



BAGGAGE

UNDER CUSTOMS ACT

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SECTION 2(3): BAGGAGE

ANALYSIS BAGGAGE — meaning thereof

Basic meaning

As per normal understanding of word 'baggage', it means cases/bag used to carry belongings of a person.

- Baggage is article of personal use
- Thus, goods imported in commercial quantities are not acceptable as 'baggage/ bon-fide baggage.
- Similarly, goods imported by frequent visitors may be regarded as non-bona-fide baggage.



Goods not acceptable as bona-fide baggage

- Goods shall be chargeable to duty as applicable to each good.
- Further, these goods become liable to confiscation.
- The passenger is also liable to strict penal action.

Specific inclusion

Baggage to include Unaccompanied baggage - Unaccompanied baggage is that baggage which is not accompanied with passenger, i.e., which is coming either before arrival of passenger or after arrival of passenger (but not with the passenger).

[Rule 8 of Baggage Rules, 2016 provides for treatment of unaccompanied baggage]

Specific Exclusion

Motor Vehicle cannot be treated as 'baggage': Motor vehicle is not acceptable as 'baggage article'. Thus, Motor Vehicle (new or old) shall be imported and cleared as 'commercial cargo' only.

SECTION 77: DECLARATION BY OWNER OF BAGGAGE.

- The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

BAGGAGE — import clearance thereof		
DoC (Declaration of Contents)	For getting customs clearance every passenger shall file DoC (as per Sec 77).	
Manner of Declaration	Sec 81: CBIC through regulations will provide for manner of filing DOC	
	CUSTOMS BAGGAGE DECLARATION REGULATIONS, 2013 (framed taking powers from Section 81)	
	Method of Declaration: Form Form-1	
Channel of clearance	Channel	Who shall walk through this channel
	GREEN CHANNEL	Passengers carrying non-dutiable and non-prohibited goods.
	RED CHANNEL	Passengers carrying dutiable and/or prohibited goods.

SECTION 78. DETERMINATION OF RATE OF DUTY AND TARIFF VALUATION IN RESPECT OF BAGGAGE. -

- The rate of duty and tariff valuation, if any, applicable to baggage shall be the rate and valuation in force on the date on which a declaration is made in respect of such baggage under section 77.

Baggage			
BCD	E/N 26/2016- CUS	Effective rate shall be 35%.	
		E/N 26/2016-Cus	
		Any article the value of which exceeds the duty free allowance admissible 35% to such passenger or member under the Baggage Rules, 2016	35%
		On the unaccompanied baggage	35%
		<u>Exemption shall not be article to certain items and courier imports</u> Exemption shall not be applicable to - <ul style="list-style-type: none">• Fire Arms• Cartridges of fire arms exceeding 50:• Cigarettes. cigars or tobacco in excess of the quantity prescribed for importation free of duty under relevant baggage rules; “• Goods imported through a courier service	

SECTION 78. DETERMINATION OF RATE OF DUTY AND TARIFF VALUATION IN RESPECT OF BAGGAGE. -

.....CONTINUATION.....

Exemptions on Baggage		
SWS		SWS = 10% - Leviable on/from 2 nd Feb 2018 EC & SHEC = 3% - Leviable upto 1 st Feb 2018
IGST	N/N 183/86-Cus (as amended we Entry 147 of NM 2/2017)	Fully Exempt - Effective rate is Nil
GST CESS		
Thus, applicable rate of duty on customs clearance of baggage shall be		
■ Baggage declaration filed unto 1 ST Feb, 2018: 36.05% [35% + (EC & SHEC - 3% of 35)]		
■ Baggage declaration filed on/from 2 ND Feb, 2018: 38.50% (35% + (SWS = 10% of 35))		

E/N 11/2004-Cus: (Additional Exemption to 1 Laptop)

Laptop Computer (notebook computer) brought as baggage by Person over 18 years of age is fully exempt from Customs Duty.

