CUSTOM DUTIES

Custom duties are levied u/s 12 of the Customs Act, 1962 at such rates as may be specified under the Custom Tariff Act, 1975 or any other law for the time being inforce. As per this section :—

(1) Custom duty shall be levied on goods imported into or exported from, India.

(2) Duty shall be levied at such rate as is specified in the Customs Tariff Act, 1975, or any other law for the time being inforce.

(3) Duty shall be levied on Government goods or non-government goods at par. There shall be no distinction in levying duty on Government goods or non-government goods.

Following types of Custom duties are levied on an assessee under the Custom Tariff Act, 1975 :—

(1) Basic custom duty (BCD)

(2) National calamity contingent duty (NCCD)

(3) Additional custom duty or Counter vailing duty (CVD) u/s 3(1) of CTA.

(4) Additional duty u/s 3(3) of CTA.

(5) Special additional customs u/s 3(5) of CTA

(6) Protective duty u/s 6 of CTA

(7) Counter vailing duty on subsidised goods u/s 9 of CTA

(8) Anti-Dumping duty on dumped articles u/s 9(A) of CTA

(9) Safeguard duty u/s 8(B) of CTA

(10) Export duty

(11) Social Welfare Surcharge

(12) Integrated Goods and Services Tax u/s 3(7)

(13) GST compensation cess u/s 3(9).

(1) Basic custom duty

Basic custom duty is levied u/s 12 of the Customs Act, 1962 on imported goods @ specified in the First Schedule of Customs Tariff Act, 1975. It is levied at a certain percentage on the value of goods determined u/s 14(1). Such rates are given in the First Schedule to the Customs Tariff Act, 1975. The rates for different items are different, but general rate at present is 10%.

But, basic customs duty on export of goods is levied at the rate specified in the Second Schedule of Customs Tariff Act, 1975.

There are two rates of Basic Duty :—

(i) Standard rate

(ii) Preference rate

Standard Basic duty is levied—

(a) On the basis of *transaction value* u/s 14(1), or

(b) On the basis of *Tariff value determined* u/s 14(2) of the Customs Act, 1962.

The following conditions must be fulfilled to avail the *preferential rates* :—

(a) A claim for preferential rate should be made at the time of importation.

(b) It should also be claimed that the goods are produced or manufactured in su... preferential areas notified u/s 4 (3) of the Customs Tarrif Act, 1975.

(c) The origin of goods shall be determined as per the rules formed u/s 4(2) of th Customs Tariff Act, 1975.

Illustration 1.

The assessable value of imported goods is ₹ 17 lakhs. The basic custom duty ... 10%. The goods are not subject to any additional customs duty. The Social Welfa... Surcharge is 10%. Compute the total customs duty. Ignore IGST.

Solution :

	₹
Basic Customs duty @ 10% on ₹ 17,00,000	1,70,00...
Add : Social Welfare Surcharge @ 10% on basic customs duty	17,00...
Total Customs duty	1,87,00...

(2) National calamity contingent duty (NCCD)

This duty was imposed by the Finance Act, 2003 on pan masala, chewing tabacco and cigarettes. It is charged @ 1% on Polyster Filament Yarn, motor cars, multiutility vehicles and two wheelers and ₹ 50 per ton on domestic crude oil.

(3) Additional customs duty or counter vailing duty (CVD)

This duty is levied u/s 3(1) of the Customs Tariff Act, 1975. This duty is imposed, in addition to the basic duty, on any article imported in India. Imported article is liable to a duty equal to excise duty on a similar article if produced or manufactured in India. If the article is not produced or manufactured in India, the duty of customs will be equal to the duty of excise that would have been leviable on the article, had it been produced in India. If the product is leviable with different rates, the highest rate would be applicable. This duty is imposed with a view to equalise the prices of home manufactured articles with the prices of imported articles. This duty is payable on the followings :—

(a) Assessable value, plus

(b) Basic custom duty, plus

(c) NCCD (National Calamity Contingent Duty) of customs.

