

Valuation under Customs

Introduction

The duties of customs charged on goods imported into India (import duty) or exported from India (export duty) is basically either by way of –

- A specific duty based on the quantity of the goods like Rs. 1000 per metric tone of steel or
- Ad valorem basis, i.e., expressed as percentage of the value of the goods i.e 40% advalorem. etc.

It was observed that the government was losing revenue due to the specific duty which remains fixed irrespective of price changes. Section 14 of the Customs Act, 1962 lays down the basis for valuation of imported & exported goods in the country. Briefly the provisions are explained in the following paragraphs.

Tariff Value - Section 14[2]

The Central Government has been empowered to fix values, under sub-section (2) of Section 14 of the Customs Act, 1962 for any product, called Tariff Values. If tariff values are fixed for any goods, ad valorem duties are to be calculated with reference to such values. The tariff values may be fixed for any class of imported or export goods with regard to the trend of value of such or like goods and the same has to be notified in the official gazette.

Tariff value for crude palm oil, RBD palmolien, palm oil, crude soyabean oil and brass scrap has been fixed.

Valuation under Transaction value/Ad Valorem - Section 14[1]

The provisions of sub-section (1) of Section 14 apply for the valuation of both imported goods and exported goods. According to the Customs Valuation Rules, 1988, the Customs Value should normally be the "Transaction Value", i.e., the price actually paid or payable after adjustment by Valuation Factors.

It states that the value of value of imported and exported goods will be the transaction value of such goods, that is to say: -

- The price actually paid or payable for the goods when sold for
 - Export to India for delivery at the time and place of importation (for imported goods), or
 - Export from India for delivery at the time and place of exportation (for exported goods)
- Where the buyer and seller of the goods are not related and
- Price is the sole consideration for the sale or offer for sale.
- Subject to such other conditions as may be specified in the rules made on this behalf.

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Inclusions in Transaction Value

First proviso to this section states that in case of imported goods, in addition to the price aforesaid, any amount paid or payable for costs and services, including:

- commissions and brokerage,
- engineering,
- design work,
- royalties and licence fees,
- costs of transportation to the place of importation,
- Customs
- insurance
- loading,
- unloading and
- handling charges

to the extent and in the manner specified in the rules made on this behalf.

Such Rules may provide for

- the circumstances in which the buyer and the seller shall be deemed to be related;
- the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;
- the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section.

Conversion Dates

- For imported goods, the conversion in value shall be done with reference to the rate of exchange prevalent on the date of filing bill of entry under section 46.
- For export goods, the conversion in value shall be done with reference to the rate of exchange prevalent on the date of filing shipping bill (vessel or aircraft) or bill of export (vehicle) under section 50.

Currency Conversion rate

The rate of exchange is notified by three agencies- the Central Board of Excise and Customs (Board), the Reserve Bank of India and the Foreign Exchange Dealers' Association of India. For the purpose of customs valuation, "rate of exchange" means the rate of exchange

- determined by the Board, or
- ascertained in such manner as the Board may direct,

for the conversion of Indian currency into foreign currency or foreign currency into Indian currency. Thus, for the purpose of valuation under customs laws, the rate notified by CBEC (Board) shall be taken into account.

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The CBEC notifies the rates on a monthly basis applicable from the first day of the month. There are separate rates for imported goods (selling rate) and exported goods (buying rate).

Valuation for customs is required to be done as per provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. These rules are based on WTO Valuation Agreement which will be dealt in another article.