SEC 79 : BONAFIED BAGGAGE



Subject to Rules (Baggage Rules, 2016),

The Proper Officer may pass free of duty -

(a)	any article in the baggage	i.r.o. which the said officer is satisfied that it has been in his use for such minimum period as may be specified in the rules;
(b)	any article in the baggage	i.r.o. which the said officer is satisfied that it is for the use of the passenger or his family.

provided that article or articles as referred in (b) above can be passed free of duty ONLY upto such limits as may be specified in the rules.

SECTION 77 TO 79

- Rate of Duty on baggage is 38.5% (including social welfare surcharge of 10%)

Provision of Baggage

- Section 77: For clearing the baggage, the owner shall make a declaration of its content to proper officer
- Section 78: Relevant date for custom duty : **date on which declaration is made** in respect of such baggage.
- Section 79: **Bonafide Baggage is exempted** from duty to the extent specified in rules.

BAGGAGE RULES, 2016

Rule	Applicability
Rule 1	Short title, extent, commencement
Rule 2	Definitions
Rule 3	Passengers arriving from Countries other than Nepal, Bhutan or Myanmar
Rule 4	Passengers arriving from Nepal, Bhutan or Myanmar
Rule 5	Jewellery
Rule 6	Transfer of Residence
Rule 7	Currency
Rule 8	Unaccompanied baggage
Rule 9	Application of these rules to MEMBER OF CREW
Annex - I	(See Rule 3, 4 and 6)
Annex - II	(See Rule 6)
Annex - III	(See Rule 6)

Rule 3: Passengers arriving from countries other than Nepal, Bhutan or Myanmar

Situations

Free Allowance

Class of passengers : Indian resident or Foreigner residing in India or Tourist of Indian origin

(i) Used personal effects and travel souvenirs; and

Free

(ii) Articles other than mentioned in Annexure – I

Rs. 50,000

Class of passengers : Tourist of foreign origin

(i) Used personal effects and travel souvenirs; and

Free

(ii) Articles other than mentioned in Annexure – I

Rs. 15,000

Class of passengers : Infant

(i) Used personal effects and travel souvenirs; and

Free

(ii) Articles other than mentioned in Annexure – I

No Benefit

Rule 4 : Passengers arriving from Nepal, Bhutan or Myanmar

Situations	Free Allowance
Class of Passengers : Indian resident or Foreigner residing in India or Tourist, excluding an infant	
(i) Used personal effects and travel souvenirs; and	Free
(ii) Articles other than mentioned in Annexure – I	
(a) Passenger is arriving by Land Route	No Benefit
(b) Passenger is arriving by other Route	Rs. 15,000

Class of Passengers : Tourist of Foreign origin

(i) Used personal effects and travel souvenirs; and	Free
(ii) Articles other than mentioned in Annexure – I	
(a) Passenger is arriving by Land Route	No Benefit
(b) Passenger is arriving by other Route	Rs. 15,000

Class of passengers : Infant

(i) Used personal effects and travel souvenirs; and	Free
(ii) Articles other than mentioned in Annexure – I	No Benefit

ANNEXURE - I (SEE RULE 3, 4 AND 6)

- 1. Fire arms.
- 2. Cartridges of fire arms exceeding 50.
- 3. Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.
- 4. Alcoholic liquor or wines in excess of two litres.
- 5. Gold or silver in any form other than ornaments.
- 6. Flat Panel (Liquid Crystal Display/Light-Emitting Diode/Plasma) television



