defines an Authorized bank as a bank or a branch of a bank authorized by the Government to collect the tax or any other amount payable under this Act.
- Section 2(21) explains that Central tax refers to the central goods and services tax levied under Section 9.
- Section 2(22) clarifies that Cess carries the same meaning as assigned to it in the Goods and Service Tax (Compensation to States) Act.
- Section 2(26) defines Common portal as the common goods and services tax electronic portal referred to in section 146.

- Section 2(36) states that Council refers to the Goods and Services Tax Council established under article 279A of the Constitution.
- Section 2(43) describes Electronic cash ledger as the electronic cash ledger referred to in subsection (1) of Section 49.
- Section 2(46) elaborates on Electronic credit ledger as the electronic credit ledger referred to in subsection (2) of section 49.
- Section 2(58) specifies Integrated tax as the integrated goods and services tax levied under the Integrated Goods and Services Tax Act.
- Section 2(63) defines Input Tax Credit as the credit of input tax.
- Section 2(82) elucidates Output tax, in relation to a taxable person, as the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.
- Section 2(106) clarifies Tax Period as the period for which the return is required to be furnished.
- Section 2(117) denotes Valid return as a return furnished under subsection (1) of section 39 on which self-assessed tax has been paid in full..

1.3. KEY FEATURES OF PAYMENT PROCESS

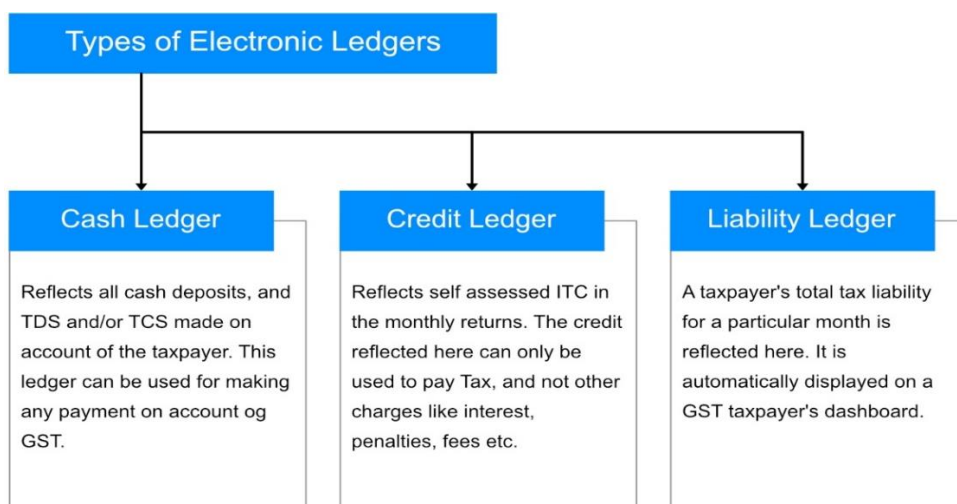
Electronically generate challan exclusively through the GSTN common portal, eliminating the need for manually prepared challans. Offer taxpayers hassle-free, anytime, anywhere payment options for taxes through various modes facilitated by the portal.

- Ensure convenience through online payment methods, making the process efficient and accessible.
- Store tax collection data logically in electronic format for easy access and analysis.
- Expedite the remittance of tax revenue to the Government Account for faster financial transactions.
- Conduct paperless transactions to reduce paperwork and streamline processes.
- Enable speedy accounting and reporting through electronic systems.
- Implement electronic reconciliation of all receipts for accuracy and transparency.
- Simplify procedures for banks involved in tax collection processes.
- Utilize digital platforms for warehousing digital challans, enhancing efficiency and organization.

1.4. ELECTRONIC LEDGERS

An e-Ledger serves as a digital equivalent of a passbook for GST transactions. These e-Ledgers are accessible to all GST registrants via the GST portal. They provide information regarding:

- The amount of GST paid to the government through the electronic cash ledger.
- The remaining balance of Input Tax Credit (ITC) available in the electronic credit ledger.
- Details on how GST liability is offset and any remaining balance, if applicable, in the electronic liability ledger.



1.5. ELECTRONIC CASH LEDGER

A. An Electronic Cash Ledger (ECL) is a digital record of a taxpayer's cash deposits and GST payments made through cash within the Goods and Services Tax (GST) system in India. It functions like an e-wallet specifically for GST transactions. The deposit in the electronic cash ledger shall be made through any of the following modes, namely:

- (i) Internet Banking through authorised banks;
- (ii) Credit card or Debit card through the authorised bank;
- (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
- (iv) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

B. UTILIZATION OF ELECTRONIC CASH LEDGER [S. 49(3)]

Section 49(3) of the Central Goods and Services Tax (CGST) Act deals with the utilization of funds in the Electronic Cash Ledger (ECL). Here's a breakdown of what you can use the ECL for:

Payments: The funds in your ECL can be used to make payments towards various GST liabilities as per Section 49(3). This includes:

- Tax (CGST, SGST, IGST)
- Interest
- Penalty
- Fees
- Any other amount payable under the GST laws

C. PROCEDURE OF ELECTRONIC CASH LEDGER [RULE 87]

- (1) Each individual liable for tax, interest, penalty, late fees, or any other dues shall maintain an electronic cash ledger in FORM GST PMT-05 on the common portal. This ledger will record deposits and payments towards various tax-related obligations.
- (2) To deposit funds towards tax, interest, penalty, fees, or any other dues, a person or someone on their behalf must generate a challan in FORM GST PMT-06 on the common portal. The challan will remain valid for fifteen days.
- (3) Deposits can be made through:
 - (i) Internet Banking via authorized banks,
 - (ii) Credit or Debit card through authorized banks,
 - (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank, or
 - (iv) Over the Counter payment through authorized banks, limited to ten thousand rupees per challan per tax period, by cash, cheque, or demand draft. However, certain exemptions apply as notified by the Commissioner.

Additionally, individuals outside India providing online services to non-taxable recipients can make deposits through international money transfer via the Society for Worldwide Interbank Financial Telecommunication payment network.

- (4) Unregistered individuals must make payments based on a temporary identification number generated through the common portal.
- (5) When using National Electronic Fund Transfer or Real Time Gross Settlement, a mandate form must be submitted to the bank within fifteen days of challan generation.
- (6) Upon successful credit to the government account, a Challan Identification Number will be generated by the collecting bank and noted in the challan.

- (7) The amount credited will then be reflected in the individual's electronic cash ledger, and a receipt will be provided on the common portal.
- (8) If a Challan Identification Number is not generated or communicated to the portal despite debiting the bank account, the individual can electronically represent the issue through FORM GST PMT-07.
- (9) Amounts deducted or collected and claimed in FORM GSTR-02 shall be credited to the electronic cash ledger as per rule 87.
- (10) Refund claims will be debited from the electronic cash ledger.
- (11) Rejected refund claims, either in full or in part, will be credited back to the electronic cash ledger by the proper officer via FORM GST PMT-03.
- (12) Any discrepancies noticed in the electronic cash ledger must be communicated to the jurisdictional officer via FORM GST PMT-04.
- (13) Registered individuals can transfer funds between different types of taxes or cess through FORM GST PMT-09 on the common portal.

D. PAYMENT BY CHALLAN (CPIN, CIN, BRN, E-FPB)

- CPIN, or Common Portal Identification Number, is a 14-digit number generated when a taxpayer successfully generates a GST Challan. It serves to identify the GST Challan and remains valid for 15 days.
- CIN, or Challan Identification Number, is an 18-digit number generated by the bank upon payment of the Challan. It comprises the 14-digit CPIN and a 4-digit bank code. CIN is issued by authorized banks or the RBI when payment is received and credited to the relevant government account.
- BRN, or Bank Reference Number, is the transaction number provided by the bank upon payment of the Challan.
- E-FPB, or Electronic Focal Point Branch, refers to branches of authorized banks designated to collect GST payments. Each bank nominates one branch as its E-FPB for all of India, and these branches open accounts under each head for all governments. The E-FPB credits any GST payments received to the appropriate government account. For NEFT and RTGS transactions, the RBI acts as the E-FPB.

1.6. ELECTRONIC CREDIT LEDGER

All Input Tax Credit claimed by a registered dealer in GST returns (GSTR-2 or GSTR-3B) is reflected in the Electronic Cash Ledger. This credit can only be utilized for the payment of tax. Therefore, the balance in the Electronic Credit Ledger cannot be used for settling interest, penalty, or late fees. These charges must be paid using actual cash payments.

UTILISATION OF ELECTRONIC CREDIT LEDGER (S. 49(4))

Rules regarding the order of utilizing ITC as mandated by Section 49B of the CGST Act read with Rule 88A of the CGST Rules. This order ensures proper credit utilization:

- i. Credit of any tax will be first credited against the liability of that tax only i.e.
 - a. Central tax against Central Tax,
 - b. State/UT tax against State/UT Tax and
 - c. IGST against IGST.
- ii. Balance, if any, of both Central and State/UT Tax Credits can be adjusted against the IGST;
- iii. IGST credit can be adjusted against Central Tax and State Tax in that order.
- iv. Cross utilization of SGST & CGST & UTGST is not permissible.

In other words :

- a) CGST will be first utilised against CGST, then against IGST.
- b) SGST will be first utilised against SGST, then against IGST.
- c) UTGST will be first utilised against UTGST, then against IGST.
- d) IGST will be first utilised against IGST, then against CGST and thereafter against SGST/UTGST.
- e) Cross utilization of SGST & CGST & UTGST is not permissible
Example: Amount of ITC available and output tax liability under different tax heads

Illustration

ITC available – CGST Rs 20,000, SGST Rs 15,000 IGST Rs 14,000
Outstanding liabilities- CGST 22,000, SGST Rs 18,000, IGST 11,000 The utilization will be as under :-

Liability	IGST	CGST	SGST
Liabilities Outstanding	11,000	22,000	18,000
Less ITC credits available under same head	14,000	20,000	15,000
Balance Liability / Credit	-3,000	2,000	3,000
IGST used first against CGST Balance against SGST	-3,000	2,000	1,000
Balance payable/ Credit available	NIL	NIL	2,000

1.7. ELECTRONIC LIABILITY REGISTER

Under section 49(7) of the CGST Act, 2017 read with Rule 1 of Payment of Tax Rules, all liabilities of a taxable person under this Act shall be recorded and maintained in an Electronic Liability Register in Form GST PMT-01. The Register shall contain the debit and credit entries therein as per the following details

ORDER OF DISCHARGE OF TAX AND OTHER DUES (S. 49(8))

Payment of Tax and Refunds

Following shall be the chronological order of discharge of tax and other dues

- i. Previous tax period
- ii. Current tax period
- iii. Any other amount payable under this Act

Illustration:

The Electronic Liabilities Register shows the following liability

- Tax for July ,2022 Rs 25,000
- Assessed Tax for May,2022 Rs 17,000
- Interest for the month of May,2022 Rs 15,000
- Late filing fees Rs 3000 for July 2022.

Assuming the tax credit in the month of July, 2020 at Rs 40,000, the liabilities shall be settled as under:-

Liabilities	Previous tax Period (May)	Current tax period (July)	Any other amount	Total
Balance	17000+ 15,000	25000+3000	NIL	60,000
Credit used	32000	8000	NIL	40,000
Balance	NIL	20,000	NIL	20,000

1.8. INTEREST ON DELAYED PAYMENT OF TAX [S. 50]

The Government has established specific deadlines for Goods and Services Tax (GST) payments, varying based on the taxpayer's category. Failure to meet these deadlines results in accrued interest on the outstanding GST amount.

Interest is calculated at a **rate of 18% per annum on the unpaid tax amount** for the duration of the delay. Additionally, if an assessee commits any of the following actions:

- Delays GST deposit
- Underpays GST
- Incorrectly claims Input Tax Credit (ITC)
- Claims more ITC than eligible
- Incorrectly reduces GST liability

They are liable to **pay interest at a higher rate of 24% per annum**. This interest applies to the wrongly utilized input tax credit or the discrepancy in output tax liability. Interest accrues from the day following the due date until the GST dues are settled.

In instances of **misstated output tax liability in GST returns**, the higher interest rate of **24% per annum applies**. Alongside interest charges, penalties may be imposed on taxpayers for erroneous return filings, fraudulent activities, or intentional misrepresentations.

Illustration

ABC Ltd has to pay the GST of INR 40 lakhs on or before 20th June 2022. However, the company discharged its tax liability on 20th July 2022. The interest on GST that ABC Ltd. Needs to pay will be:

Interest rate – 18%

Days in default – 30 days

Outstanding tax – Rs.20 lakh

The interest on delayed payment of GST would be INR 59,178/- ($40 \text{ lakh} \times 18\% \times 30/365$).

Illustration

ABC Ltd. has a tax liability of INR 20 lakhs and an ITC of INR 24 lakhs.

However, the assessing officer found that out of the ITC INR 24 lakhs, INR 16 lakhs aren't allowed u/s 17(5) of the CGST Act. In this case, the interest has to be paid INR 4 lakhs.

1.9. TAX DEDUCTION AT SOURCE (S. 51 OF CGST ACT)

Under the GST regime, Tax Deducted at Source (TDS) is mandatory at a rate of 2% on payments made to suppliers of taxable goods/services by specified individuals or entities. This article covers various aspects of TDS under GST, such as its rate, deduction threshold, who needs to comply, required forms, and consequences for non-compliance, including interest and penalties.

- **Definition:** TDS stands for Tax Deducted at Source, a mechanism to collect tax at a specified rate on certain payments for goods or services under GST.
- **Responsible Entities:** Entities liable to deduct TDS include departments or establishments of the Central or State Government, local authorities, governmental agencies, and those notified by the government.
- **Liability and Rates:** TDS is to be deducted at a **rate of 2% on payments exceeding Rs. 2,50,000** under individual contracts, with exceptions for inter-state transactions.

Example:

Scenario	Supplier Location	Supply Location	GST Type	Recipient Location	TDS Applicability	TDS Rate
1	Mumbai	Mumbai	CGST & SGST	Mumbai	Yes	2%
2	Mumbai	Pune	IGST	Mumbai	Yes	2%
3	Mumbai	Pune	IGST	Kolkata	Yes	2%
4	Mumbai	Mumbai	CGST & SGST	Kolkata	No	–

- **Registration Requirement:** Entities liable to deduct TDS must register under GST, regardless of turnover, using their existing Tax Deduction and Collection Account Number (TAN) issued under the Income Tax Act.
- **Payment Procedures:** TDS payments must be made within 10 days from the end of the month in which tax is deducted, to the appropriate government (Central or State) depending on the type of tax (CGST, SGST, IGST).
- **TDS Certificates:** Deductors must issue TDS certificates (Form GSTR-7A) to the concerned person within 5 days of depositing the tax to the government, generated automatically by the GST portal.
- **Value of Supply:** TDS is deducted on the value of supply excluding the tax indicated on the invoice (CGST, SGST, or IGST).
- **Filing of Returns:** TDS returns must be filed using Form GSTR-7 within 10 days from the end of the month in which the tax was deducted.
- **Benefits to Supplier:** The deductee (supplier) receives automatic credit in their electronic ledger once the deductor files their returns, which can be used for payment of other taxes.
- **TDS refund under GST, one must follow these steps:**
 - **Identify Excess Deduction:** Determine if an excess amount has been deducted and paid to the government. This excess amount is not rightfully owed to the government.
 - **Eligibility for Refund:** If the deducted amount has not been utilized and remains in the electronic cash ledger of the supplier, a refund can be claimed. However, once the amount is added to the supplier's ledger, it cannot be refunded by the deductor.
 - **Claim Refund:** The deductee, who is the supplier, can claim a refund of the excess deducted tax by following the refund provisions outlined in the GST Act.

1.9.1. Standard Rate of Deduction

The CGST Act, 2017 mandates a tax deduction of 1% on payments exceeding Rs. 2,50,000 made to suppliers of taxable goods and/or services under a contract. This deduction applies to the total value of supplies under a contract, excluding taxes and cess mentioned in the invoice. Even if individual supplies are below Rs. 2,50,000, if the total value exceeds this threshold, TDS must be deducted. Deductors are required to deduct 1% for CGST and 1% for SGST, or 2% for IGST, from the payment made to the supplier under the CGST Act, 2017.

Illustration

Mr. Raj, a registered supplier based in Mumbai, exclusively provides goods and services to entities notified under section 51 of the CGST Act, 2017. You are required to determine the amount of tax, if any, to be deducted from

each of the receivables given below (independent cases). The rates of CGST, SGST and IGST may be assumed to be 6%, 6% and 12% respectively

1. Supply of Computer Stationery to Public Sector Undertaking (PSU) in Goa Total contract value: Rs. 2,72,000 (inclusive of GST).
2. Supply of Air Conditioner to GST Department in Delhi. Total contract value: Amount unspecified (exclusive of GST).
3. Supply of Generator Renting Service to Municipal Corporation of Mumbai. Total contract value: Rs. 3,50,000 (inclusive of GST).

Solution:

1. Supply of Computer Stationery to Public Sector Undertaking (PSU) in Goa Total contract value: Rs. 2,72,000 (inclusive of GST).

Supply of computer stationery to PSU in Goa $(2,72,000 \times 100/112) = 2,42,857$

Supply of computer stationery to PSU in Goa, the total value of supply under the contract [excluding IGST (being inter-State supply)] does not exceed Rs. 2,50,000, **tax is not required to be deducted**

2. Supply of Air Conditioner to GST Department in Delhi. Total contract value: Amount unspecified (exclusive of GST).

Supply of air conditioner to GST Department in Delhi = 2,55,000

Supply of air conditioner to GST Department in Delhi, the total value of supply under the contract (excluding IGST (being inter-State supply)) **exceeds 2,50,000, tax is required to be deducted.**

3. Supply of Generator Renting Service to Municipal Corporation of Mumbai. Total contract value: Rs. 3,50,000 (inclusive of GST).

Supply of a Generator Renting Service to Municipal Corporation of Mumbai $(3,50,000 \times 100/112) = 3,12,500$

Supply of a generator renting service to Municipal Corporation of Mumbai, the total value of supply under the contract (excluding CGST and SGST (being intra-State supply)) exceeds **2,50,000, tax is required to be deducted**

1.9.2. Penalties for Non-Compliance with GST TDs Provisions

- If TDS is not deducted, interest at 18% is levied along with the TDS amount. Otherwise, the amount will be determined and recovered as per the law.
- If TDS certificate issuance is delayed beyond 5 days or not issued, a late fee of Rs.100 per day will be imposed, capped at Rs.5000 under each Act.

- If TDS is deducted but not paid to the government or paid after the 10th of the following month, interest at 18% is charged along with the TDS from the next day of the return filing deadline until the actual payment date. Otherwise, the amount will be determined and recovered as per the law.
- For late filing of TDS return, a late fee of Rs.100 per day of delay is charged, capped at Rs.5000 under each Act.

1.10.COLLECTION OF TAXAT SOURCE (S. 52 OF CGST ACT]

1. **Tax Collection Authority:** Electronic commerce operators (referred to as "operators") are mandated to collect a tax amount, not exceeding one percent, on the net value of taxable supplies made by other suppliers through the platform.
2. **Collection Power:** This tax collection power is in addition to other recovery methods available against the operator.
3. **Payment to Government :** Operators must remit the collected tax amount to the government within ten days after each month's end.
4. **Monthly Statement Submission:** Operators must electronically submit a statement within ten days after each month's end, detailing outward supplies made through the platform and the tax collected.
5. **Annual Statement Submission:** An annual statement, including details of all supplies made through the platform and tax collected during the financial year, must be submitted electronically before December 31st of the following year.
6. **Rectification of Errors:** Operators can rectify any errors or omissions in the submitted statements, subject to interest payment, within a specified time frame.
7. **Tax Credit for Supplier:** Suppliers can claim credit for the tax amount collected by the operator in their electronic cash ledger.
8. **Matching of Supply Details:** Details of supplies submitted by operators are matched with corresponding supplier details within prescribed timelines.
9. **Communication of Discrepancies:** Discrepancies between operator and supplier details are communicated to both parties within specified time frames.
10. **Addition to Tax Liability:** Unrectified discrepancies are added to the supplier's output tax liability in their return for the following month.
11. **Payment of Additional Tax:** Suppliers are liable to pay additional tax along with interest on the added amount.
12. **Authority's Notice for Information:** Authorities can request operators to furnish specific details related to supplies and stock held by suppliers.

- 13. Information Submission Deadline:** Operators must provide the requested information within fifteen working days of receiving the notice.
- 14. Penalty for Non-Compliance:** Failure to furnish requested information may result in penalties up to twenty-five thousand rupees, in addition to any other applicable actions under the law.
- 15. RATE OF TCS:** For intra-state supply CGST = 0.5% of Net value
SGST = 0.5 @ of Net value inter-state of supply IGST = 1% of Net value

1.11.UNIQUE IDENTIFICATION NUMBER FOR EACH TRANSACTION (RULE 88)

- A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.
- The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.
- A unique identification number shall be generated at the common portal for each credit in the electronic liability register for reasons other than those covered under sub-rule (2).

Illustration:

Mr. Raj, a supplier of goods, pays GST under regular scheme. He is not eligible for any threshold exemption. He has made the following outward taxable supplies in the month of August 2022:

Intra-state supplies of goods	1200000
Inter-state supplies of goods	400000

He has also furnished following information in respect of purchases made by him from registered dealers during August, 2022:

Intra-state purchase of goods	800000
Inter-state purchase of goods	100000

Note:

- (i) Rate of CGST, SGST, and IGST to be 9%, 9% and 18% respectively, on both inward and outward supplies.
- (ii) Both inward and outward supplies given above are exclusive of taxes, wherever applicable.
- (iii) All the conditions necessary for availing the ITC have been fulfilled. Compute the Net GST payable Mr. Raj for the month of August, 2022

Solution

Payment of Tax and Refunds

Particulars	IGST	CGST	SGST
Inter-state supply of goods (18% of 400000)	72,000		
Intra-state supply of goods			
CGST @ 9% of 12,00,000		1,08,000	
SGST @ 9% of 12,00,000			1,08,000
Total Tax Liability (A)	72,000	1,08,000	1,08,000
IGST in respect of Inter-state purchase of goods (18% of 1,00,000)	18,000		
Intra-state inward supply of repair services (9% of 8,00,000)		72,000	72,000
Total ITC available on 31 August, 2021 (B)	18,000	72,000	72,000
GST payable on outward supplies (as computed above) -A	72,000	1,08,000	1,08,000
Less: Adjusted of ITC on Account of IGST			
Towards IGST	-18000		
Towards CGST		-36000	
Towards SGST			-36000

Illustrations

Vijay Ltd. is operating in West Bengal. The tax liability for the month of August, 2017 is as follows:

Tax Liability

1. Output CGST payable	48,000
2. Output SGST payable	18000
3. Output IGST payable	6000
4. Input CGST	14000
5. Input SGST	28000
6. Input IGST	24000

Calculate tax and carry forward for the month of August. 2018

Solution

Particulars	IGST	CGST	SGST
GST payable on outward supplies (as computed above)	6,000	48,000	18,000
Less: Adjusted of ITC on Account of IGST			
Towards IGST	-6,000	Nil	Nil
Towards CGST		18,000	Nil
Balance	Nil	30,000	18,000

Particulars	IGST	CGST	SGST
Less: Adjustment of ITC on account of CGST/SGST as per section 49 (5)(b)/(c)			
a) Adjustment of ITC of CGST	14,000	Nil	Nil
b) Adjustment of ITC of SGST	Nil	-18,000	Nil
Net GST Payable through cash ledger	Nil	16,000	Nil
Balance available in Electronic Credit Ledger after aforesaid adjustment	Nil	Nil	10,000

Illustration

Mr. Vijay, a registered supplier of goods, pays GST under regular scheme and provides the following information for the month of August 2018.

Particulars	Amount
Inter-state taxable supply of goods	20,00,000
Intra-taxable supply of goods	4,00,000
Intra-state purchase of taxable of goods	10,00,000

He has the following Input tax credit at the beginning of August 2018:

Nature	ITC in Amount
CGST	40,000
SGST	60,000
IGST	50,000

Rate of CGST, SGST and IGST are 9%, 9%, and 18% respectively. Both inward and outward supplies are exclusive of Taxes wherever applicable. All the conditions necessary for availing the ITC by been fulfilled. Compute the net GST payable by Mr. Vijay for the month of August 2018

Solution

Particulars	IGST	CGST	SGST
Inter-state supply of goods (18% of 2000000)	3,60,000		
Intra-state supply of goods (9% of 400000)		36,000	36,000
Total Tax Liability (A)	3,60,000	36,000	36,000
Opening balance brought forward	50,000	40,000	60,000
Add: ITC in respect of inward supply during august 2018 (9% of 10,00,000)	-	90,000	90,000
Total ITC (B)	50,000	1,30,000	1,50,000
GST payable on outward supplies (as computed above) -A	3,60,000	36,000	36,000
Less: Adjusted of ITC on Account of IGST			

Particulars	IGST	CGST	SGST
Towards IGST	-25000		
Balance	3,35,000	36000	36000
Less: Adjusted of ITC on Account of CGST/SGST towards CGST	-	-36000	-36000
Balance	3,35,000	Nil	Nil
Less: Adjusted of ITC on Account of CGST towards IGST	-94,000		
Less: Adjusted of ITC on Account of SGST towards IGST	- 1,14,000		
Net GST Payable through Cash Ledger	1,27,000	Nil	Nil

Note: Since section 49A is an avoiding section to section 49, the ITC on account of IGST shall utilized fully towards IGST then CGST and balance for SGT /UTGST is available.

1.12.REFUND OF TAX [S. 54]

The provisions pertaining to refund contained in the GST law aim to streamline and standardize the refund procedures under GST regime. Following provisions have been discussed in this topic:

- Section 54: Refund of tax
- Section 55: Refund in certain cases
- Section S6: Interest on delayed refunds
- Section S7: Consumer Welfare Fund
- Section 58: Utilization of fund

The refund involves getting back the taxes you paid on items or services that have a zero tax rate, or on the materials you used to produce those items or services. It also includes getting a refund on taxes paid for goods considered as exports, or on unused tax credits that you're eligible for, as explained in section 54(3).

Zero rated supply:

It refers to specific types of supply where no tax is applied. These include:

- Exporting goods or services.
- Supplying goods or services to a Special Economic Zone developer or unit for authorized operations.
- Even if a supply is zero-rated (meaning no tax is applied), a business can still claim credit for the taxes it paid on inputs used to make those supplies. This credit can be used to offset other taxes owed.

Businesses making zero-rated supplies can also get a refund for any unused tax credits they have. This refund can be claimed without paying the

integrated tax upfront, as long as they follow the rules and procedures set by the Central Goods and Services Tax Act.