This additional duty has now been subtituted by Integrated tax which is equivalent to IGST. In case of any alcoholic liquor for human consumption imported into India, the Central Government may notify the rate of additional duty considering the excise duty. This duty or tax or cess shall be in addition to any other duty or tax or cess imposed under Customs Tariff Act or under any other law for the time being in force.

Illustration 2.

Assessable value of the goods imported is ₹ 2,50,000 which attract basic duty at 10% and education cess as applicable. If similar goods were manufactured in India, excise duty (CVD) would have be 10% plus social welfare surcharge 10%. What shall be the assessable value and duty payable on them :—

Solution :

		₹
Assessable value		2,50,000
Add : Basic duty @ 10%		25,000
	Total	2,75,000
Add : CVD @ 10% on ₹ 2,75,000		27,500
Add : Social Welfare Surcharge @ 10% on total duty *i.e.* (10% on ₹ 25,000 + ₹ 27,500)		5,250
	Total value of goods Imported	3,07,750
	Total duty payable	57,750

(4) Additional duty u/s 3(3) of CTA

Additional duty known as counter vailing duty (CVD) is levied u/s 3(1) on inputs like raw materials, components etc., used in goods manufactured in India. There is another countervailing duty u/s 3(3) to counter balance the excise duty leviable on raw materials, components etc. Similar to those used in production of such goods. The Central Government may, by notification, impose additional duty u/s 3(3) on the value of imported articles (Value + basic custom duty). Such type of duty was imposed on stainless steel and transformer oil. After implementation of GST, *it has no relvance now.*

(5) Special additional customs duty u/s 3(5) of CTA

The Central Government may, in the public interest, levy on any imported article (whether or not such article is leviable to duty u/s 3(1) or 3(3) such additional duty which would counter-balance the sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India. Such additional duty shall not exceed 4% of the value of the imported articles as specified in the notification issued for this purpose. This duty will not be considered for calculation of imported goods. *At present this duty is 4%.*

(6) Protective duty u/s 6 of CTA

This duty is levied by the Central Government to protect the interests of Indian industries. This duty is imposed at rates recommended by the Tariff Commission. Generally, imports can damage the Indian industries in two ways :—

(i) The imported goods may be cheaper

(ii) The imported goods may be more attractive and in abundance in the market.

Thus, to protect the indegenous industry, such protective duty is imposed so that the imported goods may not be cheaper to the indegenous goods. The Central Government may by notification, impose such protective duty. Sections 6 & 7 of CTA provides the following power to the Central Government in this respect :—

(a) Power to specify the period during which such duty shall be in forced,

(b) Power to extend and reduce such period,

(c) Power to reduce or increase the effective rate of protective duty to make it more reasonable, effective and meaningful.

Such notification imposing protective duty should be introduced in the Parliament by way of bill and should be passed within 6 months. If the bill is not passed within 6 months, it shall cease to remain in force, but nothing done during the said period will be invalidated.

(7) Counter vailing duty on subsidised goods u/s 9 of CTA

Where a country grants subsidy to its residents for the production of such articles which are exported to India, then, the Government of India, upon importation of such articles into India, may by notification, impose a counter vailing duty not exceeding the amount of subsidy. If the amount of subsidy cannot be ascertained, provisional duty may be collected till actual determination of the subsidy amount. Later on, adjustment will be made by further collecting or refunding the duty on actual determination of the subsidy.

Normally, such duty shall remain in force for 5 years. It may be revoked before 5 years. The Central Government is empowered to extend the period of such imposition from time to time after review.

In short, the followings are the main points to be taken in case of :—

(i) ***The amount of duty*** should not exceed the amount of subsidy allowed to be given to the manufacturer or producer.

(ii) ***This duty is in addition*** to any other duty in respect of such goods levied under this Act or any other law for the time being in force.

(iii) ***Health and Education Cess*** is not leviable on counter vailing duty.

