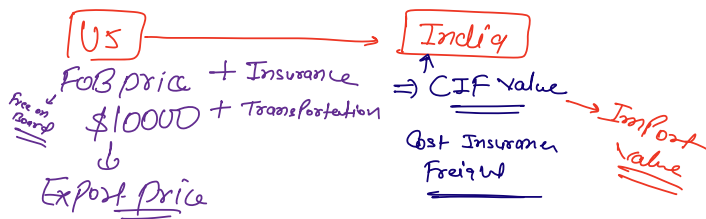
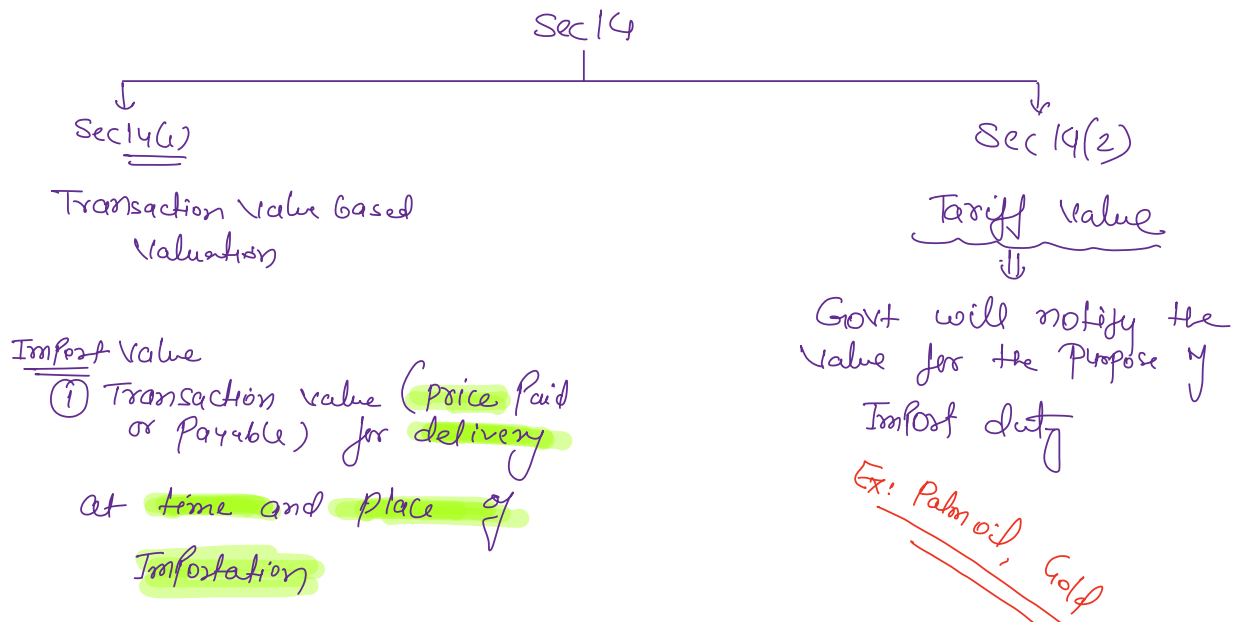


# Valuation under Customs Act

## Sec 14 + Custom Valuation Rules



### Export Value

Transaction Value (Price Paid or Payable) for delivery at time and place of Exportation

"FOB Value"

### Conditions →

- ① Buyer and seller unrelated
- ② Price is sole consideration

## Import Valuation Rules

### Cal of CIF

Rule 3

FOB Value

+  
Rule 10(1) additions  
+  
Rule 10(2) additions

CIF Value

→ Rule 3(2)

↓  
Conditions  
NOT  
Fulfilled

- ① Sole Consideration
- ② Unrelated person

→ Rule 4

↓  
Rule 9

Sequentially  
Proceed

Calculation of CIF (Rule 3 + Rule 10)

### FOB Value

+ Rule 10(1) - 7 Inclusions

① Commission

\* Commission Paid to local agent

\* Commission Paid to Intermediary

Exception

\* Buying Commission Not Included

② Cost of Packing Including Labour

③ Cost of Containers

④ Royalty, Licence fees Paid for use of such goods

Exclusion → Royalty Paid for Reproduction of Goods in India NOT Included.

↓  
Import of Services (IPR)

↓  
Gst

⑤ Value of Assistance

Job work

RM, Tools, Design

Supplied free of Cost/  
Reduced Cost

CHINA

P<sub>g</sub>

India



$$\text{Import} = \text{FOB Price} = \frac{\text{Processing Charges} + \text{RM Cost}}{\text{CIF}}$$

## Value of assistance

↳ OR ① RM / Tools supplied free of cost or at reduced cost necessary for manufacture of such goods (origin: India / outside India)

② Drawing, Design, Blue Prints undertaken outside India supplied free of cost or reduced cost [origin: outside India]

⑥ share of Subsequent Sale Proceeds in India.