RULE 5 : JEWELLERY

Class of Passengers : Passenger residing abroad for more than one year

Gentleman Passenger

Jewellery up to a weight of 20 gms with a value cap of Rs. 50,000

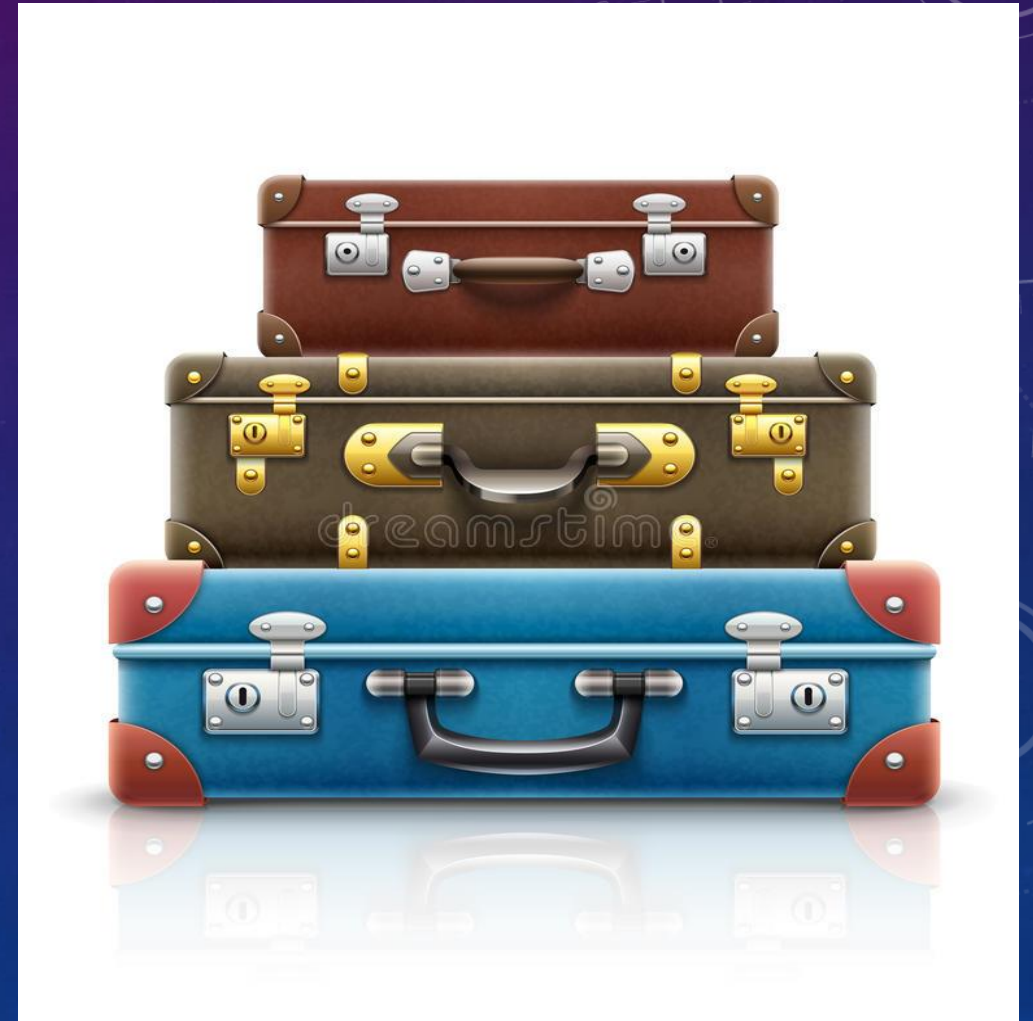
Lady Passenger

Jewellery up to a weight of 40 gms with a value cap of Rs. 1,00,000



RULE 8 : PROVISION REGARDING UNACCOMPANIED BAGGAGE

- Unaccompanied baggage refers to Baggage that is not accompanied with passenger.
- Unaccompanied baggage may arrive within a period of 1 month after passengers arrival or before 2 months arrival .



RULE 9 : CREW BAGGAGE

- These baggage rules are also applicable to the members of the crew engaged in foreign going conveyance for importation of their baggage, when they are finally paid off on termination of their engagement.
- However, other crew members of a vessel and aircraft will be allowed to bring items like chocolates, cheese, cosmetics and other petty gift items for their personal or family use for a value not exceeding 1500.
- Family, under these rules, includes all persons who are residing in the same house and form part of the same domestic establishment.



