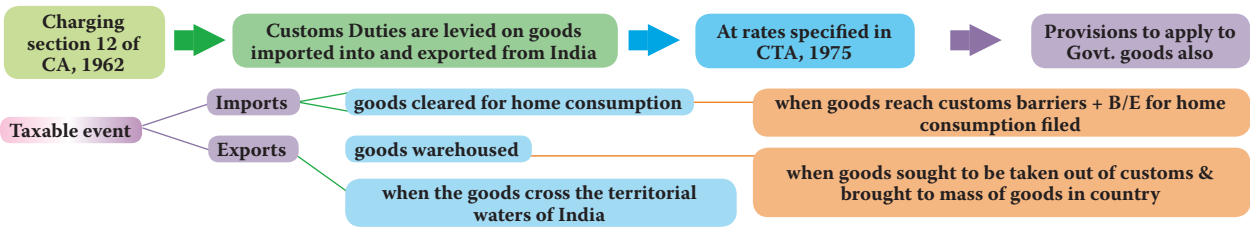


Customs & FTP

1. Levy of customs duty



- ◆ **Indian Customs waters** – means waters extending into the sea up to the limit of CZI & includes any bay, gulf, harbour, creek or tidal river. Powers of customs officers extend upto Indian Customs Waters.
- ◆ **Territorial Waters of India (TWI)**- extends upto 12 nautical miles (nm) from baseline on coast of India.
- ◆ **Contiguous Zone of India (CZI)**: area 12 nm beyond TWI; it is at a distance of 24 nm from the nearest point of the baseline.
- ◆ **India** - includes TWI



2. Types of customs duty

1. Basic customs duty (BCD) Section 12 of the Customs Act, 1962		
Leviable on: imported/ export goods;	Rate: Specified in Ist & IInd Schedules of CTA, 1975	
AV (on ad valorem basis): Transaction value u/s 14(1) /tariff value u/s 14(2)		
2. Countervailing duty [CVD] Section 3(1) of CTA, 1975		
Leviable on: any imported article equal to excise duty leviable on a like article if manufactured in India.		
Rate: Excise duty rate on like article if manufactured in India (Exception: Alcoholic liquor for human consumption).		
3. Countervailing duty [CVD] Section 3(3) of CTA, 1975		
Leviable on: any imported article; additional duty [as determined by CG] to counter balance portion of excise duty leviable on Raw Materials, components & ingredients		
AV for computing CVD under sections 3(1) & 3(3) of CTA, 1975		
In case duty is charged on the like article	Determination of assessable value	
(i) on tariff value fixed under 3(2) of CEA.	Such tariff value	
(ii) on the basis of MRP u/s 4A of CEA.	RSP declared on the imported article	xxx
	Less: Abatement notified for like article	xxx
	Assessable value of the imported article	xxx
	<i>Note: Where on any imported article more than one RSP is declared, the maximum of such RSP shall be deemed to be the RSP for the purposes of this section.</i>	
(iii) Any other case	Transaction Value u/s 14(1) /tariff value u/s 14(2)	xxx
	Add: Basic custom duty	xxx
	Assessable value	xxx
	<i>Note: While computing CVD under sections 3(1) & 3(3), duties leviable under section 8B/9/9A shall not be included.</i>	
4. Special CVD - Section 3(5) of CTA, 1975		
Leviable on: any imported article; to counter-balance the sales tax/ VAT , etc. leviable on like article on its sale in India		
Rate: as notified by the Central Government, ≤ 4% [Presently, it is 4%]		
AV for computing special CVD	Value u/s 14(1) /tariff value u/s 14(2)	xxx
	Add: Basic custom duty	xxx
	Add: CVD u/s 3(1)/ 3(3)	xxx
	Add: EC [customs]	xxx
	Add: SHEC [customs]	xxx
	Assessable value	xxx
<i>Note: While computing special CVD under section 3(5), duties leviable under section 8B/9/9A shall not be included.</i>		

INDIRECT TAXES

5. EC & SHEC

Levied on: imported goods @ 2%/1% respectively on aggregate of customs duties levied

Special CVD u/s 3(5), duties leviable u/s 8B/9/9A & SHEC & EC itself be excluded for computing EC/SHEC

6. Other customs duties

On certain goods, additional duties like anti-dumping duty, safeguard duty, protective duty etc. can also be imposed. Cess is payable on some goods imported/exported.

Safeguard duty An additional product specific safeguard duty can be levied on an article if it is imported in increased quantities in India & is causing serious injury to domestic industry. EC/SHEC not payable on it.

Anti-dumping duty Dumping occurs when **Normal value of article in the domestic mkt of exporter > Export Price of article in India**
In such a case, anti-dumping duty can be imposed if such dumping causes or threatens to cause material injury to the domestic industry of India

Anti-dumping duty is (i) Margin of dumping or (ii) Injury margin, whichever is lower.

$$(1) \text{ Margin of Dumping} = \text{Normal Value} - \text{Export Price of goods imported into India}$$

Comparable price at which the goods under complaint are sold in the domestic market of the exporting country or territory in the ordinary course of trade.

However, if the normal value cannot be determined as per sales in domestic market of exporting country, normal value shall be

- Comparable representative export price to an appropriate third country, or
- Cost of production in the country of origin + Administrative, selling & general costs, profits.

