

Chapter 2: Valuation under Customs

SYNOPSIS

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Learning Objectives

- Methods of valuation
- Manner of 'Valuation for Export Goods'
- Manner of valuation for Imported Goods

2.1 Introduction

Once the duty liability arises, such duty can be calculated only on the assessable value. As per section 2(41) of the Customs Act, 1962 the term value means in relation to any goods as the value thereof determined in accordance with the provisions of sections 14(1) and sections 14(2) of the Customs Act, 1962. There are basically specific duties based on the quantity of the goods like ₹5,000 per Kg of Steel or Ad valorem rate of duty expressed as percentage of the value of the goods say 20% *ad valorem*. However, Government of India will lose its revenue if it follows specific rate of duty due to continuous upward trend in the price of goods.

As per the World Trade Organization (WTO), Transaction Value (i.e. ad valorem) is the base and our Customs Valuation Rules were prepared based on these lines. The Central Board of Indirect Taxes and Customs (CBE&C) empowers to fix tariff values of imported goods or export goods by issuing notifications under section 14(2).

2.2 Transaction Value

As per section 14(1) of the Customs Act, 1962 valuation based on transaction value is applicable for export as well as imported goods

Transaction Value means:

- Price at which such or like goods are ordinarily sold or offered for sale
- for delivery at the time and place of importation
- in the course of international Trade
- When Seller and buyer have no interest in the business of each other and
- Price is the sole consideration for sale
- At rate of exchange as on the date of presentation of Bill of Entry as fixed by the CBIC.

The conditions laid down above are common to imports as well as exports. Export goods are to be valued as per section 14(1) of the Customs Act, 1962. If any one of the above conditions are not satisfied valuation for export goods should be done based on the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

However, in case of imported goods, assessable value is to be determined in accordance with the Customs (Determination of Price of Imported Goods) Rules, 2007. Basically, there is no conflict between section and rules because main focus is on transaction value which is arrived at based on the valuation rules either in case of export or import.

2.3 Valuation for Export Goods

Valuation is essential for export goods even though many products are exempted from export duty under the Customs Law.

Importance of valuation of export goods:

- Duty Drawback
- Export incentives like DEPB License
- Refund of CENVAT credit, if any.
- Payment of duty on export, if any.

The Customs Valuation (Determination of Value of Export Goods) Rules, 2007 is applicable only if the aforesaid conditions are not satisfied:

- Rule 1:** (i) These rules may be called the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
(ii) They shall come into force on the 10th day of October 2007.
(iii) They shall apply to export goods.

Rule 2: Definitions

Some important definitions are:

- (a) “goods of like kind and quality” means export goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued, produced by the same person or a different person; and
(b) “transaction value” means the value of export goods within the meaning of sub-section (1) of section 14 of the Customs Act, 1962.

Rule 3: Determination of the method of valuation

1. Subject to rule 8, the value of export goods shall be the transaction value.
2. The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.
3. If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6.

Rule 4: Determination of export value by comparison

- (1) The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).
- (2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including—
 - difference in the dates of exportation,
 - difference in commercial levels and quantity levels,
 - difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,
 - difference in domestic freight and insurance charges depending on the place of exportation

Rule 5: Computed value method

If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following:—

- cost of production, manufacture or processing of export goods;
- charges, if any, for the design or brand;
- An amount towards profit.

Rule 6: Residual method

Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods.

Rule 7: Declaration by the exporter

The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf.

Rule 8: Rejection of declared value

- (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents

or other evidence and if, after receiving such further information, or in the absence of a response from such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.

- (2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the exported goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Presently the following goods are subject to export duty:

Commodity	Rate of Duty
Luggage leather	25%
Hides, Skins and leather	15%
Snake skins and lamb skins	10%
Steel product [w.e.f. 10-5-2008]	15%
Iron ores	₹300 per metric tonne
Chromium ores	₹2,000 per metric tonne

Refund of Export duty:

Refund of export duty is permissible in the following circumstances subject to satisfaction of certain conditions

- Goods are reimported within one year from the date of export
- These goods are not for resale
- Refund claim is lodged within six months from the date of clearance by Customs Officer for re-importation

2.4 Valuation of Imported Goods

The Customs Valuation (Determination of Value of Imported Goods) Amendment Rules, 2017 [Notification No. 91/2017-CUSTOMS (N.T.), dated 26th September, 2017]

Rule 1: Customs Valuation (Determination of Value of Imported Goods) Rules, 2007

Rule 2: Various terms defined like Relative, Transaction Value, Computed Value, Deductive Value, Similar Goods, and Identical Goods etc.,

Rule 2(da): “**place of importation**” means the customs station, where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse;”

Example:

M/s. IES Ltd. (assessee) imported certain goods at US \$ 20 per unit from an exporter who was holding 30% equity in the share capital of the importer company. Subsequently, the assessee entered into an agreement with the same exporter to import the said goods in bulk at US \$ 14 per unit. When imports at the reduced price were effected pursuant to this agreement, the Department rejected the transaction values taking that the price was influenced by the relationship and completed the assessment on the basis of transaction value of the earlier imports i.e. at US \$ 20 per unit under rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, viz., transaction value of identical goods. State briefly, whether the Department's action is sustainable in law, with reference to decided cases, if any. [CA Final Nov., 08 New]

Answer:

Persons shall be deemed to be “related” if one of them directly or indirectly controls the other. The word “control” has now here been defined under the said rules. As per the common parlance, the control is established when one enterprise holds at least 51% of the equity shareholding of the other company. However, in the instant case, the exporter company held only 30% of shareholding of the assessee. Thus, Exporter Company did not exercise a control over the assessee. So, the two parties cannot be said to be related.

The fact that assessee had made bulk imports could be a reason for reduction of import price. The burden to prove under-valuation lies on the Revenue and in absence of any evidence from the Department to prove under-valuation, the price declared by the assessee is acceptable. Therefore, the Departmental action is not sustainable in law.

Rule 3: Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10.

Transaction Value of import goods under section 14(1) of the Customs Act and Rule 3(1) of the Imported Goods Rules:

This method is applicable only when importer satisfies the following conditions:

- There are no restrictions as to the disposition or use of the goods by the buyer,

- The sale or price is not subject to some conditions or considerations for which a value cannot be determined in respect of the goods being valued,
- 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, unless an appropriate adjustment can be made in accordance with the provisions of **rule 10** of these rules, and
- The buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of rule 3(3).

CASE LAW:**Commissioner of Cus., Vishakhapatnam v Aggarwal Industries Ltd. 2011 ELT 641 (SC):**

Statement of Facts: The importer entered into contract for supply of crude sunflower seed oil U.S. \$ 435 C.I.F./Metric ton. Under the contract, the consignment was to be shipped in the month of July 2011. The period was extended by mutual agreement and goods were shipped on 5th August 2011 at old agreed prices.

In the meanwhile, the international prices had gone up due to volatility in market, and other imports during August 2011 were at higher prices.

Department sought to increase the assessable value on the basis of the higher prices as contemporaneous imports.

Decide whether the contention of the department is correct. You may refer to decided case law, if any, for your decision. (CA Final May 2013)

Decision: No. Department view is not correct. It is true that the commodity involved had volatile fluctuations in its price in the international market, but having delayed the shipment; the supplier did not increase the price of the commodity even after the increase in its price in the international market. There was no allegation of the supplier and importer being in collusion.

Thus, the appeal was allowed in the favour of the respondent- assessee.

