
CONTENTS

	PAGE
◆ <i>Chapter-heads</i>	<i>I-5</i>
◆ <i>Section-wise Index</i>	<i>I-19</i>

DIVISION ONE

LIABILITY OF CUSTOMS DUTY

1

BACKGROUND OF INDIRECT TAX LAW

1.1	Features of Indirect Taxes	3
1.2	Constitution of India	4
1.3	Bill, Act, Ordinance and Rules	6
1.4	Information on website	7

2

INTRODUCTION TO CUSTOMS DUTY

2.1	Brief background of Customs Law	9
2.2	Nature of customs duty	15
2.3	Territorial waters and customs waters	19
2.4	'Goods' under Customs Act	24
2.5	Classification for Customs and rate of customs duty	26

3

TYPE OF CUSTOM DUTIES

3.1	Basic customs duty	29
3.2	Additional customs duty u/s 3(1) (CVD)	30
3.3	Education cess on customs duty	40
3.4	Secondary and Higher Education Cess	41
3.5	Additional duty under section 3(3)	42

CONTENTS

I-8

	PAGE
3.6 Additional duty under section 3(5) (Special CVD - SAD)	42
3.7 Protective duties	49
3.8 Countervailing duty on subsidised goods	49
3.9 Anti-dumping duty on dumped articles	49
3.10 Safeguard duty	68
3.11 NCCD of Customs	71
3.12 Export duty	72
3.13 Cess	73

4

CLASSIFICATION OF GOODS

4.1 Central Excise Tariff Act (CETA) and Customs Tariff Act (CTA)	74
4.2 Overview of Tariff	77
4.3 Rules for Interpretation of Tariff	81
4.4 Application of GIR in Tariff	85
4.5 Classification in case of conflict between various headings	93
4.6 Other provisions relating to classification	100
4.7 Classification of parts	101

5

PRINCIPLES OF CLASSIFICATION

5.1 Trade Parlance Theory	107
5.2 HSN and classification	116
5.3 Relevance of end use in classification	118
5.4 Other principles of classification	121
5.5 Ayurvedic, Unani, Homoeopathic medicines	125

DIVISION TWO

VALUATION IN CUSTOMS

6

VALUATION FOR CUSTOMS DUTY

6.1 Value for purpose of Customs Act	131
6.2 Transaction value at the time and place of importation	134
6.3 Rate of Exchange for Customs Valuation	135
6.4 WTO Valuation Agreement	136
6.5 Customs Value - Inclusions	137

	PAGE
6.6 Exclusions from Assessable Value	155
6.7 Valuation of second hand machinery and old motor cars	159
6.8 Declaration of value by importer	166
6.9 Customs value as per earlier section 14(1)	167

7

METHODS OF VALUATION FOR CUSTOMS

7.1 WTO Valuation Agreement	168
7.2 Transaction value of same goods for customs valuation	169
7.3 Transaction value of identical goods for customs valuation	179
7.4 Transaction value of similar goods for customs valuation	181
7.5 Deductive value for customs valuation	182
7.6 Computed value for customs valuation	183
7.7 Residual method for customs valuation	184

8

VALUATION OF EXPORT GOODS

8.1 Transaction value for assessment	187
8.2 Over invoicing/mis-declaration for export	190
8.3 Earlier provisions relating to customs value of export goods	191

9

UNDERVALUATION OF CUSTOMS DUTY

9.1 Transaction value to be normally accepted	193
9.2 Cases where charge of undervaluation not held valid	198
9.3 Cases where charge of undervaluation held valid	209
9.4 Burden of proof of undervaluation in customs	212
9.5 Debit of Import Authorisation only with invoice value	215

DIVISION THREE

PROCEDURES IN CUSTOMS

10

CUSTOMS PROCEDURES

10.1 Administrative set up of Central Excise and Customs	219
10.2 Binding nature of departmental circulars	226
10.3 General provisions relating to customs procedures	229

