

Chapter 4

CUSTOMS TARIFF ACT 1975

Special Discussion on Additional Customs Duty

Table of Content

Sections	Descriptions
1	Short Title, Extent and Commencement
2	Duty Rate for Basic Customs Duty
3(1)	Additional Customs Duty Equivalent to Excise Duty [CVD]
3(3)	Additional Customs Duty (Counterbalance theExcise duty leviable on any raw materials
3(5)	Additional Customs duty to counter-balance salestax & etc. [SP. CVD]
3(7)	To Countervail levy of GST
3(9)	To countervail levy of GST Compensation Cess

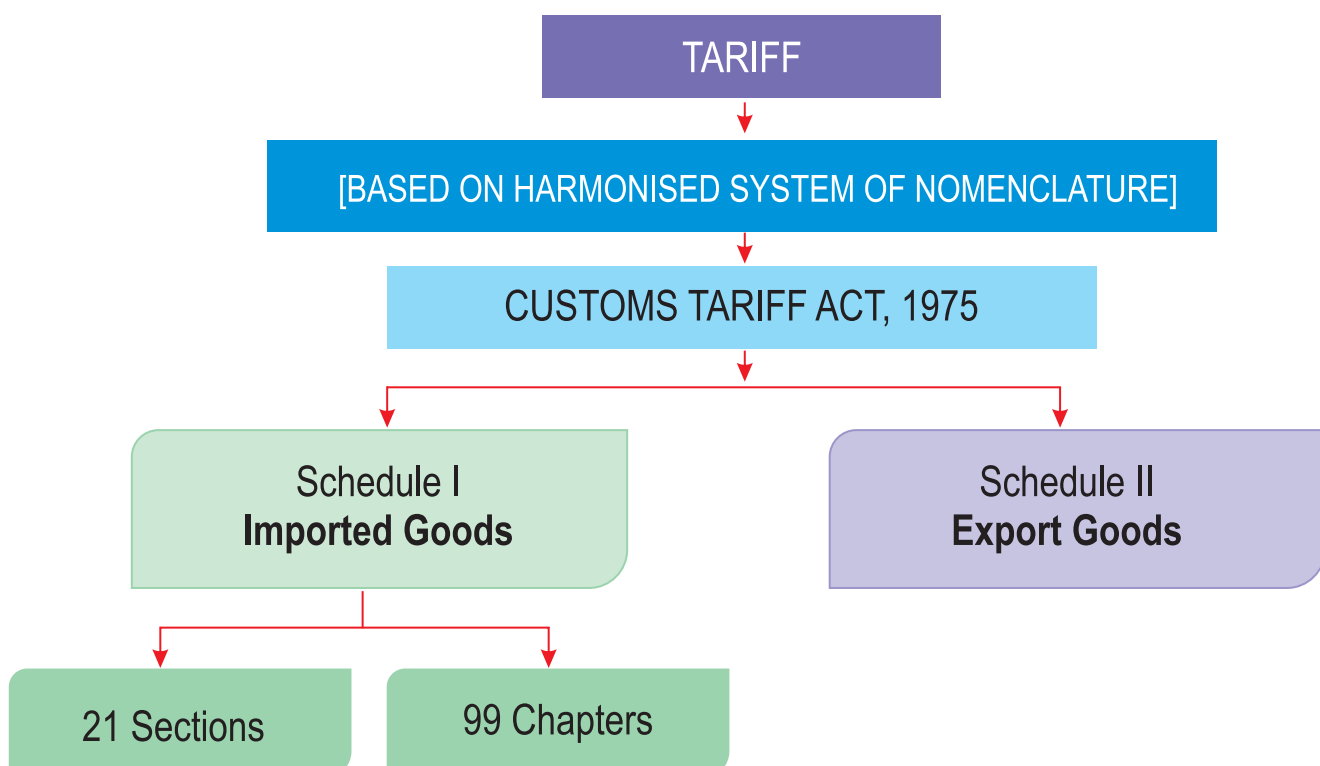
CUSTOMS TARIFF ACT, 1975

SEC. 1 SHORT TITLE, EXTENT AND COMMENCEMENT

- 1) This Act may be called the Customs Tariff Act, 1975.
- 2) It extends to the whole of India.
- 3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

