

Chapter 6: Baggage

SYNOPSIS

6.1	Introduction	834
6.2	Baggage	834
6.2.1	General Free Allowances for Passengers	835
6.2.2	Jewellery — Duty Free Allowance	836
6.2.3	Transferring residence to India	837
6.3	Postal Articles	837
6.4	Import of Samples	837
	Multiple Choice Questions (MCQs)	838
	SELF-EXAMINATION QUESTIONS	839
1.	Practical Problems	839
2.	Case Law	841

Learning objectives

- Understanding Baggage and *Bona fide* baggage
- Levy on Baggage
- Levy on Postal Articles

6.1 Introduction

The term Baggage means luggage of the passenger if they travel by Air or Sea from one country to another country. Sometimes this baggage amounts to import thereby import duty may be levied. It is essential for us to know the provisions relating to levy, exemption and non-levy of duty on baggage.

Provisions relating to levy and non-levy of duty on baggage are contained in Chapter XI [Special Provisions Regarding Baggage, Goods Imported or Exported by Post and Stores] of Customs Act, and Baggage Rules, 1988.

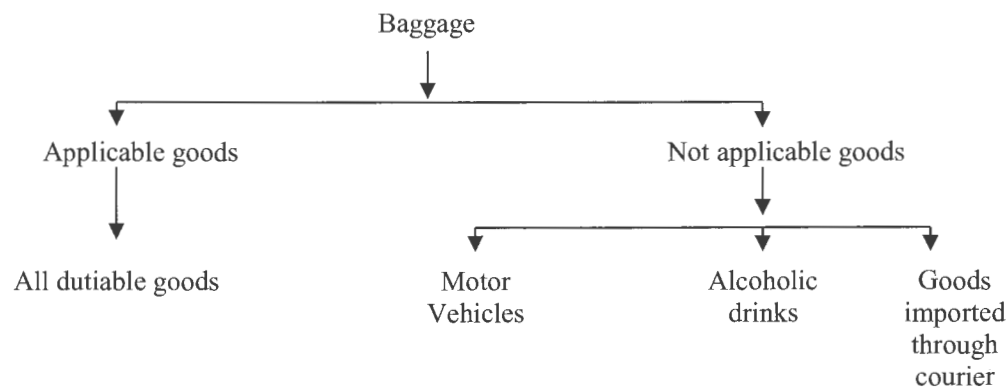
6.2 Baggage

General Meaning: Baggage means all dutiable goods imported by a passenger or a member of a crew in his baggage.

Statutory Meaning u/s 2(3) of Customs Act: Baggage includes:

- unaccompanied baggage (i.e., baggage not carried by passenger at the time of his arrival, but sent before or after arrival of passenger).
- but does not include motor vehicles.

Baggage can be classified as follows:



Green Channel means if a person does not have any dutiable goods, he can go through green channel without undergoing any check along with baggage.

Red Channel means if carrying dutiable goods he should pass through red channel and should submit the declaration and his baggage can be inspected by the customs authorities.

IMPORTANT NOTE:

Full exemption from IGST has been provided on passenger baggage. However, basic customs duty shall be leviable at the rate of **35%** and social welfare surcharge as applicable on the value which is in excess of the duty-free allowances provided under the Baggage Rules, 2016.

Therefore, effective rate of customs duty on baggage @38.50% on the value over and above duty-free allowance (i.e. general free allowance).

Section 77: Declaration by owner of baggage: The owner of any baggage shall make a declaration of its contents to the proper officer for the purpose of clearing it.

International passengers, when coming to India, need not fill Customs Declaration Form if they are not carrying dutiable goods as part of their baggage w.e.f. 1-4-2016.

Section 78: Determination by rate of duty and tariff valuation in respect of baggage: The rate of duty and tariff valuation, if any, applicable to baggage shall be the rate and valuation in force on the date on which a declaration is made in respect of such baggage under section 77.

Rate of Duty on Baggage is @ 35% plus social welfare surcharge.