⑦ Any other charges Importer is liable to pay to Import such goods

Adjusted FOB as per Customs

Rule 10(2)

① Transportation Cost

- \* Freight
- \* Demurrage for late arrival charges
- \* Lighterage charges (water borne goods)
- \* unloading charges

→ Actual Cost\*

(In Case air transport  
" Actual Cost or  
20% of Adjusted FOB  
whichever is lower)

\* Demurrage for late clearance (not Included)  
or Post Importation Exp

If Transportation Not ascertainable

→ 20% of Adjusted OF FOB

②

Insurance

\* Actual Cost

Insurance Not  $\rightarrow$  1.125% of Adjusted FOB  
ascertainable

CIF Value

a



Ex 1

FOB value \$ 40000

- ① Design charges paid in JAPAN \$ 5000
- ② Design charges paid in India ₹ 20000
- ③ Commission paid to local agent ₹ 60000
- ④ Buying Commission Paid \$ 1000

- ⑤ Transportation Cost (Vessel) \$ 7000  
 ⑥ Insurance Not ascertainable

$$1\$ = ₹ 75$$

Gt. Assessable Value

Sol

- FOB Value \$ 40000  
Rule 10(1) (i) Design Charges (JAPAN) \$ 5000  
 (ii) Design Charges (India) — (Note 1)  
 (iii) Buying Comm —

$$\begin{array}{r}
 \$ 45000 \\
 \times 75 \\
 \hline
 3375000 \\
 60000 \\
 \hline
 ₹ 3435000
 \end{array}$$

(iv) Commission Paid to local agent

Rule 10(2)

$$\begin{array}{r}
 \text{Transportation} ₹ 525000 \\
 \$ 7000 \times 75 \\
 \text{Insurance} 38643.75 \\
 [3435000 \times 1.125\%] \\
 \text{CIF} \quad \underline{\underline{3998643.75}}
 \end{array}$$

Ex: 2

- FOB Value \$ 200000  
 ① Design Charges (Outside India) \$ 5000  
 ② Packing Charges \$ 15000 \$ 220000  
 ③ Air Freight \$ 40000

(4) Insurance \$ 200

1\$ 2 ₹75

Cal. CIF

sol<sub>1</sub>

FOB Value	\$ 2,00,000
10(i) ① Design	\$ 5000
② Packing	\$ 15000
Adjusted FOB	<u>\$ 220000</u>
+ Transport [20% X 2,20,000 or actual cost]	\$ 40000
+ Insurance	\$ 200
CIF	<u>\$ 260200</u>
1\$	75
CIF (₹)	<u><u>19515000</u></u>

Ex: 3 CIF Value \$ 100000

Air Transportation Included in CIF \$ 30000

Insurance Cost Included in CIF \$ 2000

1\$ = ₹75

Cal. Assessable value

sol<sub>1</sub>

CIF Value	\$ 100000
den: Transp	( \$ 30000 )
Insur	<u>( \$ 2000 )</u>

FOB	\$ 68000
+ Air Freight	\$ 13600
[ \$ 30000 or \$ 13600 ]	
+ Insurance	\$ 2000
CIF	
As per Customs	\$ 83600
Assessable Value	75
	<u>6290000</u>

Ex:4      FOB Value \$ 40000  
             Buying Commission \$ 10000  
             Packing charges \$ 5000

Bright Paid (Vessel) \$ 10000

Demonstrance Paid for late £ 40000

Lighterage <sup>arrived</sup> charges Paid £ 30000

Demonstrance for late Clearance £ 45000

Transportation from port to ICD £ 15000

1 \$ = 75

Insurance Not as Costable

Import Value = £ 4222969

→ Post Importation  
Exemption

Import Value	£	<u>Amt</u> xxxxx	<u>Duty</u>
+ Basic Customs duty	7	xxxxx	xxxxx

+ Protective duty (Sec 6)	xxxx	xxxx
Total	xxxx	xxxx
+ Social Welfare Surcharge (10%)	xxxx	xxxx
Total	xxxx	xxxx
+ IGST / CVD U/s 3(7)	xxx	xxx
+ GST Comp Cev / CVD U/s 3(9)	xxx	xxx
Total Customs duty Payable		xxxx
↓ danded value of Goods		

