UNIT II-PROVISIONS RELATING TO COASTAL GOODS

1. ENTRY OF COASTAL GOODS [SECTION 92]
   1. The consignor of any coastal goods shall make an entry thereof by presenting to the proper officer a bill of coastal goods in the prescribed form.
   2. Every such consignor while presenting a bill of coastal goods shall, at the foot thereof, make and subscribe to a declaration as to the truth of the contents of such bill.

2. COASTAL GOODS NOT TO BE LOADED UNTIL BILL RELATING THERETO IS PASSED, ETC. [SECTION 93]
   The master of a vessel shall not permit the loading of any coastal goods on the vessel until a bill relating to such goods presented under section 92 has been passed by the proper officer and has been delivered to the master by the consignor.

3. CLEARANCE OF COASTAL GOODS AT DESTINATION [SECTION 94]
   1. The master of a vessel carrying any coastal goods shall carry on board the vessel all bills relating to such goods delivered to him under section 93 and shall, immediately on arrival of the vessel at any customs or coastal port, deliver to the proper officer of that port all bills relating to the goods which are to be unloaded at that port.
   2. Where any coastal goods are unloaded at any port, the proper officer shall permit clearance thereof if he is satisfied that they are entered in a bill of coastal goods delivered to him under sub-section (1).

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4. MASTER OF A COASTING VESSEL TO CARRY AN ADVICE BOOK [SECTION 95]

1. The master of every vessel carrying coastal goods shall be supplied by the Customs authorities with a book to be called the "advice book".

2. The proper officer at each port of call by such vessel shall make such entries in the advice book as he deems fit, relating to the goods loaded on the vessel at that port.

3. The master of every such vessel shall carry the advice book on board the vessel and shall on arrival at each port of call deliver it to the proper officer at that port for his inspection.

5. LOADING AND UNLOADING OF COASTAL GOODS AT CUSTOMS PORT OR COASTAL PORT ONLY [SECTION 96]

No coastal goods shall be loaded on, or unloaded from, any vessel at any port other than a customs port or a coastal port appointed under section 7 for the loading or unloading of such goods.

6. NO COASTING VESSEL TO LEAVE WITHOUT WRITTEN ORDER [SECTION 97]

(1) The master of a vessel which has brought or loaded any coastal goods at a customs or coastal port shall not cause or permit the vessel to depart from such port until a written order to that effect has been given by the proper officer.

(2) No such order shall be given until –

(a) the master of the vessel has answered the questions put to him under section 38;

(b) all charges and penalties due in respect of that vessel or from the master thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;

(c) the master of the vessel 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;

(d) the provisions of this Chapter and any rules and regulations relating to coastal goods and vessels carrying coastal goods have been complied with.

7. APPLICATION OF CERTAIN PROVISIONS OF THIS ACT TO COASTAL GOODS, ETC. [SECTION 98]

(1) Sections 33, 34 and 36 shall, so far as may be, apply to coastal goods as they apply to imported goods or export goods.

Note: All the above provisions of the Customs Act are not applicable to vessels carrying exclusively coastal goods.

8. VESSELS CARRYING EXCLUSIVELY COASTAL GOODS EXEMPTED FROM THE PROVISIONS OF SECTIONS 92, 93, 94, 95, 97 AND 98(1) OF THE CUSTOMS ACT, 1962

(i) All vessels carrying exclusively coastal goods have been exempted from the provisions of sections 92, 93, 94, 95, 97 and 98(1) of the Customs Act, 1962.

(ii) In case of vessels carrying exclusively coastal goods and operating from berths used by vessels carrying imported goods or export goods, provisions of sections 30 and 41 of the Customs Act, 1962 have been made applicable.

The person-in-charge of such vessel or his agent will deliver to the proper officer, a coastal manifest, prior to the arrival of the vessel or departure, as the case may be. A new format for filing a coastal manifest in respect of such vessels, has been notified.

Sections 30 and 41 provide for delivery of Import General Manifest/Import Report or Export Manifest/Export Report respectively.
(iii) The revised procedure shall apply to Indian vessels, Indian flag foreign vessels or foreign vessels eligible for cabotage* relaxation issued by the Ministry of Shipping.

(iv) There shall be no examination of the coastal goods.

(v) Random checks may be carried out from time to time to ensure that no export goods or imported goods are inadvertently or by intention loaded onto such coastal vessels.

*Cabotage is the transport of goods or passengers between two places in the same country by a transport operator from another country.
IMPORTATION, EXPORTATION AND TRANSPORTATION OF GOODS

9. TEST YOUR KNOWLEDGE

1. ‘Queen Marry’, a vessel containing the goods imported by XML Ltd. entered the Indian Territorial waters on 24.05.20XX. It arrived at the customs port on 26.05.20XX and the Import Manifest was submitted on 29.05.20XX. However, the entry inwards was given to the vessel on 04.06.20XX. An ‘Into Bond’ Bill of Entry was presented by XML Ltd. on 06.06.20XX and thus, the goods were classified, valued and stored in the bonded warehouse.