Export Price

Price of an article exported from the exporting country or territory

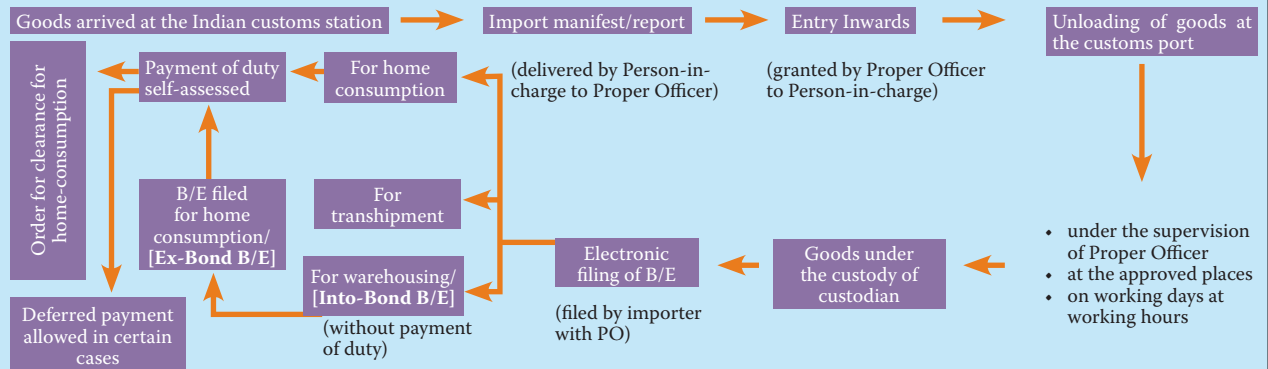
$$(2) \text{ Injury Margin} = \text{Difference between Fair Selling Price [Non-Injurious Price (NIP)] due to the Domestic Industry and the Landed Value of the dumped imports}$$

Landed Value

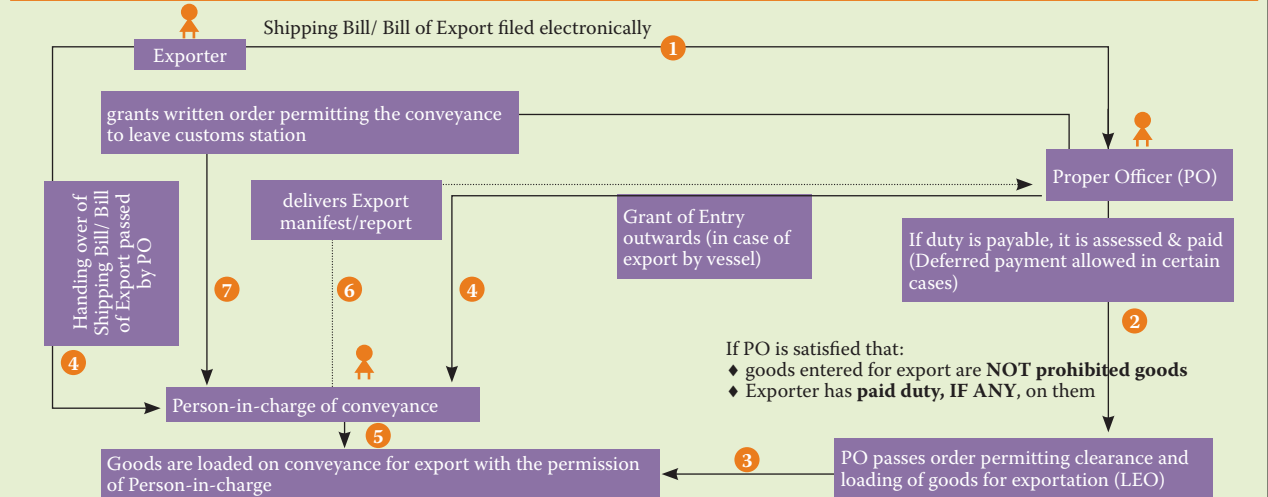
AV under Customs Act & applicable BCD

EC and SHEC not payable on anti-dumping duty

3. Import procedure

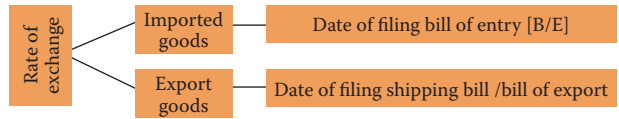


4. Export procedure

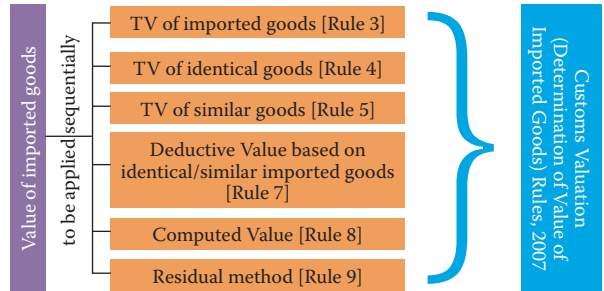


5. Valuation of customs duty

Section 14(1) - Transaction Value	Section 14(2)
TV of imported/export goods <ul style="list-style-type: none"> - Price actually paid/payable for goods when sold for export to/from India - for delivery at time & place of importation/exportation - buyer & seller not related - price sole consideration for sale - subject to conditions prescribed by rules. 	Tariff Value <p>CBEC may notify Tariff values for any class of imported/ export goods</p>



Imported goods	Date for determination of rate of duty/tariff value
entered for home consumption	Later of (i) date of filing B/E for home consumption or (ii) date of entry inwards to vessel/arrival of vehicle/aircraft
cleared from W/H	date on which B/E for home consumption is presented
Any other goods	date of payment of duty
Export goods	Date for determination of rate of duty/tariff value
entered for export	date of the 'let export' order (LEO)
Any other goods	date of payment of duty



Rule 3

- No restriction on buyer for disposal of goods
- Sale not subject to conditions for which value cannot be determined
- No further consideration to accrue to seller unless adjustable as per rule 10
- Buyer & seller are unrelated; if related TV is accepted when examination of circumstances of sale indicate that relationship didn't influence price & importer proves that price is close to TV of identical/ similar goods, in sales to unrelated buyers; deductive/ computed value of identical/similar goods

Value = TV after rule 10 adjustments provided that

Rule 10(1) adjustments

Costs to be added if not included:

- commissions etc. **except buying commissions**, cost of containers/packing
- engineering, design work etc. **undertaken elsewhere than in India**, materials, tools, dies, consumables etc. used in production of imported goods, supplied **free of charge/ at reduced cost**
- royalties & license fees** as condition of sale
- Proceeds of **any subsequent sale** to accrue to seller
- all other payments as condition of sale**

Rule 10(2) adjustments

TV shall include:

- Transport Cost (TC) upto place of importation
 - where TC not ascertainable, it is 20% of FOB;
 - where in case of import by air TC is ascertainable, TC should not exceed 20% of FOB
 - TC includes ship demurrage charges on chartered vessels, lighterage/ barge charges]
 - TC does not include freight from port to ICD/CFS]
- Landing charges @ 1% of CIF
- Insurance cost [where not ascertainable, it is 1.125% of FOB]

Rule 4

Value = TV of identical goods

- imported at/about same time
- at same commercial level & in substantially same qty (or value is accordingly adjusted)
- as goods being valued

Rule 5

Value = TV of similar goods

- imported at/about same time
- at same commercial level & in substantially same qty (or value accordingly adjusted)
- as goods being valued

Rule 7

Value = Deductive value

- If goods being valued/ identical/ similar goods are sold in India, in the same condition as imported, at/about same time:
- AV = S.P. - [Commission, sales expenses, profit, transport & insurance, customs duties & other taxes payable, IN INDIA.
- S.P. is unit price at which imported/ identical/ similar imported goods sold in greatest aggregate qty to unrelated persons in India

Rule 8

Value = Computed value

Computed Value = Sum of Cost of material, processing employed in producing imported goods, profit & general exp reflected in sale of same class goods made in country of exportation for export to India & expenses/ cost under rule 10(2).

Rule 9

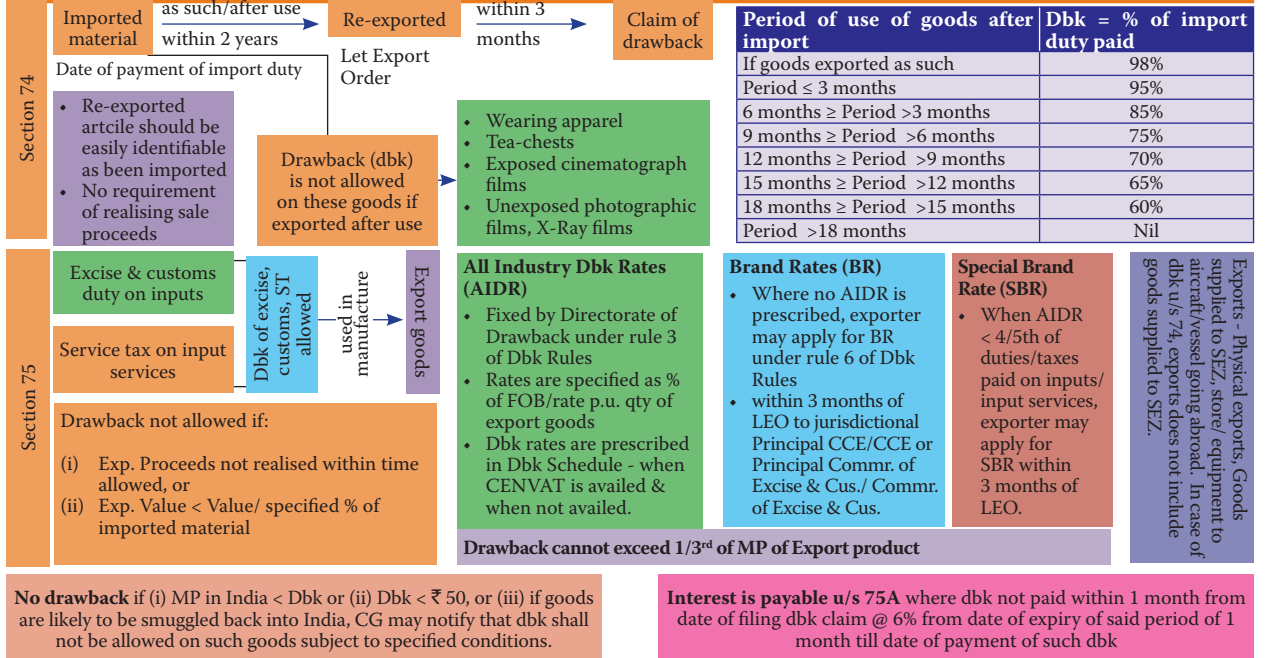
Value determined using reasonable means consistent with principles & general provisions of these rules and on the basis of data available in India