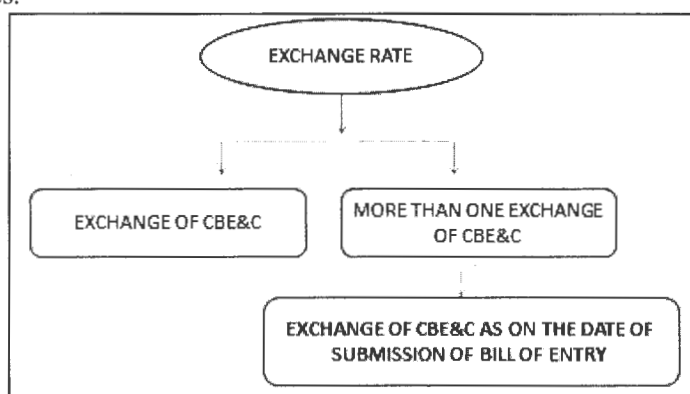
Assessable Value of Imported Goods = (Free on Board (FOB) + Insurance + Freight)

Statement Showing Computation of Assessable value for Imported Goods

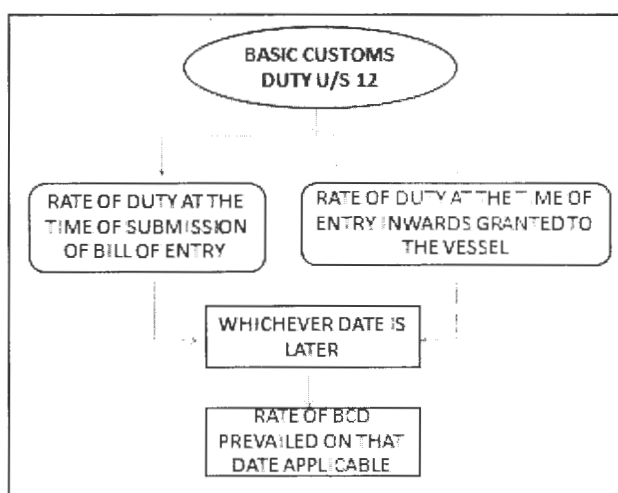
	₹
Value of Material (at ex-factory price)	= XXXX
Carriage/freight/insurance upto the port (sea/air) of shipment in the exporter's country	= XXXX
Charges for loading on to the ship at the shipping port in the exporter's country	= XXXX
Free on Board (FOB)	= XXXX
FOB	= XXXX
Add: If not included in the above [Rule 10(1)]	
Commission and brokerage (except buying commissions)	= XXXX
Packing cost (except cost of durable and returnable packing)	= XXXX
Cost of engineering, development and plan or sketches (Undertaken outside India)	= XXXX
Royalties and license fee	= XXXX
Value of subsequent re-sale if payable to foreign supplier	= XXXX
Value of material supplied by the buyer free of cost	= XXXX
FOB value as per the Customs	= XXXX
Cost of freight if not specified @ 20% of FOB value as per Customs [Rule 10(2)]	= XXXX
Ship demurrage charges on chartered vessels, lighterage or barge charges [Rule 10(2)]	= XXXX
Insurance if not specified @1.125% of FOB value as per Customs [Rule 10(2)]	= XXXX
Cost, Insurance and Freight (CIF) [i.e. ASSESSABLE VALUE]	= XXXX

- Note:** (1) The term "buying commissions" means fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.
- (2) Any expenditure like right to reproduce the imported goods in India shall not be added. However, if importer imports software and pays license fee with permission to use its copies at various branches, making additional copies for its own use at various branches does not amount to reproduction. Right to use countrywide is not right to reproduce. Therefore, the whole license fee is includible in assessable value [*State Bank of India v Commissioner of Customs* (2000) (SC)].

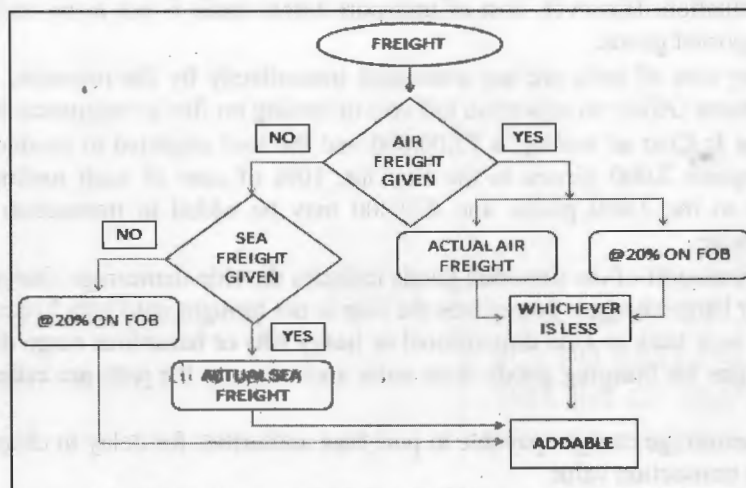
- (3) Cost of actual air freight exceeds @ 20% of FOB, only @ 20% of FOB price will be added for Customs Valuation. However, cost of transport within India is not to be included in the Assessable Value of imported goods.
- (4) Apportioning cost of tools are not consumed immediately by the importer, in such a case he may request Customs Officer to apportion full cost of tooling on first consignment itself.
- **Example 1:** Cost of tooling is ₹2,00,000 and the tool expected to produce 20,000 pieces. If the importer imports 2,000 pieces in the first lot, 10% of cost of such tooling i.e. ₹20,000 may be apportioned to the 2,000 pieces and ₹20,000 may be added to transaction value for ascertaining assessable value.
- (5) The cost of transport of the imported goods includes the ship demurrage charges on chartered vessels, lighterage or barge charges. Sometimes the ship is not brought upto jetty because deep draught at port or ports are very busy or Odd dimensional or heavy lifts or hazardous cargo discharged at anchorage. Hence, charges for bringing goods from outer anchorage to the jetty are called as barging/lighterage charges.
- (6) However, demurrage charges payable to port trust authorities for delay in clearing goods are not to be added in the transaction value.
- (7) **Free on Board (FOB):** FOB means 'Term of sale' under which the price invoiced or quoted by a seller includes all charges up to placing the goodson board a ship at the port of departure specified by the buyer.
- (8) **Exchange Rate:** we should consider the exchange rate of CBE&C for finding assessable value in Indian Rupees.



- (9) Rate of determination of Basic Customs Duty:



- (10) Freight from the exporter country to importer port or airport addable into assessable value.

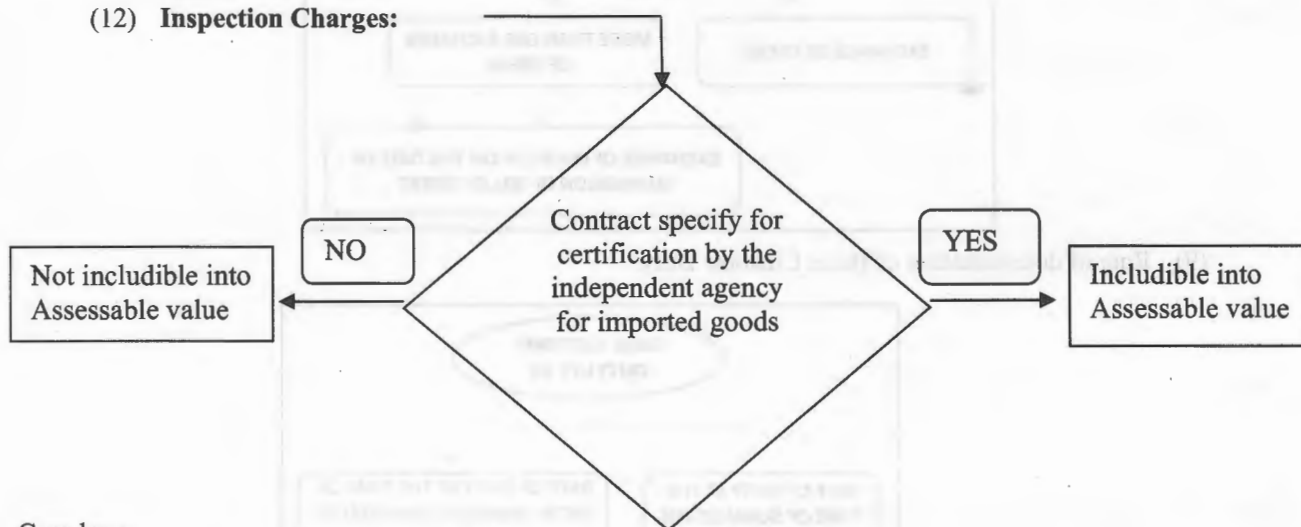


- (11) **Service charges paid to canalizing agent:** It is includible in the assessable value of imported goods.

