

# APPRAISING MANUAL

## VOLUME I

### \* + APPRAISING GROUPS

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**\*+ Appraising Groups: Working:**

After the Bill of Entry (both home consumption and bond) are noted in the Import department the same are presented to the Appraising Group. (The colour of the Home Consumption B/E is white, that of into-bond B/E is 'yellow', Ex-bond is 'green' and Defense Import cargo B/E is 'pink'). After the Computerization, the Appraising groups have been rearranged. There are basically 7 groups with Group no. 2, 5 and 6 having sub-group. The groups along with the sub-groups form 10 effective groups dealing with tariff. Chapters as follows: -

Group	Customs Tariff Chapter.
1	1 To 27
2a	28 To 38
2b	39 To 49
3	50 To 71
4	72 To 83
5a	84
5b	85 To 92
6	93 To 99 (Other Than 98.01)
6a	98.01 Contract Cell
7	Deals with DEEC Scheme 100% EOU, Exemption Etc.
7a	For Green Channel

The basic function of the group is assessment. The meaning of assessment is given in the Customs Act, 1962 (Section 2(2) also refer sections 12 & 17). As per this section, assessment includes provisional

assessment, reassessment and any order of assessment in which the duty Assessed is `Nil'. Assessment would mean computation and fixation of the precise amount of duty to be paid on the particular goods having regard to the prescribed category under which they fall and the mode and manner by which their value or real value has to be ascertained. Hence Assessment involves three main functions. They are: -

1. Scrutiny of the documents presented
2. Appraisement of value
3. Determination of classification and indicating the effective rate of duty.

### **Scrutiny of documents:**

Along with the B/E relevant documents depending on the nature of the goods are submitted by the importer or his custom house agent (CHA). These documents generally are: -

1. Import invoice
2. Packing list
3. Certificate of origin
4. Indent i.e. order placed on the supplier
5. Acceptance i.e. confirmation of the order by the Supplier.
6. Bill of Lading
7. Insurance Policy
8. Literature of the product
9. Catalogue giving the details of the product
10. Import License or O.G.L. (not covered by negative list) declaration as the case maybe.
11. No commission paid or amount of commission paid certificate.

(Other document as required by individual group as per S.O. & P.N.)

Section 17(3) of the Customs Act, 1962 provides that the proper officer (Appraiser) may for the purpose of assessment ask the importer to produce such documents for levy of import duty on the goods and the importer is duty bound to produce such documents or

furnish such information if the same are in his possession or can be obtained by him. Section 17 (4) of the Customs Act, 1962 makes it mandatory to produce invoice and also to make declaration as to the truth of the contents given in the bill of entry. After the receipt of the above documents the Appraiser has to scrutinise these documents carefully and find out:-

1. Whether all the particulars declared in the B/E with the details given in the documents are produced.
2. Whether there are any discrepancies in these documents or if the information required is insufficient.
3. Whether the goods require specific license or if declaration given is correct or not.
4. Whether the goods require testing to ascertain the parameters required for proper classification.
5. Whether any no objection certificate or other certificate from allied agencies like Assistant Drug Controller, under the Insecticide Act, under Indian Explosives Act, etc have to be obtained or their conditions to be fulfilled.

### **Appraisement of Value:**

This is a very important function which is performed by the Group A.O. He has to arrive at the correct value of the goods in order to charge the customs duty. In order to understand the full aspect of valuation the A.O. has to consider the following aspects.

1. Is the value shown in the B/E is CIF/FOB/FAS/C&I [CIF= Cost, Insurance & freight FOB = Free on board FAS = Free along side C&I = Cost & insurance].

2. What should be the value for the purpose of customs duty. The value of the goods is determined under Section 14(1) of Customs

Act, 1962. It reads: For the purpose of the Customs Tariff Act, 1975 (51 of 1975) or any other law for the time being in force whereunder a duty of customs is chargeable on any goods by reference to their value. The value of such goods shall be deemed to be: -

(a) The price at which such goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for sale or offer for sale. Provided that such price shall be calculated with reference to the rate of exchange as in force on the date on which a Bill of entry is presented under section 46 of Customs Act, 1962. The price of the goods would include:

1. Cost of production
2. Cost of packing
3. Local taxes if any
4. Profit margin of supplier/seller/manufacturer.

However the value of the goods is something more than the price. Therefore the value of the goods would include the following.

1. Price as stated above
2. Cost of delivery at the place of importation (internal freight).
3. Additional packing, if Any
4. Testing or similar expenses incurred on behalf of the buyer.
5. Freight charges
6. Insurance charges
7. Landing charges (being 1% of CIF value of the goods).

Apart from the above aspect there are certain other aspects which also are included into value-they are:

1. Warranty/guarantee allowances
2. Advertisement expenses except for introduction of product.
3. Discounts in kind.

4. Sample discount.
5. Late shipment allowance.
6. Brokerage/commission allowance
7. Testing allowance.
8. Interest prior to shipment.

However the value of the goods generally will not include:

1. Cash discount.
2. Trade discount.
3. Introductory discount.
4. Quantity discount.
5. Exchange loss allowance.
6. Breakage allowance.
7. Deferred freight allowance.
8. Interest payable subsequent to import, if shown separately.

All these aspects will not form part of the value, provided these are given to all importers.

3. The next aspect for consideration is, whether the buyer and seller are connected or related parties. If so the case is to be sent to Special Valuation Branch (GVC) to determine the loading of the value. If the case is already with SVB then value should be loaded according to SVB direction or instruction. After the correct value has been arrived at the freight and insurance is added to the FOB value (if freight is not shown separately or freight memo is not submitted then a notional freight of 20% of FOB value is taken. Similarly if the insurance is not shown separately or if insurance memo is not submitted, then a notional insurance of 1.125% of fob value is taken as insurance). If both freight and insurance is to be taken as notional then a total of 21.125% of FOB value is added as freight & insurance. Thereafter the proper exchange rate is applied. The rate of exchange means rate of exchange

1. Determined by the Government of India
2. Determined in such manner as directed by Govt. of India for conversion of Indian currency into foreign currency or foreign currency into Indian currency. the term foreign or Indian currency have the

meaning assigned to them under FERA, 1973 (46 of 1973) The Central Govt. notifies exchange rates from time to time which are to be applied for the conversion after taking into consideration the proviso to section 14(1)a of Customs Act, 1962. A copy of the exchange rate will be available in each Custom house. The relevant notification for exchange rate should be applied.

Note- A.O. should maintain valuation register and keep copies of earlier invoices. He may also refer to the computer for details of earlier clearance.

### **3. Determination of classification and indication of effective rate of duty.**

This is a very important function of assessment. We now follow the Harmonised System of tariff. The details of the Harmonised System with its rules and interpretation are given in details at the end of the chapter. At this stage it is necessary to keep the following points for determining classification.

1. Are the goods correctly classified under the proper CTH and CET headings of the tariff.
2. Are the correct rates of duty shown against the respective CTH/CET tariff headings.
3. Are the benefits of notifications due to the goods under clearance and are the conditions of the notifications fulfilled. (Remember the wordings of the notification has to be read very carefully and the meaning of the words cannot be expanded to include goods which otherwise would not be eligible.

Note- Read the rules of interpretation section and chapter notes including sub-heading notes. Before completing assessment one important factor which has to be considered is to check the ITC validity.

There are two types of goods under import- one which requires an Import license as the goods figure in the negative list and the second freely importable goods not figuring in the negative list. If the goods figure in the negative list then without a specific license it cannot be allowed clearance. If it is not figuring in the negative list then the same are permitted under para 22 of the import policy. Once all aspects are checked the B/E is ready for Appraisalment. If all the required information is available then the B/E can be passed on Second Appraisalment (2nd check). If the required information is insufficient for proper classification then First Appraisalment (1st check) can be resorted to. However it may be noted that First Appraisalment should be resorted to only when it is impossible to complete the B/E on Second Appraisalment.

### **First Appraisalment or First Check:**

Under this method the imported goods are first subjected for physical examination. For this purpose the group A.O. after preliminary scrutiny gives examination order on the reverse of the original B/E. care should be taken to give the examination order in such manner, so that all the required parameters are obtained in the examination report. First appraisalment means the goods are examined first and based on the examination report the assessment is done. This system entails some delay in the processing of the B/E and hence should be avoided as far as possible, keeping the interest of revenue in view.

### **Second Appraisalment or Second Check:**

Under this method the imported goods are first appraised and goods are classified and proper duty is charged based on the information provided by the importer by means of documentary evidence and other declarations. After the B/E is assessed the duty is recovered. The goods are then subjected to physical examination at the examination center. The examination order is given on the reverse of duplicate B/E. Remember this method of assessment is preferred as there is least delay in clearance of goods. The 'out of customs charge' is given by the shed Appraiser in case of 'second appraisalment'.



Once the mode of assessment is decided then the Group Appraiser completes the bill of entry. For completing the B/E the A.O. will circle the quantity, weight, CIF value, Assessable value, CTH heading, CET heading, Rate of duty in red ink. He should put his dated initial near these parameters including notification no. and finally put his full dated signature on the face of the original copy of the B/E and initials on remaining copies of B/E. The Assistant Collector incharge of the group will sign the original copy of B/E. In the case of first appraisal after the completion of the B/E the duty will be recovered by the cash department. The UDC/DOS In-charge of Cash department will give "out of customs charge". While in the case of second appraisal the "out of customs charge" will be given by the shed Appraiser after he verifies the recovery of customs duty, and examination of goods.

A set of B/E consists of five copies. They are 'Original'; this is retained in Cash department. The 'Duplicate' given to importer for examination of goods, and this is retained by the Custodian at time of clearance of the goods at the gate & then sent to MCD. The 'Triplicate' or the importers copy which is to be retained by the importer of the goods the 'Quadruplicate' or the exchange control copy, which is given by the importer to his banker, for the purposes of exchange control. Finally the 'Quintuplicate' or the custodians copy. This is generally known as the 'Port Trust copy' in major ports. This is retained by the custodian for the port dues etc. The assessment as referred above pertains to Home consumption, Ex-bond and Into-bond B/E. The procedure for passing Ex-bond B/E (green colour) is slightly different. At the time of Ex-bonding the goods the Importer/CHA presents a set of Ex-bond B/E along with the triplicate copy of Into Bond B/E. The A.O. has to check only the rate of duty and notification applicable. At this stage he does not go into the ITC angle or the valuation aspect. However if any discrepancy is brought to his notice he is empowered to initiate action on those aspects.

### **Provisional assessment:**

There may be cases, where it may not be possible for the A.O. to assess the B/E finally. The reason may be that the assessment will

have to be based on certain information which may be made available at a latter date. For example the assessment can be done based on the test result or the Import license is not available, or a court case. For any such reasons the B/E may be passed provisionally, and the final assessment will be done at a later date. (P/D assessment cannot be resorted to in ITC cases). In case of provisional assessment, all the details of assessment as stated above should be followed. The only difference is that in case of provisional assessment the endorsement "passed provisionally" is made on the face of the B/E on all copies, with remark of provisional collection, on Original/Duplicate B/E. The advantage here is that, the time of limitation of six months for issue of less charges does not run as in the case of "final assessment".

The details of provisional assessment are given at the end of his chapter. No P/D assessment should be done without approval of the Collector. **Also refer the "Provisional Duty Assessments Rules" framed under the Customs Act.**

Note:- In addition to the usual precaution for assessment, the A.O. must check up all the alerts issued by the various agencies before passing the B/E. An appraiser is expected to assess about 10 to 15 Bills of entry of general nature and about 8 to 10 Bills of entry of machinery during the day.

Note: - It is expected of the importer or the clearing agent of the importer as the case may be to present all the relevant documents at the time of assessment. However if any document like the bank attested invoice etc. is not readily available then the assessing Appraiser may after taking the permission of the Assistant Collector or if there are orders to that effect, may asses the bill of entry without those documents. He should give specific order along with the examination order to check those documents at the examination stage. If such documents are not produced even at the examination stage, then the clearance of the goods may be stopped by not giving "the out of customs charge" till the production of the required documents.

Note: - Section 12 of the Customs Act, 1962 is the charging section. The first schedule to the tariff act which contains the dutiable goods, and the rate of duty to be levied under the Customs Act. Whenever there is a change in regard to the dutiable goods or the rate of duty to be applied appropriate amendments are generally made to the Customs Tariff Act, 1975, through the annual Finance Act. This is done by virtue of powers conferred on the Central Government by section 25 of the Customs Act, 1962. The Government by virtue of section 25 can issue notifications exempting generally either absolutely or subject to such conditions as may be specified in the notification, goods of any specified description from the whole or any part of the customs duty leviable thereon. Therefore after the annual budget the tariff has to be updated to incorporate the changes in the duty. The changed duty is to be applied on the date specified.

Note: - **General Information:**

1. Customs duty liability begins the moment the goods enter the territorial waters of India.
2. Section 12 of the Customs Act, 1962 authorises the charging of customs duty at the rate specified under the Customs Tariff Act, 1975. Section 3 of the Customs Tariff Act separately specifies the rates of basic customs duty and additional customs duty, both of which are to be charged on the imported goods. The Additional customs duty or counter veiling duty is a customs duty. It is equivalent to the central excise duty. The charging section of the Customs Act should be read with the computation provisions of the Tariff Act as both together forms an integrated code.
3. Benefit of notification has to be claimed by the importer. If he fails to claim, the duty can be levied without giving the benefit of notification.
4. No duty is leviable on pilfered goods as it will attract the provisions of section 13 of Customs Act, 1962.

5. Landing charges form part of value as the sale of the goods takes place only after it is landed. Hence the landing charges forms the part of price.
6. Fixation of value will include the price converted at the exchange rate applicable alongwith the freight and insurance charges.
7. Comparison of value should be in respect of physical characteristics, quality, quantity, reputation, country of origin and timing of import.
8. Exemption given under the Customs Act cannot be claimed if exemption is given under the Central Excise Act.
9. Show cause notice demanding duty invoking longer time limit of five years should be issued only by Collector of Customs.
10. An order under section 47 of the Customs Act is an order against which a revision can lie under section 130 of the Customs Act, 1962.

Other duties in addition to the assessment work. The A.O has to perform the following functions:

1. Where the goods are liable for penal action under section 111 of Customs Act, 1962 he has to issue show cause notice to the importer.
2. He has to put up the case for adjudication with full details of the case to the respective authorities.
3. A.O. is expected to give para-wise comments on reply to Show cause notice, appeal notices etc.
4. Attending court cases filed by the importer & briefs the advocate on behalf of the department.
5. Attending to audit objection and giving reply to the same.
6. Attending to inquiries from trade through PRO and to give suitable replies/clarifications.
7. Bond cancellation after final assessment or initiate recovery proceedings.

Note: When the A.O. is in doubt he should consult the Assistant Collector incharge for orders. The responsibility of the A.O. will cease when he is acting on the written order of a superior officer, if it is contrary to the suggestion given by the Appraiser. Similarly if any superior officer gives order contrary to the proposal of the junior officer, then the responsibility will be solely of the senior officer who has given that order.

Note: - The date relevant for charging the rate of duty as per section 15(1) (a) of the Customs Act, 1962 is the date on which the bill of entry is presented to the customs. This date of presentation is the date of the 'tokka' number given on the bill of entry when the bill of entry is presented to the customs. The date of noting the bill of entry can be different than the date of presentation of the bill of entry. The 'noting date' may be the same as that of the presentation or can be subsequent to the date of presentation. Similarly the date for taking the correct exchange rate is the date of the presentation of the bill of entry for home consumption according to Section 14(1) read with section 46 of the Customs Act, 1962. Hence the crucial date for the rate of duty and the exchange rate is the date of presentation of the bill of entry.

### **Concurrent Audit:**

After the introduction of computerization auditing of B/E has been split up into two parts:

1. Concurrent audit and
2. Post audit.

The procedure for auditing is dealt with in a different chapter of "Audit".

### **High Seas Sales:**

(Public Notice 155 dated 18-9-92).

In terms of para 35 of the Export-Import policy 1992-1997, sale of goods on high seas for importation in India is permissible subject to the policy laid down there in or under any other law for the

time being in force. In suppression of earlier instructions contained in public notice nos:16/6.2.78, 116/22.6.82 and 154/25.1.88, the following procedure shall be followed for clearance of consignments imported on 'High Seas Sale basis' under the aforesaid provisions of the Export-Import policy. The B/E'S will be allowed to be noted in the name of the high seas buyer on the production of high seas sale contract along with the original negotiable copy of Bill of lading duly endorsed in favour of high seas sale buyer in support of the transaction. The sale contract should be valid document enforceable in law containing the date of commencement of the agreement and having provisions to discharge the agreement and the obligation and fulfillment of condition, if any, attached to the importation, assessment and clearance of the goods in terms of Customs Tariff Act,, 1975, the Customs Act, 1962, the Import Trade Control Order, 1955, read with the Import Export Act, 1947 and other relevant allied acts required to be fulfilled by the buyer. Accordingly, any declaration / undertaking / bond etc required to be filed at the time of importation in terms of the provisions of the relevant act/order/notification etc. can be given by the high seas sale buyer. However, any declaration, undertaking etc., by the high seas sale buyer shall not absolve the original importers from fulfilling the conditions attached to the importation, assessment and clearance of the goods. The relevant transaction for determination of the value in such cases of high seas sale should be one that regarded as the importer. The high seas buyer shall be required to file the declaration form and it shall be his responsibility to obtain necessary data from the seller at high seas, for filing the declaration and giving any other information as may be required by the department

Attested

Sd/-

(A.G. Shakkarwar)  
(Assistant Collector of Customs)  
Bombay, Correspondence Department

(S.R. Narayanan)  
Pr. Collector of Customs  
Bombay

[Issued F.no.s/26-75/92 Appg.](#)

**Precautions while working in Group:**

1. Check the B/E and all the relevant documents thoroughly. See that the value, weight, quantity and other such parameters are written in words, and in addition to be written in figures, to avoid manipulation. Check importers code number.
2. Check if the value shown in the invoice is reflected in identical manner in the B/E. Sometimes invoice show FOB value and the same value is shown as CIF in the B/E.
3. Check invoice to see which currency is shown therein. Sometimes the invoice may show the value in pound sterling while the same amount will be reflected in the B/E with the currency showing U.S. dollars.
4. See that your initial are not so simple, that it can easily be duplicated/forged.
5. Check the invoice to see if any special charges are mentioned, which are to be added to the value of the goods.
6. Check all the sheets of the invoice properly if invoice consist of more than one sheet. Check the total on all the sheets and see if the final amount has been calculated properly.
7. Check if invoice is signed. Do not accept unsigned invoice.
8. Check weight shown in the bill of lading with the declaration in invoice.
9. Check if correct invoice number & date is shown at the foot of the B/E.
10. Initial/sign with date all alteration or overwriting.
11. When accepting samples for inspection sent from examination sheds, check seals carefully, to avoid substitution.

12. If bank attested documents are produced, check the same are signed and stamped properly. For sensitive items bank attested documents are required for completing the bill of entry.
13. Always be careful of pilot test consignment of small value. These should be checked thoroughly for proper valuation, classification, and giving benefit of notification. In addition check from ITC angle. Invariably a big consignment will follow if the pilot consignment is allowed to go without proper check.
14. Avoid putting signatures in a hurry without checking documents properly.
15. In Ex-Bond B/E when endorsement of out of custom charge is to be made, state the number of packages and also the quantity/weight. This is essential in case of steel coils/ bundles wherein the importer may take out bigger coils of more weight while keeping number as shown in the ex-bond B/E. This generally happens in part ex-bond clearance.
16. Always write the rate of duty in words and initial them properly to avoid subsequent unauthorized alterations.
17. Exchange rates may be checked especially on the 1st week of the month when changes are likely.
18. Check if the previous test report (PTR) is written correctly on the reverse of the original B/E and it is properly authenticated. PTR description should tally and the name of manufacturer/supplier should be same, along with other required parameters.
19. Check for any manipulation of catalogue/ literature produced by importer/agents, especially when photocopies are submitted.
20. Check the date of final entry carefully, especially when there is a likelihood of change of duty.