Value so determined ≤ Normal imported price of such goods

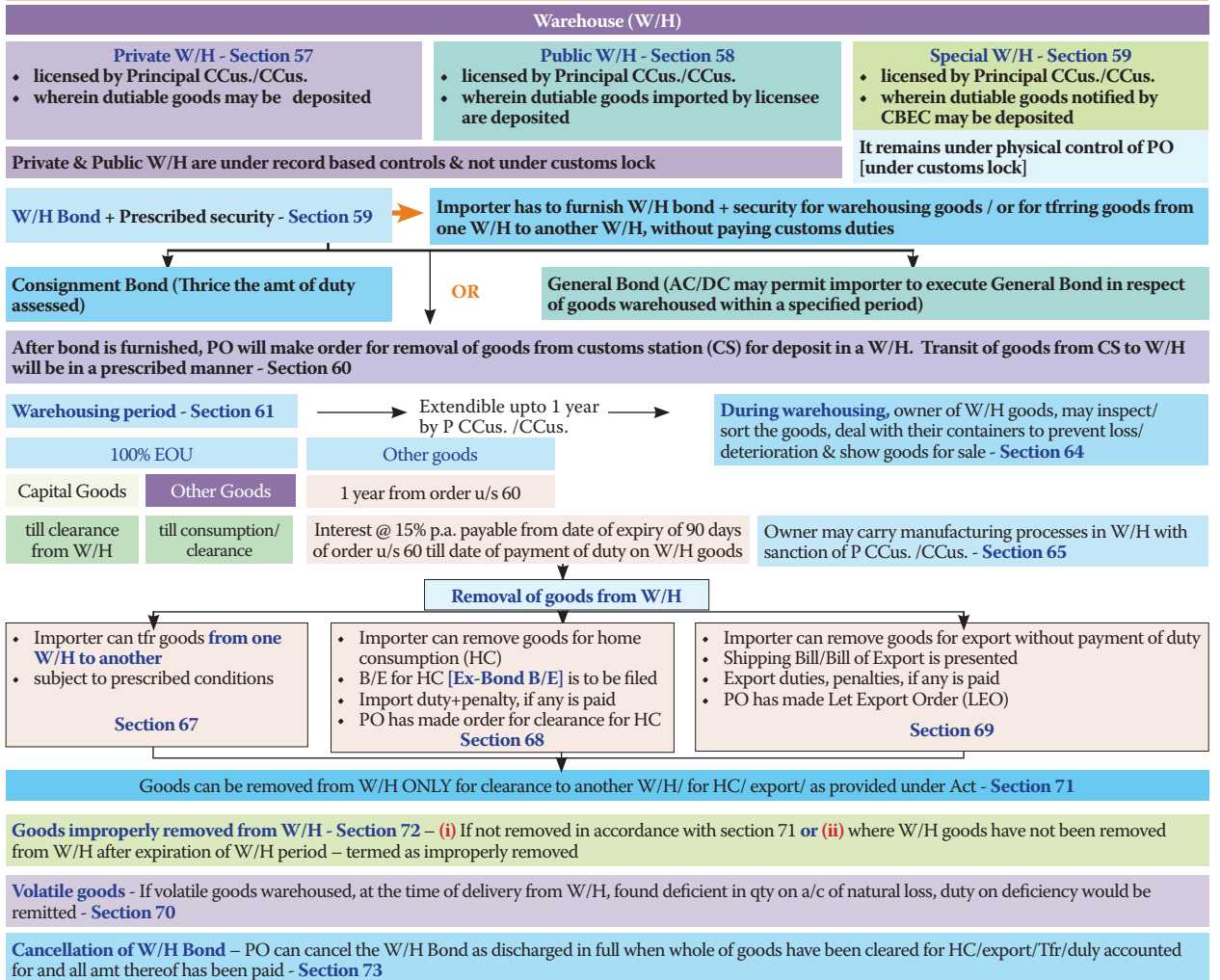
Valuation Rules be applied sequentially. However, the importer may request Proper Officer to apply computed value method before deductive value.

INDIRECT TAXES

6. Duty Drawback



7. Warehousing



8. Baggage Provisions

Baggage means luggage of a passenger accompanied/unaccompanied, & comprises of trunks/bags & personal belongings of passenger. Owner of the baggage is required to make a declaration [**Baggage Declaration Form**] of its contents to PO of customs, for clearing it. Duty is payable on such baggage at the rate in force on the date of such declaration. **Rate of duty on baggage is 35% ad valorem.**

Baggage Rules, 2016

General duty free baggage allowance (GFA)				
Rule No.	Class of passenger	Origin country from which passenger is coming	Articles allowed free of duty	
3	Indian resident (IR)/ Foreigner residing in India (FR)/ Tourist of Indian origin, excluding an infant	Any country other than Nepal, Bhutan or Myanmar (NBM)	(i) Used personal effects (UPE) & travel souvenirs (TS) ; and (ii) Articles (excluding Annexure I articles), if carried on in person/ in accompanied baggage, up to value of	₹ 50,000
	Tourist of foreign origin excluding infant	Any country other than NBM		₹ 15,000
4	IR/ FR/ Tourist, excluding an infant	NBM		₹ 15,000, Arriving by land: only UPE

Note: Infant passenger: only UPE allowed duty free. GFA of a passenger cannot be pooled with GFA of any other passenger.

Jewellery Allowance

5	Passenger residing abroad for more than 1 year	Any country	Passenger	Jewellery
			Gentlemen	upto 20 gms with a value cap of ₹ 50,000
			Lady Passenger	upto 40 gms with value cap of ₹ 1,00,000

Transfer of residence

6	Duration of stay abroad	Articles allowed free of duty	Conditions	Relaxation	
	3-6 months	Personal and household articles, other than those mentioned in Annexure I/Annexure II, including Annexure III articles upto an aggregate value of	₹ 60,000	Indian passenger	-
	6 months-1 year		₹ 1,00,000	Indian passenger	-
	Minimum stay of 1 year during 2 PYs		₹ 2,00,000	Indian passenger should not have availed this concession in 3 PYs	-
	Minimum stay of 2 yrs or more		₹ 5,00,000	(i) Minimum stay of 2 years abroad, immediately preceding date of his arrival on transfer of residence (ii) Total stay in India on short visit during 2 PYs should not exceed 6 months; & (iii) Passenger has not availed this concession in 3 PYs	The shortfall of upto 2 months in stay abroad can be condoned by AC/DC if early return is on account of - (i) terminal leave/vacation availed by passenger; or (ii) any other special circumstances. The Principal Comm/ Comm may condone short visits in excess of 6 months in special circumstances for reasons to be recorded in writing. No relaxation

9 Crew Members: Baggage rules also apply to crew members engaged in foreign going conveyance for importation of their baggage, when they are finally paid off on termination of their engagement. However, other crew members of a vessel and aircraft are allowed to bring items like chocolates, cheese, cosmetics & other petty gift items for their personal/family use for a value ≤ ₹ 1500.