Ex:	Import value	₹ 15,00,000
	BCD	10%
	IGST	12%
	GST Comp	5%

Cal total Customs duty Payable

	<u>Amnt</u>	<u>Duty</u>
Import value	₹ 15,00,000	
+ Basic Customs duty 10%	150000	150000
Total	16,50,000	150000
+ Social Welfare Surch 10%	15000	15000
Total	1665000	165000
+ IGST / CVD 3(7) 12%	199800	199800
+ GST Comp Cev 5%	83250	83250
	1948050	448050

## Rule 3(2) Conditions for acceptance of Transaction Value

- (i) Buyer and Seller should be unrelated
- (ii) Price is Sole Consideration -
- (iii) No such restriction on usage or Resale affecting its value

## If Conditions of Rule 3(2) Not Followed

Rule 4  
to  
Rule 9 ] sequentially

Rule 4 Transaction Value of Identical Goods

↓

Rule 5 Transaction Value of Similar Goods

### Identical Goods

- ① \* Goods which are identical to each other in characteristics, functionality, features having minor differences.

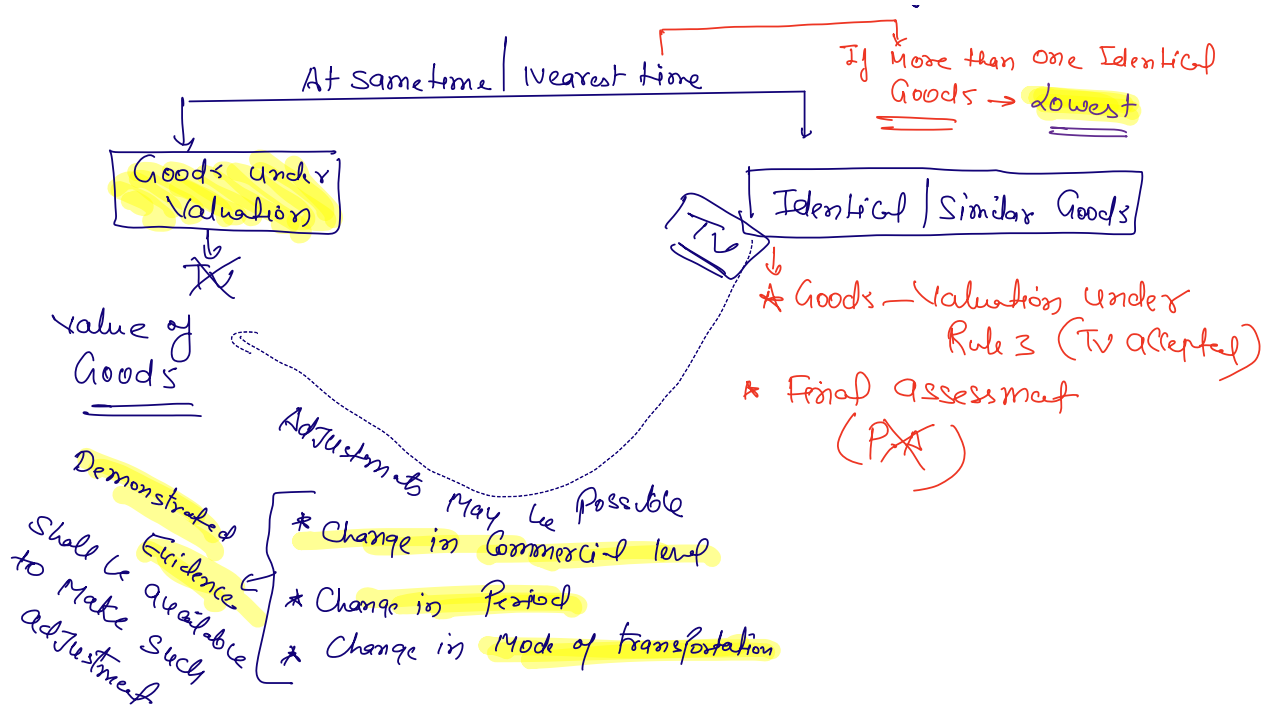
### Similar Goods

- \* Goods which are similar in functionality, quality but having different physical characteristics