21. Compare the packing list with the invoice to check if the quantity and weight and other parameters are correctly reflected in both the documents.

**Import of cars:**

Passenger cars and automobile vehicles are covered in Section J, Part II of the Negative list of Imports in the Exim policy, 1992-97. As such the imports of cars are permitted against an import licence. However the various categories of persons/firms are allowed to import the cars without an import licence, as per the ITC public notice no. 202/92-97 dt.30.3.94 subject to the conditions: -

(i) The payment of the vehicle is made abroad and such payment does not involve, directly or indirectly, any remittance of foreign exchange from India.

(ii) The payment of the customs duty is made in foreign exchange except by charitable and missionary institutions, physically handicapped persons and employees of Central /State Government or Public Sector Undertaking posted in Indian embassies/high commissions or in foreign offices of Public Sector undertaking.

The major imports are made under this Public Notice by Indian nationals or foreign nationals coming back to India for permanent settlement after a stay abroad for a period of at least two years. Import of passenger cars with engine size not exceeding four cylinders and not exceeding 1600 cc is permitted whether the car is old or new. In case of the cars exceeding 4 cylinders and 1600cc, the car should be in the use of the importer for more than a year prior to his return to India. The car should be imported into India within six months of the arrival of the importer in India for permanent settlement and the payment of the car is made abroad prior to the return of the importer into India.

In addition to the above cited category, the other categories who are eligible to import the cars into India without Import licence subject to the conditions laid down in the P.N. 202/92-97 are: -

- (i) Foreign nationals (including persons of Indian origin) married to India nationals.
- (ii) Foreign nationals working in India.
- (iii) Branches/Offices of foreign firms, companies and institutions (corporate or otherwise) established in India.
- (iv) Companies incorporated in India having foreign equity participation of more than 25%.
- (v) Accredited journalists/correspondents in foreign news agencies.
- (vi) Indian firms executing contracts abroad.
- (vii) Charitable and missionary institutions.
- (viii) Physically handicapped persons.
- (ix) Honorary consuls of foreign Government.

However the imports of spare parts along with the car are not permitted unless valid import licence is furnished for the clearance.

In addition to the various categories of persons/firms entitled to Import the car without import licence, the DGFT is issuing the import licences for the following cases also.

- (a) Hotel/tourism industry.
- (b) Star trading houses/export houses.

However for these categories the import clearance is allowed only against licence.

**VALUATION OF CARS:**

The transaction value is not accepted for the purpose of valuation unless the invoice is that of the manufacturer. The custom house does the valuation of the cars on the basis of the price lists of the manufacturers and manufacturer's invoices for the similar models of cars. In the absence of these, the prices in the world car catalogue are relied upon for valuation on which 15% trade discount is extended. Depreciation is extended (subject to a maximum of 70%) from the date of 1st registration upto the date of shipment or the date of departure of the importer from abroad which ever is

1st year	4%	for every quarter
2nd year	3%	for every quarter
3rd year	2 1/2%	for every quarter
4th year	2%	for every quarter
5th year	2%	for every quarter
6th year	2%	for every quarter
7th year	2%	for every quarter

Registration book of the car if original is relied upon for the purpose of examining the ITC angle and for extending the depreciation. The passports of the importers are endorsed to avoid any repeated imports by the same persons. Rate of duty on the cars is

@ 65% + cvd 40% + m.v. cess 0.125% (which comes to a total of 131.20625%).

The duty on the fitted air conditioner is calculated @ 65% + cvd 60% ( i.e. total 164%). the duty on the fitted radio cassette player is charged @ 65% + cvd 20% (i.e. total 98%).

F.no.360/25/82-Cus.I

New Delhi, the 22nd Oct.1983.

Sub: Scope of "substantial expansion" for the purpose of assessment under heading 84.66 of the customs tariff on Project Imports.

I am directed to say that the scope of expression "substantial expansion" appearing under heading 84.66 of the first schedule to the Customs Tariff Act for the purpose of assessment of project imports goods has been examined in the board's office in consultation with the technical authorities and the Ministry of law. The Ministry of law on an earlier occasion had clarified that "substantial expansion" for giving the benefit of project imports assessment would only mean the quantitative expansion but the extent of quantitative expansion which would qualify for assessment under heading 84.66 was still under doubt. This aspect was examined again in the board's office and it was concluded that the definition given for "substantial expansion" in the Industries (Development & Regulation) Act, 1951 that expansion should be of such a nature as to amount virtually to a new industrial undertaking could be followed for the purpose of customs duty assessment also. Accordingly it has been decided that for the purpose of assessment under the heading 84.66 of the Customs Tariff in respect of "substantial expansion" of the existing units, the importer should be asked to produce an industrial licences to this effect.

Receipt of this letter may please be acknowledged.

Yours faithfully,  
(N. Sasidharan)  
Under Secretary.

**Power source: Customs Act, 1962**

1. Section 2(2) Definition of Assessment.
2. Section 2(4) Meaning of B/E.
3. Section 2(11) Meaning of Customs area.
4. Section 2(12) Meaning of Customs port.
5. Section 2(13) Meaning of Customs station.

6. Section 2(14) Meaning of dutiable goods.
7. Section 2(15) Meaning of duty.
8. Section 2(16) Meaning of "entry".
9. Section 2(17) Meaning of Examination.
10. Section 2(22) Meaning of Goods.
11. Section 2(23) Meaning of Import.
12. Section 2(24) Meaning of Import Manifest.
13. Section 2(25) Meaning of Imported Goods.
14. Section 2(26) Meaning of Importer.
15. Section 2(28) Meaning of Indian Customs water.
16. Section 2(29) Meaning of Land Customs Station.
17. Section 2(30) Meaning of Market price
18. Section 2(33) Meaning of prohibited goods.
19. Section 2(34) Meaning of Proper officer.
20. Section 2(35) Meaning of Regulations.
21. Section 2(36) Meaning of Rules.
22. Section 2(39) Meaning of Smuggling.
23. Section 2(40) Meaning of Tariff value.
24. Section 2(41) Meaning of Value.
25. Section 12 - What is dutiable goods.
26. Section 14 - Valuation of goods for Assessment.
27. Section 15 - Date for Determination of rate of duty and tariff valuation of imported goods.
28. Section 17 - Assessment of duty.
29. Section 18 - Provisional Assessment of duty.
30. Section 19 - Determination of duty where goods consist of article liable to different rates duty.
31. Section 20 - Re-Importation of goods produced or manufactured in India.
32. Section 21 - Goods derelict wrecks etc.
33. Section 22. - Abatement of duty on damaged or deteriorated goods.
34. Section 23 - Remission of duty on lost Destroyed or abandoned goods.
35. Section 46 - Entry of goods on Importation.
36. Section 47 - Clearance of goods for Home Consumption.
37. Section 48 - Procedure in case of goods not cleared, Warehoused or transhipped within 30 days after unloading.

38. Section 49 - Storage of Imported goods in warehouse pending Clearance.
39. Section 68 - Clearance of warehoused goods for home consumption.
40. Section 111 - Confiscation of improperly imported goods.
41. Section 112 - Penalty for improper Importation of goods.
42. Section 124 - Issue of show cause notice before confiscation of goods.
43. Section 128 - Appeals to Collector (appeal).
44. Section 129a - Appeal to Tribunal.
45. Section 142 - Recovery of sums due to Govt.
46. Section 143 - Powers to allow Import or Export On execution of bonds in certain cases.
47. Section 143a - Duty deferment.
48. Section 144 - Power to take samples.
49. Section 149 - Amendment of documents.
50. Section 150 - Correction of clerical errors.

### **Standing Orders:**

**S.O. 6486 dated 26-03-73.** Gist: - Procedure for removal of Import cargo under section 49 - Instruction regarding (amendment no. 1 dated 09-07-76 amendment no 2 dated 10-08-76).

**S.O. 6577 dated 17-02-77.** Gist: - Import of samples of chemicals and other Goods in powder from -testing of – instruction regarding. (Refer S.O. For full text).

**S.O. 6614 dated 30-08-77.** Gist: - Duty Exemption scheme for Export production - Procedure to be followed for implementation of notification no. 138 customs dated 01-07-77. (Refer S.O. 6853 of 1986).

**S.O. 6626 dated 23-01-78.** Gist: -Procedure for clearance of cargo against ad-hoc Exemption order. (Suppression of S.O. No. 6569 dated 03-12-76.) (Refer S.O. For full text).

**S.O. 6660 dated 20-05-78.** Gist: - Processing of ex-bond bills of entry - Checking of value vis-à-vis quantity of the Goods - procedure. (Refer S.O. For full text).

**S.O. 6666 dated 03-07-78.** Gist: - Instruction in the light of act no. 25 of the customs Central excise and salt and central board of revenue (amendment) act 1978 amending certain provisions of the Customs Act, 1962. The amendment pertains to the procedure of date Stamping and noting of both Home consumption and Bond bills of entry. (Refer S.O. For full text).

**S.O. 6671 dated 27-07-78.** Gist: - Facility for presenting a bill of entry even before the delivery of the import general Manifest-amendment of section 46 of the Customs Act, 1962. (Refer S.O. For full text),

**S.O. 6686 dated 16th October 1978.** Gist: - Introduction of stamping serial number and date of presentation of bill of entry in all 3 copies. (Refer S.O. For full text).

**S.O. 6699 dated 04-01-79.** Gist:-Procedure for clearance of cargo against ad-hoc Exemption order. (S.O. 6636 dated 23-01-78 superseded by this S.O.) (Refer S.O. For full text).

**S.O. 6712 dated 03-05-79.** Gist: - Clearance of goods on assurance by the privileged persons/ Organisations - non-production of the requisite exemption Certificate after clearance -action to be taken in those cases. (Refer S.O. For full text)

**S.O. 6715 dated 15-06-79.** Gist: - Goods of Indian origin exported under claim for Drawback of duty – re-importation thereof – expeditious Clearance - procedure regarding. (Refer S.O. For full text).

**S.O. 6719 dated 24-07-79.** Gist: - Duty free clearance of containers imported along With the goods/ empty containers imported for Stuffing export cargo - procedure regarding. (Refer public notice no. 29 dated 08-03-79.) (Refer S.O. For full text).

**S.O. 6720 dated 26-07-79.** Gist: - Gifts of foodstuff, medicines, consumable stores etc. To charitable organisations free from duty - Procedure regarding. (Refer notification 128 of 18-06-79.) (Refer S.O. For full text).

**S.O. 6727 dated 27-10-79.** Gist: - Noting of bill of entry in the joint name of bank/ their clients. (Refer S.O. For full text).

**S.O. 6709 dated 29-03-79.** Gist: - Expeditious finalisation of provisional duty bonds. (Refer S.O. For full text).

**S.O. 6728 dated 09-11-79.** Gist: - Calculation of landing charges. (0.75%) (Refer S.O. 6562 dated 04-11-76. S.O. 6767 dated 13-08-82, (refer S.O. 6484 dated 15-02-73 and S.O. 6845 dated 25-03-86) (refer S.O. For full text).

**S.O. 6757 Dated 31-08-81.** Gist: - Procedure For Filing General Protest Letter For Payment Of Duty Under Protest Hence Time Limit Under Section 27 Of The Customs Act. (Refer S.O. For Full Text).

**S.O. 6760 Dated 04-01-82.** Gist: - Procedure Regarding Removal of Goods under Section 49 of the Customs Act, 1962. (Refer S.O. For Full Text).

**S.O. 6762.Dated 01-02-82.** Gist: - Levy of Duty on Short landed Goods. - Adjustment Of Duty Already Paid At The Time Of Clearance Of The Parent Consignment With Duty Leviable On Subsequent Consignment. (Refer S.O. For Full Text).

**S.O. 6766 Dated 24-06-82.** Gist: - Powers Of Various Officer For Supervising Destruction Of Various Types Of Cargo. (Refer S.O. For Full Text) S.O.6556 Dated 29-09-76 Superseded.

**S.O. 6765 Dated 09-06-82.** Gist: - Storage Of Goods Imported In FCL Containers In The Central Warehousing Corporation At Bhandup – Under Section 49 Of The Customs Act, 1962 And Stuffing Of Export Goods into the Container. (Refer S.O. For Full Text),



**S.O. 6783 Dated 12-05-83.** Gist: - Expeditious Disposal Of Recommendatory Letter Received From The Licensing Authorities And Giving Examination Order On Bill Of Entry. (Refer S.O. For Full Text).

**S.O. 6785 Dated 27-06-83** Gist:- Valuation Of Second-Hand Machinery -Procedure Regarding. (Refer Collectors Order In File S/10-243/80 Gr-I Dated (02-12-80). (Refer S.O. For Full Text). (Refer Ministry's Instruction No 493/39/80-Cus Vi Dated 16-02-83).

**S.O. 6788 Dated 27-08-83.** Gist: - Customs Duty On De-Stuffing Charges On Cargo Imported In Containers, Not To Form Part Of Assessable Value. (Refer S.O. For Full Text).

**S.O. 6800 Dated 01-03-84.** Gist: - Procedure for Valuation and Assessment for Breaking Up Of Vessels. (Ship Breaking) (S.O. 6741 Dated 20-09-80 Is Superseded By This S.O.) (Refer S.O. 6618 Dated 06-10-77). (Refer S.O. For Full Text).

**S.O. 6801 Dated 05-03-84.** Gist: - Amendment in the I.G.M. & B/E - No Objection from the Group- Procedure. (Refer S.O. For Full Text).

**S.O. 6805 Dated 01-05-84.** Gist:- Filing System - Proper Maintenance of Registers and Records - Procedure Regarding. (Refer S.O. For Full Text.) Corrigendum to S.O. 6805 Dated 01-05-84. Corrigendum Dated 22-05-84.

**S.O. 6807 Dated 14-05-84.** Gist:- Streamlining Of Procedure In Respect Of Goods Of Indian Origin Re-Imported Into India. (Refer To S.O. For Full Text)

**S.O. 6812 Dated 15-10-84.** Gist: - Procedure for Clearance of Sludge Oil from the Sludge Tanks Of the Vessel for Home Consumption. (Refer S.O. For Full Text).

**S.O. 6814 Dated 21-12-84.** Gist: - Topping Of Indigenous High Aromatic Naphtha with Imported Low Aromatic Naphtha by M/S Indian Oil Corporation. (Refer S.O. For Full Text).

**S.O. 6823 Dated 22-05-85.** Gist:- For Granting Benefit Of Notification Proper Verification Of The Original Certificate Of Origin Should Be Done By The Appraiser And Assistant Collector. (Refer S.O. For Full Text).

**S.O. 6827 Dated 29-07-85.** Gist: - Instruction Regarding Issue of Detention Certificate. Amendment to the Above S.O. Dated 15-06-88. Clarifications and Additional Instructions for Issue of Detention Certificates. (Refer S.O. And Amendment For Full Text).

**Clarification to S.O.6827 Dated 29-07-85.** Gist: - Clarification Dated 03-09-85. - Clarification For Issue Of Detention Certificate Pending Test. (Suppression of S.O. 6243 Dt.04-06-64. & S.O. 6455 Dt.03-08-71. With All Its Six Amendments).

**S.O. 6834 Dated 11-11-85.** Gist: - Requirement of Fresh Bank Guarantee on Expiry of Validity Period of Old One in Stamp Paper. (Refer S.O. For Full Text).

**S.O. 6835 Dated 02-12-85.** Gist: - Customs Tariff Amendment Act - Regarding Bounty Fed Articles And Anti-Dumping Duty – Procedure Regarding. (Refer S.O. For Full Text),

**S.O. 6837 Dated 02-01-86.** Gist: - Movement of Full Container Load (FCL) Cargo between Bombay Port and Inland Container Depots (I.C.Ds) In India- Streamlining the Procedure. (Refer S.O. For Full Text).

**S.O. 6843 Dated 14-03-86.** Gist: - Quantum Of Security/Surety/Bank Guarantee To Be Accepted In Case Of Various Bonds Etc. -Instructions Regarding - (Refer S.O. For Full Text).

**S.O. 6845 Dated 25-03-86.** Gist: - Landing Charges - Calculation Of (Refer S.O. For Full Text).

**S.O. 6847 Dated 17-06-86.** Gist: -Monitoring Over the Recovery Of Fine And Penalty In Adjudication Cases - Procedure Regarding. (Refer S.O. For Full Text). (Amendment No. 1 Dated 14-10-86.).

**S.O. 6848 Dated 17-07-86.** Gist: - Procedure for Micro-Filming Of Documents and Its Requirements. (Refer S.O. For Full Text).

**S.O. 6851 Dated 07-10-86.** Gist: - Movement of Goods by Road between Bombay and Noida Export Processing Zone. (Procedure). (Refer S.O. For Full Text),

**S.O. 6853 Dated 01-12-86.** Gist: - Duty Exemption Scheme - Revised Procedure. (Refer S.O.6614 Dated 30-08-77) (Refer S.O. For Full Text). (Also Refer Amendment No. 1 & 2).

**S.O. 6858 Dated 24-03-87.** Gist: - Re-Arrangement of Groups with the Respective Distribution of Customs Tariff Headings Chapter-wise. (Refer S.O. For Full Text).

**S.O. 6859 Dated 04-05-87.** Gist: - Introduction Of Indian Trade Classification Based On Harmonised Commodity Description And Coding System. (Refer S.O. For Full Text).

**S.O. 6861 Dated 04-05-87.** Gist: - Procedure for Import and Clearance of Crude Oil. Amendment of S.O. No.6612 Dated 12-08-77. (Refer S.O. For Full Text).

**S.O. 6867 Dated 23-11-87.** Gist: - List Of Documents To Be Furnished With The Bills Of Entry At The Time Of Presenting The Bill Of Entry. (Refer S.O. For Full Text).

**S.O. 6869 Dated 13-01-88.** Gist: - Procedure For Duty Free Import Of Consumable Goods When Imported Into India For The Purpose Of Research By Any Research Institution Registered With C.S.I.R./ University. (Refer Not. 321/87 Dated 22-09-87). (Refer S.O. For Full Text).

**S.O. 6876 Dated 14-07-88.** Gist:- Powers of Adjudication of Additional Collectors. (Refer S.O. For Full Text).

**S.O. 6883 Dated 29-09-88.** Gist: - Dispatch of Appealable Order to Importer As Well As the Custom House Agent. (Refer S.O. For Full Text).

**S.O. 6908 Dated 25-04-89.** Gist: - Project Import-Applicability Of Exemption On Individual Goods Forming Part Of Project Import - Propriety And Legality -Regarding. (Refer S.O. For Full Text).

**S.O. 6912 Dated 26-07-89.** Gist:- Processing Of Documents In Respect Of 100% Export Oriented Unit In Bond Department Instead Of In Group 7. (Refer S.O. For Full Text).

**S.O. 6915 Dated 19-09-89.** Gist: - Raising Of Queries On The Reverse Of Bill Of Entry Instead Of Issuing Query Memo. Instructions Regarding. (Refer S.O. For Full Text).

**S.O. 6920 Dated 13-10-89.** Gist: - Instructions Regarding the Correct Rate of Duty in Cases Where the Goods Are Cleared From Bonded Warehouse as Per Section 15(1) (B) Of Customs Act, 1962. (Refer S.O. For Full Text).

**S.O. 6921 Dated 13-10-89.** Gist: - Instruction regarding levy of interest on warehoused goods which are cleared from the warehouse without payment of duty either for export or for home consumption. Subsequent exemption of any kind shall not be regarded as automatically exempting such goods from interest liability. Such interest shall be calculated with reference to the rate of duty assessed at the stage of initial warehousing of the goods. (Refer S.O. for full text). (Law Ministry's Opinion M.S. I.D. note 5332/86/adv/mds. dated 25-07-86)

**S.O. 6922 Dated 17-10-89.** Gist: - Import Of Live Animals Through Bombay Customs, Obtaining No Objection From Wild Life, Regional Office Bombay. (Refer S.O. For Full Text).