SEC. 2 DUTIES SPECIFIED IN THE SCHEDULES TO BE LEVIED

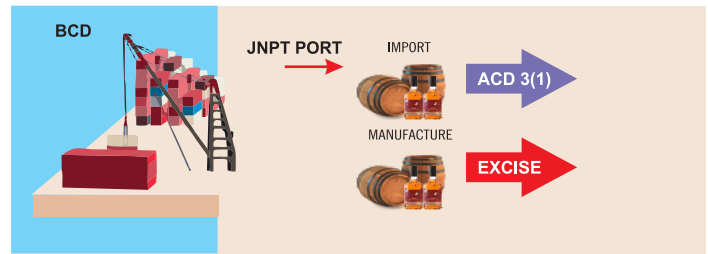
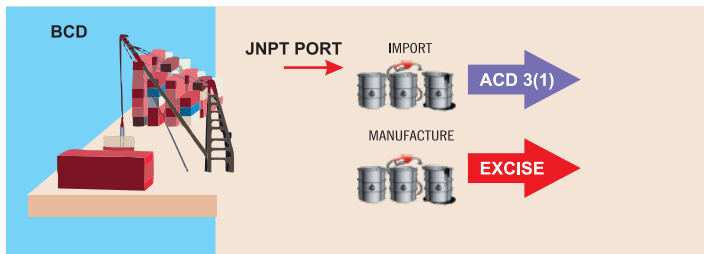
The **rates at which duties of customs** shall be levied under the Customs Act, 1962 (BCD levied under section 12), are specified in the **First and Second Schedules**.



SEC. 3 ADDITIONAL CUSTOMS DUTY [ACD]

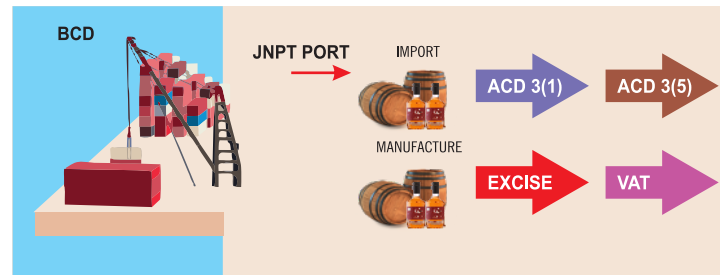
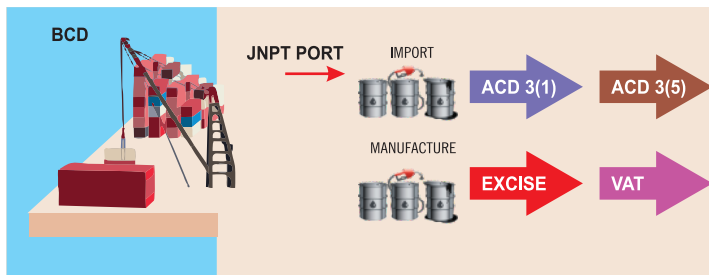
Following different types of duties are levied U/S 3

