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[i]AN IMPACT OF CUSTOM DUTY IN INDIA

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Abstract

The Custom duty derived its value from the word ―custom‖ under which whenever a merchant entered a Kingdom with his merchandise, he had to give some gift to the king. Subsequently, this custom formalized into the levy of custom duty or tax on goods imported into and exported from the country was organized through various laws during the British period. After Independence the Sea Customs Act 1878, the Land Customs Act, 1924 and other allied enactments were repealed by a consolidating and amending legislation entitled the Customs Act, 1962. Similarly the Indian Customs Act, 1934 was repealed by the Customs Tariff Act, 1975(CTA). As per the Customs Act, 1962 the Central Board of Excise and Customs (the Board) has been given the powers to appoint Customs Ports, Airports and Inland Container Depots (ICD), where the imported goods can be brought in for unloading or loading of export goods. Similarly, powers have been given to the Board to notify places as Land Customs Stations (LCS) for clearance of goods imported or exported by land or by inland water.

Key Words: Introduction on Custom Duty, Concept of Custom Duty, Collection of Custom Duty, Types of Custom Duty, etc

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INTRODUCTION

Customs duty is a kind of indirect tax which is levied on goods of international trade. Duties levied in relation to imported goods are referred to as import duty and duties levied on the export goods are called export duty.

The ancient "custom" of gifting a part of his merchandise by a merchant to the King while entering a kingdom came to be formalized by the modern States into customs duty. Customs duty is imposed on the goods imported into or exported out of the country. Developing economies including India use customs duties as an important source of revenue and also a method to regulate the flow of goods.

The Central Board of Indirect Taxes and Customs (CBIC) is the apex body for customs administration. Central Board of Indirect Taxes and Customs (CBIC) is a part of the Department of Revenue under the Ministry of Finance, Government of India. CBIC deals with the task of formulation of policy concerning levy and collection of customs duties. The Board discharges the various tasks assigned to it, with the help of its field formations namely the Customs, Customs (Preventive) and Central Goods and Services Tax Zones, Commissionerates of Customs, Commissionerates of Customs (Preventive), Commissionerates of Central Goods and Services Taxes, Central Revenues Control Laboratory and Directorates. There are 11 zones of Customs and Customs (Preventive) and 21 Central Goods and Services Tax Zones spread across the country. These zones are headed by the Principal Chief Commissioners/ Chief Commissioners. There are 57 Commissionerates exclusively of Customs, Customs (Preventive) and Customs (Appeals), 205 Commissionerates of Central Goods and Services Tax, Central Goods and Services Tax (Audit) and Central Goods and Services Tax (Appeals) headed by Principal Commissioners/ Commissioners.

Concept of custom duty

MEANING:

Custom Duty means tax imposed on the good of imports and exports

In brief

Customs Duty is a tariff or tax imposed on goods when transported across international borders. The purpose of **Customs Duty** is to protect each country's economy, residents, jobs, environment, etc., by controlling the flow of goods, especially restrictive and prohibited goods, into and out of the country

When Are Customs Duties Collected?

Customs duties are usually collected while your goods are being examined and inspected by border officials that are looking to establish a complete description of your imports. Customs officials are typically looking for trademark issues or fair market trade based on the assessment value of your imports. Customs officials are also looking to confirm the country of origin for your imports because certain trade agreements exist with designated countries that can result in duty free tariffs.

Who Collects Customs Duties?

The customs authority in each country is responsible for the collection of customs duties imported or exported into each particular country. So who foots the bill? Read on to find out.