**S.O. 6932 Dated 19-10-89/27-10-89.** Gist: - Validity Of Import licence With Respect To Date Of Shipment. Date Of Bill Of Lading Should Be Taken As The Date Of Shipment But In The Case Of Land Locked Countries The Date Of "Through Bill Of Lading" Is To Be Taken As The Date Of Shipment. (Refer S.O. For Full Text).

**S.O. 6926 Dated 08-11-89.** Gist: - Into-Bond Bills Of Entry Relating To Stores To Be Presented To Appraiser Attached To Bond Department. (Refer S.O. For Full Text).

**S.O. 6925 Dated 22-11-89.** Gist: - Guidelines For Implementation Of Certain Industry Based Notifications Which Do Not Contain End-Use Conditions. (Refer S.O. For Full Text).

**S.O. 6928 Dated 24-11-89.** Gist: - Norms To Be Adopted By The Custom House In Cases Where Decisions Of Collector (Appeals) Or CEGAT Are In Favour Of The Party. (Refer Board's Instruction F.No. 390/56/89au Dated 17-10-89) (Refer S.O. For Full Text).

**S.O. 6934 Dated 12-12-89.** Gist: - Interpretation Of The Term "Advance licence" Appearing In Notification No.116/88 Cus Dated 30-03-88. (Refer S.O. For Full Text).

**S.O. 6948 Dated 14-05-90.** Gist: - Issue of Speaking Order by Assistant Collector In Case Of Disagreement with the Classification or Valuation Claimed By the Importer, After Issue of Show Cause Notice. (Refer Boards Instruction No. F.No. 55/98/70 Cus. IV Dated 25-08-71) (Refer Boards Instruction No.450/51/89cus IV Dated 23-03-90) (Refer S.O. For Full Text).

**S.O. 6949 Dated 21-05-90.** Gist: - Customs Convention On Ata Carnet Procedure For Implementation - Instructions Regarding. (Also Refer S.O. 6976 Dated 28-07-91). (Refer S.O. For Full Text).

**S.O. 6955 Dated 15-11-90.** Gist: - Valuation In Case The Supplier Is Different From The Manufacturer/Producer Of The Goods - Calling For Manufacturer/Producers Invoices. (Refer S.O. For Full Text).

**S.O. 6969 Dated 10-02-91.** Gist:-Procedure In Respect Of Court Cases – Instruction Regarding. (Refer S.O. For Full Text).

**S.O. 6970 Dated 04-03-91.** Gist: - Procedure For Maintaining Provisional Duty Bond Register. (Refer S.O. For Full Text).

**S.O. 6979 Dated 28-06-91** Gist: - Customs Convention On Ata Carnet (Ata Convention) Procedure For Duty Free Importation And Exportation Of Goods Intended To Be Displayed Etc. For Exhibition, And Fairs In India And Abroad. (Refer S.O. For Full Text). (Also Refer S.O.6946 Dated 21-05-90).

**S.O. 6980 Dated 29-07-91.** Gist: - Acceptance and Monitoring Of Bonds and Bank Guarantees Conditions for Acceptance –

1. To Be Signed By Authorised Person Duly Attested
2. To Accompany With Covering Letter Of Bank.
3. After Acceptance Of Guarantee Registered Letter To Be Sent To Bank For Authentication.
4. Unconditional And Unlimited Guarantee Should Be Accepted. (Refer S.O. For Full Text). (Refer S.O. 6873 Dated 05-05-88). (Refer S.O. 6843 Dated 14-03-86)

**S.O. 6981 Dated 21-08-91.** Gist: - Simplification of Import and Export Procedure (For Assessment and Examination of Cargo) In Light Of Boards Instruction F.No. 446/42/91 Cus IV Dated 06-08-91. (Refer S.O. For Full Text). (Refer S.O.6963 Dated 03-01-91 For Simplification Of Procedure In Appraising Groups).

**S.O. 6983 Dated 03-09-91.** Gist: - Bank Guarantees Should Bear Full Details Like File Number, Appraising Group Number, And Description Of Goods Etc. On All Copies Especially Bank Copy, For Easy CO-Relation At The Time Of Correspondence. (Refer S.O. For Full Text)

**S.O. 6984 Dated 10-09-91.** Gist: - Demurrage Charges and Dispatch Money Not To Form Part of the Assessable Value. (Refer S.O. For Full Text).

**S.O. 6987 Dated 10-10-91.** Gist: - Procedure For Processing Of Bills Of Entry For Re-Import Of Goods Of Indian Origin. (Refer S.O. For Full Text)

**S.O. 6985 Dated 14-10-91.** Gist: - Acceptance of CHA Surety In Lieu Of Bank Guarantee in Certain Cases. (Refer Public Notice 13 of 31-01-79) (Refer S.O. For Full Text).

**S.O. 6986 Dated 26-11-91.** Gist: - Payment of Customs Duty in Foreign Convertible Currency for Import of Cars/Vehicles (Refer S.O. For Full Text).

**S.O. 6994 Dated 10-01-92.** Gist: - Customs Amendment Act 1991 - Procedure Regarding Payment Of Interest On Bills Of Entry For Import Cargo. (Refer S.O. No. 6992 Dated 23-12-91 And S.O. No.6993 Dated 03-01-92).Procedure regarding Movement Of Into- Bond and Ex-Bond B/E. (Refer S.O. For Full Text). Amendment No. 1 Dated 04-02-92 To S.O. No. 6992 Dated 23-12-91. - Regarding Payment of Interest under Section 47(2) Of the Customs Act, 1962.

**S.O. 6995 Dated 10-01-92.** Gist: - Advance Noting Of B/E Before Delivery Of I.G.M. In The Import Department Procedure Regarding. (Suppression of Public Notice No 95 Dated 27-07-78.) (Refer S.O. For Full Text).

**S.O. 6997 Dated 23-01-92.** Gist: - Procedure for Removal of Newly Manufactured Containers Out Of 100% E.O.U. For Export. (Refer S.O. For Full Text) (S.O. No.6976 Dated 23-05-91 Superseded By This S.O.).

**S.O. 6998 Dated 29-01-92** Gist: - Reference For Opinion Of Dy. C.C. (Laboratory) Should Be Sent Under Signature Of Concerned Additional Collector. (Refer To S.O. For Full Text).

**S.O. 6999 Dated 29-01-92.** Gist: - Procedure Regarding Drawal Of Representative Sample from Import Cargo under D.E.E.C. and Acceptance of Previous Test Reports. Except For  
1. Polyester Etc.

2. Fabrics/ Leather Cloth
3. Synthetic Waste All Other Imports Previous Test Report Valid For
  1. Two Years for Import from Foreign Traders
  2. Three Years For Import from manufacturers. (Refer S.O. For Full Text).

**S.O. 7001 Dated 17-03-92.** Gist: - Procedure In Respect Of Discharge & Clearance Liquid Cargo In Bulk For Home Consumption/ Warehousing In Bonded Warehouse For The Purpose Of Determining Duty Liability Under Section 116 Of Customs Act, 1962.

**S.O. 7005 Dated 25-05-92.** Gist: - Cancellation Of Bonds With End Use Conditions - Conditions To Be Complied With For Cancellation Of Such Bonds. (Refer S.O. For Full Text). (Refer S.O. No. 6964 Dated 08-01-91 For Procedure Of Acceptance Of And Monitoring Of End Use Bonds). (Refer S.O. 6882 Dated 26-09-88.)

**S.O. 7013 Dated 27-08-92** Gist: - Introduction Of Self Assessment Procedure In The Processing Of Bills Of Entry- After Arrival Of Cargo The Importer Or CHA Will Present Self Assessed Bills Of Entry To Docks Appraiser For Assessment And Examination. (Refer S.O. For Full Text). (Refer Main S.O. 7010 Dated 30-06-92 --Amendment No 1 Dated 29-07-92.)

**S.O. 7014 Dated 18-09-92.** Gist: - Loading Of Invoice Value For Bulk Goods- Loaded Value To Be Entered Into The Computer For Future Reference. Instructions Regarding. (Refer S.O. For Full Text).

**S.O. 7016 Dated 16-10-92** Gist: - Application For Release Advice Should Be Made To Group Vii Directly. After Necessary Endorsement The Same Will Be Sent To licence Section For Issue. (Refer S.O. For Full Text).

**S.O. 7018 Dated 29-10-92** Gist: - Introduction Of Self Assessment Procedure In Processing Bills Of Entry And Green Channel Of Examination Of Cargo. (Refer S.O. For Full Text).



**S.O. 7020 Dated 06-11-92.** Gist: - Monitoring Of Bills Of Entry In Appraising Group. (Refer S.O. For Full Text).

**S.O. 7023 Dated 24-11-92.** Gist: - Cancellation of P.D. Bonds (Refer S.O. 6938 Dated 08-01-90 and S.O.6970 Dated 04-03-91). Refer S.O. For Full Text. (Refer S.O. 6709 Dated 29-03-79 - Expeditious Finalisation of P.D. Bonds).

**S.O. 7024 Dated 30-11-92.** Gist: - Types Of Refund Cases To Be Dealt With By The Departments As Detailed In S.O. (Refer S.O. For Full Text).

**S.O. 7028 Dated 24-12-92.** Gist: - 100% Release Of Import Cargo Against Test Bond In Case Of Goods Imported In F.C.L. /L.C.L. Containers. L.C.L. Cargo Can Be Cleared By Test Bond Supported With Bank Guarantee Is Given Alternatively 80% of the Cargo Can Be Allowed Clearance. (Refer S.O. For Full Text).

**S.O. 7023 Dated 24-11-92.** Gist: - Instructions Regarding Cancellation of P.D. Bonds. (Refer S.O. No.6938 Dated 08-01-90). (Refer S.O. For Full Text).

**S.O. 7034 Dated 11-02-93.** Gist: - As Per S.O. 6933 Dated 06-12-89 Benefit Of Any Notification With End Use Condition Was Not Extended To Into Bond Bills Of Entry At The Time Of Assessment. As Per The Present Notification This Benefit Can Be Extended To Into Bond B/E At The Time Of Assessment, Provided They Fulfill The Conditions. However At The Time Of Ex-bonding The Goods Again It Has To Be Verified If The Importer Is Fulfilling All The Conditions At The Time Of Ex-Bonding. (Refer S.O. For Full Text).

**S.O. 7043 Dated 24-09-93.** Gist: - Checks Prescribed While Noting Of Ex-Bond Bills Of Entry And Instructions Regarding. (Refer S.O. For Full Text).

**S.O. 7046 Dated 08-11-93.** Gist: - Monitoring Of Bank Guarantees by Feeding Data into the Computer. Original Bank Guarantees To Be

Kept In The Personal Custody Of Concerned Assistant Collectors.  
(Refer S.O. For Full Text)

**S.O. 7058 Dated 04-04-94.** Gist: - Vessels for Breaking Up - Valuation and Assessment Thereof Procedure Reg. (Refer S.O. For Full Text). (Refer Addendum No.1 Dated 31-05-94.)

**S.O. 7061 Dated 19-05-94.** Gist: - Expeditious Clearance Of Import Cargo Of 100% Export Oriented Units Landed At Ports/Airports/ICD's/CFS Reg. (Refer S.O. For Full Text)

**S.O. 7063 Dated 04-07-94.** Gist: - Procedure for Expeditious Assessment and Clearance of Goods Imported By Ssth/Sth/Th Reg. (Refer S.O. For Full Text)

**S.O. 7065 Dated 09-08-94.** Gist: - Requirement of Testing Samples in Import Consignments - Reg. (Refer S.O. For Full Text)

## **OTHER INSTRUCTIONS:**

### **Duties of Appraiser**

In addition to the functions assigned to the Appraiser under the various Acts, Executive, Standing and Departmental Orders-The scrutinising Appraiser's duties include the following: -

**(i)** He shall see that the bill of entry has been typed out properly and in such a manner as to make any subsequent alteration easily discernible.

**(ii)** He shall check declarations of description, quantity, value and country of consignment by comparison with invoices or other documents and by any independent information he possesses. He shall initial and date each page of the invoice and other documents compared so that substitutes may not be presented at the time of passing the goods. He may allow the importer to correct unimportant errors. All such corrections made should be clearly written and

initialed by the importer or his agent and counter-initialed by the Appraiser. Where revenue is affected and the loss or gain is involved, the case should be reported to the Assistant Collector who may after satisfying himself that there is no cause for action under section 111 of the Customs Act allow the amendment.

Note: - Over declaration of value are to be reported just as well as under valuation.

**(iii)** Authority regarding presentation of bills of entry. - The Appraisers may check the authorisation of the presenter if he doubts the authenticity of the presenter. Every bill of entry presented by importers/ agents bears the name and address of the importer. Application for the change of name of importers in the bills of entry or Import General Manifest shall be presented direct to the Import Department for scrutiny. Whenever necessary no objection may be taken from SIIB/CIU/STF then the same should be sent to Group A.O. For scrutinising the application with reference to relevant documents such as importer's licence, bill of entry or delivery order, copy of letter of credit etc. and satisfy himself that the application is bonafide and the mistake is genuine. He should then submit the application to Assistant Collector. The amendment fee, if liable should be recovered by the Import department and thereafter the necessary amendment in the bill of entry and the Import General Manifest should be done. Appraiser will see generally that a bill of entry has been properly made out and verify that weight of each category of goods is declared in addition to other particulars.

**(iv)** Prior entry, bills of entry- The Appraiser will verify that in the case of bills of entry presented and noted in the import department under the prior entry rules are marked distinctly at the top with the words, "prior entry".

**(v)** Change of declaration in bill of entry- nature of article to be indicated.

- (a) When the declaration of any goods is altered transferring them from one head of the tariff to another carrying a different rate of

duty, the nature of the article should be clearly indicated on the bill of entry.

- (b) The description in the bill of entry should be sufficiently amplified to relate to a definite item of the tariff. A classification that is merely implied by the rate of duty or tariff value is inadequate. Any amendment or amplifications made by an Appraiser in the description in the bill of entry, so as to justify assessment under a special head of the tariff should be attested by the importer or his authorised agent. But when a responsible representative of the importer is not present and when the amplification required is necessary to relate the goods to the most highly dutiable item of that class in the tariff, the Appraiser need not himself insert the amplifications.

**(vi)** Discrepancies between bill of entry and manifest examination to be ordered by Appraisers. When the import department reports material discrepancies regarding marks and/or contents between a bill of entry and the manifest the examining officer is to open a certain percentage from the particular lots having discrepant marks and/or contents.

**(vii)** Discrepancy in the country of consignment (origin) checking of by Appraiser: In a case where there is prima facie discrepancy between the country of consignment and the port of shipment, the import department will satisfy (with the help of the appraising group where necessary) that the country of consignment is correct before noting the bills of entry.

**(viii)** Irregularity in number of packages on bill of entry advice to Import department by Appraisers- The scrutinising Appraiser should bring to the notice of the Import department any irregularity in the number of packages discovered on the bill of entry at the time of classification from the scrutiny of the relative invoices.

**(ix)** He shall see that the importation of prohibited goods is not permitted. In the case of goods which require a licence or special procedure, that appropriate licence is produced or the special procedure carried out.

**(x)** Appraisers are instructed to see that the value debited and the balance available is endorsed on ITC licences both in words and figures to avoid tampering of licences.

**(xi)** The assessing officer shall take the initiative in applying the various provisions of the import policy clarification as and when received from ITC authorities.

**(xii)** Any discrepancy between the details of marks, number or description of goods etc., shown on the bill of entry and those shown on the invoice and any unauthorized or unattested alterations on the bill of entry should be reported and verified by the classifying and/or shed Appraiser before the bill of entry is classified or the goods passed as the case may be.

**(xiii)** He shall initial the importer's declaration (which should be in words with 'only' added in figures) of the quantity and/or value upon which the calculation of the amount of duty has to be based. Declarations of quantity should be entered both in words and figures in all cases where quantity is a factor in the assessment of duty, e.g. tariff value and specific duty assessments.

**(xiv)** He shall classify the goods under the headings required by statistical department and see that all the details required by that department are given.

**(xv)** The Appraiser should refer to the group Assistant Collector for advice and direction when in doubt on any point of classification, assessment or interpretation of import policy in regard to permissibility of import or as to the best method of dealing with a case. The assessment may thus have the benefit of the Assistant Collector's knowledge and experience and be brought for a decision without unnecessary delay.

**(xvi)** Regular inquiries should be conducted by the Appraisers in the market. Each group should select representative articles which are regularly imported and detailed inquiries should be made regarding the

**(xvii)** Goods are "assessed" when the exact amount of duty leviable has been ascertained and written down.

**Finalisation of certain types of B/E, by Appraiser:**

**(xviii)** As a measure of giving the Assistant Collector's more time for supervision and in pursuance of the customs study team's recommendations; the board has decided that the following instruction should be followed by the custom houses.

- (I) Bills of entry in which the total value exceeds Rs.1, 00,000/- should be endorsed to the Assistant Collector of Customs for check.

That in the case of the following articles the bills of entry may be finalised by the Appraisers themselves irrespective of value:

- (a) Goods covered under item 72a of the Indian Customs Tariff (84.66 of CTH, '86).
- (b) Machines which are assessed at 35% ad valorem (this clause not applicable in CTH, '86).
- (c) Other machines and bulk products which are often imported and in regard to which no difficulty is encountered. These articles should be listed by name, by the concerned Collector of Customs and the list compiled should be forwarded to the other Custom Houses. The Collector of Customs, Bombay shall coordinate in this respect.
- (d) Imports by Government departments and public undertakings.
- (ii) Bills of entry covering products the imports of which are noticed for the first time should be endorsed to the Assistant Collector of Customs.

- (iii) Bills of entry in respect of which there is a doubt felt by the Appraiser should also be endorsed to the Assistant Collector.
- (iv) The remaining bills of entry should be sent to the Assistant Collectors of Customs without making any specific endorsement. Assistant Collectors will select 05 to 10 bills of entry for scrutiny, having regard to the complexity of classification or valuation of the articles imported the efficiency of the Appraiser concerned and his experience in handling the classification etc. of that article. The selective check of 05 to 10 B/E by the Assistant Collectors of Customs should also cover the types of cases mentioned at (a) to (d) in paragraph xviii (i) above. Wherever bills of entry are checked by the Assistant Collector of Customs, the Assistant Collectors will sign in full against the relevant entry in token of their having checked them. The other bills of entry will be merely initialed by the Assistant Collectors. (Authority: CBEC.F.no.21/31/67 cus. IV dt.19-9-70). (Further reviewed)

**(xix)** All relevant details should be recorded at the time of original assessment and important factors should not be put forward one by one, subsequent to clearance in answer to audit queries. As a general rule, all materials which guided the Appraiser to arrive at a value should also be made available to audit to enable it to carry out more than a routine arithmetical check.

**(xx)** Warehoused goods-Assessment & Re-assessment.

- (a) Appraisers at the time of completion of the warehousing bill of entry must exercise proper care in accepting the declaration of the value of such goods, even where goods are assessed on tariff valuation or specific duty. The reason being that if the rate of duty be altered, while the goods are in bond to an ad valorem rate, the duty becomes payable when goods are cleared on the declared value on the bill of entry (subject to the stipulation under section 15 of the Customs Act,1962).
- (b) Warehoused goods removed in bond to another warehousing port:

The Customs Act, 1962 does not authorize re-assessment of goods removed in bond under Section 67 of the Act. Appraisers must therefore scrutinise the values and other particulars declared in into-bond bills of entry as carefully and closely as they would scrutinise similar declarations in bills of entry for home consumption.

- (c) Declaration of value in bond bills of entry: To enable the bond department to certify values and quantities in ex-bond bills of entry, The Appraiser should state on the reverse of the into-bond bills of entry; the quantity, value, and invoice currency separately for each individual case (its equivalent in Indian currency being shown by the bonder) together with the rate of duty. When however packages are of uniform contents and value, and assessment is based on weight, the assessing officer should endorse on the reverse of the into-bond bill of entry "contents uniform". In such cases the Bond department will certify in ex-bond documents the exact average weight for each package as reduced from the total assessed weight.

**(xxi)** Value declaration in bills of entry-checking of by Appraiser.

- (a) Values are ordinarily declared under two heads viz.