ACD 3(1) : Levy of additional duty equal to excise duty

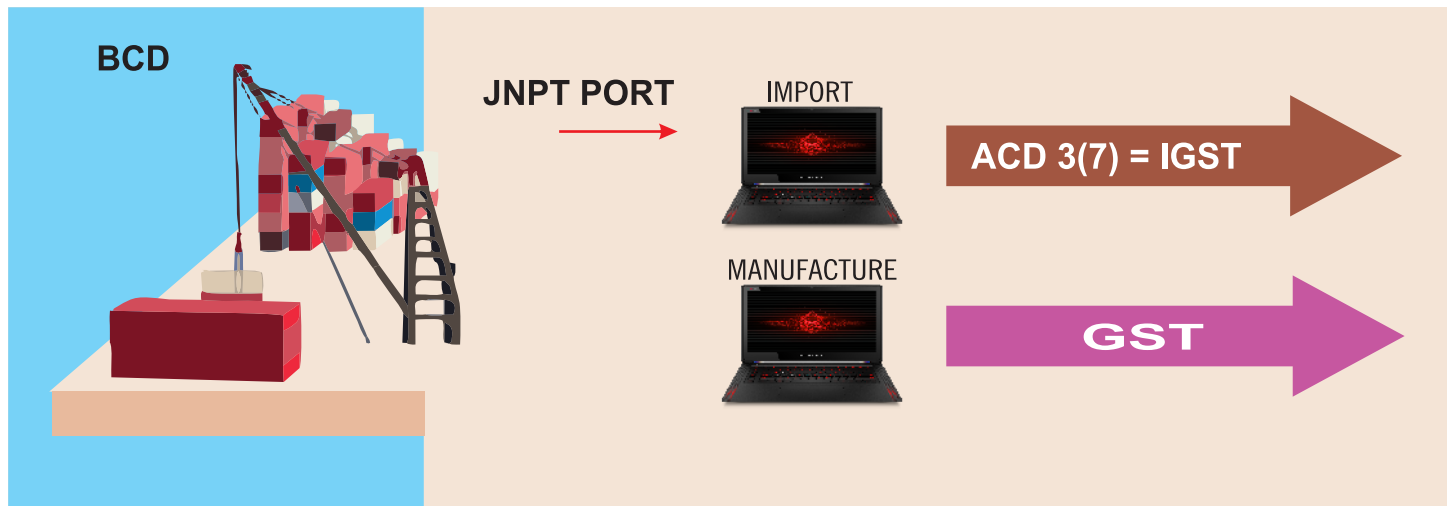


ACD 3(3) : Levy of additional duty Countervail effect of Excise Duty on Raw Material

ACD 3(5) : Levy of additional duty Countervail levy of sales tax or VAT



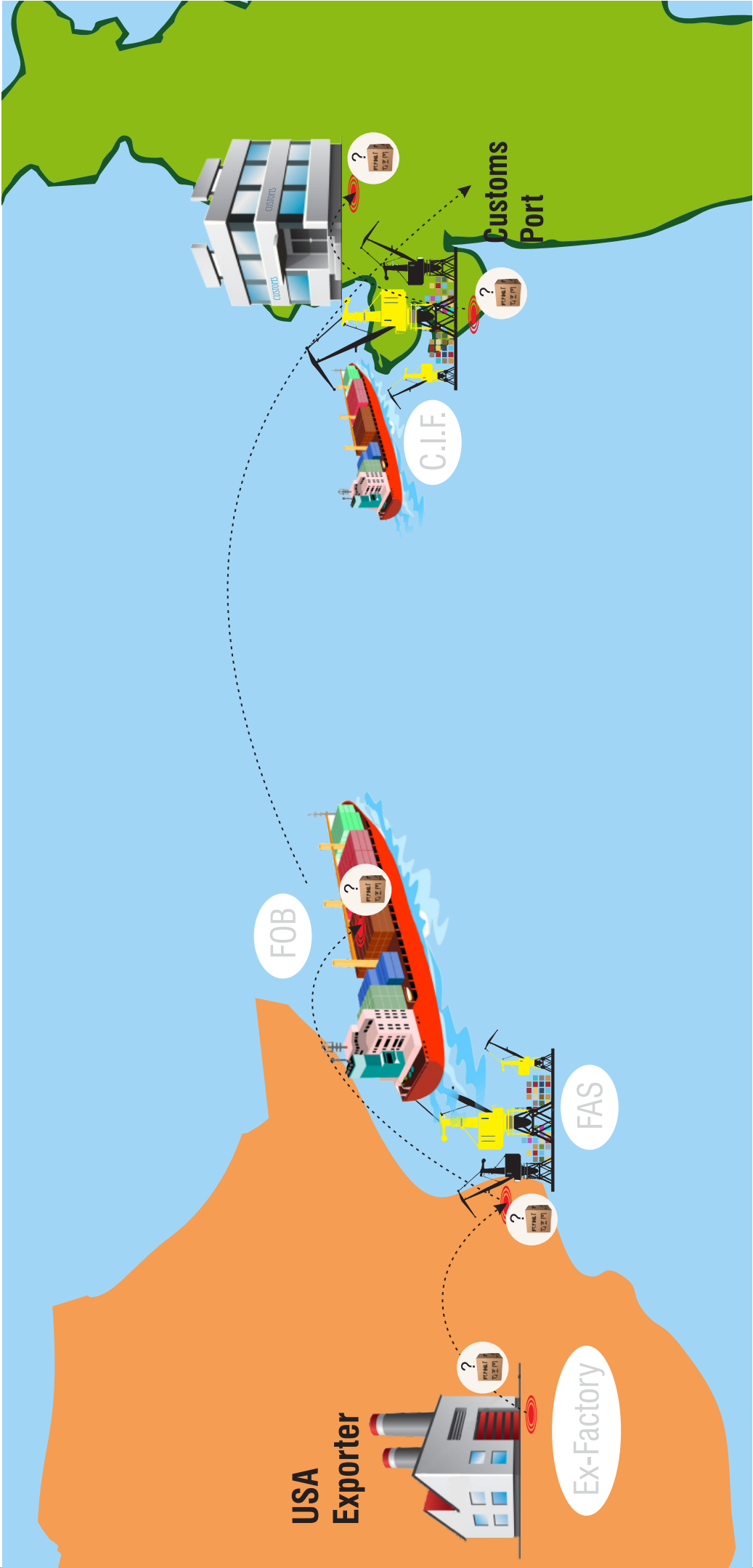
ACD 3(7) : Levy of additional duty Countervail levy of GST