1.12.1. Time Limit within which Refund Claim can be Filed (S. 54(1)1]

Reason for Claiming GST Refund	Relevant Date
Export of goods or services	Date of dispatch/loading/passing the frontier
Deemed exports	Date on which the return that relates to such deemed exports is filed
Export of services before payment	Either the date of receipt of convertible foreign exchange or the date of receipt of Indian rupees, if permitted by RBI
ITC accumulates as the output is tax-exempt or nil-rated	Date for filing of the return under section 39 for the period in which the particular claim for refund arises
Finalization of provisional assessment	Date on which tax is adjusted after the final assessment
Claim of refund by a person other than a supplier	Date of receipt of goods/services by such person
An order is issued in favor of the taxpayer by Appellate Authority, Appellate Tribunal or Court	Date of communication of the judgment/order or direction
Any other case	Date of payment of tax

Refund Types Included and Excluded in Section 54 of the CGST Act, 2017

Refund types included:

- **Export of Goods or Services:** Refund applicable for goods or services exported.
- **Supply to SEZ:** Refund for supplies to Special Economic Zones (SEZ) entities.
- **Deemed Exports:** Refund applicable for deemed export transactions.
- **Unutilised ITC:** Refund of Input Tax Credit not utilized for output tax liability.
- **Tax or Interest Borne by Others:** Refund of tax or interest borne by specified classes.

- **Tax Paid in Error:** Refund of tax paid mistakenly under Section 77.
- **Unfulfilled Supply Refund:** Refund for tax paid on unfulfilled, un-invoiced, or refunded supplies.

Refund Types Excluded:

- **Non-GST Supplies:** Tax paid on supplies not covered under CGST Act, e.g., alcohol for human consumption.
- **Excise Duty Drawback:** Unutilized ITC cannot be claimed if excise duty drawback or IGST refund is claimed.
- **Supplier Claims:** If duty drawback or IGST refund is claimed by the supplier, GST refund is not available.

Documents Required for Tax Refund under Section 54:

- GST RFD-01 Form
- Tax Invoices
- Shipping Bills and Export Invoices
- Bill of Entry
- Bank Statement
- Authorization Letter
- Any other document as specified.

Conditions for Granting Refund under Section 54:

- **Application:** File electronically via GST portal in Form GST RFD-01.
- **Time Limit:** Refund order within 60 days from application; interest if delayed.
- **Verification:** Proper officer verifies application and documents, may request additional clarification.
- **General Conditions:** Listed criteria including being a registered person, payment of tax, refund amount threshold, timely claim, furnishing relevant documents, no GST law offense, non-personal use of goods/services, and verification compliance.

Section 56 – Interest on Delayed Refunds (CGST Act, 2017)

If the government fails to refund tax within 60 days after receiving the refund application, interest will be payable. The interest rate, not exceeding **6%**, is set by the government based on recommendations.

Exception: If the refund is due to a finalized order from a court or tribunal, and it's not refunded within 60 days of applying, a higher interest rate, not exceeding **9%**, will be applicable.

Self Examination Questions

1. Explain the types of electronic ledgers ?
2. Explain provisions of electronic cash ledger.
3. Explain UIN under GST.
4. Explain electronic credit ledger.
5. Explain electronic liability ledger.
6. Explain the cases where refund unutilized input tax credit is available
7. Explain the provisions of TDS and TCS.

GST RETURN

Unit Structure:

- 2.0 Objectives
- 2.1 Introduction
- 2.2 Features of GST return filing in India
- 2.3 Test your Self:
- 2.4 Types of Return
- 2.5 Mind Twister
- 2.6 Provisions related to GST returns
- 2.7 Key Summary
- 2.8 Summative Questions

2.0 OBJECTIVES

1. Learners will understand the return filing aspects of GST Returns
2. Learners will be identify different types of returns and provisions related to their filing.

2.1 INTRODUCTION

In the context of taxes, "returns" refer to the formal documents or statements filed by taxpayers with the tax authorities, typically on a periodic basis (such as annually, quarterly, or monthly). These documents provide information about the taxpayer's income, deductions, exemptions, credits, and tax liability, as well as any taxes already paid. The purpose of filing returns is to comply with tax laws, report taxable income or transactions accurately, and calculate the amount of tax owed or refundable to the taxpayer.

Under GST law in India, a "return" refers to a document filed electronically with the tax authorities that details your business's GST transactions for a specific period. This document details one's business's GST activity for a specific period, typically a month or a quarter. These returns summarize your tax liability and allow you to claim Input Tax Credit (ITC) on taxes paid at earlier stages.

The purpose of filing returns can be enumerated as below:

1. **Compliance:** Filing returns ensures that taxpayers comply with the tax laws and regulations of their jurisdiction.

2. **Calculating Tax Liability:** By disclosing their relevant financial information, taxpayers can accurately calculate their tax liability based on the applicable tax rates and rules.
3. **Claiming Deductions and Exemptions:** Taxpayers can use returns to claim deductions, exemptions, credits, and other tax benefits provided by the tax laws, thereby reducing their overall tax liability.
4. **Assessing Tax Liability:** Tax authorities use the information provided in returns to assess the taxpayer's tax liability and verify whether the correct amount of tax has been paid.
5. **Enabling Tax Refunds:** If taxpayers have overpaid their taxes through withholding or estimated tax payments, filing returns allows them to claim refunds of the excess tax paid.
6. **Data Collection:** Returns serve as a valuable source of data for tax authorities, helping them analyse taxpayer behavior, identify tax evasion, and formulate tax policies.
7. **Record-Keeping:** Filing returns creates an official record of the taxpayer's financial activities and tax compliance, which can be useful for future reference, audits, or legal purposes.

Overall, filing returns is a crucial aspect of the tax system, facilitating transparency, fairness, and accountability in the collection and administration of taxes.

2.2 FEATURES OF GST RETURN FILING IN INDIA

The basic features of the return mechanism in GST includes electronic filing of returns, uploading of invoice level information, auto-population of information relating to input tax credit from returns of supplier to that of recipient, invoice level information matching and auto-reversal of input tax credit in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC. The detailed explanation is as below-

1. **Electronic Filing:** All GST returns in India must be filed electronically on the government's GST portal. This ensures faster processing, reduces paperwork, and improves transparency.
2. **Invoice Level Reporting:** Certain types of GST returns (like GSTR-1) require detailed information on each invoice issued or received during the tax period. This includes details like product/service description, value, GST rate, and tax amount. This allows for better tax administration and tracking of transactions.
3. **Input Tax Credit (ITC) Mechanism:** GST returns allows registered payer to claim Input Tax Credit (ITC) on the GST it has paid on purchases (inward supplies). This credit can be offset against the GST it collects on sales (outward supplies), effectively reducing overall tax liability.

4. **Matching Mechanism:** The GST system has a matching mechanism that electronically compares the ITC claimed by a taxpayer in their return with the GST reported by their suppliers in their returns. This helps to identify and prevent fraudulent ITC claims.
5. **Auto-population of Information:** The GST portal allows for auto-population of certain fields in the return based on the information uploaded by suppliers in their returns. This can save time and reduce errors during filing.
6. **Reconciliation:** Taxpayers can reconcile any discrepancies identified through the matching mechanism and rectify any errors in their returns before final submission.
7. **Different Return Types for Different Taxpayers:** Depending on business type, turnover, and registration scheme (regular or composition), the registered tax payer will need to file specific GST returns. Common types include GSTR-1 (outward supplies), GSTR-3B (consolidated monthly return), and GSTR-4 (quarterly return for composition scheme).
8. **Regular Filing Frequency:** Most GST returns are required to be filed monthly (e.g., GSTR-1, GSTR-3B). Some returns, like those for the composition scheme (GSTR-4), are filed quarterly. An annual return (GSTR-9) is also required to be filed summarizing all the information from the monthly/quarterly returns.
9. **Late Filing Penalties:** Failure to file GST returns on time attracts penalties, including late filing fees and interest on overdue taxes.
10. **All the returns are to be filed online.** Returns can be filed using any of the following methods:
 - GSTN portal (www.gst.gov.in)
 - Offline utilities provided by GSTN
 - GST Suvidha Providers (GSPs). If a tax payer is already using the services of an ERP providers such as Tally, SAP, Oracle etc, there is a high likelihood that these ERP providers would provide inbuilt solutions in the existing ERP systems.

2.3 TEST YOUR SELF

1. Which of the following is NOT a feature of GST return filing?
 - a. Online filing
 - b. Different types of returns
 - c. Manual filing at tax office
 - d. Frequency of filing based on turnover

2. What is the frequency of filing GST returns?
 - a. Monthly
 - b. Quarterly
 - c. Annually
 - d. All of the above
3. How does the GSTN system ensure accuracy in Input Tax Credit (ITC) matching?
 - a. Manual verification by tax officials
 - b. Automatic matching with supplier details
 - c. Self-declaration by taxpayers
 - d. None of the above
4. What is the purpose of integrating GST return filing with the e-way bill system?
 - a. To reduce the frequency of filing GST returns.
 - b. To ensure compliance with both GST and e-way bill requirements.
 - c. To provide discounts on tax payments.
 - d. To increase the complexity of the tax system.

2.4 TYPES OF RETURN

The Goods and Services Tax (GST), introduced in 2017, aimed to simplify India's tax system by creating a "One Nation, One Tax, One Market" concept. It replaced a complex web of indirect taxes levied by both the central and state governments. Under GST, registered businesses must file returns electronically through the GST portal. These returns detail a business's transactions, including:

- Sales and Income: Details of all sales transactions.
- Purchases and Expenses: Information on all purchases.
- Output GST on Sales: The GST you collected on sales.
- Input Tax Credit (ITC): The GST paid on your purchases (which can be claimed as credit).

Returns for Different Businesses:

While there are 13 GST return forms prescribed by the GST Act, not every business needs to file all of them. The type of return you file depends on two key factors:

- Annual Turnover: The total value of your business's sales in a year.
- Nature of Business: The type of goods or services you sell (regular business) or if you've opted for a special scheme (composition scheme).

Return	Description	Who Files	Due Date
GSTR-1	Statement of Outward supplies of Goods or Services	Normal Registered Person	10th of the next month
GSTR-3	Return for a normal taxpayer	Normal Registered Person	20th of the next month
GSTR-3B	Summary return of outward supplies and input tax credit claimed, along with payment of tax by the taxpayer.	Monthly Quarterly (For taxpayers under the QRMP scheme)	20th of the next month.
GSTR-4	Quarterly Return	Taxable Person opting for Composition Levy	18th of the month succeeding the quarter
GSTR-5	Monthly return for a non- resident taxpayer	Non-resident taxpayer	20th of the month succeeding tax period & within 7 days after expiry of registration
GSTR-5A	Monthly return for a person supplying OIDAR services from a place outside India to a non-taxable online recipient	Supplier of OIDAR Services	20th of the next month
GSTR-6	Monthly return for an Input Service Distributor (ISD)	Input Service Distributor	13th of the next month
GSTR-7	Monthly return for authorities deducting tax at source	Tax Deductor	10th of the next month
GSTR-8	Monthly statement for E-Commerce Operator depicting supplies effecting through it.	E-Commerce Operator	10th of the next month
GSTR-9	Annual Return	Registered Person other than an ISD, TDS/TCS Taxpayer, casual taxable person and	31st December of next Financial Year

Return	Description	Who Files	Due Date
		Non-resident taxpayer.	
GSTR-9C	Self-certified reconciliation statement.	Annually	31st December of the next financial year.
GSTR-10	Final Return	Taxable person whose registration has been surrendered or cancelled.	Within three months of the date of cancellation or date of order of cancellation, whichever is later.
GSTR- 11	Details of inward supplies furnished by a person having UIN	Taxable Person opting for Composition Levy	31 st Dec of next Financial Year
CMP-08	Statement-cum-challan to make a tax payment by a taxpayer registered under the composition scheme under Section 10 of the CGST Act.	Quarterly	18th of the month succeeding the quarter.
ITC-04	Statement to be filed by a principal/job-worker about details of goods sent to/received from a job-worker	Annually (for AATO up to Rs.5 crore) Half-yearly (for AATO > Rs.5 crore)	25th April where AATO is up to Rs.5 crore. 25th October and 25th April where AATO exceeds Rs.5 crore. (AATO = Annual aggregate turnover)
FF (Optional by taxpayers under the QRMP scheme)	Details of B2B supplies of taxable goods and/or services affected.	Monthly (for the first two months of the quarter)	13th of the next month.

Confusion-----?

1. What would be done on tax paid on advance receipt if advance has to be refunded in any circumstance?

Answer : Advance refunded can be adjusted in return.

2. Do registered dealers have to upload sale details of unregistered dealers also in GST?

Answer: Generally not. But required in case of inter-State supplies having invoice value of more than Rs 2.50 Lakhs.

2.5 MIND TWISTER

1. I am a document filed by taxpayers with tax authorities.

I provide information about income, deductions, and tax liability.

Who am I?



2. I am a feature of GST return filing that helps in preventing fraudulent claims.

I compare the input tax credit claimed by a taxpayer with the tax reported by their suppliers.

Who am I?



3. I am a type of return filed by a taxpayer opting for the composition levy.

I am filed quarterly.

What am I?



2.6 PROVISIONS RELATED TO GST RETURNS

1. Section 37 – Furnishing details of outward supplies: A key provision within the Central Goods and Services Tax (CGST) Act, 2017, Section 37 mandates registered businesses to furnish details of their **outward supplies** to the tax authorities. This essentially translates to providing information on all sales transactions a business conducts during a specific tax period, typically a month or a quarter.

The requirement to furnish details of outward supplies applies to every registered person under the GST Act. This includes:

- Businesses dealing with the supply of goods and services, encompassing both physical products and service-based offerings.
 - Businesses involved in inter-state supplies, which refers to supplying goods or services across different states in India.
 - E-commerce businesses, even those functioning as online marketplaces, are required to register and comply with Section 37 by furnishing details of their outward supplies.
 - Unregistered suppliers who exceed a specific annual turnover threshold from taxable supplies (currently ₹20 lakh) must register and comply with this section.
2. Section 38 – Furnishing details of inward supplies: Section 38 of the Central Goods and Services Tax (CGST) Act, 2017, deals with the furnishing of details regarding **inward supplies**. In simpler terms, this section requires registered businesses to provide information on all their purchases made during a specific tax period (usually a month or a quarter) to the tax authorities.

Similar to Section 37, every registered person under the GST Act must comply with Section 38. This includes businesses involved in:

- Supplying goods and services (regular businesses).
 - Inter-state purchases (buying goods or services from other states).
 - E-commerce businesses (even online marketplaces).
 - Unregistered suppliers exceeding the annual turnover threshold (currently ₹20 lakh).
3. Section 39 – Furnishing of returns: Section 39 of the Central Goods and Services Tax (CGST) Act, 2017, lays the foundation for filing GST returns in India. It mandates **registered businesses** to submit electronic documents, known as GST returns, to the tax authorities.
4. Section 40 – First return: Every registered person who has made outward supplies in the period between the **date on which he became liable to registration** till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.
5. Section 44 – Annual Return - Annual Return is the return that is required to be filed **annually for every financial year** by the eligible registered person, except a few specified categories of persons. It is a summary statement containing all the transactions occurred and reported in the periodical returns filed during the financial year. Further, it also captures the adjustments made to the transactions of

the previous year after the end of the year. It is also the last option available with the assessee to disclose all transactions pertaining to the period of filing. Thus, we can say Annual Return is very comprehensive return. there is a need to file the Annual Return by every registered person including the person paying tax under the composition scheme under section 10 of the Act.

There is no requirement to file the Annual Return by –

- An Input Service Distributor (ISD)
 - A person paying tax under section 51 or section 52 (TDS / TCS)
 - A casual taxable person and (CTP)
 - A non-resident taxable person (NRTP)
6. Section 45 – Final Return : Every registered person who is required to furnish a return under sub-section (1) of section 39 (filing of return) and whose registration has been cancelled shall furnish a final return **within three months of the date of cancellation or date of order of cancellation**, whichever is later, in such form and manner as may be prescribed.
 7. Section 46 – Notice to return defaulters: Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such **return within fifteen days** in such form and manner as may be prescribed.
 8. Section 47 – Levy of late fee: (1) Any registered person who fails to furnish the details of **outward supplies** required or returns required under section 39 or section 45 by the due date shall **pay a late fee of one hundred rupees for every day** during which such failure continues subject to a **maximum amount of five thousand rupees**. Any registered person who fails to furnish the return required under **section 44** by the due date shall be liable to **pay a late fee of one hundred rupees for every day** during which such failure continues subject to a maximum of an **amount calculated at a quarter per cent of his turnover** in the State or Union territory.

2.7 KEY SUMMARY POINTS

1. GST Returns: GST returns are documents filed by registered taxpayers that contain details of their business transactions for a specific period.
2. Purpose of GST Returns: The main purpose of filing GST returns is to provide information about sales, purchases, input tax credit, and tax liability to the tax authorities.
3. Types of GST Returns: There are various types of GST returns, such as GSTR-1 for outward supplies, GSTR-3B for summary return and tax payment, and GSTR-9 for annual return.

4. **Frequency of Filing:** The frequency of filing GST returns depends on the type of taxpayer and their turnover, ranging from monthly to annually.
5. **Penalties for Late Filing:** Failure to file GST returns on time can lead to penalties, including late fees and interest on overdue taxes.
6. **Input Tax Credit:** GST returns allow businesses to claim input tax credit, which is the tax paid on purchases and can be used to offset tax liability on sales.
7. **E-filing:** All GST returns must be filed electronically on the government's GST portal, which ensures faster processing and reduces paperwork.
8. **Matching of ITC:** The GST system has a matching mechanism that compares the input tax credit claimed by a taxpayer with the tax reported by their suppliers to prevent fraudulent claims.
9. **Reconciliation:** Taxpayers can reconcile any discrepancies identified through the matching mechanism before final submission of their returns.
10. **Annual Return:** Every registered person, except for a few specified categories, is required to file an annual return summarizing all transactions for the financial year.

2.8 SUMMATIVE QUESTIONS

1. What is the purpose of filing GST returns?
2. Describe the features of GST return filing in India.
3. Explain the types of GST returns and the businesses required to file them.
4. Write short note on Annual returns and Penalty for late filing.

Answers

MCQ : Answers: 1-c, 2-d, 3-b, 4- b

Mind Twisters : 1- Tax Return 2. Matching Mechanism 3. GSTR- 4

Additional Readings:

1. GST Chapter X – Returns (Sec 37-48) , Institute of Chartered Accountants of India, can be downloaded from: <https://idtc.icaai.org/gst-topic-wise-study-material-list.html> (Pdf Form)
2. Handbook on GST Act, Rules and Rates: Taxman Edition 2023. (Webpage)
3. Tutorials on GST Returns including details on every form and filing procedure, visit:

<https://tutorial.gst.gov.in/userguide/returns/index.htm#t=GSTR3B.htm>

GST Return

(Website)

For ICAI notes Scan Below QR Code:



ACCOUNTS, AUDIT, ASSESSMENT AND RECORDS

Unit Structure:

- 3.1. Introduction
- 3.2. Definitions
- 3.3. Accounts and Other Records (Sec 35)
- 3.4. Duration of Retention of Accounts (Sec 36)
- 3.5. E-Way Bill
- 3.6. Assessment and Audit
- 3.7. Audit by Tax Authorities (Sec 65)
- 3.8. Special Audit (Sec 66)

3.1. INTRODUCTION

Assessment in GST involves calculating how much tax someone owes. Taxpayers are mainly responsible for figuring out their own tax amounts and submitting returns regularly. The tax department checks if taxpayers are following the rules by reviewing their returns and sometimes investigating further. Instead of physically inspecting things, they mostly rely on documents. Taxpayers must keep and organize their financial records at their main place of business. They can choose to do this either on paper or electronically, and there's no specific way they have to do it.

3.2. DEFINITIONS

- A. **Section 2(5): An "Agent"** is someone who conducts the business of supplying or receiving goods or services on behalf of another, including intermediaries in agricultural produce and agents who sell on credit for a principal.
- B. **Section 2(13): "Audit"** refers to the examination of records, returns, and other documents provided by a registered person under this Act or other applicable laws to verify the accuracy of declared turnover, taxes paid, refunds claimed, and input tax credit availed, and to assess compliance with the Act and its rules.
- C. **Section 2(108): "Taxable supply"** means a supply of goods and/or services that are subject to tax under the CGST Act.
- D. **Section 2(85) defines "Place of business"** as follows:

- Any location where a business is regularly conducted, including storage facilities like warehouses, where goods are stored, supplied, or received, or where services are provided.
 - Any place where a business keeps its financial records.
 - Any location where a business operates through an agent, regardless of the title given to that agent.
- E. **Section 2(107): “Taxable person”** - This refers to someone who needs to pay taxes according to the law.
- F. **Section 2(89): “Principal place of business”** - It means the main location where a business operates or does its most important activities.
- G. **Section 2(91): “Proper officer”** - This is an official authorized to carry out duties as prescribed by the law.
- H. **Section 2(94): Registered Person** - This indicates someone who has officially signed up or enrolled for something, probably related to taxation or legal obligations.
- I. **Section 2(106): “Tax period”** - It's the duration over which taxes are calculated and paid, like monthly, quarterly, or annually.
- J. **Section 2(23): “Chartered Accountant”** - This is a professional accountant who has met specific qualifications and is authorized to offer accounting services.
- K. **Section 2(35): “Cost Accountant”** - It refers to an accountant who specializes in analyzing and managing costs within a business.
- L. **Section 2(41): “Document”** - This includes any written or electronic material that provides information or evidence.
- M. **Section 2(18): “Voucher”** - It's a document that serves as proof of a transaction or an agreement.
- N. **Section 2(34): “Conveyance”** - This typically refers to the transport of goods or people from one place to another.
- O. **Section 2(17)** of the law defines "**business**" broadly, encompassing a variety of activities regardless of profit motive. Let's dissect its components:
- Trade: This involves the exchange of goods or services, including buying, selling, or supplying.
 - Commerce: It covers the distribution, exchange, and transportation of goods, involving activities like warehousing, transportation, and advertising.

- **Manufacture:** This refers to the transformation of raw materials into finished goods through operations like production or processing.
- **Profession:** It includes specialized services provided by professionals like doctors, lawyers, architects, and consultants.
- **Vocation:** Any occupation or trade that utilizes a person's skills or training, such as teaching, painting, or writing.
- **Adventure:** Activities involving uncertainty or risk, like speculative trading or gambling.
- **Wager:** Placing bets or wagers on events, such as sports betting or lottery.
- **Any other similar activity:** This encompasses activities resembling trade, commerce, manufacture, profession, vocation, adventure, or wager, ensuring comprehensive coverage.

3.3. ACCOUNTS AND OTHER RECORDS

Section 35 of the CGST Act, along with Rule 56, outlines the necessary records that registered individuals must maintain. These records, collectively known as books of accounts, cover everything related to money, sales, purchases, assets, liabilities, and costs. Keeping accurate accounts and records is a crucial aspect of complying with the GST Act.

Section	Requirements
LIST OF RECORDS AND PLACE OF MAINTENANCE OF RECORDS	
35(1)	Every registered individual must maintain accurate records at their primary business location, as specified in their registration certificate, including: (a) Recording the production or manufacture of goods (b) Documenting the inward and outward supply of goods and/or services (c) Maintaining records of the stock of goods (d) Keeping track of input tax credit availed (e) Noting down output tax payable and paid (f) Recording any other details prescribed by law.
Rule 56(1)	Every registered entity must maintain precise records of the following: (a) Imported or exported goods or services (b) Supplies subject to tax under reverse charge mechanism

Section	Requirements
	(c) Relevant documents such as invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers, and refund vouchers.
MAINTENANCE OF RECORDS BY THE TRANSPORTER, OWNER/OPERATOR OF WAREHOUSE/ GODOWN	
Section 35(2)	Every transporter, owner/operator of warehouse/godown, or any other place used for storage of goods, regardless of their registration status, must maintain records containing details of the consigner, consignee, and other relevant information of the goods.
ADDITIONAL ACCOUNTS OR DOCUMENTS FOR NOTIFIED PERSONS	
Section 35(3)	The Commissioner has the authority to designate a class of taxable individuals to maintain additional accounts or documents as specified for a particular purpose.
RELAXATION FOR CLASS OF TAXABLE PERSON	
Section 35(4)	If the Commissioner determines that a certain class of taxable individuals is unable to maintain accounts as per the prescribed standards, he may, with written justification, allow them to maintain accounts in a manner specified by regulations.
DEEMED SUPPLY - ACCOUNTS NOT MAINTAINED	
Section 35(6)	In cases where a registered individual fails to account for goods or services provided, the proper officer will assess the tax liability on such unaccounted goods or services as if they were supplied. Sections 73 and 74 will be invoked for tax recovery accordingly.

3.4. DURATION OF RETENTION OF ACCOUNTS

SECTION	DESCRIPTION
Section 36	Every registered taxable person must maintain books of account or records as per Section 35(1) of the CGST Act for 72 months after the due date of filing the Annual Return for the relevant year.
Provision to section 36	If a registered person is involved in an appeal, revision, or other proceedings before any Appellate Authority, Revisional Authority, Appellate Tribunal, or court, or is under investigation for an offence under Chapter XIX, they must retain the books of account and records related to the matter for one year after the final disposal of such appeal, revision, proceedings, or investigation, or for the period specified in Section 36, whichever is longer.

3.5. E-WAY BILL

1. What is E-way Bill ?

An e-way bill is an electronic document required for the movement of goods within India exceeding a value of Rs. 50,000. It acts as a permit and helps track the movement of goods for tax purposes under the Goods and Services Tax (GST) regime. An e-way bill is a digital document containing details about the goods being transported, similar to a physical waybill. It includes information like:

- Supplier (consignor) details (name, GSTIN)
- Recipient (consignee) details (name, GSTIN)
- Transporter details (name, vehicle number)
- Description of goods
- Value of goods

2. When Should an E-way Bill be Issued?

An e-way bill needs to be generated electronically before the goods are transported, irrespective of the distance, if the value exceeds Rs. 50,000. This applies to both inter-state (between states) and intra-state (within the state) movement of goods.

Example:

A company in Mumbai sends shirts worth Rs. 75,000 to Delhi. In this case, an e-way bill must be generated before dispatching the shirts.

3. Who Generates the E-way Bill?

The responsibility of generating the e-way bill can fall on one of three parties:

- Supplier (consignor): This is the usual case where the supplier who sends the goods initiates the e-way bill process.
- Recipient (consignee): The recipient can generate the e-way bill if they are taking charge of the transportation.
- Transporter: If neither the supplier nor recipient generates the e-way bill, the transporter carrying the goods has the responsibility to do so.

4. Cancellation of E-way Bill

E-way bills can be canceled within 24 hours of generation if the goods are not transported or are not being transported as per the details furnished in the e-way bill.

5. Acceptance/Rejection of E-way Bill

The recipient or the transporter carrying the goods needs to communicate acceptance or rejection of the e-way bill within 72 hours of its generation or before the actual delivery of goods, whichever is earlier.

6. E-way Bill Not Required Upto 50 Km

There's a relaxation for short-distance movement of goods. E-way bills are not mandatory for the movement of goods within the same state if the distance between the supplier and recipient is less than 50 kilometers.