Annexure I (See rule 3, 4 and 6)	Annexure II (See rule 6)	Annexure III (See rule 6)
<ul style="list-style-type: none"> Fire arms [& their cartridges>50] Cigarettes > 100 sticks, cigars>25, tobacco > 125 gms. Alcoholic liquor/wines> 2 ltrs. Gold/silver [other than ornaments] Flat Panel (LCD/LED) television. 	<ul style="list-style-type: none"> Colour Television/Video Home Theatre System. Dish Washer. Domestic Refrigerators ≥ 300 ltrs Deep Freezer. Video camera/ combination thereof Cinematographic films ≥ 35 mm Gold/silver [other than ornaments] 	<ul style="list-style-type: none"> VCR/VCP/VTR/VCDP Digital Video Disc player/ Music System. Air-Conditioner & Microwave Oven. Word Processing Machine. Fax/Portable Photocopying Machine. Washing Machine/Electrical/LPG Cooking Range Personal Computer/ Laptop Computer Domestic Refrigerators ≤ 300 ltrs

- Unaccompanied baggage (UB):** Above provisions are also applicable to UB, unless specifically excluded, if UB had been in possession, abroad, of passenger & is dispatched within 1 month [or extended period] of his arrival in India.
- UB can also land in India upto 2 months before arrival of the passenger. However, if passenger is not able to arrive in India within 2 months due to circumstances beyond his control, AC/DC may extend said period of 2 months upto 1 year.

INDIRECT TAXES ||

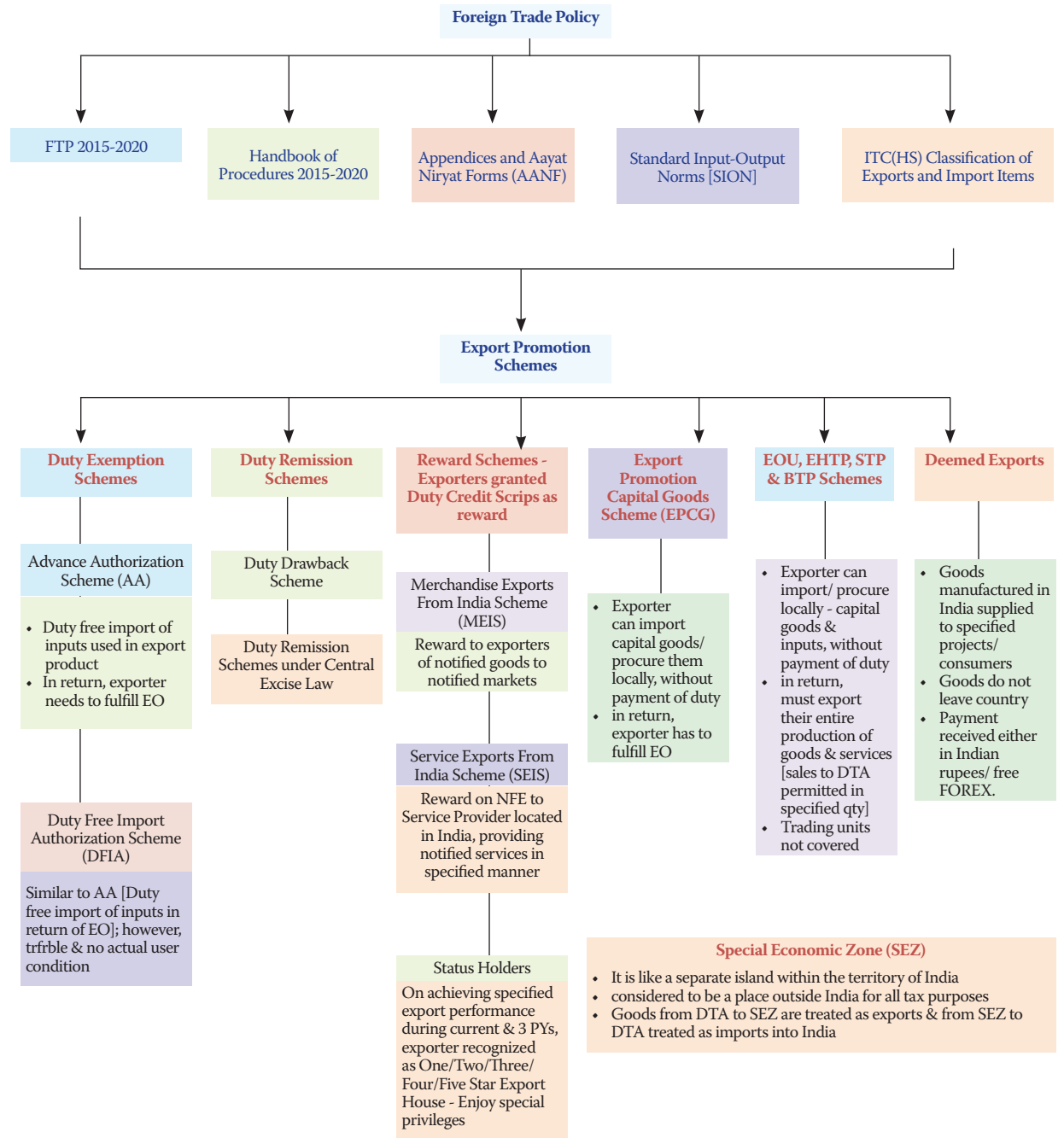
9. Redemption fine -option to pay fine in lieu of confiscation [Section 125]

On confiscation, property in goods vest in CG. CG can sell/auction these goods. However, owner of goods /person from whom goods are seized may be given an option to get goods back by paying a fine known as **Redemption fine [RF]**. However, on payment of RF, liability to any duty & charges payable in respect of such goods does not get extinguished.

