**III BCOM(VOC)- VI SEMESTER**

**TAX PROCEDURE AND PRACTICE -X**

**CUSTOMS DUTY**

**UNIT -II:** -

## 1) Prohibition on Importation and Exportation of goods:

Sec 11 of customs act ,1962 empowers the government to prohibit, by a notification, either absolutely or subject to such conditions as may be specified in the notification, the import or export of goods of any specified description. The various purposes for which the import and export of goods may be prohibited are as follows:

1) The maintenance of the security of India. Example: arms, ammunitions, explosives etc.
2) The maintenance of public order and standards of decency or morality. For example; books like satanic Verses.
3) The prevention of smuggling. Example: electronic items.
4) The prevention of shortage of any goods of any description example: ban on export of onion.
5) The conservation of foreign exchange and the safeguarding of balance of payment.
6) The prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver.
7) The prevention of surplus of any agricultural product or the product of fisheries. Example: Ban on import of tea.
8) The maintenance of standards for the classification, grading, marketing of goods in international trade. example: Export of uncertified pepper, cardamom, ginger, chilies etc.
9) The establishment any of industry.
10) The prevention of serious injury to domestic production of goods of any description.
11) The protection of human, animal or plant life or health.
12) The protection of national treasure of artistic, historic or archaeological value.
13) The conservation of exhaustible natural resources.
14) The protection of copyrights, patents, trademarks, designs and geographical indications.

15) The prevention of deceptive practices.

16) The prevention of the contravention of any law for the time being in force.

17) Any other purpose conducive to the interests of the general public.

18) The fulfillment of obligations under the charter of the united nations for the maintenance of international peace and security. Example: Nuclear devices.

**2) Relief from payment of Customs duty: -**

a) If any imported goods are pilfered after unloading, but before the customs officer has made on order for clearance the importer shall not be liable to pay duty on such goods.

b) If any imported goods are damaged or deteriorated at any time before or during unloading or any imported goods are damaged at any time after unloading but before their examination by the customs officer, abatement of duty is allowed. The damage must have been on account of any accident not due to any willful act, negligence or default of the importer, his employee or agent.

c) If any goods are lost or destroyed before the clearance for home consumption, no duty is payable on such goods.

d) If any goods are short landed, the importer should get a certificate from the carriers indicating the details of the goods not landed. Such certificate is known as "short landed certificate". on the basis of this certificate the importers should necessarily file a refund claim with the assistant commissioner concerned within the time limit.

e) If any goods loaded in a conveyance for importation into India are not unloaded at the port of destination and failure to unload all the goods or deficiency, if any, is not properly accounted for, the person- in-charge of conveyance is liable to a penalty not exceeding twice the amount of duty chargeable on such goods not accounted for. The importer in such cases is not liable to pay duty on such goods. If duty has already been paid, he is entitled to get refund by making an application to customs department.

e) If the owner of the imported goods relinquishes his title on the goods, he shall not be liable to pay the duty.

**3) Exemptions from Customs Duty: -**

Section 25 of the Customs Act gives powers to the Government to exempt any goods from customs duty. Such exemption may be through notifications in the official gazette or by a special order. Exemption to duty may be absolute or subject to some conditions. Exemption may be in the form of reduction in duty rates or change in the form or methods of duty so that the effective rate of duty is less than the basic rates. The various purposes for which exemption from duty is provided are as follows:

1) Imports by privileged persons, organizations, authorities and foreigners. Example: imports by UN Governors, vice president, ford foundation, diplomats, trade representative.
2) Government imports for defence and police.
3) Imports for training, educational, research and testing purposes.
4) Imports for oil explorations, national programme, exhibitions, seminars.
5) Imports for handicapped persons, charitable or social welfare purposes.
6) Donations, gifts, relief and rehabilitations material imported by charitable organisations, Red cross society, CARE and GOI.
7) Sports goods, prizes, medals and trophies.
8) Re-import of unclaimed postal articles.
9) Imports from various specified countries or preferential areas like Myanmar, Nepal, Bhutan and other SAARC countries.
10) Imports for export promotion; export processing zones; 100% EOUs.
11) Re- import of goods.
12) Imports for specific use in industrial production. Example: - Fertilizer plant, power plant.

**4) Classification of goods under Customs Tariff Act: -**

As international trade increased, need was felt to have universal standard system of classification of goods to facilitate trade flow and analysis of trade statistics. hence, harmonized commodity description and coding system was developed by world customs organization.