CONTENTS

I-10

	PAGE
10.4 Self-assessment of customs duty	236
10.5 Containers and Inland Container Depots	244
10.6 Miscellaneous Customs Procedures	249
10.7 Coastal goods	253
10.8 Special Notified Zone for trading of rough diamonds	254

11

IMPORT PROCEDURES

11.1 Import procedures by carrier	255
11.2 Overview of procedures for import	259
11.3 Submission of Bill of Entry	260
11.4 Self-assessment of customs duty	266
11.5 Provisional assessment	270
11.6 Relevant date for rate and valuation of import duty	273
11.7 Relevant date for foreign exchange rate	276
11.8 Execution of bond	277
11.9 Customs clearance from view of import policy	281
11.10 Procedure after assessment and checking of authorization	287
11.11 Import of software through data communication	290
11.12 Demurrage if goods not cleared from customs	290
11.13 Disposal if goods not cleared within 30 days	294

12

EXPORT PROCEDURES

12.1 Procedures by person in charge of conveyance	297
12.2 Procedure to be followed by exporter	299
12.3 Permission to export by customs	307
12.4 Other procedures relating to exports	310

13

BAGGAGE RULES, 2016

13.1 Background	312
13.2 General Free Allowance	315
13.3 Rate of customs duty on baggage	318
13.4 Concession for transfer of residence	320
13.5 Other provisions of Baggage	321

14**CUSTOMS PROCEDURES FOR COURIER
AND POST**

14.1	Import and export through courier	324
14.2	Export and import by post	328

DIVISION FOUR**EXEMPTIONS AND DEMANDS IN CUSTOMS****15****EXEMPTION FROM CUSTOMS DUTY**

15.1	Tariff rate and effective rate of duty	333
15.2	Exemption from duty by a notification	334
15.3	Exemption optional	337
15.4	Other provisions in respect of exemption	339
15.5	Exemption when required certificate obtained later	345

16**SPECIFIC EXEMPTIONS IN CUSTOMS**

16.1	Exemption from Customs Duty	349
16.2	Project imports	349
16.3	General exemptions under customs notifications	355
16.4	Control over end use exemptions	357

17**INTERPRETATION OF EXEMPTION
NOTIFICATION**

17.1	Strict construction of exemption notification	359
17.2	Purposive interpretation of exemption notification	362
17.3	Relevance of end use in exemption notification	366
17.4	Relevance of tariff for interpretation of exemption notification	369
17.5	Other principles of interpretation	370

18**REMISSION, RE-IMPORTS AND RE-EXPORTS**

18.1	Remission on lost/pilfered goods	373
18.2	Remission on relinquished goods	379
18.3	Abatement of duty on damaged goods	380
18.4	Re-import of goods	381
18.5	Refund of customs duty if imported goods are rejected	383
18.6	Re-exports	383

19**DEMANDS OF CUSTOMS DUTY**

19.1	Short payment of customs duty	388
19.2	Time limit for demand of duty	394
19.3	Show cause notice	397
19.4	Who can issue show cause notice	400
19.5	Requirements of show cause notice	402
19.6	Revised show cause notice/corrigendum	403
19.7	Authority cannot go beyond show cause notice	404
19.8	Serving of show cause notice	405
19.9	Reply, Hearing and Order by adjudicating authority	408
19.10	Provisional attachment pending adjudication	411

20**INTEREST FOR DELAYED PAYMENT OF DUTY**

20.1	Interest if duty paid late	413
20.2	Nature of tax, penalty and interest	416

21**DEMANDS FOR SUPPRESSION,
MISSTATEMENT OR FRAUD**

21.1	Extended period for demand	419
21.2	Wilful suppression of facts	419
21.3	Primary facts must be disclosed, but not the inferences	423
21.4	Fraud/Misstatement/Collusion	424
21.5	Notice for demand for suppression, fraud	425
21.6	Burden of proof is on department	426

- 21.7 Voluntary payment in case of show cause notice alleging suppression of facts