XML Ltd. presented the ‘Ex-Bond’ Bill of Entry in respect of such goods on 01.07.20XX and cleared the goods from the bonded warehouse on 05.07.20XX. The rate of customs duty was increased from 8% to 10% on 04.07.20XX.

At what rate should XML Ltd. pay the customs duty on the goods imported by it?

2. Write a brief note on self assessment in customs under the Customs Act, 1962.


4. What is meant by ‘boat notes’?

5. Discuss the provisions regarding transit of goods and transhipment of goods without payment of duty under the Customs Act.

6. Explain in brief the duty exemption to baggage under section 79(1) of the Customs Act, 1962.

7. What is the relevant date for determining the rate of duty and tariff valuation in respect of goods imported/exported by post?

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

9. Explain briefly the meaning of entry inwards and entry outwards with reference to the customs law.

10. Which class of importers is required to pay customs duty electronically? Name the dedicated payment gateway set up by the Board (CBEC) to use e-payment facility easily by an importer.

11. Mr. Anil and his wife (non-tourist Indian passengers) are returning from Dubai to India after staying there for a period of two years. They wish to bring gold
jewellery purchased from Dubai. Please enumerate provisions of customs laws for jewellery allowance in their case.

12. What is the new name of Customs House Agent?

13. Differentiate between Inland Container Depots (ICD) and Container Freight Stations (CFS).

14. ONGC oil rig and a foreign oil rig are drilling oil beyond 12 nautical miles in the sea in the Exclusive Economic Zone of India. Which of the two is a foreign going vessel? Explain.

15. What are the circumstances under which assessment is done provisionally under section 18?

16. State the provisions of transhipment of goods without payment of duty under section 54 of the Customs Act, 1962.

17. Explain the procedure prescribed in Customs Act, 1962 in case of goods not cleared, warehoused or transhipped within 30 days after unloading.

18. Write short notes on:
   (a) Export general manifest
   (b) Boat note (or restriction on goods being water borne)

19. Discuss briefly:
   (a) Temporary detention of baggage
   (b) Relevant date for rate of duty and tariff valuation in respect of goods imported and exported by post

20. 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 import manifest/report and export manifest/report


22. Write a brief note on the declaration made by the owner of baggage.

23. State and summarise the provisions and procedure in the Customs Act, 1962 governing preparation and filing of a bill of entry.
24. Under what situations the amount of duty and interest refundable under section 18 of the Customs Act, 1962 shall be paid to the importer/exporter instead of being credited to the Consumer Welfare Fund?

25. State the procedure for clearance of goods imported by post.

26. Briefly explain the following with reference to the provisions of the Customs Act, 1962:
   (i) Bill of export
   (ii) Import report
   (iii) Imported goods
   (iv) Entry
   (v) Prohibited goods
   (vi) Customs port
   (vii) Goods
   (viii) Stores
   (ix) Conveyance
   (x) Dutiable goods
   (xi) Customs area
   (xii) Adjudicating Authority
   (xiii) Foreign going vessel or aircraft
   (xiv) Assessment

10. ANSWERS/HINTS

1. As per section 15(1)(b) of the Customs Act 1962, the relevant date for determination of rate of duty and tariff valuation in case of warehoused goods is the date when a bill of entry for home consumption (ex-bond bill of entry) in respect of such goods has been presented under section 68 of the Customs Act, 1962. Therefore, in the given problem, the relevant date for determination of rate of duty is 01.07.20XX (date of presentation of ex-bond bill of entry) and not 05.07.20XX when the goods are actually removed from the warehouse. Thus, the customs duty will be payable at 8% and not 10%.
2. The provisions relating to self-assessment of duty, contained in the section 17 of the Customs Act, 1962, are as follows:

(i) The importer or the exporter has to self-assess the duty leviable on goods imported or exported.

(ii) The proper officer may verify the self-assessment of such goods by examining/testing the goods, if necessary. He may also ask the importer, exporter or any other person to furnish any document or information for ascertaining the duty.

(iii) After verification, if it is found that the self-assessment has not been done correctly, the proper officer may re-assess the duty leviable on such goods.

(iv) If the order of the reassessment is contrary to the self-assessment, the proper officer should pass a speaking order on the re-assessment within 15 days from the date of reassessment.

(v) Where re-assessment has not been done or a speaking order has not been passed on re-assessment, the proper officer may audit the assessment of duty of the imported/export goods at his office or at the premises of the importer/exporter.

