



Chapter 2

IMPORTATION AND EXPORTATION PROCEDURE

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1	ICAI Material	Q.02.02 to 02.06, 02.10, 02.12, 02.15, 02.16, 02.17	10
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	Total No. of Illustrations		17

Important Definitions

SNC 02.01.00

Explain briefly with reference to the provisions of the Customs Act, 1962

1) Customs area 2) Customs port 3) Person in Charge

4) Prohibited Goods 5) Entry

Answer:

1) **Customs area**:- As per section 2(11) of the Customs Act, 1962, customs area **means** the area of a customs station and **includes** any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities.

2) **Customs port**:- As per section 2(12) of the Customs Act, 1962, 'customs port' **means** any port appointed under clause (a) of section 7 to be a customs port and **includes** a place appointed under clause (aa) of that section to be an inland container depot.

3) **Person in Charge**:- As per section 2(31) of the Customs Act, 1962 person-in-charge means-

- (a) In relation to a vessel, the master of the vessel;
- (b) In relation to an aircraft, the commander or the pilot-in-charge of the aircraft;
- (c) In relation to a railway train, the conductor, guard or other person having the chief direction of the train;
- (d) In relation to any other conveyance, the driver or other person-in-charge of the conveyance.

4) **Prohibited Goods**:- The term prohibited goods has been defined under section 2(33) of the Customs Act, 1962

- as the goods the import or export of which is subject to any prohibition under the Act or any other law for the time being in force

- but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

5) **Entry**:- As per section 2(16) of the Customs Act, 1962 entry in relation to goods

- means an entry made in a bill of entry, shipping bill or bill of export

SNC 02.02.00

Examine the validity of the following statements:

(a) Customs area does not include a warehouse.

(b) Customs station includes international courier terminal. [ICAI Material]

Answer:

(a) **The statement is not valid.** The definition of customs area includes within its ambit a warehouse too.

The customs area is defined to mean the area of a customs station **or a warehouse** and includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities.

(b) **The statement is valid.** International courier terminal and foreign post office are fall within the scope of customs station as defined under section 2(13) of the Customs Act, 1962.

As per section 2(13), a customs station means any customs port, customs airport, international courier terminal, foreign post office or land customs station.

Sec.29- Arrival of vessels and aircraft in India

SNC 02.03.00

Explain the obligation cast on person-in-charge on arrival of vessels or aircraft in India under Section 29 of the Customs Act, 1962.

OR An aircraft was compelled to land at a place other than customs airport due to stress of weather. What are the statutory obligations cast on person-in-charge of the aircraft in such a situation? [ICAI Material]

Answer:

General obligations [Sec. 29(1)]: vessels or aircrafts entering India from outside India can only call or land at a customs port or a customs airport. However, the central board of excise and customs can permit calling/landing of vessels and aircrafts at any place other than customs port or customs airport.

Special obligation [Sec. 29(2)]: The above provisions shall not apply in relation to any vessel or aircraft which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs port or customs airport but the person-in-charge of any such vessel or aircraft –

- He must **report to the nearest police station** or custom officer of such emergency arrival.
- He shall not without the consent of any such officer permit
 - ⇒ Any goods carried in the vessel or the aircraft to be unloaded from, or
 - ⇒ Any of the crew or passengers **to depart from the vicinity of, the vessel or the aircraft. However, the passengers, crew and goods can keep away from the conveyance for the reason of health, safety or preservation of life or property.**
- He shall **comply with any directions given by any such officer** with respect to any such goods, and no passenger or member of the crew shall, without the consent of any such officer, leave the immediate vicinity of the vessel or the aircraft.

Combine Question on Sec.30 and 31**SNC 02.04.00**

Explain briefly with reference to the provisions of the Customs Act, 1962

- Explain Import Manifest or Arrival Manifest (Sec. 30)**
- Import Report**
- Entry Inward [ICAI Material]**

Answer: 1. Sec.50-Import Manifest or Arrival Manifest or Import report

Arrival manifest or import manifest or import report is a detailed information to customs about goods **in the vessels/aircrafts** which have been brought in at any

port/airport for unloading at that particular port/international airport as also that which would be carried further for other ports/airports. Declarations of such cargo has to be made in a prescribed form which is termed 'Import General Manifest' or IGM.

2. Sec 2(24) – Import Report

The person-in-charge of a vehicle carrying imported goods or any other person as may be notified by the Central Government shall, **in the case of a vehicle**, deliver to the proper officer an import report within twelve hours after its arrival in the customs station, in the prescribed form.