426

22

RECOVERY OF DUES

- 22.1 Recovery of sums due to Government 428
 22.2 Detention and sale of property 431
 22.3 General provisions in respect of recovery 433

DIVISION FIVE

OTHER PROVISIONS IN CUSTOMS

23

REFUND OF CUSTOMS DUTY

- 23.1 Claim of refund when appeal not required 439
 23.2 Procedure for filing refund application 446
 23.3 Time limit for filing refund application 449
 23.4 Refund when benefit could not be availed due to department's mistake 454
 23.5 Duty collected from buyer must be paid 454
 23.6 Proof of not passing of burden 459
 23.7 Interest on late disbursement of refund 464
 23.8 Consumer Welfare Fund 469
 23.9 Applicability and validity of doctrine of unjust enrichment 469
 23.10 Non-application of provisions of unjust enrichment 476
 23.11 Refund if amount returned to buyer by cheque or credit note or debit note 484

24

WAREHOUSING IN CUSTOMS

- 24.1 Need for warehousing in customs 488
 24.2 Public, Private and special warehouses 491
 24.3 Warehoused Goods (Removal) Regulations, 2016 495
 24.4 Warehousing period under customs 496
 24.5 Manufacture in customs bonded warehouse 500
 24.6 Clearance from bonded warehouse 502
 24.7 Other provisions of customs warehousing 507
 24.8 Goods improperly removed from warehouse 511

CONTENTS

I-14

	PAGE
24.9 Reassessment of customs duty cannot be made at warehouse	512
24.10 Storage in warehouse pending clearance	513

25

OTHER PROVISIONS IN CUSTOMS LAW

25.1 Prohibitions on Imports and Exports	514
25.2 Customs Broker	517
25.3 Suspension or revocation of CB licence	522
25.4 Limited liability of Customs Broker (CB)	533
25.5 'Stores' in customs	536
25.6 Customs - Other provisions	537
25.7 Indirect Taxes Dispute Resolution Scheme	540

26

PENALTIES AND APPEALS IN CUSTOMS

26.1 Departmental Adjudication	541
26.2 Enforcement Powers of Revenue Officers	547
26.3 Penalties	554
26.4 Confiscation of goods	568
26.5 Criminal offences	569
26.6 Proof in adjudication and prosecution	572
26.7 Appeals	574

DIVISION SIX

FOREIGN TRADE POLICY

27

OVERVIEW OF FOREIGN TRADE POLICY 2015-2020

27.1 Background	589
27.2 FT(D&R) Act	591
27.3 Foreign Trade Policy	592
27.4 Highlights of FTP 2015-2020	595
27.5 Amendments to Foreign Trade Policy only by Government, not by DGFT	595
27.6 Settlement Commission has jurisdiction in case of default in export obligation and settlement of customs duty and interest	597

	PAGE
27.7 Administration of Foreign Trade Policy by DGFT	598
27.8 Interpretation of DGFT final and binding	600

28

FT(D&R) ACT AND RULES

28.1 Scheme of FT(D&R) Act	603
28.2 Director General of Foreign Trade (DGFT)	606
28.3 Penalty and Adjudication under FT(D&R)	607

29

PROCEDURES UNDER FOREIGN TRADE POLICY

29.1 e-Governance of foreign trade	611
29.2 Issue of authorisation by DGFT	612
29.3 Import/Export Authorisation	618
29.4 Authorisation obtained by fraud or misstatement	622
29.5 Bond with guarantee for import under authorisation	625
29.6 Personal hearing if aggrieved by decision	628
29.7 Export Promotion Councils as Registering Authorities	628

30

POLICY FOR IMPORT AND EXPORT OF GOODS

30.1 Policy for import of goods	630
30.2 Broad Policy for import of goods	633
30.3 Import/export governed as per policy at the time of import/ export	643
30.4 Export Policy	644
30.5 Pre-shipment Inspection and quality certification	650
30.6 SCOMET Items	651
30.7 Free sale and Commerce Certificate	653
30.8 Preferential and free trade agreements	653
30.9 Settlement of trade disputes and complaints	655