ACD 3(9) : Levy of additional duty Countervail levy of GST Compensation Cess



INTERNATIONAL PRICING SYSTEM





SEC. 3 ADDITIONAL CUSTOMS DUTY [ACD]

Sec 3(1) : Additional Custom Duty

Levy of additional duty equal to excise duty

➤ Any article which is imported into India is also liable to a duty equal to the excise duty for the time being leviable on a like article if produced or manufactured in India.

➤ This duty is called as additional duty.

➤ If the excise duty is leviable as a percentage of the value of goods, the additional duty will also be calculated at that percentage of the value of the imported article.



Tutorial Notes

Following Items are out of scope of GST and still subject to Levy of Excise Duty and VAT

- **alcoholic liquor for human consumption**
- petroleum crude,
- high speed diesel,
- motor spirit (commonly known as petrol),
- natural gas and
- aviation turbine fuel

Thus ACD U/S 3(1) is levied to countervail the levy of Excise Duty on such product.

Proviso

ACD on Alcoholic Liquor for Human Consumption

Provided that

in case of any **alcoholic liquor for human consumption** imported into India, the Central Government may, by notification in the Official Gazette, *specify the rate of additional duty having regard to the excise duty for the time being leviable on a like alcoholic liquor produced or manufactured in different States* or,

if a like alcoholic liquor is not produced or manufactured in any State, then, having regard to the excise duty which would be leviable for the time being in different States on the class or description of alcoholic liquor to which such imported alcoholic liquor belongs.

Valuation for ACD 3(1)

the value of the imported article for calculation of ACD 3(1) shall, be the aggregate of—

- (i) the value of the imported article determined under **section 14(1) (Transaction Value)** and
- (ii) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962 (BCD), and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs,

but does not include—

- (a) the duty referred to in sub-Section (1), (3), (5) (7) & (9)
- (b) the safeguard duty referred to in sections 8B and 8C;
- (c) the countervailing duty referred to in section 9; and
- (d) the anti-dumping duty referred to in section 9A:

Summary:-

Value for ACD 3(1)	
Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
Value for ACD 3(1)	xxx

ACD 3(3) to Countervail effect of Excise Duty on Raw Material

Special additional duty under sub-section (3) is levied to counter balance the excise duty leviable on raw materials, components and ingredients of the same nature as, or similar to those, used in the production or manufacture of the imported article.