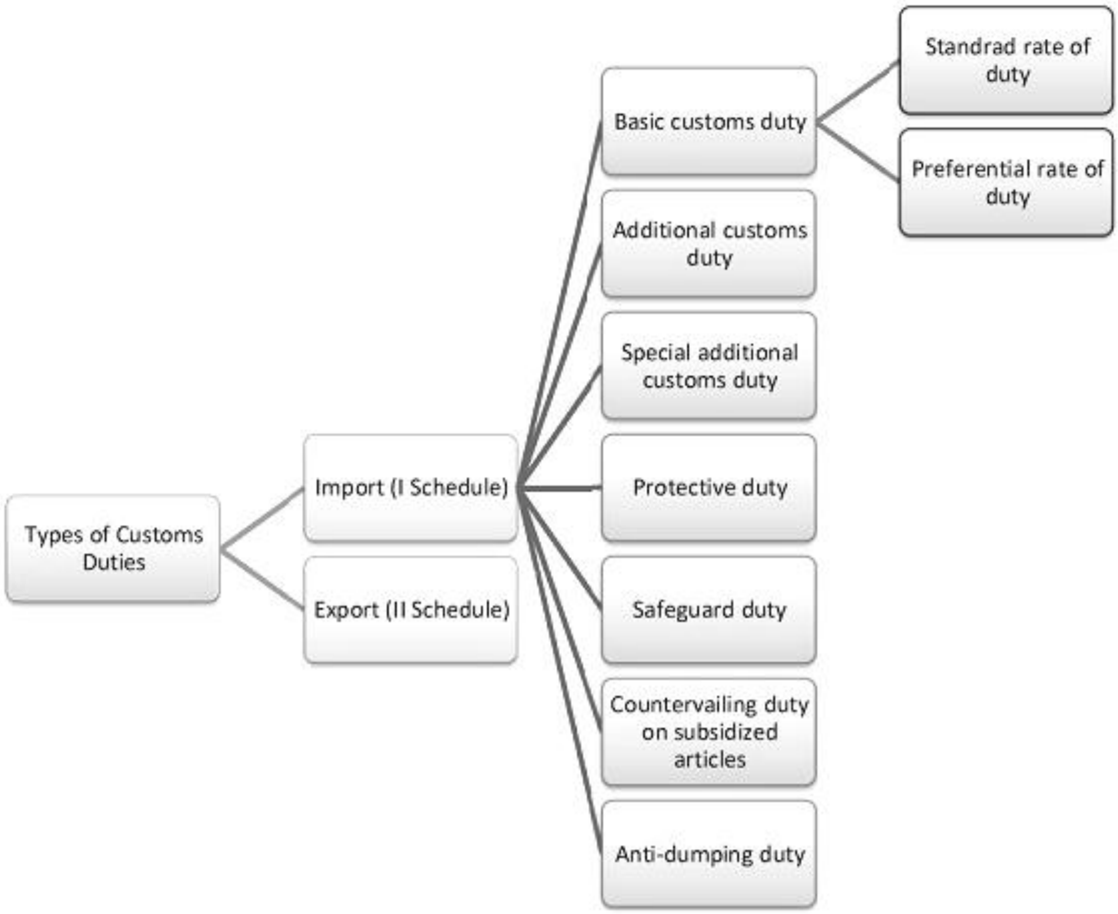
How are Customs Duties Assessed?

A customs duty is usually based on the value of goods or is based off of a product's weight, dimensions or other specific criteria.

How are Customs Duties Used?

The customs duty tax is enforced to protect a country's economy and to control cargo entering and exiting a country.

Types of customs Duties in India



While **Customs Duties** include both import and export duties, but as **export duties** contributed only nominal revenue, due to emphasis on raising competitiveness of exports, import duties alone constituted major part of the revenue from Customs Duties and include the following:

Basic Customs Duty

All goods **imported** into India are chargeable to a duty under **Customs Act, 1962** .The rates of this duty, popularly known as basic customs duty, are indicated in the First Schedule of the **Customs Tariff Act, 1975** as amended from time to time under **Finance** Acts. The duty may be fixed on ad -valorem basis or specific rate basis. The duty may be a percentage of the value of the goods or at a specific rate. The Central Government has the power to reduce or exempt any good from these duties.

Additional (Countervailing) Duty of Customs

This countervailing duty is available as additional duty on goods imported into the country and the **rate structure** of this duty is equal to the **excise duty** on like articles produced in India. The base of this additional duty is c.i.f. value of imports plus the duty levied earlier. If the rate of this duty is on ad-valorem basis, the value for this purpose will be the total of the value of the imported article and the customs duty on it (both basic and auxiliary).

Export duties

Under Customs Act, 1962, goods exported from India are chargeable to export duty The items on which export duty is chargeable and the rate at which the duty is levied are given in the customs tariff act, 1975 as amended from time to time under Finance Acts. However, the Government has emergency powers to change the duty rates and levy fresh export duty depending on the circumstances.

Auxiliary Duty of Customs

This duty is levied under the Finance Act and is leviable all goods imported into the country at the rate of 50 per cent of their value. However this statutory rate has been reduced in the case of certain types of goods into different slab rates based on the basic duty chargeable on them.

Cesses

Cesses are leviable on some specified articles of exports like coffee, coir, lac, mica, tobacco (unmanufactured), marine products cashew kernels, black pepper, cardamom, iron ore, oil cakes and meals, animal feed and turmeric. These cesses are **collected** as parts of Customs Duties and are then passed on to the agencies in charge of the administration of the concerned commodities.