- ② Imported from same Country as goods under valuation

- ③ If possible same manufactures

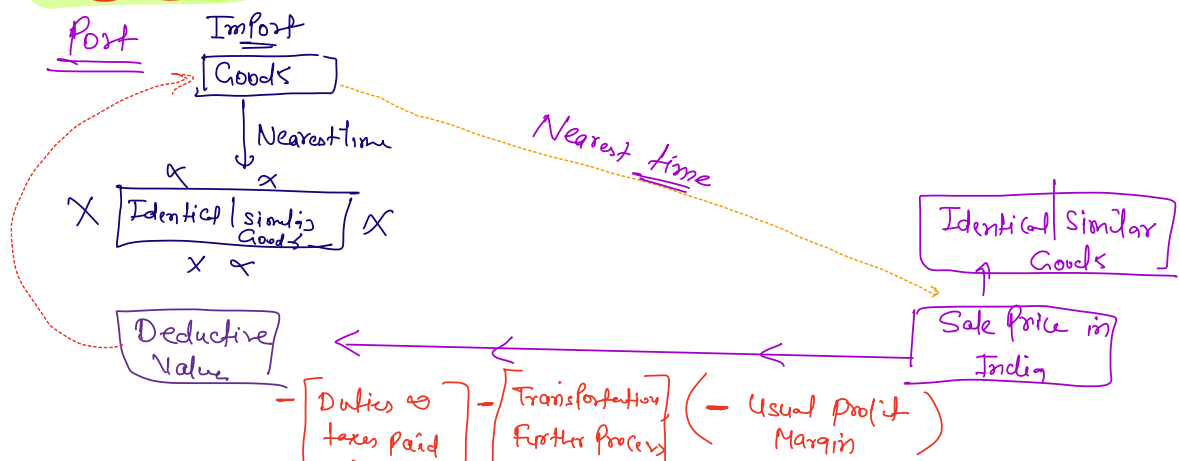
- ④ Does not include those goods whose design, blue print undertaken in India and sent at free of cost | Reduced cost



Rule 6: If Value not Ascertained by Rule 4 or Rule 5 then we have to follow Rule 7 & Rule 8 sequentially

However if Assessee is able to prove that Value under Rule 8 is more accurate as compare to Rule 7 then this sequence can be Reversed.

### Rule 7 Deductive Value



[ in India ] [ Costing, Other Cost ]

## Rule 8 Computed Value

Export to India

Port

$$\begin{aligned} \text{Actual Cost of Prod} + \text{Selling exp} + \text{Exp in} \\ \text{Packing exp} + \text{Country} + \text{Transportation} + \text{Insurance} = \text{Computed Value} \\ + \text{Usual Profit Margin} \end{aligned}$$

↓  
CIF

## Rule 9 Residual Clause → Best Judgment

If Value is Not Ascertainable Under Rule 4 to Rule 8 then Officer will Ascertain Value according his best Judgement using Principles laid down under these Rules.

Officer Cannot directly Jump to Rule 9. He has to Follow Rule 4 to Rule 9 Sequentially.

## Export Valuation Rules

Rule 3 Export Value = FOB Price in India.

Conditions

- \* Price is sole Consideration
- \* Buyer and seller Unrelated,

Rule 4 Transaction Value of like kind & Quality goods  
(Same as identical goods / similar goods)

Rule 5 Computed Value

$$\text{Actual Cost} + \text{Usual Profit} + \text{Expenses in India} = \text{Value of goods}$$



## Rule 6 Best Judgment

### Types of duties

#### Custom tariff act 1975

- (1) Basic Custom duty - Sec 12 of Custom act, 1961
- (2) Sws (Social Welfare Surcharge)  $\rightarrow$  10% of [Basic + Protective duty]
- (3) Counter Veiling duty u/s 3(7)  $\rightarrow$  Equal to IGST levied in India if imported goods are supplied in India.  
[Value for CVD 3(7) = Import value + BCD + Protective duty + Sws]
- (4) Counter Veiling duty u/s 3(9) = Equal to GST Comp Cess levied if Imported goods Supplied in India.

9

#### (5) Protective duty u/s 6 $\rightarrow$ [ARMOUR]

↓  
Calculations  
same as  
BCD

- \* On Recommendation of Tariff Commission of India
- \* If CG is of opinion that Import of any goods has been Increased and is Prejudicial to the Interest of domestic Industry and may threat growth of domestic Industry in future
- \* CG May Impose Protective duty by way of Notification in official gazette of India
- \* For the time as CG deems fit.

## ⑥ Safeguard duty u/s 8B → Healing Process

\* If CA is of opinion that Increased Import of any goods is affecting Interest of domestic Industries

\* CA May by Notification in Official Gazette impose Safeguard duty (No Req of Recommendation)

\* Time Limit : Initially for 4 years + further extension subject to total time not exceeding 10 years

\* Provisional Safeguard duty → During Enquiry → CA May Impose Provisional Safeguard. for max time limit of 200 days.