It may be noted that import report is required only when goods are imported via land route

3. Sec 31 – Entry Inward

Section 31 of the Customs Act, 1962

- ⇒ Entry inwards is a permission granted by the proper officer to a vessel after which the master of the vessel permits unloading of the imported goods.
- ⇒ Such entry inwards is granted only after master of the vessel delivers import general manifest to the proper officer or the proper officer is satisfied that there was sufficient cause for not delivering it.
- ⇒ Entry inwards, however, is not required for unloading of baggage accompanying a passenger or a member of the crew, mail bags, animals, perishable goods and hazardous goods.

Sec.35- Restrictions on goods being water borne**SNC 02.05.00**

What is meant by 'boat notes'? (Section 35) [ICAI Material]

Answer:- Sec.35- Boat Note- No imported goods shall be water-borne for being landed from any vessel, and no export goods which are not accompanied by a shipping bill, shall be water-borne for being shipped, unless the goods are accompanied by a boat-note in the prescribed form.

Provided that the Board may, by notification in the Official Gazette, give general

permission, and the proper officer may in any particular case give special permission, for any goods or any class of goods to be water-borne without being accompanied by a boat-note.

Sec.46- Entry of goods on importation

SNC 02.06.00

An importer filed a bill of entry after 60 days of filing Import General Manifest. The Deputy Commissioner of Customs imposed a penalty of ₹ 10,000 for late filing of the bill of entry. Since, importer wanted to clear the goods urgently, he paid the penalty. Can penalty be imposed for late filing of the bill of entry? Can bill of entry be filed in advance? Examine the issue regarding period available for filing bill of entry in the light of relevant statutory provisions? [ICAI Material]

Answer:- Yes, charges are payable for late filing of bill of entry if an importer fails to present the bill of entry before the end of the next day following the day (excluding holidays) on which the aircraft/vessel/vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing, and the proper officer is satisfied that there was no sufficient cause for such delay [Section 46(3) of the Customs Act, 1962].

Yes, a bill of entry can be filed in advance. It can be presented within 30 days of the expected arrival of the aircraft/vessel/vehicle by which the goods have been shipped for importation into India vide proviso to section 46(3) of the Customs Act, 1962.

In the given case also, the time period as described above will be available - with reference to the date of arrival of vessel/aircraft - for filing the bill of entry.

SNC 02.07.00

State and summarise the provisions and procedure in the Customs Act, 1962 governing preparation and filing of a bill of entry.

Answer:- Preparation and filing of Bill of Entry (Sec. 46)-

- It is an application by Importer to Customs authority for assessment and clearance of goods from customs area.
- The importer is required to declare in the Bill of Entry amongst other things the particulars of packages, the descriptions of the goods, in terms of the description given in the Customs Tariff to enable proper classification of the goods and the correct value of the goods for the determining the amount of duty. Since the assessment is based on the declaration made by the importer, the onus is cast upon him to make a declaration and solemn affirmation about the truth of the contents in the Bill of Entry.
- It is in four copies.
- The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the custom automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed.
- Provided that the Principal Commissioner of Custom or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically on the custom automated system, allow an entry to be presented in any other manner.

Combine Question on Sec.45, Sec.46 and Sec.47

SNC 02.08.00

Explain briefly with reference to the provisions of the Customs Act, 1962

1. **Restriction on Custody of goods after importation. (Sec. 45)**
2. **Entry on goods importation /Bill of Entry (Sec. 46)**
3. **Clearance of Goods for Home Consumption (Section 47)**

Answer:**1. Restriction on Custody of goods after importation. (Sec. 45)**

All imported goods unloaded in a customs area shall remain in the custody of such person (Port trust Authority) as may be **approved by the Principle Commissioner or Commissioner of Customs** until they are cleared for home consumption or are warehouse.

The person having custody of any imported goods in a customs area,

- ▶ shall keep a record of such goods and send a copy thereof to the proper officer;
- ▶ shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer or in such manner as may be prescribed

2. Entry on goods importation /Bill of Entry (Sec. 46)

1. Application:- It is an application by Importer to Customs authority for assessment and clearance of goods from customs area.