Education cess on customs duty

An education cess has been imposed on imported goods w.e.f. 9-7-2004. The cess will be 2% and w.e.f. 01.03.2007 2%+1% of the aggregate duty of customs excluding **safeguard duty,** countervailing duty, **Anti Dumping Duty**.

Protective Duties

Tariff Commission has been established under Tariff Commission Act, 1951. If the Tariff Commission recommends and Central Government is satisfied that immediate action is necessary to protect interests of Indian industry, protective customs duty at the rate recommended may be imposed under section 6 of Customs Tariff Act. The protective duty will be valid till the date prescribed in the notification.

Countervailing Duty on Subsidized goods

If a country pays any subsidy (directly or indirectly) to its exporters for exporting goods to India, Central Government can impose Countervailing duty up to the amount of such subsidy under section 9 of Customs Tariff Act.

Anti Dumping Duty on dumped articles

Often, large manufacturer from abroad may export goods at very low prices compared to prices in his domestic market. Such dumping may be with intention to cripple domestic industry or to dispose of their excess stock. This is called 'dumping'. In order to avoid such dumping, Central Government can impose, under section 9A of Customs Tariff Act, anti-dumping duty up to margin of dumping on such articles, if the goods are being sold at less than its normal value. Levy of such **anti-dumping duty** is permissible as per WTO agreement. Anti dumping action can be taken only when there is an Indian industry producing 'like articles'.

Safeguard Duty

Central Government is empowered to impose 'safeguard duty' on specified imported goods if Central Government is satisfied that the goods are being imported in large quantities and under such conditions that they are causing or threatening to cause serious injury to domestic industry. Such duty is permissible under WTO agreement. **Safeguard duty** is a step in providing a need-based protection to domestic industry for a limited period, with ultimate objective of restoring free and fair competition

National Calamity Contingent Duty

A National Calamity Contingent Duty (NCCD) of customs has been imposed vide section 129 of Finance Act, 2001. This duty is imposed on **pan masala, chewing tobacco** and cigarettes. It varies from 10% to 45%. - - NCCD of customs of 1% was imposed on PFY, motor cars, multi utility vehicles and two wheelers and NCCD of Rs 50 per ton was imposed on domestic crude oil, vide section 134 of Finance Act, 2003. 20.3.5 Rate of duty applicable There are different rates of duty for different goods there are different rates of duty for goods imported from certain countries in terms of bilateral or other agreement with such countries which are called preferential rate of duties the duty may be percentage of the value of the goods or at specified rate.

On what factors is the customs duty calculated?

The customs duty is calculated based on various factors such as the following:

- The place of acquisition of the good.
- The place where the goods were made.
- The material of the goods.
- Weight and dimensions of the good etc.

Moreover, if you are bringing a good for the first time in India, you must declare it as per the customs rule.

How is Customs Duty Calculated?

It is important to note that the calculation of import duty is done based on the assessed value of an imported product and not the invoice value

Say you have purchased a mobile phone from Amazon or eBay and have asked the seller to ship it to India. The value (price) of the mobile phone listed on the invoice is $500. The customs officer in India may however assess the product's value as, say, $600 and in that case, you will have to pay the 18% customs duty on $600 (the assessed value) and not $500 (the invoice value).

Customs duties are computed on a specific or ad valorem basis. In other words, it is calculated on the value of goods. Such value is determined as per the rules laid down in the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. If there are doubts regarding the truth or accuracy of the value of goods, valuation of such item is done through the following method:

- Rule 4 & 5 – *Comparative value method* that compares the transaction value of identical or similar items
- Rule 7 – *Deductive value method* that uses sale price of such good in the importing country
- Rule 8 – *Computed value method* that employs costs related to materials, fabrication, and profit in the country of production
- Rule 9 – The *Fallback method* that is based on previous methods with an element of higher flexibility.

How Much Customs Duty You Have to Pay for Importing Goods into India

- You have to pay taxes, also known as customs duty, for importing mobile phones, electronics and other goods from a foreign country into India. These import taxes are payable at the port of entry (like the airport), the courier companies would often pay these on your behalf and will release the goods to you upon the full repayment of these additional duties and taxes.