The Central Government can levy such duty if it is satisfied that it is necessary in the public interest to do so even if such article is liable to additional duty leviable under sub-section (1).

Comment:- This provision is to empower the Central Government to levy duty of customs on goods which are otherwise not leviable to additional duty under sub-section (1) on account of there being no excise duty on said goods when manufactured in India. In order to ensure that domestic manufacturers are at par with foreign manufacturers this duty is levied, as domestic manufacturers would have incurred tax cost as excise duty on raw materials, components used to manufacture goods which are not liable to excise duty.

For example, a manufacture of grease or a lubricating oil procures petroleum products as raw material which suffer excise duty on the raw material purchased.





ACD 3(5) to countervail levy of sales tax or VAT

If the Central Government is satisfied that it is necessary in the public interest

- ➔ to levy on any imported article [whether on such article duty is leviable under subsection (1) or, as the case may be, sub-section (3) or not]
- ➔ *such additional duty as 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,*

it may, by notification in the Official Gazette, direct that such imported article shall, in addition, **be liable to an additional duty at a rate not exceeding 4% of the value of the imported article as specified in that notification.**

Valuation for ACD 3(5)

the value of the imported article for calculation of ACD 3(5) shall, be the aggregate of—

- (i) the value of the imported article determined under **section 14(1) (Transaction Value)** and
- (ii) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962 (BCD), and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs,

but does not include—

- (a) the duty referred to in sub-Section (5) (7) & (9)
- (b) the safeguard duty referred to in sections 8B and 8C;
- (c) the countervailing duty referred to in section 9; and
- (d) the anti-dumping duty referred to in section 9A:

Summary:-

Value for ACD 3(5)	
Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
Value for ACD 3(5)	xxx

ACD 3(7) to countervail levy of GST (Important)

Any article which is imported into India shall, in addition,

- ➔ be liable to **integrated tax**
- ➔ **at such rate**, not exceeding forty per cent.
- ➔ as is leviable under **section 5 of the Integrated Goods and Services Tax Act, 2017** on a like article on its supply in India,
- ➔ **on the value** of the imported article as determined under sub-section (8). **or Sub Section (8A), as the case may be**

Sec 3(8) :- Valuation for ACD 3(7)

Summary:-

For the purposes of calculating the integrated tax under sub-section (7) on any imported article where such tax is leviable at any percentage of its value,

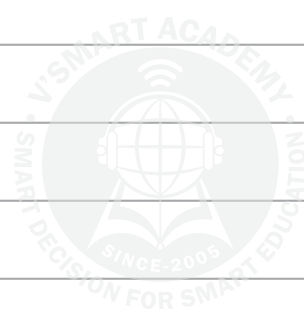
the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of—

- (a) the **value of the imported article** determined under sub-section (1) of section 14 of the Customs Act, 1962 or
- the **tariff value** of such article fixed under sub-section (2) of that section, as the case may be; and
- (b) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962 (BCD), **and** any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs,

but does not include

- ➔ the tax referred to in sub-section (7) or
- ➔ the cess referred to in sub-section (9).

Value for ACD 3(7)	
Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
(+) ACD 3(5)	xx
(+) Safeguard Duty	xx
(+) CVD on subsidies Article	xx
(+) Antidumping Duty	xx
Value for ACD 3(7)	xxx





Sec 3(8A):- ACD on Warehouse Sale before clearance

Where the goods deposited in a warehouse are sold to any person before clearance for home consumption or export the value of such goods under subsection (7) shall be,—