Additional Customs Duty u/s 3(1) or 3(5) (Special CVD) – Nil [Notification No. 183/86-Cus and Notification No. 21/2012-Cus]

Exemption to 1 Laptop: The Central Government has exempted one laptop computer (notebook computer) when imported into India by a passenger of the age of 18 years or above (other than member of crew) from whole of the BCD [Notification No. 11/2004-Cus]

Section 80: Temporary Detention of Baggage:

- The proper officer may detain the baggage of a passenger which contains any article which is dutiable or the import of which is prohibited and in respect which a true declaration has been made under section 77.
- The proper officer may do so, at the request of the passenger for the purpose of being returned to the passenger either:
 - At the time of his leaving India or
 - Through any other passenger authorized by him and leaving India or
 - As a cargo consigned in his name.

Section 79: Bona fide baggage exempted from duty:

- The proper office may, subject to rules made under this section, pass free of duty—
 - (a) Any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it has been in his use for such minimum period as may be specified in the rules
 - (b) Any article in the baggage of a passenger in respect of which the said officer is satisfied that it is for the use of the passenger or his family or is a bona fide gift or souvenir; provided that the value of each such article and the total value of all such articles does not exceed such limits as may be specified in the rules.

6.2.1 General Free Allowances for Passengers**Duty Free Allowance or General Free Allowance (GFA) (w.e.f. 1-4-2016):**

Eligible Passenger	Origin Country	Duty Free Allowance
Passengers of Indian origin and foreigners residing in India, excluding infants	Other than Nepal, Bhutan, Myanmar	₹50,000
Tourists of foreign origin, excluding infants	Other than Nepal, Bhutan, Myanmar	₹15,000
Passengers of Indian origin and foreigners residing in India, excluding infants AND Tourists of foreign origin, excluding infants	Nepal, Bhutan and Myanmar	₹15,000 (by Air) NIL (By Land)
Indian passenger who has been residing abroad for over one year	Anywhere	Gold Jewellery Gentleman- 20 gms. with a value cap of ₹50,000

Eligible Passenger	Origin Country	Duty Free Allowance
		Lady - 40 gms with a value cap of ₹1,00,000
All passengers	Anywhere	Alcohol liquor or wine: 2 liters
All passengers	Anywhere	Cigarettes: 100 numbers or Cigars upto 25 or Tobacco 125 grams
Passenger of 18 years and above	Anywhere	One laptop computer (notebook computer). It is in addition to GFA.

Important note:

- (1) for infant, only used personal effects shall be allowed duty free.
- (2) the free allowance cannot be allowed to be pooled with the free allowance of any other passenger.
- (3) *Bona fide* baggage means used personal effects, travel souvenirs and articles other than those mentioned in Annexure I.
- (4) Annexure I include:
 - (i) Firearms.
 - (ii) Cartridges of firearms exceeding 50.
 - (iii) Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.
 - (iv) Alcoholic liquor or wines in excess of two liters.
 - (v) Gold or silver in any form other than ornaments.
 - (vi) Flat Panel (Liquid Crystal Display/Light-Emitting Diode/Plasma) television.

No restriction on age and minimum period of stay (w.e.f. 1-4-2016):

Restrictions on age and minimum period of stay abroad have been withdrawn.

Free baggage allowances are same for all passengers irrespective of their age and period of stay.

Customs Declaration Form:

International passengers, when coming to India, need not fill Customs Declaration Form if they are not carrying dutiable goods as part of their baggage w.e.f. 1-4-2016.

6.2.2 Jewellery — Duty Free Allowance**Duty Free Jewellery (w.e.f. 1-4-2016):**

Coming to India by an Indian Passenger after stay abroad more than one year

- (i) Jewellery upto a weight, of 20 grams with a value cap of ₹50,000 if brought by a gentleman passenger
- (ii) Jewellery upto a weight, of 40 grams with a value cap of ₹1,00,000 if brought by a lady passenger.