In case of confiscation of prohibited goods	PO may give the option to pay RF
In case of confiscation of any other goods	PO is bound to give the option to pay RF



9. Foreign Trade Policy



Common Provisions for Central Excise, Customs and Service Tax

A. Demand – [Sec 11A of CEA/Sec 28 of Customs Act/Sec 73 of FA, 1994]

Non-fraud cases	Time limit for issue of SCN		Time-limit for adjudication	
	For central excise and customs - 2 years from relevant date	For service tax - 30 months from relevant date	Particulars	Time Limit (from date of notice)
Fraud cases	For central excise, customs and service tax - 5 years from relevant date		Cases involving willful suppression etc.	One year
			Cases other than the above	Six months

- If duty/tax and applicable interest is paid voluntarily before issue of SCN in non-fraud cases → No SCN and penalty.
- CEO/Proper Officer will determine duty/tax & interest after giving an opportunity of being heard to the concerned person and will pass orders with reasons
- Mere non-disclosure is not suppression of facts. If there was bona fide belief, there can be no suppression of facts.
- Interest is payable for late payment of duty/tax [Sec 11AA of CEA/Sec 28AB of Customs Act/Sec 75 of FA, 1994].
- Interest is automatic and mandatory and cannot be waived.

Event	Relevant date	Penalty for failure to pay service tax – Sec 76 of FA, 1994
Non/short payment or non/short levy of duty or non-charging of interest (customs duty)	Date of order of clearance of goods	<ul style="list-style-type: none"> • Maximum 10% of service tax amount • Nil, if service tax + interest paid within 30 days of service of SCN • 25% of penalty, if service tax, interest and such reduced penalty paid within 30 days of receipt of order [Similar penalty payable under central excise. However, maximum penalty payable under central excise is ₹ 5,000 or 10% of duty, whichever is higher.]
Non/short levy or non/short payment of excise duty/service tax-when return has not been filed	Last date on which such return is required to be filed Date on which such return has been filed.	
when return has been filed		Penalty for failure to pay service tax for reasons of fraud etc. – Sec 78 of FA, 1994
Provisional assessment of duty/tax	Date of adjustment of the duty/tax after final assessment	<ul style="list-style-type: none"> • Maximum 100% of service tax amount • 15% of service tax amount, if service tax + interest + such reduced penalty paid within 30 days of service of SCN • 25% of service tax amount, if service tax + interest + such reduced penalty paid within 30 days of receipt of order. [Similar penalty payable under central excise]
Erroneous refund of duty/tax	Date of such refund	
Interest to be recovered (in case of excise duty)	Date of payment of duty to which such interest relates	
Any other case	Date on which duty/tax is required to be paid	

- ♦ Property of person to whom SCN has been issued can be attached provisionally during adjudication, to protect interest of revenue [Sec 11DDA of CEA/Sec 28BA of Customs Act/Sec 73C of FA,1994].
- ♦ After demand is confirmed, excise and customs authorities can recover the amount by various means, if assessee does not pay. If service tax/ excise duty is shown in the returns filed but not paid, recovery proceedings can be initiated without issue of SCN.
- ♦ Recovery can be made by adjusting against money payable to the person, by attachment and sale of goods(in case of excise & customs) or as arrears of land revenue. [Sec 11 of CEA/Sec 142 of Customs Act/Sec 87 of FA,1994]
- ♦ Recovery can be made by distraint and sale of property as per provisions of Sec 87 of FA,1994 & Sec 142 of Customs Act, which has been made applicable to excise also. Recovery can be made from successor of business to the extent of assets transferred.

B. Refund [Section 11B of CEA/Sections 26, 26A and 27 of Customs Act]

R	Assessee can file a claim refund of duty/tax and interest within 1 year from relevant date. If refund is delayed beyond three months, interest is payable to the assessee @ 6% p.a. Appeal should be filed and not a refund claim when adjudication order has been issued.
E	Refund is subject to doctrine of unjust enrichment i.e., it will be available only if the burden of duty/tax was not passed on to customer or amount was not recovered from buyer. Otherwise, the amount will be credited to Consumer Welfare Fund. Every person paying duty/tax will be deemed to have passed on the burden to buyer of goods.
F	Duty/tax collected from buyer must be paid to Government, even if it was not payable as per law. Duty/tax is required to be shown separately in invoice.
U	Doctrine of unjust enrichment applies to captive consumption of inputs and capital goods, provisional assessment and also when duty was paid under protest, but limitation period of 1 year is not applicable if duty/tax was paid under protest.
N	Mere fact that there was no change in price during relevant period is not a conclusive evidence that burden of duty has not been passed on.
D	Doctrine of unjust enrichment does not apply to refund of duty paid on inputs as per any rule/notification, duty paid on imports made by an individual for his personal use, export duty, redemption fine, penalty, rebate of duty on exports, money deposited in PLA, encashment of bank guarantee and duty drawback.
N	Export duty is refundable under section 26 of the Customs Act if goods returned are not re-sale; goods are re-imported within 1 year from date of exportation; and refund claim is filed within 6 months from the date of order of clearance for re-importation.
D	If imported goods are found defective or not as per specifications, import duty paid can be refunded under section 26A of Customs Act if goods are re-exported/ abandoned/ destroyed within 30 days from the date of import – extendable to 3 months. Goods should not have been used/repared after imports. Application for refund should be made within 6 months from the relevant date.