7. Forms and Validity of E-way Bill

- **Form GST EWB-01:** This form is used for generating the e-way bill. It contains details such as the goods being transported, their value, the recipient's details, the transporter's details, and the vehicle number. GST EWB-01 is generated electronically on the GSTN (Goods and Services Tax Network) portal or through SMS.
- **Form GST EWB-02:** This form is used for updating the details of the e-way bill generated in Form GST EWB-01. It can be used to update information like vehicle number, transporter details, or any other relevant information that may have changed after the e-way bill has been generated.
- **Form GST EWB-03:** This form is used for verification of the details furnished in the e-way bill by the tax officer. If there are any discrepancies or errors found in the e-way bill details during verification, the tax officer can issue Form GST EWB-03 to communicate the same to the person who generated the e-way bill.
- **Form GST EWB-04:** This form is used for cancellation of the e-way bill. If the goods mentioned in the e-way bill are not being transported or if there is a mistake in the e-way bill details, the generator of the e-way bill can cancel it using Form GST EWB-04 within 24 hours of its generation.

Validity of E-way Bill

- **For distances less than 100 kilometers (km):** The e-way bill is valid for one day from the relevant date of generation. The relevant date is the date on which the e-way bill is generated.
- **For every additional 100 km or part thereof:** The validity of the e-way bill is extended by one additional day from the relevant date of generation. For example:
 - If the distance is between 100 km and 200 km, the e-way bill is valid for two days.
 - If the distance is between 200 km and 300 km, the e-way bill is valid for three days, and so on.

It's important to note that the validity of the e-way bill is calculated from the time of its generation. Once the e-way bill expires, it cannot be used for the movement of goods, and a new e-way bill needs to be generated if the goods are to be transported further.

8. Bill to Ship Model

The Bill To/Ship To model is a common scenario in business transactions where the payer and the recipient of the goods are different parties. Here's a breakdown:

Parties Involved:

- **Bill To (Payer):** This is the party responsible for making the payment for the goods. They are typically the one who places the order.
- **Ship To (Recipient):** This is the party who receives the physical goods. They may or may not be the same as the Bill To party.

Example:

A company (Bill To) purchases office supplies in bulk and has them shipped directly to their branch offices (Ship To) located in different cities.

Why Use Bill To/Ship To?

- **Centralized Purchasing:** A company with multiple locations can centralize their purchasing process, potentially negotiating better deals with suppliers due to bulk orders.
- **Drop Shipping:** Online retailers might use a drop shipping model where they receive orders from customers (Bill To) but have the products shipped directly from a supplier (Ship To) to the customer.
- **Gifts or Donations:** If a company wants to send a gift or make a donation, they might pay for the goods (Bill To) but have them shipped directly to the recipient (Ship To).

9. E-WAY BILL IS NOT REQUIRED

- E-way bills are not required for consignments below the specified value threshold, typically Rs. 50,000, though thresholds may vary by state.
- Certain goods are exempted from e-way bill requirements as notified by the government.
- Non-motorized conveyances like hand-carts do not require e-way bills for goods movement.
- Within-state transportation may not necessitate e-way bills if the distance between the consignor and consignee is below a specified threshold, such as 10 kilometers.
- The government may exempt specific categories of goods from e-way bill requirements, either permanently or for a specified duration.
- Some agencies or modes of transport may be exempted from e-way bill obligations as per government notifications.

3.6. ASSESSMENT AND AUDIT

- A. **Section 59 of the CGST Act 2017** mandates every registered person to self-assess the taxes payable under the Act and submit a return for each tax period as outlined in section 39.
- B. **Section 60, regarding provisional assessment**, permits a taxable person to request the proper officer for provisional tax payment if they are unable to determine the value of goods or services or the applicable tax rate. The officer must respond within ninety days, allowing payment at a specified rate or value. This provisional payment is contingent upon the execution of a prescribed bond with appropriate surety. The final assessment order must be passed within six months, considering necessary information. Extensions may be granted under certain conditions. Interest is levied on unpaid tax under provisional assessment, and refunds are subject to interest payment as per section 56.
- C. **Section 61 empowers the proper officer to scrutinize returns** and inform the registered person of any discrepancies. If the explanation is satisfactory, no further action is taken. Failure to provide a satisfactory explanation may lead to appropriate action, including tax determination under section 73 or section 74.
- D. **Section 62 addresses the assessment of non-filers of returns.** If a registered person fails to furnish a return despite notice, the proper officer may assess the tax liability to the best of their judgment within five years from the due date. If a valid return is furnished within thirty days of the assessment order, the order is deemed withdrawn, but interest or late fees may still apply. An extended period of sixty days is provided with an additional late fee, after which failure to furnish a valid return may result in continued liabilities for interest and late fees.
- E. **Section 63 outlines the procedure for assessing unregistered individuals.** Despite the provisions in sections 73 or 74, if a taxable person fails to register when required or has their registration canceled under section 29(2) but still holds tax liabilities, the proper officer can assess their tax liability to the best of their judgment for the relevant tax periods. This assessment must be done within five years from the date specified under section 44 for filing the annual return for the relevant financial year. However, before issuing any assessment order, the person must be given an opportunity to present their case.
- F. **Section 64 of the CGST Act 2017 pertains to the summary assessment in specific cases.** It grants the proper officer the authority, upon discovering evidence indicating tax liability of an individual, to assess their tax liability with the prior permission of the Additional Commissioner or Joint Commissioner. This assessment aims to safeguard the revenue's interests, and an assessment order may be

issued if the officer has reasonable grounds to believe that any delay could harm revenue interests.

- In cases where the **taxable person cannot be identified and the liability relates to the supply of goods**, the individual in charge of those goods is deemed to be the taxable person responsible for assessment and payment of taxes and other dues under this section.
- If the **taxable person disagrees with the assessment order received** or if the Additional Commissioner or Joint Commissioner deems the order erroneous, they can either make an application within thirty days of receiving the order or take action on their own initiative. In such instances, the officer may withdraw the order and follow the prescribed procedures outlined in section 73 or section 74 of the Act.

3.7. AUDIT BY TAX AUTHORITIES (SECTION 65):

Sec 65 (1) Power to Conduct Audit: The Commissioner or any authorized officer may, by a general or specific order, undertake an audit of any registered person for a specific period, at a specific frequency, and in the prescribed manner.

Sec 65 (2) Place of Audit: The authorized officers may conduct the audit at the registered person's place of business or their office.

Sec 65 (3) Notice of Audit: The registered person will be informed by way of a notice, not less than fifteen working days before the commencement of the audit, in the prescribed manner.

Sec 65 (4) Time Limit for Audit Completion: The audit under sub-section (1) shall be completed within three months from the commencement date. However, the Commissioner can extend the period by a further six months for reasons to be recorded in writing, if satisfied that the audit cannot be completed within the initial period.

Explanation: For this sub-section, "commencement of audit" refers to the later of the date the registered person makes the requested records and documents available or the actual start of the audit at the place of business.

Sec 65 (5) Cooperation During Audit: During the audit, the authorized officer may require the registered person to:

- (i) Provide necessary facilities to verify books of account or other required documents.
- (ii) Furnish any information requested and assist in the timely completion of the audit.

Sec 65 (6) Informing Audit Findings: On concluding the audit, the proper officer shall inform the registered person within thirty days about the findings, their rights and obligations, and the reasons for such findings.

Sec 65 (7) Action for Tax Discrepancies: If the audit conducted under sub-section (1) detects unpaid, short-paid, or erroneously refunded tax, or wrongly availed or utilized input tax credit, the proper officer may initiate action under section 73 or section 74.

3.8. SPECIAL AUDIT [S. 66]

The tax department can order a special audit of your business if they suspect any of the following:

When can a special audit happen?

If a tax officer (Assistant Commissioner or above) believes a business hasn't reported the correct value of goods or services, or has claimed tax credits outside the normal range.

The officer needs approval from a higher authority (Commissioner) before ordering the audit.

Who conducts the audit?

A chartered accountant or cost accountant chosen by the Commissioner.

What happens during the audit?

The accountant examines the business's records, including books of account.

They have 90 days to submit a report with their findings to the Assistant Commissioner. This can be extended for another 90 days if necessary.

What about regular audits?

Even if the business has already been audited under other regulations, this special audit can still occur.

What rights does the business have?

The business will have a chance to explain any issues found during the special audit before any action is taken against them.

Who pays for the audit?

The Commissioner determines the cost of the audit, including the accountant's fees, and the business must pay it.

What happens if the audit finds problems?

If the audit discovers unpaid/underpaid taxes, wrongly claimed credits, or incorrect refunds, the government can take further action against the business under relevant sections of the Act.

Self Examination Questions

1. What are the different types of records a registered person must maintain under the CGST Act, and where should they be kept?

2. When is an e-way bill required for the movement of goods within India, and what information does it typically include?
3. Under what circumstances might the tax authorities conduct a special audit of a business, and who typically conducts this type of audit?

CUSTOM ACT - I

Unit Structure:

- 4.0 Objectives
- 4.1 Introduction
- 4.2 Customs Act 1962
- 4.3 Taxable Event
- 4.4 Exemption from Custom Duty
- 4.5 Types of Custom Duties
- 4.6. Classification Of Goods
- 4.7. Valuation For Customs Duty
- 4.8 Custom Valauation Rules 2007
- 4.9. Provisional Assessment Sec 18
- 4.10. Multiple Choice

4.0 OBJECTIVES

To understand the basic and practical aspects of customs law

And to Be able to value the imported and export goods for payment of duty

1. Meaning and objects of customs duty
2. Definitions and Concepts
3. Scope and coverage of custom law
4. Types of custom duties
5. Rate of custom duties applicable
1. Concept of Transaction Value
2. Valuation of imported goods and applicable rules
3. Valuation of Export goods and applicable rules
4. Assessment of imported and export goods
5. Provisional assessment
6. Remission of duty on pilfered or lost or destroyed goods.
7. Levy of duty on goods derelict, wreck, jetsam etc.
8. Rules for denaturing or mutilation of goods
9. Power of Central Government to grant exemption

4.1 INTRODUCTION

Government requires funds for the purpose of carrying out its activities, which are mainly maintenance of law and order, defence, public policy etc. These funds are generated through revenue, which comes from corporate

tax, Income Tax, Customs duty, GST, other taxes etc. Major portion of the revenue of the country comes from taxes.

Taxes can be classified as Direct Taxes and Indirect Taxes, Direct taxes are paid by taxpayer directly from his pocket as the burden cannot be shifted. Whereas indirect taxes are paid by taxpayer indirectly i.e. the tax is paid by one person and recovered from another, usually paid at the time of purchasing goods and commodities, paying for services etc. Important indirect taxes are Customs, Goods and Service Tax, entertainment Tax etc.

The Constitution of India is the supreme law. All other laws emanate from the Constitution. Articles 245 to 255 of the constitution has provision for the distribution of taxation powers between the Union and the States. The powers of legislation are shared between the Union and the States.

Union List: Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule to the Constitution; this List is referred to usually as Union List.

State List: The legislature of every State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule to the Constitution. This list is popularly called as State List.

4.2 CUSTOMS ACT 1962

Introduction

It was customary for a Business traders who brings the goods to a particular kingdom to offer gifts to the king for permitting him to sell his goods in that kingdom. There was a customary practice in those days to give gifts to the king by the dealers. But in modern era Government collects these gifts from the importer who imports the goods from a country outside India and from an exporter who exports the goods to a country outside India.

In the year 1962 the Parliament enacted The Customs Act, as per the List I of the Union List as the Parliament has an exclusive right to make laws. The Customs Act regulates import and export, protecting the Indigenous industry from other countries and earning foreign exchange. The rules are made by the Central Government of India under section 156 of Customs Act, 1962, and Notifications are also issued from time to time for the purpose of smooth functioning and effective administration of the Act. As per section 157 of the Custom Act, 1962, the Central Board of Excise and Customs (CBE&C), now renamed to Central Board of Indirect Tax and Customs (CBIC), has been empowered to make regulations, consistent with provisions of the Act. The Public notices which are also called trade notices are issued by the Commissioner of Customs.

Entry No. 83 of List I to Schedule VII of the Constitution empowers the Union Government to legislate and collect duties on import and exports. The Customs Act, 1962 is the basic statute which governs entry or exit of different categories of vessels, aircrafts, goods, passengers etc., into or outside the country. The Act extends to the whole of the India.

Customs Act, 1962 just like any other tax law is primarily for the levy and collection of duties but at the same time it has the other and equally important purposes such as:

- Regulation of Imports and Exports;
- Protection of Domestic Industry;
- Prevention of Smuggling;
- Conservation and Augmentation of Foreign Exchange and So On.

Section 12 of the Custom Act provides that duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 or other applicable Acts on goods imported into or exported from India.

Customs duty is on imports into India and export out of India. Section 12 of Customs Act, often called charging section, provides that duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975, or any other law for the time being in force on goods imported into, or exported from, India.

4.2.1 Sec 12 Charging Section

- 1) Except as otherwise provided in this act or any other law for time being in force, duties of custom shall be levied at such rates as may be specified under the CTA 1975 or any other law for time being in force, on goods imported into or exported from India.
- 2) The provision of sub section 1 shall apply in respect of all goods belonging to government as they apply in respect of goods not belonging to government.

4.2.2 Important Definitions

1) Rule and Regulation

Rules made by central government Regulation made by CBI& C

Rules are made u/s 156 Regulations are made u/s 157 Consistent with the provisions of the Act Consistent with the provisions of the Act as well as rules.

2) Goods' Sec 2(22)

Goods' includes Vessels, Aircrafts, Vehicles, Stores, Baggage, Currency, Negotiable instruments and any other kind of movable property.

The duty is payable on goods belonging to government also.

3) Dutiable Goods - Section 2(14)

Any goods which are chargeable to duty and on which duty has not been paid.

Goods continue to be 'dutiable' till they are not cleared from the port.

Once goods are assessed at 'Nil' rate of duty, they no more remain 'dutiable goods'

4) Stores Section 2(38)

As per of the Customs Act, stores means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

5) Import: section 2(23)

Bringing into India from a place outside India.

6) Imported Goods - Section 2(25)

Any goods brought in India from a place outside India,

And does not include goods which have been cleared for home consumption.

7) Importer - Section 2(26)

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

8) Export: section 2(18) : Taking out of India to a place outside India.

9) Export Goods -Sec 2(19)

Any goods, which are to be taken out of India to a place outside India. Goods brought near customs area for export purpose.

10) Exporter -Sec 2(19)

In relation to any goods means at any time between their entry for export and the time when they are exported, includes any owner, beneficial owner or any person holding himself out to be the exporter

11) Conveyance

As per section 2(9) of the Customs Act Defines, 'Conveyance includes a Vessel, an Aircraft and a Vehicle'. The specific terms are vessel (by sea), aircraft (by air) and vehicle (by land)

12) Custom port Sec 2(12)

Means any port appointed under clause (a) of section 7 [appointed by CBI&C] to be a customs port and Includes a place appointed under clause [aa] of that section to be an inland container depot.

13) Land Custom station

Means any place appointed under clause (b) of section 7 [appointed by CBI&C] to be a land customs station.

14) Customs airport Sec 2(10)

Means any airport appointed under clause [a] of 7 [appointed by CBI&C] to be a customs airport; Includes a place appointed under Clause [aa] of that section to be an air freight station

15) Custom station Sec 2(13)

Means any customs port, customs airport or land customs station.

16) Custom area

As per Section 2(11) of the Customs Act, customs area means the area of a customs station and includes any area in which imported goods or exported goods are ordinarily kept before clearance by Customs Authorities.

17) Inland container depot

They are created for the purpose of Loading / Unloading of Export Goods/Imported Goods. Movement from ICD to a Land Customs Station or Airport is akin to Trans-shipment from one customs station to another Customs Station.

18) Container freight station

They are set up with the main objective of decongesting the ports where only part of the custom process mainly with examination of goods is carried out by the custom.

19) Air Freight station

AFS is an off-airport common user facility equipped with fixed installations of minimum requirements and offering services for handling and temporary storage of import and export cargo.

20) Foreign post office Section 2(20A)

Means any post office appointed under clause (e) of sub-section (1) of Sec. 7 to be a foreign post office.

21) International courier terminal” Sec 2(28A)

Means any place appointed under clause (f) of sub-section (1) of Sec. 7 to be an international courier terminal.

22) India Section 2(27): 'India' as inclusive of territorial waters.**23) Territorial Waters of India**

A portion of sea, which is adjacent to the shores of a country, 12 nautical miles from the base line. (1 nautical mile = 1.853 Kms)

'Import' is complete as soon as goods enter territorial waters. Similarly, export is complete only when goods cross territorial waters.

24) Exclusive economic zone'

Area extends to 200 nautical miles from the base line.

In this zone, the coastal State has exclusive rights to exploit it for economic purposes like constructing artificial islands (for oil exploration, power generation) fishing, mineral resources and scientific research

Beyond 200 nautical miles, the area is 'High Seas', where all countries have equal rights.

These high seas are reserved for peaceful purposes.

25) Indian Customs Waters Sec 2(28)

Indian custom waters means the water extending into the sea up to the limit of contiguous zone of India under Sec 5 of the Territorial waters,

Continental shelf, Exclusive economic zone and other Maritime zones Act 1976 and includes any bay, gulf, harbour or tidal river.

Area beyond 12 nautical miles and up to 200 nautical miles from base line of India'.

The CG has got powers to take measures in this area for security of India and immigration,

26) Person in charge means

- a. Vessel Master
- b. Aircraft Commander or Pilot in Charge
- c. Train Conductor or Guard
- d. Vehicle Driver
- e. Other conveyance Person in charge

27) Assessment

As per section 2(2) of the Customs Act, assessment means process of determining the tax liability in accordance with the provisions of the Act, which includes provisional assessment, self-assessment, reassessment and any assessment in which the duty assessed is nil

28) Adjudicating Authority

As per Section 2(1) of the Customs Act, 1962, adjudicating authority means any authority competent to pass any order or decision under this Act, but does not include:

The Central Board of Excise and Customs (CBE&C),
Commissioner of Customs (Appeals) or
Customs, Excise and Service Tax Appellate Tribunal (CESTAT)

29) Entry

- 1. Import of goods as cargo: Bill of Entry
- 2. Export of goods as cargo: Shipping bill or bill of export
- 3. Goods imported or to be exported by post: Label or declaration u/s 82
- 4. Goods imported or to be exported as baggage: Declaration u/s 77

The basic condition for levy of customs duty is import/export of goods i.e. goods become liable to duty when there is import into or export from India.

Import means bringing into India from a place outside India [Section 2(23)]. Export means taking out of India to a place outside India [Section 2(18)]. — "India" includes the territorial waters of India [Section 2(27)]. The limit of the territorial waters is the line every point of which is at a distance of twelve nautical miles from the nearest point of the appropriate baseline.

4.3.1 Charge of Custom Duty

The basis of levy of tax is specified in Section 12, charging section of the Customs Act. It identifies the person or properties in respect of which tax or duty is to be levied or charged. Under assessment, the liability for payment of duty is quantified and the last stage is the collection of duty which is may be postponed for administrative convenience. As per Section 12, customs duty is imposed on goods imported into or exported out of India as per the rates specified under the Customs Tariff Act, 1975 or any other law.

On analysis of Section 12, we derive the following points: (i) Customs duty is imposed on goods when such goods are imported into or exported out of India; (ii) The levy is subject to other provisions of this Act or any other law; (iii) The rates of Basic Custom Duty are as specified under the Tariff Act, 1975 or any other law; (iv) Even goods belonging to Government are subject to levy, though they may be exempted by notification(s) under Section 25. Custom Tariff Act, 1975 has two schedules.

Schedule I prescribes tariff rates for imported goods, known as —Import Tariff and Schedule II contains tariff for export goods known as —Export Tariff.

4.3.2 Exception to Levy of Customs Duty:

Sec 13: Remission of Duty

If any imported goods are pilfered.

- a. After unloading thereof, and
- b. Before the proper officer has made an order for:
- c. Clearance for home consumption, or Deposit in a warehouse
The importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.
- d. It has been held that remission of duty has to be allowed if goods were lost or destroyed for any reason at any time before clearance
- e. Similarly, there is no remedy if goods are pilfered after the order for clearance is made but before the goods are actually cleared

If goods are pilfered after the order of clearance is made but before the goods are actually cleared, no remission would be allowed.

Sec 22 : Abatement of Duty on damaged or deteriorated Goods

Where it is shown to the satisfaction of AC or DC of Customs that any imported goods had been damaged or had deteriorated at any time:

1. Before or during the unloading of the goods; or
2. After unloading but before clearance for home consumption, on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent, Then duty shall be chargeable only on the value of the damaged or deteriorated goods.

The value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner:

- a. By the proper officer, or
- b. Such goods may be sold by public auction or by tender, and the gross sale proceeds shall be deemed to be the value of such goods.

Meaning of damage: The term 'damage' denotes physical damage to the goods. This implies that the goods are not fit to be used for the purpose for which they are meant.

Section 23: Remission of duty on lost, destroyed or abandoned goods

The AC or DC shall remit the duty on goods, where it is shown to their satisfaction that any imported goods have been:

1. Lost (otherwise than as a result of pilferage) or destroyed, at any time before clearance for home consumption, or
2. The owner of imported goods relinquishes his title to the goods before an order for clearance for home consumption or for deposit in a warehouse has been made. However, the owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.

Sec 24 : Power to make rule for Denaturing or Mutilation of Goods

If any imported goods can be used for more than one purpose and duty is leviable on the basis of its purpose of utilization, then denaturing or mutilation of such goods is useful. By denaturing, goods are made unfit for other purposes. After denaturing process, goods can be used only for one purpose and accordingly duty can be levied

Sec 21 Goods derelict wreck

Derelict: broken down

Jetsam: Goods thrown overboard a ship

Flotsam: Floating wreckage of a ship

Wreck: Broken forcefully

Which is brought or coming into India?

Such goods shall be dealt with as if they were imported into India (liable to duty as if imported into India even if not actually imported by any person) Unless proper officer allows duty free.

4.3.3 CTA 1975 provides the classification of the goods and rates of duties of customs.

Heading under CTA

The five column headings as prescribed in schedules to Customs Tariff Act, 1975 are as under:

Column No. Particulars

1. Tariff Item
2. Description of the Goods
3. Unit
4. Standard Rate of duty
5. Preferential Rate of duty

4.4 EXEMPTION FROM CUSTOM DUTY

Where the Government is satisfied that it is necessary in the public interests to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified herein, goods or services or both of any specified description from the whole or any part of tax leviable thereon with effect from such date as may be specified in such notification.

Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any Goods or services or both on which tax is leviable

The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub section (1) or order issued under subsection(2),insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under subsection(1)or order under subsection(2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case maybe.

First Schedule to CTA

In this schedule goods chargeable with import duty are listed. It is also known as ‘Import Tariff’ which comprises of 98 chapters grouped under 21 sections.

Second Schedule to CTA

In this schedule goods chargeable with export duty are listed. It is also known as ‘Export Tariff’.

4.5 TYPES OF CUSTOM DUTIES

4.5.1 Basic customs duty [Sec 2]

Basic customs duty levied u/s. 12 of Customs Act is generally 10%

4.5.2. Preferential rate of duty

If the goods are imported from the areas notified by the Central Government to be preferential areas, then the rate of duty under column (5) will be applicable.

The government may by notification under section 25 of the Customs Act prescribe preferential rate of duty in respect of imports from certain preferential areas.

4.5.3. CVD Sec 3(1) is Also Called 'Countervailing Duty' (CVD).

Duty is equal to excise duty levied on a like product manufactured or produced in India.

If like article is not produced or manufactured in India, the excise duty that would be leviable on that article had it been produced in India is the base.

If the product is leviable with different rates, then highest rate among those rates is to be considered.

If excise duty is not applicable, then no CVD payable.

Calculation of CVD

Value for ACD 3(1)

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @ 10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
Value for ACD 3(1)	xxx

4.5.4. Special CVD [Sec 3 (5)]

Special CVD is payable @ 4% on imported goods u/s. 3(5) of Customs Tariff Act. This is in lieu of Vat/sales tax to provide level playing field to Indian goods. Traders importing goods can get refund Goods fully exempted from

ACD under section 3(5) (i.e. 4% Special C.V.D)

Calculation of CVD 3(5)

Av+ Basic Customs Duty +

Value for ACD 3(5)

Assessable value u/s 14(1) xx

(+) BCD	xx
(+) SWS @ 10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
Value for ACD 3(5)	xxx

4.5.5. Integrated tax(CVD of IGST)[sec 3(7) ofCTA]

IGST (Integrated Goods and Services Tax) is a component under GST law, which is levied on goods being imported into India from other country. It has been subsumed various customs duties including Countervailing Duty (CVD) and Special Additional Duty of Customs (SAD).

Calculation of IGST

Value for ACD 3(5)

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @ 10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
(+) ACD 3(5)	xx
(+) Safeguard Duty	xx
(+) CVD on subsidies Article	xx
(+) Antidumping Duty	xx
Value for ACD 3(7)	xxx

Values for IGST in respect if warehouse goods

- a) Where the whole of the goods are sold, the value determined under Section 3(8) or the transaction value of such goods, whichever is higher; or
- b) Where any part of the goods is sold, the proportionate value of such goods as determined under Section 3(8) or the transaction value of such goods, whichever is higher.

Last transaction value to be taken: However, where the whole of the warehoused goods or any part thereof are sold more than once before such clearance for home consumption or export, the transaction value of the last such transaction shall be the transaction value for the purposes of clause (a)/(b).

Unsold goods – Value to be determined as per Section 3(8) : In respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of Section 3(8).

4.5.6. Goods and services tax compensation Cess [sec 3(9) of CTA]

Under GST regime, Compensation Cess will be charged on luxury products like high-end cars and demerit commodities like pan masala, tobacco and aerated drinks for the period of 5 years in order to compensate states for loss of revenue cess [sec 3(9) of CTA]

In the GST regime, IGST will be levied on imports by virtue of sub - section (9) of Section 3 of the Customs Tariff Act, 1975.

Calculation of Compensation cess

Value for ACD 3(9)

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @ 10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
(+) ACD 3(5)	xx
(+) Safeguard Duty	xx
(+) CVD on subsidies Article	xx
(+) Antidumping Duty	xx
Value for ACD 3(9)	xxx

Values for Compensation cess in respect of warehoused goods

- a) Where the whole of the goods are sold, the value determined under Section 3(10) or the transaction value of such goods, whichever is higher; or
- b) Where any part of the goods is sold, the proportionate value of such goods as determined under Section 3(10) or the transaction value of such goods, whichever is higher.

Last transaction value to be taken: However, where the whole of the warehoused goods or any part thereof are sold more than once before such clearance for home consumption or export, the transaction value of the last such transaction shall be the transaction value for the purposes of clause (a)/(b).

Unsold goods – Value to be determined as per Section 3(10) : In respect of warehoused goods which remain unsold, the value or the proportionate

value, as the case may be, of such goods shall be determined in accordance with the provisions of Section 3(10).

4.5.7. Protective duty [Sec 6]

If CG is satisfied that immediate action is necessary to protect interests of Indian industry; Rate of duty is as per recommendation of Tariff Commission (Establish under Tariff Commission Act 1951).