Such audit is known as On-site post clearance audit (OSPCA) wherein legal compliance and correct assessment of customs duties will be verified by the proper officer at the premises of importers and exporters.

3. The provisions of the Customs Act, 1962 relating to payment of interest in case of provisional assessment are as under:

(I) Interest payable by the importer/exporter on amount payable to the Central Government, consequent to the final assessment/re-assessment:

(i) The importer or exporter shall be liable to pay interest, on any amount payable to the Central Government, consequent to the final assessment order/re-assessment order under section 18(2).

(ii) The interest shall be payable at the rate prescribed under section 28AA of the Customs Act, 1962. Presently, the rate of interest has been fixed @ 15% p.a.

(iii) The interest shall be payable from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.
(II) Interest payable by the Central Government to the importer/exporter on amount refundable to the importer/exporter on final assessment of duty/re-assessment of duty:

(i) Subject to the provisions of unjust enrichment, if any refundable amount is not refunded to the importer/exporter on final assessment of duty or re-assessment of duty, within three months from the date of final assessment of duty or re-assessment of duty.

(ii) The interest shall be payable at the rate prescribed under section 27A of the Customs Act, 1962. Presently, the rate of interest has been fixed @ 6% p.a.

(iii) The interest shall be payable from the first day immediately succeeding the period of three months from the date of assessment of duty finally or re-assessment of duty till the date of refund of such amount.

4. In certain specified customs ports, ships cannot come to the shore for unloading or loading, while in other ports, it is possible that not all ships arriving in the port get a berth. Further, sometimes, small import cargo is to be unloaded from a ship or small export cargo is to be loaded on a ship.

In all the aforesaid cases, the import cargo is taken from the ship to the shore and the export cargo is taken from the shore to the ship in boats.

Section 35 of the Customs Act stipulates that no imported goods shall be water borne for being loaded in 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.

However, the CBEC may, by notification 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.

5. Section 53 provides that any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or to any customs station, may be allowed by the proper officer to be so transited without payment of duty subject to such conditions, as may be prescribed. However, the goods should not have been prohibited under section 11 of the Customs Act.
Transhipment of goods refers to transfer of goods from one conveyance to another. It may be from one port to any other major port or airport in India.

Section 54 provides that:

1. where any goods imported into a customs station are intended for transhipment, the person-in-charge of conveyance will have to present a bill of transhipment to the proper officer in the prescribed form;

2. where any goods imported into a customs station are mentioned in the import manifest or import report, as for transhipment to any place outside India, such goods will be allowed to be so transhipped without payment of duty. However, the goods should not have been prohibited under section 11 of the Customs Act.

3. where any goods imported into a customs station are mentioned in the import manifest or import report for transhipment to any major port (as defined in the Indian Ports Act, 1908) or to customs airport or customs port (as notified by the Board) or to any other customs station and the proper officer is satisfied about the bona-fide intention for transhipment of the goods to such customs station, the proper officer may allow the goods to be transhipped, without payment of duty.

6. Section 79(1) of the Customs Act, 1961 exempts the bona fide baggage of the passengers. Following baggage is passed free of duty-

(i) articles in the baggage of a passenger/crew that have been in their use for such minimum period as may be prescribed by the Baggage Rules, 2016.

(ii) articles for use by passenger or his family or bona fide gifts or souvenir, provided that the value of each such article and the total value of all such articles does not exceed the limits prescribed in the aforesaid Baggage Rules.

7. Section 83 of the Customs Act, 1962 provides the relevant date for rate of duty and tariff valuation in respect of goods imported/exported by post as under:

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<tr>
<th>S.No.</th>
<th>Particulars</th>
<th>Relevant date for determining rate of duty and tariff valuation</th>
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<tr>
<td>1.</td>
<td>Goods imported by post</td>
<td>Date on which postal authorities present to the proper officer a list</td>
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</table>
5.81 IMPOR TATION, EXPORTATION AND TRANSPORTATION OF GOODS

8. Section 29(1) of the Customs Act, 1962 provides that the person-in-charge of a vessel or an aircraft entering India from any place outside India shall not cause or permit the vessel or aircraft to call or land:

(i) for the first time after arrival in India; or

(ii) at any time while it is carrying passengers or cargo brought in that vessel or aircraft

at any place other than a customs port or a custom airport, as the case may be, unless permitted by the Board.

Exception:- Section 29(2) provides that the above provisions are not applicable 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. However, in such a case the person-in-charge of such vessel or aircraft has the following obligations cast on him:

(i) He shall have to report the arrival of the vessel/landing of the aircraft to the nearest customs officer or the officer-in-charge of a police station and shall produce the log book belonging to the vessel or the aircraft if demanded.

(ii) 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, passengers and crew can be allowed to depart from
the vicinity of, or the goods can be removed from, the vessel/aircraft if
the same is necessary for reason of health, safety or preservation of life
or property.