Category / Product to Import	Total Duty Rate
Laptops, Notebooks, Computers	14.712%
Tablets, iPad	28.852%
Laptop Battery	23.852%
iPod, Music Players	28.852%
Software CDs and DVDs	10.300%
Computer Printers	14.712%
Electronics	28.852%
Hard Disk (internal)	6.300%
Hard Disk (external)	14.712%

Web Cameras	28.852%
Computer Processor	6.300%
Internet Modem	14.712%
Other Computer Peripherals	14.712%
Cables and Wires	23.852%
Television Sets (TV)	28.852%
Movie CDs, DVDs and Blue Ray	28.852%
Video Games and Game Consoles	28.852%
Mobile Phones	~18%
Phone Accessories	28.852%
Digital Cameras and Video Camcorder	28.852%
Camera Lens (Photography)	28.852%
Sports Equipment	14.712%
Books (Educational)	Free (No duty)
Car Parts	28.852%
Toys and Games	28.852%
Stationery Items	28.852%
Cosmetic Goods	28.852%
Hand Watches (Wrist Watches)	28.852%
Sun Glasses	28.852%
Apparel (Clothes)	28.852%
Fashion Accessories	28.852%
Artificial Jewellery	28.852%
Shoes (Retail Price < 1k INR)	21.782%
Shoes (Retail Price > 1k INR)	28.852%
Kitchen and Dining	28.852%
Food Supplements, Body Building	28.852%
Medicine	28.852%

Recent Developments

- Increase in basic custom duty
- e-sanchit

Increase in basic customs duty – Effective from 27th September 2018

The Indian government has increased the basic customs duty on an array of items that include refrigerators, air-conditioners, footwear, washing machines, furniture fittings, tableware, jewellery and many more. This was done in an effort to shore up the falling rupee and restrict the current account deficit. This was initiated with an aim to curb imports of specified imported items. With the increase in duty, the prices of these goods are likely to rise, dampening their demand, reducing the imports and then indirectly assisting the domestic manufacturers.

e-Sanchit

In recent years, India witnessed major reforms in the taxation system via digitalization. From Income Tax to GST, most of the things are now available online. To ensure ease of doing business, the CBIC (Central Board of Indirect taxes and Customs), has launched e-SANCHIT, which enables registered persons to file their customs related documents online. The e-SANCHIT initiative is made mandatory from March 15th this year. Only the ICEGATE registered users can use the e-SANCHIT application by accessing e-SANCHIT link.

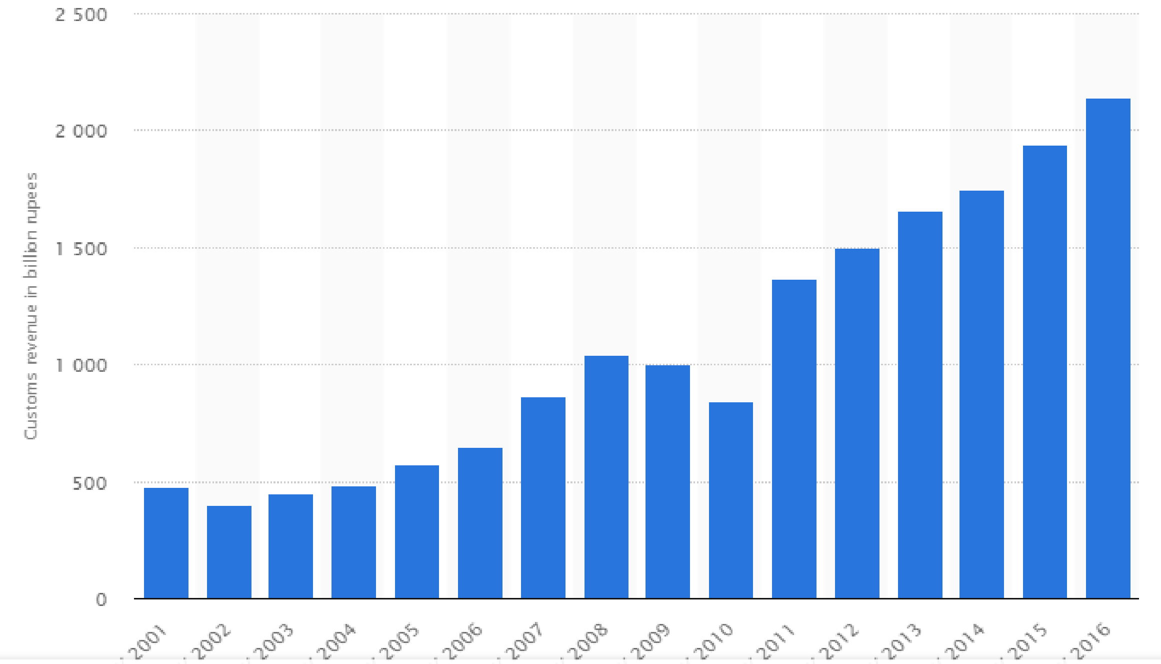
Under this new scheme, hard copies of the uploaded documents are not required to be produced to the assessing officers. The objective here is to minimize the physical interface between the customs agencies and trade and to increase the speed of clearance.