2. Bill of entry should be presented electronically

Presentation: The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the custom automated system to the proper officer a bill of entry for home consumption or warehousing in such form & manner as may be prescribed

3. Types of Bill of Entry:

There are three types of B/E prescribed by regulation

Form I	:	For Home Consumption
Form II	:	For warehousing (Into bond)
Form III	:	clearance for Home Consumption from warehouse (Ex-bond). [This Bill of Entry is to be submitted U/S 68 & not under Sec. 46]

6. Matching of BOE with BOL:- A bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

7. Time Limit: The importer shall present the bill of entry before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing

8. Prior Bill of Entry: Provided that a bill of entry may be presented at any time not exceeding 30 days prior to days of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

9. Late Fee :- Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.

3. Clearance of Goods for Home Consumption (Section 47)

Where the proper officer is satisfied that

- ▶ any goods entered for home consumption are not prohibited goods and
- ▶ the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same,

the proper officer may make an order permitting clearance of the goods for home consumption.

Deferred payment of duty Rules, 2016**SNC 02.09.00**

With reference to the recent facility, 'Clear first-Pay later' extended to importers under the customs law, answer the following questions:

- (i) What is the objective of the facility?
- (ii) Who is eligible to avail this scheme?
- (iii) What are the due dates for payment of duty under this facility?
- (iv) What are the circumstances when the deferred payment facility will not be available? [RTP May 18]

OR

State the salient features of "Deferred duty payment facility" with reference to Customs Act, 1962 and rules thereunder. (CA Final May. 18 Exam New)

Answer:

(i) 'Clear first-Pay later' i.e., deferred duty payment is a mechanism for delinking duty payment and customs clearance. The aim is to have a seamless wharf to warehouse transit in order to facilitate just-in-time manufacturing. This scheme is in force w.e.f. 16th November, 2016.

(ii) Central Government has permitted

a) importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three)

b) Authorised Public undertaking

to make deferred payment of import duty (eligible importers).

As a part of the ease of doing business focus of the Government of India, the CBIC has rolled out the AEO (Authorized Economic Operator) programme.

It is a trade facilitation move wherein benefits are extended to the entities who have demonstrated strong internal control systems and willingness to comply with the laws administered by the CBIC.

(iii) The due dates for payment of deferred duty are –

Sr.No	Goods corresponding to bill of entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1	1st day to 15th day of any month	16th day of that month
2	16th day till the last day of any month other than March	1st day of the following month
3	16th day till the 31st day of March	31st March

(iv) If there is default in payment of duty by due date more than once in three consecutive months, the facility of deferred payment will not be allowed unless the duty with interest has been paid in full.

The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the bill of entry.

Section 48– procedures in case of goods not cleared, warehoused, or transhipped within thirty days after unloading

SNC 02.10.00

Explain the procedure prescribed in Customs Act, 1962 in case of goods not cleared, warehoused or transhipped within 30 days after unloading. [Sec 48] [ICAI Material]

Answer:- PROCEDURE IN CASE GOODS NOT CLEARED, WAREHOUSED OR TRANSHIPPED WITHIN 30 DAYS OF UNLOADING [SECTION 48]

The custodian of the goods is permitted, with the approval of the customs department and after giving notice to the importer, to sell the goods by auction.

(a) The proper officer of Customs shall assess the goods to duty in accordance with the extant law within 15 days of filing of Bill of Entry and after assessment inform the amount of duty payable to the concerned custodian.

(b) The auctioned goods shall be handed over to the successful bidder after assessment and out-of-charge orders given by the proper officer, on payment of dues.

Provided that –

a) Animals, perishable goods and hazardous goods, may, with the permission of the proper officer, be sold at any time;

b) Arms and ammunition may be sold at such time and place and in such manner as the Central Government may direct for clearance of the goods as per section 46.

Sec.49- Warehousing without warehousing

SNC 02.11.00

Write short note on Warehousing without warehousing (Section 49 of the Customs Act, 1962)

Answer:

Section 49 allows the importer to store the goods in a public warehouse, but the goods shall not be treated as warehoused goods for the purpose of the Customs Act, 1962 and accordingly warehousing provisions shall not apply to such goods.

Where

(a) In the case of any imported goods, whether dutiable or not, **entered for home consumption**, the Assistant Commissioner or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time.

(b) In the case of any imported dutiable goods, **entered for warehousing**, the Assistant Commissioner or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be removed for deposit in a warehouse within a reasonable time,

the goods may pending clearance or removal, as the case may be, be permitted to be stored in a public warehouse for a period not exceeding **30 days**;

Provided further that the Principal Commissioner or Commissioner of Customs may extend the period of storage for a further period not exceeding **30 Days** at a time.