Notification should be Passed in parliament within 6 months,

The protective duty can be rescinded, reduced or increased by a notification. [Section 7(2)]

Such notification should also be placed before Parliament within 7 days of assembly and seek the approval by a resolution moved within a period of 15 days beginning with the day on which notification is so laid before the parliament. [Section 7(3)]

4.5.8. Safeguard duty [Sec 8B]

Safeguard duty can be imposed if large imports are causing serious injury to domestic industry.

Exceptions

1. In case of imports from developing countries, such safeguard duty can be imposed only if import of that article from:
 - a. One country > 3%, or
 - b. Aggregate imports from more than one countries > 9%. Of the total imports of that article into India.
2. No safe guard duty in case of 100% EOU / SEZ unit unless specified in notification. Or

The article imported or manufactured from goods imported is removed in DTA. In such case SGD shall be levied on such portion of imported article so removed.

Provisional Duty: Central Government can impose provisional safeguard duty, pending final determination upto 200 days.

Max time of levy: The duty, once imposed, is valid for 4 years, unless revoked earlier. This can be extended by Central Government but total period cannot be more than 10 years.

4.5.9. Countervailing duty on subsidized articles [Sec 9]

Import of any article into India from any country or territory, which pays directly or indirectly, any subsidy on: (a) manufacture, (b) production, (c) exportation, or (d) transportation of the article.

Note: Import may or may not be directly from the country of manufacture, production, etc.

The imported article may come into India in the same condition in which it left the country of origin, or in some other form. Central Government may impose a Countervailing Duty (CVD), not exceeding the amount of such subsidy, by Notification in Official Gazette.

Maximum Limit: Rate of CVD shall not exceed the amount of Subsidy.

Retrospective levy shall not extend beyond 90 days from the date of Notification imposing the Provisional CVD.

Maximum Levy: 5 years from date of imposition, but extendable for a further period of 5 years from the date of such extension.

No CVD

Research activities conducted by or on behalf of persons engaged in the manufacture, production or export.

Assistance to disadvantaged regions within the territory of the exporting country.

Assistance to promote adaptation of existing facilities to new environmental requirements.

4.5.10. Anti-dumping duty [Sec 9A]

Margin of Dumping

Margin of dumping' means the difference between normal value and export price 'Normal Value' means comparable price in the exporting country
Quantum of dumping duty

The anti-dumping duty will be equal to dumping margin

Procedure

This duty is permissible as per WTO agreement

Duty can be levied only when there is an Indian industry producing 'like articles'.

If it is a pending in determination of margin of dumping, duty can be imposed on provisional basis.

After dumping duty is finally determined, C G can reduce such duty and refund duty extra collected than that finally calculated. Such duty can be imposed up to 90 days prior to date of notification, if there is history of dumping.

No education cess and SAH education cess on anti-dumping duty.

Exception

Anti-dumping duty shall not apply to articles imported by a 100% EOU or a unit in SEZ or SEZ unless specifically made applicable.

Maximum period of levy: Such duty, unless revoked earlier, can be imposed for 5 years. Further extension by 5 yrs. possible.

Sec 9 and 9A No article shall be subject to both duties.

Refund of Anti-Dumping Duty [Sec 9AA]

Where Upon determination by an authorized office of custom (AC/DC) An importer proves that he has paid anti-dumping duty in excess of actual margin of dumping then Central government shall give him refund. Application must be filed within 3 months from date of notification of reducing anti-dumping duty Refund is given within 90 days from the date of receiving application.

Sec 9C : Appeal to tribunal against order of anti-dumping and anti-subsidy duty[section 9c]

Appeal can be made to the Custom, Excise and Service Tax Appellate Tribunal.

Such appeal shall accompanied be a fee of Rs. 15,000.

Such appeal should be filed within 90 days from the date of order under appeal.

Section 8 Emergency Power to Impose or Enhance Export Duties

The central Government may impose or enhance export duties by making amendment to the Second Schedule by issue of a notification in the official Gazette.

Conditions to be satisfied

The goods may or may not be specified in the Second Schedule.

The Central Government is satisfied that circumstances exist, which render it necessary for the imposition or enhancement of export duties

4.5.11. Project Import Duty payable on project imports –

Duty payable at concessional rate On Spare parts eligible-Spare parts, raw materials or consumables up to 10% of value of machinery is allowable as part of 'Project Import' at concessional rate; if such spare parts, raw materials or consumable stores are essential for maintenance of the plant or project.

Projects eligible –

The projects eligible are: (1) Industrial Plant (2) Irrigation Project (3) Power Project (4) Mining Project (5) Project for oil or mineral exploration (6) Other projects as may be specified by Central Government.

Illustration 1

The assessable value of imported goods is Rs. 10,00,000. The basic customs duty is 10%.

Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is 12%. GST

Compensation Cess is leviable @ 15%. Social Welfare Surcharge @ 10%. Compute total customs duty and imported cost of the goods, if imports are made on or after 02.02.2018.

Solution

Computation of imported cost and customs duty [amounts in Rs.]

Particulars	Amount Rs.
Assessable Value [A]	10,00,000
Add: Basic Customs duty @ 10% of [A] [B]	1,00,000
Add: Social Welfare Surcharge @ 10% on basic customs duty i.e. 10% of [B] [C]	10,000
Total value for levy of Integrated Tax u/s. 3(7) of CTA, 1975 [D]	11,10,000
Add: Integrated tax under Section 3(7) @ 12% of [D] [E]	1,33,200
Add: GST Compensation Cess under Section 3(9) @ 15% of [D] [F]	1,66,500
Total Cost of Imported Goods	14,09,700
Total Customs duty [B + C + E + F]	4,09,700

Illustration 2

The assessable value of imported goods is Rs. 10,00,000. The basic customs duty is 10%. Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is 12%. GST Compensation Cess: Nil, Social Welfare Surcharge @ 10%. The goods were deposited in custom bonded warehouse. The goods were sold in warehouse at a transaction value of Rs. 15,00,000 before clearance from warehouse. Compute total customs duty.

Solution

Computation of Imported cost and customs duty [amounts in Rs.]

Particulars	Amount Rs.
Assessable Value [A]	10,00,000
Add: Basic Customs duty @ 10% of [A] [B]	1,00,000
Add: Social Welfare Surcharge @ 10% on basic customs duty i.e. 10% of [B] [C]	10,000
Total value for levy of Integrated Tax u/s. 3(7) of CTA, 1975 [WN] [D]	15,00,000
Add: Integrated tax under Section 3(7) @ 12% of [D] [E]	1,80,000

Add: GST Compensation Cess under Section 3(9) @ 15% of [D] [F]	NIL
Total Customs duty [B + C + E + F]	2,90,000

Illustration 3

Determine the customs duty payable under Customs Tariff Act, 1975 including the safeguard duty of 30% u/s. 8B of the said Act with the following details available on hand: Import of Sodium Nitrite from a developing country from 26th February, 2018 to 25th February, 2019 [both days inclusive] 30,00,000

Share of imports of Sodium Nitrite from the developing country against total imports of Sodium Nitrite to India 4%

Basic Customs Duty 10%

Integrated tax u/s. 3(7) of Customs Tariff Act, 1975 18%

GST compensation Cess Nil

Social Welfare Surcharge 10%

Solution

Computation of customs duty payable thereon [Amount in Rs.]

Assessable value of sodium nitrite imported 30,00,000

Add: Basic custom duty @ 10% [Rs. 30,00,000 x 10%] 3,00,000

Add : Safeguard Duty 9,00,000

Add: Social Welfare Surcharge @ 10% of BCD [No SWS is leviable on safeguard duty] 30,000

Total for IGST 42,30,000

IGST u/s. 3(7) of Customs Tariff Act [Rs. 42,30,000 x 18%] 7,61,400

Total Customs Duty Payable [Rs. 3,00,000 + Rs. 9,00,000 + Rs. 30,000 + Rs. 7,61,400]

4.6. CLASSIFICATION OF GOODS

- a) Determination of Rate of Duty: The rate of duty is determinable on the basis of classification of goods.
- b) Determination of Eligibility of Exemption: The classification of goods is also required to be decided for the purpose of determining eligibility to exemptions, most of which are with reference to the Tariff headings or sub headings.

4.6.1. Harmonized System of Nomenclature [HSN]

is an internationally accepted product coding system formulated under the auspices of the General Agreement on Tariffs and Trade [GATT]. It forms the basis of the system of classification in the Customs Tariff Act, 1975. It has been developed by the Customs Co-operation Council, Brussels.

4.6.2. Rules of Classification

Rule 1 The title of Sections and Chapters are provided for ease of reference only.

Rule 2(a) Classification of incomplete or unfinished articles as complete of finished goods only.

Example: a car without seats would still be classified as car.

Rule 2(b) Classification of Mixtures, combination of a material to be classified as that material or substance

Example: Natural rubber will cover a mixture of natural and synthetic rubber.

Rule 3 To be applied when classification cannot be done with rule 1 and 2.

Classification when goods classifiable under 2 or more headings.

Rule 3(a) Most specific description shall prevail over general description.

Example Suitcase shall be classified as travel accessories and not as plastic article.

Rule 3(b) Classification based on essential character Mixture, composite goods consisting of different materials or made up of different component which cannot be classified under (a) shall be classified based on essential character.

Example: If one imports “Liquor Gift Sets” that have both, liquor and glasses, it should be classified under the heading, “Liquor”, as the essential character of the composite item is the liquor itself and the glasses are pure ancillaries

Rule 3(c) “Latter the Better Principle”, i.e., when goods can’t be classified under rules 3(a) or 3(b), the goods would be classified under the heading that appears last in the numerical order amongst those which equally merit consideration

Example: A gift set, which has socks and ties, can be classified under any of the above rules, and therefore should be classified as ties (heading 6117) over socks (heading 6115)

Rule 4 Akin Principle

This rule states that the goods which cannot be classified in accordance with Rules 1, 2 or 3, shall be classified under the heading which includes goods

that are the most “akin or similar”. An example would be anti-glare films used for car windows, venetian blinds, all of these are not separately classified, they would be classified under the heading for “builders’ ware of plastic”, as that’s the closest these fit into.

Rule 5 Cases / Containers for packaging of goods

Goods which are in the nature of containers / packages such as necklace boxes, camera cases, musical instrument cases, will be classified with the specific article which are generally sold within these packages. However, this is applicable to containers, which are fitted for the article they will contain, are suitable for long term use, protect the article when not in use, and are of a kind normally sold with such articles.

Rule 6 Only sub-headings at the same level are comparable

4.7. VALUATION FOR CUSTOMS DUTY

Important Terms

Particulars Explanation

FOB Free on board means exporter’s factory price plus transportation till port and loading charges on ship. This is called as price at the place of exportation.

Cost, Insurance and Freight .FOB plus Insurance and Freight.

This is called at price at the place of importation.

Shipping bill Document is required for Export.

Bill of Entry Document required to clear imported goods.

4.7.1 Concept of Valuation and Tariff Value

After completion of this lesson, the student will have the clear understanding of; Concept of Transaction Value

Valuation of imported goods and applicable rules

Valuation of Export goods and applicable rules

Assessment of imported and export goods

Provisional assessment

Remission of duty on pilfered or lost or destroyed goods.

Levy of duty on goods derelict, wreck, jetsam etc.

Rules for denaturing or mutilation of goods

Power of Central Government to grant exemption

The method of valuation of goods for both import and export for the purposes of levy of customs duty on the basis of transaction value has been set out under Section 14 of the Customs Act, 1962 (effective from 10.10.2007). The transaction value is the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and the price is the sole consideration for sale, subject to such other conditions as may be specified in the rules made in this behalf.

Accordingly, the old Customs Valuation (Determination of Imported Goods) Rules, 1988 (relevant for old section 14) have also been replaced by new Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

Assessable Value for customs

Customs duty is payable as a percentage of Value often called Assessable Value or Customs Value. The Value may be either (a) Value as defined in section 14(1) of Customs Act or (b) Tariff value prescribed under section 14(2) of Customs Act.

4.7.2. Transaction Value for customs valuation

Transaction value at the time and place of importation or exportation, when price is sole consideration and buyer and sellers are unrelated is the basic criteria for value u/s. 14(1) of Customs Act. Thus, CIF value in case of imports and FOB value in case of exports is relevant.

4.7.3. Valuation in case of highseas sale.

Meaning

It means sale or purchase of goods while they are in the seas i.e., they are on the way to India but have not reached India.

Valuation

In case of high sea sale, price charged by importer to assessee would form the assessable value and not the invoice issued to the importer by foreign supplier – National Wire V. CC 2000 (122) ELT 810 (CEGAT) * Godavari Fertilizers vs. CC (1996) 81 ELT 535 (CEGAT).

4.7.4. Exchange rate for customs valuation

Exchange rate as applicable on date of presentation of bill of entry u/s. 46, as determined by CBI&C (Board) or ascertained in manner determined by CBI&C should be considered.

4.7.5. Related Person Rule 2(2)

- 1) Person shall be deemed to be related if
 - i) They are officers or directors of one another's businesses;
 - ii) They are legally recognized partners in business;
 - iii) They are employer and employee;
 - iv) Any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;
 - v) One of them directly or indirectly controls the other;
 - vi) Both of them are directly or indirectly controlled by a third person;
 - vii) Together they directly or indirectly control a third person; or
 - viii) They are members of the same family.
- 2) Legal person included.
- 3) Sole agents are not included unless relationship exists.

4.8. CUSTOM VALAUATION RULES 2007

Section 14(1) provides that the value of imported goods shall also include various items of costs and services to the extent provided by the rules. Proviso to section 14(1) states that the price shall be calculated as per the rate of exchange as in force on the date of presentation of bill of entry or shipping bill or bill of export under section 46 or section 50, as the case may be. Further, if transaction value is not determinable (in case of no sale or buyer or seller being related or price not being sole consideration), value is determined in accordance with valuation rules. Hence, the value of imported goods shall be computed in accordance with section 14(1) read with the Customs Valuation (Determination of Value of imported Goods) Rules, 2007.

Let's discuss the valuation rules of import in detail:

Customs Valuation (Determination of Value of Imported Goods) Rules, 2007

Rule 3	Determination of the method of valuation
Rule 4	Transaction value of identical goods
Rule 5	Transaction value of similar goods
Rule 6	Situation where the above methods cannot be applied
Rule 7	Deductive value method
Rule 8	Computed value

Rule 3(1) The value of the imported goods shall be the transaction value adjusted in accordance with the provisions of rule 10.

Rule 3(2) Condition subject to which transaction value acceptable

- a) No restrictions as to disposition or use of goods
- b) Sale or price not subject to condition consideration
- c) Proceeds of subsequent resale no part of the proceeds of any subsequent resale disposal or use of the goods by the buyer will accrue directly or indirectly to the seller
- d) Buyer and seller are not related

Rule 3(3) When buyer and seller are related still TV shall be acceptable if relationship did not influence the price.

Rule 10(1) Adjustments

- a) Commission to local agents except buying commission
- b) Cost of goods or service supplied by buyer,
- c) royalty relating to imported goods,
- d) If buyer has made, directly or indirectly, any payment to seller as a condition of sale, such payments should be included.
- e) All other payment actually made as condition of sale

Rule 10(2)

- a) Cost of Transportation
- b) Cost of Insurance

Note: Read proviso given below.

Key Notes *In case of goods imported by sea for clearance at an Inland Container Depot or Container Freight Station, the cost of freight from the port of entry to the ICD or CFS shall not be included.

Explanation: The cost of transport includes the ship demurrage charges on chartered vessels, lighterage or barge charges.

Proviso 1 Provided that where the cost referred to in clause (a) is not ascertainable, such cost shall be 20% of the free on board value of the goods.

Proviso 2 Provided further that when the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (b) is ascertainable, the cost referred to in clause (a) shall be 20% of such sum.

Proviso 3 Provided also that where the cost referred to in clause (b) is not ascertainable, such cost shall be 1.125% of free on board value of the goods.

Proviso 4 Provided also that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (a) is ascertainable, the cost referred to in clause (b) shall be 1.125% of such sum.

Proviso 5 Provided also that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed 20% of free on board value of the goods.

Calculation of freight or insurance if FOB is cum insurance or freight.

Case Treatment

a) Sum of “FOB” value of goods and Cost of insurance under

Rule 10(2)(b)” is ascertainable.

Cost of transport/handling under

Rule 10(2)(a) = 20% of [FOB +Insurance Cost of Rule 10(2)(b)]

Example: FOB and insurance is \$10,000. Hence, cost of transport =

20% of 10,000 = \$ 2,000.

Proviso 6 Provided also that in the case of goods imported by sea or air and transhipped to another customs station in India, The cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded.

4.8.1 Determination of Assessable Value & Duty Payable

Particulars	Amount
FOB price	XX
Rule 10(1) adjustments	
A] Commission& Brokerage	XX
B] Free Assistance	XX
C] Royalty or License Fees	XX
D] Part of proceeds	XX
E] Any payment as condition of sale	XX
Adjusted FOB	XX
Rule 10(2) adjustments	
A] Cost of transportation	XX
B] Cost of insurance	XX
CIF /AV	XX

Illustration 1

Computation of assessable value Western Ltd. imported a machine from UK in November, 2019. The details in this regard are as under:

1. FOB value of the machine: 12,000 UK Pound
2. Freight (Air): 4,000 UK Pound

3. License fee, the buyer was required to pay in UK: 500 UK Pound
4. Buying commission paid in India Rs.20,000
5. Designing charges paid to consultancy firm in New Delhi, which was necessary for such machine Rs.1,00,000
6. Actual landing charges paid at the place of importance Rs.25,000
7. Insurance premium details were not available.
8. For this purpose, you may consider followings:
 - a. Rate of exchange Rs.98.00 per one pound
 - b. Rate of basic customs duty (BCD) at 10%
 - c. Integrated tax under section 3(7) of Customs Tariff Act at 12%
 - d. Social welfare surcharge as applicable
 - e. Ignore GST compensation Cess.

You are required to compute the total customs duty and integrated tax payable on the imported machine. You may make suitable assumptions wherever found necessary.

FOB value £ 12,000

Add: License fee required to be paid in UK (WN – 1) £ 500

Customs FOB value (WN – 2) £ 12,500

Exchange rate is Rs.98 per £

Value in rupees Rs. 12,25,000.00

Add: Air freight (20% of Customs FOB value) (WN – 3) Rs. 2,45,000.00

Insurance @ 1.125% of Rs.12,25,000 (WN – 4) Rs. 13,781.25

Buying commission (WN – 5)

Designing charges paid to consultancy firm in New Delhi(WN – 6)

Assessable value Rs. 14,83,781.25

Add: Basic custom duty @ 10% (Rs.14,83,379 x 10%)

(A) Rs. 1,48,378.13

Add: Social Welfare surcharge @ 10% of Rs.1,48,378.13)

(B) Rs. 14,837.81

Value for integrated tax Rs. 16,46,997.19

Add: Integrated Tax @ 12% (C) Rs. 1,97,639.66

Total customs duty payable (A + B + C) (rounded off)Rs. 3,60,856

Working note:

1. License fees is includible in assessable value as per Rule 10(1)(c) of Custom Valuation Rules.

2. Rate of exchange notified by CBIC on the date of filing of bill of entry to be considered – Section 14 of the Customs Act, 1962.
3. In case of goods imported by air, freight cannot exceed 20% of Customs FOB value. Since actual freight is more than 20% of customs FOB value, air freight is restricted to 20% of customs FOB value as per Rule 10(2) of Customs Valuation Rules.
4. Insurance charges are included @ 1.125% of FOB value of goods.
5. Buying commission is not included in the assessable value as per Rule 10(1) of Customs Valuation Rules.
6. Design charges paid in India have not been considered on the presumption that the same have been paid for design work undertaken in India. Rule 10(1)(b) of the Customs Valuation Rules provides for inclusion of only those design which have been paid for design work undertaken elsewhere than in India.
7. No landing charges are to be added to the CIF value in view of the amendment in Rule 10(2) of the CVR vide notification no. 91/2017 – Cus. (NT) dated 26.9.2017.

Rule 4 Transaction value of identical goods (when Rule 3 is not applicable)

Goods should be the same in all respects, including physical characteristics, quality and reputation; except for minor differences in appearance

When applying the value of identical goods the following should be considered

Goods have been produced in the same country

They should be produced by same manufacturer, if same manufacturer not available price of goods produced by another manufacturer in the same country. However, brand reputation and quality of other manufacturer should be comparable

Imported at or around about same time

Adjustment for distances and transport costs if any required to be considered

Costs and services as per rule 10 are required to added.

If more than one value of identical goods is available, lowest of such value should be taken.

Rule 5 Transaction value of similar goods (when Rule 4 is not applicable)

Similar goods are same as with identical goods additional requirement is that performing same function and commercially inter-changeable

Rule 6 Apply rule 6 when valuation is not possible under Rule 3, 4 and 5

Rule 7 Deductive value Method

Assessable Value is calculated by reducing post-importation costs and expenses from this selling price.

Rule 8 Computed value method

If valuation is not possible by deductive method, computing the value can be used.

In this method, value is the sum of

Cost of value of materials, labor and processing charges for producing the imported goods

Amount General expenses and profit

The cost or values of all other expenses under rule 10 i.e. transport, insurance, loading, unloading and handling charges

Rule 9 Residual method by AO if any of the above method cannot be used.

Rule 11 Importer has to give declaration to the truth and accuracy of value of imported goods.

Rule 12 Rejection of declared value

When the proper officer has reason to doubt the truth or accuracy of the value declared for imported goods, he may ask the exporter to furnish information, documents or other evidence,

After receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value, it is deemed that transaction value not determined properly.

At the request of an exporter, the proper officer should inform in writing and should give reasonable opportunity to importer, before taking final decision.

Basic document is 'Entry' Sec 2(16)

'Entry' in relation to goods means entry made in Bill of Entry, Shipping Bill or Bill of Export. In case of import by post, label or declaration accompanying goods is entry.

Section 7 Power given to CBE&C for appointment of custom ports, airport.

Section 8 Power given to commissioner of custom to approve landing places and specify limits of custom area.

Section 10 Power given to commissioner of custom to appoint boarding station.

- When Customs Officer is satisfied that importer or exporter is unable to make self-assessment u/s 17(1) and makes request in writing
- It is deemed necessary to carry out chemical or other tests of goods
- When importer/exporter has produced all documents, but Customs Officer still deems it necessary to make further enquiry.
- The importer/exporter has to furnish bond/ guarantee/security for payment of difference if any. (in case of WH bond amount 2 times of duty)
- Goods can be cleared after payment of duty provisionally assessed and after providing the surety.

Interest payable at 15% (The interest is payable from the first day of the month in which duty was provisionally assessed till the date of payment) and on if refund is not given within 3 month from the date of final Assessment of duty then at 6%.

Sec 19 Articles Imported in Set

If article liable to duty subject to Qty: charged as per qty.

If all articles having same rate, then such rate.

If all articles are subject to different rate, then highest rate for entire set including exempted article also if any.

Accessories and spare for any article: At the same rate applicable to article

Exceptions

- If importer proves to the satisfaction of proper office and the evidence is available: each article charged separately.

The process of assessment involves value and rate of duty. Value is found out under section 14 and rate of duty is ascertained as per Section 15 and 16 of the Customs Act.

Relevant date for Determination of the rate of duty and Tariff Valuation (Section 15)

Under section 15(1), the rate of duty and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force,

In the case of goods entered for home consumption under section 46: The date on which a bill of entry is presented [Section 15(1)(a)]

In the case of goods cleared from a warehouse under section 68: The date on which a bill of entry for home consumption is presented [Section 15(1)(b)].

In the case of any other goods: The date of payment of duty [Section 15(1)(c)].

However, if a bill of entry has been presented before the date of entry inwards of the vessel or the arrival of the aircraft or the vehicle by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival, as the case may be [Proviso to section 15(1)].

The provisions of this section shall not apply to baggage and goods imported by post [Section 15(2)].

Re- importation of Goods Sec 20

1 Case of re- import Time limit for re- import CD, IGST & GST cess is exempt and following sum is payable. Goods manufactured in India and exported and re- imported in India for- Duty is fully exempt

if- Such goods are re-exported within 6months from date of re- import (extension upto 6 months allowed by commissioner or Principle commissioner

and Assistant commissioner is satisfied about identity of such goods Repairs or re- conditioning other than the specified goods Within 3years (10year in case of Nepal and Bhutan)

b Re- processing/ refilling/ re- making or other similar process Within 1 year

2 Goods re- imported without being subjected to re-manufacturing or processing through melting, recycling or recasting abroad-

Within 3 years from date of export (2years extension)

- A. If exported under following benefits-Claiming drawback / refund of customs or central excise or state excise or IGST, Under bond without payment of IGST, Under duty exemption scheme (DEEC/ advance authorization/ DFIA) or export promotion capital goods scheme EPCG Only for c in 1 year for export 1 year Extension Amount of drawback refund of customs of central / state excise duty or IGST, Amount of IGST are not paid, Amount of IGST and GST compensation cess leviable at time and place of import
- B. Re- import of any other goods [not falling under 2A to 2C] exported for repairs abroad and there has been no change in ownership of the goods between the time of export of such goods and re- import there of Value (for levy of duty) = fair cost of repairs + cost of materials used in repairs (such cost includable even if not actually incurred 0 + insurance and freight charges both ways
- C. Re- import of any other exported goods Nil

4.10 MULTIPLE CHOICE QUESTIONS

Introduction :

Q1. Beneficial owner means any person

- (a) on whose behalf the goods are being imported or exported (b) who exercises effective control over the goods being imported or exported (c) (a) or (b) (d) None of the above

Ans. (C)

Q2. Person-in-charge means

- (a) in relation to a vessel, the master of the vessel.
(b) In relation to an aircraft, the commander or the pilot in charge of the aircraft.
(c) In relation to a railway train, the conductor, guard or other person having the chief direction of the train.
(d) In relation to any other conveyance, the driver or other person in charge of the conveyance
(e) all of the above

Ans. (e) all of the above

Q3. The limit of exclusive economic zone of India, is from the nearest point of the baseline.

- (A) 200 nautical miles
(B) 12 nautical miles
(C) 24 nautical miles
(D) 100 nautical miles

Ans. (A) 200 nautical miles

Q4. Exclusive economic zone extends to _____ (200/300) nautical miles from the base line of

the coast. Beyond _____ (100/200) nautical miles is High Seas.

- (a) 200, 200 (b) 300, 100 (c) 200, 100 (d) None of the above

Ans. (a) 200, 200

Q5. “Indian customs waters” means the [waters extending into the sea up to

- (a) the limit of Exclusive Economic Zone (b) 24 NM from baseline (c) 12 NM from baseline (d) None of the above

Ans. (a) the limit of Exclusive Economic Zone

Q6. Fill up the blanks: 1x15=15

- (i) Duties of customs including export covered in .

Ans. (i) Entry No.83 of List I (Union List)

Q7. Exclusive Economic Zone extends to from the base line of coast.

Ans. (ii) 200 nautical miles

Q8. Which of the following is a taxable event for imported goods?

