

# **SUPPLEMENTARY**

## **PAPER-18**

### **INDIRECT TAX LAWS & PRACTICE**

**(Syllabus - 2016)**

**(Applicable for June 2022 Examination)**

**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

(Statutory body under an Act of Parliament)

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# **Section B**

## **Customs Law**

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## Basic Concepts

### Time limit for submission of Bill of Entry (B.E.):

As per Finance Act, 2021, Section 46(3), The importer shall have to present the bill of entry u/s 46(1) of the Customs Act, 1962 **before the end of the day (including holidays) preceding the day** on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or for warehousing.

It may be noted that, the existing provision that a BE may be presented upto 30 days prior to the expected arrival of the aircraft or vessel or vehicle carrying the imported goods continues. Thus, with certain exceptions, as notified, the BE can now be filed anytime from 30 days prior to the expected arrival of the aircraft or vessel or vehicle upto the end of day preceding the day of such arrival

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for the late presentation of the bill of entry as may be prescribed.



## TYPES OF DUTIES

### Agriculture Infrastructure and Development Cess (AIDC):

A new cess called **Agriculture Infrastructure and Development Cess (AIDC)** was introduced vide Finance Act, 2021 for the purpose of financing the agriculture infrastructure and other development expenditure. Such cess is applicable on certain specified goods such as apple, kabuki Chanda, chickpeas, lentils, various types coals, urea, silver (including imports by eligible passengers), Silver Dore, Gold (including imports by eligible passengers), Gold Dore etc.

Where the duty is leviable on the goods at any percentage of its value, then for the purpose of calculating the Agriculture Infrastructure and Development Cess, the value of such goods is calculated in the same manner as the value of goods is calculated for the purpose of customs duty under section 14 of the Customs Act, 1962.

### For Example:

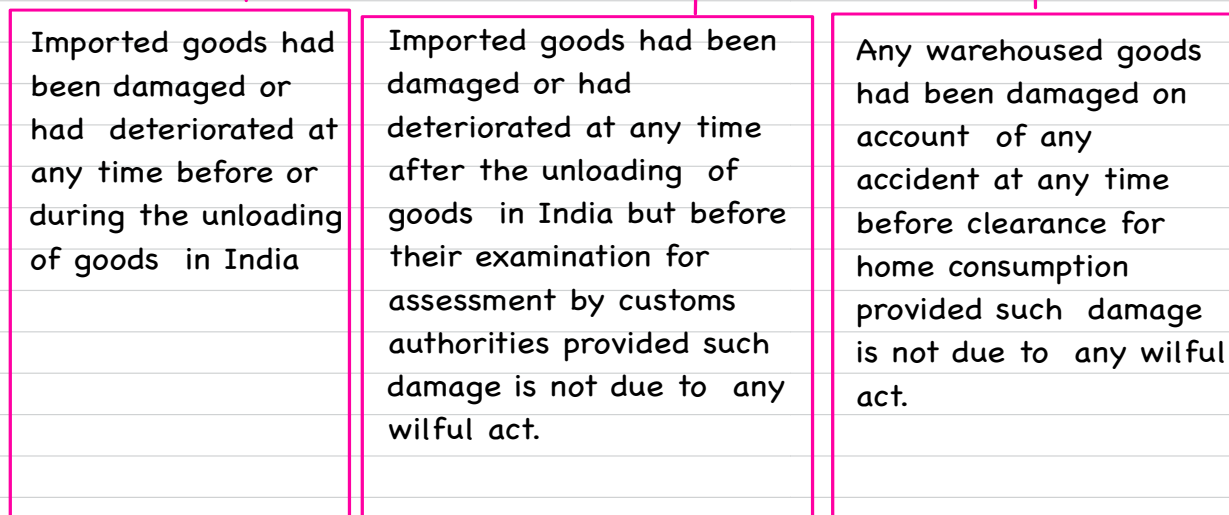
Particulars	Amount ₹	Remarks
Cost of imported goods	1,00,000	Transaction value
Add: Basic customs duty	10,000	1,00,000 × 10%
Add: Agriculture Infrastructure Development Cess	7,500	1,00,000 × 7.5%
Add: Social Welfare Surcharge	1,750	17,500 × 10%
Sub-total	1,19,250	
Add: IGST	21,465	1,19,250 × 18%
Add: GST Compensation Cess	17,888	1,19,250 × 15%
Total cost of imported goods	1,58,603	

Note: Please note that IGST and GST compensation cess would be available as input tax credit under GST Laws subject to fulfilment of prescribed conditions.