(iv) ***This duty shall be in force for 5 years.*** It may be revoked before 5 years. The Central Government is empowered to extend the period of such imposition from time to time after review. This period of 5 years may be extended. But, such extention can be upto a maximum period of 5 years. If the review made for extention of time is not made before the expiry of the period of imposition, the duty will continue for one more year or upto the completion of review whichever date is earlier.

(v) ***This duty may have retrospective effect***, if the Central Government is of the view that delay in imposing the duty has caused injury to domestic industry and it is difficult the compensate the loss by imposing this duty prospectively.

(vi) ***Provisional countervailing duty*** may be imposed and collected, if the amount of subsidy cannot be ascertained. Such provisional duty shall continue till actual determination of the subsidy amount. Later on, adjustment will be made by further collecting or refunding the duty on actual determination of the subsidy.

(8) Anti-Dumping duty on dumped articles u/s 9A of CTA

This duty is imposed on imports of a particular country. Dumping exists when an article is exported from one country to another country at an export price which is less than its normal value (price) prevailing in the exporting country. The difference between such normal value (price) and the export price is the dumping margin. Dumping duty is imposed on such dumping margin. The Central Government may by notification in the Gazette impose anti-dumping duty on such dumped articles in accordance with the provisions of section 9A of the Customs Tariff Act, 1975 and rules framed thereunder.

Antidumping duty is imposed to restrain the exporting countries from exporting their goods at a low price in India to :—

(i) cripple the Indian market by dumping their goods by exporting excessive goods,

(ii) dispose off their excessive production.

In case of dumping the Central Government takes immediate step to save the home market. Provisional anti-dumping measures can be imposed only after 60 days from the date of intimation of anti-dumping investigation namely. The Directorate General of Anti-Dumping and Allied Duties (DGAD).

Anti-dumping duty can be imposed retrospectively u/s 9A(3) from a date prior to the date of imposition of provisional duty but not beyond 90 days prior to the date of notification of provisional duty.

Maximum Limit

The anti-dumping duty imposed by the Central Government must be limited to the lower of the following :—

(a) ***Dumping margin*** which means the difference between its export price and normal value. The duty is imposed as a percentage of the export price. Suppose: the export price of goods is ₹ 14,000 and its normal value (price) is ₹ 21,000. Thus, there is a margin of ₹ 7,000 *i.e.*, 50% of export price.

(b) ***Injury margin*** which means the margin sufficient to remove injury to the domestic industry. It is the difference between the fair selling price to the domestic industry and the landed value of dumped imports.

Anti-dumping duty is in addition to any other duty in respect of such goods whether levied under this Act or under any other law in force.

Anti-dumping duty is not subject to *Health and Education Cess*.

Some terms in section 9A

"Margin of dumping" means the difference between normal value and export value *i.e.* Normal price – Export price.

Anti-Dumping duty = Margin of dumping
Margin of dumping = Normal price – Export price
Normal price = Price in ordinary course of trade
Export price = Price at which goods are exported

But sometimes dumping is beneficial for domestic customer because local customer can get cheap and better quality of foreign goods and it also encourage competitions. So while imposing anti-dumping duty such points must be considered by the government.

(9) Safeguard duty u/s 8(B) of CTA

Safeguard duty is imposed for the purpose of protecting the interests of any domestic industry in India. It is product specific. It is imposed when the Central Government is satisfied that specified or any article is imported in India in large quantities and under conditions that cause or threaten to cause serious injury to domestic industry.

The Central Government cannot impose such duty on an article originating from developing country if the share of imports from that country does not exceed 3% or where the aggregate of imports from all such developing countries does not exceed 9% of the total imports of that article into India.

The Central Government can impose provisional safeguard duty, pending final determination upto 200 days.

This duty, once imposed, is valid for 4 years, unless revoked earlier. But this can be extended by the Central Government maximum upto 10 years.

(10) Export duty

In order to encourage exports, exports duty is levied only on few products, the export of which is made restricted by the Central Government. Following articles/goods only are subject to export duty :—

(i) Hides, skins and leather @ 15%
(ii) Luggage leather @ 25%
(iii) Snake skins, and fur lamb skins @ 10%