\* No Safeguard duty → \* Import by SEZ or 100% EOU  
Except clearing in DTA (Domestic Tariff Area)

\* No duty on Developing Countries (Notified)

① If individual share of Import of developing Country is Not More than 3% of total Import

and

② Of those whose share is Not More than 3%, their combined share is not More than 9% of total Import

Ex: Total Import 100 \$ Million

Developing Countries

- ① Bangladesh \$ 5 million
- ② Tanzania \$ 1.5 million
- ③ Somalia \$ 2 million
- ④ Uzbekistan \$ 3 million

Exemption ?

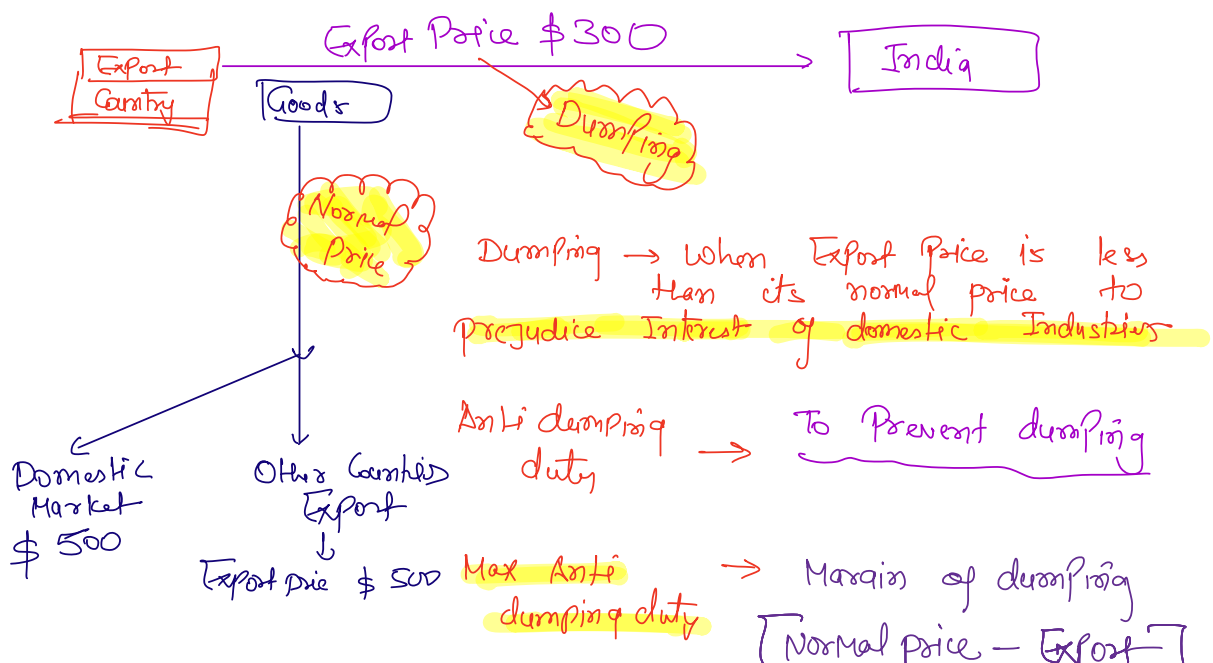
① Countries whose share is not exceed 3%.

- ① Tanzani 1.5
  - ② Somaliq 2
  - ④ Uzbekistan 3
- \$ 6.5 million

Which is also less 9% of total import.

Therefore No safeguard on Tanzania, Somalia, Uzbekistan -

See 9A Anti dumping duty



$$\begin{array}{r}
 \text{Price} \\
 \$500 - \$300 \\
 \hline
 \text{Max } \$200 \\
 \text{Time limit} \rightarrow \text{Initially 5 years + Extension} \\
 \text{Total max time } 10 \text{ years}
 \end{array}$$

Provisionally dumping  $\rightarrow$  CA may Impose Provisional anti dumping duty for time as deems fit. (No fixed time)

No Antidumping  $\rightarrow$  No anti dumping or Import by 50% or 100% FOU.