Example

Mr. Gopal, an Indian entrepreneur, went to London to explore new business opportunities on 01.04.2020. His wife also joined him in London on 01.12.2020. The following details are submitted by them with the Customs authorities on their return to India on 30.04.2021.-

- (a) used personal effects worth ₹95,000
- (b) a music system worth ₹34,000
- (c) the jewellery brought by Mr. Gopal for ₹44,000 and the jewellery brought by his wife worth ₹25,000

Determine their eligibility with regard to duty free allowance.

Duty drawback under Customs

Answer:

As per the Baggage Rules, in case of passengers other than tourists there is no customs duty on used personal effects and general free allowance is ₹50,000 per passenger. Thus, their duty liability is nil for the personal effects and a music system.

However, the additional duty-free allowance, that is jewellery allowance is applicable to non-tourist passenger of Indian origin who had stayed abroad for period exceeding one year. The additional jewellery allowance is as follows:-

Gentleman Passenger - ₹50,000/-

Lady Passenger - ₹1,00,000/-

Thus, there is no duty liability on the jewellery brought by Mr. Gopala she had stayed abroad for period exceeding one year. However, his wife is not eligible for this additional jewellery allowance as she had stayed abroad for a period less than a year. Thus, she has to pay customs duty on the amount of jewellery brought by her. However, she is eligible to avail GFA of ₹50,000.

6.2.3 Transferring residence to India

Transfer of residence w.e.f. 1-4-2016:

A person, who is engaged in a profession abroad, or is transferring his residence to India can bring, used household items as below:

Passengers who have stayed abroad	GFA for personal household items upto ₹
3-6 months	₹60,000
6-12 months	₹1,00,000
1-2 years	₹2,00,000
Above 2 years	₹5,00,000

6.3 Postal Articles

As per sections 82 to 84 of the Customs Act, 1962, goods can be cleared by post. Any label or declaration accompanying the goods showing the description, quantity and value thereof, shall be treated as "an entry for import" under the Customs Act.

The rate of duty and tariff value applicable to 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 assessment of duty.

The procedure for clearance:

- (i) Post parcels are allowed to pass from port/airport to Foreign Parcel Department of Government Post Offices without payment of customs duty.
- (ii) The Postmaster hands over to Principal Appraiser of Customs the memo showing
 - Total number of parcels from each country of origin,
 - Parcel bills or senders' declaration,
 - Customs declaration and dispatch notes, and
 - Other information that may be required.
- (iii) The mail bags are opened and scrutinized by Postmaster under supervision of Principal Postal Appraiser of Customs.
- (iv) Packets suspected of containing dutiable goods are separated and presented to Customs Appraiser with letter mail bill and assessment memos.
- (v) The Customs Appraiser marks the parcels which are required to be detained if—
 - necessary particulars are not available, or
 - mis-declaration or undervaluation is suspected, or
 - goods are prohibited for import.

Appraiser has the power to examine any parcel. After inspection, the parcels are sealed with a distinctive seal. Any mis-declaration or undervaluation is noted or goods are prohibited goods for imports these be detained and the same intimated to Commissioner of Customs.

If everything is in order after verification, goods will be handed over to Postmaster, who will hand over the same to the addressee on receipt of customs duty.

6.4 Import of Samples

In the International trade it is considered often necessary that samples of the goods manufactured in one country be sent to another country for being shown or demonstrated for Customer appreciation. There are duty free imports of genuine commercial samples into the country for smooth flow of trade.

The commercial samples are basically specimens of goods that may be imported by the traders or representatives of manufacturers. However, goods which are prohibited under Foreign Trade (Development and Regulation) Act, 1992 are not allowed to be imported as samples (i.e. wild animals, wild birds and parts of wild animals, arms and ammunitions and so on).

Samples can be imported by the traders, industry, individuals, research institutes and so on. These samples can also be brought by the persons as part of their personal baggage or through port or in courier.

The current limit of ₹1 lakh per annum for duty free import of samples in terms of NT 154/94-Customs, dated 13.7.1994 is enhanced to **₹3 lakh per annum** (w.e.f. 27.2.2010).