C. Appeals

Order passed by	Appellate Authority to which the appeal lies to
All officers upto & including Adnl Comm.	Commissioner (Appeals)
Pr. Comm./ Comm./ Comm. (Appeals)	CESTAT, except in case where the order of Comm (Appeals) relates to loss of goods in transit, processing loss, rebate of excise duty on exports, exports without payment of excise duty, baggage, short/non landing of goods in India, drawback, rebate of service tax on input services etc. [revision application in such cases]
Comm. (Appeals)	Revision application to Central Government in matters listed in the row above (rebate, baggage etc.). No further appeal.
CESTAT	Supreme Court in matters relating to valuation and rate of duty
CESTAT	High Court in matters other than valuation and rate of duty
High Court	Supreme Court

INDIRECT TAXES ||

Departmental appeal/review

Reviewing Authority	Pr. Comm/Comm	Committee of Pr. Comms/Comms	Committee of Pr. Chief Comms/Chief Comms
Authority whose order will be reviewed	Adjudicating authority subordinate to Pr. Comm/Comm	Comm (Appeals)	Pr. Comm/Comm
Authority to whom appeal/application will lie to	Comm (Appeals)	CESTAT	CESTAT
Time period for passing the order to file appeal/application	3 months [Extendable to 30 more days in E&C]	Appeal to be filed within 3 months of communication of order of Comm (Appeals) to Pr. Comm/Comm	3 months [Extendable to 30 more days in E&C]
Time period for filing appeal/application	Within 1 month from communication of order of Pr. Comm/Comm	ST- Appeal to be filed within 4 months from the date on which the order sought to be appealed against is received by the Committee of Chief Comms or Committee of Comms	Within 1 month from communication of order of Committee of Pr. Chief Comms/Chief Comms.

Authority to which the appeal has been made	Time for filing appeal/review application/revision	Section	Forms*
Comm. (Appeals)	By Assessee (Appeal)		
	Within 60 days (2 months in ST) of communication (receipt in ST) of order of officers upto & including Addnl Comm.- extendable to another 30 days (1 month in ST)	Sec 35 of CEA/ Sec 128 of CA/Sec 85 of FA	EA-1/CA-1/ST-4
CESTAT	By Department (Application treated as appeal)		
	Within 1 month from communication of order of Pr. Comm/Comm	Sec 35E(2) of CEA/Sec 129D(2) of CA/Sec 84 of FA	EA-2/CA-2
High Court	By Assessee (Appeal)		
	Within 3 months of communication of order of Comm (Appeals)/Pr. Comm/Comm	Sec 35B of CEA /Sec 129A of CA/Sec 86 of FA	EA-3/CA-3/ST-5
Supreme Court	By Department		
	E&C (i) Within 1 month from communication of order of Committee of Pr. Chief Comms/Chief Comms. [Application treated as appeal] (ii) Within 3 months of communication of order of Comm (Appeals) to Pr. Comm/Comm [Appeal] ST- Appeal Within 4 months from the date on which the order sought to be appealed against is received by the Committee of Chief Comms or Committee of Comms	Secs 35E(1), 35B(2) of CEA/ Secs 129D(1), 129A(2) of CA/Sec 86(2), 86(2A) of FA	EA5/CA-5/ST-7
Govt. of India (Revisionary Authority)	Within 180 days of receipt of order of CESTAT not involving valuation and rate of duty (rate of duty includes taxability or excisability of goods)	Sec 35G of CEA/ Sec 130 of CA	EA6/CA6 (Appellant) EA7/CA7 (Cross objections by opposing party)
Supreme Court	As per Code of Civil Procedure, 1908, from the order passed by High Court (if permitted by High Court) or order passed by CESTAT on valuation & rate of duty	Sec 35L of CEA/ Sec 130E of CA	
Govt. of India (Revisionary Authority)	Within 3 months of communication of order of Comm. (Appeals) on specified matters listed in table given above – extendable to another 3 months. [No provision for further appeal]	Sec 35EE of CEA/ Sec 129DD of CA	EA8/CA8

* EA series in excise, CA series in customs and ST series in service tax. ST=Service tax, E&C= Excise and Customs, CA= Customs Act, 1962, FA= Finance Act, 1994

Pre-deposit for filing appeal [Section 35F of CEA/ Section 129E of Customs Act]

Pre-deposit of specified percentage of duty/tax (as given below) is essential for filing an appeal.		
Stage of appeal	Appellate Authority	Quantum of pre-deposit
First Appeal	Comm (Appeals) or CESTAT	7.5% of the duty/tax where only duty/tax or both duty/tax and penalty are in dispute OR 7.5% of the penalty where only penalty is in dispute
Second Appeal	CESTAT	10% of the duty/tax where only duty/tax or both duty/tax and penalty are in dispute OR 10% of the penalty where only penalty is in dispute

Amount of pre-deposit cannot exceed ₹ 10 crore. 6% interest is payable on refund of pre-deposit from the date of its payment to the date of refund.

+ An authorised representative can appear on behalf of assessee. Court fee stamps are required to be affixed to appeal.
++ Comm (Appeals) cannot remand matter to lower authorities but Tribunal can remand the matter with suitable directions.

+ Tribunal is a quasi-judicial authority and final fact finding authority.
++ Tribunal sits in benches, consisting of judicial members and technical members.

+ Tribunal can grant maximum 3 adjournments during hearing of an appeal.
++ Small matters where duty/tax or penalty involved is less than ₹ 50 lakh can be decided by a single member bench, if issue does not relate to rate of duty or valuation.

+ Tribunal and High Courts have power to condone delay in filing appeal.
++ Tribunal can rectify its mistakes which are apparent from records. For this purpose, application is required to be filed within 6 months.

Monetary limits for filing of appeals by Department

Sl.No.	Appellate Forum	Monetary limit
1.	CESTAT	₹ 10,00,000/-
2.	High Courts	₹ 15,00,000/-
3.	Supreme Court	₹ 25,00,000/-