Canalizing agent: Since the canalizing agent is not the agent of the importer nor does he represent the importer abroad, purchases by canalizing agency from foreign seller and subsequent sale by it to Indian importer are independent of each other.

The importer may either place the order directly or through the agent. In case of canalized items, he obtains the imports through the canalizing agency. Canalisation means channelization of goods through a government agency like Metals and Minerals Trading Corporation of India (MMTC). The importer cannot directly import such canalized items. They have to place an order with the canalizing agency who shall import and supply the same.

- (12) **Inspection Charges:**



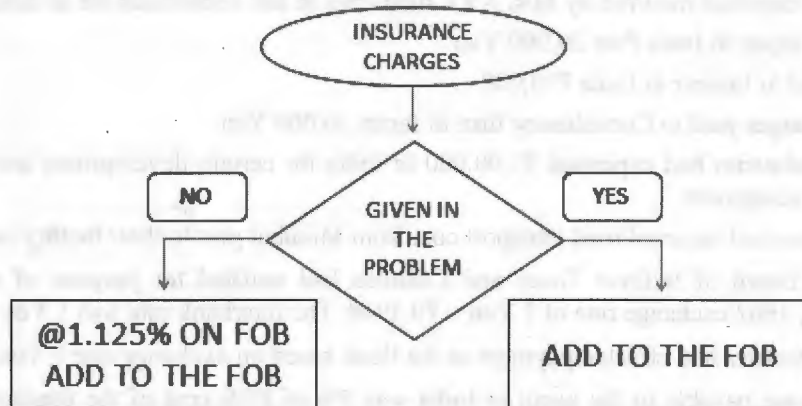
Case law:

Commissioner of Central Excise, Mangalore v Mangalore Refinery & Petrochemicals Ltd. (2016) 66 taxmann.com 108 (SC)

Revenue contended that demurrage charges paid by the assessee are includible in the assessable value for the levy of custom duty.

Decision: Demurrage charges are incurred after the goods reached at Indian Ports, thus it is a post-importation event; relying on the case of *Commissioner of Customs v Essar Steel Ltd. (2015) 51 GST 181/58 taxmann.com 191*, the Apex Court has held that Demurrage charges are not includible in assessable value of imported goods.

13. Insurance charges



Demurrage charges:

Case law:

Commissioner of Central Excise, Mangalore v Mangalore Refinery & Petrochemicals Ltd. (2016) 66 taxmann.com 108 (SC)

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Example 1: From the particulars given below, find out the assessable value of the imported goods under the Customs Act, 1962.

	US \$
(i) Cost of the machine at the factory of the exporting country	10,000
(ii) Transport charges incurred by the exporter from his factory to the port for shipment.	500
(iii) Handling charges paid for loading the machine in the ship	50
(iv) Buying commission paid by the importer	50
(v) Freight charges from exporting country to India	1,000
(vi) Exchange Rate to be considered 1\$ = ₹65	(CA Final Nov 2010 Old Syl.)

Answer: Statement showing assessable value for imported goods:

S.No.	Particulars	Value US \$	Workings
(i)	Cost of the machine at the factory of the exporting country	10,000	
(ii)	Transport charges incurred by the exporter from his factory to the port for shipment	500	
(iii)	Handling charges paid for loading the machine in the ship	50	
	FOB Value of Exporter	10,550	
(iv)	Buying commission paid by the importer	-	Not addable into the assessable value
(v)	Cost of insurance	118.6875	@1.125% on FOB value
(vi)	Freight charges from exporting country to India	1,000	
(vi)	CIF Value	11,668.6875	
(viii)	Assessable value (in INR)	₹7,58,465	₹65 x US \$ 11,668.6875

Example 2: XYZ Industries Ltd., has imported certain equipment from Japan at an FOB cost of 2,00,000 Yen (Japanese). The other expenses incurred by M/s. XYZ Industries in this connection are as follows:

- (i) Freight from Japan to India Port 20,000 Yen
- (ii) Insurance paid to Insurer in India ₹10,000
- (iii) Designing charges paid to Consultancy firm in Japan 30,000 Yen
- (iv) M/s. XYZ Industries had expended ₹1,00,000 in India for certain development activities with respect to the imported equipment
- (v) XYZ Industries had incurred road transport cost from Mumbai port to their factory in Karnataka ₹30,000
- (vi) The Central Board of Indirect Taxes and Customs had notified for purpose of section 14(3)* of the Customs Act, 1962 exchange rate of 1 Yen = ₹0.3948. The interbank rate was 1 Yen = ₹0.40
- (viii) M/s XYZ Industries had effected payment to the Bank based on exchange rate 1 Yen = ₹0.4150
- (viii) The commission payable to the agent in India was 5% of FOB cost of the equipment in Indian Rupees. Arrive at the assessable value for purposes of customs duty under the Customs Act, 1962 providing brief notes wherever required with appropriate assumptions. (CA Final May 2008)

Answer:

Statement showing computation of Assessable Value for the imported goods

Particulars	Amount in Yen	Remarks	Working note
Free on Board (FOB)	2,00,000		
Designing charges	30,000	Addable into the assessable value	
Development charges	—	Not addable into the assessable value, because these are post shipment expenses	
Road transport charges	—	Not addable into the assessable value, because these are post shipment expenses	
Commission	10,000	Addable into the assessable value	2,00,000 x 5% = 10,000
FOB value of the Customs	2,40,000		
	Amount in Rupees		
Total	94,752	Exchange rate of the Central Board of Indirect Taxes and Customs (CBI&C) is relevant	2,40,000 Yen x 0.3948
Insurance	10,000	Addable into the assessable value	
Freight	7,896	Addable into the assessable value	20,000 x 0.3948
Assessable Value (i.e. C I F value)	1,12,648		

Example 3: BSA & Company Ltd have imported a machine from U.K. From the following particulars furnished by them, arrive at the assessable value for the purpose of customs duty payable:

- (i) F.O.B. cost of the machine 10,000 U.K. Pounds
- (ii) Freight (air) 3,000 U.K. Pounds
- (iii) Engineering and design charges paid to a firm in U.K. 500 U.K. Pounds
- (iv) License fee relating to imported goods payable by the buyer as a condition of sale 20% of F.O.B. Cost
- (v) Materials and components supplied by the buyer free of cost valued ₹20,000
- (vi) Insurance paid to the insurer in India ₹6,000
- (vii) Buying commission paid by the buyer to his agent in U.K. 100 U.K. Pounds

Other Particulars:

- (i) Inter-bank exchange rate as arrived by the authorized dealer: ₹72.50 per U.K. Pound.
 - (ii) CBIC had notified for purpose of Section 14 of the Customs Act, 1962, exchange rate of ₹70.25 per U.K. Pound.
 - (iii) Importer paid ₹5,000 towards demurrage charges for delay in clearing the machine from the Airport.
- (Make suitable assumptions wherever required and show workings with explanations)

Answer:

	UK Ponds
FOB value	= 10,000
Add: Engineering and Design charges (paid in UK)	= 500
Add: License fee (20% on 10,000 UKP)	= 2,000
Sub-total	= 12,500
	Value in ₹
Sub-total (12,500 UKP x ₹70.25)	= 8,78,125
Add: Material supplied by the buyer freely	= 20,000
FOB value as per customs	= 8,98,125
Add: Air freight (8,98,125 x 20%)	= 1,79,625
Or 3,000 USD x ₹70.25 = ₹2,10,750 whichever is less	
Add: Insurance	= 6,000
Assessable value (i.e. CIF value)	= 10,83,750

Rule 4: Transaction value of Identical Goods

Identical goods means that the goods must be same in all respects, including physical quantity

This method is applicable only when following conditions are satisfied:

- Identical goods can be compared with the other goods of the same country from which import takes place.
- These goods must be valued at a price which is produced by the same manufacturer.
- If price is not available, then the price of other manufacturers of the same country is to be taken into account.
- If more than one value of identical goods is available, lowest of such value should be taken.

