



# **Introduction to Custom Law**

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# Custom Duty

Customs law is a duty or tax which is levied by the Central Government on import of goods into and export of goods from India.

Quantum of Customs duty depends upon the provisions of Customs Act 1962 and Customs Tariff Act 1975 and related Customs Rules, Notifications, Circulars, case Laws and Annual Union Finance Acts. Customs Act 1962 is the main Act governing custom duty.

Customs Tariff Act 1975 contains two Schedules. Schedule 1 gives classification and rates of duties for imports of goods into India. Schedule 2 gives classification and rates of duties for export of goods from India.

Section 156 of Customs Act empowers the Central Government to make rules in this regard consistent with provisions of the Act.

# Important Definitions

## Goods:

- Vessels, aircrafts and vehicles
- Stores
- Baggage
- Currency and negotiable instruments
- Any other kind of movable property

**Baggage** Includes unaccompanied baggage but does not include motor vehicles

**Coastal goods:** Goods other than imported goods transported in a vessel from one port to the other.

# Important Definitions

- **India:** India includes the territorial waters of India ( portion of sea which is adjacent to the shores of India, 12 nautical miles from base line. Sovereignty of India extends to the territorial waters and to the seabed and subsoil underlying and the air space over the waters.
- **Indian Custom Waters** According to Section 2(28) of Customs Act 1962, Indian Customs waters means water extending into sea up to the limit of exclusive economic zone. It will thus include, continental shelf, exclusive economic zone and other Maritime Zones Act 1976 and includes any bay, gulf, harbour, creek or tidal river(vide Amendment in Customs Act through Finance Act 2018).
- **Exclusive Economic Zone:** It extends up to 200 nautical miles from the base line. In this Zone India has exclusive rights to exploit it for economic purposes.
- **High Sea:** Beyond 200 nautical miles, the area is known as high sea. All countries have equal rights to high sea.

# Taxable Event in Case of Import

Import is complete as soon as goods enter territorial water. Taxable event in the case of import is the day according to:

In case of goods entered for home consumption	Date on which bill of entry in respect of such goods is presented. (if bill of entry has been presented before the date of entry inwards of the vessel/ aircraft/ vehicle , the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival)
Warehoused Goods	Date on which bill of entry is presented for clearance from warehouse for home consumption
Any other case	Date on which Duty is paid

\* Above rules not applicable for Baggage and goods imported by post

# Taxable Event in case of Export

Export is completed when goods cross territorial waters of India. Even if export duty is collected before ship leaves the port , it does not mean that taxable event has taken place.

Example: If goods are exported and the ship sinks within territorial waters, it does not amount to export and export duty is not applicable.

# Types of Custom Duties

- Basic Custom duty
- Additional Custom duty
- Special Countervailing duty
- Safe Guard duty
- Anti Dumping Duty
- Protective Duties
- Integrated Goods and Service Tax
- Goods and Services Tax Compensation Cess
- Social Welfare Charge

# Basic Custom Duty, Additional Custom duty

- **Basic Custom Duty:** This is the standard rate at which the **Basic Custom Duty** is applicable. There are two sub-types of Basic Custom Duty. One is standard custom duty which is levied at the standard rates prescribed in the schedule. There is another rate which is called the Preferential Rate. It is leviable only for those countries which are specified in the schedule.
- In order to make it comparable with the goods produced in India, another duty called Additional Customs Duty is levied. It is also called as **Countervailing Duty**. It is levied at the same rate on which excise duty is applicable to similar products manufactured in India. **Special Countervailing duty** is levied to counter balance the effect of the sales Tax, local tax, value added tax or other charges. Due to GST, Additional custom duty and special Countervailing duty is levied on few cases.



# Safeguard Duty, Anti-dumping Duty, Protective Duty

- A **safeguard duty** is imposed to safeguard the interest of local domestic industries.
- There are countries which export goods to India at a price lower than the price they must be selling in their country. This is similar to dumping of goods in our country. In order to safeguard our local industries, **anti-dumping** duty is imposed on such goods.
- **Protective duty** is a duty imposed on imported goods for protection of interests of any industry in India on recommendation of Tariff Commission after analyzing the circumstances which indicate that a necessary and immediate action is required to save an industry established in India..

# IGST on Import, GST Compensation Cess

- With effect from July 1, 2017 Any article which is imported into India shall be liable to IGST. IGST will be calculated as

During July 1, 2017 and February 1, 2018	Assessable Value Basic Custom duty Education Cess
On or after February 2, 2018	Assessable Value Basic Custom duty Social Welfare Charge

**GST Compensation Cess** is levied to provide cushion and compensation to the states for loss of revenues due to transition by states from previous regime to tax in GST.

# Social Welfare Charge

- With effect from 2 February 2018 all goods imported into India have been exempted from Education Cess and Secondary & higher education Cess rather **Social Welfare Surcharge** (SWS) @10 % is levied. SWS is for providing and financing education, health and social security. It is leviable on the aggregate of duties, taxes and Cesses leviable on such goods. SWS is not charged on
  - Safeguard Duty
  - Countervailing duty
  - Anti Dumping Duty
  - SWS itself on imported goods
  - IGST
  - GST compensation Cess

# Functions Of Customs Department

- Collection of Customs Duties on imports and Exports as per Law.
- Enforcement of Various provisions of Custom Act.
- Discharge of Agency functions and enforcing prohibitions and restrictions on imports and imports under various legal enactments.
- Prevention of Smuggling.
- International Passenger Clearance.

# References

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