Invoice value and (ii) Tariff value. The position with regard to the checking, initialing in token of having checked these values should be as follows: -

- (i) Invoice value: The Appraiser should check the amounts declared in appropriate columns of the bill of entry with reference to invoice and initial the value shown therein on the copies of the Bills of entry.
- (ii) Tariff value: The appraiser will check and initial the tariff rate and value in appropriate columns on the copies of bills of entry. Total tariff value will also be checked by Accounts department.

- (b) In addition to the above requirements the rate of duty is to be written on the copies of bills of entry by the Appraiser.



- (c) Whenever any error is noticed by the Accounts department and amendment is considered necessary the bill of entry should be sent back to the Appraiser for necessary action.

**(xxii)** The scrutinizing Appraiser shall record on the bill of entry (original and duplicate as the case may be) suitable instructions for the guidance of the shed staff in connection with examination of the goods. All such instructions should be addressed to the shed Appraiser/Appraiser on fee as the case may be. These instructions should be clear and unambiguous as to the extent of appraisal or examination required, sample, if any, to be drawn from the consignment; packages, if any, to be detained (the reason should be recorded) etc. Where inspection of the goods is required it should be indicated. The scrutinising Appraiser may specify half of the total number of packages required to be examined by indicating their marks, numbers etc. Leaving the other half to be selected by the shed Appraiser/Appraiser-on-fee as the case may be. In exceptional cases when, the selection of packages is found to involve hardship to the importer, the scrutinising Appraiser himself, shall order the selection to be made by the shed Appraiser.

In all cases the bills of entry should be presented by the importer or his agent to the shed Appraiser who may mark the bills of entry to one of the examining officers under him for further action in compliance with the instructions given on the bills of entry by the scrutinising Appraiser. In the case of bills of entry requiring selection of packages by him the shed Appraiser may mark the bill of entry to the examining officer and may specify the packages.

While passing orders for opening of packages on the bill of entry care should be taken that sufficient number of packages are opened so as to verify the correctness of the assessment. At the same time, however, care shall be taken to protect importers from avoidable inconvenience.

**(xxiii)** Assistant Collector and scrutinising Appraisers in the Group are held responsible for a proper use of their discretion regarding the extent of the examination or appraisal to be ordered.

**(xxiv)** (a) When consignments consist of uniform packages with uniform contents and the documents show that the shippers and importers are firms of high standing and repute, it will ordinarily be sufficient to examine 1 per cent of the package, subject to a maximum of 20, the rest of the consignment being "lot inspected".

(b) When a bill of entry covers a variety of goods imported by or on behalf of traders, orders shall be given as far as practicable to open proportion of the packages under each item representing each lot as shown in the invoice or packing list, within the percentage to be examined.

**(xxv)** The scrutinizing Appraisers are authorised to give examination orders in all first appraisal bills of entry. These bills of entry need not therefore be put up to the Assistant Collector for counter signature of the examination order.

[\(F.22/665-Cus.iv dated 08.05.1957\)](#)

**(xxvi)** Care should be taken to ensure that customs tariff etc. is corrected immediately on receipt of the copies of notifications, instructions issued by the government.

**(xxvii)** Invoice value register of Appraisers for goods assessed on invoice value:

For goods assessed on invoice values the invoice value register in the form as prepared by the directorate of inspection (customs & central excise) and shown below should be maintained by each Appraiser in the different groups.

DATE OF ASSESSMENT	DATE OF INVOICE	B/E NO.& DATE & VESSEL'S NAME	DESCRIPTION OF ARTICLE
1	2	3	4

QUALITY AND BRAND	HEADING NO. OF C.T.H. `75	C/O MAKER'S NAME	SUPPLIER'S NAME	VALUE PER UNIT (FOB) OR C.I.F.
5	6	7	8	9

TOTAL QUANTITY & TOTAL VALUE (CIF)	IMPORTER'S NAME & ADDRESS	CLEARING AGENTS	REMARKS
10	11	12	13

(CENTRAL BOARD OF REVENUE LETTER F.NO.55/54/62-CUS.IV DT.26.09.62)

**(xxviii)** Action when details are insufficient for classification.

- (a) When the documents submitted and the information given by the importer, are insufficient in one or more details to enable the scrutinising Appraiser to classify and assess the goods declared in a bill of entry and it is necessary to obtain further particulars by examination of the goods, the scrutinising Appraiser should in his order to the examining staff detail the points on which he requires specific information. This order should be combined with an "appraise" order so that it will not be necessary to examine the goods again after assessment. Examples are given below:
- (i) If the documents of a consignment of old newspaper in bales do not give the weight, the scrutinizing Appraiser should give the order "examine and weigh and return the bill of entry to me".
- (ii) If the documents of a consignment of paper insulated copper cable do not give the size of the cores (vide heading 85.44 of CAT 1986) the order should be "examine and report whether any cores less than 4.75 square millimeter's and return the bill of entry to me".

**(xxviii)** Dealing with audit objections: All Appraisers will deal with audit objections raised against their own work. If the Appraiser concerned is absent from duty when the audit objection is raised, the matter shall be referred to the Assistant Collector of the group concerned who will depute another officer to deal with the audit objection.

**Appraiser's instructions to other departments to note alteration etc.:**

The following departments are concerned in making notes on bills of entry under instruction from the appraisers. Appraisers should be careful to address their directions to the right department.

- (1) Audit-rate of exchange.
- (2) Import-packages marks and numbers.
- (3) Statistics-
  - (a) Country of consignment
  - (b) Description, quantity and value of goods.

**Transfer of complicated appraising case involving disputes or investigation to SIIB./Investigation cell - Procedure regarding:**

Consequent of the recommendations of the customs study team it has been decided that all groups of the Appraising department including Air-Cargo Complex unit, Postal Appraising department and other units shall transfer cases of complicated nature involving disputes or requiring detailed investigation in which prima facie penal action is indicated to SIIB/ CIU investigation cells for action. The object of transferring such cases is to concentrate cases in the SIIB/CIU/ Adjudication cells which can devote time for detailed work involved in them. Transfer of such cases should be effected under the orders of the Additional Collector of the group/unit concerned subject to Additional Collector SIIB/CIU and investigation cell's concurrence. To ensure that relatively similar cases of ITC violation or misdeclaration are not indiscriminately passed on.

**Reconstruction of lost or destroyed bill of entry and its other relevant documents:**

If a bill of entry is lost or accidentally destroyed by the importer or the CHA. Then it is for the importer or his agent to prove that the loss or destruction was accidental and without malafide. They should lodge a police complaint in case of loss of documents. They should make an application for reconstruction of the noted bill of entry to the A.C., Import Department. The copy of the police complaint should also be attached along with the application. They should give a plain indemnity bond for any loss to the customs. After taking no-objection from the intelligence unit like CIU, SIIB etc. & from Groups and Docks the importer or the CHA may be permitted to reconstruct the bill of entry with the permission of A.C. Import.

However if the bill of entry is lost by the Customs department and it is so proved, then the A.C., Import may grant permission for reconstruction without a bond. The lodging of the complaint to the police department by the importer/CHA is mandatory. If the lost bill of entry is recovered after reconstruction, then the same should be surrendered to the customs department. A.C. MCD will take charge of all such bills of entry. For reconstruction of original or duplicate bill of entry which was in the possession of the customs after the clearance of the goods, the same may be done after obtaining the permission of Additional Collector in-charge of Appraising. Such bills of entries are required to give refund or for such other purpose.

**THE CUSTOMS VALUATION (DETERMINATION OF PRICE IMPORTED GOODS) RULES, 1988:-**

Notification No.51/88-Customs (NT), dated 18.07.1988.

In exercise of the powers conferred by section 156 of the Customs Act, 1962 (52 of 1962) read with section 22 of the General Clauses Act, 1897 (10 of 1897) and in suppression of the Customs Valuation Rules, 1963, except in respect of things done or omitted to be done before such suppression, the Central Government hereby makes the following rules, namely:-

## **1. Short title, commencement and application.-**

(1) These rules may be called the Customs Valuation (determination of price of imported goods) Rules, 1988.

(2) They shall come into force on the 16<sup>th</sup> August, 1988.

(3) They shall apply to imported goods where a duty of Customs is chargeable by reference to their value.

## **2. Definitions.-**

(1) in these rules, unless the context otherwise requires, -

(a) "deductive value" means the value determined in accordance with rule 7 of these rules;

(b) "goods of the same class or kind", means imported goods that are within a group or range of imported goods produced by a particular industry or industrial sector and includes identical goods or similar goods;

(c) "identical goods" means imported goods: -

(i) which are same in all respects, including physical characteristics, quality and reputation as the goods being valued except for minor differences in appearance that do not affect the value of the goods;

(ii) produced in the country in which the goods being valued were produced; and

(iii) produced by the same person who produced the goods, 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 of these imported goods free of charge or at a reduced cost for use in

connection with the production and sale or export of these imported goods;

(d)"produced" includes grown, manufactured and mined;

(e)"similar goods" means imported goods: -

(i) 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;

(ii) produced in the country in which the goods being valued were produced; and

(iii) 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 of these imported goods free of charge or at a reduced cost for use in connection with the production and sale or export of these imported goods;

(f)"transaction value" means the value determined in accordance with rule 4 of these rules.

(2) For the purpose of these rules, persons shall be deemed to be "related" only if-

(i) They are officers or directors of one another's businesses;

(ii) They are legally recognised partners in businesses;

(iii) They are employer and employee;

(iv) Any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;

(v) One of them directly or indirectly controls the other;

(vi) Both of them are directly or indirectly controlled by a third person;

(vii) Together they directly or indirectly control a third person; or

(viii) They are members of the same family.

Explanation: (i)-the term "person" also includes legal persons. Explanation (ii) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule.

### **3. Determination of the method of valuation.-for the purpose of these rules,-**

(i) the value of imported goods shall be the transaction value;

(ii) if the value cannot be determined under the provisions of clause (i) above, the value shall be determined by proceeding sequentially through rule 5 to 8 of these rules.

### **4. Transaction value:-**

(1) The transaction value of imported goods shall be the price actually paid or payable for the goods when sold for export to India, adjusted in accordance with the provisions of rule 9 of these rules.



(2) The transaction value of imported goods under sub-rule (1) above shall be accepted; provided that: -

(a) There are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which: -

(i) are imposed or required by law or by the public authorities in India; or

(ii) limit the geographical area in which the goods may be resold; or

(iii) do not substantially affect the value of the goods;

(b) The sale or price is not subject to same condition or consideration for which a value cannot be determined in respect of the goods being valued;

(c) 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 9 of these rules ; and

(d) 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 sub-rule (3) below.

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time :-

(i) The transaction value of identical goods or of similar goods, in sales to unrelated buyers in India;

(ii) The deductive value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 9 of these rules and cost incurred by the seller in sales in which he and the buyer are not related ;

(c) Substitute values shall not be established under the provisions of clause (b) of this sub-rule.

## **5. Transaction value of identical goods.-**

(a) Subject to the provisions of rule 3 of these rules, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued.

(b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.

(c) Where no sale referred to in clause (b) of sub-rule (1) of this rule, is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

(2) Where the costs and charges referred to in sub-rule (2) of rule 9 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued

and the identical goods in question arising from differences in distances and means of transport.

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

## **6. Transaction value of similar goods.-**

(1) Subject to the provisions of rule 3 of these rules, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued.

(2) The provisions of clauses (b) and (c) of sub-rule (1) sub-rule (2) and sub-rule (3) of rule 5 of these rules shall, mutatis mutandis, also apply in respect of similar goods.

## **7. Deductive value.-**

(1) Subject to provisions of rule 3 of these rules, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions: -

(i) Either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;

(ii) The usual costs of transport and insurance and associated costs incurred within India;

(iii) The Customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1) of this rule, be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3)(a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.

(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1) of this rule.

## **8. Residual method.-**

(1) Subject to the provisions of rule 3 of these rules, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962) and on the basis of data available in India.

(2) No value shall be determined under the provisions of these rules on the basis of-

(i) The selling price in India of the goods produced in India;

(ii) A system which provides for the acceptance for customs purposes of the higher of the two alternative values;

(iii) The price of the goods on the domestic market of the country of exportation;

(iv) The price of the goods for the export to a country other than India;

(v) Minimum customs values; or

(vi) Arbitrary or fictitious values.

## **9. Cost and Services.-**

(1) In determining the transaction value, these shall be added to the price actually paid or payable for the imported goods, -

(a) The following cost and services, to the extent they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods, namely: -

(i) Commissions and brokerage, except buying commissions;

(ii) The cost of containers which are treated as being one for customs purposes with the goods in question;

(iii) The cost of packing whether for labour or materials;

(b) The value apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale or export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely: -

(i) Materials, components, parts and similar items incorporated in the imported goods;

(ii) Tools, dies, moulds and similar items used in the production of the imported goods ;

(iii) Materials consumed in the production of the imported goods;

(iv) Engineering, development, art work, design work and plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods;

(c) Royalties and licence fees related to the imported goods that the buyer is required to pay, directly or indirectly, as a condition of the sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller;

(e) All other payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller to the extent that such payments are not included in the price actually paid or payable.

(2) For the purposes of sub-section (1) and sub-section (1a) 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, for delivery at the time and place of importation and shall include-

(a) The cost of transport of the imported goods to the place of importation;

(b) Loading, unloading, and handling charges associated with the delivery of the imported goods at the place of importation; and

(c) The cost of insurance: provided that in the case of goods imported by air, the cost and charges referred to in clauses (a),(b) and (c) above,-

(i) Where such cost and charges are ascertainable, shall not exceed twenty per cent of the free on board value of such goods,

(ii) Where such cost and charges are not ascertainable such cost and charges shall be twenty per cent of the free on board value of such goods:

Provided further that in the case of goods imported other than by air and the actual cost and charges referred in clauses (a),(b) and (c) above are not ascertainable, such cost and charges shall be twenty-five per cent of the free on board value of such goods.

(3) Additions to the price actually paid or payable shall be made under this rule on the basis of objective and quantifiable data.

(4) No addition shall be made to the price actually paid or payable in determining the value of the imported goods except as provided for in this rule.

#### **10. Declaration by the Importer.-**

(1) The importer or his agent shall furnish,-

(a) A declaration disclosing full and accurate details relating to the value of imported goods; and

(b) Any other statement, information or document as considered necessary by the Proper Officer of customs for determination of the value of imported goods under these rules.

(2) Nothing contained in these rules shall be construed as restricting or calling into question the right of the Proper Officer of customs to satisfy himself as to the truth or accuracy of any statement, information, document or declaration presented for valuation purposes.

(3) The provisions of the Customs Act, 1962 (52 of 1962) relating to confiscation, penalty and prosecution shall apply to cases where wrong declaration, information, statement or documents are furnished under these rules.

### **11. Settlement of dispute.-**

In case of dispute between the Importer and the Proper Officer of customs valuing the goods, the same shall be resolved consistent with the provisions contained in sub section (1) of section 14 of the Customs Act, 1962 (52 of 1962)

### **12. Interpretative notes:**

The interpretative notes specified in the schedule to these rules shall apply for the interpretation of these rules.

### **DUTY EXEMPTION SCHEME (DEEC): -**

The Duty Exemption scheme is an important instrument for export promotion. Under this scheme, duty-free imports are allowed in respect of raw materials, components, intermediates, consumables, parts, spares including mandatory spares and packing materials required for the purpose of export production. The duty-free licence bears a suitable export obligation for the purpose of achieving the objective of the scheme.

### **Objective:**



The objective of the duty exemption scheme is that exporters should be saved from blocking their funds by payment of customs duty at the time of import of their inputs for export production and then to wait for drawback which they can claim only after the finished products have been exported. It is with this intention that where inputs are allowed duty-free, the exporter is not entitled to drawback on the product exported. In the previous import policy also, no drawback was admissible on the products exported under this scheme but there was a provision in the policy that in respect of any other duty paid material whether imported or indigenous, which was not included in the duty-free licence but was used in the manufacture of the product exported. The exporter could apply to the director of drawback for fixation of suitable brand rate. In the new Import Policy, however, para 70 of the policy book only lays down that drawback shall not be admissible on the products exported under the scheme. But unlike the previous policy, there is no mention that if any other duty-paid materials have been used, the exporter can apply for fixation of brand rate of drawback. Secondly, the new Import policy also provides that in cases where the exporter has availed of the duty exemption licence, he will not be entitled to international price reimbursement scheme.

### **Limiting factors of duty-free licence**

In the earlier policy, there was a provision that both quantity and value will be the limiting factors in respect of each item of import. In the new policy, however, two separate categories of advance licences have been introduced, namely,

- (i) Value-based advance licence and
- (ii) Quantity-based advance licence. These are explained below:

#### **(i) Value-based advance licence:**

The value-based advance licence will not have quantity as a limiting factor. It will have only value as the limiting factor. The licence will contain the following information: -

(a) The names and description of the items to be imported and exported (item-wise quantity for import or the quantity of the product to be exported will be given).

(b) The CIF value of imports (although the import policy does not mention clearly whether item-wise value will be indicated or the total value of the advance licence will be indicated but having regard to the type of the advance licence, it appears that only the total CIF value of the licence will be given and not the item-wise CIF value).

(c) The FOB value of exports & qty. of exports. The advance licence holder will have to achieve a prescribed value addition. The Chief Controller of Imports & Exports has separately published a book which indicates standard input-output and value addition norms. If any export product does not have the pre-determined input-output norms and the value addition, the value addition will be as decided by the competent authority as laid down in para 49 of Import Policy. There is, however, a separate para no.60 in the Import Policy which lays down that value addition norms as specified by means of a public notice shall apply to duty-free licences and products not listed therein shall have a minimum value addition of 33%. But the advance licensing committee may consider requests for grant of licences on a lower value addition, but in no case below 25% on technical grounds. However, since 33% or 25% are only the minimum value addition norms fixed, the advance licensing committee can take a decision in each case whether to allow the duty-free licence at the minimum value addition to be achieved or at a higher value addition to be achieved, in respect of export products for which there is no pre-determined value addition norms released under public notice no.2 dated 31.3.1992 in a separate book.

In the case of sensitive items, however, or case where the competent authority so decides the quantity or value or both of each sensitive item intended to be imported, shall be indicated in the duty-free licence itself. The list of sensitive items as given at the end of the separate book released under public notice no.2 dated 31.3.1992 regarding input-output value addition norms. The licensing

authority may treat any other item also as sensitive item even if such item does not appear in the list. For the purpose of issuing value-based licences, the department of Revenue may have to amend their customs notification no.159/90 dated 30th march 1990 because the said notification mentions quantity of each item to be given as one of the conditions of the scheme. Even otherwise the said notification needs to be amended because in the case of disposal of duty-exempt replenished material, the notification no.159/90 issued by the customs authorities refers to Para's 249 and 250 of the Import Policy, 1990-93 which is not relevant under the new policy.

**(ii) Quantity based advance licence:**

The quantity-based advance licence will indicate the names and description of items to be imported and exported, the quantity of each item to be imported, the CIF value of each item to be imported, the quantity and the FOB value of the items to be exported and the value addition. In issuing the quantity-based advance licence, the standard input-output norms as published by DGFT along with the value addition prescribed against such norms will be adopted. In the case of sensitive items, of course the value addition as laid down in the Export & Import policy will be applicable. If there is no value addition given along with the standard input-output norms as separately announced by the value addition subject to the minimum of 33% or 25% as laid down in para 60 of the new export & import policy is to be followed. As a matter of fact, Para 52 of policy lays down that The Chief Controller of Import & Exports may modify the norms or prescribe additional norms on the recommendation of the advance licensing committee.

Para 53 of the new Import Policy also makes a provision for flexible value addition. This para lays down that a quantity or value-based advance licence may be given to a class or classes of export product in the same sector in order to provide flexibility to the exporter in achieving the value addition. It is laid down that the export obligation and value addition will be regarded as having been achieved in such cases by taking the value of Imports and Exports for each such class of products covered by the licence.