International Customs Day

International Customs Day recognizes the role of agencies and customs officials in maintaining border security around the world. In focuses on the workers and their working conditions as well as the challenges that some customs officers face in their job. Custom agencies hold employee appreciation events where custom officers are recognized for their work. Several agencies also hold events for the public where they explain their jobs and responsibilities in a transparent manner. Each year, at the end of January is celebrated the International Customs Day with a particular theme, as follows:

- 2019, the chosen theme is 'SMART borders for seamless Trade, Travel and Transport'.
- 2018, the chosen theme is 'A secure business environment for economic development'.
- Chosen theme for previous editions 2009 - 2018.

Customs revenue in India from FY 2001 to FY 2016 (in billion rupees)



Source: https://www.statista.com/statistics/620488/customs-revenue-india/

The statistic gives the customs revenue in India between financial year 2001 and financial year 2016. In financial year 2016, customs revenue in India was over 2,141 billion Indian rupees. Customs revenue includes import and export duties, export taxes and other receipts

Impact of GST on Imports and Exports in India

The Goods and Services Tax (GST) has changed the way businesses are done in India.

Introduced on July 1, 2017, the indirect tax has had a significant impact on the international trade of goods as it brought about changes in the structure of import and export taxation and withdrew various indirect taxes and exemptions.

In the pre-GST regime, the imports of goods and services were subject to multiple state and federal levies such as customs duty, countervailing duty (equivalent to excise duty), and special additional duty (equivalent to value added tax). The single integrated goods and services tax (IGST) under the GST has replaced all these taxes.

The import of certain goods, however, continue to attract basic customs duty, education cess, and other protective taxes, such as the anti-dumping duty and safe-guard duty, in addition to the IGST.

Integrated Goods and Services Tax

Imports under GST are treated as inter-state supply. Since GST is a destination-based tax, Integrated Goods and Services Tax (IGST) is levied in the state where the imported goods are consumed and imported services are received.

IGST can be paid using input tax credit of central goods and services tax (CGST), state goods and services tax (SGST), and IGST. The input tax credit is the credit that dealers can avail for taxes paid on their purchases, at the time of paying final tax on their sales.

In the case of CGST and SGST, no cross utilization of input tax credit is allowed. This means that input tax credit of CGST can only be utilized for CGST and IGST, and an input tax credit of SGST can only be utilized to pay for SGST and IGST.

Import of services under GST

Under GST, the import of service is taxable if –

- The supplier of service is located outside India;
- The recipient of service is located in India;
- The place of supply of service is in India; and,
- The supplier of service and the recipient of service are not merely establishments of a distinct person.

Tax returns

An importer is required to file monthly tax returns under GST. Under the previous law, the importer was required to file returns under state tax law for the purchase of goods (import of goods) and under central tax laws for claiming countervailing duties. While filing monthly returns, importers must declare the goods imported in table-5 of the GSTR-2 form, and services imported in table-6 of the GSTR-2 form.

Exemptions

Previously, the transportation of goods by aircraft and inbound shipment was not liable to service tax. Under GST, there is no such exemption.

Impact on exports

Under GST, exports are treated as 'zero-rated supplies'. That is, supplies on which the GST rate is fixed as zero. If GST is paid at any point of supply against exports from India, a trader may either export without the payment **of** IGST under bond or letter of undertaking or may pay the IGST and claim a refund later.

In both cases, an exporter must provide details of the GST invoices in the shipping bill. The invoice must contain the following details:

- Name, address, and GSTIN of the supplier;
- Name and address of the recipient;
- Invoice number and date;
- HSN code of the goods along with description;
- Total value and quantity of goods, and,
- The signature of the supplier.

To claim the refund of IGST, the exporter can file the details of the tax paid, GST invoice, and shipping bill in table 6A in the form GSTR-1 of the relevant month.

Reference: 1. General Information/Customs.aspx. (Secondary Data).

2. Material Collected from ICSI (Secondary Data).

4. www.statista.com/statistics/620488/customs-revenue-india/

3. Other information Technology Source (Internet)

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