A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities.

Example 2:

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

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

The rate of exchange on the relevant date was 1 US \$ = ₹63.00 and the rate of basic customs duty was 15% ad valorem. There is no IGST. Calculate the amount of duty leviable on the consignment under the Customs Act, 1962 with appropriate assumptions and explanations where required. [CA Final Nov 08 New Syl.]

Answer:

Calculation of amount of duty payable:—

exchange rate of \$ 1 = ₹63

CIF Value (800 metric x 160 USD x ₹63) (i.e. Assessable Value) = ₹80,64,000

15% Basic Customs duty on ₹80,64,000 = ₹12,09,600

Add: SWS 10% 12,09,600 = ₹1,20,960

Total custom duty payable = ₹13,30,560

Notes: more than one transaction value for identical goods are given, we are supposed to take the lowest price of the quantity which is nearest to the quantity of import.

► **Example 2:** If the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognised that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to be made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a value under the provisions of rule 4 is not appropriate.

CASE LAW:

Gira Enterprises v CCus. 2014 (307) ELT 209 (SC)

Can the value of imported goods be increased if Department fails to provide to the importer, evidence of import of identical goods at higher prices?

Facts of the Case: The appellant imported some goods from China. On the basis of certain information obtained through a computer printout from the Customs House, Department alleged that during the period in question, large number of such goods were imported at a much higher price than the price declared by the appellant. Therefore, Department valued such goods on the basis of transaction value of identical goods as per rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and demanded the differential duty along with penalty and interest from the appellant. However, Department did not provide these printouts to the appellant.

Decision: The Supreme Court held that mere existence of alleged computer printout was not proof of existence of comparable imports. Even if assumed that such printout did exist, and content thereof were true, such printout must have been supplied to the appellant and it should have been given reasonable opportunity to establish that the import transactions were not comparable.

Thus, in the given case, the value of imported goods could not be enhanced on the basis of value of identical goods as Department was not able to provide evidence of import of identical goods at higher prices.

Rule 5: Transaction value of Similar Goods

"Similar goods" includes—

- Which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trademark;
- Produced in the country in which the goods being valued were produced; and
- Produced by the same person who produced the goods being valued, or where no such goods are available, goods produced by a different person, but shall not include imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India were completed directly or indirectly by the buyer on these imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of these imported goods;

Difference between identical and Similar Goods

Identical goods	Similar goods
Goods must be same in all respects, except for minor differences in appearance	Goods have like characteristics and components and perform same functions
<i>Example:</i> Hero Honda Two-Wheeler Products namely Splendor and Passion	<i>Example:</i> Hero Honda Splendor and Bajaj scooter.

Rule 6: Determination of value

If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8.

Rule 7: Deductive Value

Based on the request of the importer if the Customs Officer approves, either deductive method or computed value method as the case may be can be adopted.

In case of deductive method, the valuation is as follows:

- Assessable is calculated by reducing the post-importation costs and expenses from this selling price.
 - **Example 1:** Selling price minus selling commission, transportation, insurance associated costs within India and duties and taxes paid in India.
- This method may be used when goods are extracted on High Seas (e.g. minerals, crude oil etc.) and brought into India for sale. It will be import and dutiable.

► **Example 2:** Valuation where various quantities are sold at various prices.

(a) Sales

Sale quantity	Unit price
40 units	100
30 units	90
15 units	100
50 units	95
Sale quantity	Unit price
25 units	105
35 units	90
5 units	100

(b) Totals

Total quantity Sold	Unit price
65	90
50	95
60	100
25	105

In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is ₹90.

Example 3: X Ltd. imported 500 units of minerals from High Seas for sale in India. Selling price exclusive of duties and taxes. Freight from port to depot in India is ₹10,150 and Insurance ₹1,250.

Sale quantity	Unit price₹
400 units	100
300 units	90
150 units	100
500 units	95
250 units	105
350 units	90
50 units	100

Basic Customs Duty 12% and SWS as applicable. Calculate total customs duty as per Rule 7 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Assume there is no IGST applicable for the product.

Answer:

Total quantity Sold	Unit price
650	90
500	95
600	100
250	105

The greatest number of units sold at a particular price is 650 units;

Therefore, the unit price in the greatest aggregate quantity is ₹90.

Selling Price	= 45,000 (i.e. 500 units x ₹90)
Less: Freight (post shipment)	= (10,150)
Less: Insurance (post shipment)	= (1,250)
Assessable Value	= 33,600

Total Customs Duty = ₹4,435 (i.e. 33,600 x 13.20%)

Example 2: A Ltd., sell in India from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	Unit price in ₹ (Exclusive of duties and taxes)	Number of sales
1-10 units	100	10 sales of 5 units 5 sales of 3 units
11-25 units	95	5 sales of 11 units
Over 25 units	90	1 sale of 30 units 1 sale of 50 units

The selling price includes the following post shipment expenses:

Freight from port to factory in India for ₹24,000

Insurance to cover transit damage from port to factory in India for ₹6,000

Number of units imported from high seas 5,000 units. Find the assessable value and total customs duty.

Note: BCD @12%.

Answer:

Sale quantity	Unit price in ₹ (exclusive of duties and taxes)	Total quantity sold at each price
1-10 units	100	65
11-25 units	95	55
Over 25 units	90	80

The greatest number of units sold 80, therefore, the unit price in the greatest aggregate quantity is ₹90.

Sale value	= 4,50,000 (i.e. ₹90 x 5,000 units)
Less: Freight & insurance	= 30,000
Assessable value	= 4,20,000

Total customs duty = ₹55,440 (₹4,20,000 x 13.20%)

Rule 8: Computed Value

The value of imported goods shall be based on a computed value, which shall consist of the sum of:—

- The cost or value of materials and fabrication or other processing employed in producing the imported goods;
- an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;
- The cost or value of all other expenses under sub-rule (2) of rule 10.

This method is normally possible when the importer in India and foreign exporter are closely associated and the foreign exporter is willing to give necessary costing.	Cost of Materials and General expenses for producing the imported goods	=	₹ xxx
	Add: profit of the exporter	=	xxx
	Add: all expenditure as per Rule 10	=	xxx
	Assessable Value	=	xxx
			—

Rule 9: Residual method

Residual method is also called as Best Judgment Method. This method is applicable when all aforesaid methods are not applicable. The value determined under this method cannot exceed normal price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in course of International Trade, when seller or the buyer are non-relatives and the price is sole consideration for such sale.