Exo Import value \$75000 (100 tonnes)

BCD  $\rightarrow$  10%

IGST  $\rightarrow$  12%

CA has Imposed anti dumping duty Equal to difference of \$1500/tonne and landed value of such goods, (Normal Price)

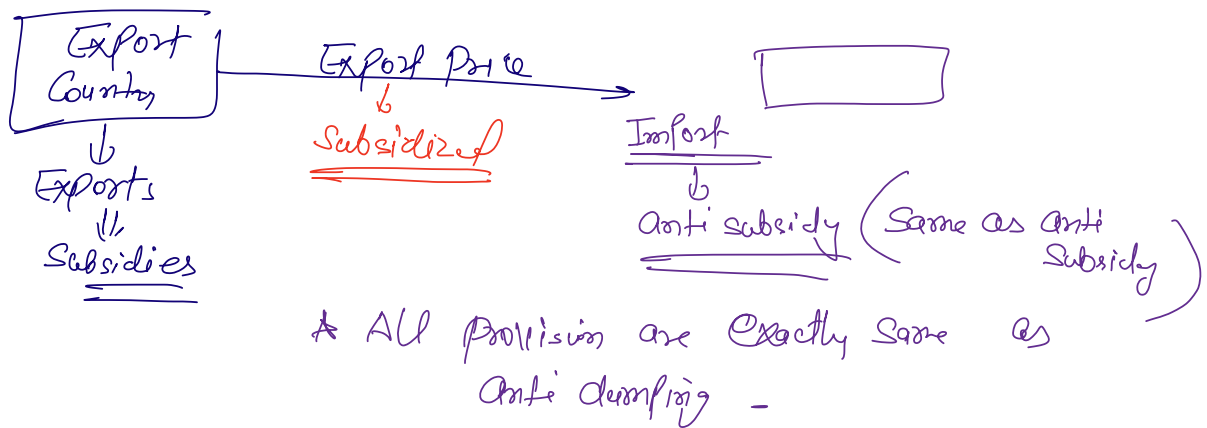
		Duty
Import value	\$75000	
+ BCD 10%	7500	7500
	<hr/>	<hr/>
	\$82500	\$7500
+ Sws 10%	\$7500	\$750
	<hr/>	<hr/>
	\$82500	8250
+ IGST 12%	9900	9900
	<hr/>	<hr/>
Landed value	\$93240	
$\div$ Tonne	100	
Landed value per ton	<hr/>	
	\$932.40	

Normal price	\$1500	
Anti dumping	\$569.60	10000
	X 10000	
Anti dumping	\$56960	

$$\text{Total Custom duty} = \$8250 + \$9990 + \$56960$$

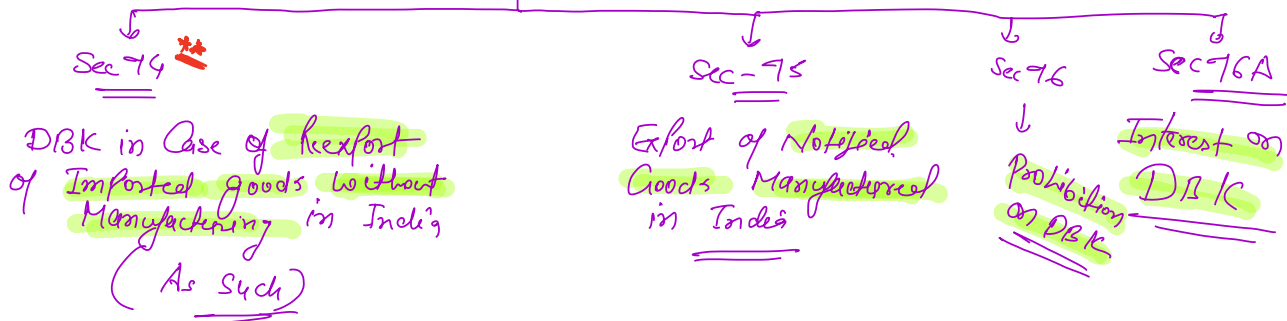
$$= \$75000$$

Sec 9 Anti subsidy duty / CRD on subsidized articles



[Sec 74, 75, 76A]  
Sec 76]

Drawback → Refund of duty & taxes  
in Case of Re-export / Export  
(DBK)



Sec 74

Sec 74

Sec 74(1)

Re-export of Imported Goods without use

DBK = 98% of Import duty

Defence / Navy Goods — 100% of Import duty

Time Limit = Goods should be Entered for exportation (Shipping Bill) within 2 years from Import + Board Extension → No Limit

No Exception

Sec 74(2)

Re-export of Personal goods and mv after use

[DBK = Import duty - deduction %]

Re-export of Other goods after use

DBK %

1st 4 quarters — 4% Per quarter or Part thereof  
Next 4 quarters = 3% Per quarter or Part thereof  
Next 4 quarters = 2.5% Per quarter or Part thereof  
Next 4 quarters = 2% Per quarter or Part thereof

Duration	DBK %
0-3 Months	95%
3-6 Months	85%
6-9 Months	75%
9-12 Months	70%
12-15 Months	65%
15-18 Months	60%