(iii) He shall comply with any directions given by any such officer with
respect to any such goods.

9. 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
[Section 31 of the Customs Act, 1962].

Entry outwards is a permission granted by the proper officer to a vessel to go
on a foreign voyage to the port of consignment. The master of the vessel
permits loading of export goods only after the proper officer grants entry
outwards to the vessel. However, entry outwards is not required for loading
of baggage and mail bags [Section 39 of the Customs Act, 1962].

10. E-payment of customs duty is mandatory for-

(i) Importers paying customs duty of ₹ 1,00,000 or more per bill of entry

(ii) Importers registered under Accredited Client Programme

The dedicated payment gateway set up by the Board is called ’ICEGATE’
[Indian Customs Electronic Commerce/Electronic Data interchange (EC/EDI)
Gateway].

11. As per rule 5 of the Baggage Rules, 2016, a passenger who has been residing
abroad for more than one year and returns to India shall be allowed duty free
clearance of jewellery in bona fide baggage as under:

• Jewellery upto a weight of 20 grams with a value cap of ₹ 50,000 for a
gentlemen passenger
• Jewellery upto a weight of 40 grams with a value cap of ₹ 1,00,000 for a
lady passenger

Thus, in the given case, Mr. Anil would be allowed duty free jewellery
upto a weight of 20 grams with a value cap of ₹ 50,000 and his wife
would be allowed duty free jewellery upto a weight of 40 grams with a value cap of ₹ 1,00,000.

Further, in addition to the jewellery allowance, Mr. Anil and his wife would also be allowed duty free clearance of jewellery worth ₹ 1,00,000 (₹ 50,000 per person) as part of free baggage allowance.

12. Customs House Agents are now known as “Customs Brokers” in accordance with the global practice and internationally accepted nomenclature.

13. | Inland Container Depot (ICD) | Container Freight Station(CFS) |
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<td>(i) ICD is a customs station like a port or air cargo unit for the purpose of unloading of imported goods and loading of export goods or any class of such goods.</td>
<td>(i) CFS is only a custom area located in the jurisdiction of a Principal Commissioner/Commissioner of Customs exercising control over a specified custom port, airport, land customs station/ICD. It is an extension of a customs station set up with the main objective of decongesting the ports.</td>
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<tr>
<td>(ii) ICD can have an independent existence as it is a ‘self contained customs station’.</td>
<td>(ii) CFS by itself cannot have an independent existence; it has to be linked to a customs station within the jurisdiction of the Principal Commissioner/Commissioner of Customs.</td>
</tr>
<tr>
<td>(iii) Customs manifests, bills of entry, shipping bills and other declarations are filed in an ICD. Further, assessment and all the activities related to clearance of goods for home use, warehousing, temporary admissions, re-export, temporary storage for onward transit and outright export, transhipment, etc. take place in an ICD.</td>
<td>(iii) In CFS, only a part of the customs process - mainly the examination of goods - is normally carried out and goods are stuffed into containers and de-stuffed therefrom. Aggregation/segregation of cargo also takes place at CFS.</td>
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14. Foreign going vessel or aircraft is one that carries passengers and (or) goods between ports/airports in India and out of India. It does not matter if it touches any intermediate port/airport in India. The following are also included in the definition:

(a) A foreign naval vessel doing naval exercises in Indian waters.

(b) A vessel engaged in fishing or any other operation (like oil drilling by O.N.G.C. oil rig) outside territorial waters.

(c) A vessel or aircraft going to a place outside India for any purpose whatsoever [section 2(21)].

However, it is to be noted that Customs Act, 1962 has been extended to the Continental Shelf and Exclusive Economic Zone of India for the purposes of extraction or production of mineral oils and supply of any goods as defined in section 2(22) of the Customs Act in connection with such activities vide Notification No. SO 189(E) dated 07.02.2002.

Further, In Aban Loyd Chiles v. UOI (2008) 227 ELT 24 (SC), it was held that oil rigs located beyond territorial waters of country but within exclusive economic zone are deemed to be in Indian territory and not a foreign going vessel as in that zone/area country’s fiscal laws are applicable.

Hence, both the ONGC oil rig and the foreign oil rig will not be ‘foreign going vessel’.

15. [Refer para 5-Unit I]
16. [Refer para 11-Unit I]
17. [Refer para 5-Unit I]
18. [Refer para 6 & 4-Unit I]
19. [Refer para 10 & 8-Unit I]
20. [Refer para 5-Unit I]
21. [Refer para 4-Unit I]
22. [Refer para 10-Unit I]
23. [Refer para 5-Unit I]
24. [Refer para 5-Unit I]
25. [Refer para 8-Unit I]
26. [Refer para 3-Unit I]