While determining Assessable Value, we should not consider the following

- The selling price in India of the goods produced in India;
- A system which provides for the acceptance for customs purposes of the highest of the two alternative values;
- The price of the goods on the domestic market of the country of exportation;
- The cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;
- The price of the goods for the export to a country other than India;
- Minimum customs values; or
- Arbitrary or fictitious values.

Rule 10: Cost of Services:

The following shall be added to the invoice price (i.e. FOB value) to determine the transaction value for imported goods:

Rule 10(1):	Value in Rupees
Commission and brokerage (except buying commissions)	= XXXX
Packing cost (except cost of durable and returnable packing)	= XXXX
Cost of engineering, development and plan or sketches (Undertaken outside India)	= XXXX
Royalties and license fee	= XXXX
Value of subsequent re-sale if payable to foreign supplier	= XXXX
Rule 10(2)	
Cost of freight and insurance up to place of importation	= XXXX
Cost of freight if not specified @ 20% of FOB	= XXXX
Insurance if not specified @ 1.125% of FOB	= XXXX
Ship demurrage charges on chartered vessels, lighterage or barge charges	= XXXX
	<hr/> = XXXX

The following shall not be added to the invoice price (i.e. FOB value) to determine the transaction value for imported goods:

	Value in Rupees
Duties and taxes in India	= XXX
Cost of erection charges in India	= XXX
Cost of transport and insurance from port to factory of importer in India	= XXX
Cost of development charges in connection with imported machinery	= XXX
Port demurrage charges and unloading charges in India	= XXX
Any other charges incurred after importation (i.e. Post shipment charges, unless such post shipment charges are pre-condition for importation)	= XXX

Important points for imported goods:

The Customs Valuation (Determination of Value of Imported Goods) Amendment Rules, 2017
[Notification No. 91/2017-Customs (NT), dated 26th September, 2017]

Rule 10(2): For the purposes of sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962) and these rules, the value of the imported goods shall be the value of such goods, and shall include—

- Clause (a) the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation;

Clause (b) the cost of insurance to the place of importation:

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:

Provided further 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 (b) is ascertainable, the cost referred to in clause (a) shall be 20% of such sum:

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:

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:

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:

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.

Explanation.—The cost of transport of the imported goods referred to in clause (a) includes the ship demurrage charges on chartered vessels, lighterage or barge charges.”

Example 1: Determine the assessable value of imported goods in the following cases:

Case I:

Particulars	US \$
FOB value	1,000
Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known
Insurance charges	10

Answer:

Particulars	US \$	Working note
FOB value	1,000	
Add: Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	200	1,000 x 20% (As per 1st Proviso to Rule 10(2) of the Customs Valuation Rules for imported goods.
Add: Insurance charges	10	
Assessable value (i.e. CIF value)	1,210	

Case II:

Particulars	US \$
FOB Value plus insurance charges	1,010
Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known

Answer:

Particulars	US \$	Working note
FOB value plus insurance charges	1,010	
Add: Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	202	1,010 × 20% (As per 2nd Proviso to Rule 10(2) of the Customs Valuation Rules for imported goods.
Assessable value (i.e. CIF value)	1,212	

Case III:

Particulars	US \$
FOB value	1,000
Sea freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	60
Insurance charges	Not known

Answer:

Particulars	US \$	Working note
FOB value	1,000	
Add: Sea freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	60	
Add: Insurance charges	11.25	1,000 x 1.125% (As per 3rd Proviso to Rule 10(2) of the Customs Valuation Rules for imported goods.
Assessable value (i.e. CIF value)	1,071.25	

Case IV:

Particulars	US \$
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060
Insurance charges	Not known

Answer:

Particulars	US \$	Working note
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060	
Add: Insurance charges	11.925	1,060 x 1.125% (As per 4th Proviso to Rule 10(2) of the Customs Valuation Rules for imported goods.
Assessable value (i.e. CIF value)	1,071.925	

Case V:

Particulars	US \$
FOB value	1,000
Air freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	250
Insurance charges	10

Answer:

Particulars	US \$	Working note
FOB value	1,000	
Add: Air freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation Note: Restricted to 20% of the FOB value.	200	1,000 x 20% (As per 5th Proviso to Rule 10(2) of the Customs Valuation Rules for imported goods.
Insurance charges	10	
Assessable value (i.e. CIF value)	1,210	

Rule 11: Declaration by the Importer:

As per this rule, the importer shall declare value and furnish all documents or information called for by the proper officer for the purposes of valuation. Wrong declaration of value under Rule 10 may call for penal provisions in Customs Act, 1962

Rule 12: Rejection of Declared Value:

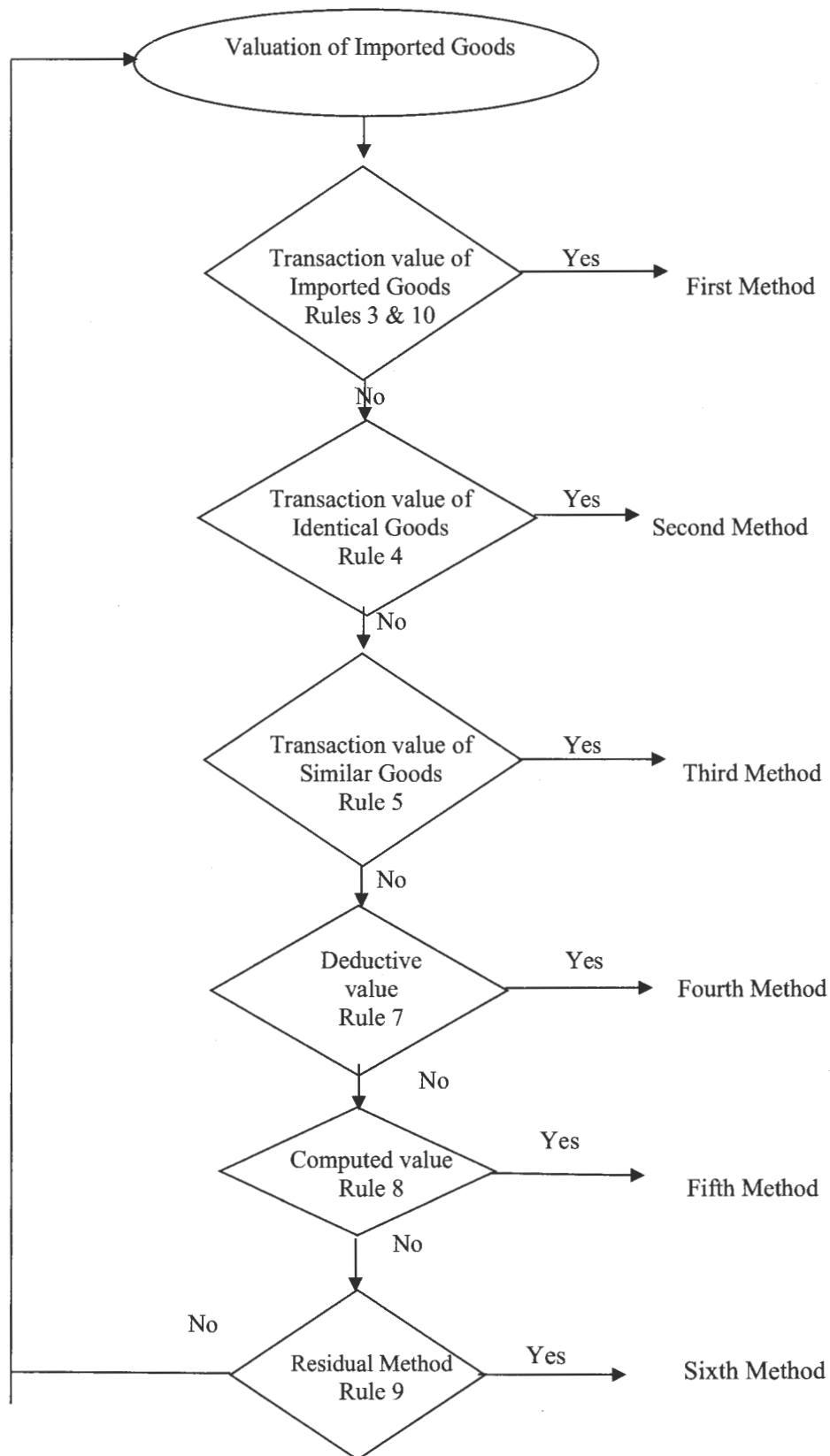
If the proper officer feels that the declaration made under Rule 11 are not fair values, he may reject it as not suitable in the determination of Transaction value under Rule 3, after procuring further information or documents. However, final decision under Rule 12 shall be taken after proper hearing only.