After 18 months NIL

Time Limit = Goods should be Entered for exportation (Shipping Bill)

within 2 years<sup>0</sup> from Import<sup>1</sup> ✓  
+  
Board Extension → 2 years

↓  
Exceptions — No DBK u/s 74(2) After use

- ① Wearing apparels
- ② Cinematographic / Photographic films
- ③ Tea Chest

Ex: Mr X Imported Person Goods on 10 July 2021, Import duty  
Paid ₹100000

Reexport on 15 Jan 2022

(i) Reexport without use

(ii) Reexport after use

GL DBK u/s 74

sol (i) Reexport without use → 98% of Import duty

$$\text{DBK} = 100000 \times 98\% = 98000$$

(ii) Reexport after use →

[Import - Deduction %]  
duty

No of Quarters → 3 Quarters

Deduction → 4% × 3 Quarters  
= 12%

$$[100000 - 12\%] = 88000$$

Ex:2 Mr X Imported wearing apparel on 10 Jan 21  
Paid Import duty ₹10000.

Re-export on 10 July 21

① without use  $\rightarrow$  DBK = 9800

② with use  $\rightarrow$  No DBK

Cal. DBK

Ex: 3 Mr X Imported a Machine for factory on 10 Feb 2021

Import duty paid ₹ 4,00,000

Re-export of Machine on 15 Oct 21

Cal DBK if Re-export after use

Sol

Period of use DBK

6-9 months 75%

$$DBK = 400000 \times 75\% = \underline{\underline{3,00,000}}$$

What if export date is 15 Oct 22

DBK = Nil after 18 months  
~~DBK~~

#### Time limit for claiming the duty drawback

As per Rule 5(1) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 a claim for drawback, in case of goods exported other than by post, shall be filed in the specified form at Annexure II within three months from the date on which an order permitting clearance and loading of goods for exportation under section 51 is made by proper officer of customs.

In case of delay in filing the claim, the proper officer namely the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, if he satisfied that the exporter was prevented by sufficient cause to file his claim within the aforesaid period of three months, allow the exporter to file his claim within a further period of three months.



### Recovery of duty drawback where export proceeds are not realized [Rule 16A]:

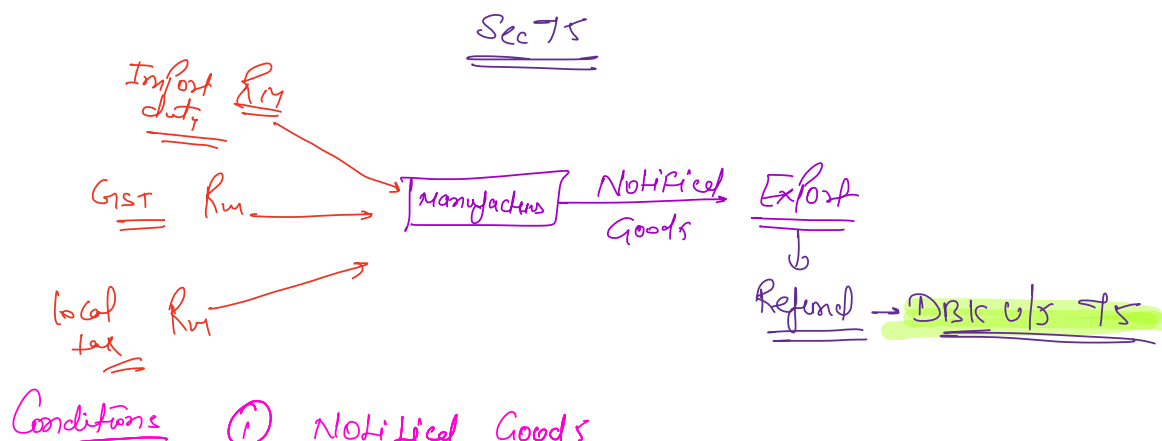
Where the duty drawback has been paid to the exporter but the sale proceeds in respect of such goods have not been realized by the exporter within the period permissible by the Foreign Exchange Management Act, 1999 (FEMA), such duty drawback shall be recovered by the Government except under circumstances or conditions specified in rule 16A(5).

Where the sale proceeds are realized by the exporter after the amount of drawback has been recovered from him and the exporter produces evidence about such realization within a period of 3 months from the date of realization of sale proceeds provided the sale proceeds have been realized within the period permitted by the Reserve Bank of India. The amount of drawback so recovered shall be repaid the Assistant Commissioner or Deputy Commissioner of Customs to the exporter.