### **VALUE ADDITION:**

Before taking up the other types of duty-free licences, it is necessary to explain at this stage the definition of "value addition" for the purpose of duty exemption scheme. The formula for calculating value addition is given in para 77 at page 24 of the new Export & Import Policy. As will be seen there from, the percentage of value addition is calculated on the basis of the FOB value of exports to be made against duty-free licence and the CIF value of the imported inputs covered by the licence. The words "covered by the licence" are significant, when compared to the corresponding provision in the previous policy. In the previous policy value addition was defined in para 342 of the hand book of procedures, 1990-93. According to that formula, the value addition was calculated by taking the FOB value of exports vis-à-vis the CIF value of all imported inputs (other than capital goods) taken together, irrespective of the fact whether those inputs were imported directly by the applicant under the duty-free licence or they were imported/procured otherwise, for manufacture of the product to be exported. The new import policy as already stated takes into account the FOB value of exports vis-à-vis CIF value of goods imported against the duty-free licence itself and it does not take into account other imported items not covered by the duty-free licence but used in the manufacture of product exported. This difference is significant as it will help the exporters to easily achieve the prescribed value addition percentage.

### **SELF-DECLARED PASS BOOK SCHEME:**

This is a new scheme incorporated under duty exemption. The scheme is based on the issue of duty-free pass book based on self-certification and self-declaration of the exporter. This scheme is applicable to star trading houses, trading houses and export houses. Other exporters (wrongly mentioned as exporters of other products under para 54 of the new import policy) as may be specified

in this behalf by the DGFT may also be made eligible to make use of the scheme. Under this scheme, the eligible exporter will be issued a pass book indicating the names and description of the items to be imported and exported by him and the value addition to be achieved through such exports. He will also give the CIF value of imports and will certify and declare that the particulars given by him are correct. It is presumed that the exporter will give only the total CIF value of the imports and not the item wise value. This point should be immediately clarified by DGFT. Based on such self-certification and self-declaration, the customs authorities will permit the import of raw materials, components, intermediates, consumables, spares, including mandatory spares, parts and packing materials.

After the export is made, the exporter will enter the export particulars in the passbook, etc. The names and description of the items exported and the value addition achieved and certify that the particulars given by him are correct. It should again be clarified whether the exporter will be bound by any minimum addition to be achieved depending upon standard percentage of value addition as published by DGFT, the prescribed value addition in respect of sensitive items as given in the Import Policy or the minimum value of 33% as given in para 60 of the Import Policy. This point should also be clarified because it is a vague to say that the exporter will indicate the value addition achieved without specifying whether he will be bound by any minimum value addition. A clarification on this point is necessary particularly because even after the exporter has furnished self-certification and self-declaration, the end of para 54 of the new import policy says that the licensing authority will discharge the export obligation "after due verification". What is the type of verification that the licensing authority will do has not been indicated and that by itself defeats the very purpose of the "self-declared passbook scheme."

The passbook will be valid for a period of one year and may be renewed from time to time. Here again, it is not clear whether the one year period is for completion of both the import and the export transactions and the renewal referred to in para 54 of the Import Policy means renewing for the unfinished part of the transactions or it

means that the exporter will make fresh entries of both imports and exports in the same passbook for subsequent transactions.

The exporter will also have to give a bank guarantee or a legal undertaking, as the case may be, to ensure compliance with the export obligation which in such cases appears to mean the achievement of value addition and not the quantity of the product exported and its value.

### **INTERMEDIATE ADVANCE LICENCES:**

Intermediate advance licences will be issued as before i.e. the intermediate manufacturer getting duty-free inputs will either export the end-product himself or supply the same to a duty-free licence holder. There are two points which must be mentioned in this regard. The first is that the intermediate advance licence will have quantity limits of the items of import as laid down for advance licences and will have to achieve the value addition. Secondly para 55 of the import policy which relates to intermediate advance licence lays down that the supply of the finished product to the ultimate exporter by the intermediate manufacturer will be under an agreement between the two parties. The purpose of the agreement is not clear when the import policy itself says that the intermediate advance licence holder shall have the option either to supply to duty-free licence holder or export directly within a specified period.

### **SPECIAL IMPREST LICENCES:**

A provision for special imprest licence continues in the new policy. The new provision is comparatively enlarged in the sense that while in the earlier policy, the special imprest licence could be used only for import of raw materials and components, the licence under the new policy can be used for import of not only the raw materials and components but also intermediates, consumables, parts, spares, including mandatory spares and packing materials.

The special imprest licence will also be quantity based and will be subject to input-output norms as may be determined by the competent authority. This means the standard input-output norms and the value addition as separately notified by the DGFT will apply to special imprest licences. Another point to be mentioned here is, under the earlier policy a special imprest licence could be issued for the manufacture of goods to be supplied to ONGC etc. at international price. The new policy does not mention about the supplies at international price.

Supplies to 100% export-oriented units and units in free trade zones etc. continue to be covered under the special imprest licensing scheme. In the earlier policy, however, this specified products laid down in customs notification no.162/90 dated 30th March 1990.

In the new policy, it is laid down that the supplies covered by the scheme will be those as are specified by a public notice issued in this behalf or any other goods specified in the special imprest licence.

#### **ADVANCE CUSTOMS CLEARANCE PERMITS:**

Like the previous policy, the new policy also contains a provision for issue of advance customs clearance permits. The only point to be mentioned is that the new policy does not make any mention of what would be the value addition to be achieved by the Indian exporter for the services that he renders by way of jobbing, repairing etc. In the earlier policy, there was no definite value addition laid down for such purpose but the policy did provide that applications for advance customs clearance permits will be considered where there is a reasonable value addition after accounting for the freight/insurance involved in the shipment.

#### **CARE TO BE TAKEN WHILE ALLOWING CLEARANCE AGAINST VALUE BASED ADVANCE LICENCES/QTY. BASED ADV. LICENCES:**

(i) Value of the goods should be checked under goods imported against value based advance licences. Under this scheme, since the limiting factor is value only. There is a general tendency on the part of importers to under value them in order to have more duty free entitlement. Such instances of under invoicing, if any, are required to be brought to the notice of Commissioner (DBK), New Delhi.

(ii) Since the notification 159/90, 203/92, 204/92 as were the policy in force lay down that the goods to be allowed clearance free of duty should be of a type required in the manufacture of product exported; care should be taken to ensure usability of goods imported vis-à-vis goods exported.

(iii) The imports under this scheme shall be allowed only during the validity period of export obligation, which is now for 12 months from the date of issue of licence.

In addition to the above information the following information on the above subject will clarify the whole scheme. The scheme applies to three categories of import licence holders. They are eligible to clear goods imported against these categories of licence without payment of duty on their fulfilling the requirements of the scheme. These three categories of licences are:

- 1) Advance licence.
- 2) Advance licence for intermediate product.
- 3) Special imprest licences.

First category of licence is for registered exporters. The second category of licence is for an advance licence holder with a tie up with another advance licence holder who requires intermediate products for manufacture of product to be exported. The third category of licences are issued to registered exporters for deemed exports against contracts entered with IDBRD/IDA aided projects. The benefit of clearance of goods without payment of duty is admissible to specified manufacturing activity, undertaken with the main aim of exporting finished goods. While issuing advance licence, the licensing



authority, simultaneously issues duty exemption-entitlement certificate in a prescribed form. On completion of imports and fulfillment of exports obligations, the certificate which is in two parts, duly completed by customs is returned to the issuing authority. Ordinarily the DEEC is to be registered & used at one port. The benefit of the scheme can be availed of in one of the following manners for imports.

(1) DEEC holder can place order himself, import the goods and by following the prescribed procedures clear the goods without payment of duty.

(2) Goods covered by an open general licence can be imported, placed in a warehouse after bonding under the warehousing provisions of the Customs Act, 1962 and thereafter cleared without payment of duty utilizing valid advance licence and under DEEC.

(3) Goods covered by the licence may be allowed to be imported by another person under a valid letter of authority and the persons name must appear in DEEC.

(4) Export/trading houses can also authorize other manufacturers, subject to one condition that they execute bond with bank guarantee for the payment of full customs duty.

**Procedure to be followed for import is as follows:**

Clearance procedure actually starts before even filing of a bill of entry u/s 46, if the first consignment is to be cleared. Importer has to execute a bond with bank guarantee. This bond is to be filed with the licensing authority. After the fulfillment of this requirement the importer will present a B/E duly endorsed "for DEEC", for noting in the normal manner. After the B/E is noted in the Import Dept., the same is to be presented to computer section for processing. The B/E must be accompanied by usual documents licence and DEEC book. Thereafter all the enclosed documents are passed on to the Appraising section. Concerned Appraising officer assesses the goods, completes the B/E and makes entries in the DEEC book and sends the B/E with endorsement to computer section for concurrent audit. The whole set of B/E again goes to assessing officer, where an entry made in the register maintained and file number is assigned; and the officer signs the bill of entry and the register. Finally the Assistant Collector signs, the comptist checks values and thereafter the licence is registered and audited. After the audit, the comptist signs the /E & "nil" duty is indicated by the typist. After the registry of licence, the B/E is endorsed after retaining the original B/E and its copy. In the docks the procedure followed is identical with other usual examination & clearance procedure.

**EXPORT OF GOODS MANUFACTURED FROM IMPORTS UNDER DEEC:**

If imports are under DEEC scheme, the export obligations are to be fulfilled. For fulfillment of such obligation different periods have been fixed depending on the goods. The period may be 6, 9 or 12 months extendable by three months. If the export obligations are not fulfilled the following steps will be taken against the importer & those who executed bond.

1. Proceedings for default will be initiated by licensing authority.
2. Benefits under policy may be withdrawn.
3. Importer will be asked to pay duty.

4. Importer will be asked to pay interest on duty which becomes payable from the date of clearance of import.
5. Customs authorities may initiate action as provided u/s 142 of Customs Act, 1962.

Note: - The procedure of exporting the goods manufactured for export under the DEEC scheme in nutshell is under:

([Bombay Customs P.N. No.178 of 31.10.86](#) refers)

a) Where Advance licence & DEEC book are received a shipping bill duly endorsed with requirements for export under DEEC is to be presented in the form prescribed for free S/Bill, as in the case of ordinary export, with the exception that the S/Bill will also have a DEEC pass book, and bear on endorsement " corresponding to DEEC No....." or "Provisional under DEEC". The Export department will stamp the S/Bill for noting and then it will be entered in a register. After registration, the S/Bill will be taken up by the assessing officer for completion. The assessing officer will scrutinise the declarations and make entries in the pass book. After passing of the S/Bill by the Export department, the goods will be examined.

b) Where Advance licence & DEEC not available a S/Bill with relevant declarations for export under DEEC scheme for admitting provisionally is to be filed. The other procedure will be the same as in (a) with a slight difference that form 'F' will be filled in duplicate. This shipment will be regularized on receipt of DEEC book.

On completion of Export obligations as per the DEEC, all the entries in the DEEC have to be audited and after audit H & I parts or DEEC will be completed by customs. Such an audited DEEC with H part completed has to be submitted to licensing authorities, who on verification will cancel the bond executed before imports.

## **CUSTOMS BONDS & GUARANTEES:**

[STIPULATION FOR MODE OF RECOVERY UNDER SECTION 142 \(1\) Customs Act, 1962:](#)

Bonds/ guarantees executed under the provisions of the Customs Act, 1962 should contain provision regarding the mode of recovery as laid down under section 142 (2) of the Customs Act, 1962. The importers should therefore be advised to include a separate clause, as indicated below, in all bonds and guarantees involving recovery of money:

"Any amount due under this bond/guarantee may be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962 without prejudice to any other mode of recovery".

(Board's F.no.7/9/62-Cus vii dated 14-8-65)

#### **BOND IN REGARD TO PROJECT IMPORT REGULATION 1986:**

(Bond is executed under section 143 of Customs Act, 1962)

Whereas the Collector of Customs.... (herein called Collector) may under section 18 (1) of Customs Act, 1962, make provisional assessment under project Import Regulation, 1986 extending the benefit of item 98.01 of CTA, 75 in respect of the main equipment, spares and raw materials as noted below to be imported from time to time for the initial setting up a plant by us namely Messrs./s..... on our undertaking to produce before him within three months from the date of arrival of the last consignment of goods, further documents proof regarding the real value and quantity of the said goods and any other documents that may be required under the Project Imports Regulation, 1986.

We do hereby bind ourselves, our legal representative and successors to pay on demand and without any demur, the difference if any between the duty provisionally assessed by the Collector of Customs under the said section 18 (1) of the Customs Act, 1962 and the duty finally assessed by the Collector in respect of each consignment. It is also agreed that any amount due under this bond may be recovered in the manner laid down in sub-section (1) of section 142 of Customs Act, 1962 without prejudice to any other mode

of recovery. The guarantee hereby given under section 143 of Customs Act on.....shall be a continuing one and shall not be revoked without the consent of the President or the Collector of Customs,.... In witness whereof the importer had herein set and subscribed their hand and seals the day, month and year first above written. Sealed and delivered by and on behalf of the importer in at.....in the presence of the witness.

- (1) Importers name.
- (2) Suppliers name and address.
- (3) Approximate value of goods of the plant namely.
- (4) Description of the plant
  - (a) Main equipment value.
  - (b) Spares value.
  - (c) Raw materials value.
  - (d) Percentage between a & b & c.
- (5) Name of the plant.
- (6) Approximate date of completion of contracts.
- (7) Clearing Agent.
- (8) Import licence No. & date.

In Witness

- (1) .....
- (2) .....

N.B.1: We further undertake the responsibility of furnishing a statement describing the materials to be imported duly attested by the

authorities issuing Import Trade Control licence and duly scrutinised by the said authority from the angle of 98.01 of CAT, '75 failing which we shall be bound to pay the difference of any between the duty provisionally Assessed under 98.01 of CAT, '75 and the duty finally assessed on merit.

Signature of the importer.....

Accepted for and on behalf of President of India

Witness

(1).....

(2).....

(Designation of the Authorised Officer)

(Ref. Provisional Assessment Regulation of 1963 contd. in Bulletin no.3 of 1963 read with C.B. of Ex. & Cus. F. no. 21/36/65-Cus. I dated 18-12-65

### **FORMAT**

#### **SURETY BOND IN REGARD TO PROJECT IMPORT REGULATIONS, 1986.**

The President of India,  
Through the Collector of Customs,

Surety (Bond is executed under section 143 of Customs Act, 1962) on.....day .....month.....year in consideration of the Collector of Customs at the request of M/s..... having agreed to the Customs Act, 1962, in respect of the goods to be Imported by M/s..... namely machinery, plant, equipment accessories and spares under Project Imports Regulation 1986, valued approximately main equipment Rs. .... (Rupees.....spares Rs..... and raw material Rs. ....FOB.) We M/s..... (herein called the importer) and the .....(herein called the surety) are bound to the President in the

sum of Rs. .... (Rupees.....) to be paid to the President of India for which payment we bind ourselves and our legal representative. The condition of the bond is that M/s ..... and their legal representatives shall observe all the provisions of section 18 (1) of the Customs Act, 1962 in respect of the goods for which duty has been assessed. And if M/s ..... pay the difference between the duty finally assessed under section 18(2) of the Customs Act and the duty provisionally assessed under section 18(1) of the Customs Act, 1962, this obligation shall be void, otherwise and on breach or failure in the performance of any part of this condition, the same shall be in full force.

We declare that the bond is given under the order of the Central Government for the performance of an act in which the public are interested. Our liability under this guarantee is restricted to Rs..... (Rupees.....) only. Our guarantee shall remain in force until ..... unless an action to enforce a claim under the guarantee is filed against us within that date all your rights under the said guarantee shall be forfeited and we shall be relieved and discharged of all liability there under.

Place & Date .....Seal & Signature of Importer

Signature of the Banker.

Witness                      Address .....Occupation.

(1).....

(2).....

(C.B of Ex. & Cus. F. no.21/36/65-Cus. Dated 18-12-65).

## **PROVISIONAL ASSESSMENT:**

### **1. SCOPE:**

Section 18(1) of the Customs Act, 1962 prescribes provisional assessment of duty in respect of any of the following classes of imports and exports:

- (a) Where the proper officer is satisfied that an importer or exporter is unable to produce any document or furnish any information necessary for the assessment of duty on the imported goods or the export goods, as the case may be; or
- (b) Where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test for the purpose of assessment of duty thereon; or
- (c) Where the importer or the exporter has produced all the necessary documents and furnished full information for the assessment of duty but the proper officer deems it necessary to make further enquiry for assessing the duty; the proper officer may direct that the duty leviable on such goods may, pending the production of such documents or furnishing of such information or completion of such test or enquiry, be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed and the duty provisionally assessed. For the implementation of the statutory provisions, the regulations, framed by the Central Board of Revenue, contained in notification no. Cus. 181 dated 13.7.1963, are reproduced in para 2 below for the guidance of the assessing officers.

### **2. The Customs (Provisional Duty Assessment) Regulations, 1963:**

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962) read with section 18 of the said Act, the Central Board of Revenue makes the following regulations, namely; -



**Short Title:**

1. These regulations may be called the Customs (Provisional duty assessment) Regulations, 1963.

2. Conditions for allowing provisional assessment where the proper officer, on account of any of the grounds specified in sub-section (1) of section 18 of the Customs Act, 1962 (52 of 1962) is not able to make a final assessment of the duty on the imported goods or the export goods, as the case may be, he shall make an estimate of the duty that is most likely to be levied, hereinafter refer to as the provisional duty. If the importer or the exporter, as the case may be, executes a bond in an amount equal to the difference between the duty that may be finally assessed and the provisional duty and deposit with the proper officer such sum not exceeding twenty percent of the provisional duty, as the proper officer may direct, the proper officer may assess the duty on the goods provisionally at an amount equal to the provisional duty.

3. Terms of the bond (a) where provisional assessment is allowed pending the production of any document or furnishing of any information by the importer or the exporter, as the case may be, the terms of the bond shall be that such document shall be produced or information shall be furnished within one month or within such extended period as the proper officer may allow, and the person executing the bond shall pay the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

(b) Where provisional assessment is allowed pending the completion of any test or equity, the terms of the bond shall be that the person executing bond shall pay the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

4. Surety or security of the bond: The proper officer may require that the bond to be executed under these regulations may be with such surety, or security, or both, as he deems fit,  
[\[M.F. \(D.R.\) notification Cus. no. 181/63. dated 13.7.1963.\]](#)

### **3. General Instructions to Assessing Officers regarding provisional assessment:**

- (i) The provision under clause (b) of section 18 (1) of the Customs Act, will enable importers to secure immediate delivery of their goods pending test subject to suitable bonds, as required under the provisional assessment regulations, are executed.
- (ii) The board has ruled that where at the time of the first assessment the customs authorities have reason to believe that the value declared is less than the value in terms of section 14(1) (a) of the Customs Act, i.e. the cases of loading of invoices, the proper course, to adopt in such cases would be to have recourse to provisional assessment under section 18(1) (c) of the Act.  
[Board's letter F. no. 4/37/57-Cus.vi dt.15.10.60\]](#)
- (iii) Provisional assessment should be resorted to only as amateur consideration. Provisional assessment should not be resorted to just because there is no packing specification or item-wise invoice. In the absence of packing specification, the importers should be required to prepare detailed list of contents of all the packages under customs supervision. Thereafter, examination order should be given by the scrutinizing appraiser with degree of examination fixed at double the usual percentage. The degree of examination may be reduced to the usual scale at the discretion of the Assistant Collector of Customs for appraisal concerned provided the importers are of sound financial status and goods detailed examination. At the same time the assessing officers should be careful that the packing specifications of item wise invoices are not deliberately withheld by the parties. In the absence of item wise invoice, ordinarily assessment is made at the highest rate. As in those cases, check over declared value may not be possible, provisional assessment may be resorted to in respect of value.  
[\[CBR. 1R. no. F.55/60-Cus. IV dated 21.5.60\]](#)
- (iv) The discretion to take deposit not exceeding 20% of the amount of duty provisionally assessed under the Customs (Provisional duty assessment) Regulation, 1963 should be judiciously exercised. The

Assistant Collectors concerned should, while exercising their discretion, consider whether a lower percentage of provisional deposit can be taken and whether, if at all, any additional deposit will be necessary. Assessing officers should ensure that no undue hardship is caused to the importers by the operation of the aforesaid regulations.

