Basic Concepts of Customs Law

- Customs duty is a type of indirect tax which is levied by the Central government on import and export of goods through air, water and land route.
- It is imposed under the Customs Act, 1962 which is the basic statute that governs entry or exit of different categories of vessels, aircrafts, goods, passengers etc., into or outside the country.

Customs laws in India are based on:

- Customs Act, 1962 (Principal act) is primarily for the levy and collection of duties but it also covers important provisions such as regulation of imports and exports; penalties, offences; import and export procedures, etc.
- Customs Tariff Act, 1975 deals with the provisions relating to types and rates of customs duties. It has two schedules; Schedule I (which covers classification and import tariff rates) and Schedule II (which covers classification and export tariff rates)

- Rules and Regulations under customs act 1975 -The rule making power is delegated to the Central Government while the regulation making power delegated to the Central Board of Indirect tax and Customs (CBIC). There are a number of rules and regulation prescribed from time to time to carry the objective of the Act. For instance, Customs valuation rules, 2007; project import regulations, 1986, etc.
- Circulars and
- Notifications

Key definitions:

- **Definition of India:**

Customs Act, 1962 is applicable to whole of India and it also applies to any offence or contravention committed outside India by any person.

India includes the territorial waters of India; Territorial water means that position of sea which is adjacent to shores of India, 12 nautical miles from the base line. Export is complete only when goods cross territorial waters and import is complete when goods enter territorial waters.

India customs waters" is an area beyond 12 nautical miles and upto 24 nautical miles from baseline of India. Indian government can take any measures for security , immigration, sanitation, customs and other fiscal matters.

Exclusive economic zone It extends upto 200 nautical miles from the base line. In this zone, India has exclusive rights to exploit for economic purposes.

High seas Beyond 200 NM, the area is known as high seas. All countries have equal rights in high seas.

- "Goods" includes - (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property.

- Note to students: You are required to cover definitions such as Baggage, Customs area, export and import.

Section 12, Customs Act, 1962 (Charging section)

- The basis of levy of tax is specified in Section 12, i.e., it is the charging section of the Customs Act.
- As per Section 12, customs duty is imposed on goods imported into or exported out of India as per the rates specified under the Customs Tariff Act, 1975 or any other law.
- Section 12 essentially points out:

(a) Customs duty is imposed on goods when such goods are imported into or exported out of India;

(b) The rates of Basic Custom Duty are as specified under the Tariff Act, 1975 or any other law; Custom Tariff Act, 1975 has two schedules. Schedule I prescribes tariff rates for imported goods, known as ―Import Tariff‖ and Schedule II contains tariff for export goods known as ―Export Tariff‖.

Taxable event for import/ export of goods

1. Taxable event in the case of import of goods:

a) In case of goods entered for home consumption: Import of goods begins when they cross the territorial waters but is completed only when goods cross the customs barrier. i.e., Taxable event is the day of crossing of customs barrier and bill of entry for home consumption is filed. However, if a bill of entry has been presented before the date of entry inwards of the aircraft/vessel/ vehicle, then bill of entry is deemed to be presented on the date of arrival of that conveyance.

b) In case of warehoused goods: Taxable event for warehoused goods is the date on which a bill of entry in respect of these goods is presented for clearance from warehouse for home consumption

c) Any other case: date on which duty is paid.

Taxable event is significant because rate and valuation rules as on the date of taxable event are applicable on import/ export.

2. Taxable event in case of export of goods: As per section 16(1) of the Customs Act, 1962, taxable event arises only when proper officer makes an order permitting clearance (i.e. entry outwards) granted and loading of the goods for exportation took place. However, Export is completed when goods cross territorial waters of India.

References and Further readings

Books:

- CA K.M. Bansal, GST & Customs Laws, Taxmann
- Dr. V.K. Singhania, GST and Customs Laws, Taxmann

E-resources

- https://www.icsi.edu/media/webmodules/customs%20laws/2016-ATLP-5.pdf