- (A) Unloading of imported goods at the customs port
- (B) Date of entry into Indian territorial waters
- (C) Date of presentation of bill of entry
- (D) Date on which the goods cross the customs barrier

Ans. (D) Date on which the goods cross the customs barrier

Q9. State whether each of the following is correct or incorrect: 1x5=5

Taxable event in case of import of goods, under customs, is the date of entry into Indian Territorial Waters.

Ans. Incorrect;

Q10. Which of these is/are not an adjudicating authority under Customs Act, 1962?

- (a) Commissioner of Customs
- (b) Principal Commissioner of Customs (c) Commissioner (Appeals) (d) Assistant Commissioner of Customs (e) Tribunal

Ans. (c) Commissioner (Appeals) & (e) Tribunal

Types of Duties :

Q1. Which section of the Customs Act, 1962 provides for levy of Customs duty on import and export of goods? (a) Section 3 (b) Section 12 (c) Section 14 (d) Section 28 (e) Section 17

Ans. (b) Section 12

Q2. Basic Customs duty is levied under section _____ of the Customs Act

Ans. Section 12

Q3. Goods as specified in Annexure (e.g Computer), manufactured in India and exported to country other than Nepal & Bhutan and reimported into India for repairs or for reconditioning within years from the date of exportation will be exempt from custom duty, if re-exported within..... year/years

- (a) 10 and 1. (b) 7 and 1. (c) 10 and 3. (d) 7 and 3.

Ans. (b) 7 and 1.

Q4. Mr. A manufactured and exported goods worth Rs 10,00,000 to Mr. B of UK on 1st January, 2018 and availed duty drawback of Rs 16,000. Mr. A imported the same goods on 8th February, 2018. What will be the customs duty payable by Mr. A, if rate of basic customs duty is 10% and goods are exempt from IGST and GST cess?

(a) 16,000 (b) 1,00,000 (c) 1,10,000 (d) 1,26,000

Ans. (a) 16,000

Q5. Mr. X exported goods of Rs 1 lakh under bond without payment of IGST of Rs 12,000 but after paying Export duty @ 8%. The said goods are rejected and returned within 3 months. Import duty @ 10%, Social welfare surcharge

@ 10%. On re-import, Mr. X liable to pay

(a) get refund of Rs 8000, Pay Rs 12,000, (b) get refund of Rs 8000, Pay Rs 11,000, (c) get refund of Rs 8000, Pay Rs 23,000, (d) Pay Rs 12,000

Ans. (a) get refund of Rs 8000, Pay Rs 12,000

Q6. Value of imported goods Rs 900. BCD – 10%, SWS – 10%, IGST – Nil. Calculate Duty payable

(a) Nil (b) 99 (c) 180 (d) none of the above

Ans. (a) Nil, since amount is less than Rs 100

Q7. an application for refund of export duty is made before the expiry offrom the date on which the proper officer makes an order for the clearance of the goods

(a) 6 months, (b) 12 months, (c) 18 months, (d) 24 months

Ans. (a) 6 months

Q1. The Safeguard duty imposed shall be in force for a period of from the date of its imposition and can be extended with the total period of levy not exceeding .

(A) 4 years, 10 years, (B) 3 years, 5 years (C) 1 year, 5 years (D) 5 years, 10 years

Ans. (A) 4 years, 10 years

Q2. Anti-dumping duty payable by a SEZ in respect of an import is

(A) Nil

(B) 5% of the customs duty (C) 7.5% of the customs duty (D) 10% of the customs duty

Ans. (A) Nil

Note - No anti-dumping duty is payable by a SEZ, as they are exempted from the same

Q3. Fill up the blank:

Review by the Government relating to levy of duty is called New Shipping Review.

Ans. Anti dumping duty

Q4. State with reasons whether the following are 'True' or 'False': 2x5=10

Countervailing Duty (CVD) is payable on Assessable Value + Basic Custom Duty + Anti Dumping Duty.

Ans. False Countervailing Duty (CVD) is not payable on Anti -Dumping Duty. It is payable on Assessable Value plus Basic Custom Duty.

Q5. Margin of dumping means the difference between _____ and _____.

- (a) export price and its normal value; (b) import price and its normal value;
(a) export price and CIF value; (d) None of the above

Ans. (a) export price and its normal value

Q6. Assessable Value (A.V.) =Rs. 1 lakh

- (1) BCD- 10%
(2) IGST-12%
(3) SOCIAL WELFARE SURCHARGE @ 10%

Calculate total duty

- (a) 11,000 (b) 13,320, (c) 24,320 (d) none of the above

Ans. (c) 24,320

Q7. Assessable Value (A.V.) =Rs. 1 lakh

- (1) BCD- 10%
(2) IGST-12%
(3) SOCIAL WELFARE SURCHARGE @ 10%

Suppose in above case goods are in warehouse and sold at

Case 1 – 1,10,000, Case 2 – 1,15,000. Calculate duty

- (a) 11,000, 24800 (b) 13,320, 24800 (c) 24,320, 24800 (d) none of the above

Ans. (c) 24,320, 24800

Q8. Determine the customs duty payable under the Customs Tariff Act, 1975 including the safeguard duty of 30% under section 8B of the said Act with the following details available on hand: Assessable value (including landing charges) of Sodium Nitrite imported from a developing country from 26th February, 2017 to 25th February, 2018 (both days inclusive) 30,00,000

Share of imports of Sodium Nitrite from the developing country against total imports of Sodium

Nitrite to India 4%

Basic custom duty 10%

Integrated tax under section 3(7) of the Customs Tariff Act, 1975. 18%

Social welfare surcharge 10%

Note: Ignore GST compensation cess

(a) 19,91,400 (b) 19,90,000 (c) 19,91,000 (d) None of the above

Ans. (a) 19,91,400

Q9. With reference to the Customs Tariff Act, 1975, discuss the validity of the imposition of customs duties in the following cases:-

(a) Both countervailing duty and anti-dumping duty have been imposed on an article to compensate for the same situation of dumping

(b) Countervailing duty has been levied on an article for the reason that the same is exempt from duty borne by a like article when meant for consumption in the country of origin.

(c) Definitive anti-dumping duty has been levied on articles imported from a member country of World Trade Organization as a determination has been made in the prescribed manner that import of such article into India threatens material injury to the indigenous industry.

Ans.

(a) Not valid. As per section 9B of the Customs Tariff Act, 1975, no article shall be subjected to both countervailing and anti- dumping duties to compensate for the same situation of dumping or export subsidization.

(b) Not valid. As per section 9B of the Customs Tariff Act, 1975, countervailing or anti - dumping duties shall not be levied by reasons of exemption of such articles from duties or taxes borne by the like articles when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes.

(c) Valid. As per section 9B of the Customs Tariff Act, 1975, no definitive countervailing duty or anti-dumping duty shall be levied on the import into India of any article from a member country of the World Trade Organisation or from a country with whom Government of India has a most favoured nation agreement, unless a determination has been made in the prescribed manner that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India.

Valuation rules :

Q1. Assessable value of goods for customs purposes is

(A) Actual Value

(B) Deemed Value

(C) Standard Value

(D) Actual Value plus adjustment in Rule 10

Ans. (D) Actual Value plus adjustment in Rule 10

Q2. Transaction value of goods, means,

(a) the price actually paid or payable (b) 110% of cost (c) value of identical goods in similar situation (d) None of the above

Ans. (a) the price actually paid or payable

Q3. Which of the following are related person

- (i) they are officers or directors of one another's businesses;
- (ii) they are legally recognised partners in business;
- (iii) they are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them
- (v) all of the above

Ans. (v) all of the above

Q4. In determining the transaction value, there shall be added to the price actually paid or payable for the imported goods,

- (a) commissions and brokerage, except buying commissions
- (b) following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost
 - (i) materials, components, parts; (ii) tools, dies, moulds and similar items used in the production of the imported goods; (iii) materials consumed in the production of the imported goods; (iv) engineering, development, art work, design work, and plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods;
- (c) royalties and licence fees related to the imported goods
- (d) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller
- (e) all other payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller,
- (f) all of the above

Ans. (f) all of the above

Q5. Dismantling charges for removing the second hand plant at suppliers place and shipping to Indian importer is Value under Customs Valuation.

Ans. Includible

Q 6. The value of imported goods shall not include the following costs, provided that they are distinguished from the price of the goods: charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation on imported goods such as industrial plant, machinery or equipment: the cost of transport after importation duties and taxes in India

(d) all of the above

Ans. (d) all of the above

Custom Act - I

Q7. Where the insurance amount is not available, for ascertaining the assessable value for customs duty, the percentage of FOB value to be taken is:

(A) 1 (B) 1.125 (C) 1.5 (D) 2

Ans. (B) 1.125

Q8. Goods which are same in all respects, including physical quantity is known as

(A) Similar Goods (B) Identical Goods (C) Alike Goods (D) Indistinguishable Goods

Ans. (B) Identical Goods

Q9. State whether each of the following statement is correct or incorrect:
 $1 \times 5 = 5$

Buying commission is always includible in customs valuation.

Ans. Incorrect

Q10. An importer imported some goods @ 4,10,000 on CIF. Following Euro rates on the date of presentation of BOE

(Bill of Entry) is given. What is the exchange rate for customs valuation?

(A) Inter Bank closing Rate ₹63.50 per Euro

(B) RBI rate 1 Euro = ₹63.75

(C) Exchange rate notified by CBEC - 1 Euro = ₹64.05

(D) Rate at which bank has ready payment from importer 1 Euro = ₹64.20

Ans. (C) Exchange rate notified by CBEC - 1 Euro = ₹64.05

Q11. Under Section 14 of the Customs Act 1962, the transaction value shall be calculated with reference to the rate of exchange as in force on the date on which: (a) Date of Invoice (b) the date of issuance of the Bill of lading (c) Date of filing IGM (d) Date of filing the Bill of Entry (e) Date of Assessment of Bill of Entry

Ans. (d) Date of filing the Bill of Entry

SELF STUDY QUESTIONS

1. What are the essential principles of Taxation?
2. What is the importance of Indirect Taxes in the total tax revenues of the Government of India?
3. In what manner the duty of Customs and GST an important source of Indirect Tax?

4. What is Provisional Collection of Taxes Act, 1931? What is its significance in Indirect taxes?
5. What is the object of levying of duties on Import and Export of goods?
6. How are the territorial limits of India fixed for the purpose of Import and Export of goods?
7. What kinds of Import duties are provided under the Customs Act, 1962?
8. How is the assessment value of imported goods determined for the purpose of levying of Import duties under the Customs Act, 1962? Is there any change in the law in this regard in the recent past? Explain.
9. What cost elements constitute the value of imported goods for the purpose of assessable value?
10. What is the concept of Transaction Value introduced through the newly enacted Valuation Rules, 1988?
11. Under what circumstances Transaction Value may not be accepted for valuation of imported goods?
12. How is the custom duty levied in case imported goods are pilfered before clearance?
13. How is the rate of Duty and Tariff Valuation determined in case of imported goods?
14. How is the rate of duty determined in case of export goods?
15. What is the procedure of assessment of Customs Duty in case of import and export of goods?
16. What are the circumstances under which customs duties may be assessed provisionally?
17. What is the procedure and conditions of provisional assessment of customs duties?
18. How is the customs duty determined where goods consist of articles liable to different rates of duty?
19. State the circumstances when the abatement of customs duty may be allowed under the Act?
20. What are the provisions with regard to levying of duties of customs on goods found derelict, wreck, etc. on importation?
14. What are the provisions of Customs Act, 1962 with regard to remission of duty on lost, destroyed or abandoned goods ?
15. What are the provisions of Customs Act, 1962 with regard to grant of exemption from custom duty ?

16. State the circumstances and reasons for providing of exemptions from customs duty under the Customs Act, 1962.
17. Who has the power to grant exemptions of customs duty and what kinds of exemptions can be granted within the provisions of Customs Act, 1962?
18. State the circumstances under which refund of export duty is permitted.
19. When can the claim for refund of customs duty be made and what is the procedure for the same?
20. What are the provisions under the Customs Act, 1962 regarding recoveries of duties with retrospective effect? State the circumstances and reasons.

CUSTOM ACT II

Unit Structure:

- 5.1 Objectives
- 5.2 Import and Export Procudeures
- 5.3 Import Procedure 1.4 Export Procedure
- 5.5 Payment Through Electronic Cash Ledger
- 5.6 Provisions For Import/Export By Post [Sections 82 To 84]:
- 5.7 Provisions Related To Stores
- 5.8 Baggage Rules
- 5.9 Coastal Goods
- 5.10 Warehousing
- 5.11 Duty Drawback
- 5.13 Self Study Questions

5.1 OBJECTIVES

To Have the understanding of the basic and practical aspects of customs law relating to clearance procedures involved in importation and exportation of goods

- a. Arrival or Departure and Clearance of Imported or Export Goods
- b. Understand the procedure for import and export of goods
- c. Be familiar with the types of documents used for import and exports
- d. Have clear understanding of the arrival or departure provisions
- e. The duty drawback provisions
- f. Baggage provisions and rules thereon
- g. Provisions pertaining to postal goods
- h. Goods imported or exported by post and store
- i. Provisions relating to coastal goods and vessels carrying coastal goods
- j. Warehousing provisions
- k. conditions to be satisfied for warehousing of goods

5.2 IMPORT AND EXPORT PROCUDEURES

After completion of this part the students will Understand the procedure for import and export of goods. Be familiar with the types of documents used for import and exports.

Have clear understanding of the arrival or departure provisions

Custom Act II

Goods are imported in India or exported from India through sea, air or land. Goods can come through post parcel or as baggage with passengers. Different procedures are there for import and export of goods by different mode of transportation.

The word conveyance is defined in section 2(9), “Conveyance includes a vessel, an aircraft and a vehicle”.

As per section 2(42), the word “Vehicle” means conveyance of any kind used on land and includes a railway vehicle.

Here in this part, the provisions pertaining to import or export of goods through vessel or aircraft are discussed and the import and export of goods through post or as baggage with passenger are discussed in other parts.

Sections	Content of the Sections
Sections 29-36	Arrival of Ship/ Air Craft and unloading of Imported Goods
Sections 37-38	Powers of The Proper Officer to Board Conveyances and Ask Questions
Sections 39-43	Duties and Responsibilities of Conveyances in Export of Goods
Sections 44-49	Clearance of Imported Goods
Sections 50-51	Clearance of Export Goods
Sections 52- 56	Transit And Transshipment of Goods

5.3 IMPORT PROCEDURE

Let us study Some related important definitions

Person in Charge Sec 2(31)

- In case of vessel - its master
- In case of aircraft - its commander or pilot-in-charge
- In case of vehicle or other conveyance - its driver or other person in charge

Duties and Responsibilities

- He is responsible for submitting Import Manifest and Export Manifest
- He is responsible to ensure that the conveyance comes through approved route and lands at approved place only.
- He has to ensure that goods are unloaded after written order, at proper place. Loading also has to be only after permission.
- He has to ensure that conveyance does not leave without written order of Customs authorities.

He can be penalized for

- Giving false declaration and statement
- shortages or non-accounting of goods in conveyance

Sec 29 - Person-in-charge entering India shall call or land at customs port or customs airport only.

While arriving by land route, the vehicle should come by approved route to 'land customs station' only.

It can land at other place only if compelled by accident, stress of weather or other unavoidable cause.

In such case, he should report to nearest police station or Customs Officer.

Import manifest or Import Report [Sec 30]

Person in charge of conveyance is required to submit Import Manifest or Import Report. (E filing)

Mode of Transport	Document	Time limit	Penalty
Vessel (sea port)	IGM (e-filing)	Before arrival of the vessel	Less than equal to Rs. 50,000
Aircraft (Airport)	IGM (e-filing)	Before arrival of the vessel	Less than equal to Rs. 50,000
Vehicle land custom station)	Import report (E filing and Manual)	Within 12 hrs. Of arrival	Less than equal to Rs. 50,000

Sec 30A

- (1) The person in charge of a conveyance that enters India from any place outside India or any other person as may specified by the Central Government by notification gazette, shall deliver to the proper officer—
 - (i) The passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and
 - (ii) The passenger name record information of arriving passengers, In such form, containing such particulars, in such manner and within such time, as may be prescribed.
- (2) Where the passenger and crew arrival manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person referred to in sub-section (1) shall be liable to such penalty, not exceeding 50,000 rupees, as may be prescribed.

Entry Inwards [Sec 31]

Goods can be unloaded only after grant of Entry Inwards.

Sec 32 Imported goods not to be unloaded unless mentioned in import manifest except with the permission of proper officer

Sec 33 Unloading and loading of import/export at approved places only

Sec 34 Import/export goods not to be unloaded or loaded Except under the supervision of custom officer.

Exception

CBEC may, by notification in the give general permission

Proper office may in any particulars case give special permission

Sec 35 Boats are used to bring imported goods from ship to the shore and carry export goods from the shore to ship, when such ship doesn't get berth at the port and is within the waters.

Permission of being water-borne without boat-note: However, -

The Board may, by notification in the Official Gazette, give general

permission and the proper officer may in any particular case give special permission, for any goods or any class of goods to be water- borne without being accompanied by a boat-note **Sec 36** Restriction on unloading of goods on holiday and after working hrs. except giving except after giving the prescribed notice and on payment of the prescribed fees, if any. However, no fees shall be levied for the unloading and loading of baggage accompanying a passenger or a member of the crew, and mail bags.

Sec 37: The proper officer may at any time board any conveyance carrying imported goods or export goods and may remain on such conveyance for the period as he considered necessary.

Sec 38: For the purpose of carrying out the provision of this act the proper officer may require the person in charge to produce such document and answers such question.

Sec 45: Custody of imported goods

All imported goods unloaded in a customs area shall remain in the custody of Port/airport authorities until they are cleared

- The person having custody of any imported goods in a customs area, shall keep a record of such goods and send a copy thereof to the proper officer;
- Shall not permit such goods to be removed from the customs area without written permission of the proper officer. If any imported goods are pilfered after unloading thereof in a customs area port authority are liable to pay duty.

Sec 46: Bill of Entry for home consumption on payment of customs duty. (E-filing)

Importer has to submit Bill of Entry giving details of goods being imported, along with required documents. Electronic submission of documents is done in major ports.

White Bill of Entry is for home consumption. Imported goods are cleared on payment of customs duty.

Advance BOE can be submitted in 30 days prior to arrival of ship
Section 47: Payment of Custom Duty

- After payment of duty, delivery of goods can be taken from custodians (port trust) after paying their dues.
- Interest @15% p.a. if duty was not paid within 1 working days after BOE returned for payment and in case of deferred payment from the such due date as may be specified by rules made there under.
- E-payment if duty payment is Rs 10,000 or more per bill of entry.

Sec 48 : Disposal if goods are not cleared within 30 days

- Goods must be cleared within 30 days after unloading.
- Commissioner of Customs can grant extension. (Amendment Finance Act 2013)
- If not cleared goods can be sold after giving notice to importer.
- Animals, perishable goods and hazardous goods no time limit
- Arms & ammunition can be sold only with permission of CG.

Sec 49 : storage of imported goods in warehouse pending clearance

Any imported goods, whether dutiable or not, entered for home consumption, the AC/DC is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time, the goods may, pending clearance, be permitted to be stored in a warehouse, but such goods shall not be deemed to be warehoused goods. This is also known as warehouse without warehousing. (max 30 days) Extension given by CC for a further period not exceeding 30 days at a time

5.4 EXPORT PROCEDURE

While there is very urgent need to promote exports and earn the most needed valuable foreign exchange/it does not necessarily mean that the export goods can be allowed without restriction and/or, without observing any formalities.

Export should be in accordance with rules and regulations to be implemented “at the point of exit” and the authority which can enforce such rules and regulations is the Customs Department. The following are the provisions pertaining to Exports of goods under Customs Act:

Exporter is required to submit Shipping Bill in Electronic format.

Commissioner may allow it to be presented in any other manner.

Section 51: Let Export Order the customs officer will

- Will verify the contents
- To satisfy that goods are not prohibited for exports
- Ensure applicable duty if any is paid,
- Will permit clearance by giving 'let ship' or 'let export' order.

Sec 39: Entry Outward

Loading in conveyance can start after Entry Outward is given by customs officer.

Sec 40 : Export goods not to be loaded unless duly passed by proper officer
Loading cannot be done by person in charge unless permission given by proper office.

Sec 41: Export manifest / Export report

Person in charge of conveyance is required to submit Export Manifest or Export Report.

- In the case of a vessel or aircraft, an export manifest by presenting electronically, and
- In the case of a vehicle, an export report Penalty of 50,000 in case of delay.

Sec 41A

- 1) The person – in – charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer –
 - (i) The passenger and crew departure manifest; and
 - (ii) The passenger name record information of departing passengers,

In such form, containing such particulars, in such manner and within such time, as may be prescribed.

- 2) Where the passenger and crew departure manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person – in – charge or the other person referred to in sub-section (1) shall be liable to such penalty, not exceeding 50,000 rupees, as may be prescribed

Sec 42: No conveyance to leave without written order A conveyance not to leave custom station unless written order given by the proper officer to that effect. (Applicable to both imported as well as exported goods)

Sec 43: Exemption from certain classes of conveyance from certain provisions

1. The provisions of sections 30, 41 and 42 shall not apply to a vehicle which carries no goods other than the luggage of its occupants.
2. The Central Government may, by notification in the Official Gazette, exempt the following classes of conveyances from all or any of the provisions of this chapter:
 - a. Conveyance belonging to Indian or foreign Government
 - b. Vessels and aircraft which temporarily enter India by reason of any emergency.

5.4.1. Flow of export:

- The exporter files an application for export of goods known as Shipping Bill.
- After the appraising department, assesses the export duty on the shipping bill, export cess etc. are collected.
- Thereafter the Shipping Bill along with the export cargo is presented to the Customs officers in charge of supervision of the loading of the Cargo. (These officers are generally called Preventive Officers in the major Custom Houses.) The Preventive Officer after satisfying himself that all the customs checks including Export Trade Control license and export duty payment have been completed, will endorse the shipping bill with a “Let Ship” order.
- On receipt of the cargo on board the ship, the master/mate/agent of the ship issues a receipt of the quantity and particulars of the cargo loaded on the ship.
- If the ship is not berthed alongside the quay and the goods have to be taken to the ship by boats/lighters the boat note procedure would be followed.
- When the Shipping Bill is presented to the master/agent/mate of the vessel, the export cargo will be permitted to be loaded.
- The Customs Officer endorses on the Shipping Bill the quantity of the goods-loaded into the ship under the Shipping Bill.

5.5 PAYMENT THROUGH ELECTRONIC CASH LEDGER

Sec 51A Deposits to be credited in electronic cash ledger: Every deposit made towards duty, interest, penalty, fee or any other sum payable by a person under the provisions of this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force or the rules and

regulation made there under, using authorised mode of payment shall, subject to such conditions and restrictions, be credited to the electronic cash ledger of such person, to be maintained in such manner, as may be prescribed Utilization of electronic cash ledger: The amount available in the electronic cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum payable under the provisions of this Act or under the Customs tariff Act, 1975 or under any other law for the time being in force or the rules and regulations made there under in such manner and subject to such conditions and within such time as may be prescribed. Refund of balance: The balance in the electronic cash ledger, after payment of duty, interest, penalty, fee or any other amount payable, may be refunded in such manner as may be prescribed.

Explanation :

Transit Goods- Section 53

- In 'transit' goods continue to be on same vessel, while in transshipment, goods are transferred to another vessel / vehicle. Hence, procedures are also different.
- Goods must be specified in Import manifest.
- In case transshipment a bill of entry or declaration should be filed.
- When any goods allowed to be transited or transhipped to any custom station they shall be liable to pay duty on their arrival at custom station like first import.

Sec 54: Transshipment of goods

- Transshipment means transfer from one conveyance to another.
- Goods imported in any customs station can be transhipped without payment of duty,
- The conveyance may be vehicle, ship or aircraft
- Goods to be transhipped must be specified in Import Manifest
- Bill of Transshipment' should be submitted to Customs Officer.

Sec 55 : Liability of duty on goods transited under transit and transshipment

- Where any goods are allowed to be transited or transhipped to any customs station, On their arrival at such station, goods shall be liable to duty as if first import,

Sec 56

Transport of certain classes of goods subject to prescribed conditions Imported goods may be transported without payment of duty from

- a) One land custom station to another
- b) One part of India to another part through any foreign territory

5.6 PROVISIONS FOR IMPORT/EXPORT BY POST [SECTIONS 82 TO 84]

82 Label or declaration accompanying goods to be treated as entry: In the case of goods imported or exported by post, - Any label or declaration accompanying the goods, which contains the description, quantity and value thereof, shall be deemed to be an entry for import or export for the purposes of this Act.

83(1) Rate of duty and tariff valuation in respect of goods imported by post:

The rate of duty and tariff value, if any, applicable to any goods imported by post shall be the rate and valuation in force on-

The date on which the postal authorities present to the proper officer a list containing the particulars of such goods for the purpose of assessing the duty thereon;

Or

In case of goods imported by a vessel, the date of the arrival of the vessel, which ever is later.

83(2) Rate of duty and tariff valuation in respect of goods exported by post: The rate of

Duty and tariff value, if any, applicable to any goods exported by post shall be- the rate and valuation in force on the date on which the exporter delivers such goods to the postal authorities for exportation.

84 Regulations regarding goods imported or to be exported by post:

The Board may make regulations providing for-

The form and manner in which an entry may be made in respect of any specified class of goods imported or to be exported by post, other than goods which are accompanied by a label or declaration containing the description, quantity and value thereof; **the examination, assessment to duty, and clearance of goods imported or to be exported by post;**

The transit or transshipment of goods imported by post, from one customs station to another or to a place outside India.

Procedure for Clearance of Goods imported by Post:

Procedure on receipt of parcel mail: Post master has to handover details regarding parcels received along with parcel bills to the Appraiser.

Scrutiny & Detention of dutiable/prohibited articles: The parcels are scrutinized and those suspected to contain dutiable or prohibited articles are detained and presented to customs appraiser.

Segregation: Parcels are segregated into: (1) Assessable on basis of label; (2) Assessable after opening of packet; and (3) Assessable only after further inquiry.

Assessment: The parcels shall be assessed based on label or based on examination or after calling requisite information. The rate of duty, value, etc. shall be determined. Such duty is recovered by the postal authorities from the addressee at the time of delivery and sum is credited to Customs Deptt.

Evasion/Prohibition cases: In case of mis-declared, undervalued or prohibited goods, the parcel/packet is detained and not allowed to be cleared, except with order of the Customs Officer.

Exemptions to post parcels

Post Parcel where customs duty payable is less than Rs. 100 are fully exempt from duty

Gifts from abroad up to Rs. 10,000 of goods, are duty free if sent by post or through courier

If the value exceeds Rs 10,000, customs duty is payable on whole value.

Export by post

Export must be declared in exchange control form PP.

Indian and foreign currency, bank drafts, cheque, NSC are not allowed unless accompanied by permit issued by RBI, Goods up to Rs 25,000 can be exported as gifts.

Export of purchases made by foreign tourists is permitted on submission of proof that payment was received in foreign exchange.