SECTION 80: TEMPORARY DETENTION OF BAGGAGE

Where the baggage of a passenger contains any article

- which is dutiable or the import of which is prohibited and
- in respect of which a true declaration has been made under section 77,

The proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India

AND if for any reason, the passenger is not able to collect the article at the time of his leaving India,

- the article may be returned to him
- ✓ through any other passenger authorised by him and leaving India or
- ✓ as cargo consigned in his name.

Q 1: What is the relevant date for determination of rate of duty under the Customs Act, 1962 in the case of clearance of baggage? (Practice Manual; Exam Question, Nov 2005)

Ans: As per section 78 of the Customs Act, 1962 , the relevant date for determination of rate of duty in case of clearance of baggage is the date on which a declaration is made in respect of such baggage under section 77.

Q 2: Examine the correctness of the following statements under Customs. Import of LCD TV is allowed as part of free Baggage allowance under Baggage Rules, 1998

Ans : The said statement is Incorrect. With effect from 26.08.2013, Annexure 1 to the Baggage Rules, 2016 which specifies the items that cannot be allowed duty free clearance as part of free baggage allowance has been amended vide Notification No. 84/2013 to include Flat panel (LCD/LED/Plasma) Television therein Therefore, import of flat panel (LCD/LED/Plasma) television as part of free baggage allowance has been disallowed from August 26 2013.

Q 3. Mr. Nirvaan, an Indian resident, aged 40 years, returned to India on 10-02-2017 after visiting England. He had been to England on 01-02-2017.

On his way back to India he brought following goods with him – • Personal effects like clothes etc, valued at Rs. 2,00,000 • 1 litre of Wine worth Rs. 10,000 • Sound System worth Rs. 50,000 • A Mobile worth Rs. 20,000

What is the customs payable?

Would your answer differ if Mr. Nirvaan the tourist foreign origin.

Ans:

Computation of Duty:

Particulars	Taxable Value (in Rs.)
1. Personal Effects	Nil
2. Others 1 litre of Wine	10000
3. Sound System	50000
4. Mobile	20000
Total	80000
Less : Free Limit (50000)	30000

Duty @ 38.5% 11,550

Q. Mr. Sujoy, an Indian entrepreneur, went to London to explore new business opportunities on 01.04.2016.

His wife also joined him in London after three months.

The following details are submitted by them with the Customs authorities on their return to India on 15.04.2017:

- (a) used personal effects worth ` 80,000,**
- (b) 2 Music system worth Rs. 50000 each**
- (c) the jewellery brought by Mr. Sujoy worth ` 48,000 [20 grams] and the jewellery brought by his wife worth ` 96,000 [40 grams].**

With reference to Baggage Rules, 2016, determine whether Mr. and Mrs. Sujoy will be required to pay any customs duty?

Ans:

As per rule 3 of the Baggage Rules, 2016, an Indian resident arriving from any country other than Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say, used personal effects and travel souvenirs; and articles [other than certain specified articles], up to the value of ` 50,000 if these are carried on the person or in the accompanied baggage of the passenger. Thus, there is no customs duty on used personal effects and travel souvenirs and general duty free baggage allowance is 50,000 per passenger. Thus, duty liability of Mr. Sujoy and his wife is nil for the used personal effects worth ` 80,000 and 2 music systems each worth ` 50,000. As per rule 5 of the Baggage Rules, 2016, the jewellery allowance is as follows:

After visiting USA for a month, Mrs. and Mr. X (Indian residents aged 40 and 45 years respectively) brought to India a laptop computer valued at ₹ 80,000, used personal effects valued at ₹ 90,000 and a personal computer for ₹ 52,000.

What is the customs duty payable?