Following are also two cases where warehousing without warehousing arise

1. Where due to some genuine difficulty, the importer is unable to clear the goods for home consumption within the stipulated time, the goods may be deposited in a warehouse without double duty bond. This facility is available irrespective of whether the goods are dutiable or not.

2. In case of store u/s 85. It can be deposited in warehouse without assessment.

STATUTORY PROVISION FOR IMPORTATION

Basic Combine Question

SNC 02.12.00

Explain briefly with reference to the provisions of the Customs Act, 1962

**1. Shipping Bill 2. Bill of Export [ICAI] 3. Entry outward [ICAI Material]
4. Export General Manifest [ICAI] 5. Export Report**

Answer:

1. Shipping Bill

It is a document presented by an exporter to the customs authorities for clearance of goods meant for export.

Types :- In the case of goods to be exported in a vessel or aircraft - **a shipping bill** and

In the case of goods to be exported by land - **a bill of export**

Contents of shipping bill: Name of exporter consignee, Clearing House Agent, Port of discharge, Port of loading, Country of destination, Marks & No. of packages, Statistical code and description of goods, quantity and FOB value of goods.

Time of presentation of shipping bill: only after an entry outward has been granted to the vessel by which the goods are to be exported,

However, under special circumstances, the Commissioner of Customs may permit advance Shipping-Bills to be filed.

2. Bill of Export

As per section 2(5) of the Customs Act, 1962, means a bill of export referred to in section 50.

Section 50 inter alia provides that the exporter of any goods shall make entry thereof by presenting to the proper officer in the case of goods to be exported by land route.

3. Entry outward

Section 39 stipulates that export goods are not to be loaded on vessel until entry outwards is granted.

The master of the vessel shall not begin the loading of any export

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goods, other than baggage and mail bags, until an order has been given by the proper officer granting entry-outwards to such vessel. **This restriction is for vessels and not for aircraft and vehicles.**

4. Export General Manifest

Export General Manifest contains a complete list of the cargo exported in a conveyance under the control of person-in charge of such conveyance.

Types:-

⇒ **in the case of a vessel aircraft**, -a departure manifest or an export manifest by presenting electronically, and

⇒ **in the case of a vehicle**, - an export report,

If person in charge fails to delivered the same then the penalty upto ₹ 50,000 is leviable.

5. Export Report.

Export report contains a complete list of the cargo **exported by land route** in a conveyance under the control of person-in charge of such conveyance.

As per section 41 of the Customs Act, 1962, The person-in-charge of a conveyance carrying export goods or imported goods or any other person as may be specified by the Central Government, by notification, shall, before departure of the conveyance from a customs station, deliver to the proper officer an export report

Sec.51B- Ledger for duty credit

SNC 02.13.00

Explain the Provision of Duty credit ledger

Answer:- As Per Sec 51B

1)The Central Government may, specify the manner in which issue duty credit

a) in lieu of **remission of any duty or tax or levy**, chargeable on any material used in the manufacture or processing goods or for carrying out any operation on such goods in India that are exported or

b) other financial benefit subject to such conditions and restriction as may be specified therein.

2) the **duty credit issued shall be maintained in the customs automated system** in the form of an electronic duty credit ledger of the person who is the recipient of such duty credit.

3) the duty credit available in the electronic duty credit ledger may be used

➤ by the person to whom it is issued or

➤ the person to whom it is transferred,

towards making payment of duties payable under this act or under the Customs Tariff Act, 1975 in such manner and subject to such conditions and restrictions and within such time as may be prescribed.

Sec 42-No conveyance to leave without written order

SNC 02.14.00

Mayoni Export House has exported certain goods to Canada through sea. The person- in-charge of the ship carrying the export goods at the custom station is ready to cause the ship to depart from that custom station. However, he comes to know that he cannot cause or permit the ship to depart from that customs station until a written order to that effect has been given by the proper officer. He has approached you for knowing the conditions to be fulfilled before issue of such an order. What would you advise him? (RTP JUNE 09)

Answer:

As per section 42 of the Customs Act, 1962, the person-in-charge of the conveyance which has brought any imported goods or has loaded any export goods at a customs station **shall not cause or permit the conveyance to depart from that customs station until a written order to that effect has been given by the proper officer.**

The conditions to be fulfilled before such order can be issued. No such order shall be given until:-