5.7 PROVISIONS RELATED TO STORES

As per of the Customs Act, stores means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

Stores means goods for used in Vessel or Aircraft Includes, fuels, spares parts and other articles of equipment whether or not for immediate fittings foreign-going vessel or aircraft” 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 a foreign Government taking part in any naval exercises;

any vessel engaged in fishing or any other operations outside the territorial waters of India;

any vessel or aircraft proceeding to a place outside India for any purpose whatsoever;

Section 85: Stores allowed to deposited in warehouse without warehousing provisions of warehousing

Section 86: Transit and transshipment of stores allowed without duty

Section 87: Imported stores may be consumed on board a foreign-going vessel or aircraft

Section 88: 1) Duty paid imported stores eligible for drawback as follows:

Aircraft	Fuel and lubricant oil	100 % drawback
	Other stores i.e. (e.g. food, drink etc.)	98 % drawback
Vessels	Fuel, Lubricant oil and other Stores	98 % drawback

Section 89: Goods manufactured in India and required as a stores on Foreign going vessel / Foreign Aircraft

Section 90: Imported Stores may be consumed on board a ship of the Indian Navy.

5.8 BAGGAGE RULES

Baggage Include - Unaccompanied baggage but does not include Motor vehicle

Rate of Duty on baggage is 38.5% (including social welfare surcharge of 10%)

Section 77: For clearing the baggage, the owner shall make a declaration of its content to proper officer

Section 78: Relevant date for custom duty : date on which declaration is made in respect of such baggage.

Section 79: Bonafide Baggage is exempted from duty to the extent specified in rules

Rule 3: Passengers arriving from countries other than Nepal, Bhutan or Myanmar	
Rule 3: Passengers arriving from countries other than Nepal, Bhutan or Myanmar	
Situations	Free Allowance
Class of passengers : Indian resident or Foreigner residing in India or Tourist of Indian origin	
(i) Used personal effects and travel souvenirs; and	Free
(ii) Articles other than mentioned in Annexure – I	Rs. 50,000

Rule 4 : Passengers arriving from Nepal, Bhutan or Myanmar	
Situations	Free Allowance
Class of Passengers : Indian resident or Foreigner residing in India or Tourist, excluding an Infant	
(i) Used personal effects and travel souvenirs; and	Free
(ii) Articles other than mentioned in Annexure – I	
(a) Passenger is arriving by Land Route	No Benefit
(b) Passenger is arriving by other Route	Rs. 15,000
Class of Passengers : Tourist of Foreign origin	
(i) Used personal effects and travel souvenirs; and	Free
(ii) Articles other than mentioned in Annexure – I	
(a) Passenger is arriving by Land Route	No Benefit
(b) Passenger is arriving by other Route	Rs. 15,000
Class of Passengers : Infant	
(i) Used personal effects and travel souvenirs; and	Free
(ii) Articles other than mentioned in Annexure – I	No Benefit
Annexure - I (See Rule 3, 4 and 6)	
Fire arms. Cartridges of fire arms exceeding 50. Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms. Alcoholic liquor or wines in excess of two litres. Gold or silver in any form other than ornaments. Flat Panel (Liquid Crystal Display/Light-Emitting Diode/Plasma) television.	
Rule 5 :Jewellery	
Class of Passengers : Passenger residing abroad for more than one year	
Origin country from which the passenger is coming	
Gentleman Passenger	Jewellery up to a weight of 20 gms with a value cap of Rs. 50,000
Lady Passenger	Jewellery up to a weight of 40 gms with a value cap of Rs. 1,00,000
Rule 6 : Transfer of Residence (Refer Main book for complete provision)	
Rule 8 : Provision Regarding Unaccompanied Baggage	

Unaccompanied baggage refers to Baggage that is not accompanied with passenger. Unaccompanied baggage may arrive within a period of 1 month after passengers arrival or before 2 months arrival (condonation of earlier arrival by AC/DC) These rules shall apply to unaccompanied baggage except where they have been specifically excluded.	
Class of passengers : Tourist of foreign origin	
(i) Used personal effects and travel souvenirs; and	Free
(ii) Articles other than mentioned in Annexure – I	Rs. 15,000
Class of passengers : Infant	
(i) Used personal effects and travel souvenirs; and	Free
(ii) Articles other than mentioned in Annexure – I	No Benefit

Rule 9 : Crew Baggage

These baggage rules are also applicable to the members of the crew engaged in foreign going conveyance for importation of their baggage, when they are finally paid off on termination of their engagement. However, other crew members of a vessel and aircraft will be allowed to bring items like chocolates, cheese, cosmetics and other petty gift items for their personal or family use for a value not exceeding 1500. Family, under these rules, includes all persons who are residing in the same house and form part of the same domestic establishment.

housing

2) Coastal goods Section 2(7)

5.9 COASTAL GOODS

As per section 2(7) of the Customs Act, the term coastal goods means goods, other than imported goods, transported in a vessel from one port in India to another.

Entry of coastal goods

The consignor of any coastal goods shall make an entry thereof by presenting to the proper officer a bill of coastal goods.

Coastal goods not to be loaded until bill relating thereto is passed Until unless bill of coastal passed by proper office loading is not permitted.

Clearance of coastal goods at destination

Goods to be unloaded at particular port and proper officer shall permit clearance thereof.

Master of coasting vessel to carry an advice book

The proper officer shall make entries in the advice book related to the goods to be loaded on the vessel at that port.

Loading and unloading of coastal goods at custom port only

Custom Act II

No goods shall be loaded or unloaded at the place other than approved place.

No coastal vessel to leave without written order

Application of certain provisions of this act to coastal goods

Sec 33, 34 and 36 shall also apply to coastal goods as they apply to imported or export goods. Sec 37 ,38 shall apply to vessels carrying coastal goods.

5.9.1 .Difference between Transit and Transshipment :

Transit	Transshipment
(i) Section 53 of the Customs Act, 1962 provides for transit of goods.	(i) Section 54 of the Customs Act,1962 provides for transshipment of goods.
(ii) In case of transit of goods, goods are allowed to remain on the same conveyance.	(ii) In case of transshipment of goods, the conveyance changes i.e., the goods are unloaded from one conveyance and loaded in another conveyance.
(iii) In case of transit of goods, there is continuity of records.	(iii) In transshipment of goods, continuity in the records is not maintained as the goods are transferred to another conveyance.

5.9.2. Transit Goods: Section 53

In 'transit' goods continue to be on same vessel, while in transshipment, goods are transferred to another vessel / vehicle. Hence, procedures are also different.

Goods must be specified in Import manifest.

5.9.3. Transshipment of goods :Sec 54

In case transshipment a bill of entry or declaration should be filed.

When any goods allowed to be transited or transshipped to any custom station they shall be liable to pay duty on their arrival at custom station like first import

Transshipment means transfer from one conveyance to another.

Goods imported in any customs station can be transhipped without payment of duty,

The conveyance may be vehicle, ship or aircraft

Goods to be transhipped must be specified in Import Manifest

Bill of Transshipment' should be submitted to Customs Officer.

Where any goods are allowed to be transited or transhipped to any customs station, On their arrival at such station, goods shall be liable to duty as if first import,

Imported goods may be transported without payment of duty form

One land custom station to another

Sec 56

Transport of certain classes of goods

Imported goods may be transported without payment of duty form One part of India to another part through any foreign territory and One land custom station to another subject to prescribed conditions

5.10 WAREHOUSING

Goods imported from abroad may be cleared straightaway by the Importers by filing the Customs Clearance document, the Bill of Entry for Home Consumption (White Bill of Entry) along with all the documents, such as Invoice, Purchase Contract, Import Licence (Wherever necessary) and all connected and relevant documents. The above requirements for clearance are stipulated in Section 46 of the Customs Act, 1962.

Section 46 of the Customs Act, 1962 provides that importer shall file a Bill of Entry, either for Home consumption or for Warehousing, in the "prescribed form". Therefore, the importers who do not intend clearing the imported goods for "Home consumption" may choose to "warehouse" the goods (store the goods under Customs control/custody) and clear the same subsequently either wholly or in part, in piecemeal, on payment of Customs duty.

Warehousing is a very useful facility in export import business. Importer can deposit the dutiable goods in a bonded warehouse without payment of duty. This facility is available to traders as well as importers.

The term "warehouse" for the purposes of the application of the provisions of the Customs Act, 1962 has been defined under Section 2(43) of the Act, as under:

"warehouse" means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 or a special warehouse licensed under section 58A;

Warehouses either "public" or "private", could be "licensed" as above said, only at the places declared by the Central Board of Excise and Customs to be "warehousing stations" by means of notifications in the official gazette. Therefore, warehouses cannot be "licensed" in all places. [Section 9 of the

In earlier years, the port towns adjacent to the major ports and contiguous areas thereto, which were easily accessible and which could be kept under control of the respective Customs "Warehouse" only was declared as "warehousing stations". For the purpose of convenience, entire cities, talukas, in such cases were generally declared as warehousing stations, generally or for specific purposes.

Consequent upon the increased requirements for adequate warehousing facility, of the trade and industry, now the Government of India's policy in respect of Public (Bonded) warehousing, is to declare selected places, in the areas other than port areas, namely in Inland/Interior areas, as "warehousing stations" under Section 9 of the Customs Act, 1962.

The object behind "licencing of Public (Bonded) warehouses Private (Bonded) warehouses or special warehouses" is to afford a facility to the Importers to deposit the imported goods for the specified period, before they are cleared for home consumption or re-export.

The imported goods after landing may be allowed to be removed to a warehouse without payment of customs duty. Duty is paid at the time of clearance from the warehouse.

The consideration the importer is required to pay for this facility is that:-

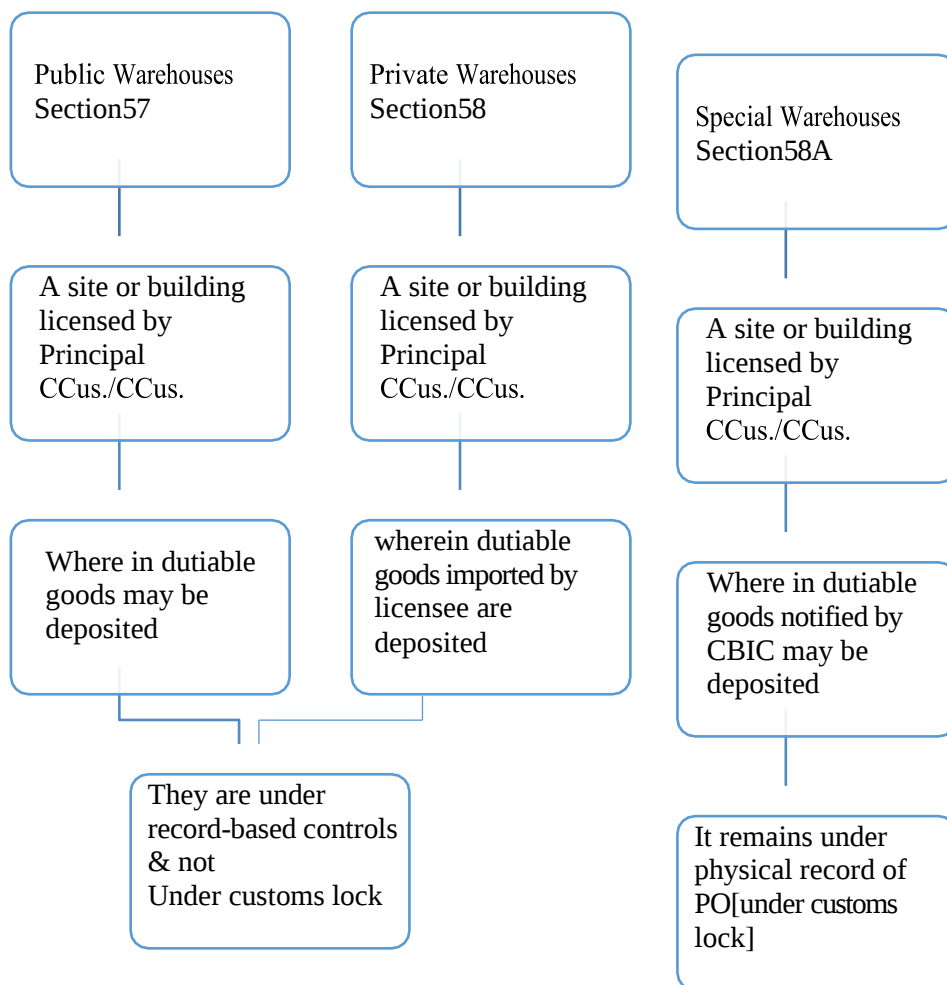
he should bind himself to pay to the Government a sum equal to thrice the amount of total duty determined, with such surety or security as may be required and he should agree to pay duty on the goods cleared from such warehouse at the rate of duty and valuation prevalent on the date on which a bill of entry in respect of such goods is presented.

An importer who intends to get his goods warehoused files an into-bond bill of Entry [Bill of entry for Warehousing], which is assessed to customs duty at the port of import. The importer is also required to execute a bond to cover the risk to customs duty, interest, penalty etc. Once the bond is executed by the importer, the assessing officer at the port of import permits the goods to be deposited without payment of duty in a warehouse.

When the importer wishes to clear the goods from warehouse, ex-bond bill of entry needs to be filed and applicable duty be paid by importer. Thereafter, the proper officer will pass the order for clearance of goods from warehouse.

5.10.1.Types of Warehouses

Types Of Warehouses [Section 57, 58 And 58a]



5.10.2.Cancellation Of License [Section 58B]

License can be cancelled if the licensee contravenes any of the provisions of the customs law or breaches any of the conditions of the licence.

licensee shall be given a reasonable opportunity of being heard.

During the pendency, operations of the warehouse may be suspended. During suspension no goods shall be deposited in such warehouse.

Where the licence is cancelled, the goods warehoused shall: be removed from such warehouse to another warehouse or be cleared for home consumption/export. The goods shall be removed within 7 days

5.10.3. Period for which Goods may remain in a Warehouse [Section 61]

Time period for which different class of goods may be warehoused is tabulated as under:

S. No.	Class of goods	Time for which the goods may remain Warehoused
1.	Goods for use in any 100% EOU/ EHTP/ STP/warehouse where manufacture or other operations are permitted u/s 65	
	(i) Capital goods	Till the clearance of such goods from warehouse
	(ii) Other goods	Till the consumption or clearance of such goods from warehouse
2.	Goods other than 1 above	Till the expiry of 1 year from the date of order permitting deposit of goods In warehouse

5.10.4.Manufacture And Other Operations In Relation To Goods In A Warehouse [Sections 65&66]

The owner of any warehoused goods may carry on any manufacturing process or other operation in relation to warehoused goods. After manufacture, the produced goods May either be exported out of India or Cleared for home consumption.

The duties are fully remitted if the goods resulting from such operations are exported. Import duty, Interest, fine and penalties, if any, are payable only if the resulting goods or imported goods are cleared in the domestic market (ex-bonding).

Further, the clearance of such goods for domestic consumption squarely qualifies as supply under GST law and would be leviable to tax under section 9 of the CGST Act or section 5 of the IGST Act depending upon whether the supply from warehouse is an intra-State supply or inter-State supply.

Removal of Goods From the Warehouse[Sections67,68&69]

The warehoused goods can beremoved from the warehouse for any of the following three reasons:

Transfer from one warehous e to another[Section67]; or Clearance for home consumption [Section68];or Clearance for export[Section69].

Allowance In Respect of Volatile Goods[Section70]

In some cases, warehoused goods are subject to normal loss owing to volatility of such goods and manner of their storage. Neither the importer nor the warehouse keeper can be asked to bear the duty burden of this lo`ss.

When any warehoused goods notified under this section, are at the time of delivery from a warehouse found to be deficient in quantity on account of natural loss, the AC/DC of Customs may remit the duty on such deficiency.

5.10.5. Improper Removal of Goods From Warehouse [Sections 71 & 72]

Warehoused goods can be removed from warehouse only in situations stipulated under sections 67, 68 and 69. As a corollary, it follows that warehoused goods cannot be removed otherwise.

Sections 71 and 72 provide for such a prohibition and the penal action thereon.

Section 71 prohibits the removal of the warehoused goods out of a warehouse except on clearance for home consumption, or export, or for removal to another warehouse, or as otherwise provided by the Customs Act.

Section 72 enumerates the cases where the proper officer may demand, the full amount of duty chargeable on account of warehoused goods together with interest, fine and penalties payable in respect of such goods. The owner of the warehoused goods is required to forth with pay the same.

Cases enumerated in section 72 are as follows:

Where any warehoused goods are removed from a warehouse in contravention of section 71

Where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse

Where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or export are not duly accounted for to the satisfaction of the proper officer.

In case the owner fails to pay duty chargeable on account of warehoused goods together with interest, fine and penalties payable in respect of goods warehoused by it, the proper officer may cause such goods to be detained and sold, such sufficient portion of his goods, if any, in the warehouse, as the said officer may deem fit. However, the proper officer has to first give a notice to the owner (any transfer of the goods notwithstanding) for the same.

Important points

Under Section 15(1)(b), the rate of duty applicable to warehoused goods (as and when cleared for home consumption) is the rate of duty prevailing on the date of actual removal of the goods from the warehouse. Hence, the warehouse keeper or Bond Officer endorses the date (or dates) on which the goods are physically removed from the warehouse. If any further duty has become due on account of a change in the rates of duty before such removal, the Bond Clerk who receives the duplicate bill of entry from the warehouse keeper initiates necessary action. More than one clearance of a single

warehoused consignment can also be effected by filing different bills of entry (Green Bill of Entry) under Section 68. As far as the rate of exchange (applied for conversion of value declared in foreign currency to Indian currency for collection of duty, on the value) is concerned, the same exchange rate that prevailed and applied for

5.11 DUTY DRAWBACK

Indirect taxes are taxes on domestic consumption. They are destination based. Goods exported shall be free from local taxes. It is in tune with the slogan 'export goods and services, don't export taxes'. To implement the policy, govt of India introduced export promotion schemes making the exports tax free. Duty Drawback scheme is an export promotion scheme under customs. Sections 74 to 76 deal with duty drawback scheme.

Under the scheme, if import duty paid goods are exported with or without any value addition, the import duties and other taxes paid on such goods at input level are refunded in the form of duty drawback. Duty drawback is basically a refund of import duties. There are two variants of duty drawback scheme under Customs.

Re-exportation of duty paid imported goods [Section 74]

Export of final products/ processed goods using duty paid imported material [Section 75]

In both the cases, there are three common features.

There is import of some goods;

The imported goods suffered import duty;

The same goods in same form or in a different form have been exported.

Section 74 - drawback", in relation to any goods exported out of India, means the refund of duty or tax or cess as referred to in the Customs Tariff Act, 1975 and paid on importation of such goods in terms of section 74 of the Customs Act. Thus, IGST and GST compensation cess paid on imported goods is also liable for drawback
 Nature of Transaction: Amount Of Drawback Where Imported Goods Are Used Before Re- Exportation

Section 75 - drawback", in relation to any goods exported out of India, means the refund of duty excluding IGST leviable u/s 3(7) and compensation cess leviable u/s 3(9) of the customs Tariff Act, 1975 chargeable on any imported material or excisable materials used in the manufacture of such goods. Thus, IGST and GST compensation cess paid on imported goods is not eligible for drawback.
 Nature of Transaction: Drawback On Imported Materials Used In The Manufacture Of Export Goods

5.11.1.Important Conditions for availing drawback u/s 74 and Section 75

u/s section 74 :The goods must be capable of being identified • Duty drawback shall be allowed even if the imported goods are taken into use and then exported. • The goods must be exported within 2 years from the date of payment of duty or such extended time allowed by board. • Duty drawback is allowed 98% of the import duty, if the goods are exported without use and in case if they are taken into use drawback is allowed at notified rate depending upon the period of use

u/s section 75 :There is no criteria of such identification since the inputs are manufactured before their export • Drawback is available only in respect of notified goods • If the goods manufactured from imported material are used in India and subsequently exported, then no duty drawback shall be allowed. • The goods exported may be manufactured or processed from imported or indigenous inputs. • There is no time limit for such exportation • There should not be any negative value addition and minimum value addition must be achieved, if specified.

5.11.2.Reduced Drawback rates having regard to duration of use (for sec 74) :

Sr No.	Length of period between the date of clearance for home consumption and the date when the goods are placed under Customs control for export	Percentage of import duty to be paid as Drawback
1	Not more than three months	95%
2	More than three months but not more than six months	85%
3	More than six months but not more than nine months	75%
4	More than nine months but not more than twelve months	70%
5	More than twelve months but not more than fifteen months	65%
6	More than fifteen months but not more than eighteen months	60%
7	More than eighteen months	Nil

Special rate of drawback for motor vehicles

If the car or specified goods are re-exported immediately: 98% of the duty paid is refundable.

If the car or specified goods are re-exported after being used: Percentage of reduction of the drawback is related to use of the motor vehicle per quarter as under:-

Sr. No	Year	Drawback of duty shall be calculated by reducing the import duty by
1	1St	4% per quarter or part thereof
2	2nd	3% per quarter or part thereof
3	3rd	2.5% per quarter or part thereof
4	4th	2 % per quarter or part thereof

5.11.3 Drawback u/s 75 is allowed as below :

All Industry Drawback Rates (AIDR) are fixed under rule 3 by considering average quantity and value of each class of inputs imported or manufactured in India. Drawback is limited to incidence of duties of Customs on inputs used and remnant Central Excise Duty on specified petroleum products used for generation of captive power for manufacture or processing of export goods.

Brand Rate : Where no drawback is determined, the manufacturer/exporter has to apply for drawback within 3 months seeking a brand rate from the Government giving all date and information about use of inputs, manufacture etc.

Special Brand Rate: Where amount or rate of drawback determined is low then the drawback rate is low, a SPECIAL BRAND RATE will be applicable. Where the rate is lower than 80% of the duties paid, revised rate may be applied for within 3 months.

5.11.4 .No Drawback in certain goods

- Goods being used after importation
- Wearing apparels
- Tea Chests
- Photographic Films & X-ray
- Paper & Plates

When the amount of drawback is less than Rs. 50 in respect of any goods, the market price of which is less than the amount of drawback due thereon

If the Central Government is of the opinion that goods of any specified description in respectof which drawback is claimed under this chapter are likely to be smuggled back into India

5.11.5 Interest on Drawback

Interest payable by Department

Drawback must be paid within 1 month

If Not paid Interest @ 6% p.a. from the date of expiry of the said person of 1 month till the date of payment of such drawback.

Interest payable by Importer

If, drawback has been paid to the exporter erroneously Interest @ 15 % p.a. shall be payable from the date of erroneously refund to date of payment

5.12 MULTIPLE CHOICE QUESTIONS

Import export procedure :

Q1. Person-in-charge in the case of a vessel or an aircraft, deliver to the proper officer by presenting electronically prior to the arrival] of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report withinafter its arrival in the customs station

(a) an arrival manifest or import manifest, 12 hours (b) an arrival manifest or import manifest, 24 hours (c) import report, 12 hours (d) none of the above

Ans. (a) an arrival manifest or import manifest, 12 hours

Q2. an arrival manifest or import manifest or import report is not delivered to the proper officer within the time specified then penalty levied upto

(a) 10,000 (b) 50,000 (c) 20,000 (d) none of the above

Ans. (b) 50,000

Q3. The person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer —

(i) the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and

(ii),

in such form, containing such particulars, in such manner and within such time, as may be prescribed.

Ans. the passenger name record information of arriving passengers

Q4. Imported goods shall not be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of

(a) the proper officer (b) importer himself (c) any authorised person (d) None of the above

Ans. (a) the proper officer

Q5. Ship arrives at port on 6 october 2018 (Saturday). Bill of Entry filed on 12 October, 2018. Determine late charges

(a) 25,000 (b) 15,000 (c) 10,000 (d) none of the above

Ans. Bill of entry must be filed within 1 day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station. Hence it must be filed before end of 8 October 2018. Delay period = 4 days. Late charges = $5000 \times 3 \text{ days} + 10000$ for 4th day = Rs 25,000

Q7. State with reasons whether the following is true or false.

The conveyances are not allowed to leave India without written permission from customs authorities.

Ans. True – as per sec 42 The person-in-charge of a conveyance which has brought any imported goods or has loaded any export goods at a customs station shall not cause or permit the conveyance to depart from that customs station until a written order to that effect has been given by the proper officer.

Q8. Bills of entry can be submitted..... days prior to expected date of arrival of vessel.

Ans. 30 days

Q9. The importer shall pay the import duty -

(a) on the date of presentation of the bill of entry in the case of; or

(b) within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of; or

(c) in the case ofunder the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf,

(i) (a) self-assessment, (b) assessment, reassessment or provisional assessment (c) deferred payment

(ii) (a) self-assessment, (b) deferred payment (c) assessment, reassessment or provisional assessment

(iii) (a) deferred payment, (b) assessment, reassessment or provisional assessment (c) self-assessment

(iv) none of the above

Ans. (i) (a) self-assessment, (b) assessment, reassessment or provisional assessment (c) deferred payment

Q10. Determine due date in case of deferred payment of duty for goods for BOE returned for payment from 1st to 15th day of a month

(a) 16th of that month (b) 1st of next month (c) last day of month (d) none of the above

Ans. (a) 16th of that month

Q11. Importer paying custom duty of Or more per bill of entry, shall pay custom duty electronically

(a) 10,000 (b) 50,000 (c) 1,00,000 (d) none of the above

Ans. (a) 10,000

Q12. goods may pending clearance or removal, as the case may be, be permitted to be stored in a public warehouse under section 49 for a period not exceeding

(a) 30 days (b) 45 days (c) 90 days (d) none of the above

Ans. (a) 30 days

Q13. Every deposit made towards duty, interest, penalty, fee using authorised mode of payment shall, be credited to

(a) the electronic cash ledger (b) the electronic credit ledger (c) the electronic liability ledger (d) none of the above

Ans. (a) the electronic cash ledger

Duty Drawback :

Q1. Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made thereunder, the claimant shall, within a period ofmonths from the date of demand, pay in addition to the said amount of drawback, interest at the rate.....

(a) 2, 15% (b) 3, 18% (c) 1, 24% (d) 6, 15%

Ans. (a) 2, 15%

Q2. Where any drawback payable to a claimant under section 74 or section 75 is not paid within a [period of [.....month] from the date of filing a claim for payment of such drawback, there shall be paid to that claimant in addition to the amount of drawback, interest at the rate from the date after the expiry of the said [period of [..... month] till the date of payment of such drawback

(a) 1,1, 6% (b) 3, 3, 12% (c) 1, 3, 9% (d) none of the above

Ans. (a) 1,1, 6%

Q3. Answer the following with reference to the provisions of the Customs Act, 1962 and rules made there under:

(1) Mr. A filed a claim for payment of duty drawback amounting to ` 50,000 on 30.07.20XX. However, the amount was received on 28.10.20XX. You are required to calculate the amount of interest payable to Mr. A on the amount of duty drawback claimed.