Rule 13: Interpretative Notes:

These notes specified in the schedule to these rules are meant to render help in the interpretation of these rules. These interpretative notes are explained already in the aforesaid rules.

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The following methods can be applied in sequential order for imported goods



New Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 notified**1. Introduction:**

Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, are meant for importers who are desirous of availing the benefit of an exemption notification issued under sub-section (1) of section 25 of the Customs Act, 1962. The benefit of such exemption hinges on the utilization of imported goods covered in the notification for the manufacture of any commodity or provision of output service [Rule 2(1)]. These rules shall apply only in respect of such exemption notifications which provide for the observance of these rules [Rule 2(2)].

The Ministry of Finance on 1st February 2022 published the Customs (Import of Goods at Concessional Rate of Duty) Amendment Rules, 2022 to make certain amendments to existing Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. These changes come into effect from 1st March 2022. The new process aims at removing manual intervention and simplifying the procedure with focus on automation and faceless procedure to avail the benefit of concessional rate of duty. The amendments are aimed at simplifying the procedures with a focus on automation and making the entire process contactless. These provisions also incorporated under this module.

2. Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 notified w.e.f. 01.07.2017 Rule 1 [Notification No. 68/2017-Cus.(NT), dated 30.06.2017] read with Notification No. 07/2022-Customs (N.T.), dated 1st February 2022 w.e.f. 1-3-2022:

Definitions:

Rule 3(a): "Act" means the Customs Act, 1962;

Rule 3(aa): Capital goods: means goods, the value of which is capitalised in the books of account of the importer.

Rule 3(ab) 'common portal' means the common customs electronic portal as referred to in section 154C of the Act;

Rule 3(ac) 'customs automated system' means the Indian Customs Electronic Data Interchange System;

Rule 3(ad) 'date of import' means the date of the order made under section 47 of the Act permitting clearance of such goods;

Rule 3(b) "exemption notification" means a notification issued under sub-section (1) of section 25 of the Act;

Rule 3(c) "information" means the information provided by the manufacturer who intends to avail the benefit of an exemption notification;

Rule 3(ca): Job work: means any treatment, process or manufacture, consistent with the exemption notification undertaken by a person on goods belonging to the importer except gold, jewellery and articles thereof, and other precious metals or stones; and the term "job worker" shall be construed accordingly.

Rule 3(d) "Jurisdictional Custom Officer" means an officer of Customs of a rank equivalent to the rank of Superintendent or an Appraiser exercising jurisdiction over the premises where either the imported goods shall be put to use for manufacture or for rendering output services;

Rule 3(e) "Manufacture" means the processing of raw materials or inputs by the importer in any manner that results in emergence of a new product having a distinct nature or character or use or name; and the term "manufacturer" shall be construed accordingly.

Rule 3(f) "Output service" means supply of service excluding after-sales service, utilizing imported goods.

Rule 4: Importer to give prior information.—

(1) The importer shall provide one-time information on the common portal in Form IGCR-1 (Import of Goods at Concessional Rate of Duty) containing the following particulars, namely:—

- (i) the name and address of the importer and his job worker, if any;
- (ii) the goods produced or process undertaken at the manufacturing facility of the importer or his job worker, if any, or both;
- (iii) the nature and description of goods imported used in the manufacture of goods at the premises of the importer or the job worker, if any;
- (iv) particulars of the exemption notification applicable on such import;
- (v) nature of output service rendered utilising the goods imported; and
- (vi) the intended port(s) of import

(2) On acceptance of the above information, an Import of Goods at Concessional Rate Identification Number (IIN) shall be generated against such information furnished: Provided that such information may be updated on the common portal in case of a change in the details furnished in such Form.

(3) The importer who intends to avail the benefit of an exemption notification shall submit a continuity bond with such surety or security as deemed appropriate by the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, having jurisdiction over the premises where the goods imported shall be put to use for manufacture of goods or for rendering output service, with an undertaking to pay the amount

equal to the difference between the duty leviable on inputs but for the exemption and that already paid, if any, at the time of import, along with interest, at the rate fixed by notification issued under section 28AA of the Act, for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay.”

Rule 5: Procedure to be followed:

- (1) The importer who intends to avail the benefit of an exemption notification shall mention the IIN as indicated in sub-rule (2) of rule 4 and continuity bond number and details while filing the Bill of Entry.
- (2) Accordingly, the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, at the Custom Station of importation, shall allow the benefit of the exemption notification to the importer.
- (3) Once a Bill of Entry is cleared for home consumption, the bond submitted by the importer gets debited automatically in the customs automated system and the details shall be made available electronically to the Jurisdictional Custom Officer.

Rule 6: Importer to maintain records.—

(1) The importer shall maintain an account in such manner to clearly indicate the quantity—

- (i) and value of goods imported;
- (ii) and date of receipt of the goods imported in the relevant premises;
- (iii) of such goods consumed;
- (iv) of goods sent for job work, nature of job work carried out;
- (v) of goods received after job work;
- (vi) of goods re-exported, if any, under rule 7; and
- (vii) remaining in stock, according to Bills of Entry

and shall produce the said account as and when required by the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, having jurisdiction over the premises or where the goods imported shall be put to use for manufacture of goods or for rendering output service:

Provided that in case of non-receipt or short receipt of goods imported in the relevant premises, the importer shall intimate such non-receipt or short receipt immediately on the common portal in the Form IGCR-2 (Import of Goods at Concessional Rate of Duty).

(2) The importer shall submit a monthly statement on the common portal in the Form IGCR-3 (Import of Goods at Concessional Rate of Duty) appended to these rules by the tenth day of the following month.

Rule 6A: Procedure for allowing imported goods for job work.—

- (1) The importer shall maintain a record of the goods sent for job work during the month and mention the same in the monthly statement specified in sub-rule (2) of rule 6.
- (2) The importer shall send the goods to the premises of the job worker under an invoice or wherever applicable through an e-way bill, as specified in the Central Goods and Services Tax Act, 2017 (12 of 2017), mentioning the description and quantity of the goods.
- (3) The maximum period for which the goods can be sent to the job worker shall be six months from the date of invoice or an e-way bill as specified in sub-rule (2).
- (4) In case the importer is not able to establish that the goods sent for job work have been used as per the particulars mentioned under rule 4, the Jurisdictional Custom Officer shall take necessary action against the importer under rules 8 and 8A.
- (5) The job worker shall,—

- (i) maintain an account of receipt of goods, manufacturing process undertaken thereon, and the waste generated, if any, during such process;
- (ii) produce the account details before the Jurisdictional Custom Officer as and when required by the said officer; and
- (iii) after completion of the job work, send the processed goods to the importer or to another job worker as directed by the importer for carrying out the remaining processes, if any, under the cover of an invoice or an e-way bill.