- (v) There has been a fundamental change as a result of the Provisional assessment regulations issued under the Customs Act. Assessing officers are now required to make the best possible estimate of the duty and they should proceed to process the papers on this basis the order of the Assistant Collector should be taken if 20% addition is to be made.
- (vi) The estimate for the purpose of provisional assessment should be done by the assessing officer in the Appraising department, normally the question of further deposit will not arise, but if any further deposit is called for, the same should be covered by a suitable bond, in an extreme case if any cash deposit is considered essential, the same should be accepted in the accounts department as 'duty' subject to adjustment after final assessment, the assessing officers should write necessary instructions on the bills of entry to this effect.
- (vii) In cases where misdeclaration is suspected and the goods are available for examination, investigation must be completed and penal action if necessary taken. The provisional assessment procedure should not be resorted to and the goods should not be allowed clearance.
- (viii) The intention of para 4 of the provisional assessment regulations is to permit the proper officer taking security as an alternative to or along with surety (not necessarily a bank's surety). The proper officer may in his discretion, dispense with either security or surety but not both. It is not, however, necessary to make surety/security obligatory in respect of Government departments (or even Government undertakings) where the proper officer is satisfied that this can be dispensed with.

[Board's letter F.no.21/92/57-Cus. IV dated 13.9.1961]

- (ix) The Board has ruled that any procedure relating to any clearance of consignments under contract system should now conform to the provisions contained in the provisional duty assessment regulations under section 18(1) Customs Act, in accordance with which the initial provisional assessment is to be made on the basis of the estimated value declared by the importers and a bond either individual or a general one covering a series of consignments with sufficient surety/security taken from the importers. Besides, the rules provide taking of a deposit upto 20% of the duty provisionally assessed. In so far as the taking of deposit is concerned the proper officer has the discretion either to take it in full or in part or completely waive the same.
- (x) Determination of amount of bond for provisional assessment bond - Provisions of the Customs (provisional assessment) Regulations, 1963 lay down that the importer or exporter claiming provisional assessment is required to execute a bond for the difference between the duty that may be finally assessed and the provisional duty. The same regulations also provide that the proper officer may require that the bond to be executed under these regulations may be with such surety, or security or both as the proper officer deems fit.

It would thus be seen that insisting on surety or security for CIF value is not justified. There may of course, be cases where calculation of exact difference between duty provisionally assessed and duty finally assessed may not be possible. But even in such cases invariably, it would, be possible to make some estimate of the same. The Ministry therefore, desires that surety and security for provisional assessment cases should be restricted to the difference of duty provisionally assessed and duty which may be finally assessed. The above instructions of the Ministry should be scrupulously followed.

[Authority: Government of India, Ministry of Finance Department of Revenue F.no. 511/7/77-Cus. vi dated 9.1.78.](#)

- (xi) Release of goods against bond in cases where technical authorities are being consulted:- The board desire that it may be ensured that whenever cases are referred for advice to technical authorities or Chief Controller of Imports & Exports for clarification of

doubts, the option to clear the goods against bonds should be given to the importers.

(CBEC.F. no. 8/34/70-cus vii dt.29.7.1970).

(xii) Assessment on broad basis when reasonably adequate data submitted: - If the case of a particular importer was kept pending for a long time, and the assessment of his consignment in the mean time was considered to be provisional he would be in difficulties if at a later stage the assessments were revised upwards. It has been decided that provided the importers furnishes reasonably adequate data, assessments on broad basis should be made straightway and that it should not be considered as provisional. It might be necessary to review such cases in the light of information subsequently obtained. But in genuine cases, that would not mean reopening of previous assessment. [M.F.(D.R.) F.no. 3/48/63-Cus. iv dated 25.1.1964]

(xiii) Provisional assessment to be resorted only when final assessment is not possible. As far as possible assessment should be finalised before clearances, but when doubt persists provisional assessment procedure should be adopted.

The emphasis in this recommendation is on arriving at a final decision on assessment quickly, provisional assessment procedure is to be adopted only when final decision even at high level cannot be taken quickly. The following should be the alternative and order of preferences among them.

(i) Arriving at a final assessment quickly if necessary by submission of case to senior officers.

(ii) Adopting the provisional assessment procedure but when trade prefers to pay the highest duty and claims refund later, assessing on the higher basis.

(Customs study team implementation instruction no. 24 F. 25/13/68-Cus (T.U.) dated 18.3.68)

(xiv) Ordinarily final adjustment of provisional duty will be made within two months after payment. In cases of extreme necessity if good causes shown, extension should however be granted very

sparingly and in no case should an extension be granted beyond three months without the approval of Assistant collector. This of course will not apply to project imports or machinery contract cases where final adjustment should be made within two months of last import of the contract.

#### **4. Assessment under section 17 (4) Customs Act:**

Scope of switching over to section 18 of C.A. 62- Instructions regarding.

In the appellate judgment, in the case of M/s Agarwal Trading Corporation vs. Collector of Customs Calcutta, the Calcutta, High Court has held that once an assessment is made under section 29a, Sea Customs Act (corresponding to section 17 (4) of the Customs Act, 1962) it is not open to the customs authorities to invoke the provisions of section 29b (corresponding to section 18 not withstanding the provisions of section 29a because in the opinion of the learned judges, the two sections, viz.29a and 29b are mutually exclusive. They have further held that assessment of the duty prior to examination under section 29a Sea Customs Act become final subject only to the assessment being re-opened in consequence of an examination of the goods themselves or on receipt of further information or other material justifying revision of the assessment already made and that before the assessment can be reopened and a re-assessment made the pre-condition has to be fulfilled that the statement made in the bill of entry relating to value is found untrue. The Board, in consultation with the Ministry of law, considers that in case like this, the custom house in the first instance ought not to have assessed the goods to duty under section 29a when the custom house was not satisfied as to the genuineness of the declared value. Section 29a was intended merely to legalize the second appraisement system and both the practice in this regard and the wording of section 29a clearly indicate that instead of following the usual procedure of examining first and then assessing the goods, the Customs Collector may permit the goods to be assessed first, pending examination. This system should therefore, be followed only when the check of documents has been finalised and everything appears prima

facie, to be in order. the board further considers that having resorted to assessment under section 17 (4) (corresponding to section 29a of the Sea Customs Act) it should not be necessary for the custom house to switch over to section 18 Customs Act, 62 (corresponding to section 29b of SCA, 1878) because the former section itself gives to the customs house the power to re-assess the goods not only as a result of something having been found on an examination of the goods but even if something comes to notice otherwise. The correct course in such cases, therefore, would be to re-assess the goods as provided for under section 29a (corresponding to section 17(4) of the Customs Act, 1962). In the type of cases, which form the subject matter of the High Court judgment it should, in future, be dealt with as pointed out in para 2 above.

(Board's F.no. 4/18/60-Cus VI, dated 27.3.1963)

#### **5. Provisional assessment cases falling under clause (A) of section 18 (1) of the Customs Act: Procedure Regarding:**

In cases where the importer desires to avail of the procedure for provisional assessment of duty, he shall file duly noted bill of entry together with an application addressed to the Assistant Collector for appraisement in the pigeon hole for submission of the bills of entry in the Appraising department. The application must bear the usual court fee stamp. The clerk will punch the court fee stamped, will as usual distribute the bills of entry together with the importer's application to the appraiser of the group concerned. In the application the importer must indicate for the satisfaction of the Assistant Collector for Appraisement that good grounds exist for his requesting the facility and he must furnish in writing the general description of the goods to the best of his knowledge the value and the quantity of the goods as estimated by him and the grounds on which the estimate is based. In support of the statement, the applicant importer must produce all available documents and other documents which may be relevant for assessment purpose.

(ii) The Appraiser, on receipt of the bill of entry together with the importer's application, will submit them to the Assistant Collector concerned for consideration whether party's request for provisional assessment can be acceded to.



(iii) Where it is possible that the value and quantity of the goods can be determined by a detailed examination of the goods, the Assistant Collector will pass orders on the original bill of entry directing the shed Appraiser to examine the package and to report valuation and quantity of the goods by physical examination of the consignment, in terms of section 46(1) of the Act. On receipt of the report from the shed staff if the Assistant Collector considers that final assessment of the consignment, in terms of section 46(1) of the Act can straightway be made even though the importer has requested provisional assessment, he will reject the party's request for provisional assessment and will direct the Appraiser to classify the bill of entry and to assess the goods on the basis of value and quantity as determined by the shed staff. No. P/D. bond should be taken in such cases.

(iv) If however, on scrutiny of the documents presented by the importer, the Assistant Collector is satisfied that the request for provisions assessment is genuine and the real value and quantity of the goods cannot be determined by detailed examination of the consignment or otherwise, than by a reference to the documents in the absence of which the importers have requested for provisional assessment, he will pass orders on the original bill of entry directing the importers to execute a bond in the prescribed form as contemplated in para 3 of provisional assessment regulations, 1963.

(v) On receipt of the bond from the importer the same will be scrutinised by the Appraiser and if found in order it will be put up to Assistant Collector for acceptance. After acceptance by the Assistant Collector, the Appraiser will forward the bond to the bond clerk of the particular Appraising group for registration and will obtain report from the shed Appraiser as to the value and quantity estimated by him in respect of the consignments on actual detailed examination of the packages.

(vi) The bond clerk will remove the bond executed by the importer and accepted by the Assistant Collector together with the importer's application. The bond will be endorsed on each copy of the bills of entry. The bond clerk will then submit the bills of entry to the scrutinising Appraiser who will impress on each copy of the bills of entry with rubber stamp 'Provisional duty' and on the original copy of



the bills of entry ask the shed staff to examine and report value and quantity of the consignment for which provisional assessment is requested by the importers, by such examination of the goods as would facilitate provisional assessment.

(vii) The examining officer attached to the shed where the goods have been landed will examine the contents of the packages as per order of scrutinising Appraiser and will compare the description and quantity declared by the party on the bills of entry with reference to the available documents, viz., indents, letter of acceptance, correspondence etc. furnished by the importer. He will record the details of his examination on the reverse of the original bill of entry. The shed Appraiser will carefully check the packages examined by the examining officer and will endorse, alter or supplement as the case may be, examining officer's report and will give best possible value of the goods estimated by him together with brief reasons for arriving at such estimated value. The shed Appraiser may examine further number of packages in addition to the percentages specified by the scrutinising Appraiser incase it is needed for determining satisfactorily the estimated value and for other purposes.

(viii) On receipt of the bills of entry from the shed staff the scrutinising Appraiser will put up the bills of entry to the Assistant Collector for orders on the report of the shed Appraiser and value estimated by the latter. If in the opinion of the Assistant Collector, the value estimated by the shed Appraiser is adequate, he will instruct the party to declare the description, quantity and value as revealed in the report of the shed Appraiser, if this has not already been done by the party, and direct the party depending upon the circumstances of each case to deposit a sum equal to 120 per cent or the provisional duty i.e. provisional duty plus 20 per cent loading or call for a supplementary bond to cover the probable duty or may waive the deposit of the provisional duty entirely if suitable bond with surety have already been filed by the importer.

(ix) The scrutinising Appraiser will then scrutinise the bills of entry thoroughly and shall see that the importer's declaration the bills of entry in respect of the consignment is in order to complete assessment. He will then complete assessment after loading 20 per cent on the amount of provisional duty, wherever

applicable, but not allow clearance. He will sign all copies of document presented by the importer while claiming provisional assessment. He will then write in the margin of the original bill of entry, bond clerk to note provisional assessment register and the bill of entry to me.

(x) After entering the detailed particulars of the consignments in the provisional duty register which shall be maintained in the Appraising department in form 6 B.R. Cus. no. 321, the group bond clerk concerned will detach all the documents presented by the party and place them in the case file and re-submit the bills of entry to the scrutinising Appraiser for further action after boldly indicating on all the copies of the bills of entry the provisional duty no. which will be the serial no. of the case in the P/D. register.

(xi) The scrutinising Appraiser will satisfy himself that the importation has been duly entered in the provisional duty register in the Appraising department and then impress each copy of the bills of entry with the rubber stamp as shown below: -

'Examined under provisional duty assessment regulations. Examination & provisional assessment completed. Accounts & Cash department to take deposit of duty subject to adjustment after final assessment.'

He will then release the bills of entry to the party for presentation to the comptist for calculation of duty and in the accounts & cash departments respectively, for recalculation and payment of the duty deposit.

## **6. Provisional assessment cases falling under clause (b) of section 18 (1) of the Customs Act-Procedure Regarding:**

(i) When the Assessment is dependent on chemical or other test to be carried out by the Customs department and the importer makes a request in writing for provisional assessment, such request may be entertained. If the assessment of such goods involves two or more alternative basis, the provisional assessment shall be made on the basis that the goods are liable to duty at the highest of

the rates applicable. Representative samples shall, however, be drawn and sent for test. No bonds shall be taken in such cases.

(ii) If however, the importer desires that the provisional assessment be made on the basis of the declaration made by him, the Appraiser will advise the importer to execute bond for the purpose.

(iii) On submission of the required bond the same will be scrutinised by the Appraiser and if found in order will be put up to Assistant Collector for acceptance. After acceptance by the Assistant Collector, the Appraiser will forward the bond with the bills of entry as usual to the group bond clerk for registration both in the bond register as well as in the provisional duty register. After this registration is done and the serial no. both in the bond register and the P/D register is endorsed boldly on each copy of the bill of entry, the bond will be detached by the bond clerk and kept in safe custody and the bills of entry sent to scrutinising Appraiser who will then obtain the representative sample drawn by the shed staff in the presence of the importer's representative for the purposes of test, and will also affix each copy of the bills of entry with the rubber stamp 'provisional duty'. He will endorse the appraisement order on the original B/E and ask the shed staff to draw representative samples and to send them direct to the Dy. Chief Chemist (DCC) or in-charge of laboratory, custom house for chemical test in accordance with the usual procedure. In such cases the scrutinizing Appraiser, if necessary, will specify the number of packages to be opened for drawal of required sample. For his satisfaction the shed Appraiser may also select the number of packages to be opened for drawal of samples in addition to those specified by the scrutinizing Appraiser.

(iv) The scrutinising Appraiser will prepare the test memo form indicating therein the provisional duty registration number which will be available from the bills of entry and attach it to the bill of entry. The test memo along with the bill of entry will then be referred to the group test clerk who will assign a number to the test memo and enter it in a register and also indicate the test memo number on the bill of entry (original or duplicate as the case may be). The scrutinising Appraiser will thereafter complete the provisional assessment on the basis of declaration made by the importer and suitably endorse all copies of the bill of entry with usual loading of 20% on the duty provisionally assessed, if decided in any particular

case. The test memo alongwith the bill of entry will then be released to the party for presentation to the comptist for calculation of the duty and in the account and cash department respectively for recalculation and payment of the duty and drawing of the samples called for by the group.

**7. Provisional Assessment cases falling under clause (c) of section 18 (1) of the Customs Act-Procedure regarding:**

(i) Cases where the importer has submitted full information in regard to real value or quantity of the goods but such particulars are not considered adequate and further proof in respect thereof is required for purposes of assessment, the appraiser will advise the importer to execute the appropriate bonds as is required under para 2 of the provisional duty assessment regulations.

(ii) On compliance by the party, the Appraiser will put up the bond to Assistant Collector for acceptance and then forward the accepted bonds together with the bill of entry to the bond clerk of the group for registration as usual, in the bond register. After registration and endorsement of the registration number on each copy of the bill of entry, the group bond clerk will detach the bond and place it in the case file and will forthwith submit the bill of entry to the scrutinising Appraiser for classification and assessment.

(iii) The goods will be assessed on the declared value and quantity at the rates of duty applicable to such goods (plus 20% of the amount of duty so leviable in any particular case, if so ordered). After assessment the scrutinising appraiser will efface each copy of the bill of entry with the rubber stamp as under: -

'Bond clerk to note provisional assessment in the provisional assessment register and then return the bill of entry to me'

After the case is registered in the P.D. register the P/D. register No. will be boldly endorsed on all copies of the bill of entry and the bill of entry sent to scrutinising Appraiser who will then endorse each copy of the bill of entry as follows: -

'Provisional assessment on the declared value and quantity completed'

"Accounts & Cash department to take deposit of duty subject to adjustment after final assessment."

He will then give orders for second appraisal to the shed staff on the duplicate bill of entry and release the bill of entry to the importer for presentation to the comptroller for calculation of duty and Accounts & Cash department respectively, for re-calculation and payment of provisional duty deposit. After payment, original copy will be retained in the accounts department and duplicate released to party as usual.

(iv) On presentation of the duplicate bill of entry to the shed staff, the shed Appraiser will thoroughly check the bill of entry and will satisfy himself that the importer has duly deposited the provisional duty as per directions of the scrutinising Appraiser. After examination by the shed Appraiser, if he is satisfied, will impress the 'pass out of customs control' stamp on the back of the duplicate bill of entry and will record a direction just on the top of the stamp 'duplicate bill of entry to S/A after clearance of the consignment'.

## **8. ROUTING OF BILL OF ENTRY:**

After receipt of the deposit of provisional duty, the accounts department will forward the original bill of entry to the Appraising department through the Statistical department and IAD. On receipt of the original bill of entry from the IAD the Appraising department will retain the copy in the case file and keep it pending till the duplicate bill of entry is received from the dock staff.

Note: - The above will apply to cases referred to in paragraphs 5 and 7 of this chapter.

(ii) Provisional assessment bills of entry should be again sent for pre-audit after the final assessment and before any refund or recovery is made.

## **9. Action regarding adjustment of provisional duty:**

(i) On receipt of the duplicate bill of entry, the Appraising department will place it in the relative case file where the original bill of entry is already placed. In case either original or duplicate or both the copies of bills of entry have not been received in the appraising department, the group concerned will obtain the required bill of entry and place it in the case file. The DOS will then put up to the Appraiser, the relative case files together with the original and duplicate copies of bills of entry and the documents if any received, from the parties for final assessment.

(ii) Where provisional assessment has been made pending chemical test, the test clerk will put up the test memo, containing the reports of chemical department alongwith the case file containing both the original and duplicate copies of bills of entry and other documents.

(iii) The Assistant Collector will then mark the file to the concerned scrutinising Appraiser asking him to report regarding finalisation of assessment.

(iv) The scrutinising Appraiser will then scrutinise the case thoroughly and if he is satisfied, will finalise the assessment under orders of the Assistant Collector. He will indicate whether the final adjustment involves refund or extra duty and take action in terms of sub-section (2) of section 18 of the Customs Act. The Appraiser will then efface the copies of original and duplicate bills of entry with the rubber stamp.

**"assessment finalised"**

-and return the case file to the DOS of the group for further action. Similar action will be taken in respect of cases mentioned in sub-para (ii) above.

(v) Where however, the required documents are not produced within the period specified in the bond or after the expiry of the period extended on party's request or where the further documents produced by the party are considered, not adequate for determination of value and quantity, the scrutinising Appraiser on receipt of the case file from the bond clerk of his group will report the merits of the case to Assistant Collector concerned who will consider whether the terms of the bond are to be enforced in any particular case.

**10. Request for extension of time for production of documents:**

If the importer applies for extension of time specified in the bonds executed by him such extension may be granted under orders of Assistant Collector, subject to fulfillment of any condition that may be specified in this regard.

**11. Maintenance of lists of cases where the importers fail to produce documents:**

A list of all cases where the importers fail to produce the required documents, information or proof for finalisation of assessment shall be maintained in each group to ensure that these facilities of clearing goods on payment of provisional duty are not abused by the importers. The list should be submitted to Assistant Collector each month for information and action, if any.

**12. Short landing against consignments passed under provisional duty adjustment of:**

In cases where goods are shorthanded, entire quantity of the goods as originally declared in the provisional duty bill of entry is to be finally assessed without making any deduction for the short landed goods. Duty should be adjusted on the entire consignment and refund on the shorthanded goods subsequently granted in the course on fulfillment of the conditions for such refunds.