(a) where the whole of the goods are sold,—

the value determined under sub-section (8) or

the transaction value of such goods, whichever is higher; OR

(b) where any part of the goods is sold,

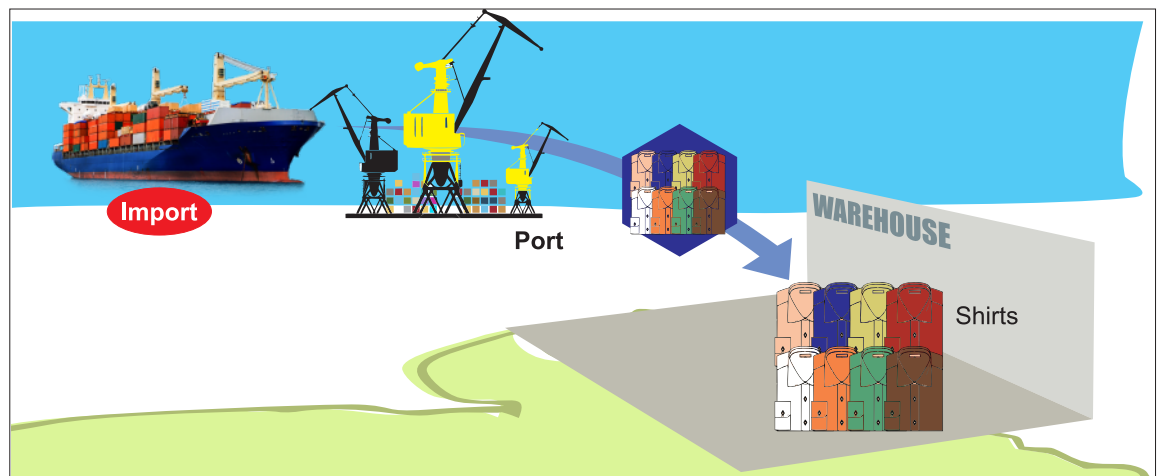
the proportionate value of such goods as determined under sub-section (8) or

the transaction value of such goods, whichever is higher:

Provided that where the whole of the warehoused goods or any part thereof are sold more than once before such clearance for home consumption or export, the transaction value of the last such transaction shall be the transaction value for the purposes of clause (a) or clause (b):

Provided further that in respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of sub-section (8).

Explanation.— For the purposes of this sub-section, the expression “transaction value”, in relation to warehoused goods, means the amount paid or payable as consideration for the sale of such goods.



Example:-

XYZ Ltd. has imported goods Z and filed into bond bill of entry on dated 10th Apr 2019. Goods are deposited in warehouse on 12th Apr 2019 following are the details of imported goods.

FOB price ₹ 40,00,000

Cost of transportation ₹ 3,00,000

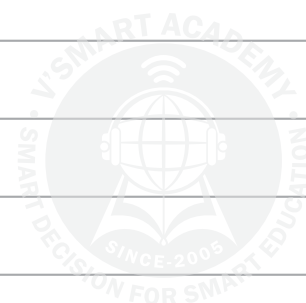
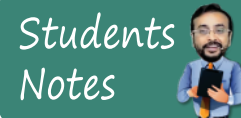
BCD @ 10% IGST @ 18%

Cost of Insurance ₹ 2,50,000

Determine Custom duty payable ,

1) if XYZ Ltd. has sold the entire goods to PQR Ltd. for ₹ 75,00,000 before clearance from warehouse.

If XYZ Ltd. has sold only 40% goods to PQR Ltd. for ₹ 38,00,000 before clearance from warehouse.





ACD 3(9) to countervail levy of GST Compensation Cess

Any article which is imported into India shall, in addition,

➔ be **liable to the goods and services tax compensation cess**

➔ **at such rate**, as is leviable under section 8 of the Goods and Services Tax (Compensation to States) Cess Act, 2017

➔ on a **like article on its supply** in India,

➔ **on the value** of the imported article as determined under sub-section (10) **or sub-section (10A), as the case may be**

Sec 3(10):- Valuation for ACD 3(9)

Summary:-

For the purposes of calculating the integrated tax under sub-section (9) on any imported article where such tax is leviable at any percentage of its value,

the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962,

be the aggregate of—

(a) the **value of the imported article** determined under sub-section (1) of section 14 of the Customs Act, 1962 or

the **tariff value** of such article fixed under sub-section (2) of that section, as the case may be; and

(b) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962 (BCD), **and**

any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs,

but does not include

➔ the tax referred to in sub-section (7) or

➔ the cess referred to in sub-section (9).