(a) The person-in-charge of a conveyance has answered the questions put to him under Section 38;

- (b) The provisions of section 41 have been complied with;
- (c) The shipping bills or bills of export, the bills of transshipment, if any and such other documents, as the proper officer may require, have been delivered to him;
- (d) All duties leviable on any stores consumed in such conveyance and all charges and penalties due in respect of such conveyance or from the person-in-charge thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;
- (e) The person-in-charge of the conveyance has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;
- (f) In any case where any export goods have been loaded without payment of export duty or in contravention of any provision of this Act or any other law for the time being in force in relation to export of goods-
- (i) Such goods have been unloaded, or
- (ii) Where the Assistant Commissioner/Deputy Commissioner is satisfied that it is not practicable to unload such goods, the person-in-charge of the conveyance has given an undertaking, secured by such guarantee or deposit of such amount as the proper officer may direct, for bringing back the goods to India.

Sec 54-Transshipment of certain goods without payment of duty

SNC 02.15.00

State the provisions of transshipment of goods without payment of duty under section 54 of the Customs Act, 1962.(Sec 54) [ICAI Material]

Answer:-

TRANSHIPMENT OF GOODS WITHOUT PAYMENT OF DUTY [SECTION 54]

- 1) where any goods imported into a customs station are mentioned in the arrival manifest or import manifest or the import report, as the case may be, as for transshipment to any place outside India, **such goods may be allowed to be so**

transhipped without payment of duty.

- 2) Where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transshipment:-
- a) To any major port as defined in the Indian Ports Act, 1908 or the customs airport at Mumbai, Calcutta, Delhi or Chennai or any other customs port or customs airport which the Board may, by notification in the Official Gazette, specify in this behalf, or
- b) To any other customs station and the proper officer is satisfied that the goods are bona fide intended for transshipment to such customs station,

The proper officer may allow the goods to be transhipped, without payment of duty, subject to such conditions as may be prescribed for the due arrival of such goods at the customs station to which transshipment is allowed.

Combine Question on Sec. 53 & Sec. 54

SNC 02.16.00

Briefly explain difference between transit & transshipment [ICAI Material]

Answer:

Sr. No	Transit	Transshipment
1	In case of Transit of goods the conveyance remains same	In case of transshipment, goods first landed in the particular Indian customs station and loaded to another conveyance for destination port i.e. conveyances changes.
2	The records already made in the ship's / aircraft's will continue. The goods will have to be shown in the manifest as the same bottom cargo.	In case of transshipment goods are to be mentioned in manifest or report, as for transshipment for any customs station. Record will change as bill of transshipment shall be presented to the proper officer.

3	In case of transit there is continuity in the record and there is no chance of the control over such transit goods being lost.	In case of Transshipment care or caution have to be exercised to ensure that the goods are not illicitly landed and smuggled into India.
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Combine Question**SNC 02.17.00****What is the permissible time limit with respect to the following- :**

- (i) for filing a bill of entry
- (ii) for paying the assessed duty
- (iii) for delivery of arrival manifest or import manifest/report and departure manifest or export manifest/report [ICAI Material]

Answer:- a) Sec.46(3) Time limit for filing Bill of Entry :

Time limit- According to section 46(3), the importer shall present the bill of entry before the end of the next day following the day (excluding holidays) on which the aircraft/vessel/vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing. **Prior Bill of Entry-** Provided that a bill of entry may be presented at any time not exceeding thirty days prior to the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India.

b) Sec.47- Time limit for paying assessed duty: The importer shall pay the import duty—

Self-assessment	on the date of presentation of the bill of entry
Assessment, reassessment or provisional assessment	within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer
Deferred payment	On due date+ Interest in case delay

c) Sec.30 Time limit for delivery of IGM/IR

Particulars	Import Document	Time limit for presentation of IM/IR	Mode of Presentation
Where the imported goods are brought in a vessel/aircraft	Import Manifest	Any time prior to the arrival of the vessel / aircraft	Electronic filing*
Where the imported goods are brought in a vehicle	Import Report	Within 12 hours after its arrival in the customs station	Manual filing

d) Sec.41- Time limit for departure manifest- The person-in-charge of a conveyance, shall, **before departure** of the conveyance from a customs station, deliver to the proper officer

⇒ **in the case of a vessel aircraft,** ----a departure manifest or an export manifest by presenting electronically, and

⇒ **in the case of a vehicle,** - an export report, in such form and manner as may be prescribed