(2) Mr. X was erroneously refunded a sum of ` 20,000 in excess of actual drawback on 20.06.20XX. A demand for recovery of the same was issued by the Department on 28.08.20XX. Mr. X returned the erroneous refund to the Department on 20.10.20XX. You are required to calculate the amount of interest chargeable from Mr. X. P

(a) 485, 1003 (b) 400, 1000 (c) 500, 1000 (d) none of the above

Ans. (a) 485, 1003

Q4. What is the time limit for re-exportation of goods as such u/s 74?

(a) 2 years (b) 3 years (c) 3 years 6 months (d) none of the above

Ans. (a) 2 years

Q5. What is the rate of duty drawback if the goods are exported without use?

(a) 98% (b) 100% (c) 90% (d) none of the above

Ans. (a) 98%

Q6. Is duty drawback allowed on re-export of wearing apparel without use?

(a) yes (b) No (c) partially (d) none of the above

Ans. (a) yes

Q7. Calculate the amount of duty drawback allowable under section 74 of the Customs Act 1962 in following cases:

(a) Salman imported a motor car for his personal use and paid Rs. 5,00,000 as import duty. The car is re-exported after 6 months and 20 days.

(b) Nisha imported wearing apparel and paid Rs. 50,000 as import duty. As she did not like the apparel, these are re-exported after 20 days.

(c) Super Tech Ltd. Imported 10 computer systems paying customs duty of Rs. 50 lakh. Due to some technical problems, the computer systems were returned to foreign supplier after 2 months without using them at all.

(i) (a) 4,40,000 (b) No drawback (c) 49 lakh

(ii) (a) 4,00,000 (b) 49,000 (c) 49 lakh

(iii) (a) 4,40,000 (b) 49,000 (c) 49 lakh

(iv) none of the above

Ans. (i) (a) 4,40,000 (b) No drawback (c) 49 lakh

Ans

Amount of duty drawback

Period of personal use = 6 months and 20 days i.e 3 quarters

DDB admissible $[5\text{lac} - 4\% \times 3 \times 5\text{lac}] = 440000$

No drawback admissible on wearing apparel

Drawback = 98% of 50 lakh = 49 lakh

Q8. Determine the rate of drawback if period between date of clearance for home consumption and the date when the

goods are placed under Customs Control for export Not more than 3 months

(a) 95% (b) 85% (c) 75% (d) 70 (e) 65% (f) 60%

Ans. (a) 95%

Q9. Determine the rate of drawback if period between date of clearance for home consumption and the date when the goods are placed under Customs Control for export More than 3 months but Not, more than 6 months

(a) 95% (b) 85% (c) 75% (d) 70 (e) 65% (f) 60%

Ans. (b) 85%

Q10. Determine the rate of drawback if period between date of clearance for home consumption and the date when the goods are placed under Customs Control for export More than 6 months but not more than 9 months

(a) 95% (b) 85% (c) 75% (d) 70 (e) 65% (f) 60%

Ans. (c) 75%

Q11. Determine the rate of drawback if period between date of clearance for home consumption and the date when the goods are placed under Customs Control for export More than 9 months but not more than 12 months

(a) 95% (b) 85% (c) 75% (d) 70 (e) 65% (f) 60%

Ans. (d) 70

Q12. Determine the rate of drawback if period between date of clearance for home consumption and the date when the

goods are placed under Customs Control for export More than 12 months but not more than 15 months

(a) 95% (b) 85% (c) 75% (d) 70 (e) 65% (f) 60%

Ans. (e) 65%

Q13. Determine the rate of drawback if period between date of clearance for home consumption and the date when the goods are placed under Customs Control for export More than 15 months but not more than 18 months

(a) 95% (b) 85% (c) 75% (d) 70 (e) 65% (f) 60%

Ans. (f) 60%

Q14. Fill up the blanks:

(a) Recovery of tax from buyer (is/is not) and essential condition for levy of indirect taxes.

Q15. (b) Duty drawback rate shall not exceed per cent of market price of export goods.

Ans. (a) Is not (b) 33

Q16. Duty drawback rate shall not exceed per cent of market price of export goods.

Ans. 33%

Q17. is the rebate of excise duty and customs duty paid on inputs used in exported final products under section 75 of Customs Act.

Ans. Duty Drawback

Baggage Rules :

Q1. The effective rate of duty shall be on baggage.

Ans. 38.5%

Q2. General Free Allowance (GFA) under Customs Act is _____ (allowed/not allowed) on unaccompanied baggage; GFA is _____ (allowed/not allowed) on alcoholic liquor or wines up to two litres.

(a) not allowed, allowed, (b) not allowed, not allowed, (c) allowed, not allowed (d) None of the above

Ans. (a) not allowed, allowed

Q3. Fill in the blanks :

(a) A passenger returning to India after stay in Germany for one week is entitled to bring goods up to Rs. without payment of any Customs duty.

Ans. 50000

Q4. Laptop Computer (Note Book Computer) brought as baggage by person above 18 years of age (is/is not) fully exempt from customs duty.

Ans – is

Q5. Where a person of Indian origin stays abroad for 36 months and returns to India on 21-1-2019 for having residence in India, the GFA for used household articles (Baggage) is

(A) ₹ 1 lakh

(B) ₹ 3 lakhs

(C) ₹ 5 lakhs

(D) None of the above

Ans. (C) ₹ 5 lakhs

Note - The GFA is linked to the period for which the person has stayed abroad. If the same exceeds 2 years, the GFA is ₹ 5 lakhs for transfer of residence.

Warehousing :

Q1. No interest is payable, if warehousing goods stored less than days.

Ans. 90 days

Q2. In case of imports other than imports by EOU the imported goods can be kept in Customs bonded ware-house for days without paying any interest.

Ans. 90 days

5.13 SELF STUDY QUESTIONS

1. Which main documents are required to be prepared for effecting Export of Goods?
2. What is Import manifest? Give the details of its contents.
3. What is a 'Shipping Bill'? How it is prepared and used?
4. What are the kinds of Shipping Bills?
5. What is 'GR' form and how it is obtained?
6. What is the procedure with regard to obtaining of 'Export Trade Licence'?
7. What are the provisions regarding 'Draw back' of duties on Exported goods under Customs Act, 1962?
8. Explain the concept of 'Containerisation' in Import-Export trade and how does it compare with the conventional ships?
9. How the various customs ports, airports and places are fixed for the purpose of loading/unloading of goods subject to levy of duties of Customs?
10. Which organisations are involved in clearance of import Cargo?
11. What is 'Bill of Entry'? What are the different kinds of 'Bill of Entry'?
12. What is the procedure of preparation and filing of 'Bill of Entry'?
13. How are the goods Imported but not cleared by Customs dealt with?
14. What are the provisions in the Customs Act, 1962 with regard to examination of goods before order of clearance?
15. What is "Out of Customs charge" order for delivery of goods?
16. What specific points one should keep in mind in the clearance of imported cargo for home consumption?
17. When are the goods said to be in transit within the meaning of Customs Act, 1962?
18. Distinguish between transit and transshipment of goods.
19. How are the goods in transit treated for the purpose of levying of duties of customs.
20. When does the officer of Customs may permit the transshipment of goods without payment of duty?

Additional Self Study Questions :

1. Explain the advantages of keeping goods in a warehouse?

2. What is warehousing period? Whether any interest is payable on warehoused goods?

Discuss.

3. What do you understand by the term 'Duty Drawback'?

4. What is minimum and maximum drawback under Section 75 of the Customs Act?

5. What are the essential elements required for entitlement of 'drawback' on re-export of imported goods?

6. What are the rates of Drawback under Section 75 of the Act?

7. Distinguish between duty drawback under sections 74 and 75?

8. What is temporary detention of Baggage under Section 80 of the Customs Act?

9. What do you mean by stores? When 100% of duty is refunded as a duty drawback on stores?

10. What are 'Public' (Bonded) Warehouses and 'Private' (Bonded) Warehouses?

11. What are the provisions regarding appointment of Public (Bonded) Warehouses and Licensing of Private (Bonded) Warehouses under the Customs Act, 1962?

FOREIGN TRADE POLICY QUADRANT-I

Unit Structure:

- 6.1. Objectives
- 6.2. Introduction
- 6.3. History of India's FTPs
- 6.4. Foreign Trade Policy: 2002-07
- 6.5. Foreign Trade Policy: 2004-09
- 6.6. Foreign Trade Policy: 2009-14
- 6.7. Foreign Trade Policy: 2015-20
- 6.8. Foreign Trade Policy: 2023
- 6.9 Summary

6.1 OBJECTIVES:

After completing this module the students will be able to:

- Understand the concept of Foreign Trade Policy
- Understand the features and objectives of different Trade Policies of India (pre and post the reform period)
- Critically evaluate the previous and current FTPs of India

6.2 INTRODUCTION

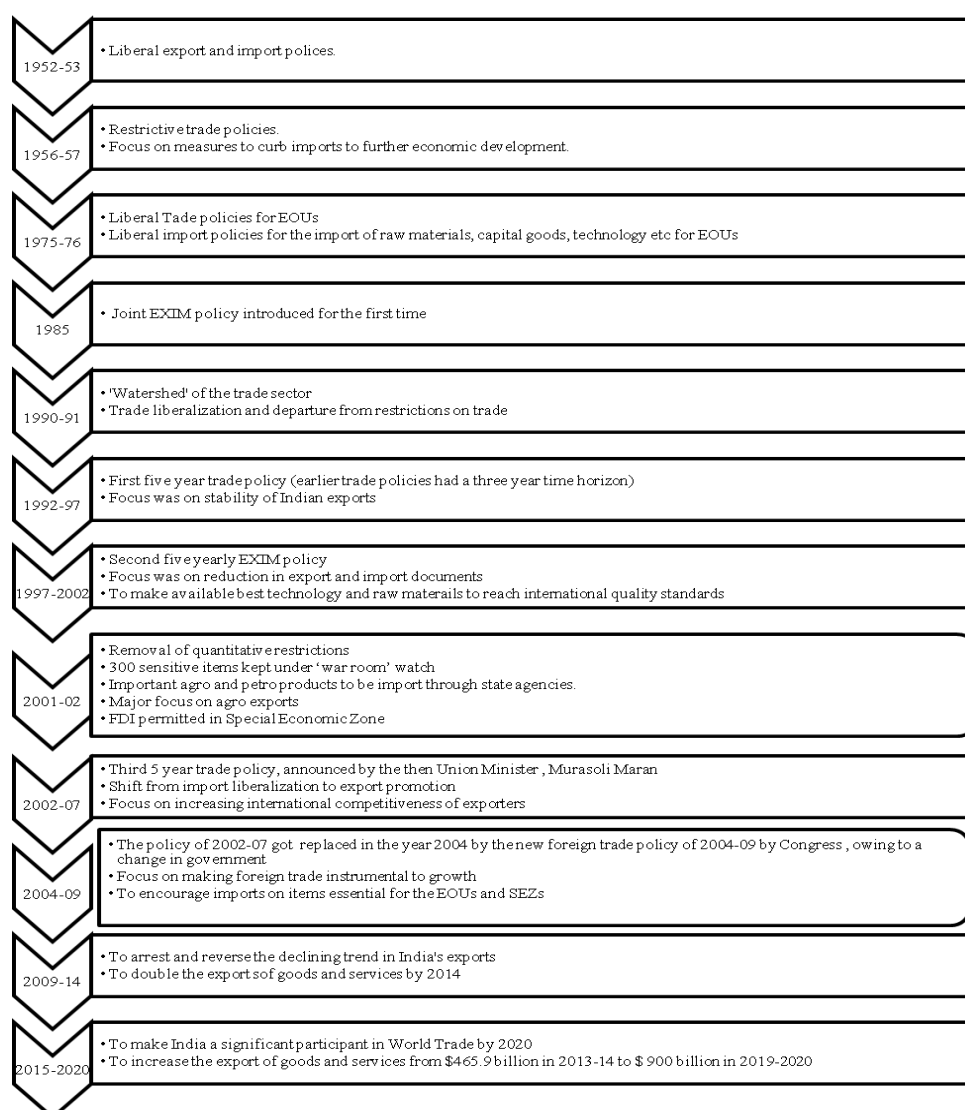
Meaning: 'Exim Policy or Foreign Trade Policy is a set of guidelines, terms and instructions, established by the Directorate General of Foreign Trade in/for matters related to the import and export of goods in/from India'

The EXIM Policy of India contains several policy measures and related decisions taken by the government (central) in the sphere of imports and exports to/from the country. In addition, it also describes the various export promotion measures, policies and procedures related thereto. The Foreign Trade Policy is prepared and announced by the Central Government (Ministry of Commerce) of the country. India's Export Import Policy also known as Foreign Trade Policy, in general, aims at developing export potential, improving export performance, encouraging foreign trade and creating favorable balance of payments position.

The Directorate General of Foreign Trade is the chief governing body for the matters pertaining to such a policy. In addition, the policy is steered according to the regulations stated in the Foreign Trade Development and Regulation Act. The current, Foreign Trade Act has replaced the earlier law in this regard, known as the imports and Exports (Control) Act 1947.

6.3 HISTORY OF EXIM POLICY IN INDIA

Whilst the trade policies during 1950s and 1960s were designed to lay emphasis **on self-reliance** and **self-sufficiency** of the country; the policies during (and post) 1970s were driven by the objectives of **export led growth** and **increased efficiency** and **competitiveness**. In the year 1962, the Government of India appointed a special EXIM Committee to review the previous export import policies of the Government. Later, Mr. V. P. Singh, the then Commerce Minister announced the Exim Policy on the 12th of April, 1985. Initially, the EXIM Policy was introduced for the period of three years with main objective to boost the export business in India. The trade policy, however during this period was of a restrictive sort. In this context, the year 1991 is considered as a 'watershed' as far as the trade sector of the country is concerned. It was in/during this year that the country evidenced massive trade liberalization measures and departed from the prevalent protectionist trade policies. The period, after the year 1991 is therefore considered as the post reform period. Major milestones in the progression from individual import and export policies to composite EXIM policies have been summarized in the chart below:



With this backdrop, the trade policies of the country have been divided into the following phases:

Phase I: Import Restriction and Import Substitution (From 1950's to 1970s) **Phase II:** Export Promotion & Import Liberalization (From 1970s to 1990s) **Phase III:** Outward Orientation – (From 1990 onwards).

Phases I and II can be considered as the Pre Reform Period, and Phase III as the Post Reform Period.

6.3.1 FTPs in the Pre Reform Period (Phases I and II)

Following can be considered as the areas of major focus of the Foreign Trade Policies in the pre reform era:

- **Import Substitution:** India entered into planned development era in 1950's. During that time, Import Substitution was a major element of India's trade and industrial policy. In 1950, India's share in the total world trade was 1.78%, which reduced to 0.6% in 1995. Import substitution was thrust upon to protect and promote indigenous industries.
- **Simplification of Import Licensing:** The very first committee to review and recommend the Import–Export policies and procedures in the country was the PC Alexander Committee (1978). This committee recommended simplification of the Import Licensing procedure and provided a framework involving a shift in the emphasis from “control” to “development”.
- **Export Promotion:** Under the EOU (1981), several Export Oriented Units were set up. These were set up to offer benefits to the export houses, in order to boost the country's exports. Additionally, the Export and Import Bank of India (EXIM Bank) was set up in 1982. This bank, subsequently took over the operations of international financing of the IDBI.
- **Focus on Exports as Catalysts for Growth:** In the Trade Policy of 1985-88, some measures were taken based upon the recommendation of Abid Husain Committee (1984). This committee envisaged “Growth Led Exports, rather than Export Led Growth”. The recommendation of this committee stressed upon the need for harmonizing the foreign trade policies with other domestic policies. Additionally, the Committee recommended announcement of foreign trade policies for longer terms.

Other Features of the pre reform FTPs included the following:

- Financial assistance to exporters
- Simplification of procedural formalities
- Minimization of the role of quantitative restrictions and reducing the tariff rates substantially.
- Import Liberalization
- Setting up of Export Processing Zones to push up exports (now SEZ)

6.3.2 Trade Policies in the Reform Period (Phase III: Post 1990s)

Salient Features of the FTPs post the reform period include the following:

- **Freer Imports and Exports:** Substantial simplification and liberalization was carried out in the reform period. During this period, the tariff line wise import policy was first announced on March 31, 1996. Subsequently, 6,161 tariff lines were made free. Also, in line with India's commitment to the WTO, quantitative restrictions on all import items were withdrawn.
- **Rationalization of Tariff Structure:** Acting on the recommendations of the Chelliah Committee (1991), the Government, over the years, reduced the maximum rate of duty. More specifically, the Budget of 1993-94, reduced it from 110 per cent to 85 per cent. The successive Budgets reduced it further (in stages). The peak custom duty on non-agricultural goods (w.e.f. 1-3-2007) was also reduced to only 10 per cent.
- **Decanalisation:** Earlier, public sector agencies used to canalize a large number of exports and imports in India. The supplementary trade policy, announced on August 13, 1991, reviewed these canalized items, and decanalised 16 export items and 20 import items. The 1992-97 policy decanalised imports of a number of items including newsprint, non-ferrous metals, natural rubber, intermediates and raw materials for fertilizers.

However, 8 items (petroleum products, fertilizers, edible oils, cereals, etc.) remained in the canalized list. Further, the Exim Policy of 2001-02, put 6 items (rice, wheat, maize, petrol, diesel and urea) in the special list. items were put under special list. As a result, imports of these items began to be allowed only through State trading agencies.

- **Devaluation and Convertibility of Rupee on Current Account:** The government made a two- step depreciation adjustment of 18-19 per cent in the exchange rate of the rupee on July 1 and July 3, 1991. This in turn was followed by the introduction of Liberal Exchange Rate Mechanism (LERMS: partial currency convertibility) in 1992-93; and further, full convertibility on the trade account in 1993-94, and full current account currency convertibility in August 1994.

Since then, substantial capital account liberalization measures have been announced. Currently, the exchange rate of the rupee is market-determined. Thus, exchange rate policy in India has evolved from the rupee being pegged to a market related system (since March 1993). The RBI however intervenes to check against speculative activities and to check excess volatility. The current exchange rate policy is therefore known as 'managed floating' policy.

- **Trading Houses:** The 1991 policy allowed export houses and trading houses to import a wide range of items. The government also permitted the setting up of trading houses with 51 per cent foreign equity for the purpose of promoting exports.

The 1994-95 policy introduced a new category of trading houses called 'Super Star Trading Houses'. These houses were entitled to various benefits that included membership of apex consultative bodies concerned with trade policy and promotion, representation in important business delegations, special permission for overseas trading and special import licenses at enhanced rate.

The third supplementary FTP (2004-09), divided the export houses into five classes, namely, 'Export House', 'Star Export House', 'Trading House, Star Trading House' and 'Premium Trading House'. This stature was given to the exporters on reaching the export limits of Rs. 20, 100, 500, 2500 and 10,000 Crores respectively. These export houses were and continue to be granted a variety of export benefits by the government.

- **Special Economic Zones:** The Government of India, in the Export and Import Policy of March 31, 2000, announced setting up Special Economic Zones (SEZs) in the country to promote exports out of the country. As a corollary to this, the SEZs were/are to provide an internationally competitive and hassle-free environment for exports and are expected to give a boost to the country's exports.

Some of the distinctive features of these SEZ scheme are:

- A designated 'duty-free enclave' to be treated as foreign territory for trade operations and duties and tariffs;
 - Exemption from routine examination of export and import cargo by customs;
 - Full duty sale in domestic market on
 - Duty-free goods to be utilized within a period of 5 years;
 - Permission to subcontracting production processes for all sectors
 - 100 per cent foreign direct investment through automatic route in the manufacturing sector
 - 100 per cent income tax exemption for 5 years and 50 per cent for 2 years thereafter and 50 per cent of the ploughed back profit for the next 3 years;
 - Permission for external commercial borrowing through automatic route
- **EOU Scheme:** The scheme has been aiming to provide the export units, wide options in locations for sourcing of raw materials, ports of export, hinterland facilities, availability of technological skills, existence of an industrial base and the need for a larger area of land for the project. The EOUs have although, put up their own infrastructure.

- **Agriculture Export Zones:** In order to give primacy to promotion of agricultural exports, the Exim Policy of 2001 introduced the concept of Agra- Export Zones. These zones were set to effect a reorganization of export efforts on the basis of specific products and geographical areas.

The focus of the scheme was to provide for a cluster approach for identification of the potential products, the region of their growth, and adoption of an end-to-end approach of integration of the entire production process. These zones were to have the state-of-the-art services such as pre-post-harvest treatment and operations, plant protection systems, and research and development for the processing, packaging, storage functions.

- **Market Access Initiative Scheme:** The Market Access Initiative Scheme was launched in 2001- 02. It was introduced for the purpose of undertaking marketing promotion efforts abroad. The scheme attempted to provide in- depth market studies for select products in chosen countries to generate data for promotion of exports from India. It also helped to assist in promotion of Indian products and Indian brands in the international market by display through showrooms and warehouses set up in rental premises by identified exporters, display in identified leading departmental stores, exhibitions, trade fairs, etc.
- **Focus on Service Exports:** The amended Export-Import Policy, 2002-07, announced on March 31, 2003, specifically emphasized on the exports of services as an engine of growth. Accordingly, it announced a number of measures for the promotion of exports of services. For instance, under this scheme, import of consumables, office and professional equipment, spares and furniture was allowed up to 10 per cent of the average foreign exchange export.
- **Concessions and Exemptions:** A large number of tax benefits and exemptions were granted during the 1990s to liberalize imports and promote exports. The policy thus, Exim Policy 1992-97 and Exim Policy 1997-2002 served as the basis for such concessions.

These policies, in turn, were reviewed and modified on an annual basis in the Exim policies announced every year. Successive annual Union Budgets also extended a number of tax benefits and exemptions to the exporters. These included reduction in the peak rate of customs duty to 15 per cent; significant reduction in duty rates for critical inputs for the Information Technology sector; grant of concessions for building infrastructure by way of 10-years tax holiday to the developers of SEZs etc. additionally, a number of tax benefits were also announced for the three integral parts of the ‘convergence revolution’ the Information Technology sector, the Telecommunication sector, and the Entertainment industry.

2.2.1 Critical Evaluation of the Trade Policies in the Reform Period

With the sweeping process of liberalization, the new Trade Policy brought about paradigm shifts in trade openness of the country. The openness

however changed the orientation from being ‘inward’ to ‘outward’. Whilst the export business of the country thrived on one hand, reductions in the import duty hampered the indigenous industries to a great extent. This reduced the relative importance of the home market. The New Trade Policy can therefore be critiqued on the following grounds.

- **Decline in Relative Importance to Home Market:** The policy of liberalization attempted to reduce the import duties. This in turn lessened the degree of protection to the Indian industries. For a developing country like India, sustained industrialization is important and should be sustained through internal industrialization. An appropriate strategy should attempt to strike a balance between import substitution and export promotion. The new trade policy, while, managed to give a tremendous boost to the exports of the country; it however failed to protect the internal industries.
- **Failure in adequate adoption of Technology:** It has been argued that the market structure and policy structure has still not been able to provide the necessary environment for the absorption of the imported technology. Such technologies should try to augment the pace of development of the indigenous industries. The government has, however failed to strategize, and provide a policy regime for the same.

The next section aims to discuss individually the five year composite EXIM policies of the country, introduced in and after the year 2002 (the period marking shift in the orientation of EXIM policies from import liberalization to export promotion).

6.4. FOREIGN TRADE POLICY (2002-2007)

The foreign trade policy of 2002-07 was the first trade composite trade policy, drafted for a period of five years. The policy was announced on 31st March, 2002, and marked a shift from the focus on ‘liberalization’ to ‘export promotion’. Various objectives of the trade policy were:

- To increase the country’s share in the world trade from 0.67 per cent in 2002 to 1 per cent in 2007
- To increase the growth rate in exports to 12.4 per cent per annum
- To allow liberal import of technology
- To remove quantitative restrictions on exports
- To set up abroad ‘Business Centers’ for the benefit of Indian exporters

6.4.1 Measures/ Features

- **Facilities for the Agriculture Sector:** The following measures were proposed to be adopted to boost the Agri exports of the country:
 - o To remove all quantitative restrictions on exports.
 - o To set up 32 Agri- export zones.

- o To make available transport subsidy to allow for diversification of agricultural exports.
- o To liberalize restrictions on the packing of agricultural products.
- **Benefits to Small, Cottage and Handicraft Industries: For this sector,** the following measures were proposed to be adopted:
 - o To give technological support for up gradation of technology to the export oriented units in this sector.
 - o To entitle the status of an Export House on reaching the export performance of 5 crores against 15 crores for others.
 - o To make these units eligible for the benefits and tax concessions, as available to the Export Houses, on reaching the aforesaid export target.
 - o To remove export obligations on this sector.
 - o Tripura for hosiery, Ludhiana for woollens, and Panipat for blankets were notified as towns for excellence. The policy proposed to offer special infrastructure facilities and help centers to these towns.
- **Facilities to SEZs: For the SEZs, the following measures were proposed to be adopted:**
 - o To allow Offshore Banking Units (OBUs) in SEZs.
 - o To allow units in SEZ to undertake hedging of commodity price risks provided such transactions are undertaken by the units on stand-alone basis.
 - o To permit External Commercial Borrowings (ECBs) for a tenure of less than three years in SEZs.
- **Trust Based Measures :** Following measures were adopted to win the trust of the exporters for facilitation and promotion of the country's exports:
 - o Liberalization of Import/Export of samples for encouraging product up gradation.
 - o Penal interest rate for bonafide defaults brought down from 24% to 15%.
 - o Cancellation of penalty for non-realization of export proceeds in respect of cases covered by ECGC insurance package.
 - o Simplification of procedures for advance licensing
- **Industry wise Measures**
 - o To remove all textile package restrictions by 2005
 - o To abolish import duty on diamonds
 - o To liberalize import of gold and silver

- o To exempt from custom duty and export obligations, the units set up in the Electronic Hardware Technology Park
- **Duty Neutralization Measures:** The policy proposed to offer duty neutralization measures to promote exports. These were:
 - o Duty Free Entitlement Certificate: The certificate was meant to allow duty free import of raw materials for exporters.
 - o Duty Entitlement Passbook: The policy aimed to provide duty credit to exporters in the pass book maintained for it. The credit could be utilized for the import of machinery/ products by the exporters without making payment for the import duty.
 - o Export Promotion Capital Goods Scheme: Under this scheme, the import of capital goods was to be made duty free, if it resulted in the export of a specified amount and within a specified time.
- **Growth Promotion Measures:** Following measure were adopted to accelerate the pace of economic growth in the country:
- **Strategic Package for Status Holder:** The following new/ special facilities were entitled to the status holders:
 - o License/Certificate/Permissions and Customs clearances for both imports and exports on self-declaration basis.
 - o Availability of finance on priority finance for medium and long term capital requirement
 - o Exemption from compulsory negotiation of documents through banks. The remittance, would, however, be only received through bank networks
 - o 100% retention of foreign exchange in Exchange Earners' Foreign Currency (EEFC) account;
 - o Extension in the period of repatriation from 180 days to 360 days.
- **Neutralization of high fuel costs:** In order to enhance competitiveness of the exports, fuel costs were rebated in Standard Input Output Norms (SIONs) for all export products. The value of fuel to be permitted as a percentage of FOB value of exports for various product groups was as under:

Table 1: Product Wise Value of Fuel as a Percentage of FOB

Product Group	Value of fuel as a percentage of FOB value of exports
Bulk Drug and Drug Intermediates	5%
Dye and Dye Intermediates	4%
Glass	5%

Product Group	Value of fuel as a percentage of FOB value of exports
Ceramic Products	5%
Paper made from wood pulp/ waste paper	5%
Pesticides (Technical)/ Pesticides formulation from Basic Stage	5%
Refractory items	7%
Ferrous engineering products manufactured through forging/ casting process	7%
Nonferrous basic metal	4%
Plastic and plastic products from basic/ monomer stage	5%
Fibre to yarn	4%
Yarn to fabric/ made-up/ garments	3%
Fibre to fabric/ made-up/ garments	7%

- **Diversification of markets:** Business Centers were proposed to be set up abroad under this policy. The Business Centers would help to find business avenues for the exporters abroad.
- **Special benefits to the North Eastern States, Sikkim and Jammu & Kashmir:** Transport subsidy for exports was proposed to be given to units located in North East, Sikkim and Jammu & Kashmir so as to offset the disadvantage of being far from ports.