**13. Stamp duty on bonds:**

Bonds executed in connection with provisional assessment of duty or any other bond, either provided for in the Customs Act or otherwise, should be considered as customs bonds and taxed with the proper stamp duty.

**14. Provisional duty register-maintenance of:**

(i) The provisional duty registers (CBR Cus. No. 321) maintained in the Appraising department has no connection with any accounts department form.

(ii) Column 1 to 2 are to be filled in as soon as the Assistant Collector has passed orders on the provisional assessment papers, which should be docketed and reference numbered.

(iii) After the importer has paid provisional duty the signed bond will be given the serial number of the entry in this register.

(iv) The register will be submitted to the Assistant Collector, Appraising department, on each occasion when assessment is to be made final or an extension of time granted. It will also be submitted at the beginning of each month for inspection to see that it is correctly and punctually entered in, and extensions of time are granted by proper authority, that no undue delay has taken place in final adjustment, and in order that he may investigate cases in which the final duty is more than provisional duty and see whether the original under valuation was avoidable.

(v) It will be sent once a month to the Internal Audit department, which will draw the attention of the Assistant Collector, Appraising department to any case requiring further investigations.

(vi) A copy of these rules and regulations shall be pasted on the fly leaf of the register.

## **15. Continuing bonds under provisional duty assessment regulation - Procedure regarding.**

It has been decided to accept general bonds under the customs provisional duty assessment regulations, 1963 to cover a series of importations made during one calendar year.

The following procedure should be observed when a firm executes a general bond \*-

(1) Where it is decided to extend this facility, a continuing bond on a stamped paper of the applicable value (i.e.) value determined by the scale or stamp duties) will be accepted by the Assistant Collector in charge of the group concerned.



(2) Such a continuing bond will be valid for the calendar year in which it is executed.

(3) Every such bond will be covered by a surety of a schedule bank.

(4) The surety amount will be settled by the importer in consultation with the custom house on the basis of the probable amount of duty realizable in one year as indicated by the volume of importations made by him during the previous one year.

(5) For the sake of expeditious disposal, separate general bonds will be required to be executed for each appraising group. If any importer is unwilling to adopt the above arrangements, the group where the general bond is first tendered will register the bond and will handle further clearances effected through other group under cover of the same general bond.

(6) Each such bond will be entered on a separate page in the register for provisional assessment. Subsequent clearances will be recorded under the same entry and these will show the particulars of the vessel's name, rotation no., line no. description, quantity and value of goods and amount of surety and bonder's liability. Each entry will be countersigned by the group Assistant Collector after verifying accuracy and no clearance will be allowed till this has been done. Each bill of entry will be put up to the Assistant Collector seeking orders for provisional assessment and for fixing the amount of surety and bonder's liability. Balance of amount available as surety will be struck after each entry. The liability of the bank will be for the validity period of the bond plus at least one year. The registration no. of the bond will be intimated to the importers who would quote this no. on each bill of entry covered by such bond. Individual clearances will be covered by specific letter of request for allowing clearance against the general bond.

(7) The Group Assistant Collector will be responsible for watching the progress of each case (i.e. finalisation of assessment of each case). He will also see that the surety amount as shown on the general bond is not exceeded.

(8) The Group concerned will see that in each case assessment has been confirmed on the basis of documents submitted by the party as the proof of value or otherwise. If the continuing bond relates to other groups, the group Appraiser handling the bill of entry

will have it noted from the group where the general bond was first registered.

(9) On finalisation of assessment the group concerned will take necessary action to recredit the amount of each bond.

(10) Continuing bonds will be cancelled only after accounting for all the clearance covered by it and after adjustment of duty and final confirmation of assessment of all the cases.

**16. Bonds and guarantees- Need for indicating in the bond/guarantee the purpose for which documents are required to be produced:**

Bonds/guarantees are often executed by importers/exporters for production of specified documents within the specified time. The board desires that it should invariably be indicated in the body of such bonds/guarantee as to, for what purpose or requirement and under which rules/regulation such documents are required to be produced. Such bonds/guarantees should also impose a monetary binding on the executors thereof.

(F.no. 47713/74-Cus. VII. Government of India, Central Board of Excise & Customs, New Delhi, the 17th July 1974)

**17. Reassessment of duty on the basis of test results when necessary and when optional:**

The Ministry of law, who were consulted in the matter, have stated that re-assessment of export duty on the basis of the test results obtained in the customs laboratory would be optional provided the assessment at the time of export was made under section 29-a of the Sea Customs Act, 1878). Re-assessment on the basis of the test results obtained from the customs laboratory would be compulsory whether or not assessment was made initially under section 29-a [section 17(4) Customs Act,] or section 29-b (section 18 Customs Act 62) is a question of fact which the customs house will be able to determine from the records, especially the wording of the guarantee taken prior to export and the procedure adopted in collecting and adjusting the export duty. In case of doubt about this, the local solicitor to the central government may be consulted placing before

him all the relevant facts. The exporters cannot claim a copy of the test memo as a matter of course. The test memo is a custom document with which the exporter is not connected unless he is asked to pay extra duty or any penal action is taken against him on the basis of the test memo.

M.F. (D.R.) F.no.1/8/58/Cus. VI, dated 8-4-1958.

**18. Non-negotiable documents when not readily available recourse to provisional assessment can be made:**

**19. Provisional assessment-Issue of Less charge demands before finalisation of provisional assessment:**

Whenever goods are assessed provisionally, it should be ensured that the goods are not allowed to pass into home consumption without payment of proper duty. If any erroneous assessment comes to light before the bill of entry is finally assessed, it should be ensured that the short levy is recovered promptly without waiting for the finalisation of bill of entry. In this connection a question arises whether a demand letter can be issued before a provisional duty bill of entry is finalised. It is true that a demand can be issued under section 28 Customs Act, '62 only after finalization of provisional duty. But it is important to determine what is provisional in the collection of duty in the first instance.

What is provisional at the time of clearance is clearly understood both by the importer and the departments. If a provisional assessment is made pending examination of relationship between the suppliers and the importers and the provisional duty collected is erroneous due to incorrect application of rates of duty, there is no bar to the issue of a demand letter and collection of the amount short levied even before the provisional duty bill of entry is finally assessed.

**19a. Expeditious finalisation of provisional assessment cases-Fixation of time-limit:**

In this regard the board has observed that it should be practicable to finalise most of the ordinary types of cases in which provisional assessment is resorted to within one year of the date of provisional assessment. In respect of machinery contract cases where imports take place over long periods, sometimes extending over a number of years and where action to finalise the cases can be taken only after all the imports under the contract have been made, every effort should be made to finalise the cases within 1 year of the date of import of the last consignment covered by the contract.

[\(CBEC .F..no. 512/5/72-Cus. vi dated 23.4.1973.](#)

**20. Opinion of the Law Ministry as to whether assessment at concessional rate under notification no.179 Customs dated 4.9.80 would be regarded as a case of Provisional assessment:**

The advice of the Ministry of Law dated 5.1.1977 on the above subject conveyed by the Board (vide letter F. no. 355/91/74-Cus-i dated 28.1.1977) is reproduced below for information and guidance of all concerned.

Ministry of law, justice & C.A. (Department of Legal Affairs advice).

I have carefully considered the matter. Section 18 of the Customs Act, 1962 inter alia provides for provisional assessment of duty. The proper officer can make provisional assessment of duty only if he is satisfied that any of the conditions laid down in clause (a) to (c) of sub-section (i) thereof is fulfilled. The question then is whether the proper officer can make a provisional assessment when the goods are cleared on payment of duty under notification no. 179 dated the 4th September, 1980, as amended from time to time.

2. Under the said notification, component parts of any machinery when imported into India for the purpose of initial setting up of that machinery or for its assembly or manufacture are exempt from payment of customs duty leviable under the Act, as is in excess of the rate applicable under the Tariff Act, provided they produce a certificate from certain authorities mentioned in the notification

recommending grant of exemption, and also if the importer executes a bond binding himself to pay, on demand, in respect of such component parts as are not proved to the satisfaction of the Customs Collector to have been used for the aforesaid purpose, the difference of duty which would have been leviable but for the exemption contained in the said notification.

3. It seems to me that under the said notification when goods are cleared, the importer only binds himself to pay the difference in duty in case it is found by the Customs Collector that the component parts had been used for a purpose other than the purpose of the import. In other words, once the Collector of Customs is satisfied that the goods had not been used for the purpose for which they are imported, he takes steps to enforce the bond and not to raise a demand under the Act.

4. In view of the foregoing, it is not a case of provisional assessment when the goods are cleared under the notification.

[F.no. 353/91/74-Cus. dt.28.1.77]

### **SALIENT FEATURES OF CUSTOMS TARIFF ACT, 1975:**

Section 12 of the Customs Act, 1962 relates to the levy of duties of customs on goods imported in or exported from India. This section provides that duties of customs shall be levied at such rates as may be specified in the Customs Tariff Act, 1975 or any other law for the time being in force. Thus this section serves as the charging section for the purpose of levying of customs duties on imports and exports. The Customs Tariff Act 1975, which came into force on 2.8.76, contains 13 sections, and 2 schedules.

### **SECTION 2:**

Section 2 of the Customs Tariff Act provides that the rate at which duties of customs shall be levied under the Customs Act are specified in the first and second schedule. It may be noted that this section refers to levy under the Customs Act. As already stated above the charging section for the actual levy of customs duty is only under

the Customs Act and it is only the rates of duty that we have to refer to the first and second schedules which are referred to in this section 2.

### **First Schedule to Customs Tariff Act.**

The first schedules to the Customs Tariff Act, contain the rates of duty leviable on goods imported into India. It is generally known as the import tariff. The import tariff begins with the rules for the interpretation of the first schedule. There are six such rules according to these rules any imported article is considered to be covered by one or other items of the tariff. There is also a general explanatory note, to these rules which explains that the abbreviation "x" used in the schedule denotes the duty leviable is a percentage of the value of the goods as defined in section 14 of the Customs Act, 1962. The first schedule itself contains 21 sections; each section is divided into one or more chapter. On the whole there are 99 chapters in the first schedule.

### **Second Schedule to Customs Tariff Act:**

The second schedule to the Customs Tariff Act is the export tariff. At present it contains only 26 headings, in other words, while all imported articles have to be classified under one or the other of the headings of first schedule, only such of the articles which are specified in the second schedule, attract export duty and those articles which do not find mention or coverage by the second schedule are not to pay export duty at all.

### **Additional Customs Duty:**

Section 3(1) of the Customs Tariff Act, authorises levy of an additional duty on imported goods; this levy is in addition to the import duty leviable at the rates specified in the first schedule. The duty specified in the first schedule by section 2 is generally known as 'basic customs duty' and the duty under section 3(1) is known as additional customs duty, as this duty is equivalent to the duty already provided under section 2 of the Act. The quantum of this

additional duty is equivalent to the excise duty for the time being leviable on a like article. This additional duty to be charged on an imported article should be equal to the excise duty which is leviable on a like article if produced or manufactured in India. It is not necessary that the like goods of the imported article should actually be manufactured or produced in our country. If such an article is not being actually produced in this country, the rate of additional duty on the imported article will be the rate of excise duty on the class or description of articles to which the imported articles belongs. In other words, actual manufacture or production in India is not a condition to be satisfied for the levy of the additional duty on an imported article. This has been clarified by the explanation to sec.3 (1), Customs Tariff Act. This explanation also clarifies that when an articles produced in India attracts excise duty at different rates, the additional duty on the imported articles should be equal to the highest of such rates of excise duty. When a commodity is produced or manufactured in India and the Central Excise duty is leviable on it as specified in the Central Excise Tariff read with any exemption notification that may have been issued by the Government. It is possible that the effective rate of excise duty leviable on an indigenous product depends on several conditions such as capital outlay of the manufacturer, number of workers in the factory, output of the factory, use or non-use of electricity, ultimate use of the product, or materials used in its manufacture. In such an event the rate at which additional duties to be collected on a like imported article depends on the effective rate of excise duty leviable on the indigenous article. In other words, if an article is partially subjected to a certain condition, such conditional exemption is not relevant for determining the rate of additional duty on the imported articles. The expression used in section 3(1) is 'excise duty' and not 'central excise duty'; hence in determining the additional duty on an imported article, we should take into account not only the central excise duty in the Central Excise Tariff which is the first schedule to the Central Excise and Salt Act, 1944 but also various other excise duties under various other enactments; for example,

1. The Additional Duties of Excise (Goods of Special Importance) Act, 1957.

2. The Mineral Product (Additional Duties of Excise and Customs) Act, 1958.
3. The Additional Excise Duty (Textiles and Textiles Articles) Act, 1978.
4. The Industries (Development and Regulations) Act, 1951
5. The Produce Cess Act, 1966.
6. The Tea Act, 1953
7. The Coffee Act, 1942

The annual Finance Act has imposed a special excise duty as a percentage of the basic excise duty leviable under the first schedule to the Central Excises and Salt Act, 1944. This should also be taken into account while determining the rate of additional duty leviable on imported articles. The above mentioned enactment governs the excise duty leviable on goods by the central government under sl.no.84 of the union list in the 7th schedule of the constitution of India. The union has no jurisdiction to levy excise duty on alcoholic liquors for human consumption. Opium and narcotics which are within the competence of the state legislatures by virtue of entry no.54 in the state list in the constitution hence, when such articles are imported, additional duty under section 3(1) Customs Tariff Act, has to be collected by the customs officer at the highest of the various rates of state excise duties levied by different states on like articles. The task for the assessing officer to ascertain, at the time of import, the rates of excise duty prevalent in the various States and Union Territory is obviated by an exemption notification under section 25 of the Customs Act, 1962, (now C.N.75 dt 19.2.86) in the case of alcoholic liquors for human consumption, such as brandy, whisky, gin, rum, beer, wines, etc. fixing in effect the ceiling rate at which additional duty is to be collected on such liquors. When goods not covered by such an exemption notification is imported, then assess the goods provisionally at the highest available effective rate of state excise duty on like article. The matter has to be referred to the Central Board of Excise and Customs to ascertain the actual rate at which additional duty is to be collected before finalization of the provisional assessment. Section 14 of the Customs Act, 1962, contains the definition of value for collection of import and export duties. However, this definition is not applicable to the collection of additional



duty mentioned in section 3(1). Customs Tariff Act section 3(2), of Customs Tariff Act, stipulates that the value for purpose of calculating the additional duty on an import article should be the aggregate of the value of the imported article as defined in section 14; Customs Act, and any import duty thereon (except the additional duty under section 3(1). Section 3(3), Customs Tariff Act, empowers the Central Government to levy another additional duty equal to the excise duty leviable on any raw material, components and ingredient with reference to which the additional duty under section 3(3) is to be collected on the imported article. Such notifications have been issued in the case of the following three articles only so far: -

1. Fabrics containing more than 10% by weight of synthetic fibre or yarn.
2. Stainless steel manufactures for house hold use.
3. Transformer oil.

The effect of these notifications is as follows: -

When a fabric containing more than 10% synthetic fibre or yarn (known as man-made fabrics) is imported it will be normally subjected to basic customs duty under chapter 54 or 55 of the customs tariff, an auxiliary duty of customs with reference to the Finance Act read with relevant exemption notifications, the additional duty under section 3(1) Customs Tariffs Act with reference to chapter 54 or 55 of the Central Excise Tariff, as well as various excise duties leviable on such fabrics if produced in India under the Additional Duty of Excise (Goods of Special Importance) Act, 1957, the Khadi and Other Handloom Industries Development (Additional Excise Duty) Act, 1953, the Additional Excise Duty (Textiles and Textile Articles) Act, 1978, and the special excise duty under the Finance Act, 1981. In addition to all these duties, the notifications issued under section 3(3) of the Customs Tariff Act, require the customs officer to collect a further additional duty equal to the excise duties leviable on indigenous synthetic fibre and yarn, on the synthetic fibre and yarn contents of the imported fabrics. In other words, as indigenous synthetic fibre and yarn are normally liable to excise duties under chapter 54 or 55 of the Central Excise Tariff, as well as excise duties

under the Additional Excise Duty (Textiles and Textile Articles) Act 1978, and special excise duty under the Finance Act, the imported fabric should also be subjected to additional duty under section 3(3) equal to the aggregate of various excise duties mentioned above. The government has clarified in this connection that when synthetic fibre is converted into synthetic yarn and when a fabric is woven out of such synthetic yarn, such imported fabric would be liable to additional duty under section 3(3) with reference only to its synthetic yarn content and not to the synthetic fibre content of the synthetic yarn. Imported transformer oil is normally liable to basic Customs duty under chapter 27 of the Customs tariff, an auxiliary duty of customs under the Finance Act and a duty equal to excise duty leviable on such transformer oil with reference to chapter 27 Central Excise Tariff (depending on test results) together with excise duties leviable on transformer oil under the Mineral Products (Additional Duties of Excise and Customs) Act, 1958. In addition to all these duties the customs officers have to collect on the imported transformer oil another additional duty under section 3(3) Customs Tariff Act, equal to the excise duty leviable in India on its contents of transformer oil base stock (TOBS) or transformer oil feed stock (TOFS). Such TOBS or TOFS will attract excise duty under chapter 27 Central Excise Tariff depending on test results. It will be difficult for the assessing officer to decide at the time of import the quantum and nature of raw material used in the imported transformer oil. Hence, the Ministry has itself fixed the rate of additional duty leviable with reference to section 3(3) on imported transformer oil. Section 3(4) enables the Central Government to adopt the average quantum of excise duty payable on raw materials components or ingredients in levying the additional duty under section 3(3). Section 3(5) indicates that the additional duties chargeable under section 3(1) and under section 3(3) are in addition to the basic customs duty imposed under the first schedule to the Customs Tariff Act, and the import duties levied under any other law for the time being in force such as the auxiliary duty of customs currently leviable under the Finance Act. Section 3(6) mentions that the provisions of the Customs Act, relevant rules and regulations, and provision regarding drawbacks, refunds and exemptions are also applicable to the additional duties leviable under section 3(1) and 3(3) Customs Tariff Act,. Section 4, Customs Tariff Act, relates to the levy

of duties at preferential rates on certain articles imported from certain countries. Section 4(1) Customs Tariff Act, requires that whenever a preferential rate of duty is shown in the first schedule the importer must claim assessment at the preferential rate of duty at the time of importation. If no such claim is made at the time of importation, the consignment will not be eligible for assessment at the preferential rate of duty. Section 4(2) gives the Central Government powers to issue a notification framing the rules governing the determination of any imported article, if it is the produce or manufacture of any preferential area. It may be seen that the Government of India has framed the Customs Tariff (Determination of Origin of the Preferential Areas) Rules, 1977 under notification no. 99-Customs date 1.7.77. Under section 4(3) the Central Government can declare any country or territory as a preferential area so that imports from such countries and territories may be eligible for preferential assessment if the rules for determination of their origin mentioned above are satisfied. Notification 101, dated 1.4.1982 contains the countries and territories which are preferential areas for purpose of section 4 of the Customs Tariff Act, namely, Mauritius, Seychelles, and Toga.

Section 4(4) gives the Central Government the power to increase the rates of preferential duty by issuing the necessary notification in the gazette; but the preferential rate of duty cannot be increased to exceed the standard rate of duty specified in column (3) of the first schedule.

Section 4(5) requires that all notifications issued under section 4 be laid before the parliament.