Rule 6B. Procedure for allowing imported goods for unit transfer.—

- (1) The importer shall maintain a record of the goods sent for unit transfer during the month and mention the same in the monthly statement specified in sub-rule (2) of rule 6.
- (2) The importer shall send the goods under an invoice or wherever applicable through an e-way bill, as specified in the Central Goods and Services Tax Act, 2017 (12 of 2017), mentioning the description and quantity of the goods.

(3) The importer shall in relation to transfer of goods to another unit,—

- (i) maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process;
- (ii) produce the account details before the Jurisdictional Custom Officer as and when required by the said officer; and
- (iii) after completion of the said process, send the processed goods back to the premises of the importer from where the goods were received or to a job worker for carrying out the remaining processes, if any, under the cover of an invoice or an e-way bill.”

Rule 7: Re-export or clearance of unutilised or defective goods.—

(1) The importer who has availed the benefit of an exemption notification shall use the goods imported in accordance with the conditions specified in the concerned exemption notification within six months from the date of import and with respect to unutilised or defective goods so imported, the importer has an option to either re-export such goods or clear the same for home consumption within the said period.

(2) The importer who opts to re-export such goods as specified in sub-rule (1), shall record the details of necessary export documents in the monthly statement: Provided that the value of such goods for re-export shall not be less than the value of the said goods at the time of import.

(3) The importer who opts to clear the unutilised or defective goods for home consumption as specified in sub-rule (1), shall pay the duty along with interest on the common portal and the particulars of such clearance and the payment of duty shall be recorded by the importer in the monthly statement.

(4) The importer has an option to clear the capital goods imported, after having been used for the specified purpose, on payment of duty equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA of the Act, on the depreciated value allowed in straight line method, as specified below, namely: —

- (i) for every quarter in the first year @ 4%;
- (ii) for every quarter in the second year @ 3%;
- (iii) for every quarter in the third year @ 3%;
- (iv) for every quarter in the fourth and fifth year @ 2.5%;
- (v) and thereafter for every quarter @ 2%.

Explanation.—(i) For the purpose of computing rate of depreciation for any part of a quarter, a full quarter shall be taken into account.

(ii) The depreciation shall be allowed from the date when the imported capital goods have come into use for the purpose as specified in the exemption notification upto the date of its clearance.

(5) The importer shall, in relation to sub-rule (4) record the particulars of such clearance and payment of duty in the monthly statement.

Example: M/s X Ltd., imported capital goods under Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 worth ₹2 crore after payment of customs duty of ₹20 lakh on 10th October 2022 and duty concession is ₹10 lakh. Imported capital goods have come into use for the purpose as specified in the exemption notification w.e.f. 1st January 2023. M/s X Ltd., clear the capital goods imported, after having been used for the specified purpose on 15th June 2023. The applicable rate of customs duty is @15% (ignore any other cess or duty).

Find the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA of the Customs Act 1962, on the depreciated value allowed in straight line method?

Note: difference duty has been paid on 30th June 2023.

Answer:

Customs duty payable on depreciated value of capital goods (see note 1)	= ₹27,60,000
Less: duty already paid at the time of import of capital goods	= ₹20,00,000
Difference duty to be paid	= ₹ 7,60,000
Interest under section 28AA of the Customs Act, 1962 is ₹75,584/- (see note 2)	

Note 1:

Particulars	Working in ₹	Duty in ₹
Depreciated value of capital goods (The depreciation shall be allowed from the date when the imported capital goods have come into use for the purpose as specified in the exemption notification upto the date of its clearance.	₹2 crore - (₹2 crore x 4% x 2 quarters) = ₹1.84 crore From 1st January 2023 to 15th June 2023 = 2 quarters	₹1.84 crore x 15% = ₹27,60,000

Note 2:

Rate of interest is 15% p.a.

Period for which interest payable: from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

From 1st November 2022 to 30th June 2023 = 242 days

Interest = ₹7,60,000 x 15% x 242 / 365 = ₹75,584/-

Rule 8: Recovery of duty in certain case:

- (1) In the event of any failure on the part of the importer to comply with the conditions specified in sub-rule (1) of rule 7 or where the payment referred in sub-rule (3) and (4) of rule 7 is not paid or short paid, the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service shall take action by invoking the bond to initiate the recovery proceedings of the amount equal to the difference between the duty leviable on such goods but for the exemption and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA of the Act, for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that the importer is liable to pay
- (2) Notwithstanding anything specified in these rules in relation to removal and processing of imported goods for job work, the importer shall be responsible for ensuring that the said goods are used in accordance with the purposes provided in the exemption notification and in the event of failure to do so, the Deputy Commissioner of Customs, or, as the case may be, the Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, shall take action under these rules, without prejudice to any other action which may be taken under the Act, rules or regulations made thereunder or under any other law for the time being in force.

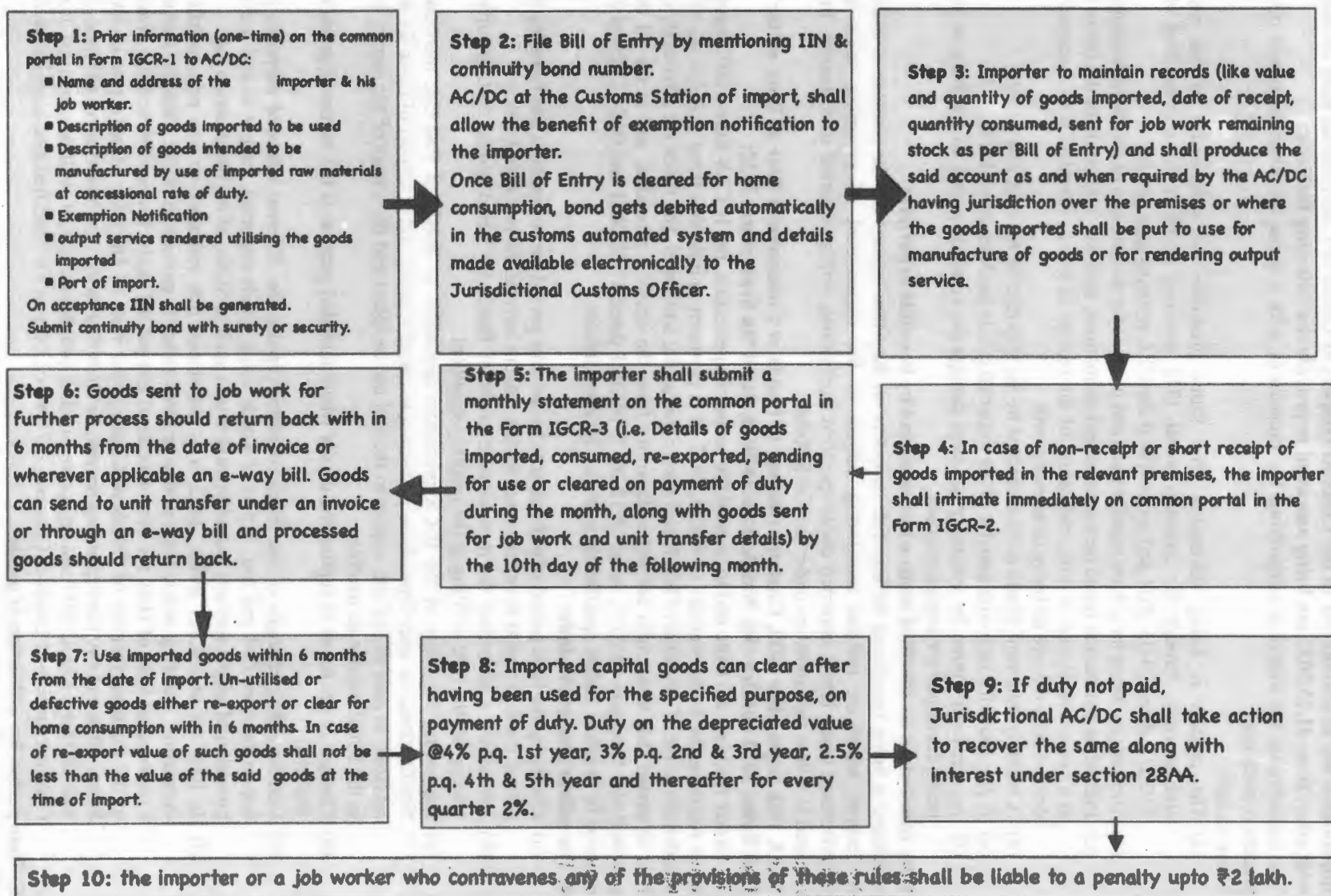
Rule 8A: Penalty:

The importer or a job worker who contravenes any of the provisions of these rules or abets such contravention, shall be liable to a penalty to an extent of the amount specified under clause (ii) of sub-section (2) of section 158 of the Act (i.e. ₹2 lakh) without prejudice to any other action which may be taken under the Act, rules or regulations made thereunder or under any other law for the time being in force.