Value for ACD 3(9)

Assessable value u/s 14(1)	xx
(+) BCD	xx
(+) SWS @10% of BCD	xx
(+) NCCD	xx
(+) Protective duty	xx
(+) ACD 3(1)	xx
(+) ACD 3(5)	xx
(+) Safeguard Duty	xx
(+) CVD on subsidies Article	xx
(+) Antidumping Duty	xx
Value for ACD 3(9)	xxx

Sec 3(10A):- ACD on Warehouse Sale before clearance

Where the goods deposited in a warehouse under the provisions of the Customs Act, 1962 are sold to any person before clearance for home consumption or export under the said Act, the value of such goods for the purpose of calculating the goods and services tax compensation cess under sub-section (9) shall be,—

(a) **where the whole of the goods are sold,**

➔ **the value determined under sub-section (10) or**

➔ **the transaction value of such goods, whichever is higher; OR**

(b) **where any part of the goods is sold,**

➔ **the proportionate value of such goods as determined under sub-section (10) or**

➔ **the transaction value of such goods, whichever is higher:**

Provided that where the whole of the warehoused goods or any part thereof are sold more than once before such clearance for home consumption or export, the transaction value of the last of such transaction shall be the transaction value for the purposes of clause (a) or clause (b):

Provided further that in respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of sub-section (10).

Explanation.—For the purposes of this sub-section, the expression “transaction value”, in relation to warehoused goods, means the amount paid or payable as consideration for the sale of such goods.

Sec 3(11):- Duties under sec 3 are in addition to other duties

The duty or tax or cess, as the case may be, chargeable under this section shall be in addition to any other duty or tax or cess, as the case may be, imposed under this Act or under any other law for the time being in force.

Sec 3(12):- Applicability of other provisions of Customs Act 1962

The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties shall, so far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section as they apply in relation to the duties leviable under that Act."

EXAMPLE -1

F.O.B. price of imported goods (Laptop) = ₹ 100000

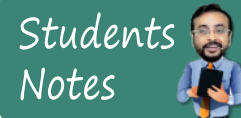
Cost of transportation = ₹ 20000

Cost of insurance = ₹5000

Calculate total customs duty payable if

a) BCD rate is 10%

b) Like article subject to GST @ 18 %



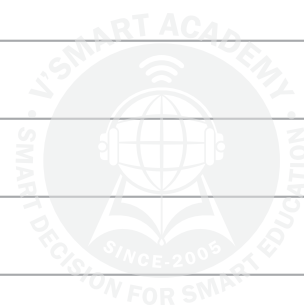
EXAMPLE -2

CIF Price (Mobiles) = ₹ 20,00,000

Cos of transportation = ₹ 1,50,000

Cost of insurance = ₹ 80,000

BCD rate = 10% and GST = 12% Calculate Customs Duties





EXAMPLE -3

FOB Price (LED Screen)	=	₹ 23,50,000
Cos of transportation	=	₹ 1,28,000
Cost of insurance	=	₹ 88,000
BCD rate = 18% and GST = 18% Calculate Customs Duties		

EXAMPLE -4

FOB Price of goods (Crude Petrol)	= ₹	18,75,000
Cos of transportation	= ₹	1,80,000
Cost of insurance	= ₹	80,000
BCD rate = 12%, Excise rate = 20% (Calculate total Customs duty payable)		

EXAMPLE -5

F.O.B. price of imported goods (Luxury Car)	= ₹	400000
Cost of transportation	= ₹	250000
Cost of insurance	= ₹	80000
Calculate total customs duty payable if BCD rate is 60% Like article subject to GST @ 28 %, GST Compensation Cess @15%		

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