## Abatement & Exemptions

### Abatement of duty Section 22:



### Exemption from customs duty SECTION 25

#### General exemption

By notification in the Official Gazette, exempt generally either absolutely or subject to such conditions as may be specified in the notification, goods of any specified description from the whole or any part of duty of customs leviable thereon.

#### Special exemption

By special order in each case, exempt from payment of duty, any goods on which duty is leviable only under circumstances of an exceptional nature to be stated in such order.

Finance Act, 2021, Section 25(4A) inserted:

Where any exemption is granted subject to any condition, such exemption shall, unless otherwise specified or varied or rescinded, be valid up to 31st day of March falling immediately after two years from the date of such grant or variation.

Provided that in respect of any such exemption in force as on the date on which the Finance Bill, 2021 receives the assent of the President, the said period of two years shall be reckoned from 1st of February, 2021.



Finance Act, 2021 inserted a new section.

#### **Section 28BB – Time limit for completion of certain actions.**

(1) Any inquiry or investigation under this Act, culminating in the issuance of a notice under sub-section (1) or sub-section (4) of section 28 shall be completed by issuing such notice, within a period of two years from the date of initiation of audit, search, seizure or summons, as the case may be:

Provided that the Principal Commissioner of Customs or the Commissioner of Customs may, on sufficient cause being shown and for reasons to be recorded in writing, extend the said period to a further period of one year.

(2) For computing the period under sub-section (1), the period during which stay was granted by an order of a court or tribunal, or the period for seeking information from an overseas authority through a legal process, shall be excluded.

Explanation.--For the removal of doubts, it is hereby declared that nothing contained in this section shall apply to any such proceeding initiated before the date on which the Finance Bill, 2021 receives the assent of the President.”.

#### **As per the Finance Act, 2021, Section - 110(1D) inserted (i.e Seizure of goods, documents and things):**

Where the goods seized under sub-section (1) is gold in any form as notified under sub-section (1A), then, the proper officer shall, instead of making an application under sub-section (1B) to the Magistrate, make such application to the Commissioner (Appeals) having jurisdiction, who shall, as soon as may be, allow the application and thereafter, the proper officer shall dispose of such goods in such manner as the Central Government may determine.”.



## COMPREHENSIVE ISSUES UNDER CUSTOMS

**Finance Act, 2021 inserted: Export goods liable for confiscation – Section 113 of the Customs Act, 1962:**

(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being

**Section - 114AC (Penalty for Fraudulent utilisation of input tax credit for claiming refund):**

As per Finance Act, 2021, New Section inserted after Section 114AB: "114AC. Where any person has obtained any invoice by fraud, collusion, willful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. Explanation.-- For the purposes of this section, the expression "input tax credit" shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017."

**Section - 139 (Presumption as to documents in certain cases):**

"Explanation. - For the purposes of this section, "document" includes inventories, photographs and lists certified by a Magistrate under sub-section (1C), or inserted the following words Commissioner (Appeals) under sub-section (1D), of section 110."



#### **Section - 149 (Amendment of documents) as per Finance Act, 2021:**

Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any doc, as may be specified by the Board, may be done by the importer or exporter on the commonment, after it has been presented in the custom house to be amended in such form and manner, within such time, subject to such restrictions and conditions, as may be prescribed:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.

Provided further that such authorisation or amendment may also be done electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria: Provided also that such amendments portal.”

#### **Section 153 of the Customs Act, 1962:**

SERVICE OF ORDER OR DECISION OR SUMMONS OR NOTICE BY THE COMMISSIONER OF CUSTOMS IS VALID EVEN IF IT SENT

BY REGISTERED POST

OR

By Speed post with proof of delivery or courier approved by CBIC

OR

Tendering (Physical delivery)

Or

by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

Or

By making it available on the common portal (inserted in Finance Act, 2021)





## COMPREHENSIVE ISSUES UNDER CUSTOMS

### **New Section inserted after Section 154B in the Finance Act, 2021:**

"154C. The Board may notify a common portal, to be called the Common Customs Electronic Portal, for facilitating registration, filing of bills of entry, shipping bills, other documents and forms prescribed under this Act or under any other law for the time being in force or the rules or regulations made thereunder, payment of duty and for such other purposes, as the Board may, by notification, specify."