Rule 9: Form IGCR-1 [i.e. Prior information to be provided by the importer – Rule 4(1)], Form IGCR-2 [i.e. Intimation regarding non-receipt of goods imported – Rule 6(1)] and Form IGCR-3 [i.e. Monthly Statement – Rule 6(2)].

3. Quick revision of IGCR:

Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 read with amendments NT No 07/2022 w.e.f 1-3-2022



Implementation of automation in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 with effect from 01.03.2022 are being amended to provide the following facilities:

The amendments are aimed at simplifying the procedures with a focus on automation and making the entire process contact-less.

These include:

- (a) The process is being automated. The Rules prescribe the submission of the necessary details electronically, through the common portal. (The common portal is the one notified vide notification 33/2021, dated 29-03-2021 and accessible at the URL www.icegate.gov.in).
- (b) The various forms have been standardized and notified for the purpose of electronic submission of details.
- (c) Individual transaction based permissions and intimations, such as - intimation of the intent to import goods at a concessional rate of duty, intimation of the receipt of goods, permission to re-export or clear goods domestically etc, are all being done away with.
- (d) A monthly statement would to be submitted by the importer on the common portal
- (e) A procedure for inter-unit transfer of the imported goods has been provided for
- (f) An electronic option for voluntary payment through the common portal, as specified in the Rules, is also being developed for implementation.

Duty concessions on specified items when imported by bonafide exporters:

A scheme is being introduced for bonafide exporters on duty-free imports for the purpose of use in goods meant for export, based on end-use monitoring subject to the requirement of exporting value added products manufactured using inputs imported under specified exemptions, within a period of 6 months. Importer shall be required to follow the procedure under the IGCR Rules.

W.e.f. 10th September 2022, Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 notified vide Notification 74/2022, dated 9th September, 2022:

To further facilitate the trade and to expand the scope of application, the IGCRS Rules, 2022 have been notified, while retaining the basic contours of IGCR, 2017. It is pertinent to note that these changes are of the nature that broaden the scope of coverage of IGCR and ensure that useful additional data fields are effectively captured.

It is reiterated that these rules are not a departure from the existing procedure and hence all the clarifications provided *vide* Circulars 48/2017, dated 08.12.2017, 10/2021 dated 17.05.2021 and 04/2022 dated 27.02.2022, will continue be in effect, unless specifically modified by this Circular.

4. The salient changes include:

- (a) Clarifying the time period of utilisation to be the time period for compliance and bringing in a provision to extend the said period in certain cases for the reasons beyond the importer's control.
- (b) Prescribing a procedure for immediate re-credit of Bonds by Jurisdictional customs officer, rather than waiting till the time of filing of the monthly statement.
- (c) Expanding the scope of the IGCR procedure applicable to Specified End Use mentioned in Customs Notifications, i.e. apart from those pertaining to manufacturing and in respect of those for providing output services. In case of end use, supply to the end use recipient and the nature of the supply is to be captured in the IGCR automated module.
- (d) Changes in the forms to capture the details where intended purpose is the export of goods using the goods imported.
- (e) Corresponding changes in the forms to better capture the different intended purposes (manufacturing, import for specified end use, export of goods using goods imported, supply to end use recipient or for provision of output service) and additional details such as Sl.No. of the Notification etc.
- (f) In Rule 13 of IGCRS Rules, 2022, it is mentioned that reference in any rule, notification, circular, instruction, standing order, trade notice or other order in pursuance of the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 and any provision thereof or to the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 and any corresponding provisions thereof or to the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 and any corresponding provisions thereof shall be construed as reference to the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.

5. Time period for utilisation of goods:

When time period for utilisation is specified in the notifications, the said time period will apply. If not specified, the time period of six months will apply.

Further, multiple representations have been received in the Board regarding the inability to utilise the goods imported for intended purpose under IGCR within the prescribed time period of 6 months. In order to facilitate

trade in such situations, a provision has been introduced wherein the jurisdictional Commissioner can further extend such period of six months by another 3 months. However, it is clarified that such extension can be given provided the importer furnishes sufficient reason/s for not conforming to the time period so prescribed, which were beyond the importer's control.

6. Specified End Use:

IGCRS Rule, 2022 is also expanded to include cases where the intended purpose is for putting the goods imported to specified end use and not necessarily manufacturing or for providing output services. In this regard, it is clarified that:

- (a) Procedure of intimation, generation of a unique IGCR Identification Number (IIN), import of the goods, submission of bond, maintenance of records, filing of monthly statement or any other procedures remains the same. The Importer shall undertake compliance to the officer having jurisdiction over primary address specified in the Importer Exporter Code (IEC) issued by DGFT.
- (b) End use may be specified by a notification under sub-section (1) of section 25 or under section 11 of the Customs Act, 1962.
- (c) Where the import is undertaken for a specified end use and no differential duty is involved, the value of the bond shall be equal to the assessable value of the goods.
- (d) In cases where the intended purpose of import is supply of the goods to an end use recipient, the importer shall supply these goods under an invoice or where ever applicable, through an e-way bill, as mentioned in the CGST Act, 2017. The description and quantity of such goods shall be clearly mentioned by the importer.
- (e) The importer shall maintain a record of all such goods supplied in a month and provide the details in the monthly statement.
- (f) The restrictions on job work are only relating to the case where it is undertaken on the goods belonging to importer and does not apply to the end use recipient who receives the goods on the supply and deals with it as stipulated in the notification.

7. Bond & Bank Guarantee:

In view of the changes introduced to the procedures, the Bank guarantee/cash security/surety shall be taken as per the following norms for the purpose of extending the benefit under the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.

	Quantum of Bank Guarantee/Cash Security/Surety
Government or PSU or Autonomous institute under the said government or authorised economic operator or banks & PSU's	Nil
Importers annual turnover in the preceding year is above ₹1 crore	Importers shall give surety for the amount of duty foregone. However, where the importer is not able to provide the surety, a bank guarantee/cash security equivalent to not more than 5% of bond debit value (i.e. - Duty foregone in case of concessional rate and assessable value of the goods in other cases) shall be furnished.
Others	Bank guarantee/Cash security not more than 25% of the bond debit value (i.e. Duty foregone in case of concessional rate and assessable value of the goods in other cases)

As a trade facilitation measure, a new Form IGCR-3A has been notified for confirmation of consumption for intended purpose at the common portal at any point in time for immediate re-credit of the bond by the jurisdictional AC/DC, without waiting for the filing of monthly statement on the 10th of every month. The details filed in form IGCR-3A shall get auto populated in the monthly statement of the subsequent month, which has to be only confirmed by the importer.