### Documents to be filed for claiming of duty drawback on re-export:

As per Rule 5(2) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, the claim shall be filed along with the following documents, namely

- Triplicate copy of the Shipping Bill bearing examination report recorded by the proper officer of the customs at the time of export.
- Copy of Bill of Entry or any other prescribed document against which goods were cleared on importation;
- Import invoice;
- Evidence of payment of duty paid at the time of importation of the goods;
- Permission from Reserve Bank of India for re-export of goods, wherever necessary;
- Export invoice and packing list;
- Copy of Bill of lading or Airway bill;
- Any other documents as may be specified in the deficiency memo.



- ② Manufacturing in India
- ③ Positive Value addition | Minimum Value addition as Notified  
[Export Value is More than Import Value]
- ④ Foreign Convertible Currency should be Received within time limit prescribed under FEMA
- ⑤ Minimum DBK claimed  $\rightarrow$  ₹500 or 1% of FOB Value whichever is lower

Ex: FOB Value 40000  
DBK - 2% of FOB

$$\text{DBK Claim} = 40000 \times 2\% = ₹800$$

↓  
₹500 lower  
40000 x 1% = 400  
Min DBK  
400

Ex: FOB Value ₹30000  
DBK 0.80% of FOB

$$\text{DBK Claim} = 30000 \times 0.80\% = 240$$

$$\text{Min DBK} = 300$$

lower  
500  
or  
30000 x 1% = 300

DBK claim is less than min. so DBK Ineligible

- ⑥ Max DBK eligible =  $\frac{1}{3}$  of Market Value of Export Goods

Ex: FOB Value ₹1,00,000  
Market Value ₹2,00,000

$$\text{DBK} = 20\% \text{ of FOB} = 100000 \times 20\% = 140000$$

$$\text{Max DBK eligible} = 200000 \times \frac{1}{3} = ₹66,667$$

DBK Rates  $\rightarrow$  Sec 75

AIR Jo sabki he vo

Brand

Special

## All Industry Rate

\* Directorate of DBK

Prescribed average rate of DBK (Using Industry average)

A DBK claim shall be using AIR.

A AIR Prescribed on FOB value

## Rate [ye sirf meri he]

AIR Not Notified on goods Exported.

↓

Export can apply Directorate of DBK to Calculate DBK Rate on the basis of Records and Information provided by Exporter

## Brand Rate

[Sabki hole hue bhi ye sirf meri he]

↓

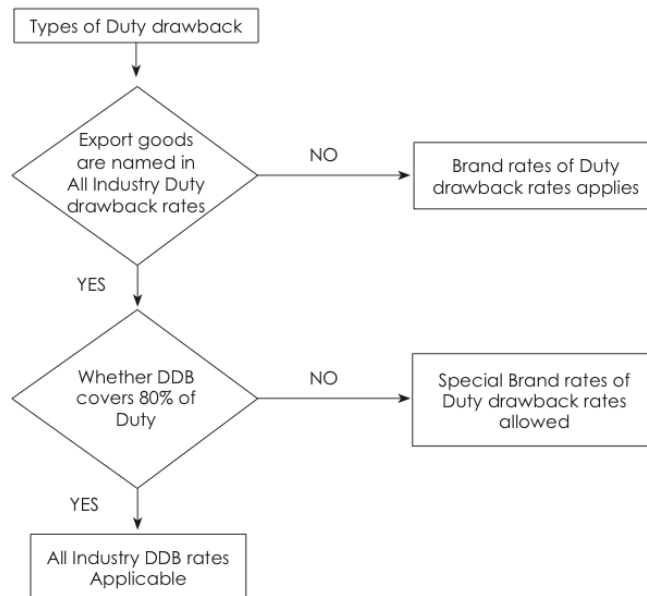
AIR Notified

However

DBK claim using AIR is less than 80% of Actual duties Paid then

Exporter may apply for Special Brand Rate

Types of duty drawbacks concept and its applicability explained here in a simplified manner:



Where the exporter has already filed a duty drawback claim under All Industry Rates (AIR) Schedule, he cannot request for fixation of Special Brand Rate of drawback. Thus, the exporter should determine prior to export of goods, whether to claim drawback under AIR or Special Brand Rate. [w.e.f. 22.11.2014]

### Sec 76 Prohibition on DBK u/s 74 & 75

\* DBK less than ₹ 50

\* DBK amount is more than Market Value of Goods

### Sec 76A Interest on DBK

① Erroneous DBK claim → Officer will issue Demand Notice for DBK and Int @ 15% applicable from Erroneous Refund till its Payment

② Late Refund of DBK → If DBK Not Refunded within 1 Month of claim then Int @ 6% applicable after expiry of 1 Month. Department will Issue DBK Refund with Interest.