31

EXPORT PROMOTIONAL MEASURES

31.1 Schemes for encouraging Exports	656
31.2 Export Promotional measures through Duty Credit Schemes	658

	PAGE	
31.3	Export from India Schemes	662
31.4	Other promotional measures	664
31.5	Status Holders	666

32

DUTY EXEMPTION/REMISSION SCHEMES

32.1	Duty free import of inputs for export	669
32.2	Advance Authorisation	669
32.3	Advance authorisation can be issued for exports, deemed exports and intermediate supplies	671
32.4	Procurement of indigenous inputs	674
32.5	Standard Input Output Norms (SION)	674
32.6	Procedure for Issue of Advance Authorisation/DFIA	677
32.7	Advance authorisation for annual requirements to exporters	677
32.8	Export Obligation against advance authorisation	678
32.9	Procedures after advance authorisation	680

33

DUTY FREE IMPORT AUTHORISATION (DFIA)

33.1	Transferable import authorisation	686
33.2	General provisions of DFIA	686
33.3	Transferability of DFIA	688
33.4	Import under DFIA after fulfilment of export obligation	688
33.5	Procedural aspects at DGFT	688

34

GEM AND JEWELLERY UNITS

34.1	Specialised exports of gem and jewellery	690
34.2	Gem and jewellery units in EOU	693

35

DUTY DRAWBACK

35.1	Drawback of duty on inputs	695
35.2	Type of drawback rates	699
35.3	Drawback rate fixation	704
35.4	Drawback claim procedure	707

	PAGE
35.5 Drawback - Other provisions	712
35.6 Duty drawback on re-export	715

36

EPCG AUTHORISATION

36.1 Capital goods at concessional rate for export	719
36.2 Export Obligation (EO) under EPCG	722
36.3 Indigenous Sourcing of Capital Goods and benefits to Domestic Supplier	725
36.4 Post Export EPCG Duty Credit Scrip	725
36.5 Procedures under EPCG	726

37

EOU/STP/EHTP/BTU

37.1 An overview of EOU scheme	730
37.2 Obtaining approval for setting up EOU/STP/EHTP/BTP	736
37.3 Inputs and capital goods without payment of duty	739
37.4 Rebate of excise duty and service tax paid on inputs and input services	749
37.5 EOU is a bonded warehouse	751
37.6 Procedures by EOU	754
37.7 Other provisions relating to EOU	763
37.8 Exit of EOU	766
37.9 Recovery of duty and penal action on EOU	771

38

TAX PROVISIONS RELATING TO EOU

38.1 EOU and tax laws	776
38.2 Central Excise and EOU	777
38.3 Nature of Duty paid by EOU	798
38.4 Excise Procedures by EOU units	799

39

OTHER SCHEMES SIMILAR TO EOU

39.1 Software Technology Park (STP)	801
39.2 Electronics Hardware Technology Parks	803
39.3 Other schemes	804

40**DEEMED EXPORTS**

40.1	Supplies within India qualifying for export benefits	806
40.2	Conditions for availing Benefits by Indian supplier	809
40.3	Procedure for claiming benefit of deemed export	811

41**SPECIAL ECONOMIC ZONES**

41.1	SEZ to encourage exports	813
41.2	Special Economic Zones Act and Rules	817
41.3	Setting up a new SEZ	819
41.4	Benefits to developer	830
41.5	Development Commissioner	830
41.6	Setting up a unit in SEZ	832
41.7	Routine operations in SEZ	837
41.8	Sale to SEZ from DTA	844
41.9	Sale from SEZ to DTA	849
41.10	Tax exemptions to SEZ	851
41.11	Miscellaneous provisions	858
41.12	FEMA provisions relating to SEZ	860
41.13	SEZ policies of State Governments	862
	SUBJECT INDEX	863