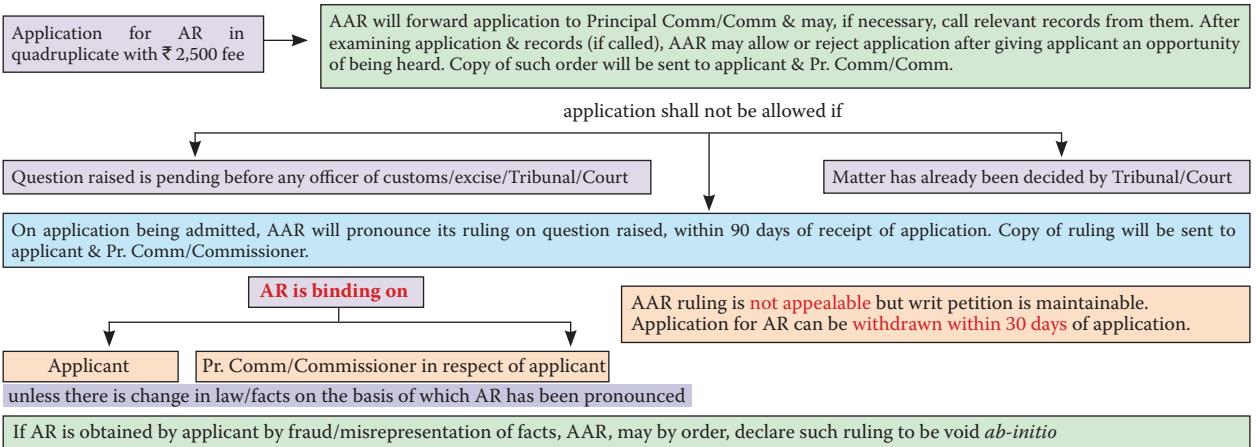
D. Advance Ruling [Sections 23A-23H of CEA/28E-28M of CA/96A-96-I of FA]

Under advance ruling, an applicant submits an application raising a question of law/fact regarding liability to pay duty/tax in relation to an activity* proposed to be undertaken by it, to Advance Ruling Authority (AAR) which determines question of law/fact raised by applicant.

*activity of manufacture/production/import/export/service

Who can apply for an advance ruling (AR)?			
<ul style="list-style-type: none"> NR setting up JV in India with R/NR R setting up JV in India with NR WS of which HC is a foreign co. which proposes to undertake business activity in India 	JV in India	Class/ category specified by CG → <ul style="list-style-type: none"> Resident Public Ltd. Co. Resident Private Ltd. Co. Public Sector Co. 	<ul style="list-style-type: none"> Resident importing goods under notified project import scheme [under customs] Resident Firm [including LLP, sole proprietorship, one person co.]
Key: NR is non-resident, JV is Joint Venture, R is Resident, WS is Wholly Owned Subsidiary Indian Co., HC is Holding Co.			

Questions in respect of which AR can be sought?		
<ul style="list-style-type: none"> Classification of goods/classification of service as taxable service Applicability of exemption notification Principle to determine value of goods/taxable services 	<ul style="list-style-type: none"> Notifications issued in respect of duty under CEA/CETA, CA/CTA or any duty chargeable under any other law in the same manner as leviable under CEA/CA. 	<ul style="list-style-type: none"> Determination of origin of goods in terms of rules under Customs Act (CA) Determination of liability to pay excise duty/ service tax on any goods/taxable services Admissibility of CENVAT credit

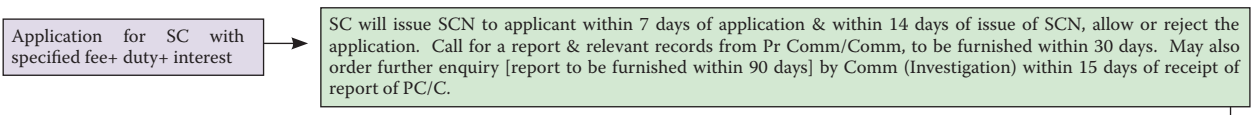


E. Settlement Commission [Sections 31, 32, 32A-32P of CEA/127A-127N of CA/made applicable by S. 83 of FA]

Customs, Central Excise & Service Tax Settlement Commission provides an opportunity to assessee who may have evaded the duty/tax, to apply for settlement of their cases, on the basis of true & complete disclosure of their duty/tax liability by them. **Settlement Commission** (referred as SC in this topic) provisions have been made applicable to service tax by virtue of section 83 of FA.

Who can apply for settlement of cases?	Any manufacturer, producer, registered person of a private warehouse/person liable to pay service tax/ any exporter, importer, or any other person, may make an application in respect of a case relating to him pending before adjudicating authority. True & full disclosure by applicant is a pre-requisite.
---	--

Conditions for filing application		
<ul style="list-style-type: none"> B/E, Shipping bill, baggage declaration etc. has been filed by importer/exporter [in case of customs] & return has been filed [in case of excise/service tax, however, this condition can be waived by SC] SCN received by applicant 	<ul style="list-style-type: none"> Case not pending before Tribunal/ Court Dispute not related to interpretation of classification of goods/taxable service Additional amt of duty/tax accepted by applicant > ₹ 3,00,000 	<ul style="list-style-type: none"> Applicant has paid additional amt of excise/ customs duty/tax along with interest Application once made cannot be withdrawn



After examining reports & records & further evidence placed before it, SC will pass the order after giving the applicant & PC/C, an opportunity of being heard. SC has to pass the order within 9 months (extendable by 3 months) from last day of the month in which application was made.

SC order shall provide for terms of settlement including demand for duty/tax/penalty/interest, to be paid by the applicant within 30 days of receipt of order. In case of failure to so pay, amt not paid shall be recovered as per procedure u/s 11 of CEA/142 of CA. **The order of SC can be declared void if obtained by fraud/misrepresentation of facts**

Powers of SC	<ul style="list-style-type: none"> Provisional attachment of property of applicant during pendency of proceedings before it, to protect revenue If applicant cooperates with SC & makes true & full disclosure, SC may grant whole immunity from prosecution & whole/partial immunity from penalty & fine, subject to conditions specified by SC. However, if payment not made as per SC order/ any condition specified therein not fulfilled, immunity will be withdrawn. If applicant does not cooperate with SC, SC can send its case back to central excise officer/proper officer who shall dispose of the case as if no application for settlement has been made.
--------------	--

Bar on subsequent application for settlement in certain cases	<ul style="list-style-type: none"> If SC order imposes penalty for concealment of particulars of his duty liability If after SC order, applicant is convicted of an offence relating to that case If SC sends back the case to CEO/PO.
--	---