6.4.2 Evaluation

The EXIM policy of 2002-07 was characterized by the following merits:

- 3.2.1 Comprehensiveness
- 3.2.2 Boost to agricultural exports
- 3.2.3 Boost to the cottage and small scale industries
- 3.2.4 Export promotion
- 3.2.5 Facilities for technology up gradation
- 3.2.6 Procedural simplification
- 3.2.7 Neutralization of duty
- 3.2.8 Setting up of business centers
- 3.2.9 Diversification of business
- 3.2.10 Focus of export led growth

Thus, all in all, the policy was export friendly in nature however, owing to a change in government from NDA to Congress, the policy was revisited and a new EXIM policy was announced in the year 2004. The new EXIM policy was targeted for a period of five years from 2004 to 2009, and attempted to overrule the existing FTP.

6.5 FOREIGN TRADE POLICY (2004-09)

6.5.1 The objective of the New Foreign Trade Policy announced on 31st August 2004, were as follows:

6.5.1.1 To double India's percentage, share of global merchandise trade by 2009. India's shares in Foreign Trade between 2003-2004 was 0.8%; the target in this policy was set to achieve 1.5% share in world trade by 2009.

6.5.1.2 To act as an effective instrument of economic growth by giving a thrust to employment generation, especially in semi-urban and rural areas.

6.5.2 Measures/ Features

6.5.2.1 **Measures for the Agriculture Sector:** A new scheme called Vishesh Krishi Upaj Yojana was introduced to up-pace the exports of fruits, vegetables, flowers, minor forest produce and their value added products. Also, capital goods imported under EPCG for agriculture were permitted to be installed anywhere in the Agri Export Zone. In addition to these, the import of seeds, bulbs, tubers and planting material was liberalized, and so was the export of plant portions, derivatives and extracts.

6.5.2.2 **Measures for the Gems & Jewelry Business:** Duty free import of consumables for metals other than gold and platinum was proposed to be allowed up to 2% of FOB value. Additionally, duty free re-import entitlement for rejected jewelry was to be allowed up to 2% of FOB value of exports. The limit for the duty free import of commercial samples of jewelry increased to Rs.1 lakh.

6.5.2.3 **Handlooms & Handicrafts Sector:** Duty free import of trimmings and embellishments for Handlooms & Handicrafts sectors was increased to 5% of FOB value of exports. Handicraft Export Promotion Council was authorized to import trimmings, embellishments and samples for small manufacturers. A new Handicraft Special Economic Zone was also proposed to be established.

6.5.2.4 **Leather & Footwear Sector:** Duty free import of specified items for leather sector was increased to 5% of FOB value of exports. Also, machinery and equipment for Effluent Treatment Plants for leather industry was proposed to be exempted from Customs Duty.

6.5.2.5 Export Promotion Schemes

6.5.2.6 **Target Plus:** A new scheme to accelerate growth of exports called 'Target Plus' was introduced. Under this scheme, exporters who had achieved a quantum growth in exports were to be entitled to a duty free credit based on incremental exports substantially higher than the general actual export target fixed.

6.5.2.7 **Vishesh Krishi Upaj Yojana:** Another scheme called Vishesh Krishi Upaj Yojana (Special Agricultural Produce Scheme) was introduced to boost exports of fruits, vegetables, flowers, minor forest produce and

their value added products. Exports of these products were to qualify for duty free credit entitlement equivalent to 5% of FOB value of exports.

6.5.2.8 Served from India Scheme: To accelerate growth in export of services so as to create a powerful and unique ‘Served from India’ brand instantly recognized and respected the world over, the earlier DFEC scheme for services was revamped and re-cast into the ‘Served from India’ scheme. Individual service providers who earn foreign exchange of at least Rs.5 lakhs, and other service providers who earn foreign exchange of at least Rs.10 lakhs were considered eligible for a duty credit entitlement of 10% of total foreign exchange earned by them. In the case of stand-alone restaurants, the entitlement was to be 20%; it was to be 5 % for hotels and restraints.

6.5.2.9 EPCG: Additional flexibility for fulfillment of export obligation under EPCG scheme was offered to reduce difficulties of exporters of goods and services. Also, technological up gradation under EPCG scheme was facilitated and incentivized. Transfer of capital goods to group companies and managed hotels was also permitted under EPCG.

6.5.2.10 New Status Holder Categorization: A new rationalized scheme of categorization of status holders as Star Export Houses was introduced as under:

Table 2: Categorization of Status Holders as Star Export Houses

Export House	Amount of Average Annual Exports (Rs in Crores)
1 Star Export House	25
2 Star Export House	100
3 Star Export House	500
4 Star Export House	1500
5 Star Export House	5000
Premier Star Export House	7500

6.5.2.11 Export Oriented Units: EOUs were offered exemption from Service Tax in proportion to their exported goods and services. Additionally, they were permitted to retain 100% of export earnings in EEFC accounts. They were also allowed 100 per cent duty free import of raw materials and capital goods.

6.5.2.12 Setting up of Bio Technology Parks: On the lines of the IT parks, Bio- Tech parks were proposed to be set up under this policy. All incentives, as offered to EOUs were to be offered to the units set up in these parks.

6.5.2.13 Free Trade and Warehousing Zone (FTWZs) Scheme: A new scheme to establish Free Trade and Warehousing Zone (FTWZs) was introduced to create trade-related infrastructure to facilitate the import and export of goods and services with freedom to carry out trade transactions in free currency. This is aimed at making India into a global trading-hub. In these zones, Foreign Direct Investment (FDI) was permitted up to 100% in

the development and establishment of the zones and their infrastructural facilities. Additionally, units in the FTWZs were to qualify for all other benefits as applicable for Special Economic Zones (SEZ) units.

6.5.3 Critical Evaluation

The Foreign Trade Policy of this period has been criticized on the following grounds.

6.5.3.1 The policy was considered complex as far as charging tariffs at different rates is concerned. This in turn has an implication for procedural complexities and red tapism.

6.5.3.2 Measures to promote export of manufacturers in the FTP were relatively few.

6.5.3.3 Certain export promotion schemes were started during the period when India was facing an acute foreign competition. These measures are no more required, but have continued indefinitely in time, due to pressure from certain exporters.

6.5.3.4 Larger focus was on export promotion and not on the strengthening of the indigenous industries.

However, despite this criticism, the New FTP was extremely comprehensive and forward looking.

6.6 FOREIGN TRADE POLICY (2009-14)

On August 27, 2009, the then, Minister of Commerce and Industry of India, Mr. Anand Sharma presented the five-year Foreign Trade Policy (FTP) for 2009-2014. Aiming to reverse contraction in exports for 10 consecutive months, the new FTP presented several measures to ensure a steady growth of the country's foreign trade.

6.6.1 Objectives

Following were the objectives of the 2009-14 FTP:

6.6.1.1 To arrest and reverse declining trend of exports of the country.

6.6.1.2 To Double India's exports of goods and services by 2014.

6.6.1.3 As a long term aim, to double India's share in global merchandise trade by 2020

6.6.1.4 Simplification of application procedure

6.6.1.5 To set strategies and policies to catalyze the country's exports' growth

6.6.1.6 To encourage exports through a "mix of measures, including, fiscal incentives, institutional changes, procedural rationalization and efforts for enhance market access across the world and diversification of export markets.

6.6.2 What has been done?

6.6.2.1 Expansion of Focus Market Scheme: The FTP added 26 new markets to the Focus Market Scheme. Out of these 26 markets, 16 were the ones in Latin America and 10 in the Asia-Oceania region.

6.6.2.2 Incentives under FMS and FPS: Incentives under the Focus Market Scheme were raised from 2.5 per cent to 3 per cent; while those under the Focus Product Scheme were upgraded from 1.25 per cent to 2 per cent.

6.6.2.3 EPCG Scheme: The FTP has allowed zero duty import of capital goods for engineering, basic chemicals, pharmaceuticals, apparels, textiles, handicraft and leather. This is aimed to fasten the process and pace of technology up gradation.

6.6.2.4 EOUs: Export Oriented Units were allowed to sell products manufactured by them in Domestic Tariff Areas (DTAs) up to a limit of 90 per cent, instead of the existing limit of 70 per cent.

6.6.2.5 Thrust to Value Added Manufacturing: In order to encourage Value Added Manufactured export, a minimum 15% value addition on imported inputs under Advance Authorization Scheme was prescribed in the FTP.

6.6.2.6 Flexibility to exporters: Payment of customs duty for Export Obligation (EO) shortfall under Advance Authorization / DFIA / EPCG authorization was allowed by way of debit of Duty Credit scrips. Earlier the payment was allowed only in cash.

6.6.2.7 Simplification of Procedures: Following measures were adopted to simplify the procedural formalities:

- Simplification of application and redemption procedures under the EPCG scheme
- Slashing of license fee (manual applications) from Rs. 1,50,000 to Rs. 1,00,000
- Slashing of license fee (automatic applications) from Rs. 50,000 to Rs. 75,000
- Adoption of Electronic Data Interface (EDA) system to facilitate electronic message exchange between customers and the DGFT.
- Increase in the number of samples allowed to exporters for duty free import from 15 to 60.
- Sector Specific Measures
- Gems & Jewellery Sector

To neutralize duty incidence on gold Jewellery exports, Duty Drawback on such exports was allowed. Additionally, a new facility to allow import on consignment basis of cut & polished diamonds for the purpose of grading/

certification purposes was introduced. Also, to promote export of Gems & Jewellery products, the 13 value limits of personal carriage were increased from \$ 2 million to US\$ 5 million in case of participation in overseas exhibitions. The limit in case of personal carriage, as samples, for export promotion tours, was increased from US\$ 0.1 million to US\$ 1 million.

- **Agriculture Sector:** to reduce transaction and handling costs, a single window system to facilitate export of perishable agricultural produce was introduced.
- **Leather Sector:** As regards to the leather sector, the FTP allowed re-export of unsold imported raw hides and skins and semi-finished leather from public bonded ware houses, subject to payment of 50% of the applicable export duty
- **Tea:** Minimum value addition under advance authorization scheme for export of tea, under the FTP was reduced from the existing 100% to 50%. Additionally, DTA sale limit of instant tea by EOU units was increased from 30% to 50%.

5.4 Criticism

The Foreign Trade Policy of 2009-14 is however, not free from shortcomings. Apart from adding 26 countries under the FMS, the policy lacked an innovative approach altogether. SMEs account for a big share in the country's exports; they, however were not adequately provided financial and marketing assistance under the current scheme. The crises situation, post the global meltdown urged the need for a much higher financial and technical support to the exporters. The policy provided only minor tinkering and continuation.

6.7 FOREIGN TRADE POLICY (2015-2020)

The Government of India announced the new foreign trade policy, covering the period from 2015 to 2020, on April 1, 2015

6.7.1 Vision and Mission

The Vision of the Trade Policy is to make India a significant participant in the world trade by 2020. The mission and objectives include the ideology to make the country assume a position of leadership in the international trade. The Government of India aims to increase the exports of merchandise and services from \$465.9 billion in 2013-14 to approximately \$ 900 billion by 2019-20. Additionally, the policy aims to increase the country's share in the world exports from 2 per cent to 3.5 per cent.

6.3 Objectives

6.7.1.1 To provide a stable and sustainable policy environment for foreign trade.

6.7.1.2 To link the rules and procedures with other initiatives like 'Make in India', 'Digital India' and 'Skills India'.

6.7.1.3 To diversify India's exports.

6.7.1.4 To provide a mechanism for regular appraisal in order to rationalize imports.

6.7.1.5 To improve India's Balance of Payment position.

6.7.1.6 To create architecture for India's global trade engagement with a view to expand and integrate markets, thereby augmenting the 'Make in India' initiative.

6.7.2 Key Highlights

6.7.2.1 Merchandise Export from India Scheme: MEIS

The FTP has introduced Merchandise Exports from India (MEIS) scheme to promote specific services for specific Markets Foreign Trade Policy. MEIS shall subsume existing schemes, viz. Focus Product Scheme, Market Linked Focus Product Scheme, Focus Market Scheme, Agri. Infrastructure Incentive Scrip.

6.7.2.2 Service Export from India Scheme: SEIS

SEIS shall be available to "Service Providers located in India" as against the existing Served From India Scheme available to "Indian Service Providers"; and SEIS reward rates (3%/5%) specified for export of notified services and would be based on net foreign exchange earned.

6.7.2.3 Special Provisions applicable to MEIS and SEIS

The duty credit scrips and the goods imported against these scrips will now be freely transferable;

The duty credit scrips can be used for payment of Customs duty, Excise duty,

Service tax and fees for defaults relating to Advance Authorization; and

The benefit of MEIS and SEIS has been extended to units located in Special Economic Zones – This is a welcome step and is imperative to boost the SEZ sector.

6.7.3 Trade Facilitation and Ease of doing Business

6.7.3.1 Under online filing of documents/applications and paperless trades in 24×7 environment, few important proposals provided are:

6.7.3.2 Development of an online procedure to upload digitally signed documents by Chartered Accountant/Company Secretary/Cost Accountant;

6.7.3.3 Creation of importer/exporter profile to eliminate repeated submission of copies of permanent records/documents (e.g. IEC, Manufacturing License, RCMC, PAN etc.) with each application; and

6.7.3.4 Other Key Highlights

6.7.3.5 Export Obligation reduced from 90% to 75% for domestic procurement under EPCG scheme to boost the 'Make in India' initiative;

6.7.3.6 10% of the cases to be selected on random basis (per month) as a risk measurement initiative, where scrips have already been issued – This may lead to verification of original documents for detailed examination;

6.7.3.7 Directorate General of Foreign Trade (DGFT) to leverage information and have access to database of Central Board of Direct Taxes (for PAN)

6.7.3.8 A new chapter introduced on 'Quality Complaints and Trade Disputes'.

6.7.4 What needs to be done?

As per the new FTP, in order to achieve these objectives, the way forward measures require the following to be undertaken:

6.7.4.1 Deepen and widen India's export basket

6.7.4.2 Make efforts to reduce the cost of export credit

6.7.4.3 Reduce transaction costs

6.7.4.4 Incentivize potential winners

6.7.4.5 Mainstream states and ministries in India's export strategy

6.7.4.6 Rationalize tax incidence: introduce GST

6.7.4.7 Improve India's export competitiveness

6.7.4.8 Promote product standards, packaging and branding etc

6.7.4.9 Promote and diversify service exports

6.7.4.10 Improve infrastructure, for example ports, laboratories, facility centers etc

6.7.5 Omissions in the FTP

According to Rajiv Kumar (The Times of India, April 9, 2015), there are three major omissions in the FTP, 2015-20:

6.7.5.1 Lack of policy for ramping up foreign tourism in which the country already is a poor performer.

6.7.5.2 The MSME sector that produces 45 per cent of manufacturing output and 40 per cent of total export, receives only cursory treatments without any tangible steps to make it a part of the global value chain. The current FTP like the previous ones has lagged to adequately serve this sector.

6.7.5.3 The FTP has also left untouched the large panoply of export promotion and facilitation of institutions to augment the country's exports.

The objectives of the 2023 Foreign Trade Policy (FTP) are as under.

- **To integrate India with the global markets:** As India is on the path to becoming a developed nation by 2047, the policy lays down a blueprint to integrate India with the global markets and make it a reliable and trusted trade partner.
- **To build a future-ready India:** To build a future-ready India and to fulfil India's strategic vision of making India one of the top exporting nations in the 'Amrit Kaal'.
- **To create an enabling ecosystem:** The approach of this FTP is to gradually move away from an incentive-based regime and create an enabling ecosystem to support the philosophy of 'Atma Nirbhar Bharat' and 'Local goes Global'.
- **To collaborate with state governments:** To build and encourage export promotion at the district level.
- **To triple India's goods and services exports:** The new policy will replace the existing policy that had been in place since 2015. The new policy aims to almost triple India's goods and services exports to \$2 trillion by 2030, from an estimated \$760 billion in 2022-23.

Legal Framework for FTP in India

- **Legal Basis of Foreign Trade Policy:** The Foreign Trade Policy (FTP) 2023 is notified by the Central Government, in the exercise of powers conferred under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992.
- **Duration of FTP:** The Foreign Trade Policy (FTP) 2023 incorporating provisions relating to the export and import of goods and services, shall come into force with effect from 1st April 2023 and shall continue to be in operation unless otherwise specified or amended.
- **Amendment to FTP:** Central Government, in the exercise of powers conferred by Section 3 and Section 5 of FT (D&R) Act, 1992, as amended from time to time, reserves the right to make any amendment to the FTP, by means of notification, in the public interest.

Foreign Trade Policy 2023 Highlights

Trade Facilitation and Ease of Doing Business

- **National Committee on Trade Facilitation (NCTF):** India has ratified the World Trade Organization's Trade Facilitation Agreement (TFA) in April 2016. To facilitate coordination and implementation of the TFA provisions, an inter-ministerial body i.e. the National Committee on Trade Facilitation (NCTF) has been constituted.
- **DGFT as a facilitator of exports/imports:** DGFT has the commitment to function as a facilitator of exports and imports. The

focus is on good governance, which depends on efficient, transparent and accountable delivery systems.

- **Export of perishable agricultural products:** To reduce transaction and handling costs, a single window system to facilitate the export of perishable agricultural produce is being facilitated through the **Agricultural and Processed Food Products Export Development Authority (APEDA).**
- **Niryat Bandhu:** As a hand-holding scheme for new export/import entrepreneurs, DGFT is implementing the Niryat Bandhu Scheme for mentoring new and potential exporters on the intricacies of foreign trade.
- **Online facility for e-Certificate of Origin (e-CoO):** DGFT has created a common digital platform for the issue of Preferential and Non-Preferential Certificate of Origin (e-CoO) by designated agencies.

General Provisions regarding Imports and Exports

- **Authority to specify procedures: DGFT**
- **Importer-Exporter Code (IEC):** An IEC is a 10-character alphanumeric number allotted to an entity (firm/company/LLP, etc.) and is mandatory for undertaking any export/import activities.

Developing districts as export hubs

- The FTP aims at building partnerships with State governments and taking forward the Districts as Export Hubs (DEH) initiative to promote exports at the district level and accelerate the development of a grassroots trade ecosystem.

Duty Exemption/Remission Schemes

- **Duty Exemption Schemes.** The Duty Exemption schemes consist of the following: Advance Authorisation (AA) (which will include Advance Authorisation for Annual Requirement) & the Duty-Free Import Authorisation (DFIA).
- **Duty Remission Scheme.** Duty Drawback (DBK) Scheme, administered by the Department of Revenue.
- Scheme for Rebate on State and Central Taxes and Levies (RoSCTL), as notified by the Ministry of Textiles.
- Schemes for Remission of Duties and Taxes on Exported Products (RoDTEP), notified by the Department of Commerce and administered by the Department of Revenue.
- **Duty-Free Import Authorisation Scheme (DFIA):**
 - o Duty-Free Import Authorisation is issued to allow duty-free import of inputs. In addition, the import of oil and catalyst which is consumed/utilised in the process of production of export products may also be allowed.

- o Import of Tyres under the DFIA scheme is not allowed.

Export Promotion Capital Goods Scheme (EPCG)

- **Facilitation under the Export Promotion of Capital Goods (EPCG) Scheme:**

- o The EPCG Scheme, which allows the import of capital goods at zero customs duty for export production, is being further rationalised. Some key changes being added are:
 - ♣ The **PM MITRA scheme** has been added as an additional scheme eligible to claim benefits under the CSP (Common Service Provider) Scheme of the Export Promotion Capital Goods Scheme (EPCG).
 - ♣ Battery Electric Vehicles (BEV) of all types, Vertical Farming equipment, Wastewater Treatment and Recycling, Rainwater harvesting system and Rainwater Filters, and Green Hydrogen are added to Green Technology products

– will now be eligible for reduced Export Obligation requirement under EPCG Scheme.

- **Amnesty Scheme:**

- o Amnesty Scheme under the FTP 2023 to address default on Export Obligations.
- o This will provide relief to exporters who have been unable to meet their obligations under EPCG and Advance Authorizations, and who are burdened by high duty and interest costs associated with pending cases.

Export Oriented Units (EOUS), Electronics Hardware Technology Parks (EHTPS), Software Technology Parks (STPS) And Bio-Technology Parks (BTPS):

- Units undertaking to export their entire production of goods and services (except permissible sales in DTA), may be set up under the Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio- Technology Park (BTP) Scheme for manufacture of goods.
- The objectives of these schemes are to promote exports, enhance foreign exchange earnings, attract investment for export production and employment generation.
- **Facilitation under Advance Authorization Scheme:**
 - o Advance Authorisation Scheme accessed by DTA (Domestic tariff area) units provides duty-free import of raw materials for manufacturing export items and is placed at a similar footing to EOU and SEZ Scheme.

Quality Complaints and Trade Disputes

- Complaints/Disputes between two or more Indian entities are not covered under this mechanism. Similarly, complaints/disputes between two or more foreign entities are also not covered.
- **Mechanism for handling Complaints/Disputes:**
 - o **Committee on Quality Complaints and Trade Disputes (CQCTD):** It will be constituted in the Regional Authorities (RAs) of DGFT.
 - o **Composition of the CQCTD:** The CQCTD would be constituted under the Chairpersonship of the Head of Office.
 - o **Functions of CQCTD:** The Committee (CQCTD) will be responsible for enquiring and investigating all quality-related complaints and other trade-related complaints falling under the jurisdiction of the respective RAs.

Promoting Cross-border Trade in Digital Economy

- **Facilitating E-Commerce Exports:**
 - o FTP 2023 outlines the intent and roadmap for establishing e-commerce hubs and related elements such as payment reconciliation, bookkeeping, returns policy, and export entitlements.
 - o The consignment-wise cap on E-Commerce exports through courier has been raised from ₹5 Lakh to ₹10 Lakh in the FTP 2023.
 - o Dak Ghar Niryat Kendras shall be operationalised throughout the country to work in a hub-and-spoke model with Foreign Post Offices (FPOs) to facilitate cross-border e-Commerce and to enable artisans, weavers, craftsmen, MSMEs in the hinterland.
 - o Integration of Courier and Postal exports with ICEGATE will enable exporters to claim benefits under FTP.

SCOMET: Special Chemicals, Organisms, Materials, Equipment and Technologies:

- **Streamlining SCOMET Policy:**
 - o More emphasis on the "export control" regime for better integration with export control regime countries.
 - o A robust export control system in India would provide access to dual-use high-end goods and technologies to Indian exporters while facilitating exports of controlled items/technologies under SCOMET from India.

Other initiatives by the Government of India:

- The Government has undertaken several measures like opening new sectors for FDI, improving the business environment, removing

regulatory barriers, recognizing start-ups and introducing schemes like Production Linked Incentive Scheme to enhance production and productivity, attract investments and create jobs.

- As a result of its focused efforts, **India achieved its highest-ever exports of over USD 676 billion in 2021-22, well on the way to achieving USD 750 billion in 2022-23.**
- India has inked 13 Free Trade Agreements along with six limited-coverage Preferential Trade Agreements and is negotiating new trade agreements with the European Union, the UK, Canada and other countries on a fast-track basis.
- Over the next five years, the Government plans to focus on introducing path-breaking reforms to strengthen its relations with different countries, which will help in setting a robust foundation to achieve its strategic vision of becoming an export hub globally.

Impact of New Foreign Trade Policy 2023 on Export

- FTP 2023 has some provisions that will specifically help MSMEs.
 - o It has reduced the threshold of minimum exports required for the recognition of exporters as status holders.
 - o Now, many smaller exporters can achieve higher status and avail of benefits that will reduce transaction costs. User charges have also been reduced for MSMEs under the popular Advance Authorisation and EPCG schemes and all charges have been brought within ₹5,000. It will boost MSME exports.
- Initiatives such as districts as export hubs and the promotion of e-commerce exports have the potential of translating into more exports.
- The FTP has also tried to make life easier for exporters and traders, specifically MSMEs, in a number of ways. Measures have been announced **to improve the ease of doing business through a reduction in transaction costs and e-initiatives.**
- Since fiscal incentives are out of the reckoning because of WTO restrictions, FTP 2023 focuses on the continuation of duty remission schemes that are WTO compliant. That the FTP does not come with an end date is of great comfort to the industry.
- No uncertainty regarding the continuation of input duty remissions schemes.
- **RoDTEP and RoSCTL, and timely payments by the government, will help exporters do their business with more confidence.**
- Amnesty Scheme under the FTP 2023 will address default on Export Obligations and boost exports.

Conclusion:

- The \$2 trillion target for exports set for 2030 endorsed by FTP 2023 comprises \$1 trillion of goods exports and \$1 trillion of services exports.
- If the government stays vigilant and updates the FTP, responding to the needs of exporters, it could play an important role in helping meet the \$2 trillion export target.

6.9 SUMMARY

The EXIM Policy of the country contains several policy measures and related decisions taken by the government (central) in the sphere of imports and exports to/from the country. In addition, it also describes the various export promotion measures, policies and procedures related thereto. With regards to the foreign trade policies in India, the year 1985 witnessed the first joint export and import policy in India. Historically, the year, 1990-91 is considered as a 'watershed' for FTPs. FTPs thereafter became more liberal than the previous ones. The first 5-year trade policy was introduced in the year 1992, and subsequently in 1997. Off late, the focus of FTPs has shifted from 'import liberalization' to 'export promotion'. The recent focus is on strengthening the indigenous industries, for making the country's exports more competitive. The recent FTP (2015-20) aims to make India a significant participant in the world trade by striving to increase the export of goods and services from \$465.9 billion in 2013-14 to \$ 900 billion by 2019-2020.

The Minister of Commerce & Industry, Consumer Affairs & Food & Public Distribution and Textiles, Government of India has recently unveiled the new Foreign Trade Policy (FTP), 2023. In this article, you can read all the important features of the Foreign Trade Policy, 2023 and how it will impact the Indian economy.