### **SECTION 5:**

Exemptions arising from agreement with country or territories and based on country of origin:

The Government of India often enters into trade agreements with other countries. The trade agreements some times provide for a lower rate of duty than the standard rate normally applicable, in the case of certain imports from certain countries; to give effect to the

'special tariff concession' envisaged in such agreements the government has the power under section 5(1) of the Customs Tariff Act, to issue notifications regarding rules or origin etc. For example, the Government of India has entered into tripartite agreement with the United Arab Republic, Egypt and Yugoslavia; the partial exemptions from duty on articles covered by this agreement are indicated in the customs notification no. 341 dated 2.8.76. Similarly in the case of the Bangkok Agreement to which our country is also a signatory, duty exemption is contained in customs notification no. 431 dated 1.11.76. As regard the Rules or origin, customs notification no. 353 dt.2.8.76 issued under section 5(1), Customs Tariff Act, contains the Customs Tariff (Determination of Origin of the United Arab Republic and Yugoslavia) Rules, 1976. The customs notification no. 430 dt.1.1.1976 contains the Customs Tariff (Determination of Origin of Goods under the Bangkok Agreement) Rules, 1976. As in the case of imports from preferential areas (section 4 refers) importers desirous of availing of lower rate of duty on imports covered by such notification should produce a certificate of origin from the supplier in the foreign country in support of their claim that the goods conform to these rules. However, unlike Section 4, Section 5 requires that the evidence in support of the claim for the concessional assessment should also be produced at the time of importation itself. Section 6 and 7 of the Customs Tariff Act relate to levy of protective duties on imported goods for certain duration. According to these provisions the Government has the power to increase the standard rate of duty by a notification on the basis of the recommendation of the tariff commission in order to protect the interest of any Indian industry.

Under the provisions of section 8 of Customs Tariff Act, export duty of an item can be increased beyond the existing rate by issue of a notification. This section has also the provision to bring a new item into the second schedule

Under Section 8a of the CTA, tariff rates of import duties of items can be increased by issue of a notification in the official gazette. The Government of India may declare under section 9b by notification that the import of an article causes or threatens material

injury to, or retards establishment of, any industry. This is because it is possible that a foreign country tries to export by offering bounties or subsidies to exporter; which may result in the Indian market being flooded with such goods thus adversely affecting indigenous industry in spite of the various duties leviable on such imports. Under this section CTA bounty fed articles can be subjected to additional import duty. Section 9a of CTA empowers the Central Government to impose Anti-dumping duty. However, no such duties have so far been introduced by the Government of India.

(Refer Rules made in this regard i.e. Anti-dumping Rules)

Section 10 of the Customs Tariff Act requires that all rules made under the Customs Tariff Act should be placed before parliament within stipulated time limits.

Section 11 relates to the issue of notification implementing trade agreements during the period of transition from the repealed India Tariff Act, 1934 and the current Customs Tariff Act, 1975.

Section 12 repeals the India tariff Act of 1934 and the Indian Tariff (Amendment) Act, 1949. In the Customs Act of 1962 there were reference to the Indian Tariff Act of 1934 in section 12 and 14; these references have been amended to denote the Customs Tariff Act, 1975, with effect from 2.8.76 by section 13 of this Act.

## **INTERPRETATIVE RULES TO THE IMPORT TARIFF - AN ANALYSIS:**

The customs tariff based on the harmonized system provides a comprehensive classification system, capable of being applied objectively to secure uniformity in classification.

The interpretative rules form a legal and integral part of the customs tariff and as such they must be applied appropriately while classifying the item of goods and these rules are not to be overlooked or omitted from consideration. There are six rules for the interpretation of the import tariff.

First part of this rule: -

Rule 1: This rule could be understood in two parts or could be taken as comprising two parts, begins by establishing that section, chapter and sub-chapter titles have no legal bearing on classification of goods and the titles are furnished for case of reference only.

Second part of Rule 1 postulates: -

(a) That classification shall be determined according to the terms of headings and according to the relative section and chapter notes; and

(b) That goods shall be classified according to the section notes and chapter notes provided, the above notes do not otherwise require. Taking the first postulation for consideration, it is stated that, the section notes and chapter notes define the precise scope and limits of each heading and sub heading.

According to the second postulation, "if the section and chapter notes do not otherwise require" it is stated that the exclusions made in the section/chapter notes are to be borne in mind while classifying the goods.

Rule 2:- This rule, consists of two parts 2(a) and 2(b). This Rule 2(a) has the effect of broadening the scope of various headings beyond the terms of their texts.

Under Rule 2(a) classification in a heading is provided even if that article is incomplete, unfinished or presented in unassembled or disassembled condition. Two situations are embodied under this rule 2(a).

Situation (i) - Article presented (imported) in an incomplete/unfinished form, is to be classified under the heading provided for completed and finished article, subject to the important pre-requisite condition that the goods must have acquired the essential character of the finished or complete article.

Example: -

- (a) Motor vehicle imported without wheels or engine;
- (b) Bicycle in frame without saddle or tyres;

(c) Blanks having the approximate shape or outline of the finished article or part, not ready for direct use but can be used only on completion of certain processes which would make them as finished articles.

Situation (ii):- Articles presented (imported) in unassembled/disassembled condition are to be classified in the same heading as assembled article. The unassembled or disassembled parts (supplied in SKD or CKD for the purpose of convenience towards packing and transport) should have the essential character of the complete or finished article.

For the purpose of this rule, "articles presented, assembled or disassembled means, articles whose components are to be assembled by means of fixing devices such as screws, nuts and bolts or by riveting welding involving only simple assembly operations.

In both the situations as detailed above, classification of unfinished or semi-finished articles which have the essential character of the finished article and unassembled and disassembled parts which have the essential character of the finished article can be classified as finished article only if the section and chapter notes do not otherwise require either by specific coverage or by notes of exclusion.

Heading 87.06 covers specifically "chassis fitted with engines for motor vehicles of headings 8701 to 8705" in view of the term "fitted with engines" appearing in this headings. The scope of this heading cannot be extended and rule 2(a) cannot be invoked. Heading 9108 - explicitly refers to watch movements complete and assembly therefore unassembled or un-finished watch movements cannot be classified under this heading.

Rule 2(b) covers classification of "mixtures or combinations of materials or substances and goods consisting of two or more materials or substances. Under this rule, headings in which there is a reference to the material or substance also cover that materials or substance mixed or combined with other materials or substances.

Example: (a) milk to which vitamins or minerals added remains classified as milk.

(b) Articles of natural cork covered with paraffin.

While applying rule 2(b) it is to be noted that invocation of this rule would not arise if there exists, a specific provision in the section, & chapter notes.

Example: (a) chapter 9 - coffee, tea, malt and spices. The manner of classification of goods falling under heading 0904 to 0910 has been specifically provided in legal note 1 of chapter 9.

(b) 1503 covers specifically hard stearin lard oil, oleo stearin, oleo oil simplicitor and not mixed or otherwise prepared. Therefore, before applying interpretative rule 2(b) it is only essential pre-requisite to check that the headings, the section and chapter notes concerned do not incorporate specific provision with regard to mixtures and combinations.

Whenever there is no specific provision in the heading, section and chapter note requiring the classification to be done otherwise and specifically, only rule 2(b) can be resorted to. Unlike in 2(a), this rule cannot be invoked generally to broaden the scope of the heading. It follows therefore that goods consisting of two or more materials or substances which might in principle become classifiable in two or more headings, then the same must be classified in accordance with the provisions of rule 3.

Rule 3: - This rule provides three methods of classifying the goods. These methods operate in the order of (a) (b) (c) as set out in the rule. The manner of resorting to the provisions of 3(a) and 3(b) and 3(c) should be made in sequential order by ruling out one, before considering the other - by the process of elimination made sequentially. The first method of classification is set out in rule 3(a) which provides that the heading covering specific description of the goods concerned is to be preferred to the headings which provide a more general description. Example: Steel forks are classified under heading 82.15 and not under heading 73.23 - "table kitchen and other household articles".



Rule 3(b): The second method of classification under rule 3 relates only to consisting of different materials (3) composite goods consisting of different components (4) goods put up in sets for retail sale. In all these cases, the goods are to be classified as if they consisted of the material or components which give them their essential character. The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or components, its bulk, quantity, weight or value, or the role of constituent material in relation to the use made of the goods.

Rule 3(b) also applies to goods put up in sets for retail sale, to be regarded as goods put up in sets, goods must fulfill all of the following conditions. They must consist of products or articles having independent or complimentary uses, presented together for meeting a need for carrying out a specific activity.

Rule 3(c): -When goods cannot be classified with reference to rule 3(a) or 3(b) they are to be classified in the heading which occurs last in numerical order.

Rule 4 relates to goods which cannot be classified in accordance with rules 1 to 3. Classification under rule 4 involves comparing the presented goods with similar products with a view to identifying those goods to which they are more akin. The presented goods are then classified in the same heading as the latter.

Rule 5: - The first of these (Rule 5) applies like Rules 1 to 4 to the four digit level of the system. It reads as follows:

In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein; camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long term use and presented with such articles when of a kind normally sold therewith. the rule does not, however, apply to containers which give the whole its essential character; subject to the provisions of

rule 5(a) above , packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use".

Rule 5(b):- This rule governs the classification of packing materials and packing containers of a kind normally used for packing the goods to which they relate. however , this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use, for example, certain metal drums or containers of iron or steel for compressed or liquefied gas.

As this rule is subject to rule 5(a), the classification of cases, boxes and similar containers of the kind mentioned in rule 5(a) are to be determined by application of that rule.

Rule 6:- In this rule it is clearly stated that the classification of any product to its appropriate sub-heading in the harmonized systems may only be contemplated after the product concerned has already been properly classified to its appropriate 4-digit heading. The temptation to classify directly to what might appear to be the correct sub-heading, without first ensuring that the relevant 4-digit heading is correct, must be avoided at all costs; otherwise, incorrect classification will quite likely occur. Rule 6 provides that classification in the sub-headings of a heading must be determined, mutatis mutandis, in accordance with the principles applicable to classification in the 4-digit headings; consequently, the terms of sub-headings and sub-headings notes take precedence. The rule also specifies that, for classification purposes, only sub-headings at the same level are comparable; this means that, within the context of a single heading, the choice of 1-dash sub-heading may be made only on the basis of the texts of the 1-dash sub-headings; similarly, where a 2-dash sub-headings; then has to be selected, this may be done only with reference to the texts of the sub-divisions within the applicable 1-dash sub-heading.

Finally, the last sentence of Rule 6 stipulates that the section and chapter notes also apply, unless the context otherwise

requires. This means that, where they apply, the section and chapter notes, whether they establish precedence, determine the classification of mixtures, etc. or contain definitions, also govern the choice of sub-headings. For example, in selecting a 1-dash sub-heading for goods, falling in heading 75.05 (nickel bars, rods, profiles and wire) account must be taken of the definitions set out in note 1 to chapter 75 in which the expressions bars, rods, profiles and wires have been defined.

**\* Short Levies:**

**1. Procedure to realize short-levy or non-levy demand under section 28 of Customs Act, 1962:**

When it is discovered that any duty has not been levied, or has been short-levied, or erroneously refunded, sub-section (i) of sec. 28 of the Customs Act, 1962 prescribes that a notice should be served on the importers or the persons chargeable with the duty asking them to show cause why the amount due should not be paid. Ordinarily a period of 15 days should be allowed in the notice as at present. Such notice should be issued within six (6) months or one year as the case may be from the "relevant date" as defined under sub-section (3) of section 28 of the Customs Act, 1962 a proforma of the notice is enclosed (Annexure `a').

(2) It should be borne in mind that under the proviso to sub-section (i) of section 28 that where any duty has not been levied short-levied or erroneously refunded by reason of collusion or any willful misstatement or suppression of facts by the importer or the agent or employee of the importer, the notice of demand may be made within five (5) years from the relevant date.

(3) After considering the representation, if any made and after hearing the party, a formal order (Annexure `b') should be communicated to them by the A.C. "determining" the amount of duty and asking them to pay it within a further period of 15 days. The order

should indicate the appellate course open to the party if they are aggrieved by the Assistant Collector's decisions.

**Annexure `A'**

No..... By Regd. post a/d.

From:

The Assistant Collector of Customs in charge of  
group/department

To:

..... Custom house

..... Dated the

Sir/Gentlemen.

Subject: -.....cases/packages ex.

S.S.....B/E No.....

Dated.....IGM No.....

Dated.....parcel/packet no.....

Dated.....contents.....

Senders.....

Whereas it appears that customs duty amounting to Rs.....(Rupees.....) which was not levied/short levied/erroneously refunded in respect of the above consignment is due from you as indicated below :-

As provided for under section 28 (1) of the Customs Act, 1962, you are hereby directed to show cause to the undersigned/Assistant Collector of Customs, Group/Department why you should not pay the amount which was not levied/short levied/erroneously refunded as specified above within 15 days from the date of this notice. Any representation against this notice with necessary documentary evidence in support of the correctness of your stand should be made within the above said period. You are also requested to state if you would like to be heard in person. If no reply is received within the period as aforesaid or if you fail to turn up on the date when the

case may be posted for hearing, orders will be passed on the basis of evidence on record without further reference to you.

Assistant Collector of Customs.

Copy forwarded to: -

M/s.

(Clearing agents) for information and necessary action. The original notice has been served on the importer without prejudice to the liability of M/s.....who is deemed to be the owners of the goods as contemplated in section 147 of the Customs Act by virtue of having acted as importer's agent in respect of aforementioned goods.

Assistant Collector of Customs.

**ANNEXURE `B'**

Order confirming demand

No.....Appraising Department/Group  
Custom House,  
Dated the.....

To

Mr /Messers.....

.....

Sub:.....cases/packages.

ex.S.S.....

B.E.No.....DT.....

Contents.....

A notice under section 28, sub-section (1) of the Customs Act, 1962 for duty amounting to Rs. ....was issued under this office memo of even number dated.....in respect of the above consignment. The importers have put forth the following plea: -

.....

.....

.....

And have produced the following documents:-

.....  
.....

They did not ask for a personal hearing/they were also heard in person and submitted that .....I have duly taken into account the above plea and consider that the duty originally demanded is correct/that the correct duty recoverable is as indicated below :-

.....

The demand is now confirmed to the above extent under sub-section (2) of section 28 of the Customs Act, 1962, and if the importers fail to fulfill the obligations in terms of this decision within 15 days hereof. It will be enforced in due course as provided for in section 142, sub-section 1. Clause (a) clause (b) of the said Act an appeal against this order lies to the Appellate Collector of Customs, within three months from the date of receipt of this letter, as prescribed under section 128 of the said Act and it should bear a court fee stamp of fifty paisa. The amount of duty as stated above shall also be deposited with the custom house as required by section 129 of the said act before the Appeal is entertained.

Assistant Collector of Customs,

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Copy forwarded for information to (the custom House Agent) M/s..... their attention is invited to their liability under section 147 of the said act which provides for the recovery of the above mentioned amount if the above party fails to fulfill the obligations.

Assistant Collector of Customs

Note (i) Mode of communication of demand notice: The Central Board of Revenue has decided that the demand for less charge should be sent to the consignees with a copy to the respective clearing agents so that it may facilitate the later to pursue matters with their consignee principals. It should be clearly stated in the copy sent to the clearing agents that the original has been sent to the importers but this is without prejudice to the liability of clearing agents in law to meet the demand.

(Board's letter F. no.52/3/52-Cus.I dated 22-10-52)

Note (ii) Prompt issue of demand:

When the Directorate of Inspection (Customs & Central excise) in its correspondence with the custom house raises doubts about an Assessment, demands for short collections under section 39, of Sea Customs Act (now section 28 Customs Act, 1962) should be issued promptly in order to obviate any loss of revenue on account time bar.

(C.B.R. letter no.69 (169)-Cus. 1/50 dated 29-8-50)

1. (a) Issue of notices for ad-hoc demands-  
Procedure regarding:-

Reference is invited to the earlier provisions relating to the procedure for issuing demand notices for realisation of short-levy or non-levy under section 28 of the Customs Act. Since it is not legally permissible to charge more duty, though justified on merits, than what has been initially asked for in the demand notice should be issued under section 28 of the Customs Act, 1962, and at the time of issuing the ad-hoc demand notice the officer concerned should make the best estimate of the amount of duty short-levied/non-levied. Correct amount of duty to be realised should be determined only after giving due consideration to the representation etc. if any, made by the person concerned.

(C.B.E & C.F.no.369/3/74-Cus.I dated 23-10-75).

2. Section 28 Customs Act, 1962- Applicability in cases of short payment of duty.

The board had occasion to examine a case where the appellant's solicitor had put forth a contention that section 28 Customs Act, 1962 will be applicable only in cases where duty was short levied and not in cases of short payment of duty accepted by the custom house. The substance of the argument is that section 28 can apply only if the assessment falls short of the amount correctly leviable under the Act. Ministry of law, who were consulted in the matter have advised that this distinction between `short levy' and `short

payment' is neither relevant nor tenable. Hence cases where the custom house accepts through mistake payment of duty which falls short of the amount actually assessed, will also be cases of duty short levied within the meaning of section 28 Customs Act.

(C.B.E. & C., New Delhi, Ltr.no.2/1/65-Cus.vi dated 9-7-65)

3. (i) Extra Duty on account of Extra Debits raised by overseas buyer:

The Board desires that in all cases where extra duty becomes leviable on account of extra debits raised by overseas suppliers, it should be ensured that the recovery is effected expeditiously. The original bills of entry should be traced and put up expeditiously. On no account should the realisation of extra duty be delayed when the extra duty can be recovered on the note sheet on the basis of the importers copy of the bill of entry after verification with the particulars in the licence register, and after fresh debits are raised in the licence, the duty realisation being later on but without delay endorsed on the original bill of entry. The appraising group will also examine the ITC aspect before extra duty is recovered. (Ref.: Board's letter F.no.55/7/65-Cus. IV dt.1-4-65)

(ii) Interest charges on value coming to the knowledge of the custom houses within six months of payment of duty.

In case where payment for goods is made long before their shipment, interest due on the amount thus paid in advance should be added to the value of the goods even in those cases where this department, within six months from the date of payment of duty, come to learn that such charges have been made.

3. a. Customs loss of revenue due to non-issue of demands within prescribed time-limit - Instructions-regarding.

The public accounts committee (1981-82) in its 99th report has expressed great concern about the loss of revenue to the public exchequer due to non-issue of demands within prescribed time limit. The committee has desired that the reasons for these lapses should be



analyzed and appropriate measures to avoid such loss of revenue by eliminating the avoidable delays and short comings in the functioning of the department should be taken. The committee has also emphasised the need for finalising the assessments promptly and conducting the checks and audit of the assessment unit regularly. Although the committee's report relates to the central excise, it would "mutatis mutandis" have application to customs as well because the element of time-bar is equally relevant to customs cases also. The main reasons for demands getting time-barred are reported to be as under: -

(a) Objections:

(b) Non-detection of irregularities in time:

(c) Delay in raising the demands by the concerned departments:

(d) Failure of the concerned officers/audit to detect the short levy in time. All concerned Assistant Collectors are, therefore required to ensure that prompt action for raising demand is taken so that they do not become time-barred. In particular, the following remedial measures should be adopted for this purpose: -

(i) Immediately on receipt of objection from the CRA, demand-cum-show cause notice should be issued without any loss of time, even if, the concerned officer does not agree with the audit's point of view. If the department does not agree with the audit objection and the department's stand is ultimately accepted by the CRA, such demand-cum-show cause notice may be withdrawn on settlement of the audit objection. Till settlement of the audit objection, either the demand should be raised periodically or the assessments made provisional, so that duty demand does not become time-barred for any period.

(ii) In respect of audit objection raised by the internal audit department, the demand-cum-show cause notice should be issued immediately if the objection is prima facie, acceptable. Where the Assistant Collector does not agree with the internal audit Department's point of view, he should promptly refer the matter to the Collector who will take a final view within one month of the issue of the audit objection and indicate his views to the concerned Assistant Collector

and Deputy Collector /Assistant Collector (Audit) for taking immediate necessary follow-up action.

(iii) On transfer of the Assistant Collector of the group or unit the report of taking over and handing over charge should clearly indicate details of pending provisional assessment on account of audit objection. The officer taking over the charge should thus assume the responsibility of finalizing these matters early and raising the demands within the prescribed time limit.

(iv) In case of proved negligence on the part of an officer resulting in revenue loss due to time-bar, appropriate disciplinary action should be initiated against such officer.

(CBEC. letter F.no.210/28/81-Cx-6 dated 10-3-83 circular no.5/83-Cx-6).

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