Ans:

As per Baggage Rules, 2016, an Indian resident arriving from any country other than Nepal, Bhutan or Myanmar is allowed duty free clearance of- (i) Used personal effects and travel souvenirs without any value limit. (ii) Articles [other than certain specified articles] upto a value of Rs. 50,000 carried as accompanied baggage [General duty-free baggage allowance]. Further, such general duty-free baggage allowance of a passenger cannot be pooled with the general duty free baggage allowance of any other passenger. One laptop computer when imported into India by a passenger of the age of 18 years or above (other than member of crew) is exempt from whole of the customs duty [Notification No. 11/2004 Cus. dated 08.01.2004]. Accordingly, there will be no customs duty on used personal effects (worth Rs. 90,000) of Mrs. and Mr. X and laptop computer brought by them will be exempt from duty. Duty payable on personal computer after exhausting the duty free baggage allowance will be Rs. 52,000 – Rs. 50,000 = Rs. 2,000. Effective rate of duty for baggage = 38.5% [including social welfare surcharge @10%] Therefore, total customs duty = Rs. 770

Q. If a passenger of Indian Origin arriving from Bangladesh and carrying articles other than mentioned in Annexure-I as baggage then the free allowance limit is upto ₹:

- a. No limit is specified**
- b. 15000**
- c. 50000**
- d. 35000**

Q. Mr. Kabir of 25 years imported a laptop from USA for ₹ 25000 as baggage.

Calculate the amount of custom duty payable by Mr. Kabir.

- a. ₹ 8750 b. ₹ 27500 c. ₹ 25000 d. No duty is payable as exemption is available on one laptop**

Q. Mr. John, tourist of foreign origin imported articles other than those mentioned in Annexure-I by land Route from Bhutan valuing ₹ 5 lakhs. State the free allowance limit available to Mr. John

a. No benefit b. ₹ 15000 c. ₹ 50000 d. ₹ 35000

Q. Identify the rate of custom duty applicable on articles imported within the limit specified in Annexure-I

- a. 35%**
- b. 38.5%**
- c. 0% (100% custom duty + 10% SWS)**
- d. Exempted from custom duty**

Q. Which of the following items are leviable to customs duty at the rate of 110% (including 10% SWS)? a. Cartridges of fire arms exceeding 50 b. Cigars exceeding 25 c. Alcohol & wines in excess of 2 liters d. All of the above

20 Cigars of ₹ 50000 were imported by Mr. Adnan from UK. Calculate the amount of custom duty payable by Mr. Adnan a. ₹50000 b. ₹ 55000 c. ₹ 19250 d. No import duty payable

Mrs. Ambani resident of India, returned back to India after residing in Dubai for a period of six months. State the limit upto which she can bring jewelry with herself without duty while returning to India. a. 40 grams b. ₹ 100000 c. Lower of a or b above d. None of the above

Mr. Aamir resident of India, returned back to India from UK after 2 years of stay and brought jewelry of ₹ 55000 (18 grams). Duty payable by Mr. Aamir: a. Nil b. ₹ 1925 c. ₹ 1750 d. ₹ 1803

Q. Value of personal computer is ₹ 1,10,000 and personal effects is ₹ 60,000 and duty free allowance is ₹ 1,00,000 as per rule 6 of baggage as Passenger permanently transferring his residence after 9 month of stay In abroad. The value of baggage liable to duty will be: a. ₹50,000 b. ₹ 60,000 c. ₹ 70,000 d. ₹ 10,000

Q. Mr. Sumit an Indian Passenger, permanently transferring his residence from Australia after 7 months of stay. Mr. Sumit will be allowed to bring duty free articles such as personal and household articles, other than those mentioned in Annexure-I or Annexure-II but including articles mentioned in Annexure-III, upto an aggregate value of: a. ₹50,000 b. ₹ 55,000 c. ₹ 60,000 d. ₹ 1,00,000



Thank you!

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