This is an international nomenclature standard adopted by about 200 countries to ensure uniformity in classification in international trade.

Harmonized system of nomenclature (HSN) is multipurpose international product nomenclature developed by WCO (World customs organization).

Following is broad grouping of goods in tariff:

1) Animal products (Section I – chapter 1 to 6)
2) Vegetable products (Section II- chapter 6 to 14)
3) Animal or vegetable fats and oil (Section III – chapter 15)
4) Prepared food stuffs, beverages (Section IV- chapter 16 to 24)
5) Mineral products (Section V – chapter 25-27)

6) Products of chemicals and allied industries (Section VI- chapter 28 to 38)
7) Plastics and rubber and their articles (Section VII – chapter 39 to 40)
8) Raw hides and skins, leather articles (Section VIII- chapter 41 to 43)
9) Wood, cork, straw and their articles (Section IX – chapter 44 to 46)
10) Pulp of wood, paper, paper board and articles (Section X – chapter 47 to 49)
11) Textile and textile products (Section IX – chapter 50 to 63)
12) Footwear, headgears, umbrella (Section XII- chapter 64 to 67)
13) articles of stones, plaster, ceramic, mica, glass (Section XIII- 68 to 70)
14) pearls, precious metals (Section XIV- chapter 71)
15) base metals and articles of base metal (iron, steel, copper, zinc etc. (Section XV – chapter 72 to 83)
16) machinery and mechanical appliances, electrical equipment, television etc. (Section XVI – 84 and 85)
17) vehicles, aircrafts, vessels and associated transport equipment (Section XVII – 86 to 89)
18) optical, photographic, medical surgical instruments, clocks musical instruments (Section XVIII chapter 90 to 92)
19) Arms and ammunition (Section XIX chapter 93)
20) Misc. manufactured articles like furniture, toys etc. (Section XX – chapter 94 to 96)
21) works of art, collections, pieces and antiques (Section XXI- chapter 97 to 99).

**5) Project Import: -** Project import is an Indian innovation to facilitate setting up of and expansion of industrial projects. Customs tariff Act 1975 gives facility of a flat rate of duty for import of diverse machinery, spares and raw materials etc. for setting up a new project or substantial expansion of existing projects (25% or more increase in installed capacity). The different projects are irrigation project, power project, mining project, oil or mineral exploration projects etc. the general project rate of duty has been reduced to 5% in case of all the projects with an investment of at least ₹ 5 crore in plant and machinery (excluding land and building). the bank guarantee will be required for 2% of

CIF (Cost insurance+ freight) value of imports subject to maximum of ₹ 1 Crore.

**6) Boat note**: - In case the vessel arriving at the port doesn't get the berth, then the import cargo is taken from the ship to the shore and export cargo is taken from the shore to ship in boats. No import goods shall be water borne for being landed from 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 with boat notes. board may give general permission, and proper officer may in particular case give special permission, for any goods or class of goods to be water borne without being accompanied by boat note.

**7) Transit and Transshipment of Goods**: - Transit of goods - Section 53 provides that any goods imported in a conveyance and mentioned in the import manifest or import report, as the case may be, as for transit in the same conveyance to any place outside India or any customs station, may be allowed to be transited without payment of duty. however, the goods should not have been prohibited under section 11 of customs Act. on arrival at customs station, the goods will be liable to customs duty as if it is first importation in India.

Transshipment of goods: goods imported in any customs station can be transshipped without payment of duty under sec 54 of customs act. transshipment means transfer from one conveyance to another. such transshipment may be to any major port/ airport in India. Transshipment takes place under the supervision of proper officer. Proper officer is satisfied about the bona-fide intention for transshipment of goods to such customs station.

**8) Special economic zone: -** a special economic zone is an area in a country that is subject to unique economic regulations that differ from other regions of the same country. The SEZ regulations tend to be conducive to foreign direct investment. Conducting the business in SEZ typically implies that the company will receive tax incentives and the opportunity to pay lower tariffs. SEZ are zones intended to facilitate rapid economic growth by leveraging tax incentives to attract foreign dollars and technological advancement.

Section 26 of the SEZ Act grants exemption, to every SEZ unit and developer from any duty of customs under customs act 1962 on goods or service imported into or exported from India. levy of taxes on sale and purchase of goods other than newspaper.

The securities transaction tax leviable under section 98 of the finance Act 2004 any transaction with or by SEZ unit or SEZ developer shall be exempted from any indirect tax law.